

VALENCIA COUNTY BOARD OF COMMISSIONERS

Regular Meeting

August 4, 2004

The Meeting was called to order by Chairman Gary Daves at 5:00 PM

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 Gary Daves called the meeting to order. Pursuant to Section 10-15-1 NMSA 1978, Limited Personnel Matters (10-15-1 (h) (2) NMSA 1978), including the six month evaluation of the Business Manager, Michael Steininger, and Pending or Threatened Litigation (10-15-1 (h) (7)NMSA 1978), would be discussed. Commissioner Trujillo made a motion to go into executive session. Commissioner Padilla seconded. Motion carried. 4-0.

Executive Session

Chair Daves called the meeting back to order and asked for a motion to go back to regular meeting. Commissioner Trujillo made the motion. Commissioner Padilla seconded. Motion carried. 4-0.

Pursuant to the authority in 10-15-1 NMSA 1978, the above matters were discussed in closed session and were limited to those specified in motion for closure, and that no final action was taken.

County Manager, Mike Trujillo, reported that the six month evaluation of the Business Manager, Michael Steininger, was discussed and that pursuant to the open meetings law, they would vote at this time. Commissioner Andersen made a motion to continue Michael Steininger's contract, pursuant to the evaluation in his original contract, which calls for a six month evaluation. Commissioner Trujillo seconded. Motion carried. 4-0.

County Manager, Mike Trujillo, also reported on litigation on the Isleta Pueblo and the county roads that go through their ranch. There were circumstances that he had to bring to their attention and it was his intent, after meeting with their Governor and Lieutenant Governor, to keep an open line of communication with the tribal government to insure that they are all on the same track, as they proceed through the mediation process.

Cynthia Wimberly, County Attorney, reported that the zoning cases that were in front of Magistrate Court had been discussed, in general.

County Manager, Mike Trujillo also reported that pursuant to New Mexico State Statute, the county commission must visit the jail at least twice a year. Three of the commissioner's had done that today, as well as the reporter. Based on their comments, he would be making a report that will be submitted to the District Court, as part of their statutory requirement. This was all that was discussed. Chair Daves asked if any commissioner had anything to add and if not he would ask for a motion. Commissioner Aguilar said there was another item that had been discussed.. Commissioner Trujillo said re-organization of the commissioner had been discussed and he would bring it up on the Commissioner Comments. Chair Daves called for a motion and a second. Commissioner Padilla made the motion. Commissioner Trujillo seconded. Motion carried. 4-0.

Pledge of Allegiance led by Ruben Chavez

Approval of Agenda

County Manager, Mike Trujillo asked that under Item 11- A, appointments, be deleted. Also, since the commission would like to have an open discussion at the next meeting, regarding zoning issues and as such, Items G and H-1,a,b,c,d should probably be tabled or removed from the agenda, until they decide how they wish to proceed. Commissioner Trujillo wanted the issues to remain on the agenda. There was another item that was on the amended agenda, regarding the re-zoning of the Industrial Park. This one should be tabled until after they looked at a relevant issue regarding a moratorium on the 1999 ordinance. Commissioner Aguilar said, that point or order would be, to leave them on the agenda and when they get to them, a motion could be made to table them.

Manager Trujillo asked that Item I be taken off the agenda. Commissioner Aguilar said same point of order, in that, it is an agenda item and if they are going to table it, there are rules that they need to follow. Based on the comments made, the only items removed would be Item 11-A, Appointment to Animal Control Advisory Board, Manager Trujillo said. Commissioner Aguilar made a motion to

approve the agenda, with the mentioned item removed. Commissioner Trujillo seconded. Motion carried. 4-0.

Approval of Minutes

Tina Gallegos, County Clerk, informed the commission that there were no minutes for approval.

Public Comments

Delbert Young said he had talked to Commissioner Aguilar about trash on some property. Manager Trujillo asked him to leave his telephone number, since he wasn't sure what property he was inquiring about. Commissioner Aguilar said this property was on Barber Lane, off the El Cerro Loop and that Mr. Young had called her, on his concerns, and that he had made calls to the Planning & Zoning, not only about the old cars and the trash, but now, an old mobile home has been brought in to the neighbor's lot, electricity had been hooked to it, and another family living there. Mr. Young hasn't seen resolution to it.

Mike Mechenbier had come before the commission twice on the road issue. He would get on the agenda, in the future, but now he wanted to say that everything that they have done in Valencia County has been something positive, like bringing in jobs and other projects. He wanted the county to support them in the road struggle.

Discussion (Non-Action) Items:

Judicial Complex Update (time frame).....Judge William Sanchez/Mike Trujillo

Judge William Sanchez, District Judge and Chair of the Building Committee that makes recommendations to the commission, reported that they were still on the design stage of the new facility. They had met with the architect and he had made some recommendations. As he had reported two weeks ago, they were still looking into acquiring some property that might be donated by the State at the Los Lunas and Training School for purposes of this courthouse. Through the very hard work of our County Manager, Mike Trujillo, it looks like it's becoming more concrete of a proposition.

Manager Trujillo said, that at the last meeting, the commission had asked for a time table. In meeting with State Property Control and after the meeting, he had checked the county map and in fact, the Los Lunas Hospital and Training School is not within the Village of Los Lunas municipal boundaries. Constitutional requirements require that Judicial Complex and, or, County Courthouse be within the county seat, which is the Village of Los Lunas. The Village has already initiated annexation and if the State General Services Department of Secretary agrees to it, that action for annexation will occur rather rapidly.

He had also inquired on two different situations. One, was the Valencia Counseling Services and this had come before the commission before, and if it were to be annexed, what were the possibilities of the county acquiring the site, where the proposed building would go, if this was the site that this commission wished to put the county judicial complex on. They had advised him that they were delighted to entertain the proposition to put the judicial complex there, because it is the State's intent, to develop that entire property as a governmental center. The buildings that were excess or surplus, would be demolished and then, they would sell the rest of the property, so that there would be future development within the Village of Los Lunas. The county would then be the ground work for developing that into a governmental center. By the next meeting or the following, he would have, an assignment lease, where they would lease us the property that we want.

Just today, he had received the two site plans. One with the proposed foot print of the building across the street and another at the Los Lunas Hospital and Training School. On the time schedule, it will probable put us behind about two weeks, but we will still try to break ground in December.

Schedule and Convene the Canvassing Board on August 13, 2004.....Tina Gallegos

Ms. Gallegos gave the commission an update on the Fire Excise Tax Election. There are still several ballots out and Ms. Gallegos requested that they bring them in to the County Clerk's Office. They will be accepted until Tuesday at 7:00 PM. What she needed from the commissioner was for them to mark their calendars for August 13th, for the canvassing and she was leaving the time up to them.

The office had mailed out 20,867 ballots and as of today 4,238 had been returned, with some that had not been signed. About 3,500 were undeliverable and this was expected, with many inactive voters, but they still needed to be mailed out.

Chair asked if the ones that weren't signed, could be corrected. Ms. Gallegos said that it would be at the discretion of the Absentee Board, but the rules are clear, that the envelope needs to be signed.

Mr. Dale Jones asked Ms. Gallegos what the percentage was on the mail vote, compared to what they get when they go to vote. Ms. Gallegos said that at 4200 ballots coming in, this was a higher percentage than if we had gone to the polls, and she would have figures at the canvassing, which County Manager had scheduled for August 13th at 10:00 AM.

Commissioner Aguilar asked if someone had not received a ballot, could they come to vote at the courthouse. Ms. Gallegos said no. They have to vote on a paper ballot, because that was the only way to do it. However, If they didn't received one, they can contact our office and it could be handled as a spoiled ballot or a provisional ballot, so then they could vote.

Comments by Commission Members.....County Commission

Commissioner Trujillo requested that at the next commission meeting, he would like included in the agenda, an action item regarding moratorium, on actions that might occur or any kind of responses to actions ,based on the 1999 comprehensive zoning ordinance. Commissioner Aguilar said she would support that. Commissioner Trujillo made this in the form of a motion. Commissioner Aguilar seconded. Motion carried. 4-0.

Commissioner Trujillo asked that a re-organization of the commission be placed as an action item on the next agenda. This was in the form of a motion. Commissioner Aguilar seconded. Commissioner Trujillo voted yes. Commissioner Aguilar voted yes. Commissioner Padilla voted yes. Commissioner Andersen voted no. Motion carried. 3-1.

Chair Daves said that the item that was proposed was to remove this Chair, as Chair of the Commission. One of the reasons was that he talked too much and he would honor it this evening. At the age of 24 he had become a prisoner of war in Viet Nam and he got out when he was 30. It was pretty tough, but not that tough. He had been through stuff and this was nothing. He was a commissioner in 1991 and 1992 and he enjoyed it, because it was a different commissioner Daves, because he was younger and perhaps more resilient, he was less grouchy and he probably talked just as much, but this term, this commissioner, chose not to run for re-election because of the things he just said. And for all the world and his wife to know, if in fact the motion carries, and he will vote against it, he will resign from this commission affective whenever his insurance can be transferred to Public Employment Retirement Association. The county has done well these last 24 years that he has lived here and it will continue to do well. When he stopped being a commissioner in 1992, nobody ever saw him at a meeting and he would do it again, he follows things from afar, but he is not a professional citizen. He had been a commissioner and tried to do what he should, as far as he knows, and the only promise that he has kept religiously, is making mistakes and apparently there is some sense, that there is a need ,to re-organize this commission. He stated again, that if the motion to change Chairmanship passes, he will resign effective the time that he can make sure that he has health insurance. He would not express more reasons than that, but it isn't fun, it hasn't been too much fun and this provides him an opportunity to hasten that day if that motion should carry. We have good citizens, very good staff and we have a commission that might express itself as having lost confidence in his ability to chair this commission and he will certainly honor a motion that affects that change, but he will not continue as a commissioner.

Commissioner Trujillo said that given Chair Daves position on that issue, it was important for the county attorney to ascertain what direction the county commission must take if one of its members should resign, so that the commission can continue to function as a body and how they would appoint a replacement.

Commissioner Andersen said she finds this totally disgusting. The issues that had been brought up, about Chairman Daves, could have been discussed and solved. Many of the problems in the commission have been a lack of communication between the five members of this commission. Somehow it was never possible, even though they had tried. This was an indication that you have a dysfunctional commission and it made her very sad.

Commissioner Andersen was very pleased to bring to them an update on the county's initiative to provide the Older American's Program with a new kitchen. This had been on the ICIP plan last year and they had received a \$15,000 appropriation that Senator Sanchez had gotten for planning and design. Mike Trujillo's investigation of the land for the judicial complex, had given him information that there was a dietary building on what will be the New Mexico Governmental Complex. They had toured the facility and it was huge and had room for everything that the program would need. Mike Trujillo had made calls to the State Property Control Officer and it was beginning to look like a possibilities of using that facility and renovating it and moving the Older American's Program and its central kitchen into that facility. It's an exciting possibility and she sincerely hoped, and Ms. Gonzales joins her, that it happens quickly because the kitchen in Belen is giving them nothing but trouble. She sincerely hoped that it worked and thanked Mike Trujillo for his efforts and said it would be a tremendous savings to all of them, because it can be renovated at half the cost of a new building.

Commissioner Aguilar asked about the playground at El Cerro Mission. Manager Trujillo said he was waiting for a quote on the materials, since this was not included in the bid. As soon as he gets it, he will issue a purchase order to start construction.

Commissioner Padilla asked what impact moving the kitchen would have on the Belen Senior Citizens Center. Mr. Trujillo said that by centralizing it in the county, the distance to transport out, will be shorter. Commissioner Andersen said they had met with the Mayor of Belen and with Ms. Garley, and they have no problem with the taking of the kitchen. The food will be delivered from this center to the Belen center and that kitchen will still be there if Belen can use, it if they want to. It will not hamper anything that is going on there. Commissioner Padilla stated that he wished he had been notified about this, as he would have wanted to be included in the process. Commissioner Andersen apologized to Commissioner Padilla for not letting him know what was going on, but she had been so concerned about the condition of the kitchen that she failed to provide him with that courtesy and she apologized again.

Commissioner Aguilar asked Manager Trujillo that when there are issues like this, that he bring them to their attention so that the whole commission is aware of it.

Action Items:

Appointments:

Animal Control Advisory Board, Margaret Ephlin.....Mike Trujillo
Item was deleted.

Comprehensive Plan Steering Committee.....Mike Trujillo

The recommendation by Mr. Quintana and by staff was that the Planning Commission members be half of the steering committee and two members selected by the commission. Chair Daves suggested that it was appropriate.

Request In-State Travel for Interactive Leadership-Taos, NM 8-24-04...Sheriff Perea

Sheriff Perea was requesting travel to Taos for Sergeant Jeff Noah to attend a seminar on Interactive Leadership on August 24-26. Commissioner Trujillo made a motion to approve. Commissioner Padilla seconded. Motion carried. 4-0. **See Exhibit.**

Request Approval of Acceptance of Pajaro Road for Maintenance.....
Dan Trujillo/Debbie Baca

Dan Trujillo was requesting approval for the acceptance of Pajaro Road. Commissioner Trujillo made a motion to accept. Commissioner Padilla seconded. Motion carried. 4-0. **See Exhibit.**

Request to Accept Rio Grande Stable Road/Rail Road Crossing as a public Road.....
Marcel Reynolds

Mr. Reynolds asked for the commission to dedicate this private parcel, which is the entrance to the facility, as a county road. The next step would be the installation of all the safety requirements that the railroad feels is necessary for public access. They had submitted an Infrastructure Capital Improvement project for \$350,000 and this would be sufficient to cover all the necessary safety upgrades as well as improvement to the road bed itself.

Commissioner Padilla asked Attorney Cynthia Wimberly to elaborate on the question of easement from some of the owners. Cynthia said it was at the pleasure of the commission to accept the road for maintenance, and she recommended that it would attain a deed from the district, but also this easement is a pertinent to some other property, so there are other land owners that have a right to it. Commissioner Aguilar did not feel that the commission take action of this. There is an insurance or a liability issue, that they need to be cautious with and well informed and the fact that the railroad had talked about expanding and increasing their route and making it busier. She wanted to be better informed so that they could go forth and be a part of it.

Commissioner Andersen, being a representative on the Middle Rio Grande Council Of Government, is very instrumental in the commuter rail program. One of the things that they talk about is proliferation of private railroad crossings, that will have to be addressed. It is very essential that those public crossing be limited. She brought this up in the interest of spreading information and was one of the things that she learned in the task force program.

Chairman Daves said it was a private crossing and the project was beautiful and would pay for itself, but the commission was not prepared to take action. He believed that a package that addresses the liability problem and other legal concerns, would be a more efficient use of time.

Commissioner Padilla said that perhaps sending a letter to Mr. Reynolds stating their concerns and their needs. Once the concerns are addressed, then he could come back and revisit the item.

Commissioner Aguilar wanted, in addition to that, dialogue from the attorney's with the railroad, as to the definition of the crossing. Is it private, liability, are crossings required, and also, any plans for the near future on expansion of the railroad.

Chair Daves said the Soil and Water Conservation is a very important project in terms of health, welfare and safety and he hoped that staff works with them towards accomplishing this and that it be the goal.

Commissioner Padilla made a motion to table this matter until they get some things resolved between the attorney's and the conservation. Commissioner Andersen seconded. Motion carried. 4-0.

Request to name road: Polo Court, Peralta, NM.....
Ruben Chavez/Jerry Dumas/Frank Davis

This request to name Polo Court is located off La Ladera Road in Peralta. Commissioner Aguilar asked if this was a public road or an easement, and how wide. Mr. Ruben Chavez said it was a private road and it was 24 feet. It was owned by the owners of that community or subdivision. There was no issue with Planning & Zoning. Mr. Dumas informed the commission that the road was being named after Polo Garcia, who was born on this property. They are the original grant heirs and he was a wonderful man. It was an honor to have know this man.

Commissioner Andersen made a motion to approve the road name. Commissioner Trujillo said it was his understanding that if a road is to be named after an individual, it was not prohibited, that it has to be approved by the commission and so he didn't see why he couldn't apply to the commission for the full name that they wanted. That was the same understanding of Commissioner Aguilar as long as it didn't duplicate another road.

The request was changed from Polo Court to Avenida Polo Garcia. Commissioner Andersen amended her motion to reflect it. Commissioner Padilla seconded. Ruben Chavez had concerns for the E911 system, because they do sometimes interrupt the system. The name Polo name will not interrupt anything, but, Polo Garcia will. Commissioner Andersen asked for the vote. Motion carried. 4-0.

Request Declaration of Surplus Property.....Beverly Gonzales
County Manager, Mike Trujillo said that Beverly Gonzales, County Assessor, had stated that the 2001 Suburban that had been purchased with the 1% re-appraisal fund and was purchase for staff to travel to and from conferences was no longer needed. She would like to trade it straight across for a smaller used utility vehicle with the same value as the suburban. It has 32,963 miles and is in very good condition. As per statute Sec. 13-6-3 NMSA 1978, sale trade-in must be taken by this county commission in order for that action to be taken. She is looking at a Tahoe. Manager Trujillo recommended that it be done with no additional cost to the county, since it had not been budgeted for any new vehicle. If the Tahoe is too expensive, that they continue going down the line, until they get to an SUV that is within the trade-in value.
Commissioner Aguilar wanted to know what the trade-in value was, because there are other departments within the county that do a lot of traveling, like the county clerk with their machines. On trade-in values, you get absolutely nothing. She asked that they find out what the trade-in value was and look at the opportunity where other departments may be helped. Michael Steininger said that the based trade-in value was approximately \$15,400. Commissioner Aguilar said they didn't know what the dealer would be giving. Mr. Steininger said there were various definitions so it was between \$15,400 and \$21,000. Before taking action, Commissioner Aguilar wanted to hear from the County Clerk and other departments and allow them the opportunity to utilize this vehicle. Manager Trujillo said with Beverly's permission, they would take it to the dealership and ask for a trade-in value and bring back the information to them.
County Clerk, Tina Gallegos said that according to her budget, she had visited with Manager Trujillo about a vehicle, and the department does need one. She had hoped to look at purchasing one on this budget year. So she hoped that they would keep this in mind.
Commissioner Aguilar made a motion to table this matter until the next meeting and allow administration to bring back a recommendation. Commissioner Andersen seconded.
Motion carried. 4-0.

County Manager requested to move the next item, Request Approval of Joint Powers Agreement-Juvenile Detention to the next item of business. Chair Daves said if there was no objection, it would be fine.

Request Approval of Joint Powers Agreement-Juvenile Detention between Bernalillo County, Sandoval County and Valencia County.....Michael Steininger
Michael Steininger said that the agreement was much the same as 2002. Two significant changes made in the contract are in the Joint Powers Agreement are Administration fee from budgeted total budget expenses, to actual expenses and a change in the billing procedure on the meals that are served at the detention center. This was done to avoid a problem that Bernalillo was going to encounter on violation of purchasing protocol since they did not have a contract with Cornell to provide meals. If we are doing the billing to them, it will also provide them the opportunity to issue an RFP on meals and possibly get some federal nutrition money for the Juvenile Detention Center. Michael's recommendation was to approve the contract.
Mr. Tom Swisstack, director for the Bernalillo County Juvenile Detention Center, said that the relationship between the two counties has serviced the kids in all communities and for the most part, have done a good job with the resources that they have.
Commissioner Aguilar asked how many juveniles we had and what was the cost of the contract. It indicated that they were providing one Valencia County Rural Community Monitor, but what about the two Juvenile Monitors, or bailiff's, that also get paid. Was it included in the contract or was it separate? Mr. Swisstack said that the total budget was \$1,452,000, which is \$86,227 less than last year. The juveniles that they handle, vary, from year to year. In 2001, Valencia County pays for one rural monitor and what they do through other grants is pay for another monitor. In this facility there are as low as twelve juveniles and as high as twenty three on the male side and low as two and as high as ten on the female side. The capacity is thirty three. Commissioner Aguilar asked what the term of the contract was. The contract was up to four years with a six month escape clause. Commissioner Aguilar asked the attorney, that since three of the commissioner would be leaving, was it okay to approve a contract for four years. The attorney said yes.

Commissioner Andersen said she was one of the members that had met with Mr. Swisstack and partners and they were forthcoming and eager to help them. They had started out with the premise that this facility was costing too much and if they look at the list of service that are provided by Bernalillo County, for which charges are not made to Valencia County, it really is advantageous thing for them to do. and in addition to that, Mr. Swisstack is working at prevention programs that will bring a lot of good things to the juvenile that come into their custody. Commissioner Andersen thanked him and said it had been a pleasure working with him.
Commissioner Aguilar said that the questions that she had asked was for the public's information. She used to be on the Juvenile Detention Board and the service to juveniles are very different than adults and they can't deviate from them, because the laws are very specific. Mr. Swisstack and the others do an excellent job with our juveniles in that it does reduce our liability and they haven't had any problems. She also thanked them.

Commissioner Padilla asked how many people they employed to run this every year. Mr. Swisstack said they employ approximately 18 employees, 16 are full time and 2 are part-time. Commissioner Padilla said that the reason he had asked, was because of the difference on salary cost. Mr. Swisstack said they have a turnover rate of 75% of their staff because of salary. When you are working with lives of kids that are suicidal, they try to establish a stable working environment and as a result they have increased the salary from \$9.00 to about a base pay of \$12.00. The salary increase was included in this budget from the Bernalillo Commission that has a rippling effect for Sandoval and Valencia Counties. Their turnover rate now is approximately 7%. Also, they have been fortunate, since their relationship in 1994, not to have had any lawsuits.

Chairman Daves asked what it cost for one day for a juvenile. The cost for a Valencia County juvenile was \$78.20 a day. Until tonight they had thought that they could make it less expensive, and he appreciated the fact that our County Manager Mike Trujillo had successfully negotiated with Bernalillo County and Sandoval County to improve that. Manager Trujillo said that it was necessary that someone represent the commission on this board.

Commissioner Aguilar said that Valencia County rents out beds to other municipalities, and asked what the cost was for those beds. Mr. Swisstack said that they were charging \$125.00 a day.

Michael Steininger recommended approval of the Joint Powers Agreement and the budget that they had attached and had been incorporated into our budget. Commissioner Andersen made a motion to approve as per the business manager's recommendation, the agreement and the contract. Commissioner Padilla seconded. Commissioner Aguilar asked if the total amount was budgeted for the coming year. Mr. Steininger said yes. Vice-Chair Trujillo called for the vote. Motion carried. 4-0. **See Exhibit.**

Commission took a 15 minute break

Approve Form of Findings/Decisions from July 7, 2004 Actions

433 Jarales Rd., Estella Sanchez.....Cyndi Wimberly/Adren Nance

County Attorney, Cynthia Wimberly, said that given the commission's earlier discussion regarding a zoning moratorium, it may be advisable for the commission to table these items, however, legal staff does not see that these items necessarily prejudice, if they did decide to proceed with them.

Commissioner Trujillo said there was one item within the list, that he would like the opportunity to demonstrate to the commission that the 1999 ordinance does not impact. That was Item H-1-D and this was in his district. He wanted this one to remain and be heard.

Commissioner Aguilar said that they had already taken action on Item G, which was 433 Jarales Road and this was just Facts and Findings and agreed with the attorney. She made a motion to approve the Facts and Findings for 433 Jarales Road. Commissioner Padilla seconded. Motion carried. 4-0.

Public Hearings

Commissioner Aguilar said that if they were going to start swearing people in and taking testimony, were they taking the attitude of proceeding or based on the information that they had been provided with in executive session, it seemed that they should make a motion, based on the recommendation to table it, until they have more information on the comprehensive zoning ordinance. Attorney, Wimberly said there wasn't any prejudice, in going ahead and acting on these, to where it would put the commission with the information that was discussed in executive session. However, given the fact that they have decided to discuss the moratorium at the next commission meeting, it may be advisable for them to go ahead and table these items until that discussion can ensue in a public form.

Commissioner Trujillo said he would like for Item D to be heard by the commission, to show that this issue is not impacted by the zoning ordinance. Commissioner Aguilar said if they heard these and open it up as a public hearing, they are referencing our current zoning ordinance and the effect of it, when they have been told that it was questionable and maybe hold off on any approval. Commissioner Andersen wanted to hear a response from the attorney.

Ms. Wimberly said that it would be cleaner to table the items until after the meeting in two weeks, however, she did not believe that it was prejudicial to look and hear the items. Her other advice is that if they are going to look at one of them, then they should look at all of them. They should all be treated equally.

Commissioner Andersen made a motion to table Items H-1-A,B,C for an indefinite length of time, until they can get the ordinance question cleared up, and that they address Item D. Commissioner Trujillo seconded.

Mr. Ron Racca said that just because he didn't have a commissioner to speak for him, he shouldn't be tabled when one of them would be heard. He said either table them all or hear them all.

Chair Daves reminded the commission that there was a motion on the floor and asked for the vote. Motion carried. 4-0.

Request to Amend the Zone Map from RR2 to RR1 10 Carmelita Lane, Jarales, NM Ruben Chavez/Joann Jaramillo

At this time anyone wishing to speak on this item was sworn in by County Clerk, Tina Gallegos.

The action requested was for property located at 10 Carmelita Lane in Jarales. These are Tract A, lands of Carmelita Jaramillo, formally known as T4N, R2E, Sec. 4, Tract 31B1C2, containing 2.3560 acres. The Jaramillo's request was for the purpose of creating two parcels that were previously

represented to him when he bought the property. Mr. Jaramillo had purchased the property with the intentions and the understanding that he had bought two separate parcels of land. When he went to assess the property into his name, he discovered the property had been previously re-platted into one parcel of land. He would like to recreate two separate parcels of land that would have a road.

On July 14, 2004, the Planning & Zoning held a public hearing and took testimony from both applicants and the public. The commission found that the surrounding lots are 1-2 acres, that a road was created so that the back property could have access and the commission felt that the applicant should retain the development right he was presented with at the time of sale. Although the property in the back appears to be land locked, a cal-de-sac as presented in the proposal will and would have solved the issue. The P & Z commission voted the approval of this request with a vote of 5-0.

Mr. Ruben Chavez said that in the commissioner packet was a map that shows the property the way the applicant had seen it.

Mr. Alex Jaramillo was before the commission to get approval. Commissioner Trujillo said that in referring to the map provided for them, it was very clear that in looking at it, that the surrounding pieces of land on two sides of it are one acre. The plat that is north of the one in question, already belongs to Mr. Jaramillo, as well as the 2.02 that is north of that. The only plats that are larger than one acre, adjacent to these, are owned by Mr. Jaramillo. What Mr. Jaramillo wanted to do was retain one acre in the back and sell off the one acre and house.

Commissioner Aguilar said, now, we are creating a road to the other tract and how wide was the road. Mr. Chavez said it was 40FT wide. Mr. Jaramillo wants a split and he owns additional property, so he can't come back and ask for another split on the adjoining lot. Mr. Ruben Chavez said that was correct.

Commissioner Andersen asked Mr. Jaramillo if he understood this completely. Mr. Jaramillo said yes.

Commissioner Trujillo, in addressing Commissioner Aguilar statement, said that the majority of that property was under Mr. Jaramillo's name. This is farm land and he is a farmer and intends to continue farming with the one acre that would be left, but did not want to continue assuming a mortgage on the house with the one acre. His intentions are to incorporate into a pasture.

Commissioner Trujillo made a motion to approve. Commissioner Padilla seconded. Commissioner Aguilar wanted to support the motion, but she would like to add the contingency on the easement agreement that Mr. Chavez referred to. Commissioner Trujillo said that in the packet it was clear what he had proposed. He believed that the easement was shown on the map. Ruben said what they were looking at was the plat that Mr. Jaramillo had given after the closing and that did not have the easement agreement. Mr. Jaramillo was not selling the piece that he could benefit by, it was the piece that he was already planning to sell and retaining the other piece. So the easement would run with the property. Mr. Chavez said it would run with two tracts that would access that easement. Commissioner Trujillo asked Mr. Jaramillo if he had a problem with the requirement that Commissioner Aguilar was requesting. Mr. Jaramillo said he did not have a problem with it, but he was not thinking of subdividing the land. He was using it for farming. Commissioner Aguilar said it was not her request, it was a resolution that was passed by this commission. She used the example of Mr. Nick Blea. The intentions may be there, but things are subject to change and when they go to sell or the deed it out, then there is a problem and that is why they have the resolution in place. It is to protect everyone.

Chair Daves commented that he understood from Ruben's comments, that he would be administratively required, to do what Commissioner Aguilar asked, probably because of the resolution or other legislation that governs these actions. Mr. Chavez said that was true. So what this conditions it to, is do what you are legally required to do, whether or not the condition attaches. Commissioner Trujillo said his motion stands. Motion carried. 4-0.

Commissioner Aguilar had said that she would support this, but talking to the attorney, she said that her comment and her request was part of the division process for this county. It should be part of the motion and publicly heard. Chair asked if she had voted yes or no. She said she would support it

Request to Publish: Re-zoning at the Industrial Park.....Paul Trujillo

Commissioner Trujillo said something had developed in looking into the issue and probably the 1999 ordinance had come into question and the validity of the adoption of the ordinance. It would seem to be unnecessary to look at item I, until they address the issue of the ordinance. It had been suggested that perhaps a moratorium would be a good way of addressing it because there are other issues that will be impacted by it, including the re-zoning of it. He believed that it was appropriate to table the item, until they have had time to consider the validity of it and a potential necessary moratorium at the next meeting. He made a motion to table Item I Commissioner Padilla seconded. Commissioner Aguilar said that the attorney had provided them with information and concerns with the existing ordinance. There is an issue with the validity and the enforcement of it, but in tabling this item to request a re-zoning at the Industrial Park, she would like to stress, that this puts a hold on any concerns of anyone coming for approval, whether it be a building permit, from anything having to do with the Industrial Park, so it may require an amendment to the motion. But they have to look at the zoning ordinance and look at it as a whole. There needs to be a request for publish or to look at amending the zoning ordinance on the first one that was approved in 1999, but there was also a question, that if they were going to look at that, and if, they have a moratorium, do they go back and start looking at 1988, or in the moratorium, or, does it put a halt on everything. This is a question that she would like answered tonight. In the Industrial Park, no action be taken, on any

assumption, of what they had been told or what they had done in the past, until, they are assured legally on how they are going to proceed.

Commissioner Trujillo wanted Commissioner Aguilar to clarify an amendment to the motion because it seemed, that what she is suggesting, was that in tabling this item, that he amend it, to reflect, that no action should be taken pursuant to that 1999 ordinance effective now, until, the commission has had the opportunity to go through a formal process of revisiting the ordinance and perhaps adapting it in an amended form. With approval of his second, he amended the motion to reflect Commissioner Aguilar's comments. The motion would be to table the request to publish the rezoning of the Industrial Park, with the understanding that no building permits and no action shall proceed issuing from that ordinance until this commission has had a chance to review the ordinance and proceed from there, which would be the next meeting. They would begin the process or perhaps even conclude it. That is the restatements of his motion.

Commissioner Padilla asked Cynthia, county attorney for her opinion on the motion. Commissioner Aguilar said the motion was just for the Industrial Park, not building permits. Commissioner Andersen asked that the motion be re-stated plainly. Chair Daves repeated the motion, that stated, no building permits be issued at the Industrial Park. Ms. Wimberly said her concern was in respect to the Open Meetings Act, and that the issue of the moratorium in any place in the county, was not in the agenda and was not published. Therefore, under the Act, it would be necessary for this commission to also declare an emergency in order to make this an action item and to defeat void ability of it, in the Open Meetings Act. Commissioner Aguilar said that the attorneys had made them aware, that if they take any action under the existing ordinance it could be null and void. There has been a request for administration to do a moratorium and bring the action to the commission in two weeks. Her concern was that they were leaving a two week window, for anyone to do anything, and if this happens, there are issues with the existing ordinance.

Commissioner Trujillo said he would narrow his motion to the Industrial Park and under the premise of an emergency. Commissioner Padilla also amended his second.

Commissioner Andersen said she was greatly concerned about this motion. She had no problem with tabling the item as written on the agenda, however, adding this emergency clause that restricts it to one particular area in the county, puts the commission at some kind of risk and could lead to some dangerous things happening. She didn't believe they were following proper procedure. She has no qualms with where they want to go and why, but what was suggested, was wrong and she could not support it. She asked that they consider what they were doing, and in her mind, they were sending a message that they do not want businesses here, and, that they would do anything and everything to keep them out of here. We cannot support the county as it is, without more revenue, and we chase them away at every opportunity. This is what the community is telling us, she said.

Commissioner Trujillo, upon the advice of the attorney and Commissioner Andersen's concerns, said it was important to clarify the motion a little further and rather than making it specific to a piece of land, to make it specific to the Industrial category, in general, of that alleged ordinance. He amended his motion to state that, and to retain the emergency status. He also stated that they do need development in the county, but it's a matter of where it occurs and whether it's appropriate to a location.

Commissioner Padilla said this was a very important issue and they have to be very careful, and how this commission precedes. He had the same concerns as Commissioner Andersen, in that they don't want to discourage industry and it is important that they keep that in mind. Many of our children leave the county because there are no jobs and we want to make sure that we keep our people employed in this county.

Chair Daves felt that the motion is irrelevant to the item that it intends to address and that perhaps it sends a message that reflects the opinion of many. There is a motion to table this item and that the motion, also has the effect, of through an emergency declaration, provide a moratorium toward any building permits in the industrial zones of this county. Chair called for the vote. Commissioner Trujillo voted yes. Commissioner Aguilar voted yes. Commissioner Padilla voted yes. Commissioner Andersen voted no. Motion carried. 3-1.

Financial Matters

Request Approval of Agreement 2004 Legislative Appropriations, Equipment.....

Mike Trujillo

Pumper for Manzano Vista Fire Dept., Water Pump for El Cerro Fire Dept., Defibrillators for Sheriff's Dept., Crime Scene Unit for Sheriff's Dept., Tanker for Rio Grande Estates Fire Dept.

County Manager said that the above items were requests to approve legislative grant agreements. The first one was to approve a grant agreement to a local government division instead of New Mexico and the County for \$491,000. Included in this amount is \$100,000 for a quick response pressure pumper for the Manzano Vista Fire Department, in El Cerro Mission, \$75,000 for a water pump for El Cerro Fire Dept. substation in Valencia County, \$6,000 for Defibrillators for the Sheriff's Office, \$50,000 for a crime scene unit for the Sheriff's Office and \$260,000 for a tanker for Rio Grande Estates Fire Dept. in Valencia County. Mike recommended approval. Commissioner Aguilar made a motion to approve. Commissioner Andersen seconded. Motion carried. 3-0. **See Exhibit.**

Commissioner Trujillo was absent for the vote.

Request Approval of Agreement 2004 Legislative Appropriations, Projects.....

Mike Trujillo

Jarales Community Center, Needs Assessment of Road Dept., new Los Chavez Fire Dept., Tome-Adelino Community Center, Highland Meadows Fire Station & Community Center.

This next item was a request for a contract agreement between the State of New Mexico local government division and Valencia County for the following appropriations. Total amount of the contract was \$475,000. first \$25,000 for plan design and construction of the Jarales Community Center, \$25,000 for planning and design and construction of Community Center in Jarales, \$25,000 for a need assessment for the Road Dept., \$150,000 to purchase land for and plan design and construct the Los Chavez Fire Dept., minus statutory requirement 1% for \$1,500 for the Art and public places, \$100,000 for planning, design and construction a community center in Tome/Adelino, \$75,000 for plan, design and construct a community center in Jarales and \$75,000 for phase two construction of the Fire Station and Community Center for Highland Meadows in Valencia County. Mr. Trujillo recommended approval. Commissioner Padilla made a motion to approve. Commissioner Andersen seconded. Commissioner Aguilar supported the motion, but clarified that there is no financial commitment from this county, to go beyond the appropriation. Motion carried. 3-0.

Chair Daves recalled his thought from the previous item and said it was significant enough to make it. On the Industrial Park, and if the commission's motion stands, on not allowing building permits in the next two weeks, People's Energy, under reliance on the county, both administratively and through the commission, has in very good faith, spent a couple of million dollars towards this facility and if this motion has substance, given that history, our commissioner always talk about liability, we have a situation where, if we successfully enjoin this, they might successfully seek compensation for their reliance upon the county. He didn't think that the motion has an ounce of oops!, legally, but to the extent that it does, we should think about that, in terms of potential liability to this county. Commissioner Andersen agreed with Chair Daves.

Request Approval of Bid Awards for New Pumpers.....John Cherry
Bid #560 Valencia El Cerro FD Pumper
Bid #561 Tome/Adelino FD Pumper

Mr. Cherry was requesting the commission to award bids for two new fire trucks. He recommended Monarch Fire Equipment of Belen for the Valencia/El Cerro Fire Department Bid #560 in the amount of \$188,308.00 and also recommends Monarch Fire Equipment, for the Tome/Adelino Fire Department Bid #561 in the amount of \$280,901.00. This money was approved for State Fire Protection Funds from the State Fire Marshall's office. Commissioner Aguilar made a motion to approve. Commissioner Padilla seconded. Motion carried. 3-0. Commissioner Trujillo was absent for the vote. **See Exhibit.**

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

County Manager, Mike Trujillo presented the commission with a payroll, Checks #63068 – 63242 in the total amount of \$195,444.37. He recommended approval. He also had warrants checks covering vendor bills in the amount of \$443,374.56. He recommended approval. Commissioner Padilla made a motion to approve. Commissioner Andersen seconded. Commissioner Aguilar asked if all these items had been budgeted. Mr. Steininger said yes. Motion carried. 3-0. Commissioner Trujillo was absent for the vote.

County Manager's Report: Information Only

County Manager, Mike Trujillo gave a report that as of this afternoon, there were 124 people incarcerated. The average had been about 150-155. In the Juvenile Center the total was steady. On the Valencia Counseling Services Lease with State Property Control Division, this had been brought up to the commission about a month ago. Commissioner Aguilar had questions and wanted to see what the lease and the sub-lease would look like. On Thursday he had met with State Property Control and they will be sending that particular item.

Waste Management was no longer going to receive animals that we euphemize at the animal shelter without charge and would be charging \$5.00 an animal. He had negotiated, with the City of Albuquerque Solid Waste Management Department, and will try to finalize the negotiation to present them. They will charge \$36.15 per ton, which means 50 animals at an average of 40 lbs. per animal, which will be \$200.00 to \$250.00 per truck load.

The other item was that he had been asked, on behalf of the region, to make a presentation to MRCOG and all government entities who recently approved the regional water plan. The formal presentation of the Interstate Stream Commission was scheduled for August 17th in Farmington, and he was traveling with the MRCOG staff, so there will be no cost.

The last item was a letter he had received from the County Assessor saying that she had submitted Kimo Benavides' name to attend the International of Association of Assessing Officers School to be held at New Mexico Tech in Socorro on August 9th through the 13th. Ms. Gonzales apologized for failing to get permission from the commission. It was not an action item, and because of the travel policy, the commission must be notified. The school is only offered once a year and it was important that we keep our officers certified, so he would approve it.

August 11, 2004 –Animal Control Ordinance Workshop – 3:00 PM – 6:00 PM
August 13, 2004 –Canvass Fire Protection Excise Tax Election – 10:00 AM
The next Regular Meeting of the Valencia County Board of County Commission will be held on August 18, 2004 at 6:00 PM in the County Commission Room at the Valencia County Courthouse.

Adjournment 10:00PM

Motion by Commissioner Andersen. Seconded by Commissioner Padilla.

NOTE: All proposals, documents, items, etc., pertaining to items on the agenda of the, August 4, 2004 Regular 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: August 14, 2004