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SANTA FE COUNTY

BOARD OF COUNTY COMMISSIONERS

SPECIAL MEETING

October 22, 2013

Kathy Holian, Chair – District 4
Danny Mayfield, Vice Chair – District 1
Robert Anaya – District 3
Miguel Chavez – District 2
Liz Stefanics – District 5

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SANTA FE COUNTY
SPECIAL MEETING
BOARD OF COUNTY COMMISSIONERS

October 22, 2013

This study session of the Santa Fe Board of County Commissioners was called to order at approximately 9:25 a.m. by Chair Kathy Holian, in the Santa Fe County Commission Chambers, Santa Fe, New Mexico.

Roll was called and indicated the presence of a quorum as follows:

Members Present:

Commissioner, Kathy Holian, Chair
Commissioner Danny Mayfield, Vice Chair
Commissioner Robert Anaya [telephonically until 10:30 arrival]
Commissioner Miguel Chavez
Commissioner Liz Stefanics

Members Excused:

None

Staff Present:

Katherine Miller, County Manager
Steve Ross, County Attorney
Penny Ellis-Green, Growth Management Director
Willie Brown, Assistant County Attorney
Adam Leigland, Public Works Director
Sarah Ijadi, Senior Planner
Tim Cannon, GIS Planner
Erick Aune, Public Works

III. Approval of the Agenda

CHAIR HOLIAN: There are some amendments to the agenda as you see on the agenda that you have in front of you. Are there any further changes to the agenda? If not, is there a motion:

COMMISSIONER MAYFIELD: Move for approval, Madam Chair.

COMMISSIONER CHAVEZ: Second.

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CHAIR HOLIAN: There's a motion and a second for approval of the amended agenda.

The motion carried by 5-0 voice vote.

CHAIR HOLIAN: Before we get into the meat of our discussion today I would like to make a few comments. I think it's important to note that the Sustainable Land Development Code was released September a year ago so it has been out in the public for over a year now, and we are not now, at this point in time, releasing a new code. This code that you see in front of you is the original code but it has revisions, revisions that are based first on comments from the public and I will note that we received over 2,500 comments from the public. And it took a while for our staff to digest all of those. It also has changes based on direction from the Board and not from individual Board members but on those issues that the Board had a consensus on. Those were incorporated into the code as well. And also there have been various legal considerations. Our staff has done a lot of research on those points and so in some cases there have been changes made based on legal considerations, and in some cases there were sections of the code that had not been fleshed out and so we have also added to the code in order to make it more complete.

Today Steve Ross, our County Attorney is going to be giving first a legal overview that is the big picture from a legal sense to the code and then he's going to be talking about the growth management elements of the code and how it relates to our Sustainable Growth Management Plan. Adam Leigland, our Public Works Director, is going to be talking about our capital improvement process and I have to say that having a well defined capital improvement process is an integral part of having a well functioning land development code, and we have not had that up until now. Then, if time permits, Penny Ellis-Green will be going on with the presentation of what's in the code and the next thing that she is going to discuss is procedures. Procedures for applications and so on and so forth.

Again, I would like to ask the Commissioners to hold their detailed question until the end of each section. Of course if anybody has a question regarding a point of clarification, that is always a good thing to allow. And so we want to make sure that any information that comes out is well understood. And at the end, of course we will have public comment and so on. I would like to invite the public to be able to address the Board about any concerns or comments that they have. And then at the end we will discuss our timetable going forward.

With that, we are now on item IV.

IV. Sustainable Land Development Code Adoption Draft Presentation and Discussion (continued)

STEVE ROSS (County Attorney): Madam Chair, thank you. That's correct. I have a few topics that I've been assigned by Penny to cover and then if we have some time Penny will cover the procedures section, which I don't believe was covered last time. I apologize for not being here last time. I got called for federal jury duty, which

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is an important but kind of frustrating event in your life if you're not expecting it and I got selected for a jury and spent a whole week over there in federal court instead of doing the other stuff that I normally do. So apologies for that.

So what I will be talking about is going to seem like it's out of order because it was intended to be at the first presentation and we talk about a big picture. It's been two years since we adopted the Sustainable Growth Management Plan, which really established the big picture for purposes of what we're discussing today because it identified all the goals and objectives and action steps that we're now taking in the adoption of the code and all the subsequent steps that I'll describe in a little while. But at this juncture it's probably necessary to get a little perspective break and step back a little bit and take a look at how we got to where we are.

One of the tasks that Penny tasked me with here was to describe the purpose and need of a new code, which we have in front of us, been on the website for, as the chair said, over a year. And I'll do that now. I've brought with me a prop which is the existing land development code. This is my copy. As you can see it's well worn. This is a flawed document. When I first got here in 2003 and started looking through it I realized it was flawed, but fortunately, at the time I got here there was already an effort underway to revise the document and we're just now getting around to doing that. We've existed for the ten years I've been here with what I consider to be a highly flawed document.

This is reason number one that we're here with a new code today is this document. This document originated in some planning efforts in 1980 and 1996 which were all high quality efforts and identified really important issues that we need to address. The problem is that the code itself didn't address those things in a sensible way or a legally defensible way, and I'll give you some examples of that right now. This is as good a reason as I know of to move forward and develop a more professionally put together document and something that will not only do what the plans tell us to do but do what we want it to do – have flexibility and improve on some of the problems we've had to date.

One of the big problems with this document if you take look at it is there's a – the 1996 code goes to here. It's about the size of the proposed new code. It's about 1 ¼ inches thick. And all the rest of this are amendments to the code which were not integrated into the code. They're basically standalone ordinances. So if you take a look at, let's just say Section 7.7 which is in the sign ordinance, you can't rely on the fact that 7.7 really says that. You have to look at every single one of these subsequent ordinances and make sure that 7.7 wasn't amended. Now, for the common and statutory drafting, particularly at the state level to do that you have an underlying ordinance and you'll have a series of amendments and supplements. But normally, at the state level, if 7.7 is amended more than once then the underlying statute is revised. But we haven't done that. We've just been adding things on.

And in the process of adding on ordinances over time we make mistakes. So for example, if you just take arbitrarily this sign provision I'm talking about, if the drafter of a subsequent ordinance did not look at 7.7 when they were drafting their new ordinance they could and in many cases did draft an inconsistent provision or a provision that cannot be harmonized with this particular section. So we have built into this ordinance, and I think there's, I don't know, 15 or 20 subsequent ordinances, we have built into this

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ordinances numerous contradictions, contradictory language, language which cannot be harmonized, and it becomes then an exercise by staff and by the courts to determine what the ordinance actually says, and this is not a good situation, because you are basically leaving it up to other people to articulate the objectives of the ordinance.

There are places in here where – let's take community service facilities because it's a recent example you're all familiar with. Community service facilities have to be established by master plan. Correct? I mean everybody agrees with that but our ordinance was amended at one point and someone proposing to create a community service facility was directed to – I think it was Article V, Section 4.4 in the code which is the section that purportedly established the requirement that a community service facility do a master plan, and when you turn to that section it doesn't exist. It was amended out of the code in 1996 and so the requirement that a community service facility be established by master plan was completely missing in the ordinance. This ordinance is full of these kinds of problems.

There's lots of areas of potential regulation that are not addressed at all in this code so if a particular topic comes up staff has to interpolate between the language that's in the ordinance to determine whether it's even regulated under our code. This happens more than you're aware of because a lot of these problems are addressed at the staff level, but local land development codes and ordinances have a particular set of items in there that are common. One of the examples that's in the new draft that isn't in the old draft are sexually oriented businesses. These are significant problems for local governments all over the country – how to regulate them, how to ensure you have some control over where these types of facilities are located and what kinds of activities are permitted and we have no regulation on that whatsoever. You'll see in the new code quite an extensive section on that topic. We haven't had to deal with that and we don't know of any such facilities that are proposed for the county but if we ever do get an application from somebody to do something like that we better have regulations in place to address it or it's going to be a big problem.

There are numerous examples of this in the current code that we've attempted to address in the new code by addressing in a comprehensive way all the topics that local governments encounter on a day-to-day basis.

Now, another problem with the current code and which is proposed to be resolved in the new document, in fact the SGMP called for it is the methodology of zoning. In the current code there are largely zones based on hydrology. You know from dealing with the code over the years that there are a number of areas in the county that are established based on the water that's available or perceived to be available under the surface of that particular zone. So we have the Mountain Zone and the Mountain Zone is primarily thought to have an aquifer that's supplied only from mountain front runoff over years and years and years. It's not generally thought to have a lot of water, because the water instead of existing in an aquifer or sand bed it's in fractured rock and cracks and stuff like that, and it's just a matter of luck to get water in that zone.

The Basin Fringe is another example of a different type of hydrology and so on. So the early plans that the County adopted recognized the fact that we're in an incredibly water scarce region and that it's important to have sustainable development with respect to water so that people don't run out of water for a particular development in a particular

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area. So the technique that was chosen to regulate and address that problem is what I like to call hydro-zoning, which is zoning by hydrologic zone and there's a map developed and revised from time to time that establishes your minimum lot size. And the minimum lot size was an assumption based on the amount of water thought to be available generally in that hydrologic zone divided by the land area. So we have 160-acre minimums, we have 40-acre minimums, we have 20-acre minimums, and if that were as far as it went it might have worked. But the problem is that the ordinance also contains a number of exceptions and the most important of which is you can deviate for a lot size from the minimum lot size by bringing into the County Land Use Department a hydrologic report. That involves drilling a well, doing a vigorous pump test of the well, applying results to formulae and determining what the assumed amount of water under your parcel is and if it's above a particular amount you can develop.

And so unfortunately what resulted from that over the course of many years is that the hydrologic report became incredibly important to reduce lot size and lot sizes could be reduced to a minimum in most zoning districts of 2.5 acres and far lower in the traditional communities. And what happened over many years is that it became obvious that you could do a 2.5-acre lot and establish water under virtually any piece of property within the county.

So the whole system that was intended to preserve scarce resources and focus on areas with the scarcest water, places like the mountain front area, ended up being capable of being cut up into 2.5-acre lots with the submission of a report. And so the system that looked pretty good on paper really didn't work. And so what's ended up happening as a result of this code is you end up with zoning that is primarily a function of water availability and water is available, it seems, pretty much everywhere in the county, so you can develop pretty much anywhere in the county.

This has caused increasing problems for the county itself because water is available anywhere in the county that means development can be created anywhere in the county which means that the county resources have to be available anywhere within our 1,200 square miles, and that has obvious problems when you consider it takes an hour to drive from this building to Edgewood. This is a huge county and it has substantial funding but it doesn't have unlimited funding and to cover 1,200 square miles with all the panoply of governmental services is a pretty tall order.

That brings up another problem with the current code. Zoning is normally and was initially developed to address the issue of property use, not property density, not lot density. There's an early case called *Euclid v. Ambler Realty*, which is – zoning in this country originated in the early 1900s, 1910, when the United States Department of Commerce actually created the first zoning enabling act as a model for cities and counties to use all over the country. And then they subsequently developed an improved model which we actually adopted in New Mexico. Those models were widely used from 1910 to 1920 until somebody challenged the basic principles of zoning on constitutional principles and the case went all the way up to the US Supreme Court.

The Town of Euclid I think is a suburb of Cleveland and they were trying to separate out – at the time we didn't have coal-fired, gas-fired power plants and cleaner forms of energy generation so frequently a lot of industry was powered by coal and it was a lot of coal burning amongst houses and industrial processes going on right amongst

houses. And Euclid took the Department of Commerce model and created zonings within the town, segregating industrial uses, power generation uses from houses so that the coal smoke didn't go in everybody's house and cover everything with soot and cause breathing issues. It went all the way the US Supreme Court. The US Supreme Court in that case broadly affirmed the use of zoning to segregate incompatible uses, and that's what zoning is generally thought of.

For almost 100 years here in this country the goal of zoning is to preserve property values and preserve enjoyment of life of property owners and to separate and segregate things that are noxious and obnoxious and not consistent with residential uses, firm residential uses. That concept is almost completely lacking in our current land development code. How you – residential uses have a sort of assumed residential use list but you really don't see governance of uses in the current code unless you try to change your prevailing land use from residential to some other use, like say, commercial use. Only then do you start to see this code trying to regulate use of the property, which really is a benefit to the adjoining residential uses. And so we've seen lots of cases over the ten years I've been here. I know since this code was adopted there have been lots of instances where incompatible uses were created in predominantly residential areas and we were fairly powerless to address the problem.

I remember a case involving an auto spray shop, which is a paint spray shop right in a residential neighborhood. That's generally something that's considered to be an incompatible use but there's nothing in our current code that either establishes a general residential use list and therefore gives us tools to move it out to a more appropriate area. We've had issues with roofing businesses, towing businesses, things like that. The current code is almost powerless to deal with those things. And sort of an outgrowth of that is the fact we don't have a zoning map. Zoning is predominantly residential, presumed to be residential in this county, but as I said earlier, you can change the zoning by doing a master plan under the current code.

When you are successful doing that you get from the County a development order or findings of fact from this body that enable you to do the new list and maybe provides a use list, things like that. Rules for the use of the property. But those are not mapped. They're put in a drawer somewhere and in order for you to know that a particular property is upzoned from residential you have to know that the master plan happened and go do some research at the County to find a copy of it. You can't go on the website. You can't be given a zoning map. You cannot determine that. Similarly, unless you look at a hydrozoning map and make certain assumptions you really can't tell what the rules are in any of the five or six residential zones that the County currently has.

So our zoning has been predominantly in this code something that has governed density, and that's consistent with plans that were developed that established that the scarcity of water was a primary motivating factor for the code. But I would submit to you that that's been – that it was unsuccessful at doing that and as a result we have basically no protection for property owners against all kinds of incompatible uses as a result of our code. I think it's an unintended consequence but it is what it is.

The other problem is that zoning and land use law have been the subject of intense activity in the courts over the past twenty to thirty years. It's been probably the most intense period of development of this particular kind of law. The US Supreme Court

has had one to two cases on their agenda and decided them every year since about 1970. State courts have been very active. There's at least 15 decisions out of our state courts and district courts as well as federal district courts have taken up these matters over and over and over again. But insofar as I can tell, the drafters of the 96 code didn't take into account some significant principles that had been established in the courts, and the code really hasn't been amended since 1996 to address some of those things.

So as I was describing earlier, you have to look both at this first part of the ordinance in front of the pink sheet, and then at all these amendments, plus you have to know what the Supreme Court and the New Mexico Supreme Court and the New Mexico Court of Appeals and all of our district courts have done in order to really understand how to use this thing. So this thing was in dire need of amendment and it's been in dire need of amendment for quite some time and staff has been well aware of the deficiencies in the code document. That's not to say that the principles we've been operating under are outdated at all but this particular document has given all of us fits for a long time, so it's time to move on and time to get it behind us.

Insofar as we can do it, we have attempted to address all the deficiencies I have described in the new document which is in front of you. So, for example, the new document calls for a zoning map. We've not had a zoning map, and that map is being developed – I saw Tim here earlier – by Tim and others in the Planning Department right now, and that's a very complex process involving reviewing all those master plans I described, plus talking to people, talking to the communities, trying to determine what the actual land use actually is and how it fits into new zoning categories. So hopefully, when this process is done, people will be able to look at a map and look at their property and determine what zoning is applicable to that property with specifics.

Same thing with commercial uses. You will be able to look at a map, determine whether a property is commercial or industrial. So if you're a person living on a residential lot you can look around you and see whether there are uses in your neighborhood that incompatible with your use. Things like that. Very important, and we've never done it but I think it's timely; it's something we need to do.

The other thing that the new code has which I think is of huge benefit to people to understand where they stand with respect to zoning is the use table and every time we go out and do a public meeting that I'm able to attend I tell people that the most important part of this document for them as an individual to review is the use table. We haven't had that before. There's been no use table. The only time, like I said, that you would see anything even remotely resembling this under the current code is if you did a master plan for a commercial development. Otherwise it's very difficult for the average person to understand what is permitted on their property. So if you take a look here – I grabbed the first page.

COMMISSIONER STEFANICS: Appendix B?

MR. ROSS: Appendix B. I'm sorry. Appendix B, use table, first page, the first line, just arbitrarily is under the category residential buildings. The first item is single-family detached unit. This is your single-family house. So the way the table works is you read right and you can see everything that's permitted in your particular zoning district. If you're zoned single-family detached you look over here you can do agriculture and ranching endeavors on your property. I'm sorry. I'm doing this wrong. I did it the

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wrong way. Tim advises me correctly. I just described how to read the table 100 percent backwards.

Along the top, in the vertical columns are the zoning districts, right? So let's say, I look on my map, look on the zoning map and I see that I'm in rural residential. And I read down, not reading across, I read down and I see under single-family detached units a P. That means in the rural residential zone I can have a single-family detached house. If you go down a whole category, down to hotels, motels and other accommodation services, in the rural residential, and I look under bed & breakfast. Can I do a bed & breakfast in that zoning area. And I see a C. That's a conditional use. And what that means is I can do a bed & breakfast but I have to come see you guys first. I go down, once again under rural residential to commercial buildings and once again there's a C there. It means I can do a community center on my property that's zoned rural residential, but I have to come and see the Board of County Commissioners first.

That table goes on for, I don't know, 15 or 20 pages and it covers every conceivable use that exists for property in the United States. This particular list came from professional planners in the United States. They developed this list and published it in books and there are descriptors in these books that flesh out categories like water reservoir or grain silos.

COMMISSIONER MAYFIELD: Question, Commissioner Stefanics.

COMMISSIONER STEFANICS: Madam Chair and Steve and Penny, I think that just what you were doing is what I and the public would do, is reading across, so I think there needs to be a clearer something put there.

MR. ROSS: Yes. I think you're right.

COMMISSIONER STEFANICS: I was reading across, and I just saw a couple nods in the audience too. So I think you need to like --

MR. ROSS: Well, I just did it.

COMMISSIONER STEFANICS: Yes. Directions on how to use or something.

MR. ROSS: I think we may need to add a little thing up at that top that says read down. Find your zoning district and read down. That's good.

COMMISSIONER MAYFIELD: Madam Chair.

CHAIR HOLIAN: Commissioner Mayfield.

COMMISSIONER MAYFIELD: And I'd also add on that, the matrix table you have on page 193, for the legend also please. Table 8-4.

MR. ROSS: That could be put over here. So, Madam Chair, what Commissioner Mayfield is referring to is the key for the letters, and that makes sense to put on the zoning table as well. But what I started with is that I've been telling people that they need to look at this. This is the most important thing for the average person to look at and to make sure it's right. So I tell people at public meetings we go to to take your zoning. Look on the draft maps that we have of proposed zoning districts in the county. Look at your property. Say it's in residential estate, and just go down the list and see if you agree with what's there. Because this is staff's best effort, plus some of our consultants'. This is our best effort in determining what's appropriate and inappropriate in a particular zoning district, but we may not have gotten in right. So I encourage people to do that, because that is one of the strongest tools that's in the new proposed ordinances

and it does what I said that the previous code didn't do, is that it segregates uses from one another.

Now, if you look in court decisions like I do all the time you see that segregation of incompatible uses is of primary interests to the courts in zoning. Courts don't pay too much attention to density issues that are inherent in zoning districts. So a zoning district will, in the court's mind is primarily to segregate incompatible uses and to preserve property values, and it's less important to courts to establish particular rules about density or other dimensional standards – setbacks, things like that. The most important thing as far as the courts are concerned is preserving people's property values and on court pedestal, uses is on top, density is at the bottom. In our current code it's not like that. It's really about – zoning is an attribute of – it's attributed to the density as opposed to segregation of incompatible uses.

So in order to go back to where zoning started from and get back to that point, I know there's a whole set of new techniques that are out there but we haven't even established the first technique so where we're going is to get to zoning with its primary focus on uses and have things like density and other attributes be secondary to that, that serve the objective of segregating uses but don't rule it.

And so we think we've solved that with the zoning map and with the use table. These are things that you see in almost every city in this country. Zoning like this is less common in counties except places like Cook County and L.A. County. But for sure in cities these two tools are in every city zoning ordinance in the country.

Okay, so let's – I think I beat that into the ground. Let's go to I think it's Chapter 12 of the code. The other motivating factor in the SGMP and even in some of our earlier planning efforts was control of growth. Up until 1998 we had fairly moderate growth. In Santa Fe County in places like Dona Ana County and Las Vegas, Nevada had double-digit growth levels and any growth is very disturbing to existing residents, very, very difficult for local governments responsible for providing infrastructure and services on those areas. Growth management, therefore, is really, really important for local government to maintain control of their budgets and maintain reasonable services. Certainly when you experience double-digit growth in a particular community you lose track of, you lose control of all that stuff. Local government is almost always playing catch-up with double-digit growth and of course the local residents perceive it as a big problem because they're used to the attributes of their community when they grew up or when they moved there and they're not used to dealing with all those people, all the traffic, all the other things that go along with growth.

So how do you manage growth? This is the million dollar question for purposes of this. Our consultant, Bob Freilich, managed in the community where he was city attorney in central New York by realizing that for purposes of local government growth is measured by the effect on the local government's ability to provide services. So in terms of regulating growth, in terms of regulating directly, coming up with a formula that says you cannot grow here. You can't any more new residential dwellings in this particular community he hit on the idea of regulating growth by carefully moderating the provision of services and infrastructure in a particular community by planning for it and executing it and not permitting growth that would exceed that formula.

So for example if you have a development that's proposed 20 miles outside of town, there are no facilities and services 20 miles outside of town, the thought was at the time that you say no to that development but that you have concrete and reasonable plans to provide infrastructure and services to that particular area in due course. And so he put together a lengthy zoning ordinance in his town and it's called Ramapo in eastern New York state, just off the expressway just north of New Jersey. And that ordinance, that land use ordinance, that growth management ordinance was immediately challenged and it went into the New York Court of Appeals which is their highest court and it went to the US Supreme Court and those courts both said that managing growth by controlling government provision of infrastructure and services was an acceptable technique and was not a taking, which as you know when we're regulating land use we're always, since 1972 when the Supreme Court issued its first decision on regulatory takings local governments are always trying to walk the line between reasonable regulation of land use and takings under the Fifth Amendment.

But growth management, but studying and planning for reasonable growth, at least in Ramapo, was not violative of those principles and was an acceptable technique. Since that case was decided I think 400, I think is what I remember, about 400 communities have adopted that very same set of techniques to manage growth according to the benchmark of facilities and services and that technique has been challenged, not as much recently, but often, in courts and it's stood the test of time.

So Chapter 12 is the chapter that implements growth management in this county as called for in the SGMP and the techniques that are in here are the same techniques from the Ramapo ordinance and from several hundred other ordinances in the United States. And I'll just run through them quickly.

So the first thing you need to do when you're confronted with a development in the county is to determine whether facilities and services exist because that's the benchmark and that's the regulatory touchstone that's used by growth management ordinances to regulate and limit growth. So the first thing you see here after the purpose statement in 12.2 is adequate public facilities regulations. So how it's been done here and you see the counties, very similar to what's done in other areas is the local government identifies what it refers to as urban growth areas, areas generally on the fringe of the city where more intense development is expected. Then you have an area where facilities and services by – maybe not all the facilities and services, but some of the facilities and services already exist to service urban growth.

In this draft code on page 267 up at that top you see the technique there to establish areas where – to segregate areas by their present development is set out. You create these things called sustainable development areas. We've seen this map for a couple years now. SDA-1 is of course the urban growth area. SDA-2 is an area which is also an urban growth area but further out and not expected to see urban growth for a period, in this case ten to twenty years in the future, and then SDA-3 which is all the rest of the county – rural areas, areas that largely have no or limited services or are largely undeveloped.

So I think the SDA map is behind you somewhere. Yes, it's over here on the left. You can see the orange is SDA-1. That's the urban growth area. SDA-2 is an area not

expected to see urban pressure for ten to twenty years, and then green is everything else where we're not expecting urban growth patterns for the foreseeable future.

COMMISSIONER MAYFIELD: Madam Chair.

CHAIR HOLIAN: Commissioner Mayfield.

COMMISSIONER MAYFIELD: Steve, what's this little area?

MR. ROSS: That's SDA-1.

COMMISSIONER MAYFIELD: I know, but where is it physically?

TIM CANNON (GIS Planner): That's the Santa Fe Center project.

MR. ROSS: That's an existing master plan.

MR. CANNON: Right. They suggest to us that mixed-use zoning which we ultimately agreed with but mixed-use zoning is supposed to be SDA-1, so it's – whether that's SDA-1 is contingent on what would be considered to be the appropriate zoning there.

COMMISSIONER MAYFIELD: [inaudible]

MR. CANNON: La Tierra and New Mexico 599.

COMMISSIONER MAYFIELD: Okay. And this little triangle up here, by Tesuque.

MR. CANNON: That's a parcel that is owned by the Santa Fe Opera. They have a master plan approved for a mixture of resort uses and housing for the opera employees. They also requested that be mixed use. So if that's going to be mixed use then based on our code then it also needs to be an SDA-1.

COMMISSIONER MAYFIELD: I'm just going to ask another question, Madam Chair. Santa Fe County owns the wastewater system in the Santa Fe Opera area?

MR. ROSS: Madam Chair, Commissioner Mayfield, correct.

COMMISSIONER MAYFIELD: We don't have a potable water system, right? There's no water system, just a wastewater system?

MR. ROSS: Madam Chair, Commissioner Mayfield, not at the opera. I think the opera is on wells.

CHAIR HOLIAN: So, Steve, can you – I think perhaps we don't want to get into the details yet, Commissioner Mayfield.

COMMISSIONER MAYFIELD: I just want to make sure that we're not going to get shut off and we're going to be able to ask questions.

CHAIR HOLIAN: Yes, you will. You will. I promise.

MR. CANNON: There's also another SDA-1 down on the border, in the corner of the county, just by Moriarty, that would not have a county water or sewer system. The utilities would come from Moriarty or from one of those franchise water systems in the Estancia Basin.

CHAIR HOLIAN: Steve.

MR. ROSS: Madam Chair, let me just call your attention to a sentence in 12.2.4.1 at the top of that page. Look at the second sentence there. It says Sustainable developments are not regulatory zones and have no direct correspondence with zoning. The SDAs are planning zones. They have a regulatory purpose, which is to establish which of the three categories a particular development is and that determines the timing of development. In general, a development in SDA-1 can proceed immediately. In SDA-

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2, development has to wait until the local government is ready for it unless they desire to advance infrastructure and services, and it's really the same situation.

But they're not regulatory areas and as I'll describe as we –

CHAIR HOLIAN: Commissioner Chavez, you have a question for clarification?

COMMISSIONER CHAVEZ: Steve, maybe not for clarification but just as an observation. We have SDA-1, SDA-2 and SDA-3, and I'm sure that in each of those areas there is some level of existing development. There is already something happening there. It's not a completely clean slate. So to some extent we're going to have to recognize everything that's there under some status that would be, what? Legal non-conforming or just existing conditions and then go from there?

MR. ROSS: Madam Chair, Commissioner, that's correct. Once again, this is not a zoning classification, so it wouldn't be a non-conforming use but it would be a non-conforming condition in a sense that if you're in SDA-3 and you want to develop we're not ready for your development yet. The County is not ready in most cases for, say, a 100-lot subdivision down somewhere in the southeast part of the county near White Lakes or something.

COMMISSIONER CHAVEZ: But if someone wanted to do a lot split or do an accessory dwelling unit or something like that they would still have a process to do, separate from a larger development that might be proposed.

MR. ROSS: Correct. Single lot splits are for the most part not regulated by these principles. We'll get to that. There's a chart.

COMMISSIONER CHAVEZ: And then let's say you have an example where you already have a use that's not compatible or a use that's being proposed that's not compatible with residential, like a towing company – let's say a towing company or a wrecker service, how would the new code accept those non-conforming uses?

MR. ROSS: Madam Chair, Commissioner Chavez, so if you have a non-conforming towing business, and it's in existence now and in compliance with our current code, that use would get to continue, but wouldn't be allowed to expand. You know, like a normal non-conforming use. So they'd be allowed to continue so long as their lot was in existence at the inception of the code.

COMMISSIONER CHAVEZ: And if not, they may at some point they may be phased out.

MR. ROSS: Yes, well, they'd probably be cited and forced to move out.

COMMISSIONER CHAVEZ: I think I may be getting too specific from what we're supposed to be talking about right now so I'll yield the floor and go back to your presentation. Thank you, Madam Chair.

MR. ROSS: Okay, so the SDAs are largely about timing of development and that's – some of these master plans we were talking – that Tim has talked to us about, they're pre-existing master plans that propose more intense development but we get to how facilities and services are going to be provided to those properties which don't at first appearance appear to make sense.

So then we looked at, at the bottom of page 267 we see determination of adequacy of public facilities and services. So we've established the timing of development through the previous section. Now, this section requires this Board or whoever the decision

making body is for the particular development to make specific findings that public services and facilities are available for purposes of the code, and if not, to determine how they would be made available prior to the development being created. So what happens is that if you – there's a chart. I think if you take a look at Chapter 6, page 73, there's a chart that tells you – I'll just wait for you guys to get there. Page 73. It's right after this Chapter 6 tab. This is a chart of when you must provide different kinds of reports to support your application through the land use code. If you look along the top there you'll see TIA and you'll see APFA. APFA is short for adequate public facilities assessment, and it's one of the many reports that you're required to provide, but it's the report I'm talking about right now.

So if you look down the various types of application on the left column there you'll see Development permit, non-residential up to 10,000 square feet. Well, you don't have to do an adequate public facilities assessment for that because it's assumed that the effect of such a development will be negligible. But if you take a look at the very next item you'll see development permit non-residential, over 10,000 square feet. Let's say Walmart comes to Santa Fe County. There's a yes there. You must do what I was just describing which is assess in great detail the effect of the Walmart on County facilities and services – what's going to be needed.

So if you look back where we were, on page 268, how do you actually do that analysis is at the bottom of page 268 and the top of page 269. And you determine the degree to which you need to provide facilities and services by working with the levels of service that we've established here in the draft document in determining whether you can achieve those. So for example, if you're having a Walmart south of Lamy ten miles or something, fire vehicles, under emergency response, you've got to be able to get to an ISO rating of between 7 and 9 in order to avoid having to supplement fire services, in order to do your Walmart ten miles south of Lamy. This is how this works.

So you do an analysis, the AFPA. If you're required to do an AFPA by Table 6-1 you have to make detailed findings on roads, emergency response, water supply and liquid waste, parks, trails and open space. You must describe how you're going to get to the level of service described in that chart if it doesn't already exist.

CHAIR HOLIAN: Commissioner Chavez.

COMMISSIONER CHAVEZ: Thank you, Madam Chair. Steve, could you give us a real short example or explain the development of community-wide impact and how that would play into an application?

MR. ROSS: Okay. Well, a development of countywide impact is reserved in this particular document. Is it Chapter 9, Penny? We keep swapping the chapters around and it's now in my brain – it won't tell me where they are. Chapter 11 is where the DCIs are. DCIs are developments that impact the entire county, not just one area. So normally the zoning we're looking at how you affect your neighbor or your community or your lesser community – you're neighborhood. But DCIs are things that are expected to impact everybody in the county. So if you look down at 11.2, here's your list of things that staff believes affects everybody. At the top of the list is oil and gas drilling. So you recall in 2008 we had this comprehensive Oil and Gas Ordinance. This ordinance designated oil and gas to be a development of countywide impact and therefore something that needs to be treated as if it has countywide impacts.

Now, the Oil and Gas Ordinance predicted the use of many of these techniques because some of the techniques I've been describing here today that pertain to growth management were first seen in the Oil and Gas Ordinance. And so that ordinance in large part stands by itself but it uses all these techniques and even more to manage the growth that a significant development like any oil and gas drilling would create.

Second on the list is mining and resource extraction. We have this very detailed mining ordinance. I was just talking to Karen before the meeting, that's in the current land development code which is going to be unaffected by this ordinance that is something that if it occurs, any kind of mining in the county would be something that would be of concern to everyone, not just the neighbors or the community or the neighborhood.

Number three, substantial land alteration – giant grading projects, things like that. Those are things that affect everybody. It affects the viewsheds, it affects resources, everything. Similarly, number four, landfills, something that affects everybody. We have a landfill so it's not expected we would see one although we might see one in the southern part of the county at some point, so that's regulated as a DCI and something that's assumed to affect everybody. Junkyards, same thing. There's lots of potential with junkyards and salvage yards for pollution, certainly for visibility issues, etc. And number six, feedlots, factory farms, things like that. They affect –

CHAIR HOLIAN: Commissioner Stefanics.

COMMISSIONER STEFANICS: Thank you, Madam Chair. Steve, could you refresh my memory. Is sand and gravel under mining?

MR. ROSS: Madam Chair, it's under mining over 20 acres. Right? Or blasting.

COMMISSIONER STEFANICS: Or blasting. So it could be two acres and blasting.

MR. ROSS: Yes. That's correct.

COMMISSIONER STEFANICS: Okay. So is there anywhere else in the code that deals with small projects and impacts on communities? I'm talking about heavy dust and health conditions.

MR. ROSS: Chapter 7 has that.

MS. ELLIS-GREEN: There's a design standard in Chapter 7, so there's an air quality but we talked briefly about this last week. It kicks you over to the Environment Department air quality permit.

COMMISSIONER STEFANICS: Okay. Thank you.

MR. ROSS: So the thing about DCIs that's unusual, and we expect jumps over to something I was going to talk about later, which is Next Steps, DCIs have not been developed. If you look in this chapter you'll see it's only two pages, or maybe even one page, and everything is reserved. And the reason it's reserved is because those are areas that are going to need some specialized work and are going to need time, more time than we have right now.

COMMISSIONER CHAVEZ: So, Madam Chair.

CHAIR HOLIAN: Commissioner Chavez.

COMMISSIONER CHAVEZ: That was part of my question, because in a couple of places in the document that you have reserved you have – let's see, four

sections on page 262, and then on page 93, Chapter 7, 7.1.9, NPDES is also reserved. So that means that we're not ready for that? We don't have the staff in place to do that at this time?

MR. ROSS: Madam Chair, Commissioner Chavez, the NPDES permit is under review by the federal government, so it's not ready to be included yet, but it's in process.

COMMISSIONER CHAVEZ: But that could be a big part of our stormwater management.

MR. ROSS: Yes, it is the stormwater management. Right.

COMMISSIONER CHAVEZ: Okay. So I just wanted some clarification on that reserve. So it's kind of like a placeholder on stuff that we're working on, basically.

MR. ROSS: Exactly. Exactly. So with the Oil and Gas Ordinance, like I said earlier, it largely stands on its own but there are certain things that since the Oil and Gas Ordinance we've learned, like particularly in procedures, that are different than what the Oil and Gas Ordinance provides. But we were thinking, in terms of going forward, that some of the techniques used in the Oil and Gas Ordinance would be applicable to more than oil and gas, like it has a peculiar applicability to mining, for example, or landfills, things like that.

The Oil and Gas Ordinance required the creation of a floating zone, not an overlay zone but a floating overlay zone over the existing zoning. You had to create that before you could come in and get a permit for oil and gas extraction. So it was a two-part process. In large part, what this ordinance does is collapse what's now a three-step process in the County to a two-step process, but for purposes of oil and gas and probably all other things on this list, we're going to propose that we retain the three-step process so that any floating zone is created after essentially a rezoning process with all the protections that are inherent to neighbors for those kinds of really serious – they have a serious potential for incompatibility of uses.

So you may see us coming forward with an ordinance that regulates mining and resource extraction completely in the way it's currently done but adds an overlay step which requires the creation of a floating zone. In other words, a rezoning process before you can engage in those activities. The same thing with landfills, junkyards, stuff like that. But that whole step is going to take some time and it's going to take us working with special groups, not community-wide groups but people with special expertise in these areas, and we didn't want to slow down the code, get bogged down and that kind of stuff right now. So we're planning on bring that. It's legally regulated under its current ordinances, like mining has got a very detailed ordinance, and I've just been talking about oil and gas. It has an equally detailed ordinance, and waiting and dealing with that stuff in the spring when we've got all the rest of this stuff done.

So for example, the mining ordinance doesn't have growth management principles in it. And it certainly could be beefed up by including those principles in it. Okay, so turning back to page 268, in terms of the growth management section, you've got your AFPA which was an analysis of the effect of the development – not the effect. An analysis of the facility and services available to serve the development and a measure against which the facilities and services are viewed which is the levels of service.

So the thought is that if you don't meet the level of service specified in here, because like I say, you're ten miles south of Lamy and if the County doesn't have a four-lane for your Walmart, water and sewer and all the other facilities that are necessary, the general presumption is you would not be able to develop now. You would have to wait until the County gets down there with facilities and services.

But if you take a look at page 269 there's an out, which is consistent with current practice, which is if you're the Walmart developer ten miles south of Lamy you can advance public facilities and services. In other words, build all the roads, water lines, sewer lines, and provide whatever infrastructure is necessary for fire and law enforcement then you can develop now. That's consistent with current practice at the County. So we can instead of see a streamlined, easier process, you can have a more difficult, more expensive process but still go forward now.

There's a little bit of a difference in that. If you undertake to provide those facilities and services now when they're not there and somebody else then decides, well, Walmart's there; I'm going to open a gas station across the street, even though Walmart gas is the cheapest gas in the world. And you say I'm going to hook on to all that stuff. You can't do it for free. You have to pay the County and we will reimburse the developers of Walmart so that if they advance these facilities and services, which actually constitute public infrastructure, that a subsequent developer doesn't benefit from the upfront expenditure of the first developer. So that mechanism is in here through the mechanism of the development agreement.

Now I'll talk a little bit about the development agreement concept. It's all the way through here. Development agreements have been – if you take a look at page 272, Adam's going to talk about the CIP, page 272 you see this whole section on development agreements. Development agreements are a great tool for documenting and getting an agreement from a developer on all manner of topics at the inception of the development. So you basically establish the ground rules for the entire development upfront, in writing in an enforceable agreement. Now, there was a US Supreme Court Case a couple months ago called Koontz and which has put a cloud over our ability to acquire development agreements. We're still analyzing to what extent this particular section of the code might need to be amended to comply with Koontz. What Koontz said is you basically can't give a developer a Hobson's choice.

COMMISSIONER CHAVEZ: You can't give a developer what?

MR. ROSS: A Hobson's choice. In other words a choice between two equally horrible alternatives. So Koontz seems to say we have to give them a real choice we means possibly – we're not really sure yet, but possibly we might have to relax some of the language in here. Right now development agreements are required of particular types of developments. And you can't go forward, in other words without a development agreement. Koontz appears to say or may be interpreted to say that we can't require an agreement – well, we can offer an agreement and if an agreement is not accepted then we just deny the development. So we're trying to parse through the details. It's a very strange opinion from the US Supreme Court and it's scratching a lot of heads across the entire country.

But the general idea is that if a developer wants to advance infrastructure for a Walmart ten miles south of Lamy, and they're willing to advance facilities and services

for that, you write it all down. You write down every aspect of that development, how it's going to happen, who's going to do what, and you basically set out the ground rules at the inception of the development. It simplifies things. The only development agreement we have in the county right now is with the Las Campanas development and it was entered into in 1992 and it's been of tremendous benefit to both parties to assure that that thing goes smoothly and that everybody knows up front who does what, how much the developer pays, what the County does, even to the extent of determining how roads are going to be upgraded in the future, things like that. Those have been of tremendous benefit to the County.

You can see there's a list of things that should be covered in a development agreement under 12.4.4 beginning in the middle of page 272. So we can see there's a laundry list of things that have to be covered, like, oddly enough, numbers one and two are legal disputes, but you've got 3, vesting; 4, land use; 5, development planning; 6, green design and improvement; 7, any conditions or mitigation requirements. Our tendency now has been to include all the conditions on a plat, which has been problematic over the years because sometimes the conditions aren't set out in enough detail to determine whether they've been met or not. And if you do it in an agreement you have plenty of room and space to fully set out what's intended.

Point 8, financing mechanisms, so we'll talk a little bit about that in a second. If the developer wants to apply for public financing you would put out the chapter and verse of how that's going to work in a development agreement. Number 9, open space, trails. We often get in disputes with the development community about these matters because they're not set out in enough detail in the approval documents. Ten, use of solar and renewable energy. We want to encourage that so we're going to want to have that stuff written down and make sure that people understand what's expected. Eleven is sort of related to 8, mechanisms for financing of public capital improvements and services. And it goes on and on and on and on. Two and a half pages of details on what should be included in a development agreement.

Development agreements aren't required for all developments, only, the way the code is currently drafted, it's only required for those that have to turn in an adequate public facilities assessment. All other developments are free of that requirement.

So then we go onto page 275, another technique that's very common in establishing and maintaining public infrastructure and regulating growth or development fees. We talked a little bit about that last month when you adopted the – when you recreated the committee, the Capital Improvements Advisory Committee. There's – even though it's a long section the general takeaway is if you take a look at page 279 – I know Penny is going to cover some of this stuff, but impact fees are only permitted to be collected for capital improvements that are made necessary by a particular development project. They are not to be used for existing deficiencies in road or water infrastructure. So if a particular development – an example of Walmart ten miles south of Lamy is a good one to use, and 285 is a good road. Perhaps it doesn't need to be upgraded but water and wastewater systems would certainly need to be provided. Law enforcement, fire and rescue, parks, open space, trails and trailheads are all things that could be of issue if you had a Walmart ten miles south of Lamy and it could be the topic of assessment of development fees for the proportional share of the cost of that infrastructure, which

means that anytime you have an impact fee it only creates a burden on a developer of a portion of the costs of infrastructure and services in the remainder. If you're ten miles south of Lamy it would have to be advanced by the developer because it's of course in SDA-3.

So if we take a look at 12.5.7, this is where that particular issue comes up. If the impact fees are inadequate to provide the facilities and services for a particular development and they're required to be advanced pursuant to the code because of where they're located, impact fees aren't going to cut it and that takes us right into the next section. I know I'm kind of running out of time. Into the sections that start on page 289, which is if you're not willing to make up the difference between what an impact fee would provide to county facilities and services and the cost of those facilities and services then you can look to public financing to make up the difference.

Most developers don't have that kind of cash so public financing is certainly an option. We've sent these out. You can look at – starting on page 289, we've got PIDs, 297, we've got SIDs, which is what some people call a special assessment district. We've got, on page 300, you've got the County road maintenance assessment. 301, you've got GO bonds. On page 302, revenue bonds, 304, highway and bridge bonds – these are all ways to finance public infrastructure through public techniques. Probably the most commonly used would be a PID or a SID, which basically provides a means for a developer to finance public improvements through the County and that will assist them in developing their property.

These really need to be in here. They're just intended to be kind of a laundry list to help people understand what's available, but the options if you're in SDA-3 are you're going to have to advance the cash in infrastructure, pay an impact fee and if you can't advance the infrastructure with cash the option of public financing certainly exists. The same is true of development in SDA-1 that imposes an unanticipated burden on County facilities and services, for instance. That's another example. If you had a Walmart going in in Rancho Viejo or something and all of the entire road network needed to be redone. An application like that would have to wait until the County was ready to provide it or advance the improvements to the road network to proceed.

That's how growth management works. It basically says, okay, you can do it. You can do it any time you want to and it's your choice. You either do it now and provide for an advancement of that infrastructure or you wait. And that's proven very useful all across the country at managing growth in favor of the local government budgets [inaudible].

Let me just run quickly through the remaining sections in Paragraph 12, which relate to this topic a little bit. Page 304, we've described the official map. The official map is another growth management technique intended to ensure that planned development in the county is not superseded by development. So for example, if a road is planned in a particular area or a waterline or what have you, trail, park, planned in a particular area, the official map notifies potential developers that that plan exists to provide that infrastructure in that area so that they can come and talk to the County about how to accommodate within their development.

There's a draft. I think it might be behind you some place. Yes, it's right here on the left. There's a series of them. So we have the water and sewer map. There should be a

road map and there should be a trails map. Bikeways, I see. So this will protect the County's option to provide public infrastructure in the area where planned in the event of subsequent development.

And finally we have TDRs here. There are several techniques in this ordinance to protect the County from takings litigation and this is one of them. If a particular parcel is considered to be inappropriate for development for any number of reasons – you can think of a hundred. What's available to an owner is to transfer the development rights from that parcel to any other parcel in a receiving area, which is anything located in SDA-1. Remember I said earlier SDA-1 is the urban growth area, so if you have a parcel that is in appropriate for development in 2 or 3 or even 1, you can transfer development rights to another parcel and avoid financial loss as a result. There's also a County land bank provided and you can also offer the land to us and we'll put it in a bank and then developers seeking more intense development in a particular area can come and negotiate with the bank for intense development.

There are a few other techniques in other places in the code to avoid exposure to takings claims. I mentioned that the Koontz case is prompting a revision of some of the elements of development agreements and some other things in the code and we're going to be working closely with our consultant, Dr. Freilich in the next couple weeks and make some decisions about that to make recommendations to you. Before I jump into – well, let me just quickly run through Subdivisions. That's a fairly simple one. Okay. Let's save Subdivisions for next time. Let me just take a quick look at what's next.

I mentioned a little bit of this in connection with the DCI. I just wanted to point out that this is not the end of the process. Developing and enacting this document really sets the stage for a number of other actions, not the least of which is formal adoption of the zoning map, which has to be done through a different process, an administrative adjudicatory process instead of a legislative process, so very soon after adopting this ordinance the zoning map has to be done because the ordinance requires that the zoning map is in place before it becomes effective. I'd suggest we do it as quickly as we can following the adoption of the ordinance.

There's a cart and horse problem here because you really need the ordinance in place before you can assign zoning to any particular district because we don't have any zoning districts right now in our current ordinance. So when we have the ordinance in place, but I know people have concerns about the zoning map so we need to devise a process that gets that process underway. We did this: As you recall, in the presumptive city limits when we adopted the SPaZO Ordinance, it moved very well actually because through the administrative adjudicatory process staff could get with landowners who had issues about the zoning of their property and address problems before it ever hit the governing body and we expect to do the same thing with this particular zoning map.

We have to determine the proper notice that's going to be required for an endeavor of this type and I think we have but we're going to check with some of our consultants and make sure we do know. So that would be a next step. And after this we need to have a hearing, probably a lengthy one, a zoning map and get it in place.

Then after that we need to do – not necessarily in this order – we need to do the DCI chapter, flesh out all those topics, those seven topics we were discussing a few minutes ago so that we don't have a regulatory gap. I know we have a gold mining

company proposing to operate in the Ortiz Mountains. We need to get whatever changes that are going to be made to the mining ordinance if any in place before that happens, obviously, and incorporate that and then move into the DCI chapter as well as all those other topics.

And then sort of as an overlay to all of this are the community plans and the Community College District. We need to send the planners back out to all the communities with maybe a few exceptions and get the plans amended and the overlay ordinances drafted and in place quickly, because there's been a regulatory gap. Many of those community ordinances are inconsistent with the SGMP which is a potential problem. We need to address all those inconsistencies and get those things completed and done. We've got three that we're working fairly intensely on right now and I think there's ten more to be done; they need to be done quickly.

Once that's all done the code would be in place and would govern everything conceivable and then just after that management of the code and addressing issues that will come. There will inevitably issues that will come up and we need to address those as they come up.

Finally, publication. We have – it was in front of the Commission, I don't know, six months ago, we have an electronic publisher on contract who has the entire County code on the web right now organized in a manner consistent with how municipal and county ordinances are indexed nationally. And that's in place now. This will be published on that site which means that you'll be able to do word searches or sentence searches or just review the code electronically. There will be no need for these large documents if you don't want to have a document like this. It will be flexible and the most important thing will be it will be instantly updated. When there's a change made it will be made on the document the next day so people will be able to access it from our website or going directly to our contractor's website over in Texas and taking a look at this. We certainly can't do word searches on this because you have to look at 20 ordinances. So with that I think I'll just stop. We have to hear from Adam and then I know we've got lots more to do.

CHAIR HOLIAN: Thank you, Steve. I think I will actually open it up for questions now from the Commissioners for, say, 20 minutes, but I do want to be mindful of the fact that we do have an important presentation on capital improvement planning, and I would also like to be mindful, I would like to allow time for the public to make comments as well. I will note that the meeting is noticed from 9:00 am to 12:00, but we did get started half an hour late. So at this point – so let me get some feedback from the Commissioners. Would you rather hear about the capital improvement planning?

COMMISSIONER STEFANICS: No, I'm just suggesting, Madam Chair, that we just come and go as we need to.

CHAIR HOLIAN: Oh, yes. Yes. I'm not taking a break.

COMMISSIONER STEFANICS: Okay. Great.

CHAIR HOLIAN: So at this point I'll open it up to questions and I know that Commissioner Chavez had a number of them and then Commissioner Mayfield and then we will go forward. But please be mindful of the time and please realize that we want to allow time to hear from the public as well. So Commissioner Chavez.

COMMISSIONER CHAVEZ: Thank you, Madam Chair and I think I asked most of my questions and the ones that I didn't ask, answers surfaced during the discussion. So I just have one that's sort of a caution or maybe just information from me. On page 6, under 1.7, Enactment and repeals, there's two ordinances that will be repealed in their entirety, the flood prevention and stormwater management ordinance. And so those being repealed, I want a crash course on where they will end up in the new land use code. Because I know we have a section for flood control on page 164, 165.

MR. ROSS: I can help you with that, Madam Chair, Commissioner Chavez. Okay. So the Floodplain Ordinance has been included in this draft. It's substantially revised from the prior draft, from the prior ordinance that we have in place. We used as a model document one that the State of Colorado uses for its cities and counties and it's been vetted by FEMA throughout the State of Colorado. The reason we used that one is there's not a very good New Mexico model and the model we were using was pretty harsh. We felt that the Colorado approach made more sense because it flowed things back to sort of the minimal regulation. You don't get extra points from the federal government for excessively regulating the issue of floodplain management. The only purpose of this particular program is to put in place some insurance product that's used for people in floodplains and to prevent excessive claims under the federal insurance program to the federal government. So we don't get anything for exceeding that and our ordinance did in a number of respects.

So that is on page 165. The stormwater management section is subject to a federal permit, the NPDES permit, and it's actually a national permit that the federal government offers to local governments and that – we have an application pending for approval of our program through the EPA but the EPA is right in the process and I'm sure the federal shutdown and the sequestration have not helped this particular program. They are changing the way they do this entire national permit program, so it's taking a long time to gain their approval and gain input on what our programs should look like. So it's not ready yet. And as soon as it is ready it will be inserted into the place that you recognized, Commissioner, in the ordinance. That will be a subsequent amendment.

COMMISSIONER CHAVEZ: So Chapter 7 deals with flood management and flood control, but it's more on the private property owner. It's the responsibility of the private property owner, which makes some sense because you're then required to contain your stormwater on your property using different cisterns or other water harvesting methods.

MR. ROSS: That's water conservation, yes.

COMMISSIONER CHAVEZ: And then going through the document I see that in Section 12.7 we also have another possibility of addressing that through public improvement districts.

MR. ROSS: Yes. Like a stormwater management project in a major subdivision for example. You can dedicate that to the public and get public funds to do that.

COMMISSIONER CHAVEZ: And that could apply also to an existing subdivision or development.

MR. ROSS: Yes. It's not really a subject of this particular code because this only applies to new development but a PID is available, all these techniques are available for existing infrastructure as well if it's dedicated to the public.

COMMISSIONER CHAVEZ: So then for the County to do something comprehensive on its own as a local government we would have to wait for the National Pollution Discharge Permit -- for that to run its course and for us to deal with that on a larger scale?

MR. ROSS: Madam Chair, Commissioner Chavez, no, we wouldn't have to wait for them. The national permit that is required under NPDES for practices concerning stormwater management doesn't bar us from doing a stormwater project of our own. Not at all.

COMMISSIONER CHAVEZ: Do we have the ordinances and policy in place that will let us do that?

MR. ROSS: Absolutely, we could do it. Yes.

COMMISSIONER CHAVEZ: Okay. Thank you, Madam Chair.

CHAIR HOLIAN: Thank you. Commissioner Mayfield.

COMMISSIONER MAYFIELD: Madam Chair, thank you. Madam Chair, Steve, on page 176, under construction improvements, as I was just going through this now, but alterations or improvement, what about like for invasive species of trees and stuff. Are people going to have to get permits from us if there's like salt cedar on, and they just need to remove these trees?

MR. ROSS: 176.

COMMISSIONER MAYFIELD: 7.22.2. I was going over --

MR. ROSS: Madam Chair, Commissioner Mayfield, this particular section

COMMISSIONER MAYFIELD: I'm the chair now since she left.

MR. ROSS: I'm sorry. I didn't see that.

COMMISSIONER MAYFIELD: Just so you all know that.

MR. ROSS: Mr. Chair, this section concerns the requirement of a financial guarantee if you propose to do any of the items listed on that and can actually do development. So you come in and you say I'm going to do a large-scale removal of trees as a part of your development, then in order to ensure that you do it you're going to be required to put up a bond. And if you don't do it then we'll take the bond and do it ourselves, but in terms of what you just asked about, I don't know that we have -- if it would be anywhere it would be under Terrain management, right? So if you take a look at page 160, Terrain management, I think what you're talking about is there a restriction on removing trees; there is none, unless you're on 30 percent slopes. The Urban-Wildland Interface Code might require you to actually remove trees.

COMMISSIONER MAYFIELD: Okay.

MR. ROSS: Mr. Chair, Penny just reminds me, mass grading does require a permit, but it's not necessarily restricted or prohibited, it's just a matter of ensuring that you're handling it correctly.

COMMISSIONER MAYFIELD: Okay. Great. And then Commissioner Chavez kind of took me to where I was going to go, so going back to page 6, and you mentioned it, Mr. Ross. So as far as I guess codification to where you brought us today

with the code, so you've pretty much touched base with every new ordinance that the County has tried to from – when was it? The eighties and 1996, because there's probably been numerous ordinances that have been put out there and maybe some addendums to the code. So maybe not everything – there's probably a couple that we haven't broached, maybe fortunately or unfortunately that was missed, so will we still maybe have to do some piecemealing or you think you all have captured all of them?

MR. ROSS: Mr. Chair, I think we've got them all. The only one that's not specifically listed is the 1980 code – no, there it is right there. So I think we have them all. We've got the 1980 code, the 1996 code. We have pretty good records on the more recent ordinances.

COMMISSIONER MAYFIELD: Steve, what about any resolutions we've passed or prior Commissions have passed? Not that they're totally applicable as a code, but staff and the Commission try to operate under the resolutions that we've established.

MR. ROSS: Well, Mr. Chair, a resolution is a record of a decision of the Board of County Commissioners. It has no regulatory impact, so I'm not as concerned about resolutions because subsequent action that's inconsistent with a resolution automatically rescinds the prior resolution. So if there's anything in here that's inconsistent with a resolution it's de facto gone.

COMMISSIONER MAYFIELD: So now with this new code, once we've passed it, every resolution is gone.

MR. ROSS: Every resolution on these topics that's inconsistent is gone.

COMMISSIONER MAYFIELD: Just so I'm clear on that too. And these are pretty much all the codes. And Steve, a couple things that you did bring up, one, you've brought up the mining ordinance. You and I have had many discussions in our SWMA board meetings as far as how the mining ordinance is applicable or not applicable to our Solid Waste Authority, the Caja del Rio, because I do believe under the current code that we have that Caja del Rio, that we have joint partnership with the City of Santa Fe providing landfill services to all of our constituencies are performing a mining operation out there and they should have obtained a mining gravel operation from us here at Santa Fe County which they didn't and you all have given me reasons why or why not. And I almost think that they're cut out of that for whatever reasons. And so I just want a little clarification for this record for that. We have a great listening audience here.

MR. ROSS: Well, Mr. Chair, the whole question of whether the County has jurisdiction over the landfill is an open question as we've discussed. It was created by a joint powers agreement and the Joint Powers Agreement Act only permits parties to exercise powers or to vest in a third party entity powers that each individual entity possesses. So any authority we would have over the landfill would be derivative of our land use authority. We don't know much about that in this state. So you'll see that in this document that issue is not mentioned. So we either have landfill authority over the landfill or we don't. If we have authority over the landfill then they have to follow this. If we don't, they don't.

We do know some things. We do know that the County by virtue of two State Supreme Court decisions has no authority over the state or a lessee of the state. And so that leaves things like school districts, special districts, water districts, municipalities, all manner of other quasi-governmental entities undecided on that topic. We do know that

with respect to municipalities we have authority that's expressly set out in the Municipal Code concerning the authority of cities vis-à-vis counties in the areas outside the city. For example, the Municipal Code specifies that a city or municipality has jurisdiction over water supply facilities within five miles of the city limits. And that's – what I just described is the total universe of knowledge concerning the authority of counties vis-à-vis entities like SWMA. So it's an open question. It remains an open question.

COMMISSIONER MAYFIELD: Okay. But I just think that that opens up questions for a lot more now, and I'll broach that another day. Mr. Ross you also mentioned as far as I guess some of our developments with infrastructure in your presentation, so let me ask this. So when developers come to us and they're putting up their monies for development proposal X and they're asking for this infrastructure to be building – water system, wastewater systems – are we asking for bond requirements to be put up or not put up? Because then if this developer decides to – or not decides to but unfortunately goes belly up, and they come back and approach this Commission years later, they say, well, you've got so many residents living here but we're just defunct now, so we're asking you to take over the system. Otherwise, we don't know what to do. Then we have residents here in front of this Commission saying bail us, help us out. Don't bail us out. The developer is saying bail us out.

So are we asking through this permitting process for some bonds to be put up?

MR. ROSS: Madam Chair, Commissioner Mayfield, we have two things. Number one, we do have financial guarantees for all infrastructure, public or otherwise, in developments. We have that now but that section has been substantially revised and beefed up in this ordinance so that if you agree to put in a water system for your residents you have to put up a financial guarantee in the amount of the engineered estimate of the total cost of that infrastructure. So if in five years you haven't provided the last segment of waterline and you refuse to do so the County will take the bond and do it ourselves.

The second tool that's in here that hasn't been in the code until now is development agreements. So all of these issues should be vetted out thoroughly in a development agreement so that everybody's on the same page about when water service will be provided, when infrastructure will be provided, in far more detail than we currently do. So for example, we have Development A and we have five phases. Your development agreement could say, okay, phase 1, we're going from point A to point B and that will cost X. You will put up a bond for that. You'll have this completed by March of 2015. So what I'm suggesting is that you'll have a greater level of performance expectations built into your development agreement, so there's no ambiguity at all. I was going to provide that only by 2018 but it's really needed now. We have a development agreement, there's no ambiguity. There's no gray area when you come to a topic like that. It's set out in the agreement. Then by March 2015 when you have 15 lots in place.

So there's two techniques now and I think they're far more robust than the current code.

COMMISSIONER MAYFIELD: Okay. And then, Madam Chair, I'm not going go into each section because I know I have time considerations and there's a lot of public here that probably have questions, and I'll just get into procedural. But I do have a lot of questions as far as just different components of this code, so hopefully we'll just have different time afforded for that. Thank you.

CHAIR HOLIAN: Okay. Thank you, Commissioner Mayfield. And I certainly would urge you to also go talk to staff as well about specific issues and so on in detail. Commissioner Anaya, and please be respectful of the time constraints, I hope.

COMMISSIONER ANAYA: Madam Chair, a couple things before I make comments. I've been listening to the meeting since the onset of the meeting. Spoke up and said I was here. You had said it was a 3-0 vote, it was a 4-0 vote. I was present. I just wanted to say that on the record. I have three sheets of questions and some statements that I'm going to provide for the record. All of these are accessible by the public. I'm going to give them to staff and we can post them on line. You can do whatever you think you need to do with them, Penny or others, to make sure that they're clearly reflected on the record and that the public has access to them. And I think what I'll do – it's important Madam Chair and Commissioners that we have the discussions with staff off line which I've had many, including many discussions with individuals in the communities and comments and feedback that are received at meetings themselves.

So it's important as a Commissioner for us to speak to those items publicly and if we need to expand the number of meetings we have to accommodate doing that then I think we need to do that.

CHAIR HOLIAN: Commissioner Anaya, at this point I would just point out that we will have a discussion about future meetings and the path forward.

COMMISSIONER ANAYA: So what I'm going to do with that in mind is I'm going to read in all of these for the record. Many of these questions are not open-ended questions; they're questions where I've had discussions with staff, where we've had dialogue and public meetings and where I've actually provided the same format of written feedback to staff to say, here's my perspective and I've handed those to Penny. So these aren't open-ended questions but they're questions that have been discussed many, many times throughout the course of this process. So I'm going to read them in. And I'm not necessarily going to wait for an answer on each one. I'm going to read them in and then I'm going to give staff the opportunity if they want to make some short responses to some of them now they can. If they want to wait and do that in another session publicly then we can do that as well. Does that sound reasonable, Madam Chair?

CHAIR HOLIAN: Yes. Please proceed. We'll see how it goes.

COMMISSIONER ANAYA: So the first two items I had were pertaining to being at the meeting. The third item I have is SDA-1, SDA-2 and SDA-3 are areas that as Mr. Ross has defined in his summary today delineate growth areas and delineate a timeline by which potential development might take place. That being said, timeline development and the definition of adequate public facilities. This can be different depending on the location in and around Santa Fe County.

Next one. Adoption draft – chair stated – and this one I'm going to just ask you directly, Madam Chair and ask staff. I would like them to comment on this one. You made a comment at the beginning of the meeting, made a summation of what's happened and you made a comment that the code has been out for a year. And I just want to clarify and speak to that that we've had various iterations of the code that have gone on for a year, but this, this encapsulate document that we have in front of us is dated October 2013. Many, many, many changes have happened – and I want to say it on the record – since we've received anything of the code from then??? Till now. So this we've had now

in October, the complete summation. Is that correct, Penny or Steve? Just so – when you listen to it and I was listening to it on the radio. When you hear it on the radio it sounded like, well, the Commission's had this code for an entire year and it came across, and I don't know – I don't think you intended it to come across that way but when you hear things on the radio they come across a little different. It sounded, when you're listening on the radio that, gee, the County's had this for a whole year. What are they waiting for?

CHAIR HOLIAN: Commissioner Anaya, since you did comment on my comment I would like to respond to that. I think that there are some very important concepts that are in this code. In fact the underpinning of this code, there are concepts that we have not had in our land development code ever before. And those concepts are zoning, the concept of zoning, of real true zoning, and also the concept of growth management. And those have been in front of the public for discussion now for quite a while. The details, certain details of the code have been fleshed out in this last adoption draft. For example, Chapter 12 is a large detail that was fleshed out. So I am not petitioning for adoption of the code right away today. I want there to be plenty of public discussion. I want the public to understand what's in the code, but I still think that the point – some very important points, namely zoning and growth management have been in front of the public and discussed in quite a bit of detail for quite a while. So Steve and Penny, would you like to comment on that?

COMMISSIONER ANAYA: If I could, Madam Chair, I appreciate that you did that because that's exactly what's gone on and there are major concepts, but the document – and this I want to be explicit about – the code, the document that wraps up all those meetings frankly that all of us asked for. We as a Commission asked – Commissioner Chavez wasn't here early on but we as a Commission asked for detailed and comprehensive community meetings and input. We got, like you said at the beginning of the meeting, well over 2,000 I think was the comment that you or one of the individuals around the table made. But the document that encapsulates everything and rolls it all up for input, this is two weeks ago that I got, finished.

MS. ELLIS-GREEN: Madam Chair, Commissioner Anaya, it was released I believe the 1st of October.

COMMISSIONER ANAYA: Thank you very much. I just want to make that clear and I appreciate, Madam Chair, your comments and clarity on what's taken place and would agree that there are some very good concepts and frameworks that have been worked on for a long time that are rolled up as well.

The next thing that I want to say, and I'll just ask the question, public facilities does not mean government facilities, correct? And I wrote right; I didn't say correct. Six, this code provides opportunities for smaller-scale commercial development options that previously have not existed in the code. Some of the examples: general store, feed store, bed and breakfast, home occupation. Those are some that I wrote.

Seven. This code recognizes that the work and then content – this code recognizes the work and contents of community plans. Correct?

Eight. Was the time spent from the growth management plan approval to now – and this goes to staff mainly – helpful and important to the draft of the document that we have in front of us?

Nine. The definition and application of adequate public facilities is as diverse as the people throughout the different regions of our county. Correct?

Ten. Approvals that are in place stay in place. This code does not take away approvals previously granted.

Eleven. This is not a one size fits all code, is it?

Twelve. We need to afford adequate opportunity for feedback and input towards this collective document.

Thirteen. It's important to point out that this code speaks of public facilities and in particular adequate public facilities as does our plan speaks to adequate public facilities. We also as citizens and as residents need adequate private facilities – services, products and commodities, to function as a county and as a community.

Fourteen. I also want to thank those of you that are sitting here in this room today. I very much and we very much appreciate your presence and your participation now and in the future.

And the last statement I'll make, fifteen. There are people that are not here because they're working, because they had other obligations. I, we, appreciate their input and their participation now and in the future. Thank you, Madam Chair.

CHAIR HOLIAN: Thank you. I think at this point – Steve, would you like to answer any of those?

MR. ROSS: Madam Chair, I ended up with 13, Commissioner, and so I think I missed some.

COMMISSIONER ANAYA: I'll just give you this.

MR. ROSS: Okay. But I can address – I drafted down some of them and in most cases what you said when you asked whether we agreed with something I think we do. There's a couple things on here –

COMMISSIONER STEFANICS: Madam Chair, could you go through each one and say yes or whatever?

MR. ROSS: Yes.

COMMISSIONER STEFANICS: So the audience and we know how you're explaining.

MR. ROSS: I think the dialogue you had with Commissioner Holian concerning the adoption draft, that's all accurate. We had 2,444 comments, written comments that we had to internalize, so there were changes made to the document that was submitted a year ago, lots of changes, and we have those changes posted on the website so people can go look. It looks more extensive that it actually was. There's some sections that were pretty extensively rewritten like the archaeology section, the parks and trails section, the water section. Things like that were rewritten and other sections were moved from one place to the other. And that sort of leads me to your other question. You said did the input and the time spent with the public help us? It absolutely did, because it pointed out things we hadn't thought about and allowed us to address them, so that's absolutely an emphatic yes there that in the year the initial draft came out we've had time to flesh out some of those issues based on public comments and things we knew needed to be addressed.

Public facilities do not necessarily equate to government facilities. In a lot of cases they will like roads and water systems and stuff like that, but for example, in the

water section, we're encouraging people to hook to public water systems, not necessarily the County water system. It could be a publicly regulated water system that happens to be a private system. That's tantamount to a public facility in this code. I think you'll find that all over the place.

On the contents of community plans, yes, obviously, what we noticed over the years in the 13 community plans and ordinances is that often they cover the same thing, so they have common desires. For example, in several community plans there's concern about riparian areas and protecting the banks and influence areas of river and streams. We put that in the code so it's applicable to everybody. So when we can identify those common elements we stick them right in the code so communities don't need to worry about the protection of those areas.

Previously granted approvals are completely intact in this code. We're not purporting to change anything with respect to a previously approved approval. Actually there's an advantage in how the code is laid out for somebody that has a preliminary approval but not a final approval, they have the option of continuing to go through the process as was described before or jump to the new process, which is a lot simpler to use, frankly, than our current process.

So if you're at the stage – like if you've gotten a master plan, or you want to do a development, before you might have to do a master plan or had gotten a master plan, but this code doesn't require a master plan. Once you've got your property zoned and as long as you're doing – proposing a use that's consistent with your zoning, like say building single-family houses or something, you don't need to do a master plan. You just come right in. Like for example, if somebody has a master plan that doesn't specify exactly what they're planning to do or specifies something completely different, but it's consistent with the zoning they should be able to move right to preliminary plat under the new code. So I think people proposing development projects will see that as a big advantage.

A lot of these don't require – oh, and more important, yes. We had a whole series of meetings and maybe Penny knows them off the top of her head. We're having one tonight at Nancy Rodriguez. There's a whole series of evening meetings that people can attend if they can't leave work and we'll have a selection of staff there to answer questions about the new code. Penny and myself are going out to Nancy Rodriguez tonight. We'll have different groups of people going to all the various areas in the county. We have five, six meetings. Four evening meetings scheduled. One has already occurred I think in your district.

I agree with your comment about public facilities. We don't have anything in here regulating private facilities but I think that one of the things that the code is intended to stimulate is co-location of different types of uses. So we have a multiple use zoning district that permits commercial endeavors to be co-located with residential uses and things like that.

COMMISSIONER ANAYA: If I could just make a comment briefly. Right now what exists in the County code and has existed for many, many years is if you're affluent and you have money then you're able to pay for an extensive process to obtain a development right. If you're rich you're able to exhaust all your avenues. You're able to hire professionals to do studies and analysis of a given area, and you pointed this

out at the beginning but I want to highlight it. If you don't have resources, if you're just an individual that has some property and you're trying to do a small business, whether it be a home occupation or a small store or something that benefits the community, a direct service or need that a community has, and you don't have the financial ability to hire and do many studies; you can't do it.

And now with the code that we're moving towards adoption on we'll finally have the opportunity to do that. That's my point there. The Walmarts of the world and people with money are going to expend their money however they need to to try and achieve their ends within the framework of this document they're always going to do that anyway. But this document now is going to be a tool that by design will afford someone to come in, not have to go through exhaustive and extensive requirements and be and be able to maybe have a small business and serve a community area. And I think that's very important to point out.

MR. ROSS: Madam Chair, Commissioner Anaya, well said. I don't need to add anything to that. I agree. And that's all my notes that indicated needed commenting on. I agree with everything else that Commissioner Anaya's said.

CHAIR HOLIAN: All right. Thank you, Steve and Commissioner Anaya, are you okay with moving on to the capital improvement presentation? Adam, are you still here? Adam, you're on.

V. Overview of Capital Improvement Plan (CIP) [Exhibit 1: Power Point Presentation]

ADAM LEIGLAND (Public Works Director): Good morning, Madam Chair, Commissioners. I have a brief presentation on capital improvement plans. This topic has been alluded to several times this morning. This is going to be more of just a primer on capital improvement plans and its reference to the code. So we have that presentation in front of you, then we have the slides. So I'd like to start out with just the quote from Abraham Lincoln because this is really how we do capital improvement planning. Capital investments is one of the most expensive things that a local government will undertake so we just want to make sure that we do the proper planning in advance.

This is just a brief agenda. I'll just talk about some definitions. I want to explicitly compare the CIP to the ICIP, because I think that those two things can become conflated. I want to explicitly talk about levels of service because that is really the core of sort of adequate public facilities that Steve has mentioned, and then I'll talk a little bit about impact fees.

Just a couple of definitions so we're all talking about the same thing. A capital asset is a tangible property. Kind of a rule of thumb that's not regulatory, if you will. It has a life of about five years and it costs about \$10,000. So that's what a capital asset is. And a capital improvement is just increasing the value of a capital asset to increase its life or to create the capital asset from nothing. So the reason I want to stress that is because a lot of the things a local government will spend their money on is just operation and maintenance expense. It could be a large dollar amount, but it's not necessarily a capital improvement. So I just wanted to make these two definitions, because what we're talking about is our plan to improve our capital.

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Here are just some examples of capital improvements so if we build a brand new road, so for instance the County is doing an alignment study of the northeast-southeast connector we will be building a brand new road, so that is a capital improvement. But if we improve the surface of a road, such as we've just done down south, for instance, if we pave an unpaved road, that is a capital improvement. And then you can see some other examples of capital improvements. We just did a capital improvement to the Tesuque Fire Station, for instance. And again, these are different from maintenance expenses.

So I just wanted to, within Public Works we kind of track four pillars of capital assets. We have roads, water, facilities and open space. If you go to the next slide you'll see kind of a snapshot of what our capital asset portfolio looks like. So you've seen this slide before. We have a lot of stuff already built. This is what the County owns, and this does not include some of the public facilities are privately owned, some of the mutual domestics across the county or the Eldorado district. So there's a lot of capital in the county already.

This is just what a capital improvement plan is. I think it's self-explanatory, but it is essentially, at its core a list of our capital requirements with a schedule of how we plan to provide those projects or execute those projects, and then a schedule of how we plan to fund them. So the plan puts together the needs with the way that we plan to meet those needs. And if you go to the next slide, here are just some attributes of a good one. So the first thing is that it really comes up with a formal way to assess your capital needs. You assess those needs against the jurisdiction or entity's articulated goals and objectives and I'll go into that a little bit later. Generally it expresses standards as a level of service, and I'll spend a lot of time on level of service. It's generally a multi-year planning horizon, five years or more. Different – for instance the New Mexico Development Fees Act specifies 21 years in three seven-year increments. Other jurisdictions across the country use different time horizons, so I just generally say five years or more. The Sustainable Land Development Code says 20 years. Those needs are prioritized and that's how you can develop the schedule, because not only do you prioritize the need but you can prioritize them in time. Some of them you won't need for some time and I will give you an example of that. And then, as we already heard this morning, a good one differentiates between existing and future deficiencies, because for one reason you can use different funding sources. For instance you cannot use impact fees to pay for existing deficiencies, and I have some examples of that. So these are just some of the basic attributes of a good plan.

So why do we want to have a CIP? Well, the first reason is because the code says we will have one and also if the County wants to have impact fees the state says we will have one, but there are a lot of other reasons too. One is that it coordinates development both between the public and the private sector. I'm sure the private sector especially if we have adequate public facility requirements the private sector is going to want to know when we're going to build that road or that water main. It also helps the County to manage for instance our workload. How many project managers do we need? How many maintenance workers do we need, so we can use this to coordinate that. It also gives us more control over our debt service, for instance, and I think we do a very good job of that. And maybe the bottom line, it really keeps the public informed about future needs

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and projects. And these are just some reasons of why, and I don't know if anyone disputes that we need a CIP, but I just wanted to articulate some reasons.

The next slide just explicitly puts the difference between the ICIP and the CIP. So the ICIP is the Infrastructure Capital Improvement Plan. It's a state program that's managed by DFA. You'll see in quotes that actually I pulled that next bullet, that's a direct quote out of the ICIP guide for local governments and the state-implemented ICIP, is a way to sort of bootstrap local governments have in the ICIP, but it really has become a sort of wish list for local entities in order to get their capital outlay requests in front of the state legislature. And so you'll see the last few bullets there. Four different groups are able to apply to the ICIP – counties, cities, the tribes and then special districts like for instance the Eldorado Water and Sewer District.

And to give you an idea of why it's a wish list, just for the 33 counties, just in that one category, there are \$2.6 billion worth of requests. So there's clearly no way that any entity can meet all those needs. And so I think it's kind of an everything but the kitchen sink approach. It's still important and at the very end you'll see how much money we've gotten through this process, but I just like to say that the ICIP is important, it puts things on the state's radar, but it should not be confused with our CIP.

So next slide just talks kind of briefly about how the CIP process works, and the first thing was to identify the needs, and I'll spend a lot of time talking about that, you prioritize that, and as I said earlier, that's both figuring out the time and then also the importance. We group needs because different ones have different ways of funding, for instance future from existing and then you identify how you're going to pay for it. So that produces your plan, your capital improvement plan.

So we go to the next slide. Everything starts with the plan, and you'll see, that's just a snapshot. Those are all screenshots of plans that I happen to have at my desk but the County has many more, and so there is a lot of policy guidance out there already that should help us identify what needs the County has. Of course our most important one is the Sustainable Growth Management Plan but we have, for instance a recently adopted bicycle master plan, conjunctive use plan, so these all give policy guidance to make capital investments.

So if you go to the next slide, for instance, I just grabbed two of those plans and I just went through them and I said, for instance, the Metropolitan Bicycle Plan, those first five bullets are policy guidance that that plan gives the County if we're making a capital investment. So you see, for instance, the fourth bullet, provide more and better bicycle parking. That's a policy statement in the Metropolitan Bike Plan that directly affects our capital investments. If we build a new facility we want to make sure that we have bicycle parking. Crossings of roads, that's something, for instance, the City is struggling with as they think about how to cross St. Francis. That's a direct capital investment.

The bottom one, the Jemez y Sangre Regional Water Plan, that has some capital investment implications. It says repair leaks in water systems. That's capital investment for our water utility. So this is just general policy guidance that we should cull from all different plans in order to identify needs for our capital improvement plan.

If you go to the next one, this is probably the more common way of doing it though. This is the level of service and this is just a brief definition of what level of service is, and as I go into more detail I think you'll understand this concept a little bit

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better. But it's really just a final articulation of a – a numerical articulation if you will of what level of service the County will provide. So actually I think it will be more clear if you go to the next slide. This is a chart of the levels of service from the land development code. This is actually Table 12-1, which is on page 268 of the code, and these are the adopted levels of service in the code. Let me just quickly explain how these work.

What these say is, for instance if you take the very top one, open space, the County is committed to provide 8.5 acres of open space for every 1,000 residents in the county, and that is the level of service. So going down, trails, .5 miles of trail for every thousand population. Maybe ones that require a little bit more explanation – Yes, Madam Chair.

CHAIR HOLIAN: Yes, Commissioner Chavez.

COMMISSIONER CHAVEZ: Adam, could you just explain the Sheriff quickly, briefly, as briefly as possible?

MR. LEIGLAND: Yes. It's hard to turn something like law enforcement into a capital requirement. This is the facilities. So the Sheriff says that for every 1,000 people he needs 111 square feet of facilities to house his deputies or his vehicles. So you turn that capital requirement into a different level of service, which would be, for instance, response times. So it's a little bit hard maybe to imagine that. But if he says that for every 1,000 people he needs 80 deputies, and they he turns 80 deputies into he needs space to house them, plus he needs a place to house his cars, plus he needs this many admin. That gets turned into a capital requirement.

You could do the same actually on the next slide; I'll show you some other ways. Water, that level of service is the County says that for every dwelling unit you will provide a quarter acre-foot a year of water, so you use that to figure out the size of your pumps, of your lines, how many water rights you need, and those are all the capital investments needed to provide that.

The last two – I have some slides to explain those and I can spend as much time as needed but the level of service needed for traffic or for roads is pretty much industry standard. It's an alphabetical, A, D and C, and that really has to do with traffic volumes or delays, and I can explain that. What we're saying is that in our two SDAs we will commit to a level of service D, and what that means is that will determine how big our roadways are. That will determine how big our intersections are. That will determine what our roundabouts look like, for instance. And then in the more rural areas we've committed to a level of service C. D and C, those are pretty much standard in an urban area. D is a good balance between capital investment and customer service.

So that chart is straight out of the code. That is what the County will adopt if it adopts the code. The next one is just examples of other levels of service that a county or a jurisdiction could adopt if they so choose. I grabbed these from various jurisdictions around the country and I just wanted to give you an idea of other ways you could articulate a level of service. So for instance, county libraries, they said that we'll provide two volumes for every resident. Correctional facilities – these are just different examples. If we managed a solid waste system we might adopt a level of service of a 1.06 ton per resident. So these aren't ones that are in our code. I just wanted to give examples of other levels of service. Of course we don't have county beaches; I got that from a Florida county, but anything can have a level of service attached to it.

So what I want to do here is because I anticipated there might be some questions about A through F level of service for roads so I just took these next slides. They come straight from what is known as the Highway Capacity Manual. That's the traffic engineer's bible and it determines what LOS is. You can just kind of skip through these. You see some images. Those cars look like they're older than I am but those are standard images for level of service. So level of service A is free-flow. That's what every driver loves, but from an infrastructure investment it's very inefficient because it's a lot of pavement for the individual driver. If you go to the next slide, we're shooting for a level of service D, which is really where you get the optimum mix of capacity and investment. So that's just an example of what levels of service for roads look like.

If you go to E and F you'll see that F is bumper-to-bumper traffic and that's what you want to avoid. And then the next slide shows another way you can determine level of service is at an individual intersection, and it's really just expressed in terms of delay per individual vehicle trying to cross that intersection. So again, this is just to explain what level of service for traffic looks like.

So the next one show how you apply level of service. We've spent a lot of time determining what a level of service is. How do we apply that? So I came up with a simple example of our trail level of service. So the County has said that we would provide .5 miles of trail for every 1,000 people. Our current county population for the purposes of this example I said is 145,000, so you can see how – you do the math there and that says the County has committed to provide 74 miles of trail. And then you compare that to our existing inventory, which is 45 miles of trail you can identify what our existing deficiency is based on this articulated level of service of half a mile of trail per person.

So based on this, the County has a deficiency of 29 miles of trail. We should have in our CIP projects to make up that deficiency. We should have projects to buy more open space or to develop more trails or to purchase trails or something like that. So that's an existing need.

If you go to the next slide you'll see how we can use that to identify future needs. We project what our population will be in the future, so for this example I just made up numbers. I said in 2040 we will have a population of 200,000. So if you use our existing LOS to do the math you'll see that by the year 2040 we need to have 100 miles of trail. We compare that to what we should have now, which we said already is 74 miles of trail. We don't currently have that but that's what we said we should have by now, and so the future deficiency is that difference. That means that by the year 2040, in addition to bridging our current deficiency we also need to acquire or somehow provide another 27 miles of trail. So that's an important distinction between existing and future deficiencies and impact fees again can only be used for future deficiencies.

So the next slide is actually a chart from another jurisdiction, from Martin County, Florida and this is their CIP. This is a 2012 CIP. I just wanted to show you how they did that exercise that I just talked about. So they have an LOS of 2.47 square feet per resident. That's their adopted level of service for public facilities. They did an analysis of their current inventory, which on the bottom here is 540,000 square feet, and then they did a population analysis just like I suggested. So they said in FY14 they have 150,000 people. They do the LOS and they actually find out that they have 170,000 square feet – more than their minimum level of service. So they do not need in FY 14 to build any new

county facilities. And they projected all the way to 2023 and even then they still find that they have 130,000 square feet extra. So according to this analysis, the CIP will not have any public facilities on it, because they are well within their levels of service. So that's just an idea of how you would use this analysis.

The next slide tells you how to use an LOS to come up with your impact fee and Commissioner Chavez, you may recall we talked about this briefly a couple weeks ago. So this is how you determine an impact fee. You determine your need. In this particular case we've already seen from a previous slide that we will need 27 miles of trail by the year 2040. We estimate that it costs about \$10,000 per mile. That's a made-up number just for purposes of the example. So if you follow the math you'll see that the County has a future capital need of about \$265,000 to provide trail and then if you figure out how many households we'll have we'll see that the impact fee is \$11. That means that for every dwelling unit they are imposing on the county an \$11 trail burden.

COMMISSIONER STEFANICS: One time?

MR. LEIGLAND: One time. Yes. This is capital. This is capital. So we need to build a new trail to support this new dwelling unit and that particular dwelling unit is costing the County \$11.56 for trails. Then you can aggregate this number over all the different capital needs over the water, the roads, to come up with the total impact fee. But my purpose in showing this is to show that an impact fee is not just an arbitrary number that's picked out of the sky. It actually is based on articulated needs and articulated levels of service.

And you can also see from this number that level of service is the key factor. Because if the Commission decided that they wanted to make twice the number of trails, a mile per dwelling unit, this number would likewise double. So I would submit that finding that good level of service is one of the most important policy decisions that can be made because it directly comes not only to what our CIP looks like but what impact fees look like.

And so if you to the next slide, I went back to the Florida county CIP and I wanted to give it a different example. So this is the level of service analysis for their county correctional facility. The level of service is four beds per 1,000 residents. They were in their analysis and they find that by the year 2023 they're going to be right at their level of service. So their CIP is going to say by the year 2024 we need to be expanding our correctional facility. So if they were going to apply that impact fee analysis they would say that we need to probably be thinking about building another 200-bed facility, whatever their planning horizon is and they will probably have to do impact fees about the year 2023 because they're good, their level of service is fine until then. It's not until that future need that they need it. So again, this is a jurisdiction that has already undertaken this exercise I'm explaining.

If you go to the next slide, this is another – and this may be hard to read – this is yet another jurisdiction. I just chose a small town in Kansas, or not a small town – Lawrence, Kansas, but I wanted to show you in their CIP, they actually make the explicit linkage between the project and the plan that it's promoting. So for instance, they say here that they want to do an intersection improvement and that goes to their Chapter 8, goal 2 of their growth management plan. So they have explicitly said, here's the goal and objective that this project is promoting.

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And then if you go to the next slide, I just wanted to show you how they phased it in time. So this is again Lawrence, Kansas, and this just shows you that they've already said that in 2009 we need these projects. In 2010 we need these projects and so on. So they've already done that prioritization in time, and that helps manage work load and manage expectation and all those things I mentioned earlier.

And so just to wrap it up, the last slide, I just wanted to show you what the sources of County capital funds are, and those numbers in parentheses in the bar chart refer to the amount of money we've received from each one of those sources since 2008. So you can see that we have a wide variety of capital funding sources that we would put to the capital improvement plan. Of course our largest as you'll see here is our general obligation bonds. But we have others as well. The revenue bonds, those are bonded against GRT, but as our utility gets more healthy we can also do a bond against utility revenues. We haven't had any special assessment districts but we are embarking on that so that number will change.

And then the last thing I'd like to mention is that even though as I mentioned earlier, the ICIP is important. It really is a small part of the total pie. We've only gotten over the last five years \$10 million compared to all those large sources and you can see that reflected in the pie chart.

So I kind of rushed through that but there wasn't much time, so again, my intent was to just kind of talk about how the CIP fits in. Chapter 12 of the code is all about what I just showed you, adequate public facilities, levels of service and having the CIP, and if the County chooses to go down impact fees the CIP is a very critical part for the reasons that I've shown. So with that, Madam Chair, I'll stand for any questions.

CHAIR HOLIAN: Thank you, Adam. Any questions?

COMMISSIONER CHAVEZ: Madam Chair.

CHAIR HOLIAN: Yes, Commissioner Chavez.

COMMISSIONER CHAVEZ: Adam, on impact fees, if you could just spend a couple more minutes on that because on page 29 you do have impact fees but maybe what you could do is explain to us what impact fees we have now and what we would be proposing in the near development code.

MR. LEIGLAND: Madam Chair, Commissioner Chavez, we currently have an impact fee for fire. We've had that for some time and really, that comes out to the same measure I mentioned earlier. It's about 27 cents per square foot of new development. So that money is used to support the capital requirements of any new developments. So if we built – the example we've been using is a Walmart, and the Walmart is 100,000 square feet, that puts a burden on the fire district to the tune of 27 cents per square foot and then that money stays in the fire district and that is used to buy, for instance, a new fire truck or to build a garage to house the new fire staff. And so that's what the current – and just because there hasn't been a lot of development since 2008 that impact fee hasn't generated that much for us. Also I think that the fire chief would say that it probably, the fee itself maybe is not adequate. There's not appropriate – so that's the impact fee we have now.

The other impact fees would probably – they could be anticipated are those that are in the level of service chart. So if we go back to slide 16, we're articulated six different categories of capital investment and each one of those could be appropriate for

an impact fee because that's what the level of service – that's how you define it is with the level of service. So for instance, in my trail example that's how you could use that. So in theory it could be for anything. It could be for any of the other – well, the state enabling legislation statute limits us somewhat but in theory it could be for any capital need, an impact fee.

COMMISSIONER CHAVEZ: So right now we have one impact fee and it's a fire impact fee and it's generating about a million dollars annually?

MR. LEIGLAND: No, Madam Chair, Commissioner Chavez, that's since 2008.

COMMISSIONER CHAVEZ: Since 2008. Got it. Okay. Thank you, Madam Chair.

CHAIR HOLIAN: Any further questions about the capital improvement presentation?

VIII. Public Comments

CHAIR HOLIAN: Okay, seeing none at this point, first of all I want to commend all you people who are here from the public. First of all for your persistence and for your participation in this process. And so now I would like to open it up to questions and comments from you and please go to the podium there and identify yourself for the record before you speak please.

ORALYNN GUERRERORTIZ: Hi. Thank you. I'm Oralynn Guerrerortiz. First I'd like to ask if in the future we could know what you're going to discuss on a given day. I thought we were going to go over procedures. I haven't read Chapter 12 so I don't have many comments on that point. I did want to state a few things. I think this code – I've read most of it now, and I really do think it's a major improvement. I think it's really well done, but the devil's in the details. And from my perspective as a person that's been involved with land development for 25 years and was regulator here, was a main author of the 1996 code technical sections, I find there's a lot of problems, primarily in the technical sections.

Reading this as a civil engineer there are – I could go on and on for days about questions and concerns. Also, when I consider existing developments that I think you all support, many of those wouldn't be allowed today due to this code. I don't know if you all realize it but this code outlaws mobile homes. You don't specifically state that anywhere, but you do say that all new residences have to have a HERS rating of 70, and you can't have a mobile home that has a HERS rating of 70.

You've also outlawed having two or more horses, typical vegetable gardens. You have created cul-de-sacs that can only have three homes on it. I don't think that's your intention but that's because of a lack of really understanding what some of these things are. They're inadvertent and they're buried, and I think that this really does need a more thorough review from some people beyond maybe your existing staff, frankly.

I'd like to bring up some other minor issues. Just in passing it was stated that the opera was a publicly owned sewer. It's not; it's a private sewer. I'd just mention that. Chapter 12, Steve mentioned that fire vehicles – you must achieve an ISO rating of 7 to 9 for your development, but in the fine print on the far right of that same table it said that's

a countywide situation you need to achieve, and I'm just curious – do you currently have that 7 to 9 ISO rating. And that's true for all things.

It was pointed out today that your trails are inadequate on the order of 20 percent or something like that. What I noticed is it said that trails cost \$10,000 per mile. I'd love to know how that's done. I've built some of the least expensive trails in our community. They were done up in Bishop's Lodge. We hooked nine horses together and walked the route. That was the least expensive trail I've ever done. But I've built plenty of other trails in our community and I can't build one less than about \$50,000 if it's a basecourse trail, per mile. And if it's a paved one it's a lot more. So I think that you need to have more realistic numbers when you're talking about your impacts.

It's stated on page 6 – I love it – that you are repealing Ordinance 2008-10. That ordinance is incredibly problematic, gave engineers lots of extra work, but frankly, we engineers don't need extra work, thank you. But actually, on your code, on page 163, you still reference that same ordinance. Those kinds of little things are problematic throughout, and that section that is on page 163 that references, that stormwater ordinance, some of the main problems with that existing ordinance are actually reference in this new code. So we need to talk about the details of why that is problematic and why it shouldn't be in there.

I could go on. I won't. I'm actually slowly but surely going through the entire code and preparing my own comments on it. But I just ask – I know you all feel like it's rushed. I really do think you do want to adopt this quickly, but I started working on the code rewrite in like 2000. I think I had a newborn in my hands when you guys first started talking about it. And I remember looking at module 4 and spending 30 hours on it and module 4 is like gone. I really started looking at this about a year ago and I only got through the first five chapters before the cutoff time for comments then and I set it aside until you brought it back up at the beginning of October. And I have started working on it again.

But I think there is a lot of stuff in here, and I maybe advise you to hire some technical people who could really look at this and really look at its applications. Thank you.

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

NANCY BURTON: I'm Nancy Burton from Cedar Grove, president of the South Mountain Neighborhood Association, and I was under the impression that Mr. Ross would be addressing my question from last week today.

CHAIR HOLIAN: Ms. Burton, would you like to rephrase your question? Repeat it and then Mr. Ross can answer it.

MS. BURTON: Okay. So at the beginning Mr. Ross talked about how zoning was one of the big issues in the current code and there was – it said that you changed the zoning by doing a master plan. You spent a lot of time talking about the deficiencies of the zoning and my question has to do with the public institutional big blue spot on the zoning map in Cedar Grove. It's my assumption that that was a result of the New Mexico Boys and Girls Ranch's request for master plan approval. And in the title of their request it said master plan approval and rezoning request. So throughout the hearing there was a lot of talk about rezoning in the public hearings and a lot of negative

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comment regarding rezoning of that area, and in the end, in August of 2010 the BCC approved the master plan and the rezoning request.

As a result of that the South Mountain Neighborhood Association put together an appeal for that decision with like I said last week somewhere along of \$20,000 were collected to appeal that decision and we went to court. So the County's statement to the court, several times – five times had statements like this: The appellant describes the BCC's approval of the Ranch's application as impermissible rezoning. The County's response to that is the appellant's statement is incorrect and misleading as rezoning was neither requested nor required.

Let's see. Another one was the County said an application for development permit for a community service facility is not an application for rezoning. And it goes on. Appellant – that would be us, statement is erroneous. The application was not an application for rezoning. The applicant requested a development permit for its master plan.

CHAIR HOLIAN: So, Ms. Burton, what is your question?

MS. BURTON: So my question is, again, on what authority did you change the zoning from agricultural-ranch to public institutional?

MR. ROSS: Madam Chair, I'm sorry. I didn't catch your name.

MS. BURTON: Nancy Burton.

MR. ROSS: Nancy, we had – this was a litigated case and we got an order from the judge that what this Board did was proper. To address the question directly requires that you understand that in New Mexico we have what's called the change of mistake rule. There's six or eight states that have the change of mistake rule in place. What that rule does is require a burden shift. I don't know how to make this any clearer, because this is highly arcane legal stuff, but we got our – we exported our – imported our change of mistake rule in this state from the state of Maryland and the state of Maryland, what happens when you rezone property is that the local government has to establish that a change of mistake justified the rezoning and if it does not justify that it has to address the matter as an administrative adjudicatory proceeding.

This particular case, zoning was granted by the master plan – zoning, not rezoning, and the judge found that that was correct, that there had been no rezoning, which then would have required additional procedural procedures because of our ordinance that created community facilities. And so the judge found, I think properly so that there was no rezoning, only zoning, and therefore the community had the burden of proving that the Board acted contrary to law and the community was unable to do that. There's no easier way to explain that but it's highly arcane. But that's what happened.

MS. BURTON: So what they created was a commercial service facility zone. That's what they created. However, if you look at the SDLC it shows commercial service facility not as a zone but almost like a use. It's not called a use but I say almost like a use, because I asked that question last week in Edgewood. So I guess I would say that it makes more sense to leave it as agricultural zoning and make the use commercial facility or community facility, if you're going to go that route. So that brings me to another question. I guess all I can say is it sounds like a lot of weasel wording in the courts. So you're saying it wasn't rezoned, it was just zoned, because it wasn't zoned in the first place? Is that what you're saying.

MR. ROSS: Yes.

MS. BURTON: So there was no zoning in place, and therefore you could make a zone for it? Is that what you said?

MR. ROSS: Madam Chair, the court found that the property was properly zoned because the request was to permit a community service facility on the property. Community service facility is permitted in a residential zone subject to a discretionary review by the Board for compatibility, and the Board found that it was compatible and the judge upheld that on the applicable statutes.

COMMISSIONER STEFANICS: Madam Chair.

CHAIR HOLIAN: Yes, Commissioner Stefanics.

COMMISSIONER STEFANICS: I'm sorry, and this is not meant to offend anybody, but I think we're asking for comments on the code. We're really not debating court decisions or our actions. So I'm sorry. I just feel that we have a lot of people here who want to comment on the code. And I'm happy to hear comments on the code.

CHAIR HOLIAN: So, Ms. Burton, perhaps you can meet with our County Attorney and Legal staff and talk about the legal points of this decision, but do you have a comment about the code itself?

MS. BURTON: Actually, I do. What the code says now is, the SDLC says that – I don't have the quotation here but it says that if a development does not develop within one year of the approval of this code then the master plan approval expires. However, the zoning would not expire. So that's a problem because also during the hearings we said – and I'm going to quote here. Commissioner Holian says, Thank you, Madam Chair. I have a question for staff. What would happen to the zoning if the Boys and Girls Ranch were to sell before there was any development that occurred? Staff answers, The master plan would be good for a period of five years, so if they didn't come in with any substantial development plan and proceed with any construction then the master plan would expire after five years and the zoning would revert back to residential agricultural zoning.

So the SDLC is now saying that it would not revert back. So that's kind of a – so there's a –

CHAIR HOLIAN: Okay. So that's your comment about the current code versus the new – the new draft code versus the current code. Correct?

MS. BURTON: Right.

CHAIR HOLIAN: Staff will investigate that.

MS. BURTON: And I guess, the other thing that Mr. Ross said was that the SDLC says that with the SDLC there is no need for a master plan, so it just kind of makes us a little bit wary that you have this giant piece of property here that is now not going to require a master plan with a public review.

CHAIR HOLIAN: Thank you, Ms. Burton. Next, please.

PAM GRAVES: Thank you for giving us this time to speak and you guys have had an enormous task in front of you of creating this code and you've done a marvelous job. I'm Pam Graves and I live at 113 Ranch Road. Thank you. And I have two horses. I have a daughter. I'm a member of the 285 Sustainability Alliance. I'm also a cattle rancher and a sixth generation cattle rancher.

But I wanted to bring your attention to stables and other equine facilities in the code. I live in a rural residential area and that is a permitted use. So in my report it outlines my concern. But horses, this is a very conservative estimate, drink ten gallons of water a day. They generate 50 – yes, really; one horse – 50 pounds of manure a day. On Ranch Road – I'm just giving you the example of where I live, but this is also occurring in many places along 285 and can occur across the county. So I just wanted you to re-examine this.

In last year's draft of the code, 2012, these stables were a conditional use and when this code came out the 1st of October they're now permitted, and I don't know why there was a change; I've researched it, I don't know why. But on Ranch Road there are three commercial facilities. Each of these facilities have approximately, give or take one or two, thirty horses. They have 30,000 square feet of buildings. They generate up to 500 cars per weekend day, so when you take in the cumulative effect of those you are looking at between 90 and a 100 trips a day, 500 trips on the weekend. You are looking at 1,500 pounds of manure at just one facility, 4,500 cumulative for the year. That's over 1.5 million pounds of manure. And none of these facilities remove the manure. It's spread out or it's in piles.

There was a manure fire two years ago and there's the incident report. I was there. It wasn't in a pile. It was in an area where it had been spread out and it was only four inches thick. So my point is just that these facilities have a huge impact upon the land, the water use, the neighborhood with dust, flies, odor, noise and traffic. In the code it simply says stables and other equine facilities but yet if you look at a home occupation, home occupations are allowed six cars and our clients a day and then they become a conditional use. So there's a big difference between a stable housing or boarding two horses and a stable boarding 30, 40, 50. There's a huge difference of a stable on 20 acres boarding two horses and a stable on ten boarding 50. So there's nothing in the current code that is looking at these different situations. So I really think that these stables need to be a condition use and I also think you need to give some kind of criteria to the type of stable.

There's a big difference if I just want to board, have a couple of boarders on my property or if I want to have horse shows and clinics. If I'm going to take care of the animals or if the boarders are going to come. It generates a whole different type of traffic flow. So that's what I'm asking you to consider for this code.

CHAIR HOLIAN: Thank you, Ms. Graves. Next please, and please identify yourself.

ROSS LOCKRIDGE: Thank you. Ross Lockridge from Cerrillos, P.O. Box 22. I'm going to speak on the sand and gravel section. I've also been encouraged by United Communities to speak on this issue on their behalf. [Exhibit 2] We believe there is a simple remedy towards correcting the troubling oversight in the adoption draft and that is to place the item 10.19, Sand and gravel extraction as a DCI, the details of which would be discussed during the writing of the reserved DCI section, just as the Sustainable Growth Management Plan dictates, and I quote. Sand and gravel mining will be recognized as a development of countywide impact and be subject to the requirements of the existing mining ordinance.

We haven't heard any convincing rationale for bypassing the plan on gravel mining in the adoption draft, nor have we heard justification for the omission of any

reference to the mining ordinance itself. [inaudible] lax regs for a mom and pop simply enables the large players to all the more easily to start and run largely unregulated, unsustainable operations. That's been our experience in nearby operations.

Whether or not the ordinance is opened the plan suggests that sand and gravel "be subject to the requirements" Which could perhaps be lifted from the mining ordinance. I wish to make clear that there is a place for comparatively low-impact, time-limited borrow sites or non-commercial type operations as might be compatible with the plan's Section 2.2.7, Minor land alteration, and we suggest that that too be reserved. However, we find no mention of minor land alterations in the adoption draft.

Remember that sand and gravel in this draft is no minor land alteration. Besides an expanded arbitrary acreage, it allows "such related uses that may include but are not limited to road material fabrication plants, asphalt hot mix plants, concrete batch plants and the use of mobile equipment such as crushers, stackers and conveyors." These are all simply allowed without any additional comments or guidelines, but there should be guidelines because of the potential for increased impacts and pollution.

There are also some troubling mining-related items found listed in Appendix B, use table, page 7 that could confuse the items in relation with the mining ordinance. In all agriculture-ranching, rural, and rural fringe areas – that's approximately 40 percent of the county – "sand and gravel mining under 20 acres" is conditional, rather than a DCI. Several years ago citizens were invited into the process of helping to create a new sustainable County plan with the understanding and promise that it would serve as the constitution for a future code. It's grievous to those of us who have worked hard for a sustainable local code and it's inexplicable that both the public review draft and now the adoption draft so skewers the plan's directives on this matter.

So let's keep the focus, remove sand and gravel from the adoption draft, because this form of mining has countywide impacts. It is completely justifiable to classify sand and gravel mining and a DCI.

CHAIR HOLIAN: Thank you, Mr. Lockridge. Next, please.

KAREN YANK: I'm Karen Yank. I live in Golden. I am the vice president of the Turquoise Trail Preservation Trust. Really, my big concern in the code is the way all mining is being dealt with, so earlier, Steve mentioned that he had spoke to me before the meeting and we hashed out a few things but for the record I want make sure that the Commissioners understand this as well.

On page 2.2.6 of the code, and it's on the front page of the handout I just gave you, it lists oil and gas and mining and resource extraction as a DCI. And then underneath that, it says regulations. And oil and gas notates the ordinance number, because it's supposed to be mostly upheld or adopted into the DCI section. But the same is happening with hard rock mining. We are taking that whole ordinance and mostly adopting it into the DCI section, so I asked Steve to please notate that on this page instead of saying reserved, and having these odd sections that don't exist or saying Chapter 10, which doesn't really make any sense there. So he's going to rectify that. So I just want to make sure that we have – right now we have one of the most stringent hard rock mining ordinances in the country. It is the most. And I want to make sure it's in place during this time because we don't know when this code is actually going to get adopted, or when we're going to see that DCI section, and I appreciate that they're trying to do that is quick

as possible, because we do have this gold operation looming over us in the Ortiz and this could come through between the new code and the old code. So I just want to have that notated so that we know what we're dealing with if it does come up before the DCI section gets written.

Also, if you look at the use chart on page 7, the last page of it, I talked to Steve about correcting that because all the hard rock mining on that, which I did in red for you guys, it says conditional, and it's supposed to say DCI, and he said he will correct that, that that's just an oversight.

On page 6, where it speaks about what is repealed, it is notated there that the old code is repealed but with an exception of Article III, Section 4, which is the mining ordinance. So it is on that one page but it needs to be more clear so everyone gets that.

Secondly, I really want to give a second voice to what Mr. Lockridge just spoke of with the sand and gravel. All sand and gravel, regardless of size of acreage should be a DCI. We were promised that. Liz Stefanics was at that meeting in the planning stage and it says absolutely. Actually, I wrote that. Steve said go ahead and write it and we'll put it in the plan, so I did the writing of that and it does say all sand and gravel regardless of acreage is a DCI. And now all of a sudden we have this 20 acres. Realistically, every gravel operation is under 20 acres. I don't know of any that's any bigger, and we know in the San Pedro Mountains we have one that's five acres and it produces 40 to 60 trucks a day. So 20 acres is way, way too large. I think it should all be DCI, and then in there, you could have an exemption for private operation, if you are generating gravel for your own roads or something like that. But any commercial gravel operation should be a DCI.

Lastly, the overlay zones. I'm wondering if from what I could read this is more for Steve maybe to answer me. Are you listening? From what I could read from the plan, the overlay zones are informed by – for preservation are informed by the plan. And so in the planning stage we did get preservation written in for the Turquoise Trail and other national scenic byways and other areas of scenic beauty for that overlay zone. When can we implement that? When will that overlay zone take effect for the Turquoise Trail.

CHAIR HOLIAN: Steve?

MR. ROSS: Madam Chair, that's the O-ERP zoning district. We'll do that in conjunction with the zoning map.

MS. YANK: But if it's already written in the plan it almost sounds like it's already implemented.

MR. ROSS: Madam Chair, it's only implemented when it goes on the zoning map.

MS. YANK: So the overlay zones will actually be on that same zoning map?

MR. ROSS: Should be. Yes.

MS. YANK: Okay.

CHAIR HOLIAN: Thank you, Ms. Yank.

WILLIAM MEE: I'm William Mee, 2073 Camino Samuel Montoya, and I'm here talking for United Communities of Santa Fe County. I promise I'm not going to eat my lunch in front of you, but actually the paper bag –

COMMISSIONER STEFANICS: I was hoping it was apples.

MR. MEE: Symbolized the 2,500 comments, maybe it would take up that much space, and so we started with less than an inch draft code and we added these 2,500 comments, and we got about an inch and a half adoption code, is what it's called. And to the casual observer that might look like progress, but because there's so many interrelated chapters in this code any change in chapters 1, 2, 3, 4, 5, they're going to require changes in chapters 6 through 14. So how you edit 2,500 comments is really important.

Some of the editing was done in deleting paragraphs in Chapter 2, but those paragraphs were really essential to really explain chapters 6 through 14. Sometimes editors, they face controversy or getting too complex or lengthy in the way they've edited and so what they'll do is delete the offending paragraph or the page. But in many aspects the adoption code is actually kind of weaker than the original draft and when we had a United Communities meeting we're actually saying that it might even be better to start from the original draft and make these corrections again.

I think editors also may try to simplify a process by saying the applicant must create this study. There are several different types of study throughout the code that are required. And when you do this you may get many versions of that study. Some will be adequate; others will not. A better approach might be to spoon-feed the requirements so they come back the same from every applicant and then you compare a standard of acceptability for them all.

So we're thinking that this thing is still about three months away from being good enough to pass. Thank you.

CHAIR HOLIAN: Thank you, Mr. Mee. Next.

FRANK HERSCH: More material to read. *[Exhibit 3]* Thank you for allowing me to speak. I'll be very brief. I'm Frank Hersch, Galisteo Steering Committee, United Communities of Santa Fe County. I hope you guys can speed read because you've got an awful lot of stuff to consider. And rather than delineating everything that is written I would just like to summarize briefly what we are talking about. For many years the UCSFC has worked diligently with you and the staff to help you prepare this new code. We appreciate the tremendous time and effort you've put in.

Inadvertently we feel that there have been mistakes made, problem areas, to wit, they are first inadequate definitions in certain places, the meaning of words; the interpretation or the meaning of the text; inconsistencies which you've heard about already; and lastly, mistakes due to omission or improper editing. Our Walt Wait has gone through the pages and come up with a 16-page report in which he lists about 100 such instances. I do not wish to go into them now. They are enumerated as examples in the document I passed out. So I won't take your time to go through these.

I would say, however, in agreeing with the former speakers, particularly Bill Mee, that perhaps you should consider a three-month delay during which time you could perhaps have an outside expert, one who is proficient in code analysis, who could consider the viable input from the UCSFC and others, meld this with the current code, and submit recommendations to your Board. We feel that this type of delay would not harm the code itself but perhaps could improve these deficiencies. Thank you.

GLEN SMERAGE: I am Glen Smerage, a resident of Rancho Viejo. As I continue to study the proposed code, I continue to find potential deficiencies in its current contents. First of all, a significant modifier of both the plan and now the proposed code is

the word sustainable. I would contend that we need, probably in Chapter 1 of this document a strong definition of the word sustainable as to be employed in this code. I don't think it is done adequately if at all. And that definition should also convey applicability and I'll get to more of that in just a moment.

Appendix B. If this were in an undergraduate student report this appendix would receive a very low grade from most professors I'm sure. The reason being that it lacks at its foot a legend. What do all those letters in the table mean? An intelligent but not specifically land use planning person might be lost in knowing how to interpret this table. I think you should have a legend at the bottom and that legend should include what you mean by the headings of the first three columns. The first one I know is function. I can't remember the headings for the second and third. What do those mean? In function and in this second columns there are numbers, 11, 15, whatever. What do those mean? Where does one get a hint as to where to find the definitions?

Chapter 6 calls for a number of reports, reviews and statements. I find there nothing about archaeological review, yet, not only in Santa Fe County but the whole of New Mexico archaeology is a very important thing. And indeed, in Rancho Viejo in some land currently under development activity there has supposedly been no archaeological review done, yet it potentially containing archaeological sites. I would contend that something should be added, a section should be added in Chapter 6, probably a subsection actually, addressing archaeological review.

Finally, I'd like to come back to this word sustainable. In one of the later chapters – I don't know if it's 7, 8 or 9, there are lots of numbers and other requirements placed for residential and commercial buildings and development of lot size and so forth. If we have a definition early in this code of sustainable, how will this be applied to community? In Rancho Viejo we have a fairly new community. Probably 95 to 98 percent of it now is residential developed. In the past two years and going into the future there is a start on what I'm just going to label commercial development. For residents already there this development is not deemed as good, partly because it is not compatible in function, placement or architectural design, with the substantial residential community, its features and character that have been established in the last 13 years.

What do we need by a sustainable community? If a community is of substantial future size, as it started in 2000 for Rancho Viejo, are we talking about them being a healthy, viable, attractive, livable community 50 years from now? 100 years from now? What is it that we add to a young community developing to a full, large size? What is it that gets added that decreases the features, the acceptability, the quality of life and so forth for that community as a whole? I would contend that by two pieces are what I label commercial development in the last two years, namely BTI and Easter Seals and their facilities are detriments to the future and sustainability of Rancho Viejo. If more of such functional, architectural and so forth development is added in a similar manner, the sustainability of Rancho Viejo as a community for many people, especially the residents, will diminish.

Finally, in this matter of sustainability of community, compatibility and so forth, I think there has to be some consideration of aesthetics. That is part of the problem of the unacceptability of BTI and Easter Seals. They are totally unaesthetic. And County Commissions, not only here but in many places I've lived throughout the country, do not

like to think in terms of aesthetics and the importance of that consideration to the viability and the sustainability of communities. Thank you.

CHAIR HOLIAN: Thank you, Mr. Smerage.

ROGER TAYLOR: Roger Taylor, resident of Galisteo. As head of the Santa Fe Basin Water Association I'm also on the Steering Committee with United Communities, with a focus on water, so I'm going to keep my comments to Chapter 7, which is the water subsection. About probably eight months ago when the initial draft came out that we were commenting on, we submitted jointly between United Communities and Santa Fe Basin Water Association about six pages of concerns, questions, and suggestions on water. I would like to say that we want to commend staff because over 90 percent of what we submitted was addressed or adopted into this current version, and we very much appreciate it. We think it's added a lot of clarity and a lot of additional structure and definition on water.

There are some things that are still unclear. There's some definitions and some cross-referencing I think that would make this chapter stronger, and so we're going to supply those as a follow-up. And then the one disappointment was that we didn't go further on graywater and blackwater. But overall, we were very pleased with the additional inclusions of the items that we submitted, so we wanted to thank staff for that.

CHAIR HOLIAN: Thank you, Mr. Taylor. Seeing no other people who are lined up to comment, Penny, I think we should talk about our future meetings and what we have planned.

VI. Hearing Schedule for Future Public Meetings, Study Sessions and Public Hearings

MS. ELLIS-GREEN: Thank you, Madam Chair, Commissioners. We do have one more study session planned on Tuesday, November 5th. We got direction at the last study session that we should go ahead with that one. The public meetings, we've got

CHAIR HOLIAN: Penny, can I interrupt you here. What is your suggestion as to what we should cover at that study session so we can let the public know?

MS. ELLIS-GREEN: Madam Chair, we still have procedures and design standards to go through, and subdivisions.

COMMISSIONER CHAVEZ: I have a question.

CHAIR HOLIAN: Commissioner Chavez.

COMMISSIONER CHAVEZ: If I could I have a question on that. There was a question about what was going to be discussed at each of our future meetings and was this not noticed, this agenda with these topic items? This was noticed I'm sure in the standard process that we notice.

MS. ELLIS-GREEN: Madam Chair, Commissioner Chavez, yes. The agenda was noticed. So the agenda has been up on our webpage, but I think the comment was that which specific sections of the code.

COMMISSIONER CHAVEZ: So you'll be more specific and exact in specifically what we'll be discussing at each of the upcoming meetings?

MS. ELLIS-GREEN: Well, the next study session that we have, what we have left to do, I started by saying last time that we were going by topic area. We've done zoning and growth management, so it would leave procedures, design standards and subdivisions.

COMMISSIONER CHAVEZ: That's what we'll discuss next.

MS. ELLIS-GREEN: What we'll try to touch base on is some of the major changes and the highlights from those sections.

CHAIR HOLIAN: Thank you, Penny, and if I could make a comment, just to the public. Sometimes it's very difficult to be able to say exactly what we're going to be covering. We can say what the first topic that we're going to be covering is, but as you can see, sometimes the discussion can be quite detailed and can go on and we don't really want to cut anything off if we're in the middle of an important discussion. So we can really only promise, probably, the first topic that will be discussed. But I think that it's also important to say what are all the topics that could be discussed. Thanks, Penny.

MS. ELLIS-GREEN: Madam Chair, Commissioners, the other public meetings we have, just to recap. Last Tuesday we went down to the Edgewood Senior Center. This evening we'll be at the Nancy Rodriguez Center. Next Wednesday we'll be at the Galisteo Community Center and the following Thursday, November 7th at the Bennie J. Chavez Community Center. All of those meetings are from 6:00 till 8:00 and we usually have at least two people from our code draft team attending each of those meetings.

The other meetings that we have tentatively scheduled were the public hearings that were requested to save a date. The first one of that will be Tuesday, November 19th, and I do understand the MPO is meeting on the same evening at 5:00. So if you wanted to proceed with a public hearing on that date perhaps we could have an afternoon public hearing on that date, and the second date that we had tentatively set of Tuesday, December 3rd of having an evening public meeting. So people that can come during the day would come to the first one and the evening would be the second one, if you want to proceed with that. I don't believe we've yet noticed those two tentative public hearing dates but we are coming up to the time that we would need to notice those.

CHAIR HOLIAN: Okay, thank you, Penny. From my point of view I think we should go forward with the public hearings. I think it's important to start bringing it out to the public at large and to invite comment from the public and so on. So that's my opinion on that. Did the other Commissioners want to weigh in on that? Yes, Commissioner Stefanics.

COMMISSIONER STEFANICS: Madam Chair, I just – I would like to keep November 19th but I'd like to be really clear about the time so that we can tell the staff for the MPO when we are available or not. We have a couple items to vote on at the MPO. I think three of us are on the MPO. Many of us have plans, etc. So for example, I'm out of state already December 3rd. If we keep moving things around we're going to keep losing us. So maybe we need to like stick to the 19th and then figure out a time for ours and a time for MPO right away so we can tell them.

MS. ELLIS-GREEN: Madam Chair, since MPO is at 5:00 I'll take direction from the Commission but we could start either at 1:00 or 2:00 on that day.

COMMISSIONER STEFANICS: Madam Chair, is the purpose of a public hearing to get people here? I would think ours needs to be in the evening.

COMMISSIONER ANAYA: I agree.

COMMISSIONER STEFANICS: And it's for people to come after work. So we could ask the MPO to be finished in an hour, which oftentimes they are, and if they need more time they could bump it up a little bit. But if we're going to have a separate time just for a public hearing we need to accommodate the public.

CHAIR HOLIAN: Commissioner Stefanics, what time is the MPO again? Five o'clock?

MS. ELLIS-GREEN: I was told it was 5:00.

CHAIR HOLIAN: So do you think if we were to notice our public hearing for, say, 6:30, would that be sufficient?

COMMISSIONER STEFANICS: 6:30 to 8:30.

CHAIR HOLIAN: 6:30 to 8:30?

COMMISSIONER CHAVEZ: That's for the 19th?

CHAIR HOLIAN: That's for November 19th.

MS. ELLIS-GREEN: Madam Chair, do we want to keep the Tuesday, December 3rd time as a second possible public hearing?

CHAIR HOLIAN: Commissioner Stefanics, you're going to be gone on December 3rd?

COMMISSIONER STEFANICS: Right. If you have a quorum you should do it. I'm going to a NACo board meeting.

CHAIR HOLIAN: Let me ask the other Commissioners. Are you available December 3rd?

COMMISSIONER ANAYA: I may not be.

COMMISSIONER CHAVEZ: I will be available both days.

COMMISSIONER ANAYA: I'd tell Commissioner Stefanics to go ahead and do it. But I would add that we should have more meetings where the Commission is present with the public after hours, because people work, straight up.

COMMISSIONER MAYFIELD: Madam Chair, I'm fine for December 3rd. I'll just let you all know that November 5th, I've also been appointed to the CAB, that's just a private appointment I have as a citizen, so I will not be here November 5th. I thought that was still a tentative date, so just so the rest of the Commissioners know for the quorum, I will not be here November 5th.

CHAIR HOLIAN: And let me ask the other Commissioners. Will you be available November 5th?

COMMISSIONER CHAVEZ: Yes, I'll be here.

CHAIR HOLIAN: Commissioner Stefanics?

COMMISSIONER STEFANICS: I'm looking. Yes.

CHAIR HOLIAN: Okay. So we have a quorum of at least three.

COMMISSIONER CHAVEZ: The 5th is a study session?

CHAIR HOLIAN: Yes, the 5th is a study session. Okay, so do we have enough direction, Penny? Yes, Commissioner Mayfield.

COMMISSIONER MAYFIELD: Madam Chair, just for me, for my clarification and even for the public, public comment, I appreciate your comments, very

important and a lot of you have made me want to ask myself more questions. So Madam Chair, again, we're supposed to have some more opportunities to digest this. This was released, Penny, thank you, in this new form October 1st. I've asked you a lot of questions in your office about it continually over the last year. I did have discussions with Mr. Ross, I don't know, prior to a couple months ago on this code, extensively. So I still want to know the process. Are we planning on punching this out by the end of the year? Because for me, I have numerous questions. The code's very important for me. I want everybody to know that. It's very important for me to get the code out. However, I've said this and I'll say it time and time again, I don't think it can be arguably cookie cutter for the whole county.

And with that being said, Madam Chair, there are questions that I brought up in this code that I don't – and we've had numerous discussions at this table that even were brought up again. Ms. Guerrerortiz brought something up that I brought up at this table a year ago about asking if the HERS rating was potentially going to affect mobile homes. And that was a discussion that we had maybe a little longer than it should have went on at this table. But I don't know if it was incorporated or not so I looked back at this section and it tells me that the HERS rating is affecting new construction. So I don't know if a manufactured home, because I think we've relabeled mobile homes to now be considered manufactured homes, if that would be considered new construction or not.

But if that's something we're not broaching or we're broaching, I want to make sure that we have time to discuss that before I'm put in a position to vote on something like this. Because otherwise staff is taking direction, arguably maybe from one Commissioner and we haven't voted on that, that this is a HERS rating; this is how it's going to be applied, and I just ant to know that.

CHAIR HOLIAN: Commissioner Mayfield, if I may comment on that particular point. I think that there are some situations where perhaps staff has gotten conflicting direction, perhaps, from the Commissioners, or that there is the perception that there are conflicting points. And so what I propose is – and I'll have to think about when we should do this. But for us to enumerate what those issues are, and then possibly we can see whether there's consensus and if there's not we will have to phrase it in such a way where there's a vote on it.

COMMISSIONER MAYFIELD: Fair enough, Madam Chair, and I'll say Santa Fe is a very beautiful area. Santa Fe County is a very beautiful area. Good or bad, I hope we still have the opportunity for folks to live in mobile homes, so be it that they have to. Because I have many friends and family members that live in mobile homes, manufactured homes. I at one time lived in one. I just hope we don't put our community in a position where they are never able to live in a mobile home for the fact they don't meet a HERS rating standard.

Madam Chair, I'm not finished with the floor right now. I understand the importance of a HERS rating for our community, the benefit of a HERS rating. But because that standard is not met by a manufactured home I sure hope our code is not putting somebody out of the opportunity to have a home. And if that's something that is going to make this code take a little longer then so be it with me. The code has to take a little longer. That's just where I stand, Madam Chair. So I'm not going to say how I'll vote but you guys can kind of figure that one out.

And then there's just some other things, Steve, I wanted to know. A gentleman brought up, and I have his name here, I apologize. I think it was Mr. Smerage. As far as applicability, and then maybe it was a question that I asked you a little earlier. But as far as applicability, this is again for non-residential, residential areas pretty much and where I get with that was one of your answers as well as it's not really going to be applicable, say to government, because government is kind of, I guess, government and I know I talk about I guess the hypocrisy factor a lot with when it comes to government. So when I'm looking at a section when it applies to signage, and when we're talking about signage, and I've talked a lot about 84/285 corridor and we can look at the maps here of the brown area, which is pretty much sovereign owned land, and setback requirements on highways and stuff.

But even, let's talk about our roadways, and of course we have to have signage and I believe there's a lot of sign pollution in Santa Fe County, but we have to distinguish what's going on on roads and stuff. But is signage going to – when we're putting up a road sign and everything else, are we going to have to have setbacks from our roads, or this is not applicable to, say, Santa Fe County? This code is not applicable to Santa Fe County itself.

MR. ROSS: Well, Mr. Chair, it's what I said before. I think that we have always assumed or we have a practice here at the County to run construction projects through the County process to ensure that they comply with the code. We don't know whether our own code applies to us, nor do we know whether our own code applies to, say a school district or somebody like that. But road signs are actually addressed by the road specs, which refers to the Manual of Uniform Traffic Devices, MUTD, which governs the placement of signs, the spacing from the highway surface and all that kind of stuff. So as long as they comply with that, our sign regulations would not apply to that.

COMMISSIONER MAYFIELD: Okay. Well, if we lose a quorum then we're done.

COMMISSIONER STEFANICS: Are you done?

COMMISSIONER MAYFIELD: I guess I'm semi-done. But, hang on, Commissioner Chavez, for one second. Penny, what I would like to have also is the minutes from every meeting that we've done for I guess the last two or three years and have them bound together in a book, so I can go back to the minutes. I think that wouldn't be something bad to have, and I'm going to go back – especially today's minutes and last week's minutes. I don't know when they'll be ready but whenever they're ready. And that's all I have, Madam Chair, and I want to thank the public for your comments, they were great and I'm going to go through a lot of them and I also do agree with many commenters. I think we can have and I think we do have somebody, third party, just giving it a fresh set of eyes for a quick overview of saying, hey, have you missed this or have you missed that.

And Steve, just for my clarification, and maybe if it's just an errata or something, because there might be some oversight. I think you maybe even said it to one gentleman or for one lady that brought it to your attention. Well, did you guys see this? You said, yes, it was just our oversight and we missed this or we missed that. So when the code does – look. I believe the code is going to be approved at one day, I don't know when that day is, but if we find an oversight later, that would be just a pretty simple fix, if it's

an errata fix, if it's that. We missed this. It's in conflict with Chapter 6 and in conflict with Chapter 12, we can kind of just clean that up a little later?

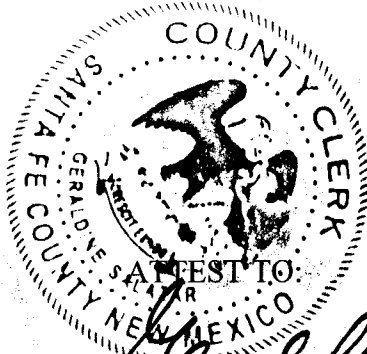
MR. ROSS: Yes, Madam Chair. That's an easy process.

COMMISSIONER MAYFIELD: Okay. Good. That's all I have. Thank you.

IX. ADJOURNMENT

Having completed the agenda and with no further business to come before this body, Chair Holian declared this meeting adjourned at 1:00 p.m.

Approved by:



Geraldine Salazar
GERALDINE SALAZAR
SANTA FE COUNTY CLERK

Kathy Holian
Board of County Commissioners
Kathy Holian, Chair

11/12/2013

Respectfully submitted:

Karen Farrell, Wordswork
453 Cerrillos Road
Santa Fe, NM 87501

REC'D CLERK RECORDED 11/14/2013



Public Works

We Make It Happen

Capital Improvement Planning

Oct 22, 2013



Adam Leigland
Department Director



**If I had six hours to chop down a tree,
I'd spend the first four hours
sharpening the axe**

-Abraham Lincoln



Agenda

- Overview
- Capital Assets
- What is a CIP (ICIP vs CIP)
- Levels of Service
- Impact Fees



Definitions

- **Capital Asset:** Tangible property that cannot be easily converted to cash and lasts a long time. Tangible assets or projects that cost at least \$10,000 and have a useful life of at least 5 years. Real property, infrastructure, facilities, vehicles.
- **Capital Improvement:** The acquisition, construction, or addition of a permanent enhancement or the restoration of some aspect of a capital asset that will either enhance the asset's overall value or increases its useful life.

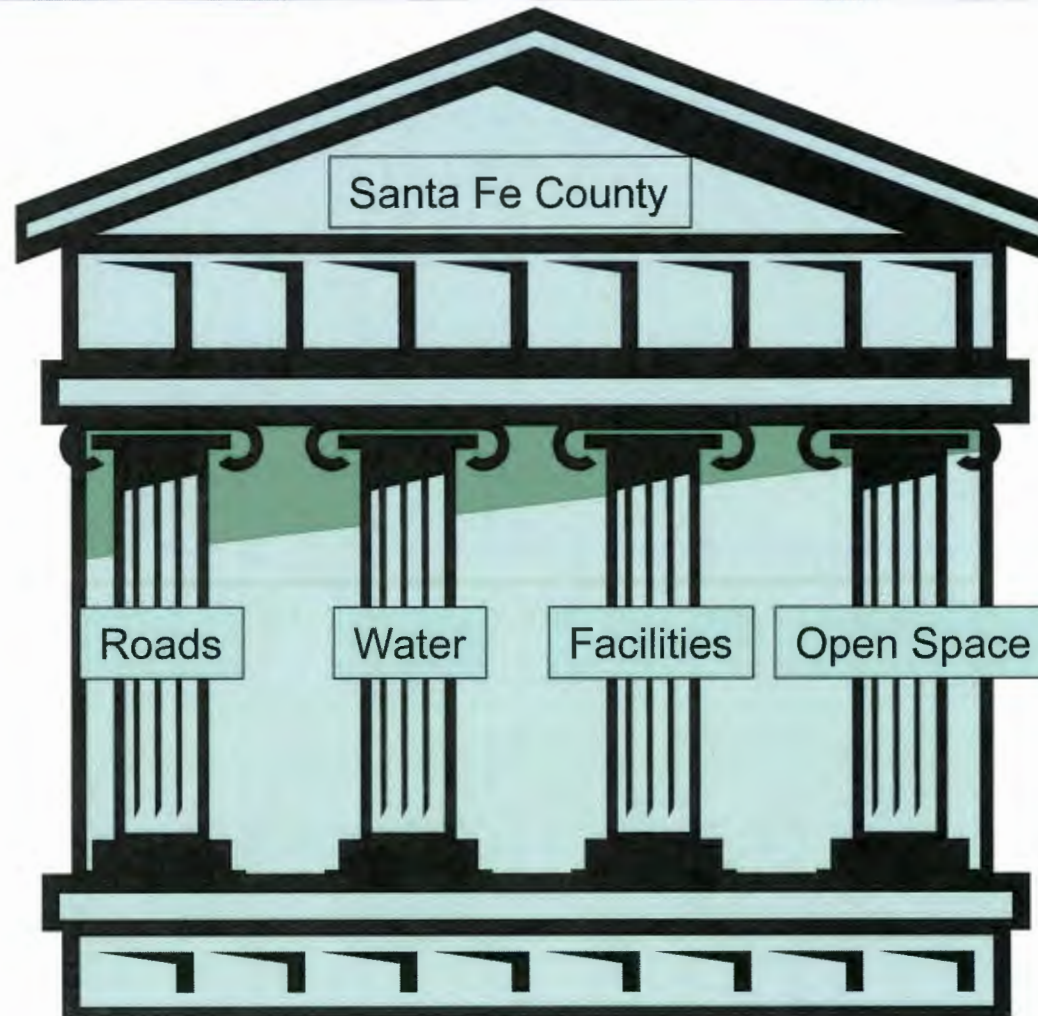


Examples of Capital Improvements

- Build new road
- Pave unpaved road
- Build new facility
- Expand existing facility
- Major renovation of existing facility
- Upgrade/upsized boiler
- Install photovoltaic system
- Replace low-water crossing with bridge



Capital Asset Portfolio



We Make It Happen



Santa Fe County

- 1900 square miles
- 576 miles of road
 - 231 miles improved
 - 345 miles unimproved
- 84 facilities
 - 850,000 square feet
- 7 solid waste transfer stations
- 6800 acres of parks and open space
- 200+ Vehicles
- 148 miles of water lines
 - 4800+ customers
- Wastewater Treatment Plant

Capitalized Value: \$600+M



Capital Improvement Plan

- **Blueprint for planning a community's capital expenditures**
- **List/description of capital requirements**
- **Schedule of projects**
- **Schedule of revenues**



Attributes of a Good Capital Improvement Plan

- **Assesses capital needs against overall goals and objectives**
- **Expresses standards for public facilities as levels of service (LOS)**
- **Multi-year planning horizon (generally 5 or more years)**
- **Needs are prioritized**
- **Differentiates between existing and new deficiencies**



Why Have a CIP?

- *NM Development Fees Act* and *Santa Fe County SLDC* require it
- Coordinates community planning, financial capacity, and physical development (both public and private)
- Workload management/facilitates coordination between capital needs and operating budgets
- Enhances community's credit rating, control of its tax rate, and avoids sudden changes to debt service requirements
- Identifies most economical means of financing capital projects
- Increases opportunities for obtaining federal and state aid
- Focuses attention on community objectives and fiscal capacity
- Keeps the public informed about future needs and projects



ICIP vs. CIP

- Infrastructure Capital Improvement Plan (ICIP) is State program
- “Plays an integral part in priority setting and decision making at the state level and upcoming legislature for state capital outlay.”
- Wish list for local entities
 - Counties, municipalities, tribes, special districts
 - \$2.6 Billion in requests for 33 counties alone



CIP Process

- 1. Identify Needs**
 - 2. Prioritize Needs**
 - 3. Group Needs**
 - 4. Identify Resources and Match Needs to Resources**
- ➡ Capital Improvement Plan**



Starts with the Plan....

5 YEAR PLAN 2010 - 2014



Santa Fe County Sustainable Growth Management Plan (SGMP)



SANTA FE COUNTY

OPEN LAND AND TRAILS PLAN

FOR THE WILDLIFE-MOUNTAIN TRAILS
AND HISTORIC PLACES PROGRAM

SANTA FE COUNTY

RESOLUTION NO. 2012-~~151~~

A RESOLUTION ESTABLISHING PROCEDURES FOR
THE ORDERLY AND UNIFORM ADMINISTRATION OF
THE SANTA FE COUNTY PROCESS FOR ROAD
ACCEPTANCE, DESIGNATION OR RE-DESIGNATION
AND FOR THE VACATION OF COUNTY MAINTAINED
ROADS, THEREFORE REPEALING AND REPLACING
RESOLUTION NO. 1998-119

Whereas, Santa Fe County encompasses a geographical area of approximately 2,000 square miles; and

Whereas, the County is primarily rural with small areas of development; and

Whereas, a comprehensive road system is a necessary and vital to the community; and

Whereas, there are an estimated 1,500 total miles of roads within the County; and

Whereas, of the total miles, approximately 576 miles are recognized roads and maintained by the County; and

Whereas, the County's goal is to provide the best services possible to residents, within the available resources; and

Whereas, the citizens of Santa Fe County continuously request the County provide maintenance on non-County roads; and

Whereas, the Board of County Commissioners desires to have a policy to consider the requests for County maintenance on an equitable and consistent basis;

NOW, THEREFORE, BE IT RESOLVED that the Santa Fe County Board of County Commissioners adopts the following policy, Exhibit A, to this Resolution establishing procedures for the orderly and uniform administration of the

SANTA FE COUNTY CONJUNCTIVE MANAGEMENT PLAN FOR THE SANTA FE BASIN



January 15th 2009

Prepared by:
Santa Fe County Attorney's Office and
County Management Dept. Water / Wastewater Operations

Jemez y Sangre Regional Water Plan

Volume 1: Report



Prepared for:
Jemez y Sangre Water
Planning Council
March 2003



Santa Fe Metropolitan BICYCLE MASTER PLAN

A Comprehensive Plan for the Santa Fe Metropolitan Area

Approved:
APRIL 12, 2012

We Make It Happen.



Policy Guidance

From Metropolitan Bicycle Plan:

- Create more and better bikeways
- Improve safety, design, and maintenance of bicycle facilities
- Improve crossings of roads and other obstacles
- Provide more, better bicycle parking
- Increase bicycle mode share to 10% of all traffic

From Jemez y Sangre Regional Water Plan:

- Manage storm water to enhance recharge
- Consider aquifer storage and recovery of excess water
- Repair leaks in water systems



Level of Service

- Indicator of the extent or degree of service provided by, or proposed to be provided by, a facility
- The capacity per unit of demand for a public facility
- Minimum threshold of service for a public facility below which service should not be allowed to deteriorate



Levels of Service from SLDC

Function	Level of Service
Open Space	8.5 ac/1000 pop
Trails	0.5 miles/1000 pop
Parks	1.25 ac/1000 pop
Sheriff	111 sq ft/1000 pop
Water	0.25 afy/DU
Roads (SDA 1 and 2)	D
Roads (SDA 3)	C



Other LOS Examples

- **County library:** 0.60 square feet/2.0 volumes per resident
- **County facilities:** 2.47 square feet per resident
- **County correctional facility:** 4.0 beds per 1,000 residents
- **County bicycle and pedestrian pathways:** 5.0 linear feet per resident
- **Solid waste:** 1.06 tons/year per resident
- **Wastewater:** 100 gal/day per resident
- **County beaches:** 9 parking spaces (paved or unpaved) per 1000 residents



Road Levels of Service

■ LOS A

- Free-flow operation



■ LOS B

- Reasonably free flow
- Ability to maneuver is only slightly restricted
- Effects of minor incidents still easily absorbed





Road Levels of Service

■ LOS C

- Speeds at or near free flow speed
- Freedom to maneuver is noticeably restricted
- Queues may form behind any significant blockage.



■ LOS D

- Speeds decline slightly with increasing flows
- Density increases more quickly
- Freedom to maneuver is more noticeably limited
- Minor incidents create queuing





Road Levels of Service

■ LOS E

- Operation near or at capacity
- No usable gaps in the traffic stream
- Operations extremely volatile
- Any disruption causes queuing



■ LOS F

- Breakdown in flow
- Queues form behind breakdown points
- Demand > capacity





Intersection Level of Service

	Vehicle Delay	
LOS	Signalized Intersection	Unsignalized Intersection
A	≤10 sec	≤10 sec
B	10-20 sec	10-15 sec
C	20-35 sec	15-25 sec
D	35-55 sec	25-35 sec
E	55-80 sec	35-50 sec
F	≥80 sec	≥50 sec



Identify Existing Needs

1. Establish LOS
2. Inventory current conditions
3. Compare LOS to current conditions → existing deficiencies

Example:

LOS for trails = 0.5 mile/1000 people.

Current county population = 145,000

$145,000 / 1000 \times 0.5 \text{ miles} = 73.5 \text{ miles needed}$

Current County trails = 45 miles

Existing deficiency = $73.5 - 45 = 28.5 \text{ miles}$



Identify Future Needs

1. Determine future growth
2. Evaluate current conditions
3. Compare LOS to future conditions ➡ future deficiencies

Example:

2040 County population = 200,000 (est).

$200,000 / 1000 \times 0.5 \text{ miles} = 100 \text{ miles needed}$

Current inventory = 73.5 miles (from prior slide)

Future deficiency = $100 - 73.5 = 26.5 \text{ miles}$

Impact fees can only pay for future, growth-related deficiencies

LEVEL OF SERVICE ANALYSIS - PUBLIC BUILDINGS - FY14

CATEGORY B

LOS: 2.47 GSF PER RESIDENT

LOS SERVICE AREA: COUNTY

INVENTORY	GSF
Administrative Center	62,000
Agricultural Center	4,730
Building Department	9,636
Community Centers	62,999
Constitutional Offices	60,418
Court Holding	10,094
Courthouse	50,658
Fire Stations	93,771
New EOC	10,600
Old EOC	6,000
Field Ops/General Svcs	5,400
Hobe Sound Annex (Lease)	9,680
Indiantown Gov't. Center	13,544
Old Jensen Beach Library	3,829
Palm City Tax Office (Lease)	2,225
Property Appraiser (Lease)	18,664
Record Storage/ Admin	2,700
Sheriff's Office Facilities	72,029
Supervisor of Elections	11,948
Tax Collector	18,600
Utilities (Lease)	9,500
Total	539,025

FISCAL		GSF	REQUIRED	CURRENT	GSF CUM
YEAR	TOT POP	AVAIL.	LOS	LOS	SURPLUS OR
	1 Apr of FY	1 Oct of FY			DEFICIT (-)
FY14	149,476	539,025	2.47	3.61	169,819
FY15	152,000	539,025	2.47	3.55	163,585
FY16	153,800	539,025	2.47	3.50	159,139
FY17	155,600	539,025	2.47	3.46	154,693
FY18	157,400	539,025	2.47	3.42	150,247
FY19	159,200	539,025	2.47	3.39	145,801
FY20	161,000	539,025	2.47	3.35	141,355
FY21	162,620	539,025	2.47	3.31	137,354
FY22	164,240	539,025	2.47	3.28	133,352
FY23	165,860	539,025	2.47	3.25	129,351



Impact Fee Example

- Trails cost = \$10,000/mile
 - Future need = 26.5 miles (from prior slide)
 - Future need = $26.5 \times \$10,000 = \$265,000$
 - Future population = $200,000 - 145,000 = 55,000$ growth by 2040
 - Future households = $55,000 \div 2.4 \text{ people/household} = 22,916$ households by 2040
 - Total need per household = $\$265,000 \div 22,916 = \11.56
- ➡ Trail impact fee = \$11.56/new dwelling unit

LEVELS OF SERVICE ANALYSIS - CORRECTIONS - FY14

CATEGORY B

LOS: 4.0 BEDS PER 1000 WEIGHTED AVERAGE RESIDENTS

LOS SERVICE AREA: COUNTY

INVENTORY	BEDS
County Jail	456
Direct Supervision	144
Reduced Custody	96
Total	696

FISCAL YEAR	WT AVER TOT POP 1 Apr of FY	BEDS AVAIL. 1 Oct of FY	REQUIRED LOS	CURRENT LOS	CUM BED SURPLUS OR DEFICIT (-)
FY14	156,654	696	4	4.44	69
FY15	159,178	696	4	4.37	59
FY16	160,978	696	4	4.32	52
FY17	162,778	696	4	4.28	45
FY18	164,578	696	4	4.23	38
FY19	166,378	696	4	4.18	30
FY20	168,178	696	4	4.14	23
FY21	169,798	696	4	4.10	17
FY22	171,418	696	4	4.06	10
FY23	173,038	696	4	4.02	4

City of Lawrence
2008-2013 Capital Improvement Plan
Table 1. Consistency of Projects with Horizon 2020 Goals and Community Plans

	Project title	Relevant Chapter, Goals, and Policies
2008		
2008	19th & Louisiana	Chapter 8, Goal 2, Policy 2.4
2008	6th Street ITS	Chapter 8, Goal 2, Policy 2.8 & Goal 6, Policy 6.2
2008	KLINK	Chapter 8, Goal 2, Policy 2.1
2008	23rd & Harper	Chapter 8, Goal 2, Policy 2.4
2008	Ohio Brick Street Renovation	Chapter 8, Goal 2
2008	Technical Rescue Apparatus	Chapter 10, Goal 1, Policy 1.1
2008	Ladder 2 - 630	Chapter 10, Goal 1, Policy 1.1
2008	Engine 6 - 628	Chapter 10, Goal 1, Policy 1.1
2008	Engine 7 - 629	Chapter 10, Goal 1, Policy 1.1
2008	Evidence Storage & Processing Facility - Wakarusa Drive - Phase 1 Construction	Chapter 10, Goal 1, Policy 1.1
2008	23rd & Ousdahl Drainage	Chapter 10, Section 3
2008	Wakarusa Service Center	Chapter 10, Goals 1 & 2
2008	Acquisition /Redevelopment of former Farmland site	Chapter 12, Policy 6
2008	ITC Renovation - Phase 1 of Planning/design	Chapter 10, Goal 1, Policy 1.1
2008	Update Parks & Rec Master Plan	Chapter 9, Goal 1
2008	Fixed-Route Bus Replacement (6 vehicles)	Chapter 8, Goal 4 Chapter 10; Goal 1; Policy 1.1
2008	T-Lift Paratransit Bus Replacement (3 vehicles)	Chapter 8, Goal 4 Chapter 10; Goal 1; Policy 1.1
2008	DeVictor Park - Phase II	Chapter 9; Goals 1 & 2
2008	Burroughs Creek Trail - Phase II	Chapter 9; Goal 1, Policies 1.2 & 1.3; Goal 2
2008	Sidewalk, Haskell, 15th to 23rd	Chapter 8, Goal 5, Policy 5.1
2008	Airport Construct Remainder Taxiway D	Chapter 8, Goal 1, Policy 1.2
2008	Traffic Signal Upgrade	Chapter 8, Goal 2, Policy 2.10
2008	Downtown Light Pole Replacement	Chapter 8, Goal 2, Policy 2.10
2008	Memorial Park Cemetery	Chapter 9; Goal 1, Policies 1.2 & 1.3; Goal 2 Chapter 10; Goal 1; Policy 1.1
2008	Bus cut out at 33rd Street	Chapter 8, Goal 4
2008	Intersection Upgrade	Chapter 8, Goal 2, Policy 2.4
2008	Acquisition/ Renovation of Riverfront Office Space	Chapter 10, Goal 1
2008	Airport Perimeter/Security Fence	Chapter 8, Goal 1, Policy 1.2
2008	East Lawrence Center Parking Lot addition	Chapter 9, Goal 2, Policy 2.2
2008	Benefit District Projects	Chapter 8, Goal 2
2008	Airport Master Plan Update	Chapter 8, Goal 1, Policy 1.2
2008	Kaw WTP - High Service HSKW (c)	Chapter 10; Goal 1; Policy 1.1
2008	Operations and Maintenance Building (c)	Chapter 10; Goal 1; Policy 1.1
2008	SE Area Transmission Main - Above Projects Consolidated	Chapter 10; Goal 1; Policy 1.1
2008	Waterline Rehabilitation and Replacement Program (a) (c)	Chapter 10; Goal 1; Policy 1.1
2008	Security Improvements (b)	Chapter 10; Goal 1; Policy 1.1
2008	Misc Water System Improvements (b) (c)	Chapter 10; Goal 1; Policy 1.1
2008	Pipe Project - All Lower Naismith Valley Deferred from 2005 bond	Chapter 10; Goal 1; Policy 1.1
2008	Pump Station Project - PS25 Improvements (a)	Chapter 10; Goal 1; Policy 1.1
2008	I/I Removal (c)	Chapter 10; Goal 1; Policy 1.1
2008	General Sanitary Sewer Improvements (c)	Chapter 10
2008	General Pumping Station Improvements (c)	Chapter 10
2008	General WWTP Improvements (c)	Chapter 10; Goal 1; Policy 1.1

From Lawrence, Kansas, CIP

City of Lawrence
2008-2013 Capital Improvement Plan
Table 2. List of All Projects For All Years

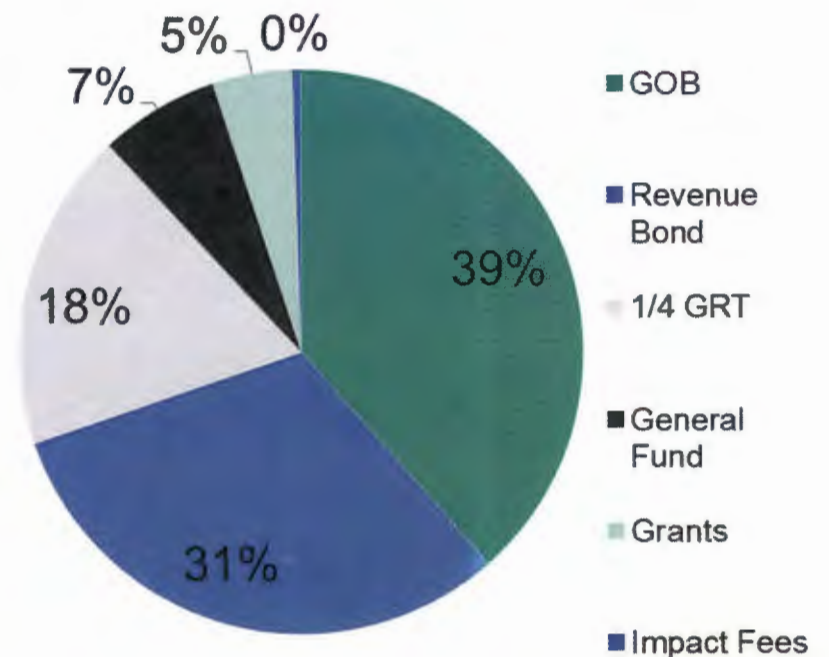
PROJECT TITLE	2008	2009	2010	2011	2012	2013	TOTAL
Green Meadows Park Development		200					200.0
Airport Hanger		400					400.0
Roadways in CLRP (YSI exit via 27th street west)		400.0					400.0
HazMat vehicle - 636		520					520.0
Clinton WTP-LT2ESWTR-UV eng		522.6					522.6
Kaw WTP-LT2ESWTR-UV eng		522.7					522.7
Replace PS#28 0.12mgd with a 1.0 mgd Stn		695					695.0
Install a parallel 12" Forcemain from PS#25		788					788.0
Tire Shop		800					800.0
Quint 4 - 614		875					875.0
Quint for Station No. 6		875					875.0
Downtown Library Expansion		1,000.0					1,000.0
Field house Facility		3500					3,500.0
31st and Haskell to O'Connell Road - construction		4500					4,500.0
Kasold_6th to 15th		4650					4,650.0
Operations & Maintenance Building - cont from '08		4737.3					4,737.3
Maple Street Pump Station		5000	5000				10,000.0
23rd Street ITS		500	500				1,000.0
16" watermain W 6th from SLT to Kanwaka Tank		881.7	881.7	917			2,680.4
Playground Improvements ADA Accessibility		50.0	50			50	150.0
Continuous Sidewalk Prog._Iowa-21st to 31st		100	100	100	200.0	200	700.0
Park & Open Space Acquisition		300.0	300	300	300	300	1,500.0
Training Center Remodel Design			125.0				125.0
Traffic Calming_Lawrence Ave. & 13th St.			150				150.0
Trail Expansion-Stonegate Park to Kasold			150				150.0
Overland & Wakarusa Park Development			300				300.0
Peterson Road Park			325				325.0
Airport Equipment Storage Building			550				550.0

From Lawrence, Kansas, CIP



Sources of Capital Funds

- General Obligation Bonds (\$83.9M)
- Revenue Bonds (\$68.0M)
- General Fund (\$15.0M)
- Quarter-cent GRT (\$39.8M)
- Special Assessment Districts (\$0)
- Impact Fees (~\$1.0M)
- “Other People’s Money” (\$9.9M)
 - Legislative Capital Outlay/ICIP
 - Water Trust Board
 - NMED
 - CDBG
 - NMDOT





Questions/Comments



Commissioners,

We believe there is a simple remedy toward correcting a troubling oversight in the Adoption Draft and that is to place the item (10.19. Sand and Gravel Extraction) as a DCI, the details of which would be discussed during the writing of the "reserved" DCI section, just as the Sustainable Growth Management Plan dictates.

I've also been encouraged by United Communities to speak on this issue on their behalf.

And I quote "Sand and gravel mining will be recognized as a DCI [Development of Countywide Impact] and [be] subject to the requirements of the existing mining ordinance". The title of that Ordinance is "Mineral Exploration and Extraction", Section 5 of the 1996 Land Development Code. Just how that is to be done need not be debated now, but after the Adoption Draft is corrected and adopted.

We have yet to hear any convincing rationale for ignoring the Plan on gravel mining in the Adoption Draft nor have we heard justification for the omission of any reference to the mining ordinance itself.

Whether or not the Ordinance is opened, the Plan suggests that sand & gravel "be subject to the requirements" which could perhaps be lifted from the mining ordinance.

I wish to make clear that there's a place for comparatively low impact, time-limited, borrow sites, or non-commercial type operations, as might be compatible with the Plans Section 2.2.7. Minor Land Alteration, and we suggest that that too be reserved. However we find no mention of Minor Land Alterations in the Adoption Draft.

Remember that sand and gravel in this draft is no minor land alteration. Besides an expanded arbitrary acreage, it allows "[s]uch related uses [that] may include, but are not limited to, road materials fabrication plants, asphalt hot mix plants, concrete batch plants, and the use of mobile equipment such as crushers, stackers and conveyors." These are all simply allowed without any additional comments or guidelines, but there should be guidelines because of the potential for increased impacts and pollution.

There are also some troubling mining-related items found listed in Appendix B: Use-Table, p.7 that could confuse the items in relation with the mining ordinance. In all Agriculture/Ranching, Rural, & Rural Fringe areas, (approximately 40% of the County), "Sand and Gravel mining under 20 acres" is "Conditional" rather than a DCI. Also the following are listed as Conditional & not as DCIs: Metallic minerals mining, Coal mining, Non-metallic minerals mining, Quarrying and stone cutting. This doesn't make sense and we think these items should be deleted from the Use Table altogether subject to the Mining Ordinance.

Several years ago, citizens were invited into the process of helping to create a new sustainable county plan with the understanding and promise that it would serve as the "constitution" for a future code. It's grievous to those of us who have worked hard for a sustainable local code and it's inexplicable that both the Public Review Draft and now the Adoption draft so skewers the Plan's directives on this matter.

So lets please keep the focus, remove sand and gravel from the Adoption Draft. Because this form of mining has countywide impacts, it is completely justifiable to classify sand and gravel mining as a DCI.

To be presented and handed out at the BCC meeting on Oct 22

The United Communities of Santa Fe County (representing 26 communities) has worked diligently with staff and the BCC since 2009 in a concerted, participatory effort to help create a fair and just Code for the SLDP. Before this, we as individual communities, worked on Plans starting in 1995 and 2005. Our intent has always been to assist staff, so as to achieve a new Code, that would replace the 1980 Land Use Code and its more than 300 amendments, which make it too difficult to use for the average citizen.

The County has delayed action on this Code for over one year, without word to its community partners it worked with in developing the Plan, and just recently, having received over 2,500 suggestions, prepared a revised edition, the "Adoption Draft" which is now to be adopted immediately.

We find that there are many faults with this revised code that should be seriously considered either before passage by the BCC or in any case addressed as soon as possible afterwards to avoid complicated negative situations. In our October 17th meeting we agreed by consensus that the Adoption Draft Code is too flawed to be adopted "as is" and then fixed later in a series of public working sessions.

We feel there are four types of problems in this draft document: inadequate definition of words; interpretation or meaning of the text; inconsistencies; and finally, mistakes due to omission or improper editing.

Walter Wait, of San Marcos District, has delineated over 100 instances of these problems in the code in a 16 page report (and these from a quick "single read through"). Other members are compiling their comments and we are anticipating a more than thirty page corrections document. Obviously, we cannot cover all of these in this presentation but would like to point out examples of each of the four problem areas:

1. Inadequate definition: in 1.4.2.28 covers "application for discretionary application approval" "discretionary approval" is mentioned for the first time and there is no definition or where to find it.
2. Interpretation: in 2.1.4.9 ---what is intended? It would appear that "implementation" is the end of the Community Planning process yet there is no requirement for County implementation. For example, San Marcos District has been waiting for over 5 years for the County to develop an ordinance for its approved District Plan---this draft code should require a timeline for developing a new overlay.
3. Inconsistencies: 4.5 states: "An appeal from a decision of the Administrator shall be filed in writing with the Administrator within five (5) working days of the date of the decision"; yet, section 5.14.2 Appeal of Administrative Decisions contradicts by

stating "A party who is or may be adversely affected by a decision of a delegate of the Board, shall appeal the delegate's decision to the Board within thirty (30) days of the date of the delegate's decision." Surely, a five day turn around for an appeal is unreasonable.

4. Mistakes: 10.19.1 Applicability of Sand and Gravel Extraction. Similarly, if the extraction operation covers an area larger than 20 acres, it will be treated as a DCI

But the recommendation was made many times that due to the intensity of the sand and gravel operation . Section 2.2.6.2 of the **SGMP** should apply in that it states clearly that "Sand and gravel mining will be recognized as a DCI [Development of Countywide Impact] and [be] subject to the requirements of the existing [hard rock] mining ordinance", aka, Mineral Exploration and Extraction, Section 5 of the current code.

In summation, as illustrated by our sample problem areas, we find there are numerous issues-problems to be addressed in the Adoption Draft Code and perhaps the most efficient and timely way to improve the document would be to hire an outside organization or person proficient in code analysis. They could take the viable input from the UCSFC and others, compare to the current Adoption Draft and submit recommendations and changes directly to the BCC. They would act as a facilitator for any needed public meetings. Thank you for your time.