

VALENCIA COUNTY BOARD OF COMMISSIONERS

Regular Meeting

June 23, 2004

Chairman Gary Daves called the Meeting to order at 5:00 P.M.

PRESENT	ABSENT
Gary Daves, Chairman	
Paul Edward Trujillo, Vice-Chairman	
Aurelio H. Padilla, Member	
Alicia Aguilar, Member	
Mary J. Andersen, Member	
Mike Trujillo, County Manager	
Wimberly Law Firm, County Attorney	
Tina Gallegos, County Clerk	
Press and Public	

Chairman Daves called the meeting to order at 5:10 PM.

Executive Session

Commissioner Trujillo made a motion to go into Executive Session. Commissioner Padilla seconded. Commissioner Aguilar was absent. Motion carried. 3-0.

Chair Daves called the meeting back to order. Commissioner Trujillo made a motion to return to regular meeting. Commissioner Padilla seconded. Motion carried. 4-0. Commissioner Aguilar had been absent for part of executive session.

During executive session Cynthia Wimberly, County Attorney, reported that the following litigation had been discussed; Alba versus Peoples Energy, and, a general summary of all cases pending. Commissioner Padilla made a motion to ratify that was all that was discussed. Commissioner Trujillo seconded it. Motion carried. 4-0.

Pledge of Allegiance led by George Koch

Approval of Agenda

Commissioner Trujillo made a motion to approve the agenda as presented. Commissioner Andersen seconded. Motion carried. 4-0.

Approval of Minutes

Commissioner Trujillo made a motion to approve the June 2, 2004 Minutes. Commissioner Andersen seconded. Motion carried. 4-0.

Public Requests

Mr. Alba had concerns about procedures followed on the enactment of the 1999 zoning ordinance, and the heavy industrial district that was written on the map. He wanted to present evidence to the commission. Mr. Mike Trujillo, County Manager, said it was an Appeals Court decision and still under litigation and so he had to wait until litigation was completed and the issues are decided.

Ms. Margaret Ephlin expressed concerns about the animal control issue and had forewarned of child mauling. She was standing her ground on the issue of passing the proposed animal control ordinance that had been on the works for two years. In comparing the old ordinance to the new draft, she believed it to be more comprehensible and enforceable. People, willingly or unwillingly, must accept responsibility of their impact on our community, she said, One way to get their attention would be through their pocketbook, in accessing fees, to those who are supposed to be responsible animal owners. She suggested a dollar impact to the county be eliminated by hiring an independent contractor to writing control issuance of those fees and whose pay would be based on commission. This revenue producing position could eliminate the legal liabilities for the lack of enforcement. May we please, for the sake of our kids, she said put this topic on the next agenda for action.

As a residence of Valencia County and an average citizen with no affiliation to any group or any persons in this matter, she said she would be happy to provide input and would answer any questions. The time has arrived for involvement and action, she said. Things are broken and we have to fix them before another tragedy strikes. We have everything to gain and nothing to lose.

Chair Daves suggested that this revives the imperative to this commission to go forward and look at the work of the advisory committee and look at the ideas of the public. He asked the County Manager to put it in his manager’s report to have a workshop. County Manager said it was already on his list. Commissioner Aguilar said this had been on the workings for two years, and the draft or proposed ordinance had never come before the commission for discussions. It was something that the advisory group had been doing, and, the media had been reporting on the changes. In having the

workshop, she hoped that there would be public notice and that they would allow everyone to come forth and express their views.

Discussion (Non-Action) Items:

Presentation by Heavy Industrial Committee.....George Koch

Mr. George Koch, member of the Valencia County Industrial Committee, was here to present conclusions of study performed by the Committee regarding the County's Industrial Zoning. Members of the committee that were present were; Joe Rizzo, William Dean, Mike McCartney, James Hoffman and staff member Ruben Chavez.

The Mission of this committee, he said, was to review and analyze the effects of the existing permitted uses in the heavy industrial districts and to report to the Valencia County Commission their recommendations. The committee had agreed that for the industrial zoning to be consistent, it was necessary to evaluate the existing I-1 and I-2 industrial zones as well. They had done a review of the zoning policies, practices, rules and regulations. They had done an analysis, and the committee recommended the following changes and actions that needed to be taken. These would hopefully remove the ambiguity of the types of industrial applications that could be improved in each industrial district.

- 1) Develop a budget and staff to complete the Valencia County Comprehensive Plan. Establish professional staff within the Planning and Zoning department such as Civil Engineer, Environmental Specialist and other to ensure monitoring on a continuing basis.
- 2) Reconsider the current Zoning Ordinance and modify or correct problematic areas to ensure its consistency with the Comprehensive Plan. Particular consideration should be given to public notification and owner input on all zoning issues.
- 3) Reclassify and identify three industrial zones as:
 - (I-1)-Light Industry
 - (I-2)-Medium Industry
 - (I-3)-Heavy Industry See appendix (1)
- 4) Develop a land use inventory list and designate zoning in accordance with current or historic use before the last rezoning.

In summary, the whole direction of the industrial zoning needs to be revised to be consistent with the current and planned future development of the county. Hazards, Federal and State environmental permitting needs to be intrinsic to the zoning plan. It is important that the zoning plan allow for periodic review of the permitted and conditional uses as conditional change with time. The goal is to promote the most desirable use of land and direction of development. It should also protect the character of the county, conserve the agriculture greenbelt, value of land and buildings and protect and improve the county tax base

In the appendix was, General rules for all districts, Light Industrial District, Medium Industrial District, Heavy Industrial District and Buffer Zones. **See Exhibit**

Commissioner Aguilar thanked Mr. Koch and the committee members and said that she hoped that the commission would be sincere in making some changes. It was important to have a workshop and be productive. There was \$25,000.00 for a planner and hoped that it would be part of the workshop.

Commissioners all thanked the committee for the good job that they had done and hoped to go forward on it.

Discussion on Senate District 14 Vacancy Recommendation.....

Mike Trujillo/Cynthia Wimberly

Mike Trujillo informed the commission that Senator Manny Aragon intended to resign as he had accepted a contract for New Mexico Highland University. Secretary of States' office anticipated a letter of resignation in July. Since there are two districts involved, statute says that each county commission submit a name to the Governor. He suggested that a resolution instead of a letter of intent be done. The Governor shall then select a name until the next general election.

Commissioner Aguilar suggested that county manager and attorney send a letter to the Bernalillo County Commissioners making them aware that Valencia County was part of the process and putting them on notice. The Pueblo of Isleta should also be aware.

Comments by Commission Members.....County of Commission

Commissioner Padilla said that one of his constituents had approached him and was willing to donate money for four humps on Jaramillo Road and wanted to know the procedure on how to do it. Mike Trujillo said he had talked of the individual and advised him that the county was hiring an engineer that could tell them where the speed humps would be put.

Commissioner Aguilar asked about the playground equipment in El Cerro Mission. County Manager Mike said it was not up yet, but it would start next week. He was also asking for the final design of the combined baseball, soccer fields.

Action Items:

Board of Commissioners Convenes as Indigent Board...

Indigent Report/Appeal.....Barbara Baker

Commissioner Aguilar made a motion to convene as the Indigent Board. Commissioner Padilla seconded. Motion carried. 4-0.

Ms. Baker presented the Indigent Claims from May 7, 2004 to June 4, 2004. The total amount of claims submitted was \$305,615.08. She asked for approval on \$70,316.94 and to deny \$235,298.14. There were 104 claims submitted. There were 30 applicant denials.

Commissioner Andersen made a motion to approve. Commissioner Padilla seconded. Commissioner Aguilar asked if any of these were from the jail. Ms. Baker said yes, there were five with a total amount of \$678.00. Chair Daves asked for the vote. Motion carried. 4-0. **See Exhibit.**

Ms. Baker said there was one appeal that Mike Trujillo, County Manager, had requested. One inmate had been denied because the claim, in the amount of \$8.56, had been received after the 90-day limit. If approved, it was payable to Presbyterian Physician Billing. Commissioner Andersen made a motion to approve. Commissioner Padilla seconded. Motion carried. 4-0.

After no objections, the board re-convened as Board of commissioners.

Consideration of Resolution 2004 of the “United We Ride” Pilot Program.....
Ricardo Campos

Mr. Campos requested approval of a resolution authorizing the county to participate in the New Mexico “United We Ride” pilot program. Governor Richardson and the Legislature had chosen Valencia County in seeking to develop a pilot program designed to better the transportation systems within the county. The county had been selected based on past and current innovations, the needs of the residents and the various funding streams available for public transportation programs. These issues served as a basis for the planning session, however, it was encouraged to focus on the future and the innovation possibilities that can make a difference in Valencia County.

Commissioner Andersen said she was excited and found it astounding that in the State of New Mexico, under Governor Richardson, we have an opportunity to draw funds from all of these agencies, and some of those agencies have already committed this year’s funds, and set them aside, so that a consultant can be hired and a needs assessment can be conducted. It will look at the need of the total county and the group that will be formed from each of the government entities within the county will help decide which are the priorities and where the need is greatest. In attending one of the Older American hearing held by the State Agency, one of the greatest complaints was the inability to find transportation. This program would allow us to serve more people, she said, and it could be done with less public dollars. She recommended the program.

Mr. Campos said if the resolution was approved, this committee could go forward to utilize the funds and look at the different possibilities of transportation in the county. The group could then make a decision as to how they would continue and then come back and make a recommendation to the commission. There is no commitment other than to appoint a member to serve on this committee and the benefits, if nothing else, would be the needs assessments, to leverage State and Federal dollars in the future. Who is going to manage this project, Chair Daves asked? Mr. Campos said that they would act as a project manager only; the committee would drive the study.

Commissioner Aguilar said when she had attended the meeting; she had understood that they, Mr. Campos, were hoping for some contribution, whether it is manpower, zeroxing, monies or something in the budget that would give a commitment and not just signing a resolution. Mr. Campos said that at this time and point, the State agencies that have funding and Federal funding would pay for the entire study. As we all know, he said, all entities in Valencia County do have budget for transportation, but this time, they would like to fund so that they could save more funding for the actual transportation in the future.

Commissioner Trujillo made a motion to adapt the Resolution. Commissioner Padilla seconded. Motion carried. 4-0. **Resolution 2004-29. See Exhibit.**

Commissioner Padilla asked how long the project would last. Mr. Campos said it was up to the committee to set up their procedures. Commissioner Andersen thanked Mr. Campos for coming down and serving on the unofficial committee, there was a lot of excitement by all of the representatives, she said. If there is no objection, Chair Daves said, Commissioner Andersen would be appointed as the member, since she had been involved with it.

AppointmentsMike Trujillo
NMAC Workers’ Compensation Board

There were two vacancies on the NMAC Boards. One was for the Regional Juvenile Detention Board. Commissioner Padilla made a motion to approve the appointment of Michael Steininger as Workman’s Comp. Barbara Baker, Multi Line Risk Management, Paul Trujillo as Regional Juvenile Detention Board and Mike Trujillo as alternate. Commissioner Trujillo seconded. Commissioner Aguilar supported the motion, but said that it was important, that if they were going to have the business manager, Michael Steininger, on Workman’s Comp, she believed that the alternate should be the Human Resources Manager. The Human Resource Manager had to be aware of what was going on. There was no objection to amending the motion. Motion carried. 4-0.

Request Out-of-State Travel for IACREOT Conference-San Antonio Tx. July 17-21 2004.....
Tina Gallegos

Ms. Gallegos was requesting out of State Travel, out of the 449 Clerks Equipment Fund to San Antonio, Texas. This would be to attend the IACREOT Conference from July 17th through July 21st. It was the International Association of Records, Election Officials and Treasurers, in which she was a member. She asked for Mileage and Per Diem, Hotel Reservation and Registration Fees.

Commissioner Trujillo made a motion to approve. Commissioner Padilla seconded. Motion carried. 4-0. **See Exhibit.**

**Approve Renewal of Cooperative Services Agreements.....George Cornelius
Wildlife Service**

Animal & Plant Health Inspection Service

Mr. George Cornelius was requesting renewal of the Cooperative Service Agreement and Annual Work Plan for Cooperative Wildlife Damage Management Plan for Valencia County. The County is being requested to provide 50% (\$3,000.00) of the funding for projects conducted in 2005. The matching Federal funds are provided by Wildlife Services, an additional \$3,000.00. County Manager Mike Trujillo said it was in the budget. Commissioner Trujillo made a motion to approve the amount to cover both items. Commissioner Andersen seconded. Motion carried. 4-0. **See Exhibit.**

Public Hearings

Request the vacation of Rio Del Oro Unit 65.....Mike McCartney

On behalf of VIA, Mr. Mike McCartney was requesting vacation of Eric Lane and a portion of Nolte Avenue and Risetete Avenue in Rio Del Oro Subdivision, Unit 65. These were undeveloped roads. Mr. McCartney said they had been reviewed by P & Z, as requested by County Manager, Mike Trujillo. The purpose was to build a low income housing for senior citizens.

Commissioner Aguilar asked if these were public roads that had been accepted for dedication. Mr. Ruben Chavez said yes. County Attorney Cynthia Wimberly said once the roads were vacated, then they would recommend a re-plat. Mr. McCartney said all these roads were owned by VIA.

Ms. Wimberly said statute regarding vacating of county roads require that three people to review the road and make a statement to the commission that the road is no longer needed for public use or the alternative that the cost of maintenance not weight the benefits to the public of maintaining the roads. Commissioner Trujillo made a motion to approve. Commissioner Aguilar seconded. Motion carried. 4-0. **See Exhibit.**

Request to Amend the Zoning Map from RR2 to I2.....Ruben Chavez/Roger Montano

Mr. Ruben Chavez said this request was to amend the Zone Maps from RR2 Rural Residential to I-2 Light General Industrial on Tract 2, Lands of Hutch & Sons Paving, also known as 3147 Hwy 47, Los Lunas, NM.

Mr. Montano owns one acre and would like to amend the zone map for the purpose of operating a trucking company. He owns equipment that he uses for hauling & excavating land. He would like to build his business shop on the same location. This property had been owned by Hutch & Sons Paving, who had the same type of equipment on the property. Mr. Montano's family purchased this property under the assumption that it was already zoned commercial. Properties around this area have existing businesses and residential uses. The commercial uses are non-conforming.

On May 28, 2004, the Planning & Zoning Commission held a public hearing and took testimony from both applicant and the public. The Commission found that:

Hwy 47 is a Commercial Corridor

The neighboring area consist of several light industrial/commercial uses

Through the permitting process, the county has allowed similar uses adjacent to the subject property.

The commission did hear testimony that Hutch & Sons obtained a zone change when they owned all the property, however no real evidence could be obtained.

The commission approved this request with a vote of 4-0. In addition to a zone change, Mr. Montano applied for variance being that his lot only contains one acre and I 2 zone district requires a two acre minimum. A motion was made to approve the variance on the condition that the applicant limits his use to a trucking company. A vote of 4-0 approved the variance.

Further discussion had addressed concerning of limiting the usage to the request made by the applicant. The zone designation I 2 provides a variety of available uses to allow in this one acre. The trucking company is fine, but it is not the commission's intention to open the door to expanding the I-2 designation to anything other than a trucking company. Chair Daves asked that anyone wishing to speak on the public hearings be sworn in. Ms. Gallegos swore the public in.

Mr. Roger Montano a lifelong resident of Valencia County said he owned four trucks and only two would be there at one time the other two would be out on the job. Repairs would only be done for his own personal use. He said there were two different tracts and there would be a well and a septic system.

Commissioner Trujillo said he had no problem with what Mr. Montano was doing, but it seemed that there were other more offensive type usages included in the I-2. In the packet was a June 1, 2004 letter to Mr. Montano from Adelina Benavidez, it notified Mr. Montano of the approval of Planning & Zoning to mend zone maps from RR2 to I-2. There is nothing in there that states that there is a stipulation for a condition on that.

Chair Daves said he believed that P & Z made recommendation as zone changes and they have recommended that they have granted a variance on the condition that this commission approve the zone change. He asked if this was bare land. Mr. Montano said it was and it was zoned rural residential. Chair said that he didn't think it was appropriate to give a conditional use to allow a contractor to soar his trucks in a RR2 zone. It defeats the purpose. The whole idea of zoning is that they want over time that the zoning comports with the use and the question is, is this use appropriate

with what ever conditions and is this the correct zoning. If it is the commission ought to act positively and if it isn't, then deny the request.

Joe Rizzo was sworn in and said that this was the sort of problem that they were trying to avoid. The difficulty was that they didn't have the proper zoning for this kind of purpose. There were three zones, which they were trying to correct. I-1 was for resources for agricultural produce. I-3, which was heavy industry and everything else, was I-2. There were no guidelines on how to do this and the way to do this was to try to be logical and fit things in together, because whatever they do it would become grandfathered.

Commissioner Trujillo said currently there were no I-2 designations currently in that vicinity. Mr. Chavez said that was true.

Chair Daves asked Mr. Chavez if assuming that the commission was to approve the I-2 limited to the use that Mr. Montano intends, would he not have to go through a site design approval process. Mr. Chavez said, yes he would need drainage as well.

Commissioner Aguilar said she would make a motion that this item be tabled for 60 days to allow them the opportunity to have a workshop with the committee and set up some criteria that they could then discuss and go forward. Commissioner Trujillo seconded. Chair Daves said it was unfair for those who come forward with reasonable request and reek havoc out of good intentions with their ability to go forward with making a living. Commissioner Trujillo said that was not intent with this motion, but rather to prevent opening the door as they have in the past to problems that prove to be unmanageable in the future. If it had been a recommendation for C-2, he would have made a motion for approval. Chair Daves suggested that it was not the intent, but that it was the effect, and the effect is very often more important than the intent. He then called for the vote in favor of the motion. Commissioner Trujillo voted yes. Commissioner Aguilar voted yes. Commissioner Andersen voted no. Commissioner Padilla voted no. Chair Daves voted no. 3-2 vote.

Commissioner Andersen made a motion to approve the request as recommended by the Planning & Zoning Commission, with the stipulation that the letter of approval that went to Mr. Montano carries very specifically the provision that it must be only in the trucking business and that they find some way of tracking these so that in the event someone else buys this property, they can make it hold. Until they do that, they would always have these problems. She recommended approval. Commissioner Padilla seconded with those conditions as stated by Planning & Zoning.

Commissioner Trujillo wanted to make the question very specific. By making this motion, he asked Commissioner Andersen, are you proposing that in the future, in that area, should other individuals come forward requesting I-2 designations, those should be approved? Commissioner Andersen said no. Chair Daves called for the vote. Commissioner Andersen voted yes. Commissioner Padilla voted yes. Commissioner Trujillo voted no. Commissioner Aguilar abstained. Chair voted yes. Motion carried. 3-1. 1 abstained. **See Exhibit.**

Request to Amend the Zoning Map from RR-2 to C-1...Ruben Chavez/Ronald Hibdon

This was a request to amend the zone maps from RR2 to C1 for #2 Leslie Los Lunas, NM, otherwise known as Lot 142, Lake View Acres. Mr. Hibdon owns property located at #2 Leslie Lane, Which is zoned RR2 and consists of a ½ acre lot. This property is adjacent to the Village of Los Lunas boundary, where Mr. Hibdon owns a professional building. Within this building is a child counseling/preschool administrative office, which conducts meetings on occasion. Because of these meetings there is an over flow of traffic and parking on Nancy Drive. In order to accommodate the overflow, Mr. Hibdon purchased the adjacent lot. After purchasing the residential lot located at #2 Leslie Lane, Mr. Hibdon started constructing a parking lot to avoid people parking on Nancy Drive. This parking lot is considered an accessory use to commercial. Under instruction by the Planning & Zoning office, Mr. Hibdon was instructed to designate his property commercial.

On May 28, 2004, the Planning & Zoning Commission held a public hearing and heard testimony from both applicant and concerned individuals. The commission discussed the following issues:

Lot 142 is only ½ acre and not big enough to meet the C-1 standards

Leslie Lane is already a congested road to have commercial impede on the residential neighborhood.

The existing site-plan should be modified to accommodate both the commercial and residential.

Lot 142 has an existing home. The commission considered zoning half of lot C-1 and the other half RR-2 thus minimizing the possible expansion of commercial activity. Staff discouraged this plan of dividing the zone designation.

The P & Z Commission voted against this request with a vote of 3-2.

Mr. Hibdon also applied for variance being that his lot only contained 0.5 acres and C1 zoning requires 1-acre minimum. The commission denied the variance because of the logical conclusion of the zone change denial. Motion carried. 5-0.

Mr. Ron Hibdon said Mr. Chavez had told it like it was. He was having complaints about the parking and so he had purchased the property adjacent and built a parking lot. Now, the same individual is complaining about the parking lot. He was willing to do anything within reason to resolve the issue.

Commissioner Andersen asked if he had built a fence between the parking lot and the mobile home next to it. Mr. Hibdon said yes. When the subdivision was created in 1972 they were all ½ acre lots.

Mr. Neil Brown at 03 Nancy, said that in the past there had been parking problems. When Mr. Hibdon built the parking, lot he had done it tastefully and has alleviated the parking problem. He was in support of it.

Joe Donovan at 05 Leslie had become involved when the first building was built. He had expressed that this complex did not have adequate parking and would tend to make the end of Nancy Road somewhat of a parking lot. Nonetheless it was built. They were alarmed in that the parking exits into Leslie Street. He introduced a picture for the record. The parking lot, he said, was zoned

commercial. The parking lot in a residential neighborhood would diminish property value. It also allows strangers in an area where children walk, play and get off a bus. This parking lot would diminish the quality of life in Leslie Street. He wanted to keep the street quiet, serene, peaceful and that was why he was here.

Commissioner Aguilar asked if this was septic and well. Mr. Donovan said yes. Chair Daves said this was RR2 with ½ acre lots and well and septic.

Eileen Jones at 01 Leslie Lane said it great what Mr. Hibdon was doing. Parents get to come and see their kids. And the kids get to ride their bike in his parking lot. She has two grandkids using his lot. It was not a problem for her

For clarification, the pre-existing parking lot had access only from Nancy St., now with an add-access to Leslie St. The main reason for the second opening was to allow the Village of Los Lunas disposal trucks to have a forward access out of the parking area, instead of having to back out of it.

Chair Daves said this should have gone through the Village and should have been annexed. It would be inappropriate for that house to be C-1 and because it was RR2 and would make it even smaller would allow, if it were approved, a store to go in there as a permissive use. This would be totally inappropriate. He suggested that the lot ought to be split and that if there is room for a house that they ought to be splitting both, the zoning and the property.

Commissioner Aguilar said that according to our attorney, this was allowed under the ordinance to have a residence and a C-1 zoning. She shared Chair Dave's views, but this was a sample of how their hands were tied. Based on the ordinance she made a motion to approve. Commissioner Andersen seconded and agreed, in that they don't have the right zoning definitions to fit the situation. They were trying to fit a county definition into what is a village or city problem. Mr. Hibdon did everything he knew to do, to make it a safer situation and get the cars off the street, so that the kids are not running in and out of cars parked along the street.

Cynthia Wimberly, County Attorney, recommended that if the commission were to approve the zone change, yet were concerned about changing the lot to C-1 designation permanently, that they do similarly to what they did in Mr. Montano's request. To grant a variance as well, because, the lot size is not compatible with the C-1 designation. If they were to approve the zone change and grant the variance, it would be on conditions that the use remains the same as what it is now. She recommended against the split partly because her understanding is that this lot is one property.

Chair Daves suggested, that his thought would in-implicitly a split legally, into two pieces of property. It would aviate one concern as part of the conditions and the other concern, is, the direction that neighborhood is going, needs to go, because of its ½ acre lots be watered and sewed. And if there is an opportunity, for this in fact more non-conforming lot, to be either through an annexation and otherwise to be watered and or sewed from the Village of Los Lunas. The sites, specific elements, of this action really control much of the issues as were described.

Commissioner Trujillo directed the commission to page eight of the P & Z meeting in which Commissioner Williams had made some suggestions on a solution. **See Exhibit.** He said it was a good solution and something that this commission should consider. Commissioner Aguilar said the ordinance did not allow for two zonings on one lot. Also, she mentioned that the commission did not have the authority to grant variance. This goes to Planning & Zoning. After all this discussions and coming up with solutions, legally, they could only discuss what was before them on the agenda. If there are any changes to be done, she said, he could go back and re-apply.

Chair Daves called for the vote. Commissioner Andersen voted yes. Commissioner Padilla voted yes. Commissioner Trujillo voted no. Commissioner Aguilar voted yes. Motion carried. 3-1.

Request to Amend the Zoning Map from RR-2 to C-1..... **Ruben Chavez/ Gary Richardson**

Commissioner Trujillo took over the Chair.

This was a request to amend the zone maps from RR2 to C-1 at 152 El Cerro Loop, also known as Tract 40-A1-A, containing several small tracts. Mr. Richardson is converting an existing home to an Engineer's Office. The property is located along El Cerro Loop Road approximately one block south of the El Cerro Loop-Meadow Lake Road Intersection. The existing home is directly south of the Otero Storage Units. Mr. Richardson will have to comply with Commercial Building Codes in order to use this building as a commercial business. On May 28, 2004; the Planning & Zoning Commission held a public hearing and took testimony from both applicant and the public. The commission found that:

The property while in a residential neighborhood is located along a State Highway, which serves as a Collector Road.

The location is near an intersection that already has commercial use

The proposal be limited to the usage set forth in the site-plan

The commission voted the approval of this request with a vote of 5-0.

Mr. Richardson lives on 419 El Cerro Loop, is a civil engineer that does water supply and pollution control, and as Mr. Chavez had indicated, he wished to open a satellite office in Valencia County primarily so that he wouldn't have to commute. He would be hiring a secretary and bringing one employee from the Albuquerque office. There would be a total of three employees, including him.

Commissioner Aguilar had a problem with approving this request and one of them was that the county is already on litigation on Bur Ben Road. The entrance to this property would be from this road. The issue is that the property owner to the North owns to the middle of Bur Ben Road, so she is not sure if this property is to the middle of the road. The width and location of what's there, every time it rains, by allowing the commercial use to the north of this property, it has created flooding, because there is a home, and then it drops about five feet, and the county had even had to pay for

damaged well, and water damage to mobile homes at the base of Bur Ben Road. These are issues that need to be looked at and she did not see how they could grant approval and asked the attorney for advise or comment. Commissioner Daves said that in looking at the map it shows almost a separate lane between Bur Ben Road and the applicant's property. Mr. Richardson said that since the time that he had submitted the zone change, Mr. Tim Martinez had done a survey of the property. The north fence line between the property and Bur Ben Road is not real straight as shown on the site plan. The fence is approximately on the property line, of by maybe a foot or two

County Attorney, Cynthia Wimberly asked Mr. Richardson if he knew the distant from his property line to the fence on the other side of the road, in other words, how wide Bur Ben Road was. Mr. Richardson said he did not know. The property line on this property is very near the fence and the fence crosses the line a couple of times and the road is right there. The concern that the attorney had was that the road was too narrow to accommodate because of the encroachment. She recommended that it be tabled until they find out how wide and to speak with Mr. Dan Trujillo, Road Supervisor to see what the usable width is.

Commissioner Aguilar said even though this was a State Road, that area aside from the storage unit, it is all-residential. In going back to Bur Ben Road, the way that the house lays and the slope, she has major concerns with it. Until the litigation issue is settled, she is not willing to act on it.

Commissioner Daves asked where was the encroachment by Mr. Otero on Bur Ben Road, and he expected that it was on El Cerro Loop, the first lot as they enter Bur Ben Road. Commissioner Aguilar said yes it was and another issue that was before the courts was whether it was a county road or an easement. The Otero units were built to the middle of the road of what is existing Bur Ben Road.

Commissioner Aguilar made a motion to table the item for 60 days. Commissioner Padilla seconded. Commissioner Daves said this was a case of the applicant being held up by something that was forced on the county by the Otero's. Bur Ben Road is not in any way essential to the use of this property, but used, to which it seems to put it and the remedy of allowing or even requiring the access to be on El Cerro Loop ought to suffice and recalled that the vote had been 5-0. He was inclined to go forward. Chair Trujillo called for the vote. Commissioner Daves voted no. Commissioner Padilla voted yes. Commissioner Andersen voted yes. Commissioner Aguilar voted yes. Motion carried. 3-1. **See Exhibit.**

The commission took a break.

Financial Matters:

Consideration of Resolutions with the NM Finance Authority for Fire Apparatus.....

John Cherry

Resolution 2004-30 Valencia/El Cerro Fire Dept

Resolution 2004-31 Tome/Adelino Fire Dept

Chair Daves resumed the chair.

Mr. Cherry was before the commission with Phase II of the financing of two new fire trucks. One for the Valencia/El Cerro Fire Dept. and one for the Tome/Adelino Fire Dept. This is financed by the New Mexico Finance Authority. They had submitted their applications for the loan and this was a resolution that they require. Commissioner Trujillo made a motion to approve the two. Commissioner Andersen seconded. Motion carried. 4-0. **See Exhibits**

Request Approval to Negotiate with MRCOG for Comprehensive Plan Re-Write....

Mike Trujillo

Mike Trujillo said they had received \$25,000.00 Planning Grant through the Department of Financial Administration of Government Division. There are two options and he was proposing one for their consideration. The comprehensive plan has been shelved for a number of years and this grant is meant to re-write portions of it. He was suggesting that they allow him to negotiate with COG for two reasons. One is that in his opinion, it was going to take all the money to do it, and also, they are required now to plan for future CDBG to get additional points because the rules have been changed. They need to have a water conservation plan, and a drought management plan adapted by the local agency, if they were to get the extra points. The local government division receives \$73,000.00 on a yearly bases from the State through Special Appropriation and House Bill-2 where they have to provide technical assistance to local government on specific issues. The alternative was for them to direct him to do an RFP to hire a technical writer. Commissioner Trujillo made a motion to approve Mr. Trujillo's recommendation. Commissioner Padilla seconded. Commissioner Aguilar asked if they were going to contract with COG to do the re-write. Mr. Trujillo said that he would continue negotiations with them, if they can say, that they can do it within that price. He would then come back with a proposed contract.

Commissioner Andersen asked how long it would take if they got a successful contract. Mr. Trujillo said his guess would be six months.

Chair Daves called for the vote. Motion carried. 4-0.

Approval of Agreement for Tierra Bonita Program.....Michael Steininger

Mr. Steininger was requesting approval to sign a contract between the State of New Mexico, New Mexico Department of Tourism in the county to utilize a \$17,000.00 grant that was awarded to Tierra Bonita program. The award given last year was \$1,500.00 and this year they were successful in receiving more. Commissioner Padilla made a motion to approve. Commissioner Andersen seconded. Motion carried. 4-0.

Approval of Agreement for Older Americans Program.....Michael Steininger

This agreement is to approve a contract between North Central New Mexico Economic Development District and the County. This provides \$337,470.00 in funding to the Older Americans Program. This is the conduit for both the State and Federal funds for Mary Ann's program. Commissioner Trujillo made a motion to approve. Commissioner Padilla seconded. Motion carried. 4-0.

**Request Approval Resolutions with Expenditures/Intra Budget Transfers.....
Michael Steininger**

Older American Program-Expenditure

The first item was for the Older American Program. The NGA Senior Employment Program has provided \$668.00 for the two people in the program. Mr. Steininger was asking for a resolution authorizing acceptance of the funds and for the expenditures for it. Commissioner Trujillo made a motion to approve. Commissioner Padilla seconded. Motion carried. 4-0. **Resolution 2004-32. See Exhibit.**

Revisions to 2003/2004 Intra Budget Transfers

The next item was also an Older American Program. State and Federal requires that all the line items in the accounts have positive balances. This intra-budget transfer was to move money within her fund to zero any negative balances to comply with the funding requirements. Commissioner Andersen made a motion to approve. Commissioner Padilla seconded. Motion carried. 4-0.

Resolution 2004-33. See Exhibit.

Tome/Adelino Fire Department (EMS) Expenditure

The last one was the Tome/Adelino Fire Departments were awarded an EMS Certificate by the EMS Bureau. The first year's funding is \$1,500.00, which is used for start-up supplies. He was asking authorization to accept the funds and to apply them to the line item for the purchases supplies. Commissioner Andersen made a motion to approve. Commissioner Trujillo seconded. Motion carried. 4-0. **Resolution 2004-34. See Exhibit.**

Approval of Payroll & Warrants.....Mike Trujillo

Mr. Trujillo was requesting approval for Payroll in the amount of \$204,226.74, Accounts Payable in the amount of \$22,680.78, Accounts Payable in the amount of \$5,603.24, Accounts Payable in the amount of \$11,666.29, and Accounts Payable in the amount of \$524,519.64.

All purchase orders, except for emergency, had been closed for the end of year. They had not received approval or authorization from DFA on the preliminary budget. The one issue that they had was that the county had not met the 1/12 requirement under the road fund, and wanted us to write a letter justifying why. The balance in the General Fund was \$2,489,071.54. Commissioner Trujillo made a motion to approve. Commissioner Andersen seconded. Motion carried. 4-0. **See Exhibits.**

County Manager's Report:

Mr. Mike Trujillo, County Manager, provided the commission with a Juvenile Detention Report. He had met with two Bernalillo County representatives regarding the issue of their operation of the facility and they had found out that Bernalillo County provides services to the Bernalillo County facility, which is not on their reports, so therefore the amount that they actually spend per prisoner mandate is less than what they had projected. They were meeting again to get the exact numbers. By questioning the fact that they would give us a budget, they would then charge us 7% of that budget. Not of actual expenditures, but of the budget. They could bring the amount of their contract down by \$70,000.

See Exhibit.

Mr. Dan Trujillo provided the commission with a Road Department maintenance report from January 1, until May 18. These were the roads that had been graded based on the daily field reports. Chair Daves asked about the road in Meadow Lake that Mr. Hartenhoff lived on. Mr. Mike Trujillo said it was not completed because of delays in getting the oil. **See Exhibit.**

Mr. Trujillo said that one of the items that the New Mexico Environmental Department has been very harsh on the county, is fencing off the old landfill. The Environment Department is putting together a court order stipulated agreement and will provide it to our attorney's. This will give us two years maximum to complete work on cleaning out Conejo and the landfill. Once the commission had given them permission to expend some of that solid waste money, which was appropriated by Legislature, the work had been completed. Holiday Fence had done the work.

Mr. Trujillo said they had Molzen-Corbin develop a landfill closure plan and it has stipulated that it would cost 1.1 million dollars. What he was proposing, was hiring two caterpillars and moving the top half of the old landfill to fill the hole. City of Belen gave them permission to use dirt from their property. They would take precaution with methane that was leaking. The entire project could be done with less than \$100,000.

Commissioner Aguilar remembers some discussion about the soil, that is placed above, and it having to be of a specific nature. She didn't believe that they could use that dirt. Mr. Trujillo said he would verify. Commissioner Andersen asked if he had to put an impermeable membrane on top of that before they put in the dirt. Mr. Trujillo said they were not required under State Solid Waste Regulations, however, if they needed to do that, the City of Albuquerque buys it in twenty-acre sizes and if they needed some, he is sure that he could purchase it from them. He would also check on ground water contamination, then proceed to get proposals on the landfill closure.

For information only, the National Association of Counties was having their annual meeting in Phoenix, Arizona on July 16-20. He was sending out a memo that only two people from each department could go. If they were interested in going, they were to let him know.

He was also proposing to do an invitation for bid for new gasoline tanks at the yards. They had a small gas leak at the two old tanks by the animal control center and had to be emptied and removed. By August 15th, new state regulations require that they have acceptable tanks in place. The two tanks that are left are not acceptable. \$42,000 had been budgeted to replace them.

He and Commissioner Trujillo would be meeting with residents of Casa Colorado area. They would like to move ahead and have the school donate that property to the county.

He had passed out some information that the New Mexico Association of Counties had given him. The Fire Protection Tax was in there. Also they had given counties an additional 1/16 % gross receipts tax authority. The EMS gross receipt tax authority had not been implemented.

Commissioner Aguilar asked if, on all of the community centers that the legislators were sponsoring, had they done an analyzes as to how it would impact our budget? If they were going to start approving land, they should have a commitment for persistence and an assurance. Mr. Trujillo said that would be part of their discussion. A clear understanding should go to the public that a community center is not a senior center.

A workshop for the Animal Control Ordinance was set for August 11th at 3:00 PM.

The next Regular Meeting of the Valencia County Board of County Commission will be held on July 7,2004 at 6:00 PM in the County Commission Room at the Valencia County Courthouse.

Adjournment Motion by Commissioner Andersen.

<p>NOTE: All proposals, documents, items, etc., pertaining to items on the agenda of the, June 23, 2004 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/

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: July 7, 2004