

## Minutes

### County Council – Regular Session

*Sara Scott, Council Chair; Randall Ryti, Council Vice-Chair;  
David Izraelevitz, Antonio Maggiore, Katrina Martin, James Robinson,  
and Pete Sheehey, Councilors*

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Tuesday, November 10, 2020

6:00 PM

“Due to COVID-19 concerns, meeting will be conducted remotely.

Public can view proceedings at

<http://losalamos.legistar.com/Calendar.aspx>

via Zoom at <https://zoom.us/j/9917448915>

or locally on cable channel 8

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#### 1. OPENING/ROLL CALL

The Council Chair, Sara Scott, called the meeting to order at 6:06 p.m.

The following Councilors were in attendance:

Present: 7 - Councilor Scott, Councilor Ryti, Councilor Izraelevitz, Councilor Maggiore, Councilor Martin, Councilor Robinson, and Councilor Sheehey

#### 2. PLEDGE OF ALLEGIANCE

Led by: All.

Council Chair Scott made opening remarks regarding COVID-19.

Councilor Sheehey made comments regarding Veteran's Day.

Council Chair Scott made opening remarks regarding the procedure of the meeting due to COVID-19.

Mr. Harry Burgess, County Manager, listed the County employees in attendance.

#### 3. STATEMENT REGARDING CLOSED SESSION

A motion was made by Councilor Sheehey, seconded by Councilor Maggiore, that Council approve the following statement for inclusion in the minutes: “The matters discussed in the closed session held on November 10, 2020 that began at 5:00 p.m. were limited only to those topics specified in the notice of the closed session, and no action was taken on any matter in that closed session.”

The motion passed with the following vote:

Yes: 7 - Councilor Scott, Councilor Sheehey, Councilor Izraelevitz, Councilor Maggiore, Councilor Martin, Councilor Robinson, and Councilor Ryti

**4. PUBLIC COMMENT**

None.

**5. APPROVAL OF AGENDA**

Councilor Scott requested Item E.2 be heard after Item 7. There were no objections.

**A motion was made by Councilor Izraelevitz, seconded by Councilor Sheehey, that the agenda be approved as amended.**

**The motion passed with the following vote:**

**Yes: 7 - Councilor Scott, Councilor Ryti, Councilor Izraelevitz, Councilor Maggiore, Councilor Martin, Councilor Robinson, and Councilor Sheehey**

**6. PUBLIC COMMENT FOR ITEMS ON CONSENT AGENDA**

None.

**7. CONSENT AGENDA**

Councilor Scott noted there was a misprint on Item 7.D in the staff report regarding the attachments, they are listed as C and F and it should say C and H.

**Consent Motion:**

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

- A.** Award of Bid No. 21-11 in the Amount of \$332,927.36 to PAC-8, Inc. for the purpose of Cablecasting of County Council Meetings and Videotaping Training & Production Services

**I move that Council approve Contract for General Services, Agreement No. AGR 21-11 with PAC-8, Inc. in the Amount of \$332,927.36 for the Purpose of cablecasting of County Council meetings and Videotaping Training and Production Services.**

- B.** Approval of Agreement No. AGR21-17c to Terracon Consultants Inc. for On-Call Materials Testing and Abatement Services in the Aggregate Amount Not to Exceed \$200,000 excluding Applicable Gross Receipts Tax

**I move that Council award Agreement No. AGR21-17c to Terracon Consultants Inc. for On-Call Materials Testing and Abatement Services in the Aggregate Amount Not to Exceed \$200,000 excluding Applicable Gross Receipts Tax.**

- C. Memorandum of Understanding (MOU) Entered into by and Between the Incorporated County of Los Alamos and the North Central Regional Transit District (NCRTD) for FY2021, Providing the NCRTD with \$350,000

**I move that Council approve a Memorandum of Understanding entered into by and between the Incorporated County of Los Alamos and the North Central Regional Transit District (NCRTD) for FY2021, Providing the NCRTD with \$350,000.**

- D. Incorporated County of Los Alamos Resolution No. 20-19 and No. 20-20 Authorizing and Approving Submittal of Completed Applications to the New Mexico Finance Authority for Financial Assistance and Project Approval for Projects Designated as Otowi Well #2 Pumphouse and Equipment and Otowi Well #4 Motor Control Center

**I move that Council adopt Resolution No. 20-19 and Resolution No. 20-20 as presented.**

- E. Approval of Report to District Court on Los Alamos County Jail Conditions

**I move that Council forward the attached letter regarding current jail conditions to District Court.**

- F. Board/Commission Appointment - Community Development Advisory Board

**I nominate Nina Epperson to fill one of two vacant positions on the Community Development Advisory Board and move that Council fill one vacancy by appointing Nina Epperson to a term that begins August 15, 2020 and ends on August 14, 2023.**

- G. Amendment to the FY21 Salary Plan with the reactivation and re-grading of the Power Scheduler/Energy Analyst job description

**I move that Council approve the amendment to the FY21 Salary Plan with the reactivation and re-grading of the Power Scheduler/Energy Analyst job description.**

- H. Approval to Accept Amendment 1 to the FY2021 E911 Grant from the Department of Finance and Administration in the Amount Not To Exceed \$209,618 and Related Budget Revision 2021-21

**I move that Council approve the request to accept Amendment 1 to the Fiscal Year 2021 E911 Grant Agreement from the Department of Finance and Administration in an amount not to exceed \$209,618. I further move that Council direct the County Manager to execute the grant agreement. I further move that Council approve Budget Revision 2021-21 as summarized on attachment B and that the attachment be made a part of the minutes of this meeting.**

**Approval of the Consent Agenda:**

**The motion passed with the following vote:**

**Yes: 7 - Councilor Scott, Councilor Ryti, Councilor Izraelevitz, Councilor Maggiore, Councilor Martin, Councilor Robinson, and Councilor Sheehy**

### **General Council Business Item E.2**

Appeal of the Planning and Zoning Commission's Case SUP-2020-0014; A Request for Special Use Permit to conduct an in-home day care facility; and Case SUP-2020-0015; A request for Special Use Permit for home business to employ more than one non-family member at 113B La Senda Road

Councilor Scott outlined the procedure for the hearing.

Mr. Kevin Powers, Assistant County Attorney, spoke.  
Mr. David North, Appellant, spoke.  
Mr. Joseph Karnes, Attorney for Appellants Marilyn and Barham Smith, Appellants, spoke.  
Ms. Akkana Peck, Appellant, spoke.  
Ms. Denise Matthews, Applicant, spoke.  
Mr. Ryan Foster, Principal Planner, spoke.  
Ms. Desirae J. Lujan, Associate Planner, spoke.  
Mr. Alvin Leaphart, County Attorney, spoke.  
Ms. Patricia Thames, Appellant, spoke.

**A motion was made by Councilor Maggiore, seconded by Councilor Robinson, that Council go into closed session for deliberations.**

**The motion passed with the following vote:**

Councilor Martin was absent, unknown what time she left the meeting.

**Yes: 6 - Councilor Scott, Councilor Ryti, Councilor Izraelevitz, Councilor Maggiore, Councilor Robinson, and Councilor Sheehey**

**Absent: 1 - Councilor Martin**

#### **RECESS**

**Councilor Scott called a recess at 8:15 p.m. Council will reconvene at 8:20 p.m. and immediately go into closed session. Council returned from closed session at 9:09 p.m. with all Councilors present.**

**A motion was made by Councilor Sheehey, seconded by Councilor Maggiore that Council remand case SUP-2020-0014 and SUP 2020-0015 to planning and zoning commission for further development of the facts concerning the impact on the peace comfort and welfare of the persons living in adjacent properties specifically noise levels and to consider possible requirements for noise mitigation measures.**

**After further discussion Councilor Sheehey withdrew his motion**

**A motion was made by Councilor Izraelevitz, seconded by Councilor Robinson that Council find that the decision of the Planning and Zoning Commission was in accordance with adopted County plans, policies and ordinances and that the facts on which the decision was based are supported by the record and that the decision was not arbitrary, capricious, or a manifest abuse of discretion. He further moved that Council affirm the decision of the Planning and Zoning Commission in Case No SUP-2020-0014 and Case SUP-2020-0015; and he further moved to authorize the Chair to sign Findings of Fact consistent with this Decision, prepared with the assistance of the County Attorney, and further move that these Findings of Fact be included in the record of this proceeding.**

**The motion passed with the following vote:**

**Yes: 4 - Councilor Scott, Councilor Ryti, Councilor Izraelevitz, and Councilor Robinson**

**No: 3 - Councilor Maggiore, Councilor Martin, and Councilor Sheehey**

## 8. INTRODUCTION OF ORDINANCE(S)

- A. Briefing Incorporated County of Los Alamos Code Ordinance 02-309: An Ordinance Amending Chapter 2, Article III, Section 2-112, Adjusting the Compensation of the County Clerk as Provided for by Statute

**Councilor Izraelevitz introduced, without prejudice, Incorporated County of Los Alamos Ordinance No. 02-309; An Ordinance Amending Chapter 2, Article III, Section 2-112, Adjusting the Compensation of the County Clerk as Provided for by Statute.**

## 9. PUBLIC HEARING(S)

- A. Incorporated County Of Los Alamos Code Ordinance 02-307 An Ordinance Repealing Chapter 30, Article II In Its Entirety, And Replacing It With A Newly Adopted Article II, Chapter 30 Relating To Labor Management Relations, And Authorizing The Continued Existence Of County's Labor Management Relations Board

Ms. Katie Thwaites, Deputy County Attorney, spoke.

Public Comment:  
None.

**A motion was made by Councilor Izraelevitz, seconded by Councilor Sheehey that Council adopt Incorporated County of Los Alamos Code Ordinance No. 02-307; An Ordinance Repealing Chapter 30, Article II In Its Entirety, And Replacing It With A Newly Adopted Article II, Chapter 30.**

**The motion passed with the following vote:**

**Yes: 7 - Councilor Scott, Councilor Ryti, Councilor Izraelevitz, Councilor Maggiore, Councilor Martin, Councilor Robinson, and Councilor Sheehey**

- B. Incorporated County of Los Alamos Ordinance No. 701: An Ordinance Authorizing the County Manager or Designee to Execute Subleases for the County-Leased Property Located at 1505 15th Street, Los Alamos, New Mexico

Ms. Katie Thwaites, Deputy County Attorney, spoke.

Public Comment:  
None.

**A motion was made by Councilor Izraelevitz, seconded by Councilor Maggiore that Council adopt Incorporated County of Los Alamos Ordinance No. 701, an Ordinance authorizing the County Manager or Designee to execute subleases for the County-Leased Property Located at 1505 15th Street, in Los Alamos, New Mexico.**

**The motion passed with the following vote:**

**Yes: 6 - Councilor Scott, Councilor Izraelevitz, Councilor Maggiore, Councilor Martin, Councilor Robinson, and Councilor Sheehey**

**Abstain: 1 - Councilor Ryti**

## **10. BUSINESS**

- A.** Incorporated County of Los Alamos Resolution No. 20-18, A Resolution Calling on Congress to Enact a Campaign Finance Regulation Amendment

Councilor Sheehey provided introductory comments.

Public Comment:

Ms. Adelaide Jacobson, 607 Meadow Lane, spoke.

**A motion was made by Councilor Martin, seconded by Councilor Maggiore, that Council adopt Incorporated County of Los Alamos Resolution No. 02-18; A Calling on Congress to Enact a Campaign Finance Regulation Amendment.**

**The motion passed with the following vote:**

**Yes: 6 - Councilor Scott, Councilor Ryti, Councilor Maggiore,  
Councilor Martin, Councilor Robinson, and Councilor Sheehey**

**No: 1 - Councilor Izraelevitz**

## **RECESS**

**Councilor Scott called for a recess at 9:53 p.m. The meeting reconvened at 10:01 p.m.**

- B.** Consideration of Community Development Advisory Board Recommendations

Councilor Robinson presented.

Mr. Paul Andrus, Community Development Director, spoke.

Public Comment:

Mr. Aaron Walker, no address given, spoke.

**A motion was made by Councilor Izraelevitz to table this item until a meeting in January.**

**The motion failed for the lack of a second.**

**A motion was made by Councilor Ryti, seconded by Councilor Robinson, that Council prioritizes Code Enforcement activities to Health and Safety issues until Chapter 18 has been updated and adopted.**

**The motion passed with the following vote:**

**Yes: 5 - Councilor Ryti, Councilor Maggiore, Councilor Martin, Councilor Robinson,  
and Councilor Sheehey**

**No: 2 - Councilor Scott and Councilor Izraelevitz**

## **11. COUNCIL BUSINESS**

### **A. Appointments**

None.

### **B. Board, Commission, and Committee Liaison Reports**

Councilor Ryti reported on the Department of Public Utilities meeting; the Coronavirus Aid, Relief, and Economic Security (CARES) Act; the Mayor Caucus meeting; an Individual Permit meeting; the Energy Communities Alliance (ECA) meeting; Employee Recognition Day; and a meeting regarding the Flanged Tritium Waste Container.

### **C. County Manager's Report**

County Manager Harry Burgess reported on the General Election; COVID-19 updates; submissions for CARES Act funding; and noted the upcoming November 12 New Mexico Environment meeting.

### **D. Council Chair Report**

Chair Scott reported on the meetings with Los Alamos National Lab (LANL) and Los Alamos Medical Center (LAMC); the Social Services Sub-Committee; DP road remediation; a letter to federal delegation regarding DP road; a meeting with Governor Martinez from San Ildefonso Pueblo regarding the Vigil Pipeline and the State Road 4 project; comments received from the public regarding County workers during the pandemic; and Employee Appreciation Day.

### **E. General Council Business**

#### **1) Approval of Council's Review Committee Report and Recommendations on FY21 Boards and Commissions Work Plans**

Councilor Sheehey presented.

Councilor Robinson spoke.

Councilor Martin spoke.

Public Comment:

None.

**A motion was made by Councilor Sheehey, seconded by Councilor Robinson, that Council thank all Board & Commission members for their dedication to public service and approve the FY21 Work Plans as submitted or amended from the following boards: Arts in Public Places Board, Community Development Advisory Board, Environmental Sustainability Board, Historic Preservation Advisory Board, Library Board, Lodgers' Tax Advisory Board, Parks and Recreation Board, Personnel Board, Planning and Zoning Commission, and the Transportation Board with the understanding that this approval does not represent formal Council budget approval of all projects, proposals, or potential recommendations listed in the Work Plans. He further moved that Council approve the continuation of B&C annual presentations to Council using the current format and direct staff to notify the Board and Commission Chairpersons of this requirement and the approval of the FY21 Work Plans.**

**The motion passed with the following vote:**

Councilor Maggiore was absent, unknown what time he left the meeting.

**Yes: 6 - Councilor Scott, Councilor Ryti, Councilor Izraelevitz,  
Councilor Martin, Councilor Robinson, and Councilor Sheehey**

**Absent: 1 - Councilor Maggiore**

- 2) Appeal of the Planning and Zoning Commission's Case SUP-2020-0014; A Request for Special Use Permit to conduct an in-home day care facility; and Case SUP-2020-0015; A request for Special Use Permit for home business to employ more than one non-family member at 113B La Senda Road

*This item moved after Item 7 Consent Agenda.*

**F. Approval of Councilor Expenses**

None.

**G. Preview of Upcoming Agenda Items**

None.

**12. COUNCILOR COMMENTS**

Councilor Robinson commented on the Planning and Zoning Commission.  
Councilor Ryti recognized Councilor Sheehey regarding Veteran's Day; commended the County Clerk and staff on work done for the Election; recognized Council candidates; and COVID cases, possible vaccines and COVID safe practices (CSP).

**13. PUBLIC COMMENT**

None.

**14. ADJOURNMENT**

Councilor Scott made closing comments;

The meeting adjourned at 11:42 p.m.

INCORPORATED COUNTY OF LOS ALAMOS

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Sara C. Scott, Council Chair

Attest:

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Naomi D. Maestas, County Clerk

Meeting Transcribed By: Victoria L. Martinez, Senior Deputy Clerk



## Budget Revision 2021-21

Council Meeting Date: November 10, 2020

	Fund & Department	Org Object	Revenue (decrease)	Expenditures (decrease)	Transfers In(Out)	Fund Balance (decrease)
1	General Fund - Police E-911 Grant	01165901 8369 3453	\$ 8,806	\$ 8,806	\$ -	\$ -
<b>Description:</b> The purpose of this budget revision is to increase the Police, General Fund budget for the E-911 state grant.						
<b>Fiscal Impact:</b> The net impact on the General Fund is to increase revenue and expenditures by \$8,806.						

Los Alamos County Clerk  
16 NOV 2020  
By: Received  
UM

Los Alamos County Council  
Regular Session  
November 10, 2020  
Item 11.E.2

3. The Property is a 3-acre parcel zoned Residential-Agriculture (R-A which allows of the operation of an in-home daycare facility if the criteria for a Special Use Permit as provided for Section 16-156 are met).

4. The employment of more than one non-family member for an in-home day care facility is allowed if the criteria for a Special Use Permit as provided for in Section 16-156 are met.

5. As provided in the 2<sup>nd</sup> Amended Record ("Record") provided to the County Council, and in accordance with Section 16-156 of the Code of Ordinances, the Commission heard evidence on whether each criterion for each Special Use Permit were met. This included, but not limited to, the following:

A. The sworn, questioned, and cross-examined testimony of the applicant, Denise Mathews, which provided facts and reasons why the proposed use does meet each criterion for each Special Use Permit. (See generally Lines 595 through 1099 of the Commission's Hearing transcript ("Transcript") contained in the Record.)

B. The sworn, questioned and cross-examined testimony of Desirae J. Lujan, Associate Planner, Los Alamos Community Development Department, which provided facts and reasons why the proposed use does meet each criterion for each special use permit. (See Lines 1100 through 1383 of the Transcript contained in the Record.)

C. The Los Alamos County Community Development Department Staff Report and recommendations for the Commission, were accepted by the Commission and entered into the record as additional evidence which provided facts and reasons why the proposed use does meet each criterion for each Special Use Permit. (See Lines 412 through 418 of the Transcript showing the Staff Report and other exhibits were admitted into Record.)

D. The sworn, questioned and cross-examined testimony of affected parties disputing that each criterion for each Special Use Permit are met. (See Lines 1358 though 1732 of the Transcript contained in the Record.)

E. Correspondence from affected parties disputing that each criterion for each Special Use Permit are met as shown in the Record.

6. Notice of the June 10, 2020 hearing setting forth the nature of the request, the specific parcel of property affected, and the date, time and place of this public hearing, was announced and published in accordance with Section 16-192 which included the following: publication in the Los Alamos Daily Post, a newspaper of general circulation; notice of the June 10, 2020 hearing before the Planning and Zoning Commission were mailed to known property owners within a 100 yard radius of the Property on May 26, 2020; and notice posted in a conspicuous place at the County Municipal Building at least 15 days prior to the public hearing.

7. Appellants timely filed an appeal of the Commission's decisions in accordance with Section 16-492.

8. This appeal was properly before Council and the appeal procedures were followed in accordance with Section 16-493.

### III. CONCLUSIONS OF LAW

Based on the foregoing findings of fact, the following conclusions of law are made:

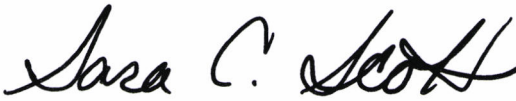
1. Although there was a conflict in the evidence presented to the Planning & Zoning Commission on whether the criteria for each Special Use Permit were met, there is sufficient evidence in the record for a rational finder of fact to conclude that each of the criterion for each Special Use Permit were met. Therefore, the decision reached by the Commission is supported by the record; and

2. The decision by the Commission is substantially in accord with adopted county plans, policies, and ordinances; and

3. Considering the record as a whole, the procedures followed, and the conclusions drawn by the Commission from the totality of the evidence presented, the decision by the Commission was not arbitrary, capricious, or a manifest abuse of discretion, and therefore,

4. Based on the above findings and the standard of review, the County Council must affirm the decision by the Commission to grant the Special Use Permits at issue.

APPROVED THIS 16<sup>th</sup> DAY OF NOVEMBER 2020.

BY:   
Sara Scott, Chair of the County Council  
Incorporated County of Los Alamos