



October 12, 2016

## Agenda

5:00 P.M. Public Hearing Meeting  
Valencia County Commission Chambers  
444 Luna Ave.  
Los Lunas, NM 87031

### Board of County Commissioners

Charles D. Eaton, Chair	District IV
Jhonathan Aragon, Vice-Chair	District V
Helen Y. Cole	District I
Alicia Aguilar	District II
David A. Hyder	District III

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***Please Silence all Electronic Devices***

- 1) Call Meeting to Order
- 2) Pledge of Allegiance
- 3) Approval of Agenda

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*Sponsorship does not indicate endorsement of a given topic*

### PUBLIC HEARING ITEM(S)

- 4) 1) Appeal Planning and Zoning Departments memorandum of the interpretation of Valencia County Code of Ordinance 154.105(F)(10) Livestock. Presenter: **Dave Pato**
  - Appeal #2016385, Applicant (s): Ernest & Rosa Saiz2) Appeal of decision based on the investigation and findings of case no. 12153 dated August 30, 2016
  - Appeal #2016385, Applicant (s): Ernest & Rosa Saiz
- 5) Chapter 36: Fire and Emergency Services (***allowing the public to comment on the proposed changes***). Presenter: **Adrienne Kozacek**

### PUBLIC COMMENT

Please sign up on the sheet located just outside the Commission Chambers. The Board will allow each member of the public wishing to address the Board an opportunity to address the board in conjunction with the Public Participation Resolution, Resolution No. 2016-37 adopted by the board **Limited to three (3) minutes per person**

*If you are an individual with a disability who is in need of a reader, amplifier, qualified sign language interpreter, or any other form of auxiliary aid or service to attend or participate in the hearing or meeting, please contact the Valencia County Manager's Office at the Valencia County Administration Building, Los Lunas, New Mexico, (505) 866-2014 at least one week prior to the meeting or as soon as possible. Public documents, including the agenda and minutes, can be provided in various accessible formats. Please contact the Valencia County Manager's Office if a summary or other type of accessible format is needed.*

## **EXECUTIVE SESSION**

Pursuant to Section 10-15 1 (H) (2) (7) & (8), the following matters may be discussed in closed session: a. personnel: *Community Development Director Applicants* b. pending or threatened litigation/ administrative adjudicatory deliberations; c. real property; d. other specific limited topics that are allowed or authorized under the stated statute:

- Motion and roll call vote to go into Executive Session for the stated reasons
- Board meets in closed session
- Motion and vote to go back into regular session
- Summary of items discussed in closed session
- Motion and roll call vote that matters discussed in closed session were limited to those specified in motion for closure, and that no final action was taken, pursuant to the authority in §10-15-1 NMSA 1978.
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## **NEXT COMMISSION MEETINGS**

**October 19, 2016-Business Meeting @ 5:00 P.M.**

**Valencia County Commission Chambers, 444 Luna Ave., Los Lunas, NM 87031**

## **ADJOURN**



**VALENCIA COUNTY  
Board of County Commissioners  
Agenda Request Form**



Commission Sponsor: **None, Pursuant to the Code of County Ordinances**  
Department Head: **Adrienne Kozacek**  
Individual Making Request: **Pursuant the Code of County Ordinances**  
Presentation at Meeting on: **October 12, 2016**  
Date Submitted: **October 4, 2016**  
Title of Request: **Appeal Planning and Zoning Department memorandum of the interpretation of Valencia County Code of Ordinance 154 105 (F)(10) Livestock.**

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**Action Requested of Commission:**

- 1) Appeal Planning and Zoning Departments memorandum of the interpretation of Valencia County Code of Ordinance 154.105(F)(10) Livestock. Presenter: *Dave Pato*
  - *Appeal #2016385, Applicant (s): Ernest & Rosa Saiz*
- 2) Appeal of decision based on the investigation and findings of case no. 12153 dated August 30, 2016
  - *Appeal #2016385, Applicant (s): Ernest & Rosa Saiz*

**Information Background and Rationale:**

The investigation of the property, referenced as case #12153, located in the unincorporated rural area of Valencia County at 6 Calle De Oro Los Lunas, New Mexico 87031, owned by Janet Cunningham was conducted on behalf of the complainants Mr. & Mrs. Earnest Saiz on July 28, 2016. After review of the applicable code provisions it was the consensus of the Department that the Code of Ordinances was unclear and inconsistent thus and a memorandum of interpretation of Valencia County Code of Ordinance section 154.105(F)(10) was issued to give direction to the Department on the meaning of the section.

Accordingly, based the calculated square footage of the pervious space of the dwellings and the amount of square footage of non-pervious land it was determined that there is no violation of the Valencia County Code of ordinance 154.105(F)(10) Livestock. Ms. Cunningham was notified of the official determination of the inspection and what her limits were based on the categorized species. At no time during the investigation did Mr. or Mrs. Saiz bring forth concerns of dust, odor, or flies emanating from the animals located on the property.

**What is the Financial Impact of this Request:**

None

**Legal:**

This matter comes before the Commission by way of an appeal of Code Enforcement Department's issuance of an administrative interpretation memorandum of Valencia County Code of Ordinance 154.105(F)(10) Livestock. Pursuant to Section 154.076(F)(6)(a), the appeal is to be held in accordance with Section 154.062. Section 154.062 (D) provides that "[u]nless otherwise provided by the P&Z or the Commission under division (E) below, the review of a decision of the P&Z or Department by the Commission shall be confined to the record of the proceedings, which shall include: (1) All materials, pleading, memoranda, stipulations and motions submitted by any party to the proceeding and received or considered by the Department or the P&Z as evidence; (2) All materials submitted by the Department with respect to the application; (3) The minutes or tape of the public hearing of the P&Z; (4) The findings and action of the Department, P&Z and the notice of review; and (5) Argument confined to the record by the parties or their legal representatives at the time of review before the Commission. Absent argument from the parties that there is testimony or other evidence that could not have been presented when the matter was initially decided, the Board must conduct a review on the record. In so doing, the Board only need permit the parties to the appeal the opportunity to present argument, confined to the record, as to why the decision is factually or legally incorrect. *Adren Nance*.

**Finance:**

N/A

**Purchasing:**

☒ Not Applicable – Agenda Item Does Not Include the Purchase Goods and/or Services (Michelle Romero)

☐ Procurement Complete as Described Below:



APPLICATION # APL 2016385

### ZONING DECISION APPEAL

Pursuant to Section 154.062 (B) of the Valencia County Zoning Code, where it is alleged that there is error in any decision or requirement, made by the P&Z Commission or the Department, an appeal may be made by an affected party to the County Commission. The written appeal shall be filed with the Department within 15 days of the decision on a proposed action and shall be accompanied a filing fee of \$150.00.

Applicant Name: ERNEST & ROSA SAIZ  
Agent (if Applicable): R JEFFREY MCNEILL, ATTORNEY  
Mailing Address: 1400 Central Ave SE; Ste. 2000; ABQ 87106  
Phone Number: 505-247-4440

All appeals MUST explain the basis of the appeal and shall include 1 or more of the following:

- A reference to the chapter provisions or plan policies providing the basis of the appeal;
- Reasons why the decision is factually or legally incorrect;
- A description of new information or additional facts which should have been considered in the decision; and
- A description of any mitigating factors which might be taken to make the decision acceptable
- A second page may be attached to support your reason(s).

Brief Description of Reason for Appeal: Factual & legal errors in Code Enforcement Officer Decision in Incident Case No. 12153, 6 Calle De Oro, Los Lunas, NM. 87031

Legal Description: Township: 6N Range: 2E Section: 17 Map: 860

Book/Cabinet: \_\_\_\_\_ Page: \_\_\_\_\_

Lands of (if applicable): Ernest Saiz

Tract(s): 44A & 44B2 or Subdivision \_\_\_\_\_

Block: — Unit: — Lot(s): —

Property Address (Site Location): 6 Calle De Oro, Los Lunas

Zoning: RR-2 Property ID#: 1-008-034-472-232-000000

Applicant Signature: [Signature] Date: 9-14-16

Application Received By: Jerrin Romero Admin. Asst Date: 09-14-16

County Commission Hearing Date: October 12, 2016  
Decision Date: October 19, 2016

Charles D. Eaton, Chair, District IV ♦ Jhonathan Aragon, Vice-chair District V  
Helen Y. Cole- District I ♦ Alicia Aguilar-District II ♦ David A. Hyder- District III



**PAYMENT TICKET**

Take this ticket to the Treasurer's Office to pay the fees.  
Bring the receipt back to the Manager's Office to collect the documents.

Date: 9-14-16

Items Requested: Planning & Zoning Appeal

Additional Fees: N/A

Total Fees Required: \$150.00 for Appeal Filing Fee

Deposit to Account: Planning & Zoning

Reference: Robert P. McNeill Law Office, 1400 Central Ave. SE Alb. NM  
87106 (505) 247-4440

Valencia County Treasurer  
PO Box 939  
Los Lunas, NM, 87031  
(505) 866-2080  
(505) 866-2428

Receipt: 2016-09-14-AD-312423

Product Name	Extended
3 Miscellaneous Receipts	\$150.00
40110034040	

Journal Account	Name	Debits	Credits
401-10015	FUND CASH ACCOUNT	\$150.00	
401-100-34040	PLANNING & ZONING FEES		(\$150.00)

Total

Tender (Check)

Check Number 10506

Payor

Robert P. McNeill attorney at law

\$150.00  
\$150.00

8/14/16 3:21 PM adavis



## VALENCIA COUNTY


### Planning and Zoning Department

444 LUNA AVENUE – P.O BOX 1119 – LOS LUNAS, NEW MEXICO 87031

Office: 505-866-2050 – Fax: 505 – 866 - 2002

Website: [www.co.valencia.nm.us](http://www.co.valencia.nm.us)

## Memorandum

To: Danny Monett  
From: Jacobo Martinez   
Date: 8/25/2016  
Re: 154.105(F)(10) Livestock Interpretation

This memorandum is an interpretation of Valencia County Code of Ordinance 154.105(F)(10) Livestock.

### ORDINANCE LANGUAGE

Pursuant to 154.105(F)(10), Livestock. The keeping of livestock shall be allowed in the RR Districts subject to the following restrictions:

- (a) All livestock shall be properly fenced and contained so as to minimize adverse impacts to surrounding property;
- (b) There shall be at least 10,000 separate square feet of pervious surface area for each cow, horse or similar animal;
- (c) There shall be at least 4,000 separate square feet of pervious surface area for each sheep, goat, pig or similar animal;
- (d) There shall be at least 600 separate square feet of pervious surface area in an enclosed structure for poultry or rabbits or similar animals;
- (e) There shall be at least 3,500 separate square feet of surface area for each dog or cat; and
- (f) Animals which are less than 6 months old are excepted from the requirements of this division herein.

### NUMBER OF ANIMALS & CLASS PER LAND AREA

The language between (e) and (f), you will see that the word “and” is utilized. It is interpreted that the word “and” is meant to be used between all of the stated statutes. For example, Pursuant to 154.105(F)(10)(b) “...[t]here shall be at least 10,000 separate square feet of pervious surface area for each cow, horse or similar animal; and “...[t]here shall be at least 4,000 separate square feet of pervious surface area for each sheep, goat, pig or similar animal;”

Which means that if an owner has one (1) acre of land they would be allowed to have up to four (4) horses, cows or similar animal and up to ten (10) sheep, pig, goat or similar animal.



**VALENCIA COUNTY**  
**Planning and Zoning Department**

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Therefore, it is the interpretation of the Valencia County Planning and Zoning Office that the use of the conjunction “and” is meant to include the series of classes of animals on a single property.

**ANIMALS ARE NOT REQUIRED TO BE SEPARATED**

Section 1154.105(F)(10),(a) to (e) calls for “[ ] at least [ ] separate square feet of pervious surface area for each [ ] similar animal.”

This interpretation is limited to only being a requirement for the property to be of a certain size in order to have a certain number of animals, see above. It is not interpreted to mean that each animal must be individually separated into a fenced area of the stated size for the animal as such a requirement would contradict the very basic standards of animal husbandry. It would not only be substandard animal husbandry, but may be considered animal cruelty, to house social animals separated in such an arbitrary manner. Accordingly, requiring each animal to be kept individually separate would render the language of the ordinance absurd.

In interpreting ordinance and determining legislative intent, courts “look first to the language and the plain meaning of that language.” *State v. Trujillo*, 2009-NMSC-012, ¶ 11. “Under the plain meaning rules statutes are to be given effect as written without room for construction unless the language is doubtful, ambiguous, or an adherence to the literal use of the words would lead to injustice, absurdity or contradiction, in which case the statute is to be construed according to its obvious spirit or reason.” *State v. Maestas*, 2007-NMSC-001, ¶ 9.

Therefore, it is the interpretation of the Valencia County Planning and Zoning office that if a landowner has 1 pervious acre, they would be able to keep 4 horses on that pervious acre in a combined pen or pens as it may be necessary to rotate the use of the acre.





## **Valencia County Code Enforcement** **Department**

444 Luna Avenue ♠ P.O. Box 1119 Los Lunas, N.M. 87031  
Phone 505-866-3304 ♠ Fax/ 505-865-2002

Incident #:

Case #:

Date: 8/8/2016

Re: Office Visit

Code Enforcement Officer: Brenda L. Alberts

On 8/8/2016 at 0935 hours I had a visit from Mr. and Mrs. Saiz regarding the investigation on the property at 6 Calle De Rio, Los Lunas, NM 87031. Mr. Saiz wanted to know if the owner was in violation. I told Mr. Saiz that it is still an open investigation and that I could not release the findings of the investigation at this time. I did let Mr. and Mrs. Saiz know that I was out at the property late in the afternoon on Friday Aug 5<sup>th</sup> and did a complete evaluation of the whole property, measurements of all the structures for actual square footage, photos of the property and the animals on the property at the time of investigation. I let Mr. and Mrs. Saiz know that I will complete the calculations and enter my report as soon as the County computer system was restored as it was down Monday morning at the time of this visit. Mr. Saiz said that he would be back in the afternoon on Monday to get my report. I told Mr. Saiz that I had until Wednesday at 5pm to complete the findings and calculations and turn in to my Director and that he would still have to go through the Managers Office to file an information release request for any information on the case.

Mrs. Saiz asked if I gave "her" (meaning Mrs. Cunningham the property owner) a violation. I told Mrs. Saiz that I still had to do the final calculations and my report will give the findings that at this time no I did not give her a violation I was still investigating the situation.

Mr. Saiz asked if I spoke to "her" attorney and was her attorney there. I told Mr. Saiz that I was not going to answer those questions since it was not pertinent to the investigation and that it would not influence this case or my decisions in any way. Mr. and Mrs. Saiz got up to leave and Mr. Saiz commented "So she has all that more time" and walked out.

Officer Brenda L Alberts  
Valencia County  
Code Enforcement



## **Valencia County Code Enforcement** **Department**

444 Luna Avenue ♠ P.O. Box 1119 Los Lunas, N.M. 87031  
Phone 505-866-3304 ♠ Fax/ 505-865-2002

Incident Case #: 12153

Task Case #: 14865

Date: 8-5-2016

Location: 6 Calle De Oro, Los Lunas, New Mexico 87031

Code enforcement Officer: Alberts, Brenda L.

I, Brenda Alberts, arrived at the location of 6 Calle De Oro, Los Lunas at approximately 2:30 pm and made contact with property owner Ms. Janet Stephens Cunningham who was expecting me for a property inspection. I explained to Ms. Cunningham that my intent on this visit was to document, measure, photograph, and view all areas of the entire property, Ms. Cunningham agreed to the intent of the investigation.

1. Property line fencing was in good condition and acceptable to secure her animals to her property.
2. The property is free of any standing water, built up trash or other such issues that allow for the breeding and harboring of pest and rodents. There were no strong or noxious odors stemming from the activities on this property.
3. The independent pens or corrals were constructed of appropriate material for the types of livestock and poultry housed at this location.
4. There was enough animal food available for each species of animal on this property.

On the east portion of this property there is a large corral where 4 horses are kept. The far east end of this corral had some weed growth. There was no evidence of excessive manure build up. All four of the horses were in good condition and appeared healthy and showed no signs or symptoms of health issues at this time.

At the north side of the property there is a hay barn measuring 20' x 27' where the chickens and ducks are kept. I observed 6 chickens and 2 ducks which were active and appeared healthy. They had water a small swimming pool and food available in the pen. Behind this hay barn structure was a corral where 3 horses are kept. The pen was clean free of any excessive manure. There was no evidence of manure build up or area that would harbor the breeding of insects or pest. They had clean adequate water and all appeared healthy and active free of any observable health issues.

On the west end of the property which is the front facing Highway 314, is a small structure being utilized as a goat house measuring 6' x 8'. There is a wire livestock panel fence off of this goat house extending to the end of the casita (approved second residence on property) and behind for the length of the casita.

Along the remainder of the west end fence line of the property is another pen where two dogs are kept. The main house sits facing south.

My inspecting of the casita and it's attached two car garage was done by an actual walk through. There was storage of normal horse equipment, tack and supplies along with some kid toys and some boxed personal belongings in the garage area. I walked through the interior of the casita and visually inspected all rooms and closets. There was a rabbit in a standard size cage in the bedroom of the granddaughter of the property owner. The rabbit was active and had adequate food and water. The rabbit appeared to be healthy and free of any observable health problems at this time.

The small structure between the two houses is the pump house for the well.

My inspection of the main dwelling was done by actual walk though where I visually observed all rooms and closets. There was a small wire dog kennel in the living room which had 2 small house dogs in it. In a bedroom there was two separate kennels that designated where the dogs slept or got pend up when the owner is not home. There were indoor potty stations located in the house as the two smaller dogs are kept in the house. There is one cat in a separate bed room from the dogs sleeping bedroom. In a third bedroom there is a bird cage with 2 parakeets. All animals located inside the main dwelling had adequate access to food and water and appear to be active and healthy with no obvious health issues at this time.

Summary of animals located on property at time of inspection:

#### **Horses**

Tracy- 11yo Thoroughbred horse white/red flea bit  
Beast- 4yo mini mule black  
Beauty- 3yo mini jenny black  
Cherry Berry- 11mo Welsh X brown with black points  
Lady Bug- Welsh X, mustang paint  
Diamond- POA white  
Cricket- Pinto buckskin

#### **Sheep**

Angel- white grade X doe  
Goat-head- black and white pigmy buck.  
Ice- white grade X doe  
Aires- wool haired doe  
Brown Sugar- tricolored pigmy  
Rose- tricolored pigmy

#### **Chickens**

6 red laying hens

#### **Ducks**

2 domestic female ducks

#### **Parakeets**

Mikey and Pauley one blue one green

#### **Dogs**

Dora- 6yo black and white long haired Dachshund  
Whiskey- 6yo red long haired Dachshund  
Cashew- tan and white Springer Spaniel  
Thor- tan Golden Retriever  
-white Great Pyrenes

**Cat**

Grumpy- black and white domestic house cat

**Rabbit**

Penelope- golden domestic rabbit

**Property is 2 acres = 87120**

**Structures** **sq. ft.**

Main Structure.....1,363

Casita.....540

Pump House.....24

Goat House.....0

Hay/Barn.....0

**Total non pervious.....1927 sq ft**

**Animals on property**

7 Horses

6 Goats

6 Chickens/2 Ducks

5 Dogs

1 Cat

2 Parakeets

1 Rabbit

**Total animals on the property**

The final determination on this case is being held until an official decision is made on the understanding, interpretation and enforcement of ordinance 154.105-F-10-a,b,c,d,e,f.

Officer Brenda Alberts

Valencia County

Code enforcement



## **Valencia County Code Enforcement**

### **Department**

444 Luna Avenue ♠ P.O. Box 1119 Los Lunas, N.M. 87031  
Phone 505-866-3304 ♠ Fax/ 505-865-2002

Incident #: 12153

Case #: 14865

Date: 8/1/2016

Re: Phone Call from Stella (neighbor to south of this property)

Code Enforcement Officer: Brenda L. Alberts

I received a phone call from a neighbor identifying herself as Stella, her property borders this property at 6 Calle De Oro. Stella wanted to report to me that Mrs. Cunningham's animals have a fungus and that they have broken through the fence and trampled her pasture tore up some bags and made a mess on her property. I asked if the horses were still there. Stella responded no that it was on Saturday and that this happened and she wants to make Mrs. Cunningham quarantine her horses because of the fungus.

I told Stella that if the horses were back on their own property I would need to have a witness to the horses being loose. Stella then told me that she was talking to Mr. Saiz the neighbor to the north of the property in question. Mr. Saiz told her that this happened since she does not live on her property she just has her horse there Stella lives in Albuquerque and goes down to care for the horses 1 time a day. I asked when she spoke to Mr. Saiz and Stella told me that he came over to her on the weekend and told Stella all about the violations that Mrs. Cunningham had and that she was in trouble and that she was getting several tickets and have to go to court. I told Stella that I would not discuss any findings over the phone that she would have to come in and sign an information release.

Stella asked me if I was going over to quarantine her animals because of the fungus. I told her that if she thinks that there is a potential zoonotic problem she can call the State Veterinarian and report it because they are the department to make that decision and to place quarantine. I provided Stella with the State Veterinarian contact number and the conversation ended.

After the phone call with Stella I did place a call to the State Department to speak to Dr. Alexandra Eckhoff at 505-841-6161 and advised that I had received a call from a citizen reporting that the horses at the location at 6 Calle De Oro have a fungus and the neighbor wants them quarantined. Dr. Eckhoff told me that the citizen with the owner's permission could take a skin scrape and bring it to the State Lab for analyses at her cost. As for the request to quarantine the property for a fungus was not going to happen. A fungus is not a zoonotic disease according to State Statue Title 21.30.4.9

Officer Brenda Alberts  
Valencia County  
Code Enforcement

# fax

TO: Valencia County Planning and Zoning FROM: Janet Cunningham-Stephens  
Jacobobo Martínez/Brenda Alberts

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FAX: 505-866-2002

PAGES: 3

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PHONE:

DATE: 8/4/2016

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RE: 6 Calle de Oro

CC:

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☐ Urgent    ☒ For Review    ☐ Please Comment    ☒ Please Reply    ☐ Please Recycle

Good Morning:

I decided I needed to provide some information and my perspective on the situation at 6 Calle de Oro. I don't know why the Salz's started the harassment, other than they are really devious/hateful people and have nothing else to do all day. They seem to have a pattern of behavior as documented by Mrs. Bonney Quintana, the seller of the property. Ernest has now enlisted the cooperation of the neighbor to the south (Estella "Stella" Teran) and they both seem to be plotting about how to get rid of us. My daughter pitied the old woman when we first moved there and helped her with her horses (feeding daily and helped a mare stay on her feet during a colic episode). Now Stella owes me money for ½ month's board (we had the mini-mules/ponies next-door for a brief time period based on her insistence). She has physically and verbally attacked us, but at least she hasn't pulled a gun on us yet. She told my daughter and I she did threaten the previous inhabitant "Michael" with a gun. We've reached the point that "enough is enough".

I will be contacting my attorney today regarding these neighbors and getting advice about how to deal with the situation from a legal perspective.

I will be selling and moving as quickly as I can. The majority of the household is packed up and ready to go.

August 3, 2016

Subject: 6 Calle de Oro (4978 Highway 314 SW), Los Chavez, NM

To Whom It May Concern:

I purchased this property in June 2015 from Virginia Bonney Quintana. At some previous point in time, it had belonged to Ernest Saiz.

It is platted as two tracts, a 1.9 acre parcel and a 0.1 acre parcel for a total of 2 acres. A main house (1,673 square feet), a casita (630 square feet), goat shed and small barn structure are located on the site.

My daughter, granddaughter and I live here on the "farm". I was told by Mrs. Bonney Quintana that her family had sheep, goats, chickens, horses and cows on this property before her husband, John Bonney, was killed in the railroad crossing incident with the RailRunner train.

Mr. Saiz has been very demanding since we moved in. We used to keep the front gate open during the day, but it got to a point where he was on the property constantly telling me what I could/could not do and threatening me that if I didn't do what he said, he would make trouble by calling Valencia County, take me to court, take down the fencing, etc. He has tried or followed through on his plan as stated. The gate is closed and locked 24 hours a day to keep Ernest Saiz out. The final straw occurred after he came over one day and questioned me about a couple of cats that had showed up in the barn. He wanted to know if they were ours. I replied that they weren't, but they were keeping the mice out of the animal feed. A week or two later, in the early morning, I heard the sound of two gunshots and the stray cats disappeared.

He stated on several occasions that he never should have sold the property. He made an offer to Mrs. Bonney Quintana of \$35,000. She told me she didn't bother responding to him. She also told me that she had at one point leased the casita to Ernest's son. When his son didn't or couldn't pay the rent, Ernest and Evangeline "Vangle" moved in, without permission. John and Virginia had to sue to evict them, while they ran up a very large electric bill. She said they did it in order to be vindictive over the lawsuit.

Ernest has constantly watched my daughter. She will be cleaning the ponies pen and he will be standing and watching her or lurking around among the equipment he has stored on/adjacent to my field area. At the end of May/early June, he installed a camera on his metal workshop building, facing into my property and towards my daughter's casita. There is nothing he can watch on his property given the location of the camera. A report was taken by the Valencia County Sheriff's Department. This camera is purely for harassment and stalking. In addition, he watches my 6 year old granddaughter. She has been instructed to report him to her mother when she notices that he is staring at her.

He and his wife have made my 6 year old granddaughter cry. One day, my daughter and granddaughter were outside working on the property. The Saiz's were outside with their dog. Their dog and my granddaughter's dog were barking at one another. The Saiz's were yelling insults about my

granddaughter's dog, calling her stupid and other names. (My daughter called me on her cell phone so that I could hear what was going on). These people are old enough to know better.

Ernest Saiz told me (and the property surveyor) that he put the fences inside my property line because John and Virginia Bonney would not share in the cost of the fence installation. He told me he was entitled to take the land because he wasn't paid for the fencing.

Ernest has also misrepresented the acreage of the property, knowing that it is a full 2 acres and not 1.5 acres.

Ernest, Jr. has misrepresented himself as a building inspector/code enforcement employee. According to the City of Albuquerque, he is a Residential Collections Driver for the Solid Waste Department.

Within the last two weeks, a phone call and an email were received by my employer's Community Development Director and Mayor regarding this situation. They are fully aware of my position regarding this matter. Again, this is harassment.

I have contacted Alex Baca, Realtor, with Coldwell-Banker, in Los Lunas. He is working on producing a market analysis, contract, and updated pricing for the property. He will be out to take pictures this weekend, if not sooner, and will aggressively market the property to find a suitable Buyer.

I want to get rid of this place as soon as possible. We haven't had a moment's peace since moving here. My daughter has moved corral panels at least a dozen times trying to appease the Saiz's, I paid a significant amount of money to fill in a pond because Ernest complained about being flooded by the previous inhabitant, we have rehomed several dogs, and moved livestock off the property.

I am also currently advertising to find a place to board the grey thoroughbred mare and two mini-mules until we have sold this place and relocated elsewhere.

We have been packing, donating useable items, and getting rid of "stuff" for over a month given that I have decided to sell rather than stay. We are tired of the constant scrutiny, harassment and his stalking.

We don't have loud parties, we don't do drugs, we don't even know any unscrupulous or gang type people. We just want to be left alone until we move ---the sooner, the better.

Thank you.

Janet L. Cunningham-Stephens  
6 Calle de Oro  
P.O. Box 277  
Los Lunas, NM 87031



# ROBERT P. McNEILL

LAW OFFICES

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Sycamore Square, Suite 2000, 1400 Central Avenue, SE, Albuquerque, NM 87106  
(505) 247-4440 (Tel) (505) 998-6628 (Fax) Bobmac@swcp.com (e-mail)

September 29, 2016

**Hand-Delivered**

Kerrie Maes  
Valencia County Planning & Zoning  
444 Luna Avenue, SE  
Los Lunas, NM 87031

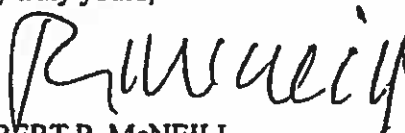
Re: Appeal of Ernest & Rosa Saiz; Incident Case No. 12153

Dear Ms. Maes:

Enclosed herewith, by hand-delivery by my client Ernest Saiz, is Appellants' Amended Brief in Support of Appeal with reference to the hearing before the County Commission scheduled for 5:00 pm on Wednesday, October 12, 2016. Please disregard the original Brief which I mailed to you yesterday.

Thank you for your assistance.

Very truly yours,

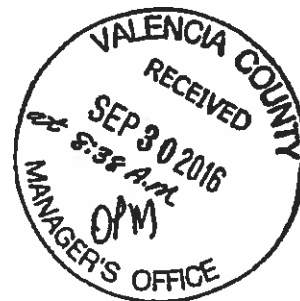


ROBERT P. McNEILL

Enclosure

copy:  
Ernest & Rosa Saiz

BEFORE THE VALENCIA COUNTY  
BOARD OF COUNTY COMMISSIONERS



IN RE THE APPEAL OF ERNEST AND ROSA SAIZ  
REGARDING ZONING ENFORCEMENT RULING;  
INCIDENT CASE NO. 12153

APPELLANTS' AMENDED BRIEF IN SUPPORT OF APPEAL

Appellants Ernest and Rosa Saiz, through their attorney Robert McNeill, herewith submit the following in support of their appeal in this matter:

1. Pursuant to Section 154.062(B) of the Valencia County Zoning Code, this is an appeal from a Valencia County Code Enforcement Department decision (the "Decision") by Code Enforcement Officer Brenda L. Alberts issued August 30, 2016, and a memorandum dated August 25, 2016, addressed to Danny Monette from Jacobo Martinez which provides an interpretation of Valencia County Code of Ordinance 154.105(F)(10) which is referenced in the Decision and is used in support thereof.

2. Appellants Saiz have resided at 5000 Highway 314, Los Lunas, NM 87031 since 1978. The property on which Appellants assert a continuing violation of the cited Zoning Code exists is the immediately adjacent property located at 6 Calle De Oro, Los Lunas, NM 87031. The property owners at 6 Calle De Oro have resided at their property since on or about June 2015 and have been hostile, rude and uncooperative towards Appellants Saiz. Perhaps

not coincidentally, the property owner in question is the Planning & Zoning Director for the Town of Bernalillo. Appellants have not experienced any similar problems during their almost four decades of residency. The number of animals, particularly horses, on the Calle De Oro property constitute a nuisance and serious disruption of Appellants' quiet right of enjoyment of their adjacent property. The close proximity of the animals and Appellants' property will be demonstrated with testimony and photographs during the hearing.<sup>1</sup> The animals create significant odor, dust, and flies, and the animals are immediately next to the driveway and residence of Appellants. The owner of the Calle De Oro property makes little or no effort to clean up after their animals, and the animal feces create unacceptable odor, dust, and flies problems. There are also violations in this matter of the Valencia County Public Nuisances Odor Nuisance regulation (Chapter 92.23, and the Solid Waste regulation (Chapter 92.24 (B) according to any reasonable reading of these regulations.

3. The Decision discloses errors in math in the counting of animals, improper classification of animals, and errors in the calculation of the non-pervious property on the Calle De Oro property.

4. The Zoning Code section at issue is § 154.105(F)(10)

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<sup>1</sup> Since the Decision of August 30, 2016, additional horses, goats, and dogs have been located on the Calle De Oro property.

(Livestock), which provides, inter alia, at (b):

(b) There shall be at least 10,000 separate square feet of pervious surface area for each cow, horse or similar animal;

© There shall be at least 4,000 separate square feet of pervious surface area for each sheep, goat, pig or similar animal;

(e) There shall be at least 3,500 separate square feet of surface area for each dog or cat;...

5. The Decision reports the property is two acres, or 87120 square feet, in size. The Calle De Oro property includes a main house with three bedrooms and two baths and upon information and belief, is at least 2,000 square feet in size, and also includes a separate apartment of approximately 1,200 square footage, and a pump house of some square footage. The Decision further asserts a total of 1,927 square feet in total non-pervious square footage. This conclusion is factually incorrect. In addition to the above, the Decision includes the number of goats, (6), times 4,000 square feet (the "at least 4,000 separate square feet of pervious surface area for each..." provision in the regulation, concluding that 20,000 pervious surface area is required. The correct math for this calculation is 24,000 square feet. This error improperly reduces the required pervious surface area required in this case.

6. The Decision further lists seven horses and six goats on the subject property. There are now eight horses and at least 16 goats or sheep on the property. Thus, the Decision is wrong, both

in terms of the actual number of animals present and the actual pervious surface area square footage.

7. For the foregoing reasons, the Decision is clearly erroneous. At a minimum, a follow up inspection should be ordered in the presence of Appellants and the undersigned.

8. This appeal further challenges the legal validity of the memorandum dated August 25, 2016, written by Jacobo Martinez and addressed to Danny Monett. The memorandum is attached to and relied upon by the Decision. The memorandum asserts that the word "and" at the end of § 154.105(F)(10)(e) "is meant to be used between all of the stated...[regulation subsections]." This interpretation would rewrite and change the regulation in a significant manner, and such construction of a statute or regulation is contrary to basic law of the interpretation of clear statutory or regulatory language. Agency rules and regulations, like statutes, are subject to rules of interpretation. NMSA 1978, § 12-2-1, *Albuquerque Bernalillo Co. Water Util. Auth v. N.M. Public Regulation Comm'n*, 127 N.M. 120. When interpreting agency regulations, Courts follow canons of statutory interpretation, and regulatory interpretation, as with statutory interpretation, is based on a rule's *plain language*. The court simply applies the regulation as written. The revision proposed by Mr. Martinez would violate the basic canons of statutory interpretation. *Alliance Health of Santa Teresa, Inc. v. Nat'l Presto Indus.*, 143 N.M. 133

(Ct. App. 2007). A court must consider the entire regulatory and statutory scheme and interpret each part harmoniously with the whole to effectuate the statute's purpose. *Pueblo of Picuris v. N.M. Energy, Minerals and Nat. Res. Dept.*, 131 N.M. 166, 169 Ct. App. 2001; §§ 12-2A-18(A)(1), (2) NMSA 1978. The latter statutory section sets forth the principles of construction discussed above. In short, you can't simply rewrite a regulation or rule to accommodate a preconceived and desired decision, which is obviously what occurred here. The memorandum was authored five days before the Decision, which is suspect and suggests a plan to get around the plain meaning of the regulation in this case. Apparently, the Zoning Department believes that inserting the word "and" in several locations where the word is not present in § 154.105 (f)(10)(e) allows a cumulative totaling of the separate square feet of pervious surface area requirements for the individual several categories of animals identified in subparagraphs (b), ©, and (e) of the regulation. Whether this improper revision of the regulation makes any difference in this case is a legitimate question; however, it is apparent that the Zoning Department believes it assists in supporting her Decision. It will be interesting to hear why the Zoning Enforcement Officer believes this rewriting of the regulation is helpful to her Decision. Regardless, the Zoning Department, and this Commission, is not entitled to deference when an interpretation of a regulation

violates the rules of regulatory construction.

The Commission is also required to interpret the subject regulation to meet the intent and purpose of the underlying policy of protecting the public health and welfare. See, for example, *N.M. Board of Pharmacy and N.M. Medical Board v. N.M. Board of Chiropractic Examiners*, N.M. Court of Appeals, No. 31,668 and 31,690, consolidated. The regulation at issue in this appeal is for the purpose of protecting the public health and welfare and cannot be rewritten to achieve a different result in a given case.

For the reasons stated, Appellants respectfully ask the Commission to reverse the Decision of the Valencia County Code Enforcement Department and remand the matter for a decision consistent with the foregoing analysis and reasoning, and based on another inspection that accurately counts the animals and relies on the plain language of § 154.105 (f)(10) of the regulations.

Respectfully submitted,



ROBERT P. MCNEILL  
Attorney for Appellants  
Ernest and Rosa Saiz  
1400 Central Avenue, SE  
Suite 2000  
Albuquerque, NM 87106  
505-247-4440

ROBERT P. McNEILL  
LAW OFFICES

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Sycamore Square, Suite 2000, 1400 Central Avenue, SE, Albuquerque, NM 87106  
(505) 247-4440 (Tel) (505) 998-6628 (Fax) Bobmac@swcp.com (e-mail)

September 1, 2016

Board of County Commissioners  
Valencia County  
444 Luna Avenue, SE  
Los Lunas, NM 87031

Valencia County Planning and Zoning Department  
P.O. Box 1119  
Los Lunas, NM 87031

Valencia County Code Enforcement Department  
P.O. Box 1119  
Los Lunas, NM 87031

Re: Incident Case No.: 12153  
Location: 6 Calle De Oro, Los Lunas, NM 87031

Ladies and Gentlemen:

This law firm represents Ernest and Rosa Saiz of 5000 Highway 314, Los Lunas, NM 87031. This letter represents our notice of appeal of the decision issued in the above referenced incident by Valencia County Code Enforcement Officer Brenda L. Alberts on August 30, 2016. This appeal is based upon factual errors contained in the decision and a legally incorrect interpretation of the applicable ordinance upon which the decision appears to be founded.

We further appeal the memorandum dated August 25, 2016, addressed to Danny Monett from Jacobo Martinez, which purports to interpret Valencia County Code of Ordinance 154.105(F)(10) and is clearly erroneous.

Please advise immediately if any further steps are required to administratively appeal the above decision and memorandum and explain the process to be followed in this matter. We will provide a written statement of our position with respect to the decision and the referenced memorandum to the Commission and the Planning and Zoning Department.



Valencia County Government  
September 1, 2016  
Page 2

Thank you for your cooperation.

Very truly yours,

A handwritten signature in black ink, appearing to read 'R. McNeill', with a long, sweeping horizontal stroke extending to the right.

ROBERT P. McNEILL

copies: Ernest and Rosa Saiz  
Ernest Saiz, Jr.





# BUILDING INFORMATION

Yr. Built

Yr. Remod.

Yr. Remod.

GROUND PLAN SECTION

1.0000

Observed Physical Condition, ID

Total Rooms	Bed Rooms	Car Port	Garage
1 2 3 4	1 2 3 4	1 2 3 4	1 2 3 4

## TYPE AND USE

1. Family Dwelling
2. Family Dwelling
3. Multi-Family Apt.
4. Other

## 1. FOUNDATION: GRADE

- Concrete Blk. \_\_\_\_\_
- Stone \_\_\_\_\_
- Other \_\_\_\_\_

## 2. EXT. WALLS: GRADE

- Frame With: \_\_\_\_\_
- Single siding \_\_\_\_\_
- Shingle, wood, comp. \_\_\_\_\_
- Stucco on frame \_\_\_\_\_
- Cont. brick: Stuccoed \_\_\_\_\_
- Brick: Solid \_\_\_\_\_
- Face: \_\_\_\_\_
- Adobe: Stuccoed \_\_\_\_\_
- Not stuccoed \_\_\_\_\_
- On edge \_\_\_\_\_
- Stone: Solid \_\_\_\_\_
- Veneer \_\_\_\_\_
- Other \_\_\_\_\_

## 3. PLUMBING: GRADE

- Water Only \_\_\_\_\_
- No. Baths (3 Fixtures) \_\_\_\_\_
- No. Toilet Rms. (2 Fix.) \_\_\_\_\_
- No. Sinks \_\_\_\_\_
- Sinks \_\_\_\_\_
- City Water and Sewer \_\_\_\_\_

## 4. ELECTRICITY: GRADE

- Electricity: Yes \_\_\_\_\_ No \_\_\_\_\_
- Adequate Outlets \_\_\_\_\_
- Inadequate Outlets \_\_\_\_\_

## 5. DESIGN: GRADE

- Utility: \_\_\_\_\_
- Custom Bldg: \_\_\_\_\_
- Architectural Design \_\_\_\_\_
- Fixtures \_\_\_\_\_
- Plumbing \_\_\_\_\_

## 6. BOLLARDS: GRADE

- Diswasher \_\_\_\_\_
- Range \_\_\_\_\_
- Cupboard Space \_\_\_\_\_
- Closest. Adequate \_\_\_\_\_
- Inadequate \_\_\_\_\_

## 7. HEATING: GRADE

- No heat or stove heat \_\_\_\_\_
- Hot air, pipes \_\_\_\_\_
- Piped heat (Gravity) \_\_\_\_\_
- Forced Circulation \_\_\_\_\_
- Steam or Hot Water \_\_\_\_\_
- Radiant, Concrete \_\_\_\_\_
- Electric, all types \_\_\_\_\_
- Central Air Conditioned \_\_\_\_\_

## 8. ROOF: GRADE

- Type: Flat \_\_\_\_\_
- Gable \_\_\_\_\_
- Hip \_\_\_\_\_
- Roofing: Asphalt or T.G. \_\_\_\_\_
- Wood or Comp. Shingles \_\_\_\_\_
- Metals \_\_\_\_\_
- Skate or Tile \_\_\_\_\_
- Insulation \_\_\_\_\_

## 9. FLOORS: GRADE

- Stucco \_\_\_\_\_
- Hardwood \_\_\_\_\_
- Concrete \_\_\_\_\_
- Comp. Tile \_\_\_\_\_
- Carpeted \_\_\_\_\_
- Car. Tile \_\_\_\_\_
- Kitch. \_\_\_\_\_

## 10. INT. FINISH: GRADE

- Wallboard \_\_\_\_\_
- Shetrock \_\_\_\_\_
- Paneling \_\_\_\_\_
- Other \_\_\_\_\_

## 11. DIMENSIONS

- Room \_\_\_\_\_
- Width \_\_\_\_\_
- Depth \_\_\_\_\_
- Height \_\_\_\_\_
- Furn. \_\_\_\_\_
- Floor \_\_\_\_\_
- Roof \_\_\_\_\_
- Walls \_\_\_\_\_
- Missing \_\_\_\_\_
- Rear \_\_\_\_\_
- Light \_\_\_\_\_
- Plug \_\_\_\_\_
- Age \_\_\_\_\_
- Area \_\_\_\_\_
- Unit \_\_\_\_\_
- Cost \_\_\_\_\_
- Add. Bldg. \_\_\_\_\_
- Net \_\_\_\_\_
- Cont. \_\_\_\_\_

## 12. TOTAL GRADES

- TOTAL + 10 = Av. Grade \_\_\_\_\_
- BASEMENT: Name \_\_\_\_\_
- 1/4 \_\_\_\_\_
- 1/2 \_\_\_\_\_
- Finished Ref. \_\_\_\_\_
- Finishes \_\_\_\_\_
- Single File \_\_\_\_\_
- Double File \_\_\_\_\_
- Stories \_\_\_\_\_

## 13. DESCRIPTION, REPLACEMENT COST AND APPRAISAL OF MAIN BARN AND ACCESSORY BUILDINGS

- Room \_\_\_\_\_
- Width \_\_\_\_\_
- Depth \_\_\_\_\_
- Height \_\_\_\_\_
- Furn. \_\_\_\_\_
- Floor \_\_\_\_\_
- Roof \_\_\_\_\_
- Walls \_\_\_\_\_
- Missing \_\_\_\_\_
- Rear \_\_\_\_\_
- Light \_\_\_\_\_
- Plug \_\_\_\_\_
- Age \_\_\_\_\_
- Area \_\_\_\_\_
- Unit \_\_\_\_\_
- Cost \_\_\_\_\_
- Add. Bldg. \_\_\_\_\_
- Net \_\_\_\_\_
- Cont. \_\_\_\_\_

## 14. NOTES

- Room \_\_\_\_\_
- Width \_\_\_\_\_
- Depth \_\_\_\_\_
- Height \_\_\_\_\_
- Furn. \_\_\_\_\_
- Floor \_\_\_\_\_
- Roof \_\_\_\_\_
- Walls \_\_\_\_\_
- Missing \_\_\_\_\_
- Rear \_\_\_\_\_
- Light \_\_\_\_\_
- Plug \_\_\_\_\_
- Age \_\_\_\_\_
- Area \_\_\_\_\_
- Unit \_\_\_\_\_
- Cost \_\_\_\_\_
- Add. Bldg. \_\_\_\_\_
- Net \_\_\_\_\_
- Cont. \_\_\_\_\_

## 15. SUMMARY OF APPRAISED VALUES

- Principal Bldg. \_\_\_\_\_
- Other Principal Bldg. \_\_\_\_\_
- Accessory Bldg. \_\_\_\_\_
- Total Bldg. \_\_\_\_\_
- Total Land \_\_\_\_\_
- Total Appr. \_\_\_\_\_

## 16. TOTAL GROUND ARE

- Year \_\_\_\_\_
- 1905 \_\_\_\_\_
- 1915 \_\_\_\_\_
- 1925 \_\_\_\_\_
- 1935 \_\_\_\_\_
- 1945 \_\_\_\_\_
- 1955 \_\_\_\_\_
- 1965 \_\_\_\_\_
- 1975 \_\_\_\_\_
- 1985 \_\_\_\_\_
- 1995 \_\_\_\_\_
- 2005 \_\_\_\_\_
- 2015 \_\_\_\_\_
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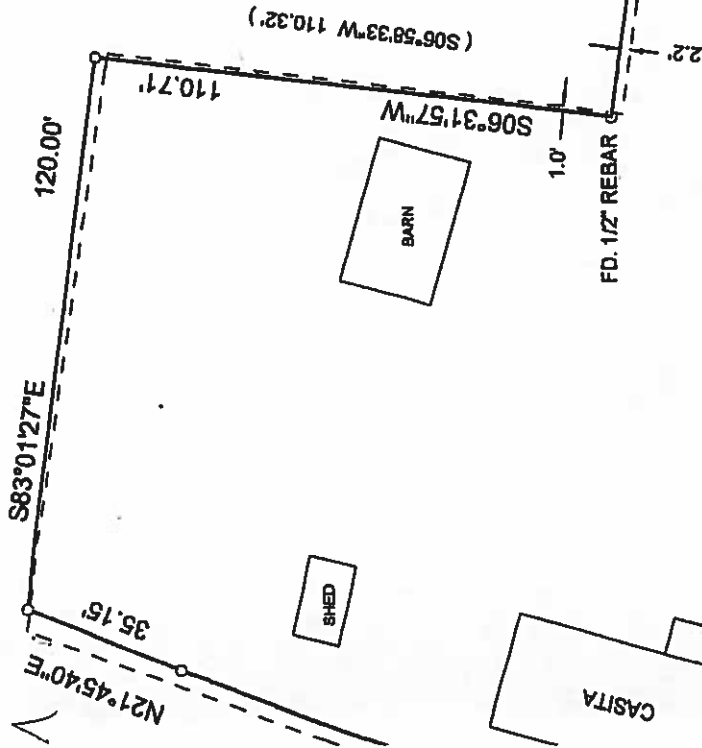
## 17. SUMMARY OF APPRAISED VALUES



BOUNDARY SURVEY PLAT  
TRACT 44A AND TRACT 45B2, M.R.G.C.D. MAP 86  
PLAT SHOWING A PORTION OF LANDS OF ERNEST SAIZ  
WITHIN PROJECTED SECTION 17, T6N, R2E, N.M.P.M.  
WITHIN THE NICOLAS DURAN DE CHAVEZ GRANT  
VALENCIA COUNTY, NEW MEXICO  
JUNE, 2015

Arc 209.59 Tangent 105.25 Chord 209.14 Chord Bearing N15°16'01"E

TRACT 1, LAND DIVISION PLAT OF  
LAND OF ERNEST L. SAIZ  
FILED CABINET "I", PAGE 518



TRACT 1, LAND DIVISION PLAT OF  
LAND OF ERNEST L. SAIZ  
FILED CABINET "I", PAGE 518

TRACT 44A AND TRACT 45B2  
M.R.G.C.D. MAP 86  
2.0027 AC.

TRACT 47, M.R.G.C.D. MAP 86  
PLAT FILED CABINET "L", PAGE 349  
PLAT OF LAND OF GOODE

DESCRIPTION  
TRACTS 44A AND 45B2, AS SUCH TRACTS ARE SHOWN ON "PLAT SHOWING A PORTION OF  
LANDS OF ERNEST SAIZ", AS SUCH PLAT IS FILED IN THE OFFICE OF THE COUNTY CLERK  
OF VALENCIA COUNTY, NEW MEXICO, ON AUGUST 22, 1984 IN PLAT BOOK 12, PAGE 112.

SURVEYOR'S CERTIFICATE

I, David E. Tibbetts, a New Mexico registered Professional Land Surveyor, certify that I  
conducted and am responsible for this survey, that this survey is true and correct to the best of my  
knowledge and belief, and that this survey and plat meet the Minimum Standards for Surveying  
in New Mexico.

I further certify that to the best of my knowledge and belief, that this plat is not a land division, and  
is a plat of existing tract or tracts.

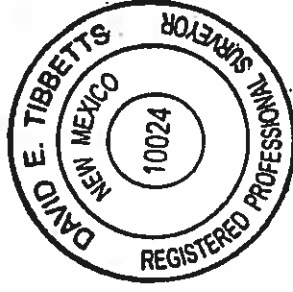
*David E. Tibbetts* 6-9-2015

David E. Tibbetts, P.S. 10024 Date

Survey Notes:

1. Unless otherwise noted, all corners are set 5/8" rebar stakes with yellow plastic I.D. caps impressed "TIBBETTS 10024".
2. Date of field survey June, 2012.
3. Basis of bearings is plat of record based on found rebar as shown.
4. Course data in parentheses is from record deed or adjoining plat of record where it differs from field measurements by amount exceeding N.M. Minimum Standards.
5. This land is within a 100 year flood zone A as shown on FEMA FIRM 35061C0405E, effective August 19, 2010.

DAVID TIBBETTS SURVEYING CO.  
P.O. BOX 2337  
LOS LUNAS, N.M. 87031  
PH: 505-865-0396  
FAX 865-4107



REVIEWED BY VALENCIA COUNTY PLANNING AND ZONING

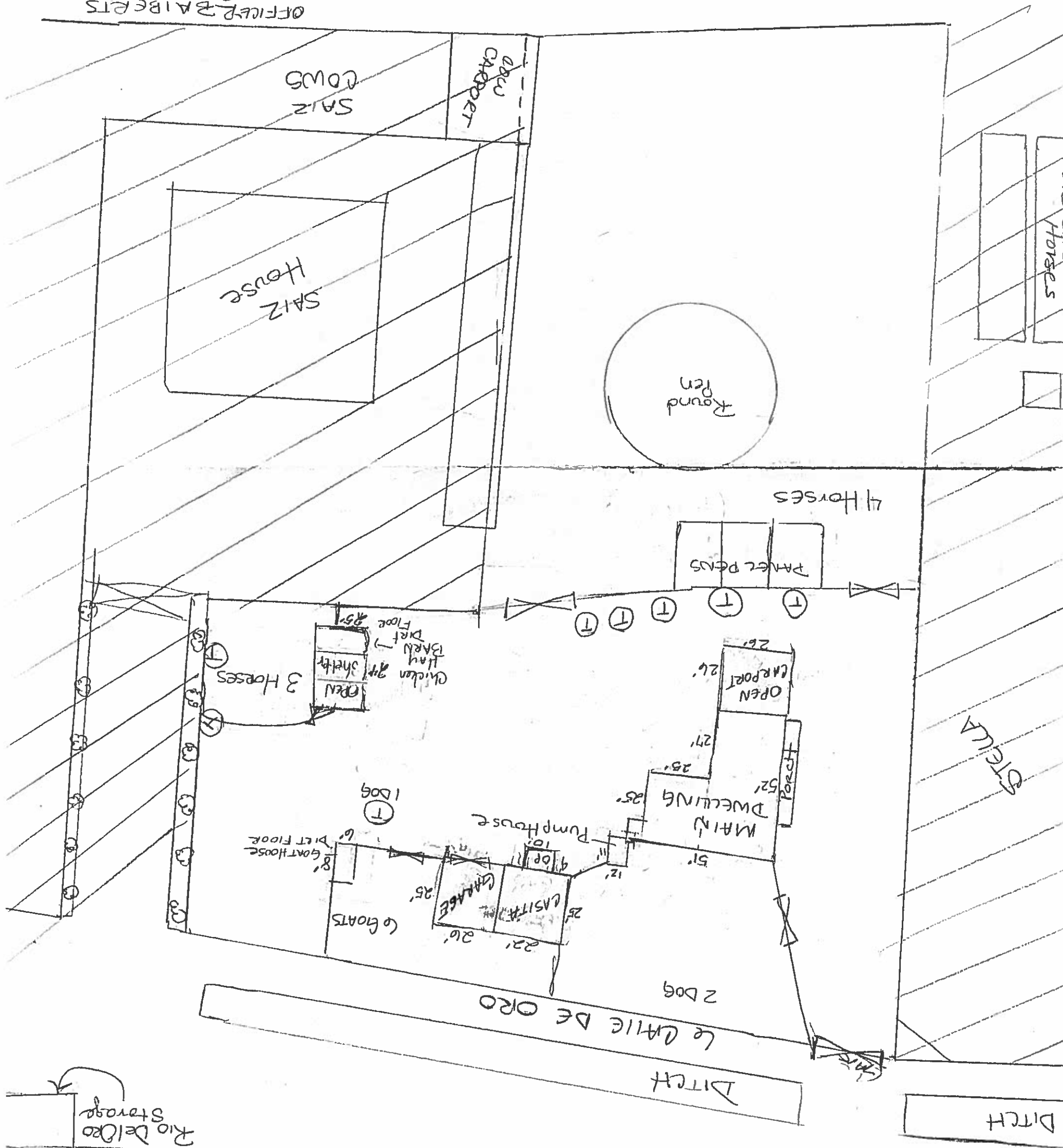
DATE

FILED IN THE OFFICE OF THE VALENCIA COUNTY CLERK ON THIS

INVEST #12153  
TASK # 14865

→ Highway 314 →

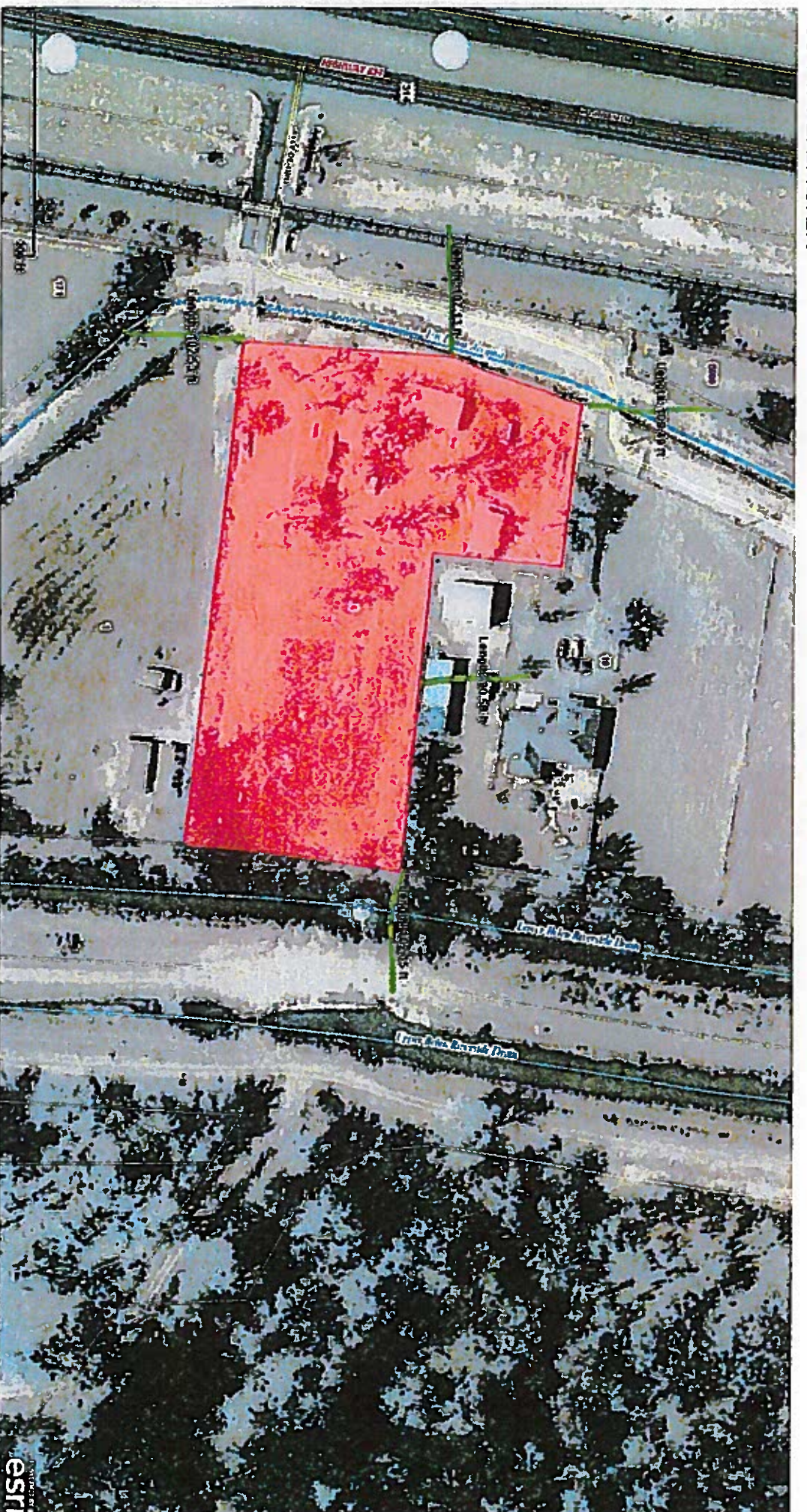
Rio De Oro  
Storage



OFFICE BARNETS  
8-5-2016



# O CALLE DE URU 100 FT. PERIMETER



Tue Sep 27 2016 08:15:29 AM



Valencia County Code Enforcement

Attn: Brenda Alberts

Po Box 1119  
Los Lunas, NM 87031



Valencia County Planning & Zoning Office  
Community Development Department

444 Luna Ave. • P.O. Box 1119 Los Lunas, NM 87031

Phone (505) 866-2050 • Fax (505) 866-2424

[www.co.valencia.nm.us](http://www.co.valencia.nm.us)

September 26, 2016

To Whom It May Concern:

The Valencia County Board of Commissioners will hold a Public Hearing on Wednesday October 12, 2016, at the Valencia County Administration Building in the County Commission Chambers located at 444 Luna Ave, Los Lunas, NM to consider an appeal of the Planning & Zoning administrative decision regarding:

**APL #2016385**

**Applicant:** Ernest & Rosa Saiz-Robert P. McNeill, P.A., as Agent.

**Regarding:** 6 Calle De Oro, Los Lunas, NM 87031; Legal Description: T6N, R2E, Section 17, M.R.G.C.D Map 86; N.M.P.M.; Land of Ernest Saiz; Tract 44A (1.90AC) & Tract 45B2 (0.10 AC); Zoned Rural Residential-2 (RR-2).

A final decision on this request will be made by the Board of County Commissioners on Wednesday October 19, 2016 at 5:00 PM in the County Commission Chambers of the Valencia County Courthouse, located at 444 Luna Ave. Los Lunas, NM.

If you have any questions or require additional information regarding this request, or require special assistance, please feel free to contact the Valencia County Planning Office at (505) 866-2050.

Respectfully,

A handwritten signature in cursive script, reading "Adrienne Kozacek".

Adrienne Kozacek  
Valencia County Assistant Manager

Cc: File

Charles D. Eaton, Chair, District IV ♦ Jhonathan Aragon, Vice-Chair, District V ♦

Helen Y. Cole, District I ♦ Alicia Aguilar, District II ♦ David A. Hyder, District III

Daniel Monette, County Manager

Ernest & Rosa Saiz  
PO Box 932  
Los Lunas, NM 87031

Robert McNeill, P.A.  
1400 Central Ave SE  
Suite 2000  
Albuquerque, NM 87106

Janet Stephens Cunningham  
6 Calle De Oro  
Los Lunas, NM 87031

Estella Teran  
1414 Madison NE  
Albuquerque, NM 87110

MRGCD  
PO Box 581  
Albuquerque, NM 87103

Valencia County Code Enforcement  
Attn: Hoss Foster  
Po Box 1119  
Los Lunas, NM 87031

Valencia County Code Enforcement  
Attn: Brenda Alberts  
Po Box 1119  
Los Lunas, NM 87031

9/29/16  
mailed  
Janet  
correct address  
PO Box 277  
Los Lunas



## VALENCIA COUNTY BOARD OF COUNTY COMMISSIONERS

### MEETING NOTICE

The Board of County Commissioners will hold a Public Hearing at 5:00 P.M. on Wednesday October 12, 2016, at the Valencia County Administration Building in the Commission Chambers at 444 Luna Ave, Los Lunas, NM to consider an appeal of the Planning & Zoning administrative decision regarding: 6 Calle De Oro, Los Lunas, NM 87031; **Legal Description:** T6N, R2E, Section 17, M.R.G.C.D Map 86; N.M.P.M.; Land of Ernest Saiz; Tract 44A (1.90AC) & Tract 45B2 (0.10 AC); Zoned Rural Residential-2 (RR-2). APL #2016385; Applicant: Ernest & Rosa Saiz-Robert P. McNeill, P.A., as Agent. A final decision on this request will be made by the Board of County Commissioners on Wednesday October 19, 2016 at 5:00 PM in the County Commission Chambers of the Valencia County Courthouse, located at 444 Luna Ave. Los Lunas, NM.

Copies of the Agenda may be obtained online at [www.co.valencia.nm.us](http://www.co.valencia.nm.us), by calling (505) 866-2014 or at the Valencia County Administration Building. If you are an individual with a disability who is in need of a reader, amplifier, qualified sign language interpreter, or other form of auxiliary aid or service to attend or participate in the meeting, please contact the Valencia County Manager at 444 Luna Ave, Los Lunas, New Mexico 87031, phone 505-866-2014 at least one (1) week prior to the meeting or as soon as possible. Public documents, including the agenda and minutes, can be provided in various accessible formats. Please contact the Valencia County Manager's office if a summary or other type of accessible format is needed.

**Run Date:**        *September 29, 2016*  
                         *October 6, 2016*

**VALENCIA COUNTY BOARD  
OF COUNTY  
COMMISSIONERS**

**MEETING NOTICE**

The Board of County Commissioners will hold a Public Hearing at 5:00 P.M. on Wednesday October 12, 2016, at the Valencia County Administration Building in the Commission Chambers at 444 Luna Ave, Los Lunas, NM to consider an appeal of the Planning & Zoning administrative decision regarding: 6 Calle De Oro, Los Lunas, NM 87031; Legal Description: T6N, R2E, Section 17, M.R.G.C.D Map 86, N.M.P .M.; Land of Ernest Salz, Tract 44A (1.90AC) & Tract 45B2 (0.10 AC); Zoned Rural Residential-2 (RR-2). APL #2016385; Applicant: Ernest & Rosa Salz-Robert P. McNeill, P.A., as Agent. A final decision on this request will be made by the Board of County Commissioners on Wednesday October 19, 2016 at 5:00 PM in the County Commission Chambers of the Valencia County Courthouse, located at 444 Luna Ave. Los Lunas, NM.

Copies of the Agenda may be obtained online at [www.co.valencia.nm.us](http://www.co.valencia.nm.us), by calling (505) 866-2014 or at the Valencia County Administration Building. If you are an individual with a disability who is in need of a reader, amplifier, qualified sign language interpreter, or other form of auxiliary aid or service to attend or participate in the meeting, please contact the Valencia County Manager at 444 Luna Ave, Los Lunas, New Mexico 87031, phone 505-866-2014 at least one (1) week prior to the meeting or as soon as possible. Public documents, including the agenda and minutes, can be provided in various accessible formats. Please contact the Valencia County Manager's office if a summary or other type of accessible format is needed.

Published in the Valencia County News-Bulletin on September 29, and October 6, 2016



**VALENCIA COUNTY  
Board of County Commissioners  
Agenda Request Form**



Commission Sponsor: **Commissioner Eaton**

Department Head: **Danny Monette**

Individual Making Request: **Adrienne Kozacek**

Presentation at Meeting on: **October 12, 2016**

Date Submitted: **September 29, 2016**

Title of Request: **Public Hearing to review proposed ordinance Chapter 36: Fire and Emergency Services**

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**Action Requested of Commission:**

Allow the public an opportunity to speak about the proposed changes

**Information Background and Rationale:**

The current ordinance was adopted in 2005. At that time, Fire and Emergency Services (Valencia County Fire Department) was a division of the Code Enforcement Department, and there was a Valencia County Chief's Association. Over the years, the needs of the departments forced the separation of the Fire Department from the Code Enforcement Department. As the Districts and the County settled into a familiar routine, the need for the Chief's Association diminished. In recent years, the district chiefs, Fire Chief, and municipal chiefs have routinely met once a month in a collaborative effort but without the structure (by-laws and officers) of the previous Chief's Association.

As the department evolves, so does the need to revise the ordinance which provides administrative provisions for the department.

Secondly, in the Business Meeting of September 7<sup>th</sup>, the BOCC approved the separation of the Office of Emergency Management from the Fire Department. This approval stipulates the OEM will operate parallel to the Fire Department in the organizational structure of the County, Sections 36.21 and 36.22 will need to be revised accordingly.

The title and a general summary of the proposed ordinance was published in the News-Bulletin on September 22, 29 and October 6, 2016.

**What is the Financial Impact of this Request:**

None

**Legal:**

NMSA 1978, Section 4-37-7 (1981) requires that in order for an ordinance to be considered for passage a majority of the members of the Commission must vote to direct that the title and a general summary of the proposed ordinances be published one time in a newspaper of general circulation within the county at least two weeks prior to the meeting of the board at which the

ordinance is proposed for final passage. The ordinance has been proposed and published pursuant the 4-37-7 thus the board may approve, modify & approve or disapprove the ordinance at the meeting following this public hearing. (Adren Nance)

**Finance:**

No financial impact. (Christina Card)

**Purchasing:**

☒ Not Applicable – Agenda Item Does Not Include the Purchase Goods and/or Services

## LEGAL NOTICE

NOTICE IS HEREBY GIVEN that a public hearing of the Valencia County Board of Commissioners will be held on Wednesday, October 12, 2016 at 5:00 PM to consider the adoption of a Fire and Emergency Services Ordinance (this ordinance will revise and replace the current ordinance).

The purpose and intent of the Ordinance is to provide for the administration of the Valencia County Fire Department, including individual fire districts, including both paid and volunteer personnel; assigning responsibilities for coordinated fire prevention, fire suppression, emergency medical services, and other emergency services including but not limited to, mutual aid and cooperation with fire departments or other emergency services of government; establishing policy for implementation of fire department and emergency services plans and programs, promulgation of rules, regulations, medical protocols and standard operating procedures for the operation of the department including personnel rules and regulations for both paid and volunteer personnel; and, the organization, administration and operation of the Valencia County Fire Department is herein established and governed by the Valencia County Board of County Commissioners, through the office of the Chief; and, the purpose of the Office of Emergency Management is to coordinate the effort of all county agencies, county employees, private citizens, and all other non-governmental agencies in the preparation of contingency plans for any emergency that endangers the lives and/or property of the citizens of the county. It shall be the duty of this office to coordinate and develop continuity plans for the effective employment of county resources to protect the lives and health of citizens within the county, and the private and public property therein, from effects of a major emergency, natural disaster, technological attack, and/or a man-made incident. It shall also coordinate the implementation of such emergency plans during any period of emergency. Such plans shall be coordinated with those municipalities within its boundaries, if available, and the New Mexico Department of Homeland Security and Emergency Management.

The proposed Ordinance will be presented to the Board of County Commissioners for Final Passage at a regular meeting on Wednesday, October 19, 2016 at 5:00 PM. All these meetings will be held at the Valencia County Commission Chambers, 444 Luna Ave. Los Lunas, NM 87031.

Complete copies of the proposed Ordinance are available for public inspection at the Office of the Valencia County Clerk at 444 Luna Ave, Los Lunas New Mexico and may be viewed online at [www.co.valencia.nm.us](http://www.co.valencia.nm.us).

If you are an individual with a disability who is in need of any form of auxiliary aid for service please contact the County Manager's Office at Valencia County Courthouse, Los Lunas NM, (505) 866-2014 at least one week prior to the meeting or as soon as possible.

Publish:

*To be published in Valencia County News-Bulletin on  
September 22, 2016, September 29, 2016 and October 6, 2016*

## **FIRE AND EMERGENCY SERVICES**

### **§ 36.01 TITLE.**

This chapter may be cited by number or as the Valencia County Fire and Emergency Services Administrative provisions.

### **§ 36.02 PURPOSE.**

(A) The purpose of this chapter is to provide for the administration of the Valencia County Fire Department, including individual fire districts, including both paid and volunteer personnel; assigning responsibilities for coordinated fire prevention, fire suppression, emergency medical services, and other emergency services including but not limited to, mutual aid and cooperation with fire departments or other emergency services of government; establishing policy for implementation of fire department and emergency services plans and programs, promulgation of rules, regulations, medical protocols and standard operating procedures for the operation of the department including personnel rules and regulations for both paid and volunteer personnel.

(B) The organization, administration and operation of the Valencia County Fire Department is herein established and governed by the Valencia County Board of County Commissioners, through the office of the Chief.

### **§ 36.03 DEFINITIONS.**

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

**CHIEF.** A person who shall serve as the Chief of the Valencia County Fire Department at the pleasure of the Board of Commissioners.

**DISTRICT CHIEF.** A volunteer duly elected by the membership of the fire district, approved by the Board, who is responsible for the day-to-day operational activities of the fire district's county-owned fire station(s), apparatus, equipment and supervision of the volunteer personnel, in accordance with adopted rules and regulations.

**FIRE DISTRICTS.** Valencia County has seven volunteer fire districts: Tome-Adelino, Valencia-El Cerro, Meadow Lake, Los Chavez, Jarales-Pueblitos, Manzano Vista, and Highland Meadows. Other districts may be added from time to time as deemed necessary without amendment of this chapter.

### **§ 36.04 AGREEMENTS WITH OTHER ENTITIES.**

(A) Joint resolutions, memoranda of understanding, joint powers agreements and mutual aid agreements between Valencia County and other units of government pertaining to fire prevention, fire suppression, emergency medical services and other emergency services as well as dispatching of the same, now in force or being adopted subsequent to passage of this chapter, are hereby expressly authorized when drawn or made in conformity to the intent and meaning of this chapter and upon approval by the County Commission.

(B) Private vendors lease contracts or agreements by individual fire districts must be approved by the County Commission.

39    **§ 36.05 POLICY.**

40       (A) The quality of life of the citizens of the county is enhanced by the vigorous administration  
41 of effective fire prevention, fire suppression, emergency medical services and other emergency  
42 services administered by the county.

43       (B) The Valencia County Fire Department is organized through the combined efforts of fire  
44 district volunteers and career employees to deliver quality emergency services to the citizens of  
45 the county.

46       (C) Providing these services is consistent with the constitutionally prescribed functions of  
47 government to provide for the health, safety and welfare of the general public.

48       (D) It is the policy of the county to provide staffing, funding and equipment for the Valencia  
49 County Fire Department and its individual fire districts within available resources consistent with  
50 the standards of local, state and national authorities.

51       (E) The Valencia County Fire Department is administered through the Chief of the  
52 Department who is responsible for monitoring, overseeing, directing and coordinating all  
53 activities of the Fire Department. The Chief shall work in cooperation with each District Chief to  
54 monitor, oversee, direct and coordinate the activities of each fire district. Those fire district  
55 boundaries presently existing are hereby ratified, subject to the continued power of the Board of  
56 County Commissioners to change such boundaries in the future. Other fire districts may be  
57 added as deemed necessary without amendment of this chapter.

58       (F) The county recognizes that some private, non-profit, corporations perform useful  
59 functions in support of the Fire Department and volunteer fire districts. Private corporations have  
60 no authority to manage the operations of the Department, or any part thereof, including fire  
61 districts. The services provided by the Valencia County Fire Department are exclusively  
62 governmental activities.

63    **§ 36.06 COOPERATION WITH OTHER ORGANIZATIONS.**

64       (A) In consideration of the services provided by the private, non-profit, auxiliary  
65 organizations in support of the Division or individual Fire Districts, the Chief, , is authorized to  
66 enter into agreements with such organizations to allow the use of fire stations by such  
67 organizations for meetings, fund raising and social events, so long as such meetings and events  
68 are for the sole benefit of the Division or the individual Fire District. Any such fund raising  
69 activities shall clearly state that the funds raised are being paid to such organizations and are not  
70 being paid to, or under the control of the county. All other activities are subject to the  
71 requirements of county policy dealing with use of public buildings or facilities (being Resolution  
72 2016-18 or its successor policy).

73       (B) Such auxiliary organizations may also enter into agreements with the Chief to perform  
74 other functions related to fire, life, property and public safety.

75    **§ 36.07 RESPONSIBILITIES AND AUTHORITY OF THE CHIEF.**

76 (A) The Chief of the Valencia County Fire Department shall be an employee of the county  
77 who oversees and directs the operation and administration of the department and reports directly  
78 to County Manager's Office.

79 (B) All revenue sources characterized as public funds require Commission approval prior to  
80 expenditure. As such the Commission has directed the Chief to review any expenditure requested  
81 by a District Chief. The Chief, acting as the representative of the Board of County  
82 Commissioners, shall review such requests for compliance with all applicable statutes,  
83 ordinances, and rules and regulations, for approval of the Board of Commissioners.

84 (C) The Chief shall develop, maintain and upgrade standards, policies, procedures,  
85 department personnel rules and regulations and protocols to ensure that the mission of delivering  
86 emergency services is accomplished. These standards, policies, procedures, department  
87 personnel rules and regulations, and protocols shall at all times be consistent with the safety and  
88 protection of all department personnel both paid and volunteer. These standards, policies,  
89 procedures, department personnel rules and regulations and protocols will collectively serve as  
90 the minimum standard for the department.

91 (D) The Chief shall be responsible for the maintenance and protection of those licenses and  
92 authorities held by the county, as required by state and federal regulators, for the delivery of  
93 emergency services and shall set forth the rules, regulations and reporting standards as required  
94 to maintain and protect those licenses and authorities.

95 (E) The Chief shall be responsible for staffing, recruitment, training, budgeting and all other  
96 administrative matters for the department and for the development and improvement of the  
97 department to meet local, state and federal standards.

98 (F) The Chief shall be responsible for implementation and enforcement of fire and safety  
99 codes and any chapter designating the Division as the enforcement agency as now in effect or  
100 hereafter adopted by the County.

101 (G) The Chief, conferring with the District Chief, is hereby authorized to commit fire  
102 department personnel, equipment and resources, wholly or in part, to emergency fire protection  
103 and emergency service delivery, including mutual aid, for the relief of danger to life or property  
104 from accident, explosion or natural disaster.

105 (H) The Chief, conferring with the District Chief, is authorized to enter into agreements,  
106 contracts and working arrangements with other units of government for implementing and  
107 administering the provisions of this chapter following approval of the Board of County  
108 Commissioners.

109 (I) The Chief, , shall promulgate departmental rules and regulations and shall enforce  
110 departmental rules and regulations for administering disciplinary action for both paid and  
111 volunteer personnel, subject to approval of the County Commission.

112 (J) The Chief is authorized to arrange communications systems and networks necessary to  
113 adequately alert, dispatch and/or communicate with facilities, equipment and personnel within  
114 the county for the purpose of responding to fires, accidents, medical emergencies, explosions and  
115 natural disasters.



(K) The Chief, , shall establish through department personnel rules and regulations, job descriptions, an organizational chart and a process for the training and promotion of paid and volunteer personnel.

#### **§ 36.08 RESPONSIBILITIES AND AUTHORITY OF THE DISTRICT CHIEF.**

(A) Each individual fire district shall have a District Chief who shall be a volunteer duly elected by the membership of the fire district and who shall function as such at the pleasure of the Chief and the Board of County Commissioners.

(B) The District Chief is responsible for managing the day-to-day operational activities of the fire district county owned stations, apparatus and equipment.

(C) The District Chief shall be responsible for supervising assigned department volunteer personnel.

(D) The District Chief shall be responsible for the expenditure of funds allocated to the fire district pursuant to the policies, rules and regulations adopted by the County Commission.

(E) No District Chief shall have the authority to commit the county to the expenditure of any funds.

#### **§ 36.09 DEPARTMENT PERSONNEL.**

(A) The Chief shall have the power and authority to deputize willing District Chiefs and other willing officers of the department to perform as official agents of the department including the supervision of paid and volunteer personnel as may be deemed necessary for the protection of the health, welfare and safety of the residents of the county

(B) The Chief shall, in cooperation with the County Human Resources Office administer a volunteer retention program to develop standards for the recruitment, application, training, performance evaluation and promotion of volunteer personnel which are equal, in so far as feasible, between paid and volunteer personnel. The application of a prospective volunteer shall contain an acknowledgment and acceptance of the conditions of volunteer membership in the Valencia County Fire Department as contained in the Rules and Regulations.

(C) (1) The Chief shall, in cooperation with the County Human Resources Office develop standards for the recruitment, application, hiring, training, performance evaluation and promotion of department employees.

(2) Such standards shall be in conformance with applicable federal, state and county regulations and shall be set forth in the Rules and Regulations of the Fire Department following review of the County Attorney and County Manager.

#### **§ 36.10 DEPARTMENT RULES AND REGULATIONS.**

(A) The Chief shall develop proposed Department Rules and Regulations, as well as modifications to the Department Rules and Regulations, for the Fire Department and fire districts after the final adoption of this ordinance.

(B) Proposed rules and regulations as well as modifications to the Rules and Regulations shall be made and forwarded to the County Manager for review. The County Manager will review the modifications and report findings to the Board of County Commissioners. The Board of County Commission shall, through resolution, approve or disapprove any and all Rules and Regulations.

#### **§ 36.11 EMERGENCY MEDICAL SERVICES.**

All division and district personnel responding to emergency medical service calls and/or providing patient care, regardless of level of training or education, shall do so only under the prior authorization, training and supervision of the County EMS Medical Director. The Medical Director shall have the responsibility and authority to mandate and facilitate medical protocols and medical dispatch procedures. Nothing in this section shall be construed to give the Medical Director authority to allocate funding for the county or any Fire District.

#### **§ 36.12 FIRE INVESTIGATION.**

All Division or District personnel responding to emergency fire service call and/or providing fire suppression, investigation, protection of scene contamination and data collection, regardless of level of training or education, shall do so only under the prior authorization, training and supervision of the Chief or duly authorized agency. Designated personnel shall have the responsibility and authority to mandate and facilitate fire investigation protocols and procedures to include, but not limited to, fire-related failure analysis, fraud investigations related to loss analysis, site analysis and review , arson and other fire and fire-related losses and fraud investigation information, services, and methods.

### **OFFICE OF EMERGENCY MANAGEMENT**

#### **§ 36.20 PURPOSE OF THE OFFICE OF EMERGENCY MANAGEMENT.**

The purpose of the Office of Emergency Management is to coordinate the effort of all county agencies, county employees, private citizens, and all other non-governmental agencies in the preparation of contingency plans for any emergency that endangers the lives and/or property of the citizens of the county. It shall be the duty of this office to coordinate and develop continuity plans for the effective employment of county resources to protect the lives and health of citizens within the county, and the private and public property therein, from effects of a major emergency, natural disaster, technological attack, and/or a man-made incident. It shall also coordinate the implementation of such emergency plans during any period of emergency. Such plans shall be coordinated with those municipalities within its boundaries, if available, and the New Mexico Department of Homeland Security and Emergency Management.

#### **§ 36.21 CREATION OF THE OFFICE OF EMERGENCY MANAGEMENT.**

There is hereby established an Office of Emergency Management consisting of:

(A) An Emergency Manager, and this person shall be hired by the Valencia County Manager's Office and in concurrence with the Board of County Commissioners and subject to the approval of the State Director of Homeland Security and Emergency Management.

(B) Any additional professional and administrative personnel as required by the county to effectively carry out the county emergency preparedness programs.

191 (C) During periods of an emergency, all other county officers and employees, together with  
192 volunteer forces enrolled to aid the Office of Emergency Management, shall be considered as  
193 part of the Office of Emergency Management.

194 **§ 36.22 ANNUAL BUDGET; OBLIGATION OF FUNDS.**

195 (A) The Emergency Manager shall be the executive head of the Office of Emergency  
196 Management and shall be responsible to the County Manager's Office for the organization,  
197 administration, and operation of the Office of Emergency Management and all of the county's  
198 emergency preparedness programs. The Emergency Manager shall also coordinate the county's  
199 emergency preparedness programs with programs of like kind placed into effect by the Village of  
200 Los Lunas, the City of Belen, the City of Rio Communities, the Village of Bosque Farms, the  
201 Town of Peralta, private citizens, the Pueblo of Isleta and all non- governmental agencies. He or  
202 she shall also be the liaison and fully cooperate with the emergency preparedness agencies of the  
203 Federal government and the State of New Mexico and its political subdivisions.

204 (B) The Emergency Manager shall have all necessary authority to act for the government of  
205 the county in all matters pertaining to emergency management, including the authority to spend  
206 county funds as may be appropriated for emergency management purposes. He or she shall  
207 develop an organizational structure for the Office of Emergency Management, subject to the  
208 approval of the County Board of Commissioners, and is authorized to appoint individuals to fill  
209 the positions established therein.

PASSED, ADOPTED AND ORDAINED THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2016

**BOARD OF COUNTY COMMISSIONERS**

\_\_\_\_\_  
CHARLES D. EATON, CHAIR  
DISTRICT IV

\_\_\_\_\_  
JHONATHAN ARAGON, VICE-CHAIR  
DISTRICT V

\_\_\_\_\_  
HELEN Y. COLE, COMMISSIONER  
DISTRICT I

\_\_\_\_\_  
ALICIA AGUILAR, COMMISSIONER  
DISTRICT II

\_\_\_\_\_  
DAVID A. HYDER, COMMISSIONER  
DISTRICT III

ATTEST BY:

\_\_\_\_\_  
PEGGY CARABAJAL, COUNTY CLERK

## FIRE AND EMERGENCY SERVICES

### § 36.01 TITLE.

This chapter may be cited by number or as the Valencia County Fire and Emergency Services Administrative provisions.

(Ord. 2005-5, passed 9-16-2005)

### § 36.02 PURPOSE.

(A) The purpose of this chapter is to provide for the administration of the Valencia County Fire Department, including individual fire districts, including both paid and volunteer personnel; assigning responsibilities for coordinated fire prevention, fire suppression, emergency medical services, and other emergency services including but not limited to, mutual aid and cooperation with fire departments or other emergency services of government; establishing policy for implementation of fire department and emergency services plans and programs, promulgation of rules, regulations, medical protocols and standard operating procedures for the operation of the department including personnel rules and regulations for both paid and volunteer personnel.

(B) The organization, administration and operation of the Valencia County Fire Department is herein established and governed by the Valencia County Board of County Commissioners, through the office of the Chief ~~of the fire division of the Code Enforcement Department.~~

(Ord. 2005-5, passed 9-16-2005)

### § 36.03 DEFINITIONS.

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

**CHIEF.** A person who shall serve as the Chief of the Valencia County Fire Department at the pleasure of the Board of Commissioners.

**DISTRICT CHIEF.** A volunteer duly elected by the membership of the fire district, approved by the Board, who is responsible for the day-to-day operational activities of the fire district's county-owned fire station(s), apparatus, equipment and supervision of the volunteer personnel, in accordance with adopted rules and regulations.

**FIRE DISTRICTS.** Valencia County has ~~nine~~ seven volunteer fire districts: ~~Rio Grande Estates~~, Tome-Adelino, Valencia-El Cerro, Meadow Lake, Los Chavez, Jarales-Pueblitos, Manzano Vista, Highland Meadows, and ~~Peralta~~. Other districts may be added from time to time as deemed necessary without amendment of this chapter.

~~**—VALENCIA COUNTY CHIEF'S ASSOCIATION.** An association composed inclusive of all the fire districts' volunteer fire chiefs from the unincorporated regions of Valencia County.~~

(Ord. 2005-5, passed 9-16-2005)

### § 36.04 AGREEMENTS WITH OTHER ENTITIES.



such organizations to allow the use of fire stations by such organizations for meetings, fund raising and social events, so long as such meetings and events are for the sole benefit of the Division or the individual Fire District. Any such fund raising activities shall clearly state that the funds raised are being paid to such organizations and are not being paid to, or under the control of the county. All other activities are subject to the requirements of county policy dealing with use of public buildings or facilities (being Resolution ~~2005-38~~2016-18 or its successor policy).

(B) Such auxiliary organizations may also enter into agreements with the Chief to perform other functions related to fire, life, property and public safety.

(Ord. 2005-5, passed 9-16-2005)

#### § 36.07 RESPONSIBILITIES AND AUTHORITY OF THE CHIEF.

(A) The Chief of the Valencia County Fire Department shall be an employee of the county who oversees and directs the operation and administration of the department and reports directly to ~~the Code Enforcement Director~~County Manager's Office.

(B) All revenue sources characterized as public funds require Commission approval prior to expenditure. As such the Commission has directed the Chief to review any expenditure requested by a District Chief. The Chief, acting as the representative of the Board of County Commissioners, shall review such requests for compliance with all applicable statutes, ordinances, and rules and regulations, for approval of the Board of Commissioners.

(C) The Chief, ~~under the direction of the Code Enforcement Director and conferring with the Valencia County Chiefs' Association~~, shall develop, maintain and upgrade standards, policies, procedures, department personnel rules and regulations and protocols to ensure that the mission of delivering emergency services is accomplished. These standards, policies, procedures, department personnel rules and regulations, and protocols shall at all times be consistent with the safety and protection of all department personnel both paid and volunteer. These standards, policies, procedures, department personnel rules and regulations and protocols will collectively serve as the minimum standard for the department.

(D) The Chief shall be responsible for the maintenance and protection of those licenses and authorities held by the county, as required by state and federal regulators, for the delivery of emergency services and shall set forth the rules, regulations and reporting standards as required to maintain and protect those licenses and authorities.

(E) The Chief, ~~under the direction of the Code Enforcement Director and conferring with the Valencia County Chiefs' Association~~, shall be responsible for staffing, recruitment, training, budgeting and all other administrative matters for the department and for the development and improvement of the department to meet local, state and federal standards.

(F) The Chief shall be responsible for implementation and enforcement of fire and safety codes and any chapter designating the Division as the enforcement agency as now in effect or hereafter adopted by the County.

(G) The Chief, conferring with the District Chief, is hereby authorized to commit fire department personnel, equipment and resources, wholly or in part, to emergency fire protection

the health, welfare and safety of the residents of the county ~~and for the enforcement of codes and ordinances.~~

(B) The Chief shall, in cooperation with the County Human Resources Office ~~and conferring with the Valencia County Chiefs' Association,~~ administer a volunteer retention program to develop standards for the recruitment, application, training, performance evaluation and promotion of volunteer personnel which are equal, in so far as feasible, between paid and volunteer personnel. The application of a prospective volunteer shall contain an acknowledgment and acceptance of the conditions of volunteer membership in the Valencia County Fire Department as contained in the Rules and Regulations.

(C) (1) The Chief shall, in cooperation with the County Human Resources Office ~~and Code Enforcement Director and conferring with the Valencia County Chiefs' Association,~~ develop standards for the recruitment, application, hiring, training, performance evaluation and promotion of department employees.

(2) Such standards shall be in conformance with applicable federal, state and county regulations and shall be set forth in the Rules and Regulations of the Fire Department following review of the County Attorney and County Manager.

(Ord. 2005-5, passed 9-16-2005)

#### § 36.10 DEPARTMENT RULES AND REGULATIONS.

(A) The Chief ~~in conference with the Valencia County Chiefs' Association and the Code Enforcement Director~~ shall develop proposed Department Rules and Regulations, as well as modifications to the Department Rules and Regulations, for the Fire Department and fire districts after the final adoption of this ordinance.

(B) Proposed rules and regulations as well as modifications to the Rules and Regulations shall be made and forwarded to the County Manager for review. The County Manager will review the modifications and report findings to the Board of County Commissioners. The Board of County Commission shall, through resolution, approve or disapprove any and all Rules and Regulations.

(Ord. 2005-5, passed 9-16-2005)

#### § 36.11 EMERGENCY MEDICAL SERVICES.

All division and district personnel responding to emergency medical service calls and/or providing patient care, regardless of level of training or education, shall do so only under the prior authorization, training and supervision of the County EMS Medical Director. The Medical Director shall have the responsibility and authority to mandate and facilitate medical protocols and medical dispatch procedures. Nothing in this section shall be construed to give the Medical Director authority to allocate funding for the county or any Fire District.

(Ord. 2005-5, passed 9-16-2005)

#### § 36.12 FIRE INVESTIGATION.

All Division or District personnel responding to emergency fire service call and/or providing fire suppression, investigation, protection of scene contamination and data collection, regardless

also coordinate the county's emergency preparedness programs with programs of like kind placed into effect by the Village of Los Lunas, the City of Belen, the City of Rio Communities, the Village of Bosque Farms, the Town of Peralta, private citizens, the Pueblo of Isleta and all non- governmental agencies. He or she shall also be the liaison and fully cooperate with the emergency preparedness agencies of the Federal government and the State of New Mexico and its political subdivisions.

- | (B) The Emergency Manager Coordinator shall have all necessary authority to act for the government of the county in all matters pertaining to emergency management, including the authority to spend county funds as may be appropriated for emergency management purposes. He or she shall develop an organizational structure for the Office of Emergency Management, subject to the approval of the County Board of Commissioners, and is authorized to appoint individuals to fill the positions established therein.

(Ord. 2014-06, passed 8-20-2014)