

**SANTA FE COUNTY**

**BOARD OF COUNTY COMMISSIONERS**

**REGULAR MEETING**

**December 12, 2017**

Henry Roybal, Chair - District 1  
Anna Hansen, Vice Chair - District 2  
Anna Hamilton - District 4  
Ed Moreno - District 5  
Robert A. Anaya - District 3

SEC. CLERK RECORDED 01/31/2018

**SANTA FE COUNTY**

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**BOARD OF COUNTY COMMISSIONERS**

**December 12, 2017**

I. A. This regular meeting of the Santa Fe Board of County Commissioners was called to order at approximately 2:09 p.m. by Chair Henry Roybal in the Santa Fe County Commission Chambers, Santa Fe, New Mexico.

**B. Roll Call**

Roll was called by County Clerk Geraldine Salazar and indicated the presence of a quorum as follows:

**Members Present:**

Commissioner Henry Roybal, Chair  
Commissioner Anna Hansen, Vice Chair  
Commissioner Robert A. Anaya  
Commissioner Anna Hamilton  
Commissioner Ed Moreno

**Members Excused:**

None

- C. Pledge of Allegiance**
- D. State Pledge**
- E. Moment of Reflection**

The Pledge of Allegiance was led by Lawrence Ortega, the State Pledge by Daniel Fresquez and the Moment of Reflection by Isaiah Romero

- F. Approval of Agenda**
  - 1. Amendments**
  - 2. Tabled or Withdrawn Items**

KATHERINE MILLER (County Manager): Mr. Chair, good afternoon. We have a couple of amendments and a tabled item. First of all, on the first page, under Consent, item II. A. 1, the resolution on the Americans with Disabilities Act, Title II,

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Statement of Policy and Grievance Procedure, there are just some items in that caption that corrected the actual caption but didn't change the materials in the packet.

On page 2 under Consent, item II. B. 1, Ratification of a termination of an agreement; that has been added. Then on page 3, under Matters from the County Manager, and I'd actually ask that item V. A. 3, which recognition of the retirement of Joey Gonzales be moved up to right after the Consent Agenda, since we have his coworkers here and I think he begrudgingly came to be recognized. And then also on page 4, under Public Hearings, we have item IX. Public Hearings, to be heard no earlier than 5:00 p.m., that was added to the agenda and also IX. A. 1, there's a correction in the caption, and IX. A. 2, a correction in the caption.

And then there is one tabled item. If you would go back to page 3 under Action Items, D. 3 has been tabled to the next BCC meeting.

COMMISSIONER HAMILTON: I move to approve the agenda as amended.

CHAIR ROYBAL: So we have a motion. Do I hear a second?

COMMISSIONER HANSEN: Second.

CHAIR ROYBAL: We have a motion and a second.

**The motion passed by unanimous [5-0] voice vote.**

**I. G. Approval of Minutes**

**1. Approval of the November 14, 2017, Regular Board of County Commission Meeting Minutes**

CHAIR ROYBAL: Do we have any amendments? Commissioner Hansen.

COMMISSIONER HANSEN: On page 10, 9 or 10 lines from the bottom, the sentence starts with the County Commission, City Council approved that in 2013. I believe, and what was left was a modified Phase – it has two s's in front of 2. So maybe remove the two s's. On page 21, I believe that the middle of the page, Commissioner Hansen says right then, and the next line it says Chair Roybal, next line I believe it should be I'm instead of I a. And then on page 40, right before V.A. 5, Commissioner Anaya says Madam Chair, and then it says Commissioner Hansen, Awesome. And I believe it was Commissioner Anaya said awesome because that's one of his favorite words. And that's all for this time. Thank you.

CHAIR ROYBAL: Thank you, Commissioner Hansen. Do we have a motion?

COMMISSIONER HAMILTON: Yes, I'll move to approve the minutes as corrected.

CHAIR ROYBAL: Okay, so we have a motion to approve the minutes with corrections. Do I have a second?

COMMISSIONER MORENO: Second.

CHAIR ROYBAL: And a second from Commissioner Moreno.

**The motion passed by unanimous [5-0] voice vote.**

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## II. **CONSENT AGENDA**

### A. **Resolutions**

1. **Resolution No. 2017-139, a Resolution Adopting the Santa Fe County Americans with Disabilities Act Title II Statement of Policy and Grievance Procedure and the Roads Element of the Santa Fe County ADA Transition Plan And Authorizing The County Manager to Submit Both Documents to the New Mexico Department of Transportation (Growth Management Department/Ray Matthew)**

### B. **Miscellaneous**

1. **Ratification of a Termination Agreement of the Water Service Agreement for Sonterra Village (County Manager's Office/Tony Flores)**

CHAIR ROYBAL: Is there any items on the Consent Agenda that need extended discussion or consideration? If not, I'll entertain a motion.

COMMISSIONER HANSEN: I move to approve the Consent Agenda as amended by Manager Miller.

CHAIR ROYBAL: Okay, we have a motion. Commissioner Anaya, did you have a comment?

COMMISSIONER HAMILTON: I'll second.

COMMISSIONER ANAYA: Mr. Chair, I see on there that we have the Community Development Block Grant funding. Is that right? Am I on the wrong –

COMMISSIONER HANSEN: That is not on the Consent.

COMMISSIONER ANAYA: Okay, that's an action item. I'm good.

CHAIR ROYBAL: Okay, so we have a motion with the amendments and a second.

**The motion passed by unanimous [5-0] voice vote.**

[Clerk Salazar provided the resolution numbers throughout the meeting.]

## V. A. 3. **Recognition of Retirement of Joey Gonzales, Public Works Auto Parts Technician**

MS. MILLER: Mr. Chair, I actually wanted Erik Aaboe to introduce him. Most of you know him and most of the people who work in the County that have anything to do with fleet management know Joey, not just from his time here but from 30 years, I think running an auto parts store that the County got a lot of its auto parts from for all of our fleets for Fire and Public Works and the rest of the County.

CHAIR ROYBAL: Thank you. Mr. Aaboe.

ERIK AABOE (Public Works): Mr. Chair, Manager Miller, Commissioners, Joey Gonzales is choosing to retire. He's worked at the County, in addition to his years of service to the County from the retail field, he's worked at the County in the Assessor's Office as a – if I'm correct a field auditor, an appraiser, and

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then came to the Public Works Department and he's worked for the Public Works Department for just a few years but was really instrumental. The shop under Chris Narvaiz with Joey's assistance and all of the guys have really made significant improvements to the operation of the parts shop. It's surprising how many vehicles turn in and out of the vehicle shop and we stock a large number of parts to make that quick and seamless.

So Joey is choosing to retire and I think everyone should acknowledge his years of service to the County.

MS. MILLER: And Mr. Chair, just a little side note. He has a very special person that works at the County too and that would be his daughter, Bernadette Salazar.

COMMISSIONER ANAYA: Mr. Chair.

CHAIR ROYBAL: Commissioner Anaya.

COMMISSIONER ANAYA: Mr. Chair, I'm going to make some comments but I'm going to reserve them if you'll afford Mr. Narvaiz or any of the other members of either the Assessor's Office or Public Works to say a few words, I'd appreciate it if you'd allow that. I think there may be some people that want to do that and I'd like to add some comments and I'm sure my colleagues will as well. If that's okay, Mr. Chair.

CHAIR ROYBAL: Absolutely. Thank you, Commissioner Anaya. So, yes, I'd like to allot time for anybody that would like to come and say some words in recognition of Mr. Gonzales and all his hard work.

CHRIS NARVAIZ (Public Works): Hello. I'm the fleet service manager. I would like to say that Joey has been a great asset to my fleet department. He has helped us with inventory. He's a great guy. He works hard. He just – we're going to lose a major asset to this department and I don't know even what to say. I'm sad to see him go but I'm happy to see him go and I hope he goes and enjoys his family and his grandbabies and we're just going to miss him tremendously. Not just me but all my guys. I'll tell you a little story. When he's at the front counter and they ask for parts, I go up, I say, Hey. Can I help you? My guys go, no. Where's Joey? He's going to sit back down and they'll wait for him. So we're going to lose a great mind here. Thank you.

CHAIR ROYBAL: Thank you.

ISAIAH ROMERO (Assessor's Office): I spoke earlier. I worked with Joey for probably I think four or five years and I just want to state that Joey's the type of guy that people state and they say these things, like, he's a better person than he was a work. Joey has spoke into my life, just the way he lives his life, the way he handles himself, the way he works at work. He has helped develop me as a leader by just working with him. Not just a leader but as a person. So I just wanted to thank Joey for that and I'm appreciative for him just being in my life.

CHAIR ROYBAL: Thank you, Isaiah.

GUS MARTINEZ (County Assessor): I'd like to just thank Joey for the time that he spent in our office and he's going to be missed. He was definitely missed in our office. All the stuff that he did and just his leadership. I was – when he left I was really sad and surprised, but you did a good job for Public Works and you definitely did a good job in our office so I appreciate you and what you contributed to the office. So good luck.

CHAIR ROYBAL: Thank you, Mr. Martinez.

DANIEL KING (Assessor's Office): One thing I would say about Joey is he's dependable. You can always count on him as a friend, as an employee. He was instrumental in getting the commercial division caught up on reappraisal. Agricultural – his knowledge is just immense and we couldn't have done a lot of things without him and we all cried when he left and we'll probably even cry now but I could see what he did for the parts division, he did for us too. We couldn't have accomplished. He was our right-hand man. He was our eyes and ears. He did everything and was dependable and reliable about it. And so we were very blessed to have him. Can't thank you enough as a friend and as a coworker. Thank you, Joey.

CHAIR ROYBAL: Thank you, Mr. King.

MATT MONTOYA (Assessor's Office): I worked with Joey for a limited time in the Assessor's Office but one thing I'd like to say about Joey was he was always great with his quotes of the day and one that comes to mind was when it was cold outside he'd always like to say, It's cooler than a Coors can. He always had a special way of making us laugh with his special quotes and sayings. But thank you Joey, for working with us.

CHAIR ROYBAL: Thank you, Mr. Montoya. Do we have anybody else that would like to come up and talk? Our esteemed HR Director.

BERNADETTE SALAZAR (HR Director): Good afternoon, Commissioners. For those of you who don't know my dad, he is usually the comedian of the bunch. Apparently the people from the Assessor's Office do know that. But when he first told us that he was going to come work for the County my mom warned him several times. Please be careful what you say. You don't want to be investigated by that HR Division. So for those of you who do know my dad you know that he is that guy who will give you the shirt off his back and is always willing to help in any way he can. So thank you for this acknowledgement and I wish him all the happiness in the world. Thank you.

CHAIR ROYBAL: Thank you, Bernadette. Do we have anybody else that would like to come up and say some words? Okay, I'd like to just say a few words and then I'm going to defer to Commissioner Anaya. But I just want to say thank you, Joey, for all your hard work and dedication. It's obviously you've got a great work ethic. Your leadership will stay from everything that I've heard today, will stay in the heart of our County employees for some time to come. It's obvious all the people here were inspired by your leadership. So I just want to say good luck on all your future endeavors, whatever that may be, whether it's taking care of the grandkiddos or going fishing every day, whatever it is. I hope that you enjoy your retirement, sir. Commissioner Anaya.

COMMISSIONER ANAYA: Thank you, Mr. Chair. I just want to say thank you for allowing his colleagues and coworkers the opportunity to say a few words. I want to acknowledge, before I acknowledge Joey, I want to acknowledge Ms. Gonzales is back there. Stand up, please, so that everybody can see them and the rest of the family. His other family is here as well, if you'd stand up, those others that are here for Joey. Thank you, for lending him to us to help us at the County and help the citizens of Santa Fe County.

There's one thing – I just ditto everything that everybody said, but I'll just say he's a good man. He's a person that's oriented around customer service and helping

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everybody feel the same. That's one thing I'll say, Joey. You always treated everybody the same. You didn't treat anybody different. Well, you probably treat your family a little different as you should, but when it comes to the public and the community and everyone else you're a straight-up good man. So thank you so much for your years of service. I think that we'll be ill served if we didn't put you on the spot and ask you to say any words. But I thank you from the bottom of my heart for what you've done.

JOEY GONZALES (Public Works): First of all I'd like to thank you all for letting me be a part of the County. I met a whole bunch of great people, both in the Assessor's Office and now in the fleet department, people that I made friends with that will now be friends forever. You don't know half of it. These guys are quite amazing in both divisions. We've crossed a lot of bridges and again, like I say, I have friends forever and I'll never forget them. And they've always treated me like family. And again, thank you so much for having the opportunity to work at the County.

CHAIR ROYBAL: Thank you. I'm going to go to Commissioner Hansen.

COMMISSIONER HANSEN: I haven't had the pleasure of meeting you, Mr. Gonzales but it is impressive to hear what your coworkers had to say, and I know by what they have said we are losing a great employee. I am so sorry. But I am so happy for you to go and be able to spend time with your beautiful grandchildren and have a wonderful retirement. Thank you for your service.

CHAIR ROYBAL: Commissioner Hamilton.

COMMISSIONER HAMILTON: I have to agree with Commissioner Hansen. I'm sorry to be meeting you for the first time on the way out the door. Working with wonderful people like you is what makes life so wonderful. But thank you for your services and best of wishes in everything that comes.

CHAIR ROYBAL: Thank you, Commissioner Hamilton. Commissioner Moreno.

COMMISSIONER MORENO: Thank you. Thank you for your service. It seems to me – I don't know you, but you obviously brought joy and a joy of life to your work and that's worth everything. Congratulations for a career well spent. Thank you for your service.

CHAIR ROYBAL: Thank you, Commissioner Moreno.

[Photographs were taken.]

### III. ACTION ITEMS

#### B. Appointments/Reappointments

##### 1. Reappointment of Members to the Santa Fe County Valuation Protest Board

TONY FLORES (Deputy County Manager): Thank you, Mr. Chair. III. B. 1 deals with the reappointment of members to the Santa Fe County Valuation Protest Board. We have two alternate board members that are requiring their reappointment to the Valuation Board and in consultation with the Assessor's Office and County Assessor Gus Martinez we have the reappointment recommendation of Ms. Suzanne Taylor for the alternate board member requiring experience, and the reappointment of alternate board

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member not requiring experience, Mr. Patrick G. Murphy. Both of those terms, if approved by the Board, January 12, 2018 and run through January 12, 2020. And I stand for questions.

CHAIR ROYBAL: Okay, do we have any questions from the Board?  
Commissioner Hansen.

COMMISSIONER HANSEN: Can I make one motion for both of them?

CHAIR ROYBAL: Yes.

COMMISSIONER HANSEN: Okay, I'd like to make a motion. I would like to recommend for reappointment of alternate board member requiring experience Ms. Suzanne Taylor and the reappointment of alternate board member not requiring experience Mr. Patrick G. Murphy for the term of January 12, 2018 to January 12, 2020.

CHAIR ROYBAL: Okay, we have a motion and I'll go ahead and second it.

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

**III. B. 2. Santa Fe County Staff Appointments to Serve on the Santa Fe City and County Advisory Council on Food Policy**

MR. FLORES: Thank you, Mr. Chair. Item III. B. 2 deals with the appointment of staff representatives to the City and County Advisory Council on Food Policy. That council was established in 2008 and set a membership of 13 members, which included two members from the City and two members from the County serving on that board, appointed by each of the respective governing bodies. Currently Ms. Erin Ortigoza and Ms. Patricia Boies serve in the capacity of Santa Fe County staff appointments to that. Ms. Ortigoza is in our Planning Division, very instrumental in our agriculture and TDR programs, and Ms. Boies heads up our Health Division for Community Services. Both of these appointments or these recommendations for your appointment would continue the work that both individuals have. So staff is recommending that the Board approve the reappointment of Ms. Erin Ortigoza and Ms. Patricia Boies to serve as our representatives on the City-County Advisory Council on Food Policy and their term would expire in January of 2021. And I stand for questions.

COMMISSIONER HAMILTON: Mr. Chair.

CHAIR ROYBAL: Commissioner Hamilton.

COMMISSIONER HAMILTON: I'd like to make a motion to approve these two appointments as stated.

CHAIR ROYBAL: Okay. We have a motion. Do I hear a second?

COMMISSIONER HANSEN: Second.

CHAIR ROYBAL: We have a motion and a second.

**The motion passed by unanimous [5-0] voice vote.**

**III. B. 3. Santa Fe County Appointments to Serve on the Santa Fe City and County Advisory Council on Food Policy**

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MR. FLORES: Item III. B. 3 deals with the Santa Fe County appointments to the same City-Council Advisory Council on Food Policy. Both governing bodies have four appointments to this council in addition to the staff appointments that you just approved the reappointment for. Of the four reappointments, two individuals have had their terms expire and in consultation with the actual Food Policy Council, staff vetted some applications and are recommending, based upon the Food Policy Council's recommendation, which the letters in the packet – Jose Emigdio Ballon and Rebecca Baran-Rees for a three-year term of service, and I stand for questions.

CHAIR ROYBAL: Do we have any questions from the Board? Seeing none, I'll entertain a motion.

COMMISSIONER HANSEN: I move to approve.

COMMISSIONER HAMILTON: Second.

CHAIR ROYBAL: We have a motion and a second.

**The motion passed by unanimous [5-0] voice vote.**

**III. C. Resolutions**

**1. Resolution No. 2017-140, a Resolution to Support Community and State Tax Stabilization from National Laboratories in New Mexico**

CHAIR ROYBAL: This is a resolution that I'm asking for the Commission to approve. Do we have any questions from the Commission?

COMMISSIONER HANSEN: Move to approve.

CHAIR ROYBAL: So we have a motion. Do I hear a second?

COMMISSIONER HAMILTON: Second.

CHAIR ROYBAL: And a second. Can we read the resolution before we vote, into the record? I'll start it off and if we could read the resolution into the record. I'll go ahead and start it. A resolution to support community and state tax stabilization from National Laboratories in New Mexico. Whereas, National Laboratories within the State of New Mexico are important drivers of local and state economies; and

COMMISSIONER HANSEN: Whereas, the communities surrounding these laboratories are important to each laboratory's success in that these communities not only provide essential services for the laboratories' operation but also provide such services for its employees and local citizens; and

COMMISSIONER MORENO: Whereas, the tax revenues that both laboratories currently provide are necessary for the surrounding communities to continue to provide an environment that supports the missions of the national labs; and

COMMISSIONER HAMILTON: Whereas, the State of New Mexico is similarly reliant upon these tax revenues to perform its duties and to balance its budget; and

CHAIR ROYBAL: Whereas, unlike other industries in New Mexico, there is a potential for a significant destabilization to the revenues that both the state and the local entities collect from the operation of the laboratories each time the federal

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government considers its management contract; and

COMMISSIONER HANSEN: Whereas, the demand for services provided by each of these federal entities and the cost of the provision of these services does not change when the managing entity of the national laboratory transitions; and

COMMISSIONER MORENO: Whereas, the communities value their partnerships with the laboratories, its employees, opportunities and challenges, desire to support the laboratories in the performance of its mission;

COMMISSIONER HAMILTON: I defer to the Chair.

CHAIR ROYBAL: Now, therefore be it resolved that the Board of County Commissioners of Santa Fe County hereby requests that the 2018 Legislature of the State of New Mexico enact a change to the tax structure that requires all management and operations of national laboratories to be taxable, as the scale of such enterprises places a significant demand on state and local resources that are inconsistent with any not-for-profit designation.

Passed, approved and adopted, this 12<sup>th</sup> day of December 2017 and signed by all the Commissioners and the County Clerk. So we have a motion and a second.

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

**III. C. 2. Resolution No. 2017-141, a Resolution in Support of the Appropriation of Funds by the New Mexico Legislature for the "New Mexico Grown Fresh Fruits and Fresh Vegetables for School Meals Program"**

COMMISSIONER HANSEN: So I would like to make a motion to approve a resolution in support of the appropriation of funds by the New Mexico Legislature for the "New Mexico Grown Fresh Fruits and Fresh Vegetables for School Meals Program."

COMMISSIONER HAMILTON: Second.

CHAIR ROYBAL: So we have a motion and a second. Any discussion by Commissioners? No?

COMMISSIONER HAMILTON: I just want to very simply make a comment that this is a very important thing. It's wonderful that both of you Commissioners brought this forward and I think this is a real contribution and something that can be done very effectively at the local level. So thank you for doing that.

CHAIR ROYBAL: Thank you, Commissioner Hamilton.

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

CHAIR ROYBAL: Would you guys like to say some words?

PATRICIA BOIES (Health Services Division Director): Thank you, Mr. Chair, Commissioners. I was just simply going to say that for the past several years as part of our County *Health Action Plan's* healthy food priority, as well as at the request of

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the Health Policy and Planning Commission and the Food Policy Council, the Board has passed a resolution in support of New Mexico grown fresh fruits and vegetables and asking the legislature for appropriation. So I am glad that you are continuing doing that this year. Thank you.

CHAIR ROYBAL: Thank you.

PAM ROY: Just briefly, Pam Roy, the coordinator for the Santa Fe Food Policy Council and Farm to Table. Mr. Chair and Commissioners, thank you very much for the support of this initiative. As you know, this is an ongoing appropriation request at the state legislature. This program did get zeroed out in this last session because of, of course, a lot of sanding of programs. So we're going back to the legislature this year to request restoration of \$364,000.

As you know, Santa Fe Public Schools, Moriarty Public Schools, have utilized these funds. Santa Fe Public Schools receive \$15,000 in 2016 to 2017. This is an incentive program. The Santa Fe Public Schools learned to really utilize and to buy local from our farmers. They were working with five farmers; they're now working with eight farmers and they spent \$65,000 this year out of their budget for New Mexico grown, locally grown produce from right in our own region.

The other thing that's really exciting is they really would love to help our seniors piggyback on their bid process with farmers. So we're going to keep coordinating that and we really appreciate your support for this program and continuing to support it. Thanks.

CHAIR ROYBAL: Thank you, Ms. Roy. Commissioner Hansen.

COMMISSIONER HANSEN: Thank you for allowing us to bring this forward. This is something that's really important to me. I consider myself a localist and whenever we can support our local farmers, our local ranchers, I think that we need to take advantage of that opportunity. And so buying local is a great way to do that and so I'm really happy for our school children and hopefully we can have our senior centers piggyback and get something happening with that too. So thank you very much.

CHAIR ROYBAL: I ditto those remarks and just appreciate all the hard work and dedication you guys have put into this. Thank you.

**III. C. 3. Resolution No. 2017-142, a Resolution to Support the 2018 Farm Bill Priorities as a Means to Securing a Regional Food System that is Just and Accessible for All Members of the City of Santa Fe and Santa Fe County Communities**

COMMISSIONER ANAYA: I'll defer to Commissioner Hansen, Mr. Chair. I support the resolution.

CHAIR ROYBAL: Thank you.

COMMISSIONER HANSEN: Thank you, Commissioner Anaya. This is another resolution that's really important supporting our local food system and the agricultural act and making sure that our legislators know how important we think this issue is.

So with that, I move to support, a resolution to support the 2018 farm bill priorities as a means to securing a regional food system that is just and accessible for all

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members of the city of Santa Fe and Santa Fe County communities.

CHAIR ROYBAL: Thank you, Commissioner Hansen. So we have a motion from Commissioner Hansen. Do I hear a second?

COMMISSIONER HAMILTON: Second.

CHAIR ROYBAL: And a second from Commissioner Hamilton.

**The motion passed by unanimous [5-0] voice vote.** [Commissioner Anaya was not present for this action but asked that the record reflect is affirmative vote.]

**III. C. 4. Resolution 2017-143, a Resolution Determining Reasonable Notice for Public Meetings During Calendar Year 2018 of the Board of County Commissioners of Santa Fe County and for Boards and Committees Appointed by or Acting Under the Authority of the Board of County Commissioners; Establishing Permissible Meeting Locations and a Webcast and Broadcast Policy; and Rescinding Parts of Resolution No. 2016-136**

BRUCE FREDERICK (County Attorney): So this is a resolution determining reasonable notice and rescinding any of your resolutions in prior years, and it's required under the Open Meetings Act.

COMMISSIONER ANAYA: Mr. Chair.

CHAIR ROYBAL: Commissioner Anaya.

COMMISSIONER ANAYA: Move for approval.

CHAIR ROYBAL: Okay, we have a motion.

COMMISSIONER HAMILTON: Second.

CHAIR ROYBAL: Okay, under discussion, I'd just like to clear up that what you stated, Mr. Frederick, is that there really isn't any changes from last year's. Is that correct? Or if you could summarize what changes there are.

MR. FREDERICK: The dates have changed but the substance has not.

CHAIR ROYBAL: Okay. Perfect.

MS. MILLER: And Mr. Chair, it reflects the second Tuesday and the last Tuesday of every month for our regularly scheduled BCC meetings, except for December. We do not have the last meeting of the month. So the schedule on the last page, or the appendix, is based upon our keeping our regular BCC meetings on the second Tuesday and the last Tuesday of the month except for the month of December next year.

CHAIR ROYBAL: Okay. Thank you for that clarity. We have a motion and a second.

**The motion passed by unanimous [5-0] voice vote.**

**III. D Miscellaneous**

- 1. Request Authority for the County Manager to Negotiate, Finalize and Execute all Documents Necessary for the Construction of the East Mountain Regional Health Facility in**

REC'D CLERK RECORDED BY 12/12/17 10:10



**Accordance with Request for Proposals No. 2018-0150-CM/BT  
in an Amount Not to Exceed Five Million Dollars (\$5,000,000)  
Exclusive of New Mexico Gross Receipts Tax**

MR. FLORES: Thank you, Mr. Chair. This item relates, as you indicated, to the construction of the East Mountain Regional Health Facility. Just a little brief history. The Board authorized a design-build procurement methodology for this facility in order to meet some time constraints with three of the funding sources that we're dealing with. There's an open solicitation on the street right now. We've gone through the first round of short-listing. We're in the process of developing or completing the second part of the short-listing. However, based upon the timing of the Board's meetings in January and the next meeting on January 12<sup>th</sup> or 9<sup>th</sup> – I think it's the 9<sup>th</sup>, of 2018, we would like to have this contract in place by the end of the calendar year.

So we're asking authorization for the Board to grant to the County Manager the authority to finalize and effectuate all the documents necessary for that facility. And I stand for any questions.

COMMISSIONER ANAYA: Mr. Chair.

CHAIR ROYBAL: Commissioner Anaya.

COMMISSIONER ANAYA: Mr. Chair, I'm going to make a motion but before I do, I'm going to publicly say in a very sophisticated way that this is a big deal. That's the straight-up facts of this particular item. The Board of County Commission previously to this Commission inclusive of Commissioner Stefanics, Commissioner Holian and Commissioner Chavez, along with our Chairman Roybal and myself, and this Commission, all of you, each of you, my colleagues, is in effect the reason this particular project is going to be able to happen, because of the initiation of the resources through the gross receipts tax and all of the other work and determinations that had to be made by the County, through the work of the County Manager, Mr. Flores, yourself and the entire team including Legal and Procurement and everyone else. And so it's with appreciation and gratitude in the interests of the many, many people that are going to be served in this comprehensive regional facility in the East Mountain area that's going to serve the tri-county area. It's going to serve Interstate 40 and many accidents that occur along there, our Fire Department. The list goes on and on, but it's true, sincere appreciation of the prior Commissioners, this current Commission and the Manager and staff that I'm going to make a motion, but I'm going to go to the Manager first, if I could, Mr. Chair.

MS. MILLER: And Mr. Chair, Commissioner Anaya, just to add to what you're saying, to thank the voters. We put this out as a general obligation bond in November. We have not done a general obligation bond for health facilities and we did \$3 million in that \$5 million for this particular process and I'd just like to thank the voters for supporting it because we would not have been able to do it without that.

COMMISSIONER ANAYA: Absolutely. The voters made it happen. And I'll even go back decades to prior Commissions that had the vision and the foresight to put the initial First Choice in place and people like Mayor Calkins from the Town of Edgewood, the Mayor at the time, and Councilor Ring and all of their team as well. But it would not have happened without the past Commission, this Commission and even prior Commissions going back decades that helped keep healthcare a viable mechanism in the

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county and in the region. Because it doesn't stop at the county line. It goes beyond our county line. So very much appreciate all that work and dedication. It's a big project and it's going to do great things for the whole county and the region. So I would happily move for approval, Mr. Chair.

CHAIR ROYBAL: Thank you, Commissioner Anaya. I would like to ditto those same comments from Commissioner Anaya and Manager Miller and thank our voters as well. And I'd like to second the motion. So we have a motion and a second.

**The motion passed by unanimous [5-0] voice vote.**

**III. D. 2. Request Approval of Amendment No. 1 to Agreement No. 2017-0154-CORR/IC with BI Incorporated to Extend the Term and Increase Compensation Payable to the Contractor for Electronic Monitoring Services for a Total Contract Amount of \$940,000 Exclusive of GRT and Grant Signature Authority to the County Manager to Sign the Purchase Order**

BILL TAYLOR (Purchasing Director): Thank you, Mr. Chair and Commissioners. Purchasing Division, this is a result of a contract that was awarded and procured through an RFP in 2016. The first term of that agreement that was approved by the Board has now reached its first year term and this is to extend the term for an additional year through January of 2019, and increase the compensation an additional \$470,000 for that term. With that I'll stand for any questions.

CHAIR ROYBAL: Okay, do we have any questions for Commissioners?  
Seeing none, what's the pleasure of the Board?

COMMISSIONER ANAYA: Mr. Chair.

CHAIR ROYBAL: Commissioner Anaya.

COMMISSIONER ANAYA: Mr. Chair, I'd move for approval.

CHAIR ROYBAL: So we have a motion.

COMMISSIONER HANSEN: Second.

COMMISSIONER MORENO: Second.

CHAIR ROYBAL: And multiple seconds.

COMMISSIONER ANAYA: Mr. Chair.

CHAIR ROYBAL: Commissioner Anaya.

COMMISSIONER ANAYA: Mr. Chair, it's staggering to see how this contract has had to essentially grow over the years and it's I'm sure in direct correlation to the responsibilities that we have for alternative means of incarceration and other mechanisms that help us in the system but I can remember when this was a lot smaller, this particular contract. And so Ms. Miller, I don't know if you wanted to add anything on it, but it is a staggering amount of money and resources. It's an essential necessity to have the resource that we utilize because it acts as a divergent mechanism to straight-up incarceration in the jail. But Ms. Miller, did you have anything you wanted to add to it?

MS. MILLER: Mr. Chair, Commissioner Anaya, you made an excellent point there. This is an alternative to being incarcerated in the jail, but it has also expanded exponentially in the last few years, being utilized because the electronic monitoring

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devices are so much more sophisticated now as well. They're not just a GPS tracking mechanism but they also can detect sobriety and any kind of alcohol use. So the judges use them not just for an alternative to incarceration but also compliance with other requirements that they might put on an individual.

And we are trying to work with the court system to not over-use it and not use it unnecessarily, but to use it truly when it's needed for an alternative to incarceration and to keep the cost down, because it has gone up significantly in the last couple of years.

COMMISSIONER ANAYA: Mr. Chair and Ms. Miller, I guess on that point, Mr. Chair and my colleagues on the Commission, I think that we always need to be, and I think we are, we try to expressly, more and more every year, but we have an obligation that's statutory for incarceration and even alternative means of incarceration but we do need to make sure that we're in the loop as discussions and determinations are made because every state unfunded mandate that comes through like this creates a difficult burden on the County to fulfill that obligation. So maybe with the new Commission in the coming year it might be a good idea to figure out maybe at some point having a comprehensive dialogue collectively with the judges to better understand frameworks where they're at, but also so that we're certain that the communication is going both ways. So I don't know what your thoughts are on that but we might be due for something like that.

MS. MILLER: Mr. Chair, Commissioner Anaya, I couldn't agree more. I think there's also concerns with the judges about we do have a fee structure for those utilizing this and there's been some controversy whether we should be able to do that. And so we've had some discussions, some initial dialogue with the judges but this is a County program and we do it as a service. And while we don't have to provide this particular program we do provide it for the judicial system as an alternative to being in a detention facility.

And so it's really – it takes a collaboration with the judges to make sure that the program fits their needs but also stays within something that we can afford to provide in addition to detention services that we have for the adults. And so I think that would be a very good idea to have some dialogue with the judges about our particular program and why we offer and what we can offer and whether there's any alternatives. There's even been discussion about providing the different courts with different alternatives. So I think that's something we'd like to try to set up. And I've actually been trying to meet with the district court judges. We just haven't been able to get a good time when they could meet and I could meet. So I think we could expand that meeting to include at least a couple of Commissioners if we can do it more comprehensively.

CHAIR ROYBAL: Okay. Thank you, Commissioner Anaya, Manager Miller. I'm going to go to Commissioner Hansen.

COMMISSIONER HANSEN: Thank you, Commissioner Anaya and Manager Miller. I do think that this is something we need to be thinking about next year when we go and tour the detention facilities again. I think that it's really important that we pay attention to this. Commissioner Hamilton mentioned strategic planning and maybe this is something that could be part of something that we discuss as a strategic plan of how we communicate with our judges in district court to let them know that we're concerned, because this is a considerable amount of money, but it is necessary and how

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CHAIR ROYBAL: I'd like to ditto all those comments. So we had a motion and a second but I believe we still had to vote.

**The motion passed by unanimous [5-0] voice vote.**

- III. D. 3. Request Approval of Professional Service Agreement No. 2018-0047-B-CSD/MM with Santa Fe County and La Familia Medical Center in the Amount of \$786,000, inclusive of NM GRT, to Provide Health Care Services to Address the Health and Social Needs of Uninsured and Underinsured Low-Income Residents of Santa Fe County **TABLED**
- III. D. 4. **Request Approval of a Community Development Block Grant Agreement Between Santa Fe County and the New Mexico Department of Finance/Local Government Division, Project 16-C-NR-40, in the Amount of \$500,000 for a Reroofing Project at the Santa Cruz and Camino Jacobo Housing Sites**

**JOSEPH MONTOYA (Housing Director):** Mr. Chair, members of the Board, I'm pleased to bring this to you today. We have, as you know, I think it was in July, passed a resolution allowing us to apply for Community Development Block Grant funds in order to reroof some of the units at two of our sites. We made the application; the application was received and approved and so in front of you today is the agreement in order to be able to assist in moving forward in terms of receiving the funds and starting to put new roofs on some of our units.

CHAIR ROYBAL: Okay, so do we have questions from the Commission?  
Commissioner Hansen.

COMMISSIONER HANSEN: I would like to make a motion to approve a Community Development Block Grant agreement between Santa Fe County and the New Mexico Department of Finance/Local Government Division, Project 16-C-NR-40, in the amount of \$500,000 for a reroofing project at the Santa Cruz and Camino Jacobo housing sites. And with that I'm extremely happy that we were able to get this money for this grant.

COMMISSIONER ANAYA: Mr. Chair.

CHAIR ROYBAL: Thank you, Commissioner Hansen. So we have a

motion from Commissioner Hansen. Commissioner Anaya.

COMMISSIONER ANAYA: I think I'd defer to Commissioner Moreno for a second.

CHAIR ROYBAL: Commissioner Moreno, would you like to second that motion?

COMMISSIONER MORENO: Yes.

CHAIR ROYBAL: So we have a motion and a second. Under discussion, Commissioner Anaya.

COMMISSIONER ANAYA: So Mr. Chair, Mr. Montoya and staff, I'm excited that this worked out. This kind of was a little bit of a contentious discussion way back when and here we are today, several months later and we ended up today on this agenda with both projects happening. So things just tend to work out. And so thank you to my colleagues and it's awesome that this project is going forward, as well as the other project. Thank you, Mr. Chair.

CHAIR ROYBAL: Thank you. I would ditto those comments, Commissioner Anaya. Thank you for those comments. Commissioner Hamilton.

COMMISSIONER HAMILTON: I just wanted, given how important this is and I appreciate Commissioner Anaya's comments. But given the importance of this I really want to thank you, Mr. Montoya for the incredible work on this. It doesn't happen by chance. It really takes a lot of effort, in front of the scenes and behind the scenes. So very well done.

CHAIR ROYBAL: Thank you, Commissioner Hamilton. So we do have a motion and a second.

**The motion passed by unanimous [5-0] voice vote.**

COMMISSIONER ANAYA: Mr. Chair.

CHAIR ROYBAL: Commissioner Anaya.

COMMISSIONER ANAYA: Mr. Chair and Ms. Miller, I know we tabled item D. 3, but is that something that's looking good? That we're going to have access to health services directly through La Familia to the three housing sites, as I read it?

MS. MILLER: Mr. Chair, item 3, we've been kind of shifting from claims-based, indigent claims reimbursement to more of a contract for services, and so this is one of our first contracts for service. Same providers that we've had providing indigent services but more directed towards contracts for service, more directed towards our Health Action Plan. And the only issue on this, why it was tabled is that the director of La Familia had a couple questions on the contract and we wanted to make sure - he'd been out of town and we wanted to make sure those provisions got addressed before we asked for the Board's approval.

COMMISSIONER ANAYA: So Mr. Chair and Ms. Miller, I think that this particular item bisects very appropriately with the Housing Authority residents as far as coordination of that effort. And so I would just ask that as we're moving into implementation that those Housing Authority residents be one of the primary targets because of their economic stature that puts them to be eligible for affordable housing and the basic fact that in essence it's seniors and single mothers with children that

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predominantly are housed in our public housing. And so I just wanted to make that note on the record and I think they will work closely together and maybe that's something that could be a target within the effort. Thank you, Mr. Chair.

CHAIR ROYBAL: Thank you, Commissioner Anaya.

[Commissioner Moreno left the meeting.]

#### **IV. MATTERS OF PUBLIC CONCERN**

CHAIR ROYBAL: Is there anybody here from the public that would like to address the Board today? So I don't see anybody from the public, so we're going to go ahead and close Matters of Public Concern.

#### **V. MATTERS FROM THE COUNTY MANAGER**

##### **A. Miscellaneous Updates**

##### **1. Discussion on 2018 Board and Committee Appointments**

MS. MILLER: Mr. Chair, I just had a couple things. Tony was going to go over the 2018 Board and committee appointments. We're not going to do those selections until the first meeting in January, so you'll stay – if there's anything at the very beginning of January before we make a selection. I just wanted him to kind of remind you which ones they were so if you wanted to consider any changes or any dialogue between each of you where you might horse trade for different boards and commissions that you serve on because if we end up having more people wanting to serve than we have slots what we've done in the past is draw straws, so to speak, or draw names. And so I just wanted to kind of give you a heads up about that.

And also if you want us to change that process. I've had one suggestion of, hey, maybe we just rotate every year no matter what. But that's not how we've done it for the last several years. We've always just usually worked it out and maybe there'll be one board that we'll have two seats on and somebody wants to be the third person. But we've been able to work it out and what we will do on January 9<sup>th</sup> if we have that situation – right now as it stands, we would just draw names for it. So with that, I'll turn it over to Tony.

MR. FLORES: So, Mr. Chair, she covered everything. I left for you on the dais this matrix, which is this year's appointments that run through the end of the calendar year and we plan on bringing this forward unless there's other comments or change in directions on the January 9<sup>th</sup> BCC meeting for the appointments. And with that I stand for any questions.

CHAIR ROYBAL: Okay. Do we have any questions from the Board? No? Okay. Thank you.

##### **V. A. 2. Discussion on Status of Transportation Advisory Committee**

MR. FLORES: So, Mr. Chair, the next item on there is the discussion on the Transportation Advisory Committee. There's been some questions about how or

when we'll start up that committee. As you recall, the resolution that was adopted in 2015 reorganized, if you will, the Road Advisory Committee and we basically started calling it the Transportation Advisory Committee and repealed everything prior to that point in time.

As part of that resolution the Board set up a membership of 13 committee members, two from each of the Commission districts 2, 4 and 5; three from Commission districts 1 and 3, and one at large. Staff has been compiling and it's been a little cumbersome process. We haven't had a lot of people want to come forward and actually put in – I think we've done I think six calls for interested individuals. The plan though moving forward is that the January 9<sup>th</sup> meeting we're bringing forward a list of recommendations by Commission district to the Board so we can at least get the Transportation Advisory Committee stood up so that they can start considering any road acceptance agreements that may be in the queue.

So that will happen in January and then shortly thereafter we're going to charge staff with having the Transportation Advisory Committee establish a work plan that the Board of County Commissioners would take a look at, similar to what they're supposed to be doing in Water Policy Advisory. So I just wanted to give you an update. They have compiled a list of interested individuals and we're bringing those forward in January. And I stand for questions.

CHAIR ROYBAL: Thank you, Mr. Flores. Commissioner Anaya.

COMMISSIONER ANAYA: Two words: Hallelujah and awesome. The Road Advisory Committee, historically, which is essentially what this transportation committee will be, is one of the most well attended meetings as far as participants from throughout the county. It's also one that gives community a place to access and provide feedback to our constituents in a setting that's centered around roads. And so I had the privilege and honor of serving on this committee myself for several years in the early nineties. I chaired the committee and it was an excellent experience and it provided an excellent access point for the public to help us as Commissioners work in concert with staff and better understand the complexity of the roads.

So I'm excited that we're to this point and Ms. Miller and Mr. Flores and Mr. Kelley and whoever else – Mr. Martinez – whoever else is involved in getting back to the point where we're going to actually have appointments and keep it moving forward is important to me. So I appreciate it very much.

MR. FLORES: Mr. Chair, if we could also thank Ray Mathews from Planning. He's our transportation planner and he's been instrumental in trying to get the candidates together. He was here earlier but he would be one that I would ask for recognition. Thank you.

COMMISSIONER ANAYA: Thank you. I appreciate that. So add Ray to that list of thank yous and appreciation.

CHAIR ROYBAL: Thank you both for those comments. I'm going to go to Commissioner Hansen.

COMMISSIONER HANSEN: I'm very excited to hear about this Transportation Advisory Committee. I have had constituents ask me about this and I didn't really know what was happening at present so I would love to be updated a little bit more about this so that I could reach out to some constituents who have been talking

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to me about this committee. So I appreciate you really bringing it forward and I'm excited that it's happening.

I love roads as I have told Diego and Robert Martinez, and so I think it's exciting. And thank you, Commissioner Anaya, for being the chair for all those years.

COMMISSIONER ANAYA: Mr. Chair, Commissioner Hansen, did you say you love roads and Robert Martinez.

COMMISSIONER HANSEN: I love roads.

MR. FLORES: Diego was first. Robert was second.

COMMISSIONER ANAYA: Take that down. That's in the record. We'll make sure that that stays. [laughter]

MR. FLORES: So, Mr. Chair, the only other item that I just wanted to brief the Board on, one of my former employees who's been here for many, many years will be retiring from Santa Fe County at the end of December. That's Mario Lopez from our Information Technology Division. So Commissioner Anaya and I go way back with Mario. So he's actually taking the plunge and himself has just announced – I think it was last night or yesterday afternoon – he will be retiring at the end of December so I wanted to put a shout-out to him as well. Thank you, Mr. Chair.

CHAIR ROYBAL: Thank you for doing that, and actually I remember working with Mario Lopez over 20 years ago when I worked for the County. So if I would have stayed at the County I'd be here 26 years already. So, yes. Great.

COMMISSIONER ANAYA: Ditto.

CHAIR ROYBAL: That concludes all updates from the Manager, Katherine? Yes.

## **VI. DISCUSSION/INFORMATION ITEMS/PRESENTATIONS**

### **A. Matters from County Commissioners and Other Elected Officials**

#### **1. Elected Officials Issues and Comments**

CHAIR ROYBAL: Madam Clerk, did you have any announcements?

GERALDINE SALAZAR (County Clerk): Yes, Chair. I would like to mention that today and tomorrow the vendor for our voting machines in the state of New Mexico, Dominion, sent a product specialist to our warehouse to set up our new servers and to connect us to ICCs and test all components onsite at Santa Fe County at the Clerk's warehouse where we secure our voting machines. So that's what's going on today and tomorrow.

In addition to that I approved that the Secretary of State's Office can come and observe after they set it all up to see how the module, the ATI, the audio-tactile interface for blind and visually impaired voters, how that will be functioning, because currently the Secretary of State's Office is putting together rules on that system. So those are the two things that are occurring today and tomorrow

In addition to that, my staff and all clerks' staff throughout the state have been working with the Secretary of State's Office with the new programs called Service. Previously it was called VRMs, and that's the voter registration system that the Secretary of State's Office has. So we're transitioning from an old system, VRMs, to a new one, Service. And we're going through all the bugs and all the processing and clerks' staff and



clerks are communicating with the Secretary of State for the last two weeks of how this system is working. So we're seeing some problems but we're communicating and things are being fixed as it goes on. So thank you.

CHAIR ROYBAL: Thank you, Madam Clerk. Commissioner Anaya.

COMMISSIONER ANAYA: Mr. Chair, if I could, I have a question for our esteemed Clerk. If we had an individual community matter that we wanted to do an election for, let's just say – let's just say Galisteo for discussion's sake, the Galisteo precinct or a grouping of precincts around Galisteo to say we're going to ask a question about – and I'm just using it as an example – but the Thornton Ranch open space, to get some feedback from that particular segment of the county. Would you as a County Clerk be amenable to helping conduct such an election? If we wanted to get feedback from a specific issue regarding an issue – I'm not talking about any of the state elections. I'm not talking about anything you do with the Secretary of State.

I'm saying isolated, if the Commission said we want to get a pulse from the community in this area on an issue, would you be able to help us with an election like that?

CLERK SALAZAR: Chair Roybal and Commissioner Anaya, Chair Roybal had asked me the same question last week, regarding if he could run some type of poll or election. What I'm looking at, what I've been doing research and having my staff do research is to look for iClicker, the way law students in law school are polled or answer questions through an iClicker system. So that's what I'm looking for, so this way we don't have to use the machines.

Also, when I attend the probate court training we also use some form of iClicker where we put up the information on a screen and then we respond to questions. So I think that may be a good system for us to look at so we can do some kind of polling or question and answer to see what the public supports or doesn't support. So that's what I'm looking into rather than an election or a polling and using our voting machines.

COMMISSIONER ANAYA: And I guess – why wouldn't an election be something you would be amenable to if it was an election? To me, and let me just follow through with my thought process. You're the certified Clerk for Santa Fe County under the State of New Mexico but this would be direction, and if we needed to provide funding it would be something that we would have to consider collectively as a Commission and then authorize that funding to transpire. Help me understand why that wouldn't work.

CLERK SALAZAR: Well, it's not that it won't work. It's that for us to really consider an election narrowed down to one section when we already have six elections in the process. We have two that are consolidated in February, two that we are assisting with the City of Santa Fe, and then also Edgewood. The Mayor of Edgewood has asked me to un all their elections so we're doing that. The City of Santa Fe, I'm assisting and my staff are assisting the City Clerk. In addition to that we're also preparing for the primary and the general. And then we've assisted at other communities with all kinds of other elections.

So I think that to do this – could I use a voting machine informally? Maybe we would. Because in the past we have run an election for children to learn about elections. If you don't think that maybe we should look at something like iClicker where we would have that for the Board to utilize in the future to take some type of poll from residents. Or

if you really feel that maybe using our voting machines would be the best. Is that what you're saying?

COMMISSIONER ANAYA: I guess I don't know. I guess I'm excited and I appreciate that the Chair has already reached out to you with the thought, and I think any ideas would be helpful. Maybe what ideas you have associated with the machines and how that's different from iClicker, but I appreciate it. And so I look forward to seeing what ideas you have and we'll just leave it at that for now. But I appreciate the response and the effort on the part of the Chair to ask the question. I think there's multiple potential in the day and age that we're in nowadays I think there's multiple place settings where we might use such a tool. There's some that may be in the near future, but there are many other potential uses for any tool, and maybe it is a much more technologically advanced system that's faster, that gives us maybe a sense or a polling like you suggest. So I think it's the wave of the future, maybe, for many decisions that people have to make and I look forward to seeing what you come back with.

CLERK SALAZAR: Chair Roybal, Commissioner Anaya, if we look at utilizing our voting machines we'd have to develop a paper ballot and go that whole route as a true election. So even though it would be a smaller election or polling, we would still have to use that whole mechanism. And we may only use one or two machines. I'm not saying that we couldn't do it but there's a formality to that. But I think I should also look at as we have been looking at iClicker. That could be a tool for the Board in the future and down the road and even for the Clerk's Office.

In addition to that, what date are you looking at to have this polling, election, or feedback from the community of Galisteo. Is that it?

COMMISSIONER ANAYA: Mr. Chair, Madam Clerk, as you consider those options, I guess maybe providing us the frameworks of if you use x, then here's kind of a sequence of timelines and if you use y – as we deliberate any potential decisions or discussions of how this tool might be used then we could have some gauge or barometer of the tool we're going to use and what it takes to maybe make it work right.

CLERK SALAZAR: Yes. And Chair Roybal and Commissioner Anaya, I want to say that the Board has always been supportive. When we run elections you are there and past Boards are 100 percent, 200 percent or more when it comes to running elections and providing the funds to run them. So that is never a question. You're there. But I'd like to see what tools we can have and to minimize some of the processing, if it's for a poll or a feedback that's desired by the Board.

COMMISSIONER ANAYA: Thank you so much. Thank you, Mr. Chair.

CLERK SALAZAR: You're welcome.

CHAIR ROYBAL: Thank you, Commissioner Anaya and Madam Clerk. Was that it, Madam Clerk?

CLERK SALAZAR: Yes. Thank you. I'm sure there's much more but let's go on.

## **VI. A. 2. Commissioner Issues and Comments**

CHAIR ROYBAL: I did have a few myself. I did want to mention and congratulate and recognize Rudy Garcia for being appointed to the Santa Fe Public

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School Board. Also, I know that – I wanted to get a quick update if I could from maybe Mr. Flores. We were looking in my district for reopening a Boys and Girls Club at our Marcos Trujillo Community Center. This came after Pojoaque Pueblo closed their Boys and Girls Club and I wanted to see if we could get a status on that.

MR. FLORES: Thank you, Mr. Chair. So the previous tenant has vacated the premises as of the 17<sup>th</sup> or 18<sup>th</sup> of November, so we've had a few weeks basically since then to get the facility ready and have the Boys and Girls Club move in. So I think there's some last items that need to be completed in order for the facility to be available to the Boys and Girls Club. I anticipate that happening – if it hasn't happened already, by the first of the year. And it would be open.

CHAIR ROYBAL: Thank you. Thank you for the update, Mr. Flores. And I'm also looking at another facility that's under-utilized in Chimayo, that's the Presbyterian pre-school, so hopefully we can have some community meetings and see how we can utilize that facility as well. That's all I had for announcements. Commissioner Hamilton, did you have something?

COMMISSIONER HAMILTON: Yes. I just wanted to – the holiday season, the various Fire Departments are doing a variety of special community events and Glorieta Pass Fire Department, which I'm a member of is having a fun and games Christmas party on Sunday, the 17<sup>th</sup> from 1:00 to 4:00, so hopefully everybody can attend that. Thanks.

CHAIR ROYBAL: Thank you, Commissioner Hamilton. I'm going to go to Commissioner Hansen and then I'll go to Commissioner Anaya.

COMMISSIONER HANSEN: Thank you, Mr. Chair. I wanted to just acknowledge the Employees Benefit Committee for putting on such a fantastic Christmas party. It was extremely well attended and it was a tremendous amount of fun. They did all the work and put this on. There was a photo booth which was really fun. There was really good food and everyone had a great time. Commissioner Moreno and I both attended and we missed the other Commissioners but I know you were all busy with other issues.

COMMISSIONER ANAYA: What party?

COMMISSIONER HAMILTON: The one we missed.

COMMISSIONER HANSEN: I know that some of you were out of town and had other things to do, but I really enjoyed it and I just wanted to thank them for putting on such a great party.

CHAIR ROYBAL: Thank you, Commissioner Hansen. We're going to Commissioner Anaya next.

COMMISSIONER ANAYA: Mr. Chair, all kidding aside, the employee benefits party is awesome. I wasn't able to go but I know it's awesome and they're an awesome group of people so I'm glad you guys had fun.

I wanted to just ditto – the first thing I want to say is that there's construction work thanks to the team – Katherine and Tony and Project Facilities and Projects. There's work going on all over the county, capital projects. But I've been watching the progress of the station bay in Galisteo and they had to move, and they're still moving a lot of dirt to make that project happen but I just wanted to acknowledge the Fire Department team, Ms. Miller, Tony, everybody that's involved in the construction contractor out there that's doing the work. I've been watching them and they're doing a

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good job moving a boatload of dirt to make that bay a reality. And so I see the fire trucks parked. There's some at Jeanie's and all over town because they don't have the bay available but it's working out. And so thanks for that, Ms. Miller.

I want to call up Mr. Garcia, if I could, Mr. Chair, if you'd indulge me. I appreciate that you brought up that he was appointed to serve as the school board member and I would note that I've known Rudy for a couple of years and that Mr. Garcia, you've always been somebody that has been on one side of the equation with government and public policy and you moved to the other side now, sitting on the bench at the school board and I think the school board has an excellent representative.

I didn't realize how much time you had already dedicated to helping the schools. You've been on a committee for I think ten years it said or something like that. But I wanted to congratulate you on that new endeavor and the work and the very precious work and delicate and important work in making sure that our school system in the Santa Fe Public Schools, just like the other board members do, is financially sound, that it has good policy and that we're educating our kids. So very, very important function that you're going to be undertaking that I know you're ready and prepared for.

But I wanted to congratulate you on that appointment and then with the Chair's indulgence give you a chance to say whatever it is you would like to say. But congratulations, Mr. Garcia. I know you'll do good things in the interest of the youth in the Santa Fe Public School District.

RUDY GARCIA (Public Works): Mr. Chair, Commissioners, Commissioner Anaya, I appreciate those kind words, and yes, we have known each other for a couple of years and we've done many projects in this county for years and have moved this County forward I believe. And I'm actually excited to be on the school board. I'm very excited to hit the ground running because I have been on that committee for 12, 13+ years where we oversaw over \$250 million worth of bond projects in the last 10, 12 years. And I was excited to be part of that. Actually, the chairman of the Citizens Review Committee. I'm kind of sad to get off of the committee, but I'm also very excited to get on the school board but I'm very excited to get on the school board and I appreciate the kind words. Thank you.

COMMISSIONER ANAYA: Thank you, Mr. Chair. I just want to wish everybody a happy holiday season as well and a happy new year. And I look forward to the coming days with the current Commission and maybe some strategic planning and other focused efforts to advance things in the interests of the citizens. So thank you, Mr. Chair. Thank you to my colleagues and staff and everyone present or listening in. Thanks, Mr. Chair.

CHAIR ROYBAL: Thank you, Commissioner Anaya. Commissioner Hansen.

COMMISSIONER HANSEN: Thank you, Commissioner Anaya, for asking Mr. Garcia to come up. That was really good. Thank you. And I too want to wish everyone a wonderful holiday season and a happy new year and that great things can happen for all the residents of Santa Fe County over the holiday season and in the new year. So thank you.

CHAIR ROYBAL: Thank you, Commissioner Hansen.

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**VII. MATTERS FROM THE COUNTY ATTORNEY**

**B. Special Closed Meeting of the Board of County Commissioners on November 27, 2017**

- 1. Statement for Inclusion in the Minutes that the Matters Discussed in the Closed Meetings were Limited Only to Those Specified in the Notice of Special Closed Meeting, i.e., County Roads within the Exterior Boundaries of the Pueblos of Nambe, Pojoaque, San Ildefonso, and Tesuque**

MR. FREDERICK: Mr. Chair, if I may, I'd like to go to item VII. B. first and get that out of the way and then handle the first item.

CHAIR ROYBAL: VII. B, we don't need to go into executive session for?

MR. FREDERICK: VII. B has to do with the special closed meeting of the Board of County Commissioners on November 27, 2017.

CHAIR ROYBAL: Okay.

MR. FREDERICK: And that item involves a special meeting that the Board conducted, as you know, on November 27, 2017 and in order to comply with the Open Meetings Act, we'd recommend the following motion. "I move that the minutes of this meeting state that the matters discussed during the special meeting on November 27, 2017 were limited only to those specified –

CHAIR ROYBAL: Mr. Frederick, actually, Commissioner Hansen will read that into the record. Commissioner Hansen will make the motion.

COMMISSIONER HANSEN: So I want to make the motion. I move that the minutes of this meeting state that the matters discussed during the special closed meeting on November 27, 2017 were limited only to those specified in the notice of that meeting, namely, County roads within the exterior boundaries of the pueblos of Nambe, Pojoaque, San Ildefonso, and Tesuque.

COMMISSIONER ANAYA: Second.

CHAIR ROYBAL: So we have a motion and a second.

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

**VII. A. Executive Session: Threatened or Pending Litigation in which Santa Fe County is or May Become a Participant, as Allowed by Section 10-15-1 (H)(7) NMSA 1978, and Discussion of the Purchase, Acquisition or Disposal of Real Property or Water Rights, as Allowed by Section 10-15-1 (H)(8) NMSA 1978, Including the Following:**

- 1. 14 Camino Torcido Loop**
- 2. Mt. Chalchihuitl**
- 3. Rights-of-Way for County Roads on Pueblo Lands**

MR. FREDERICK: Yes, Mr. Chair. Going into executive session to discuss threatened or pending litigation in which Santa Fe County is or may become a

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participant, as allowed by Section 10-15-1 (H)(7) NMSA 1978, and discussion of the purchase, acquisition or disposal of real property or water rights, as allowed by Section 10-15-1 (H)(8) NMSA 1978, including the following: 14 Camino Torcido Loop; Mt. Chalchihuitl; rights-of-way for County roads on pueblo lands.

CHAIR ROYBAL: Thank you, Mr. Frederick. Do I have a motion?

COMMISSIONER HAMILTON: I move that we go into executive session to discuss the matters just read off by County Attorney Frederick.

CHAIR ROYBAL: We have a motion. Do I hear a second?

COMMISSIONER HANSEN: Second.

CHAIR ROYBAL: Can we have a roll call, Madam Clerk.

**The motion to go into executive session pursuant to NMSA Section 10-15-1-H (7, and 8) to discuss the matters delineated above passed by unanimous roll call vote as follows:**

Commissioner Anaya	Aye
Commissioner Hamilton	Aye
Commissioner Hansen	Aye
Commissioner Moreno	Not Present
Commissioner Roybal	Aye

[The Commission met in closed session from 3:38 to 5:45.]

COMMISSIONER HANSEN: I move that we come out of executive session and that nothing that we spoke about except for what was on the agenda was mentioned and the only people that were there were the five Commissioners, County Attorney Bruce Frederick, County Manager, Deputy County Manager, Diego Gomez from Projects, and Colleen Baker from Projects also, and Rachel, Deputy County Attorney. And everything that was discussed was on the agenda.

CHAIR ROYBAL: Okay, I have a motion.

COMMISSIONER HAMILTON: Second.

CHAIR ROYBAL: And a second.

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

## **IX. PUBLIC HEARINGS**

### **A. Land Use Cases**

- CASE #APP 17- 5101 Regina Buckley Appeal Regina Buckley, Appellant, Scott Hoeft, Agent are appealing the Santa Fe County Planning Commission's decision for denial to allow a variance of Ordinance 2016-9, Chapter 8.6.5 Table 8.9, (Dimensional Standards) Residential Fringe (RES F) to allow 9.19 acres to be divided by way of Family Transfer, into two**

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**4.6 acre lots. The property is located at 11 Sudeste Place, within Section 24, Township 16 North, Range 9 East (Commission District 4) [Exhibit 1: Sunlit Hills Water System letter to supply water – Applicant supplied; Exhibit 2: Adopted Zoning District and lot sizes in area – Applicant supplied]**

JOHN LOVATO (Cases Manager): Thank you, Mr. Chair, Commissioners. Good evening. On June 22, 2017 the applicant presented a variance of Ordinance 2016-9, Chapter 8.6.5, Table 8-9, Dimensional Standards, to allow 9.91 acres to be divided by way of family transfer into two 4.6-acre lots. The Hearing Officer, in support of the application, memorialized in her findings of fact and conclusions of law in a written order subject to the following conditions:

1. No further division of this property will be allowed.
2. Accessory dwelling units will not be allowed on either lots due to the substandard lot size.

On August 17, 2017, the variance request was presented to the Planning Commission and the Planning Commission denied the variances by a 5-2 vote, because allowing additional accesses and substandard lot sizes were contrary to the public interest, the applicant failed to provide evidence of extraordinary and exceptional situations or conditions of the property, and the spirit of the SLDC is observed and substantial justice is done by maintaining minimum lot sizes when the property owner can add a dwelling unit to her property for her children.

Recommendation: As staff did not recommend the initial variance request, staff recommends the BCC deny the appeal and uphold the Santa Fe County's Planning Commission's decision to deny a variance of 9.19 acres to be divided by way of a Family Transfer into two 4.6-acre lots. The property lies within the Residential Fringe Zoning District. The base density in the Residential Fringe is five acres per dwelling unit. Allowing a variance creates a precedent to surrounding properties and creates substandard lot sizes. Previous lot sizes that range from 1-40 acres are legal non-conforming or created prior to the Sustainable Land Development Code.

On June 22, 2017, this application was presented to the Hearing Officer for consideration. The Hearing Officer supported the application as memorialized in the findings of fact and conclusions of law written order, subject to conditions.

The Planning Commission denied the variance because they believed that the applicant did not meet the requirements and evidence necessity to grant the variance and meet the variance criteria. If the decision of the BCC is to deny the appeal, the BCC may adopt the findings of the Planning Commission. If the decision of the BCC is to grant the appeal and the variance requested the BCC may adopt the findings from the Hearing Officer.

An appeal of the decision of the Planning Commission shall be reviewed de novo by the Board per Chapter 4, Section 4.5.4 of the SLDC and the Board may make their own findings and conclusions. Thank you, Mr. Chair and I stand for any questions you may have.

CHAIR ROYBAL: Thank you, Mr. Lovato. Any questions from the Board? This is Commissioner Hamilton's district so I'll defer to Commissioner Hamilton.

COMMISSIONER HAMILTON: Is there any further information that's going to be presented or any public comment? That would be good.

CHAIR ROYBAL: So we have the applicant if they'd like to come forward. If you could state your name and address for the record.

[Duly sworn, Scott Hoeft testified as follows:]

SCOTT HOEFT: Scott Hoeft, Santa Fe Planning Group, 109 St. Francis, Santa Fe, New Mexico, 87505. Thank you very much. John, thank you for the excellent staff report. There's a few items I'd like to add if I may approach and pass out a few pieces of information I think this would be helpful to my presentation. What John is passing out, first of all, is a letter from the Sunlit Hills water system indicating that they are ready and able to connect for water service. The second item that John is passing out is a map that shows the subject site and the surrounding properties.

So armed with that information let me just start. I have a brief presentation. This was part of a family planning process. The applicant, my client, wanted to divide her property, which is 9.19 acres, into two parcels, which are 4.6 acres each, and as part of the new SLDC code the minimum parcels in that area are five acres in size. So the 4.6-acre parcel, the two that would be created are substandard. Now I think what's interesting is that under the previous code the subject parcel would have been permitted to be divided into two 2.5-acre parcels with water service. So in the past this parcel of land could have been divided three times into 2.5-acre parcel with some remaining. And under the new code, this applicant, my client, can't divide it even one time. And I think if you notice the map that I passed out, I think the thing that jumps out at you is that the divided parcel, the balance, 4.6 acres, is still larger than the surrounding properties in the area.

And so the argument is that we feel that this is a very minimal easing of the standards for a family transfer. This has taken the applicant quite some time just to get to this point. We had a TAC meeting in November of 2016. We had our ENN meeting in February of this year. We had our Hearing Officer in June, Planning Commission in August and here we are in December, so it's taken a full year to get to this point for the simple family transfer. In the past this was a process that could have been handled in about two to three months.

So we would appreciate your consideration. I think the key element at the Planning Commission which caused concern is could I hook up to the Sunlit Hills water system? And at the time I did not have a letter of intent to serve from Sunlit Hills. We requested it but I didn't have it, and I think that piece of information would have helped because it was actually requested by the Planning Commission. I did supply a letter this evening for you so the intent is that if this division is granted, this family transfer, the lady, my client is dividing her land into two for her sons. The new parcels created with hook up to the Sunlit Hills water system. And with that, I stand for questions.

CHAIR ROYBAL: Okay, do we have any questions from the Board? I think what we're going to do, since it is a public hearing we'll go ahead. Is there anybody here to speak in behalf or opposition of this request? By a show of hands? Okay, there's not anybody, so I'm going to close the public hearing. Do we have any comments from the Commission? Commissioner Hansen.

COMMISSIONER HANSEN: So the one concern that I did have was them being able to hook up to the water system, because that seemed like that was the

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concern of the Planning Commission, that you didn't have that piece of information. So I think that satisfies what the Planning Commission was looking for. Am I correct in assuming that?

MR. LOVATO: Mr. Chair, Commissioner Hansen, I believe that is one of the major concerns that the Planning Commission had.

COMMISSIONER HANSEN: Yes. So they now have water. It does seem logical since all of the surrounding lots are smaller than the 4.6 that their lots would be, that this would be consistent with the surrounding lots.

COMMISSIONER ANAYA: Mr. Chair.

CHAIR ROYBAL: Commissioner Anaya.

COMMISSIONER ANAYA: So Mr. Chair, I'd like to hear from the Commission from that district but I just wanted to say on the record that I've been supportive of family transfers throughout my time here on the bench. I think the water consideration is one of the largest considerations that we've taken any time we've had a case like this and we've gone down to a lot smaller lot sizes over the scope of the time I've been here, but I would like to hear from the Commissioner from this district, but generally speaking it seems reasonable, especially based on the fact that the Sunlit Hills has provided access to the water. So those are my thoughts. Commissioner Hamilton, respectfully.

CHAIR ROYBAL: Thank you, Commissioner Anaya. I would ditto those same comments. Commissioner Hamilton.

COMMISSIONER HAMILTON: Right. We do want to take the code seriously and give consideration to these things and a lot of the reasoning for the code has to do with water accessibility and what not, as well as other public concerns. But given the fact that water is being made available and the surrounding lots are of a similar size I'm not sure that this split would be that big a jump from what the SLDC is in spirit looking for.

CHAIR ROYBAL: Commissioner Anaya.

COMMISSIONER ANAYA: Mr. Chair, Ms. Ellis-Green, so we've had cases in the past, because one of the things that we were trying to guard against historically was that people weren't doing family splits to immediately then, hey, this is a family split but they're going to sell it next week. We've had some conditions that we've placed on the past to cases like that. Can you comment on that? Did we address that in any way through the work of the current code, or can you address conditions that we've placed relative to resale? Immediate resale?

PENNY ELLIS-GREEN (Growth Management Director): Mr. Chair, Commissioner Anaya, under the old code we had something called a small-lot family transfer that had a holding period prior to dividing. We didn't have a holding period afterwards. This code doesn't have small-lot family transfers; it just has the statute required family transfers and it does not have a holding period. It's really difficult. We don't get involved when land is sold so it's difficult for us to put a holding period on because the sale never comes through the Land Use Department like a land division would.

I think we may well have in the past added some conditions to variances asking that it not be held. This is a land division so that could be noted on the plat as a special

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condition stating no sale until – or for however long, if the Commission designated a timeframe for that, but in general, because we don't get involved with sales it's not a code requirement to have a holding period.

COMMISSIONER ANAYA: Mr. Chair and Mr. Hoeft, could you comment on the intent of the applicant associated, given that there's already a denial in place on the item that we're considering right now?

MR. HOEFT: Yes, Commissioner Anaya. Again, I was approached by the client, the applicant. She's an elderly woman and she wanted to divide the land and provide parcels to her sons. That's pretty much her intent and it's as simple as that.

COMMISSIONER ANAYA: So to your knowledge, the parcels aren't being divided for immediate sale, as far as your knowledge.

MR. HOEFT: To my knowledge, no. My understanding is she's going to provide one to her son. What her son does with that I'm uncertain.

COMMISSIONER ANAYA: Thank you, Mr. Chair. Thank you, Mr. Hoeft.

CHAIR ROYBAL: Thank you, Commissioner Anaya. Commissioner Hamilton.

COMMISSIONER HAMILTON: So one of the things was – I thought there was a comment about if the split was approved, not to allow accessory structures other than – because if it's split and there is a second house built it would be what my mother used to call the same difference as having two structures on one parcel or one structure on each of two parcels. It still amounts to two structures. And so would that be – not allowing accessory structures if the split is approved, is that a reasonable condition to put on the split?

MS. ELLIS-GREEN: Mr. Chair, Commissioner Hamilton, staff actually suggested or had recommended that condition if the Hearing Officer approved, we recommended that condition.

COMMISSIONER HAMILTON: That's what I thought.

MS. ELLIS-GREEN: You are correct. Right now they could have their primary house and an accessory dwelling unit. Accessory dwelling units will be smaller in size and share the same driveway. If they divide, then there won't be a size limit on the house. But again, with that condition there would only be a total of two houses, and there could be two houses now.

COMMISSIONER ANAYA: Mr. Chair.

CHAIR ROYBAL: Commissioner Anaya.

COMMISSIONER ANAYA: If I could, Commissioner Hamilton?

COMMISSIONER HAMILTON: Yes, please.

COMMISSIONER ANAYA: Yes, just on that point, I guess I would put forward that one of the purposes around the accessory structure discussion was associated with assisting families if they needed to build another dwelling in particular for a family member or somebody that needed it, and I think the operative piece on an accessory structure would still be water consumption and water availability to even be able to serve that structure. So I can see the number of units being limited but at the same time I think the intent of the accessory dwelling was to facilitate that property owner if they needed to have an accessory structure and assist a family member. So I guess I'm not as bound on

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that piece, just because I think the water availability with Sunlit Hills would potentially provide, will drive whether or not they would even be able to have an accessory structure or not. That's just my overall general take on accessory structures across the county.

CHAIR ROYBAL: Okay. Thank you, Commissioner Anaya. Any other questions from the Board? What's the pleasure of the Board?

COMMISSIONER HAMILTON: Given the circumstances in this case I would move to approve the appeal and allow the split. I don't think it's really – 4.6 and five acres and two structures isn't that big a difference to be that big a variance from the SLDC and given that it has water, the intent to be served with water. But I would do it with the conditions that were recommended.

CHAIR ROYBAL: So your motion is with staff conditions, correct?

COMMISSIONER HAMILTON: Yes. With staff conditions.

CHAIR ROYBAL: So we have a motion. Commissioner Anaya.

COMMISSIONER ANAYA: Mr. Chair and Commissioner Hamilton, would you consider a friendly amendment that the staff condition on accessory structure be modified to where if water availability is present for the accessory structure, as opposed to just disallowing that? Would you consider that a friendly amendment?

COMMISSIONER HAMILTON: So, let me – can I ask for clarification on the amendment?

CHAIR ROYBAL: Yes.

COMMISSIONER HAMILTON: So at 9.1 – whatever it is, acres now, they could have an accessory structure. That would put two dwellings on the property. If they split it, they're going to have two dwellings on the property, as opposed to having four dwellings if each new house is then still able to put an accessory structure. And so –

MR. LOVATO: Mr. Chair, Commissioners, if I may interrupt. Are we talking about accessory structures or are we talking about accessory dwellings? Because they're allowed to have an accessory structure.

COMMISSIONER HAMILTON: Good point. Thank you. No. Accessory dwellings. Accessory structures are –

MR. LOVATO: Thank you.

COMMISSIONER HAMILTON: Thank you for that clarification.

COMMISSIONER ANAYA: And I am speaking to accessory dwelling, because that's a provision that we've provided for accommodating in the code, and when I look at – and I think what's coming into a factor into my logic is when I look at the lots around it, 3.4 acres, 4.4 acres, 2.8 acres, 3.8 acres, 3.3 acres, we're still going to have a lot size 4.5 each –

COMMISSIONER HAMILTON: 4.6.

COMMISSIONER ANAYA: 4.6. So we're still in the realm of what's existing in the neighborhood. So I guess to create an equity standpoint, all those lots around that particular – those lots are going to have that same access to accessory dwelling and it's going to be based on water availability. So I guess I'm looking at this yellow map here.

COMMISSIONER HAMILTON: Yes. I agree with either John or Penny. In some of the surrounding lots that are considered legal non-conforming, are they all – would they be allowed to build accessory dwellings on those smaller lots?

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MR. LOVATO: Mr. Chair, Commissioner Hamilton, that is correct.

COMMISSIONER HAMILTON: They would be.

MR. LOVATO: They would be allowed that.

COMMISSIONER HAMILTON: Okay.

MR. LOVATO: Provided there's no notes or restrictions on their survey plat.

COMMISSIONER ANAYA: Yes, and so, Mr. Chair, Commissioner Hamilton, if I could. I think everything's contingent – I want to emphasize that point, on whatever's recorded in the plat, and then it's all contingent on the permitting process, and EID, right? Environment Department approval as well as what I'm suggesting that appropriate water. So I think it's important to add or make sure that we have in the conditions that if this is a friendly amendment or not, Commissioner, respectfully, that that's contingent on Environment Department and water availability and approval, right? So not a new well to accommodate any of this. This would be within the realm of approval by the water association and then Environment Department relative to a new dwelling.

COMMISSIONER HAMILTON: With all respect, I understand and I appreciate the point you're coming from, to maximize people's reasonable rights, but under the circumstances, this is in a zoning area where this is already a variance for existing zoning and it's both a water consideration and a density and access and traffic levels and that sort of thing. So I think I would prefer to go ahead with the motion with staff recommendation, of approving with staff recommendations.

COMMISSIONER ANAYA: So Mr. Chair, I think I respectfully made my perspective on the record and respecting my colleague, just for clarification, accessory in the motion with staff conditions, accessory buildings would be allowed but not accessory dwellings? So I appreciate the dialogue and the back and forth comments and feedback and so, Mr. Chair, I'll go ahead and second that motion.

CHAIR ROYBAL: Okay, so we have a motion and a second.

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

- IX. A. 2. CASE #APP 17-5161 Prabhu Khalsa and Regina Spamer Appeal, Prabhu Khalsa Appellant, Oralynn Guerrerortiz, Agent, are appealing the Santa Fe County Planning Commission's decision for denial to allow a variance of the Sustainable Land Development Code Ordinance 2016-9 (SLDC) Chapter 7.17.9.3.2, governing height of a structure, to exceed 18' on a ridgetop, and to allow a two-story residence on a ridgetop. The property is located at 01 Anand Nivas Way within the Vicinity of Sombrillo within Section 12, Township 20 North, Range 8 East, (Commission District 1)**  
*[Exhibit 3: Letter from James A. Trapp in opposition of the variance; Exhibit 4: Applicant supplied additional material]*

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MR. LOVATO: Thank you, Mr. Chair, Commissioners. On July 27, 2017, this application was presented to the Hearing Officer for consideration. The Hearing Officer supported in part of the application and denied in part of the application as memorialized in the findings of fact and conclusions of law written order. The Hearing Officer recommend approval to allow disturbance of 30 percent slope for a driveway to access the buildable area and finds sufficient evidence of extraordinary and exceptional conditions that would cause the applicant undue hardship with strict compliance of the code. However, the Hearing Officer found insufficient evidence and recommended denial of the height and two-story variance requests as the applicant failed to prove extraordinary and exceptional conditions that would cause the applicant undue hardship with strict compliance of the code as the property contains 4,000 square feet to build an alternative style of home

On September 21, 2017, the variance request was presented to the Planning Commission and the Planning Commission approved of slope disturbance in excess of 30 percent as memorialized in the findings of fact and conclusions of law written order. However, the Planning Commission denied the request for the height and two-story variance request as the applicant failed to prove extraordinary and exceptional conditions that would cause the applicant undue hardship with strict compliance of the code

The appellant states, because the lands around the property have been altered in the past, it is difficult to now tell what is natural and what has been altered by the hand of man. The slopes of 30 percent on the west side of the property are only 5 feet in height, and that side has been definitely impacted by existing development so it is not clear if the slopes are natural. The adjacent roadway cut for East Sombrillo Road shows gentle slope from the west side of the building site, and likely was representative of the natural slope prior to development. Photo Exhibit 1.

Recommendation: As staff did not recommend the initial variance request, staff recommends the BCC deny the appeal and uphold the Santa Fe County Planning Commission's decision to deny a variance of Chapter 7.17.9.3.2, Height of Structures on ridges, ridgelines, and shoulders shall not exceed 14 feet in height and shall be limited to one story.

The Hearing Officer recommended denial for the height to exceed 14 feet and to allow a two-story residence on a ridgetop as memorialized in the findings of fact and conclusions of law written order as the applicant failed to prove extraordinary and exceptional conditions that would cause the applicant undue hardship with strict compliance of the code as the property contains 4,000 square feet to build an alternative style of home.

The Planning Commission denied the variances for the residence to exceed 14 feet on a ridgetop and two-story because they believed that the application and plans provided did not meet the requirements and evidence necessity to grant the variance and meet the variance criteria. If the decision of the BCC is to deny the appeal, the BCC may adopt the findings of the Planning Commission.

An appeal of the decision of the Planning Commission shall be reviewed *de novo* by the Board per Chapter 4, Section 4.5.4 of the SLDC and the Board may make their own findings and conclusions. Mr. Chair, Commissioners, I stand for any questions.

CHAIR ROYBAL: Questions from the Board? Okay, so we'll wait for additional questions, but is the applicant here? Commissioner Anaya.

COMMISSIONER ANAYA: I guess I have one question if I could ask it.

MR. LOVATO: Sure.

COMMISSIONER ANAYA: What was the feedback – so looking at it we're talking about a difference of four feet, or six feet?

MR. LOVATO: Mr. Chair, Commissioner Anaya, if you look at the exhibit –

COMMISSIONER ANAYA: Four feet, right? So from an 18-foot to 22-foot. So we're talking about four feet.

MR. LOVATO: Correct. Correct. With a pitched roof.

COMMISSIONER ANAYA: And was there a lot of public comment? Opposition? Discussion? Relative to the public hearing at the Planning Commission meeting?

MR. LOVATO: Mr. Chair, Commissioner Anaya, most at the Planning Commission and at the Hearing Officer the concerns were septic and drainage.

COMMISSIONER ANAYA: So did anybody get up at the public hearing specifically and address the height variance that we're talking about?

MR. LOVATO: Mr. Chair, Commission, I don't believe so.

COMMISSIONER ANAYA: So all the comments that were of concern dealt with septic and other drainage issues that I'm assuming were rolled up in the final decision with conditions and those concerns that were raised were addressed in those conditions?

MR. LOVATO: Mr. Chair, Commissioner Anaya, I believe so and some of the other concerns were – just the height of the structure was a concern of staff, I should say.

COMMISSIONER ANAYA: Staff. Okay. But the neighborhood, there was no concern relative to the difference from 18 to 22 feet.

MR. LOVATO: Mr. Chair, Commissioner Anaya –

COMMISSIONER ANAYA: Penny's running over there so maybe there was.

MR. LOVATO: Mr. Chair, after looking at the Hearing Officer minutes there is – Mr. Vigil had concerns about looking at the property from his property in an overlook to his property on that actual ridgetop.

COMMISSIONER ANAYA: So there was one concern of height.

MR. LOVATO: Mr. Chair, Commissioner Anaya, that is correct.

COMMISSIONER ANAYA: Great. Thank you. I appreciate that. Thank you, Mr. Chair.

[Duly sworn, Oralynn Guerrerortiz testified as follows:]

ORALYNN GUERRERORTIZ: Hi. I'm Oralynn Guerrerortiz. I'm a civil engineer with Design Enguinity here in Santa Fe. We're at 1421 Luisa Street, Suite E. Thank you, Commissioners, for hearing me today. I'm representing Prabhu Khalsa and his wife, Regina Spamer and their newborn son and their desire to build a home on property that Prabhu purchased more than ten years ago. His wife and newborn son are

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not here tonight because we thought we were going to be on very late and I recommended that they not come because it was so late, but they're here with us in spirit.

I'll start with the fact that this is not a straightforward case. The primary question is is this a ridgetop? From the strict definition of a ridgetop, and that's what the staff is looking at, is that first little photograph, or the first sheet of my handout that I've given you, it in essence says it's the top part with shoulders on both sides at 30 percent or greater slopes. And on paper it seems clear. When you look at this property there is 30 percent slopes around the building site but let me explain a few things. This is – right here is East Sombrillo and Anand Nivas Way is right here. And this is the lot that the Khalsas own.

The front part of the lot has got all man-made slopes because of some significant cuts and I'll show you photographs of that. These are man-made slopes. These are man-made slopes. These are man-made slopes. And from my perspective, I was asked to define the man-made slopes and the ones I could certify to. And as a professional I have to be real careful when I certify things and make sure I'm accurate. So that's my interpretation of what is definitely man-made. But I have a problem because if you look at the aerial photography, this is this lot. To me, it looks like it's all man-made, and when I walk around that lot it all looks man-made. It's really hard to tell what is natural anymore. If somebody asked me to certify exactly what is natural, I couldn't certify to a single square foot of that property being natural. So that's part of the problem, is what is actually real.

The land is definitely being cleared and graded and it was all done before the Khalsas owned this property, well before they owned it.

The second point is what is a 30 percent ridgetop? This is a five-foot hill. That difference in elevation, that 30 percent right there, that's five feet. I went through a lot of meetings in this room and I saw a lot of code being developed. I think the intention was always to protect obvious ridgetops in our community – think along Hyde Park Road where you didn't want a house dominating a hill. This little five foot slope, that isn't what we were trying to protect. This is just sort of an outcome of the strict reading of the code, which I respect staff for doing, but I look forward to having your opinions on this, because I think when you go out there, these are little, tiny, little lumps and they're not really hills or ridges.

I'm going to also show you a photograph from East Sombrillo Road and that's this right here. The Khalsas' property is up here. When they built this road they carved into the hillside and I think these slopes that are here, these natural slopes going up, that was what was there originally. They were gentle hills. But over time people carved into them, building houses and doing development. And so what I've provided you in this stack of photographs are various pictures of the property and showing you homes that are actually there today. They've been carved into the land.

The staff report states that the approval of this variance would set a precedent and would allow other homes to be built on ridges. I believe that this property should not be defined as a ridge and that its man-made alterations disqualify it from protection and thus development will not set a precedent. The Khalsa property has two-story homes on two sides of it. The staff report says that these homes aren't on a ridge, but at least in the case of the home to the north, which is, again, there's a two-story home right here, and there's

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a two-story home right here. If they're going to call this a ridge, then that house is on a ridge too. I don't think it's a ridge though, so I think that those people are fine.

We have letters of support from three out of our four neighbors so three quarters of the way around the property you'll find in this stack of paperwork our letters of support for a two-story home. Some of these people already own two-story homes but they are perfectly fine with having a new two-story home in their neighborhood.

Why does this young family want a two-story home in this location? Primarily because a two-story home has less footprint. It's less cost to build, less cost to heat, than a similar one-story home. They want to take advantage of the southern exposure and they want to build the most energy efficient, green home that they can. Naively, they thought that they were surrounded by two-story homes and that they could also have one and they had their home plans prepared. This family has been held up for months in building their home. They've got a newborn son, which you also have a photograph of that they were hoping would come home to that home when he was first born. Hopefully, we have him in that home before he's a year old.

So tonight we ask you to please grant this variance and allow the Khalsas to built their two-story home. Thank you very much. I'll stand for any questions.

CHAIR ROYBAL: I think we're going to wait for the questions until we get comments from the public. So is there anybody from the public that would like to speak in behalf or opposition on this request? Is there anybody here? So it doesn't look like we have anybody here to speak in opposition. Commissioner Anaya, I'll go to you. Do you have some questions?

COMMISSIONER ANAYA: Mr. Chair, I would defer to your feedback. I guess I would just say that I asked some questions early on as to what we're actually talking about; we're talking about four feet and I guess there's some design aspect where they could build a two-story house and build a flat roof house as a possible option to meet the height restrictions. Is that a possibility? Could they do that?

MR. LOVATO: Mr. Chair, Commissioner Anaya, not on a ridgetop.

COMMISSIONER ANAYA: So then I guess what's – I ask Penny or whoever wants to address it. So if I build a one-story house that's 18 feet tall, that's okay. But if I build a two-story house that's 18 feet tall, that's not okay? And help me understand why, if we're doing that.

MR. LOVATO: Mr. Chair, Commissioner Anaya, the flat roof would be 14-foot; a pitch would be 18. Could you technically get a second story in there? In an 18? Possibly, but you're going to have really low ceilings and a hard time and less room. Just with experience. But –

COMMISSIONER ANAYA: Not necessarily. You could have a lot – there's other ways, but we differentiate between a pitched roof and a ridgetline, which is the view line from my perspective, for a pitched roof we allow more which from my perspective it's six of one or half a dozen of the other. If it's 18 – and maybe this is something that we need to have discussion about for the broader code, if it's a height that you're trying to limit a viewshed, then that should be the height we look at, whether you're building a one-story or a two-story. If somebody builds a two-story that's 18 or a one-story that's 18, I don't know that we're accommodating – I guess I don't understand the logic there.

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MR. LOVATO: Mr. Chair and Commissioner Anaya, I think to clarify, I think the intent of the pitched roof was for the elevations that are like 7,200, 7,000. You'll looking at more like Hyde Parks Estates, High Summit. Looking at La Barbaria area where you get heavy snow loads and therefore you have adequate ability to take care of that issue but in certain areas you know – I think that was the intent. Certainly we can probably discuss some of those issues.

COMMISSIONER ANAYA: Yes, and I just think from a practical application in New Mexico, in northern New Mexico, anywhere in Santa Fe County, be that as it may, you're going to have certain communities that you don't want anything but flat roofs, but they built that into their homeowner associations and their plats early on and that's a well known fact. So John Doe buys into that subdivision, they know. I have to build a flat-roof house because that's what I bought into. But practically speaking, it's better to have a pitched roof from a maintenance perspective and longevity perspective. But we're not here to debate that. I guess there's some differences between what we allow in flat and pitched but I think as far as line of sight is concerned, it should be one. I guess we should have a conversation about that.

And I think there is some merit to the comments made of the intent of the code and how we determine those slopes. I'm not so certain this was the target area but in fact there was a lot of dialogue a couple decades ago in the county associated with what went on here in Santa Fe and it wasn't about parcels like this; it was about all the parcels that we look around and see homes on the top of very steep elevations and surrounding areas.

So, Mr. Chair, I'd defer to your thoughts but that's my perspective.

MR. LOVATO: Mr. Chair and Commissioners, if I may interrupt, the Exhibit 2, we did not have this evidence as we took it forward in front of the Hearing Officer, nor did we have it front of the Planning Commission. So this is all new to us and we do see their statement. However, by definition, it's a ridgetop.

COMMISSIONER ANAYA: And Mr. Chair, if I could –

MR. LOVATO: By evidence, well, by what they've submitted we did not have during the Planning Commission and the Hearing Officer. We've gotten this for their submittal for their appeal and they are showing man-made slopes around the area and some that are not that she's had a hard time validating, Ms. Guerrerortiz. However, by definition this is a ridgetop and that's why we have this here in front of you.

COMMISSIONER ANAYA: Mr. Chair.

CHAIR ROYBAL: Commissioner Anaya.

COMMISSIONER ANAYA: Commissioner Hamilton, are you okay if I – so I want to say this to staff and our internal team. We understand that you're not, nor do you ever come in here with malice intent against the public. And I just want to say that, because as we go through this evaluation process we have to have within law, which code is, and I know you know this, Orallynn, we have to be literal about, well, what's the definition? And what's the slope? And what is that definition? And the further you dig into a particular item the more complicated it can get. So I want to say on the record, I'm not picking on you but there are things that we find as we evaluate these as a Board that we have to take into consideration before we render a decision. But I appreciate the complexity of the code and how we have to work through the interpretations and the literal interpretations by law – which is it. It's a law – to make sure we adhere to the code

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as best we can and that there are exceptions from time to time and this may be one of those exceptions. So I defer to the Chair. Sorry, Mr. Chair.

CHAIR ROYBAL: Thank you, Commissioner Anaya, and I just want to state for the record that we did call for public hearing and there wasn't anybody here to speak to this issue. And I do want to say we did get a letter from Mr. Trapp indicating that he didn't want any more residential structures built in the area. He does talk a little bit about it being in his view, but really it seems like his main concern is that he doesn't feel there should be any more buildings in the area, but according to our Land Development Code this is an acceptable building to go into this area. Correct?

MR. LOVATO: Mr. Chair, Commissioners, that is correct. It is a legal lot of record and we are entitled to go through the variance procedure for access or what not. We are entitled to give them a buildable –

CHAIR ROYBAL: Okay. And going by the additional information that Ms. Guerrerortiz has brought forward today, I'm going to make a motion for approval.

COMMISSIONER ANAYA: I'll second it, Mr. Chair.

CHAIR ROYBAL: So we have a motion and a second. But under discussion, Commissioner Hansen, did you have something?

COMMISSIONER HANSEN: I find it hard to understand how this is a ridgetop. So I'm sorry that that might go against the code but it doesn't seem to me that it was the intent of the code to use ridgetops on such a hilly surface in such an area. I'm not exactly sure where this is but from the photos and from the images that I see. I'm just wondering, all the houses around here are two-story, so you're not out of character in any way with the type of house that you're building?

MS. GUERRERORTIZ: No. No, not at all. It's very much in character with the other homes, with portals and things. It's a very nice design.

COMMISSIONER HANSEN: Okay. That's all I have.

MS. GUERRERORTIZ: And if I could just add a little more. It's just unfortunate that Mr. Khalsa didn't have somebody like myself to support him in front of the Hearing Officer and the Planning Commission. I didn't get involved until this step, but I think this case would have been obvious to the earlier committees if I had presented the case, but I wasn't involved at that point.

COMMISSIONER HANSEN: Thank you, Ms. Guerrerortiz.

CHAIR ROYBAL: Okay, we have a motion and a second.

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

COMMISSIONER ANAYA: Mr. Chair.

CHAIR ROYBAL: Commissioner Anaya.

COMMISSIONER ANAYA: Mr. Chair, I guess I have a request and it's not just connected to this case but it's connected to any of the cases that we have that come before us. We respect and value our committees and our Planning Commission, but from time to time we don't agree, which is part of the process. But I do think it's important for us as a County, whether it's this committee or another policy committee to give the information to that committee to give them feedback on the discussion that was

held at the Commission for information, right? Not to tell them to do anything or change anything they're doing, but to give them information back so that they understand.

Because I know from time to time we'll overturn a decision that was made and maybe they don't get the benefit of what was discussed by the Commission or the public or other evidence. In the last case, they didn't have the evidence that there was a water hookup that was available. That's a pretty big component when you're considering additional lots or additional structures. So maybe, Mr. Chair, we could convey that information back to the Planning Commission, just the minutes, if nothing else, on the decision and then what was decided and then they can read for themselves as to the discussion and what transpired. Thank you, Mr. Chair.

CHAIR ROYBAL: Thank you for those comments, Commissioner Anaya.

## VIII. PRESENTATIONS

### A. Update on the Progress of Negotiation of Rights-of-Way for County Roads on Pueblo Lands [*Exhibit 5: Presentation material*]

MR. FLORES: Good evening, Mr. Chair. While they're queuing up the projector I'll go ahead and set a little introduction and framework for the discussion tonight. Before we get started I'd like to acknowledge Lt. Governor Chris Moquino, Councilor Tim Martinez and Councilor Glenda Fred-Weahkee from the Pueblo of San Ildefonso that are joining us tonight. Also, Representative Carl Trujillo is in the audience. We have Josh Mann who is from the Department of the Interior Solicitor's Office. In the back, somewhere back there, Shannon McKinnon from the Bureau of Indian Affairs who will be doing one of the presentations tonight and we have quite a few people here tonight from the Bureau of Indian Affairs and the Eight Northern Pueblos. And then lastly I'd like to introduce Mr. John Fox and members of the New Mexico Land Title Association. They're joining us tonight as well.

So the framework tonight is we're going to provide –

COMMISSIONER ANAYA: Mr. Chair, if I could. Mr. Chair, I want to acknowledge former County Manager, Santa Fe County, my former boss at the time.

MR. FLORES: Mine too. Katherine's too.

COMMISSIONER ANAYA: Bureau of Reclamation, Estevan Lopez is here with us, and it's good to see you, Estevan. Welcome back.

MR. FLORES: Thank you, Mr. Chair. Thank you, Commissioner Anaya. So we're going to provide a power point presentation that talks about kind of where we came from and where we are tonight. Embedded in the power point presentation the County Manager and I will kind of tag-team on discussion points also and the frequently asked questions which are embedded in this presentation as well. Mr. McKinnon from BIA will do a short presentation on the Tribal Transportation program and how that comes into play for this item that we're discussing tonight. We'll close the discussion with next steps, what this means between now and hopefully the first meeting in January and just to let everyone know, if they haven't seen it already, there's handouts in the back that have this power point, the power point by Mr. McKinnon and also our frequently asked questions handout.

So Mr. Chair, I don't need to really reiterate too much on this but the Board back

in 2015 passed a resolution that had the County looking at certain things and ensuring that the settlement of the legal status of roads in the valley, if we were able to address later title insurance industry concerns regarding title insurance, the ability to purchase and sell property, and the insurance of ingress and egress for properties located within the boundaries of Pojoaque Valley were addressed. The attempt to avoid costly and lengthy litigation if we could not come to some type of resolution of the rights-of-way in the Pojoaque Valley. And lastly that resolution talked about the insurability that the water settlement may be implemented.

This has been a long road for some of us. I was involved in this on the water side back in 2003, 2004, and 2005 before I left the County, and almost four years I've been back. This has been one of the primary charges that the County Manager's Office has been working on. Existing conditions – this is really for informational purposes and we'll go through each of the pueblos because that sets the stage of where we are today. In the Pueblo of Tesuque we maintain approximately 2.1 miles of roads and we have written perpetual rights-of-way for County Roads 73 and 74. The County has no written right-of-way that exists for County Road 72I.

The Pueblo of Pojoaque, we maintain approximately 15.77 miles of roads and we have no written rights-of-way for any of the County maintained roads within the pueblos. I'm not going to read each of the roads but they're listed on the power point presentation in the order of the numbering.

For the Pueblo of Nambe we maintain approximately 10.17 miles within the pueblo and interesting on this pueblo, the County maintained roads within the Pueblo of Nambe are currently listed on the Bureau of Indian Affairs Road Inventory but no written rights-of-way exist. Again, the County roads that we've maintained are listed on the right side of the presentation.

The Pueblo of San Ildefonso, we maintain approximately 9.6 miles of roads within the pueblo and written rights-of-way are not complete or comprehensive on the following County maintained roads within the pueblo: 84 – there is some written right-of-way agreement from the New Mexico Department of Transportation; County Road 84A, B, C, and D and County Road 101D, portions of that we have right-of-way from DOT or through the designation through the Bureau of Indian Affairs. Currently within the pueblo many roads and driveways of convenience are in trespass.

So that sets the stage of how we started resolving or looking at each of the pueblos, and it's important to note that the County was required to negotiate settlement agreements with each of the pueblos, not collectively, but each of them individually as sovereign entities. And that will require that when we bring forward the settlement agreements that they will have individual conditions based upon each pueblo. So the Board will not be considering a collective or one settlement agreement; it will be considering four settlement agreements.

As part of the discussions that have gone back and forth for many years we looked at the ways to address the rights-of-way without litigation. I think that was the primary driving fact from the resolution is to avoid costly litigation and lengthy litigation if at all possible. So two scenarios or two options came before us that we wanted to look at. One of them was that pueblos would grant rights-of-way to Santa Fe County which would be approved by the Bureau of Indian Affairs. Other pueblos would grant rights-of-

way to the Bureau of Indian Affairs by the County, so we would grant both – the County and the pueblos would grant to BIA rights-of-way and then those roads would be placed in the Tribal Transportation program.

So each pueblo has indicated, since we're negotiating four distinct and different settlement agreements, we looked at those two conditions for addressing rights-of-way within each pueblo. We also looked at a process by where we could address those gaps of land and in a lot of documents they call it the gap. The gaps of pueblo land that's located between a public right-of-way and a private lot that a private lot owner may be using to access their private lot. So when you hear the word gap, Commissioners, that's what we were trying to address in some fashion is that area of land that is pueblo land that lies between a right-of-way and their property.

What I can present to you tonight is the County has or is presenting tonight, are agreements in principle. The County has come through the negotiation process with agreements in principle with each of the four parties. What we're not presenting tonight is the actual settlement agreements. As I indicated, they're still being worked through on the legalese side and that's something that I'm not prepared or we're not prepared to address this evening.

So general conditions, all rights-of-way will be granted for two consecutive 99-year terms for a total of 198 years. Santa Fe County will survey the rights-of-way for placement to the BIA Tribal Transportation program. Mr. McKinnon will give a presentation on what that means after I'm done with mine. What that also means is all roads remain as public roads. And the pueblos or BIA will not permanently close roads during the term of the rights-of-way or remove the roads from the BIA inventory. The caveat on that is as it is today, there may be occasions where a pueblo closes or temporarily closes a right-of-way for cultural purposes and that condition exists today and that condition will exist in the future for the 198 years.

Santa Fe County will continue to maintain all the rights-of-way with all four pueblos, so as we are negotiating individual settlement agreements with each of the pueblos we are also going to be negotiating individual rights-of-way agreements with the Bureau of Indian Affairs for the pueblos of Nambe and San Ildefonso. So there will be a couple of accompanying documents to that for the maintenance. We will utilize existing County road maintenance programs for the pueblos of Tesuque and Pojoaque. So the take-away from that is we will continue as we have done to maintain all rights-of-way. There will just be conditions in the agreements as we move forward.

In cases where pueblo land is located between the existing right-of-way – and this is the gap issue – there's going to be a process that each of the pueblos will develop or are in the process of developing that will address or establish by which a non-pueblo landowner may obtain insurable access across the pueblo land. The goal of course is to try to get as many of the rights-of-way confirmed or codified and that would minimize the number of gaps that would be existing when we get to that point.

For the Pueblo of Tesuque, how we're going to resolve it is the pueblo could consent to BIA granting Santa Fe County a right-of-way for County Road 72-I. That's the only remaining road that's left in the Pueblo of Tesuque that does not have a written right-of-way, and that's approximately .21 miles of road.

The gap issue, although there's half a dozen or so private properties that are

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accessed off of 72-I, the extent of the gap is not known today. Once a survey is completed, if any exists, we'll utilize the BIA easement acquisition process to address it. So for the Pueblo of Tesuque, not only is the right-of-way granting rather small –.2 miles of a road, but also the gap issue is minimized also because of the length of that road.

For the Pueblo of Pojoaque, the pueblo will consent again to BIA granting Santa Fe County the rights-of-way for all County maintained roads. For any gap issues, the pueblo is developing a process of a transferable land assignment for ingress and egress for any gap issues for a term up to 35 years. Their goal is to provide the ability to the Pueblo Council to act on requests timely and also they would codify any of the process that they develop for the gaps within their law and order code.

For the Pueblo of Nambe – so now we're switching gears a little bit, both the pueblo and Santa Fe County will grant to BIA rights-of-way for County maintained roads that currently reside on the BIA inventory. So the previous ones they are granting to us through the BIA process here we both are granting to BIA. The gap issue in the Pueblo of Nambe is also a development in progress or in process, and they're looking at a myriad of issues in how they develop their gap issues and their process to rectify or provide an avenue for somebody to go in, including the Herrera Decree of 1935.

For the Pueblo of San Ildefonso, both the pueblo and Santa Fe County will grant to the BIA rights-of-way for County maintained roads 84, 84-A and 84-B. And I want to use the word grant. So we're not giving; we're granting our right-of-way as is the pueblo for those roads. We will survey 84, 84-A and 84-B and County Road 101-D and those rights-of-way will be placed in the BIA's Tribal Transportation program. Over time the pueblo has requested that they would rename the public roads and that would be a phased in process that both the pueblo and the County and BIA would be involved in to ensure that we provide notice and work through a naming convention for those roads.

County maintained roads that are located entirely within private claims – there's portions of Evergreen, County Road 84-K – those all reside within private claim lands. They are not part of the granting of rights-of-way. They are within private claims and we will continue to maintain those private roads within private claim lands. Approximately two or three years, the road of convenience that's located on the pueblo land south of the Rio Pojoaque but west of County Road 101-D, which isn't currently a County maintained road will no longer be accessible. The pueblo is working on a variety of infrastructure projects and that area will actually be taken up with some of those projects in the future. So when that's starts being phased in that road or driveway, if you will, will no longer be able to be utilized to the back sides of those properties.

Property owners will be required to begin using a surveyed legal access point and we will assist in the transition for those property owners to identify those surveyed or ingress/egress points as we move forward with that process.

For the gap issue for the Pueblo of San Ildefonso, before the roads are placed into the Tribal Transportation program and the right-of-way granted, the pueblo will provide a legal access to all private lots through the legislative grant of temporary access from identified rights-of-way. They would grant a temporary access or the temporary access would remain in place for five years or until the rights-of-way are granted. Surveys and grants of right-of-way to BIA will identify all access points and the pueblo may choose to resolve any gap issues along the County Road 84-A by undertaking a road alignment.

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And the last item of significance on the Pueblo of San Ildefonso is the County's going to construct – or at least in the principles of agreement – entirely on pueblo lands, Yellowbird Loop, which was formerly portions of County Road 84-C, 84-D and Sandy Way, and Blue Dove Road, which will serve properties between County Road 84 and County Road 84-B within five years of the approval of that agreement with the Pueblo of San Ildefonso. Both the pueblo and Santa Fe County will work together to incorporate those new roads also into the Bureau of Indian Affairs Tribal Transportation program.

This is a map of what I've been discussing. What you're seeing up here at the top portion in the yellow, that would be the new Yellowbird Loop that would be constructed entirely on pueblo land and the pueblo has indicated it would identify a process to identify any potential gap issues between the private claim and the new right-of-way. In the left-hand portion of this, or to my left anyway, this is Blue Dove Road, which will be from 84 down and this would also be a road that's constructed by the County within five years once the settlement agreements are approved.

I mentioned County Road 84-A. That's this road here. If the pueblo decides to undertake any gap issues or realignment here, this would be a proposed alignment along this portion. When I indicated the roads of convenience or driveways on the south side of the Rio, I'm referring to – you can see it in this photo right here. There's driveways along this side here that are not maintained by the County and that cross pueblo land, and those would need to be moved or redirected so that they have ingress and egress to a right-of-way.

We've been receiving quite a few emails and comments about what we're doing and why we're doing it, and we have prepared a frequently asked questions handout that's in the back. I have also incorporated those questions in here and I believe at this time either the County Manager or myself will go through the FAQs and then we'll have Mr. McKinnon present the TTP program.

MS. MILLER: Mr. Chair, Commissioners, members of the public and our guests, first of all I would like to comment on the overall process to get to this place. I would like to thank the pueblos, all of the governors from the pueblos, their attorneys and the individuals who participated in the negotiations, as well as Josh Mann, Alan Mikkelsen, Pam Williams – everyone from the federal team. You dedicated so many resources to helping us work through these negotiations and understand all of the different possibilities there were and limitations and opportunities. So I would hope that you could pass that on to the federal team. We really do appreciate your involvement.

I'd like to express my appreciation to my Commission who dedicated numerous hours to these negotiations, and overall, I want to express my appreciation to everyone who was involved. They are incredibly professional, polite, respectful in some very difficult times and negotiations. I think everybody came into this with their own positions and not necessarily wanting to enter into these negotiations at this time and I cannot say how much I believe that people really put aside personal feelings or any kind of personal position or governmental position that they're hanging onto too tightly in order to try to find a resolution. So I just need to express my gratitude, particularly to the Council members and Lt. Governor Moquino, Governor-elect Moquino. I can't see you but I really want to express that and I hope that you take that back to the rest of your Council members because this was not an easy process and it has been going on for quite some

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I understand that the public has wondered what's been going on, obviously. Negotiations on rights-of-way and lands and settlement agreements is not something that can really be done in a public setting if you hope to actually come to some resolve. We feel that the County and the pueblos have really worked hard and everybody has given from a position that they felt was very important to them and given to come to a settlement so that we would not be in litigation. Litigation is lengthy, costly, divisive and would not have brought us to this point today.

So with that, I wanted to go through some of the questions though that came out of emails, just our own conversations and things that might help everyone understand why we came to these agreements and the principles of these agreements. First of all, why did we negotiate settlement agreements rather than litigate road issues? As I said, the County, the pueblos, and the United States agreed that litigation would unnecessarily divide the affected communities for years to come and that by settling, the settlement partners would avoid the uncertainty and great expense of litigation. A negotiated win-win settlement is a far better approach than a win-lose litigation to resolve the long-standing debate about the roads on pueblo land.

What types of settlement agreements were negotiated? The County has separately negotiated the key principles of the settlement with the United States and each pueblo. The settlement partners are now in the final stages of negotiating four settlement agreements that will resolve the roads issues on each pueblo. Although each settlement agreement includes unique terms they also have many terms in common. In addition, the settlement agreements can be divided into two general types. And those I won't go into now but I believe that Tony described that. It is either the County and the individual pueblo granting rights-of-way to the BIA, or the pueblo with approval of the BIA granting a right-of-way to the County. In all cases, those rights-of-way will be granted for two 99-year terms. In some cases where there's no dispute that a specific County maintained road is already subject to an adequate right-of-way the settlement partners agreed that no further grant is necessary.

Why are there four settlement agreements with different approaches? Each road situation, as Tony presented, is different on each of the pueblos, and each pueblo is a separate sovereign government and they address the road situation within their land differently, according to the needs of the pueblo and the community. Each agreement is tailored to resolve the roads issues within each individual pueblo.

What is the difference between a right-of-way granted to the County by the BIA, that approach that was taken by the pueblos of Pojoaque and Tesuque, and a right-of-way granted by the County and the pueblo to the BIA, that approach which was taken by the pueblos of Nambe and San Ildefonso? The difference is mostly technical, because in both cases the roads in question will remain public roads for generations to come, 198 years at a minimum. The technical difference is that when BIA grants a road right-of-way to the County, the County obtains an easement across pueblo land along the surveyed right-of-way route. In contrast, when the pueblo and the County grant rights-of-way to the BIA, the pueblo and County are granting easements to the BIA across pueblo and private land respectively. Note that the settlement partners agree that the County already has easements through years of public use where the County maintained roads across private



lands.

Can any of these roads be closed by the pueblos or BIA during the term of the settlement agreements? The pueblo and BIA will not permanently close the roads during the term of the right-of-way or remove the roads from BIA public roads inventory. However, a pueblo may on occasion temporarily close a road for cultural purposes as has been done in the past. The settlement agreements will not change a pueblo's policies regarding temporary closures.

What is the term of rights-of-way and what happens to the roads at the end of the term? The rights-of-way will be granted for an initial term of 99 years and will automatically renew for a second 99-year term. At the end of the 198-year period the rights-of-way for the roads will revert to the party that granted or assigned them unless the parties otherwise agree to extend those at that time.

How do these agreements help me? The settlement agreements resolve a decades-old problem by making the identified roads unequivocally public roads with continuous lawful public access across both pueblo and private land, either through grants of the right-of-way to the County or to the BIA. The settlement agreements will also resolve the gap issues where driveways or access roads cross pueblo lands enabling property owners to obtain insurable access to their homes.

Will the settlement agreements resolve in the ingress and egress issues with the title companies? Yes. The settlement agreements will provide long-term access to private property off the identified roads through the grants of rights-of-way and each pueblo will establish a long-term process for those properties in which a gap of pueblo land exists between the property and the road. This will provide a long-term solution to the gap issue.

How do the settlement agreements affect my individual rights as a private landowner within the exterior boundaries of a pueblo? Your individual property rights will not be affected. In fact your property will benefit from this long-term resolution of the roads and gap issues, since it is designed to enable property owners to obtain insurable access required to have a marketable title and for financing purposes.

Who will maintain the roads? Under all four settlement agreements the County will continue to maintain the roads for the terms of the right-of-way, regardless of whether the roads' rights-of-way are granted to the County or to the BIA.

How will the settlement agreements affect land use issues for my property? The settlement agreements do not address land use issues directly. However, in reviewing and approving new development on private lands within the pueblos, the County will require the ingress and egress to the subject lot or lots to be consistent with the legal access points established under the settlement agreements.

How will this affect utilities to my property? The settlement agreements acknowledge that the pueblos have sole authority to allow the installation of utilities along roads that cross pueblo lands. However, since at least 2004 the County has required utility companies to obtain the pueblo consent before the install utilities along County maintained roads on pueblo land. Accordingly the settlement agreements should not affect the utilities serving your property.

Why are the rights-of-way agreements granted in perpetuity? The County and the pueblos understand the concern for a long-term solution, especially since it affects the

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ability to obtain title insurance and financing. However, after consulting with representatives of the title insurance industry, the settlement partners concluded that two 99-year terms totaling 198 years provide long-term stability and enable private property owners to obtain lawful access, title insurance, and financing. In addition, it is common for sovereign entities, including the State of New Mexico, not to grant rights-of-way or other easements across their land in perpetuity.

Will my street address change? As part of the settlement with the Pueblo of San Ildefonso the roads within the pueblo will be renamed by the pueblo. Your street address will not change right away, however, because the renaming will be done in a phased approach over several years and you may see signs for both the County road designation and new road names for a period of time. The renaming will be consistent with E911 service requirements. Other pueblos may rename roads within their lands.

Who provides law enforcement on each type of right-of-way? The settlement agreements will not change allocation of criminal jurisdiction as between federal, state and local law enforcement officials over the County maintained roads. The complicated rules governing law enforcement jurisdiction in Indian country will continue to apply.

Finally, will the settlement agreements raise my property taxes, or be paid from a local tax assessment on my property? No. While the settlement agreements impose costs on the County these costs will be paid entirely from existing revenue sources. The settlement agreements will not cause any increase in property or other taxes and will not be funded by a local tax assessment of any kind, and will not be funded by general obligation funds paid from property taxes.

MR. FLORES: So, Mr. Chair, those FAQs, there's a handout in the back. It's part of the presentation. What I'd like to do now is I'd like to go to the presentation by Mr. McKinnon on what it means to be in a transportation program and he can outline that and then we'll have some additional comments and then I'll close with the next steps.

SHANNON MCKINNON: Good evening, Chairman, Councilors, Tribal Governors. Thank you for having me here today. Thanks for allowing me to present some of the information about the tribal program. The Tribal Transportation program has been a program the BIA has followed for many years and a number of our tribes – there's actually roughly, approximately 560 federally recognized tribes encompassed within 12 regions throughout the country from Alaska all the way down to Florida.

So the Southwest Regional Office is who the roads belong to in New Mexico, Colorado, Texas, and that's kind of what we've been following. So a little bit about the background about the program itself. The TTP program was established on May 26, 1928. It authorizes the Secretary of Agriculture, which had responsibility for federal roads at the time to cooperate with state highway agencies and the Department of Interior to survey, construct, and reconstruct and maintain Indian reservation roads serving Indian lands. In 1982 under the Surface Transportation Assistance Act of 1982, Congress created the Federal Lands Highway program. This coordinated program addressed access needs to and within Indian and other federal lands. The TTP program is a federal category under this program, a federal highway.

So how does a road become a TTP road? A Tribal Transportation program road? First of all, a tribe would have to have a long-range plan. A long-range plan is a 20-year document that basically mirrors the same planning process that the state and other

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agencies follow. It basically has a list of all routes within the tribal pueblo lands, and it also has a list of projects that the tribe will be working on in the future. It has economic development processes, and so this is one of the things that has to be – a tribe would have to have to have a road placed onto this TTP road inventory.

On top of that, the tribe would actually have to have a resolution that would allow the road to be placed onto the tribal system. To put it onto a system there's also – there's basically seven different attachments. One of the attachments is a strip map. A strip map is basically a graphic location of the route that's being put on the system. It shows the County-state boundaries, the tribal boundaries, it has a scale and it basically has a north arrow.

If the road is existing there would be an average daily traffic count documentation, which would include seasonal factors that would be added to the system and is one of the fields that will be filled out when put onto the TTP program. There would be a typical representation section photo of each section, and also if it's a bridge there will be a profile of that bridge. And then there's also incidental costs verification which would come through the engineer's estimate that would verify some certain objects such as landscaping, utilities, which would be part of the process also. And lastly, there would be an acknowledgement of public authority.

Now, this portion here – the TTP program allows for other roads other than just BIA roads to be put onto the system. It allows for tribal, state, county roads to be put on the system. All that is required is there's an acknowledgement of public authority allowing that route to be put onto our inventory.

So the National Tribal Transportation Facility Inventory is the name of the official inventory. It's a national database that encompasses those 560 tribes and encompasses the 12 regions that watch over those. The program that is used to put the actual inventory into the system is called RIFDS – Road Inventory Field Data System. It is a computer program that is maintained and maintains the road inventories for each of our tribes. It's actually – there's 55 fields that are filled out for each of the road sections and each tribe has access to it to do their own computer work and if it's not done, the BIA regional office will take care of that portion for them.

This is basically a look at the basic navigation tab and it basically has all the regions there, the 12 regions, but it also breaks it down at different levels. The field level, the regional level and the BIA-DOT Level which I'll explain in the next ones here.

So basically, the approval process is once a project or a route is discussed by the tribal entities and they present it on their inventory as a route they want to put in there, there's an approval process. So the field level, the tribe would actually put that information into those 55 fields through the RIFDS program and then it would be part of this first process. The tribe encodes and cements the route information. The next process, it's reviewed by the region, in this case the Southwest Region in Albuquerque would review the information, ensure that everything is correct on it. Once that's reviewed it goes to BIA-DOT BIA-DOT is a second level – basically it's a central office out of DC that is located in Albuquerque. They do a review of the work also. And lastly, once it's approved by the BIA it is part of the official inventory, which would be part of the National Tribal Transportation Facility Inventory. The route is officially part of that.

So what is a TTP road? It's a BIA road. And basically, it can belong to a tribe,

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city, county, state or federal agency. Some of the routes that we have on our system do belong to forest roads. Some are actually BOR roads. Some are under city roads. So those have all been placed onto our system. One of the biggest things I take away from this whole thing is that if it is on the TTP inventory, the road is open to the public, and that's basically I think the main point I'd like to point out is that if it's on our system it is a public road.

Is there any questions I can answer?

CHAIR ROYBAL: Any questions from the Board?

MR. FLORES: So, Mr. Chair, at this time, the Lt. Governor, Chris Moquino would like to address the Commission relative to the presentation tonight.

LT. GOV. CHRISTOPHER MOQUINO: Good evening Chair, Commissioners, guests. On behalf of the pueblo we appreciate the opportunity to present a short statement. Good evening. My name is Christopher Moquino, the Lieutenant Governor for the Pueblo of San Ildefonso. Governor James Mountain is on travel and sends his regards to the Commission. On behalf of the Pueblo of San Ildefonso I can say that this is a momentous occasion because the settlement agreement that the pueblo has reached with Santa Fe County finally puts to rest a long-standing issue of roads and access within the pueblo.

The pueblo has been dealing with the roads issues for decades and there have been several attempts in the past to reach resolution but none have been successful. The success of this most recent attempt is a reflection of the good faith and commitment of each of the parties. We thank Commissioner Mickelson for the commitment of his time and firm direction to bring the parties together. We also thank the federal team members, both local and in DC for their advice and input. We also recognize Mr. Josh Mann in particular for being the man in the middle that kept things moving.

We want to especially thank the Santa Fe County Commissioners, many of whom sat through numerous meetings with the pueblo and showed their commitment to finding a solution. We want to thank Katherine Miller, former County Attorney Greg Shaffer, current County Attorney Bruce Frederick, and all the County staff for their involvement in getting us to where we are at today. San Ildefonso also wants to recognize and thank our sister pueblos and their leadership and staff for participating in this complex, multiparty process. Lastly, this positive outcome could not be possible without the support and commitment of the San Ildefonso Council and staff to work towards a solution that resolves the road issue and assures access for the residents.

This solution is truly a compromise. What this means is that not all parties got what they wanted, but got what was needed. You have heard the general details of the settlement but a few points need to be emphasized. By putting the existing identified roads in the BIA roads inventory and granting the BIA rights-of-way for the two 99-year terms, this ensures that the roads are public roads with open access. Once the new roads are constructed and put on the inventory and granted similar rights-of-way, this will address many of the gap issues and we commit to work with the County to address other specific access issues as move forward.

The County will still be involved by providing maintenance on the roads and we have met with the title insurance and lending representatives so that they are aware of our solution and how this would allow them to again issue title insurance and financing for

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properties within the area. In light of the tremendous effort, time, and resources committed by the pueblos and Santa Fe County to negotiate this comprehensive resolution to a decades old problem, the Pueblo of San Ildefonso fully supports the road settlement agreement. Thank you for this opportunity.

MR. FLORES: Thank you, Mr. Chair. So I'm going to deviate a little bit. Lt. Governor Moquino mentioned the title industry, so what I'd like to do is instead of going to the Solicitor's Office and hear another attorney speak, I think we need to have Mr. John Fox come up. He's the president-elect for the New Mexico Land and Title Association and he has I think a couple of his representatives with him to just discuss a little bit about what the Lt. Governor was alluding to in his statements.

JOHN FOX: Thank you, Tony. Mr. Chair and Commissioners. My name's John Fox. I am the owner and president of Southwestern Title and Escrow in Santa Fe and as Tony said, the president-elect of the New Mexico Land Title Association. We became involved in this situation concerning the roads on pueblo lands several years ago and since the time that the problems arose we've been participating in numerous meetings in efforts to try to resolve the issues. Ultimately, there was not a way that the title industry itself could resolve the issues. They're far too complex for this industry to deal with. However, as a result of the settlement agreements which are being presented tonight and in discussion with representatives of all of the parties, we have consulted with our national counterparts who oversee the title insurers and what they can insure, and we've had discussions in fairly much detail about some of the consequences of each of the paths, whether it's a County dedicated road or a BIA road, and we have begun to delve into some of the gap issues which will be presented going forward.

We believe in consultation with our title insurer counterparts, attorneys in DC and elsewhere, that we are going to be able to issue insurance to buyers and sellers, as well as to lenders, which will address the access problem that the residents of the private lands have been encountering for the last several years if not decades. We understand that the agreements are not all complete but we stand ready to participate in any way necessary. My collaborators here, Mr. Gary Sandoval from First American Title and Warren Hill from Old Republic are dedicated title professional and although they don't live in Santa Fe County or deal with the issues directly they are fully participating and we're ready to do what we have to do to get the problem solved and to issue the title policies that everyone needs.

We have consulted with some lenders. We need to consult with others but we believe that based on our initial consultations that lenders are going to be satisfied with the policies that we can issue and we have some I guess procedural steps that we've got to figure out because of the stepped process of going from where we are today to the ultimate grants of right-of-way. We're going to have to deal with the transition periods but everyone seems to believe that those are all addressable issues. There'll be some details, some contractual things which have to be dealt with.

We've also dealt with the superintendent of insurance and we're very confident that we'll be able, in consultation with them to provide the coverages that we're discussing tonight. So I'm prepared to answer questions or I'll be prepared to listen and answer questions later if they should arise.

MR. FLORES: Thank you, Mr. Chair. So now rounding out the discussion

points, I'd like to call on Josh Mann from the DOI Solicitor's Office to wrap up the discussion and then we'll talk about the next steps.

JOSH MANN: Thank you, Tony and good evening, Chairman, Commissioners, Manager Miller and guests. It's good to be here with you this evening. My name is Josh Mann. I'm an attorney with the Solicitor's Office in Albuquerque. I represent the Bureau of Indian Affairs and the Bureau of Reclamation. I'm here tonight speaking to all of you on behalf of Alan Mikkelsen who is the senior advisor to the Secretary of the Interior and Chairman of the Secretary's Indian Water Right Working Group.

Over the last six months Allen has come to New Mexico more times than he can count and he has committed considerable federal resources for the purpose of helping the pueblos and the County reach agreement on the long-standing roads dispute and also to allow the Aamodt settlement parties to return the focus to developing a regional water system that can provide clean and reliable drinking water to the people living in the Pojoaque Basin. In fact, Aamodt and resolving the roads dispute has become a top priority of the entire Department of the Interior.

Alan asked that I convey to all of you his sincere appreciation for all the focus and hard work of the County and each of the pueblos as well as the federal team of the BIA representatives we have here tonight to achieve these historic agreements. Each of the negotiations for the four settlements were complex. They were sensitive and time consuming and we are not quite done yet. But what is presented here tonight to the community for the first time are four solid agreements in principle that were designed to resolve the roads dispute and provide long-term insurable access to everyone in the community, specifically homeowners.

As we've heard, in recent weeks, as the negotiations have come to a close, we began to engage members of the title insurance and lending community as we heard and have them weigh in on these agreements in principle. The purpose of that was to really check what we were doing and make sure that it was going to work, that it was going to provide the solution that we were all working so hard to achieve. We have listened to many of their concerns and have attempted to address them in the draft settlement agreements and as you've heard, they're supportive of our approach to resolving the access issues.

So the federal team hopes that the community will consider these historic settlement agreements with open minds and that as you all learn more about the details of these agreements that you will come to support them and the settlement partners for all of the exhaustive efforts that they have put forth to resolve these disputes to insure access to homeowners, to recognize the rights of the Indian and non-Indian communities and allow the community at large to heal. Thank you.

MR. FLORES: So Mr. Chair, to dovetail on Josh's comments, we're not there. We're closer. We've got principles in agreement. Now the work of actually getting the settlement agreements drafted and crafted and agreed to is what's going on as we speak. So some of the next steps in the process, we were going to post the presentations, both Shannon's and the County's as well as the FAQs on the webpage and then if there's any additional questions or comments they can emailed directly to me and my email address is on the presentation or on the webpage.

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The goal from tonight through January 5<sup>th</sup> is to hold – Commissioner Roybal has requested that we convene small, townhall-type meetings with small groups within all four pueblos in the northern part of the county to basically start going through the dialogue and receiving feedback and comments from those groups. We will start posting those meeting dates, times and locations on our webpage and they will also be sent out to the District 1 email distribution list once we've developed that. So that will be the goal of at least my office over the next couple of days is to work with Commissioner Roybal in identifying dates, times and locations so that we can get them out in enough time.

The goal of the work that's still ahead of us is to get before the Board of County Commissioners four settlement agreements that capture all the principles that we've talked about tonight that resolve or at least identify the process for those gaps at the January 9, 2018 BCC meeting. So that's a little less than 30 days.

So there still is quite a bit of work left, at least in the public outreach component of it that Commissioner Roybal has mandated, so I'll be working on that as we move forward. And with that, Mr. Chair, unless Manager Miller has any additional closing comments, that concludes what we're calling our rollout of the principles of agreement for the rights-of-way in the pueblos of Pojoaque, Tesuque, Nambe and San Ildefonso. Thank you.

CHAIR ROYBAL: Thank you, Mr. Flores. I just want to thank everybody for being here tonight and as Mr. Flores indicated, I've mandated that we have some townhall meetings and if I don't have your email address or contact information I'm going to also host these with Representative Trujillo as well. We're going to try and host these townhalls together. So if he has your emails then you'll get the notification. If you don't feel you do, if you could stop off and leave your contact information I'd appreciate it. Is there any other comments from the Board? Commissioner Anaya.

COMMISSIONER ANAYA: Mr. Chair, we've engaged in a process. The process is still in motion and I look forward to the process continuing and as we attain additional questions and additional feedback we'll take those into consideration as we engage through the process through January. So I want to say to you as the Chair, Mr. Chair, that from the onset, not just in this Commission but the past Commission you've been explicit about the need for feedback, continued feedback and dialogue and in particular to this point, feedback and input now from your community and the representatives in your community.

So I appreciate as has already been stated the work that's been thus far and I look forward to the continued input that we're going to attain as we move into January. So thank you, Mr. Chair and my colleagues on the Commission. I did want to comment on a piece that was commented on earlier. Not every Commissioner was in every minute of every discussion in the negotiations but that doesn't take away from our constant contact that we had throughout the course of this entire process in between each of those meetings amongst ourselves on colleagues on key points that were discussed, key points that were negotiated so we've all been in the fold associated with those discussions and although some of us were not able to sit through every minute of every one of those negotiations but we were all in contact and discussion as we've evolved to this point. So thank you, Mr. Chair. That's all I have right now.

CHAIR ROYBAL: Thank you, Commissioner Anaya. Commissioner

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11:10 AM  
11/13/17  
11:10 AM

Hansen.

COMMISSIONER HANSEN: I just also want to thank Manager Miller for all of her hard work on really working with everybody and listening to everyone. It has been a monumental effort as Lt. Governor Moquino said to get to this point and I want to thank all the pueblos and their governors and the council for participating, for Josh Mann in the federal team for continually showing up, and I want to thank all of you in the audience. Representative Carl Trujillo, for continuing to represent his constituency and being there. I think all of these things are important for all of us and so I sincerely want to thank you and thank everyone for their hard work and participation in this. Thank you.

CHAIR ROYBAL: Thank you, Commissioner Hansen. Any other comments from the Board. Okay, so once again we will be sending out some invitations to some townhall meetings and we'll be able to have some dialogue in those meetings and I look forward to those and we'll be sending those out. I was hoping – I was trying to schedule those after the holiday season because I felt it would be better for everybody to enjoy their holidays and then in January come back with townhall meetings. I'm still going in that direction so if there is a change you'll be notified but I still am pushing to go ahead and for everybody to enjoy their holidays before we start having those townhall meetings. Thank you and have a great night.

## **VIII. CONCLUDING BUSINESS**

### **A. Announcements**

CHAIR ROYBAL: Is there any other announcements from Commissioners?

COMMISSIONER ANAYA: Mr. Chair.

CHAIR ROYBAL: Commissioner Anaya.

COMMISSIONER ANAYA: Mr. Chair, I wanted to say on the record that I got some sad news just about two hours ago that a brother in law of mine had just passed away, so I would just respectfully ask that we have a moment of silence for Jimmy Chavez, for just a couple seconds if we could.

CHAIR ROYBAL: I'm sorry we didn't bring that up before, Commissioner.

COMMISSIONER ANAYA: Thank you, Mr. Chair.

CHAIR ROYBAL: Thank you, Commissioner Anaya. Is there any other announcements?

REC CLERK RECORDED 12/12/2017 4:00 PM



**B. Adjournment**

Upon motion by Commissioner Hansen and second by Commissioner Hamilton, and with no further business to come before this body, Chair Roybal declared this meeting adjourned at 7:30 p.m.

Approved by:

*Anna Hansen*  
Board of County Commissioners  
~~Henry Roybal~~, Chair  
ANNA HANSEN  
Chair

ATTEST TO:

*Geraldine Salazar*  
GERALDINE SALAZAR  
SANTA FE COUNTY CLERK



Respectfully submitted:

*Karen Farrell*  
Karen Farrell, Wordswork  
453 Cerrillos Road  
Santa Fe, NM 87501

*Anna C Hansen*



COUNTY OF SANTA FE )  
STATE OF NEW MEXICO ) ss

BCC MINUTES  
PAGES: 95

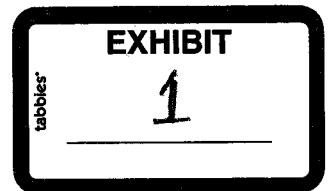
I Hereby Certify That This Instrument Was Filed for  
Record On The 31ST Day Of January, 2018 at 01:47:02 PM  
And Was Duly Recorded as Instrument # 1848992  
Of The Records Of Santa Fe County

Witness My Hand And Seal Of Office  
Deputy *Estrella Martinez* Geraldine Salazar  
County Clerk, Santa Fe, NM

REC'D  
CLERK  
RECORDED  
81/31/2018

PO BOX 5114  
SANTA FE, NM 87502

## **SUNLIT HILLS WATER SYSTEM**



505-820-2545

August 7, 2017

Via email

Regina Buckley  
Scott Hoeft  
Santa Fe NM

Re: Water Service  
11 Sudeste Place  
Santa Fe County, NM

To Whom It May Concern:

I hereby certify that Sunlit Hills of Santa Fe, Inc. is an investor owned utility company providing domestic water service in and adjacent to Sunlit Hills and Hondo Hills subdivision areas in Santa Fe County, New Mexico.

Sunlit Hills Water System has reached an intent of agreement to provide one new water service to a lot at 11 Sudeste Place, 87508. Customers have retained the right to refuse service subject to lot split approval. Water would be provided in accordance with Sunlit Hills' General Rules and Regulations as approved by the New Mexico Public Regulation Commission.

The Sunlit Hills Water System operates under the jurisdiction of the New Mexico Public Regulation Commission and the system is inspected annually by the New Mexico Environmental Department. The water supply is in compliance with the requirements of the National Safe Drinking Water Standards.

If you have any questions, please call us at 505-820-2545.



Respectfully,  
SUNLIT HILLS OF SANTA FE, INC.

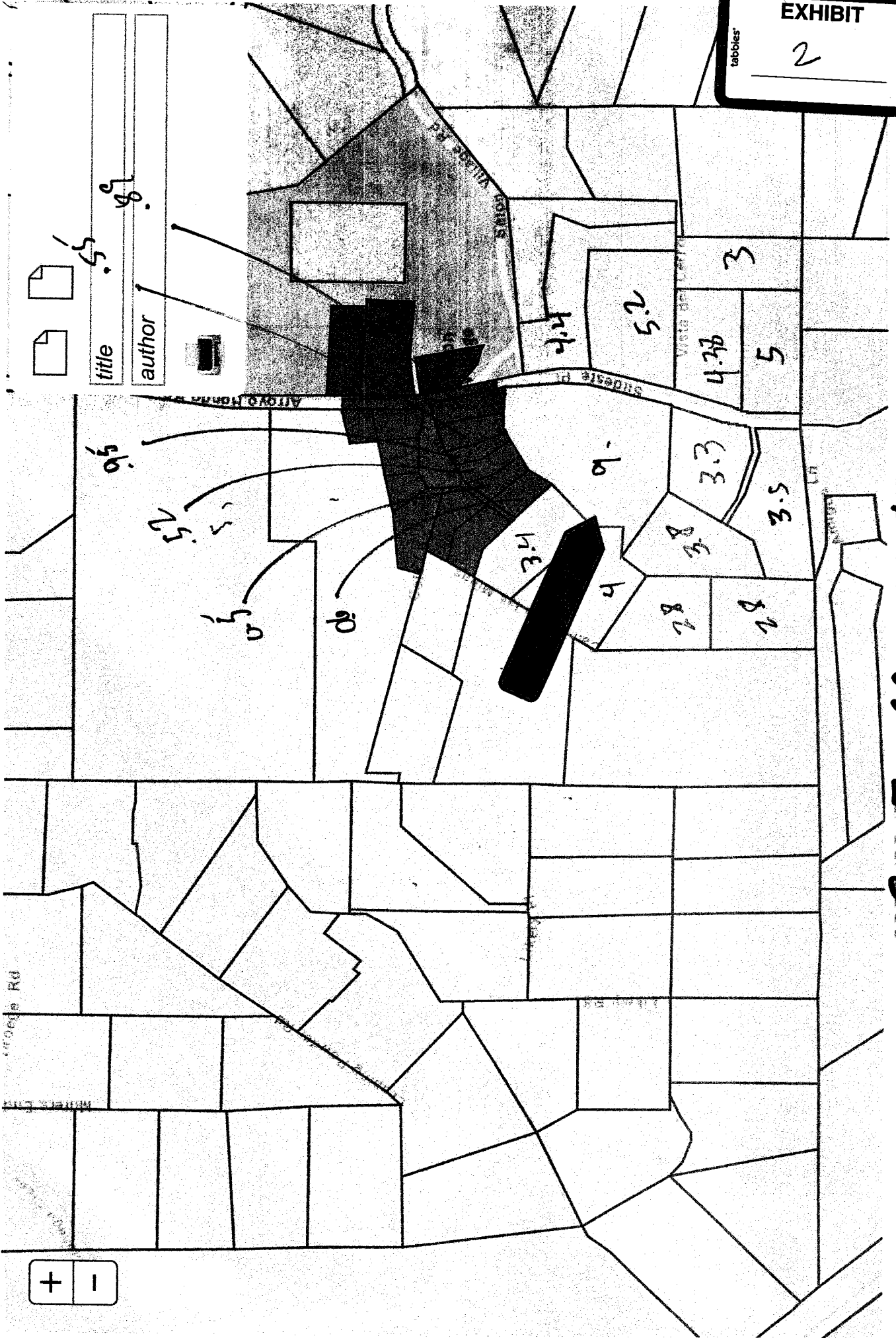
Robert Vail  
President

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8/13/2017



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tabbies®

**EXHIBIT**

2

Res. Franks. 100/5-AC.

variance

EXHIBIT

tabbles

3

JAMES TRAPP

Mon 7/17/2017 6:06 PM

To: JAMES TRAPP &lt;caleysecho@msn.com&gt;;

To whom it may concern:

#17-5161

My name is James A. Trapp. I am writing in concern of case # ~~17-5160~~ Kalsa/spamer. This property is in my direct eye sight to the west of my property. I am writing in the hope that you should keep to the law as it has been written and decline this variance request.

The Sikh organization already operates its Security corporate headquarters and a commercial kitchen directly west of my residential property. This brings in hundreds of cars a day with all the dust and noise that comes with it. This also tax's the area septic systems over there limits. I can not drink my well water do to high nitrates coming from septic drainage. This is a small area with a very high concentration of people with no intro structure to support them. For example there is no garbage or water service on Sombrillo road where this residence would be built. Adding another large dwelling will only increase the problems we already have. Let me be clear I can not drink my own well water and I listen to cars come and go all day do to the over population of this supposed residential area.

There are already two dwellings next to this same property in question. They are very close together, Both are over your own proposed height limits, both are unsightly and unfinished. At least one has also had septic problems in the past. The earth in this area is mostly sand when the wind blows or rain comes we have a tremendous dust and erosion problem cutting yet another not to code driveway will only increase this problem and the others we have in this small over populated area. Will I end up with yet another eye sore on top of this hill that pollutes our ground water and does not meet your own codes? Why have codes if all you have to do is get a variance and move on?

For these reasons I hope you will hold to the law and decline this variance request.

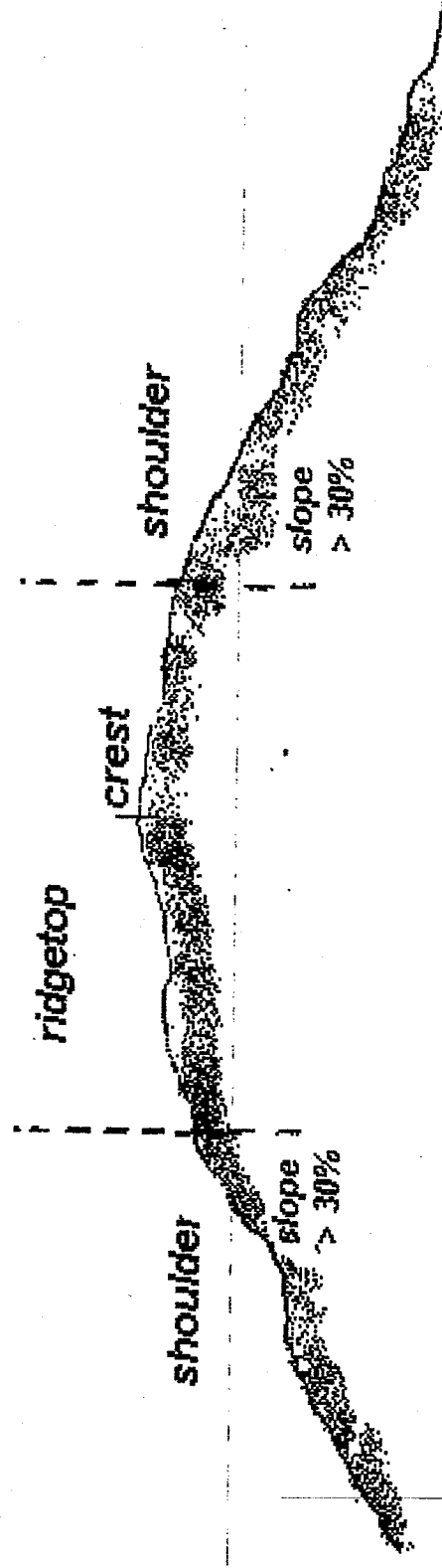
James A. Trapp  
p.o. box 122 Espanola N.M. 87532  
505-901-2826

**Retreat:** a facility or property used for professional, educational or religious conclaves, meetings, conferences, or seminars and which may provide meals, housing, and recreation for participants during the period of the retreat or program only. A retreat may not be utilized by the general public for meals or overnight accommodations.

**Rezoning:** the re-designation of an area, lot, or parcel from one zoning classification to another.

**Ridge or Ridge Top:** the uppermost elevations, between the shoulder and crest, of any hill or ridge as shown in Figure A-1 below.

Figure A-1 Ridgeline Diagram



**Right-of-Way:** the legal right, established by usage or grant, to pass along a specific route through property belonging to another.



SFC CLERK RECORDED 01/31/2018

Subject Property



## View from E Sombrillo Road towards NE

Write a description for your map.

Khalsa Property

Photo 4

Google Earth

© 2017 Google

7.92





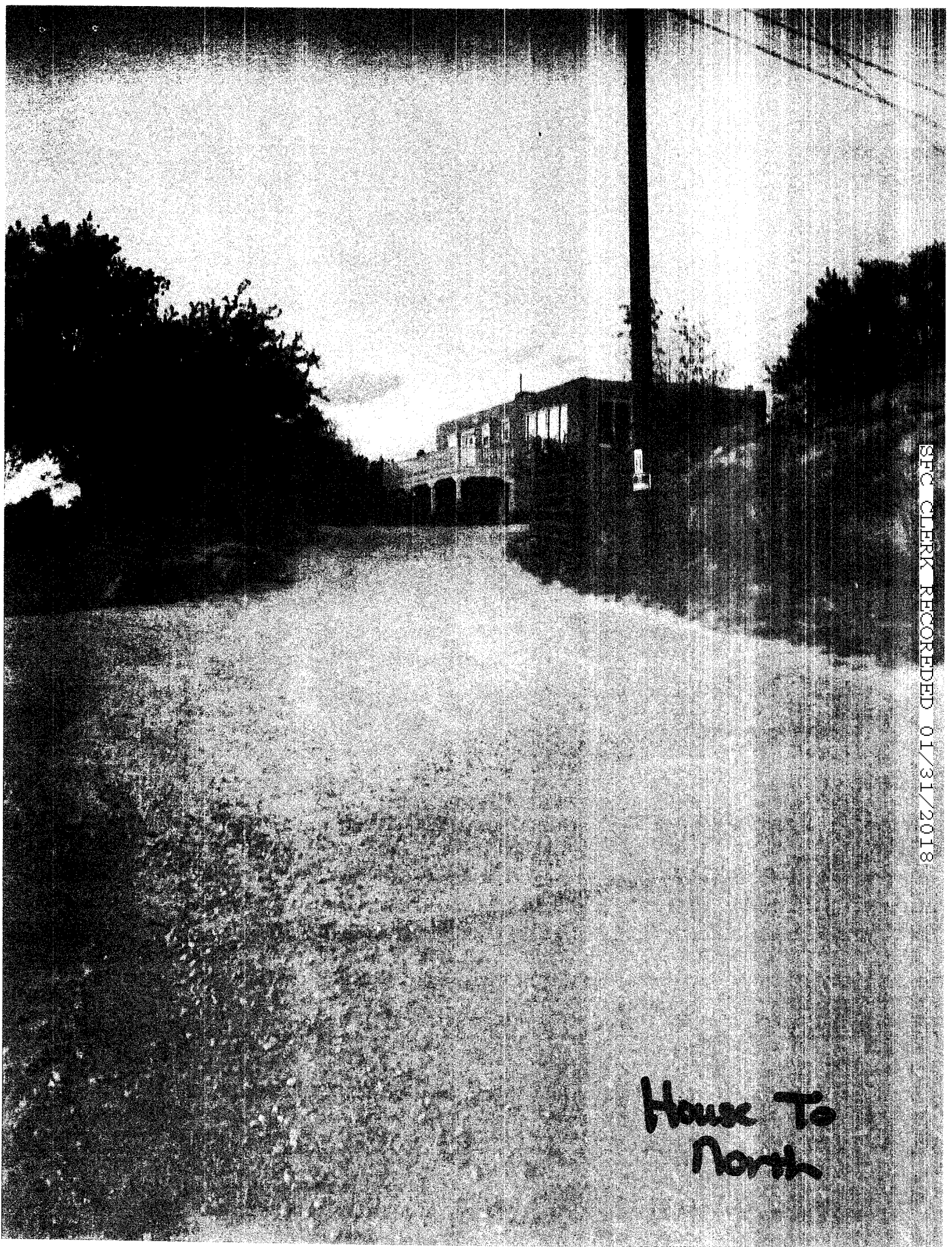
SPC CLERK RECORDED 01/31/2018

House to North





House to West



House To  
North



Dec 04 2017

In regards to Regina Spencer and  
Prabhu Khalsa's request to build a  
2 story house, I would like to  
write in support. We are their neighbors  
directly to the East and have a view of  
other 2 story houses on the same hill.

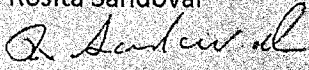
We believe they should be allowed  
to build a two story home.

Megath Spencer-Brockway  
11 E. Samuels RD  
Española NM 87532

I support Regina Macias Spamer and Prabhu S. Khalsa in their endeavor to build a two-story house. I am also located on Anand Nivas Way and am the neighbor to their property located to the North East. My concerns presented previously were in relation to drainage for my driveway and have spoken to them about those concerns. In regards to the house they would like to build I believe they should be allowed to build a two-story home.

Thank you,

Rosita Sandoval



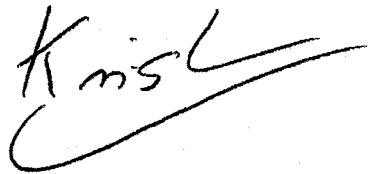
SFC CLERK RECORDED 01/31/2018

Santa Fe Board of County Commissioners,

I'm writing today to express my support for permission given to Prabhu S. Khalsa and Regina Spamer to build a two-story home. As their immediate neighbor to the North and the owner of one of the two-story homes that are very near to them, I offer my full support in their endeavor to build a two-story home. In addition, since both of their closest neighbors are two-story homes, I feel that a two-story home is more inline with the aesthetic of the neighborhood.

Thank you for your consideration in this matter.

Krishan Khalsa

A handwritten signature in black ink, appearing to read "Krishan Khalsa", with a large, sweeping underline.

12/3/17



SFC CLERK RECORDED 01/31/2018

Baby Khalsa





# Rights-of-Way Within the Pueblos of Tesuque, Pojoaque, Nambe and San Ildefonso

December 12, 2017

• 1

SFC CLERK RECORDED 01/31/2018

## Why are we here?

- The Board of County Commissioners adopted Resolution No. 2015-125, which required that the legal status of roads within the exterior boundaries of the Pueblos of Nambe, Pojoaque, San Ildefonso and Tesuque be resolved prior to ... appropriating funds for the construction costs of the Regional Water System ....
- The resolution identified some of the following elements:
  - **Settle** Legal Status of Roads
  - **Address** Lender/Title Insurance Industry concerns regarding title insurance, ability to purchase-sell property and the insurance of ingress/egress for properties located within boundaries of Pueblos in the Pojoaque Valley.
  - **Avoid** Costly and Lengthy Litigation
  - **Insure** that the Water Settlement May Be Implemented

• 2

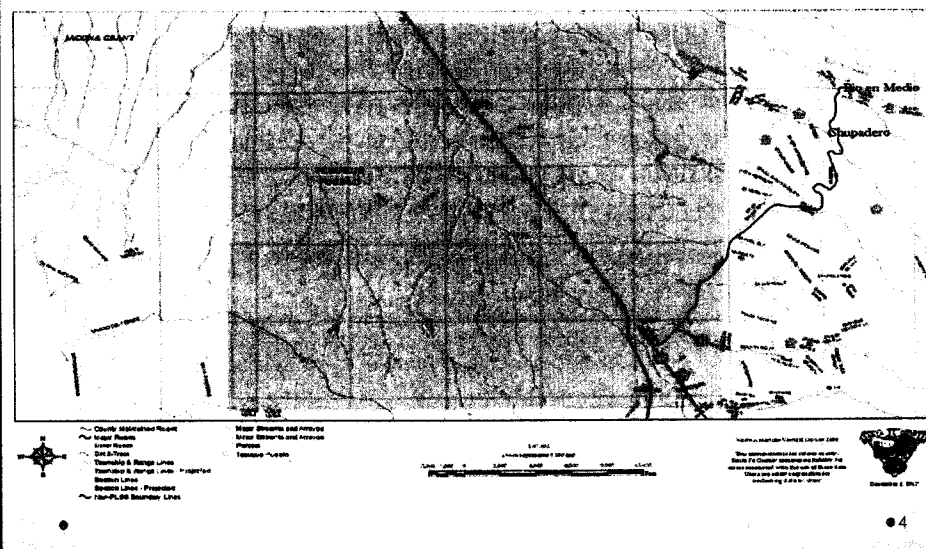


## Existing Conditions

...

●3

# Pueblo of Tesuque

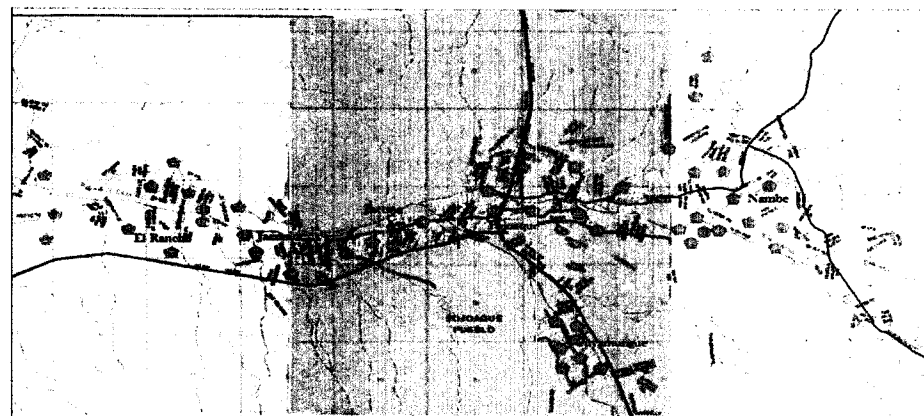


• 4

- County maintains approximately 2.1 miles of roads within the Pueblo.
- County has written perpetual Rights-of-Way for:
  - CR73
  - CR74
- No written Right-of-Way exists for:
  - CR72I

• 5

## Pueblo of Pojoaque

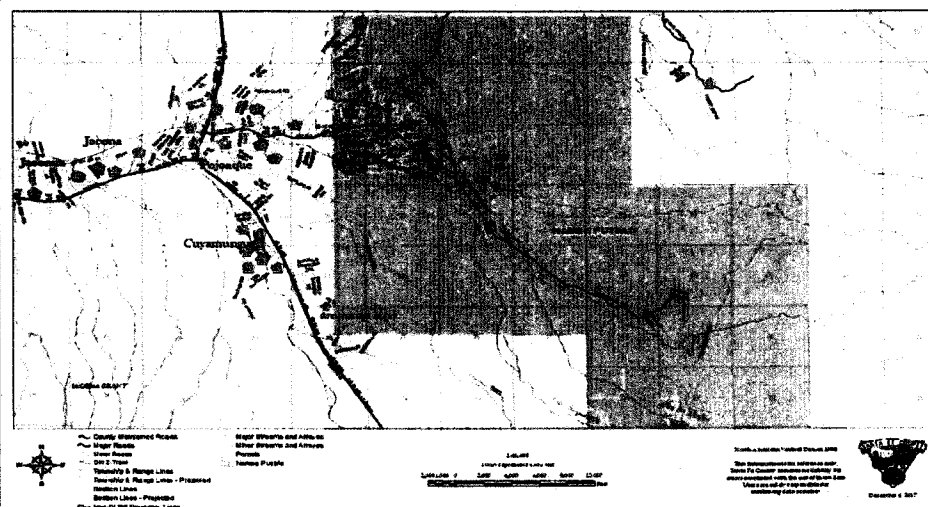


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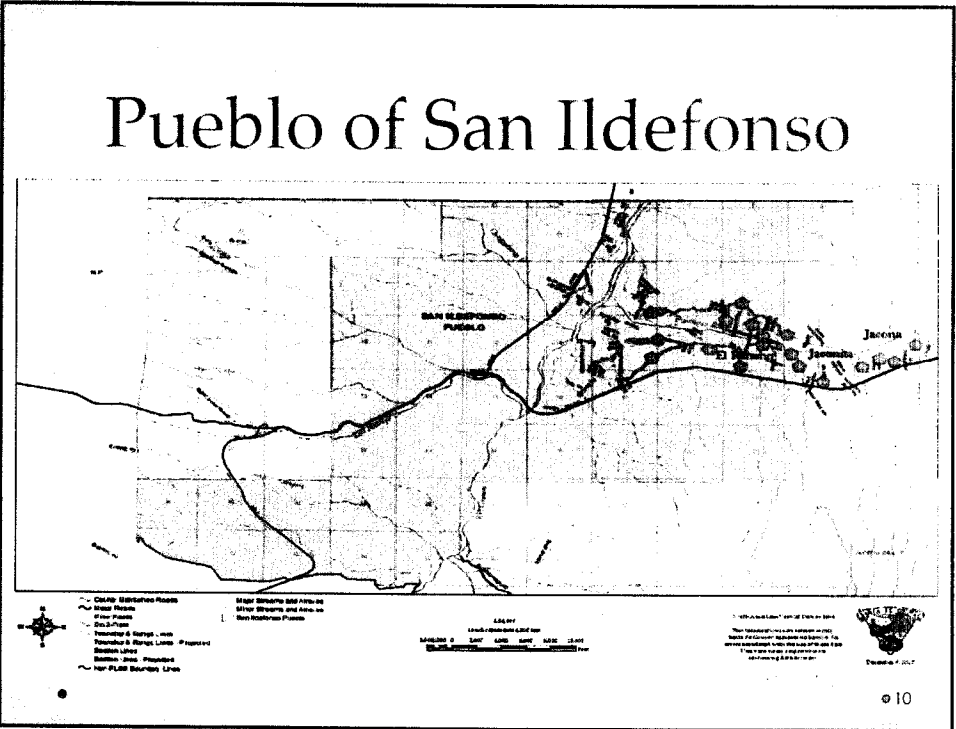
SFC CLERK RECORDED 01/31/2018

- County maintains approximately 15.77 miles of roads within the Pueblo.
  - No written Rights-of-Way exist for any County-maintained roads within the Pueblo.
- |          |          |
|----------|----------|
| ○ CR84   | ○ CR101C |
| ○ CR84E  | ○ CR101D |
| ○ CR84J  | ○ CR101G |
| ○ CR89   | ○ CR103  |
| ○ CR89A  | ○ CR105  |
| ○ CR89B  | ○ CR109  |
| ○ CR89C  | ○ CR109N |
| ○ CR89D  | ○ CR109S |
| ○ CR89E  |          |
| ○ CR101B |          |

# Pueblo of Nambe



- County maintains approximately 10.17 miles of roads within the Pueblo.
  - County-maintained roads within the Pueblo are currently listed on BIA road Inventory, but no written Rights-of-Way exist.
- CR84E
  - CR84F
  - CR84G
  - CR106
  - CR113A
  - CR113B
  - CR113S
  - CR115
  - CR117N
  - CR117S
  - CR119N



- County maintains approximately 9.68 miles of roads within the Pueblo.
- Written rights-of-Way are not complete or comprehensive on the following County-maintained roads within the Pueblo:
  - **CR 84**
    - Written Right-of-Way from NMDOT
  - **CR84 A**
  - **CR84 B**
  - **CR84 C**
  - **CR84 D**
  - **101 D**
    - Written Right-of-Way from NMDOT from State Road 502 to CR84
    - Written Right-of-Way for CR101 D from intersection of CR84 to CR84 D
- Many roads/driveways of convenience are in trespass within the Pueblo.

• 11

## How are We Going to Resolve?

- Negotiation of Individual Settlement Agreements with 4 Sovereign Pueblos.
- 2 Options for Addressing Rights-of-Way without litigation:
  - Grant of Rights-of-Way to Santa Fe County and approved by the Bureau of Indian Affairs.
  - Grant of Rights-of-Way to the Bureau of Indian Affairs by the County and Pueblos to place them into the Tribal Transportation Program.
- Establish a process by Pueblo to address gaps of Pueblo Land located between a Public Road and a private lot.

• 12

# Proposed Agreements in Principle

...

• 13

## General Conditions

- All Rights-of-Way will be granted for two consecutive 99-year terms – totally of 198 years.
  - Santa Fe County will survey ROW's for placement into the Bureau of Indian Affairs (BIA) Tribal Transportation Program.
  - All roads will remain as Public Roads
  - The Pueblo's or BIA will not permanently close roads during the term of the rights-of-way or remove the roads from the BIA inventory.
    - On occasion a road may be temporarily closed for cultural purposes as is the current practice.
- Santa Fe County will maintain all Rights-of-Way within the 4 Pueblos for the term of the agreements, by:
  - Negotiating and entering into a road maintenance agreement with the Bureau of Indian Affairs for the Pueblos of Nambe and San Ildefonso.
  - Utilize the existing County road maintenance program for the Pueblos of Tesuque and Pojoaque.

• 14

- In cases where Pueblo land is located between an Existing Right-of-Way and a non-Pueblo parcel, and this "gap" in ownership prevents lawful ingress and egress to that parcel, the settlement agreements will establish a process by which the non-Pueblo landowner(s) may obtain insurable access across the Pueblo land.

•15

## Pueblo of Tesuque

- Pueblo will consent to the Bureau of Indian Affairs Granting to Santa Fe County a Right-of-Way for CR72I.
- Gap Issue –
  - Not known at this time.
  - Once survey is completed, if any exist, utilize the BIA easement acquisition process to address.

•16

## Pueblo of Pojoaque

- Pueblo will consent to Bureau of Indian Affairs Granting to Santa Fe County Rights-of-Way for all County maintained roads.
- Gap Issue –
  - Pueblo is developing a process of a transferable land assignment for ingress/egress for a term up to 35 years.
    - Provides the ability for the Pueblo to take action on requests timely.
    - Codified within the Pueblo's Law and Order Code.

• 17

## Pueblo of Nambe

- Pueblo and Santa Fe County to Grant to the Bureau of Indian Affairs Rights-of-Way for County-maintained roads that are currently listed on the BIA inventory.
- Gap Issue –
  - Pueblo is developing a process of land assignment .
  - Variable issues to be looked at in process including the Herrera Decree of 1935.

• 18

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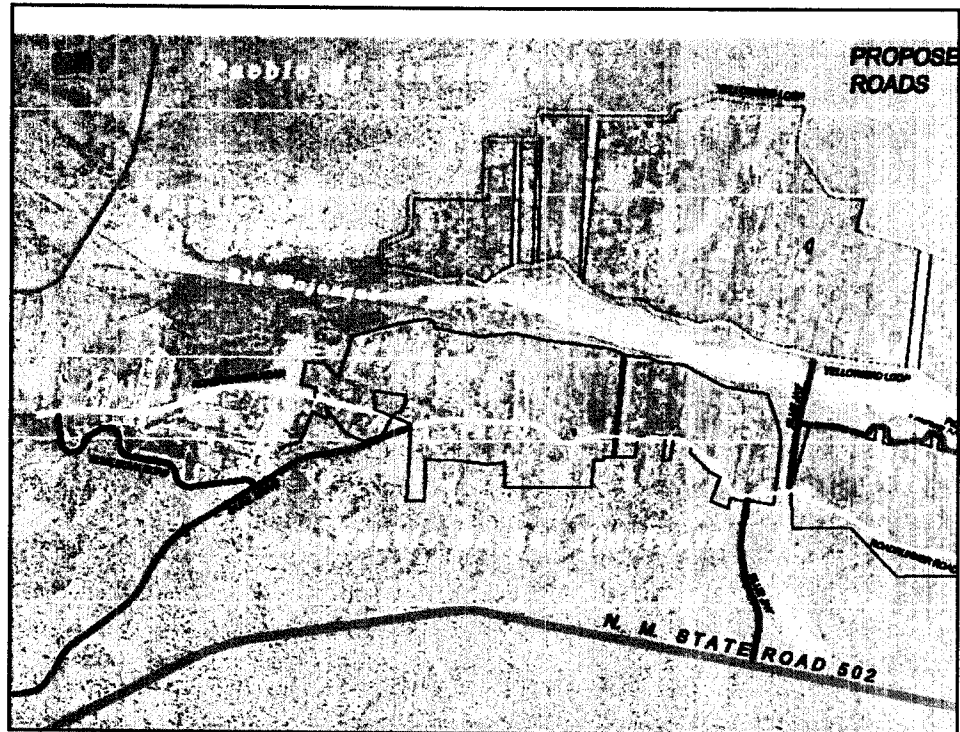
## Pueblo of San Ildefonso

- Pueblo and Santa Fe County will grant to the Bureau of Indian Affairs (BIA), Rights-of-Ways for County-maintained roads: 84, 84A, 84B.
  - Santa Fe County will survey CR84, CR84A, CR84B, and CR101D (north of CR84 and South of CR84 D) and these ROW's will be placed into the BIA's Tribal Transportation Program (TTP).
  - The Pueblo will over time rename the public roads.
- County maintained roads located entirely on private land will remain and continue to be maintained by Santa Fe county (CR101/Evergreen; CR84K ...)
- In approximately 2-3 years, the road of convenience located on Pueblo land just south of the Rio Pojoaque and west of CR101 D (not a County maintained ROW) will no longer be accessible.
  - Property owners will be required to begin using a surveyed legal access point.
  - The County will assist in this transition.

• 19

- Gap Issue –
  - In the interim, before the roads are placed in the TTP and a ROW granted, the Pueblo will provide legal access to all private lots through a legislative grant of temporary access from identified ROW's.
  - Grant of temporary access will remain in place for 5 years or until the ROW's are granted
  - Surveys and grants of ROW to BIA will identify access points.
  - The Pueblo may choose to resolve any gap issues along CR84A by undertaking a road realignment.
- County to construct entirely on Pueblo lands, Yellowbird Loop (formerly portions of CR84C, CR84 D, and Sandy Way) and Blue Dove Road (which will serve properties between CR84 and CR84B) within 5 years of agreement .
  - The Pueblo and Santa Fe County will work cooperatively to incorporate the new roads into the BIA TTP.

• 20



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## FAQ's

- Based upon comments and questions we have received, we have prepared a "frequently asked questions" handout.

•22



- **Why did the County, the Pueblos, and the United States (Settlement Partners) negotiate Right-of-Way Settlement Agreements rather than litigate the roads issue?** The County, the Pueblos, and the United States agreed that litigation would unnecessarily divide the affected communities for years to come and that, by settling, the Settlement Partners would avoid the uncertainty and great expense of litigation. A negotiated win-win settlement is a far better approach than win-lose litigation to resolve the long-standing debate about the roads on Pueblo land.

• 23

- **What types of Settlement Agreements were negotiated?** The County has separately negotiated the key principles of settlement with the United States and each Pueblo. The Settlement Partners are now in the final stages of negotiating four formal Settlement Agreements that will resolve the roads issue on each Pueblo. Although each Settlement Agreement includes unique terms, they also have many terms in common. In addition, the Settlement Agreements can be divided into two general types. Under the Settlement Agreements for the Pueblos of Pojoaque and Tesuque, the Pueblos will consent and BIA will grant the County rights-of-way for County-maintained roads within those Pueblos. Under the Settlement Agreements for the Pueblos of Nambe and San Ildefonso, the County and those Pueblos will grant the BIA rights-of-way for County-maintained roads and place those roads in the Tribal Transportation Program. In all cases, the rights-of-way will be granted for two 99-year terms. In some cases, where there is no dispute that a specific County-maintained road is already subject to an adequate right-of-way, the Settlement Partners agreed that no further grant is necessary.

• 24

- **Why are there 4 different Settlement Agreements with different approaches?** Each road situation is different on each of the Pueblos. Each Pueblo is a separate government and addresses the roads situation within its lands differently according to the needs of the Pueblo and its community. Each Agreement is tailored to resolve the roads issue within each Pueblo.
- **What is the difference between a Right-of-Way granted to the County by the BIA (the approach taken by the Pueblos of Pojoaque and Tesuque) and a Right-of-Way granted by the County and the Pueblo to the BIA (the approach taken by the Pueblos of Nambe and San Ildefonso)?** The difference is mostly technical, because in both cases the roads in question will remain public roads for generations to come (198 years, at a minimum). The technical difference is that, when BIA grants a road right-of-way to the County, the County obtains an easement across Pueblo land along the surveyed right-of-way route. In contrast, when the Pueblo and the County grant rights-of-way to the BIA, the Pueblo and the County are granting easements to the BIA across Pueblo and private land, respectively. Note that the Settlement Partners agree that the County already has easements through years of public use where the County-maintained roads cross private land.

• 25

- **Can any of these roads be closed by the Pueblos or BIA during the term of the Settlement Agreements?** The Pueblo and BIA will not permanently close the roads during the term of the rights-of-way or remove the roads from the BIA public roads inventory. However, a Pueblo may on occasion temporarily close a road for cultural purposes, as has been done in the past. The Settlement Agreements will not change a Pueblo's policies regarding temporary closures.
- **What is the term of Rights-of-Way and what happens to the roads at the end of the term?** The rights-of-way will be granted for an initial term of 99 years, and will automatically renew for a second 99-year term. At the end of the 198-year period, the rights-of-way for the roads will revert to the party that granted or assigned them, unless the parties otherwise agree at that time.

• 26

- **How do these agreements help me?** The Settlement Agreements resolve a decades-old problem by making the identified roads unequivocally public roads with continuous lawful public access across both Pueblo and private land, either through grants of rights-of-way to the County or to the BIA. The Settlement Agreements will also resolve the "gap" issues where driveways or access roads cross Pueblo lands, enabling property owners to obtain insurable access to their homes.
- **Will the Settlement Agreements resolve the ingress and egress issues with the title companies?** Yes. The Settlement Agreements will provide for long term access to private property off of the identified roads through the grants of rights-of-way, and each Pueblo will establish a long-term process for those properties in which a gap of Pueblo land exists between the property and the road. This will provide a long-term solution to the "gap" issue.

• 27

- **How do the Settlement Agreements affect my individual rights as a private land owner within the exterior boundaries of a Pueblo?** Your individual property rights will not be affected. In fact, your property will benefit from this long-term resolution of the roads and "gap" issues, since it is designed to enable property owners to obtain insurable access required to have marketable title and for financing purposes.
- **Who will maintain the roads?** Under all four Settlement Agreements, the County will maintain the roads for the term of the rights-of-way, regardless of whether the roads rights-of-way are granted to the County or the BIA.

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- **How will the Settlement Agreements affect land use issues for my property?** The Settlement Agreements do not address land use issues directly. However, in reviewing and approving new development on private lands within the Pueblos, the County will require the ingress and egress to the subject lot(s) to be consistent with the legal access points established under the Settlement Agreements.
- **How will this affect utilities to my property?** The Settlement Agreements acknowledge that the Pueblos have sole authority to allow the installation of utilities along roads that cross Pueblo lands. However, since at least 2004, the County has required utility companies to obtain Pueblo consent before they install utilities along the County-maintained roads on Pueblo land. Accordingly, the Settlement Agreements should not affect the utilities serving your property.

- **Why aren't the Right-of-Way Agreements granted in perpetuity?** The County and the Pueblos understand the concern for a long term solution, especially since it affects the ability to obtain title insurance and financing. However, after consulting with representatives of the title insurance industry, the Settlement Partners concluded that two 99-year terms, totaling 198 years, provide long-term stability and enable private property owners to obtain lawful access, title insurance, and financing. In addition, it is common for sovereign entities, including the State of New Mexico, not to grant rights-of-way or other easements across their land in perpetuity.
- **Will my street address change?** As part of the Settlement Agreement, the roads within the Pueblo de San Ildefonso will be renamed by the Pueblo. Your street address will not change right away, however, because the renaming will be done in a phased approach over several years and you may see signs for both the County Road designations and the new road names for a period of time. The renaming will be consistent with 911 service requirements. Other Pueblos may rename roads within their lands.

- **Who provides law enforcement on each type of Right-of-Way?** The Settlement Agreements will not change allocation of criminal jurisdiction as between federal, state, and local law enforcement officials over the County-maintained roads. The complicated rules governing law enforcement jurisdiction in Indian Country will continue to apply.
- **Will the Settlement Agreements raise my property taxes or be paid for by a local tax assessment?** No, while the Settlement Agreements impose costs on the County, these costs will be paid entirely from existing revenue sources. The Settlement Agreements will not cause any increase in property or other taxes, will not be funded by a local tax assessment of any kind, and will not be funded by general obligation bonds paid from property taxes.

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## Next Steps

- Information including the Frequently Asked Questions (FAQ's) will be posted on County's web page and questions/comments can be emailed to [thomas.espartero@countynm.gov](mailto:thomas.espartero@countynm.gov)
- Small town-hall style meetings with residents of the Pojoaque Valley will be held to discuss Agreements in Principles for each respective Pueblo.
  - Meetings will occur in the Pojoaque Valley between December 13, 2017 and January 5, 2018.
- Consideration of 4 Settlement Agreements:
  - January 9, 2018, BCC meeting

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## FAQs About County and Pueblo Right of Way Agreements

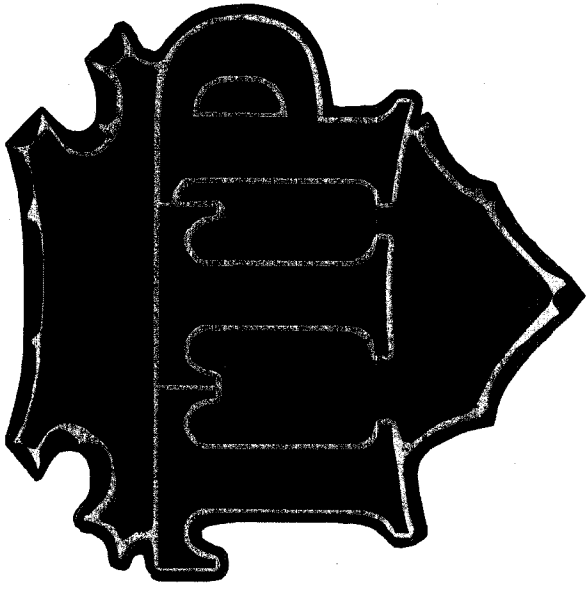
1. **Why did the County, the Pueblos, and the United States (Settlement Partners) negotiate Right-of-Way Settlement Agreements rather than litigate the roads issue?** *The County, the Pueblos, and the United States agreed that litigation would unnecessarily divide the affected communities for years to come and that, by settling, the Settlement Partners would avoid the uncertainty and great expense of litigation. A negotiated win-win settlement is a far better approach than win-lose litigation to resolve the long-standing debate about the roads on Pueblo land.*
2. **What types of Settlement Agreements were negotiated?** *The County has separately negotiated the key principles of settlement with the United States and each Pueblo. The Settlement Partners are now in the final stages of negotiating four formal Settlement Agreements that will resolve the roads issue on each Pueblo. Although each Settlement Agreement includes unique terms, they also have many terms in common. In addition, the Settlement Agreements can be divided into two general types. Under the Settlement Agreements for the Pueblos of Pojoaque and Tesuque, the Pueblos will consent and BIA will grant the County rights-of-way for County-maintained roads within those Pueblos. Under the Settlement Agreements for the Pueblos of Nambe and San Ildefonso, the County and those Pueblos will grant the BIA rights-of-way for County-maintained roads and place those roads in the Tribal Transportation Program. In all cases, the rights-of-way will be granted for two 99-year terms. In some cases, where there is no dispute that a specific County-maintained road is already subject to an adequate right-of-way, the Settlement Partners agreed that no further grant is necessary.*
3. **Why are there 4 different Settlement Agreements with different approaches?** *Each road situation is different on each of the Pueblos. Each Pueblo is a separate government and addressed the roads situation within its lands differently according to the needs of the Pueblo and its community. Each Agreement is tailored to resolve the roads issue within each Pueblo.*
4. **What is the difference between a Right-of-Way granted to the County by the BIA (the approach taken by the Pueblos of Pojoaque and Tesuque) and a Right-of-Way granted by the County and the Pueblo to the BIA (the approach taken by the Pueblos of Nambe and San Ildefonso)?** *The difference is mostly technical, because in both cases the roads in question will remain public roads for generations to come (198 years, at a minimum). The technical difference is that, when BIA grants a road right-of-way to the County, the County obtains an easement across Pueblo land along the surveyed right-of-way route. In contrast, when the Pueblo and the County grant rights-of-way to the BIA, the Pueblo and the County are granting easements to the BIA across Pueblo and private land, respectively. Note that the Settlement Partners agree that the County already has easements through years of public use where the County-maintained roads cross private land.*

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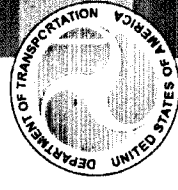


- 5. Can any of these roads be closed by the Pueblos or BIA during the term of the Settlement Agreements?** *The Pueblo and BIA will not permanently close the roads during the term of the rights-of-way or remove the roads from the BIA public roads inventory. However, a Pueblo may on occasion temporarily close a road for cultural purposes, as has been done in the past. The Settlement Agreements will not change a Pueblo's policies regarding temporary closures.*
- 6. What is the term of Rights-of-Way and what happens to the roads at the end of the term?** *The rights-of-way will be granted for an initial term of 99 years, and will automatically renew for a second 99-year term. At the end of the 198-year period, the rights-of-way for the roads will revert to the party that granted or assigned them, unless the parties otherwise agree at that time.*
- 7. How do these agreements help me?** *The Settlement Agreements resolve a decades-old problem by making the identified roads unequivocally public roads with continuous lawful public access across both Pueblo and private land, either through grants of rights-of-way to the County or to the BIA. The Settlement Agreements will also resolve the "gap" issues where driveways or access roads cross Pueblo lands, enabling property owners to obtain insurable access to their homes.*
- 8. Will the Settlement Agreements resolve the ingress and egress issues with the title companies?** *Yes. The Settlement Agreements will provide for long term access to private property off of the identified roads through the grants of rights-of-way, and each Pueblo will establish a long-term process for those properties in which a gap of Pueblo land exists between the property and the road. This will provide a long-term solution to the "gap" issue.*
- 9. How do the Settlement Agreements affect my individual rights as a private land owner within the exterior boundaries of a Pueblo?** *Your individual property rights will not be affected. In fact, your property will benefit from this long-term resolution of the roads and "gap" issues, since it is designed to enable property owners to obtain insurable access required to have marketable title and for financing purposes.*
- 10. Who will maintain the roads?** *Under all four Settlement Agreements, the County will maintain the roads for the term of the rights-of-way, regardless of whether the roads rights-of-way are granted to the County or the BIA.*

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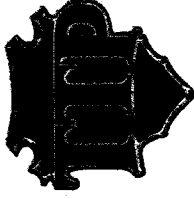
# Tribal Transportation Program (TTP)



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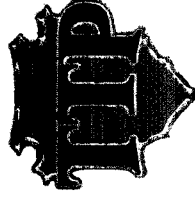
## Background of the Tribal Transportation Program (TTP)

- The TTP Program was established on May 26, 1928 by Public Law 520, 25 U.S.C. 318(a).
- It authorized the Secretary of Agriculture (*which had responsibility for Federal roads at the time*) to cooperate with state highway agencies and the DOI to survey, construct, reconstruct, and maintain Indian reservation roads serving Indian lands.
- In 1982, under the Surface Transportation Assistance Act of 1982 (STAA), Public Law 97-424, Congress created the Federal Lands Highway Program (FLHP).
- This coordinated program addresses access needs to and within Indian and other Federal lands. The TTP is a funding category of this program.



## How does a road become a TTP road?

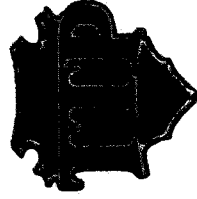
- A long-range transportation plan
- A Tribal resolution or official authorization
- A strip map
- Average Daily Traffic (ADT) documentation
- A typical or representative section photo or bridge profile photo
- Incidental cost verification
- Acknowledgement of Public Authority responsibility



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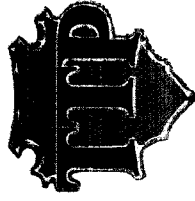
# National Tribal Transportation Facility Inventory (NTTFI)

- A National Database



# Road Inventory Field Data System (RIFDS)

- Computer program that maintains road inventories for each Tribe.
- 55 fields that are filled out to describe each section of road.



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# Basic Navigation – Navigation Tab

Quick Developer Forms Runtime - Web

Navigation

Navigation

Related by Organization

1-A - Central Texas

2-B - Southern Plains

3-C - Rocky Mountain

4-E - Alaska

5-F - Midwest

6-G - Eastern Oklahoma

7-H - Western

8-I - Pacific

9-J - Central Office West

10-K - Southwest

11-L - North

12-M - Northwest

13-N - Eastern

Product Report Status

System Administration

Form

1-BADOT

2-Directory

3-Field

4-Region

5-Trip

Report

1-Annual RPT CA - FY only

2-Annual RPT CA - FY only

3-Annual RPT CA - FY only

4-Annual RPT CA - FY only

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100-Annual RPT CA - FY only

Open Form

Historical Report Configuration

Year 2011

Scope for 5 System Reports

State 17 Bureau

18 State

19 ALABAMA

20 Region

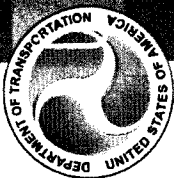
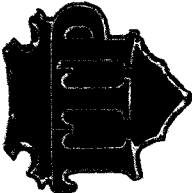
21 Agency

22 Reservation

23 Open the Selected Report

Clear Selection

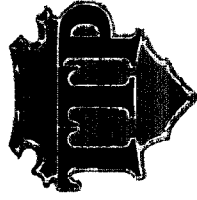
Close Forward





## Approval Process

- Tribe encodes and submits route information
- Reviewed by Region
- Reviewed by BIADOT
- Approved by BIA
- Route is officially part of the Tribe's road inventory



## What is a TTP (BIA) road?

- It can belong to a Tribe, city, county, state or other Federal agency.
- Is a road that is open to the public.

