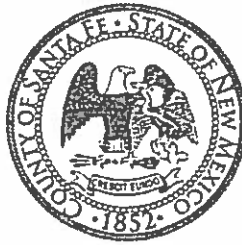


Daniel "Danny" Mayfield
Commissioner, District 1

Miguel M. Chavez
Commissioner, District 2

Robert A. Anaya
Commissioner, District 3



Kathy Holian
Commissioner, District 4

Liz Stefanics
Commissioner, District 5

Katherine Miller
County Manager

CASE NO. V 13-5190

VARIANCE

MINNIE WALSH, APPLICANT

ORDER

THIS MATTER came before the Board of County Commissioners (hereinafter referred to as "the BCC") for hearing on October 8, 2013 on the Application of Minnie Walsh (hereinafter referred to as "the Applicant") for a variance of Article III, Section 10 (Lot Size Requirements), Article III, Section 2.4.1a.2.b (Access) of the Santa Fe County Land Development Code ("Code"), and a variance of Article 4, Section 4.2 of Ordinance No. 2008-10 (Flood Damage and Stormwater Management) to allow a Family Transfer Land Division of 1.195 acres into two lots. The BCC, having reviewed the Application and supplemental materials, staff reports and having conducted a public hearing on the request, finds that the Application is well-taken and should be granted, and makes the following findings of fact and conclusions of law:

1. The Applicant requests approval of a variance of Article III, Section 10 (Lot Size Requirements), Article III, Section 2.4.1a.2.b (Access) of the Code and Article 4, Section 4.2 of Ordinance No. 2008-10 (Flood Damage and Stormwater Management) to allow a Family Transfer Land Division of 1.195 acres into two lots on property located at 58 Arroyo Jaconita, within Section 11, Township 20 North, Range 8 East ("Property").

2. Article III, Section 2.4.1a.2.b of the Code provides that all development sites under this Section shall demonstrate that access for ingress and egress, utility service and fire protection whether by public access and utility easement or direct access to a public right-of-way can be provided and meet the requirements of this Code.
3. Ordinance No. 2008-10 provides that at no time shall a permit be issued for a new dwelling unit, site, lot, parcel or tract of land intended for placement of a habitable structure or creation of a lot where the site is absent all weather access.
4. Article III, Section 10 states the minimum lot size is 0.75 acres per dwelling.
5. Article II, Section 3.1 of the Code states that where in the case of a proposed development it can be shown that strict compliance with the requirements of the Code would result in extraordinary hardship to the Applicant because of unusual topography or other such non-self-inflicted conditions or that these conditions would result in inhibiting the achievement of the purposes of the Code, an Applicant may file a written request for a variance. It further states that a Development Review Committee may recommend to the BCC and the BCC may vary, modify or waive the requirements of the Code upon adequate proof that compliance with the Code provision issue will result in an arbitrary and unreasonable taking of the property or exact hardship, and proof that the variance from the Code will not result in conditions injurious to health or safety. Section 3.1 provides that in no event shall a variance be recommended by the Development Review Committee nor granted by the BCC if by doing so the purpose of the Code will be nullified. Additionally, it states that in no case shall any variation or modification be more than a minimum easing of the requirements.

6. The Applicant requests approval to allow a Family Transfer Land Division of 1.195 acres. The property is accessed by Arroyo Jaconita Road (Private Road) and Loma Encantada (Private Road). Arroyo Jaconita is a dirt/sand driving surface and is located in and crosses a FEMA designated Special Flood Hazard Area. The portion of Arroyo Jaconita Road that services the property is approximately 750 feet in length and 15 feet in width. Loma Encantada is a dirt driving surface that ends and enters the Jacona Land Grant. A portion of Loma Encantada crosses a FEMA designated Special Flood Hazard Area and is approximately 1/4 mile in length and 15 feet in width. Both Arroyo Jaconita, and Loma Encantada do not have all-weather driving surfaces and may be frequently impassible during and after inclement weather, and thereby are not all weather accessible.
7. The property already has two residences which accesses the property utilizing the existing access points.
8. Staff recommended denial of the Application, and recommended imposition of the following conditions if the Application was granted:
 - a) Water use shall be restricted to .50 acre foot per year per lot. A water meter shall be installed for each lot. Annual water meter readings shall be submitted to the Land Use Administrator by January 1st of each year. Water restrictions shall be recorded in the County Clerk's Office.
 - b) A Plat of Survey meeting all County Code requirements shall be submitted to the Building and Development Services Department of review and Approval.
 - c) The Applicant must comply with all conditions of approval within 90 days and prior to plat approval.
 - d) The Applicant shall comply with all Fire Prevention Division requirements.

- e) The Placement of more than one dwelling unit per lot and further division of the land is prohibited on the property.
 - f) The Applicant shall divide the property into two equal parcels.
 - g) A restriction must be placed on the Plat regarding the lack of all-weather access to the subject lots. This note shall include language as follows: The access to this property does not meet minimum standards set forth by County Ordinance and Code. Site access, including access by emergency vehicles, may not be possible at all times.
9. In support of the Application, the Applicant agreed with the conditions recommended by staff.
10. Karen King and Michelle Adams spoke in Favor of the requested variances.
11. Mary Ogle, William Ogle, and Joseph Karnes (On behalf of the Kristopher and Misha Peterson) spoke in opposition to the requested variances.
12. In this case strict compliance with the requirements of the Code would result in extraordinary hardship to the Applicant because of unusual topography or other such non-self-inflicted conditions.
13. The granting of the requested variances is a minimal easing of the Code requirements to address topography or other such non-self inflicted conditions to allow a Family Transfer Land Division on this property.
14. Granting this variance request will not nullify the purpose of the Code.

WHEREFORE the Board of County Commissioners of Santa Fe County hereby approves the request for a variance of Article III, Section 10 (Lot Size Requirements), Article III, Section 2.4.1a.2.b (Access) of the Code and a variance of Ordinance No. 2008-10 (Flood

Damage and Prevention) on property located at 58 Arroyo Jaconita conditioned on the Applicant complying with the following conditions:

1. Water use shall be restricted to .50 acre-foot per year per lot. A water meter shall be installed for each lot. Annual water meter readings shall be submitted to the Land Use Administrator by January 1st of each year.
2. A Plat of Survey meeting all County Code requirements shall be submitted to the Building and Department Service Department for review and approval (Article III, § 2.4.2).
3. The Applicant must comply with all conditions of approval within 90 days prior to plat approval.
4. The Applicant shall comply with all Fire Prevention Division requirements (1997 Fire Code and 1997 Life Safety Code).
5. The Placement of more than one dwelling unit per lot and further division of the land is prohibited on the Property (Article III, § 10).
6. The Applicant shall divide the property into two equal parcels.
7. A note must be placed on the Plat regarding the lack of all-weather access to the subject lots. This note shall include language as follows: The access to this property does not meet minimum standards set forth by County Ordinance and Code. Site access, including access by Emergency vehicles, may not be possible at all times. (Ordinance 2008-10).

IT IS SO ORDERED

This Order was approved by the Board of County Commissioners of Santa Fe County on this ____ day of _____, 2013.

By: _____
Kathy Holian, Chair

Attest:

Geraldine Salazar, County Clerk

Approved as to form:



Stephen C. Ross, County Attorney

CHAIR HOLIAN: Mr. Scott, can you be sworn in, please?

[Duly sworn, Andrew Scott testified as follows:]

ANDREW SCOTT: We share the West Santa Fe Association's concerns and are committed to creating and maintaining that type of establishment in those particulars that are set forth in the letter.

COMMISSIONER CHAVEZ: So on one specific point you would agree to beer and wine only and not a full-service bar?

MR. SCOTT: When we last spoke, and we still, to this day are not committed to or convinced that spirits are necessary in that establishment for it to be viable. We're still obviously in the preliminary stages of the business development model and execution but no, it is not inherently – it is not necessarily the case that spirits will be served in this establishment.

COMMISSIONER CHAVEZ: But are you saying that as a minimum you would like to have beer and wine?

MR. SCOTT: Absolutely. I think it's very important, as is stated in the letter, for the effort to be viable.

COMMISSIONER CHAVEZ: Okay. Thank you. Thank you, Madam Chair.

CHAIR HOLIAN: Is there a motion?

COMMISSIONER STEFANICS: I'll move for approval.

COMMISSIONER CHAVEZ: Second, and I would like to –

CHAIR HOLIAN: Is there any further discussion?

COMMISSIONER CHAVEZ: I would just like to present this hard copy for the minutes. Do you have it? Okay. *[Exhibit 4]*

CHAIR HOLIAN: Any further discussion? There is a motion and a second for approval of BCC case MIS 13-5280.

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

- XVIII. A. 2. CDRC CASE # V 13-5190 Minnie Walsh Variance. Minnie Walsh, Applicant, Requests a Variance of Article III, Section 10 (Lot Size Requirements) and a Variance of Article III, Section 2.4.1a.2.B (Access) of the Land Development Code and a Variance of Article 4, Section 4.2 of Ordinance No. 2008-10 (Flood Damage and Stormwater Management) to Allow a Family Transfer Land Division of 1.195 Acres Into Two Lots. The Property is Located at 58 Arroyo Jaconita, within the Traditional Community of Jacona, within Section 11, Township 19 North, Range 8 East, (Commission District 1)**

VICKI LUCERO (Building and Services Division): Thank you, Madam Chair, I'll be presenting tonight. The applicant requests a variance to allow a family transfer land division of 1.195 acres into two lots. . The property is accessed by Arroyo Jaconita Road, which is a private road, and Loma Encantada which is also a private road. Arroyo Jaconita is

a dirt/sand driving surface and is located in and crosses a FEMA designated Special Flood Hazard Area. The portion of Arroyo Jacanita Road that services the property is approximately 750 feet in length and 15 feet in width. Loma Encantada is a dirt driving surface that ends and enters the Jacoma Land Grant. A portion of Loma Encantada crosses a FEMA designated Special Flood Hazard Area and is approximately ¼ mile in length and 15 feet in width. Both Arroyo Jacanita, and Loma Encantada do not have all-weather driving surfaces and may be frequently impassible during and after inclement weather, and thereby are not all-weather accessible.

Currently, there is a manufactured home, a single-wide mobile home, and two accessory structures on the property. The property is served by two onsite wells, a conventional septic system, and a split-flow septic system. Article III, Section 10 of the Land Code states that the minimum lot size in this area is 0.75 acres. In order to divide the subject property into two lots, the property would have to be at least 1.50 acres. The Applicant is requesting a variance to this requirement.

In 2006, the BCC granted a two-year temporary approval to allow the placement of a second dwelling unit on the property. The Applicant never followed up with conditions of approval. The Applicant was to apply for temporary approval every two years to be approved by the CDRC and report water meter readings to the Land Use Administrator by January 31st of each year.

The Applicant states the reason for this is due to the loss of her husband, and it has taken a few years for the family to focus and take the necessary steps toward making a home for her daughter's family permanent. The Applicant would like to provide her daughter and her family with an affordable place to live and provide clear title to the land so that they may build a permanent residence. Furthermore, she would like to maintain family ties to the land where her daughter grew up.

This application was submitted on June 6, 2013. On July 18, 2013 the CDRC met and acted on this case. The decision of the CDRC was to recommend denial of the Applicant's request by a 5-2 vote. Growth Management staff have reviewed this application for compliance with pertinent code requirements and finds the project is not in compliance with County criteria for this type of request.

Staff recommendation is for denial of the variance of Article III, Section 10, Lot size requirements, a variance of Article III, Section 2.4.1a.2.b, Access, and a variance of Article IV, Section 4.2 of Ordinance No. 2008-10 to allow a family transfer land division of 1.195 acres into two lots. If the decision of the BCC is to approve the Applicant's request staff recommends the following conditions be imposed. Madam Chair, may I enter those conditions into the record?

CHAIR HOLIAN: Yes, you may.

[The conditions are as follows:]

1. Water use shall be restricted to .50 acre-foot per year per lot. A water meter shall be installed for each lot. Annual water meter readings shall be submitted to the Land Use Administrator by January 1st of each year. Water restrictions shall be recorded in the County Clerk's Office (Article III, § 10.2.2 and Ordinance 2002-13).
2. A Plat of Survey meeting all County Code requirements shall be submitted to the

- Building and Development Services Department for review and approval (Article III, § 2.4.2).
3. The Applicant must comply with all conditions of approval within 90 days and prior to plat approval.
 4. The Applicant shall comply with all Fire Prevention Division requirements at time of Plat review (1997 Fire Code and 1997 Life Safety Code).
 5. The Placement of more than one dwelling unit per lot and further division of the land is prohibited on the property (Article III, § 10).
 6. The Applicant shall divide the property into two equal parcels.
 7. A note must be placed on the Plat regarding the lack of all-weather access to the subject lots. This note shall include language as follows: The access to this property does not meet minimum standards set forth by County Ordinance and Code. Site Access, including access by Emergency vehicles, may not be possible at all times (Ordinance 2008-10).

COMMISSIONER CHAVEZ: Thank you. I stand for questions.

CHAIR HOLIAN: Are there any questions for staff? Seeing none, is the applicant here? If there is anything that you would like to add please come forward and be sworn in.

[Duly sworn, Minnie Walsh testified as follows:]

MINNIE WALSH: Madam Chair, Commissioners, my name is Minnie Walsh and I have my son-in-law, Mike Adams, he will speak on my behalf.

[Previously sworn, Mike Adams testified as follows:]

MIKE ADAMS: My name is Mike Adams, 58 Arroyo Jaconita. I do have some comments to make with your indulgence. To be clear, my mother-in-law's purpose is to request a family property transfer of the 1.19 acres that belongs to her to my wife Michelle and I for the purpose of building a new home on a permanent foundation so that we may live in close proximity to my mother-in-law, a widow, and help maintain and care for her and her property. I'll restate. Mother's purpose is to divide the 1.19 acres so that we might be able to build a house on a permanent foundation as a family transfer, that we might maintain our ties to the community and be able to help my mother-in-law just so she's not alone out there.

The history of the case, in 2006 the BCC granted us permission for a second dwelling to be placed on the property. This was a temporary permit but with permanent provisions such as a state-approved septic system and I must admit that kind of confused us and me in particular. The Walsh family always intended to split the property permanently so the temporary part of the provision was misunderstood as far as having to reapply when permanent facilities had been approved.

In 2008 before the process could be completed John, Minnie's husband, passed away. This caused an obvious sidetracking of the process and also in 2010 my mother-in-law lost a grandson in a tragic accident. This again took our family's attention away from the matters at hand. There's some legal issues I would like to consider as far as the lot side. As we're requesting a property division under the conditions of a family transfer it is our contention that the following facts should be considered. There is a provision for lots smaller than $\frac{3}{4}$ of

an acre in the code, Section 10.3.3, covering traditional communities of which we are considered. Lots as small as 10,000 square feet, a little over a third of an acre are permissible under certain conditions related to community water and sewage utilization, local land use and utility plan.

It is our contention that the fact that we are a part of the Aamodt settlement, which includes a regional water system and have an advanced septic system which infiltrates no nitrates, only treated graywater, gives us compatibility with that standard. In the event that the Commissioners are not swayed by that argument, the fact that we have two state-approved septic and two federally and state-approved wells on the property presently would lead us to relevant judicial precedent, and I would cite the case of the *Incorporated County of Los Alamos v. Montoya*. I have the details if anyone's interested in them.

The court of appeals instruction in *Gold v. Santa Fe County* in 2001 is that the local ordinances should not permit an act that general law prohibits, or prohibit an act that the general law permits. According to this judicial precedent, the State Environment Department, which actually issues permits for septic systems according to density and other factors, has allowed two systems for our lot size. The State Engineer and by legal court order the federal government have also allowed two wells on the property. If applying the standard of *Gold v. Santa Fe County* the fact that the federal and state governments are satisfied that density requirements have been satisfied it would seem unreasonable to prevent the division.

Also, the area we are in will not see further development as it is land-locked by the Jacona Land Grant and the Pojoaque Pueblo. The pueblo plans no development on the adjacent land as it is their buffalo preserve. There's a letter to that effect with the rest of the permit application. [Exhibit 5] It is also worth noting that nitrate levels in the soil in that area are not an issue according to the County website.

Now, the variance for access I believe is a hardship. I would like to note that we have agreed to all the stipulations, the seven stipulations the County issued if you do grant the variance. This includes the Fire Department's three stipulations – a ten-minute fire suppression system, widening of the access roads to uniform standard, and providing a turnaround for the large trucks. The Fire Department also made it clear that they will attempt to reach the property no matter the conditions. It is also worth noting that it would take a minimum of 15 minutes to reach the property through El Rancho, no matter the weather or road conditions. This is why the ten-minute fire suppression system is crucial.

There are mitigating factors that render the all-weather access ordinance an unreasonable hardship. The access point and road is not on our property. In fact the crossing is through gated, privately accessed land with posted no trespassing signs. We have a legal easement agreement but it is impossible for us to control the land. We have had productive discussions with most of the other 11 families and two renters that rely on Arroyo Jaconita and Loma Encantada for access about some improvements that we may be able to undertake, but these would still have to be agreed to by the Jacona Land Grant. This is the very definition of hardship, as we are landlocked and have no control to effect any changes no matter how willing.

There are several common sense arguments also. We are but two of 11 families and two renters whose sole access is by Arroyo Jaconita and Loma Encantada. Also, the recent

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rains showed us that having an all-weather road is not much benefit when many historic arroyos in the area are flooding. Just as recently as September County Road 84 was closed in several places by the authorities because the all-access paved road was impassable due to flooding arroyos. We were able to traverse the floodplain crossing in question and the other arroyo crossing on 84-C but not County Road 84.

These are just the realities of living in a rural area, which we accept. I would like to mention too there was opposition to our application at the CDRC meeting, and I wanted to clarify some things. At the CDRC hearing one actual neighbor and one area resident voiced their opposition to the variances. Chris Peterson who is our direct neighbor has mailed a letter to the County expressing his opposition to the variances. His reasons were as follows: There has been no attempt to improve the property and the entire rationale for the property division is to build a new home on a permanent foundation with landscaping. I can understand Chris' concern over property values with their own house for sale but they lived in a single-wide trailer before they built the very nice home they live in now, and it seems reasonable that we should have the same opportunity. The septic system they thought was inadequate but it's been re-inspected by the State and it is up to the codes.

The population density increase, we've already been there for seven years; we're not actually increasing the population density, and it sets a precedent for similar small divisions and I think that our case is extremely unique. Chris' father, Scott Peterson also voiced identical concerns. Chris also retained a lawyer who contended that we had an illegal well on the property and in reviewing relevant state laws and after discussion with Steve Massovich, who's the Aamodt water master, the facts are that the two wells on the property are both part of the final disposition of the Aamodt settlement. They are both therefore legal as far as the state and federal governments are concerned. He even suggested that the property division would be desirable as it would bring the permits into conformity with the Aamodt settlement.

Also, area residents Bill and Mary Ogle voiced their opinion that since they were unable to obtain a building permit we should not be allowed to either. I would like to respectfully point out that the Ogles' situation is very different from ours. Even though there is no record they ever actually applied for a permit the County representative that they dealt with relayed to me that they were initially told they would be denied a permit because their house is actually in the external limits of the Special Flood Hazard area, the arroyo crossing and that's why they would be denied a permit. They do not gain access to their property through Loma Encantada, so their issue is one of property unsuitability, not access or lot size. After a search of County records it is also true that they have never requested a variance or a permit. I feel confident if they had requested a hardship variance the County would have granted it with conditions.

I'd like to read – the Commissioners were given six letters of report and if it's okay can I read them to you?

CHAIR HOLIAN: Mr. Adams, we do have them here and we can read them.

MR. ADAMS: Okay. Well, in conclusion, something that I think is very important to me personally and to my mother-in-law. There's a lot of talk of legalities of it and the access and the different codes. But the whole reason why we're requesting this as a family transfer, and if you look at the County code it says the purposes of the family land

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transfer is to maintain local cultural values by perpetuating and protecting a traditional method of land transfer within families, especially within the traditional communities, which we live in. And to permit transfers of lots which do not meet the lot size requirements of the code from grandparents, parents, or legal guardians as a one-time gift to a child or grandchild in order to provide a more affordable home site for these adult children. And I would ask the Commissioners that I believe that that's a moral imperative. There's something that goes beyond more than just an ordinance that was enacted in 2008. Family transfers are a tradition that goes back generations in northern New Mexico and I believe that because it's so important to the culture that there should be a very compelling reason for denying such a request.

CHAIR HOLIAN: Mr. Adams, let me ask you this. Is Mrs. Walsh in agreement with the proposed staff conditions, including no further lot splits?

MS. WALSH: Yes, I am.

CHAIR HOLIAN: Any questions for the applicant? Commissioner Mayfield, do you have questions, or do you want –

COMMISSIONER MAYFIELD: If there's anybody else that wants to speak first before I ask my questions.

CHAIR HOLIAN: Okay. This is a public hearing. Is there anyone here from the public who would like to speak about this case, either in favor or in opposition? Please, if any of you are not attorneys please can you stand up and be sworn in at once, and then when you come forward, state your name and address for the record. Please come forward to address the Board. Who would like to start?

[Duly sworn, Karen King testified as follows:]

KAREN KING: Madam Chair and esteemed Commissioners, my name is Karen King. I've lived next to these guys for the past 21 ½ years and they're very good neighbors. I don't see why they should be denied what the rest of us want, equal justice under the law.

CHAIR HOLIAN: Thank you, Ms. King. Who's next.

[Duly sworn, Michelle Adams testified as follows:]

MICHELLE ADAMS: Michelle Adams. I also live at 58 Arroyo Jaconita. Madam Chair, Commissioners, I'd just like to state that I have wonderful plans for our property and it's just a matter of – there's a process that needs to be taken and I'm in charge of all the yard stuff so my commitment is to make it very lovely and there's a gentleman by the name of James Ludy Construction out of Albuquerque that when this is all said and done the process is obviously – it will start and so there's weeds now and I would surely not leave it like it is but there are plans to make it very beautifully. Thank you.

CHAIR HOLIAN: Thank you, Mrs. Adams. Who would like to speak next.

JOSEPH KARNES: Good evening, Madam Chair, members of the Commission. My name is Joseph Karnes, Sommer, Karnes and Associates. I'm speaking tonight on behalf of Chris and Misha Peterson who live next door to the Walsh property at 19 Loma Encantada. Chris Peterson is here present this evening. And also present are Chris' parents, Scott and Eva Peterson who live nearby at 25 Loma Encantada. We stand in opposition to the application this evening and we agree with the recommendations made to

you by the Growth Management staff, the floodplain administrator and the Fire Chief and the CDRC's recommendation that this application be denied because it does not meet any of the criteria for granting either the lot size variance or the access variances that have been requested.

As you well know, the applicant has the burden to demonstrate that grounds exist to satisfy the variance criteria and I know that you have lot size variance requests come before you on a fairly regular basis. The applicant has the burden of showing that strict compliance with the requirements of the code would result in extraordinary hardship to the applicant because of the unusual topography or other such non-inflicted condition, or that these conditions would result in inhibiting the achievement of the purposes of the code. Staff explains in bold face print the variance criterion does not consider financial or medical reasons as being extraordinary hardships.

You've read the staff report. You've had the report from the CDRC and the recommendation. You've heard from the applicant this evening. The applicant has not demonstrated any hardship relating to the physical characteristics of the property. They simply have a desire to have a second residence become permanent on the property and that is it. Their issue is the lot is too small. The staff report says clearly, contrary to the applicant's representation that the minimum lot size in this area is .75 acres. They need an acre and a half to have two lots and they have not demonstrated any physical criteria that constitutes that extraordinary hardship with respect to the lot size.

Typically in these types of applications that's the end of the story. There's simply not grounds present here for you to find that an extraordinary hardship exists and that variance criteria are satisfied. As has been discussed in the staff report and by the applicant, in addition to that you shouldn't confuse the issue. This application initially rises or falls based on the request for the lot size variance, but in addition to that it's been explained that there are serious access issues for this area. Eleven or so was mentioned property owners are facing the lack of all-weather access that is a serious problem. The Fire Department in their staff report observed that the Arroyo Jacanita actively floods at various times of the year. In fact this summer, both in August and a couple of weeks ago in September, the arroyos were running and there were serious issues getting to properties in this immediate vicinity, including my clients' property.

One could say, and it was said at the CDRC meeting that, well, these people all live here and deal with that situation, so what's the problem? Well, the problem is that these people aren't here asking you for a variance. There's a big difference. In fact others that you hear from tonight have – and they'll communicate themselves, but they have been before the County trying to get a building permit and they have been denied. The precedent of not making a bad situation worse has already been set in your County code and in the decisions you've made in the past. To get a variance for the access requirements to be allowed to cross arroyos that don't have all-weather crossings again requires a finding of extraordinary hardship. And if the floodgate was opened here, no pun intended, and every lot in this area doubled in density, the existing access problems would worsen, both emergency vehicles getting into properties when the arroyos are running and residents trying to get out. You'd be making a bad situation much worse and you could expect more applications if this particular

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application was granted.

Again, the applicant attempted to describe the road hardship but they can get into their property. The applicant explained that Mr. Peterson constructed a nice home on his property; he did. He constructed one home on his property. He didn't come to you asking for a variance to construct two homes on a lot that was not large enough, and that's exactly what this applicant is asking you to do. They're asking you to take an extraordinary step and grant both a lot size variance and an access variance. Your Fire Department, your floodplain administrator and the CDRC all recommended against this and I urge you to follow their recommendations.

And I'll point out one more thing. The floodplain administrator identified in her staff report that in cases where somebody requests a variance to the access requirements, they're required to submit a floodplain analysis. They're required to come in, they have the burden to come in and demonstrate to you via evidence from an expert what their proposal is going to do with respect to the floodplain. There's nothing in your staff report. There's nothing in your case file. The applicant simply didn't submit that information. Rather, they came to you and said this is what we want to do, and we speak of justice and moral imperatives and so forth and we ask you to do it on some sort of equitable basis. That's not the law here. Your obligation is to apply the variance requirements and the criteria set forth therein to this application, and I submit to you that none of the criteria have been satisfied.

We ask that you consider the recommendations of your staff and the CDRC and deny this application. I'll stand for any questions you may have.

CHAIR HOLIAN: Thank you, Mr. Karnes. I have a question. Is any part of this property in the floodplain?

MR. KARNES: I think that's a question for staff. I do not know whether the property itself is in the floodplain.

CHAIR HOLIAN: Vicki, do you know whether any part of the lot is in the floodplain?

MS. LUCERO: Madam Chair, the actual property itself is not within the floodplain. It's just the access that crosses the floodplain.

CHAIR HOLIAN: Thank you. Is there anyone else who would like to come forward to speak from the public?

[Duly sworn, Mary Ogle testified as follows:]

MARY OGLE: Good evening, Commissioners. Thank you. My name is Mary Ogle. My address is 343-B County Road 84-C, Jaconita, and I we have property right next to the Loma Encantada Road that crosses a very large arroyo and we were to have been allowed to build on that property the Fire Department came out, sent a marvelous young fire assistant chief or whatever, or assistant whatever she was, and she explained that we would not be able to use the access that we usually use to get on our property which is due to the Jacona Grant and up the arroyo and into our property because the trucks would not be able to negotiate that sandy arroyo at all. So that's the same arroyo that just -- to the north of our property. Our property isn't on the Loma Encantada Road, which is the really the road that the Walshes would have to be able to cross, or the Fire Department would have to, or any other emergency vehicles would have to be able to cross. So that arroyo, when it runs, it completely takes out

the road and so the Fire Department told us we would actually have to build a big huge culvert and have a 20-foot wide road that would then come off of that road and onto our property. And we felt that that was a good reason to not try to pursue getting a building permit. And it made sense to us.

My grandfather in Las Vegas, New Mexico was volunteer fire chief for many decades so I learned early about fire protection and all of that. And we hadn't thought of that. So I would say that the road, the Petersons – Chris Peterson and his father, try to always fix that road so that it will stay passable and have done an extra Herculean effort this year with big boulders and bringing in a truck with big boulders to try to fix that road where the arroyo comes through. It just took it out with the last rain and it had been taken out before that so this time they did all this extra work so it was twice this year that even with all their extra work, and they worked very hard just the two of them and anybody they can hire. We have never helped and I've never actually seen anybody else help fix that road. I believe that John Walsh when he was alive did help try to maintain that road as I recall.

So it's a big job for more than one family. It requires a lot of money to put in a huge culvert, tens of thousands of dollars we understand, and that only takes care of part of the problem. We would have had to, in our case, also put the 20-foot road across the northern part of our property so that the emergency vehicles could get there.

So we feel strongly that having been told that this was not a safe or a good idea to just let it go and so we did. We have no further plans to ask for any building permits. Even if you were to grant these three variances I doubt if we would continue because of the cost and also because so much of the land would be torn up and the arroyo is already at such great risk, so I plan native plants all the time and seeds to try to help the environment. Thank you very much. Do you have any questions?

CHAIR HOLIAN: Thank you, Ms. Ogle. Any questions? Is there anyone else who would like to speak? Mrs. Walsh, you will have a chance to respond. I'm asking if there's anyone else from the public who would like to speak.

[Duly sworn, William Ogle testified as follows:]

WILLIAM OGLE: Madam Chairperson and Commissioners. I'm William Ogle and I just wanted to second what my wife has said. We have – we did try. We talked with the Fire Department. We talked with the – I think it was the zoning board here and found that there are several families that are affected by not being able to have all-weather access and therefore not able to get building permits in that area, and I think that if this is an issue that the families in the county should work together to try to resolve the all-weather access rather than granting individual variances. Thank you very much.

CHAIR HOLIAN: Thank you, Mr. Ogle. Is there anyone else from the public that would like to speak?

MS. OGLE: May I say one more thing?

CHAIR HOLIAN: Sure.

MS. OGLE: About when I say the road was taken out, there is a drop-off of anywhere between I would say two and four feet, just straight drop-off when that arroyo comes through on each side. Or it's certainly on one side; maybe not quite that much on the other side. Just to give you an idea of what we're up against with that. That's on the Jacona

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Grant land, by the way, that road. Thank you.

CHAIR HOLIAN: Thank you, Mrs. Ogle. Is there anyone else from the public that would like to speak? Seeing none, the public hearing is closed. Mrs. Walsh, would you like to respond.

MS. WALSH: I've lived there for 30-something years and it is sometimes the road can be a problem, but I wouldn't give it up for nothing. The view there is absolutely beautiful. And there's others, about ten families in my area right there that use that road. The Ogles don't use that road. And I'm not going nowhere. I'm staying there. So I don't mind the inconveniences some times, because all my family lives there and I'm not going nowhere. Thank you.

CHAIR HOLIAN: Thank you, Mrs. Walsh. Yes, Mr. Adams.

MR. ADAMS: Could I address a couple things?

CHAIR HOLIAN: Sure.

MR. ADAMS: Going back to what Mr. Karnes said, obviously the reason why we request these variances is because the letter of the law is against us, but I think that the main issue is, if you go back to *Gold v. Santa Fe County*, the legal precedent is there that the County shouldn't make a law that prohibits something the state allows. The state has allowed our population density. We have legal septic permits; we have legal wells, the state has no problem with our population density. I think that that legal precedent is very strong and I think that would counteract Mr. Karnes' argument.

The other thing that is to me so important to emphasize besides the nature of the family transfer is that this is a private – the Jacona land grant, it's a – we have a legal easement but we are limited in our ability to control that access point. Now, we've had very constructive discussions with many of the families. I would welcome working with the Petersons and anyone to try to see what we can do. I think the Jacona Land Grant would be receptive to certain things, but it is an extreme hardship not to do any of it. If my reading of the code is correct it's a non-self-inflicted hardship. It's the nature of the land. My mother-in-law was there for years and years before the ordinance in 2008 was enacted. And I just – I understand the nature of the new permits but I believe those are cogent arguments. Thank you very much.

CHAIR HOLIAN: Are there any questions for staff or the applicant?
Commissioner Stefanics, then Commissioner Mayfield.

COMMISSIONER STEFANICS: Thank you, Madam Chair. Steve, I have a couple questions I think for you. If this variance were to be granted, then any of the other entities that either have not applied or were denied administratively could reapproach the County with their request. Is that correct?

MR. ROSS: Madam Chair, Commissioner Stefanics, you mean other persons?

COMMISSIONER STEFANICS: Yes.

MR. ROSS: Well, I suppose anything we do could suggest to people that they could file an application and seek the same thing that somebody else did. In other words, is it a precedent? It's not what I would call a legal precedent but it's certainly a factual precedent.

COMMISSIONER STEFANICS: And the second question, Madam Chair, is even under our new codes this wouldn't be approved. Is that correct?

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MR. ROSS: Madam Chair, Commissioner Stefanics, certainly the density would be an issue under the new code just like it is under the current code. The all-weather access issue is supposed to be treated differently in the new code than it is in the current code. In other words, an applicant like this seeking a single lot division wouldn't necessarily be required to provide all-weather access but somebody providing five or more lots would be. And that's an artifact of our current floodplain ordinance. But certainly the density would be the same problem we currently have.

COMMISSIONER STEFANICS: Thank you very much.

CHAIR HOLIAN: Commissioner Mayfield.

COMMISSIONER MAYFIELD: Madam Chair, thank you and everybody who's here tonight, thank you. I guess Commissioner Stefanics broached a couple things I was going to talk about. One, recently in our ICIP and our CIP plan I have talked about our all-access crossings for the majority part of all northern Santa Fe County and I think this Commission has heard me pretty loud on that. So 84-C should also be being addressed in that plan, because it's a concern to me. So hopefully that will be being addressed also. But Mr. Ross, as far as what Commissioner Stefanics said and with what the applicants are asking for right now, and I do have the potential new code that we're going to be looking at next Tuesday in front of me. So if we look at 10.4 right now as far as an accessory dwelling unit, this potentially could fall right in line with an accessory dwelling unit as it's going to be proposed to this Commission.

As I'm reading it today I see Ms. Ellis-Green right here. I don't want to get off topic right now but depending what this Commission does with this tonight or not, I guess if they waited a week or two, maybe it would be a little longer than that they could just come back in and apply for an accessory dwelling unit on this property. Am I wrong with that, Ms. Ellis-Green? If this Commission approves it as it's written and proposed.

MS. ELLIS-GREEN: Madam Chair, Commissioners, the new code does propose accessory dwelling units. It does allow those. There is a square footage limitation and I don't know the square footage of these existing homes.

COMMISSIONER MAYFIELD: So Commissioner Stefanics just kind of put that out there.

MS. ELLIS-GREEN: Madam Chair, Vicki just reminded me, Madam Chair, Commissioners, that they're actually asking to divide the land. So an accessory dwelling unit would be different. It would be on one piece of property, a main house and a smaller second accessory dwelling unit.

COMMISSIONER MAYFIELD: Okay. So that would be without the land division. But any home could ask for an accessory dwelling though, if there was not the land division, it's a clear distinction of the land division.

MS. ELLIS-GREEN: Madam Chair, Commissioners, that is on our use table as accessory uses in all zoning districts, all residential zoning districts.

COMMISSIONER MAYFIELD: Regardless if it's in a traditional community at ¾-acre or whether we have our biggest land at 40 acres in Commissioner Anaya's district.

MS. ELLIS-GREEN: Madam Chair, Commissioner Mayfield, it's 160 acres.

COMMISSIONER MAYFIELD: Bigger than I thought. Thank you. So I just

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wanted to let that out there also, if there wasn't the land split that there could be potential accessory dwelling. And hasn't this Commission already taken some action on variance requests anticipating the potential of an accessory dwelling? And I would go to Mr. Ross on that.

MR. ROSS: Madam Chair, Commissioner Mayfield, I don't remember accessory dwellings. Maybe Penny does, but we certainly have taken action in anticipation of the floodplain restrictions we were talking about. All-weather access.

COMMISSIONER MAYFIELD: Different for a single-family residence versus like a subdivision.

MR. ROSS: Right.

COMMISSIONER MAYFIELD: And I'm hearing concerns from both sides and from the attorney that was just here. But 84-C is that low-water crossing. But I just also heard from the applicant also that there could be access and looking at the maps that are provided to me, and I'm very familiar with the area, Arroyo Jaconita also. But you all, and this is a question I guess for the applicant, you do have an easement from the Jacona Land Grant to get into that back side, and I do see that as far as one of the restrictions or excuse me, as far as one of the requests from our Fire Marshal's office, that they would ask for an emergency access easement?

MR. ADAMS: I'm not sure I understood the question.

COMMISSIONER MAYFIELD: Let me just go to a page back here. I'm on – from our Fire Department, excuse me. I'm on our Santa Fe County Fire Department Fire Prevention Division. There's an alternate access to the property via the Santa Fe County Road 84-C through the Jacona Land Grant. So you do all have an easement through the Jacona Land Grant?

MR. ADAMS: Yes, Commissioner, we do.

COMMISSIONER MAYFIELD: And is that a permanent granted easement that you can use all the time?

MR. ADAMS: Yes. We pay for it every year.

COMMISSIONER MAYFIELD: Okay. And Mr. Adams, maybe through Ms. Walsh, do you all – are you part of the Jacona Land Grant?

MR. ADAMS: We're not part of it.

MS. WALSH: No, we're not.

COMMISSIONER MAYFIELD: Oh, but you do have that access easement through the Jacona Land Grant.

MS. WALSH: We all do that live in that area.

COMMISSIONER MAYFIELD: Okay. So you do not always have to go through then Arroyo Jaconita.

MS. WALSH: No, we don't. We have two ways to get in there. The Pojoaque River or the road in the back.

COMMISSIONER MAYFIELD: Right. And I do see here that Pojoaque Pueblo gave you all a letter also. So on that, and I guess this might be for our Chief Patty, and I know that you probably got a promotion there somehow, Chief Patty. Sorry if I keep missing it. So do – and do they put like a lock – I don't know what that's called? A Knox

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lock? On that gate, or is there even a gate on that, on the land grant road?

MS. WALSH: The land grant did not put the lock there.

COMMISSIONER MAYFIELD: So there's just a full road that they can go on?

MS. WALSH: That's up to us if we want to put a lock on it. It's gated but –

COMMISSIONER MAYFIELD: Let me ask the Chief.

CHAIR HOLIAN: Marshal Patty.

COMMISSIONER MAYFIELD: Marshal. Thank you. Thank you for the promotion. So Marshal, on that, if it's gated, I don't know if it's locked but there would be a – what's that word?

BUSTER PATTY: Madam Chair, Commissioner Mayfield, you're correct. What it would be if they were to gate that second access it would be required to have a Knox lock placed on that. That is for Fire Department access only. They could have their lock on their also so that they could come and go, but it would be designated as an emergency ingress-egress only for our purposes.

COMMISSIONER MAYFIELD: For yours.

MARSHAL PATTY: Right. And it's for a dwelling in there, it would have to be a minimum 14-foot wide and meet grades and low-water crossings, all-weather driving surface.

COMMISSIONER MAYFIELD: But again, Madam Chair and Marshal, but hearing the applicants, you all have permanent use of that if you so choose to use that all the time.

MARSHAL PATTY: Sorry?

COMMISSIONER MAYFIELD: This was for the applicants. The applicants, you all have permanent use of that easement as long as you keep your payments up.

MR. ADAMS: Yes, Commissioner.

COMMISSIONER MAYFIELD: Thank you. Madam Chair, that's all I have for now. Thank you.

CHAIR HOLIAN: Commissioner Anaya, and then Commissioner Chavez.

COMMISSIONER ANAYA: Madam Chair, just statements. If I say anything inaccurate, Mr. Ross, you can chime in if you want to. This Commission and prior Commissions have approved variances associated with the size of a lot, going below lot sizes that are within the code, and this Commission and prior Commissions have also provided variances associated with crossing and whether or not they're all-weather or not and provided conditions. The difference that this Commission has done in particular associated with those crossing is made notations on the plat and there's been specific conversations and clarity to those applicants that they're understanding that they're taking on a responsibility and a liability that could be beyond service for emergency access.

The other thing I would point out is that on the record, we have said on many occasions that the County has ourselves roads that are County roads that are all-weather areas that when it floods, when it rains – I can think of several in my district. General Goodwin Road washed out completely where it was inaccessible at all, a County road, that we ourselves have many roads that during inclement weather are impassable. So Madam Chair,

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on those notes I just make those comments for the record. Thanks.

CHAIR HOLIAN: Commissioner Chavez.

COMMISSIONER CHAVEZ: Thank you, Madam Chair. I wanted to also touch on the all-weather crossing or the low-water crossing, because we have a combination of those types of crossing and as Commissioner Anaya pointed out the all-weather crossings can get inundated with water and are impassable. So they're not a foolproof solution. Unfortunately a lot of our roads and our waterways sometimes are one and the same. And they meander and the cross each other's paths. And when you have a storm event, the water doesn't discriminate; it makes its own path. It doesn't care if there's an all-weather crossing or if there's a road. It will undermine that if there's enough water in that event.

And so we're going to have to continue to deal with that and Commissioner Mayfield referenced the new code and even though we would hope that the County would be able to provide the financial resources to make all the improvements we do have a provision in the new code in Chapter 12 that is the public improvement district concept where we would be asking individuals, individual homeowners in a case like this to impose a public improvement district to establish a public improvement district for said improvements like all-weather crossings. It's going to place a financial burden on you for a while but once those improvements are paid for then the debt is satisfied. So I just wanted to bring that to our attention because the resolution declaring intent to form a district would only take 25 percent support of those individual property owners. It may not be the best solution but it is an option that I think we're going to have to pursue in the future. I just wanted to point that out as a future reference because I don't think that it's realistic for us to think that we are going to be able to provide all of the improvements. Thank you, Madam Chair.

CHAIR HOLIAN: Any further discussion? Commissioner Mayfield.

COMMISSIONER MAYFIELD: And I know the case law at hand but I know we've also on some other land use cases we've talked about the potential impact of a new code. Madam Chair, Attorney Ross or Director Ellis-Green, on our new code, where are we talking about family transfers in the new code?

MS. ELLIS-GREEN: Madam Chair, Commissioners, that would be in the subdivision chapter, which is Chapter 5, under the exempt divisions.

COMMISSIONER MAYFIELD: Okay. So I'm just going to look at that. So just give me a general overview of what you're proposing in Chapter 5 for family transfers.

MS. ELLIS-GREEN: Family transfers are an exemption to the State Subdivision Act and so they're listed as one of the exemptions.

COMMISSIONER MAYFIELD: Okay, so maybe as it would be applicable to this case that's in front of us tonight. Would it be –

MR. ROSS: Madam Chair, Commissioner Mayfield, that provision is not too different than the current rules because that's state statute and we're powerless to change that. So some of the things that are relevant to this discussion are the changes to the floodplain ordinance and low-water crossings, the requirement for all-weather access that previously was applicable – or it's currently applicable to any application like this.

COMMISSIONER MAYFIELD: Madam Chair, Mr. Ross, that's fine. So the case that Mr. Adams referenced, excuse me, Madam Chair, Mr. Ross, the case Mr. Adams

referenced a little earlier tonight. Could you give me maybe a little background if you have any?

MR. ROSS: Madam Chair, Commissioner Mayfield, that principle is not the law as far as I know. He's talking about a general pre-emption of local laws when the state acts to regulate in a similar but unrelated field. We have explicit and express authority to regulate the general police power for the public health, safety and welfare and to regulate against public nuisances, and the zoning authority which is extremely broad. All these regulations that they're chafing at here were enacted under the zoning authority and the state does not regulate zoning and it's not pre-empted by the state. There are ancillary regulations concerning installation of sewage, septic tanks and liquid waste facilities that have their own requirements for acreage. So for example if you're going to put in a conventional sewage system NMED regulations require you to have 1.25 acres. But that doesn't mean that the County must allow a lot of 1.25 acres. That's simply the minimum acreage on which you may place a conventional septic system. So those kinds of things, they really don't affect density rules that might be established under zoning.

COMMISSIONER MAYFIELD: And Madam Chair, Mr. Ross of Ms. Ellis-Green, are we looking at the advanced systems within our new code also or no?

MR. ROSS: Madam Chair, Commissioner Mayfield, advanced systems are encouraged but there's not necessarily a requirement of an advanced system. What is encouraged is hooking up to public water and wastewater where they're available or where they might be available in the future. So you may hook up to a conventional septic system but if the County or some other entity arrives on your street with centralized liquid waste disposal you'll be required to hook up.

COMMISSIONER MAYFIELD: Thank you. And a question for the applicant, Madam Chair. Do you all have an advanced system right now on your –

MR. ADAMS: Yes, sir. We do.

COMMISSIONER MAYFIELD: And question, Madam Chair, for applicants. You have two wells that have been permitted by the OSE?

MR. ADAMS: Yes, sir. They're part of the Aamodt settlement.

COMMISSIONER MAYFIELD: Well, as far as the Aamodt settlement, they've been dug. Just tell me what you mean by the Aamodt settlement. There are so many different things about the Aamodt settlement.

MR. ADAMS: I'm sorry. Yes, they're both legally permitted at the federal level. They have legal state permits that are recognized by the Aamodt decision.

COMMISSIONER MAYFIELD: Okay. So you have wells that have both been permitted through the OSE and recognized by the OSE?

MR. ADAMS: Yes.

COMMISSIONER MAYFIELD: Madam Chair, Mr. Adams, and are those wells, are they post-82? One might be a pre-82?

MR. ADAMS: My mother-in-law's well is pre-moratorium. Ours is not; it was drilled in 2007. As part of the settlement though we both have – we get half of an acre-foot a year. So the pre-moratorium, when I talked to Mr. Massovich, he said that's kind of out. He said everybody's going with a half-acre. So each well is limited to a half-acre.

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COMMISSIONER MAYFIELD: Madam Chair, Mr. Adams, you had a permit from the OSE and even the County to drill that 2007 well?

MR. ADAMS: Yes.

COMMISSIONER MAYFIELD: Okay. And then Madam Chair, Mr. Adams, you also, your septic systems – I heard you, they're registered through the OSE also?

MR. ADAMS: Not the OSE but the –

COMMISSIONER MAYFIELD: I'm sorry. The Environment Department. Thank you. And they're advanced systems again, right?

MR. ADAMS: Well, one system, my mother-in-law's system is a conventional system, and then the system we have is an advanced treatment, the split-flow system. The state and the literature should have been in the packets. They claim are effective down to a quarter-acre. So that's why they have the two systems on there for the 1.19 acres.

COMMISSIONER MAYFIELD: And Madam Chair, Mr. Walsh, knowing what the new – I don't know if you're familiar with the – if you're following with the proposal of the new Santa Fe code. It's been out there. We've put a lot of publicity on what the potential new Santa Fe code is going to do, and understanding that we live in a traditional community, at least the area that we're all in is .75, and I don't know if it's online right now, our code, as far as the accessory dwellings. Have you all looked at that? Would you all be satisfied with doing something like that, of having the existing home and then doing, if this Commission again approves what the County staff would be recommending to us or proposing to us, accessory dwelling structures without that actual lot split?

MR. ADAMS: Well, the reason why we want to do a lot split is because we seek to build a new house with a mortgage. We want to secure the land so that we can build a new house and have a mortgage and those type of things. An accessory dwelling would basically be kind of like an extension of what we're doing now, and I suppose that if that's the best we can do we would prefer to be able to build a permanent new house on the land.

COMMISSIONER MAYFIELD: That's all I have for now, Madam Chair.

COMMISSIONER ANAYA: Madam Chair.

CHAIR HOLIAN: Yes, Commissioner Anaya.

COMMISSIONER ANAYA: I move for approval with the following conditions: Water use shall be restricted to .50 acre-foot per year per lot. A water meter shall be installed for each lot. Annual water meter readings shall be submitted to the Land Use Administrator by January 1st of each year. 2) A Plat of Survey meeting all County Code requirements shall be submitted to the Building and Development Services Department for review and approval. 3) The Applicant must comply with all conditions of approval within 90 days and prior to plat approval. 4) The Applicant shall comply with all Fire Prevention Division requirements. (1997 Fire Code and 1997 Life Safety Code). The Placement of more than one dwelling unit per lot and further division of the land is prohibited on the property. The Applicant shall divide the property into two equal parcels. Then, as I referred to earlier, a note must be placed on the Plat regarding the lack of all-weather access to the subject lots. This note shall include language as follows: The access to this property does not meet minimum standards set forth by County Ordinance and Code. Site Access, including access by Emergency vehicles, may not be possible at all times (Ordinance 2008-10).

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COMMISSIONER CHAVEZ: Madam Chair, I'd like to second that motion and ask the applicant if they're in agreement with all these conditions of approval.

MS. WALSH: Yes, I'm in agreement.

COMMISSIONER CHAVEZ: Thank you. Thank you, Madam Chair.

CHAIR HOLIAN: There's a motion and a second. Any further discussion?

The motion passed by majority 3-2 voice vote with Commissioners Anaya, Chavez and Mayfield voting in favor and Commissioners Holian and Stefanics voting against.

XIX. ADJOURNMENT

Having completed the agenda and with no further business to come before this body, Chair Holian declared this meeting adjourned at 8:45 p.m.


Approved by:

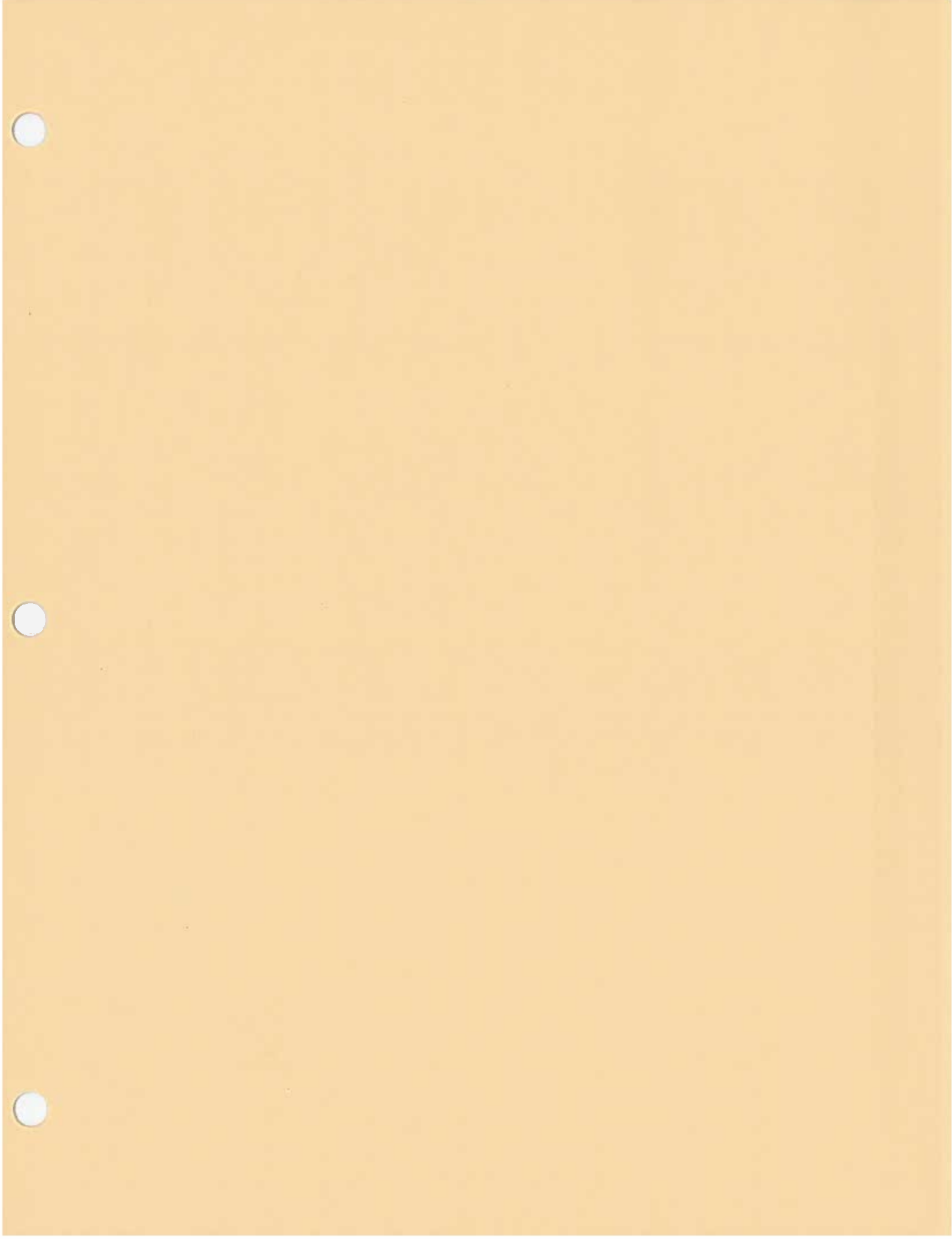
Board of County Commissioners
Kathy Holian, Chair

ATTEST TO:

GERALDINE SALAZAR
SANTA FE COUNTY CLERK

Respectfully submitted:


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



Daniel "Danny" Mayfield
Commissioner, District 1

Miguel M. Chavez
Commissioner, District 2

Robert A. Anaya
Commissioner, District 3



Kathy Holian
Commissioner, District 4

Liz Stefanics
Commissioner, District 5

Katherine Miller
County Manager

MEMORANDUM

DATE: October 29, 2013
TO: Board of County Commissioners
VIA: Katherine Miller, County Manager *KM*
FROM: Kathy Holian, Santa Fe County Commissioner, District 4
RE: A Proclamation To Recognize November 15, 2013 As America Recycles Day
(Commissioner Holian)

BACKGROUND

America Recycles Day (ARD) is the only nationally recognized day dedicated to encouraging Americans to recycle and buy recycled products. ARD is celebrated annually on November 15. The World Recycling Day celebrated in most countries, though falls on July 8. Thousands of events are held across the U.S. to raise awareness about the importance of recycling and to encourage Americans to sign personal pledges to recycle and buy products made from recycled materials.

Started by the recycling sector organization National Recycling Coalition in 1997, America Recycles Day has been a program of national nonprofit Keep America Beautiful since 2009. As the managing entity of America Recycles Day, Keep America Beautiful provides promotional and marketing support and resources to a network of local event organizers. It is sponsored by private and public entities and the EPA.

Recycling statistics:

- 251 million – tons of trash in the United States
- 53.4 – percentage of all paper products recycled in the United States
- 32.5 – percentage of total waste that is recycled in the United States
- 100 – approximate percentage of increase in total recycling in the United States during the past decade
- 8,660 – number of curbside recycling programs in the United States in 2006
- 8,875 – number of curbside recycling programs in the United States in 2003
- 95 – percentage of energy saved by recycling an aluminum can, compared with manufacturing a new one
- 4.6 – pounds of trash per person per day in the United States (most in the world)
- 1.5 – pounds of recycled materials per person per day in the United States

RECOMMENDATION

Commissioner Holian seeks board approval for the America Recycles Day Proclamation on November 15th.



Santa Fe County Proclamation

Introduced by Commissioner Kathy Holian

TO RECOGNIZE NOVEMBER 15, 2013 AS AMERICA RECYCLES DAY

WHEREAS, Santa Fe County's recycling rate is well below the national average;

WHEREAS, the sale of recycled commodities helps to support our Caja del Rio Landfill and our materials processing facility at the Buckman Road Recycling and Transfer Station (BuRRT);

WHEREAS, more recycling will extend the life of the Caja del Rio landfill, providing substantial future savings;

WHEREAS, BuRRT is operating at less than 50% of its design capacity;

WHEREAS, higher levels of recycling by our residents, businesses and institutions would provide BuRRT with more feedstock yielding greater revenue to the community;

WHEREAS, recycled commodities are made into new useful products and reduce the use of natural resources and energy;

WHEREAS, recycling offers many more job opportunities than landfilling;

WHEREAS, burying useful resources in a landfill is wasteful, costly, and produces dangerous greenhouse gases;

WHEREAS, in 2013 this body, through the Lead by Example initiative, has instituted recycling in our departments and offices;

WHEREAS, our solid waste department has restored a ReUse area at the Eldorado Transfer station to allow and encourage reuse of materials that should not be landfilled;

WHEREAS, we as community leaders must encourage participation in the excellent recycling and reuse programs we have established;

WHEREAS, we as community leaders must encourage participation in the excellent recycling and reuse programs we have established;



NOW THEREFORE, be it resolved, that the Board of Santa Fe County Commission of Santa Fe County hereby proclaims that we recognize:

**November 15, 2013 As
"America Recycles Day"**

APPROVED, ADOPTED AND PASSED this 12th day of November, 2013

Kathy Holian

Chair, Commissioner, District 4

Daniel "Danny" Mayfield

Vice-Chair, Commissioner, District 1

Miguel M. Chavez

Commissioner, District 2

Robert A. Anaya

Commissioner, District 3

Liz Stefanics

Commissioner, District 5

Katherine Miller

County Manager

Approved to Form by Attorney Stephen Ross:

Attest by Clerk Geraldine Salazar:





Daniel "Danny" Mayfield
Commissioner, District 1

Miguel M. Chavez
Commissioner, District 2

Robert A. Anaya
Commissioner, District 3



Kathy Holian
Commissioner, District 4

Liz Stefanics
Commissioner, District 5

Katherine Miller
County Manager

MEMORANDUM

DATE: October 29, 2013
TO: Board of County Commissioners
VIA: Katherine Miller, County Manager *KM*
FROM: Kathy Holian, Santa Fe County Commissioner, District 4
RE: A Proclamation To Recognize November 1- November 30, 2013 As
Pancreatic Cancer Awareness Month (Commissioner Holian)

ISSUE

Commissioner Holian is seeking approval of a proclamation recognizing Pancreatic Cancer Awareness Month.

BACKGROUND

Pancreatic cancer is the fourth leading cause of cancer death in the United States. Approximately 279,000 people worldwide are diagnosed with pancreatic cancer annually, and more than 266,000 die from the disease. The five year survival rate of pancreatic cancer is just 6 percent in the United States, Canada and Australia. And, in the United Kingdom the five year survival rate is 3 percent. Pancreatic cancer can strike both men and women. Few risk factors for developing pancreatic cancer are defined. There are no early detection methods, few effective treatment options and there is no cure.

Research and progress continues daily, but more research is urgently needed. It is to increase public awareness of this deadly disease and ensure scientific progress is made to increase survival of pancreatic cancer patients throughout the world.

RECOMMENDATION

Commissioner Holian seeks board approval for the Pancreatic Cancer Awareness Month Proclamation.



Santa Fe County Proclamation

Introduced by Commissioner Kathy Holian

TO RECOGNIZE NOVEMBER 1- NOVEMBER 30, 2013 AS PANCREATIC CANCER AWARENESS MONTH

WHEREAS, in 2013, an estimated 45,220 people will be diagnosed with pancreatic cancer in the United States and 38,460 will die from the disease;

WHEREAS, pancreatic cancer is one of the deadliest cancers, is the fourth leading cause of cancer death in the United States, and is the only major cancer with a five-year relative survival rate in the single digits at just six percent;

WHEREAS, when symptoms of pancreatic cancer present themselves, it is late stage, and 73 percent of pancreatic cancer patients die within the first year of their diagnosis while 94 percent of pancreatic cancer patients die within the first five years;

WHEREAS, approximately 240 deaths will occur in New Mexico in 2013;

WHEREAS, the incidence and death rate for pancreatic cancer are increasing and pancreatic cancer is anticipated to move from the fourth to the second leading cause of cancer death in the U.S. by 2020;

WHEREAS, the U.S. Congress passed the *Recalcitrant Cancer Research Act* last year, which calls on the National Cancer Institute to develop scientific frameworks, or strategic plans, for pancreatic cancer and other deadly cancers, which will help provide the strategic direction and guidance needed to make true progress against these diseases;

WHEREAS, it will be very difficult to leverage the opportunities that come out of the scientific framework developed as a result of the *Recalcitrant Cancer Research Act* unless sustained and adequate funding is provided to the National Institutes of Health and National Cancer Institute;

WHEREAS, federal funding for medical research is critical to job protection and creation in New Mexico;

WHEREAS, the Pancreatic Cancer Action Network and its affiliates in Santa Fe County support those patients currently battling pancreatic cancer, as well as to those who have lost their lives to the disease, and are committed to nothing less than a cure;

WHEREAS, the good health and well-being of the residents of Santa Fe County are enhanced as a direct result of increased awareness about pancreatic cancer and research into early detection, causes, and effective treatments;

NOW THEREFORE, be it resolved, that Santa Fe County encourage and call upon the New Mexico delegation to support a permanent fix to sequestration and provide sustained adequate funding for National Institutes of Health and the National Cancer Institute;



BE IT FURTHER RESOLVED, that the Board of Santa Fe County Commission of Santa Fe County hereby proclaims that we recognize:

**November 1- November 30 As
“Pancreatic Cancer Awareness Month”**

APPROVED, ADOPTED AND PASSED this 12th day of November, 2013

Kathy Holian
Chair, Commissioner, District 4

Daniel “Danny” Mayfield
Vice-Chair, Commissioner, District 1

Miguel M. Chavez
Commissioner, District 2

Robert A. Anaya
Commissioner, District 3

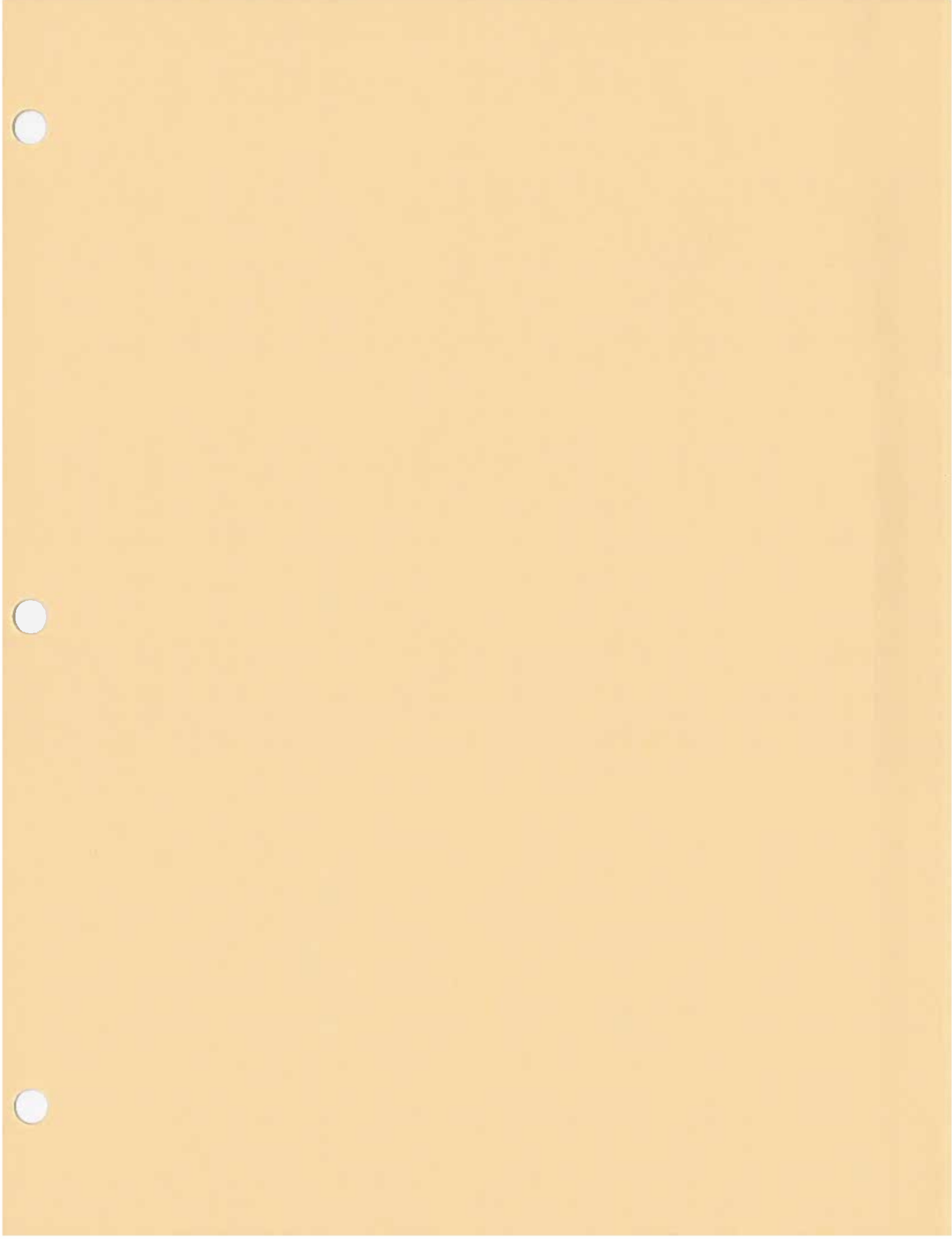
Liz Stefanics
Commissioner, District 5

Katherine Miller
County Manager

Approved to Form by Attorney Stephen Ross:

Attest by Clerk Geraldine Salazar:

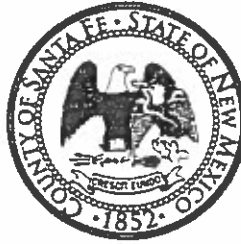




Daniel "Danny" Mayfield
Commissioner, District 1

Miguel M. Chavez
Commissioner, District 2

Robert A. Anaya
Commissioner, District 3



Kathy Holian
Commissioner, District 4

Liz Stefanics
Commissioner, District 5

Katherine Miller
County Manager

Pablo Sedillo, III
Public Safety Director

To: Santa Fe County Board of County Commissioners

From: Pablo Sedillo, III 
Public Safety Department Director

Via: Katherine Miller 
SFC County Manager

Date: 10/30/13

Re: SFC Corrections Department – Corrections Advisory Committee Resignation

Issue:

There are ten (10) members appointed to the Santa Fe County Corrections Advisory Committee (CAC) by the Santa Fe Board of County Commissioners (BCC). The employee of the City of Santa Fe Police Department has submitted his resignation. The BCC needs to formally accept the resignation.

Background:

The Public Safety Department was notified by Mr. Aric Wheeler of his retirement from the Santa Fe Police Department and is therefore resigning his position on the Corrections Advisory Committee.

Staff Recommendation:

Staff recommends that the BCC formally accept the resignation of Mr. Aric Wheeler and thank him for his service to Santa Fe County.

RESIGNATION

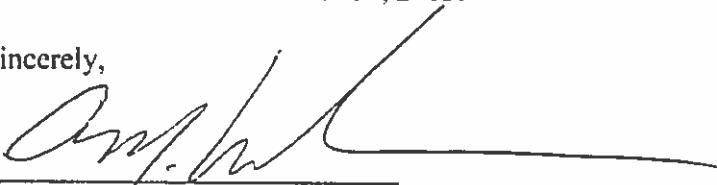
TO: Santa Fe County Board of Commissioners
102 Grant Avenue
Santa Fe, New Mexico 87501-2061

ATTENTION: Ms. Katherine Miller, Santa Fe County Manager

By reason of my recent retirement from the City of Santa Fe Police Department, I hereby tender my resignation from the Santa Fe County Corrections Advisory Committee. I appreciate and thank the Commission for the honor of having been appointed to the Committee.

It is my understanding that the Commission is considering the appointment of Captain Dale Lettenberger of the City of Santa Fe Police Department as my replacement on the Committee and that the Department has approved his appointment and that Captain Lettenberger has agreed to so serve. I wholeheartedly approve and recommend the appointment of Captain Lettenberger in my stead and hopefully his appointment can be made prior to the next scheduled meeting of the Committee on November 14, 2013.

Sincerely,

A handwritten signature in dark ink, appearing to read 'Aric Wheeler', is written over a horizontal line. The signature is fluid and cursive, with a long horizontal stroke extending to the right.

Captain Aric Wheeler (Ret.)

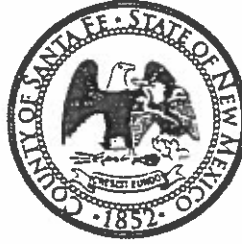
Dated: October 22, 2013



Daniel "Danny" Mayfield
Commissioner, District 1

Miguel M. Chavez
Commissioner, District 2

Robert A. Anaya
Commissioner, District 3



Kathy Holian
Commissioner, District 4

Liz Stefanics
Commissioner, District 5

Katherine Miller
County Manager

Pablo Sedillo, III
Public Safety Director

To: Santa Fe County Board of County Commissioners

From: Pablo Sedillo, III 
Public Safety Department Director

Via: Katherine Miller 
SFC County Manager

Date: 10/30/13

Re: SFC Corrections Department – Corrections Advisory Committee Appointment

Issue:

There are ten (10) members appointed to the Santa Fe County Corrections Advisory Committee (CAC) by the Santa Fe Board of County Commissioners (BCC). Mr. Aric Wheeler, the employee of the City of Santa Fe Police Department submitted his resignation due to his retirement and his successor Captain Dale Lettenberger would like to take his place on the CAC. The term of the appointment will run through March 26, 2016.

Background:

The Public Safety Department was notified by Mr. Aric Wheeler of his retirement from the Santa Fe Police Department and therefore resigned his position on the Corrections Advisory Committee. Captain Dale Lettenberger submitted his interest in the Committee along with all required documentation and fits the requirement:

"An employee of the City of Santa Fe Police Department who is an active participant in the group referred to as the brown bag group, currently meeting informally to ensure open communications between the judiciary and the staff of the Facilities"

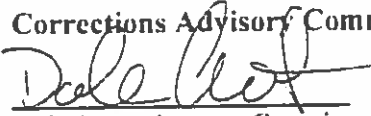
Staff Recommendation:

Staff believes that Captain Lettenberger's appointment would benefit the work of the CAC and recommends his appointment.

MEMO

DATE: October 8, 2013

TO: Corrections Advisory Committee

FROM: 
Dale Lettenberger, Captain
Criminal Investigation Division

SUBJ: Memorandum of Interest for position the Corrections Advisory Committee

I'm submitting my memorandum of interest to inform the Corrections Advisory Committee that I am interested in assisting on the committee and would like to be appointed to the committee.

If you have any questions, feel free to contact me.

Dale G. Lettenberger

134 Verano Loop Santa Fe, NM 87508 (505) 660-2373

dglettenberger@santafenm.gov

State of New Mexico Law Enforcement Officer with 19 years of experience in Law Enforcement operations, Criminal Investigations, Internal Affairs, and Special Operations (SWAT).

SPECIFIC SKILL AREAS:

General Police Instructor, Firearms, Carbine Rifle, Physical Fitness, Officer Survival, Less Lethal Projectile, Defensive Tactics, Criminal Investigation Procedures, At scene, Advance and Reconstruction in Crash Investigation, SWAT Fundamentals, Sniper, Internal Affairs, Field Training Officer, Training, Scene Management, Crisis Intervention.

AWARDS AND RECOGNITION:

Distinguished Service Medal
Medal of Merit
Police Chief's Commendation Ribbon
Santa Fe Police Supervisor of the Year
Santa Fe Police Supervisor of the Quarter
Santa Fe Police Officer of the Quarter

PROFESSIONAL EXPERIENCE:

City of Santa Fe Police Department-Santa Fe, NM

Captain **07/2013-Present**
Criminal Investigation Division

Lieutenant **12/2007-07/2013**
Criminal Investigation Division
Special Operations Commander, SWAT, EOD, K-9, CNT, Honor Guard
Professional Affairs Division, Internal Affairs
Support Operations, Traffic Division, Police Motorcycles, Bike Patrol, K-9, DWI
Patrol Division

Sergeant **07/2003-12/2007**
Patrol Division
Training Division
Special Weapons and Tactics (SWAT)

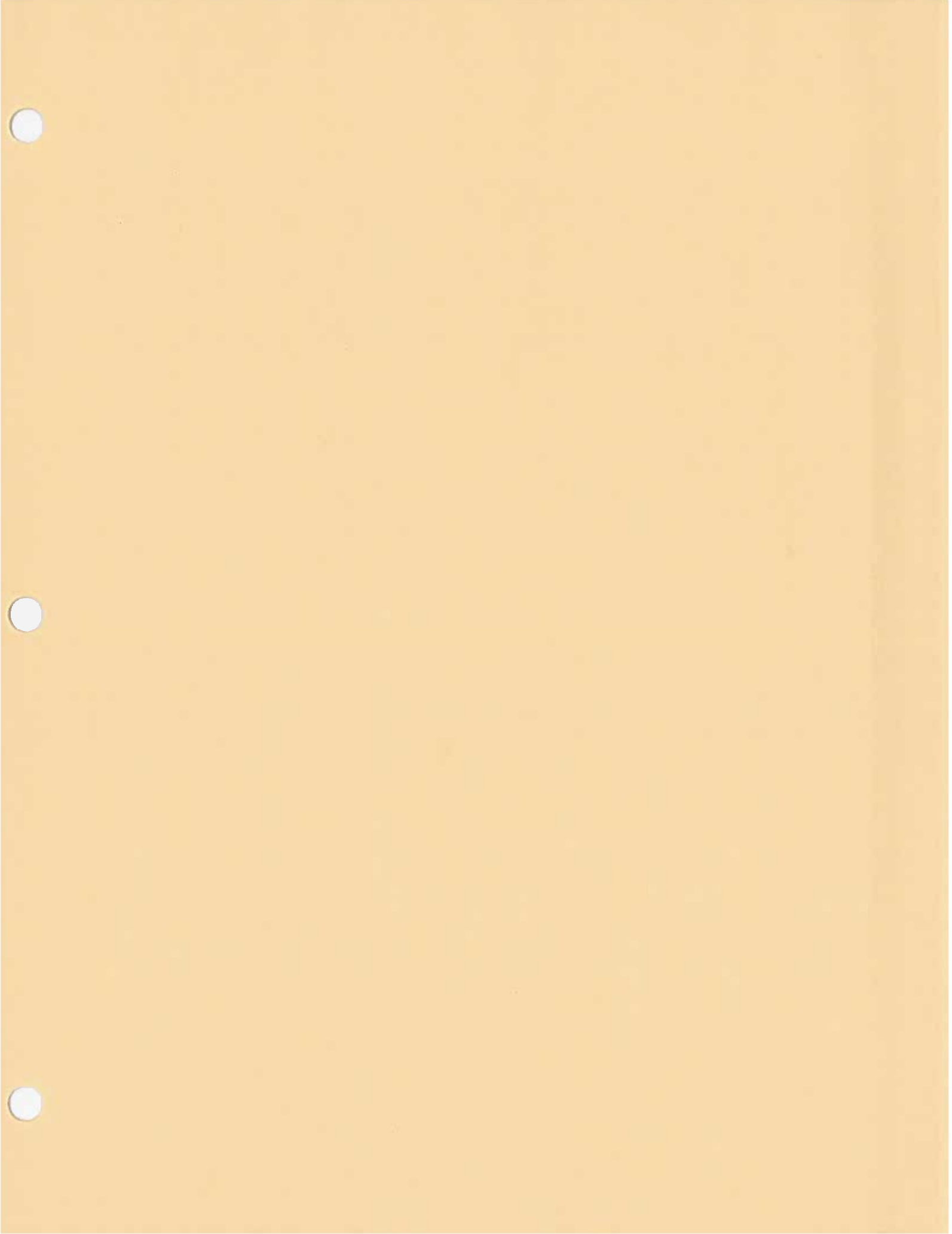
Police Officer **04/1999-07/2003**
 08/1994-09/1998
Patrol Division
Training Division
Field Training Officer
Special Weapons and Tactics (SWAT)

New Mexico Department Public Safety-Santa Fe, NM

Agent Instructor 09/1998-04/1999

TRAINING:

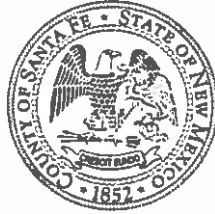
Internal Affairs
Policy Administration and Enforcement
Mitigating Operational Liability
Legal Update for Law Enforcement Command Staff
Police Leadership-Theory and Practice
SWAT Command Decision Making and Leadership
The Rights of Police Officers
Management of Traffic Services
Mid Management
Basic Media Relations
Advanced Spokesperson
ICS 100, 200, 300, 400, 800
First Line Supervisor
Law Enforcement Response to Terrorism
Critical Incident Management
Administrative Management of Training.



**Danny "Daniel"
Mayfield**
Commissioner, District 1

Miguel M. Chavez
Commissioner, District 2

Robert A. Anaya
Commissioner, District 3



Kathy Holian
Commissioner, District 4

Liz Stefanics
Commissioner, District 5

Katherine Miller
County Manager

MEMORANDUM

DATE: November 4, 2013

TO: Board of County Commissioners

FROM: Julia Valdez, Constituent Services Liaison, Manager's Office

VIA: Katherine Miller, County Manager *KM*

ITEM AND ISSUE: BCC Meeting November 12, 2013

ISSUE

Request Approval Of The Transfer Of \$35,000 Of Capital Gross Receipts Tax Funds to the City of Santa Fe's Leda Program (Commissioners Anaya, Holian and Stefanics)

BACKGROUND

The BCC previously approved monies for a Feasibility Study and Traffic Impact Analysis the Rodeo de Santa Fe's LEDA project for an indoor multipurpose facility for rodeo and related equestrian events. It will also be used as a disaster relief facility for large animals.

This year's contribution will be for the purpose of procuring Engineering and Design services for the Project.

Funding comes from the Capital GRT from:

\$10,000 – Commissioner Anaya, District 3

\$10,000 – Commissioner Holian, District 4

\$15,000 – Commissioner Stefanics, District 5

ACTION REQUESTED

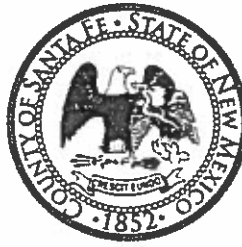
We respectfully request your approval of this item.



Daniel "Danny" Mayfield
Commissioner, District 1

Miguel M. Chavez
Commissioner, District 2

Robert A. Anaya
Commissioner, District 3



Kathy Holian
Commissioner, District 4

Liz Stefanics
Commissioner, District 5

Katherine Miller
County Manager

MEMORANDUM

DATE: November 4, 2013

TO: Board of County Commissioners

FROM: Katherine Miller, Santa Fe County Manager *KMM*

ITEM AND ISSUE: BCC Meeting November 12, 2013

RESOLUTION 2013-____ A RESOLUTION AMENDING PROCEDURES FOR RESOLUTIONS WITH A FISCAL IMPACT; REQUIRING FISCAL IMPACT REPORTS; PRESCRIBING UNIFORMITY OF FISCAL IMPACT REPORTS; ENSURING PUBLIC INPUT ON RESOLUTIONS; RESCINDING RESOLUTIONS NO. 2012-056 AND NO. 2013-026

BACKGROUND AND SUMMARY:

Resolutions #2012-56 and #2013-26 were introduced and passed by the Santa Fe County Board of County Commissioners in an effort to create more transparency, to provide more information on policy making resolutions and encourage more public comment and participation on policy matters before the Board. While both resolutions have resulted in accomplishing these objectives they have at times created unintended consequences of process delays and confusion. As a result the sponsors of the resolutions requested a revision of the two resolutions into one restated resolution that accomplishes the original objectives while streamlining the process for administrative and policy making resolutions.

In order to make improvements to the procedures associated with the adoption of resolutions, this proposed resolution would:

- Encourage public comment on each resolution at the time the resolution is being considered for action
- Delineate when a fiscal impact report will be included with a resolution and the extent of fiscal impacts to be included in such report
- Provides a sample of the fiscal impact report form
- Rescind and replace the requirements described in Resolutions 2012-56 and 2013-26

In concert with this resolution, staff has developed a modified format for Fiscal Impact Reports that will more clearly present the fiscal analysis.

ACTION REQUESTED:

This item was introduced and discussed at the October 29, 2013 BCC meeting and is up for your consideration and approval.

**THE BOARD OF COUNTY COMMISSIONERS OF
SANTA FE COUNTY**

RESOLUTION 2013-__

**A RESOLUTION AMENDING PROCEDURES FOR RESOLUTIONS WITH A FISCAL
IMPACT; REQUIRING FISCAL IMPACT REPORTS; PRESCRIBING UNIFORMITY
OF FISCAL IMPACT REPORTS; ENSURING PUBLIC INPUT ON RESOLUTIONS;
RESCINDING RESOLUTIONS NO. 2012-056 AND NO. 2013-026
(Introduced by Commissioner Mayfield and Commissioner Chavez)**

WHEREAS, the Board of County Commissioners of Santa Fe County ("the Board") passed Resolutions 2012-056 and 2013-026 to increase public input on resolutions and to improve transparency and fiscal reporting on Board decisions;

WHEREAS, the Board desires to combine the two resolutions and streamline the process for introducing and approving resolutions;

WHEREAS, in combining the two resolutions, the Board desires to retain the qualities of public input, transparency, fiscal reporting and accountability in its decision-making process;

WHEREAS, the Board recognizes the importance of developing a uniform procedure for determining the fiscal impact of resolutions, including those creating new programs or policies, amending existing programs or policies, or for one-time expenditures including real property acquisition and construction or acquisition of County facilities;

WHEREAS, fiscal impact reports would be useful if they provided cost and revenue projections and a cumulative forecast of the fiscal impact over at least four years following action;

WHEREAS, fiscal impact reports are most beneficial if they are provided in a uniform format, contain quantifiable fiscal information, and objectively analyze the proposed action;

WHEREAS, input from the citizens of Santa Fe County that informs the Board of public opinion is always useful to help make informed decisions; and

WHEREAS, the Board desires to implement a policy of fiscal impact reports as described, to invite public input on all of its proposed resolutions, and to rescind prior resolutions that are not consistent with this resolution.

**NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY
COMMISSIONERS OF SANTA FE COUNTY, AS FOLLOWS:**

1. Public comment shall be invited individually or collectively on each resolution appearing on the agenda for action. Public comment on items not on the agenda shall be

heard during the agenda item entitled "Matters of Public Concern," and public comment on resolutions appearing on the agenda may be heard during the relevant item or at the call of the Board Chair. Failure to solicit public comment during any item of a Board Meeting shall not affect the legal validity of any action taken on the item.

2. Each policy resolution considered for action that has a fiscal impact shall be accompanied by a fiscal impact report. The fiscal impact report shall be prepared prior to the meeting during which approval is expected. The report shall analyze the immediate impact of the resolution under consideration; if subsequent action will be required to implement the resolution under consideration, only the immediate impacts of the resolution under consideration shall be analyzed. The report shall detail the expected costs and revenues over the first four years following adoption of the proposed resolution, and the fiscal impact report shall be included as part of the packet material for the BCC meeting during which action is expected. A proposed resolution that states a position but that does not make an expenditure or direct staff action shall be deemed to have no known fiscal impact and no fiscal impact report shall be required.

3. If a proposed resolution is changed significantly during the meeting so that the fiscal impact of the resulting program, policy, or acquisition is changed, or if the preparation of a fiscal impact report is warranted and not provided, the Board may vote to table action on the resolution to the following meeting.

4. Because Resolution No. 2009-02 ("The Rules of Order") already permits items to be tabled, withdrawn, postponed or subjected to multiple hearings, multiple hearings of resolutions are not specifically required and Resolution No. 2013-026 is not needed and shall be rescinded. Resolution No. 2012-56 is superseded by the public input provisions of this resolution and shall also be rescinded.

PASSED, APPROVED, and ADOPTED THIS ____ DAY OF _____, 2013.

BOARD OF COUNTY COMMISSIONERS

Kathy Holian, Chair

Attest:

Geraldine Salazar, County Clerk

Approved as to form:



Stephen C. Ross, County Attorney



Daniel "Danny" Mayfield
Commissioner, District 1

Miguel M. Chavez
Commissioner, District 2

Robert A. Anaya
Commissioner, District 3



Kathy Holian
Commissioner, District 4

Liz Stefanics
Commissioner, District 5

Katherine Miller
County Manager

MEMORANDUM

DATE: November 29, 2013
TO: Board of County Commissioners
VIA: Katherine Miller, County Manager *KM*
FROM: Kathy Holian, Santa Fe County Commissioner, District 4
RE: Resolution 2013- _____ A Resolution in Support Of A Healthy Kid, Healthy Economy Program (Commissioner Holian)

ISSUE

Commissioner Holian is seeking approval of a resolution in support of a Healthy Kid, Healthy Economy Program.

IMPORTANT FACTS

- More than 1 in 4 children in New Mexico are considered food insecure and many depend on school meals for their main meal of their day.³
- There are close to 345,000 New Mexico children who have the potential to benefit from participating in the school lunch program.⁴
- The new USDA federal rule, based on legislation, and requiring more servings of fruits and vegetables, is estimated to cost an additional 10 cents for each reimbursable lunch, and 27 cents for each reimbursable breakfast. Yet, the anticipated Federal share for this food cost is \$.06 per meal.⁵
- The school meal programs will comply with the new rules but they will need funds if they are to purchase local New Mexico fruit and vegetables.
- This is a win-win for New Mexico—as the market develops for New Mexico-grown produce in schools, fruit and vegetable growers' incomes will rise and our children's overall health and academic performance will improve.
- Currently, over thirty-five school districts purchase New Mexico-grown produce. This number has tripled in 2012.⁶
- Since last year, the number of New Mexico fruit and vegetable producers selling to schools has doubled from 20 to 40. This is a significant and expanding market for New Mexico farmers.⁷
- If every student in New Mexican schools ate two servings of New Mexico-grown produce per week, about six million dollars would go to New Mexico producers. (344,00 students x 74 servings [2 per week x 37 weeks] x .25 cents per serving)⁸

- This year, Congress enacted the Farm to School Competitive Grants Program, providing over \$3 million annually to Farm to School Programs nationwide.
http://www.fns.usda.gov/cnd/f2s/f2_2012_grant_program.htm
- In the 2008 Farm Bill, food service directors were given the ability to apply a geographic preference, allowing them to prioritize buying from local and regional farmers.

<http://www.fns.usda.gov/cga/pressreleases/2011/0180.htm>

*For more information contact Pam Roy, New Mexico Food & Agriculture Policy Council
505-660-8403 or pam@farmtotablenm.org*

Footnotes:

1. "Eating for Health and Academic Achievement," *Wisconsin School News*, Julie Allington, 2001, and "Diet Quality and Academic Performance", *Journal of School Health*, Florence,

Asbridge and Veugelers, 2008

2. New Mexico Legislature, Pete Campos, 2008
3. Food & Resource and Action Center, Food Hardship in America, August, 2011
4. New Mexico Department of Education Child Nutrition Programs, Approved Free and Reduced Percentages, Program Year: 2012
5. Federal Register/Vol. 77, No. 17/Thursday, January 26, 2012/Rules and Regulations
6. Shauna Woodworth, Farm to Table, Marketing Specialist, October, 2012
7. Shauna Woodworth, Farm to Table, Marketing Specialist, October, 2012

See Footnote #4 and New Mexico School Nutrition Association

REQUESTED ACTION:

Commissioner Holian respectfully requests the Board of County Commissioners support and approve this resolution.

THE BOARD OF COUNTY COMMISSIONERS
OF SANTA FE COUNTY

RESOLUTION No 2013 - _____

**A RESOLUTION IN SUPPORT OF A HEALTHY KID, HEALTHY
ECONOMY PROGRAM**

WHEREAS, approximately fourteen percent of kindergarteners and almost twenty two percent of third graders in New Mexico are considered overweight or obese;

WHEREAS, the National School Lunch Program makes it possible for school children in the United States to receive a nutritious lunch every school day;

WHEREAS, 340,000 children participate in the school lunch programs throughout New Mexico, and more than 228,000 of those children are eligible to participate in free or reduced-price school meal programs;

WHEREAS, the National School Lunch Program provides a reimbursement of \$3.10 for free lunches and \$2.70 for reduced-price lunches;

WHEREAS, local school meal programs will see an average increase in the cost of food equivalent to \$0.25 to \$0.75 per meal, but there will be a minimal National School Lunch Program increase of only \$0.06 reimbursement per meal;

WHEREAS, the healthy kid, healthy economy concept promotes the purchase of New Mexico fruits and vegetables for school lunch programs in order to enhance the diet of school children and help school meal programs comply with new Federal rules that require additional servings of fruits and vegetables in school lunches;

WHEREAS, there is an emerging agricultural sector in New Mexico comprised of small and medium size fruit and vegetable farmers, who can respond to this new food market for local produce in the school meal programs;

WHEREAS, increased funding from the state legislature will enable school meal programs and local school districts to purchase New Mexico grown produce and serve more fresh fruits and vegetables to our children for their health and well-being;

WHEREAS, increased funding from the state legislature for school meals programs also supports economic development and opportunities for our local farmers;

WHEREAS, increasing funding would assist school children and farmers within Santa Fe County;

NOW THEREFORE, be it resolved, that the Board of the County Commissioners of Santa Fe County respectfully requests that the New Mexico State Legislature appropriate \$1.44 million to support the purchase of locally grown fruits and vegetables for school lunches.

APPROVED, ADOPTED AND PASSED this 12th day of November, 2013.

BOARD OF COUNTY COMMISSIONERS

Kathy Holian, Chairman

Attest:

Geraldine Salazar, County Clerk

Approved as to Form:


Stephen C. Ross, County Attorney



NO PACKET MATERIAL FOR THIS ITEM



NO PACKET MATERIAL FOR THIS ITEM



Daniel "Danny" Mayfield
Commissioner, District 1

Miguel Chavez
Commissioner, District 2

Robert A. Anaya
Commissioner, District 3



Kathy Holian
Commissioner, District 4

Liz Stefanics
Commissioner, District 5

Katherine Miller
County Manager

MEMORANDUM

DATE: *October 30, 2013*

TO: *Board of County Commissioners*

FROM: *Adam Leigland, Public Works Department Director* *ALL 11/1/13*

VIA: *Katherine Miller, County Manager* *KM*

ITEM AND ISSUE: *BCC Meeting November 12, 2013*
PRESENTATION OF SANTA FE COUNTY OLD JUDICIAL COMPLEX FEASIBILITY STUDY. (Public Works)

BACKGROUND AND SUMMARY:

Santa Fe County contracted Studio Southwest Architects, Inc. (SSA) to conduct a feasibility study of options for potential future uses of the former First Judicial Courthouse Complex located at 100 Catron Street in downtown Santa Fe. The County owns the approximately 56,000 square foot facility which served as the First Judicial District Courthouse until the courts were relocated to the new facility in June 2013.

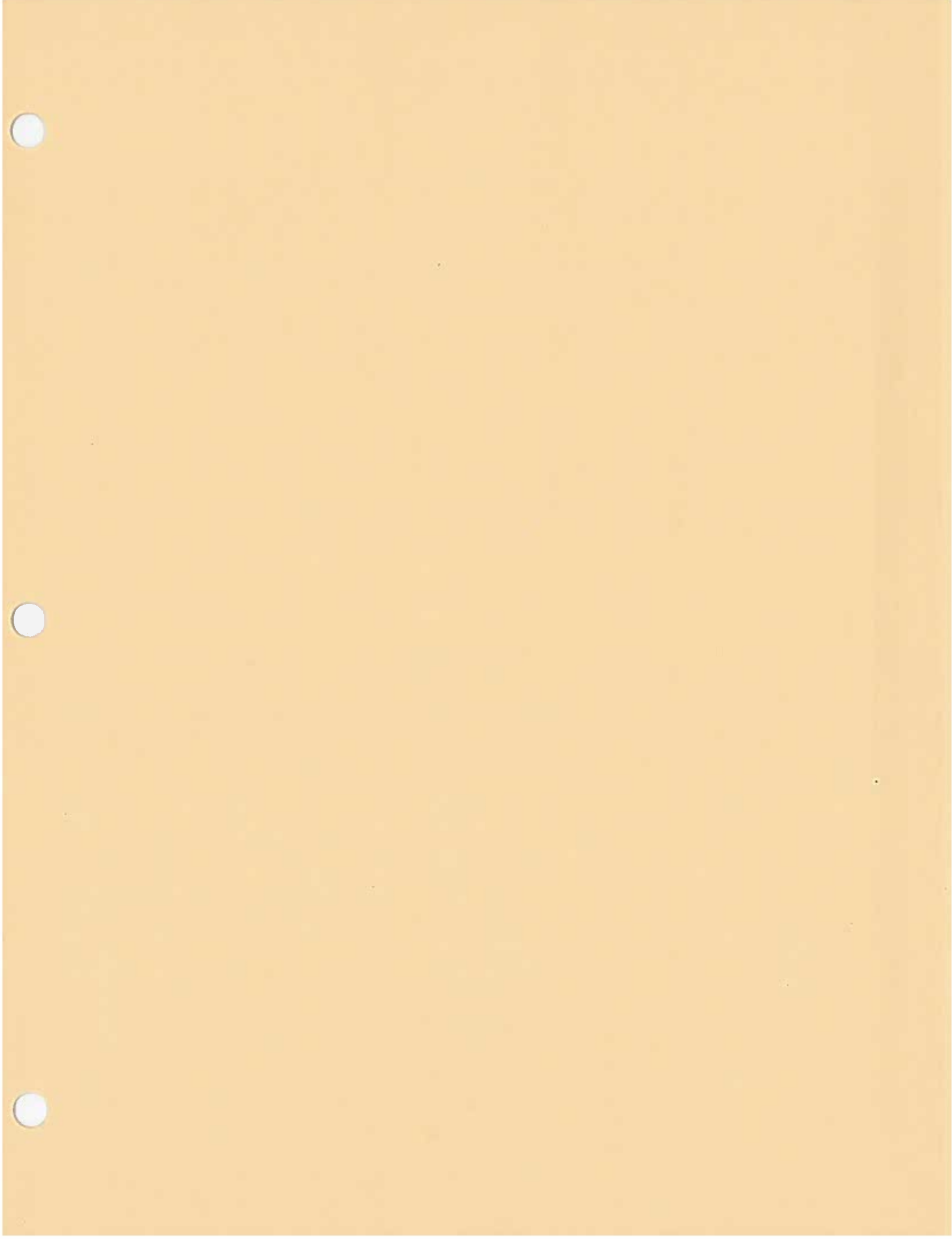
The feasibility study conducted by SSA has included analysis of the following:

- Existing conditions in the building
- Current County office/administrative space needs
- Options for site redevelopment and/or future use
- Market Analysis of options for site redevelopment and/or future use
- Sustainability issues for site redevelopment and/or future use
- Archeological, Environmental and Historic design issues
- Economic, Cultural and Social Impacts of site redevelopment and/or future use

The final report provides the result of the feasibility study and includes a recommended option for redevelopment and/or future use of the property. The final report is not with the BCC packets and will be provided under separate cover due to size and configuration of the report materials.

ACTION REQUESTED:

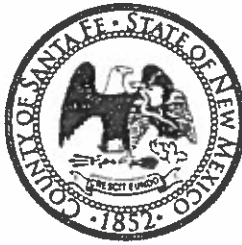
This is a presentation and no action is requested.



Daniel "Danny" Mayfield
Commissioner, District 1

Miguel M. Chavez
Commissioner, District 2

Robert A. Anaya
Commissioner, District 3



Kathy Hoian
Commissioner, District 4

Liz Stefanics
Commissioner, District 5

Katherine Miller
County Manager

Memorandum

To: Santa Fe Board of County Commissioners

From: Katherine Miller, County Manager *KM*
Patricia Boies, Community Services Department

Date: October 30, 2013

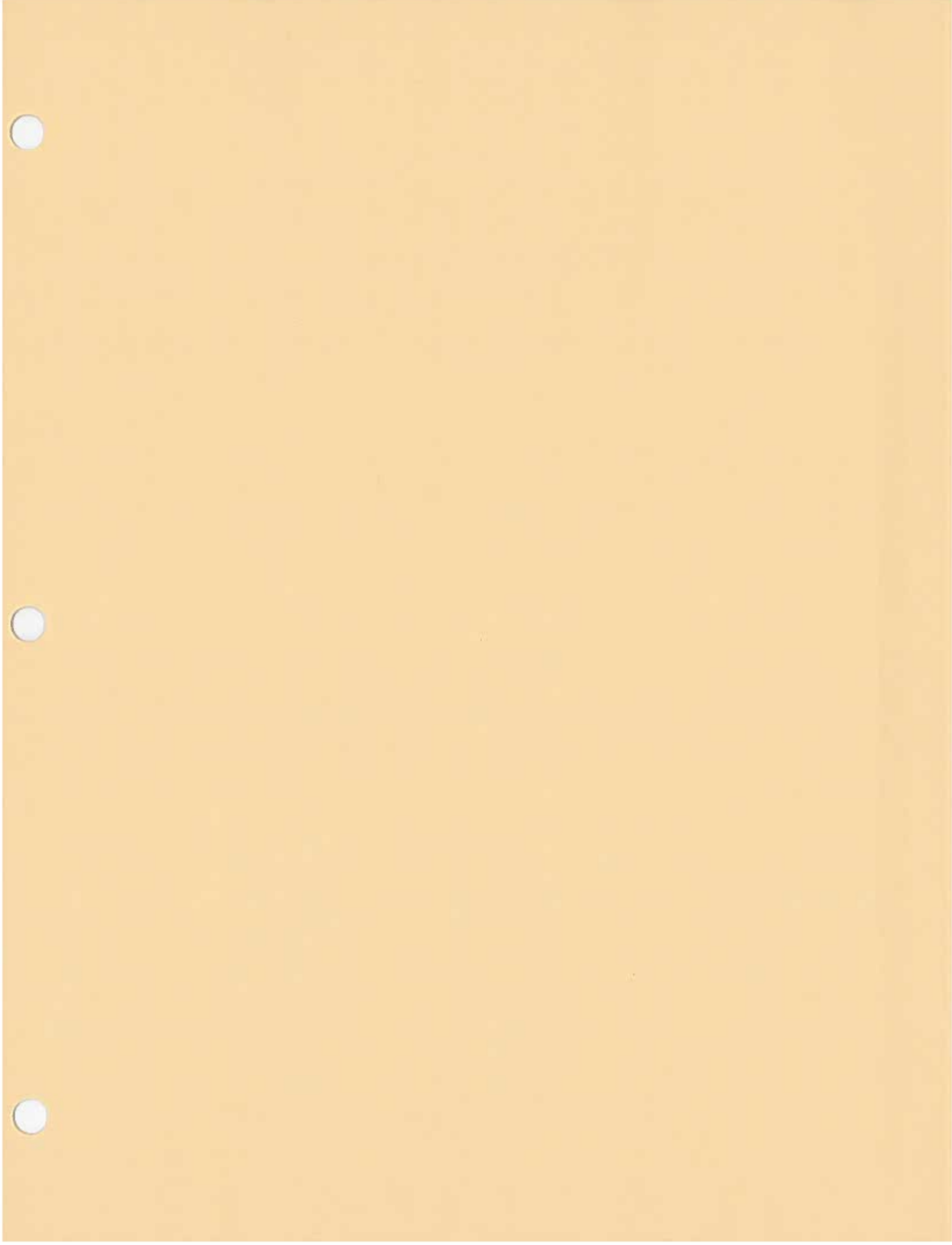
Subject: Presentation on Project LAUNCH by United Way of Santa Fe County

Issue: For the past five years, Santa Fe County has been contracting with United Way of Santa Fe County for Project LAUNCH (Linking Actions for Unmet Needs in Children's Health). Project LAUNCH is designed to promote the wellness of young children and their families throughout the County.

Background: Santa Fe County was asked by the New Mexico Department of Health (NMDOH) to participate in a federal grant for "Project Launch" as the required local partner of the state entity (NMDOH). The grant is used to replicate a program that was developed by the United Way of Santa Fe County in another location in Santa Fe. The program was known as the Agua Fria Children's Project; it is now known as the Santa Fe Children's Project. The project has run for four years at a funding level of about \$733,000 per year.

Periodic reports about Project LAUNCH have been delivered to the BCC. Katherine Freeman, CEO of United Way, will present the latest results on the Project, as well as the findings and recommendations of the Project LAUNCH Advisory Council about future plans.

Staff Recommendations: None noted; this presentation is for informational purposes only.





Government Finance Officers Association
203 N. LaSalle Street - Suite 2700
Chicago, IL 60601

Phone (312) 977-9700 Fax (312) 977-4806

September 5, 2013

Amelia (Molly) Saiz
Accounting Oversight & Financial Reporting Manager
Santa Fe County
PO Box 276
Santa Fe NM87504-0276

Dear Ms. Saiz:

We are pleased to notify you that your comprehensive annual financial report (CAFR) for the fiscal year ended June 30, 2012, qualifies for a Certificate of Achievement for Excellence in Financial Reporting. The Certificate of Achievement is the highest form of recognition in governmental accounting and financial reporting, and its attainment represents a significant accomplishment by a government and its management.

Each entity submitting a report to the Certificate of Achievement review process is provided with a "Summary of Grading" form and a confidential list of comments and suggestions for possible improvements in its financial reporting techniques. Your list has been enclosed. You are strongly encouraged to implement the recommended improvements into the next report and submit it to the program. If it is unclear what must be done to implement a comment or if there appears to be a discrepancy between the comment and the information in the CAFR, please contact the Technical Services Center (312) 977-9700 and ask to speak with a Certificate of Achievement Program in-house reviewer.

Certificate of Achievement program policy requires that written responses to the comments and suggestions for improvement accompany the next fiscal year's submission. Your written responses should provide detail about how you choose to address each item that is contained within this report. These responses will be provided to those Special Review Committee members participating in the review.

When a Certificate of Achievement is awarded to a government, an Award of Financial Reporting Achievement (AFRA) is also presented to the individual(s) or department designated by the government as primarily responsible for its having earned the Certificate. Enclosed is an AFRA for:

Finance Department, Santa Fe County

Your Certificate of Achievement plaque will be shipped to you under separate cover in about eight weeks. We hope that you will arrange for a formal presentation of the Certificate and Award of Financial Reporting Achievement, and that appropriate publicity will be given to this notable achievement. A sample news release has been enclosed. We suggest that you provide copies of it to local newspapers, radio stations and television stations. In addition, details of recent recipients of the Certificate of Achievement and other information about Certificate Program results are available in the "Awards Program" area of our website, www.gfoa.org.

A current holder of a Certificate of Achievement may include a reproduction of the award in its immediately subsequent CAFR. A camera ready copy of your Certificate is enclosed for that purpose. If you reproduce your Certificate in your next report, please refer to the enclosed instructions. A Certificate of Achievement is valid for a period of one year. To continue participate in the Certificate of Achievement Program it will be necessary for you to submit your next CAFR to our review cess.

In order to expedite your submission we have enclosed a Certificate of Achievement Program application form to facilitate a timely submission of your next report. This form should be completed and sent (postmarked) with three copies of your report, three copies of your application, three copies of your written responses to the program's comments and suggestions for improvement from the prior year, and any other pertinent material with the appropriate fee by December 31, 2013.

Your continued interest in and support of the Certificate of Achievement Program is most appreciated. If we may be of any further assistance, please contact Delores Smith (dsmith@gfoa.org or (312) 578-5454).

Sincerely,
Government Finance Officers Association



Stephen J. Gauthier, Director
Technical Services Center

SJG/ds



Daniel "Danny" Mayfield
Commissioner, District 1

Miguel M. Chavez
Commissioner, District 2

Robert A. Anaya
Commissioner, District 3



Kathy Holian
Commissioner, District 4

Liz Stefanics
Commissioner, District 5

Katherine Miller
County Manager

MEMORANDUM

DATE: October 29, 2013
TO: Board of County Commissioners
VIA: Katherine Miller, County Manager
FROM: Kathy Holian, Santa Fe County Commissioner, District 4
RE: A Proclamation To Recognize November 15, 2013 As America Recycles Day
(Commissioner Holian)

BACKGROUND

America Recycles Day (ARD) is the only nationally recognized day dedicated to encouraging Americans to recycle and buy recycled products. ARD is celebrated annually on November 15. The World Recycling Day celebrated in most countries, though falls on July 8. Thousands of events are held across the U.S. to raise awareness about the importance of recycling and to encourage Americans to sign personal pledges to recycle and buy products made from recycled materials.

Started by the recycling sector organization National Recycling Coalition in 1997, America Recycles Day has been a program of national nonprofit Keep America Beautiful since 2009. As the managing entity of America Recycles Day, Keep America Beautiful provides promotional and marketing support and resources to a network of local event organizers. It is sponsored by private and public entities and the EPA.

Recycling statistics:

- 251 million – tons of trash in the United States
- 53.4 – percentage of all paper products recycled in the United States
- 32.5 – percentage of total waste that is recycled in the United States
- 100 – approximate percentage of increase in total recycling in the United States during the past decade
- 8,660 – number of curbside recycling programs in the United States in 2006
- 8,875 – number of curbside recycling programs in the United States in 2003
- 95 – percentage of energy saved by recycling an aluminum can, compared with manufacturing a new one
- 4.6 – pounds of trash per person per day in the United States (most in the world)
- 1.5 – pounds of recycled materials per person per day in the United States

RECOMMENDATION

Commissioner Holian seeks board approval for the America Recycles Day Proclamation on November 15th.



Santa Fe County Proclamation

Introduced by Commissioner Kathy Holian

TO RECOGNIZE NOVEMBER 15, 2013 AS AMERICA RECYCLES DAY

WHEREAS, Santa Fe County's recycling rate is well below the national average;

WHEREAS, the sale of recycled commodities helps to support our Caja del Rio Landfill and our materials processing facility at the Buckman Road Recycling and Transfer Station (BuRRT);

WHEREAS, more recycling will extend the life of the Caja del Rio landfill, providing substantial future savings;

WHEREAS, BuRRT is operating at less than 50% of its design capacity;

WHEREAS, higher levels of recycling by our residents, businesses and institutions would provide BuRRT with more feedstock yielding greater revenue to the community;

WHEREAS, recycled commodities are made into new useful products and reduce the use of natural resources and energy;

WHEREAS, recycling offers many more job opportunities than landfilling;

WHEREAS, burying useful resources in a landfill is wasteful, costly, and produces dangerous greenhouse gases;

WHEREAS, in 2013 this body, through the Lead by Example initiative, has instituted recycling in our departments and offices;

WHEREAS, our solid waste department has restored a ReUse area at the Eldorado Transfer station to allow and encourage reuse of materials that should not be landfilled;

WHEREAS, we as community leaders must encourage participation in the excellent recycling and reuse programs we have established;

WHEREAS, we as community leaders must encourage participation in the excellent recycling and reuse programs we have established;



NOW THEREFORE, be it resolved, that the Board of Santa Fe County Commission of Santa Fe County hereby proclaims that we recognize:

**November 15, 2013 As
"America Recycles Day"**

APPROVED, ADOPTED AND PASSED this 12th day of November, 2013

Kathy Holian

Chair, Commissioner, District 4

Daniel "Danny" Mayfield

Vice-Chair, Commissioner, District 1

Miguel M. Chavez

Commissioner, District 2

Robert A. Anaya

Commissioner, District 3

Liz Stefanics

Commissioner, District 5

Katherine Miller

County Manager

Approved to Form by Attorney Stephen Ross:

Attest by Clerk Geraldine Salazar:





Daniel "Danny" Mayfield
Commissioner, District 1

Miguel M. Chavez
Commissioner, District 2

Robert A. Anaya
Commissioner, District 3



Kathy Holian
Commissioner, District 4

Liz Stefanics
Commissioner, District 5

Katherine Miller
County Manager

MEMORANDUM

DATE: October 29, 2013
TO: Board of County Commissioners
VIA: Katherine Miller, County Manager
FROM: Kathy Holian, Santa Fe County Commissioner, District 4
RE: A Proclamation To Recognize November 1- November 30, 2013 As
Pancreatic Cancer Awareness Month (Commissioner Holian)

ISSUE

Commissioner Holian is seeking approval of a proclamation recognizing Pancreatic Cancer Awareness Month.

BACKGROUND

Pancreatic cancer is the fourth leading cause of cancer death in the United States. Approximately 279,000 people worldwide are diagnosed with pancreatic cancer annually, and more than 266,000 die from the disease. The five year survival rate of pancreatic cancer is just 6 percent in the United States, Canada and Australia. And, in the United Kingdom the five year survival rate is 3 percent. Pancreatic cancer can strike both men and women. Few risk factors for developing pancreatic cancer are defined. There are no early detection methods, few effective treatment options and there is no cure.

Research and progress continues daily, but more research is urgently needed. It is to increase public awareness of this deadly disease and ensure scientific progress is made to increase survival of pancreatic cancer patients throughout the world.

RECOMMENDATION

Commissioner Holian seeks board approval for the Pancreatic Cancer Awareness Month Proclamation.



Santa Fe County Proclamation

Introduced by Commissioner Kathy Holian

TO RECOGNIZE NOVEMBER 1- NOVEMBER 30, 2013 AS PANCREATIC CANCER AWARENESS MONTH

WHEREAS, in 2013, an estimated 45,220 people will be diagnosed with pancreatic cancer in the United States and 38,460 will die from the disease;

WHEREAS, pancreatic cancer is one of the deadliest cancers, is the fourth leading cause of cancer death in the United States, and is the only major cancer with a five-year relative survival rate in the single digits at just six percent;

WHEREAS, when symptoms of pancreatic cancer present themselves, it is late stage, and 73 percent of pancreatic cancer patients die within the first year of their diagnosis while 94 percent of pancreatic cancer patients die within the first five years;

WHEREAS, approximately 240 deaths will occur in New Mexico in 2013;

WHEREAS, the incidence and death rate for pancreatic cancer are increasing and pancreatic cancer is anticipated to move from the fourth to the second leading cause of cancer death in the U.S. by 2020;

WHEREAS, the U.S. Congress passed the *Recalcitrant Cancer Research Act* last year, which calls on the National Cancer Institute to develop scientific frameworks, or strategic plans, for pancreatic cancer and other deadly cancers, which will help provide the strategic direction and guidance needed to make true progress against these diseases;

WHEREAS, it will be very difficult to leverage the opportunities that come out of the scientific framework developed as a result of the *Recalcitrant Cancer Research Act* unless sustained and adequate funding is provided to the National Institutes of Health and National Cancer Institute;

WHEREAS, federal funding for medical research is critical to job protection and creation in New Mexico;

WHEREAS, the Pancreatic Cancer Action Network and its affiliates in Santa Fe County support those patients currently battling pancreatic cancer, as well as to those who have lost their lives to the disease, and are committed to nothing less than a cure;

WHEREAS, the good health and well-being of the residents of Santa Fe County are enhanced as a direct result of increased awareness about pancreatic cancer and research into early detection, causes, and effective treatments;

NOW THEREFORE, be it resolved, that Santa Fe County encourage and call upon the New Mexico delegation to support a permanent fix to sequestration and provide sustained adequate funding for National Institutes of Health and the National Cancer Institute;



BE IT FURTHER RESOLVED, that the Board of Santa Fe County Commission of Santa Fe County hereby proclaims that we recognize:

**November 1- November 30 As
“Pancreatic Cancer Awareness Month”**

APPROVED, ADOPTED AND PASSED this 12th day of November, 2013

Kathy Holian
Chair, Commissioner, District 4

Daniel “Danny” Mayfield
Vice-Chair, Commissioner, District 1

Miguel M. Chavez
Commissioner, District 2

Robert A. Anaya
Commissioner, District 3

Liz Stefanics
Commissioner, District 5

Katherine Miller
County Manager

Approved to Form by Attorney Stephen Ross:

Attest by Clerk Geraldine Salazar:

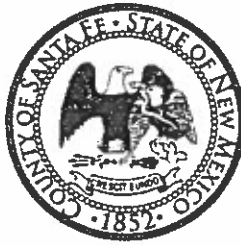




Daniel "Danny" Mayfield
Commissioner, District 1

Miguel M. Chavez
Commissioner, District 2

Robert A. Anaya
Commissioner, District 3



Kathy Holian
Commissioner, District 4

Liz Stefanics
Commissioner, District 5

Katherine Miller
County Manager

MEMORANDUM

DATE: *November 5, 2013*

TO: *Board of County Commissioners*

FROM: *Katherine Miller, Santa Fe County Manager*

ITEM AND ISSUE: *BCC Meeting November 12, 2013*

INTRODUCTION AND DISCUSSION OF A RESOLUTION TO PROVIDE REASONABLE PUBLIC NOTICE FOR MEETINGS OF THE BOARD OF COUNTY COMMISSIONERS AND FOR BOARDS AND COMMITTEES APPOINTED OR ACTING UNDER THE AUTHORITY OF THE BOARD OF COUNTY COMMISSIONERS.

BACKGROUND AND SUMMARY:

Members of the Board of County Commissioners have requested that staff examine the Open Meetings Act requirements and review our expenditures for public notice for meetings. Santa Fe County currently provides significantly more public notice of meetings than is required by law. In some instances, events out of our control (failure of a newspaper to properly publish, for example) have required the county to cancel meetings that did not meet the requirements of our current noticing resolution (Resolution 2013-03). This becomes inconvenient and burdensome on the committee members and the public who are notified and planning to attend.

Attached is a proposed resolution that will ensure that meetings are properly noticed in conformance with the Open Meetings Act. At the same time, by modifying the County's noticing resolution, it will help to minimize cancellations of meetings due to minor defects in noticing. By enacting this resolution, the intention is modify our noticing resolution to the statutory requirements. We still intend to provide online, posted and published noticing that is best suited to reach the citizens of the county.

ACTION REQUESTED:

Please review and discuss the attached draft resolution.

**THE BOARD OF COUNTY COMMISSIONERS OF
SANTA FE COUNTY, NEW MEXICO**

RESOLUTION NO. 2013-__

**A RESOLUTION
DETERMINING REASONABLE NOTICE FOR PUBLIC MEETINGS OF THE BOARD
OF COUNTY COMMISSIONERS OF SANTA FE COUNTY AND FOR BOARDS AND
COMMITTEES APPOINTED BY OR ACTING UNDER THE AUTHORITY OF THE
BOARD OF COUNTY COMMISSIONERS; RESCINDING RESOLUTION 2013-03.**

WHEREAS, NMSA 1978, Section 10-15-1(A) and -1(B) (1999) (the "Open Meetings Act")(hereinafter referred to as "the Act") provides that "... meetings of a quorum of members of any board, commission or other policymaking body of any ... county ... held for the purpose of formulating public policy, including the development of personnel policy, rules, regulations or ordinances, discussing public business or for the purpose of taking any action within the authority or the delegated authority of any board, commission or other policymaking body are declared to be public meetings open to the public at all times, except as otherwise provided in the constitution of New Mexico or the ... Act ..."

WHEREAS, the Act further provides that "(a)ny meetings at which the discussion or adoption of any proposed resolution, rule, regulation or formal action occurs and at which a majority or quorum of the body is in attendance, and any closed meetings, shall be held only after reasonable notice to the public ...;"

WHEREAS, the Act further requires a public body to determine in a public meeting at least annually what notice is reasonable when applied to that body; and

WHEREAS, the Board of County Commissioners of Santa Fe County (hereinafter referred to as "the Board") desires to determine what constitutes reasonable notice to the public of its meetings and for meetings of boards and committees appointed by or acting under the authority of the Board as required by the Act, and to otherwise specify important elements of its continuing compliance with the Act.

**NOW, THEREFORE, BE IT HEREBY RESOLVED BY THE BOARD OF
COUNTY COMMISSIONERS OF SANTA FE COUNTY, AS FOLLOWS:**

1. Regular Meetings.

A. Board Meetings.

i. Time and Place, Annual Schedule. A regular meeting of the Board will be held beginning at 2:00 p.m. on the second Tuesday of each month, and an Administrative Meeting will be held beginning at 1:00 p.m. on the last Tuesday of each month. A copy of the complete calendar of meetings of the Board beginning January 1, 2014 is attached to this

resolution as Appendix 1.

ii. Notice. This resolution and Appendix 1 shall be posted in a conspicuous and appropriate place at the Santa Fe County Administrative Building; so long as the meetings are held on the days specified in Appendix 1, posting of this resolution and Appendix 1 shall constitute reasonable and appropriate notice of each meeting of the Board.

iii. Notice of Rescheduled Regular Meeting. If a meeting is rescheduled from the date specified on Appendix 1, notice of the rescheduled meeting shall be posted in a conspicuous and appropriate place at the Santa Fe County Administrative Building at least ten (10) days prior to the date of the meeting.

iv. Notice to Radio, Television and Print Media. Notice of a regular meeting shall be provided to broadcast stations licensed by the Federal Communications Commission and newspapers of general circulation that have made written request for such notice.

B. Other Meetings Requiring Notice.

i. Time and Place. A regular meeting of a board or committee appointed by or acting under the authority of the Board shall be held at a time and place to be specified in the resolution creating such board or committee or, if not specified, upon a decision of the board or committee.

ii. Notice, Annual Schedule. Notice of a regular meeting of each board or committee shall be posted in a conspicuous and appropriate place at the Santa Fe County Administrative Building at least ten (10) days before such meeting. Alternatively, a regular meeting schedule of a board or committee may be developed for the calendar year 2014 and posted in a conspicuous and appropriate place at the Santa Fe County Administrative Building; if so posted and so long as meetings are held on the days and times specified, posting of the annual meeting schedule shall constitute reasonable and appropriate notice of the each meeting of the board or committee.

iii. Notice of Rescheduled Regular Meeting. If a meeting is rescheduled from the date specified on the annual schedule, notice of the rescheduled meeting shall be posted in a conspicuous and appropriate place at the Santa Fe County Administrative Building at least ten (10) days prior to the date of the meeting.

iv. Notice to Radio, Television and Print Media. Notice of a regular meeting of a board or committee shall also be provided to broadcast stations licensed by the Federal Communications Commission and newspapers of general circulation that have made written request for such notices.

2. Special Meetings.

A. When Held. A special meeting of the Board may be called by the Chair or by

a majority of the members of the Board at such time and place as the Chair or a majority of the members of the Board deem appropriate. A special meeting of a board or committee appointed by or acting under the authority of the Board may be called by the chair of that board or committee or by a majority of the members of that board or committee at such time or place as the chair of that board or committee or a majority of members of the board or committee deem appropriate.

B. Notice of Special Meeting. Notice of a special meeting shall be posted in a conspicuous and appropriate place at the Santa Fe County Administrative Building at least three (3) days before such meeting.

C. Notice to Radio, Television and Print Media. Notice of a special meeting shall be provided to broadcast stations licensed by the Federal Communications Commission and newspapers of general circulation that have made written request for such notice.

3. Emergency Meetings.

A. Board Emergency Meeting, When, Where Held. An emergency meeting of the Board may be called by the Chair or by a majority of the members of the Board to consider unforeseen circumstances that, if not addressed immediately, will likely result in injury or damage to persons or property or substantial financial loss. An emergency meeting may be conducted at a time and place as the Chair or a majority of the members of the Board deem appropriate.

B. Board or Committee, When, Where Held. An emergency meeting of a board or committee appointed by or acting under the authority of the Board may be called by the chair of that board or committee or by a majority of the members of that board or committee to consider unforeseen circumstances that, if not addressed immediately, will likely result in injury or damage to persons or property or substantial financial loss, to be held at such time or place as the chair of that board or committee or a majority of members of the board or committee deem appropriate.

C. Notice. If possible given the emergency circumstances, notice of an emergency meeting shall be posted in a conspicuous and appropriate place at the Santa Fe County Administrative Building at least twenty-four (24) hours prior to the meeting. If twenty-four (24) hours advance notice cannot be given, notice shall be posted as soon as possible.

D. Notice to Radio, Television and Print Media. Notice of an emergency meeting shall be provided to broadcast stations licensed by the Federal Communications Commission and newspapers of general circulation that have made written request for such notice.

E. Required Report. Any action taken at an emergency meeting shall be reported to the Attorney General's office as described in paragraph 4 of this resolution.

4. **Agendas.** Meeting notices shall include a preliminary agenda or information how the public may obtain a copy. If not posted at the time of the posting of the notice of meeting, a preliminary agenda may be prepared and posted in a conspicuous and appropriate place at the Santa Fe County Administrative Building and on the County's internet web site prior to the meeting. A final agenda shall be prepared and posted in a conspicuous and appropriate place at the Santa Fe County Administrative Building at least seventy-two (72) hours before the meeting. Except for emergency matters, action shall be taken only on items appearing on the agenda. An emergency matter is an unforeseen circumstance that, if not addressed immediately, will likely result in injury or damage to persons or property or substantial loss to the public body. Within ten (10) days of taking action on an emergency matter, the County shall report to the Attorney General's office the action taken and the circumstances creating the emergency, except in the event of a declared state or federal emergency.

5. **Recessed Meetings.** A meeting may be recessed to a later day, if, prior to recessing, the date, time and place for continuation of the meeting is specified, and, immediately following the recessed meeting, notice of the date, time and place for the reconvened meeting is posted on or near the door of the place where the original meeting was held. Only matters appearing on the agenda of the original meeting may be discussed at the reconvened meeting unless notice of the reconvened meeting is provided as otherwise set forth herein.

6. **Cancelled Meetings.** A meeting may be cancelled by posting a notice of cancellation in a conspicuous and appropriate place at the Santa Fe County Administrative Building and posting notices of the cancelled meeting on the doors of the building where the meeting was to be held as soon as practicable prior to the time and date of the cancelled meeting.

7. **Participation by Conference Telephone.** A member of the Board of County Commissioners may participate in a meeting of the Board by means of conference telephone or other similar communications equipment when it is difficult or impossible for the member to attend the meeting in person, provided that each member participating by conference telephone can be identified when speaking, all participants are able to hear each other at the same time and members of the public attending the meeting are able to hear any member of the Board who speaks during the meeting.

8. **Closed Meetings.** A meeting of the Board of County Commissioners may be closed in the following manner:

a. If the Board is in an open meeting when a closed meeting is desired and authorized by the Open Meetings Act, then the closed meeting shall be approved on motion by a majority of a quorum of the Board and the authority for the closure shall be stated in the motion. The votes of the members on the motion shall be recorded in the minutes.

b. If the Board is not in a public meeting and a closed meeting is desired and authorized, public notice of the closed meeting, appropriate under the circumstances, shall be given stating the authority for the closure.

c. Following completion of any closed meeting, the minutes of the open meeting that was closed, or the minutes of the next open meeting if the closed meeting was separately scheduled, shall state that the matters discussed in the closed meeting were limited only to those specified in the motion or notice for closure.

9. Application to County Boards, Committees. This Resolution shall apply to each meeting of a board or committee whose members are appointed by the Board or which is acting under the authority of the Board, except the Extraterritorial Land Use Authority, the Extraterritorial Land Use Commission, the Buckman Direct Diversion Board ("BDDDB"), the Regional Planning Authority ("RPA"), the Regional Emergency Communications Committee ("RECC"), the Northern Central Regional Transit District ("NCRTD"), and the Solid Waste Management Authority ("SWMA").

10. Definition: "Meeting." For purposes of this Resolution, the term "meeting" shall be defined as a meeting of a quorum of the members of the Board and each meeting of a board or committee whose members are appointed by the Board held for the purpose of formulating public policy, including the development of personnel policy, rules, regulations or ordinances, discussing public business or for the purpose of taking any action within the authority of or the delegated authority of the Board or a Committee.

11. Prior Resolution Rescinded. Resolution No. 2013-03 is hereby rescinded.

12. Effective Date. This resolution shall become effective on January 1, 2014.

APPROVED AND ADOPTED this ____ day of November, 2013.

**THE BOARD OF COUNTY
COMMISSIONERS OF SANTA FE COUNTY**

Kathleen Holian, Chair

ATTEST:

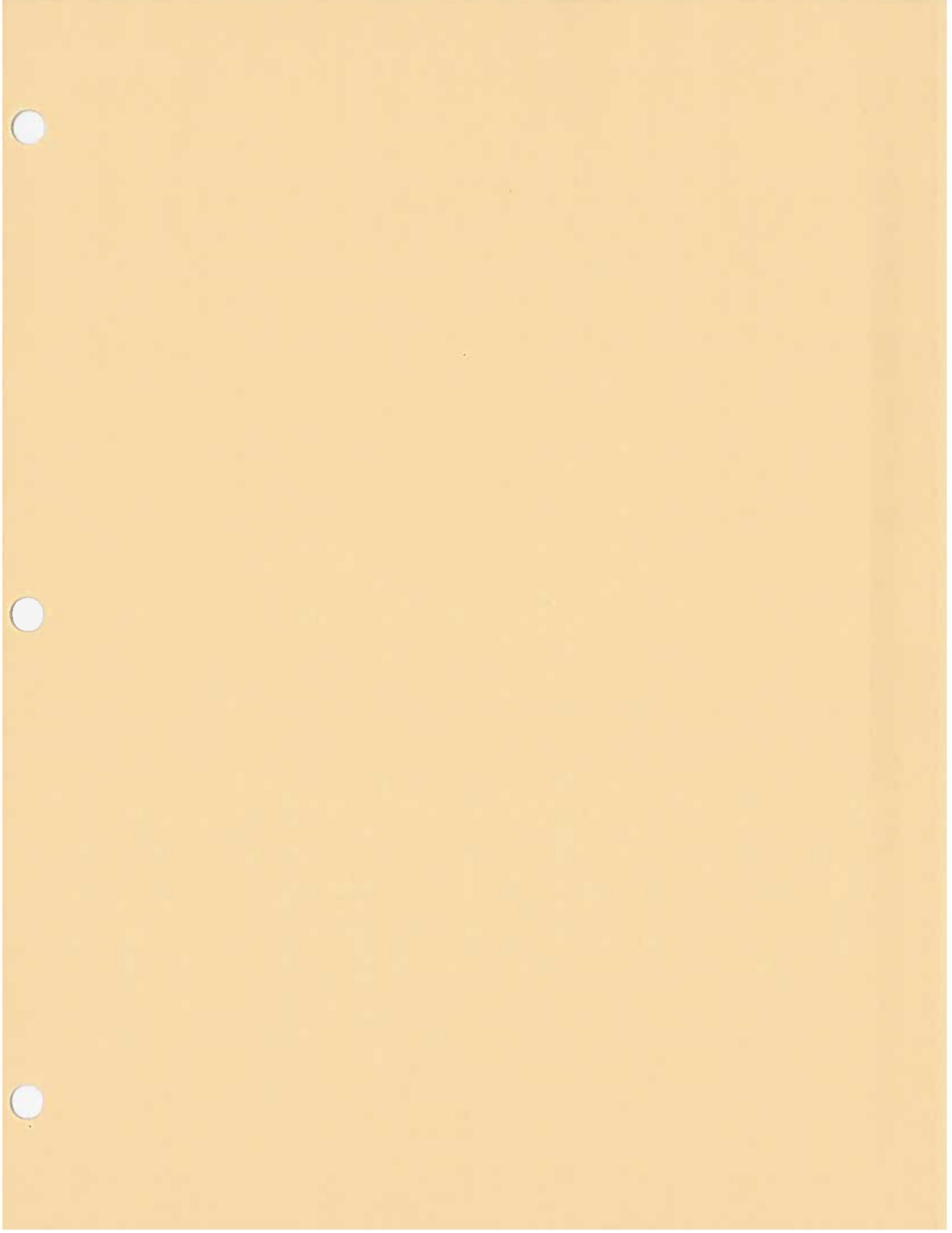
Geraldine Salazar, County Clerk

APPROVED AS TO FORM:

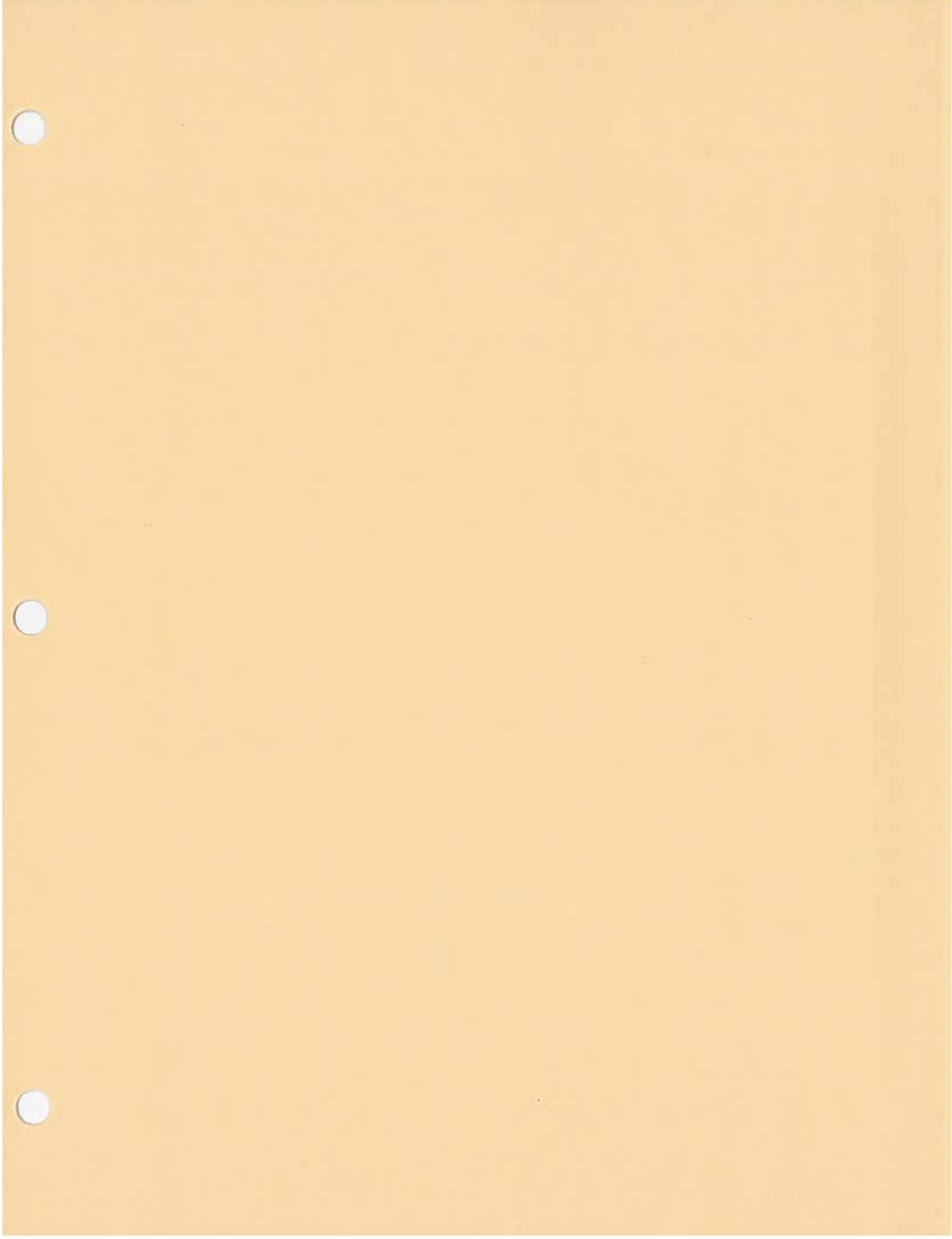
Stephen C. Ross, County Attorney



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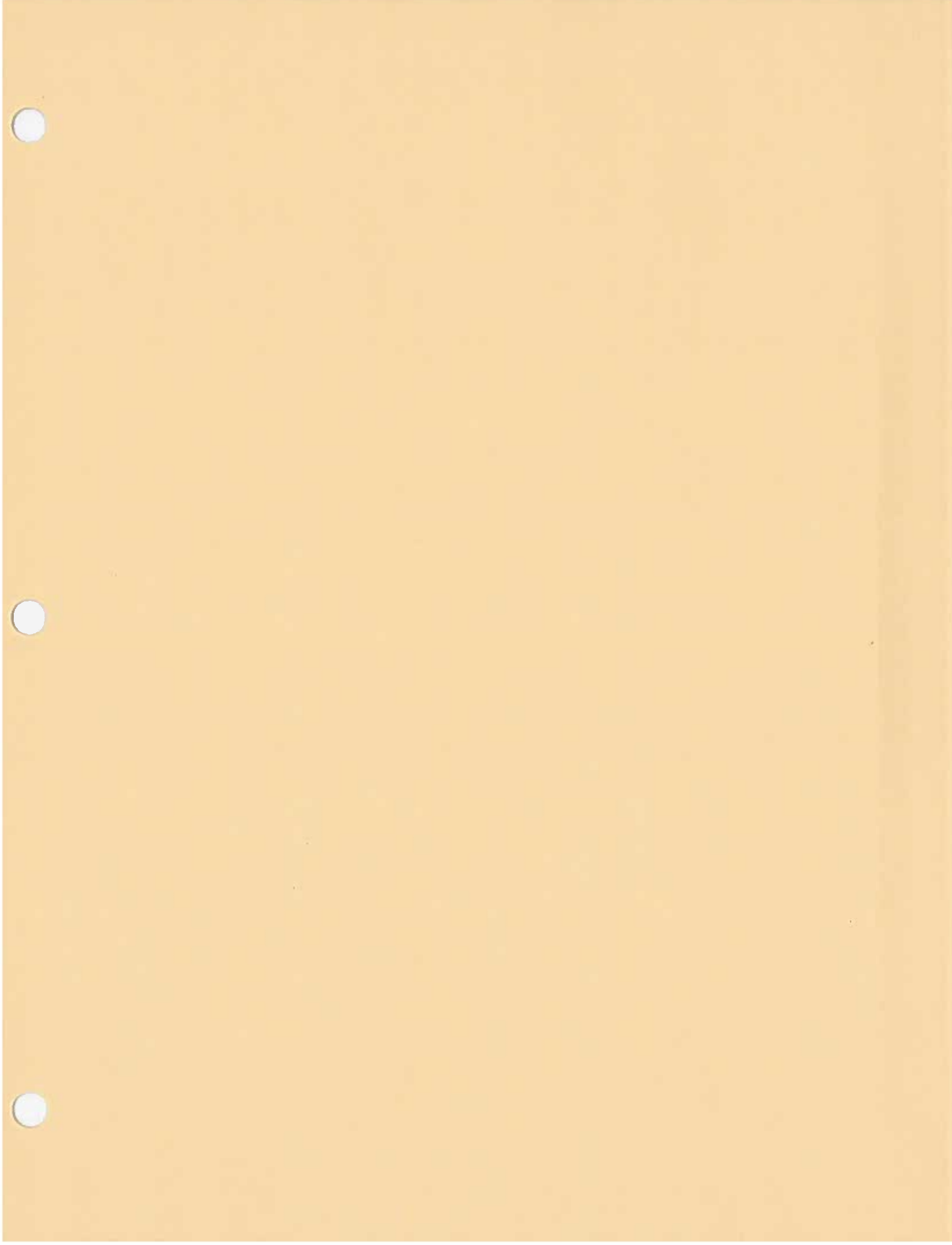
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6. EXECUTIVE SESSION