

VALENCIA COUNTY BOARD OF COMMISSIONERS

Regular Meeting

June 17, 2003

Chairman Gary Daves called the Meeting to order at 5:30 P.M.

PRESENT	ABSENT
Gary Daves, Chairman	
Paul Edward Trujillo, Vice-Chairman	
Aurelio H. Padilla, Member	
Alicia Aguilar, Member	
	Mary J. Andersen, Member
James Fernandez, County Manager	
Thomas Garde, County Attorney	
Tina Gallegos, County Clerk	
Press and Public	

Chairman Gary Daves called the Meeting to order at 5:30 P.M.

Executive Session

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

Commissioner Aguilar made a motion to enter back in to Regular session. Seconded by Commissioner Padilla. Discussion. Commissioner Aguilar voted yes. Commissioner Trujillo voted yes. Commissioner Padilla voted yes. Motion carried. 3-0.

Carol Anaya, Human Resources Manager, reported as to what was discussed in executive session. The voluntary resignations of Ben Marino, Sheriff’s Deputy, Effective June 18, 2003, Rose Crumpton, Older American Program, Effective June 10, 2003, Retirement for Porfirio Olguin, Road Department, Effective July 1, 2003, Promotion With Salary Adjustment, Phyllis Baca, Older American, Effective June 23, 2003 (As per budget, this is the position left vacant by Emily Carrillo, as Route Supervisor), End of Temporary Employment for Johnny Paiz, Assessor’s Office, Effective June 27, 2003.

Tom Garde, County Attorney, reported as to what was discussed in executive session. Potential litigation regards to a cross stop and direction was given to administration to prepare a resolution with regards to that issue.

James Fernandez, County Manager reported as to what was discussed in executive session. Personnel matters were discussed on the status of an employee from the Sheriff’s Office and her continued employment with the County was discussed with the Board and no action was taken. The Los Chavez Fire Department, Rio Grande Estates Fire Department and a possibility of an infraction by an individual at that particular Fire Department will be investigated.

Commissioner Aguilar made a motion that the above items were all that was discussed in executive session as presented. Seconded by Commissioner Padilla. Discussion. Commissioner Aguilar voted yes. Commissioner Trujillo voted yes. Commissioner Padilla voted yes. Motion carried. 3-0.

Chairman Daves asked Ruben Chavez to lead the Pledge of Allegiance.

Approval of Agenda

Tina Gallegos, County Clerk read the agenda for the June 17, 2003 Regular Meeting. Commissioner Aguilar asked if she could comment on an extremely important matter during Public Request. Commissioner Padilla made a motion for approval for the June 17, 2003 agenda as read. Seconded by Commissioner Trujillo. Discussion. Commissioner Aguilar voted yes. Commissioner Trujillo voted yes. Commissioner Padilla voted yes. Motion carried. 3-0.

Approval of Minutes

April 29, 2003 - Special Meeting
May 6, 2003 – Regular Meeting
Commissioner Padilla made a motion for approval of the above minutes. Seconded by Commissioner Trujillo. Discussion. Commissioner Aguilar voted yes. Commissioner Trujillo voted yes. Commissioner Padilla voted yes. Motion carried. 3-0.

Public Requests

William Dean handed out a newspaper article for Commission review based on a moratorium study. Commissioner Aguilar requested to be placed on the next meetings agenda with regards to the river crossing and the need for a new bridge based on misconceptions and misinformation that has circulated and would like for it to be placed as a referendum on the September 23, 2003 election so that the voters can have a say on this controversial and emotional issue.

Commissioner Trujillo said he would like to praise Commissioner Aguilar for her approach on the bridge and he agrees with her because the bridge issue, as controversial as it is when it comes before the Commission it is very difficult to see where the voters stand on an issue like this. Commissioner Trujillo said Commissioner Aguilar stated that she would like an opinion from the voters that certainly does imply that if the voters state that they are in favor of the bridge, the Commission empowers to act either for or against it have been abrogated, it simply means that we are seeking input from the voters.

GENERAL REQUESTS:

Discussion possible voter referendum – Commissioner Paul Trujillo

Location of Power Plants – Valencia County of Valencia

Commissioner Trujillo said this is simply for discussion and this is mainly for respect for Commissioner Andersen because she stated she could not be here tonight. Commissioner Trujillo said the referendum that he is proposing is much in the same fashion that Commissioner Aguilar had brought up but his subject is on the location of power plants within Valencia County. Contrary to the case law that he received fifteen minutes before the meeting he is not asking for there to be zoning by referendum he is simply asking for input from the voters and would like to know where the voters stand on the issue of power plants. It is very difficult for him to get a good feel for whether the voters support approving a power plant under the alleged I-3 category and he is not saying there is an I-3 category but if there is he would like input from the voters on this important issue.

Chairman Daves asked if there has been a question formatted for this request if it is to be placed on the ballot for the September 23, 2003 election. Commissioner Trujillo said he would have this done by the next meeting as this was only for discussion.

Sudeen Kelly, representing People's Energy Resources stated on behalf of the company they had just learned about this item that was placed on the agenda on Monday and have done research on this. Ms. Kelly said their conclusion on this is that the County Commission does not have the ability to put this on as a referendum even asking for public opinion on the ballot, particularly not a referendum having to do with land use. There are a number of reasons for that conclusion but first in the New Mexico constitution there are provisions that empower the State to put the referendum on the ballot and those provisions are limited to the State. Ms. Kelly said significantly the State Constitution prohibits the State from putting referendum on the ballot having to do with health, education and welfare of which zoning and land use is considered to be. So the State is not allowed to do it. Ms. Kelly said there is nothing that authorizes the County to put referendum on the ballot and the County is a creature of the State and can't do anything without being empowered by the State to do it. Ms. Kelly said there is nothing inappropriate with the County wanting to get public opinion but the established way of getting public opinion is by public hearings and public meetings and that gets people out.

William Dean wanted a follow-up on the article that he presented earlier during public requests with regards to a study on placing a moratorium on power plants. Mr. Dean said the referendum is that you can't have a referendum on the power plant because the people will ask the Commission to thoroughly investigate how Rio Communities was designated a heavy industrial district.

Mr. Garde said he was unaware of this issue until Ms. Kelly brought it to his attention and she provided him a copy of the Westgate case. He has not researched into whether the County can in fact have a referendum on any issue but he is aware though if this County does there has to be a Resolution to each issue that this Commission adopts that would set out the question and the basis for the election. Those resolutions on either issue would have to be presented to the Commission and the Commission would have to take action and vote on this. Mr. Garde said he would request time to determine whether or not referendums would be appropriate for Counties to seek voter opinion on.

Commissioner Trujillo added that he sees this referendum as being informational only and not carrying force of law. He would like to see what the voter on the street thinks about power plants.

Bill Brown stated in his readings with the NMSA the only reference that he has come across is Article 1, Section 17-9 that authorizes a petition against a law or measure approved at the last legislative session. That is the only referendum notation that he has found and that is strictly against the state legislative measure. Mr. Brown said his confusion is on the location of power plants to where the proposed referendum will be yes or should we have them.

Accept budget from USDA Wildlife Service – George Cornelius

George Cornelius on behalf of the USDA Wildlife Service has requested the Commission accept the budget with regards to the Taylor Grazing Act in the amount of \$3,000. Mr. Fernandez said this amount is included in the budget that has been sent to DFA for approval. Commissioner Aguilar made a motion to approve the budget request in the amount of \$3,000 for the USDA Wildlife Service funds coming from the Taylor Grazing Act. Seconded by Commissioner Trujillo. Discussion. Commissioner Aguilar voted yes. Commissioner Trujillo voted yes. Commissioner Padilla voted yes. Motion carried. 3-0.

DEPARTMENT REQUESTS/REPORTS:

Request for In State Travel – Tina Gallegos

Election School July 7, 2003 thru July 10, 2003 – Santa Fe

Ms. Gallegos requested in state travel to be held in Santa Fe for Election School training on July 7, 2003 thru July 10, 2003. Ms. Gallegos said the Secretary of State's Office has mandated participation prior to the September 23, 2003 election. This request is travel for herself and the Director of Bureau of Elections, Lawrence Kaneshiro, Chris Castillo, Laura Marquez, and Sheryl Salas. The Secretary of State's Office will pay per diem for herself and Mr. Kaneshiro. She requested the County pay per diem for Chris Castillo, Laura Marquez and Sheryl Salas. This request will include a 80% advance for those three employees. Commissioner Trujillo made a motion for approval of this request as presented by Ms. Gallegos. Seconded by Commissioner Aguilar. Discussion. Commissioner Aguilar voted yes. Commissioner Trujillo voted yes. Motion carried. 2-0. Commissioner Padilla absent for this vote.

FINANCIAL/BUSINESS MATTERS:

Approval of Budget Resolutions – Edward Archuleta

Intra Transfers

Budget Increase

Road GRT

Older American Program

Legislative Appropriation

Del Rio Activity

E-911 Addressing

Permanent Cash Transfer/General County-Solid Waste

Mr. Archuleta asked for the approval of the Intra Budget Transfer Resolution and this is primarily from one line item to another to close up the books for the fiscal year. Commissioner Padilla made a motion for approval of **Resolution 2003-27** as presented by Mr. Archuleta. Seconded by Commissioner Trujillo. Discussion. Commissioner Aguilar voted yes. Commissioner Trujillo voted yes. Commissioner Padilla voted yes. Motion carried. 3-0.

Mr. Archuleta asked for the approval of the Budget Increase Resolution in the Road GRT Cash Transfer/Expenditure Capital Outlay for a total of \$503.00 and also to close out the account for the fiscal year. Commissioner Padilla made a motion for approval of **Resolution 2003-28** as presented by Mr. Archuleta. Seconded by Commissioner Aguilar. Discussion. Commissioner Aguilar voted yes. Commissioner Trujillo voted yes. Commissioner Padilla voted yes. Motion carried. 3-0.

Mr. Archuleta asked for the approval of the Budget Increase Resolution for the Older American Program Cash Transfer to offset the Legislative Appropriations in the amount of \$6.39. Commissioner Padilla made a motion for approval of **Resolution 2003-29** as presented by Mr. Archuleta. Seconded by Commissioner Trujillo. Discussion. Commissioner Aguilar voted yes. Commissioner Trujillo voted yes. Commissioner Padilla voted yes. Motion carried. 3-0.

Mr. Archuleta asked for the approval of the Budget Increase Resolution for the Revenue and Expenditure Legislative Appropriations for \$78,134.60 and this is for reimbursement for the paving of the road to the Career Academy. Commissioner Padilla made a motion for approval of **Resolution 2003-30** as presented by Mr. Archuleta. Seconded by Commissioner Trujillo. Discussion. Commissioner Aguilar voted yes. Commissioner Trujillo voted yes. Commissioner Padilla voted yes. Motion carried. 3-0.

Mr. Archuleta asked for the approval of the Budget Increase Resolution for the Revenue and Expenditure Del Rio Activity for contractual services for \$120.00. Commissioner Padilla made a motion for the approval of **Resolution 2003-31** as presented by Mr. Archuleta. Seconded by Commissioner Trujillo. Discussion. Commissioner Aguilar voted yes. Commissioner Trujillo voted yes. Commissioner Padilla voted yes. Motion carried. 3-0.

Mr. Archuleta asked for the approval of the Budget Increase Resolution for E-911 addressing for the Revenue and Expenditure Cash Transfer for Equipment Maintenance Repair in the amount of \$709.22. Commissioner Aguilar made a motion for approval of **Resolution 2003-32** as presented by Mr. Archuleta. Seconded by Commissioner Padilla. Discussion. Commissioner Aguilar voted yes. Commissioner Trujillo voted yes. Commissioner Padilla voted yes. Motion carried. 3-0.

Mr. Archuleta asked for the approval of the Budget Increase Resolution for Permanent Cash Transfer from General County to Solid Waste in the amount of \$100,000. Commissioner Padilla made a motion for approval of **Resolution 2003-33** as presented by Mr. Archuleta. Seconded by Commissioner Trujillo. Discussion. Commissioner Aguilar voted yes. Commissioner Trujillo voted yes. Commissioner Padilla voted yes. Motion carried. 3-0.

Award Bid #541 Animal Control – Edward Archuleta

Mr. Archuleta requested the Commission to award the bid #541 for the Valencia County Remodel and Addition. There were three bids received, D.A. Baker, LLC, Vigil Contracting Services and JMT Contracting, Inc. The architect, John Friedman has reviewed the bids and based on his recommendation the bid be awarded to D.A. Baker, LLC in the amount of \$226,795.00 and this includes the base bid and the additional alternative one. Commissioner Aguilar made a motion to table this item until the next meeting until there is specific information provided to the Commission and she would like to address the architect on this item. Seconded by Commissioner Trujillo. Discussion. Commissioner Aguilar voted yes. Commissioner Trujillo voted yes. Commissioner Padilla voted yes. Motion carried. 3-0.

Approval Payroll & Warrants – Edward Archuleta

Mr. Archuleta presented the computer printout lists of all the checks issued by the Manager's Office on June 13, 2003 covering payroll process on that date. Payroll Check #57901 thru Payroll Check #58073 inclusive. Deduction Check #72788 thru Deduction Check #72818 inclusive for a listing total of \$182,255.30 and of that amount \$113,044.12 is from the General Fund. Commissioner Padilla made motion for approval as presented by Mr. Archuleta. Seconded by Commissioner Aguilar. Discussion. Commissioner Aguilar voted yes. Commissioner Trujillo voted yes. Commissioner Padilla voted yes. Motion carried. 3-0.

Mr. Archuleta presented the computer printout lists of all the checks issued by the Manager's Office on June 4, 2003 and June 11, 2003 covering vendor bills processed on that date. Check #72689 thru Check #72787 inclusive for a total of \$559,451.71 and of that amount \$61,238.36 is from the General Fund. Commissioner Trujillo made a motion for approval as presented by Mr. Archuleta. Seconded by Commissioner Padilla. Discussion. Commissioner Aguilar voted yes. Commissioner Trujillo voted yes. Commissioner Padilla voted yes. Motion carried. 3-0.

Mr. Fernandez reported with the items above that were approved the cash balance from the General Fund as of today, June 17, 2003 the total amount is \$2,546,856.71.

MANAGER'S REPORT:

CPI (Consumer Price Index) Adjustments – Informational – James Fernandez
Solid Waste From April 2002/2003

Mr. Fernandez reported on the letter from Waste Management with regards to the CPI adjustment authorized under our following agreements with these particular agencies. We have verified that the CPI increase for the period of April 2002 and April 2003 was 2.2% increase and that was verified by the Bureau of Labor Statistics. This is being brought forward to the Commission as informational that we will be acknowledging to the haulers under our existing contracts that they do have the authority to pass on that 2.2% increase to their customers if they so choose.

Update GO Bond (General Obligation Bond) Informational – James Fernandez

Mr. Fernandez reported that our attorney had a discussion with our local judges and there was a suggestion to contact the Spectrum Capital Group. Mr. Fernandez said he will be meeting with the bonding attorney who handled the Sandoval County GO bonds for the Judicial Complex and will report at the next meeting.

Manager's Report – James Fernandez

Jail Monitor's Report - Informational

Mr. Fernandez reported for the period of May 30, 2003 to June 12, 2003 the average prisoner count was 135 and of that amount 114 were males and 21 were females. Mr. Fernandez added for informational purposes only that he spoke with the US Marshal, Gordon Eden, this past week regarding the status of our request for a housing contract. Mr. Eden indicated that the Marshal's service did not need additional jail space in the central part of the state.

The next Regular Meeting of the Valencia County Board of County Commission will be held on July 1, 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 Padilla made a motion to adjourn. Seconded by Commissioner Trujillo. Discussion. Commissioner Aguilar voted yes. Commissioner Trujillo voted yes. Commissioner Padilla voted yes. Motion carried. 3-0. Time being 8:00 PM.

<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>

VALENCIA COUNTY BOARD OF COMMISSIONERS

**ss/
GARY DAVES, CHAIRMAN**

**ss/
PAUL EDWARD TRUJILLO, VICE-CHAIRMAN**

AURELIO H. PADILLA, MEMBER

ALICIA AGUILAR, MEMBER

**ss/
MARY J. ANDERSEN, MEMBER**

ATTEST: ss/

TINA GALLEGOS, COUNTY CLERK

DATE: August 5, 2003