

VALENCIA COUNTY BOARD OF COMMISSIONERS

Regular Business Meeting

December 05, 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 P.M.

2. Chairman Rael led the Pledge of Allegiance

3. Approval of Agenda

Commissioner Kirkham moved for approval. Seconded by Commissioner Pinkston. Motion carried unanimously.

4. Approval of Minutes – November 7, 2007

Commissioner Kirkham moved for approval. Seconded by Commissioner Medina. Motion carried unanimously.

November 14, 2007

Commissioner Pinkston made a motion to approve with some corrections. Seconded by Commissioner Kirkham. Motion carried unanimously.

November 26, 2007

Commissioner Pinkston moved for approval. Seconded by Commissioner Kirkham. Motioned carried unanimously.

5. Public Requests – At the discretion of the Chair

(For Information Only – limited to two minutes per person on subjects not on this published agenda)

Jim Lane commented on new web site being difficult to browse and that he could not get today's agenda. His opinion was that the old web site was more users friendly.

Mr. Zamora stated that a new version is in the works and will be more users friendly.

6. Discussion (Non-Action) Items

a) Reports from Boards, Commissions & Committees – County Commission

Commissioner Kirkham wanted information regarding the County Christmas Party. Commissioner Pinkston who was in charge of it replied that this will be the first Annual Christmas party for county employees and would be held at the Sheriff's Posse building on December 12th at 7:00 PM

7. ACTIONS ITEMS:

a) Consideration of Memorandum of Understanding between Los Lunas Magistrate Court and the County of Valencia regarding Court Security Bonds – Derrick Williams

Derrick Williams requested the above item and said this would provide for fair and efficient service to the members of the public. This program would be in addition to cash only releases and surety releases, which would not be affected by this MOU (Memorandum of Understanding). Magistrate Judge Tina Gallegos said this would give people other options on bonds. Commissioner Kirkham made a motion to approve. Commissioner Pinkston second the motion. Motioned carried unanimously. (See Exhibit A)

b) Final Action on Public Hearing held: November 14, 2007

i) Zone Change from RR-2 to RR-1 to allow for County approval of a court-ordered Claim of Exemption land split, T7N, R2E, Section 36, NMPM; Tracts 1, 3-D-2, 3B, 3C, 6, 5A, 5B; Lands of Estate of Lupita V. Jaramillo; consisting of 79.85 acres; Zoned RR-2, Map 77, Cabinets J & X, Pages 552 & 114 of the Office of the Valencia County Clerk, Valencia County, NM (tabled: November 26, 2007) – County Commission

Chairman Rael stated that a letter from an attorney had come to his attention that there may be an appeal on this item and assumed that they would end up in court. County Attorney's advice was that this could fall under pending or threaten litigation and for this reason he asked that the legal part of it be discussed in executive session and then they could discuss the merits openly. At this point he entertained a motion to go into executive session solely for discussing the exempt portion of potential litigation and he had questions of council. County Attorney Cynthia Wimberly pointed

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out that there was an exception under the Open Meetings Act in Section 10-15-1(h)(3) for deliberations by a public body in connection with an administrative adjudicatory proceedings and include this ground in the motion for closure with other statutory exceptions.

Commissioner Gentry said this record was closed at the end of the hearings and no one was allowed more information or things to be submitted from either side. Now, he said, there is a letter from an attorney who is basically threatening to sue us and believes that if they are going to open it up to consider legal arguments they are depriving the other parties due process.

Chairman Rael said those were good points, however the specific exceptions to the Open Meetings Act states that they are entitled and almost required to go into executive session for discussion regardless of due process considerations because this is a legal matter and so due process does not come into account here because there is not any additional facts submitted.

Commissioner Gentry said it looked like it was a hypothetical potential litigation in the future. They had not even taken action or voted on it.

Chairman Rael said history shows that when there is a "notice" of potential litigation it is the proper thing to do, go into executive session. He would like to hear from council because this is one of the exceptions to the rule and due process was not involved, so he entertained a motion to go to executive session to discuss only the legal aspects that have arisen recently.

Commissioner Kirkham made a motion to go into Executive Session, but Commissioner Pinkston suggested that this item be tabled until after Executive Session and they could make a decision at that time. Commissioner Kirkham withdrew her motion and made a new motion to table the item until after the rest of the Action Items. Seconded by Commissioner Medina. Chairman Rael voted yes. Commissioner Kirkham voted yes. Commissioner Medina voted yes. Commissioner Gentry voted no. Commissioner Pinkston voted no. Motion carried 3-2.

A member of the audience spoke out regarding the above matter and Chairman Rael stated that there would not be further discussion and asked if that was Mr. Mike Wood. It was.

Chairman Rael cautioned Mr. Woods that there would be no more personal attacks on the chair as was in the past, and would have him removed if his conduct continued to be inappropriate. Mr. Wood made other comments which prompted Chairman Rael to have a deputy present for the meeting.

c) Resolution 2007-59, Relating to Administration, Adopting a Volunteer Firefighter Policy; Setting forth Volunteer Firefighter Rules & Regulations Establishing consistent, basic Policies & practices concerning relations between the County and its Volunteer Firefighters – Ruben Chavez

Mr. Chavez and Mr. Eden requested for approval for the above item. Commissioner Kirkham made a motion to approve. Seconded by Commissioner Gentry. Motion carried unanimously. (See Exhibit B) Sally Perea, County Clerk announced the Resolution 2007-59.

d) Financial Matters

i) Consideration of Amendment #1 to the 2007 Legislative General Fund Appropriations Grant agreement between the Department of Finance and Administration & Valencia County – Vangie Gabaldon

Commissioner Pinkston moved for approval. Seconded by Commissioner Gentry. Motion carried unanimously. (See Exhibit C)

ii) Consideration of Approval: Payroll/Warrant – Eric Zamora

Mr. Zamora presented the computer printout list all checks issued by the Manager's Office on November 30, 2007 covering vendor bills processed on the above date. Check #92106 thru #92212 inclusive, for the total of \$ 1, 196,268.07. Commissioner Pinkston moved for approval. Seconded by Commissioner Gentry. Motion carried unanimously. (See Exhibit D)

Executive Session- Pursuant to Section 10-15-1 NMSA 1978, the following matters may be discussed in closed session: a. limited personnel matters; b. pending or threatened litigation, and c. other specific limited topics that are allowed or authorized under the stated statute.

Commissioner Kirkham made a motion to go into Executive Session to discuss the tabled Action Item 7 (b-i). Seconded by Commissioner Medina. Roll call. Chairman Rael voted yes. Commissioner Kirkham voted yes. Commissioner Medina voted yes. Commissioner Gentry voted no. Commissioner Pinkston voted no. Motion carried 3-2.

Commissioner Kirkham moved to go back into Regular Session. Seconded by Commissioner Medina. Motion carried unanimously.

Ms. Wimberly reported on the matters that were discussed in closed session. Ms. Wimberly said the item discussed was the Final Action on the Zone Change held at the Public Hearing on

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November 17, 2007, at the request of the Jaramillo family in the matter of the estate of Lupita Jaramillo and no final action was taken.

Commissioner Kirkham moved for approval on what was discussed in Executive Session. Seconded by Commissioner Medina. Roll call vote. Commissioner Pinkston voted yes. Commissioner Kirkham voted yes. Chairman Rael voted yes. Commissioner Gentry voted yes. Commissioner Medina voted yes. Motion carried unanimously.

b) (Tabled from agenda to be discussed after Executive Session) Final Action on Public Hearing held: November 14, 2007

i) **Zone Change from RR-2 to RR-1 to allow for County approval of a court-ordered Claim of Exemption land split, T7N, R2E, Section 36, NMPM; Tracts 1, 3-D-2, 3B, 3C, 6, 5A, 5B; Lands of Estate of Lupita V. Jaramillo; consisting of 79.85 acres; Zoned RR-2, Map 77, Cabinets J & X, Pages 552 & 114 of the Office of the Valencia County Clerk, Valencia County, NM (tabled: November 26, 2007) – County Commission**

Commissioner Medina moved for approval. Seconded by Chairman Rael. Chairman Rael asked for any discussion. Commissioner Pinkston stated her concerns of two people that may have a conflict of interest on the voting issue with the above item, the possible conflict and any perceived perception not mentioned in the Public Hearing of November 14, 2007.

Commissioner Kirkham said that she was the one that Commissioner Pinkston was referring to as one of the two people and she had discussed this issue with council. Ms. Lillian Otero was married to her uncle, my father's brother and both were deceased. She has no financial interest or anything to gain in this property, has no financial gain and stated that she can make a good decision.

Chairman Rael stated that the other matter Commissioner Pinkston was referring to was that he used to represent some of the Jaramillo's but since dissolving his partnership with James Sanchez two years ago, he has not represented any of the Jaramillo members since. Mr. Sanchez had taken the case. He has no personal interest, no financial gain and they are not in his district so he feels confident that he can rule on the merits of the matter.

Commissioner Medina stated that he also had an aunt that had been married to one of the Jaramillo's many years ago.

Commissioner Gentry said he had no relatives in this matter and believed that perceived perception of conflict of interest is there, especially with the Chairman and should recuse himself. He himself had been asked many times to recuse himself from voting in his district because he owned property in the area or close to the notification area of a zoning matter only, which he didn't but did abide by it. He shared his concerns that Chairman Rael was a legal representative to the Jaramillo family.

The covenants of the Jaramillo Estate were his concern also and the fact that they could change in the future by the Jaramillo family at will and asked if this would benefit the family and the county.

There was more discussion on who should or should be recused and there was interruption from Mike Wood in the audience and Chairman Rael asked security to escort him out.

Chairman Rael continued to go on with the merits of the matter and shared his concerns on the public comments that were stated at the Public Hearing on November 14, 2007 on whether residence were going to be built on this property without ingress and egress and without utilities. Another issue was the impact it would have on the road easement. He read the road dimensions within the Jaramillo petition; it equals sixty feet which is more than the county requires. The county requires fifty four feet for an easement. Chairman Rael addressed the fact that Commissioner Gentry had correctly pointed out the covenants, actually protect the county if the covenants are followed, can only be amended by a vote of 75%. The Chair's concerns were from the past with Highland Meadows and the original developers where the roads, that many years ago, not been up to county standards and a lot of private roads were created which are causing problems today. Chairman Rael studied the area of the Jaramillo petition and had reviewed the covenants and stated that this petition has nothing to do with a subdivision but is a patrician following a will of a mother and grandmother Lupita Jaramillo and under the condition, if approved, that the Jaramillo apply the covenants and do not have the ability to amend the covenants on a permanent basis. The rule of subdividing will not be a problem because the county itself will prohibit that and is well protected.

Chairman Rael made a motion to approve the patrician action and the zone change from RR2 to RR1 on the condition that the Jaramillo family apply the covenants and do not have the ability to change those on a permanent basis.

Commissioner Medina reminded the Chair that he had already made a motion for approval so he amended the motion to include the comments stated by the Chairman. Seconded by Chairman Rael.

Commissioner Gentry asked the Chair if he would state the amendments clearly. Chairman Rael said that the roads would be built to county standards as homes are built and utilities installed prior to covenants. The covenants would be part of the record.

Commissioner Gentry thought that the discussion was the fact that the Chair was going to deal with the stipulation that the covenants be amended and that they could not go in and change them later. Chair said they were a condition of the approval of the request of the zone change and that would

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take care of that. Commissioner Gentry said these were already in the covenants; the problem was that with 32 votes they could go in next week and change the covenants to anything they want. The amendments doesn't do anything that the covenant didn't do before and should be that the covenant would not allow to be changed therefore they would be voting on something that they knew was fixed. He also said that the covenants were already filed so they couldn't make them change it unless like the clause say, a 75%vote could change it and they wouldn't have to do anything because the commission has already voted on it.

Chairman Rael again said the covenants were a condition, on them acquiring a zone change that they are requesting of the commission.

Commissioner Gentry said given that fact, the covenants should read, or the zone change, if approved, with a stipulation that the covenants will stand as the governing body for us and then we will have to enforce them. His point was that those land owners have the right to get a group together and totally change them. He asked if the motion, if approved, was, only on the condition that the Jaramillo families go back and take out that 75% amendment clause out of their covenant.

Chair said no, they would not have to do that. The commission was passing a zoning change, condition upon them applying the covenants, each and every time, without them been able to change them.

Chairman Rael said there was a motion and a second to approve the zoning change with a caveat that the covenants be enforced in each and every case and asked for the vote. Commissioner Kirkham voted yes. Chair Voted yes. Commissioner Medina voted yes. Commissioner Gentry voted no. Commissioner Pinkston voted no. Motion Carried 3-2. (See Exhibit E).

9. County Manager's Report (Information only)

Eric Zamora informed the commission on the Legislative Capital Outlay Luncheon on December 10, 2007, 11:00AM at Mi Chante Restaurant 325 Main Street, Los Lunas.

There would be a Judicial Security Workshop on December 17, 2007, 5:00PM at the Valencia County Commission Room.

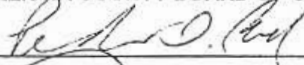
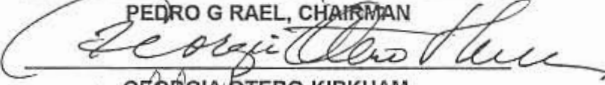
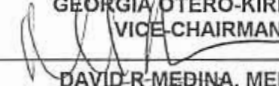
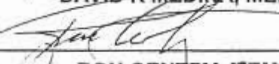
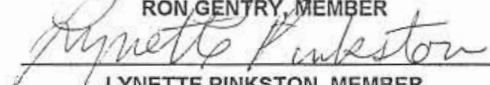
10. The next Public Hearing Meeting of the Valencia County Board of County Commission will be held on December 12, 2007 at 3:30 PM and the next Regular Business Meeting of the Valencia County Board of County Commission will be held on December 19, 2007 at 3:30 P.M.in the County Commission Room at the Valencia County Courthouse.

11. Adjournment

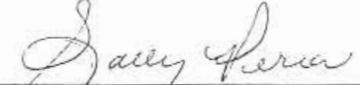
Commissioner Kirkham moved for approval. Seconded by Commissioner Medina. Motion carried unanimously. Time 5:19 PM.

NOTE: All proposals, documents, items, etc., pertaining to items on the agenda of December 05, 2007 Regular Business Meeting (presented to the Board of County Commissioners) are attached in consecutive order as stated in these minutes.

VALENCIA COUNTY BOARD OF COMMISSIONERS


PEDRO G RAEI, CHAIRMAN

GEORGIA OTERO-KIRKHAM,
VICE-CHAIRMAN

DAVID R-MEDINA, MEMBER

RON GENTRY, MEMBER

LYNETTE PINKSTON, MEMBER

ATTEST:


SALLY PEREA, COUNTY CLERK

DATE
12-19-07