

## **Town attorney: 'No contract, no conflict'**

**By J.R. Logan**

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Taos Town Attorney Floyd Lopez says he does not have a conflict of interest regarding a rezoning proposal submitted by town officials.

The town is hoping to change the zoning for about 20 acres just south of the historic district to encourage commercial development of the area. Familial connections between Lopez and the apparent co-owners of a property in the rezoning area were first published in the Feb. 18 edition of *The Taos News*.

Lopez first addressed the question of a possible conflict at a Taos Planning and Zoning Commission meeting March 2. Lopez denied having any conflict of interest, asserting neither he nor any immediate family member had a financial stake in the parcel. Lopez declined to go into detail because he was bound by attorney-client privilege.

County records show one of the properties up for rezoning — a vacant piece of land known as the southern Couse Pasture — is owned by a partnership called Campo Sabio. Public records also show that one of the original partners in Campo Sabio is Fernandez Company, Ltd, which contributed real estate valued at \$741,000 to the venture more than three decades ago.

Attorney Lopez is related to the three people who signed the partnership agreement in 1982 on behalf of Fernandez Co. Frances Lee was his maternal aunt. Harriet Lee was his cousin. And Iona Lee was his cousin's widow. Frances and Harriet Lee died in the early '90s.

Some of the concern over a potential conflict arose from an email sent to Lopez in September 2014 and obtained through a public records request made by *The Taos News*.

"Although I don't believe in coincidence, your connection to the players in this deal is amazing," wrote developer John Mahoney, who also met with other town officials on zoning issues before the proposal was made public. "I have been trying to figure out who the Fernandez people [Lopez' relatives] are since I started working on this site in 2010. I have put in a call and an email to Rudy Sachs (sic) this morning. My plan is to meet with him in Santa Fe and layout the overall plan including benefits to the community and ask him to set up a meeting with the principals, assuming they are still in Taos for the season. Meanwhile, if you have any thoughts after visiting with Owen, let me know."

Mahoney was presumably referring to Lopez's brother, Owen Lopez.

Owen Lopez and Rudolph Sacks practiced law in the same Santa Fe law firm when Campo Sabio was formed. Both are also listed as agents for Fernandez Company on a 1983 lien against a property adjacent to the Couse Pasture.

Sacks continues to represent members of the Couse family and is the contact for the Campo Sabio property.

Sacks, Owen Lopez and Iona Lee all contributed to Lopez's unsuccessful judicial campaign in 2012.

Owen Lopez recently told

*The Taos News* he has no interest in the Campo Sabio property and has not practiced law for 25 years. Owen Lopez also said he has not talked to his brother about the property.

Sacks has not responded to emails asking for comment. Iona Lee has not returned a call seeking comment.

At a meeting Tuesday (March 8), the Taos Town Council voted to waive its attorney-client privilege so Lopez could discuss the allegations in greater detail.

In a 24-minute statement, Lopez again asserted he had no conflict of interest.

Lopez said his sister told him years ago that the property on the southeast corner of the intersection of Paseo del Pueblo and Kit Carson Road was owned by his aunt, Frances Lee. Lopez said he was aware his aunt was part of the Fernandez Company, which runs a ranch in western New Mexico.

Lopez said he and other town officials met with developer Mahoney and representatives of Smith's in fall 2014. Lopez said the developers said the grocery store had an interest in a project across the street from the existing store.

"I heard Mr. Mahoney say that he had been trying to find out something about Fernandez, who was connected somehow to that property," Lopez said Tuesday, adding that he was "unaware of the geography of the Couse Pasture and that part of town."

"For some reason, my light went off in my head, and I remembered my aunt owning the corner," Lopez said.

Lopez said Mahoney told him he was having a hard time tracking down the owners of the property. Lopez said he suggested Mahoney call Sacks, the Santa Fe attorney who used to work with his brother. Lopez also said he offered to call his brother, Owen Lopez, to see if he could get Sacks to return Mahoney's call.

Lopez added that he also suggested Mahoney contact Owen Lopez about his efforts as executive director of the Mc-Cune Foundation to fund redevelopment in downtown Albuquerque.

Lopez said that, even after the meeting with Mahoney, he did not know who owned the southern end of the Couse Pasture until details from a deed and other documents related to Campo Sabio were published in

*The Taos News* last month.

Lopez said he has since researched the property near the Paseo/Kit Carson intersection and could find no evidence that it was ever owned by his aunt.

A video of Lopez's entire explanation can be found by searching for the March 8 town council meeting at [taosnm.swagit.com](http://taosnm.swagit.com).

While Mahoney may have had trouble identifying who was behind the Fernandez Company, it's likely Mahoney was already aware of who to contact about the parcel. An email obtained by *The Taos News* shows Mahoney had been in contact with Sacks about the Couse Pasture property years before on a separate proposal.

In August 2008, a Taos real estate agent sent an email to several people, including Sacks and Mahoney, following up on a meeting in Taos to discuss a project proposal for that property.

If it turns out Campo Sabio is still owned by the Lees and they would make a profit if they property is developed, it does not appear that it would technically qualify as a conflict of interest for Lopez under certain laws.

Under the New Mexico Governmental Conduct Act, public officials are precluded from taking any "official act" that could financially benefit his or her immediate family (defined under the law as a spouse, child or siblings).

Lopez also pointed to the state statute detailing conflicts of interest as they related to public officials, part of which states that a conflict exists when a public body enters into a contract that financially benefits the employee or an immediate family member.

"There is no conflict because there is no contract," Lopez said.

But even in cases where money is not involved, the law states: "Full disclosure of real or potential conflicts of interest shall be a guiding principle for determining appropriate conduct."

In an effort at full disclosure, town officials have said they will print a formal notice detailing Lopez's connections to the property as he described them Tuesday.

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