

VALENCIA COUNTY BOARD OF COMMISSIONERS
REGULAR BUSINESS MEETING

August 18, 2010

PRESENT	
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 Rael moved for approval of the agenda as amended. Seconded by Commissioner Otero-Kirkham.

- 4) Approval of Minutes
None

5) 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 Gosticha thanked Chairman Holliday and County Manager Eric Zamora for the quick response in cutting the weeds on Meadow Lake Road and said all the roads in Meadow Lake needed the weeds cut.

Jim Lane reminded everyone to come out to Meadow Lake at 10:00 A.M. on Saturday to see what they have done to the area. He also expressed concerns in regards to not being able to speak on items on the agenda and wanted to know when does the public have the opportunity to speak or ask questions on those items.

County Attorney Dave Pato stated they have the provision on the agenda not to address items on the agenda because the public is normally given an opportunity during that topic to give their points, ask their questions or share their thoughts on that particular topic.

Chairman Holliday said for the time that he's been chairman he has had the public speak on items that's on the agenda whether the intention was good or bad. What Mr. Pato is saying is when we get to that certain item if someone wants to speak on that item they are more than welcome to do so.

Mr. Lane said sometimes the audience raises their hand to speak on something and it's brushed over to where they're not given the opportunity to speak.

Mr. Pato also stated this is the public's meeting, this is the board of county commissioner's meeting and while it is a public meeting it does afford an opportunity to speak given those two minutes. Ultimately at the end of the day it is the boards meeting and the public doesn't have a right, if you want to talk due process, it doesn't have a due process right to comment on each item of the agenda and the commission does have in the interest of expedience to move the agenda items along. They do their best, as he has witnessed, to accommodate the public and take the comments, inquiries and take it's position as Chairman Holliday said.

Chairman Holliday said in the past as chairman he has allowed everyone to speak and he will continue until it get's out of hand but also that why the public elected them to make the hard calls for them. The agenda comes out on Friday and they have several days to call him to express their concerns.

Mr. Pato said the agenda's are published in the local paper each week, the agenda's are also available on the county website. If the commission would like they can ask that the matter of the agenda and the format of the agenda be addressed at the next meeting. If

the commission would like, they can consider the removal of "subject to items not on this published agenda", so people can raise their issues in respect to agenda items during the public comment period.

Chairman Holliday said he would like to discuss that amongst the commissioners and see if they would like to consider that, as he is just part of the commission, he is not the commission.

Commissioner Medina said meetings that he has attended, the public comments are scheduled at the end of the agenda. If there's a concern maybe the commission can look at changing that.

6) NON-ACTION ITEMS:

a) Reports from Manager, Commissions, Boards & Committee-County Manager/Commission.

County Manager Eric Zamora stated they met with some representatives of the Jarales Community Center and there's a situation that warrants a bit of discussion with the commission. The county received some legislative appropriation funding for some upgrades. The center was upgraded and there was no funding for operations or staffing at the center. They have a group that is working to provide some computer infrastructure improvements. There is a local resident who has offered to donate some equipment to the center to help install some computers and provide system access to the internet. There's the issue of liability when private individuals are working on county facilities and what happens when something goes wrong. They are willing to work with them the best they can.

Yesterday Mr. Zamora met with the Regional Council of Governments; those in attendance were Isleta Pueblo, Bosque Farms, City of Belen, Village of Los Lunas and a representative from the Laguna Tribe. The discussion included FEMA (Federal Emergency Management Agency), the corridor study and Chamber of Commerce activities.

Mr. Zamora said as a request from the state and for the record, he needed acknowledgement that the county commission approved the county fiscal year budget for 2010-2011. It was transmitted to the State Department of Finance and Administration, was approved and the state had requested that the commission acknowledge this approval in the meeting minutes.

Chairman Holliday asked if the county is any closer in acquiring the property at Meadow Lake, because he's concerned that people are starting to dump trash on this property.

Mr. Zamora stated Mr. Chavez has been in contact with the Department of Finance and Administration and is waiting on feedback from Mr. Martinez.

Chairman Holliday also said he has asked Mr. Zamora to set up a meeting with Shirley Watley of the 911 Dispatch for Monday at 1:00 P.M. to see what is needed to make sure everything is up and running and functioning the best way possible. The meeting will be in the county commission room and asked the other commissioners to attend if able to.

Mr. Zamora said the Juvenile Justice Board will be meeting next week and is tentatively scheduled for August 26, 2010 to discuss re-establishing the Juvenile Justice Board which will be coordinated through the state and Judge Pope.

7: ACTION ITEMS:

BOARD OF COUNTY COMMISSIONERS CONVENES AS INDIGENT CLAIMS BOARD.

Chairman Holliday moved to convene as the Indigent Claims Board. Seconded by Commissioner Medina. Motion carried unanimously.

a) Indigent Report-Barbara Baker.

Ms. Barbara Baker presented the Indigent Claims from July 9, 2010 to August 6, 2010. The total amount of claims submitted \$449,055.03. Ms. Baker requested approval of \$46,975.82.

Commissioner Otero-Kirkham moved for approval. Seconded by Commissioner Gentry. Motioned carried unanimously.

Commissioner Gentry moved to re-convene as the Board of County Commissioners. Seconded by Commissioner Rael. Motion carried unanimously. (See Exhibit A)

b) Board of County Commissioners Convenes as Board of Finance.

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Consideration to Invest 2.1 Million Dollars in Certificates of Deposit with the Banking Institution Providing the Highest Interest Rate-Dorothy Lovato.

Commissioner Gentry moved to convene as the Board of Finance. Seconded by Commissioner Medina. Motion carried unanimously.

County Treasurer stated interest is at it's worse and requests approval to invest this money with MyBank and asks the commission if they want it invested for six months at .55% or twelve months at .80%.

Ms. Lovato was instructed to take the highest rate and instruct the treasurer to call all the banks and give them all the opportunity to look at the twelve months and see if it changes and if it doesn't she goes with the bank offering the highest interest. Do this by email.

Commissioner Rael said he thinks as a commission they have the authority to agree with the treasurer without contacting the commission again. This is an urgent situation and the commission will not have another meeting until September 1st.

Commissioner Gentry moved for approval. Seconded by Commissioner Rael. Motion carried unanimously. (SEE EXHIBIT B)

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

c) Consideration of Resolution 2010-38, Relating to Delinquent Property Tax, Waiving the Extra Penalty on Delinquent Taxes for the 2010 Tax Year-Dorothy Lovato/Diana Copeland.

Chief Deputy Treasurer Diana Copeland presented the above consideration of resolution and recommended that the \$5.00 minimum penalty be suspended and the 1% penalty method be adopted for the tax year 2010. The \$5.00 minimum penalty is not equitable and penalized the small taxpayer disproportionately to a larger taxpayer. We believe that the current method of charging a taxpayer a 1% penalty per month, up to a maximum of 5% is more equitable.

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

County Clerk Sally Perea announced Resolution 2010-38.

d) Consideration of Ordinance 2010-02, Chapter 153 Flood Damage Prevention Amendments-Ruben Chavez.

Code Enforcement Director Ruben Chavez presented the above item and stated there changes were made, it was published accordingly, there was a public hearing and public comment period. So as far as adopting an ordinance the criteria of publication was met, comments were received by the audience and the commission, there was a workshop with FEMA (Federal Emergency Management Agency) in which FEMA staff provided answers to all questions asked, the County IT Department placed the flood map on the county website, the county has met the commitment of publication and is ready for the commission to take action today.

Commissioner Otero-Kirkham said she hoped that the people understood the rationale and why the commission is forced to do this because of the lending situation.

Commissioner Medina said he was inundated with phone calls and this has really affected his district heavily and the concern is that they are putting the blame on the commission because they didn't bring it out to the public earlier before FEMA came in and did their changes. A couple of individuals pointed their finger at him and said he was responsible as a commissioner for it. As a commissioner representing his district, he's going to vote no on the ordinance.

Commissioner Rael said this is not an easy thing to understand but he has looked at all the factors and they are that you have to have mandatory insurance if you're in a flood zone period, that's all there is to it, however it's about 1/3 of the cost of insurance that's out there in the market. Also there's a real question as to whether a person want's to borrow money and the county is not part of this program, this could affect over 2000 existing loans on homes in this county and could also affect getting FEMA assistance in the event that county would have a hazard occur. It would have no impact on most people unless they owe money on a government backed home loan. He hopes that the voters understand that he does not want to this to have an adverse impact on all those people

with existing loans and getting the insurance at 1/3 the cost is a good idea and the home market could possibly be affected by making it more expensive to buy a home.

Chairman Holliday said if the commission were to vote this down it would hurt more people worse than it would be by voting for it right now.

County Attorney Adren Nance said normally this would not be necessary on one of our general ordinances, it's very ministerial that in the advertise penalty section it said this court order instead of this county ordinance and it was the language from FEMA. We did call FEMA and requested that if the changes were made would it be okay with FEMA. FEMA worked on it and said it was okay but if anyone moves to amend the ordinance, to pass the ordinance would you also moved to amend in the last section to say ordinance rather than court order.

Commissioner Gentry moved to approve the ordinance with the amendment and with the typo correction to accept this proposal as discussed. Seconded by Commissioner Rael. Motion carried 4-1. Commissioner Medina voted no.

County Clerk Sally Perea announced Ordinance 2010-02. (See Exhibit D)

e) Consideration of Infrastructure/safety Improvement Bonds-Eric Zamora

County Manager Eric Zamora said over the couple of years they've talked about many infrastructure improvement projects and at this time of the year they are approaching a deadline in which some hard decisions needs to be made and is presenting some information that he considers critical to the county's well being and safety of the employee's and residents. They've talked about things ranging from the administration building to the county jail, to roads and as of last year the 911 call center. They've seen it hit a deadend with the road issues but the other three items still warrants some more discussion and this is the last opportunity to consider taking action to move forward with these projects on a more permanent scale. The deadlines they are looking at are basically in order for consideration to the voters in the general election. They're looking at a September 5th deadline for some type of commission action on moving forward with some projects and presents this item for consideration to include improvements for the county building. The county is dealing with asbestos issues, plumbing issues; the current phone system the county is using is so outdated they can't get replacement parts for the phone system. More and more money is going into this building when the overall issues are not being addressed. We still have the asbestos issues, failing roof is leaking again, there are major plumbing issues which drains into a slump pump down in the basement which again is failing and part of the basement is in ground water and there is water seeping through the concrete. They're working on the expansion project for the detention center and it will probably meet the county's current needs when completed. These are things that need to be considered within the next twenty five years and long term growth. There were issues brought up with the call center and there was a proposal by the commission to consider doing something along the lines of a bond election. It was favorably received from some of the municipalities and appeared to be some support for that.

Commissioner Otero-Kirkham asked Mr. Zamora this will be on the ballot for a decision that the entire county is going to make. It's a decision that will benefit the entire county was Mr. Zamora's response.

Commissioner Medina was concerned with the fact that the commission is looking at a deadline and feels that a long study is required and not just put it out to the voters sixty days before a election and feels if they don't have exactly what is needed, it's going to be defeated and it's to late in the game to do it.

Commissioner Rael asked what exactly would the taxpayer's be facing in terms of funding these bonds, is it a property tax, a mill levy, a gross receipt tax or all of those things?

Mr. Zamora said it's a property tax. They met with a bond attorney in which they were able to provide them with some preliminary information and what they are looking at is if the county were to consider \$10,000,000.00 worth of bonding the average to a taxpayer on a \$100,000.00 home would be about \$23.00 a year and on a \$250,000.00 home would be \$60.00 a year.

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Commissioner Gentry said a general obligation bond is placed on the ballot and the people can decide yes or no but his understanding is when they starting redoing a couple of bathrooms because the sewage backs up in it and if anyone has ever been in the basement the sewage is raw running around in the basement and the basement is adjacent to the female jail. Several years ago when it rained county records were ruined because the whole thing filled up with water and flooded. It's created a lot of problems. There's mold down there, in the past offices have been closed down because of the mold and not to say anything about the sewage. OSHA (Occupational Safety and Health Administration) came in last year and did an inspection on this building because some of the employee's were complaining about headaches and being sick. OSHA wrote the county up on this building and gave the county the latitude on doing something about it rather than just closing it. So when you talk about health and safety, it's not only the employee's but this is where all their constituents come in to do business. They go in to repair the carpet in the assessor's office and they lock it down and move the employee's out because they find out they are working on an asbestos floor, the pigeon droppings are very toxic and these are the things that everybody is not talking about but there's a lot of health hazard. You might say they are worker's, but that's where their jobs' at. All of our constituents are walking into these offices and are subject to all those environmental things. That's why OSHA has placed the county on notice. We don't want to say they have condemned the courthouse because then we'll have to get out of here. If this commission doesn't take some action, the county is going to be liable for health hazard, safety hazard and detrimental things to people's health and we know that's out there and if we don't do something about it, we become very liable. The problem is we don't have the money to do anything about it. So if the county puts this out to a public bond and if the public sees fit to support it, we can fix it, if the public doesn't see fit to fund it, the county can't fix it.

Chairman Holliday said, is it going to take a death for the state to come in and say okay you're out. Then what is the county going to do, place modular trailers outside.

Mr. Zamora said we're not condemned, the county is under consultation status with OSHA. That basically means the county is aware that the county has issues and the county is doing something to address it. The county has not been fined or condemned.

Commissioner Gentry said how much would it cost the county to do patchwork? Mr. Zamora said maybe \$2.5 million.

Commissioner Gentry said if they could instruct county counsel and staff to work on this, to get it drafted in final form on how the proposition would be and present it to the commission with the three issues that would be addressed by the bond money. Also to give the commission an updated estimate on the cost of the work and bring it back to the commission. State statute says that the commission has until the 5th of next month to vote to place this on the ballot and the commission can take it on September 1st, which is the next commission meeting. He recommends instructing staff to draw up that proposal and move forward with it for a presentation to the commission on September 1, 2010 to vote on.

Chairman Holliday said this only works if you take the property next to the Judicial Complex.

Commissioner Rael said he does agree with the commission and the comments that have been made, that the county needs to do something sooner or later and if the taxpayer's don't want it, then it's not going to get done. His suggestion is he would like to see the figures within at least twenty to thirty percent of the final target figure.

Chairman Holliday said the commission has to do this now or they miss it and then they have to wait for two years before they can do it again. This is a fantastic opportunity to do something good for the citizens of Valencia County.

Commissioner Otero-Kirkham said the commission has recently asked the employee's to do a lot of belt tightening, of which they've done. However we also asked them to live with this daily problem. She goes into Marilyn's office and she literally has to hold her breath. She walked into the GIS Department after it had rained and that's the new section and she could literally feel the moisture coming up from the basement on the carpet and she saw a big spot and she thought what is that. She asked if the ceiling had been replaced and staff said this is coming up from the floor. She doesn't feel there's not any other band-aid effects that the county can do. She just can't see the county putting anymore money into this building. If the public doesn't want it, well they don't vote it.

Commissioner Gentry moved to instruct staff to prepare the dollars, numbers and the criteria for consideration of a ballot initiative by September 1st for the commissions consideration.

Adren Nance suggested that staff also prepare a resolution which is the first step.

Commissioner Otero-Kirkham said that the commission make an intelligent decision and give the public credible information. Seconded by Commissioner Otero-Kirkham. Motion carried unanimously.

f) FINANCIAL MATTERS:

i) Consideration of Approval Payroll/Warrants-Wilma Abril

Wilma Abril presented the attached computer printout list of all checks issued by the Manager's Office on 08/13/2010 covering payroll process on the above date. Direct Deposit Check 16606 thru direct deposit check #16779 inclusive. Deduction check #104546 thru deduction check #104579 inclusive. Payroll check #88274 thru payroll check #88361 inclusive. Listing total \$367,176.27.

Wilma Abril presented the attached computer printout list of all checks issued by the Manager's Office on August 13, 2010 covering vendor bills processed on the above date. Check #104544 through check #104742 inclusive, for the total of \$368,894.79.

Commissioner Otero-Kirkham moved for approval. Seconded by Commissioner Rael. Motion carried unanimously. (See Exhibit E)

8) EXECUTIVE SESSION- Pursuant to Section 10-15-1 NMSA 1978, the following matters may be discussed in closed session: a.) limited personnel matters; Deputy Warden Agreement b). pending or threatened litigation and c.) other specific limited topics that are allowed or authorized under the stated statute.

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

Commissioner Rael moved to go back into Regular Session. Seconded by Commissioner Otero-Kirkham. Motion carried unanimously.

County Attorney Adren Nance stated the matters discussed in Executive Session were limited to the deputy warden agreement and no final action was taken.

Commissioner Otero-Kirkham moved to approve the summary as stated by counsel. Seconded by Commissioner Gentry. Commissioner Medina voted yes. Commissioner Rael voted yes. Commissioner Gentry voted yes. Commissioner Otero-Kirkham voted yes. Chairman Holliday voted yes. Motion carried 5-0.

9) ACTION ITEMS(S) ON EXECUTIVE SESSION DISCUSSION

Commissioner Rael moved to approve the warden agreement for employment as discussed in executive session with the agreed changes of a six month probationary period. Seconded by Commissioner Otero-Kirkham. Motion carried unanimously. (See Exhibit E)

10) COUNTY MANAGER'S REPORT (Informational Only)

None.

The next Regular Meeting of the Valencia County Board of County Commission will be held on September 1, 2010 at 5:00 P.M. in the County Commission Room at the Valencia County Courthouse.

11) Adjournment

Commissioner Rael moved for adjournment. Seconded by Chairman Holliday. Motion carried unanimously. Time 7:36 P.M.

NOTE: All proposals, documents, items, etc., pertaining to items on the agenda of the August 18, 2010 Business 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

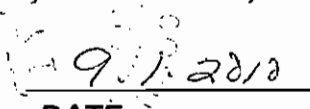

GEORGIA OTERO-KIRKHAM, VICE-CHAIRMAN


PEDRO G. RAEL, MEMBER


RON GENTRY, MEMBER


DAVID MEDINA, MEMBER

ATTEST: 
SALLY PEREA, COUNTY CLERK


DATE