

VALENCIA COUNTY BOARD OF COMMISSIONERS

Regular Meeting

December 1, 2004

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

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

Chairman Daves called the meeting to order. As per motion and roll call vote, pursuant to Section 10-15-1 NMSA 1978, the following matters would be discussed; Limited personnel matters, pending or threatened litigation and other specific limited topics that are allowed under the stated statute. Commissioner Trujillo made a motion to go into Executive Session. Commissioner Padilla seconded. Commissioner Andersen voted yes. Commissioner Padilla voted yes. Commissioner Trujillo voted yes. Motion carried. 3-0.

Executive Session

Chairman Daves called the meeting to order. Commissioner Trujillo made a motion to go into regular meeting. With no objection, the commission went into open session. County Manager reported that an employee had requested a hearing but had not shown up for it. A list of employees that had either resigned, been terminated or had left county employment had been handed to the commissioners. He also reported that one of the Senior Citizens van had been involved in an accident in Albuquerque. There were no injuries, but one senior citizen had been hit by the air bag. Also discussed was Marble Quarry Road. He had sent Governor Lucero a letter advising him that they would be on site the following day and had received back a fax, saying not to. This was all that had been discussed. Commissioner Andersen made a motion to ratify that was all that had been discussed. Commissioner Trujillo seconded. Motion carried. 3-0.

Pledge of Allegiance led by Lillie McNabb

Approval of Agenda

County Manager asked that Item H-1 be moved to be the first item under Action Items. This was per discussion among the commissioners and the intent that it would be tabled, in order to have public workshops, as well as to get the FAA and State Aviation people to come down and speak. There were people in the audience that were waiting to give testimony and rather than have them wait, it would be appropriate to take this action. Chair Daves said if there was no objection there would be some discussion on it when they came to the item as it was moved. Commissioner Andersen made a motion to approve the agenda as amended. Commissioner Trujillo seconded. Motion carried. 3-0.

Approval of Minutes

Commissioner Andersen made a motion to approve the Minutes of the November 12, 2004 Official Canvass of General Election 2004. Commissioner Trujillo seconded. Motion carried. 3-0.

Public Requests

Mr. Frank Metzger of 6 Jay Bird Loop said not only had nothing been done, on his request at the last meeting, but there was more garbage now.

Discussion (Non-Action Items

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

Action Items:

Ordinance 2004, Airport Encroachment Overlay Zone District Ordinance.....
Mike Trujillo

Mr. Pete Rael was under the impression that it was necessary to have more public input and more opportunities for the public to consider the zoning ordinance that affects the existing airport and any future airports in Valencia County. There is a lot of interest and folks from the airpark, were here because a vote was expected tonight, however, it seems to be appropriate to have more input and he did not object if it was tabled. Commissioner Andersen said she had spoke to Mr. Rael and Mr.

Chavez and they agreed to set up a workshop for the public. Someone from Aviation, the New Mexico Department of Transportation and FAA would be invited to speak, but until we hear from them, as to when they will be available, we cannot set a date. Mr. Ruben Chavez said he would call, but until he talks to them, he had no answer. He's intention would be to come back to the commission on the next regular meeting. County Manager said he thought it would take longer, since they need to post the workshop and give proper notice. He would like to do it before the start of the Legislative Session. If posted properly, it would not happen until probably the second meeting in January. Commissioner Andersen suggested that the notice in the newspaper be of significant size so that it would be noticed by the public. On the direction that Ruben Chavez follow through, Commissioner Andersen made a motion to table this item until the second meeting, on January 19th. Commissioner Padilla seconded. Motion carried. 3-0.

Commissioner Andersen thanked Mr. Rael and the people from the air park for been reasonable and understanding the need for public airing of this ordinance. When they understand what Mr. Rael and his group are trying to do, there will be no issues. Right now it is a complicated and difficult thing to understand, that we need to get people together.

Request Approval of Mid-Region Transit District Governmental Unit Contract..... Bruce Rizzieri

Mr. Bruce Rizzieri, with the Mid-Region Council of Governments had the contract for joining the proposed Regional Transit District. It had all the requirements of State Statute. They also had draft copies of the bylaws for it and also bylaws for the separate councils.

The Village of Los Lunas, Village of Bosque Farms, City of Belen, Village of Los Ranchos de Albuquerque and the County of Bernalillo had voted to join the district. It is also on New Mexico State Transportation Commission meeting agenda in Gallup. This is a two step process. The first step is to form a Regional Transit District. The District is then able to obtain funds from the State to pay for the development of the Transit Service Plan. Once this plan is developed and approved each entity will then make a decision whether or not to stay with the Regional Transit District. At this point there is no financial commitment. After the plan is finalized, then a decision has to be made whether or not they stay with the RTD and how that commitment will be financial done on the county's part.

Chair Daves said there is no commitment in acting tonight and in fact, there is no commitment until further decisions by commission direction. This just allows us to go forward, he said.

Commissioner Andersen made a motion to approve the Mid Region Transit District Governmental Unit Contract. Commissioner Trujillo seconded. Motion carried. 3-0. **Exhibit A.**

Progress Report Detention Administrator.....Mike Trujillo

County Manager, Mike Trujillo had anticipated the Detention Administrator Selection Committee would have taken final action on this item. Since they hadn't, he asked that it be withdrawn and put on the next agenda. They had interviewed four people and phone interviewed one person. He will be meeting with Commissioner Trujillo for his rating and if for some reason they have problems hiring before the December 15th agenda, he will hire one of the present Detention Captain as an interim administrator to deal with the transition..

Resolution 2004- , In support of Regulations for All Terrain Vehicles..... Commissioner Paul Trujillo

Dr. William Pratt read the Resolution and asked the commission to urge the legislators representing this county, to vote for reasonable and effective safety regulations for All Terrain Vehicles use.

Commissioner Trujillo said this resolution was very well phrased and send a message to the Legislators that we are concerned with the safety of our residents and children and he urged the commission to support the resolution.

Ms. Dolly Wallace, a resident from Bosque Farms was concerned with kids flying by in the ditches, without the safety of helmets. She asked the commission to support the resolution.

Mr. Bill Brown would hope the commission would address some enforcement of aggressive ATV usage and maybe an ordinance against usage of ATV's on public roads.

Commissioner Trujillo said they do need to look at some ordinances that are enforceable, that will aggressively put it into perspective. It is a safety issue in the county. County Manager, Mike Trujillo said if the resolution was passed, it would be his intent to track it through the Legislators.

Commissioner Padilla said it was a very important resolution and was surprised that it hadn't been addressed. He made a motion to approve the resolution. Commissioner Andersen seconded.

Chair Daves said it was critically important, because use of the ATV's was on district owned land. District does not have the ability and sometimes the jurisdiction to enforce, unless it's their own regulations. It should be brought to the attention of the State Legislators that distinct land is a significant area. Chair called for the vote. Motion carried. 3-0. **Resolution 2004-58. Exhibit B.**

Request Approval of Joint Powers Agreements for Village of Bosque Farms Adult Detention, Otero County Adult DetentionMike Trujillo

County Manager, Mike Trujillo received two joint powers agreements from the above entities and asked for approval. Pueblo of Isleta and Village of Los Lunas would be sending their agreements at the next meeting. In the past, we have housed the County of Taos prisoners at \$45.00 a day, but we now offered them \$65.00, and so he will get back with them and negotiate. He recommend approval for both. Commissioner Andersen made a motion to approve the Joint Powers Agreements between Valencia County and the Village of Bosque Farms and Otero County. Commissioner Padilla seconded. Motion carried. 3-0. **Exhibits C & D.**

**Taxation & Revenue Department issuing of CRS #'s (Combine Reporting Systems.....
Ruben Chavez**

Mr. Chavez said his office had issued a little over 1100 business licenses this year. The County charges \$25.00 for each license, the State does not charge for the CRS number. Applying for a business requires an applicant to obtain a CRS number from the Taxation and Revenue Department. This requires the applicant to drive to Albuquerque to get this number, when it's possible to issue these numbers locally. The Village of Los Lunas and City of Belen have issued their own numbers for years and there is no reason why the county can't. He would like to make his office more efficient and not stress out the customers so bad. He asked for approval.

Commissioner Padilla made a motion to approve the request. Commissioner Andersen seconded. Motion carried. 2-0. Commissioner Trujillo was absent for the vote. **Exhibit E.**

**Approve findings of Fact, Conclusions of Law and Decision from November 3, 2004
Tract C1, Lands of Hollis Wilson & Filo Sedillo/ Lawrence Valenzuela.....
Cynthia Wimberly/Adren Nance**

Ms. Wimberly presented the Findings of Fact, Conclusions of Law & Decision on action taken on November 3rd. in the matter of re-zoning land located on Hwy 314 & I-25 Bypass, Lands of Lawrence Valenzuela.

Commissioner Padilla made a motion to approve. Commissioner Andersen seconded. Commissioner Trujillo pointed out an error on the second sentence of the Facts and Findings. Ms. Wimberly said it was an error, it should read "from a C-1 to a C-2 designation". Chair Daves called for the vote. Motion carried. 3-0. **Exhibit F.**

**Request Approval for Month to Month Extension of County Attorney Contract.....
Mike Trujillo**

County Manager, Mike Trujillo said the current contract will expire on December 17th and the next meeting was on the 15th. This is a critical nature of various legal issues, especially the transition of the Detention Center and other matters facing the county. The fact that a new commission will come on board on January 1st, he was requesting the extension of the present contract on a month to month basis until the decision is made whether to extend their contract for another year.

Commissioner Trujillo made a motion to approve. Commissioner Padilla seconded. Commissioner Andersen didn't object to extending the contract, but asked if they could go out on a request for proposal, so that at the end of this next month, they would know exactly what they want to do. She directed the manager to do that and Manager Trujillo said he would put it on the next agenda. Chair called for the vote. Motion carried. 3-0. **Exhibit G.**

**Request Approval for Out-of-State Travel to Tempe, Az. December 6-9,2004.....
Sheriff Perea**

County Manager, Mike Trujillo presented the request for travel for Deputy Shannon Brady to attend a PIO Boot Camp on the above dates. Deputy Brady is the department Public Information Officer. This class will increase her media communication skills and assist in preparation of responses to the media in the event of a critical incident and in preparing statements that will inform the public, while putting the Department in the best possible light. There is money allocated for training in the budget and will make financial impact minimal. Mr. Trujillo recommended approval. Commissioner Trujillo made a motion to approve. Commissioner Andersen seconded. Motion carried. 3-0. **Exhibit H.**

Mike Trujillo had a request for Detective Floyd Montoya to attend an advanced crime scene investigation workshop to Midland Texas. He had not received in time to put on the agenda. The dates for the workshop are December 14th – 17th It would be on the December 15th agenda, but by then Mr. Montoya will be in Texas.

Public Hearings:

Request to Amend the zone Maps from AP to RR2 located off John Road, Belen Tr. D of Chamisa Farms.....Ruben Chavez

County Clerk, Tina Gallegos, swore in anyone speaking on this issue. Mr. Chavez presented a request to amend the zone maps from Agricultural Preservation (AP) to Rural Residential (RR2) on property located off John Road in Belen, Tract D of Chamisa Farms, containing 17 acres, The Lee's would like to remove a 3 acre parcel from the 17 acres as designated AP, therefore leaving the remaining 4 acres in AP zoning. Since the AP designation is no longer a 10 acre minimum, it has recently been changed to a 5 acre minimum, they would like to create a 5 acre parcel and a 9 acre parcel, leaving the newly created 5 and 9 acre parcels still in AP.

This request was approved by the Planning & Zoning Commission on October 13, 2004 with a 5-0 vote for the following reasons; (1) As identified in Section 4-7-3 of the Zoning Ordinance, the

proposal will still sustain the agricultural purpose, (2) The three acres are actually located on a separate tier of land from the rest of the property.

Chair Daves asked If this zone change request applied only to the 3 acre portion. Mr. Chavez said yes.

The reason for this request, Mr. Lee said, was because they were in the process of relocating for personal and family reasons. He requested the commission's consideration.

Mr. Dean read a petition signed from 30 of the neighbors opposing the zone change. They believe that allowing one landowner in the area the opportunity to change the AP zoned property to RR, will be the beginning of an unalterable precedence. Eventually other landowners will demand that they too be afforded the same zone change and ultimately there could be no AP land left in Valencia County. The Lee's, Mr. Dean said, were the finest people and he hated to see them leave. He suggested that they consider changing the RR to AP, they would then have another piece of AP land. Chair Dave said that might not be correct and asked Ruben if all the 17 acres, including where the house is at, zoned AP? Ruben said that was correct.

Mr. Dale Jones, Chair of the Valencia Soil and Water Conservation District said that one of the reasons they had fought for the 5 acres rather than 10 was to prevent what was happening now. However, he had looked hard and long and the way the land is modified by two beautiful wind breaks, he, personally, thinks that what Mr. Lee is trying to do is the best thing that can happen. Some of the people that signed the petition live on 21/2 acres on RR2 land. What he would like the commission to consider is that rather than change the zoning, that he could be offered a variance. Once the zoning is changed they give more and more people the support that they can get their land changed by a zone change. He preferred that it be kept with special situations, such as this one, and the commission make a decision based on that.

Mr. Gil Gray and his wife are the property owners directly across the street to the south of this land. He said Mr. & Mrs. Lee are wonderful people and they do have a beautiful property. However, his concern was that this was setting a precedence, if this goes through. It makes it more difficult to maintain AP land and he was concerned for the future of our county and its rural nature. He asked the commission to consider the issue.

Mr. Bill Brown read an article from the newspaper that was illustrative of the economic impact population moving into areas. It was indicative of the growth as an overspill from Albuquerque area.

Commissioner Andersen asked Mr. Lee if he was farming the land. Mr. Lee said it was all in permanent pasture and he had Angus cattle. It's all irrigated.

Commissioner Trujillo appreciated the position of those neighbors who feel that there's no need to go down to 3 acres on AP. This property is much different than other properties that are designated AP. This is clearly green belt property, he said. The benefit that would accrue to Mr. Lee, does it outweigh the deficit that will accrue to the neighbors, he asked? If there is an option that would allow him to accomplish the sale of his land, without somehow abrogating this AP designation of the surrounding properties, he would favor it.

Chair Daves asked Ruben, if Mr. Jones request was reasonable in his view of zoning laws and the counties zoning law? Ruben said he had discussed this with Mr. Jones and he did not find it reasonable, in fact it went against policy in the zoning ordinance. We do not grant a variance when in fact, the result of a variance is a change in zone designation. Attorney Wimberly concurred with that.

Commissioner Trujillo said if approved for a 3 acre change, they could put in the facts and conclusions that it was based on the particular geography of that piece of land. This land because of it's geography almost mandates that it be allowed to go to a different designation. This would be a matter of record so then someone buying the 9 acres can't split it.

Commissioner Andersen pointed out that properties on two sides of the 17 acres are already smaller and these are the people that don't want the 17 acres cut up. Commissioner Trujillo said that the individuals who signed the petition do not live on the property adjacent to it.

Commissioner Andersen made a motion to approve this request with the explicit stipulation in the Facts and Findings, that this does not extend to a further division of the 5 and 9 acre parcels Mr. Lee wants to have. Commissioner Trujillo wants it stated, not only for the 9 and the 5, but for surrounding properties that are clearly agricultural. This is not to be regarded as a precedent for going below the 5 acre minimum. He would, with Commissioner Andersen's approval, like to make the motion, to approve this. It is specifically limited and is very narrow and not to be applied beyond this piece. Commissioner Trujillo made the motion. Commissioner Andersen seconded.

Commissioner Padilla asked Ms. Wimberly if this would hold up if they wanted to come back and change things later on by stipulating certain agreements to the motion. Ms. Wimberly said no it would not hold up. This application and any action on this, only affects the land for which the request for zone change was made. It cannot affect any adjacent land or any other land. With regards to the basis for the action, the unique character of this is important for the record, Chair Daves said, and believed it was presented from the Planning & Zoning Commission.

Commissioner Trujillo said if this is weighed into the findings and facts and conclusions of law, by doing that, we will be avoiding some attorney in the future, whose client gets turned down, coming back and saying they have the same fact pattern that you had back there. Now he's up against the findings and fact and conclusions of law which distinguish this property from the other property. Ms. Wimberly said that was true, it does have legal bearings.
Chair Daves called for the vote. Motion carried. 3-0. **Exhibit I.**

The Commission took a 5 minute break.

Request to Publish.....Mike Trujillo
Personnel Ordinance Amendment
Animal Control Ordinance Amendment

County Manager, Mike Trujillo suggested some changes in the Personnel Ordinance relating to the Detention Administer, that would be presented to them at the next meeting. Some of the changes would be on Section 3, employment status dealing with appointees.

Chair Daves asked Mr. Trujillo if he would elaborate on details on the Personnel Ordinance. Section 3.3.A deals with appointees and department heads which are listed as professional consultants and independent contractors, these are not appointees, they are professional service people, so he re-wrote it into a separate paragraph. The Director of Detention was taken out, by request. Director of Planning & Zoning instead of County Planner, inserted the position Director of Public Works, took out Landfill Director, since we no longer have a landfill. Our Ordinance, Subsection B says government funded employees, it should read grant funded employees, because we can get grants from other than government sources. On temporary employees it says "provided this action is not in violation of the procurement code. If it deals with an employee, it has nothing to do with procurement code. And these are the recommended changes.
Chair Daves said the request to Manager Trujillo was a consensus from the commission that the Detention Director be a classified employee rather than an appointed or un-classified position.

Commissioner Trujillo commented that in his opinion, the Road Superintendent should be under Public Road Director, if it was opened and filled. Commissioner Andersen agreed and Manager Trujillo said he would do that.

Commissioner Andersen made a motion to approve the Request to Publish with deletion of Road Superintendent. Commissioner Padilla seconded. Motion carried. 3-0. **Exhibit J.**

The second request was to amend the Animal Control Ordinance to insert the provisions for dangerous animal based on serious dog bites. Pursuant to the State statute, a majority of vote from the commission is needed in order to publish.
Chair Daves in reviewing the classification of a dangerous animal and a vicious animal said the county did not have one. He asked the County Manager to prepare a definition of dangerous animal and if they need that definition, that the owner be required to confine, through an enclosure, those animals. And in lieu of enclosing an animal, within a reasonable period of time, the county have the authority to confiscate the animal.
In meeting with chairman of the Animal Control Committee and Animal Control Director, County Manager Trujillo said they had taken the language out of the proposed ordinance and at the same time had found a penalty charge that was not allowed under State statute. This needs to be cleaned up and was asking that this ordinance take effect immediately after it's passage on December 15th. Commissioner Padilla made a motion to approve. Commissioner Andersen seconded. Motion carried. 3-0. **Exhibit K.**

Financial Matters-Request Approval of.....Michael Steininger
Resolution 2004,Transfer Funds from Fire Cash Reserve to Uniform/Safety Equipment

Michael Steininger, Fiscal Manager had three resolutions for approval. The first one was from the Peralta fire Department who were requesting a transfer from the reserve funds to uniforms to buy safety equipment.
Second one was for \$.88 to close out a left over fund with the Children's Youth and Family Services Department.
The third request for \$37,000.00 had been budgeted for Election Judges from Bureau of Elections and it had been inadvertently put in Part Time employees. He was asking approval to move it to it's proper location. Commissioner Andersen made a motion to approve. Commissioner Padilla seconded. Motion carried. 3-0. **Exhibits L,M,N. Resolution 2004-59, Resolution 2004-60, Resolution 2004-61**

Approval of Payroll & Warrants.....Michael Steininger

Michael Steininger presented the commission with payroll in the amount of \$201,000.64 and Warrants in the amount of \$750.00 and \$615,344.42. This was large due to payments to Cornell Juvenile Detention Center and pay for mailing the tax bills. \$10,000.00 was to fix the pumps for the septic system. He had made the commission aware that this was coming.
The cash balance as of November 30th, was \$1,888,751.56 in the General Fund. Commissioner Padilla made a motion to approve. Commissioner Trujillo seconded. Motion carried. 3-0.

County Manager's Report

The only report that County Manager, Mike Trujillo had was to invite all the County Commissioner, present and new, to a Legislative breakfast on December 10th, at 8:30 AM at Henrietta's. ICIP Legislative Projects will be discussed with the new commission.

The next Regular Meeting of the Valencia County Board of County Commission will be held on December 15, 2004 at 6:00 PM in the County Commission Room at the Valencia County Courthouse.

Adjournment 8:30 PM.

NOTE: All proposals, documents, items, etc., pertaining to items on the agenda of the, December 1, 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