

VALENCIA COUNTY BOARD OF COMMISSIONERS

Public Hearing Meeting

June 11, 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	
Adrian Nance, County Attorney	
Sally Perea, County Clerk	
Press and Public	

1. The meeting was called to order by Chairman Pedro Rael at 5:05 P.M.

2. Chairman Rael led the Pledge of Allegiance.

3. Approval of Agenda

Commissioner Medina moved for the approval of the agenda. 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.)

Jim Lane requested that Fence Line Road be put back on the Mobility Plan.

Planning and Zoning Commissioner Preston Roberts shared his concerns and requested support from the County Commissioners on a tire issue in San Clemente. Mr. Roberts thanked Ruben Chavez for his support.

Mike Wood was escorted out of the meeting for his offensive remarks. Chairman Rael stated again that this behavior would not be tolerated.

Joseph Griffenberg a resident of Meadow Lake had concerns on a survey that was done by the county and his address not being on the 911 system. He also requested that the commission finish paving his road. Commissioner Pinkston stated his road would be paved by the end of her term.

Commissioner Pinkston requested for a moment of silence for Floyd Montoya who had passed away on Monday, June 9, 2008. A moment of silence was given in his honor.

5. Discussion (Non-Action) Items

a) Update of acceptance “Valencia County Mobility Plan” – Loretta Tollefson

Ms. Tollefson presented the updated plan and compared it the original plan. She said a draft was done in March for public review and was on the website. The draft includes all the language and items that were recommended. Four public meetings and workshop of emergency services for providers were held throughout the month of April. She stated the deadline for public comments was May 5, 2008 and comments were summarized and given to the Steering Committee. Input was compiled and recommendations were made to the Committee, which approved the plan update with modifications at its May 21st meeting. Ms. Tollefson said the modifications did not include Fence Line Road which was not on the original plan. *(See Exhibit A)*

b) Status of Valencia County Hospital – Art Melendres

Mr. Art Melendres an attorney with the Modrall Sperling Law Firm gave a brief background on the lawsuit. District Court had imposed an injunction prohibiting the Board of Commissioners from entering into an agreement with a health organization/ provider in regards to using the mill levy. Mr. Melendres said Judge Olguin had ordered the County Commission not to enter into any contract or any kind of hospital management agreement until the court had an opportunity to review the matter. A hearing was held on April 29, 2008 in Judge Olguin's court and arguments were presented by the plaintiff's attorney and Mr. Melendres representing the Board of Commission. Judge Olguin heard their arguments and entered an order which denied the plaintiff's request for a permanent

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injunction. Mr. Melendres said there is a right under the law to appeal the District Court's decision. He said that the plaintiffs had filed a notice of appeal which takes the matter to the Court of Appeals. Mr. Melendres said that the plaintiffs also asked that the Court of Appeals or Judge Olguin enter a limited injunction directing the County Commission not to enter into a management agreement. The status is that Judge Olguin denied the request for the permanent injunction and entered some findings in regard to how the order was reached in her decision and an appeal is presently pending. The Judge ruled that the County Commission was in their legal authority and was not overstepping the legal authority regarding the hospital fund by entering into a hospital management agreement.

6. 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 Pinkston moved to go into Executive Session. Commissioner Gentry seconded. 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 5-0.

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

Attorney Adrian Nance reported that matters discussed in Executive Session were; Litigation that has gone to appeal, personal issue of ex-employee and no action was taken. Chairman Rael asked for a motion on the matters that were discussed in closed session as summarized by Attorney Adrian Nance. Commissioner Kirkham made the motion. Commissioner Pinkston seconded. 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 5-0.

7. Action Item(s)

a) Consideration of Hospital issue

Commissioner Pinkston made a motion to approve that Attorney Melendres go forth with the paper work on the hospital appeal. Seconded by Commissioner Gentry. Motion carried 4-1. Chairman Rael abstained.

8. Public Hearing Items;

a) Consideration to Amend Zone Map from Outland District (OD) to Heavy Industrial (1-3) to allow for the operation of a Bulk Refined Products (diesel, gasoline, and ethanol) Truck Terminal; Section 28, T7N, R1E, NMPM; a certain tract of land being comprised of Lots 6, 7, & 10, San Clemente Grant; consisting of 10.008 acres respectively. Zoned OD; Valencia County, NM – James Aranda/ Plains Marketing. LP (See Exhibit B)

County Clerk Sally Perea administered the oath to those wishing to give testimony at tonight's hearing.

James Aranda stated that this request is made by Plains Marketing, LP and gave a brief background. Mr. Aranda said this request was heard at the March 26, 2008 Planning and Zoning Commission Hearing and after hearing testimony from the applicant and taking public comments on the matter the Planning and Commission voted 5-0 recommending denial of this request. He said in making their ruling Planning and Zoning Commission made the following findings; 1) the application for zone change failed to provide adequate information regarding the traffic impact for the purposed use. 2) The application for zone change failed to provide adequate information regarding the fire suppression plan for the purposed facility. 3) The Planning and Zoning Commission found in regards to the number of residents within the vicinity, the requested zone change failed to meet the criteria section 154.061 C2 of the Valencia County Code which states the following; The purposed zone change is appropriate considering the surrounding land uses and the density and pattern of the development in the area and any changes which may have occurred in the vicinity of the area the purposed amendment and the availability of utilities and services that are likely to be needed by the anticipated uses in the purposed districted. Mr. Aranda said that is one of the criteria in which Planning and Zoning Commission found that was not met. Mr. Aranda said that upon the decision the applicant did request that they be given time to conduct a traffic impact analyst and fire suppression plan and in the interim they did do so and that is part of the commission packet and is under the additional information. Mr. Aranda said Plains Marketing met with various county agencies such as Fire Chief Charles Eaton and Public Works Director Bill Chavez.

Commissioner Medina asked if there were any answers from any of the department that were listed.

Mr. Aranda stated at this moment, he has not heard any additional feedback regarding the traffic impact from Mr. Chavez nor from Fire Chief Eaton comments on the suppression fire plan. He said that the applicant did express that late last week they were able to meet with Mr. Eaton.

Rochelle Chavez an Educator for the Public School District is in favor of Plains Marketing Truck terminal. Ms. Chavez gave copies of signed petitions in favor of the truck terminal and also read a statement from the Los Lunas School Superintendent who is also in favor of the facility.

Larry Guggino attorney for Plains Marketing gave a descriptive presentation using maps and photos. Mr. Guggino mentioned other properties of half mile radius from the purposed property of Plains Marketing that are zoned R-I (Light Industrial) and I-3 (Heavy Industrial).

Joe Richards, Commercial Operation for Plains Marketing in Houston Texas addressed the Commission. Mr. Richards said that Plains is mainly in the business of transporting crude oil; refine products and gas for the public. Mr. Richards gave a descriptive visual of how the pipeline would be installed

Commissioner Medina asked if the current pipeline in Belen will be shut down when the new pipeline is installed. Mr. Richards said yes.

Commissioner Gentry asked if there will be a conflict with the proposed pipeline that was recently installed. Mr. Richardson said no. Mr. Richards said that there would be eight storage tanks with various sizes totaling sixteen million gallons of storage of the proposed property. Mr. Richards presented a data image of the purposed site in ten years.

Chairman Rael asked if this was a reasonable picture of what this place would like in ten years. Mr. Richards said the photo is to make the facility landscape blend into the surroundings.

Commissioner Kirkham asked if the company's intent is to increase in the future. Mr. Richards said present plans are not to increase the size of the purposed plan. Mr. Richards said the facility would have state of the art equipment like vapor recovery containment, all the tanks will be surrounded by a dyke wall and the floor of the dyke wall will have clay ax (which is designed to contain any spills that may occur).

Chairman Rael asked how many days Plains Marketing proposed to be open. Mr. Richards said seven days a week. The plan is to have a one million gallon tank of water and this will have to be built on site and the intention is to have this water available to the local fire fighters for that area.

Mr. Bryan McDonald an Economist in New Mexico state and local tax issues gave his expert opinion on the gross receipt tax and property tax that would be generated by this fuel terminal. This project involved is a minimum of thirty-seven million dollars for the land purchase and for the improvements and the purchase of pipeline. The gross receipt tax that would apply at six percent, would generate 2.2 million dollars. Mr. McDonald gave a descriptive breakdown of the six percent. Five percent out of the six percent will go to the state general fund and the one percent will go to Valencia County general fund.

Dwight Williams with Williams Fire Control gave a brief history of his background. Mr. Williams said he spoke with Chief Charles Eaton and discussed NFPA (National Fire Protection Association) and the International Fire Codes. Mr. Williams gave his expert advice on the tanks that would be on the proposed site. Mr. Williams said the company has state of the art equipment. Mr. Williams said the community will benefit from the fire departments training. He said the fire department will be trained on flammable liquids and will have fire suppression equipment on the fire department(s) site.

Nevin Harwick a Registered Engineer with the Harwick Transportation Group in Albuquerque New Mexico gave background history. Mr. Harwick discussed the Traffic Study of the proposed site. Mr. Harwick said the study began in April of 2008 and finished in May of 2008. He gave descriptive procedures of the traffic study that was done in the vicinity of the proposed site with comparable sites. Mr. Harwick attended a meeting with the District State Engineer and the discussion of concern was the intersection of Dalies Road and Highway 6. Mr. Harwick reported the following recommendations: 1) that the site traffic will more than double the left turning traffic, therefore, a left lane will be required. 2) a

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4' shoulder should be constructed to the outside of the widened roadway section, for the entire length of the widened and taper sections 3) all roadway improvements shall be designed to New Mexico Department of Transportation (NMDOT) standards.

Commissioner Gentry asked if the proposed site has been considered for outer congestion of semi trucks that might pull off to the shoulder on highway 6. Mr. Williams said the proposed site is designed to have a big turn around in the facility and three trucks can go in at the same time.

Sam Codianni, a consultant meteorologist specializing in air pollution gave history of his education and experience. Mr. Codianni was requested by Plains Marketing to discuss the air quality process. He demonstrated how Plains Marketing intention is to protect health and the environment and said there are two types of regulatory activities that affects bulk terminal like Plains Marketing. The first regulatory activity is Federal and State that handles Construction and Management. Mr. Codianni gave examples for bulk terminals, having floating roof tanks, vapor recovery systems on the tanks and source performance standards. The second class of regulation is a permit process in New Mexico. Mr. Codianni explained the permit process. He said the applicant prepares a permit application that describes the operation in a descriptive detail and requires for emissions and regulations. The New Mexico Environment reviews permits and is a four month process. A public notice is involved and a termination as to whether or not the facility will comply with the implacable requirements with all the laws and regulations that apply. Mr. Codianni said there is also a process for the owner to keep records and send in reports. An inspection process is required, which means the state can show up at any time to ensure the facility is being compliant. The penalty fees of \$1,500.00 a day could apply if not compliant.

Chairman Rael called for a five minute break.

Chairman Rael called the meeting back to order at 9:52 pm and began with the representatives of the opponents and the public that are opposed to the zone change.

Judge Payne a former member of New Mexico Supreme Court said the residents had taken the time to gather information from New Mexico Department of Transportation and Mid Region Council of Governments and other agencies. Mr. Payne suggested that the Plains Marketing could go to another location where there are no homes or residents. Mr. Payne requested from the Commission to cut through the expert testimony and to consider the residents in the area.

Virginia Smith a resident of San Clemente lives half mile of the purposed facility and responded to Mr. Richard's presentation about how the artistic rendition of the purposed facility would look in ten years. She presented photos of none landscaped from facility located in Denver, Colorado

Janice Clinger a Secretary of San Clemente Association shared her concerns of the risks with the truck traffic. Ms. Clinger gave a history of West of Huning Ranch on highway 6 having two lanes and sixty mile per hour highway with no turning lane. Ms. Clinger shared her concern on the new Sundance Elementary school located in Huning Ranch that plans to open in 2009. Ms. Clinger said she spoke to the Los Lunas Schools bus transportation department and they said each bus averages fifty stops per day and many of the bus stops are at intersection on highway 6. Ms. Clinger said that the interaction with tanker trucks and school busses is a prescription for tragedy.

James Maag President of San Clemente Association shared his concerns on the response time of the fire department. Mr. Maag said adding more traffic will increase the response time. Mr. Maag asked the Commission several questions. 1) Does Los Chavez have the equipment and the man power to handle a large petroleum fire? 2) Does Valencia County has a Joint Powers Agreement with the Village of Los Lunas to help out with any of emergency situation? 3) What is the cost for the county to prepare for a major fire or spill? Fire Chief Charles Eaton answered Mr. Maag's questions regarding the fire services. He said there is a Joint Powers agreement between Village of Los Lunas and Valencia County. The county also has a Mutual Aide Agreement with the City of Albuquerque and Kirkland Air force Base. Chief Eaton said if the county was to get a large scale incident, they will respond to our emergencies in our area upon request if available.

Dr. Smith de Cherif a supervisor with the Soil and Water Conservation District of Valencia County gave a background of Plains Marketing involvement with lawsuits regarding security fraud, the company's involvement with oil spills in the Gulf of Mexico. Dr. Smith presented newspaper articles and photos of a similar terminal facility blow-up in Rapid City. Dr.

Smith de Cherif gave a brief history of what the Soil and Water Conservation services provides and shared her concerns regarding the quantity of water to be used as a primary fire suppression along with the powder chemical and the foam. Dr. Smith de Cherif said that the well that will be drilled for water for the purposed site would come from the San Clemente aquifer. She also had concerns on disaster preparedness. Dr. Smith de Cherif said for the above reasons she stands in opposition both personally and as a member of the Water and Conservation District to the change of zoning.

John Pease a resident of San Clemente had concerns that the small portion of money that Valencia County receives from Plains Marketing could be considered negative financing. He said that the people want growth and the rewards that come from growth but also want clean industry/manufacturing that would bring jobs and feed a growing economy. Mr. Pease requested that the Commission not approve the industrial zoning.

County Clerk Sally Perea administered the oath to those that had not taken the oath and were giving testimony at tonight's meeting.

Ben Talley an employee for Swift Terminal and a resident of San Clemente said he works at a terminal that has a hook-up and drop operation. Mr. Talley said he would challenge the idea that a truck can get in and out of the terminal in fifteen minutes as presented by Plains testimony. Mr. Talley opposes the truck terminal.

William Dean a resident of San Clemente gave a history of the largest fault line. Mr. Dean said the fault line is still growing in the area between Valencia County Line and Socorro where the pipeline will be placed. Mr. Dean read e-mails that he exchanged with several geologists from the New Mexico Tech and the Natural Museum of History and said the experts all agreed this location is not recommended for a truck terminal.

Jim Lane stated he works near the purposed site and is against the Plains Marketing storage tanks. Mr. Lane said this would add to the traffic congestion.

Joseph Trujillo a resident of San Clemente said he wants to keep the beautiful and clean environment. Mr. Trujillo stated that money is not important as is the view and beauty of the land.

Dave Eldorado a resident of San Clemente had received a certified letter from Planning and Zoning. Mr. Eldorado said that the land of the purposed site is land locked and observes this may have potential problem in the future. Mr. Eldorado asked if a survey has been done.

Chairman Rael said there has not been a formal survey and the county maps are up to scale.

Marvin Clinger a resident of San Clemente gave a descriptive calculation of the fuel tanks and a regular hunting rifle could penetrate through the purposed tanks. Mr. Clinger opposes the truck terminal.

Berry Randolph a resident of San Clemente shared his passion for the beauty and tranquility of this area and wishes to keep it that way. Mr. Randolph opposes the truck terminal.

b) Ordinance 2008-__, Adopting Plan Review and Building permitting fee schedule authority, and the 2006 Code Editions – Ruben Chavez

Mr. Chavez requested a final decision be made at the next Regular Business meeting. Commissioner Gentry asked if the Building Permitting Fee schedule authority was included in the proposal. Mr. Chavez said we will not see a fee schedule until December at which time the commission can adopt if the fee schedule changes and the procedures to adopt will not be effect until the following June of 2009.

9, The next Special Meeting of the Valencia County Board of County Commission will be on June 13, 2008 at 3:30 PM in the County Commission Room at the Valencia County Courthouse. The next Regular Business Meeting of the Valencia County Board of Commission will be held June 18, 2008 at 5:00 PM in the County Commission Room at the Valencia County Courthouse.

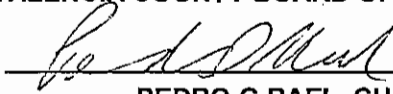
10. Adjournment

Commissioner Kirkham moved for approval. Commissioner Medina seconded. Motion carried unanimously. Time 11:29 P.M.

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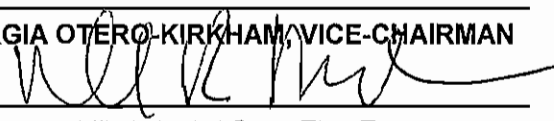
NOTE: All proposals, documents, items, etc., pertaining to items on the agenda of the, June 11, 2008 Public Hearing Meeting (presented to the Board of County Commissioners) are attached in consecutive order as stated in these minutes.

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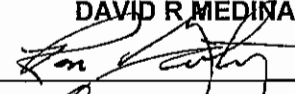


PEDRO G RAEI, CHAIRMAN


GEORGIA OTERO-KIRKHAM, VICE-CHAIRMAN



DAVID R MEDINA, MEMBER



RON GENTRY, MEMBER

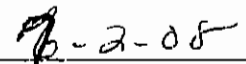


LYNETTE PINKSTON, MEMBER

ATTEST:



SALLY PEREA, COUNTY CLERK



DATE