



**RANCHO SANTA FE FIRE PROTECTION DISTRICT  
REGULAR BOARD OF DIRECTORS MEETING  
MINUTES – January 14, 2009**

At a regular meeting of the Rancho Santa Fe Fire Protection District Board of Directors was called to order on January 14, 2009 at 12:00 pm.

Directors Present: Ashcraft, Hickerson, Hillgren, Tanner, Malin (joined the meeting at 12:34 pm)  
Directors Absent: None  
Staff Present: Nick Pavone, Fire Chief; Tony Michel, Deputy Chief; Cliff Hunter, Fire Marshal; Brett Davidson, Battalion Chief; Fred Cox, Battalion Chief; Karlana Rannals, Board Clerk; and Stephen J. Fitch, Attorney

**CLOSED SESSION**

Pursuant to the following Government Code Section, the Board of Directors convened in Closed Session from 12:03 – 12:55 pm for discussions on the following:

CONFERENCE WITH REAL PROPERTY NEGOTIATOR, pursuant to Government Code Section 54956.8:

- a. APN 266-182-21
- b. APN 266-182-22

Upon reconvening, President Ashcraft reported that an update was provided to the board members and direction was provided to staff and legal counsel to pursue real property for the Districts' parking needs.

All members of the Board, staff, and legal counsel listed attended the Closed Session.

**REGULAR AGENDA**

President Ashcraft called to order the regular session of the Rancho Santa Fe Fire Protection District Board of Directors at 1:00 pm.

*Pledge of Allegiance*

Deputy Chief Michel led the assembly in the *Pledge of Allegiance*.

1. Roll Call

Directors Present: Ashcraft, Hickerson, Hillgren, Malin, Tanner  
Directors Absent: None  
Staff Present: Nick Pavone, Fire Chief; Tony Michel, Deputy Chief; Cliff Hunter, Fire Marshal; Brett Davidson, Battalion Chief; Jim Sturtevant, Battalion Chief; and Karlana Rannals, Board Clerk.

2. Special Presentations

a. Presentation of Certificate of Recognition to Daniel Waldorf

Chief Pavone presented Daniel Waldorf a Certificate of Recognition from the Board of Directors to recognize him for his quick actions in administering aid to a choking victim during a dinner outing and using the training received as a member of the Fire District's Community Emergency Response Team.

3. Public Comment

a. Resolution No. 2008-14

Lindy Delaney, Superintendant, Rancho Santa Fe School District, stated that the School District has specific and immediate needs for the one parcel the Fire District has declared a necessity for parking. The School District has had an ongoing interest in the property and has been in discussions with the property owner for a long time. The School District believes that all parties should compromise and be flexible.

4. Motion waiving reading in full of all Resolutions/Ordinances

MOTION BY DIRECTOR HICKERSON, SECOND BY DIRECTOR HILLGREN, CARRIED 5 AYES; 0 NOES; 0 ABSENT; 0 ABSTAIN to waive reading in full of all resolutions/ordinances.

5. Consent Calendar

MOTION BY DIRECTOR HICKERSON, SECOND BY DIRECTOR HILLGREN, CARRIED 5 AYES; 0 NOES; 0 ABSENT; 0 ABSTAIN to approve the Consent Calendar as submitted:

a. *Board of Directors Minutes*

1. MOTION BY DIRECTOR HICKERSON, SECOND BY DIRECTOR HILLGREN,, CARRIED 5 AYES; 0 NOES; 0 ABSENT; 0 ABSTAIN to approve the Board of Directors minutes of December 10, 2008;
2. MOTION BY DIRECTOR HICKERSON, SECOND BY DIRECTOR HILLGREN,, CARRIED 5 AYES; 0 NOES; 0 ABSENT; 0 ABSTAIN to approve the Board of Directors minutes of December 29, 2008;

b. *Receive and File*

MOTION BY DIRECTOR HICKERSON, SECOND BY DIRECTOR HILLGREN,, CARRIED 5 AYES; 0 NOES; 0 ABSENT; 0 ABSTAIN to receive and file:

i. Monthly/Quarterly Reports

(1) List of Demands

Check 18721 thru 18863 for the period December 1 – 31, 2008 totaling:	\$396,671.03
Payroll for the period December 1 – 31, 2008	<u>\$457,584.98</u>
TOTAL DISTRIBUTION	\$854,256.01

(2) Travel Report

- Pavone

(3) Activity Reports – December 2008

- Fire Prevention
- Operations
- Training

(3) District Articles – December 2008

(4) Correspondence

- City of Vista
- Lacey Grover
- Horizon Christian Fellowship

8. Old Business

a. *Resolution No. 2008-14*

President Ashcraft informed the Board and public in attendance that the property owner requested time to comment on the resolution of necessity and agreed to limit their presentation to 45 minutes.

Allen Zuckerman, Attorney and counsel for Rancho Santa Fe Association (property owner) provided a general overview of the legal issues relating to the Fire District's Board of Directors action on December 29, 2008. He communicated that there is a desire by the property owner to work cooperatively with all parties, and there is plenty of opportunity to collaborate and negotiate the matter to mutual satisfaction, without litigation.

He stated that the Resolution of Necessity is defective for the following reasons:

- The property owner was not provided with the required notice prior to the adoption of the resolution of necessity; and
- The Fire District did not contact the property owner first to see if the owner was willing to sell the property to the Fire District.

The property owner requests that the Board of Directors rescind the Resolution of Necessity adopted on December 29, 2008. They believe that it is in the best interest of all parties to proceed without litigation. In addition, he requested that a copy of the letter documenting the position delivered be included as a part of the administrative record.

Pete Smith, General Manager, Rancho Santa Fe Association acknowledged the difficult situation that each party is experiencing. He provided a history of various options/solutions that have been discussed in the past 2½ years by all parties, with the Association's goal of locating a building to house Patrol since receiving notification from the Fire District in May 2006 terminating the current building lease.

He reported that the Covenant has zoning restrictions, which they must comply with, and the Dacus property when purchased was rezoned. The Dacus property can accommodate the Patrol, however, the Angino property cannot and requires 2/3<sup>rd</sup> approval of property owners to change the zoning.

In March 2008, the Association believed that all parties had negotiated a three party proposal (Association, School District, and Fire District). He stated that either the Patrol must retain the current site or secure a site can house the Patrol that includes 11 parking spaces. The Association's

position has not changed and he requested that the Fire District honor the March proposal. He also requested that if something cannot be worked out regarding the current building lease, the Association requested to extend the lease until June 1.

Lois Jones, President, Board of Directors, Rancho Santa Fe Association explained why it is important to keep the Patrol in the covenant area. She acknowledged that the Board of Directors should have stepped forward earlier to find a resolution. However, the actions taken by the Fire District does not serve the needs of all three parties. She acknowledged that all parties have defined needs, although the Association doesn't understand why the Fire District needs to expand. Through discussions at a recent meeting that included an ad hoc committee from each entity resulting in options that many thought were not available. She requested that the ad hoc committee continue to meet and work on solutions to can meet everyone's needs and requested the Fire District Board of Directors reconsider the action taken at the December 29, 2008 meeting.

Bill Beckman, Director, Rancho Santa Fe Association stated that there is great value in continuing discussion through collaboration and the need to find solutions that provide a win-win. He reminded the Fire District that no party would get everything that they are seeking, so everyone should be seeking a reasonable compromise. He encouraged the Board to empower the leadership and staff to find solutions.

Allen Zuckerman concluded the presentation with the following requests and/or suggestions:

- In the spirit of cooperation rescind the Resolution of Necessity;
- Create a subcommittee and participate in a collaborative approach in finding a solution that benefits all parties
- Should the District desire to proceed with a revised resolution of necessity, do not schedule a hearing for at least four months, otherwise the new resolution would appear tainted;
- Extend the current Patrol lease until June 1, 2009.

There was no action taken by the Board.

*Meeting recess from 1:50 – 2:00 pm*

President Ashcraft reconvened the meeting and reported that legal counsel has requested that the minutes include that it is disclosed there are three board members who reside in the covenant and are members of Rancho Santa Fe Association.

President Ashcraft reported on a request to amend the agenda to add for discussion and/or action:

12. Closed Session

- b. With respect to every item of business to be discussed in closed session pursuant to Section 54956.8

Conference with negotiators for the following real property

- APN 266-182-21
- APN 266-182-22

Negotiating Parties: James Ashcraft, Director; Nancy Hillgren, Director; Nick Pavone, Fire Chief, and legal counsel Stephen J. Fitch

Under Negotiation: Both Price and Terms of Payment

MOTION BY DIRECTOR HICKERSON, SECOND BY DIRECTOR HILLGREN, CARRIED 5 AYES; 0 NOES; 0 ABSENT; 0 ABSTAIN to add 12 b. to the agenda.

12. Closed Session

Pursuant to the following Government Code Section, the Board of Directors convened in Closed Session from 2:01 – 3:35 pm for discussions on the following:

- a. CONFERENCE WITH LABOR NEGOTIATOR, pursuant to Government Code Section 54957.6

Agency Negotiators: Jim Ashcraft, Randy Malin, Assigned Staff

Represented Employees: Rancho Santa Fe Professional Firefighters Association – Local 4349

Under Negotiation: A successor Memorandum of Understanding

- b. Conference with negotiators for the following real property, pursuant to Government Code Section 54956.8

- APN 266-182-21
- APN 266-182-22

Negotiating Parties: James Ashcraft, Director; Nancy Hillgren, Director; Nick Pavone, Fire Chief, and legal counsel Stephen J. Fitch

Under Negotiation: Both Price and Terms of Payment

Upon reconvening to the open session, President Ashcraft reported the following:

- a. Conference with Labor Negotiator: The District's negotiators provided an update and they were provided direction for a successor Memorandum of Understanding with the Rancho Santa Fe Professional Firefighters Association.

All members of the Board present during roll call and Chief Pavone attended the entire Closed Session during the discussion of item A.

- b. Conference with Negotiators for Real Property: the District's negotiators and legal counsel were provided direction regarding the eminent domain proceedings.

All members of the Board and all staff present during roll call attended the entire Closed Session during the discussion of item B. Attorney Stephen J. Fitch also attended.

9. New Business

a. *Contracts*

1. *Engineering Services for Interim Fire Station*

Chief Pavone summarized the staff report provided. He reports the engineering contract with Shapouri and Associates is necessary for site development of the temporary interim fire station that will be located behind Horizon Christian Church. The contract is \$73,000, plus time and material for the County of San Diego permit process.

MOTION BY DIRECTOR TANNER, SECOND BY DIRECTOR HICKERSON, CARRIED 5 AYES; 0 NOES; 0 ABSENT; 0 ABSTAIN to approve the contract with Shapouri and Associates and authorize the Board President to execute the contract as submitted.

2. *Change Order Proposal for Geotechnical Services*

Chief Pavone summarized the staff report provided. He reports this change order for services includes testing and observation services during the grading and construction phase of the project. The change order amount of \$22,930, is "a not to exceed amount" based on the estimated construction schedule.

MOTION BY DIRECTOR TANNER, SECOND BY DIRECTOR HICKERSON, CARRIED 5 AYES; 0 NOES; 0 ABSENT; 0 ABSTAIN to approve the contract with Geocon and authorize the Board President to execute the contract as submitted.

b. *Meeting Schedule – March 11, 2009*

Chief Pavone informed the Board of a potential conflict for the regular Board of Directors meeting scheduled for March 11, 2009 and requested consideration that the meeting date and time be changed. After review of the calendar, it was agreed to reschedule the regular meeting to March 18, 2009 at 2:30 pm.

MOTION BY DIRECTOR MALIN, SECOND BY DIRECTOR HICKERSON, CARRIED 5 AYES; 0 NOES; 0 ABSENT; 0 ABSTAIN to move and calendar the March regular meeting for March 18, 2009 commencing at 2:30 pm.

10. Public Hearing

a. *Fire Mitigation Fee Fund Multi-Year Plan*

President Ashcraft opened and closed the Public Hearing, there being no one desiring to speak to this issue.

11. Resolutions/Ordinances

a. *Resolution No. 2009-01*

Chief Pavone reported that there was an opportunity to modify the Fire Mitigation Fee Multi-Year Plan and include the purchase of property for use by the District. The District requested that the Committee approve and fund 75% of the property cost.

MOTION BY DIRECTOR HILLGREN, SECOND BY DIRECTOR HICKERSIN, to adopt Resolution No. 2009-01. Motion approved on the following roll call vote:

AYES: Ashcraft, Hickerson, Hillgren, Malin, Tanner  
NOES: None  
ABSENT: None  
ABSTAIN: None

## 12. Oral Reports

### a. *Fire Chief – Pavone*

He reported on the following topics:

- Del Mar/Solana Beach Management Services – Update: he provided a status on the discussions to provide fire management services to the cities of Del Mar and Solana Beach. He has started to draft an agreement for services between the City of Solana Beach and Rancho Santa Fe Fire Protection District. He also reported that the City of Del Mar has requested that the District extend the duty coverage agreement for an additional month, which he agreed to extend.
- Office of Emergency Services (OES) Engine – he was notified by the Deputy Chief for OES that the State will be replacing the current OES engine housed at the Rancho Cielo station with a brand new engine. The new engine is a certified USAR Type III engine.
- District Activities
  - The Appreciation Dinner is scheduled for May 8, 2009 at The Inn at Rancho Santa Fe.

### b. *Operations – Deputy Chief Michel*

He reported on the following topics

- The overall call volume for the District decreased last year
- Significant calls include:
  - Vehicle fire that resulted in property loss
  - Traffic collisions
- an incident involving a defective fire place remote control

### c. *Training – Battalion Chief Davidson*

Chief Davidson summarized the monthly training activity, which included:

- Personnel participated in the Confined Space and Rapid Intervention Crew (RIC) training
- CERT Academy begins February 25

### d. *Fire Prevention – Fire Marshal Hunter*

- The previous month's statistics continue to demonstrate the slowdown in new construction; however, inspections continue specifically for the community of Rancho Santa Fe Lakes
- Distributed Shelter in Place literature
- He is seeking another intern from CSU-SLO for the summer months to continue the inspections for the Shelter in Place communities

### e. *Administration – Administrative Manager Rannals*

- She distributed a Tax Revenue spreadsheet showing the assessed value by tax rate areas for the 4S Ranch and Rancho Cielo areas. The document is for information only.

*f. Board of Directors*

- North County Dispatch JPA – Update – Director Ashcraft: the next meeting is scheduled for February 26, 2009
- County Service Area 17 – Update – Director Hickerson: reported that the ad hoc committee continues to meet. Their goal is to ensure that all parcels within CSA-17 is paying their fair share of the per parcel tax.
- Comments:
  - None

14. Adjournment

Meeting adjourned at 4:45 pm.

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Karlana Rannals  
Secretary

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James H Ashcraft  
President

MUSICK, PEELER & GARRETT LLP  
ATTORNEYS AT LAW

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LOS ANGELES  
ORANGE COUNTY  
SAN DIEGO  
SAN FRANCISCO  
SANTA BARBARA  
WESTLAKE VILLAGE

FILE NO.: 5852.100

January 14, 2009

**VIA HAND DELIVERY**

Stephen J. Fitch, Esq.  
Stephen J. Fitch & Associates  
3455 Camino Del Rio South, Suite 250  
San Diego, California 92108-3905

Re: Rancho Santa Fe Fire Protection District

Dear Mr. Fitch:

As you are aware, this firm represents the Rancho Santa Fe Association ("Association"). My partner, Alan Zuckerman, referred your letter of January 6, 2009, enclosing a purported Resolution of Necessity ("Resolution") approved by the Rancho Santa Fe Fire Protection District ("RSFFD") to me for reply. The Resolution was allegedly adopted at the RSFFD's meeting on December 29, 2008, and relates to the acquisition of property commonly referred to as the "Dacus Property", Assessor's Parcel No. 266-182-21 & 22. In addition to transmitting the Resolution, the letter invites my client to appear before the RSFFD Board of Directors at that body's January 14, 2009, meeting.

The Resolution is fatally defective for at least two reasons. First, the Association was not provided with the notice required by Code of Civil Procedure section 1245.235 prior to the purported adoption of the Resolution. Such notice *must be provided prior to the adoption* of the Resolution. It was not. While the Association appreciates the invitation to the upcoming meeting of the RSFFD Board of Directors, that invitation after the purported adoption of the Resolution is not an adequate substitute for notice, and an opportunity to be heard, prior to adoption. Any appearance or participation by the Association at the January 14, 2009, meeting should not be construed as a waiver of the objection to the Resolution based on a lack of prior notice, and the Association expressly reserves all such objections.

Second, the Resolution was not preceded by the offer to purchase the subject property required by Code of Civil Procedure section 1245.230 and Government Code section 7267.2. Indeed, the Resolution discloses this defect on its face. Neither of the exceptions which would allow the RSFFD to either dispense with the offer (inability to locate owner through reasonable diligence) or defer the offer until after the Resolution (emergency) is applicable here. Your letter

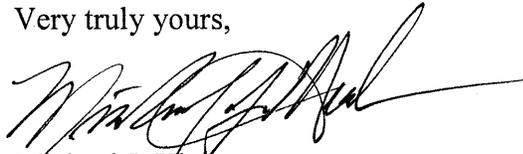
MUSICK, PEELER & GARRETT LLP  
ATTORNEYS AT LAW

Stephen J. Fitch, Esq.  
January 14, 2009  
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of January 6, 2009, conclusively demonstrates the former exception does not apply, and there are no findings in the Resolution which would support the latter.

The specification of these defects in the Resolution should not be construed as any type of concession that the resolution is otherwise appropriate, as a matter of either procedure or substance. On behalf of the Association, demand is made that this letter be included in the administrative record relating to the purported adoption of the Resolution.

Very truly yours,

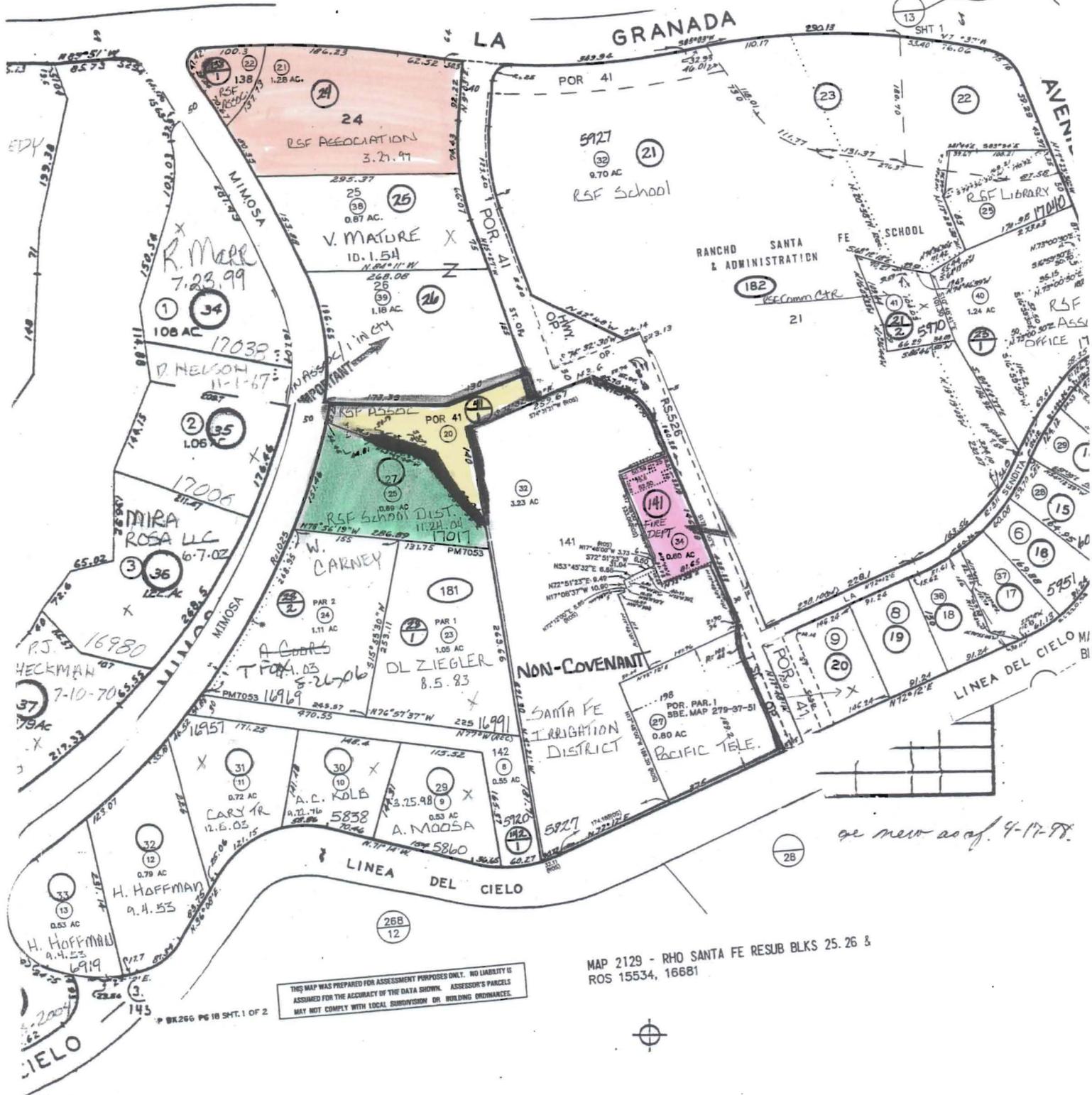


Michael J. Hickman  
for MUSICK, PEELER & GARRETT LLP

MJH:mh

cc: Alan J. Zuckerman, Esq.  
Mr. Peter Smith  
RSF Association Board of Directors

622387.1



MAP 2129 - RHO SANTA FE RESUB BLKS 25. 26 & ROS 15534, 16681

AP 2129 - RHO SANTA FE RESUB BLKS 25. 26 & POR BLKS 19. 20. 32. 33

OS 1089, 13696, 14971, 15339