

VALENCIA COUNTY BOARD OF COMMISSIONERS

REGULAR MEETING

JULY 19, 1999

M I N U T E S

The Regular Meeting of July 19, 1999 was called to order by Chairman Alicia Aguilar at 5:00 PM. The Pledge of Allegiance proceeded.

PRESENT

Alicia Aguilar, Chairman
Aurelio H. Padilla, Vice-Chairman
S. T. Frank Pando, Member
Eloy G. Giron, Member
Helen Baca, Member
James Fernandez, County Manager
Thomas Garde, County Attorney

ABSENT

Kandy Cordova, County Clerk

Press and Public

EXECUTIVE SESSION

Paula Weathersby read the agenda for the Executive Session. Chairman Alicia Aguilar asked to add "Acquisition of property on the Herman Tabet Property" to the agenda. County Manager James Fernandez asked to add the individuals from the Finance Authority who would like to address the Commission regarding the financing of the adult detention facility. Chairman Aguilar recommended that the Commission meet with the Finance Authority from 5:00 PM to 6:00 PM and then continue the Executive Session at the end of the meeting. Chairman Aguilar said the Commission also needs to discuss the scope of legal representation. It was brought up by one of the Commissioners and should be discussed in Executive Session.

Commissioner Eloy Giron made a motion to approve the agenda for the Executive Session. Commissioner Frank Pando seconded the motion. Motion carried.

Commissioner Eloy Giron made a motion to go into Executive Session. Commissioner Frank Pando seconded the motion. Motion carried with Commissioner's Pando, Giron, Padilla and Baca voting yes.

Commissioner Al Padilla made a motion to return from Executive Session. Commissioner Helen Baca seconded the motion. Motion carried.

Chairman Alicia Aguilar stated, "In Executive Session only one item, because of the time, was discussed. As far as the Personnel Matters, New Hires, Transfers, Resignations, Terminations, Other Personnel Matters, Pending Litigation, Acquisition of Property and Scope of Legal Representation, we met with the New Mexico Finance Authority and that is what took up the whole hour."

County Manager James Fernandez stated, "We met with Kathy Sylvia from the New Mexico Finance Authority and Katherine Creagan of the Modrall Law Firm. They are handling the financing for the County on the proposed adult detention facility. They brought us up to date as to the status of the financing. They indicated that the financing is in place. They did suggest that the County settle the zoning matter with the Village of Los Lunas before we proceed with the final sale of the bonds."

County Attorney Tom Garde stated, "Basically there was some direction that was discussed, but at this time no decision has been made on that matter."

Commissioner Frank Pando made a motion that the meeting with Kathy Sylvia and Katherine Creagan was all that took place during the Executive Session. Commissioner Eloy Giron seconded the motion. Motion carried.

Chairman Alicia Aguilar said the other items that are listed for discussion during the Executive Session, she is proposing to move Executive Session to Item 9.

INTRODUCTION OF COUNTY ELECTED OFFICIALS & STAFF

Chairman Alicia Aguilar introduced Commissioner Helen Baca, Commissioner Al Padilla, Commissioner Eloy Giron and Commissioner Frank Pando, Human Resources Director Carol Anaya, Business Manager Carlos Montoya, County Manager James Fernandez, County Attorney Tom Garde, Deputy County Clerk Paula Weathersby, Sheryl Salas, Sheriff Juan Julian, Planning and Zoning Administrator Mike McCartney, County Planner Steven Chavez, Administrative Asst. Monica Mireles, Secretary Barbara Garcia, Fire Marshal John Cherry, Charles Eaton and Officer Rodney Jones.

PLEDGE OF ALLEGIANCE

Officer Rodney Jones led the Pledge of Allegiance.

APPROVAL OF AGENDA

Paula Weathersby read the agenda as presented. Commissioner Frank Pando requested that the Executive Session be moved to Item #9. Sheriff Juan Julian asked to address the Commission under Public Requests. Gerald Debevic requested permission to speak under Public Requests. Leonard Garcia requested permission to speak under Public Requests.

Commissioner Frank Pando made a motion to approve the agenda as amended. Commissioner Eloy Giron seconded the motion. Motion carried.

APPROVAL OF MINUTES

The Minutes of July 6, 1999 were presented for Commission approval. Commissioner Helen Baca made a motion to approve the Minutes of July 6, 1999. Commissioner Al Padilla seconded the motion. Motion carried.

PUBLIC REQUESTS

Leonard Garcia spoke on behalf of the Meadowlake Community Association. He passed out a copy of a letter from Sheriff Juan Julian to County Manager James Fernandez. He said this letter refers to a substation that the Sheriff wanted to put in MeadowLake. Mr. Garcia asked why the substation was not being built in MeadowLake since the Sheriff is an elected official and is making this recommendation. He said it would be cheaper to build the substation in MeadowLake than to build it anywhere else, as there is already a community center in MeadowLake and all of the availability's are already in place.

Chairman Alicia Aguilar said the funds that are being used for a substation were legislatively approved. She represents El Cerro Mission and Los Chavez and she did go to Santa Fe to request the appropriation of the funds for a substation in El Cerro Mission. She said the bill is specific and it identifies that the substation is to be built in El Cerro Mission. Once the substation is built, then the Sheriff can man it. The substation will service MeadowLake, El Cerro Mission and other parts of the East Mesa.

Chairman Aguilar asked Mr. Garcia if he had discussed this issue with his Commissioner and how he intended to request funds be allocated for this. Mr. Garcia said they discussed it and Commissioner Giron stated that this would be happening within a couple of months.

Commissioner Eloy Giron stated, "We sat down with Mr. Fernandez on this and we addressed two or three prioritized concerns in MeadowLake. This is one of them that they have been requesting for at least two years. The other ones have been road concerns and some with their community watch programs. I sat down with Mr. Fernandez and we've had other issues come before us and what I would like to do is set up a meeting this next week with you and I and Mr. Fernandez and go ahead and address this substation. Back in December when we met with our legislators this is one of the priorities that I asked our legislators for and I got no response from them." Mr. Garcia said he is available anytime.

Chairman Alicia Aguilar said, "Excuse me, Mr. Garcia this seems to be the response every two weeks that you come back and you meet with the Commissioner and Mr. Fernandez. Maybe this time when you sit down we can actually get some answers. I appreciate you coming before us because the concerns are real, but it also bothers me that every single time, there is a meeting. We need to have a plan."

Commissioner Eloy Giron said, "Mr. Garcia and the residents of MeadowLake, we're also approving our 1999-2000 budget, so there is some stuff that will be discussed that will be addressed in MeadowLake and I urge you to go ahead and attend this whole meeting and we'll address some of those issues at that time."

Gerald Debevic said he is a resident of MeadowLake and he is concerned about MeadowLake Road. There was a serious accident on MeadowLake Road about 9 or 10 days ago. There was a person drinking and now there is a 12-year old little girl on life support. He said the road should have a speed limit of 50 miles an hour on the whole road. He requested DWI Checkpoints on the road at anytime during the night.

Chairman Aguilar asked if a Memo could be sent to the Sheriff asking about the possibility of DWI Checkpoints.

Commissioner Frank Pando said there has been numerous checkpoints set up at Ann Parish School, unfortunately you can't catch them all.

Sheriff Juan Julian said he has been involved in law enforcement in Valencia County for the last 26 years. He is proud to say that within the last two years DWI has dropped in this County. It is due to the fact that they do have DWI Checkpoints and saturated patrols. Chairman Aguilar commended the officers from the Sheriff's Dept. for doing an excellent job.

Sheriff Juan Julian stated, "Most of us know that on April 7th of this year a tragedy happened to one of my deputy's, while making a traffic stop. It was not a routine traffic stop, because in law enforcement there is no such thing as a routine traffic stop. It was a traffic stop for a traffic violation which at the time of the stop, Deputy Jones was critically injured. To this day he has not returned to work. Deputy Jones would you stand up? Deputy Jones has worked in law enforcement for the County for almost 8 years, prior to the traffic stop that he made on April 7th, where he was injured by an assailant who shot at him eleven times and he was hit five times. It is very hard for me to stand up here and address the Commissioners and the public because Deputy Jones is not only an employ of Valencia County, but he is a friend of mine. About three weeks ago I was given the privilege of attending the National Sheriff's Conference in Columbus, Ohio where an award was issued and given out to Deputy Jones by the International Association of Chiefs of Police and Dupont, Kevlar Body Armor."

Sheriff Julian read the meaning of the award. He said, "In 1987 the International Association of Chiefs of Police and Dupont formed a partnership known as IACP-Dupont, Kevlar Survivors' Club. Comprised of those officers, who have survived potential fatal and/or disabling injuries through the use of personal body armor, this organization pays tribute to those with the foresight to "Dress for Survival." The Kevlar Survivors' Club goals are:

- To reduce death and disability by encouraging increased wearing of personal body armor.
- To recognize and honor those who, because of wearing body armor, have survived life-threatening or life-disabling incidents.

- To serve the law enforcement community by collecting and sharing this important information.
- Club members are officers, well over 2,000, who have survived life-threatening incidents because they were wearing protective armor. Such situations have involved firearm assaults, attacks with puncture and edged weapons, clubs, chains, and an array of other weapons, car crashes, motorcycle spills, falls, thermal attacks and explosions. If personal body armor was instrumental in saving an officer's life, or if it prevented an officer from receiving life-threatening injuries (on or off-duty), that officer is eligible for membership."

Sheriff Julian said he went back east to accept the award for Deputy Jones because he was unable to make the trip. He said, "It is with great honor that I present this award to Deputy Rodney Jones for wearing the survival protective vest, because of that vest he is here to enjoy his wife and family, but he is still a friend of mine and still an employee of Valencia County. The first two rounds that hit Rodney was in the chest area, if it hadn't been for the vest, he wouldn't be here today. I recommend and encourage that all law enforcement wear the vest because when we make a traffic stop or are called out, the public knows who we are, but we don't know who they are."

Chairman Aguilar stated, "There was discussion at the last meeting about an article in the Valencia County Newspaper. I met with Kathy Saltzstein, Chris Baker and Sandy Battin for clarification. I want to state on behalf of Ms. Saltzstein we clarified that it was an editing problem. I want to assure Ms. Saltzstein that as far as calling the County or getting information, you are very welcome and we want you to continue reporting on what's going on in the County and we do appreciate you being here. In all fairness, as far as Arley Sanchez, you are always here and you call us and we appreciate you too. Without your help word doesn't get out to the public. You're a very important part of us informing the public. Thank you both for the work that you do."

Commissioner Frank Pando stated, "At this time, I feel that you should disclose or discuss or clarify the land price that we paid and all of the innuendoes that have been said about the Commission and about the County. I feel we need to clear the air and since you have all of the facts and figures, I would like to hear them."

Chairman Alicia Aguilar said, "There has been a lot of discussion about the property East of the Courthouse. The purchase agreement was signed in November of last year. The purchase agreement was signed by then Chairman, Frank A. Gurule. The purchase of the property was negotiated with former Chairman Gurule and also our former County Manager, Lloyd Sais. The purchase agreement had been in place since then. It had been scheduled to close in June and Mr. Tabet had granted us an extension through July. It had to close by July 15th. If you are aware of purchase agreements, they are a legal document whereby if you don't close; there are some ramifications. We closed on the property. The amount that we paid was, maybe you can help me out Mr. Fernandez, you handed it to me." James Fernandez said it was \$322,194 and some cents. Chairman Aguilar said, "In the purchase of this property we did obtain DFA approval. We were also waiting, we did not close on it sooner because we wanted to make sure that we hired an architect firm and the architect firm reviewed the site and that it was appropriate. The site was selected, but not till other sites were reviewed. If you go back two years ago, there was discussion about a joint powers agreement on a regional adult detention facility with Bernalillo County and Sandoval County. We explored that possibility and it didn't work out. We also looked at property at the Los Lunas Hospital and Training School, there was a Constitutional issue on that and that didn't work out. We looked at property on Morris Road and Highway 314. There was a bill that was sponsored by Senator Sanchez on that and he was unsuccessful. The other thing was that the property was already leased to the Village of Los Lunas. There was the property to the West of us that belongs to Mr. & Mrs. Anthony Apodaca. We also learned there is another partner there and that is Mr. & Mrs. Mark Joiner. Mr. Joiner notified us in writing that he was not in agreement to selling that property to be used for an adult detention facility. There is also a 15 ft. access and that's all there is going there and the infrastructure was not in place. That is why the property to the East was selected. The property to the East is close to the Courthouse thereby you have safety as far as the Sheriff. You will have a dogwalk, meaning a hallway to the Courthouse so you will not be able to see the detainees at all. It is close to the Judges. It's cost effective. It will be an efficient facility. For further clarification, it will be a 96-bed facility. There was talk out there that it was going to be a 400-bed facility. It will not be a 400-bed facility. We have had meetings for the last 6, 7, 8 months, it was already disclosed when we were making application to the New Mexico Finance Authority, and the public was invited when the architects were here doing the preliminary design. That was the property that was being used to do that. There has also been talk and I'll repeat it again, that I'm in real estate and that I earned a commission. I go back to the purchase agreement that was prepared by our attorney, Tom Garde and was signed by former Chairman Frank A. Gurule, with the knowledge of the whole Commission. I signed the final closing documents because I am the Chairperson. Everything that has been done has been with the full approval of this Commission. One last comment as far as Herman Tabet, there was no conflict of interest, if anything two meetings ago or the last meeting you were here, he wanted to withdraw his offer because everytime he is involved in a transaction there seems to come out that there is a conflict of interest. He did sell the property to the County and he sold it for less than what he was asking. It is the best site for the facility. That's all I can say. If the Commissioner's want to make any comments or any disclosures the Commissioner's want to make, I invite them to do that now. I'm not related to any of these property owners. They didn't give me any campaign contributions, nothing like that. I'm being very clear about that and I hope it just settles and we can move forward with our facility."

Leonard Garcia asked when construction would start on the facility. Chairman Aguilar said, "We went before Los Lunas last Thursday and there seems to be an issue or discussion and Los Lunas voted to deny us a zone change. There is a question on Los Lunas and the County and this

being County property so we're getting a clarification on that before we proceed, but the financing is in place."

Chairman Aguilar said during the last year the County paid about \$622,000.00 to transport prisoners. The County takes in prisoners from Isleta, Bosque Farms, Los Lunas, Belen, Magistrate Court and the State Police. There is anywhere from 17 to 24 from Los Lunas. The State mandates the County to have an adult detention facility. She said, "When we started this venture, I feel the Commission wanted to make sure that there was accountability, that's why we went through the election process. The public voted it. The public knew we were building a facility and now we have some residents to the East that are saying, "we don't want the facility here, we don't want it anywhere near us." By State Law, this has to be in the County Seat and Los Lunas is the County Seat. These are issues that need to be clarified."

A gentleman in the audience asked if the property values would drop. Chairman Aguilar said there had been a facility next door for over 40 years.

Lillie McNabb commended the County for moving forward and she believes that the facility should be close to the existing facility. Jess Crespin said he thought the County was doing the right thing. They need to go on with progress. Los Lunas is growing and the Commission should make it safe for the people that live here, but go on with what they are doing.

Chairman Alicia Aguilar said, "At this moment I would like to entertain a motion that the purchase of the property to the East was in full approval of every member of this Commission, that we do approve the purchase from Herman Tabet, the closing of the property, the purchase was approved, but the actual closing of the property occurred and it did occur because there was a date on it, but I think for further clarification to the public so that they are aware that the Commission is fully aware of what has been going on."

Commissioner Al Padilla said, "I so move on your recommendation." Commissioner Frank Pando said, "I second, but I would also like to make another comment on that. We were accused that we did not give enough public notice and that nobody was notified. This particular lady got up in the audience, she has two jobs, she doesn't have time to read the paper, she doesn't listen to the news or the radio and she is the one that is opposing us the most. This is a public meeting and if you have something to say, please say it. I don't know how else we can put it, but for the last 20 years it has been in the headlines. I don't think it is our job to go knock on your door, if you are interested, that's what these meetings are for."

Commissioner Eloy Giron said, "I've had a problem with this issue with the way we purchased this property. All five Commissioners were in agreement that at the time that maybe that was the best site and that was the best price negotiated, but these last two weeks I had asked you, as Chairman to hold off on closing on the property because I felt at that time that we were violating the Open Meetings Act because one of us went out there and negotiated a price, I don't know if it was the former Chairman or you at the time. We come with a price, I see it in the newspaper and a couple of days later I get questioned on it and there are some discrepancies on the prices there. The way the Open Meetings Act falls, I think we are supposed to go ahead and negotiate the price. All five Commissioners are in agreement that we're going to buy that property, but not once have we come before the public and addressed to the tax payers how we are spending their money and let them have input in it. That's the problem I have with it."

Chairman Aguilar said, "I would refer that to legal counsel seeing that he's our attorney and he is also our parliamentarian." Commissioner Giron said, "This is a question that I was asked. I called you and I asked you personally to hold off on it."

Chairman Aguilar said, "Commissioner Giron, you were fully aware that we were purchasing that piece of property. You called a week before closing and you say "I don't feel comfortable closing on that", your next comment is that you think that we should consider design built on a jail facility, which is basically fast track. You've been pushing that for about three years, putting that aside, the purchase agreement was approved by all of us. The purchase agreement said we are looking to buy this piece of property and it is to close on this particular day. For you to come a week before and say I feel uncomfortable, do we not close on it and not have a site, considering that the architect has already looked at that site, the mortgage finance authority has already lent on that site and the whole Commission knows that that's the best site for the facility. That is fine for you to now step forward and say, Gee, I didn't like it. Politically it may be beneficial for you, but I'll tell you, legally we have a responsibility and I did check with counsel prior to doing this. I closed as Chairman. I didn't do it on my own. The Commission was contacted and Counsel's advice was obtained."

County Attorney Tom Garde stated, "The purchase agreement, we had to close prior to July 15th. That was the agreement that was reached and basically this Commission agreed to purchase that property and the closing had to take place prior to July 15th. It in fact took place and basically this is the public hearing which ratifies that decision."

Commissioner Giron said, "Right now we're having a public hearing to ratify the decision that was..." Tom Garde said, "This Commission has already voted, basically the purchase of property is negotiated in a closed session in an open meeting. It's a closed session. The Commission basically voted to purchase that property."

Chairman Aguilar said, "The reason I'm asking for this action is because of the allegations and the fact that you mentioned that you called me and said, "I didn't want you to close" and to me, I'm just bringing it all out so that all of the Commission members..."

Commissioner Frank Pando said, "I was not involved in 1998 when the original purchase of the property was negotiated, I took office on January 1st of this year, but I wholehearted concur with what the past Commission did. I, for one will back the purchase of this property 100%. I feel like the Chairman does and the rest of the Commissioners. We have no choice, in essence, I wish we did, but we don't."

Commissioner Eloy Giron said, "I guess the last question I got is, when was the final contract executed between this Commission and the seller of that property?" Chairman Aguilar said, "The purchase agreement is dated November 18th or so of 1998."

Commissioner Al Padilla said, "We've been working on this for the last three years. It has been a very difficult task. It's due time that we resolve this problem and I believe this is the best spot for it and we have all agreed upon purchasing this property and I believe it is our responsibility to the County to make sure that the citizens are kept safe and we have a facility that will serve the purpose. I am very comfortable the way the decision was made."

Commissioner Helen Baca said, "I've been here since January of this year also and I am very comfortable with the decision we made, I made, and this is the best spot for a jail because of the existing jail right now. We couldn't have found a better place so I am very comfortable with the decision."

Commissioner Pando called for the vote on the motion.

Chairman Alicia Aguilar said, "The motion is for clarification that we did close on that property and the amount that we did pay for it and the reason why we did close on it."

Commissioner Frank Pando voted yes. Commissioner Eloy Giron said, "I vote on the question, yes." Commissioner Al Padilla voted yes. Commissioner Helen Baca voted yes. Chairman Alicia Aguilar voted yes. Motion carried.

Chairman Alicia Aguilar stated, "There is an opinion #94-01, dated April 18, 1994, opinion of Tom Udall, Attorney General. It talks about a case, Battaglini vs. The Town of Red River and the AG looked at a case outside of the State of New Mexico, it's the County of Verango vs. the Borough of Sugar Creek and his comment is, "State Statute authorizing Counties to purchase land and build jails preempts local boroughs zoning ordinance, prohibiting jails on the land."

(A) NOTICE OF WORKSHOP/New FEMA Elevation Certificates

Chairman Alicia Aguilar presented a notice of workshop on the New FEMA Elevation Certificate. This Workshop is worth 3.0 PDH to New Mexico Engineers and Surveyors. The purposes of the NMFMA is to keep individuals concerned with proper floodplain management well informed through educational and professional seminars and to provide for dissemination of information, both general and technical. By sponsoring these workshops, the NMFMA expects to improve the ability of engineers and surveyors to complete elevation certificates required for NFIP flood insurance.

Effective January 1, 2000, a new elevation certificate form will be required for the purchase of flood insurance through the National Flood Insurance Program (NFIP) **(See Exhibit A)**

ACTION ITEMS

(A) PRESENTATION OF PETITION TO INSTALL STOP SIGNS/Peralta Rd.

Christian Garcia presented a petition signed by the residents of Peralta Blvd. and surrounding areas requesting that stop signs be installed on Peralta Blvd. for the health, safety and welfare of the citizens. He said they want the signs on Escondido, San Fernando, Martha and Chelsey.

Commissioner Eloy Giron said he has had many calls for stop signs in that area. He said one side of the road is in his district and the other side of the road is Commissioner Pando's district. Commissioner Pando said the traffic is horrible and they do need to do something whether it is stop signs, speed bumps or dips. The County Attorney said it is not illegal to put either dips or speed bumps, but an engineering study is needed to make sure that what is put in place does not affect the liability of the County.

County Attorney Tom Garde said they would need a recommendation from the Road Dept. He said, "We had some discussion in Executive Session concerning the ideal situation where we would have an engineer's review, but at least we ought to get the Road Dept. to go out there and do a study on what's going on out there before this Commission makes a recommendation."

Chairman Aguilar directed Administration to look into this issue and report back to the Commission.

A man and a lady in the audience both said the cars exceed the speed limit when going down the road.

Chairman Aguilar said they met with Risk Management regarding traffic. She said, "Maybe we need to follow up on that, as they were supposed to provide the Commission with some policy and direction and they haven't come back to us. Maybe we need to contact them again." **(See Exhibit B for petition)**

(B) REQUEST PERMISSION TO PUBLISH/Solid Waste Amendment to Ordinance

County Attorney Tom Garde stated, "As a result of the last meeting, initially we submitted to this Commission a request to publish an amendment to the ordinance which would allow the Commission to 1. Go out for RFP or to extend the existing contract for more than the one year as set out in the current Solidwaste Ordinance. There are some other altercations that would allow for 5% fees for commercial and 4% fees for residential to go to the County for enforcement. After the discussion, I prepared a second proposed amendment which reflects the additions that Commissioner Pando and Commissioner Giron wanted and these changes would provide that any contractor, basically there could be more than one contractor, that could do business with solid waste here in the County."

"The County would require that each contractor provide certain items to the County before they could provide services in the County. We included the same 4% for residential and 5% for commercial solid waste services and we added the fact that if there is a landfill in Valencia County, the solid waste would be deposited here in Valencia County."

"What the Commission has before it, is basically two proposed ordinances that we request to go to publication. The purpose is that at the August 19th meeting this Commission would have a

public hearing and basically adopt one of the ordinances or a modification of the ordinances. This is a request to publish both of the proposed ordinances."

There was not a representative from Valley Disposal in the audience. Charles Apodaca of Reliable Waste, Marlene Feuer of Waste Management and Mel Sissons of Peralta Recycling were in the audience.

Commissioner Frank Pando said he and Commissioner Eloy Giron sat down together and drafted the amendments that are being presented. **(See Exhibit C for both sets of the amendments to Ordinance 96-01)**

Chairman Alicia Aguilar said this is only a request to publish the amendments. The vote will be to allow the publication and then there will be two public hearings.

County Attorney Tom Garde stated, "The first notice of the request to amend the Ordinance for the Collection of Solid Waste, Section 5 will be amended. The initial agreement was that there was a limitation of one additional year on the ordinance, but what we have done is modify it so that if the County contracts with another solid waste vendor, the County must comply with the terms of the Procurement Code which is basically State Law. There's an RFP requirement and we must comply with that or if there is an extension to the contract we must comply with the terms of the Procurement Code. Section 8 will be changed so that if in fact the County or the Solid Waste Authority in Valencia County purchases the Tri-Sect Landfill then the solid waste that is produced in Valencia County will be deposited in the Tri-Sect Landfill. If not, then the solid waste must be deposited in some other permitted landfill. The last section that would be changed would be the fees for public collection. The County would abide by what's called The Consumer Price Index. As far as rate increases, if there is an increase of the Consumer Price Index, the solid waste hauler would notify the County Manager and if there is an increase of the Consumer Price Index and he is satisfied with the information, the rate could be increased at that point. Secondly there would be a collection fee or a franchise fee, which for residents would be 4% per month, and for commercial it would be 5% per month. There is a typo on this amendment as far as the amount. Those would be the changes for the existing one that was discussed at the last meeting. The new changes that we have made in response to Commissioner Pando's and Commissioner Giron's concerns, in Section 2, a contractor is any private firm authorized to do business in the State for collection of solid waste and authorized by the County. What this does is basically set up a non-exclusive contract with various solid waste businesses that would have to comply with the county regulations. Section 5 provides that these individual contracts would be for a period of two years and maybe extended by the County not to exceed an additional two years, on condition that there is commercial liability to property damage and the county is named as insured on the policy of the contract that the new haulers would agree to hold the county harmless for any liability that the hauler may incur as the result of their action. There are other specific items that must be complied with before a hauler is accepted by the county as a non-exclusive hauler."

Commissioner Pando asked the County Attorney to go through the amendments one by one, which he did and it is presented as Exhibit C of the Minutes of this meeting.

Commissioner Eloy Giron made a motion to allow the publication of the second set of amendments.

Commissioner Eloy Giron withdrew his motion.

Discussion was held on the Amendments to Ordinance No. 96-01 relating to the Provision for the Collection of Solid Waste. Those participating in the discussion were the five County Commissioners, the County Attorney, Mel Sissons, Charles Apodaca, Marlene Feuer, Steve Crawford, Ronald Roberts, Lillie McNabb, George Hobbs and Lee Davis.

Commissioner Al Padilla stated, "We've been going back and forth with these amendments. It seems that a lot of people are very unhappy by the way they are written, in fact by the whole ordinance. I'd like to make a motion to repeal the ordinance."

Tom Garde said, "If there is a motion to repeal, we have to go through the same process. We have to publish notice of intent to repeal the ordinance and that's for publication."

Chairman Alicia Aguilar seconded the motion. Commissioner Frank Pando voted no. Commissioner Eloy Giron passed. Commissioner Al Padilla voted yes. Commissioner Helen Baca abstained. Chairman Aguilar voted yes. Motion carried to go out for publication to repeal the ordinance.

(C) PUBLIC HEARING/EMS Ordinance

Valencia County Fire Marshal John Cherry said this is the first of two public hearings to establish a new Emergency Medical Services Ordinance. The intent of this ordinance is to replace the Ordinance that was established in 1985. It was time to update and upgrade the present mode of operation.

Mr. Cherry introduced Tom Caldwell from Rescue 1 in Rio Grande Estates, Mike Jambrosic CEO of Albuquerque Ambulance, Chris Archuleta of Superior Ambulance and David Bris of Living Cross Ambulance Service.

Mr. Cherry said they had an EMS Board Meeting after they had turned in the draft. He passed out a copy of the draft with notations that were recommended by the EMS Board. **(See Exhibit D)**

Discussion was held on the proposed draft of the EMS Ordinance, mostly regarding the imposition of the Impact Fee of \$50.00 per transport. County Attorney Tom Garde said, "With regards to the Impact Fee there needs to be some discussion as to what the Impact Fee is going to be used for. Franchise fees must be justified."

John Cherry said, "The original intent was the Impact Fee would pay for a Medical Director for Valencia County. The Medical Director is a licensed physician who is basically in charge of all medical operations and would oversee the jail. There was discussion on an administration fee, as

there is always an administration cost with any County situation. I would like to recommend that this would also be utilized for an EMS Coordinator for Valencia County. That is a person that would totally run and coordinate EMS Services in Valencia County. I'm doing that at the present time and it is getting to be quite a handful. An EMS Coordinator should be responsible for all training and anything that has to do with EMS Service in Valencia County. It was the intent that the balance of this fee be distributed among the Rescue's to offset the cost of operation. Our lowest funded rescue unit, which is out of MeadowLake, he has two transport ambulances fully qualified for transporting, a paramedic on board and they receive \$5,000.00 per year for operation and medical services. The highest funded rescue unit is out of Valencia-El Cerro, they also have two trucks and they receive \$7,800.00 per year. This year we were notified what our funding will be and then we were notified that our funding was cut statewide 1%. It wasn't a drastic cut for our rescue's, in some instances the cut was \$85.00 to \$90.00, but under the present funding program for the state, nothing says that it can't get more drastic than that. The intent of this impact fee is a funding arena for our County rescues. The Fire Department's Medical Rescue is 9% of the call volume of any fire department. They have done a tremendous job with the small amount of funding that we receive."

Those participating in the discussion were Tom Caldwell, Mike Jambrosic, Chris Archuleta and Charles Eaton.

The next hearing will be held on August 2, 1999, at 10:00 AM.

(D) REQUEST EXTENSION ON MORATORIUM

Mike McCartney said in January 1999, he requested a moratorium on all applications for subdivisions, in addition to an amendment to zone maps be included in the moratorium. The request at that time was for a moratorium of six months with a provision for an additional 90-day extension. He said, "At this time I come before you requesting that 90-day extension, which would be from August 15, 1999 to November 15, 1999."

Commissioner Frank Pando asked if something could be done about the five-lot splits. He asked if the moratorium could be changed to 3 lots or less.

Mike McCartney said, "Not at this time, Commissioner Pando, this is what was provided for in the request for the first moratorium. There was only a provision for a 90-day extension. In discussion that I had today with Commissioner Aguilar and Commissioner Pando, the thought came up that if anybody tries to circumvent the five lot or less and they were caught at any one time, they would no longer be allowed to do so. They would have to go through the subdivision process. We intend to take a look at that as far as the subdivision regulations."

Tom Garde said, "We'd have to start the process of notice of those particular items from scratch. We would have to publish notice."

Commissioner Alicia Aguilar said, "We could go ahead and vote on the moratorium and have a separate motion to request to publish a moratorium on lot splits of 3 or more." Tom Garde said, "That's correct."

Commissioner Frank Pando made a motion to extend the moratorium for 90 days and that we take the last statement you just made into my motion also. Commissioner Eloy Giron seconded the motion. The County Attorney said the request to publish should reflect that the Commission could extend the moratorium for a certain duration.

Mike McCartney said, "We could include the request for three or more with a provision, as of November 15th, we could add on 90 days."

Commissioner Frank Pando amended his motion to state what Mike McCartney said. Commissioner Eloy Giron seconded the amendment to the motion. Motion carried.

(E) REQUEST APPROVAL/Emergency out-of-state Travel

Sheriff Juan Julian requested permission for Det. Floyd Montoya to fly to Los Angeles, California with an arrest warrant for a shooting suspect on the Cosme Gutierrez homicide and a search warrant on the suspects home for the weapon used. Airfare and per diem is requested. The estimated total is \$543.00.

Commissioner Al Padilla made a motion to approve the out-of-state travel. Commissioner Helen Baca seconded the motion. Motion carried.

(F) FINAL HEARING/RESOLUTION/1999-2000 Budget

Carlos Montoya presented Resolution 99-34 for Commission approval. It is for the 1999-2000 Budget. The total revenues are projected at \$17,372, 226. With expenditures estimated at \$18,434.479. The estimated ending cash balance for June 2000, will be \$3,997.083. There is an average salary increase for all of the employees, the capital projects that were budgeted for, the \$62,500.00 for a sub-station in El Cerro Mission and \$62,500.00 for a sub-station in Jarales. They also budgeted \$100,000.00 to continue making improvements to the Courthouse. They also budgeted a lease purchase payment for seven vehicles for the Sheriff's Dept. They put funding in to purchase equipment for the Fire Departments and a lease payment for the Road Dept. so they will have an opportunity to buy some heavy equipment, specifically two graders.

Mr. Montoya thanked the staff for the work they did on the budget. He said he is very comfortable with the budget. The beginning cash balance is \$2,908,725.00.

Chairman Aguilar thanked the County Manager, the Business Manager and the ladies in the Accounting Dept. for the work they did on the budget. Carlos Montoya said he would also like to thank the Elected Officials for their cooperation and hard work in making the budget.

Commissioner Helen Baca made a motion to approve Resolution 99-34. Commissioner Frank Pando seconded the motion. Motion carried. **(See Exhibit E)**

(G) REQUEST PERMISSION TO OBTAIN BIDS FOR VANS/Older American

Carlos Montoya requested permission to go out to bid for seven passenger vans for the Older American Program, with approximately three of the vans being handicap accessible. General Obligation Bonds provides the funding.

Commissioner Al Padilla made a motion to grant permission to go out to bid for seven vans. Commissioner Helen Baca seconded the motion. Motion carried.

(H) WARRANTS

Carlos Montoya presented the warrants for Commission approval. The total is \$282,359.00.

Commissioner Frank Pando made a motion to approve the warrants. Commissioner Helen Baca seconded the motion. Motion carried.

Carlos Montoya said, "As an employee of Valencia County, I would like to thank you for the salary increase you gave to myself and to the staff and the other employees of Valencia County, I thank you very much."

County Manager James Fernandez asked, "When would you want those to go into affect?"

Chairman Aguilar said, "It's effective today."

EXECUTIVE SESSION

Commissioner Frank Pando made a motion to go into Executive Session. Commissioner Helen Baca seconded the motion. Motion carried.

Commissioner Frank Pando made a motion to return to the Regular Meeting from Executive Session. Commissioner Al Padilla seconded the motion. Motion carried.

Carol Anaya stated during the Executive Session discussion was held on the following:

NEW HIRES:	Kendra Kaneshiro Pending Pre-employment physical and Drug Test
TEMPORARY HIRE:	Inez Anaya
RESIGNATION'S:	Todd Maestas Robert Griggs
TRANSFER:	Charles Eaton from Planning and Zoning to the Fire Marshal's Office, effective Thursday, 7-22- 99, at the same salary

Carol Anaya said discussion was also held on the posting of the position of mechanic for the Road Dept. and one truck driver and for a zoning officer.

Commissioner Frank Pando made a motion to ratify action taken during the Executive Session. Commissioner Eloy Giron seconded the motion. Motion carried.

Tom Garde said, "During the Executive Session we discussed the litigation in regards to Equity Growth on their appeal, the current litigation on Lobo Valley and on Sant Tana. We also discussed the Bonito Lawsuit with regards to the retention of Frank Salazar with the Sutin Firm and no action was taken on those items."

Chairman Alicia Aguilar said discussion was also held on the acquisition of property and the potential litigation regarding the meeting they had with the Village of Los Lunas and administration has been directed to contact the Village of Los Lunas.

The County Attorney said, "Just for clarification, with regards to the acquisition of property that was scheduled for Executive Session, that has been discussed in the open meeting."

James Fernandez said the correct amount for the property is \$322,140.00.

Commissioner Al Padilla made a motion that nothing else was discussed during the Executive Session. Commissioner Helen Baca seconded the motion. Motion carried.

NEXT MEETING

The next Regular Meeting of the Valencia County Board of County Commission will be held on August 2, 1999, at 9:00 AM in the County Commission Room at the Valencia County Courthouse.

ADJOURNMENT

Commissioner Frank Pando made a motion to adjourn the July 19, 1999, Regular Meeting of the Valencia County Board of County Commissioners. Commissioner Eloy Giron seconded the motion. Motion carried.

NOTE: All proposals, documents, items, etc., pertaining to items on the agenda of the July 19, 1999, Regular Meeting (presented to the Board of County Commissioners) are attached in consecutive order as stated in these minutes.

VALENCIA COUNTY BOARD OF COMMISSIONERS

SS
ALICIA AGUILAR, CHAIRMAN

SS
AURELIO H. PADILLA, VICE-CHAIRMAN

SS
S. T. FRANK PANDO, COMMISSIONER

SS
ELOY G. GIRON, COMMISSIONER

SS
HELEN BACA, COMMISSIONER

ATTEST: ss

KANDY CORDOVA, COUNTY CLERK

DATE: August 2, 1999

For an official copy of these minutes and attachments see Commission Book 35 Page 10