

VALENCIA COUNTY BOARD OF COMMISSIONERS

Regular Meeting

December 10, 2002

Chairman Aurelio H. Padilla called the Meeting to order at 9:10 A.M.

| 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 | |

Chairman Aurelio H. Padilla called the Meeting to order at 9:10 A.M. Tina Gallegos, County Clerk read the agenda for executive session for the December 10, 2002 Regular County Commission Meeting.

Executive Session

Commissioner Daves made a motion to enter into executive session. Seconded by Commissioner Pando. Discussion. Commissioner Pando voted yes. Commissioner Daves voted yes. Commissioner Aguilar voted yes. Motion carried. 3-0.

Chairman Padilla called the meeting back to order.

Mr. Fernandez on behalf of Human Resources Manager, Carol Anaya reported as to what was discussed in executive session. The following personnel items were discussed; Resignation of Leticia Sedillos from the Bureau of Elections, Margaret Garcia, County Assessor’s Office, Richard Weathersby, Animal Control Dept., this individual had been on leave without pay prior to this time, Appeal of termination notice for Edgar Ryan, New Hires, Shannon Brady Kmatz, Sheriff’s Office, COPS 1 and Abraham H. Henson, Sheriff’s Office, COPS 2, Human Resources Manager, Carol Anaya is in emergency surgery and will be out for approximately three weeks, the Administration Appeal of the termination of Michael McCartney was being heard in District Court today at 1:30 PM.

Mr. Garde reported that in executive session the following was discussed. Discussed was the status of the administrative order with regards to the Environmental Department which we received an extension until January 18, 2003, Tera Con is proceeding to complete an abatement plan that will be submitted this week and we expect this process to be complete this next summer, the status of the appeal for Mr. Alba and that is with People’s Energy, there are two matters pending, one is the administrative appeal and the second is a declaratory judgment and that case is processing fairly quickly, discussed was the negotiations concerning the lawsuit involving the Elizabeth Burris/Harvey Yates lawsuit, discussed was the status of the Ber Ben lawsuit and last under potential litigation we discussed Marble Quarry Road with no action taken on these items.

Commissioner Daves made a motion to accept these reports as discussed in executive session. Seconded by Commissioner Pando. Discussion. Commissioner Pando voted yes. Commissioner Aguilar voted yes. Commissioner Daves voted yes. Motion carried. 3-0.

Chairman Padilla asked County Manager, James Fernandez to lead the Pledge of Allegiance.

Approval of Agenda

Ms. Gallegos read the agenda for the meeting of December 10, 2002 Regular County Commission Meeting. Chairman Padilla stated there was a request to move Item J, Indigent Report, Barbara Baker to Item A. Chairman Padilla stated there was a request to add November 12, 2002 Regular Minutes for approval under Approval of Minutes. Mr. Fernandez stated that Item L is to be deleted as the Assessor, Beverly Gonzales will not attending that workshop. Commissioner Daves made a motion that with these changes he made a motion for approval of the agenda. Seconded by Commissioner Pando. Discussion. Commissioner Pando voted yes. Commissioner Aguilar voted yes. Commissioner Daves voted yes. Motion carried. 3-0.

Approval of Minutes

October 15, 2002 Regular Meeting

October 29, 2002 Workshop 1st Quarter Budget Review
November 8, 2002 Special Meeting Canvass
November 12, 2002 Regular Meeting, Addition to the Agenda With Approval

Commissioner Aguilar commented that she would like added information on the October 29, 2002 Budget Review with more clarification. Ms. Gallegos stated there is a recap handbook that is attached to these minutes and made a part hereof. Ms. Gallegos said we can do whatever the Commission warrants. Commissioner Daves said he feels the attachment suffices as long as it is an attachment to the minutes. Commissioner Daves made a motion for approval of the above minutes. Seconded by Commissioner Pando. Discussion. Commissioner Pando voted yes. Commissioner Aguilar voted no. Commissioner Daves voted yes. Chairman Padilla voted yes. Motion carried. 3-1.

Public Requests

No public requests.

Acknowledgment and Presentation to – Chairman Al Padilla, County Commissioners Frank Pando and Helen Baca, Sheriff Juan Julian, and Probate Judge Sally Perea.

Chairman Padilla expressed his admiration and loyalty to Commissioner Pando for serving on this Board and presented a gift of appreciation for dedication as Commissioner of Valencia County. A round of applause was given to Commissioner Pando again for appreciation and dedication to the citizens of Valencia County. Commissioner Daves commented on a traffic light that is slowly inching its way to Molina Road and Highway 47 and Commissioner Daves said he would like to take full credit for it but in all honesty Commissioner Pando takes full credit for it. Commissioner Daves said he has enjoyed being alongside as Commissioner with Commissioner Pando as well as being a good friend and he will be missed. Commissioner Daves said now maybe the meetings will be shorter but it won't be the same without him and he will be missed.

Commissioner Pando said it was his pleasure as he has served on this Board for four years as County Commissioner and twelve years on the Commission for Planning and Zoning. Commissioner Pando said he has seen a lot of changes that he has been proud of. Commissioner Pando said there have been some tough challenges also and would like to thank staff, the employees, as Valencia County is very blessed to have the caliber of employees that it does. Commissioner Pando thanked his fellow Commissioners and all of Valencia County to have worked with them and to the newly elected Commission he wishes all the best of luck. Commissioner Aguilar thanked Commissioner Pando because when he came on board it was during the jail issue and though all the facts aren't known publicly on that situation she appreciates him by solving a fifteen-year problem. Commissioner Aguilar said Commissioner Pando tells it like it is and he brought common sense to this Board and he will be missed.

Chairman Padilla commented on Commissioner Baca, as she is absent today but she was very important when it came down to decision making even though she was the silent one, her voice was heard. Chairman Padilla said she will be missed on this Board.

Chairman Padilla commented on the outgoing Probate Judge, Sally Perea, she is also absent but she was dedicated to her job and she will be missed in that position.

Chairman Padilla said Sheriff Juan Julian brought professionalism to the Sheriff's Office and has served the County well for his eight-year term. Chairman Padilla said the Sheriff has increased that Department with a good staff that is dedicated to Valencia County. Commissioner Aguilar said to Sheriff Julian thank you because the Department as she remembers has come a long way starting with the vehicles, the salaries and the Sheriff has immensely improved the law enforcement in this County and wished him the very best. Commissioner Pando said he too wishes Sheriff Julian all the best of luck and maybe they can do a little fishing together. Commissioner Daves said thanks for a job well done. Sheriff Julian said he wanted to comment because it has been his pleasure to serve Valencia County. Sheriff Julian said as of the third of this month he started his thirtieth year in law enforcement and all that time as State Police and Sheriff here in Valencia County. It has been a great honor and his pleasure and as Commissioner Aguilar said eight years ago Valencia County was the laughing stock of the State but to date it has emerged into a well-balanced professional law enforcement office. And he takes pleasure in having been a part of that transformation. But this could not have been done without the help of the Commission and his staff and he commends them, as this would not have been possible. Sheriff Julian said maybe now he can enjoy his retirement and he will miss the dedication and loyalty with his staff and the County Departments. Sheriff Julian said he was not going to get emotional but what can you say when you work with such a dedicated staff and his deputies and dispatch because they made him look good because without them you have nothing. Sheriff Julian said to the citizens of Valencia County, thank you for allowing him to serve in this capacity for thirty years and to the new Sheriff-elect he wishes all the best of luck. Commissioner Aguilar said the one person that is in the background that needs to be mentioned is the Undersheriff D.C. Jackson and we commend him for a job well done for being a well-dedicated employee. Commissioner Daves said he has appreciated working with Sheriff Julian and he knows we can keep improving law enforcement.

Board of Commissioners Convenes as Indigent Board

Indigent Report/Appeal – Barbara Baker

Board Re-Convenes as Valencia County Board of Commissioners

Commissioner Pando made a motion to convene as the Indigent Board. Seconded by Commissioner Aguilar. Discussion. Commissioner Pando voted yes. Commissioner Aguilar voted yes. Commissioner Daves voted yes. Motion carried. 3-0.

Ms. Baker thanked the Commission for allowing her to move up on the agenda. Ms. Baker presented the indigent claims from October 30, 2002 to November 26, 2002. The total amount of claims submitted is \$225,909.07 and Ms. Baker asked that \$45,514.18 be approved and to deny \$180,394.89. There were 74 claims submitted and 30 applicant denials. Commissioner Pando made a motion for approval. Seconded by Commissioner Daves. Discussion. Commissioner Pando voted yes. Commissioner Aguilar voted yes. Commissioner Daves voted yes. Motion carried. 3-0.

Ms. Baker requested an appeal to the indigent denial of November 12, 2002 for inmate Ruben Davis. This was denied because the Indigent Office received the bill from Presbyterian Physician Billing 90 days after service and Mr. Fernandez had requested an appeal in the amount of \$49.60 to pay this bill. Ms. Baker recommended this bill be paid. Commissioner Pando made a motion for approval. Seconded by Commissioner Daves. Discussion. Commissioner Pando voted yes. Commissioner Aguilar voted yes. Commissioner Daves voted yes. Motion carried. 3-0.

Commissioner Pando made a motion to reconvene as Board of Commissioners. Seconded by Commissioner Aguilar. Discussion. Commissioner Pando voted yes. Commissioner Aguilar voted yes. Commissioner Daves voted yes. Motion carried. 3-0.

ACTION ITEMS:

GENERAL REQUESTS

Request to reconsider action taken by the County on October 15, 2002 – Governor Alvino Lucero

Mr. Lucero read a statement that he prepared for the Commission. He thanked the Commission for giving him the opportunity to present the Pueblo's position on the road that runs through the Pueblo's Comanche Ranch property, referred to as the Marble Quarry Road. Mr. Lucero stated the Pueblo has owned the Comanche Ranch property since 1997 when they purchased the land from Jack Huning. They had a title search conducted and there was no evidence that the County or Mike Mechenbier considered it to be a County road. After owning the Comanche Ranch for over five years without any claim to the road by Valencia County, the Pueblo was shocked and deeply concerned this past fall to learn from the newspapers that the County had decided to declare the Marble Quarry Road, a County road. It was unfortunate that the Pueblo was not invited to the meeting on October 15th so that we could have presented our views on this issue, particularly since the road is located on the Pueblo's property and we are neighboring governments that need to cooperate with one another on a range of issues. Mr. Lucero said as the Governor of the Pueblo of Isleta he has a responsibility like the Commission as elected officials to protect and preserve Pueblo property. That is all the Pueblo is seeking to do with the Marble Quarry Road. Mr. Lucero said they have experienced chronic problems with trespassers and vandals who have used this road to come onto the Comanche Ranch property. The Pueblo took a reasonable measure to try and stop the trespass and vandalism by installing a lock on the gate at the entrance to the road, and giving Mr. Mechenbier and Mr. Lardner keys to this lock or the opportunity to install their own lock. Mr. Lucero said instead of seeing the lock as a protective measure Mr. Mechenbier and Mr. Lardner flatly objected to any lock on the gate. On several occasions, the Pueblo offered keys to Mr. Mechenbier to allow him access to the road, but he refused to accept them, and instead, forcibly removed the Pueblo's chain off the gate. It is hard to understand Mr. Mechenbier's conduct when he himself locks the gate entrance to his ranch on the same road. Mr. Lucero said in a good faith attempt to resolve the dispute, the Pueblo has offered a private easement in perpetuity to Mr. Mechenbier and Mr. Lardner, as well as any future owners of their property but they rejected this offer outright. Mr. Lucero said in another gesture of good faith the Pueblo agreed to stop locking the gate and enter into mediation. At present, there is no lock on the gate. In short, the Pueblo strongly disagrees with the positions and conduct of Mr. Mechenbier and Mr. Lardner; the Pueblo has made several attempts to resolve this matter in a way that we can all live with. Mr. Lucero said is our opinion that the Pueblo's gestures have been met with nothing short of bad faith.

Mr. Lucero said instead of trying to resolve this dispute in a good faith manner with the Pueblo directly, Mr. Mechenbier gained the Commission support for his position and has now brought the Commission into this dispute. The Pueblo of Isleta believes that the Commission's action on October 15th was made without the benefit of hearing from all parties and was unlawful. Mr. Lucero said he knows there was an agreement for the dedication of the road with Mr. Huning in 1964 but a deed transferring the road to the County was an express condition to the agreement. There was no evidence that a deed ever existed or that it was lost or destroyed. The Pueblo has evidence showing that the County never officially maintained the Marble Quarry Road, and certainly, there have been no improvements to the road. The road is also not used by the public. Only Mr. Mechenbier and Mr. Lardner are arguing that the road is public. If the road were open to the public, then Mr. Lucero said the Pueblo would have heard from more than just these two individuals. It is curious that Mr. Mechenbier claims that the portion of the road on the Pueblo's property is public but the portion of the road on his property is private. Mr. Lucero said he knows that on several occasions the County has taken the official position that the road is not a County road. Mr. Lucero said all of this demonstrates that the County did not have a basis to declare the Marble Quarry Road a County road after the fact. Mr. Lucero said the Pueblo asks that the Commission reconsider the decision on these grounds. Another reason to withdraw your decision is that this is a private dispute between the Pueblo and Mr. Mechenbier and Mr. Lardner. Before the Commission took action on October 15th, the parties had agreed to mediate this dispute. By taking a neutral position today, you would be sending the parties a

strong message to resolve this argument amongst ourselves in mediation. By taking sides, you send the message to the Pueblo that you do not respect our interests and rights as a neighboring government, and you invite litigation, something neither of us want.

Mr. Lucero said he appreciates given the opportunity to present the Pueblo's position and ask that the Commission do the right thing as a matter of law and sound public policy.

Commissioner Pando said to his understanding in looking at the legal aspect of this issue is this Commission or prior Commissioners this has never come before any Commission to close this road or don't close this road. The only one that has the legal authority to close the road is the Commission. We have vacated a road and it took two years to get this done and it was only 100 ft by 40 ft and we had a request to vacate it as a private easement but the Commission turned it down. Commissioner Pando said what he is getting at is that Marble Quarry Road has never come before the Commission to close this road or don't close it. Commissioner Pando said before any action can be taken by the Pueblo or anyone else it has to come before the County Commission. Commissioner Pando said he has a lot of respect for the Pueblo of Isleta has done and is doing but if you can close this road what prevents the Pueblo for closing Highway 47 or Highway 6 or Highway 31 because as we travel throughout the state we are surrounded by Indian reservations which is one of the greatest cultural things we have going for us, however the State has spent millions of dollars to improve Highway 44 which runs to Farmington and this runs through a lot of reservations. It would be a shame to close a road that services people.

Mr. Lucero said he doesn't believe he has any intentions of closing Highway 47 or any other Highway for that matter simply because the State Highway Department has the right of way for those. This is through a ranch and the letter from your attorney does indicate with the Valencia County Road Inventory that during 1999 Marble Quarry Road was maintained 4.4 miles. This is the mileage from the City of Belen to the east bank of the Rio Puerco Bridge and on the west it is the Pueblo's but from there on the County has never maintained that road. Mr. Lucero said so with this information you can't say this is a public road or a County road.

Commissioner Daves said he apologizes for the County not inviting the Pueblo to the October 15th meeting because he is the one that voted and made the motion that the Marble Quarry Road to the Quarry and to the Mechenbier gate is a public road. Commissioner Daves said he still believes this is a public road. The information that Commissioner Daves said he has is that the County built this road and he has been on it twice that is how often he has needed that road. Commissioner Daves said he agrees with Commissioner Pando that a public road cannot be vacated without some action by the County Commission and the action that we took before is simply an affirmation of what is the reality that it is a County road. Commissioner Daves said Mr. Huning could not sell what he did not own and it does run through the Comanche Ranch.

Mr. Lucero said he feels the Commission is standing firm on the decision that was made at the last meeting but he will have to follow through and do more research on this issue. Mr. Lucero said if this is a County road then why hasn't the County been maintaining it because the Pueblo has and why has Mr. Mechenbier been allowed to lock his gate.

Commissioner Aguilar said this issue has been discussed for the last two years and information was brought to us and it is unfortunate that we were not afforded the opportunity to listen to both sides. Commissioner Aguilar said as a Commissioner she has the responsibility and the authority to reconsider her position on this issue and she has reconsidered her position today and part of that reconsideration is because in executive session the attorney made them aware of the information that he had in going through the records. Commissioner Aguilar said Mr. Garde went as far back as 1960 and did not find anything and there was nothing in the minutes, everything is vague as far as this road is public or private, there is still the issue that it is public up to the bridge but then that is the first leg of the road, the second leg is Comanche Ranch. Commissioner Aguilar said she has always taken a position that when there is legal action pending and that means mediation that we should take a step back and wait for that process to take place. Once that information comes before the Commission then it is appropriate for all three entities to get together, the Pueblo, Mr. Mechenbier and Mr. Lardner and their attorneys the opportunity to do some fact finding and the County should be at the last end but kept abreast of what is going on.

Commissioner Aguilar said as one Commissioner she would make a motion that this Commission reverse its position and take a neutral position on this issue until we have that information. Chairman Padilla seconded the motion. Discussion. Commissioner Pando voted no. Commissioner Aguilar voted yes. Commissioner Daves voted no. Chairman Padilla voted yes. Motion failed. 2-2.

Commissioner Aguilar stated for the record that her position on the previous vote has changed.

**Request Signatures of Valencia County Cooperative Weed Management – Frannie Miller
NM Dept. of Agriculture (Memorandum of Understanding)**

Ms. Miller requested signatures of the Commission for the agreement and support for the Valencia County Cooperative Weed Management Program. Commissioner Pando made a motion for approval of signatures. Seconded by Commissioner Aguilar. Discussion. Commissioner Pando voted yes. Commissioner Aguilar voted yes. Commissioner Daves voted yes. Motion carried. 3-0.

**Update Commission on El Cerro Community Center/YDI assuming management of the Center
– Kathy Chavez**

Ms. Chavez not present.

PLANNING AND ZONING MATTERS:

Request to Amend the Text of the Ordinance (Master Plan) allowing a Planned Unit Development – Pete Ford

Playa Verde Estates (Belen)

Donna Baker, Planning and Zoning requested to amend the text of the ordinance master plan. This request is for the purpose of allowing a planned unit development, a retirement community in Playa Verde Estates, which is 28 acres in Rio Communities. John Archuleta, Senior Vice-President and Manager for New Mexico George K. Bond Co. discussed the financial aspect of the project with the Commission. Pete Ford, Riverview Village LTD/Agent discussed the project and process of the project. This is basically an apartment project, an apartment project in a sense of density and then within that map we are looking at one major building which includes one hundred and four beds, which is essentially a nursing home. This is an aging in place project, which means that we are going to rent the apartments and town homes. It is totally funded as one project. The amendment to the text did not change anything in relation to zoning or density; it only changed the text that we are now a planned unit development with a full 28.0 acres instead of being all the lots. Raymond Dennis, formally Dennis Engineering stated he did all the sewer and water drainage for this project. Commissioner Aguilar stated she would like to wait and get more information before approving this. Commissioner Daves made a motion for preliminary plat approval with conditions that the performance bond be correctly in place with regard to county requirements and further characterization of the water rights and a clear exposition of the legal authority of the tax abatement. Seconded by Chairman Padilla. Discussion. Commissioner Pando voted yes. Commissioner Aguilar abstained from voting. Commissioner Daves voted yes. Chairman Padilla voted yes. Motion carried. 3 yes with Commissioner Aguilar abstaining.

Request to Amend Zone Maps from RR2 to RR1 Splitting 1.0 acres from 2.50 – Leonard Peralta

15 El Campo (Belen)

Mr. Peralta requested to amend zone maps from RR2 to RR1 for the purpose of splitting 1.0 acres from 2.50 acres for the purpose of placing a mobile home. Donna Baker, Planning and Zoning gave a brief history of this request. Ms. Baker said this request was heard a year ago and Mr. Peralta came in to split the land, the P & Z Commission due to the fact that it was a conditional use permit in actuality he wanted someone to care for him. The P & Z Commission gave him a two-year conditional use permit and Mr. Peralta accepted this. Ms. Baker said he still has a year left on this conditional use and the P & Z Commission is recommending denial of this request due to the purpose of a temporary second dwelling. Commissioner Pando said he felt comfortable with this request due to the fact that Mr. Peralta has a medical condition and has asked for the Commission's help with this request. Chairman Padilla made a motion to table this request and get more information. Seconded by Commissioner Aguilar. Discussion. Commissioner Pando voted yes. Commissioner Aguilar voted yes. Commissioner Daves voted yes. Chairman Padilla voted yes. Motion carried. 4-0.

Request to Amend Zone Maps from C1 to C2 purpose of operation wholesale/retail business – Bob Smith

Lot 1-20 Mitchell Addition 1338 Frontage Road

John Craig on behalf of Bob Smith requested to amend zone maps from C1 to C2 for the purpose of operating a wholesale and retail Propane Company. Chairman Padilla made a motion for approval of this request with conditions that it remain a propane business and the conditions put on by Planning and Zoning that the applicant place a concrete barrier on the northeast side of the property. Seconded by Commissioner Pando. Discussion. Commissioner Pando voted yes. Commissioner Aguilar voted yes. Commissioner Daves voted yes. Motion carried. 3-0.

Request for Dedication and Maintenance of Pino Road – Richard Pando

Mr. Pando requested dedication and maintenance of Pino Road. Richard Chavez, Planning and Zoning stated that the road has no cul-de-sac and the road would also have to be built up. Pino Road does have adequate bar ditches and no culverts would be necessary. Chairman Padilla made a motion to table this item and get further information that is required. Seconded by Commissioner Aguilar. Discussion. Commissioner Pando abstained. Commissioner Aguilar voted yes. Commissioner Daves voted yes. Chairman Padilla voted yes. Motion carried. 3 yes with Commissioner Pando abstaining.

Request to Consider/Approval proposed Resolution Comcast Cable – James Fernandez

Mr. Fernandez said the request is to consider the proposed resolution to consent and acknowledge the transfer of USA Media customers to Comcast Cablevision of New Mexico. Mr. Fernandez said Mr. Garde has reviewed this and had some comments. Mr. Garde stated that in discussion with Mr. Schultz who is present his company purchased the interest of USA Media. Mr. Schultz's Company is operating under Ordinance No. 79-2 which is due to expire January 1, 2005. This Ordinance was adopted in 1979 for twenty years there was an option for additional five years for this franchise. Ken Schulz from Comcast Cablevision discussed the agreement with the Commissioners. Mr. Schultz said as of right now Comcast has 67 franchises in the State of New Mexico. Mr. Schultz said they are acquiring USA Media, the transfer for Los Lunas is done, Belen will be done Friday under a Special Meeting this week. Comcast tries to be partners with all the communities it serves. Mr. Schultz said the agreement before you is not a franchise agreement but a right of way agreement. In that right of way agreement permission is not needed only notification. Mr. Schultz said he agreed with the County Manager and the County Attorney so to change this would violate state statute. If

USA Media stayed as the franchise holder, they are not prepared to do any upgrades in Valencia County but Comcast is. We are planning to spend 1.8 million dollars in Valencia County prior to the expiration date of January 2005. We will be discussing franchise fees in the future and look forward to paying franchise fees for the use of the right of way. Mr. Schultz said he will negotiate for the best terms for both parties. Mr. Schultz said he is looking forward to being part of the community. Commissioner Aguilar made a motion for approval of **Resolution 2002-49**. Seconded by Commissioner Pando. Discussion. Commissioner Pando voted yes. Commissioner Aguilar voted yes. Commissioner Daves voted yes. Motion carried. 3-0.

Department Requests/Reports

Request for Instate Travel to Santa Fe/NMAC Mid Winter Conference (January 27, 2003) – James Fernandez

Mr. Fernandez on behalf of each individual department to allow for instate travel for one member per elected office to attend the Mid-Winter Legislative Conference in Santa Fe, NM. The registration fee is \$90.00 per individual plus mileage and per diem. Commissioner Pando made a motion for approval. Seconded by Commissioner Aguilar. Discussion. Commissioner Pando voted yes. Commissioner Aguilar voted yes. Commissioner Daves had stepped out. Chairman Padilla voted yes. Motion carried. 3-0.

Request to attend GIS Workshop (Eddy County) – Beverly Gonzales – Deleted from the agenda

Request Permission to go out to Bid for Legal Services – James Fernandez

Mr. Fernandez requested permission to go out to bid for legal services because the existing contract with the County Attorney is scheduled to terminate at the end of December 2002. Commissioner Pando made a motion for approval to go out to bid for legal services. Seconded by Commissioner Aguilar. Discussion. Commissioner Pando voted yes. Commissioner Aguilar voted yes. Commissioner Daves voted yes. Motion carried. 3-0.

Approval for expenditure of the 1/8[%] tax to the Fire and Rescue personnel Stipend – John Cherry

Mr. Cherry asked for approval for the expenditure of the 1/8% tax to the Fire and Rescue personnel stipend. The purpose of this program is to provide an incentive/reward for the volunteer members of the Valencia County fire/rescue departments for answering alarms and attending trainings. The incentive/reward is in the form of a monetary payment for unreimbursed expenses incurred as the result of answering alarms and attending training. Types of reimbursements discussed during development of the program included a training stipend, a run stipend, or an annual bonus. Consideration was given to having a program that limits the possibility of abuse, does not encourage false alarms or arson fires by departments members, distributes reasonable amounts in an equitable manner to all county departments and does not create an undue paperwork burden on the Chiefs, Fire Marshal's Office or the Treasurer's Office. Commissioner Aguilar made a motion for approval subject to the attorney administration review stipend program. Seconded by Commissioner Pando. Discussion. Commissioner Pando voted yes. Commissioner Aguilar voted yes. Commissioner Daves voted yes. Motion carried. 3-0.

Financial/Business Matters:

Final Approval/Signatures on Re-Negotiated Cornell Contract – Tom Garde

Mr. Garde brought the final approval of the re-negotiated Cornell contract for approval and signatures before the Commission. Commissioner Pando stated he feels he made a wise decision and may have cost him an election but he is proud of the professional atmosphere the Adult Detention Center has and revenues are coming in and feels comfortable with the contract. Commissioner Aguilar said she had some questions for the new Sheriff, Richard Perea because the old contract states that Cornell takes the prisoners from the jail to Magistrate Court and back and the new contract obligates the Sheriff to do that and this would incur cost. Sheriff elect Richard Perea said at this time he has not had an opportunity to review the contract and in the process of going through the transition but when he gets an opportunity he will see what type of burden if any it puts on the Sheriff's Office. Mr. Garde said with regards to the certification of the Cornell employees there is state statutes that provides it is a crime for an inmate to attack an employee of the correction facility so there is state law that protects these employees and within this contract it is stipulated. With regards to the transportation issue the original contract it stated that Cornell only provide transportation to a designated facility within the County Courthouse. This has been incorporated within the new contract so the Sheriff's Office will not be responsible for any transportation from the Cornell facility to the magistrate courts. Lawrence Barreras, Senior Warden of the Cornell facility said it is exactly what it has always been the initial hearing is the Magistrate arraignment hearing and that is what we have been doing and will continue to do so. Mr. Garde said under state law the Sheriff's Office is required to take that detainee to the first appearance, Cornell has assumed that responsibility otherwise it would be up to the Sheriff's Office to do so. Commissioner Aguilar said in speaking with the two newly elected Commissioners, Mary Andersen and Paul Trujillo she would like out of respect and with their consent that this item be brought before them in January when they are on board. Commissioner Pando said when he first came on board there were a lot of contracts brought before him and he did what he had to do. Commissioner Aguilar said she would like to hear from Commissioner elect Mary Andersen, Commissioner elect Paul Trujillo was here but left. Commissioner Aguilar said she will be real quick about this item and state that she is not ready to support the contract. Commissioner elect Mary Andersen asked the Commission to not take a position on this item today. Ms. Andersen said this was the second volatile issue on her campaign trail and it seems we need to make certain that we understand what we are going to have to live with

for the next three or four years. Ms. Andersen said partly on her own ignorance because she hasn't read it all. Ms. Andersen said she feels Mr. Trujillo would like have this Commission hold off until the first meeting in January when we would have an opportunity to make certain for ourselves and there may be nothing wrong with this contract. Commissioner Daves said he makes no comment with regard to approval of this contract today because he voted against the contract that is before them today basically its content unchanged but what he would note whether or not the County has expectations in terms of revenue. Commissioner Daves said there are programs in place that are not allowed or contemplated by the standing contract so he has a modicum of pity for Mr. Barreras for that situation. We are in the middle of a fiscal year that has been operated assuming that the contract will be approved. Commissioner Daves said he was not prepared to vote today just to be consistent with his past stand on this contract. Lawrence Barreras stated that this contract was pending on approval of the Attorney Generals Office and the Department of Finance and Administration and both of those approvals have come in so hopefully this information will benefit in your decision making. Mr. Barreras said this contract is now a formality and revenue is coming in based on the good faith understanding between Cornell and the County. Commissioner Pando said he agrees with Mr. Barreras because we have discussed this at length. This item is paramount to the fact of bringing our employees back to a 40-hour workweek. All these monies have already been committed and been in good faith and for us to back track it doesn't make sense. Commissioner Pando said he will make a motion to approve this contract because he feels this is right. Seconded by Chairman Padilla. Discussion. Commissioner Aguilar said this is not the same contract because it had been modified. Commissioner Pando said it is not supposed to be. Commissioner Aguilar said why is it then that the funds out of Belen, Los Lunas and Bosque Farms are going into the Adult Detention Fund while the funds that pertain to the Federal inmates is going into the General Fund. Commissioner Pando said he didn't see why these questions were coming up now. Commissioner Aguilar said she was not going into a new Commission whereby so much has been back and forth, there needs to be discussion and there needs to be an opportunity for the new Commission to see what is approved. Commissioner Daves said the most important issue facing the Commission today is to make a decision whether our employees are put back on a 40-hour workweek. That is the issue. Commissioner Daves said with that Mr. Fernandez what is your recommendation this Commission do and what impact deferral of approval of this contract have on that decision. Mr. Fernandez said that basically puts on hold any of the revenue that has been generated from the contract. Commissioner elect Andersen asked again to put this on hold to review it at the next meeting. Chairman Padilla said this is the main concern is to bring back our employees to 40 hours and he wants to know what impact this will have if this contract is not passed. Again, Mr. Fernandez said it will put on hold any revenue that has been generated from the contract. Commissioner Daves said he sometimes changes his mind as the old saying goes as often as he changes his socks, not very often but this contract will be approved. This contract is imperatively larger than his feeling a mistake to amend this contract it is larger than the new Commission because of the inertia of revenue of the amendment of the contract. This is a *fate of complete*. Commissioner Daves said he wears his agenda on his sleeve and he will talk to the new Commissioners because they are new minds, they were hit on the campaign trail over and over again on the Cornell contract. Commissioner Daves said he is still a little shaky on the revenue coming in but the issue before us today is our employees and the authority that he thought we had potentially to terminate the contract including the new one would continue and we can look at that. There is still new language in the new contract that the contract can be terminated for failure to appropriate money and he doesn't see that coming he sees a happier day. But to his mind it is on his sleeve and he would support the new Commissioners or the existing Commissioners in that effort but at this point the concern that he has expressed the big issue today is an ability with prudent financial prediction to reverse a decision they made a year ago which is to put the employees on a 32 hour workweek. That is the issue today. If we throw the jail agreement into the air in terms of the impact of our budget it has had with regard of the discount of \$250,000 with regard to the ability of additional revenue so far has been shown. With the substance of the new contract we are locked into with regard to the revenue we are generating. Commissioner Daves said he is still looking over his sleeve and with that agenda he will support adoption of the contract today.

Chairman Padilla said we have discussed this at length so he will call for the vote. Commissioner Pando had made the motion to approve the contract and was seconded by Chairman Padilla. Commissioner Pando voted yes. Commissioner Aguilar voted no. Commissioner Daves voted yes. Chairman Padilla voted yes. Motion carried. 3-1.

Request Approval of permanent cash transfer to General Fund and Budget Increase Expenditures to return Employees to 40 hours (Tabled 11/26/02) – James Fernandez

Mr. Fernandez requested approval of permanent cash transfer to the general fund and budget increase expenditures to return employees to 40 hours. Mr. Fernandez presented a cash flow analysis for the Commission review. In this cash flow analysis is a breakdown of the County's share of the new property tax revenue, Dion's Restaurant, Chili's Restaurant, Wal-Mart Super Center, Los Lunas and Home Depot and Holiday Inn Express in Belen. These calculations of the County's share of new property tax revenue will substantially bring in revenue to the County. Mr. Fernandez said he was being very conservative in these calculations. Commissioner Pando made a motion for approval of **Resolution 2002-50** in bringing the employees back to forty-hour workweek. Seconded by Commissioner Aguilar. Discussion. Commissioner Pando voted yes. Commissioner Aguilar voted yes. Commissioner Daves voted yes. Chairman Padilla voted yes. Motion carried. 4-0.

Commissioner Aguilar left at 3:05 PM.

Resolution Creation of New Funds for Sheriff's Office – James Fernandez

US Department of Justice Grant/Homeland Security

Mr. Fernandez stated that Department of Finance and Administration asked that these funds be stand-alone funds so we would need a motion to that effect. Commissioner Pando made a motion for approval of **Resolution 2002-51**. Seconded by Commissioner Daves. Discussion. Commissioner Pando voted yes. Commissioner Daves voted yes. Chairman Padilla voted yes. Motion carried. 3-0.

Operation DWI/Operation Buckle Down

Commissioner Pando made a motion for approval of **Resolution 2002-52**. Seconded by Commissioner Daves. Discussion. Commissioner Pando voted yes. Commissioner Daves voted yes. Chairman Padilla voted yes. Motion carried. 3-0.

Approval of Warrants and Payroll – James Fernandez

Mr. Fernandez presented computer printout lists of all the checks issued by the Manager's Office on November 27, 2002 covering payroll processed on the above date. Warrant #70841 thru Warrant #70869 inclusive. Payroll #55534 thru payroll #55701 inclusive. Listing total \$172,452.50 and of that amount \$105,931.49 is from the General Fund. Commissioner Pando made a motion for approval. Seconded by Commissioner Daves. Discussion. Commissioner Pando voted yes. Commissioner Daves voted yes. Chairman Padilla voted yes. Motion carried. 3-0.

Mr. Fernandez presented computer printout lists of all the checks issued by the Manager's Office on December 5, 2002 covering vendor bills processed on the above date. Check #70870 thru Check #70947 inclusive for total of \$233,990.00 and of that amount \$60,742.59 is from the General Fund. Commissioner Pando made a motion for approval. Seconded by Commissioner Daves. Discussion. Commissioner Pando voted yes. Commissioner Daves voted yes. Chairman Padilla voted yes. Motion carried. 3-0.

Mr. Fernandez presented computer printout lists of all the checks issued by the Manager's Office on December 9, 2002 covering vendor bills processed on the above date. Check #70948 thru Check #70950 inclusive for a total of \$542,913.44 and of that amount \$4,032.06 is from the General Fund. Commissioner Pando made a motion for approval. Seconded by Commissioner Daves. Discussion. Commissioner Pando voted yes. Commissioner Daves voted yes. Chairman Padilla voted yes. Motion carried. 3-0.

Manager's Report – James Fernandez

Jail Monitor's Report – Informational

Mr. Fernandez reported for the period of November 22, 2002 to December 5, 2002 the average prisoner count was 177 with 158 male and 19 female.

Mr. Fernandez reported on the invoice from Cornell for the month of November billing amount \$272,247.74, attached is the individual billing of each of the entities. Mr. Fernandez presented revenue from marketed beds for \$101,407.28 and \$98,588.00 from Bernalillo County and also \$2,819.28 from New Mexico Department of Corrections.

The next Regular Meeting of the Valencia County Board of County Commission will be held on January 7, 2003 at 9:00 AM Executive Session and 10:00 AM Regular Session in the County Commission Room at the Valencia County Courthouse.

Adjournment

Commissioner Pando made a motion to adjourn. Seconded by Commissioner Daves. Discussion. Commissioner Pando voted yes. Commissioner Daves voted yes. Chairman Padilla voted yes. Motion carried. 3-0. Time being 3:30 PM.

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| <p>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.</p> |
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VALENCIA COUNTY BOARD OF COMMISSIONERS

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

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

S. T. FRANK PANDO, MEMBER

**ss/
ALICIA AGUILAR, MEMBER**

HELEN BACA, MEMBER

ATTEST: ss/

TINA GALLEGOS, COUNTY CLERK

DATE: January 21, 2003