



MEMORANDUM

DATE: April 9, 2012

TO: Board of County Commissioners

VIA: Katherine Miller, County Manager

FROM: Julia Valdez, Constituent Services Liaison, County Manager's Office

RE: A Proclamation to Celebrate the Month of April 2013 as National County Government Month, "Smart Justice: Creating Safer Communities" (Commissioner Stefanics)

BACKGROUND:

National County Government Month (NCGM) is celebrated each April by the nation's counties to raise public awareness and understanding about the roles and responsibilities of county government. The theme for 2013 is "Smart Justice: Creating Safer Communities"

More than 1,000 counties participate in NCGM each year.

Since 1991, the National Association of Counties (NACo) has encouraged counties across the country to actively promote county government programs and services. Formerly National County Government Week, the designation was expanded to a full month for 2010 to offer more counties more opportunities to plan and participate. Counties aren't expected to hold public awareness activities throughout the month, but can schedule activities any time during the month.

Santa Fe County Proclamation

**A PROCLAMATION TO CELEBRATE THE MONTH OF APRIL 2013
AS NATIONAL COUNTY GOVERNMENT MONTH
“SMART JUSTICE: CREATING SAFER COMMUNITIES”**

WHEREAS, the nation’s 3,068 counties provide a variety of essential public services to communities serving more than 300 million Americans;

WHEREAS, Santa Fe County and all of the other 33 New Mexico counties take pride in their responsibility to protect and enhance the health, welfare and safety of its residents in sensible and cost-effective ways;

WHEREAS, county governments are often the entity providing both direct and indirect services to enhance the lives residents and are responsible for maintaining public safety and the efficient use of local tax dollars;

WHEREAS, currently more than 13 million individuals are booked into county jails each year across the country and more than 7,000,000 individuals are booked into various state and federal prisons;

WHEREAS, each year since 1991 the National Association of Counties has encouraged counties across the country to promote their own programs and services to the public they serve and in Santa Fe County.

NOW, THEREFORE, BE IT RESOLVED THAT THE SANTA FE BOARD OF COUNTY COMMISSIONERS does hereby proclaim April 2013 as National County Government Month and encourages all County officials, employees, schools, and residents to participate in county government activities.

SIGNED AND DATED ON THIS 9th DAY OF APRIL, 2013

Commissioner Kathy Holian, Chair
District 4

Commissioner Daniel Mayfield, Vice-Chair
District 1

Commissioner Miguel M. Chavez
District 2

Commissioner Robert A. Anaya
District 3

Commissioner Liz Stefanics
District 5

Katherine Miller
County Manager

APPROVED AS TO FORM:

ATTEST:

Stephen C. Ross, County Attorney

Geraldine Salazar, County Clerk



GERALDINE SALAZAR
COUNTY CLERK
(505) 986-6280
gsalazar@santafecountynm.gov

VICTORIA L. TRUJILLO
Chief Deputy Clerk
505-995-6535
vltrujillo@santafecountynm.gov

MEMORANDUM

To: Candace Ainslie
County Manager's Office

CC: Jennifer Jaramillo
County Manager's Office

From: Marcella Salazar *M.S.*
County Clerk's Office

Date: March 13, 2013

Re: Caption Heading for BCC 4/9/2013

Caption:

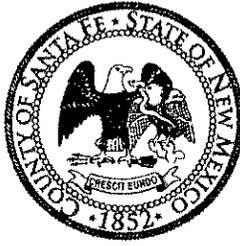
Proclamations And Presentations

Proclamation and Recognition Of Retirement For Santa Fe County Employee **Denise Lamb**,
Santa Fe County Clerk's Bureau Of Elections Director for Dedicated Service to Santa Fe County.
(Geraldine Salazar, County Clerk)

Daniel "Danny" Mayfield
Commissioner, District 1

Miguel M. Chavez
Commissioner, District 2

Robert A. Anaya
Commissioner, District 3



Kathy Holian
Commissioner, District 4

Liz Stefanics
Commissioner, District 5

Katherine Miller
County Manager

DATE: April 9, 2013

TO: Santa Fe Board of County Commissioners

FROM: Ken Martinez, RECC Director

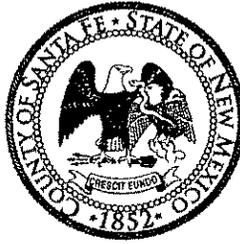
RE: Recognition of RECC Employees In Accordance With The
Observance of National Public Safety Telecommunicators Week,
April 14-20, 2013

Each year, the second full week of April is dedicated to the men and women around the nation who serve as public safety telecommunicators. The idea for this was first conceived in 1981 by Patricia Anderson of the Contra Costa County (CA) Sheriff's Office. For 3 years it was observed only at that agency until the mid-1980's when members of other chapters of the Association of Public-Safety Communications Officials (APCO) became involved. By the early 1990s, the national APCO organization had convinced Congress of the need for a formal proclamation, so on October 9, 1991 Rep. Edward J. Markey (D-Mass.) introduced what became H.J. Res. 284 to create "National Public Safety Telecommunicator Week." According to Congressional procedure, it was introduced twice more in 1993 and 1994, and then became permanent, without the need for yearly introduction.

Daniel "Danny" Mayfield
Commissioner, District 1

Miguel M. Chavez
Commissioner, District 2

Robert A. Anaya
Commissioner, District 3



Kathy Holian
Commissioner, District 4

Liz Stefanics
Commissioner, District 5

Katherine Miller
County Manager

DATE: April 9, 2013

TO: Santa Fe Board of County Commissioners

FROM: Ken Martinez, RECC Director

RE: Recognition of RECC Employees Upon Graduation From The State Law Enforcement Academy, and of Patricia Lucero for Earning Valedictorian of the Class

New Mexico is one of the only states in the nation that requires professional certification in Public Safety Telecommunications. Every 911 operator, or Emergency Communications Specialist, is required to attend the State Law Enforcement Academy within one year of being hired. At the Academy they spend 3 full weeks attending courses in everything from call taking and radio communications to law principles and critical incident management. They learn and are tested on subjects that relate to all aspects of the job duties that they are required to perform. Each week they take a review test on the material that was covered, and at the end they take a final examination for graduation.

Along with telecommunicators from all around New Mexico, 5 Santa Fe RECC employees attended this last Academy. They are Dominic Quezada, Hanna Padilla, Patricia Lucero, Christopher Flores, and Adrianna Bustos. I would like to thank you for allowing me the opportunity to recognize them for their hard work in completing the necessary coursework to graduate from the New Mexico Law Enforcement Academy and for obtaining their Public Safety Telecommunicator Certification.

In addition, I would like to individually recognize Patricia Lucero who, out of all the students from around the state, was able to earn the highest overall score and graduate as Valedictorian of the Academy. This is a huge accomplishment as the coursework is challenging and there is much to learn in a short period of time.

Daniel "Danny" Mayfield
Commissioner, District 1

Miguel M. Chavez
Commissioner, District 2

Robert A. Anaya
Commissioner, District 3



Kathy Holian
Commissioner, District 4

Liz Stefanics
Commissioner, District 5

Katherine Miller
County Manager

MEMORANDUM

DATE: April 2, 2013
TO: Board of County Commissioners
VIA: Katherine Miller, County Manager
FROM: Kathy Holian, Santa Fe County Commissioner, District 4
RE: **A Presentation on the REDI Net Broadband Development and Operation— U.S. Department of Commerce, Broadband Technology Opportunity Program ARRA Funded Initiative to Construct an Open Access Broadband Network in Northern New Mexico. (Commissioner Holian) (INFORMATION ITEM ONLY)**

Issue:

On the agenda, under Proclamations and Presentations:

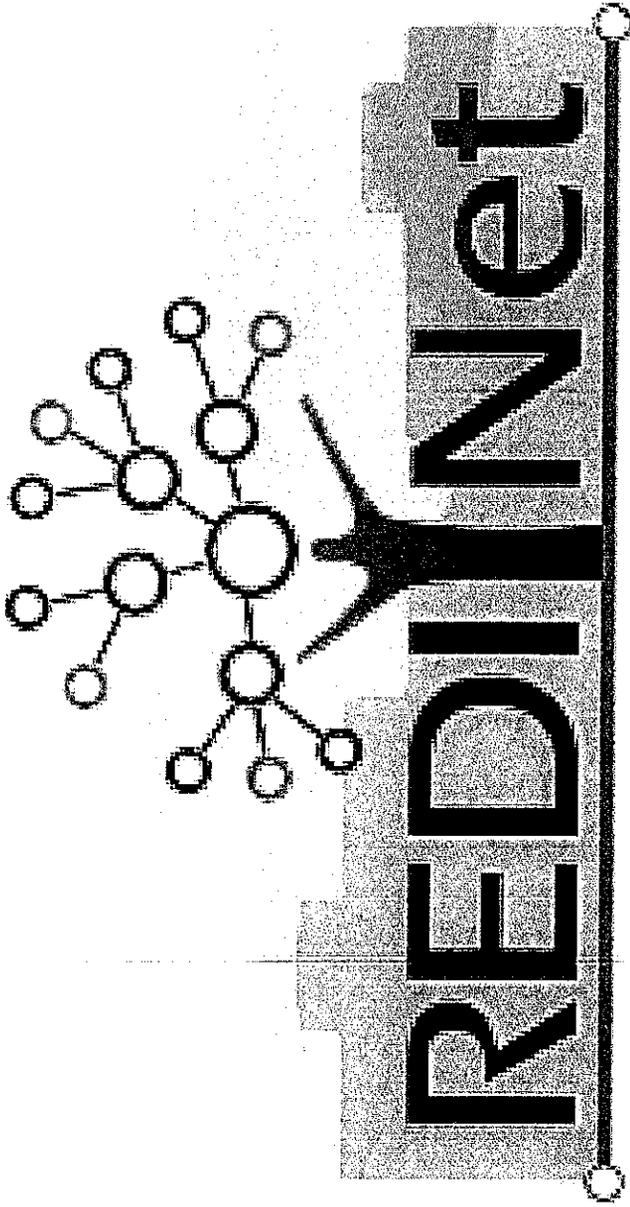
A Presentation on the REDI Net Broadband Development and Operation— U.S. Department of Commerce, Broadband Technology Opportunity Program ARRA Funded Initiative to Construct an Open Access Broadband Network in Northern New Mexico, presented by Duncan Sill of the North Central New Mexico Economic Development District (NCNMEDD).

- Northern New Mexico has been lacking affordable, high-speed broadband services to support economic development, education and distance learning, health care and telemedicine, and advanced public safety and energy applications required to improve the quality of life and ensure the health, safety and welfare of the region's residents. In an effort to address this, jurisdictional partners in the region collaborated to establish REDI Net, via Joint Powers Agreement, to develop a 140+ mile open access community owned and operated high speed fiber optic broadband network. The JPA partnerships include Santa Fe County, Los Alamos County, Rio Arriba County, City of Espanola, Pueblos of Tesuque, Pojoaque, Santa Clara, Ohkay Owingeh, and North Central New Mexico Economic Development District (NCNMEDD). The Pueblo of San Ildefonso can opt in as a JPA party at any time. A REDI Net Board was established to manage the construction and operation of the network and representatives from each jurisdiction have seats on the board.

- Federal funding of \$10.6M was awarded to REDI Net (with NCNMEDD as applicant and fiscal agent) in 2010 to develop the network. Local contributions of additional \$2.7M were provided. Construction commenced in June, 2011 and the network is currently 88% completed and is operational serving more than 40 community anchor institutions.
- The current update provides details on the status of the network and describes the operations and activities in the near future.

Request Action:

This is an information agenda item only and no action is required.



OPEN ACCESS COMMUNITY BROADBAND NETWORK—NORTHERN NEW MEXICO

April 9, 2013

Santa Fe County Board of County Commissioners Presentation

BACKGROUND

2007

A regional economic development plan was developed for Northern New Mexico which identified high-speed broadband as a priority.

2008

Federal funding for broadband became available through the American Recovery and Reinvestment Act.

2009-10

Local and tribal governments in Northern New Mexico worked together to submit applications for broadband funding.

Aug 2010

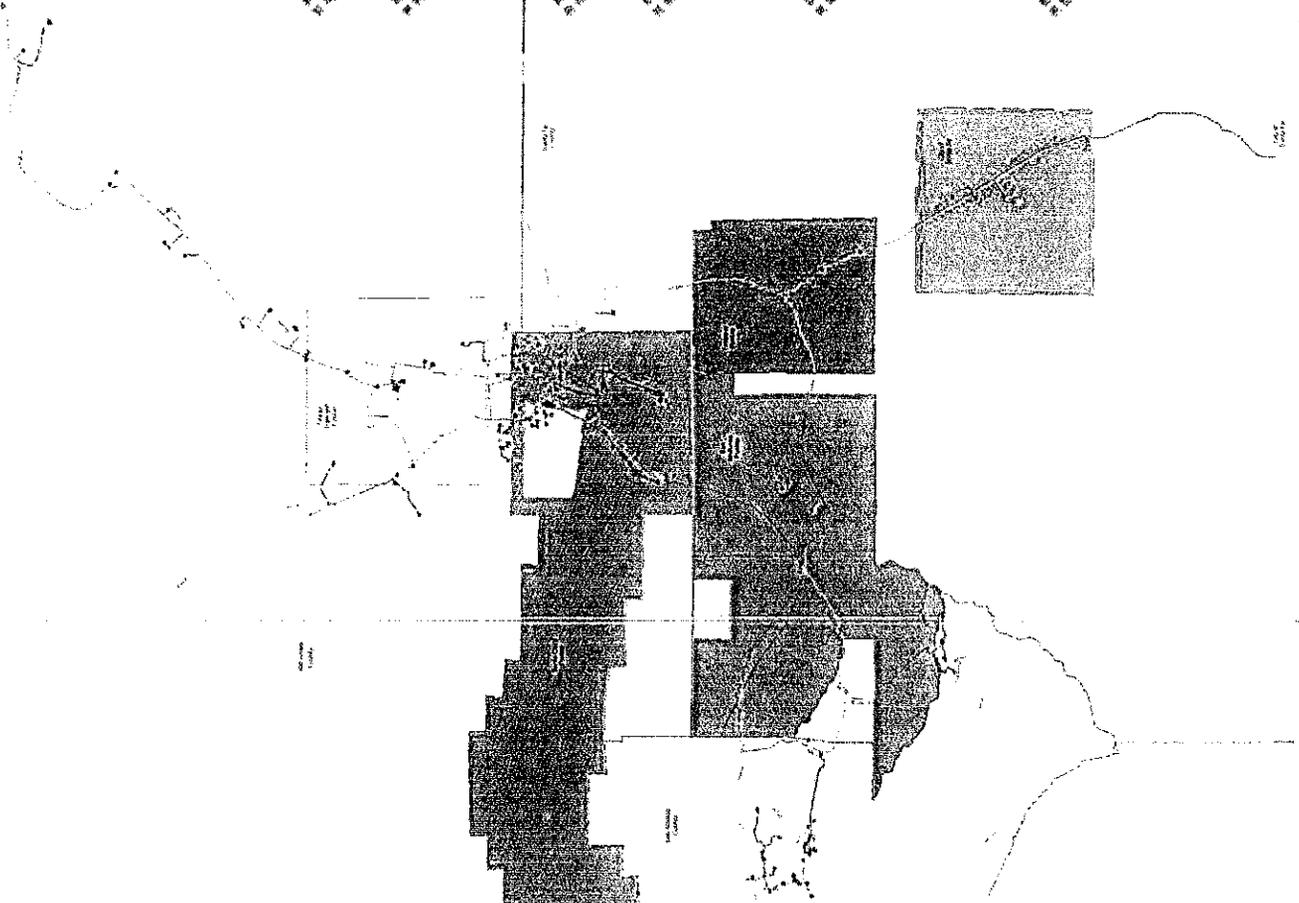
The North Central New Mexico Economic Development District was awarded a \$10.6 million grant to construct REDI NET—a broadband network for Northern New Mexico. Project cost = \$13.5 mm leverage additional \$60+ mm for north central New Mexico region. Leverage = \$, community partnerships, local resources

June 2011

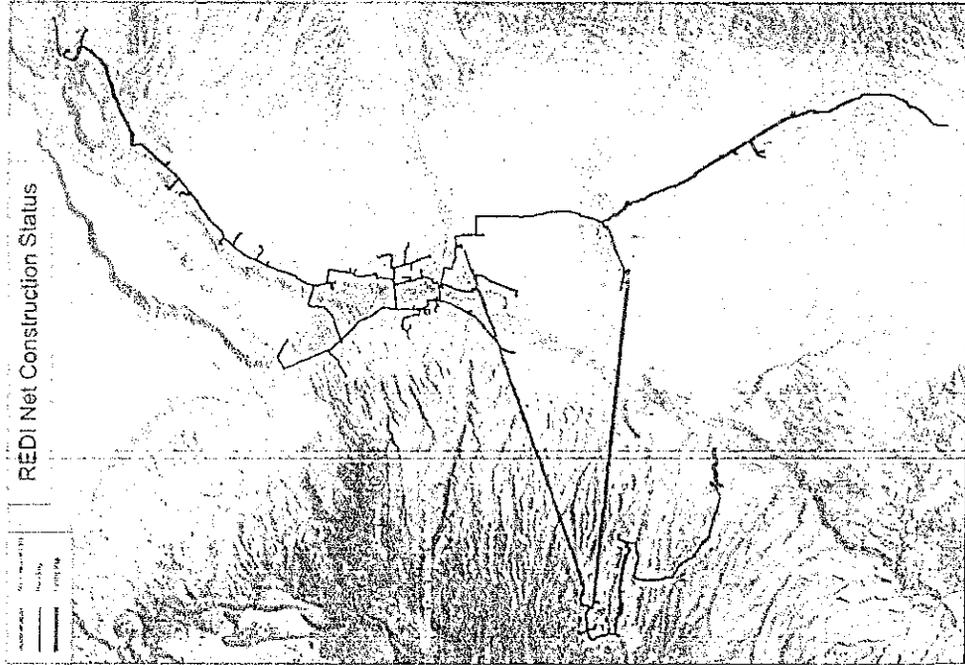
Construction began on the REDI Net project and is scheduled to conclude by June 2013. 140+ miles of fiber with Point Of Presence facilities (major interconnects).

COVERAGE AREA:

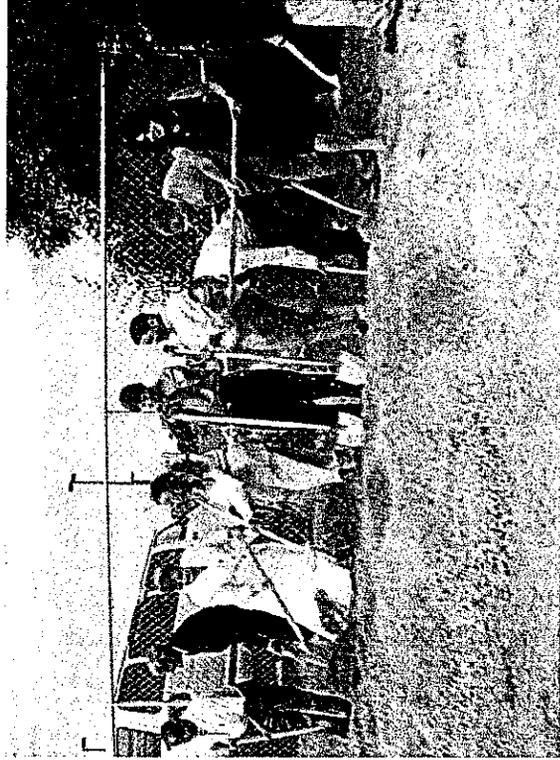
- ❖ Northern New Mexico
- ❖ Interconnects with Kit Carson Electric Coop
- ❖ 140+miles of fiber built
- ❖ Primarily traditional, tribal and rural communities
- ❖ Spans currently 4 local and 4 tribal governmnts geographic area
- ❖ National lab and urban areas



CONSTRUCTION STATUS - MARCH 2013



- 126 + miles completed (89%)
 - Network operational effective 2/1/13
 - ~ 50 institutions active
 - Santa Fe County route completed ~ 33 miles
- (picture: REDI Net Groundbreaking July 2011, Former US Senator Bingaman presided)



REDI NET: WHAT IS IT?

- 1 High-Speed Broadband Network
- 2 Community Owned and Managed
- 3 Middle Mile Backbone--Connects institutions and providers
- 4 Open Access--Choice of providers for homes and businesses

1 HIGH-SPEED BROADBAND

Type of Service/Connection	Rated Service/Data Rate	E-mailw/attachment (2MB)	X-ray Photo (8MB)	Instructional Video (600 MB)	DVD Movie (4.7GB)
Dial-Up	56 Kbps	7.11 min	28.43 min	1.48 days	11.6 days
DSL Lite	416 Kbps	50 sec	3.33 min	4.17 hours	1.63 days
DSL	2 Mbps	9.50 sec	38.01 sec	47.51 min	6.20 hours
Fiber	10 Mbps	2.13 sec	8.53 sec	10.67 sec	1.39 hours
Fiber	100 Mbps	21 sec	.85 sec	1.07 min	8.36 min
Fiber	1 Gbps	.02 sec	.09 sec	6.40 sec	50.10 sec

2 COMMUNITY OWNED

REDI Net is owned and operated by local and tribal governments through a Joint Powers Agreement (JPA).

- Board of Directors, with representation from each JPA partner, will jointly manage the network for 20 years
- Infrastructure is owned by the Pueblos and counties within their jurisdictions
- Each partner contributed cash or in-kind resources to obtain the grant
- All profits are reinvested in the network

REDI NET PARTNERS AND BOARD OF DIRECTORS

- City of Espanola
- Los Alamos County
- North Central NM Economic Dev. District (State)
- Pueblo of Ohkay Owingeh
- Pueblo of Pojoaque
- Pueblo of Santa Clara
- Pueblo of Tesuque
- Rio Arriba County
- Santa Fe County
- Pueblo of San Ildefonso can opt in via JPA

3 CONNECTS INSTITUTIONS & PROVIDERS

Middle mile networks are like interstates that connect major cities and communities.

- Federal funding for REDI Net was limited to middle mile networks
- Middle mile networks connect and provide service to internet/broadband providers and community institutions

REDI NET CUSTOMERS (baseline)

- Internet or broadband providers that offer services to residential and commercial customers
- Community institutions that need large amounts of dedicated bandwidth (schools, hospitals, government offices, etc.)

4 CHOICE OF PROVIDERS FOR HOMES & BUSINESSES—OPEN ACCESS

Any qualified internet or broadband provider can sell services on the REDI Net open access network.

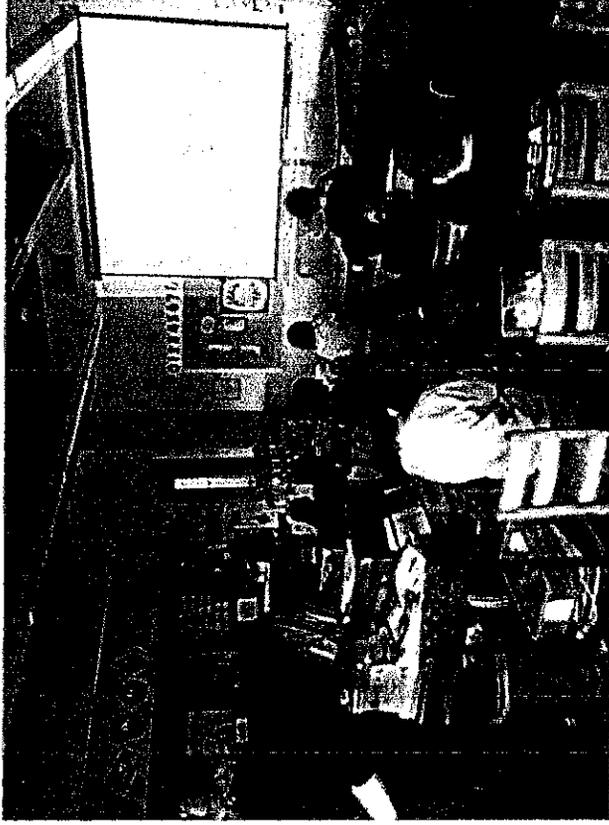
- Increased competition results in lower costs and higher quality services
- REDI Net Board of Directors has adopted guidelines and an application for providers who want to sell their services on REDI Net

POTENTIAL PROVIDERS

- Tewa Broadband
- Plateau Communications
- Cibola Internet
- Los Alamos Community Broadband Network
- Cyber Mesa
- Kit Carson Telecom

MAJOR USES FOR OUR COMMUNITIES

- ✓ Education
- ✓ Economic Development
- ✓ Health Care
- ✓ Public Safety
- ✓ Water Resources Management
- ✓ Energy Development
- ✓ Technology Transfer and Innovation



PROJECT SCHEDULE

	2010	2011	2012	2013
Grant Deadlines	Awarded August 1		66% by July 31	100% by July 31
Construction Schedule		50% Dec 31	85% Dec 31	100% by June 30

Q4 2010	Q1 2011	Q2 2011	Q3 2011	Q4 2011	Q1 2012	Q2 2012	Q3 2012	Q4 2012
Environmental Assessment/FONSI								
			Underground US 84/285 Tesuque/Pojoaque			EA/FONSI Addendum		
						Aerial Espanola Valley Los Alamos County		
						EA Addendum Routes		

- ❖ Planning and Assessment
- ❖ Asset Management
- ❖ Partnerships
- ❖ Innovation



LONG TERM SUSTAINABILITY

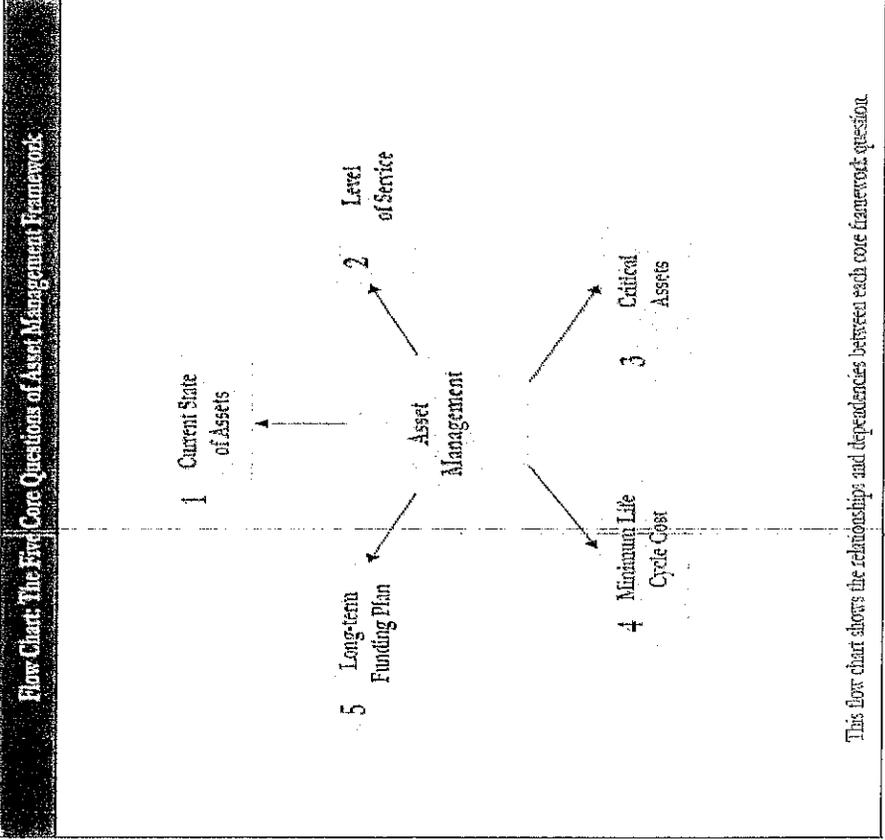
LONG TERM SUSTAINABILITY—PLANNING AND ASSESSMENT

- ❖ 2007 Began planning of REDI Net as part of greater regional effort
- ❖ Assess viability and application—ongoing
- ❖ Performance based
 - ❖ Financial planning—capital and O&M (see Asset Management)
 - ❖ Leverage of community and other assets/resources
 - ❖ Approach is optimization of resources—not maximization

LONG TERM SUSTAINABILITY--ASSET MANAGEMENT

Key Questions and Set up Best Practices, including evaluation (short term vs. long term) for:

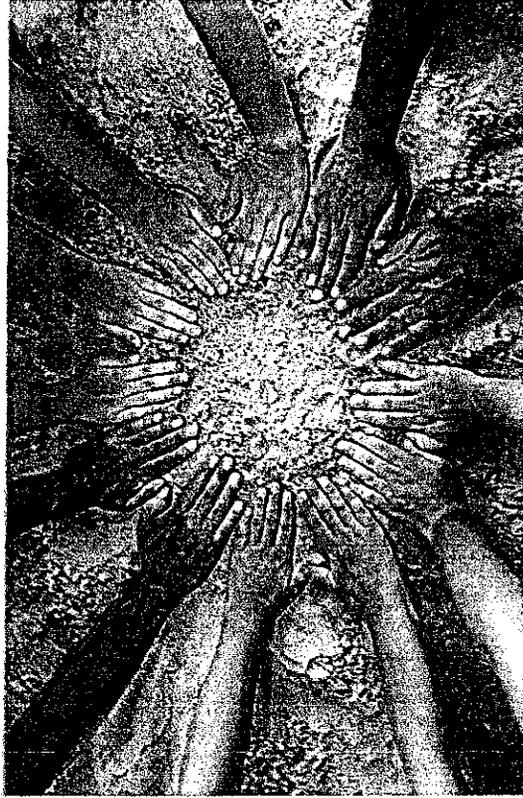
- Current State of REDI NET Assets
- Sustainable Level of Services
- Critical assets to sustain performance
- Determine minimal life cycle costs
- Develop long term strategic business model, including funding implementation plan and externalities
- Reinvestment and reserves-- capital and O&M



LONG TERM SUSTAINABILITY—PARTNERSHIPS

- ❖ Existing public and private partnerships:
 - City of Espanola
 - Los Alamos County
 - North Central NM Economic Dev. District (State)
 - Pueblo of Ohkay Owingeh
 - Pueblo of Pojoaque
 - Pueblo of Santa Clara
 - Pueblo of Tesuque
 - Rio Arriba County
 - Santa Fe County
 - Pueblo of San Ildefonso
 - Kit Carson Electric Coop
 - Jemez Mountains Electric Coop
 - Plateau Telecommunications Coop
 - DOE/Los Alamos National Lab
 - Northern New Mexico College
 - State of New Mexico Department of Information Technology (DOIT)

- ❖ Recognize capacity and seek complementary partnerships:
 - University of New Mexico
 - Bureau of Reclamation
 - Other local, tribal, state, fed agencies
 - Private sector partnerships



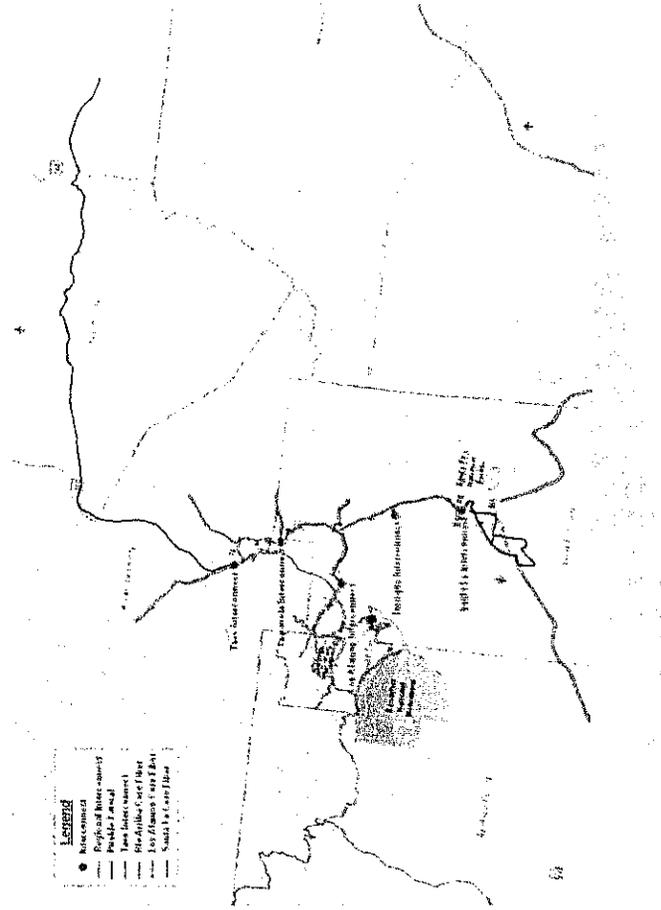
LONG TERM SUSTAINABILITY—INNOVATION

- ❖ Existing baseline activities
 - ❖ ISP
 - ❖ Community Anchor Institutions
 - ❖ Pro forma and performance
- ❖ Enterprise approach and innovation:
 - ❖ Sustainable business model—emphasis on Tele-health, education, public safety and economic development
 - ❖ Reinvestment
 - ❖ Collaborations and integration with other infrastructure—civil, social and green/natural



SANTA FE COUNTY ACTIVITIES

- ❖ Anchor institutions activation—Fire Stations
- ❖ Extension into Community College District—partnering with UNM and Santa Fe Community College
- ❖ Initiated communication with BoR re: Aamodt design and integration



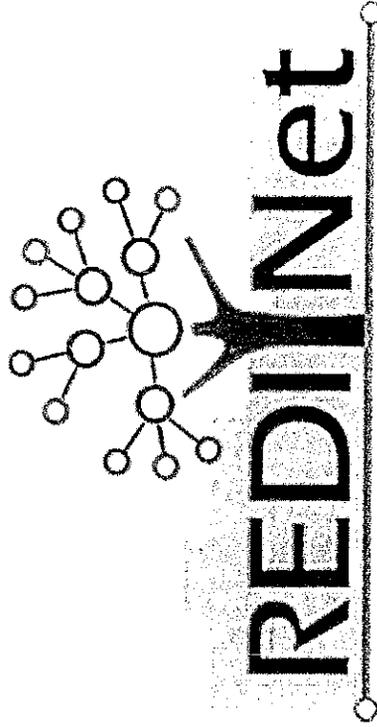
DISCUSSION & QUESTIONS

**FOR MORE INFORMATION,
CONTACT:**

Duncan Sill
Financial and Strategic Development
Manager
North Central New Mexico Economic
Development District
505-827-7331
duncans@ncnmedd.com

Thank You!

www.redinetnm.org



NO PACKET MATERIAL
FOR THIS ITEM

Daniel "Danny" Mayfield
Commissioner, District 1

Miguel M. Chavez
Commissioner, District 2

Robert A. Anaya
Commissioner, District 3



Kathy Holian
Commissioner, District 4

Liz Stefanics
Commissioner, District 5

Katherine Miller
County Manager

MEMORANDUM

Date: March 26, 2013

To: Board of County Commissioners

Via: Katherine Miller, County Manager *KM 4.1.13*

From: Tina Salazar, Constituent Services Liaison on Behalf of Commissioners Holian and Anaya

Re: A Resolution To Establish a Water Policy Advisory Committee (Commissioners Holian and Anaya) (DISCUSSION ONLY, FIRST HEARING)

Issue:

The attached Resolution proposes the establishment of a Water Policy Advisory Committee composed of residents from Santa Fe County. Its purpose is to assist the County in several water related endeavors currently underway:

- to address a prior requirement of Resolution 2011-88 to convene a water focus group when the County embarks on aquifer storage and recharge (ASR) activities;
- to assist the County in addressing and implementing water related policies included in the Sustainable Growth Management Plan (SGMP), such as developing recommendations on conservation practices;
- to research and recommend updates for the 40-year Water Plan, and explore the concept of an independent regional water authority (or authorities).

~~This advisory committee would be composed of County residents with direct or indirect water related experience, bringing additional expertise and knowledge to bear on these large issues and to add to our current Public Utilities competence; could provide a valuable resource in reaching out to communities to act as information liaisons (such as the committee that helped establish the Conjunctive Management Plan); and assist the County in addressing water supply challenges in these times of persistent drought.~~

Historically the County has appointed a number of committees to assist in advising, gathering information, and making recommendations on a wide range of issues and endeavors of County responsibility, from road projects to acquiring property to Corrections policy and Health among others. These committees have provided a valued resource in collaborating with the public and stimulating public interface and interaction with local government. With the current and projected challenges due to changing climate and weather, this is a timely consideration.

Discussion Only, First Hearing:

Commissioners Holian and Anaya respectfully request the Board of County Commissioners' support and approval of this item.

**THE BOARD OF COUNTY COMMISSIONERS
OF SANTA FE COUNTY**

RESOLUTION NO. 2013-_____

A RESOLUTION ESTABLISHING A WATER POLICY ADVISORY COMMITTEE

WHEREAS, the Board of County Commissioners seeks to create and maintain a coherent water policy that encompasses the full spectrum of water use and meets, to the extent possible, the needs of all water users;

WHEREAS, the County's Sustainable Growth Management Plan identifies water as an important County matter and in particular lists seven key water issues and eight keys to sustainability that will require a full community effort to address or implement;

WHEREAS, the County has numerous existing water policy documents that require occasional updating and cross-referencing;

WHEREAS, Resolution 2011-88 requires that a water focus group be convened to discuss aquifer storage and recharge (ASR) when the County begins to address this issue;

WHEREAS, it is in the interest of all residents of Santa Fe County to address water issues in a regional manner, including utility water service, source of supply, irrigation, and water reuse;

NOW, THEREFORE BE IT RESOLVED by the Board of the County Commissioners (BCC) that:

1. A Water Policy Advisory Committee (the Committee) is hereby created for the express purpose of providing factual information to the BCC regarding water, wastewater, and water management within the County and regionally.
2. The Committee shall be comprised of seven voting members appointed by the BCC.
3. Three members of the Committee will be appointed for an initial term of two years and four members shall be appointed for an initial term of three years. Thereafter Committee members shall serve terms of three years. In the event of a vacancy, the BCC shall appoint a member to serve out the remainder of the departing member's term, taking into consideration any recommendation from the Committee and Public Works staff to fill that vacancy. There shall be no limitation on the number of consecutive terms that a member may serve. Members may be removed by the BCC with or without cause.

4. Committee members shall annually elect a chair and a vice-chair by majority vote of the quorum.
5. The Committee shall meet as often as necessary to carry out its work, but no less than quarterly. The meetings of the Committee shall be held in the County Public Works facility and such other locations as may be conducive to visible and publicly accessible meetings. Meetings shall be held in accordance with all relevant County policies with regard to public notice, open meetings, and rules of order.
6. All matters coming before the Committee shall be resolved by majority vote of the quorum.
7. All Committee members shall reside within the exterior boundaries of Santa Fe County. One member shall be nominated by each Commissioner. The sixth member shall be at-large and may reside anywhere in the County and be nominated by any Commissioner. The seventh member may be nominated by the Buckman Direct Diversion (BDD) Board or by the City Council of the City of Santa Fe (and shall not be a member of City staff), at the direction of the BCC. If the City Council fails to nominate a member, the BCC may choose to fill the vacancy with a second at-large member. Membership should span a wide range of expertise and experience not limited to water but at least two members should demonstrate expertise in some aspect of water. Expertise may be demonstrated by membership in an established community water group, such as (but not limited to) the Santa Fe Basin Water Association, the Santa Fe Watershed Association, or the Estancia Basin Resource Association; by professional practice in the field of water, wastewater, hydrology, agriculture, or similar; or by other documented relevant professional or volunteer experience. Individuals with expertise in the water policies and practices of other governmental entities in the region are also qualified to serve on the Committee. Interested residents must submit a letter of interest and documented qualifications. In the event more than one individual seeks appointment to a position on the Committee, the Public Works Department will be asked to rank the competing applicants.
8. The County Manager shall appoint a member of the County Staff to serve as liaison to the Committee.
9. The scope of duties of the Committee shall include the following:
 - a. To make recommendations related to water policies in the County land development code, with focus on making recommendations in areas such as: land restoration practices and techniques that lead to water collection, restoration, and conservation; implementation of grey water and closed re-circulating systems; agricultural land restoration; protection of waterways such as the Santa Cruz River, within existing water resource allocations; etc.
 - b. To make recommendations related to County water and wastewater utility growth;

- c. To assist the County in addressing proposed aquifer storage and recharge activities, design plans, and projects;
 - d. Explore the concept of an independent regional water authority or authorities, including interfacing with the City of Santa Fe, the City of Espanola, the Town of Edgewood, mutual domestic water consumer associations, and other regional water users regarding a regional water authority or authorities;
 - e. Recommend updates to the current 40-year Water Plan, the Conjunctive Management Plan, or other plans;
 - f. Such other water related topics and issues as directed by the BCC.
10. Within two months of the creation of the Committee and at the second BCC meeting in January of each year thereafter, the chair of the Committee shall present to the BCC for approval a draft work plan for the upcoming calendar year or portion thereof. The work plan shall include a list of tasks or topics to be addressed by the Committee over the year along with a delivery schedule of updates, reports, and other deliverables. The chair may from time to time amend this work plan with approval from the BCC. The BCC can amend this work plan at any time. The chair shall update the BCC in accordance with this work plan.
11. The Committee may be incorporated into other County standing committees or otherwise dissolved at any time.

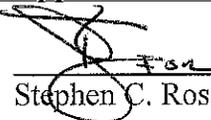
**PASSED, APPROVED AND ADOPTED this 9th day of April, 2013.
THE BOARD OF COUNTY COMMISSIONERS OF SANTA FE COUNTY**

By: _____
Kathy Holian, Chair

Attest:

Geraldine Salazar, Santa Fe County Clerk

Approved to form:



Stephen C. Ross, Santa Fe County Attorney

Santa Fe County Fiscal Impact Report

Department / Division: Santa Fe County Manager's Office

Action Item to be Considered: A Resolution To Establish a Water Policy Advi...

Agreement Number: Resolution No. 2013 _____

Indicate with a <input checked="" type="checkbox"/> below	Section 1 - Identify the type of document below for BCC Consideration and Approval
<input type="checkbox"/>	Revenue, e.g. Grant, charges and fees, etc.
<input type="checkbox"/>	Contractual Services (includes change orders), e.g. Professional services agreement, construction, price agreement, joint powers agreement, lease agreement, etc.
<input type="checkbox"/>	Loan/Grant Agreement
<input checked="" type="checkbox"/>	Other: Community Meeting

Indicate with a <input checked="" type="checkbox"/> below	Section 2 - Funding Source Identify the item below for BCC Consideration and Approval
<input checked="" type="checkbox"/>	General Fund, e.g. property taxes, gross receipt taxes, etc.
<input type="checkbox"/>	Special Revenue Funds, e.g. Fire, Indigent, etc.
<input type="checkbox"/>	Capital Outlay GRT, (capital infrastructure only, does not include maintenance or repair costs)
<input type="checkbox"/>	Bond Proceeds (general obligation and gross receipt tax revenue bonds)
<input type="checkbox"/>	Grant Funds. If yes, indicate the percentage and amount required % and/or \$, and source. % \$ Source
<input type="checkbox"/>	Other:

Section 3 - Ongoing operations and maintenance (O&M) requirements:		
Short Term (Specify needs for the current fiscal year only)		
New FTE's #	Position	Hourly Rate \$
Current Fiscal Year Cost \$	Annual Cost \$	
Initial Costs (Vehicle, computer, office space, etc.)		
O & M (Concisely identify the recurring needs, supplies, equipment, and the resources necessary for carrying out the job duties)		
A \$20 fee will be charged, per meeting, for noticing to the Newspapers. That will cost		

\$20/meeting or \$120 total. The group meets at least quarterly, but is estimated to have 6 meetings a year to be conservative. They will need to hire someone to take minutes. That will cost \$260/meeting or \$1560 total.

Current Fiscal Year Cost \$

Annual Cost \$ \$1680

Long Term (Specify the needs for the next four (4) years. This will include staff, O & M, asset renewal and replacement costs, and additional capital needs)

It will cost \$480 for noticing to the newspapers and \$6,240 for our hired recorder, over the next four years. There is an estimated 168 FTE hours, over the next four years.

Salary & Benefits:

All other expenses:

Meetings should be held in the County Public Works facility, but additional funds may be needed for other locations that may be more conducive to visibility and public accessibility

Section 4 - Revenue

Short Term (Specify the revenue potential for the current fiscal year only. If a grant, specify the total grant award amount and the term. If a fee or charge for service, explain basis of revenue projection).

Current FY Estimate \$

Long Term (Specify the revenue potential for the next four (4) fiscal years. If a grant, specify the total grant award amount and the term. If a fee or charge for service, explain basis of revenue projection).

Annual Estimate \$

Total (next 4 years) \$

Additional Narrative

(Should include additional information such as significant issues, administrative issues and technical issues. What consequences, if any, may occur if this item is not acted upon):

They estimate 42 FTE hours per year for the meeting. Assume the meetings are 2 hours long (the average length of the Road Advisory Committee meetings). Assume 3 hours of prep time per meeting. Assume 2 people attend the meeting. (42 hours)

Prepared by Tina Salazar

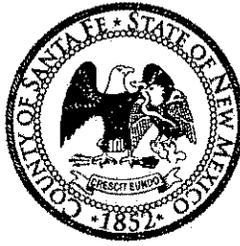
Reviewed by

NO PACKET MATERIAL
FOR THIS ITEM

Daniel "Danny" Mayfield
Commissioner, District 1

Miguel Chavez
Commissioner, District 2

Robert A. Anaya
Commissioner, District 3



Kathy Holian
Commissioner, District 4

Liz Stefanics
Commissioner, District 5

Katherine Miller
County Manager

MEMORANDUM

DATE: *April 9, 2013*

TO: *Board of County Commissioners*

FROM: *Adam Leigland, Public Works Department Director* *ml 4/12/13*

VIA: *Katherine Miller, County Manager*

ITEM AND ISSUE: *BCC Meeting April 9, 2013*

INTRODUCTION OF A RESOLUTION CREATING AN ASSET MANAGEMENT SYSTEM FOR COUNTY FACILITIES (PUBLIC WORKS)

BACKGROUND AND SUMMARY:

Santa Fe County owns an array of over 84 facilities, comprising over 850,000 square feet and spanning a wide range of function, age, and condition. Examples of County facilities and their broad variety include the 80-year-old main administration building, the recently completed state-of-the-art court house, over 30 fire stations, the adult detention facility, and a dozen community centers. The condition of County facilities is clearly important for several reasons, including health and safety, employee productivity, utility expenditures, and constituent/customer satisfaction. However, current County practices make it difficult to, first, identify facility deficiencies, inadequacies, or opportunities for improvements; and, second, to properly prioritize and remedy the deficiencies or make the improvements. Facility maintenance practices tend toward reactive break-down repair and "Band-Aid" fixes, which don't optimize limited County resources and which can be frustrating to customers, employees, and the facility maintenance staff alike.

The subject resolution enacts a facility asset management process that attempts to address these shortcomings. This new asset management process first recognizes that capital investment decisions incur future operation and maintenance obligations that need to be explicitly incorporated into decision-making. Second, the process establishes an objective facility assessment and grading system called the Facility Condition Index, so that the true condition of a facility can be known and compared to others, thus facilitating work prioritization. Finally, the process guides the allocation of resources based upon the Facility Condition Index.

The County has already implemented a similar program for another aspect of its capital asset portfolio. All County roads are assessed using an objective 1-to-10 scoring system called PASER. Road maintenance and investment decisions are made based on PASER ratings. This program has been successful at preserving and improving the County network of roads within existing budgets. An asset management process for facilities can achieve the same results.

ACTION REQUESTED:

Approval of subject resolution.

SANTA FE COUNTY

RESOLUTION NO. 2013-__

RESOLUTION 2013-__
A RESOLUTION CREATING AN ASSET MANAGEMENT SYSTEM FOR COUNTY FACILITIES.

WHEREAS, Santa Fe County (the County) is undertaking a performance-based budgeting system;

WHEREAS, the County has adopted a rigorous, objective capital improvement planning process;

WHEREAS, the County owns, operates, and maintains a portfolio of over 84 facilities comprising over 850,000 square feet serving a mix of administrative, functional, and customer service purposes with ages ranging from newly constructed to over 80 years old;

WHEREAS, over the typical 30-year life cycle of a facility, operation and maintenance costs will surpass initial capital costs; and

WHEREAS, every dollar spent in planned facility maintenance and upkeep forestalls five to ten dollars in facility repair, and conversely, every dollar in deferred maintenance ultimately results in five to ten dollars of breakdown repair;

WHEREAS, total identified County capital needs generally exceed County capital resources by a factor of five;

WHEREAS, a facility investment policy that targets facilities based on their condition, that prioritizes maintaining existing facilities over building new ones, and that takes operation and maintenance costs into account when acquiring new facilities, will ultimately provide higher quality County facilities at a lower cost;

WHEREAS, County constituents and customers generally evaluate their total County customer service experience based largely on their impression of County facilities;

WHEREAS, County employees will be more productive and provide better customer service if they work in well-maintained facilities; and

WHEREAS, the Commission directed the creation of a County-wide capital asset inventory with Resolution 2013-1.

NOW, THEREFORE, BE IT RESOLVED BY THE SANTA FE COUNTY BOARD OF COUNTY COMMISSIONERS THAT:

1. Staff will be create for each proposed new capital asset, using parametric pricing factors, an annualized 30-year estimate of expected operation and maintenance costs, to include utilities; staffing; furnishings and equipment; and system maintenance, service, and replacement. The estimate shall be presented to the Board of County Commissioners (the Commission) alongside all other information when the new asset is presented for approval during the capital planning process.
2. Staff will create a numerical Facility Condition Index (FCI) encompassing assessments or evaluations of a facility's age and location; condition and appearance of its envelope, structure, and systems; and adequacy to meet its intended purpose. Each facility listed on the County inventory created under Resolution 2013-1 will be surveyed and evaluated to determine its FCI score, initially upon approval of this resolution and then again at least every three years in a rolling schedule such that approximately 33% of the County inventory is evaluated each year;
3. The Commission shall adopt a minimum acceptable FCI score that will guide facility investment decisions, and shall prioritize sustaining, maintaining, or upgrading existing assets over building or acquiring new assets to the extent possible, with an average of 60% of total County capital funds being used to upgrade existing capital assets. Capital projects identified through this process shall be entered onto the County's Capital Improvement Plan.
4. Annually, staff shall present the Commission with a report on the current County facility inventory, each facility's FCI score, and such other information as the Commission requests.

PASSED, APPROVED, and ADOPTED THIS _____ DAY OF _____, 2013.

Santa Fe County

Fiscal Impact Report

Department / Division: Public Works

Action Item to be Considered: Facility Asset Management Resolution

Agreement Number: _____

Indicate with a <input checked="" type="checkbox"/> below	Section 1 - Identify the type of document below for BCC Consideration and Approval
<input type="checkbox"/>	Revenue, e.g. Grant, charges and fees, etc.
<input type="checkbox"/>	Contractual Services (includes change orders), e.g. Professional services agreement, construction, price agreement, joint powers agreement, lease agreement, etc.
<input type="checkbox"/>	Loan/Grant Agreement
<input checked="" type="checkbox"/>	Other: <u>Resolution</u>

Indicate with a <input checked="" type="checkbox"/> below	Section 2 - Funding Source Identify the item below for BCC Consideration and Approval
<input checked="" type="checkbox"/>	General Fund, e.g. property taxes, gross receipt taxes, etc.
<input type="checkbox"/>	Special Revenue Funds, e.g. Fire, Indigent, etc.
<input type="checkbox"/>	Capital Outlay GRT, (capital infrastructure only, does not include maintenance or repair costs)
<input type="checkbox"/>	Bond Proceeds (general obligation and gross receipt tax revenue bonds)
<input type="checkbox"/>	Grant Funds. If yes, indicate the percentage and amount required % and/or \$, and source. % <u> </u> \$ <u> </u> Source <u> </u>
<input type="checkbox"/>	Other: <u> </u>

Section 3 - Ongoing operations and maintenance (O&M) requirements:		
Short Term (Specify needs for the current fiscal year only)		
<u>None</u>		
New FTE's # <u>0</u>	Position <u> </u>	Hourly Rate \$ <u> </u>
Current Fiscal Year Cost \$ <u>0</u>		Annual Cost \$ <u> </u>
Initial Costs (Vehicle, computer, office space, etc.)		
<u>None</u>		
O & M (Concisely identify the recurring needs, supplies, equipment, and the resources necessary for carrying out the job duties)		
<u>NA</u>		

RESOLUTION NO. 2013-

**A RESOLUTION OPPOSING THE NORTH CENTRAL REGIONAL TRANSIT DISTRICT'S
DEDICATION OF FOURTEEN PERCENT OF REGIONAL TRANSPORTATION GROSS
RECEIPTS TAX REVENUES TO THE CITY OF SANTA FE**

WHEREAS, Santa Fe County (the County) is a member of the North Central Regional Transit District (hereinafter referred to as "NCRTD");

WHEREAS, Santa Fe County Ordinance 2008-14 adopted the County Regional Transit Gross Receipts Tax, a one eighth of one percent (.125%) tax on gross receipts dedicated to the management, construction or operation of a public transit system or for specific public transit projects or services pursuant to the Regional Transit District Act;

WHEREAS, the County is collecting the County Regional Transit Gross Receipts Tax pursuant to NMSA 1978, § 7-20E-23, and transferring the tax revenues to the NCRTD;

WHEREAS, the County's Regional Transit Plan has historically included regional routes for the benefit of the City of Santa Fe;

WHEREAS, on March 1, 2013 the NCRTD Board adopted Resolution 2013-04 which amended the financial policies of the NCRTD to establish that fourteen percent of the annual gross receipts tax revenues collected by NCRTD would be expended on regional transportation needs for the City of Santa Fe, and further amended the policies to allocate only forty percent of the gross receipts tax revenues for all the regional transportation needs of Santa Fe County, Rio Arriba County and Taos County;

WHEREAS, Commissioner Robert Anaya, on behalf of the County, opposed adoption of NCRTD Board Resolution 2013-04 because of the allocation of a fixed percentage of gross receipts tax revenues to the City of Santa Fe.

NOW, THEREFORE, BE IT RESOLVED THAT the Board of County Commissioners of Santa Fe County resolves to oppose the NCRTD's amendment to their financial policies to the extent that the policy now dedicates a fixed percentage of gross receipts tax revenues to the City of Santa Fe and to support a more flexible methodology of allocating gross receipts tax revenues that allows for annual funding adjustments for each member jurisdiction if deemed necessary by the NCRTD Board.

PASSED, APPROVED AND ADOPTED this _____ day of April, 2013

**THE BOARD OF COUNTY COMMISSIONERS
OF SANTA FE COUNTY**

By: _____
Kathy Holian, Chair

ATTEST:

Geraldine Salazar, Santa Fe County Clerk

APPROVED AS TO FORM:



Stephen C. Ross, County Attorney



**North Central Regional Transit District (NCRTD)
Resolution 2013 - 04**

A Resolution Amending the Adopted Financial Policies

WHEREAS, the Board of Directors is the statutory governing body in and for the NCRTD and finds it in the best interest of the constituents of the NCRTD to establish policies to ensure the financial stability of the District; and

WHEREAS, the current NCRTD Financial Policies were adopted on October 9, 2009 and amended on July 15, 2011 and November 4, 2011; and

WHEREAS, the Board at their May 6, 2011 meeting reviewed the recommended NCRTD Transit Tax allocation formula also known as the "Los Alamos Formula" for funding of services meeting the Board's adopted definition of regional services and approved said allocation methodology; and

WHEREAS, the Board at their May 6, 2011 meeting instructed the staff to use a static allocation methodology to address the Long Term Financial Plan; and

WHEREAS, the Board used the Los Alamos Formula in developing the Fiscal Year 2012 Budget and established the amounts that would be reimbursable utilizing the Board's adopted cost allocation model; and

WHEREAS, pursuant to the Board's direction a Task Force consisting of the Financial Officers from the City of Santa Fe, and Los Alamos County and other members met for four months in 2011 to review and recommended to the Board a Long Term Financial Plan and static NCRTD Transit GRT allocation methodology for regional services; and

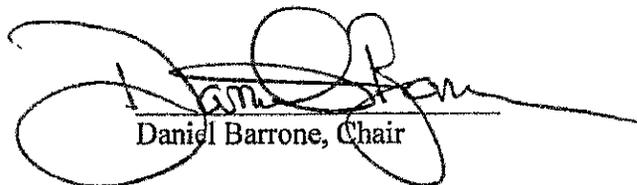
WHEREAS, at the Board's January 6, 2012 meeting the Board accepted the Long Range Financial Plan recommendations of the Task Force and concurred with the recommendation to continue to utilize the "Los Alamos Formula" as the preferred NCRTD Transit GRT allocation methodology for regional services; and

WHEREAS, the Board adopted the Fiscal Year 2013 Budget utilizing this adopted allocation methodology for establishing the funding of those member entities that provide regional services and whose service plans are submitted for approval by the Board; and

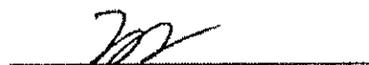
WHEREAS, the Board, after thorough consideration and several years of utilization of this formula, find's that it is prudent to amend the adopted Financial Policies by incorporating the following methodology into Section Two (2) Operating Program of the aforementioned policy along with accompanying policy language and other modifications in the amended Financial Policies attached hereto.

Entity	Percentage of Total Fiscal Year Adopted Projection of NCRTD Transit GRT Revenue
City of Santa Fe	14%
Los Alamos County	20%
Rail Runner	26%
NCRTD (Santa Fe County, Rio Arriba County, and Taos County)	40%

NOW THEREFORE BE IT RESOLVED BY THE NCRTD BOARD THAT THE ATTACHED FINANCIAL POLICIES SHALL BE AND ARE HEREBY ADOPTED, AMENDING THE CURRENT NCRTD FINANCIAL POLICIES, AND ARE APPROVED AND ADOPTED THIS 1st day of MARCH 2013.


Daniel Barrone, Chair

Approved as to form:


Peter Dwyer, Counsel



North Central Regional Transit District
Board Meeting
Friday, March 1, 2013
9:00 a.m. - 1:00 p.m.

CALL TO ORDER:

A regular meeting of the North Central Regional Transit District Board was called to order on the above date by Commissioner Daniel Barrone, Chair, at 10:00 a.m. at the Jim West Transit Center, 1327 Riverside Drive, Española, New Mexico.

[At 9:00 there were three members present. At 9:15 there were five members present. At 9:20 there were six members present. The seventh member arrived at 10:08]

- 1. Pledge of Allegiance**
- 2. Moment of Silence**
- 3. Roll Call**

Roll call indicated the presence of a quorum as follows:

Members	Elected Members	Alternate Designees
Los Alamos County		<i>Mr. Philo Shelton III</i>
Rio Arriba County		
Taos County	<i>Commissioner Daniel Barrone</i>	
Santa Fé County	<i>Commissioner Robert Anaya</i>	
Nambé Pueblo	<i>Lt. Gov. Gary Talachy</i>	<i>Mr. Lonnie Velarde</i>
Pojoaque Pueblo		

Ohkay Owingeh		
San Ildefonso Pueblo		
Santa Clara Pueblo		<i>Ms. Mary Lou Valério</i>
Tesuque Pueblo		
City of Santa Fé	<i>Councilor Patti Bushee</i>	<i>Mr. Jon Bulthuis</i>
City of Española		<i>Councilor Peggy Martínez</i>
Town of Edgewood	<i>Councilor Chuck Ring</i>	
Rio Metro (ex officio)		

Staff Members Present

Mr. Anthony J. Mortillaro, Executive Director
 Ms. Glenda Aragon, Financial Manager
 Mr. Mike Kelly, Transit Operations Manager
 Mr. Jim Nagle, Public Information Officer
 Ms. Stacey McGuire, Projects and Grants Specialist
 Ms. Dalene Lucero, Executive Assistant

Others Present

Mr. Peter Dwyer, Legal Counsel
 Mr. Carl Boaz, Stenographer
 Mr. Lonnie Velarde, Nambé Pueblo
 Mr. Greg White, NMDOT
 Mr. David Harris, NMDOT
 Mr. Andrew Martínez, Rio Arriba County
 Mr. Craig Barela, Santa Fé County
 Ms. Judy Amer, City of Santa Fé [telephonically]

4. INTRODUCTIONS

All present introduced themselves to the Board.

5. APPROVAL OF AGENDA

Lt. Governor Talachy said in listening to the discussion he wondered if the City of Santa Fé didn't have a vote now.

Chair Barrone declared they did have a vote because the resolution was not an intent to not be part of the organization but because of a misunderstanding.

Mr. Shelton asked how many invitations were still outstanding.

Mr. Mortillaro said the list included the Town of Taos, Taos Pueblo, Village of Questa, Town of Red River, Jicarilla Apache Tribe, Picuris Pueblo and Town of Chama. So there were seven and they were small.

PUBLIC HEARING

There were no public comments and Chair Barrone closed the public hearing.

Commissioner Anaya said, based on the comments of Commissioner Mayfield and in the interest of inclusion, he moved to approve the membership of Nambé Pueblo to the NCRTD Board. Councilor Martínez seconded the motion which passed by roll call vote with Town of Edgewood, City of Española, Los Alamos County, Santa Clara Pueblo, Santa Fé County and Taos County voting in favor and City of Santa Fé voting against.

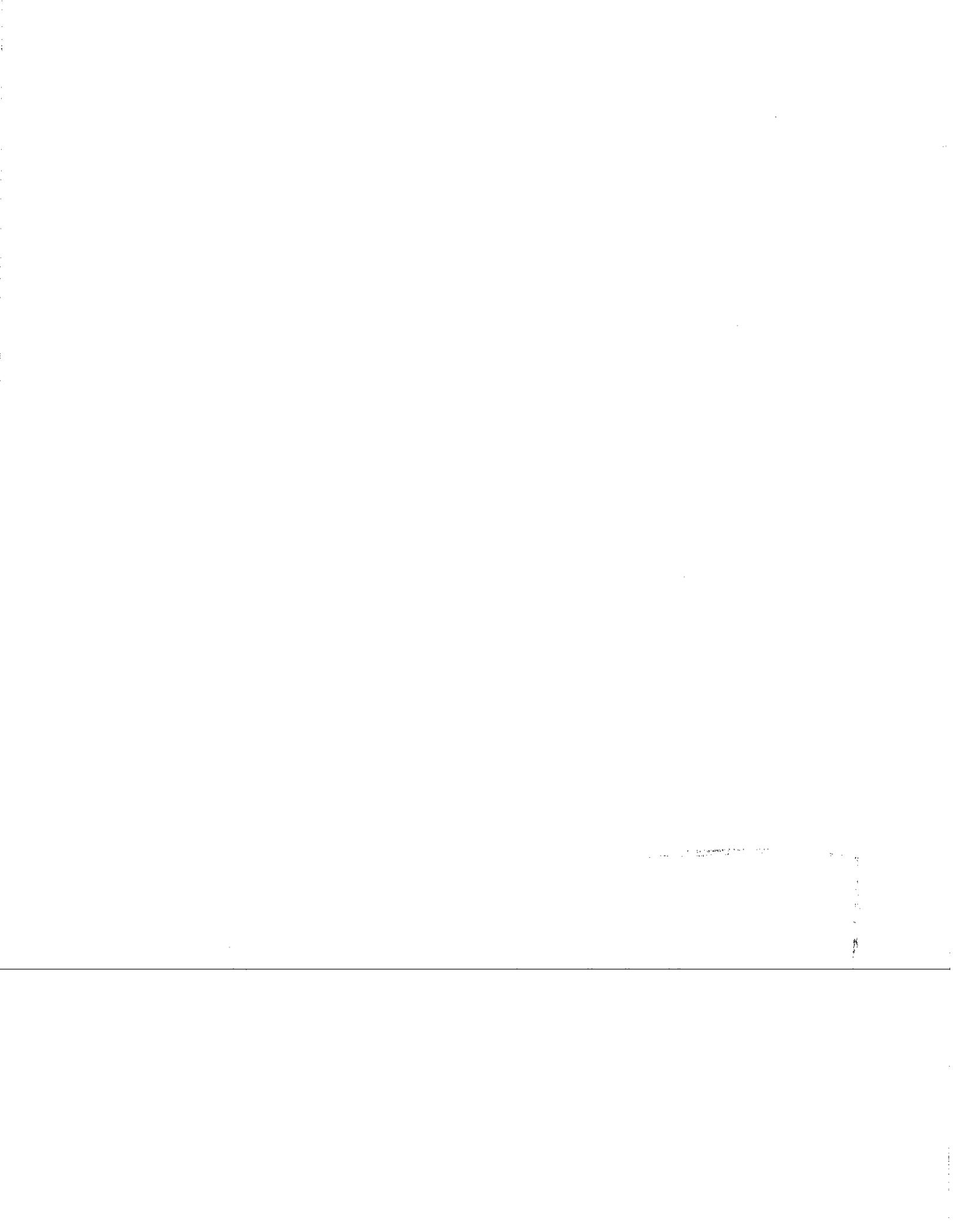
The tally of weighted voting units yielded 17 in favor and 5 against which exceeded the 2/3 majority needed.

Chair Barrone welcomed the Pueblo of Nambé to membership and Lt. Governor Talachy to his seat at the Board table. He invited Lt. Governor Talachy to address the Board.

Lt. Governor Talachy said this was his first year of his two-year term. Nambé had 600 enrolled tribal members and 400 residing on the pueblo. They wanted to dedicate themselves to the work of the NCRTD and to be present for all the meetings. Nambé was willing to be a responsible and active member.

B. Review and Adoption of Resolution No. 2013-04 Amending the Financial Policies

Mr. Mortillaro said Resolution 2013-04 amends the existing financial policies. On page 33 it showed the allocations of GRT revenue. The policy was termed the Los Alamos policy and was used to distribute to entities providing regional services. Atomic City and Santa Fé Trails were the regional providers and the amended policy then recognized the Rail Runner would get 50% of GRT collected in Santa Fé County.



The remainder of the GRT revenue coming to NCRTD was for services provided in the counties. The Board utilized this methodology in 2012 and 2013 budgets. It worked well and allowed the existing service plans the Board approved for the City of Santa Fé and Los Alamos County to be funded on an ongoing basis and allowed them to plan for it. It also did the same for the routes provided by the NCRTD.

Page 37 at the bottom showed the new funding formula and on the top of page 38 what would be done if the revenues were not all realized. The District has taken the hit in the past. This amendment presents an across the board reduction if revenues decline.

The NCRTD could use its reserves for District uses only and other entities would have to find other sources to make up the differences. Those were the changes to the policy.

This amendment followed what had been utilized in the past and past discussions. The Long Range Planning Committee included representatives from Los Alamos County and the City of Santa Fé to use this methodology into the future.

Councilor Ring asked for correction of Taos Chili Line to Taos Chile Line.

Councilor Bushee thanked the Board for the figures so they could put their CAFR together. She asked what the reserve policy was.

Mr. Mortillaro said it was on page 41 at the bottom. It was a 25% policy for the reserve fund.

Councilor Bushee thought that was a high reserve.

Mr. Mortillaro said this Board has the right to amend the policy.

Mr. Dwyer clarified that some of the reserves (from Los Alamos) were not subject to change.

Mr. Mortillaro agreed. There was about \$700,000 in the reserves ~~from Los~~ from Los Alamos and if used it would have to be restored within 180 days. It was a revolving operating reserve account

Councilor Bushee asked if Taos Chile Line was a regional provider.

Mr. Mortillaro said they received no funding from the NCRTD but they interconnected with NCRTD. They could be eligible to be funded. The Board spent a good year defining what regional services were.

Councilor Bushee moved to approve the amendment to the Financial Policies.

Commissioner Anaya noted the policy had changed since he was gone from the Board which had been that the interest of the NCRTD was to roll in the revenue without securing allocations to any particular entity and it would be up to the Board to evaluate needs and then allocate funding. This amendment didn't do that and he asked for an explanation about it.

Mr. Mortillaro said it did lump everything together. The 40% for the District was almost enough to cover all services for Santa Fé County and for Taos County and Rio Arriba County. That was supplemented with federal funding. One of the commitments during the election for GRT was that Santa Fé County would have 86% of revenue after the Rail Runner deduction. Once Santa Fé Trails was deducted out (roughly \$967,000), it left 734,000 available for Santa Fé County but actually the District spends \$1.2 million for funding the services in Santa Fé County.

Commissioner Anaya asked if Santa Fé County would get 14% but the county has to bill for it with services provided.

Commissioner Anaya noted the intent of the NCRTD when he was on the Board before was that when routes were evaluated that Board would evaluate all routes throughout the district and get away from guarantees for anyone. Once those carve-outs were done, that left the rest of the members battling for the rest of the money after the 44% was taken off the top. There was one route for which he would have to battle with the other counties because these other entities would get their guarantee of 14% and 20%.

The whole purpose of the board was to get away from that guarantee. So he wondered where he missed the boat and why the Board went in that direction when they decided not to do that. He asked if they were going to evaluate all the routes in the whole district, route by route to determine if these were the best route or if there might be other routes that would fit better. The guarantee didn't do that.

Mr. Mortillaro agreed he was correct to some extent and the way this worked was that the City and the County of Santa Fé through their RPA process would submit the routes they wanted to see funded and give a number for collections after Rail runner was subtracted. That happened a couple of times and then last year, the county submitted its own list of priorities including the Golden-Santa Fé Route if funding was available. LA also submitted their plan and the Board could accept it or request modifications.

The evaluation of all routes last year had only one route that was questioned - the route from Las Trampas and staff agreed to modify that.

When he brought that to the Board it could decide if canceled whether the funds could be reallocated and that was a decision to be made in the future. These

percentages were designed to support existing routes in the counties and provide the existing level of funding that Los Alamos County had developed routes for and the same thing for Santa Fé Trails. So their existing routes could stay in place and no guarantee that any future routes would receive funding.

Commissioner Anaya said just because a route existed in a county didn't mean it was the best use of the funds. The whole point was to evaluate the routes for function and connection with regional routes. From a Santa Fé County perspective the tax was approved by Santa Fé County voters and not by the City. If they were going back to all the articulations of data and put the will of the Board around this table on evaluation of the routes effectiveness. He was not comfortable with any guaranteed allocations and did respect the Councilor from Santa Fé and many of these affected his constituents. He also respected what Los Alamos did with their routes and respected their integrity.

Commissioner Anaya offered an amendment to remove those allocations.

Mr. Mortillaro said although the City of Santa Fé and Los Alamos County were required to submit their transit plan to this Board and what they would fund for their allocation, this Board has the right to accept them or not. On page 37 were the criteria for those definitions.

Commissioner Anaya understood but questioned that these two entities were guaranteed their allocation.

Mr. Mortillaro said it was not guaranteed and until the Board approved their service plan those routes didn't get funded.

Commissioner Anaya said this plan guarantees an allocation of dollars to those two entities as a carve-out. And he wanted it all put in to one pot with no carve outs.

Mr. Dwyer agreed with the history on that. Santa Fé Trails and Atomic City wanted assurance for funding.

Commissioner Anaya said Santa Fé County also wanted that agreement.

Mr. Dwyer said there was no agreement in place with any of them. Los Alamos continues to give money with the understanding of it funding for their services. The ultimate authority for all financial transactions was decided by this Board ultimately. The RTD was a separate entity from all member entities. This body would always approve a budget for allocation and not by contract. This was a compromise of some assurance.

Commissioner Anaya thought it was ironic they were having this discussion now. All routes should be considered and evaluated on an ongoing basis. He asked the members to consider an amendment of no allocation but through evaluation by the Board of all routes.

Mr. Mortillaro re-emphasized the first line above the chart that said services had to be approved by this Board. They still had to turn in billings to justify the expenditure of the allocation. The entity would only get what was spent on those routes. And it happens once a year prior to budget.

Councilor Martínez seconded the motion to approve the amendment to the financial policies.

Councilor Bushee said from her understanding, the City was not objecting to a non-guarantee and would continue to discuss it here. But the City had to address their CAFR and could not submit a budget to the state without knowing the allocation. It was a projection and times do change. So the Council looked at the reserve requirement. They had to have some formula by which to project a budget and that's what their Finance Director needed. The City expends much more than it gets here.

Lt. Governor Talachy said no transit system makes money. They spend way more than they receive so it was always in a deficit. He asked if there was a formula that everyone who puts into the pot gets some back.

Mr. Mortillaro said for a long time they looked at what the county put in and how much they got back. This was a region and not a county. The \$1.5 million contribution from Los Alamos County which they were contributing was over and above what their GRT was. He provided a handout that showed that Rio Arriba received more services than what was put in. Santa Fé County was a winner also with more services funded than what was required.

The Board agreed to a consolidated budget to get away from that concept.

The Transit Service Plan addressed a listing of all routes needed and some were not funded for lack of money. They were going to update it and consultants would recommend which should be retained, which should be amended, which should be added and which should be deleted. When the service plan comes back, the Board would consider the budget.

Mr. Mortillaro explained the handout that showed collections and expenditures by county. The deficit was \$654,497 which was made up from reserves. The allocation formula showed they were still short and required a Los Alamos contribution to continue to provide continued services. New requests could be considered if the Board had more funds. Any money reoccurring and unallocated would go into reserves for use in other services.

This was recommended to the Board in FY 11 and FY 12. And he embedded it into the financial policies

Mr. Shelton pointed out that Los Alamos reports ridership every month as did Santa

Fé. This was part of the annual allocation. One thing that caught him by surprise was that he thought the amended language should have gone to the Finance Committee first. He thought this proposal was fair and showed what happens with shortages but not much with surplus. He had no problem with the proposal but it didn't go to Finance subcommittee.

Commissioner Anaya said his amendment was not considered yet.

Chair Barrone said he didn't call for a second.

Mr. Dwyer said there was no motion.

Councilor Bushee again moved to approve the resolution. Mr. Shelton seconded the motion.

Commissioner Anaya moved to amend the motion to have all the resources in one pot of money and no allocation. The motion to amend died for lack of a second.

Mr. Bulthuis said they did have contractual obligations to the Rail Runner.

Councilor Bushee liked that additional revenues went into reserves.

The motion passed by roll call vote with Los Alamos County, City of Santa Fé, Taos County and City of Española voting in favor; Town of Edgewood, Santa Fé County voting no; Nambé Pueblo and Santa Clara Pueblo abstaining.

Mr. Dwyer looked for but couldn't find the policy regarding abstentions.

In the tally there were 12 weighted votes in favor and six not in favor so the motion passed.

C. Commercial Advertising Bid Award for NCRTD Transit Advertising

Mr. Nagle reported the award of advertising contract and briefly described the services which would allow for advertising on NCRTD property. It was determined the costs versus generated return would be to the District's benefit. The proposal was to contract with Templeton Marketing Services, a firm based in Albuquerque and their principal, Don Templeton, was present. It would be a revenue sharing agreement which was a fairly standard arrangement. He referred the Board to page 87 that described Mr. Templeton's experience. The projected revenue sharing over first four years was shown in a table and described a 50/50 sharing of gross revenues excluding production costs which would be borne by the advertising company. It would be a three-year agreement with a possible one -year extension. The proposal was in the packet starting on page 70.

NO PACKET MATERIAL
FOR THIS ITEM

Daniel "Danny" Mayfield
Commissioner, District 1

Miguel M. Chavez
Commissioner, District 2

Robert A. Anaya
Commissioner, District 3



Kathy Holian
Commissioner, District 4

Liz Stefanics
Commissioner, District 5

Katherine Miller
County Manager

DATE: April 3, 2013

TO: Board of County Commissioners

VIA: Katherine Miller, County Manager

FROM:  Chris M. Barela, Constituent Service Liaison District 3

RE: Introduction of Resolution to support and establish water catchment systems in districts 3 and 1 and throughout Santa Fe County

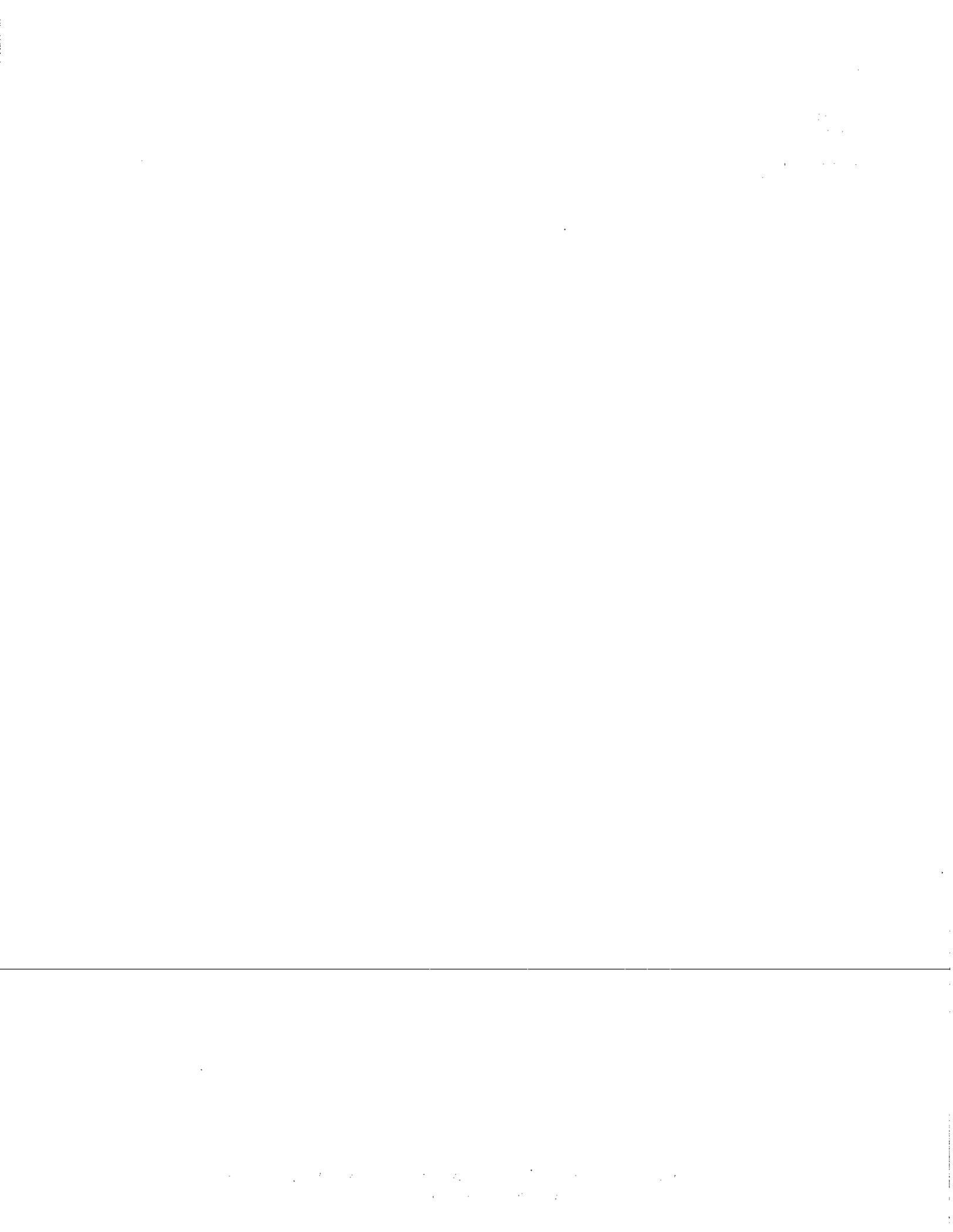
Board of County Commission meeting April 9, 2013

BACKGROUND AND SUMMARY:

Santa Fe County is an arid county and may be met with significant water challenges; there is a renewed interest in the concept of rainwater harvesting and cisterns. Enclosed please find the resolution for introduction to support and establish water catchment systems in Santa Fe County districts 3 and 1 and throughout Santa Fe County.

REQUEST ACTION:

Commissioner Robert A. Anaya and Commissioner Daniel "Danny" Mayfield respectfully request that the Board of Santa Fe County Commissioners support this item of introducing this resolution.



SANTA FE COUNTY

Board of County Commissioners Resolution No. 2013-_____

A RESOLUTION TO SUPPORT THE USE OF WATER CATCHMENT SYSTEMS THROUGHOUT SANTA FE COUNTY

WHEREAS, the term “rainwater harvesting” is used primarily to describe a landscaping strategy designed to capture rooftop precipitation for irrigation and the landscape, reducing the need for supplemental potable water; and

WHEREAS, the New Mexico Office of the State Engineer, the agency charged with administering the state’s water use and supply, promotes helpful strategies for water conservation by use of Roof-Reliant Landscaping which includes xeriscaping, efficient irrigation, use of low-water plants, dryland gardening, use of mulch, erosion control, use of retaining walls and straw bale swales, and the use of active and passive rainwater harvesting systems; and

WHEREAS, because New Mexico is an arid state with significant water challenges, there is a renewed interest statewide in the concept of rainwater harvesting and cisterns; and

WHEREAS, given the increased cycles of drought coupled with population growth, the County’s limited water resources, not only does it make sense to explore ways to get the most use of rainwater, but it is also wise to design and create landscapes that need little or no supplemental water in order to thrive; and

WHEREAS, New Mexico receives 12 inches of precipitation per year on average and the NMOSE continues to respond to the public’s need for new and progressive ways to conserve New Mexico’s limited water supply; and

WHEREAS, water is a precious resource in New Mexico, and it is in our best interest to be good stewards of this life-giving resource; and

WHEREAS, on November 30, 2010, this Board adopted by resolution the Santa Fe County Sustainable Growth Management Plan (SGMP), which provides that all new development consider installing rain barrels, cisterns or other water catchment basins to capture drainage depending on their size; and

WHEREAS, the SGMP further observes that Santa Fe County is already in the forefront of requiring sustainable landscaping and xeriscaping, limiting water use for landscaping, and requiring rainwater catchment; and

WHEREAS, Santa Fe County has approved and begun to establish a water catchment system for the Edgewood Senior and Community Center.

NOW, THEREFORE, BE IT RESOLVED: that the Santa Fe County Board of Commissioners supports this resolution to support the use of water catchment systems throughout Santa Fe County.

APPROVED, ADOPTED, AND PASSED this 9th day of April, 2013.

THE BOARD OF COUNTY COMMISSIONERS OF SANTA FE COUNTY

Kathy Holian, Chair

Geraldine Salazar, County Clerk

APPROVED AS TO FORM:

William R. Brown
for: Stephen C. Ross, County Attorney

Daniel "Danny" Mayfield
Commissioner, District 1

Miguel M. Chavez
Commissioner, District 2

Robert A. Anaya
Commissioner, District 3



Kathy Holian
Commissioner, District 4

Liz Stefanics
Commissioner, District 5

Katherine Miller
County Manager

CASE NO. V 12-5111

VARIANCE

WILLIAM FREDERICK WAGNER, APPLICANT

ORDER

THIS MATTER came before the Board of County Commissioners (hereinafter referred to as "the BCC") for hearing on March 12, 2013, on the Application of William Frederick Wagner (hereinafter referred to as "the Applicant") for a variance of Article III, Section 10 (Lot Size Requirements) of the Land Development Code to allow a Family Transfer Land Division of 31.824 acres into two lots; one lot consisting of 20.990 acres and one lot consisting of 10.834 acres. The BCC, having reviewed the Application and supplemental materials, staff reports and conducted a public hearing on the request, finds that the Application should be denied, and makes the following findings of fact and conclusions of law:

1. The Applicant requests a variance of Article III, Section 10 (Lot Size Requirements) of the Land Development Code to allow a Family Transfer Land Division of 31.824 acres into two lots.
2. The property is located at 45 La Barbaria Trail, within Section 9, Township 16 North, Range 10 East ("Property").
3. Article III, Section 10 provides that minimum lot size in this area is 80 acres per dwelling unit. Lot size can be reduced to 20 acres per dwelling unit with signed and recorded water restrictions and for lots created through Family Transfer. A family

transfer from husband to wife is allowed under the Code provided sufficient acreage will be transferred. The proposal does not meet minimum lot size requirements for a family transfer because it would result in a 10.834 acre lot, almost half the required size.

4. The subject lot was created in 1978, and is considered a legal lot of record. The property is currently vacant.
5. On February 21, 2013, the CDRC recommended denial of the Application.
6. The Applicant desires to gift one of the two proposed lots to his wife.
7. Max Coll, Katherine Joyce Coll, Jay Shelton, Sandra Rowley and Ken Rowley spoke in opposition of the Application. No members of the public spoke in favor to the Application. Opponents expressed concern regarding water, emergency access and wildlife corridors.
8. Article II, § 3 (Variances) states: “Where in the case of proposed development, it can be shown that strict compliance with the requirements of the code would result in extraordinary hardship to the applicant because of unusual topography or other such non-self-inflicted condition or that these conditions would result in inhibiting the achievement of the purposes of the Code, the applicant may submit a written request for a variance. A Development Review Committee may recommend to the Board and the Board may vary, modify or waive the requirements of the Code and upon adequate proof that compliance with the Code provision at issue will result in an arbitrary and unreasonable taking of property or exact hardship, and proof that a variance from the Code will not result in conditions injurious to health or safety.”

This Section goes on to state “In no event shall a variance, modification or waiver be recommended by a Development Review Committee, nor granted by the Board if by doing so the purpose of the Code would be nullified.”

9. No evidence was presented of a hardship, extraordinary or otherwise which would be addressed by the granting of the requested variance. Nor was there proof that compliance with the Code’s density limitations would result in an arbitrary and unreasonable taking of property or exact hardship on the Applicant.
10. Emergency access can be difficult in this area.
11. Granting this variance request would nullify the purpose of the Code which is to ensure that population growth in the County is supported by adequate long term water availability and that population growth is concentrated in urban and metropolitan areas and traditional communities.

WHEREFORE the Board of County Commissioners of Santa Fe County hereby denies the request for a variance of Article III, Section 10 (Lot Size Requirements) of the Land Development Code to allow a Family Transfer Land Division of 31.824 acres into two lots.

IT IS SO ORDERED

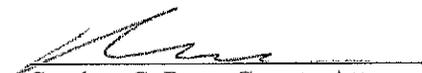
This Order was approved by the Board of County Commissioners of Santa Fe County on this ___ day of April, 2013.

By: _____
Kathy Holian, Chair

Attest:

Geraldine Salazar, County Clerk

Approved as to form:



Stephen C. Ross, County Attorney

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XVI. A. 4. CDRC CASE # V 12-5111 William Frederick Wagner Variance. William Frederick Wagner, Applicant, (Sommer, Karnes & Associates, LLP), Joseph Karnes, Agent, Request a Variance of Article III, Section 10 (Lot Size Requirements) of the Land Development Code to Allow a Family Transfer Land Division of 31.824 Acres into Two Lots; One Lot Consisting of 20.990 Acres and One Lot Consisting of 10.834 Acres. The Property is Located at 45 La Barbaria Trail, within Section 9, Township 16 North, Range 10 East (Commission District 4)

WAYNE DALTON (Case Manager): Thank you, Madam Chair. Madam Chair, I just want to state that this application was originally reviewed under Section 9.8, which is the Mountain Special Review District Standards of the Extraterritorial Zoning Ordinance. Since that time and after further review of the SpAZO Ordinance, staff and the Legal Department have determined that those regulations are no longer in effect and this case, this application, is governed by the Land Development Code.

The Applicant now requests a variance of Article III, Section 10 of the Land development code to allow a family transfer land division. The subject lot was created in 1978 and is currently vacant.

Article III, Section 10 of the Land Development Code allows lot size to be reduced to twenty acres or more with signed and recorded water restrictions and for lots created through family transfer, subdivision or land division. A family transfer under the Land Development Code is permitted from husband to wife. An immediate family member as defined in the Code is a husband, wife, father, stepfather, mother, stepmother, brother, stepbrother, sister, stepsister, son, stepson, daughter, stepdaughter, grandson, step grandson, granddaughter, step granddaughter, nephew, niece, whether related by natural birth or adoption.

The Applicant intends to gift one of the two proposed lots to his wife. The Applicant states he has no children of his own and desires to maintain the property for personal use and for his extended family and desires to create two lots. The Applicant also states, the proposed lot sizes are substantially larger than existing adjacent lots in the immediate vicinity.

On February 21, 2013, the CDRC met and acted on this case. The decision of the CDRC was to recommend denial of the Applicant's request by a 5-0 vote and those minutes are attached in Exhibit 1.

Staff recommendation: Denial of a variance from Article III, §10 (Lot Size Requirements) of the Land Development Code. If the decision of the BCC is to approve the Applicant's request, staff recommends imposition of the following conditions.

Madam Chair, may I enter those into the record?

CHAIR HOLIAN: Yes, you may.

[The conditions are as follows:]

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1. Water use shall be restricted to 0.25 acre feet per year per lot. A water meter shall be installed for each lot. Annual water meter readings shall be submitted to the Land Use Administrator by January 1st of each year. Water restrictions shall be recorded in the County Clerk's Office (As per Article III, § 10.2.2 and Ordinance No. 2002-13).
2. A Plat of Survey meeting all County Code requirements shall be submitted to the Building and Development Services Department for review and approval (As per Article III, § 2.4.2).
3. Further division of each Tract is prohibited; this shall be noted on the Plat. Only one dwelling unit shall be permitted on each lot (As per Article III, § 10). The Applicant shall comply with all Fire Prevention Division requirements at time of Plat review (As per 1997 Fire Code and NFPA Life Safety Code).

CHAIR HOLIAN: Are there any questions of staff at this point?

COMMISSIONER CHAVEZ: I have a question.

CHAIR HOLIAN: Yes, Commissioner Chavez.

COMMISSIONER CHAVEZ: Yes, Mr. Dalton, so it seems that this applicant would like to do a lot split and they're using the family transfer mechanism to do that. Is there another – are they provided another mechanism other than the family transfer, if they wanted to subdivide this lot into two lots?

MR. DALTON: Madam Chair, Commissioner Chavez, yes. The applicants could do a land division.

COMMISSIONER CHAVEZ: And would the total piece of the property – I don't remember what the size is – would that be – would it be allowed? Is the size large enough to do a lot split on? Would it create two legal lots?

MR. DALTON: Madam Chair, Commissioner Chavez, no. The maximum allowable lot size in this area is 20 acres, so they would actually be below the minimum lot size whether they did a family transfer or a land division, they would still be below the minimum lot size in the area.

COMMISSIONER CHAVEZ: So does the family transfer then soften the requirements?

MR. DALTON: Madam Chair, Commissioner Chavez, as far as lot size requirements, no. But as far as on- and off-site improvements, yes.

COMMISSIONER CHAVEZ: So those standards would be at a lower standard and things like that?

MR. DALTON: Madam Chair, Commissioner Chavez, that's correct.

COMMISSIONER CHAVEZ: Thank you, Madam Chair.

CHAIR HOLIAN: Okay. Commissioner Stefanics.

COMMISSIONER STEFANICS: Thank you, Madam Chair. Mr. Dalton, if there was a land division, they would have to do a water study? Forty or 100-year water supply?

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MR. DALTON: Madam Chair, Commissioner Stefanics, technically, yes. In order to get down to a ten-acre lot, yes, they would have to do a geo-hydro study on the property.

COMMISSIONER STEFANICS: But for a family transfer they don't?

MR. DALTON: Madam Chair, Commissioner Stefanics –

COMMISSIONER STEFANICS: They just have to meter and keep within the allowed water use?

MR. DALTON: Madam Chair, Commissioner Stefanics, technically, yes. Even if they do a family transfer. In order to get down to this lot size they would have to do a water study on the property.

COMMISSIONER STEFANICS: They still would.

MR. DALTON: Yes.

COMMISSIONER STEFANICS: I'm sorry. Is that one of your conditions?

MR. DALTON: Madam Chair, Commissioner Stefanics, no, it is not.

COMMISSIONER STEFANICS: So, is that a condition we would need to add?

MS. ELLIS-GREEN: Madam Chair, Commissioner Stefanics, I believe that's the reason why they're asking for the variance.

COMMISSIONER STEFANICS: Okay. That's all right now. Thank you.

CHAIR HOLIAN: Thank you. And Wayne, let me ask you. Is there a hardship in this case?

MR. DALTON: Madam Chair, not that I can see, no. Other than the fact that the applicant does not have children of his own.

CHAIR HOLIAN: Okay. Thank you.

COMMISSIONER MAYFIELD: Madam Chair.

CHAIR HOLIAN: Yes, Commissioner Mayfield.

COMMISSIONER MAYFIELD: Madam Chair, Mr. Dalton, I'm looking at Exhibit 7, and it's just hard for me to read, but are there any adjacent lots that have smaller properties than 20 acres?

MR. DALTON: Madam Chair, Commissioner Mayfield, yes. The immediate lots in the area range from five acres all the way up to 157 acres.

COMMISSIONER MAYFIELD: And where are the five-acre lots?

MR. DALTON: If you look on Exhibit 7 there's some five-acre tracts to the east of this property and also to the south of this property.

COMMISSIONER MAYFIELD: And those are legal lots of record that have homes on them?

MR. DALTON: Yes. I'm not sure if they're built upon, well, yes, you can see a couple residences. So yes, they are legal lots of record.

COMMISSIONER MAYFIELD: And Mr. Dalton, they received a permit pre-lot split? Did they receive family transfers? Do you know off-hand?

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MR. DALTON: Madam Chair, Commissioner Mayfield, I don't know off-hand but a lot of these lots in this area are pre-code lots. This lot itself is a pre-code lot.

COMMISSIONER MAYFIELD: The current lot we're talking about right now is a pre-code lot?

MR. DALTON: Madam Chair, Commissioner Mayfield, that's correct.

COMMISSIONER MAYFIELD: Okay, and then also on – that's all I have for now, Mr. Dalton. Thank you.

CHAIR HOLIAN: Okay. Thank you. So is the applicant here.

KARL SOMMER: Madam Chair, my name is Karl Sommer. I'm an attorney in Santa Fe. I represent Mr. Wagner and he couldn't be here tonight. What I'd like to do is make a presentation about what the history of this case has been, talk to you a little bit about what's unique about this situation, and most importantly, to review with this Board of County Commissioners what has developed as a consistent policy under the code, interpreting its own code in family transfer situations and lot size density variances. I think this Commission has established a very consistent reading of the code in circumstances under which it grants variances, and circumstances under which it does not. I'd like to go over that with you tonight because I think it bears directly.

Then I'd like to address some of the opposition that has been raised. Mr. Graeser is here tonight, ironically, who is the representative of Mr. Shapiro whose findings of fact and conclusions of law you approved tonight, which denied a density variance and that case is distinguishable, and I think it's very interesting because it fits within the policy that you've established. That's what I'd like to go through. If at any time you have any questions please interrupt me and I'll answer them, but I'll try to be as brief as possible.

Mr. Wagner owns 30 acres of property in the La Barbaria Canyon. He owns it as his sole and separate property and it has always been his sole and separate property. He does not have children and he would like to, as part of his estate plan, leave a portion of this property to his wife. This is very similar to a case not so far away from here in which the Kirkpatrick family developed a very similar pattern, husband to wife as part of an estate plan. The courts approved that division as being consistent with the policies of this Board and of the code.

So that's what's gone on; that's what we're dealing with here is dividing the piece of property that is 30 acres into a 20-acre lot and a 10-acre lot. He's going to give the 10-acre lot to his wife if you approve this.

So what's the history and why are we here? As you all know, the Board of County Commissioners entered into a settlement agreement with the County which resulted in the SpAZO ordinance and it resulted in the appeal of certain portions of the EZC and EZO codes. There was a provision in there that said the Mountain Special Review District shall not be repealed in areas that are to be annexed or something like that. It's something like that. The code has been interpreted since the SpAZO ordinance in 2009 as being the Mountain Special Review District which went all through La Barbaria Canyon as you know deep into the EZ. Staff and the County have been interpreting the code to say, do you know what? The MSRD still applies. It's like the County's escarpment ordinance. It

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deals with siting and moving houses out of the view corridors. It deal with density – how big lots can be. All of those things. The MSRDR was one of the hallmarks of the County's protection of the Mountain Special Review District. It had densities of 20 acres. That was the minimum density. Excuse me. The minimum lot size.

Under the County MSRDR the minimum lot size could be varied in a family transfer down to ten acres. If the code had been applied, the MSRDR, the way the County has been applying the code since 2009 in this case we wouldn't be asking for a density variance. The code would say, those densities are okay. We'd be here asking for a variance with respect to whether or not you could transfer from a husband to a wife, because ironically, under the EZC, a family transfer did not include a husband or wife. Under the County code it always has. We'd be talking about something else. Not a variance about density; we'd be talking about husband and wife.

Well, this case went through on that analysis all the way up to this Board and then the County staff – Mr. Graeser got in the case. He sent in a letter that said, you know what? The MSRDR has been appealed. Legal staff agreed with him. County staff had been applying the MSRDR for years. So they said, let's reconfigure this case as a variance under the County code. That's why this case is in front of you under this configuration. Because staff has now taken the position that the MSRDR no longer protects the Mountain Special Review District. And all the protections that were there with respect to siting and view corridors have been wiped out. So this case is here under that auspices.

I don't know that that's – I'm not a judge and you're lawyers are not judges and all of that. We're here to try and see if the case can be decided. So the case is in front of you on a density variance. That means that we're looking at the County code, because the County code says that you can have a transfer to a husband and a wife as part of the transfer. The question is is what is the minimum lot size? In this case you could get down to 20 acres under the code with water restrictions. We would be here. One of the lots is going to be ten acres.

So what is the County's policy and what are the sections of the code that we're dealing with? Just by way of what is the area like? This property is adjacent to many five-acre parcels, ten-acre parcels, 40-acre parcels. It's a mishmash of property sizes. The codes that have been applied in this area have variously said, 20-acre densities, ten-acre densities, and by the stroke of a pen things have been changed. Not by reason of studies related to water. Not be reason of studies related to safety. But by reasons of policy changes related to County code versus City code and annexation. That's what this case – and that's what's happened in this area.

You're going to hear some from the opponents saying, oh, there's water. Oh, there's fire safety. Oh, there's ways of life and there's all that. The County code, the MSRDR, they were changed not on the basis of any of that. They were changed on the basis of a policy that the City and the County entered into saying that the County would govern this area.

So let's go to the code. We're dealing with the variance section. There are two criteria in your variance section which you apply in these kinds of cases. More often than

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not these cases come to you in a family setting, and people have various reasons that they want to divide their lot in ways that the County code would not allow under the density requirements. So I've done a review and gone through – what is the section we're dealing with? Well, one criteria of the code that you have to consider is is there some physical characteristic of the land which creates a hardship. That's one criteria. And you will hear tonight from the opponents that that's the criteria that applies and therefore because there's no physical characteristic it doesn't meet the criteria.

Well, there's another criteria in your code and that is whether or not the application, the denial of the application would inhibit some purpose of the code. And this code has been applied in this setting – and I'll be specific about what that section says. Let me read to you the exact language. I haven't got it right in front of me. It's whether or not some purpose of the code will be inhibited by the denial. And all of the family transfer cases that come in front of you, they don't deal with physical characteristics of the land. They deal with what are the desires of the applicant. And I'd like to go through, because I think you have developed a consistent policy, and that policy is – and I'm just going to go through some cases.

Specifically, that came in front of this Board as constituted presently, the Elias Gutierrez Variance. That was a family transfer variance requested by a mother who wanted to help her daughter who had fallen on financial hard times. Nothing to do with the characteristics of the land, just the desire of the mother to help the daughter. This Board in that setting – and I note for you, in that setting, in that case, they hadn't violated the code. They weren't in front of you on a code violation. They were here saying I would like to help my daughter out; she needs a place to live. We need a variance to the density requirements. Unanimously, the Board approved that variance. That was Case #12-51520, CDRC Case #V 12-5120.

And what was the case. It was two units on 1.24 acres in the county. Was there some extraordinary hardship? No. Not necessarily. What was there was the desire of the mother to help the daughter who had fallen on financial hard times. It wasn't even the property owner who had the hardship; it was the daughter who had the hardship. I'm not being critical of the code or of this Board's interpretation or application of the code. But that is what is consistently brought in front of you and this is what you look at.

Another case, very, very similar, the Lawrence Maes Case, which was Case #V 12-5090, Lawrence Maes Variance, a variance to allow three dwelling units on 10.21 acres. What were the facts of that case? Not one mention of the physical characteristics of the land. Not one mention at all. Instead, it was a father helping out a child who had apparently been involved in a car accident. Again, it wasn't even the property owner. It was not even the property owner who was under the – it was the daughter or the child who had been in a car accident who needed the assistance of the father. This Board looked at that and said, well, one of the purposes of a family transfer is to allow parents to help children or family members to help one another in some fashion or another. Because that's one of the purposes of the code. To deny that because of the density would be inhibiting that purpose of the code. I think that's the policy.

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What's another one that this Board has dealt with? This is a very interesting one. The Carla Cavaliere Case. And that was Case #12-5250. And what was that variance? The father had 25 acres of land and he had three children. Not one mention of the physical characteristics of the land. Not one mention. He had purchased the property in 1978 and he wanted to leave it to his three kids. And so he started the process of division and then he passed away. The children came in front of you and said, he wanted us to have these three lots. So the variance was to allow, on a family transfer from his estate three lots on 25 acres of eight acres each. No mention of the physical characteristics of the land, and in fact, no specific particular hardship of any individual other than them to say our father wanted us to be able to take advantage of that provision of the code for family transfer, from father to child. This Board unanimously approved that.

Why is that? Unanimously approved. Why is that? Because the Board was looking at that section of the code that says what are the purposes of the code and would the denial of this inhibit that purpose? That is implicit in all of these cases.

What's another one? And you will notice that I'm talking about cases that have a 12 in them at the beginning. That means that they happened just last year. Here's another one. Joseph and Anna Garcia Variance. That case, this was just a father who wanted to leave property to his children and have them live close to them. Absolutely no specific hardship. Nothing, other than I would like to leave this to them, have them have a place to live, and I would like them close to me so that as I get old they can care for me. Again, what was another important factor of this? Mr. Garcia had not violated the code in any fashion and I raise that because it's important in this Commission's view. Mr. Garcia's variance request to divide the property -- not one mention of the physical characteristics of the land. It was approved unanimously.

How is that? Because this Commission has interpreted that section of the variance criteria to say what are the purposes of the code and would a denial inhibit that under these circumstances between family members. Consistently again with the policy that you've set, you approved it unanimously.

Now I'd like to turn to a couple of other cases that are recent. One of them was a very, very, very, very heartfelt case that was denied. And it was a family in the Pecos/Glorieta area, the Roybals. They came to you and they had on their property a house, a mobile home, and another house under construction on I believe it was less than an acre of land. They were denied, even though the parents said -- and it's true, absolutely true -- nobody had anywhere else to go because one of the trailers could not be moved without its total destruction and that's where one of the families was living, and there was not enough room in the parents' house to accommodate the children's families. But what was important about that case is that they had illegally divided the land and they had occupied the land in violation of the code. This County Commission in very difficult circumstances denied the variance unanimously.

I'm sure it was difficult because of all the other cases you have in front of you, but why is it important? Because when somebody has violated the code and comes in front of you and requests a variance, in coming in asking for forgiveness rather than

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permission, that is not in keeping with the policies of the code in that particular case and I think consistently this Board has denied those kinds of variances.

I mentioned Mr. Graeser's case, the Shapiro case. That is very fresh in your memory I am sure. Very similar. He came in asking for a variance to the density requirements, not under family transfer. But Mr. Shapiro, in your findings, violated the code. He signed an affidavit that said he wouldn't put in a kitchen. He put in a kitchen and then rented out the property. He came in front of you and said I'd like a variance to that. Consistent with your policy you denied that and tonight you approved the findings of fact denying it.

CHAIR HOLIAN: Excuse me, Mr. Sommer. We actually didn't tonight.

MR. SOMMER: Oh, I thought you did. I thought you approved those.

CHAIR HOLIAN: No. That case was actually tabled for future discussion.

MR. SOMMER: Okay. I knew the Mosely case was tabled.

CHAIR HOLIAN: Yes, that was tabled, but then the other one was also.

It's going to be reconsidered.

MR. SOMMER: Okay. The Mosely Case?

CHAIR HOLIAN: The Shapiro Case.

MR. SOMMER: Okay. Well, it's been denied thus far, and again, like the Roybal case there was a code violation in it admittedly, but significantly, on your agenda, on the Mosely Case, dealing with a family, no particular hardship related to anything other than these people bought into a lot that had apparently been misrepresented to them. But there was no physical condition of the land and really what you were dealing with, even if they hadn't bought it with a misrepresentation, that was consistent with your policy. Family members and their desire to keep their parents close. One of the policies of the code.

So why do I say that? All of this? Because in all of these cases, there is no mention of the physical characteristics of the land. In this case, the husband would like to be able to carry out his estate plan in a manner that – he doesn't have children; he'd like to leave a portion of this to his wife and he's got other relatives he would like to leave another portion of his property too. These are not young folks. That's one of the purposes of the code is to allow husband and wife to transfer property, just like the Garcia case, father to son, with no particular desire other than for them to have a place to live and to call their own. This case falls within that policy, and I think that chairperson Holian asked is there any particular hardship in this case. This Board has interpreted the code to say, well, let's look at the circumstances and what are the desires of the party? And there have been many cases where you have found, without any particular hardship, that the purposes of the code would be inhibited by the denial.

That's it. There are some cases that come to you with a particular hardship, but they are not hardships related to the property owners; they're hardships related to their kids. And I understand the interpretation and how that inhibits the purposes of the code to allow family members to help one another out. Your code allows husband and wife to do the same thing.

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I've been to three hearings in this case, at least. And every one of them I've heard the opposition get up and talk about their way of life, how this is – there is a water shortage. How there is a fire danger, how there is – and these are people who live on five-acre lots who are going to develop five-acre lots. Who live on ten-acre lots who are going to develop ten-acre lots in the immediate vicinity. There is no fire danger for their development, there is no water problem. But the excuse is, well, we're already here. That is neither novel nor important. It is, in my opinion, a distinguishing feature. What's good for them is not good for their neighbors. That's not fair, and I don't think it has much bearing in this case.

And it got pretty personal after one hearing. I had somebody come up to me and say, How dare you represent these people? You know they're going to develop. The family transfer provisions of this code allow parents to give to their children, husbands to give to their wives for that purpose; not to have and hold, but to allow them to use it in some fashion or another. There is nothing wrong with that. And the code recognizes it and this Board has recognized it time and time again.

So we're here tonight on a case that is consistent with the policies that you have developed and most recently applied in the last 12 months consistently. Mr. Wagner and Mrs. Wagner are not violating the code. They're not here because they're asking for forgiveness. They're not here asking for some special treatment that you haven't allowed anybody else that comes to you and says I'd like to leave this to my daughter because I'd like her to have a place to live.

I submit to you, members of the Board, that this case falls squarely within your policies as you have developed them and as you have applied the code. I am not here telling you you must because you've allowed these other variances, approve this variance. I think that Mr. Ross has on many occasions said, look, every variance request stands on its own, and the facts and circumstances of every variance request are different. So I'm not here saying you're bound – you must do this or you must not do that. I think it is clearly within your discretion and this case is clearly within the policies, and that Mr. Wagner deserves the same consideration that the Board has applied over and over again. I'd stand for any questions you might have.

CHAIR HOLIAN: Thank you, Mr. Sommer. Any questions?

Commissioner Stefanics.

COMMISSIONER STEFANICS: Madam Chair, it's not for Mr. Sommer; it's for our staff.

CHAIR HOLIAN: Okay. Go ahead.

COMMISSIONER STEFANICS: Mr. Dalton, can you tell me the source of water on this property and the adjoining lots of other homeowners?

MR. DALTON: Madam Chair, Commissioner Stefanics, the water source on this property is actually a domestic well, and I believe that's the water source for every property in this area.

COMMISSIONER STEFANICS: Okay. The reason I asked is that we do have some comments in the CDRC case that some homeowners have had problems

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drawing down water and I wanted to identify the source of water. I also read in the minutes that somebody said that the Wagners have other houses in Santa Fe and one in Albuquerque. And if that is the case then I'm having a little trouble about dividing the land to give to a spouse if there's already other properties available. Is that confirmed?

MR. DALTON: Madam Chair, Commissioner Stefanics, no. That was just what was stated at the public hearing. I have not done any of that research.

COMMISSIONER STEFANICS: Okay. Thank you. That's all for right now.

CHAIR HOLIAN: Okay. Any other questions? Commissioner Mayfield.

COMMISSIONER MAYFIELD: Madam Chair, thank you and staff or Mr. Sommer, whoever can answer these questions. I guess the water source – do we have a potential water source going up by this – by these tracts of property?

CHAIR HOLIAN: Steve, can you answer that?

MR. ROSS: Madam Chair, we're working on a line that goes out Old Las Vegas Highway so I suppose it's not inconceivable it could run up La Barbaria. I just don't know how far – where exactly – I don't think there are any immediate plans but there may be long-term plans.

COMMISSIONER MAYFIELD: Off Old Las Vegas Highway – how far is this property up?

CHAIR HOLIAN: Commissioner Mayfield, actually I can add something to that, because we're actually running the water out Old Santa Fe Trail and La Barbaria takes off from Old Santa Fe Trail.

COMMISSIONER MAYFIELD: So conceivably there could be –

CHAIR HOLIAN: It's still a ways beyond where that line is going to end.

COMMISSIONER MAYFIELD: I don't know. There could potentially be a water system up there one of these days. Thank you. And then as far as the new code, for staff, and maybe this is for the applicant. Have you thought of the accessory dwelling that's being proposed in the new code?

MR. SOMMER: Madam Chair, Commissioner Mayfield, I have looked at the provisions as they are evolving and I've watched the Board consider how it's going. It doesn't work here in the sense that this would be a primary dwelling and a primary dwelling, not accessory and I think your code provisions are going to be a little different in that regard, but it's something that's still evolving.

COMMISSIONER MAYFIELD: And on that note, Mr. Sommer, Steve, we're looking at potential accessory dwelling to be maybe 1,000 square feet in the new code proposal? 1,100 square feet?

MR. ROSS: Madam Chair, Commissioner Mayfield, I think the accessory dwelling is permitted to be larger than that, but that implies that you'd have two dwelling units on the same lot and the application here is to actually make two lots. So there wouldn't be an accessory dwelling. Penny's gone to get the new code so we can describe how the zoning might map from the current zoning, hydrozoning, to the zoning districts that are established in the new code. She'll be back in just a second with that information.

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COMMISSIONER MAYFIELD: And Mr. Ross, I appreciate that. I'm not speaking for the applicant by any means, but however a trust is set up you've got a 20-acre footprint. If you want to set up a trust and you've got an accessory dwelling it doesn't mean that one house can be on one side of a lot, the accessory dwelling can be on the other side and you can set up the trust any way you want to say this who gets this home and this is who gets the other home, the other side of the lot.

MR. ROSS: Madam Chair, Commissioner Mayfield, I guess I interpret the application as creating an unrestricted lot as opposed to some sort of trust relationship or something else like that.

COMMISSIONER MAYFIELD: And then, Madam Chair, Mr. Ross, I guess my last question right now was under the new code, and I respect this is in Commissioner Stefanics' area, but excuse me, Chairwoman Holian's district, but is there going to be any smaller density proposals for this area? Are they going to still be the same footprint? Are we looking at maybe smaller density allotments up there in the new code?

MR. ROSS: Madam Chair, Commissioner Mayfield, that's what Penny has gone to fetch is the new code to see how the zoning might map to new zoning.

COMMISSIONER MAYFIELD: Okay. I'll wait until she comes back with that. Thank you, Madam Chair.

CHAIR HOLIAN: Okay. Thank you. Captain Patty, I have a question for you. I was wondering, have you reviewed the property and would there be, if this lot split were granted, would there be any modifications that would be required by the fire code?

BUSTER PATTY (Fire Marshal): Madam Chair, Commissioners, yes, we do have some conditions. They would meet the fire code. There are some questions about access going up to the property. The requirements on the property if they were split would have to meet the minimum requirements of the code, 14-foot wide driveway and 11 percent grades. Also turnarounds if they're beyond 150 feet from the main road. Until they give us a footprint of where they would build we don't know exactly what we would require but there would be some requirements, yes.

CHAIR HOLIAN: Does it seem like it's possible that they could have roads that were less than 11 percent grade?

MARSHAL PATTY: Yes, right next to the main road there are some spots that they could do some building sites.

CHAIR HOLIAN: Okay. Thank you, Captain. Are there any other questions for staff or for the applicant?

COMMISSIONER MAYFIELD: Madam Chair, last question for the applicant.

CHAIR HOLIAN: Commissioner Mayfield.

COMMISSIONER MAYFIELD: Madam Chair, Mr. Sommer, if this was approved by this Commission and seeing that what you've stated a little earlier, there would not at this time be intent to sell this property?

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MR. SOMMER: No intent to sell, it's to leave it to her as her legacy from him. He has no desire to sell the property or turn around and sell the property.

COMMISSIONER MAYFIELD: Thank you, Madam Chair. That's all I have.

CHAIR HOLIAN: Okay. Thank you, Mr. Sommer. This is a public hearing. Is there anyone here from the public who would like to speak on this case? Mr. Graeser.

CHRISTOPHER GRAESER: Madam Chair, I am an attorney under oath of office.

CHAIR HOLIAN: There are a number of people who would like to speak and so if you could – maybe this would be a good time to just stand up and all be sworn in and then when you come up to say your piece then please say your name for the record. So all people who would like to speak about this case please be sworn in.

[Audience members were administered the oath.]

MR. GRAESER: There is no hardship here. This case is almost unique from that perspective. Mr. Sommer did a really nice job of summarizing cases you've seen in the last year and he talked about how in each of those cases there was a compelling story that compelled this Commission to grant that variance, typically a family hardship situation. The child had been in a car accident. The father who wanted the family near him. The one where the father started dividing the property and then died and couldn't finish it. These are compelling stories and it compelled the Commission to grant variances in those cases.

There was a good faith need for some relief in those cases. That's not here. To Mr. Wagner and Mr. Sommer's credit they're not pitching a sob story here. They didn't come up and insult you by trying to come up with one. There simply isn't one. And Mr. Wagner is not here. I don't know that he couldn't be here since he wasn't here for any of the other prior hearings either. If there was a compelling reason that he needed to divide the property I assume he would have been here to tell you about it.

There have been – this Commission has approved plenty of variances but as Mr. Sommer says himself that doesn't compel you to approve any others. They are all determined on a case-by-case basis, based on what you feel is both legal and is humane and required by the circumstances. The law is very, very clear on this. Granting this variance would not comply with the law. It violates the law; it violates state statute; it violates legal precedent. The code, of all those, the County's code is probably the most stringent. It says, "Where in the case of proposed development, it can be shown that strict compliance with the requirements of the code would result in extraordinary hardship to the applicant because of unusual topography or other such non-self-inflicted condition or that the conditions would result in inhibiting the achievement of the purposes of the code."

Extraordinary hardship, so not just your run of the mill hardship. And that's the requirement. Where it can be shown that strict compliance with the requirements of the code would result in extraordinary hardship to the applicant. You cannot legally grant a

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variance without extraordinary hardship, be that related to the land or related to the family, we could have that discussion, but here it doesn't matter because there is none either way.

Mr. Wagner just wants another lot. Mr. Wagner already has – Mr. and Mrs. Wagner have three houses. I have seen the real estate records. Unfortunately, I don't have them here with me. I could certainly submit them. I've seen the real estate records. They have a rental house on Alameda. They have a rental house on – I'm sorry, either Lomita or Lolita – I always get those two confused, and they have a house that they own and live in in Albuquerque. They don't need another dwelling. They simply want to increase the estate. So when we're talking about estate planning, the problem here isn't how do we pass on this value without incurring tax consequences, which is typically estate planning, they're talking about creating more value that then they'll have to worry about passing on.

There's no hardship because there's nothing prohibiting development of this lot. They have the lot; they can build on it. There's no hardship there. The only thing self-inflicted is the desire for more.

With regard to the state statute, and we passed out a letter to everyone. *[Exhibit]* The very first thing that state statute talks about is you can only grant a variance if it is not contrary to the public interest. Now, residents and long-term residents of the neighborhood wish to get up and talk about that tonight and they'll do a much better job that I will. But Mr. Sommer kind of pooh-poohed these concerns but use of water is a real concern. Emergency access is a real concern. Solitude and quiet is a real concern if you all have ever been up there. And it's way up La Barbaria. There are no waterlines anywhere near this nor will there be.

Not only that, granting this variance sets a precedent for other variances. Mr. Sommer was just up here arguing precedent. Look at all these other cases. Look what you did. Now you should do that in this one. So granting this variance would set a precedent for other variance requests in this neighborhood.

I talked about unnecessary hardship. The requirement in state statute also is you honor the spirit of the zoning – or you serve the spirit of the zoning ordinance and do substantial justice. The spirit of the zoning ordinance is 80-acre minimum lot size. The nominal minimum lot size in this district is 80 acres and that was based on hydrology. It was based on the hydrologic study done by the County in the early 1980s. So that's the spirit of the ordinance. And if you agree to curtail your water use you can go lower but we're asking now down to ten acres, one-eighth of the minimum lot size.

There's no justice requiring granting Mr. Wagner special rights and relief from code provisions that apply to everyone else in the neighborhood. By the way, I've looked at all the surrounding lots. I did the math and it's a little bit over a 40-acre average lot size.

The next thing the state statute tell us to look at is the comprehensive plan. You all know it well because you just passed it in 2010, the Sustainable Land Development Code. And you go through that and over and over it gives you reasons to deny this

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application. It does not give you reasons to grant this application. Those policies include things like directing growth to specific areas most efficiently served by adequate facilities and services and this gets right to what Commissioner Mayfield was asking about waterlines going there. Allowing higher densities in primary growth areas where infrastructure and services can be efficiently provided. That's not at the top of La Barbara. And this is La Barbara Trail, by the way, not La Barbara, so it's not the one that directly intersects with the highway.

If you look at the maps in the Sustainable Land Development Code this area is mapped as low suitability for land development. It's in the SDA-3 zone which is designed to protect agricultural land, environmentally sensitive land, conservation areas. It has no public facilities. There are no transportation facilities and it's in an area of high wildlife activity, again, going to the theme of protecting sensitive land in conservation areas.

With regard to case law and Mr. Sommer got to talk about the irony of me having been up here asking for the Jay Shapiro Variance, I get to talk about the irony of Mr. Sommer having had the case that set New Mexico law on variances, the downtown neighborhood case. In that case he represented the neighborhood and successfully got the variance denied based on what the New Mexico law is.

What the downtown neighborhood's case – and this is out of the Court of Appeals – has us look at is whether the parcel is distinguishable from other properties subject to the same zoning restrictions. The answer depends on whether, as a result of the differences between this parcel and others the zoning restrictions create particular hardship for the owner. We've heard nothing about how this is different than any other parcels in the neighborhood. There is a range of sizes but they're all – it's a very hilly area. It's poor access. The water availability is very spotty. These properties are all very similar in that way, but we've heard nothing about any differences between this lot and any others that would warrant a variance and that is what the state statute says.

In the downtown neighborhood's case the court also has us look to comparison, essentially a weighing test of the special circumstances faced by the applicant versus the public interest, and again, I don't want to get too into public interest because a lot of the neighbors who are concerned about the effect of this on the community will wish to talk about that.

The argument that Mr. Sommer was making, the legal argument is what we typically call an administrative law, and that's if you interpret your code in one way consistently enough then you're bound by that interpretation. But, you know what? That entire concept only applies if the law in question being interpreted is ambiguous. Here there is absolutely no ambiguity. We know exactly what the lot size portion of your code says. We know exactly what the variance portion of your code says. If you analyze these on a case-by-case basis you can't with a straight face say because this lot is being divided and one portion is being given to a family member, this Commission has established a policy that that has to happen no matter what, since we know what the law is.

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To address a couple of the specifics, Commissioner Stefanics asked about a water study. Yes, sure, I suppose you could do a geohydro study and see if you had enough water and try to prove up smaller lot sizes. Based on what I know about some of the wells out there I don't know if you'd have much luck doing that, and that really is an argument for not allowing the variance.

As Mr. Sommer noted, going through these cases where there were really some very emotional, very compelling family stories, but there weren't necessarily extraordinary hardship there. If there wasn't extraordinary hardship with trying to give your daughter somewhere to live because she can't afford to live somewhere else there is really no extraordinary hardship facing the Wagners.

With regard to that second provision, and again, the County code says you have to have an extraordinary hardship. That hardship can derive from unusual topography or other non-self-inflicted conditions or it can derive from an intention to adhere to the purposes of the code, but here, what is the purpose of the code? What is the purpose of the code that would allow you to grant a waiver simply because someone wants to divide a lot? And Mr. Sommer wasn't able to point to that, point to a purpose in the code where that purpose says you just get to divide it essentially because you wanted to.

I did mention that I can commit to this Commission that I have seen the land records and the Wagners do have those three other houses in addition to this property. They may have more; I don't know. That's what they have in New Mexico.

We talked about the issue of potential accessory dwelling. Here there's just simply the desire to divide the lot. I will answer questions but I know the neighbors are anxious to talk about the issue.

CHAIR HOLIAN: Thank you, Mr. Graeser. Any questions for Mr. Graeser? Okay. So whoever would like to speak next on this issue please come forward. Please state your name for the record.

[Previously sworn, Jay Shelton testified as follows:]

JAY SHELTON: My name is Jay Shelton. I am a neighbor. The Santa Fe Land Development Code, Section 3, Variances, 3.1 requires, and I quote, "proof that a variance from the code will not result in conditions injurious to health or safety." We are in an area which has the highest possible fire risk rating that the county has, and I will just tell you what my fear is. I think if you are on the edge about whether or not other legal matters would permit this subdivision, think about this issue.

One reason – there are two reasons why it's such a high risk area. One is there's lots and lots of fuel up there, but the other is there's only one road. There's no way to get out any other way. Some parts of the road are narrow enough that we have to pull over. It's one lane, and I'm trying to picture what might happen. I don't know what the odds are but if there is a fire up there there are going to be residents up there panicked, trying to get out. There may be inhibited visibility due to smoke and flames. Because they're going to be going very fast they may get into accidents, they may block the roads, slipping, and then nobody else can get out. There may be people who are trying to come

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in to rescue pets. There may be emergency vehicles trying to come in. And again, lots of this is only one-lane road.

So the more residents we have the higher is the risk to public safety because of that. If this also is permitted, I don't know what would prohibit the very large number of very large lots up there from also openly subdividing and the problem just magnifies. So I urge you to take into consideration whether or not this in fact – whether we can prove that there's no impact on health and safety. I think there is. Thank you very much.

CHAIR HOLIAN: Thank you, Mr. Shelton. Next.

[Previously sworn, Max Coll testified as follows:]

MAX COLL: Madam Chair, members of the Commission. My name is Max Coll. We live out in that area. We're a neighbor. We're on a shared well with our next-door neighbor and we have a fractured granite aquifer out there. The fractures in our aquifer recharge every year from our rainfall, snowfall, river runoff. We are not going to have any river runoff this year. There's not enough snowpack to give us a river flow. Ordinarily there's a great river flow for several months, but we're not even going to have any this year. And this is about water. It's about overusing water and we've got to stop it. And that's the way, as I understand it, the law is set up, the regulations of this Commission are set up is to be conservative of water.

We're in trouble. We know it. We don't need any more big water users out there and if you split this into two lots we'll have another big user out there. Thank you, Madam Chair and members of the Commission.

CHAIR HOLIAN: Thank you, Mr. Coll. Is there anyone else that would like to speak?

[Previously sworn, Katherine Joyce Coll testified as follows:]

KATHERINE JOYCE COLL: My name is Katherine Joyce Coll and I'd like to first answer a few of the questions your asked about William Wagner, because I had Jonathan Thornton, a private detective in town do a background check on him. And he is a doctor, he's an engineer, and he's a real estate speculator. And he has speculated in real estate in Florida, Arizona, Colorado, and now New Mexico. And as Chris said, he owns two properties in Santa Fe that are rental properties and then the home he has in Albuquerque. And he did come, after we tracked him down, because we wanted road dues. We don't get enough money to maintain our one-lane dirt road from our dues and he was a landowner so Richard Stark and I, who were the neighborhood chairmen at the time, tracked him down and he came to one neighborhood meeting, and the only reason he was there was to try to persuade us to put a fancy gate at the foot of our less than one-mile road, because he wanted his lots to be more exclusive.

We're a very funky area. We back up on our east and part of the north side on the Santa Fe National Forest and I know that part of the County plan has been put in place to provide wildlife corridors. And we treat our neighborhood – and we're passionate about this – it's a wildlife preserve. Jay's family has the Dasburg family trust, which has been in place as far as I know back to the 30s or 40s. And in the middle of it Jay and his wife and the sister-in-law have five-acre parcels, but they're in and are part of the trust.

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There are six small parcels under ten acres that were divided up I think in the late 60s or 70s, but because of the lay of the land, none of us can see one another's houses. There are a couple of rooftops that can be seen. We're at 8,000 feet, give or take 100 feet on a very steep road with no way out except down to La Barbaria Road and then another two miles down. We're three miles from the Old Santa Fe Trail, and it's only four-wheel drive access.

We have bears. We have the occasional passing cougar. We have wild turkeys. There have been up to 21 in our yard in the morning. We all feed birds. We have bobcats that are very shy but that we see. We have two coyote packs that live in the neighborhood and we have to be very careful with our dogs.

So this is not the kind of area that you develop. Now, I know this man is a developer. I also know a realtor who once represented Bill Wagner, and when the realtor told him that it would nice if he tried to get along with the neighbors and pay neighborhood dues -- because I had complained about the fact that he didn't, he fired that realtor. This man is not there to build a family home. One of the neighbors phoned him when this started and said you know, no one here objects to your building a house and a guesthouse. And we don't. That's legal and it's fine. But the man started out telling us that he wanted to give it to his in-laws. And when he was asked why he couldn't just build a guesthouse and let the in-laws live in it, he said because when they die I want to sell it.

So he may be planning to keep it for a while, but this isn't estate planning and a lifetime project.

So I wanted you to know all of that. And then -- plus the fact that his lot goes along almost the entire side of the road for probably a quarter of a mile, but it only goes back about 70 to 100 feet and then it drops off very steeply down to the Hondo River. And so none of that is buildable. It could only be built along the road. So that infringes on everyone's privacy because the rest of us have long driveways, and they're all funky and dirt. This is not a fancy area. And houses up here don't sell well, so I don't know why he'd want to build houses that he's planning to sell anyway. Most houses up there are for sale from two to five years, and then the prices go below the appraisal, and they sell.

Most people are afraid of the altitude, the wilderness, the inaccessibility of the road and the distance from town. Those of us who live there I think are sort of rare people. We are people who need to be near town but love wilderness life.

So, and I guess the fire danger has been mentioned. We have the highest fire danger for catastrophic fire in the state of New Mexico, and this is the State Fire Department that tells us this. Our fire chiefs worry about us constantly. One fire chief told us at a meeting that he was afraid to let his firemen come up there if there was a major crown fire because he couldn't get them out and he'd probably have to go home and watch us on TV and send in airplanes.

So that's the kind of area this is. It's not an area for spec houses. And this isn't a man who wants to build a nice house and live there or he'd do what other people have done, build a house and a guesthouse. Thank you.

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CHAIR HOLIAN: Thank you, Mrs. Coll. Is there anyone else who would like to speak on this case? Please come forward. Perhaps, sir, you could start making your way forward so that we can be efficient.

[Previously sworn, Sandra Rowley testified as follows:]

SANDRA ROWLEY : I'm Sandra Rowley and I'm under oath. Correct?

CHAIR HOLIAN: Yes.

MS. ROWLEY: As Katherine said, we are kind of rare people up there because of the circumstances that we are willing to live under, the danger that we are willing to live under because we want to live in the country, want to live in the mountains, want to live with wilderness, we want to live with wild animals. We want acreage and my husband and I own 30+ acres. We paid quite a bit for it. The land is not cheap up there. The land isn't cheap anywhere around Santa Fe. But we paid a might lot for our 30+ acres and we hired a lawyer as we were considering buying it, and we learned from the lawyer the codes. And the codes say there will be no land split. And we felt, because we wanted the acreage, because we both come from farm families, actually. We've lived here 20 years. But we wanted that for our souls. That's what we wanted it for. It's very restorative and very nourishing. We would not have bought and put that much money into 30 acres of mountain if it hadn't been important to us, to our lives.

And Mr. Sommer talks about something, well, we all want – we want what we want but we don't want anybody else to have it. That's so far from the truth. Mr. Wagner has land. Let him build on it. What does he want to split it for? Well, we all know why he wants to split it for because we all know he's a real estate developer. But that never seems to come up with the other lawyer.

And yes, I am under oath. Mr. Sommer, you are not under oath. I am oath.

CHAIR HOLIAN: Mrs. Rowley, please just speak to the –

MS. ROWLEY: All right. But I want to say something. All right. I am under oath and I am too smart to say to Mr. Sommer, how dare you take this case? He was at one time my lawyer and I had great respect for him. I said, and I am under oath, I can't believe you took this case in good conscience. Because I know how he feels about land. And he said, I'm sorry you feel that way. And I said, well, you know that he wants to develop the land. And Mr. Sommer said, I don't know that. Everybody else does.

All right. So we're not suburbia. We're not a development and we're not a subdivision. Nobody wants to be up there. We live in the country on acreage which is precious to us and we live with bear, elk, deer, cougar, bobcats, hawks, falcons, small animals, snakes. I walked out of my front door one time and there was this huge rattlesnake sidled up to the banco where it was warm, sunning himself. Another day in the summer, one time I walked out and there was again, a huge black snake. And I decided to take another door.

So another thing that was said which is we are a close community. We support each other. We work and live together. If somebody gets stuck on a road, which happens quite a lot, because it's just a country dirt road which we maintain ourselves and we just do our best. One of the neighbors plows the road whenever we have snow and sometimes

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he's up at 4:00 in the morning and he has a job. And sometimes we can't get it plowed for two days because the weather doesn't stop and we can't get out.

So this is the neighborhood we are. We're just a country neighborhood on a dirt road that we maintain ourselves. Now, we drilled our own well. We drilled 500 feet. We bought the land in 95, we built in 97. And we went 500 feet and we got one gallon per hour. Water is not gushing out of the rocks there, let me tell you. And our – the man who drilled, the drillmaster, said I don't advise you to drill any deeper because it may go dry on you. So we didn't. So there is a water problem.

When we first moved out there there were two times that the Hondo River [inaudible] and it covered the road. Not La Barbaria Road, which is a County road. And it covered it and I went through and walked through it and it was clear up to here on me.

CHAIR HOLIAN: Ms. Rowley, please speak into the mike so it can be recorded.

MS. ROWLEY: Sorry, Commissioner. Well, it was very high. We don't have that anymore. The last three summers my husband and I have had to buy water. There is a water shortage. We're in a drought. As for fire, I think that point has been made. There's no egress; we're a dead-end road. It's really hard to turn around. We can hardly turn around if you want to turn around. But what I would like to say is this a report from the Hondo Fire District, and I just want to read a few sentences that refer to us.

La Barbaria Road has a classification of extreme – and they have that in quotation marks – in the US Forest Service fire assessment system. There is only one means of egress by residents. The possibility of congestion on the road is very high if a large number of residents choose to evacuate at the same time it would be very hazardous. A stuck vehicle could turn the roadway into a very hazardous parking lot for anyone unable to get around that vehicle. There are places in this area where the road is not wide enough for a 10-foot wide fire engine and a passenger vehicle to safely pass in opposite directions. Since much of La Barbaria Canyon aligns with the region's prevailing southwest winds the possibility of spot fires created by wind-blown embers is high. Spot fires can easily start one half mile downward from the main fire and then just jump over. Thank you very much.

CHAIR HOLIAN: Thank you, Mrs. Rowley. Is there anyone else who would like to speak? And I would like to ask you if possible, not to repeat too much the points that have been made other than briefly.

[Previously sworn, Ken Rowley testified as follows:]

KEN ROWLEY: I want to thank you all for allowing me to speak because in some countries I would be allowed to speak.

CHAIR HOLIAN: I will ask you to identify yourself please.

MR. ROWLEY: My name is Ken Rowley. I live in La Barbaria Canyon and I've lived there since 97. And it is two blocks down from heaven. But I want to thank you for allowing me to speak because in some countries, a guy like me, hell, they'd just run over me and I wouldn't be allowed to speak to you or anything like that. And I feel like there is someone trying to run over us though. We live up there. You've heard all

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these other things and I'm not a lawyer, and I don't understand what these people say a whole lot, but in the history of this case already, and the number of times we've already been said, yes, we're right. In basketball terms, I thought it was a dunk, a slam-dunk case, and I didn't realize we'd even have to end up here or not.

But anyway, when I was a kid I grew up in a family just like all the rest of you, and we didn't have any legal people so I don't know a whole lot about the legal business. Except I know that my parents taught me a couple things that they drilled in pretty hard, and I imagine looking at you people you had that same type of experience, and that is law is not a perfect science. There isn't a formula that will explain these different things. And you can even see they start attacking you on some past history. It's not consistent, but you try your damndest to make it fair.

And I'm asking for that. My parents said, you know, Ken, you need to be honest about things and it stuck. And I feel that when your things that we can jab this or jab that and you're doing your best. We ask that, you know, in life that there be fairness and they drilled into me that there was such a thing as right and wrong. And when we get on this case and everything has been said about this and this and this and suffering and things like that and you bet, the people suffer, and you bet – I hope you people do something to help those people. But when people are not suffering and want to be considered in that direction it's wrong. Just as simple as that. And I hope that you all, as you make your decision that you have that same sense of right and wrong and I think that as well as the formula of law which we say doesn't exist. It's not a perfect science or anything else, but when you make your decision you make it from within your own self, your own heart, your own integrity, and I hope you can see the fact of how wrong this case is. And I thank you.

CHAIR HOLIAN: Thank you, Mr. Rowley. Is there anyone else who would like to speak on this case, or are there any questions from the Board before I close this public hearing. I will give you a chance to follow up. I just wanted to know if there were any questions from the Board for the public. Okay, this public hearing is closed, and first of all, Mr. Sommer, would you like to respond?

MR. SOMMER: I'll be as brief as possible. I'd like to address just a few things. I heard something that I've never heard in a public hearing before in a case like this. I heard an invitation for you to judge Dr. Wagner's character. We did an investigation with a private investigator who determined he's a doctor, he's an engineer, and by God, he's a real estate speculator. And the realtor who used to work for him said the following, and the neighbor on the phone said this, said that. That is the rankest sort of hearsay and the worst sort of invitation to try and judge a person, who is not here, on the basis of things that are not in front of you.

I submit to you, do not ever, and particularly in this case, give in to that kind of invitation. The case in front of you is like many other cases that you get. You don't judge the character of the people; you judge the facts that are in front of you, and you certainly don't judge the character on somebody said this about them out there about that. I submit

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to you that is not proper in this hearing and it's not fair to anybody, including Dr. Wagner.

It used to be that being a doctor and being an engineer and owning real property was a success. Apparently it isn't anymore, and somehow that has some bearing on this case. I submit to you it doesn't. This case is about one thing and one thing only. I told you they would get up here and say, oh, there's no physical hardship. There's no hardship at all. You all have been interpreting these words in your code, in your variances, that the conditions would result in inhibiting the achievement of the purposes of the code. I named you three cases – the case in which a gentleman was dividing his property and wanted to give it to his kids, didn't succeed because he died. His kids wanted it divided and given to them.

Now, is that some sob story? Is that some extraordinary hardship? Is that something? No, it isn't. What it is is an interpretation of this language, that there were factors in that case, namely the size of the lot and the three kids that would result in inhibiting the achievement of the purposes of the code. What purposes? The family transfer purposes. You all have made that determination over and over again and consistently. And I'm not saying that because you did it in those cases, you must do it in this case. That is a mischaracterization of what I've said. I've said the exact opposite. Mr. Graeser said Mr. Sommer has already argued the precedent that you are bound to do that. I didn't say that at all. I said the exact opposite. You are not bound, because as Mr. Ross has told you on many occasions, every case is different in a variance case. Every fact, setting, every factual issue is different. It doesn't set a precedent.

And I'm not here arguing that you're bound. I came back to just one thing and one thing only. Your code recognizes that the transfers between husband and wife and family members is something that is important to this community. And when parents want to give it to their kids, not because they have some sob story. Not because they come and tell you some compellingly sympathetic story or [inaudible], because they'd like to leave it to their kids, and you all recognize that transfers between family members are important. I submit to you, I did not say if you did this you must do that. That's not what we're here about. I thank you all very much for your attention to this case and for listening to us. Thank you.

CHAIR HOLIAN: Thank you, Mr. Sommer. Any questions for staff or anybody else? Commissioner Mayfield.

COMMISSIONER MAYFIELD: Madam Chair, Ms. Ellis-Green, did you find out that information I asked for with the proposed land code?

MR. ROSS: Madam Chair, Commissioner Mayfield, we looked at the draft zoning map. We located the property and the property is in the rural fringe. It's proposed to be in the rural fringe zone, which is a 20-acre minimum lot size. However, the property is on the – the next lot over, the next lot south is rural residential, which is a ten-acre minimum.

COMMISSIONER MAYFIELD: So potentially in the new code it will be ten-acre minimums?

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MR. ROSS: It would be a 20-acre minimum but it would adjoin, the very next lot over would be a ten – this is the boundary between rural residential and rural fringe.

COMMISSIONER MAYFIELD: Okay.

MR. ROSS: And our mapping is an attempt, the staff's attempt to map the proper zoning districts in the new code with the properties and the adjoining properties.

COMMISSIONER MAYFIELD: Madam Chair, Mr. Ross, I know we're here where we are today, but just anticipating, you know, the future. Would that be – I mean the line's going to be where the line's going to be drawn whenever we finish our code. But would anybody be able to come to this Commission and appeal it based on that, do you think? Would that be an appealable cause to this Commission?

MR. ROSS: Well, Madam Chair, Commissioner Mayfield, yes. Obviously when the map is adopted anyone can, number one, can provide input at the public hearings where the map is adopted and try and convince staff and the Board that the designations are incorrect. And of course once a decision is made it's freely appealable.

COMMISSIONER MAYFIELD: Thank you. That's all I had, Madam Chair.

CHAIR HOLIAN: Okay. If there are no further questions what are the wishes of the Board?

COMMISSIONER CHAVEZ: Madam Chair.

CHAIR HOLIAN: Commissioner Chavez.

COMMISSIONER CHAVEZ: Madam Chair, I'm going to make a motion and my motion is going to deny the variance based on the CDRC findings and the fact that they also denied the applicant's request by a 5-0 vote. So my motion would support the CDRC recommendation and deny approval of this lot split.

CHAIR HOLIAN: Is there a second?

COMMISSIONER STEFANICS: I'm going to second.

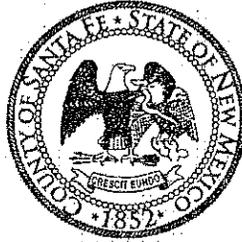
CHAIR HOLIAN: Okay. I have a motion and a second. Is there any discussion? I will just say that I am going to vote against this variance. I do not find a very compelling reason to grant the variance, and this does seem to me to be an area in which large lot sizes are to be desired because of the fire danger in that area, the lack of water in that area, as well as the wildlife corridors in that area. So I have a motion and a second.

The motion to deny passed by unanimous [4-0] voice vote. [Commissioner Anaya was not present for this action.]

Daniel "Danny" Mayfield
Commissioner, District 1

Miguel M. Chavez
Commissioner, District 2

Robert A. Anaya
Commissioner, District 3



Kathy Holian
Commissioner, District 4

Liz Stefanics
Commissioner, District 5

Katherine Miller
County Manager

CASE NO. MIS 12-5460
MISCELLANEOUS
STEVEN & LANA PARK, APPLICANT

ORDER

THIS MATTER came before the Board of County Commissioners (hereinafter referred to as "the BCC") for hearing on March 12, 2013, on the Application of Steven & Lana Park (hereinafter referred to as "the Applicants") for approval to vacate a platted ten foot (10') wide private utility easement on 5.054 acres. The BCC, having reviewed the Application and supplemental materials, staff reports and conducted a public hearing on the request, finds that the Application is well-taken and should be granted, and makes the following findings of fact and conclusions of law:

1. The Applicant requests approval to vacate a platted ten foot (10') wide private utility easement which is centered between Lot 2-A and Lot 2-B at 29 Conejo Trail, within Section 5, Township 17 North, Range 9 East ("Property").

2. Lot 2-A has a single family residence located on the property and Lot 2-B is currently vacant.

3. Article V, Section 5.7 of the Land Development Code states in part:

"In approving the vacation of all or part of a final plat, the Board shall decide whether the vacation will adversely affect interests of persons on contiguous land or persons within the subdivision being vacated."

4. The subject property consists of two legal lots of record, which were created through a Land Division in 2007. The Applicant intends to consolidate the lots rendering the easement which runs down the center of the two parcels unnecessary. No other property owners have used this private utility easement. The subject property will still have utility easements that border all sides of the property as indicated on the recorded plat. Staff and the Applicant's Agent confirmed that the vacation of the private utility easement would not adversely affect the interests of persons on contiguous property.

5. Staff recommended imposition of one condition on approval of the application; upon approval of a Lot Consolidation Plat, the Plat shall be filed with the County Clerk's Office with a note stating that the ten foot (10') wide private utility easement is vacated.

6. In support of the Application, the Applicant agreed to the proposed plat note.

7. No members of the public spoke in favor or opposition to the Application.

8. The application is well taken and should be granted.

WHEREFORE, the Board of County Commissioners of Santa Fe County hereby approves the request to vacate the platted ten foot (10') wide private utility easement centered between lots 2A and 2B at 29 Conejo Trail, provided the Applicant places the plat note described in paragraph 5 above on a recorded Lot Consolidation Plat.

IT IS SO ORDERED.

This Order was approved by the Board of County Commissioners of Santa Fe
County on this ____ day of March 2013.

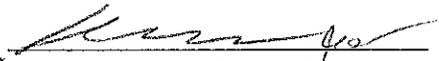
BOARD OF COUNTY COMMISSIONERS

By: _____
Kathy Holian, Chair

ATTEST:

Geraldine Salazar, County Clerk

APPROVED AS TO FORM:



Stephen C. Ross, County Attorney

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The motion passed by majority [3-1] voice vote with Commissioner Mayfield voting against the motion and Commissioner Anaya not present.

XVI. PUBLIC HEARINGS

A. Growth Management Department

- 1. BCC CASE # MIS 12-5460 Steven & Lana Park Vacation of Easement. Steven & Lana Park, Applicants, (Southwest Mountain Surveys) Gabriel Pacheco, Agent, Request Approval to Vacate a Platted Ten-Foot (10') Wide Private Utility Easement on 5.054 Acres. The Property is Located at 29 Conejo Trail, within Section 5, Township 17 North, Range 9 East (Commission District 2)**

MIKE ROMERO (Case Manager): Good evening. The subject property consists of two legal lots of record, which were created through a land division in May of 2007 – one lot consisting of 2.51 acres and one lot consisting of 2.54 acres, which the applicant proposes to consolidate into one lot totaling 5.054 acres.

There is currently a residence on the property, lot 2-A. The ten-foot wide private utility easement is centered on the property line, which was created when the lots were split into two lots, 2-A and 2-B as indicated on the recorded plat. The Applicants feel that since the lot is going to be consolidated back into its original state, the easement which is paralleling the property line is no longer necessary. The Applicants claims no other party will be adversely affected by vacation of the easement.

Staff recommendation: Approval to vacate a platted ten-foot private utility easement on two lots totaling 5.054 acres. If the decision of the BCC is to approve the Applicants request, staff recommends imposition of the following conditions. May I enter these into the record?

[The condition is as follows:]

1. Upon approval of the Lot Consolidation Plat, the Plat shall be filed with the County Clerks Office with a note stating that the ten-foot (10') wide private utility easement is being vacated. (As per Article V § 5.7.3).

MR. ROMERO: I stand for any questions.

CHAIR HOLIAN: Okay. So are there any questions of staff at this point? Okay. First of all, I would like to recognize in our audience is Representative Max Coll, former Representative. Any questions for staff? No? Is the applicant here? Would you please come forward, and would you please be sworn in?

[Duly sworn, Desiree Romero testified as follows:]

DESIREE ROMERO: Desiree Romero, agent for Southwest Mountain Surveys.

CHAIR HOLIAN: Do you have anything to add?

MS. ROMERO: No.

CHAIR HOLIAN: Okay. Any questions for the applicant or for staff? This is a public hearing, and so is there anyone here from the public who would like to speak about this case, either for or against? Okay. Seeing none the public hearing is closed. What are the

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wishes?

COMMISSIONER MAYFIELD: Move for approval, Madam Chair.

COMMISSIONER STEFANICS: Second.

COMMISSIONER CHAVEZ: I'll second, and I'll just ask that we include staff conditions.

CHAIR HOLIAN: With staff conditions? Okay. So we have a motion for approval with the staff condition.

The motion passed by unanimous [4-0] voice vote. [Commissioner Anaya was not present for this action.]

XVI. A. 2. BCC CASE #13-5010 Joseph V. Guerrero Vacation of Easement. Joseph V. Guerrero, Applicant, (Del Rio Surveys, Inc.) Philip Wiegel, Agent, Request Approval to Vacate a Platted Archaeological Easement on 4.02 Acres. The Property is Located at 46 Cerro Blanco Road, within Section 32, Township 15 North, Range 10 East (Commission District 5)

MR. ROMERO: The subject property consists of one legal lot of 4.02 acres, which was created through the Spirit Wind Ranch Residential Subdivision in 2007. There is currently a single family residence on the property.

The Applicant has verified through the State Historic Preservation Office that the original surveyor mistakenly plotted the archeological easement on the subject property. Based on subsequent archaeological studies that were conducted, the State Historic Preservation Office has determined that the archaeological site actually exists on the adjacent subdivision known as Spirit Wind West. The Applicant feels that since there is no archeological site on their property, the archeological easement should be removed from the plat.

Staff recommendation: Approval to vacate a platted archeological easement on one lot totaling 4.02 acres, subject to the following staff conditions. Madam Chair, may I enter this into the record?

[The condition is as follows:]

1. The Applicant shall file the portion of the Final Plat (Lot 8) affected by the vacated archeological easement with the County Clerk's Office (As per Article V § 5.7.3).

MR. ROMERO: I stand for any questions.

CHAIR HOLIAN: Are there any questions for staff? Seeing none, is the applicant here? Would you please be sworn in?

[Duly sworn, Philip Wiegel testified as follows:]

PHILIP WIEGEL: Philip Wiegel, agent.

CHAIR HOLIAN: Is there anything that you would like to add at this point?

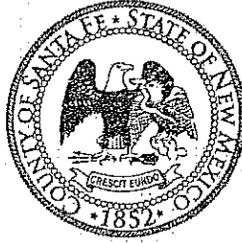
MR. WIEGEL: No, Madam Chair.

CHAIR HOLIAN: Are there any questions for the applicant? Okay. This is a public hearing. Is there anyone here from the public who would like to speak about this case, either for or against? Okay, seeing none, the public hearing is closed.

Daniel "Danny" Mayfield
Commissioner, District 1

Miguel M. Chavez
Commissioner, District 2

Robert A. Anaya
Commissioner, District 3



Kathy Holian
Commissioner, District 4

Liz Stefanics
Commissioner, District 5

Katherine Miller
County Manager

CASE NO. 13-5010
VACATION OF ARCHEOLOGICAL EASEMENT
JOSEPH GUERRERO, APPLICANT

ORDER

THIS MATTER came before the Board of County Commissioners (hereinafter referred to as "the BCC") for hearing on March 12, 2013, on the Application of Joseph Guerrero (hereinafter referred to as "the Applicant") for approval to vacate a platted archeological easement on 4.02 acres. The BCC, having reviewed the Application and supplemental materials, staff reports and conducted a public hearing on the request, finds that the Application is well-taken and should be granted, and makes the following findings of fact and conclusions of law:

1. The Applicant requests approval to vacate a platted archeological easement on Lot 8, which is located in the Spirit Wind Ranch Subdivision at 46 Cerro Blanco Road, within Section 32, Township 15 North, Range 10 East ("the Property").
2. The property has a single family residence.
3. Article V, Section 5.7 of the Land Development Code states in part: "In approving the vacation of all or part of a final plat, the Board shall decide whether the vacation will adversely affect interests of persons on contiguous land or persons within the subdivision being vacated."
4. Based on subsequent archaeological studies that were conducted, the State Historic Preservation Office determined that the archeological site exists on the adjacent

subdivision known at the Spirit Wind West. Staff and the Applicant's Agent confirmed that the vacation of the archeological easement would not adversely affect the interests of persons on contiguous property.

5. Staff recommends the following condition of approval: The Applicant shall record the portion of the Final Plat (Lot 8) affected by the vacated archeological easement with the Santa Fe County Clerk's Office.

6. The Applicant agreed with staff's condition.

7. No member of the public spoke in favor or opposition to the Application.

8. The application is well taken and should be granted.

WHEREFORE, the Board of County Commissioners of Santa Fe County hereby approves the request to vacate a platted archeological easement as shown on Lot 8, Spirit Wind Ranch Subdivision, at 46 Cerro Blanco Road, subject to the Applicant recording the portion of the Final Plat (Lot 8) affected by the vacated archeological easement with the Santa Fe County Clerk's Office.

IT IS SO ORDERED.

This Order was approved by the Board of County Commissioners of Santa Fe County on this ___ day of March 2013.

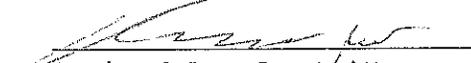
BOARD OF COUNTY COMMISSIONERS

By: _____
Kathy Holian, Chair

ATTEST:

Geraldine Salazar, County Clerk

APPROVED AS TO FORM:



Stephen C. Ross, County Attorney



wishes?

COMMISSIONER MAYFIELD: Move for approval, Madam Chair.

COMMISSIONER STEFANICS: Second.

COMMISSIONER CHAVEZ: I'll second, and I'll just ask that we include staff conditions.

CHAIR HOLIAN: With staff conditions? Okay. So we have a motion for approval with the staff condition.

The motion passed by unanimous [4-0] voice vote. [Commissioner Anaya was not present for this action.]

XVI. A. 2. BCC CASE #13-5010 Joseph V. Guerrero Vacation of Easement. Joseph V. Guerrero, Applicant, (Del Rio Surveys, Inc.) Philip Wiegel, Agent, Request Approval to Vacate a Platted Archaeological Easement on 4.02 Acres. The Property is Located at 46 Cerro Blanco Road, within Section 32, Township 15 North, Range 10 East (Commission District 5)

MR. ROMERO: The subject property consists of one legal lot of 4.02 acres, which was created through the Spirit Wind Ranch Residential Subdivision in 2007. There is currently a single family residence on the property.

The Applicant has verified through the State Historic Preservation Office that the original surveyor mistakenly plotted the archeological easement on the subject property. Based on subsequent archaeological studies that were conducted, the State Historic Preservation Office has determined that the archaeological site actually exists on the adjacent subdivision known as Spirit Wind West. The Applicant feels that since there is no archeological site on their property, the archaeological easement should be removed from the plat.

Staff recommendation: Approval to vacate a platted archeological easement on one lot totaling 4.02 acres, subject to the following staff conditions. Madam Chair, may I enter this into the record?

[The condition is as follows:]

1. The Applicant shall file the portion of the Final Plat (Lot 8) affected by the vacated archeological easement with the County Clerk's Office (As per Article V § 5.7.3).

MR. ROMERO: I stand for any questions.

CHAIR HOLIAN: Are there any questions for staff? Seeing none, is the applicant here? Would you please be sworn in?

[Duly sworn, Philip Wiegel testified as follows:]

PHILIP WIEGEL: Philip Wiegel, agent.

CHAIR HOLIAN: Is there anything that you would like to add at this point?

MR. WIEGEL: No, Madam Chair.

CHAIR HOLIAN: Are there any questions for the applicant? Okay. This is a public hearing. Is there anyone here from the public who would like to speak about this case, either for or against? Okay, seeing none, the public hearing is closed.

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COMMISSIONER STEFANICS: Madam Chair.

CHAIR HOLIAN: Yes, Commissioner Stefanics.

COMMISSIONER STEFANICS: I would move for approval with staff conditions.

COMMISSIONER MAYFIELD: Second, Madam Chair.

CHAIR HOLIAN: Okay. I have a motion and a second with staff conditions.

Is there any further discussion?

The motion passed by unanimous [4-0] voice vote. [Commissioner Anaya was not present for this action.]

XVI. A. 3. CDRC CASE # V-12-5430 Susan Sutton Variance. Susan Sutton, Applicant, Requests a Variance of Article III, Section 10 (Lot Size Requirements) of the Land Development Code to Allow Two Dwelling Units on 2.492 Acres. The Property is Located at 8 Ute Lane, within Section 20, Township 16 North, Range 10 East (Commission District 4) Miguel "Mike" Romero, Case Manager (TABLED)

XVI. A. 4. CDRC CASE # V 12-5111 William Frederick Wagner Variance. William Frederick Wagner, Applicant, (Sommer, Karnes & Associates, LLP), Joseph Karnes, Agent, Request a Variance of Article III, Section 10 (Lot Size Requirements) of the Land Development Code to Allow a Family Transfer Land Division of 31.824 Acres into Two Lots; One Lot Consisting of 20.990 Acres and One Lot Consisting of 10.834 Acres. The Property is Located at 45 La Barbaria Trail, within Section 9, Township 16 North, Range 10 East (Commission District 4)

WAYNE DALTON (Case Manager): Thank you, Madam Chair. Madam Chair, I just want to state that this application was originally reviewed under Section 9.8, which is the Mountain Special Review District Standards of the Extraterritorial Zoning Ordinance. Since that time and after further review of the SpAZO Ordinance, staff and the Legal Department have determined that those regulations are no longer in effect and this case, this application, is governed by the Land Development Code.

The Applicant now requests a variance of Article III, Section 10 of the Land development code to allow a family transfer land division. The subject lot was created in 1978 and is currently vacant.

Article III, Section 10 of the Land Development Code allows lot size to be reduced to twenty acres or more with signed and recorded water restrictions and for lots created through family transfer, subdivision or land division. A family transfer under the Land Development Code is permitted from husband to wife. An immediate family member as defined in the Code is a husband, wife, father, stepfather, mother, stepmother, brother, stepbrother, sister, stepsister, son, stepson, daughter, stepdaughter, grandson, step grandson, granddaughter, step granddaughter, nephew, niece, whether related by natural birth or adoption.