

VALENCIA COUNTY BOARD OF COMMISSIONERS

Regular Meeting

April 16, 2002

Chairman Aurelio H. Padilla called the Meeting to order at 5:00 PM

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

Executive Session

Chair Aurelio H. Padilla called the meeting to order at 5:10 PM. Ms. Tina Gallegos, County Clerk read the agenda for Executive Session. Commissioner Pando made the motion to go into executive session. Commissioner Aguilar seconded it. Motion carried. 4-0.

Vice-Chair Daves made a motion to return to Regular Session. Commissioner Baca seconded it. 4-0. Motion carried. 4-0.

Ms. Anaya reported that the following was discussed: New hires pending pre-employment physical and drug test for Edward Hobbs, road department as mechanic, resignation of Lloyd Mills, sheriff’s department, status change from probation to non-probation for Wanda Burson, older American program and a request to allow Maryann Gonzales, from older American program, Victoria Mora, Eleanor Montoya and Phyllis Baca to increase their hours for the purpose that they need to comply with the respite care agreement that the county has with the state agency for older Americans. This money is to come from a position that has vacated by Lorraine Taddy and this would be for the remaining of the fiscal year. Also discussed was the position of custodial worker who would work 32 hours at \$6.00 an hour and this would be a savings of \$6,000.00 from the contract that the county has.

Mr. Tom Garde reported that the following was also discussed: Current and pending litigation of Steven Romero property involving Tio Garcia that had occurred in 1998 and a hearing had heard before Judge Pope the week before and they were waiting on a discussion on it, status of a lawsuit involving Berben Road and trial for this case is scheduled for April 30<sup>th</sup> of this year, discussed was the litigation on the Burris Cibola County lawsuit, discussed was a request for extension concerning ED for an addition 31 days until May 20<sup>th</sup> of this year and also discussed was the appeal on the administrative hearing involving Julian Torres. Direction was given to council on all cases. Also discussed was the status of negotiations between administration and waste management involving a lease agreement on the property formerly know as Tri-Sect and this matter would be discussed at the next meeting.

Commissioner Aguilar made the motion to ratify that this was all that was discussed. Commissioner Daves seconded. Motion carried. 4-0.

Tom Garde led the Pledge of Allegiance

Approval of Agenda

Ms. Tina Gallegos, County Clerk read the agenda.

Commissioner Aguilar asked to be included on Item E. Ms. Gallegos informed the commission that there were no minutes for approval. Commissioner Pando made a motion to approve agenda as amended. Commissioner Baca seconded it. Motion carried. 4-0.

PUBLIC REQUEST:

Mr. Ray Garcia, Vice-President of the Tome/Adelino Neighborhood Association said he was here for two reasons. They were going to start planning their new Community Center and forming a committee to deal with it and he wanted to know who in the county they needed to deal with. Chair Padilla said they would work with Mr. Fernandez. Mr. Garcia said that the association had become aware that a parcel of land south of the Tome Church and owned by Daniel Salazar would probably be subdivided and he was aware of the zoning and on some occasion the commission had allowed the zoning to be changed. He has always been opposed to it and he would like to be informed if anything transpired and made it clear that they want to have impact as to how it is going to be subdivided because it's so close to the church area. Mr. Fernandez said notification would come through Planning & Zoning.

Mr. Leonard Garcia a resident of Meadow that Lake said that one of the residents of Meadow Lake had been videotaping traffic would like the speed limit raised from 40 to 55 mph. Mr. Garcia did not think that should happen. He said they still needed police protection and traffic control, which he had been asking for. He believed the sheriff's department should have the 1/8% tax money by now and maybe they could do away with the agreement of the State Police doing the traffic control over there. He said that at one time the Sheriff had stated that 40 % of the crimes were committed between Meadow Lake and El Cerro Mission and they would still like police protection.

Ms. Clara Reher said that at the April 2<sup>nd</sup> commission meeting, Mr. Bob Davies had spoke about paying taxes owed by VIA. She found it irregular that he had walked in just before the meeting was about to adjourn. He was introduced by Mr. Fernandez and the commission discussed the matter. The Open Meetings Act states only items on the original agenda may be discussed except for emergency matters. She said Mr. Davies should have asked to be on the agenda because this was a very important item or he should have spoken under public requests. The matter would then have been discussed at the beginning of the meeting and not to an almost empty room. If Roberts Rule still prevails, others could have had their two minutes to reply to Mr. Davies comments. She also wanted to thank the present Chair and the previous Chair, in that they had been generous in allowing the public to speak, because it also says that law does not require it

Lillie McNabb wanted to thank the commission and anyone that had anything to do with allowing the senior supervisor to the Senior Program to be put back to 40 hours. This was one of the dearest programs to the valley and it affected the whole county.

## **ACTION ITEMS:**

### **PLANNING & ZONING MATTERS:**

**a) Presentation of Valencia County Comprehensive Plan.....Steven Chavez**  
Steven Chavez said the Comprehensive Plan had been completed. A few editing mistakes need to be resolved. He wanted to formerly present it to the commission so that the public and the media would be able to get copies of it. Chair Padilla thanked Mr. Chavez and said there was a lot of information in it. Commissioner Aguilar wanted Mr. Chavez to take a few minutes to identify the elements. Mr. Chavez said Chapter One was housekeeping. Chapter Two was the longest chapter in the plan and it contemplates most of the land use issues that the county is confronted with. It provides profile of the 13 different communities of Valencia County excluding the municipalities. Chapter Three is transportation. It goes into existing & future cartelistic, trends and issues of traffic patterns and level of services on county roads as well as state roads. It goes into different types of legislation that this county could adept to and help alleviate traffic problems. Chapter four deal with communities' facilities as well as make recommendation for new facilities. It looks at public safety, water & sewer infrastructure in the county. Chapter Five deals with environmental & historical preservation issues. The focus is on water quantity and quality. Chapter Six is economical development. Chapter Seven was an implementation chapter and goes over strategies to implement the goals and policies and objectives in the plan. Commissioner Pando said Steven had done an outstanding job and asked Mr. Garde if they were allowed to give out copies or if he was allowed to lend his copy out as long as they returned it. Mr. Garde said they could have copies from the County Clerk's office. Mr. Steven Chavez said these were not legal yet because the county had not yet adapted it. This was only a final draft. Commissioner Aguilar wanted to know that in the contract Mr. Chavez would still be available for two public hearings. Mr. Chavez said he would not limit it to two. He said much of what had been done was pro bono and he enjoyed working with them and this was a major milestone for him and it meant a lot to him and he was available to do what he could. Chair Padilla asked Mr. Chavez when they should start the public hearings and Steven said it was up to the commission and Mr. Ruben Chavez, as he had been extremely helpful in the final six months and he should be a part of it. Commissioner Daves

recommended that Ruben come to the next meeting with a plan and some ideas of some formal hearing process as well as make it available to anyone that wants it. Commissioner Pando said this should be made into two morning meetings and two night meetings and the public could comment on it and then come to a consensus and adapt it at that time. Commissioner Baca thanked Mr. Steven Chavez and Mr. Ruben Chavez for a job well done.

#### **GENERAL REQUESTS:**

##### **b) Proclamation-April Child Abuse Prevention Month.....P. McKenzie/State of NM Children Youth & Family**

Ms. McKenzie wanted to thank the commission for taking action on designating April as Child Abuse Prevention Month and endorsing the need for education and information and prevention in our community. There has been too many difficult and sad things happening and all of us have a duty and responsibility to protect, nurture and raise them because they are going to be the next ones to run this community. Commissioner Pando thanked Ms. McKenzie for taking the time to do this. He said the kids and our senior citizens needed our protection. Commissioner Daves agreed with Commissioner Pando and wanted Ms. McKenzie to read the Proclamation. Commissioner Pando made a motion to accept the Proclamation. Commissioner Aguilar seconded it. Motion carried. 4-0.

##### **c) Submit Petitions to Remove Speed Humps in Rio Communities (tabled 4/2).....Floyd Kaler**

Mr. Floyd Kaler, a resident of Rio Communities for 21 years, submitted a petition with 264 signatures to remove the speed humps on Horner St. between Riggs and Damon St. He said that in driving under the influence, running stop signs and speeding there were laws in place to punish the guilty and not the innocent and if instead of enforcing these laws and putting road hazards, such as speed humps, the innocent and the aged were being punished. In putting in these speed humps they were endangering lives. In quoting the Pledge of Allegiance, he said that liberty and justice were being bypassed.

Laura Seamen, a resident of Horner St. said they had all signed the petition and had some facts of how fast people were driving before the speed humps were put in. She has two children who she is out to protect and wanted to make a comment on what Mr. Kaler had said about punishing everybody. It had nothing to do with punishing; it was all about protecting the community. She said the speed limit is 25 mph and 15% of cars went 27 mph and 85% of speeders went 41-46 miles an hour, before, these speed humps were put in. In the article that she had read in the newspaper, Mr. Kaler had stated that the speed humps had caused accidents and there had not been one accident. Skate boarders were using the ramps to ride on and that was not true because there was an area where the kids ride their bikes and skateboards and if anything, it made it safer for children to do something in a community where there was nothing for kids to do. She said that if you were driving the speed limit that was posted, it was not going to affect you. Also there was an alternate route and it was the same miles to go around and actually a little bit shorter. The speed humps policy says that the purpose of it is to reduce excessive speed on residential streets and to insure the safety of pedestrians, animals and vehicles in neighborhoods, creating a calmer and more livable environment. Another comment was made at the last meeting about the property value and in talking to a realtor, it was not something that they looked at.

Mr. Seamen, a resident of Horner St. and was here because he had a parental duty as a father to look out for his children and the children who live in the community. He said that street had been plagued with speeders and that was a fact that could not be denied. The engineering department had made a survey and the majority of traffic was speeding. He was sorry to know that there were some inconvenience and some people had disabilities but he had two children that he had to look after. Unfortunately some people did not obey the law, and some are punished for it but others are protected because of it.

Scott Kaler wanted to address some things that had come out at the last meeting on the legality. He had no doubt in his mind that everything done was legal what the commission had the done was within their bounds. He had the impression that they were questioning the commission. His question was the petition that had gotten the speed humps in. He said there were 7 signatures in it and 264 signatures on the petition that wants them out. He said had they known about that petition to get them in, they would have been here to fight the petition before it got off the ground. And maybe other neighborhoods did want them, but they didn't and it was a gross injustice that 7 people can dictate to 264 people their quality of life and their property values. He wanted the minutes to reflect that the

neighborhood had approached the commission to remove what they thought was a dangerous situation.

Commissioner Pando said he had a list of roads in the county that want these speed humps and that they don't have the manpower to be citing the speeders. They have tried stop signs and putting in dips and nothing seemed to work but the speed humps. He said he would support Chair Padilla's decision since it was his district.

Mr. Mel Gordine thanked the commission for allowing them to speak on this issue. He said one of the issues he had when Chair Padilla was campaigning for office was to install speed humps on Kaghan Loop. He has lived there since 1994 and since then it has become a community of younger couples and he is not belittling the elderly that live there and he is the first to admit that the last thing he wants to do is slow down but the only thing that has slowed down traffic is the speed humps.

Chair Padilla asked Mr. Fernandez to explain the procedures that were used to install these speed humps. Mr. Fernandez said that in order to qualify there was a criterion that needs to be met in terms of the number of individuals that sign the petition. There is a series of items that have to be reviewed and it goes to their engineer of records to verify that it does meet that criteria and once that is done and brought back, the commission determines if to proceed.

Chair Padilla again said many people want these speed humps. Stop signs had been tried and it didn't help, they were still driving very fast and it was very dangerous and for that reason the speed humps had been installed. He said this was a difficult problem and that had been the only way to solve it. Chair Padilla said that in hearing both sides, he still stands by it and made a motion to keep the speed humps. Commissioner Daves seconded it. He also said that the right not to have a speed hump was not a first amendment right. It was a public policy process. He knew that firefighters and ambulances did not like to hit speed humps, but on balance, they were all over, and the question was if this was an appropriate area. He thought that the speeders still wanted to speed and they couldn't do that between two speed humps. He said speed bumps are not going to be supported by those who generate their need, and these were needed because 85% were going way beyond 25mph speed limit.

Commissioner Aguilar said that they had paid for an engineer to come and tell them the speed humps were warranted but it did not mean that it was written in concrete. She thought that the people against it deserved an engineer to come back and have another review on it and that way it would be in a report. This was she had said at the last meeting and for that reason she couldn't support the motion. Commissioner Daves called for a vote. Motion was made by Chair Padilla, seconded it by Commissioner Daves. Commissioner Pando voted yes. He said he fully supported what Commissioner Aguilar had said but they had already spent money to research this and any more research would not solve anything. Commissioner Aguilar voted no. Commissioner Daves voted yes. Commissioner Baca voted yes. She said she did not like them either, but when it came to protecting the children there was no question about it. Motion carried. 3-1.

**d)Request Clarification & Discuss Tax Questions Regarding VIA.....**  
**Rita Padilla Gutierrez**

Ms. Gutierrez, President of the Historical Tome/Adelino Neighborhood Association, stated that it seemed that a lot of effort was spent justifying why a particular entity can or cannot pay or become delinquent on taxes. She said it seemed odd that Mr. Davey had been allowed to come in and do a full report on the tax situation on VIA under the umbrella of the county managers report as opposed to the public comment, which meant that he had the opportunity to expand and offer many of what she considered insufficient explanation as to the situation at hand. It gave the appearance of preferential treatment. It should be that that person should come up on public request so that the public that is present at the beginning of the meeting can respond to those concerns as apposed to Mr. Davey coming in at the end of the meeting knowing that it was prewarned and knowing when he was scheduled to come in. Other people come under public comment, they have to sit for an hour or so waiting their turn.

In terms of the actual report that was given to her, in one of the details that was provided to her, it indicates that the entire 1980's decade, VIA paid approximately \$1,338. 50 in taxes. So she asked for clarification on it. Mr. Fernandez explained that this amount was for 14 properties that had delinquencies for that year that amounted to that figure. Ms. Gutierrez

had other questions to which Mr. Fernandez referred to statute. He referred to the audience that they appeal to their legislators to change statutes

Commissioner Aguilar said that Mr. Fernandez, Monica and herself had attended a seminar offered by the Attorney General Office on inspection of public documents and the Open Meetings Act and she wanted to clarify that only items placed on the agenda should be discussed and that no action could be taken on any items that are not at advertised on the agenda and she brought it up for the other commissioner's information. Also the statute that Mr. Fernandez was referring to, they needed to allow Ms. Gutierrez an opportunity to come in and if she wants to actually look at all the documents through the computer and the Treasurer says that this is all VIA, they should allow her an opportunity to come in and she can go through and mark what she wants and she can have copies without going through the frustration of saying this is what she wants then finding out that they may be a roadblock or it wasn't stated correctly or misguided.

Ms. Gutierrez then said that since the county did not forgive any late fees, administrative costs or penalties, the county must know if the State forgave these items as result of a court case filed several years ago between VIA and the State of New Mexico. Approximately \$1.5 million was owed in delinquent taxes and in the negotiation and court settlement it turns out that VIA paid a portion only and one would assume that the portion that they did not pay was in essence forgiven. She asked if anyone had any knowledge of it. Mr. Fernandez replied that the county never forgave it. It can only be forgiven by court order or by the State itself. The county cannot legally waive any interest, penalty or forgive any state funds. Commissioner Aguilar said that if Ms. Gutierrez made a request for that court order, she would be provided it and they may in fact have been a reduction, but through the state. That's a document that has to be petitioned through the court. The question about how much VIA owed was asked and Ms. Diana Coplen, County Treasurer, replied that VIA would pay \$500,000.00 by June and another \$300,000.00 at another quarter. What they owed was about \$885,000.00. The penalties were 1% per month and could go up to 5%. Interest goes on forever.

Mr. Fabian Padilla, a resident of Tome, said he was disappointed to know that VIA owed this county money and it wasn't collected and in the process the county was in dire need and it got to a point where people's job were on the line. Ms. Coplen responded that in November she mails out 207,000 tax bills. If people want to pay in full or first half, that's up to them. In June she mails 50 some thousand delinquent bills. The amount for this delinquent taxes are \$13,000,000.00 so if an individual does not come and pay their taxes there is nothing she can do about it. She mails the notice but until it becomes 4 years delinquent and it goes on the State sale list, can they do anything about it. This is state statute. Commissioner Daves wanted to make sure that it was understood that there is no authority for the State to go after these people and Mr. Fernandez had suggested that they go help get legislation that will change that. He wanted to know how much money was going to the county, because there was a distribution to the schools, town and state. Mr. Fernandez said there was an administration fee and the county would get about half of that fee. Using the \$500,000.00 as an example, about half of that would be administration fee that the county would benefit from and that was about 30% of the \$250,000.00. The interest and penalty that is assessed on the property taxes remains with the county as long as it does not appear on the state delinquent list.

Commissioner Pando asked what it cost to mail out these bill and said he was happy to see Representative Kandy Cordova and Representative Fred Luna in the audience, because as he understood, it costs more to mail out notices than what was received and it took state law to change that and he would like to see the Representatives hopefully work on something to try to change that. Ms. Coplen said they paid \$65,000.00 to mail out tax bills and some were sent out on listings or diskette.

## **DEPARTMENT REQUESTS/REPORTS:**

### **e)Submission of Final Report-Jail Committee.....Commissioner Gary Daves**

Commissioner Daves said there would be a final report of the jail committee presented and he wanted to set it up in terms of the process. Neil Hartwigsen, a member, would present the report. The other members were George Koch, Lawrence Kaneshiro, Steven Chavez, Lawrence Barreras and himself, who was committee chair. He said it was a good civilized committee and thanked them and said they had a good product.

Mr. Hartwigsen said he had been asked to serve on this committee to see if they could better understand the operation of the jail and the cost of the operation. The group worked for about 2 months on this project. He said that in the county's general fund, by far the

largest single item was the cost of operating the jail. The general fund was in financial trouble, for two years they had spend more money than they were taking in and used up the cash reserves. It had gotten to the point where the commission had taken severe action to keep the county from being broke. Some programs had been curtailed and employees had been put on 32-hour week. So in looking for a solution, they went to the biggest item and see if there is money that can be saved. He said the commission had been provided with a big report and the first seven pages were the report. The rest was an appendix provided for their reference. The very last appendix was the judgment that was entered into the United State District Court between Valencia County and the American Civil Liberty Union of New Mexico and several other people when they sued the county for the poor operation of the jail prior to 1997. He said they had agreed that the jail would be shut down and it would only be started under certain conditions. This judgment that was entered into court was not real tight and they were important because they would find the flexibility they would need to solve the problem. He read one statement, which said, "The Board of County Commissioners will not open the current adult detention center unless it meets appropriate minimum applicable standards as required by the county's experts in required government authority. It turned out that there were no mandatory standards for jails. There are standards, but not mandatory and this was where they would find the flexibility to work the problem. The capacity that the jail could hold was 126 beds, 96 in the new jail, and 30 in the old jail. Lately there had been more than 126 inmates and the average reported has been 135, so the cost per inmate per day is higher than the number of beds. So in the cells where there are normally two people, they could put three. The highest number has been 154 when on some weekend they do a sweep on DUI. So if they take the total cost of the jail for a year's operation and divide it by 126 its \$71.85 per inmate per day but if its 135 inmates, the cost is \$67.06 per inmate per day. In comparing to other jails in New Mexico, he had called the National Institute of Corrections in Longmont, Colorado and got some information from them. They had some information from a book called Corrections yearbook. They said a small jail was 249 beds and Valencia County is a small jail. The average was \$39.27 per inmate per day. For all sized jails the report was \$56.72 per inmate per day. Commissioner Daves had collected information about the cost of the Valencia County Jail, as well as jails in Otero, Curry, San Miguel, Sandoval, Chavez and Lincoln Counties and this data was in the report, appendix B. San Miguel County had the lowest cost at \$27.00 per inmate per day. Excluding our county, Sandoval County was the highest at \$52.00 per inmate per day. The average for all those counties was \$35.67. Santa Fe County pays \$39.00 per inmate per day plus some additional medical cost. He said we had an offer from McKinley County to take our inmates for \$45.00 per inmate per day. He also said that these numbers were a little misleading. If they were to take this offer, we would still have to book and receive inmates here, so we would have to operate some kind of facility here. This had been done before, but we had gotten in trouble because of not getting inmates to their hearing on time and were held in contempt by the judges.

Mr. Hartwigsen said that there is no question that Cornell is doing a good job of running the jail. The question was how to figure out how to find some savings. In the contract with Cornell, the county required that they have two certifications, from the American Corrections Association and from the NCCHC and he knew that the ACA certification was for the general operation of the jail and NCCHC was for medical services. In going back to the court order, it did not say that we had to have ACA certification. It said we had to have appropriate minimum standards and Lawrence had explained what it entailed. There are 40 mandatory standards that must be met and another 400 of which must be met 90% to be certified. He was not suggesting the these standards not be met, but he was suggesting was to look at the standards one by one, especially those 40, and ask themselves if they have to be met in total or can it be deviated from the way its written to some extent and still run an acceptable operation. They did not find that the other jails in New Mexico require that certification.

Because of where we were in 1997, the county might have been too conservative in opening the new jail in requiring this certification, because now we know that we cannot afford it. We were spending one million dollars a year that we do not have and a lot of it may be in the cost of operating the jail. He believes that they can deviate from those standards with a negotiation with Cornell, and still have a contract that says the jail is going to be run well to a certain set of standards. These standards do not have to be abandoned. They can take the ones that are written and rewrite them to something that the county can afford. He believed that the county could reduce the cost of running the jail by 1 million dollars, which today is about 3.3 million a year. Cornell has made a proposal that can reduce the contract by making changes on the standards. The other way to reduce county cost is to run the jail full, but not have it full of county inmates. The average stay in our jail is about 15 days and are in for minor incidence. One county initiates an active liaison with the judges and the courts and the DA's office so that the courts and the DA would keep the inmates moving, because if they do not need to be in there they get

them out and it empties a bed so then it can be rented to outside the county that can pay that cost and that reduces that cost. Also, some of the non-violent can be put on electronic monitors. They can be charged \$10.00 a day instead of us paying \$70.00 a day to keep them in lock-up. So there are alternatives to do to help ourselves.

As the county is engaged in these negotiations, he hoped that the county would evaluate those points and understand the risks that they take on. What the committee had done was lay the ground work so that they could see where the opportunities were.

The recommendations that the committee had were that Cornell has indicated willingness to re-negotiate the contract. As a first option, they believed that the commission should immediately attempt to re-negotiate acceptable changes to the jail operating contract with Cornell, yielding an assured cost reduction of one million dollars per year to Valencia County. The county negotiation team should identify and specifically evaluate any risks associated with achieving the one million cost reductions.

The county also has the option of canceling the contract with Cornell if they are unable to re-negotiate a successful position. Valencia county needs to find out what it would cost to run the jail based on efficiency and to the words of the judgment from the Federal court, "appropriate, minimum, acceptable standards." Two ways to do this would be to hire a knowledgeable consultant who could help figure out what a budget would be if the county was to run it themselves or put a proposal out and see what bids come in.

Commissioner Daves thanked Mr. Hartwigsen and said that under our contract we pay a flat fee per month regardless of the number of inmates. So we do not gain the \$70.00 if there isn't a prisoner in a bed, we do gain \$6.59, which is a fee for medical, and our contract was unusual in that sense. In fact, the county pays \$249,865.00 a month in a fiscal year regardless of the number of prisoners, but we do pay an addition of \$5.69 per day based upon the number of prisoners. So at this point we are not in the position to save the \$70.00 if we get rid of a bed and it certainly might be a possibility of marketing that bed.

Mr. Barreras, Senior Warden from Cornell said a lot of discussion had gone into the proposal by Cornell and he wanted to make the point that they were willing to negotiate and they had many ideas that they could talk about. They had given an original proposal and that would give them an opportunity to share some ideas with the county and maybe show some foundation for those ideas and see if the county was willing to go in that direction. He said they were getting many telephone calls from Bernalillo County wanting to put beds in this facility, so there were opportunities available to the county to consider placing these people here and start to generate revenue for the county. This was an opportunity to take a look at doing this in a small sense, about 50 beds. He talked about his company investing the money up front to put up an alternative to incarceration program for the county at no charge and implementing that program which would cost about one quarter million dollars. He said the most general statement was that they were willing to negotiate all of these and try to find out what's workable to the County and to Cornell. They wanted to continue to be a good partner to the county.

Commissioner Daves stated that the comments he was about to make was very important for him to say and it was important that the commission and the public hear. These comments were based on some information he had learned. He said the facts are that they must insist upon a million savings on this contract. At a special meeting in June 2000, the commission declared an emergency because of the sudden resignation of the jail director and instructed the county manager to look toward operation by private contractor. One week later the county manager recommended Cornell Companies to run the jail. Two weeks after that there was a contract between Cornell and the County submitted to the commission and approved by the commission. Under that contract, the first year amount was \$380,000.00 activation fee plus an amount of \$217,000.00 per month, for the months that Cornell operates the jail. In October 25, 2000 the county manager wrote a letter to the state and he quoted, "upon the resignation of the jail administrator in June, the commission contacted Cornell Corporation to provide a proposal to manage the facility as the company was housing Valencia County prisoners in the Santa Fe County Detention Center. The relationship with Cornell and detention was professional and prisoners were treated fairly. The commission requested a proposal from Bernalillo County Detention Center as the county has an existing joint powers agreement with that county to manage the Juvenile Detention Center in Valencia County. Bernalillo County declined to submit a proposal".

Some weeks ago, Commissioner Daves said he had asked the county manager if there were any documents that supported the basis for the negotiation or the amounts with Cornell and he had given him a proposal that Cornell had given him in April, 2000, and public records had no record of it and the public had no idea that this proposal ever existed. He knew about it and it didn't mean too much to him but two weeks ago he had learned that, in fact, another company had introduced themselves to Valencia County in March,

2000, had proposed operation of the jail through a management agreement with the remaining county employees with a payment of \$12,000.00 or \$14,000.00 a month, plus the county would have to pay the employees, food, medical and which sounded like a bit much, but he was morally certain that the amount would have been much less than the Cornell contract. Morally certain meant he did not know for sure and was not trying to suggest that it was documented. In May 30<sup>th</sup>, following the proposal of April by GRW, there was a proposal submitted by letter to Carlos Montoya and James Fernandez to operate the center for \$140,475.00 per month or \$1,685,700. per year. This did not include gross receipt tax, which probably amounted to one hundred and some thousand dollars. Commissioner Daves had been told that the employees still had to be paid, still buy the food. He had talked to that company and had been told that a letter had been faxed to the county and he wanted to read the letter. The letter basically said the proposal was for management fee to operate the jail, however Mr. Fernandez and Mr. Montoya had requested that they submit a proposal that included all expenses to be paid by GRW. They said that they had outlined all of the services and the cost for those services. To operate the jail and pay all expenses, their proposal was for \$140,475.00 per month or \$1,685,700.00 per year. The letter said Mr. Montoya and Mr. Fernandez requested that they call the proposal an addendum so that it would not be necessary to include all the corporate history and the general information already submitted. It said Mr. Fernandez and Mr. Montoya were only interested in the dollar amount that they would charge the county to operate the jail. The letters said it hoped it had answered any questions, but if they had to, they would come out and meet with everyone and concluded with letting Commissioner Daves that they were currently operating a similar size jail in Texas for under 2 million dollars. The public record that was created was that the jail director had resigned, we had nothing and we turned to Cornell and ended up with a contract that, this year, is 3.3 million dollars. Commissioner Daves thought this was important enough that the employees and the public know. He read two of the elements that the proposal contained. One was to completely indentify the county of all liability associated with operating the jail, provide all necessary staff and training to staff in accordance with the American Associated Correctional standards, provide services including food. He said the county had an offer that's not in the public records and he hoped that it would create some leverage for the decision that they had to make to get the programs back to order and the employees back to work. It would be hard, but they needed to move ahead. The budget that was passed by the commission in 2001 had a deficit of revenue over spending of more than 1 million dollars. The jail budget for the same year, just for Cornell, was over 1 million dollars. The rest of the budget for the operation until the new jail opened was about ½ million dollars. With signing the Cornell contract, the county indebted a 1 million deficit, even after we cut into the budget. He said something needed to be done and in fact GRW would offer something again, if they had the opportunity. Commissioner Daves said they should follow the committee's recommendations and negotiate in good faith with Cornell, but with the facts that they found, Cornell should work with the county and give us an assured million savings. The one thing that he had said that was not necessarily true, but he was morally certain that it was true, was that the first proposal from GRW would have been less than what was accepted from Cornell.

Commissioner Pando said he had never heard of GRW until about two weeks ago. What he knew in reading and what Commissioner had told him was that GRW would run the jail for 1.68 million and the employees belong to Valencia County. He asked what it would cost to run 80 employees. Mr. Fernandez said that at that time they had about 24 employees and spending about \$400,000.00. Commissioner Pando said if they took 60, it was 1.2 million, so then it would be 3 million. Commissioner Daves said that the GRW offer for 1.7 million dollars or a little less than that, included the salaries for all employees, food and medical and a statement that it didn't, was simply not true. And that was why he had sought out the letter that had arrived the day before and that was what the letter said. The letter said; please consider this proposal as an addendum to our proposal of April 11<sup>th</sup>. The option contemplates a term key operation with GRW Corporation, totally managing the Valencia County Jail and includes the following service: provide all necessary staff associated with the safe secure and orderly operation of the new jail and the new jail. In having 3 conversations with Mr. Walker from GRW he had told Commissioner Daves that they had outlined all service and the cost of those services in order to operate the jail and pay all expenses.

Commissioner Pando wanted to know why the commission had not known about this.

Commissioner Aguilar said she had also done a report and it had to do with the Valencia County Adult Detention Facility and wanted to present it along with other information. She said they had a new facility of 96 beds. It has 3 pods and each pod holds 32 inmates. It was built ACA standards and is a new age design and was for efficiency of personnel,



reduction in litigation and takes into consideration the health, safety and welfare of employees and inmates. It also complies with the federal court order as to minimum standards set forth by the jail expert and accepted by ACLU attorneys, Federal Judge and Association of Counties Risk Management in Valencia County. The old facility is a 26 bed facility and is a Lanier design and is the existing facility that has been renovated and does not need ACA standards in bringing the existing facility to ACA standards design, plumbing, electrical, dealing with the asbestos security and all of that must be taken into consideration. This existing facility meets the current use of inmates, but if it were used to house inmates permanently an analysis by a jail expert would need to be obtained to assure Valencia County that we do not put ourselves in contempt of federal court order situation. Valencia County currently has its prisoners arrested by Valencia County Sheriff and we are responsible for total cost for incarceration. We house Belen, Los Lunas and Bosque Farms prisoners, but they pay for the first 3 days only, if not a municipal charge, and after arraignment they become Valencia County prisoners and we bare the total cost of incarceration. However, we do not have to accept these prisoners if we are at capacity and do not have room. We also accept prisoners from other counties and these counties pay a per day cost for the length of the stay. This is revenue to Valencia County and we also accept prisoners arraigned by the New Mexico State Police, however the issue of why they are being arrested determines whether they pay or not. The financing of the Adult Detention Facility has restrictions on the number of outside prisoners that can be housed. Prior to construction of the Adult Detention Facility an analysis was done on the best method to built and operate this adult detention facility. The Department of Justice through the National Institute of Corrections paid for a technical team to come to Valencia County to analyze our existing facility. They had several meetings with community leaders, citizens, chamber members, district attorney, sheriff, judges, the police chief, clergy, school superintendent, UNM director and the Valencia County jail committee to obtain data. A report was submitted to Valencia County and it compare county operated versus privately operated and rationalization. In addition to that Valencia County also interviewed Bernalillo County, Gail Walker and the power group to cost on the facility. Valencia County decided to build a facility owned by the County and the intention was to run the facility ourselves. The existing facility was renovated as a booking, holding area and many prisoners were housed at other adult facility. During the construction of the new facility, training of employees policies and procedures and requirements based on the applicable standards that are ACA, were to be put in place and adhere to as per the federal court order. During this time a jail administrator was hired to implement the requirements. The facility was placed under the management of the Valencia County Commission. It was scheduled to be completed by June 2000. There were delays and change orders of the facility was not completed until October 2000. Prior to the anticipated June completion, the Valencia County Commission was concerned that policies, training and procedures were not in place. In addition the housing of prisoners in other facilities and threatened litigation was continuing to rise. Before allowing prisoners to be housed in the existing facility or the new facility, ACA standards required 40 hours of training and an additional 120 hours of training the first year. An additional 40 hours are required annually and none of this was done. In meeting with the jail administrator and looking at operating the facility and providing training, this was an impossible task to do in 90 days. Many inmates were being housed in San Miguel, McKinley and Santa Fe County. Housing at San Miguel County was \$45.00 a day, but transportation was in a schedule of 3 times per week. In arraignments, court dates, etc. Valencia County was responsible for transportation. There were several court orders for contempt and show cause that were filed. Some inmates housed in McKinley County were allowed to go on work release through the court order and it was our responsibility to pick up these inmates, bring them to our county to comply with work release and then return them at night. This involved 2 deputies each time, transportation cost liability and also more threatening litigation. Valencia County decided to house all inmates at Santa Fe County and had a contract with them and as part of that contract, our prisoners were picked up daily at Los Lunas. When it was realized that we would not have the necessary training procedures policies in place upon the completion of the facility, the commission had to make a decision. Do they close the facility for an approximate 6 months and continue to house inmates elsewhere using this time to comply with the court order? Do we hire a new jail administrator to open the new facility and can he train, implement policies in a short period of time? There was also public sentiment. Do we occupy the new facility or put them in more litigation. The Association of Counties had threatened termination of Risk Management Insurance, so there would be no coverage to the county if we didn't comply. In addition to that, the state statute mandates county responsibility for housing of inmates. Valencia County began negotiations with Cornell and they were to train, implement policies and procedures, have medical programs, all in place, all to ACA standards within 90 days to open the facility in October. The negotiations began to have Cornell manage the facility for 3 years. This contract was subject to full approval by the Department of Finance and Administration and the Attorney General's Office. The

cost to manage the facility does average 249, 500.00 per month and in addition to that there is a fee of \$6.49 per day. This does equal about 3.3 million, however it should be taken in consideration that there has been a \$200,000.00 savings for cleaning on the part of Valencia County. They re-reimburse for the jail monitor of \$30,000.00. Also there is a \$200,000.00 in revenues, so the net cost must be looked at and not the gross. The contract calls for up to 26 prisoners. The number has risen and at times it has been as high as 154. The cost of the contract, based on an annual fixed fee does not change for the number of inmates held. There are many elements that need to be analyzed and compared before someone can make a recommendation on what to do. In terminating the contract, do we have any risk management coverage insurance? Are we putting ourselves in a position of breach of contract situation and do we have insurance coverage for this? The true cost of county responsibility and before any action is taken, provide insurance that this is the best avenue. This can only be achieved by an independent, unbiased qualified expert. The Association of Counties may be willing to pay for Mr. Jack Daley to come into Valencia County, analyze the existing facility, review the existing management contract and provide us with information on any deficiency and provide us with the cost analyses on continuing with the current management contract, terminating and contracting with another private firm or operating the facility ourselves. Only then can this commission make an informed, responsible and intelligent decision that is not based on personal agendas, hype or half-truths. Commissioner Aguilar introduced into the record a letter faxed to Mr. Fernandez from Mr. Lester J. Nixon, Risk Manager from the New Mexico County Insurance Authority. She also read a portion of a letter sent to the commission on December 9, 1997 from Beall & Biehler, attorneys that represented them on the lawsuit. It said; failure to comply with this judgment will result in potential sanctions from the court, reinstatement of the lawsuit resolved by this judgment, and personal contempt sanctions by the court in the form of monetary penalties. You should be very happy with the result of this case, since your decision saved the taxpayers several hundred thousand, perhaps millions, of dollars in attorney's fees and other relief.

Other information introduced was that it was true that in New Mexico there is no government or any other official regulatory agency charged with the responsibility of promulgating and or enforcing official standards, but because of the lawsuits and the federal court order, we must adhere to the ACA Adult large detention facility standards not small, and realize that with ACA standards there are both, mandatory and non-mandatory; and so there is a list of standards that must be complied with and all must be taken into consideration and if we are to move forward the answer is to follow her recommendation or take into consideration the letter from the New Mexico County Insurance Authority and bring the jail expert in and have him provide them with information.

Commissioner Daves commented that there was nothing in the final judgment and nothing in the resolution that was the bases for the court and the plaintiffs to agree to a final judgment. He read some language from the judgment that said: Plaintiffs having timely accepted the offer of judgment, judgment is hereby entered for plaintiffs and against defendants, as follows: that they close the current facility and not reopen it unless it meets appropriate minimum applicable standards and that is not ACA and that the board of commissioners direct the administration to execute all contracts necessary to train officers in compliance with that. This was dated before December 8, 1997. The contract with Cornell was issued in 2001. This judgment echoes what the commission committed to do and for the time that the judgment to the completion of the new jail, he had seen nothing about threats of litigation, but apparently they were in compliance. We closed the jail, remodeled it and improved our act. And he said the commission and the staff at the time deserved the credit for those things happening. There was nothing in the final judgment or the resolution that says that a contract for 3.3 million should be accepted over a contract proposal for 1.7 million dollars. And that was his point.

Mr. Fernandez wanted to provide information as to what was going on at the time Mr. Esquibel resigned as jail administrator. In going back to a letter submitted by Mr. Carlos Montoya, who was the Fiscal Manager in October 1, 1999 warning the commission as to the cost the county was incurring by transporting inmates to other detention facilities an average of 60 inmates per day at a daily average cost of \$2935.00, with no consideration given to the liability for transporting and in transporting these inmates the county was being hit with contempt of court, compliance issues. During this time period assumption was that the county open and operate the facility themselves. The next document was on a meeting that took place on May 5, 2000 with the Adult Detention staff outlining some of the concerns and things that needed to be dealt with. There were individuals that were not being properly booked, were not taking pictures of them, the property room was being left open, the control center was not properly managed, and security rounds were not being made and many other concerns. Mr. Fernandez went on to read a letter received on May 17, 2000 from Mr. Edwin Esquibel, Administrator, on some of the concerns on the recent

Order put out by Magistrate Buddy Sanchez, which had to do with the serious jail overcrowding of the jail. Also received was a letter on May 17, 2000 in regards to staff training.

On May 22, 2000, Mr. Fernandez had issued a memorandum to the Adult Detention Facility Manager, as a request of the commission, in regards to the special meeting the commission had called for, on the subject of adult detention and concerns, and it listed a number of information that Mr. Esquibel was asked to provide with time being of the essence and if these matters were not addressed in a timely manner the board of commissioners would be forced to take any appropriate action necessary to correct these deficiencies.

The next item Mr. Fernandez presented was a copy of a mandatory staff meeting that Mr. Esquibel had called for on June 2, 2000 and it was to discuss some concerns with two individuals from New Mexico Association of Counties. And it listed some of the abuses that had been taking place in the facility. One was that individuals were not being fingerprinted and those are not being forwarded on to the proper agencies and it also talked about a creating a "transition team".

Commissioner Pando said that at that time there had been many requests to the jail administrator for training staff and never got any answers. Also they had hired a fiscal officer to act a liaison, between the jail and the commission, still there was no training and no answer. He said that at one time, the jail administrator had told him that he and his assistant were providing the training but neither one had a certificate to train.

Mr. Fernandez said that a memo sent from Mr. Edwin Esquibel, Jail Administrator, to himself, and dated June 6, 2000 was Mr. Esquibel's resignation and up until June 6<sup>h</sup> it was the county's intent to operate this jail. He said the impression that was being given was that the county has actively gone out and looked for someone to privately manage the jail prior to that time. The county did not solicit proposal from individuals. He said it had been mentioned that the county had an offer from Bernalillo County, which was true, but it wasn't mentioned that they had to withdraw that because they operate their jail in coordination with the City of Albuquerque and they did not have authorization to make that proposal to the county. The second point he wanted to make was in terms to GRW. The county was not soliciting proposal for the operation of this jail. The laundry list that was provided in the letter that Commissioner Daves had referred to said that they will adhere to ACA standards, but what was not forthcoming was whether it was a large or a small facility.

Commissioner Daves said that he had not said that the county submitted a report, he had said it earlier, but you did, the county did submit a proposal and it must have been withdrawn, and that was not what Mr. Fernandez's letter said. It said that no proposal was submitted and he didn't want to bring that point out, because that was a very small point. He said if he listened to the tape, he had never suggested that the county was soliciting offers. Mr. Walker had put some language on it that perhaps his proposal be recast. And he said again. We had a proposal from Cornell in April and a proposal from GRW on May 30<sup>th</sup> and they had chosen the one that cost 1.3 million per year more without any knowledge in the court record and him being assured that he knew what he was doing to dismiss this bid. And he was very concerned about this and he felt he ought to be harsh that the public record was not what it should have been. The memo that Mr. Fernandez had read in great detail from May 22, 2000 from Mr. Esquibel, he said Mr. Esquibel should have been invited, simply because he could have responded and he thought it was probably unfair to read that memo in which he had given him from May 22<sup>nd</sup> to May 31<sup>st</sup> do what was impossible. He said the word training was being heard a lot and he wanted to read something about it. In the fiscal years 1998, 1999 and 2000, none of the money that was appropriated by the commission, \$5,000.00 which was in the original budget, of that money \$4,000.00 was moved out in April of 1998 and \$1,000.00 reverted so there was no training money spent in that fiscal year. The next fiscal year \$3,000.00 was moved out in April and \$2,000.00 moved out in May and again no money was spent for training and these were moved out in action items in front of the commission and with the knowledge of the county manager. In the fiscal year of 2000 and in the end of this year, Cornell was hired, there was still \$5,000.00 in the budget and finally \$1,868.00 was spent. He had heard so many times that this commission and the county manager had no idea that the training wasn't going on. He said there should have had some idea since none of the money was spent except in the last fiscal year. Commissioner Daves said the problems with the jail do not require them to accept the high bid.

Commissioner Aguilar said that any information discussed in litigation or contract negotiation is done behind closed doors and is also subject to client, attorney privilege, and there was a lot of history involved in that one document. She asked our attorney, Mr.

Garde to shed some light in it. Mr. Garde said that the settlement agreement with ACLU required the county to consult with the Association of Counties. They gave us Jack Daley, who was the expert and the settlement was on his recommendation. Commissioner Aguilar then asked Mr. Garde if the minimal applicable standards were identified in federal court and in agreement with the attorneys to the ACA standards. Mr. Garde said ACA standards were followed and are followed in this agreement.

Commissioner Pando said what he wanted was to get Cornell to work with them. There was a budget problem and he wanted to bring Mr. Daley and find out answers as to where they stand and focus on taking care of the employees because we were losing many good employees and until we get them back to work, there will be a problem and this needed to be worked on immediately. The focus should be on going forward.

Commissioner Aguilar made a motion to accept the Association of Counties offer and ask that they send the jail expert, Jack Daley and that he analyze the existing facility, review the existing management contract and provide them with information on any deficiency and provide them with a cost analysis on continuing with the current management, terminating and contracting with another private firm or operating the facility themselves. In addition to that she asked that Cornell, within the contract, provide them with information on electronic monitoring and work release, which is part of their contract, so Mr. Daley can also review that information and hopefully provide them with a report within the next 30 days.

Commissioner Pando seconded the motion for discussion purpose. He said they had a very intelligent committee that had done all of the above and had done an outstanding job and was in full support of bringing this new committee but they had already explored all the cancellations and everything else and he knew those would not work. He said the focus was in working with Cornell to see if they could solve this or they could sit back back and pay what their paying and let the whole thing sit for a year and at that point in time renew the contract or get someone else. This needed immediate results and the only way to do it was in getting Mr. Daley and the committee to come up with solutions.

Chair Padilla said that in fairness to the committee, they had worked very hard in the study that they had done and in fairness to Commissioner Daves, this recommendation had come before them and he truly believed that they needed to take a close look at it and wanted to set up a public meeting to address this recommendations. There were things to go through and it would require some time and it was important to come up with some solution and it needed immediate attention. He believed the committee had worked very hard to bring some recommendations and it was up to the commission to take it and study it and make a decision as to what they were going to do.

Commissioner Daves read that when the committee had being created, he had made it clear to the record that he didn't think it would be acceptable unless, its mandate included the possibility of terminating the contract. It was not what he wants to do but it still should have that possibility and he had gone to Santa Fe to explore the language that they had made them put in which was that the contract may be terminated for failure to appropriate money and the Attorney General's opinion that would be favorable to the county's ability to terminate the agreement and that's if the negotiation to save one million were to fail. He still hoped that the commission would look at the recommendations that all five members signed and he didn't think that it was inconsistent with Commissioner Aguilar's motion, but he didn't want action on her motion to swallow the work that they had done and the recommendation that they had made. He said they needed to work and get a firm million dollar savings on the contract or do something else but they owed it to the community and to the employees.

Commissioner Aguilar asked if Commissioner Pando would withdraw his second, she would redraw her motion. Commissioner Pando withdrew his second. Motion withdrawn.

Lawrence Barreras addressed the CRW submission that led some to believe that there was a significant savings to be had. That letter did not have any specifics as to what would be provided and it would be unrealistic to think that it was, and, it didn't carry the merit of running the operation that they had on the table. He said Cornell was willing to negotiate and they had brought some good ideas to the table and he thought it brought false impression to think that they could get the county or anyone to run the facility for that price and not be in the situation.

Commissioner Baca said she had stated before that bringing the employees and saving the 4H Club was her first priority and if Cornell could save them one million dollars a year, they would be able to put the employees back to normal hours and help their programs. They

were in a financial crisis and they needed to get their people back to work because they were not serving the public properly because as it was, they were overly worked and still they were doing a good job. She was very concerned about the employees cut in salary knowing that they were going to lose more good employees if they didn't act on something right away.

Mr. Neil Hartwigsen said that what the committee members had tried to do was to provide a constructive pass forward. It was a fact that the county was in financial trouble. It was also a fact that the jail had cost the biggest chunk of the budget. In trying to solve they needed to look at the biggest chunk in the budget and see what they could do about it. If there was no flexibility with the number of inmates that they could hold, all this things turn out to be rigid restrictions. They had not found a path forward. Unless they find the flexibility in the way they run the jail and who the inmates are and they can get some out of jurisdiction inmates then this jurisdictions are paying the bill. He said Valencia County was running a model facility but the fact was the county could not afford it and they needed to find another way.

Ms. Debbie Ridley, an employee in the county clerks office said that she has been an employee of the county since 1974 and she wanted to tell the commission that she had been an excellent employee since that time and if they looked at her pay check, they did not pay her what she was worth and in looking around the room and in the halls everyday and see the sheriff's deputies and they do not pay them what they are worth, they do not give the 4H kids what they are worth, you cannot afford what they are all worth, but just the same, Cornell is probably the best company to ever run a jail, but, you also cannot afford them!

Larry Fuller said he had sat for a couple of hours and listened to the subject and thought the commissioners had all made excellent remarks, but what was more impressive to him was that they needed to make an informed discussion. He said it was critical that they do it. There were many good ideas around and he asked the commission to do what was best for the county citizens and for the employees. He asked that they bring Mr. Daley to work with the committee and with Cornell and then make a recommendation to the commission and they could in turn make an informed discussion that was good for all.

Commissioner Pando suggested that Commissioner Daves and Lawrence Barreras be excluded from this committee and the reason to exclude Commissioner Daves was because he was going to have to vote on this issue and to exclude Lawrence Barreras was because he had a vested interest.

Commissioner Aguilar had taken a step forward and contacted the Association of Counties because she knew that there were questions on what the ethical standards were and this was an individual that had been there throughout the litigation and knew the lawsuits and knew what they were to comply with and thought it was important that this individual come and review the facility and evaluate it because we were subject to ACA standards. The contract calls for certain things to be done by Cornell and she wanted to make sure that those have been complied with. She said the question has come up as to whether we need to be accredited or not and if we can still follow ACA standards. At this time she would like to see Mr. Daley come and review and work with administration and provide them with all the information and look at all the documentation and come to the commissioner first and when this commission receives the information then the second step would be to include the committee or see what he recommends in going forward.

Commissioner Padilla asked Mr. George Koch for some input on the suggestions that had been made. Mr. Koch said that this had been a tough committee. One member wanted to dissolve the agreement with Cornell and the other member was from Cornell and it was the best mixes they could have had. Lawrence had brought some things to their attention and worked with them on things and told them that he was interested in solving the problem. All the committee members had an area of expertise and would go forward in working with this jail official and come back to them with other ideas that might be appropriate. The bottom line would be on theirs. He said when it comes back to them, they would need to save one million dollars and did not think they would get it all from Cornell. Others things such as the alternate incarceration of prisoners could take place immediately. There are some cost savings. They also need to explore the legality of some of this jail changes. They could not afford what they have and it was not fair to the employees and the citizens that those who obey the law pay a greater penalty than those who do not obey the law. He said he would not mind working with this committee and Mr. Daley and understand, discuss and bring more ideas.

Commissioner Daves made a motion to seek the Attorney General's opinion on the matter of terminating the contract with Cornell and bringing GRW and have them "put their money where their mouth is". He made a motion to seek the AG's opinion to whether the county could terminate this agreement under the authority that the State insisted that they put in there which is the failure to appropriate what allows them to terminate the contract. And he would like them to move forward, as a body, to seek the AG's opinion. The motion died on the floor for lack of a second.

Chair Padilla asked for direction as to how to proceed. Commissioner Pando made a motion to bring Mr. Jack Daley, as a consultant from the Association of Counties to work with the committee to come up with recommendations and he can decide whom he wants to meet with. He would like to have James Fernandez and the staff involved. Commissioner Baca seconded.

Commissioner Daves said he would hope that the committee's recommendation be the target that we look for, which is an assured savings of one million dollars.

Commissioner Aguilar reminded the commissioner that they were not paying Mr. Daley. The Association of Counties was and it was for him to come and review and provide the information to administration. Commissioner Pando said he wanted for Mr. Daley work with the committee. After agreeing that Mr. Daley would request on how he wants to do this the commission voted unanimously. Motion carried. 4-0.

**f) Request Approval of In-State Travel.....Ruben Chavez  
Farmington-NMLZO Semi-Annual Meeting/Jojoba, Gonzales & Jaramillo  
Santa Theresa, NM-View Industrial Park Complex**

Mr. Ruben Chavez requested travel for the zoning officials and said they had applied for a grant to cover expenses. He also said Mr. Gonzales and Ms. Jojoba qualify for applying for a scholarship. What he was asking for was \$269.90 and said it would come from the commission budget in registration and mileage and per diem fund. On Mr. Fernandez recommendation, Commissioner Pando made a motion to approve. Commissioner Daves seconded it. Motion carried. 4-0.

The second request was for travel for Ruben Chavez to go review an Industrial Park Complex in Santa Theresa, NM. This would be a one-day trip and would be paid by the developer. Commissioner Aguilar asked if Campbell Farms had made an application for anything? Mr. Chavez said no. She then asked Mr. Fernandez for a recommendation. He recommended that Mr. Chavez, for perception appearance, not attend. Based on Mr. Fernandez's comments, Commissioner Aguilar made a motion to deny the request. Commissioner Daves seconded. Commissioner Pando voted no. Commissioner Aguilar voted yes. Commissioner Daves voted no. Commissioner Baca voted yes. Chair Padilla voted yes. Motion carried. 3-2.

**FINANCIAL/BUSINESS MATTERS:**

**G) Update on RFP #139-Legal Services.....James Fernandez**

Mr. Fernandez presented the commission with an In-House or Alternative Contractual legal services contract. As of April 10<sup>th</sup> closing date, the county received no bids for legal services. Mr. Fernandez recommended to extend Mr. Garde's contract for the remainder of the calendar year. Commissioner Aguilar made a motion to accept Mr. Fernandez's recommendation. Mr. Fernandez explained that the reason he had suggested the end of the calendar year was because there was an election and if the commission should change, the new commission was not bound to a contract that they had no part of. Chair Padilla seconded it. Motion carried. 4-0.

**h) Auditing Services 2001/2002-Request for Direction.....James Fernandez**

The next item was a bid for an auditor and there was an option to extend the contract for another year and Mr. Fernandez suggested that if the commission was comfortable with the Firm Hinkle & Landers, that their contract be extended for one year. Commissioner Aguilar made the motion to accept. Commissioner Pando seconded. Motion carried. 4-0.

**i) Service Agreement-Housing of Prisoners between County & Bosque Farms.....  
James Fernandez**

The Service Agreement was for the housing of prisoners at the Adult Detention Facility between Valencia County and the Village of Bosque Farms and it had already being ratified by the Village and being brought to the commission for ratification. Commissioner Pando made the motion to ratify. Commissioner Aguilar seconded it. Commissioner Daves said he hoped that they would make some progress with the contract one way or another and he would recommend that they withhold until July 1<sup>st</sup>.when the new rates come in. What he was not interested in was that Bosque Farms be bound by a higher contract because they

ratified it now. And he also applied it to Belen, Los Lunas and Isleta. What this was based on was to recover our cost and not to make any money off these villages. And he would hope to come in with some numbers that were lower. Mr. Fernandez replied that they were trying to formulate the budget for next year and one of those items is trying to determine what the revenue is.

Commissioner Aguilar said that this had come up to the board before, to inform them and get an approval that these contracts were going to be sent out and so she called for the vote. Commissioner Pando voted yes. Commissioner Aguilar voted yes. Commissioner Daves voted no. Commissioner Baca voted yes. Motion carried. 3-1

**j) NMED Letter Dated April 8, 2002-Need for Additional Monitoring Wells.....James Fernandez**

The information brought to the commission was a letter received from the New Mexico Environmental Department and based on documentation that had been submitted to the Environmental Department on the last monitoring of the old Landfill Site reporting documents. Mr. Fernandez went on to read the letter. Mr. Fernandez was trying to set up a meeting with the ED to determine to what extent the county will have to look at compliance. And this was for information only.

**k) Use of Meadow lake & El Cerro Mission Community Centers.....James Fernandez**

Mr. Fernandez informed the commission that the individuals on the next item had requested that their item be tabled until the next meeting, because of the late hour. Commissioner Pando made the motion to table. Commissioner Aguilar seconded it. Motion carried. 4-0.

**i) Approval of Payroll & Warrants.....James Fernandez**

Mr. Fernandez presented a computer printout list of all checks issued by the Fiscal Office on 4/5/02 covering payroll processed on the above date. Warrant #68040 thru warrant #68069 and payroll #51630 thru payroll #51802. Listing total \$165,439.47. Commissioner Baca made a motion to approve. Commissioner Aguilar seconded it and asked for a balance, which was \$459,058.55. Motion carried. 4-0.

The next item was warrant #68070 thru warrant #68174 listing total of \$200,278.87 and \$58,371.18 was from the General Fund. Commissioner Daves made a motion to approve. Commissioner Baca seconded it. Commissioner Pando questioned check #68111 made out to Molzen-Corbin & Associates in the amount of \$21,358.25. Mr. Fernandez said it was for the monitoring of the last report that was submitted in November and received the bill now. Commissioner Aguilar questioned check #68070 and why it was being paid for April and May. Mr. Fernandez did not know why so they were going to hold it until the next meeting. Motion was on the floor. Commissioner Pando voted no. Commissioner Aguilar voted no. Commissioner Daves voted yes. Commissioner Baca voted yes. Chair Padilla voted yes. Motion carried. 3-2.

**M) Manager’s Report.....James Fernandez**

**Jail Monitor’s Report-Informational**

Mr. Fernandez presented the report for the Month of March 29, 2002 to April 11, 2002. The average count was an average of 143. Male count was 128. Female count was 15, and the highest date was April 2<sup>nd</sup> with a count of 155.

**Houston Arroyo Dam Inspection-Informational**

Mr. Fernandez had received a letter from the office of the State Engineer in regards to the use of the Houston Arroyo Dam. Individuals from their office and the Road Department had gone out to the site and inspection was done and some recommendations were discussed. Commissioner Aguilar asked if a Resolution done in 1968 had any legal authority as far as binding on the commission. Mr. Garde asked if it had been maintained by the county. Mr. Fernandez replied that it had been. It was questioned as to why it was maintained when we had trouble maintaining our county roads. Commissioner Daves said a Resolution was binding until it was amended.

**Soil & Water Conservation District-Informational**

In having conservation with Mr. Jones, the Valencia Soil and Water Conservation District was proposing having a an election sometime in the end of June looking at imposing a one mill property tax that would be utilized for the funding of the Soil and Water Conservation District and as well as possibly funding for the Extension Office. They had presented a draft of a Joint Power Agreement that might be entered into between the County as well as

a memorandum of understanding between the County and Soil & Water Conservation District.

The next Regular Meeting of the Valencia County Board of County Commission will be held on May 7 at 9:00 AM in the County Commission Room at the Valencia County Courthouse.

**Adjournment**

Commissioner Pando made a motion to adjourn. Commissioner Aguilar seconded it. Motion carried. 4-0.

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

**HELEN BACA, MEMBER**

**ATTEST: ss/**

**TINA GALLEGOS, COUNTY CLERK**

**DATE: May 21, 2002**