



January 25, 2024

Dino Ioannides, Executive Director
State of Colorado
Independent Ethics Commission
1300 Broadway, Suite 240
Denver, CO 80203
iecinfo@state.co.us

And

Jonas Rieter, Jr., and Amanda Rieter
[REDACTED]
[REDACTED]
[REDACTED]

Sent via e-mail

**RESPONSE TO ETHICS COMPLAINT 23-20
TRAVIS CROSS, RESPONDENT**

I. SUMMARY OF RESPONSE

The Respondent, Travis Cross (“Mr. Cross”), an appointed member of the Rio Grande County (“RGC”) Planning Commission (“P&Z”), carried out his duties for the benefit of the people of the State of Colorado. He avoided conduct that would have been a violation of his public trust, or that created any justifiable impression among members of the public that such trust was violated. Article XXIX, § 1 (b) and (c) of the Colorado Constitution. He performed no official act directly and substantially affecting the economic benefit of his business, Riverbend Resort (“Riverbend”), an RV Park. He did not vote on a matter in which he has a personal interest, nor did he attempt to influence the decisions of other members of the RGP&Z in voting on such matters. C.R.S. § 24-18-109 (1) (B) and (3) (a).

Reid B. Kelly, Attorney at Law

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RG officials are unanimous in endorsing Mr. Cross and his ethical conduct regarding the Ethics Complaint 23-20 (“Complaint”) filed against him.

“As the Chair for the Rio Grande Planning and Zoning Commission (P&Z), I would like to take the opportunity to offer my support for Travis Cross as a valuable volunteer member and state that I do not feel he has been in violation of any ethics code.”

Extract of letter dated January 12, 2024, from Cary Aloia, attached hereto as Exhibit A and incorporated herein by reference.

“I see no conflict of interest in Travis Cross participating in the discussions of the investigative and advisory group surrounding RV Park proposed regulations. I do not feel that comments made by Travis Cross on August 16, 2023, could have influenced decisions made on or before July 26, 2023, and I do not feel that Travis Cross willfully violated any ethical standards in his role as Planning Commission member.”

Extract of letter dated January 9, 2024, from Dixie Diltz, Rio Grande County Land Use Administrator, attached as Exhibit B and incorporated herein by reference.

“We are aware of Mr. Jonas Reiter's accusations of a conflict of interest against Travis Cross and the pending Colorado Independent Ethics Commission's investigation into Mr. Reiter's complaint. To be clear, none of the opinions or statements made by Mr. Cross during any of the P&Z interactions with the BOCC on proposed RV Park or Campsite code amendments influenced the decision making of the BOCC.”

Extract of letter dated January 10, 2024 from the Rio Grande County Commissioners, attached as Exhibit C and incorporated herein by reference.

“As I think back to discussions mentioned in the complaint (or at any other time) that discussions included Travis Cross, I do not remember any comments that I felt were a dishonest or an unethical attempt to sway my decision on the issues or proposals we were discussing.”

Extract of letter dated January 11, 2024, from Michael Mitchell, Member of Rio Grande P&Z Commission, attached hereto as Exhibit D and incorporated herein by reference.

II. FACTUAL BACKGROUND

1. Ownership and Operation of Riverbend.

Mr. Cross and his wife, Tanna Cross, have owned and operated Riverbend since 2015. Mr. Cross believes that competition is good for business. Competition inspires growth, progress and creativity. Since the time of owning Riverbend, Mr. Cross has seen two RV Park developments in South Fork, Colorado that in no way has he tried to stifle, either personally or officially.¹

2. RV Park Moratorium

The RGC Board of County Commissioners (“BOCC”) signed a resolution on August 3, 2022, imposing a temporary (9 month) moratorium on any applications for RV Parks based on “information presented to the Board by staff of the RGC Land Use Department, as well as several other agencies and citizens at large,” as stated in said resolution. (Ex. B, page 1.) To Ms. Diltz’ knowledge, the BOCC did not receive any comments or recommendations from the P&Z Board or any P&Z Board members prior to implementing the moratorium. (*Id.*)

In March 2023, the BOCC extended the moratorium for an additional three months, as the P&Z Board had not completed an acceptable draft copy of the proposed RV Park regulations. The moratorium and extension of the RV Park moratorium expired in August 2023. (*Id.*, pgs. 1-2.)

The P&Z Board, working with staff and a contracted company, Community Planning Strategies, Inc. (“CPS”), completed a proposed draft RV Park regulation in July 2023. CPS and P&Z staff presented the recommended regulations to the BOCC on July 19, 2023. The BOCC tabled the proposed regulations on July 26, 2023. As of January 9, 2024, the BOCC had not made any final decisions regarding amending the RV Park and Campground regulations. (*Id.*, pg. 2.)

¹ The two other RV Parks are located within the Town of South Fork, not outside the Town’s limits. Therefore, they would not come under the jurisdiction of P&Z. Nonetheless, Mr. Cross has not tried to stifle the business of ANY RV Park located within RGC.

3. Mr. Cross' Involvement—and Lack of Involvement—in the RV Park Moratorium

The P&Z Board serves “as an investigative and advisory group” to the BOCC in the administration of land use regulations, including preparation of needed amendments and additions to the regulations.” Rio Grande County Land Development Code, Section 1.03 (B) (5), attached hereto as Exhibit E and incorporated herein by reference. As an advisory Board, P&Z does not make final land use decisions; rather, it reviews applications and recommends approval or disapproval based on the P&Z code book. The BOCC serves as the decision-making body.

Mr. Cross began as an alternate on the P&Z Board on January 1, 2022. His function as an alternate was to attend P&Z meetings and learn the operation of P&Z and the P&Z codes. (Ex. A, pg. 1.) Alternates normally do not vote, as was true with Mr. Cross. (*Id.*)

Mr. Cross was appointed to serve on the P&Z Board effective October 1, 2022. BOCC Resolution 2022-53, attached hereto as Exhibit F and incorporated herein by reference. This is a volunteer position. Critically, his appointment was after the BOCC had implemented the moratorium.² Mr. Cross was not involved in the moratorium, nor does the Complaint allege as such.

During his time on the Board, Mr. Cross has not reviewed even one RV Park application. Mr. Cross has also abstained from voting on the P&Z RV Park portion of its code. In sum, Mr. Cross has had no official involvement with RV Parks within RGC.

4. The August 16, 2023 Work Session

On August 16, 2023 a work session between the BOCC and P&Z took place. It was a discussion to clarify the BOCC's directives to P&Z and its staff and verify if the P&Z Board was to continue to work on the proposed drafted RV Park regulations. (Ex. B, pg. 2.) Mr. Cross' comments at that work session had no influence on the BOCC's decision, made previously on July 26, 2023 regarding the drafted amendments to the RV Park regulations. (*Id.*)

As the Complaint alleges, Mr. Cross did make the comment at the work session: “It's pretty frustrating to put in all this work and it not be adopted.” However, the complainants have misconstrued the import of this comment. Mr. Cross was frustrated that the BOCC had not

² The complaining parties, Mr. and Ms. Rieter, bought their property in RGC in January 2023, after the moratorium had been in effect.

adopted the new P&Z codes, but rather had tabled that issue, which would then let the moratorium expire. In other words, had Mr. Cross been acting out self-interest, he would have wanted the moratorium to expire; he would have wanted the BOCC to table the adoption of the new codes.

The complainants are also correct that Mr. Cross made the following comment at the work session: “I don’t think it’s fair they [short term rentals] just have a residential house, and start renting it out, and be in competition with me without having to be on the same playing field as me.”

Mr. Cross made that comment in response to Ms. Diltz, the County Land Use Administrator, who stated regarding increasing short term rental fees: “[W]e needed to increase those fees... to level the playing field.” Therefore, Mr. Cross was echoing Ms. Diltz’ opinion, as well as providing his own, from his perspective as an RV Park owner. In that regard, Mr. Cross was doing what he was appointed to do: Give his perspective and input as an RV Park owner.

It was neither a conflict of interest, nor an apparent conflict of interest, for Mr. Cross to have made this comment. (Exs. A, B and C and D.) In addition to this comment having absolutely no influence on the BOCC’s decision-making process, the P&Z Board purposely wanted those serving on the Board to have a diversity of backgrounds and occupations. The Board valued Mr. Cross’ input, knowing full well that he owned an RV Park. (*Id.*)

III. LEGAL ANALYSIS AND ARGUMENT

1. The Complaint Fails to Meet the Burden of Proof to Show Breach of Fiduciary Duty and Public Trust.

The standard of proof to establish any actionable misconduct by Mr. Cross is “beyond a reasonable doubt.” C.R.S. § 24-18-109 (1). As set forth below, the allegations in the Complaint fail to meet this exacting standard.

2. Mr. Cross did not Perform an Official Act Directly and Substantially Affecting to His Economic Benefit.

A public official shall not: “Perform an official act directly and substantially affecting to [his] economic benefit” C.R.S. § 24-18-109 (2) (b).

Mr. Cross did not perform any official act directly and substantially affecting to the benefit of Riverbend. Although he worked on the P&Z codes regarding RV Parks, he abstained from voting on them. Even assuming, *arguendo*, that his work on the codes constituted an official act, attempting to have the codes approved by BOCC worked against Riverbend’s economic benefit. If BOCC had approved the codes, the moratorium would not have lapsed. Keeping the moratorium in place would have (theoretically) benefitted Riverbend.

The comments Mr. Cross made at an informal work session on August 16, 2023, were not official acts. Even if they were to be considered official acts, they did not impact BOCC’s decision-making process whatsoever; there was no “direct and substantial” effect to Riverbend’s benefit.

3. Mr. Cross did not Vote on a Matter of Personal Interest, nor did He Attempt to Influence the Decisions of the Other Members of the P&Z Board in Voting on the Matter.

Subsection (3) (a) of Section 24-18-109 prohibits a member of the governing body of a local government³ from voting on a matter of personal interest or attempting to influence the decisions of the other members of the governing body in voting on the matter.

Mr. Cross did not vote on any matter related to Riverbend. He did not attempt to influence the decisions of other members of the P&Z Board in voting. (Exs. A-D.) None of the opinions and comments he expressed during any of the P&Z interactions with the BOCC on proposed RV Park or Campsite code amendments had any influence on the decision making of the BOCC. (Ex. C.)

Every relevant governing official knew of his ownership of Riverbend. (Exs. A-D.) Mr. Cross also expressly stated his ownership in the August 16, 2023 work session. It is an affirmative defense to any civil or criminal or any other sanction for a voluntary board member

³ P&Z is not, technically, a governing body; it is an advisory Board. The BOCC is the governing body. Arguably, then, this subsection is inapplicable to Mr. Cross.

like Mr. Cross to any official act he performs if he discloses the nature of his interest at the time of performing his official act. C.R.S. § 24-18-110.

However, Mr. Cross' comments at the work session were not official acts. They were not related to any vote. Therefore, subsection (3) (a) of Section 24-18-109 is inapplicable to Mr. Cross' conduct. But even if it were applicable, Mr. Cross provided an affirmative defense through his patently open disclosure of owning Riverbend.

4. Mr. Cross Carried Out his Duties for the Benefit of the People of the State.

Subsection (1) (b) of Article XXIX of the Colorado Constitution requires that local government officials carry out their duties for the benefit of the people of the State of Colorado. Mr. Cross did exactly that. He worked in a volunteer position to serve RGC. Not once did he put Riverbend's interests ahead of his local government. He did express his viewpoint at the August 16, 2023 work session, as an owner of an RV Park. However, the P&Z Board *wanted* input from Mr. Cross; that is why they appointed him in the first place.

5. Mr. Cross Avoided Conduct that would have been in Violation of his Public Trust.

Subsection (1) (c) of Article XXIX of the Colorado Constitution requires that local government officials avoid conduct that is in violation of their public trust. Mr. Cross has done exactly that. He abstained from voting on the P&Z codes regarding RV Parks. He has not reviewed any RV Park applications during his time serving on the P&Z Board. (There have been no RV Park applications submitted during this time, to Mr. Cross' knowledge. However, if one had been submitted, he would have recused himself from reviewing it.)

Mr. Cross' comments made at the August 16, 2023, work session served as valued and needed input for the P&Z Board, because the Board sought input from the various and diverse members comprising the Board. In essence, he was faithfully adhering to the duties that the P&Z Board expected of him.

6. Mr. Cross Avoided Conduct that Created a Justifiable Impression among Members of the Public that His Trust was Being Violated.

Subsection (1) (c) of Article XXIX of the Colorado Constitution requires that local government officials avoid conduct that creates a **justifiable** impression among members of the public that such trust is being violated. (Emphasis added.)

Applying the “beyond a reasonable doubt” standard of proof needed to establish actionable misconduct by Mr. Cross, the Complaint fails to establish that the Rieters had a justifiable impression that Mr. Cross was violating the public’s trust.

The Complaint expresses much frustration with BOCC and P&Z in general regarding alleged lack of communication and alleged inconsistencies in developing rules for RV Parks and less-developed camping sites. However, the Complaint is sparse in alleging facts that would show beyond a reasonable doubt that the Rieters had a justifiable impression that Mr. Cross had breached his public trust.

It is our **opinion** that Travis Cross, performing official acts as a Planning Commission member, has directly and substantially affected county-wide policymaking to benefit a business in which he has substantial financial interest; and he has directly influenced the decisions of other members of the governing body, including the Planning Commission and Board of County Commissioners, in their voting on the matters of RV Parks and Campgrounds where he has a personal and private interest.

Attachment 1, page 1 to Complaint (emphasis added.)

The Rieters may harbor such an opinion, but it is not justified. Every letter in support of Mr. Cross provided herein shows that this opinion is wrong. (Exs. A-D.)

Terminating the moratorium for the cause of knowing it was influenced by an inappropriate conflict of interest within the government would have once again allowed open market competition to return, to the detriment of Travis Cross’ business and personal interests.

(*Id.*)

This accusation is pure speculation on the Rieters’ part. There is no evidence to show that Mr. Cross was trying to keep the moratorium in place. In fact, his efforts were aimed at getting acceptable P&Z codes in place so that the moratorium could eventually end.

Travis Cross continues influencing the decisions of other members of the governing body voting on the matters of what is obviously protective of his personal business and financial interests. The RGC government continues

to entertain Travis Cross' input as a credible and unbiased source by allowing him to debate questions in the matter.

(*Id.*)

The Rieters might believe that Mr. Cross was influencing other members of the governing bodies' votes, but their belief was not justifiable. In fact, Exhibits A-D show that their belief was wrong. The BOCC appointed Mr. Cross to the P&Z Board precisely because he owned an RV Park. (Ex. C.) There was no actual or apparent violation of Mr. Cross' public trust by allowing him to express his opinions as a P&Z Board member.

July 18, 2023 (2) - A Planning Commission meeting was held where the meeting minutes revealed a Public Hearing and voting on the proposed RV Parks amendments. Travis Cross only abstained from voting but continued to influence it after, as he did before, abstaining from voting.

Attachment 1, page 4 of Complaint.

Here, the Rieters openly acknowledge that Mr. Cross abstained from voting. Their allegation that Mr. Cross continued to influence the P&Z Board before and after voting is correct only insofar as he worked on the P&Z code amendments. Their inference that Mr. Cross' efforts were somehow a conflict of interest reflects a misunderstanding on the Rieters' part that both the BOCC and P&Z wanted Mr. Cross' input precisely because he owned an RV Park. Hence, their misimpression that Mr. Cross was violating the public trust was unjustified.

One member of the BOCC, Tyler Ratzlaff, stated he would approve the RV Parks amendments Mr. Cross influenced and was promoting.

Attachment 1, page 5 of Complaint.

It is not a justifiable impression on the Rieters' part that this allegation constituted a violation of Mr. Cross' public trust. First, Mr. Ratzlaff expressly stated that Mr. Cross' opinions had no influence on the decision making of the BOCC. (Ex. C.) Second, Mr. Cross' efforts to have the RV Parks amendments approved would have worked against his self-interests. Approval of them could have meant that the moratorium would have stayed in effect until the amendments were officially approved by local government and the public. The BOCC's tabling of the issue meant that the moratorium could expire—which in fact it did, on August 3, 2023.

(Ex. C.)

All of the Rieters' allegations in their Complaint demonstrate that not once did the Rieters attempt to contact Mr. Cross directly to determine his viewpoint on allowing the development of other RV Parks. Had they done so, they would have discovered that Mr. Cross actually favors competition within his business. Accordingly, the Rieters do not have a justifiable impression that Mr. Cross was violating his public trust.

IV. CONCLUSION

For all of the foregoing reasons, the Independent Ethics Commission should make a finding of no unethical conduct by Mr. Cross and impose no sanctions upon him.

Respectfully Submitted this 25th day of January, 2024

Reid Kelly

Reid Kelly, Attorney
The Kelly Law Firm, LLC
4440 N. Pagosa Blvd.
Pagosa Springs, CO 81147

CERTIFICATION

I, Travis Cross, the Respondent in this matter, hereby certify that, to the best of my knowledge, information and belief, the statements set forth in this Response, as well as the attached exhibits, are true and correct.

Travis Cross
Travis Cross

1/25/2024
Date

January 12, 2024

Cary Aloia
3393 E County Road 9 S
Monte Vista, CO 81144

RE: Ethics complaint filed against Rio Grande County Planning and Zoning Member Travis Cross

To Whom It Might Concern,

As the Chair for the Rio Grande Planning and Zoning Commission (P&Z), I would like to take the opportunity to offer my support for Travis Cross as a valuable volunteer member and state that I do not feel he has been in violation of any ethics code. During my time serving on the P&Z, the members serving have become much more diversified and more closely resemble the wide range of economic interests and perspectives in Rio Grande County. Having a board that closely reflects the complex constituencies of the county is important and an asset in the process of developing, recommending, and implementing county policies and regulations. Each and every board member has a job, experience, family, and hobbies that are intertwined in every aspect of this county, influencing their own personal perspective and recommendations on the P&Z. This diversity strengthens rather than weakens the P&Z and does not qualify as a conflict of interest, rather it provides a valuable resource in relation to making realistic, thoughtful, and forward thinking decisions.

The RV Park amendment is one of many that have been proposed since the latest code update. The moratorium on RV Parks precedes Travis Cross's status as a full board member and is therefore not in any way related to his position on the P&Z. The normal process for someone taking a seat on the board usually begins with them as an alternate. In this capacity, they come to meetings, learn the process and the code book but do not vote unless a seated member cannot make a meeting. This provides them with valuable experience prior to being seated on the P&Z. Typically alternates move into a seated member position when someone leaves in the district they represent. This was true for Travis Cross and is a reflection of the normal process and not in any way tied to any amendments, issues, or concerns before the P&Z. Travis Cross has brought his perspective to the P&Z regarding RV Parks providing insight, not conflict of interest, into some of the finer details of running a recreational business. I truly believe that every board member appreciates each and everyone's perspective and while considering those perspectives makes an individual recommendation based on their own thoughtful determination of the facts, potential consequences of proposed regulations, current policies, new challenges, and ultimately for what each of us hopes is best for the future of Rio Grande County.

As the Chair for the P&Z I am incredibly proud of the volunteer P&Z members for their continued service to the county and their diligence to being fair, open-minded, and without bias in their effort to promote regulations that benefit the county while being mindful of individual needs. Travis Cross has provided his perspective as a resident and business owner in Rio Grande County with experience in administering an RV Park. This does not constitute a conflict of interest, merely a perspective. The recent code book update encompassed all facets of landuse in the county. Each and every P&Z member has some interest, experience, or connection to one or many of the landuses regulated by that code book. I don't believe

that any member was in conflict while providing insight into some experience they have with any particular land use.

I appreciate the opportunity to support Travis Cross as a P&Z member and hope that you find that although he has an interest in RV Parks, providing his perspective did not constitute an ethical violation or a conflict of interest. I have found his comments to be thoughtful and based on economic fact. The P&Z is comprised of volunteer Rio Grande County residents representing a variety of backgrounds, experience, and interests with the ability to make sound, individual, and thoughtful recommendations for the future of the county.

Sincerely,

A handwritten signature in cursive script that reads "Cary Aloia". The signature is written in dark ink and is centered within a faint, light-colored rectangular border.

Cary Aloia, Chair
Planning and Zoning Commission

RIO GRANDE COUNTY

LAND USE ADMINISTRATION

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81132

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ddiltz@riograndecounty.org

January 9, 2024

To Whom It May Concern:

LAND USE ADMINISTRATOR
Dixie Diltz

I am the Land Use Administrator for Rio Grande County, Colorado. One of my job duties is to oversee and manage the Rio Grande County Planning and Zoning Commission. Currently serving on the Planning and Zoning Board in Rio Grande County, we have 6 voting members and 3 alternates, with no vacant seats. By design, this board is filled with a wide variety of people with varied backgrounds, experiences, and knowledge. We have an environmentalist, farmers, a rancher, a local land fill manager who previously worked in wastewater sanitation, a retired Banker, a conservationist, a retired accountant/business manager, and local business owner, Travis Cross. All members of the P&Z Board are aware of the backgrounds of fellow members and the knowledge and experience each member brings to the board.

I believe that it is imperative that the P&Z Board be comprised of a wide variety of people with different backgrounds, education, knowledge, ideas, and experiences to fairly represent the diverse interests and points of view within the County. If all members of the (any) Board had the same thoughts and ideas, the Board would only need to have one of them. I do not feel that Travis Cross having knowledge of RV Park businesses and owning an RV Park in Rio Grande County presents a "conflict of interest" as a member of the Planning Commission Board. In fact, he is an asset for the Board when it comes to discussions on regulations of RV Parks as well as any other business-related regulations/applications. It would be an injustice to the Community to have a P&Z Commission making recommendations on any regulations without gaining input from knowledgeable, experienced persons in the field of review.

Rio Grande County Board of County Commissioners signed a resolution on August 3, 2022, imposing a temporary (9 month) moratorium on any applications for RV Parks, based on "information presented to the Board by staff of the RGC Land Use Department, as well as several other agencies and citizens at large", as stated in said resolution. To my knowledge, the BOCC did not receive any comments or recommendations from the P&Z Board or any P&Z Board members prior to implementing the moratorium. In March

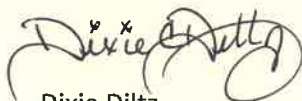
of 2023, the BOCC extended the moratorium for an additional 3 months as the P&Z Board had not completed an acceptable draft copy of proposed RV Park regulations. This moratorium and extension of the RV Park moratorium expired in August of 2023.

The P&Z Board, working with Staff and a contracted company, Community Planning Strategies, Inc (CPS, Inc.) completed a proposed draft RV Park regulation in July 2023. Travis Cross had participated in discussions during the drafting of the regulations, however, he recused himself from voting on the recommendation of the draft regulations as documented in minutes of P&Z meeting dated July 18, 2023. CPS, Inc., and staff presented the P&Z recommended regulations to the BOCC on July 19, 2023. The BOCC, upon presentation and review of the drafted regulations, tabled their decision until the July 26th BOCC meeting. During the July 26th BOCC meeting, a motion was made and passed to “table the proposed RV Park regulations for now, and work with the Planning and Zoning Commission,” as recorded in the BOCC minutes of July 26th, 2023. As of this date, no final decisions have been made regarding amended RV Park and Campground regulations. This project is ongoing with public open-house and work sessions planned for later this month.

As documented above, all final decisions that have been made, thus far, by the Rio Grande County BOCC, regarding the drafted amendments to the RV Park regulations were made on July 26th, 2023 or before, I do not see how it would be possible for any comments made by Travis Cross on August 16th, 2023 (as listed on complaint page 7) to have had any influence on the decision making process. The August 16th work session was a discussion to clarify the BOCC’s directives to Staff and the P&Z Board and verify if the P&Z Board was to continue work on the proposed drafted RV Park regulations.

In closing, I believe the membership of a planning commission should reflect a diversity of experience, expertise, and interests to effectively represent the community they serve. Planning Commission Board members are appointed by the BOCC and serve as an investigative and advisory group to the BOCC. Travis Cross, having knowledge of and owning/operating an RV Park brought needed information and experience to the P&Z Board while discussing amending RV Park regulations. I see no conflict of interest in Travis Cross participating in the discussions of the investigative and advisory group surrounding RV Park proposed regulations. I do not feel that comments made by Travis Cross on August 16, 2023, could have influenced decisions made on or before July 26, 2023, and I do not feel that Travis Cross willfully violated any ethical standards in his role as Planning Commission member.

Respectfully,

A handwritten signature in dark ink, appearing to read "Dixie Diltz", with a stylized flourish at the end.

Dixie Diltz

Rio Grande County Land Use Administrator



Rio Grande County
County Commissioners
925 6th Street, Room 200
Del Norte, CO 81132

January 10, 2024

Re: STATEMENT REGARDING THE INFLUENCE OF MR. TRAVIS CROSS

To Whom It May Concern,

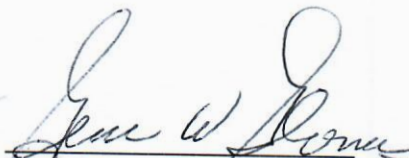
We, the Rio Grande County Board of County Commissioners (BOCC), appoint members to the Rio Grande County Planning and Zoning Commission (P&Z). We appointed Travis Cross to the P&Z on September 7, 2022 with full knowledge and understanding regarding his ownership of an RV park in Rio Grande County. We desire a P&Z composed of diverse experiences and occupations to encourage robust discussion on topics brought before the Commission.

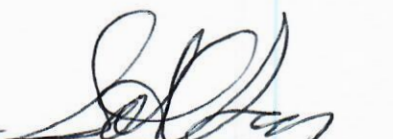
We are aware of Mr. Jonas Reiter's accusations of a conflict of interest against Travis Cross and the pending Colorado Independent Ethics Commission's investigation into Mr. Reiter's complaint. To be clear, none of the opinions or statements made by Mr. Cross during any of the P&Z interactions with the BOCC on proposed RV Park or Campsite code amendments influenced the decision making of the BOCC. In fact, no decisions have been made regarding the proposed codes beyond tabling for further review and another period of public notice and a public hearing.

To summarize the sequence of events related to RV Park and Campsite code amendments, we approved a resolution on August 3, 2022, imposing a nine month moratorium on any applications for RV Parks to afford the P&Z time to develop proposed updates to the land use code. In March of 2023, we extended the moratorium for three months to give P&Z additional time to complete the proposed RV Park regulations and hold an open house and a public hearing. The proposed amendments were presented to the BOCC on July 19, 2023 and tabled until the July 26, 2023 BOCC meeting, then tabled again. To date, no final decisions have been made regarding proposed amendments for RV Park and Campground regulations and the RV Park moratorium expired on August 3, 2023.

Sincerely,


Tyler Ratzlaff, Chairman


Gene Glover, Vice Chair


Scott Deacon, Commissioner

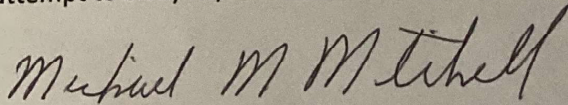
January 11, 2024

To Whom It May Concern:

After becoming aware of the ethics complaint filed against Travis Cross I felt the need to respond. First, I would like to explain a little about the Rio Grande County Planning Commission including its duties and responsibilities. The commission is a community board consisting of six members and three alternates who, over the many years that I have served, have included farmers, ranchers, contractors, bankers, government employees, small and large business owners, consultants and many retired individuals with various life experiences that care deeply about this community. In my opinion, over the years they have professionally and ethically conveyed their knowledge and experiences to the group discussions. The responsibility of this commission is to develop and review land use policy and also evaluate the proposals of those who would like a variance from the county policy. The scope of variance may be large or small and the individual or group making the proposal may be from inside or outside the community. Rio Grande County is largely a rural irrigated agricultural county, but because of the National Forest and Rio Grande River, it also tends to be highly impacted by recreation and tourism. Also, because of our relative closeness to large population centers we also have to deal with issues driven by State and Federal groups along with the policies and regulations that they propose.

As one considers (the nearly volunteer) service on any board, like the Planning and Zoning Commission, the member has to be committed to the betterment of this community. Also if you live, raise your family, and/or operate a business in a small community, you better treat others honestly and ethically or you will not survive. As the commission that is charged with being a public sounding board between the community and the County Governing Body we rely on training, our policy book, a limited staff, and sometimes professional consultants when making our recommendations. It is imperative that all of the commissioners honestly enter into our discussions. If they reflect on personal examples during our discussion it only adds to the credibility of their comments. If members were expected to remove themselves from the discussion/vote every time there was a minimal personal connection it would be impossible and without purpose to have a planning commission. A personal connection does not necessarily result in an unethical benefit and ethical standards should be consistent on both sides.

As I think back to discussions mentioned in the complaint (or at any other time) that discussions included Travis Cross, I do not remember any comments that I felt were a dishonest or an unethical attempt to sway my decision on the issues or proposals we were discussing.



Michael M. Mitchell, Member
Rio Grande County Planning and Zoning Commission

Section 1.03 Duties and Responsibilities of Review and Decision Making Bodies

A. Board of County Commissioners

1. **Membership and Term.** §1-4-205, C.R.S., County Commissioners, as amended, describe the membership requirements and term of office for members of the Board of County Commissioners.
2. **Powers and Duties**
 - a. The authority granted to the Board of County Commissioners under §30-11-107, C.R.S., as amended, includes, but is not limited to:
 - (1) Adoption and Amendment of Zoning and Subdivision Regulations;
 - (2) Regulations for Removal of Weeds and Rubbish;
 - (3) Adoption of Building Codes;
 - (4) Review of Service Plans for Special Districts; and
 - (5) Enter into Intergovernmental Agreements for Land Use and Development.

B. Planning Commission

The Rio Grande County Planning Commission (hereafter referred to as "Planning Commission") is hereby established. Its operation shall be governed as follows:

1. Membership

- a. The Planning Commission will consist of six (6) regular members and up to three (3) non-voting alternate members. All members shall be residents of Rio Grande County.
 - b. Members will be appointed by the Board of County Commissioners for a term of three (3) years. The terms of office of all members shall be staggered. The filling of vacancies and the removal of members for non-performance of duty or misconduct shall be provided for by the Board of County Commissioners.
 - c. In the event that any regular member is temporarily unable to act owing to absence from the county, illness, interest in a case before the Planning Commission or any other cause, an alternate member may take his or her place during such temporary disability and enjoy full voting privileges.
2. **Officers.** Members of the Planning Commission shall elect from among their members a Chairperson to serve for a term of one (1) year. Such election shall occur at the first meeting of the Planning Commission of each calendar year and such term shall continue until the election in the next calendar year. There is no limit to the number of terms a member may serve as Chairperson.
 3. **Organization.** The Planning Commission may adopt additional rules of organization and procedures necessary to conduct its affairs.

EXHIBIT E

4. **Compensation.** The members of the Planning Commission shall receive such compensation as may be fixed by the Board of County Commissioners, as well as reimbursement for actual expenses incurred in the performance of their duties.
5. **Duties.** In general, the Planning Commission shall be the land use-planning group for the county. It is responsible for preparation of a county master plan, zoning regulations and subdivision regulations. **The Planning Commission will serve as an investigative and advisory group to the Board of County Commissioners in the administration of land use regulations, including preparation of needed amendments and additions to the regulations.** It may also advise the Board on any other land use decisions when requested to do so by the Board. In addition, the following specific duties are assigned to the Planning Commission:
 - a. **Subdivisions.** Review subdivision proposals received by the county pursuant to criteria and requirements contained in Article 4, Division of Land of this Land Development Code.
 - b. **Conditional Use Applications.** Review applications for conditional use based on criteria and in accordance with procedures contained within Section 3.05, Conditional Use Permit of this Land Development Code.
 - c. **Amendments to Zoning Regulations.** Receive and study proposed text amendments to this Land Development Code, including the holding of public meetings if determined to be desirable and transmit its **recommendation** to the Board of County Commissioners.
 - d. **Special Land Divisions.** Review and recommend action on those cases being considered under Special Land Divisions pursuant to Table T-4.1, Land Division Processes of this Land Development Code.
 - e. **Manufactured Home Parks.** Review applications for Manufactured Home Parks for compliance with criteria contained in this Land Development Code.

C. Board of Adjustment

The Board of Adjustment (hereinafter referred to as "BOA") is hereby established. Its operation shall be governed as follows:

1. Membership

- a. The BOA shall consist of five (5) members appointed by the Board of County Commissioners and a nonvoting secretary. Not more than two (2) members may be current members of the Planning Commission. Members of the Board of Adjustment must be residents of Rio Grande County
- b. BOA members will be appointed by the Board of County Commissioners for a term of three (3) years.
- c. In addition to the regular members of the BOA, the Board of County Commissioners may appoint two alternate non-voting members for staggered three (3) year terms. In the event that any regular member is temporarily unable to act owing to absence from the county, illness, interest in a case before the BOA or

any other cause, an alternate member may take his or her place during such temporary disability and enjoy full voting privileges.

2. **Officers.** Members of the Board of Adjustment shall elect from among their members a Chairperson to serve for a term of one (1) year. Such election shall occur at the first meeting of the BOA of each calendar year and such term shall continue until the election of the next calendar year. There is no limit to the number of terms a member may serve as Chairperson.
3. The concurring vote of three members of the BOA shall be necessary to revoke any order, requirement, decision or determination of any administrative official charged with the enforcement of this Land Development Code or to decide in favor of the applicant any matter upon which it is required to pass under this Land Development Code or to effect any variation in this Land Development Code.
4. The Board of County Commissioners shall have the power to remove any member of the Board of Adjustment for cause after official public hearing in which the member shall have the right to counsel and to cross-examine witnesses.
5. **Proceedings of the Board of Adjustment**
 - a. The Board of Adjustment may adopt additional rules necessary to conduct its affairs and shall also provide for meetings of the BOA.
 - b. The Chairperson, or in his/her absence, the Acting Chairperson, may administer oaths and compel the attendance of witnesses by subpoena. All meetings shall be open to the public.
 - c. The Board of Adjustment shall keep minutes of its proceedings showing the vote of each member upon each decision, or if absent, or failing to vote, indicating such fact, all of which shall be a public record and immediately filed in the Office of the County Commissioners.
6. **Hearings, Appeals and Notices**
 - a. Appeals to the Board of Adjustment may be taken by any person aggrieved by any administrative decision based upon or made in the course of the administration or enforcement of the provisions of the Land Development Code. Application and review procedures for appeals are set forth in Section 3.11, Appeal.
7. **Powers of the Board of Adjustment.** The BOA shall have the following powers:
 - a. **Appeals.** The BOA may hear and decide appeals where it is alleged by the appellant that there is error in any order, requirement, decision or refusal made by an administrative official or agency based on or made in the enforcement of this Land Development Code. The BOA may reverse or affirm, wholly or partly or may modify the order, requirement, decision or determination appealed from.

b. Variance

(1) The BOA may grant or deny variances from the provisions of the Land Development Code when the strict application of the regulations and/or standards would result in peculiar and exceptional practical difficulties to, or exceptional and undue hardship upon the owner of such property.

(2) In granting any variance, the BOA may attach such reasonable conditions and safeguards, as it may deem necessary to implement the purposes of this regulation and/or standards.

(3) The BOA may not grant variances from the provisions of the Land Development Code governing the use of land or building or the provisions governing planned unit development. In granting or denying variances the BOA shall consider the criteria and standards set forth in Section 3.10, *Variance*.



RESOLUTION NO 2022- 53

A RESOLUTION OF THE BOARD OF COUNTY COMMISSIONERS
APPOINTING TRAVIS CROSS TO SERVE ON THE
RIO GRANDE COUNTY PLANNING COMMISSION

WHEREAS, C.R.S. 30-28-103 (as amended) requires that the Board of County Commissioners appoints a Planning Commission consisting of not less than three and not more than nine members whose terms of office shall be for three years and until their respective successors have been appointed; and

WHEREAS, the Board of County Commissioners believe that Travis Cross has the ability, knowledge, and judgement necessary to carry out the duties required of members of the Planning Commission.

NOW, THEREFORE, BE IT RESOLVED that the Board of County Commissioners of Rio Grande County Hereby appoint Travis Cross to fill a vacated seat on the Rio Grande County Planning Commission, with the term of such appointment commencing on October 1, 2022 and expiring on December 31, 2024. Re-appointment shall be reviewed upon a request of continuance by the appointee.

THE FOREGOING Resolution was offered by Commissioner NOFFSKER, seconded by Commissioner DEACON, and passed by the following votes by the Board of County Commissioners at a meeting of said Board on the 7th day of September 2022.

VOTES:

Commissioner Deacon:	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
Commissioner Glover	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
Commissioner Noffsker	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No

BOARD OF COUNTY COMMISSIONERS

Gene W. Deacon
Gene Glover, Chair

ATTEST:

Aubrey Pargis
Clerk of the Board