

VALENCIA COUNTY BOARD OF COMMISSIONERS

Regular Meeting

September 16, 2003

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 5:10 PM. County Clerk, Tina Gallegos read the agenda for the executive session.

Executive Session

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

Chairman Daves called the meeting to order. Commissioner Trujillo arrived during executive session. Commissioner Trujillo made a motion to enter into regular session. Seconded by Commissioner Andersen. Discussion. Commissioner Aguilar voted yes. Commissioner Trujillo voted yes. Commissioner Padilla voted yes. Commissioner Andersen voted yes. Motion carried. 4-0.

James Fernandez, County Manager reported as to what was discussed in executive session. Mr. Fernandez said under personnel matters, New Hires Pending Pre-Employment/Physical/Drug Test, Clinton Simons, Part-Time, COPS Program, Sheriff's Office, Joyce Chavez, Accounts Payable, Manager's Office, Kimo R. Benavidez, Livestock Appraiser, County Assessor's Office, Voluntary Resignation for Abraham Henson, Sheriff's Office, Effective 09-25-2003, Temporary Hires For Matthew Trujillo, County Assessor's Office, Field Trainee, Temporary Hire For Alice Torres, Early Voting Clerk, Bureau of Elections, Temporary Hire For Eileen Brubaker, Early Voting Clerk, Bureau of Elections. Also discussed with the Board was a salary adjustment for two employees in the County Assessor's Office, direction was given to administration to get additional information and clarification regarding this matter. No action was taken.

Tom Garde, County Attorney reported as to what was discussed in executive session. Mr. Garde said under litigation we discussed the status of the Burris/Yates lawsuit, no action was taken. We discussed the status of the declaratory judgment action pending on Ber Ben Road and Mr. Garde advised the Commission that a trial date has been scheduled on that matter. We discussed a pending decision with regards to two lawsuits involving the Sheriff's Department that was held before Judge MacDonald two weeks ago. No action was taken.

Commissioner Padilla made a motion to accept the reports as presented. Seconded by Commissioner Trujillo. Discussion. Commissioner Aguilar voted yes. Commissioner Trujillo voted yes. Commissioner Padilla voted yes. Commissioner Andersen voted yes. Motion carried. 4-0.

Chairman Daves asked Marcel Reynolds to lead the Pledge of Allegiance.

Approval of Agenda

Ms. Gallegos read the agenda for the regular meeting of September 16, 2003. Commissioner Trujillo said he would like to move Item L, Request To Go Out To Bid For Construction to follow under Item E, RFP Adult Detention Update to accommodate the public that is present here tonight. Mr. Fernandez said he will be presenting Item J, Award Bids For Older American Program as Ms. Gonzales had a family emergency as well as Item G, Request For In-State Travel for Ruben Chavez and Beverly Gonzales. Commissioner Andersen said she would like to move Item M, Approval of Payroll and Warrants after Commissioner Trujillo's request as there are people in attendance for that item. Commissioner Andersen made a motion to approve the agenda with the minor changes. Seconded by Commissioner Trujillo. Discussion. Commissioner Aguilar voted yes. Commissioner Trujillo voted yes. Commissioner Padilla voted yes. Commissioner Andersen voted yes. Motion carried. 4-0.

Approval of Minutes

August 19, 2003 – Regular Meeting

September 2, 2003 – Regular Meeting

Commissioner Andersen 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. Commissioner Andersen voted yes. Motion carried. 4-0.

Public Requests

Jose Silva had concerns on the two-acre minimum with regards to a deed to his son and the deed reflects one acre. Mr. Silva is asking the Commission on how to handle this situation. Commissioner Aguilar said that Mr. Silva had met with staff and the issue is, as part of his will he wants to deed the house on one acre to his son. Staff has told him that it has to reflect the two-acre minimum as per ordinance. Commissioner Aguilar said as she understands it with the zoning ordinance is that he is allowed to go to RR1 with the approval of the Commission and this could become an agenda item in the near future. He lives on 19 acres but he wants to be able to have his documents in order for the future. Chairman Daves said that Mr. Silva can get with staff to be on the agenda so that the Commission can make a determination of his request. Commissioner Trujillo said if this is part of his will and that will has been notarized and dated then that would be important in bringing that to the attention of our administrator to proceed. No Action Taken.

Pat McKelvey said he is seeking an update on the ongoing projects in the Rio Communities area-involving Valencia County. The lights and poles on Hwy 47 between River Road and Golf Course Road which PNM has replaced all of the lights that they can but certain parts of those poles or missing poles in some cases require the approval of the County. Mr. McKelvey said he wants to know where we stand on that project. The legislature approved the lights on Golf Course Road in the 2000 session through an appropriation and a meeting was held. Mr. Fernandez said that meeting was held with Representative Cordova and a member with Molzen Corbin who serves as an Engineer for the County on a retainer. Mr. Fernandez said the process has started. Mr. McKelvey said his second concern is with a flood plain situation in one section of his area. Discussion ensued. No Action Taken.

Chairman Daves commented that Commissioner Trujillo with regards to his daytime jobs, this Commission needs to consider accommodating his schedule to reflect his job changed schedule in the possibility in amending our meeting times. Chairman Daves said he wanted to bring this to the Commission's attention as well as the public. What is recommended is to have both night meetings to accommodate people's working schedules to allow those that are elected to reasonably attend meetings.

Chairman Daves said that he had mentioned this matter to one other Commissioner but that he and a citizen discussed renewing or recreating a trash committee that this Commission established in 2001 and he is asking the new Tierra Bonita Coordinator to help in developing a resolution for Commission consideration into that matter for the upcoming meeting.

Commissioner Aguilar said that it has been brought up about changing the meeting times so what does he suggest. Chairman Daves said both meetings starting at 5:00 PM. Commissioner Aguilar said this should be placed on the agenda so that we can receive public comment because the situation has been discussed in the past. The reasons in having a day meeting and an evening meeting are very valid and we need to consider the issue of staff, we will need to pay extra for the staff members to be here in the evening meetings.

ACTION ITEMS:

GENERAL REQUESTS:

Proclamation For Valencia County Soldiers 281st Transportation Co. – Theresa Baca

Mr. Fernandez said we received a request from Ms. Baca in regards to a proclamation in recognizing the individuals who are currently involved in Operation Enduring Iraqi Freedom. Mr. Fernandez said that Ms. Baca's son is in the audience tonight and she would like to recognize him. Mr. Fernandez read the proclamation. Commissioner Aguilar said she would like to recognize those that have someone serving our country or are in attendance tonight. Commissioner Aguilar said thank you to those in attendance identifying your sons and daughters because they are there to benefit us and this is what democracy is all about.

Josh Baca
Jack Douglas Adeo
James Carter
Michael Anthony Rael
Kylee Estrada

Commissioner Padilla thanked the people in attendance for having their sons and daughters keeping our country protected and all the ones serving with such dignity and honor and keep them in our prayers and hope they come home soon.

Commissioner Trujillo made a motion for approval of the proclamation as read by Mr. Fernandez. Seconded by Commissioner Aguilar. Discussion. Commissioner Aguilar voted yes. Commissioner Trujillo voted yes. Commissioner Padilla voted yes. Commissioner Andersen voted yes. Motion carried. 4-0. Chairman Daves said he as well supports this proclamation.

Request For Resolution In Support Of The Whitfield Migratory Wild Life – Marcel Reynolds

Marcel Reynolds with the Soil and Water Conservation District requested support from the Commission of the Whitfield Migratory Wild Life Area being developed south of Belen on Hwy 47, which is 97 acres. Mr. Reynolds read the proposed resolution and handed out a concept plan of the area. Mr. Reynolds said the proposed wildlife area will be beneficial to the economic and aesthetic well being of the county to create open space and to keep the valley rural. Commissioner Andersen said she would support this resolution just as long as it is not a financial obligation on this County. Mr. Reynolds said it is support only that this request is being asked of from the Commission. Commissioner Trujillo said he would like to commend Mr. Reynolds and his organization for this project and he wishes much success with it. Commissioner Padilla said Mr. Reynolds has done a great job with open space and he fully supports this project. Commissioner Aguilar made a motion for approval of **Resolution 2003-47** in support of this item. Seconded by Commissioner Andersen. Discussion. Commissioner Aguilar voted yes. Commissioner Trujillo voted yes. Commissioner Padilla voted yes. Commissioner Andersen voted yes. Motion carried. 4-0.

PLANNING & ZONING MATTERS:

FACTS & FINDINGS:

Findings & Conclusion: C1 to C2 – Tom Garde

Tract 72-B-1 El Cerro, Los Lunas – Robert Becker

Mr. Garde said before this Commission are the findings and fact and conclusions of law which were developed during the hearing that was held two weeks ago with regards to Robert Becker's application to amend a zone map from a C1 designation to a C2 designation. The significant portions with regards to the findings and fact on paragraph 6,7,8 which reads the applicant has not adequately demonstrated that he has addressed traffic movement to the proposed businesses into and out of his property on El Cerro Road. And that El Cerro Road is a high traffic volume roadway and that the applicant has not identified his plan to insure smooth traffic flow into and out of his property and that the applicant has not provided adequate information concerning market demand for the proposed uses on the property. With regards to the conclusions of law set forth the restrictions on C1 and based on the findings there is no access traffic turning movement and off street parking were not provided by the applicant. The decision of this Commission was to deny this amendment to zone map from a C1 to a C2. Commissioner Aguilar made a motion to accept the facts and findings as presented by Mr. Garde. Seconded by Commissioner Padilla. Discussion. Commissioner Aguilar voted yes. Commissioner Trujillo voted yes. Commissioner Padilla voted yes. Commissioner Andersen voted yes. Motion carried. 4-0.

DEPARTMENT REQUEST/REPORTS:

Update On Road Projects For October – Dan Trujillo

Mr. Trujillo updated the Commission on the status of the road projects for the month of October.

RFP Adult Detention Update – Tom Garde

Mr. Fernandez presented a draft of a RFP for the operation of the Adult Detention Facility and this is taken from a sample document and modifications have been made to it. Chairman Daves said he hopes the Commissioners have had an opportunity to review this draft and he would like to thank Mr. Garde for the preparation of this draft. This is a starting point with this draft and we are one facility within the state with accreditations that meet ACA and NCCHC standards. Chairman Daves said this comes at an awkward time in the time frame with the contract terms of July 7, 2004 to get proposals and get interviews and to make a decision whether the current contractor retains the contract or some other is chosen. There has been discussion and he is open to Commission discussion with regard to of the possibility of terminating the agreement early but we are at a time it would be difficult to do that. The RFP needs to be structured so that the proposers know what we are asking for like cost proposals that are good for 120 days for a contract that would begin July 7 if they give us a proposal just to say on February 1 so 120 days would end long before July 7. Chairman Daves said we have a mechanical issue but he feels we can deal with this on this RFP matter.

Commissioner Andersen said it does need a statement of expected term of any contract that might ensue as a result of this RFP. There is nothing in here that says we would expect to start at a certain date and end on a certain date if we all agree on such terms. Commissioner Andersen said any responsible bidder would want to know that.

Mr. Garde said this is a draft and he doesn't know what this Commission wants but the State law does provide that these contracts can go for up to five years with one year renewal and after that for a total period of ten years. The statute also provides certain requirements that must be complied with and within those requirements there are minimum standards that must be set out with regards to the operation of the facility with regards to training. The statute doesn't say what those minimum standards are so the contract to be negotiated must have minimum standards that they need to comply with be it ACA or be it some other standards that has to be set forth in the contract.

Commissioner Trujillo said he had a question and this might be for Mr. Garde but the prior negotiated contract with Cornell, did that go through an RFP process? Mr. Garde said under the procurement code there is an exception to jail contracts having to go through an RFP process. The County did not go through an RFP.

Commissioner Aguilar commented in having this RFP go out, she would like to simplify it and clarify it and state some of the benefits that Cornell has given to this County. Cornell doesn't indemnify the County for liability from any lawsuits on the operation of the Detention Facility from the inmates. Cornell Co. also indemnifies the County for liability from lawsuits, for detention center operation from employees, workers, compensation and EEOC claims and provides to the County financial certainty.

The contract is a fixed rate and is responsible for any fluctuations, they pay for the utilities, gasoline costs and if those go up, the cost does not come to the County, that is a fixed rate, Cornell Co. is also responsible for all the operational costs of the facilities, it provides an enhanced staffing pattern and provides appropriate security for the facility, staff, inmates and the community. The implementation is a state of the art jail management computer system that is very important when we are talking about transition because that belongs to Cornell. When someone is coming in and there is transition you are giving them a shell and you are giving them inmates, they are starting from scratch. The processing of monthly billings to outside agencies, Cornell does that, the County does not bill outside agencies for any outside inmates yet we do benefit from the revenue of that. They are also responsible for all of the training program and in the RFP it talks about 40 hour basic course, two correction officers, Commissioner Aguilar said to her understanding the training has to apply to anyone and everyone that works within the facility whether they be maintenance office or whatever so this needs clarification and there is additional training after the first year. The 40 hours is only for new employees, Cornell provides the security uniforms and the equipment, they have also established a tactical team and they receive specialized training to handle emergency situations and they also have a state of the art armory for control of inmate population. They have a provision for full range health service and have a nurse on staff on a daily basis, the current RFP system states that they are on call. They are responsible for offsite medical transports and security, they have established a facility wellness center, and they provide security and supervision for inmate work crew. We use the inmates for cleaning county offices and Commissioner Aguilar said she would like to see that continue because we do not pay for those services. They have implemented a work release and work furlough program, they pay us to have a jail monitor and they have implemented an electronic monitoring program.

Commissioner Trujillo asked Commissioner Aguilar that he noticed she was reading off a prepared document and he wanted her to identify it and who prepared it. Commissioner Aguilar said this document goes back a couple of years and she had it in her files, it is Cornell County benefits and was presented to the County at one of the meetings. Commissioner Trujillo asked for a copy.

Chairman Daves said some of those provisions are in the RFP and Cornell has provided good services to the County and their inmates but his desire for continuity is that Cornell will continue on a competitive basis. And as we get our proposals in we will be looking with the overriding goal that we have a decent jail that we can be proud of as we have right now and continue to do that. Chairman Daves said that staff will look at these issues that have been brought up and we can go forward with the process.

Request To Go Out To Bid For Construction – James Fernandez

Roof – Jarales Community Center

Tabled: September 2, 2003

Commissioner Trujillo would like to allow the residents of Jarales to come forward and present their views on this item. Mr. Fernandez updated the Commission that this item is a request to go out for bid on a roof at the Jarales Community Center. This is the property that was formally a school site, we have requested the County architect to go ahead and update the bidding documents. The County has currently two legislative appropriations for this project that totals \$125,000 to plan, design and construct.

Tom Morgan said he is a resident of the Jarales area and his concern is to bring this community together on this facility and turn it into something useful.

Abran Gabaldon said he is not a resident of Jarales but his concern is more with the historical value of this building. He has recently moved back from Massachusetts and there they restore and convert old buildings into story telling areas for the elderly. Mr. Gabaldon said when he saw this on the agenda he felt that this needs to be done because so much of our history is being wiped away. The refurbishing of this community center for that area would be of a great value for generations to come.

Reyna Trujillo said her concern is a building that has been around for a long time and should be restored, renovated; it should be used for something useful for the elderly or the children. This would benefit the community and show the history of the area.

Bill Brown said he is not a resident of Jarales but he would bet a few people here have been inside that building. That building is a shell, the back door for years has been broken and open, open to vandals, open to the homeless and it is gutted. The value of that building other than emotional is the stucco holding it together because inside it is shambles. Mr. Brown said he suggests that in this time of limited finances there are other crying needs of the County, especially for an urgent care center, for consolidated 911 dispatch center, for a landfill, a transfer station that is paid off and road repairs. Mr. Brown said for a \$125,000 is but of a tip of the iceberg that will carry you deeply into further expenditures because that building is gutted. It is tough to balance all kinds of considerations and all kinds of territories but he would recommend the total cost, if this is going to be done versus alternative benefits.

Commissioner Trujillo said he was in the building a few months ago with an architect and they walked through the building and he stated that the building was a nice solid structure with no structural defects and will stand for a long time. His recommendation was for renovation and the cost would be less than it would be to build new per square foot. The building was constructed under WPA in the 1920's and Commissioner Trujillo said he worked getting it on the historical register and it was placed on the record. Funds were allocated for the renovation but the funds were never released back in

1999. In the Commission's packets there is a letter from an individual who is not a resident of Jarales but it states to elected officials and states the old Jarales school is falling apart and so forth and there is loud parties, drug transactions every night, etc and Commissioner Trujillo said he lives across from the building and has never heard the wild parties that are alleged. There is a petition that is attached to this letter that is at least six years old and does not refer to the old Jarales School, it was signed by citizens not only of Valencia County but other places in New Mexico and it asks for a new building to serve as a Jarales substation for security. This petition is at least six years old and no reference is made to the old Jarales School. Commissioner Trujillo said if it is in such poor shape as Mr. Brown earlier described the state would probably not have accepted it as a historic monument. He recommends that we take the money that was designated by the state not for general-purpose use within Valencia County but specifically for the purpose of providing the community center for the residents of Jarales and that we go forward and use it as it was designated.

Commissioner Aguilar said this issue has come before us but what we need to understand is that these are not County funds, these are state appropriations brought forth by State Representative Fred Luna and there are definitions in those appropriations on how to utilize those funds. The community is split on this issue and it has to be done by state historical standards. Commissioner Aguilar said she understands the emotional and cultural feelings towards that facility but it is not our decision, we need to follow what is on the appropriations and the County needs to handle it more like a fiscal agent.

Commissioner Padilla said he was raised in Jarales and he likes old things, like rebuilding old cars, old buildings, you have to have a vision and that is what this building if given a chance would look like because it has a lot of possibilities. Commissioner Padilla said he can't see destroying that building because it has been there for so many years.

Commissioner Padilla made a motion for approval of this request to go out to bid for construction of a roof for the Jarales Community Center. Seconded by Commissioner Padilla. Discussion. Commissioner Aguilar voted no. Commissioner Trujillo voted yes. Commissioner Padilla voted yes. Commissioner Andersen voted yes. Motion carried. 3-1.

APPROVAL OF PAYROLL & WARRANTS – James Fernandez

Mr. Fernandez presented the computer printout lists of all the checks issued by the Manager's Office on September 5, 2003 covering payroll process on that date. Payroll Check #58939 thru Payroll Check #59015 inclusive. Deduction Check #73471 thru Deduction Check #73503 inclusive for a listing total of \$189,287.75 and of that amount \$126,900.28 is from the General Fund. Commissioner Padilla made a motion for approval as presented by Mr. Fernandez. Seconded by Commissioner Andersen. Discussion. Commissioner Aguilar voted yes. Commissioner Padilla voted yes. Commissioner Andersen voted yes. Motion carried. 3-0. Commissioner Trujillo absent for this vote.

Mr. Fernandez presented the computer printout lists of all the checks issued by the Manager's Office on September 15, 2003 covering vendor bills processed on that date. Check #73504 and Check #76507 thru Check #73600 inclusive for a listing total of \$518,954.74 and of that amount \$47,487.36 is from the General Fund. Mr. Fernandez said assuming the payment of these items the General Fund cash balance is \$1,076,194.14. Commissioner Andersen questioned a cleaning charge on one of the services to the County. Mr. Fernandez said he would get an answer back to Commissioner Andersen with regards to her question. Commissioner Padilla made a motion for approval as presented by Mr. Fernandez. Seconded by Commissioner Andersen. Discussion. Commissioner Aguilar voted yes. Commissioner Padilla voted yes. Commissioner Andersen voted yes. Motion carried. 3-0. Commissioner Trujillo absent for this vote.

Mr. Fernandez presented the computer printout list of all the checks issued by the Manager's Office on September 12, 2003 covering payroll process on that date. Payroll Check #59106 thru Payroll Check #59151 inclusive. Deduction Check #73505 thru Deduction Check #73506 inclusive for a listing total of \$22,023.88 and of that amount \$1,564.92 is from the General Fund. Mr. Fernandez said this item is the payment of stipends in the amount of \$22,023.88 and approximately 40 W-4's have been turned over to the County by the Fire Marshal and based on those these are the payments for those individuals.

Jack Dickey, Chief Adelino-Tome Fire Department said he had concerns that need to be addressed before this Commission approves any further disbursements on the firefighter stipend fund. Mr. Dickey asked the Commission to not approve the disbursement at this time, the issue is not taxes, the issue is the ramification of individuals signing the W-4. We don't have a clear definition of what is going to happen when the firefighters sign a W-4 for the County. Mr. Dickey said he doesn't believe all the options have been explored but he does know that Belen and Los Lunas Fire Departments paid their firefighters on a per run call basis and they used a 1099 mechanism. There are a lot of issues that have not been fully addressed at this point. Mr. Dickey said the program was built as an incentive program not as a paid program for people to make a living. Please reconsider approving this payment and address all the issues and get an opinion from a tax authority that can answer this issue definitively whether we are getting a 1099 tradition or W-4.

A. Brian Culp, Chief of Los Chavez Fire Department said he concurs with Chief Dickey and there has been about 40 firefighters out of 114 which is 35% of the firefighters receiving the stipend. Mr. Culp said the biggest issue is the concern of signing the W-4 of how to classify whether it be a county employee, part-time, or temporary employee as per the County personnel ordinance. Mr. Culp said there hasn't been anything set in writing as to a legal opinion as to this is the best method to

distribute these monies. This has been hard on the fire departments in the rank in file. But there is a majority of the fire fighters have not turned in their W-4's are still under the understanding that this was an incentive program not a paid program.

Chief L.E. Ruben from Rio Grande Estates said this issue has been going on for three months and has not come to a resolution. It is important that that money get dispensed but before the Commission does this they should seek firm counsel on where we are with that before we take and classify half of the people in this County as employees. Mr. Ruben said when the program was put together it went before counsel and reviewed and then went before this Commission and passed but subsequent to those things happening then these tax problems came up.

Carl Backstrom, Highland Meadows Fire Chief, said he does understand the problems we would have with the W-4 and this has been ongoing for a few months and a lot of discussion. Mr. Backstrom said what we need now is a consensus but he would like to respond to Chief Culp's statement that there are 43 firefighters out of 114 that the W-4's have been issued. We have had three months to do research but we should allow those members are waiting on the funds to accept them and with the rest of the money is not going to be paid to those 43 members, the disbursement will remain the same amount that was agreed upon per member depending on who has turned in those forms. Mr. Backstrom said he does have firefighters who do need that money and it would be prudent to disburse that amount of money and then continue with the research for those members who can't sign a W-4 form.

Commissioner Padilla said we have discussed this at length and this Commission took a vote on the W-4 forms and our attorney has given us an opinion and there are members who are waiting for their money and he thinks we should go ahead for disbursement of these monies. Commissioner Padilla made a motion for approval of the disbursement of the stipends. Seconded by Commissioner Aguilar. Discussion. Commissioner Aguilar said when we started with this issue our Fire Marshal, John Cherry and his recommendation was that they were stipends and to go with the W-4 and our former Business Manager looked into this and mentioned that the IRS dictated as such, they also checked with the auditors and they came back with the same information. Our attorney reviewed it and his recommendation was to go W-4 and she has received a lot of calls from firefighters not only in her District but others as well and they are waiting for that stipend which isn't that much but it is an incentive and it is time to move ahead and that we provide this money to them. James Irick requested the items that Commissioner Aguilar refers to in writing and that would help him. Commissioner Trujillo said he doesn't feel like we have made any progress in the three months but we do have to go with IRS regulations. Commissioner Andersen said we do have a letter from IRS that says that you can't use a 1099 which is a letter that Mr. Archuleta had and she has a copy of it. Chairman Daves polled the vote. Commissioner Andersen voted yes. Commissioner Padilla voted yes. Commissioner Trujillo voted yes. Commissioner Aguilar voted yes. Motion carried. 4-0.

Commissioner Trujillo made a motion to direct management to obtain an opinion from a CPA of legality to issue 1099's in writing. Seconded by Commissioner Andersen. Discussion. Mr. Garde said in the Commission's packets our County Auditor has clarified that. Commissioner Trujillo said then if that has been done this letter needs to be distributed amongst the firefighters who have questions about using a 1099 but he would still like to get a second opinion. Commissioner Aguilar said we need to be frugal, we have the IRS regulation, we have an opinion from CPA and if that can be provided then that should be enough. If we expend additional funds it could run into money and the financial state that we are in could make a difference. Chairman Daves called for the vote of the motion. Commissioner Andersen voted yes. Commissioner Padilla voted yes. Commissioner Trujillo voted yes. Commissioner Aguilar voted no. Motion carried. 3-1.

Request Approval Resolution Animal Control Advisory Committee – Anne Aragon

Tabled: September 2, 2003

Ms. Aragon said the Valencia County Animal Control Advisory Board requested to be officially recognized by the Commission and the resolution before you provides for such recognition. This resolution has been reviewed by our County Attorney, Mr. Garde and at this time requesting approval of this resolution. **Commissioner Andersen made a motion for approval of Resolution 2003-48. Seconded by Commissioner Trujillo.** Discussion. Chairman Daves said we have people in the audience that want to speak on this item.

Judy Babcock, Chairman of the Advisory Board asked that the Commission approve the Resolution, the Commission has appointed nine members to the Board, and there are three breeders, three animal welfare representatives, a veterinarian, a grant writer and one that does rescue. The Director, Anne Aragon has done a great job under duress; we hope that we can help but do ask the Commission to approve the Resolution.

Myrna Schwartz said she is a resident of El Cerro Mission and suggests that the Animal Advisory Board be dissolved. Her experiences in trying to give input to the Board and the work that she has seen done by this Board in the past year leads her to believe this Board does not deserve to be addressed as Valencia County. The members of this Board repeatedly and emphatically expressed in personal conversations and in writing the utmost contempt of the citizens and elected officials of this County. Ms. Schwartz said attempts by these citizens to communicate their concerns have been thwarted by some of the members in a number of ways and is difficult to locate a reliable time, date and an agenda. Members of the Board are systematically rude to participants and to each other and using obscenities when challenged or questioned, they defend their supercilious attitudes. Ms. Schwartz said several people on the Board and from the public have attempted to bring to the fore

information from nationally known organizations addressing the problems before the Board only to be greeted with a disconcerting and continuing show of personal hostility from the Chairperson and others both at the meetings and in written correspondence. The chairperson should follow Roberts Rules of Order during the meeting. Ms. Schwartz said giving this Board permanent status is not a good idea at this time. These kinds of volunteers do not have the necessary skills of writing ordinances or at getting the trust, cooperation and input of the community. Please dissolve this so called advisory board and give us a simple, fair and enforceable ordinance based on state law requirements within the abilities of our resources.

Kelta Narbutovskih from Highland Meadows said she has lived in Valencia County for five years and in that time she has had contacts with the Animal Control. When she first came they were very hard but there has been a lot of improvement and the people who work there have been very nice to her.

Terrence Toomey said what is before us tonight is making the Advisory Board a permanent Board and he wants this dissolved. This Board is not doing its job and does not obey the rules of the Animal Control Association.

Amy Berretta said her question is who decided who would be on the Advisory Board? She said she would have like to have input on this matter.

Chairman Daves said the Commission decided as to who is on the Board through an application process.

Ginger Segal said she did what the Commission asked her to do in 2002 to go out and get input from the public and find out what the people wanted. She questioned the public everywhere she went and they wanted to know what the Advisory Board was. Nobody had heard of it and the ones that had said negative things about the Board. We have a concern with some areas that the people who do not speak English. Ms. Segal handed out information to the Commission. Ms. Segal said she is not pleased with the Chairman of the Advisory Board.

Mark Rosenbloom said he is a member of the Advisory Board and there is a Hispanic member of the Board, which is the vet. Mr. Rosenbloom went through the procedures of what the Board does and instead of the Board being negative it is the public and he is insulted with some of the things that have been said here tonight.

Ron Wallenberg said he is from Los Chavez and he came to a Commission meeting about a year ago and we have two extremes, the committee and the citizens that are upset about it. The County has existing laws and the State has existing laws and both help each other out and that is what we should do.

Commissioner Trujillo called for the vote.

Commissioner Aguilar said she will not be voting on this resolution because in going back a couple of years ago and it is still on the table that there is a petition for a grand jury investigation of which she was bifurcated but also the whole issue that is going on is enforcement. Commissioner Aguilar said we have a good ordinance and it is a matter of fine tuning and enforcing it but looking at the budget and how to do it. She brings that grand jury issue up because her understanding is that we are in essence delegating authority whether we think we are or not to another Board and she is making herself responsible for their actions. She does not like what she has heard this evening and she does not like the phone calls she has received, and in addition to that she states that there is an expert named Shari Gold that wanted to be on the Board and she came forth and said she will contribute her expertise to help write policies and review what is going on which was denied. Another lady Marci Britton has been good about bringing forth recommendations and those have been totally ignored and the last thing she would like to say whether it is alleged or not she has received a phone call and was told the first area to be targeted in enforcing or doing anything with Animal Control would be El Cerro Mission and that upsets her immensely. She feels that the ordinance should be fair to everyone and we should not target one specific area because of his or her income level or living conditions. If we are going to go out and enforce it let's make sure we have the budget and let's look at everything out there and prioritize it. So with that she recuses herself from this vote.

Chairman Daves called for the vote. Commissioner Andersen voted yes. Commissioner Padilla voted yes. Commissioner Trujillo voted yes. Motion carried. 3-0. Commissioner Aguilar recused from voting.

Award Bid#542 For Metal Building Highland Meadows – John Cherry

Mr. Fernandez said this item did go out to bid and we received two bids, one from C.C. Construction in the amount of \$118,350.00 and they did supply a performance bond. The other one was from Don Watson Construction in the amount of \$72,473.30 but they did not supply a performance bond as required in the specifications. The Fire Marshal, Mr. Cherry recommended that the bid be awarded to C.C. Construction. Highland Meadows gets disbursed \$32,000 from the fire excise tax, which is normal disbursement, and we can use this because we are \$50,000 short or do a lease purchase. Discussion ensued on the best policy of how to proceed with this matter. Mr. Garde said we are more in a finance situation than a lease purchase so we would have to go to the New Mexico Financing Authority to do that. Commissioner Andersen made a motion that we approve Bid #542 for a metal building at Highland Meadows upon the recommendation of the Fire Marshal, Mr. Cherry. Seconded by Commissioner Aguilar. Discussion. Commissioner Aguilar voted yes. Commissioner

Trujillo voted yes. Commissioner Padilla voted yes. Commissioner Andersen voted yes. Motion carried. 4-0.

**Request Approval For Transfer Of Liquor License Ownership – Tina Gallegos
Renate L. Wilder to Debora Roach – Wild Pony
4555 Highway 314 South – Los Lunas**

Ms. Gallegos requested the approval of the transfer of ownership for the liquor license from Renate L. Wilder to Debora Roach for the Wild Pony establishment. We were notified from the New Mexico Regulation and Licensing Department of an application for transfer. The applicant was Ms. Roach and Ms. Wilder who is the owner of record and the transfer would be to Ms. Roach. This was published in the local newspaper as per statute and we need the Chairman's signature should approval be granted this evening. Chairman Daves asked if anyone from the public had any comment. Commissioner Trujillo made a motion for approval. Seconded by Commissioner Aguilar. Discussion. Commissioner Aguilar voted yes. Commissioner Trujillo voted yes. Commissioner Padilla voted yes. Commissioner Andersen voted yes. Motion carried. 4-0.

Request For In-State Travel:

Las Vegas, NM – September 24th thru September 26th, 2003 – League of Zoning – Ruben Chavez

Santa Fe, NM – September 11th thru September 12th, 2003 – Blue Ribbon Tax – Beverly Gonzales

Mr. Fernandez said before this Commission are two requests one for in state travel for Johnny Mirabal and Toby Jaramillo for the League of Zoning Officials meeting Sept. 24-26 and the amount requested is \$95.00 for registration for each individual for \$190.00 and room in the amount of \$88.00 and the third individual Anna JoJola is in the process of seeking a scholarship which would pay for all expenses. Commissioner Aguilar had a question when we did the budget there was an amount that was proposed for P & Z, do we know what that amount was? And her second question is that not that she doesn't think that our employees should attend the seminars because this is the League of Zoning officials which is more geared towards Villages, City's and Municipalities and when she sees the entire staff of P & Z going and they have attended several meetings, we don't get any feedback. When they attended the Flood Plain Managers meeting and she was told they were all going to be testing not one of them got certified so she would like to see more of a balance because it concerns her if we approve this the whole Department is gone, when we have so many problems and issues within this department. Mr. Fernandez said in terms of the amounts set aside the registrations fees and the mileage and per diem was all under the Board with exception of two departments, the Clerk's and the Appraiser's Office. Commissioner Trujillo made a motion for approval of this request. Seconded by Commissioner Andersen. Discussion. Commissioner Aguilar voted no. Commissioner Trujillo voted yes. Commissioner Padilla voted no. Commissioner Andersen voted yes. Chairman Daves broke the tie and voted yes. Motion carried. 3-2.

Mr. Fernandez said the second request is an item that has already taken place for the County Assessor, Beverly Gonzales who is the representative on the Board of Directors and there was a meeting held in Santa Fe with regards to the Blue Ribbon Tax Commission Meeting and she is requesting reimbursement from her appraisal fund. Commissioner Andersen said she would like a report on this meeting. Mr. Fernandez said this Commission does have in their mail a detailed fax from the Association of Counties of what took place. Commissioner Aguilar made a motion for approval. Seconded by Commissioner Trujillo. Discussion. Commissioner Aguilar voted yes. Commissioner Trujillo voted yes. Commissioner Padilla voted yes. Commissioner Andersen voted yes. Motion carried. 4-0.

**Permission To Apply For Funding From – Barbara Garcia
Law Enforcement Block Grant Program-LLEBG**

Ms. Garcia said that Valencia County has submitted their application for funding from their local law enforcement block program through the Bureau of Justice. And through this funding Valencia County is eligible to receive \$30,261.00 with a matching requirement of \$3,362.00 for a total amount of \$33,623.00 and in talking to Sheriff Perea this match will come from the Sheriff's Gross Receipts. Commissioner Andersen made a motion for approval. Seconded by Commissioner Aguilar. Discussion. Commissioner Aguilar voted yes. Commissioner Trujillo voted yes. Commissioner Padilla voted yes. Commissioner Andersen voted yes. Motion carried. 4-0.

FINANCIAL/BUSINESS MATTERS:

**Award Bids For Older American Program – Mary Ann Gonzales
Bids #543 – Foods-Non-Foods
Bid #544 – Meat, Fish & Poultry
Bid #545 – Dairy**

Mr. Fernandez presented this item on behalf of Ms. Gonzales to award Bid #543, #544, and #545 and Ms. Gonzales requested if these three bids could be approved on a per line item basis allowing the submissions of each of the entities be accepted at the time the items are purchased that they would go to the lowest bidder. Commissioner Aguilar made a motion for approval of all three. Seconded by Commissioner Trujillo. Discussion. Commissioner Aguilar voted yes. Commissioner Trujillo voted yes. Commissioner Padilla voted yes. Commissioner Andersen voted yes. Motion carried. 4-0.

MANAGER'S REPORT:

Manager's Report – James Fernandez

Jail Monitor's Report – Informational

Mr. Fernandez reported for the period of August 29, 2003 to September 11, 2003 average population was 134 inmates and of that amount 120 were males and 15 were females. Mr. Fernandez provided the Commission with an update in terms of the revenue that has been received for the Adult Detention Facility. The revenue that has been received since September 16, 2003 was \$95,166.59 or approximately 25% of the total budgeted revenue has been received on the above date.

Mr. Fernandez reported there will be a Special Meeting for Canvassing of the September 23, 2003 Special Election on Friday, September 26, 2003 at 2:00 PM in the County Commission Room.

The next Regular Meeting of the Valencia County Board of County Commission will be held on October 7, 2003 at 9:00 AM Executive Session and 10:00 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. Commissioner Andersen voted yes. Motion carried. 4-0. Time 10:10 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**

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

**ss/
ALICIA AGUILAR, MEMBER**

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

ATTEST: ss/

TINA GALLEGOS, COUNTY CLERK

DATE: October 2, 2003