For Immediate Release:
March 17, 2020
Contact: Matt Baca -- (505) 270-7148

AG Balderas Issues Guidance to Public Entities Regarding Open Meetings Act and Inspection of Public Records Act Compliance During COVID-19 State of Emergency

Santa Fe, NM—Today, Attorney General Balderas issued the following guidance to public entities across the State of New Mexico regarding their ongoing obligations to comply with the Open Meetings Act (OMA) and the Inspection of Public Records Act (IPRA) during the state of emergency in New Mexico.

“The health and safety of New Mexican families is the number one priority across our State, but government must remain transparent and accountable, especially during a state of emergency,” said Attorney General Balderas. “All public entities should follow the guidance of public health officials and make any necessary adjustments to ensure compliance with our transparency laws during this time.”

The Office of the Attorney General advises all public entities subject to OMA to first and foremost follow the guidance of the Department of Health and other health officials to ensure the health and safety of both members of the entity and the public. Accordingly, the most prudent thing to do to ensure compliance with OMA would be to postpone any non-essential public meeting during the pendency of the state of emergency. If, however, a public entity has an emergency or time-sensitive matter to attend to, it may proceed with a virtual meeting under the following guidelines:

• Notice of the meeting must still comply with the mandates of OMA, and it should contain detailed information about how members of the public may attend and listen via telephone, live streaming, or other similar technologies---this should include such detail as relevant phone numbers, web addresses, etc.;
• While provided by alternative means, the public must have some form of access to the meeting to substitute for the access it would during any normally scheduled public meeting subject to OMA;
• Where possible, videoconference is the best alternative method of holding meetings;
• At the start of the meeting, the chairperson should announce the names of those members of the public entity participating remotely;
• All members of the public entity participating remotely must identify themselves whenever they speak and must be clearly audible to the other members of the public entity and to the public;
• The chairperson or person leading the meeting should suspend discussion if the audio or video is interrupted;
• All votes of the public entity should be by roll call vote;
• The public entity should produce and maintain a recording of the open session of the meeting.

To comply with IPRA, the Office of the Attorney General recommends that, first, agencies continue to satisfy IPRA's deadlines and fulfill IPRA requests however possible in light of Department of Health’s recommendations and any order pursuant to the state of emergency. Of paramount importance, as is always the case, a public entity's records custodian should communicate promptly with the requesting party, however now regarding the circumstances of production in the context of the state of emergency.

Pursuant to public health guidelines during the state of emergency, public entities should suspend all in-person inspection of public records during the pendency of the state of emergency. Public entities should make every effort to comply with the mandates of IPRA by producing records electronically. If circumstances arise where records are not available electronically and cannot be produced in the timeframes mandated by IPRA, an agency may designate a request as excessively burdensome due to the state of emergency, and communicate to the requestor that the request will be fulfilled as required by IPRA when the state of emergency is lifted.

In short, IPRA very much still applies and all deadlines should be satisfied to the fullest extent possible. Where the state of emergency hampers or otherwise prohibits an entity’s ability to respond, we reiterate that the entity nonetheless should communicate promptly with the requester to make alternative arrangements to allow for the inspection of records, in keeping with the spirit and intent of IPRA.

The Office of the Attorney General continues to be available to any public entity that has questions or concerns about OMA and IPRA compliance, and will also continue to take OMA and IPRA complaints during the state of emergency.

###
Resolution 19-03
Rules for the Transaction of Business

Whereas, Section 3-19-3 of the NM Statutes provides, in part, that “A planning commission shall...D. Adopt rules for the transaction of business”, and;

Whereas, the Planning and Zoning Commission of the Village of Corrales desires that its Business be conducted in a fair, impartial and orderly manner for the public good;

Now therefore, be it resolved that the following rules are established this 21st day of August, 2019 for the transaction of business before the Planning and Zoning Commission of the Village of Corrales.

1) Members and Officers:
   a) By Village Ordinance lawfully adopted, the Commission consists of seven members, appointed by the Mayor, with the advice and consent of the Governing Body. Commissioners serve two-year terms, on a staggered basis, or until a successor is named. New terms commence in the month of June.
   b) The Commission at its first regularly scheduled meeting each June elects as Officers its Chairperson, Vice-Chairperson and Secretary, to serve one-year terms.
      i) Chairperson. The duties of the Chairperson include the following: presiding at all meetings of the Commission; calling special meetings as necessary, reviewing and approving the agenda for all meetings in consultation with Planning and Zoning staff, signing Commission documents including but not limited to approved copies of meeting minutes and subdivision plats; assuring that all actions of the Commission are taken in accordance with Village Ordinances and other relevant laws and regulations; representing the Commission and speaking on its behalf; where so prescribed in the Land Use regulations and ordinances of the Village of Corrales transmitting recommendations of the Commission to the Governing Body through Planning and Zoning staff; and all of the duties that may be established by law.
      ii) Vice-Chairperson. The duties of the Vice-Chairperson include the following: presiding or performing all the duties of the Chairperson during the absence, disability or disqualification of the Chairperson.
      iii) Secretary. The duties of the Secretary include the following: keeping copies of the minutes of all meetings; preparing or informing the Commission of correspondence relating to the business of the Commission; signing approved plats.
c) In the event of a vacancy in the Vice-Chairperson or Secretary positions, the Chairperson shall appoint a commissioner to the vacant position for the balance of the term of office.

2) Meetings.

a) Notice of Meetings. Notice of all meetings of the Commission shall be provided in accordance with applicable statutes, ordinances and rules, as set forth in the Commission’s most recently adopted Open Meetings Resolution. All meeting notices and required notices of specific agenda items shall be posted as required, including posting on the Village’s web site, and shall be emailed on the date of posting to all members of the Commission who have provided an email address for that purpose.

b) Agenda. The Planning and Zoning staff shall prepare a draft agenda for each meeting and forward it to the Chairperson no less than 48 hours before the agenda is required to be posted. The Chairperson shall promptly review the agenda and either approve it as presented or make such changes or amendments as the Chairperson deems appropriate, in consultation with the Planning and Zoning staff. The Planning and Zoning staff shall thereupon prepare a final agenda as directed by the Chairperson, and shall publish and post it in accordance with the Commission’s most recently adopted Open Meetings Resolution, including posting on the Village’s web site. The final agenda shall be emailed on the date of posting to all members of the Commission.

c) Sequence of Agenda Items. The Commission’s agenda for regular meetings will normally proceed in the following sequence, unless otherwise agreed upon by vote of a majority of the Commissioners present: call to order, roll call, approval of the agenda, approval of minutes of prior meetings, Public Comment on items not on the agenda; business items, to include applications for home occupation permits, variance from zoning ordinances, subdivision plat approval requests, site development plans, and any other applications within the jurisdiction of the Commission; Commissioners Forum, Planning and Zoning Administrator’s Report, other business; and adjournment.

d) Quorum. A simple majority of the members of the Commission shall constitute a quorum for the transaction of business.

e) Duration of Meetings. Regular and special meetings shall not extend beyond the hour of 9:00 PM unless agreed upon by a majority of Commission members in attendance at an open meeting. If the Commission is unable to complete all agenda items by such hour, a Motion to re-convene at a date certain is in order. Notice of the time and place of the reconvened meeting will be posted within 24 hours of the approved motion to reconvene and such reconvened meeting will comply in all aspects with the New Mexico Open Meetings Act and applicable ordinances of the Village of Corrales. Re-convened meetings will be held only on an exceptional basis when required by the volume or complexity of the matters presented for consideration by the Commission.

f) Minutes. Draft minutes shall be prepared by the Planning and Zoning staff using notes, tape recordings, or other media recordings taken at the meetings. The minutes shall include, at a minimum, the following information: the date, time and place of the meeting; the names and members in attendance and those absent; the agenda items; the substance of the proposals considered; names of persons who address the Commission; a record of any decisions and votes taken which show how each member voted. The draft minutes shall become final upon their adoption by the Commission.

3) Completeness of Materials.

a) It is the responsibility of applicants to submit all relevant written material in a timely manner for review by Village staff and by interested members of the public prior to the meeting at which the materials will be presented to the Commission. Each application submitted for consideration by
the Commission and ALL required supporting documentation shall be completed no less than (10) business days prior to the meeting at which the application will be considered. If the application and supporting materials require review by Village staff or contractors (including, but not limited to, the Building Inspector, Fire Chief, or Village Engineer, and including in all cases the Planning and Zoning staff), the applicant must submit all such materials in time for such review, as determined by the Planning and Zoning staff in accordance with applicable statutes, ordinances, regulations and policies of the State, the Village and the Planning and Zoning Department. The Planning and Zoning staff shall determine whether the materials are correctly prepared and complete prior to the matter being placed on the agenda, and in the event the Planning and Zoning staff determines that they are not complete the matter shall be deferred until a later Commission meeting. If, notwithstanding review by the Planning and Zoning staff, it is determined at hearing that the application or required supporting materials are not correctly prepared and complete, the Commission in its discretion may either (i) summarily deny the application, or (ii) postpone its consideration of the matter until a later date. Any items that are called before the Commission which are not represented by a direct party, shall be clearly identified as to who the initiator of that request is.

b) Citizens and other participants wishing to provide written comment on an application or other written or printed material pertinent to the application shall submit such material no later than five (5) business days prior to the meeting at which the application will be considered.

c) It is the responsibility of applicants to present all relevant testimony prior to the decision by the Commission. Applicants and other participants will not be permitted to supplement or add new documents to the record before the Commission after the Commission’s action.

4) Distribution of Materials to Commissioners. The Planning and Zoning staff will acknowledge and enter into the record signed, written communications received from the public concerning the pending application at least five (5) business days prior to the public hearing, and those communications will be distributed to the Commission and the applicant by the Planning and Zoning staff. No written documents shall be distributed to the Commission except through the Planning and Zoning staff.

a) The agenda and other written materials assembled for distribution to Commissioners by the Planning and Zoning staff shall be placed in the cabinet provided for that purpose in the Village Administrative Offices. It is the responsibility of each Commissioner to check periodically his/her name slot to remove materials for preparation in advance of meetings.

b) The Planning and Zoning staff shall distribute all written material needed for preparation for decision-making by the Commission at least five (5) working days prior to regular or special meetings. Staff should include with each application for a home occupation permit a map-view image or images (from Google Earth or another provider of equivalent materials) showing the property to which the application applies and a sufficient area surrounding the property to show adjacent properties and structures and any other properties likely to be directly affected by activities on the subject property. Except in unusual circumstances, written communications from professionals such as legal counsel or professional engineers retained by the Village regarding matters pending before the Commission shall be distributed at least five (5) working days prior to regular or special meetings.

c) A copy of each report prepared by the Planning and Zoning Administrator for submittal to the Village Council will be provided to all Commissioners by email or other reliable means at the same time such report is submitted for presentation to the Council.
5) **Testimony under Oath.** All persons (other than New Mexico-licensed attorneys appearing on behalf of a client) giving testimony before the Commission shall be sworn in under oath before proceeding by the Planning and Zoning staff or other qualified notary public and shall be obligated thereby to testify in a truthful manner. To assist in the orderly presentation of testimony and maintenance of minutes and other Commission records, all persons wishing to testify (and attorneys representing clients) will be asked to provide their names and addresses to the Planning and Zoning staff prior to appearing before the Commission.

6) **Conduct of Meetings.** Roberts Rules of Order, Newly Revised is hereby adopted for the governance of the Commission in cases not otherwise provided for in these rules or as provided for in State Statute.


   b) An applicant will be asked to address the Commission and explain the material that is the subject of the application in a succinct manner, confining their comments to matters relevant to the Commission's jurisdiction and decision-making responsibilities. At the conclusion of an applicant's presentation, Commissioners may question the applicant to assist their understanding. No new materials, including graphic renderings, PowerPoint presentations, photographs, or other written materials will be accepted at the public hearing, unless admitted by the Chairperson upon a showing of good cause why such materials could not be provided in advance of the meeting and upon the Chairperson's determination that the admission of such materials is in the interest of justice and equity and not unduly prejudicial to any party. No written documents shall be distributed to the Commission except through the Planning and Zoning Department staff.

   c) The Chairperson may, at his or her discretion, invite oral testimony from the public present in support of, in opposition to, or concerning the application. Such testimony will be heard in the following order: interested parties (generally, applicants), owners of adjacent properties, other affected parties (those owning property within 300 feet of the subject application); and the general public. Those testifying are asked to confine their remarks to matters relevant to the Commission's decision-making responsibilities concerning the pending application. The applicant will have an opportunity to cross-examine witnesses or provide further clarification regarding an application. Commissioners may also question those testifying to assist the Commission's understanding of the matter to be decided. No question shall be asked of a Commissioner by applicants or others testifying before the Commission except through the Chairperson.

   d) All persons participating in meetings of the Commission are expected to conduct themselves in a courteous manner. The Chairperson may limit oral presentations by applicants, proponents, opponents, and other testimony in the interests of time and orderly proceedings. The Chairperson may, when necessary, seek the assistance of the Corrales Police Department to assure the orderly conduct of Commission business.

7) **Voting and Decisions by the Commission.** Decisions by the Commission shall be made on Motion by a Commissioner, duly seconded. Approval of a motion shall occur on the affirmative verbal vote of a majority of Commissioners present. If the decision is unanimous, the Chairperson shall so state for the record. In the event of a divided vote, the Chairperson shall announce those Commissioners recorded in favor, those recorded against, and those abstaining.
a) Voting is not permitted in absentia, or by telephone, fax or other written or electronic means, except as expressly provided for by the Commission. The maker of a Motion shall set forth supporting reasons (findings) in the text of his/her Motion to assist in understanding the decision to be made by the Commission, provided, that in any instance where the Motion is to deny an application, the maker shall state such reasons (findings) based on applicable ordinances and laws.

b) Following receipt of testimony, the Commission may choose to postpone a vote and decision-making to a subsequent meeting, unless Village ordinances or other applicable law requires a decision be made within a specified time not consistent with such postponement. If the Commission finds that the record before it is incomplete, and that it is in the interest of justice and equity an opportunity be afforded for additional evidence or testimony to be allowed, the Commission may in its discretion, by majority vote of the Commissioners present, to elect to keep the record open for a period not to exceed the time until and including the next regularly scheduled Commission meeting for the presentation of additional testimony and evidence.

8) Record of Decision. All testimony, information and documents submitted to the Commission prior to its decision and the minutes of the meeting will constitute the record in the event of an appeal. Any applicant or other party desiring a verbatim transcript of the hearing on any matter shall make appropriate arrangements with the Village at least five (5) business days in advance of the hearing to be transcribed, and shall reimburse the Village for any costs incurred.

9) Ex Parte Communication. When an application or other request is placed on the agenda for a regular or special meeting, it becomes a matter within the jurisdiction of the Commission and subject to the legal restraints on ex parte communications with Commissioners. Undisclosed ex parte communications could compromise the fair and open purposes of these rules for the transaction of Commission business. If a Commissioner believes he/she has been contacted ex parte on a matter pending before the Commission, it is his/her obligation so to inform the other members of the Commission prior to the matter’s consideration, and, if the ex parte communication was in writing, submit it as part of the record for the meeting.

10) Conflicts of Interest. Applications, presented to the Commission for decision, may, on occasion, present the potential for conflicts of interest for individual Commissioners. A conflict could exist if a decision conferred a financial or personal benefit to a member of the Commission or benefit someone with whom the Commissioner has a business, personal, or kinship relationship. It is the obligation of each Commissioner to declare for the record any instance where a conflict of interest or the appearance of a conflict of interest might exist with regard to matters pending before the Commission. Such Commissioner must then withdraw from further deliberations, including participation in discussion, and any decision-making, and should leave the room where the hearing is taking place unless that Commissioner claims to be an interested or affected party as described in the Battershell case cited in 6 (a) above.

11) Amendments to these Rules. These rules may be amended at any regular or special meeting by a vote of the majority of the entire membership of the Commission, provided that a written copy of the proposed amendment has been distributed to each member of the Commission five business days in advance of such meeting.

PASSED AND SIGNED this 21st day of August, 2019, by the Planning and Zoning Commission of the Village of Corrales; as amended June 27, 2019.

[Signature]
John McCandless
Chairperson
Corrales Planning and Zoning Commission

[Signature]
Tim Sawina
Secretary
Corrales Planning and Zoning Commission
VILLAGE OF CORRALES
PLANNING AND ZONING COMMISSION
RESOLUTION NO. 20-01

ESTABLISHING REGULAR MEETINGS OF THE PLANNING AND ZONING COMMISSION AND DETERMINING REASONABLE NOTICE

WHEREAS, Section 10-15-1 NMSA 1978, the Open Meetings Act requires that all meetings of a quorum of members of a public body held for the purpose of formulating public policy or the purpose of taking any action within its authority, are declared to be public meetings open to the public at all times, unless excepted from the Open Meetings Act; and

WHEREAS, Section 10-15-1D of the Open Meetings Act requires that the Village of Corrales Planning and Zoning Commission, a public body (Commission) of the Village of Corrales (the “Village”), determine annually what notice of meetings is reasonable when applied to the Commission.

THEREFORE, BE IT RESOLVED BY THE PLANNING AND ZONING COMMISSION OF THE VILLAGE OF CORRALES:

Section 1. Regular Meetings

A. The Commission will meet on the third Wednesday of the month for regular Commission meetings at 6:30 pm and work study sessions will be held as needed. All Commission meetings will be held at the Village of Corrales Council and Municipal Court Chambers, or as indicated in the meeting notice.
B. Notice of regular meetings will be given at least 10 days in advance of the meeting date and shall indicate how a copy of the agenda may be obtained.
C. The agenda shall be available to the public in the Village Municipal Offices and shall be posted on the Village’s website at least seventy-two (72) hours in advance of the meeting.

Section 2. Special Meetings

A. Special Meetings may be called by the Chair or a majority of the members of the Commission.
B. Notice of Special Meetings will be given at least 3 days in advance of the meeting.
C. Notice of Special Meetings shall include a list of specific items of business to be discussed or transacted at the meeting, or information on how a copy of the agenda may be obtained.
D. The agenda shall be available at least 24 hours in advance of the meeting in the Village Municipal Offices, 4324 Corrales Road.

Section 3. Emergency Meetings

A. Emergency Meetings will be called only under unforeseen circumstances which are such that the matter to be considered, if not addressed immediately by the Commission, will likely result in injury or damage to persons or property or substantial financial loss to the Village.
B. Emergency Meetings may be called by the Chair or a majority of the Commission upon 24-hour notice.
C. The notice of all Emergency Meetings shall include an agenda for the meeting.
D. Within ten (10) days after the Commission takes any action on an emergency matter, the Village shall report to the office of the New Mexico Attorney General the action taken and the circumstances creating the emergency.

November 20, 2019
Section 4. **Closed Meetings**

A. If any open meeting is closed subsequently pursuant to the exclusions contained in Subsection H of the Open Meeting Act, the closure shall:
   1. Be approved by a majority vote of a quorum of the Commission.
   2. The authority for the closure and the subject to be discussed shall be stated with reasonable specificity in the motion calling for the vote on a closed meeting.

B. If any closed meeting is called when the Commission is not in an open meeting, the meeting shall not be held until public notice, appropriate under the circumstances, is given to the general public. The notice shall include:
   1. The subject to be discussed with reasonable specificity and
   2. The specific provision of the law authorizing the closed meeting.

C. Following completion of any closed meeting, the minutes of the next open meeting, reconvened meeting, shall state the matters discussed in the closed meeting were limited only to those specified in the motion or notice for closure. The Commission shall approve the statement as part of the minutes.

Section 5. **Notice**

A. For the purpose of meetings described in Sections 1, 2, 3 and 4 of this resolution, notice requirements are met if notice of the date, time and place is posted in the following locations:
   1. Lobby of Municipal Administrative Offices
   2. Bulletin board in front of the Village Administrative Offices
   3. Corrales Fire Station (Corrales Road)

B. In addition to the information specified above, all notices shall include the following language: If you are an individual with a disability who is in need of a reader, amplifier, qualified sign language interpreter, or any form of auxiliary aid or service to attend or participate in the hearing or meeting, please contact the Village Clerk at the Village Offices located at 4324 Corrales Road, at least five (5) days prior to the meeting or as soon as possible. Public documents, including the agenda and minutes, can be provided in various accessible formats. Please contact the Village Clerk at 897-0502, or by email at SFresquez@corrales-nm.org if a summary or other type accessible format is needed.

**APPROVED** this 20th day of November, 2019.

**APPROVED**

John McCandless, Chair  
Corrales Planning and Zoning Commission

**ATTEST:**

Laurie Stout  
Interim Planning and Zoning Administrator

November 20, 2019