

VALENCIA COUNTY BOARD OF COMMISSIONERS

Public Hearing

September 14, 2005

PRESENT	ABSENT
Mary J. Andersen, Chairman	
Georgia Otero-Kirkham, Vice-Chairman	
Paul Edward Trujillo, Member	
Ron Gentry, Member	
Lynette Pinkston, Member	
Michael R. Trujillo County Manager	
Wimberly Law Firm, County Attorney	
Tina Gallegos, County Clerk	
Press and Public	

Chairman Mary Andersen called the meeting to order at 5:00 PM.

Chairman Andersen asked Dolly Wallace to lead the Pledge of Allegiance.

Approval of Agenda

Public Requests

Rita Padilla-Gutierrez said she was disappointed in a matter that came before the P & Z Commission to try to stop Max Kiehne from going from five acres to two acres on a 96-acre plot of the Knight-McCullough Ranch in El Cerro. The item was tabled but in finding out more information it is already in effect and the water rights have been sold. If Mr. Kiehne does start selling two acre lots, who is going to provide the water? Commission directed administration to look into the matter and work with Ms. Gutierrez.

Discussion (Non-Action) Items:

Chairman Andersen opened the public meeting by thanking everyone that was in attendance because this does show the public is interested in what the Commission is doing. Chairman Andersen said when we started the process of redoing the nuisance ordinance it was in an effort to address the one issue that seems to come before this Commission most often and that is complaints of abandoned property with thirty-five junked cars that no one has done anything with. We did not feel that our current ordinance had the legal teeth that we needed. We had our lawyer redo the nuisance ordinance and now that it has been published we found that we probably made a mistake in the first issue that the public got because we have amendments that have been added to the original ordinance that exempts all reasonable and necessary agricultural uses on agricultural land. In the ordinance that will be defined by New Mexico statute.

County Clerk, Tina Gallegos admitted the oath to the public who wished to give testimony on the items listed below.

Public Hearing Items:

- a. Ordinance 2005-____, “Providing for the abatement & identification of public nuisances in the entire unincorporated area of Valencia County; repealing conflicting prior ordinances – Cynthia Wimberly (See Exhibit A)

Ms. Wimberly stated that this Commission has repeatedly been approached by the public regarding concerns with abandoned vehicles, mobile homes, several other matters, ATV’s running up and down people’s road. So the Commission asked that a nuisance ordinance draft be drawn up to fit these needs. Ms. Wimberly said Commissioners, Sheriff’s Office, Code Enforcement Director, County Planning staff and herself all got together to decide what policy the county is going to pursue and to alleviate questions that the public had. The public has had a concern with jake brakes so we implemented an ordinance that this defined. There have been concerns with lighting, odor, solid waste, trash control that this ordinance would identify. Ms. Wimberly said certain uses with agricultural are not deemed or perceived as something that the County is trying to eliminate. This is not the intent of the Commission’s direction to County staff.

CJ August, a resident of Valencia County, said she is a motorcyclist and a board member of the New Mexico Motorcycle Organization. Ms. August asked the Commission to amend the ordinance, section 5.1.2 regarding vehicular noise.

Doug Rupp said he is a farmer from Valencia County, rides motorcycles and his cows stink. His contention with new rules is that we have numerous rules already that we are not doing much with. The motorcycle noise, we hear all of the time, and they are not street legal motorcycles. Also there are children riding four wheelers, not street legal. Mr. Rupp said he is not aware that anything has been done about this.

Ken Wright said the gentleman before him summed up his feelings. People who move next to airports should not complain about the noise, people who live next to parking operation should not complain about that.

Laura Johnson, Bosque Farms, said her concern with buying property and having it chopped into little pieces. People want to escape the city and then they want to charge our rural community into a city. She said she can't make her horses stop smelling, her tractor from making noise, or her horses stand still so they don't make dust. This is impossible because we are in a drought. The ordinance states it will not allow accumulation of manure. We have nine horses and Ms. Johnson said she does keep her place clean and does keep her manure picked up.

Connie English said she has been a resident of Valencia County for over forty years. Her concern is how will this affect their arena team roping. As far as this ordinance how does this affect the light, the manure, as far as the amount of animals on property, Ms. English said this was a concern of hers as this ordinance states noise. This is a form of income for us.

Abran Gabaldon said there is a legal terminology coming to the nuisance. When a person moves in and there is an existing farm, guess what put up with it, you came to the nuisance. That is part of life and living in the valley.

Angelo Baca representing Valencia County Farm & Livestock said we need to understand you impose new laws and regulations, you are looking for someone to take advantage of this law and use it for their own personal agenda. This is not for the people because all of sudden it has become a nuisance to them. Right now we could say something about the odor section, people walked in here tonight with manure on the bottom of their shoes.

Mike Michenbier said the County has changed dramatically over the last 5 to 10 years. We were all rural people that elected this Commission. Mr. Michenbier said he can see implementing this ordinance but this ordinance is moving too quick and too fast. We need to make sure that our input is in this ordinance. We need to protect our interest and our way of life and if this ordinance is decided on Friday, it is impossible.

Donna Sylvester said she has been a resident since 1985. This is by far an inappropriate change in the paper work this Commission already has. We have an ordinance that is in effect, we don't have the law enforcement, we do not have the code commissioners, we don't have the money to finance getting out here and enforcing what we already have. All of us that have horses, whether it is a breeding operation or her friends training operation, or the kid down the road that has a 4-H project, we are concerned.

Larry Kajowski said it seems that everyone is complaining about motorcycles, making noise. You take what you get when you buy it from the factory. What about the tractors coming down the road, or the hay balers, or the trash trucks making all that noise coming down main street. Nothing is mentioned about those, just motorcycles.

Jamie Jameson said she and her husband run a training facility to the public for people that want to learn how to ride horses, show horses or learn how to take care of a horse for their own personal trail riding. She has an arena and drags it with a 4-wheeler and tries extremely hard to decrease the noise and the dust. But we live in New Mexico, it is dry and we can't prevent it. Manure, if someone wants to come and get it for compost, are we going to get into trouble for giving it to them so they can have a garden with something natural?

Jerry Homan said his concern is more about boom boxes; they vibrate within a half-mile down the street. He would like something done about this type of thing.

Jeannie Gray said before this Commission goes ahead with this, the Commission should do a head count of the number of horses in this valley, the amount of hay that is sold in this valley and what it would really mean to the community if somebody started putting the hammer down really hard on these horses.

Bob Edwards said he lives on north El Cerro Loop and has been in the racehorse business all his life. He moved here because they would not pass paramutual racing in Oklahoma. This is a violation of his rights to pass something like this because he has already made a tremendous investment. This Commission should give this ordinance more time.

Larry Daley said he has been in Valencia County for 20 years. According to this ordinance on the livestock and smell, what are you going to do with the livestock in the valley? We live here for a reason because we like the country.

Jeanette Lucero said there was a question asked earlier about one neighbor keeps their place clean but the next-door neighbor doesn't and doesn't take care of their animals. That is why we have a New Mexico Livestock Board to call a livestock inspector. Ms. Lucero said she has three kids who like to barrel race and rope. Ms. Lucero said they moved in front of a feedlot and she knew it was going to stink.

Justin Wood said he had a couple of points on this ordinance, one for the noise ordinance, he agrees with the motorcycle association lady from an EMS point of view, the louder the pipes, the

more they get people's attention. Mr. Wood said his second issue, the chairman said solid waste does not include manure, but the ordinance says any other discarded material, semi-solid waste resulting from commercial, mining and agricultural operations. Mr. Wood said on the dust, unless your neighbors start complaining, now they are going to be in violation of this ordinance so there needs to be something to protect people from this type of situation.

Richard Mathiason said he lives east of Belen in Valencia County. His main concern is the ordinances having some meat to them, getting action taken. Mr. Mathiason submitted a picture of what is behind his house, two travel trailers that are not operable, a makeshift fence of hay and he would like to see something done.

Richard Becker said he is a member of the New Mexico Wild Turkey Federation and a member of the Rio Grande Mule & Donkey Association. Mr. Becker addressed what has been said and calls this a social and psychological implementation of the proposed Valencia County Nuisance Ordinance and he commends Commissioner Trujillo because he hit exactly at what he is driving at and what he is going to lead to. Personal well being and health is related to having excessive control over your own lifestyle choices. The capacity of making choices of where you live, where you work, where you play and recreate is why we live in this land that we call America. Many folks have chose to live in rural Valencia County so they can engage in animal husbandry activities, small and large farming operations. Living in rural Valencia County provides opportunities for significant life experiences over time between generations of families. Where you choose to live is an expression of your valued system. In a democratic society taking responsibility for your responsibility to manage your life and your property so it does not create harm to your neighbor is an imperative. Mr. Becker said he supports much of what this Commission wants to do with this ordinance. It is needed and necessary. Compliance of laws and regulations demonstrates responsible citizenships. The proposed nuisance ordinances potentially impacts significant number of folks living by choice in Valencia County and those who may choose to live in the future. Mr. Becker said he had seven recommendations. 1) Take no action to approve this ordinance at this time. 2) Valencia County Commission should schedule public workshops where you thoroughly review each of the provisions that you have identified in the ordinance. 3) Valencia County staff should prepare a power point presentation that visually demonstrates any existing conditions under which each of these provisions. 4) We need to look at the perennial weed problem on the drain ditches of this County. Chairman Andersen stated that Mr. Becker's time was up.

Janet Jarrett said she had a number of things to say about the ordinance. Ms. Jarrett said she has been sworn in and a couple of people have kindly offered their two minutes. Chairman Andersen said no, Ms. Jarrett would have two minutes like everyone else. Then this is a real problem with such a comprehensive shift in what could be impacting people's lives and to have people stand up and be sworn and volunteer. The chairman asked early on to have one person be a spokesperson for a group as much as possible and that is what we have done and you are disallowing it. Chairman Andersen stated again to limit your comments to two minutes. Ms. Jarrett said then you want an abbreviated list and don't really care what the public says. This Commission can not make this decision on Friday because according to state statute any ordinance passed by a County must have the ordinance available to the public two weeks before the decision was made and she came in Monday seeking the appendices to the ordinances they were not available, the county clerk did not have them. They had not been made available to her or the county planning office. It was by searching online that she found the international property maintenance code so that she could understand what was being adopted in this ordinance and the changes that were being made. In the code it states a provision for a board or appeal board, it says the board of appeal shall consist of a minimum of three members who are qualified by experience and training to pass on matters pertaining to property maintenance and who are not employees of the jurisdiction. The code official should be an ex-officio member that shall have no vote on any matter before the board. The board shall be appointed by the Chief appointing authority and shall serve staggered and overlapping terms. In your ordinance you make amendment to that section and you have delete the entire section, insert the board shall consist of County Manager, the Code Enforcement Director and the Planning and Zoning Manager. The impact of this is essentially you have tossed out the Board of Appeals that is non-biased and qualified and replaced it with a board that has apparently no certifications to make these kinds of decisions and they are clearly employed by the enforcing entity and can be very biased and this was not made public as of Monday, just two days before this hearing. This may be a severely legal issue with having the public hearing where the documents were not available to the public. When you talk about solid waste and this includes garbage, it should be unlawful to allow any solid waste to collect. People cannot compost their kitchen waste for their garden. You have a problem with the right to farm act, this does protect commercial agricultural.

Salomon Montano said he does not know the whole concept of the whole ordinance but he did read part of it. He is a farmer himself and he knows a lot of people down here are farmers, when we passed the zoning ordinance in 1988 and then it was to control growth in the valley areas and also to control litter. Mr. Montano said he is a farmer and he knows he bothers neighbors early but that is too bad. There are a lot of dairies in this valley and they produce manure, where is it going to go?

Dolly Wallace said she is a councilor in Bosque Farms and they face the same issue that this Commission faced just recently. When they incorporated the right to farm act into their ordinances just recently, they are NMSA 1978 Article 9, Section 47-9-1-7. What this says is that the difference is that you are looking at agricultural zoned property. What they did is try to protect the agricultural

lifestyle. No matter what size of property you have, you have the right to have that agricultural activity. And activities mean roping, horse events, judging events for kids learning to raise their livestock, etc.

Commission discussed as to having workshops to further discuss the ordinance process. Chairman Andersen thanked the public for attending as there was standing room only and this way everyone can be heard with their input. Commission also directed staff to have readily available to the public any amendment or copy of the nuisance ordinance for their review.

b. Ordinance 2005-____, “Fire & Emergency Services” relating to administration; providing for the establishment & administration of the County Fire Division of the Code Enforcement Department – Andrew di Camillo (See Exhibit B, C & D)

Andrew di Camillo, Code Enforcement Director provided Version 1 and Version 2 of the Fire Ordinance for Commission review. There was a meeting held with the all 9 fire district fire chiefs to discuss or recommend any changes that the chiefs had. There are amendments that illustrate those changes and recommendations.

c. Amend to master plan of enchanted mesa – Ruben Chavez/Frank Seminara/Agent Alicia Aguila (See Exhibit E)

Mr. Chavez requested to amend the master plan of Enchanted Mesa. The lot is located east of the carwash. The county records have this property identified as a welding and sheet metal shop. The Zoning map has this labeled as Planned Development but specific designations identified. Mr. Seminara would like to designate this lot commercial to match the historical use. Planning and Zoning held their public meeting took testimony and voted in favor of this request 5-0.

d. Change the zone designation from RR1 to C1 – Ruben Chavez/Anthony Gabaldon (See Exhibit F)

Mr. Chavez requested the zone change from RR1 to C1 for Anthony Gabaldon. He has had a business on Don Felipe Road for several years. Until recently Mr. Gabaldon closed his business but is attempting to reopen. With new regulations he has to obtain County permission under the zoning ordinance. Mr. Gabaldon would need a commercial zone designation as well as a conditional use permit for an automobile service operation. Planning and Zoning heard this request and voted 5-0 in favor of the zone change.

e. Grant a zone change from RR2 to RR1 (Tabled 8-17-05) – Ruben Chavez/Juan Aragon (See Exhibit G)

Mr. Chavez requested a zone change from RR2 to RR1, which had been tabled, as Mr. Aragon could not attend that meeting. He is trying to settle his mother's estate. A few years ago the P & Z Commission granted a conditional use permit to place a mobile home on the property in order to provide care for his mother who also lives on the property in her own home. The home was placed on permanent foundation; subsequently the mother deeded the property to the kids, however to split the land a zone change and a lot split are necessary. Planning and Zoning heard this request and recommended approval with a 5-0 vote.

Nancy Crowley said the reason she bought her property in that area because most of it is RR2. She does not want to see any more breaking up property than necessary. The areas there are all on septic, all on well systems, she does not want anymore of those to hang out. Ms. Crowley said what bothers her is this would make two pieces that are just under one acre; it is actually 1.59 acres so this would be breaking the zoning ordinance anyway. They should not be allowed to change the designation. Ms. Crowley said she opposed this zoning change.

Juan Aragon said he is a lifelong resident of Valencia County and his family has been here for several hundred years. This property in question was 2.2 acres and there will not be any changes made, what is there will just stay there. There won't be new sewers put in or wells. We went through the proper channels to do what we did.

f. Amendment to the zoning map from RR2 to RR1, AKA 63-B Peralta Blvd – Ruben Chavez/Elfego Moya (See Exhibit H)

Mr. Chavez request is an amendment from RR2 to RR1 for Elfego Moya. Mr. Moya is attempting to sell 1.5 acres to his cousin who owns the adjacent land. Because the 1.5 acres parcel is below the 2-acre minimum a zone change is required to apply for a zone change. Planning & Zoning Commission heard this request and voted 5-0 in favor.

g. Appeal made regarding a decision made by the zoning administrator – Sec. 4.8 of the Valencia County Zoning Ordinance (See Exhibit I)

Mr. Chavez requested Commission to make a ruling on an appeal made regarding a decision made by the Zoning Administrator, Section 4.8 of the zoning ordinance. Mr. Chavez said he approved a building application for a hay barn to be built on Lot 3-A land of Fred Sanchez. Upon the commencement of construction at this location neighbors called to the Zoning Office questioning the activities on site. Upon further discussion an appeal was filed in the Planning and Zoning Office. This appeal came from David Blacklock and Roman Sanchez.

David Blacklock said he feels that this permit was issued under rural residential, or RR2. Under that section permitted uses does not discuss any thing of this type, this structure is approximately 10,000

square feet on a one-acre parcel. We are not even sure coverage of this structure is legal on this property. Mr. Chavez told him it was permitted under farm use of permitted uses. Mr. Blacklock said under farm use subject to limitations of subsection 7.1.6J, all that deals with is livestock. This is a structure. It does not fall under accessory use. This structure will have detrimental affect on residential property values in the immediate area. The permit should be revoked and the structure dismantled, as it does not comply.

Roman Sanchez said his views on this item are the same as Mr. Blacklocks and his feeling is they are worried it will turn into more commercial. There is sale of fertilizer being sold there in a semi-truck and it looks like it will be congested commercial.

Mr. Blacklock said he is against the magnitude of this structure; it does comply with the rural residential zoning laws.

Michael Lundmark of Los Chavez said the hay barn in question is his. He farms and raises alfalfa and does this on properties that are adjacent to the property to where his hay barn is. He has 40 acres on that dead end road and currently has leases on 67 acres of farmland.

h. Appeal for a decision made by the Planning & Zoning Commission – Ruben Chavez/Jesus Miramontes

Mr. Chavez said Mr. Miramontes is not in attendance. Commission decided to bring them back at another meeting and make accommodations for Mr. & Mrs. Miramontes because they do not speak English.

i. Provide a map interpretation as provided in Sec. 1.4.2 H in the Valencia County Zoning Ordinance – Ruben Chavez/Marlin Frettem (See Exhibit J)

Mr. Chavez said this item is to provide a map interpretation as provided in Section 1.4.2-H of the County ordinance. Mr. Frettem has acquired the property in question. Upon purchasing the property and analyzing the layout of the land and its existing tracts, Mr. Frettem would like to re-align the frontage along Hwy 314 to best utilize his commercial designated land. This process is outlined in the ordinance. Mr. Chavez said Mr. Frettem was not in attendance.

j. Partial vacation of plat unusable lots in Eastland Hills – Cypress Gardens –Lots 346A, 348A, 351A, 369A, 370A, 371A, 372A –Tina Gallegos/Patricia Owens (See Exhibit K)

Ms. Gallegos said on August 10, 2005 the County Clerk's Office received a request for partial vacation of plat from Patricia Owens. The property is located at Cypress Gardens, Eastland Hills. Ms. Owens has contacted PNM for approval concerning utilities and all property owners and adjacent property owners have been notified. This procedure falls under Section 7.3.1 of the County ordinance.

Pat Owens introduced her engineer, John Jacques who has been working with her to continue the systematic and proper development of Eastland Hills. Ms. Owens said there was question, what determines a lot to be unusable? In this subdivision where the lots are 80 by 100 to have a lot that is several acres in size that has a pipeline running through the side of the lot, this would make it a very undesirable and unusable lot. Ms. Owens said lots 371A, 372A, and 352A are adversely impacted by a 40' gas line easement which Cypress Estates Ltd wishes to correct by re-platting that area to place the gas line in a road median, which will be landscaped and maintained by the Homeowners. This will eliminate unsightly weeds growing in the pipeline area, as well as providing safety for the residence. Currently, some of the kids in the neighborhood are using the pipeline easement for a racetrack for ATV's, which is creating a safety issue for the residents in that area. By placing the pipeline in a landscaped median, between two roads, thus creating a split Boulevard affect will eliminate this safety hazard. Ms. Owens said the road design is in the Commission's packets for review.

John Jacques said he works with Miller Engineering Consultants said he just wants to show on the map the confirmation of the lots but on the map it shows in yellow the pipeline that goes through there. There was going to be some acreage lost due to improving the roadway access of those lots.

County Manager's Report

State Fair

Mr. Trujillo said the State Fair day for the County will be Saturday, September 24, 2005 starting at 12:00 PM. There are tickets available for the elected officials.

The next Business Meeting of the Valencia County Board of County Commission will be held on Friday, September 16, 2005 at 9:00 AM in the County Commission Room at the Valencia County Courthouse.

Adjournment

Commissioners adjourned at 8:00 PM.

NOTE: All proposals, documents, items, etc., pertaining to items on the agenda of the September 14, 2005 Meeting (presented to the Board of County Commissioners) are attached in consecutive order as stated in these minutes.

VALENCIA COUNTY BOARD OF COMMISSIONERS

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

**ss/
GEORGIA OTERO-KIRKHAM, VICE-CHAIR**

**ss/
PAUL EDWARD TRUJILLO, MEMBER**

**ss/
RON GENTRY, MEMBER**

**ss/
LYNETTE PINKSTON, MEMBER**

ATTEST: ss/

TINA GALLEGOS, COUNTY CLERK

DATE: September 16, 2005