

VALENCIA COUNTY BOARD OF COMMISSIONERS

Regular Business Meeting

July 19, 2007

PRESENT	ABSENT
Pedro G Rael, Chairman	
Georgia Otero-Kirkham, Vice-Chairman	
David R Medina, Member	
Ron Gentry, Member	
	Lynette Pinkston, Member
Eric Zamora, County Manager	
Cynthia R. Wimberly, County Attorney	
	Sally Perea, County Clerk
Press and Public	

1) The meeting was called to order by Chairman Pedro Rael at 3:30 PM.

2) Chairman Rael led the Pledge of Allegiance.

3) Approval of Agenda

Chairman Rael suggested removing Item (q) (i) – Consideration of payment on carpet contract as accepted by County Commission. Commissioner Kirkham moved for approval of the agenda with the removal of Item (q) (i). Seconded by Commissioner Medina. Motion carried unanimously.

4) Approval of Minutes

June 20, 2007 – Special Meeting

Commissioner Medina moved for approval. Seconded by Commissioner Kirkham. Motion carried unanimously.

June 27, 2007 – Regular Business Meeting

Commissioner Medina moved for approval. Seconded by Commissioner Kirkham. Motion carried unanimously.

5) Public Requests – At the discretion of the Chair

{For Information Only – limited to two minutes per person on subjects not on this published agenda}

Bob Gostischa prefaced his remarks by reading a letter to the commission. In his remarks he stated disappointment with Sheriff Rene Rivera, not being in attendance or sending a delegate to represent the Sheriff's office at the local town hall Meadow Lake meetings. This is a big concern for them. The State Police have never missed having a representative at any of their meetings. Mr. Gostischa said the Meadow Lake community needs the Sheriff's office to help with the criminal and gang elements.

6) Discussion (Non-Action) Items

a) Department Reports – Department Directors

None

b) Reports from Boards, Commissions & Committees – County Commission

None

7) Action Items:

Board of Commissioners convenes as Indigent Claims Board

Commissioner Kirkham moved to convene as the Indigent Claims Board. Seconded by Commissioner Gentry. Motion carried unanimously.

a) Indigent Report/Appeal – Cynthia Wimberly (See Exhibit A)

Ms. Wimberly on behalf of Ms. Baker reported the Indigent Claims from June 1, 2007 to July 6, 2007. The amount of claims submitted was \$1,059,846.49. There were 84 claims submitted and 28 applicant denials. Ms. Wimberly recommended approval of \$48,416.63. Commissioner Medina moved for approval. Seconded by Commissioner Kirkham. Motion carried unanimously.

Appeal- Ms. Wimberly presented an appeal for Emily Grubb, as she had been denied. She does have Presbyterian Senior Care. Other than having insurance, Ms. Grubb would have been approved, as she met all of the other requirements. Ms. Wimberly recommended approval of \$500.00 deductible to Presbyterian Hospital. And if approved Valencia County would pay \$385.00. Commissioner Kirkham moved for approval. Seconded by Commissioner Medina. Motion carried unanimously. (See Exhibit B)

Board Reconvenes as Board of County Commissioners

Commissioner Kirkham moved to reconvene as Board of County Commissioners. Seconded by Commissioner Medina. Motion carried unanimously.

b) Resolution 2007-38, Casas de Vida Nueva – Charlotte Back (See Exhibit C)

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Ms. Back presented the above resolution. Commissioner Kirkham moved for approval. Seconded by Commissioner Medina. Motion carried unanimously.

Debbie Ridley, County Clerk Office Manager announced **Resolution 2007-38.**

c) Resolution 2007-39, Mandatory Funding for Veteran's Healthcare Services – Theodore Roybal (See Exhibit D)

Mr. Roybal presented the above resolution. Commissioner Gentry moved for approval. Seconded by Commissioner Medina. Motion carried unanimously. Mr. Roybal requested a picture with the commissioners and all veterans present.

Debbie Ridley, County Clerk Office Manager announced **Resolution 2007-39.**

d) Ordinance 2007-02, Amending in part the Valencia County Road Ordinance; inserting a new article on abandoning maintenance of County Roads – Eric Zamora (See Exhibit E)

Mr. Zamora presented the above item. This ordinance provides a method for the County to eliminate its maintenance responsibility on public roads or roads dedicated for public use, without affecting the legal access rights of the public. Commissioner Gentry moved for approval. Seconded by Commissioner Kirkham. Discussion. Roll call vote. Commissioner Kirkham voted yes. Chairman Rael voted yes. Commissioner Gentry voted yes. Commissioner Medina voted yes. Motion carried 4-0.

e) Consideration of Public Service Company of New Mexico (PNM) request for easement and offer of compensation – Fernando Vigil (See Exhibit F)

Mr. Vigil presented the above item. Mr. Vigil representative of the Public Service Company of New Mexico (PNM) requested for an easement and offer of compensation. As part of this project, PNM will build an electric transmission line to convey the electricity to the PNM Tome Substation, which is north of the intersection of River Road and Highway 47 in Belen. The subject of this request is a section of the transmission line easement that will cross the Rio Grande Volunteer Fire Department property. Commissioner Kirkham moved for approval. Seconded by Chairman Rael. Motion carried unanimously.

f) Final Action of Public Hearing held: July 11, 2007 – Eric Zamora

g) Appealing a decision to Grant a Variance to property owner Michael Stasi for rear and side yard setback to place a 40' x 40' garage structure 10' from the side and rear property lines, T6N R 2E, Sec. 19 Tr. 27B1, Map 86, Book 360, Page 21297, containing 1.02 acres, AKA 74 Seabell Rd, Belen, NM/Juan & Nancy Griego – County Commission(See Exhibit G)

Commissioner Kirkham moved to deny the appeal and to approval the variance. Seconded by Chairman Rael. Commissioner Kirkham voted yes. Chairman Rael voted yes. Commissioner Gentry voted yes. Commissioner Medina voted no. Motion carried 3-1.

h) Final Plat approval for Sierra Madre Subdivision, Unit 1; The proposed development is a Type 2 Subdivision consisting of 120 residential lots located near the northeast corner of North Rio Del Oro Loop and Manzano Expressway, Tr. 8 of Sierra Vista, a plat of the Westerly portion of Rio Del Oro; Unit 19, within the Tome Grant, projected Sections 7,8,17 & 18, T6N R3E, NMPM; containing 34.4322 acres, Valencia, NM/Stephen L. Crawford (Agent) – County Commission (See Exhibit H)

Commissioner Gentry moved for approval. Seconded by Commissioner Kirkham. Discussion. Motion carried unanimously.

i) Preliminary Plat application for La Mercedes Subdivision, proposed Type 2 Subdivision consisting of 202 residential lots, 55 acres, T6N R3E, apart of Sec 18 & 19; a plat of the Westerly portion of Rio Del Oro, Unit 46 within the Tome Grant containing 55.274 acres/Theresa Scott (VIA) Agent – County Commission (See Exhibit I)

Commissioner Gentry moved for approval. Seconded by Commissioner Medina. Discussion. Motion carried unanimously. Commissioner Gentry amended his motion subject to two conditions, that the Office of the State Engineer returns a positive opinion and the developer construct the two turn lanes that they agreed to. Commissioner Medina amended his second. Motion carried unanimously.

j) Preliminary Plat review for Loma Codorniz Subdivision, a proposed Type 3 Subdivision consisting of 18 residential lots, containing 21.3 acres. The proposed Loma Codorniz Subdivision; there are currently 10 lots existing on the North side of the subject property. The proposed development is located in Peralta, approximately ½ mile south of Peralta Blvd. on La Ladera Rd. Tr. A, replat and Land Division of Lands of Codorniz Land Company; MRGCD Map 66; within Sec. 18, T7N R3E, NMPM; within the Lo De Padilla Grant, Valencia County, NM/David Tibbetts – County Commission (See Exhibit J)

Commissioner Kirkham, based on information that was shared by counsel and all conditions to that subdivision having been met, moved for approval. Seconded by Chairman Rael. Discussion. Ms. Wimberly said that at the public hearing meeting, this commission left the record open so that she could contact the newly elected councilors for additional information. The meeting was not as formal as this commission had directed because they do not have a town hall yet. Ms. Wimberly said the only councilor she did not speak with was Council member Joseph Romero. Debbie Ridley County Clerk Office Manager, administered the oath to Council members Leon Otero and Christian Garcia. Leon Otero stated his concerns for the Codorniz Subdivision and said this was a new issue as far as

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he is concerned because they just recently became incorporated. Mr. Otero said they have several constituents that are opposed to this subdivision. It is going to impact the area with traffic, ground water contamination, use of the water as well as drainage. Mr. Otero said he lives in the area and he represents his constituents and their objections to the subdivision. He personally had problems with drainage and his water level has dropped since he has lived there. He has recently had to redo his well, place his submersible pump deeper because the water table has dropped. He is right on the same level as these proposed houses are going to be. This is on a personal perspective. The Town of Peralta is brand new, we do not have a town hall yet as Ms. Wimberly pointed out, they do not have subdivision ordinances in place. Mr. Otero said he doesn't know if they can block this subdivision from happening but he does want it on record that they are opposed to it. Mr. Otero said he had a letter for the commissioners review.

Christian Garcia asked when had this application, on this subdivision, been filed? Mr. Aranda said it was originally submitted November 15, 2006. Mr. Garcia said they started talking of incorporating in March of 2005, why didn't the commission have the decency of telling them about the green belt, and what is the purpose of the green belt? Chairman Rael said that means open space and to keep the areas green. Mr. Garcia said then they can't grow lawns, they can't use water for that purpose? Chairman Rael said that is more specific. Mr. Aranda said the green belt is the area located in the valley, this particular subdivision is located outside the green belt, in reference to the county zoning map, it is zoned RR1 which is one acre minimum lot size. Mr. Garcia said what is the purpose for that since it was done in 1999? Mr. Aranda said the purpose of the one acre is to allow for a more rural development, the purpose of the two acre minimum lot size is to keep the rural atmosphere and to minimize the additional septic tanks in that area. Mr. Garcia said it is not fair for one to put a house on one acre and then the rest two acres, what is good for one is good for the rest? Mr. Aranda said he understands what Mr. Garcia is saying, but we are talking about this particular area, and, that it is a one acre minimum lot size. Mr. Garcia said the Municipality of Peralta, now they have control of that don't they? Mr. Aranda said he understands and he is not disputing that. Mr. Garcia said he had another question, is there any connection of involvement that anyone has with this subdivision, and if anyone does, to please explain it to him? Chairman Rael said he wasn't sure where this subdivision is. Mr. Garcia said there is a mobile home that has been there for a year and they can't sell it, every time it rains, La Ladera road has a pile of sand because the drainage is bad there. Chairman Rael said he doesn't have any connection because he doesn't even know where it is. Commissioner Kirkham said she doesn't have any connection. Mr. Garcia said the developer is just going to build and leave and what about our schools. Commissioner Kirkham said she is assuming there will be an impact fee, if the Town of Peralta is the governing body, then you can make a determination to make that decision for a impact fee. Commissioner Kirkham said she does want to caution the council members that until they get the ordinances and subdivision regulations in place, accept for the existing regulations. Commissioner Kirkham said we have no choice but to abide by the existing regulations. Mr. Garcia said this puts them in a hard spot because this has opened a can of worms. Mr. Garcia said they are completely against it. Chairman Rael asked even though this was filed after the election, do we have the jurisdiction to do anything? He wants to make sure they get it clear and on the record for a legal stance. Ms. Wimberly said this application was filed long before the Town of Peralta was incorporated, the incorporation became effective less than a month ago. In the State of New Mexico, the vested right of an application is when there is a change in regulation and applies to the developer application process. This application process began in November 2006, the developer worked with the County regarding the efficiency of the application. Ms. Wimberly said she also understands the Planning and Zoning Commission granted preliminary plat approval in June which was before the Town of Peralta became incorporated. The Town of Peralta right now has no subdivision ordinance, there is a constitutional revision that states that cities can't change the rules on a pending case. Ms. Wimberly said the county is in its right to proceed in this application. Certainly, there are jurisdiction issues, if the Town wished to pursue this issue, then they can seek counsel of their own, but she can't advise them, she can only advise this commission. They are in their right to pursue this subdivision. Chairman Rael said if we have the authority to proceed, then the same questions applies if we have crossed all of our t's and dotted all of our i's. Where are we legally in respect to the rights of the developer? Ms. Wimberly said assuming all of the requirements of the subdivision have been met, the county commission shall approve that application. If those requirements have been met. Mr. Aranda said they need to receive a positive opinion from the Office of the State Engineer, otherwise all requirements have been met. Alan Sanchez said one concern was drainage, they have hired an engineer to make sure there is not runoff off the property, all holding ponds will stop water from going on to La Ladera. Mr. Sanchez said they are paving their roads which is their responsibility, there is a covenant restriction which does not allow mobile homes in this subdivision, houses only, minimum square footage of 2200. The green belt was to discourage subdivision in the valley and move them into the mesa. Mr. Sanchez said he has spoken to the Mayor who supports the incorporation, and need planned control development. This is a subdivision that is planned, engineered, that has restrictions that protects the vegetation on the property. Mr. Sanchez said this application took place before the Peralta election, it was 2 ½ years ago that we hired an engineer to start this process.

Chairman Rael said there has been a motion made and seconded for the approval of the preliminary plat review for the Loma Codorniz Subdivision. Chairman Rael called for the vote. Motion carried unanimously.

k) Consideration of Federal Emergency Management Agency Community Partner Memorandum of Agreement – Eric Zamora (See Exhibit K)

Mr. Zamora presented the above item. This item deals with flood prevention to enter into an agreement with the Federal Emergency Management Agency (FEMA) to work together to produce

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an updated, digital flood map for Valencia County. Commissioner Kirkham moved for approval. Seconded by Chairman Rael. Motion carried unanimously.

l) Consideration of Contract (s) between NCNMEDD, Non-Metro Area Agency on Aging and Valencia County – Vangie Gabaldon (See Exhibit L)

- a) State Funded Senior Employment Program (SEP)**
- b) Nutrition Service Incentive Program (NSIP)**
- c) Direct Purchasing Agreement (DPA)**

Ms. Gabaldon presented the above item to approve three contracts totaling \$420,420.00 with North Central New Mexico Economic Development District (NCNMEDD) Non-Metro Agency on Aging for the Older American Program. Commissioner Gentry moved for approval. Seconded by Commissioner Medina. Motion carried unanimously.

m) Consideration of County Manager Contract – County Commission (See Exhibit M)

Chairman Rael moved for approval. Seconded by Commissioner Gentry. Motion carried unanimously.

n) Consideration of Tierra Bonita Contract – Eric Zamora (See Exhibit N)

Mr. Zamora presented the above item. The contract agreement will provide refuse and litter services, encouraging recycling and other methods of proper disposal of refuse, and providing for clean-ups of litter on roadways and parks within the county's jurisdiction. Commissioner Kirkham moved for approval. Seconded by Commissioner Medina. Motion carried unanimously.

o) Consideration of Road Evaluation Contract – Eric Zamora (See Exhibit O)

Mr. Zamora presented the above item. The contract agreement will provide that the contractor will assess and map existing conditions in a format that will be easily updated by county staff and will be used for future reporting to the state as well as to publish the county road map in booklet format. There were three quotes solicited and Frank E. Gallegos submitted the lowest cost proposal. Commissioner Gentry moved for approval. Seconded by Commissioner Kirkham. Motion carried unanimously.

p) Consideration of Valencia County Water & Sewer Master Plan: SP06-1268-GF with CDM Contract – Eric Zamora (See Exhibit P)

Mr. Zamora presented the above item. Mr. Zamora said this contract is between Valencia County and Camp, Dresser & McKee, Inc. (CDM). Valencia County intends to construct a project consisting of developing an integrated water and wastewater master plan. This agreement includes planning services, design services, and construction phase services. The County received legislative appropriations in the amount of \$1,500,000 to conduct this project. Chairman Rael moved for approval. Seconded by Commissioner Kirkham. Motion carried unanimously.

q) Financial Matters:

i) Consideration of payment on Carpet Contract as accepted by County Commission – Pedro Rael

Removed from the agenda.

ii) Consideration of NM Environment Department Construction Program Bureau Agreement – Eric Zamora (See Exhibit Q)

a) SAP-07-4604-GF-\$10,000, Tierra Bonita Compactor Truck

Mr. Zamora presented the above item. Commissioner Kirkham moved for approval. Seconded by Commissioner Medina. Motion carried unanimously.

b) Resolution 2007-40, Special Appropriations Project 07-4604-GF; Compactor Truck – Eric Zamora (See Exhibit R)

Mr. Zamora presented the above item. Commissioner Kirkham moved for approval. Seconded by Commissioner Medina. Motion carried unanimously.

Debbie Ridley, County Clerk Office Manager announced **Resolution 2007-40**.

iii) Consideration NMDOT 2007/2008 Cooperative Program Agreements – Eric Zamora (See Exhibit S)

- a) SP-3-08(932), Control #87920-\$148,228.00**
- b) CAP-3-08 (446), Control #87919-\$284,025.33**
- c) SB-7708(961)08, Control #87675-\$242,206.67**

Mr. Zamora presented the above item. Each year the New Mexico Department of Transportation invites the county to participate in the CAP, COOP and SB programs. The county submits estimates for road improvement requests and the state evaluates the need and provides funding to various local governmental agencies based on available funds. The county is required to provide 25% of the funding. Commissioner Gentry moved for approval. Seconded by Commissioner Medina. Motion carried unanimously.

iv) Consideration of Award Bid #168.1 “Engineering Services” Landfill Monitoring Wells & Valencia County Road Department – Eric Zamora (See Exhibit T)

Mr. Zamora presented the above item. Commissioner Medina moved for approval. Seconded by Commissioner Kirkham. Motion carried unanimously.

v) Resolution 2007-41 Relating to Finance; Adopting the Final 2007/2008 Fiscal Year Budget; and Requesting State Approval – Wilma Abril (See Exhibit U)

Ms. Abril presented the above item. Ms. Abril said this resolution is to adopt the final budget. There are some minor changes based on ending cash balances as of June 30, 2007. Commissioner Kirkham moved for approval. Seconded by Commissioner Medina. Motion carried unanimously.

Debbie Ridley, County Clerk Office Manager announced **Resolution 2007-41**.

vi) Resolution 2007-42, Year-End FY 07-08 at 6-29-07, Intra/Inter Budget Transfer – Wilma Abril (See Exhibit V)

Ms. Abril presented the above item. Ms. Abril said this resolution is a clean-up for the ending fiscal year 06-07 so that the final budget can be submitted to Department of Finance. Commissioner Gentry moved for approval. Seconded by Commissioner Medina. Motion carried unanimously.

vii) Resolution 2007-43, Year-End FY 07-08 at 6-29-07, Budget Increases Expenditures – Wilma Abril (See Exhibit W)

Ms. Abril presented the above item. Ms. Abril stated this resolution is another end of the fiscal year clean-up. Commissioner Gentry moved for approval. Seconded by Commissioner Medina. Motion carried unanimously.

Debbie Ridley, County Clerk Office Manager announced **Resolution 2007-43**.

viii) Consideration of Approval: Payroll/Warrants – Wilma Abril

Ms. Abril presented the computer printout list of all the checks issued by the Manager's Office on June 28, 2007 covering vendor bills processed on that date. Check #90380 thru Check #90458 inclusive for a total of \$365,671.32. **(See Exhibit X)**

Ms. Abril presented the computer printout list of all the checks issued by the Manager's Office on July 6, 2007 covering payroll processed on that date. Deduction Check #90459 thru Deduction Check #90489 inclusive. Direct Deposit Check #2993 thru Direct Deposit Check #3130 inclusive. Payroll Check #79509 thru Payroll Check #79604 inclusive. Listing total \$291,816.74. **(See Exhibit Y)**

Ms. Abril presented the computer printout list of all the checks issued by the Manager's Office on July 3, 2007 covering vendor bills processed on that date. Check #90489 thru Check #90489 inclusive for a total of \$960.00. **(See Exhibit Z)**

Ms. Abril presented the computer printout list of all the checks issued by the Manager's Office on July 10, 2007 covering vendor bills process on that date. Check #90490 thru Check #90492 inclusive for a total of \$1478.40. **(See Exhibit AA)**

Ms. Abril presented the computer printout list of all the checks issued by the Manager's Office on July 11, 2007 covering vendor bills process on that date. Check #90494 thru Check #90494 inclusive for a total of \$1,180.00. **(See Exhibit BB)**

Ms. Abril presented the computer printout list of all the checks issued by the Manager's Office on July 12, 2007 covering vendor bills processed on that date. Check #90495 thru Check #90545 inclusive for a total of \$2,608,401.70. **(See Exhibit CC)**

Ms. Abril presented the computer printout list of all the checks issued by the Manager's Office on July 16, 2007 covering vendor bills processed on that date. Check #90546 thru Check #90547 inclusive for a total of \$21,562.58. **(See Exhibit DD)**

Ms. Abril presented the computer printout list of all the checks issued by the Manager's Office on July 18, 2007 covering vendor bills on that date. Check #90548 thru Check #90549 inclusive for a total of \$9,045.47. **(See Exhibit EE)**

Commissioner Kirkham moved for approval. Seconded by Commissioner Medina. Motion carried unanimously.

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

Commissioner Kirkham moved for approval to enter into executive session. Seconded by Commissioner Medina. Roll call vote. Commissioner Kirkham voted yes. Chairman Rael voted yes. Commissioner Gentry voted yes. Commissioner Medina voted yes. Motion carried 4-0.

Commissioner Kirkham moved to enter back into regular session. Seconded by Commissioner Medina. Motion carried unanimously.

Ms. Wimberly reported as to what was discussed in executive session, two limited personnel matters, a personnel matter regarding hiring, pending litigation with regard to the E-911 center, pending litigation with respect to the NM Environment Department administrating a compliance order, pending litigation Cordova vs. Valencia County. No final action was taken.

Commissioner Kirkham moved for approval of Ms. Wimberly's report. Seconded by Commissioner Medina. Roll call vote. Commissioner Kirkham voted yes. Chairman Rael voted yes. Commissioner Medina voted yes. Commissioner Gentry voted yes. Motion carried 4-0.

9) County Manager's Report {Informational Only}

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Mr. Zamora stated that Valencia County has undergone a coordinated effort with United Way and we have established a goal of \$5,000. We are well on our way to achieve that goal. Mr. Zamora said we need to have a workshop to discuss ICIP, (Infrastructure Capital Improvement Program).

10) The next Regular Meeting of the Valencia County Board of County Commission will be held on August 1, 2007 at 3:30 PM in the County Commission Room at the Valencia County Courthouse.

11) Adjournment

Commissioner Medina moved to adjourn. Seconded by Commissioner Kirkham. Motion carried unanimously. Time 7:33 PM.

<p>NOTE: All proposals, documents, items, etc., pertaining to items on the agenda of the July 19, 2007 Regular Business Meeting (presented to the Board of County Commissioners) are attached in consecutive order as stated in these minutes.</p>

VALENCIA COUNTY BOARD OF COMMISSIONERS

**ss/
PEDRO G. RAEL, CHAIRMAN**

**ss/
GEORGIA OTERO-KIRKHAM, VICE-CHAIRMAN**

**ss/
DAVID R. MEDINA, MEMBER**

**ss/
RON GENTRY, MEMBER**

**ss/
LYNETTE PINKSTON, MEMBER**

ATTEST: ss/

SALLY PEREA, COUNTY CLERK

DATE: August 15, 2007