

October 9, 2013

Agenda

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

Board of County Commissioners

Charles D. Eaton, Chair	District IV
Alicia Aguilar, Vice-Chair	District II
Mary Andersen	District I
Lawrence R. Romero	District III
Jhonathan Aragon	District V

Please Silence all Electronic Devices

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

[Signature]
on behalf of
Charles Eaton

PUBLIC HEARING ITEM(S)

- 4) Review Tome Community Plan *Jacobo Martinez*

PUBLIC COMMENT

Please sign up on the sheet located just outside the Commission Chambers. The Board will allow each member of the public wishing to address the Board a full and complete opportunity to address the Commission.

NEXT COMMISSION MEETING

- October 16, 2013 – 5:00 P.M. Business Meeting
Valencia County Commission Chambers, 444 Luna Ave., Los Lunas, NM 87031

ADJOURN

B: 76 P: 837



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

VALENCIA COUNTY BOARD OF COMMISSIONERS
PUBLIC HEARING MEETING
OCTOBER 9, 2013

PRESENT	
Charles Eaton, Chairman	
Alicia Aguilar, Vice-Chair	
Lawrence R. Romero, Member	
Jhonathan Aragon, Member	
Mary J. Andersen, Member	
Nick Telles, Interim County Manager	Absent
Adren Nance & Dave Pato, County Attorneys	
Peggy Carabajal, County Clerk	
Press and Public	

- 1) The meeting was called to order by Chairman Eaton at 5:02 P.M.
- 2) Valencia County resident Mr. Bolton led the Pledge of Allegiance.
- 3) **Approval of Agenda**
Commissioner Aragon moved for approval. Seconded by Commissioner Andersen. Motion carried unanimously.

PUBLIC HEARING ITEM(S)

4) **Review Tome Community Plan. *Jacobo Martinez***
Jacobo Martinez- Before you today is a draft proposal of the Tome/Adelino community plan. The moratorium was passed by the Board of County Commissioners on April 11th and on April 17th a community meeting was held with 30-35 residents in attendance. 11 residents made up the core group known as the Tome/Adelino Community Advisory Council. Their task was to create an outreach plan and create a land use policy within the 6 month moratorium timeframe. The group did appear before the commission monthly and give updates. They developed an outreach plan which included a survey sent out to the 1,351 property owners within the moratorium boundaries, they also sent out a brochure which included information on the group, they described the intent of making a land use plan and it also included the time and place of the groups weekly meetings which were held every Tuesday from 6:30-9:00 pm at the Tome Community Center. The CAC took direction for creating this plan from 4 different directions, including the Valencia County Comprehensive Plan. From the comprehensive plan they drew from the following goals; Goal A objective A-2, Goal B objective B-4, Goal D objective D-3 and Goal S objective S-3. (Draft plan on file with the County Clerk's Office)

Attorney Pato- I would advise the commission that pursuant to state statutes the Planning and Zoning Commission is to define the boundaries of the district and is required to prepare a preliminary report and hold hearings on that report. So this matter can come before the commission but it is required that it go back to the Planning and Zoning Commission for preparation of a preliminary report and hearings. Then the Planning and Zoning Commission can then determine whether or not to submit the refined plan back to the Board of County Commissioners for consideration.

Commissioner Aguilar- So for clarification we can listen to the plan today but no action can be taken?

Attorney Pato- That is correct.

County Clerk Peggy Carabajal swore in the individuals wishing to speak at tonight's meeting.

Peter Lupsha- I am the co-chair of the core group, and I'm pleased to see many individuals who never came to any of the meetings nor came to express themselves, who never talked to us even their attorney when I called him 3 times. I'm glad they are here tonight to make their statement after they never consulted with us, but that doesn't matter. It would be very easy for all of you in this room to turn Tome/Adelino into another Hwy. 47 in Peralta or Bosque Farms or even Main Street in Los Lunas it would be relatively easy to do; but it would be impossible to turn Hwy. 47 or Main Street into what

Tome/Adelino is today. We believe we are special and unique, we asked for an overlay for historic preservation. We're asking a very minor thing, that you send us back to planning and zoning to discuss this further. As we've said before our plan is a draft and we want nothing more than to work with you to make something for the county that will make the county unique. I believe Tome and Adelino are the emerald in your crown. I believe there is room in the county to have development occur elsewhere and for our area to be preserved.

June Jaramillo- I would like to remind people that what happens at the local level has significant ramifications at the societal level. It is the duty of human beings to protect and care for the earth and its flora and fauna; we must be good stewards of this planet. The greenbelt areas in our nation are rapidly shrinking and the small family farms are fast disappearing. It is the communities that exercise self-determination, that are self-sufficient and self-sustaining that will survive in the future. It is also these types of communities that promote a sense of belonging to the community. Are we as a nation planning to commercialize ourselves into extinction, and not able to provide its citizens with basic survival needs and be at the mercy of other nations. Our agricultural practitioners and small farmers with big, generous hearts are engaged in the most important business of all, the survival of the human species and all other living species. I support this plan wholeheartedly, whether we have to go through many modifications and public hearings. I hope that the commission would support it as well, as it is one way to help preserve our greenbelt area.

Rita Padilla-Gutierrez- There was 6 months of hard work from the group. We did our very best to get the word out and have people come and participate, we wanted everyone's input. We have received vicious letters from people saying that Tome has no history and that if it weren't for Tome Hill there wouldn't be anything. The Tome Historical Site plan is one of the good things that came out of this project; it documents the area's history. The group met religiously every Tuesday for 6 months. This was a genuine grassroots effort. Yes, the plan may not be perfect and we expect some changes. Like it or not Tome is historical and we are proud of our history. There was a lot of emotion and hard work put into this effort.

Ron Oldfield- I have property included in this boundary and I don't know exactly how it got there, it's at the southwest corner of Edeal Rd. and Hwy 47. I did my homework before purchasing this property and I knew I was not buying in the Tome/Adelino area. I don't get my mail from Tome and I'm a good 2 plus miles from the church. I realize that the church has a historical value to a lot of people and I admire that. I bought this piece of property knowing the zoning that was in place at that time and I feel that this will be taking away from my property rights. I am opposed especially to the boundaries and I would like my property not to be included if this is approved in any form or fashion.

Marie Garcia-Shaffner- Thanks to members of the committee who put the plan together. They took into consideration lots of issues and I thought it was a reasonable plan. They honored the ruralness, the culture and the history of our community. They also honored our request that we develop economically, but not big box stores. I would like to see local businesses with local products. I speak tonight for some of my family members who were not able to make it to tonight's meeting.

Frank Arellano- I have a business in Tome and contribute to the community in any way I can, but tonight I'm just here to listen to what everyone is saying.

Tony Williams- I have a lot of information that I would like to present so thank you for your time and I will try to be as concise as I can. Today I'm here on behalf of Scott Edeal and Bob Bolton who are residents and business owners within this proposed area. and I am speaking in opposition to the plan. I will start out with a comment that I was not intending to make concerning Mr. Edeals non participation in this process and I think it is worthy of an explanation since it has been raised as a short coming on our part. I think the commission needs to know that certain members of the Tome community including Mr. Lupsha are still in litigation with Mr. Edeal over the Family Dollar site and there was a motion filed where Mr. Lupsha's attorney said that Mr. Edeal was involved in a zone change fraud. And Mr. Edeal didn't even have title to the property back in 2006 and under all the circumstances Mr. Edeal felt that it's just not good prudent business to be involved in negotiations on this matter. This is the correct fair forum to present our issues on this thing. I just felt that that explanation was necessary since that was the beginning of Mr. Lupsha's presentation. We oppose this for 3 different reasons. Number 1 we think the legal procedure is defective and we would suggest that even pushing this thing

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immediately onto P&Z is defective. We believe that this plan is flawed in that it over reaches in its scope of what it is trying to address and there are some substantive provisions in zone changes and so forth that are just simply unworkable, that's the 2nd grounds. The 3rd grounds is that we believe that these commercial property owners, who are very few in number have a legally protected right under New Mexico law that would prevent a legislative zone change, what we believe the law requires is a quasi-judicial proceeding where each land owner is informed of the zone change that will affect his or her property and that each property owner has a chance to come forth and present evidence as to why that zone change should or should not be permitted. I'm sure that you are all aware that you sit as a legislative body where you can make laws that are part of the permanent county ordinance book and you at times sit as a judge when there is a zoning dispute. And in those quasi-judicial hearings you certainly have the same rules as a judge and you won't have anyone calling you about a result or anything because you are sitting as a judge. And we believe that to change Mr. Edeal's commercially zoned property he is entitled to a hearing to the extent that Mr. Bolton's grandfather rights, which we believe exist, are impaired in any fashion is also entitled to an individual hearing where he can bring forth evidence and cross examine witnesses. We think that Mr. Pato is correct that any legislative act for a zone change has to first go in front of the Planning and Zoning commission. There was a presentation to the Planning and Zoning Commission in which it was said that there would be no public participation, Planning and Zoning has heard one side of this thing and the result of that was after the meeting one commissioner raved about what a great plan it was, it just didn't sit well with me that there was a public meeting and only one side was able to present. I'm sure planning and zoning can set all that aside and will be able to give a complete hearing but I think that legal council should help planning and zoning understand that they can't take anything from that one sided hearing and that there has to be a brand new hearing on this thing.

The basic notice that was published for this hearing is flawed, the published notice says for people to go to the County Clerk's office and get a copy of the ordinance. I sent 2 individuals to the County Clerk's office and they knew nothing about the ordinance that had been presented but they did send both individuals to the Planning and Zoning office. The cost of getting a copy of the plan is \$60 to a member of the public, we think that is wrong and not the way that this county should conduct business. What is the proposed ordinance? Let's talk about what an ordinance is, it is a proposed law in the books. If you look at this Tome plan to me it looks like there are 3 different components of it. One is an ordinance change that seems to be changing the commercial zone, the other part of it is referred to as an official planning guide for Tome. I think this commission needs to be very careful about what it adopts and what it calls it, if you just adopted this whole plan I question does all of it go into the ordinance book, is all of it really the law of the county. I see another component of this plan and I understand that this is what comes from a concerted and good faith community effort to communicate but there's a lot of what I read as supporting rhetoric for the plan. People just think it's a good idea for this reason or that reason and I think that it's very inappropriate for that language to get put into the ordinance book unless that really is the intent of the county, so I would recommend that before this thing goes much further that the county with some professional help figure out what is the ordinance and what is not and what is the supporting information and what is the policy and what statutory authority is there for an administration policy in a particular area. In the back of this plan there is a definitional section and when I first looked at it I thought it looked like the definition section in the zoning ordinance itself but in many respects it is different so are we going to adopt an ordinance with a complete different zoning definition that pertains to Tome and not the rest of the area. Is that good planning policy for the county, I don't think so. Regarding the supporting reasons for the plan we all have a constitutional right to stand up here and put it in writing to ask this commission to do whatever we think it ought to do. But I think it's a bad idea to have that kind of supporting language that becomes part of the permanent law, because then it gets construed and that gives lawyers grounds to make all kinds of arguments and claims about the implacability of the zoning ordinance.

I think the definition section needs to be either part of the ordinance and clearly stated as part of the ordinance or it needs to be out of there. The published notice as I read it did not talk about the restrictions that were going to be on commercial property it talks about the cinergy of the community and the historical nature and all of that; but the crux that it pertains to about the commercial property is that it's being down zoned. That's a term that's been adopted by the NM courts that means that if you take a particular piece of property that has rights under a zoning law and you make those rights more restrictive your down zoning that property. I'm not saying that the notice needed to use those words I'm just saying that it needed to explain the concepts that were involved and these

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concepts are very restrictive set back requirements, size limitations and parking limitations, lighting restrictions and so forth. If this matter is going to proceed it seems to me that step one should be going back and developing a proper notice that explains what the real intent of this plan is. My next point is that the plan over reaches and is very substantially flawed. In one part of the plan it says we're not changing the zoning for the AP district or the RR1 and the RR2, as the people of Tome are satisfied with those. But there is a sentence in there that says the following "limited residential and other agricultural related use may be conditionally permitted in the AP district." Is that new language, does that override the permissive uses in the AP district that say somebody can build a house or barn? Probably not but I don't know, but it's in this plan and if it's going to be part of the ordinance you have a direct conflict within the plan and with an ordinance that they say that their not changing. Another sentence that was disturbing to me was "many families have stayed in this community to maintain and many newcomers have adopted the Hispanic irrigation farming tradition, today much of this tradition is threatened due to regional growth development pressures and a loss of the agricultural vitality caused by the sale of water rights and drought." One could ask is the sale of water rights the cause of the loss of agricultural vitality or is the loss of agricultural vitality the cause for people selling their water rights. Maybe it doesn't make any difference but why is the county taking a policy position on something like that. And if the county is going to take a policy position on the sale of water rights and how it relates to agricultural vitality don't we need to have expert witness, don't we need to have some real data before we do that?

There is another sentence that says "the Tome/Adelino community plan can be used by local residents, property owners, community groups, Valencia County elected and appointed officials and county staff as the official guide for future development of Tome/Adelino." Does that have a force of an ordinance, can I representing somebody from Tome later on bring that language out and pick through this report and find something and say this is an ordinance you adopted this, your bound by this. If that is the intention it should be made clear, because it's not clear to me. Here is another disturbing statement "agricultural has been on a decline in Tome/Adelino for at least a generation due to a number of factors growth of large scale agri- business, population growth, and the decline in profits." The county if they adopt this thing they are making a finding that the growth of large scale agri-business is somehow impairing agricultural in Tome. Where is the evidence of that, who are they referring to. Scott Edeal is a big farmer in the valley, is he a large scale agri-business. Steve Romero is a big farmer in the valley, is he a large scale agri-business. Why is the county engaging in that kind of policy without any substantive evidence. Another statement that was a concern "important policy issues that were articulated by the community have been included in the sector plan for general discussion including conservation easements, greenbelt policy and steps to support agricultural production and acequia preservation." Conservation easements are an interesting concept, this plan cuts against conservation easements. Conservation easements are when a farmer has his development rights appraised; the farmer can then take the appraised value and turn easement rights over to a conservation organization. Then the farmer can use a tax deduction for the development rights that's he's given up. If the community of Tome completely closes development rights to farmers then they have no incentive to do a conservation easement. Why is the county engaging in that kind of policy without adequate factual and technical background.

There is discussion of a greenbelt policy, here's the concept small farmers that are producing small scale agricultural products should be able to get a greenbelt exemption. To get a greenbelt for the backyard garden farmers it is going to take a change at the state legislature and that has huge ramifications for county budgets. What if the Association of Counties says that they're going to oppose this for that very reason and Valencia County has adopted a policy supporting that concept. The county should not be taking a policy position on something like that because it has ramifications way beyond this particular plan. There is a recommendation in the plan for acequia preservation; there is a recommendation that Acequia Associations be formed. The conservancy district took over the operation of some 80 acequia associations in the 1930's and the canals are now run by the conservancy. In the South Valley a group has revived an Acequia Association, and they are in litigation with disputes and controversy over who has water rights and who doesn't. In the time of the American occupation the only type government in rural New Mexico were the Acequia Associations and the churches, so their recognized in law as governmental body, but there's not a standard of who elects who, about what powers they have. So whether or not this is good for a particular community is an interesting question as to why would the county commission weigh in on a complex policy issue like that. If you look at it as a mix of backyard garden famers and

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traditional agricultural people disputing over who gets the water. There are lighting standards in this thing. Lighting standards I think are appropriate, but it's real unclear to me what the guidelines are and what the ordinance is. There are drawings of particular lights that are acceptable and I don't think that my clients are going to have any great heartburn with some lighting standards but it needs to be clarified in the ordinance. Also the grandfather rights need to be clarified. There is a statement in there that says the use of long high walls creates a tunnel effect causing motorists to travel faster along Tome/Adelino making it unsafe for pedestrians, houses and vehicles. That's an interesting idea; do we have any data to support that? The grandfather rights are very interesting, if you look at the part of this thing that I think is intended to be an overlay ordinance, it looks to me like they took the C1 designation and started adding and taking out things from that. One of the things that was removed is the cross reference to the non-conforming use provision, which are of course the grandfather rights. So as I read this commercial zoning overlay the grandfather rights do not apply anymore. I believe there is a significant legal problem with not recognizing grandfather rights.

Here is a specific provision in this ordinance "commercial buildings are limited to 5,000 sq. feet" that in and of itself is very restrictive. I understand the concept of wanting to promote appropriate small businesses and discourage larger scale businesses for the sake of historical preservation. There are existing large businesses there, Trees That Please has many thousands of square feet, and Sunset Foods also has significant footage. The ordinance says that those may remain under a conditional use permit and only the use that exists at the time of the adoption of the ordinance is permitted and the individual has to go in for a site plan. So we are taking existing commercial businesses and saying that you're in violation but we will grandfather you if you come in for a conditional use permit and if you submit a site plan. For example Scott Edeal's family business owns a 6,000 sq. foot building that is now leased to a sculptor, what if that sculpture doesn't make it does that all of a sudden mean he's lost his usage and lost his grandfather right? This is the reason that we need individual hearings, not just for the C1 property but also for the C2 property that Scott has. The county permitted the 6,000 sq. foot building and if we're going to make that illegal and put Scott in a non-conforming situation he's entitled legally to a hearing. I'm not speaking for Mr. Melandez or any other people but I think they have similar issues. There is also the Bizell Gas Station, this ordinance prohibits gas stations. A restaurant cannot have outdoor seating unless it has a six foot wall around it. I don't know how we are going to reconcile that six foot wall around the seating area with the traffic problem that's coming through there, that will be created by walls that are too high. These are the kinds of things that have resulted by a document being put together by a committee, I don't mean to be personally critical but it's a scary step when you are commercial property owner and you see your property rights being diminished. I know this county will take this seriously.

The Bizell property is currently out of business, it has gas pumps that are still there. There was a general merchandise store and another part that provided services to the railroad. A few years ago there was litigation that involved an effort by the county to enforce a perceived zoning violation, and that resulted in a final court judgment that protected the Bizell's commercial zoning rights. I'm not prepared to talk about the details but what I am prepared to suggest is that before anything is done that attempts to zone a property that is already subject of a final court order that that be addressed. There are a couple of other substantive things in this that in my view are designed to squeeze out businesses. One of them is the limitation that a parking area can only have 5,000 sq. feet and there are parking maximums in there. The result, I looked up on the internet the average square footage per space was it came up with about 325 square feet. The ordinance says that you have to have handicapped spaces and employee parking, after you deduct those any business would be limited to about twelve parking spaces. Mr. Lupshaw has said publically the vision of this thing is to have businesses like the Luna Mansion and Teofilos. If you take the Luna Mansion and its parking lot they have about 10,000 sq. feet of parking. Teofilos has about 25,000 sq. feet of parking area. The Sichler chili barn has about 7,500 sq. feet of parking area. The parking cannot be paved, which is no big deal I guess but there is some theory in there that it will contribute to ground water recharge. I'm not going to offer the opinion but I think we have to be careful not to inject science into a plan that's adopted by the county that doesn't have any basis in science. If you go to the public notice that told the public to come here tonight there is no mention in changes to set back laws. But if you're on Hwy. 47 you've got to be within 10 feet but more than 30 feet of the highway, so that is forcing businesses to build right up against the highway. I think we need to ask ourselves why is this occurring and I have a theory. I know there is controversy in Tome about the widening of Hwy. 47 and we are not taking any position on that whether or not that's a good idea but if you force new businesses to build in that way

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you're doing two things, you are increasing highway construction costs and creating an impediment to the widening of Hwy. 47 and from the business stand point you are making a business build in a place that if there is highway widening it is likely to take out his business. That is a tremendous disincentive to any businessman investing or any bank loaning for the business. You take the combination of the square footage limitation, the parking limitation, the setback limitation and this plan is an anti-business one. If we were starting from a clean slate, fine there are a lot of communities that have excluded businesses, but to take an area that already has commercially zoned properties and to do this is unfair, it's not good government, and we would believe that if it's done in a legislative process without full hearings and due process that it's illegal. There is another fundamental problem with the notice that was published, what this plan does and it was a real surprise to me as I was studying this thing was the creation of at least one new commercial parcel. It would appear to me that if we're going to have a plan that creates a new commercial parcel that ought to be front and center of this discussion and notice given to the public in the very beginning and there ought to be a good explanation for it. I think that to take one residential parcel and to turn it into commercial usage without a quasi-judicial hearing and without notifying property owners in the area is simply a legal train wreck waiting to happen. So why are we creating more commercial properties with all this discussion of historic preservation, the area may be a vineyard right now and it may be appropriate to change that to commercial use, but commercial designation provides for offices and if one were to meet the architectural standards of this thing you could put a payday loan company or any other thing on that lot. I would submit that this is a serious problem with us proceeding anywhere from this point with this plan.

I'm going to exercise my right to petition my government and ask that this plan proceed no further and I'm going to ask that when you consider all of these things that it be voted not to proceed. I understand that there may be lots of reasons to not let this thing go forward but alternatively if this commission decides to let it proceed I would suggest that with staff help and legal counsel to split it out into parts. That there is a county policy that this county is going to adopt, not quite the level of an ordinance. If we are going to amend the permanent laws of the county, the ones that get compiled onto the online service, they ought to be separated out such as is this definition section going to be a new law that is going to run parallel with the existing zoning definitions, I hope not but if that is the intention it needs to be stated. I also think all the statements about recharging the aquifer, conservation easements, and acequia associations and agri-business causing problems have no business in a plan that is officially adopted by the county. Anyone can submit anything about what they believe the cause of problems is but I think the county needs to be extremely careful about what they are doing. If we're going to have a discussion about ditches, acequia associations, conservation easements, and highway traffic flow patterns let's have real hearings, let's engage the real experts let the county figure out where in its budget they can conduct these hearings and come up with some real information about these issues or alternatively let's keep this overlay ordinance manageable and understandable. Finally I think all of the commercial property owners need to have individual notice and need to have an opportunity to come before the planning and zoning commission and county commission and hire a lawyer and hire expert witnesses and have a real hearing that precedes any effort to take away their property rights that they currently have. I would hope that the county will take all of this into consideration and I think this thing needs to start all over again.

Geri Rhodes- Well that is a hard act to follow, I wish Tony would have been on the committee. I am one of the committee members, we did not have an attorney on the committee and he has pointed out many things that we need to consider. However, I would not give up, if it requires an extension of the moratorium I would ask for that. I would ask for the appropriate legal counsel to help us. We showed the vision now we have to make it an acceptable ordinance. I'm not saying I accept all his criticisms but I hope that you will at least recognize the comprehensive plan provides for special districts without creating the mechanism. Volunteers have done their best over the 6 months, maybe it wasn't good enough but what matters is 89% of residents who own property in Tome/Adelino would like to keep it the way it is and we are willing to work with property owners to make it acceptable to them. It's time to set aside our differences and work it out so that we can protect Tome/Adelino.

Clarke Metcalf- I have not read the plan so I don't know whether this has been addressed or not. Although I commend the efforts of Tome to make it visitor friendly and a strong community I am concerned about the frequent insistence by the Tome residents that Hwy 47 is very dangerous, almost characterized by them as a death trap. These wonderful greenbelt moratorium projects I've yet to hear the Tome people mention the desperate

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Leroy Baca- I read through the plan and find it very reasonable and flexible. I think it is open to a lot of growth. However, I think my property is AP and I would like to ask what is going to happen after this meeting because I have some reservations on some restrictions that are in place. If something happens I want to make sure I get notified and I give my input.

Commissioner Aguilar- I recommend that any suggestions, comments or concerns be taken to Mr. Martinez so that he can add those to the list. I would propose that to any member of the public, that would be the most effective and efficient way.

Michael Melendrez- Owner of 2 businesses on Hwy 47, Trees that Please and Soil Secrets. Trees That Please is unique to New Mexico as far as nurseries go; we are unique in the fact that we produce our own product. In 1998 I realized that Valencia County and the Albuquerque market could not support me, the nursery was destined to disappear. So I made the decision to begin marketing the products that I was using to grow our own product. I would package them and sell it to other nurseries around the country. Today this company is known as Soil Secrets, which functions on the same property as Trees That Please. We are able to market the product all over the world. About 1,000 acres in Canada and 2,000 acres in the U.S. are utilizing the product. These products help farmers become more profitable, use less water, and increase their yield. So I now have 2 businesses on Hwy 47, the retail nursery whose primary function is to serve as the distribution hub for Soil Secrets. I'm here because I love Tome, I love the valley. What I ask of you is to consider what we have to do in order to preserve this, but I also ask of you to make it not so difficult for existing businesses like mine. Tony Williams described a necessary procedure or process where pre-existing businesses would hire an attorney and witnesses and that's probably the correct way to do it, but it's also an expensive way. And I'm always concerned when any small business has to spend money to survive and we are in treacherous times right now, the economy is bad. All I ask is that you do no harm to my business.

I've read the plan, I went to a few of the meetings that the committee held I then had my attorneys read the document and asked them can you tell if my business is going to be encumbered in any way because of this document. Can you give me an absolute positive yes or no answer? I also handed it to the attorneys at Sandia and Los Alamos National Labs, as we are in a small business assistance program with them, and in both cases they have said that we cannot tell you that you're not going to be hurt by this, it needs a lot of polishing. All I ask of you is that we don't rush into anything, we take the time and I'm more than willing to help on polishing some things, so that we are not encumbering any business that is already here in the valley. Here is an example of encumbering as explained to me by my attorneys. Someday I want to retire, one of my daughters wants to someday take over the business, so we would sell her the business but what if she changed her mind and wants to be an opera singer instead. So instead of selling it to her I will advertise that I have 2 commercial businesses for sale, one that is the distributor for the other. You know that in commercial sells any entity that is going to pay good money for a business is going to do their research. They're going to take a look at the zoning, they're going to look at the buildings on the site to make sure those buildings are in compliance. So if they look at the zoning and say I think grandfather is going to die if we buy this. I may be grandfathered in now but eventually grandfathers will die. My point is

WORLDWIDE

that this needs to be looked at and evaluated and be made into a completely functional piece of work that we can all live with.

Steve Romero- I owned a business in Albuquerque for 34 years, I left Valencia County in 1983-84. The reason I moved was because people were complaining that I worked too much at night and I'm a hard worker so I left. Everyone comes up here and says they love Tome but I love it even more. My mom was laying shingles and I was born right on the roof of the house in Tome. We left Valencia County and moved to Albuquerque and 34 years later I was the largest dirt moving contractor in New Mexico. My gross receipt that Valencia County didn't get was right around \$15 million for the last 15 years in business. As time goes on I don't think we need any more regulations like the type that can hinder my kids from keeping or not keeping the farm. I have not seen the document but we all need to work together and yes maybe try to preserve the history there. I'm not much of a historian, I was too busy working but I think if we have jobs and everybody was working they wouldn't have time to worry about everybody else.

Virginia Smith- I'm speaking on behalf of La Asociacion de la Comunidad de San Clemente and I would like to express our enthusiastic support in the community planning process that our neighbors in Tome and Adelino have undertaken. San Clemente has over 20 years of experience of spending precious time and money mounting opposition to opportunistic development proposals that are inconsistent with the character of our community. I believe those of us who live in the unincorporated areas of the county have a responsibility to envision what it is that we want our communities to be and then to work to create it. We believe this community planning process is really democracy in action. We would ask that the commission please support the process and its continuation. We look forward to reading a Tome/Adelino community plan that works for everyone.

Joe Baca- I have lived in Tome for the last 65 years, I did not work on the plan I just contributed my knowledge as far as being a small farming community and we have some people that do not understand our way of life. Before Peralta was incorporated people moving to that area from the city were complaining when there was baling at night, when we would water, and they didn't like the smell of the cows and such. So in the first place why did they move there, maybe they thought they were getting a bargain for the land or they had inherited the land. I've talked to a lot of people and they want things to remain the way they are. I totally support this plan and with your help I'm very confident that you guys are going to help us so whatever it takes we are going to go ahead and pursue it.

Commissioner Aguilar- I would like our attorneys or Mr. Martinez to repeat the next step so that everyone will know what the next step is.

Attorney Pato- This will go back to the Planning and Zoning board who will then review the proposed plan and will determine what the appropriate boundaries of the proposed district are, draft a preliminary report and have hearings on that preliminary report. If the Planning and Zoning board deems it appropriate it will then be polished then brought back before the county commission who will then review the plan and determine whether or not quasi-judicial hearings are implicated. If when it is brought back before the county commission there are still quasi-judicial hearings that that are implicated by the proposed plan and if commercial businesses are impacted and require that quasi-judicial hearing the county commission will then have to determine whether or not to apply for those quasi-judicial zone changes for those commercial properties. At that point everyone will have had their opportunity to be heard if they are impacted. Then it will be submitted for final approval, it is quite a lengthy process.

Commissioner Andersen- Are you telling us that the plan will go before the Planning and Zoning commission in its present form?

Attorney Pato- Yes, it will be presented to them in its present form.

Commissioner Andersen- You and Mr. Nance have not reviewed this for the legalities, because I have a lot of questions after hearing Mr. Williams speech and I think that if we can clean it up and bring it back into some sort of legal ordinance then maybe it can be done. But at this point there are so many legal questions that I think that it's a waste of time to do anything until those are answered and it can be rewritten.

Attorney Pato- That is the point of it going back to Planning and Zoning for them to make the determination if this is warranted. The Planning and Zoning board is to determine whether or not establishing this historical overlay district is appropriate.

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Commissioner Andersen- I think the county's liabilities with it as it is written is too great for us to even consider.

Attorney Pato- I don't think that there is anything to consider this evening.

Commissioner Andersen- What I'm saying is there has to be multiple changes before it comes back to us. Those legal issues that Mr. Williams brought up have too much liability for us, we'll be in lawsuits for the next 10 years.

Commissioner Aguilar- I did not attend any of the meetings while Tome was preparing this plan and one of the reasons was that when it got started there was the Dollar Store that was proposed to be built south of the catholic church and would be using the same access as the church and because that was in litigation I was advised not to participate in or to attend the meetings. I just want everyone to know there was a reason behind that, but I also feel that if you look at the comprehensive plan there is a mechanism in there for a community to set their goals and be heard. I also think that there is a constitutional 1st amendment right for them to do that. I can appreciate the plan; there is a lot in there. But I think we need to be cautious in that we can listen to what this community wants and how they want to grow. Maybe we can take baby steps and identify what is going to be changed in the ordinance because I agree that is law. That's where we have to be extremely cautious but in doing this everyone has to be heard and know that there may be a change to their property and there is a process for that and I think that we are responsible for that.

Commissioner Andersen- I want to assure the people from Tome that I'm not against the idea of trying to make it a historical district. I just think that in some ways we've overreached here and gone too far too fast. I think that working together we can get it done and I fully support it. I believe that area is truly a hidden gem and I think it can be a part of a tourist attraction but let's do it right.

Chairman Eaton- The intent when the moratorium was in place was to preserve the historic value of the Tome community but with that said I think we need to be real cautious, we can have this challenged to no end. I think the individuals here are open for additional input and changes to the plan. We need to take that into consideration and not rush to judgment on what we have here. Mr. Williams did bring up some valid concerns, we need to protect the community and look back at when we made the decision to implement the moratorium what the true intent was and that is to preserve the historic value of the Tome community but yet we have to preserve the value of the individual property owners.

PUBLIC COMMENT:

Gail Goodman- My purpose for being here tonight is to invite you all to the upcoming dog show. On Thursday and Friday is the Sangre de Cristo show it is an American Kennel Club all breed dog show. On Saturday and Sunday is the Valencia Valley Kennel Club of NM show. At the Thursday show there is 620 entries, Fridays show has 640 entries, the Saturday show has 860 entries and the show in Sunday has 814 entries. The exhibitors come from across the United States to perform in these shows.

NEXT COMMISSION MEETING:

The next Regular Meeting of the Valencia County Board of County Commission will be held on October 16, 2013 at 5:00 P.M. Meeting in the County Commission Room at the Valencia County Courthouse.

5) Adjournment

Commissioner Andersen moved for adjournment. Seconded by Commissioner Aguilar. Motion carried unanimously. TIME: 7:07 P.M.

NOTE: All proposals, documents, items, etc., pertaining to items on the agenda of the October 9, 2013 Public Hearing Meeting (presented to the Board of County Commissioners) are attached in consecutive order as stated in these minutes.

VALENCIA COUNTY BOARD OF COMMISSIONERS


CHARLES EATON, CHAIRMAN

B: 76 P: 846



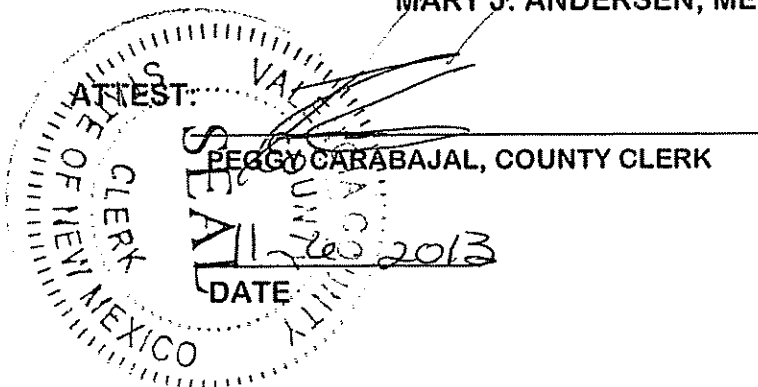
Minutes of October 9, 2013 Public Hearing Meeting


ALICIA AGUILAR, VICE-CHAIR


LAWRENCE R. ROMERO, MEMBER


JHONATHAN ARAGON, MEMBER


MARY J. ANDERSEN, MEMBER



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