Administrator's Report

Tuesday November 15, 2016

Announcements

The annual Corrales Fall Cleanup is scheduled for November 19th from 8am to 12pm at (500 Jones) Corrales Recreation Center front parking lot. All operations including recycle of comingle items will be at the Recreation Center, the Recycle Center is no longer in operation. ***Attached***

Future agenda items; Open Meeting, Holiday Calendar, Council Calendar and Dispatch Center Resolutions are anticipated.

Under a Joint Powers Agreement the Village contributes to running the Dispatch Center which is in need of equipment replacement. The Board of the JPA may recommend a budget increase and further agreement documents that require Council action. ***Attached***

State Forestry has secured some funds to help with Bosque project maintenance needs. The Corrales treated sites are getting maintenance for invasive plants a few days during November.

Items

The New Mexico Municipal League has encouraged the distribution of the Village of Corrales concerns regarding the proposed The New Mexico General Services Department, State Purchasing Division, administrative rule change. In advance of the due date for comments the NM City Managers Association has reviewed the proposed regulation change and the NMML has responded. The General Services Department has given notice of a public hearing for input on the repealing of the current rule and replacing it with the following rule: **1.4.1.94 NMAC "CHIEF PROCUREMENT OFFICER REGISTRATION AND CERTIFICATION"** And public comment regarding the rules is due as of Tuesday, November 8, 2016. ***Attached***

The NMCMA has also advanced the NMML Resolution; to remove exceptions for landlords with less than three short term rental units/rooms, from being responsible to collect Lodgers Tax. This action is supported by the New Mexico Hospitality Association and will be a focus for legislative action in the next session. Once adopted, it will be another tool for making sure owners have the responsibility for collecting revenues to help support the community where the lodging is located. A short term rental review in Corrales estimates thousands in revenue that lost for short term lodging. According to the report conducted by AllTheRooms.com, About half of the country doesn't collect any taxes from Airbnb rentals, while 26 states have statewide or city specific deals to collect some portion of the hospitality tax from the company. ***Attached***

The Village of Corrales Annual Report and SWMP are due to the EPA by December 1, 2016 and is continuing updates as they develop. We have been working with our regional watershed partners to continually develop best practices for MS4 permit reporting including how to develop retention ponds and navigating local and federal regulations ***Attached***

MARK YOUR CALENDARS!!!

DATE: Saturday November 19, 2016
TIME: 8:00 AM to 12:00 PM
LOCATION: 500 Jones Road, Corrales Recreation Center

Recreation Center Site
We WILL accept:
Household discards such as furniture, mattresses, tools, miscellaneous metals, etc.
Green waste: leaves, yard cuttings, tree and shrub
Appliances: washers, dryers, stoves, microwaves, etc. NO REFRIGERATORS NO TELEVISIONS

We WILL NOT accept:
Hazardous Materials, Household Chemicals, Paints, Thinners, Liquids Commercial Waste, Construction, or Special Waste
Tires -can be taken to the Sandoval County/ Rio Rancho Recycling Center open Saturdays (except holidays) 8:00 am-1:00 pm (limit 4) Proof of residency required. Located at, 2700 Iris Blvd
Refrigerators- Freon must be intact, can be taken to the Sandoval County/ Rio Rancho Recycling Center open Saturdays (except holidays) 8:00 am-1:00 pm Proof of residency required.

Located at 2700 Iris Blvd.

CORRALES TRICK –R- TRUNK

October 31, 2016
6:00pm -7:00pm
THIS EVENT IS FREE!!!!

Animal Services Reminders:

ie sure to license your pet through The Village of Corrales.
•Current rabies tag information is needed upon licensing.
Make sure all pets have the proper forms of identification.
•Microchips and tags.
•This helps us get them home sooner.
•The Village of Corrales does have a leash law.
•This means that any animal that is not on its property, must be properly restrained to prevent any accident or issues among citizens.
•The leash law pertains to the entire village including; the Bosque, ditch banks, and private roads.
•For more information on the leash ordinance and other ordinances, please visit; corrales-nm.org.
ease be sure to bring in your animals or properly secure them when they are unattended.
•If you would like any more information or have any concerns, please do not hesitate to call us at 505-898-0401

Don't forget Early Voting starts this Saturday!!
Oct. 22, thru Nov. 5, 2016
10:00 am to 7:00 pm
(Mondays thru Saturdays)
Corrales Community Center
4326 Corrales Rd., Corrales, NM
https://voterview.state.nm.us

DON'T FORGET TO

Corrales Fire Department Helpful Information Fall 2016

Phone Numbers:

Emergency Calls: 911
Non-emergency Dispatch: 898-7585
Fire Dept. www.cfdcfra.com
Village
Fire Dept.
Station 1: CALL 898-7501
Burn line: 899-9819 updated daily at 10:00 am

Village Hall 897-0502
Website-
www.corralesnm.ogov
Twitter: @corralesVillage

Police Neighborhood Watch, DARE, Records: 897-1277

Animal Services: 898-0401

VISIT Corrales Main station at 4920 Corrales Road

Annual Holiday Food and Present Drive

It is time once again for the annual Holiday food and present drive. It will kick off this year Sunday ,November 20 2016 at the fire Station 4920 Corrales Road 10:00to 2:00 bring your non-perishable food items. To donate Perishables call 898-7501

LET'S WORK TOGETHER FOR OUR VILLAGE!

Giving tree tags will be available. The Village hall tree will be up on 11-21-16 with all items needing to be returned by 12-15-16
Last year citizens helped 56 families 173 people with and 107 children. For information or to get tags early call: 898-7501

Winter Safety Tips

With cold weather fast approaching here are a few tips to help keep you and your family safe.

Before you use your wood stove, fireplace or pellet stove have it cleaned and inspected by a licensed/certified and insured chimney sweep. Each year there is an average of 25,100 chimney fire each year resulting in 30 deaths and 126.1 million in property damage.

Change your batteries in your smoke detectors and carbon monoxide detectors every six months; a great time is when you change your clocks on November 6, 2016

If you do not have a carbon monoxide detector install one. Carbon monoxide is an odorless, colorless, tasteless gas that's symptoms mimic the flu with headache, nausea, vomiting, dizziness, or confusion and can result in death.

Families need to practice Emergency- Exit Drills in the Home. Our children practice at school, but more fires happen at home. Drill Plans are available at the fire department or call us to help you make a plan.

Be Prepared. Every family should have and Emergency Kit and an Emergency Plan. A great site to help you Be Prepared is www.ready.gov

CODE RED

CODE

Please take a moment to fill in the appropriate information to be notified by your local emergency response team in the event of emergency situations or critical community alerts. Examples include: evacuation notices, bio-terrorism alerts, boil water notices, and missing child reports. Fill out the form online at www.cfdcfra.com link on the top of the page or www.corralesnm.gov click departments, then fire department. If you do not have access to the internet call 898-7501 for assistance with the form.

Address Signs –Make a difference

To help emergency responders can locate your home quickly; make sure you have your house numbers clearly visible from both directions of your road.

Having your address visible from the roadway is EXTREMELY important. Make sure that no plants or yard decorations are blocking your address. These numbers should be reflective and at a minimum three inches in height. To HELP make this easier we are selling reflective signs. They are $10.00 for a single sided $12.00 for double sided. There are three colors to choose from RED, GREEN and BROWN. Stop by the Corrales Road station and take a look. Posts are $8.00. You pay for the sign at Village Hall and then bring your receipt to the fire department and we will make your sign.

VILLAGE OF CORRALES

RESOLUTION NO. 17-001

ESTABLISHING REGULAR MEETINGS OF THE GOVERNING BODY AND DETERMINING REASONABLE NOTICE

WHEREAS, Section 10-15-1 NMSA 1978, the Open Meetings Act requires that all meetings of a quorum of members of a public body held for the purpose of formulating public policy or for purpose of taking any action within its authority, are declared to be public meetings open to the public at all times, unless excepted from the Open Meeting Act; and

WHEREAS, Section 10-15-1D of the Open Meetings Act requires that the Village Council, the governing body ("Governing Body") of the Village of Corrales (the "Village") determine annually what notice of meetings is reasonable when applied to the Governing Body.

THEREFORE, BE IT RESOLVED BY THE GOVERNING BODY OF THE VILLAGE OF CORRALES:

Section 1. **Regular Meetings**

A. The Governing Body will meet on the second Tuesday for regular council meeting at 6:30 pm and every fourth Tuesday for a work study as needed at 5:30 pm prior to the regular council meeting of each month, at the Village of Corrales Council and Municipal Court Chambers, or as indicated in the meeting notice.

B. Notice of regular meetings will be given at least 10 days in advance of the meeting date and shall indicate how a copy of the agenda may be obtained.

C. The agenda shall be available to the public in the Village Municipal Offices and shall be posted on the Village's web site at least seventy-two (72) hours in advance of the meeting.

Section 2. **Special Meetings**

A. Special meetings may be called by the Mayor or a majority of the members of the Governing Body.

B. Notice of Special Meetings will be given at least 3 days in advance of the meeting.

DRAFT DRAFT

C. Notice of Special Meetings shall include a list of specific items of business to be discussed or transacted at the meeting, or information on how a copy of the agenda may be obtained.

D. The agenda shall be available at least 24 hours in advance of the meeting in the Village Municipal Offices, 4324 Corrales Road.

Section 3. **Emergency Meetings**

A. Emergency Meetings will be called only under unforeseen circumstances which are such that the matter to be considered, if not addressed immediately by the Governing Body, will likely result in injury or damage to persons or property or substantial financial loss to the Village.

B. Emergency Meetings may be called by the Mayor or a majority of the members upon 24 hour notice.

C. The notice of all emergency meetings shall include an agenda for the meeting.

D. Within ten (10) days after the Governing Body takes any action on an emergency matter, the Village shall report to the office of the New Mexico attorney general the action taken and the circumstances creating the emergency.

Section 4. **Closed Meetings**

A. If any meeting is closed in an open meeting pursuant to the exclusions contained in Subsection H of the Open Meeting Act, the closure shall:

1. Be approved by a majority vote of a quorum of the Governing Body.

2. The authority for the closure and the subject to be discussed shall be stated with reasonable specificity in the motion calling for the vote on a closed meeting.

B. If any closed meeting is called when the Governing body is not in an open meeting, the meeting shall not be held until public notice; appropriate under the circumstances is given to the general public. The notice shall include:

1. The subject to be discussed with reasonable specificity and

2. The specific provision of the law authorizing the closed meeting

C. Following completion of any closed meeting, the minutes of the next open meeting, reconvened meeting, shall state the matters discussed in the closed meeting were limited only to those specified in the motion or notice for closure. The public body shall approve the statement as part of the minutes.

DRAFT DRAFT

Section 5. **Notice**

A. For the purpose of meetings described in Sections 1, 2, 3, and 4 of this resolution, notice requirements are met if notice of the date, time and place is posted in the following locations:

1) Lobby of Municipal Administrative Offices

2) Bulletin board in front of the Village Offices

3) Corrales Fire Station (Corrales Road)

4) Corrales Fire Station-2 (Substation- Far Northwest Sector)

5) Corrales Community Library

6) Corrales Senior Center

B. In addition to the information specified above, all notices shall include the following language:

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 Village Clerk at the Village Offices located at 4324 Corrales Road, at least five (5) days 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 Village Clerk at 897-0502, or by e-mail at info@corrales-nm.org if a summary or other type of accessible format is needed.

APPROVED this 13th day of December, 2017.

APPROVED:

_____
Honorable Scott Kominiak
Mayor, Village of Corrales

ATTEST:

_____
Jennifer A. Hise
Village Clerk

DRAFT DRAFT

VILLAGE OF CORRALES

RESOLUTION NO. 16 - ??
ESTABLISHING HOLIDAY SCHEDULE FOR ALL VILLAGE EMPLOYEES

WHEREAS, The New Mexico State Legislature adopts legal public holidays and the date they will be observed by the state government agencies covered by the Personnel Act and SPB Rules and Regulations; and

WHEREAS, The Village of Corrales personnel policy states that the governing body will adopt an approved schedule of State holidays annually.

THEREFORE, be it resolved by the Governing Body of the Village of Corrales that the official paid holidays for Village employees, and the dates they are observed for calendar year 2017;

HOLIDAY	OBSERVED ON
New Year's Day (1 Jan 2017)	Monday, January 2, 2017
Martin Luther King Jr. Birthday	Monday, January 16, 2017
Memorial Day	Monday, May 29, 2017
Independence Day (4 July 2017)	Tuesday, July 4, 2017
Labor Day	Monday, Sept 4, 2017
Veteran's Day (Nov. 11)	Friday, November 10, 2017 (Observed)
Thanksgiving Day	Thursday, November 23, 2017
President's Day (15 Feb)	Friday, November 24, 2017 (Observed)
Columbus Day (10 Oct)	Tuesday, December 26, 2017
Christmas Day	Monday, December 25, 2017(Observed)

BE IT FURTHER RESOLVED that Presidents Day will be used for Friday the 24th of November and Columbus Day will be used Tuesday the 26th of December.

APPROVED this 13th day of December 2016, by the Governing Body of the Village of Corrales.

VILLAGE OF CORRALES

_____
Scott A. Kominiak
Mayor, Village of Corrales

ATTEST:

_____
Jennifer A. Hise, Village Clerk
(SEAL)

DRAFT DRAFT

2017 Meeting Schedule

Date of Meeting	Location of Meeting	Time
January 10, 2017	Council Chambers	6:30 PM
January 24, 2017	Council Chambers	6:30 PM
February 7, 2017	Council Chambers	6:30 PM
February 21, 2017 Work-study/ Meeting	Council Chambers	5:30 PM
March 7, 2017	Council Chambers	6:30 PM
March 21, 2017 Work-study/ Meeting	Council Chambers	5:30 PM
April 11, 2017	Council Chambers	6:30 PM
April 25, 2017 Work-study/ Meeting	Council Chambers	5:30 PM
May 9,2017	Council Chambers	6:30 PM
May 23, 2017 Work-study/ Meeting	Council Chambers	5:30 PM
June 13, 2017	Council Chambers	6:30 PM
July 11, 2017	Council Chambers	6:30 PM
August 15, 2017	Council Chambers	6:30 PM
September 12,2017	Council Chambers	6:30 PM
September 26, 2017 Work-study/ Meeting	Council Chambers	5:30 PM
October 10, 2017	Council Chambers	6:30 PM
October 24, 2017 Work-study/ Meeting	Council Chambers	5:30 PM
Nov. 14, 2017	Council Chambers	6:30 PM
December 12, 2017	Council Chambers	6:30 PM

DRAFT DRAFT

FIRST ADDENDUM TO
THE JOINT POWERS AGREEMENT ESTABLISHING THE
SANDOVAL COUNTY REGIONAL EMERGENCY COMMUNICATIONS CENTER

WHEREAS, on April 8, 2015, a Joint Powers Agreement ("JPA") was created by and between the City of Rio Rancho, the County of Sandoval, the Village of Corrales, the Town of Bernalillo and the Pueblo of Santa Ana (collectively "the Parties") restating and amending an original agreement between the Parties dated July 1, 2003; and

WHEREAS, the JPA, Article III Section 7, Paragraph 4 states that "it may be necessary for several of the entities represented to enter into a cost share agreement for radio maintenance, IT costs, or costs associated with the use of another member's equipment or service"; and

WHEREAS, the JPA, Article III Section 4, Paragraph 4 also states "The agreement for additional services will be coordinated between the agencies involved and coordinated by the Chair of the Board"; and

WHEREAS, the JPA, Article III Section 7, Paragraph 4 further states "A signed addendum to this Joint Powers Agreement will be signed by all agencies wanting to have additional services, and the cost will be distributed between the agencies as defined in the addendum"; and

WHEREAS, the Parties agree that a new Computer Aided Dispatch ("CAD") system ("Project") is needed to improve services to their respective communities, improve incident reporting capabilities, convert from a non-supported UNISYS/DOS operating system to a Windows based operating system, improve safety for field personnel, improve accuracy of dispatching EMS, allow for tracking of fire and law enforcement units in real time, improve integration with mobile data terminals and provide for coordination with similar systems in adjoining jurisdictions; and

WHEREAS, the Parties have determined, pursuant to the requirements of the State of New Mexico Procurement Code, that Sungard Corporation provides the products, services and installation requested by the Parties; and

WHEREAS, the Parties agree to this First Addendum to the JPA which shall set forth the method for procurement of the new CAD system, the approval for the financing of the new CAD system, the method of securing the debt service payments associated with the financing, the division of debt service obligation among the Parties and authorize the Chairman of the Board of the JPA to take the necessary actions to facilitate the purchase, installation and financing of the new CAD system.

NOW, THEREFORE, the Parties hereto agree to the following:

FIRST ADDENDUM ARTICLE I – PURCHASE OF CAD SYSTEM

The Parties agree that the CAD system or Project offered by Sungard Corporation is the optimum system for purchase and installation by the JPA. The Parties also confirm that the New Mexico Procurement Code was following in making the decision to purchase the CAD system from Sungard Corporation. The acquisition is further set forth in the Purchase Agreement and related documents set forth in Exhibit A attached hereto. The Parties further agree that the Chairman of the Board of the JPA, James Maxon, is authorized to sign all documents pertaining to the purchase and installation of the Sungard CAD system.

FIRST ADDENDUM ARTICLE II – APPROVAL OF PURCHASE FINANCING

The Parties agree that the financing of the purchase of the CAD system or Project shall be provided by a loan ("Loan") from the New Mexico Finance Authority (the "Lender"). The terms and conditions of the financing are set forth in the Term Sheet attached hereto as Exhibit B. The Loan shall be evidenced by the documents ("Loan Documents") ~~materially the same as those set forth in Exhibit C attached hereto~~ to be delivered to the SCRECC Board of Directors at their first meeting in 2017 (but prior to February 13, 2017). The Borrower, for the sole purpose of obtaining the Loan, shall be the County of Sandoval.

FIRST ADDENDUM ARTICLE III – METHOD OF SECURING DEBT SERVICE

The County of Sandoval has agreed to assign to the Lender a portion of its County Emergency Communications & Emergency Medical & Behavioral Health Services Gross Receipt Tax (NMSA § 7-20E-22) for the sole purpose of giving the Lender assurance of payment, enacted by the County of Sandoval in July, 2004 pursuant to Ordinance 04-04-15.7B. The payments for debt service from the JPA paying agent ("Paying Agent"), the City of Rio Rancho, shall be made from funds on deposit at the JPA as received from the Parties. The County of Sandoval shall remit the required amount of debt service to the Lender only in the event that the Paying Agent for the JPA does not remit debt service payments to the Lender on or before the dates due under the Loan Documents. In the event the County of Sandoval is required to make the Loan debt service payments due to non-payment by the JPA, it shall be reimbursed by the Parties in the ratios set forth in First Addendum Article IV below within 45 days of the date of the payment by the County of Sandoval to the Lender.

FIRST ADDENDUM ARTICLE IV – DIVISION OF DEBT SERVICE OBLIGATIONS

The Parties agree that the debt service payments due the Lender for the Loan shall be apportioned as follows:

City of Rio Rancho	43%
County of Sandoval	43%
Village of Corrales	6%
Town of Bernalillo	4%
Pueblo of Santa Ana	4%

The Parties may also, at their option, agree to take surplus funds of the JPA and repay the Loan as provided in the Loan Documents. The JPA shall notify the Paying Agent and Lender of such additional payment in writing at least 15 days in advance of such payment.

FIRST ADDENDUM ARTICLE V – AUTHORIZATION TO TAKE ACTIONS

The Parties hereby appoint the Chairman of the Board of the JPA, Chief James Maxon of the County of Sandoval, to represent the JPA in signing the Purchase Agreement and any related documents necessary for the purchase and installation of the CAD system. The Parties further authorize James Maxon to sign and any all of the Loan documents as may be required, if they are in materially the same form as set forth in Exhibit C, and if the terms of the Loan are materially the same as set forth in the Term Sheet in Exhibit B. Nothing in this authorization shall confer a liability upon James Maxon as he is acting on the instructions of the Parties to the JPA.

FIRST ADDENDUM ARTICLE VI – EQUIPMENT OWNERSHIP DURING DEBT

During the term of the Loan incurred for the procurement of the Project CAD equipment, Sandoval County shall be the owner of the equipment, for the sole purpose of convenience to the Lender. Immediately upon retirement of the Loan, Sandoval County shall convey all ownership to the Paying Agent. A transfer agreement shall be signed by the County and JPA representative at the time of the closing of the Loan.

SANDOVAL COUNTY
2017 SCRECC FINANCING
SOURCES AND USES REPORT
November 15, 2016

Sources:

Loan Proceeds	$	1,400,000.00
SCRECC funds	$	288,000.00
Other Sources of Funds	$	-
Total Sources	**$**	**1,688,000.00**

Uses:

CAD Project	$	1,500,000.00
Cost of Issuance	$	17,500.00
Debt Service Reserve Fund (1 Years Debt Service)	$	160,000.00
NMFA Fee (.75%)	$	10,500.00
Surplus funds	$	-
Total Uses	**$**	**1,688,000.00**

Total Estimated Computer Aided Dispatch Costs	**$**	**1,500,000.00**

SANDOVAL COUNTY
2017 SCRECC EQUIPMENT FINANCING
COST OF ISSUANCE REPORT
November 15, 2016

Cost of Issuance:	Estimated Costs
Bond & Disclosure Counsel - Modrall Sperling	$10,500.00
NMFA Fee	$10,500.00
Financial Advisor - First American Financial Advisors, Inc.	$7,000.00
	$28,000.00

SANDOVAL COUNTY REGIONAL EMERGENCY COMMUNICATION CENTER

Enter Values	
Loan Amount	$ 1,400,000.00
Annual Interest Rate	2.00 %
Loan Period in Years	10
Number of Payments Per Year	2
Start Date of Loan	2/15/2017
Optional Extra Payments	$ -

Lender Name: NMFA

Loan Summary	
Scheduled Payment	$ 77,581.44
Scheduled Number of Payments	20
Actual Number of Payments	8
Total Early Payments	$ 848,740.30
Total Interest	$ 69,391.82

Total Annual Payments	$155,162.88
Debt Service @ 1.5x	$232,744.32

Pmt No.	Payment Date	Beginning Balance	Scheduled Payment	Extra Payment	Total Payment	Principal	Interest	Ending Balance	Cumulative Interest
1	8/15/2017	$ 1,400,000.00	$ 77,581.44	$ -	$ 77,581.44	$ 63,581.44	$ 14,000.00	$ 1,336,418.56	$ 14,000.00
2	2/15/2018	1,336,418.56	77,581.44	200,000.00	277,581.44	264,217.26	13,364.19	1,072,201.30	27,364.19
3	8/15/2018	1,072,201.30	77,581.44	-	77,581.44	66,859.43	10,722.01	1,005,341.88	38,086.20
4	2/15/2019	1,005,341.88	77,581.44	200,000.00	277,581.44	267,528.02	10,053.42	737,813.85	48,139.62
5	8/15/2019	737,813.85	77,581.44	-	77,581.44	70,203.30	7,378.14	667,610.55	55,517.76
6	2/15/2020	667,610.55	77,581.44	200,000.00	277,581.44	270,905.34	6,676.11	396,705.22	62,193.86
7	8/15/2020	396,705.22	77,581.44	-	77,581.44	73,614.39	3,967.05	323,090.83	66,160.91
8	2/15/2021	323,090.83	77,581.44	**248,740.30**	326,321.74	323,090.83	3,230.91	0.00	69,391.82

PHONE (505) 897-0502
4324 CORRALES ROAD
CORRALES, NEW MEXICO 87048

VILLAGE OF CORRALES

FAX (505) 897-7217
EMAIL: info@corrales-nm.org
WEBSITE: www.corrales-nm.org

SCOTT KOMINIAK
MAYOR

PROPOSED RULEMAKING
1.4.1.94 NMAC "CHIEF PROCUREMENT OFFICER REGISTRATION AND CERTIFICATION"
Comments of the Village of Corrales
Comments Submitted: November 8, 2016
Hearing Date: November 15, 2016

The Village of Corrales has reviewed the proposed amendments of 1.4.1.94.NMAC, "Chief Procurement Officer Registration and Certification," and submits these comments in advance of the hearing set for November 15, 2016 regarding these proposed regulations. In general, the Village of Corrales objects strongly to the proposed revisions of 1.4.1.94 NMAC as being unduly burdensome, punitive, disruptive to the procurement process, and detrimental to the public health, safety and welfare. The proposed regulations apparently seek to centralize the procurement efforts of local public bodies under the direct control of the State Purchasing Division, either through its control over chief procurement officer certification or directly in all cases where a certified procurement officer is not available, even for a very short period of time. In addition, the proposed regulations improperly seek to intrude into the areas of authority delegated by the legislature to other State officers, in particular the authority of the State Auditor.

Additionally, there appears to be no reasonable motivation for these proposed draconian restrictions on the operation of local governmental bodies. While there may be occasional lapses from strict adherence to the Procurement Code, both at the State and local levels, the State Purchasing Division as best we can tell has not identified any pervasive or general problem that would warrant these new regulations and the disruptions they will inevitably cause to the operation of local governments. The Village of Corrales opposes the adoption of the proposed amendments to 1.4.1.94 NMAC.

The Village's objections to specific portions of the proposed regulations follow:

1.4.1.94.C The 90-day limitation of time within which to fill a vacancy in the position of the certified chief procurement officer is unreasonably short. There is not a large pool of certified chief procurement officers available for employment, particularly for small municipalities and other local public bodies with limited salary budgets. In many cases, it will be necessary for the local public body to employ a person (as administrator, manager, finance director, or whatever other position may be vacant) and then have the new employee attend certification class. Classes at present are offered only quarterly, so that in many cases it will be up to 90 days or more **after** the new employee is hired before he or she can be scheduled to attend a class.

The requirement that **no** procurement take place during any vacancy except through the state purchasing agent is also excessively burdensome and disruptive. There should at least be a provision for routine procurements of small purchases (for example, office supplies and necessary replacement parts for equipment) to be initiated notwithstanding that the local public body's certified chief procurement officer may have retired, resigned, been temporarily incapacitated, or otherwise be unavailable. As written, this proposed rule would (for example) prevent a municipal fire

department from purchasing necessary replacement parts and supplies for emergency equipment, except through specific application to the State purchasing agent to perform the purchase on the fire department's behalf—a time consuming process that is obviously not in the best interest of public safety.

There should be a provision allowing a public body to continue procurements under its regular procurement regulations if those regulations were adopted and implemented during the tenure of a certified chief procurement officer, notwithstanding that there may be a temporary period during which the office of a chief procurement officer is vacant.

At the very least, there should be a provision for **emergency** procurements to be initiated as soon as the need is recognized, with reporting to the State purchasing agent afterward.

In addition, there should be a provision permitting continuation of a procurement process that was initiated under a chief procurement officer, even if that particular individual should resign, retire, be terminated, or otherwise leave the employment of the entity making the procurement. Selection of a contractor through a request for proposals involves a process that requires, at a minimum, weeks of time, and often several months. It will be extremely disruptive to local governments if they have to terminate an RFP process, or turn it over to a delegated or appointed certified procurement officer arbitrarily appointed by the state purchasing agent, who cannot be assumed to have any familiarity with the RFP process that is already under way.

1.4.1.94.H The requirement that any procurement act of any public body that is (apparently, merely in the opinion of the State procurement officer) in violation of the requirement that there be a certified chief procurement officer holding office at the time will "result in an automatic audit violation" is excessively punitive and also intrudes improperly into the authority of the State Auditor to determine appropriate audit standards. First, "audit violation" is undefined and unclear, but perhaps what is meant is "audit finding," consistent with proposed Section 1.4.1.94.I. Second, audit standards are determined by the State Auditor under applicable rules of the State Auditor's office, for example, 2.2.2.10.C NMAC, and the proposal to require audit findings or "violations" under these regulations is an improper intrusion into the standards set by the State Auditor. Third, this proposal constitutes an unduly punitive penalty for an act that may be necessary as a matter of public safety and good government. (See examples above, relating to the need to purchase replacement parts and routine supplies notwithstanding that a local governmental body's certified chief procurement officer may have resigned or be otherwise unavailable at a particular time.)

1.4.1.94.I As noted above, the attempt to impose a requirement that any alleged Procurement Code violation will result in an audit finding improperly intrudes into the authority of the State Auditor to determine appropriate audit standards for local public bodies.

1.4.1.94.N Is the State purchasing agent attempting to assert a right to adopt other rules, at any time, without due process and without incorporating them into the NMAC? If so, this could open the door to arbitrary and capricious action by the State purchasing agent, and we therefore oppose adoption of this Subsection.

1.4.1.95.O This proposed subsection is incoherent and should not be adopted. The State purchasing agent may adopt or propose a **rule**, subject to appropriate notice and due process. The assertion that the State purchasing agent may "enact the **purpose** of these rules" (emphasis added) lacks adequate definition and appears to be meaningless. A properly authorized officer may enact rules, but not purposes.

Respectfully submitted,

VILLAGE OF CORRALES

Scott A. Kominiak, Mayor

John Avila, Administrator

Need a custom report?

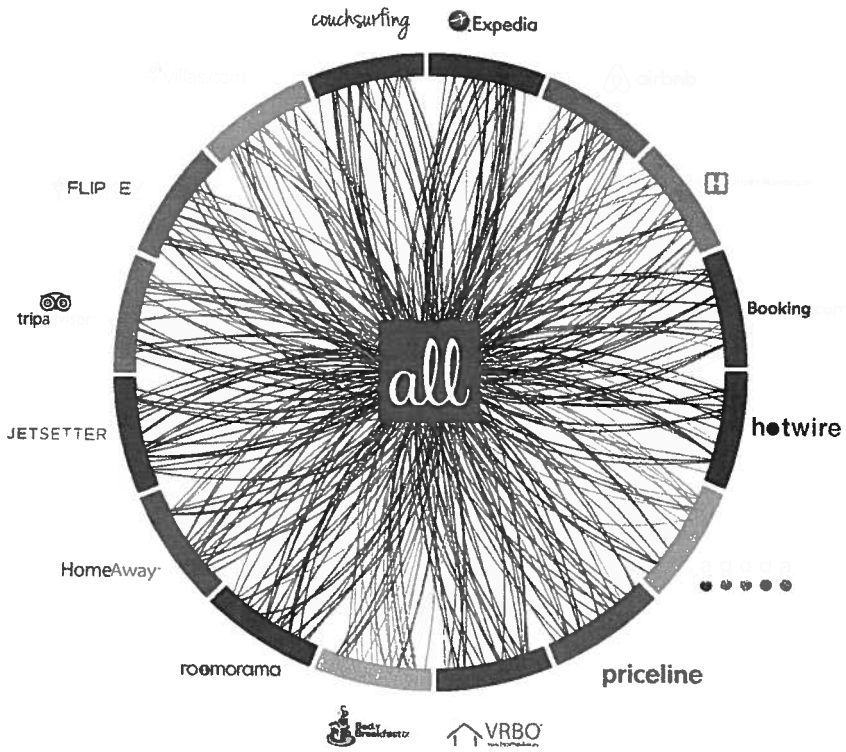
allTheRooms

analytics

AllTheRooms Data

Here you'll find a short list of the kinds of data reports that we put together. Individual reports are available for purchase, as are subscription plans that give you access to every industry report that we publish, which usually happens on a monthly basis.

At Alltherooms, we love data; that's why we collect so much of it. We are the world's leading accommodations search engine, as well as the largest aggregator of accommodations industry data. No one else collects what we do across our list of OTAs, which includes Airbnb and all major hotel providers.



allTheRooms

Executive Summary:

A 50-state analysis of Airbnb vacation rental bookings, conducted by the accommodations search engine AllTheRooms.com, finds that total state-level tax revenue for current active bookings on Airbnb would be $440 million for calendar year 2016. In New York City, Airbnb's largest market, a projected $110 million in tax revenue will go uncollected in 2016 unless the legislation governing short-term rentals is changed.

Overview:

A multi-front battle is waging in New York City right now over Airbnb, the popular vacation rental app. The root of the issue is the peer-to-peer business model Airbnb uses, which allows individuals to rent temporary space directly to vacationers, circumventing the traditional supply chain and its various tax collection touch points.

City zoning laws prohibit people from renting their homes for fewer than 30 days unless the occupants are also present. These types of short-term rentals have traditionally been the domain of the hotel industry, for which the state and local municipalities have set up special sales and occupancy taxes. By cutting out the hotel, travelers also cut out a valuable chunk of tax revenue for the city and state.

In a bid to stop this practice, the New York State Assembly passed a bill in June that would make it illegal to advertise listings for apartments that violate the short-term rental law. The bill, which has not yet been signed into law, would make it all but impossible for Airbnb to include rental listings in New York City, its largest single market.

In September, Airbnb questioned the constitutionality of the bill and threatened legal action in a letter sent to New York Governor Andrew Cuomo, as well as the speaker of the New York State Assembly, and the New York Senate. Suggesting that the law would violate both First and 14th Amendments, in addition to the Communications Decency Act, Airbnb also pointed to its success in other cities around the nation where the company has lobbied to have laws changed so that all revenue generated through their peer-to-peer room sharing model is taxed appropriately.

So far, Airbnb has a combination of state-wide and city-specific deals in place in 26 states, which allow the company to collect some form of tax revenue on behalf of property owners.

In cities and states where no tax-collection mechanism is in place, Airbnb hosts and government officials are often finding themselves at odds with one another. In New York City, for example, an advertising blitz has been unleashed, with Airbnb-sponsored spots featuring hosts sharing their success stories, and a series of anti-Airbnb spots accusing the company of tax-dodging.

Beyond the rhetoric of the increasingly heated Airbnb tax battle, what are the real tax implications of Airbnb on a state-by-state basis? To find out, vacation accommodation meta search engine AllTheRooms.com conducted an analysis of active Airbnb bookings nationwide to project potential state tax revenue if Airbnb rentals were taxed at traditional hotel rates.

Methodology

AllTheRooms.com is an accommodations search engine. Unique among travel websites for its ability to instantly search every single available accommodation—from a traditional hotel room listed on Expedia to a couch for rent on Craigslist—AllTheRooms.com is able to aggregate data from sites like Airbnb, Priceline, Expedia, Tripadvisor, VRBO, HomeAway, and dozens of others to identify total vacation rental availability worldwide.

To conduct this analysis, AllTheRooms.com used coordinate data to identify every available listing posted on Airbnb along with detailed calendar booking and pricing data to project occupancy and revenue figures for calendar year 2016.

In order to estimate the bookings and revenue data from Airbnb's database, AllTheRooms projected a full year's worth of vacation rentals based on algorithmic analysis of historical patterns of bookings and availabilities over a 5 month time period. The numbers derived from this analysis were confirmed by cross checking against public announcements by Airbnb of total revenue and bookings data.

Results

On a nationwide basis, AllTheRooms.com found that state tax authorities would collect $440 million in total revenue from Airbnb rentals if they were taxed at standard hotel tax rates in each municipality. Following aggressive lobbying efforts by Airbnb, some level of tax is now collected on Airbnb rentals in 26 different states. These vary between state-wide taxes—such as those in Alabama, Connecticut, Florida, Illinois, Louisiana, North Carolina, Oregon, Pennsylvania, Rhode Island, South Carolina, Utah, Vermont, and Washington—and city-specific taxes—such as those in Los Angeles, Colorado Springs, Phoenix, and others.

Though the level and scope of these taxes vary widely in each state, Airbnb is now projected to collect $177 million in 2016. That number has doubled in the last five months. However, the remaining uncollected tax revenue from Airbnb rentals in 2016 would be over $260 million.

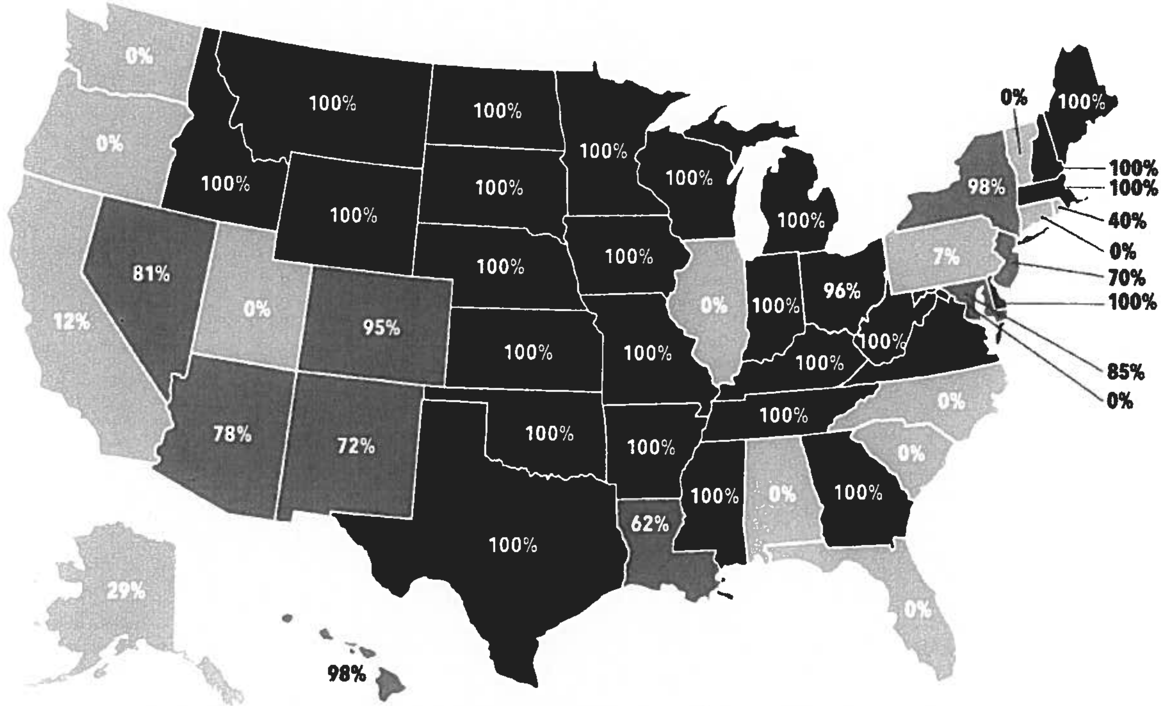
In New York City alone, the AllTheRooms.com analysis projects that $110,199,839 in potential tax revenue will go uncollected in 2016. The charts below depict the total eligible taxes from Airbnb's current calendar year bookings in each state of the U.S.

allTheRooms

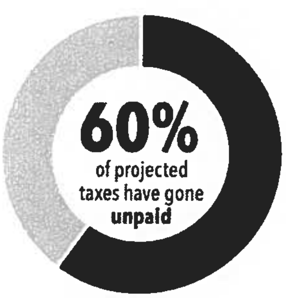
440 Million Reasons to Tax Airbnb Vacation Rentals

allTheRooms

A 50-state analysis of Airbnb vacation rental bookings, conducted by the accommodations search engine AllTheRooms.com, finds that total state-level tax revenue for current active bookings on Airbnb would be $440 million for calendar year 2016.



KEY: <50% of Projected Taxes Owed | 50%-99% of Projected Taxes Owed | 100% of Projected Taxes Owed



26 states are currently owed **100%** of their projected taxes

36 states are owed **more than half** of their projected taxes

26 States have **state-wide** and city-specific deals with Airbnb to collect some form of tax revenue

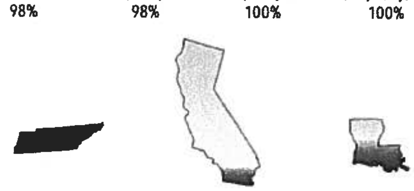
Alabama	**Pennsylvania**
Connecticut	**Rhode Island**
Florida	**South Carolina**
Illinois	**Utah**
Louisiana	**Vermont**
North Carolina	**Washington**
Oregon	

$177 MILLION how much Airbnb is projected to collect in 2016

The remaining uncollected taxes would still be over **$260 million**

7 States That Are Owed the Most in Projected Taxes

New York	Hawaii	Texas	Massachusetts
$110,000,000	**$51,000,000**	**$19,000,000**	**$17,000,000**
98%	98%	100%	100%



Tennessee	California	Louisiana
$14,000,000	**$8,700,000**	**$8,300,000**
100%	12%	62%

Conclusion

The challenges facing both the burgeoning vacation rental marketplace and the municipalities that must address these new business models are significant. Just as we've seen in other disruptive business, such as the Uber car-sharing service, and even professional service providers like LegalZoom.com, the pace of innovation is moving much faster than the pace of regulation.

Any changes to current legislation governing short-term room rentals needs to take into account, not only the tax implications of the rental market, but also the wide variety of operational standards that the travel industry has been held to for years. Policies governing customer refunds, discrimination, damages to rooms—these are all a part of the regulatory pie, in addition to hotel-specific tax. There are no easy solutions, but with this much money at stake for state governments, individual Airbnb hosts and the rapidly growing peer-to-peer business segment, finding the right balance will be critical.

Addendum:

Following is a state-by-state breakdown of total projected taxes, % collected and $ value of uncollected tax for 2016 Airbnb vacation rentals.

allTheRooms

STATE	PROJECTED TAXES	UNCOLLECTED	% UNCOLLECTED
Alabama	330,000	0	0
Alaska	760,000	220,000	29
Arizona	2,500,000	1,900,000	78
Arkansas	68,000	68,000	100
California	74,000,000	8,700,000	12
Colorado	3,800,000	3,600,000	95
Connecticut	2,000,000	0	0
Delaware	580,000	580,000	100
District of Columbia	12,000,000	0	0
Florida	32,000,000	0	0
Georgia	2,000,000	2,000,000	100
Hawaii	52,000,000	51,000,000	98
Idaho	340,000	340,000	100
Illinois	10,000,000	0	0
Indiana	580,000	580,000	100
Iowa	130,000	130,000	100
Kansas	250,000	250,000	100
Kentucky	1,700,000	1,600,000	100
Louisiana	13,000,000	8,300,000	62
Maine	3,100,000	3,100,000	100
Maryland	870,000	740,000	85
Massachusetts	17,000,000	17,000,000	100
Michigan	1,800,000	1,800,000	100
Minnesota	870,000	870,000	100
Mississippi	61,000	61,000	100
Missouri	1,600,000	1,600,000	100
Montana	230,000	230,000	100
Nebraska	260,000	260,000	100
Nevada	1,400,000	1,100,000	81
New Hampshire	1,600,000	1,600,000	100
New Jersey	2,300,000	1,600,000	70
New Mexico	2,200,000	1,600,000	72
New York	120,000,000	110,000,000	98
North Carolina	7,400,000	0	0
North Dakota	5,100	5,100	100
Ohio	1,100,000	1,000,000	96
Oklahoma	290,000	290,000	100
Oregon	8,100,000	0	0
Pennsylvania	4,400,000	310,000	7
Rhode Island	3,000,000	1,200,000	40
South Carolina	2,800,000	0	0
South Dakota	97,000	97,000	100
Tennessee	14,000,000	14,000,000	100
Texas	19,000,000	19,000,000	100
Utah	3,600,000	0	0
Vermont	3,200,000	0	0
Virginia	1,300,000	1,300,000	100
Washington	13,000,000	0	0
West Virginia	39,000	39,000	100
Wisconsin	1,000,000	1,000,000	100
Wyoming	3,700	3,700	100
TOTAL	440,000,000	260,000,000	60

VRBO - Corrales

No.	Address	bedrooms	people	kitchen	breakfast	Cost/night	Cost/week	Cost/month	Min Night
1	Angel Rd	1	4	Yes		$ 84.00			
2	Wagner/Dixon	2	4	Yes		$ 175.00	$ 1,200.00	$ 3,400.00	
3	Perea Lane	1	4	Yes		$ 140.00	$ 800.00	$ 2,400.00	
4	**west side**	**3**	**6**	**Yes**		**$ 160.00**	**$ 1,999.00**		
5	east side	1	4	Yes		$ 130.00	$ 800.00	$ 2,400.00	
6	**Old Church Road**	**4**	**8**	**Yes**		**$ 500.00**	**$ 3,500.00**	**$ 6,000.00**	
7	north end	1	4	Yes		$ 125.00	$ 675.00	$ 1,525.00	
8	unknown	2	4	Yes		$ 115.00	$ 700.00	$ 1,800.00	
9	unknown	1	3	Yes		$ 95.00	$ 615.00	$ 2,800.00	
10	east side	1	4	Yes		$ 130.00	$ 900.00	$ 1,800.00	
11	**East Valverde**	**5**	**6**	**Yes**		**$ 1,000.00**	**$ 6,000.00**	**$ 25,000.00**	
12	**Wagner/Dixon**	**4**	**8**	**Yes**		**$ 250.00**	**$ 1,500.00**	**$ 4,500.00**	
13	unknown	2	4	Yes		$ 240.00			
14	Mira Sol	2	5	Yes		$ 160.00	$ 850.00	$ 2,250.00	
15	Rome Lane	2	5	Yes		$ 189.00	$ 980.00	$ 1,950.00	
16	**unknown**	**3**	**5**	**Yes**		**$ 89.00**	**$ 498.00**	**$ 1,600.00**	
		35	78			$ 3,582.00	$ 21,017.00	$ 57,425.00	

5 properties have 3 or more bedrooms;
should pay lodger's tax

	Night	Week	Month
Potential revenue/night:	$ 1,999.00	$ 13,497.00	$ 37,100.00
GRT @.075625	$ 151.12	$ 1,020.37	$ 2,804.76
Lodger's Tax@.03	$ 59.97	$ 404.91	$ 1,113.00
GRT + Lodgers Tax	$ 211.09	$ 1,425.28	$ 3,917.76
50% Occ Rev/Month	**$ 29,985.00**	**$ 26,994.00**	**$ 179,910.00**
50% Occ Rev per Year	**$ 359,820.00**	**$ 350,922.00**	**$ 222,600.00**
GRT @.075625	**$ 27,202.39**	**$ 26,529.70**	**$ 16,828.56**
Lodger's Tax@.03*	**$ 10,794.60**	**$ 10,527.66**	**$ 6,678.00**

***If all properties had to pay lodger's tax**

LODGERS TAX PROPERTIES

	Bedrooms	Cost/night	Cost/week	Cost/month
west side	**3**	**$ 160.00**	**$ 1,999.00**	
Old Church Road	**4**	**$ 500.00**	**$ 3,500.00**	**$ 6,000.00**
east Val Verde	**5**	**$ 1,000.00**	**$ 6,000.00**	**$ 25,000.00**
Wagner/Dixon	**4**	**$ 250.00**	**$ 1,500.00**	**$ 4,500.00**
Unknown	**3**	**$ 89.00**	**$ 498.00**	**$ 1,600.00**
	19 rooms	$ 1,999.00	$ 13,497.00	$ 37,100.00
50% Occ Rev Month		$ 29,985.00	$ 26,994.00	$ 222,600.00
50% Occ Rev per Year		$ 179,910.00	$ 701,844.00	$ 1,335,600.00
GRT @.075625		$ 13,601.20	$ 53,059.41	$ 100,971.36
NET GRT @ 0.15		$ 2,040.18	$ 7,958.91	$ 15,145.70
Lodger's Tax@.03*		$ 5,397.30	$ 21,055.32	$ 40,068.00
TOTAL REVENUE		**$ 7,437.48**	**$ 29,014.23**	**$ 55,213.70**

Air BnB - Corrales

No.	Address	bedrooms	people	kitchen	breakfast	Cost/night	Cost/week	Cost/month	Min Night
1	Armijo Court	1	2	Yes		$ 75.00			
2	Perea Road	1	2	Yes		$ 70.00			
3	?	2	2			$ 75.00	$ 400.00		
4	?	1	2			$ 66.00			2
5	Reclining Acres	2	4	Yes	Yes	$ 37.00	$ 200.00	$ 672.00	
6	Don Quijote Court	1	2	Yes		$ 70.00	$ 450.00		2
7	**Wagner Lane**	**4**	8	Yes			$ 1,500.00	$ 4,500.00	
8	**Heather Lynn Court**	**5**	8			$ 300.00	$ 2,200.00	$ 4,000.00	
9	Priestley Road	1	3	Yes		$ 98.00	$ 625.00	$ 1,250.00	
10	**Camino Arco Iris**	**3**	5	Yes		$ 89.00	$ 498.00	$ 1,600.00	
11	Barnard Road	1	3	Yes		$ 100.00	$ 500.00	$ 1,100.00	
12	Calle de Blas	1	3	Yes		$ 129.00			2
13	Perea Lane ? RV	1	2	Yes		$ 70.00			
14	Angel Road	1	4	Yes		$ 95.00	$ 600.00	$ 1,450.00	
15	Perea Lane ?	1	2			$ 70.00			
16	Mission Valley Road	1	2			$ 125.00			2
17	Meadowlark Lane West	2	4	Yes		$ 240.00			
18	Corrales Road	1	2			$ 100.00			2
19	**Armijo Court**	**4**	8	Yes		$ 275.00	$ 1,800.00	$ 3,800.00	
20	Senescu Court	1	2			$ 130.00			
21	La Isla Lane	2	4	Yes		$ 150.00	$ 875.00	$ 3,000.00	2
22	**Bosque Acres Road**	**3**	7	Yes		$ 225.00	$ 1,000.00	$ 3,500.00	
		40	81			$ 2,589.00	$ 10,648.00	$ 24,872.00	

4 properties have 3 or more bedrooms;
should pay lodger's tax

	Night	Week	Month
Potential revenue/night:	$ 2,589.00	$ 10,648.00	$ 24,872.00
GRT @.075625	$ 195.79	$ 805.26	$ 1,880.95
Lodger's Tax@.03	$ 77.67	$ 319.44	$ 746.16
GRT + Lodgers Tax	$ 273.46	$ 1,124.70	$ 2,627.11
50% Occ Rev/Month	**$ 38,835.00**	**$ 21,296.00**	**$ 149,232.00**
50% Occ Rev per Year	**$ 233,010.00**	**$ 553,696.00**	**$ 895,392.00**
GRT @.075625	**$ 17,615.56**	**$ 41,859.42**	**$ 67,691.64**
Lodger's Tax@.03*	**$ 6,990.30**	**$ 16,610.88**	**$ 26,861.76**

***If all properties had to pay lodger's tax**

LODGERS TAX PROPERTIES

	Bedrooms	Cost/night	Cost/week	Cost/month
Wagner Lane	4		$ 1,500.00	$ 4,500.00
Heather Lynn Court	5	$ 300.00	$ 2,200.00	$ 4,000.00
Camino Arco Iris	3	$ 89.00	$ 498.00	$ 1,600.00
Armijo Court	4	$ 275.00	$ 1,800.00	$ 3,800.00
Bosque Acres Road	3	$ 225.00	$ 1,000.00	$ 3,500.00
	19 rooms	$ 889.00	$ 6,998.00	$ 17,400.00
50% Occ Rev Month		$ 13,335.00	$ 104,970.00	$ 261,000.00
50% Occ Rev per Year		$ 80,010.00	$ 629,820.00	$ 1,566,000.00
GRT @.075625		$ 6,048.76	$ 47,614.39	$ 118,389.60
NET GRT @ 0.15		$ 907.31	$ 7,142.16	$ 17,758.44
Lodger's Tax@.03*		$ 2,400.30	$ 18,894.60	$ 46,980.00
TOTAL REVENUE		**$ 3,307.61**	**$ 26,036.76**	**$ 64,738.44**

Frequently Asked Questions (FAQs)
Green Infrastructure Implementation in New Mexico
September 2016

Background

Green Infrastructure, as defined by the U.S. Environmental Protection Agency (USEPA), is a cost-effective, resilient approach to managing wet weather impacts that provides many community benefits. Because uncontrolled stormwater discharge contributes to many negative water quality impacts, Congress amended the Clean Water Act in 1987 to add stormwater point source discharges to the National Pollutant Discharge Elimination System (NPDES) permitting universe.

In 2006, the U.S. Environmental Protection Agency (USEPA) commissioned the National Research Council to provide an overall review of the NPDES Stormwater Program. The NRC published the report titled "Urban Stormwater Management in the United States[1]" in 2009 to address their findings. The report addressed issues plaguing the stormwater program, and also recommended ways to address dealing with stormwater discharges. One key suggestion the NRC made was to implement Green Infrastructure (GI) approaches in Municipal Separate Storm Sewer System (MS4) permits.

EPA HQ decided to select three permitting pilots to implement a number of the recommendations made in the Urban Stormwater Management report, including watershed-based permitting. One of those pilot permits was in the Middle Rio Grande (MRG)/Albuquerque area.

As the MRG entities began discussions about the new permit, it became apparent that water rights was going to be an important component of the implementation decisions surrounding GI approaches in New Mexico.

Water in the desert is precious, from both a water quantity and a water quality perspective. The quantity side was recognized when the Rio Grande Compact was signed in 1938 between the states of Colorado, Texas and New Mexico, and the Country of Mexico, and approved by Congress. New Mexico is required to deliver a certain amount of water to the Texas state line each year, and depends on all sources of water to make those obligations.

New Mexico's water quantity law is based on prior appropriation – this is the legal principle that the first person in time to take a certain amount of water for beneficial use (agricultural, industrial or household) has the right to continue that same use of water for the same purpose. Users who would also like to use the water, may, as long as they do not negatively impair the rights of those first, or senior, users. First in time = first in right. Additionally, a user may not change the place or purpose of a Water Right such that it hinders another user's use.

Frequently Asked Questions (FAQs)
Green Infrastructure Implementation in New Mexico
September 2016

FAQs

1. **Does the MS4 permit require permittees to retain water?**

No, it does not. If the retention of water conflicts with applicable water quantity law, the permit does not specifically require permittees to retain or detain that water.

2. **Is rooftop harvesting of rain water permissible?**

Yes. The New Mexico Office of the State Engineer supports the wise and efficient use of the state's water resources; and, therefore, encourages the harvesting, collection and use of rainwater from residential and commercial roof surfaces for on-site landscape irrigation and other on-site domestic uses.

The collection of water harvested in this manner should not reduce the amount of runoff that would have occurred from the site in its natural, pre-development state. Harvested rainwater may not be appropriated for any other uses.

The OSE's Waterwise Guide to Rainwater Harvesting is included with this document as Appendix A.

3. **Is rain water harvesting (storage for future use) from parking lots allowed?**

Potentially. This would require a permit from the OSE to place this water to Beneficial Use.

4. **If a property lies within a basin that has no outfall to our river system, can rain water harvesting be allowed from all areas?**

In general, "Yes", but check with the local Water Rights District Office to be sure. A variance to the 96 hour Rule can be issued if the right circumstances exist and it can be proven that the water would not make it to a stream or river system. Rooftop harvesting of rain is allowed statewide. Note: this water cannot be appropriated or put to any Beneficial Use without a permit from the OSE.

The "right circumstances" occur when water can be shown not to contribute to the local stream/river system. Ex: In the Las Cruces area where a Subdivision asked for a "Variance" to the 96 hour rule since the water would never make it to the Rio Grande anyway. We looked at it and determined that the water would not make it to the river so we granted the variance.

5. **If a property uses underground chambers for storm water control and infiltration, does the 96 hour rule apply?**

No, since the water is directly being infiltrated into the subsurface. Note: this water cannot be appropriated or put to any Beneficial Use without a permit from the OSE. Infiltration is not a beneficial use of water.

6. **What types of BMPs are acceptable to OSE for controlling water flow or infiltration?**

BMPs that retain water in ponds or impoundments should be minimized. The OSE cannot condone the use of practices that will promote evaporation because that is a water loss to the system.

Regarding flood control impoundments, water must be released within 96 hours, or a water right must be obtained to offset the effects to the stream or river system.

7. **If a permittee decides to infiltrate stormwater, what are the parameters that infiltration must be conducted within?**

Infiltration of stormwater in a manner that encourages the water to recharge underground aquifers is strongly encouraged by OSE. If a regional facility managed by a flood control authority is used to infiltrate stormwater in an arroyo or other waterbody, these are areas that have a direct hydrological connection to underground resources. Infiltration in other areas will need to be evaluated by OSE. Typically, all such water must infiltrate within the 96 hour time frame.

   a. Is groundwater modeling required? Typically no but some modeling could be required.

8. **How does Dam Safety play into this discussion?**

OSE has quoted regulations dealing with dam safety in this discussion for just that purpose – safety. If impoundments are being evaluated for flood control purposes (and this is unavoidable), any such structures also must be in compliance with the Dam Safety regulations.

9. **What are acceptable BMPs for water rights compliance?**

Basically BMP's that don't retain or impound water for more than 96 hours and that are considered de-minimus in nature.

10. **If I cannot avoid installing a pond or other impoundment, what must I do?**

The New Mexico State Engineer must be included in the coordination if the proposed plan includes ponds and/or impoundments that will not drain in 96 hours. Individuals can ask the OSE for a variance or acquire water rights to offset the effects of the impoundment on the

river. A Variance to the 96 hour requirement altogether can be requested or a variance to increase the time allowed for infiltration can be requested. If a variance is requested either completely exempted or increasing the time frame for infiltration we will require that the applicant submit proof to us in writing making their case. We have issued several "Variance" requests in the past.

11. **How does pre-development hydrology factor in to water rights?**

OSE does not recognize pre-development hydrology in water rights allocation and appropriation. OSE depends on all water received in order to meet compact obligations across the state (both federal and interstate compacts). As stated above, rooftop capture and use of rainwater is permissible within pre-development hydrology limits.

12. **How does EPA envision compliance with the following statement in the MRG MS4 and sMS4 permits?**

    Where applicable New Mexico water law limits the ability to fully manage the design standard volume on site, measures to minimize increased discharge consistent with requirements under New Mexico water law must still be implemented.

Compliance with NM Water Law may require some form of Permit from the OSE. It is best if those individuals considering any impoundment of water contact the local Water Rights District Office to check what regulatory options they might have in order to be consistent with NM Water Law.

Examples:

Detention pond that drains within 96 hours

Infiltration gallery that needs maintenance and as a result backs up with water

13. **It seems that municipalities should be able to keep the difference between historic (pre-development) runoff and developed runoff volumes. Why is it that they cannot?**

This would be considered an Appropriation of water in an already fully appropriated system.

Frequently Asked Questions (FAQs)
Green Infrastructure Implementation in New Mexico
September 2016

Some Green Infrastructure BMP examples:

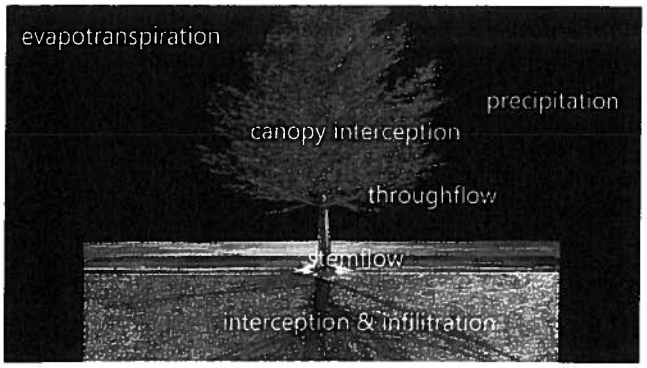
Canopy interception:

the rainfall that is intercepted by the canopy of a tree and successively evaporates from the leaves. Precipitation that is not intercepted will fall as throughfall or stemflow on the forest floor.

Many methods exist to measure canopy interception. The most often used method is by measuring rainfall above the canopy and subtract throughfall and stem flow (e.g., Helvey and Patric [1965][1]). However, the problem with this method is that the canopy is not homogeneous, which causes difficulty in obtaining representative throughfall data.

Another method that tried to avoid this problem is applied by e.g., Shuttleworth et al. [1984],[2] Calder et al. [1986],[3] and Calder [1990].[4] They covered the forest floor with plastic sheets and collected the throughfall. The disadvantage of this method is that it is not suitable for long periods, because in the end the trees will dry due to water shortage, and the method is also not applicable for snow events.

The method by Hancock and Crowther [1979][5] avoided these problems, by making use of the cantilever effect of branches. If leaves on a branch hold water, it becomes more heavy and will bend. By measuring the displacement, it is possible to determine the amount intercepted water. Huang et al.[6] refined this method later in 2005 by making use of strain gauges. However, the disadvantages of these methods are that only information about one single branch is obtained and it will be quite laborious to measure an entire tree or forest.



Frequently Asked Questions (FAQs)
Green Infrastructure Implementation in New Mexico
September 2016

Soil amendments:

a product which is added to soil to improve the soil's physical qualities, especially its ability to provide nutrition for plants. In general usage, the term "soil conditioner" is often thought of as a subset of the category **soil amendments**, which more often is understood to include a wide range of fertilizers and non-organic materials.[1]

Soil conditioners can be used to improve poor soils, or to rebuild soils which have been damaged by improper management. They can make poor soils more usable, and can be used to maintain soils in peak condition.

A wide variety of materials have been described as soil conditioners due to their ability to improve soil quality. Some examples include biochar, bone meal, blood meal, coffee grounds, compost, compost tea, coir, manure, straw, peat, sphagnum moss, vermiculite, sulfur, lime, hydroabsorbant polymers,[3] and biosolids.[4]

Many soil conditioners come in the form of certified organic products, for people concerned with maintaining organic crops or organic gardens. Soil conditioners of almost every description are readily available from online stores or local nurseries as well as garden supply stores.

Soil structure

The most common use of soil conditioners is to improve soil structure. Soils tend to become compacted over time. Soil compaction impedes root growth, decreasing the ability of plants to take up nutrients and water. Soil conditioners can add more loft and texture to keep the soil loose.[6]

Soil nutrients

For centuries people have been adding things to poor soils to improve their ability to support healthy plant growth. Some of these materials, such as compost, clay and peat, are still used extensively today. Many soil amendments also add nutrients such as carbon and nitrogen, as well as beneficial bacteria.

Additional nutrients, such as calcium, magnesium and phosphorus, may be augmented by amendments as well. This enriches the soil, allowing plants to grow bigger and stronger.[7]

Cation exchange

Soil amendments can also greatly increase the cation exchange capacity of soils. Soils act as the storehouses of plant nutrients. The relative ability of soils to store one

particular group of nutrients, the cations, is referred to as cation exchange capacity or CEC. The most common soil cations are calcium, magnesium, potassium, ammonium, hydrogen, and sodium.

The total number of cations a soil can hold, its total negative charge, is the soil's cation exchange capacity. The higher the CEC, the higher the negative charge and the more cations that can be held and exchanged with plant roots, providing them with the nutrition they require.[8][9]

Water retention

Soil conditioners may be used to improve water retention in dry, coarse soils which are not holding water well. The addition of organic material for instance can greatly improve the water retention abilities of sandy soils and they can be added to adjust the pH of the soil to meet the needs of specific plants or to make highly acidic or alkaline soils more usable.[10] The possibility of using other materials to assume the role of composts and clays in improving the soil was investigated on a scientific basis earlier in the 20th century, and the term soil conditioning was coined. The criteria by which such materials are judged most often remains their cost-effectiveness, their ability to increase soil moisture for longer periods, stimulate microbiological activity, increase nutrient levels and improve plant survival rates.

The first synthetic soil conditioners were introduced in the 1950s, when the chemical hydrolysed polyacrylonitrile was the most used. Because of their ability to absorb several hundred times their own weight in water, polyacrylamides and polymethacrylates (also known as hydroabsorbent polymers, superabsorbent polymers or hydrogels) were tested in agriculture, horticulture and landscaping beginning in the 1960s.

Interest disappeared when experiments proved them to be phytotoxic due to their high acrylamide monomer residue. Although manufacturing advances later brought the monomer concentration down below the toxic level, scientific literature shows few successes in utilizing these polymers for increasing plant quality or survival. The appearance of a new generation of potentially effective tools in the early 1980s, including hydroabsorbent polymers and copolymers from the propenamide and propenamide-propenoate families, opened new perspectives.

Frequently Asked Questions (FAQs)
Green Infrastructure Implementation in New Mexico
September 2016

Rainfall harvesting from rooftops into rain tanks and cisterns:
See Appendix A for the OSE's Waterwise Rooftop Harvesting Guidance

Frequently Asked Questions (FAQs)
Green Infrastructure Implementation in New Mexico
September 2016

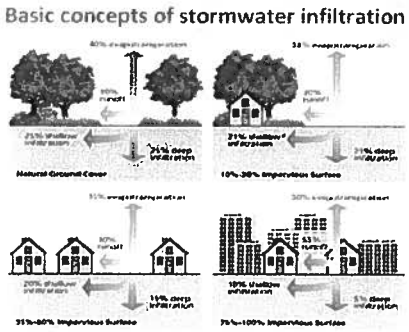
Engineered infiltration:

discuss UIC requirements and permitting with the NMED GWQB:

Stormwater infiltration is the process by which rainfall and stormwater runoff flows into and through the subsurface soil. Stormwater infiltration occurs when rainfall lands on pervious surfaces, when runoff flows across pervious surfaces, and when runoff is collected and directed to a stormwater infiltration Best Management Practice (BMP).

Current stormwater management policies encourage, when appropriate, maximizing the infiltration of stormwater to reduce the volume of runoff discharging to surface waters. In addition to reducing runoff volume, stormwater infiltration helps reduce stormwater pollutant loading to surface waters. Many factors influence the rate and volume of stormwater infiltration, including soil and rainfall characteristics. Once stormwater infiltrates into the soil, it has the potential to enter the groundwater, become part of the subsurface flow, or be taken up by vegetation.

For the purposes of this section, infiltration BMPs are considered BMPs without underdrains.



Relationship between impervious cover and surface runoff. (Source: Stream Corridor Restoration: Principles, Processes, and Practices *(1998). By the Federal Interagency Stream Restoration Working Group (FISRWG)(15 Federal agencies of the U.S.))*

Stormwater runoff is considered to be any water that runs off pervious and impervious surfaces after a rainfall or snowmelt event, with a greater percentage running off from impervious surfaces. In urban areas, runoff can constitute approximately 30 to 55 percent of the water budget. In comparison, runoff may constitute as little as 10 percent in forested or rural areas (FISRWG, 1998).

Frequently Asked Questions (FAQs)
Green Infrastructure Implementation in New Mexico
September 2016

Role of stormwater infiltration in the natural water cycle

The increase in impervious surfaces can disrupt the natural water cycle and alter the surrounding environment via the decrease of groundwater recharge and the increase of water directly flowing to surface waters. As a likely consequence, this can lead to a reduction in the baseflow of streams, a decrease in the elevation of the groundwater table, and transport of sediment and pollutant loads into surface waters. A more detailed explanation of stormwater runoff and its effects on the environment can be found here.

Commented [SH1]: Change link from MPCA

Stormwater infiltration in urban areas can be enhanced by the disconnection of impervious surfaces and by the improvement of pervious surfaces such as turf. Impervious surface disconnection is the direction or redirection of stormwater runoff from impervious surfaces (e.g., sidewalks, parking lots, rooftops, etc.) onto pervious surfaces. An example is routing discharge from a roof drain into a planter or low area in the landscaping. Redirection of impervious surface runoff to pervious areas promotes infiltration and reduces overall site runoff. The reduction in site runoff from impervious surface disconnection can vary considerably depending on many factors including the size of the contributing drainage area, size of the area receiving routed runoff, and infiltration capacity of the soils, vegetation in the area receiving the additional stormwater, slope and site grading and other site conditions. Stormwater infiltration can also be enhanced by improvement of pervious surfaces, such as amending soil with compost to increase the water holding capacity of the soil.

In new developments, stormwater infiltration is often intended to mimic the natural hydrologic cycle. Stormwater infiltration in redevelopment aims to mitigate changes in the urban water cycle brought about by increases in impervious surfaces caused by urbanization. Infiltration can achieve the following objectives.

- Decrease peak runoff flow rates
- Decrease the volume of stormwater runoff
- Reduce stormwater pollutant loading to surface waters
- Promote retention and breakdown of contaminants in the soil
- Increase groundwater recharge
- Preserve baseflow in streams
- Reduce thermal impacts of stormwater runoff

Typically, stormwater from disconnected impervious surfaces is routed to a stormwater BMP. Infiltration BMPs achieve the above objectives by capturing, retaining, and infiltrating stormwater. Infiltration BMPs include:

- infiltration basins,

- infiltration trenches,
- bioretention-bioinfiltration (most often a rain garden),
- permeable pavements, and
- tree trenches/tree boxes (a form of bioretention).

Small and medium sized infiltration BMPs are often located at the beginning of a stormwater treatment train, while larger BMPs are often placed at the end of the train. These BMPs can also be installed as off-line treatment systems. Infiltration BMPs are most suitable in sites with permeable soils and sufficient separation from the seasonally high groundwater table, bedrock, and polluted sites. While infiltration practices can remove some types of physical and chemical pollutants, careful consideration should be given to implementing stormwater infiltration practices in potential stormwater hotspots (PSH) or at sites with known pollution issues such as Brownfields. For a discussion of constraints on use of stormwater infiltration practices, see *Constraints* on the stormwater infiltration page.

Commented [SH2]: Change link from MPCA

Commented [SH3]: Change link from MPCA

Commented [SH4]: Change link from MPCA

Factors affecting stormwater infiltration

Schematic illustrating the relationship between soil and engineered media. Source:CDM Smith.

Several interrelated factors that control the infiltration of stormwater into the soil/subsurface are described below. It is important to clarify the terms soil, subsurface, and engineered media. In general, the soil or subsurface is the native material at a site. These terms may be used interchangeably when discussing a BMP, although subsoil typically refers to soil at depth. Engineered media is a material created for a site to enhance infiltration, plant growth, and pollutant removal. Engineered media range from coarse-textured aggregate beneath permeable pavement systems to high organic materials used in bioretention systems. When an engineered media is used, the soil or subsurface refers to the material underneath the engineered media.

- **Soil infiltration rate**: The soil infiltration rate (IR) is one of the main factors affecting the performance of an infiltration BMP. While design rates exist based on soil type, it is HIGHLY RECOMMENDED that the rates be measured in-situ. Information on how to find the IR in the field can be found here. Designers should test soil at fully saturated conditions (saturated hydraulic conductivity or K_{sat}) to obtain the most conservative

rate. All design and credit information contained in the MPCA's stormwater manual is based on the assumption of saturated soil.

- **Evapotranspiration rate**: The evapotranspiration (ET) rate is the sum of evaporation and plant transpiration. It is an important function when the infiltration BMP relies at least in part on vegetation for its stormwater management. The average ET rate in Minneapolis and St. Paul from 2001 to 2010 was 0.16 inches per day during the growing season. This is a general value and is subject to variation due to several coarse and fine-scale conditions. Detailed records for certain areas of Minnesota are available on the Minnesota Department of Natural Resources Climate Summaries and Publications web site.[1]
- **Storm intensity**: When the intensity of the storm is greater than the IR of the soil, runoff may occur (WEF, 2012). This is due to the fact that as storm intensity increases, the storage on the surface and in the subsurface macropores is more quickly exhausted and the soils rapidly reach saturation.
- **Antecedent soil moisture condition**: The antecedent moisture condition, or the moisture condition of the soil prior to the storm event, will affect the space available in the subsurface for infiltration. High antecedent moisture conditions reduce the amount of pore space available for infiltration, which in turn decreases the amount of runoff water entering the soil.
- **Soil characteristics**: While infiltration is more rapid in coarser soils (e.g., medium to coarse sands or gravels) than in fine grained soils (e.g. silts and clays), other soil properties also affect infiltration. Examples include the following.
    - Bulk density of the soil: As the bulk density of the soil increases, the IR generally decreases. The average bulk density of different soils can be found here.
    - Soil layering: Infiltration rates into a soil are typically controlled by the lowest infiltration layer in the soil, particularly when low infiltration layers are thick and located near the surface.
- **Temperature**: Infiltration rates tend to decrease as temperature decreases. This is due to the increase in viscosity of the stormwater at lower temperatures (Lin et al., 2003; Braga et al., 2007; Emerson and Traver, 2008).

Commented [SH5]: Change link from MPCA

Limitations of stormwater infiltration

The following general limitations should be recognized when considering infiltration BMPs.

- Failure can occur due to improper design and/or siting.
- Infiltration BMPs may not be appropriate for sites with soils having a low infiltration capacity.
- Infiltration BMPs may not be appropriate for areas with steep slopes.
- Infiltration BMPs are susceptible to clogging by sediment and other debris, and may require a greater amount of maintenance compared to other BMPs. See operation and maintenance sections for different BMPs.

Commented [SH6]: Change link from MPCA

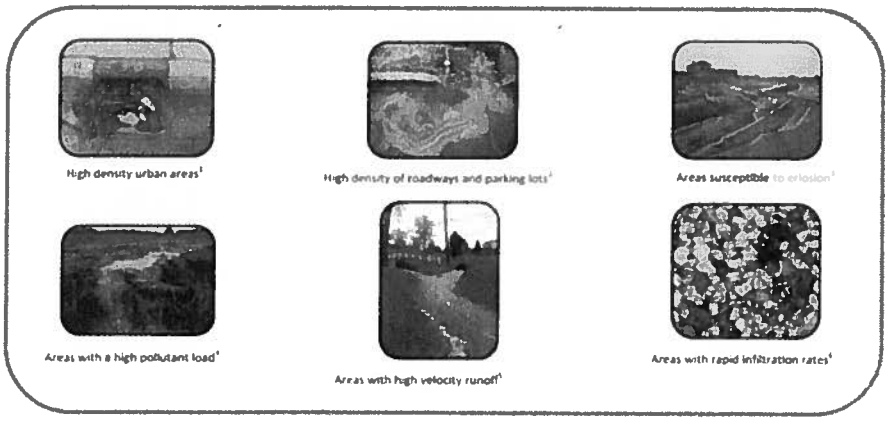
- Algae growth within the BMP can block the infiltration of runoff into the subsurface (WEF, 2012).
- Infiltration BMPs are not ideal for stormwater runoff from land uses or activities with the potential for high loads of certain pollutants. The CGP prohibits infiltration of runoff from vehicle fueling and maintenance areas and certain industrial practices.
- Infiltration BMPs may increase the risk of groundwater contamination depending on subsurface conditions, pollution concentrations in the runoff, and aquifer susceptibility.
- Wide-scale implementation is required to significantly reduce the rate and volume of discharge to downstream surface waters, especially in areas with a high density of impervious surfaces (WEF, 2012).

Pollutant fate and transport for stormwater infiltration

As stormwater travels across the land surface into infiltration BMPs, it can pick up various water quality pollutants and deliver them to the subsurface. There is concern that these pollutants have the ability to travel through the vadose zone and ultimately impact the groundwater. Whether or not this will occur depends on the type and amount of pollutant present, the volume of infiltration, the type of infiltration BMP, and subsurface conditions.

Detailed information on this topic can be found on the page addressing pollutant fate and transport in stormwater infiltration.

Situations where pretreatment is particularly important



Conditions when pretreatment is of particular importance (Sources: 1-Environmental Health and Safety, Western Michigan University, with permission) Storm Water; 2-Winegrad, Gerald.

2015. Chesapeake Bay Action Plan; 3-WI DNR. 2012. Soil Erosion from New Construction.4-Betts, Lynn. 1999. Runoff of Soil & Fertilizer. 5-Hoogestraat, Galen. 2013. Runoff Flowing through Arrowhead Golf Course. 6-Sepp, Siim. 2011. Rounded Fine-Grained Eolian Sand Sample from the Gobi Desert.

Pretreatment is of particular importance in the following situations.

- **High density urban areas**. High density urban areas have increased impervious surface and are more likely to contain high concentrations and annual loads of trash, sediments, and pollutants in stormwater runoff. Of particular concern are trash, debris, sediments, metals, organics, and chlorides.
- **Areas with high potential for erosion**. Areas that are susceptible to erosion are of concern because of high sediment loads that reduce the BMP's infiltration capacity as a result of clogging.
- **Areas where stormwater has a high pollutant load**. Areas with a high pollutant load, or the presence of certain pollutants that are not easily removed from runoff are a concern because they have the potential to contaminate the groundwater. See the section on potential stormwater hotspots.
- **Storm sewers that convey runoff at a high velocity**. A high velocity will keep sediment in suspension. Pretreatment should be installed to facilitate the proper settling of the sediment, which will prevent clogging. In addition, high velocities can reduce the volume of runoff that can be infiltrated.

Common pretreatment methods

Forebays (small sediment basins) are the most common pretreatment method, though there are many others, including cisterns, drain inlet inserts, oil/water separators, proprietary settling/swirl chambers, and vegetated filter strips. It is important to note that many of these pretreatment techniques will require routine maintenance. Other practices typically considered to be primary BMPs, such as swales and green roofs, are often used for pretreatment.

Forebays. Forebays, also known as plunge pools, are small basins upstream of other BMPs that dissipate the velocity of the incoming water and provide stilling, sedimentation, and trapping of gross pollutants.

Cisterns. Cisterns are tanks located above or below ground that are used for storing a specific amount of runoff for the purpose of non-potable reuse (e.g. irrigation or vehicle washing). Small cisterns are also known as rain barrels. These completely remove the runoff from the treatment train and, therefore, provide 100 percent pollution reduction from the volume of water retained. Cisterns are often used to collect stormwater runoff

from rooftops (termed rainwater harvesting), but they can also be used to intercept runoff from other impervious areas.

Drain Inlet Inserts. Drain inlet inserts are devices placed into stormwater drains or catch basins to remove pollutants from stormwater prior to entering the storm sewer system. These inserts utilize an inert filter material, such as polypropylene, to enhance pollutant removal (WEF, 2012). Drain inlet inserts have the ability to remove debris, trash, large sediments and, if a filter material is present, can also remove oils/greases and other pollutant types.

Oil/water separators. Oil/water separators are structures designed specifically to remove petroleum hydrocarbons, grease, sand, and grit. These separators can be split into two categories, American Petroleum Institute (API) separators and coalescing plate separators (WEF, 2012). API separators are a larger vault with baffles which enhance hydraulic efficiency. Coalescing plate separators use sloped plates or extruded tubes to achieve sediment and oil removal, and are smaller than the API structures.

Proprietary settling/swirl chambers. Proprietary settling/swirl chambers or concentrators, also known as hydrodynamic devices, cause the stormwater to move in a circular motion which enhances the settling out of sediments. These devices often remove solids, oils/grease, floatable sand, and other larger debris from stormwater runoff.

Vegetated filter strips. Vegetative filter strips reduce the velocity of stormwater runoff, allowing the sediments to settle out. Filter strips work best when receiving runoff as sheet flow, making them suitable alongside roads, parking lots, and other paved surfaces.

Unit process for pretreatment BMPs

The following table provides a summary of unit processes for pretreatment BMP.

Unit processes of stormwater pretreatment techniques (Adapted from WEF, 2008)
Link to this table

Control	Vegetated filter strips	Vegetated swale	Forebays	Street/parking lot sweeping	Proprietary settling/swirl chamber	Oil/water separators	Green roofs	Cisterns	Drain inlet inserts

Frequently Asked Questions (FAQs)
Green Infrastructure Implementation in New Mexico
September 2016

					S				
Peak flow attenuation					X		X		
Infiltration	X	X							
Dispersion	X	X					X		
Evapotranspiration							X		
Runoff collection and usage								X	
Sedimentation	X		X	X	X	X			X
Flotation			X		X	X			
Laminar separation						X			
Swirl concentration					X				
Sorption							X		
Filtration	X	X							X
Plant metabolism	X	X					X		
Temperature reduction	X	X					X		

Infiltration trench

Photo of an Infiltration trench in Lino Lakes

Applications and treatment capabilities for infiltration trenches, dry well, underground infiltration			
Applications		**Treatment capabilities[3, 4]**	
Residential	Yes	TSS[5]	High[5]
Commercial	Yes	TN	Medium/high
Ultra-urban	Yes	TP	Medium/high
Industrial	Yes[1]	Chloride	Low
Highway/road	[2]	Metals	High
Recreational	Yes	Oils and grease	High
		Pathogens	High

[1] Unless the infiltration practice is located in an industrial area with exposed significant materials or from vehicle fueling and maintenance areas. Infiltration BMPs are PROHIBITED in these areas; [2] Yes for infiltration trench, limited for underground infiltration, no for dry well; [3] This is only for the portion of flow that enters the infiltration basin; by-passed runoff does not receive treatment; [4] Low = < 30%; Medium = 30-65%; High = 65 -100%); [5] Assumes adequate pre-treatment

Sources: Schueler, 1987, 1992; USEPA 1993a, 1993b; Maniquiz et al., 2010; NPRPD, 2007; California Stormwater Manual, 2009; Pennsylvania Stormwater Manual, 2006

An infiltration trench is a shallow excavated trench, typically 3 to 6 feet deep, that is backfilled with a coarse stone aggregate allowing for the temporary storage of runoff in the void space of the material. Drawdown of this stored runoff occurs through infiltration into the surrounding naturally permeable soil. Infiltration trenches may be modified to become stormwater tree trenches and boxes where applicable with the addition of growing medium. All water captured by the BMP must be removed within 48 hours through infiltration and/or a drain. Trenches are commonly used for drainage areas less than 5 acres in size.

Caution: To avoid an infiltration trench being classified as a Class V injection well, it is strongly recommended that the length of the trench be at least 2 times greater than the depth of the trench.

Dry wells (a.k.a. infiltration tubes, french drains, soak-away pits or soak holes)

A dry well or soak away pit is a smaller variation of an infiltration trench. It is a subsurface storage facility (a structural chamber or an excavated pit backfilled with a coarse stone aggregate) that receives and temporarily stores stormwater runoff. Discharge of this stored runoff occurs through infiltration into the surrounding naturally permeable soil. Due to their

size, dry wells are typically designed to handle stormwater runoff from smaller drainage areas, less than one acre in size (e.g. roof tops).

Underground infiltration systems

Several underground infiltration systems, including pre-manufactured pipes, vaults, and modular structures, have been developed as alternatives to infiltration basins and trenches for space-limited sites and stormwater retrofit applications. Underground infiltration systems are occasionally the only stormwater BMP options on fully developed sites as they can be located under other land uses such as parking lots or play areas. These systems are similar to infiltration basins and trenches in that they are designed to capture, temporarily store and infiltrate the design volume of stormwater over several days. Underground infiltration systems are generally applicable to small development sites (typically less than 10 acres) and should be installed in areas that are easily accessible to routine and non-routine maintenance. These systems should not be located in areas or below structures that cannot be excavated in the event that the system needs to be replaced or invasive maintenance is required to maintain performance.

Underground infiltration systems and dry wells have been installed below parking lots and other impervious surfaces on sites where insufficient space exists for a surface infiltration system. They are designed to temporarily store stormwater runoff before slowly infiltrating the water into the subsurface (Connecticut, 2004). There is limited information on the effectiveness of these systems in removing pollutants.

Information: The MPCA is working with partners to determine the fate and transport of stormwater pollutants in underground storage systems. Information from these studies should be available in 2017.

One concern is that underground infiltration may meet the U.S. Environmental Protection Agency (EPA) definition of a Class V injection well. Class V injection wells are defined as any bored, drilled, or driven shaft, or any dug hole that is deeper than its widest surface dimension. Class V injection wells can also be an improved sinkhole, or a subsurface fluid distribution system (from U.S. EPA, June 2003). Minimum requirements for installing, permitting, and operating a Class V well are defined by the USEPA.

A second concern pertains to the overall pollutant removal effectiveness of those underground infiltration systems that do not meet the definition of a Class V injection well. The document released by the Transport Research Synthesis titled "Issues of Concern Related to Underground Infiltration Systems for Stormwater Management and Treatment" provides a good overview of the concerns related to underground infiltration systems (MNDOT, 2009). Issues identified in this report include:

- There is potential that an underground infiltration system meets the criteria of a Class V injection well.
- There is insufficient knowledge of the fate of pollutants in the subgrade below the buried infiltration systems.
- Roadways and parking lots with high volumes of traffic have higher concentrations of certain pollutants, including heavy metals and PAHs.
- Underground systems do not allow for the pollutant removal that is accomplished through biological activity and vegetation uptake.
- The minimum separation requirement of 3 feet between the bottom of the infiltration system and the seasonally high groundwater elevation may be insufficient for adequate pollutant removal. Additional study is recommended.
- Maintenance of underground systems is critical for effective pollutant removal. However, access for maintenance is challenging. There are concerns that the difficult access is preventing owners from properly maintaining these systems.

Bioinfiltration basin

Bioinfiltration basin (Source: CDM Smith)

Applications and treatment capabilities for bioinfiltration basins			
Applications		**Treatment capabilities[2, 3]**	
Residential	Yes	TSS	High[4]
Commercial	Yes	TN	Low/Medium[5]
Ultra-urban	Limited[7]	TP	Medium/high[6]
Industrial	Yes[1]	Chloride	Low
Highway/road	Yes	Metals	High
Recreational	Yes	Oils and grease	High
		Pathogens	High
[1] Unless the infiltration practice is located in an industrial area with exposed significant materials or from vehicle fuelling and maintenance			

areas. Infiltration BMPs are PROHIBITED in these areas; [2] This is only for the portion of flow that enters the infiltration basin; by-passed runoff does not receive treatment; [3] Low = < 30%; Medium = 30-65%; High = 65 -100%); [4] Assumes adequate pre-treatment; [5] This assumes no underdrain; [6] Certain soil mixes can leach P; [7] Due to a size restriction

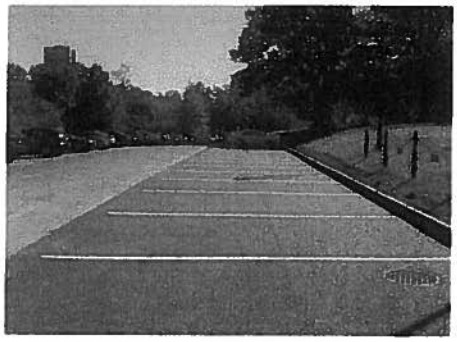
Sources: EPA Factsheet, 1999; Davis et al., 2001, 2003, 2006; Hsieh and Davis, 2005; Hong et al., 2006; Hunt et al., 2006; NPRPD, 2007; Li and Davis, 2009; Diblasi et al., 2009; Passeport et al., 2009; Brown et at., 2011a, b; Komlos et al., 2012; Denich et al., 2013; Li and Davis, 2013; California Stormwater BMP

Bioinfiltration basins, often called rain gardens, use soil (typically engineered media or mixed soil) and native vegetation to capture runoff and remove pollutants. Both the media and underlying soil typically have high infiltration rates that allow captured water to infiltrate within a required drawdown time, usually 48-96 hours.

- Bioretention terminology (including types of bioretention)
- Overview for bioretention
- Design criteria for bioretention
- Construction specifications for bioretention
- Operation and maintenance of bioretention
- Cost-benefit considerations for bioretention
- Calculating credits for bioretention
- Soil amendments to enhance phosphorus sorption
- Summary of permit requirements for bioretention
- Supporting material for bioretention
- External resources for bioretention
- References for bioretention
- Requirements, recommendations and information for using bioretention with no underdrain BMPs in the MIDS calculator

Frequently Asked Questions (FAQs)
Green Infrastructure Implementation in New Mexico
September 2016

Permeable pavement



Permeable pavement (Source: CDM Smith)

Applications and treatment capabilities for permeable pavement			
Applications		**Treatment capabilities[2, 3]**	
Residential	Yes	TSS	High[4]
Commercial	Yes	TN	Medium/High
Ultra-urban	Yes	Nitrate	Low/Medium
Industrial	Yes[1]	TP	Medium/High
Retrofit	Yes	Chloride	Low
Highway/road	Yes	Metals	High
Recreational	Yes	Oils and grease	High
		Pathogens	[5]

[1] Unless the infiltration practice is located in an industrial area with exposed significant materials or from vehicle fuelling and maintenance areas. Infiltration BMPs are PROHIBITED in these areas; [2] This is only for the portion of flow that enters the infiltration basin; by-passed runoff does not receive treatment; [3] Low = < 30%; Medium = 30-65%; High = 65 -100%); [4] Assumes adequate pre-treatment; [5] Insufficient information

Source: Schueler, 1987; Pratt et al, 1999; Adams, 2003; Brattebo and Booth, 2003; Adams, 2003; Bean et al, 2007; SEMCOG, 2008; International Stormwater Database, 2012

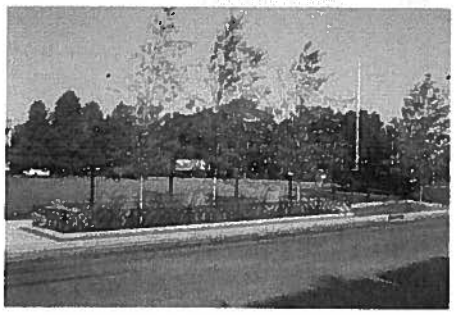
Permeable pavements are paving surfaces that allow stormwater runoff to filter through surface voids into an underlying stone reservoir for infiltration and/or storage. They are suitable for driveways, trails, parking lots, and roadways with lighter traffic. The most commonly used permeable pavement surfaces are pervious concrete, porous asphalt, and permeable interlocking concrete pavers (PICP). All permeable pavements have a similar design layering

system, consisting of a surface pavement layer, an underlying stone aggregate reservoir layer, optional underdrains for filtration and geotextile over non-compacted soil subgrade. Discharge of this stored runoff occurs through infiltration into the surrounding naturally permeable soil. The drainage area leading to permeable pavements should not exceed twice the surface area of the final pavement surface.

For more information, see the following pages in this Manual.

- Overview for permeable pavement
- Types of permeable pavement
- Design criteria for permeable pavement
- Construction specifications for permeable pavement
- Assessing the performance of permeable pavement
- Operation and maintenance of permeable pavement
- Calculating credits for permeable pavement
- Additional considerations for permeable pavement
- Links for permeable pavement
- References for permeable pavement
- Requirements, recommendations and information for using permeable pavement BMPs in the MIDS calculator

Tree box/Tree trench



Tree box (Source: CDM Smith)

Applications and treatment capabilities for tree box/tree trench			
Applications		**Treatment capabilities[2, 3]**	
Residential	Yes	TSS	High[4]
Commercial	Yes	TN	Low/Medium
Ultra-urban	Yes	TP	Medium/High[5]
Industrial	Yes[1]	Chloride	Low

Highway/road	No	Metals	High
Recreational	Yes	Oils and grease	High
		Pathogens	High

[1] Unless the infiltration practice is located in an industrial area with exposed significant materials or from vehicle fuelling and maintenance areas. Infiltration BMPs are PROHIBITED in these areas; [2] This is only for the portion of flow that enters the infiltration basin; by-passed runoff does not receive treatment; [3] Low = < 30%; Medium = 30-65%; High = 65 -100%); [4] Assumes adequate pre-treatment; [5] Certain soil mixes can leach P.

Source: see [1]

Tree trenches are a system of trees that are connected by an underground infiltration structure. The system consists of a stormwater tree trench or box lined with geotextile fabric with structural stone, gravel or soil boxes in which the trees are placed. Tree systems consist of an engineered soil or rock layer designed to treat stormwater runoff via filtration through plant and soil/rock media, and through evapotranspiration from trees. Discharge of this stored runoff occurs through infiltration into the surrounding naturally permeable soil. Tree species are carefully selected to survive both inundation and drought conditions in urban environments where they will be potentially affected by chloride and other traffic concerns. Tree trenches and boxes drainage areas should be less than five acres depending on the size of each trench. Irrigation, whether manual or automated, is strongly encouraged during the tree's establishment period.

For more information, see the following pages in this Manual.

Trees - general

- Overview for trees
- Types of tree BMPs
- Plant lists for trees
- Street sweeping for trees
- References for trees
- Supporting material for trees

Tree boxes/tree trenches

- Design guidelines for tree quality and planting - tree trenches and tree boxes
- Design guidelines for soil characteristics - tree trenches and tree boxes
- Construction guidelines for tree trenches and tree boxes
- Protection of existing trees on construction sites

Frequently Asked Questions (FAQs)
Green Infrastructure Implementation in New Mexico
September 2016

- Operation and maintenance of tree trenches and tree boxes
- Assessing the performance of tree trenches and tree boxes
- Calculating credits for tree trenches and tree boxes
- Case studies for tree trenches and tree boxes
- Soil amendments to enhance phosphorus sorption
- Fact sheet for tree trenches and tree boxes
- Requirements, recommendations and information for using trees as a BMP in the MIDS calculator

Dry swale with check dams

Applications and treatment capabilities for dry swale with check dams			
Applications		**Treatment capabilities[2, 3]**	
Residential	Yes	TSS	High[4]
Commercial	Yes	TN	Low/Medium
Ultra-urban	Limited	TP	Low/Medium[5]
Industrial	Yes[1]	Chloride	Low
Highway/road	Yes	Metals	High
Recreational	Yes	Oils and grease	High
		Pathogens	Medium

[1] Unless the infiltration practice is located in an industrial area with exposed significant materials or from vehicle fuelling and maintenance areas. Infiltration BMPs are PROHIBITED in these areas; [2] This is only for the portion of flow that enters the infiltration basin; by-passed runoff does not receive treatment; [3] Low = < 30%; Medium = 30-65%; High = 65 -100%); [4] Assumes adequate pre-treatment; [5] Certain soil mixes can leach P.

Source: see [2]

Similar to vegetated swales designed for stormwater conveyance, dry swales with check dams are designed as linear, multi-celled stormwater infiltration BMP's. By incorporating earthen or structural check dams, runoff is retained and infiltrated along a series of narrow, shallow basins or cells. Coarse vegetation such as decorative plantings or even turf grass slow runoff movement. This system is designed to move, store, and infiltrate runoff from impervious surfaces such as linear roadways or parking lots. Dry swales are best designed for sites under one acre in size.

Enhanced turf

Infiltration can be enhanced on soils that have been improved or amended. This manual contains limited information on enhanced turf and does not provide guidance for design,

construction, maintenance, and assessment of enhanced turf. Information on use of compost in soil and credits associated with improved turf can be found on the Turf page. A discussion of alleviating compaction from construction activities can be found here.

Unit processes for different infiltration BMPs

The following table provides a summary of unit processes for the different infiltration BMPs.

Unit processes of stormwater treatment techniques (Adapted from WEF, 2008)
Link to this table

Control	Infiltration basin	Infiltration trench	Bio-infiltration	Permeable pavement	Tree box/tree trench	Enhanced turf
Peak flow attenuation	X	X	X	X		
Runoff volume reduction	X	X	X	X	X	
Infiltration	X	X	X	X	X	X
Dispersion						
Evapotranspiration			X		X	
Runoff collection and usage			X[1]	X[1]		
Sedimentation	X	X	X			
Flotation	X		X			
Laminar separation						
Swirl concentration						
Sorption	X	X	X	X		
Precipitation	X	X	X	X		
Coagulation	X	X	X	X		
Filtration			X			
Plant metabolism			X		X	X
Nitrification/denitrification	X	X	X			
Organic compound degradation	X	X	X	X		
Pathogen die off	X	X		X		
Temperature reduction	X	X	X	X		
Disinfection	X	X	X	X		

[1] If underdrain is present

Frequently Asked Questions (FAQs)
Green Infrastructure Implementation in New Mexico
September 2016

Extended filtration:

a structural stormwater practice which filters stormwater runoff through vegetation and engineered soil media. After the soil media becomes saturated by the first one inch of runoff volume, additional stormwater runoff will either discharge through a surface overflow outlet or through an underdrain system. The underdrain system will also slowly release the runoff detained in the soil either during or after the storm. These types of structures include underdrained bioretention cells.

After the soil media becomes saturated by the first 80th or 90th percentile of runoff volume, additional stormwater runoff will either discharge through a surface overflow outlet or through an underdrain system. The underdrain system will also slowly release the runoff detained in the soil either during or after the storm. These types of structures include underdrained bioretention cells. During small low - intensity rain events, a bioretention cell may not discharge any runoff. However, it is recognized that a properly designed and constructed bioretention cell that is fitted with an underdrain system may discharge stormwater before the first full 80th or 90th percentile event is captured and filtered. This may occur during the gradual rising limb of the runoff hydrograph associated with larger rain events where the soil saturates and begins slowly draining out the underdrain before the full design volume is captured.

This may also occur during shorter high - intensity storms when the runoff volume exceeds the available surface storage volume before the first 80th or 90th percentile event has had a chance to filter into the soil media, and therefore overflows through the surface overflow outlet.

The acceptance of 'extended filtration' in meeting the "80th or 90th percentile event" performance goal is based on the extended nature of the discharge. Even though the underdrain becomes active and allows a portion of the first one inch volume to discharge, it typically occurs over a period of time such that the hydrograph to the receiving stream mimics pre development hydrology, and the stream is not inundated with large unnatural flows. Therefore, an extended filtration system that is designed, constructed, and maintained to capture the 80th or 90th percentile event is an acceptable approach to meet the performance standard of the MS4 permit if the underdrain system discharges some of that first rainfall capture. At the point of discharge, stormwater has received "extended filtration". Certainly the design volume of the bioretention cell will play a significant role in how much stormwater may be discharged via the underdrain. To accommodate larger storms, a bioretention cell/s can be designed with more storage on the surface, in the engineered soil media, and/or in the stone underdrain layer. Although, this concept should not be construed to mean that one "gigantic" bioretention cell will meet the site needs (design criteria will limit the maximum drainage area

to any one cell). Ideally, smaller bioretention cells are placed in strategic locations around a site, and if needed, these smaller bioretention cells can be slightly oversized.

Frequently Asked Questions (FAQs)
Green Infrastructure Implementation in New Mexico
September 2016

Dry swales:

Dry swales are essentially bioretention cells that are shallower, configured as linear channels, and covered with turf or other surface material (other than mulch and ornamental plants).

The dry swale is a soil filter system that temporarily stores and then filters the desired Treatment Volume (Tv). Dry swales rely on a pre-mixed soil media filter below the channel that is similar to that used for bioretention. If soils are extremely permeable, runoff infiltrates into underlying soils. In most cases, however, the runoff treated by the soil media flows into an underdrain, which conveys treated runoff back to the conveyance system further downstream. The underdrain system consists of a perforated pipe within a gravel layer on the bottom of the swale, beneath the filter media. Dry swales may appear as simple grass channels with the same shape and turf cover, while others may have more elaborate landscaping. Swales can be planted with turf grass, tall meadow grasses, decorative herbaceous cover, or trees.

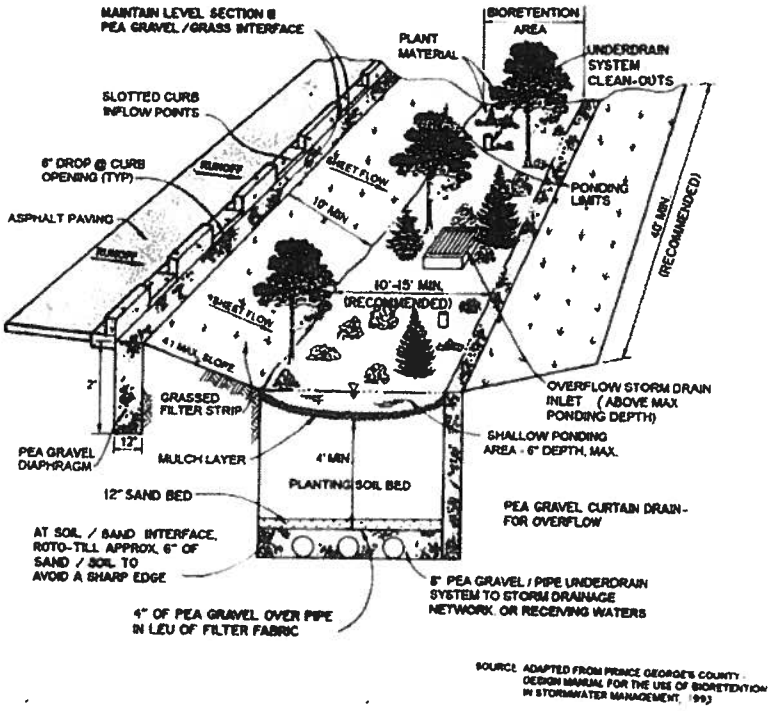
Frequently Asked Questions (FAQs)
Green Infrastructure Implementation in New Mexico
September 2016

Bioretention:

Bioretention basins are landscaped depressions or shallow basins used to slow and treat on-site stormwater runoff. Stormwater is directed to the basin and then percolates through the system where it is treated by a number of physical, chemical and biological processes. The slowed, cleaned water is allowed to infiltrate native soils or directed to nearby stormwater drains or receiving waters.

These systems normally are composed of seven elements, each element with a different function:

1. Grass buffer strip - reduces runoff velocity and removes suspended solids.
2. Vegetation – Help remove water through process of evapotranspiration and remove excess nutrients through nutrient cycling.
3. Shallow ponding area – provides storage of excess stormwater flows and its subsequent evaporation, also aids in the additional settlement of particulate matter.
4. Mulch – an organic layer that encourages micro biological degradation of petroleum-based pollutants, aids in pollutant filtration and reduces soil erosion.
5. Engineered soils – to support vegetation growth along with nutrient uptake and provision for water storage. Soils should include some clay to adsorb pollutants such as hydrocarbons, heavy metals and nutrients.
6. Sand bed – provide drainage and aeration of planting soil as well as an aid in flushing pollutants.
7. Underdrain system – removal of excess treated water to storm drain system or receiving waters.



Schematic of a Typical Bioretention Area
(Source: http://www.georgiastormwater.com)

Bioretention basins are typically associated within small areas of land with residential usage or with parking lots where the islands become visually pleasing stormwater treatment centers.

Excessive stormwater from large storms is normally diverted to stormwater drains once the basin's ponding area is full.

Frequently Asked Questions (FAQs)
Green Infrastructure Implementation in New Mexico
September 2016

Roof top disconnections:

This strategy involves managing runoff close to its source by intercepting, infiltrating, filtering, treating or reusing it as it moves from the impervious surface to the drainage system. Two kinds of disconnection are allowed:

1. simple disconnection, whereby rooftops and/or on-lot residential impervious surfaces are directed to pervious areas
2. disconnection leading to an alternative runoff reduction practice(s) adjacent to the roof

Downspouts should disconnect to an area that will allow the runoff to filter into the soil.

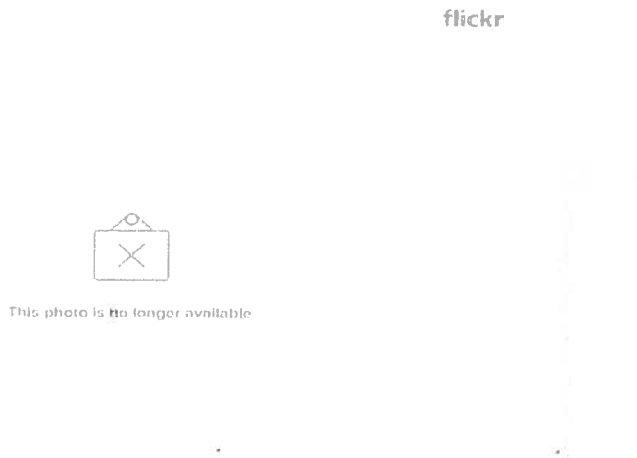
Alternative practices can use less space than simple disconnection and can enhance runoff reduction rates. Applicable practices include:

- Soil compost amended filter path
- Infiltration by micro-infiltration practice
- Filtration by rain gardens or micro-bioretention
- Storage and reuse with a cistern or other vessel (rainwater harvesting)
- Storage and release in a stormwater planter.

Frequently Asked Questions (FAQs)
Green Infrastructure Implementation in New Mexico
September 2016

Permeable pavement/porous concrete/permeable pavers:

Permeable pavements are alternative paving surfaces that allow stormwater runoff to filter through voids in the pavement surface into an underlying stone reservoir, where it is temporarily stored and/or infiltrated. A variety of permeable pavement surfaces are available, including pervious concrete, porous asphalt and permeable interlocking concrete pavers. While the specific design may vary, all permeable pavements have a similar structure, consisting of a surface pavement layer, an underlying stone aggregate reservoir layer and a filter layer or fabric installed on the bottom.



Permeable pavement promotes a high degree of runoff volume reduction and nutrient removal.

The thickness of the reservoir layer is determined by both a structural and hydrologic design analysis. The reservoir layer serves to retain stormwater and also supports the design traffic loads for the pavement. In low-infiltration soils, some or all of the filtered runoff is collected in an underdrain and returned to the storm drain system. If infiltration rates in the native soils permit, permeable pavement can be designed without an underdrain, to enable full infiltration of runoff. A combination of these methods can be used to infiltrate a portion of the filtered runoff.

Frequently Asked Questions (FAQs)
Green Infrastructure Implementation in New Mexico
September 2016

Reforestation:

Reforestation consists of the following two types of tree planting, both of which provide ancillary benefits of enhancing wildlife and amenity values. Planting trees reduces runoff through interception and uptake/transpiration of precipitation, while also providing soil stability, heat island reduction and wildlife habitat benefits.

Riparian Forest Buffers are areas of trees, shrubs, and other vegetation adjacent to a body of water. The riparian area, typically at least 35 feet wide (on each side of a stream), is managed to maintain the integrity of stream channels, and to reduce the impacts of upland sources of pollution by trapping, filtering, and converting sediment, nutrients, and other chemicals.

Planting trees and enhancing existing streamside vegetation with native varieties of trees, shrubs, and wildflowers restores many of the water quality, wildlife, and aesthetic benefits associated with riparian buffers. Vegetation filters sediments and other pollutants from stormwater runoff, moderates water temperatures in streams, and provides shelter and food to both terrestrial and stream organisms. This SCM converts urban or agricultural land to forest land and provides a nitrogen, phosphorus, and sediment reduction benefit proportional to the amount of land converted.

Upland Tree Planting is planting trees on currently urban or other open pervious areas at a rate that would produce a forest-like condition over time. Benefits include reductions in nutrient and sediment runoff as well as improvements in wildlife habitat and aesthetics.

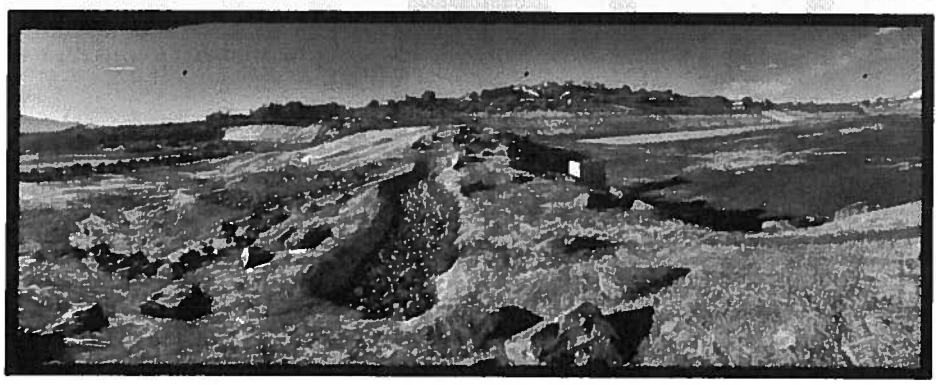
https://www.loudoun.gov/DocumentCenter/View/103590

Frequently Asked Questions (FAQs)
Green Infrastructure Implementation in New Mexico
September 2016

Water quality features:

These are flow-through features that provide some treatment for stormwater runoff without detaining water, which could require a water right if held for longer than 96 hours. These water quality features can be tailored to a specific issue, as detailed with the examples below.

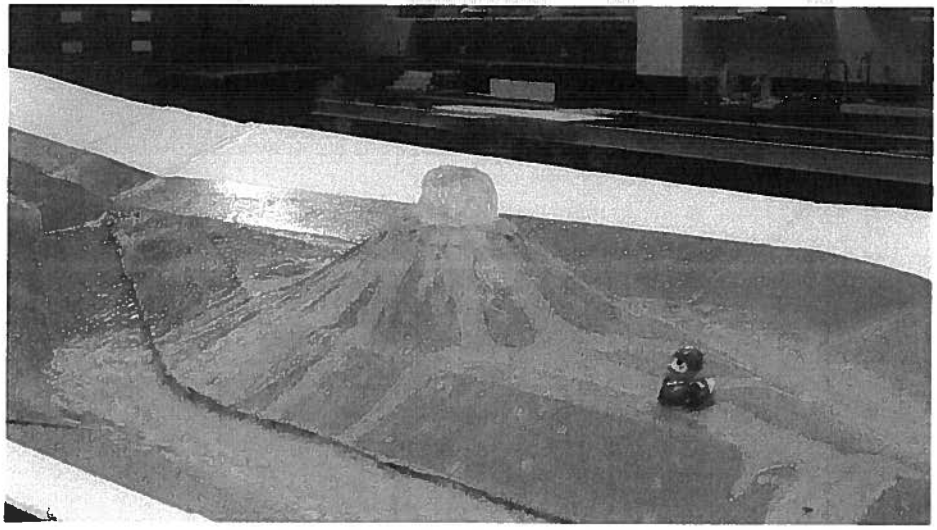
Lower Montoyas (SSCAFCA):



Frequently Asked Questions (FAQs)
Green Infrastructure Implementation in New Mexico
September 2016

Hahn Arroyo (AMAFCA): trash and debris

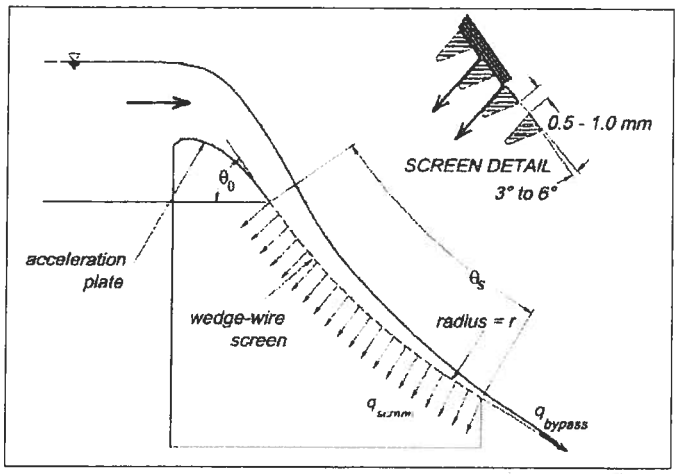
Stormwater Volcano (AMAFCA): dissolved oxygen



Dual use facilities (SSCAFCA)

Frequently Asked Questions (FAQs)
Green Infrastructure Implementation in New Mexico
September 2016

South Diversion Channel/Coanda Screen (AMAFCA): sediment removal



https://youtu.be/7eta19yltiY

Frequently Asked Questions (FAQs)
Green Infrastructure Implementation in New Mexico
September 2016

Definitions

Best management practice

Retain

Detain

Pre-development hydrology

Commented [SH7]: Do we need definitions?

Frequently Asked Questions (FAQs)
Green Infrastructure Implementation in New Mexico
September 2016

Examples

1. Developer A is building a new commercial development. The MS4 permit states that the developer must retain water generated by the 90th percentile storm on site. Is this permissible under State Water Law?
    a. Yes, as long as it drains in 96 hours or a valid Water Right is attained and used to offset the effects to the river.
2. Developer B is planning to install an infiltration gallery at their new big box development in Albuquerque. They plan to collect rainwater from rooftops (up to the 90th percentile event – 0.61 inches), and route it to the infiltration gallery, underneath the parking lot. This development is not near an arroyo or the Rio Grande and it is uncertain how long the infiltrated water would take to reach an aquifer or a surface water body – is this infiltration practice ok?
    a. Yes
3. Developer C is building a set of buildings in the Farmington and Las Cruces areas, taking advantage of the ability to redevelop lots that were recently acquired by their company. What are the specific compact obligations that the developer must keep in mind in each area?
    a. The Compact obligation for the Farmington area is the Colorado River Compact on the San Juan and Animas/La Plata Rivers and the Rio Grande Compact for the Las Cruces area. If in both these areas the retention of water will take place and the time for this will exceed 96 hours they should contact the local District Office to discuss options.
4. Developer D is planning to install pervious pavement in their parking lot to comply with the 80th percentile redevelopment retention requirement in Santa Fe. The engineer has looked at groundwater models and determined that infiltrated water would eventually make its way to one of the arroyos tributary to the Santa Fe River. Is this permissible in accordance with state water quantity law?
    a. Yes

Frequently Asked Questions (FAQs)
Green Infrastructure Implementation in New Mexico
September 2016

Guidance to Implement Post-construction Requirements under the 2014 EPA MRG MS4 Permit

Menu of Some GI/LID Practices Suitable in Arid and Semi-arid Conditions

Note: It is recommended that anyone wishing to implement the below examples contact the local OSE/Water Rights District Office to check with them before any decisions are made.

Table 1. Examples of BMPs for Traditional MS4s

Menu of BMPs (GI/LID)	Benefits	Water Law Evaluation - OSE Permit Evaluation
Rainwater Harvesting Systems that collect and store rainfall for later use, slowing and reducing the volume of runoff. NM Site – Example: SSCAFCA Office Building.	This can be especially important in arid regions to reduce demands on increasingly limited water supplies.	None
Rain Gardens and Bioswales (bioretention or bioinfiltration cells.) Shallow, vegetated areas that collect and absorb runoff from rooftops, sidewalks, and streets using plants and soil. NM Site - Example: Bear Canyon Senior Center	Versatile, attractive features that can be installed in almost any unpaved space. In arid and semi-arid regions like NM, native plants are drought resistant and hearty. Thus they require little to no maintenance once they are installed. When used in public areas they can provide shade and aesthetic benefits. Rain gardens can meet public landscaping requirements as well as provide stormwater benefits.	None
Living roofs or Eco-roofs Roofs covered with plants that soak up and use rainwater.	They cool and insulate buildings, reducing energy use	None

NM Site – Example: UNM Pearl Hall roof	They are particularly cost effective where land values and traditional stormwater management costs are high.	
<u>Planter Boxes</u> Rain gardens that collect and absorb runoff from rooftops, sidewalks, parking lots, and streets. NM Site – Example:	They have vertical walls that are ideal for space-limited sites in dense urban areas and can be used to provide seating and attractive plantings.	None
<u>Permeable Pavements</u> Paved surfaces that let water soak into the ground, including pervious concrete, porous asphalt, and permeable interlocking pavers. NM Site Example: Open Space Visitor Center	They are particularly cost effective where land values are high and where flooding or icing is a problem.	None
<u>Green Streets</u> Permeable pavement, bioswales, planter boxes, and trees integrated into street designs to soak up and store stormwater. Green streets combine more than one feature to capture and treat stormwater. NM Site Example: NM 47 Peralta	In addition to provide stormwater management, it provides heat reduction and energy conservation.	None
<u>Green Parking</u>	Besides collecting and	None

Permeable pavement, rain gardens, and bioswales incorporated into parking lot stalls, lanes, and landscaping. NM Site Example: Fidelity Investments	absorbing stormwater, green parking can provide more shade and reduce the heat emitted by pavements	
<u>Land Conservation</u> Protecting open spaces and sensitive natural areas NM Site Example: Various SSCAFCA projects	Protecting open spaces and sensitive natural areas within and adjacent to a city can reduce stormwater while providing recreational opportunities for city residents. Natural areas that should be a focus of this effort include riparian areas, wetlands, and steep hillsides	None
<u>Urban Tree Canopy</u> NM Site Example:	Provide shade and help to slow traffic.	None
<u>Downspout Disconnection</u> Rerouting rooftop drain pipes to direct rainwater to permeable areas NM Site - Example:	Redirecting downspouts to a landscaped area is a way to help reduce demands on landscape irrigation.	None

Table 2. Example BMPs for non-traditional MS4s including flood Control Authorities and DOTs (linear MS4s)

Note: It is recommended that anyone wishing to implement the below examples contact the local OSE/Water Rights District Office to check with them before any decisions are made.

Menu of BMPs (GI/LID)	Benefits	Water Law Evaluation - OSE Permit Evaluation
Bioswales (bioretention or bioinfiltration cells.)	Since bioswales are long and often run alongside of the	None

	road they do not take up large amounts of space and can be used in urban, suburban, or rural settings. The vegetation in a bioswale filters the stormwater runoff and provides an attractive vegetated area	
Land Conservation Protecting open spaces and sensitive natural areas NM Site Example:	Protecting open spaces and sensitive natural areas within and adjacent to a city can reduce stormwater while providing recreational opportunities for city residents. Natural areas that should be a focus of this effort include riparian areas, wetlands, and steep hillsides	None
Urban Tree Canopy NM Site Example:	Provide shade and help to slow traffic.	None
Other: AMAFCA Strategy		??

Notes:

- When LID and GI are implemented in a semi-arid climate, attention must be paid to that unique environment. With a dry climate and large temperature differences between summer and winter, native plants that are drought tolerant and low maintenance must be chosen that can withstand the harshness of the dry region.
- Green infrastructure in the semi-arid West can be specifically designed to address rapid freeze/thaw cycles, semi-arid conditions, and intermittent and unpredictable rainfall patterns.

Frequently Asked Questions (FAQs)
Green Infrastructure Implementation in New Mexico
September 2016

Potential Scenarios and Considerations to Implement the Stormwater Quality Design Standard Required in the Permit

1. Evaluation of Potential Scenarios: Using Table 1 and Table 2, permittees may evaluate potential scenarios by selecting individual BMPs or combinations of BMPs to meet the performance standard in Part I.D.5.b.(ii)(b). The following are some considerations to be included in this analysis:

   a. Permittees can use EPA predevelopment hydrology analysis (on site or neighborhood/sub-watershed scale) or may carry out their own analysis to mimic natural conditions (Options A or B in Part I.D.5.b.(ii)(b)).

   b. Passive rainwater management has been successfully implemented in arid and semi-arid conditions. Passive rainwater management refers to the design of developed sites to collect runoff generated by impervious areas and direct it to nearby landscaped areas. It has three components:
      - ✓ a catchment area that collects rainwater (e.g., roof, street, or parking lot)
      - ✓ a distribution system that connects the catchment to the receiving landscape area (e.g., gutters and downspouts
      - ✓ a receiving landscape area that can retain and infiltrate rainwater

   Permittees may evaluate passive rainwater management as an option to implement post-construction requirements.

   c. Evaluate all option:
      - ✓ Treat and release analysis.
      - ✓ Rain harvesting
      - ✓ Avoidance of creating impervious surfaces
      - ✓ etc

   d. For the selected scenarios, calculate the volume of runoff that will be managed to mimic natural conditions (include site constrain and conditions).

      - ✓ New Development Sites
      - ✓ Redevelopment Sites

2. Evaluate "Alternative Compliance for Infeasibility due to Site Constrains" under Part I.D.5.b.(v).

"When a Permittee determines a project applicant has demonstrated infeasibility due to site constraints specified in Part I.D.5.b.(v) to manage the design standard volume specified in Part I.D.5.b.(ii).(b) or a portion of the design standard volume on-site, the permitee may evaluate mitigation options in Part I.D.5.b.(v) (f).

3. Evaluation of mitigation options in Part I.D.5.b.(v) (f).

   A. Off-site mitigation
   B. Ground Water Replenishment Project
   C. Payment in lieu
   D. Other: In a situation where alternative options A through C above are not feasible and the permittee wants to establish another alternative option for projects, the permittee may submit to the EPA for approval, the alternative option that meets the standard. e.g. AMAFCA Strategy

Appendix A

Municipality	80th Percentile Event (in inches)	90th Percentile Event (in inches)
Farmington UA	0.4	0.53
Santa Fe UA	0.5	0.68
Los Alamos UA	0.53	0.69
Albuquerque UA	0.48	0.65
Los Lunas UA	0.48	0.71
Las Cruces UA	0.55	0.78
El Paso UA (in New Mexico)	0.54	0.82

Note: unaudited information

VOC Governmental Fund Income Statement
For Quarter Ending September 30, 2016

	YTD 1 General Fund	YTD 2 Waste Water Project	3 Capital Bonding	YTD 4 Non Major	Grand Total
Revenue					
10 Gross Receipt Tax	314,950.36				314,950.36
11 Property Tax	33,689.54			4,381.25	38,070.79
12 Franchise Tax	71,929.94				71,929.94
13 State Shared Taxes	297,287.99			2,109.98	299,397.97
13.1 Other State distribution					-
14 Lodgers Tax				1,103.54	1,103.54
15 Licenses and permits	60,573.73				60,573.73
16 Federal Grants				3,713.26	3,713.26
17 State Grants				351,500.43	351,500.43
State small cities assistance					-
16.1 Private Grants					-
18 Charges for Services	43,533.25			51,922.00	95,455.25
19 Fines and Forfeitures	16,280.00			12,260.00	28,540.00
20 Interest on Investments	1,991.45		187.32	252.28	2,431.05
21 Miscellaneous	5,314.07			1,764.40	7,078.47
Total Revenue	845,550.33	-	187.32	429,007.14	1,274,744.79
Expenses					
30 General Govt	362,664.62			43.83	362,708.45
31 Public Safety	418,317.34			83,840.66	502,158.00
32 Public Works	106,423.77			70,569.35	176,993.12
33 Culture and Recreation	172,953.42			4,803.32	177,756.74
34 Principal retirement				200,000.00	200,000.00
35 interest and debt issuance costs				11,943.75	11,943.75
36 Capital Outlay	881,890.06			16,725.30	898,615.36
Total Expenditures	1,942,249.21	-	-	387,926.21	2,330,175.42
Revenues over/under expenditur	(1,096,698.88)	-	187.32	41,080.93	(1,055,430.63)
Other financing sources					
Other Financing Sources					
50 Transfers In	433,030.40			2,109.98	435,140.38
51 Transfers Out			(433,030.40)	(2,109.98)	(435,140.38)
Total other financing sources	433,030.40	-	(433,030.40)	-	-
Net change in fund balance	(663,668.48)	-	(432,843.08)	41,080.93	(1,055,430.63)
Equity beginning of the period	4,124,235.89	52,988.00	946,052.00	2,062,368.26	7,185,644.15
Equity at the end of the period	3,460,567.41	52,988.00	513,208.92	2,103,449.19	6,130,213.52

Note: immaterial adjustments have been made for presentation purposes.
Note: reclassification adjustments have been made for presentation purposes.
Note: The 2015 audit is still in progress and may result in adjustments.

Note: unaudited information

Enterprise Fund Balance sheet September 30, 2016

	WW Enterprise
1 . A Cash	114,122.15
2 . B Accounts Receivable	4,196.66
4 . W Due from Other Funds	-
Total Assets	118,318.81
5 .BB Accounts Payable	1,512.03
6 .CC Accrued Liabilities	457.50
4.5 .WW Due to other Funds	-
	1,969.53
Fund Balance	116,349.28
Total Liabilities and Fund Balance	118,318.81

Note: immaterial adjustments have been made for presentation purposes.
Note: reclassification adjustments have been made for presentation purposes.
Note: The 2015 audit is still in progress and may result in adjustments.

Note: unaudited information

Enterprise Fund Income Statement for Quarter Ending September 30, 2016

	WW Enterprise
Revenue	
Wastewater Revenues	6,052.90
Wastewater Service Connections	2,250.00
Total Revenue	8,302.90
Expenses	
Personnel Costs	2,458.51
Equipment	1,990.00
Repairs and Maintenance	5,596.32
Total Expenditures	10,044.83
Net change in fund balance	(1,741.93)
Equity beginning of the period	118,091.21
Equity at the end of the period	116,349.28

Note: immaterial adjustments have been made for presentation purposes.
Note: reclassification adjustments have been made for presentation purposes.
Note: The 2015 audit is still in progress and may result in adjustments.

Note: unaudited information

VOC Governmental Fund Balance Sheet
For Quarter Ending September 30, 2016

	YTD **1 General Fund**	YTD **2 Waste Water Project**	YTD **3 Capital Bonding**	YTD **4 Non Major**	**Grand Total**
1 . A Cash	3,190,279.05	277,486.95	513,208.92	2,103,053.71	6,084,028.63
2 . B Accounts Receivable	149,800.18			33,611.47	183,411.65
Cash Restricted					-
Other assets					-
4 . W Due from Other Funds	229,588.14				229,588.14
Total Assets	3,569,667.37	277,486.95	513,208.92	2,136,665.18	6,497,028.42
5 .BB Accounts Payable	51,747.51			19,652.65	71,400.16
6 .CC Accrued Liabilities	(0.00)			-	(0.00)
7 .RR Deferred Revenue	57,352.45			8,474.15	65,826.60
4.5 .WW Due to other Funds		224,498.95		5,089.19	229,588.14
	109,099.96	224,498.95	-	33,215.99	366,814.90
Fund Balance	3,460,567.41	52,988.00	513,208.92	2,103,449.19	6,130,213.52
Total Liabilities and Fund Balan	3,569,667.37	277,486.95	513,208.92	2,136,665.18	6,497,028.42
	-	-	-	-	-

Note: immaterial adjustments have been made for presentation purposes.

Note: reclassification adjustments have been made for presentation purposes.

Note: The 2015 audit is still in progress and may result in adjustments.

Selection Criteria:
Date From: 10/01/16 Time Window: 0:00:00 Div: 002 By: Map Ref
Date To..: 10/31/16 99:99:99 Dpt: 001 List:

Area: CPD1

Activity	Nbr Prmry.	Nbr Disp.	Nbr SI/OV	Avg Rsp Time hh:mm:ss	Avg Time on Call hhhh:mm	Total Tim on Type hhhhhh:mm
Audible Alarm		9		0:10:59	00:25	03:49
Traffic Stop			7	0:00:00	00:07	00:51
Animal Call		8		0:10:37	00:16	02:09
Public Assist		1		0:16:02	00:17	00:17
Speeding/Reckless Vehicl		1		0:00:00	00:00	00:00
Missing Person		1		0:14:27	04:12	04:12
Noise Complaint		3		0:09:16	00:26	01:20
Fireworks		1		0:00:00	00:00	00:00
Public Nuisance		3		0:06:22	01:12	03:38
Larceny		1		0:06:27	00:14	00:14
Domestic		1		0:07:58	02:50	02:50
Prowler		1		0:11:32	01:01	01:01
Possible Shots Fired		3		0:13:11	00:44	02:14
MVAI TFC			1	0:00:00	07:48	07:48
Welfare Check		3		0:11:21	01:13	03:41
911 Hang Up		1		0:08:03	01:25	01:25
Out of Unit available			3	0:00:00	01:07	03:21
Check the area		2	13	0:00:17	00:00	00:00
Follow Up		2	1	1:07:49	00:26	01:20
NCIC		1		0:08:32	00:32	00:32
Suspicious Activity		6		0:11:10	00:51	05:08
*** TOTAL ***		48	25	0:12:00	00:37	45:50

Response by Priority

Priority	Interval	Cum%	Total	Avg Response Time
2	< min			0:10:36
	< min			
	< min			
	< min			
	> min	100	25	
3	< min			0:16:16
	< min			
	< min			
	< min			
	> min	100	9	
4	< min			0:08:32
	< min			
	< min			
	< min			
	> min	100	1	

Dispositions

	Disp.	SI/OV

Selection Criteria:
Date From: 10/01/16 Time Window: 0:00:00 Div: 002 By: Map Ref
Date To..: 10/31/16 99:99:99 Dpt: 001 List:

Area: CPD1

Dispositions

	Disp.	SI/OV
Case Report	6	1
Accident		1
Record of Call	20	4
Caller Cancelled	1	
Supervisor Cancelled	1	
False Alarm	8	
Non Report Call	9	20
Report Taken	5	2
negative contact	8	

Selection Criteria:
Date From: 10/01/16 Time Window: 0:00:00 Div: 002 By: Map Ref
Date To..: 10/31/16 99:99:99 Dpt: 001 List:

Area: CPD2

Activity	Nbr Prmry.	Nbr Disp.	Nbr SI/OV	Avg Rsp Time hh:mm:ss	Avg Time on Call hhhh:mm	Total Tin on Type hhhhhh:mm
Child Abuse		1		0:06:44	01:32	01:32
Silent Alarm		2		0:32:10	00:16	00:33
Audible Alarm		7		0:10:52	00:37	04:24
Traffic Stop			7	0:00:00	00:08	00:56
Animal Call		8		0:21:43	00:14	01:58
Public Assist		1		0:11:53	00:20	00:20
Suicide		1		0:12:52	02:32	02:32
Fireworks		1		0:00:00	00:00	00:00
DOA		1		0:08:19	02:47	02:47
Domestic		1		0:05:26	03:05	03:05
Possible Shots Fired		1		0:05:49	00:44	00:44
Intoxicated Driver		1		0:08:29	00:30	00:30
Welfare Check		3		0:08:37	01:33	04:39
information call		2		0:00:00	00:00	00:00
Disorderly Subject		1		0:09:20	00:57	00:57
Check the area		1	20	0:00:00	00:00	00:15
Suspicious Activity		9	1	0:09:52	01:08	11:22
*** TOTAL ***		41	28	0:11:35	00:31	36:34

Response by Priority

Priority	Interval	Cum%	Total	Avg Response Time
1	< min			0:16:44
	< min			
	< min			
	< min			
	> min	100	6	
2	< min			0:09:36
	< min			
	< min			
	< min			
	> min	100	21	
3	< min			0:16:48
	< min			
	< min			
	< min			
	> min	100	2	

Dispositions	Disp.	SI/OV
Case Report	9	
Arrest - Adult	1	

Selection Criteria:
Date From: 10/01/16 Time Window: 0:00:00 Div: 002 By: Map Ref
Date To..: 10/31/16 99:99:99 Dpt: 001 List:

Area: CPD2

Dispositions	Disp.	SI/OV
Record of Call	21	2
False Alarm	9	
Non Report Call	5	26
Report Taken	5	
Ended With Arrest	1	
negative contact	4	

Selection Criteria:
Date From: 10/01/16 Time Window: 0:00:00 Div: 002 By: Map Ref
Date To..: 10/31/16 99:99:99 Dpt: 001 List:

Area: CPD3

Activity	Nbr Prmry.	Nbr Disp.	Nbr SI/OV	Avg Rsp Time hh:mm:ss	Avg Time on Call hhhh:mm	Total Tin on Type hhhhhh:mm
Audible Alarm		6		0:08:18	00:19	01:59
Traffic Stop			10	0:00:00	00:07	01:15
Animal Call		1		0:00:00	00:22	00:22
Civil Standby		2	2	0:11:13	00:38	02:33
Public Assist		1		0:10:27	00:47	00:47
Speeding/Reckless Vehicl		1		0:03:49	00:10	00:10
Larceny		2		0:10:45	04:21	08:43
Graffiti		1		0:23:57	00:36	00:36
Prowler		1		0:09:16	00:56	00:56
Fraud		2		0:35:13	01:08	02:16
Accident (No Injuries)		2		0:05:16	01:18	02:37
Welfare Check			1	0:00:00	00:02	00:02
911 Hang Up		1		0:05:52	00:50	00:50
Check the area			20	0:00:00	00:00	00:04
Follow Up			3	0:00:00	00:38	01:55
Suspicious Activity		4		0:06:06	00:31	02:05
*** TOTAL ***		24	36	0:11:36	00:27	27:10

Response by Priority

Priority	Interval	Cum%	Total	Avg Response Time
2	< min			0:07:13
	< min			
	< min			
	< min			
	> min	100	11	
3	< min			0:16:57
	< min			
	< min			
	< min			
	> min	100	9	

Dispositions

	Disp.	SI/OV
Case Report	6	
Arrest - Adult	1	
Accident	2	
Record of Call	8	3
Supervisor Cancelled	1	
False Alarm	6	
Non Report Call	3	30
Report Taken	5	
Ended With Arrest	1	

Selection Criteria:
Date From: 10/01/16 Time Window: 0:00:00 Div: 002 By: Map Ref
Date To..: 10/31/16 99:99:99 Dpt: 001 List:

Area: CPD3

Dispositions

	Disp.	SI/OV
negative contact	5	2
Citation issued		1

Selection Criteria:
Date From: 10/01/16 Time Window: 0:00:00 Div: 002 By: Map Ref
Date To..: 10/31/16 99:99:99 Dpt: 001 List:

Area: CPD4

Activity	Nbr Prmry.	Nbr Disp.	Nbr SI/OV	Avg Rsp Time hh:mm:ss	Avg Time on Call hhhh:mm	Total Tir on Type hhhhhh:mm
Audible Alarm		2		0:11:20	00:09	00:18
Traffic Stop			6	0:00:00	00:10	01:03
Animal Call		3		0:10:46	00:09	00:29
Civil Standby		1		0:23:13	00:50	00:50
Public Assist		2	1	0:06:54	01:23	04:09
Speeding/Reckless Vehicl		3		0:06:28	00:02	00:07
Disabled/Unattended vehi		1	1	0:00:00	01:51	03:42
Assault/Battery		1		0:13:20	00:38	00:38
Larceny		1		0:00:00	00:33	00:33
Criminal Damage/Vandalis		1	1	0:05:34	00:27	00:54
Domestic		1		0:06:12	01:08	01:08
Neighbor Dispute		3		0:11:44	00:11	00:35
MVAI TFC		1		0:05:27	02:02	02:02
Intoxicated Driver		1		0:03:41	00:07	00:07
Welfare Check		5		0:08:07	00:52	04:22
911 Hang Up		3		0:14:38	00:42	02:06
attempt to locate		1		0:00:00	00:00	00:00
information call		2		0:00:00	00:00	00:00
Check the area		3	5	0:00:00	00:00	00:00
Suspicious Activity		2		0:12:11	01:47	03:34
*** TOTAL ***		37	14	0:10:03	00:31	26:37

Response by Priority

Priority	Interval	Cum%	Total	Avg Response Time
1	< min			0:04:34
	< min			
	< min			
	< min			
	> min	100	2	
2	< min			0:10:49
	< min			
	< min			
	< min			
	> min	100	14	
3	< min			0:10:05
	< min			
	< min			
	< min			
	> min	100	7	

Dispositions Disp. SI/OV

Selection Criteria:
Date From: 10/01/16 Time Window: 0:00:00 Div: 002 By: Map Ref
Date To..: 10/31/16 99:99:99 Dpt: 001 List:

Area: CPD4

Dispositions	Disp.	SI/OV
Case Report	3	1
Accident	1	
Record of Call	15	4
Caller Cancelled	3	
911 Misdialed/Accidental	2	
False Alarm	1	
Non Report Call	13	8
Report Taken	2	1
VERBAL WARNING		1
negative contact	4	

Selection Criteria:
Date From: 10/01/16 Time Window: 0:00:00 Div: 002 By: Map Ref
Date To..: 10/31/16 99:99:99 Dpt: 001 List:

Area: CPD5

Activity	Nbr Prmry.	Nbr Disp.	Nbr SI/OV	Avg Rsp Time hh:mm:ss	Avg Time on Call hhhh:mm	Total Ti on Type hhhhhh:mm
Silent Alarm		2		0:14:55	00:45	01:30
Audible Alarm		5		0:11:06	00:21	01:46
Traffic Stop			13	0:00:00	00:10	02:17
Animal Call		15	1	0:18:58	00:30	08:02
Civil Standby		2	2	0:20:32	00:56	03:44
Public Assist		2	1	0:03:25	00:53	02:39
Speeding/Reckless Vehicl		2		0:07:15	00:31	01:03
Special Assignment			2	0:00:00	01:49	03:38
Disabled/Unattended vehi		1		0:00:00	00:06	00:06
Public Nuisance		1		0:10:05	01:16	01:16
Domestic		3		0:04:53	01:49	05:27
Possible Shots Fired		1		0:06:03	00:22	00:22
Accident (No Injuries)		1	1	0:00:00	01:09	02:18
MVAI TFC		1		0:04:21	03:32	03:32
Intoxicated Driver		1		0:00:00	00:48	00:48
Backup Requested			1	0:00:00	00:11	00:11
Welfare Check		6		0:07:19	00:33	03:23
Out of Unit available			11	0:00:00	02:18	25:23
information call		4		0:13:29	00:10	00:41
Testing CAD		1		0:00:00	00:00	00:00
training exercise			2	0:00:00	02:07	04:15
Check the area			28	0:00:00	00:03	01:50
Fuel			1	0:00:00	00:03	00:03
Follow Up			2	0:00:00	00:12	00:25
Veh Burglary		1		0:10:20	01:57	01:57
Suspicious Activity		4		0:06:58	00:12	00:50
*** TOTAL ***		53	65	0:11:23	00:39	77:26

Response by Priority

Priority	Interval	Cum%	Total	Avg Response Time
1	< min			0:11:40
	< min			
	< min			
	< min			
	> min	100	4	
2	< min			0:08:50
	< min			
	< min			
	< min			
	> min	100	19	
3	< min			0:15:40

Selection Criteria:
Date From: 10/01/16 Time Window: 0:00:00 Div: 002 By: Map Ref
Date To..: 10/31/16 99:99:99 Dpt: 001 List:

Area: CPD5

Response by Priority

Priority	Interval	Cum%	Total	Avg Response Time
	< min			
	< min			
	< min			
	> min	100	11	

Dispositions	Disp.	SI/OV
Case Report	1	1
Accident	1	1
Record of Call	26	11
Caller Cancelled	4	
False Alarm	5	
Non Report Call	6	53
Report Taken	2	1
Fire Report		1
Contact Made	1	1
negative contact	12	
Citation issued		1

Selection Criteria:
Date From: 10/01/16 Time Window: 0:00:00 Div: 002 By: Map Ref
Date To..: 10/31/16 99:99:99 Dpt: 001 List:

Area: CPD6

Activity	Nbr Prmry.	Nbr Disp.	Nbr SI/OV	Avg Rsp Time hh:mm:ss	Avg Time on Call hhhh:mm	Total Tir on Type hhhhhh:mm
Shoplifting		1		0:05:25	01:50	01:50
Audible Alarm		6		0:07:35	00:13	01:20
Traffic Stop			71	0:00:00	00:14	17:25
Animal Call		10	1	0:21:25	00:13	02:23
Civil Standby		6	1	0:05:24	00:37	04:24
Public Assist		11	12	0:11:45	00:32	12:21
Speeding/Reckless Vehicl		1		0:00:00	00:28	00:28
Lost/Found Property		3		0:17:31	00:11	00:35
Special Assignment			1	0:00:00	04:02	04:02
Disabled/Unattended vehi		1	3	0:08:03	00:31	02:05
Unknown Disturbance			1	0:00:00	00:05	00:05
Public Nuisance		7		0:10:17	00:24	02:48
Larceny		4		0:28:09	00:41	02:47
Drugs			1	0:00:00	00:00	00:00
Domestic		1	1	0:10:24	02:21	04:42
Fraud			1	0:00:00	00:48	00:48
Embezzlement		1		0:09:28	02:30	02:30
Out To Lunch			2	0:00:00	00:18	00:36
Accident (No Injuries)		4		0:08:32	00:43	02:52
MVAI TFC		2		0:04:38	02:18	04:37
Intoxicated Driver		3	1	0:05:27	04:04	16:18
Intoxicated Pedestrian		1		0:00:00	00:00	00:00
Backup Requested		2		0:10:36	01:19	02:39
Welfare Check		9	1	0:11:47	01:09	11:34
Out of Unit available			62	0:00:00	02:23	148:02
information call		4		0:11:49	00:19	01:19
Check the area		1	71	0:00:00	00:08	09:44
D V Notification		1		0:12:51	00:40	00:40
Warrant Pulled		1		0:00:00	00:00	00:00
Follow Up		1		0:00:00	01:03	01:03
Veh Burglary		1		0:16:26	01:38	01:38
Suspicious Activity		6	4	0:10:56	01:07	11:16
*** TOTAL ***		88	234	0:11:25	00:50	272:51

Response by Priority

Priority	Interval	Cum%	Total	Avg Response Time
1	< min			0:07:11
	< min			
	< min			
	< min			
	> min	100	5	
2	< min			0:10:29

Selection Criteria:
Date From: 10/01/16 Time Window: 0:00:00 Div: 002 By: Map Ref
Date To..: 10/31/16 99:99:99 Dpt: 001 List:

Area: CPD6

Response by Priority

Priority	Interval	Cum%	Total	Avg Response Time
	< min			
	< min			
	< min			
	> min	100	27	
3	< min			0:13:11
	< min			
	< min			
	< min			
	> min	100	26	

Dispositions	Disp.	SI/OV
Case Report	12	7
Arrest - Adult	3	3
Accident	3	
Record of Call	44	34
Caller Cancelled	4	
Supervisor Cancelled	2	
Call Handled By Phone	1	
False Alarm	3	
Non Report Call	17	183
Report Taken	14	11
Fire Report	1	2
Ended With Arrest	2	2
VERBAL WARNING		3
WARRANT PULLED	1	
Contact Made	1	
negative contact	5	1
Citation issued		2

Selection Criteria:
Date From: 10/01/16 Time Window: 0:00:00 Div: 002 By: Map Ref
Date To..: 10/31/16 99:99:99 Dpt: 001 List:

Map Ref Summary

Activity	Nbr Prmry.	Nbr Disp.	Nbr SI/OV	Avg Rsp Time hh:mm:ss	Avg Time on Call hhhh:mm	Total Time on Type hhhhhh:mm
Child Abuse		1		0:06:44	01:32	01:32
Shoplifting		1		0:05:25	01:50	01:50
Silent Alarm		4		0:23:32	00:30	02:03
Audible Alarm		35		0:10:06	00:23	13:36
Traffic Stop			114	0:00:00	00:12	23:47
Animal Call		45	2	0:16:18	00:19	15:23
Civil Standby		11	5	0:09:51	00:43	11:31
Public Assist		18	14	0:10:18	00:38	20:33
Speeding/Reckless Vehicl		8		0:05:50	00:13	01:48
Lost/Found Property		3		0:17:31	00:11	00:35
Missing Person		1		0:14:27	04:12	04:12
Special Assignment			3	0:00:00	02:33	07:40
Disabled/Unattended vehi		3	4	0:08:03	00:50	05:53
Suicide		1		0:12:52	02:32	02:32
Noise Complaint		3		0:09:16	00:26	01:20
Unknown Disturbance			1	0:00:00	00:05	00:05
Fireworks		2		0:00:00	00:00	00:00
Public Nuisance		11		0:09:16	00:42	07:42
DOA		1		0:08:19	02:47	02:47
Assault/Battery		1		0:13:20	00:38	00:38
Larceny		8		0:18:44	01:32	12:17
Drugs			1	0:00:00	00:00	00:00
Criminal Damage/Vandalis		1	1	0:05:34	00:27	00:54
Graffiti		1		0:23:57	00:36	00:36
Domestic		7	1	0:06:37	02:09	17:12
Neighbor Dispute		3		0:11:44	00:11	00:35
Prowler		2		0:10:24	00:58	01:57
Fraud		2	1	0:35:13	01:01	03:04
Embezzlement		1		0:09:28	02:30	02:30
Possible Shots Fired		5		0:09:33	00:40	03:20
Out To Lunch			2	0:00:00	00:18	00:36
Accident (No Injuries)		7	1	0:06:54	00:58	07:47
MVAI TFC		4	1	0:04:46	03:35	17:59
Intoxicated Driver		6	1	0:05:52	02:31	17:43
Intoxicated Pedestrian		1		0:00:00	00:00	00:00
Backup Requested		2	1	0:10:36	00:56	02:50
Welfare Check		26	2	0:09:34	00:59	27:41
911 Hang Up		5		0:11:33	00:52	04:21
attempt to locate		1		0:00:00	00:00	00:00
Out of Unit available			76	0:00:00	02:19	176:46
information call		12		0:12:39	00:10	02:00
Testing CAD		1		0:00:00	00:00	00:00
training exercise			2	0:00:00	02:07	04:15
Disorderly Subject		1		0:09:20	00:57	00:57
Check the area		7	157	0:00:17	00:04	11:53

Selection Criteria:
Date From: 10/01/16 Time Window: 0:00:00 Div: 002 By: Map Ref
Date To..: 10/31/16 99:99:99 Dpt: 001 List:

Map Ref Summary

Activity	Nbr Prmry.	Nbr Disp.	Nbr SI/OV	Avg Rsp Time hh:mm:ss	Avg Time on Call hhhh:mm	Total Ti on Type hhhhhh:mm
D V Notification		1		0:12:51	00:40	00:40
Warrant Pulled		1		0:00:00	00:00	00:00
Fuel			1	0:00:00	00:03	00:03
Follow Up		3	6	1:07:49	00:31	04:43
Veh Burglary		2		0:13:23	01:47	03:35
NCIC		1		0:08:32	00:32	00:32
Suspicious Activity		31	5	0:09:51	00:57	34:15
*** TOTAL ***		291	402	0:11:24	00:42	486:28

Response by Priority

Priority	Interval	Cum%	Total	Avg Response Time
1	< min			0:11:18
	< min			
	< min			
	< min			
	> min	100	17	
2	< min			0:09:49
	< min			
	< min			
	< min			
	> min	100	117	
3	< min			0:14:21
	< min			
	< min			
	< min			
	> min	100	64	
4	< min			0:08:32
	< min			
	< min			
	< min			
	> min	100	1	

Dispositions

	Disp.	SI/OV
Case Report	37	10
Arrest - Adult	5	3
Accident	7	2
Record of Call	134	58
Caller Cancelled	12	
Supervisor Cancelled	4	

Selection Criteria:
Date From: 10/01/16 Time Window: 0:00:00 Div: 002 By: Map Ref
Date To..: 10/31/16 99:99:99 Dpt: 001 List:

Map Ref Summary

Dispositions

	Disp.	SI/OV
911 Misdialed/Accidental	2	
Call Handled By Phone	1	
False Alarm	32	
Non Report Call	53	320
Report Taken	33	15
Fire Report	1	3
Ended With Arrest	4	2
VERBAL WARNING		4
WARRANT PULLED	1	
Contact Made	2	1
negative contact	38	3
Citation issued		4

11/03/16

Officer.....: *ALL
Beat Assignment...: *ALL
Citation Type.....: *ALL
Activity Type.....: *ALL
Map Reference.....: *ALL

Citation Date Range: 10/01/16 to 10/31/16
Citation Time Range: 0:00 to 23:59
Occur Address.....: *ALL
Intersection.....: *ALL

SPEEDING Totals ==========>	67
RECKLESS/CARELESS DRIVING Totals ======>	5
STOP SIGN Totals ==========>	2
REVOKED/SUSPENDED LICENSE Totals ======>	3
RIGHT OF WAY Totals ==========>	1
ILLEGAL PASSING Totals ==========>	2
FOLLOWING TOO CLOSELY Totals ==========>	2
SEAT BELTS Totals ==========>	4
MANDATORY FINANCIAL RESPONSIBILITY Tota>	21
NO DL IN POSSESSION Totals ==========>	5
HEADLIGHTS Totals ==========>	8
REGISTRATION Totals ==========>	10
FAULTY EQUIPMENT Totals ==========>	3
PROHIBITED ACTIVITES WHILE DRIVING Tota>	5
TAIL LIGHTS Totals ==========>	1
OTHER MISCELLANEOUS Totals ==========>	5
CORRALES POLICE DEPARTMENT Totals =====>	144

11/03/16

Animal Control Monthly
Activitiy Report

Oct-16	29	30	31	Monthly Totals
Item				
Abuse / Neglect				0
Adoptions				0
Animal Bites				0
Animals Astray	1	1	2	51
Criminal Complaint				0
DOA / 10-7's		1		9
Found by AC		1		23
Coyotes				0
Impounds				12
Incident Reports			1	1
Injured Animals		1		2
Licenses				0
Live Stock Calls				9
Nuisance Calls	1		2	25
Officer Assist				5
Other (Bats, etc.)		1		1
Picked Up	1	2	2	80
Public Assist	17	18	24	612
Raccoons				6
Reclaims	1		2	48
Skunks	1			5
Snakes				2
Squirrels				10
Trap Request	1			30
Trapped Animals/PU	1	1	1	22
Verbal Warning	2	1	2	55
Voice Mail/Phone Calls	17	18	24	612
Written Citations				0
				0
Sick Leave				0
Vacation				16
Court				0
Training				0
Reports				0
Investigation Hours	6	6	6	207
				0
DOGS to AARCC				2
CATS to AARCC				2

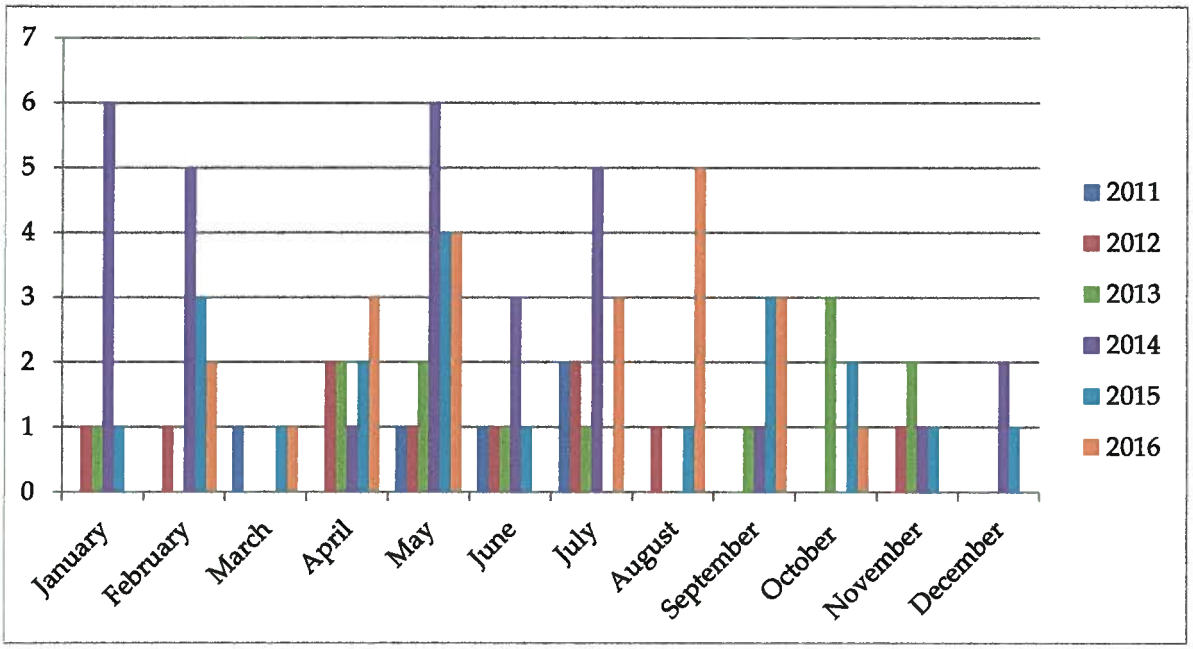
October, 2016 CPD & Animal Services Fuel Cost $2,133.32

October, 2016 CPD & Animal Services Vehicle Maintenance & Repair Cost $ 664.23

V. M 11/03/16

2016
NEW RESIDENTIAL CONSTRUCTION, by month/year

	2011	2012	2013	2014	2015	2016	TOTAL
January	0	1	1	6	1	0	9
February	0	1	0	5	3	2	11
March	1	0	0	0	1	1	3
April	0	2	2	1	2	3	10
May	1	1	2	6	4	4	18
June	1	1	1	3	1	0	7
July	2	2	1	5	0	3	13
August	0	1	0	0	1	5	7
September	0	0	1	1	3	3	8
October	0	0	3	0	2	1	6
November	0	1	2	1	1		5
December	0	0	0	2	1		3
	5	10	13	30	20	22	100



NEWE RESIDENTIAL CONSTRUCTION, by month and year

Planning and Zoning Department

Cynthia C. Tidwell, PZA
Manuel L. Pacheco, Building Official

Council Report: November 16th, 2016

The monthly report from the Planning and Zoning Department includes information regarding activity related to construction permits, zoning and subdivision applications and permits, code enforcement, Interagency assistance, and various administrative duties on behalf of the citizens of the Village of Corrales.

"Building Safety Division permits data table for Calendar year 2016"
Table 1.0

TYPE OF CONSTRUCTION	No. of permits	Building Permit fee	Building valuation cost *
New Residential homes	1	$3,016.80	$130,000.00
Residential Additions	1	$275.97	$7,000.00
Residential Remodel			
New Commercial – ADA parking			
Public Building			
Commercial Remodel, Additions	1	$894.30	3,000.00
Guest House/Studio			
Sun Room			
Garages	2	$1,239.20	$66,000.00
Carport			
Signs			
Sheds, Accessory Bldgs. Green House			
Agricultural Bldgs. (Barns, stalls, etc.)			
Pools			
Walls; Retaining Walls; Fences			
Mobile/Mfg/Modular Homes			
Re-roof			
Portals			
Roof Conversion			
Grading Permit			
Canopy			
Demolition/work permit			
Solar permit	1	$110.00	$38,396.00
Total data per month	**6**	**$5,536.27**	**$244,396.00**

*This is an estimate of the cost of materials and labor.

Impact Fees Collected:
Grading & Drainage Plan Reviews by Village of Corrales Engineer (0)

Village of Corrales Building permit fee data FY's 2012-2016
Table 2.0

FY 2015-2016		FY 2014-2015		FY 2013-2014		FY 2012-2013	
Month	**Fees Collected**	**Month**	**Fees Collected**	**Month**	**Fees Collected**	**Month**	**Fees Collected**
July	$2,521.07	July	$18,853.53	July	$ 8,410.58	July	$ 11,238.11
August	$3,982.89	August	$2,642.37	August	$ 3,702.46	August	$ 18,296.40
Sept.	$11,820.54	Sept.	14,786.52	Sept.	$ 4,233.90	Sept.	$ 6,859.90
Oct.	$7,837.58	Oct.	5,381.49	Oct.	$ 7,167.82	Oct.	$ 2,451.45
Nov.	$3,012.88	Nov.	8,538.97	Nov.	$ 10,340.73	Nov.	$ 6,029.71
Dec.	$1,224.50	Dec.	$8,724.45	Dec.	$ 2,445.87	Dec.	$ 2,140.31
Jan.	$2,903.28	Jan.	$5,547.54	Jan.	$ 17,998.13	Jan	$ 10,200.71
Feb.	$6,215.81	Feb.	$14,000.55	Feb.	$ 23,469.82	Feb.	$ 4,593.61
March	$13,614.08	March	$7,533.17	March	$ 6,256.00	March	$ 1,942.47
April	$10,403.91	April	$11,725.36	April	$ 8,836.43	April	$ 12,073.95
May	$16,833.84	May	$18,008.29	May	$20,017.13	May	$ 21,344.33
June	$4,646.63	June	6,841.31	June	$29,787.97	June	$ 10,657.77
FINAL	**$84,957.01**	**FINAL**	**$122,293.55**	**FINAL**	**$142,666.84**	**FINAL**	**$ 107,828.72**

Village of Corrales Building permit fee data current
Table 3.0

FY 2019-2020		FY 2018-2019		FY 2017-2018		FY 2016-2017	
Month	**Fees Collected**	**Month**	**Fees Collected**	**Month**	**Fees Collected**	**Month**	**Fees Collected**
July		July		July		July	$20,325.98
Aug.		Aug.		Aug.		Aug.	$20,242.92
Sept.		Sept.		Sept.		Sept.	$16,618.69
Oct.		Oct.		Oct.		Oct.	$5,536.27
Nov.		Nov.		Nov.		Nov.	
Dec.		Dec.		Dec.		Dec.	
Jan.		Jan.		Jan.		Jan.	
Feb.		Feb.		Feb.		Feb.	
Mar.		Mar.		Mar.		Mar.	
April		April		April		April	
May		May		May		May	
June		June		June		June	
FYTD		**FYTD**		**FYTD**		**FYTD**	**$62,723.86**

Building Safety Division Activities

The month turned out to be another solid month in the amount of building permits (see Table 1.0) along with permit fees. The month was also steady in inspection requests for general building, and other general building safety issues and questions for the Village of Corrales Building Safety Program, along with property site visits and miscellaneous building safety review.

Monthly Building Inspections
Table 4.0

Jan.	33
Feb.	40
Mar.	45
Apr.	41
May	41
June	58
July	37
Aug.	45
Sept.	36
Oct.	35
Nov.	
Dec.	
YTD	376

Office visits: *Update:* The Building Official has open office hours from 8:30 am to 10:00 am Monday through Thursdays, with Plan review and permit issuance on Fridays. This allows for time to answer any questions or concerns regarding building code and permit questions, and to better serve the constituents with their Building Safety needs. Along with code questions, some of the visits also consist of possible nuisance violations and other miscellaneous questions/concerns.

Buildings permit plan review:

To date most plan reviews were for new and existing single family residences and accessory structures, i.e., detached garages or portals; not all permits required construction documents. There were some permits with a scope of work (homeowner/builder projects) contingent on nature of project(s) per the discretion of the building official.

Code enforcement/compliance:

One case has been submitted to municipal court, pending judicial outcome for cure of deficiency and remediation due to a fire which occurred on the property. Weekly site inspections have been conducted with the VOC Fire Chief with the goal of final cleanup.

Another case involving an expired Grading & Drainage Permit has been turned over to VOC legal counsel for possible action in District Court. Update: A meeting was held with all parties involved and a resolution was reached with an end date of June 15 2016 for compliance.

Monthly Electronic submittal of Building Permit copies to Sandoval County Assessor's Office: 25th of each month *Rick Garcia, Point of Contact Sandoval County Assessor's Office*

E911 Program: The Village of Corrales is continuing to work with the regional staff in Rio Rancho, to resolve issues with the address database.

NMCBO (New Mexico Conference of Building Officials): no meeting or training activities were scheduled or held or attended for the month.

NMCID (New Mexico Construction Industries Division) no meetings or trainings were held for the month.

SAFETY TRAINING: Attended safety training on the 4th of the Month. 4 hours

---

COMMISSION ACTION (Draft Minutes of October 19th, 2016).

DEPT. ACTIVITIES

This listing of department activity reflects the work of the Administrator and the Building Official. The items reported are intended to provide a summary of the usual tasks undertaken in the daily routine conduct of business in the department.

CODE ENFORCEMENT*

The general area of the enforcement action is shown. Many of the complaint calls are by nature private disputes; we do not involve the Village in these types of conflicts. The listing below shows cases by the types of complaints received. The table is updated monthly.

1. Received complaint from property owner on Ranchitos Rd. that neighbors have obstructed the right of way with landscape materials (hard and soft) and are permanently parking trailers and other vehicles in the ROW. **Field investigation required for all the cul de sacs; have discussed with public works.**
2. Several properties have been placed on the violations list for solid waste storage and inoperable vehicles; these properties are on a private roadway. **UPDATE: Judge Frechette accepted a plea agreement in which the defendant pled guilty and was ordered property to be cleaned to the satisfaction of the Village within 60 days. The next municipal court hearing in this case is November 9th, 2016.**
3. Complaint about a neighbor's backyard floodlight, west of Loma Larga. **Staff investigating; lights have been disabled by new property owner. Permitted light fixtures will be installed as part of the amended site development plan implementation.**
4. Accumulation of large amounts of solid waste, including trash, tree stumps, and other debris—west of Loma Larga—on a five acre property. **UPDATE: Tenant signed Agreement to Abate. Considerable improvement, but still not completed as of February 29, 2016. Staff will file complaint in the Municipal Court. Property owner lives in Texas. No further update at this time. Photographs show a lot of the stumps and wood have been removed, but tires,**

debris, junk, etc., are left behind. Staff will file in municipal court. There has been no communication from the property owner or the resident about why the violation has not been abated.

5. Received complaint about a mobile home that was delivered to a developed residential lot. Property owner stated he was going to use it as a "studio." **No septic permit is in place; notice of violation was mailed to property owner. UPDATE: Septic permit issued for an "art studio"; however, there is no mobile home permit or foundation plan on file. Complaint was filed in court.**

6. Resident complained that neighbor's fence is some 10' or more into the ROW; neighbor will be notified to remove encroachment, east of Old Church Road. **No further information at this time. Staff will notify property owner.**

7. Notified by Public Works that a property on Los Milagros needs to install a gutter to prevent storm water from running off roof into Hollywood Blvd. **Staff notified property owner. Property owner has installed required gutter on one structure, and the second structure also will be guttered, to remediate the violation.**

8. Property owner alerted staff to a "new junkyard" emerging in a lot east of Corrales road, north end. Staff is investigating. **UPDATE: To further information at this time. Staff has reviewed the site, and more information is needed.**

9. Neighbor reported junk cars and other solid waste is being hauled onto an undeveloped lot west of Paseo Cesar Chavez. **Attempts to contact new owners of the lot have not been successful. UPDATE: Staff is coordinating with PD to investigate together.**

10. Spoke with heir of property in the north end of Corrales regarding accumulation of debris, solid waste, and broken furniture, etc., by "tenant" on land. **UPDATE: Notices of violation sent to both heirs of properties on which waste have been placed/accumulated. Routine field inspection revealed clean-up efforts are underway at this time.**

11. Some nineteen (19) notices of violation were mailed to property owners regarding unpermitted construction in the ROW. Several have contacted the PZA and now understand what needs to be done. **Public Works and PZA are working together to correct the extensive alteration of the master drainage plan in this subdivision. Property owners are lining up contractors, if necessary, to restore the ROW to as-built condition.**

12. Received a complaint from a property owner about a 5th wheel camper being parked "permanently" in the front yard of a next door property. **Staff will follow up with a notice of violation to the property owner.**

13. **Notices of Violation sent to property owner regarding need for an amended site development plan for the property, a business registration, and copies of septic permit(s).** The P&Z Commission will be taking action on the proposed amended site development plan at the Nov. 16th, 2016, meeting.

14. Received complaint about operation of the corn maze. Met with complainants.

15. Filed complaint in municipal court regarding a person conducting business from his home without a home occupation permit or a Corrales business registration. Court date set for November 16th, 2016.
16. Filed complaint in municipal court regarding a person who placed a mobile home on a developed parcel without a permit; received a permit after the fact; failed to obtain a septic permit for the unit; had permit voided; did not remove the mobile home unit, nor submit an application for a new permit. The parcel is already developed with a three-bedroom house. Owner claims the mobile home will be used as an art studio.

MEETINGS: CITIZENS, AGENCIES, REPRESENTATIVES, STAFF. (PZA)

The following is a sample of typical activities in the P&Z Department. I meet with a number of walk-in's every week, and respond to numerous telephone calls from appraisers and realtors asking for zoning information. Village staff works with staff in other entities, including Sandoval County, Rio Rancho, Town of Bernalillo, the MRGCD, SSCAFCA, NMED, and MR COG. We provide information to the US Census Bureau, BBER, and other federal and state agencies as requested.

1. Basin-wide MS4 annual report and SWMP have been placed on the Village website and the www.keeptheriograng.org website for the 30-day public comment period, as required. The PZA is working on required templates/forms for recording inspections, and gathering SOPs for all affected departments – PD, FD, and public works/parks and recreation.
2. Spoke with tenant of commercial property regarding the need for an access permit from the NM DOT – III, the need to connect to the sewer, and the need to apply for an amended site development plan. Nothing has been forth coming at this time.
3. Met with property owners about potential subdivisions. Also met with surveyors about procedures and documents needed for subdivision applications.
4. Discussed procedures for amending the ordinances with attorney, and discussed matters with property owners and attorneys on various topics.
5. Answered questions about home occupation permit applications, casitas, and grading and drainage plan requirements.
6. Met with Village Engineer and administrator regarding review of subdivision drainage plan and possible need to revise.
7. Met with property representative about future development of assisted living facilities and new school. Possibly see an application in 2017.
8. Met with potential buyers of properties west of Loma Larga, explained requirements for grading and drainage plans, and so forth.

Safety Training: 4 hours.—winter driving

As a volunteer for the Community Collaborative Rain, Hail, and Snow Network (CoCoRAHS), I recorded 9.06" of precipitation at my station in Corrales for this past water year – October 1 through Sept. 30th. **UPDATE: As a volunteer for eleven years now, I encourage others to sign up for this important "citizen science" data collection effort. It really helped communicate to FEMA the extent of storm damage in 2013 during both flood events. The more data points the better.**

Respectfully submitted,

Cynthia C. Tidwell, PZA

Manuel L. Pacheco, CBO

Village of Corrales

Planning & Zoning Department
4324 Corrales Road, Corrales, New Mexico 87048
Phone: (505) 897-0502 / Fax: (505) 897-7217

PLANNING AND ZONING COMMISSION

Date of Meeting: Wednesday, 19 October 2016, 6:30 PM

Location of Meeting: Council Chambers

MINUTES - DRAFT

I. CALL TO ORDER

The Chair called the meeting to order at 6:30 PM.

II. ROLL CALL

The PZA called the roll.

Present: **Commissioners Murray, Rossbach, Cordova, Staley, Wirtz, Derr, and Begay**
Staff: **John Appel, Village Counsel, and Cynthia C. Tidwell, PZA**

III. APPROVAL OF AMENDED AGENDA

Commissioner Murray: He said his packet was missing information on several items on the agenda. ZOC-16-20, 16-22, and no information about the zoning action, SUB-15-02-01.

Commissioner Cordova: He said he too was missing those items from his packet.

PZA Tidwell: She said apparently some materials were left behind in the cabinet. She requested permission from the chair to bring those items over from the cabinet to the commissioners.

Chairman Staley: She called for a brief recess while the PZA went across the parking lot to retrieve the materials needed.

Commissioner Rossbach: He announced to the audience and other commissioners that there were donuts and coffee in the back for everyone.

MOTION: **Commissioner Cordova, to approve the agenda as amended.**
SECOND: **Commissioner Rossbach.**
VOTE: **Motion to approve unanimously carried.**

Commissioner Begay	**Aye**
Commissioner Cordova	**Aye**
Commissioner Derr	**Aye**
Commissioner Murray	**Aye**
Commissioner Rossbach	**Aye**
Commissioner Staley	**Aye**
Commissioner Wirtz	**Aye**

IV. APPROVAL OF MINUTES

Regular meeting of August 17th, 2016

Chairman Staley: On line 61 she said asked if the Fire Chief had been contacted to ensure the placement of the cell tower would not impede any emergency or rescue function.

Commissioner Murray: He referred to line 230, page 6 of 12, it should be radioactive, not radiation.

Commissioner Wirtz: He clarified the intent of his motion, saying that he understood that the commission cannot offer an approval based on receipt of a certain document, and so forth; the motion cannot make that assertion.

He said he will forward his motion to the PZA for her to correct in the minutes. He read from the text of his motion to postpone action. His motion on page 9 of 121, should read as follows, "... find the application deficient in the following requirements: Variance should be a variance for height. Required Balloon test is missing. Detailed pad engineering and design drawings are missing. NIER checklist requested, requested clarification of either fiber or microwave connection, mitigation plan for sound from air conditioner units required, and guarantee of intent to insure per required amounts. Due to these deficiencies, I move that we postpone SDP-16-01 pending corrected and completed application.

He further stated that he should never have said things like "the variance should be a variance for height."

MOTION: **Commissioner Cordova, to approve the minutes as amended.**
SECOND: **Commissioner Murray.**
VOTE: **Motion to approve unanimously approved.**

Commissioner Begay	**Aye**
Commissioner Cordova	**Aye**
Commissioner Derr	**Aye**
Commissioner Murray	**Aye**
Commissioner Rossbach	**Aye**
Commissioner Staley	**Aye**
Commissioner Wirtz	**Aye**

V. COMMISSIONERS' FORUM

VI. PZA REPORT

PZA Tidwell: She reported the draft basin-wide MS4 permit annual report and storm water management plan documents are out for public review for 30 days. This basin-wide permit is a pilot project approved by the EPA which will serve as a model for other locations; it is now part of the state-wide general permit. As part of the Village's compliance with the EPA Clean Water Act the Village is required to make efforts to keep dog waste from reaching the Rio Grande. The Council has published and posted a "scoop the poop" ordinance. Some 30% of E-coli in the Rio Grande is from dog waste.

VII. PUBLIC COMMENT-- 3 minute limit

There were no public comments.

VIII. BUSINESS ITEMS

A. Consent Agenda (Home Occupation Permits): ******All matters listed under the Consent Agenda are considered to be routine by the P&Z Commission and will be enacted by one motion. There will be no separate discussion of these items. If discussion is desired, that item will be removed from the Consent Agenda and will consider separately.******

ZOC-16-19. Stefan Niemcewicz, 651 Camino Sin Pasada, Corrales, NM 87048, is requesting a home occupation permit to conduct business selling PureSplash, LLC, products in homes, at fairs, and at shows, for property more specifically known as Lot 2, Unit 1, JayBee Addition No. 1, containing some 1.0 acres more or less, using some 200 square feet of a 2,200 square foot residence.

ZOC-16-20. Becky Pierce, 350 La Entrada East, Corrales, NM 87048, is requesting a home occupation permit to conduct business providing horticultural therapy in health service facility, dba, "Growing Connections," for property more specifically known as Lot 4 Tract 50-a-1, 50-b-2, MRGCD Map No. 18, containing some 1.0 acres more or less, using some 294 square feet of a 1,700 square foot residence.

PZA Tidwell: She reported no yellow signs were posted for these two applications – ZOC-16-10 and ZOC-16-20. She drove by the residences on Monday to check on all the applications.

MOTION: **Commissioner Rossbach, to dismiss ZOC-16-19 and ZOC-16-20.**
SECOND: **Commissioner Cordova.**

Chairman Staley: She stated that one thing we've been working on with counsel on is getting over the habit of postponing things that were not conforming to the requirements instead of dismissing them and removing them from the docket. Many items that we deal with have deadlines built in either by law or by the court or by administrative agency. We run the risk of putting ourselves in the position of being liable for not taking a vote within a given time period. So it would be my recommendation to dismiss these applications for not meeting the requirements.

VOTE: **Motion to dismiss ZOC-16-19 and ZOC-16-20 carried unanimously.**

Commissioner Begay	**Aye**
Commissioner Cordova	**Aye**
Commissioner Derr	**Aye**
Commissioner Murray	**Aye**
Commissioner Rossbach	**Aye**
Commissioner Staley	**Aye**
Commissioner Wirtz	**Aye**

ZOC-16-21. Tamlyn Hedemann, 95 el Camino Arco Iris, Corrales, NM 87048, is requesting a home occupation permit to provide individual kinesiology or coaching session, on-line or in person, for property more specifically known as Lot 3, Block 3, Casas de la Tierra Subdivision, containing some 0.9 acres more or less, using some 384 square feet of a 2,658 square foot residence.

ZOC-16-22. Jeannette Grundstrom, 117 Mesa Vista Road, Corrales, NM 87048, is requesting a home occupation permit to provide interior design services, dba, "Mesa Vista Interiors," for property more specifically known as Lot 18, Mesa Vista de Corrales Subdivision, containing some 1.0 acre more or less, using some 150 sq. ft. of a 3,000 square foot residence.

MOTION: **Commissioner Murray, to approve the CONSENT AGENDA, containing ZOC-16-21 and ZOC-16-22.**
SECOND: **Commissioner Rossbach.**
VOTE: **Motion to approve the Consent Agenda containing ZOC-16-21 and ZOC-16-22 carried unanimously.**

Commissioner Begay	**Aye**
Commissioner Cordova	**Aye**
Commissioner Derr	**Aye**
Commissioner Murray	**Aye**
Commissioner Rossbach	**Aye**
Commissioner Staley	**Aye**
Commissioner Wirtz	**Aye**

PZA Tidwell: She advised the applicants that have been approved that they have 90 days within which to come to the office to apply for their business registrations. Just ask the receptionist for the form, or take it

from the wall pocket or download from on-line. You will pay for this registration annually.

ZOC-16-23. Natalie Owens, 981 Perfecto Lopez Road, Corrales, NM 87048, is requesting a home occupation permit for an office for a trucking and transportation company, dba, "Desert Rose Freight, LLC", for property more specifically known as Lot C5 (Tracts 112A and 112B), MRGCD Map 16, containing some 1.0 acre more or less, using some six (6) square feet of a 1,512 square foot residence.

Applicant Natalie Owens, 981 Perfecto Lopez Road, Corrales, NM 87048 (sworn):

Commissioner Wirtz: He asked if this is for a trucking operation. He asked for a description of how your house and property is going to used.

Applicant Natalie Owens: She responded that it is for bookkeeping only.

Commissioner Wirtz: He noted the application aerial photo shows a space for truck parking.

Applicant Natalie Owens: She answered we brought the truck home for one weekend, without the trailer; all maintenance is done in Albuquerque. We will not bring the trailer home.

Commissioner Wirtz: He asked if he will ever bring the truck and trailer home to park in the yard or in the road.

Applicant Natalie Owens: She stated, normally no, he may bring the tractor home for a brief time; but we only brought it home the night we bought it, and then it was taken to Albuquerque.

Commissioner Wirtz: He asked what the road surface is on Perfecto Lopez.

Applicant Natalie Owens: She said it is paved about 3/4 of the way and then it's a private gravel road where I live; there are three (3) houses in our section. It's a dead end.

Commissioner Wirtz: He asked how wide the road is.

PZA Tidwell: She answered that Perfecto Lopez Road is platted 30' wide throughout.

Commissioner Begay: She asked Ms. Owens how many trips per day will be used for the business; the application states 6.

Applicant Natalie Owens: She said she was told to fill out all the trips she might make that would be related to the business, like making copies or going to the post office. It's not him with the tractor; he drives his personal vehicle to the yard to start his route.

MOTION: **Commissioner Wirtz, to approve ZOC-16-23.**
SECOND: **Commissioner Begay.**
VOTE: **Motion to approve ZOC-16-23 carried unanimously.**

Commissioner Begay	**Aye**
Commissioner Cordova	**Aye**
Commissioner Derr	**Aye**
Commissioner Murray	**Aye**
Commissioner Rossbach	**Aye**
Commissioner Staley	**Aye**
Commissioner Wirtz	**Aye**

ZOC-16-24. Deborah Michael, 265 Valverde Road West, Corrales, NM 87048, is requesting a home occupation permit to provide alternative medicine, herbology, reflexology, aroma touch therapy, diet and nutrition, and stress management services, dba "Mariposa Home & Health Transformation, LLC," for property more specifically known as Tract A, Lands of Suzanne L. Gilliland, containing some one (1) acre of land more or less, using some 175 sq. ft. of a 1,806 square foot residence.

Applicant Deborah Michael, 265 Valverde Road West, Corrales, NM 87048 (sworn):

Commissioner Rossbach: He asked about a missing response on the application on page 2.

Applicant Deborah Michael: She said that she forgot to write it in after she whited out the "yes". It should be "no."

Chairman Staley: She asked about the days and hours of operation and when vehicles will be coming to the home.

Applicant Deborah Michael: She responded that she doesn't plan to work full time, six days a week, but only a few hours a day with no more than 2 or 3 clients a day.

Chairman Staley: She asked about storage of materials.

Applicant Deborah Michael: She answered that there is no storage of anything.

Commissioner Begay: She referenced the number of trips shown as 1-5 per day, and at most 11-20 per week. She asked if there would be more for herself.

Applicant Deborah Michael: I'm just trying to answer it to the best of my ability. It could be a trip to the bank, post office, copies, etc. She said she anticipates having at most 2 or 3 clients per day.

MOTION: **Commissioner Murray, to approve ZOC-16-24.**

SECOND: **Commissioner Rossbach.**
VOTE: **Motion to approve carried unanimously.**

Commissioner Begay	**Aye**
Commissioner Cordova	**Aye**
Commissioner Derr	**Aye**
Commissioner Murray	**Aye**
Commissioner Rossbach	**Aye**
Commissioner Staley	**Aye**
Commissioner Wirtz	**Aye**

ZOC-16-27. Sandra Sherman, 707 Walden Road, Corrales, NM 87048, is requesting a home occupation permit to have an office to operate a wholesale battery business (physical location on Osuna), dba, "R&S Wholesale Battery LLC," for property more specifically known as Lot 11 Block D, Simpson-Townsend Subdivision, using some 400 square feet of a 2,876 square foot residence.

Applicant Sandra Sherman, 707 Walden Road, Corrales, NM 87048 (sworn):

Chairman Staley: She asked about the typed-in initials on the application and asked her to please sign your initials on the application.

MOTION: **Commissioner Cordova, to approve ZOC-16-27.**
SECOND: **Commissioners Rossbach and Derr.**
VOTE: **Motion to approve carried unanimously.**

Commissioner Begay	**Aye**
Commissioner Cordova	**Aye**
Commissioner Derr	**Aye**
Commissioner Murray	**Aye**
Commissioner Rossbach	**Aye**
Commissioner Staley	**Aye**
Commissioner Wirtz	**Aye**

B. ZONING ACTION ITEMS:

SUB-15-02-01. Angela Lang, 140 Laker Drive, is requesting an extension of time—one (1) year--to complete the requirements of the preliminary plat approval for a 3 lot subdivision.

Applicant Angela Lang, 140 Laker Drive, Corrales, NM 87048 (sworn):

PZA Tidwell: She advised the commission that the preliminary plat has not yet been completed. The approval of the preliminary plat included requirements for subdivision ~~conditions~~; those conditions have not yet been met. The regulations require submittal of a final plat within 12 months of the approval of the preliminary plat. Ms. Lang submitted her request for an extension of time to complete the preliminary plat, but it was left off the agenda inadvertently. That is the fault of the staff, not Ms. Lang.

Chairman Staley: She asked if the preliminary plat application was two years old.

PZA Tidwell: She responded the preliminary plat, once it is approved, has a 12 month period of time within which to apply for a final plat. This application has taken longer in the sense that we've been granted some grace time because of pending sales, sales that have not happened, and other factors. The preliminary plat was approved based on ~~conditions~~ requirements being met. The subdivision engineer and the Village Engineer have been going back and for about details in the road design; the Village has requested complete drawings. I may have misspoken in that the preliminary plat approval was about one (1) year ago; the delay in asking for an extension is not been Ms. Lang's doing. She asked for the request to be on the agenda, but I was on vacation, and it has been delayed because of my timing and schedule.

Village Counsel John Appel: He clarified the situation stating we are addressing the submittal of the final plat after the conditional approval of the preliminary plat. In Section 18-86(g)(2), "Upon timely application to the Commission, the commission may for good cause shown, and in the Commission's sole and absolute discretion, grant an extension or extensions of time for submittal of the final plat, provided that such extension or extensions shall not exceed a total of one (1) additional year beyond original expiration date of the preliminary plat. Such extension may be granted only if the Commission finds that: a. The extension of time is not detrimental to the public interest; and, b. The preliminary plat, as approved, is not in conflict with current Village ordinances, rules, regulations, plans, policies or procedures."

Chairman Staley: She asked about the condition(s) of approval.

PZA Tidwell: The conditions of approval were to receive roadway design details of the connection at Corrales Road and over the Nicholls Lateral regarding how Laker Drive would be constructed to accommodate the additional lots. He wants to see how the roadway is going to be constructed to the standard width over the Nicholls Lateral, and how the culvert is going to be extended, and so forth. This is standard design detail requirements that are part of the subdivision regulations.

Chairman Staley: She asked Village Counsel would we be making matters worse by asking for an administrative report at the next meeting.

Village Counsel John Appel: He answered the application has been submitted. There is no procedural problem in asking for a continuance or in voting on this matter.

Chairman Staley: She stated that usually we have compliance reports on matters; she said she would like to be assured that things are moving forward.

Commissioner Cordova: He stated the PZA has explained what the situation is. I don't know that we're going to get any further information in waiting for a month.

Chairman Staley: She said she is concerned about the limitations on the window that we have.

Anji Lang: She responded that it's her own private road over the Nicholls Lateral and it has been filled in. She said her engineer thought he'd brought in the needed plans; he thought he was in compliance. The sale of the property as one piece or as subdivided lots is the question which is why the road hasn't been built yet.

Commissioner Rossbach: He asked if she had to procure land in order to build the roadway.

Anji Lang: She answered, no, she bought her portion of the Nicholls Lateral some 10 or 15 years ago when the lateral was purchased and filled in by Chuck Williams who owns the property next to her.

Village Counsel John Appel: He said for the record we don't know the exact date when the original preliminary plat was approved. The application for extension was made in July and it's now been three months since Ms. Lang made her request.

MOTION: **Commissioner Cordova, to approve an extension of time of one year from the date of approval, which is August 19th 2015.**

SECOND: **Commissioner Begay.**
Commissioner Murray: He would like to include the date of approval of the preliminary plat.

VOTE: **Motion to approve the extension of time allowed for completion of the requirements for preliminary plat subdivision (infrastructure development) for one year from the date of approval (August 19, 2015) carried unanimously.**

Commissioner Begay	**Aye**
Commissioner Cordova	**Aye**
Commissioner Derr	**Aye**
Commissioner Murray	**Aye**
Commissioner Rossbach	**Aye**
Commissioner Staley	**Aye**
Commissioner Wirtz	**Aye**

SDP-16-01; VAR-16-01. John and Jean Waszak, 10645 Cielo Vista del Norte, Corrales, NM 87048, represented by Kimberly Stratton-Wood, are requesting Site Development Plan approval for a wireless communication facility addition to the existing site development, for property located at 3677 Corrales Road (Frontier Mart), more specifically known as Tract 48C2. There is a request for a variance as to distance from 26' to 45'. **This item was postponed to the October meeting to allow the applicant to fulfill the conditions of the application.**

Commissioner Rossbach: He recused himself on this particular item due to having information the rest of the commission did not have.

Commissioner Wirtz: He clarified that he asked to postpone action on the application for deficiencies as noted above-- the variation for location was incorrect, the balloon test was missing, missing indication of whether fiber or microwave would be used; missing a mitigation plan for sound for the air conditioning unit; and missing intent to ... or not.

Chairman Staley: She stated the applicant's responses for the requested materials were provided with a summary on General Dynamics letterhead. In the body of the letter, the applicant paraphrased questions which were not fully answered. For example, the applicant stated that the Commission did not have the authority to question the outside noise level of the four large cooling units that would be operating within the proposed tower. She pointed out that the Village has noise ordinances and the commission would be remiss if we did not address this issue. And the CAD engineering drawing of the pad was requested to confirm the construction drawing consistency.

Commissioner Murray: He said the detail is for a standard pad site, but not specifically for this site. It does provide enough detail and I'm comfortable with that.

Chairman Staley: She asked Commissioner Wirtz to address the questions he summarized for the applicant at the August hearing.

Commissioner Wirtz: He said our requirements don't call out specific detail on the insurance question; the response is that it will be provided upon approval of the application.

Kim Wood and Steve Cahn, 8216 Rancho Paraiso NW, Albuquerque NM and 4821 Eubank Dr. NE, Albuquerque NM (both sworn):

Commissioner Wirtz: He asked what the variance is for.

Kim Wood: She answered the variance is for the location of the tower; we are not requesting a height variance

Commissioner Wirtz: He sought clarification of the use of fiber or microwave... the testimony was that Verizon prefers to use fiber with a backup plan that would use microwave if necessary.

Kim Wood: She answered that if we can use fiber during the construction phase, we will use fiber. If fiber is not available at the time we proceed with construction, we will use microwave temporarily until such time that fiber is available.

Commissioner Wirtz: He asked if she could exclude the use of microwave at this time.

Kim Wood: She responded, no, not at this time.

Commissioner Wirtz: He referred to the FCC regulations concerning the categorical exclusion from environmental processing.

Steve Cahn: He stated that if the tower meets specifications/standards it has an exclusion from any EME studies; there are no caution signs because there's no need for them.

Commissioner Wirtz: He asked for the maximum power output of this facility.

Steve Cahn: He said it's less than 1,640 watts.

Commissioner Wirtz: He said we're going on record stating that it will never exceed 1,640 watts.

Steve Cahn: He responded, yes.

Commissioner Wirtz: He stated it's a cumulative figure; the tower has to be less than 10 meters high. It doesn't discern between elements. He asked if you're going to be able to guarantee to us that the maximum power transmission will never exceed 1,640 watts.

Steve Cahn: He answered we have never considered microwave for the towers. It will never exceed 1,640 watts at the.... (can't hear)

Commissioner Wirtz: He remarked that this is described as a Non-building antennae ... non-building mounted.

Steve Cahn: He responded that this is a free-standing installation. The point is to say that if it is a free-standing structure designed to hold antennae...it cannot be accessed by the public. But a rooftop antennae could be. That's the difference.

Commissioner Wirtz: He asked about the distance setback variance for the following reasons...summarizes entirely your request... (he read from the application materials). The application is based on the fact that this tower is too close to the other Verizon facility. He asked about the other Verizon wireless communications tower at the Main Fire Station.

Steve Cahn: He said it was originally an Alltel tower, bought by Verizon at a later date.

Commissioner Wirtz: He asked if Verizon can turn these towers off or disable at will. He asked if the they are legally obligated to keep that tower operational.

Kim Wood: (can't hear)

Commissioner Wirtz: He asked what if the Village or another private entity comes to Verizon and says I want you to take that tower down.

Kim Wood: She answered that it would depend on what is stated in the lease.

Village Counsel John Appel: He would ask why this line of questioning is relevant. The tower is there and they have every right to keep that tower there...at least 15 years...but you need to clarify where they're going with this line of questioning.

Commissioner Wirtz: He said it would become apparent.

Village Counsel John Appel: The question for the applicant is why do they want this additional facility, or need this facility.

Chairman Staley: She said we're addressing the questions in the order these issues are answered.

Commissioner Wirtz: He asked if there is a requirement in the lease that you have to provide service.

Kim Wood: She said the Village tower is too close to the fire station tower; we can't collocate on the Village tower because it's too close to the fire station tower.

Commissioner Wirtz: The conditions for a variance state that you can't request a variance from something you caused yourself, and the Village tower is a Verizon tower....

Kim Wood: She said, no, the Village tower is an AT&T facility; the variance request for location is because the proximity of the Village tower causes interference.

Commissioner Wirtz: He clarified that the applicant can't co-locate on the Village tower because it's too close to the Fire Station tower. (can't hear) He asked Ms. Wood to tell the commission about plans for a balloon test.

Kim Wood: She were going to do the balloon test, but after reviewing the regulations, it was deemed to be a request for variance for location, not for height; the administrator did not request a balloon test at that time.

Commissioner Wirtz: The balloon test may be required by the administrator or if the visibility or appearance of the proposed tower is a matter of public concern.

Kim Wood: She responded the tower is five (5) feet under the height requirement, so it should not be a matter of public concern.

Commissioner Wirtz: He stated legally it's not a matter of public concern.

Chairman Staley: She said that the applicant's attitude about the information requested by the commissioners at the August hearing and this hearing was not helpful because the commissioners were not seeking information

outside the scope of the cell tower ordinance. She cited as an example #8 on the applicant's response to the information requested in August. The applicant mischaracterized Ms. Staley's request for evidence supporting Ms. Wood's statement thst studies show that many home buyers intentionally seek houses close to cell towers. But rather than provide the studies, the applicant's response to the request for that information mischaracterizes the request as demanding proof that the presence of a cell tower decreases the value of properties nearby. Chairman Staley referred Ms. Wood to the minutes of the August hearing that referenced that exchange. Ms. Wood testified that Verizon has done a number of studies on property values, no significant decrease...(reading from the text of the approved minutes of the August hearing). She said she asked for some studies that she referred to. This is a balancing process; Verizon must show that this tower is a necessity. Similarly, Commissioner Wirtz pointed out a discrepancy in the various Verizon area coverage maps. We're looking for reconciliation of inconsistencies. That is the main body of the letter.

Commissioner Murray: He said that coverage that they've provided, shows that coverage is spotty. What's the % of coverage...? How much more coverage is this tower going provide?

Steve Cahn: He responded saying that we're looking for increase in capacity, not coverage. Each cell site has limited resources, we can only serve so many customers at a time. The capacity is going to be exhausted; data speeds slow way down. Over time you may not be able to get access to the data use. Corrales is covered, but people say they don't have good coverage at their house. It will improve coverage and capacity. We do upgrade our older facilities.

Commissioner Murray: He said we don't understand the need for a new tower if you're going to upgrade the existing tower. Can you stipulate the need for this new tower in terms of the capacity.

Steve Cahn: He answered that we're going to exhaust the spectrum we have now.

Commissioner Begay: She asked about the tower at the fire station and if you've increased the spectrum as much as you can.

Steve Cahn: He responded that we should have an application in front of the commission to do that. We are requesting to put larger antennae on the tower at the fire station. It's fairly exhausted at this time; in 18 months will be exhausted. In order to add more spectrum, we have to add larger antennae.

Commissioner Begay: She asked if he expects to do that in the next 18 months.

PZA Tidwell: She responded that she is requiring the applicant to bring the request to a public hearing. The change in appearance is from a

monopole to a pole with a wider canister on top. A flag pole facility was approved nearly 20 years ago after extensive public input. As the administrator, I feel the change in appearance requires a full public hearing, not administrative approval. We are waiting for their meeting the requirements. See, the antennae are inside the "flag pole"; but the proposed tower would put a large canister on top, like a lollipop on a stick, and it could not be a flag pole any longer.

Chairman Staley: She asked Village Counsel for guidance on consideration.

Village Counsel John Appel: He advised the commission that you are on the clock... you cannot wait. You have before you an application for a new cell tower...you are beyond the Federal Telecommunications Commission's "shot-clock" rule. Factually, it's probably been more than 150 days since the application was submitted. That is the standard that you must adhere to. You need to address this as a stand-alone application. It is the testimony of the applicant that this facility is needed as a matter of capacity, regardless of whether or not enhancements are made to the facility at the fire station tower. The Village is some 20 years into a 25 lease. While the ground lease is not to Verizon, it is to another entity and that is being negotiated.

Commissioner Murray: He asked about the elevation drawings that show on sheet C3 and C4...a plenum to the bottom of the tower ... he asked what am I looking at? Is it a drainage canal and scupper? Regarding the two 5-ton units, is that for the entire tower or is it just for the equipment on the base floor?

Steve Cahn: He responded saying that he believes it's a drainage channel.

Chairman Staley: She called for 3 minute recess.

Chairman Staley: She announced the hearing will reconvene at 8:35 PM. She called for people who have not yet testified... invited to come forward; letters that were submitted have been reviewed.

PUBLIC COMMENT

All who wished to speak were sworn in as a group.

Richard Groff, 313 Perfecto Lopez Road, Corrales, NM 87048: At the Paradise Hills United Methodist Church there is a tower 40 feet tall. For 20 years it's been there. It's an enclosed tower, with the equipment in the basement. This site is not like that; it's reminiscent of adobe construction with *vigas* coming out of the sides. When we were building our tower more than 20 years ago, I was concerned about the radiation, but a church member checked on it and there was not a problem. We need the capacity, it could be a life and death situation.

Lynn Weiland, 415 La Entrada East, Corrales, NM 87048: She said she is concerned about people coming out of the *bosque* who need help; her cell phone

won't work. This has happened over and over. She has to use her land line to get help for them. She's hoping this new tower will help with service.

Angela Lang, 140 Laker Drive, Corrales NM 87048: She said she has a hard time hearing on her cell phone at her house in the south end of the Village; she has to stand outside to make or receive calls. She said she's a realtor and needs to be able to answer questions from potential buyers and other realtors. Yes, she is a Verizon customer.

Steve Soto, P. O. Box 15444, Albuquerque, NM: He introduced himself as a realtor, and that he was testifying on behalf of several residents in the area regarding the impact on property values. It doesn't mean that that's going to impact the properties, it's the perception of information that's out there. If there's a cell tower, as realtors we have to disclose that there might be an issue with the tower. He said he couldn't find anything local that addressed the impact of values.

Commissioner Murray: He asked if there are studies that correspond to power lines as well as cell towers or other utilities.

Steve Soto: He said it's the perception of what the electrical lines would do. For example, in the Western Hills subdivision power lines through the middle of the subdivision.

Commissioner Wirtz: He asked about the requirement to disclose.

Steve Soto: He answered there isn't a requirement to disclose specifically for cell towers; but anything that would have a monetary impact or an impact on health.

Commissioner Wirtz: He said he was looking for some evidence of previous disclosures of a property near a cell tower.

Steve Soto: He responded that, no, he didn't have that. Further he said that if somebody confronted him, or asked him the question about the cell tower, it is his obligation as a realtor to disclose that.

Commissioner Begay: She asked if this is written or verbal.

Steve Soto: He said it would depend on who his client is.

Chairman Staley: She stated that Verizon says they know people who say they want to be close to a cell tower, she asked if he has information that supports that position

Steve Soto: He said he does not have information to support that position.

Joaquin Deprez, Jr., 3795 Corrales Road, Corrales NM 87048: He said he's lived in the house that's 120' from the cell tower his whole life. He is opposed to the cell tower.

Katie Eagan, 3795 Corrales Road, Corrales NM 87048: She stated there's a discrepancy in the ordinance; it has to be a mile away...(she read the conditions for a variance in Sec. 18-170).

Commissioner Murray: He asked what exactly the discrepancy is that she is referring to. We have two types of variance requests, one of which is in the telecommunication ordinance that says if they can't co-locate on existing towers, then they don't need a variance.

Katie Eagan: She said the conditions for a variance are there. She said fiber optic would be cheaper and safer.

Commissioner Murray: He answered her saying that you can't connect fiber optic to your cell phone. That's the point of having wireless communications.

Village Counsel John Appel: He pointed out that Section 18-170 is not in the telecommunications ordinance. The provisions for variance in the telecommunications ordinance are found in Section 18-210.

Katie Eagan: She responded that it cannot adversely affect the neighbors. She then read from a realtors' magazine.

Andrew O'Neal, 817 Ella Drive West, Corrales, NM 87048: He said he lives on west Ella and he hopes this is approved. We need better coverage here in Corrales. I'm a Verizon custom customer and I want more than 2 bars on my phone. They're offering a pretty nice looking facility, and my biggest thing is the safety. We've had people get injured and the coverage is important. I don't believe there's any medical issue with cell towers; it's not a valid concern in his opinion.

Chairman Staley: She said we need to have a commission motion to extend the meeting to 10:00 PM.

MOTION: **Commissioner Murray**, to extend the meeting to 10:00 PM.
SECOND: **Commissioner Derr.**
VOTE: **Motion to extend the commission meeting to 10:00 PM carried with a vote of 6-1.**

Commissioner Begay	**Nay**
Commissioner Cordova	**Aye**
Commissioner Derr	**Aye**
Commissioner Murray	**Aye**
Commissioner Rossbach	**Aye**
Commissioner Staley	**Aye**
Commissioner Wirtz	**Aye**

Chairman Staley: She asked Village Counsel about the procedure for going into closed session.

Village Counsel John Appel: He explained the procedure for going into closed session. You may go into closed session to discuss the resolution of this matter, and then you may resume the meeting to make a decision. Everyone must leave the room, and then you may invite them back in.

MOTION: **Commissioner Derr, to go into closed session.**
SECOND: **Commissioner Murray.**
VOTE: **Motion to go into closed session carried with a vote of 6-0.**

Commissioner Begay	**Aye**
Commissioner Cordova	**Aye**
Commissioner Derr	**Aye**
Commissioner Murray	**Aye**
Commissioner Rossbach	**Recused**
Commissioner Staley	**Aye**
Commissioner Wirtz	**Aye**

MOTION TO COME OUT OF CLOSED SESSION, Commissioner Murray at 9:41 PM.
SECOND: **Commissioner Cordova.**
VOTE: **Motion to come out of closed session carried unanimously.**

Commissioner Begay	**Aye**
Commissioner Cordova	**Aye**
Commissioner Derr	**Aye**
Commissioner Murray	**Aye**
Commissioner Rossbach	**Recused**
Commissioner Staley	**Aye**
Commissioner Wirtz	**Aye**

Commissioner Begay: She excused herself from the meeting at 9:45 PM.

MOTION: **Commissioner Murray, to deny Variance VAR-16-01 on the basis of testimony given, and the following in Section 18-207(f)(1), the applicant does not need a variance as to location because they have met the first requirement.**
SECOND: **Commissioner Derr.**

Commissioner Murray: The testimony provided met the conditions for the request as to location; they don't need a variance at all.

VOTE: **Motion to deny the request for a Variance as to location carried with a vote of 5-0.**

Commissioner Begay	**Absent**
Commissioner Cordova	**Aye**
Commissioner Derr	**Aye**
Commissioner Murray	**Aye**

Commissioner Rossbach	**Recused**
Commissioner Staley	**Aye**
Commissioner Wirtz	**Aye**

MOTION: **Commissioner Murray, to approve SDP-16-01 based on the evidence provided by the applicant.**
SECOND: **Commissioner Derr.**

Commissioner Murray: He stated that given the Verizon representatives provided the information requested at the last meeting; the pros for having the tower outweigh the cons.

Chairman Staley: She stated the burden is on the applicants to make their case.

VOTE: **Motion to approve SDP-16-01, to construct a wireless communications facility, carried unanimously with a vote of 5-0.**

Commissioner Begay	**Absent**
Commissioner Cordova	**Aye**
Commissioner Derr	**Aye**
Commissioner Murray	**Aye**
Commissioner Rossbach	**Recused**
Commissioner Staley	**Aye**
Commissioner Wirtz	**Aye**

SUM-16-11. Joyce A. Lesperance, 28 Futures Road, Edgewood, NM 87015, is requesting a Summary Plat (lot split) subdivision, for property more specifically known as Lot C-4, Lands of Gilbert Lopez, containing some two (2) acres more or less. This property is accessed from the private road portion of Perfecto Lopez Road, west of the Main Canal.

Joyce Lesperance, 28 Futures Road, Edgewood, NM 87015 (sworn):
Loretta Perez, ____Perfecto Lopez Rd. (sworn):

Commissioner Wirtz: He asked about existing site conditions and whether or not the mylar is going to be corrected.

Joyce Lesperance: She responded, yes, it would be corrected on the mylar.

MOTION: **Commissioner Cordova, to approve SUM-16-11, with the condition that all required signatures are to be on the mylar before the Village signs, and that all the drawings be final.**
SECOND: **Commissioner Murray.**
VOTE: **Motion to approve SUM-16-11 carried unanimously with a vote of 6-0.**

Commissioner Begay	**Absent**
Commissioner Cordova	**Aye**
Commissioner Derr	**Aye**
Commissioner Murray	**Aye**
Commissioner Rossbach	**Aye**
Commissioner Staley	**Aye**
Commissioner Wirtz	**Aye**

VIII. New Business Items.

a. **Discussion of review and amendment of the land use regulations.**

b. **Discussion of review and amendment to the Rules for the Conduct of Business to consider action on the following items:**

1. **Commissioners' Packets**—to accommodate the distribution of meeting materials electronically with a portable data file (pdf) of the packet materials along with hard copy of the packet to those commissioners who wish to receive it in this manner.

IX. OTHER BUSINESS.

X. ADJOURNMENT.

MOTION: **Commissioner Murray, to adjourn at 9:55 PM.**
SECOND: **Commissioner Cordova.**
VOTE: **Motion to adjourn carried unanimously.**

Commissioner Begay	**Absent**
Commissioner Cordova	**Aye**
Commissioner Derr	**Aye**
Commissioner Murray	**Aye**
Commissioner Rossbach	**Aye**
Commissioner Staley	**Aye**
Commissioner Wirtz	**Aye**

Commissioner Rossbach: He explained why he recused himself. He asked the Verizon representative for data; he made an analysis to determine the radiation emitted from the tower would be a factor of 7 below the FCC requirements.

Village Counsel John Appel: He spoke about ex parte communication advising the commissioners that they are in the position of the judge. You have to rely on the evidence presented.

_____

Cynthia C. Tidwell, MCRP Date
Planning & Zoning Administrator

Elizabeth Staley, Chair
Planning & Zoning Commission

Date

LIBRARIAN'S REPORT
OCTOBER 2016
STATISTICS

	October 2016	September 2016	October 2015
Walk-ins:	3780	3145	3372
Registration:	59	47	56
Acquisitions:	310	293	291
Loss & Discard:	157	160	296
Circulation			
Adult books	1357	1291	1398
Juvenile books	1645	1607	1869
YA	399	317	406
Digital books	387	398	348
Adult Media	929	947	1208
Inter-Library	1	1	6
Children's Media	313	317	320
Southwest Room	50	47	60
In house Reference	595	545	575
TOTAL	5676	5470	6190

* Five-week month

PROGRAMS--Children

Story time with Edwina's story time friends (Wednesday, 10:00 AM):

October 5	38 participants
October 12	43 participants
October 19	40 participants
October 26	42 participants

Ukulele classes October 4, 11, 18, 25	with Miss Auttem 137 attending for the month
Bruschetta course October 21	with Edwina 8 teens
Facts of Matter October 28	Explora Museum Outreach 33 third graders Corrales Elementary
Leaf Lanterns October 29	with Edwina 12 participants
School trip October 26	with Edwina Shining Star Preschool

PROGRAMS—All ages

The Saturday Library Stitch Club met in the library on Saturday, October 8th. There were 18 ladies in attendance.

Conversational Spanish classes were held on the first and second Saturday in October with Alonso Indacochea. There were 15 participants in the first class and 16 participants in the second class for the month.

There was a reading on October 6th, with author, Pat Walkow, on her novel, *The War Within-The Story of Josef,* based on the life of her father-in-law's experience as a Polish slave laborer in Nazi Germany. There were 33 patrons in the audience.

There was a Technology class with Laura on using social media, with an overview of popular sites, on Tuesday, October 18t at 11:00 a.m. and on Thursday, October 20th at 3 p.m. There were five participants in each class. Classes are limited to six participants to offer more one-on-one time.

Meetings

Bosque Commission: 10/13

Library Board: 10/13

Friends of the Corrales Library: 10/10

Equestrian Advisory Committee:

Bicycle Pedestrian Advisory Committee:

Tree Advisory Committee: 10/7

Village in the Village: 10/20

Library Hours

The library was closed on October 15th during the Harvest Festival.

Library Personnel

Total scheduled (desk) volunteer hours for the month of October: 366 hours.

The annual New Mexico Library Association conference will be held from November 2nd through the 4th in Albuquerque.

Library News

We are keeping a count on computer users on the public computers. In October, there were a total of 505 computer users signed in.

There were 2,256 hits on the Library's website during the month of October.

During October, the Sandoval Digital Library had 758 items checked out by 228 patrons. There were 110 holds on items checked out in the system. Statistics for the library circulation will now reflect the number of titles circulating from the Sandoval Digital library, checked out by Corrales cardholders.

The Harvest Festival book sale was a big success on October 15th and 16th in the park. The Friends sold $6,107 in books and media over the weekend. We would like to give a special thank you to the Corrales Boy Scouts for assisting with the set up of the books and boxing up the remainder after the sale.

The library Tech classes, with Laura Creech, will continue in the fall. They will be held on Tuesday mornings twice a month. Using Social Media will be a theme. She will also be scheduling one-on-one computer skills classes for library patrons.

The annual volunteer Christmas Party will be held at the home of Jim and Linda Parker this year. The date will be Sunday, December 4th from 2 to 5 p.m. Invitations will be sent out mid-November.

Parks and Public Works Department
November 2016 Monthly Report
Lynn Siverts and Staff

Public Works

- Graded and brush hogged several roads throughout the Village.
- Worked on the old Jones property. Are getting quotes for the electrical work and garage doors.
- Fixed shoulders and ponding at Loma Del Oro and Calle Blanca.
- Clean up day is scheduled for November 19.

Parks and Recreation

- The Halloween event ran smoothly. They weather was perfect and we had 38 vehicle participate. This year there was 18 hot air balloons.
- Basketball has started.
- The jogging paths are all cleaned up and crusher fined.
- Liam Pond is now being stalked on a regular basis with Trout.
- The pool plaster is schedule for the week of November 14.

Training

Radio training (Ben, Brynn, Danny, Randy, Lynn, Chris, Zack and Mike)
Uniform Traffic Control Awareness (Ben, Brynn, Danny, Randy, Lynn, Chris, Zack and Mike)
Winter Safety and Winter Driving (Ben, Brynn, Danny, Randy, Lynn, Chris, Zack and Mike)

PHONE (505) 897-0503
FAX (505) 899-6541

Corrales Municipal Court

Memo

To: Scott Kominiak, Mayor

FROM: Michelle Frechette, Municipal Court Judge

RE: Monthly Financial Report for October 2016

DATE: November 1, 2016

FINES	$5,040.00
CORRECTION FEES	$2,360.00
DWI LAB FEES	$ -0-
DWI PREVENTION FEES	$ -0-
AUTOMATION FEES	$ 728.00
JUDICIAL EDUCATION FEES	$ 360.00
BOND FORFEITURE	$ -0-
TOTAL	**$ 8,488.00**

BALANCE OF BOND ACCOUNT	$0
BOND IN:	$ -0-
BOND OUT:	$ 560.00
PAID TO VOC	$ 203.00
REFENDED TO: POSTING PARTY	$ -0-
TOTAL BOND ACCOUNT BALANCE	**$-0-**

CC: VILLAGE COUNCIL MEMBERS
JOHN AVILA, VILLAGE ADMINISTRATOR
JENNIFER HISE, VILLAGE CLERK
TERRI GRAY, VILLAGE FINANCE OFFICER

4324 CORRALES ROAD, CORRALES, NEW MEXICO 87048

The Animal Adoption Resource Center of Corrales

Quarterly Report of Activities

Reporting Period

July 1 through September 30, 2016

COMPANION ANIMAL ADOPTION ACTION -

Intake: Total: 23 Dogs: 09 Cats: 14

Source: Corrales Animal Services(CAS)/ Owner Surrender (OS)/ CARMA (CAR)

CAS: 07 Dogs 12 Cats CAS Total: 19

OS: 02 Dogs 01 Cats OS Total: 03

CAR : 00` CAR Total: 00

Disposition:

Adopted (A): 10 A: 07 Dogs A: 03 Cats

Foster Care (F): 03 F: 00 Dogs F: 03 Cats

Awaiting Foster Care/Adoption (AW): AW: 01 Dogs 10 Cats

Other (O) Total : 03

Total Other: Returned to Owner (RTO): 00

Euthanized/Deceased (E/D) 02 E/D 01 dog 01 Cat

Transported to Sanctuary/Placement (T) 01 01 Dog

Total Other: 03

OTHER ACIVITIES:

Resource Referrals (Breed-Specific Preferences, Veterinary Care, Training Resources, etc.:

Total: 15

OTHER ACTIVITIES, Cont.

Community Events:

July:	**Ist Anniversary Reception**
	Preliminary Meeting: AARCC Animal Emergency Evacuation Plan
August:	**Volunteer Orientation Training**
September:	**Benefit Parking Lot Sale**

Submitted by The AARCC

_____

Marta S. Weber, Director, Principal Corporate Officer

Corrales MainStreet Quarterly Report
2016-2017

July – September

1. Tasks & Services

A. Planning – Contractor will be responsible for identifying and applying for funding for economic development projects.

1. Seek and acquire additional funding from various state and national sources to complete all required design phases of the "Pathways Project". Upon receipt of funding and governmental approvals, they will begin construction on one phase of the project.

1Q – Met with a landscape architect and learned that we can combine landscape and engineering design work with better interface and less expense so that is being researched. We will be determining criteria and asking for bids for design.

2. Contractor will actively research potential sources of funds for necessary and appropriate Village/Corrales MainStreet projects. Contractor shall advise the Village administration of such potential grants and, upon the specific approval and direction of the Village, shall timely prepare and submit grant applications for Village projects and programs.

1Q – Ongoing – we will be working with the Village to apply for some technical assistance with the EPA for a Green Streets Program.

3. Contractor will participate with the Village Master Tail Task Force to gain Council approval and acceptance of the Master Trails Plan.

1Q - Trails Plan is in the final draft stage and we are awaiting to see there is any input from MRGCD

4. Contractor will serve as an advisor to the Village on historic preservation issues and questions.

1Q – Ongoing – working with the Perea family and the Corrales Historical Society on obtaining historical designation for the Old School House which could allow them to apply for Historic Tax Credits for renovating the building.

B. Economic Development. Contractor will serve as a resource to local business and businesses considering locating in Corrales.

1. Contract will act as LEDA administrator for the Village, assuring that all applications for LEDA funding are tracked and reviewed for compliance with Village procedures. Applications for LEDA funding that meet all Village requirements will be presented to the Village for consideration.

1Q – LEDA Ordinance was submitted to John Appel on August 25 for his input.

2. In conjunction with Sandoval Economic Alliance, Sandoval County, Rio Rancho Chamber and Bernalillo, contractor will participate in regional marketing campaigns designed to drive customers to local businesses and events to keep monies spent on goods and services within the county.

1Q – No updates on this program but the new President of the Rio Rancho Regional Chamber is also interested so hopefully this can move forward.

1Q – Discover Corrales brochure was updated, reprinted and distributed for Balloon Fiesta and Corrales Harvest Festival visitors.

3. Produce and distribute media ads to promote the Village locally, regionally and nationally.

1Q – Worked with the merchants and put an ad in a Balloon Fiesta publication that went to Balloonists and RVer's plus was distributed at the NM True booth along with other information on Corrales

4. Encourage and collaborate with organizations such as the Albuquerque Convention and Visitors Bureau, New Mexico Tourism Department and Sandoval County Tourism Alliance to increase exposure of Corrales to potential visitors.

1Q – Ongoing

5. Ongoing development and refinement to Contractor's website, to include a monthly updated community events calendar.

1Q – Research has begun to update our website

6. Develop, implement and continue to coordinate ongoing events such as: 4th of July Parade, Starlight Parade, Scarecrow Festival and Wine Fair which are designed to attract people to Corrales.

1Q – The 4th of July Parade was held with great attendance

7. Work with Emily Stoval – Site Director at Casa San Ysidro – to identify the number and types of visitors to Casa San Ysidro. Use this information to identify opportunities to enhance the visitor experience by linking events and opportunities occurring within the Village, that, when combined, prolong their stay in the Village.

1Q – Ongoing

8. Investigate the opportunity to promote Agritourism within the Village. Engage stakeholders to develop a comprehensive list of Agritourism activities within the Village. Investigate opportunities to integrate trails identified in the Master Trail Plan and Agritourism sites.

1Q – Ongoing

D. MainStreet News. Quarterly, produce and mail to Corralenos and other interested parties, the MainStreet News. Space in the publication will be made available for educational and public service announcements.

1Q – The new publication is called Corrales In Focus and 2 issues have gone out with good reviews.

E. Corrales Arts and Cultural Community. Contractor will continue to support and participate in initiatives and programs to develop the Village as an Arts and Cultural Community.

1Q – Ongoing – attending meetings and working with local arts groups

F. Organization

1. Contractor will employ a full-time Executive Director whose primary focus will be economic development in the Village.

1Q – Completed

3. Contractor will maintain existing database of commercial property located in the Village. Contractor will identify vacancies and actively engage owners of vacant commercial properties, commercial real estate agents and potential business owners, including current home-based businesses that may be looking to expand, to fill available commercial space.

1Q – Database is up to date.

4. Contractor will revise and complete resource material for businesses and individuals wishing to start and/or expand a business in Corrales. At a minimum, the materials will include Village requirements and procedures for opening, expanding and maintaining a business within the Village of Corrales.

1Q – Corrales MainStreet will work with the village website developer to assure that a coordinated web presence is available for new businesses.

5. Contractor will continue to represent Corrales with Sandoval Economic Alliance and the Sandoval County Business Development Department and will continue the relationship with the Rio Rancho Regional Chamber of Commerce.

1Q – Ongoing – Karen Delle Site and Sandy Rasmussen attended the Chamber luncheon in September to hear about what our neighbors are doing (Rio Rancho and Bernalillo)

6. Contractor will host quarterly business outreach events – Meet the Street and/or Business After Hours – designed to offer local businesses an opportunity to network with fellow business owners and, as appropriate, provide presentations on products that may assist the business owners in their operations. Village commits to having representation at each event.

1Q – Trying to schedule – Executive Director injury slowed the process

7. Contractor will act as a conduit between local businesses and the Village to proactively identify and assist in resolving any impediments to opening and or running a business in Corrales.

1Q – Ongoing but waiting for verification that codification process is complete on the ordinances

8. Contractor will develop a presentation aimed at Commercial Real Estate Brokers to highlight the "Open for Business" aspects of Corrales. The presentation will be designed to present the positive aspects of locating a business in Corrales as well as an avenue to dispel the myths associated with doing business in Corrales. The Mayor and Corrales MainStreet will present at the event.

1Q – Ongoing

C. Promotion, Advertising and Tourism. Develop and implement initiatives that will increase the number of visitors to Corrales.

1. Contractor will act as the contact person for any publicity related to economic development in the Village. Contractor will initiate publicity when appropriate and in conjunction with the Village government.

1Q – Ongoing

2. Update, print and distribute brochures, directories and other promotional materials.

2. Contractor will add 15 new business memberships – to include home-based businesses to its rolls over the next 12 months.

1Q – Membership is at 69 members – 21 of which are businesses that are not in the MainStreet Corridor

3. Contractor will maintain its State Certification as a MainStreet Community as identified in the Memorandum of Understanding between the Village of Corrales and New Mexico MainStreet.

1Q – Ongoing

4. Contractor shall, quarterly, present to the Village, a written report detailing status of deliverables defined in the contract. In addition, contractor will maintain regular communications with the Village Administrator and other appropriate Village officials to ensure grant applications and tasks to not conflict with other Village activity.

1Q - Ongoing

Corrales MainStreet 2016-2017
July - September

	1st Qtr. (July-Sept.)	2nd Qtr. (Oct.- Dec.)	3rd Qtr. (Jan.– Mar.)	4th Qtr. (Apr.-June)	Comments
Volunteer Hours					
A) Corrales Mainstreet	876.5				$ 4,630.50 value of YTD volunteer hours @$19.77 per hour
Required Staff Meetings					
A) Quarterly Meetings					Sandy could not travel to the Quarterly...
B) Regional/National					
Events					
A) Garden Tour					
2015-2016				1050	
2016-2017					
B) Business After Hours/ Meet the Street					
2015-2016					
2016-2017					
C) Starry Night					
2015-2016	177				
2016-2017	182				
D) 4th of July Parade					
2015-2016	X				
2016-2017	X				
E) Starlight Parade					
2015-2016		X			
2016-2017					
F) Scarecrow Festival					
2015-2016		X			
2016-2017		X			
G) Wine Fair					
2015-2016	337				
2016-2017					
H) Jolly Holidays					
2015-2016		X			
2016-2017					
I) Ribbon Cuttings					
2015-2016		2			
2016-2017		0			
J) Shop Local/Shop Small Promotions					
2015-2016		X			
2016-2017					

Economic Development					
A) Training					
B) Communication					
C) New Businesses	**1**				**Evergreen Herbal Market**
D) Closed Businesses	**1**				**Jitters N Junk**
E) Business Contacts					
Promotion					
A) Website					
Updated Calendar	**Yes**				
B) Media Ads	**1**				**Balloon Fiesta Publication**
C) MainStreet News	**10,000**				
D) This Week in Corrales	**16**				
E) Central Region Tourism Board					
F) Sandoval County Tourism Alliance	**2**				

Corrales MainStreet

Summary by Quarter 2016-2017

1st Quarter - July – September 2016

- Organized 4th of July Parade
- Held Starry Night Fundraiser
- Published Summer issue of Corrales in Focus - 10,000 copies
- Updated Discover Corrales and distributed in time for the Balloon Fiesta
- Put ad in a Balloon Fiesta publication promoting Corrales along with ads from merchants
- Sent out This Week in Corrales in a new format through Constant Contact
- Completed draft of the LEDA Ordinance and sent to John Appel for his input
- Signed Corrales up for participation Shop Small Saturday
- Updated Community calendar
- Reached out to businesses that are thinking of locating to the Village

VILLAGE OF CORRALES
GOVERNING BODY
Draft Minutes
OCTOBER 25TH, 2016
6:30 P.M.
COUNCIL/MUNICIPAL COURT CHAMBERS

GOVERNING BODY PRESENT:

Present: Councilor David Dornburg, Councilor Enno Garcia-Miera, Councilor George Wright, Councilor Jim Fahey, Councilor Pat Clauser, Councilor Philip Gasteyer, Scott A. Kominiak

CALL TO ORDER AND PLEDGE OF ALLEGIANCE:

APPROVAL OF AGENDA:

Motion: Approval of agenda, **Action:** Approve, **Moved by** Councilor Jim Fahey, **Seconded by** Councilor Enno Garcia-Miera. **Vote:** Motion carried by unanimous roll call vote (**summary:** Yes = 6). **Yes:** Councilor David Dornburg, Councilor Enno Garcia-Miera, Councilor George Wright, Councilor Jim Fahey, Councilor Pat Clauser, Councilor Philip Gasteyer.

PRESENTATION BY VISITORS:

REPORTS BY OFFICERS:

1. Administrators Report
2. Department Reports
3. Committee Reports

COUNCILORS FORUM: *This section is for information purposes only, not for discussion and debate, to inform the Governing Body of an issue/concern that would not be addresses on the agenda during the business session.*

Kudos Village administration Lynn and Chris work on the constituent problem that has gone on since 2013 flood.
Councilor Wright
Thank you Police department on finding and helping with a camp fire and dismantled the camp
Councilor Clauser
Meet with tree advisory committee Fred Hashimoto – *Mayor*
Budget work-study would like to have work-study in November and December

PETITIONS:

CORRALEÑOS FORUM: *This section is for information purposes only, not for discussion and debate, to inform the governing body of an issue or concern that would not be addresses on the agenda during the business session. There is a 3-minute time limit, unless approved by the Presiding Officer.*

CONSENT AGENDA: *All matters listed under the Consent Agenda are considered to be routine by the Village Council and will be enacted by one motion. There will not be separate discussion of these items. If discussion is desired, that item will be removed from the Consent Agenda and will be considered separately.*

4. Approval of October 11th, 2016 meeting minutes

Approval of Resolution no. 16-36, a resolution declaring support for Sandoval County Mill Levy for supporting UNM Sandoval Regional Medical Center, Inc. and Presbyterian Rust. (Removed from consent agenda)

Motion: Approve the consent agenda, removing item #5, **Action:** Approve, **Moved by** Councilor Jim Fahey, **Seconded by** Councilor Pat Clauser. **Vote:** Motion carried by unanimous roll call vote (**summary:** Yes = 6). **Yes:** Councilor David Dornburg, Councilor Enno Garcia-Miera, Councilor George Wright, Councilor Jim Fahey, Councilor Pat Clauser, Councilor Philip Gasteyer

ITEMS REMOVED FROM CONSENT AGENDA:

5. Approval of Resolution no. 16-36, a resolution declaring support for Sandoval County Mill Levy for supporting UNM Sandoval Regional Medical Center, Inc. and Presbyterian Rust.

Motion: To Deny resolution 16-36, **Action:** Adjourn, **Moved by** Councilor Jim Fahey, **Seconded by** Councilor Enno Garcia-Miera.

Motion: To postpone resolution 16-36, **Action:** Postpone, **Moved by** Councilor George Wright, **Seconded by** Councilor Enno Garcia-Miera. **Vote:** Motion passed (**summary:** Yes = 3, No = 3) **Yes:** Councilor Enno Garcia-Miera, Councilor George Wright, Councilor Pat Clauser. **No:** Councilor David Dornburg, Councilor Jim Fahey, Councilor Philip Gasteyer. Mayor breaks tie vote NO

Donnie Leonard was asked to answer any questions that the council had on Sandoval County Mill Levy for supporting UNM Sandoval Regional Medical Center, Inc. and Presbyterian Rust.

Vote: To deny resolution 16-36 Motion failed (**summary:** Yes = 5, No = 1).**Yes:** Councilor David Dornburg, Councilor Enno Garcia-Miera, Councilor George Wright, Councilor Jim Fahey, Councilor Philip Gasteyer. **No:** Councilor Pat Clauser.

CONFIRMATION OF APPOINTMENTS:

ANNOUCEMENTS/FUTURE AGENDA ITEMS:

OLD BUSINESS:

6. Discussion and consideration to publish and post Ordinance no. 16-014, An ordinance relating to persons engaged in business in The Village of Corrales; amending chapter 10, articles II and III of the Code of Ordinances of the Village (being Ordinances No. 246 and No. 187, respectively); amending the requirements for business registrations, vendor licenses and fees; providing For and regulating mobile vending units, including Mobile food units; providing penalties for violations.

Motion: To publish and post Ordinance 16-014, **Action:** Approve, **Moved by** Councilor David Dornburg, **Seconded by** Councilor George Wright

Al Knight – requested that the governing body hold off on the publish and post until the Village states what constitutes a business in the Village.

Vote: Motion passed (**summary:** Yes = 5, No = 1). **Yes:** Councilor David Dornburg, Councilor Enno Garcia-Miera, Councilor Jim Fahey, Councilor Pat Clauser, Councilor Philip Gasteyer. **No:** Councilor George Wright.

NEW BUSINESS:

ADJOURN:

Mayor Scott A. Kominiak Adjourned meeting.

Passed and approved this 15th day of November, 2016

_____

Jennifer A. Hise, Village Clerk

Summary of Changes to Building Official Mutual Aid Agreement

The Town of Bernalillo recognized that a specifying the costs associated with covering an absence for an extended period of time was more reasonable for expedient operation than to negotiate a fee for services with every event. The costs may be different between entities and covering those costs allows the entities to assist each other with minimal risk involved.

They have asked us to amend our agreement before having their Council consider the matter.

The Agreement is needed because a Certified Building Official is required to have local oversight of construction permitting. The Town of Bernalillo has a CBO and is developing another to cover absence. The Village of Corrales has one person to cover the task.

MUTUAL AID AGREEMENT – BUILDING OFFICIALS

WHEREAS the governmental units of The Town of Bernalillo and the Village of Corrales in the state of New Mexico, have rendered mutual aid to one another in the past and anticipate a continuing demand for mutual aid and cooperation in the use of their personnel in the future, for the safety, health and welfare of the people of their governmental units during a time of absence of staff or emergency, hereby agree to dissolve the Memorandum of Agreement dated April 14, 2014 and enter into this Mutual Aid Agreement.

THEREFORE, the parties hereby agree that the departments of Planning and Zoning and specifically their Building Officials will render mutual aid to each other under the following conditions,

1. In the event of absence of staff or a serious man-made or natural emergency, the parties of this agreement shall cooperate in any effort to provide service, subject to the terms and conditions prescribed in this agreement, and to the extent possible.

2. The Town Administrator, or the Planning and Zoning Director, shall have the authority, in the event of absence of staff or serious emergency, to determine whether manpower and/or equipment shall be sent beyond the jurisdictional limits of its governmental unit.

3. It is the intention of this agreement to vest in each party the sole right to determine when its need will permit it to respond to a request by the other governmental unit.

4. Each governmental unit entering into this agreement shall continue to provide the same salaries, compensation for death or disability, and retirement and furlough payments, to their respective employees who are assigned to render aid or other assistance to the requesting governmental unit, as that employee would receive if on duty within the jurisdictional limits of the governmental unit by which he or she is employed.

5. It shall be the responsibility of the requesting community or governmental unit to notify the appropriate state or other agencies of governmental authority, in accordance with all applicable laws and/or policies.

6. *In the event of an absence of personnel exceeding five working days, the parties agree to pay a fee for service equal to personnel wages and benefits of the responding staff of the pertinent party.*

7. Any party to this agreement may, upon thirty (30) days written notice to all parties to this agreement, withdraw from further participation.

Formatted: Numbered + Level: 1 + Numbering Style: 1, 2, 3, … + Start at: 1 + Alignment: Left + Aligned at: 0.25" + Tab after: 0.75" + Indent at: 0.75"

Deleted: <#>In the event of a lengthy absence of personnel the parties to this agreement may negotiate a fee for services. ¶

EXECUTION OF AGREEMENT

IN WITNESS WHEREOF, the parties do sign and execute this Mutual Aid Agreement.

_____ _____
(Mayor Jack Torres, Town of Bernalillo) (Date)

_____ _____
(Scott A. Kominiak, Village of Corrales) (Date)

RECEIVED

OCT 27 2016

Village of Corrales

VILLAGE OF CORRALES

CORRALES, NEW MEXICO 87048
PHONE (505) 897-0502

FAX (505) 897-7217
EMAIL: info@corrales-nm.org
WEBSITE: www.corrales-nm.org

Boards/Commissions/Committee Application

Name: Dayton Voorhees **Date:** 10/27/16

Mailing Address: [redacted]

Street Address: [redacted]

Phone Numbers: **Home:** [redacted]

Office:

Mobile/Cell: [redacted]

E-Mail Address:

For which Board are you volunteering? Bike / Pedestrian

Briefly state your reason(s) for wanting to serve on this Board or Commission.

Have used bike & walking trails 40+ years.
Now have time to contribute

Briefly state your understanding of the key issue(s) facing this Board or Commission.

Review & advise Council re Master Trail Plan
Encourage bike/ped trail use
Coordinate with conservancy district re ditch trail use

Please list any experience that would be pertinent to your appointment to this Board/Commission.

40+ year village resident

Please use reverse side of paper for additional space if needed.

OFFICE USE ONLY

Received By: _____ **Date Application Received:** _____

Initial Application: ☐ **Renewal:** ☐

Mayor's Initials: _____ **Date of Confirmation:** _____

Term Expires: _____

4324 CORRALES ROAD
CORRALES, NEW MEXICO 87048
PHONE (505) 897-0502

VILLAGE OF CORRALES

FAX (505) 897-7217
EMAIL: info@corrales-nm.org
WEBSITE: www.corrales-nm.org

Boards/Commissions/Committee Application

Name: Ana Perea **Date:** 11-3-16

Mailing Address: [redacted]

Street Address:

Phone Numbers: **Home:** [redacted]

Office: [redacted]

Mobile/Cell: [redacted]

E-Mail Address: [redacted]

For which Board are you volunteering? Biking and Pedestrian

Briefly state your reason(s) for wanting to serve on this Board or Commission.

I want to be involved in community to improve community members access to walking and biking trails and trails access

Briefly state your understanding of the key issue(s) facing this Board or Commission.

As a avid cyclist, jogger and involved community member I have a good understanding of bike and pedestrian issues in the village of Corrales.

Please list any experience that would be pertinent to your appointment to this Board/Commission.

2011-2013 Board of Governors of Cien Aguas International School in Albuquerque N.M.
Co-owner of local Corrales Business.

Please use reverse side of paper for additional space if needed.

OFFICE USE ONLY

Received By: _____ **Date Application Received:** _____

Initial Application: ☐ **Renewal:** ☐

Mayor's Initials: _____ **Date of Confirmation:** _____

Term Expires: _____

Revised August 10, 2005 2:56 PM

VILLAGE OF CORRALES

ORDINANCE NO. 16-12

AN ORDINANCE RELATING TO DOG WASTE; AMENDING CHAPTER 6 (ANIMALS) OF THE CODE OF ORDINANCES OF THE VILLAGE, BEING ORDINANCE NO. 249, AS AMENDED AND SUPPLEMENTED; REQUIRING OWNERS AND CUSTODIANS OF DOGS TO REMOVE AND PROPERLY DISPOSE OF DOG EXCRETA; PROVIDING A PENALTY FOR VIOLATIONS.

WHEREAS, the Village Council, the governing body of the Village of Corrales ("Governing Body" and "Village", respectively) is informed that the Rio Grande in the reach from Santa Ana Pueblo south to Sandia Pueblo is designated as "impaired" due to the presence of pollutants, including fecal coliform bacteria; and

WHEREAS, the Governing Body is further informed that canine excreta are estimated to generate approximately thirty percent (30%) of the fecal coliform load on this reach of the Rio Grande; and

WHEREAS, the Village has agreed to cooperate with other local governmental bodies in a regional program to monitor and improve surface water quality under applicable permits issued or to be issued by the U.S. Environmental Protection Agency ("EPA") under the Clean Water Act; and

WHEREAS, it is therefore incumbent upon the Village to limit and, as far as reasonably possible, eliminate the presence of excreta from dogs in areas where they are likely to be incorporated into water runoff and thus become contributory to the contaminant load of the Rio Grande; and

WHEREAS, the Governing Body therefore finds that Chapter 6 (Animals) of the Code of Ordinances of the Village, being Ordinance No. 249, adopted November 24, 1992, as amended and supplemented, should be amended to require the prompt removal of canine excreta from public places and any property not that of the animal's owner or custodian.

NOW, THEREFORE, BE IT ORDAINED by the Governing Body of the Village of Corrales, New Mexico, that: the following provisions are hereby adopted as ordinances of the Village and shall be incorporated in Chapter 6 (Animals) of the Code of Ordinances:

Section 1. It shall be unlawful for any person to permit any dog to defecate on public or private property other than the property of the dog's owner, unless the waste so produced is immediately removed and properly disposed of by the person having custody of the dog.

Section 2. A violation of this ordinance shall be punishable in accordance with Sections 6-2 and 1-6 of the Code of Ordinances of the Village of Corrales.

SEVERABILITY CLAUSE: Should any section, paragraph, clause or provision of this Ordinance be held to be invalid or unenforceable for any reason, the invalidity or unenforceability of such section, paragraph, clause or provision shall not affect any of the remaining provisions of this Ordinance. The Governing Body of the Village of Corrales hereby declares that it would have passed this Ordinance and each section, subsection, sentence, clause, word or phrase thereof irrespective of any one or more sections, subsections, sentences, clauses, words or phrases being declared unconstitutional or otherwise invalid.

COMPILING CLAUSE: This Ordinance upon its adoption shall be compiled into and shall be a part of the Code of Ordinances of the Village of Corrales.

EFFECTIVE DATE AND PUBLICATION: This Ordinance shall become effective and be in full force and effect from and after its passage, publication and posting, according to law.

PASSED, APPROVED AND ADOPTED by the Governing Body of the Village of Corrales, New Mexico, this 15th day of November, 2016.

APPROVED:

_____
The Honorable Scott Kominiak
Mayor

ATTEST:

_____
Jennifer A. Hise
Village Clerk

VILLAGE OF CORRALES

ORDINANCE NO. 16-013

AN ORDINANCE RELATING TO PERMITTED SIGNS; PROVIDING THAT SIGNS RELATED TO POLITICAL CAMPAIGNS SHALL BE PERMITTED UP TO SIXTY (60) DAYS PRIOR TO THE ELECTION DATE.

WHEREAS, Subsection 8-97(3) of the Code of Ordinances of the Village of Corrales (the "Village"), being a part of Ordinance No. 135, adopted November 27, 1984, and as subsequently amended, provides that signs related to political campaigns may be permitted only up to 25 days prior to an election; and

WHEREAS, for most elections, including general elections and municipal elections, the early or absentee voting period is greater than 25 days, so that signs related to political campaigns could not be posted until after early or absentee voting has already begun; and

WHEREAS, the Village Council, the governing body of the Village, finds that the period during which signs related to political campaigns may be posted should be increased so that such signs may be posted for a reasonable period prior to the beginning of early and absentee voting.

NOW, THEREFORE, BE IT ORDAINED by the Governing Body of the Village of Corrales, New Mexico, that Subsection 8-97(3) of the Code of Ordinances of the Village of Corrales is amended to read, in its entirety:

(3) Signs related to political campaigns shall be permitted prior to an election on any premises. No one political sign including all its sides shall exceed 16 square feet in sign area. Such signs shall not be placed more than sixty (60) days prior to the election date, and such signs shall be removed within three (3) days after the election date.

SEVERABILITY CLAUSE: Should any section, paragraph, clause or provision of this Ordinance be held to be invalid or unenforceable for any reason, the invalidity or unenforceability of such section, paragraph, clause or provision shall not affect any of the remaining provisions of this Ordinance. The Governing Body of the Village of Corrales hereby declares that it would have passed this Ordinance and each section, subsection, sentence, clause, word or phrase thereof irrespective of any one or more sections, subsections, sentences, clauses, words or phrases being declared unconstitutional or otherwise invalid.

COMPILING CLAUSE: This Ordinance upon its adoption shall be compiled into and shall be a part of the Code of Ordinances of the Village of Corrales, as provided herein.

EFFECTIVE DATE AND PUBLICATION: This Ordinance shall become effective and be in full force and effect from and after its passage, publication and posting, according to law.

PASSED, APPROVED AND ADOPTED by the Governing Body of the Village of Corrales, New Mexico, this 15th day of November, 2016.

APPROVED:

_____
The Honorable Scott Kominiak
Mayor

ATTEST:

_____
Jennifer A. Hise
Village Clerk

VILLAGE OF CORRALES

ORDINANCE NO. 16-014

AN ORDINANCE RELATING TO PERSONS ENGAGED IN BUSINESS IN THE VILLAGE OF CORRALES; AMENDING CHAPTER 10, ARTICLES II AND III OF THE CODE OF ORDINANCES OF THE VILLAGE (BEING ORDINANCES NO. 246 AND NO. 187, RESPECTIVELY); AMENDING THE REQUIREMENTS FOR BUSINESS REGISTRATIONS, VENDOR LICENSES AND FEES; PROVIDING FOR AND REGULATING MOBILE VENDING UNITS, INCLUDING MOBILE FOOD UNITS; PROVIDING PENALTIES FOR VIOLATIONS.

WHEREAS, by Ordinance No. 187, adopted March 28, 1988 and codified as Article III of Chapter 10 of the Code of Ordinances of the Village of Corrales (the "Village"), the Village Council, the governing body of the Village ("Governing Body") established standards, license requirements and fees for vendors operating from stands and mobile units in the Village; and

WHEREAS, by Ordinance No. 246, adopted May 12, 1992 and codified as Article II of Chapter 10 of the Code of Ordinances of the Village, the Governing Body adopted requirements for business registration and fees as authorized by Sections 3-38-1 through 3-38-6, NMSA 1978; and

WHEREAS, it has been brought to the attention of the Governing Body that the Village ordinances and regulations regarding business registration and license fees, including particularly those applicable to mobile vendors such as mobile food units, are not entirely clear and do not account for changes in industry and commerce, particularly mobile food vendors and mobile food units, since the adoption of Ordinances No. 187 and No. 246; and

WHEREAS, the Governing Body finds that the Code of Ordinances should be amended to better provide for clarity in the licensing and regulation of businesses, and particularly mobile vendors, in the Village.

NOW, THEREFORE, BE IT ORDAINED by the Governing Body of the Village of Corrales, New Mexico, that:

Section 1. Chapter 10, Article II of the Code of Ordinances of the Village of Corrales, being Ordinance No. 246, adopted May 12, 1992, is amended to read, in its entirety, as follows:

ARTICLE II. BUSINESS REGISTRATION

Section 10-26. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Engaging in business means operating, conducting, doing, carrying on, causing to be carried on, or pursuing any business, profession, occupation, trade or pursuit for which the person conducting such business, profession, occupation, trade or pursuit is required to obtain a State taxpayer (CRS) identification number from the New Mexico Taxation and Revenue Department.

Person means any individual, male or female, estate, trust, receiver, cooperative association, club, corporation, company, firm, partnership, joint venture, syndicate, or other entity engaging in a business, profession, occupation, trade, pursuit or commercial activity.

Place of business means the premises within the Village, whether it be a personal residence, main business location or an outlet, branch or other location thereof, temporary or otherwise, where a person is engaging in business. Unless a construction contractor has at least one permanent business location within the Village, "place of business" includes each and every construction site where the contractor is engaged in business within the Village. Unless a person engaged in the business of selling real estate has at least one permanent business location within the Village, "place of business" includes each and every parcel of real property listed by, offered for sale by, or sold by that person within the Village.

Separate business means a business located or conducted at the same address as another registered business, whether or not owned by the same person, that is additional to and different from the other registered business. A business will be considered a separate business if it has a different name and it is not so related to the other business as to be a component part of the other business.

Section 10-27. Penalty for violation of article.

Any person convicted of a violation of any provision of this article shall be guilty of a misdemeanor and shall be punished in accordance with Section 1-6. Each day such violation is committed or permitted to continue shall constitute a separate offense and shall be punishable as such hereunder.

Section 10-28. Application to do business.

(a) All persons proposing to engage in business within the municipal limits of the Village shall apply for and pay a business registration fee for each outlet, branch, or location within the municipal limits of the Village prior to engaging in business. For a mobile vendor or operator of mobile vending units, each mobile vending unit that operates in the Village shall be deemed to be a single outlet, branch, or location, notwithstanding that it may be operated at various physical locations in the Village during the registration period.

(b) Any person filing an application for issuance or renewal of any business registration shall include in the application his or her current New Mexico Taxation and Revenue Department CRS identification number or evidence of application for a current CRS identification number to be issued by the Taxation and Revenue Department.

Section 10-29. Imposition of fee.

There is imposed on each business outlet, branch or location within the Village an annual business registration fee of thirty-five dollars ($35.00) for each calendar year. The fee is imposed pursuant to NMSA 1978, § 3-38-3, and shall be known as the "business registration fee." The business registration fee may not be prorated for business conducted for a portion of the year.

Section 10-30. Exemption from fee.

The Governing Body may by ordinance or resolution provide that businesses participating in a special event sponsored by the Village, but not otherwise engaged in business within the Village, may be exempted from the requirement to obtain a business registration or pay a business registration fee.

Section 10-31. Late fee.

There shall be imposed upon each delinquent registration fee a late fee in the amount of $10.00 if a new business does not pay the registration fee before it commences business, or the annual renewal fee is not paid prior to March 16.

Section 10-32. Renewal.

Prior to March 16 of each year, any person with a place of business in the Village, and subject to this article shall apply for renewal of business registration with the Village Clerk's office. Business owners whose businesses are still in operation and have not renewed their business registration by April 1 of the current year may be cited into municipal court and, upon conviction, may be penalized as provided in Section 10-27.

Section 10-33. Enforcement.

In addition to the penalties provided for violation pursuant to Section 10-27, this article may be enforced by appropriate legal or administrative action brought to prevent the conduct of business in violation of this article, restraining, correcting, or abating the violation of this article or to prevent the occupancy of a building, structure or land on which the business is located, or to withhold the issuance of permits or inspections, as appropriate.

Section 2. Chapter 10, Article III of the Code of Ordinances of the Village of Corrales, being Ordinance No. 187, adopted March 28, 1988, is amended to read, in its entirety, as follows:

ARTICLE III. VENDORS

Division 1. Generally

Section 10-56. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Mobile food unit means any vehicle, truck, trailer, wagon, push cart or other unit that is moveable from place to place, whether or not self-propelled, and from which any person sells or dispenses food, beverages or any prepared food product intended for human consumption. The term *mobile food unit* does not include (i) vehicles engaged in the delivery of food, beverages and food products at wholesale to restaurants, bars, hotels, inns, retail food stores, event centers and similar enterprises, or (ii) vehicles engaged in the home delivery of dairy and agricultural products and other food, beverages and food products to regular retail customers on account and along established, regular delivery routes, or (iii) vehicles and operators making one-time deliveries of food, beverages or food products in response to a

specific request of the recipient.

Mobile food vendor means any owner or operator of a mobile food unit.

Public street or sidewalk means and includes all areas legally open to public use as public streets, sidewalks, pathways, roadways, highways, parkways, alleys, and any other public way.

Stand means any newsstand, table, bench, booth, rack, handcart, pushcart or any other fixture or device not exceeding one hundred (100) square feet in area and which is not required to be licensed or registered by the Motor Vehicle Division of the New Mexico Taxation and Revenue Department, used for the display, storage, transportation or sale of articles offered for sale by a vendor.

Vendor means any person, including an employee or agent of another, who sells or offers to sell food, beverages, goods or merchandise on any public street or sidewalk, or at any other location with the written permission of the owner thereof, from a stand, mobile food unit, or motor vehicle or from his or her person, or one who travels by foot, wagon, mobile food unit, motor vehicle, pushcart or any other method of transportation from house to house or street to street selling or offering to sell food, beverages, goods or merchandise.

Section 10-57. Restrictions applicable to all vendors.

(a) *Obstruction or impedance of traffic prohibited.* No vendor shall, under any circumstances:

(1) Obstruct or impede motor vehicle traffic, pedestrian traffic, emergency vehicle access, bicyclists or trail riders, or create any hazard by obstructing the view of motor vehicle traffic, bicyclists, trail riders or pedestrians, even if the vendor's stand, vehicle or merchandise is outside of the public right-of-way; or

(2) Have any apparatus connected to or attached to a building, vehicle or stand which hangs over any public right-of-way or is less than seven (7) feet above any area designated, designed or intended for the passage of pedestrians; or

(3) Obstruct or impede access to the entrance of any building or driveway; or

(4) Come to a standstill or park for the purpose of conducting business on or within fifteen (15) feet of the pavement on Corrales Road (State Road 448) or Loma Larga Road; or

(5) Come to a standstill or park for the purpose of conducting business for a period of more than ten (10) minutes at any particular location on or within the right of way of any public street other than Corrales Road and Loma Larga Road.

(b) *Locations and hours of operation.* A vendor holding an appropriate Village license for the vending activity shall be allowed to engage in the business of vending:

(1) On properties owned by the Village, only in accordance with a permit issued by the Village specifying the location, dates, hours and other conditions of such vending business, and only in strict accordance with the terms of the permit;

(2) On properties zoned C – Neighborhood commercial zone or M – municipal, public and quasi-

public zone (but not including properties owned by the Village), only between the hours of 7:00 a.m. and 9:00 p.m.; and

(3) On properties zoned for professional office, rural residential and agricultural use (A-1, A-2 and O zones) and in the H – historical zone, and on all public rights of way within or abutting such zones, only between the hours of 9:00 a.m. and 8:00 p.m.

(c) *Removal of trash.* All trash and debris accumulating at the location or within one hundred (100) feet of the location of any vending stand or mobile food unit shall be collected by the vendor no later than the close of business each day and shall be removed from the vicinity and properly disposed of by the vendor. Such trash and debris shall not be deposited in any solid waste container serving any private or public property other than that owned or leased by the vendor, except with the specific written permission of the property owner.

(d) *Music and loudspeakers.* Amplified music or loudspeakers shall not be employed by any vendor, except that a loudspeaker playing music at moderate volume may be employed by the operator of an ice-cream truck or similar traveling mobile food vendor to announce the vendor's presence in the neighborhood.

(e) *Electrical connections.* A safe electrical utility hookup shall be required for any stand or mobile food vendor requiring electrical utility service for its operation. Electrical wires or cables shall be suspended at least ten (10) feet overhead, or shall be covered or buried sufficiently to ensure that they do not present a hazard to pedestrians. Gasoline or diesel generators are not permitted.

Section 10-58. Mobile food units.

(a) *Mobile food units generally.* A mobile food unit may be parked or stationed for a period longer than ten (10) minutes on a property zoned C – Neighborhood commercial zone or M – Municipal, public and quasi-public zone with the written permission of the landowner, and subject to the requirements of Section 10-57 and the following provisions:

(1) The mobile food unit shall not be parked or stationed on any single lot or property for a cumulative period of more than twenty-four (24) hours during any seven (7) day period, unless the mobile food unit is included as an element of an approved site development plan.

(2) The mobile food unit shall not be parked or left on the property overnight.

(3) The mobile food unit may include signage on the unit. In addition, one a-frame or similar moveable sign with a total surface area of no more than 48 square feet, including both sides of a two-sided sign, may be displayed on the premises during hours of operation only. No permanent signage shall be allowed.

(4) Only food, beverages and prepared food products shall be sold from the mobile food unit.

(5) Seating for up to eight (8) persons may be provided on the premises. Umbrellas, if any, shall be firmly affixed to the ground or to heavy tables or fixtures to ensure safety.

(6) At least one trash receptacle shall be provided within twenty (20) feet of the point of sale and an additional trash receptacle shall be provided at the seating area, if any.

(7) Nearby sanitary facilities (rest rooms) shall be mandatory for any mobile food unit serving hot foods. The location of the sanitary facilities shall be identified in the vendor's license application along with written permission of the property owner for their use. Such sanitary facilities shall be clearly marked and shall be open at all times when the mobile food unit is operational.

(b) *Parking*. There shall be adequate off-street parking to accommodate the mobile food unit and its customers along with other businesses, institutions or activities on the premises. Where the mobile food unit is located on a property subject to an existing site development plan, the number of off-street parking spaces remaining available on the property, after deducting parking spaces occupied by the mobile food unit and any associated activities or facilities such as seating and trash receptacles, shall not be less than the number required under Section 18-39.

Section 10-59. Penalty for violation of article.

Any person or business operating as a vendor without first obtaining a vendor license as required by this article or otherwise violating any provisions of this article shall, upon conviction, be punished in accordance with Section 1-6. In addition, this article may be enforced by appropriate legal or administrative action brought to prevent the conduct of business or vending in violation of this article, restraining, correcting, or abating the violation of this article or to prevent the occupancy of a building, structure or land on which the vending business in violation of this article s is located, or to withhold the issuance of permits or inspections, as appropriate.

Division 2. License

Section 10-71. License required.

It shall be unlawful for any vendor to sell, display or offer for sale any food, beverage, goods or merchandise without first obtaining a vendor license from the Village.

Section 10-72. Application.

The application for a vendor's license shall contain all information relevant and necessary to determine whether a particular license may be issued, including but not limited to:

(1) Proof of the identity and business address of the applicant;

(2) A brief description of the nature and character of the food, beverages, goods or merchandise to be sold;

(3) If employed by another, the name and business address of the employing person, firm, association, organization, company or corporation;

(4) If a motor vehicle is to be used in the vending business, a description of the vehicle together with a copy of the motor vehicle registration and the license number;

(5) A description of the proposed location of the vending business;

(6) Written permission of the property owner upon which the goods, wares or merchandise are to be sold, except for itinerant peddlers engaged strictly in door-to-door sales;

(7) Written certification of availability of adequate off-street parking spaces, including handicapped parking spaces if required by statute or Village ordinance, except for itinerant peddlers engaged strictly in door-to-door sales;

(8) Proof of a valid State gross receipts tax (CRS) identification number and an executed acknowledgment of the vendor's responsibility to correctly report the location of retail sales in the Village for gross receipts tax purposes;

(9) A fully executed agreement under which the vendor and the owner of the property where the vending business will be located, if any, agree to indemnify and hold the Village harmless from and against all claims, liabilities, damages, losses and expenses, including attorney's fees, arising out of any bodily injury, illness or death or any other injury or for property damage, caused by the negligent act or omission of the vendor; and

(10) All other information required under Sections 10-57 and 10-58.

Section 10-73. Fees; exemptions.

(a) Before conducting business or operating within the Village limits, every vendor shall obtain a vendor permit for such conduct of business from the Village Clerk, and upon application for such permit shall pay a permit fee in the amount of one hundred dollars ($100.00). The permit shall be valid during the calendar year in which issued, and shall expire on the last day of January of the subsequent calendar year, unless renewed upon application and payment of the required fee for the subsequent calendar year. If a vendor operates more than one stand or mobile food unit within the Village at any time, a separate permit shall be required for each stand or mobile food unit. The vendor permit required under this subsection shall be in addition to any business registration required under Article II of this Chapter.

(b) Exemptions from permit fees shall be as follows:

(1) Residents within the Village limits may hold garage sales on their lots or property no more than twice yearly for a maximum of three (3) consecutive days each time, so long as the merchandise is from their home or property.

(2) Church and civic clubs that hold events to raise money to be used in the Village or traditional fiestas shall be exempt from paying a vendor's permit fee; provided, that such events be no more than semiannual and shall not last for more than three (3) consecutive days.

Section 10-74. License to be carried; transfer prohibited.

(a) The license issued to a vendor under this article shall be carried with the vendor while he or she is engaged in the business of vending.

(b) Vendor's licenses shall be used only by the person or business to whom they were issued and may not be transferred to any other person or business.

Section 10-75. Suspension or revocation.

(a) Any license issued under this article may be suspended or revoked for any of the following reasons:

(1) Fraud or misrepresentation in the application for the license;

(2) Fraud or misrepresentation in the course of conducting the business of vending;

(3) Conducting the business of vending contrary to the conditions of the license;

(4) Conducting the business of vending in such a manner as to create a public nuisance or constitute a danger to the public health, safety or welfare.

(b) Upon suspension or revocation of a license under this article, the Village shall deliver written notice to the license holder stating the action taken and the reasons supporting such action. The written notice shall be delivered to the license holder's place of business or mailed to the license holder's last known address.

Section 10-76. Appeals.

Persons who are denied licenses under this article or whose licenses have been suspended or revoked may appeal such decision by filing a written notice of appeal with the Governing Body. The appeal must be filed within ten (10) business days after receipt of the notice of denial, suspension or revocation. The Governing Body shall hear and determine the appeal and the decision of the Governing Body thereon shall be final.

SEVERABILITY CLAUSE: Should any section, paragraph, clause or provision of this Ordinance be held to be invalid or unenforceable for any reason, the invalidity or unenforceability of such section, paragraph, clause or provision shall not affect any of the remaining provisions of this Ordinance. The Governing Body of the Village of Corrales hereby declares that it would have passed this Ordinance and each section, subsection, sentence, clause, word or phrase thereof irrespective of any one or more sections, subsections, sentences, clauses, words or phrases being declared unconstitutional or otherwise invalid.

COMPILING CLAUSE: The amended sections of the Village Code adopted pursuant to this Ordinance shall be compiled as a part of the Code of Ordinances of the Village of Corrales, as provided herein.

EFFECTIVE DATE AND PUBLICATION: This Ordinance shall become effective and be in full force and effect from and after its passage, publication and posting, according to law.

PASSED, APPROVED AND ADOPTED by the Governing Body of the Village of Corrales, New Mexico, this 15th day of November, 2016.

APPROVED:

_____

The Honorable Scott Kominiak
Mayor

ATTEST:

_____

Jennifer A. Hise
Village Clerk

EXPLANATORY MEMO TO COUNCIL

Item: Ordinance No. 16-015

Subject: Maximum jail time for cases cited into Municipal Court

Purpose: To explicitly limit the maximum jail sentence to 179 days in Municipal Court cases involving multiple charges arising from the same incident or transaction.

Summary: There is no statutory provision for jury trials in the Municipal Court, and never has there been such a provision. All cases in municipal courts are handled as bench trials where the judge hears the case, there is no jury. The municipal courts are not courts of record and do not have the resources to handle jury trials.

The Municipal Court has jurisdiction only over misdemeanors and petty misdemeanors, which generally carry a potential penalty of no more than 90 days in jail (up to 179 days for a few offenses). However, if a defendant is charged with multiple offenses arising from the same incident or transaction, the potential cumulative jail sentence could exceed 179 days. For example, a defendant charged with DWI (second or third offense) and also for driving on a revoked or suspended license would be facing a potential jail sentence of 179 days on ***each*** of those offenses, for a total of 358 days in jail (the minimum, mandatory jail sentences are shorter and the municipal court doesn't impose sentences of this length, as the magnitude of the cases don't merit such sentences). Also the court frequently has multiple charges of failure to appear on traffic cases, which causes the potential jail time to be more than 179 days, if given as consecutive sentences.

In a number of appellate cases, the New Mexico Courts have held that the right to trial by jury does not extend to misdemeanors and petty misdemeanors where the potential jail sentence does not exceed 179 days. The most significant of those cases for present purposes is *State v. Sanchez*, 109 N.M. 428, 786 P.2d 42 (1990). In this case the New Mexico Supreme Court addressed the question of multiple charges arising from the same incident or transaction, and held that if the total ***possible*** jail sentence on all charges exceeded 179 days, the defendant would be entitled to a jury trial.

Judge Michelle Frechette has observed, quite correctly, that the Village Code should be amended to limit the potential jail sentence to 179 days. This will provide a basis for the Judge to deny any motion for a jury trial. This provision appears to have been previously overlooked in our sentencing provisions. The judge is currently required to issue an order in cases with substantial jail time exposure, which is time intensive. This ordinance will resolve that problem.

Submitted by: John L. Appel, Coppler Law Firm, P.C.
The Honorable Michelle Frechette, Municipal Judge

VILLAGE OF CORRALES

ORDINANCE NO. 16-015

AN ORDINANCE RELATING TO GENERAL PENALTIES FOR CODE VIOLATIONS; AMENDING SECTION 1-6 OF THE VILLAGE CODE; PROVIDING THAT THE MAXIMUM TERM OF IMPRISONMENT FOR MULTIPLE OFFENSES ARISING FROM THE SAME INCIDENT OR TRANSACTION SHALL BE NO GREATER THAN 179 DAYS.

WHEREAS, Section 1-6 of the Code of Ordinances (the "Village Code") of the Village of Corrales (the "Village"), being a part of Ordinance No. 244, adopted March 10, 1992, and as subsequently amended, provides that, with certain exceptions, the maximum term of imprisonment for any violation of the Village Code shall be ninety (90) days; and

WHEREAS, a defendant may be charged with multiple offenses in violation of the Village Code arising out of the same incident or transaction, so that the cumulative maximum penalty upon conviction for all such offenses could conceivably include more than six months of imprisonment; and

WHEREAS, the New Mexico Supreme Court in ***State v. Sanchez***, 1990-NMSC-012, 109 N.M. 428, 786 P.2d 42, held that a defendant facing a possible sentence exceeding six months of imprisonment should be entitled to a trial by jury; and

WHEREAS, there is no statutory or regulatory provision for jury trials in the Municipal Court, and jury trials are not available in that Court; and

WHEREAS, the Village Council, the governing body of the Village, on the recommendation of the Municipal Judge and the Municipal Prosecutor, finds that Section 1-6 of the Village Code should be amended to clarify that a defendant in the Municipal Court shall in any event face a potential sentence of imprisonment for no more than 179 days for all offenses arising out of the same incident or transaction, without changing any other provision thereof.

NOW, THEREFORE, BE IT ORDAINED by the Governing Body of the Village of Corrales, New Mexico, that Subsection 1-6(a) of the Code of Ordinances of the Village of Corrales, being a part of Ordinance No. 244, adopted March 10, 1992, and as further amended, is hereby amended to read, in its entirety:

> (a) *Maximum penalty.* Wherever in this Code, or any ordinance or resolution of the Village, or rule, regulation or order promulgated by an officer or agency of the Village under authority duly vested in him or it, an act is prohibited or is declared unlawful or an offense or a misdemeanor, unless a lesser maximum penalty or a specific penalty is established by ordinance for the particular offense, the maximum penalty for such violation shall be as follows:

(1) Except for those violations of ordinances described in subsections (a)(2) and (a)(3) of this section, a fine of not more than $500.00 or imprisonment for not more than 90 days, or both; provided, however, that in all cases the maximum period of imprisonment for multiple violations arising out of the same incident or transaction shall not exceed one hundred seventy-nine days (179 days);

(2) For violations of an ordinance prohibiting driving a motor vehicle while under the influence of intoxicating liquor or drugs, a fine of not more than $999.00 or imprisonment for not more than 179 days, or both; and

(3) For violations of an industrial user wastewater pretreatment ordinance as required by the United States Environmental Protection Agency; a fine of not more than $999.00 a day for each violation.

SEVERABILITY CLAUSE: Should any section, paragraph, clause or provision of this Ordinance be held to be invalid or unenforceable for any reason, the invalidity or unenforceability of such section, paragraph, clause or provision shall not affect any of the remaining provisions of this Ordinance. The Governing Body of the Village of Corrales hereby declares that it would have passed this Ordinance and each section, subsection, sentence, clause, word or phrase thereof irrespective of any one or more sections, subsections, sentences, clauses, words or phrases being declared unconstitutional or otherwise invalid.

COMPILING CLAUSE: This Ordinance upon its adoption shall be compiled into and shall be a part of the Code of Ordinances of the Village of Corrales, as provided herein.

EFFECTIVE DATE AND PUBLICATION: This Ordinance shall become effective and be in full force and effect from and after its passage, publication and posting, according to law.

PASSED, APPROVED AND ADOPTED by the Governing Body of the Village of Corrales, New Mexico, this 15th day of November, 2016.

APPROVED:

_____
The Honorable Scott Kominiak
Mayor

ATTEST:

_____
Jennifer A. Hise
Village Clerk

KeyCite Yellow Flag - Negative Treatment
Declined to Follow by U.S. v. Bencheck, 10th Cir.(Okla.), February 27, 1991

109 N.M. 428
Supreme Court of New Mexico.

STATE of New Mexico, Plaintiff–Appellee,
v.
Jesus Martinez SANCHEZ, Defendant–Appellant.

No. 18750.
|
Feb. 5, 1990.

Misdemeanant was convicted in magistrate court of misdemeanors having combined maximum statutory penalty of nine months, and sentence of 120 days' incarceration and five months' supervised probation was imposed. Misdemeanant appealed. The District Court denied misdemeanant's jury demand and, after bench trial, found misdemeanant guilty and imposed same sentence. Misdemeanant appealed. Upon certification by Court of Appeals, the Supreme Court, Sosa, C.J., held that in determining constitutional right to jury trial, court should have considered objective measure of combined maximum statutory penalties rather than subjective measure of actual penalty threatened at commencement of trial.

Reversed and remanded.

Baca, J., dissented and filed opinion.

West Headnotes (2)

[1] Jury
Operation and effect

Even valid waiver of right to jury trial on misdemeanor charges in magistrate court would not have precluded misdemeanant from requesting jury on de novo appeal to district court. SCRA 1986, Rules 5–605, subd. A, 6–703, subds. A, H; Const. Art. 2, § 12.

4 Cases that cite this headnote

[2] Jury
Offenses in general

In determining constitutional right to jury trial of defendant charged with more than one petty crime arising from single incident, court should consider objective measure of combined maximum statutory penalties rather than subjective measure of actual penalty threatened at commencement of trial; overruling *State v. James*, 76 N.M. 416, 415 P.2d 543. U.S.C.A. Const.Amends. 6, 14; Const. Art. 2, § 12.

8 Cases that cite this headnote

Attorneys and Law Firms

**42 *428 Jacquelyn Robins, Chief Public Defender, Linda Yen, Asst. Appellate Defender, Santa Fe, for defendant-appellant.

Hal Stratton, Atty. Gen., Patricia Gandert, Asst. Atty. Gen., Santa Fe, for plaintiff-appellee.

Marc A. Gordon, Carlsbad, Trial Counsel.

OPINION

SOSA, Chief Justice.

{ 1} Defendant Jesus Martinez Sanchez appeals his convictions of driving with a suspended or revoked license and driving while under the influence of intoxicating liquor (DWI), contrary to NMSA 1978, Sections 66–5–39 (Repl.Pamp.1984, now Repl.Pamp.1989) and 66–8–102 (Repl.Pamp.1987). Defendant contends, because the aggregate, maximum, authorized statutory penalty for his convictions amounted to more than 180 days incarceration, the district court erred **43 *429 in denying his demand for jury trial on his appeal *de novo* from the magistrate court.

 © 2016 Thomson Reuters. No claim to original U.S. Government Works.

{ 2} Our jurisdiction is authorized by the provisions of NMSA 1978, Section 34–5–14(C) (Repl.Pamp.1981), based upon certification by the New Mexico Court of Appeals. The controlling issue concerns the constitutional right to trial by jury and is of substantial public interest that should be determined by the supreme court. Based upon the following discussion, we reverse the judgment of the district court.

[1] { 3} Defendant originally was charged and convicted in magistrate court with DWI, a petty misdemeanor, and driving with a suspended or revoked license, a misdemeanor. The combined statutory penalty for these offenses amounted to nine months—ninety days on the DWI conviction and 180 days on the conviction of driving with a suspended or revoked license. The trial in magistrate court was a bench trial despite the lack of evidence in the record to establish that defendant knowingly, intelligently, and voluntarily waived his right to jury trial. *See* SCRA 1986, § 6–602 (Repl.Pamp.1988) (jury trial for petty misdemeanor requires oral or written demand at time of entering plea or in writing within ten days after time of entering plea; if offense is misdemeanor, case shall be tried by jury unless defendant waives jury trial with approval of court and consent of state); *State v. Shroyer,* 49 N.M. 196, 160 P.2d 444 (1945). However, even a valid waiver would not have precluded the defendant from requesting a jury in the *de novo* appeal in district court. *See* N.M. Const. art. II, § 12; SCRA 1986, § 6–703(A) & (H) (Repl.Pamp.1988) (defendant aggrieved by judgment rendered by magistrate court may appeal to district court for *de novo* review governed by Rules of Criminal Procedure for District Courts); SCRA 1986, § 5–605(A) (criminal cases required to be tried by jury shall be so tried unless defendant waives jury trial with approval of court and consent of state); *Southern Union Gas Co. v. Taylor,* 82 N.M. 670, 486 P.2d 606 (1971) (trial *de novo* defined as a trial "anew"). Upon the finding of guilt on both charges, the magistrate court ordered the maximum sentence for each offense, but then suspended five of the six months on the driver's license conviction and ordered 120 days' total incarceration and five months' supervised probation.

{ 4} Defendant appealed his convictions to the district court and filed a demand for jury trial. *See* NMSA 1978, § 35–13–2(A) (Repl.Pamp.1988) (appeals from magistrate courts shall be tried *de novo* in district court). Subsequently, the state's motion to strike defendant's jury demand was granted based upon: (1) a notice filed by the state that it would not seek enhancement of defendant's sentence, (2) the state's stipulation to limit the sentence to that imposed by the magistrate court, and (3) the district court's declaration before trial that, if defendant was convicted of the charges, the court would limit the maximum sentence of incarceration to no more than 180 days. Following the bench trial, defendant was found guilty of both charges and sentenced identically to that ordered by the magistrate court. *See* NMSA 1978, § 35–13–2(C) (on *de novo* appeal district court may impose the same, a greater, or lesser penalty).

[2] { 5} This certification presents the following question: Whether, in determining the constitutional right to jury trial of a defendant charged with more than one petty crime arising from a single incident, a court should consider the objective measure of the combined, maximum statutory penalties or the subjective measure of the actual penalty threatened at the commencement of trial. We hold that the objective measure is to be used in making this determination.

{ 6} The sixth amendment to the United States Constitution specifies that "[i]n all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury * * * * " The right to trial by a jury is made applicable to the states by the fourteenth amendment. *Duncan v. Louisiana,* 391 U.S. 145, 88 S.Ct. 1444, 20 L.Ed.2d 491 (1968); *see also* N.M. Const. art. II, § 12. In *Duncan,* the Court, finding it necessary to draw a line ****44 *430** separating petty offenses from serious crimes, held that certain petty offenses are not subject to the sixth amendment jury trial provision and should not be subject to the fourteenth amendment jury trial requirement applied to the states. 391 U.S. at 159, 88 S.Ct. at 1452.

{ 7} The subsequent case of *Baldwin v. New York,* 399 U.S. 66, 90 S.Ct. 1886, 26 L.Ed.2d 437 (1970) (plurality opinion), examined objective criteria in resolving the reach of the constitutional right to a jury trial. The Court reiterated its reliance on the objective criterion of the maximum, authorized penalty, finding it to be the most relevant and reflective of the seriousness with which society regards an offense. *Id.* at 68, 90 S.Ct. at 1887. The Court held that "a potential sentence in excess of six months' imprisonment is sufficiently severe by itself to take the offense out of the category of 'petty' " so as to permit a defendant to demand a trial by jury. *Id.* at 69, n. 6, 90 S.Ct. at 1888, n. 6. However, the *Baldwin* court also recognized the importance to a defendant of the actual penalty to be imposed. But, as noted by the Tenth Circuit Court of Appeals in *Haar v. Hanrahan,* 708 F.2d 1547 (10th Cir.1983): "The plurality [in *Baldwin*] left unclear * * * the relevance of this 'subjective' factor to the constitutional calculus of the right to a jury trial." *Id.* at 1550.

{ 8} We note that the related issue of whether the

 © 2016 Thomson Reuters. No claim to original U.S. Government Works.

penalties for several petty crimes could be considered in the aggregate in determining a defendant's right to a jury trial has been addressed by the Tenth Circuit Court of Appeals in *United States v. Potvin,* 481 F.2d 380 (10th Cir.1973), and by this court in *Vallejos v. Barnhart,* 102 N.M. 438, 697 P.2d 121 (1985). However, it was not until 1983, in *Haar v. Hanrahan,* that the Tenth Circuit squarely was faced with choosing between the objective or subjective measures of aggregate criminal penalties in determining the right to a jury trial. The *Potvin* court favored combining the potential, aggregate penalties that could result from various charges arising out of a single criminal transaction. The court stated that "defendants can view as no less serious a possible penalty of a year in prison when charged with two offenses arising out of the same act, transaction, or occurrence, than if charged with one offense having a potential penalty of one year's imprisonment." 481 F.2d at 382.

> However, the *Potvin* opinion [did] not reveal whether the right to a jury trial should be determined on the basis of the potential penalties provided in the statutory definition of the crimes, or on the basis of the actual penalties faced by the defendant. The choice between the "objective" penalty provided by statute and the "subjective" penalty actually faced by the defendant [prior to trial] determines how *Potvin* is applied in [a case involving multiple offenses arising out of the same transaction].

Haar, 708 F.2d at 1552.

{ 9} *Vallejos* also appears to have confused the issue by injecting a footnote discussion of the subjective measure of the actual criminal penalty faced by a defendant into the majority's opinion analysis that adopted the objective measure in determining whether to afford the defendant, in this case, his statutory right to jury trial. *Vallejos* involved an appeal *de novo* from the metropolitan court to the district court, distinguished from the present case that involves a *de novo* appeal to the district court from the magistrate court. *But see* NMSA 1978, § 34–8A–2 (Repl.Pamp.1981) (for all purposes of state law a metropolitan court is a magistrate court). There defendants were charged with multiple traffic violations. In construing Section 34–8A–5(B), applicable to metropolitan court and mandating that "if the penalty does not exceed ninety days' imprisonment * * * the action shall be tried by the judge without a jury," the court held that defendants were entitled to a jury trial where the aggregate penalty exposed them to imprisonment of ninety days or more. 102 N.M. at 440–41, 697 P.2d at 123–24. Referring to *Duncan* and *Baldwin,* the court stated:

> Both cases are highly supportive of our decision * * * in that they state the most relevant criteria of the seriousness of an offense to be "the severity of the maximum **45 *431 authorized penalty." *Baldwin,* 399 U.S. at 68, 90 S.Ct. at 1888.

* * * * * *

> [W]e do not consider *Duncan* and *Baldwin* to be in conflict with the principle that the authorized *aggregate* penalty determines the existence of the right to a jury trial in a multiple-offense situation. *Accord Haar v. Hanrahan,* 708 F.2d 1547 (10th Cir.1983); *United States v. Potvin,* 481 F.2d 380 (10th Cir.1973).

Vallejos, 102 N.M. at 441, 697 P.2d at 124 (emphasis in original); *see also Meyer v. Jones,* 106 N.M. 708, 749 P.2d 93 (1988) (*Vallejos* holding accords with analysis of period of potential deprivation of liberty as basis for determining nature of offense and attendant right to jury trial).

{ 10} In *Haar v. Hanrahan,* cited in *Vallejos,* the Tenth Circuit was asked to decide whether a New Mexico defendant, charged in magistrate court with two offenses arising out of the same incident with an aggregate, potential sentence in excess of six months, was entitled to a jury trial. Although decided prior to a statutory amendment permitting a district court to impose a greater sentence than that imposed by the magistrate court, a resolution of the issue required the *Haar* court to choose between the objective or subjective measure of aggregated criminal penalties in determining the right to a jury trial. While noting the merits of each choice in terms of the values *Potvin* sought to protect, the court adopted the subjective measure. The court reasoned that a narrow, subjective interpretation of *Potvin* more closely followed the Supreme Court's rationale in *Duncan* and *Baldwin,* adhering to the view that an expansion of the definition of a "serious" offense was better left to the U.S. Supreme Court.

{ 11} Recently, however, the U.S. Supreme Court did address the issue in *Blanton v. City of North Las Vegas, Nevada,* 489 U.S. 538, 109 S.Ct. 1289, 103 L.Ed.2d 550 (1989). In contrast to the *Haar* opinion, the Court reaffirmed the *Baldwin* Court's objective standard in its discussion of whether adverse collateral consequences, such as fines, license suspensions, probation and community service, when taken together with the authorized penalty of incarceration would be sufficient to require a jury trial. Quoting *Landry v. Hoepfner,* 840 F.2d

 © 2016 Thomson Reuters. No claim to original U.S. Government Works.

1201, 1209 (5th Cir.1988), the Court stated: "The judiciary should not substitute its judgment as to seriousness [of a crime] for that of a legislature, which is 'far better equipped to perform the task, and [is] likewise more responsive to changes in attitude and more amenable to the recognition and correction of their misperceptions in this respect.' " 489 U.S. at ——, 109 S.Ct. at 1292.

{ 12} Thus, while encouraging deference to the legislature's classification of serious and petty crimes as determined by the sanctions imposed for those who are found guilty, the Court ruled that primary emphasis must be placed on the maximum authorized period of incarceration in determining the right to jury trial. The Court noted that additional statutory penalties such as fines and probation could entitle a defendant to a jury trial "only if he can demonstrate that * * * [, when] viewed in conjunction with the maximum authorized period of incarceration, [the additional penalties] are so severe that they clearly reflect a legislative determination that the offense in question is a 'serious' one." *Id.* 489 U.S. at ——, 109 S.Ct. at 1293. The Court further recognized that, although such sanctions may result in a significant infringement of personal freedom, they cannot approximate in severity the loss of liberty that incarceration entails. *See id.* 489 U.S. at ——, 109 S.Ct. at 1292; *accord Meyer v. Jones,* 106 N.M. at 710, 749 P.2d at 95 (potential period of probation more than six months does not present degree of liberty deprivation that would trigger right to jury trial).

{ 13} Unlike the present case wherein the defendant was charged with several petty offenses arising out of the same transaction, the decisions in *Duncan, Baldwin,* and *Blanton* involved fact situations wherein the defendants were charged only with one offense. Nevertheless, defendant relies upon those holdings, as well as the majority discussion in *Vallejos,* for the con ***432** tention ****46** that the actual sentence imposed cannot be constitutionally determinative of the right to a jury trial. On the other hand, the state contends that, pursuant to the footnote discussion in *Vallejos* and the Tenth Circuit's opinion in *Haar,* the subjective measure controls and the district court is not required to accord defendant a right to jury trial if the court placed in the record prior to trial a declaration that defendant would not be subjected to imprisonment more than 180 days in the event the defendant was found guilty of the charged offenses.

{ 14} We believe, however, an acceptance of the state's argument would be inconsistent with one of the basic purposes of the sixth-amendment guarantee to a jury trial: "to prevent oppression by the Government" by interposing the safeguard of a jury trial between the accused and a possibly "corrupt or overzealous prosecutor * * * [or a possibly] compliant, biased, or eccentric judge." *Duncan,* 391 U.S. at 155–56, 88 S.Ct. at 1451.

{ 15} Further, in light of the language in *Blanton* that, with regard to criminal penalties, the judiciary should not substitute its judgment for that of the legislature, we explicitly overrule any notion that the subjective measure in terms of the actual sentence threatened prior to trial should be used in determining a defendant's right to a jury trial. *Accord State v. Grimble,* 397 So.2d 1254 (La.1980) (trial court may not curtail accused's right to jury trial by agreeing in advance to limit sentence; legislative determination of seriousness of crime entitles accused to jury trial, not arbitrary decision of trial court). Thus, we find the footnote discussion in *Vallejos,* which is unsupported by authority and devoid of any basis for its conclusion, to be without binding effect as a rule of law.

{ 16} Moreover, the *Vallejos* holding, although not expressly overruling *State v. James,* 76 N.M. 416, 415 P.2d 543 (1966), which held that the potential sentences facing a defendant should not be cumulated but rather should be treated separately, did so implicitly. The defendant in *James* was charged with three separate petty misdemeanors and was not permitted to combine the possible sentences in order to be entitled to a jury trial. Accordingly, to be clear, the case of *State v. James,* 76 N.M. 416, 415 P.2d 543 (1966), is hereby expressly overruled. We find the rationale surrounding the concept of the objective measure to be more in line with the constitutional mandate for jury trials in cases in which the possible sentence exceeds six months, whether for a single offense or for multiple offenses arising from the same incident or transaction.

{ 17} Therefore, the ruling of the district court that denied defendant his request for a jury trial is reversed. This cause is remanded for proceedings not inconsistent with this opinion.

{ 18} IT IS SO ORDERED.

RANSOM, MONTGOMERY and WILSON, JJ., concur.

BACA, J., dissents.

BACA, Justice (dissenting).

{ 19} Today this court has decided that a defendant on

 © 2016 Thomson Reuters. No claim to original U.S. Government Works.

trial for multiple petty crimes is entitled to a trial by jury, even when the court determines that it will not impose a sentence greater than ninety days, simply because the aggregate potential penalty exceeds ninety days. Yet, the United States and New Mexico Constitutions do not dictate the result reached today, our legislature has not mandated the result, and our precedent stands opposed to the result. We are faced with a choice between two noble goals: extending the guarantees of a trial by jury, and providing an efficient judicial system. The result reached by the majority, while not required by the sixth amendment and not required by due process, will seriously interfere with the efficiency of our courts and logjam our already seriously overburdened judicial system, and accordingly, I dissent.

{ 20} The United States Supreme Court has not spoken directly on the constitutionality of the aggregate sentencing situation we **47 *433 are faced with today. *See Blanton v. City of N. Las Vegas,* 489 U.S. 538, 109 S.Ct. 1289, 103 L.Ed.2d 550 (1989); *Baldwin v. New York,* 399 U.S. 66, 90 S.Ct. 1886, 26 L.Ed.2d 437 (1970); *Duncan v. Louisiana,* 391 U.S. 145, 88 S.Ct. 1444, 20 L.Ed.2d 491 (1968). In *Haar v. Hanrahan,* 708 F.2d 1547 (10th Cir.1983), the Tenth Circuit refused to expand the definition of a serious offense constitutionally requiring the opportunity for a jury trial, and found that, in a situation where sentences could be aggregated, when none of the crimes were by definition a serious crime, the right to a jury attached only if the possible sentence actually faced by the defendant exceeded six months. *Id.* at 1553. The majority today, however, implicitly contends that *Haar* was overruled in part by the adoption of the "objective test" in *Blanton. Blanton* did adopt an objective test, but the majority misconstrues its significance as it applies to the case at bar.

{ 21} The sixth amendment requires a defendant be afforded a jury in a trial for a serious crime. *District of Columbia v. Clawans,* 300 U.S. 617, 57 S.Ct. 660, 81 L.Ed. 843 (1937). However, this right is not guaranteed for petty crimes, because the potential infringement of sixth amendment rights by restricting access to the jury is outweighed by expediency and the right to a speedy trial. *Duncan,* 391 U.S. at 160, 88 S.Ct. at 1453. The legislature, by deciding that a penalty greater than six months could be imposed has determined that, in the eyes of society, the offense is serious. *See id.* ("The penalty authorized by the law of the locality may be taken 'as a gauge of its social and ethical judgments.' " [Citation omitted.]) When a crime is punishable by more than six months in prison, it is not the penalty per se that initiates the guarantee of a jury, but the value judgment of society implicit in the penalty. The length of the sentence is a statement that the crime is serious—and the sixth amendment guarantee of a right to a jury attaches because the trial is for a *serious* crime.

{ 22} A jury trial is also constitutionally mandated when incarceration exceeds six months. *See United States v. Potvin,* 481 F.2d 380 (10th Cir.1973); *see also Frank v. United States,* 395 U.S. 147, 89 S.Ct. 1503, 23 L.Ed.2d 162 (1969) (no jury required for criminal contempt where Congress has not specified a range of sentences and therefore has not categorized offense as serious; jury required only if potential sentence exceeds six months). Possible incarceration for such a long period is potentially a great infringement of an individual's liberty interest, mandating that the sixth amendment be given effect. *See Muniz v. Hoffman,* 422 U.S. 454, 477, 95 S.Ct. 2178, 2190, 45 L.Ed.2d 319 (1975).

{ 23} The majority has misplaced its emphasis on the quotation from *Blanton, see* 786 P.2d at P. at 45, that states that the legislature is the appropriate body to determine a sentence for a particular criminal act and that the judiciary should not substitute its own judgment for that of the legislature in determining whether a crime is "serious." This view is proper when the length of a sentence is being used to determine whether a crime is serious, but it has no place in a consideration of the issue we face today.[1] The constitution requires the right to a jury when the crime is serious or the actual sentence faced is serious. The legislature has already spoken on whether it considers driving while intoxicated and driving with a suspended or revoked license "serious crimes," as that term of art is used in the case law, and it has said "no." The only issue, then, is whether the defendant faces serious incarceration and, in this case, the trial judge has said "no."

{ 24} In addition, this view potentially abrogates separation of powers principles by **48 *434 infringing on the judiciary's proper role to determine the proper sentence for an individual defendant. The trial judge has been delegated the authority to use his or her judgment to assess the circumstances of a given infraction and to determine a sentence, within the broad outlines defined by the legislature. A determination of whether a particular defendant should receive the maximum possible sentence or a lesser sentence within the range set by the legislature is an integral part of the judicial task. Sentencing is a function that involves the three bodies of our government, and each branch must be allowed to fulfill its function. To deny the role of the judiciary in setting sentences and the accompanying effect it may have on the right to a jury trial when that right turns solely on the length of possible incarceration and the defendant's liberty interest is a serious infringement on judicial power. *See Mistretta v. United States,* 488 U.S. 361, ——, 109 S.Ct. 647, 650–51, 666, 102 L.Ed.2d 714 (1989) (discussing the role of the

 © 2016 Thomson Reuters. No claim to original U.S. Government Works.

judiciary in sentencing while determining the constitutionality of the United States Sentencing Commission).

{ 25} Thus, what we are left with is the majority's interpretation of NMSA 1978, Section 34–8A–5(B) (Repl.Pamp.1981) to require a jury. This interpretation contradicts this court's precedents, and it flies in the face of principles of separation of powers and accepted principles of statutory construction.

{ 26} This court has previously decided the issue presented today, and we properly recognized the conflicting interests presented by it. In *Vallejos v. Barnhart,* 102 N.M. 438, 697 P.2d 121 (1985), we held that, when a defendant is subject to incarceration for greater than ninety days when penalties for multiple crimes are aggregated, he has a right to a jury. *Id.* at 441, 697 P.2d at 124 (interpreting NMSA 1978, § 34–8A–5(B) (Repl.Pamp.1981)). We also indicated that, if the judge declares on the record prior to trial that he or she will not impose a sentence greater than ninety days, the defendant has no right to a jury trial. *See also State v. James,* 76 N.M. 416, 420, 415 P.2d 543, 546 (1966) ("The consolidation of the petty offenses for trial does not change their nature * * * * ") The acceptance of the "objective test" with reference to the sentence for one crime to determine whether it is serious is irrelevant to this situation and does not affect the constitutionality of our precedent. Yet, the majority has determined that it justifies our abolishing accepted principles.

{ 27} Thus, it is apparent that the majority's decision is neither based on a constitutional requirement nor an analysis of our precedent. Furthermore, in promulgating NMSA 1978, Section 34–8A–5(B) (Repl.Pamp.1981), our legislature has acted in derogation of the common law, and thus the statute should be strictly construed. *See Tomlinson v. State,* 98 N.M. 213, 215, 647 P.2d 415,417 (1982). The statute specifically refers to the right to a jury when a potential sentence exceeds ninety days in a trial for an individual offense, not the aggregate situation. The statute passes constitutional muster when given its plain meaning, and we should not expand it beyond its plain meaning and the scope obviously intended by the legislature. *See Vallejos,* 102 N.M. at 441–42, 697 P.2d at 124–25 (Stowers, J., dissenting).

{ 28} If the guarantees of a jury were the only values at issue today, the majority's decision would not cause any great harm. However, the guarantees of a jury must be balanced against the costs to the judicial system. In *Duncan,* the Supreme Court found that petty offenses were traditionally exempt from jury requirements by the common law, and stated that "possible consequences to defendants from convictions for petty crimes have been though insufficient to outweigh the benefits to efficient law enforcement and simplified judicial administration resulting from the availability of speedy and inexpensive nonjury adjudications." 391 U.S. at 160, 88 S.Ct. at 1453. This court has recently affirmed its commitment to the significance of a speedy trial, stating that our system " 'places the primary burden on the courts and the prosecutors to assure that cases are brought to trial.' " *Zurla v. State,* N.M. (1990) (filed January 25, 1990) (quoting ***435 **49** *Barker v. Wingo,* 407 U.S. 514, 529, 92 S.Ct. 2182, 2191, 33 L.Ed.2d 101 (1972)). While this court in *Zurla* directly placed the burden on the court system to expeditiously bring cases to trial, today it has eroded the judiciary's ability to operate efficiently, both to the prejudice of society and defendants whose trials will be further delayed in our already overcrowded court system. I do not feel that the benefits of the protections afforded by a jury outweigh these countervailing considerations, and I anticipate disastrous results in the lower courts of this state.

All Citations

109 N.M. 428, 786 P.2d 42, 58 USLW 2523, 1990 -NMSC-012

Footnotes

1 The context in which *Blanton* was decided should be considered as well. In *Baldwin,* the Court determined that the objective test was determinative of the right to a jury trial when the legislature authorized confinement for greater than six months. *Blanton,* on the other hand, considered the opposite question—does a sentence of less than six months automatically classify the offense as petty. While determining that it did not as a matter of constitutional law, the Court reaffirmed the significance of the legislature's objective classification as an objective benchmark.

 © 2016 Thomson Reuters. No claim to original U.S. Government Works.

End of Document

© 2016 Thomson Reuters. No claim to original U.S. Government Works.