

SANTA FE COUNTY

Resolution No. 2010-60

A RESOLUTION CORRECTING RESOLUTION NO. 2010-23;
A RESOLUTION TO ESTABLISH A CLEARLY DELINEATED SANTA FE COUNTY
POLICY
TO ENCOURAGE AND ASSIST LANDOWNERS WHO CHOOSE TO VOLUNTARILY
PROTECT, IN PERPETUITY, THE OPEN SPACE CHARACTER
OF THEIR AGRICULTURAL LAND.

WHEREAS, agricultural land is critically important Santa Fe County residents and visitors in numerous ways, including:

- ***Culture & Heritage.*** Agricultural land is central to Santa Fe County's cultural heritage and long-standing, traditional way of life.
- ***Wildlife.*** Agricultural land provides significant wildlife habitat (along acequias and in fields) and helps foster wildlife corridors.
- ***Healthy Foods.*** Agricultural land provides locally grown produce, dairy products, and other foods that are fresher and healthier than imported foods.
- ***Food Security.*** Agricultural land protects Santa Fe County's food security by providing food grown in close proximity to County residents and which consumes less fossil fuel for distribution.
- ***Genetic Diversity.*** Local agricultural lands are more likely to support "landrace" varieties, that is, a gene pool of seed selected over time in a geographical region by farmers to suit the climate and growing conditions of the area and the tastes of the people.
- ***Scenic Amenities.*** Agricultural land provides beautiful scenic vistas enjoyed by residents and visitors alike.
- ***Economic Multiplier.*** Agricultural land supports a local and more resilient economy by circulating dollars within our community.

WHEREAS, agricultural land in Santa Fe County faces numerous threats, including:

- ***Loss of Land Area.*** Irrigated agricultural land, which represents less than 2% of Santa Fe County's land base, is being lost to development.

- **Loss of Water Rights.** Irrigated agricultural land faces the additional threat of loss of water rights due to conversion of water rights to non-agricultural uses.
- **Escalating Land Prices.** Land prices throughout Santa Fe County are high, and it is difficult for those wishing to purchase agricultural land for continued agricultural use to compete with development.

WHEREAS, Santa Fe County already has existing policies that support the protection of agricultural land, including:

- **Resolution No. 1999-137**, adopting the Santa Fe County Growth Management Plan, adopted October 26, 1999, which plan identified agricultural land as "a non-renewable resource" and stated that: "Protection and support of the farming and ranching lifestyle, the relationship of human activities to the land, and the open landscape which dominates is essential to the vision and preferred development scenario for Santa Fe County."
- **Resolution No. 2000-60**, "A Resolution Adopting the Open Lands and Trails Plan", adopted May 22, 2000, which plan identifies agriculture as a cultural and historic lifeway worthy of protection, and which plan was funded by General Obligation Bonds totaling \$20 Million approved by the citizens of Santa Fe County on November 3, 1998, and again on November 7, 2000.
- **Resolution No. 2002-82**, "A Resolution Stating Concern Regarding Local Agricultural Conditions in Santa Fe County", adopted July 30, 2002, which, among other things, declared that "economic survival of agriculture and rural communities is vitally important to the general health and welfare of New Mexico".
- **Resolution No. 2006-150**, "A Resolution in Support of the Chimayo Chile Project", adopted September 26, 2006, which committed the County to work towards the cultivation and preservation of "Chimayo Chile" as an agricultural product to provide an economic base for the community.
- **Resolution No. 2006-184**, "A Resolution in Support of the Agricultural Revitalization Initiative," adopted November 14, 2006, which committed the County to work to keep agricultural lands in production and protect the attendant water rights.
- **Resolution No. 2007-9**, "A Resolution in Support of a Declaration of Seed Sovereignty", adopted January 30, 2007, which, among other things, committed the County to "work together with the traditional farms representing various acequia, Pueblo, tribal, and surrounding communities to create, support, and collaborate toward projects and program focused on revitalization of food traditions, agriculture, and seed saving and sharing."

WHEREAS, the State of New Mexico already has existing policies that support the protection of agricultural land, including:

- **The New Mexico Land Use Easement Act (NMSA §§ 47-12-1 through 47-12-6)**, which aids the landowner who wishes voluntarily to donate a land use easement (also known as a conservation

easement) intended to restrict the use of a specific parcel of land so as to maintain in perpetuity the character of the land, including specifically assuring the availability of real property for agricultural use.

- *The New Mexico Land Conservation Incentives Act (NMSA §§ 75-9-1 through 75-9-6)*, which encourages private landowners to be stewards of lands by providing landowners with incentives that encourage the protection of private lands, including specifically farmland preservation.
- *The New Mexico Right to Farm Act (NMSA §§ 47-9-1 through 47-9-4)*, which declares the purpose "to conserve, protect, encourage, develop, and improve agricultural land for the production of agricultural products and to reduce the loss to the state of its agricultural resources."
- *The New Mexico Property Tax Code "Special Method of Valuation; Land Used Primarily for Agricultural Purposes" (NMSA § 7-36-20 & NMAC § 3.6.5.27)*, which provides for tax relief for agricultural properties through a special method of valuation of land used primarily for agricultural purposes.

WHEREAS, the United States government already has existing policies that support the protection of agricultural land, including:

- *The Federal Farm and Ranchland Protection Program (described in the Farm Security and Rural Investment Act of 2002, the Federal Agriculture Improvement and Reform Act of 1996 [16 U.S.C. § 3830], and 7 CFR Part 1491)* which provides matching funds to help purchase development rights to keep productive farm and ranchland in agricultural use.
- *The Federal Farmland Protection Policy Act (7 U.S.C. §§ 4201 through 4209)*, which describes the Nation's farmland as a "unique natural resource" that is being irrevocably converted to non-agricultural purposes, the loss of which threatens the ability of the United States to produce sufficient food to meet its needs and undermines the economic base of many rural areas, and which commits the federal government to the goal of conserving farmland in carrying out its public works and other development projects.
- *The Federal Internal Revenue Code (including 26 U.S.C. § 170(b) & § 2031(c))*, which provides that landowners who voluntarily protect the open space character of their land in perpetuity are entitled to significant tax benefits, including specifically the preservation of farmland when done pursuant to a clearly delineated governmental conservation policy when such preservation yields a significant public benefit.

WHEREAS, Santa Fe County supports the use of conservation easements by landowners who wish to voluntarily protect, in perpetuity, the open space character of their agricultural land as one tool among many needed in order enhance the sustainability, diversity, and resiliency of the local agricultural economy.

WHEREAS, Section 170(h)(4)(A)(iii) of the Federal Internal Revenue Code categorizes agricultural land in terms of its "open space" but allows for the reservation of certain rights, such

the ability to have limited development and agricultural structures, provided that such construction does not impair significant conservation interests. Similarly, New Mexico statutes and regulations allow for building areas provided that any allowed construction does not impair the conservation values of the property.

WHEREAS, Santa Fe County believes that landowners who voluntarily protect, in perpetuity, the open space character of their agricultural land with a conservation easement should be eligible for state income tax credits and federal income tax deductions in recognition of the valuable development rights that they are giving up and the valuable services that they are providing to the community.

NOW, THEREFORE, BE IT RESOLVED by the Board of County Commissioners of Santa Fe County, New Mexico, that:

1. **Policy.** It is the policy of Santa Fe County to encourage private landowners to voluntarily protect the open space character of their agricultural land in perpetuity, particularly for those specific parcels of land greater than one acre in size (or smaller areas in the case of orchards) comprised predominantly of land (a) with soil types identified by the United States Natural Resource Conservation Service as "soils of statewide importance" or equivalent; (b) identified in New Mexico Office of the State Engineer hydrographic surveys as being irrigated; (c) that is served by an acequia or is part of an acequia association; (d) with appurtenant irrigation rights; and/or (e) with a history of actual use as producing farmland. On lands where agricultural production depends on irrigation, water rights sufficient for such irrigation must be included as part of the voluntary preservation.
2. **Benefit.** Santa Fe County finds that the voluntary preservation of the open space character of agricultural land by private landowners will yield a significant public benefit by (a) preserving the history and cultural heritage of agriculture as a traditional way of life; (b) enhancing local food security by preserving the means of local production; (c) enhancing the affordability of agricultural land for current and future farmers; (d) providing wildlife habitat and connectivity for wildlife corridors; (e) preserving the scenic qualities of the County which benefit all of the County's residents and support the County's tourism industry; (f) ensuring the supply of locally grown produce, dairy products, and other foods that are fresher, healthier, and consume less fossil fuel for distribution than imported foods; (g) supporting the overall sustainability of agriculture by maintaining a network of agricultural support systems (such as farm suppliers and farmers' markets); (h) lessening the burden of government to attempt to protect such lands; (i) keeping productive agricultural lands in the hands of those most likely to, and capable of, producing food; (j) enhancing the local economy by circulating dollars within the community; (k) keeping water on the land and available for production; (l) preserving genetic diversity through cultivation of traditional "landrace" crop varieties; (m) helping to protect the integrity of acequias; and (n) preventing the fragmentation of farmland and farming communities.
3. **Sustainability.** Santa Fe County further finds that small-scale farming (defined by the United States Department of Agriculture, National Agricultural Statistics Service as farms of one to nine acres in size) is a traditional land use pattern often associated with historic acequias, is more likely to produce high-value (both nutritionally and economically) crops, and is made more sustainable by providing the opportunity for the farmer to live on the farm. As such, the practice of reserving home-

sites for residential uses and/or building areas for agricultural structures is consistent with the above stated County policy and does not detract from, but rather enhances, the sustainability of the agricultural property and the significant public benefit so long as (a) the homesite and building areas together are not more than 10% of the total acreage of the property, or 20,000 square feet on smaller parcels, whichever is greater; (b) the preserved agricultural area is not less than one acre in size (or smaller areas in the case of orchards); and (c) the property complies with all applicable subdivision, zoning, and land use codes. Such homesites and building areas not only provide flexibility for farming operations but also encourage stewardship of the land by allowing farmers to live on the land that they are farming. (For larger properties, some subdivision may be appropriate on a case-by-case basis.) Whenever possible, such homesites and building areas should be placed on non-irrigable portions of the property, if any.

4. Cooperation. To achieve the purposes of this resolution, Santa Fe County and its departments, divisions, committees, and employees shall work with individuals and organizations whose goal is the preservation of agricultural land. Among the tasks which should be addressed are: (a) mapping of agricultural lands; (b) public education and outreach to make agricultural landowners aware of the benefits of conservation easements; (c) collaboration between departments and with the public; and (d) sharing of relevant information with the public.

5. Purchasing. Consistent with Santa Fe County's policy encouraging the preservation of agricultural land, the County will seek to support the local agricultural economy by (a) supporting "buy local", "farm to school", and similar campaigns and programs; (b) purchasing locally grown agricultural products to supply the County's foodservice programs when feasible; and (c) through other efforts as the opportunities present themselves. Further, recognizing the limited availability of agricultural lands in the County, the County will carefully evaluate and consider alternatives before deciding to use its spending power on projects which would unnecessarily remove agricultural land from productive agricultural use.

6. Assessment. As part of Santa Fe County's policy encouraging the preservation of agricultural land, the County Assessor, consistent with the New Mexico Property Tax Code, makes available preferential tax assessment to property owners whose land is used primarily for agricultural purposes in accordance with applicable requirements. Such valuation is available to the landowner whether or not such land is leased, provided that the lessee of such land uses the land primarily for agricultural purposes in accordance with applicable requirements.

PASSED, APPROVED AND ADOPTED the **13th** day of **April**, 2010.

BOARD OF COUNTY COMMISSIONERS

Signed April 13th, 2010

Harry B. Montoya, Chairman

ATTEST:

Signed April 13th, 2010

Valerie Espinoza, County Clerk

APPROVED AS TO FORM:

Signed April 13th, 2010

Stephen Ross, County Attorney