

**MINUTES OF THE
CITY OF SANTA FE / SANTA FE COUNTY
REGIONAL PLANNING AUTHORITY**

Tuesday, October 15, 2007

2:00 PM

Santa Fe, New Mexico

The meeting of the City of Santa Fe / Santa Fe County Regional Planning Authority (RPA) was called to order by Chair Harry Montoya at approximately 2:10 PM on the above-cited date in the County Commission Chambers in the County Administration Building.

ROLL CALL

County Commissioners Present:

Paul Campos
Harry Montoya, Chair
Jack Sullivan
Virginia Vigil

City Councilors Present:

Mayor David Coss
Matthew Ortiz (arrived after roll call)
Rebecca Wurzburger, Chair

City Councilor Absent:

Miguel Chavez

Santa Fe RPA Staff:

Mary Helen Follingstad, Executive Director

County of Santa Fe Staff Members:

Rachel Brown, Deputy Attorney
Stephen Ross, Attorney
Judy McGowan, Planning

City of Santa Fe Staff Members:

Frank Katz, Attorney
Gary Martinez, Water Division

APPROVAL OF AGENDA

Mayor Coss moved to approve the agenda, seconded by Commissioner Sullivan and approved unanimously.

APPROVAL OF MINUTES FROM THE SEPTEMBER 18, 2007, REGULAR MEETING

Councilor Wurzburger moved to approve the minutes of September 18, 2007, seconded by Commissioner Sullivan and approved unanimously.

Commissioner Campos was not in attendance on September 18 and did not participate in the vote.

[Councilor Ortiz arrived at the meeting.]

REGIONAL PLANNING AUTHORITY BUSINESS

- **Workshop to Discuss Extraterritorial Zoning**

Ms. Follingstad presented a fact sheet with an overview of the Extraterritorial Zoning and Subdivision Jurisdiction of the RPA. From information developed by Reed Liming on growth, she pointed to a map from Santa Fe Trends that shows the Santa Fe city, urban area and regional boundaries to give a sense of size of the area under discussion.

Ms. Follingstad reviewed the issues involved and said much of what she included came from a staff memo written by Anne Lovely of the city legal staff. She said if there were no joint agreements in place for extraterritorial zoning, the city would have to adopt separate comprehensive plans and zoning subdivision ordinances governing land use in the EZA. Subdivision land and zoning development plans of any applicant would require dual approval, and they would have to approach county and city planning commissions and authorities, and the City Council and Board of County Commissioners (BCC). Through this process, there may be conflicts between the two bodies, resulting in complaints from affected property owners. City staffing for review of cases would need to be increased, since it has been determined that in 2006 the county expended as much as 300 staff hours per week administering the EZA.

A second scenario would be if joint agreements were left in place. The statutes require an EZC and an EZA or appointment of a new land use commission and new land use authority, with a majority of county members. The RPA Regional Land Use Plan (RPA Plan) was adopted by the RPA, City Council and BCC in 2004, is a comprehensive plan for the 5-mile area that currently has no implementing ordinance. The RPA-JPA, which was put together in 2000 for formation of the RPA, would need updating to implement the RPA Plan. The existing EZO and Subdivision Regulations have been amended 22 times since 1991, and a recompilation is due.

If new joint agreements or repeal of existing agreements are contemplated, it will take time to negotiate new agreements. The new ordinances would take time to draft because there has to be public involvement, adoption and notice requirements. Ms. Follingstad added that the RPA budget allows for hiring of a contractor to assist the RPA in putting together new ordinances.

Ms. Follingstad then reviewed opportunities (attached as Exhibit A for reference purposes) open to addressing the above issues. The first opportunity is to preserve the status quo, because it is the easiest, especially if the city wishes to continue to exercise its extraterritorial jurisdiction and to influence land use decisions through the EZA.

Councilor Wurzbarger asked if #4 was a subset of #2. Ms. Follingstad agreed the sequence would be to first amend the JPA, develop the implementing ordinance for the RPA plan and then repeal the EZ.

Ms. Follingstad went on to say that #6 is companion to #5, clustered with the annexed area idea.

Commissioner Vigil asked if that would be legally possible.

Ms. Follingstad replied that, to exercise the jurisdiction, there would need to be an EZC or EZA, or an agreement similar to what Santa Fe County has with Española and Edgewood, or an

alternative similar to what the City of Albuquerque has with Bernalillo County, which is under a different set of rules in the statutes.

Ms. Rachel Brown, County Deputy Attorney, agreed there would be some type of joint agreement where the authority of the city was delegated to the county to zone and approve development outside the city limits.

Mr. Frank Katz, City Attorney, cited Section 3-21-3.2 where there is an extraterritorial land use authority, which is different from the EZA and EZC. It may be that the city and county would want to abandon the authority and commission and create a land use authority, which has a broader portfolio dealing with not only the zoning but also plat approvals and subdivision and the planning and annexations. If there were some sort of an agreement where the city would be planning within a certain area and then the county would be planning and zoning outside that area, that could be part of that agreement, and the city would delegate whatever authority it might have under the law to do zoning outside the limits to the county in the recognition that its boundaries will not go any further.

Ms. Follingstad added that opportunity #7 is what Mr. Katz described. A constraint to that is that there would have to be a majority of county members on the authority.

Ms. Follingstad went on to explain the spreadsheet was a breakdown summary of the extraterritorial statutory framework and requirements for both zoning and subdivision.

Chair Montoya asked how #2 and #7 differ.

Mr. Katz replied there are a great variety of ways. The EZA can be left as it is or it could be abolished. Or something new could be done. Under the rubric of doing something new, there are various versions. The one version to adopt a new implementing ordinance is #2. Another version (#6) is to draft a new agreement where the authority of the city and county are jiggered through the current EZA. Another version (#7) is where an extraterritorial land use authority and committee is adopted, which would have the jurisdiction and powers of the zoning authority and carry out its duties relating to planning and plotting jurisdiction, extraterritorial zoning subdivision approval and annexation approval and disapproval as provided in the municipal code. This incorporates whatever authorities are granted the city and county under the municipal code. That would include the regional planning and the extraterritorial zoning. The committees could be combined into one to do everything.

Mayor Coss categorized the options: #1 is the status quo, which he did not think anyone is satisfied with right now. #2 is repeal the EZA and just go into dual regulations, which is a host of issues itself and may not work for anybody. He said that Mr. Katz brought up something new and #3 would be a part of #5, wherein the city annexes the urban area. In #6 the city and county would adopt a new agreement where the city would forego its extraterritorial jurisdiction and the county would administer its ordinances to the city limit. Mayor Coss said he would like to see some portion of #2 in that, because he felt that the RPA Plan that was accomplished a few years ago has been a boilerplate for the city and county in looking at development. This also would bring in the idea of a rural protection zoning in the jurisdictions.

Mayor Coss stated that the city and county are dealing with laws that were written 20 to 30 years ago. Since the RPA Plan was done, there is no longer much available land left to plan, plat and subdivide. As a personal reflection, he asked why would he go to the EZA and vote on the size of signs in the Community College District. He felt they were very close to being able to go to #3, where the city limits are identified, the RPA Plan is followed and the EZA is no longer needed. He added that #3 and #2 together would be one action and #5 and #6 would be the actions that follow or occur along with that.

Commissioner Sullivan said he felt that #5 and #6 is where to head together, and how to get there legally or through joint powers is not the critical issue. The key issue for the county is to get into prescriptive zoning, which is zoning similar to the city R-1, 2, 3, or the Euclidian zoning code adopted in Euclid, Ohio. The area has reached the point where they cannot assume everything is an agricultural base and then wait for a developer to come in with a master plan and try to mesh everything to make a logical growth management plan. This is a major change for the county and does not necessarily involve the RPA per se, except the county would use the RPA Plan as a basis. It changes the county from hydrologic zoning to Euclidian zoning.

Councilor Wurzbarger stated that #5 and #6 is beginning to make sense to her.

Commissioner Vigil said that she likes to think in terms of how the RPA members represent constituents, and the option that requires them to go through the city and the county is totally out. What complicates the issues is that the city has its code, the county has its code, and then there is the EZA code, which can be conflicting when going through the decision process. She said she is well impressed with the RPA Plan and there were growth management areas that were identified in it. It was well thought out and constituted a lot of difficult work. She would like to see it become the primary focus for land use decision-making no matter what the jurisdiction. She felt it is cleaner for the city and county to have boundaries.

Commissioner Montoya questioned the development of another body in #7.

Mr. Katz stated there may be some reasons to have another joint authority to do the necessary delegations. There is an argument that the city's planning authority extends five miles from the boundary and that there is a planning authority there with the county. There is also the argument that the city zoning authority extends two miles, but only if there is a extraterritorial land use or zoning authority. A joint authority may be needed if the county were to plan and zone outside the city boundaries and the city to do all the planning inside the boundaries.

Commissioner Montoya suggested that the RPA could become that body.

Mr. Katz replied that the legislature specified that the EZA is the vehicle authorized to do all of the planning, platting, subdivision, zoning and annexation.

Councilor Wurzbarger suggested that there should be a legal way to eliminate the EZA in order to do the simple thing the RPA wants to do.

Ms. Follingstad stated that none of this presumes that the RPA cannot be kept or given new additional duties, such as the planning duty.

Chair Montoya suggested that the process be to do #2, #3, #5 and #6 and then #4 once that work is completed.

Commissioner Sullivan said that a simple moderm should be developed to make a break from the EZA, which has the rules for the county majority in the membership. He said he felt that, generally, the county could live with that, as long as the jurisdictional lines are clean.

Councilor Wurzbarger noted that both the BDD and the RPA, in which the city and county have equal representation, have been models that have resulted in something that actually works.

Chair Montoya asked if that idea would be palatable for the majority of the Council.

Mayor Coss said he felt that a council majority might go in the direction of doing #5-#6 and #2-#3. However, the idea of just creating a new EZA and calling it something else would not go anywhere.

Councilor Ortiz said that the work is always in the details, and some of the details are problematic. The city and county legal staffs have had some fruitful and productive meetings together and are moving towards #2-#3-#5-#6, which would result in #4. He suggested that the majority of the council is going to be looking for those details, since the urban area that is being talked about will most directly impact the councilors who represent the city limits adjacent to those EZ boundaries. Legal staff has kept the council updated and he suggested that a policy position could be developed if the county side continues to be reasonable and listen to city concerns.

Commissioner Sullivan brought up expanding the boundary of the Traditional Historical Community (THC), which he felt should be expanded. He expressed his concern that the city has to work with impacted communities and interest groups, and the planning could be unraveled by outside lobbying for exemptions to whatever has been decided on. He felt that, with Ms. Follingstad's help and the RPA's work over the last several months, the RPA is moving towards a workable solution.

Chair Montoya summarized that the RPA was in agreement that the parameters of #2-#3-#5-#6 could be used to move forward toward the development of a new JPA that encompasses those four areas, in addition to beginning the coordinates to start the public hearing process.

Commissioner Sullivan stated that the discussion should include what the role of the RPA is. He said it has a unique and separate role, and he felt the RPA members work best together in a planning and non-jurisdictional role. It is the only body where the city and county members sit down together and talk about jurisdictional issues without having to vote for county things versus voting for city things. The RPA divides up the joint GRT projects, but they are relatively straightforward. Moving the MPO projects was not a particularly great decision and is turning out to be problematic as well. Aside from that, the RPA has established a forum that works for

communication. The issue now is, how to retain this forum that keeps the city and county working together and informed of what each is thinking and doing. He said that the RPA has a good executive director and good attendance from the members, and they need to think seriously about how it is going to work in the future.

There was general agreement that the annexation mentioned in #5 would be moving on a different venue and should be left for now.

Ms. Follingstad stated that there are outside parties that have been putting pressure on her to put the annexation recommendation back on the RPA's agenda. She said that, until she is given direction, she will not put it on the agenda.

Commissioner Vigil said that she probably receives most of the phone calls about annexation, because the density of the population is within the area that she represents that would potentially be annexed. She requested that, as the RPA moves forward with the negotiations, an expeditious way be identified for those residents to be annexed who are contiguous, who qualify and who want to be annexed. She said there are a few residents who have been quite vociferous, who have gone through the city process and paid for surveys and who have not been able to go to the next steps to get annexed. This might need some creative thinking in terms of how that can happen without interrupting the negotiations.

Councilor Ortiz stated that the annexation of the areas Commissioner Vigil represents, north of the river or even north of Airport Road and south of NM599, are not in the first tier of the city priorities, and the only way those people can come forward is through the self-petition method if they are contiguous with city. The most expeditious way for them is to apply as a group. He added it is refreshing to see that the county's position has changed towards the city considering those petitions.

Ms. Follingstad clarified that the area being referred to is #3, the difficult area behind Cerrillos Road and between Rufina and Cerrillos.

MATTERS FROM THE REGIONAL PLANNING AUTHORITY

- **November 20 meeting agenda**

Ms. Follingstad said the agenda for the November meeting will include an information item regarding an ordinance about water referenced to the RPA from the City Public Works Committee.

Also on the agenda will be approval of the 2008 meeting days for the city calendar.

Ms. Follingstad said she would bring forward a draft JPA for review.

ADJOURNMENT

There being no further business to come before the RPA, this Regular Meeting was adjourned at approximately 3:12 PM.

The next regularly scheduled meeting of the RPA will be at 2:00 PM, Tuesday, November 20, 2007.

Approved by:

Chair, Regional Planning Authority
Harry Montoya, Commissioner, County of Santa Fe

Minutes transcribed and drafted by: Kay Carlson