

# VALENCIA COUNTY BOARD OF COMMISSIONERS

## SPECIAL MEETING

December 20, 1999

## MINUTES

The Special Meeting of December 20, 1999 was called to order by Chairman Alicia Aguilar at 10:06 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 County Elected Officials and County Staff.

### PLEDGE OF ALLEGIANCE

Commissioner Al Padilla led the Pledge of Allegiance.

### APPROVAL OF AGENDA

County Clerk Kandy Cordova read the agenda as presented.

County Attorney Tom Garde said Frank Salazar is here and will update the Commission on the Bonito Lawsuit.

Commissioner Frank Pando made a motion to approve the agenda, moving the Executive Session to the bottom of the agenda. Commissioner Eloy Giron seconded the motion. Motion carried.

### PUBLIC REQUESTS

#### (A) STREET NEWS

He presented Chairman Aguilar with a document opposing the flag and the fringe on the flag. **(See Exhibit A for a copy of the Street News and a copy of the Law of the Flag)**

Charles Berry said the County has violated the Search and Seizure Act by denying the right to have due process of law. He requested that the Commission direct its employees that they should have a warrant when they go onto someone's property.

He said on July 4, 1928, the Commission passed a resolution to allow the municipality of Los Lunas to be created. It was never carried out and he would like this Commission to withdraw permission to let that happen.

Chairman Alicia Aguilar said, "I am not going to get into all of these issues. You and I both know that when you came, you had an issue about the animals on your property and the fact that the County has been going onto the property. We talked about, and this is before I even got elected, that you had 20 or 30 dogs and they have been seized. You disagreed with that. There was a process of law. You went through Courts. I am really flattered that you think this Commission has the power to go to the United States and remove the flag and also go over Federal Judges."

Mr. Berry said going onto his property and seizing animals was a violation of the Search and Seizure Act. It says you can come onto the property either to take a felon or on an emergency. Anything else has to be carried out with the due process of law.

Chairman Aguilar said, "For the record, you further mentioned to us and you made some allegations about some other political public servants or elected officials. In addition to that, you showed a copy of Street News whereby you had talked to our Planning and Zoning Administrator and tape-recorded the conversation and had it transcribed and printed in the Street News. You further went on to talk to our Sheriff about it and you taped him without his consent. Then you met with me and Mr. Fernandez was there and at the end of the conversation I asked you if I had been taped and you said yes. You were concerned that you were not being heard. We went further to indicate that we would follow up on it. We did send the information and we did send the information to the District Attorney. We have fulfilled our obligation. The District Attorney is aware of the information that you have sent us."

Tom Garde said, "With regards to Mr. Berry's complaint. The County has every authority to enforce its zoning laws." Mr. Berry said, "Not under this article." Mr. Garde said, "I'm not sure what authority your article comes from, but there is no precedent in New Mexico or the United States Constitution that would give your interpretation of the law any credence."

Commissioner Frank Pando said, "I don't appreciate you desecrating the flag. You talk about it and yet you carry it on your pocket. I'm a Veteran and I'm proud of it. You get to the point or please get the hell out of here."

Charles Berry said all laws should be created in accordance to the Constitution. The flag in this room is unconstitutional. That makes all of the laws unconstitutional. This Commission is operating in a foreign state.

Chairman Alicia Aguilar said, "Mr. Berry you have made your comments. You have provided us with documentation. We are going to go on with our agenda. Thank you."

Mike McCartney said, "Just so the other Commissioners are aware, the situation with Mr. Berry occurred in 1996. In March a jury of his peers, who he selected found him guilty, in Magistrate Court. He appealed that decision to the District Court of the Thirteenth Judicial District. That guilty verdict was upheld. He appealed to the Court of Appeals and was appointed a Public Defender at the cost of the taxpayers. He was also denied a hearing there and it was remanded back to District Court. Just for the benefit of the Commission, there is a long history here and no body has entered Mr. Berry's property. In turn, people from Animal Control or Planning and Zoning have driven down Jolene, which is a County Road. Mr. Berry has proceeded to follow them. No one has stopped in front of his house and done anything."

Martin Frank Kirtley spoke regarding the new jail. He asked for consideration of the mentally ill people that are incarcerated in the jail.

Chairman Alicia Aguilar said she has been receiving calls from residents in the last few weeks that feel they would like to have more of a voice and offer suggestions for better participation on information getting back to the citizens of Valencia County. She is proposing that administration prepare a resolution and they form an advisory committee made up of all of the chairman or presidents of the homeowners associations in Valencia County. There are some major issues coming up and to better inform the citizens, this committee would act as a liaison between the Commission and the citizens, but would get the word out to more residents. It could help the Commission to come up with a better solution.

Commissioner Al Padilla said he believes this is a great idea and he is all for it. Commissioner Pando also agreed that it was a good idea and suggested that they involve other people and not just associations.

The County Manager presented some comments from David Gabaldon to the Commission regarding the River Crossing Study for review. **(See Exhibit B)**

## **AWARD OF BIDS**

### **(A) MANZANO EXPRESSWAY PAVING BID #507**

Carlos Montoya said they went out to bid to see if they could get a better price on the paving per square yard so that they could pave more of the project. It is a 2.8-mile section of the Manzano Expressway and the Conejo Transfer Station is on the road.

Dave Thompson of Thompson Engineering Consultants, Inc. said they prepared plans and specifications to go out to bid for a two-lane roadway from Van Camp to MeadowLake. There were seven bids received. There were two alternates that the contractor's were requested to bid. The recommendation is to award the bid to W. W. C., Inc. for the low bid for Alternate 1.

Chairman Aguilar said there is \$144,000.00 budgeted for the project. Will it be handled in phases? Carlos Montoya said, "The \$144,000.00 that was awarded last year in the legislative session, we need to execute the contract by December 27<sup>th</sup> so that we can take advantage of this money that is funded. Under Mr. Fernandez's suggestion that we go to the upcoming legislative session and seek further funding for this project. If the contract is awarded today, negotiations will have to be set up for the beginning of the project. The way we calculate it, because of the weather, we'd like to have good weather for at least 7 to 9 days at 45 or 50 degrees. Paving on the project would not begin until early spring. If we cross our fingers we will acquire additional funding so we can complete this project once and for all. The \$144,000.00, would be used for phase one of this project from Van Camp to El Cerro Mission Blvd."

Tom Garde said, "The concern that I would have is if the County does award this bid, it would be subject to funding availability because we are awarding a contract that we don't have funds for."

Chairman Alicia Aguilar said, "Seeing that the engineers estimate was much less than what came in, do we follow the same procedure as we do with other bids whereby he can get together with the lowest bidder and they may be able to reduce his cost by so much. You're talking to the two lowest bidders which would be W.W.C. and Star Paving, so you go to one and see if they will work."

Commissioner Eloy Giron asked if they change the bid by 10%, do they have to rebid the whole project. The County Attorney said that is correct.

Commissioner Frank Pando made a motion to award the bid #507 to W. W. C., Inc. in the amount of \$144,000.00, the remainder to be done based on the availability of funds obtained from the legislature and they will be talking to the two lowest bidders about a 9.9% reduction. Commissioner Al Padilla seconded the motion. Motion carried. **(See Exhibit C)**

Carlos Montoya thanked Bob Davey and Valley Improvement Association for their cooperation with Valencia County.

### **Adult Detention Facility Bid #503**

Carlos Montoya introduced John Layman from Nims, Calvani & Associates. He is the project coordinator and designer on this project.

John Layman said bids were opened on December 15, 1999, on the Adult Detention Facility. There were nine bidders on the project. Nims, Calvani & Associates has reviewed the proposals and found everything to be in order. They recommend that the bid be awarded to Famco, Inc. in the

amount of \$3,220,000.00.00 plus tax. Nims, Calvani has worked with Famco on several projects and feel confident in their ability to complete the project on time and in budget.

Mr. Layman said Alternate #1 is the site wall to shield the detention facility from the homes across the street.

Carlos Montoya said the length of the project is going to be 270 days. He said, “John, myself and James would like to, if this bid is awarded today, would like to get into contract negotiations today so that we can get the meter to start clicking. As a suggestion and I’d like to bring this in front of the Commission, is possibly to make some kind of incentive on this contractor. If he completes the project ahead of time he would be awarded a monetary award. Every day that this contract goes, we are spending \$3,300.00 on the housing of prisoners. If he comes in within a 20 to 30 days ahead of the project, it will save us approximately \$60,000.00 to \$90,000.00.”

Commissioner Al Padilla made a motion to award the bid to Famco, Inc. in the amount of \$3,220,000.00 plus tax with the stipulation that they would receive an incentive of \$500.00 per day if they complete the project early. Commissioner Helen Baca seconded the motion.

Chairman Alicia Aguilar read the list of bidders and their bid amount for the record. It goes as follows:

Contractor	Base Bid	Alternate #1	Total
Famco, Inc.	\$3,136,000.00	\$ 84,000.00	\$3,220,000.00
K. L. House Const.	3,170,000.00	77,300.00	3,247,300.00
Brycon	3,193,145.00	77,719.00	3,270.864.00
TC Enterprises	3,223,600.00	69,100.00	3,292,700.00
NM Sam Corporation	3,234,000.00	64,000.00	3,298,000.00
Luther Construction	3,239,339.00	160,499.00	3,399,838.00
Longhorn Construction	3,275,000.00	65,000.00	3,340,000.00
Sarcon Construction	3,295,000.00	119,000.00	3,414,000.00
RMCI, Inc.	3.325.000.00	88,275.00	3,413,275.00

Commissioner Frank Pando said there is history being created today. This has been a 20-year battle. He congratulated the Commission on their fortitude. He also thanked the past Commission for the job they did on this project.

Chairman Alicia Aguilar said she appreciated Commissioner Pando’s remarks. It took the effort of many people working together to get this project done.

Commissioner Al Padilla said a big force on this project was former Commission Chairman Frank Gurule. Without his vote, what is happening today probably wouldn’t be happening. He also thanked County Manager James Fernandez and County Attorney Tom Garde. They played a very important part in the negotiations with the Village of Los Lunas. He thanked the people for having confidence in the Commission by passing the tax. Commissioner Padilla thanked Chairman Aguilar and said she was very instrumental in trying to get this project through.

Chairman Aguilar said there was team effort. She thanked Commissioner Pando for his support in the negotiations and mediation efforts with Los Lunas. It wasn’t just one, it took a team effort from the past to the present Commission.

Motion carried on Commissioner Padilla’s motion to award the bid to Famco, Inc. in the amount of \$3,220,000.00. **(See Exhibit D)**

Chairman Alicia Aguilar requested that Mr. Layman update the Commission periodically on the progress of this project.

**Valencia County Road Paving Bid #508**

Carlos Montoya said they went out to bid for asphalt on paving projects in Valencia County. According to bid results Albuquerque Asphalt is the lowest bidder with the price matching the New Mexico State Contract agreement. Helen Cole said this is the first year they have ever done this. They have always gone with the State Contract, however they thought they would save money by going out to bid. Three bids were received, one from W.W.C. Inc., Star Paving and Albuquerque Asphalt. Albuquerque Asphalt was the low bidder and they happen to be the contractor that was awarded the State Contract for the price agreement with Santa Fe.

Commissioner Al Padilla made a motion to accept the low bid of Albuquerque Asphalt and supplement the files at the Road Department. Commissioner Eloy Giron seconded the motion. Motion carried. **(See Exhibit E)**

**WORKFORCE INVESTMENT ACT/Adoption of Operating Agreement**

Chairman Alicia Aguilar said this is a copy of the Operating Agreement on the Workforce Investment Act. The County Manager updated the Commission at the last meeting and informed them that Valencia County will be part of the central region. It consists of four counties, Bernalillo, Sandoval, Torrance and Valencia. They have been having planning meetings in Albuquerque at the County Manager’s Office with various groups. The Workforce Investment Act is one of the first steps in getting an operating agreement so that nominations can be submitted for the adoption or the implementation of a Workforce Board. There is also a Youth Council and should be in place in the next 45 days so that they can ask for an advance of funds to continue some of the Summer Youth Programs.

The Workforce Investment Act does away with the JTPA Program effective June 30<sup>th</sup>. The County will no longer have summer employment, as we know it now. It has to be tied in for a year and has to be tied in to academic training and workforce development.

There is a tracking mechanism in place that the Department of Labor is responsible for as far as continued funding. It looks like there is approximately 5.5 million dollars that may be coming into this region. The Board is anticipated to be about 40 members and 51% of the Board has to be made

up of business groups and the Act is specific as to the representation. Everything from labor to education to youth will comprise the rest of the Board.

The Operating Agreement spells out basically what Chairman Aguilar has been saying. The Board will be responsible for approving any of the services, approving the providers that will be giving training. There is a one-stop center that they also talked about. In Valencia County the one-stop center could be the UNM Campus. They have the Dept. of Labor already in place and they are already offering training to GED and offering English as a second language and other programs. This ties in all of the Federal Funding, such as Medicare funds, funds for needy families; Welfare to Work, Veterans and Youth. There are 19 mandatory partners and the Board can add optional partners, anyone providing services, whether it is counseling or any type of training that would fall under this act.

James Fernandez said Bernalillo County also adopted this Operating Agreement last week.

Commissioner Frank Pando asked if the Board members would be local or if they would be primarily from Bernalillo County. Chairman Alicia Aguilar said, “When Mr. Fernandez and I attended the planning meeting, that was one of our concerns. We did ask that in this Operating Agreement that there be balance among all of the counties and right now the City of Albuquerque is protesting and not agreeing with what we are doing. They feel it should be based on the population. By doing it this way, I think there is more a consensus of balance.”

Discussion was held on the makeup of the Boards.

Chairman Aguilar said maybe they could set up a workshop in January to make the public aware of the Workforce Investment Act and how important it is, and how it will impact the County.

Commissioner Frank Pando made a motion to approve the Workforce Investment Act, Central New Mexico Operating Agreement. Commissioner Helen Baca seconded the motion. Motion carried. **(See Exhibit F)**

**WARRANTS**

Carlos Montoya presented the Warrants for Commission approval. The total is \$212,179.00.

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

Carlos Montoya reported on the revenues in the General Fund. He thanked the Department Heads and the Commissioners for the good fiscal management provided in Valencia County. He said it is a good team effort.

Chairman Alicia Aguilar commended the administration and said we have an excellent County Manager and Business Manager.

Mr. Montoya thanked James Fernandez for the proven leadership that the County needs. He said it has been a pleasure working with him.

**EXECUTIVE SESSION**

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

County Attorney Tom Garde stated during the Executive Session, Frank Salazar updated the Commission on the pending litigation regarding Bonita Land & Livestock. No action was taken.

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

<b>SEASONAL NEW HIRES:</b>	Jason Romero Robert Trujillo
<b>RESIGNATION:</b>	Michael Abeyta

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

Commissioner Eloy Giron was absent for this vote, but did attend the Executive Session.

Chairman Alicia Aguilar directed administration to set up a workshop next week to discuss legislative issues and invite our Lobbyist, Michael Olguin and our Legislator’s.

Commissioner Frank Pando made a motion that these items were all that was discussed during the Executive Session. Commissioner Al Padilla seconded the motion. Motion carried.

**NEXT MEETING**

The next Regular Meeting of the Valencia County Board of County Commission will be held on January 10, 2000, at 10:00 AM in the County Commission Room at the Valencia County Courthouse, with Executive Session at 8:30 AM.

**ADJOURNMENT**

Commissioner Al Padilla made a motion to adjourn the December 20, 1999, Special Meeting of the Valencia County Board of County Commissioners. Commissioner Helen Baca seconded the motion. Motion carried.

**NOTE:** All proposals, documents, items, etc., pertaining to items on the agenda of the December 20, 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: Jan 10, 2000**

**For an official copy of these minutes and attachments see Commission Book 36 Page 322**