

**TORRANCE COUNTY PLANNING & ZONING BOARD**

**MINUTES**

Commission Chambers    Administrative Offices    205 S 9th Street    Estancia    New Mexico    87016

**REGULAR MEETING**

**January 6, 2020**

**ATTENDANCE**

In attendance were: Vice Chairman Harlan Lawson, Board Members Catherine Lynch, Jim Frost, alternate Board Member Art DuCharme, County Attorney John Butrick, Planning & Zoning Director Steve Guetschow, and Planning & Zoning Clerical Assistant Don Goen.

**CALL TO ORDER**

**Vice Chairman Lawson** called the meeting to order at 9:37 a.m.

The Pledge of Allegiance was recited.

**APPROVAL OF AGENDA**

**Vice Chairman Lawson** presented the meeting agenda and asked for a motion to approve the agenda. **Mrs. Lynch** made a motion to approve, **Mr. Frost** seconded. **All in favor. Motion carried.**

**APPROVAL OF MINUTES**

**Vice Chairman Lawson** presented the minutes of the December 4, 2019 Planning & Zoning Board Meeting. **Mr. Frost** made a motion to approve, **Mrs. Lynch** seconded. **All in favor. Motion carried.**

**Action Items:**

**1. Claim of Exemption #13: Divide parcel in to two tracts**

Applicant:    Ralph Jr. & Prexy Gutierrez

Agent:        Tim Oden, Oden & Associates

Site:         Being Tract 1-A-3 of the Lands of Allen Located in the NW4 Section 29, T.9N., R.8E.,  
                  NMPM

Zone:         Rural Residential District (RR)

**Vice Chairman Lawson** introduced the item. **Mr. Tim Oden** came forward and was sworn. **Mr. Oden** explained the location of the subject property. He explained that Tract 1-A-3 would be divided in to two tracts. Tracts 1-A-3A and 1-A-3B would each contain 2.53 acres. He explained access to the two tracts. He explained the zone and that no flood plain issues effected the property. **Vice Chairman Lawson** asked for comments in favor of, or opposition to the item. Hearing none he asked Staff for comment. **Mr. Guetschow** explained that the plat appeared to be in order. He referred to the quit claim deed and the Assessor's parcel report provided to the Board. A minor scrivener's error was present in the property identification. The issue had been discussed with the Assessor and he had been assured that as long as the legal description of tract 1-A-3 was correct a different upc number would have no effect as the upc number can change. **Mr. Guetschow** explained that he did not see any changes or corrections needed to the plat. **Vice Chairman Lawson** asked the Board for questions or comments.

There were none and he asked the Board for a motion. **Mrs. Lynch made a motion to approve action item 1. Mr. Frost seconded. All in favor. Motion carried. Application approved.**

**\*\* Ms. Brenda Rich** approached the Board and started asking questions about due process and other concerns. **Vice Chairman Lawson** explained that her issues were not on the agenda and could not be addressed at this time. **Ms. Rich** continued to press her point and explained that at a previous meeting incorrect information had been given to the Board. Further discussion took place between Ms. Rich and Vice Chairman Lawson.

**County Attorney John Butrick:** [verbatim] Mr. Chair, members, I would remind the members we are in a public meeting so any comments that need to be made, need to be made in the public.

**Ms. Rich** and **Vice Chairman Lawson** explained that she was asking "how to do what she was asking about." **Mr. Guetschow** explained it went under the appeal process that was listed in the Zoning regulations.

**Ms. Rich:** [verbatim] However under the appeal process I would have to pay a fee to the County in order to file appeal with Mr. Guetschow who is already biased.

**Vice Chairman Lawson** explained that a ruling could not be made today and that he would check with Mr. Butrick, but that her concern could appear as an agenda item at the next meeting.

**County Attorney John Butrick:** [verbatim] Yes, Mr. Chair, members, Mr. Guetschow, our plan is to put a public comment item on the agenda going forward for the public P&Z meetings.

**Ms. Rich** referred to due process and that a law was being broken. She was requesting instructions on how to bring it to the attention of the Board. Bringing it to the attention of Planning & Zoning wasn't working and we can't sit here and break the law.

**County Attorney John Butrick:** [verbatim] Mr. Chair I ask that you call the meeting to order.

**Mr. Guetschow** stated point of order. **Vice Chairman Lawson** explained that this would have to be addressed next time. **Ms. Rich** stated that she would request to be placed on the agenda. She asked Mr. Guetschow if she needed to see him to be placed on the agenda. **Mr. Guetschow** explained that if she wanted a determination or discussion item she would have to file any paper work she wanted with the Planning & Zoning office.

2. **Claim of Exemption #7: Lot Line Adjustment/ Lot Consolidation**

Applicant: Lilia Brito  
Agent: Self  
Site: Lots 19, 20, & 21, Unit 2, Sweetwater Hills Subdivision, located within Section 17,  
T.9N., R.9E., NMPM  
Zone: Minor Development District (D-1)

**Vice Chairman Lawson** introduced the item. **Mrs. Lilia Brito** came forward and was sworn. She explained that she had three lots that she wanted consolidated in to one. **Mr. Guetschow** explained that this application was for a lot consolidation. **Vice Chairman Lawson** asked for confirmation that the subject property was zoned D-1. **Mr. Guetschow** confirmed D-1 zone. He referenced the paperwork distributed this morning and noted that there was a scrivener's error on the plat. In the general notes it stated that the subject property was outside the special flood hazard zone in zone x. The flood plain maps do not have a zone x. The subject property location was right in the middle of the Salt draw and was within the special hazard flood area. **Mr. Guetschow** had spoken with **Mr. Botsford**, the surveyor of the property, He had forwarded him the Assessor's map with a flood plain overlay and a firmette that was taken from the FEMA map. **Mr. Botsford** will make the corrections and provide **Mrs. Brito** with a corrected plat. **Mr. Guetschow** recommended that the Board options were to approve the action item with the condition that the corrections were made, table the item until next month, or deny the application which would mean they would have to re-submit the application. **Vice Chairman Lawson** asked if there was anyone to speak in favor of or opposition to the item. There were none and he asked **Mr. Guetschow** if he had further comment. **Mr. Guetschow** had no further comment. **Vice Chairman Lawson** asked the Board for questions or comments. **Mrs. Lynch** asked if the property being in or out of the flood plain made a difference in terms of the request for lot line adjustment. **Mr. Guetschow** explained yes. Information included on the plat may confuse a future owner of the subject property. He explained that the view from the subject property was underneath the freeway bridge. There were different eye witness accounts of the depth of the water during the flood that had occurred in the late 1960's. When **Mr. & Mrs. Brito** placed their mobile home on the property they were required to place it on protected fill material and have a hydraulic engineer's approval of the scour wall that protected the fill material. **Vice Chairman Lawson** confirmed the option to approve with a condition that plat corrections were made within 30 days. **Mrs. Lynch** made a motion that action item 2 be approved with a condition that plat corrections were made within 30 days. **Mr. Frost** seconded. All in favor. Motion carried. Application approved.

**3. Variance: Create Parcels below the District minimum standard**

Applicant: Edmund & Lorela Lujan  
Agent: Tim Oden, Oden & Associates.  
Site: Tract 9, NW4, SW4, SE4, Section 18, T.6N., R.7E, NMPPM,  
known as 8625 A&B Hwy 55  
Zone: Agricultural Preservation District 40 Acre minimum (AP-40)

**Vice Chairman Lawson** introduced the item. **Mr. Oden**, previously sworn, returned to the podium. He explained the application and the location of the subject property. A mortgage exemption plat had also been submitted with the application depicting tracts 9A & 9B showing the property as it existed today. He referred to a hand drawn sketch done by the Lujan's in the application. The sketch showed how the Lujan's would like to divide the parcel if the variance was approved. A 40 acre tract with a barn and small house, a middle piece of about 10 acres that would provide access to Highway 55, and a 20 acre tract with the larger house. The mortgage exemption plat was recorded about 2010. Mortgage exemptions were temporary lot divisions. When paid off the lot would be consolidated in to the parent lot. In this case the original mortgage was paid off and supplanted by another mortgage. It was unclear what had taken place in regards to the mortgage exemption and lot consolidation process. The subject property was mostly surrounded by and it was generally characteristic of this neighborhood to have five and ten acre tracts. He referred to the vicinity map which showed the five and ten acre lots in the area. **Vice Chairman Lawson** asked Mr. Guetschow that being this was a forty acre minimum zone if the ten acre was grandfathered in because of what had gone before. **Mr. Guetschow** explained no, this area had been zoned AP-40 since the adoption of the ordinance. The Lujan's needed to bring this acreage in to compliance and the plat. If the variance was granted it would allow them to move forward. **Mr. Guetschow** asked Mr. Oden if the variance were granted did the Lujan's intend to apply for a family transfer. **Mr. Oden** confirmed that was their intent. The transfer would be applied for quickly. The twenty acre with the mortgage would be retained. The ten and forty acre lots would be transferred to their two daughters. **Mr. Guetschow** explained that in previous discussions between himself, the County Attorney, and the Lujan's this was what had been agreed to, to bring the land division in to compliance. It had been conveyed several times and taken back by the Lujan's over the years, more than just the bank mortgages. The Family Transfer Claim of Exemption was the only one that would allow the creation of three tracts other than a simple lot split. Otherwise they would have to use Summary Review procedures for a Type 5 subdivision. **Vice Chairman Lawson** asked if there was anyone to speak against the application. **A woman** began calling out from the public seating area. **Mr. Guetschow** explained that she needed to come forward and be sworn. **Ms. Brenda Rich** came forward and was sworn. She gave the location of her property and stated that the subject property was in her area. She asked if the variance was allowed and then the land was divided in to smaller tracts, in the future would the Lujan's be able to sell the land instead of transferring it to family. Would the Lujan's be able to sell the parcels as an AP tract under the same conditions that we have in the current Planning & Zoning for AP-40. **Mr. Guetschow** explained that there was a waiting period involved with that under a family transfer. **Ms. Rich** asked for clarification and asked if the land could be sold publically. **Mr. Guetschow** began to explain that after a period of time and was interrupted from the podium before he could complete the explanation.

**Ms. Rich** stated that she opposed that. The AP-40 zone existed specifically for agricultural and to split it in to smaller lot sizes of ten or less, or even twenty would bring in, possibly nuisance complaints under the Right to Farm Act. Areas would be brought in that would not be zoned agricultural into an agricultural area that already exists, and we already had that problem. If the land could be family kept she would not object but if the land could be sold publically and be used by someone else down the line, and not be in compliance with the AP-40 regulations, that would open the possibility in the future for them to change that zoning further which would impose on the agricultural district. **Vice Chairman Lawson** asked if the variance were granted for the 9.96 acre parcel would that become AP-40. **Mr. Guetschow** explained that this was just a variance to area and has nothing to do with the follow up division of the property. According to Mr. Oden's testimony when the Lujan's came back with a Family Transfer claim of exemption, the variance would allow the Lujan's to create the 9.96 acre tract which would be conveyed to one of their daughters and the forty acre conveyed to the other daughter. In order to be in compliance with the State Subdivision regulations there was a period of time before there could be any further division of the property. There would be no effect on the zone district at all. In order for a change in zoning to take place an applicant would have to go before both the P&Z Board and the County Commission with a request for a change of zoning. If he were to speculate, at any time in the future if the Lujan's wanted to further divide the land they would have to follow the same procedure and come before the Board with a Variance for lot size. **Ms. Rich** returned to the podium and with all due respect, engaged in speculation as to what might occur in the future and repeated her concerns in regards to changes in zoning to the agricultural district. **Mr. Oden** returned to the podium. He confirmed the location of Ms. Rich's property on the map. **Mr. Guetschow** referred the Board to the vicinity map included in the package for the map Mr. Oden was referring to. **Mr. Oden** confirmed the acreage of her parcel asked Ms. Rich if she knew the location of the subject property. **Ms. Rich** did not know the location of the subject property and restated that her concern was changing the zoning for future purposes. **Mr. Guetschow** explained that this was not a change in zoning. It was a variance to area for lot size. **Ms. Rich** repeated her concerns about future divisions, land sales and zoning. She requested the Board table the item. **Mr. Art Archuleta** came forward and was sworn. He explained that he lived directly across the road from the subject property and that he had been there over twenty years. When he bought the land he was guaranteed by Randolph Lujan that the land would never be subdivided and made other promises. He objected to the subject property being subdivided and predicted that others would do the same in the future. **Mr. Oden** returned to the podium. He referred to several comments by Ms. Rich that dividing the land into smaller tracts would preclude agriculture in the area. What would preclude agricultural activity in the area was irrigation water availability. To his knowledge there were no irrigation rights in the area for two miles in any direction. Nor could one ever get irrigation water rights or an irrigation well be obtained from the Office of the State Engineer. AP-40 for farming purposes is really a mischaracterization of this zoning district. What was actually being done was limiting the size of lots in the area due to the availability of domestic water. When the County originally zoned this area as AP-40 there was a caveat that one could divide property into smaller than forty acre lots for mortgage purposes. A Claim of Exemption was still available to transfer parcels less than forty acres to family members. He commented, "has this ever been abused, of course it has."

An allowance still has to be made for family transfers smaller than the minimum posted for these zone districts. He referred to the vicinity map and noted there were many ten acre tracts in the area. He explained that whatever Mr. Archuleta may have been promised if it wasn't in writing it was difficult to invoke. **Mr. Michael Godey** came forward and was sworn. He explained that it was possible and happens that water is hauled in to maintain crops so it was not strictly necessary to have a well for agricultural purposes. **Ms. Rich** returned to the podium, with all due respect, county ordinance specifically stated the use of AP-40 tracts and that they shall be preserved as agricultural use because of the soil capacity to substantiate it. She explained that she hauled water to maintain her livestock. She repeated her concerns about transfers and saw them as a loop hole to circumvent the AP-40 zone designation. She again speculated on what may occur in the future. **Mr. Guetschow** offered to read the applicable ordinances in to the record. **Vice Chairman Lawson** wanted to hear the waiting period. **Mr. Guetschow** explained that would be in the Subdivision regulations and does not apply to this action for a variance to area.

The following was read into the record:

Section 9.C District Standards. The following standards apply to all land uses within this zone district:

1. Minimum lot size shall be five acres where identified as AP-5 on the Zoning Map, ten acres where identified as AP-10 on the Zoning Map, and forty acres where identified as AP-40 on the Zoning Map; a parcel used for essential public utility distribution structures or for communication structures or facilities may be 5 acres or larger, with the following exceptions:  
[REV: Ord. No. 99-1, 4/10/99; Ord. No. 2001-2, 3/14/01; Ord. No. 2008-003, 4/23/08]
  - a. Parcels smaller than the minimum parcel size that existed on the effective date of these standards shall be allowed to remain and may be transferred at a future date by sale, inheritance or other legal means provided that such parcels are not divided into smaller parcels except as may be allowed by Section 9.C.1.b. regarding collateral for a mortgage. These non-conforming parcels may be reconfigured through legal means of survey so long as the resulting parcel is not smaller than the original parcel.  
[REV: Ord. No. 2008-003, 4/23/08]
  - b. Lending institutions may accept as collateral for a mortgage of a home on the property in question, any portion of the property provided it is not less than five (5) acres in size, with the understanding and knowledge that they can take legal title to and resell such smaller portion of land on which the mortgaged home exists in the event the borrower defaults on the mortgage. The lending institution is otherwise bound by the minimum parcel size standards provided herein. Once the mortgage is released, the land division shall automatically be vacated. A statement reflecting the requirement of such automatic vacation shall appear on the plat showing the land division.

## SECTION 22. VARIANCES.

- A.     Definition. The Zoning Board may approve a variance from the strict application of area, dimension, distance, setback, off-street parking, and off-street loading requirements of this Ordinance in the case of exceptional physical conditions where the strict application of the requirements of this Ordinance would result in a practical difficulty or unnecessary hardship that would deprive the owner of the reasonable use of land or building.  
[REV: Ord. No. 2008-003, 4/23/08]
- B.     Application. Any request for a variance should be submitted with filing fee to the Zoning Director on a prescribed application form obtainable from the Zoning Director. The Zoning Director shall transmit the application and any supplementary information to the Zoning Board for review and consideration at their next regularly scheduled meeting. To the extent possible, all abutting property owners shall be notified of the Zoning Board meeting at which the variance application will be considered.  
[REV: Ord. No. 2008-003, 4/23/08]
- E.     Requirements. The Zoning Board may impose any necessary requirements in approving a variance to assure that the requested variance:  
[REV: Ord. No. 2008-003, 4/23/08]
1. Will cause no significant hazard, annoyance, or inconvenience to the owners or occupants of nearby property; and
  2. Will not significantly change the character of the neighborhood or reduce the value of nearby property.

**Mr. Guetschow** explained that this was what the applicant had applied for, Variance to Area. **Ms. Rich** returned to the podium, with all due respect, if the land was subdivided what would it be zoned as. **Mr. Guetschow** explained that it would still be AP-40. It would be a non-conforming lot size within an AP-40. **Ms. Rich** again speculated as to what may occur in the future. **Mr. Archuleta** returned to the podium and asked if the Lujan's were trying to obtain a mortgage. **Mr. Guetschow** explained this was part of the process to bring the current configuration in to compliance. **Mr. Archuleta** clarified that the goal was for a family transfer. He objected to any further land division in the area.

**County Attorney John Butrick:** Mr. Chair, members, just as a reminder you gave the opposition time. If you want to give a more directive ask if there is anyone in support of this.

**Vice Chairman Lawson** asked if there was anyone to speak in support of the item. There none and he referred the matter to the Board for question or comment. **Mrs. Lynch** asked for clarification that the issue was changing the approved sizes of the parcels.

She explained we are keeping the twenty acres that is already there for mortgage purposes, another parcel of almost ten acres and another of forty acres. The parcel of forty acres was totally in compliance with everything and was not an issue. What was at issue was the 9.96 acre strip and the twenty acres legitimizing what was already in place so that they could continue with the mortgage under something that is legal. **Mr. Guetschow** confirmed that was correct. **Mr. Frost** asked what type of agriculture was taking place. **Mr. Guetschow** explained that there was no farming in the area. It was ranch land, grass lands and grazing lands. It was hearsay but if the variance was approved and the transfer to one of the daughters was approved there was a possibility that one of the daughters might run a greenhouse operation which was a legal agricultural use. **Ms. Rich** asked if she could get clarification. **Vice Chairman Lawson** instructed her to return to the podium.

**County Attorney John Butrick:** [verbatim] Mr. Chair you have closed the session on this item so it is your prerogative if you want to open it back up.

**Vice Chairman Lawson** explained that he would allow the question. **Ms. Rich** returned to the Podium. She addressed Mrs. Lynch. Your question, if Ms. Rich heard it correctly, was asking this would bring this lot into conformity that was out of conformity to begin with, but the problem all resolved not with the bank mortgage because the ordinances do clearly address this. Ms. Rich repeated her concerns about what may happen in the future. Ms. Rich thought Mr. Guetschow had not actually answered Mrs. Lynch's earlier question but had skirted around it. **Mrs. Lynch** asked Mr. Guetschow that if the Lujan's went through with the family transfer, they would then have to come before the Board to request a change in zoning. **Mr. Guetschow** explained not change the zoning, they would have to come back for approval of the family transfer. **Mrs. Lynch** stated they would have to go through several more steps which were open to community...Mrs. Lynch was interrupted from the podium. **Ms. Rich** again speculated as to what may occur in the future and asked what the waiting period was before further subdivision could take place. **Mr. Guetschow** explained five years. However, if the variance was approved, and then the Lujan's applied for a family transfer claim of exemption and that was approved and recorded there would be five year waiting period because a lot has to exist for a period of five years under that claim of exemption before it could be re-divided. If any of the inheritors wanted to further divide the property they would have to follow the same procedure and get another variance to area. They could not just go in there and re-divide the land. **Ms. Rich** explained this was a legal loop hole to allow further subdivision of the land and in her opinion the loop hole should be closed or the waiting period be extended to prevent further subdivision of land that was designated agricultural. **Mrs. Lynch** commented that she appreciated Mr. Archuleta's and Ms. Rich's concerns but a variance was something that people had a right to ask for under the law. **Mrs. Lynch made a motion to approve action item 3. Mr. Frost seconded. Vice Chairman Lawson** asked for clarification as to which parcels the structures were located on. **Mr. Guetschow** explained there was a mobile home on the forty acre parcel and a conventional built home on the ten acre parcel. **Vice Chairman Lawson** was concerned about the legal aspect of the variance. This would allow the Lujan's to create two lots from a fifty acre area. **Mr. Guetschow** reminded him of the twenty acres that was created from a mortgage claim of exemption. That exemption had been abused several years ago when the first mortgage was satisfied and they turned around and mortgaged it again without approval of another mortgage claim of exemption.



If the variance was approved it would make that situation current and protect the lending institution's rights. The parents would retain the twenty acres that was under mortgage, and the remaining fifty acres divided in to a forty acre parcel and a roughly 10 acre parcel. **Vice Chairman Lawson** asked for clarification that this action today would not change the ownership of anything, The Lujan's would still own all three lots. **Mr. Guetschow** explained that at present there were two lots. Legally there was only one lot with the other held by a bank. **Vice Chairman Lawson** commented that the Lujan's wanted to make three lots. He understood that ordinance did not allow for the creation of more than the original number of lots if they didn't meet minimum lot size requirement for the zone and that was the reason for the variance. **Mr. Guetschow** confirmed and explained that for an AP-40 the minimum lot size was forty acres. The subject parcel was seventy acres and could not be divided without a variance to area. **Vice Chairman Lawson** understood that the following action for a change in ownership would have to come before the Planning & Zoning Board for a family exemption to pass the smaller parcels on to their daughters. **Mr. Guetschow** confirmed and explained that the only exemption that the land could be divided under, if the variance to area were granted, was a family transfer which would allow the division of the three parcels. **Mr. Archuleta** returned to the podium. He understood that the twenty acres was for the mortgage resulting in non-complying parcels. He objected to the creation of the ten acre parcel when covenants stated that the minimum lot size in the area was to be twenty acres. **Mr. Guetschow stated that a motion to approve had been made and seconded. Vice Chairman Lawson acknowledged and asked for a vote. Mrs. Lynch and Mr. Frost voted in support, Vice Chairman Lawson voted in opposition. Motion passed. Application approved by a vote of two to one.**

**4. Conditional Use Permit: 2<sup>nd</sup> Mobile Home for Caretaking purposes**

Applicant: Jason Fastnacht  
Agent: Self  
Site: Tract A, Lands of A D Ranch HQS, SW4. Section 6, T.6N., R.8E., NMPM  
known as 539 Alan Ayers Rd W  
Zone: Agricultural Preservation District 5 Acre minimum (AP-5)

**Vice Chairman Lawson** introduced the item. **Mr. Guetschow** explained the purpose of the application. **Mrs. Leslie Fastnacht** came forward and was sworn. She explained the situation and the need for care taking for her parents. **Vice Chairman Lawson** asked for comments in favor of or opposition to the item. Hearing none he asked Staff for comment. **Mr. Guetschow** reminded the Board that only one dwelling was allowed per parcel. In this case Mr. Fastnacht had come to Mr. Guetschow because the second mobile home was going to be installed. Mr. Fastnacht's mother-in-law was leaving treatment and the need to be nearby in case she needed assistance. He referred to the photos in the package. They showed the existing home and the new mobile home that had been installed on the lot. He also referred to the photos of the ramps on the new mobile home and the other improvements that had been done on the lot.

**County Attorney John Butrick:** [verbatim] Mr. Chair, members, Mr. Guetschow, did you say that you provided them a copy of that photo this morning?

**Mr. Guetschow** confirmed.

**County Attorney John Butrick:** [verbatim] Did you provide that for the public as well? Make that copy for the public to review as well?

**Mr. Guetschow** explained that if the public wanted a copy it would be provided on request. **Vice Chairman Lawson** asked for clarification that this application was for a conditional use permit. **Mr. Guetschow** confirmed that this was a renewable conditional use permit with a five year renewal cycle. **Vice Chairman Lawson** asked that if the need ended was it still in place for the full five year term. **Mr. Guetschow** explained that the cycle was five years until the need for the conditional use ended. At that time the second dwelling must be removed from the property. **Vice Chairman Lawson** referred the matter to the Board for questions or comments. There were none and he asked for a motion. **Mr. Frost made a motion to approve action item 4. Mrs. Lynch seconded. All in favor. Motion carried. Application approved.**

**Discussion Items: None**

**County Attorney John Butrick:** [verbatim] Mr. Chair, members, as there is no discussion items I wanted to bring something up to the public's attention just before we adjourn. We had a brief discussion in front here with the three members, with Mr. Guetschow and I and you have a right to know what that conversation was. That was just regarding whether or not we would have a public comment period in this meeting. The reason we did not have it in this meeting is because if we were to put it in here we would not have given seventy-two hours' notice to the public that we were going to have a public comment period. So in order to be able to add that we would have had to have given seventy-two hours' notice and since we had not given that seventy-two hours' notice we could not add that. So, you have a right to know what that discussion was a bout.

**Ms. Rich** asked if the Commission was going to add a public comment section to Planning & Zoning, and not on a temporary basis.

**County Attorney John Butrick:** [verbatim] Yes, that is the plan, and at that point you know Mrs. Rich or anyone else can obviously provide those comments during that time and if anyone else has an action item obviously you will have to talk to Mr. Guetschow about getting that...

**Mr. Guetschow** explained that any documentation and the written portion of the comment can be distributed to the Board for their review prior to the meeting. **Ms. Rich** thanked the Board and appreciated the opportunity to speak. **Mr. Guetschow** explained that as the Board stands the Board was taking actions and there was the opportunity for the public to speak in support of or in opposition to each action item. Instead of anything from A to Z that may not be related to something that was on the agenda.

**Vice Chairman Lawson** explained that he understood that. The Open Meetings Act concept or philosophy was that a public Board should be able to take public comment on any subject. Comment time may have to be limited based on how many commenters were signed up.

**County Attorney John Butrick:** [verbatim] Mr. Chair my understanding is that Open Meetings Act does not require it, **(Vice Chairman Lawson agreed)**, but it is like you said the idea behind Open Meetings Act should allow for public comment and that is what we're going to do.

*Pursuant to New Mexico State Statute Section 10-15-1 through 10-15-4 (NMSA 1978), these issues can be addressed in general. No decision can be rendered at this meeting.*

**Executive Session:**

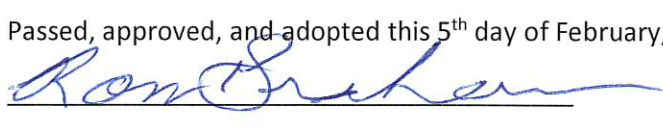

*As per Motion and Roll Call Vote, pursuant to New Mexico State Statute Section 10-15-1 (NMSA 1978), the following matters will be discussed in Closed Session: None*

**ADJOURN**

Having no more business, Vice Chairman Lawson asked for a motion to adjourn. Mrs. Lynch made a motion to adjourn. Mr. Frost seconded. All in favor. Motion carried. Meeting adjourned at 10:57am.

**APPROVED**

Passed, approved, and adopted this 5<sup>th</sup> day of February, 2020

Ron Graham, Chairman of the Board

Steve Guetschow, Planning & Zoning Director