

VALENCIA COUNTY BOARD OF COMMISSIONERS

Regular Business Meeting

January 16, 2008

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	

The meeting was called to order by Chairman Pedro Rael at 3:30 P.M.

Chairman Rael led the Pledge of Allegiance

Approval of Agenda

Chairman Rael requested Item 7(A) Indigent and the Fuel Report be changed from County Commission to Barbara Baker. Commission Gentry suggested that Item 7(D) Consideration of creating an assistant County Manager position is a personnel matter and should be discussed in Executive Session. Chairman Rael motioned for approval of the Agenda. Commissioner Gentry seconded. Motion carried unanimously. Agenda was approved as amended.

Approval of Minutes- December 19, 2007

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

Public Requests- at the discretion of the Chair

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

Dave Hammon said he had appeared before the commission on the 19th meeting to get their approval for road maintenance, so that Murdock could put in a crossing on Hwy 314 and Miller Road. Since then, one month ago, many automobiles have crossed through and this is one of the most unprotected crossings. County Manager Eric Zamora has requested a meeting this Friday at 2:00 PM with Chris Blewette, Counsel of Governments Project Manager for this project. Chairman Rael requested that this be put on as an action item for the first meeting in February to accept the maintenance. County Attorney Cindy Wimberly said she would inquire further on the details.

Mr. Wood thanked the News Bulletin for the article they had placed in the paper. That article did not reflect a couple of items which he feels are major issues.

Peggy Baxter expressed her concerns on the hospital tax and what the status of it was. Chairman Rael stated that Mr. Davis was on the agenda to give a rundown on the hospital status.

Samuel Aragon, Director of the Meadow Lake Residents Association presented the Commission with handouts targeting the Meadow Lake area's which needed the most attention. Controlling crime and removal of abundant mobile homes has improved, although patrolling the area by the Sheriff's department is needed on a regular basis and illegal dumping is still a major issue. Meadow Lake Association recently celebrated their first anniversary on Oct 28, 2007.

Carlos Montoya a Valencia County Resident had two questions for the Commission; (1) is the Assistant County Managers position a position that was budgeted for? (2) If it was budgeted, is it going to be opened up to the public? Mr. Montoya feels that there are a lot of good employee's employed in Valencia County and as a former Business Manager for Valencia County, instead of paying for a high end position he would like to see that money go to the employee's of Valencia County. Chairman Rael stated, this issue would be discussed at the consensus of the Commission in Executive Session.

Rosemary Lebrecht a resident of Meadow Lake presented the Commission with a picture of the horse that was tortured and dragged on Meadow Lake Rd. There was also a dead sheep found on Fence Line Rd. She expressed her concerns on the issues and informed the Commission that there is a \$3,500 reward for any information leading to the arrest of person or persons responsible for this crime.

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Rita Padilla Gutierrez had concerns on a pamphlet that was attached to the Agenda of the January 2nd meeting which referred to the County Commissions' position on the hospital. She felt it was a dangerous precedence that someone set. County Manager, Eric Zamora said no one from the Commission or any county staff member had attached the pamphlet to the Agenda. Mike Wood admitted he had attached those pamphlets to agendas which were placed at the entrance of the Commission room for the public to pickup. Commission Gentry suggested that individuals refrain from passing out literature.

6. Discussion (Non-Action) Items**a) Presentation on the Status on the Valencia County Hospital Project – Bob Davey**

Mr. Davey who chairs the Board for the Valencia Health Commons and Chairman of the Valencia County Hospital Planning Board introduced the Hospital Board members; Phil Silva from the NM Mid-West Community Action Program, Katherine McKenzie from the VA, Dr. David Schneider, Vice Chair, Cathy Chavez from YDI, Bill Johnson past CEO of UNM Hospital and former Secretary of Health for the State Of NM, Robin Hume. Mr. Davey stated he was there to report their progress in carrying out the chart given to them and to advise the Commission to take the next steps in the plan. You can have a hospital for the people of Valencia County; we can begin construction within a year of clearing certain hurdles, he said. There are three critical elements to the chart given to him by the Commission a few months ago, all or part of that plan recommended by Mr. Brown and approved by the Commission. He is forming a non-profit Corporation in the State of New Mexico. He is filing for a 501C3 Tax Exempt Classification with the Internal Revenue Service. This involves development of by-laws, articles and varies policies. The Council on this issue is Mr. Robert Desidario, the former Dean of the UNM School of Law. Mr. Desidario an expert in the field of nonprofit law and has advised him that there is a way to fast track this filing and he expects to get a response from the IRS within ninety to hundred-twenty days. Mr. Davey is meeting with him on Friday to put the application in final form, so he can dispatch it. On the issue on operating partnerships, the plan for a Health Commons, calls for operating partnerships with First Choice Community Health Care, for primary care, dental care, behavior health. With New Mexico Heart Institute, New Mexico Oncology and Hematology Associates, the UNM Medical School has agreed to use the thirty bed hospital and clinics as teaching facilities and the Commons would receive staffing assistance from UNM, from their facility at the medical school and from records at the medical school. All our partners have affirmed repeatedly in the past few months their continued commitment to the Commons. At a meeting at UNMVC hosted by the medical school, they discussed ways in training health competent staff recruited here in Valencia County. We will not be entering into a contract with Covenant Health Care to manage this facility. After the organizational meeting in January we were advised by Covenant that it will be concentrating on its efforts in Eastern New Mexico and they will not be able to participate in this project. He's working with the Governors office in putting the final touches on details on capital outlays to make recommendations to the Legislature on Health Commons. Operationally, the drafts of the MOU's that have been worked on with the other operating partners need to be put into final form and executed. A contract needs to be executed with a provider who will oversee construction and manage the facility. On the financial front a contract must be selected with the underwriter and they need to work with a financial consultant and the underwriter on a complete review and updating our models. The Commission must do three things -Discussion must be open on a formal contract to allow them to transfer the mill levy proceeds to the Commons, as the Commission approved a few months ago. Also, start developing a mechanism that will allow the issuance of bonds. Finally, the issues before the court need to be resolved and an agreement with him cannot be executed until these issues are resolved.

Dr. Schneider presented the Commission with a petition of signatures from residents with interest in the hospital and urged the Commission to move forward with the development of the hospital. Commissioner Pinkston thanked Mr. Davey, Dr. Schneider and the Board on their hard work and dedication on the hospital issue.

Commissioner Gentry said in attending the Mid-Winter Association of Counties meeting in Santa Fe, and with the Legislature now in session, the discussion from both the Senate and the House officials was that they wanted to push health care in New Mexico. The Governor's staff had approached the Valencia County Staff and asked for a meeting while they were in Santa Fe and wanted them to know that the Governor had a great interest in supporting this hospital effort. Our staff met with them and started drafting things that the Governor might be able to find some appropriations for. This is a good year to move forward and financially he's very pleased that it will not cost the citizens one dime. Industrial Revenue Bonds are bought by private individuals and they are sold by a bonding company, then they are retired off of the dedicated profits of the hospital. With the mechanism that we have just described there will not be a drain of funds, there is no county resources put into this Industrial Revenue Bonds sold to private bond purchasers. Valencia County will feel comfortable selling \$50,000,000. worth of bonds to support this project. Commission Gentry also stated he would like for this Commission to move forward and it's his understanding that once it's all put together it would be presented to the court, they could get a judicial review of it and the clearance to go ahead. Mr. Davey stated until that issue is resolved they will not be able to execute final documents.

Mr. Brown, with the Modrall Law Firm and on behalf of the county, stated that Judge Olguin had ordered not to execute the contract until it's brought back to her and she is able to review it and approve it, or reject it, and then direct the County to do something else. However we don't interpete

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Chairman Rael asked Mr. Davey if the land had already been deeded to the Non-Profit Corporation by VIA? Mr. Davey stated, no, we have a resolution from the Board of the Valley Improvement Association to deed however much of that property the Commons Board wants at any specific time. We've gotten two different recommendations from Stern Brothers. One is that we might have to take all the property in hand at once, the other is that we might have commitments on the property that will not deed over until it's actually needed for specific partners. We will wait and VIA has decided to wait until someone on the Health Commons Board tells them this is what we want and this is when we want it and this is the form in which we want it. We are going to rely on the financial experts and the attorneys to tell us that. Chairman Rael also asked if Stern Brothers was already committed to the financing whatever it takes to construct the hospital, have they said they will do this unconditionally or do they have some conditions placed on their offer of financing.

Robin Hunn stated, we have a letter of commitment for up to \$50,000,000 in financing and it is a fairly lengthy letter and it doesn't have conditions but information on what would happen, if example project would not go forward.

Chairman Rael asked if the County Hospital was going to be owned and operated and controlled by the County or is it going to be independent of the county? Mr. Davey stated, he could be wrong but he believed Mr. Brown's plan was at the request of the county to divorce the county from ownership of the hospital. Chairman Rael stated he wanted to make sure what Mr. Davey's position was and he understands the paperwork on the 501C3 has already been filed in Santa Fe and he is official quote, unquote. Is it correct to say that you are asking the county to move on and make efforts to commit without violating the court order to the Mill Levy for the operation and maintenance of the purposed hospital? Mr. Davey stated, we were to come back when we felt it was time and request that we open up discussions on how that can be done. Chairman Rael asked this is the Mill Levy that has been passed by the voters and part of it has already been collected and the commission will turn it over to the 501CU's which is you, to be used for operating and maintaining the hospital. Mr. Davey stated, he will have to go back and look at the wording to what the commission approved several months ago, but his understanding is, we are to begin discussion on how you can transfer that Mill Levy support to the hospital. Chairman Rael also asked what Covenants role was in regards to the hospital and has anyone considered alternatives to a full blown hospital, like a 24-hr urgent care center? Mr. Daveys stated Covenant has no role regarding the hospital at present and yes, the issue on a 24-hr urgent care had been approached by Presbyterian, but never followed up, they did not respond to the request for proposal. Chair Rael asked if county participation was necessary other than for having the Mill Levy available for operating and maintaining the hospital, is there any other reason the county needs to be involved? Mr. Davey responded by saying, not that he could see off hand.

Commissioner Kirkham indicated that Covenant was out of the picture so are we doing an RFP? Mr. Davey stated, no an RFI, request for information and that's the first step. Informally Ms. Hunn has already heard from several providers who said they are interested in stepping up, but we want to get something in writing from these folks. We could look at our responses and determine whether we want to go out with a formal RFP or whether we want to simply start negotiations from the RFI basis. We have a little more flexibility in that regard than the county; we not tied down by some of the restrictions that the county is.

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The RFI that we have issued has been sent to Presbyterian. Commissioner Kirham thanked Mr. Davey for all his hard work.

Commissioner Gentry again stated that he just wanted to confirm that the County Attorney agrees that the commission or the board in the presentation today has not stepped over the line and violated anything that the courts may have intended for us not to do and that any answers we have used would be used in a legal brief against the commission or the board. Chairman Rael stated, there is an attorney client privilege that applies, but if the commission weighs it, we can proceed. Commissioner Gentry stated there is a client attorney privilege that should be that any information that the commission takes, that it doesn't go to anyone else either, but he would like to have the answer in general so that we that we don't come back and get accused of going across the line and have another law suit filed.

County Attorney Cynthia Wimberly stated that regarding concerns on how much action the County can take and what's happening today appears to be merely preliminary and does not appear to step over the boundaries that Council has set forth.

Dwayne Brown said the Commission has received a report from their appointed Board, as to where they believe the county should go next and the report presented by Mr. Davey clearly indicates his understanding and the boards understanding that whatever the county does, as executing documents and moving forward before anything is entered into. As quoted from court orders, "defendants - County Commissioners for Valencia County are thereby enjoined from entering into any contract to transfer Mill Levy proceeds to any entity until such time as this matter is ruled on by the court on merits", that is a direct quote that we sent back to Mr. Rael and copied the County Commissioner on it. The commission is prohibited from entering into that contract with regards to discussing it and trying to solicit information and see if you can move forward and then go back to the court for the ruling seems to be consistent in our opinion with what Judge Olguin set forth in her order. He doesn't feel the commission has done anything today, he hasn't seen Mr. Rael signing any contracts or the County Commission approving any of those. It should be okay under this court order and having said that, there are no guarantees that someone won't file another law suit. That again that is a freedom of expression.

Dr. Bill Johnson stated he's been in health care for almost fifty years. When the hospital in Belen closed, you lost your staff, your surgeons, and your obstetrician; you lost your emergency services. The size of the population and the growth of the population dictate a hospital is needed in Valencia County.

b) Presentation On The Status on the Mobility Plan – Loretta Tolleson

Loretta Tolleson gave a brief update on the status of the Mobility Plan and the concerns of the residents of Valencia County. Nine workshops were held September thru November throughout the county to gather information about the Mobility Plan. She compiled some input and put together a summary and recommendations that they also send to the state committee. She is putting together a draft plan and introducing it this spring for public review and then coming back to the Commission with the results of that.

c) Reports From Directors – Directors

Ruben Chavez Director of Code Enforcement stated that one item was not in the report, and that was fire. He provided the commissioners with a copy of this report. He took reports from all nine fire districts and in 2007 the districts responded to 3140 calls. He also gave a brief overview on status of code enforcement, building permits, animal control, animal adoption and euthanasia for the past year.

d) Reports from Boards, commissions & Committees – County Commission

None

7. Action Items:

Board of Commissioners Convenes as Indigent Claims Board

Commissioner Kirkham moved to convene as Indigent Claims Board. Seconded by Commissioner Pinkston. Motion carries unanimously.

a) Indigent Report/Appeal – Barbara Baker

Ms. Baker presented the Indigent Claims from December 6, 2007 to January 4, 2008. There were 89 claims submitted and 29 applicant denials. The amount of claims submitted is \$771,351.56. Ms Baker asked the Commission to approve \$38,413.98. **(See Exhibit A)**

Commissioner Pinkston moved for approval. Commissioner Gentry seconded. Motion carried unanimously.

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Appeal – Ms. Baker stated she had 3 applicant denials. Ms. Baker requested an appeal for Ms. Barbara Hinojos, she was denied because she does have Medicare and the balance after Medicare is \$1046.00, otherwise she meets all the other qualifications. She would like to recommend approval of the Presbyterian Hospital bill of \$805.42. **(See Exhibit B)**

Commissioner Kirkham moved for approval. Commissioner Medina seconded. Motion carried unanimously.

Ms. Baker presented an appeal for Paul Baca an inmate, who was denied. If approved Valencia County Indigent would pay \$2102.87 to Lovelace Medical Center and \$148.93 to Albuquerque Emergency for a total of \$2,251.80. Ms. Baker asked the Commission for approval. **(See Exhibit C)**

Commissioner Pinkston moved for approval. Commissioner Gentry seconded. Motion carried unanimously.

Ms. Baker presented an appeal for Kevin Rangel, also an inmate, who was denied. There were 10 bills with Lovelace Medical Center in the Amount of \$19,530.00. They have agreed to accept \$2075.31 as full payment. If approved Valencia County would pay \$353.21 to Cardiac Care Consultants and \$2,075.34 to Lovelace Medical Center for a total of \$2,428.55. Ms. Baker asked the Commission for approval. **(See Exhibit D)**

Commissioner Pinkston moved for approval. Commissioner Medina seconded. Motion carried unanimously.

Board Re-Convenes as Board of County Commissioners

Commissioner Kirkham moved to Re-Convene as Board of County commissioners. Seconded by Commissioner Pinkston. Motion carried unanimously.

a) Final Action on Public Hearing held: January 9, 2008

Request to Amend Zone Map from Planned Development (PD) to Rural Residential - 1(RR-1) purpose of creating 1-acre lots for residential development T6n R2E, within projected section 25, NMPM; Rio Del Oro, Unit 54 Lot C; containing 10.15 acres; Zoned PD; filed in Book 359, Page 13019 of the Office of the Valencia County Clerk; Valencia County NM/Manuel Martinez County Commission (See Exhibit E)

Commissioner Kirkham moved for approval. Chairman Rael Seconded. Motion carried unanimously.

Request to Amend Zone Map from Planned Development (PD) to Mineral Resource (MR); purpose to allow for Sand and Gravel Mining operation within projected Section 29, T6n R4E, NMPM; Rio Del Oro, Unit 22, Block 16; containing 35.42 acres; Zoned PD; filed in Book 35, Page 4796 of the Office of the Valencia county clerk, Valencia county, NM/Southwest Rock & Development corporation – County Commission (See Exhibit F)

Commissioner Kirkham moved for approval. Commissioner Pinkston seconded. Commissioners Kirkham, Pinkston, Medina and Rael voted yes. Commissioner Gentry abstained, because he resides close to the area and does business with this company. Motion carried with Commissioner Gentry abstaining.

b) Consideration of request to publish repeal of Tierra Bonita Ordinance – Eric Zamora. (See Exhibit G)

Eric Zamora is requesting Consideration of request to publish repeal of Tierra Bonita Ordinance. If approved, the proposed repealing ordinance would be heard at public hearing on February 13, for possible final action on February 20, 2008.

Commissioner Kirkham moved for approval. Commissioner Gentry seconded. Motion carried unanimously.

c) Consideration of Extension of County Manager Contract – County Commission (See Exhibit H)

Commissioner Medina commended Mr. Zamora on his performance as County Manager. He's doing an excellent job and so Commissioner Medina made a motion to extend Eric Zamora's contract as County manager until January 1, 2009. Commissioner Gentry stated January 1, is when a potentially brand new Commission is seated and that's when you start into your mid-year budget review and transferring all your dollars and the manager is involved heavily in both of those. Then a month to six weeks later you start an entire budget process for the next year and it's always worried him if there was going to be a change in a contract, especially in the management position. January 1st through March 30th is the most critical time for financial review for our mid-year budget adjustments. He would like the Commission to consider the date of June 30th of 2009. Commissioner

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Medina revised his motion to extend Mr. Zamora's contract to June 30th 2009. Commissioner Pinkston seconded. Commissioner Kirkham requested that there be further discussion on this in executive session. Chairman Rael agreed and stated he has all the confident in Mr. Zamora's performance, but we would like further discussion in executive session. Chairman Rael asked Council if there would be any publication problems with is, since his contract allows for amendments and extensions.

Council Wimberly stated the Agenda request form is not published on the Agenda at all. This position is an unclassified position and it's the classified positions that require the recruitment and policy procedures. There was not further discussion. Motion carried unanimously.

d) Consideration of creating Assistant County Manager Position to be discussed in Executive Session – County Commission

e) Financial Matters:

i) Award Bid #629 for the purchase of a Tanker/Pumper for the Peralta Fire Department – Charles Eaton (See Exhibit I)

Charles Eaton is requesting to award competitive bid #629 to Artesia Fire Equipment for the purchase of a Tanker/Pumper for the Peralta Fire Department. Commissioner Pinkston moved for approval. Commissioner Kirkham seconded. Motion carried unanimously.

ii) Request To Go Out for Competitive Sealed Bids for a Tanker for the Jarales Pueblitos Fire Department – Charles Eaton (See Exhibit J)

Charles Eaton is requesting to go out for competitive sealed bids for a Tanker for the Jarales-Pueblitos Fire Department. In the 2007 the Department went before the Legislative Session to request some monies for purchase of the Tanker was awarded \$100,000.00 and are asking to go to bid for the tanker. Commissioner Pinkston moved for approval. Commissioner Kirkham seconded. Motion carried unanimously.

iii) Request To Go Out For competitive Sealed Bids For A Breathing Compressor, Fill Station and Air Storage System For The Tome-Adelino Fire Department – Charles Eaton (See Exhibit K)

Charles Eaton is requesting to go out for competitive sealed bids for a breathing Air compressor, fill station and air storage system for the Tome-Adelino Fire Department. With having an air compressor and fill station with storage in the Tome-Adelino Fire Station, the fire department will have an additional system besides the system that is located within the fire storage/warehouse located in Los Chavez. With these two systems it better enhances the fire departments abilities to serve both sides of the Rio Grande River. Commissioner Pinkston moved for approval. Commissioner Kirkham seconded. Motion carried unanimously.

iv) Consideration of Approval: Payroll/Warrants - Eric Zamora

Mr. Zamora presented a computer printout list of all checks issued by the Managers Office on 1-4-08 covering payroll process on the above date. Direct Deposit Check #4966 thru direct deposit check #5120 inclusive. Deduction Check #92625 thru 92664 inclusive. Payroll Check #80910 thru 81008 inclusive. Listing total \$333,244.55. Computer printout lists of all checks issued on 1-14-08 covering vendor bills. Check #92665 thru Check #92807 inclusive, for the total of \$739,364.77. Commissioner Medina moved for approval. Commissioner Gentry seconded. Motion carried unanimously. **(See Exhibit L & M)**

8) 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 moved to go into Executive Session. Commissioner Medina seconded. Roll Call vote. Commissioner Pinkston voted yes. Commission Kirkham voted yes. Chairman Rael voted yes. Commissioner Gentry voted yes. Commissioner Medina voted yes. Motion carried unanimously.

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

Cindy Wimberly reported on the matters that were discussed in closed session. Certain litigation matters: The status of lawsuit, Elderly American issues, Personnel Items,

NOTE: All proposals, documents, items, etc., pertaining to items on the agenda of the, January 16, 2008 Meeting (presented to the Board of County Commissioners) are attached in consecutive order as stated in these minutes.

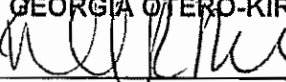
VALENCIA COUNTY BOARD OF COMMISSIONERS



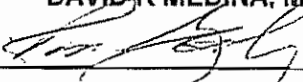
PEDRO G RAEI, CHAIRMAN



GEORGIA OTERO-KIRKHAM, VICE-CHAIRMAN



DAVID R MEDINA, MEMBER

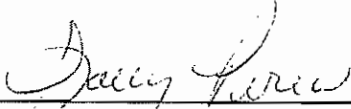


RON-GENTRY, MEMBER



LYNETTE PINKSTON, MEMBER

ATTEST:



SALLY PEREA, COUNTY CLERK

2.6-08

DATE