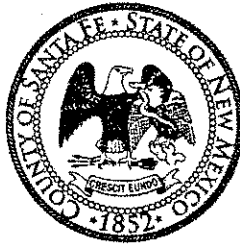


Henry P. Roybal
Commissioner, District 1

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: June 1, 2018

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

RE.: Appointment Of Richard L.C. Virtue As Hearing Officer Pursuant To Section 3.5.3 Of The Santa Fe County Sustainable Land Development Code For A Term Beginning On July 1, 2018 and Ending On June 30, 2019.

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 currently serves as the Hearing Officer. Her term and contract are set to expire on June 30, 2018.

On May 31, 2018, Staff completed the RFP process to select a new hearing officer, whose term would begin on July 1, 2018. Staff selected Richard L. C. Virtue.

The contract for the Hearing Officer is under the approval authority of the County Manager and will be for the term beginning on July 1, 2018 and ending on June 30, 2019, with the option to renew for a term not to exceed four years. Staff is requesting that the appointment be for the initial term of the

contract. At the end of that term, staff may request the Board extend appointment for a period not to exceed four years.

STAFF RECOMMENDATION:

Staff recommends appointment of attorney Richard L.C. Virtue to serve as the Hearing Officer from July 1, 2018 through June 30, 2019.

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.

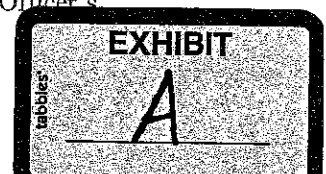
3.5.2. Referral of Matters for Hearing.

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.

