

SANTA FE COUNTY  
BOARD OF COUNTY COMMISSIONERS RESOLUTION No. 2013 - 73

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**A RESOLUTION PERMITTING THE BOARD TO APPOINT A CAPITAL IMPROVEMENTS ADVISORY COMMITTEE CONSISTING OF AT LEAST FIVE MEMBERS TO ASSIST IN THE ESTABLISHMENT OF IMPACT FEES FOR IMPLEMENTATION OF THE COUNTY'S CAPITAL IMPROVEMENTS PLAN AS PART OF THE SUSTAINABLE LAND DEVELOPMENT CODE'S REQUIREMENTS**

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**WHEREAS**, the Board of County Commissioners ("BCC") has undertaken a rigorous and transparent capital improvement planning process;

**WHEREAS**, the County is contemplating the imposition of a development impact fee in compliance with the New Mexico Development Fees Act ("Act") (NMSA 1978, Section 5-8-1 *et seq.*);

**WHEREAS**, Section 5-8-37 of the Act requires the appointment of a capital improvements advisory committee and compliance with various other provisions of the Act that include notice and public hearings, as a condition of imposing an impact fee;

**WHEREAS**, on November 30, 2010, this Board adopted by resolution the Santa Fe County Sustainable Growth Management Plan (SGMP), which expressed as a policy statement in furtherance of the County's enhancement of its fiscal resources the delivery of high quality public facilities and services and the establishment of "impact fees for new development for the provision of off-site public facilities and services, including but not limited to law enforcement, fire and emergency medical service, roads, water, sewer and stormwater, open space and trails";

**WHEREAS**, the SGMP observed that "Cities and counties in New Mexico are authorized to impose impact fees pursuant to the New Mexico Development Impact Fees Act[.]" and that one of the keys to sustainability was to "Ensure new development pays for the infrastructure and service needs that the development generates both on- and off-site[.]" as accomplished by new development participating "in funding all on- and off-site public facilities and public services the need for which is generated by the development.";

**WHEREAS**, the SGMP also observed that "The role of the impact fee is to shift to new development the net costs of off-site system improvements shown on the CIP[.]" and that "[t]his shifting of net costs will equitably distribute system improvement costs between the community at large and new development[.]" and that "Development impact fees are one-time charges against new development to raise new revenues to pay for new or expanded public facilities necessitated by new development.";

WHEREAS, the SGMP also observed that "The role of an impact fee program is to equitably distribute the costs of servicing new development while achieving sufficiency of capital improvement revenues[.]" and that "Impact fees exist together with proceeds from bond issues, motor fuel taxes, improvement and utility districts, and developer dedications as means of achieving adequate capital facilities[.]" and that "Together these sources should provide sufficient resources for the County to make the necessary investments for the projects shown on the CIP and have adequacy of public facilities.";

WHEREAS, the SGMP also observed that it would use the term "Capital Improvements Plan" ("CIP") instead of the national customary term "Capital Improvement Program," "in order to be consistent with the terminology of the New Mexico Development Fees Act, §5-8-37 NMSA 1978[.]" to "...ensure that the first 7 years of the CIP will concurrently represent the 7-year 'capital improvement plan' required by the Development Fees Act for impact fees.";

WHEREAS, the SGMP also observed that "New developments may be charged impact fees in order to generate funds needed to pay for capital facility expansion, or to recoup the cost of improving those facilities.";

WHEREAS, the SGMP also observed that once paid the impact fees are deposited into separate interest-bearing accounts and balances could only be removed from these accounts to fund capital improvements specified in the CIP and consistent with the limitations imposed by the Development Fees Act;

WHEREAS, the SGMP compared the use of impact fees to "Pay-As-You-Grow" programs that "help existing residents from growth-related costs," and observed that these programs were part of a variety of techniques available to the County "that allocate the public costs of development fairly and do not unduly burden existing residents.";

WHEREAS, the SGMP further observed that "Impact fees are used to close the gap for County capital expenditures[.]...have been established as reasonable sources from new developments relative to the impact these developments have on required capital needs according to a standardized approach to calculating these fees[.]" and that "This standardized approach determines the land use assumptions and impacts on levels of service multiplied by the net cost to restore service, as required by statute."; and

WHEREAS, the SGMP required the adoption of "a Sustainable Land Development Code (SLDC) to implement the SGMP[.]" observed that "The...CIP will be a significant implementation component of the SGMP and...SLDC[.]" and further observed that "[t]he SLDC should consider mechanisms to equitably finance necessary improvements to serve development such as...user and impact fees."

**NOW, THEREFORE BE IT RESOLVED** by the Board of the County Commissioners:

1. A Capital Improvements Advisory Committee (the Committee) is hereby created, subject to the appointment by the BCC of five (5) eligible individuals.
2. The Committee will consist of five members, at least two (2) of whom must be representative of the real estate, development, or building industries. All Committee members shall be full time residents of Santa Fe County. No member shall be employees of the County, the City of Santa Fe or any other governmental entity.
3. Members of the Committee shall be appointed by the BCC based upon submitted letters of interest, documented representative qualifications, county-wide representation, and recommendations from the Public Works Department.
4. The purpose of the Committee shall be to advise the BCC, acting through and with the assistance of the liaison, the Public Works Department staff and other County staff as appropriate, on matters related to capital improvements, land use assumptions, and impact fees within the County. Specific duties shall include:
  - a. Advising and assisting the County in adopting land use assumptions;
  - b. Reviewing the CIP and filing written comments;
  - c. Monitoring and evaluating implementation of the CIP;
  - d. Filing annual reports with respect to the progress of CIP and reporting any perceived inequities in implementing the plan or imposing any impact fee; and
  - e. Advising the County of the need to update or revise the land use assumptions, the CIP, and any impact fee.
5. County staff shall make available to the Committee any professional reports it possesses with respect to developing and implementing the capital improvements plan.
6. Two members of the Committee will be appointed for an initial term of two years and three members shall be appointed for an initial term of three years. Thereafter Committee members shall serve terms of three years. In the event of a vacancy, the BCC shall appoint a member to serve out the remainder of the departing member's term, taking into consideration any recommendations from the Committee and Public Works staff to fill that vacancy. There shall be no limitation on the number of consecutive terms that a member may serve. The chair shall serve for a two-year term and shall be selected by majority vote of the members of the Committee. Members may be removed by the BCC with or without cause.
7. The Committee shall designate a chair and vice-chair and shall meet at the call of its Chair as often as is necessary to carry out its work, but no less than biannually. The meetings of the Committee shall be held at such County locations as may be conducive to visible and publicly accessible meetings. Meetings shall be held in accordance with all

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County ordinances and resolutions applicable to public notice, open meetings, and rules of order followed during meetings.

8. All matters coming before the Committee shall be resolved by majority vote of a quorum of the Committee in attendance at a meeting.
9. The County Manager shall designate an employee of the County to serve as liaison to the Committee with the ability to substitute a different employee as needs arise.
10. The Committee may be dissolved at any time by resolution of the BCC.
11. Committee members shall not be entitled to receive a salary, per diem or mileage or any other form of compensation for any services they render in their capacity as members of the Committee.
12. Committee members shall be subject to the County's Code of Conduct, including any amendments, and in that regard must disqualify themselves from voting on any matter in which they have a direct personal or financial interest by reason of their employment, spousal affiliation or familial relationship.

APPROVED, ADOPTED, AND PASSED this 13<sup>th</sup> day of August, 2013.

THE BOARD OF COUNTY COMMISSIONERS OF SANTA FE COUNTY

Kathy Holian  
Kathy Holian, Chair

Geraldine Salazar *ly vt*  
Geraldine Salazar, County Clerk



APPROVED AS TO FORM:

Stephen C. Ross  
Stephen C. Ross, County Attorney



COUNTY OF SANTA FE )  
STATE OF NEW MEXICO ) ss

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I Hereby Certify That This Instrument Was Filed for  
Record On The 15TH Day Of August, 2013 at 04:16:18 PM  
And Was Duly Recorded as Instrument # 1715167  
Of The Records Of Santa Fe County

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Witness My Hand And Seal Of Office  
Geraldine Salazar  
Deputy Marcella Salazar County Clerk, Santa Fe, NM