

VALENCIA COUNTY BOARD OF COMMISSIONERS

REGULAR MEETING

OCTOBER 16, 2000

M I N U T E S

Chairman Alicia Aguilar Called THE MEETING TO ORDER at 5:00 PM.

PRESENT	ABSENT
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	

EXECUTIVE SESSION

County Clerk Kandy Cordova read the Agenda for the Executive Session. Commissioner Pando made a motion to go into Executive Session with a second to the motion by Commissioner Baca. Motion carried.

Commissioner Pando made a motion to return from Executive Session with a second by Commissioner Giron. Motion carried.

Mrs. Carol Anaya reported that during Executive Session the following personnel changes were discussed: New Hires; Hutchins Hastings, Manuel Torres, Shawn Quintana and Ben Moreno. Parental Leave: Jennifer Hawks Baca. Family Medical Leave; Terry Baber; Salary Adjustment w/Certification; Marcos Lovato, Carlos Montoya and Lawrence Contreras. Commissioner Padilla made a motion to approve the personnel matters with a second by Commissioner Pando. Motion carried.

County Attorney Thomas Garde reported that during the Executive Session they had discussed the current litigation regarding the administrative appeal with Valencia County and Twin Mountain. He stated that they had discussed the current litigation with regard to the County of Valencia and Bonito Land and Livestock and potential litigation regarding the Antonio Garcia lot split. He stated that with regards to all three items there was no action taken.

Commissioner Padilla made a motion that the foregoing was all that was discussed in Executive Session with a second by Commissioner Baca. Motion carried.

PLEDGE OF ALLEGIANCE

Mrs. Carol Anaya led the Pledge of Allegiance.

APPROVAL OF AGENDA

County Clerk Kandy Cordova read the Agenda for the Regular Meeting. Discussion was held regarding deletion of Items b, c, d, e and h. Commissioners Giron and Pando requested that Item C be deleted until Mr. Maze makes a written request. Chairman Aguilar stated that she was working on Lower Flood Plain Elevations for the Los Chavez area but the documentation was not ready and requested that Item e be deleted. as well as Item h. Commissioner Padilla then addressed Mr. Anthony Williams, attorney for Steve Romero, and stated that it was his understanding that he wished to withdraw Item d. Mr. Williams stated that they had received a notice that the hearing on the Romero hearing had been set for the 20th of November but on Thursday he had been advised the hearing was set for tonight. He stated that two working days was insufficient time for preparation on such a controversial issue and they wished to put into writing as much of their presentation as possible not to waste the Commission's time. Chairman Aguilar stated that the reason the matter had been placed on the Agenda for the meeting at hand was because Mr. Romero called and wanted it heard at this meeting. Mr. Williams expressed his apologies for this conflicting communication and that he would address the issue with his client. Commissioner Giron then stated that they had received a letter on the matter and he has made contact with the Office of the Attorney General and the Insurance Authority and they are hoping to get some correspondence from them. He stated that he did not want to set November 20th as the date for the hearing until they receive a reply from the Attorney General's Office or the Insurance Authority so they could have an unbiased hearing. Chairman Aguilar stated that there had been some discussion in Executive Session regarding the matter and her understanding was that they want a full-blown hearing with facts and findings to vacate the Garcia lot splits. Mr. Williams acknowledged that that is what they wanted. Chairman

Aguilar then addressed Commissioner Padilla and stated to him that that is what has been requested. Commissioner Giron stated that before Commissioner Padilla responded to Chairman Aguilar they had received correspondence last week and it would be fair for all to have a letter from Santa Fe and the Insurance Authority before they act on the matter. Chairman Aguilar stated that she believed it was very unfair, a motion has been made and they have the Attorney representing Mr. Romero here that needs to prepare for the hearing and understands that the hearing will be had to decide whether or not to vacate the Garcia lot splits. She stated that now he is saying that they don't want to have the hearing and he's not sure whether he wants to give it to him or not. Commissioner Giron stated that they are the Commissioners, he is not telling them what to do. He stated further that they had voted two weeks ago or a month ago and the motion was to rehear the matter. He stated that they have received correspondence and in order for the matter to be heard with any unbiased decision he feels they need some correspondence from the Attorney General's Office as well as the Insurance Authority and that would be his recommendation to the Commissioners who voted with him on that. Mr. Williams stated that November 20th is more than 30 days away and he doesn't know if the Insurance Authority or the Attorney General is going to get involved with the matter. He stated that he understands the position the Commission is in. He stated that the matter happened back in 1996 and he realizes that no one is comfortable with what happened back then and he realizes the Commission has a tough decision to make and that there may be legal ramifications. He stated that it appears to him that they can sort that out between now and the 20th and they would really like to keep the setting on the 20th. Chairman Aguilar stated that the three Commissioners are telling her that the reason for the hearing is to look at the zoning issue and that there be access and fire protection and correct her if she is wrong but her understanding is that he (Mr. Williams) wanted a hearing to go back and look at the vacation of the property. Mr. Williams agreed that this is what they are seeking. He stated that the fire access and the zoning are problems they will be prepared to address but the core and substance of what they are wanting the Commission to do is give them a hearing about vacating these lots. Commissioner Pando stated that they needed to give direction to Mr. Williams what they want and to repeat what Commissioner Giron said, they are the Commissioners and not Mr. Williams or anyone else. He stated further that they should leave the matter on the Agenda and express to Mr. Williams what their desires are and at that point and time they can relay their desires to Mr. Williams' client and go from there. Mr. Williams stated that he objected to having to respond to any specific things today. Commissioner Pando stated that he didn't have to respond to anything, all they would do is ask what they feel needs to be done. Commissioner Pando stated that was his feeling. Commissioner Padilla stated that the intent of the vote taken by the Commission, and his intent was to rehear what was on the case, it was some of the issues that Mr. Romero had in mind as well as correspondence received pertaining to this issue. Commissioner Pando stated that at this point the Agenda had not been approved and they should go forward and address the issue as it comes on the Agenda to give Mr. Williams some direction as to what their thoughts are. Commissioner Pando stated that to repeat what Commissioner Padilla had said that that is what they were trying to do. Mr. Williams stated that he is not trying to tell the Commission what to do but what a hearing means is that they come forth with evidence that they will all listen to and he cannot do it today because he only had two days notice but he would like to have the hearing on the 20th. Commissioner Padilla stated that the Commission would accept his request to withdraw. Mr. Williams stated that it was not a withdrawal. It's a postponement. Commissioner Padilla stated that it was a postponement until the next meeting. He clarified, after inquiry that he was referring to the meeting of November 20th. Chairman Aguilar inquired of Commissioner Padilla if he is allowing the matter to continue as a public hearing to consider vacation. Commissioner Padilla responded, not to consider vacation, that is not a rehearing. He stated that his request was not to rehear on vacating, now this is Mr. Williams request, that wasn't his request. He referred to a letter. Chairman Aguilar then asked Commissioner Padilla to clarify for Mr. Williams and for the rest of the Commission and the public exactly what it is they will be doing on the 20th. Commissioner Padilla stated that there are certain things they would like to request and he would have Steve Chavez and the Planning and Zoning prepare something. Mr. Williams stated that at the last meeting what they clearly requested was that the Commission considers giving them a hearing to consider their request that the plat be vacated. He stated that he was not trying to predispose the Commission and that the Commission may listen to what they have to say and say, no, you haven't proved it, for various reasons and he respects that. Chairman Aguilar stated that she would leave the matter on the Agenda and when they get to it they can continue the discussion but they need to approve the Agenda and move on. County Manager Fernandez stated that Mr. Montoya had a family emergency and he would be presenting the Warrants. Sheriff Juan Julian stated that under Item I, In State Travel he had one other request that had been left off the Agenda. Chairman Aguilar stated that they would add the request to In State Travel. Commissioner Pando made a motion for the approval of the amended Agenda. Commissioner Giron seconded the motion. Motion carried.

APPROVAL OF MINUTES

Chairman Aguilar stated that there were five sets of Minutes, September 18, 2000, September 26, 2000, October 2, 1000, October 5, 2000 and October 10, 2000. Commissioner Pando made a motion to accept all the Minutes presented. Commissioner Padilla requested a correction to be made on the Minutes on Page 2, October 10th, the ICIP Workshop. He stated that on the section where he requested to add a sixth priority, it wasn't roads, it was paving for the fire departments for Rio Communities and then on to Tome-Adelino. He stated that it was the Fire Department parking lots instead of roads. Chairman Aguilar stated to the stenographer that if she deleted "the two roads in Rio Communities, it should suffice. Commissioner Padilla agreed. Chairman Aguilar stated that Commissioner Pando had made a motion to approve. Commissioner Pando stated, "as amended". Commissioner Padilla seconded the motion. Motion carried. Commissioner Giron stated that he would abstain from the October 10th minutes, as did Commissioner Baca.

PUBLIC REQUESTS

Chairman Aguilar inquired if anyone wanted to address the Commission. There was no response.

ACTION ITEMS

a) Recognition State Fair Grand Champions

Commissioner Giron presented to the Commission a Proclamation (Exhibit A) honoring the Valencia County 4-H Program. Mr. Frank Holguin, Valencia County Extension Director introduced Ms. Julie Hutchens, County Agent, who reviewed the success of the 1999-2000 Youth Awards at the New Mexico State Fair. Copies of the Proclamations were given to the Grand Champions, Clay Silliman, Cliff Warren, Dee Ann Sanchez, Kendra Miller, Nicole Trujillo, Troy Fuller and Harmon Ridley by Commissioner Giron on behalf of the Commission and congratulations expressed by all Commissioners. Commissioner Pando stated that this was the second group of youngsters recognized by the Commission recently and all Commissioners expressed their pride in the excellent achievement. A motion to approve the Proclamation was made by Commissioner Giron with a second by Commissioner Giron. Motion carried.

b) Billboard Moratorium

Commissioner Giron made a motion to table Item b until next meeting. Commissioner Padilla seconded the motion. Motion carried.

c) Deleted

d) Public Hearing Garcia Lot Splits

Commissioner Padilla stated that since Mr. Williams wants to cancel the hearing today because he wants to get a chance to prepare for the next meeting on the 20th of November, he would like to cease this issue and he would like, there is an intent in mind with the motion on this issue brought up here at the previous meeting and he would like to have Planning and Zoning send a letter of what the intent of this motion was and what they had in mind other than what we have read or has been expressed by Tony Williams. Chairman Aguilar addressed Mr. Steven Chavez of the Planning and Zoning Department and stated that she believed they were making a request of him to interpret intent. Mr. Chavez stated that he was confused as well. Commissioner Padilla stated that there were certain things in mind and he had a meeting with Mr. Steve Romero on the issue and this is the reason he would rather have a meeting with Planning and Zoning and would like to prepare something for Mr. Williams so that he will know what the intent is. Chairman Aguilar stated that she needed clarification. She stated that Mr. Romero came with his attorney to the last meeting and made a request. She stated that there was a motion and now Commissioner Padilla is requesting something from Mr. Chavez. Mr. Steven Chavez stated that he is not quite sure what Commissioner Padilla is requesting. Mr. Padilla referred to a meeting he had had with Mr. Chavez this morning and that they had discussed intent. Mr. Chavez stated that what had been discussed in the meeting this morning was generally the analysis that needs to be done by the County but he is not privy to all the information and has not had a request to look at the information yet. He stated that he would feel uncomfortable trying to interpret their intent for the motion. Chairman Aguilar said she would ask Mr. Williams to rephrase what his intent was and his request. Mr. Anthony Williams, attorney for Mr. Steve Romero, stated that first and foremost they want a hearing where they can present whatever information they think they should have in front of them about what they believe is an illegal subdivision. He stated that they would like to have that opportunity to come forth and they would like a little more time than the short notice they got. He stated that he intends to ask the Commission to vacate those plats. He stated that that doesn't mean that the Commission has to do that or that by extending this hearing date until the 20th that they are committing to anything. He stated that all they were asking is to listen to them and they are going to ask them to vacate the plats if in fact after listening to them and discussing it with staff and legal counsel they can make their own decision. He stated that he fully respects that the Commission is in control, not him but all they want is the opportunity to have the hearing and present all the information they have about this illegal subdivision. Commissioner Pando stated that they sit and serve at the pleasure of the public and his question to Mr. Garde is that by having this hearing, as Mr. Williams has requested, and he as no quarrel whatsoever with having this hearing, but do they put themselves in any type of liability. He stated that as Mr. Williams has expressed whether they approve this is immaterial. He stated that he respects the law but he realizes also that the law is very blind in a lot of matters. He stated that he thinks that they need to listen to the people and the people are the ones that need to speak. He states that he has no argument or quarrel at all with what Mr. Williams is asking but he wants to ask Mr. Garde, can they have a hearing, hear all the merits and at that point and time make a decision; for or against. He stated that the issue needs to be out in the open where they have some leeway or something to stand on to tell these people, if you created this monster at least fix it and he thinks that this is the intent of this Commission. He stated that that was his intent. He then inquired of Mr. Garde whether the Commission faced liability if they heard the matter. Mr. Williams stated that the Commission is in a tough situation in the case because the first amendment of the United States Constitution says that every citizen has a right to petition the Government and they think that they have a right to a hearing and not giving them a hearing may create legal liability so they are sitting on a side where as they say you are damned if you do and damned if you don't, to use a crude phrase. He stated that if they give them a hearing and listen to the arguments about what their legal duties are, and what the effect of the past action is, they can make a decision. He stated that he couldn't imagine that merely listening to citizen's state their point of view is going to create any liability but Mr. Garde should advise you. County Attorney Thomas Garde stated that he believes the liability would commence at the conclusion of the hearing, depending on the decision. He stated that it just depends on what the Commission decides. He stated that he has given them his position and he won't go into that but the liability would commence once a decision is made, depending on that

decision. Commissioner Pando reiterated his sentiments that the Commission needed to respect the freedoms and listen to the public and not just to the law books. He stated that what Mr. Garde had advised made sense to him but by the same token he doesn't think this is an issue that they can evade and hide from. He stated that it was something that needed to be addressed and this gentleman is entitled to a hearing. Commissioner Giron addressed County Attorney Thomas Garde and stated that he had given the Commission his recommendation but they are in a no-win situation, there are damages on both ends. He stated that he hoped the Commission could make the right decision. Chairman Aguilar stated that the question is do they go the 20th and will there be a public hearing. Commissioner Padilla stated that he believed that action was taken at the previous meeting. Chairman Aguilar stated that Mr. Padilla made the motion but it seems that there needs to be clarification. Commissioner Padilla stated that it would be his recommendation to table the matter until November 20th. Chairman Aguilar inquired if that meant they would grant a public hearing. Commissioner Padilla stated that they would grant a public hearing at that time. Commissioner Giron inquired if Commissioner Padilla's statement was in the form of a motion. Commissioner Padilla agreed. Commissioner Giron seconded the motion. Chairman Aguilar stated that there was a motion by Commissioner Padilla to continue the hearing on the Garcia Lot Split for November 20th, which was seconded by Commissioner Giron. Commissioner Pando stated that as was expressed by Mr. Williams and Mr. Garde, liability starts after the vote. Commissioner Pando then inquired whether there was anything to prevent them from having a hearing. Mr. Garde stated that at the last meeting the Commission had voted to have a hearing. Commissioner Pando stated that whatever the Commission votes at that point and time is when the liability will start, regardless whether it is for or against. Mr. Williams stated that he believes that is probably correct but he would not want this Commission to be swayed to vote against his clients who have done nothing wrong and in favor of a group who created the illegal subdivision just to avoid some damages. He stated that he thinks that would be wrong but he believes Commissioner Pando is correct, not until they make that decision would that issue come up. He stated further to Mr. Williams that if the Commission doesn't have the hearing it gives them a legal issue because of due process. Mr. Williams agreed. Chairman Aguilar stated that she believed Commissioner Pando should be asking their own counsel those types of questions. Commissioner Pando expressed his apologies to Mr. Garde but his question was general. County Attorney stated that he had given his opinion to the Commissioners on the matter as far as due process and whether or not they have had a hearing or not. The motion carried with three votes by Commissioners Padilla, Pando and Giron. Commissioner Baca registered her vote against the motion.

f) ICIP Prioritization Finalized

Mr. Steven Chavez, County Planner, addressed the Commission and presented a final draft of the **2001-2005 Infrastructure Capital Improvements Plan**. He stated that the document had everything that was discussed in the ICIP Workshop held last week. He stated the Number One priority for the year 2001 is the Landfill. He stated the other priorities were as follows: 2. Solid Waste Transfer Station; 3. Heavy Equipment, Road Department; 4. County Government Administrative Offices and 5. Animal Control Facility. Commissioner Pando inquired of Mr. Chavez whether No. 5 was supposed to include the Road Department facility as well. Chairman Aguilar agreed and Mr. Chavez apologized for the omission and assured it would be included in the final draft. He stated that Priority No. 6 was the Health Department. He also stated that the Number 1 Priority for 2002 is to upgrade the present administrative complex into a judicial complex with emphasis on the security for the Judges and their staffs. He reviewed the additional seven priorities for 2002. (2001-2005 Infrastructure Capital Improvement Plan on file in the Offices of the County Manager and County Clerk) Other items mentioned, as having priority was the updating of the computer system for the Sheriff's Department, various community centers and sub-stations for the Sheriff's Department. County Manager Fernandez reminded the Commission that another item of priority is the second phase of the Jarales Community Center and sub-station. Commissioner Pando stated that in the various requests for sub-stations one in particular is the one at Meadow Lake, which has been requested on many occasions. Commissioner Pando made a motion to adopt Resolution No. 2000-47 (Exhibit B) with amendments to the document. Commissioner Giron seconded the motion. Motion carried. Chairman Aguilar congratulated Mr. Chavez for a job well done.

g) Amend Zone Maps from RR2 to RR1/Lorenzo Pino

Mr. Michael McCartney presented to the Commission the request for a family split on Tract 49B, Map 112. (Exhibit C) The property owner, Mr. Lorenzo Pino, addressed the Commission and after inquiry and further discussion, Commissioner Baca made a motion to approve on the recommendation of the Planning and Zoning Department and Commission. Commissioner Padilla seconded her motion. Motion carried.

h) Deleted

i) Approval of Resolution to Establish New Fire District

County Fire Marshal John Cherry presented Resolution No. 2000-48 to the Commission for approval. (Exhibit D) He stated that the Fire District in question is the Valencia-El Cerro Fire department. He stated that the County has a sub-station that is operating under the Valencia-El Cerro but they propose to make the sub-station an independent fire district, independent of the mother station in Valencia-El Cerro. Mr. Cherry read the Resolution. Chairman Aguilar made the motion to approve the Resolution, with a second by Commissioner Padilla. Commissioner Pando inquired as to funding from Mr. Cherry because of his concern for the Highland Meadows request for a fire station in that area. He stated that he wanted to be certain there are sufficient funds to service everyone. Motion carried.

j) In-State Travel /Silver City-APCO/NENA 911 Conference

County Fire Marshal John Cherry presented a travel request. A motion to approve was made by Commissioner Pando with a second by Commissioner Giron. Motion carried (Exhibit E).

k) Approval of Resolution/Support Constitutional Amendment #2/ Elimination Term Limits-County Elected Officials

Sheriff Juan Julian presented to the Commission Resolution No. 2000-49, which was read into the record. (Exhibit F) Commissioner Giron moved for approval with a second by Commissioner Pando. Chairman Aguilar stated that she did support term limits. Motion carried.

l) In-State Travel/Las Cruces Southern Rio Grande Emergency Medical Symposium and Silver City 911 Conference

Sheriff Juan Julian asked approval for In-State for Prescilla Camerena and Faye Mitchell and Dee Hall. (Exhibit G) Commissioner Pando made the motion to approve with a second by Commissioner Padilla. Motion carried.

m) Presentation of Facts and Findings

County Manager James Fernandez stated that within the Commissioners' packets is the Decision of the Valencia County Board of Commissioners Regarding Its Position Of the River Crossing Corridor Study, #SP-756l (220), CN 3601. (Exhibit H) He stated that it is brought to the Commission solely to have placed in the public record as documentation. He stated that also within their packets was a copy of a letter from Mr. Steven Chavez to Parsons Brinckerhoff also for the public record. (Exhibit I), also for the public record. Commissioner Padilla made a motion to approve the Facts and Findings as submitted by Mr. Fernandez, with a second by Commissioner Pando. Motion carried.

n) Manager's Report

County Manager James Fernandez stated that in their packet was an Invitation from the Del Rio Senior Citizen Center to a Halloween Function. He stated that the function would be an opportunity to discuss issues with the seniors. He then submitted a copy of a letter dated October 10, 2000 from the Valley Improvement Association bringing attention to a problem with the right of way and the Rio del Oro Road. (Exhibit J) He stated that they are requesting that the County move this road. He stated that there is enough right of way to move the road ten feet. Commissioner Pando inquired that if the road is being moved ten feet north do the property owners have to be notified. Mr. Fernandez stated that they are not taking any part of any lot. Commissioner Padilla stated that they are staying within the easement. Chairman Aguilar stated that she understands VIA is doing the work. Mr. Fernandez stated that they are asking for some assistance from the Road Department. Chairman Aguilar inquired if the work would comply with current specifications and was assured they would be in the same condition or better. Upon inquiry from Commissioner Pando, County Attorney Thomas Garde stated that if VIA is unsuccessful in obtaining the property transfer then they would have to go to condemnation with regards to that property. Chairman Aguilar stated that the Commission needed to give Administration direction to proceed and consensus was reached.

Mr. Fernandez then brought before the Commission earlier discussion regarding the New Mexico Extension Service funding and advised the Commission they are in jeopardy of losing an agent if they cannot meet their commitment. The requests and response from the different municipalities was discussed at length as well as the importance of the programs to the Valencia County community. Commissioner Pando suggested that the Proclamation and list of achievers in the 4-H Program be sent to them to make them aware of the significant impact the program has. Commissioner Giron concurred in the opinion but added his frustration with the lack of cooperation received in funding. He took particular exception to the refusal from Bosque Farms after acquiring funding from the County just weeks ago for their library. A letter to be sent to the Village of Los Lunas was discussed. County Attorney Garde stated that if the letter is to be released to the press it should be an actual copy and not a draft that is still under discussion. Chairman Aguilar stated that out of courtesy to the entity the letter should not be published until it is actually sent and received. Mr. Holguin reviewed the history of the initial requests and how the lack of support would affect the program. Commissioner Pando reflected on the amount of money spent caring for juvenile offenders and stressed that perhaps the Village of Los Lunas could be convinced. Chairman Aguilar stated that the Commission is aware of their tight budget and inquired if the funding could be paid in two installments. Chairman Aguilar then asked that the item be tabled until the next meeting so that they could review the budget again and personally committed to contact the municipalities again. Commissioners all agreed this would be a good tactic. She also advised Mr. Holguin to contact the Farm Bureau for their support.

Warrants

County Manager presented the warrants for approval. (Warrants on file in the Office of the County Clerk) Commissioner Pando moved approval, with a second by Commissioner Baca. Motion carried. County Manager then submitted a supplemental listing for approval. A motion to approve the supplemental listing of warrants was made by Commissioner Pando with a second by Commissioner Giron. Motion carried.

NEXT MEETING

The next Regular Meeting of the Valencia County Board of County Commission will be held on November 6, 2000 at 10:00 AM in the County Commission Room at the Valencia County Courthouse.

ADJOURNMENT

Commissioner Padilla made a motion to adjourn, with a second by Commissioner Pando. Motion carried.

NOTE: All proposals, documents, items, etc., pertaining to items on the agenda of the Regular Meeting of October 16, 2000 (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**

ELOY GIRON, MEMBER

**ss/
HELEN BACA, MEMBER**

ATTEST: ss/

KANDY CORDOVA, COUNTY CLERK

DATE: October 16, 2000

For an official signed copy of these minutes and attachments see Book 37 Page 946.