

**SANTA FE COUNTY**  
**BOARD OF COUNTY COMMISSIONERS**  
**SPECIAL MEETING**  
**September 13, 2024**

Hank Hughes, Chair - District 5  
Camilla Bustamante, Vice Chair - District 3  
Justin Greene - District 1  
Anna T. Hamilton - District 4  
Anna Hansen - District 2

SFC CLERK RECORDED 11/01/2024

**SANTA FE COUNTY**

**SPECIAL MEETING**

**BOARD OF COUNTY COMMISSIONERS**

**September 13, 2024**

1. A. This special meeting of the Santa Fe Board of County Commissioners was called to order at approximately 1:15 p.m. by Chair Hank Hughes in the County Commission Chambers, 102 Grant Avenue, Santa Fe, New Mexico.

**B. Roll Call**

Roll was called by County Clerk Katharine Clark and indicated the presence of a quorum as follows:

**Members Present:**

Commissioner Hank Hughes, Chair  
Commissioner Camilla Bustamante, Vice Chair  
Commissioner Justin Greene  
Commissioner Anna Hamilton [via Webex]  
Commissioner Anna Hansen

**Members Excused:**

None

**C. Approval of Agenda**

CHAIR HUGHES: Are there any changes, Manager Shaffer?

GREG SHAFFER (County Manager): No, Mr. Chair and Commissioners.

No changes to the agenda as presented.

COMMISSIONER HANSEN: I move to approve the agenda as presented.

COMMISSIONER BUSTAMANTE: Second.

CHAIR HUGHES: Okay. Motion by Commissioner Hansen, seconded by Commissioner Bustamante.

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

**2. Public Hearing**

A. **Ordinance No. 2024-08, an Ordinance Enacting an Improvement Special Assessment Program within Santa Fe County; Designating Official or Officials to Administer the Program and Execute Necessary Documents to Enable Special Assessment Financing within**

SFC CLERK RECORDED 11/01/2024

**Santa Fe County; Approving the Program Guidebook and Related Documents Required to Implement the Program; and Providing for Other Matters Properly Relating Thereto**

CHAIR HUGHES: Go ahead, Juan.

JUAN TORRES (Economic Development Director): Thank you, Mr. Chairman, members of the Commission. This is an ordinance enacting an improvement special assessment program within Santa Fe County, designating the official or officials to administer the program and execute the necessary documents to enable assessment financing within Santa Fe County; approval of the program guidebook and related documents required to implement the program and providing other matters relating thereto.

I should note that online Eric Christensen, the state program administrator is available if there are any questions, and there is a representative from Nuveen Capital, which is a capital provider that would utilize this program in case there are any other questions.

CHAIR HUGHES: Okay, any questions?

COMMISSIONER GREENE: I'll ask questions later.

CHAIR HUGHES: Want to go to the public hearing first?

COMMISSIONER GREENE: Let's do it.

CHAIR HUGHES: Okay. Public hearing. Is anybody in the room here to make a comment? And is there anyone online to make a comment?

DANIEL FRESQUEZ (Media Specialist): Mr. Chair, I don't see anybody online indicating that they'd like to speak.

CHAIR HUGHES: Okay. So we close the public hearing and on to the questions from the Commission.

COMMISSIONER GREENE: Thank you, Mr. Chair. Thank you, Juan. Four quick questions. One, we had a constituent that had a few due process and I just want to make sure that we did follow the process, the 72 hours we posted this and for the record that everything was done on the up and up to make sure that the public was properly notified of this.

MR. TORRES: Mr. Chair, Commissioner, that is my understanding that all the processes and all the legal requirements were followed with respect to bringing this matter forward, and with respect to consideration of the matter under the provisions to enact – to have it effective immediately.

COMMISSIONER GREENE: And you don't have to only say that. It looks like the lawyer behind you wants to come and take the mike from you. So thank you.

CHAIR HUGHES: Yes. Give us more detail.

MIKE NUÑEZ (Assistant County Attorney): Yes, thank you, Commissioner Greene, Commissioners. I just wanted to provide the detail to ensure that these requirements were met. On August 27, 2024 we met and there was a presentation. At that point we set this public hearing for today, September 13, 2024. On August 30<sup>th</sup> we published notice according to the law in the Albuquerque *Journal*. The proof was submitted with packet material. That was more than 14 days before this hearing as

required. Public comment ran through yesterday at 5:00 pm.

A couple public comments to address: One was the wrong address was listed in the *Journal*. That's factually not true. The notice in the *Journal* in two different places mentions 102 Grant and it specifically mentions the BCC Chambers. Secondly, that the testimony as characterized, as testimony by Mr. Bain?? Should have been listed on the agenda at the previous meeting. That was public comment allowed by the Chair in his discretion out of order. That was not testimony, so that was perfectly acceptable.

Three, that the – so there was a complaint that the Commission has not declared as required for the effective immediate date, but that will be the declaration today. That was not a declaration on the 27<sup>th</sup>, since it wasn't being effective that day. The vote is today. And then finally the publishing Board action, the publishing that went out was in the Albuquerque *Journal*; that did comply with the law and that did state today's date, time and place.

Finally, I just wanted to make a couple last points on this regarding the legal view on this. So as we discussed last time the options for the timeline of the ordinance, generally it's approved, recorded, after 30 days pass the ordinance takes effect. There is an exception under Section 4-37-9.C of state law. When a Board of County Commissioners declares that it's necessary for the public peace, health and safety that an ordinance take effect immediately after passage the ordinance shall take effect when it's recorded by the County for that purpose and authenticated by the signature of the County Clerk.

What's important to keep in mind, this is not an emergency provision. This is a declaration by the Board which would occur today. It's stated in the ordinance, the purpose ordinance, that it's necessary for the public peace, health and safety. The determination of whether it's necessary for the public peace, health and safety is that of the Commissioners. Historically, courts are deferential to the legislative bodies in their determinations. Additionally, this state statute creating the statewide CPACE program as it's known for counties to opt into sets forth eligible improvements that qualify under a statute in the program, specifically those for energy efficiency, renewable energy, water conservation, and resiliency improvements for qualifying buildings, to name a few.

Oftentimes, if not most of the time, these improvements affect the public peace, health and safety of the community. Furthermore, as you know from the previous meeting, the potential applicant expressed an interest to have an immediate effective date to allow them to undergo a project to dispose of wastewater in a safe way, which has the potential to benefit the public peace, health and safety of the community.

Finally, one of the last points made in public comment was that the memo submitted in preparation for the August 27<sup>th</sup> meeting and for this special meeting provided options to the Commission and explained the Commission's options as far as the effective date. It is important that we deal with facts as opposed to any speculation and these are the facts. Thank you.

CHAIR HUGHES: Thank you for going through them.

MR. NUÑEZ: Thanks.

COMMISSIONER GREENE: Okay. Probably back to Juan at this point. I want to be clear there's no cost to the County with this program. This is just a mechanism that we adopt and we –

MR. TORRES: Mr. Commissioner, Mr. Chair, that is correct. There is no cost to the County. The County is merely a party to agreeing to the lien. The financial transaction is between the two private parties – the capital provider and the property owner, and the County is not liable for any aspect of their agreement.

COMMISSIONER GREENE: This mechanism goes through the County Assessor? That's pretty much the process?

MR. TORRES: The process is that the lien is recorded by the County Clerk and then the funds are collected on a regular basis through the private capital provider.

COMMISSIONER GREENE: So it doesn't even go through the Santa Fe County Treasurer.

MR. TORRES: Correct. There's no requirement for the Treasurer to segregate the funds or to collect the funds. It's strictly a private entity arrangement.

COMMISSIONER GREENE: Interesting. Okay. And there's no risk to the County. This is not something that we are liable for anything should this – any case of this be utilized we wouldn't be on the hook for anything.

MR. TORRES: Mr. Chair, Mr. Commissioner, that is correct. The County is not a party to the agreement, other than to allowing the lien on the property.

COMMISSIONER GREENE: Okay. Then the last question, when and if changes to the administrator or to any of the people detailed in this ordinance, if those changes come up do we have to come and adopt an amendment to the ordinance?

MR. TORRES: Mr. Chair, Mr. Commissioner, that would be correct. If there are any program changes that are going to happen at the state level then we would come back to his body for consideration of those changes.

COMMISSIONER GREENE: And so the administrator is chosen by the state. We have no play in that and we would just – if that administrator sells or does something that changes that that would have to go through the state and then back to us.

MR. TORRES: Mr. Chair, Commissioners, that is correct, and the administrator is online in case you have specific questions but that I my understanding.

COMMISSIONER GREENE: Okay. Great. I think those are all my questions for now. Thank you.

CHAIR HUGHES: Any other questions? Go ahead.

COMMISSIONER HANSEN: I make a motion to –

CHAIR HUGHES: Let me ask my question.

COMMISSIONER HANSEN: Oh. I'm sorry. I apologize.

CHAIR HUGHES: I wanted to know what the benefit is to the capital company to do this. Why they're willing to give a lower interest rate. It's okay if you don't really know but it's just a little strange.

MR. TORRES: Mr. Chair, members of the Commission, by virtue of having a direct access to the property via a lien it gives a very straightforward right of property. So it would be very easy to do and to take that property if the note-holder didn't pay. It's a very straightforward process as opposed to through banking mechanisms that would be more convoluted. So having a lien position allows a capital provider to immediately effect any property rights that they have directly without a convoluted legal process. And again, the administrator is online for specific details and I think the capital

provider is also available for questions on that point.

CHAIR HUGHES: That makes sense that it would be at a better interest rate if they have a better position in the lien. Commissioner Bustamante.

COMMISSIONER BUSTAMANTE: Thank you. And just to clarify, because I think I heard the answer in your previous answer to Commissioner Greene. Is there any enforcement or accountability that the County has to follow up on? Or would it just be the recognition of the lien?

MR. TORRES: Commissioner Bustamante and Mr. Chair, it's strictly an agreement between the two private parties, the capital provider and the property owner, and the County is not a party to that agreement.

COMMISSIONER BUSTAMANTE: Thank you.

CHAIR HUGHES: Thank you. Commissioner Greene.

COMMISSIONER GREENE: Thank you very much. Can I just make sure that the effective date is stated in this, or is there something that we have to on that in our motion here?

MR. NUÑEZ: Commissioner Greene, Commissioners, the effective date is stated in the ordinance. There would still need to be a declaration by the Board today regarding that it's necessary for the public peace, health and safety, but it is stated in the ordinance. And also, to follow up on that point, I do want to highlight three minor changes to the previous proposed ordinance on the one that's uploaded currently. One, we changed the effective date to make the immediately following the discussion at the last meeting. Two, we added the guidebook to the proposed ordinance, and then we added separate attachments to the BCC memo which had the program documents for approval. And then we just had one incorrect definition on the ordinance where it should have said "special assessment agreement". It says "special assessment financing agreement" twice. So we just made that change in two spots. And those are the changes to this ordinance that's up currently.

COMMISSIONER GREENE: Thank you.

CHAIR HUGHES: Commissioner Hamilton, do you have any questions, since I can't see you?

COMMISSIONER HAMILTON: I don't have any questions. Thank you, Mr. Chair.

CHAIR HUGHES: Okay. Now I think we're ready for you, Commissioner Hansen, to make a motion.

COMMISSIONER HANSEN: Thank you. I would like to move an ordinance enacting an improvement special assessment program within Santa Fe County; designating official or officials to administer the program and execute necessary documents to enable special assessment financing within Santa Fe County; approving the program guidebook and related documents required to implement the program; and providing for other matters properly relating thereto.

COMMISSIONER BUSTAMANTE: Second.

CHAIR HUGHES: We have a motion from Commissioner Hansen, seconded by Commissioner Bustamante. For an ordinance do we need a roll call? So a roll call vote.

**The motion to approve Ordinance No. 2024-08 passed by unanimous roll call vote as follows:**

Commissioner Bustamante	Aye
Commissioner Greene	Aye
Commissioner Hamilton	Aye
Commissioner Hughes	Aye
Commissioner Hansen	Aye

**3. Concluding Business**

- A. Announcements**
- B. Adjournment**

Upon motion by Commissioner Bustamante and second by Commissioner Greene, and with no further business to come before this body, Chair Hughes declared this meeting adjourned at 1:31 p.m.



Approved by:

*Hank Hughes*  
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 Hank Hughes, Chair  
 Board of County Commissioners

ATTEST TO:

*Katharine E. Clark*  
 KATHARINE E. CLARK  
 SANTA FE COUNTY CLERK

Respectfully submitted:

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

COUNTY OF SANTA FE )  
 STATE OF NEW MEXICO ) ss

BCC MINUTES  
 PAGES: 7

I Hereby Certify That This Instrument Was Filed for  
 Record On The 1ST Day Of November, 2024 at 11:53:12 AM  
 And Was Duly Recorded as Instrument # **2045901**  
 Of The Records Of Santa Fe County



Deputy *[Signature]* \_\_\_\_\_  
 Witness My Hand And Seal Of Office  
 Katharine E. Clark  
 County Clerk, Santa Fe, NM

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