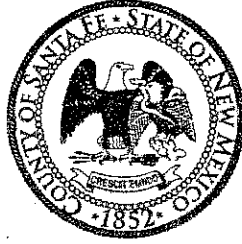


**Henry P. Roybal**  
Commissioner, District 1

**Anna Hansen**  
Commissioner, District 2

**Robert A. Anaya**  
Commissioner, District 3



**Anna T. Hamilton**  
Commissioner, District 4

**Ed Moreno**  
Commissioner, District 5

**Katherine Miller**  
County Manager

## MEMORANDUM

**DATE:** November 15, 2017

**TO:** Board of County Commissioners

**FROM:** Vicki Lucero, Building and Development Services Manager *VL*

**VIA:** Katherine Miller, County Manager  
Penny Ellis-Green, Land Use Administrator *PEG*

**RE.:** Appointment of Nancy Long as Hearing Officer Under Section 3.5.3 of the Sustainable Land Development Code Until June 30, 2018

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### SUMMARY:

Chapter 3.5 of the Sustainable Land Development Code (SLDC) gives the BCC the authority to appoint a Hearing Officer or Hearing Officers for a definite term not to exceed four (4) years, and may be re-appointed at the conclusion of any term. The Hearing Officer will assist in the adjudication of quasi-judicial applications for discretionary development approval (Exhibit A). The Hearing Officer will conduct public hearings, make written findings of fact, conclusions of law and recommendations and file written reports with such findings, conclusions of law and recommendation to the Planning Commission or BCC for further action, in matters designated in Table 4-1 (Procedural Requirements by Application Type) of the SLDC.

Nancy Long, was the successful responder to a Request for Proposals and was awarded a contract as the Hearing Officer for a period of up to four years. Ms. Long was appointed by the BCC in May of 2016 to serve as the Hearing Officer until June 30, 2017.

On June 27, 2017, the BCC re-appointed Nancy Long to serve as the Hearing Officer until December 31, 2017.

Staff is in the process of procuring multiple Hearing Officers so that in the event of unavailability or conflict of interest, a Hearing Officer is always available for each case. However, that procurement process will not be complete for a few months and cases are scheduled to be heard by the Hearing Officer in the interim. Therefore, we are requesting that the BCC appoint Nancy Long as the Hearing Officer for the next 6 months, which is consistent with her current contract.

**STAFF RECOMMENDATION:**

Staff recommends re-appointment of attorney Nancy Long to serve as the Hearing Officer until June 30, 2018.

**ATTACHMENTS:**

Exhibit A— Chapter 3.5 (Hearing Officer) of the SLDC

**3.4.2. Responsibilities.** The Administrator shall have the responsibility to administer and enforce the provisions of the SLDC, make advisory opinions on the interpretation of the SLDC, the SGMP, an area, district or community plan, hold and determine the adequacy of security instruments and issue ministerial development orders as set forth in the SLDC. The Administrator shall make a reasonable interpretation of the SLDC that is not inconsistent with the SGMP.

**3.4.3. Technical Advisory Committee.**

**3.4.3.1. Appointment; Responsibilities.** A Technical Advisory Committee (TAC) is hereby created, the members of which may be appointed by the Administrator. The TAC shall assist the Administrator as requested with review of applications.

**3.4.3.2. Members.** The TAC may include representatives, as appropriate, from all County departments. In addition and as appropriate, the TAC may include, for a specific development approval application, representatives of school districts, cities, Tribal governments, public and private utilities, assessment or public improvement districts, acequia associations, regional, state or federal agencies and persons possessing necessary technical expertise.

**3.4.3.3. Meetings.** The TAC shall meet regularly as required at the request of the Administrator. An owner/applicant shall appear before the TAC prior to filing an application as provided by the Administrator and the SLDC.

**3.5. HEARING OFFICER.**

**3.5.1. Establishment.** The SLDC hereby establishes the position of Hearing Officer for the purpose of assisting in the adjudication of quasi-judicial applications for discretionary development approval. More than one (1) Hearing Officer may be appointed, as appropriate.

**3.5.2. Referral of Matters for Hearing.**

**3.5.2.1.** Applications shall be referred to a Hearing Officer to conduct public hearings, make written findings of fact, conclusions of law and recommendations, and file written reports with such findings, conclusions of law and recommendations to the Planning Commission or Board for further action, in the matters designated in Table 4-1.

**3.5.2.2.** The Administrator, the Planning Commission, or the Board may refer other matters to a Hearing Officer, as appropriate.

**3.5.3. Term and Removal.** A Hearing Officer or Hearing Officers shall be appointed by the Board for a definite term, not to exceed four (4) years, and may be re-appointed at the conclusion of any term. A Hearing Officer may be removed by the Board solely for reasonable cause. Reasonable cause for removal of a Hearing Officer shall include, but not be limited to, violations of the standards set forth in the New Mexico Code of Judicial Conduct, as adopted by the New Mexico Supreme Court.

**3.5.4. Qualifications.** A Hearing Officer shall have a J.D. degree from a law school certified by the American Bar Association or Association of American Law Schools, with not less than six (6) years of legal experience, and shall be licensed to practice law in New Mexico. During the term of the Hearing Officer's appointment and during the three (3) years immediately preceding the Hearing Officer's appointment, neither the appointed Hearing Officer nor the Hearing Officer's law firm shall represent or have represented persons or entities with regard to land use



applications submitted to the County or in appeals of or lawsuits regarding County land use decisions. In addition, a Hearing Officer shall not during the term of the Hearing Officer's appointment:

- a. hold elective office;
- b. be employed by the County;
- c. be appointed to any County or joint board or committee of the County and City of Santa Fe;
- d. be employed by any political subdivision of the State of New Mexico or tribal government the geographic boundaries of which are located either wholly or partly within the geographic boundaries of the County; or
- e. be employed by a governmental entity from which the County requests opinions pursuant to Section 4.4.7 and Section 5.7.5.1 of the SLDC.

**3.5.5. Powers and Duties.** A Hearing Officer shall have all powers necessary to conduct quasi-judicial hearings assigned to a Hearing Officer by the SLDC.



