

**VALENCIA COUNTY BOARD OF COMMISSIONERS**

**Regular Meeting Held At The**

**Los Lunas Consolidated Schools Board Meeting Room**

**December 3, 2003**

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

Chairman Gary Daves called the Meeting to order at 4:00 PM.

**Executive Session**

Chairman Daves read the agenda for the executive session of the Regular Meeting of December 3, 2003. Commissioner Trujillo made a motion to enter into executive 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.

Chairman Daves called the meeting to order at 6:00 PM and asked for a motion to enter into the Regular session of the meeting. Commissioner Trujillo made a motion to enter into regular session. 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.

Carol Anaya, Human Resources Manager, reported as to what was discussed in executive session. Voluntary Resignation for Frank Otero, GIS Operator, Assessor's Office, End of Seasonal Employment for Matthew Trujillo, Assessor's Office, Certification for Debra Hall, Sheriff's Department. The Commission discussed to set up interview for Wednesday, December 10, 2003 at 1:30 PM for the applicants for the Business Fiscal Manager.

Art Castillo, Interim County Manager said we also discussed a briefing concerning pending litigation against Valencia County.

Tom Garde, County Attorney reported that during executive session under litigation the Commission discussed the status of the ED Compliance Order with an extension of January 19, 2004 and he advised the Commission with regards to the Robert Becker zoning appeal that is being withdrawn by Mr. Becker and we should have an order to that effect by next week. We discussed pending zoning cases involving Valencia County with two appeals in District Court, one involving the Leroy Aragon appeal and the second Manuel Martinez, all briefing has been done on these cases. We discussed the two cases with the Court of Appeals, People's Energy appeal and the Steven Otero appeal. We discussed pending zoning cases involving the enforcement of the zoning code, one case was dismissed today and the second case is rescheduled for a hearing for next week and that one is expected to be dismissed also. We discussed the status of the David Martinez various lawsuits, Judge Sanchez ordered Mr. Martinez to compare and produce a survey with 120 days from the date of he last hearing which was last week. There may be other zoning issues and Mr. Garde said he would advise the zoning office on how to proceed with those matters. Mr. Garde said the County has filed a short cause hearing on a case involving Dave and Elizabeth Crossley involving the operation of an illegal animal shelter and we are waiting for a hearing date on that matter.

Commissioner Padilla made a motion to accept these reports as presented and discussed in executive session. 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 Jane Moorman to lead the Pledge of Allegiance.**

**Approval of Agenda**

Chairman Daves said there is a request by Dennis McQuillan that Item I be moved up on the agenda. Tina Gallegos, County Clerk read the agenda for the December 3, 2003 Regular Commission

Meeting. Commissioner Padilla made a motion to approve the agenda as read and as requested by Chairman Daves that Item I be moved up on the agenda. 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.

Chairman Daves said with the selection of a new County Attorney on the agenda he wanted to thank Tom Garde for the work that he has done for Valencia County. Chairman Daves said he appreciated Mr. Garde's good humor and friendliness and the County is losing a good person and we all wish him good luck in his endeavors. All the Commissioners agreed and said thank you to Mr. Garde.

### **Approval of Minutes**

November 5, 2003 – Regular Meeting

November 12, 2003 – Special Meeting

Commissioner Aguilar 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**

Janie Thomas said she is before the Commission again about the ongoing problem with Fire Station road concerning the need for speed humps and the danger that this road has been involved in.

### **ACTION ITEMS:**

#### **DEPARTMENT REQUESTS/REPORTS:**

#### **Board of Commissioners Convenes as Indigent Board**

##### **Indigent Report & Appeals – Barbara Baker**

##### **Board Re-Convenes as Valencia County Board of Commissioners**

Commissioner Aguilar made a motion to convene as the Indigent Board. 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.

Barbara Baker presented the Indigent Claims from October 22, 2003 to November 20, 2003. The total amount of claims submitted was \$339,088.21 and Ms. Baker asked the Commission to approve \$54,357.28. There were 100 claims submitted and 36 applicant denials. Commissioner Trujillo made a motion for approval. 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.

Ms. Baker presented two appeals for Commissioner's approval. There was an indigent denial of Robert Huber and Mikayla Tanner, Valencia County inmates due to the fact the bills were received after the 90-day limit. The amount for Robert Huber was \$1,745.45 to UNM Health Sciences Center and the amount for Mikayla Tanner was \$1,445.12 also to UNM Health Sciences Center. Ms. Baker's recommendation was for approval because of the 90 day limit. Commissioner Aguilar made a motion for the two appeals to be paid as presented by Ms. Baker. 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.

Commissioner Aguilar made a motion to reconvene as the Board of County Commissioners. 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.

### **Selection of County Attorney – County Commission**

#### **Tabled: November 19, 2003 Meeting**

Chairman Daves said as he mentioned earlier there was discussion on this item in the executive session. We interviewed on November 19, 2003 at our regular meeting and asked the Commissioners their pleasure. Commissioner Trujillo made a motion for retention of the Wimberly Law Firm on the fixed amount that was proposed of \$60,000.00 for a year. Seconded by Commissioner Padilla. Discussion. Commissioner Aguilar voted yes. Commissioner Trujillo voted yes. Commissioner Padilla voted yes. Commissioner Andersen voted no. Motion carried. 3-1.

Commissioner Aguilar commented that she wanted to personally thank Mr. Garde for serving as the County Attorney. He came on board when she became a Commissioner and has been the Attorney for seven years and he has served us well. There have been many hours that Mr. Garde has provided us with legal advice and has done work for us and he has not billed us. We are losing an Attorney that the County has been paying around \$40,000 a year for all of his legal work and we are now going to \$60,000 and she thinks even though he has been our Attorney she will state his commitment to the County and providing his time without pay needs to be recognized and commended. Commissioner Aguilar said there have been some tough issues starting with the jail, there is the Environmental Department issue and she could go on and on but she does appreciate him and she thanks him for all of his legal advice.

Commissioner Padilla said he wanted to follow up on what Commissioner Aguilar said because this man's professionalism has been fantastic and his kindness as a person is amazing. He has had to deal with some terrific and tough issues and times dealing with five Commissioners but Commissioner Padilla said to Mr. Garde that he has done a great job and he complimented him.

Commissioner Trujillo said he has not worked with Mr. Garde as long as the other Commissioners but he was very surprised and humbled when he told him the amount of work at the end, the rate that he was charging this County in his opinion this man is a very generous man for the work he was doing for the County taking into consideration the financial problems the County has been in and to put forth that kind of work takes a very special person. Commissioner Trujillo said he appreciates that.

Commissioner Andersen said she would just add her thanks to him for all that he has done for the County.

Commissioner Aguilar added that in his new endeavors and she knows what they are going to be she wished him the very best and hopes that the public remembers this and she wished him a lot of success and she is there to help.

Mr. Garde said he wasn't sure who the Commissioners were talking about but he has really enjoyed working with this Commission and especially enjoyed working with staff going through some pretty tough times and we made it through. Mr. Garde said he is leaving on a good note and he wishes the best to this Commission.

### **Approval of Professional Service Agreement for a Consulting Pharmacist – Anne Aragon**

**Tabled: November 19, 2003**

Ms. Aragon requested approval of the service agreement for a consulting pharmacist between the County and Eric Klaurens. This was tabled at the last regular meeting of November 19, 2003 due to language change in the contract. Mr. Garde said the language in the agreement was included because of the amount of liability that Mr. Klaurens could potentially incur but he has agreed to the new changes in the language. This agreement is necessary to insure compliance with the pharmacy board with regard to administration. The terms of the contract shall commence on December 3, 2003 to December 2, 2005. Commissioner Trujillo made a motion for approval. 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. Ms. Aragon thanked Mr. Garde for all his help with the preparation of this agreement.

### **GENERAL REQUEST:**

#### **Presentation on Septic Systems for lots less than ¾ acres – Dennis McQuillan**

Dennis McQuillan presented his slide show on septic systems for lots less than ¾ acres. Mr. McQuillan said this deals with a provision in the regulations where the lots that were platted prior are grandfathered in. The presentation tonight is titled Septic Systems That Have Been Approved and describes the environmental impact of septic tanks and the health consequences. The purpose of the septic tank is to not have any biological treatment of the waste but to separate the flow. Within New Mexico we are approaching a quarter of a million household systems that include septic accessibles and here in Valencia County around 6000 to 7000 systems are put in a year. Mr. McQuillan showed a graph of statistics of people living with no plumbing facilities; here in Valencia County the percentage is about 2%. Also the problem with septic systems is leach field failure basically where toilets and sinks do not drain so then contamination becomes a problem and here in Valencia County this is a big issue. Ground water contamination is a critical issue here in Valencia County where there is a shallow water table here in the valley. Mr. McQuillan showed a slide that was taken in Valencia County showing what type of damage that can be done.

Commissioner Aguilar said she had a concern with some of the platted subdivisions after 1980. After the building permit is purchased, the septic tank is the last to go in, there was an example of one case where they built a home and they could not get a septic permit because they were on a 1/3 of an acre because the subdivision was after 1980. Mr. McQuillan said the policy does not apply to existing codes but once under construction it was their intentions to only apply to brand new construction.

Commissioner Trujillo asked where individuals get their water tested? The Water Department does periodic testing and you can take the water to the office and there is no fee.

Due do ground water contamination, Mr. McQuillan discussed the blue baby syndrome, this is a situation where the nitrate in the water attaches to the hemoglobin in the blood instead of oxygen and so the babies are inhaling oxygen and the oxygen is not transferring to the blood stream.

Discussion ensued on the concern of permits with regard to lot size, water testing and septic tank contamination. The Commission thanked Mr. McQuillan for a very informative presentation.

### **Informational Only Leadership Seminar – Tina Gallegos**

Ms. Gallegos said she had attended the Leadership New Mexico Conference on November 20-22 in Albuquerque. It was an informative conference which concentrates on all the issues that are in the fore front here in Valencia County. Ms. Gallegos said it was a two-part conference with the first session she attended was on healthcare, education, economic development, history of New Mexico, tourism, demographics, and taxation and revenue for the County. Ms. Gallegos said she found the presentation from Research and Polling on demography very helpful because Valencia County is growing in leaps and bounds and she knows this Commission struggles with the growth and how to cope with it on a daily basis. The biggest growth in the state were the County's closest to Bernalillo

County so Torrance, Sandoval and Valencia County topped off the top five of the County's that have grown the fastest. With Valencia County being the third with 46% growth. Ms. Gallegos presented a handout, which showed all these numbers are based off of the census. As of 2000, Valencia County's population was 76,000 people so we are starting to contend with the size of Sandoval County. Valencia County will probably be classed as Class A County in the next census. Ms. Gallegos said with the legislature about to begin their session, we have a very valuable document in the ICIP plan and we should consider having a workshop or breakfast or something with our legislators so that they know our needs, why we are asking for these things and lobby to promote this County. Rick Homans also provided a detailed presentation on Economic Development and maybe in the near future invite him to speak on this issue. Commissioners thanked Ms. Gallegos for reporting back on this seminar that she attended.

#### **Commissioner's Requests/Reports – Board of Commissioners**

Commissioner Aguilar said at one of our previous Commission meetings there was notice that there was going to be a meeting with the public health department and she would like to report on that. She attended a meeting at the Belen Public Health Office last Wednesday and in attendance were local public health employees, the State and Secretary of Health, Patricia Montoya, her assistant, Senator Michael Sanchez and Commissioner Al Padilla. It was brought to our attention that the legislature this year appropriated a total of \$50,000 for the planning, design, and construction of a public health facility in Belen. Secretary Montoya informed us that the State is looking at a comprehensive health care plan and discussion developed on whether one facility can best serve all of Valencia County. Senator Sanchez responded that the politics really favor two facilities and after a productive meeting it was determined that the local public health officials would take the lead and first contact the City of Belen as a partner in this endeavor. They would then come before the Commissioners with information and recommendations. Also Senator Sanchez and Secretary Montoya agreed to contact property control regarding our lease for the Los Lunas Health Department, we brought this up to them and we are now paying approximate \$24,000 a year for the lease of the building. With the new administration we felt there might be reconsideration in going back to \$1 a year lease, which had been the custom in the past, and this would also help the County in the planning for this new facility. There has been a concern on the Belen facility with structure problems. If this plan could be presented to our Legislative Representatives there may be some funding designated in 2004 and get the ball rolling on this.

Commissioner Padilla said he thought what they wanted most was a comprehensive plan to go forward on this. Once the Health Department ties up loose ends then we can go up and lobby to our representatives and feel like they are willing to help us.

Commissioner Padilla said he would like for Kaghan Loop to be looked at for speed humps because he has gotten a lot of calls on this matter and would like administration to look into it.

Commissioner Aguilar had a question that she received a call as to the purchase of voting machines? Ms. Gallegos said there is a resolution that this Commission approved in September and it will be going to DFA December 16 for approval. Commissioner Aguilar said she remembers that we were going to revisit this at the end of the year because of the fiscal impact on the budget and see how we were doing with the sale of the old voting machines. Chairman Daves said that whatever Ms. Gallegos is doing with that she is being consistent and we can determine this at a later date.

#### **PLANNING & ZONING MATTERS: FACTS/FINDING**

##### **Final Hearing Amendment To Valencia County Comprehensive Ordinance – Ruben Chavez Subdivision Regulation Article 6**

Mr. Chavez said this amendment will add the requirement of a road/utility maintenance agreement to its summary review process and this is the final hearing on this matter. Mr. Chavez said what was added now reads verified and recorded road utility use and maintenance agreements by all existing owners of the proposed parcel. Commissioner Padilla 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.

##### **2<sup>nd</sup> Hearing for Adopt an Ordinance for Abatement of Abandoned Buildings – Ruben Chavez**

Mr. Chavez said this ordinance is for the abatement of dangerous or abandoned buildings. This ordinance is designed to promote the public health, safety and general welfare of the County. Mr. Chavez said this is the second hearing. Chairman Daves asked for comments from the public.

#### **Findings & Conclusions – Tom Garde**

##### **Lots 11, 12 & 24 of Murphy Subdivision**

Mr. Garde said before this Commission are two decisions that were made at the last meeting. The first one was Merrill Robinson requested this Commission to rezone his property from a C1 to a C2. The use of the land will continue because his business is to rent equipment. There was no opposition from the general public and this Commission granted Mr. Robinson a C2 zone. Commissioner Andersen made a motion for approval. 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.

##### **Tract 44-B-2, Tr.7, Tr.46-D-1 Map 70 Shopping Center**

Mr. Garde said the second item on the agenda is a decision of Phillip Montano's application to amend the zone map. Mr. Montano owns 1.12 acres and his request is a zone change from a Neighborhood Commercial C1 to a Community Commercial C2. The representation as presented was the

properties existed prior to the 1999 zone change, the land use will not change and Mr. Montano has requested a zone change for a shopping center designation. The Planning and Zoning Department granted a variance on this matter and there was no opposition of the zone change and this Commission granted the zone change from C1 to C2. Commissioner Aguilar made a motion for approval. 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.

#### **FINANCIAL/BUSINESS MATTERS:**

##### **Approval for Budget Resolution – Art Castillo**

##### **Budget Increase-Revenue & Expenditure – Operation Buckle Down/DWI**

Mr. Castillo asked for approval of the budget resolution for a budget increase of revenue and expenditure on behalf of the Sheriff's Office. This is for the Operation Buckle Down/DWI and we have received the funds. The first grant contract, Operation Buckle Down is for the amount of \$2,040.00 and the second grant contract; Operation DWI is for the amount of \$4,800.00 for a total amount of \$6,840.00. Commissioner Padilla made a motion for approval of **Resolution 2003-63**. Seconded by Commissioner Andersen. Discussion. Commissioner Aguilar voted yes. Commissioner Trujillo voted yes. Commissioner Padilla voted yes. Commissioner Andersen voted yes. Motion carried.

##### **Approval of Payroll & Warrants – Art Castillo**

Mr. Castillo presented the computer printout list of all the checks issued by the Manager's Office on November 26, 2003 covering vendor bills processed on that date. Check #74473 thru Check #74549 inclusive for a total of \$116,059.78 and of that amount \$14,882.18 is from the General Fund. Commissioner Padilla 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.

Mr. Castillo presented the computer printout list of all the checks issued by the Manager's Office on November 26, 2003 covering payroll process on that date. Payroll Check #60045 thru Payroll Check #60219 inclusive. Deduction Check #74440 thru Deduction Check #74472 inclusive for a total of \$191,615.71 and of that amount \$130,634.66 is from the General Fund. Commissioner Padilla 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.

Mr. Castillo reported that the cash balance as of December 2, 2003 was \$1,586,307.47 according to the Treasurer's Financial Report.

##### **Manager's Report – Art Castillo**

##### **Valencia County Detention Facility Inmate Pay Telephone Agreement Informational Jail Monitor's Report – Informational**

Mr. Castillo reported on an agreement with Evercom Systems Inc. and the County. Mr. Castillo said in the past there have been some problems and under the terms of this agreement the County authorizes Evercom to install inmate telephone services. In addition, Evercom will pay a one-time good will payment of \$10,000 for good and valuable consideration to Valencia County to be utilized in any matter that Valencia County deems appropriate.

Mr. Castillo reported that during the period of November 15, 2003 to November 25, 2003 the average inmate population of the Valencia County Detention Facility was 141 and of that amount 127 were male and 13.7 were female.

The next Regular Meeting of the Valencia County Board of County Commission will be held on December 17, 2003 at 5:00 PM Executive Session and 6:00 PM Regular Session at the Los Lunas Consolidated Schools Board Meeting Room.

#### **Adjournment**

Commissioner Andersen 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 8:45 PM.

**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.

**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: December 17, 2003**