

VALENCIA COUNTY BOARD OF COMMISSIONERS

Special Meeting

Jail Re-Negotiation Contract

Held At Los Lunas Council Chambers

May 28, 2002

Chairman Aurelio H. Padilla called the Meeting to order at 10:11 A.M.

PRESENT	ABSENT
Aurelio H. Padilla, Chairman	
	Gary Daves, Vice-Chairman Arrived Late
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	

Chairman Padilla asked Commissioner Pando to lead the Pledge of Allegiance.

Approval of Agenda

Tina Gallegos, County Clerk read the agenda. Commissioner Pando made a motion to accept agenda as read. Commissioner Aguilar seconded it. Discussion. Commissioner Pando voted yes. Commissioner Aguilar voted yes. Commissioner Baca voted yes. Motion carried. 3-0.

Action Items:

Consideration of Re-negotiation of contract between Valencia County and Cornell Corrections  
ACA Accreditation Extension of time to comply with contract requirement

Commissioner Pando said during the committee meetings the facts were on the table and any decision will be based on those findings. Commissioner Pando said he would like Commissioner Aguilar to concur with him because a lot of time was spent on looking to see what is the best decision for Valencia County in this re-negotiation process. Commissioner Aguilar said the meetings were extensive in looking at the facts only and listening to the jail experts on how to go forward with these findings of facts. Commissioner Aguilar did say in managing the jail facility would be too costly and would not benefit with this option. Now these findings are based on recommendations from our experts as also our County Attorney, Tom Garde.

Chairman Padilla asked Senior Warden, Lawrence Barreras to come forward and speak on this first action item the ACA Accreditation. Mr. Barreras said we have to be accredited by July 15 of this year and the facility has done everything to prepare for this. One of the problems has been the count from 126 to 165. We are looking at different options to prepare for the over population and one of those findings is electronic monitoring. Mr. Barreras said some modifications are going to have to be made and adjust those needs to comply with the accreditation.

Commissioner Daves walked in at 10:30 AM and gave his apologies for being late as he had an illness in the family.

Commissioner Aguilar made a motion to allow for extension of time to comply with contract requirement on the ACA Accreditation for the remainder of the year. Commissioner Pando seconded the motion. Discussion. Commissioner Pando said to his knowledge there is only one other County that has been accredited and that is Bernalillo County. Commissioner Daves said he had some questions for Mr. Barreras. One is can the detention center not be accredited due to the fact there is an overpopulation? Mr. Barreras said we would have to make some modifications to address the standards that are currently being affected by going over the 126 population. Commissioner Daves said is that the only problem with accreditation at this point? Mr. Barreras said that is the only problem at this point if we move down to the count of 126 we can get the accreditation. Commissioner Daves asked is your training up to a level to where you can get accredited right now? Mr. Barreras said all standards are up to the level of accreditation. There will be an audit the third week in June. Commissioner Daves said he regrets that something to the contract that was to be done by July 15 accreditation and we knew the items that need to be done and the over count of 126 should have been brought to our attention more forcefully by staff and by Cornell. This is rather regrettable and the issue of overcrowding has come to a point where we could have been advised prior and Commissioner Daves said he doesn't see the logic in this. Commissioner Pando told

Commissioner Daves that County Manager, James Fernandez does submit a daily count and we have had overpopulation for a number of months and have always been overcrowded. Commissioner Daves said yes we have known this but come May 28 in asking for an extension instead of last year knowing there was the overcrowding issue already in place. Commissioner Aguilar said she did bring the issue before the Commission last August and reminded Commissioner Daves that he did not want to discuss this at that time. Commissioner Aguilar said at this time the issue before us is right now there needs to be a decision made and let's not get into going backwards. Commissioner Daves said he did not remember and as of this time has no more comment on this issue. Chairman Padilla stated there was a motion before the Commission to allow Cornell the extension until December. Commissioner Pando voted yes. Commissioner Daves voted no. Commissioner Aguilar voted yes. Commissioner Baca voted yes. Motion carried. 3-1. Commissioner Aguilar said she thought Chairman Padilla should vote due to the fact these were very important issues. Commissioner Daves said it is up to the Chair's discretion. Chairman Padilla said it was his option and said no. Commissioner Pando said he respects Chairman Padilla in not voting but felt there should be a unity on this Board. Commissioner Aguilar said Chairman Padilla does not have to vote unless there is a tie but she made a motion for the Chairman to vote on each one of these action items. Chairman Padilla said we do not have our attorney here to clarify that motion so the motion died for a lack of a second.

#### **Approval of population capacity and expenses involved – purchase of cots/mattresses**

Mr. Fernandez stated this item came about because of the Memorial Day Holiday and the detention center is in need of cots/mattresses. Commissioner Daves said the jail has a start up cost and doesn't these items come out of that fund. Commissioner Daves feels Cornell should pay for their own cots/mattresses given our budget operation. Mr. Barrerras said the jail has been housing up to 39 extra inmates without charging anything to the County. The jail has provided the extra mattresses, food, and clothes for the over count. Mr. Barrerras said we are asking the County for \$2500.00 to buy the cots/mattresses. Commissioner Baca made a motion for approval of the cots/mattresses. Commissioner Pando seconded it. Discussion. Commissioner Pando said it is a matter of economics here to spend \$2500.00 instead of looking at housing the prisoners in another facility the cost would be astronomical. Commissioner Pando voted yes. Commissioner Daves voted no. Commissioner Aguilar voted yes. Commissioner Baca voted yes. Motion carried. 3-1.

#### **Electronic Monitoring/Work Release/Community Service**

Mr. Barrerras said one of the things that the committee analyzed and one of the recommendations to the Commission are alternatives to incarceration and that everyone that is arrested ends up in that jail. Work release inmates spend the night and during the day are unsupervised. These are the types of inmates that could be put in another setting at a much-reduced cost. Mr. Barrerras said the jail has created a proposal for electronic monitoring program and manage that program at no cost to the county. We would require charging inmates for participating in that cost and we would stand at approximately 225 to \$250,000 to implement that program which would include staff, equipment, etc. One of the requirements of that proposal is that we receive an extended contract to manage the jail facility. That is part of our proposal that we brought before this Commission. Chairman Padilla said this proposal was part of extending the contract for the next three years. Chairman Padilla said we don't seem to know when the contract expires. Mr. Barrerras said the extension would be implemented a year from this July when this contract is over. Commissioner Pando said on the electronic monitoring how would this work? Mr. Barrerras said we estimated we could move 30 out or possibly 50 any amount of inmates under the 126 that you currently paying for and keep all revenues. We are currently estimated that if you move 25 inmates under your 1.6 that you would generate approximately \$530,000 a year in other revenues that would benefit the County. Commissioner Pando said assuming business is good so to speak if you have 50 inmates then you would get \$530,000 for the first 25 plus half of the next 25. Mr. Barrerras said the County would get \$280,000 for the half. Mr. Barrerras said we have updated our analysis and if we are allowed to change our rate of bed capacity at this facility to 194 and we did ask the jail experts Mr. Daly and Mr. Nixon they measured out the space that being the case the County would be able to keep the revenue under the 126. Commissioner Pando said when would you be able to implement this program and when would the County see any revenue? Mr. Barrerras said within 10 days and steady revenue would take place within 90 days. Commissioner Pando asked Mr. Fernandez where would that put the County's budget as of now? Commissioner Pando said we have put our employees on 32 hour work weeks and we are not accomplishing nothing and it has been brought to his attention that now insurances have gone up so that is what the employees are facing now. Mr. Fernandez said we are experiencing roughly about 22 to 25% in our multi-line insurances anywhere from 10 to 15% increase in the medical and related insurances about 10 to 15% increase in workman's comp so any of these savings that we have been realizing for these six months are going to be eaten up next year on insurance costs. Commissioner Pando said where does this put us then on getting our employees back up to 40-hour workweeks? Mr. Fernandez said until we see some stability in revenue and the amount of time it will take to come in and would hate to venture to say that it is going to happen six months from now or three months from now but if indeed this does materialize there is light at the end of the tunnel. Commissioner Daves said then are we buying cots/mattresses for the extra prisoners for those beds or are we going to go out for market? Commissioner Daves said at this time he is only commenting and does support the electronic monitoring/work release/community service but am not sure it needs to be done the on the three year extension contract and if so Commissioner Daves said he would vote against it. Commissioner Aguilar said the accreditation process was brought up at these committee meetings and Commissioner Daves was not present at these committee meetings. Commissioner Aguilar said that within the accreditation process she was going on the recommendation given by our jail experts on the facts and findings of this process. Commissioner Pando gave approval for Cornell to take over the electronic monitoring/work

release/community service program process. Commissioner Baca seconded it. Discussion. Commissioner Daves said is this conditioned on the three-year extension contract? Mr. Barreras said Cornell is willing to start working in that direction but not to go spend the \$250,000 without the extension. Mr. Fernandez stated to the Commission on your motion you need to clarify as to what level of the electronic monitoring. Commissioner Pando amended his motion to read the higher level as also Commissioner Baca seconded it. Mr. Barreras explained the three levels of electronic monitoring and what the jail experts had recommended. Commissioner Aguilar asked Mr. Barreras if they would hire someone to monitor the electronic monitoring. Mr. Barreras said they would at no expense to the County. Chairman Padilla said there was a motion on the floor and how does the Commission vote. Commissioner Pando voted yes. Commissioner Daves voted no. Commissioner Aguilar voted yes. Commissioner Baca voted yes. Motion carried. 3-1.

#### **Consideration of Re-negotiation of Management Contract, including total cost and yearly CPI increases**

Commission discussed the total cost and yearly CPI increase and Commissioner Pando said with this yearly CPI increase we have not been able to give our employees a raise and feels like this increase is not feasible at this time. Mr. Barreras said if the Commission does eliminate the CPI increase then it would not be in the proposal. Commissioner Aguilar said it really bothers her when we play with the emotions and livelihoods of our employees and we go on to the public if we reduce the proposal by \$1 million then this raises the hopes of the employees and can bring them back to a 40-hour work week and the truth of the matter is even if the contract can be reduced by that we won't be able to do that, until you look at the total budget and the impact of all the expenditures that have been done and approved. Commissioner Aguilar said we are in a financial crisis a very severe one and this is my personal opinion we are probably looking at five years before we get out of it. Commissioner Aguilar said she was being truthful. On the facility, Commissioner Aguilar said we have a legal responsibility to house these prisoners and there is a federal court order in place and unfortunately the employees are bearing the burden and the county programs. When we went into this contract three years ago we only had 80 prisoners and now that figure is doubled. There has been a lack of planning that has put us in a very bad position and until we are ready to admit that until we are ready to have a workshop and say what is it that you are talking about Alicia, for example right now we are not in compliance with GASB 34. Commissioner Aguilar said we have to have fixed inventory that affects all state and federal funding coming into this County. The landfill is another example of non-compliance. We have to assume responsibility. Commissioner Daves had questions for Mr. Fernandez what was the deficit that was approved by the Commission budget ending last July 1. Mr. Fernandez said if you are referring to expenditures over the revenues in excess of a \$1 million. Commissioner Daves asked how close did that come into projection? Mr. Fernandez said we were within \$60 to \$90,000. Commissioner Daves said if someone is telling the employees that they will get back to 40 hour work week we have to accumulate a cash balance and right now we aren't and things are looking worse in terms of insurances going up. Commissioner Daves said there is a savings of \$1 million would be \$750,000 better than \$250,000 and so there is no magic but there is a difference between \$1 million and \$250,000 whether we could get there is problematic at best but certainly the will of this Commission is we are not going to get there. Commissioner Daves said he does regret that and he felt that the Commission should take on the course of the budget crisis and dealing with that large item the Adult Detention budget and correctly dealing with our prisoners as well but the Commission has chosen not to take that course and feels that the Commission shied away too soon at looking at other options. Commissioner Pando said he feels now this Commission has done nothing but his understanding was to move forward and doesn't feel the County is broke but \$1 million shy and if in going with this proposal would help us out. Commissioner Aguilar said in all fairness what route did Commissioner Daves feel they should take? Commissioner Aguilar said they looked at the staffing pattern and looked at all the facts and findings with the jail experts in all aspects as to how this would be fair to the County. We looked at termination we looked at everything and went with the recommendation on the jail experts. Again we looked at all aspects in all areas over and over and over again. Commissioner Aguilar said she would like to hear from Commissioner Daves.

Mr. Fernandez said he had an appointment and had to leave at this time.

Commissioner Daves said his ideas had not been accepted by this Commission and feels like we need to look into a range of possibilities and including in that range pursuant to our contract non-appropriation of monies on a reasoned basis that the County could not afford and having something in our budget that would allow the Commission to transition and do what we were doing before the new jail opened which was to farm out our prisoners. We received an offer of \$45.00 a day that included transportation five days a week – it did not include booking, and other handling costs that we had and would still have even when our jail was closed. Commissioner Daves said his thoughts were to go into a RFP proposal and invite proposals from Cornell to see if we could not do better and looked into budgets from other jails. Commissioner Daves said he understood this contract might cause litigation and the state required the Commission to put a paragraph in the contract to read failure to appropriate money the County can terminate the contract. Commissioner Daves said he discussed this with the State and they told him don't count on it meaning anything and ended the conversation with them stating whatever our cash balance was at the end of the fiscal year now in June and his understanding that come September cash balance would be negative. And that is with our employees on 32 hours. Commissioner Daves said he did not want to make any decisions right now. Commissioner Daves said he wanted to go on a competitive process with this contract. Commissioner Daves said with the Commission re-negotiating this contract if Cornell can save the County \$1 million a year he hopes they can and he will eat his words. Commissioner Daves said he lead a committee to conclusions of re-negotiations and with the Commission buying mattresses

shows our level of strength which we have no strength in this situation. Commissioner Pando said this Commission did look at every issue Commissioner Daves spoke on and took the recommendations of jail experts that were discussed at these committee meetings. Commissioner Baca said she wanted to comment and stated the saddest thing as Commissioner is to have cut our employees salaries and we are fortunate to keep the employees we have now and it is a miracle they are still with us but the Commission had no choice with DFA telling us we had to do what we did. Commissioner Baca said her priority is to get the employees back on 40 hours if not we are going to lose them and we are going to be in worse shape then what we are now so whatever it takes whatever works we will look into and get revenues to put the employees back to work and that is the only way Commissioner Baca would be satisfied. Commissioner Aguilar said we need to keep to the agenda and we did have a workshop on this and Commissioner Daves did not attend that workshop where all of this was discussed. Commissioner Aguilar said she wished she could agree with Commissioner Daves and go out and get a better deal we can't we still have to appropriate for the prisoners. Mr. Barreras said he wanted to recap on what was submitted we have offered to waive the \$100,000 the county owes and offered to implement the electronic monitoring program and have offered to reduce the existing contract immediately by \$251,000 a year and in that alone is significant savings to the County. In addition to that we have offered to work with the county to generate in the neighborhood of another \$1.3 million a year in revenue that could be generated by the beds here. Cornell has done the analysis and has put our company at risk for this amount of money to try and make that work. Mr. Barreras recommend the Commission move on in this direction in an effort to generate this revenue and savings immediately instead of having to wait another year to consider that. Commissioner Daves said he wasn't at these committee meetings because he had made other arrangements but he has been going through a lot of turmoil over this jail issue and wants to be positive and has been outvoted on the direction he would like to go on and thinks it is still important to make his points and the County will survive but feels the course they are on he would choose quite differently before he shied away from the possibilities that might save the County money. Mr. Barreras said the County continues to exceed the 126 count and thereby continues to be exposed to the additional charges that will only get worse over the next year and something can be done right now so the County doesn't continue to be in this situation where you can be charged this money above the contract amount. Chairman Padilla brought up the CPI increases. Mr. Barreras said annually it has been running about 2.5 % and that increases the contract amount. Commissioner Aguilar made a motion to move forward with the re-negotiation of the management contract for three years – the three years to be determined by our attorney on the information from bond counsel with no CPI increases in addressing the savings and those savings should be identified in the proposal to the County. Commissioner Pando seconded it. Discussion. Commissioner Daves said it was stated earlier and it is still unclear that the County is still \$251, 000 in savings is premised upon not continuing to meet the NCCHC standards but rather meeting the ACA standards which are less stringent but adequate and Commissioner Daves asked is this not a correct statement? Mr. Barreras said are you asking is that a concern and if so Mr. Daley would have to be consulted to be determined if we have to meet both of those accreditations. It would be contingent on what you require and we are asking you to consider not having the NCCHC accreditation. Commissioner Aguilar said then her motion would be amended to say to accredit both and the Commission has already said we would give an extension and would like to see that \$251,000 savings. Commissioner Pando said he is not an expert at all in this field and is going on the recommendation of our jail expert, Mr. Daley.

Charles Eaton in the audience asked Chairman Padilla if the floor was open for comment. Chairman Padilla said please go ahead. Mr. Eaton said he was here in the capacity as a county resident and as a county employee and what he is hearing today based on the second committee meetings was what he was hoping the County employees would see cost savings on the contract and it looks like it expanded into extending the contract as well and there was hope for the County employees and Commissioner Aguilar said there are other excuses for this deficit. Mr. Eaton said this contract is either re-negotiated or RFP was put out or a lower rate could come down and that maybe we could put our employees back to 40 hour work weeks and get some of the future raises Commissioner Pando was talking about. But now you are telling us best-case scenario we are stuck with them for three years worst-case scenario looks like four years and it bothers me that you are the governing body of this Commission you are the ones that should set policy to get things done properly and it seems like the County being on the bargaining side and calling the shots it is Cornell calling the shots. Mr. Eaton said he was advised when he was on the Commission to go out for competitive bid. Mr. Eaton said let this contract expire take it out for the whole year and renegotiate it at that time. Mr. Eaton gave an analogy on a basketball game Lakers are down 20 points and started coming back and the announcer said their coach has a smirk on his face so you know there is something good that is going to happen and what Mr. Eaton said if he could see that on this Commission today but it's the one wearing nice suits here today that something good is going to happen for them but us poor people will continue suffering. Mr. Eaton thanked the Commission for listening. Clara Reher from San Clemente commented on the first item on the agenda ACA Accreditation the only person she heard use the word required was Mr. Barreras and thought Commissioner Aguilar read the letter from Mr. Jack Daley and the word he used was the word recommended but when something is required you have no choice if the word is recommended you can decide or no you can negotiate. One other thing Ms. Reher said she felt Cornell was holding a carrot in front of the Commissioners our jail is full and crime is increasing not decreasing and our County is flooded with drugs they are in our schools our jail is full from the time it was built and Ms. Reher said she doesn't see any savings and doesn't see extending this contract for the sake of our employees. Ms. Reher thanked the Commission for listening.

Commissioner Pando would like to comment in listening to Mr. Eaton and would like to say the Commission did look at all aspects of the contract either we go forward or we stop if we stop we will be in the same position if not worse.

Mr. Eaton said his comment was not to sit and do nothing but give it one-year period and go out for competitive bid but let Valencia County call the shots.

Commissioner Aguilar said there was a motion on the table and in going back the 4-H issue the vote came down to put the employees on 32 hours it was three commissioners that did that and we were heavily criticized no one brought forth the fact that the motion to fund the extension service how to fund it and worry about the money later and now we are back with a split Commission and at this point Commissioner Aguilar said she will withdraw her motion and let the contract run. Commissioner Daves and Commissioner Pando you will have the opportunity to go out for RFP, terminate or do whatever you want but we have to approve a budget in two weeks and in that time the motion can be to not appropriate and lets see what happens but Commissioner Aguilar said she will withdraw her motion. Commissioner Pando said he would withdraw his second. Commissioner Pando said he would make a motion on the exact wording as Commissioner Aguilar did earlier. Commissioner Baca seconded it. Discussion. Commissioner Daves said with a high level of skepticism but certainly with sincerity that \$976,000 that Cornell deposits can be accomplished but Ms. Reher made a fine point that there is so many obstacles sometimes the jail that is empty between us and the prisoners of achieving that and am very skeptical and think that we have \$251,000 in our hands and probably a little bit more for three years extension and think the market can provide us that much savings in the first half year of a new contract if what he thought was the worst case when he started this. Commissioner Daves said he supports Commissioner Aguilar's withdrawal of her motion and am not sure for what reason she did but it makes sense and that is the better way to go. The Commission needs to let this contract run its course if that is all we are willing to do and Commissioner Daves said he is willing to try more and don't know how he will vote when the day comes with regard to non-appropriation of monies and certainly will consider it and he wouldn't do it without much more knowledge that he has right now but we have chosen not to seek that knowledge but he thinks a three-year extension for a \$986,000 which we couldn't achieve but a \$251,000 we would achieve and it is a bad trade-off and would rather this Commission go forward and run out of money in September either way our employees are not going to be put back on 40 hour work week. It is a question of charting the course and would like to give up that \$251,000 for this year to save the million for the next years and can do that if we go out for RFP and this is competitive. Commissioner Daves said he would continue if this Commission chose not to extend the contract with Cornell. Commissioner Daves said Cornell has the tools and feels that Cornell is forcing us into an ill-considered decision and in spite of that won't vote for a three-year contract. Commissioner Daves said our budget hurts right now and we need to have a competitive process right now. Commissioner Daves said thanks for listening but feels he has to get his point across. Chairman Padilla said he feels there is no pressure from Cornell and stated to Commissioner Daves that this Commission got into financial problems and right now is trying to alleviate that situation. Mr. Barreras reiterated in saying that Cornell has been working with the County by not charging for these extra inmates by carrying late payments things of this nature but we are at a point where we need to move forward and do something with that population and that population continues to grow and the answer is not to continue to go over our cap but we have to adjust that cap. Commissioner Pando said there is no more time and there is a contract in place that states it will house 126 inmates at x amount of dollars and give the County revenues that is generated from Los Lunas, Isleta, Belen and other entities and we pay \$6.59 for 126 inmates/day/food/medical and they have been housing up to 150 to 165 or average has been 139 for the last six months. Commissioner Aguilar said the population count of inmates is a problem and in repeating this situation we have had committee meetings after committee meetings and am getting tired and we need to move forward. Commissioner Pando said there is a motion in action and would word it exactly as Commissioner Aguilar had earlier with the motion to move forward with the re-negotiation of the management contract for three years – the three years to be determined by our attorney on the information from bond counsel with no CPI increases in addressing the savings and those savings should be identified in the proposal to the County. Commissioner Baca seconded it. Chairman Padilla asked how does the Commission vote? Commissioner Pando voted yes. Commissioner Daves voted no. Commissioner Baca voted yes. Commissioner Aguilar abstained. Chairman Padilla voted yes. Motion carried. 3-1.

#### **Past over population/potential costs/interest/late fees**

#### **Consideration of future plans for old and new Adult Detention Facility**

#### **Future revenue sources**

Commissioners discussed that the last three items on the agenda will be presented in the contract and will be addressed as such.

Commissioner Pando made a motion to adjourn. Time being 12.45 PM. Commissioner Baca seconded the motion. Discussion. Commissioner Pando voted yes. Commissioner Aguilar voted yes. Commissioner Daves voted yes. Commissioner Baca voted yes. Motion carried. –4-0.

The next Regular Meeting of the Valencia County Board of County Commission will be held on June 10, 2002 at 9:00 AM Executive Session with Regular Meeting at 10:00 AM in the County Commission Room at the Valencia County Courthouse.

#### **Adjournment**

**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/  
GARY DAVES, VICE-CHAIRMAN**

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

**ss/  
ALICIA AGUILAR, MEMBER**

**ss/  
HELEN BACA, MEMBER**

**ATTEST: ss/**

**TINA GALLEGOS, COUNTY CLERK**

**DATE: June 25, 2002**