

1546586

BOARD OF COUNTY COMMISSIONERS

SANTA FE, NEW MEXICO

SPECIAL MEETING

SEPTEMBER 2, 1998

MARCOS P. TRUJILLO, CHAIRMAN (Excused)
RICHARD D. ANAYA, COMMISSIONER
PAUL DURAN, COMMISSIONER
JAVIER M. GONZALES, COMMISSIONER (Excused)
JOE S. GRINÉ, JR., COMMISISONER

SANTA FE COUNTY

SPECIAL MEETING

BOARD OF COUNTY COMMISSIONERS

1546586

September 2, 1998

This special meeting of the Santa Fe Board of County Commissioners was called to order at approximately 3:00 p.m. by Vice Chairman Joe Griñé in the Santa Fe County Commission Chambers.

Roll Call by County Clerk Becky Bustamante indicated the presence of a quorum as follows:

Members Present

Commissioner Joe Griñé, Vice Chairman
Commissioner Richard Anaya
Commissioner Paul Duran

Members Excused

Commissioner Marcos Trujillo
Commissioner Javier Gonzales

III. APPROVAL OF AGENDA

Commissioner Duran moved to approve the agenda as presented. Commissioner Anaya seconded the motion, which passed unanimously.

IV. Notice of determination on submitting to the qualified electors in the Town of Edgewood the question of whether or not the village shall become an incorporated municipality

BECKY BUSTAMANTE: Thank you, Commissioners and thank you very much for coming together in this special meeting. We needed this meeting in order to meet the requirements of the statute. The law requires us to do this within 30 days and after the determination to have it published within ten days. So we really thank you for taking the time.

The determination is to indicate that Edgewood did not meet the requirements for

1546586

incorporation. They submitted 249 names on a petition. Of the 249 names we verified as registered voters within the area 193. Fifty-five of them were not registered to vote or not - actually there were just 53. Two of them were not in the proposed area; they were registered but they were not in the proposed area and we had one duplicate signature.

So we only have valid signatures of 193 and they needed to come in with 200. I would like to note for the record also, Commissioners, that the statute says that they have to sign the petition as they are registered to vote. We know that a lot of people don't remember how they are registered. For example if they are registered as Rebecca Bustamante, they may use Becky, so they might have signed it as Becky Bustamante. We gave that kind of leniency. We really went out and made sure we counted those people even though they didn't sign exactly as registered. So we really went all out to make sure that all of the signatures that we could count were counted. And unfortunately they did not meet the requirements.

I now stand for questions. Our attorney, Ms. O'Connor is here and she can also answer any questions.

COMMISSIONER DURAN: Mr. Chairman, I just have one question. Cheryl, the item number 2, the proposed territory to be incorporated is not within an existing municipality or urbanized area for municipality; what does that mean?

CHERYL O'CONNOR (Deputy County Attorney): Mr. Chairman, Commissioner Duran, the statute requires that the area to be incorporated that the Board of County Commissioners make a determination that the area to be incorporated is not within a municipality or within the area of the municipality. Ms. Bustamante's office has also looked into that issue to help you with that determination and I believe that, Rebecca, you have made a recommendation on that, correct?

MS. BUSTAMANTE: Right. It's not close to Santa Fe. Santa Fe is a municipality, and so is Albuquerque, but there's not one close by.

COMMISSIONER DURAN: So Becky, their request to be considered, their request for incorporation is not valid because of two reasons, number one and two as stated.

MS. BUSTAMANTE: Right.

MS. O'CONNOR: Commissioner Duran, I believe that they are not within an incorporated area currently and we just need to make that determination as to whether or not the territory proposed to be incorporated is within the existing municipality. I believe Ms. Bustamante has made a determination that they are not within that, within an existing municipality. So therefore, that is not a reason that their petition failed. It's just a determination that you need to make under the statute. You're looking confused. Have I made myself clear?

COMMISSIONER DURAN: Sort of, but I always have this look.

MS. O'CONNOR: In the statute that you're proceeding under, NMSA 1978, Chapter 3-2-5 and it is under paragraph A, subsection 1 and 3 are the two paragraphs that are requiring you to make a determination on the first one, from the voter registration lists in the office of the County Clerk, if the signers of the petition are registered, qualified

electors residing in the territory proposed to be incorporated and then also you need to make a determination if the territory proposed to be incorporated is within an existing municipality or within the urbanized area of a municipality.

COMMISSIONER DURAN: And Becky has determined that it is not?

MS. O'CONNOR: That's correct.

COMMISSIONER DURAN: Okay.

COMMISSIONER GRINÉ: Becky, did they also propose to incorporate other counties beside Santa Fe, or they just tried to incorporate within the county of Santa Fe?

MS. BUSTAMANTE: Well, Mr. Coppler has been the attorney of record, Mr. Chairman, Commissioners. Mr. Coppler has been the attorney and he has just had it incorporated within -- he's done two, one for Eldorado and this one and they're both within Santa Fe County.

COMMISSIONER GRINÉ: Because Edgewood pretty much covers the tri-counties out there, Tarrant and Bernalillo County. It looks like Tarrant would have been petitioned also because they're right there over the freeway.

MS. BUSTAMANTE: I believe that the territory, Mr. Chairman, Commissioners, the territory that they want incorporated lies within Santa Fe County.

COMMISSIONER GRINÉ: I see.

COMMISSIONER ANAYA: Mr. Chairman, Becky, the requirement of 200 signatures in order to fulfill the petition, is that absolutely mandatory and that's the only way that we can rule on this? Is there some way that we don't need the 200 signatures and go ahead and allow them to go ahead and put it on the ballot? Is there potential for that?

MS. BUSTAMANTE: Mr. Chairman, Commissioners, I'm going to go ahead and refer that to legal council.

MS. O'CONNOR: Mr. Chairman, Commissioner Anaya, under the statutory requirements of 3-2-1, it sets out the requirement of a petition. And one of the requirements of a petition under paragraph A subparagraph 4 and paragraph under A, under subparagraph 4, it says that the petition must be signed by either one, not less than 200 qualified electors, each of whom shall, on the petition, swear of affirm that he has resided within the territory proposed to be incorporated for a period of six months immediately prior to the signing of the petition, and two, list the street address as reference.

Or the other way that you can, or that they can go ahead with the petition is that the owners of not less than 60% of the real estate within the territory proposed to be incorporated who are not delinquent in their payment of real property taxes, they have elected to go under the minimum 200 qualified electors, is the way they have elected to go forth with their petition. That is a statutory requirement according to the County Clerk that they have not met that requirement.

COMMISSIONER ANAYA: So in other words we have no choice but to turn it down?

MS. O'CONNOR: That would be correct. You need to make the determination. Then once that determination is made, that they either have met the minimum

1546586

number or have not met that minimum number, then they can either go forward or they have to start over again. There's actually a process that Edgewood can come in and look at the determination as it's been made. They can go into the County Clerk's Office, look at the registered voters, make their own determination and if they disagree with what the County Clerk's Office and the Board have made a determination, if they disagree with your determination, they can appeal that to the District Court.

And it's my understanding from Mr. Coppler that he will come in and look at all the registered voters, make his own determination as to whether or not he agrees with the Board's determination, and then he has also requested, or if he disagrees with what you have arrived at, your conclusion, then he will come in and request that you reconsider.

MS. BUSTAMANTE: Mr. Chairman, members of the Commission, when we did Eldorado he did it quite differently and within Eldorado when we did that, he actually worked with us and the Assessor's Office and we determined who the owners were in the particular area and made those lists available and people would sign the petition to check to see if they were owners. He chose a different route in Edgewood. And we just got this. In fact he didn't even file it with the County Clerk's Office. He filed it with Legal and sent it to you. As soon as we got it, we went ahead and verified all of them.

We double checked it to make sure, because we didn't want to disenfranchise anybody and again, as I indicated earlier, we counted people even though the law says they're supposed to sign the petition as registered and use the address. Some times they gave a post office box even though there was a physical address that they registered at, we counted them. So we really did go all out to make sure that everyone who signed if they were registered, we counted it. But unfortunately they fell seven short.

COMMISSIONER ANAYA: Becky, do you feel that there's a lack of interest out there as far as the effort to get the full petition numbers out there? Do you think there's a sentiment out there that they're not heavily in favor of incorporating?

MS. BUSTAMANTE: Mr. Chairman, Commissioner, I don't think so. I think what happened is that the people who signed -- because they came in with 255 signatures and in a small area like that 55 is a lot. I think the process that they had to be registered wasn't explained. A lot of people think they're registered and they have to be registered within the precincts that are going to be incorporated. Some of these people could be registered maybe in Torrance County, as Commissioner Griné has indicated, or maybe they are in the Bernalillo County. Maybe it wasn't explained that they needed to be registered within that territory to be incorporated. I believe that's what happened.

COMMISSIONER ANAYA: What's the population of Edgewood? Does anybody know?

MS. BUSTAMANTE: I'm sorry, I don't know.

COMMISSIONER GRINÉ: With the tri-counties, it would be difficult to get the census. I don't know.

COMMISSIONER ANAYA: Then I'm wondering also how in the world would they create their own tax base to support their incorporation, which was one of the

problems that we encountered with Agua Fria Village when they wanted to incorporate. The County would still be subjected to render services.

COMMISSIONER GRINÉ: Becky, what was the response from the people that were behind this? I understand the president of Edgewood, I'm sure he's the one that took the lead on this. I've forgot his name now.

MS. BUSTAMANTE: Mr. Chairman, Commissioners, I don't know. We worked very closely with them in Eldorado, but this was totally different and I don't know and I apologize. In accordance with the statute this is the only thing determination I could bring before the board.

COMMISSIONER ANAYA: Do you have a recommendation, Becky?

MS. BUSTAMANTE: Well, I think the determination -- my recommendation is to approve the determination as presented to you, which is in the packet, Santa Fe County notice of determination. The Santa Fe County Board of County Commissioners has determined at a special meeting held on September 2, 1998 that all of the conditions for incorporation for the proposed Town of Edgewood pursuant to NMSA 1978, Sections 3-2-1, -- I thought we were going to use 5; I'm sorry.

MS. O'CONNOR: No, 3-2-1, the requirement for the petition does not meet that particular --

MS. BUSTAMANTE: -- has not been met.

COMMISSIONER DURAN: I'd like to make a motion, Mr. Chairman.

COMMISSIONER GRINÉ: There's a motion made to accept, as recommended by County Clerk, Becky Bustamante. Is there a second?

COMMISSIONER DURAN: Mr. Chairman, there's two things that we have to reference in this. Is that correct?

MS. BUSTAMANTE: All we would like is for you to approve the language that it's been determined that they have not been met.

COMMISSIONER DURAN: I thought that it was and that the territory proposed to be incorporated is not within a municipality.

MS. BUSTAMANTE: I will go ahead and refer to legal counsel.

MS. O'CONNOR: That's correct. You need to make both determinations by statute within 30 days of the decision. So both determinations have to be made.

COMMISSIONER DURAN: So the motion is to give notice of our determination that the petition was not signed by a minimum of 200 qualified electors who reside in the territory to be incorporated and therefore not all the conditions for incorporation pursuant to NMSA 1978 Section 3-2-1 have been met; and that the territory proposed to be incorporated is not within a municipality or within the urbanized area of a municipality. That's the motion.

MS. O'CONNOR: Thank you.

COMMISSIONER GRINÉ: Okay, is there a second?

COMMISSIONER ANAYA: I'll second that motion, Mr. Chairman.

COMMISSIONER GRINÉ: Okay, there's a motion made and seconded. Any

1546586

other discussion?

COMMISSIONER ANAYA: They still have the potential to appeal it to the courts and then perhaps even start the process all over again. Those are two options that Edgewood still has, to my understanding.

COMMISSIONER GRIÑÉ: There's a motion and a second. No further discussion. What is the pleasure? All those in favor? [Unanimous] All those opposed? The ayes have it.

MS. BUSTAMANTE: Thank you. The only other thing I would like to say for the record is that Mr. Coppler has been informed throughout the process, daily on this and he was advised to be here today, so he is aware of the determination that was coming before the board today. Thank you.

ADJOURNMENT

Vice Chairman Griñé declared this meeting adjourned at approximately 3:25 p.m.

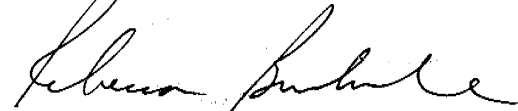
Approved by:

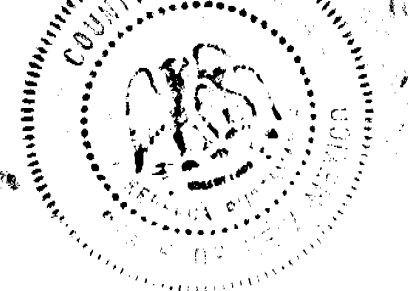

Board of County Commissioners
Joe Griñé, Vice Chairman

Respectfully submitted:


Karen Farrell, Commission Reporter

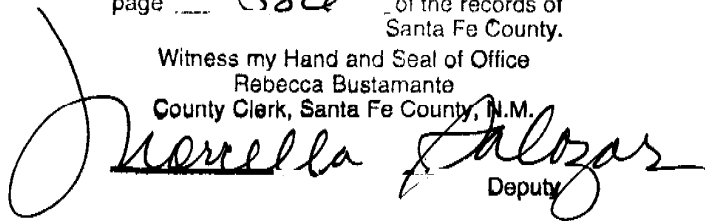
ATTEST TO:


REBECCA BUSTAMANTE
SANTA FE COUNTY CLERK



1043.078
COUNTY OF SANTA FE)SS
STATE OF NEW MEXICO)
I hereby certify that this instrument was filed
for record on the 30 day of Sept A.D.
19 98 , at 8:08 o'clock a m
and was duly recorded in book 1546
page 586 of the records of
Santa Fe County.

Witness my Hand and Seal of Office
Rebecca Bustamante
County Clerk, Santa Fe County, N.M.


Deputy