

VALENCIA COUNTY BOARD OF COMMISSIONERS

Regular Business Meeting

January 21, 2009

PRESENT	ABSENT
Pedro G Rael, Chairman	
Donald E. Holliday, Vice-Chairman	
David R Medina, Member	
Ron Gentry, Member	
Georgia Otero-Kirkham, Member	
Eric Zamora, County Manager	
Adren Nance, County Attorneys	
Sally Perea, County Clerk	
Press and Public	

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

2. Chairman Rael led the Pledge of Allegiance.

3. Approval of Agenda

Commissioner Kirkham moved to approve the agenda and to table item 7e. Seconded by Commissioner Holliday. Motion carried unanimously.

4. Approval of Minutes – December 17, 2008- Regular Business Meeting

Commissioner Kirkham moved for approval. Seconded by Commissioner Holliday. Motion carried unanimously. **January 7, 2009 – Organization/ Regular Business Meeting**

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

5. Public Requests – At the discretion of the Chair (For Information Only-limited to two minutes per person on subjects not on this published agenda)

L. E. Rubin's concerns were he does not want the hospital to be bargained away.

Diana Cardena was requesting approval to add to her home. Commissioner Kirkham advised Mrs. Cardena to meet with Mr. Zamora and Mr. Chavez and they would guide her in the proper steps to proceed with her request.

Joseph Rizzo a resident of Rio Communities had concerns on the hospital issue. He requested that no mediation take place.

William Dean a resident of Los Chavez requested that the commissioners change their policy and not accept information after meetings.

Clark Metcalf was angry that a hospital has not happened. If the hospital is not built then put it back to the people for a vote or return the money to the voters, he said. He requested the money be used for nothing other than a hospital.

Liz Sagrestano President of Rio Communities Association stated the hospital revenues are needed for the community. Plus the convenience of having a hospital in Rio Communities could save lives.

6. Non-Action Items

a) Presentation on Travel Management Planning on the Mountainair District –

Karen Lessard, District Ranger

Roxanne Turley project leader of Travel Management for United States Department of Agriculture and Forest Service presented a power point presentation. The Forest Service's Travel Management rule came into effect in 2005 and all national forest lands are subject to designate specific roads, trails and areas for various classes of motor vehicles. The "Rule" prohibits motor vehicle use inconsistent with the designations. Motor vehicle use off designated routes and outside designated areas will be allowed for national defense, law enforcement, and emergency purposes. Designation may provide for limited cross-country travel for big game retrieval, dispersed camping, or forest product gathering, if appropriate, to respond to local situations. This authority will be used sparingly. The final

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"Rule" maintains the status quo for snowmobiles and other over-snow vehicles, which will continue to be allowed.

The proposed development is in the process and public meetings are planned, first meeting will be at Mountainair 6-8 P.M. Public Meeting in Belen, Thursday, February 5, 2009 6-8 P.M at the Belen Senior Center.

b) Reports from the Directors

None.

c) Reports from Boards, Commissions & Committees

Chairman Rael reported having a discussion meeting of the hospital at Henrietta's Restaurant last week. People present were the lawyers for the Plaintiff's, five of the Plaintiff's, Commissioner Holliday and himself. Discussion was opened up on the possibility of mediating the pending appeal. The idea of placing an emergency care facility or 24 hour urgent care with emergency physicians or ambulance service or both on each sides of the river were discussed favorably by the entire group.

Also discussed was the possibility of returning the tax money to the taxpayers and what the expenses involved would be, the request is being made of our County Treasurer, in case this becomes necessary. They do not have any numbers but it seems it would cost a significant amount should this be the necessary course.

The idea of having two facilities on the west side of the river because it is closer to the freeway was discussed and favorably received by the group. It was discussed if any facilities of any kind are built, the money should not go to Albuquerque's facilities, it was agreed it should be spent in Valencia County.

The requests have been made, at this point informally, to Lovelace, Presbyterian and UNM to see if they can provide emergency facilities within the parameters of what was just discussed and within the amount of money this mill levy expects to raise, which is estimated at twenty two million dollars, if it goes for the full eight years.

The concept was discussed, at a legal point, this Commission has the authority to stop the tax, reduce the tax or continue it in force from year to year. The mill levy is designed to assist in the operation of maintenance of any hospital or emergency care facility. We do not have such facility at this time and that is where the matter generally ended. Chairman Rael will be updating the regular meetings which will occur but there is not one scheduled at this time. As soon as we get information from the medical hospitals which were named (UNM, Lovelace, and Presbyterian) he will be reporting and if there is any documentation it will be made public record for everyone to review.

Commissioner Gentry said this is a surprise to him, that Chairman Rael and Commissioner Holliday had attended a mediating committee meeting for the county. He thought the commission had directed counsel of record, Mr. Melendres, to enter into mediation with the counsel for the plaintiffs, and with the appellant court mediator (Mr. Rambo).

Commissioner Gentry could not see this as an appropriate mediation by someone's own appointment, that the plaintiffs' and the plaintiffs' attorney and two commissioners, obviously appointed without the commission's consent in public, had entered into mediation on this matter. He thought their vote at the meeting was to instruct our attorneys in Albuquerque to mediate with the appellant court mediation process. All the discussions and solutions being discussed are in the absence of anybody who supports or advocates the hospital. It is apparent that this is a one sided mediation and he found no one on that board who says they would support a hospital.

Commissioner Gentry does not know by what authority the meditation meeting was set up, he suspects the appellant court should have a better tighter legal process than what just took place, but we can talk with our counsel in Albuquerque and with the court mediator and see if he set this meeting up and if this is what the courts have sanctioned.

Chairman Rael said he appreciates Commissioner Gentry's concerns and comments and to put this into context, the meeting that was held was not an official action by any means. It is not binding on anyone and any member of the commission is entitled to participate, except that there cannot be three of us. Otherwise it would have to be an open meeting, or it could be done in close session since it is a litigation matter, however it was just to open the door to discuss different ideas, including, all the way from hospital issue to returning the money. The ideas that were primary discussed were somewhere in between. There is nothing binding, this just brings forth information and will continue to occur that way. If something ever becomes important enough to become official, it has to come before the commission, and a formal vote. Then it has to be presented to a court of appeals, through Mr. Rambo, subject to mediation. These things take a long time and it is a complicated

matter. He wanted to assure them that this is not binding on anyone and it doesn't mean any of these things are going to happen but they are being seriously explored.

Commissioner Medina said he was not aware of this taking place. He and his district are in strong support of a hospital in that area. He said he totally disagreed that Chairman Rael and Commissioner Holliday had attended this meeting because they were the individuals who voted to go into mediation. He felt that he and Commissioner Gentry should have been given the opportunity since they are strong supporters of the hospital and one of them should have been there or to at least attend some of these meetings. He wants to go on record that he does not agree on how this was done.

Commissioner Gentry said with that in mind he is going to invite Commissioner Medina and the defendants of the hospital and put a group together to start mediating in support of the hospital. He will be bringing this forward and reporting back what our group has decided and we can mediate in support of the hospital.

7. Action Items

Board of County Commissioners Convenes as Indigent Claims Board

Commissioner Kirkham moved to convene as the Indigent Board. Seconded by Commissioner Holliday. Motion carried 4-0. Commissioner Medina stepped out for a moment.

a) Indigent Report/ Appeal – Barbra Baker

Ms. Baker presented the Indigent Claims from December 2, 2008 to January 8, 2009. The amount of claims submitted was \$819,940.50. Ms. Baker requested approval of 66,797.20. Commissioner Gentry moved for approval. Seconded by Commissioner Medina. Motion carried unanimously.

Commissioner Kirkham moved to re-convene as the Board of Commissioners. Seconded by Commissioner Medina. Motion carried unanimously.

b) Consideration of Organizational Chart (*tabled 1/7/2009*) - County Commission

Commissioner Gentry moved for approval. Seconded by Commissioner Medina. Motion carried unanimously. (See Exhibit A)

c) Consideration of Report of Freeholders (Road Viewers Communities) - Frank Barr

Mr. Frank Barr read the report into the record. Three freeholders were appointed by the commission to make a recommendation whether or not to vacate the roads in TGIA, Unit 6 & 8 as called for in the Settlement Agreement in Burris vs. Yates and Cibola Energy Corporation and Elizabeth Burris, M.S. "Buddy Major and Board of County Commissioners of Valencia. The freeholders have objectively viewed the roads in question and have, in good faith, concluded that the roads should be vacated by Valencia County.

County Attorney Adren Nance wanted to clarify, for the record, reasons why freeholders can recommend vacation of the road. After their findings the freeholders will make a report to the board of commissioners setting forth their findings. The commission may vote to accept the report and then the commission will vote again to vacate the road(s). This is another action item.

Commissioner Kirkham gave her appreciation to Mr. Barr and the rest of the freeholders for volunteering.

Commissioner Kirkham moved for approval to accept the report of the freeholders. Seconded by Commissioner Holliday. Motion carried unanimously. (See Exhibit B)

d) Consideration of Vacation of Roads in TGIA Units 6*8 – Adren Nance

County Attorney Adren Nance said this came out of a settlement agreement and was approved by the county commission on January 2, 2008. What this basically does is get rid of all the roads in Mr. Yates property. There are no public roads on this property except for the public perspective road that goes from the Hwy 47 to Becker crossing. According to the settlement agreement, if Mr. Yates builds up Military Road, the county may accept it if it meets the county standards and can vacate the prescriptive road next to it. Mr. Nance's opinion is that he believes building up that road, there are no requirements to be done and wants to make this clear, that in order for the county to accept this, the commission needs to look very far into what it would do to the crossing. Another thing in his opinion, the settlement agreement does say the county shall vacate these roads, personally he does not agree on what the settlement agreement is doing in making the

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county go through a process to segregate the roads. This is now the commissions' decision to decide what to do.

Chairman Rael clarified if the Commission were to vacate these roads, TGIA units 6 & 8, and if the other roads were built up to county standards, then the county can give up some public road and accept that one, but this is something in the future to consider. Chairman Rael asked if we do this today, are we affecting anybody's right to access in the area. County Attorney Nance said Mr. Yates owns all the property and no one is being denied access.

Commissioner Gentry asked Mr. Aranda the zoning in this area. Mr. Aranda stated I-3. Commissioner Gentry said this has been litigated for about 7 to 8 years when it was I-3 heavy industrial and the county had inadvertently not zone it correctly when they did the Comprehensive Plan in 1999. It went through some lawsuits and appeals but his particular piece of property, and just to make it clear for the record, is in Heavy Industrial property, it has platted roads which were residential subdivision all within it, this was the original intent. Military Road which goes through Meadow Lake and around the Socorro County line; was put in the master plan on the east side of the valley, and this is the one we are going to vacate. We will be vacating a section of the master plan, Military Road in the middle, and that allows all this property to become I-3 Industrial Park; because there is a stipulation that states we will vacate all other roads within those two tracts, 6 & 8. This is an accumulation of 15, 20 acres of property that are designated to roads within that property and we're going to abandon those roads and make it one giant parcel or two big parcels of heavy industry right there on the freeway. And the easement that Mr. Sanchez just put in is an easement to a major power plant sub station. What we are doing is cleaning two sections of land for I-3 heavy industry. The court order that was issued by Judge Otero says we shall vacate this property, and if we do not vote for this, we can be in contempt of court. Chairman Rael said if we approve vacation of these roads, what he was asking was for the commission to give the county manager the authority to do any and all documentation necessary to effectuate the settlement agreement identification of the roads. Mr. Nance said just this portion and he didn't know if it was required here.

Chairman Rael moved to approve the vacation of roads in TGIA units 6 & 8 including authority to do any administrative acts necessary to effectuate the vacation of those roads. Seconded by Commissioner Kirkham. Motion was amended to include, plus going to DFA if necessary. Amended motion was seconded by Commissioner Kirkham. Motion carried unanimously. **(See Exhibit C)**

e) Consideration of Memorandum of Understanding between the Los Lunas Board of Education and the Sheriff's Department for School Resource Officer for Los Lunas Public Schools – Sheriff Rene Rivera
Tabled.

f) Consideration for Approval of EMS Funding Application to State of New Mexico EMS Bureau FY 2009/2010 – Charles Eaton
Commissioner Medina moved for approval. Seconded by Commissioner Gentry. Motion carried unanimously. **(See Exhibit D)**

g) Consideration for Approval of Award of Assistance to Firefighters Grant (AGF) for Los Chavez Fire Department – Charles Eaton
Commissioner Medina moved for approval. Seconded by Commissioner Gentry. Motion carried unanimously. **(See Exhibit E)**

h) Consideration for Approval of Contract Between Valencia County and New Mexico Traffic Safety Bureau for Selective Traffic Enforcement – Captain Gary Hall
Commissioner Gentry moved for approval. Seconded by Commissioner Medina. Motion carried unanimously. **(See Exhibit F)**

i) Consideration of Amendment No.2 to Grant Agreements between State of New Mexico and Valencia County – Kenneth Griego

i) Grant No. 08-L-G 5402/Purchase and Equipment a Tanker and Pumper for Highland Meadows Fire Department – County Commission

ii) Grant No. 08-L-G 5402/ Plan, Design and Construct a county Building in Valencia County – County Commission

Mr. Griego said these items are to re-appropriate unexpendable balances in the local government division to plan, design and construct a county building in Valencia County. The original amount is \$100, 000.00. The original project was to improve the 13th Judicial District Attorney Office in Los Lunas. This request allows the county to use appropriate

funds for other projects. The funds are left over and county can use them for other projects.

Commissioner Kirkham moved for approval. Seconded by Commissioner Gentry. Motion carried unanimously. (See Exhibit G & H)

j) 2009/2010 Road Priorities – County Commission

By consensus this item was tabled, due to not having any information on this item.

k) Consideration Agreement for Valencia County to act as Fiscal Agent for Casas de Vida Nueva's Capital Outlay Request from State of New Mexico – Charlotte Back

Commissioner Kirkham moved for approval. Seconded by Commissioner Gentry. Motion carried unanimously. (See Exhibit I)

l) Final Action on Public Hearing of January 14, 2009

i) Requesting to Amend Zoning Map from C-2 to PD to allow for future single family residential development on the subject property; T5N, R2E, Sections 15 & 16. NMPM; Rio Del Oro, Unit 64, Blocks 22, 23 & 24, Lots 23-1, 24-1, 22-1, 22-2; Zoned C-2; Valencia County, NM / Valley improvement Assoc. Mike McCartney – County Commission

Commissioner Gentry moved for approval. Seconded by Commissioner Medina. Motion carried 4-1. Chairman Rael voted no.

ii) Requesting an Amendment to the Zoning Map from RR-2 to RR-1 to allow for the subdivision of the 11.55 acre subject property into 4 (four) one-acre lots and 1 (one) seven-acre lot; T4N, R2E, Sections 5 & 6, NMPM; Land of Ladis & Leova Romero, Tract 5-A-1; consisting of 11.55 acres; Zoned RR-2; Valencia County, NM / Ladis R. Romero – County Commission

Commissioner Medina moved for denial of this request. Seconded by Chairman Rael. Motion carried 3-2. Commissioner Kirkham voted no. Commissioner Gentry voted no.

iii) Requesting an Amendment to the Zoning Map from RR-2 to RR-1 to allow for the subdivision of the 2.97 acre subject property into 1 (one) 1.3- acre parcel and one 1.0- acre parcel; T4N, R1E, Section 12, NMPM; 9AP 109, Tract 56-B; consisting of 2.97 acres; Zoned RR-2; Filed in Book 359, Page 16094 of the Office of the Valencia County Clerk; AKA 1164 South Hwy 116, Belen, Valencia County, NM/Rogelio Rodriquez – County Commission

Commissioner Medina moved for denial of this request. Seconded by Commissioner Holliday. Motion carried unanimously.

iv) Requesting to construct a Wireless Communication Facility (WCF) at the Tome-Adelino Fire Station. Pursuant to Section 154.151 (5) (a), Approval for Placement of a WCF outside of the WCF Overlay Zone is subject to Section 154.061 for quasi-judicial zone changes; T6N, R2E, Section 28, NMPM; MRGCD Map 89, a portion of Tracts 102- A-2 & 102-C-2; zoned C-1; Valencia County, NM / Verizon Wireless- Les Gutierrez – County Commission

Commissioner Gentry moved for denial for this request. Seconded by Commissioner Kirkham. Motion carried unanimously.

v) Requesting to Amend the Zoning map from RR-1 to C-1 with a Conditional Use to allow for the operation of an existing auto and truck repair garage on the subject property; T7N, R3E, Section 26, NMPM; Mesa Estates Subdivision; Tract A-1-C-4-A; consisting of 2.12 acres; zoned RR-1; Valencia County, NM / Jess & Merietta Mestas-County Commission

Commissioner Gentry moved for approval with excluding the removal of the mobile home from the conditional use and other conditional use to apply. Seconded by Commissioner Holliday. Motion carried unanimously.

vi) Requesting to Amend the Zoning Map from OD to MR with a Conditional Use to allow for the establishment of a sand & gravel mining operation on the subject property; T6N, R4E, Sections 9, 10, 11 & 12, NMPM; the Northwest ¼ & Lots 1 & 2 of Section 11, the Northeast ¼ & Lots 3 & 4 of Section 11, the East ½ Northwest ¼ & Lot 2 of Section 12 the North ¼ & Lot 3 & 4 of section 12 of consisting of 1,726.81 acres; Zoned OD; Valencia County, NM / Bonito Land & Livestock, Inc /Sun Ranch development, Ltd Max Kiehne- Agent – County Commission

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

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vii) **Requesting an Amendment to the Zoning Map from AP to RR-2 to allow for the subdivision of the 40-acre subject property into a 15-lot residential subdivision; T6N, R2E, Projected Section 30, NMPM; Land Division of Franklin & Whisenant, Tracts A & B; MRGCD Map 90; consisting of 17.98 acres & 11.36 acres respectively; Zoned AP; and Land of Dale Jones, Tract C-2; MRGCD Map 90; consisting of 10.31 acres; Zoned AP; Valencia County, NM/ John Whisenant & Elias Barela, Consensus Planning-Agent –County Commission**

Commissioner Medina moved for denial of this request. Motion died for lack of second. Chairman Rael moved for approval. Seconded by Commissioner Gentry. Motion carried 3-2. Commissioner Medina voted no. Commissioner Holliday voted no.

m) Financial Matter

i) Resolution 2009-08; Increase Expenditures for Los Chavez Fire Department – Wilma Abril

Commissioner Kirkham moved for approval. Seconded by Commissioner Gentry. Motion carried unanimously. (See Exhibit J)

County Clerk Sally Perea announced Resolution 2009-08.

ii) Consideration of Approval of Prorating Elected Officials' Salaries – Wilma Abril

Commissioner Kirkham moved for approval. Seconded by Commissioner Gentry. Motion carried unanimously. (See Exhibit K)

iii) Consideration of Approval; Payroll/ Warrants – Wilma Abril

Ms. Abril presented the attached computer printout list of all checks issued by the Manager's Office on January 16, 2009 covering vendor bills processed. Check #97560 thru Check #97717 inclusive for the total of \$771,152.68.

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

Ms. Abril presented the attached computer printout list of all checks issued by the Manager's Office on January 16, 2009 covering payroll process. Direct Deposit Check # 9357 thru direct deposit check # 9527 inclusive. Deduction Check #97569 thru deduction check #97606 inclusive. Payroll Check #83885 thru payroll check #83976 inclusive. Listing total \$ 362,525.17.

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

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

Commissioner Kirkham moved to go into Executive Session. Seconded by Commissioner Medina. Roll call vote. Commissioner Kirkham voted yes. Commissioner Holliday voted yes. Chairman Rael voted yes. Commissioner Gentry voted yes. Commissioner Medina voted yes. Motion carried 5-0.

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

County Attorney Adren Nance stated the matters discussed in executive session were; Trigo Canyon road as threatened litigation. He was given direction to contact Forest Service for information and no final action was taken.

Commissioner Kirkham moved for approval. Seconded by Commissioner Gentry. Roll call vote. Commissioner Kirkham voted yes. Commissioner Holliday voted yes. Commissioner Medina voted yes. Commissioner Gentry voted yes. Chairman Rael voted yes. Motion carried 5-0.

9. Action Item(s) on Executive Session Discussions:

Chairman Rael said there is nothing to do at this point, the Board gave counsel direction.

10. County Manager's Report (Information Only)

County Manager Eric Zamora reported Mid-Winter Association of Counties Conference begins January 27, 2009 thru January 29, 2009.

Commissioner Kirkham announced the Hispanic Chambers Mantanza would be held on Saturday, January 24, 2009. The public was invited and encouraged to attend.

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Chairman Rael announced the band "Garrapatas" would be playing at 8:30 in the morning and the "Mariachi Tenampa" at 10:30 A.M.

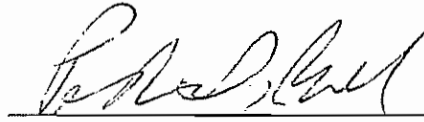
11. The next Regular Meeting of the Valencia County Board of County Commission will be held on February 4, 2009 at 5:00 PM in the County Commission Room at the Valencia County Courthouse.

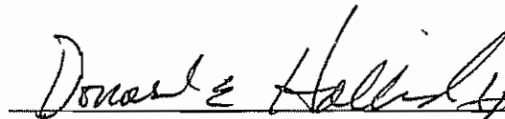
12. Adjournment

Commissioner Gentry moved to adjourn. Seconded by Commissioner Medina. Motion carried unanimously. Time 7:46:42 P.M.


NOTE: All proposals, documents, items, etc., pertaining to items on the agenda of the, January 21, 2009 Regular Business Meeting (presented to the Board of County Commissioners) are attached in consecutive order as stated in these minutes.

VALENCIA COUNTY BOARD OF COMMISSIONERS

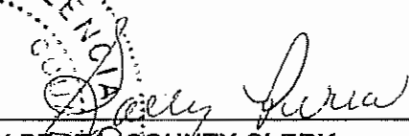

 PEDRO G RAEI, CHAIRMAN

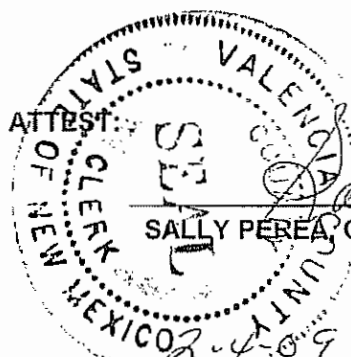

 DONALD E. HOLLIDAY, VICE-CHAIRMAN


 GEROGIA OTERO-KIRKHAM, MEMBER


 RON GENTRY, MEMBER


 DAVID MEDINA, MEMBER

ATTEST: 
 SALLY PEREA, COUNTY CLERK

 2-4-09
 DATE

