

VALENCIA COUNTY BOARD OF COMMISSIONERS

Regular Meeting

November 17, 2004

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

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

Chairman Gary Daves called the meeting to order. As per Section 10-15-1 NMSA 1978, limited personnel matters, pending or threatened litigation and other topics allowed or authorized under the stated statute. Commissioner Padilla made a motion to go the Executive Session. Commissioner Trujillo seconded. Commissioner Andersen voted yes. Commissioner Padilla voted yes. Commissioner Trujillo voted yes. Motion carried. 3-0. Commissioner Aguilar was excused for the meeting. County Manager, Mike Trujillo asked that Sheriff Perea be allowed to remain for two items that involve the Sheriff’s Department.

Executive Session

Commissioner Andersen made a motion to go back to Regular Session. Commissioner Trujillo seconded. With no objection, the Board went to open session. County Manager, Mike Trujillo said two items were discussed. Pending Litigation regarding the Sheriff’s Department was discussed and no action was taken. Pending Litigation on Isleta Pueblo was also discussed and no action was taken. Mr. Trujillo informed the commission, that pending background check, forty employees of Cornell would be offered to remain as county employees on January 1st. Commissioner Padilla made a motion to ratify this was all that was discussed in Executive Session. Commissioner Andersen seconded. Motion carried. 3-0.

Pledge of Allegiance led by Joe Quintana

Approval of Agenda

Commissioner Andersen made a motion to approve the agenda. Commissioner Trujillo seconded. Motion carried. 3-0.

Approval of Minutes

Commissioner Andersen made a motion to approve the Minutes of November 3, 2004. Commissioner Padilla seconded. Motion carried. 3-0.

Public Requests

Mr. Frank Metzger from 6 Jay Bird Loop was inquiring on his request on the condition at 3 Jay Bird Loop. County Manager Trujillo said he was overwhelmed with potential threats, on other issues, such as dry weeds and they are still working on this issue. They would be letting him know, as soon as they take appropriate action.

Sean Bennett from Bazzaro Road in El Cerro Mission, had been burglarized, with extensive damage. He had concerns about the safety of the residents of the area and was asking if the sub station in that area could be manned. Chair Daves asked that he get together with Sheriff Perea and talk to the County Manager as well.

Discussion (Non-Action) Items:

Commissioner Communication/Questions.....County Commission
Commissioner Andersen had attended a meeting with representatives from Los Lunas and representative from the School Board. They would like to have notice of the Planning & Zoning meetings and notice on the P & Z hearings when reviewing preliminary of subdivisions. Mr. Ruben Chavez said they were on the disbursement list and they do get first notification on types of permits. He would make sure that they do get it.

Action Items:

Board of Commissioners Convenes as Indigent Board
Indigent Report/ Appeals and Claims.....Barbara Baker
Ms. Baker presented the commission an appeal from Kimo Estrada. Mr. Estrada had purchased fifteen acres of non irrigation land in Casa Colorada, which is above the allowable by the Indigent

Fund. Because of the way the house is situated, they had to buy the fifteen acres of mesa land. The land is valued at \$45,000 and the house is valued at \$44,349. If approved, the amount of \$96.00 would be paid to Living Cross Ambulance. Commissioner Trujillo made a motion to approve the request. Commissioner Andersen seconded. Motion carried. 3-0. **Exhibit A**

Ms. Baker presented the Indigent report from October 8, 2004 to November 4, 2004. There were 85 claims submitted and 45 denials. The total amount submitted is \$227,683.85 and Ms. Baker was asking that \$31,786.84 be approved. Commissioner Andersen made a motion to approve the request. Commissioner Trujillo seconded. Motion carried. 3-0. **Exhibit B**

With no objection the Commission reconvened as Board of Commissioners.

Request Approval of Joint Powers Agreements for Adult Detention Services.....

Mike Trujillo

County Manager, Mike Trujillo had sent out fourteen Joint Powers Agreements to various municipalities, and tribal entities, for providing detention services at our facility. He received three back and he was asking for approval. Santo Domingo Pueblo, in the amount of \$65.00 per day, was one of them. City of Belen proposed amount is \$61.17, and Socorro County amount is \$65.00 per day. The philosophy used was, entities within the county, were given a slightly lower rate, since the taxpayers, within the county, are helping to pay bonds for construction of the facility. By next year the difference in the Joint Powers Agreement between past agreements and this agreement is that we are making it for four years, with potentials to re-negotiate on an annual basis and hoping that next year we will be able to offer a lower rate to all the entities. All previous agreements were for one year only.

Commissioner Andersen made a motion to approve. Commissioner Padilla seconded. Motion carried. 3-0. **Exhibits C,D & E**

Request Approval for Public Presentation of Comprehensive Plan Goal & Objectives

Joe Quintana

The last time Mr. Quintana had been before the commission was to get approval to go ahead with the development of the Comprehensive Plan under contract to the county, with funding provided through the Community Development Block Grant and administered through the Local Government Division of New Mexico. Since that time, the steering committee has been formed and doubled in size. They have met four times prior to this meeting and the focus was to develop goals and objectives. The proposal had been to utilize the 2002 draft comprehensive plan to the extent possible. In going through goals, objectives and policies that were replicated on forty four pages, they had come up with a fairly streamlined version, essentially taking the contents, updating them, consolidating, rephrasing things so that they now have a seven page document. They redefined what they meant by Goals and Objectives. Goals are broad visionary statements describing a desired future direction or to envision for the region. Objectives, in a related statement, describes how each of these goals might be achieved. The steering committee thinks this is a fairly accurate representation of where the old draft plan left off and where they picked it up and made it more useable and more to the point of dealing with things on a policy level. What he was requesting from the commission was to allow him to bring it to the public. He has proposed two public workshops in which the public will have a chance to have input. He will then come back and ask the commission to adopt it by resolution.

Commissioner Trujillo asked what was the projective time frame for completion. Mr. Quintana said their contract was for twelve months. Commissioner Andersen asked when he proposed to have the workshops and Mr. Quintana said he would get with the local news media and get the word out quickly. He would like to do it within the next month and if at all possible, bring it back to the commission at the last meeting in December. Commissioner Andersen suggested that they plan it for the first meeting in January. The new commission should have the privilege of accepting the goals and objectives. Commissioner Andersen thanked and commended Mr. Quintana and the committee for their dedication and the good work that they are doing.

Chair Daves appreciated that the process was moving and was distilling, it was needed. Mr. Quintana suggested if the outgoing commissioners want one more opportunity for comment after the public workshops, they can bring it back to them for additional comments. Chair Daves said he would invite him to do that.

Commissioner Andersen made a motion to approve the request for purposes of moving forward with the public workshops. Commission Trujillo seconded. Motion carried. 3-0. **Exhibit F**

Public Hearings:

Request to Determine Zoning Map Change Error on 1999 Zoning Map Industrial Zones in Tierra Grande Area.....James Sanchez/Ruben Chavez

Anyone wishing to speak in this public hearings were sworn in by County Clerk, Tina Gallegos.

Mr. James Sanchez who was representing Mr. Harvey Yates, owner of Cibola Energy Corporation, started by showing the commission a map that referred to Tierra Grande on the far southeast corner of the county on about 2,000 acres. This map refers to Tierra Grande, Unit six as being industrial property. On March 22, 1999, the Board of County Commissioners passed a resolution recognizing the fact that there is a Comprehensive Zoning Ordinance, December 21, 1987. That ordinance failed to deal with this land. Horizon and the County have treated it as industrial property. All the due process rights of the public were met before that resolution was passed. There was notice to the public that Mr. Yates was requesting that the county include it as being zoned Special Purpose

Industrial under its 1987 ordinance. The public had workshops held on February 23, 1999. On the second page of the resolution was the critical language Mr. Yates wanted the commission to consider tonight. It read, "The County recognized and found specifically that all of Unit six, Tierra Grande, was presently zoned SP Industrial". This was the only designation for industrial use at the time. The county then ordered, in this resolution, that the zoning map be amended to reflect the findings and zone the district designation as they found in paragraph two. All five commissioners voted unanimously and signed it. This property was all going to be zoned SP Industrial, the only industrial designation at the time and is shown on the map. Unfortunately, after the resolution was passed, a map was created that showed separate designations for industrial. This did not exist in the 1987 ordinance, but did exist, when the map was declared after the 1999 resolution. Chair Daves asked what was on the new map. Mr. Sanchez said a misapprehension of the map made by the planner at the time. The property was designated as I-1 industrial. This did not exist when the resolution was passed and I-1 did not allow any of the uses that SP allows under the 1987 ordinance.

What he was asking the commission was to recognize that a mistake was made. This has harmed Mr. Yates and made it difficult for him to market the property. Chair Daves asked Mr. Sanchez to expand on what makes this land the best land for special use. Mr. Sanchez said that in their opinion, because of the size of the land, it's distant from the major population centers, and makes it suitable for more of the higher nuisance kind of industry. When the commission recently passed the Comprehensive Ordinance on September 15th, on the same day, some corrections were made, this one wasn't. All he was saying was, give us what we had in 1999, the law clearly allows them to do it, the case law supports it.

Commissioner Padilla said they have been correcting a lot of mistakes recently, and in reading this resolution, it was obvious that a mistake had been done.

Commissioner Trujillo said his expectations would be that this property be given the I-3 designation, because it meets the criteria for that. It's eight miles out, remote and buffered from residential uses. This property, makes sense to zone I-3. It is a good location for industries that are incompatible with lighter industries and residential uses. It also provides buffer zones, it's a reasonable argument and is a sensible interpretation.

Commissioner Andersen asked Mr. Sanchez for the three errors that he had cited. Mr. Sanchez said they were, clerical mistake, an oversight, and misapprehension of the facts. These quotes come from the case *HCNA v City of Albuquerque*, and actually first cited in *Davis v City of Albuquerque*, a 1982 case.

Mr. Yates said he wanted to supplement an answer that Mr. Sanchez made to a question from Chair Daves on why it should be industrial? The railroad runs through the middle of it and the two interstate natural gas pipelines run through it.

Mr. William Dean said he has studied that zoning map for quite a few years and he concurs with what Commissioner Trujillo had said.

Chair Daves said if Mr. Sanchez was interpreting clerical mistakes, he would have it mean those other two, it doesn't make sense if it didn't mean all three of them and essentially a mistake of some sort that requires an amendment to the zone code. Ms. Wimberly, County Attorney, said that whatever process the ordinance envisions for clerical mistakes, should apply to any type of mistakes.

Ruben Chavez said that Mr. Sanchez had come to his office claiming, or alleging, an error in the zoning map. In this case, they were trying to find out where the error was made. Did the commission make an error when the existing zoning map was made in 1999. The resolution had been somewhat of an agreement between the Commission and Mr. Yates, at the time, and while we all yield to this resolution that is signed and numbered, it does say it has become clear that the present zoning designations in Valencia County are not particularly suited to govern the development of large commercial and industrial properties. You will see that it was signed by the commission and accepted by Mr. Yates and Bob Davey. There are minutes where discussions were held by the Commission, Mr. Yates and Bob Davey, regarding designation of this property. They agreed to give an industrial zone to this particular land, but at the same time, those minutes will reflect and agree by both parties, that they allow the county an amount of time in which to place restrictions on that zone and not to issue a blank check. During the time they were preparing the ordinance, as the resolution says, all the parties agreed to place restrictions on that particular property. It's logic to him that the difference between I-1, I-2 and I-3 are very restricted. If all the parties agreed to place restrictions before they gave it a final designation, there wasn't an error in the zoning map, it was the process that everybody agreed to go ahead and undertake. Today, five years later, we might not agree on the agreement that we did, somebody might have gotten the short end of the stick, but nowhere between the minutes and the resolution, was there any indication that an error was made, Ruben said.

Commissioner Trujillo said it was still quite evident that in making the transition from the SP designation to the gradations of I-1, I-2 and I-3, how can an area like this, eight miles from any residence, be designated I-1, whereas other properties less than 500 ft. away from residences allegedly have an I-3 designation. If I was looking at this objectively, Commissioner Trujillo said, without looking at the parties involved, clearly this comports with good zoning practices in being an I-3 designation. If there was any error, they must have put the I-3 in the wrong place.

Ruben Chavez went on to read from the Minutes of 3-22-99 and said it was at the time that resolution was passed. He said SP was a conditional use process at that time. Mr. Davey and Mr. Yates had an agreement with the County that they would meet whatever performance standards Mr. Chavez comes up with, and they could work with together. Item J read "to assist in resolving the applications that were before the Board of County Commissioners, VIA and Yates had agreed, with respect to the subject property, that upon adoption of this resolution, VIA and Yates will withhold all applications for county language approval, for a period of six months while the county reviews and considers the adoption of uniform standards of county wide application pertaining to commercial, industrial and residential".

Chair Daves said this was making the record with regards to the resolution. In summarizing it, it said that the Board of County Commissioners finds that all of Unit 6 of Tierra Grande is presently zoned as Special Purpose for Industrial purposes. Valencia County Zoning maps shall be and hereby are amended to reflect this findings as to zone district designations. It then goes on to Item J. It had to have been a mistake somewhere. In putting pieces together, after paragraph two and three, he suggested that "it doth go too far", to make an area that has the railroad and the gas lines, and is remote. If that's not a mistake, there was something there that didn't make sense.

Attorney Cynthia Wimberly said that in reviewing the language of the ordinance it requires an ordinance process, which requires publication twice before the public hearing. And because we are speaking about fixing an error in one specific location within the county, due process would require notification of the intent of the commission. Would that require a letter to every abutting owner, Chairman Daves asked? Ms. Wimberly said every abutting owner within a hundred feet of the property line. Who pays for what, to the extent that we are going on a theory that a mistake was made, Chairman Daves asked? Perhaps the county ought to bear the expenses. Ms. Wimberly said they do, on all of the other zone changes. There is no application fee provided for the ordinances, so the assumption would be that the county bear the cost.

Commissioner Padilla asked if it was necessary to go through public discretion. Ms. Wimberly said if they were to declare that it was a mistake and direct staff to correct it on the map, her concern was that I-3 had been such a hot topic in the county. Her fear was that adjoining property owners have a due process right, when it comes to zoning in property that is adjacent to them. The process that Attorney James Sanchez was discussing was a resolution process and was not an ordinance process. Resolutions require that they be on the agenda and that it be done, it does not require individualized notice or a notice of a legislative process. She agrees that it was done, but it does not equal an ordinance process and she believes this is what they need to go through.

Commissioner Trujillo said that being the case, and in order to expedite this process, they could put a resolution on the next agenda, stating that this commission believes that an error was made regarding that particular designation. This resolution would not require two public hearings, he asked? Ms. Wimberly said they did not need two public hearings, they just need one public hearing. It would need to be published twice, so they would be able to hold a public hearing on December 15th on this issue. Commissioner Trujillo said she had just stated that if they go by resolution as was done in 1999, that didn't require publication, it just required that it be on the agenda. True, Ms. Wimberly said, that resolution process was followed fine, but, the ordinance that was put in place in 1999 and the one that was put in 2003, that's what they need to correct. And it needs to be corrected under the terms of the ordinance.

Chairman Daves said the ordinance was the adoption of I-1. This was by ordinance and that was the mistake, if one were made, and under their hand-tied process, that was not changed. Is it possible that the publication and the process be done before the first of the year. Ms. Wimberly said she believed it could be done December 15th.

Commissioner Padilla made a motion that they go out for publication for correction and Ms. Wimberly added to the motion, "and notification of the adjoining property owners". Commissioner Andersen said she would second the motion and wanted added, "that it be done in the most expeditious manner possible". Chair Daves said the sense of the commission was that a mistake was made and it might be appropriate for them to go forward, as they are doing, under an apprehension that a mistake was made. He wanted this added to the motion. Commissioner Padilla agreed to the additions on his motion. Commissioner Trujillo asked Commissioner Andersen if she would allow him to second the motion. He seconded and wanted it noted, that this was in Commissioner Padilla's district and his district was nearest to this property. He wanted to go on record as seconding the motion.

Ron Gentry, as a private citizen and a land owner, said he didn't have a disagreement about the property being discussed, but he wanted to bring to their attention that in the last few meetings when they have discussed mistakes in the zoning, he had brought up the fact that he does have a piece of property which was industrial, a railroad site of ninety acres. He was not notified and was told he did not have to be personally notified. He has a piece of property adjacent to the Industrial Park, a State Highway on one side of it, a railroad going through the middle of it and owns three hundred acres on the other side. As a perfect buffer zone it is been used in conjunction and continuous to existing industrial at this point and it's been down zoned to a detriment of his values. He had talked to many people who told him to wait his turn and when the comprehensive plan was done, he would be re-evaluated. He would like to be included in the big mistake. He can justify it and has been at the public hearings and brought this before them, before.

Commissioner Trujillo said this had been brought to his attention, and he understood and agreed with his position. He encouraged Mr. Gentry to bring it before them on the agenda and the commission would do what is fair.

Chair Daves said there was a motion and a second and called for the vote. Commissioner Andersen voted yes. Commissioner Padilla voted yes. Commissioner Trujillo voted yes. Motion carried. 3-0.

Exhibit G.

Chair Daves said he now knows, for the record, that Commissioner Aguilar had known about this item. Unfortunately, she was not able to be here. He was not sure what her position on it was.

AP to RR2 located at the end of Apache Lane, Belen.....
Everett Ingram/Ruben Chavez

This request was to amend the zone map from Agricultural Preservation, AP, to Rural Residential, RR2 on the property located at the end of Apache Lane, Belen, NM. Mr. Ingram owns approximately fifteen acres in Jarales. The direct access to this property is off a side road called Apache Lane. AP as defined in our ordinance, is a five acre minimum. Mr. Ingram would like to create smaller parcels on his property and this would require changing the zone designation.

On April 4, 2004, the Planning & Zoning Commission denied the request because they felt this was a policy issue and because of other concerns, declared this application not ripe for decisions.

On May 19, 2004, the Board of County Commission, after conflicting testimony claiming the subject property has no access, tabled this request until the applicant could prove whether or not access to the property located off Apache Lane exists, as well as identifying the proposed land division. The Planning & Zoning Office has researched this issue, provided a copy of proposed amended plat along with a court order or a stipulated judgment identifying Apache Lane as an unobstructed access to the properties.

Mr. Ingram said this property had not been used for almost fifty years and his property tax bill on undeveloped land was \$2400.00 a year. It is not being taxed as agricultural. As RR2 it would provide for growth in the area. He was asking for equal zoning property usage rights by having zoning the same as the surrounding area. His mother had chosen not to develop the land for reasons of her own. In her 2001 farm taxes, she reported a \$5,000.00 loss, with an income of \$800.00 and in 2002, her farm taxes loss was \$5,984.00 with zero income. He cannot farm this land as he lives sixty miles away and if he reduces the price and sold it, in a few years someone can come in and rezone it and make a profit. He would prefer to benefit himself and his mother's grandchildren.

Ms. Virginia Ingram said that she and her husband own twenty two acres adjacent to Everett Ingram's property. They farm their land and said that Apache Lane was agreed upon as an egress and ingress.

Mr. William Dean from Los Chavez said he was an advocate for protecting the Agricultural Preserve, but, this piece of property he didn't fully understand. Have the people surrounding this property been asked if they want it changed from AP to RR2 and what percentage of the property around it is already RR2. If we keep chipping away at the AP, we won't have any open land. He asked that the commission consider carefully, before they dispose of AP.

Chair Daves asked Mr. Ingram if there were trees on the property. Mr. Ingram said yes. Commissioner Andersen asked if he irrigates this land. Mr. Ingram said not since 1950 and it abuts the arroyos ditch and has irrigation rights.

Commissioner Padilla said the map showed it split into four pieces and asked if this was his intent. Mr. Ingram said yes. For now, if approved, they were just giving him a change of zone. Commissioner Padilla said he had gone out to look at this property and it was a mess and he didn't see that splitting it into four pieces would make much of a congestion as far as traffic. He made a motion to approve this zone change request from AP to RR2. Commissioner Andersen seconded. Motion carried. 3-0. **Exhibit H.**

Request Approval of Subdivision Preliminary Plat for Sierra Madre.....
Steve Crawford/Ruben Chavez

Ruben Chavez presented this request. Curb Inc. is being represented by Steve Crawford from Crawford Development Services. Sierra Madre is phase one of a 874 acre approved Master Plan. It consists of thirty four acres made up of 120 lots. This property is located at the corner of Manzano Expressway and North Rio Del Oro Road. A packet included outlines the procedures and required documentation relevant to a Subdivision Proposal. Also included was a Preliminary Plat Review Checklist prepared and monitored by the Planning Department. This is in accordance with the County's Subdivision Ordinance.

The Planning & Zoning Commission heard this proposal in accordance with the State Statutes and the Valencia County Subdivision Ordinance. Because of the magnitude of both the Master Plan and the impact of services, the P & Z Commission took three meetings to address the issues. Upon final review the commission approved the Preliminary Plat with the following conditions; (1) That stub streets be revised to include Cul-de-Sacs, (2) That the Lot Drainage Plan revert to the approved plan in the Master Plan, and (3) That the Agency Review comments be taken into consideration and the appropriate revisions be made to satisfy agency concerns.

Mr. Steve Crawford said this project has been processed for awhile and is one or two subdivisions that's gone through the county's newest subdivision regulation process. This proposal had been

reviewed by the State Highway Department, The Environmental Department, the State Engineer Office and the local Soil and Water Conservation District for drainage. All of their comments have been addressed.

This subdivision is being processed in accordance with the originally approved Sierra Vista Master Plan, so there are a few references to a concurrent master plan that didn't happen. They are following the general street, road and drainage requirements of the Sierra Vista Master Plan. Chair Daves asked what about the county's role regarding a requirement that the county extract enough money, from an applicant, for the county to hire an engineer to review that. Mr. Crawford said it had been attempted and what it was, was a consultant engineer working for the county to review this proposal. Ruben Chavez and himself have been trying to get comments from the engineer, for approximately six months with no response and so they were here tonight without benefit of those comments. Ruben Chavez said they had received some comments from them, however they were not applicable to this subdivision, such as road criteria, and while they are all fine, Ruben had asked them to revise them to county standards. Chair Daves said he was mainly concerned specifically to hydraulic use, controlling flood water. Mr. Crawford said the county process doesn't provide for the explicit participation of a Molzen-Corbin in their process. Their ordinance provides for input to the County Commission from numerous sources. The Commission is the decision makers and they get input from the State Engineer, Planning and Zoning Commission, Planning and Zoning staff and also from his book, but it's not in a sense that Corbin-Corbin is their agent.

Chair Daves said he still has a focus of hydrology and was interested in finding out if part of Molzen-Corbin's task was to look at the run-off concerns that might be caused from this subdivision. Mr. Chavez said yes, Molzen-Corbin's hydrology plan was adequate in addressing the legitimate county concern's about run-off's. Mr. Crawford said there was a large factor of safety between the rear yard ponds and the centralized ponding area.

Commissioner Padilla asked, if along with these 120 lots that were being developed, were these ponding areas going to be developed immediately? Mr. Crawford said yes. What about parks in this area, Commissioner Padilla asked? Mr. Crawford said not in this area, but there will be a park site that will serve this area.

Commissioner Andersen asked what kind of open spaces and parks was he proposing. Mr. Crawford said on the 800 acres, there were three large park open space areas and an interconnecting trail network that is required by the master plan. Commissioner Andersen said with the density in the original tract, he was looking at 2400 houses. Mr. Crawford said the density that was approved in 1997 was four to six use per acre, which would translate to potentially many thousands and probably more thousands than could be reasonably built by a reasonably developer. This would be a lot size of (4000 sq. ft), 50' wide, 80' deep. The new zoning ordinance adopted in 2000 changed the minimum lot size in the Plan Development Zone and set it at 6,500 sq. ft. The estimate of homes to be built there would be 2,500 to 3,000 homes and would sell for approximately \$90,000.00 to \$120,000.00 and the larger 8,000 sq. ft. lots in Unit one, would sell for \$120,000.00 to \$150,000.00.

Chair Daves wanted clarification on what was before them tonight. Mr. Crawford said 120 lots, that are 8,000 sq. ft., roughly 70 by 110 , was before them tonight. Commissioner Andersen said what she was getting at, was this would appeal to families with kids and has he set aside anything in the area for a school. Mr. Crawford said the 1997 Sierra Vista Master Plan had set aside acreage for a proposed school site in the middle of the property. This would be in the Los Lunas area. The roads required by Sierra Vista Master Plan on the local streets are paved roads with a roll curb. On the arterial or the collector roads entering the subdivision, the plan provides for an asphalt paved road with a bar ditch. This is a typical county road, has a swayed on the side and black top in the middle and no curb. The roads that have houses on them will have a roll curb in front of them.

Commissioner Andersen said she was confused with the language on water usage and whether or not there was refrigerated air. Mr. Crawford said the water supply plan, was based on the presumption of refrigerated air conditioners.

Commissioner Andersen asked if when the final plat was done, would he be back? Mr. Crawford said yes, in terms of the process with the county and the Subdivision Ordinance as governed by the State of New Mexico laws, the approval of the preliminary plat is the entitlement for the developer to do the project. The final plat is a formality to make sure that the infrastructure is built or financially guaranteed.

Ms. Wimberly said she wanted to make sure that the commission knew that when they approve the preliminary plat, they are essentially approving the subdivision. It gives them the right to go out and build it. The final plat is the asbuilts, if they are building a building, there are plans and after it's done, there are sets of drawing that are the asbuilts, it shows how it is actually done with minor adjustments in doing the construction.

Chairman Daves asked Ms. Wimberly if the commission has the discretion to say no, if subdivisions before them, have met all the requirements, are consistent with county law and there are no problems with them? Ms. Wimberly said as long as the developer, in their judgment, has met all the requirements the law places on them, they don't.

Chair Daves said he had a call from a developer in that same area, who was concerned that obligations, in regards to the road, be shared among developers in terms of an impact, which might be what trips the need of a traffic light. Is there anything in our process that allows that or is it built in into this process, he asked Ruben. At this point no, but what they can do is take an extension of a

traffic impact analyzes. However, the amount of traffic on 120 homes is under the scale. Mr. Crawford said his office does traffic studies for the State Highway Department on a small scale projects, he suggested that if his office went through the time and expense of doing a traffic study to analyze the impact of the 120 lots, that by the time they took these lot trips, they would in a traffic impact sense, have a situation where there would be no impact. In lieu of wasting the money on a traffic study, lets put this money into paving improvements at the entry of Manzano Expressway. Chair Daves cut in to say he wasn't talking about this project, he was talking concept and concern that added time, it was not a waste of money.

Commissioner Andersen had no more comments on this issue, but said she heard several things during this discussion that bring her back to the fact that they need to review the Zoning Ordinance. She again reiterated that Mr. Chavez start setting up monthly meetings so they can take sections of it and go through it word by word and change or suggest what they need to change, so by the time the comprehensive plan is done, they have a new zoning ordinance to present. It is desperately needed and would like to start this in January.

Commissioner Andersen made the motion to approve the preliminary plat for Sierra Madre Development. Commissioner Trujillo seconded. Motion carried. 3-0. **Exhibit I.**

Approval of Acceptance for Maintenance

Dos Locos RoadDan Trujillo
Dan Trujillo was requesting approval for maintenance on Los Locos Loop in Tome, District two, off of Highway 47. It is in Dahl Acres, an approved subdivision in Valencia County. It's a 40' easement which meets the requirements for dedication. There are 24 lots of which 14 are occupied. The subdivision regulations requires 80% occupancy before a road can be dedicated. This road had been paved, but has a lot of cracks on it. Mr. Dan Trujillo said these can be fixed, by resurfacing them.
Commissioner Andersen made a motion to approve. Commissioner Padilla seconded. Chair Daves said this road was in much better shape than probably 80% of county roads. We have an obligation to rebuilt all of those roads, but we don't have an ability to and this will just add on to that obligation. It is critically important that the county needs to be pro active in a sense of when the road was dedicated, at the time the plat was filed. Perhaps pro actively accepting them before we have to fill the pothole, we can go in with an overlay. Commissioner Andersen said there was promise made from a previous commission and they had to uphold it. She called for the vote. Motion carried. 3-0. **Exhibit J.**

El Paseo Road was in District three in the Belen Mesa, north of Alexander Airport. This road is in Rancho Rio Grande and consists of 5 acre lots. This also requires 80% occupancy and has 28%. The road has two low spots on it, is 40' easement and 1 ½ mile long. Commissioner Trujillo said that Dan had better experience then he did, but what was the problem with the road, in terms of the residents wanting to have it dedicated. Dan Trujillo said there were two places that were low spots and that was because it runs downhill. It might need two culverts. Commissioner Trujillo asked how big these low spots were. Dan said they were 65 feet long on one and 3 ½ feet deep of water. This is the only way the residents can get to or from their house, and is also a school bus route. Commissioner Trujillo recommended that, despite the fact that it doesn't meet the percentage occupancy requirements, given the nature of the situation where health and safety are involved, they accept the road, at least to where it puts it in a position where they can begin to look at moving dirt out there and making it passable. This was in the form of a motion. Commissioner Andersen seconded. Motion carried. 3-0. **Exhibit K.**

Request to Publish

Public Hearing for entering into Contract to Establish a Regional Transit District, 12/1/04.....Mike Trujillo
Mike Trujillo said several entities in the county had already acted in establishing a Regional Transit District under contract. We are required by statute to hold a public hearing and was requesting to publish for a hearing on Wednesday December 1st at the next regular commission meeting. Commissioner Trujillo made a motion to approve. Commissioner Andersen seconded. Motion carried. 3-0. **See Exhibit L.**

RFP for Adult Detention food Service Contract.....Michael Steininger
Michael Steininger was requesting approval to publish a request for Proposals for a Food Service Vendor for the CC Adult Detention Facility. Commissioner Trujillo made a motion to approve. Commissioner Andersen seconded. Motion carried. 3-0. **Exhibit M.**

Financial Matters- Request approval of Additional Labor Position, Road Department.....Dan Trujillo
Dan Trujillo was requesting to re-hire on three positions on employees that will be retiring. Two have already retired and one will be soon. He was wanting to combine the salary and hire one additional laborer. The total of all four positions would be \$36.00 per hour, still saving \$2.69 per hour. Commissioner Trujillo made a motion to approve. Commissioner Andersen seconded. Motion carried. 3-0. **Exhibit N.**

Transfer of Tanker from Peralta FD to Manzano Vista FD.....John cherry

Mr. John Cherry was requesting transfer of a tanker from Peralta to Manzano Vista. Manzano Vista was paying \$10,000.00 and were asking to pay \$5,000.00 this budget year and \$5,000.00 next budget year. Mr. Cherry recommended the transfer. Commissioner Padilla made a motion to approve the transfer. Commissioner Andersen seconded. Motion carried. 3-0. **Exhibit O.**

Resolution 2004-55, Peralta Fire Department Purchase New Tanker.....
Michael Steininger

Michael Steininger was following up on Mr. Cherry's request to transfer by submitting the budget resolution for the first half of the \$10,000.00 payment. This will transfer the funds from Manzano Vista to Peralta. Commissioner Padilla made a motion to approve. Commissioner Andersen seconded. Motion carried. 3-0. **Resolution 2004-55. Exhibit P.**

Resolution 2004-56, Meadow Lake Fire Department Purchase Brush Truck.....
John Cherry

Mr. Cherry said they were purchasing a skid unit for a brush truck. This was approved on September 1st and now they are transferring the funds. He recommended the request. Commissioner Padilla made a motion to approve. Commissioner Andersen seconded. Motion carried. 3-0. **Resolution 2004-56. Exhibit Q.**

Resolution 2004-57, Neighborhood Watch Grant Purchase Neighborhood Watch Sign
Sheriff Perea informed the commission that Wal-Mart had donated a grant of \$500.00 for the last two years and this year they had donated \$1,500.00. He was requesting acceptance of this money. Commissioner Andersen made a motion to approve. Commissioner Padilla seconded. Motion carried. 3-0. **Resolution 2004-57. Exhibit R.**

Resolution 2004-57 Law Enforcement Field Supplies.....Sheriff Perea
This second resolution was also from Wal-Mart. They had donated \$500.00 for the Reserve Program which would be used for training supplies. Commissioner Padilla made a motion to approve. Commissioner Andersen seconded. Motion carried. 3-0. **Resolution 2004-57. Exhibit S.**

Courthouse Painting Contract – BJ Painting.....Mike Trujillo
County Manager Mike Trujillo said he had received three quotes for painting the 1st floor corridors in the building which was in dire need of patching and painting. The third quote was \$5,750.00 plus tax. He was recommending BJ Painting in the amount of \$5,241.79. This would be part of the courthouse renovation project. Commissioner Andersen made a motion to approve. Commissioner Trujillo seconded. Motion carried. 3-0. **Exhibit T.**

El Cerro Community Center Playground contract.....Mike Trujillo
On this item, the purchase of the equipment and installation was done under a previous purchase order, which is still encumbered. Mr. Trujillo was asking approval for the additional work based on the site plan that was approved in the amount of \$9,576.64. Total for this phase of the project would be \$23,615.95. Funding from the legislature is available not only to complete this phase, but to start on the baseball/soccer field phase of the project. He recommended approval. Commissioner Padilla made a motion to approve. Commissioner Trujillo seconded. Motion carried. 3-0. **Exhibit U.**

Approval of Payroll & Warrants.....Michael Steininger
Michael Steininger requested approval on Warrants totaling \$154,949.08. Out of the ordinary was annual payment on two fire trucks. Payroll was in the amount of \$211,298.01. It was about \$10,000.00 higher than normal due to all the overtime and wages paid for the election. Commissioner Andersen made a motion to approve. Commissioner Trujillo seconded. Motion carried. 3-0. **Exhibit V & W.**

Request to Surplus County Vehicles.....Mike Trujillo
Mike Trujillo requested that the commission surplus all of the vehicles on the list that was provided to them. Commissioner Andersen made a motion to approve the request. Commissioner Padilla seconded. Motion carried. 3-0. **Exhibit X.**

County Manager's Report

Mr. Mike Trujillo said typically the new commission approves the holidays schedule for the year 2005, however, based on personnel ordinance, January 1st, falls on a Saturday, so what this means is that this holiday would fall on December 31st. On the next meeting he would ask them to consider authorizing January 1st on December 31st as an official county holiday.

The next issue is the jail administrator update. The committee has narrowed thirty applicants to five applicants. Four of those applicants will be interviewed on this Friday. The fifth applicant was from out of state and was unable to get a plane ticket. If the committee will authorize a telephone interview, they can do that early next week and if not he will withdraw his name. Manager Trujillo will be making an offer to Cornell staff, once the Sheriff's office has completed the background check. They will probationary employees for six months, so there will be time to deal with any issues if anything comes up in the background check. Mike said they are within \$9,300.00 of the preliminary estimate for staff fees.

Chair Daves said that in regards to the jail administrator, it was suggested to him by Charles Griego, Los Lunas Counselor, that they consider making that position, a position hired by the county manager and therefore, a classified position. But, on the other hand, whoever is hired would have a feel that they could be fired based on non performance, if not for other reasons. Commissioner Andersen said this job would be tough enough without having to worry about a new commission keeping them. But, the commission needs to be informed of it officially. Commissioner Trujillo agreed. Mike Trujillo said if the commission would authorize him to publish a change of the personnel ordinance, he can remove that position as soon as they can publish it and get it to hearing as soon as possible. Chair Daves said publish to make it a classified position. Mike said that was correct. Commissioner Trujillo said the commission then does not have direct authority over that position. Mike said that was correct.

State Juvenile Probation Office will be vacating the office on December 1st. They are moving across Courthouse Road and the space will be vacant. He will offer it to the Sheriff's Department being that they need privacy and don't have it.

Manager Trujillo informed the commission on the New Mexico Association of Counties Mid-Winter Conference which will be held on January 25th and 26th in Santa Fe.

The commission was handed a PERA Enhancement Article from La Voz, that says PERA is going to ask the legislature to halt any changes to any other plans. If they were looking at any PERA adjustments, they will probably need to be done prior to the end of the legislative session. Because of their actions in allowing retirees to be re-hired and with the low interest rates in the economy, has put PERA fund in some jeopardy. Commissioner Andersen asked if there was still time to do this and did the moratorium not mean immediately. Manager Trujillo said it would have to go through the election process and several steps, about two to three months. It has to go to the legislature in order to seek moratorium, is what the article says, and he believes it is governed by the legislature based on statutory language. Chair Daves clarified that they were talking specifically about the Sheriff's Department and that they need to understand that it is very important issue among all the commissioners.

Elected Official's salary would have to be done prior to January 1st. It would not have effect after that.

Manager Trujillo said he will be inviting all the Legislators, not just local ones, to a breakfast meeting on Friday, December 10th. The location is still not decided. Mr. Trujillo said he had assumed it would be a low capitol outlay session, because of the expenditure during the election, however, the newspaper article says there will be \$340,000,000.00 available. It is important that we present a unified package to our legislators. This was the last of the County Manager's report.

With no objection, the Commission adjourned.

The next Regular Meeting of the Valencia County Board of County Commission will be held on December 1, 2004 at 6:00 PM in the County Commission Room at the Valencia County Courthouse.

Adjournment 8:40 PM

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

VALENCIA COUNTY BOARD OF COMMISSIONERS

**ss/
GARY DAVES, CHAIRMAN**

**ss/
PAUL EDWARD TRUJILLO, VICE-CHAIRMAN**

**ss/
AURELIO H. PADILLA, MEMBER**

ALICIA AGUILAR, MEMBER

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

ATTEST: ss/

TINA GALLEGOS, COUNTY CLERK

DATE: December 15, 2004