

SFC CLERK RECORDED 09/12/2017

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



BCC MINUTES
PAGES: 79

Deputy Geraldine Salazar County Clerk, Santa Fe, NM

SANTA FE COUNTY
REGULAR MEETING
BOARD OF COUNTY COMMISSIONERS

July 25, 2017

I. A. Opening Business

This regular meeting of the Santa Fe Board of County Commissioners was called to order at approximately 2:30 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 TriniRae Romero, the State Pledge by Kenneth Sisneros and the Moment of Reflection by Rico Lovato of the Administrative Services Department.

I. F. Approval of Agenda

1. Amendments

2. Tabled or Withdrawn Items

KATHERINE MILLER (County Manager): Mr. Chair, the original agenda was posted a week ago and then amended on Friday, 7/21 at 4:13 p.m. The amendments that were posted at that time are on page 2. On the Consent Agenda, item II. A. 4, that

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item was added. Under Action Items, III. D. 1, that item was on the agenda but the caption needed amending. And then on page 3 under Matters from the County Attorney, item VII. A. 3 was added to the agenda.

And those are the amendments that were posted to this agenda and that's all I have eat this time.

CHAIR ROYBAL: Okay, do we have any other changes to the agenda?
Seeing none, is there a motion?

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

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

COMMISSIONER HANSEN: Second.

CHAIR ROYBAL: We have a motion and a second. Any other discussion?

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

I. G. Approval of Minutes

1. Approval of June 27, 2017, Special Board of County Commissioners Meeting Minutes

CHAIR ROYBAL: Are there any changes or do I hear a motion?

COMMISSIONER HANSEN: Yes, I have changes.

CHAIR ROYBAL: Okay, Commissioner Hansen.

COMMISSIONER HANSEN: On page 3, fourth line from the bottom, Monterey is misspelled. There's only one R in Monterey. That's it. So I move to approve with the changes.

CHAIR ROYBAL: Okay we have a motion for approval for the June 27th Special Board meeting minutes. Do I hear a second?

COMMISSIONER HAMILTON: Second.

CHAIR ROYBAL: We have a motion from Commissioner Hansen, a second from Commissioner Hamilton.

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

G. 2. Approval of June 27, 2017, Regular Board of County Commissioners Meeting Minutes

CHAIR ROYBAL: Are there any changes or amendments?

COMMISSIONER HANSEN: I don't have any.

CHAIR ROYBAL: Okay, so with no changes, do I hear a motion?

COMMISSIONER HAMILTON: I'd move to approve the minutes.

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

COMMISSIONER MORENO: I second the motion.

CHAIR ROYBAL: We have a second.

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

H. Employee Recognition

1. Recognition of New Santa Fe County Employees

MS. MILLER: Yes, Mr. Chair. So Mr. Chair, the first one is recognition of new Santa Fe County employees. In your packet are the list of new hires from June 1st through June 30, 2017 and I would read them all but there's probably about 40 new employees. Just to note, most of those were the student interns that were brought on board so we had 15 student interns, some detention officers and quite a few firefighter/EMT basic cadets. So I just wanted to welcome them to the County and then later in the agenda you will hear from the student interns and what they've been working on so far this summer. So I just wanted to say welcome to the new County employees.

H. 2. Recognition of Years of Service for Santa Fe County Employees

MS. MILLER: The next item is years of service for Santa Fe County employees. As you know we provide just a recognition to employees who have completed a five-year increment with Santa Fe County and we just want to recognize the value of employees to Santa Fe County and their commitment to stay here. And just to note, on this list we have several individuals who hit five and ten years. In the five-year category we have Jose Lujan, a Sheriff's Office Deputy II, Peter Olson, our DWI Prevention Specialist in Community Services, Mike Montano in Public Works/Traffic Engineer, Paul Padilla, a Maintenance Technician Senior in Public Safety/Corrections with five years, Jennifer Guzman and Perry Hewlett and Tiffany Martinez, all with Public Safety/Corrections with five years.

And then the next bulk of our employees with the ten-year services are our RECC, and what I noted when I was signing all these, I thought, gosh, a lot of people started ten years ago at the RECC, but in reality it was when the County actually took all of the RECC employees as County employees; they had previously been City employees and that was when that change was made and there's still several with us and that's Nancy Calhoun – however, she will only be with us for another couple days, I think. Joe Doolittle, Amanda Macias, Vanessa Marquez, Ken Martinez, Nick Martinez, Glenda Ortiz and Debra Witt, all with RECC. And then Dora Spivey is a teacher at Corrections with ten years, Monica Acevedo at CSD is our DWI Compliance Monitor, David Padilla with Public Works, a Maintenance Foreman, Bernie Archuleta in Public Works, Heavy Equipment Operator with ten years.

And then finally Bobby Montoya who just recently was promoted to Fire Assistant Chief. He's been with us 15 years.

So I just want to thank them for their service and dedication to Santa Fe County.

COMMISSIONER ANAYA: Mr. Chair.

CHAIR ROYBAL: Commissioner Anaya.

COMMISSIONER ANAYA: Mr. Chair, as always, can't go without commenting and thanking each of those senior members of our staff that have

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demonstrated their commitment to the County and the citizens by their tenure, and so congratulations to each and every one of those employees for reaching those milestones. Thank you, Mr. Chair.

CHAIR ROYBAL: Thank you, Commissioner Anaya. I too want to extend that gratitude and just thank them for choosing to make their career at Santa Fe County. Any other comments from Commissioners? Commissioner Hamilton.

COMMISSIONER HAMILTON: Mr. Chair, I would just like to echo that thought and confer my congratulations.

CHAIR ROYBAL: Thank you, Commissioner Hamilton.

I. H. 3. Recognition of Santa Fe County Employee of the Quarter

MS. MILLER: Mr. Chair, I'd just like to recognize the Santa Fe County Employee of the Quarter for the second quarter of 2017. We have an Employee of the Quarter program and its purpose is to recognize employees who make a significant contribution to Santa Fe County during the previous three-month period, and that contribution may include providing excellent service to our constituents, developing and implementing new programs which benefit our organization. It could be for providing exemplary performance to Santa Fe County in their daily job performance, demonstrating a willingness to work above and beyond the call of duty, or any other contribution which the nominator believes to be important to recognize.

The process for selecting a Countywide Employee of the Quarter begins with the designated recognition team selecting one individual for their group for the quarter, and in this last quarter we had three departments or elected offices nominate Employees of the Quarter, and then they're considered Countywide for the Employee of the Quarter. So there's three that were selected for the department or elected office Employee of the Quarter for the second quarter of calendar year 2017 are Margie Romero. Margie's a department administrator with the County Manager's Office/Human Resources, and she's been with the County since March 1, 1999. Talk about retention. It's nice to have Margie here that long. Margie is always willing to take on additional duties and assist employees throughout the County. Margie always has a positive attitude and this positive attitude and her willingness to assist in any task greatly enhances the productivity of the HR Office. Margie takes providing excellent customer service to employees and constituents of Santa Fe County to a high level.

Then in Growth Management we have Erin Ortigoza, and she's a Senior Planner. She's been with the County since September 15, 2014, and has taken on additional duties in addition to her normal responsibilities as a transfer of development rights program manager. She has shown strong initiative in developing the program process, outreach and procedures. Erin's contributions have been recognized and supported by constituents throughout the County. And to note, she's a very strong supporter of the program which she's managing. It keeps me on task moving it forward for the County.

Then in Public Safety/Corrections we have Maria Sepulveda. She's a case manager. She's been with the County since May 11, 2015 and Maria has consistently assumed additional duties and always with the Corrections Facility staff's best interest in mind. Staffing levels are critical in Public Safety and Maria consistently volunteers to

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cover extra shifts and train new staff. She has a positive attitude and gets tasks done in a timely manner.

So with that, the three nominees, if they're here, if they could come forward to the front row and be recognized by the –

So as you're probably familiar, we do this every quarter. Those who are nominated for the department or elected office position get two hours of administrative leave so all three of the nominees will get two hours of administrative leave and then the person who is selected for Employee of the Quarter receives eight hours of administrative leave in addition to a really nice award that they get for them to keep for their office.

So with that I will not keep you waiting any longer, but the individual who received Employee of the Quarter for the second quarter of 2017 is Margie Romero.

CHAIR ROYBAL: I would like to just say thank you guys for all your hard work, and Margie, great job. Congratulations and congratulations to all of you for being nominated. It's the hard work and dedication of our staff that really carries Santa Fe County to be a shining star in the area so I really appreciate it and look forward to seeing you guys continually work hard. I appreciate all your efforts. Commissioner Anaya.

COMMISSIONER ANAYA: Thank you, Mr. Chair. I want to congratulate Erin, you and Maria for your work and being nominated. It's a testament to who you are as an employee and how dedicated you are to your work and your colleagues and the service to the constituents. So I congratulate you both on your nomination in your respected departments.

Margie, it's awesome to see you here today, and I want to personally congratulate you for all your efforts. I've known Margie for a couple, three decades now and she's an excellent person, has the voice of an angel and is truly dedicated to helping people, not only around her. Margie, you help people that you work with but you're dedicated to helping those less fortunate, not only at the County but in your personal life.

You're a family person. You have a beautiful family. Margie's husband Mike is also part of our team so we very much appreciate what Mike does and your hijito is downstairs in the Assessor's Office and so you've done a great job. I had the pleasure of working with you, alongside with you at the Housing Authority for some time and so I very much congratulate you, Margie. You've done an awesome job. Some of you might not know this but Margie is one heck of a volleyball player too. We used to play volleyball about – well, I guess I won't say how long ago, but she was a really good – and still is, I'm sure, a good volleyball player but truly a dedicated employee. Thank you so much for your service to the County and to your family and to the community. So congratulations.

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

COMMISSIONER HANSEN: Congratulations to all of you. Congratulations Erin and Maria. I have worked with Erin and have not worked with Maria but I'm proud to have you as County employees and grateful for your service. And Margie I am so happy for you because you totally deserve this. You were one of the first people who made me feel really welcome when I came over to HR and it was such a great feeling and I really appreciate it. I'm always happy to see you whenever you come

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here and help us, because I always know that you're here to help and be in service for whatever you do. So congratulations to all of you and thank you for all your service to Santa Fe County.

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

COMMISSIONER HAMILTON: Yes, I similarly want to congratulate all of you and I haven't had a chance to work with Maria but I've worked with Erin and Margie and I have to say, I don't envy whoever makes these decisions. That's really difficult and it speaks to how wonderful it is to work here. You are all amazing and I can't say it any better than that and congratulations and especially to Margie for winning. We should make you sing.

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

COMMISSIONER MORENO: Thank you, Commissioner Moreno. This is a great program. I really like it and I hope it keeps on going. It motivates people and it's an opportunity to broadcast the festivities via the internet and it tells the community we have really good people working in Santa Fe County government. Thank you.

CHAIR ROYBAL: Thank you, Commissioner Moreno. I just want to say again, thank you for leading by example and I think we're going to come down and take some pictures, so thanks again from Santa Fe County.

COMMISSIONER ANAYA: Mr. Chair.

CHAIR ROYBAL: Yes, definitely. Do you want to say a few words?

MARGIE ROMERO (HR): It was so awesome to be recognized this way and I'm honored. I know these 18 years, I started in the Clerk's Office, then I started in Purchasing, then I went to Housing. Now in HR. And I do have to say that I'm very content in my life and I thank all of you Commissioners and Katherine, Tony, Bern, Sonya, all my teammates in HR. And I need to say something because I was remembering something this morning. I remember when I first started at Santa Fe County and I was working in the Clerk's Office and this gentleman tells me – because it was Friday. And he says, Marge, why are you working so hard? The boss isn't here. And we can do what we want. Nobody's watching when the boss isn't here. And I say, well, you know what. I say, I kind of try to understand what you're saying but someone is watching and that's God. And that's what I really stand for. And if it wasn't for my relationship with him I couldn't have any other relationships with you all. And I really appreciate you all and I love people and I always well until I go to my final destination. Thank you all.

CHAIR ROYBAL: Thank you, Margie. Can we have a round of applause please? I'd also like to afford the time for Erin and Maria to say some words if you'd like.

MARIA SEPULVEDA (Corrections): First of all I would like to thank the County for this opportunity. I didn't know this was a program. It took me by surprise but I do think the County – I love working here. I enjoy what I do. I thank my supervisors, both Melissa Oberg and Jessica Arballo. They have been great and I think they make me work even harder and do my job better, just by having them on my team and as supervisors, and hopefully this won't be the end of me. I think you guys will hear a lot from me and I hope to be with the County for many years to come. Thank you again.

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CHAIR ROYBAL: Thank you, Maria.

ERIN ORTIGOZA (Planning): Thank you, Commissioners. I just really want to thank you so much for all the kind words. I want to thank my team and my colleagues without whom I would not be able to do the work that I do. We really have an amazing group of people that we work with and we have amazing community members to work with as well. This work, this job, this is about – it's taught me a lot about building relationships and connections with people that you wouldn't normally cross paths with and learning about all of the stories and histories and futures in this county that are so beautiful and so important to this place. And I'm extremely grateful for this work and for everyone that I've worked with. So thank you very much for this honor.

CHAIR ROYBAL: Thank you, Erin. I'd also just add that it's really great to see everyone that comes up was humble to say I thank my supervisor. I thank my fellow employees. It's just really nice to see that you recognize that the other staff is part of the team that helped you get to where you are. But it just goes to show true leadership comes from when you recognize the people that helped you get there. So I appreciate that. Do we have any other closing comments? Thank you. We'll go on down and present the certificates.

[Photographs were taken.]

I. H. 4. Recognition of Donna Dean on Her Retirement and 25 Years of Service with Santa Fe County

COMMISSIONER ANAYA: So Mr. Chair, I'd like Mr. Montoya to come forward for this particular item. Donna wasn't able to be here, which doesn't surprise me. Something came up. But I'd like, if I could, Mr. Chair, I'd like to defer to Mr. Montoya to talk about Donna and then I'll make some brief remarks as well.

JOSEPH MONTOYA (Housing Director): Thank you very much, Mr. Chair and members of the Board. I just wanted to thank this Board and the vision that the County had in hiring Donna. She's had years experience and is considered one of the experts in the state for the area that she oversees, which is the voucher choice program. And she's really going to be missed. You couldn't ask for a more dedicated employee. Somebody who cares for her clients. Somebody who always is going that extra mile. Somebody who is there rain or shine. So it's terrible that she's not here today because this is one of the few days she's ever missed in the period of time that I have been here.

And I know Commissioner Anaya and Director Anaya has an enormous amount of respect for her because of the work that she's been able to do. And I want to say one of the bright, shining spots of the Santa Fe County Housing Authority through these years has been the housing choice voucher program, or the Section 8 program as many of you know it. And it's always been consistently high performing program and really, the main reason for that, above all else and under all circumstances has been Donna and her work. So I want to thank you for allowing me to get the opportunity to be able to speak about her and thank you, Commissioner Anaya, for the opportunity to do that.

COMMISSIONER ANAYA: Mr. Chair, Mr. Montoya, I just – I greatly appreciate you making those remarks. I did spend several years working alongside Donna at the Housing Authority. She's an exceptional employee. She absolutely will be missed.

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She's like Margie, a family person, family-oriented and family is where she ends up being wherever she's at. So she takes in people and wants to help people. She's dedicated her career at the Housing Authority to helping make others' lives better and I just think that's important to know. I would also say her mother, the late Mercedes "Mercy" Quintana was the Santa Fe County Assessor here for a long time and a treasure to the community as she is and her father and the rest of the family.

So Donna will be missed by the County. Please tell her we missed her and that we wish her nothing but the best in the future moving forward in her retirement. Many we could bring her back to help out if she has time to do some stuff for the County on a volunteer basis. But I know she has many things she wants to do with her family and friends so I wish her nothing but the best, Mr. Chair, as she moves forward. Thank you very much.

CHAIR ROYBAL: Thank you, Commissioner Anaya. Thank you, Mr. Montoya and I too just want to echo the comments and thank Donna for her years of service and wish the very best for her in her future endeavors. Thank you. Any other Commissioners have comments?

I. H. 5. Recognition of Nancy Calhoun on Her Retirement from Santa Fe County

KEN MARTINEZ (RECC Director): Thank you, Mr. Chair, Commissioners, and I want to thank the people who put the agenda together for saving the best for last. So, honestly, I wanted to bring and stand in front of you and ask for your assistance in honoring one of, in my opinion, one of the best employees that Santa Fe County has or has had. Nancy Calhoun has worked with me since the very first day that I started as a center manager at the RECC and that was about 11 years ago now. And again, as they mentioned, that was before we actually were transitioned over to County employees. So we were a little bit different but we still carried out the same functions and did the same things as we did as we do now.

And Nancy was there just a few months before I started, but it wasn't until I became director that we were really able to realize the full potential of what Nancy could do for the center and for Santa Fe County. She is really the one that gets all the credit for as well as the RECC functions. She takes care of me and all of the rest of the staff as administrative assistant. There's not one part of that operation that she doesn't help out with. And the great thing about Nancy is that it's not just the RECC that she does this great work for. You can ask any of the other service agencies within the County that have to deal with Nancy on a daily basis on all the tasks that she performs but she does – she brings the same level of professionalism and dedication and she has an amazing sense of attention to detail that makes her just irreplaceable for us at the RECC and for Santa Fe County as well.

She's made great working relationships and she's forged them and she's maintained them throughout her 11 years at the center and she's worked for Santa Fe County before then as well, but if she wants to talk about that we'll let her. There's not enough good words that I can speak about Nancy and the work that she does for us at the RECC and for the Santa Fe County in general. And she's going to be sorely, sorely

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missed. We're taking steps to prepare for her departure and she's been amazing helping us transition and preparing the people that are going to be taking over her duties when she leaves but that's going to be a gaping hole when she's gone. And no matter who takes over and what we do to replace her it's not going to do justice to the job that she did for me and for the RECC. So I won't go on further than that, but I'd like you to help me in congratulating her on her retirement, wishing her well in her future endeavors and mourning her loss for the RECC. So thank you.

CHAIR ROYBAL: Thank you, Director Martinez, and I'd like to give the opportunity for Ms. Calhoun to say some words, but let's go to Commissioner Anaya.

COMMISSIONER ANAYA: So Mr. Chair, it's like coming up to bat three times and getting to hit a homerun because Margie, Donna and now Nancy are three exceptional, genuine, humble and professional people. So ditto the remarks of the prior comments I made, Nancy. I didn't realize you were retiring. I think there are subtle messages that are being sent to me today. I know Margie is not leaving anywhere. Not yet, anyway. But Nancy, you're awesome. You've always been very helpful to everyone and one thing that I would say about Nancy is you didn't wonder what Nancy was thinking because Nancy was very candid and straightforward in her thoughts and her perspectives and I think that's really important. So thank you so much, Nancy. You'll be missed. Enjoy your retirement. I hope you have many fun things planned but I also know that you're a community minded person and always have been. I know the County and the community is not going to lose out because you're going to continue to help the community as you always have. Thank you so much for what you do at the County but also thank you so much for what you do in your community, which you've done for many years. So I appreciate you.

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

COMMISSIONER HAMILTON: We don't really know each other, but as a volunteer firefighter I can tell everybody how important the RECC and how important communications are. And I can only imagine the next time my pager goes off, there's not going to be a tone and an announcement, there's just going to be wailing. But it's amazing that you've done that much for the group and I can only imagine because it's a really difficult place to meet all the obligations. It's just very strenuous and demanding, I think is the word I was looking for. So it's very impressive. Thank you very much.

CHAIR ROYBAL: Thank you, Commissioner Hamilton. And I'd like to thank you for your service as well and hard work and your dedication and loyalty to Santa Fe County. As stated by Mr. Martinez you'll be dearly missed and maybe you'll come back and volunteer. Maybe not. Ken's got your number. Thank you. Commissioner Hansen.

COMMISSIONER HANSEN: Thank you, Nancy, very, very much, for your service. We'll pray for Ken so that he has all the support that he needs because I can see that he is really going to miss you, so thank you very, very much for all your years of service to Santa Fe County. I'm grateful. Thank you.

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

COMMISSIONER MORENO: Just to say thank you for your service and

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a very happy retirement.

CHAIR ROYBAL: Did you have some comments? The floor is yours.

NANCY CALHOUN (RECC): Okay. I'd like to thank Santa Fe County for helping me. You're my second family, because you helped me raise my kids. When I first started with Santa Fe County it was with the – I was the Stanley transfer station operator. So I was the Stanley dump lady. And I had just moved to Stanley and I thought, hey, I can do that. And so they hired me and it was close to home and I got to know all the neighbors. I got to know who had good trash, who had bad trash, and furnished my house a couple of times from things that people brought in from Stanley. So that was five years.

And then I went and taught kindergarten for two years, but luckily, I left my retirement in Santa Fe County because I thought maybe I'll be back some day, and I did. After two years I came back, I got hired as a dispatcher. I failed miserably at dispatching. That is the toughest job I've ever, ever tried to do. But luckily, Ken recognized what I could do. Every so often he would call me at the office and say, you know, I used to work for the state; I could probably get you a good state job. And I'd say, but I like it here, Ken. I really like it here. And he let me stay longer. He didn't fire me. Thank goodness.

Because about that time I was going through a divorce and all kinds of other things. So Ken luckily saw what I could do well and he talked the County into doing the admin assistant position and I got to go into it. So Ken and I have worked together for 11 years. I've been doing the RECC and it's been wonderful. I know what he needs. I know what he wants. He knows – he's taken care of me. And I just told him recently, I couldn't have raised my kids without this job. This was the job that I fit into. It helped me. I've ended up with three Los Alamos firefighters. One is going to be a medical lab scientist in another four months and one just got commissioned as a second lieutenant in the air force.

So all five kids turned out good and it's because of Santa Fe County. I also want to thank all the departments because I have had wonderful relationships with everybody. When I needed help I would call Purchasing, I would call Finance, I would call HR, I would call anybody and they were willing to help me and they were willing to help work out our little differences. Occasionally, I would try to pull something off and they'd call me and say, Nope, you can't do it that way. And I'd have my explanation. I really would, but no, we would work it out. So Santa Fe County, all I can say is they saved me. They really got me through a very difficult time and I appreciate everything that all of you guys have done.

One more story that I have to talk about. The first year, when I was going through the divorce and I had two little kids at home; they were ten or eleven, and one of the supervisor on graveyard, we were talking on graveyard one night and he was asking what did they want for Christmas and how is Christmas going to go and I said we're probably going to wait for income tax refund. Right before Christmas – and it was snowing like crazy outside – they brought in the box. They had everything that I had mentioned that the kids wanted for Christmas. My group – RECC – had done a contribution. They had gotten all the presents. They had a box of food. And now I'm going to cry. And cash. A card with cash in it. And I was smiling like crazy, and they had a deputy escort me most of the way home. Well, half-way home, until they got a call and then they had to take the

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call. But they were escorting me to make sure I got home okay in the snow.

So that's what RECC and Santa Fe County has done for me and I really, really appreciate it. I'm going to miss you guys, but it's been a good – once my kids were all graduated and everything. I turned 65. I've got my Medicare. I've got my Social Security. I've got my retirement, and now I can stay home and not drive all the way up from Stanley. But I really appreciate it. Thank you very much for everything.

CHAIR ROYBAL: Okay, we'd like to come down and take a picture with you, and I'd just like to say congratulations on your retirement and raising your successful children. Great job.

[Photographs were taken.]

COMMISSIONER ANAYA: Mr. Chair.

CHAIR ROYBAL: Yes, Commissioner Anaya.

COMMISSIONER ANAYA: Where'd Mr. Martinez go? Mr. Chair, I don't care what anybody says about Ken; he's all right. Thank you, Mr. Martinez.

CHAIR ROYBAL: I'll second that.

II. CONSENT AGENDA

A. Miscellaneous

1. **Approval of County Health Care Assistance Claims in the Amount of \$83,793.48 (Community Services Department/Kyra Ochoa)**
2. **Approval of Grant of Natural Gas Easement by Santa Fe County to EMW Gas Association (Public Works/Terry Lease)**
3. **Request Approval of Price Agreement No. 2017-0240-FD/IC Bunker Gear for Santa Fe County Fire Department to L.N. Curtis & Sons for an Indefinite Quantity and Authorization for the County Manager to Sign the Purchase Order (Purchasing/ Bill Taylor)**
4. **Request Approval of Grant Agreement between the Department of Finance Administration, State of New Mexico, Acting through the Local Government Division, and Santa Fe County for the Statewide E911 Program, in the Amount of \$395,029.00 for Provision and Payment of Enhanced 911 Services and Equipment (Public Safety/RECC/Ken Martinez)**
[Exhibit 1: Staff Memorandum]

CHAIR ROYBAL: Is there any questions on the Consent Agenda or any items that need to be discussed further? If not I'll entertain a motion.

COMMISSIONER HANSEN: I move to approve the Consent Agenda.

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

COMMISSIONER HAMILTON: I'll second.

CHAIR ROYBAL: We have a motion and a second.

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

III. ACTION ITEMS

B. Appointments/Reappointments/Resignations

1. Appointment/Re-Appointment of Members to the Santa Fe County Protest Valuation Board

COMMISSIONER ANAYA: Mr. Chair.

CHAIR ROYBAL: Commissioner Anaya.

COMMISSIONER ANAYA: If I could respectfully ask, I know we had some of the members of the Fair Board here for the County Fair. Would it be okay, Mr. Chair, to go to that item?

CHAIR ROYBAL: Which item is that, sir?

COMMISSIONER HANSEN: Could we just do the first Consent Agenda? And then go to Miscellaneous?

CHAIR ROYBAL: We did the Consent Agenda.

COMMISSIONER HANSEN: I mean the first Action Item, A. and B and then go to the Fair Board.

CHAIR ROYBAL: Okay, so we're going to go ahead and move on to item III. B. 1 first, but which one is the presentation that you wanted to move forward, Commissioner Anaya?

CHAIR ROYBAL: Just the presentation for the County Fair. We have the chair of the Fair Board here and some other kids here as well.

TONY FLORES (Deputy County Manager): It's item IV. B. 1.

COMMISSIONER HANSEN: I'm sorry. B. 1.

MR. FLORES: Thank you, Mr. Chair. As you know, the Santa Fe County Valuation Protest Board is comprised of volunteers that examine the rule on property tax valuation protests. The Board consists of two primary members, and they're categorized by board members requiring experience and board members not requiring experience.

The board members are appointed for a two-year term. They're not assigned by a district. Rather they're countywide members, and currently we have two positions – the board member requiring experience, which is held by Mr. Roger Carson through the 14th of this month who is not seeking reappointment, so we'll have a vacancy under the board member requiring experience and we also have the term of Mr. Gil Tercero expiring on August 14th and he's seeking reappointment. As is customary, staff did a call for interested applicants for board member requiring experience and a board member not requiring experience, understanding that Mr. Tercero wanted to be reappointed to his board member not requiring experience.

For a board member requiring experience, believe me, this is just as confusing for you as for me as I have to go through these with experience or not experience. For the board member requiring experience we received two interested individuals that requested consideration by the Board, Mr. Peter Dodds, who is currently a member of our Ethics Board, and Ms. Agnes Leyba Cruz, who is a former Santa Fe County employee and currently a real estate agent with a firm here in Santa Fe.

Upon review of each of the applications and in consultation with the Santa Fe

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County Assessor, staff has recommended the following appointments: for the board member requiring experience, Ms. Agnes Leyba Cruz for a term of August 15th of this year through August 15th of 2019, and for the board member not requiring experience, the reappointment of Mr. Gil Tercero for the same term. Mr. Tercero is here today and if the Board has any questions he'd be available to answer them. With that, Mr. Chair, I stand for questions.

COMMISSIONER ANAYA: Mr. Chair.

CHAIR ROYBAL: Questions from the Board? Commissioner Anaya, then I'll go to Commissioner Hansen.

COMMISSIONER ANAYA: So Mr. Chair, I just want to say that when you say the term, those members not requiring experience, and then in the next breath mention Mr. Tercero, that's a contradiction in terms. Mr. Tercero is a former County Manager of this County and has a whole lot of experience, and I know that's that – I'm not picking on you, Tony, you're following the terms that you have to go through, but it's good to see you, Mr. Tercero. I can remember being on the Road Advisory Committee in the early nineties, about mid-nineties and you knew my dad well but you didn't know me as much but I knew you, and I had a great deal of respect and still do for the public service that you provided in your community and you continue to provide it for the County, but as the County Manager – that's a tough job as you know and as Ms. Miller knows, but I greatly appreciate that work and just wanted to highlight that maybe it's with no experience in one area but exceptional experience in just about every other possible area in those capacities where he was the manager. So I'll defer to Commissioner Hansen who likely will make the motion but I would very much support those recommendations and thank Mr. Tercero for his service, not only now but historically here in this community and the state.

CHAIR ROYBAL: Okay. Commissioner Hansen.

COMMISSIONER HANSEN: Can we make the motion for both of them together? I would also like to thank Mr. Gil Tercero for being here and all the work that he does for the Village of Agua Fria, then also volunteering his time for Santa Fe County. I am grateful. So thank you, Mr. Tercero. And with that I would like to recommend approval of alternative board member requiring experience, Ms. Agnes Leyba Cruz and Mr. Gil Tercero as the alternative board member not requiring experience.

COMMISSIONER ANAYA: Second.

CHAIR ROYBAL: So we have a motion and a second. Is there any other discussion? I would also like to make the same comments. I worked at the County from 92 to 96 and Mr. Tercero was the County Manager then, and also I worked with Agnes before she retired from the County. That was quite a few years ago but both would be great assets to the board. Thank you. So we do have a motion and a second.

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

COMMISSIONER HANSEN: Mr. Tercero, do you have anything you'd like to say?

GIL TERCERO: Yes, I sure do.

COMMISSIONER HANSEN: Okay. Thank you.

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MR. TERCERO: I just have to commend you and applaud you for the amount of time and the sincerity with which you treat your employees. Sitting here listening to the comments that you made about those that are retiring and those that are being honored, it's just – it brings joy to my heart. Thank you.

COMMISSIONER HANSEN: Thank you, and thank you for your service.

III. B. 2. Reappointments and New Appointment to the Health Policy and Planning Commission

PATRICIA BOIES (Health Division Director): Good afternoon, Mr. Chair, Commissioners. Before you today are appointments to the Health Policy and Planning Commission. Three of them are reappointments. In 2014 the Board of County Commissioners appointed Don Reece, Carolyn Roberts, and Bonnie Keene to the Health Policy and Planning Commission. They've completed their first term and they have all requested to be appointed to a second term.

The vacancy created by Judith Williams' departure, the person I bring before you today is Christa Coggins. She is the vice president for community philanthropy at the Santa Fe Community Foundation. She's got a long background in public health and she's a subject matter expert in health at the Santa Fe Community Foundation. So hers is a new appointment and the other three are re-appointments.

CHAIR ROYBAL: Okay, questions from the Board? Comments?
Commissioner Anaya.

COMMISSIONER ANAYA: Mr. Chair, I'm just going to move my re-appointment of Don Reece to continue on the Health Policy and Planning Commission.

COMMISSIONER HANSEN: I'll second.

CHAIR ROYBAL: So we have a motion and a second. We still have a couple of appointments on there, correct? So let's go ahead and do this one individually and then we'll go to the other ones. So we have a motion and a second.

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

CHAIR ROYBAL: So we need another motion for the others.

COMMISSIONER HAMILTON: Are we doing them all individually?

CHAIR ROYBAL: We can do a motion for the other two, just one motion.

COMMISSIONER HAMILTON: Okay.

CHAIR ROYBAL: So moved?

MS. BOIES: Mr. Chair, if I could just clarify. Two are positions within District 4, Bonnie Keene for reappointment and Christa Coggins for a new appointment, and then Carolyn Roberts is a countywide.

COMMISSIONER HAMILTON: So if we're doing it by district, I would very, very much like to move for the reappointment of Bonnie Keene and the new appointment of Christa Coggins for District 4.

COMMISSIONER ANAYA: I'll second that.

CHAIR ROYBAL: We have a second by Commissioner Anaya.

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

COMMISSIONER HANSEN: I'll make a motion to reappoint Carolyn Roberts to the countywide position.

COMMISSIONER HAMILTON: Second.

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

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

IV. DISCUSSION/INFORMATION ITEMS/PRESENTATIONS

B. Presentations

1. Presentation Regarding the Santa Fe County Fair

ANNA BRANSFORD (Community Services): Good afternoon, Commissioners. It is Santa Fe County Fair time again, so today I have our Fair Board chairwoman, Terri Werner, to formally invite you to our Santa Fe County Fair. We also have Ms. Elena Roybal, who is a part of our 4-H community. Her family is very involved with the fair. Her parents, Wayne Roybal and Renelle are both Fair Association members. Elena is also going to talk a little bit about the fair and what she's done in the fair. So with that, I leave you with Terri.

TERRI WERNER: Good afternoon, Commissioners. Thank you so much, first of all, for giving us a fair for Santa Fe County. Without your support we wouldn't be here. So we want to really thank you. We're giving you some goodies and we want to wholeheartedly invite you to come to our fair.

We start next Wednesday, a week from tomorrow, through Saturday. So Wednesday will be animal shows, the indoor exhibits will open and there will be stuff going on every day. Then on Friday we have our big livestock sale, and on Saturday is our public day. Everything at our county fair is free and on Saturday we try to entice everyone to come out and be a part of our fair. We have fun activities going on all day long. We have all kinds of booths and recreation things going on all day, so it's just a really, really fun day for everyone to come and enjoy the fair. So with that, I want to turn it over to Elena and let her tell you how she gets involved in the fair. We also have senior citizens, from very little to very old that enjoy the fair and we really value them being there. So thank you.

ELENA ROYBAL: Hello. Well, I just want to talk about 4-H and how it's brought me out of this shell. I used to be this shy little kid who didn't want to talk to anybody and now I'm super outgoing, way more than I used to be, and I show pigs and goats and I love it. I also do all kinds of indoor stuff. I make jewelry. I do leather projects and it just brought me to who I am today, and I love it.

CHAIR ROYBAL: Great job, Elena, and I know that I've been involved in the 4-H with my son and I know we've been on different events – we've seen you at different events as well and we've talked and had time together as groups and I think that everything I've seen and even just what you've just shared is – the 4-H does a great job in teaching kids to develop their leadership skills. I've seen over the last four years how you've developed and coming out of your shell a little bit more and very open. And I

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really appreciate everything that the 4-H does and I appreciate you guys bringing somebody forward to speak, so thank you, Elena. Do we have any other comments? Commissioner Anaya.

COMMISSIONER ANAYA: Mr. Chair, Miss Roybal, you did an awesome job just now and you always do. I want to commend you for your work, Ms. Werner. I want to thank the Fair Board for all the work that they do and not just during the fair but throughout the entire year. Mr. Wayne Roybal back there, he's always been a dedicated member to helping 4-H and he's in the association now. I know he's had some interest in getting on the Fair Board and he's working through the association but one of these days we'll give him an opportunity to get on that Fair Board. I think he'd be a good member, but I also want to point out Ms. Roybal back there. I had the pleasure to submit in the salsa contest for a few years but I'll tell you what. She's tough. I got a ribbon; I think it was probably a sixth place ribbon out of 20 people which is not bad, but she was number one. So she makes a mean salsa and does many other things to help the kids with not only the animal projects but also the home ec projects. So a lot of great things at the fair next week so make some time, those of you listening in or watching, streaming. Go to the fair. Go to the County Fair and see what our kids are doing throughout the county and how dedicated they are across the spectrum.

Commissioner Roybal, you mentioned your son. Many people like him and others who have done exceptional projects, welding projects and otherwise shooting and the whole gamut, from animals to indoor exhibits and so it's exciting. It's an exciting time of year and it truly helps people with leadership and the growth of people like yourself, Miss Roybal, that are going to be the leaders of our community. So we're excited you're here. Thank you so much for coming and making a presentation.

MS. ROYBAL: Thank you for letting me come.

COMMISSIONER ANAYA: You bet.

CHAIR ROYBAL: Thank you, Commissioner Anaya. Do we have any other comments from the Board?

COMMISSIONER HANSEN: I look forward to seeing you at the fair.

MS. BRANFORD: One other thing we wanted to point out, you talked about Ms. Roybal and her salsa, but Mr. Roybal is the reigning barbecue champ. Last year was our first ever barbecue contest so I'm not sure if he's entering again but let's see if he can defend his title. Commissioner Roybal was actually one of our judges last year. So that's an exciting new thing that we have going on as well. Thank you.

CHAIR ROYBAL: Thank you. Can we go down and take a photo? I'd like to do that if we can.

[Photographs were taken.]

**IV. B. 2. A Report on Projects by Sustainability/Utilities/Planning
Department Interns**

COMMISSIONER HANSEN: Thank you, everyone, and thank you for coming and giving us a presentation of the work that you've worked on, and Neal Denton is going to be our guide.

NEAL DENTON (Sustainability Specialist): Mr. Chair, I'm Neal Denton

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with the Public Works Department Sustainability Division. I'm here to introduce five interns who've worked over the last seven weeks in the Sustainability, Planning, and Utilities Divisions. They've been very helpful to us. They include recent graduates of St. Michael's High, one who's still at St. Michael's High and one at Highlands University. You have details on what they've worked on in your packets along with a copy of the slide show. So if it pleases the Board they'll move forward with their presentation.

JOSEPH WOFFINDEN: Hi. My name is Joseph Woffiden. I recently graduated from St. Michael's High School and I'll be attending Ohio State next year for chemical engineering. I went into the internship just to look at different kinds of jobs and see different things that I might be doing in the future and I feel I've gotten that out of the internship so far.

So what my project is on, this one is actually Stephany Rutledge's project. She can't be here today so I'm going to go over it for her. So what she did was she went over some research and she helped make the Paris Agreement – all the guidelines. She helped implement those in Santa Fe County, so she did a lot of the research pertaining to that project. So 12 states and Puerto Rico have become members of the US Climate Alliance and are committed to achieving their CO₂ emission reduction goal and Santa Fe County is now within those guidelines of the Paris Agreement. So thanks to Stephany, that was able to be accomplished.

And for my project, what I've been working on lately is I've been putting together a project about open spaces throughout the Southwest and different things that Santa Fe County can maybe think about doing or some things that they're already doing. One of the first ones I looked at is Boulder County in Colorado. One of the things I like about theirs was the volunteering programs that they have. They have a really good thing where they have volunteers go out into the open spaces. An example of that is catfish night where the staff goes out to the lakes at night and let people fish. So they make sure everyone's safe and just gives them a chance to do something they wouldn't usually be able to do.

Also an evening hike where volunteers instead of staff members go out and interpret the parks' histories, ecosystems, plants and wildlife. And then the next one is Bernalillo County. One thing I found interesting about Bernalillo County was the greenscaping they do. So what that is is they take different things like social aspects as well as preservation and they combine the two. So they'll take like – they'll make it easier for people to access parks and outdoors while at the same time preserving natural landmarks and history and things like that.

And next is Larimer County in Colorado. They also do a lot of stuff with volunteering and in particular the photography. So they'll have photographers from the area go around and take pictures of the parks and they'll be able to post the pictures up on the website around Colorado and it helps other photographers as well as the county.

And then the last county that I researched was Marin County in California. One of the best things about this county was the website and how user friendly it was. Like for an example, say you wanted to go fishing and hiking but you didn't know what kind of open space would be available for that. They have a selection tool where you can select those two and it will show you different open spaces for those two selections. They also have detailed information on the different species of the parks. It gives you a lot of

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information.

So on the bottom there, that's Rabbit Mountain open space on the left. That's in Colorado, and then Carlitos Springs in Albuquerque right there on the right. And that's my presentation, so thank you for allowing me the opportunity to work here as an intern. I've learned a lot regarding sustainability and open spaces, as well as how the government works. It's been very beneficial to me and my fellow interns.

CHAIR ROYBAL: Thank you for your presentation. A great job. Just to let you guys know, we have monitors on our desk so if we're not looking back it's because we see the same thing right here on our desk that's up there.

MR. WOFFINDEN: Okay.

CHAIR ROYBAL: Sometimes I wonder if people realize that we have them and thinking we're not looking back. So just to let you know. Do we have any other comments from Commissioners. Commissioner Hansen.

COMMISSIONER HANSEN: Thank you. Are you going to go through the entire presentation?

MR. WOFFINDEN: Yes.

COMMISSIONER HANSEN: Okay. We have more.

CHAIR ROYBAL: Okay, so we'll go ahead and save comments for the end. Great job.

ERIN GANTT: Hi, my name is Erin Gantt and I just graduated from St. Michaels as well, and I'll be attending the University of Georgia next month to study environmental engineering, and based on that, that's why I was really excited about this internship for the County based on sustainability, because it's all about the field that I want to go into. So one thing I wanted to learn coming into this internship was not only what the County was doing for the environment already but what I could do with my research to help further those actions.

So one thing I noticed was it's clear that people work very hard here at the County so I was looking for a program that would be more focused on the what the community could do for the County rather than what the County would have to do environmentally. So I found a program with the National Wildlife Federation called a wildlife habitat certification and based on the population of a community you gather points by certifying your yard with local plants and vegetation that will help birds and bugs and bees and everything. And when you gather enough points for the population we can certify the entire county.

So this was something that I have been doing a lot of research on and I was hoping – I've been talking to people I was hoping could possibly be implemented for the county within the next couple of years.

Next, I am also presenting a slide for Stephany Rutledge who could not be here today. And one thing she was researching a lot about was how we could possibly have electronic recycling here in the county and set up locations where individuals within the community could recycle laptops and computers and various electronics because it would help with jobs and there are a lot of toxins within those electronics that are bad for the environment when they're put into landfills and not properly recycled. So these are just some of the things we've researched. You have a more detailed outline if you're interested in what else we've researched this summer and I'm just really grateful for the

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opportunity we've all had to learn about these things. So thank you.

COMMISSIONER HANSEN: Thank you.

CHAIR ROYBAL: Thank you. Great job. Can we have our next?

JARED SMITH: My name's Jared. I'm also a graduate of St. Mike's and I will be attending UNM in the fall. So I'm going to talk about ridesharing which was primarily Joe's project. So we're considering trying to implement an app into the County or at least raise awareness about apps and modern ways that we can get people together to implement ridesharing throughout our community. There are different apps that can serve different purposes. There are bus apps and Rail Runner apps and there are several online platforms that we can use to get people together to help the environment so we're hoping to do some more research on that and hopefully tell the public about this.

One of the highlights of this internship for me was a field trip that we took to the Friedman Recycling Facility and the Growstone factory which are both in Albuquerque. Friedman compiles recycled materials from throughout the state and I had no idea really the scale, the magnitude of this industry, because the plant is huge. They're compiling recycled materials from all over the place. I was also impressed by Growstone because they're doing some really interesting things with recycling. They're taking glass bottles and crushing them and turning them into rocks that can be used in hydroponic applications. And I think this innovation is exactly what we need moving forward into the future and I think companies like this are going to be really important in my future and I think we can implement some of these ideas and work with some of these companies even in Santa Fe County to install things like green roofs throughout the county to make us more environmentally conscious.

This internship has been a great opportunity for me because I've always been interested in the environment and it's just really opened my eyes to all the potential that we have. Thank you.

CHAIR ROYBAL: Great job, Jared. Can we have our next intern?

KAYLA GARCIA: My name is Kayla Garcia and I am still going to St. Michael's. I'm going to be a junior this year. When I first came – this is my first job, actually, and when I first came I wasn't quite sure what to expect. I just wanted to become more aware of what the County was doing and what the Sustainability Department was all about. And something that all the interns did is we worked at the Pojoaque Basin Water Fair. And what that is is we all got together at the Pojoaque High School on a Saturday and people brought in their waters that live in the Pojoaque Basin, their well water, and they got it tested for a bunch of different things, like uranium and magnesium and all of these different products that could be a hazard to the water.

This is the first year that Santa Fe County has actually taken the lead in this project, because before, the NMDOT and other places, or DOH would take the lead, but this year Santa Fe County took the lead and they worked with NMED and NMDOH to make this a huge success. When we did this on a Saturday only 200 people came and we were expecting over 400 people to bring their well water and get it tested, so we still have extra room to get it tested in the labs. So if anybody that has property in the Pojoaque Basin wants to get their water tested, they can still get that tested. They just have to contact Sandra Ely at Public Works and she can get that done for you easy.

Another thing that I personally have done is work to set up an ICLEI membership

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for Santa Fe County. They just purchased this membership and what ICLEI is is where local governments get together to solve environmental issues and they share plans with one another and they work together to come up with new plans that could overall make the environment greener. One of the advantages of having ICLEI is a software called Clearpath. Clearpath is an online software for energy and emissions management, and so it tracks emissions usage and it can predict future emission usage based on our present uses. So if you wanted to track how much energy you were using in this room right now from the light and everything you can keep that all in track and you can track it from past years and you can find ways to reduce it for the future. Thank you very much.

CHAIR ROYBAL: Thank you, Kayla.

CAMERON LUJAN: My name is Cameron Lujan and I am a sophomore at New Mexico Highlands University studying health with a concentration in promotion and wellness. I'm doing this internship to explore potential careers after I graduate and I was fortunate enough to get placed in the Department involved in what I'm studying. My last few weeks here as an intern I've been researching the agriculture in Santa Fe County. I've been looking at local food systems, specifically at how the farm-to-cafeteria existing in New Mexico and Santa Fe County. More than one in four New Mexico children rely on the school lunch as their primary meal of the day, so providing food that allows them to enjoy locally grown food is a great benefit. The farm-to-cafeteria program is a program that connects small to mid-sized farms in New Mexico to schools and senior centers alongside the farm-to-table program that supplies about 30+ restaurants in Santa Fe with locally grown food.

It offers regionally grown fresh fruits and vegetables to these institutions while expanding markets for New Mexico farmers. Also in this program, nutrition lessons, cooking classes, school gardens, farm visits and recycling and compost projects are also included. This benefits New Mexico in ways such as raising incomes for local farmers and promoting and improving our children's health and academic performance. Small to mid-sized farms in New Mexico are currently in an economic crisis, which means that the farmer's share of every food dollar has dropped from 41 cents in 1950 to 19 cents in 2002.

Although these changes were drastic, four of New Mexico's 33 counties generate at least 20 percent of their income from farming, and 13 percent of New Mexico's population is employed by farms or farm-related jobs. Also, the number of New Mexico's fruit and vegetable farmers has risen from 20 to 50 in one year.

The farm-to-school programs represent the most stable markets for New Mexico's farmers and are permanent institutions with recurring funding. For small local farmers selling to a school can be quite difficult due to bureaucratic and transportation issues. However, these sales are essential to the economy. Thank you for listening, and it has been a pleasure being an intern for the Santa Fe County.

CHAIR ROYBAL: Thank you. Commissioner Hansen.

COMMISSIONER HANSEN: I am really happy that Santa Fe County has this intern program and that we were able to hire these interns that are so motivated in the world of sustainability. Thank you, Cameron for bringing up to the food-to-table. I went and shopped at the farmers market this morning. I shop at the farmers market regularly. I've shopped at the farmers market all of my life. I think that's the best place to buy food

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so it's a good thing to bring up. I'm excited to find out what is going to start happening with our ICLEI program and how that will start moving into the systems that we have here in the community. I too really enjoyed our field trip to Friedman. It was a great experience and it was really great that we could take as many of the interns with us that we could.

Ridesharing is always a good thing. We're moving forward in that. I wanted to share with you that we do now, in the last year, accept electronic waste at BuRRT and the SWMA board just signed a new contract with the contractor to continue to get electronic waste, but I think it's really important that we educate people, that we have that program. In my district, Aldea is a certified wildlife habitat and so that is really exciting and that is the lead by example. And so I think that's a really great program, Erin, that you had the time to research.

Open space is extremely important for quality of life. We can't live without it and I think it's great that we have examples and then I really want to thank Stephany for helping and working on the Paris Agreement and our resolution that we signed. I think it's been a real benefit to the County to have interns working here, for them to see what we do here and bring our youth back to our community so they will come back and work here after then graduate. So thank you all and to all the interns who have been part of this project, and for your work. Thank you.

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

COMMISSIONER HAMILTON: I have a – first of all, I'm very impressed and kind of grateful that you guys picked in a way practical things to look at, that is things that would really enhance our activities in all these different areas and that we could actually do something about. And having said that, not that everything can necessarily be implemented all at once but are you guys leaving information with the County so that various things that we might want to do, we actually have that? That's fabulous. Well, thank you.

CHAIR ROYBAL: Commissioner Anaya.

COMMISSIONER ANAYA: So the Chairman had a brief conversation with me and asked me to help him with something that I'm happy to sign on to and help him with and that's I guess what we call an intern challenge to the County. So I'm going to ask, and you can work with Mr. Barela on this through the team members, but I'm going to ask the interns to help put together a resolution that basically takes each of the pieces that you guys put together and talked about and then has the County challenge if you will, intern challenge to the County, to us, to work with staff to implement. And if we could take three to five items, based on all the discussions you guys had, you guys can have another discussion and then let's pinpoint and target some things that we can make happen between now and next year for the next group of interns coming in. I think it's a good opportunity, as Commissioner Hamilton just pointed out to actually take the information that you're providing and you actually helping to set in motion a process to get it implemented.

So the Chairman asked me to help him with drafting and help with that but I'd ask you guys to do a draft and then Chris Barela and I and the Chairman and Orlando can all work together to bring a resolution back that we could then adopt with the rest of our

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colleagues on the Commission to basically challenge ourselves to work through and implement some of the recommendations that you guys have. So I appreciate the Chairman and his wisdom for doing that and I look forward to helping you, Mr. Chair, with that. Thank you all very much for your presentation and your work and good luck in your endeavors and your work at college as well. Thank you. Thank you, Mr. Chair.

CHAIR ROYBAL: Thank you, Commissioner Anaya, and thank you for bringing that up. Commissioner Moreno, did you have any comments at this time? I just want to say that I'm proud of this program and I'd like to see it expand and grow. Any time that we can make an impression and give our youth the experience that they need to move forward in life and with their work ethic I think that's a great place to be but I would like to commend each and every one of you for being here today and presenting the projects you worked on. And as Commissioner Anaya stated, we'd like to see how we can expand that and just make it a challenge where we can get our interns in the future to buy in in that direction. So I do appreciate everything that you guys have presented today and with that being said I'd like to ask for a big round of applause. You guys deserve it. Good job.

Manager Miller, did you have any comments?

MS. MILLER: Mr. Chair, Commissioners and interns, it's really great to see them exciting about learning something and bringing that information to the County and I think this has probably been the most coordinated effort that we've had between interns across areas of the County to focus on something. We typically have the interns in the departments and they work with that department but they don't get an opportunity to work together, and so I think these initiatives and the water fair and stuff like that were really good experience for them to see what the County focuses on but then also get to do it with their peers. So thank you for all your hard work and glad you were here this summer.

COMMISSIONER HANSEN: I also want to recognize Maria Rotunda who worked really hard to coordinate all the efforts and she is my constituent liaison to bring all these interns together in the sustainability realm and that it was her initiative and dedication that made a lot of these projects happen and that she helped organize the field trips and worked with all the other departments to make sure that the interns got place in places where they could work in the fields that they were interested in. So I want to give a shout-out to Maria Rotunda, my constituent liaison, for organizing this. Thank you very much.

CHAIR ROYBAL: Thank you, Commissioner Hansen. And I'd like to go down and take a photograph.

[Photographs were taken.]

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III. C. Miscellaneous

1. **Request (a) Approval of Amendment No. 4 to Agreement No. 2015-0307-PI/MY with HK Advertising to Provide Lodgers Tax Advertising and Promotional Services, Extending the Term an Additional Year, and Increasing the Compensation by an Additional Amount of \$350,000, Inclusive of Gross Receipts Tax, for a Total Contract Sum of \$1,028,498.96; and (b) Authorization for the County Manager to Sign the Purchase Order**

BILL TAYLOR (Purchasing Director): Mr. Chair and Commissioners, both the Lodgers Tax Act and County Ordinance 199-10 provides funding for advertising promoting, publicizing tourist attractions within Santa Fe County. And in April of 2015 Purchasing issued an RFP. The result of that RFP selection was with HK Advertising. If approved this amendment will be the third year of a four-year possible term contract. It extends the term through this fiscal year and adds more compensation to the contract. With that, Mr. Chair, I'll stand for questions.

CHAIR ROYBAL: Do we have any questions from the Board? Seeing none, what's the pleasure of the Board?

COMMISSIONER HAMILTON: I move to approve.

COMMISSIONER ANAYA: Second.

CHAIR ROYBAL: We have a motion and a second.

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

III. D. Resolutions

Resolution No. 2017-78, a Resolution Approving the Fourth Quarter Fiscal Year 2017 Financial Report to be Submitted to the New Mexico Department of Finance and Administration as a Component of the Fiscal Year 2018 Final Budget Submission

DON MOYA (Finance Director): Thank you, Mr. Chair, Manager Miller, members of the Commission. This is a standard resolution that happens every year. It's a requirement by DFA. It's part of their requirement to fulfill our quarterly reporting requirements. It goes back to 2011 whereby they require that the fourth quarter report that we submit to the Department of Finance and Administration be accompanied by a resolution and approval of the County Commission.

I do want to make note that presenting this report to you today is in draft form. Typically, they're due 30 days after the close of the fiscal year so we're a little bit ahead of schedule. The amounts that are on the report are draft and will continue to change until we finish all of the year-end processes which cannot be done, obviously, ahead of schedule. So we will make every effort to get you updated numbers as quickly as we can, but rest assured, we are on schedule. I stand for questions.

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CHAIR ROYBAL: Do we have any questions from the Board?

Commissioner Anaya.

COMMISSIONER ANAYA: Move for approval, Mr. Chair.

COMMISSIONER HAMILTON: Second.

CHAIR ROYBAL: We have a motion and a second. Anything under discussion?

GREG SHAFFER (County Attorney): Mr. Chair, if I could, I would just note that as we finalized the resolution we did update the reference to the Local Government Division memorandum, so if you read the resolution there's a reference to a prior year memorandum so the packet, or the version that is actually with the County Clerk just contains that very administrative update to the current year memo. We didn't feel it warranted passing out a redline but I did want to call that to your attention and I'll stand for any questions.

CHAIR ROYBAL: Thank you, County Attorney Shaffer. Any questions? So we have a motion and a second.

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

**III. D. 2. Resolution No. 2017-79, a Resolution to Write-Off
Uncollectible Accounts for the Santa Fe County Fire Division**

MR. MOYA: Thank you, Mr. Chair, Manager Miller. members of the Commission. As you know, I bet this picked up some people's ears. Rest assured, we are not actually forgiving \$5 million worth of bills. The purpose of this resolution is to adjust our accounts receivable to more accurately reflect the County's financial statements. The BCC, Board of County Commissioners, obviously, passed a resolution back in 2014 to specifically address receivables that were uncollectible. Basically in that resolution and in the accompanying policy and procedure it addressed several different areas in the County where we have receivables and this is the largest one that we've been carrying on our financial statements.

A little bit about ambulance billing: You should know that a notice goes out every 30 days for all those past due, up to 120 days. The collection rate for ambulance billing for the County is 55 percent which is consistent with the national average. All ambulance billing is based on a tariff that's set by the Public Regulation Commission for ambulance services. Just a little bit of history: Medicare and Medicaid must be a provider in terms of paying for ambulance services. Providers must abide by the payment fee schedule, which is typically lower than the tariff. So inherently, there's automatically what's called a built-in contractual write-off.

HMOs like Presbyterian, Blue Cross/Blue Shield as an example, they follow Medicaid's fee schedule. So it's automatically below the tariff. Car insurance companies pay more than the health insurance companies because they do not have a contractual write off. They pay 80 to 100 percent of what the County bills. If they are not Medicare or Medicaid or not on a contractual fee schedule then the patient can be billed for anything that's not covered by the insurance. So the vast majority of these are essentially contractual write-offs. Again, this does not forgive the debt; it does not mean that we will

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never try and collect. It just moves them on the balance sheet from accounts receivable to uncollectible. And I'll be working with all of these departments and Manager Miller, as well as other staff to figure out a little bit more about what we do about collections. And I stand for questions.

CHAIR ROYBAL: Commissioner Anaya.

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

CHAIR ROYBAL: Okay.

COMMISSIONER HAMILTON: I'll second.

CHAIR ROYBAL: We have a motion and a second. Under discussion, Commissioner Hansen.

COMMISSIONER HANSEN: I just want to mention that I sit on the Investment Committee and I've been extremely impressed by the Treasurer's Department in Collections. They have two people there who spend a tremendous amount of time on collections and I think that we have some really good people trained in that and I'm happy to hear that we're not forgiving this debt, because it is considerable, and that we look into some form of working on collections. But that's all I have to say. Thank you.

CHAIR ROYBAL: Thank you, Commissioner Hansen. Is there any other discussion? We have a motion and a second.

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

IV. DISCUSSION/INFORMATION ITEMS/PRESENTATIONS

A. Matters from County Commissioners and Other Elected Officials

1. Elected Officials Issues and Comments

CHAIR ROYBAL: Is there any elected officials that have announcements that they'd like to share today?

GERALDINE SALAZAR (County Clerk): Chair Roybal, I just wanted to make a quick statement regarding the upcoming election in September. GRT tax. You've passed the resolution. We've had the proclamation done. It's been published and we continue to plan and prepare for the election. I encourage individuals who are eligible to vote to please register or update their voter registration, and if you have any questions regarding the election I stand for questions.

CHAIR ROYBAL: Do we have any questions from the Board? Okay, thank you for that update, Madam Clerk.

CLERK SALAZAR: You're welcome. Take care.

IV. A. 2. Commissioner Issues and Comments

CHAIR ROYBAL: Do any Commissioners have any comments? Commissioner Hansen.

COMMISSIONER HANSEN: I'd like to state that Commissioner Moreno and I went out and visited Santa Fe Studios yesterday and had a tour of the studios and it was very informative and it was good to see a real job-producer that exists in the county. There was a movie going on there so it was exciting to see the project.

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I'd also like to let my constituents know that I met with the Greater Las Campanas community and I wanted to thank Michael Kelley and Randall Kippenbrock and Maria Rotunda for coming with me to this meeting that I had with the Greater Las Campanas community. There was about ten HOAs, presidents and representatives that showed up. So that was very informative also. And that's it for the moment. Thank you, Mr. Chair.

CHAIR ROYBAL: Thank you, Commissioner Hansen.

V. MATTERS OF PUBLIC CONCERN

CHAIR ROYBAL: Is there anybody from the public that would like to address the Board today? Okay, so we don't have anybody from the public today, so I'm going to close Matters of Public Concern.

VI. MATTERS FROM THE COUNTY MANAGER

A. Miscellaneous Updates

MS. MILLER: Yes, Mr. Chair, I have a few things. First of all, before I go to the items on the agenda, I just had a question if the Board has any need to talk to or ask any questions of the directors from the informational items at the back of the packet, and that's the department monthly reports. [See page 33.] The reason I'm asking is before we go into executive session, if the Commission doesn't have any questions on those I want to make sure that the directors knew they could go.

CHAIR ROYBAL: I don't have any questions. Anybody else?
Commissioner Hansen.

COMMISSIONER HANSEN: I want to thank the directors for the reports that are in our packet. I find them incredibly helpful to understand what is going on in the County since I can't always know everything. It's really important and I really appreciate it and I want them to know that I'm grateful for them. Thank you.

CHAIR ROYBAL: Thank you, Commissioner Hansen. So, it looks like we're okay with letting –

MS. MILLER: Thank you. Then under my Miscellaneous Updates, just a few things on Thornton Ranch site visit. As part of our ongoing efforts to collaborate and consult with the tribes and pueblos on the Thornton Ranch open space property, the second and final site visit and planning meeting will occur on Wednesday, August 9th from 8:30 am to 5:00 pm at the Galisteo Community Center, so they've been meeting there and then going over to the site with the individuals. The last one was very productive and informational to those who participated.

Then also the Nancy Rodriguez Community Center expansion ribbon cutting is on Sunday, August 13th beginning at 1:30 pm. Commissioner Hansen and the Agua Fria Village will be hosting a ribbon cutting for the recently completed improvements to the center and we want to make sure that everyone knows they're invited.

Then also the Northern Rio Grande National Heritage Center, on Saturday, August 5th has a grand opening and rededication ceremony and that's at the Northern Rio Grande National Heritage Center, which was formerly the Oñate Visitors Center, and

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that's located at 848 State Road 68 in Alcalde, New Mexico. And they are planning a full day of activities including music, dance, art, education and food celebrating the Northern Rio Grande National Heritage Area, which covers Taos, Santa Fe, and Rio Arriba counties.

So those are my general announcements.

VI. B. Amendment to Ordinance No. 2008-14, Adopting a County Regional Transit Gross Receipts Tax, Proposed by the North Central Regional Transit District

MS. MILLER: I believe that you were all here when the RTD spoke to us previously about a need to amend the ordinance, and I just wanted to give you an update of where we are. The Ordinance 2008-14 is the ordinance that imposed the County's regional transit gross receipts tax, and the four counties all passed the same GRT, the one-eighth, and that creates the revenue for the district. And Section 6 of that ordinance contains a sunset provision and seems to limit a re-authorization election to be held in November 2022 or 2023. It provides that this ordinance, if it becomes law shall be repealed effective January 1, 2024 unless a re-authorization election for continuation of the Regional Transit gross receipts tax is held and approved at a general election in November of 2022 or a special election in 2023 for a term and rate to be determined at that time.

The NCRTD has asked that Santa Fe County, Rio Arriba County, Los Alamos County and Taos County amend the ordinance to allow the tax to be re-authorized at an election held anytime before January 2024. And we understand why this change is being pursued. The current structure of the ordinance is problematic since the timing of the re-authorization election is such that the district will have a limited amount of time to react if the tax is not authorized at that election. They want to have an opportunity to have another election and the way the dates are in the ordinance it really limits that ability.

The requested amendment would allow the tax to be authorized at a general or special election any time prior to January 1, 2024, as opposed to those two specific times. But before bringing the requested ordinance forward, County staff feels it's necessary to discuss the matter with New Mexico Tax & Rev Department. TRD has issued some guidances suggesting an ordinance can only be amended if you follow the same election requirements that applied to the ordinance enacting the tax which would mean a district wide election in this case.

We just feel this is due diligence. It is necessary so that the Board can make an informed decision as to how we want to proceed. So I did want to let you know it is on our radar screen. We are aware that the NCRTD has requested the ordinance change. We just want to make sure that we are fully informed when we bring that to you. Additionally, the director is here if you have any questions for Tony, but I just want to bring that to your attention as an informational item today.

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VI. C. Potential Increase to Per Diem and Guard Hour Rates for US Marshal Service Prisoners Housed at the County Adult Detention Facility

MS. MILLER: Then the other item I had on there is a potential increase to the per diem and guard hour rates for the US Marshal Service prisoners that are housed at the County adult detention facility. Back in 1999 when the County – shortly after the County opened the Santa Fe County Detention Facility we did get a contract with the US Marshal Service and that per diem in that contract is \$65 per day. That is the lowest rate that we have relative to entities that have inmates. There is a rather rigorous process to go through with the federal government when you want to change one of your rates. It's not a matter of just calling them up and saying here's our new rate. You actually have to go through a rather substantial process of justifying all of the allowable costs in your rate.

So we just feel that the per diem though should be reviewed as well as the guard rate, because what we're paid for the guard rate is \$10-something. It's lower than our actual minimum wage that we're reimbursed for our guard rate. We feel that we should actually pursue a renegotiation of the guard rate and the per diem rate with the federal government, and so at the next meeting I'd like to bring forth a resolution asking the Board to authorize me to negotiate the rates and enter into any resulting IGA or modifications to the existing agreement in order to effect a new rate. We're estimating that rate would come in somewhere – based on what's allowable - \$80, give or take a few dollars a day. So I wanted to let you know, make sure that you're aware of the situation and I'd like to ask for a resolution allowing me to negotiate that. So that would be on the next agenda as well.

And those are all the items I have and I stand for questions if you have any.

CHAIR ROYBAL: Thank you, Manager Miller. Questions from the Board? Commissioner Moreno.

COMMISSIONER MORENO: Mr. Chair, the RTD leadership is here. I don't want to force them come forth, but if they would like to explain anything about the timing and some of the ramifications that we've been talking about in Espanola. Is that appropriate? Thank you.

ANTHONY MORTILLARO: Mr. Chair, members of the Commission. My name's Anthony Mortillaro. I'm the executive director of the NCRTD and appreciate that Manager Miller brought this thing forward and provided a report on where it stands. The only comments I have is that before they go forward and approach TRD or whoever they're going to approach that we have a sit-down discussion with them regarding where this thing stands and the status on it in respect to our discussions with the New Mexico Association of Counties as well, since they're referred to in one of the documents as an entity that should be consulted on county tax matters.

So again, I'd like to have that sit-down with both the County Attorney, County Manager before they go approach any state agency. Thank you.

CHAIR ROYBAL: Thank you. Okay, any other questions from the Board. I do want to say thank you to Ms. Miller for the update.

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VII. MATTERS FROM THE COUNTY ATTORNEY

- 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. **Rights-of-Way for County Roads**
 2. **Potential Enforcement Actions for Violations of the Santa Fe County Sustainable Land Development Code and Other County Ordinances**
 3. ***Board of County Commissioners of Santa Fe County v. Gregory Fuess, State of New Mexico, County of Santa Fe, First Judicial District, No. D-101-CV-2015-01936***

CHAIR ROYBAL: Mr. Shaffer, can give us a summary of what we'd be going into executive session for?

MR. SHAFFER: Mr. Chair, Commissioners, the basis for the executive or closed session and the items to be discussed are as follows: 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: rights-of-way for County Roads; potential enforcement actions for violations of the Santa Fe County Sustainable Land Development Code and other County ordinances; and *Board of County Commissioners of Santa Fe County v. Gregory Fuess, State of New Mexico, County of Santa Fe, First Judicial District, No. D-101-CV-2015-01936*.

CHAIR ROYBAL: Okay, do I hear a motion?

COMMISSIONER MORENO: I so move.

CHAIR ROYBAL: So moved going into the executive session on the summarization by Mr. Shaffer. Do I hear a second?

COMMISSIONER HAMILTON: Second.

CHAIR ROYBAL: So we have a motion and a second. Can we get a roll call please?

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 [4-0] roll call vote as follows:

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

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[The Commission met in closed session from 4:25 to 6:15.]

CHAIR ROYBAL: Good evening. We're back from executive session. Can I get a motion to come out of executive session?

COMMISSIONER MORENO: I move that we return to regular session, and the only items that were listed on the agenda were discussed.

CHAIR ROYBAL: Okay, so we have a motion. Do I hear a second?

COMMISSIONER HAMILTON: Second.

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

The motion passed by unanimous [3-0] voice vote. [Commissioner Anaya and Commissioner Hansen were not present for this action.]

MS. MILLER: Mr. Chair, I just wanted the record to reflect that the only individuals who were present in executive session were yourself, Chair Roybal, Commissioner Hansen, Commissioner Moreno and Commissioner Hamilton, myself, County Manager, the County Attorney Greg Shaffer and the Deputy County Attorney Rachel Brown.

CHAIR ROYBAL: Thank you, Manager Miller.

- VII. C. Special Closed Meetings of the Board of County Commissioners on July 13 and 14, 2017 [Exhibit 2: Staff Memo and Supporting Material]**
- 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 Meetings, as Required by Section 10-15-1(J) NMSA 1978**
 - 2. Action on Claim that Special Closed Meetings Violated the Open Meetings Act, as Required by Section 10-15-3(B)**

MR. SHAFFER: Moving on to agenda items VII. C. 1 and 2, these both concern special closed meetings of the Board of County Commissioners on July 13 and 14, 2017 at the State Capitol with representatives of the US Department of the Interior and one or more representatives of the Pueblos of Nambe, Pojoaque, San Ildefonso and Tesuque. So there are two separate agenda items relative to those special closed meetings, both of which require action by the Board this evening.

First, the Open Meetings Act requires that minutes of this meeting, which is the next open meeting after the separately scheduled closed meetings, must state that the matters discussed in the closed meeting were limited only to those specified in the notice of the separate closed meeting. Second, on July 13 and July 17, 2017, Dave Neal provided written notice to the Board of County Commissioners through the Chairman that he feels that the special closed meetings violated the Open Meetings Act.

As a result, the Board is supposed to take action within 15 days of receiving the written notice to deny or act on his claim, meaning if the Board felt that the claim had

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merit to acknowledge the violation and take whatever remedial action was appropriate. As part of the record today and has been previously shared with the Commissioners, we respectfully disagree with Mr. Neal's claimed violation of the Open Meetings Act. I'm going to go through the reasons and why we think that the meetings were proper at a high level because it's in writing as part of the record and has been previously shared with the Board but please do ask me any questions as we go through it.

First, the meeting was timely notice. The notice of and agenda for these special closed meetings were posted here at the County Administrative Building and on the County's website on Friday, July 7, 2017. That's over three days before the first special meeting on Thursday, July 13th and so therefore we complied with our own resolution, Resolution No. 2016-136 which sets forth what is reasonable notice of Board meetings.

Second, we did post, and it was included in the notice of the special meeting, the agenda for the meeting and we listed with reasonable specificity the specific items to be discussed, namely County roads within the exterior boundaries of the Pueblos of Nambe, Pojoaque, San Ildefonso and Tesuque. So again, that was posted and available to the public over 72 hours before the meeting. In addition, the notice that we posted did include the items required by law. We stated again with reasonable specificity the subject to be discussed. In addition, we gave notice of the meeting, and finally, we also included in the notice the specific provisions of law authorizing the closed meeting, namely threatened or pending litigation in which the County is or may become a participant, which was applicable only when the BCC was meeting alone with County staff and attorneys, and discussion of the purchase, acquisition or disposal of real property or water rights.

Finally, we did think it was appropriate for the Board to meet with the pueblos and representatives of the US Department of Interior. Again, the Open Meetings Act does not actually regulate who may be allowed to participate in a closed meeting. The guidance provided by the New Mexico Attorney General on this matter is consistent with what the County did here, where they allowed representatives of folks that they would be negotiating with as well as the federal oversight body for the pueblos to participate and in addition, this was not an instance where the Board tried to selectively choose members of the public to attend the special closed meeting. So I don't believe that there was any impropriety there.

Finally, the notice itself, as well as subsequent communications by the Board have made clear that no final action was taken at the meeting and that any potential resolution or solution that arose out of the meeting or any future meetings with the pueblos would have to be reviewed, discussed and approved by the Board of County Commissioners at one or more public meetings that were called and noticed in accordance with the Open Meetings Act.

So again, for all of those reasons, it seems to me at least that there was no violation of the Open Meetings Act and so therefore we'd recommend that the Board make a motion to deny Mr. Neal's claim that the closed meetings violated the Open Meetings Act and direct me to inform Mr. Neal's attorneys of this decision. And again, with respect to both matters, we included in the memorandum, both in the text of the memorandum and in the recommendation section, the text of the two motions that we would suggest the Board make with regard to the two separate items. And with that, I'd

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stand for any questions.

CHAIR ROYBAL: Do we have any questions from the Board? Seeing none, what's the pleasure of the Board?

COMMISSIONER HAMILTON: So I'd like to make a motion with regard to the special closed meetings of the Board of County Commissioners held on July 13 and 14, 2017, I move to deny David Neal's claim that the closed meetings violated the Open Meetings Act for the reasons stated in the County Attorney's July 24, 2017 memorandum to the Board, and direct the County Attorney to inform Mr. Neal's attorneys of this decision.

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

COMMISSIONER MORENO: I second the motion.

CHAIR ROYBAL: 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.]

MR. SHAFFER: And again, that was with respect to agenda item VII. C. 2, so we took them a little out of order, but we need to go back to VII. C. 1, and there's a separate motion needed relative to the minutes for this meeting and those items that were discussed. And so again, that's on page 4 of my memorandum to the Board under recommendation, there's a proposed motion for agenda item VII. C. 1.

VII. C. 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 Meetings, as Required by Section 10-15-1(J) NMSA 1978

COMMISSIONER HANSEN: With regard to the special closed meetings of the Board of County Commissioners held on July 13 and 14, 2017, I move to have the minutes reflect that the matters discussed in the closed meetings were limited only to those specified in the notice of the separate closed meetings, namely, County roads within the exterior boundaries of the Pueblos of Nambe, Pojoaque, San Ildefonso and Tesuque.

COMMISSIONER HAMILTON: I second.

CHAIR ROYBAL: We have a motion and a second.

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

CHAIR ROYBAL: Those will take care of the two that you had?

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VIII. INFORMATION ITEMS

- A. Growth Management Department Monthly Report**
- B. Public Safety Department Monthly Report**
- C. Public Works Department Monthly Report**
- D. Human Resources Division Monthly Report**
- E. Administrative Services Department Monthly Report**
- F. Community Services Department Monthly Report**

[For comments regarding the reports overall see page 26.]

VIII. CONCLUDING BUSINESS

A. Announcements

CHAIR ROYBAL: Are there any announcements you'd like to make?

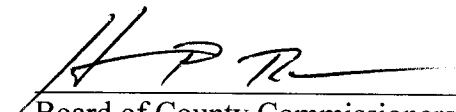
COMMISSIONER HANSEN: I just once again want to invite everyone to the ribbon cutting of the remodel of the Nancy Rodriguez Community Center on August 13th, and also invite all of our constituents out there who are maybe listening, to the Santa Fe County Fair on August 2nd through the 6th. It's free to the public and it's for family fun, so please come out to the Santa Fe County Fair. Thank you.

CHAIR ROYBAL: Thank you, Commissioner Hansen. Any other announcements?

B. Adjournment

Upon motion by Commissioner Hansen and second by Commissioner Hamilton, Chair Roybal declared this meeting adjourned at 6:30 p.m.


Approved by:

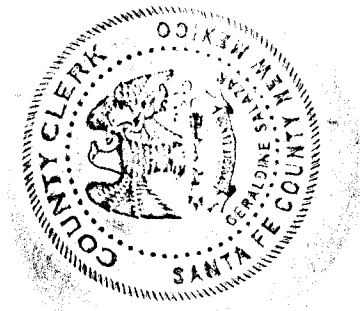

Board of County Commissioners
Henry Roybal, Chair

ATTEST TO:


GERALDINE SALAZAR
SANTA FE COUNTY CLERK

Respectfully submitted:


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



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II.A.4.

MEMORANDUM

EXHIBIT

tabbles

1

DATE: July 19, 2017
TO: Santa Fe Board of County Commissioners
FROM: Ken Martinez
RECC Director
SUBJECT: Enhanced 911 Grant Agreement

Ken
7.19.17

BACKGROUND

The New Mexico Department of Finance and Administration has submitted for approval two original copies of the current E-911 grant agreement which reflects the State Board of Finance approval of funding for Fiscal Year 2018. These are to be presented to the Santa Fe County Commission for approval and signature.

The grant is a pass-through grant and does not require any matching funds from the County. This term of this grant agreement will be from July 1, 2017 to June 30, 2018.

ACTION REQUESTED

Approval from the Board of County Commissioners is requested in order to return the signed Grant Agreement to the Department of Finance and Administration, Local Government Division. Upon return, the agreement will be fully executed and payment can begin for FY18 911 expenses.

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SUSANA MARTINEZ
GOVERNOR



DUFFY RODRIGUEZ
CABINET SECRETARY

RICK LOPEZ
DIRECTOR

MICHAEL MARIANO
ACTING DEPUTY DIRECTOR

STATE OF NEW MEXICO
DEPARTMENT OF FINANCE AND ADMINISTRATION
LOCAL GOVERNMENT DIVISION
Bataan Memorial Building ♦ 407 Galisteo St. ♦ Suite 202 ♦ Santa Fe, NM 87501
PHONE (505) 827-4950 ♦ FAX (505) 827-4948

July 11, 2017

Ken Martinez
Santa Fe County
35 Camino Justicia
Santa Fe, New Mexico 87508

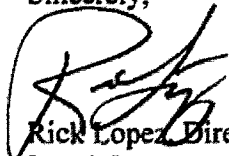
Dear Mr. Martinez,

Attached is an electronic version of the FY2018 E-911 grant agreement, which reflects the State Board of Finance approval of funding for FY 2018. Please **print two originals**, sign the grant agreements, have them notarized, and return as soon as possible to Bill Range, Bataan Memorial Bldg. Rm 201, 407 Galisteo St., Santa Fe, NM 87501.

Both original grant agreements require the signature of the County Manager or County Commission Chair. After LGD signs both originals, one original signed grant will be returned to you for your records. Once the grant agreement is fully executed, LGD will begin making payments for FY2018 expenses.

If you have any questions regarding this matter, please call Bill Range, E-911 Program Manager of my staff at 505-827-4804.

Sincerely,


Rick Lopez, Director
Local Government

Enclosures

STATE OF NEW MEXICO
DEPARTMENT OF FINANCE AND ADMINISTRATION
LOCAL GOVERNMENT DIVISION
ENHANCED 911 ACT GRANT PROGRAM

GRANT AGREEMENT

Project No. 18-E-11

THIS GRANT AGREEMENT made and entered into by and between the Department of Finance and Administration (DFA), State of New Mexico, acting through the Local Government Division, Bataan Memorial Building, Suite 201, Santa Fe, New Mexico 87501, hereinafter called the **DIVISION**, and the **County of Santa Fe**, hereinafter called the **GRANTEE**.

WITNESSETH:

WHEREAS, this Grant Agreement is made by and between the DFA, State of New Mexico, acting through the DIVISION, and the GRANTEE, pursuant to the authority in the Enhanced 911 Act, Sections 63-9D-1 *et seq.* NMSA 1978, (hereinafter referred to as the "Act") as amended, and the Enhanced 911 Rules, 10.6.2 NMAC (hereinafter referred to as the "Enhanced 911 Requirements" or "E-911 Rules."); and

WHEREAS, an enhanced 911 telephone emergency system is necessary to expand the benefits of the basic 911 emergency telephone number, to achieve a faster response time which minimizes the loss of life and property, provides automatic routing to the appropriate public safety answering point (PSAP), provides immediate visual display of the location and telephone number of the caller and curtails abuses of the emergency system by documenting callers; and

WHEREAS, this Grant Agreement funds the Public Safety Answering Point (PSAP) at the County of Santa Fe, which also provides E-911 related services to Santa Fe County, as well as E-911 related reimbursements for travel, training, and Geographic Information Systems (GIS) software and hardware; and

WHEREAS, the GRANTEE and the DIVISION have the authority, pursuant to the Act, NMSA 1978, Sections 63-9D-1 *et seq.*, and the E-911 Rules, to enter into this Grant Agreement; and

WHEREAS, the GRANTEE complies with the definition of "Grantee" in 10.6.2.7(HH) NMAC, of the E-911 Rules; and

WHEREAS, the DIVISION has the authority, pursuant to NMSA 1978, Section 63-9D-8, to administer the Enhanced 911 fund; and

WHEREAS, on June 20, 2017, the State Board of Finance awarded the GRANTEE \$ 395,029 for enhanced 911 services and equipment.

NOW, THEREFORE, the parties hereto do mutually agree as follows:

ARTICLE I - LENGTH OF GRANT AGREEMENT

A. Unless terminated earlier pursuant to Article IV herein, the term of this Grant Agreement, upon being duly executed by the DIVISION, shall be from **July 1, 2017**, through **June 30, 2018**.

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B. In the event that, due to unusual circumstances, it becomes apparent that this Grant Agreement cannot be brought to full completion within the time period set forth in Paragraph A above, the GRANTEE shall so notify the DIVISION in writing at least thirty (30) days prior to the termination date of this Grant Agreement, for the purpose of allowing the GRANTEE and the DIVISION to review the work accomplished to date and determine whether there is need or sufficient justification to amend this Grant Agreement and to provide additional time for completing the same. The DIVISION's decision whether or not to extend the term of this Grant Agreement is final and non-appealable.

ARTICLE II – REPORTS

A. PSAP Annual Report: No later than June 30th of each year, the GRANTEE shall submit to the DIVISION a PSAP Annual Report, in the form attached hereto as Exhibit "A," as may be changed from time to time upon the DIVISION's written notice to the GRANTEE. The PSAP Annual Report shall include information described in 10.6.2.11.D NMAC, of the E-911 Rules, and any such other information as the DIVISION may request, in sufficient detail to evaluate the effectiveness of the 911 equipment and services provided by the equipment vendor.

B. Federal 911 Resource Center Report: No later than January 30th of each year, the GRANTEE shall submit to the DIVISION a Federal 911 Resource Center Report, in the form attached hereto as Exhibit B, as may be changed from time to time upon the DIVISION's written notice to the GRANTEE.

ARTICLE III - CONSIDERATION AND METHOD OF PAYMENT

A. In consideration of the GRANTEE's satisfactory completion of all work, purchase and maintenance of the equipment and services required to be performed in compliance with all the terms and conditions of this Grant Agreement, the DIVISION shall pay the GRANTEE a sum not to exceed \$ 395,029 from the Enhanced 911 fund in accordance with Article III (D). The funds are to be expended in accordance with the approved Revenue/Expenditure Budget (Budget), attached to and incorporated by reference as Exhibit "C," and in accordance with 10.6.2.11 NMAC of the E-911 Rules, "PSAP Equipment, Acquisition, and Disbursement of Funds." It is understood and agreed that the GRANTEE's expenditure of these monies shall not deviate from the line items of the Budget without the prior written approval of the DIVISION, and the funds shall not be expended for ineligible costs via 10.6.2.11(F) of the E-911 Rules.

B. The funds mentioned in Paragraph A above shall constitute full and complete payment of monies to be received by the GRANTEE from the DIVISION.

C. It is understood and agreed that if any portion of the funds set forth in Paragraph A above is not expended for the purpose of this Grant Agreement, after all conditions of this Grant Agreement have been satisfied, the unexpended funds shall be reverted by the DIVISION in accordance with the Act and the E-911 Rules.

D. Pursuant to NMSA 1978, Section 63-9D-8, as amended, payments shall be made from the Enhanced 911 fund to, or on behalf of, participating local governing bodies or their fiscal agents upon vouchers signed by the director of the DIVISION solely for the purpose of reimbursing local governing bodies or their fiscal agents, commercial mobile radio service

providers or telecommunications companies for their costs of providing enhanced 911 service.

E. Payments may be made by the DIVISION as follows: 1) on behalf of the GRANTEE to telecommunications companies, vendors and equipment providers; or 2) reimbursements to the GRANTEE for actual costs or expenditures after the DIVISION receives a completed Request for Payment Form, or an invoice certified correct by the GRANTEE and/or the DIVISION for the E-911 equipment, equipment maintenance, and upgrades billed by the equipment provider. All purchases made by the GRANTEE for equipment, equipment maintenance, and upgrades require prior written approval by the DIVISION to be eligible for reimbursement.

F. Payments will not be made to the GRANTEE for work, equipment, maintenance or services not specified in this Grant Agreement or in violation of or ineligible under the E-911 Rules.

ARTICLE IV - MODIFICATION, TERMINATION AND MERGER

A. Early Termination. Except as provided in Article IV (D) below, this Grant Agreement may be terminated by either of the parties hereto upon written notice delivered to the other party at least 30 days prior to the intended date of termination. Except as otherwise allowed or provided under this Grant Agreement, the DIVISION's sole liability upon termination shall be to pay for eligible Budget items purchased prior to the GRANTEE's receipt of the notice of termination, if the DIVISION is the terminating party, or upon the GRANTEE sending a notice of termination, if the GRANTEE is the terminating party. A notice of termination shall not nullify or otherwise affect either party's liability for pre-termination defaults under or breaches of this Grant Agreement. The GRANTEE shall submit an invoice for such eligible Budget items within 30 days of receiving or sending the notice of termination. Notwithstanding the foregoing, this Grant Agreement may be terminated immediately upon written notice to the GRANTEE if the GRANTEE becomes unable to or fails to perform the terms of this Agreement, as determined by the DIVISION or if, during the term of this Grant Agreement, the GRANTEE or any of its officers, employees or agents is indicted for fraud, embezzlement or other crime due to misuse of state funds or due to the Appropriations paragraph herein. THIS PROVISION IS NOT EXCLUSIVE AND DOES NOT WAIVE THE DIVISION'S OTHER LEGAL RIGHTS AND REMEDIES CAUSED BY THE GRANTEE'S DEFAULT/BREACH OF THIS GRANT AGREEMENT, INCLUDING BUT NOT LIMITED TO, RETURN OF MISSPENT GRANT FUNDS BY THE GRANTEE TO THE DIVISION.

B. Termination Management. Immediately upon receipt by either the DIVISION or the GRANTEE of a notice of termination of this Grant Agreement, the GRANTEE shall: 1) not incur any further obligations for expenditure of funds under this Grant Agreement without written approval of the DIVISION; and 2) comply with all directives issued by the DIVISION in the notice of termination as to the performance under this Grant Agreement.

C. This Grant Agreement incorporates all agreements, covenants and understandings between the parties concerning the subject matter of this Grant Agreement and all such agreements, covenants and understandings have been merged into this written Grant Agreement. No prior agreements, covenants, or understandings oral or otherwise, of the parties or their agents shall be valid and enforceable unless embodied in this Grant Agreement.

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D. The terms of this Grant Agreement are contingent upon sufficient appropriations and authorization being made by the Legislature of New Mexico for the performance of the Grant Agreement. If sufficient appropriations and authorizations are not made by the Legislature, the DIVISION may *immediately* terminate this Grant Agreement, in whole or in part, regardless of any existing legally binding third-party contracts entered into by or between the GRANTEE and a third party, by giving the GRANTEE written notice of such immediate early termination. The DIVISION's decision as to whether sufficient appropriations are available shall be final and non-appealable. The GRANTEE shall include a substantively identical clause in all contracts between it and third parties that are (i) funded in whole or in part by funds made available under this Grant Agreement and (ii) entered into between the effective date of this Grant Agreement and the Termination Date or early termination date.

ARTICLE V - CERTIFICATION

The GRANTEE assures and certifies that it will comply with all state laws, the E-911 Rules, and other state laws, rules, policies and with respect to the acceptance and use of State funds. Also, the GRANTEE gives assurances and certifies with respect to the Grant that:

- A. It will comply with the New Mexico Procurement Code, NMSA 1978, Sections 13-1-28 through 13-1-199.
- B. It will adhere to all financial and accounting requirements of the DFA.
- C. It will comply with all requirements set forth in the Act and prescribed by the DIVISION in its E-911 Rules, or other guidelines and procedures in relation to receipt and use of State Enhanced 911 Grant Funds.
- D. It shall not at any time utilize or convert any equipment or property acquired or developed pursuant to this Grant Agreement for other than the uses specified, without the prior written approval of the DIVISION.
- E. It will comply with NMSA 1978, Section 63-9D-4D and provide Geographic Information Systems (GIS) addressing and digital mapping data to the PSAP that provides the enhanced 911 service to the GRANTEE.
- F. It accepts responsibility for coordinating and providing accurately maintained GIS addressing, road centerline, boundary and other data in the service area to the DIVISION per 10.6.2 NMAC. This information shall be compliant with the statewide dataset used by the local PSAPs.
- G. It agrees and acknowledges that all GIS data provided to the DIVISION's statewide dataset in support of the E-911 program is public data and shall be shared with other governmental agencies.
- H. It will finance any amount exceeding the approved funding for the 911 equipment costs.

I. It will not make any changes in the E-911 system configuration without first submitting a written request to the DIVISION and obtaining the DIVISION's written approval of the proposed change(s).

J. It will provide to the DIVISION, documentation of total insurance coverage for all hardware and software and other equipment purchased with E-911 funds. Insurance should, at a minimum, cover non-routine maintenance defects including, but not limited to, all acts of God, floods, fire, lightning strikes and water damage.

K. It will provide all the necessary qualified personnel, material, and facilities to run the E-911 PSAP.

L. It will submit all project related contracts, subcontracts, and agreements to the DIVISION for administrative review and approval prior to execution for compliance with the E-911 program requirements and not for legal sufficiency. Amendments to existing contracts also must be submitted to the DIVISION for review and approval prior to execution.

M. It will comply with the PSAP consolidation requirement pursuant to the 10.6.2.15 NMAC of the E-911 Rules.

ARTICLE VI - RETENTION OF RECORDS

The GRANTEE shall keep and preserve such records as will fully disclose the amount and disposition of the total funds from all sources budgeted for a period of six years from the termination of the Grant Agreement, the purpose of undertaking for which such funds were used, the amount and nature of all contributions from other sources, and such other records as the DIVISION shall prescribe.

ARTICLE VII - REQUIRED TERMINATION CLAUSE IN CONTRACTS FUNDED IN WHOLE OR PART BY FUNDS MADE AVAILABLE UNDER THIS GRANT AGREEMENT

A. The GRANTEE shall include the following or a substantially similar termination clause in all contracts that are (i) funded in whole or in part by funds made available under this Grant Agreement and (ii) entered into after the effective date of this Grant Agreement:

"This contract is funded in whole or in part by funds made available under a Department of Finance and Administration, Local Government Division (DIVISION) Grant Agreement. Should the DIVISION or the [insert name of GRANTEE] terminate the Grant Agreement, the [insert name of GRANTEE] may terminate this contract by providing the Contractor written notice of the termination in accordance with the notice provisions in this contract. In the event of termination pursuant to this paragraph, the GRANTEE's only liability shall be to pay the Contractor for acceptable goods/equipment and/or services delivered and accepted prior to the termination date."

ARTICLE VIII - REPRESENTATIVES

A. The GRANTEE hereby designates the person listed below as the official GRANTEE Representative responsible for overall supervision of the approved project:

Name: Ken Martinez
Title: PSAP Director
Address: 35 Camino Justicia
Santa Fe, New Mexico 87508

Phone: 505-992-3096
Fax: 505-428-3735
Email: krmartinez@co.santa-fe.nm.us

- B. The DIVISION designates the person listed below as its Program Manager, responsible for overall administration of this Grant Agreement, including compliance and monitoring of GRANTEE:

Name: Bill Range
Title: E-911 Program Manager
Address: Department of Finance and Administration
Local Government Division
Bataan Memorial Building, Suite 202
Santa Fe, NM 87501

Phone: 505-827-4804
Fax: 505-827-4948
Email: bill.range@state.nm.us

[Remainder of page intentionally left blank.]

IN WITNESS WHEREOF, the GRANTEE and the DIVISION do hereby execute this Grant Agreement.

THIS GRANT AGREEMENT has been approved by:

GRANTEE

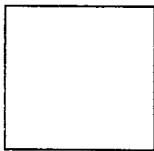
Authorized Signatory

Date _____

(Type or Print Name)

[illegible]

The foregoing instrument was acknowledged before me this _____ day of _____, 2017, by _____.



Notary Public

My Commission Expires: _____

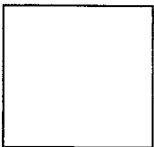
**DEPARTMENT OF FINANCE AND ADMINISTRATION
LOCAL GOVERNMENT DIVISION**

By: _____
Rick Lopez, Director

Date _____

[illegible]

The foregoing instrument was acknowledged before me this _____ day of _____, 2017, by _____.



Notary Public

My Commission Expires: _____

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Exhibit A

PSAP Annual Report

PSAP Annual Report Form For: _____

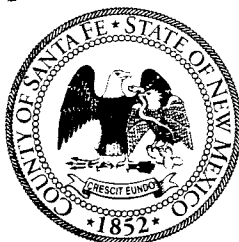
Date of Report: _____

Section	PSAP Input
Section 10.6.2.11 D(8)	
PSAP Name	
Date of PSAP Report	
Exact address of the PSAP (No P. O. boxes)	
Number make and model of E911 and Radio Dispatch positions (if a position is used for both call taking and dispatching, list it as such)	
Type of equipment to include make and model	
Telephone switching equipment	
MIS System	
Mapping server	
Radio System	
UPS (for 911 Equipment)	
Back-up Generator	
Version of E911 operating system software	
Number and type of dedicated/ switched voice/data circuits	
Routing central office and PSAP end office	
Maintenance control center to include name of company, physical address, telephone number, Email address, and your point of contact for E911 equipment and voice logging recorder, if different from E911 equipment maintainer	
PSAP manager or coordinator and alternate: contact names, addresses, phone numbers, and their PSAP Email address	
MSAG coordinator name, address, phone number, and Email address	
GIS representative to include physical address, telephone number, and Email address	

Henry P. Roybal
Commissioner, District 1

Anna Hansen
Commissioner, District 2

Robert A. Anaya
Commissioner, District 3

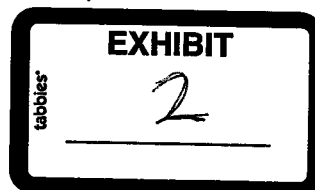


Agenda Item Nos. VII(C)(1)-(2)

Anna T. Hamilton
Commissioner, District 4

Ed Moreno
Commissioner, District 5

Katherine Miller
County Manager



Office of the County Attorney

To: Board of County Commissioners
From: Gregory S. Shaffer, County Attorney
Date: July 24, 2017

Re: **Special Closed Meetings of the Board of County Commissioners on July 13 and 14, 2017 (Agenda Item Nos. VII(C)(1)-(2))**

Background. The Board of County Commissioners (BCC) of Santa Fe County (County) held two special closed meetings on July 13 and 14, 2017, at the State Capitol. At various times, the BCC met privately with County staff and attorneys. At other times, it met (along with County staff and/or attorneys) with representatives of the U.S. Department of the Interior and one or more representatives of the Pueblos of Nambe, Pojoaque, San Ildefonso, and Tesuque (collectively, Pueblos). The specific items discussed were County roads within the exterior boundaries of the Pueblos.

This non-confidential memorandum is being provided with respect to two action items concerning the special closed meetings on the agenda of the BCC's July 24, 2017, regular meeting. Copies of this memorandum will be made available to the public at the meeting.

Issues. First, under the Open Meetings Act, the minutes of this meeting – which is the next open meeting after the separately scheduled closed meeting – must “state that the matters discussed in the closed meeting were limited only to those specified . . . in the notice of the separate closed meeting.” Section 10-15-1(J) NMSA 1978.

Second, on July 13 and July 17, 2017, Dave Neal provided written notice to the BCC that he feels that the special closed meetings violated the Open Meetings Act. As a result, within fifteen days of receiving the written notice, the BCC must deny or act on the claim. Section 10-15-3(B) NMSA 1978. (Mr. Neal's July 13 and 17 emails are attached as Exhibit A.¹)

Analysis.

Statement for the minutes concerning special closed meetings (Agenda Item No. VII(C)(1)). We recommend the following motion be made:

With regard to the special closed meetings of the Board of County Commissioners held on July 13 and 14, 2017, I move to have the minutes reflect that the matters discussed in the closed meetings were limited only to those specified in the notice of the separate closed meetings: namely, County roads within the exterior boundaries of the Pueblos of Nambe, Pojoaque, San Ildefonso, and Tesuque.

Claimed violations of the Open Meetings Act (Agenda Item No. VII(C)(2)). Section 10-15-3(B) NMSA 1978 provides as follows:

¹ Attached to Mr. Neal's July 13, 2017, email was *Pueblo of San Ildefonso v. the United States*, 35 Fed. Cl. 777 (U.S. Court of Federal Claims 1996). Because that case does not involve the Open Meetings Act and because of its length, it is not included in Exhibit A.

SCANNED

DATE: 7.25.17
13.16.2.3.1

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All provisions of the Open Meetings Act shall be enforced by the attorney general or by the district attorney in the county of jurisdiction. However, nothing in that act shall prevent an individual from independently applying for enforcement through the district courts, provided that the individual first provides written notice of the claimed violation to the public body and that the public body has denied or not acted on the claim within fifteen days of receiving it. A public meeting held to address a claimed violation of the Open Meetings Act shall include a summary of comments made at the meeting at which the claimed violation occurred.²

We recommend that the BCC deny Mr. Neal's claimed violation for the following reasons.

Meeting was timely noticed. The Notice of and Agenda for Special Closed Meetings (Notice, Exhibit B attached) for the special closed meetings was posted at the County Administrative Building, in the "PUBLIC MEETING NOTICES & AGENDAS" bulletin boards, and on the County's website on Friday, July 7, 2017, over three days before the first special meeting on Thursday, July 13. This was in compliance with the County's so-called Open Meetings Act Resolution, Resolution No. 2016-136. Paragraph 2(B) of that resolution requires "[n]otice of a special meeting [to] be posted in a conspicuous and appropriate place at the Santa Fe County Administrative Building at least three (3) days before such meeting."

Agenda was posted 72 hours before the meeting. The Notice included the "Agenda of Specific Items to be Discussed" – i.e., "County Roads within the Exterior Boundaries of the Pueblos of Nambe, Pojoaque, San Ildefonso, and Tesuque". Thus, the County complied with the Open Meetings Act and Resolution No. 2016-136. NMSA 1978, Section 10-15-1(F) (generally requiring the agenda for a meeting to "be made available to the public and posted on the public body's web site" "at least seventy-two hours prior to the meeting") and Resolution No. 2016-136, Paragraph 4 (requiring (i) meeting notices to "include an agenda containing a list of specific items of business to be discussed" or information on how the public may obtain a copy of such an agenda and (ii) a final agenda to be posted on the County's internet web site at least seventy-two (72) hours before the meeting).

The Notice included items required by law. NMSA 1978, Section 10-15-1(I)(2) provides, in part, as follows:

[I]f a closure is called for when the policymaking body is not in an open meeting, the closed meeting shall not be held until public notice, appropriate under the circumstances, stating the specific provision of the law authorizing the closed meeting and stating with reasonable specificity the subject to be discussed is given to the members and to the general public.

² We understand the requirement to "include a summary of comments made at the meeting at which the claimed violation occurred" to apply only when the public body admits that an Open Meetings Act occurred and is taking action to cure an alleged violation. *E.g.*, N.M. Attorney General, New Mexico Open Meetings Act Compliance Guide (8th Ed. 2015), Section V(B), p. 40-42 (providing examples where the public body concedes that the Open Meetings Act was violated and takes action to cure the violation). In addition, if a summary of comments was required in the case of a properly closed meeting, the benefits of the closed meeting would be lost, since a citizen could lodge a complaint and then get a summary of what was discussed at the meeting to address the citizen's complaint.

Under “Legal Authority”, the Notice provided as follows:

The specific provisions of law authorizing the closed meetings are Section 10-15-1(H)(7) NMSA 1978 (threatened or pending litigation in which the County is or may become a participant, applicable only when the BCC is meeting alone with County staff and attorneys) and Section 10-15-1(H)(8) NMSA 1978 (discussion of the purchase, acquisition or disposal of real property or water rights).

The referenced provisions of law clearly applied to the special closed meetings. First, litigation in which the County may be a participant is obviously a threat if the roads issue is not consensually resolved. Accordingly, the BCC could meet in closed session with its attorney and pertinent County staff to discuss such threatened litigation. Second, the BCC could meet in closed session, with its attorneys and pertinent staff and with the Pueblos and the U.S. Department of the Interior, to discuss the acquisition or disposition of real property interests for the roads being discussed.³

BCC properly met with Pueblos and the U.S. Department of Interior. The Open Meetings Act does not address who a public body may allow to participate in a closed meeting. N.M. Attorney General, New Mexico Open Meetings Act Compliance Guide (8th Ed. 2015), Section III(I)(2), p. 33. Allowing the Pueblos and U.S. Department of Interior to participate was consistent with the New Mexico Attorney General’s guidance on the matter, since those parties would need to approve any consensual acquisition of real property interests. Cf. N.M. Attorney General, New Mexico Open Meetings Act Compliance Guide (8th Ed. 2015), Section III(I)(2), p. 33-34, Example 74 (noting that it would be proper for a public body to meet privately with individual proposers who submitted competitive sealed proposals solicited pursuant to the Procurement Code). In addition, the BCC did not selectively choose members of the public to attend the special closed meetings.

No final action was taken at the special closed meetings. The Notice made clear that “[n]o final action will be taken at these meetings”. And, in fact, no final action was taken at the special closed meetings. Consequently, the BCC complied with the NM Attorney General’s guidance that “[a]ction on the purchase, acquisition or disposal of real property or water rights by the public body must take place in an open meeting”. N.M. Attorney General, New Mexico Open Meetings Act Compliance Guide (8th Ed. 2015), Section III(H)(8), p. 30. In addition, a July 24 joint press release concerning the meetings noted “any solutions resulting from the talks will be fully reviewed, discussed, and approved during one or more open, public meetings of the Board of County Commissioners, as required by the Open Meetings Act.”

³ Mr. Neal cited *New Mexico State Inv. Council v. Weinstein*, 2016-NMCA-069, 382 P.3d 923, in support of his claims that the Open Meetings Act was violated. As relevant here, in *Weinstein*, the Court of Appeals found that a litigation subcommittee of the New Mexico State Investment Council had violated the Open Meetings Act by failing to give notice of separately scheduled closed meetings, as required by NMSA 1978, Section 10-15-1(I)(2), and by failing to have the minutes of its next open meeting reflect that the matters discussed in the closed meetings were limited only to those specified in the notice of the separate closed meeting, as required by NMSA 1978, Section 10-15-1(J). *Weinstein*, 2016-NMCA-069, ¶¶ 82-84. In contrast, as indicated in the text, here the BCC gave notice of the separately scheduled closed meetings, the notice included the items required by law, and the BCC will include the necessary statement in the minutes of its next open meeting on July 25, 2017.

This seemingly gets to the heart of the matter. At base, Mr. Neal seemingly is concerned that resolutions with the Pueblos and U.S. Department of the Interior will be agreed to in closed meetings and the public will be denied the opportunity to comment on those resolutions. As indicated, however, the BCC has consistently stated that any tentative resolutions emerging from its or County staff's discussions with the Pueblos and U.S. Department of the Interior will be approved in one or more open meetings.

We recommend the following motion be made:

With regard to the special closed meetings of the Board of County Commissioners held on July 13 and 14, 2017, I move to deny Dave Neal's claim that the closed meetings violated the Open Meetings Act for the reasons stated in the County Attorney's July 24, 2017, memorandum to the Board and direct the County Attorney to inform Mr. Neal's attorneys of this decision.

Recommendation. Adopt the motions noted above to include in the minutes of today's meeting the statement required by law and to deny the claimed violation of the Open Meetings Act. For the BCC's convenience, the motions are repeated here next to the agenda items to which they pertain:

Proposed Motion for Agenda Item No. VII(C)(1)). With regard to the special closed meetings of the Board of County Commissioners held on July 13 and 14, 2017, I move to have the minutes reflect that the matters discussed in the closed meetings were limited only to those specified in the notice of the separate closed meetings: namely, County roads within the exterior boundaries of the Pueblos of Nambe, Pojoaque, San Ildefonso, and Tesuque.

Proposed Motion for Agenda Item No. VII(C)(2): With regard to the special closed meetings of the Board of County Commissioners held on July 13 and 14, 2017, I move to deny Dave Neal's claim that the closed meetings violated the Open Meetings Act for the reasons stated in the County Attorney's July 24, 2017, memorandum to the Board and direct the County Attorney to inform Mr. Neal's attorneys of this decision.

Exhibits.

Exhibit A – Dave Neal's July 13 and 17, 2017, emails

Exhibit B – Notice of and Agenda for Special Closed Meetings, posted at the County Administrative Building and on the County's Website on Friday, July 7, 2017

Greg Shaffer

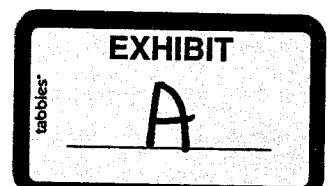
From: Dave and Cris <losneals@gmail.com>
Sent: Thursday, July 13, 2017 7:12 AM
To: Greg Shaffer
Cc: Henry P. Roybal; Anna C. Hansen; Katherine Miller; Anna T. Hamilton; Edward H. Moreno; Robert A. Anaya; 'Dori Richards'; 'Peter St. Cyr'; brian.egolf@nmlegis.gov; carl.trujillo@nmlegis.gov; 'NNMProtects President'; 'NNMProtects Treasurer'; 'NNMProtects VP - Executive'; 'Arsenio Trujillo'; 'Jack Shelburn'; 'Mike Demaria'; 'Devin Bent'; 'Steve Carson'; 'Tripp Stelnicki'; Kathleen Ortiz; Rachel A. Brown; sterrell@sfnewmexican.com; A. Blair Dunn, Esq.; Martha Trujillo
Subject: A Response to County of Santa Fe
Attachments: UnitedStatesVSSanIldefonsoTrespass1996.pdf

Mr. Shaffer,

I have received a copy of your response to my request for Mr. Dunn and Ms. Richards to attend today's meeting regarding the issue of road easements as they relate to the Santa Fe County (SFC) funding of the County's segment of a regional water system as described in the Aamodt Settlement Agreement. As noted herein, I am sure it is no surprise to you that I completely disagree with your denial to allow the attendance of my attorneys A. Blair Dunn, Esq. and Dori Richards, Esq. at today's meeting or for that matter any constituents of District One, Santa Fe County (SFC).

First and foremost NMSA 10-15-3 clearly states "No resolution, rule, regulation, ordinance or ___ action ___ of any board, commission, committee or other ___ policymaking body ___ shall be valid unless taken or made at a meeting held in accordance with the requirements of Section 10-15-1 NMSA 1978. Every resolution, rule, regulation, ordinance or action of any board, commission, committee or other policymaking body shall be presumed to have been taken or made at a meeting held in accordance with the requirements of Section 10-15-1 NMSA 1978." Granted this statute certainly supports your contention that the SFC BCC may approved "... any tentative resolution relative to County roads within the exterior boundaries of any of the Pueblos would be approved at a ___ future ___, open meeting of the Board." However, the Court of Appeals of the State of New Mexico ruled in March 2016 (NOs. 33,787, 34,042 & 34,077) the State Investment Council (SIC) had no authority to delegate its settlement decisions to a litigation committee, but even if properly constituted, the committee violated OMA by failing to provide notice posting an agenda and opening the meeting to the public. Based on this, it seems to me public entities may not delegate their authority to subcommittees to formulate public policy behind closed doors and then claim their exempt from the NM Open Meeting Act (OMA) when the full board is essentially voting on a policy or other matter discussed outside of the public view. Consequently, today's meeting clearly violates this recent ruling and affords the constituents of the BCC under NMSA 10-15-3(C) to "... enforce the purpose of the Open Meetings Act, by injunction, mandamus or other appropriate order" to reverse or nullify any decisions or actions by the BCC resulting from today's meeting.

Given the above NMSA and there will be a quorum of SFC BCC present at this meeting, all of the actions or decisions made in this meeting regarding SFC commitment to a regional water system or any resolution of the road easement issue will be null and void as the SFC BCC has totally failed to comply with the intent and purpose of the OMA of New Mexico. Granted the four involved pueblos and the Department of Interior are certainly not subject to the NM OMA but I do find it rather curious the SFC BCC and State Engineer seem to believe they are exempt from complying with OMA and the concept of open and transparent government.



I really do not understand your assertion, Mr. Shaffer, that Mr. Blair and Ms. Richards presence "... would obviate the privilege ..." namely the attorney-client privilege. Mr. Dunn and Ms. Richards represent my interests as well as many others in our community and it certainly goes without doubt that the SFC BCC represents all of interests as well. I do understand there needs to be a formal agreement among attorneys in order "co-represent" but in this particular instance, it appears to me that SFC is using "attorney-client privilege" in order to avoid free and open expression of public opinion.

It is my understanding that one of the possible outcome from today's meeting might be to negotiate a payment of funds to San Ildefonso Pueblo and possibly others to settle the road easement issue. If this is true, I find this rather curious because any payment would contradict or negate a US Court of Federal Claims (attached) decision in 1996 that San Ildefonso Pueblo had waived any further compensation for trespasses against its land when agreeing to accept further compensation under Pueblo Lands Board Act of 1933. See highlight portion on Page 67 of the attached.

Finally, I understand your statement that "Practically, the meeting with all four Pueblos and the federal government was conditioned upon it being closed." Given this, I would assert SFC should have considered the legal consequence of agreeing to this "closed" meeting as a public body PRIOR to agreeing to the meeting. Maybe the BCC or County staff did consider these consequences but not allowing the constituents most affected by any actions or decisions of this meeting certainly negates any previous efforts by the SFC BCC to be open and transparent. Any person violating the OMA shall be punished by a fine of not more than five hundred dollars (\$500) for each offense. Let us hope there are not too many decisions agreed upon in today's meeting as each one may ... will ... cost \$500.

Dave Neal
El Rancho Resident
(505) 455-2175
losneals@gmail.com

Greg Shaffer

From: Dave and Cris <losneals@gmail.com>
Sent: Monday, July 17, 2017 2:56 PM
To: Henry P. Roybal
Cc: Orlando A. Romero; Katherine Miller; Greg Shaffer; A. Blair Dunn, Esq.; Dori Richards Esq.; 'Tammy Pellitier'
Subject: Last Week's Meeting (Correction)

All,

Please change the below sentence in my original electronic message/mail sent 9:22 AM today from

".time constraints certainly does fulfill the spirit and intent as "... the New Mexico Legislature ."

to

".time constraints certainly does NOT fulfill the spirit and intent as "... the New Mexico Legislature ."

Respectfully,

Dave Neal
El Rancho Resident
(505) 455-2175

From: Dave and Cris [<mailto:losneals@gmail.com>]
Sent: Monday, July 17, 2017 9:22 AM
To: Henry P. Roybal (hproybal@santafecountynm.gov)
Cc: Orlando A. Romero (oromero@santafecountynm.gov); Katherine Miller (kmiller@santafecountynm.gov); Greg Shaffer (gshaffer@santafecountynm.gov)
Subject: Last Week's Meeting

Henry,

After giving it some thought and investigation, I believe that last week's meeting with the pueblo governments, Federal representatives, and the County of Santa Fe Board of County Commissioners clearly violated the Open Meetings Act (OMA) (See attached) any ... and I emphasize any ... agreements or decisions made during this meeting relating to the road easement issue involving the pueblos can and may be challenged in a court of law.

The notion that the meeting was closed to the public based on attorney-client privilege does not acquit the need for the County Board of County Commissioners (BCC) to discuss and approve in an open meeting whatever the Commission agreed/decided in last week's meeting. One might think this rational will only delay any resolution of this easement issue in lieu of considering BCC's mandate to transparency. "It is patently contrary to the OMA's purpose to permit a public body to avoid the OMA's requirements simply by delegating its responsibilities to a smaller [another???] body."
See page 14 of the attached.

SFC CLERK RECORDED 09/12/2017

Furthermore, there were several other alternatives available that would have fulfilled the OMA such as 1) limiting the attendance to two Commissioners, 2) having the County Administrator and Attorney attend the meeting and then discussing it with the BCC during an executive session that would have been conducted during an open meeting, or 3) having one of the County's contract attorneys attend with the full understanding that any decisions made during the meeting would need to be discuss and approved during a BCC regular meeting. My sense of why this meeting was planned and conducted in this manner was because the Federal representation was concerned with time constraints and demanded that attendance be limited to invitees only i.e., "Damn the torpedoes, full speed ahead". Any time constraints certainly does fulfill the spirit and intent as "... the New Mexico Legislature has evinced a strong interest in transparency in government and agency compliance with the OMA is [as] an issue of substantial public interest." The fact a NM Legislature representative was asked to leave the meeting is even more troublesome.

Hopefully the County of Santa Fe will quickly identify a course of action to remedy the BCC's violation of the NM OMA in the interest of open and transparent government.

Dave Neal
El Rancho Resident
(505) 455-2175

IN THE COURT OF APPEALS OF THE STATE OF NEW MEXICO

Opinion Number: _____

Filing Date: March 24, 2016

NOS. 33,787, 34,042 & 34,077 (Consolidated)

**NEW MEXICO STATE INVESTMENT
COUNCIL, as Trustee, Administrator, and
Custodian of the LAND GRANT PERMANENT
FUND and the SEVERANCE TAX PERMANENT
FUND,**

Plaintiff-Appellee,

and

**STATE OF NEW MEXICO ex rel. FRANK
FOY, SUZANNE FOY, and JOHN CASEY,**

Plaintiffs-Intervenors-Appellants,

v.

**DANIEL WEINSTEIN, VICKY L. SCHIFF,
WILLIAM HOWELL, and MARVIN ROSEN,**

Defendants-Appellees.

and

GARY BLAND, et al.,

Defendants.

SFC CLERK RECORDED 09/12/2017

(Consolidated with)

**NEW MEXICO STATE INVESTMENT
COUNCIL, as Trustee, Administrator, and
Custodian of the LAND GRANT PERMANENT
FUND and the SEVERANCE TAX PERMANENT
FUND,**

Plaintiff-Appellee,

and

**STATE OF NEW MEXICO ex rel. FRANK
FOY, SUZANNE FOY, and JOHN CASEY,**

Plaintiffs-Intervenors-Appellants,

v.

**SAUL MEYER and RENAISSANCE PRIVATE
EQUITY PARTNERS, LP, d/b/a ALDUS EQUITY
PARTNERS, LP,**

Defendants-Appellees,

and

GARY BLAND, et al.,

Defendants.

(Consolidated with)

**NEW MEXICO STATE INVESTMENT
COUNCIL as Trustee, Administrator, and
Custodian of the LAND GRANT PERMANENT
FUND and the SEVERANCE TAX PERMANENT
FUND,**

Plaintiff-Appellee,

and

**STATE OF NEW MEXICO ex rel. FRANK
FOY, SUZANNE FOY, and JOHN CASEY,**

Plaintiffs-Intervenors-Appellants,

v.

ELLIOT BROIDY,

Defendant-Appellee,

and

GARY BLAND, et al.,

Defendants.

**APPEAL FROM THE DISTRICT COURT OF SANTA FE COUNTY
Sarah M. Singleton, District Judge**

New Mexico State Investment Council
Bruce A. Brown, Special Assistant Attorney General
Santa Fe, NM

SFC CLERK RECORDED 09/12/2017

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Santa Fe, NM

for Defendants-Appellees Weinstein and Schiff

Daniel Yohalem
Santa Fe, NM

for Amici Curiae New Mexico Foundation for
Open Government and New Mexico Press Association

**In the interest of brevity,
I have deleted Pages 1 to
35 of the Court's ruling.**

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{61} We conclude that the district court did not abuse its discretion in limiting discovery, nor did it fail to adequately assess the settlements. In addition, we discern no violation of FATA by the district court.

2. The Settlement Agreements are Valid as of May 2015

{62} Appellants, together with Amici New Mexico Foundation for Open Government (NMFOG) and New Mexico Press Association, argue that the settlements are void for three reasons. First, NMSIC did not have the power to delegate authority to settle with Defendants to the Litigation Committee. Second, even if settlement authority was properly delegated, the Litigation Committee was a public body subject to the requirements of the OMA and failed to comply with those requirements. Section 10-5-1. Third, the Litigation Committee was improperly constituted because it did not conform with NMSIC's settlement policy or Section 6-8-2(B), which states that "[a]ll actions of the [NMSIC] shall be by majority vote, and a majority of the members shall constitute a quorum."

{63} Appellants made these arguments in the district court as well. The district court disagreed and held that NMSIC properly delegated settlement authority to the Litigation Committee and that the OMA does not require litigation decisions, including settlement decisions, to be made in a public meeting. *See* § 10-15-1(H)(7) (excluding "meetings subject to the attorney-client privilege pertaining to threatened

or pending litigation in which the public body is or may become a participant” from the scope of the OMA). In reaching this conclusion, the district court relied in part on the fact that NMSIC delegated authority to the Litigation Committee in its Settlement Policy, which was voted on and approved by NMSIC at a public meeting.

{64} NMSIC’s position on appeal is multifaceted. First, NMSIC argues that Appellants “implicitly conceded” that delegation of settlement authority to the Litigation Committee was proper, and thus the issue is not preserved for appeal. Next, it argues that “the actions of the Litigation Committee are the very type of attorney-client privileged litigation decision-making exempted by [the] OMA.” In addition, it argues that “[e]ven if the Litigation Committee were subject to the OMA, the processes followed here satisfied [the] OMA’s purposes and therefore did not violate [the] OMA.” Finally, it maintains that any violation of the OMA was cured by NMSIC’s ratification of the settlements in a properly-noticed public meeting held in May 2015, approximately thirty months after the Litigation Committee approved the first settlements, and that, therefore, this issue is moot.

{65} We begin by addressing NMSIC’s preservation and mootness arguments. The district court’s conclusion that the issue of whether settlement authority was properly delegated was “implicitly conceded” is based on a pleading in which Appellants argued that there were no records of such a delegation and requested that any records

of delegation be produced. But Appellants also stated in that pleading that “a blanket delegation [of settlement authority] to the [state investment officer] . . . would be in derogation of the statutory and fiduciary obligations of [NMSIC] members themselves” and that decisions about “settlement of actual or potential litigation . . . must be made by the . . . [NMSIC] itself, by vote.” By making these arguments, Appellants sufficiently apprised the district court of their contention that the authority to settle litigation rests solely with NMSIC. Thus, this argument was sufficiently preserved for appeal.

{66} As to NMSIC’s argument that this Court need not address Appellants’ arguments as to the OMA because the May 2015 meeting cured any OMA violations, we disagree. Even if an issue is moot as between the parties, we may address it if it is an issue “of substantial public interest, and capable of repetition, yet evading review.” *Howell v. Heim*, 1994-NMSC-103, ¶ 7, 118 N.M. 500, 882 P.2d 541 (internal quotation marks and citation omitted). The present matter satisfies both of these criteria. In promulgating the OMA, the New Mexico Legislature has evinced a strong interest in transparency in government and agency compliance with the OMA is an issue of substantial public interest. Furthermore, the problems in NMSIC’s processes here are capable of repetition by it and other agencies. *See Paragon Found., Inc. v. State Livestock Bd.*, 2006-NMCA-004, ¶ 10, 138 N.M. 761, 126 P.3d 577 (stating that

“the implication of the OMA is an important policy issue that is likely to occur again if the issue is not directly addressed” and examining the OMA issues even though the matter was moot).

{67} We move on to the parties’ substantive arguments, which present a series of questions. First, are the actions of the Litigation Committee void, because either (1) NMSIC improperly delegated authority to settle with Defendants, or (2) the Litigation Committee failed to comply with the OMA? Second, did the May 2015 meeting cure any improper delegation or violation of the OMA such that the settlements are now valid?

a. Actions of the Litigation Committee Were Void

{68} As to the first question, we agree with Appellants and Amici that the Litigation Committee’s actions were void because the Committee did not have the authority to settle with Defendants. In addition, even if settlement authority was properly delegated, the Litigation Committee’s meetings did not comply with the OMA and hence were invalid. We address the delegation issue first.

{69} In pertinent part, the Settlement Policy states that the Litigation Committee “may actively participate in settlement negotiations, as appropriate, with the authority of the [NMSIC] for settlement resolution and related decisions.” It also states that “the authority to settle legal matters rests not with the [State Investment Officer] but with

[NMSIC's L]itigation [C]ommittee." The Settlement Policy specifies that the Litigation Committee "shall be comprised of at least three [NMSIC] members" and permits the Governor's general counsel to serve on the committee. Pursuant to the Settlement Policy, a Litigation Committee consisting of two NMSIC members and the Governor's general counsel met "seven or eight" times to discuss the settlement negotiations with Defendants. The Litigation Committee approved the settlement agreements with Defendants without obtaining a vote on the final decision by NMSIC. These settlement agreements were signed on behalf of NMSIC by Litigation Committee members.

{70} As a creature of statute, NMSIC functions solely within the powers granted by the Legislature. *Chalamidas v. Env'tl. Improvement Div.*, 1984-NMCA-109, ¶ 13, 102 N.M. 63, 691 P.2d 64. NMSIC's powers are limited by Section 6-8-2(B) and Section 6-8-7(A) and (E). Under Section 6-8-2(B), "[a]ll actions of the council shall be by majority vote, and a majority of the members shall constitute a quorum." (Emphasis added). The only mention of NMSIC's ability to delegate its responsibilities states that "[t]he [NMSIC] may delegate administrative and investment-related functions to the state investment officer." Section 6-8-7(A). Section 6-8-7(E) provides that NMSIC may "form and use committees," but only to "study and make recommendations to [NMSIC]." Notwithstanding the Settlement Policy, these provisions do not permit

NMSIC to delegate authority to settle litigation to a committee. Indeed, read together, they prohibit such delegation. *Cf. Kerr-McGee Nuclear Corp. v. N.M. Env'tl. Improvement Bd.*, 1981-NMCA-044, ¶ 52, 97 N.M. 88, 637 P.2d 38 (stating that “[a]dministrative bodies and officers cannot delegate power, authority and functions which under the law may be exercised only by them, which are quasi-judicial in character, or which require[] the exercise of judgment”). Because the Litigation Committee did not have the authority to do so, its approval of the settlements in 2013 and 2014 was without any binding effect.⁷

b. Litigation Committee Was Subject to the OMA

{71} Even if NMSIC’s delegation of settlement authority to the Litigation Committee had been proper, the Litigation Committee violated the OMA’s requirements for closed meetings. Hence, its actions are void for that reason as well. We explain.⁸

{72} The OMA embodies the Legislature’s declaration that “[the] public policy of this state [is] that all persons are entitled to the greatest possible information regarding the affairs of government and the official acts of those officers and employees who

⁷Since we conclude that the Litigation Committee did not have the authority to act on the settlements, we need not address whether it was properly constituted.

⁸Given our resolution of the delegation issue we could perhaps avoid discussion of the OMA issues. We have determined to give the OMA issues full consideration because they are squarely presented and because it is important to fill out our OMA law as it applies to policy-making subcommittees of public entities.

represent them.” Section 10-15-1(A). In keeping with this policy, we construe the OMA’s provisions broadly and their exceptions narrowly. *Cf. State ex rel. Toomey v. City of Truth or Consequences*, 2012-NMCA-104, ¶ 22, 287 P.3d 364 (“We emphasize, however, that [the] IPRA should be construed broadly to effectuate its purposes, and courts should avoid narrow definitions that would defeat the intent of the Legislature.”); *see also* NMSA 1978, § 14-2-5 (1993) (stating that, under the IPRA, “it is declared to be the public policy of this state, that all persons are entitled to the greatest possible information regarding the affairs of government and the official acts of public officers and employees[,]” which is nearly identical to the policy declaration in the OMA).)

{73} The OMA provides that

All meetings of a quorum of members of any board, commission, administrative adjudicatory body *or other policy[-]making body* of any state agency . . . , held for the purpose of formulating public policy, . . . discussing public business *or taking any action within the authority of or the delegated authority of any board, commission or other policy[]making body* are declared to be public meetings open to the public at all times, except as otherwise provided in the constitution of New Mexico or the [OMA].

Section 10-15-1(B) (emphasis added).

{74} We conclude that this provision applied to the Litigation Committee because the Litigation Committee was intended to be a “policy[-]making body” and its

meetings were for the purpose of taking an action within the authority of NMSIC.⁹ NMSIC, which is unquestionably subject to the OMA, attempted to delegate its authority to take action on the settlements to the Committee. It is patently contrary to the OMA's purpose to permit a public body to avoid the OMA's requirements simply

⁹We note that there is nothing in the statutes governing NMSIC explicitly indicating that it has the authority to settle litigation either. *Compare* NMSA 1978, §§ 6-8-1 to -24 (1957, as amended through 2015), *with* NMSA 1978, § 58-24-5(A) (1983) (stating that the Industrial and Agricultural Finance Authority "shall have all the powers necessary or convenient to carry out and effectuate the purposes and provisions of the Industrial and Agricultural Finance Authority Act, including, . . . the power . . . to sue and be sued"), *and* NMSA 1978, § 72-14-21 (1955) (stating that the Interstate Stream Commission "shall have power to institute in any of the courts of this state, or in any other state, or in any of the federal courts of this state or any other state, any actions, suits and special proceedings necessary to enable it to acquire, own and hold title to lands for dam sites," and other sites), *and* NMSA 1978, § 36-1-19(B) (1985) (stating that "a board of county commissioners may contract with private counsel for legal assistance to or representation of the county" and that "[s]uch private counsel shall have the same powers of compromise, satisfaction or release in civil proceedings as are held by district attorneys"). NMSIC states in its brief that the power to settle litigation is vested in the Attorney General and that the Attorney General delegated such power to NMSIC or to NMSIC's counsel, but conceded at oral argument that the record does not reflect such delegation. *See* § 36-1-19 and NMSA 1978, § 36-1-22 (1875-1876) (stating that the Attorney General represents the state and that the Attorney General has the authority to settle matters involving the state). Moreover, the settlement agreements were signed by members of the Litigation Committee or the Governor, not the New Mexico Attorney General's Office or NMSIC counsel. Other than this brief statement, both parties predicate their arguments on the assumption that NMSIC has settlement authority. We therefore do not address this issue further and assume for the purposes of this opinion that NMSIC had authority to settle with the defendants. *In re Doe*, 1982-NMSC-099, ¶ 3, 98 N.M. 540, 650 P.2d 824 (stating that "courts risk overlooking important facts or legal considerations when they take it upon themselves to raise, argue, and decide legal questions overlooked by the lawyers who tailor the case to fit within their legal theories." (alteration, internal quotation marks, and citation omitted)).

by delegating its responsibilities to a smaller body. Indeed, Section 10-15-1(B) states that “[n]o public meeting once convened that is otherwise required to be open pursuant to the [OMA] shall be closed or dissolved into small groups or committees for the purpose of permitting the closing of the meeting.” We agree with a 1990 Advisory Opinion by the then-Attorney General that “it is the nature of the act performed by the committee, not its makeup or proximity to the final decision, which determines whether an advisory committee is subject to open meetings statutes.” N.M. Att’y Gen. Op. 90-27 (1990). The current Attorney General’s Open Meetings Act *Compliance Guide* echoes this thinking, stating,

even a non-statutory committee appointed by a public body may constitute a “policy[-]making body” subject to the [OMA] if it makes any decisions on behalf of, formulates recommendations that are binding in any legal or practical way on, or otherwise establishes policy for the public body. A public body may not evade its obligations under the [OMA] by delegating its responsibilities for making decisions and taking final action to a committee.

p. 9 (8th ed. 2015) <http://www.nmag.gov/oma-and-ipra-nm-sunshine-laws.aspx>.

{75} In *Paragon Foundation, Inc.*, this Court considered whether the acts of an individual on behalf of a public agency were subject to the OMA. 2006-NMCA-004, ¶¶ 2-3. After a federal district court ordered the plaintiffs to remove their livestock from United States Forest Services land, the Forest Service and the executive director of the New Mexico Livestock Board (Board) entered into a memorandum of

understanding (MOU) governing how the livestock would be removed. *Id.* The plaintiffs filed suit, alleging that the MOU violated the OMA because “no public meeting of the Board was held and a majority of the Board did not approve or authorize the MOU before the MOU was executed by” the executive director. *Id.* ¶ 4. The Board moved for summary judgment on the ground that the MOU was not voted on or executed by a quorum of the Board and that, because the Board did not so act, the OMA did not apply. *Id.* ¶ 5. The district court granted the motion for summary judgment. *Id.* ¶ 7.

{76} On appeal, we affirmed. Relying on Section 10-15-1(B), quoted above, we held that “[u]nder the law, if a quorum of the Board members did not act on the MOU, the OMA was inapplicable, there was no OMA violation, and summary judgment was proper.” *Paragon Found., Inc.*, 2006-NMCA-004, ¶¶ 12, 13. We also noted that the executive director’s “largely unilateral action [in signing the MOU was] non-binding and meaningless, as he can only act pursuant to those powers delineated in the Code.” *Id.* ¶ 24.

{77} Importantly, we noted that the executive director “did not have the authority or approval of the Board to enter into the MOU” and that the “MOU was not approved or authorized by a quorum of the Board in public or private meetings.” *Id.* ¶¶ 15, 16. We repeatedly reiterated the fact that members of the Board had limited or no

knowledge of the MOU before it was signed, and that some members were “surprised” when presented with it after its execution. *Id.* ¶¶ 17-22. These facts clearly distinguish *Paragon Foundation, Inc.* from the present matter. Unlike in that case, here, NMSIC unanimously approved the Settlement Policy, purportedly giving the Litigation Committee authority to act on its behalf. *See* Signed Minutes, pg. 5-7, NMSIC Meeting June 26, 2012, available at http://www.sic.state.nm.us/uploads/FileLinks/39153cc7c39a496c823e7a6fdb7dad6/6_26_12_SIC_SIGNED_MINUTES.pdf. It is clear that NMSIC fully endorsed the actions of the Litigation Committee and intended it to take action that would be subject to the OMA if acted on by the full NMSIC.

c. Litigation Committee Actions Were Subject to the OMA

{78} Having determined that the Litigation Committee was a body subject to the OMA, we turn to whether the Litigation Committee’s *actions* were subject to the OMA. NMSIC relies on *Board of County Commissioners v. Ogden* to argue that the Litigation Committee’s approval of the settlements falls within an exception to the OMA. 1994-NMCA-010, 117 N.M. 181, 870 P.2d 143. The focus of the *Ogden* opinion is on construction of Section 10-15-1(H)(7) (the litigation exception),¹⁰ which states that “meetings subject to the attorney-client privilege pertaining to threatened

¹⁰At the time of the *Ogden* decision, the litigation exception was Section 10-15-1(E)(5).

or pending litigation in which the public body is or may become a participant” are not subject to the OMA. *Ogden*, 1994-NMCA-010, ¶ 13. There, the issue was whether the “threatened or pending litigation” exception included the Board of Commissioners’ decision to sue the defendants. *Id.* The Court concluded “that ‘pending’ or ‘threatened’ litigation can include litigation that the public body may initiate and legal disputes that have not yet reached the courts” and that “under [this exception], [the Board of Commissioners] could properly discuss and decide to file suit against [the d]efendants in a closed session.” *Id.* ¶¶ 15-16.

{79} More pertinent to our purposes is the Court’s rejection of the argument that “even if [the Board of Commissioners was] allowed to obtain legal advice in closed session, [it] was required to make its decision to sue [the d]efendants in an open meeting.” *Id.* ¶ 17. We reasoned that, unlike some of the other exceptions, the litigation exception “does not require that a decision regarding litigation be made in an open meeting.” *Id.*; *see, e.g.*, § 10-15-1(H)(6) (actual approval of certain purchases must be made in open meeting).

{80} Amici argue that the holding in *Ogden* has been overruled by the *Board of Commissioners of Doña Ana County v. Las Cruces Sun-News*, in which this Court stated that “settlement agreements entered into between parties are outside the privilege” addressed by the litigation exception. 2003-NMCA-102, ¶ 25, 134 N.M.

283, 76 P.3d 36, *overruled on other grounds by Republican Party of N.M. v. N.M. Taxation & Revenue Dep't*, 2012-NMSC-026, ¶ 16, 283 P.3d 853. But the focus of that case was on whether executed settlement agreements involving a public entity were subject to public disclosure under the IPRA. *Id.* ¶¶ 1, 25. The holding that settlement agreements are disclosable under the IPRA does not contradict the *Ogden* holding that the decision to settle may be made in a closed meeting. Based on *Ogden*, we conclude that the district court did not err in holding that the OMA was not violated by the Litigation Committee's approval of the settlement agreements in private meetings.

{81} However, the district court's analysis did not go far enough because other provisions of the OMA were violated. For instance, Section 10-15-1(I)(1) states that

if [the decision to hold a closed session is] made in an open meeting, [it] shall be approved by a majority vote of a quorum of the policy[-]making body; the authority for the closure and the subject to be discussed shall be stated with reasonable specificity in the motion calling for the vote on a closed meeting; the vote shall be taken in an open meeting; and the vote of each individual member shall be recorded in the minutes.

{82} Section 10-15-1(I)(2) provides that when the decision to hold a closed session is not made in a public meeting, "the closed meeting shall not be held until public notice, appropriate under the circumstances, stating the specific provision of the law authorizing the closed meeting and stating with reasonable specificity the subject to

be discussed is given to the members and to the general public.” Finally, Section 10-15-1(J) states that

the minutes of the open meeting that was closed or the minutes of the next open meeting if the closed meeting was separately scheduled shall state that the matters discussed in the closed meeting were limited only to those specified in the motion for closure or in the notice of the separate closed meeting. This statement shall be approved by the public body . . . as part of the minutes.

{83} The parties do not direct us to evidence in the record that NMSIC and the Litigation Committee complied with these requirements. Thus, these provisions of the OMA were violated and the Litigation Committee’s approval of the settlement agreements was invalid.

d. May 2015 Meeting Cured OMA Violations

{84} The final question is whether the settlement agreements became valid when nine of the eleven members of NMSIC voted to approve them in May 2015. Assuming NMSIC has the power to enter into such agreements, we conclude that the May 2015 vote rectified the delegation issue.

{85} We also conclude that the May 2015 meeting cured the OMA violations. “[P]rocedural defects in [compliance with the OMA] may be cured by taking prompt corrective action.” *Kleinberg v. Bd. of Educ. of Albuquerque Pub. Sch.*, 1988-NMCA-014, ¶ 30, 107 N.M. 38, 751 P.2d 722. Previous cases have affirmed the cure of the OMA violations where the curing actions were taken four days later, *see id.* ¶ 15, and

eleven months later. *See Palenick v. City of Rio Rancho*, 2012-NMCA-018, ¶ 1, 270 P.3d 1281, *rev'd on other grounds by*, 2013-NMSC-029, 306 P.3d 447. Here, the curing meeting occurred thirty months after the first settlement was approved by the Litigation Committee. Although thirty months stretches the bounds of “prompt” remedial action as contemplated in *Kleinberg*, we conclude that it was sufficient to remedy the Litigation Committee’s improper action because “the legislature did not intend to unduly burden the appropriate exercise of governmental decision-making and ability to act.” 1988-NMCA-014, ¶ 31. “To rule otherwise would improperly elevate form over substance” and wreak havoc on a process already fraught with complexity. *Id.* Most importantly, the May 2015 meeting was preceded by proper notice to the public, included a public agenda and was open to the public, NMSIC members publicly voted on the settlements, and minutes of the meeting were published online. *See* <http://www.sic.state.nm.us/state-investment-council.aspx> (providing access to NMSIC meeting calendar, and agendas and minutes of NMSIC meetings) (last visited Mar. 17, 2016). The purpose of the OMA was thus achieved by this public meeting. *See Kleinberg*, 1988-NMCA-014, ¶ 31 (concluding that an OMA violation was cured where “[t]he local board, in affording [the plaintiff] a full and fair hearing in compliance with due process guarantees, and ultimately, in taking

a public vote and openly announcing its decision in a forum where the interested public could observe the action, carried out the intent and purpose of the [OMA]”).

{86} We recognize that our holding could be seen as stretching the notion of prompt remedial action beyond the breaking point, effectively giving license to public agencies to flout OMA standards without penalty. We caution strongly against any such reading and emphasize that our decision to not invalidate the settlements is driven by the fact that they were subjected to reasonable and appropriate review by the district court. That independent review—which we have approved—provides us assurance that the public fisc has been protected. Without the presence of judicial review we would not be tolerant of the delay seen here. In addition, we are confident that our ruling as to the reach and effect of the OMA in situations such as we review here will result in suitable caution by public agencies of all stripes. To the extent public agencies fail to meet their obligations under the OMA, the public—including Amici—will have strong authority to enforce compliance.

{87} We also emphasize that the ratification of the settlements at the May 2015 meeting does not operate retroactively to make the settlement agreements valid as of the date they were originally signed. *See Palenick*, 2012-NMCA-018, ¶ 9 (stating that “no authority in New Mexico supports the [defendant’s] attempt to retroactively make

the prior invalid action valid and effective as of the date it was taken”). The settlement agreements became valid only at the May 2015 meeting.

{88} Given this holding, the district court considered and approved settlements that were void at the time. The question arises whether this requires that the entire matter be remanded for reconsideration. We conclude that remand for what would be a hearing of form only is not in the best interests of the public, the courts, or the parties. The district court approved the settlements on their merits. We have found no error in its process or final decision, with the exception of the delegation and the OMA issues. These issues do not speak to the merits of the settlements. Requiring reconsideration of the substance of the settlements would serve no purpose at this point.

e. No IPRA Violation Shown by Appellants

{89} Finally, in the course of their arguments, Appellants also make several references to violations of the IPRA and argue that the settlement agreements were “kept secret for months.” The district court concluded that “[t]here is no evidence of any attempt to shield these settlements from the IPRA. Moreover, the [s]ettlement [a]greements have been publicly filed in this action and the [district c]ourt has held a public hearing about them.” We agree with the district court. The IPRA provides for public access to records; it does not require public entities to provide records in the

absence of a request for them. *See* NMSA 1978, § 14-2-8(A) (2009) (stating the procedures for requesting public records). On appeal, Appellants do not argue that they requested records from NMSIC and were denied. *See* NMSA 1978, § 14-2-12(A)(2) (1993) (stating that “[a]n action to enforce the [IPRA] may be brought by . . . a person whose written request has been denied”). Appellants have failed to demonstrate that the IPRA was violated here.

{90} In sum, the Litigation Committee did not have the authority to settle with Defendants here and we reverse the district court’s conclusion to the contrary. We also hold that the Litigation Committee meetings violated the OMA’s notice and documentation requirements. However, the settlement agreements were validated when they were approved by NMSIC in an open meeting in May 2015. We affirm the district court’s conclusion that Appellants have not shown a violation of the IPRA.

3. The District Court did not Err in Denying Appellants’ Motion to Disqualify the Attorney General’s Office

{91} Finally, Appellants argue that the district court erred in dismissing their motion to disqualify former Attorney General, Gary King, for conflicts of interest involving representation by his office of NMSIC. They maintain that the district court erroneously ruled that they lacked standing to raise these issues. In fact, the district court rejected Appellants’ motion on its merits as to two of their three allegations.

BOARD OF COUNTY COMMISSIONERS OF SANTA FE COUNTY

NOTICE OF AND AGENDA FOR SPECIAL CLOSED MEETINGS

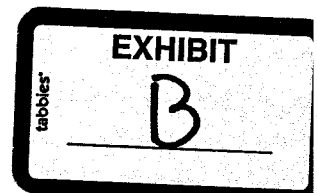
July 13, 2017, at 9:00 a.m.

July 14, 2017, at 1:00 p.m.

The Board of County Commissioners (BCC) of Santa Fe County (County) will hold two special closed meetings on July 13, 2017, at 9:00 a.m. and July 14, 2017, at 1:00 p.m. at the New Mexico State Capitol, 490 Old Santa Fe Trail Santa Fe NM 87501. Depending upon room availability, the BCC may meet in one or more of the following rooms: 303, 305, 315, 317, 318, 321, and 322.

These meetings are closed to the public, in accordance with the legal authority cited below. No final action will be taken at these meetings.

Legal Authority. The specific provisions of law authorizing the closed meetings are Section 10-15-1(H)(7) NMSA 1978 (threatened or pending litigation in which the County is or may become a participant, applicable only when the BCC is meeting alone with County staff and attorneys) and Section 10-15-1(H)(8) NMSA 1978 (discussion of the purchase, acquisition or disposal of real property or water rights).



Posted at the Santa Fe County
Administrative Building
Date: _____ Time: _____
By: _____

Agenda of Specific Items to be Discussed.

- A. County Roads within the Exterior Boundaries of the Pueblos of Nambe, Pojoaque, San Ildefonso, and Tesuque.

If any changes are made to the agenda for a meeting, the final agenda for the meeting shall, at least seventy-two (72) hours before the special closed meeting, be posted in a conspicuous and appropriate place at the County Administrative Building located at 102 Grant Avenue Santa Fe NM 87501 and on the County's internet web site, <http://www.santafecountynm.gov/>.

Board of County Commissioners - Special Closed Meeting

[« Return to Calendar](#)

July 13, 2017 9:00 AM
New Mexico State Capitol, 490 Old Santa Fe Trail Santa Fe NM 87501

BOARD OF COUNTY COMMISSIONERS OF SANTA FE COUNTY

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REC CLERK RECORDED 09/12/2017

Board of County Commissioners - Special Closed Meeting

[« Return to Calendar](#)

July 14, 2017 1:00 PM

New Mexico State Capitol, 490 Old Santa Fe Trail Santa Fe NM 87501

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