

VALENCIA COUNTY BOARD OF COMMISSIONERS

Public Hearing Meeting

August 8, 2007

PRESENT	ABSENT
Pedro G Rael, Chairman	
Georgia Otero-Kirkham, Vice-Chairman	
David R Medina, Member	
Ron Gentry, Member	
Lynette Pinkston, Member	
Eric Zamora, County Manager	
Cynthia R. Wimberly, County Attorney	
Sally Perea, County Clerk	
Press and Public	

1. The meeting was called to order by Chairman Pedro Rael at 3:30 PM.

2. Chairman Rael led the Pledge of Allegiance.

3. Approval of Agenda

Chairman Rael stated on Item 5 (d) there was a typographical error of 1.5 acre parcels which should read 1.85 acre parcels. Chairman Rael asked counsel if there was a legal problem with this error. Ms. Wimberly said on the notice of public hearing it read the purpose was to split into three one acre parcels. Commissioner Medina moved to approve the agenda with the amendment above. Seconded by Commissioner Kirkham. Motion carried unanimously.

4. Public Requests – At the discretion of the Chair

{For Information Only – limited to two minutes per person on subjects not on this published agenda.} Samuel Aragon asked if his granddaughter could record Items c and d. Mr. Aragon said this would be for his own information.

Sally Perea, County Clerk administered the oath to Eugene Picketts on Item 5 (a).

5. Items:

a) Presentation on proposed ordinance and program to facilitate better collection of taxes on Mobile & Manufactured homes – Diana Coplen-Martinez (See Exhibit A)

Eugene Pickett, Mobile Home Recovery Specialist spoke on behalf of the Treasurer. Mr. Pickett stated this request is to authorize the County Attorney to proceed with a review of the applicable state statutes and revision of submitted ordinance for possible adoption. Over the past year the Treasurers Office has participated in several discussions with the statewide Treasurers Affiliates regarding delinquent mobile home taxes statewide. This problem has a negative impact on potential revenue generated in previously unidentified taxes. The Counties Mobile Home Tax Recovery Specialist has experienced ongoing success in their efforts towards recovering the delinquent taxes identified. But with the continued violations uncovered on the part of the specific manufactured home direct or support businesses, they are affecting the timely collection of those taxes. The businesses in question are moving and or repossessing the Mobile Homes without obtaining the required tax release. In addition, we are locating a significant number of these units out of the county. This means that the lender, lien holder and movers are knowingly violating state statutes and Department of Motor Vehicle Regulations. Remedies to these practices should be pursued.

b) Amend the zone map from RR2 to RR1 for the purpose of splitting two 1.5 acre parcels into three (3) 1-acre parcels, T6N R2E, Sec. 17, NMPM, Lands of Lupe C. Chavez, Tr. 39-A-3-B-1 & 39-A-3-B-2, MRGCD, Map 86, Valencia County, NM – James Aranda/Louis Salas (See Exhibit B)

Sally Perea, County Clerk administered the oath to those giving testimony on Item 5 (b). Mr. Zamora stated that Mr. Aranda was not available today and asked what the commissioners wishes were to do on this item whether to postpone or to continue with the item. Chairman Rael asked if Mr. Salas was in the audience or a representative for this item and asked them what their wishes were. Mr. Salas stated he wanted to proceed. Dennis Salas, co-owner of the property spoke on behalf of Louis Salas. Mr. Salas introduced Mandy Trujillo from Exit Realty who will also speak on this item. Mr. Salas said what they want to do with this property is to split the property into three (1) acre parcels to allow for the construction of one additional housing unit at the back of Tract 39-A-1-3-B-2 and replace it with a new housing unit. The front part of the property has two homes and one of the homes recently burnt down. The back part of the property is vacant land with an existing well. Mr. Salas said according to the covenants, they can rebuild the home that burnt down and still be legal having three homes on the entire property. Their proposal is to have the home that is still there to stand alone and have the other two acre parcels in the back to build one acre parcels. The creation of two additional parcels and the addition of another housing unit may have a slight increase in tax revenue for the county.

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Many Trujillo stated that the property has been grandfathered in and basically a non-conforming use because the property was split prior to the two acre minimum that went into affect. This is why there are three structures that were allowed on this property. Ms. Trujillo said now that one home has burnt down as long as construction starts within a year, it can be rebuilt according to regulations. Planning and Zoning heard this request at their meeting and after hearing testimony and taking public comment on the matter voted and is their recommendation to deny this request.

Chairman Rael asked for public comment for those who oppose or are in favor of the requested zone change.

Sandy Montoya-Cervantes stated that she owns property to the north of the above item. Ms. Cervantes said first she would like to submit a letter from Senator Michael and Lynn Sanchez stating their opposition on this matter. Unfortunately, they are away on business and unable to attend, but Ms. Sanchez did attend the Planning and Zoning meeting. They own property just south and Ms. Cervantes said her property is north. Ms. Cervantes said she would like to comment on statements made at the P & Z meeting from Mr. Otero, stating that he knows both parties and this is a small town and this is unfortunate because they know all the families involved. Ms. Cervantes said she wants to protect the ruralness of Los Chavez. Right now, it states that lot acres are two acre minimum and the way the plat reads there are two houses and Ms. Cervantes said she has questions on the grandfathering clause, can it be rebuilt, will the square footage stay the same, will there be a mobile home there, is it a year that it can be rebuilt? Ms. Cervantes said the reasons that were stated to cut the pieces of property into three separate pieces is that it is not marketable. Ms. Cervantes said if they rebuild with three homes, what is the guarantee that they won't put mobile homes on those parcels? Ms. Cervantes said she wants to preserve the property and to keep it rural.

Arnold Rousen, 5 Bunton Road said he has two acres next to Senator Sanchez property. There are other two acre ranchettes in that area. Mr. Rousen said he won't be repetitive but somebody was wise enough to stop breaking down plats of less than two acres. This was a great plan in setting it that way. Mr. Rousen said he is retired and in watching television there is a show to where they go in and buy under valued homes, put money into them, buy up some sweat equity and next thing it sells big. It is a magnificent transition of what they start with and what they end up with. That property is as marketable as any home sitting on that acreage. If the plan is only to make money then what is to keep Mr. Sanchez from putting up five homes next door. Mr. Rousen said he would like to leave things just the way they are.

c) Vacating or Closing County Road-Mesa Estates Road (AKA Fence Line Road) between Journey Road and High Deal Road near Meadow Lake Valencia – County Commission (See Exhibit C)

Mr. Zamora said the road viewers would be presenting this item. Chairman Rael asked everyone giving testimony on this item to be sworn in. Sally Perea, County Clerk administered the oath. The road viewers Ron Pease, Jim Boots, and Bob Knap introduced themselves. Mr. Pease stated that as road viewers they had instruction from the county attorney, this was in a memo about a year ago. It reads "if you speak to people who object to closing of the road to please be aware that one whose property does not abut or adjoin a closed section of the road ordinarily have no right to complain of the closing or vacation of such road provided that they have reasonable access to the general street or road system". Mr. Pease said he wanted to make it clear that these were their instructions to go by. Mr. Pease said he had been gone and when he returned found a letter about a town hall meeting to be held on this issue, the meeting was last evening at 7:00 PM. Mr. Pease said he understood that this town hall meeting would not take testimony or evidence on the matter and as it turned out this is exactly what is was for. Mr. Pease said he did not look in favor of this meeting and when in attendance he was asked to give a presentation, essentially of what is being summarized today. The meeting ended up being exactly what it was not supposed to be. Mr. Pease mentioned that at one of the meetings a few months ago, they put out petitions at all of the residence associations and they had people sign the petition to close Fence Line Road from Journey to High Deal. We got 50 signatures. Mr. Pease said the objective as road viewers was to provide to the commission with a report and a recommendation on vacating Mesa Estates Road between Journey and Abo. Mr. Pease said their recommendation is to vacate Mesa Estates Road from Journey to High Deal which is approximately one mile. At this point in time their recommendation is not to vacate from High Deal to Abo. Mr. Pease said the road viewers have property that abut a portion of the road that is being recommended for vacation. Mr. Pease showed the commission an aerial view of the property and preceded with a power point presentation. He said that in their proposal they found that two properties did not appear to have access other than Mesa Estates Road. Mr. Swift, owner #1 has agreed to a replat to allow for access to all lots from High Deal Drive. Mr. Relaford, owner #2 has agreed to replat. Mr. Pease said they have bids from three surveyors that they acquired. Mr. Pease stated the school buses, utilities, postal service access is from the south. In their research, they found no official dedication of Mesa Estates Road being on the maintenance list. Dedication of road is implied on original plat maps. Mesa Estates Road is a public nuisance which is used for dumping, no stop signs for 8 miles which induces speeding, used to avoid road blocks on Meadow Lake and used for illegal activities. Mr. Pease said in their recommendation proposal that the county barricade the road on both ends and install a fence to the south to prevent entry. It is recommended that the county do a one time cleanup of all trash, hazardous waste and dead animals along vacated road.

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Jim Boots stated that every property has been examined, the only problem was with Mr. Swift and Ms. Delgado. With Mr. Swift, his property will have to be replatted.

Chairman Rael asked for anyone in the public who wished to speak in favor of vacating the road.

Robert Baca, Dirt Road spoke in favor of vacating Mesa Estates Road. He said he doesn't bother anyone but he has had dead animals and trash thrown in his yard. There are people shooting out in the yard and he has been threatened at gunpoint twice asking for people on the road to stop their illegal behavior.

Robert Rivas, corner of Mesa Estates Road spoke in favor of vacating the road. He agreed that the situation was bad. He is home every day and sees people dumping trash and dead animals.

Mr. Zamora stated there were two written requests from Anne Gucker, 271 Franklin Ave, Garden City, NY who is in support of vacating the road, and Deborah Kruhm sent an email who also is in favor of vacating the road.

Rick Swift spoke in favor of the vacation as he is the property owner who will get his property surveyed. He bought his home with the intention of building his dream home. Mr. Swift said he has tried his best to maintain that property but after ten years of constantly hauling trash off, he gave up. He hopes the commission finds a win-win type solution for everyone.

Steve Kutch spoke in favor of closing the road. He has seen the dumping of trash and dead animals. People drive through there at high rate of speed and he is surprised that no one has been killed. Mr. Kutch said he likes it when it rains because then they don't have any traffic.

Linda Pease spoke in favor of vacating the road stating it is a public nuisance.

Bob Gostichia said that while he understood those wanting the vacation he was opposed to the road closure. He just doesn't see that as the answer because it takes the problem off Mesa Estates and puts it on another one. Will we then close another road? We have to eliminate the problem.

Marcia Relaford stated that her and her husband did not give permission for their property to be retitled and have an access road on it. Ms. Relaford said they do not want an access road on their property and do not want to lose their property.

Jim Boots stated he had spoke with Mr. Relaford and went over to their property with the maps to show them what was going on and to discuss the situation. The last time that he spoke with him, Mr. Relaford did not want to speak with him or look at the maps. Mr. Boots said he has explained the situation with Mr. Relaford and he had stated that he did not have a problem with that.

Sally Perea, County Clerk administered the oath.

Brenda Delgado with her interpreter spoke in opposition to keep the road open. The reason she does not want the road shut down is because she does not want a portion of her property taken away. She said she was not aware that part of her property would be taken until Jim Lane informed her of that.

Mr. Zamora stated that he had a letter in opposition from Alan Zelicoff.

B.J. Frady said she lives on the eastern portion of Mesa Estates Road. Her concern is the trash in that area. Ms. Frady said she uses Mesa Estates Road to take her children to school. She wants to keep that road open.

Burt Lowensberry said he lives down the road from Ms. Frady. Mr. Lowensberry said closing the road is going to create problems and is a step in the wrong direction, it is not progress. Mr. Lowensberry said there is always going to be trash.

Vonda Temple, Mesa Estates Road handed out copies for the commissioners review. Ms. Temple said she opposes closure of the road. It is up to the commission to set policy for safety and well being of all citizens that reside in the unincorporated areas of the county. This is a challenge for this commission to make an uninformed decision. Ms. Temple said in placing the free holders, they hold a personal interest in the closure of the road and are biased and misleading. Ms. Temple spoke of dedicated, public roads, and illegal dumping.

Alan Zelicoff said he is the person that Mr. Zamora referred to as having a letter of objection for the commission on his objection to the closure of the road. Mr. Zelicoff said he lives in Albuquerque but owns 12 acres of platted property. Mr. Zelicoff said that Mesa Estates Road proves the only access to his lots and vacating this road would leave his lots land locked and would severely undermine the value of his lots.

Mr. Pease said he had done research on that piece of property and there is a 30' easement on the north portion of the property that Mr. Zelicoff has access down to Journey Road according to the plat maps.

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Jim Lane handed out copies for the commissioners review. Mr. Lane read his review to the commission on his objection of the closure of Mesa Estates Road, aka, Fence Line Road. His objections are that the free holders gave false and biased information to the commissioners, county manager and general public in making a decision for their own self interest. They knowingly left out information in their report.

Sam Relaford said he owns property on High Deal Drive that earlier they had mentioned that he would give an easement. Mr. Relaford stated that he would consider it and the free holders never came back to discuss it with him.

Janet Stover said her land abuts Mesa Estates Road. She received a certified letter in the mail and this is the first time she has heard anything about this issue and she highly objects to closing the road. Ms. Stover said she wants access to her property to the north.

Elizabeth Turner commented on Turner Drive, it was open to Fence Line Road and they did use that road. Turner Road is a dedicated road and is paved from Meadow Lake Road to High Deal Drive. It was blocked off when a subdivider started to build homes and made this very inconvenient. Ms. Turner asked to not close Fence Line Road.

Ms. Wimberly stated she would like to submit, for the record, the mailings that the county did and publication group and that the record be kept open until we continue to get those mailings between now and the business meeting.

Bill Lebrecht stated that he wants to thank everyone that spoke because we are all grownups and we have to live with one another so no matter how this issue turns out, we are all still friends.

d) Presentation Illegal Dumping in Valencia County NMED – Barry Birch

Mr. Birch stated that he had a power point presentation but the equipment had shut down. Mr. Birch said he is the Enforcement Officer for the Solid Waste Bureau for New Mexico Environment Department. His territory includes counties of Sandoval, Bernalillo, Torrance, Socorro and Valencia. Mr. Birch said his primary duty is to ensure compliance with the New Mexico Solid Waste rules. This is the subject of many citizen complaints. Mr. Birch spoke on issues of different levels of county implementation of preventive clean up. Mr. Birch offered his assistance to help with a program to help with this issue of illegal dumping throughout Valencia County.

e) North Belen Group on establishing a “Quiet Zone” for the North Belen Corridor – Dr. E.J. Sherry (See Exhibit D)

Sally Perea, County Clerk administered the oath to Dr. Sherry to give testimony on the above issue. Dr. Sherry introduced a group that was with him. We are not anti-railroad, why would we say that because their petitions were stolen. People think that we are out to put people out of work, we are not. We recognize the need of the economy throughout Belen and Valencia County and the country. When people went with the petitions with families that have railroad members, they said they did not want to sign the petition for fear their family member would lose their job. But what they did say was, that noise is just horrendous, they are blowing longer, more often and quite disturbing to their area. Dr. Sherry said they recognize when the engineers have to blow, but unfortunately, some engineers overdue it. Dr. Sherry said governments do allow for quiet zones. They have a site with the federal administration and it tells you of all the rules and regulations on how to create a quiet zone. Dr. Sherry said they would like to see a quiet zone that extends from north Mesa Road thru Don Felipe crossing. We have about 120 trains a day, the railroad is forcing their engineers to blow their horns for regulation. Dr. Sherry said there is no need to blow their horn at all. Dr. Sherry said the county needs to start with the commission, they have obtained cooperation of all the people involved, mainly the railroad, Valencia County and maybe the State for some help with financing. The quiet zone needs to be ½ mile long. We need to create a no blow zone or no horn sounding zone. The proposed quiet zone cost is an estimated \$300,000.00. Dr. Sherry handed out information for the commissioners review and copies of the petitions that they obtained after the petitions had been stolen.

f) Evaluate the “Destructive Nature” of Heavy Industry and affect in Valencia County – William A. Dean

Mr. Dean said today he would like to define heavy industry and how it has a detrimental affect on Valencia County. The word heavy in the dictionary is defined as extreme, powerful, overwhelming, violent and unmanageable. Also, there is another part, heavy industry is defined as large, scale manufacturing such as machinery, ship building and etc. As with high uses, oil and gasoline storage farms, cement manufacturing plants, auto salvaging plants covering 10 to 20 acres, auto crushing facilities, animal slaughter houses or large scale chicken farms. Mr. Dean said these will be found in the heavy industrial zone parallel to south Broadway, just north of the Isleta Indian reservation. That is an example of medium heavy industry. Heavy Industry is located away from residential districts, they are incompatible with any other zone and should be located so that the environmental impact will not adversely affect surrounding properties. Anything that produces air pollution, water pollution, noise pollution, uses excessive water that causes and extreme vibration that gives off obnoxious odors that creates a health hazard should be considered heavy industry. This is tacked on as I-3. In term of heavy industry it did not exist in the zoning documents until November 1999. Mr. Dean said the material that he gave the commission is from Mr. Sisneros who is part owner in the industrial park. He made interesting remarks that was published in the newspaper in 2005, he states they want clean industry to provide jobs, we do not want anything that will damage our environment. Mr.

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Dean said he is talking about I-2, medium industry. If Mesa Oil expands, then we will get air pollution. There was a lot of controversy about the possible uses of the park and he feels that I-2 medium industry is good for Valencia County. The new zoning ordinance in 1999 map was delayed by a devious plan to insert heavy industry I-3 into Valencia County. The 1999 zoning ordinance was signed by the commission on November 8th. The new map was not seen by the commission until several weeks after that. Mr. Dean said he and Mr. Aranda looked at that map and he turned it over, and he determined, this is Mr. Aranda's opinion, that the map was date time stamped on November 30th so that is considerable time after November 8th. Between December 1987 and November 1999 the zoning ordinance contained the following zoning sections, AP (Agriculture Preserved), RR (Rural Residential), RC (Residential Conservation), CD (Community Development), SP (Special Purpose) or OD (Outland) but there was no heavy industry anywhere in the documents prior to 1999. The purpose of SP is anything not covered by CD. Special Purpose was used to control industrial growth, any change had to be applied for by petition to the commission. Mr. Dean said he and Dr. Joe Rizzo after talking with the county manager had visited with each of the businesses in the industrial park. They talked with the managers and owners and they provided them with tours with the exception of Mesa Oil. They did not find any serious environmental problems and that is quite a few businesses in the industrial park and they are all doing a good job. These visits were with the consent of the county manager, Francisco Apodaca, with verbal reports. Anything in the park is considered I-2 medium industry except for the crematorium which is not operational. Mr. Dean said these people are doing a good job in keeping the air clean, not using too much water and some of the work in there is beautiful. PNM's small 140 mega watt peaking power plant will use less than 10 acre feet of water and would only operate when needed. The noise level would be less than 50/40 deep. The power plant stands 50 ft high and he is told that all outside lights would have top covers. Mr. Dean said this would all remain true if Judge McDonald had not ruled that the commission or Commissioner Ron Gentry's vote was invalid when he voted to change or the commission including Mr. Gentry voted to change the industrial park to I-3 medium industry to I-2 medium industry. Commissioner Gentry is the only representative from the land owners in and around Rio communities, he is bound by his duty to protect his constituents, and should have not been required to relinquish his vote, he was not voting for himself, he was voting for the people that call him on the phone all the time. Mr. Dean said the only alternative is to return Valencia County into medium industry, I-2, as the commission had originally planned in 1999 before they were shot in the foot by somebody. Those few areas that are truly outside medium industry, we have a lot of land in Valencia County and we can do a lot with it, could be recovered by reinstating special purpose for medium control. Valencia County does not need heavy industry, medium industry will provide the jobs and will not destroy our precious environment. Mr. Dean said he has been working with this issue for quite a few years, he was on a committee in looking at heavy industry. Mr. Dean said you have little control over heavy industry because then they do whatever they want. Mr. Dean said for this commission to think about this.

g) Declare an Emergency to correct Zone Map with "I-1 resource Industrial District" for the Rio Grande Industrial Park – Larry Alba (See Exhibit E)

Holdt Garver, Attorney stated he was representing Larry Alba and wanted to make a few brief remarks. Mr. Garver asked to have the people that were going to speak on this issue to be sworn in. This ties into a previous presentation and what he believes the record shows Mr. Alba will present this in much greater detail, since he has lived with this for years. The extent of the 1999 Valencia County Ordinance could be said to have operated as a rezoning which, one is illegal because there was no rezoning on the agenda until the good efforts of Paul Trujillo, we have found that it took place in a period of time of when this commission had placed a moratorium on rezoning. The penciled in change to heavy industry which was done after the commission had approved the Valencia Comprehensive Zoning Map was illegal, so we believe that was void ab initio which is a fancy lawyer term, which means void that it never took place legally. And as a result you have got some documentation of a map here to make people believe that there is heavy industry allowed. People may be relying on that but it appears from the record the whole matter was void from the start and could have never operated as a rezoning, apparently, that penciled in portion of the map attempts to do. Mr. Garver asked Mr. Alba to speak on this matter.

Larry Alba asked if Paul Trujillo could speak first because he had made a discovery today which would greatly resolve and help this matter.

Paul Trujillo said it is nice to have a different perspective on things tonight and he appreciates the commissioners patience because it has been a long day for everyone. This began in 1987 when the county attempted to solve some problems with growth in the area by addressing the issue of zoning and implementing or attempting to implement an ordinance in 1987. As part of that ordinance, what we now know as industrial districts were simply designated in the broad category of SP. It proved there were many problems with that 1987 ordinance and in 1999 the commission attempted to correct the problems with the 87 ordinance. This went through a very comprehensive process of trying to enact an ordinance that would resolve those problems. In the process of doing so, on February 8, 1999 the commission enacted a moratorium on all zoning changes and all zoning amendments to any maps in particular. Mr. Trujillo said those maps are public record and he does not have copies for the commission but will refer to them as a matter of public record. Mr. Trujillo said he went through the minutes of the entire year of 1999 line by line to look at the discussions that were taking place and in terms of references to industrial districts or special purposes as they were then known. There was one major controversy and that was concerning some property that Harvey Yates owned, a very large portion in the southeastern portion of the county near Socorro. At that time Mr. Yates referred to a federal case against Horizon and the VIA, in which he pointed out that

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Horizon had guaranteed some industrial development for people who were living here to be able to get jobs and work. Mr. Trujillo said that had not occurred and therefore his claim was there needs to be a designation of industrial of heavy industry so that promise could be kept true. He referred to Unit 8 & 10, a large portion of land about 3000 acres, that was an issue. In terms of industrial park, is why we are here tonight, there was only one reference made to that and that was county planner, Steve Chavez, in which he stated that the commission at some point would need to affirm a proper zoning code for the businesses that existed there at that time. Mr. Chavez in an original letter, prior to the adoption of the 1999 ordinance, urged them to make all special purpose districts I-1, he was very clear about that. He said that would clear up a lot of problems and possible litigation. You should take all purpose and just designate them I-1. The commission was not considering zone changes at that point. They were simply making a translation from a 1987 ordinance to an new ordinance in 1999. Mr. Chavez was very explicit in that recommendation. On July 19, 1999, the commission extended the initial moratorium for an additional 90 days. On November 8, 1999 the commission passed the ordinance. On November 15, 1999 a moratorium on zoning changes expired, so at the time the commission passed the ordinance on November 8, 1999 they were not considering zoning changes, in fact there was a moratorium in place that would have prevented them from making any zone changes, what they were doing was making an equivalent designation using a new terminology rather than SP they relied on a I designation. Only weeks before Mr. Chavez recommended to them that all SP become I-1. So in his opinion in 1999, the commission was not looking at zoning changes, they hadn't advertised for zoning changes, in fact, if the public was under any assumption it was that there was a moratorium on zone changes. What was occurring here was simply a redesignation of properties. Now he doesn't know how it occurred but he is not going to allege or implicate individuals but somehow a map apparently had the date changed to appear that later on indicating that it was an I-3 designation for that industrial park. In which in his opinion makes no sense. If any property should have bore the I-3 designation it was the property that the commission had argued with Mr. Yates about down at the south end of the county. The large 3000 acre parcel that Mr. Yates had been debating on as an industrial area, but certainly not as the existing industrial park that did not conform to an I-3. Those business that were there before certainly he doesn't think that anybody would allege they were I-3 industries. In his opinion, that commission was prohibited by their own moratorium from making any zone changes but everything that sprung out of that came later. The county attorney back in 2004 discovered that perhaps the 1999 zoning ordinance had not been properly published, it was lacking one publication after the fact but perhaps two. At that time the commission considered that and felt that they were ill advised to where in fact there was no zone ordinance. Yet there was issues on the table, there were issues of litigation, there was threatened litigation from People's Energy that they were guaranteed an I-3 designation by a letter coming out of Planning and Zoning Office and of course we all know that zoning can't occur by some employee issuing a letter. If that were the case he could go by some employee to send him a letter and he is going to rely on that in litigation. He doesn't think that is how it occurs ,there is a procedure for it. They alleged that they had an I-3 promise and they threatened the commission with litigation and that is a well known fact and he thinks Commissioner Gentry is aware of that as well. He wasn't on the commission until 2004 when the invalid zoning ordinance came. The commission was in a bad position, we had to do something in order to allow us to operate otherwise, everything was going to come to a screeching halt. We were still in the middle with that serious I-3 now and so on the advice of the attorney and the County Manager, at that time was Mike Trujillo and others, it was decided that we would enact an interim zoning ordinance and we would not address the issue of the I-3 designation at that point. But we would adopt the interim ordinance which was basically the same as the 1999 ordinance, there was no attempt to change anything. At that time, he moved not to address the issue of the I-3 because we had not properly published for doing a potential rezoning. We did not address the I-3 issue, call it contrary to what Judge McDonald believes , we did not zone that I-3 at that Interim Zoning Adoption. There was no intent to do anything regarding that industrial park. That was clear, that was on the recommendation, that is in the minutes. Subsequently, we readopted the 1999 ordinance and left the alleged I-3 situation industrial for future work shops and future resolution. The commission changed members, Commissioner Gentry joined us after lengthy discussions with the new commissioners, we decided we were going to do the right thing and we were going to put that matter to rest. After workshops and proper publication the commission returned a 4-1 vote in favor of designating that park an I-2 which he thought was a very reasonable decision on the part of the commission. He would have preferred an I-1 but after discussions with fellow commissioners we came to an I-2. Commissioner Kirkham and Commissioner Pinkston, Commissioner Gentry and he voted in favor and Commissioner Andersen voted against it. He always believed it was an I-1 at best, however in order to resolve the issue, that is the approach we took and designated it I-2. Judge McDonald saw it differently and he questioned his sensibility on it, he didn't think a judge had any business overriding a commission on a zoning issue. And he thinks he was out of line because this commission, not this commission but a prior commission, clearly decided that it was an I-2 and certainly Mr. Gentry was in a much better position to know what his constituents needed than a judge who lives in Sandoval County and right now, what this county is facing is a zoning designation, that was not determined by the people or by its representatives of the people, Mr. Medina is a representative of the people, they elected him in a general election, but a judge is not a representative of the people. That judge has made that industrial park I-3 when it never was nor was it ever the intent of the commission to be an I-3. He is going to conclude by asking this commission to set forward the proper designation for that industrial park. He know this commission is busy and you guys have been here since 3:30 and he pleads with them to revisit this issue. Take a look at what a proper designation for that park looks like. You do have an I-3 park out there where it belongs away from residences.

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Chairman Rael asked what is the specific thing that has been requested of this commission, is it the rezoning I-2 or to declare an emergency to correct a zoning map or both. Mr. Trujillo said he can't speak for Mr. Alba being that he is not here to represent him but if it is his request that you are referring to. His request would be that using whatever procedure you choose to affirm a designation of that industrial takes into account that you have children living next door to it, you have neighborhoods, yes they may be poor people but he is not that rich himself. An I-3 designation is not appropriate according to the committee that studied heavy industry adjacent to a neighborhood. So he is asking this commission to properly designate that park considering that it is next door to neighborhoods where children are, where schools are and human beings.

Chairman Rael asked if there are any people present that would be affected by this request from the Rio Grande Industrial Park, have they been notified? Ms. Wimberly said based on the record today and based on the notice that was given, you couldn't affect the zone change at this time, she thinks that what the folks are asking for is for the commission to consider that and then there would be a legal process before it is finally voted on at a regular meeting. Chairman Rael asked is there any prejudiced to the people that might be affected by the decision at this time to proceed in that direction, they are not here to be heard? Ms. Wimberly said the request is to start a process then that process involves all of the stakeholders. Chairman Rael said then they have no right to a public hearing or sworn testimony as presented in support of this commission taking action in the direction of rezoning that property? Ms. Wimberly said she doesn't think they can, she thinks this commission can't take any final action based on this hearing. This commission has a legal basis at this time to take any final action that would rezone that property. (Inaudible) Chairman Rael said the request is of this county commission to begin the process to go in the direction of rezoning of the Rio Grande Industrial Park property, is that what we are requested to do? Ms. Wimberly said she doesn't think Mr. Alba or his attorney (inaudible) but this commission at this time can't vote to rezone that property, she would advise this commission on voting to rezone that property. Chairman Rael said this has been litigated all the way to the court of appeals and to the Supreme Court and has ended up I-3 both times and the parties participated as far as he knows in every stage of the proceedings and here we are excluding the people that think it is I-3, and he is wondering if we are opening ourselves up to a severe liability to a process of lack of notice by proceeding one more step. We need to make a decision to proceed or not, maybe not now but next week, to consider, because they want us to declare an emergency to correct a zone map with I-1 for the Industrial Park, that is what this notice says and what we have been asked to do. Chairman Rael said as far as he understands it, this is an action item and somebody will be affected by this ultimately, depending on what the commission does. He thinks we have a major problem here, not having the representatives of all the properties that are going to be affected. Ms. Wimberly said the agenda was published in the newspaper, according per law, because we have not yet embarked on any specific quasi judicial process, the quasi judicial process requires individual notice, the legislative process requires publication in the newspaper. Ms. Wimberly said what she advises this commission is to consider embarking on a legislative process because there is nothing to notify any stake holders of. Chairman Rael said these people have been sworn in, they are testifying under oath, they are asking us to declare an emergency regarding this zoning, he has a problem with counsels statements, he really does. But we will proceed and he will caution the county commission that we are treading on very thin ice here regarding major liability with regards to the rights of the people that could be severely affected by anything that this commission does and he thinks that we should proceed no further without everybody being present at this stage where they are asking us to declare an emergency, especially since it has been litigated twice before to its fullest extent. Chairman Rael asked Mr. Trujillo what is your view of the two litigations that have gone up on appeal and have been fully adjudicated, how does that affect this county commissions position to touch on that zoning?

Mr. Trujillo said he is not here as Mr. Alba's lawyer nor could he be because he is prohibited from practicing before this commission for a period of one year, as your attorney can let you know. But he has read the litigation many times and in the first case which was appealed, Mr. Alba's case the court of appeals did not reach any kind of conclusion on the substantive issue, but what they did say was that Mr. Alba was barred from presenting further evidence because he was too late by time. Time wise he was too late to present further evidence but they did not reach the issue as to what the proper designation of the Industrial Park was. What they did say was that it was up to the commission. If the commission wants to go one way or the other with it, it is up to the commission whatever they want to do. They did not in any way affirm an I-3 designation in that litigation. Judge McDonald proceeded on a different premise, he assumed that whenever we enacted the interim ordinance of 2004, September 15th, that we were affirming whatever was in place from the 1999 ordinance. If that were the case what we were affirming was the Special Purpose, I-1 designation, certainly not an I-3, as he has shown, couldn't have been I-3, there was a moratorium I-3 against it. The county planner, Steve Chavez, also an attorney had clearly advised the commission, in writing, in an urgent letter that all SP was to become I-1. Therefore, if Judge McDonald was proceeding on that assumption that we were reaffirming that whatever happened in 1999, then he agrees, we were reaffirming an I-1, not an I-3. So he was wrong in that sense.

Chairman Rael said there was a prior litigation that went to the court of appeals where the county commission, fellow counsel took the position that that was an I-3 designation at that time. This was before that Judge McDonald became involved in the second, Mr. Trujillo said that was the first case that he referred to and then the appellate court reached its decision in overturning the decision of the lower court, Judge William Sanchez's, where he did find the I-3 was a serious designation. They overturned it based on the fact that evidence should not have been presented that it was too late for Mr. Alba to present evidence. They did not present the issue of the I-3 designation.

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Chairman Rael said his question is specific, did the county attorney take the position that that was I-3 in support of the arguments at that time that it should be designated I-3?

Mr. Trujillo said without having the case before him, he would be lying to him if he said that he could determine that from memory, but he does know why Judge Sanchez's decision was over turned. That he does remember. And he did not come prepared to argue a legal case with him, he came here to give him his opinion as a former commissioner and as a citizen of what he has seen in this process and it is clear to him that that park was never zoned I-3.

Chairman Rael said there has been a lot of statements made that contradict what Mr. Trujillo just said. But he will make a statement and sit here as chairman and mediate this but he intends to take no part in any declaration of emergency regarding of any rezoning of I-3 to I-1 Resource Industrial District and he disagrees that Mr. Trujillo is not here as an attorney, he thinks that he has made some legal arguments when you first stood there and all as a matter of record, he thinks it is totally inappropriate to come before this commission after this case has been litigated twice and without having the other parties here and every single one of them under proper notice that this can lead to a possible change in the zoning of the Rio Grande Industrial Park and he thinks we should stop this proceeding immediately and give the proper parties notice and that the attorney for Mr. Alba should take this matter to District Court and get a writ of mandamus and compel us do this. He really thinks we are walking on thin water, this is not a good thing for us to embark on. This exposes the county to liability that we have absolutely no insurance coverage either.

Mr. Trujillo asked to respond to the Chairman's comments. He clearly stated at the beginning that he was not here as an attorney. If he referred to any legal arguments, it was as a citizen who is impacted by this situation, but he clearly stated to this commission that he is not here as attorney, he is here as a citizen.

Commissioner Gentry said it seems to him that the request that has been brought forward is different than the argument for not considering it. Perhaps the request might be which seems to be in the Chairman's discussion that the court litigated and has been fully litigated, that this was done and over. If you go back, and the Chairman is very familiar with the legal happenings, at that time the Judge ruled that we had improperly changed the zoning because of him voting on it and other aspects. But what he did and it's his understanding, is that he did not solidify that he remanded it back to the county commission for action and for us to remedy the situation. He doesn't believe and he is not a lawyer like the chairman but he doesn't believe that the Judge said this is I-3, he thinks what he said in his layman's words, he said it was improperly designated I-2, therefore, he said it is remanded back to us as a commission to address it in a proper manner and to clean it up and do it in a right manner regardless of which way you go. He suggested we do it in a legislative manner and he believes that a legislative manner is come before a public hearing and make a presentation and ask that we as a policy body and take it forward. This seems to be the request now that we follow through and he met with some of the people just last week, he doesn't believe we have ever put this thing in its finished position. We are in a state of limbo, we went to the appellate court and they did not overrule Judge McDonald and they did not rule against us. If you remember correctly, it was before the court of appeals by the former commission and then it was voted by this commission to withdraw the appeal from the court of appeals, it was never decided by the court of appeals and majority voted by this commission, after the fact, did not have the court of appeals proceed, which at that point, violated his civil rights in a manner because it was basically appealing the Judge's ruling on his behalf and others voted to cancel the representation that was going forth on the court of appeals. He doesn't think that is the judicial method, he believes what we are asking for is not or what he heard in the request is for us to do what the Judge said, remand it back to us, and do it in a proper manner which would be in a legislative manner that we bring it up and try to put it in perspective. He doesn't believe it was closed by the Judge's decision, he thinks it was remanded back to us. He thinks we are in perfectly good position to consider doing it in a proper manner, he doesn't believe it has ever been put to bed, so to speak. It is not a matter of changing the zoning right now as the request, it maybe a request later on by somebody else in their representation, but right now he thinks the issue before us is have us consider to go do it in the proper legislative manner and put closure to it. Whether it stays or pushed to I-3, stays I-2 or with these other facts that have come out, maybe we are doing the process completely wrong, since 1999, he was in no place in the hearings that he ever heard it brought up that there was a moratorium when that 99 thing was ratified. It chronologically came down, we have done it worse wrong that we made a mistake then, he didn't know that we are looking at our next meeting whether to consider reconsidering it and doing it and putting closure on it. He doesn't think at that point that the affected parties would be here if they chose to be and they would come out, that is the legislative process, not the judiciary process, unless he has read it wrong. He could ask our attorney, is he reading that right from a laymen's standpoint because certainly he is not an attorney?

Ms. Wimberly said yes, Commissioner Gentry you are reading it fairly well, he did give guidance after the hearing after issuing an opinion (inaudible) he remanded it back to the county for whatever action the county wanted to take (inaudible) includes with his decision. To put into perspective of what we are doing tonight is staff has not put this item on the agenda (inaudible) Mr. Alba came in a comment section and requested the commission hear him out and it is then that Commissioner Gentry requested to put the item on the agenda to hear Mr. Alba out. She doesn't see anyone's property rights being affected by hearing Mr. Alba out at this time. It would have to go through a due process (inaudible) by Judge McDonald's decision and a conformance of due process as well.

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Chairman Rael said he begs to differ with counsel. She maybe accepting the liability on a personal basis on this issue that has been requested and he can read it and we can talk all day on what we have been asked to do. It says declare an emergency to correct zone maps with I-1 Resource Industrial District for the Rio Grande Industrial Park, that is exactly what the public notice says. Those folks that are going to be affected by any action that we are declaring an emergency have an absolute right to be here on any due process of law that he has ever seen in the 38 years of practicing law. He thinks she is absolutely correct in saying, oh no, we are just going to discuss this thing and not going to take any action, even if you recommend that we take no action, this is an action item, this is a public hearing and notices are there and Commissioner Gentry under the guidance of Judge McDonald, the Court of Appeals, this is a slight correction and not a big deal, but the Court of Appeals did rule on it by refusing to hear the case, they affirmed by refusing to hear the case.

Commissioner Gentry said he doesn't believe that rule, that was a hearing on the merits, that was a hearing on procedures and then – Chairman Rael stated to Commissioner Gentry that he give him the courtesy of listening – Commissioner Gentry said he gave him the courtesy of having you speak on mumbo jumbo – your attorney buddy – Chairman Rael said this hearing – Commissioner Gentry said your honor this is not a court – we are an elected body and have the same right and you can't shut somebody up and tell them you are not going to take part – you are not going to allow it to happen – you are not the judge on this panel –

Larry Alba said excuse me Mr. Chairman but he came over a thousand miles and has been working on this for five years and he wants his chance to put his statement into the record tonight. He doesn't want a little technicality to push him out. And he would be glad to give them his second presentation, if you would like.

Chairman Rael said Mr. Alba, he is having a discussion with Commissioner Gentry – Mr. Alba said we have waited five hours tonight – Chairman Rael said he is not seeing that he has the authority to stop anybody from speaking, he is simply telling him that what kind of liability the commissioners are undertaking by having this declaration of an emergency to correct zone map to I-1 Resource Industrial District for the Rio Grande Industrial Park without the other parties being here. He doesn't know why the county commission did not notify them, he doesn't know why they are not here. He is not saying that you are responsible for any of that. What he is saying is that this commission regardless of whether you came ten thousand miles or two miles, that it was not convenient or very inconvenient, that does not justify the denial of due process of the parties that believe and have litigated this thing twice that they have an I-3 designation. They clearly are entitled to be here to oppose all the evidence that you are going to present to this commission as a fact finding judicial body, Commissioner Gentry is incorrect in saying that we are not sitting here as judges, we are sitting here as judges and we are denying due process.

Mr. Alba said excuse me Mr. Chairman but he did notify the parties two weeks ago and he asked them to let him make a presentation at their convenience in Albuquerque, the major parties that have been concerned in the past. He tried to invite them and they totally ignored him.

Chairman Rael said Mr. Alba – you are getting out of order here. We will get your statement and then proceed as the county commission wishes. Chairman Rael said he wants to make it clear his position on the due process elements of this. This notice says that it was approved by Commissioner Gentry, he is being asked to take action directly contrary to a ruling by Judge McDonald, that he has an appearance of impropriety on this matter and he can not vote. He is here arguing that this should go through, nevertheless, exposing this county as county commissioner and should not be acting at all in this matter.

Commissioner Gentry said point of order – Chairman Rael said he is entitled to do that and the judge so ruled – Commissioner Gentry said your acquisitions are incorrect – Chairman Rael said you are not going to vote on this – Commissioner Gentry said your acquisitions are incorrect – Judge McDonald said, Chairman Rael (inaudible) Commissioner Gentry said would you shut up for a minute, Judge McDonald said, Chairman Rael (inaudible) – Commissioner Gentry said would you shut up for a minute, Judge McDonald said that he should not vote on that zoning matter, he did not say that he can never vote again. As far as a conflict of interest, considering the matter, that is not a conflict of interest for him. If you have a conflict of interest of anything because of Chairman Rael and his partner were representing those people at the industrial park which he still represents. Commissioner Gentry said that Chairman Rael said he should declare a conflict of interest as an attorney, he is getting tired of him playing attorney for his ex-partner who represents them. What he is asking is, are you saying that this matter is illegally or inappropriately before them on this agenda? Chairman Rael said absolutely. Commissioner Gentry said then why did you sign as Chairman Pete Rael and authorize it?

Chairman Rael said because these things are presented to him. Commissioner Gentry said now you are subjecting liability and Chairman Pete Rael signed this and said this is appropriate and now you are arguing it is inappropriate, which side of the fence are you on? Chairman Rael said he approves this as to form. Commissioner Gentry said no. Chairman Rael said he approves this as form, every single bit of evidence is in violation of the rights. Commissioner Medina said Mr. Chairman and Mr. Gentry, this is getting a little out hand, gentlemen. Mr. Alba, said excuse me, can he clarify. Commissioner Medina said excuse me Mr. Alba but he is speaking. Commissioner

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Medina said thank you Mr. Alba. Commissioner Medina said it is getting out of hand. Commissioner Gentry said the right process, the governmental process that satisfies him.

Chairman Rael said at this point, fellow county commissioners, he moves that we vacate this matter and not proceed whatsoever because we are doing it wrong and we need to give notice to those other parties so that they can be here.

Gloria Sanchez in the audience objected and said we have a say so and we have been here all night waiting to speak. Ms. Sanchez said you are very prejudiced (inaudible) and we are citizens and don't these people get the newspaper?

Mr. Alba said it was in the paper. Chairman Rael said he made a motion and we should respect his motion. Mr. Alba said you are a law practicing man with the opposing side, we want that to be publicly known and the way that you are acting you do not want to allow me to be heard. Mr. Alba said he also wants it in the record that July 11th he got a letter, a confusing letter, that you gave guidance to the county attorney not to let him be on the July 11th agenda either and it is time he gets to be on the agenda and let him give his presentation and maybe we can come up with an answer and maybe not. He has new evidence that has never been shown on any court case at all. That is why he decided this is a good time to present it to the commission.

Mrs. Sanchez said (inaudible) this is on the agenda and she came to speak on it and she doesn't appreciate it but now that he made a motion we can't speak, why don't you (inaudible) allow and listen to everybody. (inaudible)

Mr. Alba said could we let the vice-chair take your place, because you have the prejudicial situation to where your law practice partner, for he doesn't know for how many years, with Mr. James Sanchez, he thinks that his name, he is the opposing attorney that was on the most recent court case.

Chairman Rael said he never represented the parties whoever they are that own property out there. He begs to differ with him on that and has no interest in that.

Mr. Alba said he doesn't know but it seems that that has to be brought out in the public here, it seems that how can you try to stop him from bringing this forward in a public hearing and it has already been published in the newspaper and everything was in order and new evidence has never been shown before. Mr. Alba said when he called the chairman, the president of the PNM corporation, one of the affected parties, isn't it just a bit suspicious when he talked to them and faxed them proof that this heavy industrial district was bogus and put in totally illegal with a zone change, there is forgery and tampering of public record. He wants to schedule a meeting with them at their convenience in Albuquerque and he has been at the Valencia Courthouse and will talk about it then, either in this room here or in the County Clerk's room. Isn't it a bit suspicious that he wouldn't even call him back, he called him on several occasions since April when they announced in the newspaper that they were going to go ahead with the heavy industrial project there. Mr. Alba said then he called the other company, Black Hills Corporation, to speak to their president and faxed them 22 pages of documents, just like he faxed PNM, and then their president did not call him back. Then he got called back from the project manager and he said, oh let me talk to PNM, let me see what they say and therefore they appear to be afraid, they don't want it to come out to a public hearing.

Chairman Rael said to Mr. Alba that he has only one point that he has mentioned here, and you are extending this way beyond that point. What he is saying is that this matter was not noticed to whatever parties may be affected by us declaring an emergency to correct a zone map with an I-1 Resource Industrial District for the Rio Grande Industrial Park, that is what was published. What he is saying is that we have not provided to those people with notice of a denial of due process and opens the taxpayers of Valencia County to tremendous liability. The other issues are actually unimportant to him at this point, and he is saying that we should not proceed any further without them having the proper notice that they are required to be given by this county commission, not by you, not by the people in the audience and not by anybody else. This commission is the one that is required by law to give them notice. And he needs to make sure that any liability that is being created by that and that we are protecting that area and his fellow county commissioners want to proceed, then he will let them do that and it is fine. He will for purposes of this hearing only because you believe that he is biased and prejudiced in this things and so does the lady over there, he will sit and let the Vice-Chair take over the meeting if you like but he is going to sit here and protect the rights of Valencia County taxpayers to the fullest extent of his ability.

Gloria Sanchez said it is not their fault, it was public noticed, it was in the newspaper, (inaudible).

Chairman Rael said he has made a motion to either end this hearing that we did not give proper notice and he is not going to argue this.

Mr. Garver said was it is a legal necessity for Mr. Alba to be able to put the documents into the record and make his presentation if in fact he is required to seek some type of court approval once the decision is finally made here. Mr. Garver requested that Mr. Alba be allowed to make his presentation and put these documents into the record and we have copies for the commissioners and then the commission or other people may speak and then commission can take any action its

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going to or not going to do. We need to get this into the record because as Mr. Rael has invited us if we do have to go into court as a legal matter we have that into the record. So his request is to have Mr. Alba be allowed to make his presentation at this time and put the documents into the record and anybody else that wants to speak on this and then you make your decision as you see fit based upon what you have heard and what arguments have been made on the commission itself. May we proceed along those lines?

Vice-Chairman Kirkham said she clearly takes her job as vice-chair pretty seriously, but she feels that she is not up to speed on any of this and she declines to take the lead.

Mr. Garver said he would like to have Mr. Alba put these matters into evidence into the record at this time, you can certainly choose to act or not act as you see fit but he does have the right to make his presentation and has a right to put these documents into the record and then you may do whatever you wish obviously as the county commission.

Ms. Sanchez said in good faith, it was advertised in the paper, and we have a right to speak, we came here in good faith and have a right to speak.

Mr. Alba said he discovered an emergency situation and he came here to alert the commission about it. Those kinds of situations don't have to have letters written and special phone calls to each and every land owner within a 50 ft radius in question. That is why it is an emergency and he has evidence here that has never been presented to any commissioners before them. He did an investigation and he wishes to show this and the commission may or may not take action tonight but at least it will get into the records. It is quite expensive to bring an attorney here and be prepared and he is trying his best and just wants to give his presentation so that it can get into the record. There is an emergency, can he just read his agenda request, he just wants to get to the point where there is an emergency here and emergencies don't have to have, he is not asking for a zone change process, no, there is an emergency that he discovered. What Mr. Dean and Mr. Trujillo calls this, is a devious process that was totally illegal and he wants to notify the commission about it. Chairman Rael said then if you are not requesting a zone change, then what are you requesting?

Mr. Alba said he is requesting to put his evidence and findings into the record and ask if this qualifies for an emergency action by the commission to do something about. He is not asking for a zone change process, no, - Chairman Rael said ultimately, then what are you asking for? Mr. Alba said let him read what he put on his agenda request. Agenda Request Form – by the way the first time he put this out he was turned down by Commissioner Rael and was not allowed to get on the July 11th agenda and so was told that hearing even though he appeared at the hearing he was told that you have to have a commissioner who believes in what you want to do to put you on the agenda himself and so he got on the agenda today, August 8th meeting. It says that he wishes to examine the 1999 Valencia County Comprehensive Zoning Ordinance and map to determine if this document of 75 pages was legally recorded entirely on November 8th, 1999 or not. Consider the evidence of fraud, tampering, forgery affecting this document, also how did a "Heavy Industrial District" suddenly appear on this map. That needed action. He made this request on behalf of himself and Rose and David Castelano, they are sitting out in the audience. We all work together in Rio Grande Estates, we love the Rio Grande Estates, that is the neighboring properties just across the street from this industrial park. So then we request the commissioners to request an emergency to find it necessary to file a corrected zone map with a I-1 resource Industrial District for the Rio Grande Industrial Park. Also, please notify PNM and Black Hills Corporation and Mesa Oil that a "Heavy Industrial District" was placed on the map in 1999 illegally so no construction project by these companies will begin, because the county discovered a zone map fraud and must revoke permission to build. This is what he requested, he is not asking for a zone change. He has to show the evidence, does this qualify for an emergency and this type of action?

Chairman Rael said he is even more concerned now with what he just read, of what you request, to declare an emergency to find it necessary to file a corrected zone map with I-1 resource Industrial District for the Rio Grande Industrial Park, and you are asking that any construction project cannot begin because the county discovered a zone map of fraud and must revoke permission to build, is that what the county commission has give the permission to build? Are you asking this commission to revoke the building permits on a emergency basis?

Mr. Alba said if they find there was evidence of tampering, forgery, fraud and tampering with public documents, forgery, fraud, etc. like he mentioned, if that is found by the commission after seeing his presentation and taking his evidence into the records, he ask that you possibly consider that maybe tonight or not, because he thinks tonight, did you make any actions on any of the items before him?

Chairman Rael said this is without the presence of the legal notice that is required by our ordinance to the other parties that are going to be affected by this. You are in the wrong place, you need to be in a court –

Mr. Garver said at this point in time Mr. Alba is going to hand out the documents that he is placing into the record and let him just point out the position that Mr. Alba is not requesting a rezoning, the position that Mr. Alba has explained earlier this evening, is that this never was legally zoned heavy industrial at any time pursuant to this commissions moratorium, that has been brought up for the first time this evening and also you can not rezone into heavy industrial by marking something on the zoning map when there was never any rezoning petition or rezoning hearing. That is the issue here,

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we are not asking this commission to do an emergency rezone because there was never any legal zoning of I-3 heavy industrial to start with, the matter was void ab initio in our opinion. We also believe the documents that are placed in the record by Mr. Alba at this point in time show clearly that the map in question was apparently dealt with, tampered with or written on and given after the commission adopted the 1999 comprehensive zoning ordinance as such could not effectively rezone and the commission had never reauthorized or even considered rezoning. And this has been done, apparently, consensually, but we are not sure, so we are presenting this evidence to the commission because we believe the commission needs to look at this. It was never legally adopted, we are not asking for a rezone, we are just asking the commission to take a look at it and recognize what has happened and to ratify what has happened with the proper designation so that people aren't prejudiced, because if they are thinking this is I-3, is not legally I-3 then there is a problem. He thinks this commission has the responsibility to do the right thing so that people don't act in alliance on something that was never passed in the first place as far as we can tell.

Chairman Rael said that you should not present any material without the presence of the other parties because rights may be affected by any action this commission may take. He chooses to take no action, other than to make it a matter of record. He thinks it is improperly being done, and you know counsel very well, that the minute you are tendering documents to this commission, and admitting testimony that is being presented there is going to be a violation of due process for those people who are very well going to be affected by any decision this commission makes and are being affected at this time. Because he thinks this is improper. This belongs in District Court asking District Court to order us to do this, he doesn't think they would, if you put it to a district judge in a fair litigation with proper notice to the other parties where they have an opportunity to cross examine all the witnesses to view these documents ahead of time, to present their own documents, to go back into the record and to present the counter arguments is as appropriate in any court of law. Then a judge may rule in your favor. But he thinks you are in the wrong place and is cautioning his fellow county commissioners not to pursue this any further with this thing.

Mr. Garver said that Chairman Rael is an attorney himself and we are required to make this record, we are required to place this evidence in before the commission if we are going to take it to proper place or some other matter, we are required to do that, go on the agenda and we are placing this into the record. The commission is going to do what it is going to do, then we will have to do what we have to do, depending on how that happens or the other side will. But we are on the agenda, and we have other people who may want to speak, we are not the only people here, so we are presenting these documents, we are making the arguments and Mr. Alba may have a few other remarks and we may have a few other people that may wish to speak.

Chairman Rael said he thinks without notice to the other parties is totally inappropriate and you are in the wrong place, at least if the other parties were here, the hearing would be fair, but this hearing is totally unfair and prejudicial to the other parties. You know, counsel, that there is not a judge in the land that would sustain this kind of procedure, you know it, you are getting this commission in a lot of trouble.

Mr. Garver said he respectfully disagrees with that and he suggests that rather than he and Mr. Rael arguing about it all night that maybe Mr. Alba can finish his remarks, and let anybody else speak, then the commission can do what it decides to do.

Chairman Rael said he will moderate the meeting but it is totally against what he thinks, this should be terminated immediately, he did not get a second on his motion but he will just mediate the meeting, but he thinks it is totally improper, it is grossly denying the due process rights of other people that are being affected by this procedure.

Mr. Alba said his particular agenda request has nothing to do with other people, this is something that happened by a county employee tampering with the county records, more than one county employee who later got fired for doing similar things to this, and he won't give any names.

Vice-Chairman Kirkham told Mr. Alba that he has been allowed to give his presentation at this time and she suggests that he does.

Mr. Alba said he wanted to show the commission the original map that he discovered in his investigation. He traced back as far as the county records as he possibly could. This is the Rio Communities master plan map, this is located in the County Clerk's records, Cabinet F Page 119. The date that it was filed was on December 30, 1987 which was Horizon Corporation. The area of the industrial park is designated as being an office warehouse and that Unit H which is several residential properties and he has turned in some of their letters. They wrote letters protesting the zoning and needs to be investigated. This map clearly shows it was an office warehouse in the park and was produced by Horizon Corporation, the original developer of Rio Grande Estates. His Rio Grande Estates property was subdivided and developed in the 1960's to an industrial park next door across the street was developed in the 1970's. This map here is the 1999 Valencia County zoning map and has a typewriter written by the map maker written November 8, 1999. He did not discover this until after his court case had been lost because he did not file his complaint within the time that they said he would do it. His case was overturned by Judge Sanchez by a technicality (inaudible). The date was obviously changed and you can see that it states November 30, 1999 and not November 8, 1999 like somebody wrote it in with an ink pen. (Inaudible) Mr. Alba said he is showing the same map that he had showed to Mr. Aranda. Mr. Alba showed the commissioners the

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map for their review. The change on the other side looks like November 30 and he deals with real estate all of the time and he has seen thousands and thousands of recorded documents and he has never seen a document that probably has been manipulated (inaudible), Mr. Alba said he wants it to be noted that there is two different hand writings by the county clerk signature with the recording, paid by commissioners, you don't charge commissioners to record a document, but that handwriting and the time 2:33 PM that was Paula Weathersby, she was the deputy clerk in November 1999. The other writing on the document (inaudible). He showed it to the county clerk, Sally Perea and he showed it to her yesterday, if she has ever recalled seeing somebody change the date like that, she didn't have an answer to that question. Did you want to make any comments about that? Ms. Perea said she has never seen anything like that, but it could be as simple as maybe somebody started it and had to leave and then the other one finished it. She said she didn't know because she wasn't there. Mr. Alba said what he is talking about is the date that was manipulated November 30, this handwriting (inaudible). This is why he had to declare an emergency because he is trying to prove that this document was tampered with in 1999. This document is supposed to be pages 1 to 75, the zoning rules that were filed in 1999, there were 75 pages all together, page one had a clear date and nothing wrong with it, Marilyn Silva record it, 75 pages long, on page 74 they put the date stamped and then they crossed it out. This is a certified copy (inaudible). We received testimony from Frank Pando, he said on November 8, 1999, they were given a document to sign, that is the emergency, (inaudible). And was put in 22 days later, he had never seen such a thing before, this is truly an emergency. So how could the date of November 30 be changed with a date of November 8, 1999, 75 pages with the commissioners all signed, she witnessed their signature and all of a sudden on page 75 it has been changed and portion of the document Marilyn Silva, she is here today, she might want to make a comment, this is the first known appearance of heavy industrial district. It says I-2 and is put in with purple color on the map. This is my best piece of evidence. (Mr. Alba at this time showing the commissioners the filed county clerk maps and he is walking back and forth from the podium so half of his testimony is inaudible.) This map is Item 1-A and he discovered this map in the county planning and zoning but first he got permission to go search his office, and he gave Mr. Chavez a written request to search the public records for the last 20 years. This map was signed May 1, 2003. Mr. Alba said he has a letter saying he had an urgent emergency complaining letter, this is Item 1 *, this is his letter to the commission May 8, 2007, this is his complaint of alleged criminal activity and he also sent this direct to the affected parties with the major project that is interested in doing the heavy industrial project. He called them and they did get his letter and he turned this letter into the Attorney General and the FBI as well and he gave a copy to the county commissioners. They did go on notice and he told them that there was something terribly wrong, criminal activity that had occurred and he outlined them and he reminded the chairman that he remembered getting this letter on May 8th. Chairman Rael said he received it in a different packet. Mr. Alba said this is item 1**, his May 10th letter, a two page summary, that he basically has an emergency here, there is a fraud going on, tampering and so forth and did send this to PNM and Black Hills Corporation. These two major parties that would possibly be concerned with this because they are the ones running this project. Mr. Alba said in the packet is Item 2 these are the protective covenants in the Rio Grande Industrial Park and are dated on the record August 1, 1978, they show on page 2, talks about the uses, what the intention of the industrial park. They didn't have zoning in those days and many projects they used protective covenants, it shows operation in use, permitted operation in uses, the improvement, operation in use of a site shall be restricted to engineering research, warehouse, and medium manufacturing operations and accessory uses and commercial operations expressly approved and declared in writing as may be of service to in harmony with the quality industrial park development. Then it says nuisances no portion of the property shall be used in such a way as to create a nuisance to an adjacent site as such as but not limited to vibrations, sounds, electro magnetic disturbance, radiation, air or water pollution, dust, emissions, odorous, toxic or noxious matter. These are protective covenants of the Rio Grande Industrial Park and they clearly show they are not supposed to have any medium to heavy industrial in there. This is outlined as the type of industrial and he would say that Solo-Cup, Sud Chemie they employ about 175 people and he asked if they put out pollution and emissions and they said certainly do not. They are a clean industry and he has no complaints about that type of industry in there. Item #3 is a photo copy of the map and signed by Paula Weathersby, one statement signed by her and another statement signed by Marilyn Silva, he got those statements on January 21, 2003 when he was doing his investigation. Item 3A, the agenda and the minutes of November 8, 1999, they came from the county records, Book 36 Page 1-10, several pages talks about the county zoning ordinance, but no discussions ever about November 8th if the map was there or not. If you take a close examination of these maybe the typewritten where it says Book 36 looks like the typewriter was a little different. These minutes were a matter of record. Mr. Alba said he also wants to go on the record when he first started investigating this and found that J- 307 map, he was told by the planning and zoning office that it was heavy industrial. And he said since when, was there a zoning change, and he was told to go check the minutes, and he asked who were the people that worked on this. He was told a zoning and planning administrator, a planning and zoning county planner, there names are already in the records here, while he was in that county office, he was looking up the minutes, he asked the deputy, Larry Tafoya, he asked him for the minute book and that particular minute book was missing. That book is being read by someone at the table and the planning and zoning administrator is reading it right now and maybe you want to talk to him. Mr. Alba said he looked over at the table to see what he was reading and he was reading the minutes of November 8, 1999 and he heard he was coming. Mr. Alba said Mr. so and so you are the county administrator, how did this heavy industrial district get on this map, he looked at him and slammed that book, and he said it is a done deal and he walked out of there but he knew what page he was reading. That was the same page he wanted to read. Mr. Alba said he wanted the commissioners to know all of the investigation work that he has done. Item 3B is in your packets, the agenda of October 18, 1999

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and no mention of heavy industrial or zone changing that is going to be done. Next Item is 3C, this is the final draft of December 21, 1987, this is when they came out with the 1987 ordinance, the highest level, similar to what we are dealing with the SP district, which was not considered heavy industrial, this is the name it was going to be changed to I-1. Item #4, Rio Grande Estates map, Item #5, Rio Grande Industrial Park owners, these want to be involved in the county zoning decision, this is dated December 10, 2005 and he believes that same article that Mr. Dean was talking about. Mr. Alba said one of the statements that Mr. Dean made to the newspaper recorded by Jane Moorman, he said the group of local businessmen purchased the industrial park in 1995 after it had been zoned heavy industrial, now that is an absolute lie, #1 they didn't buy it in 1995, they bought it in 1997 because he looked up the real estate contract, they bought it from Horizon Corp. Mr. Alba said one of the land owners is George Faust, he put him in charge of a road grader operator. On the next page, Mr. Sisneros, said they are looking for companies that don't use a lot of water and that don't pollute. Mr. Alba said he wants it to be known that he doesn't know if it got in the county clerk's records because there was an outburst by Jane Moorman, the day they resolved the property and what happened was Jane Moorman took a lot of time to write this story given to her by Mr. Sisneros given to her on December 10th. Item #6, this is the power plant to begin operations in June 2008, he doesn't know yet, they might be breaking ground now so that is why this is an emergency. Mr. Alba said he wants it to be known that when the president of Black Hills Corporation didn't call him back, he called him two or three times since the press release in April 21, but when he wanted to find out who was the president they were out of the office for several days. PNM never called back. Mr. Alba notified them to have a meeting and he would be happy to help the county that they cannot come in and say they were not notified that Larry Alba is continuing his 5 ½ year campaign to expose this zoning. Mr. Alba said when he got his court judgment by Judge Sanchez, the People's Energy project representative, Cameron Epard, he was calling him several times, that he wanted to buy him out and make him an offer. Mr. Alba said absolutely not, he is doing this to protect the environment for the people of Valencia County and he loves Valencia County, the fresh air, the blue skies, it is not about money, it is about protecting the environment, he wants to prevent global warming and other kinds of pollution. Mr. Alba wants it be known now that he was told by NM Air Quality Bureau, when he couldn't find a way to stop it through their bureau and all the fancy paperwork, they told him not to quote their name, they told him if he really wants to stop this project, on the basis of the planning and zoning rules and that is when he started his investigation. Item #7, four letters of local people in Valencia County, George Faust and his wife, Michael Stevens, Ian Martin, Gilbert Gray. Item #8 hand written fax of 22 pages of supporting documents to Jeff Sturba, President of PNM, and he never called him back. Item #9, August 18, 2004, the agenda and minutes of county commission meeting, to where the county put a moratorium, many people spoke at that meeting. Item #10, September 15, 2004, this is where they reenacted the zoning. When he made a complaint in 2004, he wants to find the letter that he wrote to the county, near August 2004, he said that he found evidence that there has been illegal enactment of the 1999 zoning and he had allegations of fraud, tampering, forgery and Cynthia Wimberly looked at it and instead of calling him to say Mr. Alba you have a lot of allegations here, would you come in and show this evidence that you discovered, instead of calling him she just discovered they didn't publish something after the zoning. So the public never even knew until this public hearing today, never knew about it. Does that make sense that the county discovered that one little thing that didn't get published, no, he had allegations of all this fraud and forgery and tampering and everything, that is what led to the emergency moratorium, that is what led to the emergency reenactment of the zoning that he Larry Alba protested since 2001 that something was terribly wrong with the heavy industrial there. Mr. Alba said in the packets is a suggested resolution, he wrote this before he found out about Paul Trujillo, he said he wanted to do his own investigation, he wanted to look up the minutes of 1999. This is a proposed resolution, just a suggestion, establishing a moratorium for heavy industrial uses and affirming a default I-1 zoning designation. All his evidence that he has shown today points to a low industrial district or SP or an I-1 whatever it is has to be the lowest level of industrial. Some people might think there is already one there, the company that built the chemical lime company, then county commissioner Frank Pando was suspicious, like how could they be that clean like they were claiming none the less, the public did not know about it. They basically lied to the commission instead of the good clean industry and he called the air quality people, what about this chemical lime and they told him that lime is very pollutant and toxic and not using the filters, the property is very dangerous in breathing this stuff. This is not part of his case but he wants to stop this stuff. Mr. Alba said this is his presentation and he doesn't know what he needs to do to get another hearing, to welcome to invite, that you were kind of upset to invite these other people but he had a presentation that didn't really talk about them. Mr. Alba said here is what he thinks the liabilities are he was told that this was heavy industrial that is because somebody tampered with the map and then did a felony. Now he has been told by the Attorney General's Office that a felony like that occurred more than five years ago which these things happened in November 1999 they can't prosecute or put anybody in jail for that. They said we have take it back to the commissioners and have them declare an emergency or some sort of resolution so that commissioners, he is sorry that it is so late at night. Mr. Alba said he wants to keep the records open so that any additional documentation that he wants to support with his investigation, he wants to reserve the right to bring in more evidence so that when the other party comes in, they will be given copies of all his evidence.

Ms. Wimberly said to Mr. Alba that he mentioned in this case he wants to keep the record open, are you referring to the request on the agenda request form that administration denied putting you on the agenda, right? What case do you think you have pending, do you have a file number?

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Mr. Alba said no it is not a case but he had heard the chairman offer to another person tonight that they were going to leave the records open in case that person wanted to bring in any additional documentation of what they presented tonight.

Ms. Wimberly asked for Mr. Garver's address and Mr. Alba wanted his address read into the records.

Mr. Garver read his address for the record, 2701 San Pedro NE, Suite 1, Albuquerque, NM 87110. His telephone number is 505-888-5100, G.Holdt Garver.

Mr. Alba said if he forgot any important documents to prove his presentation that he would have permission to put it in the record because he doesn't have a case here tonight.

Chairman Rael said he believes that it is up to the county commission to leave the record open for whatever purpose you are requesting.

Mr. Alba said just in case he finds any additional documentation. Chairman Rael said does it require a motion and vote?

Ms. Wimberly said no, for whatever it is worth, he can certainly leave it open, if they were to submit any documentation, to leave it open, this probably is an open ended request, it might be a good idea, might not be for the county clerk but also notifying the commission and administration. She is a little bit worried about having the record open with Mr. Alba going directly to the clerk with things that weren't presented at the meeting, it might be a good idea to submit them through administration rather than go through with the quasi judicial when you leave that record open for them to submit whatever documentation you have requested to leave it open. Given the fact that we are in this process that it is a presentation there is no application pending, there is no formal application, she is just a little worried about giving direct access to put things in the minutes for tonight's meeting that weren't part of tonight's meeting.

Chairman Rael said who makes that decision as to whether the records stays open? Ms. Wimberly said the board. Chairman Rael said fellow commissioners he is not participating formally, he is just mediating so you need to make a motion and either allow it or not allow it.

Commissioner Gentry said he would like to ask a question in hearing counsel, you don't have a recommended action that we have on our next action item agenda and usually we leave the record open so that you can bring in evidence or something that you have left out prior to that action item so leaving the record open is an endless thing at this point.

Mr. Alba said he thought that tonight he was listed as an action item and whether they took action tonight or want to put this at a future proceeding. Commissioner Gentry said your request is that there is an emergency to address it. At these particular meetings on Wednesday we do not take votes on those types of things, It is not an action meeting it is an input hearing meeting and yours is not a mandatory item that we take up at our next meeting. He is not real clear what we are doing or what we should take up. So leaving the record open for that point doesn't seem to have a purpose. He seems to think that we won't take any action because that is not our process.

Mr. Alba said part of his reason is why he has an emergency is that somebody tampered with public records and they did an illegal zone map change in 1999 and as evidence has shown put in the cabinet 22 days later than the rest of the document so that totally invalidates the 1999 zoning map completely including that surprise heavy industrial district and that is the main heart of his meeting tonight is that he showed evidence that his is true and he would like anybody to be welcome these public hearings because they have some evidence to prove that things are done correctly then let's see that. He already invited people that he knows are interested and they didn't even call him back. They knew he was coming down here and asked for a public hearing.

Chairman Rael said he would like the record to show that Mr. Alba is clear that he is asking this commission to take action, he said it in that many words that we have engaged totally and completely in a illegal proceeding that we did not notify the parties that may be affected by the proceeding and that this matter should have proceeded no further at the very beginning.

Mr. Alba said he didn't say that, Mr. Chairman said excuse me, he still thinks that we are inappropriate, we are wrong in taking this matter up without giving notice to the parties that may be affected by the action that has been specifically requested in writing and now on the record and also request that this is a voice record, please do destroy the voice record and he wants a copy after it has been transcribed and he would like a copy to be distributed to each one of the commissioners so that we all have a record and to Mr. Alba as well. Because the manner in which they were said is very telling as well. Is there anything further?

Commissioner Gentry said we were talking about a motion to leave the record open and he doesn't believe that we have a request before us, Mr. Alba has a concern that there is an emergency and him personally as a commissioner, if you say emergency to life or disaster or something like that, its consideration, that we as commissioners in an emergency may be deemed something that you really need to do and as you know we do not take action on this and he can't see where you are warning us to take a zoning action or anything. Seems to him is what you are saying is that you want us to

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take emergency or in your opinion something of great importance that you want to transmit the information to us and what we decide to do with it later you have put your information in the record which is allowed and then personally he would like to see us go and close the record on this hearing and your information and your evidence has been submitted and then we do not have an action item that you are requesting a zone change or anything but his understanding that you are warning them of a situation and then if we close the record, take the information and the other folks who want to talk and then that tends your presentation as it did Mr. Dean's and others and then it is the burden of the commission or a commissioner or as commissioners to decide that they want to pursue it or not because it is not right now a specific request, it was a presentation, that is the way he looks at it.

Mr. Alba said it came with a request. Commissioner Gentry said personally he would like to close the record and see it as a presentation and then if we decide there is something worthy and consideration of this commission then it can be brought up as an agenda item on one of the commission meetings and then if we decide to ignore it then you are on the record and then you can pursue it in court, that is the way he thinks.

Mr. Alba said he was wondering at this point in time his main consideration tonight's meeting, he thinks Chairman Rael, he had an interesting point, that his notice to the affected party was not adequate, that they have to be notified by the county that there would be another public hearing and there is a major questions, is the enactment and the possible illegal tampering of that 1999 county map, that is in question and there is a possibility that a felony was committed and the county should not have to honor a heavy industrial district if it was put in there under the basis of a map put in a cabinet 22 days later and mysterious surprise than anything heavy industrial district was an illegal process and this is why we have to have a proper public hearing. That way if any of the affected parties are not there then at least they were notified.

Chairman Rael said to Mr. Alba he has made his presentation clear and he has made a motion and nobody seconded it, so he is powerless to do anything but he has questions of his attorney with legal matters.

Chairman Rael said what is the result of Mr. Alba's request of the Attorney General's Office to investigate the felonies that he alleges occurred in 1999 and subsequent years regarding the records?

Mr. Garver said he was not involved in that but it is his understanding that the Attorney General indicated a statute that it had passed but it was Mr. Alba that had communicated with them and not him.

Mr. Alba said the Attorney General's office told him the same thing as the FBI when he reported it to them. They said you should have gotten some sort of a (inaudible) done before the statute of limitations was up. He told them the District Attorney was notified, the Sheriff was notified that they wouldn't even take his report. They had some sort of conflict of interest. They told him the statute had run out, now on this new evidence that Mr. Trujillo brought up which was a surprise to him, he didn't even know about it until right before the hearing today, he discovered there was a moratorium in 1999, that seems to him that would supersede all of his presentation pretty much.

Chairman Rael said he has heard that detail quite clearly but his other question to counsel is there any particular reason why this matter is here instead of in District Court seeking a writ of mandamus or a writ of prohibition or an injunction to stop the building as what is clearly being reflected here.

Mr. Garver said let him refrain on the matter, he has had no involvement in the preparation of the documents that were represented to this commission, he believes of what we have to do is that with this commission to take up legal remedies at that time. He just got on this matter and has not been involved in the preparation of the documents and he has not had enough time to reflect on the legal process that we may choose to do pending upon what this commission decides.

Chairman Rael said then counsel do I understand you that you expect this commission to take action on this item? Mr. Garver said we want this commission at some point time to take action if the commission deems that it can not take action because it was an improper or sufficient notice then we ask the commission to set this matter down for another hearing and do whatever notice the commissions deems necessary, if in fact it is necessary, if the commission chooses not to do that, then he guesses we will have to decide what remedies may be available to us.

Chairman Rael said thank you to counsel, he answered his questions.

Vice-Chairman Kirkham said with all due respect we have heard a lot but there are people in the audience that wish to speak as it is a quarter to ten.

County Clerk, Sally Perea administered the oath.

Goria Sanchez said she is from Belen and she does not have a financial vested interest in this industrial park. She lives on the west side of Belen and she is concerned about the quality of life in Valencia County. She appreciates that this commission stayed here tonight to listen to them, she initially was impressed with all the presentation and all the issues but when she saw that agenda she knew we were in trouble. She knew the issues, she knew the parties, and we were last and she said

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she knew this was going to happen. She predicted it and initially she was going to say that she was impressed with the extent of your patience on this very important issues and allowing concerned citizens to speak their peace. So you can imagine how she felt when suddenly she felt that her civil rights had been violated when suddenly it was decided that we couldn't speak. Of course we know now that you changed your mind and allowed us to speak but it was a very shocking moment for her. She is presently coordinating an event for all of Valencia County to pay tribute to our soldiers and families that have lost their loved ones from Valencia County and that is exactly why Mr. Alba can speak as long as he wants and whenever he wants. They are fighting for his rights, at this moment they are fighting for these rights.

Chairman Rael said he agrees with her 100% percent and whenever this commission has been asked to make a decisions that affect other people and they are not notified properly and are not here, they are entitled to the same rights.

Ms. Sanchez said they had every opportunity to be here, this was advertised and they had every right to be here, she is sorry they didn't show up, but that is not her fault. Chairman Rael said he is not saying that it is, but please proceed and tell us why you oppose or are in favor of the request to declare an emergency regarding the zoning.

Ms. Sanchez said she eliminated a lot of her presentation because she does not want to be repetitive. But her main concern is about heavy industry in Valencia County. All realtors or perspective buyers say location, location, location, this location is just ridiculous for heavy industry. It is too close to homes, residential, she doesn't think we can approve heavy industry to establish themselves there. She knows the parties involved, a handful of guys, a lot of power, a lot of money, mostly aren't even natives here, these guys came from where ever. They are calling the shots, fine, everybody wants to make a living, but she thinks their agenda is to make money. She is especially concerned that they don't have the best interest of the community, she knows these fellas, she has dealt with them on other issues, and she is very curious why they are not here tonight. Because she knows they read those agendas with a fine tooth comb. She is upset because it is late but she is particularly concerned about these power plants, we fought Cobiza, we fought People's Energy, we have over 700 signatures from citizens against People's Energy which prompted a moratorium. This commission is a new group, we want to protect our value of our children, we can't allow heavy industry in here, common sense tells you that, air quality and pollution emission are major concerns, concerns which to be solved by conscience standards to keep out special interest groups and wheeler dealers and who knows them all very well because she is a native and there are some names in this county and when you hear that name, you say watch out, what is their agenda, money. She got advice from her father, follow that money trail and you will find out what is going on. The main agenda is they profit at other people's expense. This heavy industry in Valencia County has to stop, the idea has to stop. She is concerned about this gas powered plant, it is outdated resource, we have a perfect climate for clean energy, perfect, perfect, the sun, the wind, the breezes, she means why are we going to allow this plant to satisfy these big developers that need a quick fix right now. They need the energy, of course they need the energy, but that is what it is all about, the quick fix, to put this stupid heavy industry up there and it is just going to grow, they say to start small, it is going to expand, they are going to sell energy, they are going to use our resources to sell energy to everywhere, Albuquerque, out of state, where ever and people are going to make billions of money using our resources. That is her concern. Ms. Sanchez said thanks for allowing her to speak, she hoped she made sense as she is exhausted but she appreciates the attention.

Georgia Winston said there are a lot of people in this town that have followed this for years and years now and at one time we had 300 people in here worried about their families and what the pollution was going to do with this power plant, and how much water this power plant was going to use. Now there is only a handful of people, but we read it in the paper, these indiscretions that were done in 1999, if she had know at that time that Valencia County was going to allow the power plant to be built within three miles of her home she never would have settled where she settled and she thinks none of the commission would have either. She moved from California to get away, she brought her mother up here and now we are finding indiscretions, there was no zoning and this makes her think that when she moved to her property in 1990, that all of a sudden in 1999 it was zone free for heavy industrial plant, she doesn't want it in her town and she will fight it to the last minute. They said they would finish construction in 2008. She thanks the commission for listening to what Mr. Alba brought this commission and she thanks them for listening to her.

Mr. Alba thanked the commission and said he hopes they come up with a plan to include all of the parties that you think should be invited and put a nice ad in the newspaper to say urgent public hearing because otherwise how would the general public be notified.

6. The next Regular Meeting of the Valencia County Board of County Commission will be held on August 15, 2007 at 3:30 PM in the County Commission Room at the Valencia County Courthouse.

7. Adjournment

Commissioner Medina moved to adjourn. Seconded by Commissioner Gentry. Motion carried unanimously. Time 11:02 PM.

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NOTE: All proposals, documents, items, etc., pertaining to items on the agenda of the August 8, 2007 Public Hearing Meeting (presented to the Board of County Commissioners) are attached in consecutive order as stated in these minutes.

VALENCIA COUNTY BOARD OF COMMISSIONERS

**ss/
PEDRO G. RAEL, CHAIRMAN**

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

**ss/
DAVID R. MEDINA, MEMBER**

**ss/
RON GENTRY, MEMBER**

**ss/
LYNETTE PINKSTON, MEMBER**

ATTEST: ss/

SALLY PEREA, COUNTY CLERK

DATE: September 5, 2007