

VALENCIA COUNTY BOARD OF COMMISSIONERS

SPECIAL MEETING

CANVASS 2000 GENERAL ELECTION RESULTS

NOVEMBER 13, 2000

MINUTES

THE MEETING WAS CALLED TO ORDER BY Chairman Alicia Aguilar at 4:03 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	

**PLEDGE OF ALLEGIANCE**  
Sheriff Juan Julian led the Pledge of Allegiance.

**APPROVAL OF AGENDA**  
Valencia County Clerk Kandy Cordova read the one item Agenda. Commissioner Pando moved to accept the Agenda with a second by Commissioner Giron. Motion carried.

**ACTION ITEMS**  
**a) Canvass 2000 General Election Results**  
Valencia County Clerk Kandy Cordova addressed the Commission and stated that the General Election 2000 has been canvassed and ready for Commission approval. She stated that the Bureau of Election Staff has proofed the numbers three times and read the voting machine cartridges. She stated further that there have been no changes in any of the races. She stated that District 7 has 16,0120 registered voters and there were 10,992 voting for a 68% participation in that District. District 8 has 14,412 registered voters and we had 9,389 voting in that District for a 65.15% participation. We had two Absentee Ballots to count in the Canvass. One of those ballots was in lieu of a ballot and it has already been added to the Canvass. She stated that she would explain “in lieu of” absentee ballot for the people that are not familiar with it. She stated that this a ballot where the voter does not receive the absentee ballot by Election Day, goes to the polling place and the Precinct Board there agrees to let them vote. She stated that the Board representative would call the Office, find out if we have received the ballot and if there is no record that we have they will allow that person to vote. She stated that that is the one ballot that has already been canvassed. She stated that this particular “in lieu of” ballot happened to be in District 7 and it was a straight-party vote so the only close race in that particular District was my race, bringing it up from 39 to 40 votes and everything else remained the same. She stated that the other absentee ballot was from one voter that was allowed to vote at the polling place by the Presiding Judge and this was in Precinct 21. She stated that this was a mistake of the Judge in that Precinct. She stated that the voter was a registered voter in Precinct 22 and actually all the Judge would have had to do was send the voter to 22 but she did not, she allowed the voter to vote by absentee ballot. Mrs. Cordova stated that she had called the Office of the Secretary of State to verify how the matter could be rectified and it was recommended to her that the Commission could either accept or reject the ballot. She stated that she had the ballot in question. She stated further that the voting procedure was not the voter’s fault. She stated that the error was on the part of the presiding Judge from Precinct 21.

Chairman Aguilar then inquired if it was timely for the Commission to act on the acceptance or rejection. Mrs. Cordova stated that if the Commission decides to accept the ballot and it is to be counted, the fairest way would be that Debbie Ridley of the Bureau Staff in charge of the absentee votes would open it herself and pull out the outer envelope so that the secrecy of the ballot remains intact. She stated that Ms. Ridley would then give the Commissioners the option to open that inner envelope and read out the votes. Mrs. Cordova stated that another option would be for the Bureau of Elections to handle the count itself. She stated further that she could reassure the Commission that this one ballot is not going to make any difference in any of the races countywide. She stated that this ballot is in Legislative District 8.

Chairman Aguilar stated that in accordance with New Mexico Statute 1-13-4, indicates that the Board cannot examine actual ballots. She stated further that the County Canvassing Board is limited to examining only the election returns, this is the actual ballot, and inquired from the County Clerk if that affected one of the options proposed. Mrs. Cordova stated that it was the decision of the Commission on how to proceed but assured the Commissioners that in her conversation with the Office of the Secretary of State; she would not hesitate to recommend that Ms. Ridley of the Bureau of Elections take care of the one ballot. She reiterated her assurance that the ballot would not affect any of the races. Chairman Aguilar then quoted from the statute, "The Board cannot correct errors. The duty of the Canvassing Board is limited to finding errors, not questioning them. If an error is found the Precinct Board and the Secretary of State must be notified." Mrs. Cordova stated that that is what had been done. Chairman Aguilar stated that what the County Clerk is saying is the Secretary of State has said take it to the Commissioners. Mrs. Cordova agreed stating that since the Commission is the official canvassing board at this time, Commissioners would make the decision to accept or reject that ballot.

Commissioner Pando stated that he felt the Commission should accept the vote. He stated that when people take the time to go out and vote, Commissioners need to respect that right. He stated further that as the County Clerk has stated, the vote would not affect the results of the election. Commissioner Giron stated that he supports Commissioner Pando's position and has no problem with the Bureau of Elections handling the matter. Chairman Aguilar stated that she interpreted the statements of Commissioners Pando and Giron as a motion and second to accept the ballot. Chairman Aguilar stated that her only concern was the Presidential race and possibly other races that may be contested and wants to be clear on whether the decision of the Commission would affect anything in the future. Mrs. Cordova stated that the acceptance would not have an affect because the vote would be added to the canvass. She stated further that it would be an official vote added to the canvass. Commissioner Pando stated that it didn't matter to him whether the voter voted Democrat or Republican, it is still a vote. Mrs. Cordova agreed. Chairman Aguilar then proceeded to take a vote of the Commissioners who all voted in the affirmative. Motion carried. Mrs. Cordova stated that the process could be done after the meeting. She then inquired if there were any other questions that the Commission might have regarding the canvass or any questions from the audience.

Mr. John C. White, who lives in the Belen area, stated that he would like to inquire about the questionable votes at the Bank in Belen. He stated that he would like to ask the County Clerk if that was the only box in the Belen area that she had that morning or what boxes did they have in the Belen area that morning. Mrs. Cordova stated that she would explain the circumstances of that question. She stated that what happened on that day was that early voting concludes on the Thursday prior to Election Day at 5:00. She stated that there were 49 people that voted absentee on Friday before the Clerk's Office closed the poll. She stated that those 49 votes are indeed legitimate and have been counted because the voters had the intent to vote and they are legitimate votes. She stated that it was the mistake of the County Clerk's Office that the poll was opened for absentee voting because at that time the only voting that could take place was at the County Clerk's Office. She stated; however, that yes, those votes were legitimate and counted. Mr. White stated that he would ask the Commission to take a good look at that. He stated that the next question that he has is for Mr. Padilla. He inquired if that is the only box that they had, the one at the bank. Mrs. Cordova responded that this was the only box. Mr. White inquired if that was the only box that was at the Bank. Mrs. Cordova replied that it was. Mr. White stated further that he would like to inquire of Mr. Padilla and stated that he didn't mean to be facetious; do you know of anybody within a 30 square block area of that bank that is registered Republican? Commissioner Padilla inquired of Mr. White as to what his point was. Chairman Aguilar stated that any questions from the audience should be limited to the canvass. Mr. White then stated that the Commission should know that the Clerk is setting up a box in a primarily Democratic area at an illegal time. He stated that if the Chairman wanted to question him then he needed to question her. Chairman Aguilar stated that the Bank was the polling place identified previously and used in the election two years ago. Mr. White, stated that it was four miles from his house. Chairman Aguilar then inquired of Mr. White if he had any other questions. Mr. White replied that he would just like to ask that the Commission look at the 57 illegal votes, but that they can't look at them now because she has buried them.

Valencia County Clerk Kandy Cordova addressed the Commission and stated that she would clarify the situation to which Mr. White referred. She stated that there were 49 votes and they were not illegal votes. She stated that those votes have been kept separately; they were not put in through the machine. She stated that those votes are absentee votes that have been kept separately in case of a recount or challenge. She stated that there have been accusations and allegations but those votes are legal and have been counted.

Mrs. Bobbie Mallory, State Representative Bobbie Mallory, stated that she has just moved to Valencia County. She inquired as to the unofficial report that was received from the Election Office; she was showing that under County Commission, Precinct 35, under Gary Daves, 157 and under Jeffrey Goen, 193. She stated that under her copy of the tape, under Precinct 35, she stated that she believed she had found her mistake. She stated that she meant Precinct 11 and inquired if those numbers checked out to be correct. Mrs. Cordova inquired if Mrs. Mallory had obtained her numbers the night of the election to which she replied that she had. Mrs. Cordova stated that she had the tape for Mrs. Mallory's comparison. Commissioner Giron inquired as to what was the question in Precinct 11. Chairman Aguilar stated that Mrs. Mallory had inquired as to the accuracy of the numbers in the Daves vs. Goen race. Mrs. Cordova replied, 157, 193, they did not change. Mrs. Mallory acknowledged that her misinterpretation could have been her fault because she had double-checked

under Precinct 35. She then stated that the confusion between Michael Olguin and Camille Olguin, she understood was corrected. Mrs. Cordova replied that it had. Mrs. Mallory then inquired if there were any other numbers that had changed. Mrs. Cordova stated that as to all other races, her race was perhaps the closest race in the County and those numbers did not change. She stated that as to her race she had the staff look at the absentee ballots that were at the early voting site, the 49 votes, and that she had them look at that race in particular because of the closeness and there were 11 votes cast in that race, 6 went to David Vickers and 5 went to her. Mrs. Mallory stated that her questions had been answered.

Mr. Alfred Bennett, III, the Independent candidate for the Senate race in District 29, addressed the Commission and stated that he had great concerns about the two boxes that contained the combined 49 ballots because when all this came out they were not supposed to be opened. He stated further that on the spur of the moment, in order to preserve the integrity of the boxes he sealed them shut with tape and put his signature on them because he felt that the integrity of the election rested on those two boxes. Chairman Aguilar inquired if Mr. Bennett had touched the ballots. Mr. Bennett stated that he didn't touch the ballots, but he sealed the box. He stated that he had sealed the slot and put a tape on it to keep it from being opened. He stated that when the ballots were taken out in order to preserve the integrity he thought that it would be in order for the County Clerk to alert him to say that they were going to open the boxes but he never was notified. He stated that his phone number was furnished and he feels that it throws a lot of suspicion on what would have happened. He stated that the County Clerk's race was pretty close and he will never know if those boxes were tampered with because he had sealed them personally to insure that he would be there for the opening of those boxes should there be a question on that. He stated that there would always be something in the air because he doesn't think it was right for them to just go ahead and break it open without his presence. He stated that he hoped that in the future when there is irregularities that in order to keep any questions from being asked that we need to insure that whatever happens there are witnesses there, especially the primary witness.

Chairman Aguilar inquired if Mrs. Cordova cared to respond. Mrs. Cordova stated that she did and that primarily she wanted to state that Mr. Bennett was in violation of the law when he taped those boxes. She stated that he was in a polling place and he should never have been there as a candidate. She stated that also there was a spouse of another candidate that same day in the polling place in violation also of the State statute. She stated that to reassure Mr. Bennett, he was the last one, because of his violation of the law, he was the last one that touched the ballot boxes. She stated that the boxes were brought into the vault, nothing was done, and she has five witnesses, which is the Absentee Board, that were there and they witnessed his signature, they witnessed his taping of the ballot boxes. She stated that even though this was in violation of the law she was happy because she felt Mr. Bennett would be her best witness that no one ever touched those boxes until the Absentee Board came in and they are allowed. She stated further the Absentee Voting Polling and Early Voting Polling places are considered legal polling places where candidates, spouses of candidates, children and parents of the candidates, are not allowed. She stated that any concerns or complaints should be directed to the County Clerk or the Bureau of Elections.

Mrs. Elaine Chavez addressed the Commission and stated that she is the spouse that went into the polling place that was illegal. She stated that Mrs. Cordova can say that it was perfectly legal when it needs to go before a Judge or a Court. She stated further that Mrs. Cordova is not licensed to practice law and she cannot make that determination that it was legal. She stated further that according to statute it was illegal and that is why they shut it down at 11:00 o'clock. She stated that she went into the polling place as a spouse, Mrs. Cordova was also in there and she is a candidate. She stated that for the record she wants to say that Mrs. Cordova, on Election Day, went into every or just about every polling place to talk to the poll workers. She stated that as a candidate and as someone else running the election she should have not been in there talking to the poll workers. She stated that if they were going to talk about her being in there to talk about the illegal 49 votes she is just going to bring this up too. Chairman Aguilar stated that she believes that what they have before the Commission are opinions on what is legal or illegal. Chairman Aguilar stated that Mrs. Cordova is the Valencia County Clerk and until proven otherwise she was doing her job. Mrs. Chavez stated that Mrs. Cordova was in the polling place and she, (Mrs. Chavez) was in there with witnesses and a State Police Officer so she did not get near the ballot boxes nor did she touch them. Mrs. Cordova stated that she wanted to make it clear for the record that Mrs. Chavez does not have license to practice law nor can she determine what is legal or illegal.

Discussion on whether formal action had been taken on the acceptance on the one ballot submitted was had. County Manager James Fernandez inquired if the votes from the ballot had been added to the canvass. Mrs. Cordova stated that the votes would be added. She then directed Mr. Lawrence Kaneshiro to complete the canvass. County Manager James Fernandez suggested that witnesses of the two parties as well as the Independent candidate be named as witnesses. Mrs. Cordova stated that such representation is not necessary and wishes to remind everyone that she is the Administrator of the Election, whether she is a candidate or not, and that is why she is here taking the heat. She stated that she is the Administrator of the Elections until December 31<sup>st</sup> when a new Clerk will take over. She stated further that she has been a candidate and the Clerk many times and there has never been a problem until this year. Commissioner Pando inquired of the 49 votes, which have been questioned this evening, would those votes have any significant change in any of the results. Mrs. Cordova responded none whatsoever. She stated that she had asked for a look at her race simply because of the closeness but if the candidates wish, they are welcomed to have a look at those tallies as well. Chairman Aguilar stated that what she wished to do at this time is proceed to accept the Canvass, including the one vote, and whatever you need to do to include it and send it in,

but this way it doesn't affect the process and the entire election results. She stated that the motion would be to accept the results, including the one ballot, and that whatever procedure the County Clerk needs to follow. Mrs. Cordova stated that she would take that direction. Commissioner Pando then made a motion to accept the Election Results as presented and that the one vote in question be added to the final results. Commissioner Padilla seconded the motion. At this time Ms. Ridley was instructed to show the ballot in question. Commissioner Pando stated that so there is no question about this, Debbie and Lawrence are going to open it, why doesn't Mr. Bennett, Mr. Bobo Sedillo, Jackie Farnsworth, whoever wants to witness to make sure it is done properly go in there. Chairman Aguilar stated that the ballot would be opened. She requested the Sheriff and a State Policeman who was in the Commission Room to act as additional witnesses. Chairman Aguilar stated that she just wanted verification that there is a ballot in the envelope. Chairman Aguilar then called for a vote on acceptance of the Canvass with the additional ballot. The motion carried.

Valencia County Clerk Kandy Cordova stated that she wanted to recognize her staff. She stated that she has been administering elections for 12 years now and she has a very experienced, honest staff. She recognized Sheryl Salas, Leticia Sedillos, Debbie Ridley, Larry Tafoya and Director Lawrence Kaneshiro for whom she had special praise. Commissioners and members of the audience joined in applause. Mrs. Cordova stated that the vote will be added to the canvass and Commissioners will be furnished a completed document. She stated further that she has been officially notified that the ballot boxes are going to be impounded by Rita Munoz because of a race in the Court of Appeals. She stated that State Police Sergeant J. W. Watley is here and will be executing the impoundment. She stated that this impoundment is not because of the integrity or the results of the countywide election results but on behalf of candidate Rita Munoz who was in the race for the Court of Appeals. Chairman Aguilar requested Mrs. Cordova to check with the County Attorney and the Office of the Secretary of State's Office.

Commissioner Giron addressed Valencia County Clerk Kandy Cordova and expressed his appreciation to her for her good work. He stated that he personally felt there were too many methods for voting which have created the problems. Mrs. Cordova stated that she should be used to the aftermath criticism of an election and the usual target is the County Clerk. She stated that each is entitled to feel as they do and she respects those feelings absolutely. Chairman Aguilar stated that for the record she would ask the officer who will be executing the impoundment to come forward. Sergeant Dale Watley with the New Mexico State Police addressed the Commission and advised that his Captain John Pierson was served with an order of impoundment of ballots. He stated that this order included Sandoval, Cibola and Valencia Counties. He stated that the only ballots that are concerned with this order are the early voting and absentee precincts. He stated that they had executed an order Saturday evening and the order is identical to the order he has for Valencia County. He stated that due to numbers and space here it would entail 14 boxes along with other paper work. He stated that Judge Pope signs the order and they have made arrangements other than taking them they will keep them on the premises sealed with the State Police seal until further notice. He stated that the question should be resolved by Friday so that everything gets released back.

Mrs. Cordova stated she would present the Canvass to each Commissioner for signature and expressed her appreciation to them for their support. Commissioner Padilla stated that in the last four years there have been several elections and it has been his experience that Mrs. Cordova has handled those elections in a very professional manner. He stated that there have been challenges in the past in previous years in different races and there has never been a change as far as he can remember. Commissioner Padilla congratulated Mrs. Cordova for the excellent manner in which she has conducted her office. Commissioners and the audience joined in applause.

Chairman Aguilar stated that she wanted to express her congratulations to all the candidates, whether they won or lost. She stated that people don't really know the hard work involved in an election, not only by the candidate but by their families and friends as well. Commissioner Pando stated that he particularly wanted to congratulate Chairman Aguilar and Commissioner Padilla who were successful candidates in the past election. He stated that he has enjoyed working with them and looks forward to working with them in the future. Chairman Aguilar then called a brief recess for the signing of documents and to give Mrs. Cordova time to contact the County Attorney and the Office of the Secretary of State.

Valencia County Clerk Kandy Cordova stated that the ballot had been open and witnessed by Alfred Bennett, Filo "Bobo" Sedillo and Bobbi Mallory who represented the Republican Party. She stated that all political parties were represented. Chairman Aguilar stated that for the record all the parties have indicated that there was no problem and inquired of the County Clerk if the vote had been added to the results. Mrs. Cordova indicated in the affirmative. Chairman Aguilar stated that she would again ask for a motion to approve the canvass results because the other motion had a contingency on the one vote, which has been dealt with. Commissioner Giron made a motion to approve the Canvass with a second by Commissioner Padilla. Chairman Aguilar stated that a motion had been made and seconded to approve the Canvass to include the one ballot. Motion carried unanimously.

Mrs. Cordova informed members of the audience that all documents would be made available in the morning for review. She then stated that all Commissioners have signed the Canvass.

Commissioner Pando commented that if nothing else has come out of this election, the whole United States of America now knows that New Mexico exists

**ADJOURNMENT**

Commissioner Pando made a motion to adjourn. Commissioner Giron seconded the motion. Motion carried.

**NOTE:** All proposals, documents, items, etc., pertaining to items on the agenda of the November 13, 2000 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**

**S. T. FRANK PANDO, MEMBER**

**ELOY GIRON, MEMBER**

**ss/  
HELEN BACA, MEMBER**

**ATTEST: ss/**

**KANDY CORDOVA, COUNTY CLERK**

**DATE: December 4, 2000**

**For an official signed copy of these minutes and attachments see Book 37 Page 999.**