



# Agenda

CITY CLERK'S OFFICE

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## SANTA FE RIVER COMMISSION

Thursday, July 11, 2013

6:00 p.m. – 8:00 p.m.

City Councilors' Conference Room, City Hall

200 Lincoln Avenue, Santa Fe, NM

505.955.6840

1. ROLL CALL
2. APPROVAL OF AGENDA
3. APPROVAL OF MINUTES FROM MAY 16, 2013
4. DISCUSSION/ACTION ITEMS
  - a. Information and Discussion: Regarding the Santa Fe Airport Wildlife Hazard Assessment, including discussion of next steps and considerations for the Santa Fe River and wetlands adjacent to the airport (Francey Jesson, airport manager)
  - b. Information and Discussion: Update/report on the activities of the city's river and watershed coordinator. (Brian Drypolcher)
5. MATTERS FROM COMMISSIONERS, MATTERS FROM SUB-COMMITTEES
6. MATTERS FROM STAFF
7. CITIZENS COMMUNICATION FROM THE FLOOR

ADJOURN

**Persons with disabilities in need of accommodation, contact the City Clerk's office at 955-6520, five (5) working days prior to meeting date.**

**Index Summary of Minutes  
Santa Fe River Commission  
July 11, 2013**

<u>INDEX</u>	<u>ACTION TAKEN</u>	<u>PAGE(S)</u>
Cover Page		1
Call to Order/Roll Call	Call to order by Jerry Jacobi, Chair, at 6:00 pm. Meeting was held at the City Councilor's Conference Room, City Hall. A quorum was declared by roll call.	2
Approval of Minutes - May 16, 2013 <b>Page 4: Comment from Ms. Melinda Romero Pike: ... run off in to Siler Road and then run Agua Fria towards the SW and then dump in to the river. SW should be Plants of the Southwest</b>  Reference made to water recharging, should be: aquifer recharge	<i>Mr. Cutropia moved to approve the Minutes of May 16, 2013 as amended, second by Mr. Gerberding, motion carried by unanimous voice vote.</i>	2
Approval of the Agenda	<i>Mr. Bucsher moved to approve the agenda as amended, second by Mr. Cutropia, motion carried by unanimous voice vote.</i>	2
Discussion and Action Items <b>Information and Discussion. Regarding the Santa Fe Airport Wildlife Hazard Assessment, including discussion of next steps and consideration for the Santa Fe River and wetlands adjacent to the airport (Francey Jesson, Airport Manager)</b>  <b>Information and Discussion: Update/report on the activities of the city's river and watershed coordinator (Brian Drypolcher)</b>	Informational, no formal action.	2-6
Matters from Staff	Informational and Staff	6-8
Matters from the Commissioners	Informational	8
Citizens Communication from the Floor	None	8
Adjournment and Signature Page	Meeting was adjourned at 7:20 pm	8-9

# SANTA FE RIVER COMMISSION

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## MINUTES

Thursday, July 11, 2013 - 6:00p.m. – 7:45 p.m.  
City Councilor's Conference Room, Santa Fe, NM

### 1. ROLL CALL

The meeting of the Santa Fe River Commission was convened by the Chair at 6:00 pm, City Councilor's Conference Room, Santa Fe, New Mexico. A quorum was present at time of roll call.

#### Present:

Jerry Jacobi, Chair  
John R. Buchser  
Melinda Romero-Pike  
Sam Gerberding  
Jim Cutropia  
Dale Doremus

#### Not Present

Richard Ellenberg  
Phil Bove

#### Others Present:

Brian Drypolcher – Staff Liaison  
Claudia Borchert  
Nina  
Fran Lucero, Stenographer

### 2. APPROVAL OF AGENDA

*Mr. Bucsher moved to approve the agenda as amended, second by Mr. Cutropia, motion carried by unanimous voice vote.*

### 3. APPROVAL OF MINUTES FROM MAY 16, 2013

**Page 4: Comment from Ms. Melinda Romero Pike:** ... run off in to Siler Road and then run Agua Fria towards the SW and then dump in to the river. SW should be Plants of the Southwest

Reference made to water recharging, should be: aquifer recharge

*Mr. Cutropia moved to approve the Minutes of May 16, 2013 as amended, second by Mr. Gerberding, motion carried by unanimous voice vote.*

### 4. DISCUSSION/ACTION ITEMS

- a. **Information and Discussion.** Regarding the Santa Fe Airport Wildlife Hazard Assessment, including discussion of next steps and consideration for the Santa Fe River and wetlands adjacent to the airport (Francey Jesson, Airport Manager)

## SANTA FE RIVER COMMISSION

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The Chair welcomed Ms. Jesson, Airport Manager to the River Commission Meeting and thanked her for accepting to address the Santa Fe Airport Wildlife Hazard Assessment.

Mr. Drypolcher informed the Commission that he has met with Francey Jesson and other stakeholders regarding the wetlands adjacent to the airport. I believe she has also met with the Santa Fe Watershed Association, the Wild Earth Guardians and downstream irrigators. Ms. Jesson has taken a very positive and assertive role in meeting with the many Stakeholders. She continues to acquaint herself with the status of the private and public wetlands. Mr. Drypolcher is very appreciative that Ms. Jesson has taken the time to meet. Mr. Drypolcher expressed his gratitude for her participation and focus on this matter.

Ms. Francey Jesson, Airport Manager

I am happy to be hear and will provide as much information as I can. A lot of what I do as far as the Wildlife Hazard Assessment is; the document is focused entirely on the Airport and what the wildlife in the area mean to the airport. It mentions and calls out the different stakeholders and my job right now is to try to meet all those different stakeholders. This Commission is one of those stakeholders, some have reached out to me and I continue to reach out to them. I have not met all the players yet.

This document is part of the public records and I have had a few public record requests for them and it is out there. Bryan has a copy, there is nothing top secret about this document, it is a public record just like any other public record. I have this document electronically if any of the Commissioners would like to have it.

Chair Jacobi asked Ms. Jesson to please send it to Bryan and he would assure the commissioners receive the information.

Ms. Jesson: What the document is, there is Wildlife Hazard Assessment and there is Wildlife Hazard Management Plan. It is important to note that these are two different documents. The Assessment is a biological survey done by a Biologist, it is an assessment – this is the wildlife you have, this is the aircraft you have, this is where they are flying, this is where they are eating, this is where they are getting water. This is the hazard to aircraft based on previous strike data and based on known historical information about certain species and how certain species interact with aircraft.

The FAA has approved the assessment; in other words they said, yes, we believe that it was done in a scientific way that meets all requirements. They did not see anything in it that did not seem legitimate so they approved the assessment and from the information in the Assessment they have now given me the direction to update my existing Wildlife Hazard Management Plan. The Airport already has one but it is a very short, limited document that doesn't go in to as many specifics regarding the species that we have at the airport that are a hazard to aircraft as this does.

I have to take this document and look at the recommendations and one of the primary recommendations is to put together a Wildlife Hazard Working Group and that is bringing in the Stakeholders. Example: The La Cienega folks, I will be meeting with them next week, the River Commission, other entities that may have a stake in what we will put together in order to mitigate the wildlife hazard at the Airport and also people who have the expertise who can help me understand the best way to mitigate wild life hazards at the airport.

## SANTA FE RIVER COMMISSION

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There are some common steps that airports take in order to keep aircraft and wildlife away from each other. You can't 100% remove the hazard of aircraft vs. wildlife. It is not possible and it is not the goal that anybody actually has. The first step in any Wildlife Hazard Management Plan in an airport is to try to make the airport and where the aircraft operate as unattractive to wildlife as possible. Wildlife need three things, they need, food, they need resting area and they need water. If you can remove those things or make them less attractive to the wildlife then you can remove the wildlife hazard. That is not always possible when you have natural bodies of water. Santa Fe River is not the only body of water that is close to an airport. I spend 5 1/2 years working at the San Francisco Airport. That airport is completely surrounded by the San Francisco Bay so getting rid of the water is not the answer when you are dealing with a natural body of water, so that it is not what this wildlife assessment is going to try to recommend. What it looks to see are the ways that we can mitigate how birds and wildlife get from one side of the airport to the other side of the airport to get to the water that is flowing through the Santa Fe River. I don't have that answer right now. This is why I have to put together the working group to get all the people who understand the area here and understand our wildlife the best to come up with solutions to try to keep the aircraft and the wildlife as far away from each other as possible.

There are a lot of things that can be done that limit the interaction between aircraft and wildlife. Most of what is recommended in this document has very little to do with the river. There are fencing issues that we have to work on, we have a lot of trees and shrubs at the airport that we can probably bring down and that will take away the loafing area. The river is where we have the largest concentration of water fowl and that is certainly something we need to address. Water fowl tends to have a high mast ratio which means that when they hit an aircraft they certainly can cause significant damage. One of the most important things to remember is that when wild life hit an aircraft, more times than not the aircraft sustains almost no damage but the wildlife always perishes. It is not safe for the wildlife anymore than it is safe for the aircraft. It is much preserving the wildlife and keeping them out of danger as it is reducing the hazard to aircraft.

Ms. Jesson would like to have individuals be a part of the working group and keep the airport safe and keep the wildlife safe. There are a lot of stakeholders in this area. I met with a man who has been watching owls at the airport for 15 years, retired biologist. Ms. Jesson will be meeting with La Cienega Association, BLM, Game and Fish and as many interested parties.

***Mr. Jacobi asked if she was looking for a volunteer to represent SF River Commission. Mr. Cutropia will represent the commission on this working group.***

Ms. Jesson has worked in airports for 23 years and this is her 8<sup>th</sup> airport. I have seen a lot of wildlife strikes, they happen. My goal is to make sure the airport is as safe as possible.

Ms. Pike asked about the fencing issues. Ms. Jesson said that the fencing there is fairly updated and they continue to maintain to keep the coyotes and other smaller animals out.

Ms. Jesson reiterated that a Wildlife Biologist did the assessment.

The Chair asked if they addressed beavers.

## SANTA FE RIVER COMMISSION

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Ms. Jesson: Yes. What the beavers are doing in the river when creating their dams is they are creating a lot more pooled water and that will bring in much more water fowl and larger mammals. The beavers do not directly affect the aircraft but it is the other animals they attract that are harmful. Water fowl is significant hazard at the airport. Ms. Jesson said that there are a lot of devices that airports use for standing water on airports that don't diminish the water. There is a thing like a float ball that is on the top of the water, birds can't land on the water but it doesn't do anything to the water, birds won't land on it. I'm not saying that is the solution but I am saying there are a lot of things that can be done that make the water non-attractive to all the birds but doesn't diminish the water, it may make them go to another section of the river, possibly.

Are you having problem with larger animals like deer and elk?

Ms. Jesson: No, the fence is doing a great job.

Mr. Buchser: What is your time frame for coming up with a strategy of things you would like to do?

Ms. Jesson: Luckily the FAA has said that all I have to do is the Wildlife Hazard Assessment and they have not given me a deadline. That doesn't mean that they are going to give me all the time in the world, I do think that sooner is better than later especially since a lot of people have been waiting for this assessment, waiting to figure out what is going to happen. Ms. Jesson would like to see something in the next several months if not sooner than that.

Ms. Pike: Are prairie dogs an issue at this airport?

Ms. Jesson: Prairie dogs are a significant problem at the airport for a couple of reasons. The most obvious is that they are prey animals and so they bring in the coyotes that burrow under the fence for them. More significantly those burrows along the runways, they degrade the surface of that soil. We are required around the runways and the taxiways for a certain distance to make sure that the land is able under dry conditions to hold an aircraft that inadvertently goes off the pavement and the response vehicles that would come to render assistance. The burrows that they create, because they are so expensive, they basically make Swiss cheese out of that and so what you have is a potential aircraft that goes off the pavement and is otherwise completely undamaged and hits one of those holes and snaps – that is a very significant hazard we have with those prairie dogs.

The Airport Manager has been provided the report prepared by the Santa Fe River Commission.

**b. Information and Discussion: Update/report on the activities of the city's river and watershed coordinator (Brian Drypolcher)**

- Exhibit A – Project list – Bryan Drypolcher  
John Buchser - Question: Coordination of the reconstruction of the DeFouri Bridge and the longer term construction of the bike path that was to go diagonally across the river in the vicinity of DeFouri Bridge. One of the residents in the area is concerned of what he perceives of those plans; he believes they are going forward independently.

# SANTA FE RIVER COMMISSION

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Mr. Drypolcher said there is an Engineering Firm working on the design plan for the DeFouri Bridge and there is a Master Plan approved in 1995 that shows the trail alignment for the Santa Fe River Trail in that area. Subsequently there is some other thinking of how that trail alignment might come to be. There is one approved Master Plan, there is a subsequent sketch of a plan, both those plans show the same alignment of a new Santa Fe River Trail piece going through there and it is separate from the DeFouri Bridge. As the design engineering firm has been working on their thinking of the new DeFouri Bridge they have been informed as to what is in the Master Plan, what has been in subsequent thinking and what the thinking is for, the alignment of the river trail, where we go and how we would want the new DeFouri Bridge to accommodate future expansion of the Santa Fe River Trail. If everything rolls out that way and gets integrated it will totally be fine, we just make sure as design comes forward that the integration that we intended is the integration that happens. However, what could happen is designs of the DeFouri Bridge change or people from that neighborhood who don't like what the Master Plan presented as a trail alignment and there are some people in the neighborhood who don't like it. They would like to see it functionally integrated with the DeFouri Bridge so the DeFouri Bridge becomes wider and you have a roadway bridge and a bikeway, multi-purpose urban trail bridge together serving the two functions. That kind of ultimate design, that level of coordination has not happened. But the awareness of those trends and that possibility is there from the parties. Staff are paying attention to what are now two activities and two efforts. What we see then is the requirement and the intent is there for them to be integrated.

One of the other things is that we just reviewed the proposals yesterday, evaluating the proposals to select the design firm that will do the next phase of the trail extension.

Mr. Buchser: Thank you.

Santa Fe River Park is looking very nice. Skateboard Park is active all day long. Aesthetically it looks so nice; the sitting area is very nice.

## 5. Matters from Staff:

### Discussion Regarding Water Fund (Exhibit B – Uniform Prudent Management of Institutional Funds Act (UPMIFA) Memo)

Mr. Drypolcher informed the commission of a document prepared by Attorney Marcos Martinez related to the Water Fund. There has been discussion between the City Legal Department and the Water Department Division Attorney about the River Fund and can we repurpose the funds that have already been collected and the assessment until recently has been, no. When you collect money for a purpose it is for that purpose, you can't change the purpose. It is even problematic going back to the donors because there was this concept that once they gift that money it is not their money anymore so you can't really ask them to change the disposition of the money because it is not their money. You can't change the purpose because they gave for that purpose but you can't ask them if you can change the purpose because it is not their money anymore.

## SANTA FE RIVER COMMISSION

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Marcos Martinez provided research related to a Statute in New Mexico that says, *“If the donor consents in a record, an institution may release or modify, in whole or in part, a restriction contained in a gift instrument on the management, investment or purpose of an institutional fund. A release or modification may not allow a fund to be used for a purpose other than a charitable purpose of the institution.”*

Mr. Drypolcher suggested that his role should be to reach out to the donors and present to them this opportunity to change the purpose of the money that they gave and wait for them to respond. It is important to get the word out and get it back. Communication and response need to be fairly simple and more attention will be given to the mechanism of how we would do this. It would go out with the water bill. There would then be a record of the donors and the amount of their donation. There should be a way to go through this data base and create a mailing list, identify the donor and create a mailing which allows us to turn some of that old money in to new money.

Do you have to meet all three requirements? Bryan said you actually have to meet all four requirements.

Ms. Pike commented that some people have died.

Bryan said that according to this statute you would need to wait at least 20 years to elapse to spend that money on water rights.

Mr. Gerberding: Does the institutional funding have to be a total value of less than \$25,000?

Dr. Drypolcher: This document says; “In the event that there were persons who could not be contacted or refused the release, the City could not use those existing funds for a new purpose unless, 1) the City obtained a court order allowing it to do so (following certain statutory mandated procedures) or, 2) the purpose of an institutional fund is unlawful, impracticable, impossible to achieve or wasteful and, the institution, sixty days after notification to the Attorney General, may release or modify the restriction, in whole or part, if: (1) the institutional fund subject to the restriction has a total value of less than twenty-five thousand dollars (\$25,000) [Comment: So that is only if you have already gone through the other steps and, I am not an attorney, you can only do it if you follow all these steps, and one of those conditions is that it has to be under \$25,000]. or 2) more than 20 years have elapsed since the fund was established; and 3) the institution uses the property in a manner consistent with the charitable purposes expressed in the gift instrument.

Chair: Do you have to meet all three of the requirements?

Mr. Drypolcher: You have to meet all four. I think we should try and do this mailing, get as much old money converted in to new money and whatever is left we buy water for the city. The city is now a part of the Rio Grande system. The intent has always been that this money and water should be for the Santa Fe River and yet the ordinance says the Rio Grande.



# SANTA FE RIVER COMMISSION

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Mr. Buchser: Do you feel we need to better define the kinds of things we anticipate use of this money or is it adequately defined in the repurposing.

Mr. Drypolcher: I think we need to say something about what the new money could be spent on and give some examples. The main message should be, you gave to the river because you love the river, there is a new way to give, check the box here. There needs to be a balance and describe why we think it is cool that this can be new money without losing people that don't want to read a lot of explanation, give them the option to say, Yes, repurpose my money. Bryan asked the commission for their opinion.

The Commission felt that it should be kept short and sweet, this people have shown their love for the river. Mr. Drypolcher said, there aren't a lot of people but there is \$220,000 at question. There is also a privacy issue, do people who gave really want you to know they gave.

Timeline: Mr. Drypolcher would like to address this project within the next few weeks.

## 6. MATTER FROM COMMISSIONERS

Goldfish in the River down from Cerro Gordo.

Mr. Gerberding: What was the percentage of the 1,000 ac. ft. we were able to distribute.

Mr. Drypolcher: It was 30+ percent. It is very minimal right now. Hope is to have a heavy snowpack and be able to take some of that 30% and do something with it in the spring at the tail end of this target year. We would have a pre-spring pulse.

Mr. Buchser spoke to Councilor Bushee regarding his attempt to no parking on Alameda and Don Gaspar. Councilor Bushee did call Ike Pino in Public Works and basically the suggestion to him was to do something administratively. If it went to the full Council it would become a larger endeavor. The Sierra Club voted to support that concept to make the river more visible and for the biking concept. No other councilors have been contacted.

## 7. MATTERS FROM STAFF

E-mail from Commissioner Bové informing the Commissioners that Herman Montoya, Mayordomo for La Cienega passed away. Deepest sympathy.

## 8. CITIZENS COMMUNICATION FROM THE FLOOR

None

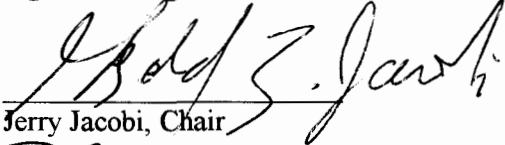
## 9. ADJOURN

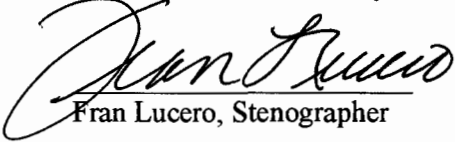
There being no further business to come before the Santa Fe River Commission, moved to adjourn at 7:20 pm

SANTA FE RIVER COMMISSION

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Signature Page:

  
Jerry Jacobi, Chair

  
Fran Lucero, Stenographer

1. Project management, construction: Santa Fe River Park renovations and improvements; five work sites along the River Park. Project is 90% complete.
2. Project management, construction: Santa Fe River structure repairs and stabilization. Work is underway (30% complete) at the bishop's garden irrigation diversion east of Delgado. Contractor is under contract to perform the work at the structure at the stream gage above St. Francis Drive.  
  
No contract issued yet for the structure repair on the river above and below the bridge at Camino Alire. Engineering design is complete.
3. Project management, design services: Parsons Brinckerhoff is under contract to design the Santa Fe River Trail crossing (underpass) at the intersection of St. Francis Drive and West Alameda.
4. Project management, design services: The city has received proposals from engineering design firms for the design of a "bundle" of Santa Fe River Trail connections and improvements – including extension of the trail from St Francis Drive to Galisteo Street.
5. Contract management:
  - a. In process to renew the contract with Santa Fe Watershed Association for the administration of the city's Adopt-the-River and Adopt-an-Arroyo programs.
  - b. Issued a Request for Proposals to procure youth worker services for watershed and storm water improvement projects. Proposals are due August 5, 2013.
6. Program management:
  - a. Santa Fe River Target Flow program
  - b. Santa Fe River Voluntary River Conservation Fund
  - c. Santa Fe River Rural Protection Zone (wetlands on the Santa Fe River below the city's wastewater treatment plant)
  - d. Staff liaison for the Santa Fe River Commission
7. Other:
  - a. Drafting a funding proposal to NM Department of Transportation, Transportation Alternatives Program to obtain funds to extend sidewalk up East Alameda (on south side) from El Alamo to the east end of East Alameda.

*Exhibitor A.*

Brian:

New Mexico has adopted the Uniform Prudent Management of Institutional Funds Act (UPMIFA), which allows a release or modification of restrictions on management or purpose of a fund. As described in the statute:

If the donor consents in a record, an institution may release or modify, in whole or in part, a restriction contained in a gift instrument on the management, investment or purpose of an institutional fund. A release or modification may not allow a fund to be used for a purpose other than a charitable purpose of the institution.

NMSA 1978 § 46-9A-6(A)

Thus, if the City obtained a release to modify the purpose of the funds already collected for the voluntary river fund, the City could then use those monies towards that new purpose.

In the event that there were persons who could not be contacted or refused the release, the City could not use those existing funds for a new purpose unless 1) the City obtained a court order allowing it to do so (following certain statutory mandated procedures) or, 2) the purpose of an institutional fund is unlawful, impracticable, impossible to achieve or wasteful and, the institution, sixty days after notification to the attorney general, may release or modify the restriction, in whole or part, if:

(1) the institutional fund subject to the restriction has a total value of less than twenty-five thousand dollars (\$25,000);

(2) more than twenty years have elapsed since the fund was established; and

(3) the institution uses the property in a manner consistent with the charitable purposes expressed in the gift instrument.

Let me know if you have further questions.

MDM

*Exhibit B*

1. Project management, construction: Santa Fe River Park renovations and improvements; five work sites along the River Park. Project is 90% complete.
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