Theresa Cull, Council Chair; Suzie Havemann, Council Vice-Chair;
Melanee Hand, Ryn Herrmann, Beverly Neal-Clinton,
David Reagor, and Randall Ryti, Councilors

Tuesday, July 29, 2025 **6:00 PM** **Council Chambers - 1000 Central Avenue**

1. OPENING/ROLL CALL

The Council Chair, Theresa Cull, called the meeting to order at 6:00 p.m.

Chair Cull made opening remarks regarding the procedure of the meeting.

Councilor Hand joined the meeting remotely during the discussion of Item 4 at 6:03 p.m.

The following Councilors were in attendance:

Present: 6 – Councilor Cull, Councilor Havemann, Councilor Herrmann, Councilor Neal-Clinton, Councilor Reagor, and Councilor Ryti

Remote: 1 – Councilor Hand

2. PLEDGE OF ALLEGIANCE

Led by: All.

3. STATEMENT REGARDING CLOSED SESSION

Councilor Neal-Clinton read the following statement to be included in the meeting minutes: "The matter discussed in the closed session of County Council held on July 29, 2025, that began at 4:00 p.m. respectively was limited only to the topics specified in the notice of the closed session, and no action was taken on any matter in the closed session. We request that this statement be included in the meeting minutes."

4. PUBLIC COMMENT

Councilor Hand joined the meeting remotely during the discussion of this item at 6:03 p.m.

None.

5. APPROVAL OF AGENDA

A motion was made by Councilor Havemann, seconded by Councilor Neal-Clinton, that Council approve the agenda tonight as presented.

The motion passed with the following vote:

Yes: 7 – Councilor Cull, Councilor Havemann, Councilor Hand, Councilor Herrmann, Councilor Neal-Clinton, Councilor Reagor, and Councilor Ryti

6. PRESENTATIONS, PROCLAMATIONS AND RECOGNITIONS

A. Proclamation Declaring August 2025 as "Bear Month" in Los Alamos County

Councilor Ryti read and presented the proclamation.

Ms. Nirankar Horak, Executive Director, Land of Enchantment Wildlife Foundation, spoke.

No action taken.

B. Proclamation Designating August 2025 as "Distracted Driving Awareness Month in Los Alamos"

Councilor Havemann read and presented the proclamation.

Mr. Christopher Ross, Operations Commander, Los Alamos Police Department, spoke.

No action taken.

7. PUBLIC COMMENT FOR ITEMS ON THE CONSENT AGENDA

None.

8. CONSENT AGENDA

Consent Motion:

A motion was made by Councilor Herrmann, seconded by Councilor Neal-Clinton, that Council approve the items on the Consent Agenda and that the motions in the staff reports as amended be included for the record.

A. Approval of County Council Minutes for the July 8, 2025, Regular Session and July 15, 2025, Work Session

I move that Council approve the County Council Minutes for the July 8, 2025, Regular Session and July 15, 2025, Work Session.

B. Approval of Task Order No. 5 under Services Agreement No. AGR 24-956 with Dismuke Construction Company in the Amount of $458,038.50 plus Applicable Gross Receipts Tax and a $10,000 Contingency for Asphalt Crack Sealing of Various County Streets

I move that Council approve Approval of Task Order No. 5 under Services Agreement No. AGR 24-956 with Dismuke Construction Company in the Amount of $458,038.50 plus Applicable Gross Receipts Tax and a $10,000 Contingency for Asphalt Crack Sealing of Various County Streets

C. Approval of the June 30, 2025, Quarterly Report as Required by the State of New Mexico Department of Finance and Administration's Local Government Division and Budget Revision 2025-81

I move that Council approve the June 30, 2025, Quarterly Report to be submitted as required to the State of New Mexico Department of Finance and Administration's Local Government Division and Budget Adjustment 2025-81.

I further move that Council approve Budget Revision 2025-81 and include Attachment D as part of minutes of this meeting.

D. Approval of Recommendation from the Art in Public Places Board to Relocate the Prehistoric Cookware Replica Pot, part of the San Ildefonso "White Rock Pottery Project"

I move that Council approve the recommendation from the Art in Public Places Board to relocate the Prehistoric Cookware Replica Pot, part of the San Ildefonso "White Rock Pottery Project," from its current location to the proposed new location approximately 200 feet to the west at the intersection of the new mid-block trail crossing and the existing trail along the south side of NM4. (Relocation Option #3).

The motion passed with the following vote:

Yes: 7 – Councilor Cull, Councilor Havemann, Councilor Hand, Councilor Herrmann, Councilor Neal-Clinton, Councilor Reagor, and Councilor Ryti

9. BUSINESS

A. Discussion and Possible Action on Judge Perry Klare's Petition to the County Council Seeking Immediate Enrollment in the State of New Mexico's Employee Benefits Plan as well as an Increase in Judge Klare's Salary during His Current Term of Office

Mr. Perry Klare, Probate Judge, presented.
Mr. Alvin Leaphart, County Attorney, spoke.

Public Comment:
None.

A motion was made by Councilor Ryti, seconded by Councilor Havemann, that Council direct the County Manager to return to Council with an ordinance as soon as possible adding County health insurance eligibility for elected officials not currently eligible with the elected official responsible for 100 percent of the premiums and return to Council for a discussion regarding all elected officials' compensation at the September 9, 2025, meeting.

The motion passed with the following vote:

Yes: 7 – Councilor Cull, Councilor Havemann, Councilor Hand, Councilor Herrmann, Councilor Neal-Clinton, Councilor Reagor, and Councilor Ryti

B. Discussion and Possible Action on Wildlife Feeding Ordinance

Mr. Dino Sgambellone, Police Chief, presented.

Public Comment:
Mr. Rick Nebel spoke.
Mr. James Wernicke spoke.
Ms. Stephanie Nakhleh spoke.

A motion was made by Councilor Ryti, seconded by Councilor Havemann, that Council direct the County Manager to implement the draft ordinance changes and return to Council with a revised ordinance prohibiting the feeding of wildlife in the County.

The motion passed with the following vote:

Yes: 6 – Councilor Cull, Councilor Havemann, Councilor Hand, Councilor Herrmann, Councilor Neal-Clinton, and Councilor Ryti

No: 1 – Councilor Reagor

C. Update on the Purchase, Sale, and Development Agreement for the 20th Street Redevelopment Proposed by RBMM Development LLC

Mr. Dan Osborn, Housing and Special Projects Manager, presented.
Mr. Russell Brott, Managing Member, RBMM Development LLC, presented.
Mr. Marcel Montoya, RBMM Development LLC, presented.

Public Comment:
Ms. Lisa Shin spoke.

No action taken.

RECESS
Chair Cull called for a recess at 7:52 p.m. The meeting was reconvened at 8:03 p.m.

D. Consideration to Approve Amendment No. 1 to Purchase, Sale and Development Agreement for Real Property Located in the Incorporated County of Los Alamos Commonly Referred to as 110 Entrada Drive (Lot 6B-2)

Ms. Anne Laurent, County Manager, presented.

Public Comment:
None.

A motion was made by Councilor Neal-Clinton, seconded by Councilor Havemann, that Council approve Amendment No. 1 to Purchase, Sale, and Development Agreement for Real Property Located in the Incorporated County of Los Alamos Commonly Referred to as 110 Entrada Drive (Lot 6B-2).

The motion passed with the following vote:

Yes: 7 – Councilor Cull, Councilor Havemann, Councilor Hand, Councilor Herrmann, Councilor Neal-Clinton, Councilor Reagor, and Councilor Ryti

E. Presentation and Update on Saturday Transit Service Pilot Program

Mr. Keith Wilson, Deputy Public Works Director, spoke.
Mr. James Barela, Transit Manager, presented.

Public Comment:
None.

No action taken.

10. COUNCIL BUSINESS

A. General Council Business

1) Quarterly Intergovernmental and Regional Activities Update Summer 2025

Ms. Danielle Duran, Intergovernmental Affairs Manager, presented.
Mr. Alvin Leaphart, County Attorney, spoke.

Public Comment:
None.

No action taken.

2) Overview of Council Strategic Goal-Operational Excellence

Mr. Juan Rael, Deputy County Manager, presented.

Public Comment:
None.

No action taken.

B. Appointments

1) Board/Commission Appointments - Environmental Sustainability Board

Ms. Linda Matteson, Deputy County Manager, presented.

Public Comment:
None.

A motion was made by Councilor Havemann, seconded by Councilor Neal-Clinton, to nominate Shannon Blair, Joseph Chandler, Kella Romero, Kes Luchini, and Michael Dempsey to fill four (4) vacancies on the Environmental Sustainability Board and move that Council appoint four nominees to the vacant positions as follows:

By roll call vote, Councilors vote for four nominees and the four with the highest vote total of four or more votes will be appointed to fill terms that begin on August 1, 2025, and end July 31, 2027.

Councilors Cull, Havemann, Hand, Herrmann, Neal-Clinton, and Ryti voted for:
Shannon Blair

Councilors Cull, Havemann, Hand, Herrmann, Neal-Clinton, and Ryti voted for:
Joseph Chandler

Councilors Cull, Havemann, Hand, Herrmann, Neal-Clinton, and Ryti voted for:
Kella Romero

Councilors Cull, Havemann, Hand, Herrmann, Neal-Clinton, and Ryti voted for:
Kes Luchini

Councilor Reagor voted for:
Michael Dempsey

After a roll call vote, Shannon Blair, Joseph Chandler, Kella Romero, and Kes Luchini were appointed to fill the terms beginning August 1, 2025, and ending July 31, 2027.

2) Appointments to the Los Alamos Commerce & Development Corporation (LACDC) Board of Directors

Public Comment:
None.

A motion was made by Councilor Havemann, seconded by Councilor Herrmann, to nominate David Hampton, David Cremer, and Denise Derkacs to fill two vacancies on the Los Alamos Commerce & Development Corporation (LACDC) Non-profit Organization Board of Directors and move that Council appoint to the vacant position(s) as follows:

By roll call vote, Councilors vote for two nominees and the two with the highest vote total of four or more be appointed for the term beginning on September 27, 2025, and ending on September 26, 2028.

Councilors Hand, Neal-Clinton, and Reagor voted for:
David Hampton

Councilors Cull, Havemann, Hand, Herrmann, Reagor, and Ryti voted for:
David Cremer

Councilors Cull, Havemann, Herrmann, Neal-Clinton, and Ryti voted for:
Denise Derkacs

After a roll call vote, David Cremer and Denise Derkacs were appointed to fill the terms beginning September 27, 2025, and ending September 26, 2026.

C. Board and Commission Vacancy Report

No report.

D. Board and Commission Reports

Councilor Havemann reported on the Board of Public Utilities.

Councilor Reagor reported on the Parks and Recreation Board.

Councilor Herrmann reported on the Planning and Zoning Board.

Councilor Hand reported on the North Central Regional Transit District Finance Sub-Committee

Councilor Neal-Clinton reported on the Art in Public Places Board.

E. County Manager's Report

1) County Manager's Report for June 2025

County Manager Anne Laurent reported on:

- Collective bargaining agreement with the Fire Union
- Science Fest
- Open house at the airport
- Safety Town event
- Golf course soft opening
- Geofencing for golf carts
- Awards received by Ben Vigil, Sr., Equipment Operator for Traffic & Streets at the New Mexico Counties Equipment Rodeo
- Bear-resistant carts
- Middle Mile fiber project
- Economic Development

Councilor Hand asked about seating for the Rodeo. County Manager Laurent reported that the County will have rental bleachers this year, with permanent bleachers expected by next year.

F. Council Chair Report

Chair Cull reported on:

- Regular schools meeting with UNM-LA
- Meeting with Police Chief Sgambellone about community concerns
- Small Local Economic Development (LEDA) Town Hall
- Drafting performance goals for the County Manager and County Attorney

G. Approval of Councilor Expenses

None.

H. Preview of Upcoming Agenda Items

1) Tickler Report of Upcoming Agenda Items.

Chair Cull highlighted upcoming agenda items in the tickler report included with the meeting agenda packet.

Councilor Ryti asked about a date to review the wildlife ordinance and noted that the item for the Small Business Working group may include an action item.

Chair Cull stated that dates for reviewing the wildlife ordinance and the Probate Judge petition will be added to the next tickler report.

11. COUNCILOR COMMENTS

None.

12. ADJOURNMENT

The meeting adjourned at 9:40 p.m.

INCORPORATED COUNTY OF LOS ALAMOS

Theresa Cull, Council Chair

Attest:

Michael D. Redondo, County Clerk

Meeting Transcribed by: Allison Collins, Deputy Clerk

LACF25-1139 08/27/2025 09:50:03 AM
Pages: 40 Fees: $0.00
Michael D. Redondo, County Clerk
Los Alamos County NM
casey.salazar

Los Alamos County Council
Regular Session
July 29, 2025
Item 8D – Attachment D

Budget Revision 2025 - 81

Council Meeting Date: 07/29/2025

Fund & Department	Org	Object	Revenue (decrease)	Expenditures (decrease)	Transfers In	Transfers Out	Fund Balance (decrease)
Muni Court - Bench Warrant	18518120	8275		$ 3,329			$ (3,329)
							$ -
							$ -
							$ -
							$ -
							$ -
							$ -

Description: Increase Fund 185 to cover shortfall in Salaries and Benefits.

Fiscal Impact: The net fiscal impact to the Fund 185 is an increase to expenditures.

ATTACHMENT D

Legal Memorandum in Support of the Petition of the Honorable Perry Klare, Probate Judge, to the Los Alamos County Council

Introduction

This memorandum provides the legal and factual foundation for the petition of the Honorable Perry Klare, Probate Judge for Los Alamos County. It is crucial to note that Judge Klare is an **appointed judge, not an elected official**, and has never been elected to his position. This fact underscores the unique nature of his situation regarding county policies and compensation. The petition addresses three critical issues impacting the integrity and proper functioning of his office: (1) the denial of health benefits contrary to established state policy; (2) the unconscionably low compensation for the office, which undermines its dignity and sustainability, especially in light of recent pay raises for other county departments; and (3) a pattern of unprofessional and obstructive conduct by the County's General Counsel that is prejudicial to the administration of justice.

This document will demonstrate that the remedies sought are not requests for special accommodation but are mandated by state policy, enabled by the County's own Home Rule Charter, and necessitated by the fundamental principles of good governance, fairness, and professional ethics. The analysis herein establishes that the County Council possesses both the clear legal authority and the compelling public policy justification to grant the relief requested.

The memorandum respectfully requests that the Council fulfill its duties by taking decisive action to rectify these issues, thereby affirming its commitment to the rule of law and the fair treatment of all public servants. The resolution of these matters is not merely for the benefit of a single official but is essential to maintaining a culture of transparency, accountability, and respect within the government of Los Alamos County.

Part I: The County's Non-Discretionary Duty to Facilitate Health Benefits

The most urgent matter before the Council is the denial of access to the state group health benefits plan for the Probate Judge and his family. This denial, based on a false and erroneous legal conclusion by the County's General Counsel, is in direct contradiction of the plain language of the controlling state policy. The County's role in this matter is not discretionary; it is a ministerial duty to facilitate enrollment for an official who is unequivocally eligible under state rules.

A. Controlling State Policy: A Clear and Unambiguous Mandate

Eligibility for the State of New Mexico (SoNM) Group Benefits Program is governed by rules established and administered at the state level, formerly by the Risk Management Division (RMD) and now by the New Mexico Health Care Authority (HCA) [1]. These rules apply to all participating Local Public Bodies (LPBs), including Los Alamos County [2].

While the standard eligibility for most county employees requires a work schedule of 20 hours or more per week [3], the state has created a specific and distinct eligibility category for **elected officials**. A benefits pamphlet published by the state and provided to employees of participating LPBs contains the dispositive rule. It explicitly states:

"**Elected Officials of the State or Local Public Bodies (LPB) are considered eligible and not required to meet the work schedule of 20 hours/week**" [4].

This language is not ambiguous, conditional, or subject to local interpretation. It is a clear and direct statement of policy that creates a special carve-out, waiving the standard hourly work requirement for the precise class of individual at issue: an elected official of an LPB. This provision is the cornerstone of the argument and demonstrates that eligibility is established as a matter of state policy, not local discretion. Other state benefit programs, such as those related to Medicaid or the New Mexico Health Insurance Exchange, have different and complex eligibility criteria but are not relevant to the State Group Benefits Program at issue here [5, 6, 7, 8].

Although Judge Klare is an appointed judge and has never been elected, the statute specifically refers to the *office* of an elected official. The Probate Judge position in Los Alamos County is designated under state law as an elected office, regardless of the individual incumbent's method of appointment or prior electoral history. Therefore, the benefits eligibility, as outlined for "Elected Officials," should apply to the office held by Judge Klare.

B. Los Alamos County's Status as a Local Public Body (LPB) and Resulting Obligation

Los Alamos County is, by definition, a Local Public Body under New Mexico law. The state's Risk Management Division (now HCA) explicitly provides its programs, including employee health benefits, to "participating school districts and local public bodies" [2]. The benefits pamphlet itself confirms that its terms apply to "SoNM/Local Public Body (LPB) employee participation" [4].

As a participating LPB in the state's self-funded Health Care Benefits Fund, Los Alamos County is bound to administer the program according to the state's eligibility rules. The County does not possess the authority to unilaterally rewrite, ignore, or create more restrictive eligibility criteria than those established by the state for the state-administered plan. The County's function in this context is purely ministerial: to

process the enrollment for all individuals who meet the state's definition of "eligible." The refusal by the County's administration to facilitate this enrollment is an act of administrative overreach that contravenes established policy.

C. Refutation of the General Counsel's False and Erroneous Legal Conclusion

The verbal conclusion offered by the General Counsel—that Judge Klare is ineligible for health benefits—is a legal nullity. It is premised on a misapplication of the general employee rule while ignoring the specific and controlling exception for elected officials. Any argument that Judge Klare must meet the 20-hour workweek requirement is fundamentally flawed because it fails to give effect to all provisions of the governing policy, particularly the explicit waiver for elected officials [4].

This is not a matter of complex legal interpretation; it is a matter of reading the plain text of the policy. The General Counsel's refusal to provide a written legal memorandum justifying his conclusion is telling. A correct legal analysis would have to acknowledge the dispositive language of the state policy. The refusal to document his reasoning suggests an awareness that the conclusion cannot withstand scrutiny, a point further explored in Part III of this memorandum. The Council should not give any weight to an undocumented, verbal opinion that is directly contradicted by the written policy of the state agency that administers the program.

The request before the Council is therefore not to create a new policy, grant a special favor, or incur a novel expense. It is a demand for the lawful and correct administration of an existing policy. The financial impact is not extraordinary; the County, as a participating LPB, already has a mechanism for making contributions to the state plan, and the official would pay their required share of the premium further than their salary [9]. The Council's duty is to direct its administration to cease its obstruction and execute its simple, ministerial duty to facilitate enrollment.

Part II: The Legal Authority and Public Policy Imperative for Fair Judicial Compensation

The Office of the Probate Judge in Los Alamos County is currently compensated at an annual salary of $4,636. This figure is not merely low; it is unconscionable. It falls drastically below federal, state, and even the County's own minimum wage standards. This level of compensation devalues a vital judicial office, creates barriers to public service, and is fundamentally unjust. The Los Alamos County Council possesses the clear and unfettered authority under its Home Rule Charter to rectify this injustice and is compelled by principles of equity and good governance to do so.

A. The Unconscionable Disparity of the Current Salary and Recent County Pay Raises

An examination of the current salary against any reasonable benchmark reveals a gross and indefensible disparity. The compensation for the Probate Judge is not a living wage; it is a token payment that fails to reflect the responsibilities of the office.

Furthermore, this disparity is exacerbated by recent pay raises within Los Alamos County government. In 2024, Los Alamos County approved significant pay raises for various departments, including **Human Resources and Legal Counsel**. While specific figures for these raises may vary by position and experience, these increases highlight the County's ability and willingness to adjust salaries for its employees. It is incongruous that while positions within the County's administrative and legal departments are receiving increased compensation, the vital judicial office of the Probate Judge, an **appointed judge** performing critical functions, remains severely underpaid. This stark contrast further undermines the dignity and sustainability of the Probate Judge position.

- **Federal and State Minimums:** The federal minimum wage is $7.25 per hour [10, 11]. A full-time, year-round worker at this rate earns $15,080 annually, an amount that already falls below the federal poverty threshold for a single individual [12]. The New Mexico state minimum wage is significantly higher at $12.00 per hour, yielding an annual income of $24,960 [13, 14].
- **Los Alamos County Minimum Wage:** Most strikingly, the County of Los Alamos has, by ordinance, established its own minimum wage of $15.00 per hour, effective July 1, 2025 [15]. This equates to an annual income of $31,200 for a full-time worker. It is a profound contradiction that the County mandates private employers pay a wage nearly seven times greater than what it provides to one of its own judicial officers.
- **Market Comparisons:** Market data for probate judge salaries in New Mexico shows an average of approximately $65,305, with the 25th percentile still at $48,000 [18, 19].

The following table provides a stark, at-a-glance visualization of this disparity:

Compensation Benchmark	Annual Salary
Hon. Perry Klare's Current Salary	$4,636
Federal Minimum Wage (at 2080 hrs)	$15,080
New Mexico State Minimum Wage (at 2080 hrs)	$24,960
Los Alamos County Minimum Wage (at 2080 hrs)	$31,200

This data, coupled with the **recent pay increases for other county departments**, makes it impossible to argue that the current salary for Judge Klare is standard, reasonable, or fair. It is an extreme outlier that demands immediate correction.

B. The Power of Home Rule: The Council's Unfettered Authority to Act

The Los Alamos County Council has the absolute legal authority to set a fair and equitable salary for the Probate Judge. This power stems from its unique status as a "Home Rule" county, which distinguishes it from the vast majority of counties in New Mexico.

Most counties in the state operate under "Dillon's Rule," a legal principle holding that local governments possess only those powers expressly granted to them by the state legislature [20, 21, 22]. For these counties, salaries for elected officials are constrained by state statutes that classify counties and set corresponding salary caps [16, 17].

However, Los Alamos County is different. It is a consolidated city-county government that has adopted a Home Rule Charter [21, 23, 24]. The Charter itself declares its intent: "The purpose of this Charter is to provide for maximum self-government and the greatest possible exercise of home-rule powers" [24, 25]. This grant of power means the Council may exercise all legislative functions not expressly denied by general law. There is no state law that denies Los Alamos County the power to set salaries for its own officials.

This authority is not merely implied; it is made explicit in the County's own governing documents. Los Alamos County Personnel Rule 302 states: "Pay recommendations for... Elected Officials shall be in accordance with the Los Alamos County Compensation Plan and other guidelines established by the Council for the County as a whole" [26]. This rule confirms that the Council, not the state legislature, is the final authority on compensation for its officials. The state statutory salary caps [16, 17] are therefore legally irrelevant and inapplicable to Los Alamos County. The Council is not bound by them and has the clear, unambiguous, and self-granted authority to set the Probate Judge's salary by ordinance.

C. The Equitable Doctrine of Unjust Enrichment

Beyond the Council's clear legal authority to act lies a compelling moral and equitable duty to do so, grounded in the legal principle of unjust enrichment. While sovereign immunity may bar certain monetary claims against a government entity not based on a written contract [27], the doctrine of unjust enrichment serves as a powerful persuasive argument when petitioning a legislative body to exercise its authority in

the interest of justice and fairness [28].

In New Mexico, a claim of unjust enrichment is established by showing that: (1) the defendant was enriched; (2) the enrichment was at the plaintiff's expense; and (3) it would be unjust for the defendant to retain the benefit without compensating the plaintiff [29].

- **Enrichment of the County:** The County of Los Alamos is unequivocally enriched by the work of its Probate Judge. The office performs essential judicial services mandated by the New Mexico Constitution, including admitting wills to probate, appointing personal representatives to manage estates, and performing other duties critical to the orderly transfer of property after death [30, 31, 32, 33]. These are not optional functions; they are a core responsibility of county government. By having Judge Klare perform these duties, the County receives a valuable service it would otherwise have to procure.
- **At the Judge's Expense:** Judge Klare, a licensed attorney and an **appointed judge**, is providing these skilled legal and judicial services at his own expense. The "expense" is his professional labor, time, and expertise, for which he is receiving compensation that is less than a poverty wage and a fraction of the market rate for such work.
- **Injustice:** It is profoundly unjust for a government entity to accept the benefits of a duly appointed judicial officer's labor while compensating that officer at a rate that insults the dignity of the office. This practice effectively creates a "wealth requirement" for holding public office, ensuring that only those who are independently wealthy or retired can afford to serve. This is fundamentally anti-democratic and contrary to the public interest. For the County to retain the benefit of Judge Klare's work without providing fair compensation is against equity and good conscience.

The legal argument of Home Rule establishes that the Council can act. The equitable argument of unjust enrichment establishes that it must act. Together, they present an irrefutable case for immediate salary reform for the Office of the Probate Judge, not as a matter of personal accommodation, but as a matter of public policy and institutional integrity.

Part III: A Pattern of Unprofessional Conduct Detrimental to Good Governance

The issues of benefits and salary are compounded by a pattern of unprofessional, unethical, and obstructive conduct from the Office of the General Counsel. This conduct is not only a personal affront to an **appointed judicial officer** but also represents a violation of the professional and ethical standards that govern attorneys and public officials in New Mexico. This behavior undermines the principles of transparency and accountability, creates a "chilling effect" that discourages others from raising legitimate concerns, and is ultimately prejudicial to the administration of justice in Los Alamos County.

A. Violations of the New Mexico Rules of Professional Conduct

The General Counsel, as a licensed New Mexico attorney, is bound by the New Mexico Rules of Professional Conduct, which are established and enforced by the New Mexico Supreme Court [34]. The alleged actions appear to violate several of these mandatory ethical rules.

- **Rule 16-804(C): Conduct Involving Dishonesty, Fraud, Deceit or Misrepresentation.** This rule states it is professional misconduct for a lawyer to "engage in conduct involving dishonesty, fraud, deceit or misrepresentation" [35]. Providing a "false and erroneous legal conclusion" regarding benefits eligibility, especially when the correct policy is plainly written, can be construed as a misrepresentation of law [36, 37]. Furthermore, the alleged tactic of insisting on "in person" meetings to avoid creating a formal, written record of his legal opinions is a practice that can be characterized as deceitful. It is a method designed to obscure accountability and prevent a clear record upon which others can rely or challenge, a clear departure from transparent legal counsel.
- **Rule 16-804(D): Conduct that is Prejudicial to the Administration of Justice.** This rule prohibits lawyers from engaging in conduct that harms the justice system [35]. By actively obstructing an **appointed judicial officer's** access to basic employment entitlements and refusing to provide a reasoned, written legal basis for his adverse decisions, the General Counsel is interfering with the proper functioning of a part of the county's justice system. This is not a dispute between two ordinary employees; it is the county's chief legal officer impeding a judge. Such conduct erodes the respect and cooperation necessary for the justice system to function effectively [38].
- **The New Mexico Creed of Professionalism.** Beyond the formal rules, the General Counsel's conduct violates the spirit and letter of the state's Creed of Professionalism [39]. The alleged disrespectful address of the Judge as "Mr. Klare" in official correspondence is a direct violation of the duty to "be courteous and civil, both in oral and in written communications." The refusal to provide a written legal memorandum upon request from a fellow public official is inconsistent with the principles of candor and cooperation that the Creed espouses.

These are not mere breaches of professional etiquette; they are potential grounds for disciplinary action by the State Bar of New Mexico [40, 41, 42]. This elevates the seriousness of the complaint from a personnel dispute to a matter of professional malpractice and ethical failure.

B. Dereliction of Duty Under the Los Alamos County Code of Conduct

The General Counsel's actions also appear to violate the County's own standards for its public officials. Section 30-4 of the Los Alamos County Code of Ordinances establishes a clear ethical framework, stating: "A public official shall treat government service as a public trust... [and] shall use the powers and resources of public office... to advance the public interest... [and] shall conduct themselves in a manner that justifies the confidence placed in them by the people, at all times maintaining integrity and ethically

discharging the high responsibilities of public service" [43].

A pattern of obstruction, due process violations, disrespect, and a lack of transparency is a manifest departure from these standards. Refusing to provide a written legal memorandum detailing the basis for an official decision is a failure of transparency and accountability. It subverts the public trust by creating an environment where decisions are made by fiat rather than by reasoned application of law and policy. This conduct does not justify the confidence placed in the County's chief legal officer.

C. The Systemic "Chilling Effect" on County Governance

This pattern of behavior has implications that extend far beyond Judge Klare. When an **appointed official**—who is also a judge and a licensed attorney—is met with such obstruction and disrespect from the County's chief legal officer and Human Resources department, it sends a powerful and intimidating message to all other county employees.

This creates a "chilling effect" that is corrosive to good governance. County employees, and administrative staff may observe this treatment and conclude that it is futile or even dangerous to raise their own legitimate concerns about pay, benefits, working conditions, or unfair treatment. They may fear similar stonewalling, disrespect, or retaliation. This fosters a culture of fear and silence, which is the antithesis of a healthy, transparent, and accountable public administration.

The County's own Personnel Rules include detailed grievance procedures designed to resolve employee complaints fairly and to protect employees from retaliation for raising them [26]. These procedures are rendered meaningless if the very officials in charge of legal and HR matters—the gatekeepers of the process—are themselves creating an environment of intimidation. The Council has a fiduciary and ethical duty to the County and its citizens to ensure that such a culture does not take root and to investigate credible allegations that it already has. The complaint against the General Counsel is therefore not a personal grievance, but a matter of systemic institutional health that falls squarely within the Council's oversight responsibilities.

Part IV: A Call to Action: Proposed Resolutions for the Council

Based on the foregoing legal and factual analysis, it is clear that the County Council has both the authority and the obligation to act. The issues presented are not intractable legal puzzles but matters requiring the political will to enforce existing policy, exercise established authority, and uphold professional standards. The following actions are respectfully proposed as the necessary and appropriate remedies.

Requested Actions

To fully resolve the issues detailed in this memorandum, the following specific actions are requested of the Los Alamos County Council:

- **Immediate Directive on Health Benefits:** That the Council pass a formal motion and vote directing the County Manager to immediately comply with the State of New Mexico's group benefits policy [4] and to take all necessary administrative steps to facilitate the enrollment of the Honorable Perry Klare and his eligible dependents in the state group health benefits plan. This recognizes that the **office of Probate Judge is designated for benefits eligibility as an elected official**, regardless of the incumbent being an appointed judge who has never been elected.
- **Initiation of Ordinance Process for Salary Adjustment:** That the Council pass a formal motion and vote directing the preparation of a county ordinance, pursuant to its Home Rule authority under the County Charter [24, 25, 26], to set a fair and equitable salary for the Office of the Probate Judge. This salary should be commensurate with the duties of the office [30, 31] and reflective of the compensation benchmarks detailed in Part II of this memorandum, and should also consider the **recent pay raises granted to other county departments, including HR and legal counsel**. Given the conflict of interest, this drafting process should be overseen by an independent counsel or government body.
- **Authorization of an Independent Investigation:** That the Council pass a formal motion and vote to retain outside, independent counsel to conduct a formal investigation into the allegations of unprofessional conduct, and violations of due process. This investigation should determine whether the actions of the General Counsel and the Human Resources department violated the New Mexico Rules of Professional Conduct [35], the Los Alamos County Code of Conduct [43], or other applicable policies. This is a crucial step to protect the County from potential liability, address the "chilling effect" on employees, and ensure the integrity of its administration.

Conclusion

This memorandum has established, with dispositive evidence, that the requests of the Honorable Perry Klare, an **appointed judge** for Los Alamos County, are firmly grounded in law, equity, and the principles of good governance.

The duty to facilitate health benefits is a non-discretionary administrative task mandated by clear state policy, applying to the *office* of the Probate Judge as an "elected official" for benefits purposes. The authority to set a fair judicial salary is an explicit power vested in this Council by its Home Rule Charter, especially relevant given the **recent pay raises for HR and legal counsel** in the county. The obligation to

investigate serious allegations of professional misconduct against a chief legal officer is fundamental to the Council's oversight role and its duty to maintain a just and transparent government.

Action on these matters is not merely about resolving the grievances of one official. It is about affirming the rule of law, protecting the dignity and accessibility of public office, and ensuring that the government of Los Alamos County operates with the integrity, accountability, and fairness that its citizens expect and deserve. We trust the Council will recognize the gravity of these issues and act decisively and accordingly.

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July 29, 2025 County Council – Regular Session For DAIS

For item: 9C. Update on the Purchase, Sale, and Development Agreement for the 20th Street Redevelopment Proposed by RBMM Development LLC

The development team made minor modifications to the project renderings contained in the Project Overview Presentation. Slides number 10 – 17 have been updated to reflect the project concepts being proposed. No other changes have been made.

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Staff is requesting Council direction to move forward with a Development Agreement with RBMM for the development of the 20th Street Property as presented.

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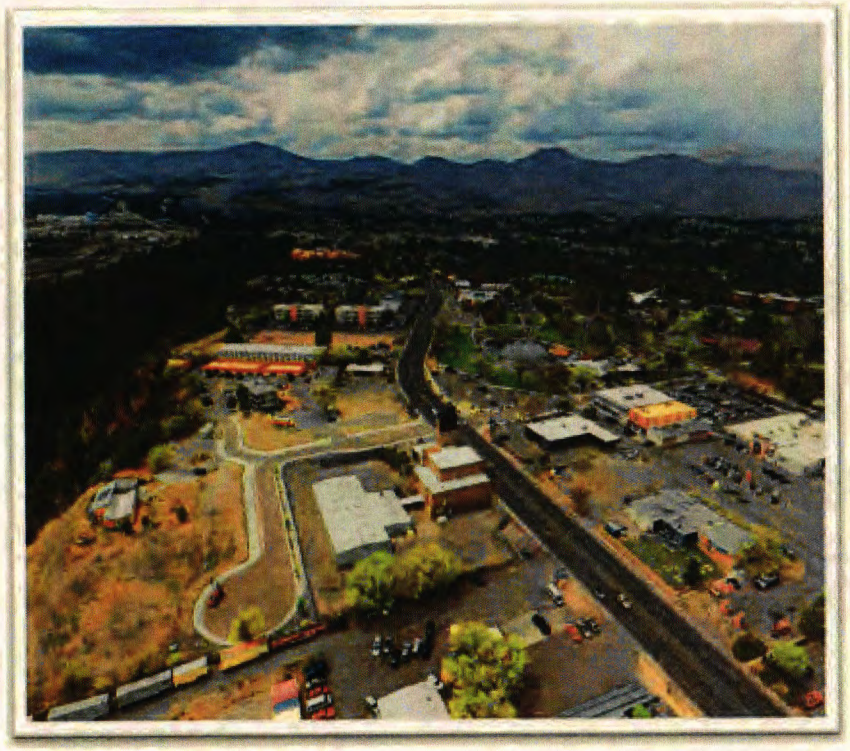
20th ST. & TRINITY DR. DEVELOPMENT SITE



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- Introduction to Council – May 2023
- Public Input Meeting – June
- Public Input Survey – June to July
- Workshops with County Staff – April through September
- Design Ideas – August through October
- Summary Report of Development Potential & Opportunities – October
- Final Presentation to Council October 17th, 2023

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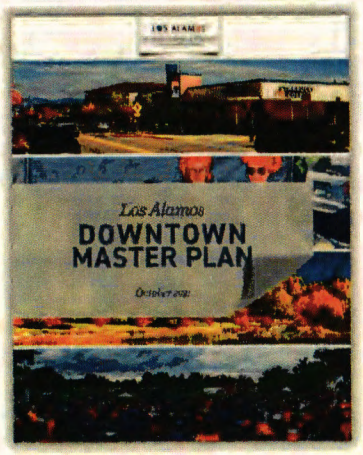
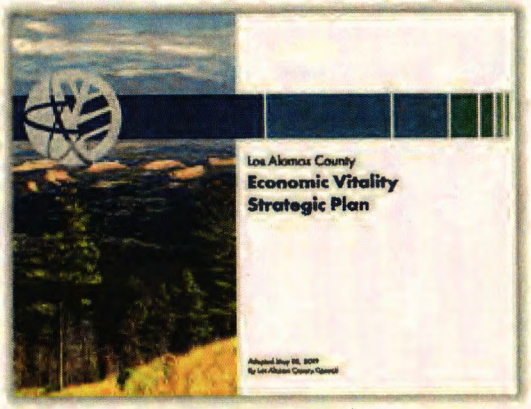
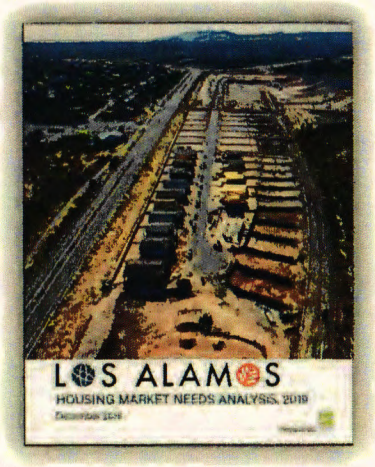
Common Themes from Existing Goals, Policies, Public Participation & Survey







- Open Space, Transportation, & Connectivity
- Small Business & Local Emerging Entrepreneur Support
- Variety of Housing & Retail Options Supporting Urban Form

(Executive Summary. *Los Alamos Downtown Master Plan*. (October 2021.))

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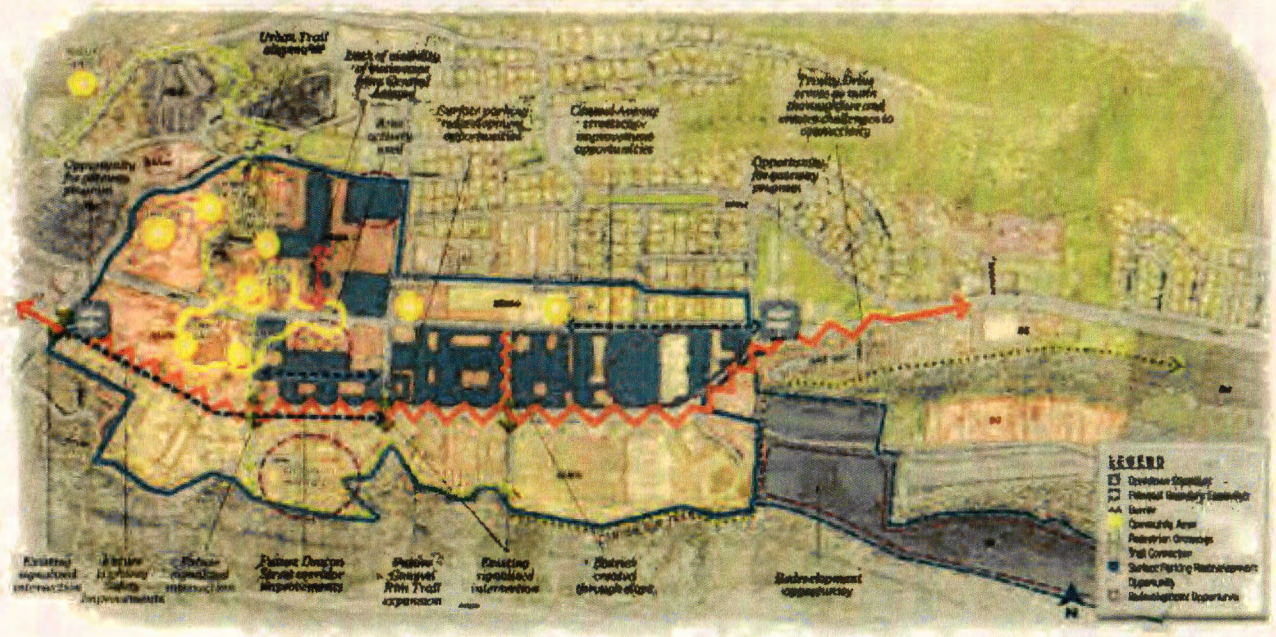
Connections, Streets & Transportation

- Proximity to Community Amenities
- Urban Trail Connectivity with Ashley Pond and Downtown
- Continuation of Canyon Rim Trail
- L.A. Canyon Edge Access
- Expand & Increase Placemaking Strategies
- Rebrand Downtown as an active family-friendly multi-generational environment



LOS ALAMOS

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Variety of Housing & Retail Options Supporting Urban Form

- Focus on Variety of Housing Options
- Increased Multi-family Densities & Heights
- Incorporate Range of Housing Options

Excerpt from the 2000 Downtown Master Plan that illustrates the vision for downtown.

Colorful, decorative intersections and crosswalks act as gateway fixtures and help pedestrians feel more safe as the designs catch the eye of drivers more easily.

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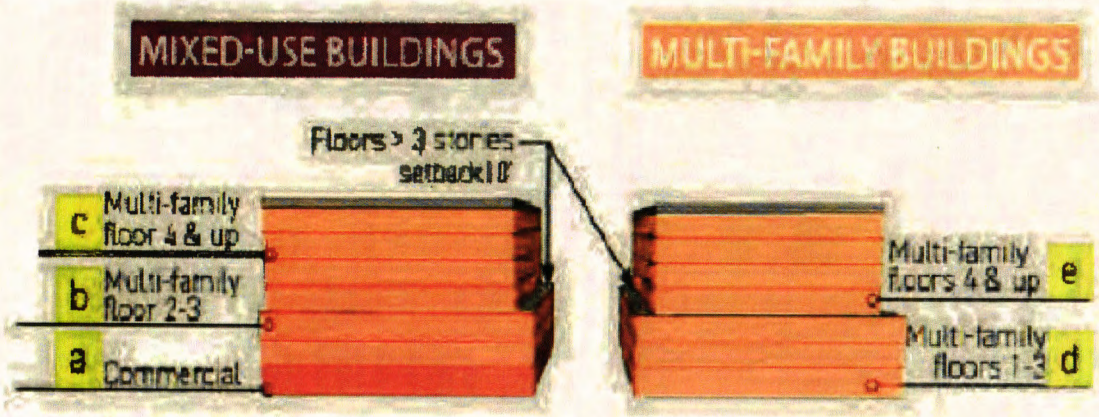
Variety of Housing & Retail Options Supporting Urban Form

- Small Scale Retail Spaces to Support Local Business Community.
- Strategies to Provide a Variety of Affordable Commercial Spaces to Support Local Entrepreneurs.
- Activate Pedestrian Level Frontages
- Integrating Urban Living into Downtown
- Develop Entertainment Uses to Attract Local Community.



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- Property Purchase: The development team will purchase the property from the County for its appraised value of $1,770,000.00.

- Earnest Money Deposit: A $10,000.00 Due Diligence Earnest Money Deposit will be provided.

- Site Plan Approval: The developer is obligated to pursue final approval for a complete site plan application that substantially complies with the Concept Plan presented tonight.

- Easements: The developer will provide and execute all necessary easements for the development, including for the Canyon Rim Trail, which will be incorporated into the final site plan and shown on the final plat.

- Public Benefits & County Contribution: In addition to constructing the project, the developer will provide significant public benefits through on- and off-site public improvements. In consideration of these additional public improvements, the County will contribute, on a reimbursement basis, an **amount not to exceed $3,630,055.43** as provided in the Conceptual Engineers Opinion of Probable Cost. These improvements include:
    - Trail connections
    - Design and installation of a new traffic signal
    - Intersection improvements and roadway striping
    - Expanded on-street parallel parking
    - Streetlighting

Russell Brott & Marcel Montoya

Attachment A

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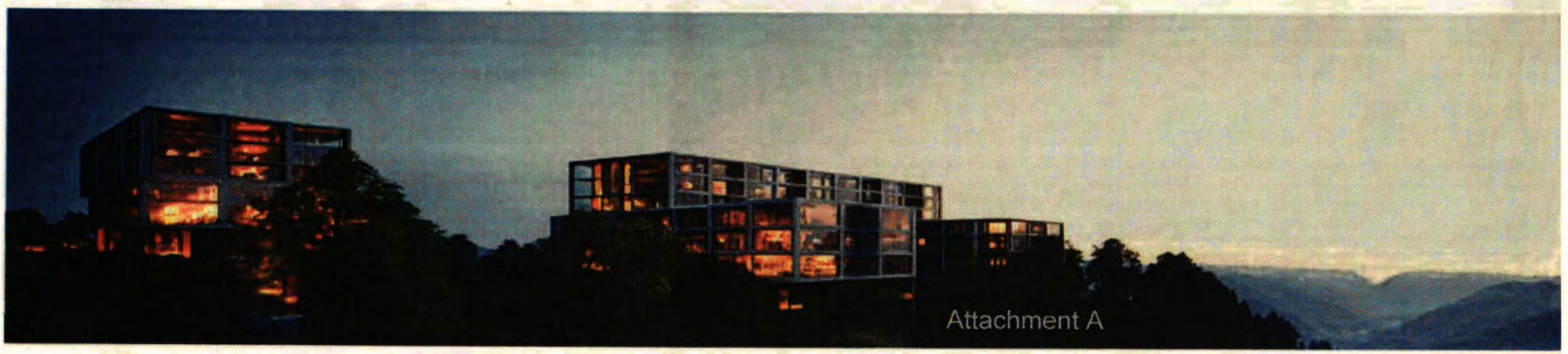
The Strata at 20th St will bring a whole new level of apartment living to Los Alamos. Our vision includes the following:

- Construction of ~285 housing units, ~25,000 square feet of retail space and a wrapped cast-in-place parking structure, all integrated with the adjacent Canyon Rim trail system.
- Our goal is to activate 20th St in a way that it serves as a bridge between the downtown heart of Los Alamos and the stunning viewscape of the the Canyon Rim trail.
- The Strata will meet a distinct need for dense, multi story mixed use construction in the community. The design of the complex is in line with existing development codes.
- The retail space will be designed to attract cafes, restaurants and other retail uses that enhance the experience of the residents and community at large.



Initial Site Plan

- The site is located just south of Ashley Pond
- The development will create linkages to Ashley Pond through walking paths, signalized cross walk, and pedestrian/family friendly retail.
- The site will connect the Urban Trail on the North side of Trinity to the Canyon Rim Trail

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20th Street will become a vibrant, urban-style gateway into the Strata development, seamlessly connecting retail, residences, a community park and the Canyon Rim Trail.

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Public amenities including a park and bike path connecting Ashley Pond to the Canyon Rim Trail will complement a curated retail mix to bring energy to this special part of town.

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Adams County Council
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