



June 5, 2013
Agenda
5:00 P.M. Business Meeting
Valencia County Commission
Chambers
444 Luna Avenue
Los Lunas, NM 87031

Board of County Commissioners
Charles D. Eaton, Chair District IV
Alicia Aguilar, Vice-Chair District II
Mary Andersen District I
Lawrence R. Romero District III
Donald Holliday District V

Please silence all electronic devices.

- 1) Call Meeting to Order
- 2) Pledge of Allegiance
- 3) Approval of Agenda
- 4) Approval of Minutes:

May 1, 2013.....Business Meeting
May 8, 2013.....Public Hearing Meeting
May 15, 2013.....Business Meeting

Two handwritten signatures in black ink, likely of the County Commissioners mentioned in the agenda.

PRESENTATION(S)

- 5) Award Presentation to Nicholas Valerio for the VC Fire Patch Award. ***Fire Chief Gonzales***

DISCUSSION (Non-Action) Item(s)

- 6) County Department Update – Detention Center. ***Warden Joe Chavez***
- 7) Commissioners, Committees and Reports.

ACTION ITEM(S)

- 8) Consideration to approve Resolution 2013-_____ Affirming the rights of Natural Persons as distinct from privileges given to government chartered corporate entities. ***Commissioner Eaton and Paul Kinzelman***
- 9) Fact and Finding / Conclusion of Law Decision on a Quasi-Judicial Zone Change from Neighborhood Commercial (C-1) zoning designation to a Community Commercial (C-2) zone designation on the property defined as Land of Marlin C. Frettem; Parcel F; NMPM; Filed in Book 344, page 4552; of the office of the Valencia County Clerk; also 1972 Highway 314, Los Chavez. ***The Broadway Group LLC***
- 10) Consideration of Legislative Amendment to Increase Administrative Fee to be imposed if Property Tax Bill is (\$15.00) fifteen dollars or less. ***Bruce Swingle***
- 11) Consideration to approve the County's Delinquent Tax Payer Policy. ***Bruce Swingle***
- 12) Amend Pet ER Professional Services Contract to raise Contract Dollar Ceiling and Extend. ***Mike Vinyard***

FINANCIAL MATTERS:

13) Approval of Financial/Payroll warrants. *Nick Telles*

14) Consideration to Approve Resolution 2013-_____ accepting Budget Revision. *Nick Telles*

PUBLIC COMMENT:

Please sign up on the sheet located just outside the Commission chambers. The Board will allow each member of the public wishing to address the Board a full and complete opportunity to address the Commission.

EXECUTIVE SESSION:

Pursuant to Section 10-15 1 (H) (2) (5) & (7), the following matters may be discussed in closed session: a. personnel: *Bruce Swingle – personnel; Nanette Sanchez – personnel; Laura Vallejos – personnel* b. pending or threatened litigation; c. real property d. Collective Bargaining: *FOP Contract* specific limited topics that are allowed or authorized under the stated statute.

- ◆ Motion and roll call vote to go into Executive Session for the stated reasons
 - ◆ Board meets in closed session
 - ◆ Motion and vote to go back into regular session
 - ◆ Summary of items discussed in closed session
 - ◆ Motion and roll call vote that matters discussed in closed session were limited to those specified in Motion
- For closure, and that no final action was taken, pursuant to the authority in §10-15-1 NMSA 1978.

NEXT COMMISSION MEETING:

- ◆ **June 12, 2013 – Public Hearing 5:00 P.M.**
Valencia County Commission Chambers 444 Luna Ave. LL, NM

ADJOURN:

If you are an individual with a disability who is in need of a reader, amplifier, qualified sign language interpreter, or any other form of auxiliary aid or service to attend or participate in the hearing or meeting, please contact the Valencia County Manager's Office at the Valencia County Courthouse, Los Lunas, New Mexico, (505) 866-2014 at least one week prior to the meeting or as soon as possible. Public documents, including the agenda and minutes, can be provided in various accessible formats. Please contact the Valencia County Manager's Office at the old Valencia County Courthouse if a summary or other type of accessible format is needed.

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VALENCIA COUNTY BOARD OF COMMISSIONERS

BUSINESS MEETING

MAY 1, 2013

PRESENT	
Charles Eaton, Chairman	
Alicia Aguilar, Vice-Chair	
Lawrence R. Romero, Member	
Donald E. Holliday, Member	
Mary J. Andersen, Member	
Bruce Swingle, County Manager	
Adren Nance & Dave Pato, County Attorneys	
Peggy Carabajal, County Clerk	
Press and Public	

1) The meeting was called to order by Chairman Eaton at 5:00 P.M.

2) Belen City Councilor Wayne Gallegos led the Pledge of Allegiance.

3) Approval of Agenda

Chairman Eaton asked if the Belen Hospital Presentation could be moved to the first item of discussion.

Commissioner Romero moved for approval. Seconded by Commissioner Holliday. Motion carried unanimously.

4) Approval of Minutes: April 10, 2013-Public Hearing

Commissioner Holliday moved for approval. Seconded by Commissioner Aguilar. Motion carried unanimously.

DISCUSSION (Non-Action) ITEM(S):

5) Belen Hospital Update. *City of Belen*

Belen City Councilor Jerah Cordova started off by saying that the City of Belen had filed a complaint of declaratory judgment and injunction regarding the resolution that the Village of Los Lunas recently passed. The City of Belen has found the information in that resolution to be inaccurate with false and misleading information. The resolution cites no sources and makes bold statements without providing evidence. Last month the City of Belen was awarded \$1.1 million to construct ponding along Camino de Llano, that \$1.1 million will be combined with the \$425,000 the city received from our state legislators and Governor to protect Belen, its residents and businesses from Camino de Llano rainwater runoff. On May 13th Belen will break ground on a nearly \$500,000 traffic and pedestrian safety improvement project on Christopher Rd. which will include a roundabout and hospital site access. These improvements show Belen's commitment to access and infrastructure readiness for the Belen Hospital. These commitments also bring Belen's commitment to the hospital and hospital site readiness to nearly 2.5 million.

Commissioner Aguilar asked if Mr. Cordova could give a status update on the JPA. Mr. Cordova replied that it was his understanding that the DFA has responded to both the county and the City of Belen with a number of minor recommendations for amendments and that is pending with the city and the county right now. Commissioner Aguilar stated that she has been doing a lot of research and trying to bring it to a level where we are "comparing apples to apples" she thinks that the JPA taints that because it is getting worked on behind closed doors where the public doesn't know what's going on.

Commissioner Aguilar also brought up a question regarding the Belen hospital budget where it lists a \$13,495,000.00 owner's donation; she wanted to know what exactly does that mean. Mr. Cordova did not have an answer for her but will get back to her on that question. Commissioner Aguilar also asked if the Belen hospital is going to be privately financed so that there will be no financial obligation to the taxpayers. Mr. Cordova read from a letter sent to the county, Stern Brothers is interested in financing the construction of the hospital and will not require the use of Belen or Valencia Counties bonding capacity to finance the hospital. The hospital will be privately financed other than support for

operation maintenance from the mill levy. In addition to Stern Brothers other sources for public and private financing are available. Commissioner Aguilar then asked Mr. Cordova if he could go into detail about the management and the five year plan and licensing with the state. Mr. Cordova said that Ameris conducted a survey of physicians in Valencia County through Albuquerque, which included 60-80 physicians. Out of that survey they received a pretty firm commitment from 40 physicians saying that if there was a hospital at the Belen site they would be happy to practice there. As for the five year plan, as the project moves forward the City of Belen and the provider contractor that is selected will meet all of the requirements with state and federal law. Commissioner Aguilar said she had learned that the provider has to meet with all of the insurance providers because they must have a contract with them so that the patient will be sure to receive quality care. Mr. Cordova replied that Ameris and the City have met with all major insurers in New Mexico including Presbyterian and Lovelace. Commissioner Aguilar also stated that to her some wording in the JPA sounds so minimum especially when the city states that they will have adequate equipment, personnel and procedures, standby power system and a facility for emergency lab work. To her that is a minimum and if you look at the compliance you have to have a lot more than that. Mr. Cordova said that he believes that the section of the JPA that Commissioner Aguilar read from is from a portion that is directly cited from the Hospital Funding Act and that citation is the minimum requirements in order to qualify for the funds of the mill levy through the Hospital Funding Act. The city and Ameris are committed to meeting all requirements on the state and federal levels. Commissioner Aguilar asked about the 13.65 acres that the City of Belen owns for the hospital site and the additional 10 acres that the city talked about purchasing. Mr. Cordova said that Dekker/Perich/Sabatini has indicated that the hospital can be successfully constructed on the 13.65 acres that the city currently owns. The city went out of its way to negotiate with the property owner north of the proposed site for an option on an additional 10 acres, that negotiation took place over a year ago but at this point according to Dekker/Perich/Sabatini that land will not be needed at the time. Chairman Eaton said that he had been looking at the feasibility study and has been trying to obtain up to date information on the insured populous of Valencia County from the different insurance groups. He met with Presbyterian and they gave him what their percentage of the insured populous of Valencia County is and the VA Hospital will get their information to him. Over the weekend Chairman Eaton said he had communicated with the Miller Group and Lovelace and was unable to get any information from Mr. Miller or Lovelace as to what their percentage is. Presbyterian said that they insure 45% of Valencia County and that number will probably increase with the recent changes in Medicaid. Chairman Eaton asked that if the City of Belen has done this research and has this information he would like to have access to it, it would help to validate the information that he is independently gathering. Mr. Cordova said that they have had information related to insurance for Valencia County in the past, but he will have to look through the files to see if they still maintain that information and if so they will pass that information on. Commissioner Aguilar asked if it would be possible to bring the JPA up to discuss and review it. That way we can see how it fits into all this, she would like to see it placed on the agenda for discussion. Mr. Swingle said that it will be placed on an upcoming agenda for discussion purposes.

6) Magistrate Court Update. Judge Tina Garcia

Judge Garcia commented that she has met with Mr. Swingle and the County attorneys regarding the Community Professional Services contract with the county. As she understands it was a temporary contract as of January 2013. There is a Professional Services contract for both Belen and Los Lunas Magistrate Court. The county is paying two individuals to monitor all the community service in the county. These individuals are responsible for finding and assigning jobs to defendants that need to work off their court costs and fines. In the contract Judge Garcia did ask for a \$2.00 salary increase for the two individuals. Attorney Nance stated that the contract was not on the agenda for approval today and where it stands is there is a temporary contract in place and it will be up to the board of County Commissioners whether or not they are going to budget that item in the future, if it is budgeted then it will become a permanent contract, if not then it will expire. Mr. Swingle commented that it is included in the budget with the salary increase but we still have one more layer to scrutinize the budget, that will determine if it

is approved or not. Judge Garcia explained that the community service is for people that need to do some hours to pay court costs and fines. The reason the Commission pays for it and the benefit of it is that it does keep some people out of having to go to jail. We can put them to work with community service. Mr. Sanchez and Mr. York send the individuals through lots of different agencies in the county but probably the most active is the Conejo Transfer Station and picking up trash on the roads. Judge Garcia mentioned that she spoke with Jacobo Martinez about the nuisance program and maybe using these individuals to help out a property owner when they don't have any help to clean their property. Community Service would also like to work with the Road Department to send some of these workers to clean up roads. Judge Garcia would like that department to tell them where the need of the community might be. But the workers would need trash bags to be supplied and someone to pick up the filled bags. We have the people in place to set up someone for trash pickup, we just need to let the department heads know that there is a program like this out there. Commissioner Romero thanked Judge Garcia for her great job in working with Code Enforcement and acknowledged that the Community Service program really does work. Judge Garcia commented that in 2012 there were a total of 548 defendants put through the Community Service Program and which is a total of 10,000 hours per year. She also mentioned that she had met with the Public Works Director and that the director and her assistant will be working on a set of procedures regarding who to contact for certain roads and if the commissioners have constituents that are asking for a certain area of the county to be worked on she will be working on procedure for that as well.

7) Commissioners, Committees and Reports.

Commissioner Aguiler said that herself, Commissioner Holliday and the County Manager had attended a meeting with the Pueblo of Isleta and were just starting the research regarding the property on Amy Road off of La Ladera where the Pueblo had notified us of a possible encroachment. We still don't know if it is or isn't, we are in the process of finding out. Commissioner Aguilar also met with the Core of Engineers and other federal agencies having to do with FEMA and the levys. She has also asked them to come before the commission on June 19th to give a presentation. Commissioner Aguilar said that when she was looking at the maps she noticed the City of Belen is excluded from the flood plain study and the levys, but there are smaller funding projects that the city can apply for and the Core of Engineers and the feds can work with Belen separately because it's already out of this project. She also commented that she feels that trying to get us out of a flood plain is a dialogue between all the entities. Even if the county wanted to do something we couldn't without the owner's consent and the owner is the Middle Rio Grande Conservancy District and the county still needs to meet with them. Jacobo Martinez stated that the Tome-Adelino Agricultural Preservation Citizens Advisory Committee would like to give an update. Peter Lupsha spokesperson for the committee said there has been increase of information to the citizens and the committee is working hard to inform people of the potential historic zoning overlay. There was recently a meeting held where the group organized itself. At the organizational meeting Mr. Lupsha was asked to be the Chairman, Linda Guenley the co-chair, and June Jaramillo the secretary. Mr. Lupsha stated that they have a very diverse core group of people including Andrew Barreras, a developer and former state representative, Tom Greer who has a background in public relations and Dennis Gast, a realtor. Mr. Lupsha also announced that the group meets every Tuesday at 6:30 P.M.

8) Strategic Planning. *Norbert A. Schueller*

Norbert Schueller started off by saying that this proposal is something that he has been thinking about for quite some time and the plan he has proposed is three fold. First build a new administration building on county owned property on the west side of Luna Ave. this property goes almost to the railroad tracks. Secondly move all of county safety, including the Sheriffs, the jail, the fire department, emergency services and dispatch to new buildings to be constructed on state property between the District Courthouse and the Central New Mexico Correctional Facility. Thirdly establish a strategic planning committee to implement this proposal. The current administration building is a death trap not only for employees but also for the public as well; it is a litigation disaster waiting to happen. This county has some very talented employees that serve the county well and they deserve better working conditions. The jail is a major expense problem and has overcrowding issues and is also another litigation disaster. Mr. Schueller acknowledges

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that this is an ambitious plan, for example on the ICIP the county proposed funding for a new administration building in 2016 but this plan calls for funding of the administration building in 2014, construction in 2015 and occupancy in 2016. Which is indeed an ambitious schedule. Financing will be difficult but obtainable with hard work, it will be hard work for all involved but we must remember that every good thing requires hard work. He reminded the elected officials that they won in just one way, they convinced the voters to vote for them. In the same way the Commission can convince the voters to approve the financing of this plan. Commissioner Andersen personally thanked Mr. Schuller because she knows that his proposal took a lot of time and work and from someone that is only a spectator and not a paid member of the staff. Chairman Eaton also thanked Mr. Schueller for the time that he placed into the proposal, he knows that a lot of research was involved and the proposal was very well thought out and should definitely be considered.

ACTION ITEM(S):

9) Consideration of Proclamation establishing May as "Older Americans Month" in Valencia County. *Nick Telles/Jose Campos*

Jose Campos recognized Frances Gabaldon, a recently retired employee from the Older Americans Program, Ms. Gabaldon has been with the county for 30 years. Lillie McNabb read the proclamation establishing May as Older Americans Month in Valencia County. Nan Ziegler with the Business Women of Valencia County said that during the month of May they will be collecting donations to put together gift baskets for the seniors of Valencia County. Last year they were able to put together 304 baskets for distribution. Commissioner Aguilar moved for approval. Seconded by Commissioner Andersen. Motion carried unanimously.

10) Consideration to award contracts for Fire Department: Water Tank, Pump Trailer and Re-Fit of 2 Water Tankers. *Michal Vinyard*

Commissioner Andersen read the amounts of the awarded contracts and who the vendor was for each of the three contracts. The contract for the pump trailer was awarded to Monarch Equipment of Belen for the amount of \$67,149.00. The water storage tank was awarded to Spec-All Products out of Austin, TX for the amount of \$42,000. The refit of the two water tankers was awarded to Metalmorphosis Technologies of Bosque Farms in the amount of \$73,748.25. Commissioner Andersen commended the Procurement department on their great work and she really liked seeing local business being used for the contracts.

Commissioner Andersen moved for approval of all three contracts. Seconded by Commissioner Romero. Motion carried unanimously.

11) Consideration to approve "green" purchasing policy. *Michael Vinyard*

Mr. Vinyard stated that one of the reasons he was hired around 1 ½ years ago was to improve the practices of the Procurement Department, to move the department forward towards the future and to adopt more modern practices. With the "green" purchasing policy the Procurement department and the Environmental department would work together and be jointly responsible to make sure things are done right. Commissioner Aguilar stated that she thinks back to when the 13th Judicial District tried to go "green" it cost the county over \$500,000 in order to implement it. She's not sure that at this time as small as the county is that we should be imposing this on our vendors. She doesn't think that the people have a full understanding of what "green" is. Mr. Vinyard said that he had drafted this policy with that concern in mind and it is carefully worded so that we are encouraged to move in the "green" direction but it is not a mandate to. Mr. Swingle commented that what the policy is saying is that Valencia County is aware of the environment and that is aware of the impact that certain products or chemicals have on the environment. All things being considered the county will go with the "green" product when we can. Mr. Swingle continued with that he thinks it is more about a philosophy rather than a policy directing the counties actions. Commissioner Aguilar stated that she is not disagreeing with the Procurement department it's just that she is bothered by making things effective immediately without giving the public the opportunity to be made

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aware and to provide input. Chairman Eaton agreed that the application and the intent is proper but his concern was that he has heard from several departments that sometimes their purchasing is delayed for many factors and he's afraid that this policy might just delay the process further by adding another layer of processing to the purchase requisition. He would hate to see some of these departments that are in critical need of their supplies further delayed.

Commissioner Andersen moved for approval. Seconded by Commissioner Holliday. Motion failed 3-2. Commissioner Romero, Commissioner Aguilar and Chairman Eaton voted no.

12) Consideration of approval to revise Purchasing Policy, Raise Small Purchase Limits for Efficiency and Cost Savings. *Michael Vinyard*

Mr. Vinyard proposed the following changes, purchases in the amounts of \$0-\$10,000 would be discretionary and \$10,000-\$20,000 would require three written quotes. Also the small purchase limit for professional services would be raised to \$50,000. Mr. Vinyard made it clear that there will still be oversight; every purchase request will still go through the Purchasing Department. What we will see will be a change in the amount of paper work that is required.

Commissioner Aguilar moved for approval. Seconded by Commissioner Holliday. Motion carried unanimously.

FINANCIAL MATTERS:

13) Consideration to approve Resolution 2013-21 accepting Budget Revisions. *Nick Telles*

Commissioner Holliday moved for approval. Seconded by Commissioner Andersen. Motion carried unanimously.

County Clerk Peggy Carabajal announced Resolution 2013-21.

14) Approval of Financial/Payroll Warrants. *Nick Telles*

Commissioner Andersen moved for approval. Seconded by Commissioner Aguilar. Motion carried unanimously.

Commissioner Aguilar thanked Mr. Telles for all that he and his staff did during the budget workshop; they were very informative and helpful. Mr. Swingle commented that the Commissioners spent two days with staff dealing with budget requests. Ultimately, the Commission received \$1.8 million worth of requests over what the county has in revenue. They diligently went through the process of evaluating the budget and directed staff to look at a few more issues and ultimately they'll have a budget with some recommendations for the budget workshop on May 8th. The final budget will be up for approval at the May 15th Commission meeting.

PUBLIC COMMENT:

Clara Rehr- Around ten years ago I was on the first hospital committee. Back then we went around to Presbyterian, Lovelace and St. Josephs and none of them were interested in building a hospital in Valencia County, but we didn't have the mill levy then either. The site we had chosen is where the new courthouse is, that would be the site for greatest access for all residents. I think it's a mistake to build the hospital in Belen, I'm afraid it will not succeed there.

Ms. Gleason- I have commercial dumpsters with Waste Management and have done business with them for 35 years and have had no problem with their service, but in the last 2 months the charges per dumpster have gone up. Whenever I question them about this they say it's the Commissions fault because of the contract you have with them. But if the contract is not legally in effect how can they charge the business? I also thought the contract was for residential in the unincorporated areas not for commercial. Attorney Pato commented that that the contract does not relate to or have an impact on commercial services, he also recommends that Ms. Gleason get in contact with Ms. Schnell the county's Environmental Coordinator to get a list of haulers for commercial services.

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Clark Metcafe- Very interested to hear that FEMA doesn't consider Belen a flood risk even though Belen is still going to go ahead with its retention pond. He is also interested in the case where we have one governing body suing another governing body on a free speech issue. I suggest we keep an eye on how the judge decides to rule on that case.

Earl Gleason- Very concerned about the trash issue and illegal dumping going on in Valencia County especially around El Cerro Mission and the surrounding area.

Mike Wood- Would like to commend the commission for pulling together and working together, in previous commissions there were a lot of 3-2 votes, but now there are many 5-0 votes. He appreciates the attitude of teamwork. Also finds it interesting that the property that is the proposed site for the Belen hospital was purchased for flood control. He also hopes that the Commissioners do a good job of looking into and researching Ameris.

Mary Wood- Asked why the Commission cares about the JPA, why don't they just terminate it. Why does the Commission care about it unless this hospital is to be a county hospital that will eventually cost the taxpayers lots of money. Level the field let the Belen and Los Lunas projects move ahead on their own. The longer the Commission takes to free up the mill levy from being committed, the more the people believe there is something going on in the back alley.

Sue Moran- Councilor Cordova had mentioned a board to oversee the proposed hospital in Belen; I want to know how that board will be made up. I also think that the Commission has the power to make it happen that the proposed hospitals accept every insurance carrier. Also would the mortgage holder require either of the hospitals to obtain flood insurance.

NEXT COMMISSION MEETING:

Budget Workshop- May 8, 2013 1:00-4:00 P.M.

The next Regular Meeting of the Valencia County Board of County Commission will be held on May 8, 2013. Meeting in the County Commission Room at the Valencia County Courthouse.

15) Adjournment

Commissioner Andersen moved for adjournment. Seconded by Commissioner Aguilar. Motion carried unanimously. **TIME: 7:32 P.M.**

NOTE: All proposals, documents, items, etc., pertaining to items on the agenda of the May 1, 2013 Business Meeting (presented to the Board of County Commissioners) are attached in consecutive order as stated in these minutes.

VALENCIA COUNTY BOARD OF COMMISSIONERS

CHARLES EATON, CHAIR

ALICIA AGUILAR, VICE-CHAIR

LAWRENCE R. ROMERO, MEMBER

DONALD E. HOLLIDAY, MEMBER

MARY J. ANDERSEN, MEMBER

ATTEST:

PEGGY CARABAJAL, COUNTY CLERK

DATE

VALENCIA COUNTY BOARD OF COMMISSIONERS

PUBLIC HEARING MEETING

MAY 8, 2013

PRESENT	
Charles Eaton, Chairman	
Alicia Aguilar, Vice-Chair	
Lawrence R. Romero, Member	
Donald E. Holliday, Member	
Mary J. Andersen, Member	
Bruce Swingle, County Manager	
Adren Nance & Dave Pato, County Attorneys	
Peggy Carabajal, County Clerk	
Press and Public	

- 1) The meeting was called to order by Chairman Eaton at 5:00 P.M.
- 2) Mr. Jacobo Martinez led the Pledge of Allegiance.
- 3) Approval of Agenda
Commissioner Romero motioned for approval. Seconded by Commissioner Holliday. Motion carried unanimously.

EMERGENCY ACTION ITEM

- 4) Consideration to approve the Emergency Burn Restriction Ordinance 2013-03.
Steven Gonzales

Commissioner Andersen motioned for approval of the Ordinance with the deletion of the next to last paragraph on the last page. Seconded by Commissioner Aguilar. Motion carried unanimously.

County Clerk Peggy Carabajal announced Ordinance 2013-03.

SWEARING IN OF PARTICIPANTS

County Clerk Peggy Carabajal administered the oath to those individuals wishing to give testimony at tonight's meeting.

- 5) Consideration for a Zone Change from Neighborhood Commercial (C-1) zoning designation to a Community Commercial (C-2) zoning designation. "Land of Marlin C. Frettem; Parcel F; NMPM; Zoned RR-2; Filed in Book 344, Page 4552; Office of the Valencia County Clerk; also known as 1972 Highway 314, Los Chavez.
Jacob Martinez read the findings from the Planning and Zoning Commission.
Kathryn Davis started off by saying that she represents the applicant, The Broadway Group. With her at tonight's meeting are members of the Broadway Group Bob Broadway, Brittney Whitley, Bernadette Barron, Alisha Cole and also Marlin Frettem owner of the property. Broadway Group is requesting a zone map amendment from C-1 to C-2. On April 29th a neighborhood meeting was held with 20 people in attendance. At the meeting there was people for and people against the change so no consensus was reached. Ms. Davis also commented that she had sent a letter dated April 19th to the county attorneys. This letter expressed the Broadway Group's concern over a recent article in the Valencia County News-Bulletin titled "Tome Residents Say No To Dollar Stores" the group was concerned that two commissioners, Chairman Eaton and Commissioner Aguilar, attended the meeting. The Broadway Group had asked if they could attend the meeting, they were told no, they could not. Under New Mexico case law it appears to be ex parte communication by Commissioners who are acting in a quasi-judicial capacity. The Broadway Group has asked that those two commissioners recuse themselves from voting on this matter. Ms. Davis asked that this matter be taken care of before the presentation begins. Commissioner Aguilar asked Ms. Davis if her facts were based solely on the News-Bulletin article. Ms. Davis replied that yes they were because the Broadway Group was not allowed to attend the meeting.

Commissioner Aguilar- I will take your request into consideration.

Chairman Eaton- I will reserve judgment at this time and continue to participate.

Ms. Davis- The property in question is zoned C-1 and retail stores not exceeding 5,000 square feet are permitted in a C-1 zone. This zone also allows restaurants with liquor sales, flea markets, and also car repair garages. We are requesting C-2 because the store will be 9,000 square feet. 7,000 square feet will be the actual retail space while the remaining 2,000 square feet will be used for offices, restroom and storage. Section 154.061 of the zoning code provides that the zone map be authorized provided that the following conditions are met.

1. The proposed change is consistent with the goals, policies and other provisions of the comprehensive plan.
2. The proposed change is appropriate considering the surrounding land uses and availability of utilities and services.
3. The proposed change enhances the counties protection of the public's health, safety and welfare of the county.

Ms. Davis- The item I am going to address first is #2. On the zone map you can see next to the subject property and across the street there is property zoned C-2. Along Hwy 314 there is a corridor of commercial property. The next item is #1, on page 20 of the comprehensive plan under Los Chavez it states that Los Chavez has significant highway commercial development scattered along NM 314. For example there is a Sears Retail store, John Deere dealer, and Cattleman's Livestock Auction and several other local businesses. These businesses provide local job opportunities. Based on the plans and the zone map provided the proposed zone change is appropriate considering the surrounding land uses. There are other interesting items in the comprehensive plan about Los Chavez, on page 31 about it being an unincorporated area that is fast growing. On page 32 it says Los Chavez has the largest population of the unincorporated communities. Page 69 talks about future development patterns and activity. This area is a concentrated area of commercial property. So whether it starts with our store or other stores or commercial businesses that are going to come in that area will be commercial, as it has been zoned. Mr. Martinez mentioned the reasons that the Planning and Zoning Commission had determined that the proposed use would substantially alter the character of the surrounding area was one of their statements. We would argue that it does not substantially alter the character because it is commercial in a commercial area. There are several goals in the comprehensive plan that support this project. Goal A says "Guide development in a manner that balances the pattern of urban development with the rural character and natural resources of the county." If this application were seeking to change the zone map amendment from rural residential to commercial we wouldn't be able to meet Goal A, but this particular instance we are asking for C-2 in an area that is predominantly commercial. The Planning and Zoning Commission cites Goal B which states "Protect and enhance the distinctive identities of the unincorporated communities and sub regions within the county." They say our plan violates that; I would counter that and say our proposal actually supports Goal B because there is a distinctive identity of commercial property zoned right along NM 314. Goal C actually supports this it says "Identify locations and citing criteria for county activity centers to accommodate intensive commercial and industrial activity clusters and other special use developments." This hasn't officially been designated as an activity center but basically the purpose of that goal is to try to keep the rural areas and the commercial areas developing in commercial areas and that's what this plan does. Objective G was cited by the Planning and Zoning Commission as not supporting the zone map amendment. I would propose that Goal G does actually support this zone map amendment because Goal G says "Accommodate the efficient movement of people and goods through the county by maintaining a road network of sufficient capacity to meet local and regional circulation needs." This site will have access on and off Hwy 314. They also cite Goal H "Preserve the integrity and quality of life in residential neighborhoods and county communities through proper transportation planning." This site is located along a strip of commercial, so that does preserve the quality and integrity of the residential neighborhood because you're isolating the commercial to a certain area and the others are residential. Goal J supports this zone map amendment, this particular site doesn't have public utilities, it will have a well and a septic. Goal P also supports this plan, this plan will bring in local jobs,

and approximately 8-10 people will be employed. It will also bring in gross receipts revenue and provides retail services. The Planning and Zoning Commission stated that our amendment was not supported by Goal S which is "Preserve and enhance features, structures, and places that are historically and culturally significant in the county." But there is no factual finding that actually states why they felt that this particular area was historically or culturally significant so that a commercial project could not be out on this particular piece of property, which is already zoned commercial. There isn't anything that came out of the recommendations. They cite Goal T "Protect the scenic resources and unique visual elements of the county." There isn't anything to say what particular unique visual elements that are located there. We believe this proposed zone map amendment fits the comprehensive plan. Look at the aerial photo regarding nearby traffic generators there is an Allsup's store, Dennis Chavez Elementary, a Sears and a John Deere store. There is also a chili store and U-haul truck rental along with Toby's Doors. On the aerial site photo it shows full access on the side road median and a private drive that will be improved to allow for access. Looking at the site plan photo it shows the proposed deceleration lane on Hwy 314. A traffic plan has been submitted to the New Mexico Department of Transportation and up to this point they have given some comments but have not completely commented on it and that is really more in the site plan approval portion if this zone map amendment is approved. Dollar General will comply with all of the provisions that are required by the County for the site approval process. Dollar General has a variety of different facades. The first is a typical Dollar General store with tan split faced siding with the sign across the top. Second there is siding at the top and also at the bottom and the third is a solid front with different roof edges instead of it being straight. The Commission could make one of the facades a condition of the approval or it could happen through the site plan approval process. The applicant is quite willing to work with the county to determine what will fit in best. The proposed landscape plan will include 30 parking spaces and it will be xeriscaped. Dollar General leases the site from the applicant but Dollar General provides the maintenance and the landscaping. Some people have expressed concern over drug deals, graffiti, and trash but the goal of the Dollar General is to have people come into their store and the way is to have a very inviting site that is kept neat and clean with no vagrants roaming around. The Dollar General lighting plan will include a subdued lighting facing downward, so as not to shine into other people's property. Lee Engineering also did a traffic analysis, the average daily trip for NM 314 is 8,650 vehicles in both directions. With that the traffic engineer made some recommendations such as a deceleration lane and improvement of the private driveway and that is what the NMDOT has to review and determine if this is enough or do we need to do more. They determined that there was no need for a traffic signal control. Brittney Whitley sent an email to the NMDOT asking if they had any comments on what they had seen so far, NMDOT stated that based on the information provided and the proximity to NM 314 the state sees the need to obtain a driveway permit for this development, which was anticipated and will be obtained. Based on these items that have occurred this site is consistent with the goals, policies and other provisions of the comprehensive plan. The proposed change is appropriate considering the surrounding land uses and the proposed change enhances the county's protection of the public health, safety and welfare of Valencia County because it's located on a roadway and it can be made safe so that access can occur, it's going to be a nice development along 314. It will provide needed retail services and jobs and revenues to the county.

Commissioner Andersen- When would you anticipate the full NMDOT reply?

Ms. Davis- We don't have a definite answer.

Commissioner Aguilar- The access is going to be the dirt road, which is shown with a gate marked private drive?

Ms. Davis- Yes, that is going to be expanded and improved.

Commissioner Aguilar- Is this area defined as an agricultural preservation district?

Mr. Martinez- We have no defined boundaries of this being an agricultural district.

Minutes of May 8, 2013 Public Hearing Meeting

Commissioner Aguilar- Is this considered a flood plain area?

Mr. Martinez- Yes, it is considered in a flood plain area. When they get their building permit they will have to get their flood elevation certificate and make sure it passes flood plain laws.

Commissioner Aguilar- My concern on this is that it is commercial and right behind is residential, and that were thinking ahead and there not contributing to flooding on the adjoining properties.

Mr. Martinez- During the site development plan we do require a grading and drainage plan in which they have to collect all drainage on site so that it does not flow into other properties.

Commissioner Holliday- Looking at the zone map its shows that the private drive will be protruding into the other property, are we going to have to make that a zone change or is it already changed?

Ms. Davis- The zone map shows that this property to the south is already zoned C-1 so there would be no need for a zone change for that particular piece of property.

Commissioner Holliday- Parcel F the 2.0945 acres that's part of your property, what are you planning to do with that. There is no access in or out is it going to be landlocked?

Ms. Davis- It is landlocked, we can't really do anything with it except landscape it because it is landlocked.

Commissioner Aguilar- To the attorneys, if the county gives its approval it will be land locking a piece of property.

Mr. Pato- I believe that this piece of property would already be landlocked, is that right
Ms. Davis?

Ms. Davis- Yes, that is part of the piece that we are purchasing together. Our site is going to go on the piece that is immediately to the south of that. That entire parcel is part of the zone map amendment, it is currently C-1 and the back part will be landlocked. The total acreage of the property is 2.0945 acres.

Chairman Eaton- What is the width of the road coming off Hwy 314 into the parking lot of the proposed site.

Ms. Davis- It's probably 12 feet right now but it's going to be widened to 24 feet.

Commissioner Aguilar- Will that 24 feet be wide enough for the public going in and out?

Mr. Pato- It will be up to NMDOT will review whether or not the 24 foot wide access is sufficient.

Commissioner Aguilar- Right now I'm talking about property that is not part of the highway department, its private. Within a subdivision we require a 40 foot easement. And now were dealing with 24 when they're going to be turning into a store and coming out.

Commissioner Holliday- I believe the map is showing that it is currently at 35 feet, so there only off by 5 feet.

Attorney Pato- In section 94.012 under General Planning it states that the local minimum road standards require a 50 foot minimum right of way.

Commissioner Aguilar- For confirmation, we have a re-plat which shows the road, it's not the same width as for what they are needing for commercial C-2. Do we need a re-plat of a replant to change that road?

Attorney Pato- I believe that we would need a re-plat of a re-plat if the access indicated is going to change.

Chairman Eaton- The concern I had is that this is the only access to the facility and if the fire department had any input or if the IFC had any requirements for this facility.

Ms. Davis- The submittal that was signed by the fire marshal states "This site appears to be ok, we will need this company to contact our office for any site and plans review." I would like to state that for purposes of the zone map amendment we have complied with the three criteria and a lot of these questions, which are very good questions, are part of the site approval process.

Chairman Eaton- Anybody within 100 feet of the zone change and who is being affected by the zone change please come forth.

Los Chavez resident Mr. Herrera- Regarding the gross receipts tax this store will not bring in any outside money. It's just going to take business from other stores such as the Allsup's and Wal-Mart. I thought this was a package proposal including Tome and Los Chavez, if it was rejected then why is this being considered?

Chairman Eaton- The packages were two different zone change applications.

Los Chavez resident Linda Herrera, who lives at 19715 Hwy 314- I live directly across the street from the site. My concern is the turn lane and the median. Also if they take property from the south side of the road there is a concrete irrigation ditch there.

Commissioner Holliday- Ms. Herrera do you know where that concrete ditch goes?

Ms. Herrera- It dead ends there at 314 to the best of my knowledge.

Los Chavez resident Richard Herrera, who lives at 19715 Hwy 314- My concern is the building that is behind the piece of property that is landlocked used to be an old service station and that land is probably contaminated. How much of that is going to get stirred up and distributed through the area when they start digging this property up. It's possible that some of the surrounding wells may get contaminated. They're going to do a declaration lane on the southbound lane but on the northbound there is only a 20 foot wide median that is now barely wide enough for a large pick up but they're going to have large semis pulling in and out to stock the store. Also because it is a public parking lot and public property people will be parking there to sell drugs and there will also be a lot more trash generated from there.

Valencia County resident Teresa Smith de Cherif, who lives at 346 South El Cerro Loop- A reference was made about the April 29th neighborhood meeting of about 20 people. What neighborhood, how is that being defined? The comprehensive plan that Ms. Davis cited tonight notes that Los Chavez has the most population of any of our unincorporated areas in the county. So the definition of neighborhood is really at the heart of the matter here. Adequate notice is absolutely essential, there are 2 neighborhood associations in Los Chavez and I would like to ask whether they were notified or not. I don't think adequate notice was provided to either one of them. I think in its quasi-judicial capacity this commission has the authority to send this matter back to a real neighborhood association meeting for adequate notice to be given. In regards to the Broadway Group being denied access to the Tome meeting, I don't think we are real clear on who gave the denial. And I was not aware that the very talented reporter for the Valencia News-Bulletin, Ms. Julia Dendinger, is now providing official records for this commission. As far as I know newspaper accounts are not official records. Also the commission is well aware of issues that can ensue if they overturn a well-studied decision of its own Planning and Zoning commission.

Los Chavez resident Diana Dow- On the March 27th Planning and Zoning agenda there was a request for the zone change from C-1 to C-2 by the Broadway Group with the legal description. However for tonight's meeting it is listed as proposed change from C-1 to C-2 but they also mention parcel F, NMPM zoned RR-2. Where did this RR-2 come from because it was not mention on the Planning and Zoning meeting agenda or the minutes from that meeting.

Los Chavez resident Raymond Baca- I have seen a lot of growth along 314 with different types of businesses. I feel that we cannot stop growth, the economy is already hurting. If it puts 8 people to work, hey it's 8 people working. Drugs how can you stop them, you can't control them; even the police can't control them. I think the store will be convenient and I think it's a good location. And to me traffic is already there, I don't see any problem.

Ms. Davis- It was Rita Padilla-Gutierrez that told my clients that they were not allowed to come to the meeting. And in regards to the notice regarding the neighborhood meeting we suggested doing a neighborhood meeting and Mr. Martinez said he would advise people in a certain area, so I don't know who he advised or didn't advise. I would also like to comment about there being drug deals in the parking lot, it is a store open to the public but you can tell people they are not allowed to be at your establishment. So if anyone is sitting there just dealing drugs they can be asked to leave or the police can be called. Also my clients have no evidence of any environmental contamination that has occurred on that property but if there is any they will clean it up. As to the zoned RR-2 legal description that is not a document that was prepared by us, it must be a typo.

Chairman Eaton called for a five minute break.

PUBLIC COMMENT:

Meadow Lake resident Bob Gostischa- We are in favor of having a Dollar General and for some reason our site is never coming up, we are still waiting for a store to come up there. If some of these other communities don't want them that's their problem, but we do.

NEXT COMMISSION MEETING:

The next Regular Business Meeting of the Valencia County Board of County Commissioners will be held on May 15, 2013 at 5:00 P.M. Meeting in the County Commission Room at the Valencia County Courthouse.

6) Adjournment

Commissioner Romero moved for adjournment. Seconded by Commissioner Holliday. Motion carried unanimously. **TIME: 6:48 P.M.**

<p>NOTE: All proposals, documents, items, etc., pertaining to items on the agenda of the May 8, 2013 Public Hearing Meeting (presented to the Board of County Commissioners) are attached in consecutive order as stated in these minutes.</p>

VALENCIA COUNTY BOARD OF COMMISSIONERS

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| _____ |
| CHARLES EATON, CHAIR |
| _____ |
| ALICIA AGUILAR, VICE-CHAIR |
| _____ |
| LAWRENCE R. ROMERO, MEMBER |
| _____ |
| DONALD E. HOLLIDAY, MEMBER |
| _____ |
| MARY J. ANDERSEN, MEMBER |

ATTEST:

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| _____ |
| PEGGY CARABAJAL, COUNTY CLERK |
| _____ |
| DATE |

VALENCIA COUNTY BOARD OF COMMISSIONERS

BUSINESS MEETING

MAY 15, 2013

PRESENT	ABSENT
Charles Eaton, Chairman	
Alicia Aguilar, Vice-Chair	
Lawrence R. Romero, Member	
	Donald E. Holliday, Member
Mary J. Andersen, Member	
Bruce Swingle, County Manager	
Adren Nance & Dave Pato, County Attorneys	
Peggy Carabajal, County Clerk	
Press and Public	

1) The meeting was called to order by Chairman Eaton at 5:04 P.M.

2) Los Lunas Mayor Robert Vialpando led the Pledge of Allegiance.

3) Approval of Agenda

Chairman Eaton asked to move the Canvass of the election to the first item of business and delete #11 from the agenda.

Commissioner Romero moved for approval. Seconded by Commissioner Andersen. Motion carried unanimously.

4) Approval of Minutes: April 17, 2013-Business Meeting

Commissioner Aguilar moved for approval. Seconded by Commissioner Romero. Motion carried unanimously.

ACTION ITEM(S):

5) Canvass of Rio Communities Election of Officers. *Peggy Carabajal*

This canvass is for the newly elected officials of the newly incorporated City of Rio Communities. The election was held May 14, 2013. All in all it was a long and productive day. County Clerk Peggy Carabajal thanked Chief Deputy Aurora Chavez, Bureau of Elections staff Edwin Tucson and Carlos Aragon and BOE Administrator Heidi Gallegos. She also thanked County Attorney Adren Nance, for the timeline calendar that he prepared and that was followed during the course of this election, Project manager Mark Gwinn and Clarke Metcalf acting clerk. Attorney Nance stated that this is an interesting procedure as the Board of County Commissioners is sitting as the Municipal Board, since the city currently does not have one. The board will sit as the canvassing board to affirm the seats for Municipal Judge, Mayor and board members. There are four board members and their terms have to be staggered. The elected officials will draw by lot to determine which two of them will get to serve for the next two years and which ones will get a four year term. BOE Administrator Heidi Gallegos said there is a total of 3,348 registered voters in Rio Communities. 878 voted at the polling location. 65 voted absentee in-person. 104 voted absentee by mail. The total amount of votes was 1,047. The election results are as follows:

Mayor

Mark Gwinn- 638 votes

City Council

Cynthia Sluder-656 votes

Mary Lee Serna-580 votes

Frank Stasi-571 votes

Kaylon Northcutt-507 votes

Municipal Judge

Heather Benevidez- 600 votes

Commissioner Aguilar moved for approval of the canvass. Seconded by Commissioner Andersen. Motion carried unanimously.

The elected officials then drew lots to determine their term of service. Ms. Sluder and Mr. Stasi both drew 2 years. Ms. Serna and Mr. Northcutt drew 4 years. The Mayor and Municipal Judge will have 4 year terms as well.

PRESENTATION(S)**6) Hospital Update/Village of Los Lunas. *Village Officials***

Los Lunas Mayor Robert Vialpando announced that the Miller Group and the Village of Los Lunas are going forward with the plans to construct a hospital, known as the Valencia Regional Medical Center, in Los Lunas. Construction should begin in summer of 2014 with the facility opening in winter of 2015. They plan on opening the hospital with or without the funds from the mill levy. Without the mill levy funds the hospital will be a smaller scale hospital and many services will be reduced or not included. If the mill levy funds were issued to the Los Lunas project a full scale state of the art hospital could be built, which could offer a variety of services to the community. The VRMC is a privately funded hospital that will be partnering with Lovelace Health Systems. The hospital will provide the community with construction jobs and many other long term jobs.

Commissioner Aguilar said that the hospital is an issue that is dividing the county which is very unfortunate. And that when talking about the hospital she thinks it's the commission's responsibility to unite and bring the community together behind one project that benefits everyone. She also went on to say that she has done a lot of research and has done her own comparisons and believes that in moving forward Los Lunas is privately funded for the construction of the hospital, it very clearly does not obligate the taxpayers. Commissioner Aguilar thanked Los Lunas for coming forth with their presentation. Commissioner Andersen also thanked Los Lunas for their presentation and also thanked them and Mr. Martin for the answers to the questions that had been submitted, she stated that she will look at them in depth and her decision will be based on the answers from Los Lunas and Belen.

DISCUSSION (NON-ACTION) ITEM(S):**7) JPA between City of Belen and Valencia County. *Commissioner Aguilar***

Commissioner Aguilar started off by saying that the JPA was developed and signed last year, but things have changed. She doesn't feel that that the JPA is valid. Attorney Nance answered that the status of the JPA is that it was approved last year in September by both governing bodies, pursuant to the Joint Powers Agreement Act. It has to be approved by the Department of Finance and Administration, so when it was approved by the governing bodies it was sent to DFA. DFA did a review of the JPA and they had legal issues regarding the JPA. Belen's attorney answered most of those questions; at that point there was a conference call with the DFA where DFA said they would like to see these specific changes. They set forth a number of specific changes and those were incorporated into the JPA. The JPA was then sent back to DFA they had a few more suggested changes and that was sent back last month. According to the Joint Powers Agreement Act no JPA is valid until it is approved by DFA; therefore currently at this time between the City of Belen and Valencia County no legal binding agreement exists. If this commission wishes to enter into the JPA what will have to happen is that this board will have to approve the latest version that came back in April from DFA, at a regular meeting where it's on the agenda for an action item. The City of Belen would also have to do that as well. If it is approved by DFA then you will have a binding agreement. If none of these actions are taken i.e. that you don't approve it or Belen doesn't approve it or if the DFA does not approve it then there is still no binding agreement. With that said DFA has indicated that with their last revisions they will approve the document. They have indicated that but are not bound or obligated to do so. Even though the commission signed a version of this back in September DFA sent back material changes that alter obligations under the JPA therefore, it does have to be re-approved by the governing bodies. There is no agreement in effect with us and the City of Belen currently. Commissioner Aguilar stated that in all fairness and trying to compare the two projects the JPA is obsolete and it is questionable. She also went on to say that she would like to see the commission acknowledge that the JPA is not valid and to move forward with what is available with Los Lunas and Belen and arrive at the best decision. Commissioner Andersen commented that she believes that this whole time there has been a misunderstanding. The county is not building a hospital, Los Lunas has their private financing in place and Belen has Ameris. The counties only responsibility is to make certain that the \$20 million is properly spent. That it is not spent to equip a hospital or to build a hospital. It should only be spent to help take care of people when they need medical assistance. She also went on to state that the JPA is a totally invalid document, the commission's responsibility is to issue a contract to whichever community they decide is the proper place to put the money. And to issue the contract with all the stipulations that say the hospital is not going to get the \$20 million in a lump sum, how we're going to distribute it and how it's going to be used. According to Commissioner Andersen the JPA is null and void and not worth discussing. Commissioner Aguilar commented that it's still out there and if it's not worth discussing then maybe the commission should have some consensus that it isn't and not go forth with it. It is an issue that is dividing both the county and the commission, so if we are to move forward and we

have two entities then let's look at both of them without the JPA. Let's bring some trust, honesty, and transparency and get behind one of the projects. Chairman Eaton said that the JPA was a document that had been approved before he came on board and he had some reservations regarding it. And as far as he is concerned when he's reviewing the two different projects he's not taking into consideration the JPA. He is considering the facts that have been presented to him since he's been a commissioner. And unless the City of Belen comes to the board with a recently approved document we have a non binding agreement. And when the board makes a decision on the two projects it will be based on the two proposals that have been presented. Commissioner Andersen would welcome the trust and transparency by everyone involved with the two projects. She suggested that the commissioners have the lawyer's draft what would become a contract between the county and whichever community the commissioners finally decide on. And that the lawyers start putting together that document so that the commissioners can start discussing the terms they want included in the document. Commissioner Aguilar agreed and said that that the commission should move forward in a positive manner.

8) Commissioners, Committees and Reports.

Commissioner Aguilar said that she would like to see the engineer and architect come to a public meeting and discuss what is going on with the Jail and the improvements on it. She has concerns that with such a tight budget we are going to run into expenses that have not yet been identified. She mentioned that she had talked to Hoss Foster and that he had mentioned to her that no one had come to him as of yet to talk about the elevation of the facility; and that is an expense that is not in the contract. Mr. Swingle said that they will schedule them for a presentation at an upcoming meeting.

Board of County Commissioners convenes as Indigent Claims Board

Commissioner Aguilar moved to convene as Indigent Claims Board. Seconded by Commissioner Romero. Motioned carried unanimously.

9) Consideration of Indigent Report. 1 report with 81 claims and 1 appeal. *Barbara Baker/Dan Zolnier*

Ms. Baker presented the Indigent Report from April 5th – May 3rd, 2013 and asked for approval in the amount of \$66,442.22

Commissioner Aguilar moved for approval. Seconded by Commissioner Andersen. Motion carried unanimously.

Ms. Baker presented an Indigent Appeal for Bernice Stout in the amount of \$924.00 to be paid to UNM Health Science Center.

Commissioner Aguilar moved for approval. Seconded by Commissioner Romero. Motion carried unanimously.

Board re-convenes as Board of County Commissioners

Commissioner Aguilar moved to re-convene as BOCC. Seconded by Commissioner Romero. Motion carried unanimously.

ACTION ITEM(S)

10) Consideration to approve Executive Board Members for Valencia County Juvenile Justice Program. *Cynthia Ferrari*

Ms. Ferrari went over the names of the board members for approval.

Commissioner Aguilar moved for approval. Seconded by Commissioner Romero. Motion carried unanimously.

11) Consideration for approval to submit an application for funding under the 2013 COPS Hiring Program. *Sheriff Burkhard* Item tabled

FINANCIAL MATTERS:

12) Consideration of Resolution 2013-22 Approving the Preliminary Budget for Fiscal Year 2014. *Nick Telles*

Mr. Telles said that in the budget review the commission was challenged with making up a \$1.8 million deficit that was in respect to requests from the departments. He also stated that in the General Fund the ending cash balance came out higher then what was anticipated with the original revenues that were projected back in March. They were based off of actual collections at that time, so with the information we had in March we were able to create an average of what was received by the county at that point in time, so we basically had to develop a budget based off of property taxes around \$8.36 million. Finance has worked with the Assessor's office and they are currently using their new

Minutes of May 15, 2013 Business Meeting

software for assessments. We are going back to last year and estimating property taxes off of the certified valuations that DFA approved last year. Commissioner Andersen asked how comfortable Mr. Telles was with the \$1 million it shows as the ending balance. Mr. Telles replied that he is partial to a bit more conservative estimate. He would like to err on the side of caution and closely monitor the budget for the next few months. Commissioner Andersen moved for approval. Seconded by Chairman Eaton. Motion carried unanimously.

County Clerk Peggy Carabajal announced Resolution 2013-22.

Commissioner Aguilar brought up the fact that there are many properties on the East Mesa with a \$5 minimum tax. And that it costs the county much more than that to process and mail out the tax bills. Maybe there is a way to turn it around so it's not such a deficit to the county. Attorney Nance said that the \$5 minimum was put in place by the legislator many years ago and to increase that amount the county would probably need to petition the legislator.

Chairman Eaton mentioned that he had a discussion with the Treasurer and that there is a substantial amount of businesses that have delinquent taxes. It's startling to him to see the names on the list and how much is owed. He also noted that the county is struggling to make ends meet and it's a shame when some of these individuals come to him as an elected official expecting better services from the county government, but yet they haven't paid their services as a taxpayer. Commissioner Aguilar stated that it would be interesting to see the list and how many on the list are doing business with the county. She believes that there should be a policy that states if you're going to do business with the county then your taxes need to be current.

13) Consideration to approve Resolution 2013-23 accepting Budget Revisions. *Nick Telles*

Commissioner Andersen moved for approval. Seconded by Commissioner Romero. Motion carried unanimously 3-0. Commissioner Aguilar was absent for the vote.

County Clerk Peggy Carabajal announced Resolution 2013-23.

14) Approval of Financial/Payroll warrants. *Nick Telles*

Commissioner Andersen moved for approval. Seconded by Commissioner Aguilar. Motion carried unanimously.

PUBLIC COMMENT:

There was no public comment at tonight's meeting.

EXECUTIVE SESSION:

Pursuant to Section 10-15-1 (H) (2) (3) & (7) the following matters may be discussed in closed session; a) Personnel b) Pending or threatened litigation; *Davis v. BOCC* and *Farm Credit v. Valencia County Treasurer* c) real property; *Fence Line Rd/Amy Rd. Encroachment* d) administrative adjudicatory proceedings; *Zone Change from C-1 to C-2 Lands of Marlin Frettem Parcel F*; specific limited topics that are allowed or authorized under the stated statute.

Attorney Pato stated that what was to be discussed is limited to what was presented on the agenda.

Commissioner Aguilar moved to go into Executive Session. Seconded by Commissioner Romero. Roll call vote. Commissioner Anderson voted yes. Commissioner Romero voted yes. Commissioner Aguilar voted yes. Chairman Eaton voted yes. Motion passed 4-0.

Commissioner Aguilar moved to return to regular session. Seconded by Commissioner Romero. Motion carried unanimously. Attorney Nance stated that the matters discussed in executive session were limited to the items listed on the agenda. No final action was taken.

Commissioner Aguilar moved for approval of the summary as stated by Attorney Nance. Seconded by Commissioner Andersen. Roll call vote. Commissioner Andersen voted yes. Commissioner Romero voted yes. Commissioner Aguilar voted yes. Chairman Eaton voted yes. Motion passed 4-0.

ACTION ITEM(S):

15) Approval of Zone Change from Neighborhood Commercial (C-1) zoning designation to a Community Commercial (C-2) zoning designation. "Land of Marlin Frettem; Parcel F;

Minutes of May 15, 2013 Business Meeting

NMPM; Filed in Book 344, Page 4552 of the Office of the Valencia County Clerk; also known as 1972 Highway 314, Los Chavez. *Jacobo Martinez*

Chairman Eaton read the following conditions of approval: The applicant must obtain NM Department of Transportation driveway permits, all required permits imposed by the site design review process and all other county requirements in favorable outcome of Phase 1 of environmental assessment and all other additional environmental assessments that may be deemed necessary upon completion of the Phase 1 assessment, also a re-plat of the re-plat of the property is required.

Commissioner Andersen moved for approval. Seconded by Chairman Eaton. Motion carried unanimously.

NEXT COMMISSION MEETING:

The next Regular Meeting of the Valencia County Board of County Commissioners will be held on June 5, 2013 at 5:00 P.M. Meeting in the County Commission Room at the Valencia County Courthouse.

16) Adjournment

Commissioner Andersen moved for adjournment. Seconded by Commissioner Aguilar. Motion carried unanimously. **TIME: 7:44 P.M.**

NOTE: All proposals, documents, items, etc., pertaining to items on the agenda of the May 15, 2013 Business Meeting (presented to the Board of County Commissioners) are attached in consecutive order as stated in these minutes.

VALENCIA COUNTY BOARD OF COMMISSIONERS

CHARLES EATON, CHAIRMAN

ALICIA AGUILAR, VICE-CHAIR

LAWRENCE R. ROMERO, MEMBER

DONALD E. HOLLIDAY, MEMBER

MARY J. ANDERSEN, MEMBER

ATTEST:

PEGGY CARABAJAL, COUNTY CLERK

DATE

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**VALENCIA COUNTY
Board of County Commissioners
Agenda Request Form**



Department Head: Steven Gonzales – Fire Chief

Individual Making Request: Steven Gonzales – Fire Chief

Presentation at Meeting on: June 5, 2013

Date Submitted: 5/23/2013

Title of Request: VC Fire Patch Design Award

Action Requested of Commission:

A Presentation of an award, to Nicholas Valerio of Belen High School, for designing the new patch for Valencia County Emergency Services.

Information Background and Rationale

Belen High School Art Department was tasked with designing a new patch for the Fire Service. There were approximately 60 different designs submitted. The top 25 were selected by the Chiefs of Emergency Services. The top 5 were selected by vote of the Volunteer Fire Chiefs, and submitted back to the students for minor revisions suitable to our service. The final selection was by vote of all Valencia County personnel.

Nicolas will be awarded with a \$200.00 Scholarship provided by, Adren Nance, and Dave Pato, a Fire Service T-Shirt, a replica Fire Badge and will be recognized as an Honorary Member of Valencia County Emergency Services.

What is the Financial Impact of this Request?

There will be no financial impact of this request.

Legal:

There will be no legal impact of this request. (*David Pato*)

Finance:

There is no significant financial impact related to this request. (*Nick Telles*)



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**VALENCIA COUNTY
Board of County Commissioners
Agenda Request Form**



Department Head:	Commissioner Charles Eaton
Individual Making Request:	Commissioner Charles Eaton
Presentation at Meeting on:	June 5, 2013
Date Submitted:	May 30, 2013
Title of Request:	Consideration to Approve a Resolution Affirming the Rights of Natural Persons

Action Requested of Commission:

Consideration to approve a resolution affirming the rights of natural persons as distinct from privileges given to government chartered corporate entities

Information Background and Rationale

The US Supreme Court invalidated restrictions on the use of corporate funding in political campaigns and ruled that the use of money in political exercise is equivalent to speech and could not be restricted under the Constitution. Therefore, the Commission calls upon the US Congress to propose and send to the States for ratification an amendment to the Constitution.

What is the Financial Impact of this Request?

There is no financial impact to this request.

Legal:

It is the prerogative of the Board of County Commissioners to adopt resolutions expressing its official opinion on matters of great public concern.

(Adren Nance)

Finance:

This measure has no immediate financial impact to Valencia County. *(Nick Telles)*

**VALENCIA COUNTY
BOARD OF COUNTY COMMISSIONERS
RESOLUTION 2013-_____**

**AFFIRMING THE RIGHTS OF NATURAL PERSONS AS DISTINCT FROM PRIVILEGES
GIVEN TO GOVERNMENT CHARTERED CORPORATE ENTITIES**

WHEREAS, in the case of Citizens United v. Federal Election Commission, the Supreme Court of the United State invalidated restrictions on the use of corporate funding in political campaigns; and

WHEREAS, the Court held in its decision that the use of money in political exercise is equivalent to speech and could not be restricted under the Constitution; and

WHEREAS, four of the Supreme Court Justices observed that money is merely a means of amplifying speech and not political speech itself; and

WHEREAS, the Citizens United ruling has unleashed a torrent of funding into the election process from corporate and often anonymous political action committees with undisclosed donors that have no public accountability; and

WHEREAS, the increase in election related funding by such entities threatens all other forms of speech, public debate, and election discourse; and

WHEREAS, the use of money should not be a protected form of speech, enabling corporate entities and other powerful special interests to dominate the election process; and

WHEREAS, granting human rights to corporations endows the owners and operators of corporations with a second, potentially more powerful set of rights; therefore any doctrine of corporate personhood violates the principle of equal protection; and

WHEREAS, neither the United States Constitution, or the State of New Mexico Constitution recognizes corporations as persons.

**NOW THEREFORE BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF THE
COUNTY OF VALENCIA:**

The Valencia County Commissioners call upon the United States Congress to propose and send to the States for ratification an amendment to the United States Constitution that:

(1) Affirms the rights of natural persons as distinct from privileges given to government chartered corporate entities, and

(2) Allows Congress, the States, and local governments:

(a) The ability to define and regulate the privileges and obligations of corporate entities,

(b) The ability to regulate the expenditure of money in political campaigns, and

(c) The ability to establish a process for fair and honest election of representatives to restore a government of the people, by the people, and for the people.

APPROVED, ADOPTED, AND PASSED on this 5th day of June 2013

BOARD OF COUNTY COMMISSIONERS OF THE COUNTY OF VALENCIA

Charles D. Eaton
Chairman, District IV

Alicia Aguilar
Vice-Chair, District II

Mary J Andersen
Commissioner, District I

Lawrence Romero
Commissioner District III

Donald E. Holliday
Commissioner, District IV

Attest:

Peggy Carabajal, County Clerk

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**VALENCIA COUNTY
Board of County Commissioners
Agenda Request Form**



Department Head:	Jacobo Martinez
Individual Making Request:	Broadway Group, LLC.
Presentation at Meeting on:	June 5, 2013
Date Submitted:	May 28, 2013
Title of Request:	FOF/COL for a decision on a Quasi-Judicial Zone Change

Action Requested of Commission:

Request to accept the Findings of Facts and Conclusions of Law in the case regarding a Zone Change from Neighborhood Commercial (C-1) zoning designation to a Community Commercial (C-2) zoning designation.

Information Background and Rationale

Land of Marlin C. Frettem; Parcel F; NMPM; Zoned C-1; Filed in Book 344, Page 4552; of the office of the Valencia County Clerk; Also known as 1972 Highway 314, Los Chavez, NM.

What is the Financial Impact of this Request?

Decision

IT IS THEREFORE, ORDERED that the zone change from Neighborhood Commercial (C-1) Zoning designation to a Community Commercial (C-2) zone designation is conditionally approved on the property defined as Land of Marlin C. Frettem; Parcel F; NMPM; Filed in Book 344, Page 4552; of the office of the Valencia County Clerk; Also known as 1972 Highway 314, Los Chavez, NM with the following conditions:

1. Applicant recognizes and agrees that it shall submit proof of a favorable outcome on a Phase I environmental study, or alternatively perform any additional environmental assessments as may be indicated by the Phase I environmental assessment; and
2. Applicant further recognizes and agrees to obtain a NMDOT driveway permit and make necessary improvements identified by NMDOT; and
3. Applicant further recognizes and agrees to meet all requirements imposed by the site design review process, and all other county requirements; and
4. Applicant further recognizes and agrees to comply with all other applicable requirements.

BEFORE THE BOARD OF COUNTY COMMISSIONERS
OF VALENCIA COUNTY

In the matter of Amending the Zone Map
from C-1 to C-2, Valencia County, New
Mexico, application by Broadway Group,
LLC.

FINDINGS OF FACT, CONCLUSIONS OF LAW AND DECISION

THIS MATTER came before the Board of County Commissioners of Valencia County (“the Board”) on May 15th, 2013, and was held pursuant to the applicant Broadway Group, LLC's application to Amend the Zoning Map from a Neighborhood Commercial (C-1) zoning designation to a Community Commercial (C-2) zoning designation on the lot commonly described as: Land of Marlin C. Frettem; Parcel F; NMPM; Filed in Book 344, Page 4552; of the office of the Valencia County Clerk; Also known as 1972 Highway 314, Los Chavez, NM.

The Board, having considered the documents in the record before it, testimony of staff, applicants and members of the public, and argument by the parties and/or their legal representatives, **FINDS:**

Findings of Fact

1. Notice of the regularly scheduled meeting of the Board of Commissioners of Valencia County, New Mexico (the “Board”) on May 8th, 2013, at which was had the public hearing of the Application to Amend Zoning Maps, was published according to New Mexico Statutes and the Valencia County Interim Comprehensive Zoning Ordinance, Ordinance 2004-05, as amended (“Zoning Ordinance”).
2. The applicant’s request is for an amendment to the Zoning Map from a Neighborhood Commercial (C-1) zoning designation to a Community Commercial (C-2) zoning designation on the lot commonly described as: Land of Marlin C. Frettem; Parcel F; NMPM; Filed in Book 344, Page 4552; of the office of the Valencia County Clerk; Also known as 1972 Highway 314, Los Chavez, NM.
3. Approval of the application will result in allowing for the development of a convenience food store or retail store with more than 5,000 square feet of floor space on the subject property.
4. The property for which the zone change is requested has a Neighborhood Commercial (C-1) zoning designation.
5. The purpose of the C-1 District is to provide limited convenience commercial services for a specific residential market area.
6. The applicant testified that the proposed store will be 9,000 square feet of floor space.
7. The applicant testified that there would be a benefit in increased gross receipt and property tax revenues.
8. The proposed building size is not permitted in the Neighborhood Commercial (C-1) zoning designation.
9. The purpose of the Community Commercial (C-2) District is to provide for more intensive commercial services than in the C-1 District for numerous neighborhoods in the geographic area.
10. The proposed land use and building size is permitted in a Community Commercial (C-2) zoning district.
11. The Planning and Zoning Commission held a public hearing on the Zone Change Application on March 27, 2013 and voted 4-1 to recommend denial of the quasi-judicial zone change.
12. The Planning and Zoning Commission Found:
 - a. The development as described by the applicant (retail establishment with a floor area greater than 5,000 square feet) does not enhance the County’s protection of public health, safety and welfare.

- b. The development as described by the applicant (retail establishment with a floor area greater than 5,000 square feet) does not protect and enhance the distinctive identities of the unincorporated communities and subregions within the County.
 - c. The development as described by the applicant (retail establishment with a floor area greater than 5,000 square feet) does not protect the scenic resources and unique visual elements of the county.
13. The Board of County Commissioners held a Public Hearing on this request on May 8th, 2013. After hearing testimony from the applicant and taking public comments on the matter, the Board of County Commissioners voted 4-0 to conditionally approve this request on May 15th, 2013.
 14. The findings made by the Board are each independent reasons for the decision of the Board in conditionally approving the zone change.

Conclusions of Law

The following conclusions of law are cumulative, but are severable and independent of each other.

A. The County is a zoning authority with the power to regulate and restrict use of land. NMSA 1978, § 3-21-1 (1995).

B. The Board of County Commissioners is the body that exercises the powers of a county as a body politic and corporate. NMSA 1978, § 4-38-1 (1876).

C. The Board takes notice that the Zoning Ordinance was adopted according to New Mexico statutory authority and duly recorded in the records of the Clerk of Valencia County.

D. The Board has discretion in making zoning decisions. *See Singleterry v. City of Albuquerque*, 96 N.M. 468, 471, 632 P2d 345, 348 (1981).

E. The Board has authority and jurisdiction over the Petition for Zone Change filed by the Broadway Group, LLC.

F. All parties entitled to notice were afforded notice in accordance with the applicable Valencia County Ordinances, New Mexico State Statutes, and common law.

G. The applicant and the public were afforded due process pursuant to the United States Constitution, the New Mexico Constitution, and in accordance with the applicable Valencia County Ordinances.

H. The Board takes notice that §154.061 of the Valencia County Zoning Code provides that the proposed zone change should be consistent with the goals, policies and any other applicable provisions of the Comprehensive Plan. As further delineated below, the Board's decision herein is consistent with the Comprehensive Plan.

I. The Board takes notice that the Valencia County Comprehensive Land Use Plan of October 7, 2005, ("Comprehensive Plan") is the comprehensive plan applicable to this matter, and was properly adopted according to New Mexico statutory authority.

J. Land Use and Housing Development Goal A of the Comprehensive Plan encourages the County to "guide development in a manner that balances the patterns of urban development with the rural character and natural resources of the County."

K. Land Use and Housing Development Goal B of the Comprehensive Plan encourages the County to "[p]rotect and enhance the distinctive identities of the unincorporated communities and subregions within the County."

L. Land Use and Housing Development Goal C of the Comprehensive Plan encourages the County to "[i]dentify locations and siting criteria for "County Activity Centers" to accommodate intensive commercial and industrial activity clusters and other special use developments."

M. Transportation and Infrastructure Goal G: of the Comprehensive Plan encourages the County to "[a]ccommodate the efficient movement of people and goods through the County by maintaining a road network of sufficient capacity to meet local and regional circulation needs."

N. Regional Infrastructure Goal J: of the Comprehensive Plan encourages the County to "[s]teer urbanizing development to areas where adequate infrastructure, utilities, and public services are available."

O. Regional Infrastructure Goal K of the Comprehensive Plan encourages the County to “[p]romote regional facilities and services that meet health and safety needs of the County.”

P. Economic Development Goal P of the Comprehensive Plan encourages the County to “[s]trengthen the economic base of the County, expand employment opportunities, and improve local workforce skills and abilities.”

Q. Section 154.061 (C) (2) of the Zoning Ordinance requires that “[t]he proposed change [be] appropriate considering...the surrounding land uses, density and pattern of development in the area...”

R. The development of the property as proposed to permit for a 9,000 square foot retail establishment by the Applicant is consistent with the Zoning Ordinance, and advances the Comprehensive Plan goals stated above.

Decision

IT IS, THEREFORE, ORDERED that the zone change from Neighborhood Commercial (C-1) zoning designation to a Community Commercial (C-2) zone designation is conditionally approved on the property defined as Land of Marlin C. Frettem; Parcel F; NMPM; Filed in Book 344, Page 4552; of the office of the Valencia County Clerk; Also known as 1972 Highway 314, Los Chavez, NM. with the following conditions:

1. Applicant recognizes and agrees that it shall submit proof of a favorable outcome on a Phase I environmental study, or alternatively perform any additional environmental assessments as may be indicated by the Phase I environmental assessment; and
2. Applicant further recognizes and agrees to obtain a NMDOT driveway permit and make necessary improvements identified by NMDOT; and
3. Applicant further recognizes and agrees to meet all requirements imposed by the site design review process, and all other county requirements; and
4. Applicant further recognizes and agrees to comply with all other applicable requirements.

BOARD OF COUNTY COMMISSIONERS OF VALENCIA COUNTY

P.O. Box 1119 / 444 Luna Ave

Los Lunas, NM 87031

Charles Eaton, Chair

Alicia Aguilar, Vice-Chair

Mary J. Andersen, Commissioner

Lawrence R. Romero, Commissioner

Donald E. Holliday, Commissioner

ATTEST BY:

Peggy Carabajal, County Clerk

Date: _____

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**VALENCIA COUNTY
Board of County Commissioners
Agenda Request Form**



Department Head: Bruce Swingle
Individual Making Request: Bruce Swingle
Presentation at Meeting on: June 5, 2013
Date Submitted: May 28, 2013
Title of Request: Consideration of Legislative Amendment to Increase Administrative Fee to be Imposed if Property Tax Bill is Fifteen Dollars or Less

Action Requested of Commission:

Discuss and provide staff direction concerning correspondence to NMAC.

Information Background and Rationale

In a recent meeting, commissioners discussed the cost associated with mailing out property tax bills. It was decided that the county is spending more money on mailing and processing \$5 or less tax bills than the organization recoups in taxes. The commission requested staff draft a correspondence to Paul Gutierrez, NMAC Executive Director requesting the amendment be considered as a NMAC legislative priority.

What is the Financial Impact of this Request?

The correspondence will have no financial impact to the county. If NMAC supports the initiative, the legislature could allow for a property tax administrative fee if bill is \$15 or less.

Legal:

NMSA 1978, Section 7-38-36.1, adopted in 1982, presently permits the Board of County Commissioners to only charge an administrative fee equal to the difference between the amount of the property tax and five dollars where the property tax on property for which a property tax bill is prepared is less than five dollars. The proposed legislation would increase that amount to the difference between the amount of the property tax and fifteen dollars, more adequately compensating the counties for the expense of collecting property taxes on such properties. D.P.

Finance:

There are 55,000 \$5 tax bills that are issued each year according to the County Treasurer's Office. The County collects approximately 40% of the \$5 bills which result in approximately \$110,000 in revenues to the County. If the same collection rate exists under the \$15 minimum revenues to the County will be approximately \$330,000. *(Nick Telles)*



Valencia County
Office of the County Manager
444 Luna Avenue ♦ P.O. Box 1119
Los Lunas, New Mexico 87031
Office: 505.866.2014 ♦ Fax: 505.866.3355

May 29, 2013

Paul Gutierrez
Executive Director, New Mexico Association of Counties
613 Old Santa Fe Trail
Santa Fe, NM 87505

RE: LEGISLATIVE INITIATIVE RELATING TO INCREASE OF ADMINISTRATIVE FEE
TO BE IMPOSED IF TAX IS LESS THAN FIVE DOLLARS

Dear Mr. Gutierrez:

Valencia County is writing to request that that the New Mexico Association of Counties advance a Legislative initiative to increase the administrative fee the Counties may impose where the property tax bill is less than five dollars.

Specifically, NMSA 1978, Section 7-38-36.1, adopted in 1982, presently permits the Board of County Commissioners to charge an administrative fee equal to the difference between the amount of the property tax and five dollars where the property tax on property for which a property tax bill is prepared is less than five dollars. The costs of assessing and collecting property taxes have increased substantially in the past thirty-one years since the Legislature first afforded the Counties the opportunity to impose this administrative fee on properties for which a property tax bill is prepared is less than five dollars.

Valencia County has numerous properties for which the property tax is less than \$5.00. It estimates that its costs significantly exceed five dollars to collect these taxes between the costs of assessment, collection, and related postage. Increasing the administrative fee that Counties may impose would serve to offset the increased costs associated with the collection of property taxes.

Enclosed please find a proposed amendment to Section 7-38-36.1 in red-lined format for your consideration. Thank you kindly for your time and assistance.

Sincerely,

By: _____
Charles Eaton
Chair, Valencia County Commission

enclosure

Charles Eaton, Chair District IV ♦ Alicia Aquilar, Vice-Chair, District II
Mary J. Andersen, District I ♦ Lawrence Romero, District III ♦ Donald Holliday, District V
Bruce Swingle, County Manager

N. M. S. A. 1978, § 7-38-36.1

§ 7-38-36.1. Administrative fee to be charged if property tax is less than ~~five~~teenve dollars
(\$~~15~~.00)

Currentness

A. If the property tax on property for which a property tax bill is prepared is less than ~~five~~teen dollars (\$~~15~~.00), the board of county commissioners may, by resolution, charge an administrative fee equal to the difference between the amount of the property tax and ~~five~~teen dollars (\$~~15~~.00), but no administrative fee shall be charged if there is no tax due. A copy of the resolution shall be sent to the county treasurer who shall collect the fee. This administrative fee shall be separately identified and stated in the property tax bill and shall be included in the total shown in the bill as due.

B. The administrative fee authorized by this section shall be collected and its collection enforced as if the fee were a property tax except that no interest or penalty shall accrue or be charged because of its nonpayment.

C. The administrative fee authorized by this section shall be distributed to the county general fund when collected and shall not be distributed to the governmental units to which the property tax is distributed pursuant to Section 7-38-43 NMSA 1978.

Credits

L. 1982, Ch. 21, § 1.

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**VALENCIA COUNTY
Board of County Commissioners
Agenda Request Form**



Department Head: Bruce Swingle
Individual Making Request: Bruce Swingle
Presentation at Meeting on: June 5, 2013
Date Submitted: May 28, 2013
Title of Request: Delinquent Taxpayer & County Contracts Policy

Action Requested of Commission:

Consideration to approve the county's delinquent taxpayer policy.

Information Background and Rationale

Due to recent purchasing activity it was noted that some individuals and/or businesses doing business with the county are not current on property tax obligations to the county; therefore, Commissioner Aguilar requested a policy requiring prospective contractors to be current on all property taxes to be eligible for county business. Businesses not in compliance with this policy will be considered non-responsive in the procurement process and excluded from further consideration.

What is the Financial Impact of this Request?

The policy should have no negative financial impact on the county. It is believed that individuals and/or businesses seeking county business will remain current on property tax obligations which will have a positive effect on the general fund.

Legal:

The draft policy is intended to reflect the Commission's intent that contractors who benefit by virtue of the County's business are not delinquent in their obligations to the County. D.P.

Finance:

This policy change should have a positive financial impact on the county which will then decrease the delinquent tax liability account that the county maintains. *(Nick Telles)*

**VALENCIA COUNTY
BOARD OF COUNTY COMMISSIONERS
RESOLUTION NO.**

TAX REDUCTION POLICY

WHEREAS, the Valencia County Board of Commissioners met upon notice of meeting duly published at the Valencia County Administration Building, 444 Luna Avenue, Los Lunas, New Mexico 87031 on June 5, 2013, at 5:00 p.m. as required by law; and,

WHEREAS, the Board of County Commissioners of the County of Valencia exercises the powers of the County as a body politic and corporate pursuant to NMSA 1978, Section 4-38-1(1884); and,

WHEREAS, the Board of County Commissioners recognizes that significant revenues are lost each year as a result of taxpayers who fail to pay their tax obligations on time; and,

WHEREAS, the failure of taxpayers who fail to pay their tax obligations on time impose an economic burden upon the County and its taxpayers; and,

WHEREAS, the Board seeks to ensure that individuals and businesses that benefit financially from contracts with the County fulfill their property tax obligations.

NOW, THEREFORE, BE IT RESOLVED, by the Board of County Commissioners of the County of Valencia that all solicitations shall contain language substantially similar to the following:

Bidders/Proposals are required to certify that they are not delinquent in the payment of their property tax obligations and that they will not become delinquent in the payment of their property tax obligations during the term of any contract that may be awarded pursuant to this solicitation. Failure to maintain compliance, or to timely cure defects, may be cause for termination of a contract or initiation of debarment proceedings against the non-compliant contractor. Bids/Proposals that fail to comply with the certification requirements will be considered non-responsive and excluded from further consideration.

NOW, THEREFORE, BE IT FURTHER RESOLVED, by the Board of County Commissioners of the County of Valencia that all new, renewed or amended contracts shall contain language substantial similar to the following:

CONTRACTOR'S PAYMENT OF PROPERTY TAXES

Contractor acknowledges that County has established a policy of ensuring that all individuals and business that benefit financially from County through contract are current in paying their property tax obligations to mitigate the economic burden otherwise imposed upon County and its taxpayers. Contractor warrants and certifies that it is presently not delinquent in the payment of its property tax obligations, and that it will not become delinquent during the term of this Contract.

NOW, THEREFORE, BE IT FURTHER RESOLVED, by the Board of County Commissioners of the County of Valencia that all Purchase Orders issued on or after July 1, 2013 shall contain language substantial similar to the following:

CONTRACTOR'S PAYMENT OF PROPERTY TAXES

By accepting this Purchase Order, contractor warrants and certifies, under penalty of law, that it is presently not delinquent in the payment of its property tax obligations to the County, and that it will not become delinquent during the term of this Purchase Order.

NOW, THEREFORE, BE IT FURTHER RESOLVED, by the Board of County Commissioners of the County of Valencia that all new, renewed or amended contracts shall contain language substantial similar to the following:

TERMINATION FOR FAILURE TO COMPLY WITH COUNTY'S TAX REDUCTION POLICY

Without limiting the rights and remedies available to County under any other provision of this contract, failure of Contractor to cure a property tax delinquency within 10 days of notice shall be grounds upon which County may terminate this Contract.

BOARD OF COUNTY COMMISSIONERS
APPROVED, ADOPTED AND PASSED on this 5th day of June, 2013.

Charles Eaton
Chair, District IV

Alicia Aguilar
Vice-Chair, District II

Mary J. Andersen
Commissioner, District I

Lawrence R. Romero
Commissioner, District III

Donald Holliday
Commissioner, District V

Attest:

Peggy Carabajal
Valencia County Clerk

APPENDIX ____

CERTIFICATION OF COMPLIANCE WITH COUNTY'S
TAX REDUCTION POLICY

COMPANY NAME: _____

COMPANY ADDRESS: _____

CITY: _____ STATE: _____ ZIP CODE: _____

TELEPHONE NUMBER: _____ E-MAIL ADDRESS: _____

The Proposer/Bidder certifies that:

☐ It is familiar with the terms of the County's Tax Reduction Policy, Resolution No. ____; **AND**

To the best of its knowledge, after a reasonable inquiry, the Proposer/Bidder is not delinquent on any property tax obligation; **AND**

The Proposer/Bidder agrees to not become delinquent during the term of any awarded Contract.

I DECLARE UNDER PENALTY OF PERJURY UNDER THE LAWS OF THE STATE OF NEW MEXICO
THAT THE INFORMATION STATED ABOVE IS TRUE AND CORRECT.

PRINT NAME: _____ TITLE: _____

SIGNATURE: _____ DATE: _____

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VALENCIA COUNTY Board of County Commissioners Agenda Request Form



Department Head:	Michael Vinyard
Individual Making Request:	Michael Vinyard
Presentation at Meeting on:	June 5, 2013
Date Submitted:	May 28, 2013
Title of Request:	Amend Pet ER Professional Services Contract to Raise Contract Dollar Ceiling and Extend

Action Requested of Commission: Approve amendment of the existing contract with Pet Emergency Room, Inc. ("Pet ER") to raise the maximum allowed expenditure from \$30,000 to \$50,000 and to extend the expiration date of the contract from June 1, 2013 to December 31, 2013.

Information Background and Rationale: This contract is for the provision of animal sterilization services for Valencia County Animal Control. It was put in place under the small professional services provision of the Valencia County Procurement Policy and, as such, was (then) limited to \$30,000. The expiration date was set for June 1, 2013 to allow time for a procurement to be conducted to put a longer term contract in place. Previously limited resources in the Purchasing Department prevented this from being accomplished. The contract has now reached the built in \$30,000 limit. However, based on the May 1, 2013 BCC approval of an increase to the allowable maximum for small professional services contracts to match the New Mexico Procurement Code - \$50,000 – this contract can now be amended to allow services to continue uninterrupted. The contract time extension will allow sufficient time to complete the needed formal procurement to secure a long term contract for these services.

What is the Financial Impact of this Request? This is a budgeted item. There will be no financial impact beyond what has been planned and budgeted for.

Legal:

Given that the Board has approved a \$20,000.00 increase to its small professional services contract limits, the Board may amend the contract to reflect the increased limit and extend the term within which services provided pursuant to the Contract may be performed. David Pato.

Finance:

Finance plans to complete an intra-fund budget adjustment to raise the amount of expenditures in professional services in the animal control department. Nick Telles

AMENDMENT#1
TO
CONTRACT WITH PET EMERGENCY ROOM, INC.

THIS Amendment to the Pet Emergency Room, Inc. Contract (“CONTRACT”) is effective as of June 2, 2013, by and between the BOARD OF COUNTY COMMISSIONERS OF VALENCIA COUNTY, NEW MEXICO, a political subdivision of the State of New Mexico (“COUNTY”) and PET EMERGENCY ROOM, INC., a New Mexico Corporation located in Los Lunas, New Mexico (“CONTRACTOR”).

RECITALS:

A. The COUNTY and PET EMERGENCY ROOM, INC. entered into a CONTRACT on April 12, 2012 for the provision of surgical sterilizations for the Animal Control Division (referred to as the “CONTRACT”).

B. The CONTRACT specifically provides that the terms of the contract may be modified by instrument in writing executed by both the COUNTY and PET EMERGENCY ROOM, INC.

C. The parties desire to modify the CONTRACT as provided herein.

NOW, THEREFORE, THE PARTIES AGREE AS FOLLOWS:

1. **Incorporation of Recitals.** The foregoing recitals are incorporated by reference as a material part of the CONTRACT as if the same were set out completely in the CONTRACT.

2. **Amendment.** The CONTRACT shall be amended as set forth in this instrument, and, except as expressly amended by this instrument, shall remain in full force and effect as written.

3. **Amendment to RECITALS provision of the CONTRACT.** The RECITAL which reads:

"**WHEREAS**, this contract is procured as a small professional service pursuant to the Valencia County Procurement Policy Resolution 2005-68 at Section 16.3.1 and thus will not exceed \$30,000.00"

is deleted in its entirety and the following RECITAL is substituted in its place:

"**WHEREAS**, this contract is procured as a small professional service pursuant to the Valencia County Procurement Policy Resolutions 2005-68 at Section 16.3.1, as amended by the Valencia County Board of County Commissioners on May 1, 2013, in an open meeting, and thus will not exceed \$50,000.00"

4. **Amendment to Term provision of the CONTRACT.** Paragraph 4, relating to the term of the CONTRACT, is deleted in its entirety and the following paragraph is substituted in its place:

"This Agreement shall terminate on December 31, 2013, unless terminated pursuant to paragraph 4, infra. In accordance with Section 31-1-150 NMSA 1978, no contract term, including extensions and renewals, shall exceed four years, except as set forth in Section 13-1-150 NMSA 1978."

WITNESSETH, the parties have made and executed this instrument effective as of the day and year first written above.

BOARD OF COUNTY COMMISSIONERS
VALENCIA COUNTY, NEW MEXICO

Charles Eaton
Chair, District IV

Alicia Aguilar
Vice-Chair, District II

Mary J. Andersen
District I

Lawrence R. Romero III
District III

Donald Holliday
District V

Attest:

Peggy Carabajal, County Clerk

PET EMERGENCY ROOM, INC.

By: _____

Date

Printed Name

Title



**VALENCIA COUNTY
Board of County Commissioners
Agenda Request Form**



Department Head: Nick Telles

Individual Making Request: Nick Telles

Presentation at Meeting on: June 5, 2013

Date Submitted: May 30, 2013

Title of Request: Approval of Valencia County Resolution 2013-____ Budget Adjustment Requests

Action Requested of Commission:

To approve budget adjustment requests relating to the following departments in the specified amounts: Intra-fund transfer in the Animal Control Department increasing funds to Professional services in the amount of \$11,466 and decreasing funds in the training line item by \$5,952, decreasing funds in the Equipment Maintenance & Repair line item by \$3,511 and decreasing funds in the capital outlay line item by \$2,003.

Information Background and Rationale

State law requires that any funding expensed by Valencia County is mandated to be budgeted as revenues and expenses in the annual certified budget. Budget Adjustment Requests allow unanticipated financial resources to be utilized by the County, as well as, changes to be made within a fund account that is identified to be over or under a forecasted level.

What is the Financial Impact of this Request?

These are intra-fund transfers within a specific department which have a net effect of \$0 to the county budget.

Legal:

"A budget adjustment resolution is required pursuant to DFA regulations."

Adren Nance

Finance:

Approval of this Budget Adjustment Requests (BAR) from the VCBCC is necessary in order to utilize funds at Animal Control. *(Nick Telles)*

Department of Finance and Administration
Local Government Division
Financial Management Bureau
SCHEDULE OF BUDGET ADJUSTMENTS

5/15/2013

ENTITY NAME: Valencia County

FISCAL YEAR: FY12/13

DFA Resolution Number: _____

For Local Government Division use only:

[illegible]

Title	Mayor/Board Chairman	(Date)
-------	----------------------	--------

ATTEST:

END

OF

AGENDA
