

VALENCIA COUNTY BOARD OF COMMISSIONERS
PUBLIC HEARING MEETING
OCTOBER 14, 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 & Dave Pato, County Attorneys	
Sally Perea, County Clerk	
Press and Public	

- 1) The meeting was called to order by Chairman Pedro Rael at 5:07 P.M.
- 2) Chairman Rael led the Pledge of Allegiance.
- 3) Approval of Agenda
Commissioner Kirkham requested moving Item 6 (a) Public Hearing Item prior to Public Comments and Discussion. This was to accommodate the news media who have a live feed at 5:30 PM. After no objection and by consensus of the commission Item 6 (a) was moved ahead of Public Comments. Chairman Rael also reminded the audience that Public Comments is for items not on the agenda.
Commissioner Kirkham moved for approval of the agenda as amended. Seconded by Commissioner Holliday. Motion carried unanimously.

- 6) PUBLIC HEARING ITEMS:
a) Ordinance 2009-____, Prohibiting Rave Parties in Valencia County – County Commission.
County Clerk Sally Perea administered the oath to those persons wishing to speak at tonight's Public Hearing Meeting.

Susan Moran stated her understanding of the ordinance was to give the sheriffs department "teeth", to enforce anti-rave parties. If she called and reported one could the sheriffs department come in and disband it, based on this ordinance?

Chairman Rael stated his interpretation of the ordinance is if there are any violations of the specific items in the ordinance, then there can be whatever law enforcement the sheriff's office believes is appropriate at the time. He did not see anything in the ordinance that says that the rave parties are going to be disbanded.

Mike Woods interrupted the discussion as point of order and asked why the Sheriff was asking him to leave the meeting. Is there a direct order as to why he had to leave, he asked.

Chairman Rael stated this matter has been taken care of before. Mr. Wood had been asked more than a dozen times not to disrupt the meetings, as he just did and not to say inflammatory and defamatory material, which is false, against any member of the public or any member of the commission. He has been asked to leave voluntarily on prior occasions and has refused to do that. He was given an alternative that unless he makes reasonable arrangements with this commission that he is willing to follow the rules of orderly decorum of a public meeting he would not be allowed in. Mr. Wood has not done that. So therefore, until one of those things happen I am asking that you please follow the ban and not attend these meetings until we take care of the matter so that we know that we can have orderly meetings, Chairman Rael said.

Mr. Wood said he checked with the court and there was nothing on record as to any cause for him being removed. Chairman Rael's response was that Mr. Wood was already disrupting this meeting and asked the sheriff to remove him.

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Mr. Wood asked for his rights as a citizen to be allowed at this meeting and all commission meetings, as this was a very important issue that talked about raves and kids that possibly are on drugs and he asked that the chairman reconsider because he's done nothing. I contest about 99% of what you've said and the documents in the minutes of the meeting will validate what I am saying, so I request that I stay here, Mr. Wood said.

Chairman Rael said his determination stands; this has been going on for a year and a half and if Mr. Wood had been this civil at prior meetings in his requests, it would have been a whole different story. You have slandered this commission numerous times, you have followed me around at trial and have attempted to talk to the jury to influence the verdict in the case in which I was participating, he's been at my office un-invited, made telephone calls to other commissioners that were un-invited and you have published extremely defamatory material that is not appropriate at these meetings. You have been disrupting meetings numerous times and you're doing it now and I'm going to ask you to please leave, Chairman Rael said.

Mr. Wood said, I'm not going to counter what you've said because that would take entirely too long, but my attorney will, he will do that. He asked the Chairman to reconsider, are you as an individual challenging me and not asking me to leave, but telling me I have to leave, what is your answer to that, Sir. Chairman Rael said I have asked you to leave and since you refused, I as the custodian of this building am authorized to ask you to leave and because you don't want to meet any of the conditions, talk to this commission about it or bring a court order, I'm asking you to leave. I do not have to answer your questions sir, it's all a matter of record, you are correct about that. So please, please leave.

What was said at the last meeting was that Mr. Wood should not attend the meetings unless he could conduct himself with proper conduct and Commissioner Gentry did not see Mr. Wood disrupting in any manner at this particular meeting. We need to follow appropriate procedures If this commission is going to bring an action against Mr. Wood. This has not been discussed and with all due respect our own policy says that the chairman has no other rights than any other member of this commission. If Mr. Wood is not disrupting the physical meeting, other differences we have need to be settled outside of it or this commission needs to consider in executive session and in public and then bring the appropriate decision forward for Mr. Wood. This is more to protect the commission and not violate anybody's constitutional rights, Commissioner Gentry said.

Chairman Rael believed that Commissioner Gentry was incorrect in that a vote of the entire commission is required to be a proper custodian of the records and to conduct the meeting. That devolves upon the chairman, however in the interest of getting everyone's feelings about Mr. Wood and how he's conducted himself for the last year and a half he asked the other commissioners how they felt about it because he did not want to appear having the sole authority to do that.

Commissioner Kirkham received a letter from the New Mexico Foundation of Open Governments, because of a phone call from Mr. Wood and possibly others in the audience, which said that the public body, which is the commission, does have a right to maintain public order and to carry out business free of undue interference and disruption. Mr. Wood is constantly disrupting the meeting, he's constantly speaking out of turn, he's constantly calling commissioners liars, thieves and I believe one time he actually yelled from the back and called the Chair "Hitler". He's called me a liar and a thief several times, so as far as I'm concerned and unless I hear from a higher authority or a court order, I don't believe Mr. Wood should be allowed at any of the meetings. We've obviously done everything for the Foundation for Open Government who have said that the commission could ask a person to sit down and observe the proceedings quietly, which we've asked him several times, the body can set rules for good behavior during a public comment period and state those rules clearly on the onset of each and such period which we have done many times. The body can ask law enforcement personnel to contain an emotional person's behavior in a way that allows them or her to stay and observe and we've have done that many times and none has he followed. He still continues to disrupt the meeting. I am sad that we have to remove someone but other people have a right to listen and with his continual distractions it's hard for anyone to listen or make sense of what's going on. It's hard for the commission to continue to do their business with constant disruptions and slander.

Commissioner Holliday agreed that Mr. Wood has been out of order several times since he's been on the commission the last ten months and until he can control himself in a professional manner and give the commission the respect we deserve and need, Mr. Wood should be barred and should make accommodations to meet with the commission and see if we can resolve this matter. Your name is not on the list here but you still speak from the

back of the crowd out of order and that's my point. There needs to be some order to this hearing and to the commission.

Commissioner Medina had read the letter from the New Mexico Foundation for Open Government and asked counsel if the commission was following proper procedures or was there something we need to do to keep this from not happening and to work as commissioners? County Attorney Dave Pato said the commission would need to determine if Mr. Wood's behavior disrupts the meetings, which he thought the commission had demonstrated through its discussion of the matter.

Chairman Rael said I think it's pretty clear that the consensus of the commission is that the order stands; Mr. Wood and I would ask you to leave voluntarily. Mr. Woods stated the question I have for you Mr. Chairman, is you keep saying the word ask, if your asking, my answer is no. I'm answering your question, no, I don't wish to leave and in response to what Commissioner Kirkham said, that was a fact, she actually stole money from the Valencia County Treasurer. I'm just defending the taxpayers.

Commissioner Kirkham said you know that's not true Mr. Wood, you are not defending the taxpayers; you have received letters from the county telling you it is not true. This was a mistake of the county, not mine and I'm not going to tell you again. You have slandered me more than once on that issue. I have a letter from our finance officer, I have a letter from our treasurer and I have a letter from the county manager, what more do you want.

At this point Chairman Rael asked the deputies to remove Mr. Wood based on the original ban and based on which he just did now, which is exactly what we've asked him not to do. This is no place for that kind of talk in this meeting. We cannot conduct business with Mr. Wood or anybody else doing that kind of stuff. Would you please remove Mr. Wood?

Commissioner Kirkham apologized for the interruption and asked Ms. Moran to continue with her comments regarding prohibiting rave parties in Valencia County.

Ms. Moran stated this ordinance has no reference to no trespassing. That might be something that the commission might want to add to the ordinance. She also expressed her concerns on unreasonably loud, intrusive noises and she understands that the sheriff's department has tools to measure that but they are not trained. It's hard to implement something unless the sheriff has the training necessary to measure something like that. This has to be an ordinance that gives the sheriff concrete teeth to break these up and to get people out so they are not endangering the lives and the health and welfare of the taxpaying community.

Commissioner Holliday believes that there are enough laws on the books to take care of most of what's happening out there. We're trying to protect private property owners not knowing that there is a rave happening on their property. That is called criminal trespassing. I would hate to see a line of law enforcement officers headed out there with their lights on and have a bunch of kids jump in vehicles and take off, like a bunch of scared little rabbits and have an accident. That would be bad.

Commissioner Kirkham said one thing that's encouraging is that if people call and ask if Valencia County has an ordinance prohibiting raves, we can actually say yes we do. Having all these other laws on the books but condensing to actually being an ordinance to prohibit raves, people can look at that.

Commissioner Gentry stated what it does is gives us an umbrella to take a look at it, but one thing that he would like the commission to consider in the penalty section is introduce an amendment to make the penalty \$3000 instead of the \$300. I would like to see a stiffer penalty but then what this does, it's not all inclusive of the details, and the details are in the law already. This just gives us the blanket or the umbrella to enforce the other things as one unit. I believe it's a step in the right direction.

Meadow Lake resident Bob Gostischa stated he had two comments; 1) this was called an anti rave ordinance and from his understanding there are already enough laws on the books to already prohibit anything that's carried out at the rave party, 2) what he'd rather see is an ordinance that outlines under what circumstance you can legally have a rave party, which would include outlines like noise level, the amount of people gathering, where you can hold it, what restrictions apply and what kind of fee. Instead of making it anti, tell them what they need and if they can't meet that, then they're in violation.

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Commissioner Holliday stated we should be looking at a way to do this, where it's clean, make a buck and keeping it safe, We need to look at this a little closer and see how we can address it to where we can make it healthy with supervision and where it's safe for everybody.

Valencia County resident Frank Barr suggested that the commission take this ordinance back and review it and try to close some of the loop holes in it. He quoted statute and feels this is not the piece of legislation the commission should be signing. They define what a rave is, to a certain extent, but it's not mentioned anywhere in the enforcement.

Chairman Rael feels they need to try to describe what the objective is, what is it that we're trying to minimize or trying to completely stop or are we really trying to control something instead of just absolutely prohibiting large scale conduct by teenagers and what is the conduct we're trying to avoid. We have laws on the books that prohibit a lot of the things that already are prohibited by this specific ordinance. We need to define this a little bit better. As he understands it, these rave parties are huge numbers of kids that get together where there is or may be a good tendency to commit additional or a higher percentage of illegal activity then if they were not in one huge bunch and has a greater tendency to disturb the neighborhood. The specifics are already outlawed, but is there something we should do to control or restrict in some way as suggested by Commissioner Gentry with a \$3000 penalty if there is a violation. Someone had mentioned taxing or permits and laying down rules and regulations on how these parties can occur within the bounds of the law rather than not doing anything. There's enough community concern that the question needs to be addressed. Chairman Rael feels the ordinance is okay the way it is drafted, he's not sure if it's broad enough to meet the concerns of the people that are complaining about the rave ordinance and the possibility of the odds of more illegal conduct occurring then if we didn't have these things or somebody control them or manage them legally so that we don't have the number of complaints and the concern that the public has about these massive teenage parties. That's what we're defining the rave party as being. We need to study this a little further to see if we can expand on this and stay within the constitutional rights of the citizenry.

Sally Perea County Clerk administered the oath to Mr. George Moscona.

George Moscona stated that he has attended rave parties and they have been celebration of life and now the way the rave party is defined is that it's always violent, abusive, indecent, profane and boisterous. By defining it this way we're making this party illegal. Many things happen in this county that are violent abusive, indecent, profane, boisterous and drunken. Can we find a way to define having a party safely, with safe guard, with medical protection and with ways that we could even benefit as a county? We need to define when a party happens. This is not so much an anti rave ordinance but how do we draft legislation and motions so it's for the well being of our community. I think this is a well being issue. We could create a wonderful set of guidelines as to how to put on a legitimate party, how to make it safe, how to make sure it follows the law. This is a better direction to follow than to have an anti rave law.

Commissioner Kirkham suggested that in setting up a committee, it may be interesting to have some teenagers on that committee.

What Commissioner Gentry was hearing was that people would like us to construct an ordinance which would allow these things or this rave or this party. I'd be real hesitant for this commission to embark upon regulating other parties such as Matanzas, graduation parties, family reunions and class reunions. When you say this is a celebration of life and you have a place out on the mesa, which is unauthorized and laden with several hundred people doing drugs, doing sex, doing booze, under age, loud noise for twelve or fourteen hours, that's not a celebration of life, that's a deterrent of life and that's what we're trying to clean up. My hopes are that this defines illegal raves and it doesn't infringe on the citizens.

Sally Perea County Clerk administered the oath to Mr. Jim Lane.

Mr. Lane stated the way to define an individual party such as a graduation or Matanzas is that a rave is going to have paying applicants. The commission seriously needs to look at making a definition of any party for attendee's over a certain amount or number in which money is accepted or exchanged for entrance. It would also have to be permitted. I think that would solve what the commission is trying to stop and I agree with that but would not want anyone's rights or liberty taken away.

Sally Perea County Clerk administered the oath to Mr. Jim Shawl.

Valencia County resident Jim Shawl stated what we don't want to do is over regulate and impede on peoples constitutional rights to gather. We need to focus on the large mass gatherings that happen in a not typical gathering environment. They're not public venues and they're not places that are conducive to handling large gatherings. Where the permitting side comes in is if someone were to obtain a permit for something like this that is not going to be held in a public place or business venue. This would give the sheriff a heads-up, if there's going to be a gathering estimated at 2000-3000 people, the sheriff can plan ahead for that.

4) PUBLIC COMMENTS – at the discretion of the Chair.

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

George Moscona stated the experience of gathering signatures regarding the Gross Receipt Tax was very informative. The main topic on everybody's mind was the hospital that they voted for and is still not built. He hopes the commission will take proactive steps to support the building of a hospital here in Valencia County. Mr. Moscona also stated he is glad he will have the opportunity to vote on the correctional tax and wishes he could vote in favor of it, which promised to handle needed improvements for the detention center, but he will not vote for a tax that does not clearly define just how the money will be used and has no ending date.

Sue Moran thanked and acknowledged the hard work and dedication of Mr. Sonny Vega from code enforcement. He handled a nuisance complaint by responding quickly and keeping her informed on the statutes of the complaint and bringing it to a satisfactory conclusion. She also complemented Commissioner Holliday for owning up to an error in judgment regarding voting for the Gross Receipts Tax that should have been brought before the people and appreciated his efforts in trying to save money by moving the vote to June.

Meadow Lake resident Bob Gostischa thanked Commissioner Holliday of District 5 for getting the weeds cut along Meadow Lake Road. He also had the same concerns on the gross receipts tax that does not define as to how it was going to be spent and did not have a sunset date.

Chairman Rael confirmed with the county attorney that the purpose for which the tax was passed and fixed by law is statutorily fixed; the ordinance does say the purposes for what the tax is to be utilized. Everybody has the right to vote yes or no on this tax but people need to recognize that the consequences are that the commission then has to look somewhere else to find the money to house those prisoners in another location which is far more expensive, plus the women facility has to be upgraded and that money has to come from somewhere or the commission will be compelled to do it by court order regardless on how the people vote on the ordinance. We need the tax money, it is essential.

Commissioner Kirkham asked is it to late to insert a sunset clause in it?

County Attorney Dave Pato stated that because the original ordinance that was passed by this commission did not have one, there's no other provision for amending an ordinance except to follow the same process.

Commissioner Kirkham said if it passes it can be repealed at any time, five or ten years and it doesn't have to be perpetual, is that correct? Mr. Pato said yes.

Chairman Rael said this ordinance can be shortened, even shorter then ten years or extended depending on the needs of the county at that time, is that correct? Attorney Dave Pato response was yes, that's correct. Personally, Chair Rael didn't see any problems with leaving it open ended, because if a future county commission doesn't see the need for continuing the tax, they can just repeal it and it ends then. It will last according to the needs of the county. This is not a property tax but a gross receipt tax. It is not a big substantial tax but produces enough to keep our jail going without being compelled to do so by a federal court order and we don't want to go there.

Joseph Rizzo comments were that he was very disturbed with the unseemly altercation that occurred with Mr. Wood. He didn't agree with the things Mr. Wood said or how he says it, however he does have civil rights and I do have to defend that he has civil rights. It's appropriate for the chairman to remove people who are causing noise and problems during the meeting, which has happened often and not only with Mr. Wood, but when you say he

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can't come again that's banishment. This kind of thing has gone on too long and shouldn't be happening here.

Commissioner Kirkham apologized for her outburst and her unprofessionalism.

Chairman Rael addressed Mr. Rizzo's concerns on whether the commission has the authority to ask someone to leave and not to come back to the meetings. Chairman Rael referred to statute 30-20-13 subsection (c) under the New Mexico Statutes. I have very carefully considered what Mr. Wood has done over the past year and a half without being recognized by the Chair, which is another rule he has violated time and time again. Am I suppose to continue perpetually to sustain the borage of attacks on this commission, being called thieves, inappropriately being paid under the table and being corrupt. This has been very inflammatory and slanderous and they interrupt and interfere with the process of this commission. As public officials and human beings are we just supposed to tolerate that and try to conduct an orderly meeting? These are extremely volatile in nature and I don't think that's what the intent of the law is. Government cannot operate in an orderly fashion if we allow a person to continuously and repetitively do that. I have asked Mr. Wood many times not to do what he was doing, he didn't stop so I asked the sheriffs deputies to ask him to leave and still he didn't stop his conduct and his behavior as you yourself have heard him say the things that he says, which in fact are disruptive of the meetings. Even today he started doing the same kind of thing that he has done over and over again. We could sit down civilly with him and figure out what the problem is that he's got or that he thinks we have and therefore work out some sort of format that we can live with. He refuses to do that. We are trying to treat people as fairly as we possibly can and still run an orderly government. That's what we're trying to do.

5) DISCUSSION (Non-Action) ITEMS:

None.

6) PUBLIC HEARING ITEMS:

b) Update on solid Waste - Donald Holliday

Commissioner Holliday said the commission had passed an ordinance several months ago on a mandatory county wide solid waste pickup and asked Eric Zamora County Manager for an update on the project. There's seven meetings left for this commission for the year 2009 and he has not yet seen or heard anything in regards to this issue.

Mr. Zamora stated several months ago they had met and had a presentation that looked at three options for solid waste collection in the county from transfer station, convenience station and mandatory trash collection. The consensus of the commission at the time was to pursue an option for mandatory curb side collection and the final comment from the chairman was to evaluate whether or not they wanted to pursue a contract service for mandatory curb service or did the county want to consider taking this on with staff personnel and basically have a county program for solid waste collection. In his two and a half months of research, there are no studies out there that would indicate one way or the other if there was an advantage to private or contract on this service. He also came across three other factors 1.) What impact would a mandatory curve side collection have on the county road system 2.) We're going into our tax season, property taxes have increased, we're in the worst economy recession that we've seen in this country in over twenty years, we're also considering an option for a correctional tax and this would be another financial hit for the public and 3.) It's beyond his ability to pursue the solid waste program, because there are so many specialized regulations that the county would have to meet with the New Mexico Environment Department. What he had done last month was authorize Human Resources to post the budgeted position for a solid waste coordinator which has been in the budget for the last two years but haven't hired because they've been developing the program and waiting to see where they were going to go with it. He stated he cannot do this because it's going to take someone full time and we want to do this right the first time. He authorized Human Resources to fill the position and change the job description based on other input that they've had over the course of the

year. We need to have someone that can address environmental issues in the county and can do it on a full time basis and understands state regulations within environmental code and the New Mexico State Statutes. We're hoping to have someone on board by the middle of November. This person will also be actively involved in developing a recycling program to complement a curb side collection system.

Commissioner Holliday was disappointed that it's taken this long to realize that we won't have anything by the first of the year. I guess we should have brought this up months ago to get it going but he would like to see 2010 be the year. Have these waste disposal people

been notified to see what they can do, he asked. It was supported by the citizens and he had said that it would get done.

Commissioner Kirkham asked if this environmental person has the expertise to handle this. Mr. Zamora said this is the type of person that we're looking for. The other option is we could pursue an RFP (request for proposal) for services at this time and while we're going through the hiring process finish that up and get somebody on board. There are two options on doing the billing, 1) have the contractor do all the billing, totally out of the counties hands, we just do an oversight monitoring. The residents will be paying three to five dollars a month for that service, 2) have county staff form the billing, develop the database and keep the billing records. That will save money for the taxpayer but again it's more staff time.

Commissioner Gentry stated a lot of people campaigned to clean-up Valencia County; we recognized the problem and went through detailed issues to pass an ordinance that would allow us to do that. It was on track moving rather well and then like a lot of other things, it's just not happening. While he appreciates this environmental person coming on, the solid waste pickup is somewhat separate than landfill closures and septic tanks. He likes Mr. Zamora's idea but what would be wrong with looking into the difference in cost of county employees doing this or finding out what the private sector could do. Is it an RFI (Request for Information) or an RFP (Request for Proposal) that we ought to ask for to find out the information on that. It's pretty clear what can be done through the county manager's office and without waiting for this expert if we just went out for a request for proposal and let those who want to give us a proposal tell us what they can do, what the cost will be and how they will do it. Then we can sit down in a workshop and go over this because it's a major problem with Valencia County. He agrees with Commissioner Holliday, we need to move forward and request an RFP, find the differences and find the cost. Then we'll evaluate it and see what we can come up with and approve what works for the county.

7) The next Regular Business Meeting of the Valencia County Board of County Commission will be held on October 21, 2009 at 5:00 PM in the County Commission Room at the Valencia County Courthouse.

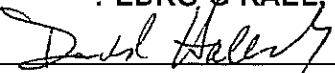
8) Adjournment

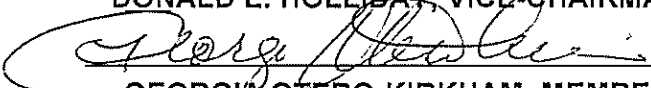
Commissioner Medina moved to adjourn. Seconded by Commissioner Holliday. Motion carried unanimously. Time 7:09 P.M.

NOTE: All proposals, documents, items, etc., pertaining to items on the agenda of the October 14th 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


GEORGIA OTERO-KIRKHAM, MEMBER


RON GENTRY, MEMBER


DAVID MEDINA, MEMBER

ATTEST: 
SALLY PEREA, COUNTY CLERK

11-4-09
DATE