

RESOLUTION NO. R-10-36

NOTICE OF INTENT TO ADOPT AN ORDINANCE

WHEREAS, the Federal Government made an offer of dedication under 43 U.S.C. § 932 (RS 2477) that provides for “[t]he right of way for the construction of highways over public land, not reserved for public uses, is hereby granted,” and

WHEREAS, New Mexico recognizes that RS 2477 dedications can and have been created or accepted through public use alone; and

WHEREAS, for purposes of public use only, Grant County desires to continue its assertion of rights of way over all roadways created through public use that are within Grant County, outside the corporate limits of any municipality; and

WHEREAS, with the adoption of this ordinance, Grant County intends to clarify that its assertion of rights of way over roadways created through public use, including lands dedicated under RS 2477, is for purposes of public use only, and is not an acceptance of maintenance obligations; and

WHEREAS, due to its lack of clarity, Grant County desires to repeal “GRANT COUNTY ORDINANCE, An Ordinance Defining and Declaring Highways” adopted by the Board of Commissioners of Grant County on December 3, 1992, filed in the Grant County Clerk’s Office book 204, of the records of Ordinances, page 655; and

WHEREAS, in order to consider an ordinance, the Commission must publish notice of its intention to do so at least 14 days before the meeting at which the ordinance will be considered, in accordance with section 4-37-7 NMSA 1978.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF GRANT COUNTY, NEW MEXICO:

1. An ordinance (the “Ordinance”), entitled **AN ORDINANCE DECLARING RIGHT-OF-WAYS FOR PURPOSES OF PUBLIC USE**, to be introduced before the Commission shall be filed with the County Clerk, and shall be considered by the Commission at a regular meeting of the Commission on Thursday, September 9, 2010 at 3:00 p.m., or as soon thereafter as the matter may be heard, in the Conference Room of the Grant County Administration Building, 1400 Highway 180 East, Silver City, New Mexico, in the County, being the regular meeting place of the Board.

2. The following notice shall be published one time in the Silver City Daily Press, a newspaper of general circulation in the County, as soon as is practicable following the adoption of this resolution:

STATE OF NEW MEXICO)
) ss.
COUNTY OF GRANT)

The Board of County Commissioners (the "Board") of Grant County (the "County"), in the State of New Mexico, met in open regular session in full conformity with law and the ordinances and rules of the County, in the Conference Room of the Grant County Administration Building, 1400 Highway 180 East, Silver City, New Mexico, in the County, being the regular meeting place of the Board, at 3:00 p.m., on Thursday, September 9, 2010 at which time there were present and answering the roll call the following members:

Commissioners: **Mary Ann Sedillo**
Jovita Gonzales
Christy Miller

Absent: None

Thereupon the following proceedings, among others, were had and taken, to wit:

There was officially filed with the County Clerk, the Chairman and each Commissioner, a copy of a resolution in final form, which is as follows:

(Form of Notice)

NOTICE OF CONSIDERATION OF ORDINANCE NO. O-10-02
GRANT COUNTY, NEW MEXICO

NOTICE IS GIVEN that the Board of County Commissioners (the "Board"), constituting the governing body of the Grant County, New Mexico (the "County"), will consider the adoption of an ordinance (the "Ordinance") entitled: AN ORDINANCE DECLARING RIGHT-OF-WAYS FOR PURPOSES OF PUBLIC USE. The purpose of the ordinance is to clarify that Grant County desires to continue its assertion of rights of way over all roadways created through public use, including lands dedicated under RS 2477, but for purposes of public use only and not for purposes of accepting maintenance, that are within Grant County, outside the corporate limits of any municipality. The Ordinance will also repeal and replace a "Grant County Ordinance, An Ordinance Defining and Declaring Highways," previously adopted by the Board of Commissioners of Grant County on December 3, 1992, filed in the Grant County Clerk's Office book 204, of the records of Ordinances, page 655. With the Ordinance, Grant County does not intend to change its practice or policies regarding its jurisdiction over roadways created through public use, but rather intends to merely clarify its intent in acknowledging its jurisdiction.

The Ordinance will be considered at a regular meeting of the Commission on Thursday, September 9, 2010 at 3:00 p.m., or as soon thereafter as the matter may be heard, in the Conference Room of the Grant County Administration Building, 1400 Highway 180 East, Silver City, New Mexico, in the County, being the regular meeting place of the Board. The title and subject matter of the Ordinance are as follows:

AN ORDINANCE DECLARING RIGHT-OF-WAYS FOR PURPOSES OF PUBLIC USE. For purposes of public use, Grant County intends to declare with this Ordinance, public rights of way on all RS 2477 highways created through public use and to clarify that an acceptance by Grant County of land dedicated for public use, regardless of the source of dedication, is not an acceptance of maintenance obligations by Grant County.

A copy of the Ordinance in draft form is on file and available for inspection during normal business hours at the office of the County Clerk at the Grant County Administration Building, 1400 Highway 180 East, Silver City, New Mexico, New Mexico.

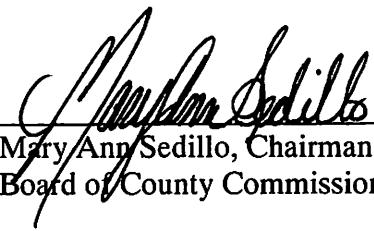
DATED: September 9, 2010.

/s/

Chairman, Board of County
Commissioners
Grant County, New Mexico

(End of Form of Notice)

PASSED, ADOPTED, SIGNED AND APPROVED THIS 9th DAY OF
September 2010.



Mary Ann Sedillo, Chairman
Board of County Commissioners



Attest:



Robert Zamarraga, County Clerk

Commissioner Gonzales then moved that the resolution as filed with the County Clerk be passed and adopted. Commissioner Miller seconded the motion.

The question being upon the passage and adoption of said resolution, the motion was voted upon with the following result:

Those Voting Yea: 3

Those Voting Nay: 0

Those Absent: 0

The Chairman thereupon declared that at least a majority of all the members of that Commission having voted in favor thereof, the motion was carried and the resolution duly passed and adopted.

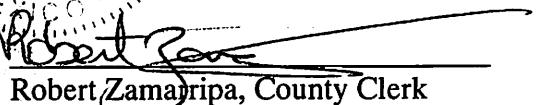
After consideration of matters not relating to the this Resolution, the meeting on motion duly made, seconded and unanimously carried, was adjourned.



Chairman
Board of County Commissioners

(SEAL)

Attest:



Robert Zamarripa, County Clerk

STATE OF NEW MEXICO)
) ss.
COUNTY OF GRANT)

I, Robert Zamarripa, County Clerk of Grant County, New Mexico (the "County"), do hereby certify:

1. The foregoing pages are a true, correct and complete copy of the record of the proceedings of the Board of County Commissioners (the "Board") of the County, taken at a duly called, open meeting of the Commission held in the Conference Room of the Grant County Administration Building, 1400 Highway 180 East, Silver City, New Mexico, being the regular meeting place of the Commission on Thursday, September 9, 2010, beginning at 3:00 p.m., insofar as the same relate to consideration of the adoption of AN ORDINANCE DECLARING RIGHT-OF-WAYS FOR PURPOSES OF PUBLIC USE, a copy of which is set forth in the official records of the proceedings of the County kept in my office. None of the action taken has been rescinded, repealed, or modified.

2. Notice of such meeting was given in compliance with the permitted methods of giving notice of meetings of the Commission as required by the open meetings standards then in effect, i.e., the Commission's Open Meetings Resolution.

IN WITNESS WHEREOF, I have hereunto set my hand and the seal of the Grant
County, New Mexico, this 9th day of September, 2010.

(SEAL)

Attest:

~~Robert Zamarripa, County Clerk~~

GRANT COUNTY ORDINANCE NO. O-10-02

AN ORDINANCE DECLARING RIGHT-OF-WAYS FOR PURPOSES OF PUBLIC USE

WHEREAS, the Federal Government made an offer of dedication under 43 U.S.C. § 932 (RS 2477) that provides for “[t]he right of way for the construction of highways over public land, not reserved for public uses, is hereby granted,” and

WHEREAS, New Mexico recognizes that RS 2477 dedications can and have been created or accepted through public use alone.

WHEREAS, although RS 2477 was repealed with the passage of the 1976 Federal Land Policy and Management Act, rights established under the former RS 2477 statute were preserved, and

WHEREAS, for purposes of public use only, Grant County desires to continue its assertion of rights of way over all roadways created through public use that are within Grant County, outside the corporate limits of any municipality.

WHEREAS, with the adoption of this ordinance, Grant County intends to clarify that its assertion of rights of way over roadways created through public use, including lands dedicated under RS 2477, is for purposes of public use only, and is not an acceptance of maintenance obligations.

WHEREAS, with the passage or adoption of any prior ordinances, resolutions, orders, or parts thereof, Grant County had no intent to accept maintenance obligations for roadways created through public use, including lands dedicated under RS 2477.

WHEREAS, due to its lack of clarity, Grant County desires to repeal “GRANT COUNTY ORDINANCE, An Ordinance Defining and Declaring Highways” adopted by the Board of Commissioners of Grant County on December 3, 1992, filed in the Grant County Clerk’s Office book 204, of the records of Ordinances, page 655.

NOW THEREFORE, BE IT ORDAINED BY THE GOVERNING BODY OF GRANT COUNTY, NEW MEXICO:

1. For purposes of public use, Grant County declares public rights of way on all RS 2477 highways created through public use.
2. An acceptance by Grant County of land dedicated for public use, regardless of the source of dedication, is not an acceptance of maintenance obligations by Grant County.
3. The following ordinance is hereby repealed: “GRANT COUNTY ORDINANCE, An Ordinance Defining and Declaring Highways” adopted by the Board of Commissioners of Grant County on December 3, 1992, filed in the Grant County Clerk’s Office book 204, of the records of Ordinances, page 655.

4. All ordinances, resolutions, orders, and bylaws, or parts thereof, inconsistent herewith are hereby repealed to the extent only of such inconsistency. This ordinance shall not be construed to revive any ordinance, resolution, order, or bylaw, or part thereof, heretofore repealed.
5. If any section, paragraph, clause or provision of this ordinance shall for any reason be held to be invalid or unenforceable, the invalidity or unenforceability of such section, paragraph, clause or provision shall not affect any of the remaining provisions of this ordinance.
6. Upon due adoption of this ordinance, it shall be recorded in the Grant County Clerk's Office in the book kept for that purpose, authenticated by the signatures of the Board of Commissioners of Grant County and the County Clerk, and the title and general summary of the subject matter contained in this ordinance shall be published in a newspaper which maintains an office and is of general circulation in Grant County, and said ordinance shall be in full force and effect thereafter, in accordance with the law.

PASSED, APPROVED, AND ADOPTED, this _____ day of _____, 2010.

Board of Grant County Commissioners:

Mary Ann Sedillo, Chairperson

Jovita Gonzales, Member

Christy Miller, Member

[seal]

ATTEST:

Robert Zamarripa, Grant County Clerk