

# VALENCIA COUNTY BOARD OF COMMISSIONERS

## SPECIAL MEETING

September 28, 1999

### MINUTES

The Special Meeting of September 28, 1999 was called to order by Chairman Alicia Aguilar at 9:10 AM.

#### **PRESENT**

Alicia Aguilar, Chairman  
Aurelio H. Padilla, Vice-Chairman  
S. T. Frank Pando, Member  
Eloy Giron, Member  
Helen Baca, Member  
James Fernandez, County Manager  
Thomas Garde, County Attorney  
Kandy Cordova, County Clerk  
Press and Public

#### **ABSENT**

#### **INTRODUCTION OF COUNTY ELECTED OFFICIALS & STAFF**

Chairman Alicia Aguilar introduced Commissioner Frank Pando, Commissioner Al Padilla, Commissioner Helen Baca, Commissioner Eloy Giron and herself, County Manager James Fernandez, County Attorney Tom Garde, County Clerk Kandy Cordova, Paula Weathersby, Sheriff Juan Julian, County Assessor Beverly Gonzales, Business Manager Carlos Montoya and Kathy Saltzstein from the Valencia County News Bulletin.

#### **PLEDGE OF ALLEGIANCE**

Kathy Saltzstein led the Pledge of Allegiance.

#### **APPROVAL OF AGENDA**

County Clerk Kandy Cordova read the agenda as presented. Chairman Alicia Aguilar requested that item C (Adoption of 1999 Valencia County Amended Property Tax Rates) be moved to Item A on the agenda.

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

#### **ACTION ITEMS**

##### **(A) ADOPTION OF 1999 VALENCIA COUNTY AMENDED PROPERTY TAX RATES**

County Assessor Beverly Gonzales said that the Department of Finance told her there was going to be a change on the 1999 Tax Rate. As it turned out, there were no changes. The Tax Rates that were mailed on September 3, 1999 are the ones that will be used. **(See Exhibit A)**

##### **(B) PERMISSION TO PUBLISH AMENDMENT TO THE SOLID WASTE ORDINANCE**

County Attorney Tom Garde stated, "The purpose of this is a notice of intent to amend the current Solid Waste Ordinance. The effective date of the Ordinance is September 23, 1999. At issue, as the Commission is aware are two issues, one that pertains to Section 18, which is the Uninsured Motorist as far as the amount the Commission wants the contractors to provide in the event of any accident. Number 19 pertains to the performance bond, cash or surety that was raised at the last meeting. I believe the discussion was to the effect that that amount would be reduced to \$100,000.00 cash surety or performance bond or letter of credit. With regards to Section 18, the existing amount is \$2,000,000.00 and there was some discussion that amount is too high. I think the purpose of this is for the Commission to give direction to what amounts we want that amount changed to with regards to 18 or 19. I've also included within the body of this notice that this in fact has an emergency clause. As the Commission is aware, general speaking, the ordinances take affect 30 days after the adoption. I have included an emergency clause in this particular notice in that we are basically operating without this matter being resolved so the intent is also at the meeting of October 18<sup>th</sup> the Commission will vote on the amount to be adopted with regards to insurance and as to the performance bond, secondly it should take effect immediately because there is immediate danger to the health, safety and welfare of the County without it being in place. This will also be an issue that will be addressed at the October 18<sup>th</sup> meeting."

County Manager James Fernandez said in the packet there is a Roll-Off Analysis provided by Marlene Feuer and she is hoping that it can be considered as an amendment also.

Marlene Feuer said, "When we originally adopted this ordinance, we received assurances that this was not set in concrete. We did an analysis of the roll off rates, I spoke at that time, I do know, we're bringing for your consideration, as long as you are opening up the ordinance again for other amendments, we brought before you the roll off rates. We felt they were not profitable rates at the time we did them. Vicky Andrews handles most of our rate setting for Waste Management. We did talk to the other haulers concerning this and I would welcome their comments on it. We request your consideration in amending your ordinance."

Vicky Andrews said they did an analysis of the haul costs they incur currently in addition to the disposal rates. In most instances they are losing money now as far as the roll off hauling charges. She said they are requesting to change the 20 yd. to \$275.00, the 30 yd. to \$345.00 and the 40 yd. to \$405.00 per pull and that would include disposal. They have taken into consideration the 5% franchise fee that would be paid to the County. She said the other consideration is on the compactors, they vary depending upon what type of compactor is used. Another suggestion is to include in the hauls, the \$190.00 per pull plus disposal, depending upon the size of the box or the compactor size.

Tom Garde said Section 10.2.1.12 is sort of a catchall and language could be put in there instead of creating another Section. He said they need to define what the disposal cost is based on.

Marlene Feuer said it could be by weight or by cubic yard, depending on what landfill you go to. She said in other areas they charge a flat haul rate, which is \$190.00, and then whatever they are charged at the landfill is what the customer is charged.

Discussion was held on these issues.

Commissioner Frank Pando made a motion to grant permission to publish the changes. Commissioner Helen Baca seconded the motion. Motion carried. **(See Exhibit B)**

Changes to be published are:

**Section 10.2.1.9** (20 cubic yard roll-off) \$275.00 a container (Open top or compactor)+ actual landfill in excess of 8 tons net weight or 8 tons standard load-- standard load of 4.5

**Section 10.2.1.10** (30 cubic yard roll-off) \$345.00 a container (Open top or compactor)+ actual landfill in excess of 8 tons net weight or 8 ton standard load -- standard load

**Section 10.2.1.11** (40 cubic yard roll-off) \$405.00 a container (Open top or compactor)+ actual landfill in excess up to 11 ton standard load -- standard load

**Section 10.2.1.12** Any non-standard sized roll off type containers shall be charged as the next step up container unless otherwise mutually agreed. Compactor fees are \$190.00 per pull disposal cost charged at landfill site.

**Section 19.1.0** The Board of County Commissioners shall require each contractor to post with the County cash, surety, and/or performance bond in the amount of \$100,000.00. If surety and/or performance bond is used, it shall be furnished by a surety satisfactory to Valencia County. All bonds shall be payable to Valencia County and shall be conditioned upon the full and faithful performance by the Contractor of his obligations under this Ordinance and shall be kept in full force and effect by the Contractor throughout the period of Contract/Agreement. Failure to post or keep the required bond shall be grounds for revocations or denial of a Contract/Agreement.

As a condition of the County Manager issuing a Contract, the Contractor agrees to the terms of this ordinance and any regulations enacted pursuant hereto. The Contractor shall appear and defend all actions against the County arising out of the exercise of said Contract Agreement and shall indemnify and save the County, its officers, employees, and agents harmless and free of all claims, demands, actions, causes of actions, expenses, losses, costs and attorney's fees of every kind and description arising out of or in any way connected with exercise of the County Agreement.

Notwithstanding any provision to the contrary of this Ordinance or of any Contract Agreement, the County shall initiate and accomplish all necessary actions to maintain solid waste collection services in the unincorporated areas of the County in the event of failure of a Contractor to provide collection services as per the contract. The County shall use the Contractor's performance bond to pay for the said service except if the delay or failure to provide the service is caused by acts of God or other circumstances beyond the control of the Contractor, and which could not reasonably have been anticipated or prevented. For purposes of this Ordinance, acts of God and other circumstances include unusual weather, floods, epidemics, war, riots, strikes, lockouts, and other industrial disturbances, protest demonstrations, unanticipated site conditions, or other inability, despite reasonable diligence, to provide service.

### **(C) DISCUSSION ON SOLID WASTE CONTRACTS/PERMITS**

Chairman Alicia Aguilar said this item is for discussion only, we will not be approving this contract today.

Discussion was held on the Solid Waste Collection and Disposal Agreement.

Chairman Alicia Aguilar said, "If there is any way to take the contract that we have, simplify it and refer to the Ordinance as far as definitions to where there may be a two-page contract that they sign, but let the Ordinance become a reference point because the Ordinance is very specific and it also addresses any conflicts with the law. It addresses the authority, the violations, the exemptions, and the costs. We're going through the contract now and it talks about the fees as Exhibit A, but I haven't seen Exhibit A. I had to go back to the Ordinance to refer to the fees."

The County Attorney said, "It will be attached to this once the Commission accepts the agreement. We're dealing with certain items that I felt the Commission needs to decide on. When we get that wrapped up, then Exhibit A will be added together with a permit application."

Chairman Alicia Aguilar said, "We went through this with the Ordinance. We had a wonderful discussion and what I'd like to do is take the contract and meet with administration and other Commissioners and compare it with the Ordinance and make sure what is in the Ordinance is in the contract to simplify it and have this done by the October 4<sup>th</sup> meeting. I'd like to forward it to our attorney for his review. I think there are some issues in the Ordinance that need to be in the agreement. I'll go ahead and do it like I did before and provide you with a copy."

Chairman Alicia Aguilar had to leave the meeting.

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

**EXECUTIVE SESSION**

County Attorney Tom Garde said during the Executive Session, discussion was held on the pending litigation with the jail site location and pending litigation with the Village of Los Lunas concerning the housing of State and Federal prisoners and the status of the mediation that has been ongoing with the two entities. No decision was made.

Commissioner Eloy Giron was excused from the meeting.

Commissioner Frank Pando made a motion that this was all that was discussed in Executive Session. Commissioner Helen Baca seconded the motion. Motion carried.

**ADJOURNMENT**

Commissioner Frank Pando made a motion to adjourn the September 28, 1999, Special Meeting of the Valencia County Board of County Commissioners. Commissioner Helen Baca seconded motion. Motion carried.

**NOTE:** All proposals, documents, items, etc., pertaining to items on the agenda of the September 28, 1999, Special 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, MEMBER**

**ss**  
**ELOY GIRON, MEMBER**

**ss**  
**HELEN BACA, MEMBER**

**ATTEST: ss**

**KANDY CORDOVA, COUNTY CLERK**

**DATE: Oct. 4, 1999**

**For an official copy of these minutes and attachments see Commission Book 35 Page 540**