



January 31, 2014
Agenda
3:15 P.M. Special Meeting
Valencia County Commission
Chambers
444 Luna Avenue
Los Lunas, NM 87031

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

Please Silence all Electronic Devices

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

A handwritten signature in black ink, likely belonging to Jhonathan Aragon, Commissioner District V.

DISCUSSION (Non-Action Items)

- 4) Update on MOU, Healthcare Facilities Contract, and receipt of notice and documentation by City of Belen. *Commissioner Jhonathan Aragon*

EXECUTIVE SESSION

- 5) Pursuant to Section 10-15-1 (H) (7), the following matters may be discussed in closed session: a) pending or threatened litigation: **(1) VLL vs BOCC**; d) other specific limited topics that are allowed or authorized under the stated statute.
 - ◆ Motion and roll call vote to go into Executive Session for the stated reasons
 - ◆ Board meets in closed session
 - ◆ Motion and vote to go back into regular session
 - ◆ Summary of items discussed in closed session
 - ◆ Motion and roll call vote that matters discussed in closed session were limited to those specified in motion For closure, and that no final action was taken, pursuant to the authority in §10-15-1 NMSA 1978.

ACTION ITEMS:

- 6) Direction to Attorney with respect to **VLL vs. BOCC** et al.

NEXT COMMISSION MEETING

- February 5, 2014 5:00 P.M. Business Meeting
Valencia County Commission Chambers, 444 Luna Ave., Los Lunas, NM 87031

ADJOURN

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

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VALENCIA COUNTY BOARD OF COMMISSIONERS

SPECIAL MEETING

JANUARY 31, 2014

PRESENT	
Charles Eaton, Chairman	
Alicia Aguilar, Vice-Chair	
Lawrence R. Romero, Member	
Jhonathan Aragon, Member	
Mary J. Andersen, Member	
Jeff Condrey, County Manager	
Adren Nance & Dave Pato, County Attorneys	
Peggy Carabajal, County Clerk	
Press and Public	

- 1) The meeting was called to order by Chairman Eaton at 3:15 P.M.
- 2) Belen Mayor Rudy Jaramillo led the Pledge of Allegiance.
- 3) Approval of Agenda
Commissioner Aguilar moved for approval. Seconded by Commissioner Aragon. Motion carried unanimously.

Chairman Eaton stated that he was informed of this special meeting late Tuesday afternoon when he was asked to approve the agenda. He would have liked the commissioner that called the special meeting to have informed him and made him aware of what was going on, he believes it was disrespectful and done in bad taste. He went on to say that all he asks is that there be communication within the board. Commissioner Andersen remarked that with previous commissions it had always been the courteous practice that the chairman would have the final say if and when a special meeting would be held and each of the commissioners would have been contacted to see if the time and date was convenient for them. Commissioner Aguilar stated that it was the attorneys that suggested having a special meeting; she did not go behind any ones back.

DISCUSSION (NON-ACTION) ITEM(S):

4) Update on MOU, Healthcare Facilities Contract, and receipt of notice and documentation by the City of Belen. *Commissioner Jhonathan Aragon*
Commissioner Aragon stated that there was a lot of information to take in about the hospital issue and being so new to the board he felt the need to have a special meeting to review all of the information. He would like for the county attorneys, the county manager and his fellow commissioners to give an update on the MOU and the healthcare facilities contract. Attorney Nance reported that a complaint was filed on this matter on August 16, 2013 by the Village of Los Lunas. The summons was returned on August 20, 2013 and on September 9th a motion to intervene from interested parties was issued. On September 18, 2013 the BOCC, through contact council, as well as the City of Belen filed motions to dismiss. The Village of Los Lunas requested more time to respond, that order was granted in November and since then the judges have recused themselves. On November 5th there was a notice of completion of briefing; there was also a hearing for the defendant's motion to dismiss. A number of judges were dismissed or recused from the party. There was a motions hearing set for January 9, 2014 in Sandoval County, at that time Judge McDonald stepped down from the case. So at this point we are waiting for the Supreme Court to issue another judge to the case and that is the current state of litigation at this time. Attorney Nance went on to say that there was an MOU executed by Valencia County on July 17, 2013 then executed by the City of Belen on July 25th. The terms of the MOU are the subject of litigation. The complaint for the litigation states that former commissioner Donald Holliday was no longer a commissioner at the time and did not have the authority to vote on and sign the MOU. What brings us here today is that on January 25, 2014 the county was given a packet by the city of Belen saying that they had completed their RFP. The county was not given any notice that the RFP was done earlier. Belen Mayor Rudy Jaramillo stated that he had offered to meet with Commissioner Aragon but the commissioner had declined saying that there was litigation going on. Mayor Jaramillo would like the commission to know that the city has been nothing but transparent through this whole process. Commissioner Aragon replied that yes, he did

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Minutes of January 31, 2014 Special Meeting

decline the meeting with the Mayor but that was at the direction of the county attorneys and that is why we are here today.

Belen City Councilor Jerah Cordova gave a brief timeline of the hospital project to date. In December of 2009 the City of Belen purchased 14 acres on Christopher Rd for \$619,000.00.

June 2010 at the request of Valencia Health Commons the city proposed a hospital site for submission to the Commons.

November 2010 Belen formally presented the site to Valencia Health Commons and Ameris.

June 2011 Ameris presented to the city a preliminary feasibility study for a hospital in Valencia County.

October 2011 the city presented to the BOCC a plan to complete a feasibility study for the Belen hospital site.

March 2012 Ameris delivered a final feasibility study to the city of Belen.

April 2012 the city of Belen presented that feasibility study to the BOCC, Belen also approved a draft of a JPA for the hospital and sent it to Valencia County for review and approval.

June 2012 after the review of the JPA was completed by the county the city of Belen approved an amended JPA for the hospital.

September 2012 the BOCC approved the JPA.

November 2012 the city of Belen issued a request for information and qualifications for hospital design build teams.

January 2013 in anticipation of hospital construction the City of Belen announced they were investing \$800,000.00 in hospital site access improvements along Christopher RD, that project was completed in the fall.

July 2013 a MOU which established parameters for establishing a healthcare facilities contract between the county and a selected provider was approved and executed by the City of Belen and Valencia County.

To date the City of Belen has invested \$1.75 million in the hospital project. Ameris who was awarded the bid for the hospital invested \$200,000.00 and Deckker/Perich/Sabatini one of the design team build members has invested \$25,000.00.

Commissioner Aguilar questioned that on the healthcare facilities contract, signed in blue ink by Ameris Acquisitions LLC; it states that it is a New Mexico corporation to be created. Commissioner Aguilar questioned Councilman Cordova if the county had entered into a contract with a company or corporation that is not a New Mexico corporation. Councilman Cordova declined to answer the question due to possible pending or threatened litigation.

Commissioner Aguilar commented that the document stated that the investments for the construction will be 2012 tax exempt fix rate bonds; it also talks about either the city or the county floating bonds for continuing operation of the hospital or construction. Councilman Cordova replied that the city has repeatedly stated there will be no additional tax burden on the taxpayers of Valencia County above and beyond what has been collected from the hospital mill levy. Commissioner Aguilar replied that it still bothers her when she sees something in writing about revenue bonds and taxpayers. She went on to say that the healthcare facilities contract was signed inadvertently. Attorney Nance commented that yes, his understanding was that the contract was not an item on the agenda when it was signed.

City of Belen Attorney Charles Rennick stated that the MOU that was signed has certain obligations for both parties; the City of Belen's obligations were to issue an RFP to find a hospital provider, to submit a financing plan and to submit the healthcare facilities contract to the provider. The city has done all of that and has fulfilled their obligations in every way. The county was obligated to do two things, first to enter into a healthcare facilities contract with the provider and the county has done that. Secondly to begin transfer of the mill levy funds when the hospital is licensed with the State of New Mexico. At this point he believes both parties are in compliance with the obligations. Attorney Nance remarked that with all due respect he does not agree with Mr. Rennick about the healthcare facilities contract. Chairman Eaton stated that his position on revenue bonds for funding a healthcare facility is that he will not go beyond what the mill levy provided for a facility unless it is approved by the voters. Additionally he believes the healthcare facilities contract was attached to the MOU as purely an exhibit. (See Exhibit A)

(on file with the County Clerk's Office)

EXECUTIVE SESSION:

Pursuant to Section 10-15-1 (H) (7) the following matters may be discussed in closed session; a) pending or threatened litigation: VLL vs BOCC. b) other specific limited topics that are allowed or authorized under the stated statute.

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Attorney Nance stated that what was to be discussed is limited to what was presented on the agenda for executive session.

Commissioner Romero moved to go into executive session. Seconded by Commissioner Aguilar. Roll call vote. Commissioner Romero voted yes. Commissioner Andersen voted yes. Commissioner Aragon voted yes. Commissioner Aguilar voted yes. Chairman Eaton voted yes. Motion passed 5-0.

Commissioner Andersen moved to return to regular session. Seconded by Commissioner Aragon. Motion carried unanimously.

Attorney Nance stated that the matter discussed in executive session was limited to that in the motion for closure and no final action was taken.

Commissioner Aguilar moved for approval of the summary as stated by Attorney Nance. Seconded by Commissioner Andersen. Roll call vote. Commissioner Romero voted yes. Commissioner Andersen voted yes. Commissioner Aragon votes yes. Commissioner Aguilar voted yes. Chairman Eaton voted yes. Motion passed 5-0.

ACTION ITEM(S):

6) Direction to Attorney with respect to VLL vs. BOCC et al.

Attorney Pato stated that he believed the direction from the commission was to request District Court hold this matter in abeyance or hold the county's obligations to execute a healthcare facilities contract in abeyance pending the outcome of the lawsuit. If the court determines that the MOU is valid the county will be obligated to proceed provided the other conditions are satisfied but if the court declares the MOU to be invalid the commission will not be obligated to execute a healthcare facilities contract. The county's position at this time is that there is not a valid healthcare facilities contract in place as it was signed inadvertently.

Commissioner Aguilar made the motion to follow the attorney's direction to file with the courts for abeyance. Seconded by Commissioner Andersen. Motion carried unanimously.

Mr. Condrey commented that the special meeting scheduled for next Friday the 7th is cancelled.

NEXT COMMISSION MEETING:

The next Regular Meeting of the Valencia County Board of County Commission will be held on February 5, 2014 at 5:00 P.M. Meeting in the County Commission Room at the Valencia County Courthouse.

7) Adjournment

Commissioner Andersen moved for adjournment. Seconded by Commissioner Aguilar. Motion carried unanimously. TIME: 4:46 P.M.

NOTE: All proposals, documents, items, etc., pertaining to items on the agenda of the January 31, 2014 Special Meeting (presented to the Board of County Commissioners) are attached in consecutive order as stated in these minutes.

VALENCIA COUNTY BOARD OF COMMISSIONERS


CHARLES EATON, CHAIRMAN


ALICIA AGUILAR, VICE-CHAIR


LAWRENCE R. ROMERO, MEMBER


JONATHAN ARAGON, MEMBER


MARY J. ANDERSEN, MEMBER

ATTEST:


REGGY CARABAJAL, COUNTY CLERK

DATE

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