

# New Mexico Foundation for Open Government

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October 13, 2009

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Valencia County Commission  
444 Luna Ave.  
Los Lunas, NM 87031

CC: Commissioners Georgia Otero-Kirkham, David R. Medina, Ron Gentry, Donald Holliday; County Manager Eric Zamora; County Attorney David Pato

Re: Removal of citizens from meetings

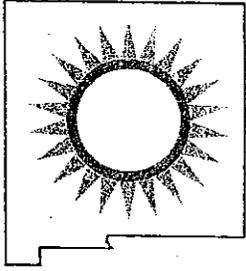
Dear Sirs and Madame:

The Foundation for Open Government has received several calls in reference to a decision to bar a citizen from future Valencia County Commission meetings based on allegations of past disruptions. The Foundation is not representing any parties in this matter, but I would like to contribute to the dialogue.

Public bodies certainly have a right and a duty to maintain public order and to carry out their business free from undue interference and disruption. But there are many ways to enforce that mandate short of removing a citizen and taxpayer. The body can ask disruptive persons to sit down and observe the proceedings quietly. The body can set rules for good behavior during public-comment periods, and state those rules clearly at the outset of each such period. The body can ask law-enforcement personnel to contain an emotional person's behavior in a way that allows him or her to stay and observe.

If all those avenues fail and a person's actions are actively and stubbornly interfering with the body's business, making it impossible to continue, that person can be asked to leave that meeting. In the event of an actual threat, members could seek prosecution or an order of protection if they felt threatened with physical harm or emotional distress going well beyond the normal criticism leveled at public figures.

However, public bodies must not use a mandate for 'order' as a blunt weapon to deny citizens their right to witness government proceedings. I understand it's not always pretty. Contentious political issues can make for tense and uncomfortable meetings, sometimes involving heated arguments and even slander. But in the grand scheme, that is a small price to pay for the benefit of open, democratic government. It is crucial to recognize and show deference to the right of citizens to attend public meetings, a right that lies at the core of our democracy. While removing someone from a particular meeting is sometimes necessary, it is always unfortunate. Barring a citizen from any future meetings is an



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extraordinary and extralegal step.

To wit, the New Mexico Open Meetings Act states that “all meetings of any public body except the legislature and the courts shall be public meetings, and all persons so desiring shall be permitted to attend and listen to the deliberations and proceedings.” This is a fundamental right worth defending. While public bodies have a right to maintain order, a person cannot be barred from future meetings simply because he or she may cause a disruption. Furthermore, a citizen cannot be deprived of his or her basic rights without due process.

Therefore, I urge the Commission to reconsider its position and to allow all citizens to attend meetings, in compliance with the law. Please contact me with any questions or concerns, or to discuss this matter further.

Sincerely,

Sarah Welsh  
Executive Director