

SFC CLERK RECORDED 10/03/2023

SANTA FE COUNTY
BOARD OF COUNTY COMMISSIONERS
REGULAR MEETING
August 29, 2023

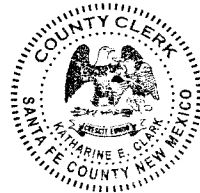
Anna Hansen, Chair - District 2
Hank Hughes, Vice Chair - District 5
Camilla Bustamante - District 3
Justin Greene - District 1
Anna T. Hamilton - District 4

COUNTY OF SANTA FE)
STATE OF NEW MEXICO) ss

BCC MINUTES
PAGES: 65

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Witness My Hand And Seal Of Office
Katharine E. Clark
Deputy Destiny Romero County Clerk, Santa Fe, NM



SANTA FE COUNTY
REGULAR MEETING
BOARD OF COUNTY COMMISSIONERS

August 29, 2023

1. **A.** This regular meeting of the Santa Fe Board of County Commissioners was called to order at approximately 2:43 p.m. by Chair Anna Hansen in the County Commission Chambers, 102 Grant Avenue, Santa Fe, New Mexico.

B. Roll Call

Roll was called by Destiny Romero from the Clerk's Office and indicated the presence of a quorum as follows:

Members Present:

Commissioner Anna Hansen, Chair
Commissioner Hank Hughes, Vice Chair [virtually]
Commissioner Anna Hamilton
Commissioner Camilla Bustamante
Commissioner Justin Greene

Members Excused:

None

C. Pledge of Allegiance

D. State Pledge

E. O'ga P'ogeh Owingeh Land Acknowledgement

F. Moment of Reflection

The Pledge of Allegiance and the State Pledge were led by Chair Hansen, and the Moment of Reflection by Robert Hedgepeth of County Clerk's Office. Chair Hansen acknowledged this building and Santa Fe County as being in the original homeland of the Tewa people also known as O'ga P'ogeh Owingeh, "White Shell Watering Place."

Commissioner Greene asked for a moment of silence for the passage of former Tesuque Governor, Rick Vigil and spoke of his many contributions.

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G. Approval of Agenda

CHAIR HANSEN: Manager Shaffer, is there any changes to the agenda?

GREG SHAFFER (County Manager): Madam Chair and Commissioners, we posted our initial agenda for today's meeting on Tuesday, August 22nd and posted the final amended agenda for today's meeting on Friday afternoon in excess of 72 hours prior to today's meeting as required by the Open Meetings Act.

In terms of substantive changes from the initial to the final, we did add item 3. A, which is request approval of a letter from the Board of County Commissioners to the U.S. Congress in support of the Affordable Housing Credit Improvement Act of 2023.

We also added the Consent Agenda items 4. B and 4. C, along with amendment number 10 to the Growing Up New Mexico contract and the final order for Case #21-5010. And finally, we did update packet material for various items but that was not a change to the agenda. I'd be happy to answer any questions but staff would recommend that we approve the amended agenda as presented.

CHAIR HANSEN: Thank you, Manager Shaffer. What's the pleasure of the Board?

COMMISSIONER GREENE: Move to approve as presented.

COMMISSIONER BUSTAMANTE: Second.

CHAIR HANSEN: I have a motion from Commissioner Greene, a second from Commissioner Bustamante.

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

1. H. Years of Service, Retirements and New Hire Recognitions

MANAGER SHAFFER: Thank you, Madam Chair and Commissioners. I'm going to take things a little bit out of order. We will start with recognizing that we have two team members who are retiring this month. One retired last Friday, and that's Mark Murdock from our Information Technology Division, and in addition, Arthur Portillo is retiring from our Land Use Department effective this Thursday. We wish them all the best in the next chapters of their lives.

I'd like to recognize new hires for the County. I see that there are a lot of individuals on the list who have been hired as detention officers. I'm pleased to report that that's part of a larger narrative. We have currently 65 FTE in the detention officer rank. We have seven vacancies but we have five new hires that are in the works, so that means our effective vacancy rate, the effective number of vacancies is down to two. So I congratulate HR, but as with most things that work out well I want to acknowledge and thank the Board for the support that you've provided relative to the most recent collective bargaining agreement with our detention officer union.

So in terms of new detention officers, we have Gregory Abate, Manuel Abeyta-Ayala, Zachary Chavez, Ray Hernandez, Jacob Jankoviak, Dominic Pacheco, and Eric Schlotterer. We also hired a new registered nurse, Crystal Romero, and booking clerk Octavian Valencia. One detention officer that I skipped over Izzac Vanorman.

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In the County Assessor's Department, Eric Clokey was hired as an Appraiser Senior, and we have Valerie Rangel as an Assessor Officer GIS technician. We hired an Election Administrator Specialist in the County Clerk's Office, Derrick Turner. In the Procurement Department, Mohamed Al-Hussaini as a Procurement Specialist Senior.

I'm pleased to announce two hires in the RECC, Kyla Baca and Noah Campos, and finally, the Sheriff's Department, a Patrol Officer, Phoenix Bergman, and two Sheriff Deputy Cadets, Mario Romero and Damian Trujillo.

So again, I'm pleased to welcome all of those new hires and in particular I wanted to acknowledge the very positive momentum we have in our County jail.

In terms of years of service, we have several County employees who are recognizing five-, ten-, and fifteen-year anniversaries with the County. At the five-year mark in the Corrections Department, Erick Avila Salazar and Christina Ortiz in our Land Use Department are marking their fifth year anniversaries with the County. At the ten-year mark we have Jared Martinez in the Fire Department, and Jerome Roybal in the Land Use Department, Damian Berry in the Community Services Department, and David Ruiz Cortazar in the Land Use Department. Finally, marking 15 years with the County we have Scott Kaseman in the Public Works Department.

We have six, I believe employees in total who are marking their 20th year and 25th year anniversary with the County. They are Victor Montoya with the Fire Department, Joseph Gonzales in the Housing Department, Donald Garcia in the Public Works Department, Naomi Salazar in the Corrections Department, Maricela Martinez with the Finance Division, and then finally, Diana Ortiz Acosta in the Housing Department is marking her 25th year anniversary with the County.

And so I would just like any of those individuals who are marking anniversaries with the County, or new hires or new retirees for that matter, if you're in the audience, if you could stand I'd greatly appreciate it.

CHAIR HANSEN: Thank you, Madam Chair. Thank you to all of the employees who have worked here 20, 15, 10 and five years, and to everyone who's worked here for a year, thank you, thank you, thank you. It means the world to all of us up here. You are what make us look good. We couldn't do this job without you. I've said that many times before and we are grateful to be able to serve you as Commissioners and you as our constituents.

Also, I want to welcome all the new hires. It is really an honor for you to join our family of Santa Fe County employees and so please we welcome you wholeheartedly and wish you well in your career here at Santa Fe County and we are really happy to see that the Santa Fe County Detention Facility has a full staff that allows for the safety not only of the inmates that we have at the detention center but also it allows for the safety of our other correction officers which is also an important part of the job in Santa Fe County. I think it's one of the hardest jobs here, working at the detention facility. So thank you, everyone. Thank you, everyone who has joined us.

[Photographs were taken of those celebrating 20- and 25-year anniversaries.]

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I. Recognition of Employees for Awards, Accreditations, Recognitions, and Other Accomplishments

MANAGER SHAFFER: Thank you, Madam Chair and Commissioners. There are three broad categories of employees and efforts that we wanted to take a few moments to recognize today. The first concerns County staff who helped process an incredible volume of applications for short-term registrations and licenses over the course of approximately eight months, if I did my math correctly. The team members I'm going to announce played some role in processing and approving 144 owner-occupied STRs and 179 non-owner-occupied short-term rental registrations or licenses. We also had approximately 450 meetings with applicants and constituents all on top of their regular workload.

The thing that I would highlight in terms of their effort that included creating new application forms and instructional packets, answering questions, scheduling appointments, meeting with applicants, verifying structures and addresses, updating our Rural 911 addresses, researching deeds and plats, preparing letters to be mailed to neighbors, and the list goes on for a while in terms of what was involved.

We certainly learned a lot through the process and I think that over time the process was refined and if we were starting all over it may have worked a little bit different. But what the whole process really represents to me as County Manager are two things. Number one, County staff always stands ready to accept the mission that is assigned to us by the Board of County Commissioners in the short-term rental process and the application process was no different.

Secondly, when necessary County staff always comes together and works across departments including with our elected officials and elective offices to accomplish whatever mission is given to us. And so it's for that that I want to recognize all of the individuals that I'm about to read off for stepping up in some way and accepting the challenge to help out to move what was a very voluminous process and task forward.

So I'm going to start with the Growth Management Department. Many of these individuals are present, so as I read out their names please come forward and we're going to ask that everybody assemble some way, somehow, for a group photo with the Board if we could. So in the Growth Management Department Cristina Ortiz, Jessica Gonzales, Jose Larrañaga, John Lovato, Kenny Quintana, Ryan Olivas, Erle Wright, Julian Sena, Socorro Ojeda, Mark Jurgens, Anna Martinez, Michael Carr, Anthony Teba, Camille Padilla, Dominic Sisneros, David Ruiz, Jerome Roybal and Lynette Trujillo.

The Treasurer's Office was impacted by the short-term rental process as well. They had to create and print all the various registrations and licenses, and they'll have a significant workload going forward in terms of tracking the renewals and the like. So I'd like to recognize County Treasurer Jennifer Manzanares, Frances, Martinez, Miquela Segura, Desiree Dominguez, Gerald Mitchell, Melanie Honzell, Roman Archuleta, Victor Vigil, Patrick Varela and Brian Olachea.

In the Finance Department, Clarissa Guerrero who was responsible for creating all the various account numbers associated with those hundreds of registrations and licenses.

In the County Clerk's Office a lot of folks assisted both the Growth Management

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Department staff as well as applicants to search for deeds and plats. Obviously, I want to recognize the County Clerk, Katharine Clark and in terms of members of her team, Destiny Romero, Abraham Maes, Rudie Martinez, Samara Sanchez, Jeremy Ortiz, Glenda Lujan, Kenneth Vaughan, Robert Hedgepeth, Gabrielle Schultz, Andrea Tapia, and Mitchell Cox.

And then finally in the Manager's Office, there were a variety of individuals who stepped up to help prepare frequently asked questions to better inform the public and help them navigate the application process, as well as answering calls and informing the public of what was needed to have a smooth application process. Those individuals would include Cindy McKee, Daniel Fresquez, Sara Smith, Olivia Romo, Ambra Baca, Tina Salazar, Brittney Montoya, Laura Jagles and Gabe Bustos.

So again, we really want to recognize everybody in all the various departments and elected officials who stepped up when called to move forward, again, what was a tremendous amount of additional work on top of their ordinary, everyday duties. So thank you all very much, team.

CHAIR HANSEN: So I just have to say this quickly, this one quote that I have held onto most of the time I have been an elected official. And it's a quote by Obama. And President Obama said, "Hard things are hard." And this is hard, and I recognize that. I had no idea how hard it would be when we started this process and I'm so grateful to all of you for all of the work that you have put in because this is really a hard process to do, this short-term rental. And it is really meaningful for the County to be able to be a good regulator and be responsible to all of our citizens and now just the ones who are being able to make money from short-term rentals but their neighbors and everyone. And so I know this has been a very difficult process, but I want to thank you so much and remember, President Obama said, "Hard things are hard." And this was hard. So thank you once again.

And also I want to thank Manager Shaffer for all of his hard work and Jeff Young, our County Attorney. Both the County Attorney's staff also worked really hard on this. And with that I believe we're going to take a picture but maybe I'll go to the Commissioners. Okay, we have a lot of directors here. That sounds like a good idea. Let's see how that works. Daniel, where are you?

[Photographs were taken.]

CHAIR HANSEN: Also, thank you to Penny Ellis-Green and Lisaida who also worked tremendously hard on this short-term rental undertaking that we have started here at the County. So I'm going to go to Commissioners. Commissioner Hamilton, would you like to say anything? Okay.

COMMISSIONER BUSTAMANTE: I just want to say thank you for your good work, sincerely.

COMMISSIONER GREENE: I agree. Thank you. This was a painful learning experience for some and I think the constituents appreciate how we cleaned it up in the end and it became a lot easier. So the hard work is mostly over and now it's just renewals and keeping enforcement in line. So thank you very much, guys.

CHAIR HANSEN: I'm afraid that's not exactly true, Commissioner Greene. There's still more work to do and we recognize that. But at least we're more than half-way through the process. So next I'm going to go on to the next Fire Department

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regional and district staff who have continued to and respond to brush fires and other fires. Is that where you want to go, Manager Shaffer?

MANAGER SHAFFER: Yes. Thank you, Madam Chair and Commissioners. This is an overall thank you and recognition for all of the members of the Santa Fe County Fire Department, both regional and district who have dealt with an exceptionally demanding summer and will continue to do so likely well into the fall.

Chief Black, however, in his memo asked to highlight one particular day which in certain respects may appear somewhat exceptional but still serves the purpose of putting in context the varied and continual demands that are placed on our regional and district team members. On July 18th a twin-engine plane tragically crashed into a residence sparking an extreme fire. The gravity of the situation necessitated a collaborative response from multiple jurisdictions including the City of Santa Fe Fire Department, the City Police Department, the County Sheriff's Office and the State Police. Despite scorching heat and extreme fire conditions the Santa Fe County Fire Department teams and their partners exhibited unwavering dedication and worked tirelessly for over seven hours to address this critical emergency effectively.

Following that very significant event there were additional responses and near-misses that our first responders had to respond to. They faced a wildland fire located off Highway 14 which began as a modest 12 by 12 foot fire and swiftly escalated to over five acres. Rapid action enabled the activation of a reverse 911 notification and the successful evacuation of a young teenager from a nearby structure. Soon thereafter and in fact which County team members were still managing the fire on Highway 14 the same crew had to shift their focus to yet another unique fire, this time near Goldmine Road.

The fire originated in a recreational vehicle and expanded to consume over two acres of wildland-urban interface. With remarkable courage the team successfully located and rescued a burn victim from the scene, provided swift medical attention and facilitated their timely transportation to a medical facility.

After all that, those same crews responded to a severe head-on motor vehicle collision on I-25. Again, all of these events highlight their adaptability and unwavering commitment to the public that they took an oath to serve. I was asked to underscore that while these incidents unfolded in the western region of Santa Fe County, the collective efforts of responders from across the county played a pivotal role in successfully responding to all of them.

And so I was specifically asked to call out the Regional B shift's crews of Station 60 and 61 as well as district volunteer members from Agua Fria, La Cienega, Turquoise Trail, Madrid, Hondo, Eldorado, Galisteo and Glorieta. But as I mentioned at the beginning, this is more generally recognition of the stress that all of our firefighters both regional and district, have been experiencing over this very exception and demanding summer season. I believe that in addition to anyone that Chief Black wanted to call up for a potential photo that all of the on duty regional staff members are participating via Webex, and so again, I wanted to thank every one of them as well as our district members for all that they do to keep our community safe. Thank you.

[Photographs were taken.]

CHAIR HANSEN: Thank you to all of our great firefighters in Santa Fe County. We are fortunate to have such an impressive team of firefighters, both staff and

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volunteer. This is just a reminder, if anyone wants to volunteer to be a firefighter, it's always available.

MANAGER SHAFFER: Thank you, Madam Chair and Commissioners. Last but certainly not least, the County was awarded by the Government Finance Officers Association a certificate of achievement for excellence in financial reporting as it relates to the County's fiscal year 2022 annual financial report. It goes without saying that that is the culmination of the hard work of tremendously dedicated, relatively small staff of individuals in our Finance Division, led by Yvonne Herrera, our Finance Division Director.

Not only do their efforts lead to this type of recognition, without them, without timely audits and without audits that are unmodified we may well be not able to go to market to obtain general obligation bond financing for much needed capital projects or to achieve financing on favorable rates. So I do want to recognize all the members of the Finance Division team who are in the audience. We do have a certificate of appreciation for the entire office, but as we close out these items, the thing that really this series of recognitions both in terms of employees' longevity as well as the specific accomplishments that were recognized really underscores for me is that everybody's job at the County is hard. Everybody's job at the County is often thankless and we can't thank our team members enough. And finally, everybody's job is incredibly important and it doesn't matter where you work or what you do, without you leaning in and doing your utmost every single day we're not going to achieve as an organization. So thanks and kudos to the Finance Division and thanks to every County employee for everything that they do every day on the behalf of our community. Thanks.

CHAIR HANSEN: I can't say enough how much I appreciate everyone in the Finance Division because that is something I could never, ever do.

[Photographs were taken.]

MANAGER SHAFFER: So it all goes downhill from here and we can now go to the regular agenda.

CHAIR HANSEN: Thank you, Greg, for making all of that happen, and thank you to all of the employees for making all the good work happen. It is absolutely rewarding to be able to recognize our County staff.

2. Approval of Meeting Minutes: July 25, 2023

COMMISSIONER HAMILTON: Madam Chair, move to approve those minutes.

COMMISSIONER GREENE: Madam Chair, I'll second that, but I noticed there was an R in front of ICIP as a misspelling. I'll point that out but everything else looked fine.

CHAIR HANSEN: Thank you, Commissioner Greene. I appreciate that very much. With that we have a motion to approve from Commissioner Hamilton, a second from Commissioner Greene.

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

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3. Consideration Proclamations, Resolutions, And/Or Recognitions

A. Request Approval of a Letter from the Board of County Commissioners to the U.S. Congress in Support of the Affordable Housing Credit Improvement Act of 2023, S. 1557 and H.R. 3238

CHAIR HANSEN: This letter was sent to all of us from New Mexico Counties and I wanted to bring it to the Board so that we could have full approval and I would feel incredibly comfortable signing this important letter for the Affordable Housing Credit Improvement Act of 2023, introduced into the U.S. Congress on May 11th. It's comprehensive legislation to expand and strengthen the low income housing tax credit, our nation's most effective tool for encouraging private investment in the development and preservation of affordable housing.

If I need to say more, please let me know but otherwise, if not, what is the pleasure of the Board?

COMMISSIONER GREENE: Move to approve for the letter.

COMMISSIONER HUGHES: Second.

CHAIR HANSEN: Okay, so I have a motion from Commissioner Greene, a second by Commissioner Hughes. Under discussion, any discussion?

COMMISSIONER HUGHES: Madam Chair.

CHAIR HANSEN: Yes, Commissioner Hughes. Thank you.

COMMISSIONER HUGHES: Yes, I just wanted to mention that the tax credit program is incredibly important because it provides most of the affordable housing that's constructed in the United States and this is a long overdue expansion of the program to provide more housing. In New Mexico I think there have been four times as many applications for tax credit projects in the nine percent program and we have money to fund. This is urging Congress to expand the program. Thank you.

CHAIR HANSEN: Thank you, Commissioner Hughes.

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

CHAIR HANSEN: Okay. We will send our letter off.

4. Consent Agenda

A. Request (1) Approval of Amendment No. 7 to Agreement No. 2018-0036-CSDMM Between Santa Fe County and Vista Grande Public Library, Increasing the Compensation by \$60,000, to Provide Library Services, for a Total Contract Sum of \$382,000, Inclusive of NM GRT, and Extending the Term for an Additional Year, and (2) Delegation of Signature Authority to the County Manager to Sign the Purchase Order(s) (Purchasing Division/Bill Taylor and Community Services Department/Patricia Boies) This Agenda Item Contains an Attachment.

B. Request (1) Approval of Amendment No. 10 to Agreement No. 2017-0271-CSD/BT Between Santa Fe County and Growing Up New Mexico, Increasing the Compensation by \$50,000, for a Total

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Contract Sum of \$500,000, Exclusive of NM GRT; and (2) Delegation of Signature Authority to the County Manager to Sign the Purchase Order(s) (Purchasing Division/Bill Taylor and Community Services Department/Patricia Boies) (Item Added) This Agenda Item Contains an Attachment.

- C. Final Order for Case # 21-5010 Rancho Cielo Grande Subdivision Preliminary and Final Plat Approval, Suerte del Sur LLC, Applicant, NM Land Solutions (Nathan Manzanares), Agent. Applicant Sought Preliminary and Final Subdivision Plat Approval for Rancho Cielo Grande Subdivision (12 Lots) on a Total of 127.94 Acres. The Proposed Development is Accessed via Las Campanas Drive, Los Suenos Trail, and La Vida Trail, within Township 17 North, Range 9 East, Section 24, (Commission District 2) (Growth Management Department/John Lovato, Case Manager) (Approved 3-1) (Item Added)**

CHAIR HANSEN: Is there anything on the Consent Agenda that anybody would like to have removed? If not, what's the pleasure of the Board?

COMMISSIONER BUSTAMANTE: Madam Chair, I'd like to make a motion to approve the Consent Agenda as presented.

COMMISSIONER GREENE: I'll second it.

CHAIR HANSEN: I have a motion from Commissioner Bustamante, a second from Commissioner Greene. Under discussion? Hearing none.

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

5. Appointments/Reappointments

None were presented.

6. Miscellaneous Action Items

- A. Resolution 2023-089, a Resolution Amending Resolution No. 2015-13 to Make Changes Related to Membership Criteria, Term Limits and Quorum Calculations for the Transportation Advisory Committee. This Agenda Item Contains an Attachment.**

CHAIR HANSEN: Brett Clavio, welcome.

BRETT CLAVIO (Planning Manager): Madam Chair, Commissioners, good afternoon. My name is Brett Clavio, Planning Manager, Santa Fe County Planning Division. The item before you is a resolution amending the previous resolution, No. 2015-13 to make changes related to membership criteria, term limits and quorum calculations for the Transportation Advisory Committee.

So this resolution established in 2015 and it basically allows the TAC to meet quarterly to discuss transportation matters including planning, operations and maintenance policies developed by the Planning Division and the Public Works

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Department. Resolution 2015-13 specifies that the TAC be comprised of 13 members appointed by the BCC. Current TAC membership consists of ten representatives, three from District 1, two from District 2, one from District 3, two from District 4, one from District 5, and one at-large member. Currently there are three vacancies: one from District 1 and two from District 3.

Regarding recruitment, in May and June of this year the Planning Division advertised a recruitment for serving on the TAC in the *Santa Fe New Mexico* and the *Albuquerque Journal*. We did not receive any responses, so we have some issues with that. The Transportation Committee faces challenges in achieving a quorum. This has been a historic problem with this committee even when it was formerly meeting as the Road Advisory Committee.

Current quorum rules require a majority of the committee including the non-filled seats. This makes it difficult to achieve a quorum if seats are unfilled, particularly from District 3 where it's been a challenge recruiting members. Part of that has to do with distance and time to come to the meetings. TAC membership term limitations have also been a problem as many members are currently facing being termed out this September. The institutional knowledge and the continuity of TAC activities would benefit from increased term opportunities.

The Transportation Advisory Committee spoke about these issues and recommended a few ideas. Number one, the committee recommends representation be changed to just two members per district with three at-large members, a total membership of 13 would remain. Number two, maximum term limits will be increased from a maximum of two three-year terms to a maximum of four three-year terms. And then number three, a quorum shall be defined as a majority of the appointed members and unfilled positions shall not be counted in the base number for quorum purposes. All matters coming before the Committee shall be resolved by majority vote.

Staff recommends that the Board consider the TAC's recommendation to amend Resolution 2015-13 to allow the TAC to more easily achieve a quorum and to retain knowledgeable and dedicated TAC members.

With that I stand for questions. Thank you.

CHAIR HANSEN: Thank you, Brett. Are there questions from the Board?
Commissioner Greene.

COMMISSIONER GREENE: Thank you, Brett. Will the current folks that are termed out be eligible to re-up if we do this?

MR. CLAVIO: Yes, sir.

COMMISSIONER GREENE: Okay, so there's an upcoming meeting in the next few weeks. We should be seeing some reappointment recommendations?

MR. CLAVIO: That's right. We have a special meeting coming up September 11th. A few of the members who are scheduled to term out have already identified that they would like to remain, so I'll be coming back to you in the next month with a reappointment.

COMMISSIONER GREENE: Are you soliciting new members as well?

MR. CLAVIO: We will be after this decision today.

COMMISSIONER GREENE: Okay. Thanks.

CHAIR HANSEN: Commissioner Bustamante.

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COMMISSIONER BUSTAMANTE: Madam Chair, Brett, thank you for this. It is a concern for me that District 3 recruitment has been a challenge, especially because it tends to be – maybe it isn't the most spread out but I kind of think it is, as far as transportation, the types of issues that should be addressed, and I'm wondering, in my new capacity here, relatively new to this – actually completely new to this, if there is opportunity for me to get out and talk to community members and identify someone who would be committed to representing that area, just given that I hear about transportation issues all the time, and pretty frequently. I don't think I can think of a meeting that something about transportation does not come up.

So I'm curious and would be speculating why we don't have the same level of interest coming from that area but if I am able to do some outreach and get people to submit interest, and that would go to you? Is that how that process would work? Okay.

MR. CLAVIO: Yes, Commissioner. That's correct.

COMMISSIONER BUSTAMANTE: Thank you.

CHAIR HANSEN: Thank you, Commissioner Bustamante. I personally like this idea. I think it's a good solution. One board that I serve on, it has an interesting mechanism for a quorum. It has alternates, and they don't count as part of the quorum, they are part of the quorum. So if this doesn't work by reducing it to two and having three at-large that's another possibility we could strategize to work to make sure you have the actual quorum, because I recognize that that is always a challenge with these boards. So is there any other comments from the Board? Commissioner Hughes.

COMMISSIONER HUGHES: Thank you, Madam Chair. I think this is a good idea and it seems like this is a good time to make a motion to approve the item.

CHAIR HANSEN: Okay. Thank you.

COMMISSIONER GREENE: I'll second it.

CHAIR HANSEN: So I have a motion from Commissioner Hughes, a second from Commissioner Greene.

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

CHAIR HANSEN: Are you still the chair of the MPO?

MR. CLAVIO: No, I've passed that baton over to the City, so Romela at the City, so it's good to change it up from time to time.

CHAIR HANSEN: Good. Okay. I just wondered. I hadn't been to an MPO technical working group meeting for a while, but I'm assuming you still go to those meetings.

MR. CLAVIO: Yes, ma'am.

CHAIR HANSEN: Okay. Thank you very much, and thank you for everything you do.

[Ms. Romero provided the resolution numbers throughout the meeting.]

6. B. **Request (1) Approval of Amendment No. 1 to Agreement No. 2023-0010-CSD/CW with La Familia Medical Center, Increasing the Compensation by \$746,050, to Provide Primary Care and Navigation**

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Services to Low-Income Residents of Santa Fe County, for a Total Contract Sum of \$1,492,100, Inclusive of NM GRT, and Extending the Term for an Additional Year, and (2) Delegation of Signature Authority to the County Manager to Sign the Purchase Order(s). This Agenda Item Contains an Attachment.

CHAIR HANSEN: Welcome, Rachel.

RACHEL O'CONNOR (Community Services Director): Thank you. Good afternoon, Madam Chair, members of the Commission. I'm bringing before you today our what I say is our "annual allocation to La Familia Medical Center" who serves as a partner for us in a variety of different ways. One is that they provide a vast amount of behavioral health and medical services to people in Santa Fe County, including a lot of people who are of lower income and who have not a lot of resources. And secondly, they provide a crucial navigation service as part of our CONNECT program and are a vital partner to us in the allocation of resources to people with needs and in providing a whole variety of services to people in our community.

I would like to also point out that they're also an MAT, medication-assisted treatment provider in our community. The funds that we have here really cover a variety of services including primary care services, navigation services, and services for MAT, medication-assisted treatment in our community. So Madam Chair and members of the Commission, Julie Wright is here with us today and is with Jasmine Mills and both are available to answer any questions that you might have regarding this contract.

CHAIR HANSEN: Thank you, Rachel. Are there any questions from the Board? Okay, I have questions. So welcome Julie and Jasmine. If you'd come up to the microphone. It's been in the paper and a lot of people have heard different issues that are going on and so I think it's an opportunity to make clear what is really happening at La Familia. So I'm curious, who is the current medical director?

JULIE WRIGHT: We do not have a current medical director.

CHAIR HANSEN: Okay. So when do you plan to hire someone, or how are you navigating that?

MS. WRIGHT: We are recruiting right now. People are in the recruiting process. We have what we have put together in the interim a select committee based upon senior members of the medical staff that come together every two weeks to discuss issues in the clinic, discuss patient safety issues, these sorts of things. We also have another provider that is doing all of our credentialing and our provisioning, looking over the licensing of any of our current or future providers, and so I would just tell the Commission that we are kind of doing it on the committee level at this point and utilizing the very good experience of our existing staff.

CHAIR HANSEN: Okay. Next, how many providers have you lost in the last couple of months, doctors or nurses, practitioners?

MS. WRIGHT: We've lost four.

CHAIR HANSEN: Okay. What is your current capacity of staffing?

MS. WRIGHT: Excuse me?

CHAIR HANSEN: What is your current staffing capacity? Like how many staff members, doctors and nurses, can you have?

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MS. WRIGHT: Our vacancy rate, at this point – is that what you're wanting?

CHAIR HANSEN: Sure.

MS. WRIGHT: Okay, overall, corporation, about 20 percent.

CHAIR HANSEN: Okay. That's kind of probably in line with what we're all experiencing in the level of hiring and finding staff to be able to do –

MS. WRIGHT: Especially the changes that have happened in the medical field. After COVID there's been a lot of exiting. There are people who are coming up. Of course you all know that we have our residency program, and so this is something that a lot of organizations in our field are experiencing. Just like last year we lost six in a period of four months. So there's an exodus and an entrance that is happening in the medical field and we are doing all that we can to make sure that we can provide services to Santa Fe County.

CHAIR HANSEN: And we have a shortage here of doctors already. So we're serving the underserved.

JASMINE MILLS: If I may, one of the things that we're doing is that we actually have – I am Jasmine Mills. I'm the Chief Development and Marketing Officer for La Familia. In the next two months we will have added four providers. We added one most recently who has a specialty in family practice and obstetrics, so she is expanding our scope by allowing us to do C-sections at Christus St. Vincent, which is very rare for family practice. We have two locums that are joining us in the next couple of weeks and then we have another two doctors that are actually starting in October. So we are constantly recruiting to bring new providers in, in addition to the residency program. So our capacity may seem like it's a little low but we're adding constantly and we're bringing from out of the state as much as we can as well as from Albuquerque.

CHAIR HANSEN: Bringing people from out of state is one of the things we need to do to increase our capacity. I recognize that. So the other question I have refers to some of the things that were mentioned in the paper. Have you shortened the time that you allow providers to meet with patients? Is the time longer for patients who are medically complicated?

MS. MILLS: What we are doing is that we are changing the model of how we see patients. One thing we've done is we have extended hours of operations. Okay? And so that is really going to take place in October of 2023. We are gearing up, we're ramping up for that. We also have worked with the providers to develop a scheduling platform, we're scheduling rules that all patients are given 20 minutes for a regular patient cough and cold, these sorts of things, up to 40 minutes and beyond for any type of procedures or clinic conditions.

So we haven't shortened the time available to the patients necessarily. We're trying to integrate a team-based model. One of the things that a lot of – what Santa Fean needs to understand is especially under this grant, the County actually provides the resources necessary to provide 80 percent of keeping a person healthy. Because only 20 percent of healthcare happens actually in the exam room. So when you're talking about patients that are receiving services at La Familia, it's not just with the doctor. It's also with the person that is screening them for social determinants of health. It is also the person that is getting them transportation. So as we look at social determinants of health

and the overall health of our patients, then no, we are not reducing the time.

These grant funds help expand that to where we can not only get them medication or get them to a doctor, but we can also give them transportation. We can get them food if they're diabetics. We can get them the medicines that they need. So when you're talking about time spent with the patient you have to look at their total healthcare, okay? Not just what the physician does in the exam room. Does that make sense to everybody? And that is why this grant money is so important, because the County is investing in the help to make sure that what is happening in the exam room can continue when they leave. Does that answer your question?

CHAIR HANSEN: Yes, it does, and I appreciate you taking the time because I value La Familia and I know that our constituents in this county value La Familia. And we want to make sure that they're getting the best service and care that they can possibly get because they're our constituents. We care about them. We don't want them left behind.

MS. MILLS: Well, I can tell you, some of the changes we're implementing, Commissioner Hansen, are based exactly on what our patients have told us through the needs assessment. We are responding to our patients. And so I look forward to more changes at La Familia. They're going to be good changes, expansion of hours, expansion of providers. We've already expanded our behavioral health. We are hopefully going to sign another dentist so there's going to be expansion there. So I want you to know that the needs of our patients are first and foremost to us and that is how we serve your constituents and our patients.

CHAIR HANSEN: Right. So thank you for that, and I also know that we got \$200,000 last year to put solar on your building. I hope that we can get the rest of the money to do that because if we reduce your electrical costs it gives you more money to provide services to your constituents, or to your patients and to our constituents. So it's a direct benefit to the community and something that I wholeheartedly believe in is making sure that our buildings are solarized. So with that, what's the pleasure of the Commission?

COMMISSIONER BUSTAMANTE: Madam Chair, if I may, first I want to thank you and I want to thank you for recognizing the importance of the social and behavioral determinants of health. So thank you sincerely for that. That's critical. So with that I would like to make a motion to approve the grant funding.

COMMISSIONER HAMILTON: Second.

CHAIR HANSEN: Okay, I have a motion from Commissioner Bustamante, a second from Commissioner Hamilton. Under discussion, Commissioner Hughes, I can't see if you have your hand raised or not.

COMMISSIONER HUGHES: No questions, Madam Chair. Thank you.

CHAIR HANSEN: Okay.

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

CHAIR HANSEN: So thank you, Jasmine and Julie. We look forward to continuing our working relationship with you.

MS. MILLS: Yes, thank you for your partnership. We really do appreciate

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it.

CHAIR HANSEN: Thank you, Rachel, also, very much.

6. C. **Resolution No. 2023-90, a Notice of Sale Resolution for General Obligation Improvement Bonds, Series 2023 in a Principal Amount of Up to \$25,000,000, Including Approval of Forms of a Preliminary Official Statement and Registrar/Paying Agent Agreement**

CHAIR HANSEN: Yvonne, or who –

MANAGER SHAFFER: I'm going to try to pinch hit for Yvonne who unfortunately is out today, and in addition, if a lifeline is needed, we have our bond counsel, Peter Franklin, from the Modrall Sperling law firm and our financial advisor, Eric Harrigan, from RBC Capital Markets here as well.

The subject resolution would authorize various County officials including myself to go forward with the sale and award of up to \$25 million in general obligation improvement bonds, Series 2023. This would effectuate the role of the voters in the last November approved \$13 million in bonds for County road improvements, \$7 million for water and wastewater projects, and \$5 million for open space, trails and parks within the county.

A general timeline would allow the County to sell the bonds via competitive bids on September 28, 2023 and issue them to the best bidder on November 17, 2023. The resolution would authorize me as County Manager to select the winning bidder and finalize the details of the bonds pursuant to the following parameters and conditions that are contained in the resolution: First, the aggregate principal amount of the bond shall not exceed \$25 million for the purposes approved and authorized by the voters and the net effective interest rate on the bonds. The net effective interest rate on the bonds shall not exceed 10% per annum. The final maturity of the Bonds shall not be later than July 1, 2043, and the bonds shall be sold for not less than par and not more than 115% of par. The underwriter's discount on the bonds shall not exceed 3% of the par amount of the bonds.

While the net effective interest rate on the bonds shall not exceed 10 percent per annum per the parameters that are set for the in the resolution, I'm informed by our financial advisor, Mr. Harrigan, that we would anticipate to get a much more favorable interest rate than that.

Finally, the resolution would approve the preliminary official statement concerning the bonds. For those of you haven't read it you certainly should. It is a real page-turner as far as nighttime reading goes but it does set forth a lot of interesting information about the County as well as its large employers and general economic conditions. If you as the approving authority of the bonds or each of you individually have any feedback relative to the preliminary official statement obviously we would welcome that. It was prepared with great care by both County staff as well as our outside consultants.

Finally, Section 13 of the resolution would also authorize the execution of a Registrar/Paying Agent Agreement with a Registrar/Paying Agent, BOKF, North America. This would allow BOKF to perform duties relative to the bond holders by

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keeping records and the making of bond payments or debt service payments that recently have been performed by the County Treasurer's Office as well as the Finance Division. This removes that workload from those team members for the relatively modest fee of \$300 as far as an acceptance fee, and \$300 annually thereafter. So we definitely recommend that we alleviate the burden on the Finance Division as well as the Treasurer's Office when we can for such nominal amounts.

So with that I'd be happy to answer any questions about the resolution and the actual mechanics of the sale. Again, Mr. Franklin and Mr. Harrigan are here if you have any questions that are directed to them. Thank you.

CHAIR HANSEN: Thank you, Manager Shaffer. Are there any questions from the Board? Commissioner Greene.

COMMISSIONER GREENE: Thank you, Manager Shaffer and thank you everybody for preparing this. I guess I have a question about how interest rates are expected to play out and how that compares to the last time we sold some bonds like this. I understand this is a bidding process. They're not in market but you can give me a range.

ERIC HARRIGAN: So good afternoon, Madam Chair and Commissioners. Eric Harrigan with RBC Capital Markets. So as I'm sure you're all aware, we are in a rising interest rate market environment. The Federal Reserve has raised the overnight lending rate numerous times over the last 18 months to really try to get inflation under control. Even though rates have risen fairly significantly, prior to that we were experiencing incredibly low interest rates during the pandemic.

So the last time that the County sold general obligation bonds was last year in 2022. Those were refunding bonds. The last time the County sold actually new money bonds was in 2021. And those interest rates were a little north of one percent. Right now, we would anticipate that the interest rate would be somewhere between 3.5 to 3.8 percent. That is really only to do with the rise in interest rates. The County is rated AAA by Standard & Poors. You benefit from some of the lowest borrowing rates that you can achieve as a tax-exempt borrower in the United States.

So while 3.5, 3.8 is obviously significantly higher than where it was a couple of years ago, if you look back historically over the last ten years they're not that far off from what the average has been, taking into consideration where we've been over the last ten years.

COMMISSIONER GREENE: That's a fixed rate?

MR. HARRIGAN: It is a fixed rate. So once the bonds are sold on September 28th, I think, to the lowest bidder, those rates are locked in for the term of the bond issue. Now, the County does have the option to be able to refund those bonds in the future, I think around year eight, so if interest rates were to come down the County would have the ability to refund those bonds, kind of similar to refinancing your mortgage to achieve a lower interest rate.

COMMISSIONER GREENE: And so just as a prospective, this seems like cheaper than the cost of money right now. Still, it is the cost of money but it's like overnight rates are five percent, six percent, and this is up [inaudible]

MR. HARRIGAN: It's about 16 years, so the County borrows on a long-term basis. Short-term rates are actually higher than long-term rates. What you may have heard is we've got an inverted yield curve. So it is quite a bit lower than that. The

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County, because you're issuing tax-exempt bonds, you benefit with a lower interest rate than you would if you were borrowing on a taxable basis, and that's the benefit of being able to issue municipal debt.

COMMISSIONER GREENE: Thank you very much.

CHAIR HANSEN: Commissioner Hamilton.

COMMISSIONER HAMILTON: Yes, I was just going to ask. We've always had pretty successful sales, and what you thought about prospects on this on.

MR. HARRIGAN: Sure, Madam Chair, Commissioner Hamilton. So I anticipate that there will be a lot of demand for the County's bonds. As I mentioned, you are rated AAA by Standard & Poors. There is still a lot of demand for municipal debt out there. The other component of it is that New Mexico doesn't issue a lot of municipal debt, so there are a lot of municipal bond funds looking to diversify to municipal debts within different states. Because of that that's a benefit to the County. Additionally, we recommended pricing in September because there tends to be a natural supply and demand where there's more money chasing fewer municipal bonds. It's not a particularly big issuance type of month for municipal debt across the country is why we recommended September. So I anticipate that we're going to get a number of bids and that they will be very competitive.

COMMISSIONER HAMILTON: Thank you. Excellent.

CHAIR HANSEN: Any other questions? Commissioner Hughes.

COMMISSIONER HUGHES: No questions, Madam Chair.

CHAIR HANSEN: Okay, thank you. What's the pleasure of the Board?

COMMISSIONER HAMILTON: Madam Chair, move to approve.

COMMISSIONER GREENE: And I'll second.

CHAIR HANSEN: Okay, I have a motion from Commissioner Hamilton, a second from Commissioner Greene.

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

6. D. **Resolution No. 2023-091, a Resolution Amending Resolution No. 2012-164, a Resolution Adopting the 2012 Santa Fe County Human Resources Handbook to Replace the 2008 Santa Fe County Human Resources Handbook, to Modify Provisions Governing Loss or Limitation of Driving Privileges. This Agenda Item Contains an Attachment.**

CHAIR HANSEN: Rachel and Sonya, nice to see both of you.

RACHEL BROWN (Deputy County Attorney): Thank you, Madam Chair, Commissioners. We are before you today with a proposed modification to Resolution 2012-164, which was the resolution that adopted our current handbook for employees. That handbook has various provisions that govern what happens if an employee is convicted of a DUI or has some loss of driving privileges. To summarize the effect of those current provisions, when there is a loss of driving privileges for employees that generally results in an inability to remain qualified for their positions and termination of their employment.

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We would like to update the handbook so that for employees who are not holding CDLs and are not in positions where they are required to operate County equipment or vehicles, there would be an opportunity for us to do an individualized evaluation of whether the loss of driving privileges impairs their ability to perform their duties sufficiently that termination is appropriate, or perhaps we could offer what's called a last chance agreement, where the employee would sign a contract with the County to conform to various requirements in order to retain their employment and redeem themselves, regain their driving privileges and remain employed with the County, if they're able to comply with the terms of the contract.

And those contracts have provisions such as being evaluated to see if you need or are recommended for drug or alcohol treatment and whether you have available a personal vehicle that you could drive if you need to drive for work and are not able to drive County vehicles during that time period. Various provisions such as that, and it just gives us more flexibility in assisting our employees in finding a way to retain employment and get back on their feet.

CHAIR HANSEN: Thank you, Rachel. I appreciate you bringing this forward. We all know alcohol is a disease and something that needs to be treated as such. So I think this is possibly a path forward for employees who would like to be healed. With that are there any other comments from the Board?

COMMISSIONER HUGHES: Madam Chair.

CHAIR HANSEN: Yes, Commissioner Hughes.

COMMISSIONER HUGHES: I would agree with you and I just wanted to add that we know that recovering from alcoholism requires support from a supportive community and a lot of people find community at their place of work, so this allows us to not take away what could be a source of support of people by allowing them to keep their jobs while they're recovering. Thank you.

CHAIR HANSEN: Thank you, Commissioner Hughes.

COMMISSIONER HAMILTON: I just wanted to add that I appreciate you guys working on what is a more supportive and flexible, thoughtful policy, and I see that as an improvement. So thank you for doing that.

MS. BROWN: Madam Chair.

CHAIR HANSEN: Yes.

MS. BROWN: I just wanted to add that we did confer with AFSCME 1782 and they were supportive of this amendment to the handbook.

CHAIR HANSEN: That's great. I'm happy to hear that.

COMMISSIONER HAMILTON: Madam Chair.

CHAIR HANSEN: Yes.

COMMISSIONER HAMILTON: I would like to move to approve this.

CHAIR HANSEN: Do I have a second?

COMMISSIONER GREENE: I'll second this.

CHAIR HANSEN: Okay, so I have a motion from Commissioner Hamilton, a second from Commissioner Greene. Under discussion? Hearing none.

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

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E. Resolution No. 2023-092, Adopting Projects for Inclusion in Santa Fe County's Infrastructure Capital Improvement Plan for Fiscal Years 2025-2029; Authorizing Submittal of Plan to the New Mexico Department of Finance and Administration; and Replacing Resolution 2022-073

CHAIR HANSEN: Mattie and Rachel, nice to see you both.

MS. O'CONNOR: Thank you, Madam Chair. With me today is Mattie Byers who oversees our Senior Services program. Before you today we have the senior ICIP which we bring to you annually for a discussion prior to submission to the State of New Mexico, and I'm going to defer to Mattie to explain this year's projects, and then we'll both be able to answer any questions.

MATTIE BYERS (Senior Services): Good afternoon, Madam Chair and Commission members. Senior Services ICIP for fiscal year 2025-2029 has four projects. One is the Bennie J. Chavez Senior Center for renovations in the amount of \$300,000, and this would be for – these are additional funds to build a living room at the Bennie J. Senior Center.

The second project is for senior vehicles. This vehicle would be purchased to transfer – it's a refrigerated van to transport food with the inventory specialist to senior centers throughout Santa Fe County for food preparations at our senior centers. The third project is for cooling system upgrades throughout Santa Fe County for senior centers. We need to upgrade some of our cooling systems Countywide, replace HVAC units and swamp coolers, hoping to convert swamp coolers to HVAC units as needed.

The fourth project is for Edgewood, a senior center plan, design and construct a new senior center in the Edgewood area. We've had several instances at the Edgewood Senior Center that defines why we need to construct a new facility in Edgewood.

CHAIR HANSEN: Thank you, Mattie.

MS. O'CONNOR: Madam Chair, if I could just add a few small things as well. The Bennie J. project already had some significant funding attached to it. The \$300,000 that we're requesting this year is beyond to build out a little bit the dining room as well as the living room at Bennie J. and in addition to that, I think this year for Santa Fe County as well as the state and actually the entire country, it was a learning experience about cooling systems, because our senior centers are often old. They have often somewhat outdated systems. They require a lot of chronic care, and there were significant consequences to that for our staff who needed to be able to cool their kitchens.

And so we have actually been in discussion on all these projects and specifically this project with Public Works who was very much a partner this year in fixing our systems but I think moving forward, two things. One is that we need to ensure our staff our cool enough to cook, and secondly, if the heat continues in the way that's being predicted we're going to have to offer some kind of cooling centers for people in northern and southern Santa Fe County that don't have access to anything else. And so it was with this in mind that Mattie and I decided to put ample funds this year into the ICIP request to work with Public Works on that project. So thank you.

CHAIR HANSEN: Yes. As somebody – as much as I don't like to admit it, might be a senior – certainly I don't think so, I recognize how detrimental the heat is to

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people as they get older and it is a real issue for people. Many of us have lived here for such a long time with swamp coolers being perfectly adequate and that is no longer the case. Unfortunately. So I recognize that these are valid needs. So thank you.

COMMISSIONER HAMILTON: Madam Chair.

CHAIR HANSEN: Yes.

COMMISSIONER HAMILTON: So definitely, it was recently a climate scientist predicted next year will be as bad as this year, but then added that not to think of this year as the hottest year in the last hundred years but to think of it as the coolest year in the next hundred years. This is probably needed.

MS. O'CONNOR: I think this is step one in preparing the County in multiple sectors on how to do that.

CHAIR HANSEN: Are you looking at splits?

MS. O'CONNOR: Commissioner, I think it will probably be different in every center. We have discussed it with Public Works and I think the response would probably be individualized by center in terms of what would be the best system to cool.

CHAIR HANSEN: Right. And then solarizing new systems so that the electricity would be provided, which would reduce our dependency. So I know we have been solarizing many of our community centers and senior centers, and so maybe that's another way forward.

COMMISSIONER HUGHES: Madam Chair, I have a question.

CHAIR HANSEN: Okay, Commissioner Hughes.

COMMISSIONER HUGHES: I think these are great projects and my question, maybe just because I don't understand the process very well, but if it's a five-year plan why are there only projects out for two years when we're having projects out for five years?

MS. BYERS: Madam Chair, Commissioners, typically, when we apply for ICIP then this is an entry into applying for capital outlay. Capital outlay awards are typically awarded for two years, so if the award is granted, it will be granted 25 through 27. If we need additional years we would continue applying in phasing to continue infrastructure structure improvements.

COMMISSIONER HUGHES: Okay. Well, that sort of make sense I think, but also I'm assuming that there are more needs at our senior centers. Do you have things that didn't quite make the list that you might put on next year when you are planning? I guess I'm trying to say are we planning out a little further than just two years?

MS. O'CONNOR: Madam Chair, Commissioner, yes, and one of the things that we're in the process of doing is releasing our request for proposals to put together a needs assessment for seniors in Santa Fe County so that we can make informed decisions moving forward about where we would like to place our next senior centers. Certainly there's been talk of a number of different locations. We have been engaged in conversations with AAA about where seniors are and what they need but I think two things: one is that when that study is done we will move forward with that project and then it can be presented to the Board to make determinations moving forward; and secondly – I actually don't remember what I was going to say secondly.

For the most part that will inform our decisions moving forward.

COMMISSIONER HUGHES: Thank you for that explanation and I often

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have two points and I can only remember one.

MS. O'CONNOR: Thank you.

MANAGER SHAFFER: Madam Chair and Commissioners, I would also just emphasize that as it relates to the senior ICIP, historically it's been very focused and so rather than having a very long list like our ICIP, which might invite new projects that might not be a priority to us, could be funded by others, as it relates to the senior projects I think we have historically tried to be pretty focused on those things that we're really most interested in and that's generally I think been a productive strategy and that we have received millions of dollars in funding for various projects, including the Abedon Lopez Senior Center in Santa Cruz which is [inaudible] as well. So it's focused by design, which doesn't mean we're not looking further out but we want to focus the legislators on those projects that are really top of mind and ready to move more quickly.

COMMISSIONER HUGHES: Thank you.

CHAIR HANSEN: Thank you, Manager Shaffer. Who am I going to next?
Commissioner Bustamante.

COMMISSIONER BUSTAMANTE: Thank you. And thank you for bringing this forward. I have to agree with you. We know that the aging population are the most vulnerable as it's getting warmer. I was curious, and I have to say that I agree with the measure that the Edgewood Center is important. It's a bit dated. It has some issues. Right off the top I'm guessing that there are probably accessibility issues as well, just given the facility. But I'm wondering what prompted that one to be moved to the top to be rebuilt.

MS. O'CONNOR: Madam Chair, Commissioner, we had a lengthy discussion with the Public Works Division. This is not the first time we have brought forward a request for Edgewood. Several years ago – probably three years ago, possibly four, we brought forward the possibility of building a new senior center in combination with the health commons that was built in the Edgewood area. That project was not funded and there are multiple issues with the existing building.

For example, there's multiple water issues. The water softener there has been problematic for many, many years. There are multiple issues with the building itself in terms of leaks, roofing issues, and we do continue to fix it, but whether or not that's wise anymore we've determined it probably is not.

COMMISSIONER BUSTAMANTE: Understood. Thank you.

CHAIR HANSEN: Commissioner Greene.

COMMISSIONER GREENE: Thank you, Madam Chair. Thank you, Rachel. Three questions. One, for Commissioner Hughes' district I saw in the paper recently an initiative for a Rancho Viejo Senior Center. Is there a place for this on this list to have – I think it was a preliminary engineering report, or is that something that is on a different list? Where does that fit in this timeline and budget request?

MANAGER SHAFFER: Madam Chair, Commissioners, it actually in included in the overall ICIP. It just as easily have been included here and if we're directed to do so we may clean that up as we work with the Aging and Long-Term Services Department relative to these two lists. But it is captured and as Rachel indicated, however, we don't want to put the cart before the horse relative to too much support for any potential location as we want to provide a comprehensive analysis and potential

framework relative to levels of service for the Board to consider so that we can be strategic as we look at potential locations for additional senior and community centers. I hope that answers your question.

COMMISSIONER GREENE: As long as it was captured; I didn't want it to be left off, so it's in there somewhere. Thank you. A second question is in regards to Edgewood's senior center. Okay, I understand that we have a senior center there and that probably pre-dates Edgewood as a town. Is there a reason why Edgewood doesn't step up and provide their own senior services now that they've incorporated and taken away a lot of that land base from our gross receipts and our property tax. That may not be for you; that may also be for the County Manager as well. But do they provide senior services? I guess is the first question.

MS. O'CONNOR: Madam Chair, Commissioner, they do not currently provide senior services that I am aware of, and having served that area of the county for some period of time I'm sure we're the only senior center in that area. There are some other services provided to seniors in the Edgewood area and some partnerships between CSD and the Town of Edgewood, but they are not specific to seniors. That is something that we'd be willing to discuss with the Town as well.

COMMISSIONER BUSTAMANTE: Madam Chair, Commissioner Greene, Edgewood is very small and they do not have – they aren't getting as much of the tax base as one might think, even as a town. They don't have a lot of the infrastructure that would be expected even with a town that size. It's a very small town, incredibly small, with not a lot of – frankly, the GRT comes to the County. So it would be, in my opinion, the responsibility of the County to provide those resources as we've done in most parts of our county. We don't ask the City of Santa Fe to provide senior centers for County facilities and it's much larger here. So it would be very difficult, I guess, is what I'm trying to say.

COMMISSIONER GREENE: To the point, I was just seeing that they had incorporated in the last few years and Santa Fe does provide their own senior services, so I was just trying to make sure we weren't duplicating services. Maybe there's a contribution that they can provide in this. They've decided that they wanted to control their own destiny, maybe, and so this is part of that responsibility on their part is potentially to say, well – also, please don't tell us how to run our senior centers would be the next comment in this, as they have decided to run their medical centers in their community. So there's a level of snarkiness in this as well. So I just want to make sure –

COMMISSIONER BUSTAMANTE: Madam Chair, Commissioner Greene, the thing that Edgewood – the general sense of what Edgewood would like to do and I'm supportive of is to have the capability of their own self-determination within their community and having oversight of something even like a community center. But our ability to provide them a senior center goes an awful long way. And it could be something that in the long run, with objectives that they have for a community center and things that they'd like to offer by way of some of those more social activity bases is something that I think there would be room to discuss with them down the line, but they haven't been in the position to have the infrastructure the way it would need to be in order for us to even be an equal partner in some respect, if you will. And I don't mean that in any deprecating fashion. It's just about their building up their ability to have more

say in how they're developing their community.

COMMISSIONER GREENE: I just wanted to put that out there, just understanding that they've self-determined, now let them maybe self-determine fully.

And then the third question is about access control and the internet at all of our senior facilities, and I don't know if this is the appropriate place for it but it might be, and I know that some of our senior centers have somebody running over there with a key to open it up. At the El Rancho center, I was up a couple weeks ago and there were folks that were requesting internet classes, like how to start to use this to sort of – instead of teaching people how to do pottery, which is well and good, and arts classes, some folks were asking for internet services. So I'm wondering if that's something we need to look at in an ICIP list or elsewhere, a very specific senior center targeted infrastructure upgrade for these facilities.

MS. O'CONNOR: Madam Chair, Commissioner, and Mattie, please kick in if you have additional thoughts on this. Two things that I can think of. One is that we are planning to put new computers out at the senior centers, and I think our IT system is working with our internal CSD operations manager, Gina Capener to start discussions about how that will look.

And then a second thing is we actually are going to be looking at the possibility of a vendor to provide some services there. There are some interesting programs in Albuquerque that teach older adults how to use technology and I would like to try to bring that to Santa Fe. I'm not exactly sure how I'm going to do that but I have had some preliminary discussions about that because the crossover between young people and people who are aging is a good one to have. So there's two benefits. One is that you learn a lot about technology, and the second one is that you have an interaction with someone who is of a different age group, which is always beneficial.

So the bottom line is yes, we are definitely looking into that and hopefully we can have something concrete by mid-year this year.

COMMISSIONER GREENE: Is that the Teenyears project in Albuquerque?

MS. O'CONNOR: Yes, it is.

COMMISSIONER GREENE: Okay. I've heard great things about that, so it would be great to extend that out here. Again, if all of our senior centers, if we can't get fiber to them to get full on broadband, putting temporary microwave based dish and repeaters on top of all of our senior centers, a) to provide service for the complex; b) to provide security cameras and access control systems, and then lastly, to have those as good repeater systems so that we can provide better internet to the folks that are neighbors of those centers.

And so the El Rancho center is a great example. The water and the water project over there needed broadband over there and we could have easily put a repeater on top of our facility and provided it for that whole valley over there. I'm sure the same thing could happen up at Bennie Chavez, up at Abedon Lopez, all of those areas are pretty broadband deficient areas and having that infrastructure on every senior center, so whether it's kids – it's not only seniors, right? Who need to do homework and download their homework, or seniors who want to just come over there and surf, that would be a great little piece of infrastructure that we should include in all of our senior centers. Thank you.

MS. O'CONNOR: Thank you. I agree. Thank you, Commissioner.

CHAIR HANSEN: Thank you, Commissioner Greene. I believe you asked about keys to the building, and I believe that Public Works is working on creating a mechanism to make senior centers not quite so labor intensive. Is that correct, Mr. Snyder?

BRIAN SNYDER (Public Works Director): Madam Chair, Commissioners, we are. We are working with an access control company, focusing on community centers first, but also looking at senior centers. So we are working on a solution and we are focusing on the higher use community centers first – Nancy Rodriguez, La Cienega, and Max Coll as three to start with, and once we get a system up and running we'll employ it elsewhere.

COMMISSIONER GREENE: And to that point I would recommend that the highly used ones are definitely somewhere to focus but also the ones that are remote. So one that somebody has to drive an hour to go open up, that's an hour of time, as opposed to it's used a lot. The distance traveled is an also, another factor.

MR. SNYDER: Madam Chair, Commissioners, speaking frankly, Public Works, being selfish a little bit, as this function has transitioned to Public Works this last budget cycle we do not have the staff to be running out there all weekend to open and close community centers that are highly utilized, so that's why we focused on those centers. But we are near a solution for those that can be deployed elsewhere.

COMMISSIONER GREENE: And internet control on that would be wonderful as well. Thank you.

CHAIR HANSEN: Okay. What's the pleasure of the Board?

COMMISSIONER GREENE: I move to approve a resolution adopting projects for inclusion for Santa Fe County's infrastructure capital improvement plan for fiscal years 2025 to 2029, authorizing submittal of the plan to the New Mexico Department of Finance and Administration.

COMMISSIONER HAMILTON: Second.

CHAIR HANSEN: Okay. I have a motion from Commissioner Greene, a second from Commissioner Hamilton.

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

7. Presentations

None were brought forward.

8. Matters of Public Concern

CHAIR HANSEN: I seem to have a very long list so I am going to limit it to two minutes each, and I will start with – how many people do you have online, Daniel, before I – okay. So Ashley Schannauer. I'm sorry. I don't know how to say your last name. You have two minutes and Daniel will put up a – so go for it.

ASHLEY SCHANNAUER: Good afternoon. My name is Ashley Schannauer. I'm the person who wrote the Open Meetings Act notice of violation that's

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on the meeting agenda for today. The County Attorney prepared a legal memorandum last week on the notice for your consideration today, and I sent a letter to you all yesterday, addressing the major legal issues in the legal memorandum. What the County has not yet addressed are the factual questions that I asked in the original notice. I hope you can answer them today in the discussion you're scheduled to have later in this meeting.

These questions and your answers to them go to the significance of the Open Meetings Act violation. As you know, the 2022 Community Solar Ordinance changed the definition of commercial solar energy production facility, and that change made battery storage eligible for permitting as a condition use in the area proposed now for the Rancho Viejo solar energy project. My questions are: Was the change intended to facilitate the Rancho Viejo project? Why was the change done in such a covert way? Why not inform the public? Also, was the County aware at the time it considered and adopted the changed definition that an AES battery storage facility in Arizona experienced a fire that required the evacuation of nearby businesses just a few weeks earlier in April 22?

It appears that County staff had a meeting with AES on May 18, shortly after the April 2022 fire and shortly before the changed definition was presented to the Board on May 31. Did AES inform the County of the fire? And why was there no discussion of the AES fire or the fire risks of battery storage units as the County was considering the changed definition? Thank you for your time.

CHAIR HANSEN: No applauding. This is like being in church, okay? So please do not applaud. Next I have on the list is Carol Culver.

CAROL CULVER: I'm Carol Culver. I'm a resident of Eldorado. In 2016 Santa Fe County adopted its Sustainable Land Development Code or SLDC and its stated purpose is to protect and promote the health, safety and general welfare of the residents in the county. Appendix A of the 2016 code includes definitions of terms used in the code and one term is commercial solar energy production facility, which is defined as a renewable energy production facility that uses sunlight to generate energy for sale or profit. The definition doesn't mention battery storage and also at that time the code did not include a definition or requirements for community solar.

Fast forward to 2022. The County adopted a Community Solar Ordinance. This ordinance amends the SLDC to include a definition of requirements for community solar projects. For some reason though, as part of the Community Solar Ordinance, the County also chose to include revision to the SLDC of commercial solar energy production facility and the revision added battery storage to the definition, which was not part of the 2016 definition.

Another requirement in the New Mexico Open Meetings Act, the Commission should have notified the public of this definition change in its meeting agenda and this requirement is not somehow nullified by legal notices published in the newspaper as the County Attorney claims. This change in definition is important since it enables the inclusion of the large battery storage facility in the proposed Rancho Viejo commercial solar project, which could have hazardous impacts on the surrounding communities. I hope the Commission will do its due diligence in this application moving forward. Thank you very much.

CHAIR HANSEN: Thank you, Carol. Next, I'll go to Catherine Babbitt.

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CATHERINE BABBITT: Good afternoon, Madam Chair, Commissioners. My name is Catherine Babbitt. I'm a retired attorney and resident of Eldorado. There's a separate and distinct requirement for notice given concerning your meetings. One, in your statutorily required newspaper notice, and then that in your agendas of your meeting notice. I believe it's clear that the three meetings that are in question here, the agendas therein did not contain notice pertaining to a change in the definition of commercial solar energy production facilities, which was an item that was acted upon by this Board.

The violation, perhaps unintended, seems quite clear. The County's written response to that violation allegation puts the onus on the public to find out what the specific business is going to be conducted, essentially saying that the agenda had the word "solar" in it so you the public should have gone behind the agenda and conducted an investigation to determine whether or not this body was going to address commercial solar production facilities. This analysis is completely contrary to the purpose and the requirements of the Open Meetings Act, which is transparency in governmental affairs.

The act requires that you provide the public with the greatest possible information about matters to be discussed. And had the public been made aware about the significant change, I'm certain that robust discussions would have taken place about the very real fire risks associated with the lithium ion batteries, about whether the County should have any siting standards with respect to commercial solar facilities, like you have in community solar facilities. Probably discussions about regulations of commercial facilities that might need to be considered as developments of countywide impact and other relevant conversations and discussions that could have been had. Respectfully, the public was wrongfully denied the opportunity to address these very important matters in a transparent fashion. Thank you for your time.

CHAIR HANSEN: Next is Cindy Fuqua. I apologize if I mispronounce your names.

CINDY FUQUA: Believe me, I've heard worse on that. Thank you for your attention. I am a concerned resident of Eldorado. I'm not a lawyer, lobbyist, or anti-solar. It seems to me the violation and discussion today is largely procedural but it has illuminated an important question. What is the difference between community solar and commercial solar, and how does this relate to the development of countywide impacts in Santa Fe? Is the difference between community and commercial solar driven by megawatts? A better storage unit? Is it the number of solar panels? Amount of acreage involved?

The County's Attorney expressed that energy storage systems are often an integral element of a solar production facility, and likewise, I would say yes, it is also not part of – is also not an integral part for its operation. You don't have to have a BESS in order to run a solar facility. There is a marked difference between the existence of the solar array right off of I-25 and the proposed AES project. These are not apples to apples projects and it seems the County wants to say that a commercial facility is just a bigger version of a community solar farm and therefore no further consideration is needed.

The AES is an electrical utility plant designed to sell and trade electricity on the open grid, and this is achieved by the BES. The size and scale are important. The size and the scale are the integral things that make them operational, and the number of these

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projects will have an effect on Santa Fe County. I imagine there are other projects in the pipeline waiting for approval, and indeed more coming. I think the County needs a better understanding of these projects and how they are defined, how they impact land use, resources, and growth, and in this case, an understanding of the risk the adjacent residents are asked to absorb.

None of the adjacent communities were built in hopes of having a power plant installed amongst them. The size and siting of these projects are important for the County in meeting the intent of the SLDC. I cannot think that moving forward from fossil fuel to solar, and we will, we will move, will not have major county and state impacts. Perhaps this is an opportunity to regroup and clarify community, commercial, and utility-scale solar energy. They are different and will have different impacts and risk. Commercial utility solar production facilities should be listed as a development of countywide impact before more projects are approved. I understand this is burdensome and long, but as President Obama said, hard work is hard. Thank you.

CHAIR HANSEN: Next is Cathy Shrinkoskey.

CATHY SHRINKOSKEY: Hello, Cathy Shrinkoskey, Santa Fe County, very concerned resident. I just got up to speed that's there even any solar thing going on a week ago because of concerned citizens. I read the SLDC that they had a pre-app meeting with residents on October 4, 2022. I read a lot but I don't read the *Santa Fe New Mexican*, but – so I called Rosemary at AES and I said, well, did you notify us? And she said, well, we put a full half-page ad in the Santa Fe New Mexican. I'm working on looking at that [inaudible] in a .pdf. But, and she said, well, we were [inaudible]. Well, did you contact my community who is at risk. Sixty percent of the seniors are over 65 with various health issues. Did you contact Facebook? Twitter? Next Door? Any of the radio stations? Did you go to [inaudible] How did you contact us? We're not required to do that.

It just really makes me cry. It breaks my heart because I really love this state and New Mexico. So I want to speak about PM. I've even brought you an article about Oasis and Tamarisk. Did you read that? I know I emailed it to all of you. Could I see hands? Did anybody read it? It's very educational but PM, particulate matter. I've always had allergies, [inaudible] and the dust. I get sick. My lungs, my vertigo, grippe. So people mostly susceptible to health effects of this particulate matter are the elderly and children – asthma, aggravated premature death in people with heart and lung disease, increased respiratory system, cough, difficulty breathing. And this is our future with fires who live in Eldorado. Fires flaring up. We're on ready, set, go. The air was awful. Inside, everybody's masking. You couldn't see the mountains. This is our future. Drought, particulate matter, silicosis, silica that's raised by [inaudible], destroying the environment out there, the soil. It's going to raise all of that. And I don't foot-note it because I don't have – my time's up. But there's so much there to read about particulate matter. So please consider it. Thank you for your work. Thank you.

CHAIR HANSEN: Thank you, Cathy. Next is Camilla Brom.

CAMILLA BROM: Hello. My name's Camilla Brom. I'm a resident of Rancho San Marcos, and I'm here to discuss the notice of violation of the Open Meetings Act. We've already heard from some of the other constituents that there were three meetings held last summer in the 2022 and a letter was sent to you all on August 14th

regarding what appeared to be a violation of the Open Meetings Act, especially in 10-15-1 regarding posting on the online agenda of all the things you would be discussing, and in the agenda on none of the three meetings was there any mention of a change of definition of commercial solar or of community solar.

County Attorney Jeff Young's response to this notice of violation had things such as it's incumbent upon the public to exercise diligence and to educate themselves on what this is going to be about. I'm skipping some of your comments, Mr. Young. We should have recognized the word "solar" and pursued whatever was going to be discussed despite it only mentioning community solar in the agenda.

So that brings me to what my pursuit in finding out and being involved was about. I sent multiple emails starting in June – June 24th of last year, to all five County Commissioners asking that I wanted more information on this AES commercial solar project. Then on July 11th, I emailed Commissioner Hughes saying I wanted to find out more because I had concerns about AES and I wanted to see if he could meet with me. Okay, I'm going to have to skip some of this stuff. But the bottom line is on July 6th, six days before the July 12th meeting I emailed Olivia Romo saying I hear there's a discussion regarding the solar community projects on July 12, 2022. I'm wondering about if you all were going to discuss the AES commercial solar, because I want to know which meeting I can be present for. I don't want to miss any meeting that I could have a voice in. Her response was, yeah, that is correct. The County Commissioners will be considering an ordinance as it pertains to community solar.

So my bottom line is the AES Rancho Viejo solar project is considered a commercial solar facility by Santa Fe County and there was a significant change during the same time I was sending emails, but nothing was told to me. And based on the emails and me not thinking you were going to discuss anything pertaining to this project, I didn't participate. So it's obvious I did diligence in communicating with Commissioner Hughes and Olivia Romo, and I would have one hundred percent participated in these meetings had it been more open that that was part of the change in this community solar ordinance was to include battery storage for a commercial solar facility.

So that's it. Thank you.

CHAIR HANSEN: Thank you very much. Next, Kaye Cooper-Mead.

KAYE COOPER-MEAD (via Webex): I live in Eldorado. Three small words, "and may store," allow the County Commissioners to pass an amendment to the Sustainable Land Development Code to allow solar companies including AES who they met with previously, to place battery energy storage systems with an extreme fire risk into our communities. Most shocking is the Commissioners did this in clear violation of the State's Open Meetings Act.

The act requires they provide the public with specific information on an agenda to be posted on their website. The County posted an agenda for three meetings which omitted the fact that they intended to change the definition of commercial solar. The only complete version of the agenda was buried in the newspaper's classified ads, a method the OMA recognized was insufficient in 2013.

The County held three meetings in which commercial solar was mentioned four times with absolutely no mention that they were amending its definition. The County admits its ordinance itself does not mention commercial solar in its title and now intends

to actually say it was up to us to inquire further. Any ordinance passed in violation of the OMA is not valid. This makes the conditional use permit application filed by AES not in compliance with the SLDC and it should now be denied.

We have extreme winds, grassland vegetation, no west end exits, and now the spark from one of the 1,043,000 lithium ion batteries to become the next Lahaina. The County deprived us all of our legal right to know in advance what they intended to amend and our right to voice our opposition. This is not how a democracy works. The County is fully informed of the fire risks of BES systems and should now put a moratorium in place until safe siting regulations, subject to public comment are developed to protect us.

These are electric generation power plants and belong only in industrial zones.
Thank you.

CHAIR HANSEN: Thank you. Next, Naomi Harrison.

NAOMI HARRISON (via Webex): So I am also a resident of Eldorado and I want to talk about the violation of the Open Meetings Act. As has been mentioned numerous times now, the [inaudible] which did include discussion and change of definition of commercial solar were not properly posted on the website and according to the Open Meetings Act, 10-5-3, Invalid Actions, "No resolution or regulation, ordinance or action of any board, commission or other policymaking body shall be valid unless taken or made at a meeting held in accordance with the requirements of NMSA 1978, 10-15-1."

Therefore, changing the definition of commercial solar to include storage is invalid and the Open Meetings Act and the facts demand that this be acknowledged by the Board and the Planning Commission. While the need to be able to support solar energy is very rule, when it comes to particular very large utility-scale solar installations, there must be very carefully considered regulations in place to ensure public safety and the quality of life, and these regulations must cover location, energy storage, noise pollution and overhead transmission lines. No regulations should be in place before the consideration of any commercial solar applications. Thank you.

CHAIR HANSEN: Thank you. Next I'll go to Selma Eikelenboom-Scheiveld.

DANIEL FRESQUEZ (Media Specialist): Madam Chair, this person signed up to speak virtually and I do not see their name on the list on Webex.

CHAIR HANSEN: Okay. Next I'll go to Stace Williams.

STACE WILLIAMS (via Webex): Hello. It's Stace Williams. I'm a resident of Eldorado. I want to thank my neighbors for their passionate comments. I bring before you comments on two subjects. First, the notice of violation that Mr. Schannauer filed. The County contends its notice was adequate in part, and I'm quoting here, "Anyone interested in solar facilities, which increasingly include storage, battery energy storage systems, was thus on notice to inquire further."

This might in fact be literally true, but most citizens until quite recently do not associate the term "solar" with storage, battery or otherwise. I happen to be a mechanical engineer by training so I know a little bit about this. But a lot of us weren't familiar with these systems until after a public meeting held on October 4, 2022, which is well after the County's meetings in May and June of 2022. It appears to me the BCC and Planning Commission are expecting ordinary reasonable people to anticipate something that most

of us lack knowledge of and have never encountered.

Citizens should not have to be engineers or attorneys to anticipate every technology the Land Planning Commission or BCC wants to add to the SLDC. The onus is on them to understand these issues and share transparently with us. I urge you to exercise the maximum, not the minimum intelligence when publishing notice of these meetings.

I'd also like to address definitions of projects. There are three distinct types of solar projects, not just the two currently included in the SLDC. We must amend this to be complete and unambiguous. Utility-scale solar is defined by its size and by the fact that it sells power. Those projects sell power to a defined customer, usually a utility company which in turn sells it to customers, residential and commercial. Commercial solar [sic] as defined by the U.S. Department of Energy, is a project where the benefits flow to multiple customers, including residents who can buy shares in these systems, while commercial solar is limited to only commercial and industrial customers. Please amend the definitions for clarity so that you can provide the appropriate oversight we deserve. Thank you.

CHAIR HANSEN: Thank you. Next is Flame Schon.

MR. FRESQUEZ: Madam Chair, I do not see that person on Webex.

CHAIR HANSEN: Okay. Ann White.

ANN WHITE: Hi. I'm a resident of Eldorado and everybody here has said everything I'd like to say except for I was going to start, and I've written a letter about this. The project isn't green. It will destroy 800 to over 1,000 acres of native wildlife and their habitat, and it cancels out anything green. There's a conflict with the 33 executive order that was signed by the White House that says by 2030 we're supposed to set aside 30 percent of our open space for the future. And so this is just – it's being put right in the middle of three housing developments.

The population of Eldorado this year is 5,419 people and there is nothing anybody can do to stop a wind-driven fire. We've seen that in Maui. And so I oppose this large-scale industrial power plant and I'm really upset. And what got me off of the wildlife and thinking about the fire danger is when I found out about the lithium batteries. Over a million lithium batteries are going to be sitting in the middle of all of our houses. And so remember that the wind blows right at Eldorado so everybody's in danger around there, but especially people in Eldorado.

So I oppose the project for the safety of native wildlife and humans, the residents that live there. Thank you.

CHAIR HANSEN: Thank you, Ann. Is there anyone else in the audience who would like to speak? Please come forward and state your name.

JOE PRINGLE: Thank you. My name is Joe Pringle. I'm a resident of Eldorado. So I know that we've been talking a lot specifically about the topic of whether the council violated the Open Meetings Act. I'm not an attorney. I can't really speak to the details of that. I'm sure there are going to be some lawyerly types of discussions about whether the posted notice was appropriate, but I'm hoping that we can avoid this type of zero-sum game power struggle type of discussion and really focus on the larger issue which is whether Santa Fe County should change the rules and allow a multi-national corporation to place an industrial-scale lithium battery storage wedged in

between multiple residential neighborhoods.

This type of decision should be widely debated and understood by all the stakeholders and not just the people who comb through classified ads, reading between the lines of vague public notices. Putting this type of battery storage in close proximity of a school and residential neighborhoods is vastly different than, say, building a shopping center there. A lithium ion storage battery is literally a bomb waiting to go off. As has been mentioned several times, the AES Corporation has had multiple thermal runaway incidents and fires. And one facility even exploded at the aptly named Surprise, Arizona facility. Eight firefighters were injured, four requiring hospitalization in that incident.

So it's not a remote likelihood that this facility might burn or even explode. So rather than being defensive and justifying the position of the County, I'm asking that you recognize the gravity of what we're doing here and take a step back and re-evaluate what's really best for the residents of Santa Fe County. If this thing were to go off, I would hate to be in a position of having you to tell the school children who are sheltering in place trying to avoid the toxic fumes emitted by this time of fire, that sorry, your parents had a chance to express concerns at a meeting but they missed it. So I'm asking you to think about whether you would want your children to be in that school if this facility catches fire, and in light of the recent Maui fire – thank you.

CHAIR HANSEN: Is there anyone else in the audience who wishes to make public comment? Please come forward.

TERRY MENDOZA: Good afternoon, Madam Chairman, Commissioners, County officials, staff. My name is Terry Mendoza and I'm here to speak on two subjects. I won't repeat all of the notice of violation information again for brevity's sake. Thank you for your patience in talking with all of us. But as you discuss this later, these are the questions that we would like answers to: Why was a proposed change to the definition of commercial solar omitted from the three advertised meetings? What is the normal practice of giving public notice when making substantial changes to an ordinance? How often does the County only place an ad and omit the item from the meeting agenda on their website? Under what circumstances does the County place an ad about an upcoming important ordinance change and not include it in the County's website? How is it that both staff and five Commissioners failed to notice this omission over three meetings?

When we as citizens ask the County staff about information on an ordinance change, where are we directed? We are directed to a classified ad in the newspaper? No. We are directed to the website where this information was omitted, and there's no defensible excuse for this seemingly intentional omission.

Second, this addresses the fire code and I won't be able to be here later and I want to leave you I think with an important piece of information. In June, Sandia Labs National Laboratory held a three-day 2023 energy storage system safety and reliability forum here in Santa Fe. Experts there agreed that when it comes to energy storage systems, or BESS, in general, and lithium ion batteries specifically, there's currently no legal framework to which the industry has to abide by, and the few standards that they have to meet are hardly enforceable.

However, when it comes to BES systems, industry, counties and states must abide by a federal law called the Emergency Planning and Community Right To Know Act, or

EPCRKA, which is enforceable and this law must be named and included in the fire code update that you'll be considering. Thank you very much.

CHAIR HANSEN: Thank you very much. Is there anyone else online?

MR. FRESQUEZ: Madam Chair, we have three people raising their hands on Webex. The first one is Mr. William Mee.

CHAIR HANSEN: William.

WILLIAM MEE (via Webex): Good afternoon Commissioners and Chairperson Hansen. First off, I want to say I was delayed while doing some irrigation and was unable to join you in person today. Secondly, I want to thank you for approving our MainStreet project budget at the last minute at the special BCC meeting, and also making the sewer projects the priority for District 2.

Of course you've heard my sad story about Noah Watson coming to the BCC in 1950 and asking for sewer lines and sidewalks for Lopez Lane. He is now deceased by about a year but his house was hooked up to the sewer and the sidewalks are in the planning stages. But that's 73 years of activity trying to meet some basic needs.

In the presentations I do for the state legislature for funding for sewer lines, I often mention how in the 1980s Agua Fria was number 10 in the most polluted groundwater in the state as ranked by the New Mexico Environment Department. By 1991 the legislature eliminated the top nine sites and we were left out hanging. So as the groundwater pollution problem is not just our problem. The pollution seeks its way to the Santa Fe River and then probably can pollute wells in La Cienega La Cieneguilla and La Bajada. So our problem is everyone's problem.

I would like to talk a little more in depth about the sewer projects because we've had a lot of our villagers that feel that everything has gone on hold and a lot of our residents who call and ask where is project on the list? They feel like they're getting the run-around. Part of this is that we've had a lot of turnover since our 2017 sewer and water master plan was completed. We went from David Madrid, to Brian Snyder, to John Dupuis to Michelle Hunter and now Paul Choman. It takes a staff a while to understand what the issues are. So Paul's early calls to members of our Agua Fria Village Association Board were kind of awkward. He wasn't sure where the easements were, and where the files that all of us have been working on were. I called him – a phone call. But I would ask you to support our needs in the village and just to keep an ear open about our sewer issues.

CHAIR HANSEN: Thank you. I really appreciate that. Next, who do we have?

MR. FRESQUEZ: Madam Chair, the next speaker is Carol.

CAROL BEIDLEMAN (via Webex): Hi. Thank you for this opportunity. My name is Carol Beidleman. I live in Eldorado and have worked my entire career in conservation from county government to federal government and non-governmental organizations. I'm an avid supporter of responsible renewable energy and I have quite a bit of experience in evaluating renewable energy projects at the utility scale to ensure the location targeted for such projects has minimal impacts on the environment and communities.

You may have seen my My View published in the Santa Fe New Mexican last Sunday entitled County shirking responsibility on utility-scale solar. It certainly sounds

strong in the title but I felt compelled to express my disappointment and dismay regarding the lack of transparency in the six-month delay in communications by County staff and the Commissioners regarding constituents' requests to include utility-scale renewable energy projects as developments of countywide impact, which these projects are currently not designated as but should be.

My original concerns regarding the utility scale Rancho Viejo solar project that [inaudible] mention with its high risk battery energy storage system were focused on the AES Corporation and the private landowner, Rancho Viejo Partnership. However, I now realize that the County staff and Board of Commissioners appear to have been enabling both this corporation and the landowner in their process will be discussed under number 11 today. I've been asking why the County would consider all renewable energy projects as being equal under the Sustainable Land Use Development Code, regardless of their size, project details, equipment specs and potential impacts to the surrounding residents and environment, comparing community solar projects, 11,000 panels, 25 acres, no battery storage, versus the utility-scale solar projects with 240,000 panels, 800 to 1,000 acres of large battery storage. That's like apples and oranges.

And we just found out as someone mentioned that their proposal for Rancho Viejo has now increased that number of lithium ion battery cells to over a million from 400,000. So thanks to Ashley's letter regarding a violation of the Open Meetings Act, that the County inserted to include battery storage into the Community Solar Ordinance, I now realize this was made possible and was very likely drive by for the County to be able to review the Rancho Viejo solar project under the minimalistic conditional use permit process only, which is totally inadequate for reviewing utility-scale projects with such high risk.

It's in the best interest of the County staff, the Commissioners, their reputations and their constituents to explain this action and to rectify it. Thank you.

CHAIR HANSEN: Thank you, Carol. Next.

MR. FRESQUEZ: Madam Chair, the next speaker is Jill Cliburn.

JILL CLIBURN (via Webex): So my name is Jill Cliburn. I'm a renewable energy and solar storage professional. I'm also a committed community member and I would not oversimplify the need for careful consideration of this issue. But I just wanted to state that it was my understanding that this discussion should be a discussion of the notice of violation that was submitted, and I'm confused because so many of our community members are using this as an opportunity like a hearing for the CUP. I would like to just say that there are organizations who favor the communities' large-scale solar project with storage. I did some work with the Green Chamber of Commerce trying to provide clear and factual information. But I also think that the County itself, hopefully, will be more involved in that kind of factual outreach, because it is very challenging for the community.

For example, when a group of scientists meet, they have to discuss the worst case scenario in order to ensure that the best practices will be improved. I could go on but I think that my major hope is that this discussion be focused on whether this one incident was true or false, and then give us a strong process where people can be well educated and thoughtful so that we can come to a resolution. Thank you.

CHAIR HANSEN: Thank you, Jill. Is there anyone else?

MR. FRESQUEZ: Madam Chair, I'm not seeing anybody else indicating that they'd like to speak.

CHAIR HANSEN: Okay. If there's no one else that wants to speak under Matters of Public Concern. Okay.

ELIZABETH WEST: Good afternoon. My name's Elizabeth West and I did not sign up ahead of time to speak, and I'm new to this. I'm hearing a lot of good things. A woman named Terry Mendoza mentioned quite a few concerns that I think are interesting, and a recent speaker, Jill Cliburn, I believe mentioned one of the main reasons that I came to this meeting is to see how you were going to be addressing what some people have considered a violation or a misstep in the procedure, and that is why I came to the meeting.

I think I would have to agree that we're going to do a lot better, all of us together, understanding whether we're talking about this big community – I wish it were community – commercial solar project. That was not my concern today. But we do need to process this together to have a better procedure. So I'm not quite sure where the misstep went. I would like to hear you all discuss this at some point so that I could understand it better. It's a bit topic. I live in Santa Fe but my family lives outside of the town so of course I drive out back and forth quite often. I appreciate being able to speak to you and I appreciate that we're having this discussion.

Maybe what William Mee brought up should be addressed while we take a little slower approach on this other topic. Thank you.

CHAIR HANSEN: Thank you, Elizabeth. Later on on the agenda under Matters from the County Attorney this topic is on the agenda, on action on the claim of violation of the Open Meetings Act, so we will take that up later. At the moment I'm going to close public comment, seeing no one else that wants to speak. Okay, Matters of Public Concern are closed.

9. Matters from the County Manager

A. Miscellaneous Updates

MANAGER SHAFFER: Thank you, Madam Chair. Three relatively quick updates. First, Santa Fe County will be participating in the Gathering of Counties Day at the New Mexico State Fair, Thursday, September 14. We will operate a booth at the event, both to offer general education and tourist related materials and promotion, as well as our vacant positions at the County.

We've recently granted to County staff in appreciation of their hard work four hours of administrative leave that can be used for fall festivities, beginning on September 9th through I want to say the middle of October.

Finally, I do want to remind the Board as well as the public generally, that we will be having our second partial closure of Richards Avenue at Dinosaur Trail due to the construction of the additional roundabout. You will still be able to access the Community College as well as BTI, Santo Niño and Amy Biehl, both via Rabbit Road through Oshara Village, as well as Rancho Viejo Boulevard to Avenida del Sur. So again, there will still be circulation throughout the Community College and up until the Dinosaur Trail and Richards intersection, Richards will remain open.

So those are my updates. Thank you.

CHAIR HANSEN: Thank you, Manager Shaffer.

10. Matters From County Commissioners and Other Elected Officials

A. Commissioner Issues and Comments, Including but not Limited to Constituent Concerns, Recognitions and Requests for Updates or Future Presentations

CHAIR HANSEN: I'll go to Commissioner Bustamante.

COMMISSIONER BUSTAMANTE: Madam Chair, I don't have anything at this time. Thank you.

CHAIR HANSEN: Commissioner Hamilton.

COMMISSIONER HAMILTON: I'll make the big announcement and the first September reminder. We have another Coffee with the Commish on Wednesday from 5:30 to 6:30 at the Hondo Fire Station on September 16th. I hope that's the right date.

CHAIR HANSEN: Okay. Thank you. Commissioner Greene.

COMMISSIONER GREENE: Thank you, Madam Chair. Thank you everybody today. I want to celebrate a little bit of good news down the pike. We had a million dollar week in District #1 last week. No money out of Santa Fe County, well, some matching money out of Santa Fe County's pocket. So the first one is the Pathways Village. If you remember, if you recall a couple weeks ago, we wrote a letter of endorsement to the Pathways Village to get money from the CASAS Connect program. While they were awarded just over \$800,000 from the Governor's Office to complete the funding, or almost complete the funding for the project over there. They still have a gap of about \$39,000, which I would also recommend that Santa Fe County maybe steps in and puts their money to this more than just writing a letter, but the best part is that they've raised over \$1.7 million or \$1.65 million to complete this project up there and I want to congratulate them and thank everybody at Santa Fe County for making that happen and the folks up here on the dais with us who put that endorsement letter out there. That was a great thing.

Also, in Rio en Medio, we applied for, if you remember – these things work fast when you get them all lined up. We had the presentation about the USDA program to help rebuild the river channel and clean up the debris in there. Well, we got awarded the money for that, so in that case Santa Fe County has to come up with matching money but not very much in the scheme of things. I think the award was somewhere in the \$300,000 to \$400,000 range, depending on how many people partake in the cleanup. We will get that money as we need it.

I'd like to thank Assistant Chief Vigil, Adeline Murthy and Leandro Cordova who were all instrumental for getting that application put together and then the peak community members up in Rio en Medio who will partake in this and allow Santa Fe County and the feds to come clean up their river channel. So all in all, we got over a million dollars in District 1.

Lastly, a request of us in the County Manager's Office to see if we could become members of the Energy Communities Alliance. This is an alliance of communities that

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surround DOE facilities, and I went to one of their convenings up in Los Alamos County about two weeks ago, and the advocacy they do on aspects that are important to us, such as housing and workforce development and environmental cleanup are areas that we could definitely help ourselves with their resources. So my understanding there's a \$2,500 annual membership, but with that membership comes a lot of benefits including support for advocacy in Washington, as well as other convenings around the country when they have their events there. So those are the two pieces of good news and the one request for us to apply for this. Thank you very much and congratulations, District 1.

COMMISSIONER HAMILTON: Madam Chair.

CHAIR HANSEN: Yes.

COMMISSIONER HAMILTON: I just want to make a correction because of course the 16th isn't a Wednesday. It's the 20th of September and I'm hoping many people can start thinking about it now because we'll have both Fire Department representatives and Public Works talk about important emergency ingress-egress projects.

CHAIR HANSEN: Great. Thank you.

COMMISSIONER HAMILTON: Thank you, Madam Chair.

CHAIR HANSEN: Of course. So the first thing that I would like to share with all of you is that the Northern Rio Grande National Heritage Area will be hosting a culture and creative event at Los Luceros up in Rio Arriba County near Alcalde. September 22nd will be the reception and the 23rd and the 24th is the Harvest Festival and this is our first event with Los Luceros since taking on the responsibility from the Department of Cultural Affairs. We will be working with them. So you're all invited.

I had the great fun to plant flowers at Fort Marcy with the Governor on Friday. It was really quite fun because it started raining and we still planted, right in the rain, which was fantastic, and then we got this beautiful rainbow, so it was a great benefit and the front of Fort Marcy now has these beautiful pots filled with flowers, thanks to the Governor, staff, and General Services, and Tony's Landscaping, and the master gardeners. So thank you to all of those who participated.

I have a meeting with the chief of staff of the Attorney General's Office discussing the opioid distribution and how that was going to work and since the distribution has been 45/65, what can we work on together and tailor from the Attorney General's Office chief of staff was very open to working on some ideas. We also spoke about good governance and it brought up Open Meetings Act issues and they do a tremendous amount of outreach and education on these issues, but they are updating their Open Meetings Act Resolution and IPRA resolution. They have not updated it since 2015 so they will be bringing up a new version.

We also – I sit on the City of Santa Fe River Commission. We had a really active discussion about the draining of the pond up on Upper Canyon and they also missed the opportunity by not noticing their meeting properly. Open Meetings Act issues are well and alive throughout the State of New Mexico and I was very happy to talk to the Attorney General's meeting about it.

Speaking of the Department of Energy, I attended a Workforce Development meeting for a cleanup of environmental management last Friday, or maybe it was the Friday before. It was a long time in between the two meetings this month and one of the things that we talked about is we're all short of workers and if we want nuclear waste

cleaned up at Los Alamos we need workers but a lot of times those workers come with spouses and the spouses need work and so to create a pool of workers that might be interested in working. Some of them are doctors, some of them are engineers. Different skills that might not fit into the cleanup facility. So I thought that was a good idea to create some kind of pool and talking about how we're all struggling to find workers and that we're all understaffed. Even though they pay more than we can pay, they recognize that they need to be better neighbors.

Also, the Coalition of Sustainable Communities had our annual meeting in Albuquerque at the beautiful Bernalillo County building that was filled with art and this is something that Commissioner Bustamante and I are very concerned about and believe that we need more art in Santa Fe County buildings. We have – there is such a thing as one percent for the arts and maybe we can look into that. I plan to bring that up at the strategic planning. And I also want to mention the reports from staff. I want to thank the staff for their reports. I find them very informative and helpful to know where things are at, but sometimes they don't have everything in them or the latest update, but they're still incredibly valuable, so I recommend everyone take a time to look at that.

And then my September Coffee and Tea will be at the end of September and I look forward to seeing everyone there. We had a very lively discussion at the last Coffee and Tea with the Caja del Rio Coalition, which is here to protect – we're working on protection of the Caja del Rio. I've also been working on the shooting range out on the Caja so that we can close areas of the Caja off. The shooting range is not something I ever thought I would work on in my life but I believe in preservation of open space and since you can shoot a gun anywhere you want on BLM land, the one way to curtail that is to provide a shooting range, and then therefore you can close land off from that, and the Forest Service also agreed that they would work in concert with BLM so that the El Camino Real Trail can start to be more widely used because a lot of residents feel that they can no longer use the El Camino Real de Tierra Adentro Trail because they're being shot at. So that is a little bit of a problem, but if we provide a shooting range for people to go we can solve some of that problem.

The Forest Service gave a short update on the Santa Fe Mountain Resiliency Landscape project. They are working on developing or creating a barrier up in the Tesuque area for fire and then they're going to start doing some clearing. So it was a lively discussion and more to come on that. And so now, thank you very much for everybody listening to my long topics.

COMMISSIONER HUGHES: Commissioner Hansen.

CHAIR HANSEN: Yes, Commissioner Hughes, I apologize. Go ahead.

COMMISSIONER HUGHES: Since I'm not there to lean over and poke you I don't seem to be there. I'm here virtually. I just had a couple things. I wanted to mention that along with the Eldorado Community Improvement Association I'll be putting on a September 7th forum on evacuation planning in case of fire. That will be September 7th at 6:00 pm in the Railroad Row at the Eldorado headquarters, and that will feature Assistant Chief Martin Vigil. It seems that he's making the rounds but it's very important. We've had two fires in my district which I think scared a few people, and so I think it's time to know how to be prepared if we get something even worse going on.

I also wanted to mention, I think I mentioned this last time, that Commissioner

Hamilton and I are working on a resolution asking the staff to sort of lay out the process for evaluating large-scale solar projects, realizing that these are different animals than other things that we permit and what we might do differently, how we can be sure we're using the best practices from that meeting.

And finally, I don't know if anybody is still listening, but if you were not on the County's list to get information about upcoming hearings on solar projects, my liaison, Gabe Bustos, is maintaining that list and this is sort of trying to go above and beyond what the Open Meetings Act requires, because not everybody has time to read the legal notices or even look at our agenda on line every other week. So this would be a way we can email you if there's something coming up regarding that that you may want to comment on. Thank you, Madam Chair.

CHAIR HANSEN: Thank you, Commissioner Hughes.

10. B. Elected Officials' Issues and Comments, Including but not Limited to Constituent Concerns, Recognitions and Requests for Updates or Future Presentations

CHAIR HANSEN: Do we have any of the elected officials online or Destiny, do you have any announcements from the County Clerk?

KATHARINE CLARK (County Clerk): Hi, Madam Chair. This is Katharine.

CHAIR HANSEN: Hi, there.

CLERK CLARK: I just wanted to make the announcement. Of course it was filing day today, so congratulations to all the candidates who filed for the regular local election. It looks like we may have some lively races. So that means it is now election season, so as always, we're going to have a non-partisan regular local election this coming November. We're always recruiting poll workers, so if you're interested go to our website and sign up to be a poll worker.

The absentee ballot poll is now open so if you're interested in receiving an absentee ballot I would recommend requesting that absentee ballot early. Even though you may have heard in the news that we're going to have an absentee ballot list, that does not take effect until 2024. So if you would like to vote in the regular local election by absentee you still have to request that. The polls open at nmvote.org, and this year the cut-off period takes effect. So two weeks before the election, we will not be sending out absentee ballots, so I would always recommend request your absentee ballot early, vote early, and drop it, don't mail your absentee ballot if it's getting closer to the election.

So if you have any other questions go to santafe.vote for a countdown in the election, all the important dates, who's running, all the good stuff. Thanks so much.

CHAIR HANSEN: Thank you, Madam Clerk. Is there any other elected officials online?

MR. FRESQUEZ: Madam Chair, the only other elected official I see online is Treasurer Manzanares.

CHAIR HANSEN: Would she like to say anything? Okay.

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11. Matters from the County Attorney

- A. Executive Session. Limited Personnel Matters, as Allowed by Section 10-15-1(H)(2) NMSA 1978; Board Deliberations in Administrative Adjudicatory Proceedings, Including Those on the Agenda Tonight for Public Hearing, as Allowed by Section 10-15-1(H)(3) NMSA 1978; Discussion of Bargaining Strategy Preliminary to Collective Bargaining Negotiations Between the Board of County Commissioners and Collective Bargaining Units, as Allowed by Section 10-15-1(H)(5); Discussion of Contents of Competitive Sealed Proposals Pursuant to the Procurement Code During Contract Negotiations as Allowed by Section 10-15-1(H)(6); 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:**
- 1. Road Settlement Agreement with San Ildefonso Pueblo, Including the Acquisition and Disposition of Real Property for the Implementation Thereof**
 - 2. Ashley Schannauer's Claimed Open Meetings Act Violation**

MR. YOUNG: Thank you, Madam Chair, Commissioners. I would ask we go into executive session to discuss 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 road settlement agreement with San Ildefonso Pueblo, including the acquisition and disposition of real property for the implementation thereof; and Ashley Schannauer's claimed Open Meetings Act violation.

CHAIR HANSEN: Do I have a motion to go into executive session?
Commissioner Hamilton.

COMMISSIONER HAMILTON: Yes, I'd move that we go into executive session to discuss the items just listed by the County Attorney.

COMMISSIONER GREENE: And I'll second that.

CHAIR HANSEN: Okay, I have a motion from Commissioner Hamilton, a second by Commissioner Greene. Could I please have a roll call vote?

The motion to go into executive session passed by unanimous roll call vote as follows:

Commissioner Bustamante	Aye
Commissioner Greene	Aye
Commissioner Hamilton	Aye

Commissioner Hughes
Commissioner Hansen

Aye
Aye

[The Commission met in executive session from 5:41 to 7:15.]

CHAIR HANSEN: Welcome back, everybody. Could I please have a motion to come out of executive session?

COMMISSIONER GREENE: I move that we come out of executive session and we only discussed the items that were previously disclosed as issues.

COMMISSIONER HAMILTON: Second.

CHAIR HANSEN: Okay. I have a motion from Commissioner Greene. I have a second from Commissioner Hamilton.

COMMISSIONER HAMILTON: And that no decisions were made in the session.

CHAIR HANSEN: And no decisions were made. Exactly. We're adding that.

COMMISSIONER GREENE: I'm okay with that add as the motion maker.

COMMISSIONER HAMILTON: As was the second.

CHAIR HANSEN: Okay, and you accept it.

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

11. B. Action on Claim of Ashley Schannauer that the Board of County Commissioners and County Planning Commission Violated the Open Meetings Act When Considering Ordinance No. 2022-05, as Required by Section 10-15-3(B) NMSA 1978

CHAIR HANSEN: Okay, I'm going to go to County Attorney, Jeff Young.

MR. YOUNG: Thank you, Madam Chair and Commissioners. So this item does concerns meetings that were held over a year ago. At the BCC on May 31, 2022, and July 12, 2022, and the Planning Commission on June 16, 2022. Mr. Schannauer, and I'll just refer to him as the complainant for ease of reference, believes that these meetings violated the Open Meetings Act because the agendas for those meetings did not identify specific items of business. The complainant's notice and exhibits are attached to my memo as Exhibit A there for your reference.

So with respect to the Open Meetings Act, the complainant argues that the title of Ordinance No. 2022-05 was defective because it did not specifically state that the ordinance would amend the definition of commercial solar energy production facility in the Sustainable Land Development Code, which we refer to as the SLDC. The title of the ordinance in question is "An Ordinance Amending the Sustainable Land Development Code, SLCD, Ordinance No. 2016-9, to Add a Definition of Community Solar, to Add a New Section 10.25 to Address Standards for Community Solar Facility, and to Add a

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New Clause to Section 8.11.3.5.2 to Prohibit a Community Overlay District from Restricting the Location and Procedures for Installing Community Solar Facilities”.

In that title commercial solar was not identified, which is correct. By the way, I want to say that we do appreciate Mr. Schannauer’s comments and feedback as well as the public’s comments and feedbacks and we have looked at this issue in detail. But primarily analyzing the Open Meetings Act and technical violations there, alleged.

So the Open Meetings Act affords public bodies 50 days from receiving the written notice to deny or act on the claim, meaning if the Board concludes that the claim had merit, to acknowledge the violation and take whatever remedial action was appropriate or deny the violation.

So as expressed in my memo, which is in the Board’s packet material and part of the record today, we do respectfully disagree with the complainant’s claimed violation of the Open Meetings Act and I’ll go through briefly why we disagree with that and we believe the notice was proper.

So we did not locate any New Mexico cases establishing a standard to judge the specificity of items of business on the agenda. There was a case cited by the complainant, the Humboldt Loyal Case citing a constitutional provision related to the legislature, which is Article 4, Section 16, and it doesn’t address the Open Meetings Act. The Supreme Court of New Mexico has made clear that this article in the constitution does not apply to local public bodies. But again, we could not find any cases on the Open Meetings Act related to this type of specificity.

So now moving on to the text of the Open Meetings Act itself, basically the act states that meeting notices shall include an agenda containing a list of specific items of business to be discussed or transacted at the meeting or information on how the public may obtain a copy of such an agenda. Agenda items for the BCC can be complex and contain hundreds of items in some cases, particularly with respect to the budget, for example. So there is some complexity there. We do not list out every single item.

The Office of Attorney General’s Open Meetings Act Compliance Guide provides that the requirement for a list of specific items of business ensures that interested members of the public are given reasonable notice about the topics a public body plans on discussing or addressing at a meeting. A public body should avoid describing agenda items in general, broad or vague terms, which might be interpreted as an attempt to mislead the public about the business the public body intends to transact. The Compliance Guide goes on further to provide an example of what is too broad.

Their example uses examples like old business or personnel matters listed on the agenda, so that this is a very broad example. This is not what we’re dealing with here today. Comparing the Attorney General’s example with this case, the Planning Commission and BCC agendas at issue do not contain those broad characterizations. They do contain a specific ordinance title. You do realize the complainant’s argument that this title did not include what they thought was important was the commercial solar facility definition, but that said, this is a specific title of an ordinance under consideration by the public body. This was the ordinance that the public body passed, and so therefore the letter of the law we believe the notice complies.

So if we go back to also sort of what would happen in this case, it was an ordinance we were passing. State law requires that the title and general summary of

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County ordinances be published before the ordinance is considered for final passage, and they do that in a specific way. There must be a certain number of days that the notice is published in advance of the public meeting, and requirements on the form of the notice. The date and time of the meeting at which the ordinance is to be considered must also be published and we believe that was complied with in this case.

In this case, the County published the notice of the ordinance six times prior to the final adoption by the Board, and those notices ran in the *Albuquerque Journal*, the *Santa Fe New Mexican* and the specifically identified that the ordinance would amend the definition of commercial solar. Also, I would add that in the materials attached to the agenda, just to back up for a second, agendas are posted electronically on BoardDocs and in BoardDocs you can see what an action item is, the memo, the proposed ordinance, and in this case those agendas for those meetings included materials where the draft ordinance is called out in redline format, that the commercial solar definition was being amended.

Staff's presentation on two occasions also called out in a power point presentation the commercial solar definition amendment.

So we believe again that the notices that went out complied with the spirit and letter of the OMA, the Open Meetings Act. So I would also say, with respect to the question about whether the commercial solar definition, why it was changed in this particular case. This pre-dates my time a little bit in the development of this ordinance as County Attorney so I don't – I wasn't involved in the development, particularly of this ordinance. But I understand from County staff that basically in researching the Community Solar Ordinance, which had just been authorized by the legislature, that they discovered the definition of community solar also included this battery storage component in other ordinances they compared in their research. And so they said, well, we need to have the commercial solar energy, solar facility definition in sync with that and so that it's consistent, and so that is why they put it in. It was not a nefarious purpose as far as I understand, related to this change in definition.

And then as we stated in the memo, even if the battery storage part of this was stricken from the definition, the definition was fairly broad in its statement as it was. So the effect on this, even if you were to void the ordinance, for example, I believe it's the Land Use Administrator's opinion that this would not necessarily change the application one way or the other. It certainly could be debated later.

So our recommendation would be to deny the claimed violation and I've included a potential motion in the materials for your convenience should you choose to go that direction. I stand by for any questions.

CHAIR HANSEN: Commissioner Greene. I'm going to go to Commissioner Greene first, and then I'll go to you, Commissioner Hughes.

COMMISSIONER GREENE: Jeff, can you just clarify one thing. Is commercial solar – so there's commercial solar, there's community solar – is commercial solar covered in the same community solar ordinance?

MR. YOUNG: So the ordinance amended a section of the SLDC, or sections of the SLDC, and so the amendment was done generally to the SLDC to change the definition of community solar, change the definition of commercial solar, then it added certain requirements for community solar. And so that's what was going on with

the ordinance. It was amending the SLDC.

COMMISSIONER GREENE: And then are those two totally separate things in the SLDC?

MR. YOUNG: The definitions are in the section, but in terms of the community solar pieces, that added new requirements for community solar, or community [inaudible] Production?

COMMISSIONER GREENE: Thank you.

CHAIR HANSEN: Commissioner Hughes.

COMMISSIONER HUGHES: Thank you, Madam Chair. I just wanted to make a couple comments and then I can make the motion or we can have more comments. First of all, I was at the meeting where we voted on community solar, and I can assure everybody that there was no intent to mislead anybody. We were very excited about community solar. We wanted to get it moving along as quickly as possible, and as our attorney mentioned, we just went along with staff's recommendation that the two definitions be in parallel.

I also want to say that while I agree very much with our attorney in his recommendation and we usually do go with our attorney's recommendation that we did violate the Open Meetings Act, that does not mean that we're not concerned about the potential dangers posed by lithium ion batteries, and we have procedures which we can follow to look at that issue when it starts coming before us as it will very shortly. And I don't know when, if other people want to make comments before I make my motion that's fine.

CHAIR HANSEN: Does anyone else want to make any comments? Commissioner Hughes, I agree with you. I do not believe that we violated the Open Meetings Act and I agree with what you said about we needed to add in battery storage. I completely believe that as we move into this new [inaudible] we're going to need storage. That is the reality. Anybody who has a Tesla battery pack on their house has storage. Storage is part of the move forward for clean energy, unless you're attached to the grid. Of course I have solar on my house and I am attached to the grid through PNM, and that is another way that it can happen.

But there are many people who have battery backups right on their house and so "and may store" is a very simple definition or adds to the definition of commercial solar and community solar. So I'll leave it there. Commissioner Hughes, if you'd like to make a motion.

COMMISSIONER HUGHES: Certainly. With regard to the regular meetings of the Board of County Commissioners held on May 31, 2022 and July 12, 2022, and the Planning Commission meeting held on June 16, 2022, I move to deny Mr. Ashley Schannauer's claim that the meetings violated the Open Meetings Act for the reasons stated in the County Attorney's August 22, 2023 memorandum to the Board, and direct the County Attorney to inform Mr. Schannauer of this decision.

COMMISSIONER HAMILTON: Second.

CHAIR HANSEN: Okay. So I have a motion from Commissioner Hughes and a second from Commissioner Hamilton. Under discussion? Okay, Commissioner Greene.

COMMISSIONER GREENE: Just to reiterate what Commissioner

Hughes and Commissioner Hansen said, this is just the facts of this aspect here. There's a whole set of other things to discuss probably in the future, or maybe not. We'll see. But this is to the fact of the Open Meetings Act. So thank you.

CHAIR HANSEN: This is completely and only in relation to the Open Meetings Act, that we did notice and we were correct. We all knew that we were making those changes and made the right notice. I'll leave it there.

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

12. Public Hearings

- A. Ordinance No. 2023-06, an Ordinance Repealing and Replacing Santa Fe County Ordinance No. 2018-08 Thereby Updating the Santa Fe County Fire Code by Adopting with Modifications the 2021 Edition of the International Fire Code; Adopting with Modifications the 2021 Edition of the International Wildland-Urban Interface Code; Regulating Fireworks and Excessive Fire Alarms; Requiring Fire Inspections; Providing for Fire Protection System Plan Reviews; and Providing for the Issuance of Permits and Collection of Fees. This Agenda Item Contains an Attachment.**

CHAIR HANSEN: I will go to Jaome Blay and Chief Black.

JAOME BLAY (Assistant Fire Chief): Good evening, Madam Chair, Commissioners. The Santa Fe County Fire Department recommends approval of an ordinance repealing and replacing Santa Fe County Ordinance No. 2018-08, thereby updating the Santa Fe County Fire Code by adopting with modifications the 2021 edition of the International Fire Code; adopting with modifications the 2021 edition of the International Wildland-Urban Interface Code; regulating fireworks and excessive fire alarms; requiring fire inspections; providing for fire protection system plan reviews; and providing for the issuance of permits and collection of fees.

A bit of background: On June 27, 2023, the Santa Fe County Fire Department presented to the Board of County Commissioners an overview of the New Mexico Fire Code minimum requirements, Insurance Services Office rating impact on code adoption, and the benefits our County may gain from updating the Santa Fe County Fire Code.

The State Fire Marshal's Office adopted the ICC International Fire Code 2021 edition on November 2022 to establish and develop strong relationships with all stakeholders while enforcing the approved fire and life safety standards and laws in a diligent, fair, and consistent manner. This rule establishes the state's minimum requirements that apply to structures, processes, premises and safeguards regarding the hazard of fire and explosion arising from the storage, handling or use of structures, materials or devices; conditions hazardous to life, property, or public welfare in the occupancy of structures or premises; fire hazards in the structure or on the premises from occupancy or operation; matters related to the construction, extension, repair, alteration, or removal of fire protection systems; and conditions affecting the safety of firefighters and emergency responders during emergency operations.

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In addition, ISO's Fire Suppression Rating Schedule Section 1021 considers whether the jurisdiction adopts and enforces the latest edition of one of the nationally recognized fire prevention codes. For full credit in Section 1021, a jurisdiction must adopt and enforce the latest edition of one of the nationally recognized fire prevention codes.

Finally, this adoption would revise and update the current Santa Fe County Fire Code by implementing the following significant changes: Considering Safety it will required CO, carbon monoxide detection in certain commercial buildings, like I-1s, assisted living facilities, I-2s, nursing homes, I-4s, adult/child daycare, and E, classrooms.

Also, adoption of the National Fire Protection Association 855 – the standard for the installation of stationary energy storage systems, in order to address gaps in regulation identified in workshops held by the U.S. Department of Energy and the Fire Protection Research Foundation.

Additionally, Chapter 12 was added to the 2021 International Fire Code, the code we are trying to adopt or requesting to adopt, to address the current energy-related systems found in the code and serves as an introduction to a wide range of systems to generate and store energy in, on and adjacent to buildings and facilities. The expansion of such energy systems is related to meeting today's energy and environmental demands. Appropriate criteria to address the safety of such systems in building and fire codes are an important part of protecting the public at large, building occupants and emergency responders.

Some other requirements of the 2021 IFC and NFPA 855 are as follows: We would be looking at construction documents, hazard mitigation analysis, large-scale fire tests, fire mitigation personnel, commissioning plan, initial acceptance testing, equipment and its listings, energy storage management systems, enclosures, general installation requirements, security of installation, electrochemical energy storage system protection, including size and separation, maximum allowable quantities, fire detection, fire suppression, vegetation control and means of egress separation. electrochemical energy storage systems technology specific protection including explosion control and thermal runaway, indoor installations, outdoor installations including remote outdoor installations, [inaudible] to exposures.

To continue with the significant changes, we would also look to implement a lockdown communication plan on existing Group E – schools, with more than 100 occupants; a new annual fire inspection on the following occupancies: Group I-2, nursing homes, R-2, dormitories, and R-4, assisted living facilities. Also, required defensible space for new buildings based on fire risk severity.

On the administrative side, some of the significant changes are clear definitions of recreational fires versus contained recreational fires, amended definitions of record drawings and change of use/or occupancy, and other records retention language to meet Santa Fe County policy.

Also, On July 25, 2023, the Board approved publication of title and general summary of the proposed ordinance. Notice was published in the legal section of the *Albuquerque Journal* on August 7, 2023.

Action Requested: The Santa Fe County Fire Department respectfully requests that the Board approve the Ordinance Repealing And Replacing Santa Fe County

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Ordinance No. 2018-08 thereby updating the Santa Fe County Fire Code by adopting with modifications the 2021 edition of the International Fire Code; adopting with modifications the 2021 edition of the International Wildland-Urban Interface Code; regulating fireworks and excessive fire alarms; requiring fire inspections; providing for fire protection system plan reviews; and providing for the issuance of permits and collection of fees.

And Fire Chief Black has a few more comments on renewable energy and fire code regulations.

JACOB BLACK (Fire Chief): Thank you, AC Blay. Madam Chair, Commissioners, thank you for your hearing our request this evening. As AC Blay did present a very comprehensive overview of what the changes are within the new code, I did want to take just a couple minutes to highlight a couple of the considerations regarding renewable energy and what's highlighted in this code.

So as we look at renewable energy we are seeing the effects of climate change. The ten hottest summers have occurred since 2010. Furthermore, we're seeing the effects of climate change within our local communities here in Santa Fe County. Thus, driving innovation to address this problem. Really, when we as firefighters and the safety community what we see is we see innovation, new technologies developed to address emerging problems. But then after that comes the regulations and the codes. That's where the International Code Council, the National Fire Protection Association, and Underwriters Laboratory come in and they evaluate and they establish the codes and the regulations to establish those best practices.

Then it is up to us at the local level to adopt and enforce those regulations and standards. We've seen this happen before. In 1954, this is one of the first practical PV or photovoltaic panels that were developed. However, we did not see them adopted into the International Fire Code until 2015, which we then adopted in 2018. So there was a significant time that there was a technological advancement, then regulation caught up with that, then we were able to adopt and then set the standards within the International Fire Code, and what we do in our building inspections.

So what this looks like in the 2021 International Fire Code is I want to clarify a couple things. The code that we're looking to adopt defines what needs to be done, while the standards such as NFPA standard 855 defines how we accomplish that. So to make sure that we have as much of a strong foundation as we can, that's why we're incorporating both the 2021 International Fire Code, as well as NFPA 855 as well. Specifically, AC Blay talked a little bit about what the International Fire Code adopts. It establishes the requirements for the equipment, for the installation, fire suppression, vegetation management, as well as sets the expectation of having staff on site to be able to come and help with these large energy storage systems.

Furthermore, NFPA 855 requires a hazard mitigation plan be provided to us as emergency responders so that we can best be trained and know what those hazards are so we can address those and ensure as much safety as possible. Truly the adoption of the proposed ordinance will ensure the latest regulatory codes to create the safest working environment that we can, and to address the concerns of today.

What I want to convey to you as well is that we at Santa Fe County Fire Department are committed to continually improving as well. By adopting this

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International Fire Code and NFPA 855 we truly will have a framework and a foundation to address and evaluate these energy storage systems and moving forward for technology.

We also know that codes are constantly changing, technologies are changing, things are being updated, and so we and AC Blay and I and Laurie discussed that we will be looking to adopt the next International Fire Code as soon as it is released so that we can ensure that we have the most up to date codes and standards.

Furthermore, we are learning as a department to address these new technologies to see what the energy storage systems, the hazards they are, training for them, to make sure that we can address any safety concerns that there is.

And so with that, I just wanted to highlight on a high level what this exactly covers, and with that basically, and I stand for any questions.

CHAIR HANSEN: Questions from the Board? Commissioner Hamilton.

COMMISSIONER HAMILTON: No questions, but that was a really good summary of points of what you are trying to accomplish, Thank you for a really good presentation.

CHAIR HANSEN: Commissioner Greene.

COMMISSIONER GREENE: Thank you, Madam Chair. Thank you, Guys. So a question to deal with scale. A previous issue, we talked about the idea of somebody having a power wall in their house, versus having 50 power walls in a container next to a solar system or something like that. Does this update deal with the scale and scope of these power systems? And then does it go into the detail of different stability and requirement of UL certification or whatever the certification for those things are. So the first question is does it go into the scale and contain power in this system?

ASST. CHIEF BLAY: Madam Chair, Commissioner Greene, both the 2021 IFC and NFPA 855 address the scale from one megawatt-hour to 20 megawatt hour, is regulated for one- and two-family dwellings if they want to have a Tesla wall, and it regulates location, size, and it has all the regulation that we can hope for. And then from 20 megawatt-hour to 600 megawatt-hour, then [inaudible] also regulate those facilities for all the items that we've been talking about. So basically from one to twenty is going to be for residential, from 20 to 600 and beyond is going to be for commercial and utility solar facilities.

COMMISSIONER GREENE: And those aspects of something that is in that 20 and up sort of commercial size, are there regulations in this to discuss access for you all, safe evacuation plan, all the things that you would want for something that could put your team at risk when you're responding to an issue there.

ASST. CHIEF BLAY: Madam Chair, Commissioner Greene, yes. The code has regulation for access, vegetation control, mitigation personnel, actually it depends on the size, an agency or a company will be required to actually provide their own mitigation personnel to be locally established so in the event of an incident they would be responding to that incident because they're basically managing it.

COMMISSIONER GREENE: And then lastly, are you guys going through training to deal with this? Like everything from like when a Tesla, god forbid, gets in a car accident it's difficult to extract somebody because the jaws of life could cut through a power cable and send you somewhere you don't want to be. Same thing for these sort of situations. Is there – now we know what a Tesla is but are we going to identify these

buildings that have these power systems in them so that you can go in their safely to make sure that you're disabling it, fighting a fire, extracting the people that need it.

ASST. CHIEF BLAY: Madam Chair, Commissioner Greene, I will answer to the larger facilities question and they will be required to provide training to the local first responders. As far as the smaller vehicle fires –

CHIEF BLACK: Madam Chair, Commissioner Greene, yes. The short answer is yes. This is an ever-evolving challenge and it is something that we are actively trying to stay up on to make sure that we are trained so that we can be performing best practices.

COMMISSIONER GREENE: Thank you.

CHAIR HANSEN: Thank you, Commissioner Greene. Thank you, Commissioner Hamilton. Commissioner Hughes, do you have any comments?

COMMISSIONER HUGHES: Yes, I just have one question. I wanted to make sure I heard this correctly, or as I read it also. It seems like for the commercial installations of energy storage, it would require the developer to actually develop the mitigation measures and present them to us. Is that correct?

ASST. CHIEF BLAY: Madam Chair, Commissioner Hughes, what do you mean by communication measures?

COMMISSIONER HUGHES: Mitigation. Sorry. The mitigation for the explosions or the possible fires or anything like that.

ASST. CHIEF BLAY: Madam Chair, Commissioner Hughes, absolutely. They will be required to do a large-scale fire test per UL 95408, and seek approval from our office as far as their mitigation analysis plan.

COMMISSIONER HUGHES: And are we – do we feel like we have the necessary know-how within the Fire Department to evaluate these plans and the tests?

ASST. CHIEF BLAY: Madam Chair, Commissioner Hughes, we're getting there.

COMMISSIONER HUGHES: Okay. Thank you, Madam Chair. Those are my questions.

CHAIR HANSEN: Thank you. I want to go to public hearing.

COMMISSIONER BUSTAMANTE: Sorry, Madam Chair. And thank you both for the presentation. I had the same questions that Commissioner Greene had, and only because I was a hazmat responder, and I think it's easy to believe that we want to be prepared, but going to Katrina and having absolutely empty fire stations throughout the different parishes in Louisiana was a real telling story. When we talk about really having the resources that we need to respond to something that frankly, we have not seen in this area, with the exception of those big wildfires and the fires that we had, the Cerro Grande as well. We have the big fires. But when we start talking about this type of energy storage, large-scale, being prepared, it's really, really important that as projects are being evaluated for permitting, that as the planning is done and working – and I realize that I'm saying things that should be absolutely obvious, but as we're working with Growth Management and then things are approved by a Commission, that your view and insight into what the regulations are saying and how and what tools and resources would need to be in place. So not just a hazmat team from Los Alamos but something broader that has good infrastructure for a large-scale response is absolutely planned into.

Because I have seen the ugliest of things, and I'm not making that up. To show up and not have resources that were local, to have the National Guard be the entity, and frankly it was bigger than that. General Honore was calling the troops, literally.

So this is the kind of thing that we want to make sure, given the concerns of the community before us a few minutes ago come in with a concern about, that we are making sure that we have everything in place to address those. And I say that very cognizant of I just got sworn in in January. We sat down with everyone saying that we were short-staffed in all of these areas, but then today we definitely have the resources to be able to carry out this new regulation that's critical, because we need to move forward this way.

As our County Manager said, our time has run out. We cannot do anybody but go with renewables and we have to be able to store these energy systems and use them. But we also, and I'm begging everyone out loud, to please make sure that we have the infrastructure to sustain and protect our communities. We have no choice. It's that or petrochemical and we're already killing our children. So we have to, and it sounds dramatic. It sounds like hyperbole, and it's no really – kids are suing people for their future. Right?

So I say this in all sincerity. I say what will we do to make sure that the training is there by the neighboring communities and that the people who are living next door to these large installations have the resources that they need to be able to do what they have to do to mitigate an event, and we don't know what that event will look like right now. We can sit and pretend and say, well, we haven't seen and we know what they could. But we don't know yet.

So I say this with all sincerity. I have the most respect for you two and the work that you do and what you set out to do. I want to support completely what you see to happen, but I also want us to be aware that there are unknowns, and when we talk mitigation, it will be behind the wall. The dam can break, and they have.

So I'm grateful, but I felt very compelled to have to say I have the same questions that Commissioner Greene had, is how prepared will we be now that we're going to take on these new regulations and making sure that we can absolutely respond to them. So thank you sincerely for what you do and thanks for hearing me out. I hope I said it loud enough and passionately enough, because we can't say it often enough for what we're going to embark on to make sure that we're protecting our environment so that we can stay on this planet. Thank you.

CHAIR HANSEN: Thank you, Commissioner Bustamante. I wholeheartedly agree. So next I want to go to public hearing. Is there anyone who would like to make a public comment? Please come forward.

MS. WEST: Hello, my name is Elizabeth West, still. Do I need to do anything?

[Duly sworn, Elizabeth West testified as follows:]

MS. WEST: My name is Elizabeth West. I live at 318 Sena Street in Santa Fe, the South Capitol, and I know that I am under oath. I really appreciate what you two gentlemen said and I have stayed here because of course this does relate to the previous stuff that some people were talking about. Everything relates. But I want to tell you how important you guys are. And I want to underline that by responding to Commissioner

Bustamante. Thank you for your passion. It's great. I like it. And it's right. And you too, all of you, actually.

The weak link I see is possible that with a commercial enterprise, a big one that would go in, you did say something about the importance of having training or backup or something from the corporation or the business. And I wonder if we are going to be really prepared to be able to stand up to them. I don't want to judge an unknown group ahead of time, but in part of our preparation, Commissioner Bustamante, is securing protection for these people, men and women, who will be helping us if something happens, and I would like to see that somehow written in. I don't know how you would require that, and I don't know how the ruling that you're going to be working with has that item on it. But as long as it's there, that will help protect you, because you know what happens. Sorry, oh, the Fire Department failed. They didn't put out the "fire." And it's not their fault if they didn't have a good backing from the corporation, and honestly, some of these big corporations who don't get to know how we live here in this wonderful county

I don't want to accuse them without even knowing them that they might not care, but I don't want you guys in the cross-hairs, and that will really, really make me angry. So we want to be careful about protecting ourselves in relation to fire, of course, but also protecting the people who help protect us. And that's my turn now to say, Commissioner Bustamante, pardon my passion. Thank you.

CHAIR HANSEN: Thank you very much. Daniel, is there anyone online?

MR. FRESQUEZ: Madam Chair, we do have one speaker, two speakers online. The first one is Kay Cooper-Mead.

CHAIR HANSEN: Okay, so she needs to be sworn in.

[Duly sworn, Kaye Cooper-Mead testified as follows:]

MS. COOPER-MEAD: Kaye Cooper-Mead. I'm at 2 Mariposa in Eldorado, and I understand I'm under oath.

CHAIR HANSEN: Go ahead.

MS. COOPER-MEAD: I commend the County for updating the fire code to include lithium ion batteries. The only problem is that this may give the County Commissioners a false sense of security that these new codes will protect us. There is no protection against thermal runaway fires. A report entitled "Safety of grid-scale lithium ion battery energy storage systems" written by three UK physicists in 2021 states, "NFPA 855 uniquely requires evaluation of thermal runaway in a single module, array or unit and recognizes the need for thermal runaway protection. However, it assigns that role with complete futility to the battery management system, BMS. Thermal runaway is an electrochemical reaction which once started cannot be stopped electronically. A BMS can locate faults, report and trigger alarms, but it cannot stop thermal runaway."

AES has still not informed us with what they intend to use as a fire suppressant. Clean agent fire suppression systems are common in BESS, but are totally ineffective to stop thermal runaway acts. Toxic gas emitted would continue to present risks to the community and environment for the duration of the incident. Fire water will be contaminated with highly corrosive hydrofluoric acid. Contamination of groundwater must be prevented with many of us on wells. Utility-scale battery installations must be sited away from residential communities. Thank you.

CHAIR HANSEN: Thank you, Kaye. Is there anyone else, Daniel?

MR. FRESQUEZ: Madam Chair, our next speaker is Carol.

[Duly sworn, Carol Beidleman testified as follows:]

MS. BEIDLEMAN: My name is Carol Beidleman. My address is 35 Tetilla Road in Eldorado, and I understand that I am under oath. Thank you. Just very quickly. It's late. I appreciate the comments that were just made by Kaye Cooper-Mead. I appreciated the questions that the Commissioners asked after the presentation by Fire Marshal Blay and his staff. I just wanted to say that regarding his comment about location, I think that there's a lot of hyperbole about, some Henny-Penny about the fact that we must go forward with large-scale utility solar, anything goes, because of the climate crisis.

I more than anybody, after 45 years of a conservation career understand the crisis that we're in. However, I think that with all due respect, the Commissioners are missing that what would be great would be to have the Santa Fe County staff and Commissioners be pro-active in planning for where these sorts of facilities would be appropriate, most appropriate. Industrial sites –

CHAIR HANSEN: Carol, we are talking about the fire code.

MS. BEIDLEMAN: Yes, the fire code. That's what I'm talking about. Regarding the fire code, I greatly appreciate the work that was put into that. I think it's very important and it's important for you to pass it, but it shouldn't justify putting these sorts of facilities anywhere. They should be put where they're appropriate and not in residential communities. Thank you.

CHAIR HANSEN: Thank you very much. Okay. Hearing no more public comment, and seeing no more in chambers I am going to close public hearing and go back to discussion of the fire code. Are there any other comments from the Commission? Commissioner Hamilton.

COMMISSIONER HAMILTON: I don't have any more comments but I'd like to make a motion to approve the ordinance.

COMMISSIONER BUSTAMANTE: Second.

CHAIR HANSEN: Okay, so I have a motion from Commissioner Hamilton, a second by Commissioner Bustamante to approve the ordinance concerning the Santa Fe fire code.

COMMISSIONER GREENE: Under discussion.

CHAIR HANSEN: Under discussion.

COMMISSIONER GREENE: Just a comment under discussion. Thank you for bringing this forward. I appreciate this, but as you can see, there's a lot of technology moving at a fast pace, so I'd recommend trying to bring some best practices as we see, because sometimes these national fire codes can take a long time to get adopted, right? And it takes a while. So if we see other technologies such as we're working on a hydrogen hub for New Mexico, there may be some other areas to pipe in in the near future. So thank you. I'm in support of this but there's going to be some other places to keep abreast of these things before 50 years happen for the technology to energy.

CHAIR HANSEN: Thank you, Commissioner Greene. Jaome, do you have anything else you would like to say?

ASST. CHIEF BLAY: Madam Chair, Commissioners, I'm just here in case you had a question.

CHAIR HANSEN: Okay. Thank you very much. So this is a roll call vote. So could I please have a roll call?

The motion to approve Ordinance No. 2023-06 passed by unanimous roll call vote as follows:

Commissioner Bustamante	Aye
Commissioner Greene	Aye
Commissioner Hamilton	Aye
Commissioner Hughes	Aye
Commissioner Hansen	Aye

CHAIR HANSEN: Okay, the ordinance is passed. Yay. We have a new fire code. Congratulations both Chief Black and Jaome. Thank you for a great presentation. We really appreciate all the work that went into doing this.

ASST. CHIEF BLAY: Madam Chair and Commissioners, thank you for your time.

CHAIR HANSEN: Absolutely.

13. Public Hearings On Administrative Adjudicatory Matters

- A. Case # 23-5110 Miguel Hernandez Variance Appeal. Miguel Hernandez, Appellant, is Appealing the Santa Fe County Planning Commission's Final Order Denying a Variance Request. The Appellant Requested a Variance from the Setback Requirements Illustrated in SLDC Section 9.8. The 1.25-Acre Property is Zoned as Residential Estate (RES-E) within the La Cienega & La Cieneguilla Community District Overlay (LCLCCD). The Setback within the LCLCCD RES-E Zoning District is 25 Feet from the Front of the Property and 50 Feet from the Side and Rear of the Property Line. The Site is Located at 6 South Estrellas Road, Within Township 16 North, Range 8 East, Section 27, SDA-2 (Commission District 3) This Agenda Item Contains an Attachment.**

CHAIR HANSEN: We only have one case because B and C are both tabled, so I would like to go to Jose Larrañaga.

JOSE LARRAÑAGA (Building & Development Supervisor): Thank you, Madam Chair. Miguel Hernandez, applicant/appellant, is appealing the Santa Fe County Planning Commission's Final Order regarding a variance request. The applicant requested a variance from the setback requirements illustrated in SLDC Section 9.8. The 1.25-acre property is zoned Residential Estate within the La Cienega and La Cieneguilla Community District Overlay. The setbacks within the Residential Estate Zoning District

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are 25 feet from the front of the property and 50 feet from the sides and rear of the property line. The site is located at 6 South Estrellas Road, within Township 16 North, Range 8 East, Section 27, SDA-2, Commission District 3.

The applicant constructed a detached garage and a garage attached to the existing residence without obtaining a development permit from Santa Fe County. A complaint was received on September 19, 2022, and a notice of violation for unpermitted development was issued on September 20, 2022. The two structures do not meet the setback requirements outlined in the Sustainable Land Development Code.

On November 28, 2022, the applicant submitted a request for a variance to allow the two structures to be within the required setbacks of the SLDC. The applicant stated: "The need for the structures is for the protection of my personal property and vehicles. Removing this structure would cause significant hardship, especially financial hardship causing undue harm to myself and family."

Building and Development Services staff reviewed the variance application for compliance with all pertinent SLDC requirements, and found that the facts presented did not support the request for a variance to allow two garages to encroach into the required setbacks. Specifically, staff found that: there are other buildable areas on the property; the structures were constructed without permits; if the applicant would have consulted with staff prior to building the structures, staff would have advised him of the setback requirements, thus avoiding this situation entirely.

On January 12, 2023, the variance request was presented to the Sustainable Land Development Code Hearing Officer. The Hearing Officer memorialized findings of fact and conclusions of law in a recommended order on the request. The Hearing Officer, based on the evidence presented, found that the application does not satisfy the requirements of SLDC Section 4.9.7, and recommended denial of the variance request.

On February 16, 2023, the variance request was presented to the Santa Fe County Planning Commission. The Planning Commissioner conducted a public hearing on the application and found that the application was not well taken and ordered that the variance be denied.

The Planning Commission memorialized findings of fact and conclusions of law in a Final Order on the request on April 20, 2023. The Final Order was recorded on April 24, 2023.

The appellant submitted this appeal of the Santa Fe County Planning Commission's Final Order on May 15, 2023, which meets the timing criterion outlined in SLDC Section 4.5.4. The appellant states: "The decision to build without a permit was done with the understanding that I did not need a permit to build a structure that does not contain electrical or heat." The appellant also states, "when evaluating the development of my structure, I utilized my property plot information, that included details that stated I had a fifteen-foot shared easement and the structure was developed at ten feet into my side of the easement."

Staff would point out that the garage has a garage door opener so would utilize electricity for that purpose. The applicant stated that the garage would not be hooked up to the electricity. Typically, a structure or garage of this size would have interior lights, exterior lights, electrical outlets, and a garage door opener.

The applicant addressed the variance criteria and staff responded to the

applicant's comments.

The Planning Commission, Hearing Officer, and Building and Development Services staff reviewed the variance application for compliance with pertinent SLDC requirements and found that the facts presented do not support the request for a variance to allow two structures to encroach into the required setbacks; the current setbacks of the structures do not meet the standards of the SLDC Section 9.8.3.6.5.c.

Staff recommends the Board of County Commissioners deny the appellant/applicant's appeal of the Santa Fe County Planning Commission's Final Order denying a request for a variance to allow two structures to be within the required setbacks of the SLDC.

If the Board of County Commissioners finds that the variance request has met the variance criteria, staff recommends the following condition be imposed.

1. Mr. Hernandez shall submit (after the fact) development permit applications for all structures that are currently unpermitted on the property.

This report and the exhibits listed below are hereby submitted as part of the hearing record. Madam Chair, I stand for any questions.

CHAIR HANSEN: Are there any questions from the Board? I want to go to the applicant.

RALPH JARAMILLO: Madam Chair, members of the Commission. My name is Ralph Jaramillo. I reside at 9335 Bear Lake, Albuquerque, New Mexico, 87120.

MIGUEL HERNANDEZ Hi, everybody. My name is Miguel Hernandez. I live at 6 Estrellas Road South, Santa Fe, New Mexico.

[Duly sworn, Ralph Jaramillo testified as follows:]

MR. JARAMILLO: Thank you so much, Madam Chair, members of the Commission. My name's Ralph Jaramillo. I reside at 9335 Bear Lake Way in Albuquerque, New Mexico. I acknowledge that I'm under oath. Madam Chair, members of the Commission, first off, what I want to do is I want to congratulate Madam Chair Hansen for being elected as president at a national level here recently with the Women of the National Association of Counties leadership. That's stellar. Congratulations. At a national level, I commend you. Job well done and I know you'll do well, Madam Chair. So thank you for that.

Madam Chair, members of the Commission, Miguel Hernandez totally did what he did of total ignorance. There's no excuse for it. To come here, to have excuses why we did this or that. We're here. It's not. He has violated the rules and regs, the code of Santa Fe County and he does show remorse. He's remorseful, and he wants and pleads with Madam Chair and Commissioners with you all to see how we can remedy this, how we can move forward and work with Santa Fe County Land Use, with the department and CID and have to be to get the proper permits and protocol followed the right way.

This has taken a toll on him for a year now, barely a year now, what he's going through. He knew, he knows now if he had done it the proper way and reached out and asked for help we wouldn't be here tonight. I think he realizes that and he realizes that he doesn't want to be in this place again. It's taken a toll on him, himself, his wife of 20 years, his children, mentally, financially, and we plead with you that hopefully we can have some kind of resolution here tonight with an after the fact permit and that hopefully

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we can resolve this in one way shape or form with him.

It's something that's heavy on his heart and has been for nearly a year and again, just to reiterate, he wishes he knew back then what he knows today to do the right decision and make the right channel through Santa Fe County of what needs to be done here. So at this time I stand for questions. We stand for questions.

COMMISSIONER BUSTAMANTE: Madam Chair, I don't have questions of the applicant. I think it's been clear that, I'm just going to say, ignorance is no defense in the law. He broke the rules. I have to ask Penny Ellis-Green, in this score, 5. A, Mr. Larrañaga. But I think in the interest of remedying this situation, you can't go back and drive slower. Ignorance is no defense of the law, but we do have these setbacks that are out of compliance. They're not anywhere near and it's about going back and getting a permit, which essentially, wouldn't that be a variance? Wouldn't it have to be a variance in order to permit at this point, which I don't see it as appropriate. I see it as problematic to frankly anyone else who's trying to live within the code.

What would reclamate this situation? Would it be physically moving those structures? Would it be demolish of the structures? What would it entail, given that this wasn't done right, it isn't done right and it can't be redone?

MR. LARRAÑAGA: Madam Chair, Commissioner Bustamante, yes. It would require to demo the building so that's not within the setback. It shouldn't have been built within the setback, or there's other options too. Maybe talk to the neighbors, doing a lot line adjustment where possibly at least he could meet the 25-foot setback and do that kind of adjustment on the lot lines. Again, I don't have the configuration of his neighbors' property where he would have to adjust the lot lines to get that setback.

COMMISSIONER BUSTAMANTE: So it would require a lot line adjustment. That would require that the neighbors be willing to sell a portion of their property, or moving the structures.

MR. LARRAÑAGA: Madam Chair, Commissioner Bustamante, that's correct.

COMMISSIONER BUSTAMANTE: Right. Thank you.

CHAIR HANSEN: Can the structures be moved?

MR. LARRAÑAGA: Madam Chair, I think there's photos in there. If not, I have some. The garage – on attached to the house is pretty much framed. It isn't complete yet. It doesn't have a garage door but it has a concrete floor. It's attached. It can't be moved. It would be demo-ing the whole structure, try to salvage what they can.

CHAIR HANSEN: I didn't ask if it could be demo-ed. I asked if it could be moved.

MR. LARRAÑAGA: Madam Chair, I don't believe it can be moved. It's set on concrete. It's not a portable garage. It's a framed garage.

CHAIR HANSEN: I know but in the past people have moved houses. Mr. Jaramillo, do you believe that it could be moved?

MR. JARAMILLO: Madam Chair, members of the Commission, let me refer this question to Mr. Hernandez as far as I want to know the dimension of the structure. Okay, so it's 60 feet. So we're not in compliance. The difference is a few feet. What would be the difference in the feet then at 60 feet, what would we need to capture the 25 feet. We're not 25 feet there though, we're 50 feet. So no, that's not going to work,

because the side setbacks are 50 feet. The front is 25 feet. So basically it would take the whole thing to move. I was thinking that maybe we could move this structure and come in. Madam Chair, Commissioner Bustamante, when you had mentioned maybe we could do that, just going to take the whole structure and leave us ten feet with is. So no, it would not.

COMMISSIONER BUSTAMANTE: Madam Chair, so you're saying it's 60 feet long. What is the square footage?

CHAIR HANSEN: There's two buildings.

COMMISSIONER BUSTAMANTE: I just need it for –

MR. JARAMILLO: It's 30 by 60.

COMMISSIONER BUSTAMANTE: Thirty by sixty?

MR. JARAMILLO: 6-0, yes.

COMMISSIONER GREENE: 1,800 square feet.

CHAIR HANSEN: Commissioner Greene.

COMMISSIONER GREENE: So to Commissioner Bustamante and staff recommendation, have you approached your neighbor? Given the high cost of this, I look at your site plan. I look at your neighbor. I look at the opportunities and the high cost here. This is like resolvable with a lot line adjustment and swapping some land, and probably some money to your neighbor, which is probably a lot less costly than tearing this down and starting over. And so that would be my first step right now would be we've spoken, and you can address this as yes, we've spoken to the neighbor. We don't like them or they don't like us. They're pissed. Whatever the answer is there. But there's always a resolution there at some point that – not always. But can you address that?

MR. JARAMILLO: Madam Chair, Commissioner Greene, fortunately we have the neighbors here tonight. The neighbors on the south and on the north, so when they come forward maybe we can address the question to them. The question has not been posed to them that if we can do a lot line adjustment and take some property. Now the property on the left is Mr. Ramon who's here today. He sits on an acre and a quarter. To do a lot line adjustment for that one, I don't think it's going to fit within the envelope with the acre and a quarter that has been already at the minimum already through a family lot line adjustment.

COMMISSIONER GREENE: So to that point, if I may. How much property do you have? Do you have an acre and a quarter?

MR. JARAMILLO: Madam Chair, Commissioner Greene, yes.

COMMISSIONER GREENE: And the property to the north is an L-shaped lot that appears to wrap around you. Correct?

MR. JARAMILLO: Yes, sir.

COMMISSIONER GREENE: So imagine if you asked politely to swap and move your lot line north 50 feet to wherever you needed to, 45 feet, 50 feet, whatever it needed to be, and then you gave them 50 feet or equivalent amounts of land off the back of your lot. You still end up with an acre and a quarter to be compliant. Maybe you grant them an easement over those 50 feet so they get to use it, but you own it. So you end up with acre and a quarter, granting them an easement so they get, effectively, more land. But you end up getting an acre and a quarter, effectively less land because you've granted an easement to these folks there, just to be compliant. There's a way to do this.

MR. JARAMILLO: Madam Chair, Commissioner Greene, I think that's a good – it could be a solution. So what you're saying, it'd just be a washout. You take from the back and give from the side and vice versa, and it comes out to the same 1 ¼ acre.

COMMISSIONER GREENE: You need an acre and a quarter; they need an acre and a quarter, but maybe you move the line to your north so you get that extra space but you say I'm going to give it to you, back to you as an easement, and then they have the rights to use it but effectively it's your land. It becomes compliant. Your building is compliant. You give them, because you've taken their land there. You swap land off of the back of your lot to be the equivalent footprint so that you have the same footprint so again, the two lots are compliance. You trade some money. You gave them the land as an easement area and we're compliant.

And just speaking out loud here, I'd give you 30 days, right? Figure this out. We could table this for 30 days. You could come back. If you need 60 days that's fine. And you can work it out with your neighbor. That's the most cost-effective solution here. It's not pretty, but it's a lot prettier than tearing this thing down.

MR. JARAMILLO: Madam Chair, Commissioner Greene, let me defer this question as well. [Speaking to applicant] Would that affect the septic in any way if you were to do something like that? Do you think that would work? You know your property. Do you think that could work? Just look at the dimensions.

Madam Chair, Commissioner Greene, I think it's something and it could be doable, so I would appreciate a table and if you could let us review it and come back in 30 days. As far as a lot line adjustment, is it something that we can do as administrative?

COMMISSIONER GREENE: I would not ask me but ask those folks. Can the lot line adjustment that gets negotiated between the two allow for two compliant lots and to assess the setbacks. Can that be done administratively?

MR. LARRAÑAGA: Madam Chair, Commissioner Greene, yes. That can be done administratively. I don't know if you want to go to Exhibit 2, page 33, which is the plat of the property.

CHAIR HANSEN: So the appeal or the appeal exhibits?

MR. LARRAÑAGA: So it would be page 33, it should be –

COMMISSIONER GREENE: It would be the big one if it's 33, so the exhibits –

COMMISSIONER BUSTAMANTE: Sorry, Madam Chair, Mr. Larrañaga. Page 33?

MR. LARRAÑAGA: Yes. It should be Exhibit 2.

CHAIR HANSEN: It's got the public notice, go on to 30 – okay. Existing home, carport – okay. At 6 South Estrellas Drive. I think that's – okay. So at the moment, it's 21 and 28 from the gate is what it says. Is that?

COMMISSIONER GREENE: That's the other building. So that's the carport, and then there's the garage that's on the other side, which I think is –

CHAIR HANSEN: It's not on this drawing.

COMMISSIONER GREENE: Absolutely. Right. You may have to choose – pare one down and because you can't figure it out you may choose, but I'd be willing to give them a shot at 30 days to do this, right?

CHAIR HANSEN: So what I would like to know is, Miguel, if you move the large, long carport in the front –

COMMISSIONER GREENE: No, the other one isn't. So one of the buildings is a little metal building.

CHAIR HANSEN: Okay. I see. Okay. It doesn't look like it in the picture.

COMMISSIONER HAMILTON: It says – and that's the 30 by 60. That looks like it's attached to the house.

CHAIR HANSEN: So on this drawing, labeled carport. Can that be moved? Because that has to be moved back also? Is that true? Is it on cement?

COMMISSIONER GREENE: That part. The other is more an addition to the house.

CHAIR HANSEN: We're trying to find a solution here.

MR. JARAMILLO: Madam Chair, Commissioner Greene, so we're going to need approximately 40 feet on that area, on that north side. This plan says that he has –
[The Commission had discussions among themselves.]

COMMISSIONER BUSTAMANTE: Madam Chair, I'd like to ask Penny to look at something on my screen.

CHAIR HANSEN: Okay, we're starting to have a closed meeting, so I apologize.

COMMISSIONER BUSTAMANTE: We're looking at a map trying to see what's really attached on a map.

CHAIR HANSEN: The pictures are not the reality that exists from what I can gather. So what do your neighbors have to say?

MR. JARAMILLO: Madam Chair, Commissioners, he's not opposed to it. He said he'd take a look at it. But I think what's happened here. I've been talking to Jose here, it could affect his setbacks now, if he did that, because we need forty feet of his, which is not going to impede on his setbacks.

COMMISSIONER GREENE: It's possible this is a puzzle piece but I don't think the argument is a winning argument in the current argument. I mean of course you've got five Commissioners you've got to convince three of us. I would just sort of recommend working with your neighbor in any way possible to work this solution as opposed to force the variance or force the appeal, right? Force the variance and force the appeal. I don't know. A vote is a vote, right? And you may not want to go down that path or you may want to buy 30 days and see if you can figure it out. That is just my suggestion. Again, even with a tabling motion I need to convince two other Commissioners.

COMMISSIONER HUGHES: Yes, Madam Chair.

CHAIR HANSEN: Yes, Commissioner Hughes.

COMMISSIONER HUGHES: I would like to hear the public hearing, if anybody came to speak. We've only heard one side of this argument and before we even table it I would want to hear from the neighbors and anybody else who came to speak

CHAIR HANSEN: Okay. So we're going to have a public hearing. One moment. You're going to have to get sworn in. Raise your right hand.

[Duly sworn, Ramon Polanco Carranza testified as follows:]

RAMON POLANCO: [inaudible] Miguel is my neighbor. I don't know.

For me everything is okay.

CHAIR HANSEN: You're okay with the way it is right now?

MR. POLANCO Uh huh.

CHAIR HANSEN: Okay. Would you consider the selling and then an easement?

MR. POLANCO: I don't know about that, because my entrance is very skinny. It's not wide.

COMMISSIONER GREENE: There is a way to keep your lot essentially the same size, maybe even larger. This is between you and your neighbor, but you would sell that 50 or 40 feet that is necessary for them, but they would place an easement on it, saying that they would never build on it, and that you would have the access to have all of that space. I see a sheep on there. It's great. You would be able to use it. So there's a way to make this work, but you effectively would have the same shape property, but it just makes it compliant with our regulations. And the two of you – it's wonderful. You both in the same room and you're willing to talk about this. This is a relatively easy conversation to have. Complicated, but easy because you guys are in the room.

MR. HERNANDEZ: I can try 30 days and see how it's going to work.

CHAIR HANSEN: [inaudible]

MR. HERNANDEZ: Yes.

COMMISSIONER HUGHES: Commissioner Hansen, your microphone is off.

CHAIR HANSEN: I'm sorry. One, he agreed – you would like 30 days. The neighbor – are there other people in the room who would like to make a public comment?

[Duly sworn, Gerardo Ornelas testified as follows:]

GERARDO ORNELAS: My name is Gerardo Ornelas, and my address is 8 Estrellas Road South. My comment is just that I'm okay with him. I have no problems with his building right there, and I think he's [inaudible] good so it doesn't affect me at all. I'm probably on the other side. It's not near me, the building, so that's the comment that I have.

CHAIR HANSEN: [inaudible] Okay. So thank you for making that comment. So it doesn't seem that we have any people –

MR. JARAMILLO: Madam Chair, may I? As to your question, I think we have the north, I think we can take care of the north. But now, this gentleman that just spoke, his neighbor on the south, now we have the same problem with him. We only have 20 feet there.

CHAIR HANSEN: Can't you move that because it's just a metal building? It looks like it's a metal building that you can move.

MR. HERNANDEZ: Well, it's not metal. It's a concrete pad and it's framing and it's spray foam inside and it's – there's a lot of work right there because it's just [inaudible]

COMMISSIONER BUSTAMANTE: Madam Chair. So it's inconvenient. I have to be very honest. It concerns me that people have gone and they do things without going through the proper procedures, and now it's inconvenient to move it, but what would happen even if we have the agreement with you and your neighbor and you may

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be there forever; you may not be. But now we have an allowance some place where the neighbors may change and someone's wondering why their lot is so much closer together, and an exception was made because frankly the code and the law was not abided by.

That's problematic for me. And I have to be very honest because I happen to know that by pursuing and doing one, and yes, it should be one case at a time, but there's a floodgate. Because there are a lot of people in many of these rural areas who have moved forward without asking or going through the proper channels to do what needs to be done to get construction through, and then to go through an after the fact variance. I think that we have been generous, and I'm very grateful for Commissioner Greene wanting to work with you to think outside of the box, to say that you would have 30 days. And I will be honest, as the Commissioner in District 3, a willingness to say I'm willing to look at that, if we have 30 days for you to come up with a solution.

But to say it could be a solution but it's going to be too much of a hardship on me, I'm saying right now, the hardship is the failure to abide by the laws and the regulations. That being said, you find a way to make it convenient for yourself or we just move forward with the non-compliance and say that there will be no variance. So I think there is a choice here. I am willing to here, and it really is where a Commission of five will work together. We have to work this way. But I have a very gracious offer on the table to say that there would be 30 days to figure this out and work with Growth Management in the interest of seeing if something can be done to bring this within compliance. But I am not of the nature to say this is a variance because someone didn't follow the law, or else I would have everyone down the street coming for the same exact thing. Trust me. I know they're waiting to do so.

That being said, I really look to my fellow Commissioners and what would be appropriate. Do we want to allow for 30 days or would you rather just go with the next motion that I'm willing to make. So I think we have a Commission that's willing to make a proposal that you go with a table and the opportunity to figure out a solution to your problem and find a way to fix it, or I could make a different motion at this time. But I would leave that up to our chair and the other Commissioners as to how you'd like to move.

CHAIR HANSEN: Commissioner Hughes, I'll let you go first.

COMMISSIONER HUGHES: Thank you. No, I would say that I think that it's fine to go ahead with the 30 days, because we might be able to fix it on one side at least. So I'm fine with tabling it and going ahead 30 days, but like Commissioner Bustamante, I want to see something brought forward that is in compliance with our regulations because the applicant is the one who made the mistake by not getting a permit and building where he shouldn't have.

CHAIR HANSEN: Okay. Commissioner Greene.

COMMISSIONER GREENE: Can I ask you a question? In the city, if you build – we have setbacks here in the city and I've had an instance where I've gone to my neighbor and I've been able to go to a zero lot line with an affidavit and there's a document in City ordinance or in the City code that allows you to go to a zero lot line or under the setback line. Is this something that could be done with an agreement between neighbors as long as it passes the fire code. Right? So there's windows on that north side.

There's a bunch of things here, so maybe it doesn't even had to go to the lot line thing but he goes with a zero lot line agreement or whatever the County equivalent is.

PENNY ELLIS-GREEN (Growth Management Director): So Madam Chair, Commissioner Greene, the setback that they're asking a variance for is one that was proposed by the community in their community ordinance. What you're talking about is possibly an easement with your neighbor to say that they won't build in whatever distance.

COMMISSIONER GREENE: There is a form at the City that says build this out, get your neighbor to sign it with a notary, and you can adjust your setback up to a zero party wall setback.

MS. ELLIS-GREEN: I don't know if there's something like that that we do here at the County. We will look at all the options if you do table for a month. We'll look at all the options that are available to the applicant and come back with either something that if it meets code then it wouldn't need a variance. If it becomes more of a minimal easing we could bring it back at that point and let you know what we've looked into.

COMMISSIONER GREENE: So just to finish the thought, in the case of the City, when you go to a zero lot line, the five feet is considered a fire separation. But if you're under the five feet you have another set of requirements that you have to do because you're less than five feet and the fire separation is now a different thing. So you have to have party wires, you have to have fire separation between you and the neighbor. So for instance, when I look at the Google street thing there are windows on the side there. But I bet you there's enough separation. It seems like ten feet. So the fire code is probably not an issue. I just would want to check with the Fire Marshal to make sure that those separation goals and fire safety goals are allowed.

But this is another version of how the City's done it. In the case in parts of downtown, Agua Fria Village, we have party wall situations, essentially townhomes that were built pre-code, and they were like, how do we get around this? Well, you have to go to your neighbor. You have to get a zero lot line agreement, and then –

CHAIR HANSEN: So what I'm hearing, Commissioner Greene, is that any of our staff is willing to work with them to figure out the solution that you have come up with with this possible lot line adjustment and easement so that in reality, Miguel might own that land, but in reality the neighbors still have complete access to it in an easement. It just allows him to have his house, basically. So I'm going to go to Commissioner Hamilton.

COMMISSIONER HAMILTON: Thank you, Madam Chair. This is getting stretched beyond the tensile strength of the situation. I have no problem with tabling for 30 days to see if they can work something out but there's got to be limits. I actually support what Commissioner Bustamante said. This is her district. And it has to be something that approaches compliance in our regulations, not anybody else's because otherwise, it's just a variance, and there are reasons those were denied twice. If there is something that is beyond, well, this is inconvenient, because, yeah, it's really inconvenient to move a building, but there are things possible, so do something that helps fix this situation or all of us are going to have everybody coming in and going, well, why do I have to do any setbacks. Because come people don't – so I just wanted to speak in

support of Commissioner Bustamante's point.

CHAIR HANSEN: Okay. So Commissioner Greene, would you like to make a motion?

MR. JARAMILLO: Madam Chair, Commissioners, Commissioner Bustamante, I want to thank you for those words and we do respect your district, and I know Mr. Hernandez does, especially now after all that he's gone through. Words well spoken. I want to apologize for my client. I think he was out of line, but the thing is he's been going through this for a year and he's just feeling his frustration. I know he's sorry. He didn't mean to feel the way he came across. I felt it myself and I'm sure he did more as well. Thank you for reconsidering the 30 days, Madam Chair, with that. I'd like to ask you guys for your approval to give us 30 days to figure something out to bring to you all. Thank you.

CHAIR HANSEN: So I'm not closing public comment. Okay. I'm just making that clear to Jeff. I haven't forgotten that I opened it up. We're not going to close it either. I'll let you make a motion for the 30 days.

COMMISSIONER GREENE: Thank you, Madam Chair. Thank you to everybody here. Thank you to staff for trying to work through this thing. So thank you, everybody. I make a motion to table Case #23-5110, the Miguel Hernandez Variance Appeal for 30 days pending a solution that allows it to come into compliance.

COMMISSIONER HUGHES: Second.

CHAIR HANSEN: Okay I have a motion from Commissioner Greene, a second by Commissioner Hughes. I don't have to do discussion on a tabling.

COMMISSIONER GREENE: Just to make sure 30 days is till the second meeting in September.

MR. YOUNG: Madam Chair, we will continue the public hearing as you stated, so we will post a notice of continuation of meeting at this particular public meeting to the next regular scheduled meeting.

CHAIR HANSEN: At 30 days. So end of September.

COMMISSIONER GREENE: So the second meeting in September is slightly less than 30 days, so let's just be clear, 28 days.

CHAIR HANSEN: If they've almost got it worked out.

COMMISSIONER HAMILTON: We'd have to have a special meeting.

CHAIR HANSEN: No, no special meeting, there's a meeting the beginning of October.

COMMISSIONER HAMILTON: But that's point. That's more than 30 days. It's not 30 days one way or the other.

COMMISSIONER GREENE: Twenty-eight days, the second meeting in September. So amending my motion to table until the second meeting of September for them to resolve this issue through lot line adjustment or other mechanisms that bring it into compliance.

CHAIR HANSEN: Okay, is that all right with you, Commissioner Hughes?

COMMISSIONER HUGHES: Yes, that's fine.

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

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CHAIR HANSEN: Thank you, Mr. Jaramillo. Thank you, Mr. Hernandez. Good luck. Thank you, Mr. Ornelas and everyone who came to testify. And good luck, Penny and Jose.

- B. Case # 22-5211 LRA Growers LLC, Conditional Use Permit (CUP) Appeal. **TABLED UNTIL SEPTEMBER 26, 2023**
- C. Case # 21-5070 Sierra Vista Subdivision for Preliminary and Final Plat Approval. Reality Profit Sharing Plan (TABLED

14. Informational Items / Reports

- A. **Community Development Department July 2023 Monthly Report**
This Agenda Item Contains an Attachment.
- B. **Community Services Department July 2023 Monthly Report**
This Agenda Item Contains an Attachment.
- C. **Finance Division June 2023 Monthly Report**
This Agenda Item Contains an Attachment.
- D. **Growth Management Department July 2023 Monthly Report**
This Agenda Item Contains an Attachment.
- E. **Human Resources Division July 2023 Monthly Report**
This Agenda Item Contains an Attachment.
- F. **Public Safety Department July 2023 Monthly Report**
This Agenda Item Contains an Attachment.
- G. **Public Works Department July 2023 Monthly Report**

See Matters from the Commissioners.

15. Concluding Business

- A. **Announcements**
- B. **Adjournment**

Upon motion by Commissioner Greene and second by Commissioner Bustamante, and with no further business to come before this body, Chair Hansen declared this meeting adjourned at 8:57 p.m.

Approved by:


Anna Hansen, Chair
Board of County Commissioners

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ATTEST TO:



KATHARINE E. CLARK
SANTA FE COUNTY CLERK



Respectfully submitted:

Karen Farrell, Wordswork
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