

SANTA FE COUNTY

RESOLUTION NO. 2012 -151

**A RESOLUTION ESTABLISHING PROCEDURES FOR
THE ORDERLY AND UNIFORM ADMINISTRATION OF
THE SANTA FE COUNTY PROCESS FOR ROAD
ACCEPTANCE, DESIGNATION OR RE-DESIGNATION,
AND FOR THE VACATION OF COUNTY MAINTAINED
ROADS, THEREFORE REPEALING AND REPLACING
RESOLUTION NO. 1998-119**

Whereas, Santa Fe County encompasses a geographical area of approximately 2,000 square miles; and

Whereas, the County is primarily rural with small areas of concentrated development; and

Whereas, a comprehensive road system is a necessary and vital link between communities; and

Whereas, there are an estimated 1,500 total miles of roads within the County; and

Whereas, of the total miles, approximately 576 miles are recognized as County roads and maintained by the County; and

Whereas, the County's goal is to provide the best services possible to County residents, within the available resources; and

Whereas, the citizens of Santa Fe County continuously request the County to provide maintenance on non-County roads; and

Whereas, the Board of County Commissioners desires to have a policy that will consider the requests for County maintenance on an equitable and consistent basis.

NOW, THEREFORE, BE IT RESOLVED that the Santa Fe County Board of County Commissioners adopts the following policy, Exhibit A to this Resolution, of establishing procedures for the orderly and uniform administration of the Santa Fe

County process for road acceptance, designation or re-designation, and for the vacation of County maintained roads, therefore repealing and replacing Resolution 1998-119.

PASSED, APPROVED, and ADOPTED THIS 13 DAY OF NOVEMBER 2012.

BOARD OF COUNTY COMMISSIONERS

Liz Stefanics
Liz Stefanics, Chair
Vice-Chair

Attest:

Valerie Espinoza
Valerie Espinoza, County Clerk



Approved as to form:

Stephen C. Ross
Stephen C. Ross, County Attorney



COUNTY OF SANTA FE)
STATE OF NEW MEXICO) ss

BCC RESOLUTIONS
PAGES: 15

I Hereby Certify That This Instrument Was Filed for
Record On The 19TH Day Of November, 2012 at 03:15:55 PM
And Was Duly Recorded as Instrument # 1688110
Of The Records Of Santa Fe County

Deputy Marcelle Palacios Witness My Hand And Seal Of Office
Valerie Espinoza
County Clerk, Santa Fe, NM

EXHIBIT A

A POLICY ESTABLISHING PROCEDURES FOR THE ORDERLY AND UNIFORM ADMINISTRATION OF THE SANTA FE COUNTY PROCESS FOR ROAD ACCEPTANCE, DESIGNATION OR RE-DESIGNATION, AND FOR THE VACATION OF COUNTY-MAINTAINED ROADS

SECTION 1. GENERAL PROVISIONS AND PURPOSE. --- The purpose of this Policy is to establish procedures for the orderly and uniform administration of the Santa Fe County process for road acceptance, designation or re-designation, and vacation of County-Maintained roads.

SECTION 2. AUTHORITY.--- This policy is authorized by NMSA 1978 Sections 4-37-1 (1975), 67-5-4 (1905, as amended), and 67-5-5 (1905, as amended).

SECTION 3. APPLICABILITY. --- This policy applies within the unincorporated areas of Santa Fe County, New Mexico.

SECTION 4. ROAD MAINTENANCE. ---

A. Maintenance Limited to Roads designated as County Roads.--- Only roads which have been designated as County Maintained Roads pursuant to this document shall be maintained by the County. Non-County Maintained Roads will not be maintained except in an emergency as described herein.

B. No Warranty of Maintenance.--- Although the County shall endeavor to maintain each County Maintained Road in the best possible condition, maintenance of any road is contingent on adequate funding and the limitations of manpower, weather and equipment. Accordingly, this document shall not be construed as making any representation, warranty, guarantee or promise that any road, regardless of designation, will be maintained to any particular standard.

C. Maintenance Requests.--- Maintenance of a County Maintained Road may be requested by calling the Department of Public Works, or by filling out a request either in person or over the internet. If the road is a County Maintained Road, a representative of the Department of Public Works will inspect the road to determine the maintenance needed.

SECTION 5. INITIAL DESIGNATION. ---

Each County Maintained Road shall be initially classified by the Department of Public Works according to its maintenance status as of December 31, 2012 as described in the section below.

SECTION 6. DESIGNATION. ---

A. County Maintained Road.--- A road designated as a County Maintained Road is a road which has been accepted for full County maintenance. Each County Maintained Road is assigned a number or name and marked by a blue street name sign with yellow letters. Maintenance services on County Maintained Roads may include routine maintenance, snow removal, dust control, installation or replacement of base course, chip seal, asphalt, concrete or other paving, installation and repair of drainage structures, pot-hole repair, bridge construction and repair, signage, and periodic resurfacing. Upon approval of a resolution amending the designation of a road to a County Maintained Road from a lesser designation, the road shall meet County Maintained Road standards, and signs will be replaced with signs that designate the road as a County Maintained Road.

B. Lesser County-Maintained Road. --- A Lesser County-Maintained Road is a road which has been accepted for limited County maintenance. Each Lesser County-Maintained Road shall be designated as such. Services on an unpaved Lesser County-Maintained Road shall be limited to a maximum of twice-annual motor grading, signage, limited snow removal contingent on the availability of labor and equipment, and limited repairs. A precise maintenance program will be established for each road upon acceptance into this designation, and this maintenance program shall be recorded in the resolution accepting the road.

C. Shared Maintenance.--- Maintenance of a Lesser Maintained County Road or a County-Maintained Road may be shared between the County and a private individual or individuals, a homeowners' association, a Public Improvement District, or a corporation, partnership, LLC or other entity. Shared maintenance must be documented in a binding written agreement or development agreement.

D. Non-County-Maintained Road. --- A Non-County-Maintained Road is a road which has *not* been accepted for County maintenance. A Non-County-Maintained Road may be a public road or a private road. Each Non-County-Maintained Road shall be designated as such. The County may install a County sign that indicates that a road which is Non-County-Maintained is not maintained beyond a certain point. Private roads and other roads that have not been accepted for County maintenance are Non-County-Maintained Roads for purposes of this paragraph. Non-County-Maintained roads shall; not be maintained by the County except in an emergency constituting an immediate threat to the public health, safety, welfare, or property, and then, only when a written agreement is executed wherein the County is fully reimbursed for the costs of the emergency work.

SECTION 7. RE-DESIGNATION. ---

A. Procedure. --- A road may be assigned to a different maintenance designation only by following the procedure set forth herein.

1. Initiating Re-designation. ---

a. Application Required.

i. Any person with a real property interest in a road or whose property abuts a road may apply for re-designation to a different maintenance status. The application shall be on a form prescribed by the Department of Public Works, an example of which is attached as Appendix A. Alternatively, a petition may be filed to establish a public highway pursuant to NMSA 1978 Section 67-5-20 (1905) (containing the names and signatures of all the owners of all the land through which said road passes through, along with a plat of the road along with an application). A request for re-designation may be initiated by the County, in which case no application or petition shall be necessary.

ii. As required by NMSA 1978, Section 67-5-5 (1905, as amended), an application to establish a new County-maintained road shall be accompanied by a petition signed by ten freeholders residing within two miles of the road right-of-way. The petition shall set forth a description of the road and set forth the points of terminus of the road.

iii. If several persons apply together for re-designation of a road, the persons shall select a person to serve as the representative during the application process. That person shall sign the application and will be the point of contact for purposes of discussions with staff.

iv. A copy of the most recent deeds or plats of lands encompassing the road shall be submitted along with the application.

v. If the application is filed by a person as opposed to the County, an application, investigation, and a viewing fee established by the Department of Public Works must accompany the application. Checks shall be made payable to the Santa Fe County Treasurer.

vi. If any parcel that abuts the road right-of-way has delinquent property taxes at the time application is made, the taxes must be brought current or the taxes must be challenged pursuant to the procedure set forth in New Mexico statutes, prior to the application being accepted for processing.

vii. The application must clearly identify any known waivers to the road standards application to the designation sought. For example,

if the road is not constructed to County road standards and a waiver is requested, the application must clearly state that a waiver is requested, why the waiver is being requested, and identify the standards for which a waiver is sought. In general, a waiver will only be considered if it is determined by staff and the Road Advisory Committee that an extreme health and safety issue exists.

2. Optional Pre-Application Meeting.--- Prior to filing the application, the applicant may meet with staff of the Department of Public Works, who will review the application for completeness and sufficiency.

3. Research and Inventory. --- Upon filing of the application and payment of the fee, the Department of Public Works shall conduct research into the ownership of the road for which re-designation is sought and conduct a traffic study to determine average daily trips (ADTs). If title work is required, the applicant shall reimburse the County for the costs of the title research. The Department shall conduct a public hearing on the proposed re-designation. The Department of Public Works shall also visit the site, measure the road, evaluate its condition, evaluate any drainage or other maintenance risks, determine the location of above-ground or underground utilities, conduct a traffic impact analysis, determine any driving hazards, determine the primary use of the road, and conduct any required testing.

4. Viewing.--- When a petition is received pursuant to NMSA 1978, Section 67-5-5 (1905, as amended), the Road Advisory Committee shall appoint three of its members as reviewers to view and mark out the road in question as described in NMSA 1978 Section 67-5-12 (1905), fix a time for the view, and cause notices to be posted in three public places along the road at least (5) five calendar days prior to the day fixed for the site inspection. No member of the Road Advisory Committee shall be appointed as a viewer who has any financial or familial interest (to the second degree) in the road in question. The viewers shall, pursuant to NMSA 1978, Section 67-5-10, assess damages and benefits that may accrue to the owner or owners of any of the lands over which the road may pass, and assess the proper cost of reclassifying such road. The viewers shall file a report of the inspection in the office of the County Clerk at least (10) ten calendar days prior to the next regular meeting of the Board of County Commissioners, signed by each of the viewers with a full statement of their proceedings, all pursuant to NMSA 1978 Section 67-5-14 (1905).

5. Design and Construction Standards. --- Each non-County-maintained road proposed to become a County-Maintained road shall meet the minimum design and construction standards established by the County at the time of application. This includes, but is not limited to, standards established by the Land Development Code and the Sustainable Land Development Code, as applicable, standards established by the Department of Public Works, and the Standard Specifications for Highway and Bridge Construction of the New Mexico Department of Transportation. Alternatively, if the road does not meet applicable standards at the time of application, the creation of a County Improvement District or Public Improvement District can be used to finance the work necessary to bring the road up to standards, as described in Section 10 below. Lesser

Maintained County Roads may deviate from the specifications but only so long as the minimum maintenance provided for a Lesser Maintained County Road (motor grading, signage, limited snow removal, and limited repairs) can be accomplished efficiently, but a Lesser Maintained County Road shall not under any circumstances deviate from safety requirements.

6. Prepare Report And Recommendations. --- Based on the study of the requested re-designation, the Road Advisory Committee shall prepare a report which addresses the condition of the road, its estimated annual maintenance cost, need for re-designation, availability of right-of-way, any unusual problems or conditions discovered during its research and inventory, and evaluate the road according to the criteria set forth in Section 7(A)(11), herein. The Road Advisory Committee shall indicate in the report whether its preliminary investigation indicates the request should be approved, modified, denied, or approved with conditions. A copy of the report shall be provided to the applicant and the Board of County Commissioners. If the report recommends the request be approved, preliminary approval shall be granted and the Department of Public Works may proceed with the approval process described below, except that any conditions imposed on the approval shall be completed before final approval is granted.

7. Timeline --- Upon receipt of a completed application, the Department of Public Works will research ownership of the properties on the road being requested for maintenance or re-designation within sixty (60) calendar days (any required title work may extend this timeframe). The Department of Public Works will conduct a public hearing for acceptance or re-designation within (30) thirty calendar days of completion of property ownership search. The Department of Public Works will complete its evaluation of the road within thirty (30) fifteen calendar days after the public hearing is held. The Road Advisory Committee will appoint (3) three of its members to review the road at its next scheduled meeting and conduct the onsite inspection within (10) calendar days of the date when the application is deemed complete. The report compiled by the Road Advisory Committee will be filed with the Santa Fe County Clerk's Office within (5) five calendar days of completion of the report. The Santa Fe County Board of County Commissioners will take action on the request at the next regularly scheduled Board of County Commission Meeting.

8. Acquire Right-Of-Way or Easement. ---

a. Grant of right-of-way. Each property owner with an ownership in a road which is proposed to be reclassified for County maintenance shall execute a Request for County Road Maintenance as County-Maintained Road and Grant of Right-of-Way or Easement, Appendix A, prior the application being deemed complete. The Request for County Road Maintenance as County-Maintained Road and Grant of Right-of-Way or Easement shall be properly filed and recorded with the County Clerk, but only after execution of the Resolution of Final Approval.

b. Government Property.--- Roads located on government property (federal, state, municipal, special districts) may be reclassified only where a license, right-of-entry, right-of-way, easement, or deed is provided and accepted by the County. Roads located on property held by the United States Government in trust for a Native American Pueblo may be maintained under a license or written agreement from the Tribe or Pueblo or under a lease from the Bureau of Indian Affairs, as appropriate.

c. Terms of Dedication.--- Each right-of-way or easement granted hereunder shall offer an unconditional dedication to Santa Fe County for maintenance and public use. The County may accept the dedication either contemporaneous with the dedication or subsequently, but is not obligated to accept the road for maintenance unless the provisions of this ordinance are satisfied.

d. Title insurance. --- If right-of-way in fee is acquired, at the time of transfer or closing, title insurance that shows clear title to the road may be required by the County and, if required, shall be provided by the applicants, in form acceptable to the County. Claims that dispute the ownership of the road shall be addressed prior to the County taking ownership.

e. Survey. --- At the time of transfer, a survey and plat of survey in a form acceptable to the County and prepared by a Registered New Mexico Land Surveyor meeting the Minimum Qualifications for Land Surveying in New Mexico, shall be required. If a new survey must be performed to meet this requirement, the costs of the survey shall be borne by the applicant.

9. Environmental Assessment. --- A Phase I Environmental Assessment shall be conducted on each road where reclassification to a County maintained classification from a non-County-maintained status is sought. The costs shall be borne by the applicant.

10. Identification of Funding.

a. Identification of Funds to Make Necessary Improvements. Funds for identified capital improvements or for usual and customary maintenance must be identified as set forth herein.

b. Funding Sources for Capital Improvements. A road that requires capital improvements prior to reclassification must be identified on the County's Capital Improvements Plan (CIP) and Infrastructure Capital Improvements Plan (ICIP), as appropriate. Revenue to fund projects identified on the CIP may come from the applicant(s), general revenue of the County, general obligations bonds, gross receipts revenue bonds, a development agreement, public improvement districts ("PIDs"), tax incentive districts ("TIDs"); County Assessment Districts, fees, assessments and taxes

and public and private utility rates, charges and fees, loans, incentives, funds and grants provided by regional providers and state and federal agencies.

10. Final Decision. --- Once the application is deemed complete by the Department of Public Works, a copy of the request for re-designation, report of the Road Advisory Committee, right-of-way documents, the report of the viewers, and the centerline survey map, shall be submitted to the Board of County Commissioners, who shall make the final decision. In considering a request, the Board of County Commissioners shall consider the re-designation standards set forth at Section 7(A)(11), herein. If the request is approved, the Board shall execute a Resolution of Approval, which shall include the number, composition, length, condition, location of the road, together with all information required by NMSA 1978 Section 67-5-17 as appropriate. If the road was previously a Non-County-Maintained Road and is becoming a either a Lesser County-Maintained or a County-Maintained Road, the Resolution of Approval shall order the road made open for travel and declared a public highway, and shall order copies of the Resolution of Approval posted at three public places along the line of said road, giving all parties (60) sixty calendar days notice of the commencement of County maintenance and public use. The Resolution of Approval, together with the report of the viewers, shall, pursuant to NMSA 1978, Section 67-5-16 (1905) be recorded in the office of the County Clerk.

11. Criteria.---

a. In General. The Board of County Commissioners, in its absolute and complete discretion, may direct changes in the designation of a road (e.g. from non-county-maintained, to lesser maintained, to jointly maintained, to fully maintained, or downward designation) from time to time or in response to an application filed pursuant to this policy, so long as the conditions of this policy have been met.

b. Disqualifying Factors to a Designation Change. A road shall not be re-designated for any County maintenance designation if maintenance is impossible, dangerous, or unreasonably costly, as determined by the Department of Public Works. Nor shall any road be re-designated for County maintenance if environmental problems exist.

c. Factors to be Considered. Factors that the Board will consider in making its decision are described below; staff will provide a detailed evaluation of these factors in a report that will be presented to the Board at the time it makes its decision. In general, an application will evaluate poorly if the road does not meet design and construction criteria at the time of acceptance and the applicant is unwilling or unable to improve the road as necessary or create or consent to a special funding mechanism to do so.

d. Technical Factors:

- i. Whether the road is designed and constructed to County standards as established herein;
- ii. Whether clear title to the road exists and whether title can and will be transferred to the County upon acceptance;
- iii. Whether past environmental contamination or past environmental contamination exists;
- iv. Whether the road exhibits any unusual maintenance characteristics;
- v. Whether a significant number of persons rely on the road for access and whether a minimum of 100 average daily trips (ADTs) are associated with the road;
- vi. Whether, if a minimum of 100 ADTs is not achieved as described in the previous paragraph, whether any of the following conditions exist:
 - a. Whether the roadway borders at least two separate property owners per one-half mile;
 - b. Whether the connects to at least one federal, state, county (fully maintained), or municipal road;
 - c. Whether a cost-benefit analysis is appropriate for submittal to the Road Advisory Committee given the use of the road;
 - vi. Whether there is a high number of vehicle accidents and injuries or deaths associated with the road;
 - vii. Whether the road is needed for emergency access;
 - viii. Whether the road is presently classified as a school bus route or is expected to be so classified in the future;
 - ix. Whether there exist dust problems or other public environmental health issues associated with the road;
 - x. Whether there are drainage and flood hazards associated with the road;

- long-range planning documents;
- xi. Whether the road has been identified on County
- xii. Whether damage or benefits may accrue to any person(s) as a result of the proposed re-designation;
- xiii. Whether economic benefit will accrue from the proposed re-designation;
- xiv. Whether an adequate easement or right-of-way exists for the road in question; and
- xv. Whether utility corridors and utility/fixture relocation are needed on the proposed road that will not be provided absent re-designation.

e. Financial Factors ---

- i. If the road is deficient in design or construction, whether the applicant(s) intend to improve the road to County standards prior to acceptance;
- ii. If the road is deficient in design or construction, whether County or legislative funding will be used to construct the road, or whether the applicant(s) are willing to create a public improvement district (PID) pursuant to Resolution No. 2006-40 and the Public Improvement District Act, NMSA 1978, Section 5-11-1 through 5-11-27 (2001)(as amended), a County Improvement District pursuant to the County Improvement District Act, NMSA 1978, Sections 4-55A-1 through 4-55A-43 (1980)(as amended), or a Tax Increment District pursuant to the Tax Increment for Development Act, NMSA 1978 Section 5-15-1 through 5-15-28 (2006)(as amended).
- iii. If the road will require extraordinary maintenance, whether the applicant(s) are willing to create a County Maintenance District pursuant to NMSA 1978, Section 67-4-20 through 67-4-24 (1969)(as amended);
- iv. If the road is deficient in design or construction, whether the applicant(s) are willing to provide the necessary improvements or provide funding for improvements provided by the County with its own forces through the appropriate agreement;
- v. Whether the road exhibits any costly or unusual maintenance expenses; and
- vi. The costs of acquisition of right-of-way or other necessary property.

12. Signage, Maintenance Change, Map Entry. --- After execution of the Resolution of Approval, County staff shall indicate any re-designation on official Santa Fe County road maps and on other Santa Fe County official publications, make any necessary change in signage, and modify the maintenance schedule as necessary.

B. Exceptions. --- The re-designation procedure set forth herein for re-designation of County roads shall not apply to any road whose re-designation is mandated by a court of competent jurisdiction, where changes in designation are required by repair or construction work, or as a result of an emergency. The abandonment or vacation of County roads, which is governed by the standards and procedures set forth in NMSA 1978, Section 67-5-4 (1905, as amended), is described in Section 8 below. Re-designation to a lesser-maintained County road status from a County-maintained road status does not constitute abandonment or vacation, and such a re-designation may be accomplished through the procedures set forth herein.

C. Contingent Approval. --- The Board of County Commissioners may condition its approval of a classification change upon completion of improvements, funding of improvements or maintenance, or the execution of documents. Any such conditions shall be set forth in the Resolution of Approval. Conditional approval shall become void one (1) year from the date of the Resolution of Conditional Approval; if all conditions are not met within one year, the road shall automatically revert to its previous classification without further action. Where contingencies exist, the deed of right-of-way may contain the appropriate right of reverter to provide for retransfer of the lands granted after a reasonable time.

SECTION 8. ABANDONMENT OR VACATION.

A. Procedure. The Board of County Commissioners may determine that any road or part of road currently designated as lesser or fully County-maintained may no longer be needed, or that the repairs of the same may be burdensome and in excess of the benefits conferred. In this case, the Board of County Commissioners will follow the following procedure.

B. Viewing. At a regular meeting, the Board shall direct the Road Advisory Committee to appoint three of its members who meet the requirements described in NMSA 67-5-4 (1905, as amended) and section 7.A.4 of this ordinance to view such road or part of road. These members will evaluate the road or part of road against the criteria found in section 7.11.D and compile a report setting forth fully their findings.

C. Notice of Viewing. Any person with a real property interest in the road or whose property abuts the road will be notified of the evaluation by the Road Advisory Committee or Department of Public Works staff.

D. Report and Recommendations. The Road Advisory Committee report will be presented to the BCC at their next regular meeting. If the report recommends a discontinuance of such road or part of road, then the BCC may order the same vacated.

E. Maintenance Only. If the road or part of road is ordered vacated for maintenance purposes only, the Department of Public Works shall perform a final set of maintenance activities to the affected road and remove all applicable signage. Public access easements for the road are not vacated by this process and will remain intact.

SFC CLERK RECORDED 11/19/2012

APPENDIX A
SANTA FE COUNTY
REQUEST FOR COUNTY MAINTENANCE
AS A COUNTY-MAINTAINED ROAD
AND
GRANT OF RIGHT-OF-WAY OR EASEMENT

Road Name or No. _____

Request for County Road Maintenance.

The undersigned landowner requests that the above-referenced road be maintained by the Santa Fe County Department of Public Works as a (Check one):

_____ County-Maintained Road
_____ Lesser County-Maintained Road
_____ Shared Maintained Road

Grant of Right-of-Way Easement.

The undersigned landowner hereby grants a permanent right-of-way easement along the existing roadway to Santa Fe County for the purpose of road maintenance. The easement shall be as wide as is reasonably necessary to move road machinery and equipment along or adjacent to the existing roadway without damage to presently existing fences or other structures, but in no event shall the width of the easement on either side of the roadway exceed _____ feet from the center line of the road.

WITNESS my (our) hand(s) and seal(s) this _____ day of _____, 20 ____.

LANDOWNER

LANDOWNER

(Name Printed)

(Name Printed)

Signature

Signature

ACKNOWLEDGEMENT

STATE OF NEW MEXICO)
) ss.
COUNTY OF SANTA FE)

The foregoing instrument was acknowledged before me this ____ day of _____,
20____,
by _____ and _____.

Notary Public

My commission expires: