

VALENCIA COUNTY BOARD OF COMMISSIONERS

Regular Meeting

September 15, 2004

The Meeting was called to order by Chairman Gary Daves at 5:00 P.M.

PRESENT	ABSENT
Gary Daves, Chairman	For first part of the meeting
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	

Vice-Chairman Paul Trujillo called the meeting to order as per Section 10-15-1 MNSA 1978. The following matters would be discussed; Limited Personnel Matters, Pending or Threatened Litigation, and other specific limited topics. Commissioner Padilla made a motion to go into Executive Session. Commissioner Andersen seconded. Commissioner Andersen voted yes. Commissioner Padilla voted yes. Motion carried. 2-0. Chairman Gary Daves was absent for Executive Session. Commissioner Aguilar was absent for the meeting.

Executive Session

Vice-Chairman Paul Trujillo called the meeting back to order. Commissioner Padilla made a motion to go back to Regular Meeting. Commissioner Andersen seconded. Motion carried. 2-0. Vice-Chairman Paul Trujillo asked for a motion and roll call vote that as per Secion10-15-1 NMSA , Limited Personnel Matters and Pending or Threatened Litigations and other specific limited topics were discussed. County Manager Mike Trujillo had discussed an ongoing personnel hearing and no action was recommended. Also, the fact that the District Attorney had appointed a special investigator regarding a lawsuit with grand jury investigation on the Animal Control. County Attorney, Cynthia Wimberly said that regarding legal action, the Landfill Zoning fees status was discussed and threatened litigations involving the election process. This was all that had been discussed. Commissioner Padilla made a motion to ratify, that was all that was discussed. Commissioner Andersen seconded. Commissioner Andersen voted yes. Commissioner Padilla voted yes. Motion carried. 2-0.

Pledge of Allegiance led by Abran Gabaldon

Approval of Agenda

County Manager, Mike Trujillo asked that Item 8-B, be removed. They had been advised by the local government division Department of Finance Administration that the tax rates would not be available until September 24th . Vice-Chairman Paul Trujillo asked for a motion to approve the agenda with the proposed deletion, Item 8-B. Commissioner Andersen made the motion. Commissioner Padilla seconded it. Motion carried. 2-0.

Approval of Minutes

There were no minutes to approve.

Public Comments:

None.

Discussions (Non-Action) Items:

Proclamation of “Trek for Trash Day- September 25, 2004.....Cyndi Sluder

Cyndi Sluder had a proclamation asking that September 25, 2004 be designated as Trek for Trash-Day. Vice-Chairman Paul Trujillo, Commissioner Andersen and Commissioner Padilla all thanked Ms. Sluder for a job well done. Cyndi said she had a committed board that was very dedicated. She also thanked Ruben Chavez for all his help. See exhibit A

Judicial Complex Update.....Judge William Sanchez/Mike Trujillo

Judge William Sanchez said that both Judge Pope and himself have been on the bench for twelve years and were very grateful to the voters for having passed the bond. He had a hand-out that showed the floor plan that was still in progress. It was a proposed three story building and the reason was that in the event that they end up with the site across the street, there would be no room to spread out. The location was still in the works. They were still trying to work with the state in their support, of having four acres transferred from the Los Lunas Hospital and Training School, which is located in Valencia County, for purposes of this project. Mike Trujillo had a print-out of how the building would be situated on that property. Manager Trujillo had discovered that there is a

resolution that ties up the property, at least until the next legislative session. The project might be delayed two or three months, but, hopefully not more than that. Mike Trujillo said that the site west of this facility was very narrow and would impose serious limitations. He was concerned about security issues. The site at the Los Lunas Hospital and Training School offers more availability. He proposed that at the next commission meeting, that they authorize selection of the site at the old Hospital and Training School as the prime site of construction and at that time they would hope to have the finalized program and foot print that they could adopt.

Vice-Chair Trujillo thanked Judge Sanchez and the committee on keeping the commission well informed and he also thanked County Manager Mike Trujillo.

Commissioner Andersen said that the site at the Training School was ideal. It gives them, not only a place to show off a nice building, but room for expansion, which will have to happen some day.

Commission Communication/Questions.....County Commissioner
None.

Action Items:

Commissioner Andersen made a motion to convene as Indigent Board. Commissioner Padilla seconded. Motion carried. 2-0.

Barbara Baker presented the commission with three appeals. The first appeal was for Arley Stump who lives in Socorro County, less than a mile from Valencia County, and has lived there since 1979, but does all his shopping in Valencia County. He was denied, because he lives in Socorro County. He wanted to be reconsidered. Her recommendation was that they approve. Commissioner Padilla made a motion to approve. Commissioner Andersen seconded. Motion carried. 2-0. **See exhibit B**

The next appeal was for Ms. Cecilia Perez who was denied due to the 90 day limit. She was on Medicaid but had expired for one month and this was the time she had to go to the hospital. She would like to be re-considered. Commissioner Andersen made a motion to approve as per Ms. Baker's recommendation. Commissioner Padilla seconded. Motion carried. 2-0. **See exhibit C**

The last appeal was for Joylene Yalch on behalf of her father who has passed away. Mr. Yalch did have Medicare, but had two large balances with Presbyterian Hospital. Ms. Baker recommended approval. Commissioner Padilla made a motion to approve. Commissioner Andersen seconded. Motion carried. 2-0. **See exhibit D**

Ms. Baker presented the Indigent Claims from August 6, 2004 to September 2, 2004. The amount of claims submitted was \$534,474.02. There were 121 claims and she asked the commission to approve \$73,121.87. There were 32 denials. Commissioner Padilla made a motion to approve. Commissioner Andersen seconded. Motion carried. 2-0. **See exhibit E**

Record shows that Chairman Daves is present and assumed the Chair.

Commissioner Andersen made a motion to re-convene as Board of County Commissioners. Commissioner Padilla seconded. Motion carried. 3-0.

Public Hearings:

Ordinance 2004-04, Excise Tax of One-Sixteenth of One Percent, the One-Sixteenth Increment, for County General Purposes.....Mary Andersen

Commissioner Andersen was asking approval of an Ordinance that would impose a county gross receipts tax, which is an excise tax of 1/16th of one percent for county general purposes. This was a proposal that was made and approved by the last legislators. Considering the state of the county's finances, she recommended that they impose the tax. Chair Daves asked if the public had any input. There was none. Commissioner Andersen made a motion to approve the One-Sixteenth Increment of the County Gross Receipts Tax Ordinance. Commissioner Trujillo seconded. Commissioner Andersen said it would amount to about sixty cents on a on a one hundred dollar purchase. It would take affect on January 1, 2005 and bring in somewhere in the neighbor of \$160,000 to \$300,000 a year. This depends on the impact of change of gross receipts tax on food and medical supplies and services. It's hard to predict how much money this will bring, but we need to do this. Also, we will not see this money until the first of April, 2005, but she is hoping the money can be used for some needy things and one of which she hopes is a public works director and a full time grant writer. Not knowing how much money that's going to be, so to make promises to the employees that this would be used for salary increases would be unfair. After no further discussion Chair Daves called for the vote. Commissioner Andersen voted yes. Commissioner Padilla voted yes. Commissioner Trujillo voted yes. Motion carried. 3-0. **See exhibit F. Ordinance 2004-04**

Resolution 2004-, A Resolution Earmarking use of the 1/16th of one Percent Gross Receipts Tax Imposition.....Alicia Aguilar

Since Commissioner Aguilar was absent from the meeting, Commissioner Trujillo made a motion to table the issue until the next meeting. Commissioner Padilla seconded. Motion carried. 3-0.

Ordinance 2004-Legislatively Adopting an Interim Comprehensive Zoning Ordinance, Zoning the Unincorporated Area of Valencia County, Repealing the 1999 Comprehensive Zoning Ordinance and 1987 Zoning Ordinance and Amendments
Ruben Chavez

Cynthia Wimberly informed the commission that the compliance was for their knowledge and information that they had complied with the publication requirements of Section 3-21-14 of the State Statutes. Chairman Daves asked if they were at a point that they were able to act on it and moving forward, toward adoption of a zoning code, which would involve a public hearing process. County Manager Mike Trujillo said they had drafted eleven amendments. The basic issue was that once the proposed ordinance is introduced and prior to taking any action, any proposed amendments, revisions or substitutions may be introduced. They could either vote yes or no and at the end of the process, then they would vote on the entire ordinance.

Chairman Daves said that the first step would be to move and second the zoning ordinance, but not debate it or ask for public comments. The amendments would then be moved and then go into vote, the public comments and the commission comments. Commissioner Trujillo made a motion to adopt the Interim Zoning Ordinance. Commissioner Andersen seconded.

The commission went on to move on the amendments that would be incorporated into the ordinance, if passed by the commission.

Amendment No. 1, Commissioner Andersen, on behalf of Commissioner Aguilar, proposes that “we amend the Ordinance by inserting on page 16, line 33, after the word “County”, the following: “as the Valencia county Comprehensive Plan (May, 1986).” Commissioner Andersen moved for the Amendment. Commissioner Trujillo seconded.

Amendment No. 2, was proposed by Commissioner Trujillo regarding the AP District. He proposed changing the language in the ordinance by deleting the ten acre required in the AP District and setting it back to a five acre requirement. Commissioner Trujillo moved for the Amendment. Commissioner Padilla seconded.

Amendment No. 3, was proposed by Commissioner Daves. He proposed we amend the proposed ordinance by striking out the color and district designation of all locations where the present use is appropriate for a C-2 zone, and insert the color and designation in said locations of C-2 (Community Commercial District), as indicated on the map attached hereto and incorporated herein by reference. Commissioner Daves moved for the amendment. Commissioner Andersen seconded.

Amendment No. 4, was proposed by Commissioner Daves. He proposed striking out Article 8, from page 76, line 11 through page 86, line 8, and insert the following new Article 8, regarding Neighborhood Commercial District (“C-1”). This was a staff sponsor and asked Ruben Chavez if he would summarize. This was increasing square footage from 3,000 to 5,000. It changes density and parking size in both designations to ED standards. The main goal was to make it user friendly and more permissively. Commissioner Daves moved for the amendment. Commissioner Andersen seconded.

Amendment 4-9-15-04 was removed and by way of explanation, Commissioner Trujillo said, the proposal would be to strike out the color and district designation of all districts zoned as I-3 (Heavy Industrial District), and insert the color and designation in said districts of I-1 (Resource Industrial District). At this time he also handled the succeeding amendment 5-9-15-04, which was the alternate amendment of 4-9-15-04. He stated that on advise and consultation with staff, he would like for these two amendments to not be considered tonight and for proper publication to be given towards a public hearing sometime in October. So, he was not going to bring forward a proposal for these amendments tonight. In addition, Amendment 12, regarding language pertaining to Industrial districts, those go together and he would like them published, towards a public hearing in October.

Amendment No. 5, was proposed by Commissioner Andersen, on behalf of Commissioner Aguilar, proposed that they amend by inserting the words “or P&Z after the word “Department” on page 46, line 16. Commissioner Andersen moved for the amendment. Commissioner Trujillo seconded.

Amendment No. 6, was proposed by Commissioner Daves. This was clarified by County Manager, Mike Trujillo, who said that there was some concern raised at the workshop, by several citizens. The commissioners had asked, that they draft an amendment, that in certain zones, such as residential or commercial zones, that after the word “utility facility” that they add the language “with exception of energy generation facilities”, and this is only in the lower zones and does not affect the industrial zones, I-3. Commissioner Daves moved for the amendment. Commissioner Padilla seconded. Commissioner Andersen asked if these changes would affect the People’s Energy Plant, in the industrial zone. County Attorney, Cynthia Wimberly responded “not in my opinion”..

Amendment No. 7, was proposed by Commissioner Daves, on behalf of staff. He proposed that we amend the proposed Ordinance by inserting on page 26, line 28, after the word “television”, the following: “or water distribution or wastewater system”. He asked staff for definition. Attorney Wimberly, said that the definition of utility in the definitions, did not include water distribution or waste water systems. Utilities facilities are uses in every zone, is that every zone is allowed to have utilities. Commissioner Daves moved for the amendment. Commissioner Andersen seconded.

Amendment No. 8, was proposed by Commissioner Andersen. It proposed to amend by adding a new section 11.10 titled “Parking Standards”, and asked Ruben Chavez to

describe. Ruben said that they had not had parking requirements, so they had drafted a standard for parking. Off street parking must be provided on-site for all new buildings or structures. Commissioner Andersen moved for the amendment and that a typing error on 11.10.4 be corrected. Commissioner Trujillo seconded.

Amendment No. 9 was proposed by Commissioner Padilla. It proposed to amend the proposed Ordinance by correcting some of the technical and clerical errors. This amendment would fix clerical mistakes and technical errors. Commissioner Padilla moved for the amendment. Commissioner Trujillo seconded.

Anyone wishing to speak on the issue was sworn in by Sally Perea, County Clerk's Chief Deputy.

Chair Daves asked that the comments be brief.

Patty Gustafson, a resident of Adelino, had attended the workshop and she had concerns that this ordinance was hastily prepared. She urged the commission to give the ordinance an "end date", and then to have workshops every three weeks for input.

Dr. Richard Becker, has a partnership with his brother and his father and they own property in Valencia County. He concurred with Ms. Gustafson on the end date. He had attended the workshops that Planning & Zoning held and that these have been going on for months, and so this was not a fly by night consideration. As a taxpayer and a citizen, he was impressed with the diligence that the Planning & Zoning Commission has given to this. He complimented Ruben Chavez on his support of this. He also complimented the commission on taking action on this interim ordinance, what they were doing was sustaining the future of Valencia County.

Chairman Daves asked for the public's comments on any of the amendments.

On Amendment 1, Mr. George Dewey suggested that they add the word "sustainable" to "comprehensive and sustainable zoning plan".

Commissioner Trujillo suggested that since public comments had ended, they were re-visiting the issue again. Chair Daves was concerned that the public had specific items to address.

Amendment 2, no comments from the public.

On Amendment 3, Richard Becker owned property on 263 West El Cerro Loop and on 1719 El Cerro Rd. It is zoned as C-1, under conditional use permit and it might also be considered as C-2, with a permissive use designation, rather than conditional. They were requesting that their property also be included. Ruben Chavez said they have identified all the uses, that they were able to put together. They had found 49 different properties, that are classified as C-1, but their actual use is C-2. There are many businesses that are solid in the community and should be allowed to prosper and not have to come for a zone change just to add an addition. This is what this proposal does. These are in the corridor of Highway 47, 314 and some of the corridor of 304 and some in the corridor of Meadow Lake and two in El Cerro Mission.

On Amendment 4, no comments from the public.

On Amendment 5, no comments from the public.

On Amendment 6, 7-9-15-04, Mr. John Kerry wanted clarification that it did not address the I-3 Zone, nor intended to affect a permissive use in the I-3 Zone. Attorney Wimberly said that was correct.

Mr. Kerry also wanted clarification that it was not changing the definition of "utility". Ms. Wimberly said that was not correct. They were adding to the definition of utilities in the ordinance, after the word television, and are including, in the utilities, as well, water distribution, or waste water system. Mr. Kerry said that was in a different amendment, not in this amendment. Ms. Wimberly said that was correct. County Manager said this was Amendment No. 6, subsequently labeled 07 at the bottom for reference only. This amendments will not affect People's Energy, Attorney Wimberly said.

Commissioner Trujillo said that this amendment was to clarify, that when they use the word facility, they are referring to sub-stations and things like that.

On Amendment 7, no comments from the public.

On Amendment 8, no comments from the public.

On Amendment 9, no comments from the public.

Chairman Daves said that the goal of this process was to remove the cloud from the existing code that was passed in 1999. Further amendments might be made or clarifications, more detail given or workshops to be held.

Commissioner Trujillo suggested that a time frame be discussed and wanted suggestions from the commissioners. Commissioner Andersen said they had at least eleven people working on the comprehensive plan. Until that plan is ready, it would be difficult to put a time frame on this ordinance. She would like to see a new comprehensive plan and a new ordinance take effect at the same time. Her suggestion at the workshop was that between now and the time the comprehensive plan is ready, that they hold a workshop once a month on specific issues within the ordinance. Her understanding was that it was not going to happen within six months, in her opinion, it was tough to put a date on it.

Commissioner Trujillo agreed with Commissioner Andersen, but did not find a problem with not putting a time frame on it. If there is something that they find that they overlooked or that they did and shouldn't have done, they can address it as it comes along and allow these two processes to mesh at the end. A comment that was made by Mr. Dewey, was pertinent, regarding sustainable. It places it within a context of having a vision for the future.

Commissioner Andersen said the word "sustainable" had so many definitions and many different context. Maybe they could consider working on it as they work on a new ordinance. Commissioner Trujillo said they could amend it as they work on it, this was simply an idea that he wanted them to keep in mind as they work for a long term ordinance. She had no objection to that.

Chair said two different issues had been discussed by the commission. One was the idea of a sunset clause and the other one was the word "sustainable". His comment on this was that it was in a draft that has not been adopted and said that comprehensive plan was a term of law, under state law, which is, that zoning should be consistent with the comprehensive plan. The word "sustainable" should be kept in appropriate points within the plan, but not as part of the title.

On Dr. Becker's comments, Chair Daves said that this was not to change the zones, but rather change the zones that might be appropriate and to make the map conform to pre-existing uses as of the time of the map, in terms of appropriateness and lack of hardship to those that come in and find out that they are in the wrong zone. This is not a re-zoning, it is simply conforming the map to what it should be. Chair Daves called for the vote on each amendment.

Commissioner Andersen made a motion to accept Amendment No 1. Commissioner Trujillo seconded. Motion carried. 3-0. **See Exhibit G**

Commissioner Trujillo made a motion to accept Amendment No. 2. Commissioner Padilla seconded. Motion carried. 3-0. **See Exhibit H**

Commissioner Trujillo made a motion to accept Amendment No. 3. Commissioner Andersen seconded. Motion carried. 3-0. **See exhibit I**

Commissioner Trujillo made a motion to accept Amendment No. 4. Commissioner Andersen seconded. Motion carried. 3-0. **See exhibit J**

Commissioner Andersen made a motion to accept Amendment No 5. Commissioner Trujillo seconded. Motion carried. 3-0. **See exhibit K**

Commissioner Andersen made a motion to accept Amendment No. 6. Commissioner Trujillo seconded. Motion carried. 3-0. **See exhibit L**

Commissioner Andersen made a motion to accept Amendment No. 7. Commissioner Padilla seconded. Motion carried. 3-0. **See exhibit M**

Commissioner Trujillo made a motion to accept Amendment No. 8. Commissioner Andersen seconded. Motion carried. 3-0. **See exhibit N**

Commissioner Padilla made a motion to accept Amendment No. 9. Commissioner Andersen seconded. Motion carried. 3-0. **See exhibit O**

Chair Daves said that with this action on the Amendments, he asked for a vote on the Ordinance as amended. Commissioner Trujillo voted yes. Commissioner Andersen voted yes. Commissioner Padilla voted yes. Motion carried. 3-0. **See Exhibit P. Ordinance 2004-05**

Adult Detention Facility Recommendation, Cornell Contract.....Mike Trujillo

County Manager, Mike Trujillo requested approval from the Board to advise Cornell Corrections, Inc. that the County will terminate its contract for Adult Detention Services effective December 31, 2004. The county would then take over operations of the Adult Detention Center. The county has had very tight economic constraints. As part of the FY 2004-05 budget process, he was asked to evaluate what existing county commitments would be evaluated to gain additional revenue either from new revenues or from existing commitments. As part of the effort, the staff negotiated a new Joint Powers Agreement saving the county approximately \$45,000. The Adult Detention facility operations contract is the highest budget presently affecting the county.

The county has utilized several sources to develop a matching proposed current year budget, should the county take over operations of the VCDC. Our budget, with a staff of fifty-two employees, reflects an estimated savings over a full fiscal year of approximately \$850,643. For a six month period, the savings would only be half. This is one of many cost savings measures that the county will need to adjust if other programs or projects can be accomplished.

The contract with Cornell, at this stage of their contract, would require a 90 day notice prior to termination. Advance notice, by then Interim County Manager, Art Castillo, gave Cornell notice that the contract during the Request for Proposals process was subject to termination.

There was concern, by Cornell staff, whether they would continue as county employees, should the commission terminate the contract. A budget was proposed that will have to have correctional officers and staff. It would be our objective to have them apply for the work and hope they remain as county employees in the Valencia County Detention Center. There is no effort to take away their livelihood in that regard, County Manager, Mike Trujillo said.

Chair Daves asked if the budget that they have developed, include the same staffing level. Manager Trujillo said it was pretty much the same from the information they have. San Miguel County houses the same number of inmates per day as our facility and we average 135, they average 140. We have estimated full time employees of 53, they started out with 42. We are proposing 11 more, we think it's appropriate under the circumstances for the size and security that our facility requires.

Chair Daves asked for public comment. County Manager Mike Trujillo said that as part of the discussion, this did not preclude the county soliciting, during the RFP process, a private operator.

The key would be that they do it under different terms and conditions from the process that was used and had failed.

Mr. Joe Lang, a lawyer for Cornell from Sandoval County, apologized for coming here for the first time, because he did not realize that this was an issue. He had learned about it this afternoon and Cornell had learned about it on Monday afternoon. Cornell and the County have been partners since 2000 and he understood about money shortfalls, but to try and save money this way is a scary deal. It affects many people. He said that Cornell had come in at a troubled time, with grand jury investigations, lawsuits filed from the ACLU and the federal courts had gotten involved and had made specific request. And those were that the facility meet ACA standards or get a private operator. He's real concern was that two days before the meeting, is the first Cornell hears about this. He hoped that they could postpone action tonight and put the budgets besides one another and see if they really fit. He said that the medical staffing did not appear to be the same. Cornell provided educational services. All of these should be compared. In the staffing pattern that he was shown, there was no doctor, no nurse, no psychologist and no dentist. Cornell has three employees in the food service. If the Cornell employees aren't going to be working for them anymore, and they want to stay with Cornell, he sees a problem. His question isn't to do another RFP, it's not even to terminate the contract, but it's for the safety of the public and on behalf of Cornell, he asked that they consider tabling this until the next meeting so that Cornell can meet and go over the numbers.

Lou Colazzo, Vice President of Cornell is chief accounting officer and corporate controller. He would like to provide a high level balance view of the risks, if the commission were to decide to assume the operations of the facility. He hoped that after the commission hears all comments, that they table this and grant Cornell an executive session, where they can go over what Mr. Lang had stated. A line item detail to make sure that they had all the right information to make an informed decision for the county. Cornell believes that they have an excellent operational track record at an extremely affordable price. Over the past two years, Cornell had operated under a fairly small profit margin. As a private provider, the only way Cornell has been able to operate at such low margin, is the fact that this particular operation requires very little capital on their part. In addition, they leverage that administration shared services concept, out of their Houston administrative office and most recently out of the administrative office of their New Mexico RCC facility in Albuquerque. With such low margins, unfortunately they are unable to offer the county any additional cost reduction that would make any impact. He believed that they would save money, however, they need to understand how much it really may be, as well as the risks, that they do not have today with Cornell. They have learned the hard way that it is operational excellence, that allows them to keep the cost low. He asked that they consider why the county decided to use Cornell in the first place. He recalled that there were operational issues, operational incidence and soaring employees fringe cost that compelled the county to seek out the service of Cornell. They do not deny that there is an opportunity for the county to save some money by taking over the operations, but these savings will not reach \$900,000 nor are they guaranteed, by any means. Cornell provides one additional benefit, and that was their dedication of work to help market the efforts of the facility and bring in revenues. He asked the commission again to table this and grant them an executive session so that have the opportunity to provide all the appropriate information that would be necessary to make an informed decision.

County Manager, Mike Trujillo, said that apparently this gentleman was not aware of the New Mexico Open Meetings law. The commission could not go into executive session for that purpose. If they had a session it would have to be in open meeting. The intent was that anytime that there is public policy to be discussed, the decisions made by a governing body or one of its policy making board, had to be done in an open forum, as part of open government, that the public has a right to know how government operates and what is been discussed in a policy making nature.

Pat Keohane, regional director of Cornell, said that the savings that would occur, could only by accomplished by looking at staffing and eliminating some. In the time that Cornell ran the facility, there were no serious disturbances of any significance and no property destruction. He said that for four years this facility has one of the best reputation in the state and it is not by accident. Staff has all the resources and training of the company, they look sharp and carry themselves sharp and are professional and distinguish the county as the finest jail in the State of New Mexico. He asked the commission to give Cornell the opportunity to sit and go through this apples to apples. There were comments that Cornell had it's chance once upon a time and didn't do it, but they had been in the middle of an RFP. He understood what they were saying about public law and they had their financial person here and he was willing to share and try to work with them and give them actual numbers. There was a four year investment here and the county should be proud of it. He suggested that they table it and get the numbers that they need.

David Griego, warden at the detention center, was asking that the commission table this matter to a later date, to allow Cornell the opportunity to provide them with information which is considered confidential and proprietary, if the commissioners would sign an agreement not to provide this information to the competitors.

John Gonzales, executive assistant to the regional director and to the warden, said there were numerous stake holders on this issue and was asking the commission to consider a deferral and a work study session to allow the company to give them a better understanding of the financial issue that they were facing.

Debbie Duffy, regional health services administrator, had started working in 2000, and can attest to the fact that they run an excellent medical program. They have a doctor that provides health care. And they are making a difference. The doctors have to provide their own malpractice and Cornell pays for that. They also pay about \$4,000 in medication and laboratory fees and they comply and pay for. They provide their employees with immunization. She asked that they consider all this.

Anthony Romero, former social worker in the Valencia County Detention Center, and now warden in the regional correctional in Albuquerque, was before the commission with concerns about public safety. He requested that they review financial records and then the make an informative decision.

Debbie Baca has worked with Cornell since September of 2000 and had worked for the Valencia jail for three years. She said there was no medical department, which caused the officers to administer medication to inmates, lack of officer training. Cornell has been operating the detention center and there have been major changes for the better. She asked that they allow Cornell to continue serving the county.

Beverly Gonzales, County Assessor, on behalf on the employees, said that their attorney had mentioned that the employees were concerned about their raises and training. For the past six years, our employees have not received a raise or training. This issue would not have been brought to the commission's attention, if it had not been thought out completely. She asked the commission to go forward with this, so that our employees could also get a raise.

Larry Mervine, County IT Manager, said he had sat on the jail board and they had talked about running the jail and going out for bid and doing a regional jail. The employees, at that time, had never had a chance to run the jail on their own. Cornell, from what he has heard, had done a good job, but as we all well know, the county has been in the red and we cannot continue. He had confidence that the commission would pick a good administrator to run the jail. Some of the issues that were raised from Cornell, he said, we can take care of and be able to solve them. He hoped that they consider, that we also need to move forward and public safety is a big issue, and we should have a chance to run it.

Charles Eaton, former commissioner, and Deputy Fire Marshall, said that back when he was on the commission, one of the major issues was not so much the operation of the jail, as the dilapidated facility that we had at the time. He said he doesn't doubt that Cornell has done a good job, but it was pretty sad that county employees who have been here ten or twelve years are making the same salary as the person who gets hired at Cornell. In talking about safety, we have law enforcement officers that are almost equitable to some of those salaries that are coming into Cornell, when these officers are actually facing criminals with whatever danger is on the street. He had questioned the method when Cornell was awarded the contract and had felt that they had not researched enough to feel that they had made a wise decision. There were other firms that were considered, but it seemed that Cornell was the front runner at the time, but he disputed the fact on how the selection had taken place. The fact here is that we are paying to "drive a Cadillac", but in essence, we can't afford it. It has hurt the county and law enforcement and it has hurt the basic statutory requirements that are laid to the county by state government, we have to provide services to the residents. We cannot keep up and address the issues of trashed out property, because of inadequate enforcement. We have three officers to enforce and address the those properties. Cornell has done a good job, but let's research and make sure that we are not paying too much.

John Lopez, who owns his own business, said his concern was that if the county were to take over the jail, what would happen with the employees. One of the issues with the old jail was the training and staffing. If they choose to take over the facility, or if they choose to give it to somebody else, it is always the little guy, that they have to be concerned with. Commissioner Trujillo asked Mr. Lopez what business he was in. Mr. Lopez said he runs a bail bonding business across the street and has seen the operations of the jail for the last twenty years.

Barbara Baker, employee of Valencia County, said he agreed with Charles Eaton, in that the old building was in bad shape before the new jail was built. Administration was different, and maybe that was a problem, but like Cornell said they've learned the hard way and maybe we've learned the hard way. We do need to provide training and a lot of them are free of cost. Valencia County has paid the cost and learned the hard way. Cornell's getting raises and they would like to continue getting raises, we, would like to get raises. Because of the new administration, Valencia County can actually do this.

Chairman Daves said that the concerns of security insurance are very valid concerns. On the other hand, there are counties that run jails and are professional employees of the county. If they decided to run the jail, it would not be political. One point that he wanted to make was that we got Cornell's attention. The contract allows us to audit the company, and as far as he know, Cornell stonewalled that audit, and, now it's wanting us to know all of those things that we were not able to get, from an audit that they were required to cooperate with, in the administration of the contract. The composition of the commission before, until the last election, was such, that Cornell didn't have to pay attention to those who were concerned about cost. One of the employees had talked about accreditation. That settlement did not require accreditation, our contract did, because we wanted a Cadillac and we got it. We are proud that we are the only county with accreditation, and we are not the only county whose employees went on thirty two hours. These two things ought to be kept in mind, in terms of what's facing us. Whoever runs the jail, can be done and it remains to be seen

how much savings there are. He suggested that it could be professionally done. The contract with Cornell has built-in cost of living increases and our employees got fifty cents an hour raise a year ago, and this was after been on thirty two hours for the previous year. This did not make up for the eight hours for one full year of loss. He did not blame this on Cornell, but was putting it on contrast for where we are. He had looked at other counties and our jail was the next most expensive jail. Cornell had said that they were not making any money, now they wanted to go into executive session and explain things, these opportunities might have passed. We want to run a good jail for the community and for the inmates, who are our people, our family. Cornell should not have been so surprised, as it seems to him that they are tonight.

Commissioner Andersen said she had served on the committee that had reviewed the request for proposals that they sent out early in the spring. Before the proposal had gone out, Mr. Castillo, who was the interim County Manager at that time, had notified Cornell, by letter, that we were considering a change in the contract, so it should have come as no surprise, they have known this since February or March. When those proposal were returned, we had three valid proposals. Cornell was one of them. We could not compare those proposal because the format was crazy. They had sat down with each of the three companies and had been given guidelines and asked them to come back to them with a proposal that we could look at on a more even balance. We got nothing of substantive change from Cornell, none. There was no way that they felt that Cornell was willing to talk to us or discuss the situation with us and the committee's unanimous recommendation was that we run the jail ourselves. The people that were on that committee were people who represented the New Mexico Association of Counties and several people that had spent years in law enforcement and corrections. There was a consultant who is widely known throughout the state. Everyone of them felt that our contract could be bettered. Whether Mr. Trujillo's estimate of savings is correct or not, even Cornell's \$302,000 would give our employees a 3 to 5% raise and they deserve that. Nothing has ever crossed her mind, nor has Mr. Mike Trujillo or the committee, suggested, that any of the employees at the detention facility, who wished to stay as member of the county staff, would not have a job. You will be allowed to apply for the jobs. To her knowledge, none of those are contemplated to be cut. One of the gentlemen had said that management has to do the right thing by it's employees. We need to do the right thing for the employees at Cornell, but we really need to do right for our own people. For the people that put up with the thirty two hour week, who have been here for years and got a fifty cent an hour raise and had a monumental increase in their health insurance premiums. That fifty cents an hour did not even compensate them for that. There are people in this county that are taking home less money today than they did five years ago and it has to come to a stop, we have to do better for the people of Valencia County.

Chairman Daves said that he takes the employees word to heart. We are worried about our employees, but, they certainly need to be worried about those who would be affected by county action. It's a question about balance, but there ought to be a transition that's as fair and as helpful to our employees, but also to Cornell's employees.

Commissioner Trujillo said that in addressing the allegation that this is a sudden move and an ill considered move, he remembers standing outside a local business, about two and a half years ago, with Charles Eaton, and asking him, what they were going to do. The county was in a mess and they talked about possibilities for improving the situation. It was clear at that time that the Cornell contract was going to have to be looked at very carefully, in terms of been an albatross, on a county that was hurting and crippled. He remembers another incident, before he was elected, where the Cornell contract was going to be up for reconsideration, and so he had come to the meeting, only to find that the meeting was not here in this building. No one seemed to know where it was been held. Eventually he had found it, and the doors were locked. This was supposed to be a public meeting, why were the doors locked? Eventually he got someone to open the door, only to find out he was the only person in the room that was not connected to Cornell or on the commission, sitting in the room. There was no public hearing and he questioned that kind of behavior. The request tonight that they meet in executive session, he asked, why? Is the public not entitled to know what's been said? This is the intent of the Open Meetings Act. Not for five, three, two or one commissioners to meet with a contractor and hammer out some agreements, but that it should be done publicly. And there is a very good reason for that and that's to keep the commission honest. In terms of the comments by Commissioner Andersen and Chairman Daves, he agrees with them wholeheartedly. We have a road department that's crippled, having lost about \$250,000 to the general fund in order to supplement what we were spending to run the facility. He has no doubt that Cornell had given us exactly the services that they claim and he would not conceive to criticize them on that, but, this was not the point. It's a matter of economics and a matter of the public been informed and the public participating in decisions that have a tremendous impact on all the employees in the county, not only the employees, but roads. There are roads in the county that are, in some cases, virtually impassable. He would certainly like to have a facility that is first rate and beyond any type of blemish, but not at the expense of providing basic services to the community and to our own employees.

Commissioner Padilla said he has been on the commission completing eight years in January. When we built this jail, we were having a very serious problem and he complimented Cornell on having done a good job and running a good jail, but, this is besides the point. We have suffered tremendously. Maybe we could have had a better deal, but at that point, we didn't have much of a choice. There wasn't much of a chance for the county to get their act together, to run the jail ourselves. Cornell could have given us a better deal, he said, before the last contract was signed. He had sat at one of the meetings where figures were tossed around and at one time it was as much

as half a million dollars. At the end it was \$250,000 which did help. Right now we are still in desperate need and we are still struggling with figures and he wasn't so sure how well we can run a jail, he said, but we learn. The jail employees do not have to fear that they will be laid off or fired. Most of them will be retained.

Cornell has done a very good job, but at a very costly contract. He was never comfortable with this from the beginning and he had always questioned it, but at that point, we didn't have much of a choice. He will go with the advise of the county manager, who has done an excellent job of getting them figures and it will be up to all the commissioners, but the employees should be considered and many other problems within the county. We are still struggling with the budget, and the employees have had a rough time and deserve a raise, he said, and he wouldn't mind giving it another try, running the county jail.

County Manager Mike Trujillo said, there is nothing different that Cornell is doing now, that we will not do when we operate the facility. On the medical, he is looking, probable, at contract point, rather than employee point, but in the various county jails run where this has occurred, they have kept the same staff, but, this is open for discussion. Cornell employees should not be concerned, we need staff to operate the facility. The key point was that we were no longer at the old facility which caused all of the lawsuits. He requested that the commission consider his request, that they advise Cornell that effective December 31, 2004, we will take over operations of the facility, thereby terminating the contract and they have actually given them more than the ninety days required.

Chair Daves said that Mr. Lang had asked for them to postpone and to take this up at a subsequent meeting. He suggested that this process had started years ago and Cornell probably lost an opportunity several times to do, what, at this point, is a little too late. They need to get a process going to give the county manager the authority, that he is asking for, so that we can move forward.

Commissioner Andersen made a motion to approve Mr. Mike Trujillo's request to formally notify Cornell of the end of their contract as of December 31st. Commissioner Trujillo seconded. Motion carried. 3-0. **See exhibit Q**

Financial Matters:

Request Approval of Budget Resolutions:

Resolution 2004-48, Traffic Safety Education & Enforcement Grant.....Mike Trujillo

Mr. Trujillo said this would be to conduct sobriety checkpoints & saturation patrols, and asked for approval. Commissioner Andersen made a motion to approve. Commissioner Trujillo seconded. Motion carried. 3-0. **See exhibit R. Resolution 2004-48**

Resolution 2004-49, 2004/2005 Inter Budget Transfers.....Mike Trujillo

Mike Trujillo was requesting approval of a transfer in the amount of \$120,320. this was budgeted in the commission line item. Commissioner Trujillo made a motion to approve. Commissioner Andersen seconded. Motion carried. 3-0. **See exhibit S. Resolution 2004-49**

Resolution 2004-50, Vehicle Transfer-Purchase of New Vehicle

Beverly Gonzales/Tina Gallegos

Beverly Gonzales, County Assessor and Tina Gallegos, County Clerk had both agreed that Ms. Gallegos would purchase the vehicle and Ms. Gonzales would then buy a new vehicle. She would not be able to order a vehicle from Rich Ford, been that they are still negotiating a contract with the state, so she will not turn over the vehicle until the middle of October. County Manager, said that he was proposing a transfer from the clerks equipment fund 449 in the amount of \$19,000 to the assessor's budget. DFA does not have a problem using the assessor's fund, but they have a problem using the clerk's fund. However, he had a letter dated February 26,1997, when the vehicle that they drive now was bought through that fund. What they want them to know is "said revenue cannot be transferred to the assessor's fund or any other county fund". When he talks to DFA, they will find that the clerk is actually paying and the assessor's fund had to be reimbursed. He recommended approval. Commissioner Andersen made a motion to approve. Commissioner Trujillo seconded. Motion carried. 3-0. **See exhibit T. Resolution 2004-50.**

Commissioner Andersen commended Beverly and Tina for working this out so that they both got what they want and need. She liked to see the cooperation, and she thanked Mr. Mike Trujillo also.

Resolution 2004-51, Revised NM Finance Authority Loan for Tome/Adelino FD, Adopting interest rate decrease (from 3.458% to 3.157%)Mike Trujillo

Mr. Trujillo said that Item E and D were similar. In June 5th, the commission had approved for the chairman as well as other county signatory's for a loan to the NM Finance Authority and E&D are asking to re-authorize them to sign all the loan documents, because the interest rate went down on both . Commissioner Trujillo made a motion to approve both items. Commissioner Padilla seconded. Motion carried. 3-0. **See exhibit U. Resolution 2004-51 and Exhibit V. Resolution 2004-52.**

Request to Purchase a Quick Attack Fire Suppression Truck for Manzano Vista Fire Department , El Cerro.....John Cherry

Mr. Cherry said they had \$100,000 legislative grant and the price of the vehicle was \$105,000. He was asking permission to write that bid. They had \$5,000 fro Manzano Vista Fire Department reserves and so the vehicle would be paid for entirely. Mora County Manager had agreed that we

can piggyback on their agreement. Commissioner Trujillo made a motion to approve. Commissioner Andersen seconded. Motion carried. 3-0. **See exhibit W**

Request Approval of Audit 2003/2004 Final Report.....Mike Trujillo

County Manager, Mike Trujillo said that after about a year's delay, the State Auditor had released the final audit. The commission was been asked to approve the audit so that it would be available for public view. There were no significance, and so he was asking for approval. Commissioner Andersen asked Mr. Trujillo to address the issues of the EMS stipends. Mr. Trujillo said he looked at this as a partial re-imbursement for the many gas money that they spend to attend meetings and training sessions. They are looking to clarify what that payment is for rather than a stipend, so it isn't a taxable item.

GASBE 33 & 34 are required now by the state auditor, and until we complete our fixed assets and some other minor items, we will be in partial violation of GASBE. Commissioner Andersen said there were many inaccuracies in our file and what was been done to correct that? Mike Trujillo said that basically, it was a change of operation procedure and with the addition of Michael Steininger and an excellent accounting staff, so they have initiated some procedures, as they'll see the procurement policy next month, and that they are making some strong initiatives to make sure that they comply with both federal and state regulations. Commissioner Trujillo made a motion to approve the final report. Commissioner Andersen seconded. Motion carried. 3-0.

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

County Manager, Mike Trujillo presented the commission with two printouts. One was to cover vendor bills in the amount of \$432,259.63. The second was for payroll in the amount of \$197,111.11. Commissioner Andersen made a motion to approve. Commissioner Trujillo seconded. Motion carried. 3-0. **See exhibits X & Y**

County Manager's Report

None

Adjournment 10:00 PM.

The next Regular Meeting of the Valencia County Board of County Commission will be held on October 6, 2004 at 5:00 PM in the County Commission Room at the Valencia County Courthouse.

NOTE: All proposals, documents, items, etc., pertaining to items on the agenda of the, September 15, 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**

ALICIA AGUILAR, MEMBER

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

ATTEST: ss/

TINA GALLEGOS, COUNTY CLERK

DATE: October 6, 2004