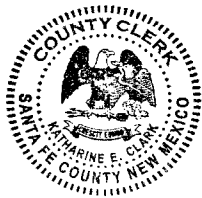


SANTA FE COUNTY
BOARD OF COUNTY COMMISSIONERS
REGULAR MEETING

November 14, 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

REC'D
CLERK
RECORDED
12/28/2023



COUNTY OF SANTA FE)
STATE OF NEW MEXICO) ss

BCC MINUTES
PAGES: 120

I Hereby Certify That This Instrument Was Filed for
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Witness My Hand And Seal Of Office
Katharine E. Clark
Deputy *Mari B. Hill* County Clerk, Santa Fe, NM

SANTA FE COUNTY

REGULAR MEETING

BOARD OF COUNTY COMMISSIONERS

November 14, 2023

1. A. This regular meeting of the Santa Fe Board of County Commissioners was called to order at approximately 3:06 p.m. by Chair Anna Hansen in the County Commission Chambers, 102 Grant Avenue, Santa Fe, New Mexico. The meeting was delayed due to internet connection problems.

B. Roll Call

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

Members Present:

Commissioner Anna Hansen, Chair
Commissioner Hank Hughes, Vice Chair
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 Steve Orr of Sheriff's Office. Chair Hansen acknowledged that 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 Hansen asked for a moment of silence for those throughout the world suffering in wars, and thanked the veterans. She also recognized the presence in chambers of Sheriff Adan Mendoza and Undersheriff Ken Johnson, as well as County Assessor Isaiah Romero and his deputy Ivan Berry.

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1. G. Approval of Agenda

CHAIR HANSEN: Manager Shaffer, do we have any changes to the agenda?

GREG SHAFFER (County Manager): Madam Chair, Commissioners, the initial agenda for today's meeting was posted on Tuesday, November 7th and the amended agenda was posted on Thursday, November 9th at approximately 3:13 pm, which is in excess of 72 hours of today's meeting as required by the Open Meetings Act. The only substantive change between the initial and amended agenda was to add agenda item 11. B. 2, under Executive Session, which is FMCS Case #23-0130-03039. And staff is not recommending any additional changes to the agenda as presented at this time. Thank you.

COMMISSIONER HAMILTON: Madam Chair, move to approve the agenda.

COMMISSIONER GREENE: Second.

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

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

2. Approval of Meeting Minutes

A. Request Approval of the October 10, 2023, Board of County Commissioners Regular Meeting Minutes.

CHAIR HANSEN: Do I have a motion?

COMMISSIONER HAMILTON: I move to approve.

COMMISSIONER HUGHES: Second.

COMMISSIONER GREENE: Madam Chair, I had one correction that I found.

CHAIR HANSEN: Okay. Under discussion, Commissioner Greene.

COMMISSIONER GREENE: On page 28, maybe it's line 10. I thought we were giving condolences to former Governor Raymon Romereau, the Pueblo of Tesuque, but it was listed as somebody else from the Pueblo of Pojoaque. So I don't. Maybe, since I don't have notes in front of me except my notes, I can't go cross-reference that. But if they could check that to make sure that we were acknowledging the correct person at the time.

CHAIR HANSEN: Okay. This is page 28?

COMMISSIONER GREENE: Page 28, yes.

CHAIR HANSEN: Okay. We can check with Debbie and Karen.

COMMISSIONER GREENE: Thank you.

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

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

B. Request Approval of the September 28, 2023, Board of County

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Commissioners Special Strategic Planning Meeting Minutes.

COMMISSIONER HUGHES: I move for approval.

COMMISSIONER HAMILTON: Second.

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

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

C. Request Approval of the September 29, 2023, Board of County Commissioners Special Strategic Planning Meeting Minutes

COMMISSIONER HAMILTON: Move for approval.

COMMISSIONER HUGHES: Second.

CHAIR HANSEN: Okay, I have a motion from Commissioner Hamilton, a second from Commissioner Hughes. Under discussion? Seeing none.

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

3. Consideration Proclamations, Resolutions, and/or Recognitions

A. Request Approval of a Proclamation Proclaiming November 12-18, 2023, as “National Nurse Practitioners Week”

CHAIR HANSEN: Commissioners Bustamante and Hughes.

COMMISSIONER BUSTAMANTE: Commissioner Hughes, I'd like to defer to you to read it please.

COMMISSIONER HUGHES: I would read it if I had a copy and I can't get a copy because the internet is down.

COMMISSIONER BUSTAMANTE: I am having the same problem. But let's speak to the importance of it.

COMMISSIONER HUGHES: We're getting a hard copy that we can read.

COMMISSIONER BUSTAMANTE: While we're getting our hard copies, the importance of recognizing nurses in our communities and why I was honored and had the opportunity to co-sponsor this with Commissioner Hughes is the one thing that we know about nurses is that it is a rigor. The training is something that is very – it asks a lot of person. And the nurses have stood up, have proven – we just got out of the COVID situation and people who went to work, exposing themselves, exposing in turn those they love, to something that was incredibly not even understood initially.

To have seen and to know what it means to, one, become a nurse, and then to have someone commit to serving in the capacity of assuring that all of our lives are better. Every single one of us has been across the table, across the bench, whatever it is, wherever we're seeing a nurse, we've all been there with a nurse. So I am absolutely grateful, honored, and in absolute full respect of anyone and everyone who chooses to serve in their occupation as a nurse.

COMMISSIONER HUGHES: Madam Chair, I now have the proclamation

which I could read and I agree with everything Commissioner Bustamante said. I would only add that I, like many people, rely on nurse practitioners to keep me going and so appreciate their service to our community. And I think what I'll do, maybe I'll read the first half and then bring it over to you to –

COMMISSIONER BUSTAMANTE: I actually didn't get the full proclamation so go ahead and just read it.

COMMISSIONER HUGHES: Okay. Here we go.

Whereas, Nurse Practitioners play a critical role in the healthcare system of Santa Fe County and across New Mexico, providing high quality, patient-centered care in a variety of settings, including primary care practices, hospitals, clinics, and long-term care facilities across the lifespan; and

Whereas, Nurse Practitioners are highly trained licensed professionals who have completed rigorous education and clinical training, including a master's or doctoral degree in nursing and national certification in their area of specialization; and

Whereas, New Mexico has been a leader in recognizing the importance of Nurse Practitioners and granted them full scope authority to practice to the full extent of their education and training without the need for physician oversight or collaborative practice agreements, which has improved access to care and increased healthcare efficiency; and

Whereas, there are more than 325,000 licensed Nurse Practitioners in the United States, with over 3,000 practicing in the State of New Mexico alone, making up nearly one-third of all advanced practice registered nurses in the state; and

Whereas, Nurse Practitioners are providing care to an increasingly diverse patient population, with nearly 20 percent of all nurse practitioners providing care in rural and underserved areas, and over 20 percent providing care to Medicaid and Medicare beneficiaries throughout the Nation; and

Whereas, Nurse Practitioners are vital to addressing the growing demand for primary care services, with over one billion visits to nurse practitioners each year, and an estimated one in five Americans receiving care from a nurse practitioner annually; and

Whereas, Nurse Practitioners are helping to improve health outcomes and reduce healthcare costs, with studies showing that Nurse Practitioners provide care that is comparable in quality and outcomes to physician-led care, while also reducing emergency department visits and hospital readmissions; and

Whereas, Nurse Practitioners are committed to promoting health and preventing illness, and work tirelessly to educate patients and their families about healthy lifestyle choices and disease prevention strategies; and

Whereas, Nurse Practitioners advocate for health equity and healthy outcomes for all; and

Whereas, the New Mexico Nurse Practitioner Council is a professional organization that represents nurse practitioners across the state and advocates for policies and initiatives that support the advancement and recognition of Nurse Practitioners in New Mexico; and

Whereas, the Santa Fe County Commissioners recognize the significant contributions of Nurse Practitioners to the health and wellbeing of our community, and we call on all citizens to recognize their critical role in the healthcare system of Santa Fe County and across New Mexico; and

Whereas, the Santa Fe County Commissioners commends the New Mexico Nurse Practitioner Council for their leadership and dedication to advancing the nursing profession and improving access to quality healthcare in our state; and

Whereas, the Santa Fe County Commissioners urge all citizens to join us in celebrating National Nurse Practitioners Week and in recognizing the vital role that Nurse Practitioners play.

Now, therefore, be it resolved that we, the Board of County Commissioners of Santa Fe County, do hereby proclaim the week of November 12th through 18th as: "National Nurse Practitioners Week".

We express our support for the New Mexico Nurse Practitioner Council in their efforts to advocate and support nurse practitioners and the patients they serve.

Thank you.

CHAIR HANSEN: Thank you, Commissioners Hughes and Bustamante I think we all benefit from the service of Nurse Practitioners throughout county and so I would like to ask for a motion.

COMMISSIONER HUGHES: Madam Chair, I'll move to adopt the proclamation.

COMMISSIONER BUSTAMANTE: I'll second that.

C: Okay. So I have a motion from Commissioner Hughes and a second from Commissioner Bustamante.

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

CHAIR HANSEN: So now, therefore, be it resolved that we, the Board of County Commissioners of Santa Fe County, do hereby proclaim the week of November 12th through 18th as: "National Nurse Practitioners Week".

3. B. Request Approval of a Proclamation Proclaiming the Month of November as "Native American Heritage Month"

CHAIR HANSEN: I have asked Valerie Rangel and Laura Jagles from our staff to please read this proclamation up to "Now, therefore", and we will take it from there. But thank you, ladies, very much for being present to fill the space for all the Native American tribes in New Mexico.

LAURA JAGLES (Constituent Liaison): [Remarks in Tewa] I am Laura K. Jagles. I'm from Tesuque Pueblo. I am also Shoshone and claim Tekanan heritage.

VALERIE RANGEL (Assessor's Office): I'm Valerie Rangel. I have mixed ancestry that include Lipan, Mescalero Apache, and Diné.

MS. JAGLES: Proclaiming the month of November as Native American Heritage Month.

Whereas, in 1990, President George H.W. Bush approved a joint resolution designating November 1990 “National American Indian Heritage Month” to recognize the achievements and contributions of Native Americans; and

Whereas, similar proclamations, under various names, including “Native American Heritage Month” and “National American Indian and Alaska Native Heritage Month” have been issued every year since 1994; and

MS. RANGEL: Whereas, Native American history is American history and by recognizing that there are 574 tribes in the US, we can build a future that is equitable and inclusive celebrating living Native cultures and traditions; and

Whereas, National American Indian Heritage Month provides an opportunity to educate our community about indigenous tribes and raise awareness about the unique challenges Native people have faced historically and highlight the ways native peoples have endured and overcome these challenges; and

MS. JAGLES: Whereas, in October of 2021, the United States Department of the Interior Secretary Deb Haaland signed the Not Invisible Act of 2019 into law to address the disproportionate numbers of missing and murdered indigenous peoples. The Not Invisible Act Commission is a cross-jurisdictional advisory committee composed of law enforcement, tribal leaders, federal partners, service providers, family members of missing and murdered individuals, and most importantly – survivors; and

Whereas, in November of 2021, President Biden adopted a proclamation declaring the month of November as Native American Heritage Month in the United States; and

MS. RANGEL: Whereas, in 2021, the United States Department of the Interior Secretary Deb Haaland announced plans to investigate the troubled legacy of past boarding schools run by the government and religious organizations to assimilate Native children to white culture across the U.S. The review titled, the “Federal Indian Boarding School Initiative”, will create a comprehensive report on schools, including identifying “cemeteries and potential burial sites: where Native children may have been buried. The initiative “will serve as an investigation about the loss of human life and the lasting consequences of residential Indian boarding schools;” and

Whereas, Preston McBride, a Dartmouth College scholar, documented at least 1,000 deaths at just four of the five hundred Indian boarding schools that existed in the United States, including the non-boarding schools on Indian reservations; and

MS. JAGLES: Whereas, as of October 11, 2021, the Federal Bureau of Investigation listed 192 missing and/or murdered indigenous peoples in New Mexico; and

Whereas, Native Americans serve in the military at a higher rate than any demographic, and tribal languages of Hochunk, Eastern Band Cherokee, and Choctaw created code utilized during World War I and the languages of the Navajo, Comanche, Chippewa, Oneida, and Meskwaki were utilized for code during World War II; and

MS. RANGEL: Whereas, Santa Fe County shares within its boundaries, eight sovereign Pueblo nations: San Felipe, Santo Domingo, Cochiti, Tesuque, Pojoaque, Nambe, San Ildefonso, and Santa Clara Pueblos; and

Whereas, the County recognizes that Native Americans inhabited the lands known as the Americas since long before they became known as the Americas; and

MS. JAGLES: Whereas, Native American people specific to this area have inhabited this land for centuries, under their own governance while simultaneously under the countries of Spain, Mexico, and now the United States; and

Whereas, Native American people's cultures, languages, and traditions persist despite multiple means to annihilate them; and

MS. RANGEL: Whereas, the County recognizes that the primary languages of the pueblos within its boundaries include Keres and Tewa, which continue to be spoken and taught; and

Whereas, local pueblo nations contribute to the economy and workforce, providing economic stability and employment for local residents; and

MS. JAGLES: Whereas, the County and neighboring tribes finalized the Aamodt Water Rights Settlement, which eventually produced the Nambe-Tesuque-Pojoaque-San Ildefonso road settlement agreements and the building of the Pojoaque Basin Regional Water System; and

Whereas, the County and tribal councils continue to partner on various intergovernmental matters including transportation, broadband, public safety, protection of the Caja del Rio, and legacy waste cleanup at Los Alamos National Labs; and

MS. RANGEL: Whereas, farming practices of several New Mexico tribes assist us with preserving our seeds and water resources, and we continue to seek their advice for how we sustain and remediate our natural environment; and

Whereas, sovereign Pueblo nations' vibrant heritages, technology, science, philosophy, art, and deep cultural contributions considerably shape the character of Santa Fe County; and

MS. JAGLES: Whereas, the County encourages residents, public institutions, and local organizations to pay respect to Native American communities and indigenous neighbors and create an intentional relationship of reconciliation, truth-telling, and co-existence; and

Whereas, together we hope to preserve and treasure the Native American people for their resiliency, traditions, and unwavering desire to instill their language and culture for future generations, and we support their efforts.

Now, therefore, be it resolved-

CHAIR HANSEN: Thank you very much, Laura and Valerie, for this proclamation and for reading it. It is very meaningful and very unique to New Mexico and to Santa Fe County, which gives it its own beautiful intention, which I think is really so important.

So I'm going to ask that now, therefore be it resolved that we, the Board of County Commissioners of Santa Fe County do hereby proclaim the month of November as Native American Heritage Month. Approved, adopted and passed on this 14th day of November 2023.

COMMISSIONER HUGHES: I'll second that motion.

CHAIR HANSEN: Thank you. So I have a motion by myself and a second by Commissioner Hughes.

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

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CHAIR HANSEN: And now, under discussion, if anyone would like to say anything, make any comments. Commissioner Bustamante.

COMMISSIONER BUSTAMANTE: Thank you, and thank you for the recognition. To say that the importance of recognizing the resiliency, our ability to live in such a harsh environment, to have learned from our Native cousins, brothers, sisters, is an understatement. There would not be life where we are had we not learned how to live where we are for those Europeans, some of which are both – and what it meant to be able to grow food, harvest water, take it to the places where you needed it – so many of those elements are part of what Greg Cajete calls Native Science, about that role of sustainability that is truly something that we all could learn from.

So I'm absolutely grateful, and it's important to never forget that life happens here because there are people who lived here and have taught people how to live here on this land and the earth the way it is. So thank you. And I believe that our lessons as we continue to deal with climate change will still come from the wisdom of the people who lived on this land before the Europeans. Thank you sincerely.

CHAIR HANSEN: Commissioner Greene.

COMMISSIONER GREENE: Thank you, Madam Chair and thank you to the Chair and to Laura and Valerie for bringing this forward and speaking it out loud for us to hear in public. I've been blessed to work with a number of the pueblos in the northern part of the county over the years and surely attribute a lot of my world view to things that they've allowed me to understand through a little gentle coaxing and mentorship. And so Native American Heritage is near and dear to me. I think we all have a lot to learn from the indigenous learnings that being from a certain place provides and as a relative outside and an immigrant, a son of immigrants to this country I feel privileged to be in a community that has a strong Native American influence, so thank you very much.

CHAIR HANSEN: Thank you. Commissioner Hughes.

COMMISSIONER HUGHES: I agree with everything the previous Commissioners said and thank you for bringing this forward and I would only add that I too feel blessed to live in a community where we have such close ties with our Native American friends and co-workers. And thank you for bringing the proclamation. Thank you for reading it.

CHAIR HANSEN: I just want to remind everyone that our Native American brothers and sisters have been here from time immemorial. This is their land that we have the privilege to sit and stand on, and I am eternally grateful to live here and work here and have spent my last 50 years on this incredible land. So thank you very much and thank you to all of our Native American tribes throughout New Mexico. We are incredibly fortunate to have them here as our brothers and sisters. So thank you.

3. C. **Request Approval of Letter from the Board of County Commissioners to the New Mexico Public Regulation Commission in Support of Petition for Variance from Community Solar Rules**

CHAIR HANSEN: This was in your packet. What has happened is that the attached letter from the Board of County Commissioners of Santa Fe County supports a petition for a variance from the Community Solar rules. The Board supports a request for a variance to both the rule requiring projects reach 30 percent low income subscribership within one year of project selection, and the rules requiring subscribers to provide documentation to prove their income levels after signing a self-attestation form. Extending the enrollment compliance deadlines for income qualified subscribers will mitigate customer confusion and distrust. The current rules which require all low income subscribers by August 1, 2024 may leave some subscribers with a wait time of close to two years before their projects are producing power and they receive their first bill credit. By aligning the deadline with the project development timeline the Commission can avoid unnecessary long wait times and cumbersome, time-consuming enrollment experience that place an undue burden on members of our community. I can just make a motion to approve this letter and that we send it to the New Mexico Public Regulation Commission.

COMMISSIONER HAMILTON: Second.

CHAIR HANSEN: Okay, I made a motion and I have a second from Commissioner Hamilton. Under discussion? Seeing none.

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

CHAIR HANSEN: Okay, the ayes have it. Thank you very much. We will be sending that letter out. It needs to be there by November 17th, which is this Friday.

4. Consent Agenda

- A. Resolution No. 2023-110, a Resolution Requesting a Budget Increase to the Health Care Assistance Fund (223) in the Amount of \$200,000 to Budget a Grant Received from the State of New Mexico, Behavioral Health Services Division (Finance Division/Yvonne S. Herrera and Community Services Department/Rachel O'Connor)**
- B. Resolution No. 2023-111, a Resolution Requesting an Increase to the State Special Appropriation Fund (318) to Budget Grant #23-H3185 in the Amount of \$600,000 (Finance Division/Yvonne S. Herrera and Sheriff's Office/Ken Johnson)**
- C. Resolution No. 2023-112, a Resolution Requesting a Budget Increase in Various Funds to Carry Forward the FY2023 Encumbrance Balances into FY2024 in the Amount of \$54,330,268 (Finance Division/Yvonne S. Herrera)**
- D. ISOLATED FOR DISCUSSION**

CHAIR HANSEN: Is there anything that needs to be removed from Consent for discussion? Commissioner Greene.

COMMISSIONER GREENE: Madam Chair, I'd like to remove item D, the final order for Case #23-5150, D.R. Horton, applicant.

CHAIR HANSEN: Okay. So can I have a motion to approve A, B, and C?

COMMISSIONER HUGHES: I'll move to approve items A, B, and C on the Consent Agenda.

COMMISSIONER GREENE: And I'll second.

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

The motion passed to approve items A through C by unanimous [5-0] voice vote.

[The Clerk's Office provided resolution and ordinance numbers throughout the meeting.]

4. **D. Final Order for Case # 23-5150 D.R. Horton, Applicant, NM Land Solutions LLC, Agent, Requested Approval of a Conceptual Plan for a 138-Lot Mixed-Use Major Subdivision Known as Tierra Pintada with a Total of 32.143+ Acres. The Subject Property is Located at 4475 NM 14 Parcel # 64256256, which is within the Mixed-Use Zoning District (MU). (Commission District 5). (Growth Management Department/Kenneth Quintana, Case Manager) (APPROVED 4-0)**

CHAIR HANSEN: Okay, Commissioner Greene, final order on Case #23-5150, D.R. Horton.

COMMISSIONER GREENE: Yes, ma'am. Thank you, Madam Chair. Pardon me, because of internet issues my notes are very small on my phone. We heard this case in a preliminary form a few weeks ago and I guess my first question is about process as to whether this is something that needs to be actually on a Consent Calendar, as to form. Do final approvals go through the Consent Calendar? This is the first one?

CHAIR HANSEN: There have been other ones since you've been a Commissioner that have gone to the Consent Calendar and this is the normal process. First we have the hearing and then it is finished by Land Use, anything that we have requested as the conditions and other items, and then it comes back to us always for final consent. Have I left anything out, Attorney Young or Manager Shaffer? Please add any additional information if you would like.

MANAGER SHAFFER: Thank you, Madam Chair and Commissioners. The historic practice is exactly as you describe in terms of Growth Management staff working with the Legal Department to prepare what they understood to be the basis and rationale of the Board's decision and having that on the Consent Agenda. We did have a slight deviation from that practice as we had new Commissioners who came on board and we were preparing final orders that related to cases that they did not participate in.

And so as we went through that transition period the final orders for those cases that again, were heard in 2022, but the final orders were coming forward in 2023, we did not put those on Consent, simply because we had new Commissioners who hadn't participated. Given that this was a case that the full Board had heard, including all five sitting Commissioners we propose to go back to the historic practice of having it on Consent. Obviously, that's at the discretion of the Board. If you would prefer that they be

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included as Miscellaneous Action Items as a default matter or that they be pulled from Consent if folks want to discuss. Again, we will follow whatever your wishes are.

COMMISSIONER GREENE: Thank you, Manager Shaffer. That was to the point. I hadn't seen one go through this process and so now this is one that we heard in full for the preliminary and now with the final. So my questions regarding this, it appears that there were some suggestions that we had made that may have not had the full force of a condition of approval but I just want to bring these forward to show that our suggestions are not being really taken very seriously. Things such as the trails and the sidewalks and connections to neighboring properties. So along the frontage road, the trails that are on the frontage road side of the property do not extend to the neighboring property, so these are dead-ends or have no way of extending through to the neighborhoods.

Same thing along Highway 14, that the sidewalks and the trail that was along Highway 14 only goes half-way across the property but does not extend potentially to the neighboring properties to the south. When we want to build connected, interconnected communities, pedestrian paths and trails are the ways that we do this. So having trails inside a project is important, but also having trails and sidewalks that connect to the neighboring adjacent properties is very important.

This was a suggestion at the past one and maybe we did not put it forward as a condition of approval, but I would have liked to have heard as to why this was either infeasible or not suggested at hearing like this.

Another question that I had for the applicant is as for the commercial facility that is going to be built on the property, is this allowed to be a gas station? Is a question that I don't think we heard at the last hearing and it popped into my head in between that last hearing and now and I'm wondering if gas is allowed to be sold there. And out of a concern as to whether it's an appropriate place for a gas station, or whether we should have a limitation on that or not.

CHAIR HANSEN: So, on that point, I believe that a gas station is a conditional use and that they have to go through a separate hearing. So I don't believe that would have a gas station on it without a hearing in front of us. If I'm wrong, please correct me.

COMMISSIONER HAMILTON: I don't think there's anybody here who can answer that. That's a good question.

CHAIR HANSEN: I don't see Penny or anybody from Land Use.

MANAGER SHAFFER: Madam Chair, Commissioners, forgive me. All staff is adjusting to the fact that what we thought was a hybrid meeting is now in person, so maybe we want to move on to the next item and circle back to this once we have Land Use present.

CHAIR HANSEN: Okay. That sounds fine. We'll wait for Land Use.

COMMISSIONER GREENE: Madam Chair, I will hold my questions until then. So thank you very much for that. [See page 19.]

5. Appointments/Reappointments

None were presented.

6. Miscellaneous Action Items

A. Resolution No. 2023-113, a Resolution Requesting a Budget Increase to Various Funds in the Amount of \$2,223,934.

CHAIR HANSEN: Yvonne.

YVONNE HERRERA (Finance Director): Madam Chair, Commissioners, the budget adjustment in front of you is to increase the budget for various projects. We're asking the Board to approve funding from the lodgers' tax facility fund in the amount of \$1,000,002, and in addition, we're looking at asking for an additional \$694,000 from the first one-eighth hold harmless fund. And then \$184,983 from the road maintenance fund, and then finally from our road project fund, \$344,949. The projects the lodgers' tax will be used to fund: open space projects. The hold harmless one-eighth will be used for our maintenance projects that we have not previously brought to the Board for review and approval.

And then our road fund and our road project fund will be used for the projects under the LGRF grants. And with that, Madam Chair, I stand for any questions.

CHAIR HANSEN: Commissioner Greene.

COMMISSIONER GREENE: Thank you, Madam Chair. Thank you, Yvonne. My questions have to do a little bit about – yes, this is a finance question at the end of the day but this is also a geography question. We are a county of borders and districts and locations and when we see projects such as trails being asked for money for something like this, I'm the type of person that wants to see these on a map. Right? Where are these? How long are these? What are the statistics? What do they serve? Are they on open space that we've preserved in the past? Are they in the forest land? And so on. So a little bit more information about these specific projects would be useful, I guess in the future at this point. And so that's about the first portion of the trails.

The next question I have is a question – the hold harmless, that's a declining fund. Is that correct? So that is something that's going to be going away in the next few years?

MS. HERRERA: Madam Chair, Commissioner Greene, no, that's an actual increment that the County –

MANAGER SHAFFER: There are two separate things that we sometimes refer to in terms of hold harmless. One is the hold harmless gross receipts tax increment, which is permanent, and then the second would be the hold harmless distributions from the state, which are declining. I believe this is the hold harmless gross receipts tax increment is what we're talking about here. So, no, I wouldn't anticipate that it would decline, as opposed to any other gross receipts tax increment that we have in place.

COMMISSIONER GREENE: Okay. Thank you. I thought it was the other way around. I thought that gross receipts tax was the one that is declining over time but that's fine. I just wanted to be clear about that.

And how are those roads things – how is that apportioned, that money? Is it by population? Is it by facilities? Do we apply like a grant? Or is it just a pot of money that comes to us and we all – you all – get to assign projects to it as they come forward?

MS. HERRERA: Madam Chair, Commissioner Greene, I'm going to have to defer to Public Works. They're the ones who go through the granting process with the

State DOT.

BRIAN SNYDER (Public Works Director): Madam Chair, Commissioners, I'm not sure of the specific details, but my understanding is the project money comes in and that it can be appropriated towards certain type projects that meet criteria, not necessarily broken out by district that is collected in the district that it goes to, but it's looked as a pot of money for the county as a whole.

COMMISSIONER GREENE: And that's based by population? Or road miles? Or –

MR. SNYDER: I'd have to look into the details of that. I'm not familiar with the state statutes on that.

COMMISSIONER GREENE: Just curious. Thank you very much.

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

COMMISSIONER GREENE: I will make a motion to approve item 6.A, Resolution No. 2023-, a resolution requesting a budget increase to various funds in the amount of \$2,223,934.

COMMISSIONER BUSTAMANTE: I would like to second that but I would also like to concur with Commissioner Greene on the opportunity to see maps when we're approving dollar amounts associated with road or path, trails development.

COMMISSIONER GREENE: Facilities. Anything.

COMMISSIONER BUSTAMANTE: Thank you.

CHAIR HANSEN: It's always incredibly convenient and useful. Okay, so I have a motion from Commissioner Greene, a second from Commissioner Bustamante.

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

6. B. Resolution No. 2023-114, a Resolution Modifying Solid Waste Convenience Center Schedule to Close Locations on Sundays.

CHAIR HANSEN: Public Works Department, Brian Snyder. Okay, Brian.

MR. SNYDER: Madam Chair and Commissioners, I'm going to take the lead on this one. In the future, most likely Maria Molina will take the lead and I'll support. Maria Molina is a recent hire at Public Works. She's the Roads, Fleet, and Solid Waste and Traffic Division Director and she's in the audience today. Several of you met her during the delay in starting. So I'd like to welcome her aboard. She's I think in her third week here at the County.

CHAIR HANSEN: Yes. Absolutely. Welcome, Maria, and if you want to stand up so everyone can see you. Welcome to the County. We're happy to have you here. Welcome.

MR. SNYDER: So Madam Chair, the resolution before you is staff's recommendation to close two solid waste convenience centers, Jacona and Eldorado that are currently open on Sundays. Close them on Sundays for Sunday service. Jacona and Eldorado currently are open six days a week out of a seven-day week and five-day work week, and this requires staff to work extra, basically overtime, to cover that shift. Especially with our current staffing levels this has become a large problem for us to staff, as well as maintain a work-life balance with staff working six days a week.

The reason we brought this forward, we had some conversations with our staff about this. This came from staff conversation as well as conversations with the union and looking at the ways we can recruit and retain staff. A lot of our competitors are only open for five days a week and their typical work week is a five-day work week. As an example of that, of the areas around us that are closed on Sundays, SWMA landfill, Taos County convenience center, Taos regional landfill, North Central Solid Waste Authority. The City of Santa Fe doesn't pick up trash on Sundays. And then the communities of Cordova, Tierra Amarilla, Abiquiu and Ojo Caliente all do not have trash facilities open on Sundays.

So with that, staff makes the recommendation if approved as part of this resolution that our first day that we will be closed is the Sunday after Thanksgiving which is Sunday, November 26th. And if the BCC approves this resolution today we will immediately tomorrow post notification and Jacona and Eldorado of the pending closure, as well as continue to work with our constituent office on a press release. And with that I will stand for questions.

CHAIR HANSEN: Thank you, Brian. Commissioner Hughes.

COMMISSIONER HUGHES: Thank you, Madam Chair. I think this is a good idea. I was thinking back on the history of Sunday, which I understand the Romans took the day off to worship the sun and so it's a tradition that pre-dates our modern religions, but I think it's a good idea to take a day off and so while I'm sure some of my constituents will be inconvenienced, I think our staff deserves to only have to work five days a week and I'm happy to support this. I would of course request that we get the press release out as soon as we can if you really want to close them. That would only be one more Sunday of service. So I think if we can get the word out as quickly as possible people will be less inconvenienced and not show up on Sunday morning with a full load of whatever and be turned away. Thank you.

CHAIR HANSEN: Thank you, Commissioner Hughes. Commissioner Greene.

COMMISSIONER GREENE: Thank you, Madam Chair. Again, we've spoken about this at our strategic meetings the other day and it seems like we study ourselves; we don't study what our constituents want, and I understand that maybe staffing right now is at a bad level and it's not sustainable at its current state but I wonder if we – did we reach out to constituents in these areas to understand whether maybe closing Monday was the better day. Maybe Sunday is the most popular day at these places, and because they're the only ones that are open the people travel far and wide to have an access point on a Sunday because they do a full day worth of yard work on Saturday, load up the truck, and go out on Sunday to drop it. Anyway, did we reach out to constituents to find out?

MR. SNYDER: Madam Chair, Commissioner Greene, we did not solicit constituent input. It was the staff led, as well as looking at what a five-day work week would look like. We are already closed on Mondays, so it would be Sunday off and Monday off, which is consistent with a lot of our neighboring communities. And we still are open on Saturdays.

COMMISSIONER GREENE: Thank you, Brian. Is the – do we have usage charts that show what our most popular days are? Was Sunday a more popular day

in these locations, compared to Tuesday?

MR. SNYDER: Madam Chair and Commissioner Greene, I don't have any usage charts handy with me right now. We could get that data for sure. We only have – on Sundays we only have two sites open, Jacona and Eldorado. They are the two largest sites that the County runs. So the other sites would compare to – I would call it a typical day at Jacona or Eldorado, or looking at the somehow combined county usage rate of facilities on your average day. We'd have to look at some analysis that way, since we only have two of the six, going on seven stations open.

COMMISSIONER GREENE: I think it would have been useful for us to make a decision on this base on looking at the usage patterns that we obviously know but were not prepared to discuss here right now. Like we have an initiative through our strategic planning to start using data analytics. This was the data analytics that we already had. Right? And so having just basic data showing whether – hey, you know what? Sundays are actually really popular here and now we're going to make people wait until – regional centers like Jacona and like Eldorado that are our largest centers might be the ones to keep open Sundays.

I get it. We're short-staffed, so to me, this resolution should have been in a temporary format and not something that we're going to go forward for years, potentially with this. So I hope that this doesn't just become a self-perpetuating excuse for, hey, you guys approved this resolution. We're only open for five days. So for me, I would appreciate if by next summer that we get our staffing levels back up to be able to be open and have a strategic plan to figure out how we can serve the constituents seven days a week if that's what he right number is, and maybe it's two days a week. But whatever the right number is, we should have a – it shouldn't be staffing and looking at our own desires. It should be what our constituents and what the community wants. So thank you for hearing me out on this.

CHAIR HANSEN: Thank you. Commissioner Bustamante.

COMMISSIONER BUSTAMANTE: Madam Chair, thank you. Brian, I do understand the staffing issues, the concerns. I do have to agree with Commissioner Greene. What is the plan for being able to have the stations open on the weekends. Living in the rural part of the county, what happens on the weekend is people who assumed that they had at least one of the centers open, well, then they'll just dump it, frankly, in an open space and we see that all too much. The good news is it's been controlled a little better since we've fended off certain areas in the La Cienega/La Cieneguilla are, but closing all the stations on a Sunday, and it is more of a practice too, especially for the working community who sometimes have one, two jobs, the days of the week, to be able to work on your yard and take your trash, because we don't have trash pickup in the area, expect to take it on the weekend, which means then your one day, your Saturday is the day you'll be able to deliver it. So really, to do it, based on a metric that shows that people need it.

To see the data would really matter. Customer service is important to our County and recognizing that we're here in the service of those who live in our community. So I hope that this comes with a plan of how we'll get – and I understand that everybody is short-staffed so it's not a blame thing. It's just having a plan and how we're going to recruit and then move those days so that the weekend is definitely staffed and maybe

people have two days during the week to have their days off. But to cut it off in the convenience of making sure everybody gets a weekend means that those who only have the weekends to dispose of their refuse is going to mean that that stuff is going to end up someplace we don't want it, or they're going to be in a situation where they're not able to get there and that's the day they use it.

So I find it – I'm glad that it's responsive to the staff. I'd like to see what we can do, and a plan that needs to be made to be more responsive to what the needs are for the community. Thank you.

CHAIR HANSEN: Thank you. Any other comments? So I have a question, Brian. Is the landfill open on Sunday? I don't think so.

MR. SNYDER: Madam Chair, no, it's not.

CHAIR HANSEN: And neither is BuRRT, right?

MR. SNYDER: Madam Chair, I can't speak to BuRRT. I know the landfill is not. The difference would be we take – from our convenience centers we take the hauls to the landfill. So being open on Sunday and closing down we have to secure the trash bins, the trash dumpsters, until Tuesday. So we can't take it to the landfill on Sundays because it's closed.

CHAIR HANSEN: Right. That's what I thought.

COMMISSIONER HAMILTON: BuRRT is open Sundays.

CHAIR HANSEN: BuRRT is open.

MR. SNYDER: Madam Chair and Commissioner Hamilton. We can't take our dumpsters to BuRRT. They go to the landfill.

COMMISSIONER GREENE: But constituents have a source to drop stuff.

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

COMMISSIONER HAMILTON: Madam Chair, move to approve.

COMMISSIONER HUGHES: I'll second.

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

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

COMMISSIONER GREENE: Under discussion? Okay. Aye. We'll revisit this in a few months. Thank you.

6. C. **Resolution No. 2023-115, a Resolution Committing to Fund at Least Fifty Percent (50%) of the Total Project Cost for Security Camera System and Access Control Door Upgrades at the Judge Steve Herrera Judicial Complex and Committing to Execute an Intergovernmental Agreement with the Administrative Office of the Courts (AOC) to Receive AOC Funds as Reimbursement for Up to 50% of Costs as Incurred for the Project.**

CHAIR HANSEN: County Manager Greg Shaffer and Public Works Department P.J. Montano.

MANAGER SHAFFER: Thank you, Madam Chair and Commissioners.

I'll be brief relative to this item. This would enable the County to avail itself of a funding initiative that came out of the last legislative session whereby the legislature appropriated funds to the Administrative Office of the Courts to fund up to 50 percent of the cost of upgrades, expansions, what have you, relative to court facilities and quarters that the County is required by law to provide.

I'm pleased to report that since the packet material was finalized our application has been approved by the Administrative Office of the Courts, is my understanding from the First Judicial District Court, so that means that if this resolution were to be passed, 50 percent of a \$1.285 million project would be funded by the state through the Administrative Office of the Courts. We're very, at the staff level, strong supporters of the legislature in this regard as the cost of providing modern, secure court facilities continues to increase from the territorial days when you might have quarters for the judge.

As you all know, the new facilities on Montezuma cost \$60 million ten years ago. You can imagine what that would cost today. Looking at the system upgrades through the cameras and the access control doors, again, it's a significant lift for the County so we want to be supportive of the legislature's effort to help share the burden in this regard. We set aside funds specifically to be able to leverage our funds through grant opportunities and again, this is a prime example and opportunity to do so. I'd be pleased to answer any questions.

CHAIR HANSEN: Questions from the Board? Commissioner Hughes.

COMMISSIONER HUGHES: Thank you. I just have a quick question. Where is our 50 percent coming from? Is it just general cash balance or do we have a fund within our accounting for such projects as this

MANAGER SHAFFER: Madam Chair, Commissioner Hughes, staff is proposing at this time that it would be funded from the \$10 million that were set aside by the Board and budgeted specifically to match grant opportunities. And so it seemed as if this would be a good fit since this is a grant opportunity through the AOC. If I could, before we move forward, I should have added that this project is supported by the First Judicial District Court and by Chief Judge Bryan Biedscheid, who offered to be present here today if the Board had any questions. I assured him I thought we could cover it and that he could continue to focus on court business. So forgive me for not mentioning that.

COMMISSIONER HUGHES: Thank you. That answered my question.

CHAIR HANSEN: Okay, Commissioner Greene.

COMMISSIONER GREENE: Thank you. Thank you, Greg. Question: Is this a project that should go on our ICIP list or something like that? Is this something that we need to go from general funds to be matching, because the legislature is already coming up with 50 percent of this? I'm just wondering if given our opportunity in the next few days to finalize our ICIP list, is this something that seems like a good use of that?

MANAGER SHAFFER: Commissioner Greene, Madam Chair, as reflected in the memo, this actually is in fact on our ICIP list already. And so we would be removing it from the ICIP list because it's now fully funded. So it was on the ICIP. We did receive some legislative funding last legislative cycle for Phase 1 of the project, which is the upgrade to the software itself and to the servers, and so we were intending, if

this was not successful, to seek legislative funding, but again, since we were able to secure funding through the AOC this will make this a fully funded project. And so it will come off the ICIP. I hope that answers the question.

COMMISSIONER GREENE: Somewhat. So if we went for ICIP fundings we couldn't use the leveraging funds? They're mutually exclusive? Or we could go for \$259,00 for 50 percent of this match through ICIP, and yet still get the full match.

MANAGER SHAFFER: Okay. I believe I didn't understand that to be the question. I think under the terms on which we applied, we agreed that we would come up with the 50 percent. So that's the way it was offered and this resolution commits us to doing that. They were looking for projects that could move quickly, and so having the monies available through County funds allows P.J. to work expeditiously to make sure that money is timely spent.

COMMISSIONER GREENE: Okay. Thank you.

CHAIR HANSEN: Any other questions? What's the pleasure of the Board?

COMMISSIONER HAMILTON: Move to approve.

COMMISSIONER HUGHES: Second.

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

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

4. D. **Final Order for Case # 23-5150 D.R. Horton, Applicant, NM Land Solutions LLC, Agent, Requested Approval of a Conceptual Plan for a 138-Lot Mixed-Use Major Subdivision Known as Tierra Pintada with a Total of 32.143+ Acres. The Subject Property is Located at 4475 NM 14 Parcel # 64256256, which is within the Mixed-Use Zoning District (MU). (Commission District 5). (Growth Management Department/Kenneth Quintana, Case Manager) (APPROVED 4-0)**
[Continued from page 12.]

CHAIR HANSEN: I see that Mr. Larrañaga is in the building so I'm going to go back to 4. D so he can answer some of Commissioner Greene's questions.

JOSE LARRAÑAGA (Building & Development Supervisor): Madam Chair, I'm here to answer any questions if I can.

COMMISSIONER GREENE: Thank you, Jose. So my questions had to do with we had discussed earlier, at the earlier hearing, the ideas of connecting some of the trails or sidewalks, either south on Highway 14, or further to the west along the frontage road, but I didn't see those incorporated into the plan and I'm wondering if there was a reason for that other than they didn't feel like spending the money or it was just not part of – what was the reasoning?

MR. LARRAÑAGA: Commissioner Greene, so this was a conceptual plan, and I know you mentioned the trails and other items that you wanted on this development. They are coming forward for preliminary plat for both Phase 1 and 3, and final for Phase 1. At that time, the agent told us in the prior meeting that they would

incorporate some of that connection within.

COMMISSIONER GREENE: Isn't that what we're doing today, right now? In this plan right now?

MR. LARRAÑAGA: Commissioner Greene, again, this is conceptual to show the phasing and the amount of lots they're proposing. The final plat will actually illustrate the design of the trails and where they would be connected to.

COMMISSIONER GREENE: Okay. So if we thought that this was a condition of approval, it could have happened at the previous hearing or at this hearing, then we should put that in if we think that that is an important amenity for the community at large and in this development.

MR. LARRAÑAGA: Commissioner Greene, from what I recall from that hearing, that condition wasn't placed on this development or the conceptual plan as a condition of approval. It was mentioned, and I believe the agent from New Mexico Lands mentioned that they would incorporate that in the preliminary plat.

COMMISSIONER GREENE: That they would, or they would not?

MR. LARRAÑAGA: They would.

COMMISSIONER GREENE: Okay. I think that seems to be something that we would advocate for here and either put it as a condition or not. Right? But hear it out here because pedestrian connectivity is something good for the health and welfare and social structure of our community. So if it is not explicit in the SLDC it is definitely a best practice that the intent of the SLDC should be supporting.

JEFF YOUNG (County Attorney): Madam Chair and Commissioner Greene, I think Mr. Larrañaga was on that point, which is it has to be adopted as a condition of approval in order for it to be binding on the applicant, and it was just a suggestion made by a Commissioner at the time. But it would need to be adopted as a condition of approval by the majority of the Board to be enforceable against the applicant.

COMMISSIONER GREENE: Thank you. I have another question then or two that I would like to do before I would put forward this condition by let me clarify. Just to follow up on Commissioner Hansen, Chair Hansen did mention that gas is not allowable under the current approvals as a gas station, that it would have to be a conditional use permit that would then have to come back before us, if that commercial spot was going to be converted into a gas station.

MR. LARRAÑAGA: Madam Chair, Commissioner Greene, actually, I just looked at the use list for the mixed use and gasoline station is a prohibited use within the mixed-use district.

COMMISSIONER GREENE: Prohibited?

MR. LARRAÑAGA: Yes.

COMMISSIONER GREENE: Wonderful. Thank you very much. And so, okay. Great. I would like to propose –

COMMISSIONER HUGHES: Madam Chair and Commissioner Greene, I think that – Jose, correct me if I'm wrong. I think you said they did agree to the idea of the trails, and it's going to come back to us again. And so I don't think we have to put the condition on now. I think that they're going to – we don't have to do it now. I think it's going to come back to us. They're going to plat out each of these phases and we have to

prove each one. And so when it comes back with more detail, we can see whether they put the trail on or not and then we could ask for it them. Is that correct?

MR. LARRAÑAGA: Madam Chair, Commissioner Hughes, that is correct. The preliminary plan and final plat for Phase 1 will come back to the Board for approval and again, in discussions with the agents, they were willing to do that connection of the trail. So it will illustrate that in the preliminary plan.

COMMISSIONER GREENE: Thank you. I'm willing in good faith to see that you will carry this forward and suggest to them to make sure that our sidewalks and our trails do connect to the south and to the west. One last question. It appears that a lot of slope is in this – there's a lot of fill along the south edge of this. The water detention pond is something like 15 feet below the road. The amount of fill that is in this – on that side of the project, I know how to look at civil engineering drawings. Is that really the type of slope management and terrain management solution that our code encourages?

MR. LARRAÑAGA: Madam Chair, Commissioner Greene, I don't believe this was fully engineered at conceptual plan. At preliminary and final plat they will have to have fully engineered drawings to establish where the runoff is going to go and the ponding and so on. But yes. There is a slope to this property. They will have to address.

COMMISSIONER GREENE: It's significant on that south side. The folks that live adjacent to it to the south are going to be looking at what looks to be a 12- to 15-foot hill, a relatively vertical hill, and I just – again, we're approving something that we can see on a piece of paper, and we are basically giving the approval to this level of detail that they're providing us. So without a trail on there – it's a suggestion – without an actual condition of approval, it has almost, I think, very little enforceability. The same thing with this slope. Those slopes are now in a plan that we are looking at and somebody up here is actually saying, wait a second. That slope seems to be pretty aggressive on the back of somebody's house without terracing or without some other landscaping to sort of soften that slope. And I'm wondering, should we have a condition that says, hey, terrace that in a way that doesn't make it so oppressive on the people next door to it and have the potential for terrain management coming down in somebody's backyard. Terrain issues.

MR. LARRAÑAGA: Madam Chair, Commissioner Greene, again, that – we'll get full engineered drawings on the grading and the slip and everything else on that property once they submit the preliminary and final plat. That would have to get approved through us before we would present it, by staff, to present it to the Board. At that time we would have those drawings.

COMMISSIONER GREENE: And just to be clear, approved by us is approved by you? Or approved by us here? Or all of us together?

MR. LARRAÑAGA: Madam Chair, Commissioner Greene, by all of us put together. But what I meant was we'd have to take in those plans, see if they meet the code requirements, see how they're taking care of the grade and the drainage, and prior to presenting it to the Board, that should be ironed out so it meets the SLDC requirements.

COMMISSIONER GREENE: Okay. I would like to see those two conditions be addressed in a motion, but if you feel from your past experience that this will be handled between –

MANAGER SHAFFER: If I could, Madam Chair, Commissioners. This is

on the meeting minutes that were attached to the final order for context. The motion that was made was to approve the conceptual plan request for a mixed-use subdivision with 138 residential lots, and 1.5 acres of non-residential development, subject to all the conditions listed by staff with the suggestion that the developer consider all of our brilliant ideas in the next stage. That was the motion that was actually made. It was seconded. That's what was voted on. That's why the order was voted on. That's why the order is written the way that it is, is because staff was trying to capture what the Board did in an open meeting pursuant to a vote.

If you're going to now change the conditions, you're going down a different path. The applicant should be here. The applicant should have the opportunity to respond to say we agree; we disagree, those conditions aren't consistent with the SLDC. Where they're voluntary we'll enter them into it, just a procedural process. Again, I think if you want to go down that path, the County Attorney can counsel you as to how you get there, but you can't do it without the applicant here. That violates some pretty fundamental notions of due process.

CHAIR HANSEN: So Commissioner Greene, so this is a conceptual plan. They have to come back. They always have to come back.

COMMISSIONER GREENE: Isn't this the next step?

CHAIR HANSEN: No. This is not the next step. This is just approving what we did at the previous meeting. This is not the next step. This is not the final plat or preliminary. Next we go to preliminary. Right, Jose?

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

CHAIR HANSEN: So we've been at –

COMMISSIONER GREENE: Conceptual.

CHAIR HANSEN: Conceptual.

COMMISSIONER GREENE: Preliminary, final.

CHAIR HANSEN: Preliminary, yes. So we're going to see it again, with all our brilliant ideas put in. Okay?

COMMISSIONER GREENE: Great.

CHAIR HANSEN: And if they're not, then it's the time to make that change.

COMMISSIONER GREENE: I appreciate that. Thank you.

CHAIR HANSEN: Okay. So if we could please have a motion.

COMMISSIONER HUGHES: I'll make a motion to approve this item.

COMMISSIONER HAMILTON: Second.

CHAIR HANSEN: Okay, so I have a motion to approve item 4. D, final order for Case 23-5150, D.R. Horton, applicant.

The motion passed by majority 4-1 voice vote, with Commissioner Greene casting the nay vote.

6. **D. Request Approval of Amendment No. 9 to Collective Bargaining Agreement Between Santa Fe County and the American Federation of State, County, and Municipal Employees, Local 1782, AFL-CIO.**

SEC CLERK RECORDED 12/28/2023

CHAIR HANSEN: Welcome, Sonya and Rachel. And Sonya, we are very sad to hear that you are retiring, but we are grateful for your service to the County and I want to personally thank you for everything.

SONYA QUINTANA (HR Director): Thank you so much. I really appreciate it, and I appreciate the opportunities that have been provided to me by you all and by Manager Shaffer, and working with all of our wonderful staff. So thank you so much.

CHAIR HANSEN: You took that position early on in both Commissioner Hamilton and my terms and I want to recognize you for all of your hard work.

MS. QUINTANA: Thank you. I really appreciate it, and again, I'm very grateful for my career here and working with all of you.

Rachel and I are here today to request approval of amendment #9. In summary, improved insurance tiers will go into effect for non-bargaining unit employees at the start of calendar year 2024. These improved tiers were created to ensure that the cost of living which passed the six percent cost of living didn't also increase the amounts that employees are paying into health insurance benefits. Right now we are in active negotiations with 1782 and we just would like to see that they receive the improved insurance tier rates on January 1, 2024 when they go into effect for all other non-bargaining unit employees. So with that I will stand for questions.

CHAIR HANSEN: Are there any questions from the Board? Seeing none, what's the pleasure of the Board?

COMMISSIONER HUGHES: Madam Chair, I move for approval.

COMMISSIONER HAMILTON: Second.

COMMISSIONER HUGHES: I have a motion from Commissioner Hughes, a second from Commissioner Hamilton.

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

6. E. Request Approval of Amendment No. 3 to Collective Bargaining Agreement Between Santa Fe County and the Santa Fe County Firefighters Association, Local 4366.

RACHEL BROWN (Deputy County Attorney): Madam Chair, Commissioners, we're presenting to you today amendment #3 to the Firefighters Bargaining Unit. We've worked with the Firefighters Union since August to reach this agreement and it's one that both the union and the County management team support. It accomplishes several things, the first of which is that training captains who currently work 24-hour shifts sometimes want to provide training in collaboration with schools such as the Community College. And if they're going to provide those trainings it generally requires that they work Monday through Friday 8:00 through 5:00 as opposed to the 24-hour shifts. And so part of the amendment we're proposing would allow for a temporary switch to a 40-hour schedule for those training captains for the specific purpose of providing a training in collaboration with another entity such as the Community College and it establishes how their rate of pay would be converted to ensure that they don't lose income in moving to the 40-hour schedule.

SEC. CLERK RECORDED 12/28/2023

The second part of the amendment is the insurance tiers, such as we just approved for AFSCME, and that is to grant the higher insurance tiers to this bargaining unit effective at the beginning of the calendar year so that they too will not suffer any increased tier movement as a result of the COLA that was given.

The third part of this amendment is retention incentives. We previously gave retention incentives to the Fire Department – by we I mean you. And unfortunately, there were eight firefighters whose hire dates interfered with their ability to take advantage of those retention incentives. The amendment we’re proposing today would simply give the retention incentives that others received to the eight who were left out, and those retention incentives were 3.5 percent of their gross earnings for two six-month periods. And so they would receive that while those who already received the retention incentives would not receive anything additional.

The next component of the amendment has to do with sick leave. We have previously supported a sick leave incentive program where people who did not use sick leave were given additional leave over a six-month period. That program is being phased out; you’ve already acted to phase it out for many bargaining units. This would phase that program out for the Fire Department because we really want to encourage people to use their sick leave when they’re not feeling well, for their own sake and for the sake of their coworkers in the community.

In removing that program we would instead allow firefighter bargaining unit members to use their sick leave more judiciously, so that they could use it in one-minute increments as opposed to the current requirement that it be used in half hour increments.

And finally, we would put in place a recruitment bonus program such as you put in place for other bargaining units where if a firefighter refers someone to the County and their hired and they stay for six months, they would become eligible for a \$500 bonus, and if that same individual stayed for a full year, the firefighter would receive an additional \$500 bonus.

So that’s a summary of the various elements of this particular amendment.

CHAIR HANSEN: Thank you, Rachel, very much. What’s the pleasure of the Board?

COMMISSIONER HAMILTON: Madam Chair, move to approve.

COMMISSIONER BUSTAMANTE: Second.

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

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

CHAIR HANSEN: Congratulations to all the firefighters. This is a good deal.

MANAGER SHAFFER: Madam Chair, if I could just interject for one second. I’ve been informed that the network is back up now so we can go back to our regular manner of operations, which will result in, as I understand it, a higher quality video and audio for all of our platforms. But to do that we need to make a quick switchover, so I would just respectfully suggest that we might want to take a five-minute break to allow that to happen.

SFC CLERK RECORDED 12/28/2023
SFC CLERK RECORDED 12/21/2023

CHAIR HANSEN: Okay. Does that mean that we need to restart our computers?

MANAGER SHAFFER: No. It all happens in terms of what gets fed to YouTube and otherwise. So again, it's just a short break so that we can increase the end-user, customer experience of those who are participating and watching remotely.

CHAIR HANSEN: Okay. We'll take a five-minute break.

[The Commission recessed briefly from 4:27 to 4:38 to adjust the internet.]

6. F. Request Approval of Amendment No. 4 to Collective Bargaining Agreement Between Santa Fe County and the Regional Emergency Communication Center (RECC), A Subsidiary of the New Mexico Coalition of Public Safety Officers/NMCP SO.

CHAIR HANSEN: Welcome back, Sonya and Rachel.

MS. QUINTANA: Madam Chair, Commissioners, we are here today to request approval of amendment #4 to the collective bargaining agreement between Santa Fe County and the Regional Emergency Communications Center. Similar to the earlier amendment with AFSCME, we're requesting the improved insurance tiers, this time for RECC bargaining unit members. So with that I will stand for questions.

CHAIR HANSEN: Okay, are there any questions from the Board?

COMMISSIONER BUSTAMANTE: Madam Chair, I make a motion to approve.

COMMISSIONER GREENE: Second.

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

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

6. G. Request Approval of Amendment No. 4 to Collective Bargaining Agreement Between Santa Fe County and the American Federation of State, County, and Municipal Employees; New Mexico Council 18, Local 1413-M.

MS. BROWN: Madam Chair, Commissioners, this is our final contract amendment for today that we are proposing. We worked closely with the AFSCME representatives for the medical bargaining unit at Corrections. They have had ongoing staffing issues and came forward and asked that we consider decreasing the staffing levels in order to increase compensation within that bargaining unit. And what we are proposing today is the elimination of two LPNs and one half-time RN within the bargaining unit in order to have a budget-neutral increase to salaries within the bargaining unit of 12.75 percent. But a component of that is the creation of a new position within the medical bargaining unit, which is a medical aide, and that position is a lower level position than nursing but provides assistance to the nursing staff so that their attention can be on the more high level medical needs of inmates while the medical aide

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does things such as distribution of medication. And so the elimination of the 2 ½ positions would fund this new position as well.

In addition to that change to compensation, we are proposing allowing a referral bonus program as other bargaining units have within this bargaining unit, with the potential to earn two \$500 referral bonuses for employees who come to the County and stay for six months or a year.

We're also proposing the revisions to the insurance tiers that we have discussed, increasing each insurance tier by six percent, so that anyone who received a COLA is not unintentionally bumped into a higher insurance tier.

And finally, we're proposing elimination of the sick leave incentive program for this bargaining unit, and the allowance of the use of sick leave in one-minute increments. And with that, I'll stand for questions.

CHAIR HANSEN: Okay, any questions from the Board? Commissioner Greene.

COMMISSIONER GREENE: Thank you, both Rachel and Sonya. I think the referral bonus aspect is useful. There's nobody better to entice somebody to come to work for us than somebody that already works for us. On a sort of related side note, in my past business experience, using a referral bonus has been useful, but I also use a referral penalty that if you refer somebody that's terrible, you own me 50 bucks. Because there's a lot of work and headache that goes into HR to bring somebody on board so they know that they better refer somebody good. So anyway, with that I'm happy to make a motion to approve item G.

COMMISSIONER HAMILTON: Second.

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

COMMISSIONER HUGHES: Under discussion.

CHAIR HANSEN: Commissioner Hughes.

COMMISSIONER HUGHES: Yes, I just wanted to say thank you also. I really appreciate the work that went into this and I'm glad we've reached agreements that help our staff do even better. The health insurance seems like a big deal and everything is really good. I wanted to add one thing about Sonya. I'm really sorry you're leaving but I wanted to say I'm also jealous.

MS. QUINTANA: Thank you.

COMMISSIONER GREENE: To retire too.

COMMISSIONER HUGHES: I'm only half-retired. Trying to avoid becoming a full-time Commissioner like some of my friends to my left here. Anyway. Enough of that. That was my second.

CHAIR HANSEN: I hope that we will see you here again on the dais. You are not leaving today. We have you until the end of the year so I hope that we see you again, but if we don't, we will see you at the Christmas party or somewhere along the road and be able to truly celebrate you. So thank you very, very much.

MS. QUINTANA: Thank you all.

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

6. H. Request Approval of the Recommendations of the Santa Fe County Office of Emergency Management Task Force (SFC OEM Task Force)

CHAIR HANSEN: Chair Roger Jimenez, Federal Engineering, Inc. and Mike Dubé. Welcome.

ROGER JIMENEZ (Edgewood Police Chief): Thank you, Madam Chair and respected members of the governing body. My name is Roger Jimenez. I'm the police chief with the Town of Edgewood. I had the pleasure and the obligation of being the chair for this task force. Before you, I believe, I trust that you have the memo that we submitted to you all, so I will not bore you in reading it. So if you all have any questions for me I'm happy to answer of those questions at this time.

The task force was put together and we put together this little memo with the help of the County and Ms. Tina Salazar, who is absolutely awesome. So I just want to give her kudos for all her hard work, and we stand for any questions before Mr. Dubé actually gives his presentation.

CHAIR HANSEN: Are there any questions from the Board before Mr. Dubé – I assume you're from Federal Engineering – gives his presentation? I think we all appreciate very much your memo and the hard work that has gone into this task force. So thank you for being here. We appreciate you taking the time away from your community to be here with us.

CHIEF JIMENEZ: Thank you, Madam Chair and members of the governing body. I actually have a commission meeting in Edgewood, so if you'll excuse me I need to skedaddle.

COMMISSIONER BUSTAMANTE: Thank you for your service on this, with this group, sincerely, and for all those who participated in the evaluation and this process.

CHIEF JIMENEZ: My pleasure.

CHAIR HANSEN: Before you go then I'm going to go to Commissioner Hamilton.

COMMISSIONER HAMILTON: I just want to publicly say thank you so much for the time and the leadership and sharing of knowledge and what not. I know what an effort it was but what a big help it is to our community. We really, really appreciate it.

CHIEF JIMENEZ: Thank you, Commissioner.

CHAIR HANSEN: Yes. Thank you. You are part of Santa Fe County, and we appreciate that so thank you and say hello to all your other fellow commissioners and thank you for sharing with us.

CHIEF JIMENEZ: Thank you. Sure will. Thank you.

MICHAEL DUBÉ: Madam Chair, Commissioners, my name is Mike Dubé, as was pointed out. That's the correct name and correct pronunciation. You got the accent over the letter E, so Mike Dubé, that's me. I'm from Federal Engineering. And my purpose today will be to give you kind of a summary of findings over an engagement to perform an evaluation of the County's Office of Emergency Management and Emergency Management program, that, if I understand correctly, evolved from a resolution by the Commission earlier this year to have a third party review of the existing program.

So probably displayed in front of you. It's always good just to kind of situate things in time is looking at the project timeline. It was fairly aggressive. It started on the 31st of March with a purchase order received from the County pursuant to a proposal made by Federal Engineering on March 8th. On the 19th of April, I submitted an initial request for information just to gather background material, so that would assist in putting together what an assessment would look like.

On the 22nd of May there was a formal project kickoff meeting, and on the 25th of May, which just preceded – the 25th of May to the 5th of June there was a conduct of virtual and onsite data gathering and interviews of the task force members, of which there were eight, and other County staff. On the 14th of July, the first draft of current conditions was delivered. On the 18th of August the task force was briefed on that report. On the 6th of October the draft of the assessment and recommendations report, which is what I will be speaking to today, which encompassed phases 2 and 3 of the initial statement of work, and on the 24th of October on the assessment and recommendations was made. The report, as it was, was adopted by the task force with the recommendation to submit and present it to the Board of Commissioners, and that's what we're here today for.

So quickly, for those of you – some of this is covered in the report, but just again as a refresher, it's always nice to kind of look back. The original project had three phases. The first was the current conditions analysis. The second phase was a review of staffing, operations and technical components of the program, along with one that's not stated there which was governance. And then phase 3, an assessment and recommendations report.

At the request of the task force and of County staff, phases 2 and 3 were combined into a single component and that was kind of the meat of the report that I'm presenting.

So the focus of today's presentation will be to present a summary of findings of the assessment and recommendations report.

So the summary of findings and recommendations: We focused while writing and developing and assessing, we focused on four areas of focus. As per the statement of work, so we looked at staffing. We looked at operations. We looked at technical and technology. And we looked at governance. Out of that 45 recommendations were made; it could have been a lot more but it was whittled down to 45 that were more or less achievable in the near and middle term, and those you will find in detail in Section 6 of the report that's been distributed to you. And out of that we identified ten recommendations that should receive immediate attention.

With regards to staffing – so the current authorized staffing of four full-time equivalent positions is appropriate. There was some analysis done using comparative data from other medium sized counties across the country and the details are in the report as you know. And that number jibed for a county this size whose responsibilities are specific and restricted to emergency management.

Core functions of each of those four FTEs I think needs to be confirmed or considered after review, whatever review, whatever the next steps the County chooses to take with regards to this and how they would be split. Also looked at staff development and training, both internal and external, so what I discovered or what was discovered was that the internal training is somewhat unstructured. It is not aligned with existing

available programs, such as FEMA's emergency management professional program, well defined, kind of three evolutions as it were, or three steps to reach the highest level, and there's a number of other programs, either academically or through other sources.

From an external perspective, there was no evidence or very little evidence received of training for County staff. So County staff from other departments have a critical role to play, particularly in the management of emergencies. For example, Public Works plays a critical role for any kind of infrastructure damage or anything of the sort, but there was an indication of little to no training for County staff. This was a frequent statement that was made. There appeared to be no clear succession planning strategy within the division. And I was also asked to comment on what professional emergency management certifications or staff skills would be ideal or best suited for people entering into those positions.

From an operations perspective, and this is perhaps to me kind of the largest structural issue that affects the entire operation of the Office of Emergency Management in its current form. It has both – it has conflicting roles. It has roles of emergency management, which is a more deliberate, planning discipline, with that of response, which is immediate and has timeliness considerations that must be acted upon immediately. And what it appears or how it was relayed to me that the focus has been on responding to events rather than focusing on what the Office of Emergency Management, what an emergency management program should.

That was clear in a couple of situations so as a result there was insufficient attention to the emergency management core functions. As an example, the official plan, the official emergency operations plan has not been updated since 2007. So this was confirmed by the Director of Emergency Management at the time and it still refers to an emergency operations plan that is for both the County and the City who had a joint emergency management environment at the time. The City went off on its own in 2008 and as a result of that there's been no newly developed or updated emergency operations plan.

Also, it appears to be to have an inadequate emergency operations center structure, staffing and preparedness. Because the focus has been on response those items that are critical to the operation of a successful emergency operations center, once activated, simply appeared to be lacking. Again, because of the folks unresponding.

Another consideration was that distribution and access to response resources right now have all been focused and isolated in one area whereas much of that equipment could be in daily use or certainly should be accessible when needed and more widely distributed throughout the county, and that was for a variety of equipment, both specialized equipment, sensors, vehicles, that kind of thing. They were all kind of isolated in one compound with limited access.

Again, the OEM in its current setting, with both those conflicting responsibilities was simply not structured or staffed for 2024 by seven protracted events. So after day two, maybe they would last as long as day three, there'd be nobody to carry on, especially with only four people. So those were kind of the key findings looking at the operations component.

From technical and technology, there appeared to be an incomplete inventory. I was made aware of equipment that really didn't show anywhere. It didn't show in the

County inventory and consequently there was also no clear-cut procedure/process for disposing of surplus or end-of-life equipment. So this is not uncommon, but it's things that have to be considered. If there's any monetary value or value to other organizations that may be able to use it, that'd be great to be able to consider that and be part of it.

The procurement process also appeared to have little input from outside stakeholders that might have a need or use or consideration of equipment that ought to be acquired through the emergency management program, or through grants available for emergency management. The vehicle strategy, as you will have seen in there, there's a number of very high value vehicles that really are seldom, seldom used. So they'll need to be replaced with under 3,000, 4,000 miles on them and these are vehicles in excess of \$100,000. And that's not unique to this. The high value/low usage vehicles is always kind of a buy-don't buy decision that has to be made. But often there's some grants. But that has to be kind of explored and what's a better way to do that?

Also, compatibility with existing equipment, and that's critical, because if this equipment is going to be used, this storehouse of equipment, and the holdings are significant. And nobody's ever seen them before, then if it's not exactly the tools that the firefighters or others are using at this point they become almost useless because they will have to be on the pile or in emergent situations, picking up the equipment, figuring out how it works before they can actually put it to use. So having compatibility with existing equipment is critical.

And then the maintenance and sustainment life cycle training and usage also appeared to be a significant concern in that the equipment was seldom used, either in an exercise program or in daily usage for just getting it out there. The command vehicle hadn't gone out in a long, long time from the vehicle log, and yet it could be put to use on many significant scenes and incidents that occurred in the county. Just to get it out there and give people an opportunity to know what the systems are in it and how to use it and just to get it out there.

And then finally, from a governance standpoint, there is no oversight and steering committee, and I think you'll note in the report that in fact there are standards or established standards. The National Fire Protection Association being one of them that requires that there is an oversight body be established to oversee an emergency management program.

There had been – appeared to be no strategic level planning or guidance, certainly from the County and from the Office of Emergency Management. This was not an exercise. The last one that had some good substance and meat to it was the mitigation strategy planning document that was developed with and by an outside consultant in 2016. That was the last time. And then there could be issues with the chain of command and act as the leadership.

It's critical for the Director of Emergency management to be able to brief elected officials but also share, if not to stage, certainly share leadership and guidance with senior County staff, and that's the model throughout most of the nation. That's who the Director of Emergency management typically reports to.

So as I mentioned earlier, there was 45 recommendations. This was not an exhaustive list. It was meant to be items that were achievable and just for ease of reading they were referenced in the report to the observation sections. And again, as earlier

indicated, there were ten recommendations deemed to warrant immediate attention and I'll just quickly go through those. In the report they're shown in red in the recommendations section, Section 6.

So key recommendations: Review or create all enabling ordinances needed to support the emergency management program. There was some shortcomings there about how, when, local emergencies should be declared, some sort of reporting structure, things dealing with emergency procurement, authorizations of those kinds of things, so enabling ordinances, so structural items. Because the two functions currently assigned to the Office of Emergency Management that the Fire Department structure be revised and to separate the emergency management and the response functions. The response functions should remain within the Fire Department. That's where they belong and that's where they need to be in place.

The OEM should be removed from the Fire Department and established as a separate County department and function reporting to County leadership. The County and OEM should collaborate on a program-based strategic planning initiative that evaluates goals, objectives, performance metrics and accomplishments from a comprehensive emergency management perspective. Right now there's no metrics of any type, nor clear goals, particularly goals developed with input from elected officials, County staff and external stakeholders.

Establish as per published guidance from the Federal Emergency management Agency and the National Fire Protection Association, and it's just best practice to have an oversight or a steering advisory committee for the program that should hold regular meetings. The task force demonstrated its usefulness; this would be something similar to that but on an ongoing basis. It needs to engage in a thorough planning process to create an updated EOP or emergency operations plan that follows federal planning doctrine to enable the County to better manage large-scale, complicated incidents, and why this is critical is if the emergency operations plan has [inaudible] or is not completed or developed in compliance with the guidance that's provided by FEMA and endorsed by the State DHS, there is if not a likelihood, there's a chance that any grants that the County would be eligible for would not be permitted. It would not be given, because there's no compliance or no active emergency operations plan that is developed using established planning doctrine.

So as part of that comprehensive and complete emergency operations plan that the Office of Emergency Management engaged in collaborative process, that's critical. Collaboration is critical. The worst time to meet somebody is in the middle of an emergency, especially if you need something from them. So, for example, there should be wide participation from County departments including Public Works which has a critical role in my experience in dealing with large incidents, particularly those related to infrastructure. Those need to be included as well, as well as a transportation plan, a communications plan, all kinds of annexes that the planning doctrine indicates are not only of value but are necessary.

And then the other thing that was identified was that there was no multi-year training and exercise program in place. Consequently partner agencies didn't know when, how, where, training was going to be held, what their curriculum was, what staff involvement would be needed, and consequently if the emergency operations center had

to be activated – it appears that no one even knew that they would be required to be deployed to the EOC and actually perform an emergency management function up there, whether it be Transportation or Public Works or Housing or any of those. So this was a significant shortcoming that is also part of recommended practice by the Emergency management Agency and the International Association of Emergency Managers, is that a multi-year, maybe five years, training and exercise program be developed and widely communicated.

And then to really do a good housekeeping, housecleaning that everything that exists, now see if it's still relevant, if it needs to be updated on a countywide basis with all participants to identify any gaps, any conflicts, and any areas in need of updates. And I suspect there'll be quite a few of them, especially since the emergency operations plan hasn't been updated since 2007.

And then finally, that each position in the EOC, in the emergency operations center – these are not permanent positions – these are only upon activation – is filled at least two deep and there's a number of positions that doctrine says ought to be included in the emergency operations center, should be filled at least two deep and if possible three deep, to ensure that there's always someone available. There's always somebody on leave. People go, people come, people are not available, they're on vacation, whatever it is. So it's important for the sake of resilience and sustainability of protracted events that there are multiple individuals assigned and identified and trained for each of those positions.

And with that, which I can actually talk faster than I just did, but I'll spare you that, and bearing in mind of the time, are there any questions at all about anything in the report? Just questions in general?

COMMISSIONER BUSTAMANTE: Madam Chair.

CHAIR HANSEN: Yes Commissioner Bustamante.

COMMISSIONER BUSTAMANTE: Madam Chair, to what level did the existing personnel participate in this process?

MR. DUBÉ: Well, one was brand new. The other was a fairly recent hire. Two were primarily involved. The one that was involved the most in providing background information was the current coordinator.

COMMISSIONER BUSTAMANTE: The current coordinator?

MR. DUBÉ: Coordinator, yes.

COMMISSIONER BUSTAMANTE: So that's at the emergency operations –

MR. DUBÉ: Yes. The Office of Emergency Management. Yes.

COMMISSIONER BUSTAMANTE: So those are the people who participated. To what extent did they participate in this?

MR. DUBÉ: They were the key providers of background information, so I asked for a number of documents and stuff like that so I could do a document review. So they were the ones that provided some of this, as well as follow-up information, vehicle logs, maintenance logs, those kinds of things, but I would be remiss to say that as well, the task force members, which included folks that are within the County were also interviewed for the Sheriff's Office, the Fire Department, Public Works – those individuals, some that I see in the room or I saw them earlier.

COMMISSIONER BUSTAMANTE: I'm sorry. I'm not sure you're understanding my question. From the personnel who are working in the Office of Emergency Management, who specifically, or to what extent, not who, to what extent did they participate in the task force?

MR. DUBÉ: The current director was a member of the task force.

COMMISSIONER BUSTAMANTE: And to what extent did the member of the task force participate with the task force?

MR. DUBÉ: I had some documentary information provided by him, as well as a fairly lengthy interview.

COMMISSIONER BUSTAMANTE: Thank you.

CHAIR HANSEN: Commissioner Hughes.

COMMISSIONER HUGHES: Thank you, Madam Chair. I just wanted to make sure I understood. In your recommendation of separating the two functions, and I forget – there would be sort of the planning side. I'm thinking of it as the operations side. And then how many people would be, when we are fully staffed up, in each of those sections?

MR. DUBÉ: So the Office of Emergency Management is properly staffed at four when you look at what a dedicated Office of Emergency Management or emergency management program would entail. The response capabilities, those would be a staffing issue for the Fire Department under their – it's the Fire Department's responsibility, from their existing or any personnel that they may need to hire or to redeploy to fulfill those three instances. So one of them is rehabilitation, which is often dealt with by volunteers. One is technical rescue, which is a fairly significant program to get into, and the other was wildland. So dealing with wildland fires is again, a primary Fire Department responsibility, not emergency management.

COMMISSIONER HUGHES: So I think and just correct me if I'm wrong. So I think you're suggesting that the four staff positions we have now be moved to the County Manager's Office?

MR. DUBÉ: Or to the Office of Emergency Management, which could then report to the County Manager's Office, yes.

COMMISSIONER HUGHES: Right. And then the response functions would be then distributed throughout the Fire Department?

MR. DUBÉ: And they see fit. Yes.

MANAGER SHAFFER: If I could, Madam Chair and Commissioners, just to interject. We're talking about positions, not persons. And so just to be clear, we're dealing with again functions and FTEs, not necessarily personnel. That would be step one, should the Board move forward in this direction is to assess needs, skills, passions, what have you and decide what personnel would reside, whether persons would come from the Fire Department to the Office of Emergency Management within the County Manager's Office, or whether they would remain in the Fire Department. Again, that's a separate discussion for a different day and space. I just want to make that point clear.

COMMISSIONER HUGHES: Right. Yes. And I understood. I was only asking about functions not who would fill them. So there would be four, the four we already have, would move over the County Manager's Office.

CHAIR HANSEN: No. That's not –

COMMISSIONER HUGHES: I mean the four positions; not necessarily the four people.

MR. DUBÉ: Not the four people necessarily.

MANAGER SHAFFER: So if I could, I'll take another pass at it, Madam Chair and Commissioners. And so in the Board set aside \$250,000, approximately, in recurring money to help implement the recommendations of the task force, if adopted by the Board of County Commissioners. And so that money could be used to create a new Director of the Office of Emergency Management and you would have the existing position of Assistant Chief of Special Operations is what it would remain at that point in time. And so existing personnel, Asst. Chief Vigil is part of the follow-up implementation and analysis and discussions. It's conceivable he could remain the Assistant Chief of Special Operations. That position would remain. Or it's conceivable that he could become the emergency management Director again.

That's not the issue before the Board today, but that money could be used to create that new position, as well as an additional coordinator position. Or it could be used to fund a refocused position, if you will, within the Fire Department for incident rehab. So what you'll have at the end of the day would be four people dedicated full time to Office of Emergency Management, and then you will have some number of positions remaining in the Fire Department or created within the Fire Department to discharged the emergency response functions that currently reside there – incident rehab, tech rescue, and wildland. So that's what you're looking at, if that helps clarify the picture.

COMMISSIONER HUGHES: Yes. So in other words, we haven't determined how many positions within the Fire Department might need to be created until some later date, I guess. Right?

CHAIR HANSEN: Commissioner Hamilton.

COMMISSIONER HAMILTON: If you think about it, the Assistant Chief and the Coordinator are currently under the Fire Department. So one might think of the OEM positions, especially the upper level as the new positions and then whether lower positions get transferred from the Fire Department or left in the Fire Department and you have to create them. That's part of the point, that they're new positions that have to be created.

COMMISSIONER HUGHES: Right. I was just trying to get a sense for how many positions in each place. I think there's four at the County Manager's Office and this new Office of Emergency Management, and then some perhaps slightly undetermined number at the Fire Department for response. Is that correct.

MANAGER SHAFFER: You are thinking about it correctly, Madam Chair and Commissioner Hughes. Again, as we move forward with that's something we would work collaboratively with the Fire Chief relative to what number of positions would be needed to continue to support those response functions.

COMMISSIONER HUGHES: Okay. Thank you. The only other thing I'd say is I really appreciate the report and all the work that went into it and the task force work, and I think it's vitally important that we move forward with emergency management because we will have emergencies and we'll need to manage them.

CHAIR HANSEN: Yes, Commissioner Hughes. I think we all agree with that. Commissioner Greene.

COMMISSIONER GREENE: Thank you, Madam Chair, and thank you for the work on this and to the committee that stood this up and to Commissioner Hamilton for really putting this out front early in my tenure on this dais. I'm excited to see these results.

The recommendations I think are well received, at least on my part, and to a point that is – to sort of make this point on a bigger scale in front of us, typically, we look at our emergency management as a fire. Right? That seems to be a lot of what happens in Santa Fe County in the past or in New Mexico in general. But we had COVID. That was management by the State Department of Homeland Security and Emergency management. So that is a – when the PPE was delivered to the folks they had a center, they had a warehouse and they had guys under armed guards there. And so it's not just fire. It's also, god forbid, it's active shooter. So that's less fire and more police and Sheriff's Office.

It is also intergovernmental things between and I didn't quite see that in this report. I wish there was – maybe that's just on who takes this over and has to sort of build those relationships. I think the task force had that in the sense that it had folks from Edgewood and from the City of Santa Fe in there, but in terms of recommendations that would go forward to say how we should work together, both regionally for the folks that are within Santa Fe County but also Los Alamos County and Rio Arriba County that may not actually have the structure to stand something up but that we may need the roll-over organization to help them sort of get it right and maybe be the best practices leader for them.

I know that the friends that I made up at NACo this summer from Maui County, they'd never had an emergency like the fires in Lahaina a few months ago. And they were not necessarily prepared for all of those ongoing things. Everything from who to ask for help. Just that first phone call was the – people were frozen and didn't quite know where to go. And to that point also who – not necessarily within their government. So it was who to call at the feds. That seems relatively easy – FEMA or something like that. But also whether to call Walmart.

As an example was during Cerro Grande – I like to use this anecdote here, is when Cerro Grande hit Los Alamos area, the Food Depot took over a warehouse, an old big box store, and so much food was delivered there, and it was amazing, we couldn't do anything with it. Because we couldn't find it. And then all of a sudden a whole bunch of guys on forklifts showed up from Walmart and said please go home and sleep for four hours, come back and we will have this organized. And it was unbelievable. Walmart, because they are the inventory specialists, came in and organized everything for us as a community, that we would not necessarily know how to do, but it was one phone call away, and they knew that they were good at it and they showed up and organized everything. We all came back were, like – we know where the potatoes are. And the firemen were looking for potatoes. So we needed to feed people up on those places.

So things of those outside resources that are already endemic in our area, such as a Walmart, such as a delivery company, that can deliver medicine when certain organizations break down and so on. And so I would hope that part of this recommendation set would be not, again, to look at ourselves only, but to also look at our key partners and then our non-governmental partners in how we can stand up very fast

emergency response.

And then my last question for you right now, or my real question for you right now is 45 recommendations, ten urgent, but you also spoke about a few that were left out. What was left out?

MR. DUBÉ: When I started, I zeroed in on about 100. But some of them were really long term, where you want it to end up. And I really wanted to keep this something not so overwhelming that they'd say this is too big, that the County would react by saying this is too big; we can't handle this all at one time. Where are we going to find all of this? So I – some were merged together to distill the number, and some were really – needed immediate attention or should be the basis or the foundation of the philosophy moving forward with this.

So talking about collaboration and inclusiveness and many of the other things in there that are critical because, you're right, you can't do it along. You can't do it alone. I loved your experience with Walmart. If there's anybody that knows logistics, it's Walmart, amongst others. Home Depot is just as good. I had personal experience with Home Depot doing the logistics. I could tell you a million war stories but I'm not going to. That's not what I'm here for.

But where it's critical to have external partners, you don't want to get into necessarily the food distribution. You certainly don't want to get into sheltering, registration and inquiry. All of those kinds of things. Those are functions where community partners, some of whom are well established, Red Cross being one of them, feel a sense of belonging and a stake in the outcome, and they know where they fit into the organization, when they can expect the calls. Sometimes I'll even lean forward. But best that they do it in coordination rather than they just show up because there was a – and people don't know that they're there or what their function is.

So to your point, tying all those things together and making the net as big as possible is critical to success.

COMMISSIONER GREENE: Thank you very much. I appreciate that. What would you say – we always look at fire response as the main risk. What would you – I think of cyber attack. And it doesn't have to only be Santa Fe County. Again, an attack on our banking system, or something else that could take down a major aspect of our economy or our operations or monkey with a bunch of things. What sort of scenarios did you lay on top of this to make sure that we were more fully prepared? That it's not just a fire response.

MR. DUBÉ: So you'll find embedded in the report a significant section on the threat and hazard identification and risk assessment. So that is, in order again to be eligible for grants or to comply with existing legislation, those have to be conducted. So when I ask for one, in the existing format, none was forthcoming that was recent. However, there was, what I then developed was 41 one-pagers. So they weren't compliant in form but there was some useful information of the risks and hazards that exist within the county. So that's a useful document. It's a good place to start to turn it into a compliant threat and hazard identification risk assessment, which is again, a mandated part. If you want to get grants, you've got to not only complete them. They're good for planning purposes, and they have to be filed with the state.

COMMISSIONER GREENE: I really appreciate that and in a list of

emergencies, I don't quite think that sunseting STR thing is considered an emergency, though. I leave that as a joke here. Anyway, thank you very much, sir. That's not one of our risks.

CHAIR HANSEN: Thank you. One think you didn't mention is flooding, and flood is a really serious issue here. In 2018 we had a serious flood that damaged not only parts of my district and District 2 but District 3 because of, I think, lack of coordination with the City. I think there needs to be coordination with our City. All of the cities, from Española to Edgewood to Santa Fe, and all the small villages in between. I think that that is something that is really important.

I also totally appreciate the report and having the ability for us to think about this in a strategic way and to move forward. I'm going to go to Commissioner Hamilton.

COMMISSIONER HAMILTON: Thank you. I just – I think this report really hit the level that we were looking for and the way that we really needed it and I'm very appreciative of that. In fact, in our – the pieces of emergency management that have been developed over the past several years, there have been some efforts to do, for example, identification of what our biggest risks are. But very clearly, it's not – there are a lot things.

We have a lot of materiel that's very appropriate for the kinds of risks that we – we had some very knowledgeable people who anticipated certain kinds of risks and developed certain kinds of capabilities. What this report did was look at it and say, this is really great but you don't have that information in a verified, approved and distributed document that serves the full function. So it's like, I know some of the answers, in fact, Commissioner Greene, you alluded to something that ten, twenty years ago, fire, certain kinds of floods, and maybe the potential for pandemics and that sort of emergency, all of which we have responded to, would have been primary. But if you evaluate it now, many other things would get added in.

But the fact is – and so that's why this report showing the need for completing and expanding that risk evaluation and doing it in a full report is so critical, because we have to have that. Not just there are a few people in the County who know about it, but everybody knows about it and it's documented and it's something we can use as team going forward. That's why it's so important.

But this report wasn't supposed to identify everything that needed to be in the report. That's for the OEM to do. This effort was to say, hey, you guys have a lot of information but it's not in a report. You guys have a lot of equipment but it's not trained on, or whatever the recommendations were. This is how the structure should be. And I just wanted to make that clear because I think people, our County people, our Chief, our Sheriff, all the people on the task force, put a really well focused effort into doing this. I was – I did recognize that I thought myself how important and the increasing importance emergency management would be to our County and to facilitate having that grow in a way that everybody who has the expertise, including our existing Fire and Sheriff's Departments and Public Works would have – would be able to contribute knowledge of how things should go forward.

But how do you make something like that grow without some pre-planning. And that's kind of what we lacked. We have a legacy of people going, I know about emergency management and I'm going to get things together as part of the – in the Fire

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Department. And that was incredibly valuable until it really needed to grow, and then you have to kind of step back and go, well, how should we really be doing this?

But even recognizing how important it was, these kinds of things are hard to do well and I really think this came off very well and set this up. But there is still a lot of work to be done. Like once the office is set up. There's really a lot of the actual planning, the primary planning to do.

MR. DUBÉ: To your point, and not to monopolize things, but there was a notion or a mention in there about also the importance of continuity of operations planning. So how are you going to protect your community and service community during a time of emergency is critical. But how are you going to continue the business of government?

COMMISSIONER HAMILTON: Yes.

MR. DUBÉ: Issuing permits and all those other kinds of things. And so that's noted in there, and the standard, the actual standard for emergency management includes continuity of operations. You can't help if you can't conduct your own business.

COMMISSIONER HAMILTON: Yes. That was really well done. That was a great point.

MR. DUBÉ: And those recommendations came out of the task force.

COMMISSIONER HAMILTON: So I know there might be a lot more discussion but I would love to move to approve these.

COMMISSIONER BUSTAMANTE: I very much want to have something to say, Madam Chair, if I may.

COMMISSIONER HAMILTON: Absolutely. I'd still like to make the motion.

COMMISSIONER HUGHES: Can I second the motion, then we can continue discussion?

CHAIR HANSEN: No, I don't want to have a motion just yet, but I get who wants to make it. Okay. So I'm going to Commissioner Bustamante.

COMMISSIONER BUSTAMANTE: I appreciate that, and I appreciate the recommendations. And I read wholeheartedly with the understanding that this is to build and strengthen our emergency operations. I will say explicitly, and have concerns. This is to build and expand and support, and it's written in a light that almost makes it sound like there was nothing happening. And I'm going to say that my interactions with the existing operation go back to my time working with the Bureau of Health Emergency management and this has been an entity two deep or not. Like whatever the numbers were at any given time, has been incredibly responsive. Has been both at fires and giving immunizations. Has been both in Edgewood and in Chimayo, somehow.

And we're talking largely about two individuals who have done an awful lot, and not a lot in this report acknowledges the assets that we're building from. And I say that out of respect for the individuals. I get that there are positions, but even with the two positions and often enough, when I'm doing work, it's not always about the quantity; it's about the quality. It's about, yes, we might have four individuals and we'll be four deep at some point, and I hope that the level of responsiveness, the attentiveness to what has been identified, and that, yes, we'll have the policies and it's disheartening to hear that there were things that hadn't been updated and things that needed to be done.

So the good news is this is good and makes recommendations that are sound. It doesn't acknowledge some of those strengths in our ability to have been agile and response enough to a community that has needed it for just about anything. And having been in a community group that said, can you help us with our ability to get out of this community? There's no egress and we want to have an exercise. And did that collaboratively with other entities within the Fire Department. How that can be done and how things may be more collaborative is again, a great development that we can build from.

But I cannot go without acknowledging the good work that has been done, that this doesn't really start from or build from – this is where we are and this is where we can grow. It's hasn't, hasn't, hasn't. And I kind of take exception to that, having been on the other side as a community member of the hads, hads, hads. And things that did make sense. That went to the Santa Fe Community College and created a CERT, a community emergency response team, that was responsive and did volunteer year after year at the Chimayo walk and stayed up all night, giving people water and making sure. One fellow had a heart attack. Had it not been for the CERT who was trained by this individual.

Armed, active shooter training and bringing everyone in takes a huge amount of collaboration, trained and brought up by the existing Office of Emergency Management. So as we may go on and talk about how and what we're going to do better, I hope that we are sincere in our ability to acknowledge what has been done well, because from a community perspective, and from somebody who sat on that CERT, and somebody who interfaced as the director to someone in emergency management, and sat with me, and another person in this room who I won't look at but I did just now and looked away, at the state emergency operation, that individual was very active and very good at what they did.

So yes, good, let's do better. Let's grow, let's support it, but let us not forget the good work that's been done. And I mean that with everything. Thank you.

CHAIR HANSEN: Thank you, Commissioner Bustamante. Commissioner Hamilton.

COMMISSIONER HAMILTON: Are we looking for the motion?

CHAIR HANSEN: Yes.

COMMISSIONER HAMILTON: Okay. Thank you. I'd like to move to accept the report and these recommendations.

CHAIR HANSEN: Commissioner Hughes.

COMMISSIONER HUGHES: And I'll second, but I do have something under discussion.

CHAIR HANSEN: Yes, I'm going to have under discussion.

COMMISSIONER HAMILTON: And just to add, in the spirit of really appreciating what we've had in the past and I think the good spirit that this was presented in.

COMMISSIONER HUGHES: I second that part as well.

CHAIR HANSEN: So as somebody who was here from the beginning of 2017 when we went through a serious flood, and then approached COVID, I saw that the County Manager, our team, the Fire Department, the police department, we made it through COVID and we managed to keep as many people working and we figured out

many of the serious issues that we had. But if we had something that happened like in Lahaina in Maui, that was completely devastating and to read things in the paper about Maui like that a gate was closed and nobody knew how to open it. Those are the kinds of things that keep me up at night.

We need to make sure that we know that we can get people out or that we can help them move to a safer environment. And whether it's COVID, flood, fire, anything. And so I am grateful for this report because I do think having a plan that we have not had since 2007 is really important. And it's really important to have a discussion about that plan in a much bigger arena, not only inwardly looking, because I think inwardly looking we have to be prepared as a government, but also outwardly looking and how we do support our communities, our traditional historic communities, our Native communities, and make sure that we're listening to all of them so that they're able to provide – we're able to provide and they're able to provide and connect all the resources together.

So with that I want to thank you for working on this. I know that it was not easy.
Commissioner Greene.

COMMISSIONER GREENE: Thank you. I was wondering – I didn't necessarily see a tribal aspect to this. Like how recommendations would come forward to integration with either our cities, which are sort of subsets of the county, but also our tribal communities.

MR. DUBÉ: So without listing each one individually, the intent was certainly to encourage collaboration with all stakeholders writ large, and that's [inaudible] If they're out there, and to your point about the Community College, there is a number of resources out there that can contribute and are willing to contribute, and also have some of their own plans already for emergency sheltering – there's any number. So at the risk of leaving one out, if you take the writ large, all-inclusive approach for all external stakeholders, some of which have yet to be identified, I'm certain. That really is the approach that should be taken with regards to this. Thank you.

MANAGER SHAFFER: If I could, Madam Chair and Commissioners, Commissioner Greene, I'd be pleased to talk to you in greater detail about this as well off-line but I'd call attention to recommendation 17, that again talks about that broad-based planning to include partnering governing entities, community groups, private sector, faith-based organizations, etc. and in addition there were several specific recommendations that specifically touched upon planning as well as communications encompassing the whole community with focus on both at-risk and culturally diverse populations.

So again, I think as you read through the detailed recommendations, those concepts of broad-based planning, regional efforts, private partnerships, non-profit organizations, tribal governments, at-risk communities, I think are reflected in the recommendations and Mike, if I got it wrong, you correct me. But I just wanted to point those specific things out. Thank you.

COMMISSIONER GREENE: Thank you, Greg.

CHAIR HANSEN: Okay, Commissioner Hughes, and then we're going to move on.

COMMISSIONER HUGHES: I just wanted to real quickly say that I appreciated Commissioner Bustamante reminding us of all the good work of our current

Office of Emergency Management and I certainly appreciate how open they've been to help provide workshops in my district and responding of course to all the emergencies we've had over the years and particularly during COVID and also I think it's important to note that if we're going to respond to something like what happened in Hawaii or Boulder, Colorado or California with those terrible fires we need to do better. And even our current Office of Emergency Management has said that, that we need more staff, more work on this and I think this is a step in the right direction.

The motion passed by unanimous [4-0] voice vote, with Commissioner Bustamante abstaining.

CHAIR HANSEN: Thank you very much. Thank you, Mr. Dubé.

MR. DUBÉ: Thank you, Madam Chair and Commissioners.

MANAGER SHAFFER: If I could, Madam Chair, I'm sorry to interrupt again but with the liberty of the Board, I'm going to send a letter to each of the participants of the task force extending the County and the Board of County Commissioners' extreme gratitude for their service. These are tough situations to step up and step into and greatly appreciated from what I observed everybody's efforts on the task force doing their level best to try and provide the Board with sound, comprehensive recommendations. So with your approval I want to be able to say that I'm sending that on behalf of the Board.

CHAIR HANSEN: Absolutely. I think that's incredibly important to recognize all the members of the task force, and I'm sorry I didn't recognize the ones in the audience, but I think they were recognized earlier and I thank them for their service.

COMMISSIONER HAMILTON: Absolutely. Thank you.

7. Presentations

None were brought forward.

8. Matters of Public Concern

CHAIR HANSEN: Subject to three minutes. I know that we have one person who would like to make public comment. Jose Villegas, Sr. but I have written down here Chaplain Good to see you. Welcome to our chambers.

JOSE VILLEGAS: *[Exhibit 1: Joes Villegas letter dated 11/13/23]*

Madam Chair, members of the Commission, County Manager, General Counsel, County staff and members of the audience. Buenas noches. For the public record, my name is Jose Lorenzo Villegas, Sr., a resident of La Cieneguilla Land Grant. The original land grant name is Francisco de Anaya Almazan, located in Township Range 16, Range 8 East, Section 20, circa 1698.

Nearly three decades after the issuance of the Executive Order 12898 of February 11, 1994, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations, it states, The Federal government must build upon and strengthen its commitment to deliver environmental justice to all communities across

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America.” Frankly, the federal government, including the City of Santa Fe government in this specific situation failed me, broke the promise, destroyed the commitment to protect my familia and neighbors and disrespected me and my familia, period. Ya basta.

Yes, I have tried vainly to distance myself from attending any governmental entity’s scheduled meetings from all magnitudes – City Council meetings, school board meetings, state legislature committee hearings, congressional meetings at the nation’s capital, etc. because I truly believe and I feel that the government entities were not listening to me, to my legitimate concerns about public safety, health and welfare for my familia as well as my neighbors, vecinos y vecinas.

The last time I was seriously engaged and attending a governmental scheduled meeting was back in 1992, here. This is the first time since 1992 that I’ve come here to address my concerns. But this one was related to the Ken Newton project in La Cienega. And for some reason or another there are so many people sitting in this chamber today that continue to ignore the institutional memory of what occurred during that hurtful, painful, and horrific experience of a wealthy developer wanting to build a Jack Nicklaus golf course in a traditional and historical community that did not have the precious groundwater resources to support it.

But I do not forget and never forget what occurred back in the day to this day forever. It still hurts deeply from within the inner core of mi alma, my soul. It is engrained in mi alma, my soul, like a splinter that pierces and bleeds from within. Now, I’ve been told and forewarned to keep it simple. Be cordial and professional. But yet I must pretend that everything is Kumbaya, characterized by or exhibiting a belief in harmony, which in people and their essential goodness truly exists. But my heart is in discord and is apart from it and why is it?

In the real world that I live in today I was notified last Friday, November 10th, my Marine Corps birthday – semper fi – that my private well was contaminated with a dangerous chemical identified as PFAS. According to the Santa Fe County validated and accurate water samples reporting document – and I appreciate the County of Santa Fe for taking care of us. I appreciate Santa Fe County big time. My primary source of living private well groundwater resource is way over the new, soon to be EPA drinking water standards that are supposed to be approved by the dysfunctional federal government entity some time in the late 2024. Yet for the three PFAS levels, which were identified in the well samples report and analysis that were taken recently from my private well, is identified as one of them. They are at the higher levels within a hazard index standard. My well is over this standard too, H1=cal c. Look at the calculations; they are disturbing and frightening.

So I am supposed to be happy, elated, overjoyed with laughter and play the Kumbaya harp in motion?

Now I have said it before time and time again. If the Marine Yaqui comes out of me, I’m not a holy man. I wear many hats in my barrio. My reservation. My community at large, but today I will remain calm and tranquilo. I am telling you know I am calm and tranquilo. Having said that, for how long has the National Guard, the City of Santa Fe Airport, including the Santa Fe City Wastewater Treatment Facility have been dumping this dangerous PFAS chemical, PFAS and PFOA into my private well and others. How much PFAS chemical have I, my wife, my children, my grandchildren have already

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digested since the New Mexico National Guard completed their draft final site inspection report in February of 2023.

Frankly, there was a first final preliminary assessment report that was conducted by the Santa Fe Army Aviation Support Facility in August 2020. That was three years ago. Three years ago. Have our political subdivisions that are supposed to protect and defend us from harm read this DOD report? If not, why not? But I appreciate the County of Santa Fe for doing that. You are my family.

What is the most annoying, upsetting and made me angry is why did DOD fail to notify a traditional and historical community, La Cieneguilla Land Grant, which is located downstream from the DOD facility, less than a mile from the location, about the possibility of our private wells being contaminated with this hazardous material penetrating our precious groundwater resources? Frankly, in my strongest opinion, the DOD were negligent, irresponsible, derelict of their military duties and should be held accountable at all levels of code of conduct, code of ethics violations, high moral compass, and legal obligations for failure to protect our citizens of this great State of New Mexico.

So who's going hold the strong Goliath in accountability for their failure to notify the public about their findings of PFAS in a military installation? Well, you know what? I'm David. Goliath, David is alive and well.

In addition, what about the City of Santa Fe Municipal Airport? The City Mayor, the City Council, obligations to protect our surrounding traditional and historical community which is located adjacent to the municipal airport and the dysfunctional wastewater treatment facility? Why has this municipality, specifically the City Wastewater Treatment Facility Administration, refused to work collaboratively with the Santa Fe County officials in addressing the serious EPA violations occurring at this facility? Consequently, it is my community that is adversely, environmentally impacted by the gross negligence and incompetency.

So I beg the question: Why has the EPA continued to ignore the high levels of *E. coli* that is occurring at this municipal facility that is located from across the Santa Fe Army Aviation Facility? The last water quality sample that was taken from this facility was on November 5, 2023, and the *E. coli* results, 80,000 cfu/mL. Too numerous to count. Where is the EPA on this one? Including the NMED Water Quality Bureau?

The only reason why I bring this information to the BCC's attention is due to the confidential source of information that I received related to the Torreon Well, which is one of two that are designated as monitoring wells that are located from across the wastewater treatment facility next to the airport and the National Guard may be contaminated with the same PFAS hazardous material that I have in my private well.

On the same note, I was informed by my confidential source to keep their mouths shut from his who operate this municipal wastewater treatment facility. They do not want the public to know about it. Well, guess what. Who do you think they are fooling? Not me.

Now, what is the plan to mitigate and recovery to address the serious public health, welfare and public safety in my home and my community? Who is responsible for cleaning my PFAS contaminated private well? Should I dismiss and ignore the hazard index standards, EPA-driven? If my private well is declared permanently unusable and

not operable, who will borne the cost to redrill a new well for my family, including my neighbors if their wells are declared PFAS contaminated the same? Who is responsible for borne the costs of my PFAS blood testing. If my well is contaminated with this dangerous hazardous substance, don't you think that my family should at least get a PFAS blood testing to find out if we are also contaminated? Did you know that within the close proximity of my now dysfunctional well that's contaminated with PFAS, we have a high rate of cancer victims that have died within the last six years in my neighborhood, and out of the families that have died there, they were my families, my brothers.

Who will pay for the PFAS water filters, installation and maintenance for my home? I'm concerned about the emerging issues of PFAS contaminants on real estate. I am familiar with the AEI-ASTM E527-21, The Changes and How They Impact You. What about my property value in the land grant? Who is going to be responsible to pay for the Phase 1 environmental site assessment? The ESA on my property? The Phase 1 ESA report identified existing and potential environmental liabilities at a property due to PFAS contamination scenarios. Who is going to provide my family with another safe drinking water resource while I and my family cannot drink the groundwater that is validated and confirmed contaminated with high levels of PFAS?

By the way, I don't trust the EPA information that is listed for the public to use in an event where a private well is contaminated with PFAS. Would you trust them too? I doubt it.

In conclusion, I strongly recommend that the Santa Fe Board of County Commission utilize the New Mexico EID grant appropriations of \$459,000 to conduct a massive well testing program for every residential home located in the La Cieneguilla Land Grant. It is not fair or due process to force the landowners to borne an expensive cost at their expense just because the DOD and the City of Santa Fe created this environmental injustice in the first place, period.

The New Mexico EID should be increasing this emergency management incident with a higher appropriation of funding for further research studies to include a mitigation and recovery plan, i.e., new monitoring wells in the contaminated areas, etc. to protect our precious groundwater resources and groundwater areas in this land grant, because the DOD and the City of Santa Fe will fail to mitigate their own failings to conduct their official duties in the first place. I don't trust them, like a yehwah refusing to drink nasty water from the bucket.

On the last note, I am familiar with the recent U.S. Congressional HR 24-67 that was addressed by the U.S Congressional House of Representatives in D.C. It hasn't gone anywhere – don't be surprised – on the U.S. Congressional level at this date, but it's related to require the administrator of the Environmental Protection Agency to designate per the same issue that we're having, a hazardous substance under the Comprehensive Environmental Response Compensation and Liability Act of 1980. At this time I have no faith in the DOD and the City of Santa Fe government to protect and defend my familia at this time.

I'm livid. I'm angry. I have no mercy for them. Only I'm not one to be dismissed, but what I have said and done today. Muchas gracias. Thank you for your attention to this matter. Jose Lorenzo Villegas, Sr., Valle de La Cieneguilla Land Grant Association, RO, and a member of the Texas band of Yaqui Indians. [inaudible] de dios. Muchas gracias.

CHAIR HANSEN: Muchas gracias. Thank you for your comments. Is there anyone else in the audience who wishes to make public comment under Matters of Public Concern? Is there anyone online? No. Thank you very much.

9. Matters from the County Manager
A. Miscellaneous Updates

MANAGER SHAFFER: Thank you, Madam Chair and Commissioners. Some of my updates were specific to the topic of the well tests that were conducted by Santa Fe County as well as the funds that were awarded to the County from NMED for further investigation and to define the scope of the potential PFAS issue. I would reiterate that the County's role relative to this issue is and will continue to evolve. The County was pro-active in doing tests of six wells as well as seeking the grant funding. Ultimately, when we received the results of those water tests, we felt constrained to share that information with the public so that individuals would have relevant information that could influence their personal decisions relative to risk assessment and risk mitigation and I'm glad that that information was shared, even though there is a lot of work to be done moving forward in terms of defining the scope of the issue as well as potential macro-level solutions.

The County did start through its press release some public outreach and education. There's a lot more in that space that we will endeavor to do working with NMED and subject matter experts in this area of emerging contaminants, and also working with our Community Services Department as well as this is an area of focus for them as they move in their Health Action Plan to looking for environmental risk as well as other traditional areas of focus for them. So again, there's a lot of public outreach and education that we feel at the staff level we can help facilitate, not in reinventing the wheel but working with subject matter experts and partners at the state and at our higher education institutions as appropriate.

In addition, relative to the generalized risk of safe drinking water from domestic wells, this component of public support actually fits well with the County's affordable housing plan, a component of which includes home rehabilitation for individuals of low to moderate income which could include energy efficiency as well as water and wastewater treatment, things like grinder pumps as well as at-home treatment infrastructure – filters, what have you. And as we move forward with the regulations surrounding that augmented and expanded individual home rehabilitation program, that may provide a mechanism for the County to support low to moderate income individuals with private domestic wells to both test their water as well as potentially fund treatment infrastructure. So again, there's a lot of work on this topic, obviously, and the County's role relative to different aspects, has and will continue to evolve as we expend the grant funding to again help investigate and define the scope of the issue, but continue to partner with subject matter experts at the state and institutions of higher education on public outreach and education. And we continue to look at ways in which we can support individuals in the community to ensure that all aspects of their home are in fact providing safe and decent habitation pursuant to our affordable housing plan. So that was a very long update but I know that this was a topic of great interest understandably from the

community as well as from Commissioners.

We've been invited to a ribbon-cutting that the City of Española has scheduled for Monday, November 20th at the La Joya fire station, so I want to extend that invitation to individual Commissioners. If you would like to attend, it is at noon. Please let Sara Smith know if you'll be attending so that we can notice if three or more Commissioners might be present.

A reminder, we do have a special meeting this Friday. The topics are to approve the results of the 2023 regular local election. There's also a public hearing on an emergency ordinance relative to short-term rentals. And finally, there's a request to authorize County staff to publish title and general summary of an ordinance amending the fire code so as to adopt the 2023 standard relative to battery energy storage systems.

Finally, we are proposing a special study session or meeting of the Board on Thursday, November 30th from 9:30 to noon, in order to provide the Board with analysis and options relative to short-term rentals in the hopes of receiving feedback from the Board to guide the development of an amendatory ordinance. So those are my miscellaneous updates. Thank you, Madam Chair and Commissioners.

CHAIR HANSEN: Thank you, Manager Shaffer. We were also – NMED, we were given a handout on the PFAS in your private well and I think that it would behoove all of us as Commissioners to send this out to our constituents so that they know some of the resources that are available, and we have some hard copies here also.

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: Commissioner Greene.

COMMISSIONER GREENE: I get to start off. Thank you, Madam Chair. First off, I'd like to congratulate our local officials that stood for elections last week. As an elected official I know it's tough to go out there and put yourself out on the line. I also want to congratulate those that won. It takes a lot to go convince people to vote for you and to have great ideas and to go out there and shake hands and debate the topics with everybody out there. So congratulations to the folks at the City and folks up in Española and folks in Edgewood and in the water districts, and all sorts of local election aspects that went out there and put themselves on the line and won.

Also, congratulations to the City for their approval of the affordable housing trust fund and mansion tax. It's definitely a need that we have and that is one possible funding solution and that deserves some recognition that it won by a wide margin.

Another election aspect I took part in was at the end of the day I went and visited 100 Catron where the County Clerk and the election team was bringing votes in and I watched as the votes came in to the building and got a tour and watched the air-gapped computer and I watched how the process played out. As an election official, as we will go certify the election next week, I thought it would be a good idea to be there later this week. I thought it would be a good idea to actually see our County Clerk's election staff in action and watch the election folks come in and see how it works. And I can report that

things were very organized and operating with effectiveness. It was really nice to watch how the County Clerk and her team have people trained, responsive, overlapping responsibilities that make sure that when things came in, that nobody stood there for too long, and when – the lists were checked, rechecked, and it appeared very effective in their processing there.

I also went to the Pojoaque Valley Regional Acequia Association meeting about ten days ago. That was a meeting up at the Pojoaque Intermediate School where a bunch of northern acequias have banded together as a regional association. This was great to see where they are working together to help with some best practices and support across the acequias there so these old acequias that have some limited capacity can team together to be able to go get money, to go clean themselves out, to operate professionally and to have ways to know how to manage the water in the north. And it was great to see the turnout at this meeting. There was probably about 50, 60 people. There was really good barbeque as well so it was wonderful.

I'd like to thank the Pueblo of Tesuque for opening their community up for feast day on Sunday. It was wonderful to see the dancers and to see the community out there in full force and they definitely have the best red chile in the north. And I thank the governor for opening his house to me for that effort.

Lastly, I'd like to bring up a concept or a piece of technology, or two pieces of technology that I think that we should incorporate into Santa Fe County. One of them is with the increase in gun violence there is a gunshot detection system that the City of Albuquerque is using that is a derivative that came out of sniper identification in the military to find out where these gunshots happen. I think the right place for it would be at the RECC as part of our system here to both be interagency, to help so when a gunshot is detected it goes into the RECC and that it is dispatched accordingly. That it shouldn't necessarily be part of the Sheriff's Office and it shouldn't necessarily be part of the City of Santa Fe, but because we work together with them that we could use this to know exactly where these gunshots are happening and we could deploy our police or sheriffs very quickly. My understanding is that this targets the location instantaneously and you can have a response much faster and much more accurately. So I would look at possibly have this incorporated into next year's equipment, maybe even have it put into our ICIP list for equipment that we go to try to get in the next few weeks as it may be. I think it would be good for us.

Another one is a piece of fire detection equipment, very similar technology in the sense that it's a bunch of algebra and geometry that triangulates instead of the sound of gunshots, in this case it is the visual imagery for fire detection. And so you can put a bunch of cameras out at disparate points in Santa Fe County and it can identify exactly where a fire has broken out without having to send out an airplane or a spotter plane because it triangulates photographs and video cameras that you can actually identify fire much faster and deploy our fire crews to these locations. Again, I think this is a part of the RECC because it's the consolidated location of intelligence of you get a report. A gunshot report goes into the RECC and they send the cops out to investigate. Same thing with this sort of fire equipment. They get the calls and they go somewhere up in the hills. Well, with this equipment it is technology that would make the RECC a much smarter organization and it could identify where these fires are happening, the size of them, as

well as where these gunshots are happening and have a faster and more accurate response.

And I wish everybody a wonderful Thanksgiving. I hope you guys feast well and thank you very much for Thanksgiving for all of you guys. I'm happy to work with you guys and I really appreciate all of us in this room. So thank you.

CHAIR HANSEN: Thank you, Commissioner Greene. Commissioner Hughes.

COMMISSIONER HUGHES: Thank you, Madam Chair. I just have a couple of things. I wanted to again acknowledge that Saturday was Veterans Day and thank all of our veterans. My brother served in the Navy. Both my parents worked for the army during World War II so we as a family certainly appreciate all the people who served in much more difficult times than my family did. It's something we just need to acknowledge more than once a year, probably.

December 13th is a rescheduled trip to visit a solar facility. We're not able to visit Jicarilla so we're going to visit one of PNM's battery/solar installations. I want to see how they work and I think at least two people from Sustainability will be joining me but there's room for others if anybody decides that they want to spend all day looking at solar stuff and batteries.

I just want to express my hope that the County and the community can somehow come together to help La Familia Medical Center. It's going through quite a bit of struggle. As we know, they're trying to raise a million dollars just to stay open. I know that they also are trying to readjust their management practices so that they can keep going. Obviously, there's something that wasn't going right or they wouldn't be in this situation but I think that in the coming months we might consider if there's anything the County could be doing in that role, since we do have contracts with La Familia to help them survive, because if they don't, we're going to have a whole lot of people without healthcare and that's going to be really difficult.

And finally, I'm glad we're going to be considering the new fire code on Friday. Many of my constituents have been clamoring about that because they discovered as we did here that as we were passing our most recent update to the fire code there was indeed a slightly more up to date update. And so we will, if we adopt the 2023 one we'll have the latest and greatest fire code in relation to battery energy storage systems, which I think is appropriate, given that we're going to have several of those in the county.

And that's it for me, Madam Chair.

CHAIR HANSEN: Thank you, Commissioner Hughes. Commissioner Bustamante.

COMMISSIONER BUSTAMANTE: Thank you, Madam Chair. As it probably should be clear, the issue of the PFAS in District 3 is, I would say overwhelming and clearly an extreme situation. A few things that I do want to say about it. We had a good community meeting last night. A lot of very, very concerned individuals. Absolutely not in the interest of minimizing the circumstances, the situation, it is happening – or it's been identified everywhere. PFAS is not unique to the Santa Fe area, but that is not in the interest of minimizing the issues and concerns that people have.

From an epidemiological standpoint, there is not and has not been anything that has substantiated or even referenced that PFAS would be an indicator for causal

relationship to cancer. Again, that does not mean that we don't make those assumptions. We just have not seen that in the epidemiology. It is not something that it appears to be related to. We do have some associations with thyroid. That would be a concern. There are neuro-developmental issues that can come. The data comes primarily from occupational use, so either the manufacturing or those who use the fire retardant, which is a primary source of that particular analyte.

So those issues in putting the risk into perspective, we have a lot of people who are incredibly concerned and as they should be. But it's most important and I am so grateful for the County's responsiveness in one, we have no regulation, no authority over the private wells, but an absolute concern for protecting our residents and making sure that they get the information that they need, and that we're working with people to address the issue as it become apparent to them in their particular circumstance. Again, out of their well, whatever their source of risk may be.

So working with the County staff in identifying where, whether it's a plume or a direct contaminant from a large amount of development in an area that is predominantly on wells and septic systems. To be quite honest, we don't know yet, but we do know that we have the leadership in place to find those answers and to provide the support to our community members. So it's very important that we say that. I'm absolutely grateful upon conversations that I've already had this morning with the Deputy Secretary of Environmental Health. They sent an individual – that's who I was calling for when we were preparing to take a break, to bring the hard copy information. I have promised that it will not just be via email. I will take these door to door. We have been asked to look at one way we might be able to find someone – I want to call him the PFAS Czar, but let's not say that. Let's call him the PFAS Coordinator, but somebody who on the short term as people learn to understand these issues, are able to get questions answered, know who to be directed to, and maybe identify someone. So that is what our Manager was referring to in working with Rachel's staff. But it is a serious issue. It is something that's happening in a place that we tend to believe was very pristine and ne'er should anything really contaminate us, knowing that just upstream we had some pretty significant sources of risk.

So that's the top of my list, the top of my agenda, the top of my concerns and worries, as well as the issues and the other areas with regard to the Department of Transportation meetings to ensure that the Village of Galisteo is protected from the large truck traffic, and those stay top of mind as well.

So I share that, looking forward to the information about how the TDRs are going to protect our agrarian primarily and not just our agrarian, our agricultural sources but also our archaeological artifacts. All those are real, again, also going to the pristine areas and what it means when we have wildlife, and looking at TDRs. So I'm very much looking at that because our community members are also very concerns about that.

So that's what I have and thank you.

CHAIR HANSEN: Thank you, Commissioner Bustamante. Commissioner Hamilton.

COMMISSIONER HAMILTON: Thank you, Madam Chair. So my first thing is something that I'm really concerned about. It has nothing directly to do with the auspices of the County, but the school system has suspended seven different bus routes in

Santa Fe County, and of course they suspended the most rural ones, so I have a whole bunch of people who are stuck with no way to get their kids to school because we live further out. It just seems to be an incredibly unfortunate situation. So I just want to put it out there that I very much hope that there is something that the school system, the school board, the state, can think about doing to not strand the in some cases the most vulnerable communities in terms of getting their kids to school.

I also wanted to mention how grateful I am to the Fire Department and our Leal Department for working crazy hours to get the fire code update reviewed because that will be something, as Commissioner Hughes mentioned, is going to be a benefit and to get it on such short notice was definitely above and beyond.

I also want to recognize everything Commissioner Bustamante said about PFAS. There are a lot of water quality issues, obviously. We have the water quality issue that was also mentioned tonight on *E. coli* from the treatment plant, which you're primarily dealing with. I'd be very happy to help look into how to deal with various levels of the issues that this is going to cause for communities. Some of them are beyond the County level but once again, there are things that we can think about doing.

And finally, just to acknowledge Veterans Day. Similarly, many of us have family members who over many, many decades now, more than I wish to remember, have served and how important that is and how much we value that. And to wish everybody a happy Thanksgiving. There is so much in the world to be concerned about but so much to be thankful for. I certainly feel that personally and am grateful to be here and grateful to be serving with all of you.

CHAIR HANSEN: Thank you, Commissioner Hamilton. I didn't mention this early on but on Veterans Day I went to the plaza and celebrated Armistice Day. And I celebrated that with the Veterans for Peace, because originally, November 11th was Armistice Day. It still is celebrated that way in Europe, as I am of Danish descent and my father was born in 1907. He was alive when the Armistice happened in Europe. And being a person who has celebrated and recognizes how important peace is, I want to just say that I recognize what John Lennon said, let's give peace a chance.

And on that note I also want to talk about Commissioner Greene and I went to the Pecos Watershed Protection Act with Senator Heinrich in Pecos, which was a really good event with lots of community members and our fellow elected officials from San Miguel County where once again, Senator Heinrich has introduced the Pecos Watershed Protection Act. I was happy to be there to support him.

Later that day I had the honor of attending the YouthWorks celebration. YouthWorks is a great organization that trains young men and women to build skills to really participate in our community and they are developing a commercial kitchen on Cerrillos Road to help with their catering. YouthWorks catering is becoming a thing and they're doing a great job in the food that they served that afternoon and evening was fantastic. So I was really happy to be there to support Melynn who has done an excellent job with YouthWorks over the years.

Also I'm grateful to my constituent liaison, Laura Jagles, who opened her home to a number of us for the Tesuque Pueblo feast day and it was incredible to see the dance, which was a Comanche dance recognizing the peace that happened between the pueblos and the Comanches and it was a really different type of dance than I have seen before.

All the things that all my other fellow Commissioners have talked about are extremely important. The New Mexico Environment Department has been working on this PFAS issue. Secretary Kenney has been working on it over at the Holloman Air Force Base in Clovis where we had had a huge thing and I think working with the New Mexico Environment Department and maybe even getting a presentation from them would be really beneficial. I think that that is all I have to say for the time being. I want to of course wish everyone happy Thanksgiving but I will see you before then on November 17th when we have our next meeting.

Last night I attended Casa Alegre Neighborhood meeting where the newly elected City Council Alma Castro attended with me. I invited her, and we're working on possibly doing a townhall together in our districts. So I'm looking forward to working with her as a newly elected City Councilor. So happy Thanksgiving and we'll move on.

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

CHAIR HANSEN: Deputy Clerk, we're going to see you on Friday but do you have anything you'd like to share with us?

EVONNE GANTZ (Deputy County Clerk): We are looking forward to the Friday meeting. We're looking forward to being done with canvassing. It's going well, but we are looking forward to getting it done and over with, and we appreciated Commissioner Greene's visit on election night. We hope we were entertaining, and we encourage anybody else if they want to experience election night to contact us and arrange for a visit. Thank you.

11. Matters from the County Attorney

A. Statement for Inclusion in Meeting Minutes Concerning October 31, 2023 Executive Session

MR. YOUNG: Thank you, Madam Chair and Commissioners. For the first item, which is 11. A, would ask that we include a statement in the meeting minutes concerning the October 31, 2023 executive session. As you may recall, at that meeting, the Board of County Commissioners went into executive session at the end of the meeting and did not reconvene in open meeting. So as a result, the Board was unable to include in the minutes of the October 31st meeting the statement required by the Open Meetings Act, which is matters discussed during the closed meeting were limited only to those specified in the motion for closure. So therefore we would be seeking a motion to have the minutes of this meeting reflect that the matters discussed during the October 31, 2023 meeting executive session were limited to only those specified in the motion for closure.

CHAIR HANSEN: Do I have a motion?

COMMISSIONER HAMILTON: I move to include that in the minutes.

COMMISSIONER GREENE: Second.

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

from Commissioner Greene.

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

11. B. **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. **First Judicial District Court, Santa Fe County, Case No. D-101-CV-2021-01970**
 2. **FMCS Case #230130-03039 Santa Fe County Deputy Sheriff's Association and Santa Fe County**

MR. YOUNG: Thank you, Madam Chair. For the second item, which is 11. B, I would ask that 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 10-1501 (H)(7) NMSA 1978, specifically including Case No. D-101-CV-2021-01970 in the First Judicial District, Santa Fe County. And the secondly, FMCS Case #230130-03039, Santa Fe County Deputy Sheriff's Association and Santa Fe County.

CHAIR HANSEN: Can I have a motion to go into executive?

COMMISSIONER HUGHES: Yes, Madam Chair. I'll move that we go into executive session to discuss the items mentioned by our Attorney.

CHAIR HANSEN: Can I have a second?

COMMISSIONER BUSTAMANTE: Second.

COMMISSIONER HAMILTON: I have a motion from Commissioner Hughes, a second from Commissioner Bustamante. May 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	Aye

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Commissioner Hansen

Aye

[The Commission met in executive session from 6:33 to 7:10.]

CHAIR HANSEN: Could I please have a motion to come out of executive session.

COMMISSIONER GREENE: I move that we come out of executive session, stating that no decisions were made and we only discussed the items that were put on the agenda by the County Attorney.

CHAIR HANSEN: Second?

COMMISSIONER BUSTAMANTE: Second.

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

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

12. Public Hearings

- A. Ordinance No. 2023-07, an Ordinance Amending the Sustainable Land Development Code, Ordinance No. 2016-9, to Amend Section 12.14 (Transfer Of Development Rights) to Amend the TDR Ratio to Increase the Number of Additional Dwelling Units Allowed per TDR; to Establish TDR Transfer Ratios for Dimensional Standards; to Exempt Affordable Housing from the Requirement to Purchase TDRs; to Make Minor Technical and Grammatical Changes; to Revise Procedural Standards; to Add s New Section to Allow a Density Charge Option in Lieu of TDRs; and to Amend the Definition of Lot Coverage in Appendix A of the SLDC [*Exhibit 2: Material Provided by Staff; Exhibit 3: Letter from LBCD & MDWA*]**

CHAIR HANSEN: Angela and Brett, and we have a handout that we've just been given.

ANGELA BORDEGARAY (Senior Planner): Thank you, Madam Chair, members of the Board, colleagues, as well as members of the public. I'm pleased to be here tonight to talk about the TDR ordinance and its proposed revisions. I want to note that I did just hand out and Brett as well, a letter of public comment that was received, and a handout which is like a guide to the TDR dimensional standards and ratios.

On May 9, 2023, staff provided a presentation to the Board of County Commissioners regarding these amendments to the Transfer of Development Rights Program, the TDR program. These are regulations in Section 12.14 of the Sustainable Land Development Code, the SLDC. On June 27, same year, we received BCC approval to publish title and general summary of this ordinance. On October 19th the Planning Commission unanimously recommended approval of the ordinance as presented.

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The TDR program was established in accordance with the Sustainable Growth Management Plan in 2016 as a growth management tool to conserve land in sending areas and direct growth to areas with adequate public services and facilities where compact land use development is more appropriate and that's in receiving areas. The TDR program is a voluntary, incentive-based, and market-driven tool for property owners to receive financial compensation for conserving lands of public benefit and encouraging compact development in Sustainable Development Areas consistent with the County's SGMP.

The sale of TDRs allows qualifying landowners to receive financial compensation for conservation measures while maintaining ownership of their land. In designated receiving areas, developers are able to increase density and adjust building dimensional standards of a project through the acquisition of TDRs. SLDC, the code Section 12.14 establishes regulations for implementing the TDR program. This includes creating TDR sending areas and TDR receiving areas. In a sending area development rights may be transferred from the areas that are identified by a Community Overlay District to areas designated as an environmental and resource protection overlay, historic preservation overlay or agriculture overlay zones. Three, areas with sensitive environment lands, for example, riparian habitats, endangered or threatened species habitat, archeological sites. Four, areas with agricultural land, five, areas providing open space and preserving scenic vistas, natural features and areas of special character but excluding areas of required open space, or six, through a transfer of development rights as part of a development order granting BUD relief.

Receiving areas where development rights may be transferred are possible within the following zoning districts: one, mixed use; two planned developments, but does not include the existing Community College District; three, industrial general, industrial light; five, commercial general; six, designated receiving areas; or seven, a district rezoned to a higher density.

And below is an example of how TDRs are calculated from a sending area. A landowner with four acres of land who wishes to protect a portion of that land for farming use, with the base zoning density of that land is one dwelling unit per acre, the owner may build four dwelling units as per the SLDC. If the owner wishes to permanently preserve three acres under the TDR program for farming, and maintain one acre for his or her dwelling, the owner can create three TDRs from the three acres to be preserved, since there is one dwelling unit associated with each acre as per the zoning of that specific sending area. The owner can then continue to farm the protected three acres.

A developer can then purchase the three TDRs and use them to build additional dwelling units in a receiving area. This would be done in accordance with the TDR ratio, which identifies the increased density available through TDRs. The TDR ratio is currently set as 1 to 4, meaning a developer may build four additional units in a receiving area for each TDR purchased from the sending area.

It might be helpful that the handout to have in front of you while I'm doing some of this. This ordinance change proposes to increase the TDR Ratio to 1 to 5, which would mean a developer could build five additional dwellings per TDR purchased. In the example above, that would mean he could build 15 additional dwellings with the three TDRs that he purchased.

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In addition, the dimensional standards of Chapter 8 can be modified by TDRs. Height can be increased, lot frontage and width reduced, lot coverage increased and the percent of non-residential uses can be increased or decreased, all with TDRs. A TDR plat and TDR agreement are required to be completed prior to receiving a TDR certificate. The TDR agreement is approved by the Board, yourselves, and the TDR sending area plat is signed by the Administrator and both are recorded with the Santa Fe County Clerk. The TDR certificate is then issued and recorded with the Clerk.

Next, the TDR Bank. The Board established the County TDR Bank in Resolution 2016-141. Development rights on County-owned land that have been certified may be deposited into the County TDR Bank. As per the resolution, funds received by the County from the sale of County-owned development rights shall be used for the acquisition of additional development rights for deposit in the TDR Bank and to pay the administrative costs of the TDR Program.

The TDR Program provides two methods by which a developer can acquire TDRs. One is via direct purchase from the holder of a TDR certificate in a private transaction. The County could facilitate the transaction, which would result in the TDR certificate being transferred to the buyer and recorded. The other option is acquisition from the TDR Bank. For example, the TDR Bank may hold the TDRs from County open space lands. A developer could purchase one or more of those TDRs, allowing those funds to be used to purchase additional TDRs from private landowners wishing to establish sending areas as described above.

The 2016 TDR Bank benefits analysis recommended setting the County purchase price at \$20,000 per TDR. This TDR price will likely require periodic updates to reflect market conditions. The TDR Bank will be set up as a separate County finance account, and we recommend that it be managed and overseen by an internal TDR Advisory Board.

So far, 35 TDRs have been certified since the inception of the TDR program. Five TDR plats with sending areas have been recorded, Two projects are in the process of completing TDR plats and five projects are in the initial, the qualification phase of the process.

In January 2023 six TDRs were sold by private transaction to a developer who proposes to use them in a future project off of Highway 14 in the mixed-use area. In addition, two County open space properties are in the process of creating TDR plats. The development rights from these open space properties will then be deposited into the TDR Bank. Two development applications involving the purchase and use of TDRs have been discussed with development review staff, one of which has received approval for a conceptual plan by the Board, by you all. The other has come through the initial Technical Advisory Committee review process. The submittal of this project indicates that there's growing interest and momentum in the TDR program. We've had this program for about 6 ½ years and it's starting to take shape and gain momentum.

In light of recent TDR plat and conceptual plan approvals, it is necessary to make amendments to the TDR section of the SLDC to increase incentives for building more compact development in Santa Fe County's growth areas, to modify the procedures to those we are actually using and to provide clarity on the number of TDRs needed to increase or decrease dimensional standards for non-residential development.

So, to the meat. overview of the amendments that are proposed. Number one, with

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respect to the TDR ratio. Section 12.14 of the code establishes the TDR ratio at 1 to 4, as I said before, above the base zoning and may be developed in a receiving area for a TDR purchased from a sending area, the 1 to 4. This revision proposes increasing the number of additional dwelling units per TDR to five for dwellings to be sold. In addition, the revision would establish a new TDR ratio for rental housing to 1 to 10 rental units. Rental housing constructed with TDRs will need to remain as rental units for a 20-year period, minimum. The TDR ratio for rental units is higher because a developer does not recoup the construction cost of a rental unit immediately, but rather recovers that cost over time in monthly rent payments.

Two, the affordable housing transfer ratio, this is new. To incentivize the development of more affordable housing, the revision eliminates all requirements for TDRs for any affordable housing that is provided in excess of Chapter 13 code requirements. For example, if a developer wants to build additional homes or apartments that would sell or rent to purchasers or tenants whose gross income is 120 percent or less of the area median income, the AMI, for Santa Fe County, they may do so without the need to purchase TDRs.

The third proposed amendment relates to the building dimensional standards. The ordinance revision includes TDR incentives to allow more flexibility in accordance with Chapter 8, of course, the zoning chapter of the code. Currently, Chapter 12 does not include a TDR ratio to identify the number of TDRs required to achieve the greater dimensional flexibility allowed in the receiving area zoning districts. TDRs may be used to adjust lot frontages, width, structure heights, percentage of non-residential uses and lot coverage standards to make higher density, compact development possible.

The fourth amendment proposed is to add a density transfer charge option which would allow payments in lieu of TDRs when there are no TDRs in the TDR Bank. This revision addresses concerns about TDR availability when a development is ready to proceed. Payments in lieu can be made into the bank, which funds can then be used to purchase TDRs from sending areas.

The fifth proposed revision involves clarifying the TDR certification process in accordance with current practice.

The sixth change clarifies and establishes regulations to ensure that development in a sending area shall be limited to those uses and/or structures that promote the values of the area for the reason that the TDR sending area was created. For example, the owner of a sending area that is being preserved for farming purposes would be able to build a barn to house farming supplies, but would not be able to construct a house, a personal art studio, or any other structure that does not promote farming.

The seventh requested change is to amend the TDR Bank Section, 12.14.13, to clarify language and to indicate that the County has established a TDR Bank by resolution and to provide the TDR Bank Administrator the authority to negotiate the purchase or sale of development rights subject to approval of the Board.

The eighth change amends the definition of lot coverage in Appendix A of the code. The definition includes gravel as an impervious area. However, the amendment removes gravel from that impervious area because gravel is often used in landscaped areas and is not considered impervious.

The ninth change, which is more grammatical, includes replacing the term “site”

throughout the ordinance with “area” to be consistent with sending and receiving areas; and revises language through Section 12.14 to replace “development rights” for “TDRs” for consistency.

Staff recommends approval, that the Board approve the revised ordinance at this meeting tonight. Thank you and I stand for questions.

CHAIR HANSEN: Thank you very much. I think in number eight you meant to say, is considered pervious, instead of impervious.

MS. BORDEGARAY: I did a double negative.

CHAIR HANSEN: Okay. I’m sorry. I missed that.

MS. BORDEGARAY: It’s going from gravel considered impervious to gravel considered pervious.

CHAIR HANSEN: Okay. Questions from the Board? Commissioner Greene.

COMMISSIONER GREENE: Thank you, Madam Chair. Thank you, Ms. Bordegaray. So this is again an avant garde concept that has taken some time to finally get some traction and it’s nice to hear that there’s some traction happening in the right direction with this, but I have a bunch of questions. One of the things that we have, another dimensional standard is not necessarily lot frontage or lot width, but is also setbacks from other units. So does this allow, suddenly, for us to start doing townhomes and other zero lot line situations, or are we going to be in some areas stuck with a 25-foot setback, even though we have a 25-foot wide lot?

MS. BORDEGARAY: Commissioner Greene, thank you for the question. It does include relaxation of setback standards.

COMMISSIONER GREENE: So we could get down to zero lot line and do townhomes?

MS. BORDEGARAY: That is unclear, whether it could go all the way to zero lot line. That would depend on Building & Development Services applying the code according to health and safety standards. That’s part of the discussion of this ordinance.

COMMISSIONER GREENE: Okay. Let me get systematic about this. Are there specific maps for sending areas at this point that are sharable with us? I saw the one for receiving areas, but what are some examples of sending areas?

MS. BORDEGARAY: Commissioner Greene, members of the Board. I’m glad you asked that. That’s a map that’s in progress. I can describe some of the sending area plats that we already have, and those include in the areas of Nambe, Chimayo, Glorieta, and San Marcos. There are more. Again, that’s a map that is forthcoming to be a compatible companion to the receiving area map.

COMMISSIONER GREENE: Thank you. It seems like all sending units, all preserved areas have sort of an equal value. Right? We’re changing it from four to five, but is it possible that there could be a set of values on prioritizing types of things. Like for instance, we’ve talked about up here preserving agricultural land. I personally think that agricultural land should not be built on, really, except at a very specific, moderate level. We just shouldn’t bulldoze farm just for the sake of housing. Was there any discussion about prioritizing different types of units and having a range, such as you’re allowing for ten units for rentals, versus five units for fee simple homes. Was there a discussion of doing that on the sending side?

MS. BORDEGARAY: Commissioner Greene, members of the Board, thanks for that question. As a matter of fact there has been and thanks to discussions with members who are wishing to use their sites as sending sites, and we discussed this yesterday. Currently the ordinance does not weight the values any differently. This came up around water in particular. Water being what it is and ever more valuable. A water right – one TDR for one water right is a one to one, just like for a scenic vista or this or that. That’s getting at some of your question. That is done in other counties, like up in King County, in Seattle, they do weight them differently.

These programs are all over the country at regional, state, local levels, counties. And they vary. And so as I have come into the program this has been promulgated for here, and as we can see, bringing seven different revisions to you it needs to evolve as well. And that currently is the way the program is at this time. And so the same would be true if you had a sending site that had all those values and many do. Many are exactly that. They’re agricultural. They’re traditional. Historic. There’s archaeological and historical resources on the site, and those are one TDR. It’s still the same. The exchange would still be one, not more, for say, water rights, etc.

COMMISSIONER GREENE: So it was discussed but there isn’t necessarily a ranking system. I could imagine that somebody that has a very sensitive site, it’s ecological, it’s agricultural, it’s traditional, should get ten units automatically. And somebody that just has a 40-acre thing of beautiful views – all value to beautiful views, but might only get three.

MS. BORDEGARAY: Commissioner Greene, members of the Board, that is a yes. It has been discussed.

COMMISSIONER GREENE: That’s been discussed. Thank you. So on the map of receiving areas, there were a lot of areas that were highlighted that were commercial, mixed use, and so on, but there were a bunch of areas that were not highlighted but were still part of SDA-1. Are those places not eligible, or are they covered by some other zoning that makes them irrelevant?

MS. BORDEGARAY: Commissioner Greene, members of the Board, the map shows the SDA-1 areas. Your question is, areas that are not pink or purple?

COMMISSIONER GREENE: Sure. Not colored, not highlighted. I understand some of them are part of the Community College District.

MS. BORDEGARAY: Correct, and if I may jump in there, the Community College District is not shaded in this map because the Community College District already has the standards of higher density and compact design standards in it, and it was created 23 years ago and it’s already – it’s being built out that way. So it is not colored on this map for that reason. It’s not a receiving area, the Community College District. And the entire area bounded by the dashed, bolded black line is all receiving area.

COMMISSIONER GREENE: It’s all receiving area, even if it’s not highlighted.

MS. BORDEGARAY: That’s correct.

CHAIR HANSEN: Excuse me, but you have the Community College District within that boundary.

MS. BORDEGARAY: Chair Hansen, Member Greene, everyone else, this

map shows – yes, you’re correct. It is in Sustainable Development Area 1. It is also the unique, original animal of the County to do intelligent growth. So that’s why it’s bounded by – and the key to this map, the legend, is just showing you those zoning districts within those SDA areas that qualify.

COMMISSIONER GREENE: So some of these areas, I’m guessing just by looking at it, are the state pen, and so they maybe are not considered viable for this. The National Guard facility and so on down the Highway 14 and the frontage road area. In the case of the northern section, north of 599, there’s the areas off of Caja del Rio that are on the east side of that area that are not – those would be able to be sent to, but they’re not highlighted?

MS. BORDEGARAY: Commissioner Greene, members of the Board, you’re talking about what looks like the left sort of white portion within that black border. A lot of that is state-owned land if it’s not private land. Stay with me here. It’s a journey. Receiving sites, to be eligible, it has to be located in one of these districts. That is what is shown on this map. These are the districts.

COMMISSIONER GREENE: So those districts, the highlighted ones, are the only ones that are eligible for it even though they are in SDA-1.

MS. BORDEGARAY: Correct.

COMMISSIONER GREENE: Okay. Thank you. So on that map there were some large red dots that were called commercial general dots. They sort of very specifically give you a center of a dot. What do those represent and what could they be?

MS. BORDEGARAY: Commissioner Greene and members of the Board. You are the architect on here. The reason they’re like that is we wanted to identify exactly where commercial general zones are, and these are where they are. And we used dots just to indicate that. That’s along Highway 14 and it makes sense that that’s where there would be nodes for potentially commercial general structures.

CHAIR HANSEN: I think that’s along I-25.

COMMISSIONER GREENE: Yes, it’s along the frontage road.

MS. BORDEGARAY: Excuse me. You’re right. It’s I-2. Yes. That’s right. Because 14 is a quarter that’s being also developed, and it’s SDA-1.

COMMISSIONER GREENE: And so in those commercial general areas, those are commercial, but we’re talking about residential development. Is this a – how does that square that circle? Like is it a mixed-use development? Or do they give up their commercial uses?

MS. BORDEGARAY: Thank you for the question. I’m going to refer to our code. I want to get the code and the definition for the commercial general zoning.

CHAIR HANSEN: Usually what happens in a commercial is that it has higher density.

COMMISSIONER GREENE: But not commercial. Yes, it becomes a lot of times commercial development gives up – ends up not being mixed use. It ends up choosing one way or the other. Anyway, I was curious about the red dots, more than anything else.

CHAIR HANSEN: They’re along I-25, so –

MS. BORDEGARAY: And again, we just emphasized the red dots because we were focusing on knowing the granularity of this. Commercial general is a

non-residential zoning district. That's what we just determined. So the purpose of the commercial general district is to designate area suitable for general commercial activity, such as retail and wholesale, sales, offices, repair shops, limited manufacturing, warehouses and indoor and outdoor display of goods. The CG district promotes a broad range of commercial operations and services while ensuring that land uses and development are compatible with surrounding areas.

COMMISSIONER GREENE: Doesn't say anything about residential in those areas.

MS. BORDEGARAY: Could you repeat that? I didn't quite get it.

COMMISSIONER GREENE: So your definition that you read doesn't say anything about residential, so that's why I was wondering if those general commercial areas would be giving up –

MS. BORDEGARAY: And that, Commissioner Greene, members of the Board, is because in our Chapter 8 zoning, 8.7, that begins the non-residential zoning district. So CG is within that.

COMMISSIONER GREENE: So CG does allow for residential?

CHAIR HANSEN: No.

MS. BORDEGARAY: No.

COMMISSIONER GREENE: Okay. So those dots are somewhat irrelevant to this conversation as a receiving area.

CHAIR HANSEN: I think they're there for content and knowledge that there are commercial areas along here to support density so that there can be more retail or to support it from the density.

COMMISSIONER GREENE: And you know I like walkable communities. I just wanted to know where Ikea was going. Pardon me. So are there urban standards? Are we looking – because getting to 20 units an acre, I don't actually know if we get to 20 units an acre anywhere in the county at this point. Are we starting to look at potentially bringing some urban standards to a denser level of development? Pocket parks and other little amenities instead of having 400 units on 15 acres or whatever the math is there, 20 acres. Would other amenities have to be included in these, once you get to a certain size of project?

MS. BORDEGARAY: Commissioner Greene, members of the Board, at this time we do not have additional building design standards for these receiving sites.

COMMISSIONER GREENE: So if somebody went with a ten-acre site and got ten – whatever the math is there, but got to 200 units on ten acres, they would be able to do that with no amenities and no mixed use and no –

MS. BORDEGARAY: Commissioner Greene, members of the Board, to answer that question, no, all developments are subject to the Chapter 8 zoning code. So those standards would come into play. They apply. Lot frontages, height, setbacks, lot coverage, is all of that.

COMMISSIONER GREENE: General requirements, except the dimension standards change. Okay. In some of these areas, especially along I-25, which I know the City at least has tried – not so well – but has talked about preserving the viewscape along the highway. I think there's a setback rule and a whole bunch of things that maybe are not enforced very well, but we should do our own part on this. That

segment along there, is there – all that area would end up becoming a 50-foot or 48-foot height development area, and I guess it's already 40, so the difference between 40 and 48 isn't that much but – anyway. I'm fine. I just want to bring up the concept of preserving our viewshed and not making it look like you're driving down I-25 in Denver but you're looking like you're driving down I-25 in Santa Fe.

I think you answered most of my questions. I'm generally in support of this. I have some concerns about this. I'm wondering if this is going to open floodgates or if we're going to see some unintended consequences, but I'll defer to some other folks to ask their questions. Thank you.

MS. BORDEGARAY: Thank you.

CHAIR HANSEN: Anybody over here? Commissioner Hughes.

COMMISSIONER HUGHES: And I just have one question and I don't know if you've thought about this since yesterday but we did talk about it yesterday. It occurs to me that if the price of \$20,000 was set in 2016 that we may find very quickly that it's a little out of date. Have we thought anymore about trying to update that number? I think we may be okay because probably the 35 people who already signed up are probably okay with that number and I'm sure the developers are okay with it but it may be – may get more people to preserve their land maybe the price is a little bit higher now. I don't know.

MS. BORDEGARAY: Thank you, Commissioner Hughes. To respond to that, I'm glad you asked it. Yes. A lot of us have been talking about that and I want to state up front that it's a transaction – one of the options is a transaction. It's a market transaction between a seller and a buyer. And they can determine that price. The County has set a base price, based on a benefits analysis at \$20,000. Between \$20,000 and \$22,000 in 2016. It will be examined as we are setting up this TDR Bank which is part of these revisions tonight that will lead to that, and that's part of the process. And that's going to take time to build a foundation. It involves extensive interagency coordination, etc. that we discussed yesterday as well.

So I think this point is well taken and I think we'd be looking at that, if not before the bank is established then certainly as part of that.

COMMISSIONER HUGHES: Yes, I guess my concern would be that we not get too far down the road because I could see where we might, now that we're the bank, we could end up selling a whole bunch of these to developers at \$20,000 and then we go out to try and spend that money to bring in TDRs and we find out, oh, well, \$20,000 isn't nearly enough. So I think it's good to look at that sooner rather than later. Like I said, I think we're okay right now because we're going to be putting in some from our open space and we're not particularly concerned about how much money we get for those, and the 35 people who already signed up are probably okay with the price.

CHAIR HANSEN: Why not?

COMMISSIONER HUGHES: Well, okay, we are concerned, but we're not going to be out money if we're a little bit off. But once we start going out to Commissioner Bustamante's neighbors and trying to get them to preserve their land we may find the price is different, that's all.

CHAIR HANSEN: We might have to pay more.

COMMISSIONER HUGHES: We might have to pay more. It would be

good to know that sooner rather than later.

MS. BORDEGARAY: That, or the developer will have to pay more to the owner, the seller.

COMMISSIONER HUGHES: Yes, the developers would have to pay more, but I'm saying if we've already made a deal with the developer as the bank at one price, and when we go to buy the TDRs from the sending areas is different.

CHAIR HANSEN: The developer will have to negotiate with the owner.

COMMISSIONER HUGHES: But we've set up a bank whereby if we don't have TDRs in the bank, the developer can buy them from us ahead of time, and so we don't want to be too far off the market.

CHAIR HANSEN: Yes, so how are you going to do that? Are you going to come back to us with another price?

MS. BORDEGARAY: Chair Hansen, members of the Commission, not per se, but we will be providing quarterly updates and when there's conditions that change that need to be addressed I think we'll bring that forward of course, in the context of this program, like Commissioner Hughes said. So we will be having the advisory board, as I mentioned, formed, and that will come from the advisory board as a recommendation to you all, once we've done that analysis.

COMMISSIONER HUGHES: Okay. I just want to say that I am also, as you know, in support of this. Just wanted to bring that one question up. Thank you.

COMMISSIONER BUSTAMANTE: Madam Chair, Commissioner Hughes, and Ms. Bordegaray, I, one, appreciate the work that you've put into this since you took it over. I think I was very interested just learning about TDRs when you came on and from one moment to the next, it seemed like you were really drinking from a fire hose, and you have it now. You get it. And I appreciate the time that you and your staff have taken to help me understand this.

I think in the interest of what was just being discussed, and recognizing that land values change, we may be, as a County, in a position where we're paying more out to preserve something than we might have received in the bank. But I think it's an investment that the County has proven at times can be valuable to make. It's an investment. So if we bought it for \$21,000 and we have to turn around and put something into preservation, conservation or sustainable use, that we would find the value and say, yes, well, we'll spend \$40,000, and because we have it in the bank, it's its own interest is you will.

And it would be converse if land values went down. But as my mom always said, they're not making more.

What I'd like to offer, we all received a letter from the Village of La Bajada, I but I would like to add the language that was proposed, because I don't think that it is lost on us that it is not just to the value acceptable to the satisfaction of the County, but that there is actual state and water law behind this. So if we can go to the sending areas, Section 12.14,5, and then 12.5.1, paragraph 3: sending areas with valid irrigation. It is very, very important as we're looking for that paragraph, to acknowledge that the value of a water right and a TDR are not commensurate.

And it is one of those issues, why I sat and really needed somebody to explain it to me with crayons, really slowly, blocks, demonstrations, moving little things around to

say this is how this would work, and how would we have a TDR in a water right. And though this says specifically that this would be a water right that should bear the burden of demonstrating to the County's satisfaction to the validity, that's all fine and well, what the satisfaction is of the County, but right after that language, an enforceable restriction on the transfer of water rights. So you see that in that paragraph, right after the first sentence, the party sending the development water rights shall bear the burden of demonstrating to the County's satisfaction, the validity and other elements of water right. You must add to that, in accordance, or and in accordance with Section 73-2-21 (E.), and 73-3-4.1 NMSA 2021. That shows us that we are in conformance and compliance with state law, with the State Engineer and the State of New Mexico's law.

So I would like to ask that we do put that sentence in that place, the third paragraph – does everybody know where I am? Do you need a copy of the letter? How do I make sure this is put in that exact place? We have the letter from the La Bajada Ranch but it is acknowledging that this isn't just to the satisfaction of the County but in accordance with state law. So I'm asking for that to be –

CHAIR HANSEN: It's La Bajada Community Ditch, not the ranch.

COMMISSIONER BUSTAMANTE: Community Ditch. Did I say ranch?
My apologies. Habit. Sorry.

CHAIR HANSEN: So what I want to make clear is we are not taking water rights off of land.

COMMISSIONER BUSTAMANTE: That's the beauty of it. If I may, Madam Chair. So this is something I learned, and if you'll allow me, because I need to say it out loud, it took me a long time to get this. It's not the transfer of a water right on a one to one. The water stays right where it is. The right to develop is what is sold. The water right stays in the hands of the land. You're not separating the water from the land, and that took a little bit of time for me to understand, and that's critical and valuable. Because the other concern that was coming up was that we were going to – that we were creating – and you all will remember that I had expressed this concern in public forum a few weeks ago, that there may be some potentially a perspective that was saying that we were creating more incentive for the developers and less incentive for those who are wanting to sell their TDRs and keep their land, either productive or for preservation, whatever the case may be. This says that the transfer of the development is what's sold; the water stays for its use where it is. That's what this says, and that is what I've understood to be the case, that the water stays to be used with the land. We're not selling the water right; we're selling the development right. You won't put a house there but the water stays on the land where it is.

And trust if that's not the answer there will be a lot of confusion and maybe some big conversation about that.

CHAIR HANSEN: Okay, so let's get some things clear. Okay, Angela, can you answer that question?

MS. BORDEGARAY: Madam Chair, members of the Board, particularly Commissioner Bustamante, yes, I can and I fully appreciate how much we're worked to understand this. I do, however, have to state that the way the program works currently is that you get additional TDRs for water on the land. So you have the option of severing development rights from your property. You also have the right to sever your water rights

from the property. So that's – and so many are not motivated to sell the water rights. I won't say many, but the folks that I'm working with that want to preserve agricultural land, want to keep the water with the land. However, their water right is a – it's part of the development rights as it were, that they can gain additional credit for as a TDR.

And I'm going to actually refer over to our County Attorney on this.

COMMISSIONER BUSTAMANTE: You addressed that exactly what I was saying.

COMMISSIONER HAMILTON: No, she didn't. Just the opposite

CHAIR HANSEN: It's not the opposite.

COMMISSIONER HAMILTON: She said you can do either one.

COMMISSIONER BUSTAMANTE: You could do either one.

COMMISSIONER HAMILTON: But you can sell your water rights, sever the water right.

COMMISSIONER BUSTAMANTE: Of course you can sell your water right. But if you sell the TDR and you don't sell the water right, you're not selling the water right, you can keep the water where it is and use it where it is.

COMMISSIONER HAMILTON: You can.

COMMISSIONER BUSTAMANTE: If you sell the water rights, which is something I can do today, that's a different story than the TDR. I'm selling the water right since I'm severing the water from the land. If I'm selling a TDR, I can keep the water and the use on the land, and sell a right for somebody else to develop and I can't develop. I just still have the water on the land.

COMMISSIONER HAMILTON: Can I ask an associated question?

CHAIR HANSEN: I'm going to go to Commissioner Hamilton.

COMMISSIONER HAMILTON: So given this whole discussion, it occurs to me that a while ago you said that the value, if you do want to separate your water rights and provide water rights for TDRs, that it's a one to one trade? It's a one to one value? But if I'm not mistaken in the current market, an acre-foot of water rights is worth a lot more than \$20,000.

MS. BORDEGARAY: Commissioner Hamilton, members of the Board, yes. And that is what led to the discussion about weighting the different criteria, which I'm not putting on the table here, but I think we're getting there. You can sell your water right, and you can sell your development right. And they're equally valued.

COMMISSIONER HAMILTON: But I'm suggesting that that needs to be evaluated also because I don't think they're equal value.

COMMISSIONER BUSTAMANTE: They're not equal value.

CHAIR HANSEN: I don't think they're equal value either.

COMMISSIONER HUGHES: Madam Chair.

CHAIR HANSEN: Commissioner Hughes.

COMMISSIONER HUGHES: Yes, since we'll discuss this at length -- what we came to realize is yes, you can sell the water off of your land for about \$40,000 to \$60,000 an acre-foot. If right now you were to take the TDR on your water right you'd only get \$20,000, but in that case you actually get to keep the water. All you're doing is giving up your right to sell the water rights.

COMMISSIONER HAMILTON: That's very, very true, but that's not

what I'm asking.

COMMISSIONER HUGHES: Okay.

COMMISSIONER HAMILTON: What I'm asking is if you – you're essentially – you can sell your water rights, but if you're entering your water right into the TDR program they're valued equally, which means –

COMMISSIONER HUGHES: Oh, right. The land and the water may be different.

COMMISSIONER HAMILTON: If they're valued at \$20,000 in TDR program, which makes no sense.

COMMISSIONER HUGHES: I'd like to say something about the addition that the La Bajada group wants to make, because I looked this up yesterday, and it's just referring to the state law that gives the ditch some control – say – over whether someone can sell their water rights. I don't think it changes anything about our ordinance. It just would give anybody reading it notice to go look at the state law which also applies to water rights. So I think it's okay to add the change, because I don't think it changes anything that we are trying to do with the TDR program.

CHAIR HANSEN: Okay. I'm going to go to the Attorney and the Manager about this change.

MR. YOUNG: Madam Chair, Commissioners, as to that particular change, Commissioner Hughes is correct that it deals with the acequia and the ditch and their approval over the water right, that it shall be subject to the approval of the commissioners of the acequia or community ditch. So that's basically what both of those provisions are doing. As to the impact on that, I'll go back to Section – I'm trying to understand where it fits. In paragraph 3 of 12.14.5, it states sending areas with valid irrigation rights may receive one additional TDR for each acre-foot of irrigation water rights only if the owner agrees to an enforceable restriction on the transfer of water rights acceptable to the County.

COMMISSIONER BUSTAMANTE: And, that's right there.

MR. YOUNG: And in accordance with Section 73-2-21 (E.) and 73-3, so that would say it also has to be in accordance with state law relative to the acequia and the ditch association's approval. So I guess I don't have any problem with that addition. Manager, if you have any other thoughts on that?

MANAGER SHAFFER: I'm just a recovery attorney.

CHAIR HANSEN: It did not sound very clear. I feel like it is really important and I'm sorry I didn't come and meet with you. But the water rights do not have to be sold with the TDRs.

MS. BORDEGARAY: Madam Chair, that's correct.

CHAIR HANSEN: So people can keep their water rights and irrigate as long as they want on their land.

MANAGER SHAFFER: Madam Chair, I think as I understand the provision, joking aside, this provides people with an additional incentive to keep the water right with the land. And so you don't have to do that, but if you want to, recognizing the acequia rights, if you want to restrict the transfer of the water rights so that it will stay associated with the land, you get an additional TDR. So in other words, absent that, you could transfer your development rights and then sell the water, and

there's no water that would continue to be there to support agricultural uses and the like. So it's an additional incentive for people to keep the water tied to the land and not separate.

CHAIR HANSEN: And you get an additional TDR for keeping it with the land.

MANAGER SHAFFER: That is correct.

CHAIR HANSEN: Then they can turn around and sell it?

MANAGER SHAFFER: No. They couldn't. They could sell it but they couldn't transfer it from the land, is the way I read the provision. You could sell your water right – Greg Shaffer to Jeff Young, the next worker of the land, but the water right would have to stay with the land. You could still sell it. It's just it would have to stay with the land.

CHAIR HANSEN: Okay. I think everyone up here is concerned about that, the water staying with the land. Okay, I need to go to public hearing. Have we – I think we've had enough questions at the moment. We can have more questions afterwards. I want to open this up for public hearing. Is there anyone in the audience here who would like to make a public comment on this proposed ordinance. Welcome, Warren.

[Duly sworn, Warren Thompson testified as follows:]

WARREN THOMPSON: Warren Thompson, 50 West Saddleback Mesa, Santa Fe, 87508. So I've been a supporter of this program since the beginning. We did five TDRs in 2019 and those have been certified. We have the certificates. In that period, in the last four years I've received one phone call on those rights and was unable to sell them. So I'm glad to see there's some activity around it. We'd like to do some more TDRs and the marketplace is really hopeful.

The County website has a TDR marketplace and we're listed there. There are two sets of water rights that are listed on there that have certificates. But we haven't seen any activity. And like I say we'd like to do some more.

I do have some concerns with some of the language in this and I'd just like to get some clarification on it. On paragraph 12.14.3.3 states that a single property shall not be both a sending area and a receiving area. And I don't know what the definition of a "single property" is. Is that a legal lot of record? Is that a property owner? What is that? We have a case where we have land is mixed use that's on a lot of record, and directly adjacent to it is agricultural land and would I be prohibited from taking the TDRs off the agricultural land and putting it onto the mixed-use land because of this language?

So we need to define a "single property" more clearly.

CHAIR HANSEN: Okay. I think that is a question for Land Use staff or Legal. Maybe it should say a legal lot of record.

MR. YOUNG: Madam Chair, Commissioner, I would defer to Land Use, but in looking at the language just in isolation we would be thinking a legal lot of record, but I do take that point that a definition might be useful. Do you have a comment?

MS. BORDEGARAY: Members of the Board, thank you, Mr. Young. I think what he just said is how I interpret that as well, but I do recognize what Mr. Thompson is raising and it does need to be defined for purposes of this section.

CHAIR HANSEN: I think a legal lot of record, because a single property

is too vague.

MS. BORDEGARAY: That is my belief.

CHAIR HANSEN: The same thing that I just said?

MS. BORDEGARAY: Yes.

CHAIR HANSEN: So then we need to change that.

MS. BORDEGARAY: Yes.

CHAIR HANSEN: And we need to add in –

MS. BORDEGARAY: The stuff about state law.

CHAIR HANSEN: What else do you have?

MR. THOMPSON: I have confusion on the TDR marketplace where our TDRs are listed and the bank. From what I'm hearing tonight it sounds like the bank is a County facility that has the County's TDRs in it and the individual owners of TDRs are separate? We're in a marketplace? Do you take deposits in your bank?

COMMISSIONER HAMILTON: That's a good question.

MR. THOMPSON: What takes priority when customers come in? Do you say, well, go to the marketplace? Or we've got them here in our bank? How does that market work? It's very confused to me.

CHAIR HANSEN: Okay, let's have Angela try and answer that question.

MS. BORDEGARAY: Thank you for the question, Mr. Thompson, members of the Board. One and the same. We're calling it a marketplace on the website. That was a form that was created years ago when this program started. The TDR bank and the way the TDR bank functions is like a marketplace. It's probably just a semantics issue.

CHAIR HANSEN: So are there TDRs in your marketplace?

MS. BORDEGARAY: The website has marketplace on it and it is – yes, there are qualified TDRs that are listed there by the owner, address, contact information. So that's listed. There's two web pages. One says qualified TDRs and it does have a heading of marketplace. So it's for the public to see and they can contact directly as Mr. Thompson said. He's received one phone call or contact.

CHAIR HANSEN: So we don't want to use the word bank and marketplace, is what I'm hearing, because it's confusing.

MR. THOMPSON: Can I ask a question?

COMMISSIONER HAMILTON: Can I ask a question?

CHAIR HANSEN: If they are indeed separate, right? How would the County bank operate separately from the marketplace? And are we now in competition with people –

MR. THOMPSON: Or would the County TDR's be listed in the marketplace?

COMMISSIONER HAMILTON: Yes. It's all related questions.

MS. BORDEGARAY: Members of the Board, to clarify, I hope, we're using, I think – I just said use them interchangeably but we don't use them interchangeably. The TDR bank is the actual mechanism that we set up that I've talked about here tonight, and the TDR marketplace is just this broad cloud out there where senders have their TDRs listed for sale.

CHAIR HANSEN: Are we listed there too?

MS. BORDEGARAY: Not yet, because we don't have any TDRs in our bank yet. And if and when we get our TDRs off of some of our open spaces then we will be able to say –

CHAIR HANSEN: They'll be in the marketplace also.

MS. BORDEGARAY: So they'll be in the marketplace also.

CHAIR HANSEN: Does that answer your question?

MR. THOMPSON: Yes, thank you.

CHAIR HANSEN: Okay, next.

MR. THOMPSON: 12.14.7.2. It says receiving sites must be served by public water and wastewater systems. And I think that's well and good, but there's a trap here that we should be careful of. So I could take all my development rights off of a piece of property where I could drill wells and actually develop the property, convert them to TDRs, and then when a developer comes and goes to the County, the County says we have no water.

So now I've got TDR certificates that aren't worth anything because there's no water to develop with. And if we go back to one other section, 12.14.1.1.9, it says reinstatement of development rights on sending areas is prohibited. So once you've severed these, they're severed forever. If there's no water for development you've got a piece of paper.

CHAIR HANSEN: Come again.

COMMISSIONER GREENE: All of these areas that are receiving areas are places that are served by County water.

CHAIR HANSEN: Right.

COMMISSIONER GREENE: Correct? That's like –

CHAIR HANSEN: They're in our development areas.

COMMISSIONER BUSTAMANTE: Yes, but if they don't have water and there's no water going to them, it doesn't sound like you can develop there. That's not that confusing. You can't develop where there's no water.

MR. THOMPSON: Last week, we've been working on a 100 percent affordable rental project, 320 units, last week the County told us they had no water available for that project. They had no water.

COMMISSIONER BUSTAMANTE: So this is saying, Madam Chair, this is saying if there is no water there won't be a development. So you won't get that far. You won't get to the: we have everything approved and we're finding out you can't get it. You can't be a receiver of a development right to a place that can't be developed.

MR. THOMPSON: But we've severed our development rights and can't undo it, and there's no water. So we have a piece of paper. That's all we've got left.

COMMISSIONER BUSTAMANTE: You're going to the sending and the receiving at the same time. This is under the receiving side.

MR. THOMPSON: But on the sending area, we do those ahead of time. We do those today, and we go put them in the marketplace and we have certificates, and we cannot undo that process.

COMMISSIONER BUSTAMANTE: With all due respect, so if I may, this is under receiving sites. So you're saying if you've sent them, if you're a sending site, and you expected it to go to a receiving site that does not meet the criteria for having

water, then you shouldn't have set it up as something you assumed was going to go there. This says explicitly that the receiving site must be served by public water and wastewater systems.

MR. THOMPSON: I'm just pointing out that Santa Fe County is tight on water and we are setting up a program in place and asking people to remove their development rights and they may not get anything for it in the end unless we address our water issues. That's what I'm saying.

CHAIR HANSEN: Right.

MR. THOMPSON: That's all I'm saying.

CHAIR HANSEN: I get it.

MR. THOMPSON: It's a trap. We should be careful.

CHAIR HANSEN: Commissioner Hamilton.

COMMISSIONER HAMILTON: So I wonder if we might look into this as an issue that the County Utilities is currently in a situation where we don't necessarily know what kind of wet water and water rights we actually have. And we've had some discussions on this. So I'm not sure if that if we don't have water is a potentially temporary thing where we're not going to make decisions until we know how much water rights we have. Nevertheless, in principle, this could happen. Just because an area is served with County water pipes doesn't mean we're "ready, willing, and able" to provide water for more than x-amount of development. And so it's –

MR. THOMPSON: I'm just pointing it out. That's all.

CHAIR HANSEN: Right. Unless you bring your own water.

MR. THOMPSON: I have done that. That is a very challenging process to go through and it's very time-consuming. I would highly recommend that the County go out and buy all the water they can, finance it with bonds and pay them off when you sell the water, but for individuals to go out and get water for every project is a very difficult process.

COMMISSIONER BUSTAMANTE: If I may quote the Land Use Manager, the TDRs aren't for everyone. And it might not apply, because the water's not there, it doesn't mean we have to make it something that's viable for a TDR or for development. If it's not developable, then it's not. And if the TDR doesn't make sense, that's up to – I'm quoting what I was – when I was trying to learn this I was told over and over again, it isn't for everyone. So in this case, you're saying, look, you just told me I was going to be able to develop this. It's like, no, actually, you thought you were going to develop it but it doesn't comply with this.

MR. THOMPSON: Madam Chair, Commissioner, I understand that. I'm just pointing it out. Because I've become more and more resistant to doing the TDRs and stripping them from the land unless I think there's an exit strategy in place. If there's no exit other than the TDRs I don't mind waiting. But if there's no exit strategy, why would I go down that path?

COMMISSIONER HUGHES: Madam Chair.

CHAIR HANSEN: Yes, Commissioner Hughes.

COMMISSIONER HUGHES: No, I think that's a very good point that he's making and we need to take that into account and it all has to do with the value of the TDRs and the bank and all of that together, seeing how this is going to work going

forward.

CHAIR HANSEN: And I agree with you that we need to buy water.

MR. THOMPSON: Good.

CHAIR HANSEN: We need to buy water rights.

MR. THOMPSON: I have one final comment I think, and that's on 12.14.8. And that states –

CHAIR HANSEN: 8. What?

MR. THOMPSON: Well, maybe it's 4. It's 7 struck out. There's 12-14-8, and then there's a strike-through. It's right after 12.14.7.9, so it's 12.14.8. Yes. That's all it is. 8-14-8. Property is not eligible as a receiving site if the TDR right to the property adversely impacts the regional or local significant historical resources or naturally sensitive sites. So we've defined the receiving areas, and then we have this broad language in here that says, we can deny that as a receiving area for a very broad set of ideas here.

COMMISSIONER BUSTAMANTE: Madam Chair, I can summarize it.

CHAIR HANSEN: I would like to find it. I'm at 12-14.7, .2, .3 –

MR. THOMPSON: Keep going. After 7.9. It's the paragraph after 12.14.7.9. 12.14.7.9 is affordable housing. This one is entitled 12.14.8.

CHAIR HANSEN: Okay. I see it. 12.14.7.9.

MR. THOMPSON: That's affordable housing. There's four under affordable housing. It's the next paragraph.

CHAIR HANSEN: The property is not eligible as a receiving area of the transfer of development rights to the property would adversely impact regional or local significant historical resources or natural sensitive areas.

COMMISSIONER BUSTAMANTE: I have no problem with some language that says we're not going to have an adverse impact on significant historical resources or naturally sensitive areas. I have no problem with that. We're not going to adversely affect those areas.

MR. THOMPSON: We do archaeological surveys. We do all these things in the normal course of development. Right? They're in the code. We have provisions in the code currently that make us go through all these studies. We do all these things to make sure that we're not being insensitive to the environment, to the cultural resources, to traffic, to all kinds of things. We have a whole SAR section.

COMMISSIONER BUSTAMANTE: Then it wouldn't be an issue, because you've done the study. You're not going to have an adverse impact. If there's no adverse impact there's no conflict with this statement.

COMMISSIONER HUGHES: I might be able to shed a little light on this, Madam Chair.

CHAIR HANSEN: Okay, Commissioner Hughes, but we're getting a little out of control so I'm going to rein this back in. Go ahead.

COMMISSIONER HUGHES: I'm trying to at least speak through the Chair which I hope others would do as well. I just wanted to say that I think this paragraph might be in anticipation of the idea that we may have receiving areas that aren't identified yet, because I think there is a process somewhere else in the code where an area can apply to be a receiving area. And I think this is saying you can't apply to be a

receiving area if you've got an archeological site. Like Bandolier can't apply to be a receiving area.

MR. THOMPSON: All right. That's good. Thank you for your time. Those are all the comments that I have.

CHAIR HANSEN: Thank you, Mr. Thompson. It's good to see you. Thank you for participating. Okay. Is there anybody else who wishes to make public comment? Darrin's here. Welcome, Darrin.

[Duly sworn, Darrin Muenzberg testified as follows:]

DARRIN MEUENZBERG: Thank you. I'll be quick. I'm Darrin Muenzberg, vice president of the La Bajada Community Ditch and Mutual Domestic Water Association. I guess there's a couple questions. Commissioner Greene brought up the one about the various scales and valuations of the transfer of development rights and I think those were all spelled out in the 2016 resolution as far as what the acceptance criteria would be for sending areas. That set the equivalency of a maybe a unit of one TDR for each one of those criteria. A lot of our properties in La Bajada meet several of the criteria.

I really wanted to just let you know that, yes, you get it. You get the idea that what we're looking for from the acequia perspective is the incentive for the traditional lifeway to continue. The incentive for water rights in the TDR Bank is not a water rights bank. This happens to be a case where we're making apples out of oranges, right? And we've got to be very careful not to do apples and hand grenades the minute we mention water. So the important part here to realize is that that incentive is there and the way it's spelled out in the language is very clear, but we don't want to leave any opening for severance of the water rights from the appurtenant lands. It's important to the acequia that, as you say, the water right may be transferable to the owner, but the water right should remain appurtenant to the land. That's the basis of the land-based nature as much as it's a water-based nature of acequia culture, that the land and the water go together.

So I think we're confident that submitting that easy change, just incorporation by reference of that statute, that you've nailed it and I thank you for spending the effort. It's a confusing issue. We've been with it for a long time too and watching it morph and we keep coming up with this kind of question the minute water comes up, then we start thinking of it in a different – strictly at a commodity level. So just trying to get back from land development, back to growth management where the entire impetus began, I'm glad that we're keeping it sustainable. That's the commonality between the two manifestations of where we're going with growth management in Santa Fe County when we first started it out. So now that it turns out to be land development it's good that we still have that grounding in what we're talking about, which is incentives for senders, for residents of Santa Fe County to maintain the distinct character and the traditional lifeway that we're blessed with. So thanks for your time and thanks for your understanding and effort.

CHAIR HANSEN: Thank you, Darrin and thank you for coming and thank you for writing the letter. Is there anyone else here who wishes to make a public comment on this issue? Okay, seeing none, I am going to close this public hearing. The first thing I'd like to do is to make sure we have a motion to include what we were just talking about with Darrin, so do we need a motion, Attorney Young, to add that in?

MR. YOUNG: Madam Chair, Commissioners, yes. If the Board chose to

move to adopt the ordinance we would need a motion to amend the proposed draft to include this language proposed by the La Bajada Community Ditch and Mutual Domestic Water Association, and I believe there were other suggestions brought up during the public comment that would need to be added as well to the ordinance.

CHAIR HANSEN: Yes. So it looked like most of the things that were suggested were acceptable as additions into –

COMMISSIONER BUSTAMANTE: What specifically were they?

CHAIR HANSEN: Specifically they were instead of a “single property” it was a “legal lot of record,” the La Bajada amendment. Was there anything else that I am missing?

COMMISSIONER HUGHES: It was just those two.

COMMISSIONER BUSTAMANTE: I can make the motion.

CHAIR HANSEN: Okay, I’m going to go to Angela first.

MS. BORDEGARAY: Madam Chair, I don’t want to interrupt the motion making but I do have something to add before.

CHAIR HANSEN: Okay. Let’s hear it.

MS. BORDEGARAY: I want to go back to Commissioner Greene’s question regarding commercial general zoning and I misspoke. It is allowed. Dimensional standards, multi-family residential development at densities above the density indicated in the table do require TDRs. So in the existing table, if you have – with 20 TDRs you can increase the number of dwelling units in the commercial general zone. We don’t prevent houses from being built in any zone, right?

CHAIR HANSEN: But that’s not part of what we’re motioning. We’re not making – that’s not a change.

MS. BORDEGARAY: It isn’t. I just wanted to make that clarification. If it was out of line, pardon me.

CHAIR HANSEN: Let’s make the motion and get that done. Okay, so we have those two changes. Commissioner Bustamante, do you want to make a motion make those two changes?

COMMISSIONER BUSTAMANTE: Madam Chair, if I may, I would like to make a motion to accept the proposed ordinance with the following changes: that the language be changed to “legal lot of record” and not the “single lot”, as well as to include the language as provided by the La Bajada Community Ditch and Mutual Domestic Water Association, to include the language that refers to the New Mexico code 73-2-21 (E.) and 73-3-4.1.

CHAIR HANSEN: NMSA 2021.

COMMISSIONER BUSTAMANTE: NMSA 2021. The language that was provided in the letter from La Bajada Community Ditch and Mutual Domestic Water Association.

COMMISSIONER HUGHES: I’m seconding it.

CHAIR HANSEN: Okay, so Commissioner Hughes has seconded. Under discussion. Commissioner Greene.

COMMISSIONER GREENE: Thank you. Just this is mostly for Greg, just to make sure that we’re not referring to some part of the New Mexico Statute that is going to get us – have we read out loud what 73-2-21 (E.) – you have it right there? And

it says what we think it says? Okay. Right.

CHAIR HANSEN: Okay. So any other questions here? Okay, I have a motion and a second. I have a motion from Commissioner Bustamante, a second from Commissioner Hughes. Do I need a roll call? Okay.

The motion to approve Ordinance 2023-07 passed by unanimous voice vote as follows:

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

CHAIR HANSEN: Thank you, Angela. Thank you, Brett. Thank you, everybody, Lisaida, everyone who worked on this. Good job. Thank you for the presentation, and it's nice to see you hear. We look forward to seeing you again.

MS. BORDEGARAY: Thank you.

13. Public Hearings

- A. Case # 23-5091 Francis Phillips Variance Appeal. Francis Phillips, Appellant, is Appealing the Santa Fe County Planning Commission's Final Order Regarding a Variance Request. The Appellant Requested a Density Variance to Allow Two Dwelling Units on a 6.54-Acre Parcel. Currently, There is an Existing 1,340 square Foot Residence and a 1,440 sq. ft. Residence on the Site. The Subject Property Lies within the Rural Residential Zoning District (RUR-R) Where the Base Density is One Dwelling per Ten Acres. The Property is Located at 35 Mescalero Trail, SDA-2, within Township 15 North, Range 10 East Section 2, (Commission District 4) [Exhibit 4: Appellant's supporting Material]**

MR. LARRAÑAGA: Thank you, Madam Chair, Commissioners. Francis Phillips, appellant, is appealing the Santa Fe County Planning Commission's Final Order regarding a variance request. The appellant requested a density variance to allow two dwelling units on a 6.54-acre parcel. Currently there is an existing 1,340 square foot residence and a 1,440 square foot residence on the site. The subject property lies within the Rural Residential zoning district where the base density is one dwelling per ten acres. The property is located at 35 Mescalero Trail, SDA-2, within Township 15 North, Range 10 East, Section 2, Commission District 4.

On January 30, 2023, the appellant presented a submittal/application for a short-term rental registration to staff. The site plan and air photos illustrated a primary residence, a structure/studio, a two-car garage, and a second two-story dwelling. Staff conducted a search on the County database to verify whether all structures on the

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property had been permitted by Santa Fe County. Staff determined that the primary residence, the studio, and the two-car garage had been permitted with Santa Fe County. The studio is considered an accessory structure and was never permitted as a residence, Mr. Phillips has removed the kitchen and is not using this structure as a separate dwelling. The second two-story dwelling was permitted as a two-car garage with a storage area on the second story. At some point in time, prior to Mr. Phillips purchasing the property, the two-story garage was converted into a two-story dwelling unit.

It is this two-story converted garage that is the subject of the variance request as Mr. Phillips is requesting to use it as he had bought it, as a dwelling.

The appellant has stated that the property was purchased as is. The appellant has provided an appraisal report which describes the property and the structures on the site. The appraisal lists a dwelling with a bedroom and bath, a 522 square foot guesthouse, and a detached two-car garage with a 744 square foot studio apartment above the garage. Naturally, the appellant assumed that what was presented in the appraisal were permitted structures. The appellant states he bought the property believing these structures could be used as described in the appraisal report.

The Appellant assumed that the garage area below the studio apartment could be utilized as a living area and improved the area by moving the kitchen and laundry room from the second floor downstairs, replaced the garage doors with French doors, and created a living room space. The appellant states that he did not get a permit as it was an interior remodel.

On August 17, 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 appeared to deny the Phillips variance based on a prior variance request. That variance request was for a structure/garage that was built, by the owner of the property, within the setback requirements. The Phillips variance was different in that the property was sold to Mr. Phillips with two dwelling units already built on the site. Mr. Phillips did not create the violation. Mr. Phillips purchased a violation.

The property is zoned Rural Residential. The appellant is requesting an appeal of a denial of a variance of Table 8-8, Dimensional Standards, which illustrates the density within Rural Residential as one dwelling per ten acres. The studio was acknowledged on the recorded plat that created the 6.54-acre parcel. Staff has verified that permits were issued for the 1,340 square foot primary residence, the studio, the two-car garage, and a two-car garage with a storage area on the second story.

The appellants states, "I purchased the home in 2013 and made it into an Airbnb rental. For 10+ years with five-star reviews I've added value to the area as well as bringing significant revenue to the Santa Fe County and City for more than a decade. The three existing structures were built and approved in 1991, 1995 and 2000 with existing electric, plumbing and one bedroom in each structure. I bought the home as a living space as sold to me as a living space as sold to me as evidenced in the purchase appraisal. Apparently, the previous seller or owners did not obtain a permit for the two-level structure as a living space." The appellant also states, "that he lives in the converted two-car garage and he rents the primary dwelling and the accessory structure as one single

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short-term rental.

Staff does acknowledge that the Applicant bought the property based on the appraisal that listed a dwelling with a bedroom and bath, a 522 square foot guesthouse, and a detached two-car garage with a 744 square foot studio apartment above the garage; three dwellings and bedrooms total, and that the applicant has removed the kitchen in what was identified as a guesthouse and is not using this as a separate dwelling unit.

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 density variance to allow two dwelling units on a 6.54-acre parcel.

Recommendation: The recommendation of the Hearing Officer, Planning Commission, and staff was for denial of the request for a variance of Table 8-8: Dimensional Standards to allow two dwelling units on the 6.54-acre parcel.

If the Board of County Commissioners finds that the variance request has met the variance criteria and finds that the variance request is a minimal easing and recommends approval of the appeal, staff recommends the following conditions be imposed:

1. The Applicant shall submit an application (After-the-Fact) for a Residential Development Permit for the remodel of the 1,440 sq. ft. residence (formerly the two-story, two-car garage).
2. Additional dwelling units on the 6.54-acre site shall be prohibited.

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

CHAIR HANSEN: Okay. Thank you, Jose. Questions from the Board. I want to go to public hearing, or I need to allow the appellant to present. Okay. Francis. I want to make a few comments. I believe that everybody on this Board has read everything that has been put in the packet. So we have read the Planning Commission and your statement. At least I have. Is there anybody on this Board that has not read that? Okay. So we have read everything. So I'm trying to say this so that we can have some brevity.

FRANCIS PHILLIPS: Thank you, Madam Chair. Thank you, Commissioners. When I spoke with Jose he said to keep it to under 30 minutes and I think I can probably get it done in about 20 minutes. I have supporting material to share.

[Duly sworn, Francis Phillips testified as follows:]

MR. PHILLIPS: My name is Francis Phillips. My address is 45 Mescalero Trail, Santa Fe, New Mexico, 87505. I am under oath. Thank you. The folder I just handed you, I want to read the first three paragraphs, and that it to thank you for your time and review of our request for a variance for the 2013 purchase of my home, 35 Mescalero Trail. When applying for a vacation rental permit in January it was brought to my attention by the County that I had unknowingly bought a home in violation.

In 2013 I had asked my realtor to help me find a home that I could vacation rent with a large guesthouse that I could make my own home as my job did not offer a pension nor retirement plan I wanted to devote the next ten years paying off this home while working so that I could live there for retirement and have the vacation rental income supplement my retirement income.

When viewing 35 Mescalero Trail there was an existing compound listed and sold as a compound of three separate one-bedroom homes. As I look here, and I wanted to use this example here. The first home was build 32 years ago with a studio. As you can picture the three one-bedroom homes. The first unit was built in 1991 and it was a studio. As we learned – as I learned as I was asked to go to Francine Lovato to the State of New Mexico in Albuquerque to get records, there was never a recording of this studio being permitted or approved. And we didn't find this out, I didn't find this out until after the second hearing.

So 1991, a studio. Through the rest of the years of 1997, 1999, 2000, of applying for other homes that I inherited here, it was referred to as a studio, a guesthouse, a studio, a guesthouse. But as I've witnessed the home it's always been a one-bedroom with a mini-home with a mini-kitchenette with a sink, is what this was always was.

In 1995, 27 years ago, [inaudible] you have a main house and a studio. And that is exactly what I have been renting as a one and a one-A, for example. The main house with a studio and what they call an accessory dwelling. So 1991, 1995.

And 23 years ago, in the year 2000, this is what was referenced as a two-car garage. It's been listed as two-story but really it's like a huge, tall A-frame and it was originally permitted in 2000 for records, it was a two-car garage with a walk-up storage.

This is what I purchased and this was what was shown to me almost three decades ago, these three structures here. And when I bought them, what was shown to me was a one bedroom home, a one bedroom home, and a one-bedroom home with a sewer line, a bathroom in each one with septic right here.

Now imagine how to my terror and my alarm to be told back in January when applying for a vacation rental permit that this was not a home, that it was a two-car garage, and I bought it as a home. So immediately, as we've gone through the hearings I went back to my original realtor to say, hey, I need some proof that I did not do this conversion. I bought this as a home. It was home as sold to me.

So on the next page I give to you is my letter from my realtor, Amber Williams, and she says to whom it may concern: My name is Amber Williams and I'm a licensed real estate associate broker with Santa Fe Properties. In 2013 I was contacted by Francis Phillips to assist him with a property search to find a home that could offer a primary residence for retirement with an Airbnb option. The property at 35 Mescalero Trail was identified as a compound. That's how it's listed, as a compound, which had three existing separate structures. Upon walk-through of the property – this is in 2013 – we noted there was a main house that had one bedroom, one bath, and a kitchen. A guest casita had one bedroom, one bath and a kitchenette. And there was a one-bedroom, one-bath within what was previously a two-car garage no longer used as a garage. This is noted with the description and the floor plans of the 2013 appraisal of the property for sale.

So I wanted to point this out so you could see that if we wind the clock back to 2013 when I bought the home, this was not a two-car garage. It was a home. And that's why I was attracted to this home because my retirement plan was to live in a large guesthouse and rent out the main house to supplement my retirement.

CHAIR HANSEN: We've all read –

MR. PHILLIPS: Okay. Very good. So as I move forward here, the next page here is from the 2014 permit application where I applied for a two-car garage as

there was no two-car garage. And on page 11 of the site outlay given to Santa Fe County in 2014, it shows my builder disclosed that there was existing residence, which is here right at the ell, and existing residence here. This was shown to the County in 2014. And when I applied in 2014 that the garage that was built in 2014 that I had permitted when I bought the home and about six short months later, had the two-car garage built, and also a studio. I'm sorry, not a studio – a storage shed, which is right here. This was like a Home Depot \$3,000 shed that was already there. This is what the shed that I had built, all permitted.

Always, when I've done my business in working with homes I had my homes permitted. When I get my jobs done, they're permitted. When I sell a home it's a clean home that is sold. I've prepared for you a very brief as I can make it as brief as I can with a lot of points, three-page outline as my job today is to show that the variance review criteria is met so that number one, the spirit of the SLDC is observed, and that substantial justice is done. Number two, where the request is not contrary to the public, and number three, due to extraordinary and exceptional situations or conditions on the property the strict application of the code would result in a peculiar and exceptional practical difficulties of exceptional and undue hardship to the owner.

So if I may review these bullets very quickly, and I have some supporting materials there and I'll be done very quickly. That be okay?

CHAIR HANSEN: Okay.

MR. PHILLIPS: So to support these three criteria for a variance, number one, so that the spirit of the SLDC is observed and substantial justice is done. I've lived in Santa Fe for 22 years. I moved here in 2001. I know there is a drought so I want to be sure that well water is maintained for my home. So, a) water conservancy. I spent \$10,000 six or seven years ago for a water cistern to capture rainwater from the roofs for landscaping, and two water barrels. So I'm very conscious of saving water for this home.

Number two: There's never been a violation of the Mescalero Road covenants. I have them enclosed here in the folder.

Number three: The home is monitored year-round by housekeeping, handyman, landscaper and myself.

Number four: The septic that I inherited that had three baths going in, earlier this year for this preparation I had the New Mexico Environmental Division amend the septic approval as a three-bedroom grandfathered in. That's been done and I have that paperwork here.

Number five: Approximately 150 juniper and piñon trees were removed for forestry safety, less water usage and aesthetics, along with year-round quality and care of the property. I have an exhibit from my landscaper showing that and his commentary here that you read.

Number six: Little road usage. In the first variance request there was a lot of concern about water usage. That's very important to me too. I want a well that survives. And when I ran statistics of the high season of this home, which the statistics are here, only 0.94 cars have averaged in the home during the rental. So if there's three days they didn't rent – 0, 0, 0, that's how you have less than one car. So very few cars are ever there taking up Apache Ridge Road, etc. which is a mile away from my home, and no different than a family of two people, there's just one car and averaging, we're not using

up the road. People, when they come to a vacation rental, they come in in the morning, they go out, see the beautiful country, then they come back in the afternoon. Some, with longer stays, they stay there, write books, they meditate, they go to and from about three or four times a week. So the road usage is minimal.

Seven: Owner recognized by Mescalero Road fund treasure. Our Mescalero Road treasurer wrote: I wish everyone was as easy in supporting our road improvement initiatives. I've always over-funded what was required of Mescalero Road. If there was \$400 I paid \$800 because it was very important to me, and you have his commentary here.

These statistics are extremely important and I have enclosed for you were I was alarmed to find that some people on Apache Ridge were concerned about abusive use of the road. So I went back and ran the statistics that I've given you showing every rental during the high season starting June 15th, and you'll see as through these averages the dates they stayed, how many vehicles, how many were in their group. So if there were three days empty that would count as zero and that's why you may see something under one, for example. And overall, the criteria show that in the high season there was 2.34 guests per night, with an average of 0.94 cars.

So I'm not abusing. I ask for this variance, which is an exception to have two dwelling units that are living. I'm not taking up more water. I'm not taking up more road usage. This is given in proof and it can be verified with Airbnb and Vrbo as I pulled these from here. And the average in the low season – for example, November 3rd through the 15th is not even booked at all. So there'll be periods in the winter where it's less. So overall, my averages show that there's no difference – less than a family of two and one car per night. We're not excessive and abusive, and I think that is a very strong situation in supporting the SLDC initiative.

And then finally, in 2019 there was an electric leaning pole, and we went out to PNM and asked to get that fixed. Instead, they said wait a minute. This multi-living situation, the electric panels are not right. I didn't know that. That's what I inherited as well. So to support the spirit of SLDC, to show you that there is \$8,000 spent with a licensed electrician with PNM to get those corrected where you have a Mescalero A electric and a Mescalero B electric. So you can see that electric, water, road usage are minimal.

Number two, where the request is not contrary the public. A. Mescalero Road covenants have no caps on dwellings, no caps on structures. B. Mescalero covenants do not prohibit rental properties including vacation rentals. Some may have confused vacation rentals as commercial, and I've put in here an enclosure from the Los Alamos Reporter that showing that there was an appellate court that ruled that vacation rentals are not commercial properties from the State of New Mexico Appellate Court. So it's no violation of the covenant.

CHAIR HANSEN: I have read that.

MR. PHILLIPS: C. The majority of Mescalero Road homeowners have multiple structures. D. I'm so glad that Jose – he's been so wonderful to work with and regretfully there was some errors in the first variance meeting where the announcement made it sound like I had three living units and was applying for two, to make it sound like there was five. So there was a lot of havoc with Apache Ridge owners on the one to five

miles as a spoke of Mescalero Road out here. So that all got corrected and I wrote back to the people and said this is not correct. This is the story here what's going on. So I did everything I could to get that straightened out.

I have always supported the 100 percent the Mescalero Road fund for ten years, and you saw the treasurer's comments. We have not been abusive to the road for three month averages, and all vacation rentals from the very beginning have been told to use all-wheel drive, front-wheel drive. Santa Fe is a ski town, a snow town.

CHAIR HANSEN: We've read all of that.

MR. PHILLIPS: And also to be conservative with water. H. The nightly average number of guests were less than two. The trees, and it's always been a quiet, peaceful oasis. For ten years, I have lived peacefully at this very quiet home retreat, and it's off the road, off of Mescalero, with no complaints except for one neighbor two houses down, who has a restraining order on his other neighbor where he just seems to be mad about everything, and I just can't change that. But I have adhered to the Mescalero covenants. He just doesn't like having a vacation rental in his neighborhood, I think.

Three. Very important here, and the numbers – these are some things that were not in your folder originally that I brought. Where due to the extraordinary and exception situations or conditions of the property, the strict application of the code would result in peculiar and exceptional practical difficulties or exceptional and undue hardship for the owner.

A. I unknowingly purchased a one-bedroom unit that was formerly a two-car garage that was a non-permitted conversion. And that's why I worked so hard to show my realtor's letter. B. In the 2013 appraisal it shows pictures of the appraisal of the home. There's a description by the appraiser listing a studio, a guesthouse and a main house, and that they're living structures in all three, as he mentions. He also has pictures of what he calls the garage, because that's what it was originally, but if you look in the box, it's not a garage; it's a home. And in the pictures you see pictures of what was the home and although there were garage doors there they were dormant. They were de-activated and not working and the entrance was from the side door where the kitchen is.

You also see pipes in the ceiling where you see plumbing, so this is what I bought and this was a home. I did not change this. I improved it.

C. If a variance is not granted, what I bought ten years ago, I've been cheated. Santa Fe Properties listing agent showed a compound of three living structures. That's what I bought and improved. I spent \$200,000 almost improving this structure for my home. I also, concerned about permits and that being told I should have had permits here, I reached out to Lisaida Gutierrez [sic], the manager here, and I shared, if Home Depot comes to put in a kitchen, and there's already plumbing there, is a permit required. She said, no, because it's an interior remodel. I said, that's what I thought. I've always reached out to get permits when they were required, but because this home was already a home I improved it. And I've given you pictures of that, and that's why there was no permitting done, because it was an interior remodel. A bath toilet was taken out; a new toilet was put in, the same retrofit. A shower is taken out, a new shower is put in.

There was a rinky-dink kitchen upstairs and there's also a mud room downstairs in what used to be the garage and it was the one-bedroom home that I bought. So I said here we go. We have a kitchen, a sink, and let's get Home Depot to put in a kitchen,

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which they did. There was not a permit required.

So as I continue on, D –

CHAIR HANSEN: I think you've been 20 minutes.

MR. PHILLIPS: If I may discuss the 2014 application and some information about the Santa Fe County inspector please?

CHAIR HANSEN: Yes. And we've read that.

MR. PHILLIPS: That was not in the original.

CHAIR HANSEN: Oh, no. I read it. In 2014 the inspector came out and said there was nothing wrong at your property.

MR. PHILLIPS: The 2014 inspector would have walked by to see these updated pictures you see as the appraisal. There's not a garage there. He would have walked by this and seen, as you see in the aerial view, the inspector saw the property and he had a duty to tell me, tell my builder, you cannot have more than one dwelling on this property. And not once, not twice, not three times, but four times, this is signed by Santa Fe County inspectors. I'm not casting blame; I'm saying I should have been informed that you can't have two dwellings. If so, back in 2014, I could have gone back to the seller and had recourse and the statute of limitations had expired. Not until 2023 am I informed you can't have more than one unit, although I did not build this. They were already there, and that's what was sold to me.

So my job here tonight is to reassure you we're not – in the SLDC spirit, we're not abusing whatsoever, water, sewage, the Mescalero covenants, and if we were not to vote for a variance tonight, go back and say undo this, where I have these pictures showing all the beautiful improvements I've done to this home, that the Santa Fe County inspector would have seen in 2014, that took me almost \$200,000 to do that.

On top of that, if you're asking me to restore this back to a garage, in 2014 the Santa Fe County did approve a two-car garage. So I'm left now with two garages? And financially, I would not be able to do that. I'm just working my hardest to show and prove I did not do a conversion without anyone's approval. I bought a home that had the living structures which I improved. And Santa Fe County saw this in 2014. It would have been more helpful to be told that in 2014 where I had recourse. It's ten years later.

Also, the opposite is true, and that is as I talked to Penny Ellis-Green who's been very helpful too and I said if their variance doesn't go through, am I going to have to expand to 3,000 square feet to have a 1,500 square foot guesthouse? And she said, sure. You can make it as big as you want. I don't have the money to do that. It would be financial suicide because this is not art barns in Las Campanas, this is Mescalero Trail and it would be throwing money out that I don't have any way to overbuild a house, to abuse the SLDC for having a larger home, and then lose money where you overbuild a house and you're going to sell it with a loss. So that's fatal as well.

CHAIR HANSEN: So it's time to wrap it up

MR. PHILLIPS: Thank you. And then finally, in the last hearing, I had raised my hand five times back here but it was different here, where you're sitting here there was a raised podium of something. He didn't see me back there. I didn't get a chance to rebut, but it was pointed out by the fifth Commissioner, where it looked like what Penny thought was a four-one decision in our favor, this Commissioner said I want to remind the group that a year ago we had a similar situation where a gentleman built a

two-car garage – he didn't say a two-car garage; he just said we had a similar situation and although it's financially devastating, we made him remove that garage.

CHAIR HANSEN: We did not.

MR. PHILLIPS: Okay. That's what I thought, and when I heard, and when I rechecked back to Jose, this is what the situation was with Hernandez Variance Appeal. So I wanted to point –

CHAIR HANSEN: We know that.

MR. PHILLIPS: Okay. That had nothing to do with me and this is a gentleman, I understand, that went against your back and built a two-car garage, I understand, where I didn't go against your back. I bought a home that was sold to me. Two totally different situations. And the two-car garage that I built was permitted.

CHAIR HANSEN: Okay. We understand that.

MR. PHILLIPS: Okay, so I just wanted to be sure. With talking to Penny, it seemed like her announcement there swayed the vote to go against me and this was something that is not related to me whatsoever, no bearing whatsoever and not a true comparison.

CHAIR HANSEN: We understand.

MR. PHILLIPS: So thank you for allowing me to speak. I've sent you these pictures here in the back so you can see this is what the Santa Fe County inspector would have seen in 2014. I lay awake in terror and dismay asking where are my consumer rights from 2013 when I bought, told ten years later you can't have. The home that I live in, you can't have. So I beg of you please to consider the variance and it's not abusing the property since I've done my best to show that it's not.

CHAIR HANSEN: Thank you, Francis, very much. We appreciate you taking the time to talk to us. Now, I'm going to go to public hearing. Is there anyone here who wishes to speak, either for or against, please come over once Francis gets his stuff moved.

MR. PHILLIPS: Thank you, again.

CHAIR HANSEN: Thank you for an excellent presentation. Okay, you need to be sworn in.

[Duly sworn, Sandra Harding testified as follows:]

SANDRA HARDING: My name is Sandra Harding. My address is 2 Long Pine Ridge, Santa Fe, New Mexico. I am under oath. Madam Chair and Commissioners. I will be brief. I've lived on Apache Ridge Road for 38 years. I'm going to reiterate at the County Planning Commission meeting in August. If you approve this particular variance, it will set a precedent for applications for those who apply for variances in the future. This will add more headaches to the residents of Apache Ridge Road as well as the County Commissioners and the County Planning Commission. Thank you.

CHAIR HANSEN: Thank you. Okay, I'm going to close public hearing unless there's anyone else that wants to speak.

[Duly sworn, Emerson Hendricks testified as follows:]

EMERSON HENDRICKS: My name is Emerson Hendricks, 35 Mescalero Trail. I just wanted to thank you for listening to us. We are fighting for what I feel like is our home and it's a very passionate and scary situation for us. It's been difficult over this past several months. I'm a retired school teacher. I could barely keep a

roof over my head when I was a teacher. So the hardship of losing a home is a lot. Francis loves Santa Fe. He's a great steward for this county and this city. He brought me here and I can't even run the dishwasher if it's not full and we share one care. We really are mindful and I just wanted to let you know. Thank you for listening to us and understanding the hardship and what we've been dealing with. I appreciate it.

CHAIR HANSEN: Thank you very much. Okay, the public hearing is closed. Okay, comments from the Board. I personally, I think you know, I'm willing to give a variance. I think this is a very reasonable request. You did all of this before the code, before the SLDC was enacted. This building existed before then and so I would like to make a motion to approve in favor of Francis and give him the variance, but all of the conditions the County asked for, the after the fact permit, everything needs to be done. Anything else?

COMMISSIONER HAMILTON: No, no. Please finish. I was just going to go after you.

CHAIR HANSEN: I just wanted to make sure that I included everything that the County requested.

COMMISSIONER HAMILTON: And there were only two conditions, right?

CHAIR HANSEN: Yes. So do I have a second?

COMMISSIONER HAMILTON: Yes. This is in my district and I certainly support that so I'll second it.

CHAIR HANSEN: Under discussion.

COMMISSIONER GREENE: I would love to under discussion if I may. Thank you.

CHAIR HANSEN: Okay.

COMMISSIONER GREENE: Thank you, Madam Chair. So I think this is A, a can of worms. I think this gives the owner added rights. He's on a six-acre lot in a neighborhood that is under ten-acre zoning, so you're effectively turning it to three-acre zoning in the area. What is now two units, maybe three units, however you want to call it, will become four units, so it will give him the right to build a fourth unit on this property.

COMMISSIONER HAMILTON: No, it doesn't. That's one of the conditions.

COMMISSIONER HUGHES: One of the conditions is he can't.

COMMISSIONER GREENE: He cannot. Okay. Thank you. And in theory, two of the unit's – I don't know if there was a condition if the neighboring unit could not be a short-term rental. So two of those units could become short-term rentals.

COMMISSIONER HAMILTON: They already –

COMMISSIONER GREENE: They have one. I've got you, but there's three units and there would be no requirement that two of them would become short-term rentals. Anyway, I find that this is sadly not our problem. This is, as he said, a consumer rights issue between this buyer and his realtor. Somebody who buys homes and does things by the books also should look and say, this thing is funky. Maybe I should double-check whether it's compliant.

CHAIR HANSEN: It was done before the SLDC was enacted, which was in 2016.

COMMISSIONER GREENE: Was it compliant at the time, based on the rules at the time?

CHAIR HANSEN: I can't answer that.

COMMISSIONER GREENE: So that is a question for Jose or –

CHAIR HANSEN: If the inspector came out there in 2014 –

COMMISSIONER GREENE: Inspectors do not pass judgment on that. That is not their job.

CHAIR HANSEN: Well, it should be.

COMMISSIONER GREENE: No, I've got you, but it's not their job. Right? They inspect whether your roof is good, whether your boiler works, whether your windows work. They're not there to decide –

CHAIR HANSEN: Well, if they're giving a permit.

COMMISSIONER GREENE: No. The inspector's not giving a permit, I don't think.

CHAIR HANSEN: He was out there for it.

MR. LARRAÑAGA: Madam Chair, Commissioner Greene, the two units under the old code would have still been a violation. He would have only gotten one dwelling unit per that six acres. And the inspector that Mr. Phillips was talking about, Santa Fe County will send out a code enforcement inspector when they come in for a permit prior to construction and they went out to inspect just the area where the garage was going to be, not anything else on the property.

COMMISSIONER GREENE: All right. And the inspector was probably – it could also be the home inspector when he buys the house, going, oh, look. There's three units here. Whether they're legal, they don't pass judgment on that. But –

CHAIR HANSEN: Commissioner Hughes.

COMMISSIONER HUGHES: I just wanted to clarify something. When he is – if we grant the variance will he have two dwelling units on this lot or three?

MR. LARRAÑAGA: Madam Chair, Commissioner Hughes, he will have two dwellings, one at 1,400, one at 1,300 square feet, and there is a studio that staff has acknowledged was on there when he first came in. It had a kitchen or a kitchenette. So he took out the kitchenette and he rents that studio as a bedroom as part of the other rental that he has, the 1,340 square foot home, which only has one bedroom.

COMMISSIONER HAMILTON: There's only one rental.

COMMISSIONER HUGHES: Okay. Yes. Do we need to add a condition apropos of Commissioner Greene's concern that they don't create a third dwelling unit out of that other –

COMMISSIONER HAMILTON: It's already there.

COMMISSIONER HUGHES: Oh, because it says he can't create any more dwelling units. Okay. I think that covers it.

CHAIR HANSEN: Yes.

The motion passed by majority [4-1] voice vote with Commissioner Greene casting the nay vote.

CHAIR HANSEN: It's 4-1. Congratulations. Thank you for your diligence

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and patience.

14. **Concluding Business**
A. **Announcements**
B. **Adjournment**

Having completed the agenda and with no further business to come before this body, Chair Hansen declared this meeting adjourned at 9:17 p.m.

Approved by:



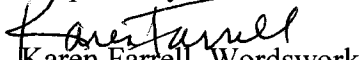
Anna Hansen, Chair
Board of County Commissioners

ATTEST TO:



KATHARINE E. CLARK
SANTA FE COUNTY CLERK

Respectfully submitted:



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



SFC CLERK RECORDED 12/28/2023



November 14, 2023

Santa Fe County

Santa Fe County Commission

Chairman

102 Grant Avenue

Santa Fe, New Mexico 87501

Re: PFAS Contamination of Private Well

Dear Commissioner ^J S:

Bueno dias de le Dios. For the public record, my name is Jose L. Villegas, Sr., a resident of the La Cieneguilla Land Grant (the original land grant name is "Francisco de Anaya Almazan") located in Township Range 16, Range 8 East, Section 20 (circa. 1698).

Nearly three decades after the issuance of Executive Order 12898 of February 11, 1994 (**Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations**), it states: "the Federal Government must build upon and strengthen its commitment to deliver environmental justice to all communities across America." Frankly, the Federal Government, including the City of Santa Fe Government in this specific situation failed me, broke the promise, destroyed the commitment to protect my family, and neighbors, and disrespected me, and my familia, period! Ya Basta!

Yet, I have tried vainly to distance myself from attending any governmental entity scheduled meetings from all magnitudes (i.e., city council meetings, school board meetings, state legislative committee hearings, congressional meetings at the Nations Capitol, etc.), because I truly did not feel the government entities were listening to me to my legitimate concerns about public safety, health and welfare of my familia as well as my neighbors (vecinos y vecinas).

The last time I was seriously engaged in attending a governmental scheduled meeting was back in 1992 relating to the Ken Newton project in La Cienega. And for some reason or another, there are many people that are sitting in this chamber today that continue to ignore the "institutional memory" of what occur during that hurtful, painful, and horrific experience of a wealthy developer wanting to build a "Jack Nicolas Golf Course" in a traditional and historical community that did not have the precious groundwater resources to support it. But I do not forget and never forget what occurred back in the day to this day forward. **It still hurts deeply from within the inner core of mi alma. It is engrained in mi alma like a splinter that pierces and bleeds from within.**

Now, I have been told and forewarn to keep it simple, be cordial, and professional with what I have to say today, yet I must pretend that everything is "Kumbaya" (characterized by or exhibiting a belief in harmony between people and in their essential goodness) truly exists.

But my heart is in discord and is apart from it and why is it?

*In the "real world" that I live in today, I was notified last Friday, November 10th that my private well was contaminated with a dangerous chemical identified as PFAS.

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According to the Santa Fe County validated and accurate water samples reporting document: “my primary source of living “private well groundwater resource” is way over “the new soon to be” EPA drinking water standards that are supposed to be approved by the dysfunctional federal government entity sometime in late 2024.” Yet, for the three PFAS levels which were identified in the well samples report and analysis that were taken recently (which my private well is identified as one of them), they have the higher levels within a “**Hazard Index Standard,**” my well is over this standard too (HI=cal c). Look at the calculations, they are disturbing and frightening.

So, am I supposed to be happy, elated, overjoyed with laughter, and play the “Kumbaya” harp in motion?

Now, I have said it before time and time again, if the Marine Yaqui comes out of me, I am not a Holy Man, I wear many hats in my barrio, my reservation, and my community at large, but today, I will remain calm y tranquilo. I am telling myself now to malesea.....

Said that, for *how long* has the National Guard, the City of Santa Fe Airport, including the Santa Fe City Wastewater Treatment Facility has been dumping this dangerous PFAS chemical (Perfluorooctane-Sulfonic Acid (PFOS) and Perfluorooctanoic Acid (PFOA) into my private well and others?

For *how much* PFAS chemical have I, my wife, my children, and my grandchildren have already digested since the New Mexico National Guard completed their “DRAFT FINAL – Site Inspection Report Army Aviation Support Facility, Santa Fe, NM in February 2023? Frankly, their first “FINAL – Preliminary Assessment Report Santa Fe Army Aviation Support Facility was conducted in August 2020 (3 years later)? Have our political subdivisions that are supposed to protect and defend us from harm read this recent DOD report? If not, why not?

What is the most annoying, upsetting, and made me angry is on why the DOD failed to notify a traditional and historical community (“La Cieneguilla Land Grant”) which is located downstream from their DOD facility (less than a mile from their location) about the possibility of our private wells may be contaminated with this hazardous material penetrating our precious groundwater resources?

Frankly, in my strongest opinion, the DOD were negligence, irresponsible, derelict of their military duties, and should be held accountable at all levels of code of conduct, code of ethics, high moral compass, and legal obligations for failure to protect our citizens of this Great State of New Mexico. So, who is going to hold this strong hold “**Goliath**” in accountability for their failure to notify the public about their findings of PFAS in a military installation?

In addition, what about the City of Santa Fe Municipal Airport, the City Mayor, and the City Council obligations to protect our surrounding traditional and historical communities which is located adjacently to the Municipal Airport and the dysfunctional Wastewater Treatment Facility? Why has this municipality, specifically, the City WWFT Administration refuse to work collaboratively with the Santa Fe County Officials in addressing the serious EPA violations occurring at this facility. Consequently, it is my community that is adversely environmentally impacted by their gross negligence and incompetence.

I beg the question, why has the EPA continued to ignore the high levels of E. coli that is occurring at this municipal facility that is located from across the Santa Fe Army Aviation Support Facility? The last water quality sample that was taken from this facility was on November 5, 2023, and the E. coli results: **80000 CFU/mL (Too Numerous to Count)**. Where is the EPA on this one, including the New Mexico EID – Water Quality Bureau?

The only reason on why I bring this information to the BCC attention is due to a confidential source of information relating to the Torreon Well (this well (one of two) is designated as a monitoring well) that is located from across the WWTF next to the Airport runway may be contaminated with the same PFAS hazardous material that I have in my private well. On the same note, I was informed by my confidential source "to keep their mouth shut from his supervisors who operate this municipal WWTF." They did not want the public to know about it. Well guess what? Who do they think they are fooling, not me?

Now, what is the plan to mitigate and recovery to address this serious public health, public welfare, and public safety in my home and my community?

Who is responsible for cleaning my PFAS contaminated private well?

If my private well is declared permanently "unusable" and not operable, who will borne the cost to redrill a new well for my family, including my neighbors if their wells are declared PFAS contaminated the same?

Who is responsible for borne the cost for my PFAS blood testing? If my well is contaminated with this dangerous hazardous substance, don't you think that my family should at least get a PFAS blood testing to find out if we are also contaminated?

Who will pay for the PFAS water filters, installation, and maintenance for my home?

I am concerned about the emerging issues of the PFAS contaminants on real estate? I am familiar with the **AEI – ASTM E527-21: The changes and how they impact you.** What about my property value in the land grant? Who is going to be responsible and paying for an "Phase I Environmental Site Assessment (ESA) on my property? The Phase 1 ESA report identifies existing and potential environmental liabilities at a property due to a PFAS contamination scenario.

Who is going to provide my family with another safe-drinking water resource while I and my family cannot drink the groundwater that is validated and confirmed contaminated with high levels of PFAS? By the way, I don't trust the EPA information that is listed for the public to use in an event where your private well is contaminated with PFAS. Would you trust them too? I doubt it!

In conclusion, I strongly recommend the Santa Fe Board of Commission utilize the NM EID grant appropriations of \$459,000 to conduct a massive well testing program for ***every residential home*** located in the La Cieneguilla Land Grant. It is not fair or due process to force the landowners to borne an expensive cost at their expense "just because" the DOD and City of Santa Fe created this environmental injustice in the first place, period! The NM-EID should be increasing this "emergency management incident" with a higher appropriation funding for further research water studies to include a mitigation and recovery plan (i.e., new monitoring wells in the contaminated areas, etc.) to protect our precious groundwater resources and groundwater waters in this land grant, because the DOD and the City of Santa Fe will fail to mitigate their own failings to conduct their official duties in the first place. I don't trust them like "a yehwah refusing to drink nasty water from the bucket!"

On the last note, I am familiar with the recent U.S. Congressional H.R. 2467 that was addressed by the U.S. Congressional House of Representatives (and has not gone anywhere from the US Congressional level as of this date) relating to require the Administrator of the Environmental Protection Agency to

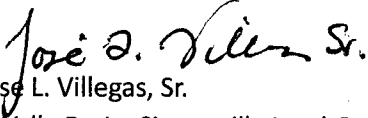
SFC CLERK RECORDED 12/28/2023

designate per- and polyfluoroalkyl substances as hazardous substances under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980.

At this time, I have no faith in the DOD and the City of Santa Fe Government to protect and defend my familia at this time. I am livid, angry, and have no mercy for them. Currently, I am not one to be dismissed by what I have said and done today.

Thank you for your attention in this matter.

Sincerely,



Jose L. Villegas, Sr.

El Valle De La Cieneguilla Land Grant Association (RO)

Member of the Texas Band Yaqui Indians

SEC. CLERK RECORDED 12/28/2023



Proposed Dimensional Standards Table in the TDR Ordinance Revision:

Table 12-3 Transfer Ratio For Dimension Standards

Number of TDRs Required to Achieve Changes to Base Density/Dimension Standards

Dimensional Standard	# of TDRs Required to Achieve Changes to Base Density/Dimension Standards
Nonresidential Minimum Percent Required	1 TDR per 5% decrease
Nonresidential Maximum Percent Required	1 TDR 5% increase
Frontage (minimum, feet)	1 TDR per 10 lots
Lot width (minimum, feet)	1 TDR per 10 lots
Height (maximum, feet)	1 TDR to increase height for every 25,000 sq. ft of floor area
Lot coverage (maximum, percent)	1 TDR per 25,000 sq.ft.

Red font = new standards

Existing Chapter 8 Applicable Zoning District Dimensional Standards in TDR Receiving Areas:

8.7.1. Commercial General (CG).

Table 8-13: Dimensional Standards – CG (Commercial General).

CG Zoning District	Base	With TDRs
Density (# dwelling units per acre)	2.5**	20
Frontage (minimum, feet)	50	25
Lot width (minimum, feet)	50	25
Height (maximum, feet)	40	48
Lot coverage (maximum, percent)	60	80

SEC. CLERK RECORDED 12/21/2023

Board of County Commissioners Meeting
 Sustainable Land Use Development Code (SLDC) §12.14
 TDR Ordinance Revision Tables
 November 14, 2023

8.10. PLANNED DEVELOPMENT DISTRICTS.

Table 8-19: Dimensional Standards – PD (Planned Development).

PD District	Base	With TDRs
Density dwelling units/acre)	1	20
Non-residential (Min required, percent/Max permitted, percent)	5/15	0/50
Frontage (minimum, feet)	50	25
Lot width (minimum, feet)	50	25
Height (maximum, feet)	27	48
Lot coverage (maximum, percent)	40%	80%
Setback from outside property boundary – no existing residential uses adjoining property	50	50
Setback from outside property boundary – existing residential uses adjoining property	100	100

SEC CLERK RECORDED 12/21/2023
 SEC CLERK RECORDED 12/28/2023

VILLAGE OF LA BAJADA
1727



Alonzo Gallegos
President

Darrin Muenzberg
Vice President

Eva Seifert Muenzberg
Secretary



Shawn Gormley
Commissioner

Dolores Baca
Treasurer

George Gallegos
Mayordomo

La Bajada Community Ditch & Mutual Domestic Water Association

P.O. Box 1391
Peña Blanca, NM 87041
(505) 690-2887
labajada58@gmail.com
www.labajada.org

November 10th, 2023

SANTA FE BOARD OF COUNTY COMMISSIONERS

102 GRANT AVE
SANTA FE, NM 87501

PO Box 276 Santa Fe, NM 87594-0276

Attn: jsgreene@santafecountynm.gov
ahansen@santafecountynm.gov
cbustamante@santafecountynm.gov
athamilton@santafecountynm.gov
hhughes@santafecountynm.gov

SUBJECT: Proposed Ordinance No. 2023 _____ Amending the SLDC Ordinance No. 2016-9

Greetings Esteemed County Commissioners,

In our consideration of **Agenda item 12.A** for the BCC Meeting scheduled **November 14th 2023**, the LBCD&MDWA would like to offer the community of La Bajada's support for affordable housing, and sustainable development incentives in the proposed ordinance. La Bajada sees TDR's as essential to Sustainable Growth Management.

In our continuing support of the strategies and policies enumerated in Resolution **2016-33**, we now offer our recommendation to strengthen the Proposed Ordinance's language in 12.14.5.1 (3.), particularly: We respectfully request the addition of an acknowledgement "and in accordance with section 73-2-21 (E.) and 73-3-4 NMSA (2021)", between the first and second sentences of paragraph 3.

It is our position that any TDR program augmentation, incentives for receivers, and modified valuation schedules, should be equitably considered with senders' credit for water rights, particularly those held within Acequias, Special Districts, Community Ditches, and similar subdivisions of the state constituting Traditional Communities within Santa Fe County. There can be no devaluation of the irrigation water right TDR, based on any inconsistency between New Mexico Statute and the "County's satisfaction" or what is "acceptable to the County".

Emphasizing and acknowledging the statutory authority of Acequias (Community Ditches) over the transfer of water rights, is a tangible way for Santa Fe County to demonstrate its commitment to the viability of Traditional Communities, responsible ranching and farming, and secure local food production for Santa Fe County. Please accept this recommendation into the record **November 14th 2023**.

Respectfully Submitted,

LBCD & MDWA Board of Directors by

DARRIN MUENZBERG, VICE PRESIDENT

CC: brent
angela
gregory

REC'D CLERK RECORDED 12/21/2023 12:28/2023

From: Amber Sells Real Estate
 Sent: Wednesday, August 2, 2023 2:22 PM
 To: francisphillips@qwestoffice.net
 Subject: 35 Mescalero Trail Short Term Rental Investment

My name is Amber Williams and I am a licensed Real Estate Associate Broker with Santa Fe Properties.

In 2013, I was contacted by Francis Phillips to assist him with a property search to find a home that could offer a primary residence for retirement with an airbnb option.

The property at 35 Mescalero Trail was identified as a compound which had 3 existing separate structures. Upon walk thru of the property we noted there was a main house that had 1 bedroom/1 Bath and a kitchen. The guest casita had 1 bedroom/1 bath, with a kitchenette. And there was a 1 bedroom/1 bath within what was previously a 2 car garage no longer used as a garage. This is noted within the description and floor plans of the 2013 Appraisal of the property for the sale.

The Apache Ridge area is one of many Santa Fe county locations that offer various short term rental Airbnbs, which fit perfectly for what Francis wanted to do, as the neighborhood allowed short term rentals. Overall, a one bedroom home in each of the 3 existing structures is what we found.

Since his ownership in 2013, I have witnessed Francis invest an additional estimated \$300,000.00, in the months and years upgrading the existing kitchens, baths, interior and exterior areas, including the infrastructure with cisterns for rainwater capture and conservation.

With many short term rental options in and around Santa Fe, it is critical to have property owners who not only offer the stay but invest in the property long term for upgrade, care and maintenance to represent all the best that Santa Fe has to offer. I believe you will find that 35 Mescalero Trail has a strong and successful reputation in doing so.

Sincerely,
 Amber Williams Rogers

Amber Williams, Associate Broker

Santa Fe Properties, Santa Fe NM

(859) 559-3551 Direct

(505) 982-4466 Main

<http://santafemove.com>

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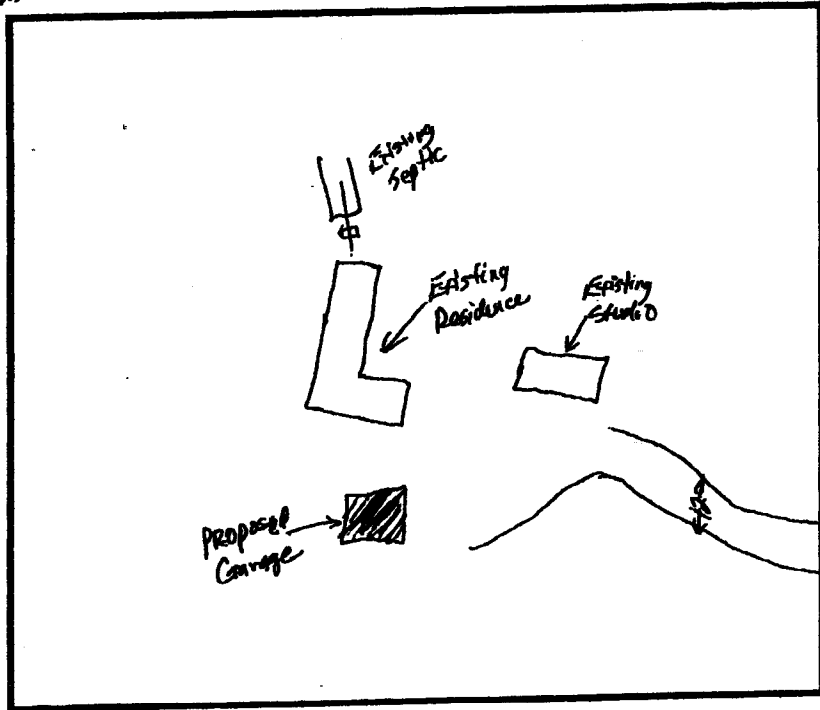
Residential~Land~Ranch~Historic~Equestrian

All real estate advertised herein is subject to the Federal Fair Housing Act and Equal Opportunities Act. Santa Fe Properties ("SFP") strives to confirm as reasonably practicable all advertising information herein is correct but assumes no legal responsibility for accuracy and should be verified by Purchaser. SFP is not responsible for misinformation provided by its clients, misprints, or typographical errors. Prices herein are subject to change. Square footage amounts and lot sizes are approximates.

REC'D CLERK RECORDED 12/28/2023

From Approved Francis Phillips Application / Permit
2014 Plans New 2 Car Garage Permit Application

3 Dwelling - each 1 BR Home Site Layout Site Outline
5 Structures
~~Permit~~
~~Home~~



Include your observations on number of dwelling units, number of accessory structures, building placement, well location, electrical supply location, septic location, driveway location and detention pond location. Use arrows to depict drainage patterns both onsite and offsite. Note the location of any trees that have canopies greater than 25' in diameter. Special observations, including location of a Code Violation that resulted in issuance of a Notice of Violation should be described. Photographs must be attached to this form for inclusion to the project file, photo locations can be shown above, or noted on the aerial.

NOTES:

SPCC CLERK RECORDED 12/28/2023

11-14-23

Variance Review Criteria- Recap Francis Phillips 35 Mescalero Trail

1. **So that the spirit of the SLDC is observed and substantial justice is done:**
 - A. **Water Conservancy-** \$10k water cistern for water capture for landscaping and 2 water barrels. Attachment from Landscaper
 - B. **No Violation of Mescalero Road Covenants**
 - C. **Home is monitored year-round** by housekeeper, handyman, landscaper and myself.
 - D. **Septic- In 2023 State of New Mexico Environmental Division APPROVED** amended septic 3 bedrooms **"grandfathered"** same tank size allowed. No change to septic and adequate leach field and runoff per NM regulations. (sold in 2013 to me with 3 baths)
 - E. **Approximately 150 juniper and pinon trees removed** for forestry safety, less water usage and aesthetic along with year-round quality and care of the property Exhibit Landscaper exhibit.
 - F. **Little Road Usage- Average 0.94 cars per night in HIGH Season.**
 - G. **Owner recognized by Mescalero Road Fund Treasurer: "I wish was everyone as easy with supporting our road improvement initiatives!" Attachment from Mescalero Road Treasurer**
 - H. **June 15-Nov 15 STVR Usage Statistics:** Attached
Less than 2 Guests average per night.
Less than 1 Car per night.
 - I. **2019- Leaning Electric Pole on Site:** PNM required Separate Electric Panel Modifications by Licensed Electrician for Each Dwelling Unit now marked and billed as Mescalero A and B.
2. **Where the request is not contrary to the public.**
 - A. **Mescalero Road Covenants have NO CAPS on dwellings, NO CAPS on structures.** Attachment
 - B. **Mescalero Road Covenants do not prohibit rental properties including STVR.** (this may be misunderstood by some residents thinking STVR's are commercial.) The State of NM appellate court ruled STVR's are NOT COMMERCIAL. STVR's are residential with home insurance, not commercial insurance as well. Attachment
 - C. **Majority of Mescalero Road homeowners with multiple structures.**
 - D. **Incorrect Initial Variance Meeting announcement caused confusion among neighbors thinking I had 3 living structures and requesting 2 more for total 5 living structures.**
 1. **Initial Incorrect Variance Announcement Attached**
 2. **County Employee Gabriel Bustos Omissions for Deadlines causing postponement.**
 3. **"Yellow Sign" Variance Announcement placed by county on Apache Road almost a mile from my home and provoking havoc from Apache Ridge Road residents 3 miles away.**
 4. **ARAPOA Apache Ridge Road Association INCORRECT FACTS Blitz reaping havoc.**
 - E. **Francis has always 100% supported Mescalero Road Fund for ten years, Osbourne comments, "I wish was as easy with supporting our road improvement initiatives!"**
 - F. **Not abusive to road. 3-month average cars present: 0.94 cars per night average in high season alone.**
 - G. **All STVR Guests receive check-in instructions in advance to use AWD, FWD, 4WD vehicles as we are a ski town and have snow. Santa Fe is a drought town , conserve water, short showers.**

SEC CLERK RECORDED 12/28/2023

- H. **Nightly average number of guests per night: less than 2 guests, Less than family of 2.**
 - I. **\$10,000 underground water capture cistern installed 6 years ago to capture rainwater for plants and not touch well water to protect my well, Conserving Water.**
 - J. **Approximately 150 juniper and pinon trees removed for fire, forestry safety and aesthetic along with year-round quality and care of the property**
 - K. **Quiet, Peaceful Oasis Home with no homes in view from the property.**
3. **Where due to extraordinary and exceptional situations or conditions or the property, the strict application of the code would result in peculiar and exceptional practical difficulties or exceptional and undue hardship to the owner:**
- A. **Francis unknowingly purchased a one-bedroom unit- formerly 2-car garage, that was a non-permitted conversion to 1 BDR home by the seller or previous owners in early 2000's.**
 - B. **Francis and his Realtor viewed in 2013, three separate, one-bedroom homes- One of these was the previous 2 story car garage which was not in use as a garage when we viewed and bought the home as documented by Realtor exhibit as well as documented 2013 appraisal. Francis reviewed Mescalero covenants to make sure AIRBNB OK and others down road had STVR's too and multi structure homes down the road. Attachment Realtor Letter**
 - C. **If variance not granted, What I bought 10 years ago- which were three one-bedroom units (a documented Main House, Guest House and Studio) would be no more. I was then cheated and overpaid for the 2013 purchase and even more expense to "un do" what I unknowingly purchased and inherited. Where are my Consumer Rights? 2013 appraisal attached**
 - D. **In 2014 County Application, Francis' builder gave full disclosure of the three living structures in his January, 2014 application for new 2-car garage and storage room permit on page 11, "SITE OUTLAY" as there was no garage on the property when purchased in 2013. Regretfully at time of purchase in 2013 and thereafter- Listing Agent, Real Estate Company, 3-Title Company closings, 3 Appraisers, Purchase Home Inspector NOR 2014 Santa Fe County permit inspector made no mention multi-dwellings were not allowed under 10 acres. Not until January, 2023, STVR Permit application did I learn of this from the county. Pg 11 Site Outlay Attached**
 - E. **2014 Santa Fe County Inspector had Duty to Advise then existing 3 living units (2 Living Dwellings) not allowed on 10-acres! I would have been able to seek legal action then against seller. Since then, Statute of Limitations have expired!**
 - F. **Cannot simply "UnDo" these structures. Attached portal, Stucco privacy walls, enclosed brick courtyard, back fenced in deck outside connected to the home. Inside, significant renovations- kitchen, bath, floor, wall , iron stairs improvements inside the 2-story home. Attach Later Appraisal Home Modifications and Co. Mgr. Lasaida Gutierrez Discussion**
 - G. **Almost \$200,000 in upgrades spent by Francis inside and outside would be diminished plus cost to demolish.**
 - H. **If variance not granted and asked to convert 1 Bdr Dwelling back to year 2000 2 car garage, property would then be left with not one, but TWO separate, 2-car garages causing more problem as the County in 2014 approved application and permit for 2-car garage I built.**

SEC CLERK RECORDED 12/28/2023

- I. Reversing the home by not allowing variance would be financial suicide, decrease property value maybe 50% and affect neighborhood comps lowering them. Francis added value to the neighborhood by taking a poorly cared, distressed home in 2013 and enhancing valuations to the neighborhood with notable improvements.
- J. "UN DOING" Mescalero if variance not allowed: Personal liquid assets erased or may not have enough to pay for the "undoing." Personal Life Retirement plan to use STVR income for retirement income and home to stay in 2nd dwelling would be gone! Retired two years ago with no pension. The STVR of Mescalero was my retirement income plan. Financial Suicide!
- K. If asked to OVER BUILD and add 800 more square feet to compound to connect Studio and my personal home to exceed 3000 sq feet and leave Current Main house under 1500 sq feet as Guest House would OVER BUILD for the area with no comps and sell at loss in future. Too large for ARTBARNs, none in the area and Las Campanas 20 miles away, no comps. Or to connect all units as one dwelling unit would have the same, negative consequence. In addition, there are no funds to do this nor would I qualify for financing as I am now retired.

IV. Previous 2nd Hearing- "Setting a Precedent"

- A. Not given an opportunity to re-but incorrect comparison to other case. Attachment
- B. 2-3 Decision.
- C. Jose Larranaga, Penny Ellis-Green and City Attorney

Summary

2014 Santa Fe County Inspector had Duty to Advise then existing 3 living units (2 Living Dwellings) not allowed on 10-acres! I would have been able to seek legal action then against seller. Since then, Statute of Limitations have expired!

Where are my Consumer Rights!

I have demonstrated exceptional, undue hardship.

With minimal easing to allow a Commission approved variance to allow two, existing dwelling units for existing 1991, 1995 and 2000 structures as purchased in 2013, the general health, safety and welfare of area residents is maintained and not affected as proven and documented. The spirit of the SLDC is observed and substantial justice is done.

Landscaper 10 years SLDC Spirit
WATER CONSERVATION

To whom it may concern,

I write this letter to verify that 35 Mescalero Trail has been taken care of and manicured by Los Rios Landscaping since 2013. Since working at the property, we have cleared 150+ trees, and adequately trim trees to ensure the leftover limbs don't damage the home. We have provided exceptional maintenance and regularly cleaned the property to ensure there are no trash, water leaks, or dead plants/trees, and that the property is well maintained year-round. Watering the property has been a main concern for both Mr. Phillips and me as we are conscious of the water drought that the Santa Fe community suffers from. To limit the amount of water that we use, we put 3 water capture barrels and Mr. Phillips has also invested over \$10,000 for a water capture system to capture rainwater from the roof in an underground storage tank to water trees and all the grounds. I witness that 35 Mescalero Trail is Mr. Phillips' primary residence as we regularly meet to discuss new projects for the property and how to best maintain it. Recently we have done plenty of handyman projects for the property to ensure it is up to standard and that nothing is "dirty".

Mr. Phillips has always been an amazing client, always checking in to make sure that we are doing the best we can to maintain the property and have it look as clean and sharp as possible. Anytime there is an issue with the property, he lets me know so we can fix it in a timely manner. I can always count on Mr. Phillips to be up to date with standards for property maintenance and ensure that we adhere to them. If you have any questions, please don't hesitate to reach out, and I would be more than happy to speak on behalf of Mr. Phillips.

Sincerely,

Sabiani Rios
Los Rios Landscaping Owner

SPD
SLD

WATER
CAPTURE
SYSTEM

REC'D CLERK RECORDED 12/28/2023

Mescalero Neighborhood Treasure Mescalero Road Assoc
+ Showing Support
+ I am good neighbor re Mescalero Road & Fund

From: Tim Ogborn
Sent: Wednesday, July 26, 2023 1:25 PM
To: 'Francis'
Subject: RE: Hello from Francis Phillips - 35 Mescalero Trail

Dear Francis,

I'm so sorry for taking so long to respond. I got hammered by work and this slipped down my in-box, though I did read it when I got it.

Many thanks for the clarification of everything re your house and the variance process. To be honest, I hadn't given this much thought when I saw the notices and certainly wasn't going to make any input into the hearing process as I know very little about your situation - at least until this email. We rent out our casita to long-term tenants and so also have an extra car travelling the road due to that.

As you say you have also very promptly paid your share of the road upkeep without posing any questions and also without participating in the discussions and decisions - which all makes my task easier as the informal treasurer. I wish everyone was as easy with supporting our road improvement initiatives!

I hope the hearing goes well and as painlessly as possible - I have to admit I did get a little confused on when the actual hearing was/is supposed to take place.

I also hope that your various medical operations go well - it's no fun at all trying to schedule doctor appointments, etc. around a busy life, especially if you are having to travel as well, as in your case.

All the best with everything.

I hope we meet sometime soon.

Best, Tim (and Karen)

From: Francis <francisphillips@qwestoffice.net>
Sent: July 16, 2023 6:14 PM
To: Tim Ogborn <tim.ogborn@gmail.com>
Subject: Hello from Francis Phillips - 35 Mescalero Trail

July 16, 2023
Re: 35 Mescalero Trail Application for Variance

Hello Tim and Karen
A pleasant Sunday to you...
I hope you'll take the time to read this detailed recap as incorrect information has regretfully circulated.

Thank you for managing our road budget. It is not ever taken for granted.

RECEIVED OFFICE 12/28/2023

35 Mescalero Trail STVR Calendar- Highest Season Period including Folk Art, Spanish, Indian Mkts.

6/14-6/18	4 Adults	One Vehicle	
6/19-6/27	2 Adults	One Vehicle	
6/28 -7/3	3 adults, One Pet	One Vehicle	
7/6- 7/13	2 Adults, One Pet	One Vehicle	Repeat Guest

30 Day Average- 7 Days Vacant, 2.07 guests per night, 0.77 cars per day average

7/14-7/21	5 Adults	One SUV	
7/21-7/25	2 Adults, One Pet	One Vehicle	
7/26 – 8/2	4 Adults, One Infant	Two Vehicles (2 Couples. One couple coming for few days)	
8/3- 8/6	1 Adult	One Car	
8/7 – 8/11	4 Adults, One Pet	Two Cars, Two Couples	
8/11-8/18	4 Adults	One Vehicle	

30 Day Average-4 Days Vacant, 3.37 guests per night, 1.57 cars per day average

8/18=8/27	2 Adults	One vehicle	
8/27 – 9/1	2 Adults	One Vehicle	Annual Repeat Guests
9/1 – 9/6	2 Adults	One Vehicle	
9/6 – 9/13	4 Adults	One vehicle	
9/13=9/15	2 Adults	One Vehicle	

30 Day Average- 0 days vacant, 2.26 guests per night, 1.00 cars per day average.

9/16 – 9/23	4 Adults	One Vehicle	
9/24 - 10/1	4 Adults	One Vehicle	
10/3 – 10/8	2 Adults	One Vehicle	
10/10 – 10/12	2 Adults/3 Children	One Vehicle	
10/12 – 10/16	4 Adults	One Vehicle	

30 Day Average- 6 days vacant, 2.29 guests per night, 0.80 cars per day average.

REC CLERK RECORDED 12/28/2023

10/16- 10/20 2 Adults One Vehicle
10/20 – 10/22 2 Adults One Vehicle
10/22 – 10/27 3 Adults One Vehicle
10/27 – 11/01 3 Adults One Vehicle
11/03 – 11/05 3 Adults/2 Child Two Vehicles
VAcant thru 11/15

30 Day Average- 13 days vacant, 1.70guests per night, 0.57cars per day average.

Overall Averages High Season

2.34 Guests Per Night

0.94 Cars Per Night

Summary

In Highet Season- The home averages less than a family of 3 with one car.

Overall, these averages would be even lower year round as you figure in low season with vacant nights brining less than 2 Guests , 1 car a night.

Also families that gather from different cities with 2 vehicles usually leave one vehickle parked and all ride together in one vehicle during their stays.

SEC CENTER RECORDED 12/28/2023

incorporated herein by reference, hereby declare that the following covenants, restrictions, and easements shall run with the land and shall be binding upon and inure to the benefit of the parties, their grantees, their respective heirs, successors, personal representatives and assigns:

1. No lot shall be used for any purpose other than residential use. No structures shall be erected, altered, placed, or permitted to remain on any lot other than single family dwellings, accessory building, garages, greenhouses, recreational facilities, and stables. No trailer, mobile home, tent, shack, garage barn or other outbuildings or any temporary structure erected shall be used at any time as a residence, either temporarily or permanently, except that the use of construction trailers shall be permitted during periods of construction.

Type here to search

SPCC CLERK RECORDED 12/28/2023



Los Alamos Reporter

The News from Los Alamos & Beyond

☰ Menu

Who's Sleeping In Your House Tonight? The Santa Fe Board Of County Commissioners Wants To Know

Short-term rentals are not businesses? The New Mexico State Appellate Court ruled: "Renting a dwelling to people who use it for the purpose of eating, sleeping and other residential purposes does not violate the prohibition on commercial business activity as such terms are commonly understood." Yet the process for obtaining a short-term rental license is exactly the same as the process for getting a permit to run a home-based shop or art gallery.

County Land Use officials can impose new rules on short-term rentals.

STVR is NOT COMMERCIAL
 STATE of NM Appellate Court

SEARCHED INDEXED RECORDED 12/28/2023

NBB-96

ORIGINAL VARIANCE Announcement for 6/8/23

III

To be at New Mexican prior to 9:30 am: May 19, 2023.

To be published in the LEGAL SECTION of the paper on: May 24, 2023.

Confusing
As worded.

Grads
people
to think
2 more
dwelling
units,
from 3
to 5.

NOTICE OF PUBLIC HEARING

Case # 23-5090 Francis Phillips Density Variance

Notice is hereby given that a public hearing will be held to consider a request by, Francis Phillips, Applicant, requests approval of a density variance to allow two dwelling units on a 6.54-acre parcel. Currently, the Applicant has an existing 1,340 sq. ft. main residence, a 500 sq. ft. accessory structure and a 720 sq. ft. two car garage that was converted into a dwelling unit. The subject property lies within the Rural Residential zoning district (RUR-R) where the base density is 1 dwelling per 10 acres. The property is located at 35 Mescalero Trail. Commission District 4 Parcel ID # 239205532

A public hearing will be held at the County Administrative Building, located at 102 Grant Avenue, in the Board of County Commission Chambers, on the 2nd Floor, on the 8th day of June, 2023, at 3 p.m. on a petition to the Santa Fe County SLDC Hearing Officer. Members of the public have the choice of listening and participating in this meeting in person or virtually. To participate by phone call 1-408-418-9388. The code to access the meeting will be available on the meeting agenda which will be posted on the County's website (<https://www.santafecountynm.gov/>) one week before the meeting. In addition, people may watch the meeting at <https://www.youtube.com/channel/UCKGV2GEBC1Qv38Pn61083xg>

Please forward all comments and questions to the County Land Use Administration Office at 986-6225.

All interested parties will be heard at the Public Hearing prior to the Hearing Officer taking action.

All comments, questions and objections to the proposal may be submitted to the County Land Use Administrator in writing to P.O. Box 276, Santa Fe, New Mexico 87504-0276, or presented in person prior to the hearing.

Please forward affidavit of publication to the County Land Use Administrator, P.O. Box 276, Santa Fe, New Mexico 87504-0276.

AFFIDAVIT MUST BE MAILED TO THE GROWTH MANAGEMENT DEPARTMENT AT LEAST THREE (3) DAYS PRIOR TO THE MEETING DATE

REC'D CLERK RECORDED 12/28/2023

From: Amber Sells Real Estate
Sent: Wednesday, August 2, 2023 2:22 PM
To: francisphillips@qwestoffice.net
Subject: 35 Mescalero Trail Short Term Rental Investment

My name is Amber Williams and I am a licensed Real Estate Associate Broker with Santa Fe Properties.

In 2013, I was contacted by Francis Phillips to assist him with a property search to find a home that could offer a primary residence for retirement with an airbnb option.

The property at 35 Mescalero Trail was identified as a compound which had 3 existing separate structures. Upon walk thru of the property we noted there was a main house that had 1 bedroom/1 Bath and a kitchen. The guest casita had 1 bedroom/1 bath, with a kitchenette. And there was a 1 bedroom/1bath within what was previously a 2 car garage no longer used as a garage. This is noted within the description and floor plans of the 2013 Appraisal of the property for the sale.

The Apache Ridge area is one of many Santa Fe county locations that offer various short term rental Airbnbs, which fit perfectly for what Francis wanted to do, as the neighborhood allowed short term rentals. Overall, a one bedroom home in each of the 3 existing structures is what we found.

Since his ownership in 2013, I have witnessed Francis invest an additional estimated \$300,000.00, in the months and years upgrading the existing kitchens, baths, interior and exterior areas, including the infrastructure with cisterns for rainwater capture and conservation.

With many short term rental options in and around Santa Fe, it is critical to have property owners who not only offer the stay but invest in the property long term for upgrade, care and maintenance to represent all the best that Santa Fe has to offer. I believe you will find that 35 Mescalero Trail has a strong and successful reputation in doing so.

Sincerely,
Amber Williams Rogers

Amber Williams, Associate Broker

Santa Fe Properties, Santa Fe NM

(859) 559-3551 Direct

(505) 982-4466 Main

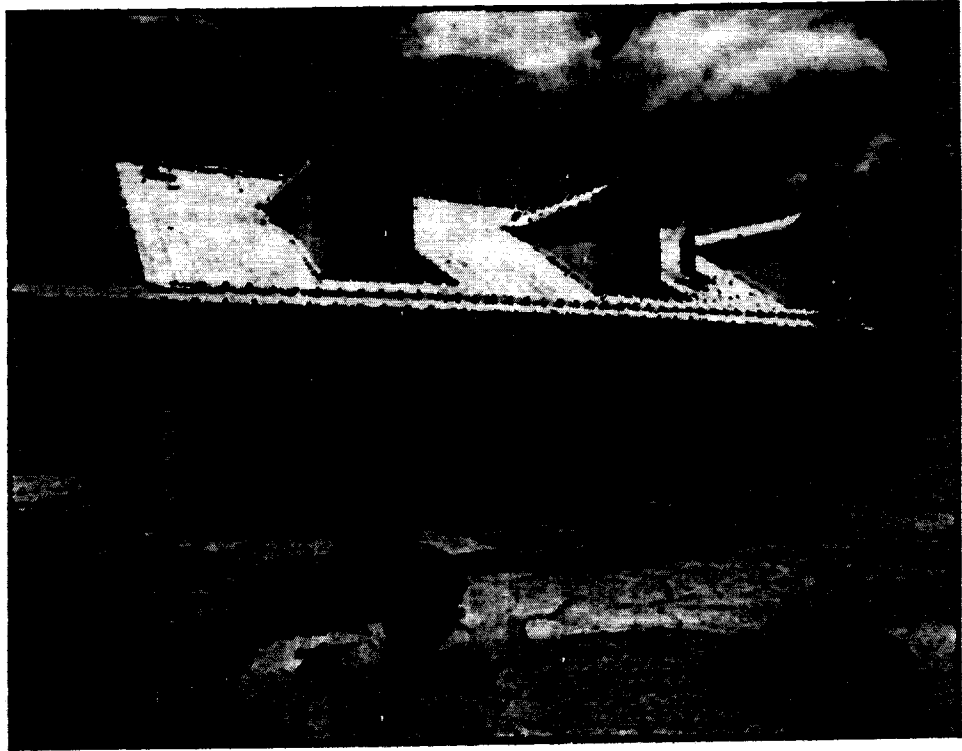
<http://santafemove.com>

Serving Buyers & Sellers Since 2002

Residential~Land~Ranch~Historic~Equestrian

All real estate advertised herein is subject to the Federal Fair Housing Act and Equal Opportunities Act. Santa Fe Properties ("SFP") strives to confirm as reasonably practicable all advertising information herein is correct but assumes no legal responsibility for accuracy and should be verified by Purchaser. SFP is not responsible for misinformation provided by its clients, misprints, or typographical errors. Prices herein are subject to change. Square footage amounts and lot sizes are approximate.

RECORDER RECORDED 12/28/2023



SFCO CLERK RECORDED 12/28/2023

APPRAISAL REAL PROPERTY

LOCATED AT:
35 Mescalero Trail
LOT5B T15N R10E S2
Santa Fe, NM 87505

FOR:
First Choice Loan Services Inc.
500 Campus Drive Suite 102
Morristown, NJ 07751

AS OF:
05/07/2013

BY:
Anna R. Tindell
Anna Tindell Appraisal Services, LLC
P.O. Box 357
Tesuque, New Mexico

Uniform Residential Appraisal Report

10113102501
File # 361-300025

Neighborhood:

The Subject is located in the Apache Ridge area which is 20 minutes Southeast of the City of Santa Fe. This area is considered suburban to Santa Fe. Police protection is provided by Santa Fe County and the New Mexico State Police. Fire protection is provided by local volunteer fire departments. Employment opportunities can generally be found in Santa Fe. Schools, shopping, and houses of worship are all located in Santa Fe.

Comments on Subject Site:

The subject site is a 6.54 acre parcel. It is serviced by public electric. Gas is privately bottled propane. Water is supplied by a 2 private wells. There is currently no public sewer system available to this area, therefore, a private septic system is utilized. Wells and septic systems are typical for this area and do not appear to have an adverse effect on value.

Comments on Subject Improvements:

The Subject is a 1,194 square foot, 1 bedroom, 1 bath, frame/stone home that was built in the 1992. The home appears to be of good quality construction and in good condition. Flooring in the home is tile and appears to be of good quality and in good condition. The home is heated with hot water radiant heat and has an additional fireplace. Additional amenities on the property include a 622 square foot guest house and a detached 2 car garage with a 744 studio apartment above it.

STUDIO APARTMENT IN GARAGE

Comments on Market Data:

The Comparables used are the most recent and similar to the Subject of those available. New Mexico is a non-disclosure state and often sales occur between individuals with no realtor involvement, making information difficult or impossible to obtain and confirm beyond the local MLS data and data obtained from local real estate brokers. It is not uncommon in this small market area to be forced to expand the search for comparables beyond the guidelines of one mile from the Subject and sale dates beyond six months. Lack of timely sales does not suggest lack of market activity or diminished marketability of the Subject. The Subject and the Comparables are all considered to have similar market appeal and similar marketability.

Site adjustments are based on recent land sales within the Market Area of the Subject and the Comparables. Location, site size and view/setting are the primary criteria that the market recognizes to establish land values. The site adjustments that were made take these criteria into account in a combined adjustment.

Square foot adjustments are adjusted at \$40 per square living area.

Condition, quality, view and location adjustments are based on the difference between the individual Comparables and the Subject. A cost approach is utilized to determine adjustments for these amenities.

Age adjustments are only made if the age of the Comparable is over 10 years difference than the age of the Subject. No age adjustments are made to homes with equivalent upgrading which is equal or superior to the Subject's quality or condition. Age adjustments are made at 0.5% per year difference of the sales price.

Final Recommendation:

The Market Value of the Subject Property is determined to be \$443,000. The Sales Comparison Approach yielded a range of value from \$405,000 to \$508,000. This value is based on a market exposure time of six to nine months, which is the average marketing time for comparable properties in the Subject market area.

Provide adequate information for the lender/buyer to replicate the below cost figures and calculations.

Report for the opinion of site value (accuracy of comparable land sales or other methods for estimating site value) MLS search of vacant land sales in the Subject's market area was conducted in order to determine the current market value for the Subject Site. Land-to-improvement ratio is typical for the Subject's market area. This is due to the fact that the Subject is located on a larger acreage parcel which results in higher land values.

RECORDED IN COUNTY RECORDS

<input type="checkbox"/> REPRODUCTION OR <input checked="" type="checkbox"/> REPLACEMENT COST NEW		OPINION OF SITE VALUE	
Source of cost data	Marshall and Swift	DWELLING	1,195 Sq.Ft. @ \$ 150.00 = \$ 179,250
Quality rating from cost service	Average Effective date of cost data 2013		0 Sq.Ft. @ \$ = \$ 0
Comments on Cost Approach (gross living area calculations, depreciation, etc.)		Garage/Hall and Studio	= \$ 100,000
See attached SKETCHED AREA ADDENDUM. Replacement costs were extracted from the 2013 Marshall & Swift Residential Cost Handbook. Land values are from the local market data.		Garage/Carport	744 Sq.Ft. @ \$ 28.00 = \$ 20,832
		Total Estimate of Cost Less	= \$ 300,082
		Less Physical	
		Depreciation	46,163 = \$ 46,163
The Remaining Economic Life is 65 years based on a 65 Year Economic Life.		Depreciated Cost of Improvements	= \$ 253,920
		Net In Value of Site Improvements	= \$ 253,920
Estimated Remaining Economic Life (EML) and VA only		Porcelain/Palace/Walk/Landscaping	= \$ 20,000
65 Years		INDICATED VALUE BY COST APPROACH	= \$ 423,820

Estimated Monthly Market Rent \$ _____ X Gross Rent Multiplier _____ = \$ _____ Indicated Value by Income Approach

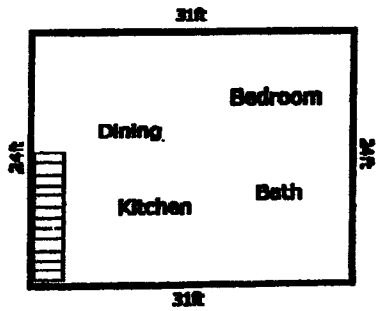
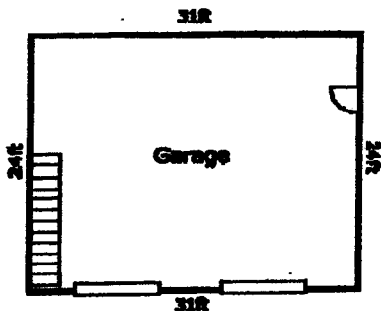
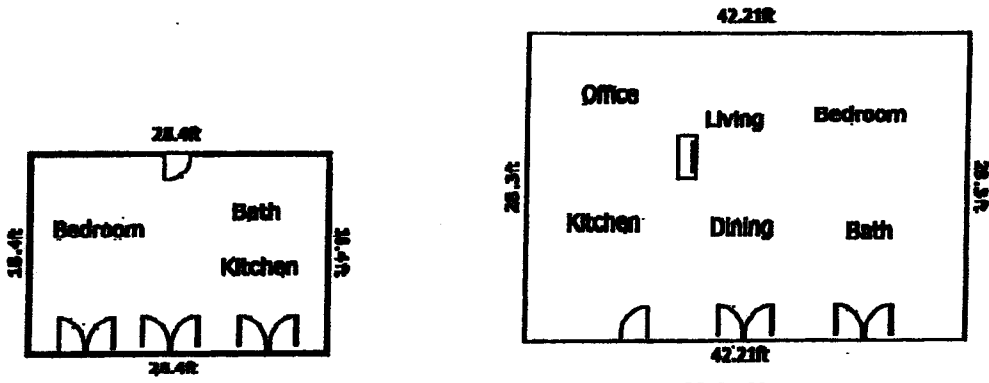
Summary of Income Approach (including support for market rent and GRM)

from 2013 Purchase Appraisal

Building Sketch

Borrower/Client	Francis Phillips		
Property Address	35 Mancalero Trail		
City	Santa Fe	County	Santa Fe
State	NM	Zip Code	87506
Lender	First Choice Loan Services Inc.		

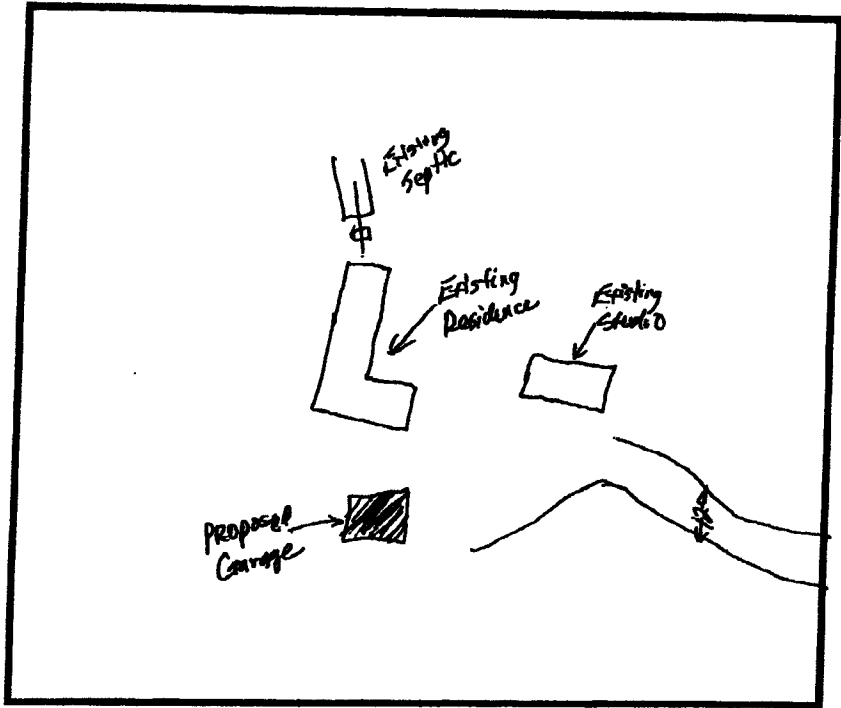
For Visual Aid Only



SEC CLERK RECORDED 12/28/2023

From APPROVED Frances Phillips Application / Permit
2014 Plans New 2 car garage Permit Application

3 Dwelling - each 1 AND 1/2 Homes Site Layout Site Outline
5 Structures
~~each 1 AND 1/2~~
Homes



include your observations on number of dwelling units, number of accessory structures, building placement, well location, electrical supply location, septic location, driveway location and detention pond location. Use arrows to depict drainage patterns both onsite and offsite. Note the location of any trees that have canopies greater than 25' in diameter. Special observations, including location of a Code Violation that resulted in issuance of a Notice of Violation should be described. Photographs must be attached to this form for inclusion to the project file, photo locations can be shown above, or noted on the aerial.

NOTES:

REC'D CLERK RECORDED 12/28/2023

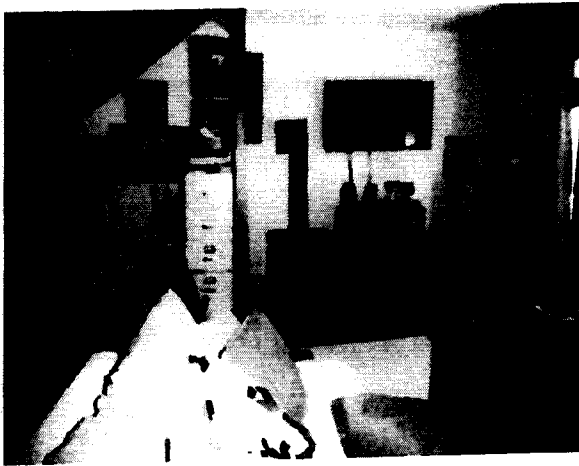
Studio

Borrower/Client	Francis H Phillips		
Property Address	35 Mescalero Trl		
City	Santa Fe	County	Santa Fe
		State	NM
		Zip Code	87505-1469
Lender	Aric-La-Tex Financial Services		



Studio Front

35 Mescalero Trl
Sales Price
Gross Living Area 1,434
Total Rooms 5
Total Bedrooms 2
Total Bathrooms 1.0
Location N;Res;
View B;Mtn;
Site 6.54 ac
Quality Q3
Age 28

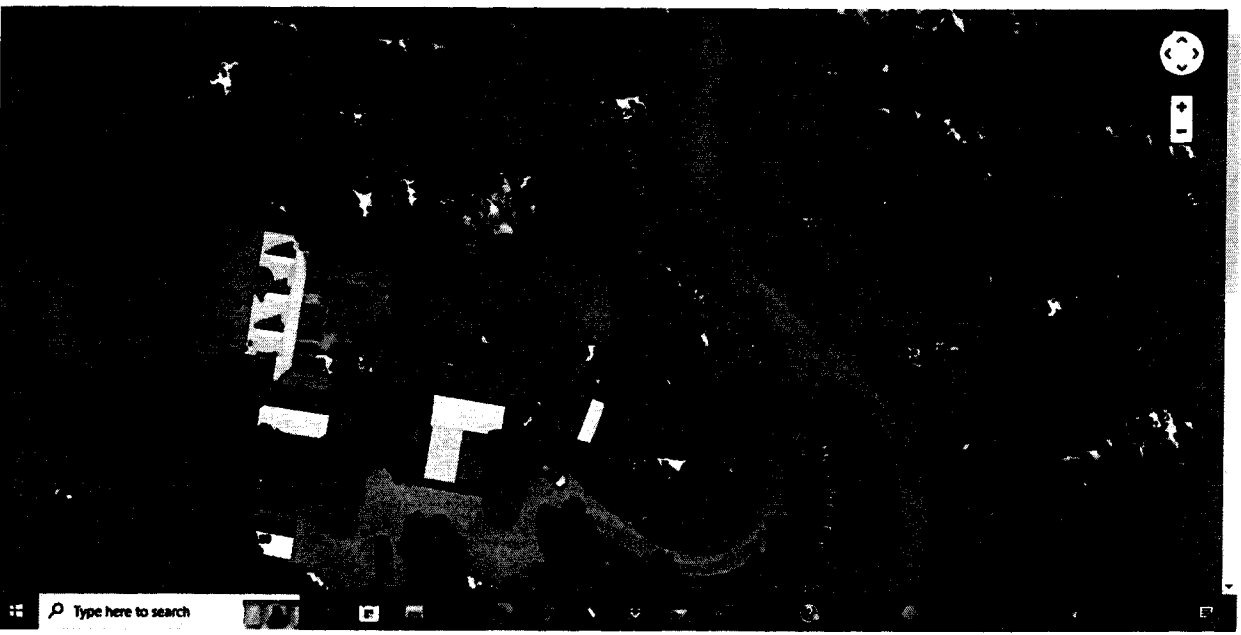


Studio Main Living Area



Studio Kitchen

SPCC CLERK RECORDED 12/28/2023



SPEC CLERK RECORDED 12/28/2023

POST IN A CONSPICUOUS PLACE

N O T I C E

BUILDING PERMIT NO: 2014001128

PERMIT NAME: null
Has Been Issued For This Construction By The
STATE OF NEW MEXICO
REGULATION AND LICENSING DEPARTMENT
CONSTRUCTION INDUSTRIES DIVISION
GENERAL CONSTRUCTION BUREAU

BUILDING ADDRESS: 35 MESCALERO

BUILDING CITY/STATE: SANTA FE, NM

OWNER: FRANCIS PHILLIPS

PHONE: 577-4091

ADDRESS: 35 MESCALERO TRAIL

OCCUPANCY: UTILITY AND MISCELLANEOUS

CITY STATE: SANTA FE, NM

TYPE CONSTR: TYPE_V

CONTRACTOR: RENAISSANCE BUILDERS INCORPORATED

LICENSE #: 93025

ADDRESS: 2129 AVENIDA DE LAS ALTURAS

PHONE: 5054666788

CITY STATE: SANTA FE, NM

PROJECT: null

DIRECTIONS: old las vegas hwy to apache ridge road past 28th before campground to mescalero trail turn right # 35 is on the right

INSPECTOR:

FOR INSPECTION REQUEST: 505-222-9813 or 877-243-0979

PERMIT ISSUE DATE: 01/22/2014

SQUARE FOOTAGE: 486

DESCRIPTION OF WORK: ADDITIONS OF RES. GARAGES AND CARPORTS

VALUATION: 13058.82

This is a General Construction Permit and does not cover electrical or mechanical permit requirements for the State of New Mexico.

Record of Inspections

GENERAL BUILDING		ELECTRICAL		MECHANICAL	
DATE	PURPOSE	DATE	PURPOSE	DATE	PURPOSE
01/29/14	MUD PITS CR				
02/12/14	FLOOR CR				
02/27/14	WALLS CR				
02/11/14	Final Bath CR				

NOTICE: IT IS THE RESPONSIBILITY OF THE PERMIT HOLDER TO CALL FOR THE REQUIRED INSPECTIONS IN ADVANCE PLEASE WAIT FOR THE INSPECTOR TO PERFORM THE INSPECTION.

NOTICE: If no inspections are performed within 180 days the permit will expire and will be required to be renewed at full price.

SEC CLERK/RECORDED 12228/2023

Multi-Purpose State Building Application

State of New Mexico
 Albuquerque Office 5200 Oakland Ave., NE
 Las Cruces Office 505 S. Main St., Ste 150
 Santa Fe Office 2550 Cerrillos Road

Regulation and Licensing Department
 I-25 @ Alameda Albuquerque, New Mexico 87113
 P.O. Box 939 Las Cruces, New Mexico 88004-0939
 Santa Fe, New Mexico 87504

Construction Industries Division
 Phone: (505) 222-9800 Fax: (505) 765-5670
 Phone: (575) 524-6320 Fax: (575) 524-6319
 Phone: (505) 476-4691 Fax: (505) 476-4619

Date Issued: 1-24-13 Processed By: [Signature] TRACKING/Permit Number: 2014001128
 Received By: Mail (A/R) _____ Paid By: Cash Receipt #: _____ Check #: 1343 Total Fees \$ 50.40
 Walk-In (A/R) _____ Cash Receipt #: _____ Check #: _____ Balance Due \$ _____

Please check the appropriate type for which you are applying:
 Building Permit Residential Commercial Pre-Bid Electrical Review Only Mechanical/Plumbing Review Only
 Type of Construction: I II III IV V VI A B Total Sq Ft. 486
 Occupancy Group: A B E F H I M R S U Valuation / Sign Contract \$ 12,000^{EV}
 Division: 1 2 3 4 5

Description of Work:
 New Construction Addition Alterations/Repairs Re-Roof Foundation Only Demolition Renew Permit # _____
 Wood Masonry Adobe Rammed Earth Alternative Material _____
 Metal / Steel (required Engineer STAMPED foundation & structure drawings) Baled Straw (required Architectural STAMPED) Other: (required Architectural STAMPED) _____

PLEASE PROVIDE THE FOLLOWING INFORMATION (Refer to the BUILDING PERMIT GUIDE or call for addition information):
35 Mesquite TRAIL Santa Fe 87505 Santa Fe
 Parcel No. and/or Project Address: (must provide physical address) Nearest City/Town/Village to project Zip Code County
5B 15N 10E 2
 Subdivision Name Lot Number Township Range Section
 Provide Written Directions to the project site:
Old Las Vegas Hwy to Apache Ridge Road (Past 285 - Before Campground)
to Mesquite TRAIL TURN RIGHT # 35 IS ON RIGHT

Contractor Information:
RENAISSANCE Builders Inc. 93025
 Company Name: NM State License Number
2129 Avenida de las Alturas Santa Fe NM 87505 (505) 877406
 Address-No. & Street/PO Box/Rural Route City State Zip Code Phone

Property Owner or Homeowner Information:
Francis Phillips
 Name: 35 Mesquite TRAIL Santa Fe NM 87505
 Address-No. & Street/PO Box/Rural Route City State Zip Code Phone

Design Professional Information:
 Professional Name or Firm: _____ NM State License Number _____
 Address-No. & Street/PO Box/Rural Route City State Zip Code Phone _____

PLEASE READ AND SIGN THE FOLLOWING: (Contractors or Homeowner)
 I hereby acknowledge by my signature below that I have read this application and state that the above is correct. I agree to comply with the requirements of the New Mexico Building Code. I waive my right to require any inspector to possess a search warrant before they enter the premises to inspect the building covered by this permit. However, I waive this right only on the following conditions: The inspector must be approved by the Construction Industries Division and this inspection must be made at reasonable times for purpose of determining whether the work of building or structure on the premises complies with the New Mexico Building Code. I understand that the issuance of this permit shall not prevent the Construction Industries Division from requiring compliance with the provisions of the New Mexico Building Code.
 X [Signature] Date: 12/1/13

OFFICIAL USE ONLY
 PLANING/ZONNING APPROVED BY: _____ Signature: [Signature] Date: 1-17-14
 FLOOD PLAIN APPROVED BY: _____ Signature: _____ Date: _____
 PERMIT APPROVED BY: _____ Signature: [Signature] Date: 1-23-14
 UPC APPROVED BY: _____ Signature: _____ Date: _____
 NEC APPROVED BY: _____ Signature: _____ Date: 3

RECORDED 12/28/2013

From: Francis
Sent: Monday, August 28, 2023 4:59 PM
To: Jose Larranaga; Penny Ellis-Green; francis
Subject: RE: (did not hear back please advise thanks from MondayTimeSensRequest for Variance

Got it.
VERY different than my situation.
This commissioner was OFF BASE comparing as if a precedent
I bought the home already as a 1 bedroom home (not permitted by the seller) I inherited.

Hernandez built without a permit.

When I built my 2014 garage, I did so with a permit.
I secure permits when they are needed.
The realtor also backed up what I said which was the first floor of the previous garage was NOT a garage.

Thanks for sharing.

Sent from Mail for Windows

From: Jose Larranaga
Sent: Monday, August 28, 2023 2:42 PM
To: Francis; Penny Ellis-Green
Subject: RE: (did not hear back please advise thanks from Monday TimeSensRequest for Variance

He built the garage(s) without permits.

From: Francis [mailto:francisphillips@qwestoffice.net]
Sent: Monday, August 28, 2023 12:32 PM
To: Jose Larranaga <joselarra@santafecountynm.gov>; Penny Ellis-Green
<pengreen@santafecountynm.gov>
Subject: RE: (did not hear back please advise thanks from Monday Time SensRequest for Variance

Warning:

EXTERNAL EMAIL: Do not click any links or open any attachments unless you trust the sender and know the content is safe.

Thank you Jose,

DID the applicant Hernandez buy the home and inherited this set back OR did he build the garage without a permit which had the set back?

Sent from Mail for Windows

From: Jose Larranaga
Sent: Monday, August 28, 2023 2:21 PM

SEC CLERK RECORDED 12/28/2023

To: Francis; Penny Ellis-Green

Subject: RE: (did not hear back please advise thanks from Monday Time SensRequest for Variance

Francis,

This is the case that was referenced, at the Planning Commission Meeting.

This Appeal will be heard by the Board of County Commissioners this Tuesday 8/29/23.

The report and exhibits are posted on the County Website.

Jose

Case # 23-5110 Miguel Hernandez Variance Appeal. Miguel Hernandez, Appellant, is appealing the Santa Fe County Planning Commission's Final Order regarding 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' from the front of the property and 50' 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). **Jose E. Larrañaga, Case Manager**

From: Francis [<mailto:francisphillips@qwestoffice.net>]

Sent: Friday, August 25, 2023 5:47 AM

To: Francis <francisphillips@qwestoffice.net>; Penny Ellis-Green <pengreen@santafecountynm.gov>;

Jose Larranaga <joselarra@santafecountynm.gov>

Subject: (did not hear back please advise thanks from Monday Time Sens Request for Variance

Warning:

EXTERNAL EMAIL: Do not click any links or open any attachments unless you trust the sender and know the content is safe.

From: Francis

Sent: Saturday, August 19, 2023 8:53 AM

To: francis

Subject: FW: Monday Time Sens Request for Variance

Jose and Penny

Thank you for all of your assistance.

Please let me know at your earliest convenience what I need to prepare, complete for the next step variance please.

SFC CLERK RECORDED 12/28/2023

Also could you advise the following so I can prepare for the variance ahead

- 1) What was the name of the case referenced by one of the Commissioners last week referencing a similar situations as mine the Commission voted on in February? What was this case about, the request and applicant name?
- 2) Penny could you prepare a sentence regarding the topic we discussed after the meeting where: "a single family dwelling could be 1-4 units and 5+ is multi family?"
- 3) Penny could you forward please the promised 1991 permit approval you have said you would prepare for the never permitted studio for 35 Mescalero Trail please. I need this so that one day in the future when I sell this home, I have this in file so it completes the needed file for this home I purchased with 2 structures not permitted correctly. (my 2 story home ofcourse pending)

Please let me know the date of the soonest hearing I can be scheduled for variance before the County COMmisskoners and how many folders I need to prepare please.

Thank you

Francis Phillips

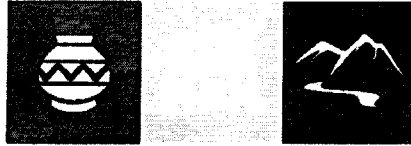
Sent from Mail for Windows

REC
CLERK
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12/28/2023

Justin S. Greene
Commissioner, District 1

Anna Hansen
Commissioner, District 2

Camilla Bustamante
Commissioner, District 3



SANTA FE COUNTY

Anna T. Hamilton
Commissioner, District 4

Hank Hughes
Commissioner, District 5

Gregory S. Shaffer
County Manager

August 29, 2023

Francis Phillips
35 Mescalero Trail
Santa Fe, New Mexico, 87508

Re: 35 Mescalero Trail

Dear Mr. Phillips

This letter is to confirm the use of the 500 square foot accessory structure, identified in permit #95-2018 as a studio on your 6.54-acre property. Staff acknowledges that this structure is recognized as an accessory structure and can be used as a second bedroom to the 1,340 square foot main dwelling as requested in your Short Term Rental application (permit # 23-5090). It is not approved or permitted as a separate dwelling. The main dwelling and the accessory structure are considered permitted structures by the Santa Fe County Building and Development Services Department as both were identified in permit 95-2918.

You have also asked me to address the difference between single family and multifamily uses. The SLDC defines Dwelling, multifamily as "a dwelling or group of dwellings on one lot containing separate living units for five (5) or more families, which may have joint services or facilities." If the property has fewer than 5 dwellings (including accessory dwellings) on it, then the County would NOT consider it multifamily.

If you have any further questions, please feel free to contact this office.

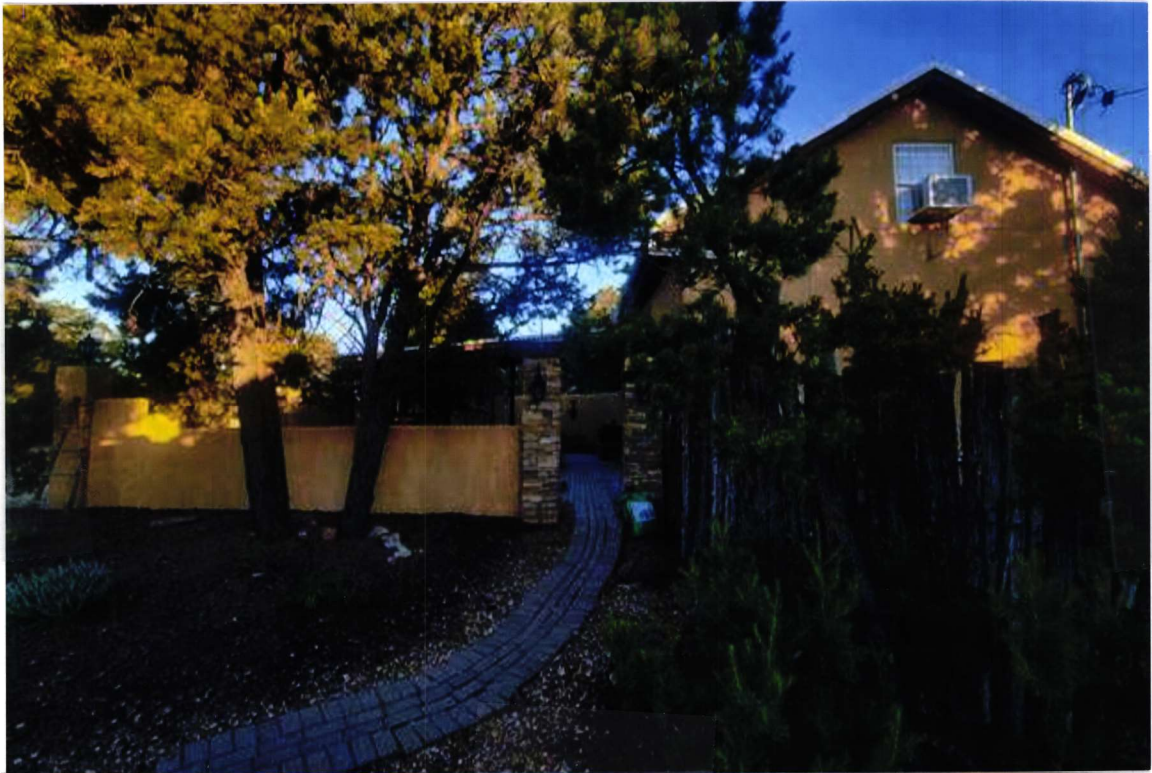
Sincerely,

Penny Ellis-Green
Growth Management Department Director

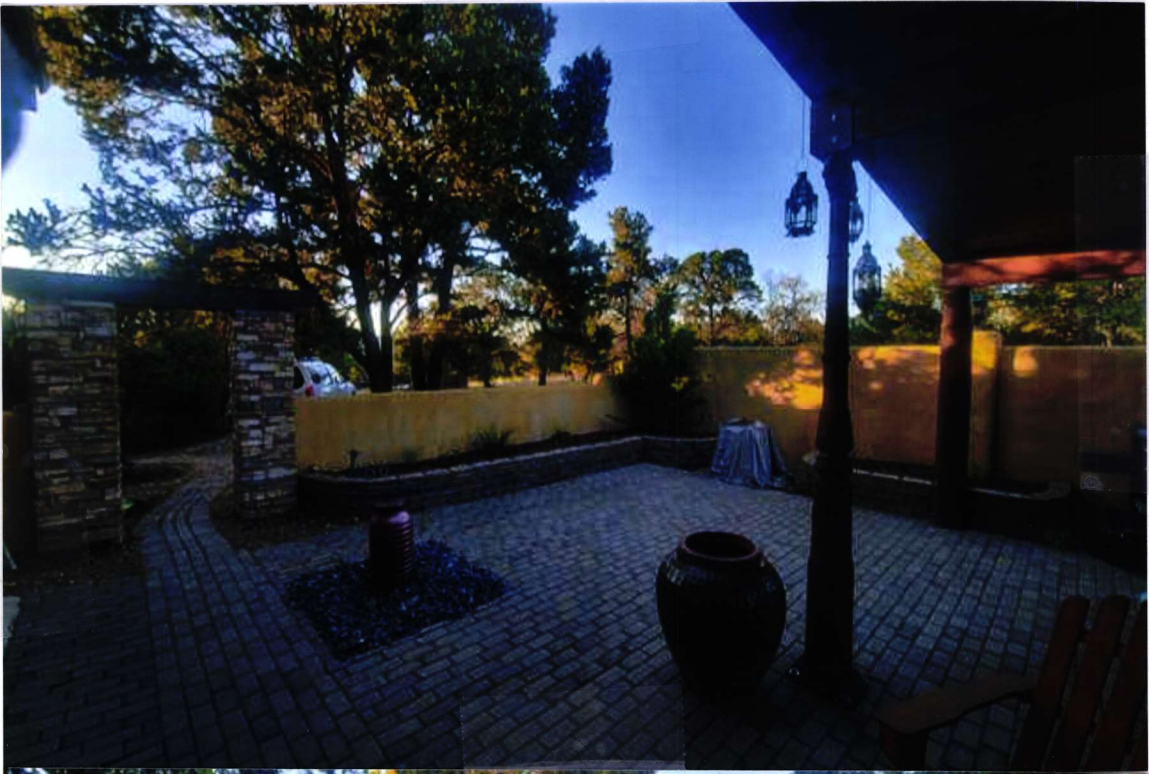
Cc: Jose E. Larranaga
Building & Development Supervisor

102 Grant Avenue · P.O. Box 276 · Santa Fe, New Mexico 87504-0276 · 505-986-6200 · FAX:
505-995-2740 www.santafecountynm.gov

REC
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12/28/2023



SFC CLERK RECORDED 12/28/2023



SFOC CLERK RECORDED 12/28/2023



SPEC CLERK RECORDED 12/28/2023