

VALENCIA COUNTY BOARD OF COMMISSIONERS

REGULAR MEETING

April 3, 2001

Vice Chairman Al Padilla called the Meeting to order at 8:45 A.M.

PRESENT	ABSENT
	Alicia Aguilar, Chairman
Aurelio H. Padilla, Vice-Chairman	
S. T. Frank Pando, Member	
Gary Daves, Member	
Helen Baca, Member	
James Fernandez, County Manager	
Thomas Garde, County Attorney	
Tina Gallegos, County Clerk	
Press and Public	

Executive Session

Valencia County Clerk, Tina Gallegos read the agenda for executive Session. Personnel Manager, Carol Anaya, requested to delete transfers, resignations, and terminations from executive session. Commissioner Pando made a motion to accept the agenda. Commissioner Daves seconded the motion. Motion carried.

Personnel Manager, Carol Anaya reported that during executive session, the following was discussed: new hires pending pre-employment physical, drug and alcohol tests for George Trujillo, cops II for the sheriffs department, a position change from fire investigator to deputy fire marshal with a salary adjustment for Charles Eaton. Ms. Anaya asked the Commission to accept what was discussed in executive session. Commissioner Pando made a motion to approve what was discussed. Commissioner Baca seconded the motion. Motion carried.

Pledge of Allegiance was led by Valencia County Manager, James Fernandez.

Approval of Agenda

John Salazar, from the Rodey Law Firm who represents Cobisa, requested to postpone their zone change application until May 1, 2001. The reasons for the requests are, they believe it is important that all the Commissioners are present for hearing and voting on this matter. According to Mr. Salazar, one of the issues that have come up in prior hearings has been the matter of the air quality permit, there is a separate application pending before the New Mexico Environment Department. There was a public hearing on that matter held in Belen, on March 28, 2001 and it's Cobisa's understanding that the environment department will make a decision on the air quality permit on or about April 22, 2001, so if this matter were heard on May 1, 2001, that issue would've been resolved.

Mr. Salazar, received the staff report this morning, it does raise some issues in which Cobisa would like to have the opportunity to respond to in more detail. Commissioner Daves asked Mr. Salazar what the issues were. Mr. Salazar responded, one issue is there may be other suitable sites, this was not raised when the application was submitted. According to Mr. Salazar, Cobisa has been through two hearings before the County Planning & Zoning Commission with the request for an application, and staff is probably asking for some discussion as why other sites weren't picked. Cobisa did visit with staff previously, and staff did raise the issue with Cobisa. Cobisa did look at some other sites, but based on their analysis, it didn't appear that any of the sites would work for other reasons. Cobisa did not anticipate that this is going to be an issue that's expected to be discussed before the Commission.

Another item that was raised in the staff report Cobisa received this morning is the question about a mistake on the zoning boundary, which requires some clarification, and Cobisa does think that needs to be addressed and clarified. Cobisa believes it's a clerical matter. According to Mr. Salazar, the zone boundary was drawn through the property instead of on the boundary lines where the map is prepared, and the property should all have one zone, and apparently the zone map shows two zones within the parcel Cobisa is asking to be rezoned.

The staff report item 3, talked about air, staff did raise the issue that they would like to know what the result is on the application on the air quality permit. Staff indicated it would be some time before Cobisa hears the results of the hearing of March 28, 2001. Cobisa anticipates a decision on April 22, 2001.

The other issue is a water issue, which is a new issue, which was raised by staff in the report Cobisa received this morning. Commissioner Daves recalled a letter from County staff within the last month or sixty days ago with regard to looking at the other sites, so Commissioner Daves doesn't believe Cobisa was just aware of that this weekend. Mr. Salazar said "we did understand staff saying why don't you look at some other sites, which we did do, we did look at other sites, we did not understand

though that they expected a presentation to the Commission as to why other sites were eliminated. So it is true that that issue was raised earlier, but we thought it was more for our information and we did look at other sites.” Mr. Salazar said they could discuss that today; they don’t have a formal presentation.

Commissioner Pando told the Commission he feels Cobisa has had ample opportunity to answer all questions. Commissioner Pando made a motion to deny the request, Commissioner Baca seconded the motion. Commissioner Daves asked if the Commission could set a time for Cobisa to be heard. Commissioner Padilla thought that would be very hard to do. Motion carried.

County Manager, James Fernandez, requested to delete item E from the agenda. Commissioner Pando made a motion to accept the agenda as amended. Commissioner Daves seconded the motion. Motion carried.

Approval of Minutes

Commissioner Pando made a motion to approve minutes of March 20, 2001. Commissioner Daves seconded the motion. Motion carried.

Public Requests

Jim Smith, President of the Tome/Adelino Neighborhood Association told the Commission that the Village of Los Lunas is attempting to use the powers of eminent domain to take approximately twenty acres of the Jarratt Dairy as a planned expansion. Mr. Smith said “I look at this as being government operating at it’s worst. Dave Baris the Utilities Director has stated that the Village intends to do no studies with no alternatives before they acquire the property, that to me is totally backwards. Imminent domain should be used as a last resort, not a first choice.” Mr. Smith was present at a presentation that Janet Jarratt gave to the Village Council showing them some alternatives. According to Mr. Smith, Rio Rancho sewage treatment plant is doing three times the affluent, meeting and exceeding the current and new EPA standards for ammonia. Mr. Smith would like to know why the Village needs to acquire this property and would like to know what their motives are on that. Mr. Smith informed the Commission that “Mr. Jarratt is a World War II veteran, he spent the majority of the war fighting on foreign soil to protect the rights that the Village is now attempting to trample on.” Mr. Smith is disgusted that the government would treat a veteran and an elderly couple in such a manner. Mr. Smith stands before the Commission with three purposes: first, to publicly state that the historic Tome/Adelino Neighborhood Association stands firmly with the Jarratts on this issue, and they will give the Jarratts every legal assistance possible. Secondly, Mr. Smith would like to make the Village aware the public stands firmly on this. Third, Mr. Smith asked the Commission to take a public stand. This property that the Village is looking to take is not within the Village limits, it is in the County, and is also prime farmland. Mr. Smith asked the Commission to take a vote and stand with the Jarratt’s against this action. Commissioner Pando understands the Village is looking at alternatives at this time, and feels they should look at alternatives. Commissioner Pando feels that maybe the Commission should meet with Village Officials and work something out for the benefit of everyone.

Simone Cellar, Vice President of the Valencia County Citizens for responsible growth, urged the Commission to take a stand on the sewage treatment plant expansion. According to Ms. Cellar, even though the Village is looking at alternatives, they have gone ahead with trying to condemn the property and that goes to court next week. Commissioner Padilla thanked Ms. Cellar for her words, but since this is not an action item, the Commission cannot vote on this.

Leonard Garcia, resident of Meadow Lake, requested more police protection in Meadow Lake. Mr. Garcia stated, “I have been traveling everyday up and down Meadowlake, pulling a horse trailer or just in my car and it is very difficult to stay alive. Today I am here and I don’t know if I am thankful for being alive or not because there on Meadowlake is the reason that I am as crippled as I am today. I was in a head on collision in 1993 with two automobiles. Like I say I don’t know if I’m thankful to being alive or not because it might happen again and I might be in worse condition the next time or six feet under and I don’t think either one of the two is nice to have either dead or not being able to take care of yourself because of people not knowing the law. Sunday evening I was going up pulling my horse trailer and it was approximately eight o’clock at night, it was kind of dark. On the way up I had a lot of people behind me, at least six cars, and I was going the speed limit, which is forty. A truck passed the people from the very back and passed me. There was a sheriff’s car coming down the road, he put his lights on. The truck that passed me went faster because he knew the sheriff’s department was not going to be able to turn around with the traffic that was behind him and the traffic that was behind me to catch these people. We need more sheriffs’ people up there. I know that they are short handed but I’m also short legged because I have artificial parts.” Mr. Garcia feels that he is not getting the adequate protection he needs in Meadowlake. Mr. Garcia would appreciate that the Commission give the Sheriff more money, so more police protection can be provided. Commissioner Daves told Mr. Garcia to get after his Commissioner and the Commission will do what they can.

Indigent Board.....Barbara Baker

Commissioner Pando made a motion to convene as the Indigent Board. Commissioner Baca seconded the motion. Motion carried.

Ramon Fajardo was the first to appeal his indigent claim. Mr. Fajardo has an ambulance bill. He has veteran’s benefits, but veteran’s benefits won’t pay his ambulance bill. At the time Mr. Fajardo came in, his income was over the limit by \$39.00. Since then, his wife has had a stroke, she has had nurses come in and has care for that. Barbara Baker, Indigent Administrator, told the Commission

that she received new guidelines that start in April, and with the new guidelines he is not over the limit anymore. Mr. Fajardo would like the Commission to approve his Living Cross Ambulance bill, the amount being paid will be \$500.00 in three sets. Commissioner Daves made a motion to grant the appeal. Commissioner Pando seconded the motion. Motion carried. See exhibit A.

Mrs. Charlie Dawson was next to appeal her indigent claim. Mrs. Dawson was at the meeting of March 6, 2001 where her claim was tabled because not all her medical bills were received. Mrs. Dawson has received all her medical bills for a total of \$3,913.27. Mrs. Dawson is over the limit, and even with the new guidelines she is still over the limit. Commissioner Pando made a motion to approve her request of \$3,913.27. Commissioner Baca seconded the motion. Motion carried. See exhibit A.

Anna Johnson was not present for her appeal. Ms. Johnson was here earlier but left because her boyfriend had a back injury. Commissioner Pando made a motion to deny this appeal. Commissioner Baca seconded the motion. Motion carried. See exhibit A.

Ms. Baker presented indigent claims from February 22,2001 to March 23, 2001. There were 82 claims submitted. The total amount of claims submitted is \$263,250.66. Ms. Baker asked the Commission to approve \$69,807.87. Commissioner Pando made a motion to approve \$69,807.87. Commissioner Daves seconded the motion. Motion carried. See exhibit A.

Ms. Baker informed the Commission that the Valencia County Indigent Fund had increased their limits to pay providers. The reason for this was because in the years 1998 and 2000 the state was looking at taking the excess balance from indigent funds away from the counties and giving it to the county supported Medicaid fund. All the Counties were encouraged to use that money so that the state would not be able to take it. It's money that Valencia County residents contributed to when they buy things in Valencia County. In March 2001 Ms. Baker was going to decrease it from \$40,000.00 to \$20,000.00. At another meeting with the indigent committee, the committee decided because it was increased so much last year and because of the increase in people, they saw more people than they did in the year 2000 and there is still two months left to go. The indigent committee is going to decrease it to \$10,000.00 per provider. The committee will pay the \$10,000.00 and even if the bill is \$60,000.00 the provider cannot go after the indigent person, it's like it's paid in full. Due to budget limits it's going to be decreased to \$10,000.00. See exhibit A.

Commissioner Baca made a motion to reconvene as the Board of Commissioners. Commissioner Daves seconded the motion. Motion carried.

**Presentation of Tierra Bonita Quarterly Report.....Robin VerEecke
Proclamation – Keep America Beautiful Month**

Robin VerEecke provided the Commission with two quarterly reports. During the winter months, Tierra Bonita takes a lot of time to spend the money from their grant. They have purchased tools for the county maintenance crew and Keep America Beautiful donated a yard vac, for the upcoming Great American Cleanup. Tierra Bonita does a lot of paperwork and collects dues from members, which pays for the operating funds within the program such as newsletters and telephone bills. In December Tierra Bonita publicized what people could do with their Christmas trees other than throwing them on the mesa or burning them in their back yards. Tierra Bonita also worked many nights during January and February planning their presentation for February 20, 2001 to the Commission Meeting. Juliette Romero Benavidez was the spokesperson and was excited that the Commission sign the resolution forming the trash committee to look into the solid waste issues. Ms. VerEecke also attended a daylong seminar for elementary teachers at UNM Valencia Campus, and there was a display on hands on projects from the Environmental Education Curriculum Waste in Place, it's for Kindergarten through sixth grade and they had a renewed interest in training teachers in that curriculum. Ms. VerEecke attended meetings on March 26 and 27 in Santa Fe, concerning the grant process and distributions for the year and Tierra Bonita received \$10,000.00 and may receive an additional \$2,500.00 for the Keep America Beautiful Program. April 28, 2001 has been chosen statewide as the target date for the 2001 Great America Cleanup, which used to be the Bag-a-thon. Cleanups are encouraged throughout the month. Signups have gone out and Rio Grande Elementary in Belen has actually challenged the other schools to see who could pick up the most trash on their campus's and around them. Ms. VerEecke asked the Commission to sign a proclamation declaring April, Keep America Beautiful Month, within the County. This is the twelfth year this came before the Commission. Commissioner Daves made a motion to approve Resolution 2001-12. Commissioner Pando seconded the motion. Motion carried. See exhibit B.

Request In State Travel to Santa Fe, NM.....Diana Martinez Coplen
This item was deleted from the agenda

County Managers Report.....James Fernandez
Speed humps

A letter was received by County Manager, James Fernandez, from Molzin-Corbin concerning speed humps. When the County begins to work on their budget for the year 2001-2002, based on approved designated areas, the County will have to designate the budget to cover the installation of those particular speed humps if that is the wishes of the Board. Mr. Fernandez informed the Commission, on some of the smaller roads, the County would like to use prefabricated humps. The roads that are larger in length, the road department will have to construct those humps. Depending on the volume, the cost of the speed humps can go down if the Asphalt Provider constructs the speed humps. The

reason the County has an engineering firm do this, is to make sure the County complies in terms of legal issues. Mr. Fernandez will start working with the road department to see if the prefabricated humps can be placed on some of the smaller roads. The County starts working on the budget for 2001-2002, and will come up with a proposed budget for the Commission. See exhibit C.

Jail Monitors Report

The average daily prisoner count is 95. A community service program that utilizes some individuals that have to provide community service is attached. See exhibit D.

New Mexico Association of Counties Board of Directors

There is a position open as a representative of the New Mexico Association of Counties Board of Directors that will be coming up. Any individuals who might want to place their name in nomination of this position will have to do that prior to April 13, 2001 in the County Clerk's Office. The election will take place April 17, 2001.

East Mesa Clean Up Project Contract.....Carlos A. Montoya

In an effort to control illegal dumping on the east mesa, Carlos Montoya County Fiscal Officer, was instructed to draft a contract between Valencia County and Valley Improvement Association. At this point the contract is a draft, it is basically the same contract as last year except for a few changes. In stead of going through the overtime process as in the past, Mr. Montoya felt it would be a better controlled method if the County would ask for funds to fund a zoning officer strictly for the purpose of monitoring the illegal dumping on the east mesa. Mr. Montoya is asking that VIA help pay for the salary of this zoning officer. So in the agreement, the County is asking that Via pay the amount of \$15,000.00 for this zoning officer that the County will hire and be an employee of Valencia County. The primary job of this employee will be the enforcement and citation of illegal dumpers found in the east mesa.

The other provision in the agreement is that VIA will share the cost of disposal for the trash that is being generated up there. The County does not have a landfill in Valencia County so the county will have to negotiate with the landfill in Rio Rancho with Waste Management. At a cost of \$16.00 a ton, it gets expensive. Mr. Montoya asked for direction from the Commission. This agreement will be strictly for the patrol of the east mesa. This position does include benefits. The logistics of this position will be that the employee work on weekends and after hours when the illegal dumping is happening. Waste Management hauls the trailers for the County. Just this pass Sunday at Conejo Transfer Station, they were so busy, 6 trailers were filled, ready to go, and Waste Management did not provide the transportation, so Conejo was shut down at 1:30 P.M. Mr. Montoya told the Commission that the County, with it's equipment and manpower, can do it's own hauling. The trailers can be hauled on Saturday, so on Sunday the County has empty trailers. All the County will need to pay Rio Rancho, is the \$15.56 a ton, tipping fee. Waste Management charges the County \$160.00 a trip plus tax.

The Solid Waste Bureau in Santa Fe does not think it would be wise for the County to have another transfer station next to the transfer station in Belen at the existing landfill. Mr. Montoya would like to work with Belen to open up that transfer station to the County residents in the southern part of the district.

Bob Davey, President of Valley Improvement Association, spoke in favor of what Mr. Montoya has done. Mr. Davey asked the Commission to allow Mr. Montoya and Mr. Fernandez to make some modifications that don't change the essence of this but that perhaps might help VIA address certain issues that come up.

The County currently owns five trailers, and two tractors to haul them. These trucks are currently being serviced with hope for the approval of the Commissioners, that the County start it's own hauling. Mr. Montoya suggested starting this process tomorrow. The contract with Waste Management, is that the County pays \$160.00 a trip to haul and \$15.58 per ton as a tipping fee. Nowhere in the contract does it say the County has to use Waste Management to haul the trash. Mr. Montoya encouraged the Commission to make any comments on this issue. This will not affect the regular operation of the road department.

Payroll & Warrants.....Carlos Montoya

County Fiscal Officer, Carlos Montoya, asked approval of warrants issued by the fiscal office on March 23, 2001 covering payroll, warrants # 64664-64693, inclusive of payroll # 46572-46766 in the amount of \$194,964.25. Commissioner Pando made a motion to accept warrants. Commissioner Baca seconded the motion. Motion carried. See exhibit E.

All checks issued by the fiscal office on April 2, 2001 covering veteran bills include warrants # 64696-64791 inclusive a total of \$351,113.20. Commissioner Pando made a motion to approve warrants, Commissioner Daves seconded the motion. Motion carried. See exhibit E.

Amendment of Zone maps:

C1 to WCF, Voice Stream Wireless PCSII.....Les Gutierrez

Les Gutierrez, Site Acquisition and Zoning Specialist for Voicestream Wireless PCS, asked the Commission for permission to get a site constructed. On January 9, 2001 Voicestream Wireless was approved by the Planning & Zoning Commission for their site. Voicestream Wireless came before the County Commission on February 6, 2001, where there was discussion about items that weren't

cleared up. Voicestream Wireless has since then submitted additional information to Planning & Zoning. Voicestream engineers have prepared an extensive five-year plan in which Voicestream presented to Planning & Zoning. See exhibit F.

Voicestream has also revised a smaller site plan. There was a question whether the total property would be WCF, somehow there was a misinterpretation. Voicestream only wanted a leased area of a 40 X 40 site as WCF.

Also, Commission Chair Aguilar at an earlier meeting, had a question about FAA approval. There was some concern about the approval for the low airport. Voicestream submitted a packet of information showing the ten-air course that Voicestream looked at, Voicestream has been approved for all of those. Voicestream's tower is less than 150 feet. Voicestream's request was also a waiver and setback. Mr. Peter owns some property directly behind. According to Ruben Chavez, Assistant County Planner, this proposal came before the Planning & Zoning Commission, the Commission did object to the need and there's a relief clause in the zoning ordinance, which they have to prove if they can't co-locate. At that time Planning & Zoning went out and privately contracted with another firm to do a visibility study on this particular site and their infrastructure. That study came back warranting this site so Planning & Zoning concurred with that being that they are the ones that contracted those people. Mr. Chavez did receive the five-year plan and he's satisfied with it. The revised site plan that Mr. Gutierrez mentioned, Voicestream has identified the parcel that they're requesting to get the zone change as lease parcel A, which is a portion of tract B. Planning & Zoning is also satisfied with the FAA study as the tower is not interfering with any FAA. Planning & Zoning has informed Voicestream and recommend to this Commission that Voicestream get a variance on the setback from the Planning & Zoning Commission. Planning & Zoning requested that Voicestream go higher than 80 feet on their tower in order to allow between four and five carriers to co-locate. If Mr. Peters decides to sell his land, Voicestream will dismantle the tower when it's no longer in use.

Earl Gleason, who sued the County and won a decision, told the Commission that now he's going to have to look at this tower and "the County suggested that it be doubled in height. God, I can't believe this. County Planning, P & Z, has damaged me real badly in the past on the other issue and I guess I shouldn't talk bad about it because, well it's going to come back I guess, because that company's not going to give up. But I'm not going to give up either. And I am sick and tired of them starting to make our County look like Odessa, Texas, with drilling rigs all over. That's what it looks like down there and the other thing, I didn't get to come to this meeting because I was singing and I was on a tour so I didn't get to come to the meeting, and I didn't get to confer with zoning because zoning is kind of unfriendly with me to a degree anyway, not these two guys but sometimes I get an unfriendly atmosphere in Zoning, so I don't go there very much. But I don't like trash in this County, and to me towers are trash. And then, people in the cellular industry tell me, that the cellular phones are going to satellite more and more and that all these dang towers are going to be obsolete. And I don't want them planted all over our County. Just think about it, I have a Voicestream phone, and it works good in that neighborhood, why do they need a tower? Why do they need a tower? And from my farm right over there I have a good view of the mountain and I don't want to have to look at that SOB, I don't know what that stands for. So could zoning at least go back to the eighty feet, if we have to have it, and is that right, Chavez, was there issues in the report that you had done that it was needed?" Mr. Chavez answered "that's correct." Mr. Gleason asked "is it a wee point in the area?" Mr. Chavez answered "yes." Mr. Gleason said "well, lets just have a, nothing but an eighty foot tower, and at least from my farm I won't have to look at another tower, because I've been damaged greatly. I and the Chavez family, and actually the guys that lease the tower are damaged whether they want to admit it or not, the Baca's, that own the auto dealership. Because Leroy has new lots on the glove. And it'll be out in the Journal. A big article's coming out in the Journal South that'll explain all these things, so I don't want to keep these people too long, but we don't need towers. We don't need chicken farms. You guys did a good job with the chicken farm fiasco, you did good on that. And you need to do the same way with Cobisa. You need to do the same way with the paper plant, and all this other crap."

Commissioner Pando asked County Attorney, Tom Garde, to answer the legalities of this tower issue. Mr. Garde answered, unfortunately, the County is under the telecommunications act that was adopted by Congress in the eighties. There's certain guidelines that must be addressed, and so long as those guidelines are met, this Commission has little say in what is developed. Fortunately, for this County, with the 1999-zoning ordinance, the County has made the telecommunication industry jump through main hoops, with regards to how these towers are implemented. The County requires that they co-locate, which in effect means that there must be multiple users on that tower so the County doesn't have a situation where there is a tower every block in the county. The ordinance is one of the most restricted ordinances in the state. This Commission has addressed the concern of this community and the County wants to limit the number of towers that were set up and that's why this ordinance was enacted, so the County can limit these towers. Congress has determined that these towers are necessary for the public good, and the County must comply with the telecommunications act.

Steven Chavez, Valencia County Planner, told the Commission that the County ordinance is the most restricted in the state. What the Planning & Zoning has done with the co-location requirement, the telecommunications act of 1996 allows the County to place reasonable restrictions on telecommunication towers. The co-location requirement the County has allows the County to address the problem placing towers every block. The County is inundated right now with more telecommunication users. The collocation allows the County to prohibit more than one tower in a certain location. Voicestream will have to co-locate. Other users who apply with Planning & Zoning

for a tower will have to prove to Planning & Zoning that they cannot use that available tower site for their collocation. They will have to show they cannot use that tower because of financial restraints, if their lease agreement is too financially restrictive, or they'll have to show Planning & Zoning practical concerns that that site is not addressed to their service area. This collocation requirement allows the county to prohibit towers from around that site. Commissioner Pando asked Mr. Chavez about placing towers on school sites, so the County can tax the towers, Mr. Chavez will research that.

Mr. Gutierrez informed the Commission that in the next three to five years, Voicestream would probably need about two to three more sites for towers. Mr. Gleason questioned that Sisneros towers are not fully used, and why Voicestream isn't going on Sisneros towers. Mr. Gutierrez answered that the Sisneros tower is a Voicestream site, the reason they are building this site, which is about 2 1/2 to 3 miles away, is a capacity site. Voicestream cannot get coverage on that road. The County hired a third party engineer to verify that the traffic is valid. Voicestream also looked at the sprint site, which is about a mile and a half away, that site would not work. One problem is coverage, and the other is to offload traffic on the site that Voicestream is getting a lot of dropped calls. Mr. Gleason spoke out saying "but you could do another, you said eighty feet was the site to begin with, you could do another eighty foot tower a little further over whichever area you are deficient, and not have a giant tower, right?" Mr. Gutierrez answered "I'd let the engineers decide that but I think our minimal site there was about 100 feet." Voicestream is asking for 150 feet so that they can co-locate. Mr. Gleason said that the Commission wouldn't do anything about signs. He does not want signs blocking his view. Mr. Gleason told the Commission "go for the eighty foot, I'll go for the eighty foot, but I'm going back to court if you guys go for more than that, and I got your other company, your other one over here, American Tower Company tied up for three years, and I'll tie you up some more, because I got some money to do it. So if you just want to be tied up, the County and you guys, go for the 150 feet."

Ruth Smith, a resident of Valencia County said that these towers are very obtrusive. She would like the County to look at alternatives. Ms. Smith thought the County should challenge Voicestream to come up with another alternative that can somehow do more than put dollars back. Ms. Smith suggested that the County hold off on making a decision regarding the tower and allow more research to be done. Commissioner Baca made a motion to approve Voicestream's request. Commissioner Pando seconded the motion. Motion carried.

Mr. Gutierrez informed the Commission that Globalstar has satellite technology, the phones are about \$3,000.00 and it's about \$1,100.00 a month for service, it's very expensive. The Company is called Meridium and Bill Gates founded it, they're decommissioning some of those satellites right now.

OD to I-3, Cobisa Rio Puerco Limited Partnership.....Jack Maddox

Valencia County Clerk, Tina Gallegos, swore in people wishing to testify "Do you swear or affirm the testimony that you will give in this case will be the truth, the whole truth, and nothing but the truth under penalty of the law?" The audience answered, "I do." Steven Chavez, Valencia County Planner, told the Commission that at the last Board Meeting, that he had a conflict of interest, and he will not be representing the County in this matter. At the last Board meeting, two individuals informed the board that they would like Mr. Chavez to disclose what the conflict of interest was that Mr. Chavez had. In early December, Mr. Chavez applied with the Rodey Law Firm as an attorney. Subsequently, Mr. Chavez learned that the Rodey Law Firm was representing Cobisa. Mr. Chavez indicated to Mr. Salazar, he has a pending application with their firm. Mr. Chavez dealt with it internally with the County Manager. In a written memorandum to Mr. Fernandez, Mr. Chavez told Mr. Fernandez that he would withdraw his application with the Rodey Law Firm. Mr. Chavez sent a formal letter of withdraw to the Rodey Law Firm. A written letter was sent to Mr. Fernandez, indicating Mr. Chavez's withdraw from evaluating these Cobisa proposals. Ruben Chavez, Assistant County Planner will be representing the County on this issue. See exhibit G.

John Salazar, from the Rodey Law Firm representing Cobisa testified to the Commission. The request of Cobisa is for a zone change to allow a 145-megawatt peaking electric generation plant. The request is for a change of zone from an outland district to industrial district III for a 30-acre portion of a 160-acre parcel. The remaining 130 acres will remain outland district, and would serve as a buffer zone. The property is located on state road 548, approximately 1.5 miles west of the Alexander Municipal Airport, which is on the west mesa, west of Belen. The proposed plan site will be approximately four miles from the east bluff or four miles west of the bluff, facing Belen. Cobisa chose this site, and the reason for the zone change request is because of the infrastructure that's in place there. There are two natural gas pipelines in the immediate area. There is an El Paso natural gas pipeline and a gas pipeline, which was formerly owned by Transwestern Pipeline Company. The electric generating plant needs gas to produce the power to turn the turbine, which then generates electricity. See exhibit H.

The other favorable aspect of this site, is that there are two electric transmission lines in the immediate area. When the site was originally reviewed, that was attractive that there were two lines. There is an El Paso Electric 345 KV line and there's also a PNM 115 KV line along the east block, which is east of the airport and runs north-south. The electric power that will be generated by Cobisa will be inputted into the PNM 115 KV line, which provides local electric service. At one time, early on, when the plant was going to be bigger, there was some discussion about possibly inputting power into the El Paso 345 KV line, but there were some concerns in the community about the size of the plant and the amount of water that might be used, so Cobisa has downsized the plant.

There have been prior hearings and public information sessions on this project. On December 6, 2001 there was a public information meeting at Belen High School. On December 12, 2001 there was a hearing before the County Planning Commission. At that hearing, the matter was heard and the matter was deferred to a subsequent County Commission hearing. On January 18, 2001, there was another public information hearing at Belen High School. On February 13, 2001, the County Planning Commission again heard this matter and at that time they recommended the matter be forwarded to the County Commission without recommendation.

There is a record, which includes the transcripts of the County Planning Commission meetings. It includes exhibits, staff comments, responses to staff comments, materials submitted in support of the application, and letters submitted by various parties on the matter. Cobisa believes the record reflects that the issues previously raised have been address and the record does reflect the support of the local business community, including the Greater Belen Chamber of Commerce, the Los Lunas/Bosque Farms Chamber of Commerce, the Valencia County Hispano Chamber of Commerce, Valencia County Economic Development, and representatives of various local businesses who support the project. Cobisa believes they have complied with all the requirements of the zoning ordinance, and therefore request approval of the zone change request.

On the staff comments that Cobisa received this morning, item 5 refers to a need to clarify the existing zoning on the property, however Cobisa understands that this item has been forwarded by staff to the County Commission for it's consideration. Item 4 on the staff report, which is on easements, apparently is no longer an issue. The staff report items 1 and 2 deal with water, and Jack Maddox, Cobisa Engineer, will discuss item 6 on possible alternative sites. Greg Platt, Vice President for Cobisa Rio Puerco Limited Partnership, will discuss item 3 on the staff report on air quality permits.

Commissioner Daves asked about the impacts on R1 zone land from the plant in terms of appropriateness for the zone change. According to Mr. Salazar, the staff has raised that with representatives of Cobisa and Cobisa is willing to addressed buffering of the east side of Cobisa property. There has been discussion about changing the plant site further to the west, which will allow more of a buffer zone.

According to Jack Maddox, engineer and consultant to Cobisa, Cobisa has requested an interconnection with Public Service Company of New Mexico's 115KV system, which consists of a 115 line that comes from west of Albuquerque down to a substation called Belen, which is on the West Mesa Bluff about four miles east of the project site and about 1 ½ miles east of the airport. That line at the Belen substation just south of the Camino del Llano is already interconnected with Jarales substation which is on the east side of the river. That substation supplies power into the southern Belen area and is already connected to the Tome substation which then is connected further north and back into Persey station which is where the Cobisa power plant that was built up there is located. The interconnection that PNM has designed, PNM is required by federal law to interconnect generating facilities like this as long as the generator meets certain requirements including: paying for the studies, meeting certain time frames to provide information and get things accomplished, and then ultimately pay for their share of the cost of the transmission facility that is necessary to interconnect. If the requestor meets all those requirements, which Cobisa has done, then the company is required to design the facilities to determine the cost that Cobisa will have to pay for the interconnection and the cost that PNM will pay for any improvements to the system that will benefit all customers. That process has been going on for almost a year. As far as interconnection, PNM has produced an interconnection study, which has been filed with the Commission. The last filing had a facility study of the necessary actual facility design and cost for all those improvements. What was not completed yet is the split of those costs between Cobisa and PNM. Cobisa expects those costs to be about four or five million dollars for Cobisa to pay to accomplish the interconnection. To do the interconnection, there will be a 4-mile 115KV transmission line that will have to be built from the project site over to the 115KV line that's on the west mesa down to the substation called Belen. From there, PNM will either have to rebuild the existing line from that point over to Jarales or add a second line along that same right of way to bring in enough transmission capacity to get the power out and into the area. They will also be upgrading the switching stations, rebuild the Belen substation on the west mesa, modifications and improvements to the other substations where those lines are interconnected to carry the necessary generations that's going to be supplied to the valley area. They already had in plan an upgrade of the Tome to Jarales line, which was built at 115KV standards but is operated at 47KV and they will be doing that as a part of this project as well. It is likely that PNM will be paying for that portion themselves because they were already planning to do that and under federal law, they have to pay for any improvements that they would normally be doing anyway. PNM is required to do the interconnection and retain the right of way, however, Cobisa will be required to pay for it, because it will be facilities that PNM will not normally need. Cobisa will not own any of that, PNM will own all of that. PNM has the right of eminent domain to condemn the land and will go to court to settle the costs of what the landowner will be paid for the right of way.

Commissioner Pando asked "If your plant is built and you do hook up to the 115KV line and so forth that the power that would be available or be generated to Valencia County at the maximum will be 2 ½ %, now, I don't know what the 2 ½ % represents, whether it represents 2 ½ % of 145 watts on your new plant or is it 2 ½ % of what we're getting now? It's a question that I've asked numerous people and nobody seems to have an answer. In fact, the letter specifically states that the benefits will be very minimum due to the fact that, whatever that 2½% represents." Mr. Maddox stated "I assume you're referring to the PVR report, the study that was done on Dallas Texas. Commissioner Pando

answered yes. Mr. Maddox stated that yes, they were commissioned by Cobisa to study the voltage improvement and local glow serving capability of the project, assuming that it was interconnected to the 115 system and what they found was, there was about a 2.5 % improvement under normal operating conditions of the voltage profile. What that means is that the voltage is sagging going down as it comes along the transmission lines, because Belen and Valencia County are on the end of long transmission lines, there's no generation locally to boost that voltage. So that voltage is sagging by 2.5 % basically, and the generator will boost that voltage back up to full voltage on the system. What they also point out is that the addition of the Cobisa plant will improve the regional voltage profile by up to 4 % under worse case conditions. If one of the elements of the system goes down because it's out of service, then that's what's called N-1. If one of the transmission lines goes out of service, under those conditions, the voltage will be improved by 4 %. It also points out that the number of buses operating at a less phenomenal voltage, is reduced by 4 from the additional plant. What that says is that there are already buses in the area that are operating below normal voltage and the Cobisa plant will bring 4 of those up to normal voltage levels. A number of businesses are already experiencing this problem in the area. Even though these percentages are very small, electronic equipment are very sensitive to voltage events, and that a vast majority problems affecting businesses are related to these voltage sags and transits.

Commissioner Pando asked about PNM acquiring Tri-State. Mr. Maddox said that PNM did acquire, associated with the bankruptcy and disposal of Planes Generation Transmission assets. Tri-State and PNM were two of the bidders. Tri-State acquired Planes Generation Transmissions generation and all of their transmission facilities outside of PNM's service territory. PNM acquired all transmission systems inside their service territory, so they only acquired the 115 line from west of Albuquerque down to the Belen sub. Tri-state still owns it from the Belen sub south to Las Cruces. That line is not interconnected with any PNM facilities except at west mesa, which is a substation west of Albuquerque. Commissioner Pando asked what happens if this is approved and then Cobisa decides not to spend 6 million dollars to hook up the 115 line, where is the County then? According to Mr. Maddox the interconnection with the 115 is the lowest cost option. Cobisa can interconnect with the 345 but it's a much higher cost at about 10 million dollars, or interconnects with the 115 for about 5 million dollars. Cobisa has no intention of interconnecting with the 345, but intends to connect with the 115.

Commissioner Pando asked how many plants Cobisa plans to build in New Mexico. Greg Platt, Vice President of Cobisa told the Commission that PNM's plan to interconnect the transmission line has been filed with the Commission. According to Mr. Maddox, the interconnection plan that is their preferred route, filed as three different routes, were studied. One route will be along the pipeline that comes from the Belen sub that is located on the west mesa, up the pipeline and along the road, then from the pipeline to the plant it's only about a ½ mile from the pipeline to the road. Another route is directly north along the existing 115 line to the road again on the west mesa, then along the road to the plant site. The third route is going due west of Belen sub to the right away of the 345KV line that's owned by El Paso Electric and coming up that 345 line into the plant site.

Commissioner Daves asked about an easement by the Gas Company and restriction about how close a house can be built and asked Mr. Maddox to characterize those in terms of feasibility of putting poles. Also, Commissioner Daves asked if it does go on public right of way, to an extent characterize a new line that doesn't exist now, is that correct? Mr. Maddox answered, that's correct. Commissioner Daves asked Mr. Maddox to limit his answer to the gas line, there are no poles now and there are existing gas line users. Mr. Maddox cannot answer those questions as he does not know what discussions PNM is having with Gas Companies at this point.

Mr. Maddox stated that he's a professional engineer in New Mexico working in the area of power plant and electric utility consulting services located in Albuquerque. Most of his consulting work is in electric power plant sites, permitting and project planning involvement for both conventional and renewal power projects in the southwest. His prior experience includes 24 years at PNM in Planning and Development of both generation transmission projects and project management of major power plant projects. Cobisa discussed the transmission system that's been designed by PNM and proposed for the interconnection. Mr. Maddox told the Commission that the Valencia County area, including Los Lunas and Belen has experienced tremendous growth. PNM's service area grows, each year by about 50 megawatts for the equivalent of about 50,000 new residential customers. With the exception of the Rio Bravo power plant, which was developed by Cobisa, it has been 16 years since the last power plant was completed by PNM. Although it's true that PNM supplies a lot of power out of the state, a lot of that power was excluded from serving New Mexico customers by the Commission, so that those customers wouldn't have to pay for it before it was necessary, therefore it was excluded forever from New Mexico use. Also, PNM purchases a lot of excess power and resells it, that's where all their sales come from. They have been very successful at buying and selling power, but none of that power can be used by New Mexicans. That is why PNM signed a contract with Cobisa a few years ago to build a plant at Rio Bravo, specifically to serve a peak flow to the growth that occurred in their service territory, to provide reliable service. According to Mr. Maddox, former energy secretary Bill Richardson, stated that New Mexico is facing the risk of power outages and rolling blackouts due to the lack of adequate transmission capacity. PNM has tried to build new transmission for many years and has been unable to build any new transmission. Because of that, PNM contracted with Cobisa to build the 145-megawatt unit at Rio Bravo. Mr. Maddox stated that "a Senior Vice President of PNM stated on several occasions in the Albuquerque Journal and in hearings before the New Mexico Public Regulation Commission, under oath, that if the Cobisa project at Rio Bravo had been on line when it had the outages associated with their long transmission lines, that would've admitigated the affects of that outage. They additionally stated that if the

proposed power plant west of Belen had been in operation, that the blackout would've been avoided, and they would've had enough local generation to keep the lights on. PNM has also stated in the Albuquerque Journal that new transmission needs to be built to serve higher loads in the state but that it will take seven years at minimum to permit and construct new transmission lines. They also stated in that same article that's in the Journal, that's publicly available, that the power plant in Valencia County would solve the need for new transmission by providing electricity to meet peak loads in the valley. Clearly, new generation is going to be needed in PNM service territory. This plant will be a competitive plant that can sell power into that marketplace and serve that load."

Commissioner Pando stated that Avonite, Solo-Cup and Sisneros Brothers said they were having problems with power. In talking to some of the PRC people in Santa Fe, and also in talking to PNM they have both assured Commissioner Pando that if you call them and tell them you're having a problem with power, there's a law somewhere in the books that they have to supply the power to these particular areas. Commissioner Pando finds it hard to believe that PNM cannot supply any more power. Mr. Maddox stated that PNM is required by the Commission to provide reliable electric service and to serve their load. Mr. Maddox said that the only way PNM will be able to continue to serve the load is to build a new generation, or plant projects like Cobisa will have to be built by independent power producers. Mr. Maddox told the Commission that deregulation has been delayed, and what that law will do is, customers will be allowed to choose their own generation supplier.

There are many ways to trip the plant, lightning is one way, the other is that various motors can go out. Commissioner Pando commented that only 3-5 people would be working at this Cobisa power plant. Mr. Maddox told the Commission that is typical staff for this type of power plant, not including the maintenance work, and things going on during construction work where 100 people will be employed.

Greg Platt, Vice President of Cobisa, informed the Commission of the background of Cobisa. Cobisa was founded in 1987, and is privately held. Cobisa has developed a total of 5 projects that exceed 1.4 billion dollars in total capitalization. Cobisa has developed projects in Texas, Virginia, Washington, and New Mexico. A description of the Rio Puerco Plant, a simple cycle plant with a single gas turbine in the ancillary equipment. Some people have asked if Cobisa is going to build a bigger plant, and Cobisa is willing to make that subject to the approval. Cobisa does not intend to grow the plant or change it to a combined cycle plant. The plant will burn natural gas, and have oil as a backup. Cobisa will connect with the 115KV system, they do not intend to connect to the 345 system.

According to Mr. Platt, Cobisa filed with the New Mexico Environment Division for the air permit seven months ago, and will find out if the permit was granted on April 22, 2001. There was a hearing on March 28, 2001 in Belen City Council Chambers as a part of obtaining Cobisa's permit, but petitioners did not show up. Commissioner Pando asked what happens if the air quality permit is turned down? Cobisa cannot begin construction if it is turned down.

Commissioner Pando asked where Cobisa is on the water rights. Mr. Platt answered, Cobisa has acquired the rights to 39.52 acre-feet a year of water, which has been transferred by the state engineers into the wells of Belen. Cobisa met with the City of Belen, and they told Cobisa that Belen would rather hold off on these discussions until Cobisa finishes with the County. Cobisa would need 64 acre feet of water a year in assuming that Cobisa ran 100 % of the time. Mr. Platt said "assuming it ran 100 % of the time, if by chance you would run this plant 100 % of the time, and you only had 39.52 acre feet of water, and couldn't find any other water, than the plant could still run, it just wouldn't run as effectively." Commissioner Pando asked what will happen if the City will not give Cobisa water rights. Mr. Platt answered "I don't know what we're going to do in that case." Cobisa does not have a written statement from the City of Belen about the water rights. Cobisa will have to go before the Belen City Council to get the supply of water. The only other alternative is for Cobisa to put in a well at the site and produce their own water, then transfer those rights to that well through the state engineers office and get them approved, and the well approved.

Commissioner Daves asked how much gas Cobisa will consume in a year and how that amount compares to the amount burned in Belen. Mr. Platt did not know the answer to that question. Commissioner Daves also asked how Cobisa impacts the current air situation in Valencia County. Mr. Platt answered the Enemy D requires that Cobisa show them use of dust available control technology, and it also requires that Cobisa prove that Cobisa's impacts will be below the thresholds that are set to ensure continuance of public health. They also require that Cobisa look at the background. Mr. Platt stated "in our worse case, our particulate impacts are well less than 1 % of the existing background."

Commissioner Daves asked about the 100 foot stack, and if the hot gases will have a better opportunity to dissipate high up rather than being on the ground. Mr. Platt said there are two reasons Cobisa is proposing a 100-foot stack. One, is for the height of the stack, the second is the temperature, at 1100 degrees stack temperature that causes dispersion. Commissioner Daves mentioned some people who have written with concern and opposition about the pollution of this plant. Mr. Platt said that Cobisa has to show that the amount of particulates Cobisa adds to the air is insignificant.

Commissioner Padilla asked if Cobisa is proposing to lease the water rights. Mr. Maddox stated that one of the earlier proposals is that Cobisa can lease the water, but Cobisa has already acquired under contract the option to the water rights of 39.52, approved by the state engineer. Commissioner

Padilla asked how Cobisa acquired the option when Belen hasn't agreed. Mr. Maddox said the rights are jointly held, they are in the wells of Belen. Sun Ranch had water rights and transferred them to the City of Belen's wells for future use. The option was signed with Sun Ranch. Commissioner Padilla said that in a state engineers report, the state received an application for the Cobisa project with transfer of 195 acre-feet of water. Mr. Maddox said originally Cobisa was looking for water rights outside of the area at that time, Cobisa identified a significant amount of water rights located south of Socorro. Cobisa acquired rights to under contract an option to 195 acre-feet subject to the amount the state engineers office would approve for transfer to the Middle Rio Grande region. If the state engineer would've approved 50 % of that, Cobisa would've had 97 acre feet which would've been more than enough for what Cobisa needed, but that option did not work. Instead, Cobisa acquired 39.52 acre-feet. According to Mr. Maddox, this should be enough water to operate the plant, if it's not and Cobisa cannot get any more water, Cobisa can operate the plant without it by not using the evaporative cooler on hot days. Commissioner Pando asked, that is a pre-platted subdivision, and those water rights were taken out of there, so what happens when they decide to develop this land, are they going to go want their water rights back? Mr. Maddox said Cobisa has purchased the water rights, the option to those water rights, and is purchased on an annual basis. It is in the contract, Cobisa will pay so much a year to use those water rights, but they are dedicated and committed to that use by the transferee. Mr. Maddox stated that Cobisa would have to have evaporation ponds to evaporate the water. Commissioner Daves asked, if Cobisa doesn't need the pond, and the water goes back to the sewer plant for retreatment, what does that do with the amount of water that Cobisa needs? Mr. Maddox said about 20 % of the water will be returned back into the wastewater treatment plant. Commissioner Padilla said that the site plan indicates two drainage ponds, one is for the storm water, and the other is evaporation pond, which is for water discharged from the cooling system. Commissioner Padilla asked if Cobisa has looked into a permit for that. Mr. Maddox answered Cobisa will have to obtain certain permits.

Commissioner Pando stated that Cobisa has no buffer, and asked, there's 2733 acres that are zoned industrial in this valley, why hasn't Cobisa looked at that? Mr. Maddox said Cobisa has looked at other industrial land, and it involves more transmission costs for the electric transmission, and those areas do involve residential property. If the Commission would like to have a buffer, Cobisa will establish a buffer with 160 acres that they have by moving the plant on the other side of the transmission line, and then create a park on the 10 acres on the east side of the 345KV transmission line. Commissioner Padilla did not agree with Cobisa creating new industrial land on the west mesa, when there's already other industrial land in the County. Mr. Platt, said that while Cobisa land is indeed surrounded by R1 residential zoned lots, the other land is actually surrounded by homes. Mr. Platt also mentioned that Cobisa would put a tall stack because it helps to be up high. Commissioner Pando asked why Cobisa would want to fight such a hostile element, when there are people in other communities who want Cobisa there. Mr. Platt stated that he needs to build a plant where it's going to make money. Commissioner Daves asked, Cobisa's argument that power is needed is really a proxy to sell to California and asked Cobisa to comment why Cobisa cannot sell. Mr. Platt said you can't just connect onto power lines and sell it to California, the power lines over the years have been built to serve a specific need. Cobisa does not know, nor are they looking to buy any rights to move power from New Mexico to California. If Cobisa wants to build a plant to serve California, Cobisa would be building it in California, Arizona, Nevada, or Oregon. Commissioner Daves asked "under deregulation, in fact at some point the consumer has the right to buy power where he wants to, that might include a city who has their own utility, why can't Needles buy power from your plant in Lordsburg? Mr. Platt answered they wouldn't have the rights to transmit the power over there. Mr. Maddox added that the law provides for open access for generators to get on line, what the generator then has to do is either acquire the rights to transmit the power or build the facilities necessary to get the power to the point of use. Under the current situation, with transmission being a big problem in a number of areas, the lines are fully utilized by the current owners of those rights. Mr. Platt told the Commission that they want to build the plant to make money. The other benefits are the increased quality of electrical service, and benefits of tax dollars. Cobisa is a \$60,000,000.00 plant that in gross receipts tax will generate on the border of \$3,000,000.00 and property taxes will generate approximately \$650,000.00 in the first year. According to Mr. Platt, a hundred jobs will be supplied during construction and five jobs during operation, which are very highly compensated jobs, and other companies may be interested in moving to Valencia County because there will be a stable source of electricity.

People speaking in support of Cobisa

Sandy Schauer, from the Los Lunas/Bosque Farms Chamber of Commerce, spoke in support of Cobisa. Ms. Schauer read a resolution that the Chamber of Commerce signed. See exhibit I.

Jim Corell, Executive for the Valencia County Economic Development Corporation, stated a need for this type of facility, eventually needing the power.

Daniel Rivera, from New Mexico jobs for New Mexico People, is in favor of Cobisa. Mr. Rivera said Cobisa should be commended for being concerned about quality of life issues. Those issues are growth, resources and services.

Mary Lou Chavez, from the Belen Chamber of Commerce, is in support of Cobisa. The majority of the people from the Chamber of Commerce are in favor of Cobisa. If Valencia County wants to develop jobs, companies need a steady source of power. See exhibit J.

People speaking against Cobisa

Janet Jarratt, President of Valencia County Citizens for Responsible Growth, also spoke on behalf of Carol Gasperetti, Jean Valentine, and Clara Rehrer. Valencia County Citizens for Responsible Growth is a proactive group that looks for responsible growth for our community. Ms. Jarratt asked, who is Cobisa? Ms. Jarratt stated that Cobisa primarily involve themselves in the permitting process, acquiring zone changes, and other things to get a power plant up and running. According to Ms. Jarratt, Cobisa does not maintain ownership or operation of power plants, and often sell them before they even have the turbine turned the first time. Ms. Jarratt told the Commission that Cobisa are not the people that are going to have the ultimate responsibility for what happens with this plant. Ms. Jarratt read from the 2000 10K filing from PNM, it states that in 1998 55% of the total kilowatt sales of PNM was in off market sales. In 1999 that went to 61%, in 2000 it went to 63%. Ms. Jarratt believes that Valencia County does not have the power issues that California has, because Valencia County is constantly growing in how much the percentage of electricity that New Mexico is selling off market. PNM is responsible for 1.3 million peoples electrical service in the state of New Mexico. Ms. Jarratt had a conversation with Mr. Miller and Mr. Eubank from PNM. Ms. Jarratt said they have already addressed the potential issues of voltage support within Valencia County. They did not mention that they had any particular complaints, but they did mention obligation to provide adequate service to all their customers. PNM must anticipate low growth. If there is a voltage support problem in any area, low flow studies are then conducted in order to identify and alleviate the problem. The absence of a low flow study implies the absence of a problem. Mr. Eubank and Mr. Miller also told Ms. Jarratt they had already expanded the capacity of the lines coming out of the Tome area, it does not come out of the 115KV line on the west mesa that runs to Las Cruces. PNM has upgraded the 46KV line out of Tome to 115KV, and will 115, 000 volts available to the Belen area, and are just waiting for the completion of construction to the Belen bridge. PNM has addressed they will provide the low plus 20% and have a plan into the future for anticipated growth. See exhibit K.

Ms. Jarratt read a copy of the permit for water from the state engineers office "attached is a copy of the state engineer office files on 39.52 acre feet of water rights transferred to the City of Belen by Bonito Land and Livestock Inc. Max Kiehne is President of Bonito, and we are in the process of negotiating an agreement to option these rights subject to the City agreeing to supply the water to the project. If you have any questions please call, and it's signed Jack Maddox." In conversations with personnel from the Office of the State Engineer, Ms. Jarratt was told that it is the official position of the Office of the State Engineer that once those water rights were transferred into the City of Belen, they are at the City of Belen's discretion that there can be no conditional use or no riders attached to a transference of water rights for what they are used for. Ms. Jarratt said that Cobisa "sited directly underneath the 345KV line, they were going to have a 220 megawatt combined cycle plant that used 1100 acre feet of water and they were going to sell the power to Texas and California. That's when they went to Belen, bypassed the County Commission and went to Belen in an attempt to have Belen reach out and break them in." Ms. Jarratt said then the story changed and has continued to change. The one thing that has never changed is the site of this plant, it is directly underneath a 345KV line that is owned by El Paso Electric. Ms. Jarratt said "now they're saying they want to use gray water from Belen, if Belen pumps gray water to up to the power plant, where are their return flow credits? And there's not a municipality in the middle Rio Grande basin that can afford to do away with return flow credits, they just can't do it. The other thing we haven't heard, if they're putting wastewater back into the Belen system, what about the cleaning? These turbines have to be cleaned, and they're cleaned with chemicals. And what does that do to the water quality?" Ms. Jarratt said it doesn't appear that Cobisa has dealt with the Service Water Quality or Ground Water Quality Bureau of New Mexico Environment Department at all. See exhibit K.

In documents Cobisa gave to the County dated October 30 at the Planning & Zoning meeting, Mr. Maddox said they changed from the 220 megawatt combined cycle plant in June and went to 145 plant. According to Ms. Jarratt, "on October 30, 2000, documents were submitted to the County, where page 8 item 5 has other particulars, says output directly into El Paso Electric transmission line and PNM transmission lines." Ms. Jarratt said in "the El Paso Electric Website, El Paso Electric Online Generator Interconnection request number 6, request made on February 6, 2001. Status of Interconnection request, they're initiating a facility study, amount of capacity interconnect to 120 megawatts and the interconnection point is the west mesa arroyo 345KV line,." Ms. Jarratt said In conversations with personnel at the Public Utilities Commission, the only generation plant going on anywhere near that line is Cobisa. So it would appear Cobisa is actually in negotiations with El Paso Electric to connect to the 345KV line.

Ms. Jarratt asked that the Commissioners ask a question to Cobisa which is, have they yet purchased the turbine?" Mr. Platt said that Cobisa will partner up with somebody, that there are number of companies that have gone out and bought a whole bunch of gas turbines. That turbine is rated at 171.7 megawatts in simple cycle and 262.6 megawatts in combined cycle. That is a heavy-duty turbine to be using for a plant that is going to max out at a 25% usage at 145 megawatts. Ms. Jarratt asked the Commission to look out for the best interest of the County.

Jim Smith, spoke against Cobisa, and stated that Cobisa can operate 25% of the time and their air quality permit is to run this plant 24/7 365 days a year, and that's the way the Rio Bravo Plant is operating right now. The only time it's been down in the last couple of days is for maintenance and it's exactly the same type of plant Cobisa is going to put down here.

Dave Brown who has experience in power system operations, read a document he wrote, to the Commission. Mr. Brown is against this project. See exhibit L.

Mr. Platt said they do not operate the plants, "we develop them, we find sites for them, we get the gas for them, try to sale the electricity out of it, and we try to find partners that, as I mentioned earlier, in this case bring turbines."

Bill Guernsey, who spoke against Cobisa, said he has a problem with people saying that Valencia County has very poor voltage, computers only use 12 volts or 5 volts, and they don't use 110 or 120. Also, this power line Cobisa is going to do from their plant, to the Belen switching station, would have to go right through an FAA right of way at the airport. He doesn't think that's going to work.

Pete Eschman, who works as an archeologist at the office of Contract Archeology at UNM, has worked as an archeologist for the last 28 years. The documentation that Cobisa submitted to the Valencia County Planning & Zoning department consists of a preliminary report on archeological and biological surveys conducted on the proposed power plant site. Ogden Environmental and Energy Services produced this report, the Ogden Report is addressed to AMEC Earth and Environmental Services, who is under contract with Cobisa for environmental studies. The preliminary report documents a field assessment of a 30-acre parcel, which appears to represent only the eastern end of the 160-acre parcel Cobisa wants to use. The preliminary report indicates that 3 previously reported archeological sites lie within or adjacent to the 30 acre assessment area. These three sites were discovered 50 years ago during construction of the nearby natural gas pipeline. Ogden Environmental Service field assessment reveals three additional archeological sites within the 30-acre area. All three sites appear to have a high probability of subsurface deposits. The report concludes with the following recommendations regarding the archeological assessment: to meet the requirements of the New Mexico Historic Preservation Division has recommended that the archeological sites have been recorded on New Mexico Laboratory and Anthropology site forms, these forms along with the technical report would be submitted to the NMHPD for review. To date, Mr. Eschman found no evidence that these recommendations have been followed. In the absence of proper archeological site recording, it is impossible to enter into any consultations with the State Historical Preservation Division or with any concerned Native American people including representatives of Isleta Pueblo. Michelle Hensey, who is a staff archeologist at the New Mexico Historic Preservation Division has told Mr. Eschman the consultation with the Historic Preservation Division is required, under section 106. It is clear that such consultations cannot take place until the archeological sites are properly documented. Until appropriate consultations have been conducted, it is impossible to predict the impact of the power plant development on the archeological resources of this parcel of land. Mr. Eschman feels it is appropriate to conduct a proper and thorough archeological study on the 160-acre parcel.

William Dean, from Los Chavez, said that PNM has already completed the 115-volt line down to Tome, and within the next month and half a portion will be completed, which is in parallel with the 46KV line. Mr. Dean also stated that he has attended quite a few water board meetings, and feels that Valencia County will run out of water before running out of electricity.

Penny Hill, urged the Commission to take the long-term view for Valencia County. She talked about the risks to quality of life in Valencia County. Ms. Hill feels Valencia County has no need for this electricity that's going to be generated. Ms. Hill stated that people who own computers have a backup power supply, and don't depend on the electric company. The potential benefit of this proposed plant is to the owners of the Cobisa Corporation.

Victor Williams, said this comes down to a zoning issue. There are other places where heavy industry can be placed, Mr. Williams sees no need to open up the west mesa and pollute it as well. Mr. Williams asked Tom Garde, Valencia County Attorney, if ownership transfer carries over previous agreements, and Cobisa sales this plant, do the next people have to abide by any agreements that they make? Mr. Garde answered, if there is an approval there's a condition, and that will be part of the zone change, so any subsequent owner will be required to follow those conditions.

Chuck Schuman, who represents Workers of New Mexico stated that Cobisa does not own the turbine, they're going to buy the turbine. It has been past experience that these people that bring the turbine in come into New Mexico with their own workers and it has become a bad habit of New Mexico to import workers and export wages. Mr. Schuman said it should be a condition of the zone changes that Cobisa use New Mexico workers and the workers from Valencia County.

Herman Tabet, who is a lifelong resident of Valencia County, does not support the Cobisa project. Mr. Tabet's main issue is that Cobisa has changed their mind so many times. Mr. Tabet has documentation where Mr. Maddox said Cobisa acquired 195 acre feet of water rights from Socorro County, at the following meeting Cobisa acquired 39 acre feet that had been deposited to the City of Belen by Bonito Land in 1999, then Cobisa upped it to 64 than 100 acre feet, so Mr. Tabet is confused on this. Mr. Tabet read from an El Paso newspaper that is 3 weeks old, "Juarez needs 8.3 billion for water." Texas, is looking at 17 billion dollars for water in the next few years. Mr. Tabet read a document from John Salazar, Attorney for Cobisa, "Cobisa wants to be a good neighbor, Cobisa only wants to be in Valencia County if Valencia County wants it. They cannot force their way in. Valencia County has to make that decision, whatever's good for Valencia County. And if it's good for Valencia County, approve it. If it's bad for Valencia County, deny it." Mr. Tabet told Mr. Salazar, "I think it's time for you to go."

Ken Wright, from Bosque, said Planning and Zoning received 500 signatures on one petition and 1500 signatures on another petition, with none in favor of the Cobisa plant. Mr. Wright stated that either Cobisa is not knowledgeable about their business or they have been less than candid with the

public. Mr. Wright told the Commission that New Mexico is the driest state in the union, and the water that the plant wants is unreasonable because the water will be evaporated.

Rita Padilla Gutierrez, is concerned about the scare tactics Cobisa has tried to use, indicating residents will have black outs. Ms. Gutierrez read from a PNM Viewpoint. Ms. Gutierrez stated that PNM is committed to providing quality, reliable services to customers in New Mexico and Kansas.

Macario Anthony Gabaldon, who lives on the west mesa said that Cobisa has not done anything to convince him that Cobisa needs to be in Valencia County. Mr. Gabaldon is against Cobisa.

Laura N. Klapps said that the Rio Puerco has no water in it and is concerned about the water rights. Ms. Klapps had to drill 400 feet for her water well and still gets sand in the summer time. The water is Ms. Klapps main concern.

Eric Bucheit, President of the Albuquerque Astronomical Society, submitted a letter, and read a proclamation to the Commission. Mr. Bucheit told the Commission that if they allow the zone change, it would destroy the observatory. See exhibit M.

George Pelligrino, a founder of the General Nathan Twining Observatory, told the Commission that 15 years ago, it was just a dream. Now, it's a non-profit corporation called the Albuquerque Astronomical Study. Mr. Pelligrino said their observatory is south of Cobisa and the pollution will travel south. Mr. Pelligrino is not against the power plant, but he is against having it to the north of the observatory, which will put the observatory out of business. The observatory is built entirely on donations with the purpose of educating children for free.

Nancy Schultz, who recently moved to Valencia from Kansas, told the Commission that she loves the mesa. Ms. Schultz is concerned about saving water.

Don Cata, landowner in Valencia County, stated that this originally started as a peaking plant, which has now turned over to become a base load of about 150 megawatts; 150 megawatts requires 1,750 gallons of water a minute which is 105,000 gallons an hour times 24 hours is 2,520,000 gallons a day which equals 2,700 acre feet of water per year. The cost of putting up a new plant, 1.3 million dollars a megawatt, is \$195,000,000.00.

Gloria Castillo spoke on behalf of her employer, Waste Energy Integrated Systems of California, Ms. Castillo's main concern is the issue of water. Ms. Castillo and her employer are prepared to come to the Commission at a future time to make an offer of proposing a material waste facility. The small amount of electricity that Cobisa is talking about, that amount of power could be had from a methane facility attached to the waste dump. The sources of methane can be three sources, which are: coal methane, manure, and biomass waste.

Ruben Chavez, Assistant County Planner, told the Commission that the water issue is confusing as to where this water issue is, "it is true that the State Engineers Office has approved the water transfer for the 39 acre feet, the transfer from Bonito to the City of Belen, at no time have we received any documentation acknowledging any notice of any transfer or any option there of. So as we understand it, the only water that exists, is the water from Bonito Land and Trust over into the City and nothing else". The volume of water is another thing that Planning and Zoning is concerned about. At the beginning the first application was for 195 acres, of that Cobisa expected the State Engineer to only allow half of that, which would have only been 97 acres, and the 97 acres would've been sufficient to operate this plant. When Planning & Zoning went through Cobisa's packet, their application process is telling Planning & Zoning that Cobisa only needs 25 acre feet based on 25% operation, however, at the February 14, 2001 meeting for the first time, the County hears that Cobisa needs 64 acre feet. The zone change first came for the 160 acres, after that Cobisa said they don't need to do the whole thing, so Cobisa agreed to only zone 30 acres, which is what the site plan would use. If there is an agreement reached between the City of Belen and Cobisa, and they do use City water or gray water and it is discharged back into the sewer plant, than the site plan for 30 acres does not have to be 30 acres, it could be 5 acres. Mr. Chavez has not seen the site plan without the discharge ponds. Mr. Chavez feels that the Commission should clarify that, because while the Commission accepts the zone change, the Commission is also approving the site plan. See exhibit N.

Mr. Chavez said that it is true that on March 28, 2001 the air quality bureau did hold it's second hearing. It will be some time before the County hears any results from that hearing. Mr. Chavez was present for that hearing. If by some chance the Air Quality Bureau approves this, the Commission still has the power to recommend any further conditions upon the air quality issue. Should this Commission decide to approve this zone change, Mr. Chavez recommends that the Commission go for a CO and NOX monitor as well. Mr. Chavez did go over some of the easements with PNM, and looked at the proposed routes, and it appears that Cobisa is staying within the existing easements from the mesa over to the swish station. Mr. Chavez stated "it was mentioned to you before that Zoning did overlap or did encroach or encompass some of the 160 acres, that was not a clerical mistake. When you do zoning, and you did district zoning such as this, you will create a line in the sand, and parcels are not perfect. Some will be over, some will be short. Initially what will happen is a property owner will have half this property commercial and the other half residential or agriculture." According to Mr. Chavez, "all the R1 comes all the way up onto the property. Our zoning ordinance, understood or foresaw this happening and lays out a procedure by which this Commission would have to go back into public hearing and notification and actually do a zone change. It's done here, it doesn't go to P&Z, it comes back to you. I've outlined the four different criteria that would have to

happen in order for this to occur.” Even if the board readjusts the boundaries, it doesn’t resolve the nature problem, with that problem being, setting I3 zone right against an R1. There are gas lines that go across the river by Jarales, the south of the industrial park, and go to Yates Industrial Park, at that point the gas company has a station and beyond that, there’s some switch valves. Both industrial sites that exist in the County, have gas lines that exist nearby. Another 115KV line goes directly through the Rio Communities Industrial Park, that travels up Rio Communities Blvd. And goes up to Yates Industrial Site. Valencia County has two existing industrial sites. Mr. Chavez is not satisfied that the infrastructure Valencia County has in the existing industrial sites cannot serve the purpose of this use. Mr. Chavez recommended the Commission go against the zone change.

John Salazar, Attorney for Cobisa, said he believes the testimony has shown that the plant will meet the need and will help guarantee the level of electric power in the future. Cobisa stands by their testimony on the need for reliable power. There seem to be certain things in the opposition testimony, one is that there has been a change in the scope of the project as to how much power and water is going to be used, and Cobisa has been criticized for that. The irony is, it was downsized, but the reason it was downsized, is because Cobisa heard people express concern about the original plan, which would’ve used more water, which would’ve produced more power. The plant downsized from a merchant plant to a peaking power plant. To the extent there are concerns that if this was approved, what’s going to happen down the line? Cobisa agrees with the Commission putting conditions on the zone change. On the water issue, Cobisa will accept a condition so they can’t get a building permit until they can satisfy the County by obtaining the water that is necessary to operate the plant. The property line, R1 zoning, Cobisa will agree to buffering so there will be a buffer between the plant and R1 zoning. There was concern that Cobisa wants to connect with the 345KV line, Cobisa will agree to a condition that this zoning is conditional upon no connection to the 345KV line. There was a concern that Cobisa might start with a certain amount of power being generated, Cobisa will agree to a condition to limit the plant to one gas turbine. Mr. Salazar said that the kinds of concerns that were raised can be addressed by conditions, and they will go with the zoning. On the observatory, it’s 7 ½ miles away, there was concern about the night skies, but because Cobisa will be a peaking plant, that means it comes on when the natural power is at the highest it would primarily come on during the day, ordinarily the plant will not be operating at night. There is 7 ½ miles of development between this plant and the observatory. On the water issue, the suggestion was made to keep the water in Valencia County, if you allow Cobisa operation that water will stay and be used in Valencia County. If the water is not used in Valencia County, there’s going to be a lot of pull on water rights from Valencia County going to other counties. Cobisa did look at alternative sites. One, problem, is Cobisa is on the verge of having a decision made on the air permit before the New Mexico Environment Department. At the other sites, there are existing homes, where on the west mesa it’s vacant land. Cobisa will comply will all applicable requirements of the New Mexico Environment Department, Air Quality Regulations, Water Quality Regulations, and conditions of this County. Mr. Salazar asked that the Commission approve this zone change request. Commissioner Daves asked about the archeological sites. Jack Maddox, engineer for Cobisa, answered, Cobisa did retain a consultant to look for archeological sites, and they identified some sites in the area. Two of the sites have been heavily disturbed, one by the road and one by the transmission line right of way. There are sites all along the Rio Puerco escarpment and a site to the left of the transmission line, with part of it being in the transmission line right of way. Cobisa will follow recommendations of the consultants and will file necessary paperwork and have those sites filed. If Cobisa does not go ahead with the project, the land reverts back to the original landowner. Cobisa filed a site development plan with the Planning & Zoning staff and with the Commission that is cause for Cobisa avoiding those sites. Commissioner Daves asked if PNM intends to do a cross connection, and it will be done with or without the Cobisa project, is that correct? Mr. Maddox answered “that is not correct, PNM will do some certain things that they have described that they will do anyway, they do not have anything in their plan or budget to bring additional transmission from the Belen switchyard to the Jarales substation, and that’s why they’re requiring Cobisa to pay like 5 or 6 million dollars to do these additional improvements.” Commissioner Daves asked “that cross connection plus your power from the plant to that first line just east of the airport, two independent lines would be necessary for the Cobisa project?” Mr. Maddox answered “that is correct, that would be required to be able to get the power into the local transmission grid, and basically bring that into a certain load in the area. Commissioner Pando stated that PNM has an abundant amount of power.

Commissioner Daves stated that he is not prepared to support a motion to approve this application, and made a motion to table Cobisa’s request, because he is interested in looking at the feasibility and the appropriateness in terms of that plant being buffered by distance in that location where it is presently empty. Commissioner Daves is not satisfied with the application as it stands, in terms of noise, pollution, and the affects on the observatory. There was no second to Commissioner Daves motion. Commissioner Baca made a motion to deny the zone change “we heard from staff, the Planning Department, they recommend against the zone change. Second, the Cobisa applicants had ample opportunity to address this issue, whether this proposed site is an appropriate site for heavy industrial use considering that there are 2,500 acres of industrial land already zoned for industry in the County, which remain vacant. As a matter of public policy, I am opposed to creating new heavy industrial zones when there exists so much vacant industrial land in the County, which this county has already deemed suitable for industrial uses. The proposed site is next to a residential zone and Cobisa has not sufficiently addressed how this heavy industrial zone can adequately be buffered from the residential zone. There’s a water plan, Cobisa has not shown, to my satisfaction, that it can provide sufficient water to the project. The planning department substantially demonstrated that there are other suitable sites for this plant. Without adequate evidence to contradict that evidence, therefore I make a motion that we deny Cobisa’s application.” Commissioner Pando seconded the motion. Commissioner Pando stated he loves this community and since he’s lived here, he has seen

steady growth. Commissioner Pando stated that the Commission has always looked at every development that has come before the Commission with an open mind. As far as Cobisa, Commissioner Pando sees no benefit whatsoever for any residents of Valencia County. One of the things this Commission has done is preserve the agricultural land and hope to continue to do that. Motion carried on a vote of 3-0.

The next Regular Meeting of the Valencia County Board of County Commission will be held on April 17, 2001 at 4:30 PM in the County Commission Room at the Valencia County Courthouse.

ADJOURNMENT

Commissioner Daves made a motion to adjourn at 5:35 P.M. Commissioner Baca seconded the motion.

NOTE: All proposals, documents, items, etc., pertaining to items on the agenda of the April 3, 2001, Meeting (presented to the Board of County Commissioners) are attached in consecutive order as stated in these minutes.

VALENCIA COUNTY BOARD OF COMMISSIONERS

ALICIA AGUILAR, CHAIRMAN

**ss/
AURELIO H. PADILLA, VICE-CHAIRMAN**

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

**ss/
GARY DAVES, MEMBER**

**ss/
HELEN BACA, MEMBER**

ATTEST: ss/

TINA GALLEGOS, COUNTY CLERK

DATE: April 17, 2001

For an official signed copy of these minutes and attachments see Book 39 Page 649.