

VALENCIA COUNTY BOARD OF COMMISSIONERS

REGULAR MEETING

July 10, 2001

The Meeting was called to order by Chairman Alicia Aguilar at 10:00 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	

Pledge of Allegiance was led by Sheriff Juan Julian.

Approval of Agenda

Commissioner Pando made a motion to accept the agenda as presented. Commissioner Padilla seconded the motion. Motion carried.

Final Public Hearing on Ordinance Proposing a Third 1/8 County Gross Receipts Tax

James Fernandez, County Manager, told the Commission that the Valencia County general fund budget is roughly a 9 million dollar budget. Of that, the general fund budget funds fifteen departments, those being: Commission, Manager, Recording & Filing, Property Assessments, Bureau of Elections, Collections, Law Enforcement, Animal Control, Building Inspector, Probate Judge, Data Processing, Zoning, Fire Marshall, Fiscal Office, and Planning. Specifically under the Board of County Commission budget, that budget funds the occupants that occupy the County Courthouse, those being: District Attorney, District Court, Juvenile Probation, Juvenile Detention, and Adult Detention. The Commission budget also covers insurance costs, Agricultural Extension Service, supplements the Senior Citizen Program in the amount of \$100,000.00, funds vector control, contributes to the property valuation fund, funds the Solid Waste Department and two Public Health Offices. The majority of funds that come into the general fund are from property taxes, which is about 4.5 million dollars from current property taxes. Out of every tax dollar that is billed by the County, only \$.29 stays with the County. The rest of that is distributed to other agencies that the County bills on their behalf, which are: Municipalities, the State, School Districts, Branch College, and Irrigation District. When the process was first looked at as to how to supplement the Sheriff's Office and the Road Department, the first thing that was looked at is the possibility of whether or not the existing property tax rate could be increased. The Fiscal Office determined and verified with the Department of Finance & Administration (DFA) that the County is already at its maximum level on property taxes. Yield Control limits the County to a 5% increase on property evaluations, and that is not subject specifically to new construction on property, but that has slowed down. The revenues coming into the County have been relatively flat, while the costs of conducting business are escalating. Those costs are: personnel costs, utilities, insurance costs, and all other costs associated with County Government. The next thing the Fiscal Office looked at is the possibility of going to the voters for a gross receipts tax increase. The County does have the ability to adopt a third 1/8 gross receipts tax and that is by public referendum. There has been some discretion in the past as to how this might be utilized. The majority of that will be earmarked for Public Safety, primarily the Sheriff's Office, a portion of that would go to the Road Department to buy equipment, and assisting the Volunteer Fire Departments. Out of the 9 million dollar general fund budget, 3 million dollars is earmarked for the Adult Jail. Another \$400,000.00 is earmarked for Juvenile Detention. Another one and a half million dollars goes to the Sheriff's Department for the Sheriff's operating budget as well as the County contributing to the Cops Program. So about 5 million dollars goes to Adult Detention/Public Safety and the remainder of it goes to operate the County. The County has implemented some programs in trying to deal with the budget, to consolidate some of the costs that would have been under the individual departments to try to keep a better track of those costs.

Commissioner Pando asked why this tax has not been enacted before. Mr. Fernandez said the County had not looked at this until very recently, as revenue sources have been growing at a relatively constant rate.

Commissioner Daves asked in the contract with Cornell, are there increases in what the County would pay triggered by the CPI? Mr. Fernandez said there are automatic increases for the rate of inflation and are triggered once a year. In the first year of the contract, it allowed for a lower payment rate so the County could attempt to build up some of the cash reserves as well as deal with some of

the start up costs that were involved in the implementation of the jail. The last CPI index that Mr. Fernandez saw was 3.7%.

The collection of a third 1/8 will bring between \$550,000.00-\$600,000.00 a year. If this were to be passed by the voters, it would be implemented in January 2002, and the first revenues that the County would realize would be in March 2002. Mr. Fernandez told the Commission that the Fiscal Office has looked at all avenues in order to deal with rising costs and expenses, including implementing a hiring freeze.

Don Carper asked Mr. Fernandez, what explanation is possible in a County that has grown 46% by national census in the last ten years, how can you explain a flat budget as far as income is concerned when 50% of it comes from property tax? Mr. Fernandez said there are limitations placed by the Property Tax Code, as to the amount of increases that the County can benefit from, which is Yield Control, and that is a 5% increase. New Construction is something different, as there has been some increase in revenues coming to the County from property taxes over the past few years, but as construction has kind of slowed, those have also flattened out. The property values that are determined for property tax purposes are determined by the County Assessor and they are limited to by the amount of individuals and the budget they have for going out and picking up new values. Mr. Fernandez said that last year there was about 675 million dollars worth of property valuation, this year it is just over 700 million dollars. Every dollar that is billed by the County is not retained by the County. Over the last 3-4 years, the County has noticed an increase in the revenues coming in to the general fund from Property Taxes and that is roughly about a \$200,000.00 increase per year. The County has also noticed within last year and this year, that has tapered off. Commissioner Pando said there is an ordinance now that says both double and single wide mobile homes have to be permanently anchored so consequently it is being taxed as real property, where in the past, anyone could put a mobile home anywhere and the lot is all that got taxed. Commissioner Pando said although the County had tremendous growth, most of the growth is in mobile home areas.

Commissioner Daves asked when the last time the employees got a raise was. Last year the Board picked up an additional 3% of the employees share of their retirement program. According to Mr. Fernandez, the raise before that was about 3 years ago. Commissioner Daves stated that all employees are underpaid.

Sheriff Juan Julian told the Commission he has not seen an updated proposal or ordinance to see how this proposal is going to read. At the last meeting Mr. Julian made recommendations and has not seen a new proposal. Mr. Julian asked what the language would be for the proposal. Tom Garde, County Attorney, told Mr. Julian that the language will be voted on today, so the Board will decide what language will be adopted in the ordinance. Mr. Garde said the language that Mr. Julian has is the language that was publicized as required by law but the Commission will adopt the actual language that will be part of the ordinance and part of the resolution that will be presented. Mr. Julian also had a concern that on the adoption ordinance, it's written that it says 75% to be dedicated to Law Enforcement; Mr. Julian asked that the language be changed so it will be dedicated to the Valencia County Sheriff's Office. Mr. Julian feels if it is specified that it's going to the Valencia County Sheriff's Department, the people will understand that's where it's going and they will support it. The words "Public Safety" concern Mr. Julian also as the funds can be used for anything other than law enforcement.

Charles Eaton, Valencia County Fire Chief, told the Commission that the Fire Departments have been experiencing shortages of volunteers. The Valencia County Chiefs Council, which consists of chiefs throughout the County, meet once a month to address problems. One of the problems is the lack of participation with volunteer services. One plan to motivate the volunteers was a public safety tax to help supplement an incentive program. In the last three years, the demand for service has increased. In 1999 there were approximately 3,000 calls countywide. Projected figures for this year are nearly 3,800 calls. The Fire Department provides fire and rescue services. Nobody within the volunteer service receives any type of funding. The only time the volunteers receive funding is when assisting State Forestry and Wildlife Fire. The Fire Department is in a critical situation from 6:00 A.M. to 6:00 P.M. There is a program within the Fire Department where if a major situation goes on in a particular area, there are neighboring districts that are dispatched as well. The Fire Department is asking for \$5.00-\$7.00 per call. The City of Belen and Village of Los Lunas have a Stipend Program where they pay volunteers so much per call. The City of Belen has five paid full time personnel and pays \$8.50 per call. The Village of Los Lunas has five paid full time personnel and they pay \$8.00 per fire call and \$7.50 per rescue call. The City of Belen supplements the Belen Fire Department \$35,000.00 per year. The Village of Los Lunas supplements the Los Lunas Fire Department \$24,000.00 a year. John Cherry, County Fire Marshall and Mr. Eaton are the only paid people within the County Fire Department. There is a critical situation in the County with the shortage of ambulances. Mr. Eaton would like to pay approximately \$7.50 per call, which will be about \$86,000.00 per year. Mr. Eaton is asking for \$86,900.00 on projected figures.

Mr. Cherry said the main reason for implementing this program is to maintain and help recruit firemen. Mr. Cherry will put criteria on this, such as the volunteers have to be: Fireman I trained and EMS has to be a minimal of First Responder trained. Mr. Cherry suggested implementing the program at a percentage basis of receiving revenues and seeing what kind of revenues they produce. It will be about a year to a year and a half before the Fire Department can disburse funds on this program. Mr. Cherry suggested placing the funds in an interest bearing account to let that grow. The Fire Department is anticipating expending twice a year from this account. This lets the volunteers get a vacation bonus and a Christmas bonus. Mr. Cherry would like to see the Fire Department receive

15%-16% from the gross receipts tax. Mr. Cherry would like the language on the proposal to read "Valencia County Volunteer Fire & Rescue". Equipment will not come from this Stipend Program.

Don Carper told the Commission that Fire & Rescue is in a critical situation, as they cannot get enough people to adequately protect the residents of Valencia County. Mr. Carper feels the Sheriff's Department has the same problem. If the County does not give the Sheriff's Department some relief, the County will lose most of what it has. Mr. Carper feels the County should give some type of reimbursement on a per-call basis to the volunteers who are Fire Fighter I certified and First Response certified in Rescue.

Lillie McNabb pleaded with the Commission to word the proposal as simply as possible and advertise as quickly as possible. Ms. McNabb thanked the Sheriff's Department and feels that all officers are underpaid. Ms. McNabb feels the Fire Department also needs incentives because those people are working hard for us all.

Vincent Chavez said when he drove North on Highway 314, he noticed the Honor Farm and the Los Lunas Hill in the background. Mr. Chavez also noticed a lot of power poles were going up and was concerned about the beautification, as he would like to preserve it. Mr. Chavez stated he is in favor of the 1/8 gross receipts tax increase.

James Purdy, Detective/Sergeant for the Valencia County Sheriff's Department, believes that every employee who works for the County is getting a raw deal. Mr. Purdy had concerns about the Commission having a contract with the Jail where there's something included in there such as a cost of living increase every year. Mr. Purdy asked why that isn't a possibility with the rest of the employees as it is something that has to be debated every year. Mr. Purdy said that in trying to get a contract with the union, the County couldn't even come up with a contract within a year and a half. Mr. Purdy addressed Commissioner Pando telling him he doesn't address these issues with the citizens, "And sometimes I feel that maybe you need to go out and you need to ride in our cars and you need to go with the Fire Department and you need to see what these other people do. These folks that work in the offices, God bless them. They go home at the end of the day and worked 24/7. They're 24/7 even though they're volunteers." Mr. Purdy asked that when the citizens get together on this and the Commission puts it in the Newspaper, that they do separate the funds. Mr. Purdy said he is getting this feeling that the Commission is trying to fit Law Enforcement into the tax increase to compensate the Animal Control Department because they fall under Law Enforcement. Mr. Purdy thinks the citizens are willing to pass the increase for the Sheriff's Department, Volunteer Fire Department, and Road Department. Mr. Purdy would like the Commission to plan a cost of living increase in the future and for the Commission to come up with their own five-year plan. Mr. Purdy feels that the Commission should not approve a contract for a private company coming in and wanting a cost of living for the next three years. Commission Chair Aguilar thanked Mr. Purdy for his comments. Commissioner Padilla agreed with Mr. Purdy. Commissioner Daves said he would vote for a tax increase. Commissioner Pando said he had respect for the Deputy Sheriff's as it takes a very special individual to do that.

Victor "Bud" Williams, retired Fire Fighter, spoke on behalf of this issue. Mr. Williams said there shouldn't be any problem getting the tax increase passed as long as the people realize what it's for.

George Carper told the Commission he had a carwash last weekend to benefit the Sheriff's Department to help buy some equipment for them that they need but can't afford to buy. In that, Mr. Carper talked to 200-250 people and one thing that people said was a big concern of theirs with the 1/8% gross receipts tax is the money that is allocated to the Sheriff's Department this year, will it be taken out of the budget next year. The people want to make sure that the money the Sheriff is getting now is going to be the same amount of money they're getting next year, if not more than that from the general fund to start with, on top of the money that is coming in from the gross receipts tax. Commission Chair Aguilar stated, "It's my understanding, with the plan that the Sheriff submitted, he's committing to the public and to this Commission that out of this tax he's going to be hiring so many officers. There's a plan where the Sheriff's Department staff is going to increase. So, he himself has a plan and I think that needs to be available to the public but that's part of informing the public. I don't believe, at least I'm speaking for myself that we're just going to hand this money over to the Sheriff to use at his discretion. There is some discretion there, but his discretion is following a plan, it's his commitment in telling us as to what he wants to do." Mr. Carper stated, "What a lot of people that I talked to are afraid of, is whatever money is generated by this sales tax, will be taken out of the Sheriff's budget next year to where basically they are given the same amount of money they're given now." Commissioner Pando said, "I will go out in public and publicly state that as long as I'm a Commissioner, which I could be here today and gone tomorrow, but as long as I have anything to say about it, I'll do whatever's necessary to make sure the Sheriff's budget stays where it is today and also that this money is not part of next years. In other words, this is extra." Commission Chair Aguilar stated, "Let me mention that it's tied to a plan, if he has a budget for this year and it's so much staff and we're asking that it be increased, putting all this other rhetoric aside, I think it's already understood." Sheriff Julian had a concern that he is not penalized when it comes to budget time next year. Commission Chair Aguilar said, "I'm not looking at penalizing you, but I'm also looking at holding you responsible, that if you're saying, go out and give me this money, we're going to increase this many law enforcement officers, they're going to have proper equipment and there will be policing throughout the County and enforcing our ordinances and our laws." Sheriff Julian understood that.

James Fernandez, County Manager, told the Commission that the County is dealing with a lack of plan that didn't exist with this County. The County is trying to create a program that allows for the trade out of aging and antiquated equipment such as in the Road Department. Whatever portion of funds the Board chooses to allocate for the Road Department would be earmarked for maintenance of equipment and improvement of roads within Valencia County. The Road Department has some concerns about the equipment they are utilizing on a daily basis. The County has attempted in the last year to start replacing some of that equipment. Commission Chair Aguilar said she gets calls of complaints that roads are so bad that emergency vehicles can't get somewhere. Commissioner Daves suggested narrowing the language and the purpose of this money to equipment because it isn't that much money compared to equipment needs. Commissioner Pando preferred that the language be limited to equipment. Commission Chair Aguilar had a concern if they only identify equipment, this is a tax that is perpetual, so every year this can only be limited to equipment. Commission Chair Aguilar suggested that the language be equipment and buildup or to purchase material for roads. Mr. Fernandez said one of the cost savings the County will realize is that when there is new equipment the County is not perpetually trying to replace parts, and when maintenance costs come down, there should be money earmarked for the materials that would be required. Commissioner Pando recommended 70% of the funds go to the Valencia County Sheriff's Department, 15% go to the Valencia Fire & Rescue Department, and 15% go to the Road Department for County road equipment. Commissioner Daves said the Commission should give the employees some relief in terms of salaries. Commissioner Daves recommended that the Fire Department get 13%, 67% to the Sheriff's Department, and 20% to the Road Department. Commissioner Padilla agreed with Commissioner Daves. Commissioner Baca would like 12% to go to the Fire Department, 70% to the Sheriff's Department, and 18% to the Road Department. Commission Chair Aguilar thought it would be appropriate to keep this as simple as possible and in rounded numbers. Commissioner Padilla recommended to change to 70% Sheriff's Department, 20% Road Department, and 10% Fire Department.

James Ashmore, from Highland Meadows, is concerned as to where this is all going from a rural community perspective. Mr. Ashmore asked, what guarantee do we have as a rural community, that we're going to get added support from the Sheriff's Department, adequate support from the Fire Department, or adequate support to the roads. Commission Chair Aguilar referred Mr. Ashmore to the Sheriff's proposal that he submitted to the Commission. Sheriff Julian thinks that if this tax can get passed, the Sheriff's Department will work very diligently to district it out and have officers assigned to certain districts. Commissioner Daves and Commissioner Pando feel there's a need for a Fire Department in Highland Meadows. Commission Chair Aguilar recommended that Mr. Ashmore and the Homeowners Association get together with the Sheriff and agree to a plan as that can be amended.

Jack Huning told the Commission that this tax is needed. Mr. Huning thinks this is the first step to increase the funding in this County.

Commission Chair Aguilar asked Attorney Tom Garde what the next step would be. Mr. Garde replied, "The procedure would be that there would be a motion made with regards to the percentages and purpose of those percentages. What would then happen is staff would develop and complete the language based on the motion and what this Commission approves and adopt the ordinance and then adopt a resolution which would both be signed by this Commission." Mr. Garde recommended that this be voted on, then take a ten minute break to get the language prepared, then this Commission would sign the ordinance because publication has been made.

Commissioner Baca recommended giving 70% to the Sheriff's Department instead of Law Enforcement, 20% to the Road Department for equipment, and 10% for Fire & Rescue Volunteers for the Stipend Program. Commissioner Padilla agreed with Commissioner Baca. Commissioner Pando recommended giving 70% to the Sheriff's Department, 15% to the Road Department, and 15% to Fire & Rescue Volunteers. Commissioner Daves agreed with Commissioner Pando's recommendation. Commissioner Daves also suggested to leave the language of the proposal as "Volunteer Fire & Rescue Department," with the clear understanding that it's for a Stipend Program but not to say for stipends because it needs to be Fire & Rescue and in the discretion of recommendations of the Fire Department.

John Cherry, County Fire Marshall, said whatever figures are installed today, are the figures that the Fire Department will live with unless they take procedures to amend the ordinance. The Fire Department made the statement that the purpose of this is to maintain and recruit volunteers. Mr. Cherry encouraged the Commission to put Fire & Rescue in at 15% to give the Fire Department a chance to recruit. Mr. Cherry recommended that the wording in the proposal be "Valencia County Volunteer Fire Departments". Mr. Cherry will be providing some sort of documentation such as a plan to let the public know what the Fire Department will be using the 15% for.

Lillie McNabb told the Commission she believes the Commission should give the Road Department 15% the Fire Department 15%, and the Sheriff's Department 70%. Ms. McNabb feels that the voters will have a better view of the balance. Ms. McNabb said the County needs to keep these volunteers.

Mr. Eaton asked the Commission to give the Road Department 15%, and the Fire Department 15%.

In terms of what the voters are likely to pass, Mr. Fernandez thinks it would be easier to sell to the voters if the Sheriff's Department gets 70%, the Road Department gets 15%, and the Fire Department gets 15%. Mr. Fernandez asked Attorney Garde, in terms of the Fire Departments,

would it be necessary to indicate “unincorporated”? Mr. Garde said, theoretically, the Commission should include “unincorporated”; the problem Mr. Garde foresees is that may affect the vote by the municipalities. Commissioner Pando feels they should leave it alone and not use the word “unincorporated”. Commissioner Daves told the Commission that the County has discretion as to spending the money and said, “We need to be forthright as what the money is for, and it’s for the unincorporated area Fire Departments.” Commission Chair Aguilar had concerns about the municipalities wanting to get paid also. Commission Chair Aguilar also said that this money is at the discretion of the Sheriff’s Department and Fire Department. Commissioner Daves stated that the County has to have the support of the municipalities in order for this tax increase to get passed, but would like to keep in mind that most of the population of the County is in the unincorporated areas.

Commissioner Pando made a motion to go ahead and let this ordinance be adopted and give 70% to the Valencia County Sheriff’s Department, 15% to the Valencia County Fire & Rescue Departments, and 15% to the County Road Department for equipment purposes. Commissioner Daves seconded the motion. Motion carried. Commissioner Daves said that the language should read “for the Sheriff’s Department, Valencia County Volunteer Fire & Rescue Departments, and equipment for the Road Department”.

Determination of Type of Election

Tina Gallegos, County Clerk, informed the Commission that there are two different types of elections possible. There is a mail ballot election or a regular precinct election. Ms. Gallegos said this needs to be adopted into the resolution and election proclamation. A mail ballot election is mailing a ballot to every registered voter and will cost the County approximately \$44,000.00. A regular election, which will be consolidated precincts, will cost the County \$22,900.00. The calendar has been in working format with absentee voting starting on August 2, 2001, voter registration closing on August 14, 2001, and Election Day on September 11, 2001. Commissioner Daves made a motion to have a mail ballot election. Commissioner Pando seconded it for the purpose of discussion. Carlos Montoya, County Fiscal Office, told the Commission he will meet with the Bureau of Elections staff this week to find the money budgeted for whatever type of election that the Commission chooses. Mr. Montoya feels that a regular election has a better chance of passing than a mail ballot election. Mr. Fernandez agreed with Mr. Montoya and said the other item the Commission needs to be aware of, is any information or documentation that will be provided to the voters is going to cost the County money in addition to the election costs.

Lillie McNabb feels that a walk-in election will be more beneficial because the people that are for this tax increase will go to the precincts. Commission Chair Aguilar agrees with Administration to go with the regular election. Ms. Gallegos recommended that the Commission go with a regular election. Commissioner Baca voted no. Commissioner Padilla voted no. Commissioner Daves voted no. Commissioner Pando voted no. Motion failed. Commissioner Padilla made a motion to have a regular election. Commissioner Baca seconded the motion. Commissioner Baca voted yes. Commissioner Padilla voted yes. Commissioner Daves voted yes. Commissioner Pando voted yes. Motion carried.

Commissioner Baca made a motion to take a break so Administration and Counsel can work on the ordinance. Commissioner Padilla seconded the motion. Motion carried.

Commissioner Padilla made a motion to return from recess. Commissioner Baca seconded the motion. Motion carried.

Adopt Election Resolution for Proposed Special Election

Commission Chair Aguilar said In the Ordinance, section 4 of the dedication, says, “70% dedicated to the Valencia County Sheriff’s Department, 15% dedicated to the Valencia County Road Department for road equipment, and 15% dedicated to the Valencia County Volunteer Fire & Rescue Departments”. Commissioner Pando made a motion to accept Ordinance #2001-02. Commissioner Padilla seconded the motion. Motion carried.

Commissioner Padilla made a motion to accept Resolution #2001-28. Commissioner Pando seconded the motion. Motion carried. Mr. Garde informed the Commission that the proclamation will be issued by the Clerk’s Office and will go to printing prior to noon tomorrow.

Don Caper, on behalf of the citizens of Valencia County, thanked all the Commissioners in the effort they put forward in this, the foresight they used, and for listening to the residents.

The next Regular Meeting of the Valencia County Board of County Commission will be held on July 17, 2001 at 6:00 P.M. with Executive Session beginning at 5:00 P.M. in the County Commission Room at the Valencia County Courthouse.

ADJOURNMENT

Commissioner Baca made a motion to adjourn at 1:45 P.M. Commissioner Padilla seconded the motion. Motion carried.

NOTE: All proposals, documents, items, etc., pertaining to items on the agenda of the, July 10, 2001 Special Meeting (presented to the Board of County Commissioners) are attached in consecutive order as stated in these minutes.

VALENCIA COUNTY BOARD OF COMMISSIONERS

**ss/
ALICIA AGUILAR, CHAIRMAN**

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

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

**ss/
GARY DAVES, MEMBER**

**ss/
HELEN BACA, MEMBER**

ATTEST: ss/

TINA GALLEGOS, COUNTY CLERK

DATE: August 7, 2001

For an official signed copy of these minutes and attachments see Book 41 Page 517.