



**SANTA FE COUNTY**

**REGULAR MEETING**

**BOARD OF COUNTY COMMISSIONERS**

**May 14, 2013**

This regular meeting of the Santa Fe Board of County Commissioners was called to order at approximately 2:05 p.m. by Chair Kathy Holian, in the Santa Fe County Commission Chambers, Santa Fe, New Mexico.

From the Assessor's Office, Lawrence Ortega led the Pledge of Allegiance and the State Pledge, following roll call by County Clerk Geraldine Salazar which indicated the presence of a quorum as follows:

**Members Present:**

Commissioner Kathy Holian, Chair  
Commissioner, Danny Mayfield Vice Chair  
Commissioner Robert Anaya  
Commissioner Miguel Chavez

**Members Excused:**

Commissioner Liz Stefanics

**V. MOMENT OF REFLECTION**

Cheryl Maes from the Assessor's Office led the moment of reflection.

**VI. APPROVAL OF THE AGENDA**

- A. Amendments**
- B. Tabled or Withdrawn Items**

CHAIR HOLIAN: Any suggested changes, Katherine?

KATHERINE MILLER (County Manager): Madam Chair, from the printed agenda that was printed last Thursday we have one recommended change that is not in color on your agenda. That's under Matters from the Commission, item XI. A. 3, I was thinking it would be good to actually do that as XI. A. 2 so that the two resolutions on renewable energy projects would be back-to-back and then do XI.A.2 after those. And then the other item is under Matters from the County Attorney, item XVI. B. has been added.

COMMISSIONER MAYFIELD: Okay, XVI B has been added.

COMMISSIONER CHAVEZ: Okay, got it.

COMMISSIONER MAYFIELD: Any changes Commissioners?  
Commissioner Chavez.

COMMISSIONER CHAVEZ: Thank you, Madam Chair. In Matters from the Commission, XI 2, I wanted to make a motion, if it is appropriate now, to postpone that item until the next meeting so that Commissioner Stefanics would be able to participate in

that discussion and in the final vote.

CHAIR HOLIAN: Commissioner Mayfield.

COMMISSIONER MAYFIELD: Which matter is this?

CHAIR HOLIAN: This is XI A. 2 the notice for public meetings resolution.

COMMISSIONER MAYFIELD: I don't have a problem with that. I mean, we're not under time constraints on the 72-hour notice are we Steve?

STEVE ROSS (County Attorney): Madam Chair, Commissioner Mayfield, we have until June 14<sup>th</sup> but we do have some time pressure.

COMMISSIONER MAYFIELD: That's up to our County Attorney.

CHAIR HOLIAN: Okay.

COMMISSIONER CHAVEZ: So this would just be postponement until the next meeting and I think we can still meet that timeframe.

CHAIR HOLIAN: And I believe, as I understand it, that we've discussed this already so we could vote on it at the next meeting; is that correct, Steve? Okay.

Commissioner Anaya.

COMMISSIONER ANAYA: Madam Chair, I would like to ask that after Approval of the Agenda that we afford State Representative Easley some time to make some brief remarks. He's here with us this afternoon and has some other obligations at the Roundhouse, so I wanted to ask that after the Approval of the Agenda we allow Mr. Easley as an elected official representing a substantial part of Santa Fe County the opportunity to make some brief remarks.

CHAIR HOLIAN: Commissioner Anaya, would it be okay if it were before the Proclamations and Presentations so we get the business of the meeting over with?

COMMISSIONER ANAYA: Absolutely, Madam Chair. So then I would if there's not any other amendments, do you have any amendments, Commissioner Mayfield?

COMMISSIONER MAYFIELD: I have none.

COMMISSIONER ANAYA: I would move for approval of the agenda as amended by Katherine Miller and amendments suggested by Commissioner Chavez and with the addition of brief comments by our State Representative Stephen Easley after Approval of the Minutes A and B, before Proclamations and Presentations.

CHAIR HOLIAN: Is there a second?

COMMISSIONER CHAVEZ: Second.

**The motion passed by unanimous [4-0] voice vote.**

CHAIR HOLIAN: The amended agenda is approved 4-0.

## **VII. APPROVAL OF CONSENT CALENDAR**

CHAIR HOLIAN: We are on to approval of the consent calendar and I will note that there are no resolutions under the consent calendar. Are there any withdrawals? Seeing none, is there a motion for approval?

COMMISSIONER MAYFIELD: So moved, Madam Chair.

COMMISSIONER CHAVEZ: Second.

CHAIR HOLIAN: Motion and a second for approval of the consent calendar.

**The motion passed by unanimous [4-0] voice vote.**

**VIII. APPROVAL OF MINUTES**

**A. Approval of April 2, 2013 Budget Study Session Meeting Minutes**

CHAIR HOLIAN: Any changes staff or Commissioners? Seeing none is there a motion?

COMMISSIONER CHAVEZ: Move for approval.

CHAIR HOLIAN: Is there a second.

COMMISSIONER MAYFIELD: I second, Madam Chair.

**The motion passed by unanimous [4-0] voice vote.**

**B. Approval of April 9, 2013 BCC Meeting Minutes**

CHAIR HOLIAN: Are there any changes staff or Commissioners?

COMMISSIONER MAYFIELD: Madam Chair.

CHAIR HOLIAN: Commissioner Mayfield, yes.

COMMISSIONER MAYFIELD: I have a change but I have to try and find it in my notes somewhere. But as far as the minutes – I just remembered what they were. I made some – referring to one issue that came to recognition of Ms. Denise Lamb and I don't know what page they're on Steve but I'll just let you know, give me one second please. I had it dog-eared somewhere.

MS. MILLER: Madam Chair, Commissioners, I believe it's on the page where there was the proclamation honoring Denise Lamb.

COMMISSIONER MAYFIELD: It wasn't a proclamation, Katherine. It was when we were speaking. Wait a minute, I'm getting close.

MS. MILLER: Maybe on page 7 or 8, 8 is where I believe your comments started.

COMMISSIONER MAYFIELD: Okay, here we go, thank you, Katherine. On the very last paragraph of that page, I wanted to say that "...and I just want to say that your concepts" but it should have been "consummate."

CHAIR HOLIAN: cm, you're saying at the bottom of page 8; is that correct?

COMMISSIONER MAYFIELD: Bottom of page 8 there's the word in there concept and I want that to reflect consummate, please.

CHAIR HOLIAN: "...your consummate professional expertise."

COMMISSIONER MAYFIELD: "...consummate professionalism and expertise."

CHAIR HOLIAN: Okay.

COMMISSIONER MAYFIELD: So scratch "your concept of professionalism" and add "consummate professionalism and expertise will be missed."

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CHAIR HOLIAN: Professionalism and expertise –  
COMMISSIONER MAYFIELD: -- will be missed.  
CHAIR HOLIAN: Okay.  
COMMISSIONER MAYFIELD: Sorry about that, Madam Chair.  
CHAIR HOLIAN: All right. Is there a motion to approve the amended

minutes?

COMMISSIONER ANAYA: So moved, Madam Chair.  
CHAIR HOLIAN: Is there a second?  
COMMISSIONER MAYFIELD: Thank you, Madam Chair.

**The motion passed by unanimous [4-0] voice vote.**

**REPRESENTATIVE EASELY**

CHAIR HOLIAN: Representative.  
REPRESENTATIVE STEPHEN EASELY: Thank you, Madam Chair, representatives. I appreciate the opportunity to speak today and allowing me to speak out of sequence and allowing me to do this early so I can get back over the Roundhouse. Thank you very much.

What I wanted to address primarily today is the community solar array. I know you'll be speaking about later this afternoon, possibly this evening and I wanted to put my two-cents worth in on the community solar array concept. I personally think it's a fabulous concept and I want to encourage you along those lines. I think it will be great for our communities in Santa Fe County to have that available. As an example, I would like to be like Madam Chair and have solar panels on my roof but for a variety of reasons it is not practical for me in my home in Eldorado so I have not done that. But I would not be at all unhappy if I could in fact participate in a community solar array where I could buy participation in some number of solar panels, generate electricity and by the net metering effect lower my electricity bill potentially and also do something good for the planet. So I see this as a tremendous opportunity for all of the people who would like to do solar energy but for one reason or another can't do solar energy.

I know there are a lot of moving parts and pieces that have to be figured out yet to make this work with various agencies and with PNM and so forth. So I wish you well in doing that. If there's anything that I can do as a State Representative to help that process along I would be more than happy to participate and help you out with that process because I think it's really, really important to our future in Santa Fe County. I don't know where we would look the solar arrays but probably if you wanted to put them in my district that would be great. Somewhere that Robert Anaya and I share, we could probably get some empty land there to put it at least one of these community arrays down there.

So, anyway, I just wanted to encourage you to do that and tell you that I support it and I'm willing to help you in any way that I can and if we have need for any capital outlay for that in the next legislative session I would be glad to entertain your request for capital outlay if necessary to make some of those projects work out if we can help that along.

And while I have your attention one other issue which I know is not really on your agenda but I'd like to mention it today is just the issue of the water pipeline going past Eldorado and there's been some controversy about that. About whether Eldorado should hook their community water system to the pipeline if it comes past. I'm a strong proponent of hooking the pipeline to the Eldorado water system. That is I strongly favor that we do that. I can't see any realistically good reasons why we would not want to do that. Not all of my neighbors in Eldorado agree with me on that but I believe that more and more of them are coming around to the idea that that would be a tremendous opportunity for us in Eldorado. So I encourage you as you're thinking about extending the pipeline south and when you come our way that you strongly consider coming our way to where you would run it past the location where we would be able to hookup the Eldorado Community Water System to the pipe. So I strongly support that and I also would be glad to work with you and help you on that project in any way that I can as well.

So with that, that's all that I have for today and if anyone has a question I would be happy to answer it otherwise I will be moving along.

CHAIR HOLIAN: Thank you very much, Representative Easley and I can assure you that I'll probably be visiting you soon because of your generous offer of help. And, I have to actually say thank you to Commissioner Anaya for suggesting that you speak early in the meeting.

COMMISSIONER ANAYA: Madam Chair.

CHAIR HOLIAN: Commissioner Anaya.

COMMISSIONER ANAYA: Madam Chair, I think we would be remiss as a Commission if we didn't thank you for your efforts and the project resources that you've brought into Santa Fe County and to help us along. Specifically acknowledging a project in District 3 for the basin area and the creek area and Galisteo Village but other projects and work that you've done and water work and your consideration and concern for how we manage our waters is very much respected so thank you for those efforts and your continued desire along with the rest of Santa Fe delegation to work closely with Santa Fe County. I appreciate it.

REPRESENTATIVE EASELY: Well, thank you. We're happy to do it. We're happy to make the contributions and help out where we can. I happen to be here today just by way of explanation, meeting with Commissioner Anaya because we were talking about the Wellness Center down in Stanley and that's a fabulous project that wellness center is going to good and I can't wait until we bundle up enough money altogether some point in the future to be able to finish that our and complete that project. It's going to be terrific. So, we're working on that. We'll work on that at the next legislative session as well and this is going to be a great asset for people in Santa Fe County to be able to go there and use that. And, I thank Commissioner Anaya for getting that off the ground. That's great. So thank you.

CHAIR HOLIAN: Thank you, Representative.

REPRESENTATIVE EASELY: Bye-bye.

COMMISSIONER MAYFIELD: Thank you, Representative.

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**IX. PROCLAMATIONS AND PRESENTATIONS**

**A. Quarterly Santa Fe County Ethics Board Report**

ADAIR WALDENBERG (Santa Fe County Ethics Board Chair): Thank you, Madam Chair and thank you, Commissioners, staff and the public. We have been meeting and collaborating quite a bit. We've been having discussion on some possible changes to the code to strengthen it and clarify definitions. We hope to bring those forward sometimes this summer. We meet again May 23<sup>rd</sup> and hopefully we will be able to report on that.

Training, we want to compliment, again, the staff of the County on doing an excellent job of training. Some of the impact we can see the training has increased complaints to the Human Resource Department. So people are much more aware of ethics and what should be happening and when it's not happening. To our board we still have not gotten any complaints. We've looked at some of the other governmental entities and they don't have anonymous complaints but they do have the complaints go to the county clerk instead of ours, which go to the county attorney. So we're going to be looking at those issues and if there is anything else that you would like us to look at in the course of the next couple of meetings please let us know. I'll be happy to entertain any questions.

CHAIR HOLIAN: Any questions.

COMMISSIONER ANAYA: Madam Chair.

CHAIR HOLIAN: Yes, Commissioner Anaya.

COMMISSIONER ANAYA: Madam Chair, I appreciate the work of the committee. I appreciate the fact that we have access to the opportunity for staff and the public to provide complaints associated with ethics. I'm happy that there are minimal complaints and I'm happy that we've provided that access through the Commission and look forward to the recommendations that you might have. So, thank you for your work.

MS. WALDENBERG: Thank you, Commissioner -- .

COMMISSIONER MAYFIELD: Madam Chair.

MS. WALDENBERG: Anaya, and I just to compliment the Commissioners for following through on the Ethics Board and with your support we can certainly make a big difference.

CHAIR HOLIAN: Commissioner Mayfield.

COMMISSIONER MAYFIELD: Madam Chair and Madam Chair, thank you also. I also view that Santa Fe County not having the ethics complaints, I view it as a very positive thing. So I know that when you say you haven't received any, well I think that's a great thing. It's a great testament to this County, to the employees and this Commission, anonymous or not anonymous, I think that's great that we're not receiving them. Also, I want to recognizing that Santa Fe County is the only county in the State of New Mexico that has recently for two years running received an A+ rating from the Sunshine review board That's an independent rating organization for openness and transparency in local governments and that's a national organization that does ratings throughout local governments throughout the state - I don't even think that's local governments, that's county governments, state

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governments and city governments and Santa Fe County is the only government within the State of New Mexico that has received that from the organization for two years running. That is from before – I don't where Santa Fe County was at, Manager Miller, do you know where Santa Fe County was at four years ago? I don't think we were anywhere near an A+ rating. That's a testament to the staff. It's also a testament to our County Manager and to this Commission up here. I think that Santa Fe County needs to be recognized for that. So it's not a bad thing that Santa Fe County is not receiving these violations and I think they should be commended for that also. So I just want to point that out also.

MS. WALDENBERG: Thank you, Commissioner Mayfield. We just want to be sure that employees and the citizens have access and understand the complaint process to make sure that there are no impediments to those complaints.

COMMISSIONER MAYFIELD: Sure.

MS. WALDENBERG: But if I slip on my League of Women Voters' hat for just a minutes, the transparency of this Commission of this County is superb and it really deserves lots of commendation. There's a reason for that rating.

COMMISSIONER MAYFIELD: Sure, and I agree, thank you.

MS. WALDENBERG: Thank you.

CHAIR HOLIAN: Thank you very much, Madam Chair, and I just want to say that I personally will be looking forward to the recommendations that the board makes in the future for how the ordinance can be improved even more.

MS. WALDENBERG: Thank you.

CHAIR HOLIAN: Thank you.

**IX. B. Presentation - National Correctional Officers' Week (May 5-11, 2013);  
National Correctional Nurses' Week (May 6-12, 2013)**

CHAIR HOLIAN: Mr. Sedillo, and I have to ask the question: why are they only one day apart?

PABLO SEDILLO III (Public Safety Director): Madam Chair, members of the Commission, Pablo Sedillo III, Public Safety Director, it just happened to fall that way and it's probably a good thing because they work hand-in-hand together inside the correctional institution. So I think it's very important to know that.

Santa Fe County Corrections Department would like to request your support in honoring staff for National Correctional Officers' Week and Nurses' Week. Let me tell you about the National Correctional Officers' Week is celebrated the first full week in May. It was established in 1984 by President Ronald Reagan to honor the work of correctional officers and correctional personnel nation recognizing the contributions made by the men and women who work in the jails, prisons, community corrections across the country.

The National Correctional Nurses' Week was previously observed from October 11<sup>th</sup> through the 16<sup>th</sup> until 1993 when the American Nurses Association Board of Directors designated May 6<sup>th</sup> through the 12<sup>th</sup> as the dates to observe National Nurses' Week and that is

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actually for Florence Nightingale, her birthday from May 6<sup>th</sup> and her birthday is on May 12<sup>th</sup> so they did that correctional week for Florence Nightingale.

As dates to observe National Nurses' Week this week highlights the diverse way in which registered nurses are working to improve the health care in our correctional facilities. The Santa Fe County Public Safety Department is proud to recognize our correctional officers and nurses on this particular week for the quality work they provide seven days a week, 365 days a year.

And, on behalf of the Public Safety Department Corrections Department their dedication and commitment to Santa Fe County is well deserved for this. I brought two individuals here, Lisa Levy, our medical nurse and Lt. Ellis for recognition, they do an excellent job inside the institution providing the safe and secure facility and for the general public as a whole. I am proud to announce just yesterday, Lisa received her certified correctional health care professional certificate and we have one more month that hopefully will be getting it by the end of this week. So I'll have two individuals who went through some classes to attain the certification. I'll stand for questions.

CHAIR HOLIAN: Thank you. Would Lisa or Lt. Ellis like to say a few words?

LISA LEVY: Madam Chair, I just would like to thank the Commission for their support that you've given, Director Sedillo, and also thank Director Sedillo for the support that he has given us out in Corrections. We truly feel like we're part of the County and part of the team.

CHAIR HOLIAN: Thank you. Lt. Ellis.

LT. ELLIS: Yes, I'd just like to say that out of the correctional facilities that I tend to travel around this is the one I am most proud to be a part of and I appreciate the support in our facility.

CHAIR HOLIAN: Commissioners, Commissioner Anaya.

COMMISSIONER ANAYA: Madam Chair, Commissioners, I continue to be impressed by the work that is going on at the correctional facility and public safety in general. I've spent more and more time in the facility. I was just there last week and had a good visit with the warden, the deputy warden and appreciate the efforts of the medical staff and the individual officers who are working day in and day out in the facility working to improve it all the time. They understand that there are always areas that can be improved as do you. So I appreciate those efforts and greatly appreciate your individual work and happy, happy, happy relative to your complication of your certification and the continued work that you guys do so keep it up and thanks again Mr. Sedillo and to the warden, deputy warden and the entire staff in the facility. It's a tough job, 365, 24/7. So good work.

CHAIR HOLIAN: Commissioner Mayfield.

COMMISSIONER MAYFIELD: Madam Chair, thank you. Director Sedillo and to all of your fine staff thank you for the great work you do and you all deserve this recognition for this week, thank you.

LT. ELLIS: Thank you.

CHAIR HOLIAN: Thank you. I would just like to say a few words. In thinking about this I realize that our corrections officers have an incredibly demanding job. They are responsible for the welfare of people who are, let's face it, completely incarcerated.

Completely not free and a lot of times people are angry. They're afraid. When they come in they might be under the influence and for the nurses in corrections they have to deal with the whole gamut of illnesses that people see in the outside world plus the extra challenges that come with a person actually being incarcerated. And, let's face it, we live in a country that really likes to incarcerate people. I read something interesting in the paper the other day that we have the most number of people incarcerated in the world and we have twice as many in jails and prisons as the country that has the next most number and that would be China. And, China has four times as many people as we do. So what that means is we have a whole variety of people who end up in jail for a whole variety of reasons. And, it's important for – because people are in there for so many different reasons it is really important for our correctional personnel to realize that they need to help the people who are in there as well as to maintain order so that they don't end up making a situation that is not very happy even worse.

In my opinion I think that you and the corrections department, the corrections officers, the nurses who are in the corrections department really have the hardest job in our County and so I really want to thank you all and I want to thank Mr. Sedillo for bringing this recognition forward. You really deserve it, thank you. How about a picture?

MR. SEDILLO: That would be fine. If I could make another comment, Madam Chair, Commissioners, I would really like to thank the County Manager, her staff and especially the County Commissioners on the support. Our staff recognizes that support from the County Manager's office and each and every one of you on the County Commission. You've been down to our facilities and our staff really recognized that and they enjoy you coming down to our facility and I'd like to thank you personally as well as the County Manager.

CHAIR HOLIAN: Thank you. Picture time.

COMMISSIONER MAYFIELD: Madam Chair, can we ask our Clerk to join us for pictures also, please, if she wants to.

[Photographs were taken.]

**IX. C. Proclamation in Honor of Santa Fe County Public Works Week; May 19-25, 2013**

COMMISSIONER CHAVEZ: Thank you, Madam Chair. This proclamation is in recognition of 138 Santa Fe County public works employees. It is being done in conjunction with National Public Works Week, May 19<sup>th</sup> through to the 25<sup>th</sup>. Under the leadership of Adam Leigland, the mission of the Santa Fe County Public Works Department is to maintain and improve the quality of life for residents in Santa Fe County, by maintaining and improving infrastructure, services, including roads, water and wastewater systems, solid waste and recycling services, public buildings, parks open space and trails networks, and renewable energy and energy efficiency-related programs and projects.

The proclamation reads, it's a Santa Fe County proclamation that is signed by all the County Commissioners, the County Manager, the County Clerk and the County Attorney. The proclamation reads, Whereas, Public works infrastructure, facilities and services are of

vital importance to sustainable communities and to the health, safety and well being of the people of Santa Fe County. And, Whereas, such facilities and services cannot be provided without the dedicated efforts of public works professionals, engineers, managers, and employees in the public sector who are responsible and must effectuate the plan, design, building, operations and maintenance of the transportation network, water supply, water filter systems, solid waste system, public buildings, parks and open space and other structures and facilities essential to serve our citizens. And, Whereas, it is in the public's interest for citizens, civic leaders and children in Santa Fe County and the State of New Mexico and the United State of America to gain knowledge of and to maintain a progressive interest in the importance of public works and public works' programs in their respective communities. And, Whereas, the year 2013 marks the 53<sup>rd</sup> annual National Public Works Week sponsored by the American Public Works Association with the theme "Because of Public Works." Now, Therefore, be it resolved by the Santa Fe County Board of County Commission that May 19<sup>th</sup> to the 25<sup>th</sup> of 2013 is hereby proclaimed Santa Fe Public Works Weeks. Citizens and civic organizations across the County are called upon to acquaint themselves with the issues involved in providing public services and to recognize the contribution that public works officials make every day to our health, safety, comfort and quality of life.

So this is approved and adopted and passed on this 14<sup>th</sup> day of May 2013.

CHAIR HOLIAN: Do you want to make a motion?

COMMISSIONER CHAVEZ: I'd like to move for approval.

COMMISSIONER ANAYA: Second.

CHAIR HOLIAN: Motion and a second. Any discussion?

COMMISSIONER ANAYA: Madam Chair.

CHAIR HOLIAN: Yes, Commissioner Anaya.

COMMISSIONER ANAYA: Madam Chair, first when we were acknowledging the public safety officials for their work and I said happy, happy, happy and now Commissioner Chavez is set on acknowledging public works. Since the day I began sitting in this chair I have always said that our public works is a big part of our backbone for Santa Fe County specifically the road area that we are now investing a lot of County resources on that the citizens have approved for resources and also the existing tax base. I will always be an advocate for public works and services to the citizens and always advocate that we utilize the existing services and taxes that citizens already pay. And, so, I applaud Commissioner Chavez for bringing the resolution forward and happily we'll vote for it and happily second it. So, good work and thanks to each and every one of those employees that works day in and day out for the citizens of Santa Fe County.

CHAIR HOLIAN: Commissioner Mayfield.

COMMISSIONER MAYFIELD: Madam Chair, thank you. I just wanted to thank our Public Works department also the crews out there are working tirelessly day in and day out. They have over 1,900 square miles within Santa Fe County to serve. I know they get numerous requests from all the Commissioners' office, if I say, in particular they probably have more requests from me in District 1 than anybody else and I see Adam out there with a big smile and Robert Martinez behind him will probably attest to that in five seconds. But, I do appreciate the work that you guys do and your whole staff do – I know I keep you very busy and I just want our constituency out there to know that and recognize that, that you all

do go above and beyond and they just need to know that. We don't – we do have limited resources and you guys try and stretch those resources day in and day out so I want you all to know that and your staff know that I am personally very appreciative of what you do. And, after Commissioner Holian speaks I just ask that you all say a few words also, please.

CHAIR HOLIAN: Yes, I was going to do that, Commissioner. Public Works is responsible for maintaining and building various community projects like one of the things that we use every day, like our roads to things that contribute to our public health and welfare like our water and wastewater systems and three those things that bring the community together like community centers or public parks or things like that. I've often felt that local governments have more of an impact on people's day-to-day lives than any other governmental entities. I would really like to thank Commissioner Chavez for bringing this recognition forward because it really gives us the opportunity to thank our County Public Works staff for making this community, our community, a really great place to live, at least in my opinion. I really love living here and I think part of that is because of our Public Works Department and all of the things that they have done in our community. So, at this point I would like to ask our Public Works Director Adam Leigland to come forward to say a few words.

ADAM LEIGLAND (Public Works Director): Madam Chair, Commissioners, thanks for the kind words. As Katherine Miller has mentioned the truest expression of elected body's policy is through their budget decisions. And if you take away salaries the Public Works Department has the largest portion of the budget within the County. So I think we in a way become one of the largest arms of expressing your priorities in the work that we do everyday. And, just to remind you of some of the things that you have supported and some of the things that have made I think, as Commissioner Holian mentioned making Santa Fe County a great place to live, we have made significant commitments to clean, sustainable water supply throughout the County. And I think that Santa Fe County is emerging as a leader in not only planning for sustainable water supplies – we were kind of forced into on the one hand through Aamodt but also through some of the dealings that we're having with mutual domestics but we are really taking our commitment seriously with regard to water supply. As Commissioner Anaya mentioned we invest a lot in roads. We have 575 miles of roads and I would submit that we have some of the best roads. Well, we definitely have better roads than the City. Our roads are higher quality than the City but if you drive around other counties and see other county roads I think that our roads are really good.

CHAIR HOLIAN: And we do better job with snow plowing too.

MR. LEIGLAND: Yes, I think this winter we really excelled in snow removal. We have world class outdoor and archaeological resources and you have committed significant resources to protecting and making those available. And in all of your districts we have examples of that. The most recent was the Arroyo Hondo open space. We just did the Camino Real in District 2. We're working on Thornton Ranch and we're working on the Los Potros open space in District 1. And then of course our County facilities and you've just committed resources to protected great facilities such as this which I think is a great building and our brand new one. So you said a lot of kind words about the Public Works Department but it all starts with you and your support and allocating the resources that we have. We have

a great team. We have a lot of work ahead of us but I think that we're up for the task so I look forward to exceeding your expectations over the next fiscal year.

CHAIR HOLIAN: Thank you very much, Mr. Leigland. Oh, and we have proclamation.

COMMISSIONER CHAVEZ: Yes, we have a proclamation and we'd like to take a photo with you and your staff that is here.

MR. LEIGLAND: Unfortunately, most of staff are out at jobs right now.

CHAIR HOLIAN: They're out working.

[Photographs were taken.]

**IX. D. Recognition of Nico Cruz as the 2013 Boys and Girls Clubs of Santa Fe Youth of the Year and Joseph Bellefontaine as Junior Youth of the Year**

COMMISSIONER MAYFIELD: Thank you, Madam Chair. And, also I would like to recognize that it is the 75<sup>th</sup> anniversary of our Santa Fe Boys and Girls Club.

This certificate of recognition says the Santa Fe County Board of County Commissioners hereby acknowledges Nico Cruz, Boys and Girls Club 2012 Youth of the Year. The Board of County Commissioners extends our congratulations to Nico Cruz for being selected the Boys and Girls Club 2012 Youth of the Year. The Boys and Girls Club of America Youth of the Year recognizes in the highest honor a club member can achieve. The Youth of the Year program recognizes individuals who have prevailed against enormous obstacles and demonstrated exceptional character, accomplishments and vast potential. For his outstanding performance Nico Cruz has been recognized for his service to his club, community, academic performance and contribution to family and has been awarded \$4,000 college scholarship from the Boys and Girls Club of Santa Fe. Therefore, the Santa Fe County Commission acknowledges his exceptional achievements on this 14<sup>th</sup> day of May 2013. Congratulations. [Applause]

Madam Chair, we have with us our Boys and Girls Club Director Mr. Roman Abeyta and also our President Mr. Gonzales in the back. So I would ask those two gentlemen to come up really quick and say a few words. I believe there is also some family in the audience.

ROMAN ABEYTA: Thank you, Madam Chair and Commissioner Mayfield. You said it with our Youth of the Year and Junior Youth of the Year. These individuals are exceptional club members. They contribute to their community. Their academic performance is second to none and it is something else that you're honoring them as a County because it is something that we need to do more as a government. We need to recognize our kids. We do provide a \$4,000 a year scholarship to Nico. He will be attending Purdue University; he's been accepted to Purdue and Mr. Joseph Bellefontaine is our Junior Youth of the Year and the program that we've started with our Junior Youth of the Year is we will also provide him with a scholarship if he wants to attend a private middle school, whether that be St. Mike's., Desert Academy, Santa Fe Prep and we couldn't do this without your support as a County Commission. We have clubs in Santa Fe because of your financial support to that and we really appreciate that and we appreciate you recognizing our youth and junior youth of the year.

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CHAIR HOLIAN: Thank you, Roman. Yes.

PAUL GONZALES: I didn't really have much more to say but thank you to the County Manager and yourselves. You have been a great help to the club. We've had a great transition in the last two years as you probably know. We're going to continue doing that for another 75 years and we look forward to working as partners with you all for the next 75 hopefully.

CHAIR HOLIAN: Yes, please, Commissioner.

COMMISSIONER MAYFIELD: We also have a certificate for Mr. Joseph Bellefontaine and I'll read you yours. The Board of Santa Fe County Commissioners extends our congratulations to Joseph Bellefontaine for being selected the Boys and Girls Club 2012 Junior Youth of the Year. The Boys and Girls Club of America Youth of the Year recognizes in the highest honor a club member can achieve. The Youth of the Year program recognizes individuals who have prevailed against tremendous obstacles and demonstrated exceptional character, accomplishments and vast potential. For his outstanding performance Joseph Bellefontaine has been recognized for his service to his club, community, academic performance and contribution to the family. Therefore, the Santa Fe County Commission acknowledges his exceptional achievements on this 14<sup>th</sup> day of May 2013. Congratulations. [Applause]

CHAIR HOLIAN: Thank you, Commissioner. And maybe Nico and Joseph would like to come up and say a few remarks.

NICO CRUZ: Well, I would just like to thank you for having us today. So to start off the Boys and Girls Club has been a major part of my life. I've been there for over nine years at this point. And you know it actually started nine years ago. I first started to get into engineering and just like building stuff and they really supported me throughout my entire academic career. I tried to be there everyday just helping out as much as I could. And now I'm graduating at the top of my class, the top 10 percent, and as they said I will be attending Purdue University studying energy engineering. So on a more personal note, I want to thank you for what you're doing here today. So I'll turn it over to Joe.

CHAIR HOLIAN: Joe.

JOSEPH BELLEFONTAINE: Thank you. My name is Joseph Bellefontaine and the Boys and Girls Club has been like a home away from home for me. And I have been there for three and a half years and those were the most exciting three and a half years. The Boys and Girls Club is a great experience because you get to do a lot of stuff, they feed you good snack, they help you out with your homework and that's where I need help the most. I'm doing better in school but I really need help on my homework because my teacher like overflows me with homework. And when I'm not doing my homework I usually help out a lot. And, I like to help out especially at the club. It's a great experience.

CHAIR HOLIAN: Thank you, Joseph. Good job. [applause] Both of you are very good at giving speeches. I think you have a future as an elected official ahead of you. So, perhaps the Commissioners would like to make a few remarks and then we'll all come down for a photograph. So Commissioner Chavez and then Commissioner Anaya.

COMMISSIONER CHAVEZ: To Roman and the Board at the Boys and Girls Club I can just say it's an honor for me to be here to support what you're doing and to see the investment that you're making in our future and that's our youth.

So to both of you, congratulations, it's a team effort and the club is providing a safe place for you but then you're doing your part as well. So you're making everything work and if it keeps working like this then it will work for others that come after you so we can keep that momentum going.

Congratulations to all of you. Again, it's an honor for me to be part of this and I hope that it will continue. Thank you.

CHAIR HOLIAN: Commissioner Anaya.

COMMISSIONER ANAYA: Madam Chair, we're three for three on these agenda items. I think it's just going to be a smooth meeting today. We're not going to have any disagreement. It's all going well.

But I want to say to you, thank you, Roman, Mr. Gonzales for your work, what you guys do day in and day out but to you, Nico, also, you're going to go into engineering you said and you said you're going to go to Purdue and that's awesome. What I would challenge you is that when you go to Purdue and you get that engineering degree, bring it back to New Mexico and help us here in New Mexico because we need good engineers here in New Mexico. I know you're going to go over there and do an awesome job and there's a lot of people in the club listening on the radio, watching on TV that look up to you. So you're setting the bar high for them. You're setting the example and I hope that you do well. I know you will. And I hope you come back to New Mexico and bring those talents back home to help us here in the State of New Mexico. Thank you and congratulations.

Joseph, I tell you what, then you can take this presentation and put it all over the county and the country because you are an advocate as well for the Boys and Girls Club and you as well are an example for everybody to follow, adults and youth. And you're doing a great job. So congratulations and awesome work to both of you. And, thanks again to the Board and all the work that you do, Roman, with staff so – it's an honor to be here. We're three for three. We're going to keep it going.

CHAIR HOLIAN: And I too want to say my congratulations to you, Nico and Joseph. And I think I see some public service announcements in your future or something like that. But in any event I also want to say that I think the Boys and Girls Club they're there for the youth of our community than almost any other organization that we have. And I, myself, was very honored to be present at the dinner where you, Nico and Joseph, were honored with your awards as well as the recognition of all the other people in the community who have contributed so much to make the Boys and Girls organization what it is and how much it does for the young people of our community is just astounding to me. And, I just want to say thank you, Roman and thank you, Mr. Gonzales and thank you to your staff for all you do on a shoestring really when it comes right down to it. So in any event, like Commissioner Anaya said we're three for three, this is the good part of being Commissioner actually. So let's have a photograph.

COMMISSIONER MAYFIELD: Madam Chair.

CHAIR HOLIAN: Yes, Commissioner Mayfield.

COMMISSIONER MAYFIELD: I just want to thank them. Madam Chair, Mr. Gonzales and Mr. Abeyta, really quick, I want to thank you all for what you do. The 75 years, it is very important to recognize 75 years. I hope it's much more than 75 years going in the future. The services that you provide for this community with our youth is just

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phenomenal. I mean the leadership – the leadership you two young men are going to be giving us. You are our future leaders and what just did today tells me what it's about. I mean, you help set the example for me and I just want to thank you both for that. So with that, Madam Chair, I'd like to move both these resolutions –

CHAIR HOLIAN: Well, actually –

COMMISSIONER MAYFIELD: -- for Mr. Bellefontaine and also Mr. Cruz.

COMMISSIONER ANAYA: Second.

CHAIR HOLIAN: Okay, we have a motion and a second. Actually, these are recognitions and I don't think we actually have to vote on these.

COMMISSIONER MAYFIELD: Recognition – well, I'd still like to move the recognition if I could and thank you for the second.

CHAIR HOLIAN: I think we can go down now and present the certification.

COMMISSIONER ANAYA: Let the record reflect that I think it was unanimous. Thanks to Commissioner Mayfield for bringing it forward.

[Photographs were taken.]

CHAIR HOLIAN: And I would like to invite the parents of our honorees to say a few words.

AMANDA ROMERO: Thank you, I'm Joseph's mother, Amada Romero and I'm also an employee with Santa Fe County and I want to thank the Board for everything that you do for our family and thank the Boys and Girls Club for providing a safe place for my son when I have to work and everything that they do to help him become a better person.

CHAIR HOLIAN: Thank you.

JOHNNY CRUZ: Hi, I'm Johnny Cruz. I'm Nico's father. I want to thank all of you. It's been a great experience working for the Boys and Girls Club raising these kids and seeing some of them make it forward and advance. It is an honor. Thank you.

CHAIR HOLIAN: Thank you, Mr. Cruz.

**IX. E. Recognition of JoAnna DeMaria, 2013 YWCA Women on the Move Honoree**

CHAIR HOLIAN: Commissioner Mayfield.

COMMISSIONER MAYFIELD: Thank you, Madam Chair. Madam Chair, the certification of recognition, I'm going to read it aloud I know Ms. DeMaria is not here with us today – she works out in Albuquerque. But she is one of my constituents up in Nambe and she's also a relative of mine but I still would like to recognize Ms. DeMaria on the achievement that she recently received.

The Board of Santa Fe County Commissioners hereby acknowledges that JoAnna DeMaria director of programs for the American Lung Association New Mexico. The Board of Santa Fe County Commissioners extends our congratulations to JoAnna DeMaria for being one of 13 New Mexican honorees named Woman on the Move during the YMCA's 27<sup>th</sup> annual Woman on the Move award ceremony. As the director of programs at the American Lung Association New Mexico Ms. DeMaria developed and increased programming for the organization whose mission is to save lives by improving lung health and preventing lung disease. Ms. DeMaria is one of the youngest participants to represent the non-section in

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Robert Wood Johnson's ladder to leadership program. Therefore, the Santa Fe County Commission acknowledges her exceptional achievement on this 14<sup>th</sup> day of May, 2013. And with that, Madam Chair, I would just like to recognize again Ms. Anna DeMaria. Thank you, Madam Chair.

CHAIR HOLIAN: Thank you, Commissioner Mayfield, for bringing that forward. Is there anybody here who would like to speak on this?

COMMISSIONER MAYFIELD: Madam Chair, I just would and just again in recognition. I can explain to you and if anybody is not familiar with this organization.

CHAIR HOLIAN: That would be interesting to learn a little bit more about this particular award.

COMMISSIONER MAYFIELD: Okay, sure, Madam Chair. Just give me one second and I'll get the information out that I have in my notes. And I'm just sorry that I'm having a hard time with my glasses. I'm at that age where, do you read with the glasses or you don't read with them. Give me a second, Madam Chair.

So as far as the, it's the Young Women's Christian Association, the YWCA did some recent recognition. The YWCA was a daughter of an industrial revolution which from the middle of the 19<sup>th</sup> century started the movement of young women and girls out of the home of rural areas and into factories throughout the western world just to try to get them incorporated into business and so it is just recognizing women throughout and there was some recent recipients also that were recently recognized. One was Dr. Carol William, CEO and director of the UNM Cancer Center. She was honored for extraordinary contributions. Thirteen New Mexicans this week, again, I just mentioned that were named to Women on the Move. Women who work for social and racial justice, empowering women and this was the 27<sup>th</sup> annual award and working towards social change and winners were selected from 36 nominees and honored recently at a banquet sponsored in part by the *Journal Sage Magazine*. These women will join a prestigious group of women who have shown courage in paving the way for future women. A diverse group of women were chosen for the honor and they're also generous with their time and accomplishments in their personal and professional lives that benefit the communities with their achievements. And, thank you, Madam Chair.

CHAIR HOLIAN: Thank you, Commissioner. Commissioner Anaya.

COMMISSIONER ANAYA: Madam Chair, Commissioner Mayfield, thank you for bringing this award and congratulations to the award recipient and like you said, the work of the YWCA as well. Thanks.

COMMISSIONER MAYFIELD: Thanks. That's all I have, Madam Chair.

CHAIR HOLIAN: Thank you.

**X. MATTERS FROM OTHER ELECTED OFFICIALS**

**A. Clerk's Office**

- 1. Recognition of Retirement for Patricia Hummer, Election Records Manager with the Santa Fe County Clerk's Office for Two Years and Eight Months of Dedicated Service to Santa Fe County**

CHAIR HOLIAN: Madam Clerk.

GERALDINE SALAZAR: Madam Chair and Commissioners, I want to thank you for this opportunity to recognize Pat Hummer. Not only was she records manager she was also our poll worker coordinator which is a tremendous task of coordinating poll workers and making sure the training is sufficient and getting people out there. So I want to take this time to thank her for her dedication to public service in our office. And, thank you again for this opportunity. Pat Hummer. [Applause]

CHAIR HOLIAN: Pat, would you like to say a few words?

PAT HUMMER (Clerk's Office): I'll keep it short. It's been an honor to work for the County Clerk's Office and frankly I had a ball in the job and I hope my successor also has a ball. It's been a great team to work with and it will continue to be a really wonderful team to work with. Thank you.

CHAIR HOLIAN: Before you go, we have a recognition, a certificate of recognition for you and it says: The Board of County Commissioners, County of Santa Fe, New Mexico, in recognition certificate of appreciation is presented to Patricia Hummer for two years and nine months of dedicated service to Santa Fe County by the order of the Commissioners on this 14<sup>th</sup> of May 2013 in recognized and approved by the Commissioners and signed by all of us.

So I would like to see if the Commissioners have a few words and then we will present you with this and take the obligatory photo.

COMMISSIONER ANAYA: Madam Chair.

CHAIR HOLIAN: Yes, Commissioner Anaya.

COMMISSIONER ANAYA: Madam Chair, Ms. Hummer, Madam Clerk, we're five or five now and it's awesome that you have served us. We don't want to see you leave but thank you very much for your service.

CHAIR HOLIAN: Commissioner Chavez.

COMMISSIONER CHAVEZ: Yes, and I would also like to thank you for your service and I'll say this probably more than once but I think it's appropriate now and that is I, we collectively, cannot do our job without staff doing your job. Again, it's a team effort. And we're really here to serve the public and that's when we know that we're doing our job when their needs are met. So thank you for your dedication and for your service to Santa Fe and Santa Fe County.

CHAIR HOLIAN: And I too would like to thank you Ms. Hummer. And I think you must have done a really great job as poll worker coordinator because I think we have the best poll workers in the entire state. I get nothing but compliments about our poll workers from my constituents. So, I –

COMMISSIONER MAYFIELD: Madam Chair.

CHAIR HOLIAN: Yeah, Commissioner Mayfield.

COMMISSIONER MAYFIELD: Madam Chair, again, thank you for your service.

CHAIR HOLIAN: Okay. Let's present you with the recognition.  
[Photographs were taken.]

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**X. B. Treasurer's Office**

**1. Introduction and Possible Action on Resolution No. 2013-48: A Resolution Imposing an Annual Liquor Tax and Associated Waiver of Requirements of Resolution No. 2013-026**

CHAIR HOLIAN: Mr. Lujan, you'll be taking this.

ERIC LUJAN (Deputy Treasurer): Madam Chair, Commissioners, this is an annual resolution that we do every year so during the transition we were just made aware that we handle this, the liquor license issues, so we leave it up to our expert to handle it, Maryanne Martinez, from our staff will be doing liquor licenses as well as business licenses.

CHAIR HOLIAN: Okay, thank you.

MARYANN MARTINEZ (Treasurer's Office): Good afternoon, Madam Chair and –

CHAIR HOLIAN: Please, would you identify yourself for the record.

MS. M. MARTINEZ: Maryann Martinez, Santa Fe County Treasurer's Office. I'm here to request approval to impose the annual liquor license tax that we do every single year. It's a collection of taxes that we collect from the local – well, some of the merchants that do sell liquor and we impose that tax for the liquor license. And, we request approval, please.

CHAIR HOLIAN: Okay, thank you. Any questions? Commissioner Chavez.

COMMISSIONER CHAVEZ: The dollar amounts, are they set by state statute how do we arrive at those figures?

MS. M. MARTINEZ: They were set by state statutes on a resolution – I guess an ordinance that you guys had done in the past. We've always imposed a \$250 liquor license fee and I've been doing them for the past three years and the County Clerk's office used to do them in the past so I guess it is from one of the ordinance that is off of state statute.

COMMISSIONER CHAVEZ: Did you want to add to that?

CLERK SALAZAR: They are established and – Marcella did you want to? I believe they're by statute and ordinance but if necessary that is something that we can look at to see what – are you concerned about the fee amount?

COMMISSIONER CHAVEZ: I just wanted background information for me mostly because this is somewhat new to me and so not knowing that I would wonder, I would question, if that dollar amount is sufficient for the services that we may be providing. I'm just second-guessing that because I don't know right now. I'll just leave it at that and if there is any reason to believe that that rate could be higher and it's justified then I think it may be worth a discussion but if not, then, if these are the perimeter and they're set. But if we have room to increase that, then, maybe we should consider that.

CLERK SALAZAR: I think Mr. Ross may have an opinion for you.

MR. ROSS: Madam Chair, Commissioners, it is statutory and I'm just making sure that the latest version of the statute hasn't raised the –

CLERK SALAZAR: And these are also licenses that are state issued.

COMMISSIONER CHAVEZ: Like your restaurant licenses and things like that.

CLERK SALAZAR: Uh huh.

COMMISSIONER CHAVEZ: Well, it's all \$250.

MR. ROSS: Madam Chair, it's at \$250 by state statute.

COMMISSIONER CHAVEZ: I see now applies to all of the retailers, dispensers, canopy licensees, restaurant licensees and club licensees. So that's the standard.

MR. ROSS: Madam Chair, Commissioner Chavez, that's right out of the statute. The statute hasn't been amended in some years so we've had issues with folks holding beer and wine licenses because they're not called out in the statute. But other than that this resolution follows the statute and probably we don't hit a beer and wine licensee with this charge but we charge everybody else.

COMMISSIONER CHAVEZ: Right, thank you, Madam Chair.

CHAIR HOLIAN: Commissioner Mayfield then Commissioner Anaya.

COMMISSIONER MAYFIELD: Madam Chair, thank you. And, staff or our Treasurer's Office are these licenses issued in perpetuity, annually, when a business moves from one place to another?

MS. M. MARTINEZ: They're issued out annually. We send out a reminder notice in the beginning part of June and they have a whole month to pay their annual liquor's license by July 1<sup>st</sup>.

COMMISSIONER MAYFIELD: Okay, thank you. That's all I have, Madam Chair.

COMMISSIONER ANAYA: Madam Chair, I would just point out that this is a formality consistent with our requirements in state law and as such I would move for approval.

COMMISSIONER MAYFIELD: Second, Madam Chair.

CHAIR HOLIAN: Thank you, and before we go onto the vote this is a resolution and my understanding is that this is a resolution that we can take action on today, correct?

Is there anyone here from the public who would like to comment on this resolution? Seeing none, we have a motion for approval for Resolution 2013-48.

**The motion passed by unanimous [4-0] voice vote.**

MS. M. MARTINEZ: Thank you, Madam Chair.

CHAIR HOLIAN: Thank you, Ms. Martinez. I think this is a good point to have a short recess. I am calling a recess for 10 minutes and we will reconvene at 3:25.

[The Commission recessed from 3:15 to 3:32.]

CHAIR HOLIAN: I will call the meeting of the Board of County Commissioners back to order. It is 3:32.

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**XI. MATTERS FROM THE COMMISSION**

**A. Resolutions**

- 1. Resolution No. 2013-49, A Resolution Supporting Clean and Renewable Energy Projects to Deploy and Install Energy Efficient and Renewable Energy Technology Systems on Santa Fe County-Owned Facilities, Which Will Result in Decreased Utility Costs for Taxpayers, Reduce Negative Environmental Impacts From Fossil Fuel Use and Contribute to Cleaner Air Quality and Healthier Communities [*Exhibit 1: Photograph New Energy Economy*]**

CHAIR HOLIAN: Commissioners Mayfield and Anaya; Commissioner Mayfield, are you taking this?

COMMISSIONER MAYFIELD: Madam Chair, thank you. Madam Chair, Commissioner Anaya would you like to take this. Thank you, Madam Chair, and I know we have some folks in the audience that may want to comment, Madam Chair. Madam Chair, I believe you all received a summary memo. This is the second time through our new process that we've spoken on this. I don't know if there were any changes to it. Minus maybe the date that we will – no, we won't even have to change the date.

Madam Chair, I don't know if you all would like me to read it into the record, again. But I will.

CHAIR HOLIAN: Commissioner Mayfield, did it get read into the record as is last time?

COMMISSIONER MAYFIELD: Honestly I don't remember if it did or not.

MS. MILLER: Madam Chair, it is in the record but I would recommend maybe just the now, therefore part. That is where we did make a couple of changes that we worked on with you.

COMMISSIONER MAYFIELD: Fair enough. So let me just go to the now, therefore, part. It is online everybody so anybody can read it online. And I will go to the now, therefore part, and our summary memo is also on line so I'm just going to go to now, therefore.

Now, Therefore, be it resolved by the Board of Santa Fe County Commissioners that:

1. A pilot project with New Energy Economy to solarize the Tesuque Fire Department, utilizing District 1 Capital Funds no greater than \$20,000 in District 1 Capital Funds, shall be and hereby is approved.
2. The pilot project will provide a benchmark and a model for Santa Fe County to pursue future additional energy efficiency and renewable energy projects on existing Santa Fe County public buildings.
3. Each County-funded project must consider energy saving features such as solar energy as well as features to conserve water and other natural resources and the County shall ensure that analysis of viable energy development and resource conservation shall be included on all County facilities before the project is approved regardless of whether or not such features are to be implemented on the proposed project.

Passed, approved and adopted this 30<sup>th</sup> day of April, 2013, hopefully, it will approved, Commissioners. And with that, Madam Chair, I know this is a resolution that the public can comment on so I will wait to move it.

CHAIR HOLIAN: Okay, thank you, Commissioner Mayfield. Actually, I would like to have a motion and then I would like to ask for public comment and then we will have discussion by the Commissioners.

COMMISSIONER MAYFIELD: And, I will make a motion to move for approval.

CHAIR HOLIAN: Okay, we have a motion for approval. And a second?

COMMISSIONER ANAYA: Madam Chair.

CHAIR HOLIAN: Okay. Then, oh, yes, if you have questions, Commissioner Chavez.

COMMISSIONER CHAVEZ: Thank you, Madam Chair. I have just a couple of questions. One, I know that Commissioner Anaya and Commissioner Mayfield I want to thank you for bringing this forward and having said that. It is significant in that it is a pilot project that would indicate that this would be a start and we would do other facilities as we can find the money or as the need exists. So we have in this case we have a partnership with New Energy Economy. New Energy Economy is the contractor that will be providing?

COMMISSIONER MAYFIELD: No, sir, Commissioner Chavez and Madam Chair, New Energy Economy is a private non-profit, and I'll ask that they speak in a second, New Energy Economy recently did a project with the City of Santa Fe to install some solar voltaic out in the City of Santa Fe.

COMMISSIONER CHAVEZ: Did they subcontract – I could, does New Energy Economy subcontract with someone who does the application? Because they're the non-profit and they don't actually do the installation then, I guess.

COMMISSIONER MAYFIELD: Madam Chair, Commissioner Chavez, I'll just ask Craig here who has more detail, Mr. O'Hare, if you don't mind.

COMMISSIONER CHAVEZ: No, that would be good, thank you.

CRAIG O'HARE (Energy Specialist): Madam Chair, Commissioner Chavez, we envision, in fact, we're working on it right now with the County Attorney's office, we would just like we would with any County capital project, that we would basically be the project managers and we would use our regular procurement process to acquire and have this facility installed and then we would, in conjunction with that, enter into a memorandum of agreement with New Energy Economy to be able to receive the \$15,000 in funds that they anticipate contributing toward this project.

COMMISSIONER CHAVEZ: Okay, so that was my next question. So then, a New Energy Economy is more of a – they help us on the fund raising end of and the financial side of this sort of upgrade, I guess.

MR. O'HARE: Madam Chair, Commissioner Chavez, that's correct. We're estimating at the staff level that this project will be a 5.5 to 6 kilowatt project. Will be in the neighborhood of \$30,000 to \$35,000 when we receive bids back from an invitation for bid and then of that amount New Energy Economy has indicated that they would contribute \$15,000 toward that cost.

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COMMISSIONER CHAVEZ: So we have \$15,000 contribution from New Energy Economy and then \$20,000 from capital fund from the County; then, will that be enough to complete this project?

MR. O'HARE: Madam Chair, Commissioner Chavez, yes, we believe so. We believe that we'll receive bids in the neighborhood of \$30,000 to \$35,000. The resolution calls for \$20,000 of County funds combined with \$15,000 of New Energy Economy funds it should be plenty to build this project.

COMMISSIONER CHAVEZ: So, maybe, Commissioner Mayfield, the fiscal impact could reflect that there will be the \$20,000 from the capital funds, County capital funds and then \$15,000 from New Energy Economy. And I think that would be real positive because it's a partnership with a non-profit that's helping to realize to help fund this project. So I'm not sure that they could be reflecting in the fiscal impact or not. Craig, you did mention that you would be accounting for staff time as you're working on this project and I think that's appropriate. I just wanted to touch on some of those points and maybe think about including those in the fiscal impact. Thank you, Madam Chair.

CHAIR HOLIAN: Katherine, did you have something that you wanted to add?

MS. MILLER: Madam Chair, Commissioner Chavez, it actually is in there. We had gone through and revised this fiscal impact so the one that is in your packet is the new one and we discussed it at the last meeting what would go into the fiscal impact report and if you look on the bottom of –

COMMISSIONER CHAVEZ: I got it, you're right.

MS. MILLER: -- bottom of the first page and top of the second page. We talk about the different funding sources as well as trying to leverage some funding from the fire district that will receive the benefit on their electric bills of about \$1,500 to \$1,700 a year.

COMMISSIONER CHAVEZ: Great. You're right it is all there. I apologize.

COMMISSIONER MAYFIELD: Madam Chair.

CHAIR HOLIAN: Commissioner Mayfield.

COMMISSIONER MAYFIELD: Madam Chair and Manager Miller thank you for pointing that out. And, again, I do want to revisit the subject matter of my resolution, and this thing is important and I want to talk a little bit about the FRIs since it was addressed. A resolution supporting clean and renewable energy projects to deploy and install energy efficient and renewable energy technology system on Santa Fe County owned facilities, which will result in decreased utility costs for taxpayers, reduce negative environmental impacts from fossil fuel use and contribute to cleaner air quality and healthier communities.

I think that is a very important stand-alone statement. But, also, as far as the fiscal impact on our County-owned facilities. Just on the fiscal impact significance alone, I believe as Mr. O'Hare – let me just go back here. The carbon footprint alone speaks for itself. But as far as on the fiscal side and see that Chief Sperling is in the back and thank you for being here, Chief Sperling. On one of these public facilities and we just recognized our Public Works Department also earlier today, but our utility bills alone at this station and I don't have that data right here in front of me, but we pay an annual utility bill at this facility. We are going to do a \$35,000 investment for photovoltaic. Within that \$35,000 investment, I do want to recognize the importance of the partners who brought this idea to me. They're going

out there from the community raising \$15,000. So these are community members contributing from their own pocket and thank you community members for that contribution.

Santa Fe County is now going to do this match to get this photovoltaic on. We've addressed penetrating the roof, not penetrating the roof and what those cost and what those implications might mean. With Santa Fe County doing that match and this \$35,000 investment we are going to see a return within, I believe, three years, of \$35,000 investment where we will no longer be paying a utility bill on that building. So those dollars that Mr. – excuse me, that our Fire Chief is paying for utility bills, for electricity utility bills at that fire station will no longer ever have to be paid out of our fire fund for that facility. Thereby, there will never have to be again – that will be paid and those dollars now, hopefully, however our Manager Miller and our fire department elect to use those monies will be able to directly go back into that fire department's use. They can now be paying for fire apparatus, safety equipment for that department. That's a three-year return and I think it's a very prudent investment just from that financial side. Again, not speaking of a carbon footprint.

So, with that, Madam Chair, I appreciate that. I think it was spelled out on the FIR and I would once again move for approval of this resolution.

CHAIR HOLIAN: Thank you. Commissioner Chavez, do you have any more? I would like to go to questions and then public comment.

COMMISSIONER CHAVEZ: One final follow up?

CHAIR HOLIAN: Commissioner Chavez.

COMMISSIONER CHAVEZ: On the operations and maintenance, Craig, of this photovoltaic system once it's installed I think you said last time that the contractor or New Energy, the New Energy Economy will be responsible for the operation and maintenance of just the photovoltaic system itself? Is that still –

MR. O'HARE: Madam Chair, Commissioner Chavez, yes, we've written into the specs that we'll be including in the invitation for bid a 10-year what I'm calling a worry-free warranty, if you will. In other words, this is pretty common for solar photovoltaic systems of this size. I got a 10-year warranty when I put my little system on my roof. So basically there will be no O&M costs. If there is any malfunction of that system over the course of that 10-year period it will be covered by the solar contractor. Generally, these are pretty worry free devices if you will. There's no moving parts. At some point way down the road maybe you have to replace what's the interverter but they're pretty problem free for the first couple of decades.

COMMISSIONER CHAVEZ: Thank you, Madam Chair.

CHAIR HOLIAN: Commissioner Anaya, is it okay if we go to public comment and then we'll have comment from the Commissioners, or would you like to add something –

COMMISSIONER MAYFIELD: Madam Chair, he's the second co-sponsor on this.

CHAIR HOLIAN: Okay.

COMMISSIONER ANAYA: I can wait.

CHAIR HOLIAN: Okay. So this is a resolution and that means that we take public comment. Is there anyone here from the public who would like to say a few words about this resolution? Please come forward and identify yourself for the record.

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MARIEL NANASI: Madam Chair and County Commissioners, thank you for having us. I will be extremely brief because we had the opportunity to speak before. I just want to thank all of you in advance. I hope that you will support this because, yes, community members have come. This truly is a grassroots efforts coming up saying that we want to have more solar. We have abundant solar resources and we have very little actual solar input because PNM has 1 percent solar on their entire system and we and the County and have a public preference for solar and given our resources we want to take advantage of it. And, clearly, this is economically advantageously. Environmentally superior and is really an education and public awareness campaign in action that benefits us all.

So I want to thank you and then if I could, if you vote in our favor, I would love to have a picture with all of you and my fabulous interns who have really been doing the fundraising work with me in coordination. So if you would indulge us in that I would be so very grateful.

CHAIR HOLIAN: Thank you, Mariel. I don't think there's going to be any objections to the picture. Anybody else who wants to speak? Commissioner Anaya.

COMMISSIONER ANAYA: Madam Chair, I want to thank Commissioner Mayfield for allowing me to participate and sign on to this project and this resolution. Earlier in the year, last year actually, Commissioner Mayfield brought forward a resolution that talks specifically about the County needing to lead by example. That resolution unanimously passed this Commission and this project takes resources and takes the talk that was established in the last resolution and puts it to direct action. It's something that I don't think will be the exception but over time should be the rule in Santa Fe County and how we do business especially as it relates to energy efficiency and solar. I'm excited about the possibility of our pilot, and I'm going to start with that in Galisteo, and so I'm talking to leaders there in the community and the fire department as well. So I'm excited about it and I would say in closing before the vote that the sun is shining on this resolution. So thank you, Madam Chair, thank you, Commissioner Mayfield.

CHAIR HOLIAN: Thank you. Commissioner Chavez, do you have anything?

COMMISSIONER CHAVEZ: No.

CHAIR HOLIAN: Well, I too want to thank Commissioners Mayfield and Anaya for bringing this resolution forward. I think it's a really good follow-on to Commissioner Mayfield's Lead by Example resolution as was pointed out but I think it's also important to recognize that we have many people in our community who are supportive of renewable energy and energy efficiency, who, in fact, have a job related to installing renewable energy or doing energy efficiency projects for homes. And we had many people in our community, in fact, who have already put renewable energy projects on their homes. So in this case maybe we are not so much leading as we are joining. But I think that is actually a really good thing to be able to say that and I think to make a real difference in our energy usage. It takes a community. It takes local government, non-profits, local businesses, homeowners, owners of commercial buildings. It takes all of us working together to make it happen. And I'm really pleased to point out that the County already has done some things. For example, on our County courthouse we have a little over a megawatt of solar panels and it is expected it will produced about 20 percent of the energy for the new County courthouse.

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Also, the County is part of the Buckman Direct Diversion project and there has been quite a bit of solar energy/panels installed for that and there's more to come in the near future. So I am very supportive of this resolution and this policy.

Any further comments, Commissioner Mayfield?

COMMISSIONER MAYFIELD: None, Madam Chair.

CHAIR HOLIAN: We have a motion and a second to pass resolution 2013-49. All those in favor?

**The motion passed by unanimous [4-0] voice vote.**

COMMISSIONER MAYFIELD: I am very pleased to say the resolution passed unanimous. I think we will indulge and come down for a photo. This is a first.

[Photographs were taken.]

- XI. A. 2. Resolution No. 2013-\_\_\_, a Resolution Determining Reasonable Notice for Public Meetings of the Board of County Commissioners of Santa Fe County and for Boards and Committees Appointed By Or Acting Under the Authority of the Board of County Commissioners; Rescinding Resolution No. 2013-03 (TABLED)
- XI. A. 3. **Resolution No. 2013-50, a Resolution Supporting Community Solar and Directing Staff to Work with the City of Santa Fe, Public Service Company of New Mexico, and the New Mexico Public Regulation Commission to Implement a Community Solar Program in Santa Fe County**

CHAIR HOLIAN: I will start off by staying a few words. Community solar is a concept that is really taking off in the country right now. And, I have to say that there's a lot of interest in the County as well judging by the number of comments that we got on this resolution. I was really blown away, actually, by the public involvement in commenting on this particular resolution.

Community solar is a way for people to invest in projects, solar projects – things like solar farms, solar gardens they are sometimes called – that are located on private or public land. That is not on the land that is not on the land of the person who is doing the investing in the project but even though it's not on their land they can still benefit financially from investing in these solar projects and help the environment at the same time. I think it's really worth noting that only 20 percent of the people in the United States have roofs that they own and that are suitable for putting solar panels on. Also, it's important to recognize that not that many people have the large sums of money that are often required for complex renewable energy projects. But with community solar an individual can purchase one panel, two panels, or many panels in a solar farm and then they can get credit on their electric bill for the energy that their solar panels produce. And there's a really – there's a lot of reasons why this idea is a good match for our area. One is that in our County people are well informed and

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knowledgeable about solar energy. They have a great desire to do more renewable energies so that we can rely less on coal fired power plants. And, it's a great place to take advantage of the sun. I think I've read that in Santa Fe County we have about 300 days a year of sunshine. So we definitely have that as an energy source.

So community solar projects really make sense and I will just read in the purpose of this particular resolution and that is the resolution directs staff to work with the City of Santa Fe, Public Service Company of New Mexico, interested citizens and organizations and the New Mexico Public Regulation Commission to pursue a viable community solar program for the Santa Fe County region. And, I think it's really important to note that in our County, PNM Public Service Company of New Mexico probably serves the most people as far as providing electricity and so they really have to be an important part of this initiative and this resolution goes on to urge PNM to figure out a way to make this happen. I will also note that the City has passed a similar resolution. So with that, I would like to move for approval.

COMMISSIONER CHAVEZ: Second.

CHAIR HOLIAN: Okay, I have a motion and a second. Are there any questions from the Commissioners? Well, first I would like to go to the public and then we can each make comments, questions.

COMMISSIONER MAYFIELD: I have a question but I'll wait until you want.

CHAIR HOLIAN: Well, questions, technical questions now. Commissioner Mayfield.

COMMISSIONER MAYFIELD: Madam Chair, thank you and I don't know if it's Mr. O'Hare or whoever and look I fully support this just so you know, but I question just because of another issue [inaudible] this Commission recently approved to work on – and I appreciate that the IOU, PNM incumbent utility is the biggest service provider of electricity within Santa Fe County; however, there are at least one northern Santa Fe County cooperative and I know that there's a southern Santa Fe County cooperative [inaudible] does this just have to be exclusive to the PNM service provider credit or could we maybe potentially look at incorporating some of our County cooperative areas if that would be a designated area? Have you had that under consideration? Because if I can get this solar community farm in the northern part of Santa Fe County to help offset some of these electrical rates that are skyrocketing or the potential to sky rocket out there in northern Santa Fe County and provide some solar electricity up there I would sign up in a heartbeat to have a solar farm up there that northern Santa Fe County residents could tap into.

MR. O'HARE: Madam Chair, Commissioner Mayfield, I think that's an excellent idea. Obviously, this resolution was specifically targeted to PNM falling on the heels of the City's actions. But I see no reason why – I'm certainly very interested in working with our two other electric service providers in Santa Fe County and that is, as you know, Jemez Mountains Electric Co-op in the northern part of the County and then, of course, Central New Mexico Electric Co-op in Commissioner Anaya's district. And I'd be happy to add essentially that charge or that interest and start a discussion with those rural electric co-ops. As you know, Kit Carson Electric Co-op is the first electric provider in the state to initiate a community solar program and see if we can get some interest on behalf of our two

co-ops to pursue the same very interesting way for people to have solar in their mix if you will without having a system on their roof.

COMMISSIONER MAYFIELD: Madam Chair, again, I don't know if you would consider that a friendly amendment, but I would like to move a friendly amendment and again I don't know if that would be acceptable by Commissioner Anaya but I definitely would like to move a friendly amendment to offer consideration for the service areas of our two cooperatives, at least the northern Santa Fe County Jemez Electric Co-op to give that service area to be considered for a solar community farm.

CHAIR HOLIAN: Thank you, Commissioner Mayfield. Perhaps you can work on drafting some wording for that and when we get to the final vote we can then – you can enter that as a friendly amendment.

COMMISSIONER ANAYA: I'll support that, Madam Chair.

CHAIR HOLIAN: But I would like to ask somebody to work on the wording.

COMMISSIONER MAYFIELD: Craig O'Hare.

CHAIR HOLIAN: Craig, perhaps you could work on some wording for that. This is a resolution, is there anyone here in the public who would like to speak on this resolution? If so, please come forward and please introduce yourself for the record.

GLENN SCHIFFBAUER: Madam Chair, Commissioners, my name is Glenn Schiffbauer, I am the executive director for the Santa Fe Green Chamber of Commerce. I am here that we wholeheartedly support this resolution for all the reasons that were stated in Commissioner Mayfield and Commissioner Anaya's prior resolution, the benefits to the citizens of Santa Fe County. I would like to address the business reasons for that and how that would be just an added value to this resolution. My members who are very much into sustainability and renewable energy see this as a way of equaling the access to renewable energy. You have a lease business and as many businesses are this would give you the opportunity to purchase renewable energy. It also allows in downtown Santa Fe which is one of the reasons that we did the City resolution all of the historic buildings that have some limitations, this also provides that opportunity.

From a business standpoint this also gives you hedge for your power. Anybody who's been in business knows that if you could lock in a rate for 15 years at least on one line item, that's a huge advantage. Jobs of course is something to consider because as these solar gardens are built and grow around the County that is obviously going to provide that. And, finally, from a business leadership standpoint this is just one more thing that Santa Fe business can add to their arsenal of green and leading the staff. As Craig said, Taos has a co-op community solar we would like to be the first and be able to lead the state with something in conjunction with PNM. Thank you.

CHAIR HOLIAN: Thank you, Mr. Schiffbauer. Anybody else?

CHRISTINA HAUER: Hello. My name is Christina Hauer and I work with Earth Care Youth Allies. We were here last week to show our support for this resolution and because a lot of the young people could not be here today they made you all thank you cards for considering and hopefully doing the right thing for our City, our community, and hopefully the rest of the country as we all become more aware of our earth and what we need and what kind of energy we want to be using. So may I –

SEC CLERK RECORDED BY: J. B. HARRIS

CHAIR HOLIAN: Thank you, Trisha, perhaps you can give them to our staff and they will pass them out to us. Is there anyone else? Okay, any further discussion? Commissioner Anaya.

COMMISSIONER ANAYA: Madam Chair. Madam Chair, I appreciate you bringing this forward and I want to read something that's in our packets because I think it's worthy that the public hear the acknowledgement of what 278 people signed onto. On May 4, 2013 a letter was addressed to Ms. Miller, it says, as a resident of Santa Fe County I'm writing to ask you to support the resolution supporting community solar and directing County staff to work with the City of Santa Fe, Public Service Company of New Mexico and the New Mexico Public Regulation Commission to implement a community solar program in Santa Fe County. Community solar is a way for citizens and businesses to buy into a larger, collective solar project, a great opportunity for those for whom solar on their own property isn't feasible. Solar energy helps lead the county to stable electricity costs and cleaner air, and it's an important way to address the climate disruption that is endangering our water supply in New Mexico. Your vote in favor of the resolution supporting community solar will be much appreciated. Sincerely, 270 community members from throughout Santa Fe County and elsewhere I believe as well.

So, Madam Chair, thanks again. I felt it important to reflect that on the record and read it in. I would ask this of you, Madam Chair, we have many resolutions that we bring forward to the County Commission and I think in the spirit of the last discussion that we had, it's not only important for us to support this resolution but it's important for us to stay active and engaged to see that this project doesn't stay stagnant anywhere. And I know that you as the carrier of the resolution are going to work on that but I think it's important that we work together with the community, with these groups to establish a realistic timeline to make sure that we actually get from discussion, the excitement, the emotion and the opportunity to save energy and save money but also put it into practice. So I would challenge all of us to do that – but do you have any comments as to what we need to do now to establish an aggressive timeline to help make this happen to get past the resolution?

CHAIR HOLIAN: Commissioner Anaya, we already have been doing things. We had a meeting that was sponsored by the PRC that was attended by representatives from the County, I was there, Craig was there, also representatives from the City, PRC our Commissioner Espinoza was there as well as representatives from PNM. So we've already started the conversation. PNM has also started to conduct a survey of people to see sort of look at some of the financial considerations regarding this so it really is moving forward. Things are happening. And I have a feeling that all of the people who are out there in the community aren't going to let us forget about it and also this is a topic that is near and dear to my heart so you can be assured that I'm not going to forget about it.

COMMISSIONER ANAYA: Thank you, Madam Chair. And if I could just follow up many of the individuals weren't here at the beginning of the meeting and I did want to say that State Representative Stephen Easley got up and adamantly supported this project and the prior resolution brought forward by Commissioner Mayfield and myself. So I wanted to put that on the record, thanks again, Madam Chair.

CHAIR HOLIAN: Commissioner Chavez.

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COMMISSIONER CHAVEZ: Yes, thank you, Madam Chair. I also wanted to expand on the letter that was sent to the County Manager. When you look at the list of 287 individuals it's very diverse and it's a real broad cross-section of the region. So I think in looking at that it demonstrated to me that it's sending a very strong message and I'm really glad that this was in here because it demonstrates that broad reach of support. It's hard to gauge that sometimes but in this case this has a really strong message and I hope that we can build on that. Build on the pilot project and move forward with more of these solar projects. Thank you, Madam Chair.

CHAIR HOLIAN: Thank you, Commissioner Chavez.

COMMISSIONER MAYFIELD: Madam Chair, I just want to thank you for bringing this resolution forward. I think, again, it's a very worthwhile project that we need to do for a community and a very notable project and it's about time we do it.

CHAIR HOLIAN: Thank you. We have a motion and a second. Craig, do you have a proposed amendment?

MR. O'HARE: Madam Chair, Commissioners, I do. Down in the "therefore, be it resolved" section the good thing is that in the first couple of sentences you can see that it says "opportunities to support and promote a community solar model for the Santa Fe County region," obviously, that includes the entire Santa Fe County. However, I would recommend that we insert in the next sentence where it says, "the Commission hereby directs staff to work with the City of Santa Fe, Public Service Company of New Mexico," and then add "the rural electric cooperatives that provide electric service in Santa Fe County." And that will cover – and I misspoke there's actually three rural electric co-ops not just two. We also Mora San Miguel that I forgot to mention, a little sliver of it in the County. And so that would read the rural electric cooperatives that provide electric service in Santa Fe County. And just down below where we're saying copies of this resolution shall be sent to, right after the New Mexico Public Regulations Commission insert, "the general managers and boards of the rural electric co-ops in the County," and then I'm throwing in something that was actually brought up by one of you at the last meeting and I apologize for not catching it to add, "to the City of Santa Fe Mayor and Council." I believe one of you Commissioners, I can't remember which one suggested that we also send this to the Mayor and Council of Santa Fe.

CHAIR HOLIAN: Commissioner Mayfield, does that work for you?

COMMISSIONER MAYFIELD: Madam Chair, I think that's great. I would just ask that it also be reflected in the title of the resolution and I would also suggest that you put it the general counsel of the Public Regulations Commission.

COMMISSIONER ANAYA: Madam Chair.

CHAIR HOLIAN: Commissioner Anaya.

COMMISSIONER ANAYA: Madam Chair, I would also offer in the same spirit of the entire resolution that we also include, "and other local governments impacted by this resolution including the Town of Edgewood, the City of Española and community associations throughout Santa Fe County."

CHAIR HOLIAN: Is the amender fine with that?

COMMISSIONER MAYFIELD: Madam Chair, yes, I hope the motioner is – maker of the resolution is.

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CHAIR HOLIAN: Well, as the maker of the resolution I will accept that friendly amendment. Does the seconder accept that?

COMMISSIONER CHAVEZ: No, I have a question.

CHAIR HOLIAN: Commissioner Chavez.

COMMISSIONER CHAVEZ: Craig, back on the providers, go back to the language that mentions you have three providers that are providing service in New Mexico or are providing service to New Mexico to Santa Fe County residents. Is there a difference?

MR. O'HARE: Madam Chair and Commissioner Chavez, essentially when it comes to retail electric service providers we have two types of entities if you will. We have PNM which provides most of the electric service in the County which is an investor-owned utility and then we have rural electric cooperatives, we have three of them.

COMMISSIONER CHAVEZ: So of those three are they producing electricity in Santa Fe County?

MR. O'HARE: Madam Chair, Commissioner, I believe for the most part they are not producing electricity in Santa Fe County. Most of the rural electric cooperatives receive their power from an entity called Tri-State Generation and Transmission that wholesales them electricity. Just like Kit Carson Electric Rural Electric Co-op does receive its power primarily from Tri-State but it doesn't preclude them from having some small-scale solar projects in their service area.

COMMISSIONER CHAVEZ: So even though they're not producing they may not be producing electricity currently but through this solar option they then could produce some electricity?

COMMISSIONER MAYFIELD: Madam Chair, Craig, if I may.

CHAIR HOLIAN: Yes, Commissioner Mayfield.

COMMISSIONER MAYFIELD: Even if the rules of Tri-State may prohibit that, who they buy power from and that's kind of a – they may not even be able to.

COMMISSIONER CHAVEZ: You're right and that's part of why I was asking the question because I wanted to understand if it's in fact, if they were producing or not and we've been told that they're not. So they have customers within the regions –

COMMISSIONER MAYFIELD: They clearly do, we're the customers.

COMMISSIONER CHAVEZ: -- right.

COMMISSIONER MAYFIELD: Even Santa Fe County is their customer.

COMMISSIONER CHAVEZ: Right, and so I think that's where we'll have the debate and hopefully have these other co-ops be open to the idea of supplementing their plan with more solar.

COMMISSIONER MAYFIELD: And, Madam Chair.

CHAIR HOLIAN: Yes, Commissioner Mayfield.

COMMISSIONER MAYFIELD: Right now there's a current filing at the Public Regulations Commission not by this County but three co-ops have protested Kit Carson, how they're buying power right now and so that's a whole other issue right now. First time ever that it's happened. So there are three cooperatives that are protesting the rate structure of Kit Carson so that might then open up how Kit Carson is even buying the renewal power so that might be something that is now debatable to maybe allow for these solar plants.

CHAIR HOLIAN: Commissioner Chavez still has the floor.

COMMISSIONER CHAVEZ: Thank you, Madam Chair. So then on the amendments, Craig, have you included the three electric providers in the region?

MR. O'HARE: Madam Chair, Commissioner Chavez, instead of calling them out specifically by name I was suggesting the wording be "the rural electric cooperatives that provide electric service in Santa Fe County" and that would encompass all three of them.

COMMISSIONER CHAVEZ: Thank you, Madam Chair.

CHAIR HOLIAN: We have a motion with two friendly amendments on the floor and it is seconded. All those in favor.

**The motion passed by unanimous [4-0] voice vote.**

CHAIR HOLIAN: I am pleased to say that the motion passes unanimously. And I really want to thank all of you from the public that have been so involved in this. I think this is an example of example that shows you how you can make a difference. Thank you.

**XI. B. Commissioner Issues and Comments**

CHAIR HOLIAN: These are non-action items by Commission district such as constituent concerns, Commission recognitions, and request for updates or future presentations. Commissioner Mayfield.

COMMISSIONER MAYFIELD: Madam Chair, thank you. Madam Chair, I've had a brief discussion – well, let me just say that I'm going to wish every mother, grandmother, daughter out there a belated happy Mother's Day because I didn't wish that before at our last Commission meeting so happy Mother's Day belated to all of you wonderful women out there in the world and especially Santa Fe County.

Thank you, Madam Chair. Madam Chair, I had a brief discussion with our County Attorney, I guess, even over the last week on this issue, but, Steve, I got another, in fact, today I got a face to face with a constituent of mine who brought up a contractor working for Santa Fe County Assessor's Office, I'm going to say Assessor's Office, because they say, Danny, what is this guy doing for Santa Fe County? And I just want to know what are the rules for Tyler Technologies? Because I've been saying, Look, they cannot go into your homes. They cannot ask to go into your homes. So if people are asking to go into your homes tell them no. I want to make sure I'm not telling people the wrong thing. That's what I'm telling folks that these individuals should not be going into your home. But, again, I have ran into an individual from Tyler Technologies, and a very nice courteous individual and that's not what he told me he was doing. So can you just, Steve, say out there what these folks should be doing or shouldn't be doing. Just so it can be out there for our listening audience so that they do know what Tyler Technologies that is on contract with our Santa Fe County Assessor's Office re-evaluating their property should be doing, please.

MR. ROSS: Madam Chair, Commissioner Mayfield, Tyler Technologies of course is a County contractor, contracted to update relevant assessment information about properties and put into the new computer system that the Assessor has. They are subject to

the same rules our field assessors are subject which is they can go into property and ask for permission to measure the property, look around the property, determine what's there and populate the electronic database but if they're denied permission to come onto the property then they have to go to district court and get a court order requiring access to the property. They can't go into your house without your permission. They can't measure your property without your permission and they, I think, are aware of those rules.

The example you gave of the constituent, if the constituent doesn't want the person in their house the Assessor has to go to district court and gain permission to do that.

COMMISSIONER MAYFIELD: Madam Chair, Mr. Ross, if you are not at home they can go onto your property and knock on your front door and leave or can they go on your property and then walk around the exterior of your home and measure?

MR. ROSS: No, if you're not home, they knock on your door and they can't obtain permission to linger on your property beyond that which is required to ascertain that you're not home. They hang a little thing on your door and they're supposed to leave.

COMMISSIONER MAYFIELD: So they shouldn't be out there drawing sketches, they should be out there drawing sketches?

MR. ROSS: They shouldn't be on your property if you're not there to give them permission.

COMMISSIONER MAYFIELD: So if anybody has, I guess, a concern or a problem just call the [inaudible] number of call the Assessor's Office; what do the constituents need to do?

MR. ROSS: Madam Chair, they can call the Assessor's office or they can call our office and we'll try and work with the Assessor to address the issue.

COMMISSIONER MAYFIELD: Thank you, Mr. Ross. Madam Chair, that's all I have, thank you.

CHAIR HOLIAN: Commissioner Chavez.

COMMISSIONER CHAVEZ: On this same topic, Steve. It was also my understanding that if a property owner did not allow this employee access to the property that the County then would assess as they have done in the past the assessed value – it would be assessed in another fashion besides district court?

MR. ROSS: Madam Chair, Commissioner Chavez, what they're doing right now is they are trying to populate an electronic database with information that used to be on paper cards, basically, hand drawn. And I don't know what the Assessor's policy is concerning the district court option but I think they are pretty determined to get all of the up to date information in a database so I think they're going to want to personally visit each property and measure and make sure they know what's there.

COMMISSIONER CHAVEZ: I know but in some cases as Commissioner Mayfield pointed out there are individuals who are not allowing that to happen. And you're right they want to measure the size to determine the square footage of the house. They would like to know the type of construction of the house, how many rooms, if it has central heating, those kinds of things. Some people are willing to share that information. Others are not going to share that information any day of the week. Those properties will still be assessed but I was not aware that the district court would be involved at anytime in that process.

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MR. ROSS: Madam Chair, Commissioner Chavez, if the Assessor is denied access the Assessor can go to district court and get what's essentially a search warrant/court order and they can go back and have the access that they need. Or Katherine and I were just talking they can make their best guess based on available information about what's there. That usually results in a higher assessment.

COMMISSIONER CHAVEZ: Well, I think that's part of the education. We were trying to convince the public that if, in fact, if you share this information your property taxes could, in fact, go down. But it's very hard to convince some people of that. I don't know if getting a court order is going to help in that case. I think it's going to make the situation worse. But anyway I just wanted to chime in on that a little bit because I have experienced where people just down the block from where I lived will not let those employees anywhere near their property or in their house. They just won't. I've gotten the same calls and gotten the same concerns that you had, and I guess we just need to be more diligent in sharing this information with the public about what the process is and if they deny access if they don't want to share that information then, in fact, their property taxes could stay the same and not be reduced or maybe even be higher. So, I don't know if that helps, Commissioner Mayfield, but that has been my experience.

COMMISSIONER ANAYA: Can I comment on this point?

CHAIR HOLIAN: Can you, Commissioner Anaya, could you wait for –

COMMISSIONER CHAVEZ: I'm done; I yield the floor.

CHAIR HOLIAN: Okay, Commissioner Anaya.

COMMISSIONER ANAYA: I think the discussion was healthy and I think the intent, and correct me if I'm wrong Commissioner Mayfield of your comments, even though there's a presumption that staff is always working constantly in the best interest of the citizens there are occasion where a contractor or somebody that is not under the direct auspices of the County might not act appropriately and I think that's the operative point that I took out of the feedback that I've been getting directly as well as what you brought forth. So I think that there's a responsibility as citizens to provide the appropriate information for their structures and do their goodwill and do justice but I also think that does not give a contractor in this case carte blanche to overstep the perimeters of law or ordinance and I think that's the item being brought forward that we as the approvers of contractual agreements that we – I voted against this particular contract but overall it passed the County and we have an obligation to assure that those contractors, whatever they might be doing whether they're working for the Assessor or working directly for Public Works or anyone else are doing so in a manner that is appropriate and in line with the requirements but I think that the discussion is healthy and the comments brought up by both parties so I appreciated the dialogue.

CHAIR HOLIAN: Thank you, Commissioner Anaya. We're still on Commissioner issues and comments.

COMMISSIONER ANAYA: I've got several.

CHAIR HOLIAN: Okay, Commissioner Anaya.

COMMISSIONER ANAYA: Madam Chair, we come into these chambers as Commissioners on a regular basis. But there are individuals that come into the chambers, come into the County, in this office in the County courthouse and throughout Santa Fe County. There was a particular individual that worked at Santa Fe County for I believe over

30 years. She came in every single day, we could never – when I had the responsibility, the honor, of working with her we could never get this individual to take their leave. We always had to pressure her to say, Come on, you need to take your leave. She loved her job. She worked in the County Indigent office, the Indigent Healthcare office. Priscilla Vigil helped people with their bills in some of their most dire times. Priscilla Vigil was an employee at Santa Fe County throughout her entire career. This morning I received a text message on my phone from Bernadette and I appreciate she did that, but it said we had lost Priscilla Vigil this morning to a lengthy battle with lung cancer. I want to ask for a moment of silence but before I want to say this again: Priscilla epitomized what a County employee is and what they do day in and day out. Not just County employees, any employee, whether they're in the public or private sector that goes into work day in and day out to do their best job, to do a service and to try and help people. No words that I have today are honoring enough for what she did here in Santa Fe County for her entire career.

Madam Chair, I respectfully ask for a moment of silence.

[A moment of silence]

COMMISSIONER ANAYA: Thank you, thank you for allowing that, Madam Chair.

A few other items that I want to highlight. I have comments and then maybe one or two questions along the way. I'll be as quick and succinct as I can.

I wanted to say something to staff and I wanted to say something to all the people in our senior program, Teresa and Rachel and our entire staff and Katherine, we do things all the time to help different programs. Edgewood senior center I brought forward to this Commission and I want to thank the Commissioners for approving it, some changes and additional resources to improve that senior center. And what it was was a community garden. We had a lively discussion and debate when we talked about it and I remember the Commissioners being excited about the project. But we had a group of people – and Teresa you can come on up for this I'm going to ask you to make a couple of comments – we had a group of very, very persistent professional smart seniors that wanted to develop a community garden that had access to plants and vegetables and resources and they said, We just need some help. We just need some fencing and we need some things done. And they were a little frustrated with some of the things that were requested. They were frustrated with me and Teresa and Ms. Miller and everyone involved but we sat down at the table and we set up a game plan and we have begun – and Erik were there and Chris Barela, Erik Aaboe and Chris and you guys worked hard on it and I know I was picking on you guys big time to get it done. But I'll tell you yesterday Chris and I went over there and I'm going to take just a few minutes, Madam Chair, because it's that important. I mean these people are very highly motivated and they're growing a lot of stuff. One of the seniors is connected to a large commercial gardening operation, family, it's commercial but it's a family operation with plants and trees. They donated a tremendous amount. Why don't you just talk a little bit about what they donated because this garden is not just going to produce fruits and vegetables for the center, it's going to be something that is going to be utilized in the community. Teresa, why don't you just briefly talk about how much volume we're talking about and what they're doing over there and how nice it is.

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TERESA CASADOS (Senior Services): Madam Chair, Commissioner Anaya, it's true. There was a lot of frustration in the beginning over the garden but the seniors and the community are extremely excited about what's happening down there right now. Eric Edmunds who is spearheading the project with the seniors is connected. His family owns a nursery in Kansas and he has made several trips back utilizing his vehicle and a trailer to go back and bring all types of equipment for the garden. He's brought these cold frames to set up so he can grow things and they would be protected from the elements and he has brought back an enormous amount of plants to put into that garden. And as the Commissioner stated, it's not just vegetables. He's going to do a grape orchard, fruit trees, there's just all kinds of things. He's surveyed the senior center and surveyed the community to find out what exactly it was that they would be interested in him growing so it wouldn't just be bringing things that nobody was interested in having. It is a community-involved event. We have participation from members from a local church group that is coming in and helping to do the planting and helping to weed and sustain that garden so that the seniors are not taking that burden all upon themselves. So it's a wonderful project. They're extremely excited. They're hopeful to be able to utilize some of that food in the kitchen there so they have fresh food. While we're preparing their meals they set up a table weekly for people to take food home that they've grown and so it's an incredible project so thank you very much for supporting that.

CHAIR HOLIAN: Thank you, Teresa. That really sounds like a model community garden.

MS. CASADOS: It absolutely is and fortunately we had the space there at Edgewood to accommodate it.

COMMISSIONER ANAYA: So, Madam Chair, Teresa, on this point, there's many projects – Eldorado garden project with the senior center does very similar things and similar work. There's a project in District 2 in Commissioner Chavez's district, and Commissioner Holian's yours and Commissioner Mayfield that are around seniors and youth but one thing I want to emphasize is that I thank you all, you and Ms. Miller and Erik and Chris and this is an example of how I know how frustrating even I can be, I know that's hard to believe out there for the public listening in – I'm joking now, because they're like man sometimes – but this is a unique example of how with just a little bit of help from the County and then some support, the energy that is created that's not tied to government money. It's not tied to the staff work. It's tied to just that little help along the way goes a long way. I want to thank all of you. Rachel, back there, every single one of you because those seniors are ecstatic and I tell you they're going to continue to grow and grow and that project and it's going to get well beyond the scope of the County and it's going to help the community and so I just want to thank you as much as I possibly can and I know I can't do enough justice because it matters and it makes a difference. Okay.

MS. CASADOS: Madam Chair, Commissioner Anaya, we want to thank you because without your foresight and your agreement to donate some of your funds that project would not have gotten off the ground as quickly as it did, so thank you.

COMMISSIONER ANAYA: Thank you, Teresa. Some other notes: Representative Easley was able to obtain some resources for the Galisteo community for the river restoration and I know it's a project that we brought up in our legislative packet so I'll

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be working with staff to engage and figure out how I might invest some of my community dollars into that project.

In the newspaper, Madam Chair and Commissioners, there was quite a bit of discussion in Sunday's *Journal* – Sunday's *New Mexican* about the Legal Tender. I want to say on the record it's in your district Commissioner Holian but it's truly a historic treasure. It was noted as such in all of those articles and whatever support we can do, it's a non-profit entity I understand that, I understand what perimeters we have but I want to say that I stand in vigorous support of trying to maintain that as a historic landmark and treasure in Santa Fe County.

The other thing that I ran across that would of interest to my fellow Commissioners, if you didn't see it, was a particular letter criticizing the County Commission, which I fully understand and appreciate any comments pro or con against actions that we take as a County Commission. The letter went on to talk about sustainable land development plan and how we have not approved the sustainable development plan and said that we were "browbeaten" was the term that was used in the article by Joe Miller a developer in our last decision. Well, I want to say publicly and for the record and very clearly that this Commission was not browbeaten into anything. The decisions that we make in land use policy, land use code on a monthly basis are based on the feedback that we receive within the packet and based on our responsibility in our code and in our ordinance and our law as to what we're supposed to do and how we're supposed to evaluate it. We evaluate as commissioners this code that we have now and the future code based on the requirements that are establishment for any development whether that be an individual homeowner that is trying to get a permit or whether it's a subdivision. We evaluate those based on the corpus of the code. That's how we make our decisions.

The other thing I would say associated with that article was it made a comment relative to if you adopt they said the plan but I believe they're referring to the code, that if you adopt the code then by adopting the new code that in some way this is going to eliminate development in Santa Fe County. That was never the intent of the sustainable land use development plan. The intent of the sustainable land use development plan was to make sure that we had adequate planning that thought about every aspect associated with growth management in Santa Fe County. Penny, is that a fair assessment and I would like to have you come forward because it's an important enough topic for us to hear a remark from our Land Use Director and if our Manager would like to chime in as well. Could you just clarify what the intent of the plan is and that the intent of the plan is not to shut the door on development.

PENNY ELLIS-GREEN (Growth Management Director): Thank you, Commissioner. The intent of the plan and what the code does is a development needs to prove adequate public facilities. So in our SDA 1 area that's where we should be focusing some of our adequate public facilities for us to provide it and in SDA 2 or an SDA 3 area doesn't rule out any development it just says that those services would have to be forwarded by a developer.

COMMISSIONER ANAYA: Madam Chair, while I have Ms. Ellis-Green on the podium, the other assumption was that we as a Commission are holding off the development of the code or the approval of the code. Could you clarify for the public

listening in and any that might be online or may read the minutes of this meeting that we, in fact, are working very hard on the code and we want to make sure as a County that when we do approve it that we have a document that is workable and usable and effective and we want to do it right the first time.

MS. ELLIS-GREEN: Madam Chair, Commissioners, yes, there's a number of people in the County that are actually working actively on this project. When we put out the last draft we got 2,500 comments and so we are diligently going through those comments. They have resulted in us realizing that certain sections need to be rewritten and our legal department has worked hard on rewriting that. It's also the first time that the County is going to have zoning. The first time that the County is going to have a CIP and we're working on those aspects as well. We are hoping that we will have the next draft available by the summer to have that come out while we're at the same time continuing to work on the CIP which will be a different document and any of the other elements that need to happen along side the code.

So it is a very long process. This is the first time Santa Fe County has had zoning and it really is the first time that we have a new code since 1981. In 1996 we recompiled our existing code and we added some parts to do with the new Subdivision Act at the time. So this is really the first time since 1981 that we've stepped back and we've looked at having a new code.

COMMISSIONER ANAYA: Excellent, Penny. And one more quick question for clarification, complete clarification, when we put the first drafts of the code out you said we received roughly 2,500 comments from the public about the content of the code, correct?

MS. ELLIS-GREEN: Madam Chair, Commissioner Anaya, that is correct. Twenty-five hundred comments from the public that is not counting into the fact that we've had our code enforcement officers, our development review specialists, our permit officers, our public works department, all of those internal comments and internal questions are in addition to that 2,500 comments that we've had.

COMMISSIONER ANAYA: And our process is to evaluate those 2,500 comments and to figure out what makes good sense from those public comments to incorporate in the final outcome of the code.

MS. ELLIS-GREEN: Madam Chair, Commissioner Anaya, that's correct.

COMMISSIONER ANAYA: Thank you, Madam Chair. Thank you, Ms. Ellis-Green. A few other items, Madam Chair. The Madrid ballpark is something our staff has been working on and it's one of our projects on our project list. But I had a good discussion with our County Manager. I've had an interest from some former professional baseball players and other private industry individuals in investing their own dollars with helping with the Madrid baseball park. And I would say that park was the only lit baseball park west of the Mississippi was the first lit baseball park west of the Mississippi. We have quite a bit of dollars because of legislative approvals that we're going to utilize but now we have an opportunity to work with the public and private sector and other baseball enthusiasts throughout the country that might help us even develop that park further and I thought that was worthy of noting.

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Just a little side note, one of the former Moriarty baseball players, Mr. Moore, is 5 and 0 in the big league so we have some people to brag about that are from our area.

Mount Chalchihuitl I do have a question on that; is somebody here from open space or Steve, Erik – oh, you're going to go find somebody. I'll defer that.

Ms. Miller, just things that I know we've talked about briefly but on the La Cienega community center if you and I could maybe have a discussion on that next week and also we need to execute the lease and the plan with the State Land Office for the property in La Cienega and I have some ideas on how we might expedite that process and then La Bajada is very much an issue that is a high priority for the community. Do you have any insight on what options we might have for that particular community?

MS. MILLER: Madam Chair, Commissioner Anaya, it was working with Adam and looking at some of the funding that we have, we also have some old GEO bond money that has not moved that is for regional water systems. I think that probably the next thing that we need to do is that we have a resolution out there that basically says if we invest in County funds into a mutual domestic then we have they're either a wholesale or retail customer. Since they lost the funding with the Water Trust Board we're back to looking at whether we would use County funds to support replacing their tank and their well. But I think we need to have another discussion as to would they then be willing to be a wholesale customer. I think they were under, I think there has been discussion with them, the mutual domestic, that they were willing and then they weren't and then they were. So I think we probably have to go back and say okay under our current policies if we move forward with our funding right now here's some potential sources and here's our current policy would any of these work for you and if they came back and said no, I think we would have to look at coming to the Commission for a change to that policy and again [inaudible]. I do think we have some funding between our GRTs, old GEO bond funds that we can probably assist for that but I do think the issue of whether they would become a wholesale customer or ours needs to be resolved and if they were willing to do that then I think we could move forward as we are with a couple of the other water systems in the area.

COMMISSIONER ANAYA: Madam Chair, Ms. Miller, I would ask us if we could go ahead and just put it as an agenda item probably for in the interest of time not the next meeting but the one after that; do you think that's a workable timeframe?

And, then, Madam Chair, Mount Chalchihuitl is my last item. Mr. Hogan, Cerrillos Hills State Park another treasure that many, many people worked on very hard to make happen. Mount Chalchihuitl we did get resources for. What's the time – where are we at with that purchase?

MARK HOGAN (Facilities Management): Madam Chair, Commissioner, currently we are in the process of making the crucial acquisition for right-of-way in order to access the property for the remediation. We have a fairly well documented remediation plan but we have to get access to it. We are in the process of contracting an acquisition specialist. The County Attorney met with him recently and I think we're moving forward with that. So, that's essentially where we stand.

COMMISSIONER ANAYA: Do you have any ideas of how long that process is so I can pass that along or you can publicly pass it along right now?

MR. HOGAN: Madam Chair, Commissioner, I would like to be more definitive but on property acquisitions it's very hard to nail that down because whether or not we have a willing participant on the other side isn't guaranteed. We've had some experience with the property owner that we're negotiating with and it has been an on and off again type of relationship that's why we made the move to go to an acquisition specialist so that we had more means at our disposal in terms of acquiring that property. So that's a non-answer but I don't have a more definitive one.

COMMISSIONER ANAYA: Okay, Madam Chair, Mr. Hogan. And, thank you, Madam Chair, for indulging me and letting me go through those items. I appreciate the time. Thank you.

CHAIR HOLIAN: Thank you, Commissioners. I feel a little bit guilty about spending any more time but I do have a few issues that I wanted to bring up. One is that we are in a time now of intense fire danger. New Mexico is often at the bottom of the list for the 50 states in our country but as far as drought goes we are actually at the top of the list. The worst drought in the country is happening in New Mexico right now according to our drought indices. And, Santa Fe County is in the second highest level of drought called severe drought. I just want to note that stage one fire restrictions have now been placed on Santa Fe National Forest and the Valles Caldera National Preserve which means that fire and stove use are prohibited except in developed campgrounds. There's no smoking except for in an enclosed vehicles or buildings. Fireworks, of course, and explosives are prohibited. Finally, no use of any internal or external combustion engine without a spark arrester. Violating these prohibitions can be subject to a fine that is up to \$5,000. So please be careful if you go into the national forest.

Also on this point I want to note that the Santa Fe Pojoaque Soil and Water Conservation District is partnering with the Santa Fe Cooperative Extension to host a meeting about drought and its impact on forests. The keynote speech just to give you an idea of how dire this is is by George Duda and entitled The Trees are Killing our Forest. This meeting has to do with good forest management and how we can accomplish that. George Duda was formally with the New Mexico State Forestry but now he provides consulting on residential forest and woodland thinning projects. I think this meeting is going to have a lot of very interesting information about thinning and how to prevent fire as well as what you can do around your home to be more fire safety conscious. The meeting is going to be on Friday, May 17<sup>th</sup> from 9 a.m. to noon at the Santa Fe County Fairground.

The other item I wanted to report on is the New Mexico Association of Counties meeting I attended as Commissioner Stefanics's stand-in. It was in Santa Rosa, New Mexico the week before last. Commissioner Anaya is also on the board but I wanted to talk about a couple of interesting items. One there was a presentation on using discarded tires as fuel for cement plants. There was a presentation by representative from the GCC company which has a number of cement plants in the southwest as well as in New Mexico. They also have a plant in Tijeras and they're thinking of modifying that to be able to use old tires as fuel and the advantages of that is that for cement plants it burns very hot, something like 3,000 to 4,000 degrees so that means that there's very little pollution in getting rid of used tires that way. It uses up old tires. Also, it decreases coal use because normally cement plants use coal. So that's a good thing as far as reducing pollution from mercury and other things that coal

tends to give off. There was a whole lot of enthusiasm from commissioners from other counties at this particular meeting because apparently a lot of counties have a lot of old discarded tires to deal with and they can be quite dangerous. Somebody pointed out that there have been instances where piles of tires have caught fire and it's actually taken years to get those fires out. They are very dangerous once they catch fire.

My plan is to talk to Randall Kippenbrock the director of the Solid Waste Management Authority to see whether there is an interest in the County partnering with GCC to be able to be able to get rid of our tires at the Tijeras plant if they do convert the plant to be able to burn tires.

There's another bit of good news at the New Mexico Association of Counties meeting and that is that Mayor Coss has agreed to let the New Mexico Association of Counties use the Santa Fe Community Convention Center for free for the next three years for the NMAC legislative conference. So Katherine, I was kind of wondering if we could draft a letter of thanks to Mayor Coss for that. That was very much appreciated by the Director of NMAC as well as the other board members who were there.

Finally, on a sad note I would like to recognize the passing of Alfred Bazan, Jr. he was a detection officer in our Corrections Department and I would just like to express my deepest sympathy to his family and friends. He left this world all too early in his young life.

And I would also like to myself, express my sympathy to the family and friends of Priscilla Vigil as well. That was some sad news at our meeting.

Commissioner Mayfield.

COMMISSIONER MAYFIELD: Madam Chair, and I'll be very brief. And I echo those sentiments for the families, thank you.

Madam Chair, and just because I've just been reading in the paper over the weekend and last week, one important note just to bring up to staff and hopefully Adam Leigland hears this and I know he will, but also to Steve, Bernalillo County Water Authority – I think that's their hopefully appropriate name – but they're doing a test project right now on an ASR I think they just dropped – well they already had a well, Steve you may have saw this, but I would just like our staff to follow that [inaudible] their test well right now they're going to monitor it for the first year, I don't know if it's the first one in the state but look it's a pretty big water authority. I know we've talked about our ASRs. We need to think about maybe doing something with our water rights. So if we can just monitor – well, again, no direction but suggestion if we need to bring that in front of anything I will. I would like to [inaudible] it's our neighbor. And then, Katherine, I would ask and I won't bring it up now to limit time but maybe under your comments we could talk about what's going on with our courthouse. I won't bring it up that I serve on jury duty till through July maybe August but there's a little break for when they're moving so I would just like to know the status of the courthouse under your topic. That's all I have, Madam Chair, thank you.

CHAIR HOLIAN: Thank you, Commissioner Mayfield. Commissioner Anaya.

COMMISSIONER ANAYA: Madam Chair, Scott Rivers, Scott Rivers, Scott Rivers I left Scott Rivers out of the thank yous for the work that he's been doing with the rest of the team so I want to thank Scott, Scott River. Scott Rivers for his work.

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And you made a comment, Madam Chair, before you made your remarks for Matters from the Commission and I just want to say to you and my fellow colleagues on the Commission sometimes we go on longer than others on Matters from the Commission but Matters from the Commission are matters that are important and are matters that come from our constituents throughout Santa Fe County. So you can take all the time you ever need, you or any of my colleagues because they are very important items and they're items that typically come from the people that elect us to be their representatives. So any of you take all the time you need because that's why we're here. Thank you, Madam Chair.

CHAIR HOLIAN: Thank you. Any other comments? Can we move on?

**XII. MATTERS OF PUBLIC CONCERN – Non-Action Items**

None were presented.

**XIII. CONSENT CALENDAR**

**A. Final Orders**

1. **CDRC CASE # V-12-5430 Susan Sutton Variance. Susan Sutton, Applicant, Requests a Variance of Article III, Section 10 (Lot Size Requirements) of the Land Development Code to Allow Two Dwelling Units on 2.492 Acres. The Property Located at 8 Ute Lane, within Section 20, Township 16 North, Range 10 East (Commission District 4) Approved 5-0, Miguel "Mike" Romero, Case Manager**

**B. Appointments/Reappointments/Resignations**

1. **Appointment of David Griscom to the At-Large Board Position for North Central New Mexico Economic Development District Board (Penny Ellis-Green/Growth Management)**
2. **Re-Appointment of Lisa Wooldridge to the DWI Planning Council. (Lupe Sanchez/Health and Human Services)**
3. **Re-Appointment of Richard De Mella to the DWI Planning Council (Lupe Sanchez/Health and Human Services)**

**C. Miscellaneous**

1. **Request Approval of a Transportation Community Services Program (TCSP) Grant S100220 From the New Mexico Department of Transportation in the Amount of \$657,488 and an in-Kind Match from Santa Fe County in the Amount of \$164,372 (Adam Leigland/Public Works)**

**XIV. STAFF ITEMS**

**A. Health and Human Services**

1. **Resolution No. 2013-51, a Resolution Establishing Community Center Trustees, and Repealing and Replacing Policies for County Owned or Leased Community Centers**

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MS. CASADOS: Madam Chair, thank you very much, members of the Commission. I'm here today on our second discussion of this resolution establishing community center trustees and repealing and replacing policies for County-owned or leased community centers.

As I mentioned at our last meeting County staff worked through several meetings with each members of each community to draft the resolution and policies. I don't believe there are any issues or concerns with regard to changing the designation from board member to trustee or with the language that we've included or the changes regarding receipt of funds.

So if the Commission does not have any questions with those two issues, I would like to move on to the fee schedule.

CHAIR HOLIAN: Please. Oh, any questions?

COMMISSIONER MAYFIELD: Not on that, Madam, thank you.

MS. CASADOS: The fee structure that was in place has been changed significantly. The fee was reduced from \$353 to \$125 to \$135 for someone to use the facility. Those fees do include a refundable deposit of \$50 so basically at this point in time it would cost an individual in the community \$75 to rent a facility. The fee schedule was carefully considered to accommodate all individuals and to make the community center more accessible to individuals residing within those communities. I understand that several members of the committee have contacted the Commissioners to express concern over the fee schedule which we have recommended. There has also been concern among the community members of a fee being required for non-profit organizations and community events. In the past, the rental fee was waived for both of these types of events. During all of our meetings we had extensive discussions among the members of the committee and our legal department regarding this specific issue. The community centers are in no way are set up to work as enterprise funds. The fees collected are nominal in comparison to the cost to operate these facilities. The fees being imposed are not created to generate additional funds for those centers. These fees are necessary to insure that Santa Fe County is operating these facilities in compliance with New Mexico State Anti-Donation Laws.

The committee did feel that the \$50 rental fee was excessive for organization holding monthly meetings at the facilities and the group agreed to impose an annual fee for groups meeting one time per month. This fee was set at \$150 plus an annual fee of \$25 for insurance. This is equal to \$14.58 per month for these types of events. This is significantly less than what we charge community members to come in and hold event. They're paying \$75 and people who are coming in once a month are paying \$14.58.

After this \$150 fee was imposed an issue came up right before we brought the resolution to the Board causing us to rethink the fee schedule. At that time we incorporated an additional fee of \$250 for those activities taking place more than once a month on a regularly scheduled basis. So if somebody wanted to come in and offer maybe a course twice a month or once a week they would pay approximately \$23 a month if they're doing it regularly. So this also includes the \$25 insurance fee. There are however specific requirements necessary for reserving under this type of category. The entity must submit a letter of request detailing the purpose of the activity or event, the dates and times, who is eligible to attend. So we want to know if it is open to the public or restricted to certain individuals. We'd also like to know if there are any fees associated with the event such as

charging tuition for them to attend a class or dues or any type of fees that they're imposing and also the community benefit.

The County Manager or the designee would have discretion to approve or reject these requests. After careful consideration of these fees that we've imposed and the concerns that we've received from the constituents in those specific districts it is our request that we still move forward with passing this resolution and imposing the fee schedule that we have worked out. With that said, I will stand for any questions that you may have.

CHAIR HOLIAN: Thank you, Teresa. Commissioner Mayfield.

COMMISSIONER MAYFIELD: Thank you, Madam Chair. Madam Chair, just on the resolution, Abedon Lopez Senior and Community Center, Abedon Lopez is just a senior center; correct?

MS. CASADOS: It has served as a community center in the past. It has not been operated as a community center at this point in time and we do not have a board in place there. But --

COMMISSIONER MAYFIELD: Well, how is the Abedon Lopez, excuse me, how is it funded; isn't it strictly funded with -- I mean, we have a funding mechanism with that. I don't have a problem with it as a community center but, Katherine, how is it set up funding wise? We have to be very careful with those dollars that are going to that center.

MS. CASADOS: Madam Chair, Commissioner Mayfield, the funding of that center was done prior to this in the last resolution it was included as a community center and it has been operated in the past as a community center. So we did not change that designation at this point but I am happy to look into whether or not it was strictly funded. The funding that we receive from the Area Agency on Aging is very explicit in how that money can be used. It does state in their contract that if they fund under senior services funding that you have to operate it solely as that type of center for a certain period of time. So being that that center was funded quite some time back and I believe that was funded through HUD but I could be wrong and Ron may be here -- is Ron here? No. Ron would know that because it actually sits on property where we operate one of our housing and it is a building owned by them.

COMMISSIONER MAYFIELD: And, that's fine and that's kind of what I'm getting at. I just want all of my colleagues to know here, I mean, I have no problem getting a new community center but you guys put that in there plus we're in a HUD area so I just want to know are we going to start moving HUD money into -- it's something new to me and I'm just looking out for the -- I guess, one of the first time that I see community center knowing that we deal with HUD money in that area and everything.

MS. CASADOS: Madam Chair, Commissioner Mayfield, it was just left in from the previous resolution. That's how it was designated.

COMMISSIONER MAYFIELD: Commissioner Anaya I think he could probably speak extensively on this area so --

CHAIR HOLIAN: Commissioner Mayfield, are you finished?

COMMISSIONER MAYFIELD: No, I'm not finished but I would like him to speak on it because he's very familiar with the HUD funding formula and those aspects.

CHAIR HOLIAN: Commissioner Anaya.

COMMISSIONER ANAYA: Madam Chair, the Abedon Lopez Center does sit within the public housing complex but it did have isolated funds that helped build the complex that were tied to senior programs but the site has always used it for community-type meetings. The public housing residents as well as the community at large in the Santa Cruz Valley and the Española Valley to help meetings. So I don't – I think that's probably why it was on the list because it's been utilized like that. But the funding for the public housing sites is separate from the funding for the facility but it's a County shared facility is how the County has utilized it.

COMMISSIONER MAYFIELD: So then, thank you, Commissioner Anaya, so we will then set up a whole new community independent trustee board for this center now?

MS. CASADOS: Madam Chair, Commissioner Mayfield, at this point in time, we are not planning to utilize it as a community center. We will keep that language in there so in the event that we do want to utilize it as a community center we are entitled to do so.

COMMISSIONER MAYFIELD: Well, it's on the agenda so I want it set up as a new community center, just so you know. My request is on here as a community center, so please start that process.

Okay, so – yes, Commissioner Chavez.

COMMISSIONER CHAVEZ: Well, I didn't have any questions but I will just make a couple of comments.

COMMISSIONER MAYFIELD: Well, I will just finish, Commissioner Chavez.

COMMISSIONER CHAVEZ: Oh, well, they you go ahead. I'll wait.

COMMISSIONER MAYFIELD: Okay, thanks. So, that's on that. And, Teresa, I know that you and myself and Ms. Lois Mee meet on some of the issues, I don't believe Ms. Mee is in the audience right now. But some of the issues as far as the recognition of the trustees and then I'll let you also know that Mr. White and myself have met. He sent me some emails and I believe he sent you also. But as far as now moving from the concept of community members to trustees and I understand those reasons, Open Meetings Act compliance and everything else, just as the costs, and the noticing now of 72-hours and all those other logistics, Ms. Casados, but for that, is there going to be any issue whatsoever that the trustees can conduct their business to use these community centers. If the trustees need to convene a meeting are they going to be subject to having to pay these fees because they're still commissioned by this board to be the trustees of these centers? So do we understand that they're working still under the authority of this Commission and that they can use these facilities to have their meetings and do the business that this Commission has asked them to do?

MS. CASADOS: Madam Chair, Commissioner Mayfield, if it is a County mandated meeting and they carrying it out on our behalf then they would not be required to pay fees for that center. It would be an extension of the County and we do not pay for the centers. If they were conducting business that is not at the request of the County say they're meeting on the homeowners association for the Village of Agua Fria and they were having their homeowners association meeting, then, yes, they would be required to pay those funds.

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COMMISSIONER MAYFIELD: Okay, and there, again, Mr. White is in the front row as an example [inaudible] he's one of my trustees for the Rio en Medio Community Center, if he's having a meeting to say we're going to go through the agenda because X, Y, and Z want to rent the senior center for the week so they come together to approve that schedule that is a County sanctioned activity for that trustee board so they will never have to pay those membership fees; correct?

MS. CASADOS: Madam Chair, Commissioner Mayfield, that is correct.

COMMISSIONER MAYFIELD: Okay. Now as far as if they would like to say organize [inaudible] organizations, village activities to raise money for the village or even to raise money for that community center they are going to have to then pay the fees for such an activity?

MS. CASADOS: That is correct because they are then meeting under separate guidelines. They are not meeting as trustees but they're meeting –

COMMISSIONER MAYFIELD: But the trustee to raise money for that center to do improvements for that center itself. They want to organize to do improvements to the center; we're going to give this money back into the center. They want to organize to say we want to have a function where all this money, none of it's going into their own pockets, they want to raise money for improvements for that center itself, they're going to have to pay their own money to organize the community to say we want to improve this community center?

MS. CASADOS: Madam Chair, Commissioner Mayfield, that's going to be a question for our County Attorney, Mr. Ross, because I am not certain under those types of conditions if they would have to pay fees.

MR. ROSS: Madam Chair, Commissioner Mayfield, the rental fee – there's a proviso here under the rental fee schedule that the rental fee may be waived for government entities by the County Manager or designee. I suppose if the trustees is doing government business, doing the County's bidding, then the rental fee could be waived just as it sets forth in here.

COMMISSIONER MAYFIELD: And, Mr. Ross, thank you, because that's how I was reading it. That's where then the trustee board could petition the manager or her designee and maybe it's one of your ladies and that's where the rule could then be waived by them. And then again if this money is going straight back into the center so that's then her or the designee could make that waiver.

MS. CASADOS: Madam Chair, Commissioner Mayfield, the way I understand it is if they are doing business as an extension of the County they do not need to apply for a waiver because it's just an extension of the County and there is no fee.

COMMISSIONER MAYFIELD: Okay, but now if the trustee board would like to organize a community meeting regarding a community plan regarding the BOR on the adoption of the Aamodt Water System; would they then, Mr. Ross, be subject to having to pay that fee or would that be an activity for the community for the betterment of that community or would that be a petition to the County Manager to say we would like to petition, County Manager, to waive this fee?

MR. ROSS: Madam Chair, Commissioner Mayfield, I think that option, the latter option is also available under this language that the rental fee may be waived even if it

is for exclusively a community as opposed to a County function, it could be waived by the manager.

COMMISSIONER MAYFIELD: Okay, but --

MR. ROSS: And I would think that Teresa's right that if it is a strictly governmental function this doesn't really apply to that.

COMMISSIONER MAYFIELD: So, then, again, that's an area -- again, it could be and that's where the subjectivity is comes in. It could be and then I know the Anti-Donation Clause and I do not want to get this County or anybody in trouble with Anti-Donation Clause but, you know, when the could be and the subjectivity comes into it that's where I want to know we tread carefully but if we're talking about should Rio en Medio should Chupadero should them included in that BOR plan and it's the community who brought this issue up, will you all consider this we would like to have a community meeting on this but now they have to pay this fee to even have the County entertain this meeting -- that's why I want to make sure we have this ironed out before I, you know, before I put my John Henry on this one cause it's for the betterment of the community and I really would like that opinion from our County Attorney before I make my decision on this right now.

MR. ROSS: Madam Chair, Commissioner Mayfield, so if it's like an acequia board --

COMMISSIONER MAYFIELD: -- We know that an acequia board is a quasi-judicial authority, so I don't think we'll have an issue with that.

MR. ROSS: They're quasi-government not --

COMMISSIONER MAYFIELD: -- quasi-government, excuse me, not judicial.

MR. ROSS: -- but they're not County government so let's say an acequia board wants to have a meeting to comment on a County matter such as the land development code that's not a County function. So I think arguably they would have to pay a fee unless it were waived by the manager. So you start to get into those kind of issues --

COMMISSIONER MAYFIELD: Okay and then --

MR. ROSS: -- right away.

COMMISSIONER MAYFIELD: And, Mr. Ross, another issue that came up with Ms. Mee and Ms. Casados was under our old County code, I believe it was the old County code, before the CDRC the County used to have a different process under community plans and I think maybe the Agua Fria Village in particular and I think even under the new Tesuque Community Plan they [inaudible] having like a review group. And I don't know the right name and maybe somebody in Land Use can help me out. I don't know if Penny Ellis-Green is here. But there's like a preliminary review board through the community plan that if somebody wants to maybe get a development plan or a permit through they'd go through this review board within the local community plan first. What are the names of those, Ms. Ellis-Green?

MS. ELLIS-GREEN: Madam Chair, Commissioner Mayfield, those were local development review committees and we do not have those any more and --

COMMISSIONER MAYFIELD: -- so the Village of Agua Fria still does not have one?

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MS. ELLIS-GREEN: No, we don't. The new process would be the COs and the ROs having the neighborhood meetings.

COMMISSIONER MAYFIELD: And I knew this, I know I sat on this board for already more than a few years but I'm horrible with acronyms what are COs and ROs?

MS. ELLIS-GREEN: Community organizations and registered organizations.

COMMISSIONER MAYFIELD: So a community organization right now – let me say just this, I know I recently just looked at something and I might even have something tonight that's come from the Village of Agua Fria and they give their recommendation. A recommendation, we either support this or don't support it. So they no longer have that there?

MS. ELLIS-GREEN: It used to be an appointed body instead of the CDRC in some local areas. There was an issue about the amount of bias because in the CDRC you have people from a lot of different areas. So what happens now is something like the Agua Fria Village Association would register with the County as a registered organization and therefore anything within their area would – a development would have to notify them and they would get proper notice of those meetings and there would be a pre-application meeting. So it gets the developer out in the community to have a meeting of that community.

COMMISSIONER MAYFIELD: So they no longer have those? It's not required of Santa Fe County any more?

MS. ELLIS-GREEN: That registered organization is the new one that we're moving to. So when the code gets approved we will have people register as community organizations and registered organizations.

COMMISSIONER MAYFIELD: And if they have been, that's then – if the County gets theirs and we approve it, that's when we can mandate that the developer would have to pay those fees to have those meetings say in our community center, correct, and that wouldn't have to be the Agua Fria Village or Rio en Medio Community Center to pay those fees; correct?

MS. ELLIS-GREEN: I haven't actually read this document, but I would assume that, yes, if the developer was renting then –

COMMISSIONER MAYFIELD: Okay, I just don't want to put that on the Nancy Rodriguez Center if they want to have that meeting there, the Agua Fria Village, that we make them pay that all the time or to make the Rio en Medio or the Tesuque Community Center to have to always pay those fees.

MS. ELLIS-GREEN: And this is since it would be a developer would be doing the meeting not the community, the community would be invited. One other thing that you did mention was the community planning process. Those planning processes are done by the Planning Department in Growth Management and therefore it is the planning staff that are setting up those meetings.

COMMISSIONER MAYFIELD: In conjunction but usually it is the community planners, I mean the community that kind of initiates those plans too, they come to us and say we'd like to this.

MS. ELLIS-GREEN: But we have one or two staff members and they're the ones that –

COMMISSIONER MAYFIELD: So that's what it –

MS. ELLIS-GREEN: -- so that's where the County comes in. Okay, Madam Chair, you're back so Commissioner Chavez wanted to make some comments.

CHAIR HOLIAN: Thank you, Commissioner Mayfield. Commissioner Chavez.

MS. CASADOS: Madam Chair, before we proceed I just want to make a clarification that on the waiver of the fee, the way we have the resolution written right now, the fee can only be waived for government entities.

COMMISSIONER MAYFIELD: Yeah, but, Madam Chair, then I want to change it --

MS. CASADOS: And any change to that would require an amendment to the resolution if we were going to consider a waiver of fees for other entities. I just wanted to make that point.

CHAIR HOLIAN: Commissioner Chavez.

COMMISSIONER CHAVEZ: Thank you, Madam Chair. I don't have any questions. I guess just maybe a couple of comment. One is that I think on the rental fee, the rental fee may be waived and we don't know exactly in what circumstances or for what entities that it may be waived but we do have language in here that says in fact that it may be waived if it's as in the case of the Agua Fria Association if they do want to have a development review committee at the Nancy Rodriguez Center and it's sponsored in part by the County and we have County staff there, I don't see why they would have to pay that rental fee. But if they are having their monthly association meeting then I think that it should be -- I mean, I think it's okay with them to pay the fee. I did have this discussion with them at the last Village Association meeting and I did mention that I would be supporting the fee structure because I thought it was reasonable especially in light of our financial situation and the expectation that the public has in how those buildings are maintained. We want to maintain those buildings. We want to keep them in good shape but I think in this case we're asking for their help and I think what we're asking them to do is very reasonable.

So I would like to make a motion to approve the resolution with the fee structure that has been identified. I would hope for a second and then we could continue the discussion.

CHAIR HOLIAN: I will second that for purposes of discussion. You still have the floor.

COMMISSIONER CHAVEZ: Thank you, Madam Chair. I don't think I have anything else to add except that this is new. It's something different. It's not going to be accepted by everyone at this point in time but I think once this is in place I think that the public will be more comfortable and more willing to help us with the operation and maintenance of these facilities.

CHAIR HOLIAN: Thank you, Commissioner. Commissioner Anaya.

COMMISSIONER ANAYA: Madam Chair, I'm going to ask Paul White if he's okay if I put him on the spot since he's sitting in the front row? And I want to ask the Manager if she's okay if I put her on the spot because she's the County Manager? You okay with that?

So when I was approached -- hold on a sec, Paul, and then I'll actually ask for your feedback on this because I think when I was approached on this resolution over a year ago, it's probably been longer than a year maybe two years now we've been working on this. My

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first comment back to Teresa was what do we need to charge the public in our community centers and my response was, Free. That's what I said. If community members want to utilize the community county buildings that were built by county taxpayer dollars then I want it to be free. And, so that's where I started. And, then, Ms. Casados said, Well, and Mr. Ross and Ms. Miller said, Well, I understand where you're coming from but we have an obligation because of anti-donation to not have everything free but I can understand what Commissioner Mayfield is asking because sometimes in government what happens is that there's an intent for a fee and a desire and then before you know it that fee gets compounded with another fee and another fee gets stacked onto that and before you know it people aren't using the facilities because they're saying, Why am I paying all these fees for something that I paid for? Okay?

So with that basis, I'll say that's where I started. Where I've evolved to over time is that we have to have a reasonable fee to deal with anti-donation issues period. We cannot as public servants sit up here and say everything is free. So, Paul, what I was going to ask you was, if Paul has a meeting and this goes back to what I was going to ask you, Ms. Miller, if Paul decides tomorrow that he wants to sell Avon and he's going to sell Avon and he's going to utilize the community center to it – just bear with me, Paul – then that's a private endeavor. Paul is going to go use that facility and he's going to bring people in and he's going to try and sell Avon. We can't let you do that for free Paul. But if Paul comes to you, Ms. Miller, and we have a discussion and I think it's important that Commissioner Mayfield brought this up on the record, because I think the intent that Commissioner Mayfield is after is that if there's a connection in any way to government work or government action then I know we probably can't have the language to it but it does come to the discretion which is going to be you – if there's a connection to the land use plan, water planning discussion, to a clean-up date that the Commission is trying to do to keep Santa Fe County beautiful to our code enforcement to anything, I'm asking you wouldn't you consider that and I'm asking a leading a question now, Steve Ross, but wouldn't you consider that reasonable and a consideration if it's connected to something that we're trying to achieve in County government, Ms. Miller?

MS. MILLER: Madam Chair, Commissioner Anaya, I think even Commissioner Chavez touched on this a little bit, most of these cases you do end up having a County staff person there or they're actually suggesting that the community get together and provide that input. So I would think in those cases they are going to be related to County business and likely not be charged. I think if it is separate from County business and doesn't have anything to do with County business is where that issue of being charged is going to come into play.

COMMISSIONER ANAYA: So, Mr. White, I would ask you to come to the microphone if you could. So in the interest of your work and the work of all of trustees and that's what Commissioner Mayfield was also trying to get at, and I appreciate what Commissioner Chavez said as well, but what Commissioner Mayfield was getting at is that your work as a trustee is the work of the community. Your interest is to try and do good by the community so understanding you might not get the language exactly that may be suits exactly what every trustee wants, if you know the intent of the Manager and of this Commission is to allow that use if it's got a connection to County work and there's a lot of

ways to draw connection to probably just about everything a community association might do to for County work, would that be something that you think would be reasonable as a potential trustee?

PAUL WHITE: Yes, I think so.

COMMISSIONER ANAYA: So given that definition, Mr. White, is there anything else you want to add?

MR. WHITE: There's another consideration which is sometimes in the past we have we have had like a fall fiesta at our community center and we've had to have meetings for that. That's not necessarily County related but certainly things like zoning, the County plan those are related to the County but we don't necessarily – I'd like to have some sort of clarification on what those activities are and I would like to be able to have committees to discuss having a fall fiesta at our community center and for example zoning without necessarily having a County staff person at those meetings.

COMMISSIONER ANAYA: Madam Chair, and Mr. White, I don't think anything in the resolution says that a County staff person has to be present. It just is stating that if there's a connection and this is the subjectivity that we're talking about, if there's a connection to County business then what we've heard the Manager just say on the record is that, if there's a connection to County business it would probably be waived. She can't speak to every single case. What I'll say to your comment about your fall festival or whatever you call it, is that I want to be involved as a County Commissioner in any community festivals that we might have in any of my districts whether they're in Galisteo, whether in Cerrillos, I'll find a way in our communities, in my communities, to engage the fire department and the DWI prevention program and our mobile health van to those festivals which would make a pretty good link to what you're talking about.

So, I think what I'm suggesting is that we have to, in my opinion and this is just my own individual opinion, we need to get something in place and we need to try and move forward and if we have to make amendments we can do that as a Commission but I think if we communicate, we being the Commission, the staff, and yourselves as trustees and community leaders, we can get to where we probably want to be by communicating and making sure that we have the appropriate connections but not get involved in situations where we're allowing the use like you being the representative for Avon to have a private function. And I think that's really, you know, I'm not making light of it but I think that's really what we're after.

So, I'm willing to work with you and others and Ms. Miller on what that definition is over time but I'm actually, I have to say, I'm ready to actually allow it to go forward, work with you guys and make sure that it is implemented fairly.

MR. WHITE: So are you suggesting that there be an amendment further along would be –

COMMISSIONER ANAYA: I think I'd like to see, Madam Chair, Mr. White

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CHAIR HOLIAN: Mr. White, you will get a chance to speak when I ask for public comments.

MR. WHITE: All right.

COMMISSIONER ANAYA: I interrupted you. I apologize. I mean, I think as we go through the process if we find glaring omissions and we've got to make tweaks to it I would co-sponsor an amendment with Commissioner Mayfield to make it happen. But I think we can probably get there as long as we communicate together. Thanks, Madam Chair.

CHAIR HOLIAN: Thank you, Commissioner. I have a comment about the schedule first. How many people are here for land use meetings; could I see a show of hands? I just want to let you know what the schedule is. We have to finish with this particular item and then we have matters from the County Manager and then we are going to have an Executive Session which will probably last at least an hour. So I'm guessing we are probably not going to be reconvening for the Land Use Cases until 7 p.m. I just want to let you know that so that if you want to go out and have some dinner or take a walk – I just want to apprise you of what the schedule is going to be.

Commissioner Chavez.

COMMISSIONER CHAVEZ: Yes, I'll just be brief. Commissioner Anaya, I do appreciate your comments. In respect to the public's perception that these building are already paid for and you're right and they're right. They work very hard, they pay their taxes and their tax dollars goes into these buildings. That's the brick and mortars, that's a one-time cost. I think what we're struggling with here more is the operation and maintenance. The ongoing operation and maintenance of those facilities, which unfortunately we don't seem to have identified that funding completely and I think this will help in that regard. That's why I was willing to support the resolution. That's why I thought that the fee schedule was reasonable even though not everyone is going to be willing to accept it right now. I think that will grow on us. I agree always that these resolutions, ordinances, policies, are a working document. If we need to fix it, if we need to change it in the future, we can do that.

The other point that I agree with you on is that it's a starting point and we need to establish that starting, that benchmark if you will, so that we can move forward hopefully in a better fashion.

So I'll just make those comments and then maybe we can have the public comments at this portion, thank you, Madam Chair.

CHAIR HOLIAN: Commissioner Mayfield, do you have any further question? I would like to ask for public comment and then have further discussion?

COMMISSIONER MAYFIELD: I have questions.

CHAIR HOLIAN: Okay, if you have questions.

COMMISSIONER MAYFIELD: A couple of questions. As far as on the resolution, Madam Chair, on page four, actually, yeah, page four, thank you, and bullet four or the number four, \$25 - \$35 mandatory property damage insurance, County Manager, how can [inaudible] insurance? Do they have to go find it on their own? Are we going to direct them to where this insurance is at, where they buy it from? Is it a piggyback policy off of ours?

MS. CASADOS: Madam Chair, Commissioner Mayfield, the \$25 to \$35 insurance premium is a toll-up policy that can be purchased through Santa Fe County. So we make that available to every person who wants to purchase insurance. If they would prefer to piggyback off of their own insurance, it is not required that they buy from the County.

COMMISSIONER MAYFIELD: So if they cannot piggyback, and I just want this clarified to me right now, if I – if Jane or John Doe could not piggyback off of their own homeowners and they wanted to piggyback off of Santa Fe County's they're not going to have to shell out some you know every process that Santa Fe County mandates – credit checks, some, you know, like identify theft check – there's nothing. They just come in write you guys a \$25, \$35 check they're going to get the insurance and no questions asked. No credit checks. Again, no felony checks, no any kind of checks: they're just going to get the policy -- here it is.

MS. CASADOS: Madam Chair, Commissioner Mayfield, that is correct.

COMMISSIONER MAYFIELD: Okay, thank you, I'm clear, clear, clear. Fair enough. And then going back to page three, really quick, and I don't know – Katherine stepped out but that's okay, Steve is here – the rental fee and it's on I think both one and two, the rental fee may be waived for government entities – somewhere there on three, government entities, and just hearing the discussion I really do appreciate the dialogue, thank you both. In there maybe could we and, Steve, tell me if it's appropriate, maybe like a comma doing government entity but talking about County business, County issues, County concerns – you know, Commissioner Holian and myself, both, I mean, we have tried to adopt, thank you, we both, we both talked about you know helping out two of our communities, you know, the Cañoncito community water system, the Chupadero water system. I can't speak specifically about Commissioner but Chupadero brought the water issue to me. I'm assuming – I would just think that they starting that dialogue in their community center, you know and maybe without any Commissioner there or without any County staff there. So I guess, Steve, maybe we're just talking about County business and I don't know if there would be a spot to put that in there.

MR. ROSS: Well, Madam Chair, Commissioner Mayfield, I think if you opened it up to County businesses, discussing County business you'd need to amend this to do that. I think your example of the Chupadero Mutual Domestic, they're governmental –

COMMISSIONER MAYFIELD: They're government.

MR. ROSS: -- and they would get a waiver just like an acequia association is a governmental entity or farther south the Eldorado Area Water and Sanitation District is a government entity, there's a zillion of them. But if you just wanted to open it up so that somebody could discuss a matter pertaining to the County without the County organizing the meeting or participating in the meeting you'd probably have to make an amendment to make it clear at least.

COMMISSIONER MAYFIELD: Okay, that's all I have, Madam Chair. I just really want to let the public comment so I'll let however you want to proceed and then I'll make a motion and second, Madam Chair.

MS. CASADOS: Madam Chair, can I just point out that if we make an amendment to revise the waiver we would also have to keep in consideration that if we allow community organizations who say are in support of a bond to gather to talk about the bond issue we would also then have to open the facility to people who may be opposed to the bond issue to gather to talk about it. So it would raise issues that I don't think that we're prepared to talk about today and I think in this point in time, I would recommend that we table it, have further discussion and bring it back at the next Commission meeting.

CHAIR HOLIAN: Thank you, Teresa.

COMMISSIONER CHAVEZ: There's a motion on the floor.

CHAIR HOLIAN: There is a motion on the floor but I was going to ask for public comment first and then –

COMMISSIONER CHAVEZ: There is a motion on the floor?

CHAIR HOLIAN: Yes, there is a motion on the floor.

COMMISSIONER MAYFIELD: I would like to hear public comment myself.

CHAIR HOLIAN: Is there anyone from the public who would like to comment? Please come forward and state your name for the record.

MR. WHITE: Thank you, Madam Chair, thank you, Commissioners. My name is Paul White. I have been a community central board member for many, many years. We've never paid for community meetings. Sometimes I've called meetings that did not – that brought in the other community associations like the acequia association or the mutual domestic and I've called those meetings, invited the County to those meetings and then got the process moving with those associations started to get involved in the process and as you've seen that the mutual domestic matter did move forward and commenced.

So I would like to ask for a waiver. I would like to ask you to table this until we have a little bit further discussion and to slightly amend the language to allow for community input at no cost. So that's all I'm asking at this point and I'm still on the – I'm not sure if the committee is still has an opportunity to meet for the community centers but as a trustee I'm requesting that you consider that at this point, thank you.

CHAIR HOLIAN: Thank you, Mr. White. Is there anyone else who would like to speak? Seeing none we have a motion and a second. A motion on the floor and a second. Is there any further discussion?

COMMISSIONER MAYFIELD: Commissioner Chavez.

CHAIR HOLIAN: Commissioner Chavez.

COMMISSIONER CHAVEZ: Yeah, I think I'm going to withdraw my motion and make a motion to table in respect of staff's request. If we're not ready, we're not ready.

COMMISSIONER MAYFIELD: That, Madam Chair, I would second that and I would like to give Commissioner Stefanics an opportunity to weigh in on this and hopefully the staff can go back and work with you know a couple of our community members to discuss issues a little more and vet out a couple of these concerns.

CHAIR HOLIAN: As the seconder, I agree with withdrawing the motion. So we have a motion to table on the floor and a second. We must vote immediately.

**The motion to table passed by unanimous [4-0] voice vote.**

CHAIR HOLIAN: This item is tabled.

MS. CASADOS: Madam Chair, Commissioners, thank you.

COMMISSIONER MAYFIELD: Thank you, Teresa.

CHAIR HOLIAN: I really want to thank you for all that you've done. I know this has been a lot of hard work and that you've really made every effort to go out and talk with the community and get input and I really appreciate that.

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MS. CASADOS: Thank you and we will continue to do so.

COMMISSIONER MAYFIELD: Thank you.

CHAIR HOLIAN: Thank you.

COMMISSIONER MAYFIELD: Thank you, Paul.

**XV. MATTERS FROM THE COUNTY MANAGER**

**A. Miscellaneous Updates**

CHAIR HOLIAN: Katherine.

MS. MILLER: Madam Chair, Commissioners, one question I think that Commissioner Mayfield you asked a question about the courthouse, an update on the courthouse. The schedule for the courthouse is that the old judicial courthouse will close on June 5<sup>th</sup> at the end of the day and then the new courthouse with all of the judges in it, hopefully, and their hearings and whatnot will be open on June 10<sup>th</sup>. That's their plan and I actually think they have that scheduled in with some other things that they have with their docket scheduled that way. Also --

COMMISSIONER MAYFIELD: Madam Chair, on that.

CHAIR HOLIAN: Yes, Commissioner Mayfield.

COMMISSIONER MAYFIELD: So, Madam Chair, Katherine, I'm just going to bring it up. So as far as that is the County going to do anything as far as -- well, I know we're having a ribbon cutting and everything else but are we letting the public know it's open? Are they going to take care of letting them know it's open? And then are we going to talk anything more about the parking situation down there?

MS. MILLER: Madam Chair, Commissioner Mayfield, we've been having meetings with the City and the DAs and with the court on the parking and that's all getting planned out with the City because they will be making some traffic changes. We can't announce anything until they agree to do that step. So as soon as we get the information clearly identification as to what spaces will be red relative to the City we'll put out press releases to that. Also, we do anticipate, they're going to open a little slowly. They're not going to have full dockets the way -- they're going to try and ease into it a little bit. So I think Erik also has been having quite a few discussions with the court and the City dealing with all the traffic and parking issues and the schedules on the City ride busses and how they'll pick up and take some parking from the paid parking that the City has over to the courthouse as well and schedules for that.

COMMISSIONER MAYFIELD: Madam Chair, and Manager Miller, again, the County has spent, the taxpayers have spent an innumerous amount of money on this practice and the County is big on always the ceremony of being proud of our facilities and this is a taxpayer facility. It is a County facility and the County will continue to do -- we've had all these discussions of the ongoing maintenance and we had that discussion again today on every issue that we brought forth. So the County right now, as I've been told, we're looking at the tune of \$1+ million of reoccurring maintenance on this building as it stands today and correct me if I'm wrong, please.

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MS. MILLER: Madam Chair, Commissioner Mayfield, that's not maintenance. It's security, utilities, janitorial services, all of that. We're responsible both for the operations of the building and the budget adjustment that you made to bring those staff on is about \$1 million.

COMMISSIONER MAYFIELD: Okay, so, again. Not security concerns or not taking them in light of security concerns I still think it's important that the public gets at least an opportunity to see maybe the external parts of that building, whatever can be opened to the public before we block it off to the public and if that could be before June 5<sup>th</sup>, you know, if it's even in the courtyard area I would like that opportunity to have. I don't know how the rest of this Commission feels on it. But I would like that opportunity for the public and that's all I have, Madam Chair, on that.

CHAIR HOLIAN: Yes, Commissioner Anaya.

COMMISSIONER ANAYA: Madam Chair, my first question is – because I've received several calls just today as a matter of fact in relation to the courthouse. The County fulfilled its obligation for the courthouse construction months ago; correct?

MS. MILLER: Madam Chair, Commissioner Anaya, relative to the ability to occupy it, yes. We'll still be going through punch list items but for them to be able to move they could have moved in sooner.

COMMISSIONER ANAYA: Because we were under a lot of pressure on furniture and other aspects and we were told as a Commission that they were going to occupy the courthouse shortly after the beginning of the year. So we fulfilled our obligation and responsibility but the delay in the opening isn't a result of us, correct?

MS. MILLER: Madam Chair, Commissioner Anaya, that's true. We had a Certificate of Occupancy I believe in February and initially the judges indicated that they would be moving in the March timeframe and that slipped to April and then it slipped again until the June 6<sup>th</sup> date and that has not been driven by the County it has been driven by the District Court.

COMMISSIONER ANAYA: So I just want that on the record that we've fulfilled our responsibility and it's been in the hands of the judiciary and the courts as to issues related to their timelines and transition.

The second thing I want to say on the record and then ask a question is I adamantly and profusely have pleaded with the Commission relative to public parking still being an option in the courthouse, in the courthouse parking. The last time I brought it up at a Commission meeting was probably two months ago on the record and Commissioner Stefanics commented and I'm not going to quote her exact words but her remarks to me on the bench on the record was that staff was working on alternatives parking, public parking, I want to say on the record that my assumption wasn't that it was public parking options outside of the courthouse. I know that's something you're going to continue to work on as well. But my feeling at that meeting based on the comments that I heard was we were working on options and considerations for public parking in the courthouse structure. If we're not doing that, are we not doing that? And then I guess my second comment would be that I still would like my Commission, my fellow colleagues to consider that because I think

it is still very important that the public have direct parking in the courthouse not elsewhere but at least an option in the courthouse. Is that being looked at at all?

MS. MILLER: Madam Chair, Commissioner Anaya, I would say at the moment it is not something that we have continued to say that now we're going to move these people out and let the public in. It's always an option from the standpoint of if the issues of security have been addressed and where to put the staff. One of the issues that we have continually bumped into on this is this presumption that the County is responsible for absolutely everybody's vehicles and their parking. Whether it's the public, the judges, the staff of the court, the staff of the DAs, the fleet of the DAs and there just is not a place for the County to accommodate that without acquiring some land or something. We have tried with the City to get the City to provide parking for the staff. We've gone to the Legislative Council Services to ask for access to the state parking garage if that was the other option to move all of the state employees into the state parking garage. To be honest, we have gotten very little support from all of the entities that wanted that courthouse downtown.

To say what I've been saying all along is I think that the County back several years ago was pressured by several other entities to keep the district court downtown and we have not gotten assistance from those entities in helping alleviate the operating costs to do that downtown let alone the construction cost. So, that's we've been bumping into because if we provide public parking down there we still have another issue of where the law enforcement parks, where the staff parks and who pays for that. No one has come forward with, Hey, we'll provide you that. Now, I have had discussions [inaudible] with other developers or private landowners around the area that are willing to look at some partnerships of some sort. But I think there's still the presumption that the County will come up with a good chunk of the capital to do that. I think we just keep running into the same wall.

One of the things that I had requested early on of the district court well could we get [inaudible] and then see how we might better handle the parking when we actually know what the parking demands are because that's been another issue. Nobody really knows the degree – and the courts hadn't decided where they were going to have jurors park and that's their responsibility. If we all pick the same 50 parking spaces for the same people that's not going to work either. So it's just been really difficult sorting through that. I don't think it's completely out of the question. I think we need to get the district judges into it. Get it operating and see what the actual parking demand is and where we can then make adjustments to what we have.

So, that's kind of the approach we're taking at the moment and also trying to work with the City to provide parking on the street for handicapped and for law enforcement.

COMMISSIONER ANAYA: And I appreciate that you've been frustrated no less with the issue. I just want to make it very, very clear that I will always, always, as I've sitting on this bench advocate for public parking in that complex. And it's also important to note that the public defender attorneys were left completely out of the loop and it was only the interest in the discussion of the district attorney I think and some of the items that the Sheriff brought up – all the public and public defender and everyone needs to be part of that complex.

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So, I just want to put it on the record again, and once again ask my colleagues to reconsider and allow for some public use within in the courthouse. Thank you.

MS. MILLER: Madam Chair, Commissioners, anything else on the courthouse?

CHAIR HOLIAN: No, go on, please.

MS. MILLER: I did want to say that over the last couple of weeks I have received quite a few compliments on County staff and I didn't get to comment on it earlier when we were talking about corrections week and public works week but it's really nice when I receive compliments from the public about what a good job County staff is doing. For instance, I received an email about how good our public works staff is at maintaining the roads, clearing the snow, really noticeable that the County staff does it. I wanted to let you know what happens when we get these comments whether it be by email or phone calls or letter we try to make sure that the employee gets a recognition form that is put in their personnel file signed by their director, signed by me that it's a job well done and we really like hearing the positive feedback on employee performance because so frequently government gets accused of not doing a good job and to be honest we've gotten quite a few comments lately. One of them about Martin Vigil and his emergency operations planning even a letter to the editor relative to that. In the Assessor's Office Gloria Vigil and Gus Martinez also compliments on how well they had served the public. Carol Branch at the senior centers and she's going to be taking another position and it was just senior center users complimenting her on how well she's done there and also Penny Ellis-Green our Land Use Administrator/Growth Management Director as well as some phone calls from the district attorneys office about one of our case managers and how responsive and how good she has been. So, I just wanted to make sure that you knew that we do get quite a few emails, calls, letters about staff. It's not always anonymous things saying, Hey, would you look into this or that. But we get quite a few complimentary things as well. And I really appreciate the hard work that the County staff does and when they do a good job how well they represent us professionally and effectively and efficiently in their job. We do make sure that that goes into their personnel files as a recognition for their work.

CHAIR HOLIAN: Thank you. Thank you for letting us know, Katherine. I have noticed since I have been on the Board that we've had more and more of those kinds of positive letters and emails. I really attribute that to having great employees and great management too. So I want to thank you and the other managers in the County as well. I was wondering if possibly when those kinds of things come in you could also just shoot an email out to the Commissioners so that they know too. I know I've gotten some of them but not all of the ones that you've mentioned.

MS. MILLER: Okay, I will do that.

CHAIR HOLIAN: Commissioner Mayfield.

COMMISSIONER MAYFIELD: I'd just like to applaud. And I'd also like that you just maybe once a month bring those names to us and we'll recognize them here formally, please.

MS. MILLER: Okay. Then also I had on matters from the manager the annexation update. You probably know it at this point but I wanted to let you know what

happened after our last meeting. We had approved at the last Commission meeting we had approved six agreements and a publish title and general summary relative to annexation and things that the County needs to do and to work with the City on moving forward with phase 2 and phase 3 of annexation. We sent those agreements back with the amendments that the Commission approved. The City Council did take that up on Wednesday, May 8<sup>th</sup>, and they voted to approve the agreements on the road, the water, wastewater, solid waste, the law enforcement, fire and the fees in agreement. They did not take up because there were still – they wanted some changes to the amendment on the water resources agreement and we felt that that was too late in the game to be doing another change so they did not – we said we would prefer you not make more changes. So they did not take that item up. They had not had it noticed even and actually Steve noticed that they had not put that on even though that was at their request that we do it through the water resources agreement. So there seems to be some confusion on that and I don't think that that was a critical component of moving forward with annexation; however, I do think we need to address some of those issues with them and we're going to be setting up a meeting to sort of further clarify some of the things with the water resources agreement.

Additionally, we need to follow up on a plan of how we now will move forward with the solid waste and with the change over of the utility customers so we're going to be getting with them to try keep everything moving forward and proposing our plan for implementing that and getting the solid waste curbside pickup ordinance adopted by the Commission and then getting that transferred over to the City as well as the utility customers transferred over to the County that should be on the County books by July 1<sup>st</sup>. So that's where we are on the annexation.

There was also a request by this Commission and a motion to ask the City separately to move that section of Area 1 which was the part in Commissioner Chavez's district north of West Alameda up to 599 in that Area 1 that is in Phase 3 currently into Phase 2. They did not take up that particular issue but they did approve the phasing agreement that does include that area still in Phase 3. So after Phase 2 is done which is all remaining areas excluding Section 18 which will not be, that's the Hyde Park, so that will not be annexed and then Phase 2 is everything else except for that northern part of Area 1 that will all start moving forward and the commitment in those agreements is that that would be annexed by January 1, 2014 and then the phasing of all the services will go over the next three years at which time when that's complete the northern section of Area 1 from West Alameda north will be annexed by the City. So that is what they agreed to. That is what they voted on and that's what is being done. I'll take any questions on that.

CHAIR HOLIAN: Commissioner Anaya.

COMMISSIONER ANAYA: So, Madam Chair, Ms. Miller, the item that we've discussed as a Commission and that I thought we had agreed was going to be the follow up to the decision on both sides was that we would do a presentation, a joint meeting, between the City and the County that rolls up essentially everything that has occurred in summary for the public to understand what we've done and where the annexation is and where we notice it and when we afford the public the opportunity to come where we can

explain in straightforward presentation what's occurred, what both governing bodies have done and basically ratified together in a joint meeting the work that has transpired.

MS. MILLER: Madam Chair, Commissioner Anaya, in order to continue moving forward with it we do not have to have that meeting. The agreements are actually approved separately by both governing bodies but if the Commission would like to do that I think there would be benefiting making sure that we do make sure everyone is on the same page. And there will be things coming out of that implementation so in order to keep it moving we're trying to make sure we have the next agreement that says, okay, this is how all of this is going to happen. And I think that would be sooner rather than later to get that clarified between the City and County and then that might be the best time to actually have that meeting would be in early June, mid-June something like that. We wanted to make sure the agreements were approved so that we could actually move forward on all the pieces so they are approved but I think it would be a good idea for the Commission to invite the City Council to have that meeting if you want to put all those things out there of how it would work.

COMMISSIONER ANAYA: Madam Chair, I think it's important for us to convey to the public after many, many years of work and time that Commissioner Chavez and many others have worked on for a long time. But I think it's good to pull us together to ratify what's been done or restate maybe is a better word and provide that clarity to the public on both sides and so I think it's healthy so the beginning of June works. Sooner rather than later I think works for all of us to try and figure it out. But it's not – it's nothing light that's occurred and I think it's something that needs to be restated jointly between the two governing bodies in my opinion.

COMMISSIONER MAYFIELD: Commissioner Mayfield.

CHAIR HOLIAN: Yes, Commissioner Mayfield.

COMMISSIONER MAYFIELD: Thank you, and my understanding of what happened and the City Council vote a month ago, I guess, and our vote two weeks ago and then the City Council vote a week ago and I appreciate what you just told me Katherine but my understanding is a little different and correct me if I'm wrong but let me just go back to two weeks of our vote. We approved an amendment. We approved an agreement based on what the Council sent to us. And minus some of the changes that we made but we approved the agreement that this Commission voted on and it was agreement number one with part of our exceptions and we approved sending over half of Area 1 that this Commission didn't unanimously approved. And, then we gave them a second amend – not an amendment but a second option which this Commission didn't unanimously approve. That went over to the City Council. Okay?

MS. MILLER: Madam Chair, Commissioner Mayfield, the very first thing that the City did was conceptually approve these agreements. The –

COMMISSIONER MAYFIELD: The agreements.

MS. MILLER: -- law enforcement, all the agreements, an amendment to the phasing agreement, the utilities it was called the utilities agreement, the road agreement, the law enforcement agreement, the –

COMMISSIONER MAYFIELD: The first six?

MS. MILLER: Pardon?

COMMISSIONER MAYFIELD: The first six right?

MS. MILLER: Well, they didn't conceptually -- this is where they came back and said we didn't conceptually approve the water resource agreement. That's the one that is out. But the first, let's say the five of the six. So they conceptually approved that in those agreements when it did have in phase 1 it did have -- I'm sorry in the phasing agreement amendment 1, it did have that southern portion of Area 1. So conceptually they agreed to that even though --

COMMISSIONER MAYFIELD: Fifty percent of Area one.

MS. MILLER: Yeah, something like that. Then that came back to this Board and you did approve those agreements. That was the five different things I just mentioned. And we actually did six as a package and that included the water resource agreement. Then there was a second motion made to do a second amendment that would be taken as a separate action item.

COMMISSIONER MAYFIELD: Right.

MS. MILLER: And that was the one that would bring in the rest of Commissioner Chavez's area --

COMMISSIONER MAYFIELD: We're not [inaudible]

MS. MILLER: -- yes, that was in his district into phase 2. That was approved by the Commission four to one.

COMMISSIONER MAYFIELD: That was not a unanimous approval.

MS. MILLER: Correct. And that went back out as a separate item to the City. Then City then took action on the five agreements and those stayed as they were approved here.

COMMISSIONER MAYFIELD: Okay, and then the City approved that action?

MS. MILLER: They approve all of that.

COMMISSIONER MAYFIELD: Okay, and then now let's do the second part. You said they didn't take that action up.

MS. MILLER: Is that correct, Steve, they did not even take up the amendment 2 to the phasing agreement? Yeah.

COMMISSIONER MAYFIELD: So, I thought they did take that option up and they just did not even approve it.

MS. MILLER: They did not take it up.

MR. ROSS: They didn't take it up.

MS. MILLER: So they did not make a motion on it. Didn't take a vote on it.

COMMISSIONER MAYFIELD: I was under the understanding, Madam Chair, Steve, that Councilor Calvert and there was a second on that motion and then they pulled that motion back.

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COMMISSIONER CHAVEZ: For clarification: His motion was not to do any of Area 1 at all, none of it.

CHAIR HOLIAN: Commissioner Mayfield, you still have the floor.

MS. MILLER: Which, Madam Chair, Commissioner Mayfield, would have been contrary to what the agreement we had reached and had sent over.

[cross-talk – inaudible]

COMMISSIONER MAYFIELD: -- that night?

MS. MILLER: What they did approve conceptually included that southern portion of Area 1.

COMMISSIONER MAYFIELD: Okay, okay. So now I'm kind of on the same page. So, now, though and kind of to Commissioner Anaya's point and I appreciate the point that he just brought up it's kind of us formalizing all these things but that agreement is not formalized. We have our chair, and I don't know if she signed that agreement document on our side and if she did that's great, but we also have signed signature on the City side and I would hope it's the Mayor of the City but if he signed it so that well, then that agreement is done and now it's just out staff works out the implementation. So we have a signed agreement [inaudible] and I think it's very important that the City and the County residents know that and granted we can work out all the details and have the details – but I still think it's very important that a release goes out to everybody. I would hope that it's not, you know, I don't know how many City Councilors there are but I know there's five County Commissioners not everyone of us needs a [inaudible] but a good general release needs to go out because the press hasn't really picked up a lot. I think it's very important that we let all of our joint constituency know that annexation as we know it has now been formally done because we have this County that has approved it. We have the City that's approved it. It's still going to phase in over so many years but we really haven't just let everybody know that it is done. Now, tell me that it's not done because my understanding is it is done?

MS. MILLER: May I just --

COMMISSIONER MAYFIELD: Okay, please, Katherine.

MS. MILLER: Madam Chair, Commissioner Mayfield, it is done and --

COMMISSIONER MAYFIELD: It is done, thank you.

MS. MILLER: -- based upon their action last week, it is done.

COMMISSIONER MAYFIELD: It is done.

MS. MILLER: They agreed in the original settlement agreement that the City and County will go work out how to do the roads, the police, the fire, the utilities that's four of those agreements. And then the fifth action [inaudible] amendment to the phasing agreement that sets the dates for when the last pieces would actually be annexed by the City and those have been both approved by both governing bodies.

COMMISSIONER MAYFIELD: And, again, I just hope that we would get that message out. I think it's been done collectively by a lot of people well before me, by staff, by the current bodies of both governments, I know a lot of work still has to continue to be done but I still think it's very important to get that message out. I think it's really important that both bodies have come together and worked this out. But annexation right

now for phase 2 and, again, we're going to work on phase 3, we said that in agreement, five years we'll still look at phase 3, but I think it's done. I think that message is very important, Commissioner Anaya, again, I apologize, it's important that we get this message out. I would hope that there's not one of our governing bodies that just wants to get that big headline in there because I don't think this was done by any one person by any means but I think it's very important –

CHAIR HOLIAN: So, Commissioner Mayfield.

COMMISSIONER MAYFIELD: -- very important that we get something out there and I just don't see that anything is going out saying that annexation is done right now everybody. And, that's all I have, Madam Chair.

CHAIR HOLIAN: Okay. Thank you. Commissioner Chavez.

COMMISSIONER CHAVEZ: Except that it hasn't been done and I don't want to belabor the point too much about what's left but I will speak to it because that happens to be the area that I was elected to represent, District 2. So have to speak to it. It's not done. It could have been done but it's not. So there's a piece that's left out. There's about 600 acres that will be left out. It will be annexed within five years. I'm concerned that that five years will be six. That that six will be seven. That seven will turn into ten. Commissioner Mayfield, are you doubling-tasking?

COMMISSIONER MAYFIELD: No, I'm texting my wife.

COMMISSIONER CHAVEZ: That's double tasking.

COMMISSIONER MAYFIELD: Yes, thank you, Commissioner.

COMMISSIONER CHAVEZ: But some of us are better at it than others. So anyway, it's not done. There's a portion that is still pending. So what happens in the meantime is what I'm concerned about. We're going to annex that within five years but the County has made the commitment time and time and time again and the commitment is that we will provide the service, the fire service, to all of Area 1 within that five years. So that's one piece of information I think the public needs to – we need to relay that to them and I hope that they really understand that because I don't think that's fair necessarily for one group of rate payers and I think for the City to be fully aware that that is their responsibility and that they have to understand that it's a responsibility. Not only a financial responsibility but a moral obligation to provide the services to the people that we're responsible for. We have to understand that the reason we're not annexing all of Area 1 is because the City is not able to provide the fire service at this time. Fine, we've accepted that. We've tried to compensate for that. Obviously, it's not enough. So, again, part of that is left out.

So in the interim we need to pay attention to that and be sure that piece is completed and it's done in a reasonable length of time and five years I think is a little bit too long. But those are my statements and it's my responsibility to pay attention to that area more than anyone else so I will put that on myself to pay attention to that area and be sure that the services are provided and that that area is annexed sooner than five years. Thank you.

CHAIR HOLIAN: Thank you, Commissioner Chavez. Commissioner Mayfield.

COMMISSIONER MAYFIELD: Thank you, Madam Chair. And, Commissioner Chavez, I was definitely listening. Again, this is just my understanding and I'll definitely yield to Commissioner Chavez to follow up on this he has the last word. As I understood it, Commissioner Chavez, and I know you're a big advocate for your district and I respect that, Area 1, Area 1 was in Phase 3 of the annexation and it was in Phase 3. When you came on and Commissioner Vigil was a big advocate for her area in Phase 1. All of Area 1 was my understanding was in Phase 3. When we pushed the phasing in of Area 2 we were able to come to a compromise with the City to get in about 50 percent of Area 1 into the portion of area – of Phase 2. Also within that agreement we said we would address the rest of Area 1 within Phase 3 with looking at it within five years. I do hope that that five years comes for Phase 3 within the next five years. I know that I will definitely be on this Commission for at least the better part of a year. So I will continue to work on that with you.

Now, that was a commitment that we made and we, again, we did better by getting at least more than 50 percent of Area 1 within Phase 2 when it was initially agreed on that it would be in Phase 3. That was still not master plan but it was going nowhere, Commissioner Chavez, at least I can say that from my observation on this Commission. It as going nowhere between the City and the County and that's the perspective of at least one individual who has sat on this Commission for two years with the annexation. At least we know that it's going somewhere.

So you did correct me as far as the annexation is completed now as far as the phasing to of that agreement knowing that we now still need to work on the implementation of all of that and Area 3. So, again, Commissioner Chavez, I'm just glad we've gotten to this point and I still think it's important that we let all of our joint constituencies between the City and County know what we have completed to date and we still have much more to work on for the rest of the annexation.

CHAIR HOLIAN: So, do you have anything new to add, Commissioner Mayfield?

COMMISSIONER MAYFIELD: Madam Chair, I'm just finishing the point and I know I still have the floor.

CHAIR HOLIAN: I know you do.

COMMISSIONER MAYFIELD: I think it's new. I think it's new, Madam Chair, because I don't think the constituency is aware of what's going on or they've been up to date on what's going on. Because this has been moving document, a moving target, a moving issue with all of us. We get new information every single day from last Wednesday to today it's been new of what's happened. So everything that comes on annexation is new for all of us so yeah, I think it's new. So, I think it's new and the dialogue happens between me and Commissioner Chavez up here [inaudible] so, yeah I think it's new. Commissioner Chavez, so that's what I just wanted to – you know, but you did come in and got half of 50 percent of Area 1. I think that is new. I think it's important that your constituency know that. That you did get that in there and it's very important so I commend you for getting that in there.

And, thank you, Madam Chair. That's all I have.

CHAIR HOLIAN: Okay. Commissioner Anaya. I just do want to point out that we do have a land use case and I would like to move this along if at all possible and not be too repetitive. Commissioner Anaya.

COMMISSIONER ANAYA: Madam Chair, two comments for public record. How many years from the time that annexation started till now, Steve? How many years total, in total?

MR. ROSS: Madam Chair, Commissioner Anaya, Commissioner Chavez has a better background than I do but it's been going on at least 10 years that I'm aware of and I think it started around 2002. But I think Commissioner Chavez told me the other day that he remembers discussions about it '97 or '98.

COMMISSIONER CHAVEZ: Well, the discussion on annexation –

CHAIR HOLIAN: Commissioner Chavez.

COMMISSIONER CHAVEZ: Yes, thank you, Madam Chair. The discussion on annexation from what I can remember, Commissioner Anaya, has been taking place in our area for at least the last 25 years. That was before the EZC and the EZA was organized to help jointly plan and manage the area that we're now talking about annexation. So for me, my history, for what it's worth, my personal history that I can point to, and I wish I had a scrapbook, it's 13 years that's 2000 when I was elected to Council was when the Regional Planning Authority was organized and appointed with two specific objectives in mind. One was to develop a land use plan for the 5-mile area and it was to be done in two years. The second goal was to develop an annexation plan and a strategy. So the RPA did as much as they could and now the two local governments have discussed it back and forth outside of the RPA and outside of the settlement agreement that directed the City to do certain things on dates that have already passed. So most of the discussion that we've relative to annexation has been outside and independent of that settlement agreement.

COMMISSIONER ANAYA: Madam Chair.

CHAIR HOLIAN: Commissioner Anaya.

COMMISSIONER ANAYA: Commissioner Chavez, I appreciate the historical perspective and I just want to say that I don't disregard or downplay any of the comments of yourself or anyone. I think it is a continuing progress and development but I do want to say, Madam Chair, that I think the work and the decision of this Commission, is a very large decision, my constituencies and Commissioner Chavez's constituencies and Commissioner Mayfield's constituencies that are directly impacted – it's long overdue and I thank the Commission and I want to publicly thank the Council the entire Council and the Mayor because the vote was unanimous is my understanding as far as we could get and we still have some things to iron out but I want to thank the Commission and the staff on both sides as well as the Mayor and Council because it is a step progressively in the right direction for service and the needs of the constituencies that we all have without boundaries or lines drawn in the sand.

Thank you, Madam Chair, and I know we went maybe longer but I think it's that important to us as a region that we've taken that step as two governing bodies in the interest of the public that elected us. Thank you.

CHAIR HOLIAN: Thank you. I just want to make a couple of comments about the schedule. Is anybody here for a land use case, can I have a show of hands? Well, I just want to let you know that we still have an executive session so that will probably take at least an hour so at the point at which we go into executive session, it will probably be an hour after that and I'm guessing, I'm not sure whether we're done yet with matters from the manager, but I'm guessing it will probably be something like 7:30 before we come to our land use cases and I want to apologize that we had a lot of lengthy discussions.

Katherine, is there anything else?

MS. MILLER: Madam Chair, yes. I just want to clarify then I'm going to try and find a date for a joint City/County meeting where we restate the agreements that were approved and what the next steps are and that the public will then be informed if they want to come to that meeting of exactly what services we hope to transition and when. And so I will be sending stuff to you as well as to talk to the City manager and Mayor about a date that we can do that, sooner rather than later.

The other item that I had, there was discussion at the last meeting about the annual report. This is a draft. There are still being pictures being put in but I wanted to give you a draft [*Exhibit 2*] and I hope to have the final for you at the meeting on the 28<sup>th</sup>. This is kind of where we are at the moment. It's what was done and one of the things that we're working on is trying to get this to a calendar year so it comes out in about March but a lot of the data we keep in our fiscal year so we are working on that transition and hopefully next year we'll have that.

There are still some things to be edited in it but I wanted to give you a copy if you had any comments or things if you could get them back to me or Kristine in the next few days so we can make those adjustments. This is what we anticipate it generally looking like. As Kristine said this is like draft 2 of 10 because we'll probably run through this several more times before it's finalized but I do hope to have it to you at the May 28<sup>th</sup> meeting in its final form. And I just wanted to pass out a draft to you so you could make comments and give me some feedback if you have anything that you'd like to see added to it.

CHAIR HOLIAN: Thank you very much, Katherine. That is it.

## **XVI. MATTERS FROM THE COUNTY ATTORNEY**

### **A. Executive Session**

#### **1. Discussion of Pending or Threatened Litigation**

- a. *Wilkes v. Blueline Construction et al* (No. D-101-CV-2011-02834).
- b. *Centro Beneficiente Uniao do Vegetal v. Board of County Commissioners* (No. 12-CV-00105)
- c. *New Mexico Gas Company et al. v. Board of County Commissioners* (No.D101-CV-2009-02050)
- d. *Ambrose Baros et al v. Board of County Commissioners et al* (No.D-101-CV-2013-001149)
- e. *James Martin v. Santa Fe County et al* (First Judicial District Court Cause No. D101-CV-2013-01251)

2013/05/14 09:51 AM

## 2. Limited Personnel Issues

CHAIR HOLIAN: Steve, do we need an executive session?

MR. ROSS: Madam Chair, we need an executive session to discuss pending litigation or threatened litigation and the cases are listed there as well as limited personnel issues.

CHAIR HOLIAN: May I have motion.

**Commissioner Chavez moved to go into executive session pursuant to NMSA Section 10-15-1-H (7, and 2) to discuss the matters delineated above. Chair Holian seconded the motion which passed upon unanimous roll call vote with Commissioners Holian, Mayfield, Anaya, and Chavez all voting in the affirmative.**

[The Commission met in executive session from 6:23 to 7:47.]

**Commissioner Anaya moved to come out of executive session having discussed only the matters outlined in the agenda, and noted that the Manager, Attorney, Deputy Attorney and four Commissioners were present. Commissioner Chavez seconded adding that no action was taken. The motion passed by [3-0] voice vote. [Commissioner Mayfield was not present for this action.]**

### XVI. B. **Consideration and Approval of the Settlement Agreement and Release of all Claims in *Centro Beneficiente Uniao do Vegetal v. Board of County Commissioners* (No, 12-cv-00105)**

CHAIR HOLIAN: Steve.

MR. ROSS: Madam Chair –

CHAIR HOLIAN: We need the mike please.

MR. ROSS: Madam Chair, as you recall I think it was in November we approved a settlement agreement with this entity. The settlement resolved a number of claims that had been filed against the County in Federal court. This is really an amendment to that agreement. As you recall from last November the amount of the attorneys fees settlement had not been arrived at as a result of the mediation that we had last fall and it's now been agreed to and so that amount is reflected in there. In addition, the revised settlement agreement reflects that the County and the UDV Church are going to jointly petition the federal judge to enter a judgment adopting the settlement agreement as the court's judgment in that case. Those are the only changes.

CHAIR HOLIAN: Thank you. Any questions? Is there a motion?

COMMISSIONER ANAYA: Move for approval, Madam Chair.

COMMISSIONER CHAVEZ: Second.

CHAIR HOLIAN: We have a motion and a second to approve the settlement agreement and release of all claims in the case that is in this agenda item.

**The motion passed by 3-0 voice vote.** [Commissioner Mayfield was not present for this action.]

**XVII. PUBLIC HEARINGS**

**A. Growth Management Department**

- 1. BCC CASE # MIS 13-5120 Brewer 599 Liquor License. Brewer Oil Company, Applicant, Linda Aiken, Agent, Requests Approval of a Transfer of Location of Liquor License # 867. The Liquor License will be Transferred to 2200 South Meadows Road, Santa Fe, New Mexico, within Section 31, Township 17 North, Range 9 East (Commission District 2)**

JOSE E. LARRAÑAGA (Case Manager): Thank you, Madam Chair. Jose Larrañaga with the Building Development and Services. The Applicant requests approval of the transfer of Liquor License number 867 from 7510 Airport Road to 2200 South Meadows Road. The Liquor License is owned by Brewer Oil Company and will remain under the same ownership. Brewer Oil Company intends to open a gas station and convenience store with the sale of package alcoholic beverages at this site.

This site is within the presumptive City Limits within Phase II of the annexation area. A zoning statement was issued by the City of Santa Fe which states that this site is zoned as a General Commercial District C-2 where retail sales, including but not limited to package liquor, is allowed. The City has zoning authority within the presumptive City limits and, by state statute the County has to conduct the public hearing on a liquor license located outside of the limits of a municipality.

The State Alcohol and Gaming Division granted preliminary approval of this request in accordance with Section 60-6B-4 NMSA of the Liquor Control Act. Legal notice of this request has been published in the newspaper. The Board of County Commissioners is required to conduct a public hearing on the request to grant the transfer of location of Liquor License No. 867. .

Growth Management staff has reviewed this project for compliance with pertinent Code requirements and finds the following facts to support this submittal: the site is within the Presumptive City Limits within Phase II of the annexation area; the City has zoning authority within the Presumptive City Limits; the City issued a zoning statement allowing package liquor sales on this site; by state statute the County has to conduct the public hearing on a liquor license located outside of the limits of a municipality; the Applicant has met the State of New Mexico requirements for noticing, distance from schools and churches.

Staff recommendation, approval of the transfer of liquor license number 867 from 7510 Airport Road to 2200 South Meadows Road. Madam Chair, I would stand for any questions.

CHAIR HOLIAN: Thank you, Jose. Any questions for staff?

COMMISSIONER ANAYA: Yes, Madam Chair.

CHAIR HOLIAN: Commissioner Anaya.

COMMISSIONER ANAYA: Madam Chair, the City of Santa Fe has been reviewing zoning in the presumptive area for how long now? What was the date that they through agreement took on that responsibility?

MR. LARRAÑAGA: Madam Chair, Commissioner Anaya, I believe it was four years ago that SPAZo Ordinance took effect for the annexation of the presumptive City limits and they have the zoning authority, yes.

COMMISSIONER ANAYA: So, almost four years the City of Santa Fe has had the zoning responsibility and then brought forth recommendations in the format that we're seeing tonight on this case; correct?

MR. LARRAÑAGA: Madam Chair, Commissioner Anaya, correct.

COMMISSIONER ANAYA: Has the County overturned any of those zoning recommendations that the City is brought forward since that time?

MR. LARRAÑAGA: Madam Chair, Commissioner Anaya, there's only been one other case as far as a liquor license that was in the presumptive City limits and County approved it. Alcohol and Gaming, given that the zoning statement was issued the zoning was already issued to Alcohol and Gaming and this is pretty much a procedural process of just addressing the liquor license.

COMMISSIONER ANAYA: Madam Chair, Jose, all land use cases in the presumptive area have been managed by the City Planning and Zoning Department for almost four years.

MR. LARRAÑAGA: Madam Chair, Commissioner Anaya, that's correct.

COMMISSIONER ANAYA: And that's through agreement between the City and the County based on final annexation on those areas.

MR. LARRAÑAGA: Madam Chair, Commissioner Anaya, that's correct.

COMMISSIONER ANAYA: Thank you, Madam Chair. I don't have any other questions right now.

CHAIR HOLIAN: Commissioner Chavez.

COMMISSIONER CHAVEZ: Well, actually, Madam Chair, I think I'll yield my questions if you want to go ahead and have a public hearing because I know this does require a public hearing. I'll yield the floor for the public.

CHAIR HOLIAN: The next question is to ask, is the applicant here? Would you like – do you have anything that you would like to add?

APPLICANT (Speaking from the audience away from microphone): Madam Chair, we'll stand for any questions.

CHAIR HOLIAN: Any questions for the applicant? Okay. This is a public hearing. Is there anyone here who would like to speak on this case either in favor or in opposition to this case? Okay, seeing none – the public hearing is closed. Commissioner Chavez.

COMMISSIONER CHAVEZ: Thank you, Madam Chair. I'd like to go ahead and move for approval of –

COMMISSIONER MAYFIELD: Second, Madam Chair.

COMMISSIONER CHAVEZ: -- this transfer of liquor license.

CHAIR HOLIAN: Is there any further discussion?

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**The motion passed by unanimous [4-0-] voice vote.**

CHAIR HOLIAN: The liquor license is approved, 4-0.

- XVII. A. 2. **CDRC CASE # V 12-5360 Henry Sanchez Variance. Henry Sanchez, Applicant, James McCreight, Agent, Request a Variance of Article III, Section 2.3.6b2 (Height Restrictions for Dwellings or Residential Accessory Structures) to Allow an Existing 1,000 Square Foot Accessory Structure to Exceed 18 Feet in Height on 2.5 Acres. The Property is Located at 35 Heather Lane, within the Vicinity of Chupadero, within Section 5, Township 18 North, Range 10 East (Commission District 1)**  
*[Exhibit 3: Four emails from neighbors in support of the variance; Exhibits 4 and 5: Applicant supplied caselaw supporting the variance; Exhibit 6: Cassutt, Hays & Friedman letter to CDRC re: opposition to variance with color photos dated 2/21/13]*

JOHN LOVATO (Case Manager): Thank you, Madam Chair. John Lovato, Building and Development Services. The Applicant requests a variance of Article III, Section 2.3.6b.2, Height Restrictions for Dwellings or Residential Accessory Structures, to allow an existing 1,000 square foot Accessory Structure Garage to exceed 18 feet in height. The structure was originally permitted through Santa Fe County under permit number 11-522, and the structure is near completion. County staff approved a building permit for the residence which met height requirements. The permit was later amended with an accessory structure garage. Staff approved the permit at a height of 21 feet. After receiving a complaint regarding the structure and the roof reflectivity, staff conducted an inspection and found the structure was built within the height approved in the permit but exceeded the height permitted in the code as it was located on a ridgetop.

The permit for the garage was issued in error. However, the applicant relied on the permit and built in accordance with the permit. Staff is therefore recommending that the variance be approved. If the variance were denied the County could be financially liable to reduce the building height.

The structure exceeds height requirements for ridgetops. The maximum allowable height for ridgetops is 18 feet for a pitched roof and 14 feet for a flat roof. The Applicant states, a variance is needed due to the expense it would cost to bring the structure into compliance with the height requirements for ridgetops. The Applicant further states during the submittal process they thought they were allowed a maximum height of 24 feet.

Growth Management staff has reviewed this Application for compliance with pertinent Code requirements and finds the project is not in compliance with County criteria for this type of request.

Staff Recommendation: On February 21, 2013, the CDRC met and acted on this case, the decision of the CDRC was to recommend denial of the Applicant's request by a 5-0 vote. After further review of the application and approved building permit, the applicant was approved at a height of 21 feet and has constructed the structure at 18'-8". Therefore, Staff

recommends approval of the requested variance.

If the decision of the BCC is to approve the Applicant's request, staff recommends imposition of the following conditions. Madam Chair, may I enter the conditions into the record?

CHAIR HOLIAN: Yes, you may.

Conditions:

1. The Applicant shall screen the structure to protect and enhance the visual appearance of natural hillsides. (As per Article III, § 2.3.10a.3)
2. The structure and roof shall be constructed in non-reflective earth tone colors (As per Article III, § 2.3.8a.2).
3. The Applicant must update the approved development permit from the Building and Development Services Department to reflect the correct height of the accessory structure (As per Article II, § 2).

MR. LOVATO: Thank you. I would stand for any questions.

CHAIR HOLIAN: Are there any questions for staff?

COMMISSIONER MAYFIELD: Madam Chair.

CHAIR HOLIAN: Yes, Commissioner Mayfield.

COMMISSIONER MAYFIELD: Yes, I would just like to read in the conditions please.

CHAIR HOLIAN: John.

MR. LOVATO: Madam Chair, Commissioner Mayfield. Number one, The Applicant shall screen the structure to protect and enhance the visual appearance of natural hillsides. Two, the structure and roof shall be constructed in non-reflective earth tone colors and three, the Applicant must update the approved development permit from the Building and Development Services Department to reflect the correct height of the accessory structure.

COMMISSIONER MAYFIELD: Um, Madam Chair. So as far three, the applicant must update the approved development permit from the Building and Development Services Department to reflect the correct height of the accessory structure; so what is the accessory structure right now? What are they asking for?

MR. LOVATO: Currently, we approved the permit at 21 feet. The actual structure is 18 feet 8 inches.

COMMISSIONER MAYFIELD: Okay, 18, 8. Thank you, Madam Chair.

CHAIR HOLIAN: Commissioner Chavez.

COMMISSIONER CHAVEZ: Thank you, Madam Chair. Question to staff, the structure has already been built. It's 21 feet for a pitched roof or a flat roof?

MR. LOVATO: Madam Chair, Commissioner Chavez, it's actually 18 feet for a pitched roof and 14 for a flat.

COMMISSIONER CHAVEZ: Okay, so they're within the height requirement because they built at 18-8 right, that's the finished structure?

MR. LOVATO: Madam Chair, Commissioner Chavez, They are actually eight inches above what is required. The structure is a pitched roof.

COMMISSIONER CHAVEZ: Okay, thank you, Madam Chair.

CHAIR HOLIAN: Is the applicant here? Would you please be sworn in.

[Duly sworn, James McCreight testified as follows:]



view corridor. So people who are disputing it live in front at 750 feet from their home to the actual garage site and there's another home over here which is 350 feet. Now, I built that home and I know that that home cannot from any place in the house see this structure and that they would have to walk out on our land and in the 10 years that I've been there I've never seen them out on our land.

So what I'd like to do is just start the video, there is no sound. But the first scan that you're going to see will be actually a smaller scale than you and I would actually see but as we go back and forth we keep increasing the scale so you can get a good perspective on the current architecture that's there and what we have already constructed and we also in the last few days put up the forms for the walls of the home which would be in front of the current structure and they block the view of that structure except for the 8 inches sticking out above. And one thing that I'd like to make mention of, even though we put in for a permit of 21 feet thinking we had 24 feet, we only built the roof to 18-8 because we were looking for a New Mexico pitch and once we got the pitch we didn't want to exceed it because we were looking for the look. But, ironically, if we were place a fireplace in that structure, the chimney could exceed 18 feet by 4 feet. That's the code. So what we're asking for is a variance of 8 inches because we exceeded it without knowing we that we were exceeding the 18 feet even though we gave – we received a permit which was signed off by Land Use and the Land Use Administrator at that time was Shelly Cobau.

So, if we could begin the video and as I mentioned you're going to see – and from here it's not that great, it's actually right dead center now, 12 o'clock is the structure and then what I want you to take notice of if you would, is as pan back, as we pan – there's the structure right there in the center. That's the sloped roof and that's it, that scale is probably close to the human eye scale and as we go back and forth we're going to blow it up just so you can see in detail what's really going on . So as we come to the left you're going to see those homes on the ridges out there which are two story homes built on ridges that go down into the arroyo probably 80 to 100 feet. There's three that are located up there.

Now we increase the size of it. That's the home that's under construction in front of us. One of the people that is protesting has a home that's off to the north of that but the elevation is considerably below our elevation so as you look at that structure you're going to see that they actually installed the forms for the 18 foot high wall that would be erected for the home which would totally block anyone's perspective at eye level that lives in Vista Redonda.

You could just run the video through, if you would please. Here's the homes up in the ridge that you're seeing from the same visual corridor that when we stopped to take the ones at the garage that you're seeing off to the west. You can see that they're in excess and that there's a variety of architectural designs out there so it's not like we're [inaudible] anyone's aesthetic respect here. And these are the homes totally blown up. This is the last scan that we have. Now this shot was shot a few days ago and you can see those forms in front now are 10 feet and this shot will last a few seconds and then we're going to show you at 18 feet what it looks like and in order to save some time my wife just photo shopped one section of the forms and put it on the right. You'll see it's blocking some trees once we get to it. And you'll see that all you can see, there it is now, so you can not see anything from

Vista Redonda except for that little stub that you can have at the top which would be 8 inches. Thank you.

One other thing that I would like to mention is that this is the property in question and to the east of it there is no homes. That's all National Forest and 500 acres that belong to the Christian Brothers.

CHAIR HOLIAN: Okay, thank you, Mr. McCreight. Do you have anything further?

MR. MCCREIGHT: Yes, I do, Madam Chair.

CHAIR HOLIAN: Please proceed.

MR. MCCREIGHT: Thank you. What I'd like to do in order to save some time is just to give you some caselaw that is applicable to this case, if I may?

CHAIR HOLIAN: Sure.

MR. MCCREIGHT: May I approach?

CHAIR HOLIAN: Well, yes, but if you're going to speak please take the mike with you.

MR. MCCREIGHT: No, I'm not going to speak.

CHAIR HOLIAN: Well, if you're just passing out things maybe you can give it to staff and then they would hand it us.

MR. MCCREIGHT: Thank you, Madam Chairperson. I know that we are running late so I just thought to continue on and you'll get the information as we go. I have two pages here that are applicable to the actual situation. One took place in Pennsylvania and I will show why it's applicable once I'm done. This is a case where someone went to subdivide and due to changing of law in that County they no longer had the proper amount of land for the building that they wanted to construct on it. They were given a variance which was opposed and the courts ruled on it and this is where it's applicable to what we're doing today. The zoning board may have the power to grant a variance where the variance sought is de minimis and the public interest is not affected even though the traditional grounds for a variance have not been established. This makes sense for this is not invasion of the legislative function in a minor de minimis variance of the type involved in the Pyzdrowski Case decision. It would seem appropriate, however, for the courts to leave the question of whether to grant such variances to the zoning board. Now, that took place in Pennsylvania. There's another case a larger case, the thicker one that I gave you took place here in Santa Fe County by the Santa Fe Commission and was ruled on by the New Mexico Supreme Court. This was a case where, it's probably most well known as the Gonzales Tower and what that case was about was they were granted a variance by this Commission and then it was opposed by neighbors and the Commission – it was verified by the New Mexico Supreme Court that the Commission made the right decision. And, what this case defined was that it's not just variances but there's use variance and there's area variance. Area variance is not a stringent as use. In an area variance you have dimensions and space which is applicable to our case. So what it was found to be was, it says it says that hardship is not defined in the code to determine the request hardship was – being sought by Sky High. Now this case, and I was going to show you why this case was applicable to the other case in Pennsylvania because the case that was used by the Santa Fe County Commission was also a case that took place in Pennsylvania. And the gist of this whole case was that the restricted height level was

24 feet for that tower but the Santa Fe County Commission allowed a variance to 189 feet for a cell phone tower. Why? Because the Commission determined there would be significant cost and economic deterrent to the applicant, even though hardship is not defined in the code they allowed for it. And, if you could go to page 12 where it says number 25193, it says the Santa Fe County Land Development Code, New Mexico 1980, further Article II, Section 3.2 provides in no case shall any variation or modification be more than a minimum easing of the requirements. So, I appeal to you that if 198 feet was still considered minimal, then 8 inches is really inconsequential. We talking about this much space sticking up above two other peaks that will be like it and it will actually be behind the building and most people won't be able to see it but those that can, it'll be 70 feet back from the front of the home once that constructed.

So, we appeal to the Commission not to put the applicant through this hardship and – we realize that no one can really be hurt by an 8 inch variance on this because it's not damaging to anyone. No one would even know that this was there, that it would be in violation or anything, unless someone told them it was there and they would have to go to a certain point just to see it.

And, before I end I would like to – oh, we have agreed to change the color at the applicant's cost. And I would like three to five minutes to respond to any information that may be inaccurate by the Vista Redonda Association, if I may, Madam Chair.

CHAIR HOLIAN: Yes, afterwards.

MR. MCCREIGHT: Thank you, Madam Chair.

CHAIR HOLIAN: Mr. McCreight, may I ask you, do you agree or does the applicant agree with all of the staff recommendations?

MR. MCCREIGHT: As far as changing the color, we agree. As far as reapplying, if we were granted permission to do this we would have no issue with reapplying in order to give the correct status. We put in for 21, we only built it at 18.8. We didn't know that we were over until the Vista Redonda Association made a complaint. We didn't know we were in violation. We thought that we conformed with everything that was required of us.

CHAIR HOLIAN: Thank you, Mr. McCreight. Any questions for the applicant?

COMMISSIONER ANAYA: Madam Chair.

CHAIR HOLIAN: Commissioner Anaya.

COMMISSIONER ANAYA: Madam Chair, relative to that conditions what purpose would it serve, Ms. Ellis-Green, for us to have the applicant reapply for something we already understand fully? What's the purpose in that?

MS. ELLIS-GREEN: Madam Chair, Commissioner Anaya, it actually doesn't say reapply, it says update. What we would want is our files updated to show the correct height and we can do that through a letter, through initially the plans or something like that so it wouldn't need a new application.

COMMISSIONER ANAYA: Okay, thank you.

COMMISSIONER MAYFIELD: Madam Chair.

COMMISSIONER ANAYA: Thank you, Madam Chair, that was the only question I had.

CHAIR HOLIAN: Commissioner Mayfield.

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COMMISSIONER MAYFIELD: Madam Chair, thank you. Commissioner Anaya, thanks for asking that question. So an update are there any new additional fees associated with that update or is staff going to waive those fees?

MS. ELLIS-GREEN: Madam Chair, Commissioner Mayfield, there wouldn't be any fees associated with it.

COMMISSIONER MAYFIELD: And they would just have to reflect the new 8 inches also or would they be in compliance I guess if this Commission so chooses to approve that?

MS. ELLIS-GREEN: Madam Chair, Commissioner Mayfield, we'd put a copy of the findings if they were approved in the application and we would also have the applicant initial and write on the elevation.

COMMISSIONER MAYFIELD: Thank you. Madam Chair, I'll still reserve some questions for after all the parties speak.

COMMISSIONER ANAYA: Madam Chair [inaudible].

CHAIR HOLIAN: Commissioner Anaya.

COMMISSIONER ANAYA: Madam Chair, you can answer this – tell me your name again, I'm sorry.

MR. MCCREIGHT: McCreight.

COMMISSIONER ANAYA: Mr. McCreight, the house that you showed in the video on the hill, the flat roof, two story houses, how high are those houses?

MR. MCCREIGHT: Well, they're probably up to what's allowed, 24 feet, 22 feet in that area. I would also, if I may, show you a photograph of when you riding down 592 when you get to the new Four Seasons, the old Rancho Encantado, there's a home that sits up on the ridge and that's your introduction to Vista Redonda. So if I may, Madam Chair, I'd just like to give you those two photographs. Thank you.

COMMISSIONER ANAYA: Does anybody know the answer to that? Do you know the answer to that?

CHAIR HOLIAN: Mr. McCreight, if you could give it to staff and then –

MS. ELLIS-GREEN: Madam Chair, Commissioner Anaya, I don't know the height. They look like they're 22 to 24 foot high. Our height requirements for ridgetops were introduced in the middle to late 90s so if they were built before that they would have had either a 36 or a 24-foot height requirement.

COMMISSIONER ANAYA: Madam Chair, I don't have any more comments until after I hear the public hearing but I do have a comment that I would like to make at the end of this case; however, it comes out that deals with height because now in our code we're facing height issues throughout the County and so if I could reserve and have a comment at the end of the public hearing portion. Thank you, Madam Chair.

MR. MCCREIGHT: Madam Chair.

CHAIR HOLIAN: Yes, Mr. McCreight.

MR. MCCREIGHT: In addition the two photographs are one. As you're approaching the ridge in Vista Redonda you can see that home that is sticking out and it's not your normal type of architecture. And then I blew one up just so you can have a better idea. The other photograph that you were just given is what it actually looks like now that we have

the forms up and you would just have to replace those forms if you would with the actual walls of the home and you can see what's actually going to be showing above that wall.

Thank you very much.

CHAIR HOLIAN: Thank you. This is a public hearing. Is there anybody here who would like to speak on this case either in favor or in opposition to? Please come forward state and your name and be sworn for the record.

GARY FRIEDMAN: Madam Chair, Commissioners, actually, I'm the attorney for –

CHAIR HOLIAN: Oh, if you're an attorney you don't have to be sworn in.

MR. FRIEDMAN: My firm Cassutt, Hays and Friedman represents the Vista Redonda Property Owners Association.

CHAIR HOLIAN: And your name?

MR. FRIEDMAN: My name is Gary Friedman. Before I start I'd like to give you some handouts that were actually handed out at the CDRC meeting but for some reason not all of these got in the record for the meeting here tonight but they should be part of your consideration. So if I could please hand those out to you?

CHAIR HOLIAN: Yes, please. If you would give them to our staff and Mr. Lovato will hand them out.

MR. FRIEDMAN: I'll let Mr. Lovato hand those out and then I'll explain what they are real quickly. One of them I think you've already received which is a letter that I had addressed to the CDRC back in February before that meeting. The other documents are a letter from one of the homeowners that is actually situated very close to the subject property and that's a letter from George Martin. Mr. Martin, it's a two-page letter, that explains his objections to the variance and then also that's dated February 15, 2013. And, also, included for your review is a letter dated February 15, 2013 from the architectural committee at Vista Redonda explaining why they're concerned about this structure and the problems that exist with its non-compliance with the County Code. There are three photographs here that I'd like to review with you briefly. The first photograph is a view from Vista Redonda Road it's approximately half a mile away, it's marked on the bottom that's when you can clearly see the reflective nature of the roof. And that it is visible. These are County roads not private roads. Vista Redonda and Paseo Encantado so that's the picture from approximately about half a mile away taken by one of the residents.

Now there's another picture taken from Paseo Encantado southwest and that's approximately 8/10 of a mile away. That's further away but you can still how that roof reflects, the high visibility of the roof and that it sticks up out of the topography.

And then the third picture is for two purposes, this is this picture. The purpose of the picture is to number one show the reflectivity of the roof but also to show the background of behind the roof which comes into play when we're talking about how to fix that mirror effect that that roof has. I think the County had proposed in one of the recommendations to have the roof done in earth tones, I'll talk about the code in a little bit, but, actually, the code says that first you should look at the natural vegetation that exists surrounding the structure and we strongly want to make sure that this roof is done in a dark green color and have that as one of the conditions so that it blends in with the natural vegetation behind it. Making it a tan

color will not do that job. The structure itself we're okay with having it as a natural tone color but we have to address the roof also.

Obviously, I am here to oppose the variance on behalf of the Vista Redonda Association. The structure built by Mr. McCreight violates the code in a number of different ways. Number one, it exceeds 18 feet in height. The interesting thing to me is that when this case was presented first before the CDRC the height that was presented in public testimony was not 18 feet and 8 inches. It was 19 feet and 2 inches and that was what the staff had gone out there and measured. Somehow between that hearing and now the height got reduced to 18 feet 8 inches. And if you look at the minutes, I think they're included, if you look at the staff report for the CDRC it says 19.2 inches and I'm sure Mr. Lovato would confirm that. So to me there's two explanations for that. One is that it was either wrongly measured now or previously or that it was measured correctly both times and someone put in fill alongside the structure to raise up the ground level so that it would not be as problematic or to try to make it comply with the 18 feet.

I don't know the answer to that but I am presenting it before the Commission because it is a problem for me because the evidence has changed from one county, I mean from one County board to the other.

And now I also have a situation where the staff recommended denial before the CDRC and staff now is recommending approval of the height variance before the County Commission. And, that's an issue that the homeowners I represent have questions about. I understand the rationale presented by County staff and obviously I don't have any problems with County staff they're great. But I do have a problem with how the whole process was handled. The drawings that were submitted to the State Construction Industry Division did not show any elevations for the garage. Did not actually show how high it was. So the only way the staff is determining that is now doing a scale after the fact and saying it was 21 feet and that we stamped it and approved it and we should have known better.

So, it's an error. It's up to the Commission to how you want to deal with that but I wanted to present all the facts before you.

So there's three concerns here. One is height. One is visibility of the roof. And, three, is the screening. All three are covered by the code. The accessory structure exceeds the height allowed under the code and Article III of the code when it talks about variances says, The applicant must show that strict compliance with the requirements of the code would result in extraordinary hardship to the applicant because of usual topography or other such non self-inflicted conditions. So, on behalf of the property owners in Vista Redonda we're asking the Commission to deny the variance with respect to the height because this matter does not, in our opinion, involve any unusual topography issues or non self-inflicted conditions.

Mr. McCreight is an experienced developer and builder. He says as he mentioned himself, he's built in that area before. He knows that neighborhood. I don't think it's an excuse for him to say that I just didn't know. There's a requirement, you know, to have knowledge especially if you're an experienced builder and he didn't check it out and so he presented it before the staff and then he built it above what the County requirements require. And if you look at Exhibit 10, the last exhibit, it's the CDRC hearing minutes in that page 8 actually of those minutes. And in the second paragraph and the bottom, the last sentence, the

second paragraph on page 8, Mr. McCreight is testifying there that the additional height was an honest mistake in construction and then later he goes on to say if you look at the third paragraph from the bottom, that he said the – Member Anaya asked, what changed between the time the plans were drawn and the time the roof was completed. And, Mr. McCreight answered that the work was done by inexperienced constructor workers. In other words, human error.

Since the applicant's request for a variance is based upon his own human error and not being aware of the County code we think that's not an adequate justification for the granting of the variance. The criteria for a variance does not include financial hardship or human error as a rationale. Furthermore, Article 2, Section 3 states, that in no event shall a variance, modification or waiver be recommended by a development review committee or granted by the Board if by doing so the purpose of the Code would be nullified. In this case, we think the purpose of the Code would be negated if the variance application is granted.

The second issue I want to address is visibility. And, before I do that not everyone from Vista Redonda is going to speak but I'd just everyone here from the neighborhood to stand. Thank you. The structure as some of the property owners will tell you is highly visible from the Vista Redonda residences and the public roads. The public roads I'm talking about as I mentioned before are Paseo Encantada, Vista Redonda and also it's visible from Highway 592. Moreover the bright reflectivity of the roof is an important issue. The development code for ridgetop structures is designed to assure that buildings blend into the natural vegetation and landscape and this is what I mentioned before. The Code states that open quotation, neutral and darker shades of color shall be used for exterior walls, facades and roofs which blend in with the natural foliage of the native trees or other vegetation. So that's why we want the roof to be green. Roof colors from adjacent properties and all walls and facades, the Code also says, shall be muted and of non-reflective or non-glossy materials with a light reflective value of less than 40. She we want to make sure that when those conditions are placed that they comply with the code as I'm stating here.

So my clients request that the County require the roof to be made a dark green color to blend in with the surrounding trees. Our also concern here is one of time. The roof has been there for a long time. The mirror effect has been there for a long time. We want to make sure that that problem is resolved within a short period of time so we'd like as part of the conditions for the Commission to say you have 30 days to do it or you have 60 days to do. It's not going to take a long time for some folks to get up there and paint that roof, it's a day's work so I think that a 30-day timeframe period is more than ample to get it done.

The third issue regarding screening is also important to the residents and under Article III, the applicant is required to screen a large structure from the public way to protect and enhance the visual appearance of natural hillsides. In the Code it says that such screening is subject to a site visit and approval by the Code Administrator. I didn't see that in the recommendations of staff but I think that should be in there also.

So as mentioned by the letters I've handed out and what I've just talked about, we're asking the Commission to please deny the variance request, thank you very much.

CHAIR HOLIAN: Thank you, Mr. Friedman. Is there anyone else here who would like to speak on this case either for or against? Please come forward, be sworn in and state your name for the record. Also, those of you who would like to speak please come

forward so that we can move this along. Also, for the people from the community I am going to ask that you stick to a two-minute time limit – okay, so you will see the time up there.

[Duly sworn, Jill Bossory, testified as follows:]

JILL BOSSORY: My name is Jill Bossory I am resident of Vista Redonda. I live on Paseo Encantado Northeast. And, Madam Chair, Commissioners, thank you very much for hearing our case. Vista Redonda is a development which has been in existence now for over 35 years. Most of us or I should say all of us who purchased homes in Vista Redonda moved there because of the beautiful mountain, the great homes, the varied that we have in Vista Redonda and also the protections in knowing that the area around Vista Redonda will be protected against those wishing to infringe on the rights of Vista Redonda residents. I am on the architectural committee as is [inaudible] Larson who is one of the people who is most being affected by this roof issues. Bill Larson's father passed away and he could not be here so I am here in his stead. There has been a long history of problems between James McCreight and Vista Redonda. Our homeowners association in several instances had to hire attorneys in the past to protect our wonderful community in regards to Mr. McCreight's building plans. He has a history of building structures that suit himself but do not always complement the aesthetics of the area. He also has another project that he is about to embark on that is in sight of my home especially that is probably going to do the same kind of thing that he's trying to do on the building that we're talking about now.

Allowing James McCreight the variance on this structure which has a roof higher than the County ordinance in addition to the high reflectiveness which causes a health and safety hazard will only grant him permission to continue breaking the laws of the County in the future projects. To sum it up, give him an inch and he'll take a mile. Thank you.

CHAIR HOLIAN: Thank you, Ms. Bossory. Next.

COMMISSIONER ANAYA: May I ask a question.

CHAIR HOLIAN: Yes, Commissioner Anaya.

COMMISSIONER ANAYA: I'm sorry, ma'am, tell me your name again.

MS. BOSSORY: Jill Bossory.

COMMISSIONER ANAYA: Bossory?

MS. BOSSORY: Bossory B-o-s-s-o-r-y.

COMMISSIONER ANAYA: Thank you, Ms. Bossory. You made a comment at the end that the roof would be a health and safety hazard.

MS. BOSSORY: Yes.

COMMISSIONER ANAYA: Could you tell me how?

MS. BOSSORY: It's a health and safety hazard because of the reflectiveness of the roof. There are times during the day when our bright New Mexico sunshine that you're driving on one of the several of the roads in Vista Redonda and it totally blinds you. I mean, you can't – I don't care how thick your sunglasses are, you can't see the road in front of you. It is a health and it is a safety hazard. It's like shining a huge bright light in your eyes where you can't – you can't see.

COMMISSIONER ANAYA: And this particular roof does that or just reflective roofs?

MS. BOSSORY: Yes. No, this particular roof.

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COMMISSIONER ANAYA: And then you said that the subdivision has been in existence for 35 years?

MS. BOSSORY: Absolutely, over 35 years. We have homes that were built prior to the change in your building standards, your building height standards.

COMMISSIONER ANAYA: Are there houses in the subdivision that are higher than the standard after the ridgetop –

MS. BOSSORY: You know, I can't answer that. I'm a resident. I don't have knowledge of that, I'm sorry.

COMMISSIONER ANAYA: Okay, thank you. Thank you, Madam Chair.

CHAIR HOLIAN: Thank you, Ms. Bossory. Next.

[Duly sworn, Harvey Stone testified as follows:]

HARVEY STONE: Madam Chair, Commissioners, my name is Harvey Stone. I'm a past president of Vista Redonda Water and Property Owners Association and a current board member. Mr. McCreight started off his presentation with a perspective which is that the only one who will be harmed could be the applicant here. And, I'd like to provide a different perspective. A perspective, in fact, that we as a board have had to spend a good deal of time discussing this because the entire board is so concerned about this issue and because we are being stopped and called up by residents who are not on the board who are also very concerned and obviously feel harmed or could be harmed if a variance is allowed to go through here. And to the degree that we have even taken association dues to pay for a lawyer to present today in front of you. So there is a great deal of concern about this amongst the community and we are a reasonable group of people. And, we have, for instance, worked very closely with Commissioner Mayfield and the County on the upgrading of our roads the public roads that go through the subdivision. So I want to emphasize that this is not a simple issue of oh yeah, we'll grant him a variance and what's a few inches here or there. There really is a great deal of concern by a great deal of people about this issue and on behalf of the board we would like to encourage you to truly deny the variance so that all the issues can be settled here and that future buildings that McCreight does can also follow within the guidelines of the County.

CHAIR HOLIAN: Thank you, Mr. Stone. I have a question.

MR. STONE: Yes.

CHAIR HOLIAN: If the variance were denied is your suggestion that the structure be torn down?

MR. STONE: I don't know how that gets handled. I'm not a builder or architect.

CHAIR HOLIAN: Okay, thank you.

COMMISSIONER MAYFIELD: Madam Chair.

CHAIR HOLIAN: Yes, Commissioner Mayfield.

COMMISSIONER MAYFIELD: This is more of a question and I was going to save all of them to the end and I'm glad Mr. Stone did bring up, I work very well with the Vista Redonda community association and Mr. McCreight also on different issues. I will just say that he's helped immensely with water issues within the neighbors a little I guess more east of you all with Chupadero and Rio en Medio. So with that note, I'm just going to throw it out there and I'll going to make a lot of comments tonight and some people may be happy

with my comments and some people may not be happy with my comments. But community and working together – this Commission in the past has done this, and I’m just going to throw that out there of asking for cooperation, collaboration, and mediation. I’m just going to put that out there right now just for a thought to my colleagues and to this community and I’m going to hear all the rest of the comments and I’m just going to make some of my own observations and comments, just so everyone can have that in the back of their minds please.

[Speakers were sworn as a group]

CHAIR HOLIAN: Thank you, Mr. Stone. Is there anyone else who would like to speak?

[Duly sworn, Beverly Martin testified as follows:]

BEVERLY MARTIN: My name is Beverly Martin. We look directly across the ravine to this site where the house is being built. I have a neighbor – I feel very strongly that everyone should be able to fulfill their dream and build what they want to build but I also feel very strongly that we have to as a community appreciate the environment and try to live within guidelines and not do things that are illegal. And I feel like what is being done right now is threatening to the residents of Vista Redonda because there are many lots involved and we just don’t want this to continue. So I’m hoping that we can compromise and work together and try to friendly in this arrangement so that we can continue later to be more civilized with one another.

CHAIR HOLIAN: Thank you, Ms. Martin.

[Duly sworn, Keitha Leonard testified as follows:]

KEITHA LEONARD: My name is Keitha Leonard. I’m also a resident of – Keitha K-e-i-t-h-a, it’s an odd name. My name is Keitha Leonard. I am also a resident of Vista Redonda and I’ll be very brief I just wanted to say a few things . First of all we see this building, we see this structure everyday from the road, from several roads in Vista Redonda and also from our properties. Not just mine but many of my neighbors have mentioned this as well so certainly it is clearly visible from Vista Redonda. And for us the main issues are the reflective roof and also the color of the building. And that I think is – well, certainly, that is why I’m here tonight to make sure that those issues are taken care of. The reflective roof is really difficult for all of us as Jill mentioned earlier it is a health and safety hazard and of course the color of the building. The building may not be finished, I don’t know. I have not been up there. I’ve only seen it from both the roads and my property. But certainly those are my two biggest issues with that particular structure.

We are also concerned for the future. We want to make sure that all additional building or all future buildings including the structure that is possibly going to screen this particular structure that we’re talking about we want to make sure that those meet code. That those aren’t somehow mistakes or somehow don’t meet code. We all met code and so we think it’s only fair that any additional buildings up there meet code as well.

A couple of questions were asked that I think I can probably answer about Vista Redonda. First of all as far as I know and I have been a resident there for quite a while all the structures are permitted in terms of all the two story structures. They are certainly permitted and they do meet the County code at that time. So, in fact, they’re not higher than what was allowed at that point. And I think there was one other question – oh, about whether or not we would ask that it be torn down. No, we simply ask that it be the correct height or barring that

that it at least that it not have a hugely reflective roof and some sort of strange color. It's a dark color know and again it may not be finished but the color of the building itself is a problem.

CHAIR HOLIAN: Thank you, Ms. Leonard. Is there anyone else who would like to speak on this case? Ms. Martin, please be brief.

MS. MARTIN: The picture that was shown that was photo-shopped by your wife shows a wall of 18 feet and I'm under the impression that that was supposed to be a flat roof –

CHAIR HOLIAN: Please speak into the mike. I'm afraid it's not being recorded.

MS. MARTIN: I was under the impression that was supposed to be a flat roof building which should only be 14 feet by Code so I just would like to have that explained by Mr. McCreight since I was confused by that.

CHAIR HOLIAN: Okay, thank you. This public hearing is closed. Mr. McCreight, would you like to respond?

MR. MCCREIGHT: Thank you very much, Madam Chair, Commissioners. You know my integrity came into question this evening and this is a community that is requesting you to execute the proper procedures but yet they have failed to do that themselves. I have here a letter that was sent to Commissioner Mayfield and one of the things that it says in here is this it says, Last week as the roof was being constructed it appeared inconsistent with the plans I reviewed in the County as approved. A visit to the property reflected the following. Now, that visit was trespassing. This has been going on with them time and time again. Now, their attorney submitted some photographs tonight. That photograph shows again that they trespassed again. Now, the gist of this letter here, it says here it's addressed to Mr. Archuleta and what it's implying is that he's not doing his job and it's sent to the Commissioners to show that he's not doing his job but yet they go through all these things – I've been unsuccessfully over the past week in reaching you by phone and having received a return call so I've decided to send this quick note and he goes on to discuss his concerns. Thank you for your consideration. It's not signed, okay. This is a ploy. They mention Mr. Larson. Mr. Larson's house is up for sale, by the way. Here's the first letter that was sent to Mr. Larson he ripped it open saw who it was sent from and denied the letter. So he's supposedly concerned. This isn't about his father dying this was from the last meeting two months ago.

CHAIR HOLIAN: Mr. McCreight, I would actually like to ask you to stick to the issue at hand and the technical facts please.

MR. MCCREIGHT: Madam Chair, I will. First of all I did make the statement that maybe it was sloppy construction because I'm not running that job. It's an owner/builder job. I'm a liaison person. If the permit that was submitted was 18 feet and they went to 18'6", that's sloppy construction. Okay. That's not responsibility. At that point in time what the land use did when that was discovered they took the plans and they ran it to scale and the scale was 21 feet. Not 18 feet. So they weren't in violation of it. I thought they were saying that the plan was at 18 feet and that somebody did 18'6", that's sloppy construction in my perspective but to constantly call me into question when I've had so many things violated by that community is ridiculous.

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So, I'd like to stick with the issues. One, we moved that structure over to the south to be out of the line of Mr. Larson's house and if we would have left it there it would have been, it not would have been in what's known as the escarpment act. To explain to you about the subdivision it's 37.5 acres and that's the only lot that is in the escarpment act and it's the lowest lot in the subdivision. So we have no issue with redoing color of the roof and we'll conform to what's in the county standards, Madam Chairperson, but this has been going on and on again where they question my integrity. I think Mr. Mayfield has some information that I sent to him on some of the things that they've done to us that were against the law. We have police reports and –

CHAIR HOLIAN: Please, Mr. McCreight.

MR. MCCREIGHT: I understand but it's very frustrating, Madam Chairperson to have these people come up here and act like they're all do gooders when they have done nothing but asinine things to our subdivision.

CHAIR HOLIAN: Mr. McCreight, please I ask you not to make statements about –

MR. MCCREIGHT: I understand. I apologize for that but you know what you can --

CHAIR HOLIAN: -- their motivation.

MR. MCCREIGHT: -- thank you for your time.

COMMISSIONER ANAYA: Madam Chair.

CHAIR HOLIAN: Thank you. Commissioner Anaya.

COMMISSIONER ANAYA: Madam Chair, I have questions and then I'm going to defer, listen to my colleagues and particularly Commissioner Mayfield who represents this area.

Just some comments about the structure and building construction. You know just looking at it and I just asked Commissioner Chavez who is more of a building and carpenter than I am, but I definitely have been exposed to some, the structure has an 8:12 pitch on it and if you took it to a 6:12 pitch just for assumption, discussion on a 29 foot stand, you'd probably end up with close to what you needed to get or maybe in the 4:12 but as far as visibility is concerned and the pictures that were provided and provided by the attorney, I forget the gentleman's name, I apologize, it wouldn't change aesthetically the look from changing that gable pitch from 8-12 down to even a 4:12 you would still see, in essence, because of the roof design the same structure. And, so, the questions I'm asking myself as I'm listening to the testimony and thinking – and the reason I asked questions earlier about other structures in the area was, well is this the only structure that has this particular height and the answer I'm getting is we don't know absolutely without fact if it is or not but probably there's other structures that have other heights based on what we saw in the pictures and even what you represent in this picture. So, then the question becomes, and I think that's what Commissioner Mayfield alluded to earlier and the Chair alluded to, then what is the reasonable solution.

I do not think, and I want to hear what Commissioner Mayfield has to say, but I don't think that tearing that structure down and going to a 6:12 or even a 4:12 pitch is reasonable. I don't think that's a reasonable solution. I do see the concerns associated with the reflection on the roof and I do think the County has a responsibility associated with the permit we

issued. So I actually feel responsibility in condition and I actually see a fiduciary responsibility as a partial solution. So I want to ask the attorney if you'd come back up and taking into consideration what I said I want to give you an opportunity to respond to the first question; do you see that tearing this roof structure down and redoing it at – let's just say for discussion – let's say redoing at a 4:12 pitch reducing 8 inches, I mean does that satisfy you or the people you represent? Or is it a substantial [inaudible] if you will to picture that in essence are going to look the same if you had that pitch.

CHAIR HOLIAN: Mr. Friedman.

MR. FRIEDMAN: Madam Chair, Commissioner Anaya, I haven't talked to my clients about that issue so I can't answer that. I can only say that it's in violation. It's up to the Commission to decide how stringent you want to enforce the variance code. I presented our position as I've been asked to. I sit in your seat on a regular basis as the chairman of the City Board of Adjustment so I understand your concerns. But I really can't unfortunately –

COMMISSIONER ANAYA: Well, let me ask you a different way. Let me ask you a different way because I guess I heard a couple of residents get up after you got up and said where's the compromise or where's the discussion? So let me ask it this way; what is the compromise? If – that was represented after you spoke by a couple of people so –

MR. FRIEDMAN: Yeah, I think I'll let my clients address that. I think a lot of the biggest concerns we have at this point are the roof, the reflective nature of the roof that has to be taken care of and muted and done in compliance with the code and the light intensity issues and also we want to make sure it's not painted tan. That it is painted dark green and we also want to make sure that –

COMMISSIONER ANAYA: Just on that because I want to make sure I track everything accordingly. Is there anything in the code that says it has to be a color specific in the code? What does it say in the code specifically? Does it say that it should be what?

MS. ELLIS-GREEN: Madam Chair, Commissioner, I we'll take a quick look at the actual code but I don't believe it specifies a color. It has a light reflectivity value on it and so it can be any color.

MR. FRIEDMAN: It does talk about looking at the vegetation and foliage first and if you look at the background, you see the dark trees in the background in those pictures. I'll give you the actual cite.

COMMISSIONER MAYFIELD: Exhibit 5, Commissioners.

MR. FRIEDMAN: Pardon?

COMMISSIONER MAYFIELD: It's Exhibit 5.

COMMISSIONER ANAYA: I guess what I'm asking is, it says foliage but does it say if the foliage is green the roof has to be green?

MR. FRIEDMAN: It has natural and darker shades of color shall be used for exterior walls, facades and roofs which blend with the natural foliage of the native trees or other vegetation.

COMMISSIONER ANAYA: Okay.

MR. FRIEDMAN: And then it says if the vegetation is sparse, you know, there wasn't trees in the background then the natural earth tones of the soils – you know, it

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should blend with the natural earth tones of the soils on the building site but that is secondary.

COMMISSIONER ANAYA: So before they respond and I absolutely want to let you respond I want to ask Mr. McCreight so I make sure I track and understand what you said.

CHAIR HOLIAN: Mr. McCreight.

COMMISSIONER ANAYA: Mr. McCreight, I'm sorry. Did I hear you correctly say that you were willing to change the color of the roof based on the code?

MR. MCCREIGHT: Madam Chair, Mr. Commissioner, absolutely we will conform to whatever is in the code. One thing that I would like to mention, please, is that, yes, when they originally measured the roof down to the ground the ground was all –

COMMISSIONER ANAYA: Madam Chair, if we could just – I've got some specific questions.

CHAIR HOLIAN: Mr. McCreight, that was off the topic. Please answer the question.

MR. MCCREIGHT: Yes, we would conform to the code.

COMMISSIONER ANAYA: Is Mr. Sanchez here?

MR. MCCREIGHT: No, he's not.

COMMISSIONER ANAYA: Is Mr. Sanchez willing to have a green roof? I mean I'm not saying that's what he has to do I'm just saying is there willingness for him to have a green roof?

MR. MCCREIGHT: We're willing to commit to whatever is in the code. We will follow the code by the rule like we thought we were doing originally, Commissioner Anaya.

COMMISSIONER ANAYA: Okay, so you don't know if it's green or brown but you'd conform to the code in a darker color?

MR. MCCREIGHT: It will not be any color that is not already existing in Vista Redonda.

COMMISSIONER ANAYA: Madam Chair, I guess I would like to hear from the residents and specifically what I'm asking for is that you guys said the word compromise and I want to hear what your definition is of that based on your comments.

CHAIR HOLIAN: Mr. Stone.

MR. STONE: Yes, thank you. I can't speak for the board because the board's not here obviously. But speaking for the residents who are here we are willing to have the height variance granted as long as all the issues – the reflectivity and color – are met.

COMMISSIONER ANAYA: So, I heard it – if I could, I appreciate it very much that you said that. But there was three conditions and the third condition we basically have clarified that it's not a condition they would have to ask for an update; right? So the other two conditions reflectivity and what's the other one, Penny?

COMMISSIONER CHAVEZ: Color.

MS. ELLIS-GREEN: Screening. Screen the structure so it'll have some landscaping around it.

COMMISSIONER ANAYA: And that the applicant is already dealing with, correct? But they're willing to deal with it. Mr. McCreight, are you willing to deal with that?

CHAIR HOLIAN: John, do you have a comment on that, the screening?

MR. LOVATO: Madam Chair, Commissioner Anaya, they have planted some and he's going to be required to plant some more.

COMMISSIONER ANAYA: And Mr. McCreight is aware of that and so is the owner of the property?

MR. MCCREIGHT: Madam Chair, Commissioner Anaya, we planted over 100 trees but the property is not done yet so the proper screening cannot be applied until it's done. Because you have to stucco the building you have to bring scaffolding around the building so it's premature for that to take place and we have no issue with that.

COMMISSIONER ANAYA: I'm not saying timing. I'm just saying that there's no disagreement from you and it's going to happen.

MR. MCCREIGHT: No, we absolutely agree to do that.

COMMISSIONER ANAYA: Okay, so I'm sorry. Sir, were you done, Mr. Stone?

MR. STONE: Yes.

COMMISSIONER ANAYA: Okay, thanks.

CHAIR HOLIAN: Ms. Leonard, do you have a comment?

MS. LEONARD: Yes, I do. You asked us about compromise and we are certainly willing to compromise and in fact as Mr. Stone said, we'd be fine with an additional 8 inches especially if it was a mistake. However, there are a few other things that we are concerned about. First of all the reflectivity and we would like something more specific that's why we're asking for the green paint because we know that's something that we can live with as opposed to we will meet the code. Mr. McCreight has just recently said a few minutes ago that he thought he was meeting this highly reflective roof that done of us can deal with that is a health hazard or a safety hazard so we'd like something more specific from this Commission before we walk away knowing in fact that that is what one of the conditions would be and so we know that it will be met. And so that's why we're asking for green. We'd be fine probably with other colors but green we know would work and it would take out the reflectivity and it would make that higher structure which is now going to be a variance and is over what the code allows it will make that higher structure be less visible so that's again why we're asking for a green roof.

We were also asking for a particular timeframe. That roof as our attorney mentioned has been up there for a long time and we'd like to see something done fairly quickly as opposed to maybe within the next year or two. So we're asking for perhaps 60 to 90 days. Something reasonable. Something that is feasible. But something that is specific so we'd like a specific color, a specific timeframe. We would also like to know that the future buildings including the one that is going up as in quotes screens around this structure will, in fact, meet code. That's another thing that we're very worried about. Mr. McCreight has not yet answered and I know he hasn't been actually asked to answer so we would ask him to answer that now; what's he doing with his current structures? Are we going to have a problem? Are

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done with something else. But I just want you to know as far as on this record on an Exhibit 8 the Exhibit 8 exhibit is showing 19.2, so just so you know that is in here. It's not telling you what the floor elevation is what was excavated, what wasn't excavated. You know, in excavation work that's always going to change when they come and do the backfill. For all I know, he could add two more feet tomorrow and we'll be well below that threshold. I don't know what those rules are and that might alleviate it and there wouldn't have to be the new pitch. So I just want to point that out to everybody also.

Now, I just want to address a couple of other issues. And I'm going to go to our code. One thing I remember long ago and this was an issue and it was in City limits coming down or coming, I guess, north on US 285/84 or 84/285 there is a home that is right off of the highway, beautiful pitched roof home. And there was a huge issue of the reflective roof. That was with that construction. A bunch of different people – I don't know what the pitch is. Beautiful pitch. This was a very big issue as far as the, I'm going to call it corrugated steel, I don't know what the roofing material is. It was kind of like a corrugated steel. There was a huge issue with that material. And that's off a major highway that was blinding everybody's eyes. I don't know if any of you remember it. I remember it extensively. Everybody was talking about that. And they just said look, that wasn't our intent but it's going to weather over time and it's going to be either sandblasted. They're going to try to change it and that was a big community concern. It was one of my concerns. I drive that corridor everyday back and forth to work. But it did weather. And, I'm just going to say this right now: I find it aesthetically pleasing to me. I think it's a beautiful structure. I even like the color it. So that does weather over time and it does kind of change. It's kind of gray. I think it blends in with the scenery. That's just my personal preference and I'm just letting you know that. So on that I almost think it's still even the traditional building material and the reason I'm going to say this is that a lot of folks do sometimes have to build with that material. Maybe it's an inexpensive material they're putting that corrugated steel on there. It allows for rain to run, water to run. There's not a lot of water penetration the way it works. So I'm just throwing that out there also. So I understand the reflective coding issue, the sun blocking issues but that will definitely weather over time and/or there's probably nothing that would prevent that from being sandblasted and dulled right away. It may even kind of rust and turn into a nice rust look and brown look. I don't know if that's the look you all are looking for but it might come out with some orange rust tones. Just for what that's worth. So that might be something that could be amenable to everybody else. Maybe not. Maybe there's heads shaking out there or not. I don't know. For me, I don't see what that big issue is. That's me. I think it's just a traditional building material for maybe some people who can't afford to put these big expensive roofs on their homes and for somebody who still wants to move out there.

Now, as far as the Vista Redonda community do you all have covenants that are within that are within that. And, Mr. Friedman, you're they're attorney so I'm going to ask you to answer that. Are there covenant restrictions within Vista Redonda's group that say you can do this, this or this? So I would like to know what covenants are applicable in that community?

MR. FRIEDMAN: Madam Chair, Commissioner Mayfield, I'm sorry I can't speak to that because, although I came their attorney I was engaged just with respect to this matter so I have never reviewed their private covenants or –

COMMISSIONER MAYFIELD: Thank you. Staff, do we know if the Vista Redonda area has any covenants as far as their building requirements?

MR. LOVATO: Madam Chair, Commissioner Mayfield, they may have some older covenants but as far as I know there's no covenants.

COMMISSIONER MAYFIELD: Okay, so I'll ask any Vista Redonda member do you all have any covenants that you abide by?

MS. LEONARD: Yes, we do. We have quite a few and, in fact, at least one member of the architectural committee is here if you want to ask for specifics. Jill Bossory. Oh, she left I'm sorry. Yes, and I know quite a bit about them too if you have any questions.

COMMISSIONER MAYFIELD: No, no. I just wanted to know if there are color restrictions, buildings height restrictions that are different from County code?

MS. LEONARD: Yes, there are probably some additional restrictions but certainly we live by County Code as well. So it's both.

COMMISSIONER MAYFIELD: But your covenants are stronger than County Code.

MS. LEONARD: It kind of depends on what the issue is, I suppose. For the most part we have flat roofs not pitched although there is one pitched roof in Vista Redonda that I know of and for the most part it depends on the type of roof but a pitched roof does not always weather. Sometimes it stays very shiny for a long time.

COMMISSIONER MAYFIELD: No, I know that but you can kind of speed that process along –

MS. LEONARD: I'm sorry?

COMMISSIONER MAYFIELD: That process can be sped up also.

MS. LEONARD: Absolutely.

COMMISSIONER MAYFIELD: Okay, thank you. So, Mr. Ross, as far as covenants within a community if they're afforded they can be stronger than County Code; correct?

MR. ROSS: Madam Chair, Commissioner Mayfield, of course, yes.

COMMISSIONER MAYFIELD: Okay, thank you. So, Penny, are you aware of any covenants that are stronger in this case than what the County affords through code?

MS. ELLIS-GREEN: Madam Chair, Commissioner Mayfield, --

COMMISSIONER MAYFIELD: Madam Chair is not here so I am now the Chair just so you all know.

MS. ELLIS-GREEN: Mr. Chair, I don't know there specific covenants but the property in question I don't believe is within Vista Redonda. So those covenants would not cover –

COMMISSIONER MAYFIELD: Oh, so they're not in Vista Redonda in this area so there are no covenants that are applicable to this?

MS. ELLIS-GREEN: If they have covenants and this property is not within that subdivision then no, those covenants would not cover this property.

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COMMISSIONER MAYFIELD: So we're now working under it's not applicable to this area, right?

MS. ELLIS-GREEN: That would be correct.

COMMISSIONER MAYFIELD: Okay, that's good. So, again, permit was issued 21 feet in error by Santa Fe County. So I just want to get that out there. And staff has recommended it. The permit was done. Now the 18.8 versus the 9/8 I think we've addressed that.

Screening – I'm just going to go over this as far as the variances and I'm not going anywhere with this but I just want to make this point we have – I saw Captain Patty here earlier, I don't know if Captain Patty is still around. Captain Patty, I'm going to kind of put you on the spot right now. So the screening of structures because I kind of heard that the screening was going to be done with landscaping material and I think that's going to be trees. Now this is just what I hear because I have been [inaudible] meeting kind of in your area Tesuque area, Rio en Medio area, and all I hear from the fire department is don't be putting trees and everything adjacent to homes because that's not the most prudent thing to do. So is staff's recommendation for screening to be putting trees and everything next to this structure? Is that what staff's recommendation is to do? And, Captain Patty is that something that the fire department would be recommending or not be recommending – well, let me hear is that your recommendation staff as far as screening?

MS. ELLIS-GREEN: Commissioner Mayfield, the Code says screening of – of steep terrain and ridgetop to protect and enhance the visual appearance of natural hillsides. So, yes, it is trees but we do work with the fire department in urban wildland areas to keep a separation.

COMMISSIONER MAYFIELD: Okay.

MS. ELLIS-GREEN: So if you're not in an urban wildland area you could a tree close to a house but if you are in one and I'm not sure, maybe Buster would know better than me, as to whether or not this is in an urban wildland area but if you're in a high urban wildland area you would need to keep this separation.

COMMISSIONER MAYFIELD: Okay, before – again, we're asking for this to be condition so is this urban wildland or non-urban wildland? Does anybody know that?

BUSTER PATTY (Fire Marshal): Mr. Chair, Commissioner Mayfield, this is in a low-wildland area and we do work with Land Use staff when it comes to screening from vegetation there are multiple types of vegetation that can be put in that are high in water content not necessary the indigenous trees such as pinon, juniper and pine which are highly combustible opposed to some other type of vegetation that would hold moisture. Then we do work on trying to get like a minimum of 30 feet away from the structure.

COMMISSIONER MAYFIELD: Okay, but I want the Vista Redonda community to understand that because if we approve it with this variance screening may be 30 feet away from the structure. So I just want to make sure that that is clear. That the community may know that if this is approved. Is that what staff and our fire department is recommending?

MS. ELLIS-GREEN: Commissioner Mayfield, what we'd recommend actually is that they submit a landscaping plan and at that point our staff, the Growth Management staff and the Fire Department staff can look at it and see if it does meet

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wildland and the County Code. But, again, if it's in a wildland area and I'm hearing that it's in a low so we would work with the Fire Department to see what that separation needs to be and the type of vegetation that needs to be out there.

COMMISSIONER MAYFIELD: Okay, and I go to Chief Vigil's presentations all the time and I kind of – I hear something different from Chief Vigil, just so you all know that. Mr. Friedman, he's shaking his head, so I want to make sure that you and me are on the same page with this one. Because I don't want Vista Redonda to say, Hey, that's not we thought we heard. So, you're okay with that Mr. Friedman, what you're hearing here also?

MR. FRIEDMAN: I think submitting a landscape plan and reviewing that is a very good idea.

COMMISSIONER MAYFIELD: If it's approved. But I also heard applicant McCreight saying he was okay with variance one, so I heard that also; right, Mr. McCreight?

MR. MCCREIGHT: Variance –

COMMISSIONER MAYFIELD: Variance request one as far as – excuse me, staff condition one of the screening of the structure.

MR. MCCREIGHT: That's normal for any construction. We're absolutely in agreement with that.

COMMISSIONER MAYFIELD: Look, I'll just let everybody know where I'm going with this. Because next time we get a screening request with fire restriction and everything else I'm doing this for future land use cases also.

MR. MCCREIGHT: Madam Chair, Commissioner Mayfield, I would like to make one important –

COMMISSIONER MAYFIELD: Mr. McCreight, on my point please. Thank you. Thank you very much.

MR. MCCREIGHT: Thank you.

COMMISSIONER MAYFIELD: I talked about the roof, I appreciate that, I just wanted to bring that up with the building material. But I am going to go now to the Code. I'm going to Exhibit 5 and I'm just going to read it all so everybody hears it because I don't have a question. This is under our Code, current Code. Neutral and dark shades shall be used for exterior walls, facades and roofs which blend with natural foliage and native trees or other vegetation or where vegetation is sparse with the neutral earth tones of the soils on the building sites. Roof colors visible from adjacent properties and all wall and façade colors shall be muted and of non-reflective or non-glossy materials with a light reflecting value of less than 40 – okay, less than 40 – pursuant to manufactures specifications. When such data is unavailable compliance will be determined by a comparison of samples where data is available. The light reflective value standards shall not apply within established community districts. This is not an established community district on top of that hill; correct, staff?

MR. LOVATO: Madam Chair, Commissioner Mayfield, that is correct.

COMMISSIONER MAYFIELD: Okay. So, again, colors, I guess that is agreed upon and the applicant agreed to a green color – okay, Mr. McCreight you guys are good with the green, right?

MR. MCCREIGHT: Madam Chair, Commissioner Mayfield, this would create a serious hardship and I would like to explain why. The windows and the doors

everything has already been purchased and that's what's known as a desert gray. What we have done is we went out to the metal roofing place and we have requested that they give us, show us the metal, that fits the criteria that is in the code being 40 or less and that color is actually a color that is currently existing in Vista Redonda so they should not have any issue with that color. And that color matches all the windows and the doors.

COMMISSIONER MAYFIELD: Um, Mr. Friedman, I'm going to ask you on this one because I don't know if I'm going to get any mediation out here so I'll try and do it right now. So on that as the Code says if this is an existing color already in the community and the Vista Redonda and what the Code says would you all be amenable to looking at the color palate to seeing of the 40 percent as the code says and saying, Hey, this falls within the color palate and this is already an established color in the community.

MR. FRIEDMAN: Well, I don't think it talks about established color in the community in the Code. The Code talks about darker – neutral, dark shades of color shall be used for exterior walls, façades, and roofs which blend with the natural foliage of the native trees or other vegetation surrounding the property – around the property not in the general community. I mean, I think – you know, we're not looking at what the roof colors are for other houses and comparing it to this as a criteria. I think we're looking at what the natural vegetation is and that one picture I showed you with the green background pretty much shows how it blends in. That's our preference that it be done in a dark green – I think we'd be willing to look – I'm sure the association would be willing to look at other colors and say, Okay, those look okay too. But I can't speak for them as to which particular color is going to satisfy they other than what we've already presented.

COMMISSIONER MAYFIELD: Let me ask this: if a community member in Vista Redonda who has a flat roof, somebody higher in a lower home, and I just have experienced this with my own roof, and they come and get one of these new rubber roofs and they're done in white and they have that white roof done and that's the color it comes in – I don't know if they have them out there or not.

MR. FRIEDMAN: I don't either.

COMMISSIONER MAYFIELD: And somebody is looking down on that roof are they going to just kind of protest well this guy just had a roof redone and it's all white now.

MR. FRIEDMAN: I think everyone in Vista Redonda has to comply with the code just the way we're asking Mr. McCreight to comply.

COMMISSIONER MAYFIELD: But those individuals will not have to come to the County to get that permit to get that roof redone. I'm going to ask to go through your attorney, please, ma'am.

MR. FRIEDMAN: So I'm being told that would be a violation of their covenants and wouldn't be allowed.

COMMISSIONER MAYFIELD: Okay, but he doesn't live in the covenants' area.

MR. FRIEDMAN: No, but I'm talking about – if you're asking a hypothetical about if there's a flat roof with a white color.

COMMISSIONER MAYFIELD: Okay, I guess that – thank you and then let me just go to my last thing. So reflective coating I did that. Covenants – builders – Steve, it

was brought up by Mr. Friedman, well, I guess it's not an issue but I would want to know this for the future. So if somebody comes back and puts fill dirt is that a way to kind of change the height variance on a home?

MS. ELLIS-GREEN: Madam Chair, Commissioner Mayfield, that is something that did happen when we first went out where the construction site was is that they hadn't put the fill dirt back. I guess you could pile dirt up but you really want to meet the existing terrain so once they met that that's how it went from the 19 foot something to 18'8". But a couple of our staff has been out there and they didn't think it was practical to put another 8 inches of dirt around the site of the building.

COMMISSIONER MAYFIELD: Okay, and then my last question would be, Steve, and this would be a question for you, based on staff and, again, this is staff's errors of issuing this permit and the community's concern would the County and everything I've learned from you Steve that every case is a standalone case when it comes to a variance for the particular reasons, would staff would be setting any precedent – excuse me, would this County Commission be setting any precedent for any future permit or pending permit if we allow this variance to go through so that this would now be establishing that precedence so that, Hey, you all did this one. It's 8 inches high, or 8 inches over or a foot and a half over, so now here it is. Every home that is developed on this new 34 acres or every permit there's the door is open. So every home could be built a foot bigger, a foot higher, two feet higher?

MR. ROSS: Well, Madam Chair, Commissioner Mayfield, you don't set a legal precedent but you certainly open the door for arguments. Applicants to come in and make that same argument, that's right.

COMMISSIONER MAYFIELD: Okay. So now then if we do ask and I appreciate what my colleague said, I guess ask this applicant to tear down the roof then can the County pay for it because we issued the permit for 21 feet?

MR. ROSS: Madam Chair, Commissioner Mayfield, not only would the County – could the County pay for it, the County would have to pay for it.

COMMISSIONER MAYFIELD: Okay, so, Madam Chair, I think that I'm ready to make a motion and I know motions are always made after so I'm going to make my motion that we will deny this roof and that we will make the adjustment and the County will absorb the cost.

CHAIR HOLIAN: Is there a second? Seeing none, the motion fails. Commission, I'm sorry, Commissioner Anaya, Commissioner Chavez was next.

COMMISSIONER ANAYA: I was going to second for discussion.

CHAIR HOLIAN: Okay.

COMMISSIONER ANAYA: I'm going to second for it discussion and if I could have the floor for discussion?

CHAIR HOLIAN: Commissioner Chavez has been waiting for a long time.

COMMISSIONER ANAYA: I'm sorry, on the motion. I'll wait. I apologize, Commissioner.

COMMISSIONER CHAVEZ: I had some comments and some questions. I want Commissioner Mayfield to state his motion again because we have a request for a variance and your motion is to do what?

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COMMISSIONER MAYFIELD: Well, Commissioner Chavez, let me think this because what Mr. Ross just said and hearing what the group said if this is not a precedent that we're setting by approving this that now the applicant or future developments can be asking for all these height restrictions that is definitely my worry. Because I thought from what I've always heard is that every case is standalone and if the County is the one who erred and made this mistake, and, granted staff can make a simple mistake, that does cause me worry and that causes me worry not only this group, in this area, but that causes me worry everywhere in Santa Fe County because I've always been under the understanding that each variance is standalone and I'm not saying that I'm hearing anything different from you, Mr. Ross, but I am kind of hearing something a little different so I'm going to withdraw my motion until I do hear Commissioner Chavez's – until I hear what Commissioner Chavez states, but, Steve, it cause me a real concern what I'm hearing now. I do not want to open this up where the next house can say, Hey, we're going to – so I'm going to withdraw my motion.

CHAIR HOLIAN: Commissioner Mayfield, Commissioner Chavez still has the floor.

COMMISSIONER MAYFIELD: Thank you.

COMMISSIONER CHAVEZ: I appreciate that explanation. But the question I had is to the applicant. Mr. McCreight, if you could share some information with us on the type of metal you used on that roof, the gage and –

MR. MCCREIGHT: Madam Chair, yes, Commissioner Chavez, it's a muted gray and it is extremely dull and it is made specifically for these requirements and it matches the windows and the doors. We've already – we're actually going to not color the roof which is currently corrugated. We're going to replace it with what's known as the poor man's standing seam, so the roof is actually going to look much nicer.

COMMISSIONER CHAVEZ: So you're going to replace what's there.

MR. MCCREIGHT: We're going to take that metal off of that roof and change the design of the roof in the sense, the profile of the roof because it's right now corrugated and it's going to be flatter which is the small seams standing up and it meets all the codes all across the country for being 40 or under.

COMMISSIONER CHAVEZ: So the color won't be an issue and the reflective value of 40 you'll meet that?

MR. MCCREIGHT: It meets the code. It actually exceeds the code because I think it's at 35 or 37 or something like that.

COMMISSIONER CHAVEZ: So that deals with the reflective value of the what's currently there in place, you're going to change that out and that issue will be dealt with.

MR. MCCREIGHT: Absolutely.

COMMISSIONER CHAVEZ: So the other issue is the height and I don't see a problem with that myself. So that's it for my questions on the type of roof we've heard it's going to be changed so the color and the value will be met so I'm okay. My concerns are answered.

MR. MCCREIGHT: Madam Chair, Commissioner Chavez, in regards to being this setting a standard I believe Commissioner Mayfield was correct in stating that each

case merits its own views. And, the fact is when you have a cell tower that is approved by this County Commission at 197 feet and that's not setting any precedent for anything.

COMMISSIONER CHAVEZ: Off the topic again, but okay.

CHAIR HOLIAN: Commissioner Anaya.

COMMISSIONER ANAYA: Madam Chair, Commissioner Mayfield, on your previous motion that I was seconding for discussion I think that the bottom line is that we made a mistake. The County issued a permit that was reflecting the wrong height: plain and simple. I appreciate the fact that the property owners and the association came forward and are willing to assist with the issue associated with height because just in looking at my numbers again I know there's some architects out there that have already penciled it out but the modification to those gambles is less than an inch in the rise in the run. It's an 8/12 pitch it would tearing down the roof and erecting another gable that's probably a 7.5 run, rise to run. Which, you know admitting to the error that the staff already made that would be ludicrous. That would be just ludicrous.

So, Mr. McCreight, going to Commissioner Mayfield's comments and Commissioner Chavez's comments what's the deviation, what's the cost of that material that you have to reinstall to purchase – not install to purchase that metal, that new metal?

MR. MCCREIGHT: I believe it's roughly \$4,000, Madam Chair and Commissioner Anaya.

COMMISSIONER ANAYA: Madam Chair, sir, I'm sorry, Mr. Friedman, it's been a long day, is the association willing to accept the color within the palate that's referenced that Mr. McCreight just brought up?

MR. MCCREIGHT: And that was just for the material not the labor.

COMMISSIONER ANAYA: Madam Chair, that's what I asked for. That's what I asked for the material.

MR. MCCREIGHT: Yes, sir.

COMMISSIONER ANAYA: Thanks.

MR. FRIEDMAN: I think the property owners would prefer green but are fine with the conditions which is earth tone. We wouldn't want the gray coloring that Mr. McCreight had mentioned.

COMMISSIONER ANAYA: So, Madam Chair, and I'm going to ask the homeowner not the attorney to come up now. So we've had a good discussion and I think the County is stepping up and talking about the things that we did wrong. I do want to note that I did ask staff, I said what happened at CDRC just before I comment further and ask you a question. But I said, What happened at CDRC that the CDRC voted 5-0 to deny it? And the response was that the CDRC had no idea that there was a permit issued that was up to 21 feet. They had no idea. Had the CDRC had that information they might have taken some different consideration on the vote. So I just want to say that on the record. But understanding that I don't think that I could dictate a color to be quite honest. If the reflective value meets the intent of the Code, do you see that as reasonable?

MS. LEONARD: I do see that as reasonable. However, I would say that the Code specifically says neutral and I believe it was earthen tones in essence. We're fine with the conditions or certainly I am, I suppose I shouldn't say for everyone, but we're fine with the conditions or I am, with the conditions that staff suggested to you which is an earthen

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tone for both the roof and the building. And that would take care of for us that it is higher than it should be. And we understand that it's a mistake and as soon as found that out, as soon as I heard that out, I was fine as well. I mean, I agree it is ludicrous and it would be crazy to try and tear it down if it was mistake. But to rectify that mistake because it is higher than it should be if you could do earthen tones, which I think is what staff recommended, we would be fine with that. It would not show as much. And, you see, the gray is going to show. There's -- some of the issues that have been raised here, Mr. McCreight mentioned one particular building in Vista Redonda that does have a gray pitched roof but that is the only one. All other buildings that I know of in Vista Redonda and I've been there a long time, have flat roofs and they're all earthen tones. So and actually the one that he's talking about, the pitched roof with the gray, the dusty gray I guess that's what it is, a particular gray roof is way down in the valley and it's not visible from very many places, it's certainly visible but it's not visible from that many places.

CHAIR HOLIAN: Thank you, Ms. Leonard.

COMMISSIONER ANAYA: Madam Chair.

CHAIR HOLIAN: Yes, Commissioner Anaya.

COMMISSIONER ANAYA: Madam Chair, I'm going to defer to you, Commissioner Mayfield, I think that there's been some substantial reasonable ground made and I would defer to you for a motion but I think the recommendations that staff has and the compromise is reasonable.

CHAIR HOLIAN: Commissioner Mayfield, you withdrew your motion is there any other motion you would like or any of the other board members would like to put forward?

COMMISSIONER MAYFIELD: Madam Chair, I know you probably want to get moving on this but I don't know if you have any comments.

CHAIR HOLIAN: No.

COMMISSIONER MAYFIELD: Thank you. Madam Chair, again, I just appreciate the dialogue that was held by all. I think it was very meaningful. I'm glad we don't have to spend any money on mediation on this case but thank you. I think it was well mediated.

So, I would move forward with the case and I would ask that Mr. Ross or staff summarize now the new staff conditions as directed by or suggested by the Commission as agreed upon by everybody out in the audience. There was --

MS. ELLIS-GREEN: Madam Chair --

COMMISSIONER MAYFIELD: -- some modification I think to staff conditions.

MS. ELLIS-GREEN: Madam Chair, Commissioner Mayfield, maybe I'll take a hit at the first one.

COMMISSIONER MAYFIELD: Thank you.

MS. ELLIS-GREEN: The Applicant shall submit a landscaping plan to approved by staff and shall screen the structure to protect and enhance the visual appearance of natural hillsides. So what we added in there was that they submit a landscaping plan.

The second one, Steve do you want a shot at that?

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COMMISSIONER MAYFIELD: Is the same, I guess. The structure and the roof shall be –

MS. ELLIS-GREEN: Non-reflected earth tone colors, yeah.

CHAIR HOLIAN: Commissioner Mayfield, that's what it says now.

COMMISSIONER MAYFIELD: Okay, so that's fine. And then the applicant must update the approve a development permit from the Building and Development Services Department to reflect the correct height of the accessory structure. And, Ms. Ellis-Green, as I just heard that will afford the applicant to pull off the existing not the roof but I guess the tin on the roof and put the new one without any new fees or anything, correct?

MS. ELLIS-GREEN: Madam Chair, Commissioners, yes we can do that and we would just ask for a color sample and the proof that it's below the 40 light reflective value.

COMMISSIONER MAYFIELD: Thank you, and with that, Madam Chair.

CHAIR HOLIAN: Okay, so the motion is for approval of the variance with staff conditions and the added condition of the applicant submitting a landscaping plan; is that correct?

COMMISSIONER MAYFIELD: Yes, and I just want to say this, and that new roof will not exceed 18.8 feet. If all he's doing is taking it off and putting it back on – just new tin, I guess. Okay.

CHAIR HOLIAN: Okay, so we have a motion and do we have a second?

COMMISSIONER ANAYA: I'll second that.

CHAIR HOLIAN: Okay, we have a motion and a second. Further discussion, Commissioner Chavez.

COMMISSIONER CHAVEZ: On condition three, the applicant must upgrade the approved [inaudible] permit.

COMMISSIONER MAYFIELD: Update.

COMMISSIONER CHAVEZ: Update, right. So that stays in there right?

COMMISSIONER MAYFIELD: Yes.

COMMISSIONER CHAVEZ: Okay.

CHAIR HOLIAN: Okay, we have a motion and a second. All those in favor signify by saying "aye."

**The motion passed by unanimous [4-0] voice vote.**

CHAIR HOLIAN: Any opposed. The motion for approval of the variance with staff conditions and the added condition is approved 4-0 thank you.

**XVII. A. 3. BCC CASE # MIS 13-5020 Las Campanas Time Extension formerly Estancias at Las Campanas Cienda Partners, Applicant, Scott Hoeft, Agent, Request a 24-Month Time Extension of the Previously Approved Final Plat Approval for the Areas Known as Black Mesa (25 Lots), Mesa del Oro (23 Lots) and Las Terrazas Phase III (46 Lots), Formerly Known as Estancias at Las Campanas Which Consisted of 125 Lots on 161 Acres (31 Lots Have Been Developed). The Property is Located Along Paseo Las Terrazas, off of Trailhead Drive and Las Campanas Drive within Sections 2, 11 and 12, Township 17 North, Range 8 East (Commission District 2)**

VICENTE ARCHULETA (Case Manager): It should be clarified that this case is separate from the existing Estancias subdivision which was approved in 2003. Las Campanas ownership on occasion changed the marketing names of the projects in order to suit the needs of the development. These names are now inconsistent with the names of the project at the time of approval. This case is now known as Black Mesa, Mesa del Oro and Las Terrazas Phase III.

On December 11, 2001, the BCC granted Preliminary and Final Plat and Development Plan approval for 125 lots on 161-acres. In 2004, this project received an extension to maintain the original approvals. Black Mesa and Mesa del Oro received an extension in 2008 and were expected to be recorded within two years from 2008 or 2010.

Black Mesa is Unit I which consists of 25 lots. Mesa del Oro is Unit II, which consists of 23 lots and Las Terrazas is Unit III which consists of 77 lots. Of the 77 lots in Las Terrazas, 31 homes have been constructed leaving 46 approved undeveloped lots. The major infrastructure including Camino La Tierra and Buckman Road as well as Trailhead Drive were completed and approved in 2007. Las Terrazas Phase I consists of 19 lots and was recorded on June 14, 2006 and Las Terrazas Phase II consists of 12 lots and was recorded on November 13, 2007, both of which have been developed. Las Terrazas Phase III consisting of the remaining 46 undeveloped lots expired in 2009.

The Applicant states: "As you can see from the milestones noted, we have been very diligent in keeping the approved subdivisions of Las Campanas active, either through extension, infrastructure completion, Buckman Direct Diversion or even completing lots."

At the time these approvals were granted, the subject property was located in the 5-mile Extraterritorial Zoning District and therefore under the jurisdiction of the Extraterritorial Subdivision Regulations. With the elimination of the Extraterritorial Zoning District in 2009, this development now falls under the regulations of the County Land Development Code.

Article V, Section 5.4.6 of the Code states, "An approved or conditionally approved Final Plat, approved after July 1, 1996 shall be recorded within 24 months after its approval or conditional approval or the plat shall expire. Upon request by the subdivider, an additional period of no more than 36 months may be added to the expiration date by the Board."

On December 13, 2011, the Board of County Commissioners adopted Resolution 2011-193 which found the existence of severe economic conditions and suspended enforcement of specified provisions of Article V of the Land Development Code that concern expiration of Master Plans, Preliminary Plats and Final Plats.

On December 13, 2011, the Board of County Commissioners also adopted Ordinance 2011-11, which states "the Board of County Commissioners may suspend provisions of Article V, Sections 5.2.7, 5.3.6, and 5.4.6 of the Code upon a finding of economic necessity, which is defined in terms of a score of 100 or less on the Conference Board's Leading Economic Index for the United States for any quarter, and for three years following any such event, and the Board recognizes that these conditions are present and desires to temporarily suspend the enforcement of those sections of Article V that set forth expiration of Master Plans Preliminary Plats and Final Plats for two years pending an economic recovery.

At time of the Plat expiration (December 2009) for the Black Mesa, Mesa del Oro and Las Terrazas Subdivisions, the Conference Board's Leading Economic Index score was approximately 101.6. As of April of 2013 the LEI was 94.7.

The Applicants request a 24-month time extension that would render the Final Plat approval valid until May 14, 2015 and that should be – that's correct, May 14<sup>th</sup> two years from today.

Staff recommendations: approval for a 24 month time extension of the final plat for the Black Mesa, Mesa de Oro and Las Terrazas Phase III at Las Campanas Subdivision. I stand for questions.

CHAIR HOLIAN: Thank you any questions for staff?

COMMISSIONER ANAYA: Madam Chair.

CHAIR HOLIAN: Commissioner Anaya.

COMMISSIONER ANAYA: Madam Chair, Vicente, this extension is consistent with requests for extension that the Commission has been seeing for quite some time now, correct?

MR. ARCHULETA: Madam Chair, Commissioner Anaya, that's correct.

COMMISSIONER ANAYA: And all of those extensions that we've had prior have been granted, correct?

MR. ARCHULETA: Madam Chair, Commissioner Anaya, that's correct.

COMMISSIONER ANAYA: Thanks, Madam Chair.

CHAIR HOLIAN: Is the applicant here?

[Duly sworn, Scott Hoefst testified as follows:]

SCOTT HOEFT: Scott Hoefst, Santa Fe Planning Group. I do not have a presentation this evening, I stand for questions.

CHAIR HOLIAN: Thank you, Mr. Hoefst. Are there any questions for the applicant? I have one. I noted that the preliminary and final plat and development plan approval was granted in 2001 and so which was quite a long time ago. What do the developers have in mind at this point, for the next 24 months?

MR. HOEFT: From this point heading forward?

CHAIR HOLIAN: Uh huh.

MR. HOEFT: We're looking to try and get started on these final areas. We've just been waiting for the market to rebound and to find a comfortable time to bring

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more lots on the market. Right now bringing more lots on the market isn't exactly comfortable. We're looking for a developer as well who is willing take down some of those lots and put structures on those lots.

CHAIR HOLIAN: Okay. Thank you, Mr. Hoeft. This is a public hearing is there anyone here who would like speak on this case either in favor or in opposition to it. Seeing none, the public hearing is closed. Are there any further questions for staff or the applicant? Seeing none, is there a motion.

COMMISSIONER CHAVEZ: Thank you, Madam Chair. I'm going to make a motion to approve the BCC Case MIS 13-5020 Las Campanas time extension and I guess one more for the three different subdivisions is appropriate.

MS. ELLIS-GREEN: Madam Chair, Commissioner Chavez, yes.

CHAIR HOLIAN: Okay, we have a motion do we have a second?

COMMISSIONER ANAYA: Second.

CHAIR HOLIAN: Motion and second. All those in favor signify by saying "aye."

**The motion passed by unanimous [3-0] voice vote.** Commissioner Mayfield was not present for this action.

- XVII. A. 4. BCC CASE # MIS 13-5021 Las Campanas Time Extension (formerly Tesoro Enclaves) Cienda Partners, Applicant, Scott Hoeft, Agent, Request a 24-Month Time Extension of the Previously Approved Final Plat for the Area Known as the Estancias Phase III (Formerly Tesoro Enclaves) Consisting of 37 Lots of the 128 Lot Residential Subdivision on 432 Acres. The Property is Located Off of Las Campanas Drive within Sections 2 and 11 Township 17 North, Range 8 East (Commission District 2)**

MR. ARCHULETA: Madam Chair, this case is identical to the previous one just a different area of the subdivision. Do you want me to go ahead and read the summary?

CHAIR HOLIAN: Penny, do we need the summary read into the record?

MS. ELLIS-GREEN: Madam Chair, I believe we can enter the report into the record.

CHAIR HOLIAN: Okay, please enter the report into the record then.

The report is as follows:

On August 14, 2001, the BCC granted Preliminary and Final Plat and Development Plan approval of the Estancias at Las Campanas (formerly Tesoro Enclaves) for a 128 lot residential subdivision on 432-acres.

On September 12, 2003, the Estancias went back to the BCC for plat approval and was redesigned for 128 residential lots in three phases of development. Estancias Phase I consists of 24 lots, which was recorded in 2003 and Estancias Phase II consisting of 67 lots, was

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recorded in 2004. Homes have been completed on Phase I and Phase II. Phase III would have needed to be recorded by 2009.

The Applicants are now requesting a 24-month time extension for Phase III of the Estancias at as Campanas consisting of the remaining 37 lots.

The Applicant states: "We have been very diligent in keeping the approved subdivisions of Las Campanas active, either through extension, administrative approvals, infrastructure completion, the Buckman Direct Diversion infrastructure or even completing lots." In 2007, the Camino la Tierra and Buckman Road infrastructure improvements were embarked upon, completed and signed off by Santa Fe County.

At the time these approvals were granted, the subject property was located in the 5-mile Extraterritorial Zoning District and therefore under the jurisdiction of the Extraterritorial Subdivision Regulations (ESR). With the elimination of the Extraterritorial Zoning District in 2009, this development now falls under the regulations of the County Land Development Code.

Article V, Section 5.4.6 of the Code states, "An approved or conditionally approved Final Plat, approved after July 1, 1996 shall be recorded within twenty-four (24) months after its approval or conditional approval or the plat shall expire. Upon request by the subdivider, an additional period of no more than thirty-six (36) months may be added to the expiration date by the Board."

On December 13, 2011, the Board of County Commissioners adopted Resolution No. 2011-193 which found the existence of severe economic conditions and suspended enforcement of specified provisions of Article V of the Land Development Code that concern expiration of Master Plans, Preliminary Plats and Final Plats.

On December 13, 2011, the Board of County Commissioners also adopted Ordinance No. 2011-11, which states "the Board of County Commissioners ("the Board") may suspend provisions of Article V, Sections 5.2.7, 5.3.6, and 5.4.6 of the Code upon a finding of economic necessity, which is defined in terms of a score of 100 or less on the Conference Board's Leading Economic Index for the United States for any quarter, and for three years following any such event, and the Board recognizes that these conditions are present and desires to temporarily suspend the enforcement of those sections of Article V that set forth expiration of Master Plans Preliminary Plats and Final Plats for two years pending an economic recovery." At time of the Plat expiration (August 2009) for the Estancias at Las Campanas Subdivisions, the Conference Board's Leading Economic Index score was 101.6. As of April of 2013 the LEI was 94.7.

The Applicants request a 24-month time extension that would render the Final Plat approval valid until May 14, 2015. Staff recommendations: approval for a 24 month time extension of the final plat

CHAIR HOLIAN: Are there any questions for staff?

COMMISSIONER CHAVEZ: Well, I have a question.

CHAIR HOLIAN: Yes, Commissioner Chavez.

COMMISSIONER CHAVEZ: Mr. Archuleta, this case MIS 13-5021 Las Campanas time extension, is that the correct title? I mean Las Campanas is pretty broad. So this is – the extension would be for the Estancias Phase III?

MR. ARCHULETA: Madam Chair, Commissioner Chavez, that's correct. The Estancia Phase III was formerly Tesoro Enclaves which was another area of the subdivision.

COMMISSIONER CHAVEZ: So, I guess, the umbrella, the subdivision, as you say would be Las Campanas?

MR. ARCHULETA: Madam Chair, Commissioner Chavez, that's correct.

COMMISSIONER CHAVEZ: And these are phases within Las Campanas itself.

MR. ARCHULETA: That's correct.

COMMISSIONER CHAVEZ: Okay, thank you, Madam Chair.

CHAIR HOLIAN: Is the applicant here.

MR. HOEFT: Madam Chair, I stand for questions.

CHAIR HOLIAN: Okay, and would you identify yourself and be sworn in please – oh, you have been sworn in. Are there any questions for the applicant? This is a public hearing. Is there anyone here who would like to speak on this case either in favor or in opposition to the case? Seeing none, the public hearing is closed.

Are there any further questions? Is there a motion?

COMMISSIONER CHAVEZ: Yes, Madam Chair. I'd like to make a motion to approve the 24-month time extension for final plat for the Estancias at Las Campanas with staff recommendations.

COMMISSIONER ANAYA: Second.

CHAIR HOLIAN: Thank you. Were there staff conditions on this? I don't believe so.

MR. ARCHULETA: Madam Chair, there were no staff conditions.

COMMISSIONER CHAVEZ: Well, I'm looking at the criteria then for this type of request. It says if they're not conditions of approval I would like to enter them into the minutes because it does mention that the development is located in the basin hydrologic zone where the minimum lot size is 10 acres per dwelling unit with .25 acre-feet per year water restrictions, lot size may be reduced to 2.5 acres per dwelling unit – so that's the criteria and the criteria will be part of the minutes as well.

MS. ELLIS-GREEN: Madam Chair, Commissioner Chavez, that's actually in the summary portion of our report so I don't know what the lot size is for this subdivision individually but the overall Las Campanas area would meet these lot sizes. So sometimes between the areas there is a density transfer. So this is just background information for the Board at this point any of the conditions of approval that were put on when the final plat was approved would still carry forward so the only thing the applicant is asking for is a 24-month extension.

COMMISSIONER CHAVEZ: So the .25 acre-feet per year water restriction would also follow with the lot size?

MR. ARCHULETA: Madam Chair, Commissioner Chavez, that's correct.

COMMISSIONER CHAVEZ: Okay.

CHAIR HOLIAN: Okay we have a motion and we have second for approval of the time extension. All those in favor signify by saying "aye."

**The motion passed by unanimous [3-0] voice vote.** Commissioner Mayfield was not present for this action.

- XVII. A. 5. **BCC CASE # MIS 10-5121 Suerte del Sur Time Extension. Suerte del Sur LLC, Applicant, Scott Hoeft, Agent, Request a 24-Month Time Extension of the Previously Approved Final Plat and Development Plan (Phases 1-4) of the Suerte del Sur Subdivision Consisting of 241 Residential Lots on 660 Acres. The Property is Located Along Los Suenos Trail, South of Las Campanas, North of Pinon Hills Subdivision, within Section 24, Township 17 North, Range 8 East and Section 19, Township 17 North, Range 9 East (Commission District 2)**

MR.. ARCHULETA: Thank you, Madam Chair. On April 8, 2008, the BCC granted Final Plat and Development Plan approval for the referenced subdivision which consisted of 241 residential lots on 660 acres.

On April 13, 2010, the Applicant requested and was granted by the Board of County Commissioners a 36-month time extension for the Final Plat and Development Plan. Phase 1-4, of the Suerte del Sur Subdivision which expired on April 8, 2013.

The Applicant is now requesting a 24-month time extension of the Suerte del Sur Phase 1-4 Final Plat and Development Plan approval under Santa Fe County Ordinance No. 2011-11.

Madam Chair, the rest of the report is the same as the previous two. May I enter those into the record?

CHAIR HOLIAN: Yes, you may.

The report reads as follows:

In 2007-2008 road improvement agreements for the existing Los Suenos Trail and La Vida Trail and a road construction agreement for the remainder of Los Suenos Trail (Hager Road) were negotiated between the Applicant and other property owners within the area. Santa Fe County and Las Campanas Sewer Coop also implemented an agreement for water and sewer. During this period the project plats, support documents and cost estimates were revised and completed in preparation of recordation.

The Applicant states: "Due to the current market conditions and limited demand for residential lots, the owners of Suerte del Sur are requesting additional time to proceed with the development of the land.

At the time these approvals were granted, the subject property was located in the 5-mile Extraterritorial Zoning District and therefore under the jurisdiction of the Extraterritorial

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Subdivision Regulations (ESR). With the elimination of the Extraterritorial Zoning District in 2009, this development now falls under the regulations of the County Land Development Code.

Article V, Section 5.4.6 of the Code states, "An approved or conditionally approved Final Plat, approved after July 1, 1996 shall be recorded within twenty-four (24) months after its approval or conditional approval or the plat shall expire. Upon request by the subdivider, an additional period of no more than thirty-six (36) months may be added to the expiration date by the Board."

On December 13, 2011, the Board of County Commissioners adopted Resolution No. 2011-193 which found the existence of severe economic conditions and suspended enforcement of specified provisions of Article V of the Land Development Code that concern expiration of Master Plans, Preliminary Plats and Final Plats.

On December 13, 2011, the Board of County Commissioners also adopted Ordinance No. 2011-11, which states "the Board of County Commissioners ("the Board") may suspend provisions of Article V, Sections 5.2.7, 5.3.6, and 5.4.6 of the Code upon a finding of economic necessity, which is defined in terms of a score of 100 or less on the Conference Board's Leading Economic Index® for the United States for any quarter, and for three years following any such event, and the Board recognizes that these conditions are present and desires to temporarily suspend the

Enforcement of those sections of Article V that set forth expiration of Master Plans Preliminary Plats and Final Plats for two years pending an economic recovery." As of April 8, 2013, the Final Plat and Development Plan for Suerte del Sur has expired. At the time of expiration, the Conference Board's Leading Economic Index® (LEI) score is 94.7.

The Applicants request a 24-month time extension that would render the Final Plat approval valid until May 14, 2015.

CHAIR HOLIAN: Is there any questions of staff? Is the applicant here? Are there any questions for the applicant? Seeing none, this is a public hearing. Is there anyone here who would like to speak about this case either in favor or in opposition? Sir, did you want to – please come forward and be sworn in for the record and state your name.

[Duly sworn, Spencer Terrell testified as follows:]

SPENCER TERRELL: I am Spencer Terrell. I've never done this before. One simple question, I wonder if there are any updates to the plat since 2011 that our subdivision Tierra de la Vida could be afforded?

CHAIR HOLIAN: Mr. Hoeft.

MR. HOEFT: Madam Chair, the plat stands as approved there have been no changes since the original approval back in 2008 and then it was extended it was extended in 2009. So it stands as the original approval.

CHAIR HOLIAN: Okay, thank you. Anyone else from the public who would like to speak on this case. Seeing none, the public hearing is closed. Are there any further questions for staff or the applicant? Seeing none, is there a motion?

COMMISSIONER CHAVEZ: Thank you, Madam Chair. I'm going to go ahead and make motion to approve the 24-month time extension for the final plat for the Suerte del Sur subdivision. Suerte del Sur subdivision consists of 241 residential lots on 660 acres in Las Campanas.

CHAIR HOLIAN: Is there a second.

COMMISSIONER ANAYA: Second.

CHAIR HOLIAN: Okay we have a motion and we have second for approval of the time extension. All those in favor signify by saying "aye."

**The motion passed by unanimous [4-0] voice vote.**

CHAIR HOLIAN: The time extension is approved 4-0. Thank you for your patience.

- XVII. A. 6. CDRC CASE # V 13-5040 Roddy & Sherry Leeder Variance. Roddy & Sherry Leeder, Applicants, Ralph Jaramillo Agent, Request a Variance of Article III, Section 2.4.1a.2.b (Access) of the Land Development Code and a Variance of Article 4, Section 4.2 of Ordinance No. 2008-10 (Flood Damage and Stormwater Management) to Allow the Placement of a Manufactured Home on 7.68 Acres. The Property is Located at 25 Bar D Four Road, in the Vicinity of Arroyo Seco, within Section 18, Township 20 North, Range 9 East (Commission District 1)**

MR. LOVATO: Thank you, Madam Chair. The Applicant requests a variance to allow the placement of a manufactured home on 7.68 acres. Access to the subject property would be off Bar D Four Road which is a dirt road/private roadway crossing a FEMA designated Special Flood Hazard Area, via an existing low water concrete dip section which may be frequently impassible during inclement weather, and thereby is not all weather accessible.

There is currently a residence and the proposed manufactured home on the property. The residence was permitted in July of 2010, under permit number 10-343. The proposed manufactured home was allowed temporary placement on the property for a period of 90 days while the Applicant proceeds through the variance process.

The Applicants state they have seven children and it is expensive to live in the market at the current moment and they want to help their children with housing.

On March 21, 2013, the CDRC met and acted on this case, the decision of the CDRC was to recommend approval of the Applicant's request by a 4-3 vote.

Growth Management staff have reviewed this Application for compliance with pertinent Code requirements and finds the project is not in compliance with County criteria for this type of request. Staff recommends denial of a variance from Article III, § 2.4.1a.2.b Access of the Land Development Code and denial of a variance of Article 4, § 4.2 of Ordinance No. 2008-10 Flood Damage and Stormwater Management. If the decision of the BCC is to approve the Applicants request for variances, staff recommends imposition of the

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following conditions, and Madam Chair, may I enter those conditions into the record?

CHAIR HOLIAN: Yes, you may.

1. Water use shall be restricted to 1.00 acre-feet per year per home. A water meter shall be installed for the proposed home. Annual water meter readings shall be submitted to the Land Use Administrator by January 1<sup>st</sup> of each year. Water restrictions shall be recorded in the County Clerk's Office (As per Article III, § 10.2.2 and Ordinance No. 2002-13).
2. The Applicant must obtain a development permit from the Building and Development Services Department for the placement of the proposed home (As per Article II, § 2).
3. The Applicant shall comply with all Fire Prevention Division requirements at time of Development Permit Application (As per 1997 Fire Code and 1997 Life Safety Code).
4. A restriction must be placed on the Warranty Deed regarding the lack of all-weather access to the subject lot. This restriction shall include language as follows: the access to this property does not meet minimum standards set forth by County Ordinances and Code. Site access including access by emergency vehicles, may not be possible at all times (As per Ordinance #2008-10).

CHAIR HOLIAN: Are there any questions for staff? I have a question, John. On condition number four I noticed that there's, if it were granted, there would be a restriction placed on the warranty deed regarding the lack of all weather access. Would that affect the insurance, the homeowners insurance for the owner?

MR. LOVATO: Madam Chair, there is really no restriction from FEMA to the water crossing – they're really less stringent than our current ordinance. If the property was located within this designated area it would definitely affect the property owners.

CHAIR HOLIAN: So they would pay higher insurance?

MR. LOVATO: If the property was affected by this but this certain parcel, it's really the crossing that's the actual key here.

CHAIR HOLIAN: I see, okay, thank you, John. Is the applicant here?

[Duly sworn, Ralph Jaramillo testified as follows:]

RALPH JARAMILLO: Ralph Jaramillo. Madam Chair, members of the Commission, thank you so much for allowing us – me, to be here tonight, a late night.

First and foremost my clients, Roddy and Sherry Leeder, approximately about five years ago, and let me just give you a little history on how we acquired this property. The 7.68 acres out in Arroyo Seco is where they had been looking for some property. Well, we found this property and as we – they were wanting to acquire the property and look into the property they asked me to come to the County to see what we could do with the property. At that point, I met with staff. They wanted to split the property. They do have seven kids. They did, they do want to reside, live on the property, die on the property and they have a church there close to that they're very, very involved in there in Arroyo Seco.

At that time staff has said that it would be no problem to split this property. We were in the motion back then within the five years to split this property, the 7.68, we have the density, to four lots. As they gave us the okay verbally we went ahead and got a surveyor involved. We spent thousands of dollars on a survey. We got a septic gentleman involved. We got septic permits in Española from EID as well. Getting everything ready to bring to the

County with staff and at that time they stopped us and says they cannot grant this now and we cannot move forward.

Mr. and Mrs. Leeder acquired the property way back then provided that they could do what was mentioned for the lot splits. At that time they went ahead and put their primary residence on that one piece of 7.6 so they do reside on this property. They were quite I guess discouraged I guess you could put that, you know, this is what they bought it for. We looked into and thereafter – we got nothing in writing, it was just all verbal. And this is when the FEMA came in and said this is what was going on with low crossing. I met with Buster Patty. I met with staff several times, et cetera. Therefore, this is where we're here tonight asking for your blessings on acquiring this mobile home that's on the property right now so we can acquire a permit.

He does have seven kids. He has several grandkids and here's where they want to reside and have some property for their children at this time provided that housing is quite expensive and the economy is so upside down and we don't know what we're doing. This is where the children want to be close to their parents as well. At this time, I stand for questions.

CHAIR HOLIAN: Thank you, Mr. Jaramillo. Any questions for the applicant?

COMMISSIONER MAYFIELD: Madam Chair.

CHAIR HOLIAN: Commissioner Mayfield.

COMMISSIONER MAYFIELD: Thank you, Madam Chair. Thank you, Mr. Jaramillo, thank you for being here tonight. Madam Chair, Mr. Jaramillo, how is your party in regards to or the applicant in regards to the staff conditions.

MR. JARAMILLO: Staff conditions.

COMMISSIONER MAYFIELD: If this goes forward.

MR. JARAMILLO: Give me a second. Give me a second, Madam Chair, Commissioner.

COMMISSIONER ANAYA: Madam Chair, Commissioner Mayfield.

COMMISSIONER MAYFIELD: Yes, I'll pass.

COMMISSIONER ANAYA: On this point, Commissioner, you're referring to the conditions that were established as part of the recommendations from the CDRC approval.

CHAIR HOLIAN: These are staff conditions that are on the fourth page.

COMMISSIONER MAYFIELD: Madam Chair, if the Commission would approve them, staff has made some recommendations.

CHAIR HOLIAN: Yes, staff conditions if this variance were approved.

COMMISSIONER ANAYA: Staff conditions consistent with the recommendations that the CDRC had as well or are they different?

COMMISSIONER MAYFIELD: Thank you, Madam Chair, Commissioner.

MS. LUCERO: Madam Chair, Commissioner Anaya, I believe the conditions are the same exact conditions that were presented to the CDRC.

COMMISSIONER ANAYA: So the conditions are staff conditions that when the CDRC approved maintain those same recommendations of the staff.

MS. LUCERO: Madam Chair, Commissioner Anaya, that's correct.

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COMMISSIONER ANAYA: Thank you, Madam Chair.

CHAIR HOLIAN: Okay, Commissioner Mayfield, you still have the floor.

COMMISSIONER MAYFIELD: Thank you and then I guess, Madam Chair, Mr. Jaramillo, so you all weren't opposed to them when the CDRC approved it and you still stand?

MR. JARAMILLO: Madam Chair, Commissioner Mayfield, Commissioner Anaya, thank you for clarifying. I just wanted to make sure that nothing did change and I was familiar with the CDRC and nothing did change so, Madam Chair, Commissioner Mayfield, no, we stand to live within the means of these four items.

COMMISSIONER MAYFIELD: Thank you. With that, Madam Chair, I would move for approval.

CHAIR HOLIAN: We have not had the public hearing yet.

COMMISSIONER MAYFIELD: I'm sorry. Thank you. I'll wait for public hearing.

CHAIR HOLIAN: Are there any further questions for staff or the applicant? Seeing none, at this point, this is a public hearing is there anybody here who would like to speak on this case either in favor or in opposition? Seeing none the public hearing is closed. Any further questions for staff or the applicant? Commissioner Chavez.

COMMISSIONER CHAVEZ: Okay, on condition one it says that water use shall be restricted to 1.00 acre-feet per year per home. Is that accurate?

CHAIR HOLIAN: Is your mike on?

COMMISSIONER CHAVEZ: No, I don't have my mike on. I apologize. Condition one says water use shall be restricted to 1 acre-foot per year per home. I thought it was .25 in most cases.

MS. LUCERO: Madam Chair, Commissioner Chavez, this property is located within a traditional community so the traditional communities actually get 1 acre-foot per home.

COMMISSIONER CHAVEZ: Thank you.

CHAIR HOLIAN: Any further questions?

COMMISSIONER CHAVEZ: No.

CHAIR HOLIAN: Is there a motion?

COMMISSIONER MAYFIELD: Madam Chair, in hearing what the applicant just stated, I would move for approval as staff recommended conditions are imposed.

CHAIR HOLIAN: Motion to –

COMMISSIONER ANAYA: Madam Chair, I would second –

CHAIR HOLIAN: -- approve the variance with staff conditions; is that what the motion is?

COMMISSIONER MAYFIELD: Yes, ma'am.

CHAIR HOLIAN: Yes, is there a second?

COMMISSIONER ANAYA: Madam, I would second and just have a comment under discussion.

CHAIR HOLIAN: Okay, we'll go to discussion now. Commissioner Anaya.

COMMISSIONER ANAYA: Thank you, Madam Chair. I just want to state for the record that this particular item we've had cases similar to this in the northern district,

District 1 and other parts of the County where there are multiple residents that are serviced off of a water crossing. A lot of discussion over what the fire ordinance requirements are and what reality is. And within those discussions I think I would just comments that I think all of the members of the community that live in these situations would love to have the ability to have a full-blown bridge or any upgraded version of a crossing but I think Commissioner Mayfield and other Commissioners, not just Commissioner Mayfield, in the past have brought up the fact that we have our County low water crossings. I have one in Galisteo that is on County Road 42 that when that water runs through that low water crossing you can't pass it period. And so we have our own areas that we want to improve and work on but that based on those conditions and I think based on the added restriction on the warranty deed that makes it blatantly clear of what the applicant is accepting as a responsibility of, I think makes sense for the current owner and any future owner that might have it – that they're aware what the potential condition might be. So, that's all I have, Madam Chair, thanks.

CHAIR HOLIAN: Okay. We have a motion for approval of CDRC Case V 13-5040 with staff conditions. All those in favor signify by saying "aye."

**The motion passed by unanimous 4-0 voice vote.**

CHAIR HOLIAN: The motion is approved 4-0, thank you, Mr. Jaramillo.

MR. JARAMILLO: Thank you, Madam Chair. Thank you, Commissioners and good night.

**XVII. A. 7. CDRC CASE # V 13-5030 Wladimir & Diane Senutovich Variance. Wladimir & Diane Senutovich, Applicants Request a Variance of Article VII, Section 3.41.c.c.i (No-Build Areas) to Allow Four (4) Separate Areas of 30% Slope Disturbance for a Proposed Driveway on Two Parcels Totaling 7.33 Acres. The Property is Located at 214 and 216 State Road 76 in the Vicinity of Santa Cruz, within Section 6, Township 20, North Range 9 East (Commission District 1)**

MR. LOVATO: Thank you, Madam Chair. The Applicants request a variance to allow the reconstruction of a driveway to access an existing residence on two parcels totaling 7.33 acres. A permit was issued on June 19, 1998, under permit # 98-823 for a residence and a driveway. The existing access contains grades greater than 15 percent which exceed access requirements for Fire and Emergency vehicles. The proposed grade would be within fire requirements of 11 percent.

The request would require a variance of Article VII, § 3.41.c.c.i , No Build areas, to allow four separate areas of 30 percent slope disturbance. The first isolated occurrence is 388 square feet, the second occurrence is 2,801 square feet, the third is 308 square feet, and the fourth is 2,806 square feet. The total combined disturbance is 6,303 square feet. The Applicants state it is their intent to make their house accessible with a driveway that can be used by emergency vehicles such as ambulance and fire apparatus.

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On March 21, 2013, the CDRC met and acted on this case. The decision of the CDRC was to recommend approval of the Applicant's request subject to conditions imposed by staff by a 7-0 vote.

Growth Management staff have reviewed this Application for compliance with pertinent Code requirements and finds the project is not in compliance with County criteria for this type of request.

Staff recommends and staff acknowledges this request does not meet Code requirements. However, staff feels this could be considered a minimal easing of code requirements due to the proposed driveway being more accessible for emergency vehicles and life safety concerns and meeting fire code requirements. Therefore, Staff recommends approval of the Applicants request.

If the decision of the BCC is to approve the Applicant's request for a variance, staff recommends imposition of the following conditions. Madam Chair, may I enter those into the record?

CHAIR HOLIAN: Yes, you may.

MR. LOVATO: Thank you, and I would stand for any questions. :

Conditions are as follows:

1. The Applicant must obtain a development permit from the Building and Development Services Department for construction of the driveway. (As per Article II, § 2).
2. The Applicant shall comply with all Fire Prevention Division requirements at time of development application (As per 1997 Fire Code and 1997 Life Safety Code).

CHAIR HOLIAN: Any question for staff? Is the applicant here? Please be sworn in and state your name for the record.

[Duly sworn, testified as follows:]

WLADIMIR SENUTOVICH: Wladimir Senutovich.

CHAIR HOLIAN: Sorry, Mr. Senutovich.

MR. SENUTOVICH: It's a hard name.

CHAIR HOLIAN: Is there anything that you would like to add, Mr. Senutovich?

MR. SENUTOVICH: The whole project looks great, thank you.

CHAIR HOLIAN: Are there any questions for the applicant? Seeing none, this is a public hearing; is there anyone here who would like to speak on this case either in favor or in opposition? Seeing none, the public hearing is closed. Are there any further questions for staff or the applicant? Commissioner Mayfield.

COMMISSIONER MAYFIELD: Madam Chair, I do have a question for the applicant. Mr. Senutovich, hopefully, I got your name correct, are you amenable to staff's recommendation if this is approved by the County Commission tonight?

MR. SENUTOVICH: Yes, it's going to look great. Thank you.

COMMISSIONER MAYFIELD: Thank you. Madam Chair, with that I will I would move for approval with staff conditions.

COMMISSIONER CHAVEZ: Second.

CHAIR HOLIAN: Okay, I have a motion and second for approval of CDRC Case V 13-5030 with staff conditions. All those in favor signify by saying "aye."

**The motion passed by unanimous [4-0] voice vote.**

CHAIR HOLIAN: The variance is approved 4-0.

- XVII. A. 8. **CDRC CASE # V 13-5050 Patrick Christopher & Marga Friberg Variance. Patrick Christopher & Marga Friberg, Applicants, Request a Variance of Article III, Section 2.4.1a.2.b (Access) of the Land Development Code and a Variance of Article 4, Section 4.2 of Ordinance No. 2008-10 (Flood Damage and Stormwater Management) to Allow the Construction of a Residence on 15.3 acres. The Property is Located at 250C Kalitaya Way Off Old Buckman Road, within Section 29, Township 19 North, Range 8 East (Commission District 1)**

WAYNE DALTON (Building and Development Services Supervisor): Thank you, Madam Chair. The Applicants request a variance to allow the construction of a residence on property consisting of five lots which total 15.3 acres. The lots consist of 3.84 acres, 3.87 acres and three 2.5-acre lots. The subject properties are part of a subdivision created in the 1940's with the US Government's "Small Parcel Act" which assisted veterans in acquiring their own property. The properties all have Land Patents from the US Government dating from 1962, and are recognized as legal lots of record.

As part of the permitting process, the Applicants have agreed to consolidate all five lots in order to have the proposed residence on one lot consisting of 15.3 acres. The Applicants intend to sell the property contingent upon the outcome of the variance process and the buyer of the property will be constructing the residence.

Madam Chair, I was just informed by the applicant today that the deal for the property has fallen through so the applicants will actually be constructing the residence on the property.

CHAIR HOLIAN: Pardon, say that again, please, Wayne.

MR. DALTON: The applicants were intending to sell this property and that deal has fallen through so actually it will be the applicants constructed the residence on the property.

CHAIR HOLIAN: Oh, I see. The applicants.

MR. DALTON: The property is accessed by Old Buckman Road which is a County maintained Road on BLM Land and Kalitaya Way which is a public road on BLM Land. Old Buckman Road is a dirt/sand driving surface and is located in, and crosses two FEMA designated Special Flood Hazard Areas, numerous contributing arroyos and drainage ways. The portion of Old Buckman Road that services the property is approximately 9 miles in length. Kalitaya Way is a dirt-driving surface and crosses one FEMA designated special flood hazard areas, contributing arroyos and several drainage ways. The portion of Kalitaya Way that services the property is approximately 2.5 miles in length. Both Old Buckman Road and Kalitaya Way do not have an all-weather driving surface and may be frequently impassible during and after inclement weather, and thereby are not all weather accessible.

The Applicants state they are not in a position to upgrade 9 miles of Old Buckman

Road to County standards, nor the 2.5 miles of Kalitaya Way. However they are interested in doing all they can to build responsibly. The Applicants also state that after consulting with County staff and the Fire Prevention Division, they understand that there are certain items that can be incorporated into the building plans to substantially enhance the protection against fire danger. These improvements may include a turnaround on the property, a water storage tank, sprinkler system, a vegetation management plan, and compliance with the Urban Wild Land Interface Code for building materials for any proposed structures on the property and that is to be determined by Fire Prevention Division..

On March 21, 2013, the CDRC met and acted on this case. The decision of the CDRC was to recommend denial of the Applicants request by a 5-2 vote. Minutes are attached as Exhibit 1.

Staff recommendation: Denial of a variance from Article III, § 2.4.1a.2.b , Access of the Land Development Code and denial of a variance of Article 4, § 4.2 of Ordinance No. 2008-10 (Flood Damage and Stormwater Management.

If the decision of the BCC is to approve of the Applicant's request for variances, staff recommends imposition of the following conditions, and Madam Chair, may I enter those into the record?

CHAIR HOLIAN: Yes, you may.

The conditions are as follows

1. Water use shall be restricted to 0.25 acre foot per year. A water meter shall be installed for the proposed home. Annual water meter readings shall be submitted to the Land Use Administrator by January 1<sup>st</sup> of each year. Water restrictions shall be recorded in the County Clerk's Office (As per Article III, § 10.2.2 and Ordinance 2002-13).
2. The Applicant shall comply with all Fire Prevention Division requirements at time of Plat review and Development Permit Application (As per 1997 Fire Code and 1997 Life Safety Code).
3. A Plat of Survey meeting all County Code requirements shall be submitted to the Building and Development Services Department for review and approval for the lot consolidation (As per Article III, § 2.4.2).
4. A note must be placed on the Plat regarding the lack of all weather access to the subject lot. This restriction shall include language as follows: The access to this property does not meet minimum standards set forth by County Ordinance and Code. Site Access, including access by Emergency vehicles, may not be possible at all times. (As per Ordinance 2008-10).

CHAIR HOLIAN: Are there any questions of staff? Commissioner Anaya.

COMMISSIONER ANAYA: Madam Chair, Mr. Dalton, just to a few clarifying questions to have onto the record under my request. This application reduces five lots which total 15.3 acres to one lot?

MR. DALTON: Madam Chair, Commissioner Anaya, that's correct. Right now as it stands we're looking at five legal lots of record. The applicants have agreed to consolidate all five lots into one lot which would total 15.3 acres.

COMMISSIONER ANAYA: Madam Chair, Mr. Patty, is Mr. Patty still here? There was a question that I asked before I ask of you, Mr. Patty, just one second. It was

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asked of the applicants – it was noted that the road conditions are very difficult and the applicants fully understand that and it was also added on the conditions, if approved, similar to the last case or the case before that that we just approved that there would be a notation on the deed that speaks specifically to a note must be placed on the plat regarding lack of all weather access to the subject lot. This restriction shall include language as follows: The access to this property does not meet minimum standards set forth by County Ordinance and Code. Site Access, including access by Emergency vehicles, may not be possible at all times. Are the applicants here? Do you fully understand that particular item? When you come up in a while –

CHAIR HOLIAN: Commissioner Anaya, I haven't called the applicants forward yet.

COMMISSIONER ANAYA: Okay, I just wanted to ask that question. Mr. Patty, you were asked at the CDRC if the – something to the effect if the landowners accepted all responsibility for fire or emergency services would that suffice? And your comments was something to the effect that we're going to respond to any and all emergencies could you kind of restate that or clarify my statement?

FIRE MARSHAL PATTY: Madam Chair, Commissioner Anaya, yes, this is in an area that has so many low water crossing and the road is so substandard and they are not able to do anything to it that the road for the most part isn't passable with our equipment. If you were to grant this and they were out and they called 911 call, we're not going to say we're not coming. We're going to make every attempt to try to go but we have – the applicant has to know for themselves or whomever they may sell this piece of property to that we may not be able to make it regardless of weather conditions the way it is right now.

COMMISSIONER ANAYA: And as it stands if it would go through that's a deed restriction that would be noted on the deed of the property currently and for conveyance.

MARSHAL PATTY: Madam Chair, Commissioner Anaya, yes, we were requiring some language like that on the plat when it was recorded.

COMMISSIONER ANAYA: Thank you, Mr. Patty. Thank you, Madam Chair.

CHAIR HOLIAN: Any further questions for staff. Seeing none, is the applicant present? Would you please come in and be sworn in and state your names for the record.

[Duly sworn, Marga Friberg, testified as follows:]

MARGA FRIBERG: Marga Friberg.

CHAIR HOLIAN: Is there anything that you would like to add, Ms. Friberg?

MS. FRIBERG: Yes, I would just like to say that I'm a homeowner in the historic Guadalupe District. I have a house that is 900 square feet. I share a wall with my neighbor on one side. I have the Boys and Girls Club behind on the other. I have my other neighbor 10 feet away on the south side and across one car lane I have my neighbors in front of me and I absolutely adore it. However, I'd love also to go walking and hiking and get away to a retreat and I like to drive if that's what I have to do and leave town. It was wonderful to be able to build a small retreat cabin. To be able to just be quiet and alone. We know that it's out in the middle of nowhere and that's what we love. We're both architects

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and we embrace the idea of being able to design something that fits with the land and is very light on it. Thank you.

CHAIR HOLIAN: Mr. Christopher would you like to add anything?

[Duly sworn, Patrick Christopher testified as follows:]

PATRICK CHRISTOPHER: Yes, I'm Patrick Christopher. And I also live in the Guadalupe neighborhood very close to the church. I've worked on a number of projects in the past as an architect that are off the grid and in places that are wild and undeveloped and absolutely gorgeous and this is exactly, we looked a long time to find these lots. We had no idea that they even existed and we were startled to find that such a thing was there in Santa Fe County and we do understand that Buckman Road is not really passable with large emergency equipment and Kalitaya Way is not either. On the other hand, we love everything about these remote lots just because they are not citified and the skies are dark and brilliant at night and they're quiet and it's a place to really commune with New Mexico in way that you can rarely find in this County and we respect that.

We also, maybe because we've been architects for some time and have worked in some remote areas we fully understand what it means to be kind of unreachable and to take these risks of maybe spending a weekend or a week at a cabin where emergency access is not available. And we understood that from the beginning. It is quite apparent when you're out there. We spent a year working with the Bureau of Land Management to go through every step that they required so that we could have legal access to this property. We wanted to do exactly the same with Santa Fe County and follow every single step. There were a few people out there who are squatting and who had just brought in their RVs and doing whatever and that's not the way we operate and we wanted to do it properly but we also want to proceed.

We've spent two years doing this. We've got a million design ideas and we would love to proceed with your help.

CHAIR HOLIAN: So Mr. Christopher, you understand all the restrictions that go with that property, correct?

MR. CHRISTOPHER: We do indeed. In fact, we worked very closely with the planning staff here. I think this is all entirely appropriate and, yes, we do.

CHAIR HOLIAN: Do you plan to live out there full time or use it as a cabin?

MR. CHRISTOPHER: Yes, it's a retreat property, a cabin, a weekend use, that sort of thing. No we love living in the center of Santa Fe.

CHAIR HOLIAN: I have to make full disclosure. My husband and I built a cabin somewhat like you're describing on the top of Glorieta Mesa and we don't have access year-round either, as a matter of fact. So I know exactly what you're facing.

MR. CHRISTOPHER: I know we're not alone in this. I've explored a lot of parts of northern New Mexico. But I think this addition – this limitation, this wording for the deed is something that we feel is appropriate and that that kind of communication needs to be on the plat to be very clear with any future owners as well.

CHAIR HOLIAN: And have you investigated homeowners insurance?

MR. CHRISTOPHER: We understand that it will be tricky to say the least, yes. Our ideas are to build with fire retardant materials to be as careful as we can. To have water onsite but obviously we can't cover for every possible incident.

CHAIR HOLIAN: Any further questions for the applicants or for staff?

COMMISSIONER MAYFIELD: Madam Chair.

CHAIR HOLIAN: Commissioner Mayfield.

COMMISSIONER MAYFIELD: Thank you. Madam Chair, staff, as far as the area and I think I'm pretty familiar with it, but what basin is in as far as the water basin? It's not in Pojoaque Basin is it?

MR. DALTON: Madam Chair, Commissioner Mayfield, this is actually in the basin fringe hydrologic zone.

COMMISSIONER MAYFIELD: And, I'm sorry. I am having audio problems but I'm also having some heat problems.

MR. DALTON: Madam Chair, Commissioner Mayfield, this is actually in the basin fringe hydrologic zone. I'm not sure what basin it is in.

COMMISSIONER MAYFIELD: Is this upside of the Otowi gage or downside of it?

CHAIR HOLIAN: Commissioner Mayfield, if I might answer that question because I've been out there. I don't know if you've taken the tour of the BDD project but you know the road that goes out to where the intake area is? It's before you get to the intake area. It's maybe about half way down that road.

COMMISSIONER MAYFIELD: Before to the right?

CHAIR HOLIAN: To the right?

MR. DALTON: Yes.

COMMISSIONER MAYFIELD: So then it could potentially be on the upside of the Otowi gage, right? Do you all know? Does the applicant know; are you on the upside of the Otowi gage?

CHAIR HOLIAN: It's on the downside of the Otowi gage because it's along that road before you get to the intake for the BDD project.

COMMISSIONER MAYFIELD: Okay, [inaudible] the Pojoaque Basin, okay. Fair enough.

CHAIR HOLIAN: Ms. Friberg, would you like to comment on that? Come up and speak into the mike.

MS. FRIBERG: At this point we're not looking at drilling a well any way.

COMMISSIONER MAYFIELD: Oh, I know [inaudible] thank you.

CHAIR HOLIAN: Commissioner Mayfield, you still have the floor.

COMMISSIONER MAYFIELD: Thank you, Madam Chair. So let's go back to this real quick on this section. They're consolidating the property. Let me look at something real quick, give me a second, Madam Chair, please. So, again, as far as the lot consolidation what are the lot size requirements and this is for staff, sir. What are the lot size requirements out in the area and I appreciate the applicant is doing this on their own?

MR. DALTON: Madam Chair, Commissioner Mayfield, the minimum lot size in this area is 12.5 acres per dwelling unit.

COMMISSIONER MAYFIELD: Okay, 12.5 that's fine. Again, if they decided to do anything they would be under grandfathered status and they could use the lot size as existing.

MR. DALTON: Madam Chair, Commissioner Mayfield, yes, these lots are all legal lots of record, pre-code lots so yes.

COMMISSIONER MAYFIELD: So they're doing something different. And on that, how many homes are in the area because I think there are quite a few?

MR. DALTON: Madam Chair, Commissioner Mayfield, in this vicinity there are not homes in this area.

COMMISSIONER MAYFIELD: None. Then – there's an area out there off of Old Buckman Road that has a few homes because me and Mr. Ross were looking at an issue with some roads and I think even Commissioner Chavez when we approved a limited use road somewhere in that area we talked about some roads. Where is that road area that I'm thinking of, Steve? That's the one that's more to the right.

MR. ROSS: Madam Chair, Commissioner Mayfield, that's more to the north. It's probably to the northeast of this area.

COMMISSIONER MAYFIELD: I'm getting off point, okay. So, and I appreciate the applicants' comments as far as being off the grid. Maybe wanting to stay on a more undeveloped area because that's – and this is more for staff. Now we're kind of going through a code rewrite in some remote areas and I just hope that we do have this consideration because we put a lot of requirements on potential applicants when we vote for this permitting process and rightfully so. You know, we want to protect all of our public out there and we also want to protect our response team out there that have to get to these areas. But there are a lot rules and regulations, I would put justifiably so. We ask – you know we pass the night sky ordinances. There are a lot of the residents that I represent that want unimproved roads and the reason they want them is because they're an equestrian community and they want to still ride their horses. They want to still do some biking. They want to do some walking and they don't always want to do it on asphalt. So they just do like that type of scenery but they also understand that they may not have that emergency access all the time. They also don't sometimes want us to approve cell towers in their area so they know they may not have cell communications.

So I just think going forward with our new Code rewrites and stuff that that's something that we should definitely consider too and knowing that if we put these recommendation or these denials, if that's what this Commission so chooses to do, that we just recognize that. That some people still may want to choose to build where they want to build and I think they're understanding that they may not have that immediate response time that we will make every effort to get there but it just may not be able to be there within a half hour or an hour. But they make those decisions.

I also will just also like to make mention of former Commissioner Mike Anaya who passed the Code of the West just to let individuals know that. You know, Santa Fe County is still a remote area and it can really just be the urban fringes and it's a very remote area and it may not just be immediately accessible and just approved a couple cases a little earlier on low-water crossing variances. Some Santa Fe County roads up in the northern part of Santa Fe County and this is my district, District 1, low-water crossings and these are County roads going through BLM and actually the whole road is a low-water crossing that could run whenever we have water and hopefully we do have some water.

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So that's just a point, an observation I want to make, because I think people do understand that there may not be immediate response time not that we don't want to get there. And the County can put out all these restrictions or deny somebody's opportunity to have a home and we really should think that out before we pass that denial.

But one other thing that I want to ask, as far as our BBD site that we're partners with that's kind of down in this facility do we maintain that road, Mr. Ross or Penny Ellis-Green? How far does Santa Fe County maintain that road to the actual BDD site or extraction point where we divert that water?

MR. ROSS: Madam Chair, Commissioner Mayfield the County maintains the entirety of Buckman Road.

COMMISSIONER MAYFIELD: All the way down to –

MR. ROSS: All the way down to the treatment diversion, yes.

COMMISSIONER MAYFIELD: Okay, and that road was probably in pretty bad conditions all the way down to that road at one time or another, right?

MR. ROSS: Madam Chair, Commissioner Mayfield, it requires a lot of grading.

COMMISSIONER MAYFIELD: Right, a lot of grading. And I just want to make that point that those roads in that area are in pretty bad shape. We elected to take that on but – and, Madam Chair, I'll just stop talking but I think people know what they're getting into when they want to build in these remote areas and I know we have codes that we have to abide by but I would just, I guess this more directed toward our code rewrite that we take this into consideration.

That's all I have, Madam Chair, I don't know if you've closed public comment, but I'd like to make a motion when that's done.

CHAIR HOLIAN: Any further questions? Seeing none, this is a public hearing. Is there anyone here from the public who would like to speak on this case either in favor or in opposition? Seeing none the public hearing is closed.

What are the wishes of the Board?

COMMISSIONER MAYFIELD: Madam Chair.

CHAIR HOLIAN: Commissioner Mayfield.

COMMISSIONER MAYFIELD: Madam Chair, I guess I do have one – I apologize, I have one question for the applicant. Is the applicant amenable to the staff recommendations if this Commission elects to move forward with this?

MR. CHRISTOPHER: Absolutely, yes.

COMMISSIONER MAYFIELD: Thank you. With that, Madam Chair, I would move for approval with staff's recommendations.

CHAIR HOLIAN: Is there a second.

COMMISSIONER ANAYA: Second.

CHAIR HOLIAN: Okay we have a motion and a second for approval of CDRC Case V 13-5050 with staff conditions. All those in favor signify by saying "aye."

**The motion passed by unanimous [4-0] voice vote.**

CHAIR HOLIAN: The variance is approved 4-0.

COMMISSIONER ANAYA: Madam Chair.

CHAIR HOLIAN: Commissioner Anaya.

COMMISSIONER ANAYA: Madam Chair, I appreciate Commissioner Mayfield bringing up the comments he did and commenting on the Code of the West and I just want to say that I penciled on my notebook over here that if you put into years the amount of time I've spent in the wilderness off the grid it equates into several years of time that on purpose I was off the grid where I couldn't be reached. But I will say this, I know Santa Fe County, Mr. Patty and emergency services will do everything to get to me if I needed some help. And, I understand if they can't get there but I think it's a good thing to have places where you're not accessible to anyone if that's what you so choose and if you understand that going in then who am I or any other governing body to tell you you can't do that.

So I appreciate the comments and I think we do need to figure out accommodations in the new code that deal with this very issue. So thank you, Madam Chair.

CHAIR HOLIAN: Thank you, Commissioner Anaya. And I know exactly what you're doing because my husband and I have done it ourselves. So good luck. Thank you.

**XVII. A. 9. CDRC CASE # Z/S 08-5440 Tierra Bello Subdivision. Joseph Miller, Applicant, Danny Martinez, Agent, Request Master Plan Zoning Approval for a 73-Lot Residential Subdivision on 263.769+ Acres and Preliminary and Final Plat and Development Plan Approval for Phase 1, Which Will Consist of 9 Lots. The Property is Located at the Northeast Intersection of Avenida de Compadres and Spur Ranch Road, South of Avenida Eldorado in Eldorado, within Sections 24 and 25, Township 15 North, Range 9 East, (Commission District 5)**

*[Exhibit 7: DOT memo dated 5/2/13; Exhibit 8: Resident (Bischoff/Lindahl) letter raising concerns; Exhibit 9: Emails cited by R. VanAmberg; Exhibit 10: MOU between the Eldorado Area Water and Sanitation District and the Board of County Commissioners]*

VICKI LUCERO (Case Manager): This case was first heard by the CDRC on January 17, 2013. At that time the decision of the CDRC was to table the request to allow the community to review and discuss the most current information as submitted by the applicant and to allow the applicant and mediator to meet with members of the community regarding concerns having to do with roads and traffic and the restrictive covenants. This case went back to the February 21, 2013 where it was tabled due to a tie vote. On March 21, 2013, the CDRC met and acted on this case. The decision of the CDRC was to recommend approval of this request.

The Applicant is now requesting Master Plan Zoning approval for a 73-lot residential subdivision with Preliminary and Final Plat and Development Plan Approval for Phase 1, which will consist of 9 lots.

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Growth Management staff has reviewed this Application for compliance with pertinent Code requirements and finds the project is in compliance with County criteria for this type of request. Staff recommendation is for approval of the request for Master Plan Zoning for a 73-lot residential subdivision and Preliminary and Final Plat and Development Plan Approval for Phase 1, which will consist of 9 lots subject to the following staff conditions. Madam Chair, may I enter those conditions into the record?

CHAIR HOLIAN: Yes, you may.

The conditions are as follows:

1. The Applicant shall comply with all review agency comments and conditions, Article V, Section 7.1.3.c.
2. Master Plan and Final Plat and Development Plan, with appropriate signatures, and subdivision covenants and final disclosure statement shall be recorded with the County Clerk, as per Article V, Section 5.2.5 and Section 5.4.5.
3. The Applicant shall submit a financial guarantee, in a sufficient amount to assure completion of all required improvements. The financial guarantee shall be based on a county approved engineering cost estimate for the completion of required improvements as approved by staff prior to Final Plat recordation. All improvements shall be installed and ready for acceptance within eighteen months as required by Article V, Section 9.9.
4. A market analysis will be required with the Preliminary Plat application for Phase 2 of the development, Article V, Section 5.2.2.g.2.
5. Improvements to the deceleration lane from US 285 onto Avenida Eldorado will be required by NMDOT. NMDOT will determine at what phase of the development these improvements are to be completed, Article V, Section 7.1.3.c.

MS. LUCERO: Thank you, Madam Chair. Also, we have a letter, an updated letter from NMDOT which we'll be handing out shortly and a letter of opposition from one of the neighbors as well.

CHAIR HOLIAN: Thank you, Vicki. Any questions for staff? Seeing none, is the applicant here?

RONALD VANAMBERG: Madam Chair, Ronald VanAmberg on behalf of Tierra Bello and Mr. Miller. And Mr. Martinez has a couple of handouts for the Commission.

CHAIR HOLIAN: Is there anything that you would like to add, Mr. VanAmberg?

MR. VANAMBERG: I don't have a whole lot to add to the staff's report. It reflects the fact that all requirements have been met and that the only opposition or the negative response was from the State Engineer's Office which I will address. I would like to say that this case was tabled in order to allow residents to meet with Mr. Miller and resolve any other issues that they might have or at least discuss them.

On April 11<sup>th</sup> as indicated in the emails that have been handed out, I reached out by email to Jim Garland who was the spokesperson for the community and there I stated that my understanding was that we had met previously, we had made some very good efforts in order to resolve our differences and I think we resolved most of them. There is a remaining issues

as to how many roads – what kind of roads need to be improved but we had redone the covenants and adopted many of Mr. Garland’s suggestions and I inquired of Jim whether or not he felt we needed to meet again and his response was, Hi Ron, your understanding is correct. I think we’ve clarified our respective positions as much as possible and further meetings are not likely to be productive, Regards, Jim.

Mr. Miller and Danny Martinez stood ready and able to meet with anybody who came forward and I think most of the negotiations took place prior to the tabling and there wasn’t any further community contact that we were able to discern.

And, so concerning the State Engineer’s position on the water at the last meeting I went over the Memorandum of Understanding which was entered into between the County and the Eldorado Area Water and Sanitation District and in that agreement the County quote, recognizes the right of the District under the water and sanitation District act to supply the water to existing and new customers and to supply new developments within its service area boundaries. The County agrees that it not extend its water facilities into the District service area without prior written approval of the District. The parties also agreed that quote, the County has statutory responsibility with respect to each such new development within the District’s service area and the parties further agreed that the information provided for the District concerning the adequacy of its water supply is such that for a minimum of three years from the date of the execution of this agreement no further information is needed and the County will accept a quote will serve letter from the District that it is ready, willing and able to provide a customer with water service as adequate for purposes of the required review under the New Mexico Subdivision Act, Zoning Enabling Act, the Santa Fe County Growth Management Plan and the Santa Fe County Land Development Code without further technical review or inquiry. And finally, the agreement reflects the fact that subsequent to the agreement the County and the District – the County will negotiate with the District to provide the District with water from the Buckman Direct Diversion Project and with assist the District in times of drought and mechanical failure or otherwise agreed by the parties on terms specified in this subsequent agreement.

My understanding at out last meeting from Mr. Ross that negotiations were proceeding satisfactorily and I’m not sure if Steve had further update on where they are in these negotiations.

CHAIR HOLIAN: Steve, would you like to comment on that?

MR. ROSS: Well, Madam Chair, we have an agreement a form agreement from the attorneys for the Water District which as far as I’m concerned is approval as its written. We’re discussing some refinements to that agreement with them right now and I expect it will be on a Commission agenda in two or three meetings from now.

So I think that it’s fair to say that discussions are progressing very well. They had a buy after 150 acre-feet of Rio Grande water from us and also receive backup water as needed.

CHAIR HOLIAN: Thank you, Steve. Mr. VanAmberg.

MR. VANAMBERG: Madam Chair, I have with me Danny Martinez who is the planner on the project and if there are any questions either he or I are happy to respond.

CHAIR HOLIAN: Are there any questions for the applicant? I have a couple. Have you done a market analysis on this particular subdivision?

[Duly sworn, Danny Martinez testified as follows]

DANNY MARTINEZ: Danny Martinez, Land Development Planning for Mr. Miller. Madam Chair, member of the Commission, no, we haven't done a market analysis on this. We've got a market analysis a pro forma that was actually put together a while back that really is not representative of what today's economy is doing. So that would be the concern that we're testing the waters in our own way by moving these developments forth, however, that could pretty much establish any future market in the Eldorado Basin as what we're doing. And I understand that's one of the conditions that is stated by staff that under the next phase a market analysis would be performed.

CHAIR HOLIAN: What do you propose or what are you going to be asking for the lots? What's the range of prices that you're going to be asking for the lots that you're proposing?

MR. MARTINEZ: Madam Chair, Commissioners, at this point we're looking at \$100,000 or slightly less per lot. Each lot is on average of 2.75 or larger so that's about the market rates we're looking at.

CHAIR HOLIAN: And my understanding is that the interior roads to this subdivision are going to be private; is that correct? So the homeowners association will collect dues in order to maintain those roads eventually.

MR. MARTINEZ: Madam Chair, Commissioners, that is correct. It is part of our restrictive covenants and it will be part of our disclosure that the roads will be maintained by the homeowners association.

CHAIR HOLIAN: And in this letter from Lesley Bischoff and Richard Lindahl they who live apparently in Tierra Colinas, they ask about installing gates or barriers on the roads – I guess that adjoins Tierra Colinas and what's your response to that?

MR. MARTINEZ: Madam Chair, Commissioners, the two developments were originally connected when it was a 100-lot subdivision which was called Tierra Dorado. Once the Tierra Colinas portion was developed the road network as is the open space were pretty much tied together so that they made a complete development in some form. Well, at this point we have agreed to follow prior to Buster Patty's recommendation where we would be installing two gates at the two entrances and they would have Knox boxes on it for fire protection. It was of vital interest of the fire department that a fire access be maintained but we will have a gate with Knox boxes on them.

CHAIR HOLIAN: Okay, thank you, Mr. Martinez.

MR. MARTINEZ: Then again I'm reading the letter I see that there's an urgency and I think we're prepared to go there and put the gates up if we have to do it.

CHAIR HOLIAN: Okay, thank you. Any further questions for staff or for the applicant. Seeing, none this is a public hearing. Is there anyone here who would like to speak on this case either in favor or in opposition? Please come forward, state your name for the record and please be sworn in.

[Duly sworn, Richard Lindahl testified as follows]

RICHARD LINDAHL: My name is Richard Lindahl. I am the co-author of the letter that I hope you have before you and I truly wish that Commissioner Stefanics was here tonight because this is in her district and she's very familiar with this whole issue and this whole district. But, be that as it may. You've got that letter, I presume. We're the landowners in [inaudible] and we do commend Mr. Miller for working with the community.

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I heard the testimony about Eldorado Water District and the County and all that stuff but, you know, I think the Office of the State Engineer they are the experts in this whole area in the entire state and I think the Office of the State Engineer should be given much greater attention. They issued a negative opinion apparently on the initial development due to the limited and insufficient water supply and I don't think that should be overlooked. They are the expert not the Eldorado Water District. Secondly, I think the County has previously a master plan for roughly 50 lots and now this is mushroomed to 73 and I don't know why given the severe drought that is existing in the area these days the proposed density which is increased density will just add to the strain on the community's water supply. Why doesn't the County stick with the initial 50 lots that were approved in the master plan?

And, then, thirdly, the history of this is that Mr. Miller began the development of this subdivision putting in roads and utilities without the proper authorization or permits from the County. As owners of a lot in Tierra Colinas that is one lot away from his proposed subdivision we've been impaired and we want to sell that lot because of this issue and we've already had two potential buyers that once they found out about his proposed subdivision and the blasted through of the road to Tierra Colinas that was a deal breaker. They didn't want to buy. So I appreciate the fact that the applicant is willing to put up a gate there. I don't know why the applicant blasted that road in through Tierra Colinas without any authorization from the County but, nevertheless, we commend him for proposing to put that gate up but I would request that maybe the Commission should table this proposal or postpone any determination until number one, he actually puts up that gate and then secondly maybe deny the proposed based on the current density of the proposed 73 lots and limit it back to the master plan approval for 50 lots.

So, thank you very much for your consideration. I do appreciate the opportunity to make a comment on this at least. Thank you.

CHAIR HOLIAN: Thank you, Mr. Lindahl. Is there anyone else here who would like to speak on this case?

[Duly sworn, Tom Whitson, testified as follows]

TOM WHITSON: I'm Whitson president of the Sun Ranch Homeowners Association that adjoins the new subdivision of Tierra Bello on the west side and we do have a road, just one road between us and that's what we have between us.

The thing that I see right now that is the biggest problem we've got is that that road is just graded. It's a dirt road and dust is just tremendous problem on that road. The other part is that the gravel road is so rough it will tear cars up if they just continue to go back and forth and I guess my proposal would be rather than waiting until Phase 3 for this subdivision to pave the road, go ahead and start with a paved road that way the lots would be more salable. It would be to the developer's potential for sales to help that a lot and I think it would increase the value for everyone in the area and allow us to prevent that dust from coming over our subdivision with all the traffic. So, thank you, so much

CHAIR HOLIAN: Thank you, Mr. Whitson. Is there anybody who would like to speak? Seeing none the public hearing is closed. Mr. Martinez or Mr. VanAmberg would you like to make some final comments?

MR. MILLER: Yes, Madam Chair, members of the Commission. Again, the road improvement that would be coming under this initial phase is about a \$500,000 road

improvement to Compadres road which will include construction to County standards and it will be base coursed until we reach the 4<sup>th</sup> phase at which point the road will be paved to County standards and it will actually fall under the classification of a collector road at that point.

So the improvements of the road –

CHAIR HOLIAN: So, Mr. Martinez, if I understand you correctly you are going to improve the road even for Phase 1; is that correct?

MR. MILLER: Madam Chair, that's correct. In regards to the 50 lots: he is correct. Originally when this development was approved it was approved as Tierra Dorado. It was a 100-lot subdivision. The phase that we're working in was 50 lots as was Tierra Colinas so the 50 lot approval was basically taken away from Mr. Miller because of conditions that we don't want to go there right now but it was resolved and now we're back to this phase now. At one point there was a desire to go back and do the 50 lots but that would have to require that this Board of Commission would have to rescind their original vote taking away the 50 lots in order for us to go that process. We're so far into this thing that the 73 lots meet the density requirements. It's been six, seven years in the making so we've been working on this for quite some time now and, again, as far as the community we have gone extensively above and beyond to meet with these people. And I think that we're really satisfied that they're satisfied with everything that we've done today.

CHAIR HOLIAN: Okay, thank you. Any questions? Commissioner Mayfield.

COMMISSIONER MAYFIELD: Madam Chair, I have, I guess one question for the applicant and then I'm going to have some questions for the Mr. Ross, if you don't mind. So Madam Chair, and as far as the applicant, I guess the applicant's agent, Mr. Martinez, because you mentioned Phase 4 or Chairwoman mentioned Phase 4 but when do you think that Phase 4 – and the reason I'm bringing up Phase 4 is because of the letter we received from DOT that was handed to us and I can read it but they're talking about the turnout; so when do you think you'll have completion of Phase 4 if this is approved?

MR. MARTINEZ: Madam Chair, Commissioner Mayfield, our current master plan/phasing plan is calling that Phase 4 could possibly or conceivably come in as of 2014. We have to test this market and see what's going to happen with the lots. It's just really difficult to put lots on the tax roll if they're not going to have a good market response so we're looking at, I would say, late 2014, possibly into 15 we would be looking into coming in with that Phase 4 development.

COMMISSIONER MAYFIELD: And, then, Madam Chair, Mr. Martinez and I think it's Mr. Whitson's point as far as starting on the paved road he just mentioned, you're going to be \$500,000 basecourse and everything but if you had some paved roads and I'm not telling you or suggesting where you start your phases or your build out but would there be a reason why you wouldn't want to start is that adjacent to that?

MR. MARTINEZ: Madam Chair, Commissioner Mayfield, the big concern that we have is that we have one affordable housing unit that comes in with the development also under Phase 1. We got \$250,000 we're going to be putting into one affordable housing and then we got the \$500,000 into the Compadres Road improvements so that's three quarters of a million before you sell your first lot so the concern was if we had to do the

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paving and had to make that road complete under Phase 1 what it does is that there's just no profit after trying to sell nine lots based on phasing. The paving alone will increase the costs of Compadres Road by another \$375,000. So that road improvement would now be a three quarter of a million dollar plus we have the affordable housing unit. So the development would have to spend a million dollars before he could sell his first lot. That's why we have requested that the paving be put off until Phase 4.

And, again, in relationship to the Highway Department letter they increased the speed limit on US Highway 285 to 55, well, when they did that it also increased the need for a longer acceleration lane that's where this letter comes in. So the developer has agreed that when we are paving under Phase 4 we would come in and we would make that improvement on 285 at the same time.

COMMISSIONER MAYFIELD: And, Madam Chair, Mr. Martinez I thought I understood Mr. Whitson as saying there are already some paved roads out there where that would make you – excuse me, put you in a position where you wouldn't have to invest those monies right now in new paving.

MR. MARTINEZ: Madam Chair, Commissioner Mayfield, the only paved roads out there is Avenida Eldorado. There's no paving – Avenida Eldorado. There's no paving on Compadres Road it's a real rough trail road right now is what it is and very limited access when it's wet. The improvement will bring it to County standards at that point though.

COMMISSIONER MAYFIELD: Okay, thank you. Madam Chair, Mr. Ross, because I don't want to drudge up any bad issues but as far as Mr. Lindahl's and I apologize if I've got your name wrong, sir, concerns, the 50 lots under the master plan and now we're proposing to 73 and what Mr. Martinez alluded to I guess you probably articulated it a little better, so did we initially approve 50 lots and pulled that back based on those settlement agreements and now they're proposing 73 and I guess I'm not understanding that and I'd rather you address that.

MR. ROSS: Madam Chair, Commissioner Mayfield, that's ancient history basically. I mean the problem with the original 50-lot master plan was that it expired and had been superseded by subsequent plans. When Mr. Miller filed his application he was told and correctly so that he could file for any number of lots that was consistent with the prevailing density and this is what he chose. There was no precedent that was test back 25 years ago.

COMMISSIONER MAYFIELD: So that 50 was a moot point.

MR. ROSS: It's gone.

COMMISSIONER MAYFIELD: Okay, thank you. Then the second issue that was brought up from Mr. Lindahl – well there were three issues. Putting in roads without the proper authorization or permits by our County. Can you address that in this letter?

MR. ROSS: Well, Madam Chair, Commissioner Mayfield, we did have an issue with Mr. Miller years ago when the road and other utilities were put in which we resolved through some of the litigation –

COMMISSIONER MAYFIELD: Okay, so that road is already addressed.

MR. ROSS: Yes.

COMMISSIONER MAYFIELD: And then there was a request from Mr. Lindahl and I don't know if applicant Martinez and Mr. Miller and that is the issue with just

installing a gate or a barrier on the road immediately. Is that something that could pretty easily be worked out?

MR. ROSS: Madam Chair, Commissioner Mayfield, that –

COMMISSIONER MAYFIELD: Maybe that's for Mr. Martinez –

MR. MARTINEZ: Again, Madam Chair, Commissioner Mayfield, Mr. Miller has agreed and he's prepared to go out there tomorrow if that's what it takes. The gates will go up.

COMMISSIONER MAYFIELD: Thank you, Mr. Martinez. Madam Chair, that's all I have.

CHAIR HOLIAN: Any further questions?

COMMISSIONER ANAYA: Madam Chair.

CHAIR HOLIAN: Yes, Commissioner Anaya.

COMMISSIONER ANAYA: Madam Chair, one thing struck me about this case that I commented since I go on the Commission and a comment was made earlier by someone that reflected that the State Engineer is the responsible party for regulating water in New Mexico and that individual entities like the county or the city sometimes adopt requirements that are different or more stringent I should say. I actually concur that the State Engineer is the primary governing point for water in New Mexico and was established in state law to help be that person, correct, Mr. Ross?

MR. ROSS: Madam Chair, Commissioner Anaya, yes. Excepting in situations like this where the State Engineer is basically reviewing from an expert perspective applications based on the land development code not based on their own requirements.

COMMISSIONER ANAYA: That was, that was where I was headed and where I have some more questions. When I look at the letter dated March 21, 2013 I mean we're asking them for their expert assessment and they're utilizing the Subdivision Act and the County Code. In the absence of a county code, does the State Engineer provide reviews solely based on the Subdivision Act or do they have to provide reviews at all or is it just a courtesy request?

MR. ROSS: Madam Chair, Commissioner Anaya, in this case we've had issues with State Engineer about master plans, they don't want to review them. But there are nine lots proposed for final, preliminary and final plat approval here so what they are required to review are those nine lots. The water supply for those nine lots.

COMMISSIONER ANAYA: So, Madam Chair, Mr. Ross, the intent of having the State Engineer review our subdivision and planning documents is based on the assumption that they are the water governing entity for the State of New Mexico and they are put in place to help provide feedback and advice, correct?

MR. ROSS: Yes.

COMMISSIONER ANAYA: So, with that being said I'm looking at their letter and I'm just trying to understand their letter and their report but first it says – but first it says the office can't determine impact but then in the subsequent five, six, seven pages it actually goes into a far amount of detail as to why it does think there's an opinion. So first they say we don't have an opinion but then in the subsequent pages it talks about supply of water and connection to other wells.

So let me ask the question again, in other governmental entities does the State Engineer have a responsibility by law at all to review subdivision plats or developments? Do they have a responsibility in statute to review subdivisions?

MR. ROSS: Madam Chair, Commissioner Anaya, yes.

COMMISSIONER ANAYA: Okay. So it's not just give us your expert opinion. There's a statutory provision that says the State Engineer shall review subdivisions?

MR. ROSS: And give their opinion, correct.

COMMISSIONER ANAYA: So that being said, the first problem that I'm having and maybe it's something that I should have brought up sooner but as I look at these reports some of which – I've seen these reports before, they go back and forth between what their statutory obligations are within the Subdivision Act and what the Code requirements are. And I guess where I'm having a problem with this – they're saying they're confusing about providing or don't maybe have the information that they need to provide a perspective but I think they need to differentiate between what's Subdivision Act and what's within their auspice and responsibility and I think the Code interpretation isn't for a third-party or outside party from the County, that's our responsibility.

So I guess in the future what I'm asking for is that they differentiate and clearly separate what is their obligation by law under the Subdivision Act and what the opinion. And the reason I'm saying this, and I know it's late, Madam Chair, but this is an issue that keeps coming up and is going to keep coming up – is that we talk about a 100 years supply in our code. Does the Subdivision Act speak to 100-year supply in the Subdivision Act, State Subdivision Act?

MR. ROSS: Madam Chair, Commissioner Mayfield, no.

COMMISSIONER ANAYA: So what does the Subdivision Act say as far as how long a project should sustain water?

MR. ROSS: Madam Chair, Commissioner, it doesn't. It requires the State Engineer to review according to the local ordinance. So the locality makes the choice in their ordinances what to require. So in our Code is 100-year water supply.

COMMISSIONER ANAYA: So is there a rule of thumb that the State Engineer uses or if an entity says we want to have a five-year water plan they would say, well, that's sufficient or is there a general guidelines that they use in the absence of a water plan that the board utilizes because I guess what I'm struggling with is if Santa Fe County is – we have a requirement. We say 100 years. I think it's a little odd but I guess I'll continue to learn more, but I guess it's a little odd if we say we want 100-year supply but then we ask our neighbor in the State Engineer, Hey, can you verify that we have 100 year supply? I would think that the State Engineer because they are the water regulatory body, if you will, or you know, or guru expert that they would have a framework to work off. So, they don't have a framework or do we know?

MR. ROSS: Madam Chair, Commissioner Anaya, the 100 year requirement as best as I can determine came from guidelines promulgated 30 years ago from the Attorney General's Office and has just sort of been carried on sort of mindlessly by everybody in this business in a sense.

COMMISSIONER ANAYA: Really?

MR. ROSS: Yeah.

COMMISSIONER ANAYA: So, Madam Chair, Mr. Ross as I look further into the detail of what they provide I think they do have some analysis in there that is worthy of our consideration. On page two of three at the top, water demand analysis and water conservation, they bring up that there were differing lot sizes within the subdivision that we're asking them to review. Do we rectify that and provide some clarity in our packet to the questions that they raised in section?

Because it does seem a little bit confusing. And I'm at the top of page two of three in the memorandum dated March 21, 2013 from the Office of the State Engineer.

MR. ROSS: I think Vicki may have some information on that.

MS. LUCERO: Madam Chair, Commissioner Anaya, the applicant has addressed those concerns. We haven't received an updated letter from the OSE as of yet but the applicant did address those concerns and noted there is consistency throughout the report.

COMMISSIONER ANAYA: On that piece?

MS. LUCERO: Correct.

COMMISSIONER ANAYA: Okay, so then they go on and so basically what I'm hearing from you, Steve, is that they have the Subdivision Act it doesn't speak anything to water supply over a period of time that we're aware of. We're not aware whether or not there's a general rule of thumb that they utilize in the absence of a governing body that has a term. So taking that at its face value what's puzzling to me and you have to help me understand is in a subdivision of 73 lots, okay, and we're only talking about nine. We're only talking about nine lots in the subdivision where we on numerous occasions have made it public and known that we have the water supply. I said many things at the last Commission meeting that dealt with a similar matter. We absolutely have a water supply that is coming into the area. Help me understand the justification or the remarks that they make in the memo that speak to not being able to substantiate nine lots? We're not talking 73. They're only speaking the nine lots and they're saying based on the information that they have and based on their analysis of our code and our requirements – I mean these are bona fide experts in water policy and they're saying you don't have enough to justify nine lots. I, I – you have to help me because it's important to this case but it's important to all future cases. What is it? Is that confusion of what we're expecting and what they're trying to analyze or where is the confusion at?

MR. ROSS: Madam Chair, Commissioner Anaya, there's two principle points of confusions I think that they're suffering from. Number one, I think they're discounting our efforts to hookup the Water and Sanitation District to our Buckman Direct Diversion water source. That's something they haven't been able to accept as of this plan and probably for a good reason because we haven't documented it but we're absolutely progressing that way and they know it. We have a project underway that takes water out to Canoncito which will supply Eldorado in two different points with backup water or direct water that they need. So whatever the State Engineer's criticism of the water rights put forward and the quality of the wells out there, it becomes sort of a moot point if they're hooked up to a source of supply like the Buckman that's capable of providing more than the entire Eldorado Area Water and Sanitation District needs in any given years. So that's issue number one.

The second issue I talked a lot with Karen about is the fact that the engineer for some reason is discounting the willingness or ability of the Water and Sanitation District to replace

well once they become unusable. Wells they clog up after a period of time and for some reason the engineer is not willing to entertain the idea that over the course of this 100 years the Water and Sanitation District will replace those wells. So they're basically allowing the wells in their various water models to cease producing over the 100 years and they're not accounting for the fact that should the Eldorado District is going to be put money into new wells and new water sources and stuff like that.

We've had this problem periodically with the State Engineer. About three years ago we had to have a large meeting and kind of iron out all of this stuff and it seems to happen on about three year intervals and it's probably time to do it again.

COMMISSIONER ANAYA: So, Madam Chair, Mr. Ross you have articulated some of the concerns that I have associated with this review. If you review the documents that we've been provided by the State Engineer, okay, and I don't know I would assume that the State Engineer himself doesn't have the ability to review every case that comes through but when you review the documents in front of us at face value and making the assumption that no well will ever be replaced which I think is an erroneous assumption, every mutual domestic, every city water company, every utility has a need not for future growth but for maintaining responsible use of existing water has a need and responsibility to over time upgrade their wells. And to deepen wells and to find new water sources and in this case one of the new possible alternate water sources is the Buckman Direct Diversion project. So when I read this it discounts, as you said, the entire Buckman Direct Diversion project, but it even goes further to say that not only can the wells that exist in the current fashion not sustain the nine lots but they can't even sustain what they have in place right now which if you don't do anything to your wells and you never deepen and you never modify as time goes on then you're not going to have water. I mean, individual well owners that have well in the Estancia Basin on a regular basis over decades of time have to go in and deepen their wells and drill new wells and attain new water. So, so, so I appreciate the explanation. I think there needs to be clarity and more definition between the Subdivision Act and the Code in future reports and I absolutely think that we need to as a Commission engage the State Engineer in a comprehensive discussion about how his office and he is evaluating water supply and use and continued maintenance of that use and how we can all reasonably work together to figure out what makes most sense so that we don't overuse an aquifer but that we also make the right reasonable assumptions on how long a water supply would last and what accommodations need to be made when there is a lack of water.

Madam Chair, I don't have anything else.

CHAIR HOLIAN: Really. Are there any further questions? I'm afraid to ask are there any further questions for staff or the applicant? Seeing none is there a motion?

COMMISSIONER ANAYA: Madam Chair, on the nine lots alone I would move for approval.

CHAIR HOLIAN: Is there a second?

COMMISSIONER MAYFIELD: I'll second, Madam Chair.

CHAIR HOLIAN: Any further discussion? I just would like to make a comment. First of all I would really like to thank Mr. Martinez and Mr. VanAmberg for meeting with the community and trying to address their concerns. I know that you've had many community meetings and you have done what you could to address the concerns of the

people in that area. I do have some reservations about this case but I have to say with respect to water I am not really that concerned because I really believe that soon the Eldorado Area Water and Sanitation District will have County utility water as a backup. I also think that it is very appropriate that a market analysis be done before the developer comes forward with future phases and I know that is a condition. So I will vote for this but before I would support future phases I would really want to see a market analysis and I would wasn't to see that the developer has followed through on the conditions of developing this phase.

I believe we have a motion and a second with staff conditions?

COMMISSIONER ANAYA: That's correct, Madam Chair.

CHAIR HOLIAN: For approval of CDRC ZS 08-5440 Tierra Bello Subdivision. All those in favor – yes, Commissioner Mayfield.

COMMISSIONER MAYFIELD: Madam Chair, just a comment for the applicant. I'm just hearing the community concerns and maybe you can work with temporary, temporary because I think you might want to have these properties interconnect, but just [inaudible] construction phase some egress and ingress issues with those gates, just if you would take that into consideration. Thank you, Madam Chair.

COMMISSIONER MAYFIELD: Okay, we have a motion and second. All those in favor say aye.

**The motion passed by unanimous [4-0] voice vote.**

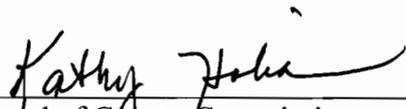
CHAIR HOLIAN: Any opposed? Motion carries.

**XVIII. ADJOURNMENT**

Upon motion by Commissioner Chavez and second by Commissioner Mayfield, Chair Holian declared this meeting adjourned at 11:20 p.m.



Approved by:

  
Board of County Commissioners  
Kathy Holian, Chair

  
GERALDINE SALAZAR  
SANTA FE COUNTY CLERK

6/11/2013

SFC CLERK RECORDED 6612/2013

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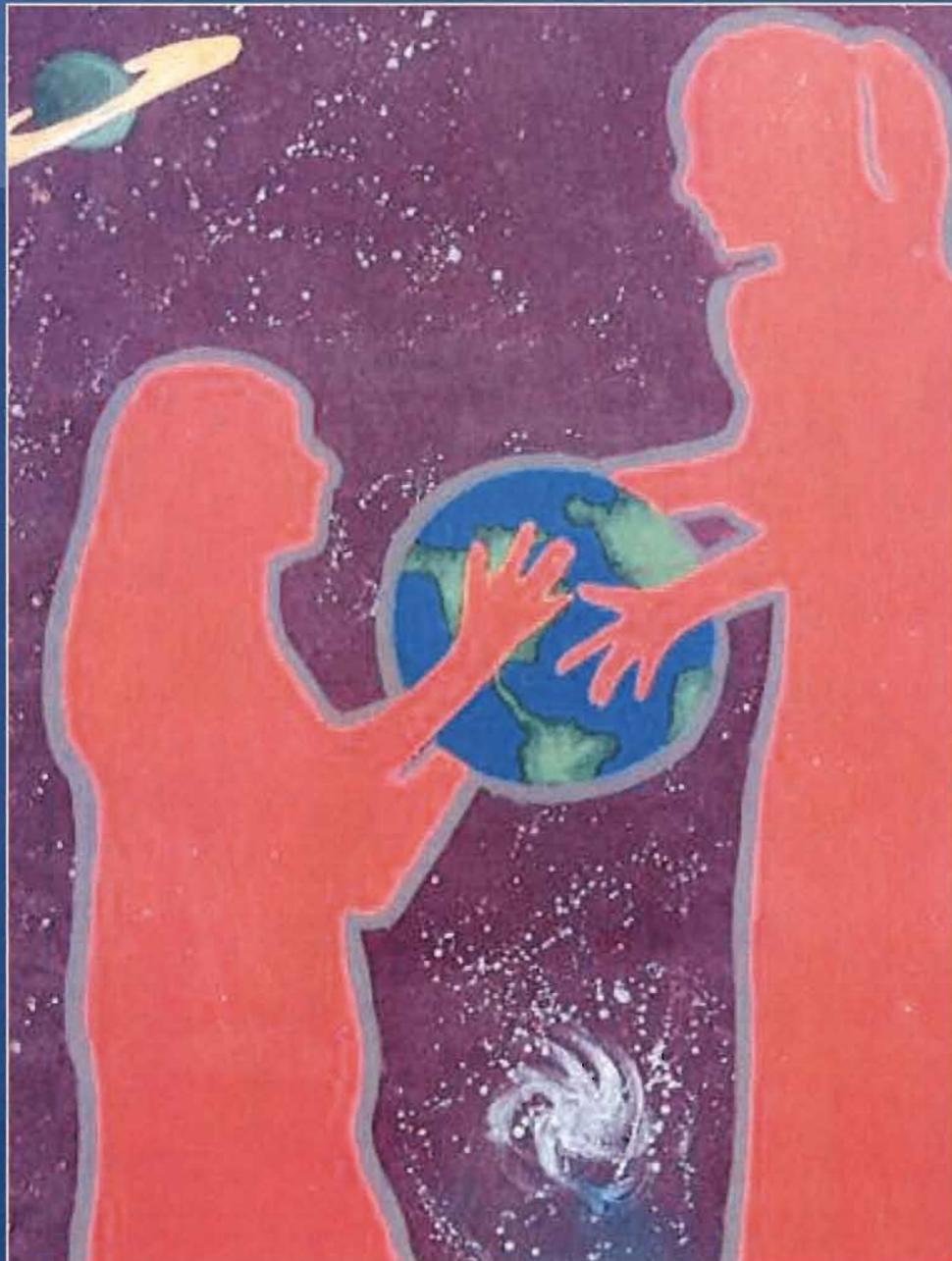
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EXHIBIT  
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# SANTA FE COUNTY

Annual Report

2012 - 2013



REC. CLERK RECORDED 85/12/2013

SANTA FE BOARD OF COUNTY  
COMMISSIONERS



COMMISSION CHAIR

KATHY HOLIAN

DISTRICT 4



COMMISSION VICE CHAIR

DANIEL MAYFIELD

DISTRICT 1



COMMISSIONER MIGUEL CHAVEZ

DISTRICT 2



COMMISSIONER ROBERT ANAYA

DISTRICT 3



COMMISSIONER

LIZ STEFANICS

DISTRICT 5



COUNTY MANAGER KATHERINE MILLER

LETTER FROM THE COMMISSION CHAIR,  
KATHY HOLIAN

**Dear Santa Fe  
County residents:**

**There have been many accomplishments in Santa Fe County this year. Please see accompanying boxes for lists. There is one issue that I would particularly like to highlight in this letter: climate change.**

This last year has been a challenging one in the County, indeed in the whole State of New Mexico. We are in our third year of drought, and this last period has been the driest in our recorded history. This has brought increased fire danger to the County as well as severely reduced water supplies in many areas. We are now experiencing climate change, and we are beginning to see how it will affect our County in the years to come. It is vital that we begin to prepare and to plan.

On the good side, the people of Santa Fe County are very aware that we are facing increased fire danger and that our water resources are less than abundant. People in our community do not have to be talked into conserving water or

into making their homes and yards more firewise. There are also many people who want to participate in committees and focus groups that will investigate these issues in greater depth.

wells. But building a water treatment plant has allowed the County to establish its own water/wastewater utility. This last year the utility delivered approximately 500 acre-feet of water to customers.

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**...the County has committed resources to preparing for the future are diversification and expansion of water supply,...**

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Also on the good side, the County has begun to respond to our challenges in a variety of ways. The major areas in which the County has committed resources to preparing for the future are diversification and expansion of water supply, increase in capabilities for fire-fighting and fire prevention, and land restoration.

One important step forward was the opening of the Buckman Direct Diversion (BDD) Project water treatment plant. This has allowed us to diversify our water supply by being able to access surface water from the river. Prior to the BDD project, all water in the rural areas of the County came from groundwater

Since it has a total capacity of around 2200 acre-feet in a year, there is still plenty of room left to serve others in the County where the need exists. There are a number of individual homeowners, mutual domestics and water associations throughout the County that are beginning to have water quantity and/or quality problems. The first priority in the County will be to help those individuals and organizations that need a clean and reliable water supply.

The County utility has also taken over the Quill water treatment plant that is on the site of the State Penitentiary. Plans are being made to increase the number

of customers hooked into the plant. This will help protect the aquifers in the region, and in the long run, the County will also have a supply of treated wastewater of its own. This water can possibly be used for agriculture, or it could even be treated to a purity that would allow for reuse.

Another important area where many advances have occurred in recent times is fire fighting and fire prevention. The Santa Fe County Fire Department has had a Wildland Division for some years. The responsibilities of the Wildland Division are not only fire suppression readiness and response, but equally important is the reduction of the threat of a catastrophic wildland fire in the Wildland Urban Interface (WUI). This latter mission consists of public education and outreach, as well as organizing fuel reduction projects in places where homes are surrounded by dense forests with abundant undergrowth and ladder fuels (these aren't ladders located in fire trucks, but instead, smaller trees that are crowded around bigger ones). In addition, as time permits, the County has been implementing a WUI Hazard Assessment Project, which means sending out fire department personnel to make an assessment of each home (in the WUI areas) as to the overall fire risk. Maps and documents are created for both the homeowners and

for the fire agencies that might respond to a fire in a particular area. In fact, if you live in an area of high fire risk, you can access the County website and find out how your home rates as far as being vulnerable to fire. In addition, staff from the Wildland Division will help communities implement a Firewise program and will even bring wood chippers out to neighborhoods who would like to have a "cleanup" day to deal with flammable plant materials.

Another step forward by the Santa Fe County Fire Department has been to establish a program that trains youths from ages 18 to 25 in forest management, fire ecology, and watershed health. This is a great program that trains young people for future jobs in fire departments, especially in the field of land restoration to reduce the risk of Wildland Urban Interface fires in our community. The types of jobs that these individuals do are things like hazardous fuel reduction and forest management. They are also available to help fight wildland fires. The Fire Department has also been applying for grants whenever possible for restoration projects.

The third area to prepare for climate change that the County has become more involved with is land restoration. This activity improves the infiltration of rainwater into the land, thereby feeding the aquifers as well as watering the surrounding trees and plants more effectively. If we want to

preserve the plants and animals that are part of our community, as well as nurturing the people who live here, it will be imperative that we keep the land as healthy as possible.

An example of a project that staff from the County worked on last year was one that occurred on the Rio Quemado, a tributary of the Rio Santa Cruz. In this case, the County received a grant to develop a plan for vegetative management and infrastructure improvements to reduce flooding and erosion and to ultimately ensure that more water enters the acequias. There have also been projects at the Arroyo Hondo Open Space, La Cieneguilla Open Space, El Camino Real Park, and San Isidro Park. Also, in collaboration with the Santa Fe/Pojoaque Soil and Water Conservation District, the County worked to restore a spring and the creek at Los Carrizales in La Cienega at El Peñasco Blanco Open Space.

There will be many challenges associated with the changing weather patterns that we will experience, and we who live in the County must work together to plan how we will adapt to these changes. But we also must start the conversation about changing our behavior so that we can start to lessen our effect on the environment. How we use energy and water and how we get our food is an important part of this dialogue.

LETTER FROM THE COUNTY MANAGER,  
KATHERINE MILLER

SFO CLERK RECORDED 05/12/2013

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A SUSTAINABLE SANTA FE COUNTY 5

AFFORDABLE HOUSING PROGRAM 8

BUILDING COMMUNITY/  
COMMUNITY HEALTH 10

COMMUNITY SAFETY 15

COMMUNITY INFRASTRUCTURE 19

GOVERNMENT EFFICIENCY AND  
TRANSPARENCY 20



COMMUNITY PLANNING

Santa Fe County works with unincorporated communities throughout the County to create plans that guide future growth and development and address community needs and values through the Community Planning program in accordance with the Sustainable Growth Management Plan. Highlighted Community Planning Program accomplishments over the past year include the following:

- The Board of County Commissioners (BCC) adopted the Galisteo Community Plan by passing Resolution 2012-36 [www.santafecountynm.gov/documents/ordinances/2012-36.pdf](http://www.santafecountynm.gov/documents/ordinances/2012-36.pdf) on February 28, 2012 as an amendment to the Santa Fe County Sustainable Growth Management Plan.
- The Board of County Commissioners initiated a community planning process for the Chimayo community by passing Resolution 2012-48 [www.santafecountynm.gov/documents/ordinances/2012-48.pdf](http://www.santafecountynm.gov/documents/ordinances/2012-48.pdf) on March 27, 2012.
- Planning Division staff is working with the communities of Tesuque and La Cieneguilla to update their community plans.

SUSTAINABLE LAND DEVELOPMENT CODE (SLDC)

The draft Sustainable Land Development Code (SLDC) is currently being revised to incorporate relevant public comments received during the public comment period, over 2,500 public comments were received. Comments were received through study sessions, an online comment form and BCC updates held in 2012. Santa Fe County is working to have a new draft for final review released in mid 2013 and BCC action by the end of 2013. In addition to the extensive re-write the following items were developed for the SLDC rewrite process:

- Staff developed a Public Participation Plan for the County Sustainable Land Development Code (SLDC), which was used to review the public review draft of the Code.
- Staff developed an online database for the public to submit their comments, concerns and revisions to the Code.
- Developed preliminary Zoning Map for the SLDC.
- Created GIS data and a map showing areas where residents or property owners have raised issues as to what the zoning designation is on their land for draft SLDC Zoning Map. As staff meets with residents about their zoning designation and review old approvals etc. and the future land use map they are preparing a revised zoning map with proposed changes to the SLDC Zoning Map.



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## A Sustainable Santa Fe County

- Held 12 community public meetings in all four growth management areas of the County (El Norte, El Centro, Galisteo, Estancia) to review the SLDC.
- Conducted two study sessions and updates to the BCC on the SLDC and two meetings with the SLDC Advisory Group.

For more information on the SLDC visit <http://www.santafecountynm.gov/slhc>

### TRANSPORTATION

Santa Fe County participates within the jurisdiction of three regional planning organizations:

#### **The Northern Pueblos Rural Planning Organization**

The Northern Pueblos Rural Planning Organization (NPRPO) includes tribal, municipal and county jurisdictions, each seeking state and federal funds to assist with transportation projects areas outside of the Metropolitan Planning Organization (MPO) boundary, generally located in the northern portions of Santa Fe County.

#### **The Mid-Region Council of Governments, Rural Transportation Planning Organization**

The Mid-Region Council of Gov-

ernments, Rural Transportation Planning Organization (MRRTPPO) includes an area surrounding the greater Edgewood area.

Each organization is set up to help facilitate the planning and programming of federal funds to local transportation projects.

#### **The Santa Fe Metropolitan Planning Organization**

The Santa Fe Metropolitan Planning Organization (MPO) will begin its update of the Santa Fe Metropolitan Transportation Plan in Fall 2013. This year the County worked closely with the MPO to successfully program (fund) a critical segment of the Santa Fe Rail Trail. Construction is intended to commence in 2013 and shall improve segments of the Rail Trail as it travels south from I-25. Phase I of the Caja Del Rio Road improvements were successfully completed this year with Phase II beginning in April. New pavement with extended shoulders for road integrity and bicycle movements were included. A critical study for the Community College District, the Northeast and Southeast Connector Location Study was programmed with the MPO Transportation Improvement Program and kicked off this year. The study will identify two new road segments east and north of Richards Avenue near the Community College aimed at relieving existing and future traffic.

### TRANSIT/BUS SERVICE

Santa Fe County provides “blue bus” service to the City of Santa Fe, neighboring communities of Española, Eldorado, Pojoaque, Tesuque and all of the tribal entities and many other areas in the County through a partnership with the North Central Regional Transit District (NCRTD).

- Fiscal Year (FY) 2011 (July 2010 to June 2011) to FY 2012 (July 2011 to June 2012) the ridership for all funded routes collectively increased from 374,211 to 431,941 per year.
- Route from Espanola to Santa Fe increased from 18,853 to 24,170 with trends indicating that ridership is still increasing this FY year.

### ECONOMIC DEVELOPMENT

- Santa Fe Studios – a TV pilot, made-for-TV movie and Warner Bros film have used the facility for filming and production.

#### **Job Hours Reported**

Third Quarter 2012: 6474 job hours reported

First Quarter 2013: 6,122 onsite job hours reported

- Bicycle Technologies International has broken ground near the Santa Fe Community College

## A Sustainable Santa Fe County

and is scheduled to complete the construction of its new 65,000 square foot office and warehouse facilities by the end of March 2013, and will move in to its new home in early April. This LEDA project will allow BTI to increase its volume of business and create up to 200 direct and indirect jobs within Santa Fe County.

- REDI Net is a middle mile broadband initiative that will provide high speed, high capacity fiber optic broadband connectivity to communities from Santa Fe northward to Dixon, including the pueblos of Tesuque, Pojoaque, San Ildefonso, Santa Clara, Ohkay Owingeh, and including the City of Espanola, Los Alamos, and White Rock. To date, approximately 88% of the fiber optic line has been installed, and the project will be 100% completed by the end of 2013.
- Santa Fe County received a \$2,500 grant from the NM Economic Development Department for the Certified Communities Initiative, which will be used to support unincorporated communities within Santa Fe County with their marketing and Public Relation efforts.

### HIGHLIGHTED PUBLIC HOUSING SERVICES ACCOMPLISHMENTS

- Santa Fe County Housing achieved 100% occupancy of public housing
- New cabinets were placed in 37 public housing kitchens and bathrooms at the Valle Vista and Camino Jacobo housing sites
- New exterior stucco was placed on 30 public housing homes at three public housing sites including Santa Cruz, Valle Vista and Camino Jacobo

### HIGHLIGHTED - COMPLETED PROJECTS

#### Steve Herrera First Judicial Complex



13 kilowatt solar system on the roof of the new Judicial Complex – a LEED Gold green building". Photo Credit: Eagle's Eye – Aerial Photo Solutions

The completion of the New Steve Herrera First Judicial Complex was confirmed in February of 2013 by the Certificate of Occupancy issued by the State's Construction Industries Division. The 103,000 square foot facility encountered numerous challenges during construction including the removal of 25,000 tons of contaminated soil

and over 1,500 gallons of perched gasoline left by leaking tanks at three former gas stations. The Courts anticipate a move into the new building during the first week of June of 2013. The completed project is on track for a *Leadership in Energy and Environmental Design* (LEED) Gold designation and is just two points short of LEED Platinum, the highest LEED designation possible. Conservation features include Storm Water catchment and storage for irrigation, high efficiency heating and cooling, high efficiency water fixtures, Green paper products and janitorial supplies and a roof mounted array of photovoltaic solar collectors that can provide up to 20% of the buildings total electrical demand.

### Rancho Viejo Fire Station

The construction of the new Regional Fire Station in the Rancho Viejo area was completed in June of 2012. This station was built to house both paid firefighters assigned to the Western Region and the volunteer firefighter/EMT's for the La Cienega Fire District. In addition to the living quarters the facility consists of three bays that can hold three emergency vehicles each.



Rancho Viejo Fire Station

### Nambe Senior/Community Center

The original Nambe Elementary School property is a 0.73 acre tract with two small former School buildings and a parking area. The County renovated the Nambe School for use as a Senior/Community Center. The renovation included electrical, plumbing, HVAC, exterior insulation and window replacement. Additional construction renovations to be complete at this site by the end of 2013 include: renovation of the park facilities on the site and access improvements that will supplement the renovated Center.



Nambe Senior and Community Center

### Rio en Medio Community Center and Kitchen Facility

The Rio En Medio Senior Center expanded its current kitchen to meet the demands of District 1 Senior constituents who receive Meals on Wheels. The kitchen upgrade is designed to provide 50 to 60 meals per day and to comply with all code and fire safety requirements.

**Las Estrellas (Adam identified these projects still need info)**  
**Camp Stony (Adam identified these projects still need info)**

HIGHLIGHTED COMPLETED  
OPEN SPACE, TRAILS AND  
PARKS PROJECTS

### Rail Trail Section 1

The construction of the first 1.7 mile section of the 12 mile improved trail is complete. Construction of sections 2, 3 4 and the Rabbit Rd. Trailhead are being prepared for construction in



Santa Fe Rail trail

late 2013. Completion of these three sections will bring the Rail Trail to Eldorado providing a viable bicycle route from the community in Eldorado to downtown Santa Fe. Future sections will extend the trail to the Galisteo Basin.

**La Piedra Open Space Trail**

Completed two miles of critical trail connection linking the Dale Ball network of trails with the County's Little Tesuque Open Space and the Santa Fe National Forest.



La Piedra

**Burro Lane Park**

Santa Fe County completed construction of a new Neighborhood Park featuring new playground facilities and an exercise path.



Burro Lane Park

**El Camino Real Trail**

Completed Construction of a trail and trail head facilities along approximately one mile of the Santa Fe River upstream of NM 599.



El Camino Real Trail



Arroyo Hondo Wetlands. Restoration and Trailhead Ribbon Cutting Ceremony

### Arroyo Hondo Wetlands Restoration and Trailhead

Restoration work in the Arroyo Hondo wetlands was completed in 2012 and the new Trailhead and parking was officially opened at a ground breaking ceremony in May of 2013. The restoration project included the removal of invasive species and the planting of native Willows and Cottonwood. The new parking and trailhead provide an additional connection to the already popular trail system.



Arroyo Hondo

## PROJECTS STARTING AND UNDERWAY

### Edgewood Fire Station

The Edgewood Fire Station is currently in construction. The 4,998 square ft. facility will accommodate both full time staff and a volunteer staff and provide bed spaces and three sets of lockers and a desk space in each room to accommodate three different shifts. The station will also include a living room, kitchen, offices, laundry room and outdoor patio. The building also has a training room with exercise and weight lifting equipment, a conference meeting room with a divider that separates the room into two rooms, offices for staff and an apparatus bay that houses nine fire and emergency vehicles.

### Edgewood Open Space

The Edgewood Open Space is a 30 acre tract located in the Town of Edgewood and was purchased by the County for open space in September of 2000. The project consists of an equestrian arena, trails, and a picnic area and will be jointly operated with the City of Edgewood. The construction contract was awarded in December of 2012 and the project is scheduled to be complete by August 2013.

**South Meadows Open Space**

Located at the intersection of South Meadows Drive and Rufina Road, the South Meadows Open Space property was identified as a significant community resource by community members the year 2000. The County Commission recognized a unique opportunity to provide a single, large parcel of open space to the community in a rapidly urbanizing area of the greater Santa Fe Metro Area and approved the property for acquisition in 2001. The design for the project is currently being completed and the project is expected to go to bid in July 2013 and construction is expected to be completed by November of 2013.

**Old Judicial  
Redevelopment Study**

Santa Fe County has initiated a feasibility study to determine the highest and best use for the former First Judicial Complex in downtown Santa Fe. Study options include remodeling to consolidate County Administrative Offices as well as the sale of the property.

**Ken and Patty Adams Senior  
and Community Center**

Design is underway for the expansion of the existing Senior Center in Eldorado. The additions also include facili-

ties for a new Community Center which will be located between the existing Vista Grande Library and the expanded Senior Center.

**Vista Grande Library  
Addition**

The Vista Grande Library serves the Eldorado, Glorieta, and surrounding area. The library has outgrown its space requires an expansion of its facility. Santa Fe County appropriated funding

three new tutoring/small meeting cubicles, a new meeting room (with a separate building entrance) that will allow the use of the meeting room for community meetings as well as for showings for the popular “Movie Night” and children’s programs. Support spaces in the expansion include a kitchenette, store room, restroom data and janitor closets.

The addition has been designed and bid. Construction started in May of 2013.



Vista Grande Library Addition ground breaking.

for the building expansion from the Gross Receipts Tax-funded Capital Projects that was initiated in 2012. The project consists of a 4,000 sq. ft. expansion along with site improvements.

This building addition will accommodate expanding the library collections, book shelf stacks, reference and periodical reading area as well as providing additional computer stations. Also included in the expansion is a new processing workroom, new office,

### SANTA FE RIVER GREENWAY PROJECT

**River Greenway Acquisition Program** - Acquisition of land and easements along the length of the Santa Fe River from the Santa Fe City Limits to the Waste Water Treatment Plant to create a public Greenway is developed.

**Santa Fe River Greenway** - Frenchy's Field to Siler Rd Section- Design of a multi-use trail and river restoration for the Santa Fe River corridor from Frenchy's Field, where the City's river restoration efforts end, to Siler Road is currently underway and expected to be complete by June of 2013.

**San Ysidro Park River Channel Restoration** – The construction of channel improvements on the Santa Fe River at San Isidro Park, between San Ysidro crossing and County Road 62 is underway and expected to be complete by August 2013.

**Conceptual Design of the Santa Fe River Greenway Siler Rd. to the Waste Water Treatment Plant** - Conceptual design for river channel reconstruction and a pedestrian/ bicycle/ equestrian trail for the remaining sections of the Santa Fe River Greenway. The conceptual design will establish the project limits for property acquisition. The project also includes the design of river channel improvements for the section of the Santa Fe River from Cottonwood Drive to NM 599.

### Other Projects Currently Underway

- Romero Park Masterplan and Phase 1 Improvements
- Pojoaque Sport Fields and Park Improvements
- Madrid Ballpark Grandstands
- Parking Facilities at the Cundiyo Community Center
- Renovation of La Cienega Fire Station No. 1
- Additions and Renovations to La Cienega Fire station No. 2
- La Bajada Ranch Planning and Programming
- Stanley Wellness Center
- Highway 14 Senior/Community Center
- District Attorney Complex Upgrades and Improvements
- Northern Santa Fe County Recreation Complex in District 1
- Arroyo Hondo Trail from the Community College District to Hwy. 599
- Los Potros Open Space leasing and Management
- Mt. Chalchihuitl Acquisition and Remediation
- El Rancho and Pojoaque Tennis and Basketball Court Resurfacing
- Cundiyo Community Center Parking Lot Design
- Herrada Road Paving and Drainage Design
- Los Pinos Road (CR54) All Weather Crossing Design
- CR98 Road Widening Phase II Design
- Camino Torcido Loop Archaeological Study / Paving and Drainage Design
- Road Improvements to Caja Del Rio (Southern Segment)
- Arroyo Alamo West Drainage Study

### COMPLETED ROAD PROJECTS

- County Road 63C (Calle Valencia) - Chip seal
- Agua Fria Park Road - Base course
- Entrada La Cienega - Chip seal
- County Road 113S - low-water crossing
- Caja Del Rio (Northern Segment) – Road resurfacing and widening

# AFFORDABLE HOUSING PROGRAM

## FORECLOSURE PREVENTION PROGRAM

Through the Santa Fe County Affordable Housing Foreclosure Prevention Program, the County has acquired two homes and has sold two homes in Fiscal Year 2013. Staff has another home under contract with a closing date in May, while a fourth home is expected to be under contract during this fiscal year.

The purpose of the acquisitions is to preserve the affordable housing stock and original subsidy loans through resale of the units and assumption of the subsidy loans by households with incomes under 80% of Area Median Income.

Outside of the foreclosure prevention program, when owners of homes purchased through the affordable housing program need to sell due to changing family size, job loss, relocation or other factors, the County facilitates voluntary sales and subsidy loan assumptions to other income eligible households, thereby preserving the affordable housing stock. This has been done for one sale to-date and the County is currently working with several other homeowners in this process.

## RENT-TO-OWN PROGRAM

A rent-to-own program was created and approval is expected to be received from the Housing Authority Board and the Board of County Commissioners (BCC) in Fiscal Year 2013. This program enables income eligible households to enter into both a rental and purchase agreement and use the term of the lease to reduce debt, repair credit scores and save money for a down payment

## DOWN PAYMENT ASSISTANCE PROGRAM

Santa Fe County has made six down payment assistance request approvals for Fiscal Year 2013 totaling \$110,000 in assistance, with a seventh request and approval expected by the end of the fiscal year. These are zero percent, non-amortizing, deferred payment loans which are due on sale of the property. All of the assistance has been provided for the purchase of existing homes, including a mobile home on a permanent foundation.

The County has proposed revision of the enabling ordinance and resolution including regulations for the down payment assistance program which would increase program utilization and make more efficient use of the funds. Staff expects approval of the revised ordinance, resolution and regulations from the New Mexico Mortgage Finance Authority by the end of the fiscal year.

## ROOF REPAIR AND REPLACEMENT PROGRAM

To finance roof repair and replacements for low income households, the County offers zero percent, non-amortizing, deferred payment loans which are due at the end of five years or upon sale of the property, whichever comes first. During this fiscal year, the County transitioned management of this program from Los Amigos E.R.C., Inc. to County staff.

The County has revamped the existing program regulations for the roof repair and replacement program in order to more clearly assign responsibility for contractor selection to the homeowner and provide better guidance on the preparation of scope of work, approval of final contractor pay

requests and selection of households to participate in the program. The revised regulations for the roof repair and replacement program were approved by the Mortgage Finance Authority (MFA) on August 16, 2012 and by the Board of County Commissioners (BCC) on August 28, 2012. Under the new transitioned management the County has completed seven roof repair and replacement contracts.

### AFFORDABLE HOUSING AGREEMENTS

The County worked with the developers of La Entrada and La Pradera to prepare amended affordable housing agreements which made numerous substantive changes in the existing agreements, including the following: changing affordable housing requirement from thirty percent to fifteen percent; enabling non-profit organizations to hold County affordability mortgages and liens, under certain conditions; changing the controlling regulations from the Community College District affordable housing rules to the more current inclusionary zoning ordinance and regulations; providing greater flexibility in the marketing plan, time period for building the affordable homes and in the product mix between two, three and four bedroom units.

Both amended affordable housing agreements were approved by the BCC and set the stage for more comprehensive changes which are being made in the County inclusionary zoning ordinance and regulations. These changes are being developed in coordination with a developer stakeholder committee and will be presented to the BCC for consideration later in this calendar year.



San Ildefonso Pueblo-01.jpg

## BUILDING COMMUNITY COMMUNITY HEALTH

**\$1 RIDE HOME**

Avoid the danger of drunk driving.  
Avoid the risk of losing your car. To find out more, or to arrange for a ride home:

**CALL**  
505-438-0000

### CADDY PROGRAM

Santa Fe County made changes to Santa Fe County's CADDy program to reduce the ride cost and increase the ridership. Beginning July 1, 2012 the CADDy program started offering \$1 rides home from any licensed liquor establishment or drinking location. Bar table tops and coasters were distributed throughout the City and County encouraging patrons to take advantage of the reduced rate during the summer months.

"The program funded over 13,000 rides in 2011 and this summer we want to make sure that everyone has an opportunity to get a safe ride home," stated Health and Human Services Division Direc-

tor, Rachel O'Connor.

The Chauffeur and Designated Driver Program (CADDy) is a safe ride home alternative to driving drunk. Santa Fe County subsidizes

cab rides with Capital City Cabs for patrons of bars and other alcohol dispensing locations on Friday and Saturday nights. For just \$1 adults ride the cab from a bar or party home between 5:30 p.m. to 2:30 a.m. The \$1 fee covers the first 7 miles or \$25, for fares more than \$25 the cab rider is responsible for the difference. Call CADDy 438-0000

### New Year's Eve

More than 160 people caught a CADDy cab ride home on New Year's Eve. The CADDy program expanded its regular Friday and Saturday night schedule to include



CADDy Rides Provided

Fiscal Year	Riders Provided
2010	8897
2011	12,975
2012	15,213

New Year's Eve this year, which fell on a Monday. Typical ridership on Friday and Saturday nights is between 100 - 120 riders.

The DWI Program conducted two extensive media campaigns which leveraged earned media as well as paid marketing. The summer program, *Kiss Your Baby Goodbye*, targeted the vehicle forfeiture initiative and the winter Holiday campaign, *Who's Picking You Up Tonight?*, focused on the \$1 CADDy cab ride home from a bar. More than 50,000 pieces of collateral material, coasters, magnets, flyers, posters, key fobs were distributed to liquor establishments.

In addition to the two extensive media campaigns several anti-DWI United Artists Digital Theater ads played more than 53,000 times in movie theaters at the Santa Fe Regal 14 complex. These ads were separate from the CADDy campaigns, but in support of the media campaigns.



OTHER DWI PREVENTION PROGRAMS AND INITIATIVES

**Keeping A Clear Mind (KACM)** is a comprehensive and beneficial curriculum that has proven results in helping students resist drug pressure and educating parents. This Fiscal Year 300 Pojoaque School 4th Grade students participated multiple times in the curriculum.

**Envision Your Future** is a program that guides youth in creating a positive future by developing the intrinsic motivation to make healthy choice in behavior, including underage drinking and drugs,

to make healthy choices in friends and to complete their education. Six Pojoaque Intermediate Schools Teachers were trained and individual coached to Facilitate Envision Your Future. This Fiscal Year 150 Pojoaque School 5th grade students participated.

**Second Step** is a classroom-based social-skills program for children 4-14 years of age that teaches socio-emotional skills aimed at reducing impulsive and aggressive behavior while increasing social competence. In the Santa Fe School district approximately 1100 students Kindergarten through 8th grade participated multiple times.

**COMPLIANCE MONITORING AND TRACKING PROGRAM**

Santa Fe County Compliance Monitoring and Tracking Program screened 448 offenders from Magistrate and District Court in 2012, an increase of 1% from the previous year. A total of 1087 DWI Offenders were supervised by the Compliance Staff in 2012, up from 1008 offenders in 2011.

**WALK TO STOP DUI**

The walk is a non-competitive 5K event hosted and sponsored by the Santa Fe County DWI Program, Santa Fe County Fire Prevention Division and many community partners to raise awareness and money to host a drug and alcohol free Post Prom Party for the Pojoaque High School 2013 Senior Prom. The 5K event was on April 6, 2013, the course started and ended at the Buffalo Thunder Resort.

**MOBILE HEALTH VAN**

The Santa Fe County Mobile Health Van (MHV) provides health services including blood pressure screening, oxygen assessment, blood glucose screening, cholesterol screening, flu vaccines, and BMI testing FREE to Santa Fe County residents. Staff nurses also provide health information in English and Spanish to all County residents, and at local health fairs and events.

In 2013 the MHV expanded services to include weekends. The MHV travels across the County to provide care and print information on behavioral health providers, dental providers, eye care providers and the Santa Fe County Prescription Drug Card. The MHV also makes frequent stops at Santa Fe County Senior Centers in El Rancho, Chimayo, Edgewood, Eldorado and Santa Cruz. Expanded Saturday and Sunday services now allow the MHV to be frequent visitor at your local community gathering places and places of worship.

**SANTA FE COUNTY DRUG TAKE BACK DAY COLLECTS 700 POUNDS OF UNWANTED PRESCRIPTION DRUGS**

The Prescription Drug Take Back Day in September 2012 collected more than 700 pounds of expired, unused, and unwanted prescription drugs. Collaboration between the Drug Enforcement Administration (DEA), Santa Fe County Health Department, Santa Fe County Sheriff, Santa Fe City Police and the State Police brought in over 700 pounds of drugs that people cleaned out of their medicine cabinets, the largest amount ever collected in Santa Fe.

This was a chance for people to rid their homes of dangerous prescription drugs and provided an opportunity to prevent pill abuse and theft. People brought these hundreds of pounds of medication to the old Wal-Mart, the Sheriff's office and to the State Police office. The service was free and anonymous.

According to national data New Mexico has the highest drug overdose death rate in the United States. Studies show that a majority of abused prescription drugs are obtained from family and friends, including from the home medicine cabinet. Americans are now advised that their usual methods for disposing of unused medicines (flushing them down the toilet or throwing them in the trash) pose potential safety and health hazards and should not be done.

Santa Fe County hosted another Prescription Drug take back day on April 27, 2013 with six locations around the County.

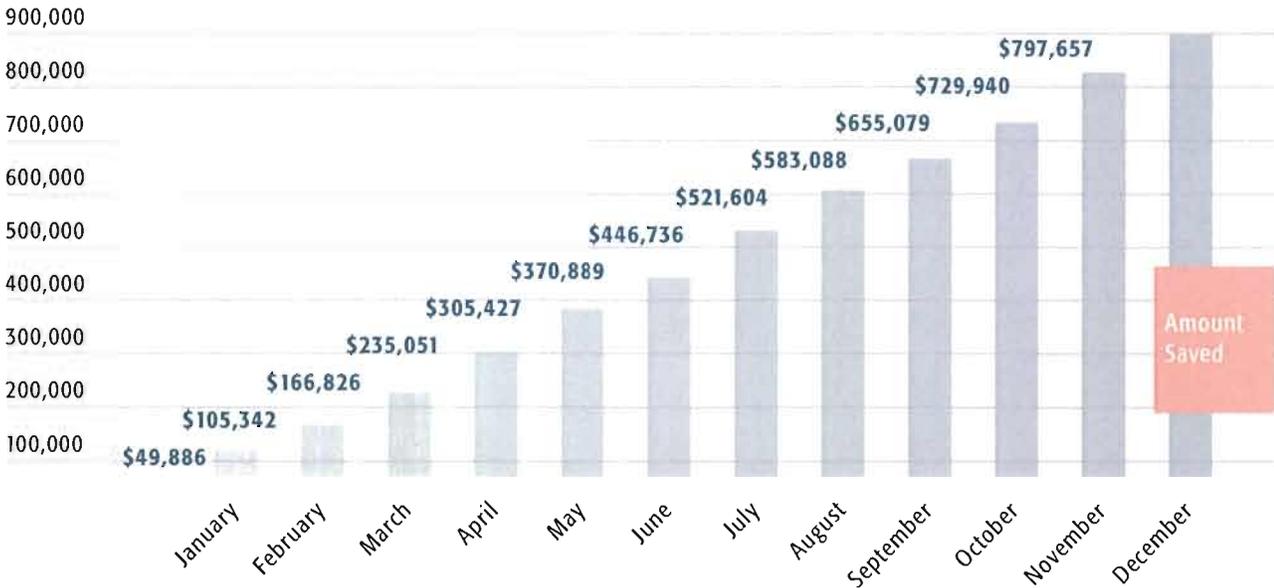
**Santa Fe County MHV Statistics  
July 1, 2012-March 2013**

Total Visitors	1,083
Blood Pressure checks	629
Blood Glucose checks	520
Prescription Drug Cards	255
Referrals	153

### Coast 2 Coast Rx Card Savings

Total YTD Savings by Dollars

In dollars



#### COAST2COAST

All Santa Fe County residents can receive a free discount prescription card under the Coast2Coast Rx card program, which saves an estimated average of 50 percent on the retail cost of prescriptions.

The Coast2Coast Rx discount card is honored at all major chain pharmacies and most independent pharmacies in Santa Fe, and includes more than 60,000 drugs in its formulary.

In 2012, the Santa Fe County Health Division distributed over

10,000 prescription drug cards through Santa Fe County School Districts, local pharmacies and businesses. Santa Fe County residents using the Coast2Coast program filled 18,791 prescriptions, saving customers \$797,657 in prescription drug costs.

In addition to the prescription discounts, the card also provides as much as a 50 percent discount on dental, vision and hearing care and between 50-80 percent discounts for lab and imaging tests. The cards may be used locally and nationwide at any participating retail pharmacy with no membership fees

or restrictions on the frequency of use. A cardholder, their family and their pet may use the card as often as needed. Family members, including all dependents, can also use the card. The discount prescription card can be downloaded from the Santa Fe County website: [www.santafecounty.org/community\\_services/bhsd](http://www.santafecounty.org/community_services/bhsd).

The card is also available at pharmacies and offices around Santa Fe County.

Below is a Graph of total dollars saved in Calendar Year 2012

SENIOR SERVICES PROGRAM

Santa Fe County is in its second year of providing services to seniors after transitioning the program from the City of Santa Fe. With our dedicated, high quality staff, the County has grown the program considerably in the 18 months of operation. The County continues to provide congregate (group) meals five days a week in the communities of El Rancho, Chimayo, Santa Cruz, Rio en Medio, Edgewood and Eldorado. In addition, the County has expanded its home delivered meal program and serves approximately 137 homes daily including the underserved areas of La Cienega,

Highway 14, 599 corridor and Cerrillos.. These communities, along with other northern areas, are being served through our newly opened kitchen facility at the Casa Rufina Apartment Complex in Santa Fe. Santa Fe County also experienced a significant increase in the number of seniors enjoying congregate meals with 697 individuals participating from July 2012 – December 2012 and activities at our centers.

Six-Month Statistics for Santa Fe County Senior Services Program (July 2012 – December 2012)

- 14,000 home delivered meals daily to 137 eligible homebound seniors

- 14,517 congregate meals to 697 eligible seniors
- 3,612 one-way trips for medical appointments, grocery shopping or personal care needs

Santa Fe County received funding to expand the senior center in Eldorado and is currently working with an architect on plans for the expansion. This expansion will provide additional dining space as well as an exercise room for the many physical fitness activities taking place daily. Santa Fe County completed the renovation of the Senior/Community center in Nambe. This facility was opened in September 2012 and serves as the Northern Health & Wellness facility.



Kevin Sanchez serving lunch for Seniors at the Bennie J. Chavez Senior Community Center

SANTA FE SENIOR FREE CLINICS / CLASSES

**Free Pneumonia Vaccination Clinic**

The Santa Fe County Health and Human Services Division hosted a free Pneumonia vaccination clinic on Wednesday, March 20, 2013 at the Santa Fe County Nambe Senior and Community Center.

The clinic was sponsored by Santa Fe County Health and Human Services Division and Presbyterian Espanola Hospital.

**Free Diabetes Prevention workshop**

Santa Fe County hosted a free Diabetes Prevention workshop to help raise awareness and provide information to residents on Thursday, December 27, 2012 at the Nambe Community/ Senior Center.

**Free weekly Type 2 Diabetes preventative Classes**

Free weekly classes were held beginning January 15, 2013 to help residents learn more about preventing Type 2 Diabetes and what they can do to reduce their risk of Type 2 Diabetes by making lifestyle changes.

The free weekly classes will be held in Espanola with transportation from the Santa Fe County Senior Program. Diabetes prevention programming is based on the National Diabetes Prevention Program model.

**Santa Fe County Senior Services Host Free Flu Shot Clinics For Seniors**

Santa Fe County Senior Services hosted three free flu shots clinics around Santa Fe County for Seniors in October 2013. The clinics were held at Senior Centers in Eldorado, Edgewood and Nambe. The New Mexico Department of Health provided Santa Fe County with 300 vaccinations for the free clinics. The free flu shots were distributed on a first come, first serve basis.

HEALTHCARE ASSISTANCE PROGRAM (INDIGENT FUND)

Funded by the County's Gross Receipts Tax and administered by the Board of County Commissioners in their capacity as the Indigent Hospital and Health Care Board, the Healthcare Assistance Program provides financial assistance to medically underserved residents to pay health care costs.

The Program processed 8,997 approved claims for \$9,306,581.43 for calendar year 2012 for care provided by clinics, substance abuse treatment providers, ambulance services, and mental health providers within Santa Fe County and City of Santa Fe; as well as by hospitals in Albuquerque, Espanola, Los Alamos and CHRISTUS/St. Vincent Hospital in Santa Fe.

TEEN COURT OF  
SANTA FE COUNTY

Started in 1994, Teen Court supports the philosophy of breaking the cycle of behavior leading to criminal activity to keep teens out of Children's Court and the Youth Detention Center. Designed for first-time offenders, Teen Court offers alternative sentencing and is run for teens by teens, including volunteer Teen Attorneys. Teens are referred from Municipal and Magistrate Courts as well as the Juvenile Probation and Parole Office and Santa Fe Public Schools.

This Fiscal Year Teen Court received 392 referrals and 274 cases were heard and sentenced at District Court. Teen Court defendants completed 5,868 hours of community service at local

non-profit organizations and served 831 jury duties throughout the year. Teen Court staff completed 233 drug and alcohol assessments and monitored an average of 380 cases.

**Teen Court Community Mural**

One Teen Court community involved accomplishment this year was a mural project on the South Side of Santa Fe. Teen Court defendants and

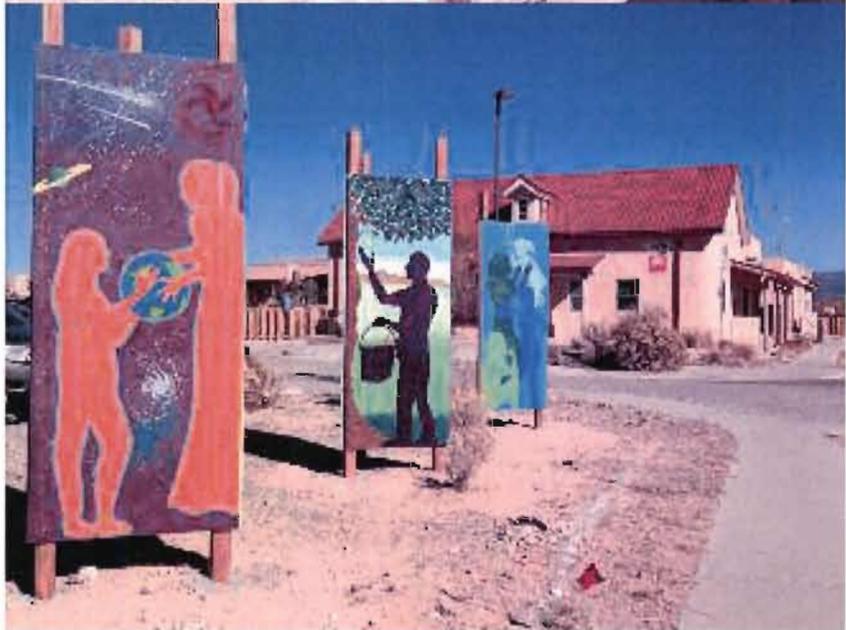


BPC CLEAR RECORDED 88/12/2013

## Building Community Community Health



community members constructed nine artistic panels over the course of four weeks in Fall 2012 creating the murals as part of a partnership between Teen Court, Fine Arts for Children and Teens, Zona del Sol and community youth. The panels depicted images agreed upon by community residents and the participating youth. Many of the youth artists and community members who worked on the project assisted with the unveiling on December 1, 2012 and gave their synopsis of how the mural evolved to all who attended to give their support of the project.



CORRECTIONS

The Santa Fe County Correctional Department works closely with Law Enforcement Agencies, the Courts, Public Defender's Office, the District Attorney's Office, the New Mexico Department of Children Youth and Families, and the Community to provide a range of services to meet the needs of Santa Fe's incarcerated population. The Corrections Department is committed to providing a safe, secure, and humane environment with a variety of services to assist those in

detention, whether they are sentenced to our facilities or awaiting transport, trial or sentencing.

In FY2013 Santa Fe County replaced outdated facility control boards and locking mechanisms improving security in the Adult Correctional Facility as well as the staff and inmate movement throughout the facility. Another facility updated initiated this year was the installation of food ports in vital areas of the facility such as in the female segregation, federal segregation and all recreation yards.

This year the facility worked to decrease the introduction of contraband,

through the mail as well as through the inmates and decreased the amount of contraband found in the facility by 86%.

The facility processed 10,119 intakes and 9,927 releases in Calendar Year 2012. Case Managers screened over 10,000 inmates booked into the facility to address special needs such as Education, Medical, Substance Abuse, Mental Health, and living situation.

Santa Fe County implemented several new Life Skill programs, but also worked to provide timely, professional, and comprehensive educational services to better prepare inmates for the job market upon release and help reduce recidivism with English as a Second Language (ESL), General Education Degree (GED) and Spanish. The County Corrections Division worked with the community to expand educational materials, replenish library books and recruit community volunteers to expand volunteer programming.

Life Skill Programs Implemented in FY 2013

- Art Class
- Music Appreciation Class
- Creative Writing Class
- Art Appreciation Class
- Job Program (provides inmates with jobs within the facility while incarcerated)
- Created and implemented a Native American sweat lodge
- Created and implemented a portable Legal Library
- Therapeutic programs, such as "Thinking for a Change"
- Parenting classes, which provide inmate with a Life Skills Certificate
- Bible Study
- Alcoholics Anonymous (AA)
- Narcotics Anonymous (NA)

Behavioral Health Team

- Treatment therapist provided therapy with an average of 160 inmates a month
- Created a referral process for inmates who need ongoing mental health and or mental health therapy with community programs
- Implemented weekly staffing for inmates who have severe special needs to assist with treatment plans and or referrals to other programs within the facility and or community

REC'D CLERK RECORDED 05/12/2013

## Community Safety

### Highlighted Adult Correction Facility Accomplishments

- Implementation of a Comprehensive Policy and Procedures Development Program
- Established Foundations for a Case Management Program
- Implementation of an Experience Based Training Academy
- Cut cost of Inmate Pay by \$20,000 by initiating time cards for days worked - Inmates now have timesheets to reflect the hours and days worked to eliminate fraud abuse and waste with paying inmates for their job assignments
- Inmate vacancy rate decreased at the Adult Facility 8% in 2012
- Reduced Payroll overtime from \$40,000 a month to \$24,000 a month
- Finalized confinement agreements with 28 governmental entities
- Two cadet academies were held graduating 23 detention officers
- Filled 25 Detention Officer vacancies in FY 2013
- On October 22, 2012 The Association of Counties accepted the application for the Santa Fe County Detention Facility for Adult Detention Professional Standards Council accreditation program

### YOUTH DEVELOPMENT PROGRAM (YDP) AND ELECTRONIC MONITORING/BAIL BONDS

- Received \$41,184 in reimbursements by participating in the New Mexico Department of Education Student Nutrition Program
- 3/30/12 – United States Marshals Service Annual Inspections completed
- 11/13/12- Children, Youth and Families Department (CYFD) Annual Recertification Inspection
- 12/17/13- Sierra Detention retrofitted all slider motors and locking mechanisms
- The Electronic Monitoring Program moved from the Youth Development Program Facility to a more secure location at the Adult Detention Facility
- Electronic Monitoring increased revenue by \$31,567.49 between 2011 (\$89,556.21) and 2012 (\$121,123.70) because clients are now having to pay for services and program fees are not being waived by the county program. There has also been an increase in population from court orders into the electronic monitoring program as an alternative to incarceration.

### SANTA FE COUNTY FIRE DEPARTMENT

The Santa Fe County Fire Department's mission is to provide high quality fire, rescue and emergency medical services to the citizens and visitors of Santa Fe County. In order to accomplish this mission the Department utilizes the services of a highly trained combination of paid staff and dedicated volunteers. Formed in 1997 from the consolidation of 15 volunteer fire districts and the former Office of the County Fire Marshal, the Department protects approximately 1900 square miles of unincorporated area as well as the incorporated Town of Edgewood. Within these borders the Department provides protection to approximately 76,000 residents living in 27,500 occupied housing units, as well as several million square feet of commercial development. Santa Fe County is also home to four Pueblos – Nambe, Pojoaque, Tesuque, and San Ildefonso - which rely on the Santa Fe County Fire Department for emergency services.

The Department maintains 32 fire stations countywide including five staffed regional stations and one staffed substation, as well as an extensive inventory of 188 vehicles including fire and EMS response apparatus as well as command and support vehicles.

## HIGHLIGHTED ACCOMPLISHMENTS FOR 2012

### Operations and Training Division

- Responded to more than 7100 emergency calls
- Completed one Cadet Academy with seven graduates
- Graduated four career Firefighter from the Santa Fe Community College Paramedic Program
- Santa Fe County had three career Firefighters graduate in Spring 2013 from the Paramedic training program
- Held two basic auto extrication courses
- Conducted live burn trainings for volunteer districts
- Developed and implemented Aerial Apparatus training for field staff
- Completed two Volunteer Fire Academies, graduating 28 volunteer Firefighters
- Developed and delivered "Airway 911" course to each station and every crew, as well as to volunteers
- Held three Emergency Medical Services (EMS) refresher courses and two Paramedic refresher courses

### Administration Division

Improved emergency response fleet by acquiring three pumper fire trucks for Edgewood, Turquoise Trail, and Hondo, one Brush Truck for Madrid, one EMS Officer Command vehicle, one Vermeer Chipper for the Wildland Division, one mechanic's vehicle for the Fleet Section, one shelter trailer, and one re-furbished Medical Unit

- Additional apparatus ordered and delivered in 2013 include, two Medical Units for Pojoaque and Eldorado, one Tanker for Eldorado, one pumper for La Cienega, and one Ladder truck for Pojoaque
- Completed construction of Ranch Viejo Fire Station (Pictures), relocated crews to new station
- Began construction of one new Fire Station in Edgewood
- Completed re-roof project at La Puebla Fire Station
- Fleet Section completed 20 pump



tests, annual hose and ladder testing and more than 600 work orders

- Hosted Regional ISO class with NM State Fire Marshal's Office
- Billed 3460 ambulance accounts resulting in collected revenue of \$884,556

- Completed "Narrow Banding" radio project. The Narrow Banding Project is an FCC mandated program which requires public safety agencies, nation-wide, to replace/re-program communications equipment in order to provide more usable radio frequencies dedicated to public safety

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## Community Safety

### Fire Prevention Division

- Inspected 116 businesses and schools
- Conducted 267 development reviews
- Issued 148 burn permits
- Reviewed 54 lot line Adjustments/Land Divisions/Family Transfers
- 14 Special Use permits and reviews
- 40 Sprinkler/Alarm Plans/Inspections completed
- 17 Movie set reviews and permits issued
- Conducted 70 public education presentations in schools, reaching 2,519 students
- Conducted 22 Work Place Fire Safety trainings
- Attended three career fairs, and participated in six TV and radio interviews



- Inspected and tested more than 2700 fire hydrants
- Participated in National Dance Institute Officer/Firefighter Dance
- Assisted in the co-ordination of the Walk to Stop DUI event to raise awareness and money for the Pojoaque High School Post Prom Party

### Wildland Division

- Conducted 26 Wildland refresher classes, four Basic Wildland Firefighter classes, an Intermediate Fire Behavior class, a Pump Operations class and a Chain Saw class
- Conducted 10 community fire prevention meetings
- Conducted 56 home assessments for Firewise program. The Firewise program is a program designed to save lives and property from wildfire, the National Fire Protection Association (NFPA's) Firewise Communities program teaches people how to adapt to living with wildfire and encourages neighbors to work together and take action now to prevent losses
- Obtained a Youth Conservation Corps (YCC) grant in the amount of \$147,584 to hire 10 local youths who were trained and utilized in Wildland Fire Fuels Reduction projects and wildland fire scenes in Santa Fe County
- Completed 28 acres of Hazard Fuel Mitigation

### REGIONAL EMERGENCY COMMUNICATION CENTER (RECC) ACCOMPLISHMENTS

The Santa Fe Regional Emergency Communications Center (RECC) has existed since 2002 as the result of a "Joint Powers Agreement" between the City of Santa Fe and Santa Fe County. The RECC receives all police, fire, medical and animal control Emergency 911 calls and non-emergency calls for the City of Santa Fe and Santa Fe County and dispatches the appropriate agency to the location as needed. The Center operates on a 24-hour/7 day a week schedule.

In Fiscal Year 2013 Santa Fe County RECC attained international accreditation with the International Academies of Emergency Dispatch (IAED) as a 911 Center of Distinction. RECC had worked for over 10 years to attain this goal. This year the Center achieved and maintained compliance levels sufficient to be awarded accreditation from the International Academies of Emergency Dispatch. Only 168 centers throughout the entire world have achieved this level of profi-

### 2012 Call Volume

- Total Calls taken by the Center - 413,927
- Total 911 Calls handled - 80,674
- Total Calls for Service (Dispatched) - 191,082

Emergency Management

- Conducted multiple trainings, including: Multi-Casualty Incident Management Training for Northern Region, Decontamination training for hazardous materials response. Training/Lab for Volunteer Fire Academy, Unified Command Table-top exercise for Santa Fe County Sheriff's Department, six Highway Safety Courses for Santa Fe County Sheriff's Department, Active Shooter exercise at St. Vincent's Hospital, two- Incident Command System 100/ National Incident Management System 700 courses for Santa Fe Community College and New Mexico Gas Company., Citizens-Certification course for Santa Fe Community College.
- Completed Narrow Banding project for Santa Fe County Fire, Sheriff and Regional Emergency Communication Center (RECC).
- Exercise Lead/Evaluator for multiple full scale exercises, including: Active Shooter table-top for Santa Fe Public Schools and Los Alamos High School, New Mexico Department of Health exercise, Department of Energy/Office of Secure Transportation exercise, New Mexico Gas Company and the National Guard.
- On scene incident manager for the Santuario de Chimayo Pilgrimage.
- Facilitator for Counter Terrorism Operations Level Radiological/Nuclear course
- Project Lead for Santa Fe County Fire Chemical Biological Radiological Nuclear Explosive and Technical Rescue teams.

training program to improve the level of proficiency among new hires when assigned to the dispatch floor and reduced the entire training program completion time. The implementation of this academy has also increased participation from existing staff as adjunct instructors and advisors in the program.

HIGHLIGHTED ACCOMPLISHMENTS

- Implemented replacement schedules that allow rotation of equipment at a satisfactory rate to prevent hardware or software failure, avoiding costly and inconvenient system downtime. This also has been beneficial to

the budget and funding process, saving money in unplanned equipment replacement costs.

- Successfully upgraded Reverse 911 system, incorporating and launching the Self Registration Portal for the public of Santa Fe and Santa Fe County to provide their non-landline based contact information for emergency notification purposes.
- Started utilizing a new staffing and scheduling software application called Telestaff that assists in payroll tracking, staff overtime, leave tracking and overall staff time management.
- Implemented of a new employee schedule, that has eased the stress levels among the staff and al-

lowed the center to realize a substantial overtime budget savings.

- Completed the implementation of the pilot project for utilization of GPS/AVL systems and the upgrade of our CAD and mapping systems that will improve officer and field unit safety, as well as increase operational efficiency within the Center.

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### Volunteer Recruitment and Retention Section

- Recruited and approved 134 applications for Volunteer Firefighter positions in all 14 of the Counties Fire Districts
- The year Santa Fe County purchased and distributed to the district volunteers 139 Self-contained Breathing Apparatus from a 2011 NM Fire Protection Grant
- Santa Fe County was awarded a 2012 NM Fire Protection Grant for Personal Protective Equipment for 10 Districts, one Engine, and one Brush Truck for a total of \$412,736 from the State of New Mexico
- Santa Fe County was awarded a Federal Emergency Management Agency (FEMA) Assistance to Firefighters grant for three breathing air compressor stations which will be located at the Pojoaque, Edgewood and Rancho Viejo Fire Stations for a total of \$120,000.
- Santa Fe County held two Volunteer Fire Academies resulting in 28 graduates ([Pictures from Captain Jaffa](#)).

**Photos to come?**

## COMMUNITY INFRASTRUCTURE

### SANTA FE COUNTY UTILITIES

Santa Fe County Utilities annual customer revenues reached \$2.4 million in Calendar year 2012 and are anticipated to reach \$3 million in 2013. This growth in revenue is directly related to the expansion of Santa Fe County Utilities customer base, which in the same period grew from approximately 1,800 Residential User Equivalents (RUE) to 3,700 RUE's. In 2013, Santa Fe County Utilities started serving the needs of the Penitentiary of New Mexico, a single user that is equivalent to 220 residential customers.

#### Santa Fe County Utilities Accomplishments in Calendar Year 2012 include

- Santa Fe County provided regulation-compliant, uninterrupted drinking water and fire suppression capabilities for customers, 99.997% of the time, 24 hours, 365 days of the year in 2012.
- Successful decommissioning of Valle Vista Wastewater Treatment facilities, in full compliance with all applicable regulatory requirements and standards.
- Finalizing an agreement with the State of New Mexico, for Santa Fe County Utilities to lease and operate the Quill Raw Water Generation Plant for until the year 2035. This plant will be the district facility to serve southernmost portion of the County's Sustainable Development Area (SDA1).
- Expanding Santa Fe County Utilities customer base 220 wastewater Residential User Equivalents (RUE's), by including the Penitentiary of New Mexico as a Santa Fe County Utilities customer.
- Expanding Santa Fe County Utilities customer base and customer revenue by more than 50% with the goal of obtaining a self sustaining level June 30, 2015.
- Securing engineering services for the design of water facilities that would make Buckman Direct Diversion (BDD) water available in Eldorado/Lamy Junction/Cañoncito area. Project construction is expected to begin in summer of 2013.



Quill Wastewater Treatment Plant Aeration Basins. In 2012, the nearby State Penitentiary became a wastewater customer of the County – served by the Quill Plant.

## Community Infrastructure

### AAMODT WATER SETTLEMENT

The United States Bureau of Reclamation (BOR) hired a consultant to work with the settlement partners and to pursue work related to the environmental impact the Aamodt Water Settlement project will have on the community. In Fiscal Year 2013 Santa Fe County hired a new Water Utilities Division position that will be primarily dedicated to the coordination of all County actions related to the successful and timely completion and implementation of a regional water system to serve non-Pueblo customers in the Pojoaque Basin's Aamodt Settlement Area.

#### 2012 Transfer Station Tonnages and Cost

Station	Operating Days	Annual Waste MSW (tons)	Number of Customer Visits/Yr	Number of Pulls/Yr	Annual Operating Cost (\$)	Annual <sup>1</sup> Operating Cost/Ton (\$)	Annual Recycled Material (Tons)	Annual Green Waste Landfilled (Tons)	Annual <sup>3</sup> Green Waste Recycled (Tons)	Annual Operating Cost MSW Landfilled GW & Recycling /Ton
Jacona	W,T,F,S,S	3525	17114	523	\$392,109.00	\$111.24	520	1076	312	\$76.57
Eldorado	W,T,F,S,S	2277	25028	127	\$312,042.00	\$137.04	893	691	220	\$80.81
La Cienega	W,T,F,S,S	2031	8581	328	\$285,352.00	\$140.50	133	N/A	N/A	\$90.47
San Marcos	W,F,S,S	739	7611	150	\$188,839.00	\$255.53	152	N/A	N/A	\$211.94
Nambe	W,F,S,S	520	3364	94	\$78,054.00	\$150.10	42	N/A	N/A	\$138.88
Stanley	W,T,F,S,S	609	4172	101	\$146,116.00	\$239.93	81	9.26	16	\$207.25
Tesuque	W,F,S,S	378	5082	179	\$147,677.00	\$188.46	112	N/A	N/A	\$301.38
Rancho Viejo <sup>1</sup> (FS only)	FS	N/A	N/A	89	\$19,580.00	\$188.46	104	N/A	N/A	\$188.46

- 1) Annual operating costs calculated by 89 pulls x \$220.00/pull = \$19,580.00.
- 2) Annual operating cost/ton includes annual MSW tonnage only.
- 3) Tonnages are included in the Annual Recycled Material column. Landfilled green waste was not suitable for recycling.

# GOVERNMENT EFFICIENCY AND TRANSPARENCY

## WEBSITE TRANSPARENCY



The Sunshine Review, a national nonprofit organization dedicated to government transparency, released the winners of the fourth annual Sunny Awards in March and among the 2013 winners was Santa Fe County. The award honors the most transparent government websites in the nation. Santa Fe County received an A+ from the nonprofit organization. Santa Fe County received an A+ and Sunny Award in 2012 from the organization and an A in 2011.

For the 2013 awards, editors at Sunshine Review analyzed more than 1,000 qualifying government websites and graded each on a 10-point transparency checklist. Editors looked at content available on government websites against what should be provided. They sought information on items such as budgets, meetings, lobbying, financial audits, contracts, academic performance, public records and taxes.

View the Santa Fe County Report Card at [http://sunshinereview.org/index.php/Santa\\_Fe\\_County,\\_New\\_Mexico%20](http://sunshinereview.org/index.php/Santa_Fe_County,_New_Mexico%20).

### SANTA FE COUNTY SWITCHED TO .GOV

Santa Fe County has a new Uniform Resource Locator (URL), domain ([www.santafecountynm.gov](http://www.santafecountynm.gov)), and email domain (@santafecountynm.gov). The Board of County Commissioners approved the new URL, domain and email domain at the February 28, 2012 meeting and all necessary changes have been implemented to uti-

lize the new URL, domain and email domain. This change was made to make the Santa Fe County domain consistent with other government agencies.

### ONLINE COMMENT FORM

Santa Fe County launched a new online comment form for residents. The new form was developed to be quick and easy to fill out. The tool allows residents the opportunity to

leave their contact information so staff can follow through with them or bypass the contact information fields by simply clicking an anonymous button. The form is a great tool for residents to provide feedback and ideas to Santa Fe County.

The new online comment form can be found at [www.santafecountynm.gov/contact\\_us/public\\_comment\\_form](http://www.santafecountynm.gov/contact_us/public_comment_form) or by selecting "Public Comment Form" from the Quicklinks dropdown menu on the homepage [www.santafecountynm.gov](http://www.santafecountynm.gov).

### Santa Fe County Website Goes Mobile

In 2013 Santa Fe County created a mobile website for individuals who access information on devices such as smart phones and tablets.

#### YourGov Mobile

Santa Fe County Public Works Department implemented an online system called CarteGraph for residents to submit work orders on any routine road maintenance concerns in their area on County maintained roads. The mobile version of CarteGraph called YourGov is available to download for iPhones and Android devices to make submitting those concerns even easier!

## Government Efficiency and Transparency

### HUMAN RESOURCES

#### Highlighted Accomplishments

- Successfully negotiated of International Association of Fire Fighters( IAFF) Union Contract
- Successfully negotiated the financial re-openers for Communication Workers of America Regional Emergency Communication Center (RECC) Union
- Successfully negotiated the financial re-openers for Communication Workers of America - Sheriff Union
- Successfully negotiated the financial re-openers for Communication Workers of America - Corrections Union
- Successfully negotiated the financial re-openers for and American Federation of State, County and Municipal Employees (AFSCME )
- All successful financial re-openers resulted in temporary retention increases, 1% cost of living adjustments, additional personal holidays for Fiscal Year 2012, and an increase in the amount Santa Fe County contributes to employees' medical insurance coverage for employees who earn \$30,000 annually or less
- Increased the amount of tuition assistance granted to employees by approximately 154% from Fiscal Year 2011 to Fiscal Year 2012 and increased the amount of employees assisted by approximately 100% from Fiscal Year 2011 to Fiscal Year 2012.
- Provided 156 non-supervisory training sessions and 24 supervisory training sessions for Fiscal Year 2012

#### Human Resources Highlighted Employee Recruitment Efforts

- Conducted the first Santa Fe County Public Safety. The Santa Fe County Human Resources Division in collaboration with the Public Safety Department and Sheriff's Office, hosted a Public Safety Recruitment Day on Saturday, August 11, 2012 at the Santa Fe County Fairgrounds. The Recruitment Day was an opportunity for individuals to Public Safety staff to see if they have what it takes to be a part of the Public Safety team, by asking questions, taking mock tests and participating in physical agility testing.
- Mini Job Fair on September 15, 2012 at the Eldorado Community Center (Fall Flea Market)
- Mini Job Fair on September 15, 2012 at the Nambe Community and Senior Center
- Updated the online Job Application
- Post vacant job positions on the Santa Fe County Facebook and Twitter



Human Resources Highlighted Employee Recruitment Efforts - Mini Job Fair on September 15, 2012 at the Nambe Community and Senior Center

### BUDGET AND FINANCIAL INFORMATION

#### Audit

Santa Fe County has proudly maintained an unqualified or “clean” opinion for its audit for the past 15 years. The County staff strives to reduce existing audit findings and minimize any new findings. The County was able to eliminate four findings during the Fiscal Year 2012 financial audit and gained two new findings. The new findings were corrected from a policy and procedure standpoint before the audit was finalized, and should be eliminated during the next audit cycle. The County will submit the Fiscal Year 2012 Comprehensive Annual Financial Report (CAFR) to the Government Finance Officers Association (GFOA) for review and possible award.

#### Performance-Based Budgeting

Fiscal Year 2013 marks the first year where the County's budget was developed using a results-accountable, priority-driven budget methodology (referred to generically as performance-based budgeting). Staff was trained in the concepts of performance management and an “end-result” way of planning.

Staff was asked to identify the four primary functions for which each organizational unit is responsible and what

the desired outcome of that function is. Performance measures were established by asking three questions: how much did we do (outputs), how well did we do it (efficiency) and is anyone better off? In addition to performance measures, major accomplishments of Fiscal Year 2012 and goals for Fiscal Years 2013 and 2014 were also provided. The functions, accomplishments and goals all tie, directly or indirectly, to at least one of the County's seven key areas of focus as well as one (or more) citizen priority and/or one (or more) Commission priority.

In stark contrast to the past three fiscal years, budget cuts were not

required. In fact, staff was instructed to build their budget requests in such a manner as to fund each function adequately to achieve the function's desired outcome even if it resulted in an increase to their budget. Also, for the first time in three fiscal years, requests for new positions were approved as needed to accomplish functional goals.

The budget process culminated with a prudent financial plan for accomplishing organizational outcomes for Fiscal Year 2013. This plan contemplates modest increases to some revenue sources, some revenue dependent increases to

staffing, significant one-time expenditures for large maintenance and repair items and significant asset renewal and replacement expenditures and provides Departments with the resources that they need to achieve the desired outcomes of their functions.

To view the Santa Fe County budget, presentations, monthly cash flow analysis, Auditor reports and more, visit [www.santafe-county/finance.org](http://www.santafe-county/finance.org).

GENERAL OBLIGATION BONDS AND FIRE EXCISE TAX APPROVED BY VOTERS

GENERAL OBLIGATION BONDS

On July 31, 2012 the Santa Fe County Board of County Commissioners (BCC) adopted Resolution 2012-89 directing that three Bond Questions be presented to Santa Fe County voters as part of the November 6, 2012 General Election. The three Bond Questions were approved that asked County voters if they would like to fund up to \$35 million for capital infrastructure projects in the following areas: roads, water and wastewater, and open space, trails, and parks. Voter approval of

the bonds is not expected to significantly impact County property tax rates because previous bonds are being paid off.

Bond Breakdown

- Roads: \$19 million - to acquire, construct, design, equip and improve roads within the County
- Water and Wastewater: \$10 million - to acquire real property and necessary water rights for, and to construct, design, equip, rehabilitate, and improve water and wastewater projects within the County

- Open Space, Trails, and Parks: \$6 million - to acquire, design, construct, improve, equip, and restore open space, trails and parks within the County

FIRE EXCISE TAX

Voters who reside in the unincorporated areas of Santa Fe County voted to approve the renewal of the County Fire Protection Excise Tax on November 6, 2012. The one quarter of one percent (0.25%) gross receipts tax is imposed on all non-medical and non-food items purchased in the unincorporated areas of Santa Fe County.

## Government Efficiency and Transparency

The Fire Excise Tax was put forward for the purpose of financing the operations, capital outlay and ambulance expenses of the Santa Fe County Fire Department. The tax will cover essential maintenance and improvements to the Department's 32 fire stations, as well as to fund the purchase of replacement fire trucks, ambulances, firefighting and medical equipment, and protective gear for volunteer and career firefighters and paramedics. The Tax was originally imposed in the 1980's and served for 25 years as an essential funding source used by the Santa Fe County Fire Department and the department's 14 volunteer fire districts. It expired in 2008 and in order to be reinstated required the approval of voters in unincorporated Santa Fe County.

It is estimated that the tax will generate \$1.24 million annually to help fund the critical needs of the County Fire Department. All of the revenue from the tax is retained locally.

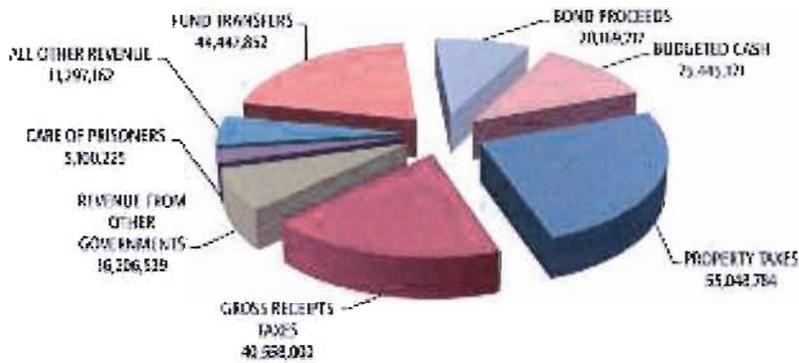
### BOND RATING

Santa Fe County is proud to have assigned ratings of "AA+" and "AAA" by Standard & Poor's and Moody's, respectively. The County continues to maintain these favorable ratings due to solid financial operations and strong reserves. The Board of County Commissioners and County management continue to maintain the state-mandated level of reserves and the additional Board of County Commissioners (BCC) mandated budget contingency reserve in these difficult times.

The County's major revenues are property taxes and gross receipt taxes, and with the economic downturn, the County has reduced the budgets accordingly as the revenue from these sources has decreased. Doing so has enabled the County to maintain programmatic service delivery while keeping a balanced budget. The voters approved the County's General Obligation Bond questions at the November general election for a total of \$35 million. The bonds will be sold in two series and capital infrastructure projects for roads, water and wastewater, and open space, trails and parks will begin in July 2013.

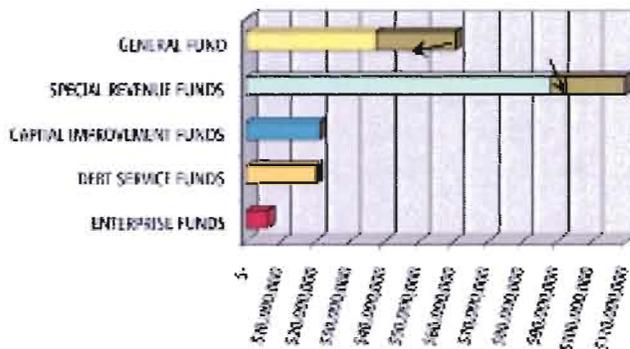
The Board of County Commissioners (BCC) and County management continue to enhance the capital program to provide for steady staffing and work flow, provide work for contractors and issue bonds on a schedule that supports internal capacity to manage projects as well as the issuance of bonds with minimal impact to property tax rates.

**Santa Fe County  
FY 2012 Total Budget Sources  
\$218,272,900**



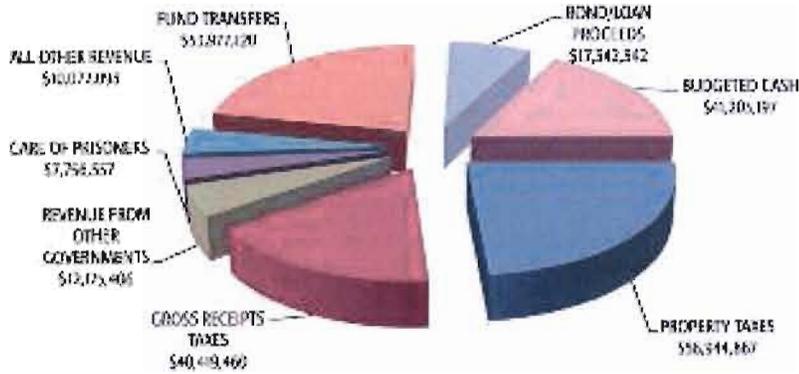
**Uses by Function**

**Santa Fe County 2012 Fund  
\$218,272,900**



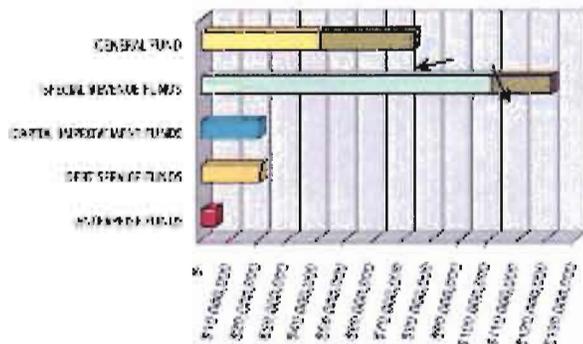
## Government Efficiency and Transparency

### Santa Fe County FY 2013 Total Budget Sources \$239,890,842

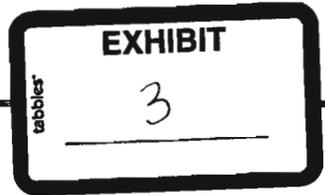


### Uses by Category

#### Santa Fe County 2013 Fund \$218,272,900



**John F. Lovato**



**From:** Heather McCrea <hmccreajewelry@yahoo.com>  
**Sent:** Monday, May 13, 2013 5:45 PM  
**To:** John F. Lovato  
**Subject:** Sanchez Variance

REC'D CLERK RECORDED 05/13/2013

Hello John,

I'm writing in regards to the hearing tomorrow for a variance request for Henry Sanchez's garage in Tesuque Villas subdivision. I own two lots in the subdivision, which are lots #'s 1 & 2, and I feel that the height of the roof being 8" over the county code limit is inconsequential to myself and the neighboring properties. I can see the garage from both of my lots, and I have no issue with it. Once the house is built adjacent to the garage, the view will be blocked from Vista Redonda as well.

Sincerely,  
Heather McCrea

**John F. Lovato**

---

**From:** Janice Kulsar <jlkulsar@msn.com>  
**Sent:** Monday, May 13, 2013 9:47 PM  
**To:** John F. Lovato  
**Subject:** Variance for garage located on lot 9, Tesuque Villas

Dear Mr. Lovato-

I am writing you to express my support for allowing the variance on the structure located on property lot #9 in Tesuque Villas. My partner and I are in the process of building our home down the road from this property. I will pass this site each day when living there and feel that this garage represents the Northern New Mexico architectural style I have come to love. I feel that this structure should be allowed to remain as it is and that 8" will not make a discernible difference, especially considering the distance this structure is from the road. Thank-you for your consideration of this matter.

Sincerely, Janice

Kulsar

## John F. Lovato

---

**From:** Michael Stone <michael.stone@beanstalk.com>  
**Sent:** Monday, May 13, 2013 8:49 PM  
**To:** John F. Lovato  
**Cc:** zazen@nets.com  
**Subject:** FW: Lot 9/Tesuque Villas

Mr. Lovato,

I am emailing you today with reference to the Public Hearing to take place tomorrow regarding the height of the structure on Lot 9 in Tesuque Villas owned by the Sanchez family. I own the house at 17 Heather Lane in Tesuque Villas and look directly at the structure on Lot 9. I have absolutely no issue with the height of that building. I understand that, although permits were issue and the building was built in conformity with those permits (perhaps even with a lower height), there is now an objection with respect to the height being 8 inches too high. This is trivial. No one can justifiably complain that 8 inches will make any difference to anybody with respect to the height of that building. I certainly hope that reason will prevail and that no changes to the height of the structure will be required.

Sincerely,  
Michael Stone

**Michael Stone**  
CEO and President  
**Beanstalk**  
220 East 42<sup>nd</sup> Street  
15<sup>th</sup> Floor  
New York, NY 10017  
T: (212) 303-1116  
F: (212) 421-6388  
E: [Michael.Stone@beanstalk.com](mailto:Michael.Stone@beanstalk.com)  
[www.beanstalk.com](http://www.beanstalk.com)

Follow us on   

**John F. Lovato**

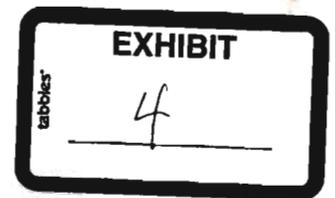
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**From:** patricia grodd <patriciagrodd@yahoo.com>  
**Sent:** Monday, May 13, 2013 9:12 PM  
**To:** John F. Lovato  
**Cc:** zazen@nets.com  
**Subject:** Tesuque Villas Hearing

Mr. Lovato,

I am the owner of 11 Heather Lane in Tesuque Villas and am writing to you regarding the hearing on May 14th. As a resident of Tesuque Villas, and as a designer with a 25-year career, I am compelled to contact you regarding the building on Lot 9, of which I have a clear view. The building has an integrity of its own and any discussion of eight inches makes no sense whatsoever. I have absolutely no objection to the building remaining as it is. James MacCreight, the developer of Tesuque Villas, has a strong sense of place and a commitment to preserving the sensibility of this area. This seems to be much ado about nothing. I hope that the objections will be considered frivolous and the motives of those making the objections questioned. In any case, eight inches less will make no difference to any residents within view of this building.

In good faith,  
Patricia Grodd



138 N.M. 82  
Supreme Court of New Mexico.

Jack R. PAULE, M. June Paule, James A. Meyer,  
Marilyn K. Meyer, Paul Chavez, Connie Chavez,  
Nancy Williams, and Camilia Trujillo, Plaintiffs–  
Respondents,

v.

SANTA FE COUNTY BOARD OF COUNTY  
COMMISSIONERS, Estevan Gonzales, and  
Skyhigh Communications, L.L.C., Defendants–  
Petitioners.

No. 28,038. | May 26, 2005.

### Synopsis

**Background:** Action was brought for review of county commissioners' decision to grant height **variance** for construction of telecommunications **tower**. The District Court, Eugenio S. Mathis, D.J., reversed. Applicant and commissioners petitioned for writ of certiorari. The Court of Appeals initially granted the petition, but later quashed the writ. Certiorari was granted.

**Holdings:** The Supreme Court, **Maes**, J., held that:

<sup>[1]</sup> commissioners' written order, rather than prior vote, approving **variance** application was "final decision" that began thirty-day appeal period;

<sup>[2]</sup> petitions for writ of certiorari to the Court of Appeals were timely filed within twenty days of the district court's order denying motions for rehearing;

<sup>[3]</sup> **variance** application was approved in accordance with board of county commissioners' procedural rules attributing chairperson's vote to majority if other votes were insufficient for majority; and

<sup>[4]</sup> evidence supported decision to grant the **variance**.

Reversed and remanded.

West Headnotes (26)

### <sup>[1]</sup> Appeal and Error

Final Judgments or Decrees

As a general rule, an order or judgment is not final unless all issues of law and fact have been determined and the case disposed of by the trial court to the fullest extent possible.

### <sup>[2]</sup> Zoning and Planning

Commencement of limitation period

County commissioners' written order, rather than prior vote, approving **variance** application was "final decision" within meaning of statute permitting appeal by filing in district court a notice of appeal within thirty days of the date of filing of the final decision. West's *NMSA* § 39-3-1.1, subs. C, H(2); *NMRA*, Rule 1-074, subd. E.

### <sup>[3]</sup> Administrative Law and Procedure

Further Review

A party aggrieved by the district court's order in an administrative appeal may seek review of the decision by filing a petition for writ of certiorari with the Court of Appeals. West's *NMSA* § 39-3-1.1, subd. E; *NMRA*, Rule 12-505, subd. B.

3 Cases that cite this headnote

### <sup>[4]</sup> Administrative Law and Procedure

Further Review

The decision to grant writ of certiorari following district court's order in an administrative appeal rests in the sound discretion of the Court of Appeals. West's *NMSA* § 39-3-1.1, subd. E; *NMRA*, Rule 12-505, subd. B.

2 Cases that cite this headnote

<sup>181</sup> **Certiorari**  
→ Decisions reviewable, and jurisdiction

Following the disposition of a petition for writ of certiorari by the Court of Appeals, a party may seek further review from a decision of the Court of Appeals or a denial of certiorari by the Court of Appeals by filing a petition for writ of certiorari with the Supreme Court. West's NMSA § 39-3-1.1, subd. E; NMRA, Rule 12-505, subd. J.

[2 Cases that cite this headnote](#)

<sup>191</sup> **Certiorari**  
→ Decisions reviewable, and jurisdiction

The four grounds on which Supreme Court may grant a petition for writ of certiorari to review the decision of the Court of Appeals are (1) a conflict between the Court of Appeals' decision and a decision of Supreme Court; (2) a conflict between the Court of Appeals' decision and another Court of Appeals' decision; (3) the involvement of a significant question of law under the state or federal constitution; and (4) the presence of an issue of substantial public interest that should be determined by the Supreme Court. NMRA, Rule 12-502, subd. C(4).

[1 Cases that cite this headnote](#)

<sup>171</sup> **Zoning and Planning**  
→ Decisions Reviewable

Challenge to district court decision reversing **variance** for construction of telecommunications **tower** presented several issues of significant importance to justify Supreme Court's certiorari review; the case raised the applicability of the federal Telecommunications Act and its compliance mandates on local governments, and it implicated the deferential standard of review

normally afforded to decisions of administrative bodies like the county board of commissioners. Communications Act of 1934, § 332, as amended, 47 U.S.C.A. § 332; NMRA, Rule 12-502, subd. C(4).

<sup>181</sup> **Zoning and Planning**  
→ Proceedings, time limitations

Motions for reconsideration of district court decision on appeal from administrative agency, board of county commissioners, were not denied by operation of law after thirty days, and, thus, petitions for writ of certiorari to the Court of Appeals were timely filed within twenty days of the district court's order denying motions for rehearing; the rule stating that a motion for rehearing not acted upon within thirty days was deemed denied did not apply since another rule applied specifically to the review of administrative decisions in the district courts and did not treat motion for reconsideration or rehearing as denied by operation of law. NMRA, Rules 1-074, subds. R, T, 12-404, subds. A, C.

[1 Cases that cite this headnote](#)

<sup>191</sup> **Administrative Law and Procedure**  
→ Scope

In administrative appeals, the Supreme Court reviews the administrative decision under the same standard of review used by the district court while also determining whether the district court erred in its review.

[2 Cases that cite this headnote](#)

<sup>1001</sup> **Administrative Law and Procedure**  
→ Arbitrary, unreasonable or capricious action; illegality  
**Administrative Law and Procedure**  
→ Substantial evidence

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Administrative decisions are reviewed under an administrative standard of review which limits reviewing courts to determining whether the administrative agency acted fraudulently, arbitrarily or capriciously, whether the agency's decision is supported by substantial evidence, or whether the agency acted in accordance with the law. West's NMSA § 39-3-1.1, subd. D; NMRA, Rules 1-074, subd. Q.

2 Cases that cite this headnote

Administrative Law and Procedure  
Substantial evidence

Any judicial review of administrative action, statutory or otherwise, requires a determination whether the administrative decision is arbitrary, unlawful, unreasonable, capricious, or not based on substantial evidence. West's NMSA § 39-3-1.1, subd. D; NMRA, Rules 1-074, subd. Q.

111 Zoning and Planning  
Preservation before board or officer of grounds of review

Applicability of county commissioners' change in voting procedure before approving variance application at same meeting was reviewable, even though it was not raised at the administrative hearing; preservation of the issue was not necessary for judicial review since petitioner possibly did not have opportunity to object and district court needed to decide the issue. NMRA, Rule 12-216, subd. A.

1 Cases that cite this headnote

114 Administrative Law and Procedure  
Arbitrary, unreasonable or capricious action; illegality

When courts review an administrative decision for arbitrary and capricious conduct, they review the whole record to ascertain whether there has been unreasoned action without proper consideration or disregard of the facts and circumstances.

2 Cases that cite this headnote

112 Appeal and Error  
In general; adhering to theory pursued below  
Appeal and Error  
In general; asserting new defense or grounds of opposition  
Appeal and Error  
Necessity of objections in general

Generally, arguments relating to theories, defenses, or other objections will not be considered when raised for the first time on appeal.

115 Zoning and Planning  
Voting; bias and disqualification

Variance application was approved in accordance with board of county commissioners' procedural rules attributing chairperson's vote to majority if other votes were insufficient for majority; even though the commission passed a change in those procedures just before granting the application, the actions of the board and chairperson demonstrated that they considered prior resolution to be in effect when the application was voted upon.

113 Administrative Law and Procedure  
Arbitrary, unreasonable or capricious action; illegality

116 Zoning and Planning  
Substantial evidence in general

Courts reviewing a zoning authority's decision for substantial evidence must review the entire

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record to determine whether there is substantial evidence to support the decision.

[17] **Administrative Law and Procedure**  
↳ Substantial evidence

“Substantial evidence” means relevant evidence that a reasonable mind would accept as adequate to support a conclusion.

1 Cases that cite this headnote

[18] **Zoning and Planning**  
↳ Substantial evidence in general

Since reviewing courts are obligated to review the entire record to determine whether the zoning authority's decision was supported by substantial evidence, they may not substitute their decision for that of the zoning authority and conclude that there is evidence supporting a different conclusion.

3 Cases that cite this headnote

[19] **Zoning and Planning**  
↳ Presumptions and Burdens

On review of zoning decision, the court must view the evidence in the light most favorable to the decision.

[20] **Zoning and Planning**  
↳ Substantial evidence in general

Reviewing courts must uphold the zoning authority's decision if the decision is supported by substantial evidence.

[21] **Zoning and Planning**  
↳ Telecommunications towers and facilities

Variance to construct telecommunications tower above height restrictions was an “area or dimensional variance” since telecommunication facilities were permitted anywhere within the county.

[22] **Zoning and Planning**  
↳ Nature and necessity in general

A “use variance” allows the property owner to use the property in a manner otherwise prohibited by zoning regulations; thus, a use variance seeks to change the character of the land by permitting a use otherwise prohibited by zoning regulations.

[23] **Zoning and Planning**  
↳ Area variances in general

An “area or dimensional variance” involves a permitted use but seeks an exemption from zoning regulations with regard to physical limitations; it does not seek to change the use of the land, but rather to use the land as allowed under zoning regulations.

[24] **Zoning and Planning**  
↳ Telecommunications towers and facilities

Substantial evidence supported board of county commissioners' decision to grant area or dimensional variance for construction of 198-foot telecommunications tower in hilly and

uneven **area** limited to 24-foot structures; the topography was not conducive to the use of communications **towers** for cellular telephone service, and the 198-foot **tower** was the minimum height necessary to provide adequate telecommunication services and to avoid the proliferation of other, shorter **towers** throughout the county. Communications Act of 1934, § 332(e)(7)(B), as amended, 47 U.S.C.A. § 332(e)(7)(B).

<sup>125</sup> **Zoning and Planning**

↳ **Area variances** in general

Property owner seeking **area** or dimensional **variance** does not have to show that the property is valueless without the **variance** and cannot be used for any other permitted purpose.

<sup>126</sup> **Zoning and Planning**

↳ **Area variances** in general

Benefit to the public is a factor that may be considered in the granting of an **area** or dimensional **variance**.

**Attorneys and Law Firms**

**\*\*242** Long, Pound & Komer, P.A., [Nancy R. Long](#), Santa Fe, NM, Santa Fe Board of County Commissioners, [Steven Kopelman](#), [Monica Ontiveros](#), Santa Fe, NM, for Petitioners.

[Roth, VanAmberg, Rogers & Yepa, L.L.P.](#), [Ronald J. VanAmberg](#), Santa Fe, NM, for Respondents.

**Opinion**

**\*\*243 \*85 OPINION**

**MAES**, Justice.

{ 1 } Petitioners SkyHigh Communications, Estevan Gonzales, and the Santa Fe County Board of County Commissioners (hereinafter "Commission") appeal from a decision of the district court reversing a decision by the Commission approving SkyHigh's application for master plan zoning and a height **variance**. The issue on appeal to this Court only involves the Commission's approval of the **variance**. Petitioners sought review of the district court's decision in the Court of Appeals by filing a petition for a writ of certiorari. See [NMSA 1978, § 39-3-1.1\(E\)](#) (1999) (permitting a party to petition the Court of Appeals for a writ of certiorari to review the district court's decision in an administrative appeal); [Rule 12-505\(B\) NMRA 2005](#) (same). The Court of Appeals granted the petition, but after briefing by the parties, the court quashed the writ without any explanation. Petitioners then petitioned this Court for a writ of certiorari, which we granted. See [§ 39-3-1.1\(E\)](#) ("A party may seek further review by filing a petition for writ of certiorari with the supreme court."); [Rule 12-505\(J\)](#) (stating that a party may seek further review from a decision of the Court of Appeals or a denial of certiorari by the Court of Appeals with Supreme Court by petitioning the Supreme Court for a writ of certiorari).

{ 2 } Petitioners assert the following issues in their certiorari petition: (1) the district court's decision to find that SkyHigh's application was not approved based on the Commission's vote at the public hearing rather than the Commission's final order is contrary to [Section 39-3-1.1](#) and [Rule 1-074 NMRA 2005](#); (2) the district court impermissibly substituted its judgment for that of the Commission when it concluded that the Commission's decision to approve SkyHigh's application was not supported by substantial evidence; and (3) the district court judgment violates the federal Telecommunications Act of 1996, [47 U.S.C. § 332](#) (1996). Another issue that we asked the parties to comment on was the Court of Appeals order quashing the writ of certiorari. In addition to these issues, Petitioner Commission argues in its briefs to this Court that the district court should have dismissed Respondents' appeal to the district court because it was untimely. We reverse.

**FACTS**

{ 3 } SkyHigh filed an application with Santa Fe County officials in which it sought approval for master plan zoning and a height **variance** so that it could build a 198-

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foot telecommunications facility in the county. Under the Santa Fe County Land Development Code, a telecommunications facility is a use permitted anywhere within the county. Thus, the land does not have to be rezoned to allow the construction of such facilities because such facilities are permitted uses under the Code. However, structures are limited to a height of 24 feet under the Code.

{ 4} A public hearing on SkyHigh's application was held before the Commission on December 12, 2000. The application was heard by four of the five commissioners. The one commissioner who did not participate recused himself because he was related to the applicant. At the hearing, SkyHigh presented evidence as to why its application should be approved. Afterwards, the Commission heard from several concerned citizens, including Respondents, all of whom opposed the application. The Commission voted on the application immediately following public comment. Two commissioners voted in favor of the application; one commissioner voted against the application; and the chairperson did not cast a vote. The meeting was then adjourned.

{ 5} On December 28, 2000, the Commission issued a written order in which it approved SkyHigh's application, subject to conditions. In the order, the Commission made several factual findings as to why it was approving the application.

{ 6} Respondents appealed the Commission's decision to the district court on January 26, 2001. The district court reversed the Commission's decision on two grounds. First, the district court found that the Commission had acted arbitrarily and capriciously in approving the application because the vote was not taken in accordance with the Commission's procedural rules. Second, the district court found that the Commission's \*86 \*\*244 approval of the height variance was not supported by substantial evidence.

{ 7} Petitioners then petitioned the Court of Appeals for a writ of certiorari to review the district court's decision. The Court of Appeals initially granted the petition, but following briefing, the court quashed the writ. Petitioners then petitioned this Court for a writ of certiorari, which we granted.

## DISCUSSION

{ 8} The first issue we address is Petitioner Commission's claim that Respondents' appeal to the district court was untimely under [Section 39-3-1.1](#) and

therefore should have been dismissed by the district court. This issue was not raised in the certiorari petition, *see* [Rule 12-502\(C\)\(2\) NMRA 2004](#) (providing that "only the questions set forth in the petition will be considered by the Court"), but we address the issue because if Respondents' appeal to the district court had been untimely, we would not have granted the petition.

[1] [2] { 9} [Section 39-3-1.1](#) sets forth the time frame for administrative appeals to the district court. *See also* [Rule 1-074](#). [Section 39-3-1.1\(C\)](#) provides that "a person aggrieved by a final decision may appeal the decision to district court by filing in district court a notice of appeal within thirty days of the date of filing of the final decision." *See* [Rule 1-074\(E\)](#) ("Unless a specific time is provided by law or local ordinance, an appeal from an agency shall be filed in the district court within thirty (30) days after the date of the final decision or order of the agency."). "Final decision" is defined in [Section 39-3-1.1\(H\)\(2\)](#) as "an agency ruling that as a practical matter resolves all issues arising from a dispute within the jurisdiction of the agency, once all administrative remedies available within the agency have been exhausted." Subsection (H)(2) further provides that "[t]he determination of whether there is a final decision by an agency shall be governed by the law regarding the finality of decisions by district courts." "The general rule in New Mexico for determining the finality of a judgment is that 'an order or judgment is not considered final unless all issues of law and fact have been determined and the case disposed of by the trial court to the fullest extent possible.'" *Kelly Inn No. 102, Inc. v. Kaputson*, 113 N.M. 231, 236, 824 P.2d 1033, 1038 (1992) (quoting *B.L. Goldberg & Assocs. v. Uptown, Inc.*, 103 N.M. 277, 278, 705 P.2d 683, 684 (1985)).

{ 10} Petitioner Commission asserts that Respondents' appeal to the district court was untimely because it was not filed within thirty days of a "final decision" as specified in [Section 39-3-1.1](#). Respondents counter by asserting that the appeal was timely filed because it was filed within thirty days of the Commission's written order, which Respondents claim was a final decision. Disagreeing with Respondents' assertion, Petitioner Commission asserts that [Section 39-3-1.1](#) explicitly distinguishes between "final decision" and "written decision," and specifically states that the time for filing an appeal to the district court commences upon the issuance of a "final decision," not a "written decision." Petitioner Commission asserts that the legislature's decision to use the term "final decision" rather than "written decision" indicates that the legislature intended that the time for filing the appeal to begin upon the issuance of the final decision and not a written decision. Consequently,

Petitioner Commission contends that the December 12 vote was a "final decision" for purposes of Section 39-3-1.1. Thus, Petitioner Commission asserts that Respondents had thirty days to file their appeal from this date and not the date that its written order was filed.

{ 11} We do not interpret the time limit provision in Section 39-3-1.1 as rigidly as Petitioner Commission. Subsection B details the procedure that an agency must follow when it issues a final decision. A "final decision" for purposes of Section 39-3-1.1 is "an agency ruling that as a practical matter resolves all issues arising from a dispute within the jurisdiction of the agency, once all administrative remedies available within the agency have been exhausted." Section 39-3-1.1(H)(2). When an agency issues a final decision, subsection B requires it to promptly prepare and file a written decision that includes "an order granting or denying relief and a statement of the factual and legal basis for the order." The agency must then promptly "serve a document that includes a \*87 \*\*245 copy of the written decision and the requirements for filing an appeal of the final decision" on all parties to the administrative proceeding and any person who filed "a written request for notice of the final decision in that particular proceeding." Section 39-3-1.1(B)(3), -(a), -(b). It appears that this document serves the important purpose of informing the aggrieved parties of the requirements for appealing the administrative decision. See *Village of Angel Fire v. Wheeler*, 2003-NMCA-041, ¶ 33, 133 N.M. 421, 63 P.3d 524, cert. denied, No. 27,882, 133 N.M. 413, 63 P.3d 516 (Feb. 10, 2003). Subsection C of Section 39-3-1.1 details the appeal process to the district court. Subsection C provides that "a person aggrieved by a final decision may appeal the decision to district court by filing in district court a notice of appeal within thirty days of the date of filing of the final decision." (Emphasis added.) Rule 1-074(E) similarly provides that "[u]nless a specific time is provided by law or local ordinance, an appeal from an agency shall be filed in the district court within thirty (30) daays after the date of the final decision or order of the agency." (Emphasis added.) As subsection B provides, it is the written decision of the agency's final decision that is filed. Thus, we conclude that the time for filing an administrative appeal to the district court under Section 39-3-1.1 begins to run on the date the final decision or order is filed. In the present case, the Commission's final decision was filed on December 28. Therefore, Respondents had thirty days from this date to file their appeal. Respondents' appeal, which was filed on January 26, was within the thirty-day period, and thus, was timely filed.

{ 12} Petitioner Commission asserts that its position is supported by *Maples v. State*, 110 N.M. 34, 791 P.2d 788

(1990), which it claims similarly recognized the distinction between a final decision and a written decision for purposes of filing an administrative appeal. We disagree. The issue in *Maples* was whether the plaintiff's administrative appeal to the judiciary was inequitably barred based on her contention that she was not aware of the administrative decision until after the time for appealing had expired. *Id.* at 34-35, 791 P.2d at 788-89. This Court concluded that the plaintiff's appeal was not inequitably barred because her attorney was aware of the hearing officer's rulings from the bench. *Id.* at 35, 791 P.2d at 789. Consequently, this Court stated that the plaintiff could have preserved her appeal in several ways, including filing an immediate appeal while the decision was pending filing. *Id.* Thus, *Maples* involved a determination as to whether a plaintiff's administrative appeal should be heard after the time for filing an appeal had elapsed where the plaintiff was unaware of the final administrative decision. It did not set forth a rule governing the filing of administrative appeals. Indeed, *Maples* recognized that under the relevant procedural rule, plaintiff had thirty days from the final order's filing date, which occurred after the hearing officer's oral ruling. See *id.* at 34, 791 P.2d at 788.

{ 13} We next address the Court of Appeals' order quashing the writ of certiorari. Petitioners assert that the Court of Appeals should not have quashed the writ of certiorari because the issues were significant, thereby requiring review by the Court of Appeals. Respondents assert, on the other hand, that the Court of Appeals properly quashed the writ because "the failure to allow a variance in this circumstance did not rise to the level of importance contemplated by Rule 12-502 for the Court of Appeals to grant a Writ of Certiorari." Additionally, Respondents assert that the untimeliness of the petition to the Court of Appeals supported the quashing of the writ; Respondents submit that the Court of Appeals may have quashed the writ on this ground, which Respondents raised in a motion to dismiss to the Court of Appeals.

<sup>131</sup> <sup>141</sup> <sup>151</sup> { 14} A party aggrieved by the district court's order in an administrative appeal may seek review of the decision by filing a petition for writ of certiorari with the Court of Appeals. Section 39-3-1.1(E); see also Rule 12-505(B) ("A party aggrieved by the final order of the district court in [an administrative appeal] may seek review of the order by filing a petition for writ of certiorari with the Court of Appeals...."). The decision to grant the writ "rests in the sound discretion of the Court of Appeals." *C.F.T. \*88 \*\*246 Dev. LLC v. Bd. of County Comm'rs*, 2001-NMCA-069, ¶ 8, 130 N.M. 775, 32 P.3d 784, overruled on other grounds by *Rio Grande Chapter of the Sierra Club v. N.M. Mining Comm'n*,

2003 -NMSC-005, ¶ 16, 133 N.M. 97, 61 P.3d 806; see also § 39-3-1.1(E); Rule 12-505(B). Therefore, we will not review the Court of Appeals' decision to quash the writ of certiorari, as the disposition of the writ rests with the discretion of the court. However, following "the disposition of a petition for writ of certiorari by the Court of Appeals, a party may seek further review from a decision of the Court of Appeals or a *denial of certiorari* by the Court of Appeals by filing a petition for writ of certiorari with the Supreme Court." Rule 12-505(J) (emphasis added); accord § 39-3-1.1(E) ("A party may seek further review by filing a petition for writ of certiorari with the supreme court."); see also Rule 12-502(A) ("This rule governs petitions for the issuance of writs of certiorari seeking review of decisions of the Court of Appeals and of *actions* of the Court of Appeals pursuant to Rule 12-505." (Emphasis added.)).

<sup>161</sup> { 15} The four grounds on which this Court may grant a petition for writ of certiorari to review the decision of the Court of Appeals are: (1) a conflict between the Court of Appeals' decision and a decision of this Court; (2) a conflict between the Court of Appeals' decision and another Court of Appeals' decision; (3) the involvement of a significant question of law under the state or federal constitution; and (4) the presence of an issue of substantial public interest that should be determined by the Supreme Court. See Rule 12-502(C)(4). "The critical issue under Rules 12-502 and 12-505 is whether the case presents issues of significant importance to justify the granting of a writ of certiorari...." *Rio Grande*, 2003-NMSC-005, ¶ 16, 133 N.M. 97, 61 P.3d 806.

<sup>171</sup> { 16} This case presents several issues of significant importance to justify this Court's review. First, it raises the applicability of the federal Telecommunications Act of 1996, 47 U.S.C. § 332, and its compliance mandates on local governments. Second, it implicates the deferential standard of review normally afforded to decisions of New Mexico administrative bodies like the Commission. See *Rowley v. Murray*, 106 N.M. 676, 679, 748 P.2d 973, 976 (Ct.App. 1987) (noting "[t]his standard reflects a respect for the governing body's legislative function"); see also *Zamora v. Village of Ruidoso Downs*, 120 N.M. 778, 782, 907 P.2d 182, 186 (1995) (same). We believe the district court may have given insufficient deference to the procedural process, factual findings and final decision of the Commission as an independent administrative body. Therefore, we find that there are sufficient grounds to justify our review of this matter.

<sup>181</sup> { 17} Respondents submit that the Court of Appeals may have accepted the argument presented in their motion to dismiss the petition, that the petition was untimely

filed, and thus may have quashed the writ on this basis. Petitioners SkyHigh and Gonzales assert that the timeliness of the appeal is not an issue before this Court because it was not appealed. We address this issue because an untimely appeal to the Court of Appeals would be a basis for affirming the district court's decision without further review or for affirming the district court if we should reverse on the merits. See Rule 12-201(C) NMRA 2005 ("Review without cross-appeal").

{ 18} In the instant case, the district court entered judgment on January 11, 2002. On January 18, 2002, the Commission filed a motion for reconsideration. On January 23, 2002, Gonzales and SkyHigh filed a motion for reconsideration. On March 8, 2002, the district court denied the motions for rehearing. On March 25, 2002, SkyHigh filed its petition for writ of certiorari. On March 28, 2002, the Commission filed its petition for writ of certiorari.

{ 19} Section 39-3-1.1 is a "comprehensive administrative appeals" statute which delineates "the method for obtaining judicial review of final decisions of certain administrative agencies." *Hyden v. N.M. Human Servs. Dep't.*, 2000-NMCA-002, ¶ 8, 128 N.M. 423, 993 P.2d 740. Rule 1-074 also "governs appeals from administrative agencies to the district courts." Under Rule 1-074(R), a party may file a motion for reconsideration \*89 \*\*247 "within ten (10) days after filing of the district court's final order." There is no provision within Rule 1-074 which provides that a motion for reconsideration not acted upon by the district court within a certain amount of time is deemed denied by operation of law.

{ 20} Section 39-3-1.1(E) provides that "[a] party to the appeal to district court may seek review of the district court decision by filing a petition for writ of certiorari with the court of appeals, which may exercise its discretion whether to grant review. A party may seek further review by filing a petition for writ of certiorari with the supreme court." Section 39-3-1.1(G) provides that "[t]he procedures governing appeals and petitions for writ of certiorari that may be filed pursuant to the provisions of this section shall be set forth in rules adopted by the supreme court." Rule 1-074(T) provides that "[a]n aggrieved party may seek review of an order or judgment of the district court in accordance with the Rules of Appellate Procedure."

{ 21} Rule 12-505 "governs review by the Court of Appeals of decisions of the district court" in cases where the district court reviews the actions of an administrative agency. See *Hyden*, 2000-NMCA-002, ¶ 2, 128 N.M. 423, 993 P.2d 740 (stating that Rule 12-505 specifies the

“procedure for obtaining such appellate review”). Rule 12–505(C) provides that the “petition for writ of certiorari shall be filed with the clerk of the Court of Appeals within twenty (20) days after *entry* of the final action by the district court.” (Emphasis added). Rule 12–505(C) defines “final action” as “the filing of a final order or judgment in the district court unless timely motion for rehearing is filed, in which event, final action shall be the *disposition* of the last motion for rehearing which was timely filed.” (Emphasis added). There is no provision within Rule 12–505 which provides that a motion not acted upon by the district court within a certain amount of time is deemed denied by operation of law.

{ 22} In their motion to dismiss the petition for writ of certiorari to the Court of Appeals, Respondents argued that the motions for rehearing were denied by operation of law under Rule 12–404 NMRA 2005, when they were not acted upon by the district court within thirty days of their filing. See Rule 12–404(C) (“Any motion for rehearing not acted upon within thirty (30) days after it is filed shall be deemed denied unless otherwise ordered by the court.”). Thus, the issue boils down to whether Petitioners’ motions for reconsideration were denied by operation of law when they were not acted upon within thirty days of their filing. If they were deemed denied by operation of law, then the petitions for writ of certiorari to the Court of Appeals were untimely. Conversely, if they were not deemed denied by operation of law, then the petitions were timely.

{ 23} Respondents’ argument is apparently based on language in Rule 1–074(T), which states that “[a]n aggrieved party may seek review of an order or judgment of the district court in accordance with the *Rules of Appellate Procedure*.” (Emphasis added). Although we acknowledge the confusion inadvertently created by the promulgation of the various rules governing appellate procedure, we conclude that Rule 12–404 does not apply to this situation. Rule 12–404(A) gives a time limit different from Rule 1–074(R) as to when a motion for rehearing must be filed (fifteen days as opposed to ten days). Rule 1–074, by its very terms, applies specifically to the review of *administrative* decisions in the *district courts*, whereas Rule 12–404 seems to apply only to rehearings in general, specifically to those before the Supreme Court and the Court of Appeals. See Rule 12–101 NMRA 2005 (“These rules govern procedure in appeals to the supreme court and the court of appeals...”) (Emphasis added.) Here, the motion for rehearing was filed in the district court. In the motion, the district court was being asked to reconsider its ruling. Finally, the procedure governing certiorari review by the Court of Appeals in administrative agency appeals seems to be

wholly addressed by Rule 12–505. See Rule 12–505(A) (“This rule governs review by the Court of Appeals of decisions of the district court.”); cf. *Hyden*, 2000–NMCA–002, ¶ 2, 128 N.M. 423, 993 P.2d 740 (stating that Rule 12–505 outlines the procedure for appellate review of administrative agency decisions in the Supreme Court and Court of Appeals).

\*\*248 \*90 { 24} Under these applicable rules, we find there is no provision which provides that a motion for reconsideration or rehearing is deemed denied by operation of law if it is not acted upon by the district court within a certain time period. Without any such language, the petitions for writ of certiorari to the Court of Appeals may be considered timely filed since they were filed within twenty days of the district court’s March 8 order. We find additional support for this position in *Vigil v. Thriftway Mktg. Corp.*, 117 N.M. 176, 178, 870 P.2d 138, 140 (Ct.App.1994), in which the court found that a worker’s motion for reinstatement was not deemed denied by operation of law under NMSA 1978, § 39–1–1 (1917) because it was filed “pursuant to [Rule] 1–041(E) [NMRA 2005], which does not contain a provision saying that motions filed pursuant to it are deemed denied if not acted upon within a certain amount of time.” *State v. Shirley*, 103 N.M. 731, 732–733, 713 P.2d 1, 2–3 (Ct.App.1985), which did not address Section 39–1–1, is nonetheless instructive because again, the court held that where the governing rule of criminal procedure did not provide a time limit for the district court’s decision on a post-conviction motion for a new trial and absent any showing that the court failed to act within a reasonable amount of time, the motion was not deemed denied automatically after thirty days but only when the trial court actually ruled on the motion.

{ 25} Because there is no provision stating that a motion for reconsideration is deemed denied if not acted upon within a certain time frame, we conclude that the petitions were timely filed when they were filed within twenty days of the district court’s final order. Therefore, we reject Respondents’ assertion that this may have been the basis on which the Court of Appeals quashed the writ.

<sup>191</sup> <sup>1101</sup> { 26} We now turn to the issues raised in the certiorari petition and simultaneously review the decisions of the district court and the Commission regarding the Commission’s approval of SkyHigh’s **variance** application. In administrative appeals, we review the administrative decision under the same standard of review used by the district court while also determining whether the district court erred in its review. *Rio Grande*, 2003–NMSC–005, ¶ 16, 133 N.M. 97, 61 P.3d 806. Administrative decisions are reviewed under an

administrative standard of review. *Id.* ¶ 17. Under this standard of review, reviewing courts are limited to determining whether the administrative agency acted fraudulently, arbitrarily or capriciously; whether the agency's decision is supported by substantial evidence; or whether the agency acted in accordance with the law. See § 39-3-1.1(D); Rule 1-074(Q); *Rio Grande*, 2003-NMSC-005, ¶ 17, 133 N.M. 97, 61 P.3d 806. In the present case, the district court reversed the Commission's decision on the grounds that it was arbitrary and capricious, and was not supported by substantial evidence. We review each ground in turn.

{ 27} The district court's decision that the Commission acted arbitrarily and capriciously in approving SkyHigh's application was based on the district court's determination that the Commission failed to comply with its procedural rules when it voted on the application at the public hearing on December 12. At the start of the Commission's December 12 meeting, the Commission passed Resolution 2000-164. Resolution 2000-164 altered the chairperson's voting power and was intended to repeal Resolution 1999-154. Under Resolution 1999-154, the chairperson voted only in the instance of a tie vote. In the instance where there were more affirmative votes than negative votes, but still insufficient votes to constitute a majority, the chairperson's vote was automatically deemed to apply to the majority position in order to create an actual majority. Resolution 2000-164, on the other hand, did not limit the chairperson's voting power to breaking tie votes, but instead gave him or her the same voting power as the other commissioners. Unlike Resolution 1999-154, under Resolution 2000-164, the chairperson's vote was not automatically attributed to the majority position. Both resolutions required a majority vote of all commissioners present for all motions and action items to pass. Thus, to be approved under either resolution, SkyHigh's **variance** application needed the votes of at least three of the four present and participating commissioners. After passing Resolution 2000-164 and resolving other matters, the \*91 \*\*249 Commission heard SkyHigh's **variance** application. After hearing from SkyHigh and the public, the Commission immediately voted on the application. Two commissioners voted to approve the application, one commissioner voted against the application, and the chairperson did not vote. The meeting immediately ended without any announcement of the Commission's decision. The Commission issued a final written order a few weeks later in which it approved the application subject to certain conditions.

{ 28} In its review, the district court determined that SkyHigh's application had been arbitrarily and capriciously approved because the application had failed

to garner enough votes for approval under the Commission's procedural rules. The district court's determination was based on its conclusion that Resolution 2000-164 was in effect when the Commission voted on the application at the public hearing on December 12. The district court opined that without any language in Resolution 2000-164 specifying the date that the resolution was to go into effect, the presumption was that it went into effect immediately. The district court also did not view the Commission's written order as a ratification of its December 12 actions.

<sup>111</sup> <sup>112</sup> <sup>113</sup> { 29} Petitioners SkyHigh and Gonzales assert that the district court should not have reviewed this issue because it was not raised at the administrative hearing. However, we conclude that preservation of this issue was not necessary for judicial review. Generally, arguments relating to "theories, defenses, or other objections will not be considered when raised for the first time on appeal." *Woffley v. Real Estate Comm'n*, 100 N.M. 187, 189, 668 P.2d 303, 305 (1983). The issue in the case at hand, however, concerns the Commission's decision approving SkyHigh's **variance** application. That decision was made during a meeting at which the Commission voted to change its voting procedure. The effective date of the change was not made clear. Under these circumstances, we are not persuaded Petitioner had an "opportunity to object" within the meaning of Rule 12-216(A) NMRA 2005 (discussing the requirements for preserving issues for review). Further, we are persuaded the question of what voting procedure applied was a question the district court had to address in reviewing the Commission's action. " 'Any judicial review of administrative action, statutory or otherwise, requires a determination whether the administrative decision is arbitrary, unlawful, unreasonable, capricious, or not based on substantial evidence.' " *Dick v. City of Portales*, 118 N.M. 541, 543, 883 P.2d 127, 130 (1994) (quoting *Regents of the Univ. of N.M. v. Hughes*, 114 N.M. 304, 309, 838 P.2d 458, 463 (1992)) (emphasis added). Since the present issue was whether the Commission acted arbitrarily and capriciously in approving SkyHigh's **variance** application, it was appropriate for the district court to review this issue.

<sup>114</sup> <sup>115</sup> { 30} When we review an administrative decision for arbitrary and capricious conduct, we review "the whole record to ascertain whether there has been unreasoned action without proper consideration or disregard of the facts and circumstances." *Las Cruces Prof'l Fire Fighters v. Las Cruces*, 1997-NMCA-044, ¶ 7, 123 N.M. 329, 940 P.2d 177. Our review of the record leads us to conclude that the Commission did not abuse its discretion when it approved SkyHigh's **variance**

application. Contrary to the district court's determination, the record shows that the application was approved in accordance with the Commission's procedural rules. The actions of the Commission and chairperson demonstrate that they considered Resolution 1999-154 to be in effect when the application was voted upon, a determination to which we believe we should defer. Except for an ordinance, which required the majority vote of all commissioners, the chairperson did not vote on any matters at the meeting, including SkyHigh's **variance** application. This was consistent with the voting procedures in Resolution 1999-154. When the participating commissioners voted on the application, there were more affirmative votes than negative votes, but not enough votes for the application to be approved. In this scenario, Resolution 1999-154 provided that the chairperson's vote would be applied to the majority position to allow the item to pass. The Commission issued a final order a few weeks later in which it formally approved the \*92 \*\*250 application which was presumably ratified by a majority of the commissioners. Again, this was consistent with the voting procedures in Resolution 1999-154. Thus, based on the record, it is reasonable to infer that Resolution 1999-154 was in effect when the Commission voted and approved the application. Therefore, since the record shows that Resolution 1999-154 governed the Commission's voting procedure, the application was not arbitrarily and capriciously approved because it was properly approved in accordance with the Commission's procedural rules.

{ 31} Respondents assert that the chairperson did not vote "because he had left the meeting and did not hear [them] discuss the issues." The record belies Respondents' assertion, however. The record shows that the chairperson actively participated in the hearing. He ran the hearing, he heard from the applicant and the public, and he engaged in discussions with the public when they spoke on the application. He was also present when the commissioners discussed and voted on the matter. Consequently, we conclude that the Commission's approval of the application was conducted in conformance with Resolution 1999-154, and thus, the district court erred in concluding that the application was arbitrarily and capriciously approved.

[16] [17] [18] [19] [20] { 32} The second issue we discuss is whether the Commission's approval of SkyHigh's **variance** application was supported by substantial evidence. In its review, the district court concluded that the Commission's approval of the **variance** was not supported by substantial evidence. Courts reviewing a zoning authority's decision for substantial evidence must review the entire record to determine whether there is

substantial evidence to support the decision. *Bennett v. City Council*, 1999-NMCA-015, ¶ 20, 126 N.M. 619, 973 P.2d 871. Substantial evidence means "relevant evidence that a reasonable mind would accept as adequate to support a conclusion." *Watson v. Town Council of Bernalillo*, 111 N.M. 374, 376, 805 P.2d 641, 643 (Ct.App.1991). Since reviewing courts are obligated to review the entire record to determine whether the zoning authority's decision was supported by substantial evidence, they may not substitute their decision for that of the zoning authority and conclude that there is evidence supporting a different conclusion. *Siesta Hills Neighborhood Ass'n v. City of Albuquerque*, 1998-NMCA-028, ¶ 6, 124 N.M. 670, 954 P.2d 102. In its review, the court must view the evidence in the light most favorable to the decision. *Id.* Reviewing courts must uphold the zoning authority's decision if the decision is supported by substantial evidence. *Id.*

{ 33} The Commission's authority for granting **variances** is limited by the terms of the authorizing zoning statute. See *Downtown Neighborhoods Ass'n v. City of Albuquerque*, 109 N.M. 186, 189, 783 P.2d 962, 965 (Ct.App.1989). The Commission's authority for granting the **variance** that was granted in this case is found in Article II, Section 3 of the Santa Fe County Land Development Code. Section 3.1, which addresses **variances** related to proposed development, reads:

Where in the case of proposed development, it can be shown that strict compliance with the requirements of the Code would result in extraordinary hardship to the applicant because of unusual topography or other such non-self-inflicted conditions or that these conditions would result in inhibiting the achievement of the purposes of the Code, an applicant may file a written request for a **variance**. A Development Review Committee may recommend to the Board and the Board may vary, modify or waive the requirements of the Code and upon adequate proof that compliance with [the] Code provision at issue will result in an arbitrary and unreasonable taking or [sic] property or exact a hardship, and proof that a **variance** from the Code will not result in conditions injurious to health or safety. In arriving at its

determination, the Development Review Committee and the Board shall carefully consider the opinions of any agency requested to review and comment on the **variance** request. In no event, shall a **variance**, modification or waiver be recommended by a Development Review Committee, nor granted by the Board if by doing so the purpose of the Code would [be] nullified.

**\*\*251 \*93** Santa Fe County Land Development Code, (N.M.1980). Further, Article II, Section 3.2 provides: "In no case shall any variation or modification be more than a minimum easing of the requirements."

{ 34} Thus, for a property owner to be considered for a **variance** under the code, he or she must show that because of unique circumstances, strict application of the zoning regulations would create an extraordinary hardship for him or her. The property owner must show that the hardship relates to the land or other "non-self-inflicted conditions," or that "these conditions would result in inhibiting the achievement of the purposes of the Code." Once the property owner has sufficiently shown his or her qualification for a **variance**, the Commission may then grant the **variance** when sufficient evidence has been shown demonstrating that strict compliance with the code would result in a confiscatory taking of the property or would "exact a hardship." The evidence must also convince the Commission that the **variance** "will not result in conditions injurious to health or safety." However, the code provides that the Commission may not grant the **variance** where doing so would result in the nullification of the code. The code decrees that the **variance** must be no more than a minimum easing of the regulations.

{ 35} Respondents assert that the district court correctly determined that the Commission had improperly granted SkyHigh's **variance** application because SkyHigh had failed to show the facts necessary to justify the granting of the **variance**. Respondents assert that the only question relevant to determining the existence of a hardship is whether the owner is being denied all reasonable use of the property. Respondents assert that there was nothing unique about the land that would require a **variance** and that the land could be used for other residential or commercial purposes in accordance with the zoning regulations. Thus, Respondents contend that the statutorily required hardship was not met. Respondents further assert that any hardship was self-inflicted and

related to Skyhigh's personal desire to "conduct commercial activities in an inappropriate place and in an inappropriate manner." Respondents state that **variances** are not intended to cure such zoning defects or alleviate such "personal problems" of the property owner. Respondents additionally assert that the granting of the **variance** nullified the code's purpose because "it ignored zoning restrictions and ignored the requirements for **variances**." Finally, Respondents assert that the **variance** did not constitute a minimum easing of zoning requirements.

{ 36} The district court determined that the record did not support the Commission's decision to grant SkyHigh's **variance** application. In its decision the district court stated, "And in essence what I'm hearing is, if someone wants to make use of their property and the existing zoning ordinances say it's not allowed, but someone says, 'I want to use it for this purpose anyway,' if a **variance** is going to be granted on that basis, we don't need **variances**." The district court then stated that there was no evidence in the record demonstrating the extraordinary hardship that would support the construction of a cellular **tower** on the property; there was no evidence of "an arbitrary or unreasonable restriction on the property." The district court stated that what the record did show, however, was "that the applicants were not able to put the property to the use ... they intended." The district court stated that this fact did not justify the granting of SkyHigh's **variance** application.

[21] [22] [23] { 37} We believe that the district court's decision was premised on a mistaken belief that the activity that SkyHigh wanted to conduct on the relevant property was prohibited by the code. Respondents appear to share this same belief. However, the code permits the use of telecommunication facilities anywhere within the county. This fact was so found by the Commission. Thus, the manner in which SkyHigh wanted to use the land was appropriate under the code. The Commission determined that since the use was permitted, SkyHigh was actually requesting an **area** or dimensional **variance**. Deferring to the Commission's fact-finding, we agree. See *Regents of the Univ. of N.M. v. N.M. Fed'n of Teachers*, 1998-NMSC-020, ¶ 17, 125 N.M. 401, 962 P.2d 1236 (stating that courts should generally accord deference **\*94 \*\*252** to an administrative agency's factual determinations). A use **variance** allows the property owner to use the property in a manner otherwise prohibited by zoning regulations. *Gould v. Santa Fe County*, 2001-NMCA-107, ¶ 12, 131 N.M. 405, 37 P.3d 122, *overruled on other grounds by Rio Grande*, 2003-NMSC-005, ¶ 16, 133 N.M. 97, 61 P.3d 806. Thus, a use **variance** seeks to change the character of the land by permitting a use

otherwise prohibited by zoning regulations. An **area** or dimensional **variance**, on the other hand, involves a permitted use but seeks an exemption from zoning regulations with regard to physical limitations. *Id.* Thus, an **area** or dimensional **variance** does not seek to change the use of the land, but rather to use the land as allowed under zoning regulations. The code makes no distinction between use **variances** and **area** or dimensional **variances**.

<sup>124</sup> { 38} Our review of the record leads us to conclude that there was substantial evidence supporting the Commission's determination that strict application of the zoning regulations would create an extraordinary hardship for SkyHigh due to unique circumstances. The Commission found that the topography of the property was "uneven, hilly, at different levels, and otherwise unusual and not conducive to the use of communications **towers** that are less than the otherwise permitted height." The Commission further found that the special conditions related to wireless communications and the property in particular, "such as the need for unobstructed signal transmission over varying terrain ..., are such that literal enforcement of the zoning ordinance would result in an unnecessary hardship." The Commission also found that the "[d]enial of the **variance** would result in inhibiting achievement of the purposes of the code." The Commission apparently concluded that denying the **variance** would be contrary to the Santa Fe County Growth Management Plan's directive that the county should, "[t]hrough the Community and district design process, design utilities to support and fit into the rural, unique and diverse community character, aesthetics and environment of the County."

{ 39} The Commission's finding of unique circumstances justifying the consideration of SkyHigh's **variance** application is supported by the documents and the testimony that were submitted in the case. The evidence shows that the property was at a low level, hilly and uneven. This made it impossible to operate a cellular **tower** at the restricted height level of 24 feet because the land was not high enough to allow the cellular transmissions to travel over the surrounding mesas and hills. In order for the transmissions to navigate the surrounding hills and mesas, the cellular **tower** needed at least 198 feet. Also, the height restriction made it impossible to operate a telecommunications facility at the restricted height level due to the conditions required by the technology and the telecommunications industry. SkyHigh's owner Estevan Gonzales testified that due to these conditions, the facility would be unable to provide "any service whatsoever to any wireless provider" at the 24 feet height level.

{ 40} The Commission also determined that denying the **variance** would impede the code's utility goals. We defer to the Commission's determination on this fact.

{ 41} The question that we now must determine is whether there was sufficient evidence to justify the Commission's granting of SkyHigh's **variance**. The code provides that the Commission may grant the **variance** when there is sufficient evidence showing that strict compliance with the zoning regulations will result in an arbitrary and unreasonable taking of property or "exact a hardship." There is no contention of a taking in this case. Thus, the only issue is whether the necessary hardship was shown.

{ 42} "Hardship" is not defined in the code. To determine whether the requisite hardship was shown, the Commission looked at the type of variance that was being sought by SkyHigh. The Commission determined that Skyhigh was requesting an area or dimensional variance. After making this determination, the Commission relied on the case of *Hertzberg v. Zoning Bd. of Pittsburgh*, 354 Pa. 249, 721 A.2d 43 (1998), to determine whether SkyHigh's variance should be granted. In *Hertzberg*, the Pennsylvania Supreme Court set forth a standard for determining the "unnecessary hardship" required for an area or dimensional variance. This \*95 \*\*253 standard is less stringent than that required for a use variance. *See id.* at 47-48. Under this standard, multiple factors may be considered in deciding whether to grant an area or dimensional variance, "including the economic detriment to the applicant if the variance was denied, the financial hardship created by any work necessary to bring the building into strict compliance with the zoning requirements and the characteristics of the surrounding neighborhood." *Id.* at 50. Relying on these factors, the Commission determined that "there would be significant cost and economic detriment to the applicant of erecting multiple, smaller towers." The Commission also determined that "the rural characteristics of the area where the tower is proposed to be located are such that it would be more appropriate to erect a single, larger tower than multiple, small towers."

<sup>125</sup> { 43} We cannot say that the Commission's decision to grant the **variance** was erroneous under the *Hertzberg* standard. Under the *Hertzberg* standard, the property owner does not have to show "that the property is valueless without the **variance** and cannot be used for any other permitted purpose." *Id.* at 47. Thus, under *Hertzberg*, Respondents' assertion that SkyHigh had to show that it was being denied *all* reasonable use of the property in order to be granted an **area** or dimensional

**variance** is incorrect. *Hertzberg* provides that unreasonable economic burden is one factor to consider when determining whether to grant an **area** or dimensional **variance**. *Id.* at 50. Here, the Commission determined, based on Gonzales's testimony and submitted documents which indicated that the only alternative to one cellular **tower** was several cellular **towers** throughout the **area**, that SkyHigh would suffer an unreasonable economic burden if its **variance** was not granted.

{ 44} The Commission noted that denial would also "constitute a prohibition of provision of personal wireless services" under the federal Telecommunications Act of 1996. *See* 47 U.S.C. § 332(c)(7)(B)(i)(II) ("The regulation of the placement, construction, and modification of personal wireless service facilities by any State or local government or instrumentality thereof ... shall not prohibit or have the effect of prohibiting the provision of personal wireless services.").

{ 45} Another *Hertzberg* factor is the surrounding neighborhood's characteristics. *Hertzberg*, 721 A.2d at 50. Here, the Commission determined, based on Gonzales's testimony and submitted documents regarding multiple **towers** and "tower slum," that it would be more appropriate to erect one single **tower** rather than multiple **towers** due to the rural characteristics of the neighborhood.

<sup>1261</sup> { 46} The Commission also found that granting the **variance** would result in a net public benefit. Benefit to the public is another factor that may be considered in the granting of an **area** or dimensional **variance**. Kenneth H. Young, 3 *Anderson's Am. Law of Zoning* § 20.52, at 597 (4th ed.1996). There was evidence showing that the public would benefit from the granting of the **variance**. There was evidence showing that the cellular **tower** would lead to improvements in safety, economic development, and quality of life, through necessary and enhanced wireless services. Schools, businesses, **area** residents, and local governmental agencies would have access to the newer technologies.

{ 47} The code provides that a **variance** may be granted if there is sufficient evidence that the **variance** "will not result in conditions injurious to health or safety." Here, the Commission concluded that it was precluded under the federal Telecommunications Act of 1996 from denying the **variance** solely on safety issues. *See* 47 U.S.C. § 332(c)(7)(B)(iv) ("No State or local government or instrumentality thereof may regulate the placement, construction, and modification of personal wireless service facilities on the basis of the environmental effects of radio frequency emissions to the extent that such

facilities comply with the Commission's regulations concerning such emissions.").

{ 48} The code provides that the **variance** may not be granted when doing so would nullify the code's purpose. In this case, the Commission found that the granting of the **variance** "ensures that the spirit of the zoning ordinance will be observed ... and that substantial justice [is] done."

\*\*254 \*96 { 49} The Commission also determined that the height **variance** would be no more than a minimum easing of the code. Estevan Gonzales testified that the height **variance** "is the minimum height needed for the effectiveness of the antennas to be placed on the **tower** and in order to reduce the proliferation of multiple **towers** in the **area**." "The height requested is the minimum height necessary to provide telecommunication services in the **area**." The height "is a minimum height needed to support the engineering needs of the wireless service providers." The "height provides space for co-location for multiple service providers."

{ 50} Our review leads us to accept the conclusions of the Commission. We emphasize first that the code permits the use of telecommunication facilities anywhere within the county. Therefore, Skyhigh did not need a **variance** to construct the telecommunications **tower**, only a dimensional **variance** to amend the height restriction. While we acknowledge that the proposed 198-foot tall **tower** rose well above the code's 24-foot height restriction and therefore may not appear to be a "minimal" easing of the code, we agree that the increased height was the minimum amount necessary to make the **towers** effective and to fulfill the purposes of both the code and federal legislation. The 198-foot **tower**, while surely a burden on adjacent landowners, was the minimum height necessary to provide adequate telecommunication services and to avoid the proliferation of other, shorter **towers** throughout the county. Therefore, we agree that the benefits provided by the construction of the 198-foot telecommunications **tower** to the county outweighed the possible burdens placed upon individual members of the county. Thus, we find that the record provides ample support for the conclusion that the requested **variance** in this case was the minimum **variance** necessary to afford relief to the applicant and fulfill the directives of both the code and federal legislation.

{ 51} After reviewing the whole record, we conclude that there was substantial evidence to support the Commission's granting of SkyHigh's **variance** application. Consequently, we do not address whether the

district court's decision violates the federal Telecommunications Act of 1996.

**CONCLUSION**

{ 52} The Commission's decision approving SkyHigh's **variance** application was not arbitrary and capricious, and was supported by substantial evidence. Thus, the district court erred in reversing the Commission's decision. We therefore reverse the district court and remand this case for further proceedings consistent with this opinion.

**{ 53} IT IS SO ORDERED.**

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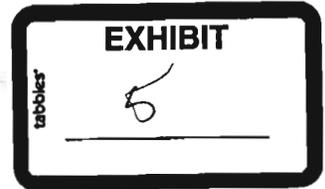
WE CONCUR: RICHARD C. BOSSON, Chief Justice,  
PAMELA B. MINZNER, PATRICIO M. SERNA, and  
EDWARD L. CHAVEZ, Justices.

**Parallel Citations**

117 P.3d 240, 2005 -NMSC- 021

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16 Pa. D. & C.3d 709  
Court of Common Pleas of Pennsylvania, Chester  
County.

Willistown Township  
v.  
Willistown Township Zoning Hearing Board.

No. 111. | May 13, 1980

**Attorneys and Law Firms**

*Robert J. Shankin*, for appellant.

*Robert F. Adams*, for board.

*E. Craig Kalemjian*, for intervenors.

**Opinion**

GAWTHROP, J.

This case comes before us on the appeal of Willistown Township from the decision of the Zoning Hearing Board of Willistown Township granting a variance to the owners of land in the Township from lot area and lot width requirements, and from the strict application of the flood plain map and flood plain zoning regulations. The township, in seeking reversal of the board's issuance of a building permit, alleges that the grant of variance was arbitrary, capricious, an abuse of discretion, and contrary to law.

**FACTS**

J. Blair Kennerly and Hazel D. Kennerly are the owners of two adjoining lots in Willistown Township. Lot no. 1, the subject of this appeal, they purchased in 1951. In 1949 they had purchased Lot no. 2 where they live. In 1976, desiring to sell Lot no. 1 and having been informed that the township believed their purchase of Lot no. 1 to work a merger of the two lots, they filed an application for subdivision with the township planning commission. The commission having failed to act on the application within 90 days of its submission, the application for \*711 subdivision is deemed approved by operation of law. See the Municipalities Planning Code of July 31, 1968, P.L. 805, art. V, sec. 508, as emended, [53 P.S. §10508](#). They presently desire to sell Lot no. 1 to Rocco J. Mastrococa,

and pursuant to this plan, Mr. Mastrococa applied for a building permit for the lot in question. The application was refused on October 13, 1978 by the building and zoning officer for the following reasons: (1) that the lot fails to conform to the minimum size required by the zoning ordinance; and (2) that "a large portion of it is in the existing flood plain and seasonally wet potentially floodable soils."

The lot area and width requirements are set forth in section 702 of the Willistown Township Zoning Ordinance: a lot in a residential district on which a principal building is sought to be built must be one acre in area and 150 feet in width. The lot here in question is 146.85 feet in width, and contains 40,000 square feet, slightly less than one acre. The board found that when the Kennerlys bought the lot in 1951, it measured exactly one acre, and that its present deficiency in area was most likely caused by the township's changed definition of lot measurements: the lot when measured to the centerline of the road it borders is exactly one acre, but the ordinance presently requires that a lot be measured to the street line only. The board concluded that the scope, extent and character of the variance sought were de minimis, and, finding the remaining requirements \*712 for the grant of a variance to be met, granted the same. With respect to the flood plain issue, the board found that although the flood plain map of Willistown Township showed Lot no. 1 to be partially official flood plain and partially seasonally wet potentially floodable soils, the accuracy of the flood plain map with respect to this lot was effectively rebutted. The board found that the scale of the map made its application to the lot in question imprecise and difficult, and found more helpful and persuasive the testimony of the Kennerly's expert, Robert H. Pucienik, a registered professional engineer. Although they did not find that the requirements \*713 for granting a traditional variance were shown, they granted a "validity variance" pursuant to sections 912(1) and (2) of the Municipalities Planning Code, [53 P.S. §10912](#).

**ISSUE**

Did the Kennerlys present evidence establishing their entitlement to the two variances granted by the board? We hold that they did, and that the grant of variance was a proper exercise of the board's discretion.

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## DISCUSSION

### 1. Dimensional variances

Our Commonwealth Court has held that de minimis variances from dimensional requirements are not necessarily subject to the strict requirements applied to other applications for variance, but rather that the various zoning hearing boards have substantial discretion in this area:

“[A] zoning board may have power to grant a variance where the variance sought is “de minimis” and the public interest is not affected, even though the traditional grounds for a variance have not been established. This makes sense, for there is no invasion of the legislative function in a minor dimensional variance of the type involved in the Pyzdrowski decision. It would seem appropriate, however, for the courts to leave the question of whether to grant such variances to the zoning boards.” *West Bradford Township v. Evans*, 35 Pa. Commonwealth Ct. 167, 171, 384 A. 2d 1382, 1384 (1978), quoting *Ryan, Pennsylvania Zoning Law and Practice §6.2.1*.

\*714 The township does not dispute that the dimensional variance here at issue is de minimis. Rather, its principal claim is that the traditional burden established by 53 P.S. §10912 (see fn. 3), has not been met. We conclude, based on the foregoing language from *West Bradford Township v. Evans*, supra, that the traditional burden is not applicable in this concededly de minimis situation. The Township further claims that the de minimis rule is not applicable except to protect a pre-existing structure, citing *Ottaviano v. Zoning Board of Adjustment of Philadelphia*, 31 Pa. Commonwealth Ct. 366, 376 A. 2d 286 (1977). We consider that reliance to be misplaced. In *Ottaviano* the board had allowed a variance permitting the addition of a greenhouse which would have totally eliminated the applicant’s open area, required to be 30 percent of the lot. There was also direct and un rebutted evidence that the greenhouse would affect adversely the supply of light and air to adjacent lots. The Commonwealth Court, reversing the board, concluded that the proposed deviation, which would eliminate the backyard from a then conforming property, was not de minimis. Although a further ground for the court’s holding was the absence of the practical difficulty and economic waste created when an existing structure must be modified, the court’s essential concern was the need for open space in a congested urban setting. Here, where the proposed deviation from the one acre requirement is minimal, no such issue is involved. *Ryan*, supra, in § 6.3.1 of the 1979 Supplement, has addressed

this question: “. . . what if the requested variance is a matter of inches, or a foot or two, and enforcement of the ordinance would not require the removal of the structure?” The *West Bradford Township* case, supra, suggests that even \*715 there the board has power to grant a minor variance if the owner has a substantial reason for requesting it, even though that reason does not rise to the level of traditional “unnecessary hardship.”

Accordingly, we have concluded that the board’s decision to grant the Kennerlys a variance from the applicable dimensional requirements was an appropriate exercise of their discretion.

### 2. Variance from flood plain requirements.

The board’s grant of variance as to the flood plain map was based on their assessment of the township’s flood plain map which they found unreliable and possibly imprecise. The township’s objection is that the proof of entitlement to a validity variance was not presented by the Kennerlys.

A validity variance is the appropriate remedy where an ordinance is found to be confiscatory of property because it denies an owner every reasonable use of a lot, or because its provisions are clearly arbitrary and unreasonable, and have no substantial relationship to the public health, safety, and welfare. See *Township of Neville v. Exxon Corp.*, 14 Pa. Commonwealth Ct. 225, 322 A. 2d 144 (1974).

We believe that to apply the flood plain map to this property when it was testified to as imprecise would be unreasonable and confiscatory. Accordingly, we enter the following

## ORDER

The decision of the zoning hearing board is hereby affirmed.

### Parallel Citations

1980 WL 816 (Pa.Com.Pl.)

### Footnotes

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1 An acre is 43,560 square feet.

2 The present ordinance was adopted by Willistown Township on April 25, 1961.

3 These are set forth in section 912 of the Pennsylvania Municipalities Planning Code, 53 P.S. §10912: "... (1) That there are unique physical circumstances or conditions, including irregularity, narrowness, or shallowness of lot size or shape, or exceptional topographical or other physical conditions peculiar to the particular property, and that the unnecessary hardship is due to such conditions, and not the circumstances or conditions generally created by the provisions of the zoning ordinance in the neighborhood or district in which the property is located; (2) That because of such physical circumstances or conditions, there is no possibility that the property can be developed in strict conformity with the provisions of the zoning ordinance and that the authorization of a variance is therefore necessary to enable the reasonable use of the property; (3) That such unnecessary hardship has not been created by the appellant; (4) That the variance, if authorized, will not alter the essential character of the neighborhood, or district in which the property is located, nor substantially or permanently impair the appropriate use or development of adjacent property, nor be detrimental to the public welfare; and (5) That the variance, if authorized, will represent the minimum variance that will afford relief and will represent the least modification possible of the regulation in issue. In granting any variance, the board may attach such reasonable conditions and safeguards as it may deem necessary to implement the purposes of this act and the zoning ordinance."

4 Which imprecision is plainly evident from observing the exhibit, T-2.

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February 21, 2013

**Santa Fe County Development Review Committee**  
**102 Grant Avenue**  
**Santa Fe, NM 87501**

*Re: CDRC CASE # V 12-5360 Henry Sanchez Variance*

Dear Members of the CDRC:

My law firm represents the Vista Redonda Water & Property Owners' Association ("Association") which opposes the variance request of James McCreight, the agent for Henry Sanchez. The Association urges you to deny the application for a variance of **Article III, Section 2.3.6b2** (Height Restrictions For Dwellings Or Residential Accessory Structures) to permit the Accessory Structure built by Mr. McCreight to exceed 18' feet in height.

The accessory structure exceeds the height allowed under the building code and the roof does not meet code standards for light reflective value of forty (40). The structure exceeds height requirements for ridge tops. Although, the structure was approved at a height of 18 ft., it was constructed at a height of 19'-2". The maximum permitted height for ridge tops is 18' feet for a pitched roof and 14' feet for a flat roof.

**Under Article II, § 3 (Variances) of the County Land Development Code**

"Where in the case of proposed development, it can be shown that strict compliance with the requirements of the code would result in extraordinary hardship to the applicant **because of unusual topography or other such non-self-inflicted conditions** (emphasis added) or that these conditions would result in inhibiting the achievement of the purposes of the Code, the applicant may submit a written request for a variance."

The variance request should be denied because this matter does not involve any "unusual topography or non-self-inflicted conditions." The applicant's request for a variance is based on their own human-error in not being aware of the County Code

SFC CLERK RECORDED 02/12/2013

**Santa Fe County Development  
Review Committee  
February 21, 2013  
Page 2**

height requirements or requirement for non-reflective roofs and the expense involved in remedying the Code violations. This is not an adequate justification for the granting of a variance. The criteria for a variance do not include financial hardship or human-error as a rationale.

Furthermore, **Article II, § 3** states that "In no event shall a variance, modification or waiver be recommended by a Development Review Committee, nor granted by the Board if by doing so the purpose of the Code would be nullified." In this case, the purpose of the Code would be negated if this variance application is granted.

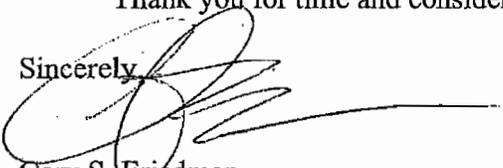
Pursuant to **Article III, § 2.3.6b2**, the applicant is also required to screen the garage structure from a public way and to protect and enhance the visual appearance of natural hillsides. (See also **Article III, § 2.3.10a.3**). Such screening is subject to a site visit and approval of the Code Administrator.

Moreover, the roof the accessory structure must be re-constructed in non-reflective earth tone colors (See **Article III, § 2.3.8a.2**).

As mentioned in the letters to the CDRC from the Association Board, the Association's Architectural Control Committee and Mr. George Martin, a neighbor in close proximity to the subject property, my clients are extremely concerned about these violations of the County Land Development Code and the need for the County to enforce its ordinances, especially in light of Mr. McCreight's past activities and future plans for development in the area.

Thank you for time and consideration.

Sincerely,

  
Gary S. Friedman

cc: Vista Redonda Water & Property Owners' Association



# CASSUTT, HAYS & FRIEDMAN, P.A.

ATTORNEYS AT LAW

[www.chflaw.com](http://www.chflaw.com)

Kenneth J. Cassutt\*  
John P. Hays\*  
Gary S. Friedman\*\*

530-B Harkle Road  
Santa Fe, NM 87505  
(505) 989-1434  
FAX (505) 992-8378

February 21, 2013

Santa Fe County Development Review Committee  
102 Grant Avenue  
Santa Fe, NM 87501

Re: *CDRC CASE # V 12-5360 Henry Sanchez Variance*

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**Santa Fe County Development  
Review Committee  
February 21, 2013  
Page 2**

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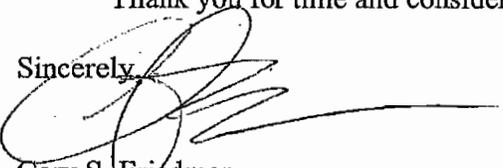
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Sincerely,



Gary S. Friedman

cc: Vista Redonda Water & Property Owners' Association



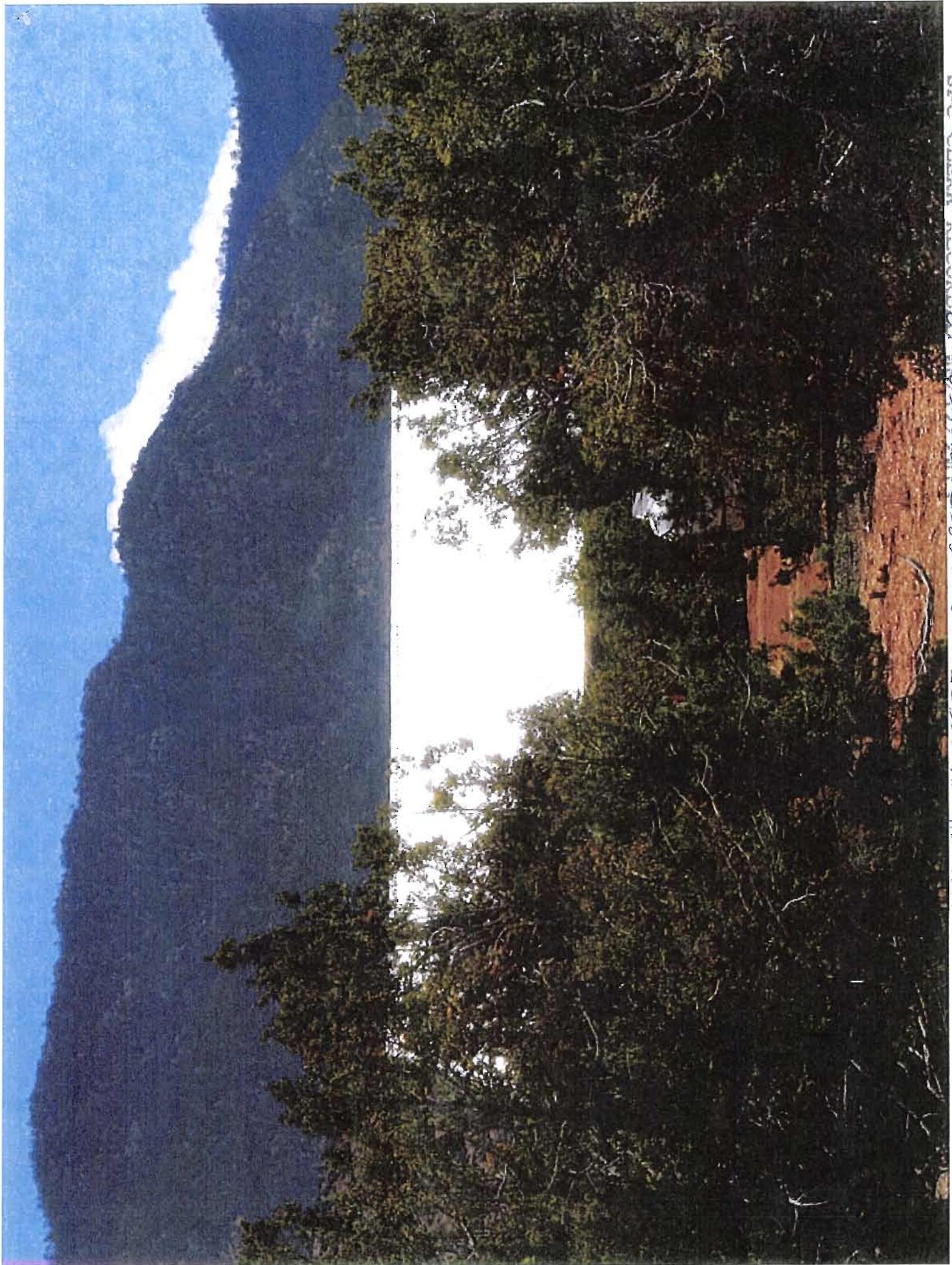
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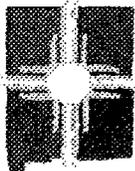
VIEW FROM CASECENCA NTAD, SU E (R) SHIPMENTEN WETIO 248



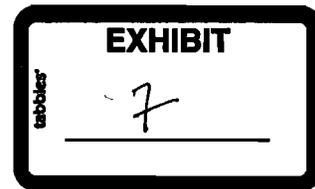
VIEW FROM VISTA REDONDA RD. ( ~ 1/2 mile away )



VIEW SHOWING REFLECTING + DARK GREEN BACKGROUNDS IN THE MOUNTAIN RANGE



*New Mexico* DEPARTMENT OF  
**TRANSPORTATION**



REC'D CLERK RECORDED 5/12/2013

May 02, 2013

Morey Walker Engineering  
905 Camino Sierra Vista  
Santa Fe, NM 87505

RE: Tierra Bello Subdivision

Dear Mr. Walker:

Per our morning meeting, the New Mexico Department of Transportation (NMDOT) District 5 Traffic Section has reviewed the proposed 73 single-family unit subdivision off US 285 near the Eldorado area. Most of the traffic will be diverted onto Ave. Eldorado and then onto US 285. NMDOT will require the existing southbound deceleration on US 285 at the Ave. Eldorado intersection be extended for the existing 55 mph speed zone. The total length of the deceleration lane will need to be 725 feet, 525 feet plus 200 feet taper. The District agrees with your request for the deceleration lane extension to occur during Phase IV of your subdivision, which is after 21 lots.

Please feel free to contact me at (505)476-4223 if you have any questions.

Sincerely:

Ruben Chavez Garcia, P.E.  
District 5 Traffic Engineer

Cc: Phil Gallegos, Assistant District Engineer – Engineering Support  
Jeremy Lujan, Property Management Unit

**Susana Martinez**  
Governor

**Tom Church**  
Interim Cabinet Secretary

Commissioners

**Pete Rahn**  
Chairman  
District 3

**Ronald Schmeits**  
Commissioner  
District 4

**Dr. Kenneth White**  
Secretary  
District 1

**Robert R. Wallach**  
Commissioner  
District 2

**Butch Mathews**  
Commissioner  
District 5

**Jackson Gibson**  
Commissioner  
District 6

Dear Santa Fe County Commissioners and Land Use Administrators:

We are landowners in Tierra Colinas adjacent to Joe Miller's proposed Tierra Bello subdivision. We appreciate this opportunity to provide comments on Joe Miller's proposed subdivision Tierra Bello. We would first like to commend Mr. Miller for working with the community to modify the proposed covenants to better fit in with the surrounding communities.

We do, however, have several remaining concerns that the County should consider prior to giving approval:

We understand that the Office of the State Engineer has given a negative opinion on the initial development due to limited and insufficient water supply for the subdivision. Great weight should be given to this because the State Engineer is the expert in this state regarding water.

We understand the County originally approved a master plan for about 50 lots, yet Mr. Miller is now proposing 73 lots. Given the severe drought in the area, the proposed increased density would add an additional strain on the community's water supply.

Mr. Miller began development of this subdivision, putting in roads and utilities, without the proper authorization or permits from the County. As owners of a vacant lot on a street that Mr. Miller connected to his proposed subdivision, we have been impaired in selling our lot. On two occasions we were in negotiations with interested parties but the connected road was a deal breaker.

We request that the County require Mr. Miller to remedy the situation and install gates or other barriers on the roads immediately and before any further consideration is given to the proposed subdivision. Furthermore we request that the County deny the proposal in its current form due to the higher density and the strain on the community water supply.

Thank you for your consideration.

Leslie Bischoff



Richard Lindahl

**Ronald VanAmberg**

**From:** Ronald VanAmberg <[rvanamberg@nmlawgroup.com](mailto:rvanamberg@nmlawgroup.com)>  
**Sent:** Friday, April 12, 2013 1:53 PM  
**To:** Robert Rambo; 'Vicki Lucero'; [steve.ross \(sross@co.santa-fe.nm.us\)](mailto:steve.ross@co.santa-fe.nm.us);  
'[ldplanning@comcast.net](mailto:ldplanning@comcast.net)'  
**Subject:** FW: Tierro Bello

Please see below from Jim Garland. Ron

THIS MESSAGE IS INTENDED ONLY FOR THE USE OF THE INDIVIDUAL OR ENTITY TO WHICH IT IS ADDRESSED AND MAY CONTAIN INFORMATION THAT IS PRIVILEGED, CONFIDENTIAL AND EXEMPT FROM DISCLOSURE UNDER APPLICABLE LAW. If the reader of this message is not the intended recipient or agent responsible for delivering the message to the intended recipient, you are hereby notified that any dissemination or copying of this communication is strictly prohibited. If you have received this electronic transmission in error, please delete it from your system without copying it, and notify the sender by reply e-mail or by calling (505)988-8979, so that our address record can be corrected. Thank You.

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**From:** Jim Garland [<mailto:4cx250b@miamioh.edu>]  
**Sent:** Thursday, April 11, 2013 4:46 PM  
**To:** 'Ronald VanAmberg'  
**Subject:** RE: Tierro Bello

Hi Ron,

Your understanding is correct. I think we've clarified our respective positions as much as possible, and further meetings are not likely to be productive.

Regards,  
Jim

**From:** Ronald VanAmberg [<mailto:rvanamberg@nmlawgroup.com>]  
**Sent:** Thursday, April 11, 2013 3:30 PM  
**To:** 'Jim Garland'  
**Cc:** [ldplanning@comcast.net](mailto:ldplanning@comcast.net)  
**Subject:** Tierro Bello

Dear Jim -- Joe and Danny are trying to schedule meetings with interested persons. My understanding is that your group and Joe have essentially worked their way down to the few remaining issues about which there is disagreement and that further meetings would not likely be productive. If I have misunderstood, or your group feels there are other issues that we can meet on, we are happy to meet. Please let me know your thoughts. Thanks. Ron VanAmberg

THIS MESSAGE IS INTENDED ONLY FOR THE USE OF THE INDIVIDUAL OR ENTITY TO WHICH IT IS ADDRESSED AND MAY CONTAIN INFORMATION THAT IS PRIVILEGED, CONFIDENTIAL AND EXEMPT FROM DISCLOSURE UNDER APPLICABLE LAW. If the reader of this message is not the intended recipient or agent responsible for delivering the message to the intended recipient, you are hereby notified that any dissemination or copying of this communication is strictly prohibited. If you have received this electronic transmission in error, please delete it from your system without copying it, and notify the sender by reply e-mail or by calling (505)988-8979, so that our address record can be corrected. Thank You.

IRS CIRCULAR 230 NOTICE: Any U.S. tax advice included in this written or electronic communication was not intended

**MEMORANDUM OF UNDERSTANDING BETWEEN THE  
ELDORADO AREA WATER AND SANITATION DISTRICT AND THE BOARD OF  
COUNTY COMMISSIONERS OF SANTA FE COUNTY REGARDING MUTUAL  
WATER SERVICES COOPERATION**

The Eldorado Area Water and Sanitation District, a political subdivision of the State of New Mexico ("District"), and the Board of County Commissioners of Santa Fe County, a political subdivision of the State of New Mexico ("County"), enter into this Memorandum of Understanding this 9th day of October, 2012.

**RECITALS**

**WHEREAS**, the District has rights and responsibilities specified by Law, specifically the Water and Sanitation District Act (NMSA 1978, Section 73-21-1 *et seq.*) and operates a water utility supplying water to its customers within the boundaries of the area served by the District, as shown on Exhibit "A" attached hereto and incorporated herein by reference (the District's "Service Area");

**WHEREAS**, the County, through its Utility Division, operates a water utility whose principal source of supply is the Buckman Direct Diversion, a joint project of the County and the City of Santa Fe;

**WHEREAS**, the County, through its Land Use Division, administers the New Mexico Subdivision Act, the Zoning Enabling Act, the Santa Fe County Growth Management Plan (SGMP), and the Santa Fe County Land Development Code (LDC);

**WHEREAS**, the County and the District share a number of important shared goals, including providing safe water to citizens, providing fire protection, sponsoring water conservation and reuse practices, and providing healthy wastewater management;

**WHEREAS**, consistent with these shared goals, the County, through its Utility Division, is willing to assist the District from time to time to improve the reliability of the District's system in times of drought or mechanical failure or as otherwise agreed to by the parties by providing access to water supplies from the Buckman Direct Diversion or from any other sources;

**WHEREAS**, the County's statutory duty through the Subdivision Act, the Zoning Enabling Act, the Santa Fe County Growth Management Plan, and the Santa Fe County Land Development Code is to assure that proposed development within the County is consistent with statutory requirements and with the LDC, and specifically to assure that a 99-year water supply exists for any proposed development within the County's land use jurisdiction;

**WHEREAS**, the County acknowledges that the District's sources of water supply are more than adequate at the present time to serve its customers, and also acknowledges Partial Licenses No. RG-18529 and 18556 issued by the Office of the State Engineer and the acknowledgement in those Licenses that the District has available to it 783.43 acre feet per year of water rights with which to supply customers, and further acknowledges that the County's

REC'D CLERK RECORDED 05/12/09 10:00

water experts have thoroughly reviewed the District's sources of supply in connection with recent applications to develop property and have agreed with the District that more than adequate water resources currently exist to serve existing customers and to serve new developments within the District's service area;

**WHEREAS**, from time to time, disagreements have arisen between the County and the District concerning the District's inherent authority under the Water and Sanitation District Act and the County's functions under the New Mexico Subdivision Act, the Zoning Enabling Act, the Santa Fe County Growth Management Plan, and the Santa Fe County Land Development Code, and it is desirable that the County and District work to reduce conflicts in the future in a way that is consistent with the County's statutory obligations, but in a way that fully respects the District's status as a political subdivision of the State and an independent public utility accountable to the voters;

**WHEREAS**, a constructive way to assure progress on all of these objectives is for the County to agree that the District has provided sufficient present information concerning the District's water supply to justify the County's acceptance of a 'will serve' letter from the District that the District is ready, willing and able to provide a customer with water service as adequate for purposes of the Subdivision Act, the Zoning Enabling Act, the Santa Fe County Growth Management Plan, and the Santa Fe County Land Development Code for a minimum of three (3) years, and for the County and the District to agree to work towards providing the District with water from the Buckman Direct Diversion project or other sources as available to assist the District in times of drought or mechanical failure or as otherwise agreed by the parties;

**WHEREAS**, the parties find that it is in their mutual best interest to avoid misunderstanding and disagreement over the areas to be served by each party, and wish to define a mechanism for deciding whether potential customers outside of the District's current Service Area boundaries will be served by the District or the County;

**WHEREAS**, the County and District are amenable to making such an agreement and to agreeing to work towards a stronger relationship in subsequent agreements so that these and other issues vital to the health, safety and welfare of the community are effectively addressed.

**IT IS THEREFORE UNDERSTOOD AND AGREED BY AND BETWEEN THE PARTIES AS FOLLOWS:**

1. The County recognizes and understands that the District is a Water and Sanitation District duly organized and existing under the Water and Sanitation District Act, with all the powers, authorities, rights and responsibilities specified therein, and the County recognizes the right of the District under the Water and Sanitation District Act to supply water to existing and new customers and to supply new development within its Service Area boundaries. The County agrees that it will not extend its water facilities into the District's Service Area without the prior written approval of the District.
2. With respect to the previous paragraph, the parties recognize that the County has statutory responsibilities with respect to such new development within the District's



ATTEST:

*Valerie Espinoza* by VT

Valerie Espinoza, County Clerk

Approved as to form:

*[Signature]*

Stephen C. Ross, County Attorney



**THE BOARD OF DIRECTORS OF  
THE ELDERADO WATER AND SANITATION DISTRICT**

By: *[Signature]* 9-7-12  
James Jenkins, EAWSD Board President Date

ATTEST:

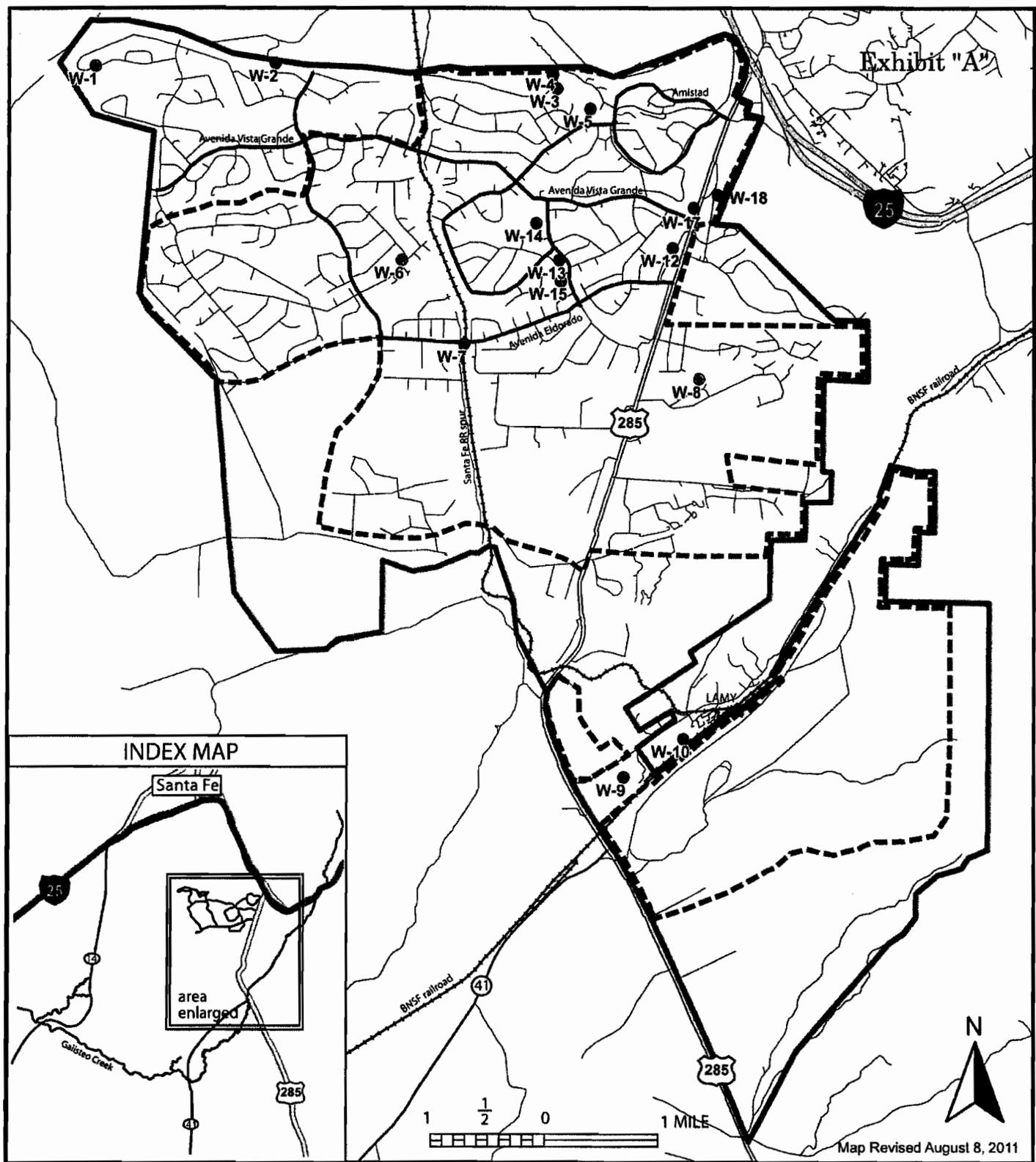
*[Signature]*  
Stephen Wust, Ph.D., EAWSD Board Secretary

Approved as to form:

*[Signature]*  
Catherine Robinson, EAWSD Board Attorney

SFC CLERK RECORDED 06/12/2013

Exhibit "A"



**LEGEND**

- W-1 ● EAWSD Wells (with well numbers)
- ▭ Boundary of EAWSD Service Area as of September 2010
- - - EAWSD District Boundary as of September 2010

GLORIETA GEOSCIENCE, INC.  
 P.O. Box 5727, Santa Fe, NM 87502  
 (505) 983-5446 Fax (505) 983-6482  
 www.glorietageo.com

