

VALENCIA COUNTY BOARD OF COMMISSIONERS

Public Hearing Meeting

March 10, 2010

PRESENT	ABSENT
Donald E. Holliday, Chairman	
Georgia Otero-Kirkham, Vice-Chairman	
David R. Medina, Member	
Ron Gentry, Member	
	Pedro G. Rael, 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 Donald Holliday at 5:00 P.M.
- 2) Chairman Holliday led the Pledge of Allegiance.
- 3) Approval of Agenda
Commissioner Mendina moved to approve the agenda, Seconded by Commissioner Otero-Kirkham. Motion carried unanimously.
- 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).

Meadow Lake resident Bob Gostischa stated it's his understanding that the information for the census has been completed in the Meadow Lake area. Forms were not mailed out but were hand delivered because the Post Office said they couldn't deliver them because of too many bad addresses. Mr. Gostischa is concerned because he never received a hand delivered census form and Valencia County loses out. He's been receiving mail there for six years and has never missed or lost any mail and wants to know why he didn't get a form.

Mary Wood spoke on the issues surrounding the closure of the past Belen Hospital which she felt involved politics and Presbyterian's business management philosophy. The local politics lead to the defeat of the mill levy requested by Presbyterian over a decade ago. That defeat provided all the excuses Presbyterian needed to do what was in their best corporate business interest, "close the Belen hospital." Valencia County is the only county in a four state area, with over 50,000 residents that does not have its own hospital.

Sue Moran stated Presbyterian and Lovelace Hospitals have plenty of financial and management issues of their own. Any involvement with Valencia County would be at a much lower level of priority than their larger issues in Albuquerque. One or both may be interested to some degree in tapping into the Valencia County mill levy funds but their overall interest doesn't coincide with what's best for the healthcare of Valencia County citizens. Start supporting what over 76% of the voters asked for and what 100% of the taxpayers are paying for, a hospital in Valencia County for the citizens of Valencia County nothing less is due.

Los Lunas resident Brian Benoit spoke on Section 17 of the New Mexico Constitution which stated that every person may freely speak and publish his sentiments on all subjects being responsible for the abuse of that right and no law shall be passed to restrain or bridge the liberty of speech or the press.

Los Chavez resident Bo Reneau thanked the commission especially Commissioner Medina and County Manager Eric Zamora for the gravel road that was put in.

5) DISCUSSION (Non-Action) ITEMS

a) Presentation Meadow Lake Parks Area Association – Jim Lane

Jim Lane stated this is a project he's been working on for over a year and has formed a non-profit group registered with the state called the Meadow Lake Parks Area Association (MLPAA) and he is currently the president of the association. The MLPAA (Meadow Lake Parks Area Association) was formed to create a positive change in

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Meadow Lake. There's a lot of negativity associated with Meadow Lake. Meadow Lake use to be a community built around a nice lake. That lake has gone into private hands and has disappeared. The MLPAA group realized that without community involvement there's basically no community and the positive mind set for their youth requires positive opportunity. This group is committed to making that opportunity available through summer programs, outings, family walks, etc. They realize by bringing back the habitat for wildlife to the area and teaching the youth about it is a positive thing and both go hand in hand. The lake will never be a lake again. Currently there are no water rights to the property. His group has a two year lease until they can obtain their 501C3 federal tax exemption. With time the owner holding the contract will donate the property to the association for a tax exemption. The Meadow Lake Parks Area Associations mission statement is to procure, revitalize, develop, manage and maintain land in and around the former old lake property located in the community of Meadow Lake to support and accomplish the goals and projects and utilizing available private, state, federal donations, grants and funding for the best interest of the community, the land, the wildlife and public education. Their first goal is to obtain through donations the now privately owned former Meadow Lake property and surrounding lands. To return the land to a pristine condition by creating wildlife supporting habitat with wet lands ponds and open space. There will be some ponds that hopefully will attract some wildlife. There are small lots that they want and five lots that are owned by the New Mexico Water Company that they may have to negotiate. The second goal is to obtain Habitat for Humanity property that is adjacent to the lake. The third goal is to create a horse trail from the lake, which would be a non motorized biking, hiking and horse trail to the manzano wilderness area. It's about four and a half miles and he currently has three miles of promised easement. By reshaping the bottom of the lake and collecting the natural rainfall they can create grassland to support the native flowers and indigenous trees. Currently the plan is to install a half acre pond in the middle and two quarter acres on either end and try to make the thirty five acres seem as large as they can possibly be. Another goal is to create an easement and maintain public access across private estate lands for non motorized trail to the manzano wilderness. The goal for the Habitat for Humanity property is to create a general purpose play field for the public with restrooms, a picnic area, a senior gardening area, a horse corral and a parking lot. They want to stimulate a positive attitude to encourage a level of community pride with the local youth through park activities, learning programs, habitat development and wildlife education. His group believes by changing the youths attitude in a positive way will also help their community. Mr. Lane invited the public for their first meeting of the MLPAA which will be held at the Meadow Lake Community Center on March 20, 2010 at 3:00 P.M. People can learn more about the initial plans and goals and how they can become a member. They created bylaws and their membership fees are \$24 a year for the contributing member plus three family members and twenty hours of service whether it be planting trees, picking up trash or whatever else is needed. Their goal is to have one hundred memberships the first year. It will be open free of charge to the public at least a minimum of four days during the year and open during other events.

6) SWEARING IN OF PARTICIPANTS

County Clerk Sally Perea administered the oath to those individuals wishing to speak.

7) PUBLIC HEARING ITEMS:

a) Consideration for an Amendment to an Approved Master Plan (La Vida Suerte) in a Planned Development (PD) Zoning District; Section 2 & 11 T6N R2E NMPM; La Vida Suerte Country estates Lots 14-23 and Lots 30-39; Zoned Planned Development Filed in Book 360 Page 5739 of the Office of the Valencia County Clerk – Jacobo Martinez/ Kenny Trujillo

County Planner Jacobo Martinez stated the subject property is located on the south side of El Cerro Loop. This request was heard by the Planning and Zoning Commission on January 27, 2010. The Planning and Zoning Commission voted 3-1 to recommend approval on the amendment to the master plan.

Joe Kenneth Trujillo works with Nino Trujillo and Company as one of the broker's on the project currently selling the home lots. Mr. Trujillo stated there are forty two home lots in the La Vida Suerte Subdivision and the developers and owners are Kenny Trujillo and Senator George Munoz. When they first started the development, the whole concept of the plan development was to designate the front one acre of a three acre parcel to build structures on, such as the home, barn, etc and leave the two back acres as pasture. When they first purchased the property they actually purchased it without the water rights, the water rights had already been sold off of the ninety eight acre development. To make it clear they're not looking at a land split in any way. They're just asking to allow property owners to place their structures where it suits them best. The declaration encourages property owners to keep as much green as possible. Also there is a concern

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from people looking at the property, they don't like the idea of the barn being built to close to the home because of smell reasons, safety reasons, the animals getting out or something happening to the barn structure. Mr. Trujillo is asking the commission for approval to allow the homeowners to choose where they want to place their structures on their property, instead of placing the structures on the front acre and the removal of the conservancy easement.

Mr. Trujillo also stated that the fourteen sales they do have in the subdivision, all fourteen home owners have signed off and are in favor of removal of the conservancy easement.

Commissioner Otero-Kirkham stated that they have reiterated that they are not going to split any of the lots, for example the three acre lots are not going to be split to two one and a half acre lots? No, this is final and that's referenced in section 5 of their declaration was Mr. Trujillo's response.

Commissioner Medina asked if there has been any construction on any of the fourteen parcels already sold and if they have an agreement from the property owner's that they're not against what they are planning to do. Mr. Trujillo said only one lot has been constructed on and the entire property owner's are for removing the conservancy easement.

Commissioner Gentry said he received several calls on this and asked if they are indicating that the conservancy will not supply water and the greenbelt could not be serviced?

Mr. Trujillo said it's year to year and it's up to the conservancy district and their opinion who's a junior and who has 1908 and these water rights leased every year, so it's from year to year.

Commissioner Gentry said basically that would reach out to about 75% of everybody in the valley that would have to worry about not getting water if that's true because very few people own their water rights in small irrigations. They all lease from the conservancy, which is thousands and thousands, so potentially the whole valley could go brown. What concerns Commissioner Gentry is that when they first presented the subdivision to them, he thought it was a good idea. There were eighty some people from the neighbor that signed a petition against the subdivision and when they considered it as a commission, he asked the question about the greenbelt. Is the greenbelt going to be there and they weren't going to change that. He was told at that time the greenbelt was permanent. He looked at the presentation where it shows the lots as were proposed then when the commission approved it and now where they are asking to re-approve. The original one says "permanent greenbelt" and in Mr. Trujillo's opinion what does permanent mean, especially to a governing body who votes to do something when a developer says this is permanent.

Mr. Trujillo said it was planned development and they had a plan at the time that the one acre envelope would work and he doesn't know if there is a county requirement on how big a greenbelt or conservancy easement should be. They under estimated the size of the building pad and put everything to the front end of the parcel. It's just not working out and its hurting sales that could create jobs.

Commissioner Gentry said what he's concerned with is, that this might set the precedent in this county that permanent doesn't mean permanent, what it means is that you can come in six months later and get the commission to change it or the Planning and Zoning to change. As a developer he puts his trust in what they have presented to the commission and what they say when they present it and Commissioner Gentry asked the question specifically, will this stay as a greenbelt from here on out and the answer was yes. Mr. Trujillo said it's probably up to the commission to decide what's permanent, conservancy easement or size, what it takes to consider approving this.

Commissioner Gentry asked County Planner Jacobo Martinez if the commission allows the greenbelt easement to be repealed is there anything in the law that says they can't split this property again.

Mr. Martinez stated this is and has been changed to a zoned planned development which allows for a minimum lot size of 6500 sq. ft. If a developer in the future does want to go through this process again, they have a right to go through this process again and ask that it be amended as well.

Commissioner Gentry said if we repeal the greenbelt the property owner can come and split the property at a later date by our rules. The property owner does have a right to go through the process and so therefore they do have a right to come before the commission and ask for that request was Mr. Martinez's response.

Commissioner Gentry asked is it legal for the commission to put a condition that this land could not be split anymore?

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Mr. Martinez said yes, he believes so. What they looked at, in the facts of findings and conclusions of law, was to see if there was anything that talked about the greenbelt and a stipulation that the greenbelt had to be maintained when the zone was changed from AP to PD and unfortunately what the facts of findings and conclusions of law states is that it cannot detriment the agriculture of the area, so there is no stipulation by which this greenbelt had to be done when the zoning changed. We might refer to the county attorneys to see if we can put that into the facts of findings and conclusions of law for the future of the development of this site.

Mr. Martinez said he believes that any developer has the right to come in and go through the process again to ask for a re-subdivision or an amendment to the master plan.

Commissioner Gentry asked Mr. Martinez in his opinion does this open up the opportunity to split the land later on if the sales don't go great?

Mr. Martinez response was I don't know if this opens up the flood gate for another developer to come in the future and say I want both of these changes or amendments to happen because I want to take the greenbelt off and I want to split the land. They have a right to through that process. Does it allow a developer more opportunity to come in and go through the process and get that passed, no he doesn't think so.

Commissioner Gentry said so if the greenbelt is on there, they could not come in and ask for a split. Mr. Martinez said yes they can come in and ask for a lot split but they can also ask for a vacation of the greenbelt and lot split at the same time.

Chairman Holliday said are you asking to remove the greenbelt or just to allow the property owners to place their homes on the property as they see suited to do.

Mr. Trujillo stated the cleanest way they to do this is with the removal of the greenbelt and to encourage the people to keep as much green as possible. The ways the lots are set up are with the structures to the front of the lot. For the owners to put a road all the way to the back would incur more cost but maybe that's a cost to them that's worth it, to have the security of the home to the back end.

Commissioner Gentry asked on the property that's left, that they're repealing the greenbelt on, are any of those sold? One property has been sold and they did sign off was Mr. Trujillo's response.

Chairman Holliday said people don't want to invest in three acres because they are restricted as to where they can place their homes and is that what you have been experiencing on this?

Mr. Trujillo said correct, they seem to feel if they are purchasing three acres and want to place your barn at the back end so it's away from your house and you're not allowed to do, they shy away from it.

Chairman Holliday stated the sales aren't so hot on the three acre parcels, the water rights are not there, the people that buy a three acre lot will still have to keep sixty five hundred sq. ft. building size lot. What they are asking is to get rid of the greenbelt so when someone does purchase property they can place their barns or homes however they see fit and they'll have to buy the water from the Rio Grande Conservancy.

Mr. Trujillo said that's correct, they will have to lease it.

Commissioner Otero-Kirkham asked what do the three acre parcels go for. Mr. Trujillo said eighty eight thousand an acre. Commissioner Otero-kirkham said that's a lot of money and if they're investing that kind of money they want to be able to give the people the opportunity to build the big house, the big barn because that's what they're going to need and they're investing so much money on the land.

County Attorney Adren Nance said in the presentation and the documents that he has seen this has been referred to as a conservation easement, therefore they are the grantor as the subdivider, who is the grantee of the conservation easement, who owns the easement? Mr. Trujillo said the homeowner purchasing the property would own it because they are buying three acres. Counsel stated you don't understand the question, if I own a piece of land and he gives Eric an easement for a road, then Eric owns that easement and I own the land.

Commissioner Otero-Kirkham stated I think it's not so much an easement, as a restriction on the property. Mr. Nance asked a deed restriction? Commissioner Otero-Kirkham said you do the deed for the entire three acres but a portion of that is designated as an individual use.

Mr. Nance said then it would be a covenant rather than an easement.

Developer Kenny Trujillo stated he wanted to clarify a few things. This was approved as a greenbelt. There's nothing on the deed that say permanent, it's just approved as a

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development and Ruben explained to him that planned development meant that they do it this way and if something doesn't work they're able to come back to the commission as a developer and try to make this subdivision work. So in 2006-2007 when it was approved, it was approved with the greenbelt area and that time everything was going good. As everyone knows now the economy is real bad and since 2008 they have sold one lot. Most of the lots were sold in 2007. Since then they have not sold any at all and when they do have someone come and look at the lots and they get to the lots with the greenbelt area and they explain to them that they have to build in this envelope they look at him and say what you are telling me is that I cannot build my home in the back of the three acre piece. Every time they explain to people about the greenbelt area, it just turns them off. They say they can buy land elsewhere and they can do what they want with it. By advice of their attorney they need to take the language out that there is not a greenbelt area. They are not here to split lots, the roads in the subdivision are already paved, they are not putting in any more roads, they are just here to tell the commission that planned development isn't working for them and are asking that the people that do buy a three acre piece have a choice to either build in front, in the back or the middle of the three acres. They are recommending that they try to keep it all in one acre and the rest in pasture land.

Commissioner Gentry said he took his notes from the documents that Mr. Trujillo presented to the commission and it doesn't say greenbelt on it either, it say's a permanent conservation easement. You say it's not on the deeds but if you look back at one of the samples given to the commission as deed in the presentation, it says that who ever takes this property takes it with all the reservations, easements and all that is on there. So the deed does have an easement on it, your plan does have a permanent conservation easement on it. The request that the commission received from Mr. Trujillo said the concerns stated by the community and the zone change included wanting to maintain the rural character of the land, septic systems and so on. Eighty people signed a petition against the zone change and subdivision.

Chairman Holliday said it was the developer's intention to keep the greenbelt, but they are having trouble selling the lots and they're asking the commission to remove the greenbelt so it can help their sales. This gives the opportunity to people that are investing half a million dollars to put there home where they see fit on the property. Chairman Holliday asked Mr. Martinez if it's planned development can they come back under our county rules and ask for a change.

Mr. Martinez stated according to 154.152 on the planned development, overlays zoned 154.152f2 states any proposed changes in connection with an approved plan shall be reviewed and approved in accordance with the same procedures prescribed in this section. So it does allow for the process of change.

Arthur Maynard stated he has seven acres adjoining this property that they are talking about. He was one of the signatures on the petition with eight nine names on it, and he supports Commissioner Gentry's objection as to what they are trying to do. Mr. Maynard has no objections to someone buying one of these three acre lots and putting the house wherever they want but there should be a stipulation in the restrictive covenants that requires them to keep green what is not a structure or a road or corral.

Chairman Holliday said can we require that the other two acres stay green and that the property owner does everything in their power as long as they have water to keep it green.

Commissioner Medina they can't force anybody. Counsel stated you could put a condition on it that would say everything has to be green. You could approve it with a condition but it would be just like the greenbelt. It would be re-imposing the greenbelt in a different configuration.

County Attorney Dave Pato stated the other landowners could enforce the restrictive covenant if they were to agree to that. If they all agree that there's a certain amount that will remain a greenbelt on that property the configuration would change. Mr. Pato's only concern is to impose a change on the fourteen landowners without their approval and he wouldn't feel comfortable with the commission approving or enforcing any sort of action to the landowners who bought their property with certain expectations in respect to their property unless they are okay with the greenbelt provision being removed imposing some sort of configuration on those landowners. They might have these folks come back before the commission and have the additional information provided as to whether or not those other landowners support that reconfiguration and keep the record open to received the additional evidence.

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Chairman Holliday said it was his understanding that all the landowners were in agreement in removing the greenbelt.

Mr. Trujillo stated if this does get approved to remove the greenbelt, they will have all homeowners that have purchased property from them sign off on a legal document.

La Vida Suerte Subdivision resident Brandon Jaramillo stated he is a builder and lives in the only existing home in the subdivision. People don't want to buy a piece of property that they can't do with what they want to do with it. Most people have the intention of keeping as much of the lot green but they didn't like the capability of the configuration of property of having it within a small envelope. Many of those greenbelt lots are very deep but are very narrow and when you get a house that's 3500-4000 sq. ft. it doesn't allow you to fit much on that width. The house he built there, they moved into it because it was very difficult to sell and were unable to sell it. He's trying to keep the maximum amount of green fields as he can. He doesn't feel that people are going to come in and strip the land and place buildings on every corner of the property and not without of the intention of having as much field as possible. Mr. Jaramillo also owns the lots on each side of his home and he intends to keep the values and the original intent of the subdivision as it was first established. He wants to see nice homes and at the same time wants to see the subdivision well maintained. The greenbelt doesn't have any affect on the lots that he has and he doesn't see it as a homeowner, to have any affect on him. He wanted to express his point of view in support for Mr. Trujillo and Mr. Munoz.

Commissioner Otero-Kirkham asked Mr. Jaramillo if he had received his taxes for the property on an improved rate on his new house. He has and the taxes were high because of the improvements on the house on the 1.6 acres which was valued at the \$88,000.00. He believes the taxes were in the neighborhood of \$2,500.00. (See Exhibit A)

8) NEXT COMMISSION MEETINGS

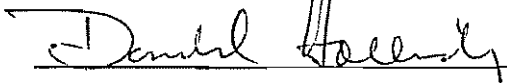
The next Regular Meeting of the Valencia County Board of County Commission will be held on March 17, 2010 at 5:00 P.M. in the County Commission Room at the Valencia County Courthouse.


10) Adjournment


Time 6:38 P.M.


NOTE: All proposals, documents, items, etc., pertaining to items on the agenda of the March 10, 2010 Public Hearing Meeting (presented to the Board of County Commissioners) are attached in consecutive order as stated in these minutes.

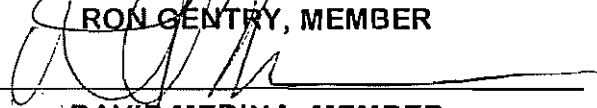
VALENCIA COUNTY BOARD OF COMMISSIONERS


DONALD E. HOLLIDAY, CHAIRMAN


GEORGIA OTERO-KIRKHAM,
VICE-CHAIRMAN


PEDRO G. RAE, MEMBER


RON GENTRY, MEMBER


DAVID MEDINA, MEMBER

ATTEST:


SALLY PEREA, COUNTY CLERK

4-7-2010
DATE