

VALENCIA COUNTY BOARD OF COMMISSIONERS

Regular Meeting

January 2, 2002

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

Approval of Agenda

Commissioner Pando made a motion to approve the agenda. Commissioner Daves seconded the motion. Motion carried with a vote of 4-0.

Re-Organization.....Valencia County Commission

Commissioner Baca nominated Commissioner Padilla for Chairman as he has been with the Commission a long time and has done a wonderful job as Vice Chairman. Commissioner Aguilar seconded the motion. Motion carried with a vote of 4-0.

Commissioner Daves stated that Commissioner Aguilar’s leadership has stood the County in many good ways and her style in running the meetings was very professional. Commissioner Daves believes that Commissioner Padilla will be a good Chairman.

Commission Chair Padilla nominated Commissioner Daves as Vice Chairman. Commissioner Pando seconded the motion. Motion carried with a vote of 4-0.

Commission Chair Padilla thanked his fellow Commissioners for their vote of confidence in selecting him as their Commission Chairman. If he had not been selected, Commission Chair Padilla said he would’ve had no problem in working with any of his fellow Commissioners. Commission Chair Padilla said the Commission would work together towards their common goal of making Valencia County financially strong and sound in these difficult times. It is the consensus of the Commission that their priority is the restoring of salaries for county employees. The next priority is restoration of services to the organizations in the County that have been affected. The most recent gleam of hope has come from State Representatives Kandy Cordova and Fred Luna, and State Senator Michael Sanchez who have come forward to offer their services in helping the County out of this crisis. Commission Chair Padilla said those three people are researching different avenues of funding that might be available. Commission Chair Padilla thanked them for their spirit of generosity and support. Commission Chair Padilla told the elected officials and all department heads that he wishes for their continued help and cooperation, as together they can get through this difficult time. Commission Chair Padilla thanked Commissioner Aguilar for her three years tenure as the Commission Chairperson as she has worked very hard in this capacity.

Approval & Adoption of Resolutions:.....Valencia County Commission

Setting Date, Time & Place of Public Meetings

Commissioner Pando made a motion to approve Resolution 2002-01. Commissioner Daves seconded the motion. Motion carried with a vote of 4-0.

Robert Rules of Order

Commissioner Pando made a motion to approve Resolution 2002-02. Commissioner Baca seconded the motion. Commissioner Aguilar said that with part of the *New Mexico County Commission Handbook*, the reference for elected officials 2000 edition, she would appreciate that becoming apart of this resolution. Commissioner Pando does not feel that is necessary as they are all aware of their duties and responsibilities. Commissioner Aguilar said that 5 or 6 months ago, Commissioner Pando brought it to her attention through the County Administration and indicated that this was available, it is there, and she would like it to be part of the packet for today’s meeting. Motion carried with a vote of 4-0.

Trash Study Resolution for Senate and House Memorials

Commissioner Daves thinks this is an appropriate time to act on a resolution that if passed, would approve and put the County down the road toward seeking some help from the State Legislature and seeing if the County can't take some positive steps forward with a comprehensive trash program for Valencia County. At the request of citizens, this Commission created a trash committee on February 20, 2001 and subsequently both the House and Senate passed resolutions urging the Commission to look into the trash problems and make recommendations to them. The Committee came up with a report and was presented to the Commission earlier in the year and at the last meeting. The basics of the program is to create an enterprise fund department for solid waste that would receive funding from the franchise fees that existing haulers have and in addition to that, a fee assessed to property owners of occupied households in the unincorporated area of Valencia County. The services provided by those fees would be a comprehensive program that would allow people to have a convenient place to take their trash. The committee is looking for a way to move forward with this and for seed money through state funds. Commissioner Daves said that Conejo Transfer Station is on 40 hours and the reason being is because the general fund is subsidizing that operation so the County has cut down the time that people have to take their trash. The program that the Committee is trying to implement is a trash program to be self-sustaining and not be a weight on the general fund.

Dotie Hoffman congratulated Commission Chair Padilla and thanked Commissioner Aguilar for being a good model. Ms. Hoffman commented that she supports trash pickup but wants to make sure that the County is not setting up another bureaucracy and that the County has not overlooked the possibility of building this into the current infrastructure such as making it a part of the tax bill every year and subcontracting out trash pickup for everyone in the County. Ms. Hoffman also pleaded that the Committee follow through on recycling on this because if they don't their just picking up trash from one place and putting it into another. Ms. Hoffman also said she would like to see a budget chart that shows how Valencia County money was divided up and then would like to see the actual budget as to how it was spent, she would like it in a pie chart format. Ms. Hoffman asked if that could be published in the Belen Bulletin so it has wide distribution. Ms. Hoffman would also like the audit of the County budget published. James Fernandez, County Manager, said he can create a pie chart, but in terms of the audit, it has not been approved by the State Auditor's Office, so it has not been released, but once it is released it will be sent to the Board for public record. Ms. Hoffman said she would like to see it published. Mr. Fernandez said he could do that.

Gil Grey gave his support on the trash proposal. Mr. Grey said there is a provision for recycling to be part of the program. Mr. Grey thanked Commissioner Aguilar for her work and professionalism on the Commission and congratulated Commission Chair Padilla. Mr. Grey said that last year there was a moratorium on industrial zone change that was pending the completion of the master plan for the County. There was a time limit on that and that expired, so Mr. Grey proposed to reenact that moratorium on industrial zone changing until there is an accepted master plan in place. Mr. Grey said there are some efforts to bring undesirable industrial development to the County and until there is a master plan in place, Mr. Grey will strongly support getting an extension or a continuation of that moratorium. There is already over 4,000 acres of property that is already zoned for industrial development in the County. Mr. Grey asked what control the Commission has as to what kind of industry goes into those places already zoned for heavy industrial development. Ruben Chavez, Planning & Zoning Supervisor, said the moratorium was for industrial parks. There are I1, I2, and I3 industrial zones at this time, what Planning & Zoning was trying to create originally was a way where they could create parks and attract more economic development rather than the individual sites. As to how Planning & Zoning has control with I1, I2, and I3, there are permitted uses in each one of those zones and there is a site design review. So if it is one of the permitted uses, it's at the discretion of the Commission whether they would allow the zone change, but if it's already on one of the approximately 4, 000 acres that is already designated, then there is site design review. Mr. Grey asked, on site design review, who has ultimate decisions on what types of development go into existing zoned industrial areas? Commissioner Daves suggested that Mr. Grey get together with Mr. Chavez. Mr. Grey said the answer he received from Mr. Chavez is that there is very little control over what kind industrial development comes into the County once it's already zoned for industrial use. Mr. Grey believes the County needs to establish some kind of control. Commissioner Aguilar agrees with Mr. Grey and thinks this concern needs to be followed through even if the ordinance needs to be amended or procedures need to be changed.

Clara Rehrer is very pleased that the Commission allowed householders to pay the County. Ms. Rehrer said she has no need for weekly trash pickup as she recycles in Los Lunas. Ms. Rehrer understands the County will get more money than if she pays a hauler. Commissioner Daves said the Trash Committee has come up with a proposed solution and the solution requires revenue. Commissioner Daves thinks the whole County is responsible and needs to participate in the payment for the cost associated with having a good Solid Waste Program in this County. Commissioner Daves said this program would assess people who don't have contracts and will not assess them if they do have contracts. Ms. Rehrer understood there was a pulp mill interested in coming to the County. Ms. Rehrer said there was a pulp mill in Pennsylvania that used huge amounts of water. Ms. Rehrer does not want anything on the west mesa draining her well.

Commissioner Daves commented on bureaucracy and said the County has an obligation to provide services to the public and among those is a Solid Waste Program. This program will try to minimize the number of employees through contracting out its elements. The critical part of bureaucracy that this program intends to create, is a person who is a professional in this field who will guide and recommend to the County steps to be taken through transfer stations that are County owned and run

or transfer stations that are privately owned. Commissioner Daves said this program would recycle. Commissioner Daves made a motion to approve Resolution 2002-03. Commissioner Pando seconded the motion. Commissioner Pando supports this fully, but said they need the resources and finances for this to work. Commission Chair Aguilar supports the concept but said the Commission needs to have the information available as far as fiscal restraints and responsibility, as the last paragraph of the resolution says the Commission is intending to amend the “Valencia County Solid Waste Ordinance to implement the Trash Committee Program into the assessments with regard to the service”. That concerns Commission Chair Aguilar because the County Manager hasn’t had time to look at the budget to see if this is realistic, and the Attorney is not here to look at if implementing the concerns and the recommendations fall within the law. Commissioner Daves said that was discussed on the 18th and if and when the ordinance is passed, it would have to have some mechanism that allowed it’s implementation before the assessment and other elements were triggered because it would take money that doesn’t exist to implement it. Commissioner Daves also said this has been operating in Dona Ana County for more than a year. Mr. Fernandez commented on the last paragraph of the resolution. He said his concern would be that for this fiscal year, the money that would be coming in from the enforcement fees are going into the general fund, so any movement would create more difficulty from the general fund. The enforcement fees, environmental gross receipts are already going into the Solid Waste Department, they’re not going into the general fund. Commissioner Daves said the Committee is looking at submitting this to the legislature to see if the legislature can help the County with the program. The last thing Commissioner Daves wants to do is to have this program affect the general fund. Commissioner Padilla said that Commissioner Aguilar has concerns as far as this resolution being binding. Mr. Fernandez thinks that the paragraph before the last gives the Commission some comfort in that it is subject to fiscal restraints. Commissioner Pando voted yes. Commission Chair Aguilar voted yes with the condition that it doesn’t affect the County budget at all. Commissioner Daves voted yes. Commissioner Baca voted yes. Motion carried with a vote of 4-0.

Adoption of 2002 Holiday Schedule

Commission Chair Aguilar made a motion to approve the holiday schedule. Commissioner Baca seconded the motion. Motion carried with a vote of 4-0.

Signature of Milagro Plat.....Ruben Chavez

Ruben Chavez, Planning & Zoning Supervisor, said that at a previous meeting, this Commission approved the final plat of the Milagro Subdivision. That approval came subject to three conditions. One of those conditions was a road agreement. The developers presented their agreement and have formalized it. The second agreement is approval of the County’s Engineer. Kevin Eates, from Molzin Corbin, e-mailed Mr. Chavez his final comments before the meeting. Those comments are favorable and Mr. Eates recommend approval of the final plat as he says the revisions to the drawings have substantially complied with his recommendations, according to Mr. Chavez. The third condition was a bond in place for construction. The developers, once they file the plat, they have one year before they can start construction. In the ordinance, at the time that they wish to begin construction, they must first submit a bond to the County for 125% of the construction costs. The ordinance also says that if they wish to file the plat they’re entitled to that, they have two options. One option would be that they do the improvement and then comply with the plat. The other option is that they provide surety, assuring the County that they could do this project. The developers have provided a draft to Planning & Zoning.

Mr. Fernandez said he met with Ms. Chavez, the developer, and there was some concern on her part as to whether or not she could come up with an assurance for the County until the plat was actually filed. Mr. Fernandez asked Ms. Chavez about the possibility of going to financial institutions to indicate to the County that if this project didn’t go forward, that it would be a viable project. Ms. Chavez said she went to the bank and there are certain things that they require. One of those is that there is no recorded plat, so to them there is no subdivision for them to give the money. The other thing is that the bank does not provide the bond; the mortgage company provides the bond. Another thing the bank was asking for is a business plan. Ms. Chavez may not choose to go with a bank for funding, she may choose to go with a private investor. When she talked to Mr. Fernandez, one of the things they talked about was that he would find out if it was mandatory for the Chavez’s to have the bond before she got the final plat recorded. Ms. Chavez understood that Mr. Fernandez would talk to the Attorney and then to Mr. Wilken, the Manager of the project. According to Ms. Chavez, Mr. Wilken said that Mr. Fernandez called him and the bond was recommended but it is not mandatory. Ms. Chavez’s concern is that if she gets a bond now, she may not choose to construct right away, and she has a year that the plat will be null in void if she decided not to construct. Ms. Chavez had promised that she would get a bond prior to construction, which she would have to go to Mr. Ruben Chavez in order to get approval to construct, and at that time is when she would provide the bond. Commissioner Pando said that if Ms. Chavez doesn’t have a bond, Planning & Zoning cannot issue a building permit. Commissioner Pando agrees with Ms. Chavez, as it is very difficult to put up all this money, when they might not start building right away.

Commissioner Aguilar said that in the ordinance, a person is not to bring a plat to the Commission until all the conditions have been met. Commissioner Aguilar said that last week Mr. Chavez had a plat delivered to her by Toby Jaramillo and Ed Gonzales. At that time she was told that the plat needed to be signed because the property was being sold and there were builders in line and in order to get the money they had to have that done. The second time, Mr. Jaramillo went back with the plat and Commissioner Aguilar did not sign it. The third time, Mr. Chavez went to her office with the plat to sign and now he has received Mr. Fernandez’s signature along with some of the Commissioners’

signature. Commissioner Aguilar said she called Mr. Fernandez and on the conference call, Mr. Fernandez asked Mr. Chavez directly that he went to him and told him all the conditions have been met, knowing that the conditions have not been met, and that plats need to be approved in a public meeting and not by individual Commissioners. Commissioner Aguilar said she specifically asked that if this was going to be on the agenda, that all conditions were to be met and Mr. Fernandez was to have been made aware and approve it before it comes to the Board. Commissioner Aguilar stated that this is an administrative decision, it's in the ordinance and that's how it should've been followed. Commissioner Aguilar said she doesn't appreciate someone bringing her a plat and saying all conditions have been met and she has to do their work for them and to find out that they haven't been.

Mr. Chavez said he could get the signatures and hold the plat until the conditions are met. Mr. Chavez said it appears that the Commission has a policy where they sign the plats in a public meeting, but doesn't have a problem with that. With this plat, Mr. Chavez would hold it until the conditions are met, and there are three conditions. Ms. Chavez said that all the conditions have been met and she thinks it's a legal question as to the bond. According to Ms. Chavez, Mr. Chavez cannot give her the permit to construct unless she has the bond, so she's asking the Commission to allow her to have the final plat so she can record it and move on and sell lots or get the money from the bank to construct. Mr. Fernandez said in conversation with Mr. Garde, he asked him what he would suggest and Mr. Garde preferred to have a bond in place but that was not required until such time that construction took place and he said that Mr. Chavez should try to get a letter of assurance. Ms. Chavez did not get a letter of assurance from the bank but has a letter of assurance that she personally had it stamped so she would assure that she would get the bond prior to construction. Commissioner Daves asked if she got a letter of assurance from the bank, if it would commit Ms. Chavez to ultimately using the bank as her surety. Ms. Chavez said they require money down for the bond so it won't assure that she is also going to construct. Commissioner Daves thinks that if it's not legally required and if in fact the County has the protection it needs in terms of not issuing building permits, the Commission should sign the plat. Commissioner Pando said this is double protection because Ms. Chavez can't get a building permit until they have that bond.

Commission Chair Padilla asked Mr. Chavez for his recommendation. Mr. Chavez said that two of the items are physical which are in place, and the third one, which is the surety; he passed it onto the County Manager to discuss with the Attorney. Mr. Chavez believes they are the ones that should tell the Commission whether to accept the surety letter. Mr. Chavez does not feel comfortable saying if that surety letter is enough. Commissioner Daves asked if the Commission would approve the plat without the surety or the bond being issued, is there a possibility that the Commission can't get it done. Mr. Chavez said the surety was to let the Commission know that his was a viable project and that the mortgage company thought it was a viable project. Mr. Chavez explained that on the bond, should the developers touch any course of construction before they provide the bond; the Commission has the power to file a conjunction and stop any construction. Commissioner Padilla recommended tabling this matter until the Attorney looks at this. Commissioner Aguilar made a motion to table this item until the next meeting to give the Attorney an opportunity to review it. Commissioner Baca seconded the motion. Commissioner Pando said this is an inadequacy for the Commission to act on this. Commissioner Baca voted yes. Commissioner Daves voted yes. Commissioner Aguilar voted yes. Commissioner Pando voted no. Motion carried with a vote of 3-1.

Request Approval of Payroll & Warrants.....James Fernandez
James Fernandez, County Manager, presented a listing for warrant #67120 in the amount of \$50.00, payable to New Mexico Board of Pharmacy for clinic renewal application for Animal Control. Commissioner Pando made a motion to approve warrant #67120. Commissioner Baca seconded the motion. Motion carried with a vote of 4-0.

Mr. Fernandez presented a listing of all warrants issued by the Fiscal Office on December 28, 2001 covering payroll processed on that date of warrant #67121-#67147 inclusive and payroll check 50348-50537 inclusive for a listing total of \$188,362.96. Commissioner Baca made a motion to approve payroll. Commissioner Aguilar seconded the motion. Motion carried with a vote of 4-0.

Mr. Fernandez presented a computer printout listing of all checks issued by the Fiscal Office on December 28, 2001 covering vendor bills processed on that date of warrant #67152-#67229 inclusive for a listing total of \$417,022.26, of that total \$359,847.94 is from the general fund. After the payment of these warrants, the general fund cash balance is \$1,927,411.59, and this was derived by taking the Treasurer's cash balance as of December 31, 2001 \$2,533,188.97 and deducting from that any outstanding warrants. Commissioner Pando questioned check #67193 to Molzin Corbin for retainers. Mr. Fernandez said that anything listed with project #92-20 is for the transfer station or compliance order and the other ones are for Milagro. Commissioner Pando asked if it was ever passed that the developer would pay for the engineering services. Mr. Fernandez said the Commission was looking at doing that, this item came prior to taking that action. Mr. Fernandez said he would make sure that item comes before the Board. Commissioner Pando made a motion to accept warrants as presented. Commissioner Daves seconded the motion. Motion carried with a vote of 3-0. Commissioner Baca was not present during this vote. Commissioner Aguilar asked that on warrants, if the Chair could also vote on that. Commission Chair Padilla voted yes. Mr. Fernandez said that two large bills that were paid were for the adult detention facility as well as the juvenile detention facility. These are the most recent billings the County has received, so they are current on those bills.

The next Regular Meeting of the Valencia County Board of County Commission will be held on January 15, 2002 at 6:00 P.M. with Executive Session beginning at 5:00 P.M. in the County Commission Room at the Valencia County Courthouse.

Commissioner Aguilar said that being that there is a redistricting and new lines, she would like to see the Commission look at the Planning & Zoning Board and maybe they would like to go back to a five member board where there is one member from each Commission being represented.

Adjournment

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

NOTE: All proposals, documents, items, etc., pertaining to items on the agenda of the January 2, 2002 Regular Meeting (presented to the Board of County Commissioners) are attached in consecutive order as stated in these minutes.

VALENCIA COUNTY BOARD OF COMMISSIONERS

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

**ss/
ALICIA AGUILAR, MEMBER**

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

**ss/
GARY DAVES, VICE-CHAIRMAN**

**ss/
HELEN BACA, MEMBER**

ATTEST: ss/

TINA GALLEGOS, COUNTY CLERK

DATE: January 15, 2002