

VALENCIA COUNTY BOARD OF COMMISSIONERS

Regular Meeting

March 17, 2004

Chairman Gary Daves called the Meeting to order at 5:15 PM.

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	
Adrian Nance, County Attorney	
Tina Gallegos, County Clerk	
Press and Public	

Executive Session

Chairman Gary Daves called the meeting to order. Pursuant to 10-15-1, the following items would be discussed in closed session; a) Limited Personnel Matters (Pursuant to 10-15-1-(h)-(2) and this related to the county manager position and; b) Pending Litigation (Pursuant to 10-15-1-(h)-(7). Commissioner Trujillo made a motion the go into executive session. Commissioner Aguilar seconded it. Commissioner Aguilar asked to discuss the voting machines under executive session. Chair Daves said that unless it was under pending litigation or on the agenda they could not do that. He asked for the attorney’s opinion. Adrian Nance said unless it was under pending litigation, it could not be discussed. Commissioner Aguilar then said she would discuss it under commissioner’s request. Commissioner Andersen voted yes. Commissioner Padilla voted yes. Commissioner Trujillo voted yes. Commissioner Aguilar voted yes. Motion carried. 4-0.

Chair Daves said there was a possibility that they could go back into executive session. For the sake of the public he wanted to move forward with open session. On those bases he asked Mr. Castillo to report on what was discussed in executive session. Mr. Castillo reported that the county manager’s position was discussed and he was asked to retrieve addition information, which he was waiting for.

Mr. Adrian Nance, County Attorney, reported that Cynthia Wimberly had filed an answer on one of the cases but he hadn’t seen it. As that was all that was discussed, Commissioner Andersen made a motion to go to Regular Session.. Commissioner Trujillo seconded it. Motion carried. 4-0.

Pledge of Allegiance by Mr. Bill Brown

Approval of Agenda

Attorney Adrian Nance asked the commission to amend the agenda in order to place another executive session, which would be a continuation with the same reasons. Commissioner Trujillo made a motion to amend the agenda to include executive session after item C and before item D, under action items. Commissioner Andersen seconded it. Motion carried. 4-0.

County Clerk, Tina Gallegos read the agenda. Commissioner Trujillo made a motion to approve the agenda as amended. Commissioner Padilla seconded it. Motion carried. 4-0.

Approval of Minutes

Commissioner Andersen made a motion to approve the minutes of March 3, 2004. Commissioner Trujillo seconded it. Motion carried. 4-0.

Public Requests

There was no public input.

Department Reports

Commissioner’s Requests/Reports.....Board of Commissioners
Commissioner Aguilar had concerns about the process of the chair signing for the purchasing of the voting machines without it coming to the commission for full approval. They had received a response from the attorneys, dated January 29th and there is information that she finds very disturbing and she would like to discuss the letter and see what steps this commission will take. Part of the memo talks about an issue as to whether Chairman Daves signature on the contract is without authority, pursuant to Commissioner Aguilar’s December 17, 2003 motion. Attorney Nance interrupted to say that this memo was privileged and the whole commission would have to vote to talk about it or waive it.

Commissioner Aguilar said she had talked to Ms. Wimberly, attorney, and she had said that “attorney, client” was them, the attorneys to the commissioners, but it did not hold, as far as one commissioner wanting to take it further. Part of her concern was it did talk about commission, possible, liability on the purchase of these machines. They had indicated that if it went into litigation there was a 60% chance of them having to void the contract. She was not willing to take on personal liability. She had asked for a response and it hadn’t come, but she was going to pursue it. Chair Daves said, as per the attorney, he, personally, would certainly waive it. Commissioner Aguilar made a motion to make it a public matter and be put in the next agenda, as an action item. Commissioner Padilla seconded it. Commissioner Andersen voted no. Commissioner Padilla voted yes. Commissioner Trujillo voted yes. Commissioner Aguilar voted yes. Motion carried. 3-1.

Action Items

Proclamation for Month of April 2004 as Child Abuse Prevention Month.....Yvonne V. Sais

Ms. Maribeth Herrig read the proclamation and she announced that the last Saturday in April, they would be having a free to the public program for kids at the Los Lunas Park. Commissioner Padilla made a motion to approve the Proclamation. Commissioner Aguilar seconded it. Motion carried. 4-0.

See Exhibit A.

Approval of final road list for 2004/2005.....Dan Trujillo

Dan Trujillo provided the list of roads for each commissioner and asked to be approved. He said one road in Commissioner Padilla’s district had been left out and it was Orchard Road. Commissioner Padilla said he had two roads he was looking at and he would let Mr. Trujillo know by the next afternoon which one it would be. It was either Orchard Road or Baca Lane.

Commissioner Andersen asked if the total of all the roads, \$530,313.32 worth of repairs, would be the limit and not exceeding it. Mr. Castillo said that was right. She commended and thanked Mr. Trujillo for all of his efforts and what a good job he had done.

Commissioner Aguilar asked what the county would have to match. Mr. Trujillo said 25% and the State does 75%. Of the \$530,313.32, the 25% that the county contributes would have to be deducted. Chair Daves asked if the counties contribution was monetary. Mr. Castillo said it was mostly labor and equipment. The 25% was above and beyond the \$530, in terms of total projects. These are the actual dollars that come back. Commissioner Aguilar said that by tomorrow that would mean that there would be \$132,500 and would he verify that this was in kind and none of it would be coming out of our budget. Mr. Castillo said most of the 25% was supplied by manpower, equipment and they do have some materials and supplies that they also calculate as far as coming up to the 25%.

Chairman Daves asked for a motion on approving the list, leaving open the issue of Baca Lane and Orchard Road for District four. Commissioner Padilla made the motion. Commissioner Trujillo seconded it. Motion carried. 4-0. **See Exhibit B.**

Approval of In-State Travel

Santa Fe, NM April 13th thru 15th 2004, Training BOE.....Tina Gallegos

Ms. Gallegos was requesting approval for in-state travel to Santa Fe for the Bureau of Elections staff. This would be on April 13-15, 2004 for Lawrence Kaneshiro, Peggy Estrada, Chris Castillo and Flip Coon and herself to attend mandatory training that the Secretary of State provides prior to every statewide election. The state pays per diem for three and he county is asked to pay for the other two in the amount of \$450.00 out of the per-diem line item in the general fund. She was also asking for the registration fee for all five employees in the amount of \$375.00 out of the general fund registration line item. She also requested that they get 80% up front and 20% when they return. Commissioner Andersen made a motion to approve. Commissioner Trujillo seconded it. Motion carried. 4-0.

See Exhibit C.

The next item Ms. Gallegos requested was travel for Sally Perea and herself to travel to Tampa, Florida for a Sequoia Voting Systems Users Workshop on April 27-29, 2004. This would come out of the Clerks Equipment Fund in the amount of \$1,615.80 and would not affect the General Fund. Commissioner Aguilar asked if this was for the new voting machines. Ms. Gallegos said yes. Commissioner Aguilar said she would not be supporting this motion, because the purchase had not been settled and she would be voting against it. Commissioner Andersen made a motion to approve the request for travel. Commissioner Trujillo seconded it. He said that he had received some information and concern on a national level about these new voting machines and to sum it up as to whether the machines that were going to be placed in use, leave a verifiable paper trail so that voters can be sure that their vote has not been altered or miscounted. This was a primary concern of his regarding these machines. He had looked at them with Lawrence Kanashiro and there is a printer in them and he would hope that in this workshop, she would ask for clarification as to whether a verifiable paper trail will be produced by these machines as they use them. Ms. Gallegos said that the machine is capable of doing that. What they were waiting for at this point was State Statute to change, because it is not a requirement in the State of New Mexico. There are some states that are requiring it and so until that statute is changed, the companies will not be required to do it. This would be a receipt of the printer that would allow the voters to see what they had voted and verify that it was their vote. Commissioner Aguilar said her understanding was that the information and verification was considered proprietary on the manufacture of the voting machine. Ms. Gallegos said the manufacture leaves it to the requirement of that state. The New Mexico State guidelines do not require that. Commissioner Trujillo said that at some point soon he would like to know at what price and what modifications, if any, would need to be made for that machine to be compliant with those states that do require a verifiable paper trail. He thought it was a very important issue. Ms. Gallegos agreed and said these were issues that this workshop would address and discuss and the states can

see what they need and what they want. She had no problem going forth and addressing them if this was the commissioner's desire. Commissioner Padilla said he had concerns and he was abstaining on this vote. Commissioner Andersen voted yes. Commissioner Trujillo voted yes. Commissioner Padilla abstained. Commissioner Aguilar voted no. Chairman Daves voted yes.
Motion carried. 3-1. **See Exhibit D.**

Ruidoso, NM April 15th thru 16th 2004 Indigent Affiliate Health Care.....Art Castillo
Mr. Art Castillo presented a request from Ms. Barbara Baker for in-state travel on the above dates to attend the Indigent Health Care Services Workshop in Ruidoso, New Mexico. The cost would be a hotel room in the amount of \$61.29 at the Holiday Inn Express. This did not include food and mileage, if a county vehicle could not be provided. Chair Daves if this would come out of the indigent fund. Mr. Castillo said yes. He also said he supported the request. Commissioner Andersen made a motion to approve the request. Commissioner Padilla seconded it. Motion carried. 4-0.

Commissioner Trujillo made a motion to go into Executive Session to further discuss the County Manager's position. Commissioner Padilla seconded it. Commissioner Andersen voted yes. Commissioner Padilla voted yes. Commissioner Trujillo voted yes. Commissioner Aguilar voted yes. Motion carried. 4-0.

Commissioner Andersen made a motion to go back to Open Session. Commissioner Trujillo seconded it. Motion carried. 4-0.

Commissioner Trujillo made a motion to hire Michael Trujillo as County Manager on a one-year contract, according to terms that Mr. Castillo, our present interim manager, had negotiated with him. Commissioner Andersen seconded the motion. Commissioner Aguilar said it was important to discuss his salary, which was \$85,000.00. There was no discussion. Chair Daves polled the commission. Commissioner Andersen voted yes. Commissioner Padilla voted no. Commissioner Trujillo voted yes. Commissioner Aguilar voted no. Chair Daves voted yes. Motion carried. 3-2.

Award Bid #553 Delinquent Tax Bill Notices.....Michael Steininger
Mr. Steininger presented a bid for the delinquent tax bill notices, that the County Treasurer, Diana Martinez Coplen had awarded to Ink Impressions, Inc. in the Amount of \$14,374.88. This Bid #553 would be for one year from the date of the contract. Commissioner Andersen made a motion to approve the award. Commissioner Padilla seconded it. Commissioner Aguilar asked if the whole amount was included in the budget? Mr. Steininger said yes. Commissioner Andersen voted yes. Commissioner Padilla voted yes. Commissioner Aguilar voted yes. Commissioner Trujillo was absent for the vote. Motion carried. 3-0. **See Exhibit E.**

Request Approval Resolution & letter of Support for Grant.....Jacqueline Guilbault
Greenways Bicycle & Pedestrian Path, Phase IV
Mr. Jacqueline Guilbault presented the commission with a resolution to provide recreational facilities and alternative transportation, which was the intent of Greenways Path Enhancement. She also had a letter of support from the Commission, signed by Chairman Gary Daves. Commissioner Padilla made a motion to approve **Resolution #2004-15**. Commissioner Andersen seconded it, and commended and thanked Ms. Guilbault for all her efforts that she puts into this. The motion was amended to include the resolution and the letter of support. It was so moved. Commissioner Andersen voted yes. Commissioner Padilla voted yes. Commissioner Trujillo voted yes. Commissioner Aguilar abstained. She had been absent from the presentation. Motion carried. 3-0. **See Exhibit F.**

Approval of Budget Increase (Peralta Fire Dept).....Art Castillo
Mr. Castillo had received a letter from Mr. John Dear, Chief of the Peralta Fire Department, who had asked for a transfer of \$9,900. from their cash reserve account for the purpose of purchasing a Cairns Viper Thermal Imaging Camera. Commissioner Aguilar asked if Mr. John Cherry, Fire Marshall know about this? Mr. Castillo said yes, he was aware of it. Commissioner Aguilar made a motion to approve **Resolution 2004-16**. Commissioner Trujillo seconded it. Motion carried. 4-0. **See Exhibit G.**

Approval of Payroll & Warrants.....Art Castillo
Mr. Castillo presented the commission payroll and warrants for their review and asked for their approval. Commissioner Aguilar said there were some large amounts that they were paying and asked if they were exceeding the budget and if any were unbudgeted items. What was the balance after, and if, these were approved, she asked? Mr. Steininger said all the items were within the budget. Commissioner Andersen asked if the amount shown was the balance before or after the deductions. Mr. Castillo said before. Commissioner Andersen made a motion to approve payroll and warrants. Commissioner Trujillo seconded it. Commissioner Aguilar said there was \$2,491,000.00. what would the balance be? Mr. Steininger said 1.7 million dollars, and the county taxes would be coming in May. He was still in possession of the Juvenile Detention check of \$100,000.00, in answer to Commissioner Aguilar's question. Chair Daves called for the vote. Commissioner Andersen voted yes. Commissioner Padilla voted yes. Commissioner Trujillo voted yes. Commissioner Aguilar voted yes. Motion carried 4-0.
See Exhibits H-K.

County manager's report
Jail Report

Mr. Castillo reported that actual money received as of March 15, 2004 was \$240,990.21 and accounts receivable to date was \$49,687.76. Budgeted amount was \$383,500.00. He hoped to exceed this amount if they received more out of county prisoners. Commissioner Aguilar asked if the RFP for management of the jail would be coming in soon? Mr. Castillo said the committee established by the commission has just completed the preliminary interviews. All three of them have been requested to submit additional information to the manager's office by April 1st. The committee has scheduled another meeting on April 7th at 9:AM to discuss the additional information.

Mr. Castillo also reported the retirement of Sally Benavidez, effective on March 26, from the Assessors Office. Hired in the County Clerks Office was Laura Vallejos.

Chair Daves announced the Budget Workshop that would be held 3-18-04, @1:00PM at the Los Lunas Consolidated Schools Board Meeting Room.

In answer to Commissioner Aguilar, Mr. Castillo said he would stay around to help the new county manager. He had also made a commitment to the Jail Review Committee and he would still like to participate through the process. Chair Daves said that they should contemplate extending Mr. Castillo's contract, if mutually agreeable. Commissioner Andersen thanked Mr. Castillo for all he had done and does for them.

The next Regular Meeting of the Valencia County Board of County Commission will be held on April 7, 2004 at 5:00 PM in the County Commission Room at the Valencia County Courthouse.

Adjournment

Commissioner Andersen made a motion to adjourn. Trujillo seconded it. Motion carried. 4-0.

NOTE: All proposals, documents, items, etc., pertaining to items on the agenda of the, March 17, 2004 Meeting (presented to the Board of County Commissioners) are attached in consecutive order as stated in these minutes.

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: April 7, 2004