

Re: Proposed Grant County Property Maintenance Ordinance

I left this letter for the County Commissioners on 3/10. I would like the interested parties to review it also so they can state their pros and cons at the Commission special meeting on 3/19.

Linda Pafford
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To: Grant County Commissioners
Silver City, New Mexico

March 10, 2008

Regarding the proposed Property Maintenance Ordinance

Sirs,

I believe I understand your efforts at creating an ordinance delineating the minimum requirements for property maintenance but I think I can foresee some consequences that I hope you did not intend. You are probably looking for a means to deal with the most egregious offenders yet you have failed to provide the means of compliance for the poor, aged and disabled residents and thereby create financial hardship on many rural land owners. I further suggest that your attempt at simplified and clear wording leaves the enforcement personnel and complaining neighbors too much room for interpretation which can then lead to harsh penalties brought against otherwise good citizens.

I have seen how these well intended rules can snowball into ever tightening restrictions that can lead to restrictions on Xerascaping, native grasses and anything other than lawns or rocks. Even the Plant Society in Albuquerque has received a summons over native grasses over 4" high from over enthusiastic bureaucrats.

I will try to briefly outline my objections and suggestions:

The Premise: Whereas "necessary to provide for a mandatory system of solid waste collection and disposal" And repeated with the addition "in order to eliminate the illegal disposal and illegal accumulation of solid waste on private and public land in Grant County."

Objection: Creating this ordinance cannot eliminate illegal dumping from outside sources. What about those who bring their trash, old tires, and large items out to our property because they see it as "out in the country." Now you want us to pay to have it removed.

Suggestion: rethink the purpose of this ordinance, where it may overlap with other statutes and bring the scope back down to obtainable goals. Are there not already health, safety and animal ordinances in the state and county that cover an accumulation of household waste that may represent a health or vermin hazard? You note that where there is conflict, they prevail. What is missing from those ordinances that you feel the need to cover? This should be explained in your "Whereas" section.

In Definitions: Under composting you leave out the use of household food waste which is a vital part of creating a good organic soil supplement.

Objection: by this definition you make illegal the composting of cooking refuse as well as animal and barn waste. This will create a hardship of hauling used straw and other animal bedding as well as unnecessarily filling the landfill with otherwise degradable substances. "Dispose or Disposal" could refer to almost any compost process. "Garbage" is so broad as to include anything buried in the landfill including metals and glass but not mentioning plastic. This is restated in "Household Waste."

Suggestion: Expand your definitions to consider modern and future Green Alternatives to landfills.

The Hearing Examiner is the County Manager or his designee: Will this create a new paid county staff position? Will this person begin to travel through the county, at county expense, looking for violations and issuing notices? Disagreements with the Manager's decision will likely lead to judicial hearings and more expenses for the county as well as the property owner.

Objection: Once established such an ordinance takes on a life of its own. I suggest you be sure you want to create this next level of enforcement.

Solution: If this ordinance takes effect, it would be enforceable by Law Enforcement. Perhaps the Designee would investigate a report and be required to have the notice and summons issued by an Officer.

"swill, carrion, slops" again ignoring farm composting and the volume of such materials created by country life. Especially regarding carrion, do you want a steer carcass at the landfill and what about dead birds, squirrels, coyotes, etc., which is all part of the life cycle out here. The county does not find it necessary to pick up road-kill, so will the property owner be cited? Is it your intention to have every dead animal hauled to the landfill? What is the demarcation between "lot" and "land."

"Site A lot or combination of lots requiring solid waste collection service." Collection Service is not defined. Much of the county takes their refuse to a Transfer Station. Is this the "service" to which you refer? Is there some density factor that requires garbage truck service and therefore rural homes are not included in this definition?

Section 7: Fees for use of convenience centers/transfer stations are ALREADY in place and their use is limited by their own rules that exclude infectious, hazardous, commercial waste or hauling and carrion. Are you suggesting an additional fee collection at each station?

Re: non-operational vehicles, etc.

Limit of 2: Why 2? That is one car and one motorcycle.

Excepting those under "active" restoration/repair, meaning money spent in the most recent 30 day period and will be operational within the next 30 days. Does that require road worthy and licensed?

Excepting not visible to the public from a road abutting property - which includes hidden by a "7 foot solid fence." What about the property behind the one on the road? Is he exempt? Many "driveways" are not County Maintained but still visible from the hiway. Also fence posts are designed for 6 foot high fences as well as are the sections. Making this additional requirement created another level and I think unnecessary expense for the property owner.

Objection: I believe these cars accumulate on property because the owners don't know what else to do with them. The county needs to include a means for this cleanup. Where are the metal recyclers? They get the metal and you get removal. A disabled vehicle cannot be simply moved and often requires a specialized flatbed truck. And where do we take it? I submit that if you provided the means for removal many of these situations could be taken care of immediately.

Many cars "under repair" may stay in that condition for an extended period. It is often an issue of finances as well as the difficulty in finding parts for older cars. Perhaps because rural people live at a slower pace as well as having other demands on our time, a vehicle may sit for years while intended to be repaired. Sometimes an older vehicle is kept simply to be able to sell those hard to find parts. Are you saying that we cannot recoup some of our investment in our own items?

Suggestion: If you wish to target unlicensed "junk yards" you should make the number of vehicles reflect that. It would make more sense to require these vehicles be "parked" in an orderly manner. The number of vehicles might be tied to the amount of property which would clarify the

difference between old trucks on the ranch and 6 dead cars in someone's front yard on a standard lot. It might be reasonable to license a larger quantity of cars which can then include space requirements as well as protective fencing.

Re: non-operational refrigerators, freezers or other object that prevents escape. What if used for storage to keep rodents out of things? What if the handles have been removed so it is not an entrapment hazard? Old washers and dryers, etc. are not a hazard but included as citable.

Re: pile of anything including tree limbs, tires and so on. Yet you allow for "yard waste" to be classed as compost. Any yard work will result in such piles. Your intent to place a limit on the time it takes to complete the yard work seems arbitrary. There seems no concern whether such a pile might be a fire hazard, only that it is unsightly.

Objection: I believe the primary reason for such refuse accumulation is the difficulty in getting it removed. Generally these piles are at the home of elderly or disabled persons. Some of this "junk" can be used to reduce soil erosion. Here again, is it your intent to fill the landfill space with this stuff? Especially in the rural county, the costs to hire a contractor to haul large items included the mileage to and from the landfill as well as the labor (and landfill charges to contractors?).

Suggestion: If there are "bags of garbage," has anyone asked the owner why? Did the offended neighbor offer to haul it for them? Punitive action should be the last recourse and should be indicated as such in this ordinance. If you act like caring neighbors, you will get better compliance. This also applies to "Dangerous Buildings." We don't object to properties that are actually dangerous to the public being removed and a lien placed on that property as long as it is for reasonable costs that are not inflated by opportunistic contractors.

We fear a neighbor who buys property next to ours and then objects to the pre-existing old tool shed. We fear people moving here and expecting the kind of Development Covenants they left behind rather than understanding the nature of rural life in this arid and open space environment. Many have moved here to escape just such mandates that require every yard to look like the next. This is another unintended consequence of this action it seems patently unfair to allow the newest property owners to dictate a change in the customs of their neighbors which is then enforced by fines and liens. As the population of our county grows, it is important to protect our rural residents and the lifestyle these newcomers also have a right to.

Some of us have seen how such regulations take on ever more restrictive adaptations and the enforcer mentality of the bureaucrat assigned to search out offenders. We are concerned that the county could reach onto our farms and ranches with unilateral action for which we are then assessed. If we had the money and ability there wouldn't be an issue in the first place. If you are going after those with 10 dead cars, then why say 2. Are you going after people who refuse to pay the quarterly landfill fee so they don't use the Transfer Station? Could they benefit from a compost process? Could the offended neighbor include an extra bag of trash along with their own "run." Perhaps the charge to the County Manager's designee might be to act as a problem solver before fines and summonses are issued.

Suggestion: The Commission has an opportunity to assist the change in our collective attitude about our trash and whether our only solution is a hole in the ground. You can encourage less waste, recycling, and composting while still realizing the desire for views without trash. I hope you can use this moment in time when you can truly affect the future of our county with an ordinance that will do more than expand the landfill. With this action you can encourage education, awareness and provide the incentive for individual homeowners to rethink what they do with their own waste.

Thank you for your attention,

Linda Pafford
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