

SANTA FE COUNTY
BOARD OF COUNTY COMMISSIONERS
SPECIAL STUDY SESSION

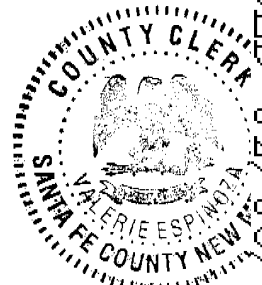
September 27, 2005

Michael Anaya, Chairman
Harry Montoya, Vice Chair
Paul Campos
Jack Sullivan
Virginia Vigil

COUNTY OF SANTA FE) BCC MINUTES
STATE OF NEW MEXICO) ss PAGES: 50

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County Clerk, Santa Fe, NM



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MINUTES OF THE
SANTA FE COUNTY
BOARD OF COUNTY COMMISSIONERS
SPECIAL MEETING

September 27, 2005

This special meeting of the Santa Fe County Board of Commissioners was called to order on the above-cited date in the Commission Chambers at the County Courthouse at approximately 8:00 a.m., by County Commission Chairman Mike Anaya.

Roll call indicated the presence of a quorum with the following Board members present:

Members Present:

Mike Anaya, Chair
Paul Campos, Commissioner
Harry Montoya, Commissioner
Jack Sullivan, Commissioner
Virginia Vigil, Commissioner

Member(s) Excused:

None

Staff Present:

Gerald Gonzalez, County Manager
Steve Ross, County Attorney
Dodi Salazar, Housing Administrator
Robert Anaya, Housing Department Director
Diane Quarles, Strategic Planner
Judy McGowan, Senior Planner

Others Present:

Mike Loftin, Homewise Director

APPROVAL OF AGENDA

Upon motion by Commissioner Montoya and second by Commissioner Campos, the agenda was approved as published.

DISCUSSION: Possible Direction to Publish Title and General Summary of an Affordable Housing Ordinance for Santa Fe County

Exhibit 1: High Performance Green Features in Homewise's Home Education Center
Exhibit 2: Memorandum from Diane Quarles dated 9/26/05
Exhibit 3: Affordable Housing Act - Article 27

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Exhibit 4 :Draft Ordinance

DIANE QUARLES (Strategic Planner): Thank you, Commissioners. Included in your packet are three pieces of information. The first item is a new revised memo that I'll go through line-by-line and walk you through the change and some of the recommendations that came from the task force on their meeting last Wednesday. The second piece is the revision to the ordinance and the changes that I'll be referring to are in redline. Finally, the last piece is a copy of the affordable housing act. Just as an update, we had been talking about trying to get legislation done at the next legislative session for the enabling legislation for the affordable housing act – well, we came to find out, thanks to Mike Loftin, that it actually passed last legislative issue. So those issues have been removed and I just wanted to include a copy of it so that we all know it does exist and it has passed.

I'll start then from the memo. Number one, and some of this will be revisiting some of the issues that were raised at the last study session. The ordinance, again, will apply to the central region of the County, however, a separate workforce housing initiative would be introduced in parallel to the process. If you'll turn to page 7 of the ordinance, under section 15, Alternative Means Of Compliance, A.1 and A.3, we added the language for off-site construction and land dedication it now specifically says, "The alternatives shall be located within the unincorporated areas of Santa Fe County." Some of it came out of the discussion and also out of the developers forum, it allows for some linkage of the ordinance and possibly future workforce housing or even county developed affordable housing. The land dedication could be used, for example, to build workforce housing through public/private partnership. And, again, that was one of the suggestions that came from the developers' forum. So we added that language to give clarification and make those types of things possible.

COMMISSIONER MONTOYA: Diane, one and three are new?

MS. QUARLES: Yes, that new language that I have underlined "within the unincorporated area of Santa Fe County," that gets specific direction then as to where the land dedication and off-site constructions can occur.

COMMISSIONER MONTOYA: Mr. Chairman.

CHAIRMAN ANAYA: Commissioner Montoya.

COMMISSIONER MONTOYA: Diane, what would that do then in terms of the ordinance applying to the central region of the county? That would expand it beyond that boundary with one and three here?

MS. QUARLES: Commissioner Montoya, what it does is the ordinance itself, the affordability requirement, still apply for the central county but for alternative means of compliance for off-site construction and land dedication you can possibly look beyond the central region and provide some of that land outside. You still have to meet the test under alternative means of compliance but it expands it some to take in some, for example, the northern part of the County.

Number two, no substantive changes to the 30 percent affordability requirement for projects and the reduced requirement for minor projects. There were no changes in the language to that section.

Number three, again, no substantive changes to the 10 percent distribution in each of the three income ranges.

Number four, the ordinance provides a waiver for the water rights transfer requirement for the 30 percent affordability as an incentive – the word "shall." So if you'll turn to section 8, "Water for Affordable Housing," page 5, the changes to the language here, it says you "shall provide 30 percent of the water to the affordable units," but then under the allowance

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for the additional 10 percent waiver of water right transfer on a discretionary basis for the volunteer housing in the income range four, it now says "may." So the 30 percent water says "shall" and the 10 percent above that in addition for the voluntary housing in income range four says "may" provide water.

Turning to the next page under b, another change to the ordinance and this came out of the discussion and I don't know if there was clear consensus on this but we went ahead and made the change for discussion purposes. In this version it does say that water right transfer waivers are limited to service level one where the county provides the water and the project is on a central wastewater collection system. The task force had considerable discussion on this issue and their recommendation, and Mr. Loftin can further explain this, they did recommend that water be used as an incentive where it can be. They did recognize that this was primarily a land use issue and deferred back to the BCC for consideration on this point.

I'm going to go ahead and move on unless y'all have questions.

On the 15 percent density bonus for the total development it remains unchanged. I did want to note that for the 5 percent density for the voluntary compliance within the 100 to 120 percent income range, it's now listed as a discretionary basis with the word "may." So it's "shall" for the 30 percent and "may" for the 100-120 percent. Also, as a notation the language restricting incentives to water or density but not both was removed as per the notes from the discussion at the last study session.

Moving on to number six. The housing regulations will include the maximum target housing prices and the design standards, which was already there but I wanted to make sure that everyone understood that it wouldn't be listed here. There are several other issues related to the housing regulations that have changed so if you turn to page four, the verse that you seen in red this came both from the task force and the builders forum. It's recommended that the housing regulations be adopted within 30 days of ordinance adoption. The notion is that the regulations would be considered and approved at the same time the ordinance became effective. We had some discussions with the task force and they agreed that it's a tight deadline and they agreed to commit themselves to working with staff to get a draft prepared as soon as we get this worked out so that could be accomplished. If there was some stumbling blocks and major changes to be made, there's also language in here that allows for an additional 30 days at the discretion of the BCC. And then under section 6, part B.8, page five, this is new language, it came from the builders' forum and then was discussed at the task force. It includes new language concerning the green building standards. The reference creates a change to the alternative means of compliance section on page 7 and I'll actually go into more detail on that. So if you'll turn to page 7, section 15, part A.4 - as we had indicated at the last meeting the alternative means of compliance is substantially rewritten. Going through these line by line, under A.4 it allows for a higher pricing schedule if the entire project is built according to green building standards which will be included in the affordable housing regulation. The task force was in general concurrence regarding this insertion so we would create a separate maximum target housing price schedule that would include an allowance for green building standards that we would have to incorporate into the housing regulation. Under B, section 15, part B, it allows a request for alternative compliance to be brought forward for consideration separate from the formal development review process. This was suggested at the developers forum the reason being, rather than waiting for master plan approval what they'd like to do is be able to make that request for alternative means of compliance and know that they're going to have it or not before they actually design their master plan. Obviously, it would change the master plan considerably if they waited to bring it forward and found out that they wouldn't be granted alternative means of compliance and then they would have to

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revise the project. The new language reflects that exception.

Under section 15, part C, on pages 7 and 8, we've much more clearly defined the test for consideration of alternative compliance. So under section C.1, 2, 3 and 4 those would be the tests that you would consider for granting alternative means for compliance. It would include whether there was a concentration of affordable units in the area that was being suggested, that language was in there previously. It also says that in the consideration there should be adequate infrastructure including water system, liquid waste facility and transportation systems to support the affordable units in this location where it's proposed. If the proposal involves providing affordable units outside the project need, whether there is specific need or market for the affordable units in the location proposed. And number four, if the proposal involves providing affordable units outside the project area, whether the property where the affordable units are proposed to be located is suitable for residential use and residential development. So those would be the criteria that you would consider.

Finally, D under hardship conditions. The test for hardship conditions have been rewritten according to the two standards of hardship. One extreme hardship, service levels one and two and then a more relaxed standard for service levels three through five where you don't have access to all the incentives available. And so it reads under section 16, B.1: A hardship condition shall exist for purposes of this section where you're at service level one or two. A condition of hardship exist when where the project fails to qualify for any incentive set forth herein, where the project fails to demonstrate eligibility for an alternative means of compliance, where application of the provisions of this Ordinance would result in economic infeasibility of the project, and where complying with the requirements of this ordinance would deprive a property owner of substantially all economically viable use of the subject property.

And then under B.2 where you're looking at service levels 3, 4 and 5 or for minor projects: A condition of hardship exists where an affordable unit or lot created for an affordable unit, cannot be sold within a reasonable period of time without causing a loss on the project or minor project taken as a whole.

Moving on to number 8, the task force was unable to reach consensus and send forward a recommendation regarding long-term affordability and appreciation share. The task force was in agreement than an affordability line, which would be held by the County, would be applied to the unit to prevent flipping. They do however continue to be slip on the issue of appreciation share. Half of the members present indicated that all the appreciation should go to the homeowner and the other half indicated that there should be some proportionate share and appreciation between the homeowner and the County. We tried several times and there was not consensus. They were literally split down the middle and they sent it forward without a recommendation. There was also no real consensus on the terms of affordability: how long the unit is to be held affordable through resale restriction and whether that would be necessary at all.

Under notation under b, The Affordable Housing Act, I have a copy of that in here, the state enabling legislation was adopted at the last legislative session. So any variance that we might have been dealing are now removed. The original language that includes references to a trust fund has remained in the ordinance and the references to the provision of the act are also included.

Under section 9, the discussion on rental substitution has just been removed from the ordinance. There does continue to be the rental restriction on the units themselves where conditions of hardship exist. That language was in here originally and we just moved it to references to rental of the units but the rental substitution has been taken out.

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Finally, under 10, housing affordability is to be reviewed and reported annually, there was broad consensus at the developers forum and some nod at the task force that there be annual reporting and reviewing of the ordinance rather than every three years after the first initial review.

Those are the substantive changes and I will stand for questions and Mr. Loftin is here and I guess Robert is here as well.

CHAIRMAN ANAYA: Any questions of Diane? Commissioner Campos.

COMMISSIONER CAMPOS: Ms. Quarles, my first question is about affordability and energy efficiency. I think my position is that you cannot have affordable housing if it's not energy efficient. Do the green standards address that issue?

MS. QUARLES: Commissioner Campos, that's correct. One of the suggestions was that the entire project is green including the affordable units, obviously it will be more efficient and the monthly cost for electric, gas and water will be lower and hopefully create a more affordable unit. It's not in the initial price but the long-term maintenance of the house and paying for the utility bill is a cost of housing so it should theoretically drive it down and make it more affordable in the respect of the maintenance and the operation of the unit.

COMMISSIONER CAMPOS: Could you let me know how these standards apply to energy efficiency, just briefly?

MS. QUARLES: Yes, Commissioner, what we're going to have to do and this is probably going to take a little work, there are various standards throughout the country, national standards, one of the developers recommended Energy Star certification. What we're going to have to do is look at all the standards and the Home Builders Association has actually created green building guidelines for residential use here in Santa Fe. We're going to have to incorporate those and since we don't do our own inspections and issue our own certificate of occupancies, we're going to have to look at some self-certification process where the developer, once the units are built or the project is built, are going to certify that that project was built in accordance with green building standards. That's going to be probably the difficult part of this but there was consensus throughout to create energy efficiency and this gives them an opportunity to create a carrot, if you will, to build those projects green.

COMMISSIONER CAMPOS: Do these standards, there are state building codes, are we going to be in conflict or are we simply supplementing state building codes or are we going to be in violation of state building codes?

MS. QUARLES: There actually is - the state has adopted some green building standards for public facilities but they mostly apply to commercial. So I don't think that we would be in conflict. We would look at those and incorporate as much of that as we can in our own standards. But I would say these would be supplemental to whatever building codes that we follow or the state does at this point.

COMMISSIONER CAMPOS: So you see no legal impediment of using our green standards?

MR. GONZALEZ: Mr. Chairman, Commissioner Campos, I don't see that as being an impediment. I do want to point out that "green building standards" are still in flux. There are several folks out there as certifying entities still creating the standards that would be applied. So there is an element of uncertainty and some of that would be made a little bit more certain by whatever is adopted through the regulations. It is still an area that has no national standard. There is an emerging lead entity that has set forth a number of green building standards but we'll still continue to need to monitor them.

COMMISSIONER CAMPOS: Thank you.

COMMISSIONER MONTOYA: Mr. Chairman, just on that point. My

understanding, Commissioner, is that we really don't have an implemented tier with this ordinance but it would still require within our own land use code the ordinances that we don't have - wouldn't it require that we adjust those as well?

MR. ROSS: Mr. Chairman, Commissioner Montoya, I think we're doing that in this process, that's the whole idea. So if the regulations include green building standards, people who develop under the land development code in this central area would have to comply with the regulations for affordability provisions that are in the ordinance.

COMMISSIONER MONTOYA: Then who would enforce that?

MR. ROSS: With respect to the green building standards, it's a little bit more difficult because we don't do inspection, as Ms. Quarles indicated. So, we'll have to develop a better relationship with CID and MFA can look for some of those things if they're willing to do otherwise we'll have to rely on self-certification and spot enforcement and things like that. It's going to be a little bit more tricky.

COMMISSIONER CAMPOS: Ms. Quarles, we talked a little bit about sprawl and how subsidies of different mortgages or these subsidies in the federal government's construction of roadways has resulted in sprawl in these single-dwelling unit area; how do you address that problem in this particular ordinance?

MS. QUARLES: Commissioner Campos, one way to - with this ordinance, and I guess it's an indirect carrot if you will, an indirect incentive - but under the water incentive which many of us feel is probably the largest of all the incentives, the largest carrot, if it is restrictive to type 1 where you do centralized water and centralized wastewater, that allows you to create more compact form, more clustered development which reduces land consumption but it also gives you the ability to direct your utility to area of preferred growth and it also creates an incentive to move away from the 2.5 acre lot. It doesn't stop the 2.5-acre lot. It's an incentive rather than regulatory but it's kind of that first step if you will of moving toward central utilities which is in keeping with all the direction that the County is moving right now with respect to the Buckman Diversion project and possibly their own wellfield. It's more of a long-term goal if you will. It's not immediate but that sort of sets it in motion of creating that incentive.

COMMISSIONER CAMPOS: Tell me a little bit about incentives for multi-unit dwellings. Instead of everybody having a single dwelling on a single lot are we working at having multiple dwellings, condominiums and other things that would use less land?

MS. QUARLES: Commissioner Campos, one of the things that we did in this ordinance, in the Community College District Ordinance there is a reference to fee simple and it's a single-family residential on fee simple. When you say fee simple that tends to limit you some if you will. It has certain implications for land patterns. By taking the language of fee simple out it opens up the door for attached units, detached units, and possibly even condominiums or even town homes. And the ordinance even gives some preference to housing mix. We like to see different housing mix because obviously certain styles of housing like condominiums maybe lower cost and maybe easier to actually meet the affordability requirements by doing attached units.

COMMISSIONER CAMPOS: Is that something you think that this ordinance adequately addresses?

MS. QUARLES: It doesn't directly say that you will provide this. But what it does say is that you have to do some different housing mixes and housing types and that's desirable. When we get to the regulations themselves, we will be pretty specific that these are the types of units that you could do and the design standards including town homes, condominiums and multi-family rentals. It makes a distinction between homeownership and

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rental in the ordinance but it doesn't preclude you from doing attached residential.

COMMISSIONER CAMPOS: My last question for Mr. Gonzalez, the manager, the last time we had this discussion I asked about cost, an evaluation of what's it going to cost the county because, you know, subsidies cost money, incentives cost money. Have you guys had an opportunity to evaluate this issue?

MR. GONZALEZ: We've begun working on evaluating the cost. It's a little difficult to quantify all of them and that was part of the discussion we had before. There is the time value of all of these incentives that is difficult to quantify. I don't know whether Diane or Mike you want to quantify what we've done so far. That's probably good in a certain sense because there is we know an enhancement of simply quantifying actual water rights costs, quantifying the cost of providing certain kinds of services is subject to enhancement because of the time value of either providing the service, providing the water, or providing the funding.

COMMISSIONER CAMPOS: Waiving fees - I understand there is some talk about waiving certain fees?

MR. GONZALEZ: Right. We've been looking at that. There are some downstream effects depending on the fees that are actually waived. If we look at impact fees, then the impact the ability to take the revenue that we would ordinarily receive and devote that to the kinds of inspection and follow ups that we need to do in order to make sure that the ordinance works. So we're still sort of piecing that together.

COMMISSIONER CAMPOS: Well, if we waive impact fees, for example, aren't we going to - the County General Fund is going to have to pay for the improvements that would have been paid by the developer?

MR. GONZALEZ: That's exactly right and, again, trying to quantify that is a little difficult. You can probably get a fairly pretty close envelop around that what is harder to get an envelope around and a little more intangible is doing that on a timely basis may actually impact developers' pluses and minuses when they're taking a look at a project. They may be able to eventually get a project done if there were no waivers of fees but obviously in a market where we're seeing the cost of housing go up so quickly, there is some time value to be attached to be able to waive those fees up front.

COMMISSIONER CAMPOS: Thank you, Mr. Chairman.

CHAIRMAN ANAYA: You're welcome. Commissioner Sullivan.

COMMISSIONER SULLIVAN: Diane, a couple of questions. On the alternative means of compliance in section 15, is this at the full discretion of the BCC? In other words, can the BCC accept or reject any or all of the alternatives?

MS. QUARLES: Commissioner Sullivan, that was the intention. That's one of the reasons we created a process where you could do a request for alternative means of compliance separate from the development review because it is discretionary and they are probably going to want a thumb's up or thumb's down as to whether they can do. If they're going to be required to do on-site affordable units they need to know that before they design a project. Yes, right now, and I would defer to legal, I think that that language is still stated that way; is that correct?

MR. ROSS: I'm sorry - what language is that?

MS. QUARLES: That alternative means of compliance is still discretionary, even though we've created a test it's still BCC discretionary?

MR. ROSS: Well, it's discretionary so long as the four factors that are in there - that one of the four factors are satisfied.

COMMISSIONER SULLIVAN: Let's say an applicant comes forward, which many of them will do if we keep number two in there as it is written with a cash payment in-

lieu of, and they say okay, we have proved that this cash payment will equal the constructed or created affordable units' cost; is the BCC obligated then to approve that alternative means of compliance?

MR. ROSS: Well, so long as it's met the four criteria.

COMMISSIONER SULLIVAN: Yes, so long as it – well, it can't meet the criteria of being in an area of sewer and water because it's cash.

MR. ROSS: Right.

COMMISSIONER SULLIVAN: I think we need a little stronger language in section 15 that indicates that once you've come to this alternative means – and you have to meet the hardship criteria; is that not right Diane, to qualify for these alternative means?

MS. QUARLES: Commissioner, the hardship condition is the third fallback position. If you cannot provide – if you are not able to do alternative means of compliance then you would do a fall-back position to the hardship which actually gives you relief from the ordinance.

COMMISSIONER SULLIVAN: Oh, I see.

MS. QUARLES: It's the third position, if you will.

COMMISSIONER SULLIVAN: Oh, I was under the impression that if you had a hardship then you could go to the alternative means. So this is even less constraining than that. The hardship gives you yet another alternative means of compliance.

MS. QUARLES: That's correct.

COMMISSIONER SULLIVAN: Okay, fine. It seems to me that we should make a clarification that for alternative means of compliance that they must meet these criteria obviously that you've set out, that there's adequate transportation system to support and so forth and so on. And that the cash payment is equivalent to what the affordable housing units would cost to be constructed somewhere else. But it seems that we also need a caveat in there that is at the bottom line that this is still at the discretion of the Board of County Commissioners so that we don't get into the issue that this is a right: "I have a right to this – A, B, and C."

This is an ordinance to provide affordable housing on projects and if a good case can be made then it can be modified with some alternatives. That was my thought on that.

Then on number two, A.2 -- let me first before I mention that go down to four on the green building. I think it's good to put the green building codes in. I'm concerned about an ordinance that just for putting in green building code – and I've read the builders green building code and they're really a lot of common sense and they are not anything that I think are too cost prohibitive on units. So I'm a little concerned – I think it makes sense to include the green building codes on page 5 in the criteria. I'm not sure and I wasn't even sure on the 5 percent and I'm not sure that we should adjust all of the target housing prices just because we put green building codes in. I mean, if those cost maybe \$1,000 a unit, what are we doing? Are we adjusting every housing unit \$1,000? I'm a little concerned with that number four.

Finally, in looking at that number two. I really believe we want to encourage applicants to participate in the construction and development of affordable housing and not just to give the County money, not that the County can't use money. But I think that's not our primary thrust here. So I would throw out maybe some thoughts in regards to number two that the applicant would make a cash payment equal or of greater value than 150 percent of the cost of affordable housing units. I mean if they really, really, really in truly absolutely can't have affordable housing on their property then that would give them the incentive of creating and participating as a team member in affordable housing not just going to the bank and

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plopping a check down on the table and saying "here's our contribution." It's kind of like in the city where they call it the toilet tax. I don't know that we need a toilet tax. We need affordable housing. I'm not sure that we need money for affordable housing. We need affordable housing. So I would throw this for discussion as we go through this making the cash payment have some value greater and whether 150 is the right number or not, I don't know.

Those are my couple of comments, Mr. Chairman.

CHAIRMAN ANAYA: Thank you, Commissioner. Any other comments?
Commissioner Vigil.

COMMISSIONER VIGIL: Mr. Chairman and Commissioner Sullivan, the proposal for 150 percent, I guess I would direct this to Diane, I would like some analysis on that. Probably part of the struggle that the task had was how do you make this equitable. How do you actually provide the incentives and it has to be incentive driven in my mind because the burden will be on the development community. So I would really like further analysis on 150 percent proposal that Commissioner Sullivan has stated. I also want to make clear for some members of the audience that I think when the County requests in-lieu of it's not that the County wants the money, the County, of course as Commissioner Sullivan said the County always welcomes it, but any kind of in-lieu of payment would be directly put back into a housing program. That's what would effectuate a housing program. So whatever in-lieu of payment came to the County, it wouldn't just come to the County and the County would at will disperse or decide or go into the general fund or whatever process we'd get engaged to, that money would have to be dedicated to affordable housing. The focus of this entire project is however circular we make it, however circular the reason, it's really composed and comprised and dedicated to affordable housing.

I have some questions and perhaps they are far more general than can be proposed today because they involve the incentives. When we request 30 percent affordable from developers and we provide a 15 percent density bonus for a total development how do we come to those numbers? The 30 percent I know is something that was proposed probably initially from the member of the Commission, but the 15 percent density bonus how does that equate?

MS. QUARLES: Commissioner Vigil, most of those figures came generally from the task force. They had looked at different scenarios and that's generally what they settled on. Again, we looked at the City model as well and that is comparable to their density requirement. I can't say that it's on hard fast science. Let me defer to Mike because that actually was a number that came generally from the task force.

MIKE LOFTIN (Homewise Director) Commissioners, the 15 percent density bonus or basically half of the affordable units, right? I think that discussion and it was discussed a long time ago but I think it was that density bonus is an important component and where it can be used is a huge incentive. It's like getting new lots, so it has a lot of value and it doesn't cost the County really anything. Not like the water thing which as Commissioner Campos pointed out has an economic value that the County has given up. The density bonus is really not costing the County in any way indirectly.

The 15 percent came up because if you did the full 30 percent then are you going to get pushed back from neighborhood associations because you're increasing density too much. And so the discussion was this was sort of a compromise. You're getting a boost in density which helps cover the cost of providing the affordable housing but you wouldn't generate as much push back from existing neighborhoods who say increasing the density 30 percent is a little too high. I don't think there's a right answer there. It's a judgment call and it's a balance

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between to what degree do we want affordable housing and are we willing to accept higher density in order to get that. So it's really just a trade off that you ultimately get to decide.

COMMISSIONER VIGIL: Does it comport with other affordable housing ordinances in comparison?

MR. LOFTIN: The other things I've seen across the country have either all - you get a one-to-one, I've seen some where you get a one-to-one density bonus and others where you get a percentage of it. I've never seen you get X density above and beyond the affordable units. But it's usually somewhere at one-to-one or below. It's in synch with what most other places have done.

COMMISSIONER VIGIL: Mr. Chairman, just one more question. The task force - well, actually two more. The task force was unable to reach consensus on the long-term affordability and appreciation share and you did agree on the affordability lien. Describe that to me in relation to the appreciation, the distinction between the two.

MR. LOFTIN: Well, I think where there is consensus on the task force is that there needs to be some kind of lien, right. There is consensus on that that you want to make sure that there is some kind of lien that the County holds so someone can't flip a property and pocket a windfall profit two weeks after closing. So there is consensus on that. The big question is - and I think there is consensus that that lien should at least be in the amount of the difference between the value of the property and what the ordinance allows it to be sold for with some kind of discount on it. That there's some kind of equity that people get when they close on it. So if you take 95 or 90 percent of appraised value and then look at the difference between that and what you can sell it for, what the person bought it for, that that should be the lien amount. I think that there's consensus on that.

Where there's not consensus is does the County lien appreciate with the market in the same way that the investment of the homeowner appreciates with the market. So does the lien just sit there? Let's say the County lien is \$100,000, 20 years from now is what the County gets back \$100,000; everyone agrees that it should at least be that. Where there isn't consensus is should that grow, if the market in those 20 years appreciates 20 percent should that lien be repaid at \$120,000 or 20 percent appreciation on the line or not? Which would mean instead of the County getting that \$20,000 the homeowner would get that money. Now if the homeowner has invested \$150,000, they would get 20 percent on the 150,000. There has never been a discussion that the homeowner doesn't appreciate: that has always been part of this. But the question is do you an appreciation share where it's proportionate to the two investments. The advantage to the homeowner getting all of it is they're in a better position - obviously, they've got a better appreciation. It's not just appreciation on their investment but appreciation on the whole value of the house.

The advantage of the appreciation going to the County is that to the extent that under the Affordable Housing Act that this is a housing trust fund that gives the County resources to reinvest in affordable housing. The County's investment is then growing with the real estate values. One item that did come out of the last task force meeting, someone suggested that one incentive to the other issue that you brought up Commissioner Vigil, is there is water, density - it would be possible that if the County had an income stream that had some predictability to it, you could add an incentive that says we will, the County will contribute to infrastructure cost on a development. The reason that came up was the whole issue that Diane mentioned earlier of on the one hand we want to make sure that water is an incentive for service level one. What about service level three where's it septic tanks and not a community sewer system?

Well, that's not really an affordable housing issue but it is a land use and water use issue. And having an incentive to connect people into the sewer system, well, there is clearly a

public purpose for doing that. If you had a financial resource that you could use to provide that infrastructure incentive and if you're in service level three then the County would pay X amount of infrastructure cost to hook into the sewer system which is good for other public purposes.

The idea of having this financial resource is an important one. The County is going to have it one way or another given that I think the consensus was there should be some kind of lien and the question is really how does the appreciation get shared. That's really the crux of the issue.

The other big concern that I'm raising is that regardless of what that income stream is there should be some clear ideas on how that money is going to get dedicated in terms of a trust fund or how is it going to benefit affordable housing. At the last study session we had discussion that this may be one way that we support homeless shelters and transitional housing and rental housing cause you have money to do that with so that money is an important part of that.

COMMISSIONER VIGIL: Thank you very much, that actually does clarify it for me. One last question, Mr. Chairman. Gerald has the new recommendations and the current draft of the ordinance been fully reviewed by key staff within the administration of Santa Fe County. And as I look at it I'm wondering if our finance office has reviewed it? Steve I'm sure has had some interactions with it. I know that there have been participants from our land use department in it asking for an accurate appraisal of whether or not everyone who I think would be impacted by this has had an appropriate opportunity to review it?

MR. GONZALEZ: Mr. Chairman, Commissioner Vigil, this particular draft has not gone through that particular review because you have in front of you fresh language. So to that extent, no, land use has been involved in the process. Obviously, we have had land use representation as we've gone through the process. The consistency on the part of fire and finance has not been there because we've been developing the ordinance. So that still needs to be done.

COMMISSIONER VIGIL: Okay, thank you. Thank you, Mr. Chairman.

CHAIRMAN ANAYA: You're welcome. Commissioner Montoya.

COMMISSIONER MONTOYA: Diane, on page 7, section 15, number 2, my understanding and correct me if I'm wrong, is that this is to provide for some sort of affordable housing outside of the prescribed central region; is that correct?

MS. QUARLES: That's correct, Commissioner. Under A.1, providing affordable units that's called off-site construction and then A.3 is dedication of land outside of the project. And, again, it's constrained and says it has to be within the unincorporated areas of Santa Fe County.

COMMISSIONER MONTOYA: Do you think 2 could apply as well?

MS. QUARLES: Two is a cash payment so there's not actually land involved in the construction of units. That's what they call a "see in-lieu." So in that particular case it does not apply because it is just a cash value.

COMMISSIONER MONTOYA: Then regarding the reference to the trust fund, could you explain what that is to me please? It's on page 3, b a notation of the original language and refers to a trust fund.

MS. QUARLES: Commissioner, I'll start and I'll probably refer to Mike. The ordinance refers to a separate fund or a trust fund that is where money from such as retired liens or fee in-lieu cash payments, that money would go into a dedicated fund and be held for the purpose of future spending for affordable housing.

COMMISSIONER MONTOYA: Where is that fund?

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MS. QUARLES: The fund is reference in -

COMMISSIONER MONTOYA: No, where is that trust fund?

MS. QUARLES: We would have to create it.

COMMISSIONER MONTOYA: Within the County?

MS. QUARLES: Yes, and we would do it under separate ordinance. What this does is set up for that process and there's actually language in the act gives reference to and is a fairly detailed process and how to set up that fund and establish the grantors. We would have to create that fund in accordance with the enabling legislation.

COMMISSIONER MONTOYA: So that could potentially become the income stream that Mike is talking about that needs to be created.

MS. QUARLES: That's correct.

COMMISSIONER MONTOYA: The other question that I had is regarding the ordinance itself, I really applaud and think that we're moving in the right direction. I think that still I'd like to see something countywide; what's happening in that regard? I know that this is pretty much reflecting what had come out of the RPA and their recommendations. What is happening countywide? The other thing is that it seems to address mainly new development. What about existing development? My understanding is that there is probably about 5 percent new sells maybe within the last 8 to 12 months and 95 percent were resells and that's where we are losing the affordability. What's happening there? Are we targeting that in this ordinance in terms of any of the resells that are occurring in the County?

MS. QUARLES: Commissioner, this is geared toward new development, the creation of new units. As far as resale and I'll refer to Mike on this, but I know the City is at this point considering a transfer tax and I think it will require constitutional amendment as I read in the paper and that would create a certain tax on resell units above a certain amount. I don't know much about it so I would refer to Mike.

MR. LOFTIN: Yes, I think the other approach is the idea of a real estate transfer tax where you're generating revenue from the sale of any home new or existing. Typically they do that - I know the resolution at the City only applies to homes above a certain price range, like \$400,000 or something relatively high. The City or the County can impose a transfer tax by themselves, I don't know if it needs a constitutional amendment and that's a good question. But it definitely needs enabling legislation from the state.

There was enabling legislation that would allow a county to do that several years ago when Bruce King was governor he ended up vetoing it. He said at the time he got more calls against that than any other issue in his career. The only way that would happen if you want it to happen is that you would have to get the state legislature to allow it.

COMMISSIONER MONTOYA: And that's the only way we would be able to regulate what happens in terms of resales in the market? I mean otherwise we'll just continue to - this I think is a good effort to try and contain but it's already out of control. How are we going to bring it under control in terms of the actual affordable housing availability?

MR. LOFTIN: Commissioner, because they're in the same real estate market, what happens with new sales and existing sales there is a relationship there. I know that when Tierra Contenta started and it was very aggressive on the amount of affordable housing that was built you saw the appreciation rate in neighborhoods like the Bellamah area in the City kind of level off. Now that there's been less affordable housing built in Tierra Contenta and other places, Bellamah homes now are listed for \$250,000 - it's kind of unbelievable - so there is a relationship. To the extent that 30 percent of all new housing would be affordable that could have a positive effect on some of the existing prices because you'll have an alternative. Because what you've got is this huge inflation in that lower end of housing because

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there is just so little of it. And then you get this point of no return so of thing – so it could have – and then the market forces are so complicated but it could have a positive effect on that existing stuff but then again there is no guarantee because it is subject to the complexity in the market place.

COMMISSIONER MONTOYA: Right, I understand. There's construction costs and materials and everything.

MR. LOFTIN: And if there's another earthquake in California and everyone is bailing and selling homes there and moving here. Real estate markets are not tied strictly to the local economy. It's a financial economy where people move around and take that equity and that can fuel the market quite a bit.

COMMISSIONER MONTOYA: And my understanding is that Santa Fe unlike many other places in the country we haven't really seen that dip in the real estate market. Everything has just continued to go up.

MR. LOFTIN: Yes, that's right. Even in the '90s where there was a slow down in the market, you didn't see prices slipping at all. You saw the rate of appreciation slow down but you never saw a dip. One year I think the sales were half of what they were the previous years but you still didn't see prices declining. The Santa Fe market real estate wise is pretty resilient and I'm not sure why that is. It might be because other parts of the country affect it so much. Even when the market is down in California those prices are so high there that even when it goes down relative to New Mexico – even though we have all these people with equity come in here and they have a lot of economic muscle with what equity they pulled out of their homes – we have, it's just a different market here than in lots of other parts of the country.

COMMISSIONER MONTOYA: Mr. Chairman, my closing comments are that I would like to see that we continue to move forward on this. I have always advocated and I have made the comment before that this was one of the issues on my platform when I campaigned was affordable housing. I have waited for three years and now we finally have something to react to. I guess the question I have now is are we feeling pressure that we need to move into this immediately or can we take the time that we need to really develop a good affordable housing policy that is going to sustain beyond any of our terms here, beyond even my lifetime. That's the kind of policy that I am looking at in terms of developing something that will sustain over a long period of time as opposed to just looking at here and now. This is going to impact – it's already impacting my kids and hopefully it's not going to impact my grandchildren in a negative way. Are we feeling pressure to move forward on this, Diane, or can we take the time that we need to take to make sure that we get a good policy? Maybe we should include the transfer tax and we probably need to pursue that at the legislature.

MS. QUARLES: Commissioner Montoya, I would actually defer to Gerald, he's my boss.

MR. GONZALEZ: Mr. Chairman, Commissioner Montoya, I guess it depends on which Commissioner you were to ask. I know you all have a different sense of urgency. Some Commissioners have indeed wanted this to be enacted yesterday and others of you are a little more deliberative about the process. I think it's important that we have had the discussions that we have had and had input from the stakeholders a number of whom you see out here in the audience. I think it's important because this is such a complicated subject and in the initial discussions about enacting an ordinance were rather simplistic but for those of you who have sat in on the discussions of the Affordable Housing Task Force and the Housing Team, have noted that those discussions have gotten more complex since we've gotten into the details.

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There is a question of whether we bring forward the regulations and the ordinance itself at the same time. I think from the standpoint of the stakeholders they would like to see that, but that's going to take a little more work in order to work out those details. That's the filler pieces that would stitch together what you already see in the existing ordinance. If we were to do that well and thoughtfully and carefully rather than within the 30-day time frame that we're talking about I suppose we would work on those together. But I probably would deflect the question back to the Commission and say, what is your sense of urgency. From me as the manager of the County I prefer a deliberative process that has looked carefully at all of the issues. We have some sense that the City's ordinance may be challenged and I think we need to watch that carefully. The other thing that I want to point out with respect to the City process is that they already had an enormous head start on us because of the HOP Ordinance that they had enacted. So they basically had taken that framework and used that in order to move forward. We at the County-level are moving forward fresh and as you pointed out with respect to making the ordinance countywide, we're facing issues that the City doesn't have at all. The City clearly is dealing with a centralized system both in terms of water and wastewater, except for on the periphery there are a few places that are split. But apart from that they don't deal with the issues that we do of dealing with portions of the County where there is not a centralized system and how we created incentives for that and that probably merits, at least I think, a little more thought.

COMMISSIONER MONTOYA: Mr. Chairman, Commissioners, and Gerald, I would be the first to say that I would prefer if we could have those deliberations as you suggested that maybe we need to have the ordinance coming forth with the regulations and I think that would probably, hopefully prevent some of what the City is facing in a short period of time here. I would again, like I said, I am just happy that we have something that we are working off of, we can react to and build on. I just want to make sure we do it right.

I would say that I want to make sure that we do this in a deliberate thoughtful way in getting a good ordinance and the regulations to accompany the ordinance.

CHAIRMAN ANAYA: Commissioner Sullivan and then Commissioner Campos and I'd like to, if we could, wrap it up in five minutes.

COMMISSIONER CAMPOS: Mr. Chairman, we have a meeting at 9; don't we?

CHAIRMAN ANAYA: Right.

COMMISSIONER CAMPOS: Also, we have on our calendar the option of continuing this meeting later in the day and perhaps that is what we should do. There are folks here that want to present, I'm sure and we're not going to do all that in the next five minutes.

CHAIRMAN ANAYA: I just want to hear what the Commissioners are feeling and I've already heard from Commissioner Montoya. Commissioner Sullivan?

COMMISSIONER SULLIVAN: I'll comment on that but I just wanted to comment also on the alternate means of compliance. I didn't understand what the word "dedicating property" on A.3 means. Dedicating as opposed to transferring it or selling it or does that just mean that sometime in the future you're going to build an affordable housing project and you want that credited - so that word "dedicated" is a little unclear to me. Do you know what that means, Diane?

MS. QUARLES: Commissioner Sullivan, I think you're correct, it means to transfer title and ownership to the County. We can make it more clear.

COMMISSIONER SULLIVAN: Okay. I think, Mr. Chairman, that we are - I would disagree with the County Manager that those who want to move this forward are not deliberative. I believe that we on the Commission that have been moving and encouraging the

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task force to move and trying to set some deadlines, I believe that is inappropriate to categorize us as being un-deliberative. I think what means is that that we here in the County have had an affordable housing ordinance for five years in the Community College District and we also have regulations from the Community College District that took a couple years to develop but we have those in place. So we've got some good format and we've got and will continue to have affordable housing task force meetings. We'll have at least two public hearings ahead of us and we can have as many public hearings as the Commission desires.

I agree with Commissioner Montoya, I don't want us to pass something that has loopholes in it. I think we've got a good balance between the takings issues and so forth and the other issues. So I think that we can't resolve every single problem but I think we have a good structure here to begin to work. I think if we consider going off the project and outside the area as an eligible area for alternative means of compliance then, we're actually looking at quasi-countywide because we're actually putting affordable housing projects outside the area as an alternative [inaudible] although not completely.

I think we're moving forward well and what I don't want to see is us drop the ball just because there may be a couple of unanswered questions. I want us to move forward on a scheduled basis and I think we're doing that and we're at the point where we have a document that's ready for publishing title and general summary and we can discuss that a little more this afternoon if we want, I see it's on the agenda. I compliment the staff on moving this far and coming up with a workable document.

CHAIRMAN ANAYA: Thank you, Commissioner Sullivan. Commissioner Vigil, we've got three minutes.

COMMISSIONER VIGIL: I think we need to continue this, Mr. Chairman. Also, I think that every time this task force comes before us I come up with more questions. And I agree with the County Manager that as much as we can deliberate and engage the County and all those that are affected by this the better we are to meet our ends.

I am open to meeting towards the end of the or actually scheduling another study session. But I do believe we need to deliberate more.

CHAIRMAN ANAYA: Commissioner Campos, would you like to comment?

COMMISSIONER CAMPOS: I'd like to say that I wouldn't mind having the opportunity to continue this discussion this afternoon if we have time. I think we have a few more questions and there are folks that are here to testify that should be given the opportunity to have some input.

CHAIRMAN ANAYA: Okay. As a last comment that will take about two minutes, jotting down some notes as I heard the discussion. This ordinance only pertain to the central region, it doesn't pertain to Districts 1 or 3. I think this ordinance is moving too fast. We still need to get into the regulation and I think we are putting the cart before the *caballo*. Commissioner Campos stressed on the needs of the fiscal impact; how is this going to impact Santa Fe County? If this ordinance is passed, we have 30 days to develop a deadline and I've heard from the task force that that is a tight deadline. We're already trying to push this through and if we approve this then we've got 30 days to do regulations: that's too fast.

I hear from the manager that there's already rumors about lawsuits against the City. I don't want lawsuits against the County. There's many residents, over 1,800 residents that are looking for rental units in Santa Fe County. There's a waiting list and this does not apply to rental units and I think we should include that. I think we need to have a complete package and not piece by piece. I hear that the City ordinance has 97 pages. The one we're looking at has 9. I'm not saying that we should have 97 but there are some things missing in this ordinance.

I think we need to have more input from the public. I think the task force needs to

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have public hearings on their own that way we're not sitting up here and listening to the whole thing over and over and over again. They can solve a lot of these problems.

I heard from Commissioner Campos that energy efficiency is important and this task force needs to look at. They're still creating green built standards. Are we going to adopt those or not? We haven't addressed the fact of whether the County needs to get money or getting money from a developer; how are we going to look at that? I hear things like "piecing things together," "we need stronger language," "we still have to look at that," "there needs to be some kind of lien," there needs to be answers to all of these and what are the initiatives that this County needs to put in place.

I don't feel that this Board needs to discuss this at a later time this evening. I think that this Board has got clear directions to staff that you continue moving on it and we want all these questions that the Commissioners have brought up looked at.

That's my comment and we've got another meeting and we'll be back at 10:00.

Gerald, does that give you clear direction from the Commission or do you need further information?

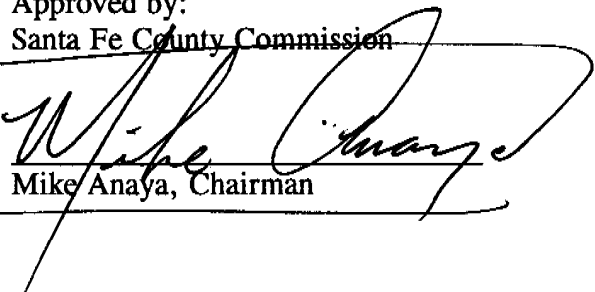
MR. GONZALEZ: I think I've got direction enough to work with but I may want a little more clarification when we come back this afternoon and I think it will only take a couple of minutes to get to that place.

CHAIRMAN ANAYA: Okay, thank you, staff.


ADJOURNMENT

Having completed the agenda and with no further business to come before the Board, this meeting adjourned at approximately 9:00 a.m.

Approved by:
Santa Fe County Commission

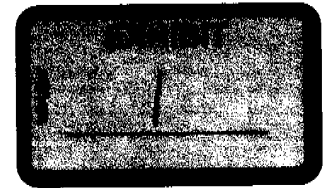

Mike Anaya, Chairman

Respectfully submitted,


Karen Farrell, Wordswork

ATTEST TO:


VALERIE ESPINOZA
SANTA FE COUNTY CLERK



High Performance Green Features in Homewise's Home Education Center

- Innovative Radiant Cooling System takes advantage of New Mexico's climate to provide efficient cooling with low water use
- High performance windows optimized by compass orientation will minimize cooling loads while allowing winter solar heating
- Comfortable daylighting design includes shading, lightshelves and glare control
- Daylighting and occupancy sensors reduce electrical load and heat generation of lighting and equipment
- Building orientation along east west axis optimizes natural heating and cooling
- Operable windows and ceiling fans give occupants control of their environment
- Fresh air ventilation system provides excellent indoor air quality and comfort
- Integrated energy efficient design will result in 50% less energy use
- Extensive rainwater harvesting system includes 20,000 gallon cistern
- Ecological landscaping will emphasize non potable and recycled water use
- Better-than-code plumbing fixture and toilets will reduce water use by 30%
- Solar domestic hot water system will be demonstrated
- Commissioning Authority will document system installation and functionality
- Building will serve as teaching tool and educational resource for community
- On target to achieve LEED NC version 2.1 "Silver" certification
- Design will attract national attention as one of the first LEED certified building in Santa Fe that demonstrates green affordable housing strategies

CLEAN ENERGY GRANT PROGRAM

APPLICATION Cover Sheet

Date: _____

Program Application (attach additional sheets as necessary) If completing this electronically, use the tab key to navigate the form.

APPLICANT INFORMATION: (eligible applicants include municipalities; counties; state agencies; state universities; public schools; post-secondary institutions; and Indian nations, tribes and pueblos)

Organization Name	
Organization Mailing Address	
County	
State Legislative District	Senate: House:
State Tax ID (CRS) #	
Federal Tax ID #	

Project Coordinator	
Telephone	
Email	
Address	

Project Information for Clean Energy Project

Project Name	Homewise Educational Resource Center		
Project Location			
✓ Check One	<input checked="" type="checkbox"/> Capital Project	<input type="checkbox"/> Non-Capital Project	
Type of Project ✓ (Check One)	Renewable Energy <input type="checkbox"/>	Energy Efficiency <input checked="" type="checkbox"/>	Transportation <input type="checkbox"/> Zero-Net <input type="checkbox"/>
Type of Renewable Energy			
Project Purpose			

Additional information to be completed for applications relating to Schools with Sol

Facility Information	
Types of Electricity Usage	check all that apply: <input type="checkbox"/> lighting <input type="checkbox"/> office equipment <input type="checkbox"/> appliances <input type="checkbox"/> staff residence <input type="checkbox"/> computers <input type="checkbox"/> heating/cooling equipment <input type="checkbox"/> other: (please specify)
Electricity Vendor	(attach one monthly billing statement)
Types of Hot Water Usage	check all that apply: <input type="checkbox"/> restrooms <input type="checkbox"/> heating equipment <input type="checkbox"/> pool <input type="checkbox"/> staff residence <input type="checkbox"/> locker room <input type="checkbox"/> kitchen <input type="checkbox"/> other:
Heating Fuel ✓ (Check One)	<input type="checkbox"/> natural gas <input type="checkbox"/> propane <input type="checkbox"/> other: (please specify)
Heating Vendor	(attach one monthly billing statement)
Energy Conservation ✓ (Check One)	<input type="checkbox"/> active on-site program in place six months or longer (attach description) <input type="checkbox"/> students participate in learning activities on subject (attach description)

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Introduction: Provide a brief description of the project, project partners (include relevant experience) and the project goals and benefits, as well as the measurable standard by which the project's impact and effectiveness may be measured.

PROJECT AND PARTNERSHIP

Homewise, Inc. is constructing a 7,030 square foot LEED certified educational resource center. Homewise is committed to the inclusion of energy and water conserving features in the affordable homes it builds and will use this building to feature technologies, products and sustainable features incorporated into the building design which can be replicated in homes and commercial settings. Highlighting design strategies that reduce the environmental impact of building in the desert, this resource center will be an effective model as other sustainable buildings are developed throughout the county and state.

The County of Santa Fe will contract Homewise, Inc. for use of the educational resource center for training and demonstration for county citizens, contractors and staff. This building will act as a case study and for migrating technology and information to county citizens, personnel and contractors as the County of Santa Fe moves forward towards LEED certified and energy and water efficient building in the future.

HOMEWISE EXPERIENCE

HISTORY

Homewise, Inc. was founded as Neighborhood Housing Services of Santa Fe in 1986 to provide home-improvement loans to low-income residents of Santa Fe's west-side. Since then, the organization has increased its services to include home purchase, home repair, home buyer, financial fitness and homeowner success classes, and real estate development of affordable homes. Additionally, with foresight regarding energy and water costs in the future, Homewise focuses on energy and water efficiency in the homes it builds and through programs such as WaterSmart, funded by Governor Richardson's Water Innovation Fund, to help homeowners retrofit their homes with water saving devices and purchase water-saving appliances.

Within its service area, the majority of Homewise's activity is in Santa Fe County where the demand for affordable housing is high and the supply is low. The current median income in Santa Fe County is \$42,207 (2000 U.S. Census data) and the median price of a home is over \$393,000. Additionally, over 41% of renters spend 35% or more of their household income on rent, making it very difficult to save the money needed for a down payment (2000 U.S. Census data).

Despite these statistics, Homewise has helped over 1,200 low- and moderate-income people purchase homes, (there were 187 new homeowners last year) and has assisted over 600 people in keeping their homes by providing financial and technical assistance for home repair. In addition, Homewise has trained and counseled more than 4,000 people toward successful homeownership through becoming financially secure and has built over 150 quality affordable homes.

PERSONNEL

Overseeing the partnership with the County of Santa Fe is Michael Loftin, Executive Director of Homewise. Loftin has over 25 years of experience in community development, including 13 years as Executive Director of Homewise, seven years as a community organizer and four years as the director of the Pilsen Resurrection Project in Chicago. Loftin, well known for his innovative solutions to community issues, is widely regarded as an expert on affordable housing, and sits on the Board of Directors of the New Mexico Mortgage Finance Authority. (See attached resume)

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Managing the building project for Homewise are Tim Dimick, Homewise Special Projects Coordinator, who has LEED accreditation and Steve Brugger, AICP and Homewise Director of Real Estate Development (See attached resumes).

A significant part of the work of Homewise is community training and education. Currently Homewise teaches free classes throughout the year on homebuyer education, financial fitness and home repair including efficient energy and water usage. (See attached resumes of Michele Lis, Homewise Counseling and Training Manager and Andrea Slatopolsky, Homewise Training and Community Outreach Coordinator)

MEASURABLE STANDARDS OF PROJECT IMPACT AND EFFECTIVENESS

- 1. Educational Resource Center project will be certified under the US Green Building Council's Leadership in Energy and Environmental Design (LEED) New Construction (Version 2.1) Rating System. A "Silver" certification is being sought.**
- 2. The project has been registered with the U.S. Green Building Council and the design team has included measurable LEED standards throughout the planning and design phases.**
- 3. The Educational Resource Center will demonstrate an innovative radiant cooling system that takes advantage of New Mexico's climate to provide efficient cooling with low water use. The radiant cooling system can provide 40-50% of the cooling needs of the resource center.**
- 4. The Educational Resource Center will demonstrate/utilize Energy Star Rated (highly reflective) and high emissivity roofing materials (pitched and low-slope) that can reduce peak cooling demand by 10-15%.**
- 5. The Educational Resource Center will demonstrate integrated energy efficient design that incorporates: daylighting, lighting controls (occupancy and daylighting), high performance windows optimized by compass orientation, proper building orientation, ceiling fans, high efficiency ventilation system (HRV), and solar domestic hot water system. Targeted energy savings are 40-50% as defined under LEED EA Credit 1. An energy model is being developed to measure these savings and an interactive computer kiosk, Green Touch Screen, will allow visual demonstration and explanation of the energy efficient systems employed in the building in real time.**
- 6. The Educational Resource Center will demonstrate light pollution reduction by eliminating light trespass from the building and site that will meet lower light levels and uniformity ratios recommended by IESNA and local exterior lighting codes.**
- 7. The Educational Resource Center will demonstrate water efficient landscaping by installing high efficiency irrigation technology, use of native and drought tolerant plants in demonstration gardens and utilizing captured rain water for landscape irrigation (cistern). This will result in a significant reduction (at least 50%) in the use of potable water for landscaping irrigation.**
- 8. The Educational Resource Center will demonstrate significant water use reduction of 30% from baseline (Code) building by employing innovative wastewater technologies (1.0 gallon pressure assisted toilets, dual flush toilets, waterless urinals) and water conserving fixtures throughout the building. The office is also being plumbed to allow the use of rainwater to flush toilets pending governmental approval.**

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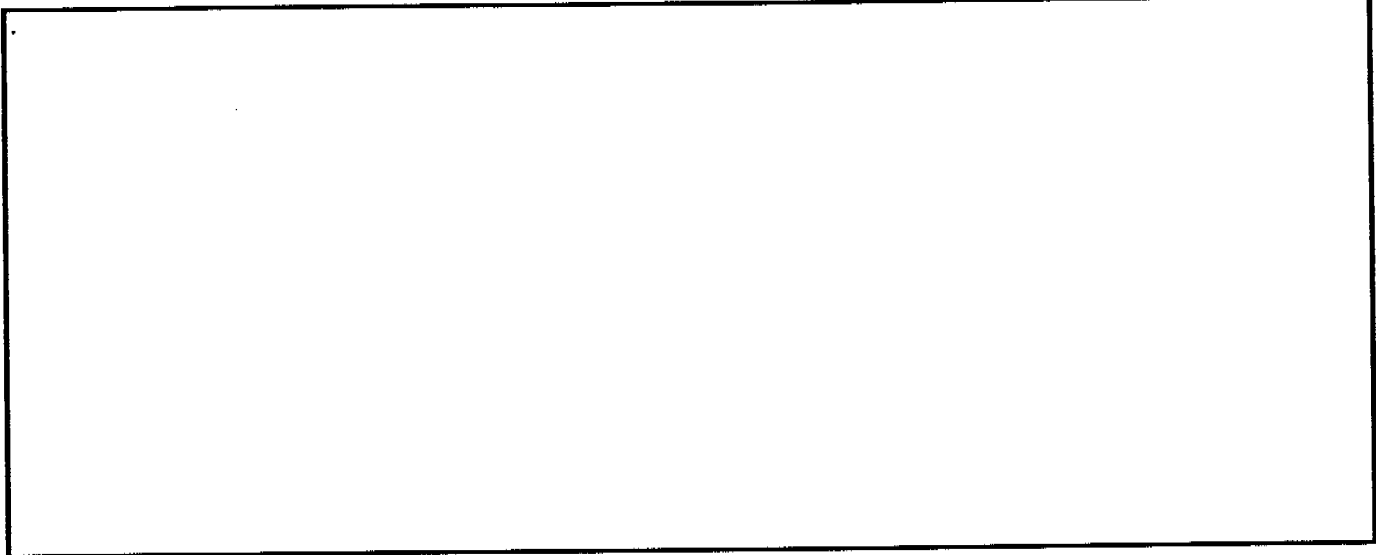
9. The Educational Resource Center will demonstrate the use of recycled content materials (5-10% of total materials cost, i.e. blown in cellulose insulation) and regional materials (20%, i.e. regional fly-ash in concrete).

10. The Educational Resource Center will demonstrate exceptional indoor air quality environment with operable windows, a dedicated outdoor air ventilation system (with heat recovery and Carbon Dioxide monitoring) that will exceed ASHRAE 129-1997. Low-VOC paints will be utilized that do not exceed the Green Seal Standard GS-11.

11. The Educational Resource Center will demonstrate a thermally comfortable (will meet ASHRAE standard), environment for guests, clients, and employees.

12. Educational trainings and demonstrations for county citizens, personnel and consultants will be held in the building. A minimum of 12 trainings and/or demonstrations per year will be held upon completion of the building classroom facilities.

13. Four trainings with qualified experts will be held each year of the contract specifically to migrate energy and water efficient technology to County personnel as related to future County building projects.



Task Descriptions: Provide a list of tasks with each task being assigned a number, which will be used in the task description and Project Budget sections. Each task should be described in detail including the task objective and the project result or deliverable for that task. If a consulting firm, subcontractor or other agency will be conducting any portion of the work that must be specified in the task descriptions.

Task #	Task Description and Objective (Indicate if a subcontractor will be conducting any portion of the work)	Task Result or Deliverable	Estimated Task Budget \$ Amount
			Source of Funding
	Homewise will conduct training and demonstrations to County citizens to educate the general populace on energy and water efficient systems and products for new and existing homes.	Reduce the use of energy and water in newly built and existing homes. Provide a durable investment for the homeowner.	\$10,000.00 Clean Energy Grant
	Homewise will contract and supervise professional training for County personnel and contractors in the energy and water efficient systems and products for new commercial buildings.	Reduce the use of energy and water in newly built County buildings.	\$16,000 Clean Energy Grant
	Homewise will install and demonstrate an	Operable,	\$20,000

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	<p>innovative radiant cooling system, saving water and energy</p>	<p>replicable and demonstrable radiant cooling system that utilizes cooler nighttime air temperature of Santa Fe to cool water for cooling the building slabs.</p>	<p>The radiant cooling portion of the cooling system will be paid for with the Clean Energy Grant. Homewise will pay for the remainder of the system.</p>
	<p>Homewise will install and demonstrate an energy efficient integral lighting control system that demonstrates reduced use of artificial lighting through the use of occupancy and daylighting controls.</p>	<p>Operable, replicable and demonstrable lighting control system that saves energy while ensuring a well lit office.</p>	<p>\$15,000</p> <p>The lighting control system will be paid for with the Clean Energy Grant. Fixtures, lamps and daylighting windows are paid for by Homewise.</p>
	<p>Homewise will install and demonstrate a residential sized solar domestic hot water system to educate County homeowners on this technology and it's positive impact on water and energy usage.</p>	<p>Operable ground level solar panel (for viewing access of public) that will also provide hot water for the resource center.</p>	<p>\$10,000</p> <p>Paid for by the Clean Energy Grant</p>
	<p>Homewise will install a state of the art digital control system linked to a digital information kiosk and the classroom to provide real time information on the energy and water savings of the building as well as green building information for public and County personnel.</p>	<p>Interactive public information tool and data collection system that provides creative explanation and long term monitoring of the building's performance, impact and features.</p>	<p>\$60,000</p> <p>Paid for by the Clean Energy Grant</p>
	<p>Homewise will install a 'green' elevator system that utilizes less energy and takes up less space than a conventional elevator.</p>	<p>Operable elevator system that meets ADA requirements and demonstrates energy efficient technology to the public in a common form.</p>	<p>\$30,000</p> <p>Paid for by the Clean Energy Grant. Homewise will pay for construction costs.</p>

	<p>Homewise will install integral exterior shading devices and interal light shelves on south facing windows that will save energy and increase daylighting while reducing glare.</p>	<p>Demonstrate a simple green strategy (shading and daylighting) that can be utilized across the state in commercial buildings.</p>	<p>\$9,000</p> <p>Paid for by the Clean Energy Grant</p>
	<p>Homewise will install energy efficient and ecological landscaping.</p>	<p>The landscaping installed will demonstrate energy and waterwise planting and heat island reduction strategies.</p>	<p>\$30,000</p> <p>Paid for by the Clean Energy Grant</p>

BUDGET DETAIL

PROJECT DETAILS- BUDGETARY AND FINANCIAL INFORMATION

Project Budget: Provide a detailed budget narrative and basis for allocation of costs by task. The budget detail should include a discussion of the total project cost and sources of funding (both cash and in-kind) including state, federal grants, partner contribution, etc.

Budget Narrative:

Identify items to be purchased using grant funding and other direct charges to be part of the total project costs (i.e. administrative costs {not to exceed 5% of CEFP grant} transportation, general liability, tools, etc.)	Define Unit/ # of units (i.e. hours, item (ea), package, etc.)	Provide Task # for this purchase	Cost/Unit (i.e. \$25/hr, \$.32/mile)	Total Cost (\$)
				\$
				\$
				\$
				\$
				\$
				\$
				\$
				\$

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BUDGET DETAIL		
Amount of Funding Requested: \$ 200,000		
In-Kind Applicant/Partner Matching Contribution: \$200,000	Total Project Budget: \$400,000	
COMBINED TOTAL BUDGET TABLES		
Budgetary and financial information outlining total project costs, sources of funding, cost estimates, direct costs, cash cost share and in-kind contributions		
APPLICATION REQUEST (List budget categories – Direct costs)	Amount	Funding Source
Salaries/Benefits	\$	
Operating Costs (postage, advertising, maintenance, rent, printing, copying, telephone, etc.)	\$	
Equipment	\$	
Contractual (professional services)	\$	
Other (describe travel)	\$	
TOTAL GRANT REQUEST:	\$	
MATCHING CONTRIBUTION	\$	
Total Cash Cost-Share:	\$	
Total for In-Kind Applicant Contribution:	\$	
Total for In-Kind Applicant/Partner Contribution:	\$	
TOTAL IN-KIND APPLICANT/PARTNER CONTRIBUTION:	\$	
TOTAL PROJECT BUDGET:	\$	

Project Schedule: Provide a project time table that specifies numbered tasks, milestones to be completed and the schedule for completion of each task. The timeline should be listed by number (for example, use 1 if the task will be completed within the first month of the project, 2 if by the second month, 2 to 5 if task will take from the second to the fifth month to complete, etc.)

Progress Reporting and Project Evaluation: Provide a description of the process that will be used to document the project's progress and project success. Explain the approach for measuring project effectiveness and the appropriate methods that will be used for project evaluation. (A spreadsheet attachment is acceptable that explains and demonstrates the process)

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ASSURANCES

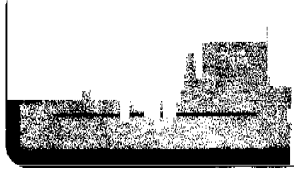
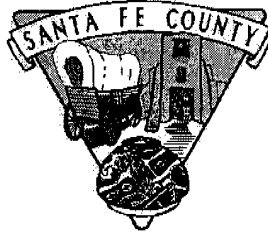
The Applicant, through its lawful representative who has bound it by signing this application,

CERTIFIES THAT:

- A. It desires to enter into a contract known as a Governmental Services Agreement with EMNRD, describing Applicant's and EMNRD's the project responsibilities, no part of which the Applicant will be permitted to change without EMNRD's written consent in the form of a contract amendment.
- B. It understands that the Governmental Services Agreement and any amendments thereto, along with the claims and assurances contained in this application, shall be binding in all respects.
- C. It will abide by all applicable State of New Mexico laws and regulations including adherence with the New Mexico Procurement Code in relation to any subcontractor selected to conduct project work.
- D. It understands that the contract period will start after the contract between EMNRD and the Applicant is effective.
- E. It will respond in a timely manner to all EMNRD inquiries and shall adhere to contract timelines and providing qualified staff and adequate supplies, materials, and equipment to ensure successful completion of the project.
- F. It understands that EMNRD shall monitor the Applicant's compliance with the terms of the Governmental or Professional Services Agreement.
- G. It understands that requests for payment shall be submitted to EMNRD and EMNRD will make payments under the Governmental Services Agreement only for allowable, documented and EMNRD-approved project expenses.
- H. Any and all entities responsible for authorizing the activities of the applicant have agreed to the submittal of this Application as written.
- I. Funds received by the Applicant from EMNRD through any Governmental Services Agreement issued pursuant to this application will not be used to supplant funds that the applicant may have at its disposal for similar purposes from another source.
- J. It understands that:
 - 1) Capital projects will be required to meet one of the following performance measures:
 - 5 percent reduction in energy consumption for the project; or
 - 15 percent increase in alternative fuel usage for the project.
 - or
 - 2) Educational/non-capital projects will be required to demonstrate that the project will increase the development of clean energy market demand or advance commercialization and widespread application of clean energy technologies.

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<i>Signature/Title</i>	<i>Date</i>



MEMORANDUM

TO: Santa Fe County Board of County Commissioners

VIA: Gerald Gonzalez, Santa Fe County Manager
Roman Abeyta, Santa Fe Deputy County Manager

FROM: Diane T. Quarles, Santa Fe County Strategic Planner

SUBJECT: Continued discussion of the Draft Affordable Housing Ordinance

DATE: September 26, 2005

Background: The second affordable housing study session continues the discussion from September 7, 2005. The following summarizes the key points raised at that meeting and any resulting changes to the ordinance or recommendations from the Task Force Meeting on September 21, 2005:

1. **The ordinance would apply to the central region of the County; however, a separate workforce housing initiative would be introduced in parallel to this process.**
 - a. Section 15, Part A1 & 3, Alternative Means of Compliance (p.7): clarification in off-site construction or land dedications—alternatives shall be located within the unincorporated areas of Santa Fe County. This allows some linkage between the ordinance and future workforce housing or County developed affordable housing. Land dedications could be used, for example, to build workforce housing under public/private partnerships. This was one of the suggestions from the developer's forum.
2. **No substantive changes to the 30% affordability requirement for Projects and the reduced requirement for Minor Projects.**
3. **No substantive changes to the 10% distribution in each of the three income ranges.**
4. **The Ordinance provides a waiver from the water rights transfer requirements for the 30% affordable as an incentive ("shall").**
 - a. Section 8, Water for Affordable Housing (p.5): allows for an additional 10% waiver of water right transfers on a discretionary basis ("may") for voluntary housing provided within the 100-120% income range.

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- b. In this most recent version of the ordinance, water right transfer waivers are limited to Service Level I where the County provides the water and the project is on a central wastewater collection system. The Task Force considered this change as well, and they recommended water as an incentive where it can be accommodated, but recognized that this was a land use issue and deferred to the BCC on that basis.

5. The 15% density bonus for the total development remains unchanged.

- a. Section 9-Part B, Density Bonus: It further allows for the added 5% density bonus for voluntary compliance within the 100-120% income range on a discretionary basis (may).
- b. *Notation—The language restricting incentives to water or density but not both was removed as per the discussion at the last study session.*

6. The Housing Regulations will include the Maximum Target Housing Prices and the Design Standards. There are several other issues related to the Housing Regulations:

- a. Section 6-Part A, Affordable Housing Regulations (p.4): The Task Force has recommended that the Housing Regulations be adopted within 30 days of ordinance adoption. In order to meet that deadline, they have committed to working with staff to get the draft prepared by the time the ordinance is adopted. The regulations can then be presented and reviewed by the BCC during the 30-day period. The new language includes an extension provision of 30 days if needed for additional review.
- b. Section 6, Part B8 (p.5): Includes new language concerning green building standards. This was included at the request of the SFAHBA and the Task Force concurred. This references changes to the Alternative Means of Compliance section on page 7 (see #7a below).

7. The Alternative Means of Compliance and Hardship sections have been substantially revised.

- a. Section 15-Part A4, Alt. Means of Compliance (p.7): Allows for a higher pricing schedule if the entire project is built according to green building standards included in the AffHsg Regulations. The Task Force generally concurred on this insertion.
- b. Section 15-Part B, Alt. Means of Compliance (p.7): Allows a request for alternative compliance to be brought forward for consideration separate from formal development review. This was suggested at the developer's forum.
- c. Section 15-Part C, Alt. Means of Compliance (p.7-8): Provides four tests for consideration of alternative compliance.
- d. Section 16, Hardship Conditions (p.8): Tests for hardship conditions have been rewritten according to two standards of hardship (Service Levels I and II/Service Levels III-V) to be more applicable to each service type.

8. The Task Force was unable to reach consensus and send forward a recommendation on long-term affordability and appreciation share.

- a. The Task Force was in agreement that an affordability lien (held by the County) be applied to the unit in order to deter "flipping". They continue to be split on the issue of appreciation share—half of the members present indicated that all appreciation should go to the homeowner and half indicated that there should be some proportionate share in appreciation between the homeowner and the County. They could not reach consensus and sent it forward without a recommendation. There was also no consensus on terms of affordability (how long a unit is held affordable through resale restrictions).

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- b. *Notation—The Affordable Housing Act (NMSA 1978, Sections 627-1 through 8), the state enabling legislation, was adopted at the last legislative session so any barriers that might have existed are now removed. The original language that includes references to the trust fund remains in the ordinance and reference the provisions of the Act.*

9. Rental substitution was removed from the Ordinance.

- a. There continues to be rental restrictions on the units accept where there are conditions of hardship (Section 7, p.5).

10. Housing Affordability is to be reviewed and reported annually.

- a. The Ordinance allows for an annual review and reporting. The developer's forum has suggested this, with some consensus on this issue at the last study session.

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Affordable Housing Act
ARTICLE 27
Affordable Housing Act

Section

- 6-27-1 Short title.
- 6-27-2 Purpose.
- 6-27-3 Definitions.
- 6-27-4 Eligibility requirements; non-individual and individual qualifying grantees.
- 6-27-5 State, county and municipalities; authorization for **affordable housing**.
- 6-27-6 Requirement for specific law authorizing a **housing** assistance grant from state.
- 6-27-7 Requirement for enactment of an ordinance by county or municipality authorizing **housing** assistance grants.
- 6-27-8 Provisions to ensure successful completion of **affordable housing** projects.

6-27-1. Short title.

This act may be cited as the "Affordable Housing Act" [6-27-1 NMSA 1978].

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6-27-2. Purpose.

The purpose of the Affordable Housing Act [6-27-1 NMSA 1978] is to implement the provisions of Subsections E and F of Section 14 of Article 9 of the constitution of New Mexico.

6-27-3. Definitions.

As used in the Affordable Housing Act [6-27-1 NMSA 1978]:

- A. "affordable housing" means residential housing primarily for persons or households of low or moderate income;
- B. "authority" means the New Mexico mortgage finance authority;
- C. "building" means a structure capable of being renovated or converted into affordable housing or a structure that is to be demolished and is located on land donated for use in connection with an affordable housing project;
- D. "governmental entity" means a state, county or municipality;
- E. "household" means one or more persons occupying a housing unit;
- F. "housing assistance grant" means the donation by a governmental entity of:
 - (1) land for construction of an affordable housing project;
 - (2) an existing building for conversion or renovation as affordable housing; or
 - (3) the costs of infrastructure necessary to support affordable housing;
- G. "infrastructure" includes infrastructure improvements and infrastructure purposes;
- H. "infrastructure improvement" includes, but is not limited to:
 - (1) sanitary sewage systems, including collection, transport, storage, treatment, dispersal, effluent use and discharge;
 - (2) drainage and flood control systems, including collection, transport, diversion, storage, detention, retention, dispersal, use and discharge;
 - (3) water systems for domestic purposes, including production, collection, storage, treatment, transport, delivery, connection and dispersal;
 - (4) areas for motor vehicle use for road access, ingress, egress and parking;
 - (5) trails and areas for pedestrian, equestrian, bicycle or other nonmotor vehicle use for access, ingress, egress and parking;
 - (6) parks, recreational facilities and open space areas to be used by residents for entertainment, assembly and recreation;
 - (7) landscaping, including earthworks, structures, plants, trees and related water delivery systems;
 - (8) electrical transmission and distribution facilities;
 - (9) natural gas distribution facilities;
 - (10) lighting systems;
 - (11) cable or other telecommunications lines and related equipment;
 - (12) traffic control systems and devices, including signals, controls, markings and signs;
 - (13) inspection, construction management and related costs in connection with the furnishing of the items listed in this subsection; and
 - (14) heating, air conditioning and weatherization facilities, systems or services, and energy efficiency improvements that are affixed to real property;
- I. "infrastructure purpose" means:
 - (1) planning, design, engineering, construction, acquisition or installation of infrastructure, including the costs of applications, impact fees and other fees, permits and approvals related to the construction, acquisition or installation of the infrastructure;
 - (2) acquiring, converting, renovating or improving existing facilities for infrastructure, including facilities owned, leased or installed by the owner;
 - (3) acquiring interests in real property or water rights for infrastructure, including interests of the owner; and

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(4) incurring expenses incident to and reasonably necessary to carry out the purposes specified in this subsection;

J. "municipality" means an incorporated city, town or village, whether incorporated under general act, special act or special charter, incorporated counties and H class counties;

K. "qualifying grantee" means:

(1) an individual who is qualified to receive assistance pursuant to the Affordable Housing Act and is approved by the governmental entity; and

(2) a governmental housing agency, regional housing authority, tribal housing agency, corporation, limited liability company, partnership, joint venture, syndicate, association or nonprofit organization that:

(a) is organized under state, local or tribal laws and can provide proof of such organization;

(b) if a nonprofit organization, has no part of its net earnings inuring to the benefit of any member, founder, contributor or individual; and

(c) is approved by the governmental entity; and

L. "residential housing" means any building, structure or portion thereof that is primarily occupied, or designed or intended primarily for occupancy, as a residence by one or more households and any real property that is offered for sale or lease for the construction or location thereon of such a building, structure or portion thereof. "Residential housing" includes congregate housing, manufactured homes and housing intended to provide or providing transitional or temporary housing for homeless persons.

6-27-4. Eligibility requirements; non-individual and individual qualifying grantees.

A. To be eligible to receive lands, buildings and infrastructure pursuant to Section 14 of Article 9 of the constitution of New Mexico, a non-individual qualifying grantee shall:

- (1) have a functioning accounting system that is operated in accordance with generally accepted accounting principles or has designated an entity that will maintain such an accounting system consistent with generally accepted accounting principles;
- (2) have among its purposes significant activities related to providing housing or services to low- or moderate-income persons or households; and
- (3) if it has significant outstanding or unresolved monitoring findings from either the authority or its most recent independent financial audit, have a certified letter from the authority or auditor stating that the findings are in the process of being resolved.

B. To be eligible to receive lands, buildings and infrastructure pursuant to Section 14 of Article 9 of the constitution of New Mexico, an individual qualifying grantee shall meet the requirements established by the authority pursuant to the Affordable Housing Act [6-27-1 NMSA 1978].

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6-27-5. State, county and municipalities; authorization for affordable housing.

The state, a county or a municipality may donate land for construction of affordable housing or an existing building for conversion or renovation into affordable housing or may provide or pay the costs of infrastructure necessary to support affordable housing projects.

6-27-6. Requirement for specific law authorizing a housing assistance grant from state.

- A. The specific grant of authority created in the Affordable Housing Act [6-27-1 NMSA 1978] is the prior approval required pursuant to Article 4, Section 14 of the constitution of New Mexico to allow the state to provide affordable housing assistance.
- B. Funding pursuant to this grant of authority shall be appropriated to the department of finance and administration for disbursement by the authority to a qualifying grantee in accordance with rules promulgated by the authority.
- C. Rules adopted by the authority may include provisions for matching or using local, private or federal funds in connection with a specific grant, but matching or using federal funds shall not be prohibited.
- D. The authority shall seek comment from the Mortgage Finance Authority Act oversight committee prior to its adoption of rules pursuant to this section.

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6-27-7. Requirement for enactment of an ordinance by county or municipality authorizing housing assistance grants.

A. A county or municipality may provide housing assistance grants pursuant to Section 14 of Article 9 of the constitution of New Mexico after enactment by its governing body of an ordinance authorizing grants, stating the requirements of and purposes of the grants and authorizing transfer or disbursement to a qualifying grantee only after a budget is submitted to and approved by the governing body. The ordinance may provide for matching or using local, private or federal funds either through direct participation with a federal agency pursuant to federal law or through indirect participation throughout the authority. The ordinance shall comply with rules promulgated by the authority pursuant to Section 8 of the Affordable Housing Act [6-28-8 NMSA 1978].

B. A school district may transfer land owned by the school district to a county or municipality to be further granted as part or all of an affordable housing grant if the school district and the governing body of the county or municipality enter into a contract that provides the school district with a negotiated number of affordable housing units that will be reserved for employees of the school district.

C. The governing board of a public post-secondary educational institution may transfer land owned by that institution to a county or municipality; provided that:

- (1) the property transferred shall be granted by the county or municipality as part or all of an affordable housing grant; and
- (2) the governing board of the public post-secondary educational institution and the governing body of the county or municipality enter into a contract that provides the public post-secondary educational institution with affordable housing units.

D. As used in this section, "public post-secondary educational institution" means a state university or a public community college.

6-27-8. Provisions to ensure successful completion of affordable housing projects.

A. State, county and municipal housing assistance grants pursuant to the Affordable Housing Act [6-27-1 NMSA 1978] shall be applied for and awarded to qualifying grantees pursuant to the rules promulgated by the authority subject to the requirements of that act.

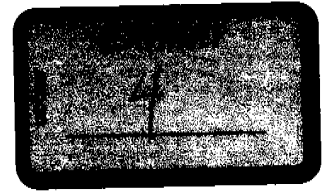
B. The authority shall adopt rules covering:

- (1) procedures to ensure that qualifying grantees meet the requirements of the Affordable Housing Act and rules promulgated pursuant to that act both at the time of the award and through the term of the grant;
 - (2) establishment of an application and award timetable for housing assistance grants to permit the selection of the potential qualifying grantees prior to January of the year in which the grants would be made;
 - (3) contents of the application, including an independent evaluation of the:
 - (a) financial and management stability of the applicant;
 - (b) demonstrated commitment of the applicant to the community;
 - (c) cost-benefit analysis of the project proposed by the applicant;
 - (d) benefits to the community of a proposed project;
 - (e) type or amount of assistance to be provided;
 - (f) scope of the affordable housing project;
 - (g) substantive or matching contribution by the applicant to the proposed project; and
 - (h) performance schedule for the qualifying grantee with performance criteria;
 - (4) a requirement for long-term affordability of a state, county or municipal project so that a project cannot be sold shortly after completion and taken out of the affordable housing market to ensure a quick profit for the qualifying grantee;
 - (5) a requirement that a grant for a state or local project must impose a contractual obligation on the qualifying grantee that the housing units in a state or local project pursuant to the Affordable Housing Act [6-27-1 NMSA 1978] be occupied by low- or moderate-income households;
 - (6) provisions for adequate security against the loss of public funds or property in the event that a qualifying grantee abandons or otherwise fails to complete a project;
 - (7) a requirement for review and approval of a housing grant project budget by the grantor before any expenditure of grant funds or transfer of granted property;
 - (8) a requirement that, unless the period is extended for good cause shown, the authority shall act on an application within forty-five days of the date of receipt of an application that the authority deems to be complete and, if not acted upon, the application shall be deemed approved;
 - (9) a requirement that a condition of grant approval be proof of compliance with all applicable state and local laws, rules and ordinances;
 - (10) provisions defining "low- and moderate-income" and setting out requirements for verification of income levels;
 - (11) a requirement that a county or municipality that makes a housing assistance grant shall have an existing valid affordable housing plan or housing elements contained in its general plan; and
 - (12) a requirement that the governmental entity enter into a contract with a qualifying grantee consistent with the Affordable Housing Act, which contract shall include remedies and default provisions in the event of the unsatisfactory performance by the qualifying grantee.
- C. In addition to the rulemaking mandated in Subsection B of this section, the authority may adopt additional rules to carry out the purposes of the Affordable Housing Act. Rulemaking

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procedures pursuant to the Affordable Housing Act shall:

- (1) provide a public hearing in accordance with the state Administrative Procedures Act [12-8-1 NMSA 1978]; and
- (2) require concurrence in a rule having application to local government by both the New Mexico municipal league and the New Mexico association of counties.



SANTA FE COUNTY ORDINANCE NO. 2005-____

AN ORDINANCE REQUIRING AFFORDABLE HOUSING IN PROJECTS AND MINOR PROJECTS DEVELOPED WITHIN THE CENTRAL AREA OF THE COUNTY, CREATING THE POSITION OF AFFORDABLE HOUSING ADMINSTRATOR, PROVIDING FOR ENACTMENT OF AFFORDABLE HOUSING REGULATIONS, PROVIDING FOR INCENTIVES TO AMELIORATE THE COST OF PROVIDING AFFORDABLE HOUSING, ENSURING LONG-TERM AFFORDABILITY, PROVIDING FOR ALTERNATE MEANS OF COMPLIANCE AND MEANS TO ADDRESS HARDSHIP SITUATIONS, AMENDING ORDINANCES NO. ____, AND REPEALING ORDINANCES NO. ____.

BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF SANTA FE COUNTY:

Section One. Purpose and Intent. The purpose of this Ordinance is to provide increased housing opportunities within a broad range of incomes for current and future residents of Santa Fe County. The intent is to encourage new development to achieve a reasonable balance between market rate housing and Affordable Housing through the use of incentives and other means to help offset potential costs.

Section Two. Applicability. This Ordinance shall apply to each Project and Minor Project within the unincorporated areas of central Santa Fe County shown in Attachment A not governed by the Santa Fe County Exterritorial Zoning Ordinance, Ordinance No. ____-____, and the Santa Fe County Extraterritorial Subdivision Regulations. This Ordinance shall apply to existing approved master plans, preliminary development plans or preliminary plats, and shall apply to applications for approval of master plans, preliminary development plans or preliminary plats submitted for review after the effective date of this Ordinance. This Ordinance shall not apply to final development plans and final plats that have received approval prior to the effective date of this Ordinance.

Section Three. Definitions. For purposes of this Ordinance, the following definitions shall apply:

A. "Affordable Housing" means an Eligible Housing Type or Unit that is sold at or below the Maximum Target Housing Price to an Eligible Buyer, where the Eligible Housing Unit is occupied by the Eligible Buyer as a primary residence.

B. "Affordable Housing Administrator" means the County employee charged with administering this Ordinance, making recommendations and taking other actions as set forth in this Ordinance.

C. "Affordable Housing Plan" means a written plan that describes how an applicant intends to comply with the Affordable Housing requirements of this Ordinance,

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and which specifies the general location, number and types of Affordable Housing Units that will be built.

D. "Affordable Housing Regulations" refers to regulations developed and updated periodically by the Board of County Commissioners to govern implementation and administration of this Ordinance.

E. "Affordable Rental Unit" means an Affordable Housing Unit that is developed for rental purposes only.

F. "Affordable Unit" means an Affordable Housing unit.

G. "Area Median Income" means the median income of the Santa Fe Metropolitan Statistical Area, adjusted for various household sizes, published by the United States Department of Housing and Urban Development and amended annually pursuant to data published by the United States Department of Housing and Urban Development.

H. "Code Administrator" means the Santa Fe County Land Use Director, or his/her designee.

I. "Project" means any division of property into ten or more parcels for purpose of sale, lease or other conveyance of one or more single-family residences.

J. "Eligible Buyer" means the buyer of an Eligible Housing Unit whose Annual Gross Income is one hundred percent (100%) or less than the Area Median Income.

K. "Eligible Housing Type" or "Unit" means a housing unit, attached or detached, that is constructed in compliance with applicable codes. Design standards for an Eligible Housing Type or Unit shall be further categorized within the Affordable Housing Regulations according to housing type, number of bedrooms, number of bathrooms and minimum square footages of heated residential area.

L. "Income Range" means the income range used to determine the Maximum Target Home Price for each Eligible Housing Type. For purposes of this Ordinance, the Income Ranges are as follows:

1. Income Range 1: 0% to 65% of the Area Median Income.
2. Income Range 2: 66% to 80% of the Area Median Income.
3. Income Range 3: 81% to 100% of the Area Median Income.
4. Income Range 4: 101% to 120% of the Area Medium Income.

M. "Maximum Target Housing Price" means the highest price at which an Eligible Housing Type or Unit may be sold to an Eligible Buyer in the appropriate Income Range and otherwise satisfy the affordable housing requirements of this Ordinance. The Maximum Target Housing Prices for each Eligible Housing Type and Income Range shall be included in the Affordable Housing Regulations, and the Maximum Target Housing Prices shall be amended from time to time as the Area Median Income, interest rates, or other appropriate indices change. The Maximum Target Housing Price shall not include any options, lot premiums or upgrades chosen by the Eligible Buyer so long as the options, premiums and upgrades are published by the seller in advance as part of its marketing efforts and so long as the options are reasonably comparable to those offered to other buyers of the same housing type and do not exceed the sum of \$2,000 in total.

N. "Minor Project" means subdivision of a parcel or parcels into between five (5) and up to ten (10) lots or parcels for purpose of sale, lease or other conveyance of one or more single-family residences.

O. "Service Level" means the type of water and wastewater system proposed to serve a Project or Minor Project. Service types are further categorized as centralized (public or publicly-regulated integrated water distribution and/or wastewater collection systems), or non-centralized (private water and/or wastewater systems provided on-site). Categories of Service Levels are as follows:

1. Service Level I: Community Water System and Community Liquid Waste Disposal System; water service provided by the Santa Fe County Water Resources Department;
2. Service Level II: Centralized water and wastewater; water service is provided by a public utility other than Santa Fe County Water Resources Department;
3. Service Level III: Centralized water and non-centralized wastewater;
4. Service Level IV: Community wells and non-centralized wastewater; and
5. Service level V: Individual or shared wells and non-centralized wastewater.

P. "Project" means any division of property into ten or more parcels for purpose of sale, lease or other conveyance of one or more single-family residences.

Section Four. Affordable Housing Requirements.

A. Of the total housing permitted in any Project, no less than thirty percent (30%) shall be Affordable Housing as defined herein.

B. The Affordable Housing provided in connection with a Project shall be provided equally to Eligible Buyers in Income Range 1 (10%), Income Range 2 (10%) and Income Range 3 (10%).

C. Affordable Housing shall be integrated into the overall design and layout of the Project, and the Affordable Units shall be reasonably dispersed within the Project. An appropriate mix of housing types and sizes may be included in the Project so long as it otherwise complies with this Ordinance. At a minimum, the general location, total number of units, a description as to the type and design of those units, the general pricing structure, and the proposed phasing of the Affordable Housing shall be identified in the Affordable Housing Plan and the exact location of the Affordable Units shall be identified in the Affordable Housing Agreement.

D. Affordable Housing shall be provided in phases if the Project is otherwise to be phased, but the proportion of Affordable Housing Units offered for sale within any phase must not be less than the proportion of the total number of lots to be developed within all phases of the Project and the total number of Affordable Housing Units to be offered within all phases of the Project.

E. An applicant shall submit an Affordable Housing Plan as a part of the application for approval of a Project. The Affordable Housing Plan shall describe, in

detail, how the applicant intends to comply with the Affordable Housing requirements of this Ordinance, and shall specify whether alternative means of compliance or hardship conditions will be claimed and, if so, the grounds for doing so. The Affordable Housing Plan shall be submitted at the earliest phase of the review process and shall be included as a part of the development review for that development. The Affordable Housing Administrator may request additional information from the applicant, or reject or require amendments to a proposed Affordable Housing Plan if the proposed Affordable Housing Plan fails to meet the requirements of this Ordinance or the Affordable Housing Regulations. The Affordable Housing Plan will be incorporated into the Affordable Housing Agreement that shall be filed and recorded with a final development plan or a final plat, whichever instrument is the first to be recorded.

F. A final plat shall not be recorded until the applicant has entered into an Affordable Housing Agreement with the County.

Section Five. Affordable Housing Requirements for Minor Development.

The Affordable Housing provided in connection with a Minor Project shall be provided, as follows:

A. For a Minor Project that creates five (5) or six (6) housing units, one (1) Affordable Unit within Income Range 2 shall be provided.

B. For a Minor Project that creates between seven (7) housing units and ten (10) housing units, two Affordable Units shall be provided including one (1) Affordable Unit in Income Range 1 and one (1) Affordable Unit in Income Range 2.

Section Six. Affordable Housing Regulations.

A. Within ~~ninety (90)~~ thirty (30) days of the ~~effective date~~ adoption of this Ordinance, the Affordable Housing Administrator shall recommend and present to the Board of County Commissioners proposed Affordable Housing Regulations. The BCC may extend this term by an additional thirty (30) days if it determines that more time is necessary for adequate review and consideration.

B. The Affordable Housing Regulations ultimately adopted by the Board of County Commissioners shall include, at a minimum, the following:

1. The application submittal requirements necessary to reasonably evaluate compliance with this Ordinance, the requirements governing the Affordable Housing Plan and Affordable Housing Agreement.

2. The form of the Affordable Housing Agreement including standard terms and conditions for providing Affordable Housing within the Project or within a Minor Project, and to ensure compliance with the terms of this Ordinance. The Affordable Housing Regulations shall specify that the Affordable Housing Agreement describe the location, housing type(s) and size(s) and the Maximum Target Housing Price(s) of the proposed Affordable Units, and shall describe how Affordable Units will be marketed and sold to eligible buyers, and shall specify that the Affordable Housing Agreement shall be filed and recorded with the Final Plat;

3. A reasonable process for certifying Eligible Buyers by the County or its agent that, to the extent possible, takes no more than fifteen (15) business days from the date a potential buyer applies for certification;

4. Reasonable fees to be charged for certification of Eligible Buyers;

5. The form of the Certificate of Compliance to be issued upon compliance with the terms of this Ordinance;

6. A Maximum Target Housing Price for each income range;

7. Minimum design requirements including the number of bathrooms and the minimum residential square footages of heated area according to the number of bedrooms;

8. Green building standards, adjusted Maximum Target Housing Prices for green building Affordable Units, and green building certification requirements;

8.9. The method used to determine and periodically adjust the Maximum Target Housing Price, including the methodology to be used to determine the initial market price for each Eligible Housing Type and a means to discount the market price by the same percentages to determine the price for each category of Eligible Housing Type and for each Income Range; and

9.10. Any other matter deemed necessary by the Board of County Commissioners.

C. The Affordable Housing Regulations shall be adopted by resolution of the Board of County Commissioners, and shall be amended from time to time as deemed necessary and to account for changes in indices used to make calculations required by this Ordinance and the Affordable Housing Regulations.

Section Seven. Rental of Affordable Units. An Eligible Buyer shall not lease an Affordable Housing Unit provided pursuant to this Ordinance unless the proposed tenant is an immediate family member of the Eligible Buyer, the Eligible Buyer is under duress by reason of unemployment, family medical emergency, is unable to sell the Affordable Unit for an amount equal to or greater than the original sale price or other unique circumstances of hardship, and the proposed lease of the premises is approved in writing by the Affordable Housing Administrator.

Section Eight. Water for Affordable Housing. Notwithstanding the provisions of Article ___, Section ___ of the Santa Fe Land Development Code and Ordinance No. 2005-___ (Master Plan Procedures), or any Resolution governing operations of the Santa Fe County Water Resources Department, a Project that provides Service Level I shall not be required to transfer water rights to the County for up to thirty percent (30%) of the Affordable Units provided within the Project pursuant to this Ordinance, and may not be required to transfer water rights to the County for up to an additional ten percent (10%) of any Affordable Housing provided in Income Range IV, so long as at the time of application the County holds adequate water rights to supply the Affordable Units, and is otherwise capable of supplying the Affordable Units.

Section Nine. Density Bonus for Affordable Housing.

A. A Project that provides Service Level I or II may receive increased density to accommodate the Affordable Units provided pursuant to the requirements contained within this Ordinance, not to exceed an increase of fifty percent (50%) of the density otherwise permitted by application of the Land Development Code, and not to exceed an increase of fifteen percent attributable to the Project in total.

B. A Project that provides additional Affordable Housing Units within Income Range 4 amounting to an increase of ten percent (10%) more than the Project would otherwise have to provide, may receive an additional five percent (5%) density bonus, not to exceed an increase of fifty percent (50%) of the density otherwise permitted by application of the Land Development Code, and not to exceed an increase of twenty percent (20%) attributable to the Project as a whole.

C. The affordability requirements for a Project shall be determined prior to applying any density bonus.

D. Density bonuses of more than twenty percent (20%) attributable to the Project as a whole may be approved by the Board of County Commissioners on a case-by-case basis, so long as the Project remains compatible with surrounding uses and the impacts to adjacent areas are minimal.

Section Ten. Relief from Fire Impact Fees. Notwithstanding the provisions of Article ____, Section ____ of the Ordinance No. ____-____, the Santa Fe County Land Development Code and Article ____ Section ____ of the Santa Fe County Fire Code, a Project or Minor Project that provides Affordable Housing as required by this Ordinance shall be relieved of the obligation to pay fire impact fees for each Affordable Unit provided within the Project.

Section Eleven. Relief From Development Fees. Notwithstanding the provisions of Article ____, Section ____ of the Santa Fe County Land Development Code, a Project or Minor Project that provides Affordable Housing as required by this Ordinance shall be relieved of the obligation to pay development fees for each Affordable Unit provided within the Project.

Section Twelve. Relief From Additional Santa Fe County Water Utility Connection Charges. Notwithstanding the provisions of Article ____, Section ____ of Resolution No. ____-____, a Project that provides Affordable Housing as required by this Ordinance shall be relieved of the obligation to pay additional water connection charges that exceed the cost of the water meter.

Section Thirteen. Reduction of Lot Size for Affordable Units. A Project that provides Service Level III, IV or V, or a Minor Project that is not eligible for a water rights transfer waiver (Section ____, herein) or a water allocation or density bonus (Section ____, herein), may reduce the lot area for each Affordable Unit to the minimum permitted by applicable Regulations of the New Mexico Environmental Department, so long as the Affordable Units whose lot sizes are reduced pursuant to this Section are

reasonably dispersed throughout the Project. The reduction in lot size shall not alter the hydrologic standards set forth in the Santa Fe County Land Development Code."

Section Fourteen. Water Rights Transfer Reduction. A Project that provides Service Level III, IV or IV, or a Minor Project that is not eligible for a water rights transfer waiver pursuant to Section ____ herein or a density bonus pursuant to Section ____, herein may nevertheless be eligible to reduce the water budget for the Affordable Housing Units within the Project to the estimated actual usage attributable to the Affordable Units, notwithstanding the provisions of Article ____, Section ____ of the Land Development Code.

Section Fifteen. Alternate Means of Compliance.

A. A Project or a Minor Project may alternatively meet all or a portion of its obligation to provide Affordable Housing by:

1. providing Affordable Units outside the Project but within the unincorporated areas of Santa Fe County;
2. making a cash payment of equal or greater value than would be required if the Project had constructed or created Affordable Units as provided in this Ordinance;

3. dedicating property suitable for construction of Affordable Units within the unincorporated areas of Santa Fe County whose value is equivalent or of greater value than would be otherwise be required if the Project had constructed or created Affordable Units as provided in this Ordinance; or

4. ~~a maximum five percent (5%) reduction adjusted Maximum Target Housing Prices for each Income Range in the total number of Affordable Units (where a thirty percent (30%) affordability is required), which is to be distributed equally among each of the three Income Ranges, for complying with the Green Building Construction Standards set forth in the Affordable Housing Regulations as it applies to the entire Project.~~

B. Review of a proposal to use an alternative means of compliance provided by this Section shall be conducted during the review of application for approval of the master plan, preliminary plat or development plan, as appropriate. Alternatively, a person desiring to develop a Project may apply for approval of a proposed Affordable Housing Plan prior to applying for approval of a Project, in which case the application shall be processed in the same manner as an application for a [master plan] is processed.

C. In deciding whether to accept a proposed alternative means of compliance with the requirements of this Ordinance, the County shall consider the following where applicable:

1. whether implementation of a proposed alternative means of compliance would overly concentrate Affordable Units in an area where such a concentration would be inappropriate given present or future conditions;
2. if the proposal involves providing Affordable Units outside the Project area, whether there is adequate infrastructure, including water systems, liquid

waste facilities and transportation systems to support the Affordable Units in the location where proposed;

3. if the proposal involves providing Affordable Units outside the Project area, whether there is a specific need or market for Affordable Units in the location where proposed; or

4. if the proposal involves providing Affordable Units outside the Project area, whether the property where the Affordable Units are proposed to be located is suitable for residential use and residential development.

D. The method for determining the whether a cash payment proposed as an alternative means of compliance pursuant to this Section is sufficient shall be established in the Affordable Housing Regulations."

Section Sixteen. Hardship Conditions.

A. The Board of County Commissioners or, if a Board of Adjustment is created by the Board of County Commissioners of Santa Fe County, then the Board of Adjustment, may waive one or more of the requirements set forth in this Ordinance if a condition of hardship exists as set forth in this Section.

B. A condition of hardship shall exist for purposes of this Section, as follows:

1. For a Project providing Service Level I or II, a condition of hardship exists where the Project fails to qualify for any incentive set forth herein, where the Project fails to demonstrate eligibility for an alternative means of compliance, where application of the provisions of this Ordinance would result in economic infeasibility of the Project, and where complying with the requirements of this Ordinance would deprive a property owner of substantially all economically viable use of the subject property taken as a whole contrary to the Constitution of the United States or the Constitution of the State of New Mexico.

2. For a Project providing Service Level III, IV or V, or for Minor Projects, a condition of hardship exists when an Affordable Unit (or lot created for an Affordable Unit) cannot be sold within a reasonable period of time without causing a loss on the Project or Minor Project taken as a whole."

Section Seventeen. Long-term Affordability.

A. Each Affordable Housing Agreement shall include a form of deed restriction, restrictive covenant or other legal instrument that shall be executed and recorded along with the deed conveying the Affordable Unit to the first buyer, and that instrument will create a lien in favor of the County in the amount of the difference between the Maximum Target Housing Price and ninety percent of the appraised value of the Affordable Unit. The form of the instrument and the methodology for determining initial market value of the Affordable Unit shall be specified in the Affordable Housing Regulations.

B. The proceeds of the liens imposed in the previous paragraph shall be deposited into a fund created in the County treasury or separate trust whose sole purpose shall be to support Affordable Housing within Santa Fe County. The fund or trust shall

be governed by rules and requirements set forth in a separate Ordinance enacted pursuant to NMSA 1978, Section 6-27-1 et seq.

C. Upon resale of an Affordable Unit, the affordability lien may be assumed by another Eligible Buyer and avoid application of the provisions of this Section.

D. Where the Eligible Buyer is under duress by reason of unemployment, family medical emergency, is unable to sell the Affordable Unit for an amount equal to or greater than the original sale price or other unique circumstances of hardship, the Unearned Appreciation may be accelerated or the affordability lien may be released.

Section Eighteen. Affordable Housing Administrator. The position of Affordable Housing Administrator is established within the Housing Department. The Affordable Housing Administrator shall administer the Affordable Housing Ordinance, manage the fund or trust established pursuant to Section 17(B) of this Ordinance, act as an ombudsman to the development review process, and have other responsibilities set forth in this Ordinance. The salary and benefits of the Affordable Housing Administrator shall be paid from proceeds collected pursuant to Paragraph 17(B) of this Ordinance, to the extent permitted by law.

Section Nineteen. Affordable Housing Ordinance Review. The Affordable Housing Administrator shall prepare an Affordable Housing Report and present it to the Board of County Commissioners by the first anniversary of the effective date of this Ordinance. The purpose of the report is to measure the overall effectiveness of the Ordinance and to identify any deficiencies. In the report, the Affordable Housing Administrator shall recommend any amendments necessary to rectify those deficiencies. A similar report shall be developed and presented ~~every three years~~ annually thereafter. If, at a future date, the provisions contained herein no longer meet the purpose and intent provided in Section One of this Ordinance, the Board of County Commissioners may consider appropriate amendments to this Ordinance or may repeal this Ordinance in whole or in part.

PASSED AND ENACTED THIS ____ DAY OF _____, 2005.

**THE BOARD OF COUNTY COMMISSIONERS
OF SANTA FE COUNTY, NEW MEXICO**

By _____
Michael D. Anaya, Chair

ATTEST:

Valerie Espinoza, County Clerk

SFC CLERK RECORDED 02/08/2006