

# VALENCIA COUNTY BOARD OF COMMISSIONERS

## REGULAR MEETING

**FEBRUARY 8, 1999**

### MINUTES

The Regular Meeting of February 8, 1999 was called to order by Chairperson Alicia Aguilar at 9:06 AM.

#### **PRESENT**

Alicia Aguilar, Chairperson  
Aurelio H. Padilla, Vice-Chairman  
Helen Baca, Commissioner  
Eloy G. Giron, Commissioner  
S. T. Frank Pando, Commissioner  
James Fernandez, County Manager  
Thomas Garde, County Attorney  
Kandy Cordova, County Clerk  
Press and Public

#### **ABSENT**

#### **EXECUTIVE SESSION**

County Clerk Kandy Cordova read the agenda for the Executive Session. Commissioner Helen Baca made a motion to approve the agenda for the Executive Session. Commissioner Al Padilla seconded the motion. Motion carried.

Commissioner Eloy Giron made a motion to go into Executive Session. Commissioner Helen Baca seconded the motion. Motion carried with Commissioner's Baca, Padilla, Giron and Pando voting yes.

Carol Anaya stated during the Executive Session, discussion was held on the following:

**NEW HIRE'S: (Pending Drug Test and Physical)** Charles Eaton  
**TEMPORARY HIRE:** Jaime Galaz  
**SEASONAL HIRE:** Cassandra Torres  
**SALARY ADJUSTMENT:** Larry Tafoya  
**TRANSFER'S:** Richard Garcia as Asst. Director (Adult Facility)  
Anita Napoleon

**PROBATIONARY TO NON-PROBATIONARY:** Mike Nunally  
**END OF APPOINTMENT:** Harry Gabaldon David Lloyd Sais  
**FAMILY MEDICAL LEAVE:** Pat Dietrich

Commissioner Frank Pando made a motion to ratify action taken during the Executive Session. Commissioner Helen Baca seconded the motion. Motion carried.

#### **Collective Bargaining**

John Martinez introduced Andy Mills, the Representative for the Association who would like to make a presentation. Andy Mills stated they have been in collective bargaining for some time. They had a representation election in December 1996, to form the collective bargaining unit that contained the Sheriff's Deputies and Detention Officers. Negotiations began approximately one year later and broke down in April 1998. He said, "At that time we requested the services jointly with the County of a Federal Mediator and the Mediator wasn't able to resolve the differences between the parties and we went to arbitration. That was in November of this past year, 1998. Last month the arbitrator has come down with a recommendation to you. It is my understanding that you already discussed this with Mr. Martinez, earlier this morning, in Executive Session. At this time as representative of the Collective Bargaining Unit, the Bargaining Unit would ask the Commissioners to thoroughly consider the arbitrator's recommendations on all of the outstanding issues, non-economic and economic. We urge the Commissioner's to approve the arbitrator's recommendations in its entirety as we believe this is a fair and equitable contract for the bargaining unit employees."

John Martinez stated, "The issue of negotiations comes down, at this point, that we do not have a document that we can present to you for ratification. We have met following the recommendations of the fact finder in an attempt to reach an agreement with the association and we were unable to do that. At this point, I am recommending to the County Commission that they implement the wage package recommended by the County in its proposal and that, that go into affect today since it is the beginning of a pay period. My recommendation is that everyone who is a member of the bargaining unit, which includes the Sheriff's Deputies and Sergeants and the Corrections Officers receive a 5% increase effective today and the rest of the package, if and when we are able to present you with a document that has been ratified by the membership, then we would ask you to move on the rest of it. At this point, this is the only recommendation that we can make."

"The reason that we are making this recommendation, if we feel that these employees have gone six months, actually seven and a half months without an increase, we recommend that it be done today, since it is the beginning of a pay period."

Commissioner Eloy Giron made a motion to take the recommendation of Mr. Martinez who represents management in collective bargaining and issue a 5% increase to members of the

bargaining unit, which includes Sheriff's Deputies and Sergeants and the Corrections Officers. Commissioner Helen Baca seconded the motion. Motion carried.

County Attorney Tom Garde said, "During the Executive Session we discussed the pending lawsuit in regards to Joe Clemente, the lawsuit concerning Manufactured Housing against the Commission and we discussed current litigation in regards to the landfill, an injury that was sustained at the landfill. No action was taken on any item."

Chairman Aguilar said there was no discussion on the Adult Detention Center Billing.

The County Attorney said, "There was discussion with regards to payments from the Village of Los Lunas."

Commissioner Frank Pando asked if the Commission could meet in Executive Session after the meeting to discuss land acquisition. The County Attorney said it would be appropriate.

Chairman Alicia Aguilar said there would be a continuation of the Executive Session as Item O.

## **INTRODUCTION OF COUNTY ELECTED OFFICIALS & STAFF**

Chairperson Alicia Aguilar introduced County Commissioner's Helen Baca, Eloy Giron, Frank Pando and Al Padilla, County Attorney Tom Garde, County Clerk Kandy Cordova, Paula Weathersby, County Manager James Fernandez, Fiscal Officer Carlos Montoya, County Planner Steven Chavez, Planning and Zoning Administrator Mike McCartney, Personnel Director Carol Anaya and Monica Mireles.

## **PLEDGE OF ALLEGIANCE**

Commissioner Al Padilla led the Pledge of Allegiance.

Chairperson Alicia Aguilar called for a Moment of Silence for Joe Tabet, father of Planning and Zoning Commission Chairman, Herman Tabet.

## **APPROVAL OF AGENDA**

County Clerk Kandy Cordova read the agenda as presented. Chairman Aguilar said Item O would be Executive Session. Steven Chavez requested the County Planner's Report be heard before Item J (Final Hearing: Request for a Moratorium). Chairman Aguilar asked to read a statement under Public Requests. Ray Garcia, Frank Metzler, Mark Garcia, Lee Bryant and Steve Romero requested permission to address the Commission under Public Requests. Commissioner Frank Pando requested permission to address the Commission under Public Requests.

Commissioner Frank Pando made a motion to approve the agenda with the changes. Commissioner Eloy Giron seconded the motion. Motion carried.

## **APPROVAL OF MINUTES**

The Minutes of the January 21, 1999, Special Meeting and the Minutes of the January 25, 1999, Regular Meeting were presented for Commission approval.

Commissioner Al Padilla made a motion to approve the Minutes of January 21<sup>st</sup> and January 25<sup>th</sup>. Commissioner Helen Baca seconded the motion. Motion carried.

## **PUBLIC REQUESTS: At the Discretion of the Chairman, For Information Only.**

Ray Garcia read a statement into the record, as well as a letter from a family living in Pasitos del Cielo regarding a new subdivision, Lobo Valley Acres. **(See Exhibit A)** The subdivision will be located off of Patricio Road right next to La Constancia Ditch. Mr. Garcia and his neighbors are concerned about infrastructure, ground water, air pollution, covenants and restrictions and compatibility. They are further concerned that they were not informed that mobile home subdivision was going to be created in their community. Mr. Garcia presented petitions opposing the development of Lobo Valley Acres. **(See Exhibit B)** Also speaking against the subdivision were: Frank Metzler, Mark Garcia and Steve Romero.

Chairman Alicia Aguilar said, "When we did learn of this, the information was turned over to Planning and Zoning and to our Planner, Steven Chavez." Mike McCartney said, "Right now all operations have ceased. There should be no work going on there at all, until there are formal public hearings, until there is State Agency review to this proposal and bring their recommendations back, at which time all of the people that are here today will be notified of the public hearings."

Chairman Alicia Aguilar stated, "I'll make the statement that a portion of this land, I had it listed, but I do not represent the buyer. I was not aware of anything that they were doing. I think that should be clear. When I learned about it, in fairness, it is very important to give the public a voice on what is being done. The developer will be going through the full process. You will be notified and you will have your chance to come back and speak at the Planning and Zoning Meeting and I encourage you to do that."

Ron Hibdon addressed the Commission and there was more discussion held on this issue.

Lee Bryan spoke to the Commission regarding a letter he got from Sheriff Juan Julian. He said he received the letter on Friday regarding receiving false alarms from all residential and commercial locations. There will be a \$50.00 charge after the third false alarm to respond to all commercial and residential locations in regards to the security systems. Mr. Bryan asked where the \$50.00 would go and why he did not have officers patrolling that area. **(See Exhibit C)**

Sheriff Juan Julian said letters were sent to several people who have alarm systems in their residences. They have had a lot of fictitious alarms going off. It is caused by individuals who have alarms and allow animals to be left in the house and they set off the motion detectors. Many of the people that have alarms, the alarm companies don't know where the residences are and they can't

give an address or a location. This ties up the deputy when going out handling the calls that need to be handled. When these calls come in, it ties up the deputy, the dispatch operator and the 911 system. They are trying to eliminate the number of false alarms that they get.

Chairman Aguilar said the Sheriff is trying to get a grant to possibly hire 10 more officers. It is under the COPS Grant. It will enhance police protection in Valencia County. Senator Sanchez and Representative Luna are also requesting funding for two sub-stations, one on the East Side of the river and one on the Southern end of Valencia County. If this is successful, it will mean approximately \$62,500.00 for each sub-station.

Commissioner Frank Pando said he was appointed Chairman of a Hospital Board and he reported that he has 10 members on his committee. The members are George Hobbs, Ronnie Torres, Dr. Roland Sanchez, Dr. Manual Gamaz, Mary Lou Chavez, Suzanne Lindemuth, Diane Luna, Phil Jaramillo and John Cherry. He said hopefully he would be having a meeting with all of these people soon.

Chairperson Alicia Aguilar read a statement into the record. It says, "I request a few minutes from my fellow commissioners and the public to read a statement for the record to avoid misconception. I have reached a crossroad in my life and have made a decision about the direction that I will take. I have worked diligently to provide all residents of this County with fair and honest government without regard to whether they were Republican or Democrat. However, my actions have not gone without criticism. I became a candidate for county commissioner because I believed we needed responsibility, honesty and accountability in government. I have served with a commitment to work for the benefit of all. Elected officials have a legal, moral and ethical obligation to represent the people."

"When a Democratic Commission elected me Chairwoman, it was based on their decision of merit, not political affiliation. Both Republicans and Democrats called to congratulate me, but to my substantiation, no one called from the leadership of the Republican Party. In the Republican Party of Valencia County, there are many I consider friends. There are no words that express the deep appreciation I have for their support. I am also grateful for their willingness to continue their trust in me. The reality of politics is crystal clear. The leadership of the Republican Party and I have had differences of opinion during the past three years. There has been no reconciliation. I'm clearly not the kind or type of person that the leadership of the Republican Party has any use for. I hereby announce that I am changing my political affiliation from Republican to Democrat."

"Thank you for your time."

Chairperson Aguilar called for a five-minute recess.

## **ACTION ITEMS**

### **(A) FIRST CHOICE COMMUNITY HEALTH CENTERS**

Wilfred Otero, David Martinez and Steve Mulhurn spoke to the Commission regarding the First Choice Community Health Centers. They are requesting that the County act as Fiscal Agent for First Choice Community Health Centers. They want to bring more services to the community and in order to do this; they need a new facility. There is a bill being sponsored in the Legislature for the new facility, however they are a non-profit organization and need another entity to act as their agent. They have been in this type of venture with Bernalillo County for quite a while and it has been very successful.

It was recommended that First Choice meet with the Administration to obtain further information and report back to the Commission.

Commissioner Al Padilla made a motion to take the Chairman's recommendation. Commissioner Helen Baca seconded the motion. Motion carried.

### **(B) JUVENILE DETENTION CENTER UPDATE**

Sam Duran said Tom Swisstack was unable to stay for the meeting. He said basically what they were discussing is community monitoring money. He said he and Mr. Swisstack met with Carlos and the County Manager on February 3<sup>rd</sup>. Valencia County has been paying two full-time positions. There has been discussion on whether we wanted to continue that. He said it was his understanding that they would continue with two full time monitors. Bernalillo County will pick up the salaries for Jamie Goldberg and John Thompson from March 1st through June 30th, 1999. All of the reporting will be done to them.

Mr. Duran said they are also meeting with the County Manager and Carlos to determine the 1999-2000 budget.

Commissioner Frank Pando said he met with Sam Duran, Tom Swisstack and Carlos. He said it was a real eye-opener to him. He commended Carlos, Sam and Tom and said he hopes that the open lines of communications continue. He said they are beginning to speak to each other and get along together and if it continues, they will do a lot of good for Valencia County.

Chairman Aguilar said Valencia County did receive a bill for \$112,000.00 for 1995-96 for the Juvenile Detention Center. She said they are checking into the bill. She said it is important for the public to see what the Commission is faced with.

Commissioner Frank Pando made a motion to continue with the two monitors through March 1<sup>st</sup>, at which time they will go on the Tri-County Monitoring System. Commissioner Al Padilla seconded the motion. Motion carried.

### **(C) TIERRA BONITA QUARTERLY REPORT**

Robin VerEecke presented the Tierra Bonita Quarterly Report. In November, Tierra Bonita donated trash bags and loaned two groups vests and gloves. Valencia County donated a trip to the

Conejo Transfer Station for the group working on the north Mesa in Belen. The State Highway Dept. picked up refuse along Highway 47 collected by a neighborhood association.

An open house was held at the new Village of Los Lunas transfer/recycling station on west Highway 6.

The Director of Tierra Bonita compiled the information collected by three committee members who donated 9 hours, 100 miles of driving and 4 rolls of film and developing toward the annual Photometric Index. This litter count is required by Keep America Beautiful each year to show results of local programs and to maintain affiliation with KAB.

December brought the grant application from Santa Fe. It was completed by Tierra Bonita and signed by the Commission on January 11, 1999. Tierra Bonita applied for \$5,500 for beautification and maintenance projects, and \$8,500. for its youth employment.

In January Tierra Bonita held its quarterly meeting with guest speakers Joe Lobato and Audrey Zamora from New Mexico Clean & Beautiful. This is the State organization that Tierra Bonita receives grant money from and state liaison with the national organization of Keep America Beautiful.

Chairman Alicia Aguilar commended Robin VerEecke for the job she is doing.

#### **(D) DEDICATION OF ROADS FOR MAINTENANCE**

##### **Maez Road - Menard Road**

Mike McCartney presented Maez Road for dedication for maintenance. The road is located north off of Valencia Road. The road viewers recommended it for acceptance.

Commissioner Eloy Giron made a motion to accept Maez Road for dedication for maintenance. Commissioner Frank Pando seconded the motion. Motion carried.

Mike McCartney presented Menard Road for dedication for maintenance. The road is located off of Highway 47 by CNL Storage Units and across the ditch.

Deborah Sandoval said the road was supposed to be maintained by Lucy Jaramillo, however she has lived there over two years and nothing has been done to the road. Steve Sandoval, Yvonne Trujillo and Isabel Olivas attended the meeting in support of having the road dedicated.

The County Attorney said if the contracts of the residents required Lucy Jaramillo to maintain the road, then the remedy would be to sue her to see that it is brought up to county specs. The County is in a position where the road has to meet county specifications before it can be accepted.

The Road Viewers recommended the road not be accepted because it does not meet County Specifications.

Commissioner Al Padilla made a motion to not accept Menard Road for dedication for maintenance. Commissioner Helen Baca seconded the motion. Motion carried.

#### **(E) DEDICATION OF ROAD FOR PAVING/Bunton Road**

Mike McCartney said this is a request to pave Bunton Road. The road is located south on Highway 314 next to the video store.

Chairman Aguilar said Bunton Road is already a county maintained road.

Chairman Alicia Aguilar made a motion to accept the petition and to accept Bunton Road for paving. Commissioner Helen Baca seconded the motion. Motion carried. **(See Exhibit D)**

#### **(F) APPEAL PLANNING/ZONING DECISION/Conditional Use Permits**

##### **Omni America for Alamosa Sprint/Rio Communities Location**

##### **Omni America for Alamosa Sprint/Los Chavez Location**

Chairman Alicia Aguilar stated there is a sign-in sheet on the front table and anyone who is going to speak regarding this issue will need to sign in and be sworn in by the County Clerk.

County Clerk Kandy Cordova asked that all people signing in to please stand and raise their right hand. She then asked, "Will you swear or affirm that the testimony you will give this case will be the truth, the whole truth, and nothing but the truth, under penalty of law?" They repeated, "I do."

Mike McCartney said this is a request for a hearing to appeal the decision of the Planning and Zoning Commission on the location of a 190-foot telecommunication's tower. It is for the one located in Enchanted Mesa, Lands of Rio Grande Utility Corp. The Planning and Zoning Commission denied this request with a vote of 4 to 0 at the December 8, 1998 meeting, due to the tower being located in a residential area.

Steve Portnoy said his statement is going to pertain to both appeals, because otherwise he will be repeating the same statement twice.

Mike McCartney said the second appeal is for denial of the 190-foot telecommunication tower to be located in Los Chavez. This was also a 4 to 0 denial.

Steve Portnoy, attorney for the Omni America for Alamosa Sprint, PCS stated his client is a federal licensed provider for personal communication's services. They are under a Federal mandate issued by the Federal Communication's Commission to provide quality wireless communication services within a short time to a large percentage of the populated and geographical area or risk forfeiture of its license.

As a federal licensee it is protected by federal law, in particular the Telecommunications Act of 1996. The Act supported by numerous court decisions states; no municipality may flatly exclude personal wireless service facilities from within its borders, inclusive of residential area. Every municipality must make reasonable provision for such facilities.

The Act states that a municipality shall not unreasonable discriminate among functionally equivalent services. (Cellular and PCS) Cases decided under this section of the Act demonstrate that state and local governments cannot treat providers that get there first differently than those that follow. Such treatment would give an unfair and illegal competitive advantage to the early market entrants, being the cellular providers.

He said, "As in the cases before you today, the federal court has ruled that a zoning board's denial of a permit for a PCS provider constituted unreasonable discrimination where two cellular

carriers have already located towers and were providing service in the same area sought by the PCS provider."

Only the FCC may regulate personal wireless service facilities regarding radio frequency radiation. No denial of a permit may be based upon the alleged health concerns or risks regarding such radiation.

The denial of a permit or application for permit must be in writing and supported by substantial evidence contained in a written record. The courts have made clear that the substantial evidence mandate requires more than the recitation of concluding statements without reference to supporting evidence. A local board must provide written findings of fact, which indicate their evidentiary basis.

Mr. Portnoy said, "I respectfully represent to you that the written compilation of general thoughts and statements from the underlying hearings offered by the denying local Commission, fails to meet such standard. As one court put it, local government may not mask hostility to wireless communication facilities with unreasoned details or statement that make only vague references to applicable legal standards."

"The substantial evidence mandate requires reliance on specific concrete evidence presented to the local board. In those cases, there was no evidence presented to controvert any evidence and testimony presented by my client, which clearly established substantial evidence and reason that a permit should be issued. Unfounded fears of more wireless service facilities in the future, unsubstantiated claims of diminished property values, other general concerns as contained in the recitation forming an alleged written record and offered by the denying Commission, do not meet the requirements of the substantial evidence standard. In addition to my legal argument of the illegality of the conclusions of the Commission, the lack of substantial evidence, the lack of a qualified legal record, the unreasonable discrimination perpetrated against my client, the fact that the denial of my client's application was in violation of federal law; my client has clearly demonstrated above and beyond its legal obligation that it has used its best efforts in locating these sites in balancing recognized concerns of the county and its need to comply with its federal mandate of providing quality wireless service and constructing its network in a timely manner. My client has provided and demonstrated that the application for permits to place facilities in the two locations before you are reasonable and should be granted. Alamosa exhausted all efforts to locate its sites in the least obtrusive manner."

He said they respectfully request that this Commission reverse the Planning Commission's decision of denial and render that permits be issued to his client in each matter at hand and direct the proper government officials to do so.

Commissioner Frank Pando said some people sat here a couple of months ago, they said they had the same thing, they were going to put it in a residential area and they moved it. When they first came before the Commission they were just like these people, but they were able to change the location. They should put it far away from people.

Chairman Alicia Aguilar said her recommendation would be that this Commission review this further because it falls under the Telecommunications Act of 1996. They have not looked at any franchise agreements and there is a lot of information there that they need to address. She recommended that the Commission listen to Mr. Portnoy and the others and then table this item until they have further information.

Commissioner Eloy Giron made a motion to table this item and get with counsel so that they can speak in terms that can be understood.

Mr. Portnoy said the Telecommunications Act has nothing to do with franchise fees. They are not a public utility. He said he understood the Commission wanting to get more information, however they are under a strict timeline to get their system started or risk forfeiture. They do not have a problem tabling the item as long as they can come back within a couple of weeks.

Commissioner Eloy Giron withdrew his motion to table this item. More discussion was held. Allan Jaramillo and Wes Murray spoke in favor of this item. Those speaking against the issue were Kathleen Friar, Nikie Angelos and Anthony Scazzero who presented petitions opposing this construction. Max Kiehne declined to speak. **(See Exhibit E)**

Commissioner Frank Pando said he was on the Planning and Zoning Commission for many years. He said they have heard requests for many towers. He said to his knowledge the towers that were put were put in a different place than where they applied for. He believes that they all come in with the same story.

Commissioner Al Padilla made a motion to continue this hearing on this item until February 22, 1999, so that the Commission can obtain further information. Commissioner Eloy Giron seconded the motion. Motion carried.

#### **(G) BOARD OF REGISTRATION APPOINTMENTS**

County Clerk Kandy Cordova said, as per the Election Handbook for the State of New Mexico, the Board of County Commissioner's at its first regular meeting in February of an odd numbered year shall appoint three voters who shall constitute the Board of Registration for the County. No more than two of the three persons appointed to the Board of Registration shall be members of the same major political party at the time of their appointment. The Board of County Commissioner's shall appoint two alternate's who shall not belong to the same political party at the time of their appointment. The Board of Registration will review the list of the inactive voters provided by the Secretary of State's Office.

Chairman Alicia Aguilar said the County Clerk provided a list and her recommendation is that Raymond Esquibel, Luciano Chavez and Barbara Martinez be appointed to the Board of Registration with Wanda Burson and Lorraine Otero serving as alternate's.

County Commissioner Frank Pando made a motion to take the recommendation of Chairman Alicia Aguilar. Commissioner Helen Baca seconded the motion. Motion carried.

Commissioner Al Padilla made a motion to convene as the Indigent Board. Commissioner Frank Pando seconded the motion. Motion carried.

**(H) INDIGENT REPORT**

Barbara Baker presented the Indigent Claims from December 29, 1998 to January 28, 1999. The total amount of claims submitted is \$123,571.19. She asked the Commission to approve \$41,795.35 and to deny \$81,775.84. There were 53 claims submitted.

Commissioner Eloy Giron made a motion to approve the Indigent Claims as submitted by Barbara Baker. Commissioner Helen Baca seconded the motion. Motion carried. **(See Exhibit F)**

**(I) INDIGENT APPEAL**

Barbara Baker presented an Indigent Appeal for Judith Seybold. Mrs. Seybold is being treated at UNM Cancer Treatment & Research Center. She has applied for Social Security Supplemental Income, but is waiting for a decision.

Commissioner Eloy Giron made a motion to allow Indigent payment for Mrs. Seybold. Commissioner Helen Baca seconded the motion. Motion carried.

Commissioner Eloy Giron made a motion to re-convene as the Board of County Commission. Commissioner Helen Baca seconded the motion. Motion carried.

**(J) COUNTY PLANNER'S REPORT**

Steven Chavez stated he would like to report on some of the things they have been working on. First is the Comprehensive Plan which is the largest subdivision review, GIS Grant and the reconstruction of the New Mexico 47 Project that the State is working on and they have asked for consideration from the County, as well as the zoning code enforcement from Planning and Zoning and the interns from UNM.

**The Comprehensive Plan**--Many issues were recommended to the County Commission out of a forum that was held in July 1997. Some of the issues have been taken care of. Some of the land use issues were taken to a steering committee for the Comprehensive Plan. They are presently drafting goals and proposals for the steering committee and the County Commission to review. The land use issues that they are looking at are to enforce the existing zoning regulations. These were the issues that were decided on from the forum, to tighten zoning ordinances and subdivision ordinances and to plan places of commercial and industrial development, balance housing, transportation, jobs, encourage industry, preserve farm land, preserve open space, preserve historic archeological sites and economic development, as well as location of growth areas and looking at land use harmony issues.

Chairman Aguilar said they have a wide representation on the steering committee. They have the Highway Dept., Conservancy District, Isleta Pueblos, the Chambers of Commerce and the different entities.

Mr. Chavez said, "Regarding the subdivision review, I don't know if the Commission is aware of it, since the first of January, 1996, this County Commission has approved 20 subdivisions. Twenty subdivisions have either been approved or are now pending. That is a total of 2,325 individual lots in those subdivisions. That is an astounding number and I think that is something that creates great cause and concern for us to look at what is going on."

**GIS Grant**--Mr. Chavez said the Word Program that has been developed and sent to the State for approval, was approved by the Department of Finance and also by this Commission. In the program, there was some language left to either do the GIS work in-house or contract out under RFP's. There are at least four firms in our State that are GIS experts. They are on State Contracts. It is Mr. Chavez' recommendation that the County go out for RFP's because the work will get done quicker and they will be able to train the County staff to maintain the program.

GIS is a Geographical Information System. It is a digital mapping system. You use satellites, you use hand held position units and as you drive county roads, the unit in the vehicle will be sending signals to a satellite every two or three seconds mapping the roads digitally. It will be down loaded into a computer system and we will be able to have a base map of all of the roads. With that base map, we can go back and locate parcels, driveways, emergency positions, utility services, etc. It will be beneficial to emergency services so that all emergency services in the state will know the roads. It is a grant with approximately \$272,000.00 to do the mapping for our county. It included the municipalities as well as Isleta and Laguna.

**Reconstruction of Highway 47**--Mr. Chavez said this is the reconstruction effort by the New Mexico Dept. of Highway & Transportation from Tome Hill Road to Otero Road. He said, "They sent me a formal letter requesting that we submit to them certain things. They are right now in their right-of-way design phase. That phase includes the general design aspects of what parcels are affected by the widening project. They are going to take approximately 70 feet total, both sides including property of the county. Most of it is private property, I think there is 171 properties that are affected by their preliminary designs. They would like us to evaluate variances or setbacks to lot sizes. In that, I would like to advise this Commission to be careful, the variances for setbacks wouldn't be a problem, but variances to lot sizes may create a legal quagmire down the road. Some of the properties there are already nonconforming uses in the zoning ordinances, probably no more than 6 or 7. That means that basically they are already grandfathered in below the minimum lot size for New Mexico Environmental Dept. standards possibly, which is 3/4 acre and our zoning ordinance which is 1 acre. They are going to take more property off of some of these, which is going to make

them smaller. They would like for us to determine whether or not we are going to give variances for that lot size." He said we need to look at this proposal very close, passed the preliminary design stage, so that they can tell us what and who is affected.

**Zoning Code Enforcement in the Planning and Zoning Dept.**--Mr. Chavez said he has been working closely with Mike McCartney. He has provided him with a lot of assistance, as well as secretarial work. They have been working with the zoning ordinance and the subdivision regulations. They have discussed the possibility of getting a video camera and recording the code enforcement problems. Some of it is embarrassing and there is only one code enforcement officer.

Mr. Chavez said the Graduate School at the UNM Planning Dept. has requested that he give a couple of lectures on the law and planning. In return they are going to give us six graduate student interns to assist us in developing anything we want. He will be sending proposals to them next week requesting certain items where help is needed.

Chairman Aguilar asked if this was coming through Ken Hughes. Mr. Chavez said yes. Mrs. Aguilar said she would like to thank Mr. Hughes because when the steering committee was formed, it was Ken Hughes, Dennis Fultz from the Council of Government and the Attorney General and it was Representative Luna who brought this meeting together that started the dialogue of using students in exchange and their committed support for comprehensive planning in Valencia County.

Commissioner Eloy Giron said he and Commissioner Pando attended a meeting with a Hearing Officer with the new Public Regulatory Commission on ambulance service in Valencia County. He asked that they be in contact with the Planning Office and some of the subcommittees. There will be correspondence coming on this issue.

Cynthia Hungerford-Padilla expressed concern about some of the empty buildings on Highway 47. She said the neighbors are concerned because it is posing problems with young people, drugs and alcohol.

Tom Garde suggested that administration contact the State to determine what they are going to do with those buildings.

**(K) FINAL HEARING: Request for a Moratorium  
Certain Zoning Actions and all Subdivisions**

Steven Chavez said this is the final hearing for a request from the Valencia County Planning Department for a moratorium on certain zoning actions and all subdivision actions within the unincorporated jurisdiction of the Valencia County Board of County Commissioners. For purposes of the moratorium period, zoning actions shall include zoning amendments, variance, which include amendments to zoning maps only. For purposes of the moratorium period, subdivision actions shall include all preliminary plat approvals. It excludes summary review proposals.

Mr. Chavez read Resolution 99-08 into the record; it says "Concerning the establishment of a moratorium on zoning actions and subdivision approvals by the Valencia County Board of County Commissioners, Valencia County, New Mexico."

"Whereas, the County of Valencia is a planning authority and is authorized by New Mexico State laws to enact zoning and subdivision ordinances to regulate the development and use of lands within the jurisdiction of the unincorporated lands of Valencia County; and

Whereas, the County of Valencia has adopted a development policy document as well as a comprehensive zoning ordinance and subdivision regulation ordinance which serves as the comprehensive plan for the County of Valencia; and

Whereas, the Planning and Zoning staff of the County has begun an extensive review of the County of Valencia's Zoning Ordinance and Subdivision Regulation Ordinance; and

Whereas, it will be necessary to allow time to review and revise the existing County Zoning Ordinance and Subdivision Regulation Ordinance; and

Whereas, a moratorium on zoning and subdivision actions is a necessary measure to protect the health, safety and welfare of County residents as well as protect the County from development which may become inconsistent with the revised Zoning Ordinance and Subdivision Regulation Ordinance.

Now Therefore Be It Resolved by the governing body of the County of Valencia, New Mexico:

- A. A moratorium on all zoning and subdivision actions is hereby declared within the respective zoning, planning, and platting jurisdictions of the County.
- B. There shall be no approvals of any zoning actions or subdivision plats by the County of Valencia for a period of one-hundred-eighty (180) calendar days following the date of adoption of this resolution.
- C. For purposes of the moratorium period herein, zoning actions shall include zoning amendments and variances, which involve any amendments to zoning maps.
- D. For purposes of the moratorium period herein, subdivision actions shall include all preliminary plat approvals, excluding those, which occur under Article 6 of the Subdivision Regulations, titled Summary Review Process.
- E. Zoning and Subdivision applications which have been submitted prior to the date of the second public hearing on this matter before the Valencia County Board of Commissioners shall not be subject to this Resolution.
- F. This Resolution establishing a moratorium may be extended for an additional period of ninety (90) calendar days by action of the Valencia County Board of Commissioners if necessary to complete the revisions of the Zoning Ordinances and Subdivision Regulation Ordinances.
- G. While this Resolution establishing a moratorium is in effect, the comprehensive review and necessary revisions to the Zoning Ordinances and Regulation Ordinances shall be completed and subsequently adopted by the Valencia County Board of Commissioners."

Steven Chavez stated that notice of the moratorium period was published in the News Bulletin for the first time on January 9<sup>th</sup> and January 16<sup>th</sup>. The first hearing was on January 25<sup>th</sup>. Notice of the second hearing was published on January 30<sup>th</sup> and February 6<sup>th</sup>. He said he just learned that there was a misprint for the February 6<sup>th</sup> notification and it stated the second hearing would be held on February 10<sup>th</sup> rather than February 8<sup>th</sup>.

There are several pending subdivision proposals that have already been submitted to the Planning and Zoning Dept. There are currently three requests to amend the zone maps. There are currently five subdivision proposals excluding Lobo Valley Acres, which was not counted because it was not submitted until the afternoon of this passed Friday. That is a total of 707 lots pending.

Mr. Chavez said, "As far as justification for the moratorium on the zoning ordinance for amendments to the maps, I would please refer you to the memorandum that I sent to you regarding the zoning maps. They need to be updated. There have been 142 amendments to the zone maps since the zoning ordinance took affect. I'd like to get that updated as soon as possible. The zoning district standards need to be looked at and reviewed comprehensively. We need to look at the purpose of the zoning ordinance."

Commissioner Eloy Giron asked the County Attorney if they would be putting themselves in jeopardy by making a decision on this when the wrong date was published in the paper.

Tom Garde said, "We are required to notify the public as far as when a public hearing is going to be held and it does not appear that we have accomplished that. It appears that it was done by the publication itself. I think to keep this from coming back to haunt us, we can take public comment at this hearing and treat the next hearing at the next meeting as the final hearing."

Steven Chavez said there were three publications that were correct. At the January 25<sup>th</sup> meeting the public was notified that the February 8<sup>th</sup> meeting would be used for the final hearing on this issue.

The preplatted lands district that is in the zoning ordinance needs to be addressed. It is not being utilized correctly. It provides little guidance for developers or people who want to split their lands. It doesn't provide predictability; it doesn't provide the performance standards or the guidance that it should.

The hottest issue in the Subdivision Regulations in land use is antiquated subdivisions. There have been proposals in the Attorney General's Office for dealing with it. They have dealt with it and Mr. Chavez said he would like to deal with it. He believes that our county needs to be a little bit more affirmative, rather than through negotiations. It should be dealt with through the Subdivision Regulations and the Zoning Ordinance. There are tools at our disposal that can be used.

When the State does a traffic impact study, they only look at State Roads, not County Roads. Mr. Chavez would like for the Zoning Ordinance and the Subdivision Regulations to address this. We need to look at available water for the entire area, not only for the subdivision. We need to look at where the water is coming from. He said road improvements need to be addressed. Design standards need to be looked at closely. A letter of credit or bond needs to be looked at because as the market gets more competitive, there will be promises made that may create problems.

Mr. Chavez said he would be reporting to the Commission at their regular meetings on the progress that is being made.

Steve Romero spoke against the moratorium. Steven Chavez said he was opposed to a moratorium. He said he thought this over for six months and he believes it needs to be done. The county needs to step back and look at why they are having problems. The County can still grow at a fast rate, but it will be with the proper control that they should have.

Chairman Alicia Aguilar said, "This recommendation on the moratorium has come to us from the Planning and Zoning Commission. They have made several requests. When we are talking about zoning and growth management in their neighborhoods and you are saying there are 142 amendments to zoning, in order to get a handle on it, we have to know where we're at. The Planning and Zoning Meetings start at 2:00 PM and they usually stay until 6 or 7:00 PM because they have so many variances and so many requests for conditional permits. They are addressing each item. This is spot zoning without looking at the entire picture. The moratorium would look at the entire picture and there would be fairness. There would be procedures in place that would apply to everyone."

Pat Owens, Jack Huning, Bob Davey and Max Kiehne spoke in favor of the moratorium and urged the Commission to care about the County. They asked that they use the moratorium productively and not make the standards so high that the County would lose its affordability. Enforcement of the regulations is critical.

Ric Thom said the main problem with the people he spoke to were the manufactured housing developments and land splits. He said the majority of the people he spoke with and himself are against the moratorium to solve the problems. They do not feel that it is reality to put things on hold to catch up. They believe there is a risk by doing so.

Chairperson Aguilar recommended that this hearing be continued until February 22<sup>nd</sup> and at that time a decision would be made. Commissioner Frank Pando disagreed and said he was ready to take action at this time.

Steven Chavez said the legal standard for notice is substantial compliance and the Supreme Court has upheld that on a number of occasions. He said, "While I feel it is a problem, I think we have substantially complied with the notification requirement."

Mike McCartney said the three previous publications were correct. Only Saturday's paper had the incorrect date.

Commissioner Frank Pando made a motion to approve Resolution 99-08 calling for a moratorium for up to 180 days, effective February 15, 1999. Commissioner Eloy Giron seconded the motion. More discussion was held. Motion carried. **(See Exhibit G)**

Chairman Aguilar said the Attorney General mentioned to her that no county has come to them to address antiquated subdivisions and if Valencia is the first they will be happy to come down and work with them. It not only affects Valencia County, but a lot of other county's in the State.

#### **(L) COUNTY MANAGER'S REPORT**

County Manager James Fernandez reported on what has been going on the last two weeks. He said they have been working on legislative issues that have been set out by the Commission. He said Chairman Aguilar, Commissioner Baca and himself met with Vince Montoya, the lobbyist and gave testimony on four bills, particularly House Committee Bills 19, 20, 21 and 22. The first dealt with replacement of a bridge and culverts in Valencia County and provided testimony with a prioritize list of 26 bridges and culverts that needed to be repaired and asked for funding in the amount of \$125,000.00. #20 sought \$25,000.00 for a new animal control vehicle. #21 sought \$100,000.00 for road paving materials. #22 sought funding of \$50,000.00 for a backhoe to be used for road and landfill projects. They received initial approval for those items.

February 2<sup>nd</sup>, Mr. Fernandez went before the Government and Urban Affairs Committee to give testimony on House Bill 19 dealing with the housing of county prisoners. They are seeking funding in the amount of \$250,000.00 to assist with the defraying of cost while the new county jail is being built. They received a unanimous approval from this committee.

On the same day they gave testimony on the construction of two Sheriff's Office Substations located in El Cerro and Jarales. The initial appropriation for each of these was \$50,000.00 and it has been upped to \$62,500.00.

Mr. Fernandez said they have been working with Sheriff Julian on submitting an application for additional Sheriff's Officers to man these facilities and seeking a grant for 10 full-time deputies and 4 part-time deputies.

The next item is, on February 10<sup>th</sup>; they will be giving testimony on three other issues. The first will be seeking funding for the paving of Manzano Expressway in the amount of \$327,000.00, seeking flood water control for HC-229 in the amount of \$125,000.00 and seeking improvements to County recreational fields in the amount of \$75,000.00.

Some of the meetings that Mr. Fernandez has been attending are; on February 4<sup>th</sup> he attended the Middle Rio Grande Leadership Forum. There were attendees who were representatives from the City of Albuquerque, Bernalillo County, Sandoval County, Tarrant County, Chamber's of Commerce and individuals from the Pueblo's. The primary concern of this group was to start working on economic development issues as a regional concept. They are planning six meetings to be held on the second Tuesday of the month for the next six months.

On February 16<sup>th</sup>, the Central Solidwaste Authority will be holding a meeting at the Village of Los Lunas Chambers at 10:00 AM. The Commission has been invited to attend. Also on the same date, at 2:00 PM there will be a closed workshop to deal with road issues. There will be individuals from the New Mexico Association of Counties and their legal staff as well as the Road Dept. Staff, Planning and Zoning Staff and the Sheriff's Dept., anyone who deals with road issues as they pertain to Valencia County.

On February 18<sup>th</sup>, at 9:00 AM the New Mexico Highway Dept. will be holding a meeting in Santa Fe to address road issues. This will be an opportunity to make the County's presence known on issues as they pertain to Valencia County.

On February 18<sup>th</sup> at 1:30 PM to 3:30 PM the Ranchers State Bank will be holding a Y2K Seminar at their main branch in Belen.

The week of February 23<sup>rd</sup> to the 26<sup>th</sup> the County will be undergoing a safety audit conducted by the New Mexico Association of Counties. They will be touring county facilities and making the audit. A memo has been sent to all departments asking for their cooperation in getting their offices in order as well as their storage in the basement.

The parking lot is undergoing a paving project. Hopefully it will be finished by Wednesday.

They are hoping to go out for RFP's on the renovation project at the Health Dept. for the Bureau of Elections and the Planning and Zoning Dept. The second is the remodeling of the front of the Courthouse, removing the glass from the entranceway. Third is the courtyard construction and the placement of the sculpture that was purchased by the County. Fourth is the remodeling of the Personnel Office space for District Court to house a new Courtroom space.

They met with the Environment Dept. on the closure of the landfill. When the landfill was closed in 1995, no further monitoring has been done. They are meeting with the Environmental Dept. to make sure that the required standards are going to be met.

More information will be forthcoming on the GIS Program. There will be RFP's, job descriptions and what has been spent from the initial funding of the grant.

The elevator should be fixed and ready for use within the next three weeks. They have been awaiting shipment of parts.

#### **(M) AWARD OF BID/Co-Operative Extension Office Space**

Carlos Montoya stated this is a request to award a bid for office space for the County Extension Office. Valencia County has contributed to this program since its conception. In last years budget they contributed \$57,718.00. To date they have been paid \$14,429.00 and in today's warrants there is request for approval of \$14,429.00. Mr. Montoya said in addition to the \$57,718.00 that Valencia County has provided, they have been providing rental space for the Co-operative Extension Service. The current rent is \$835.00 per month and is going up to \$1,085 per month. The rent at Mondel Plaza will be \$925.00.

Discussion was held on this issue.

Commissioner Eloy Giron made a motion to move the County Extension Office to Mondel Plaza, with a one-year lease for \$925.00 per month with the County Extension Service picking up the

cost of installing their phone system and their computer system. The County will help them physically move. Commissioner Frank Pando seconded the motion. Motion carried.

**(N) WARRANTS**

Carlos Montoya presented the Warrants for Commission approval. Discussion was held on the warrants. Chairman Alicia Aguilar requested that the two checks be held that would pay for the utilities for the Health Dept. and Probation and Parole. She said they need to talk to Property Control regarding the lease. It was her understanding that the space was being leased for \$1.00 per year and it turns out that the utilities are approximately \$4.25 a foot.

Commissioner Frank Pando made a motion to approve the Warrants with the exception of the two checks mentioned. Commissioner Al Padilla seconded the motion. Motion carried.

**(O) EXECUTIVE SESSION**

County Attorney Tom Garde said during the Executive Session, discussion will be held on Land Acquisition for the Valencia County Detention Center and possible litigation on Steve Romero.

Commissioner Frank Pando made a motion to go into Executive Session. Commissioner Helen Baca seconded the motion. Motion carried with Commissioner's Baca, Aguilar, Padilla, Giron and Pando voting yes.

County Attorney Tom Garde said during the Executive Session, discussion was held on the land acquisition for the Adult Detention Center and no action was taken.

Mr. Garde said, " With regards to the Garcia/Romero dispute, I would draft a Memo to the Commission with regards to what has been going on and that way the new Commissioner's will know what has happened. I also need to speak with Mr. McCartney to see what is going on out there right now. No action was taken."

**NEXT MEETING**

The next Regular Meeting of the Valencia County Board of County Commission will be held on February 22, 1999, at 6:00 PM, with the Executive Session to begin at 4:00 PM in the County Commission Room at the Valencia County Courthouse.

**ADJOURNMENT**

Commissioner Al Padilla made a motion to adjourn the February 8, 1999, Regular Meeting of the Valencia County Board of County Commissioners. Commissioner Frank Pando seconded the motion. Motion carried.

**NOTE:** All proposals, documents, items, etc., pertaining to items on the agenda of the February 8, 1999, Regular Meeting (presented to the Board of County Commissioners) are attached in consecutive order as stated in these minutes.

**VALENCIA COUNTY BOARD OF COMMISSIONERS**

**ss  
ALICIA AGUILAR, CHAIRPERSON**

**ss  
AURELIO H. PADILLA, VICE-CHAIRMAN**

**ss  
HELEN BACA, COMMISSIONER**

**ss  
ELOY GIRON, COMMISSIONER**

**ss  
S. T. FRANK PANDO, COMMISSIONER**

**ATTEST: ss**

**KANDY CORDOVA, COUNTY CLERK**

**DATE: Feb. 22, 1999**

**For an official copy of these minutes and attachments see Commission Book 33 Page 773**