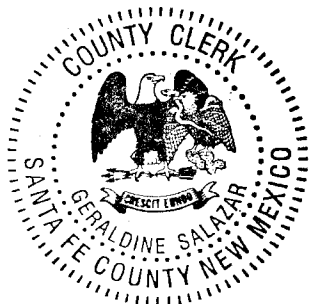


REC'D CLERK RECORDED 11/14/2013

SANTA FE COUNTY
BOARD OF COUNTY COMMISSIONERS
REGULAR MEETING

October 8, 2013

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



COUNTY OF SANTA FE)
STATE OF NEW MEXICO) ss

BCC MINUTES
PAGES: 115

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County Clerk, Santa Fe, NM

SANTA FE COUNTY
REGULAR MEETING
BOARD OF COUNTY COMMISSIONERS

October 8, 2013

This regular meeting of the Santa Fe Board of County Commissioners was called to order at approximately 2:10 p.m. by Chair Kathy Holian, in the Santa Fe County Commission Chambers, Santa Fe, New Mexico.

Following the Pledge of Allegiance and State Pledge led by Gigi Gonzales and Andria Duran, roll was called by County Clerk Geraldine Salazar and indicated the presence of a quorum as follows:

Members Present:

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

Members Excused:

[None]

V. Moment of Reflection

The moment of reflection was led by Audrey Esquibel from the HR Department.

VI. APPROVAL OF THE AGENDA

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- B. Tabled or Withdrawn Items**

CHAIR HOLIAN: Are there any changes to the agenda, Katherine?

KATHERINE MILLER (County Manager): Madam Chair, there are no changes to the agenda as printed on October 1st. However, I do want to bring out that item XVIII. A. 3 has been tabled.

CHAIR HOLIAN: Any other suggested changes, Commissioners? Seeing none, is there a motion?

COMMISSIONER CHAVEZ: Move for approval

COMMISSIONER STEFANICS: Second.

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

The motion passed by unanimous [5-0] voice vote.

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VII. APPROVAL OF CONSENT CALENDAR

A. Consent Calendar Withdrawals

CHAIR HOLIAN: There are no resolutions under the Consent Calendar. Are there any withdrawals?

COMMISSIONER CHAVEZ: Madam Chair.

CHAIR HOLIAN: Yes, Commissioner Chavez.

COMMISSIONER CHAVEZ: I'd like to pull item XIV. A. 1, only because it's an amended final order and I would like to have just a short discussion on that amended final order.

CHAIR HOLIAN: Any other withdrawals? Is there a motion?

COMMISSIONER CHAVEZ: Move for approval as amended.

CHAIR HOLIAN: Is there a second?

COMMISSIONER STEFANICS: Second.

CHAIR HOLIAN: Okay, I have a motion and a second.

The motion passed by unanimous [5-0] voice vote.

VIII. APPROVAL OF MINUTES

A. September 10, 2013

CHAIR HOLIAN: Any changes?

COMMISSIONER STEFANICS: Madam Chair, I'll move for approval.

COMMISSIONER CHAVEZ: Second.

CHAIR HOLIAN: There's a motion and a second for approval of the minutes of September 10, 2013 BCC meeting minutes.

The motion passed by unanimous [5-0] voice vote.

IX. PROCLAMATIONS AND PRESENTATIONS

A. Northwest Wells Presentation

KAREN TORRES (County Hydrologist): Good afternoon, Madam Chair, Commissioners. I have a brief presentation regarding the staff analysis as directed by the Resolution 2013-57. If I go too fast please let me know. I tend to speak a little bit fast. These issues are a little bit complex and so if you have any questions at any time please stop me and I'm happy to try to clarify. And there is a power point presentation.

I'll just start in on the purpose of this. As was previously mentioned, as of Resolution 2013-57 staff was directed to address some issues with the re-permitting of the City of Santa Fe's northwest well. An overview of that, we were asked to research and determine if the protest application for the northwest well is a direct source of supply or if it will be used as a backup source of supply to the city, to determine if the application before the State Engineer to permit the northwest well is consistent with public welfare and conservation, undertake

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protest application for the northwest well is a direct source of supply or if it will be used as a backup source of supply to the city, to determine if the application before the State Engineer to permit the northwest well is consistent with public welfare and conservation, undertake further hydrologic studies of the northwest well to determine the potential effects of the northwest well on the local and regional aquifer and how this affects county constituents, and then also determine if the pending application is in violation of the water resources agreement and the cost-sharing and system integration agreement, which is part of the Aamodt settlement.

So I just want to briefly discuss the northwest well. It might be hard to see on this map but the northwest well is in the far northwest area within the city limits. It was drilled in the fall of 1998 and it was used as an emergency well for times of – at that time there was a severe drought and there was additionally some issues with production of some of the Buckman wells. They OSE allowed the northwest well to be used only temporarily during times of drought and that usage expired in January of 2012. There has been some usage of that well since then but it's been based on emergency authorization.

The maximum amount of water that has been withdrawn from this well is 900 acre-feet and that was in 2002 and the cumulative amount of water that's been taken from this well is 5,377 acre-feet.

Now with the current application before the State Engineer the City of Santa Fe filed an application to drill a supplemental well to supplement the municipal wellfield, which is the wells that are really close within the city limits and really close to the Santa Fe River. These are not the Buckman wells. Now, even though it says the application is to drill a well, that's a standard application. The well was actually existing. They did not propose to drill another well. So it's just a fact of how the applications are listed within the State Engineer. In general we just kind of cross out the drill and say supplement but that wasn't done in this case. This application proposes to use up to 900 acre-feet from this well and the usage of this well will be supplemental to the usage of the municipal wells, the wells that are within the City of Santa Fe. So it will be in addition to that use.

Additionally, what is sought is an expansion of the municipal well water right. Currently the amount of water that has been used from the municipal wellfield is about 3,500 acre-feet and this application proposes to use more water on top of that, to expand that. And also what is proposed per the application is that this well is required to meet the City's strategy to meet future water demand and will be used conjunctively with surface water supply.

So to address what the Board requested as far as public welfare I ended up looking at the current water policy and made the argument that public welfare would be equal to adherence to our current water policy and the City's water policy. To that end I looked at three primary planning documents – the water resources agreement that was completed in 2005; I looked at the City of Santa Fe's long-range water plan which was approved in 2008; and also the Aamodt cost-sharing and system integration agreement which was finalized in 2013.

So the water resources agreement – this is the agreement between the City and the County that we have the understanding that we will buy bulk water from them. It sets up

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some of the parameters for our usage with the BDD and other items as well. It documents the policy that the City and the County have regarding the use of groundwater, especially in light of the significant investment in bringing in surface water into this basin. So this agreement calls for the development of a joint conjunctive use and sustainability strategy and such a strategy will incorporate a shortage sharing agreement and consultation with the County prior to drilling new wells. So looking at that and what has happened to date since 2005, there's been no such strategy that has been jointly developed or adopted, and then the northwest well, as I mentioned earlier, it is not a new well, the application that was filed was a permit to drill a new well and so there was no consultation with the County regarding that but that may have been that the City felt it was not a new well. So through such consultation we would find out these facts.

And additionally, I looked at the City's long-range water plan. Now this is a very healthy document that outlines the policies of how the City plans to meet their future water demand and also talks about several different strategies to meet that. One of the themes relating to groundwater is the sustainability of groundwater, meaning let's not solely rely on groundwater; let's have a diverse portfolio of supply. And this document also calls for a regional cooperation to develop what's called a safe yield criteria for aquifer management and I know that that sounds like an odd term; it's not one that's used very often but what that is is trying to figure out how much water can we take from the aquifer and have enough left over for our future needs? How much recharge can we count on? How much is going out of the basin? So it's an analysis that is going to depend on the well locations, the aquifer in that area, and how much water may be coming in as far as recharge. And that to date, there has not been criteria that have been developed for safe yield but the northwest well application doesn't really go into the conjunctive use strategy of how this well would work in conjunction with surface water, and so that was something that was left undone and really has not been addressed to date.

So we're going to go to the Aamodt cost-sharing and system integration agreement. So what this agreement was about is how – actually it covers many things but the City of Santa Fe's portion of this is to agree to consult with the pueblos on the drilling of any new wells, to look at a conjunctive strategy with them that would again not use as much groundwater and would rely on surface water being imported into the basin and also look at potential impacts that would be on the streams to the north, most likely the Pojoaque stream system and it also called for the County to develop a conjunctive management strategy with the pueblos which the County did accomplish and that was approved by the Board in 2009. But the City has not performed such consultation and a plan at this point doesn't exist as far as how the City would use the groundwater and sensitivity to surface water up north.

One of the things that is a little bit of concern with the northwest well, expanding the usage of their water right or expanding their water rights is that it lead to more depletion to the north and when you start looking at moving your pumping to the north the impact to streams in the north are going to be greater.

So then the next task was to look at conservation of water resources and this was to look at conservation, not only look at GOE saving water with our current potable supply and reducing our current potable demand but conservation also talks about how can we retain our

resources for future needs? What are our future demands? What is our supply and how do we conserve that? So it sort of has a couple different criteria to it. So to address this we looked at the reduction in potable demand. We looked at the population projections in the City's long-range water plan and also projected water demand going into the future.

So the reduction in total water demand – the City of Santa Fe has been great. They've really reduced their potable water supply needs through our conservation efforts. They also have new uses of water, using reclaimed water. It irrigates athletic fields at the MRC and they also sell to different golf courses for outdoor uses. As we like to see they did not increase their potable demand to have those new uses of water, and then also due to the annexation agreement there will be an immediate reduction in their customer base. So approximately 1,000 residential customers and 54 commercial customers. And thank you to the Utility Department for getting me those numbers really quick. So the estimate of that is approximately 220 acre-feet per year of that will be saved, which is not – the City is not required to supply that water to them.

On the next we get a look at what are the needs going into the future? The primary planning document that the City has used is their long-range water plan and they don't have a 40-year water plan on file with the State Engineer. I believe there was one that may have been submitted solely for the northwest well and I have not gotten clarification whether that has been accepted by the OSE as a 40-year water plan by them. So that is one outstanding issue. But looking at the long-range water plan, the data that was used was from the 2000 census and population projections that were done in the early 2000s. We changed a bit since then. We've had a slow-down in the housing market. We've had other things impacting our population, so updating those figures with the most current data is probably a good thing. The population has not grown at the rate that those previous projections felt that it would.

And then additionally, we looked at the amount of water – translating population in to quantity of water. It appears that less water may be needed to meet future growth than what the long-range water plan predicted at that time.

So then going into the fresh water demand, the long-range water plan, the number that they use, we tend to like to look at an interesting figure called gallons per capital per day, and so what that means is how many gallons does a person use every day. So we want to look at how big our households are, things like that. And it tends to be we can do it for residential and commercial.

We have much better information on residential uses than commercial, just due to the transient nature of commercial, like hotels and occupancy and things like that. But the number that was used in the long-range water plan was 110 gallons per capita per day. That's with all the uses. That's for commercial, that's for residential but one of the interesting things was in this figure, 15 gallons per person per day was designated as a non-potable demand. So it was basically usage from treated effluent so it wasn't very clear how that tied into a future demand and really a water right application because to use reclaimed water you're not required to have a water right permit to do so. So it was something that was a little bit non-standard as far as their demand per person. So probably looking at that is something to do in the future.

So additionally we were asked to look at the impacts of the northwest well on the

nearby aquifer. Going back to one of the earlier slides the northwest well is in the far northwest corner of the city. It is surrounded by homes that are served by domestic wells and folks that live in the county. Most of the City of Santa Fe people in this area, constituents, are on the water system so they don't have as much concern as folks on domestic wells do regarding aquifer management. So the impacts to the county are due to the location. The county is going to feel them much more and also due to the nature of the supply of water. So what I ended up looking at was I looked at water level data. I ended up looking at a lot of numbers, I crunched a lot of numbers and I came up with something that I was moderately okay with as far as looking at changes in the aquifer levels. So what I ended up doing was taking – trying to get a visual picture of changes. I had to really think about it a little bit, which was nice to have a challenge, a challenging task.

What I ended up doing – you'll see two slides. One for 2009 and 2011. What 2009 represents is the average water level in this area for 2009 and then the average water level in 2010, and what the map shows is those changes in between. So we have lower water levels here and higher levels here you should see the water levels increasing. So it's – the reason I did this was to get just sort of a quick visual snapshot of changes over time.

Looking at that, so when I tend to do maps red equals not so good and green equals good, so I like to keep that standard. I ended up looking at water levels in the immediate area and again, 2009 represents where I just discussed those changes in the yearly average. So where you have the wells not pumping as much you have the areas looking – the water levels increasing, and where there has been increased pumping the water levels decrease, which is what we expect to see when you are looking at an active dynamic system like this.

One of the things I would like to point out in the 2009 when you see – the dots that are there represent not only the well locations but a quantity of water that they withdrew, so if you look at kind of towards the center of the map you'll see the Buckman wells. So they had an increased diversion in those wells in 2009 and you see the red area there. The water levels went down and they decreased their diversion in 2011 if you go to the next map. The water levels increased, which is what we like to see. Actually that was just on the same slide.

And the reason I chose these two maps to compare to each other, in 2009 the amount of water that was pulled from this area was 4,900 acre-feet. In 2011 that was reduced to 3,618 acre-feet. In the northwest well area, even though – the map came out very interesting. Even though there was uses of water from the northwest well that caused the aquifer in the immediate area to go down, which is expected. Just a distance away from the well the aquifer actually increased, which was a different trend that we saw from previous years. And so how I interpret this is a reduction in the overall use of groundwater benefits our aquifer. Our water levels do increase. And it may not be an immediate trend; sometimes it's a delayed response over time, but I was very pleased to see water levels going up, particularly in that corner they've been going down for a long time.

The next thing I looked at was – there is a – it's called a piezometer and it's basically just a well. It doesn't have a pump in it. So it's called a monitoring well and this one was installed by the USGS and it actually has three levels so we call it a triple level piezometer. So I looked at the one in the middle, which seemed to be the most representative of where the domestic wells are completed in this area. So I plotted the change in water level over time. So

you look at this map – when I plot water levels I tend to put – try to make it look like how you would see it from the surface, so the figures towards the top mean the top of the aquifer; towards the bottom means a lower level. So as the lines go down that means the aquifer is going down. What I do is I lined it up with the northwest well pumping. That is the dashed line that's there, and again I flipped it so when you have more pumping from the northwest well it would go towards the bottom of the graph and less pumping towards the top. And it was interesting. You start looking at the water levels and this well is located one mile away. This is not right next to it; it is one mile away. So you start looking at pumping from the northwest well and the pattern is very interesting. So you see increased – you're going to have less pumping from that well the red line kind of goes up to the top and goes flat and also the blue line right below it the water levels increase. So less pumping, water levels go up. More pumping, water levels go down. So it was a very distinct pattern that shows the impact of the pumping of the northwest well one mile away.

But the one good thing though is looking at this data, when these wells are rested the water levels do go up. So through proper aquifer management and through looking at this type of information we can get a better idea of how to manage the aquifer so we're not impacting anyone.

One of the third things I looked at was looking at the predicted draw down from the northwest well. Now, when we look at trends into the future I kind of tend to look at different scenarios, because we don't know what the future holds for us. Thinking back to the previous slide, the pumping from the northwest well is not going to be continuous. It's not going to be pumping 24 hours a day, seven days a week. But that is a possibility. That well could be operated that way. We don't think it would be but it's a possibility. So I put together what's called a worst-case scenario. So pumping that well every single day, not resting, and looking at what the aquifer – how it may react. I looked at one mile away and then two miles away. So you have two numbers you're actually looking at. So we have this timeframe of a lot of pumping, probably not good management practices and not reasonable, but a worse case. And also you have declines to the aquifer based on other pumping in and around. So you have pumping from other wells that cause the aquifer to go down at a certain rate per year. Then you have the pumping from the northwest well.

So when you add these two numbers up you get a figure of 45 feet of draw down one mile away, that's solely from the pumping of the northwest well, and then you would add about 60 onto that for a regional decline, and this is over a 40-year period. And this is a very conservative analysis and so we're looking at approximately 105 feet of draw down one mile away, and then that lessens to about 90 feet two miles away.

So then I did another scenario, what actually was applied for with the application. So the worst-case scenario is actually more water than was proposed in the application before the State Engineer from the northwest well. The application was to pump 900 acre-feet so I ended up reducing the pumping from that to 558 gallons per minute, so with that I ended up getting 40 feet of draw down one mile away and 24, so there was a lessening of it, but not significantly, but still less, and then again you still have to add the 60 feet of regional decline to get what's predicted to be the draw down in this area.

And then I did a third scenario which is a drought scenario where these wells would

only come on during times of drought, during need. So I ended up picking the months, July and August and having them run for those two months continuously to look at meeting peak demand, to look at that high season, look at maybe no water in the reservoir – all those types of things. And when you take your pumping and limit it to those few months and allow the well to rest in between the draw down is significantly less. So with that scenario we had eight feet of draw down one mile away and this is the lower five feet within two miles, which is one of the numbers we like to see.

And so the next portion is the effect on agreements of which I may have to defer to Steve Ross on some of these so I heard me call his name. What was looked at was the agreements that the City and the County have, and additionally, we also looked at the Aamodt settlement agreement as well which is amongst other parties too. So in looking at all of the things that were discussed, the adherence to public welfare, the conservation of water, it appears that the application to re-permit the northwest well is in conflict with the obligations of the water resources agreement and the existing City and County policy. The application seeks to use the northwest well as a direct source of supply through the permitting process, not as solely a backup route or a drought contingency well.

The use of the well as a direct source of supply could violate Paragraph 8 of the water resources agreement and I'll read the portion of it. The City and County agree to implement conjunctive use management by relying on surface water as a higher priority than the use of groundwater. This could be addressed through dispute resolution language. Additionally, use of the well as a direct source of supply could violate Paragraph 2.6.1 of the cost-sharing integration agreement and in order to reduce and mitigate the effects of groundwater pumping by the City of Santa Fe on the ground and surface water supply that the Pojoaque Basin and City shall develop in consultation with the pueblos a conjunctive management strategy.

And additionally, the settlement agreement, Paragraph 2, Section 5, which I did not quote for this slide.

So I also wanted to give a brief report on what the current status is with the hearing before the State Engineer's Office on this well. The County, we did not protest the granting of the application of this well and so we are unable to be a party in this protest. There are state statutes that allow you protest within ten days after the application is published in the newspaper and whether you like the application or not, the water law is set up where it is a little adversarial that way, where the only way you can actually be part of the hearing and have a say is to protest it. And so the County did not protest the application at that time. But it is – currently it was protested by a few other folks in the area and it is in the administrative hearing process.

The witness reports from the City and the protestants and the State Engineer's Office were submitted to the hearing examiner. The hearing I believe is on a stay right now. I don't know. It may be rescheduled in December at some point but I would have to defer to one of the parties in there to get that exact date. I did end up reading the witness reports from the Water Rights Division which is the recommendation to the hearing examiner and they are recommending that the northwest well should only be used during times of drought. They do feel that that was the original intent of this well. It was drilled for drought purposes and that's the recommendation.

Now, this is not the final determination by the State Engineer but it is what the Water Rights Division is recommending, which again, is consistent with County policy. They also found in this report that the use of this well to expand the municipal wellfield water rights and the water rights are considered declared, because the original City wells were drilled prior to the basin being under the jurisdiction of the State Engineer. We call that pre-basin. For them to expand their water over a period greater than 40 years is not recognized under New Mexico statute. Again, one of the recommendations. And additionally, they're in settlement negotiations currently and I believe if a settlement is not reached a hearing I think is proposed for some time in December.

In kind of looking at and discussing this we came up with some conclusions so the northwest well does seek to – and these are the conclusion based to answer the questions in the resolution. They are seeking to expand the current water right by 1,358 acre-feet and there's no provision to limit this well to as an emergency backup well or a drought well. The nature of the pending application is not consistent with the current policy on aquifer management between the City and the County, or the Pojoaque Basin. The future water demands that have been estimated may be a little bit more based upon more recent data so there may be an opportunity there to relook at what the future needs are. A view of the water level trends shows that there is a relationship between reduced use of the aquifer and the water levels or the aquifer recovering which is intuitive but still it's good to look at the numbers to have something to hang your hat on.

Additionally, the northwest well – the use of it as a direct source of supply could violate the agreements that we discussed earlier, the water resources agreement, the cost-sharing agreement and the Aamodt settlement agreement.

So there is a couple of recommended actions because there's a little uncertainty I believe there is some room to work with the City and sort of get some of these numbers figured out to assist or collaborate on updating the long-range water supply plan, to look at regional coordination of aquifer management, come up with some strategies, discuss the concept of safe yield –how much water we can take out leaving some for the future and not hurting people, and also looking at future water demand, proposing drought scenarios. So we're all on the same aquifer management page, so to speak. We also have the opportunity to partner with the City on looking at storage of water in the aquifer. We have – the County has funding for a project coming up in the next fiscal year for aquifer storage and recovery, for permitting for that, and this is an opportunity again to work with them and work on some strategies to preserve our groundwater. And then also we can work with the City too to work on that comprehensive, joint, conjunctive use/sustainability water resource strategies that was called for in the water resources agreement in 2005. We have our own plan but it would be, I think, in everyone's best interest to coordinate with the City and develop one together, since we do share supply.

And with that I will stand for questions.

CHAIR HOLIAN: Thank you very much, Karen. That was a very good report, very comprehensive. I think that what we will do first is take questions from the Board for Karen or for our Legal staff, and then I would like to open it up to members of the public. I know that there may be some people here from the public who would like to address the

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Board on this particular topic, and then I will open it up for discussion. So first, questions. Commissioner Mayfield.

COMMISSIONER MAYFIELD: Madam Chair and Karen, this was a great report. Thank you. But could we just ask if anybody from the OSE or the City of Santa Fe is here to comment before we take any questions from the Board? I know I asked if we could send out an invite to them. Seeing none. Okay. Thank you. Karen, great report.

CHAIR HOLIAN: Commissioner Mayfield, any questions?

COMMISSIONER MAYFIELD: I'll let the other Commissioners go first.

CHAIR HOLIAN: Any questions? Commissioner Stefanics.

COMMISSIONER STEFANICS: Thank you, Madam Chair and Karen, thanks for the comprehensive report. And we did discuss this when the City either had applied or prior to the application. Can you refresh my memory?

MS. TORRES: As I recall it was discussed actually after the City of Santa Fe had applied, had submitted the application to the State Engineer. The discussions on this started I believe towards the beginning of 2013 but someone correct me if I'm wrong on that, before the Board and the application was filed October 24, 2011.

COMMISSIONER STEFANICS: Okay, so I'm wondering why, and Steve, maybe you can help me. Do you remember any conversation in public about this? Because I'm wondering if we were just trying to be nice and just let it move forward, if we missed the deadline, if we had some - I think we probably expressed some concern, not knowing what to do. So I'm just wanting somebody to refresh my memory about this.

MS. MILLER: Madam Chair, Commissioner Stefanics, actually it was brought forward after the application. I believe Commissioner Mayfield brought it forward and brought forward a resolution that we actually prepare this report for you. So probably about three to four months ago the Board passed a resolution asking for this information.

COMMISSIONER STEFANICS: No, I'm talking about in 2011. What I'm talking about is when we heard that this application was going to be initiated.

STEVE ROSS (County Attorney): Madam Chair, Commissioner Stefanics, I do remember. I don't remember all the dates and particular events involved but I do remember when we first became aware of it the application was already pending and we had missed the deadline to become a party. I think when we first realized it was going on we were at that stage so there was no way for us to personally intervene and make our feelings known.

COMMISSIONER STEFANICS: Okay, so Madam Chair, this is another question for our Attorney, besides the City and the County, does this affect other entities with their water?

MR. ROSS: Madam Chair, Commissioner Stefanics, yes. That's why there's a paragraph in the cost-sharing and system integration system about these matters because the Buckman wellfield obviously affects the NPT Basin and the Aamodt settlement. It also potentially affects really anybody in the Santa Fe Basin, to some degree. Karen generalized to what degree. It varies, depending on where you are, but yes, we're all connected when it comes to water.

COMMISSIONER STEFANICS: So Madam Chair, I'm not on the Buckman Board this year. Has there been any discussion around this particular matter this year?

CHAIR HOLIAN: Commissioner Stefanics, not that I recall.

COMMISSIONER STEFANICS: Okay. Well, thank you. I'd like to just listen to my colleagues.

CHAIR HOLIAN: Commissioner Mayfield.

COMMISSIONER MAYFIELD: Madam Chair, thank you, and Karen this was a great report. Thank you, and any staff member who had any input into this report, thank you. A few follow-up questions specifically to the report as it was presented but also just in line with Commissioner Stefanics' question. Santa Fe County also passed Resolution 2011-88 and in that resolution, it was a resolution adopting recommendations for the water focus group and directing Utility staff to update the connectivity management plan for Santa Fe Basin. In that it provided in the report by the WFG County staff should enter into negotiations with the City of Santa Fe for backup supply through the Sangre de Cristo water system. So a lot of that – was this application filing done prior to this resolution?

MS. TORRES: I apologize. That's the resolution –

COMMISSIONER MAYFIELD: 2011-88.

MS. TORRES: 2011-88. I am not sure. On the signature page, what is the date of the signature page?

COMMISSIONER MAYFIELD: Signature page was June 14, 2011.

MS. TORRES: So, yes, this was. This application was filed October 24, 2011.

COMMISSIONER MAYFIELD: And not go post fact, but has this County started negotiating and working with the City as this resolution directed? Because I see that as a staff recommendation now. Have we already initiated this process?

MS. TORRES: It's not clear to me exactly what negotiations went on with the Utilities Department and the City of Santa Fe related to this matter. I don't think that there was a formal consultation that was performed. There is the – in the context of the Buckman Direct Diversion there is the operating plan that we go through and we try to coordinate on that but it doesn't necessarily address groundwater. So when the County diverts groundwater that the City sells to us we are just a bulk customer. We don't have a say on how the water is taken out. But there may be discussions that I'm unaware of and it may have been informal.

COMMISSIONER MAYFIELD: Thanks. Madam Chair and Karen, great report. Maybe Mr. Leigland knows some more information on that. Also I know one of the recommendations that you just had, Ms. Torres was ASR and in this report and also in this resolution it was already talked about, the ASRs back then. So that was already put on the table also. So I don't know if Mr. Leigland wants to come. Maybe he has some more information on that.

Karen, what you also said, as far as some of the questions I just wrote down here and what Commissioner Stefanics just brought up with the BDD Board, and I guess this would be a question for Mr. Ross. As far as even intervention, and I guess my understanding is that this might be in settlement negotiations, because I don't think the OSE has finally made a ruling on this issue, but why couldn't the County, seeing that we can't come into this process because it's ten days after the application, why wouldn't we have standing or say in this for the fact that we're part of the BDD Board? We're part of BDD membership and part of this initial application was to serve as a supplement for the BDD water system. So why alone

would that not give us standing in this case?

MR. ROSS: Madam Chair, Commissioner Mayfield, there's no such standard. You either apply to intervene in a water rights case by the time set to intervene. There's no exception for participation by other policy making organizations.

COMMISSIONER MAYFIELD: So Mr. Ross, Madam Chair, even if the initial application was being done for one of the reasons to serve as a backup supplement supply for the BDD system, and we sit as part of the BDD system, the operators of the – not the operators but I guess the facilitators, the investors of the BDD, we don't have say in this? We wouldn't have standing in this?

MR. ROSS: Madam Chair, Commissioner Mayfield, it's not a standing question. Who is a party is not an issue here; it's whether the party filed in time.

COMMISSIONER MAYFIELD: Well, could we at least put in a plea to ask for that? To see if we could try to ask the OSE to let us in this?

MR. ROSS: Well, Madam Chair, Commissioner Mayfield, it will be thrown out summarily. These timelines are set by statute and can't be changed.

COMMISSIONER MAYFIELD: Fair enough. Thanks. I'm just going to kind of go through the report really quick, and I'll be brief because I know we want to get out of here today. At least I need to. So – and whoever can answer this. Karen, you're sitting at the podium so thank you for sitting at the podium and thank you for doing this report, but again, if Mr. Leigland wants to answer any of these questions as the Public Works Director. I don't know if Mr. Rodke is here or if Steve Ross, the County Attorney wants to answer any of these questions – please, gentlemen. I know Karen is sitting at the podium but any one of you can jump in for her please. Madam Chair, thank you.

So Karen, on your first page, on page 3, you're saying the total withdrawals right now, what they're doing on the northwest well is about 5,400 acre-feet for the past 13 years. That's on average what they're pulling out?

MS. TORRES: No, that's the total.

COMMISSIONER MAYFIELD: Oh, that's the total.

MS. TORRES: Yes, if you add each year, that's the total amount of withdrawals.

COMMISSIONER MAYFIELD: And they filed – their initial application was for 900 acre-feet, and then they've asked for a supplemental application, the City now has asked for a supplemental application – help me with that number again. Was it 1,400 acre-feet?

MS. TORRES: No. Right now the current application is to use 900 acre-feet from the northwest well and that's based on the capacity of what that well can produce.

COMMISSIONER MAYFIELD: Okay. And I'm just going to jump to another page on your spreadsheet and that is going to be page 12 of the spreadsheet on projected water demands. So on page 12 of your spreadsheet, you have on the – and I'm assuming this is your information; please correct me if I'm wrong. So the City's long-range water plan estimates water demand is 110 gallons per day. This includes residential and commercial users. And my math may be wrong, but that averages out – 110 gallons to – if we did the math on that, versus what the Santa Fe County approved. Because I'm looking at your other

map of the block of northwest well and all the surrounding residential homes that we approve when somebody comes in for a permit at .25 acre-feet. So as I have the math done here that would be 2,954 gallons a year based on that per household, versus for a resident in the City versus 1,300 gallons a year for a permit we would approve? Would that be the right math? I don't know if Adam –

MS. TORRES: One of the things you have to look at is the per-person. So it depends on the household size. I believe the last one is like 2.4, so if we look at a 2.5 and we use 100 so that's 350 gallons per day times 365 days per year, so we're looking at a bit of water there. Let me think. I guess 60,000 may be right. I'd be happy to get a better number for you with a calculator, when I'm not nervous in front of the Board. But one of the things that you have to keep in mind is that it does include their commercial uses. It includes restaurants. It includes the hotels. It includes that sort of thing. So it's a little bit more difficult when you try to apply this number to residences because they're probably using a lot less water, and this is lumped into everything. But I'm happy to try to do some data mining and come back.

COMMISSIONER MAYFIELD: You and I can talk later, but on your second bullet point you have 110 gallons per day also includes an additional 15 gallons per person in non-potable water demand. Where is that non-potable water coming from?

MS. TORRES: It's going to be treated effluent from the City's wastewater treatment plant.

COMMISSIONER MAYFIELD: Okay. And the use of non-potable water does not require water rights or additional well production. It's just reused?

MS. TORRES: Yes. They are allowed to reuse their water. They have the absolute right to. The City of Santa Fe – the current case law does state that once the sewer water hits the pipe it belongs to the pipe owner. And after the City discharges it to the river it does not belong to the City any longer. So it would be – it was put in there as – I don't know if it was a placeholder to look at future demand on effluent. I'm not really sure but that type of water usage does not require water rights to use it and it's presumed that the water usage for non-potable uses, if there's no effluent, there just would be use of water that would eat into potable water.

COMMISSIONER MAYFIELD: Okay. And Madam Chair, on page 7, Karen, and then 4, if you can go between the two just to help me. So you have on page 7 the pending application for the northwest well does not describe a conjunctive strategy on how it would be implemented or addressed diverting 900 acre-feet per year. It's considered a safe yield of water from the aquifer. And on page 4 you have it as – you were also talking about the conjunctive plan on page – where else were you on it?

MS. TORRES: On the water resources agreement?

COMMISSIONER MAYFIELD: Yes, I think that's where. I had page 4; maybe I had the wrong page. Oh, here you go. You have the application states the northwest well is part of the City strategy to meet future water demands and it will be used conjunctively with the surface water supply. Could you explain that for me please?

MS. TORRES: Certainly. That's the language in the application. How that was going to be used isn't actually articulated within the application. We would call it like a pumping schedule or something of that nature, and I guess the closest comparison would be

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to how Santa Fe County was proposing to use backup wells, we were looking at a rolling average where we had a small number of water rights that we could expand upon if we had a drought occurrence. So we had 100 acre-feet as a baseline and we might use 500 acre-feet in one year and then none the rest of the years. So that's how our strategy was, it wasn't very specific written into the permit. There is no language in the permit regarding any limitations on pumping except no more than 900 acre-feet. When a drought scenario would kick in, those types of things.

COMMISSIONER MAYFIELD: Well, this – I'm going to ask this right now. So we can no longer intervene in this permit.

MS. TORRES: That is my –

COMMISSIONER MAYFIELD: I'll just ask Steve.

MS. TORRES: The date has passed to be our own entity as far as a protestant.

COMMISSIONER MAYFIELD: Does the OSE allow for public comment from public entities, Mr. Ross?

MR. ROSS: Madam Chair, Commissioner Mayfield, this is an adjudicatory process, so no.

COMMISSIONER MAYFIELD: No? Okay. So on page 8, the City agreed to develop a conjunctive management plan in consultation with the pueblos. I think you broached that pretty well. I think Mr. Ross was at that signing on the Aamodt also. So how – have they even – I think I heard that they haven't talked to the pueblos, at least in the Pojoaque Basin on this. Right?

MS. TORRES: My understanding is that no such strategy exists at this point. Whether or not there have been discussions between the City and the pueblos I am not aware of that information so I don't – we do not have any information that an agreement has been done.

COMMISSIONER MAYFIELD: Madam Chair, Mr. Ross, how would this affect the Aamodt agreement that was signed onto by the City of Santa Fe also?

MR. ROSS: Well, the Aamodt agreement requires the discussions and they have had extensive discussions with Tesuque Pueblo concerning their obligations.

COMMISSIONER MAYFIELD: There's more than one party besides Tesuque Pueblo that has signed on to the Aamodt agreement. So have they had discussions with all the parties?

MR. ROSS: Madam Chair, Commissioner Mayfield, I'm only aware of substantive discussions with Tesuque Pueblo because they are the most affected by the pumping from BDD, from the Buckman wells and from the northwest well. And I think they've reached agreements with Tesuque Pueblo. So I think they've done if not all of this, some of this.

COMMISSIONER MAYFIELD: But the County's affected by it too in that area, so have they had discussions with us? Have they had discussions with you about it?

MR. ROSS: Madam Chair, Commissioner Mayfield, we're not affected by the Buckman well pumping or the northwest well because we have only one well in the county and that's the Public Works well.

COMMISSIONER MAYFIELD: So how is the Rio en Medio facility served

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up there? Are we not on well water up at the Rio en Medio Community Center?

MR. ROSS: Madam Chair, Commissioner Mayfield, I don't know what the water supply for the community centers is.

COMMISSIONER MAYFIELD: Madam Chair, Mr. Leigland, how are we serviced by water up in Rio en Medio?

ADAM LEIGLAND (Public Works Director): Madam Chair, Commissioner Mayfield, that community center is on the mutual domestic, I believe.

COMMISSIONER MAYFIELD: It's on the mutual domestic? And Madam Chair, Mr. Leigland, the County's looking at acquiring that mutual domestic or are in negotiations we're looking at that right now?

MR. LEIGLAND: Madam Chair, Commissioner Mayfield, Rio en Medio, no. Chupadero, yes.

COMMISSIONER MAYFIELD: I'm sorry. Adam, you bring up another point for me now. Thank you for doing that. So we're working with the Chupadero system and what basin are they in?

MR. LEIGLAND: Madam Chair, they're in the NPT Basin.

COMMISSIONER MAYFIELD: Help me out with the acronym please.

MR. LEIGLAND: Nambe Pojoaque Tesuque Basin.

COMMISSIONER MAYFIELD: Okay. So and I kind of know what's going on there so I don't think it's proprietary, so if the County's looking at taking over that system, this could have a potential impact to our water system, where I think they would have to have some discussions with us on this system too. Would you agree or disagree with that?

MR. LEIGLAND: Madam Chair, again, the hydraulics or the geohydrology, I'm not familiar with. You're right though. If and when the County takes over that system we will have two wells, not just the one we currently have, but actually I guess they have four wells total in their system.

COMMISSIONER MAYFIELD: We're looking at taking over a whole community system up there.

MR. LEIGLAND: That's correct.

COMMISSIONER MAYFIELD: And how many wells are we serving up there? Private residents up there?

MR. LEIGLAND: That system has 55 surface connections currently.

COMMISSIONER MAYFIELD: And we also have – I see the Tesuque water system users behind us. We also have the community of Tesuque water system behind us also, correct? Or not behind us, but the Tesuque water system would be affected or impacted by this also, correct?

MR. LEIGLAND: Madam Chair, Commissioner Mayfield, presumably again there is the Tesuque mutual domestic in that area and –

COMMISSIONER MAYFIELD: Is that in the Santa Fe Basin or is that outside it?

MR. LEIGLAND: That's in the Tesuque Basin.

COMMISSIONER MAYFIELD: The Tesuque Basin. Okay. Okay, that's all I have on that. Thank you, Mr. Leigland. And Madam Chair, I'll be really brief. Thank you for

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that question. Karen, on page 14, the aquifer transfer calendar years 2009 and 2011, is there any way that you have information that would have trends, like say, well before 2009? Would you have any data from there that I could just see at a later date?

MS. TORRES: Yes. Absolutely. I just showed the two maps just for brevity. A little bit of a – almost a separate topic within itself, but absolutely. I do have those maps.

COMMISSIONER MAYFIELD: Okay. Great. And then, on page 15, you said this one well, and wherever the well was is fine, but one well was a mile away that you were monitoring, how deep was that well?

MS. TORRES: Well, actually, the monitoring well has three different small wells within it. The well that I used was about 800 feet deep. Now, that seems really deep but the depth to water in this area is pretty low. It's about 300 feet if I recall, so there's a lot of area that is not within the aquifer, and so we have a shallower one, one at about 800 feet and then there's a deeper one which I believe is 1,800 feet, but I apologize. Don't quote me on that.

COMMISSIONER MAYFIELD: So it could be from 800 to 1,800?

MS. TORRES: Yes. And so they call it triple nested because the aquifer behaves differently at different levels.

COMMISSIONER MAYFIELD: And how deep – Madam Chair, excuse me. How deep is the northwest well?

MS. TORRES: The northwest well is about 1,200 feet deep I believe. I may have to pull my file on it.

COMMISSIONER MAYFIELD: Subject to check. Thanks. Madam Chair, I'm just going to go to our County resolution that was passed on 2013-57. I don't know if Karen would be the appropriate staff member to answer this. But Santa Fe County already did a – passed a resolution on – let's see when we passed this. It was passed on June 11, 2013 and County staff and the Legal Department shall work with the City and others to determine whether the application for re-permitting the northwest well is consistent with public welfare and conservation. So I think that we've already kind of determined a lot of that in today's presentation. Thank you.

Number two is if a breach is determined to exist the Board of County Commissioners shall direct staff to take any and all actions deemed necessary to bring the County's concerns to the Office of the State Engineer. So I guess we can't do anything legally. I think a letter would be sufficient to be filed. I don't know if it would be sufficient but I don't think there would be anything wrong with this Board writing at least a letter to the OSE with our signatures. If you all would agree with that. If not, I'd be happy to sign it. And directly address the breach through appropriate legal actions or take any other actions deemed necessary and proper concerning the pending application. This report does specifically present and spell out what concerns are here, and also number three, County staff shall also undertake further hydrological studies of the northwest well to determine the potential effects of the well on local regional aquifers.

So Karen, I know you did a lot of studying. I think there have been some hydrological reports out there. Have you done any yourself?

MS. TORRES: Well, the analysis I did was mapping the water levels and

trying to evaluate that in the context of well pumping, and then I also did the estimates of draw down within a mile and two miles. Those were what I considered to be the most sensitive areas close by and in the Chupadero conversation, that water system is a little bit further away. I did not calculate past two miles so I don't know exactly what that number would be at this point as far as impacts.

COMMISSIONER MAYFIELD: Thank you. Madam Chair, my last question or will be my last question. Karen, on page 16, on your one-mile and your two-mile radius, can you just kind of give me maybe a visual graphic of where the Santa Fe Basin line would be? The Pojoaque Basin?

MS. TORRES: Oh, sure. I would probably consider almost to the top of that red ring would be more or less where that edge is to the Tesuque.

COMMISSIONER MAYFIELD: The two-mile radius would be it?

MS. TORRES: Yes. You can kind of see – you can see where the erosion lines sort of going towards the north and that would be where the surface water would then flow to the north and that would be your boundary right there. So I did not draw it in but you can sort of see that visual. Is sort of gets a little smooth right below that red line but to the north you definitely can see where there's been some water running there, so that's where it is.

COMMISSIONER MAYFIELD: Madam Chair, thank you. Karen, great report, thank you. That's all I have, Madam Chair. Thank you.

CHAIR HOLIAN: Commissioner Anaya? Karen, I just have a couple of questions. One is that the OSE originally, to my understanding, ruled that the northwest well could be used up to 900 acre-feet a year only in times of drought until January of 2012. What was supposed to happen then to the well in January of 2012?

MS. TORRES: Well, it would no longer be permitted for use. The permit would expire and they would not be able to divert water from that well. Water has been diverted from there but based upon seeking an emergency authorization to use that well.

CHAIR HOLIAN: And the current application is, as I understand it, a request for the City to have the authority to use up to 900 acre-feet a year. Is this in perpetuity? Or does this have a time limit on it?

MS. TORRES: That would be in perpetuity.

CHAIR HOLIAN: Okay. Thank you. At this point I will open this up to the public. Is there anyone here who would like to address the Board on this topic? Roger? Is there anyone else? Please identify yourself.

ROGER TAYLOR: I'm Roger Taylor, president, Santa Fe Basin Water Association. Madam Chair, Commissioners, one quick answer to a question you asked, Commissioner Mayfield. The northwest well is 2,000 feet deep, and the draw is from the depth between 500 and 900 feet, because that is where the cleanest, best, easiest flow is coming from.

COMMISSIONER MAYFIELD: Madam Chair. The draw again, Roger?

MR. TAYLOR: The draw is coming from the depth between 500 and 900 feet. It's just got the purest quality water. It's also the highest flow rate that they get. So a couple of things that I want to comment on. One is just on Ms. Torres' report. It's a complex, detailed look when you start looking at hydrology, and we believe that she has done an

excellent job. The Santa Fe Basin Water Association is representing a combined group of about 18 protestants. These are neighborhood organizations or representatives of neighbors in the areas, neighborhoods in the area. It's at least 1,000 people in the county, perhaps up to 2,000 people.

We have hired a water hydrologist, obviously for our case as we're pursuing it with the City and with the State Engineer's Office, and our hydrologist's report shows very similar findings to the ones that Ms. Torres has just represented to you. So we believe – we just want to commend Ms. Torres for her excellent work.

The other question that was raised here just a moment ago was about being able to join in with the protest. As Mr. Ross has said, the County cannot; it has missed the date and there are very strict structures as to how this process takes place. However, Ms. Torres' recommended actions are a venue that you might want to look at and say how do we pursue our relationship with the City and look to see how we raise our concerns or issues in that venue. We believe her recommended actions are very reasonable.

A couple of things that I think are important to pull out on this issue. We do believe that the City is aggressively pushing to obtain as many water rights as they can to hold for future contingencies, whether or not they can be used or perfected for future use. We do believe – if you remember Ms. Torres did point out that the current recognized perfected water rights of the City are around 3,500. The City has declared that they have actually 4,865, which is a difference of about 1,300+ that have not yet been perfected or put to beneficial use. We do believe that if the City gets this application for the northwest well at 900 acre-feet that they will use that, continuously pumping at 900 acre-feet to bring them up towards the 4,865 they have declared and then they will turn around and look for another 400 to get to that top number.

If we look at the supplemental wells that are currently operating, the one most likely that they would go after, similar to the northwest well in production and quality, would be the one down in the Agua Fria area, which means that this issue would then be coming up again in front of the County as well as the City. This is a supplemental well, so there are legal questions. Supplemental wells are not supposed to be able to be transferred through a permit process to become permanent wells. The other legality of course is the question about the 3,500 acre-feet versus the 4,865. I'd like to point out that the City does have 5,000 acre-feet of Buckman wellfield rights that is not yet put to beneficial use, so even though it's grabbing for these additional 1,300 there are 5,000 it has not yet put to use. So you have to look at that and say does this make sense, based on what you've been seeing from Ms. Torres' report and our own water hydrologist's finding and questioning. The population actually has decreased from the projections of the 2008 census findings and the 2010 findings. So we know the population projections they're using are probably too high for their long-range plan. And we can also say that it appears from our analysis that in the last ten years in this area there has only been one day that the City has had difficulty reaching peak demand, and that is without the use of the northwest well.

So it's very questionable as to why they actually need to do this. We have concerns because if the City does go in this direction pumping it at 900 acre-feet as you've seen from some of the maps Ms. Torres gave you and some that we've seen in our hydrology studies, it

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would reduce the life of a number of GRA area wells, the Tano Road Association wells, by 45 percent. That's a significant longevity of their wells as well as a cost factor for having to drill new wells as replacements.

I think in terms of just the current status of the protest, a couple of updates. We are in settlement negotiations with the City. The Water Rights Division has been in and out observing. We do believe it's very possible we will be continuing on to an OSE hearing and because of the negotiations and because of scheduling, which is very tight, it will most likely be December, but it will most likely be early summer of next year. And then of course whichever party loses will probably appeal, which means we'll be in a two to three-year district court process. So this is extensive, it's expensive, it leaves a lot of residents of the county in doubt as to what's going on. It does have impact on people's residential property rates and resale values in this area when a question like that is hanging out. So these are some of the things to think about.

Obviously we are continuing with our case, in representing this situation. We are trying to settle. Most likely we will be going on to the more official steps. Any questions?

CHAIR HOLIAN: Thank you, Roger. Any questions?

MR. TAYLOR: We do appreciate the consideration and the process that the Commission is going through to look at this. Thank you.

CHAIR HOLIAN: Thank you. I will now open this up to discussion but I want to note that this item is not noticed for action so we cannot take action beyond what is already specified in Resolution 2013-5. Any discussion?

COMMISSIONER CHAVEZ: Madam Chair.

CHAIR HOLIAN: Commissioner Chavez.

COMMISSIONER CHAVEZ: I'll just make, if I can, a quick observation. I don't mean to downplay the issue because it is very complex and very complicated. I do appreciate staff's report. I think that – I don't think that there's been anything left out. I think that maybe we can add to it. But I see two tracks. One is the pending application before the Office of the State Engineer and I think it sounds like we have enough ears and eyes watching that application and I'm hoping that the State Engineer will turn that down based on some of their statements that were part of the report. One is the Water Rights Division report dated July 28, 2013, recommends the use of the northwest well, that it should be allowed only in times of drought. So that's the emergency position that it was originally permitted under and I think that should stay.

The other parallel track that I think we need to follow which is just as significant and maybe more significant than the determination of the Office of the State Engineer would be the recommended action from staff because I think that's where we're dropping the ball between the two local governments, not having the long-range water supply plan in place, not partnering with the City and the pueblos for possible aquifer storage, developing the comprehensive joint conjunctive use plan as a sustainable water resource strategy. Those are the pieces that are missing. I think that's a big reason why we're having this discussion and why the City, for whatever reason was able to submit a permit to change the application for that well. That's their due process.

It may not be right but it's their due process and so if we don't have those discussions

at the front end that's going to continue to happen. We're going to continue to have water companies across the street from each other competing for water and competing for customers. That has to stop. And so I think the other work, staff's recommendations, I would pay more attention to that than to what the Office of the State Engineer might do regarding this one application, because there will be others after this. And if we don't have conjunctive use and our plans in place they'll do end runs around both local governments and both local water companies. Thank you, Madam Chair.

CHAIR HOLIAN: Any further comments? Commissioner Anaya.

COMMISSIONER ANAYA: Madam Chair, Mr. Ross, a few questions. Is there any connection – is there any legal connection whatsoever to the permit that was originally issued to the City of Santa Fe in 1998, I think you said, and the agreement that we had with the City of Santa Fe relative to coordination of conjunctive use? Is there any connection at all, legally?

MR. ROSS: Madam Chair, Commissioner Anaya, that's kind of hard to answer. There's no direct connection. The policy statements that are in our various agreements, the two agreements with the City, however, describe how we're going to manage our water resources. That's the only connection. It's not a direct one.

COMMISSIONER ANAYA: So what's the binding effect of a legal statement like the City and the County agree to implement conjunctive use management by relying on surface water as a higher priority? What is it? If there's no legal merit or teeth then what's the point?

MR. ROSS: Madam Chair, Commissioner Anaya, it didn't say that. That agreement says what it says and it is legally enforceable as described in the agreement. There's no direct connection between the well permit that we've been talking about that's now expired and those agreements except for the fact that they're tied together through the policy statements in our agreements.

COMMISSIONER ANAYA: So, Madam Chair, Mr. Ross, any agreement that we have, whether it's – let's just say our water permits that we have for our wells. The relationship between water and water use is a direct relationship between us as a local government and the Office of the State Engineer as a primary relationship, and then anything else is a secondary relationship. Would you say that's a fair classification or how would you classify it? The primary relationship between water and water use is between the applicant and the entity filing the application, which would be in this case the City of Santa Fe and the Office of the State Engineer?

MR. ROSS: Madam Chair, Commissioner Anaya, yes. That relationship is established by statute.

COMMISSIONER ANAYA: So, Madam Chair, Mr. Ross, is there any connection to the agreements we have between the City and any legal responsibility the State Engineer would have to consider those?

MR. ROSS: Madam Chair, Commissioner Anaya, it has been asserted here that concept of public welfare includes our various agreements with the City and should be considered by the State Engineer in making its decision, whether the application is something that's consistent with the public welfare. Public welfare is a catch phrase for a number one of

very many things that the State Engineer has to analyze when considering an application.

COMMISSIONER ANAYA: So, Madam Chair, Mr. Ross, what I'm trying to understand and what I'm trying to decipher in my mind is whether or not any agreement that we have with the State Engineer or any other governmental entity for that matter has any real credence on whether or not they're going to use in their decision making process. If we rolled up all of our water agreements with the City or anyone else and delineated those in some succinct way to the State Engineer, what response would we get from the State Engineer? I guess what are we doing here as policy makers if we have an assumption of public benefit or conservation of water or alignment of responsibilities to manage a water resource when in reality our intentions or our policies may not align at all with what the statutory requirements are for determining use. Help me understand how the two coincide and mesh between the local government and the State Engineer so that we're doing actions as a Board that have some merit and binding legal authority or else I guess I'd say again, why are we doing it?

MR. ROSS: Madam Chair, Commissioner Anaya, so let me go over it step my step. We have agreements with the City of Santa Fe whereby we both pledge to conjunctively manage our water resources. In other words, we have binding agreements with the City that say that the use of surface water, now through the BDD, is preferred over the use of groundwater. Those are binding agreements. What Karen was talking to you about earlier and which I think is a valid item to be considered by the State Engineer in the current permitting process is whether those agreements that we have with the City making those mutual pledges to conjunctively manage water resources is an element for purposes of this application of the required showing of public welfare. So yes, our agreements with the City absolutely have relevance in that context, whether we're a party or not.

COMMISSIONER ANAYA: So, Madam Chair, Mr. Ross, understanding that we missed the ten-day window to formally get attached to the protest period – the best way I can summarize that – and that's an independent evaluation of need and demand and the issues brought up by the public and the other people that are protesting and will have their day in court, if you will, or day in the adjudicatory hearing, what recommendations do you have for us as a Board to uphold or seek to uphold the obligations that we agreed to adhere to with the City of Santa Fe, separate from the Office of the State Engineer review?

MR. ROSS: Madam Chair, Commissioner Anaya, I thought that the summary that Karen provided in the last page of recommended actions is a really good place to start. We have to, number one, ensure that the agreements that we have with the City are being complied with which means we all need to sit down and talk and mutually plan, conjunctively plan for the use of water resources. So I think that the interim step, given that the State Engineer proceeding is ongoing should be to do what we do a lot, which is talk to the City and try and coordinate our objectives.

COMMISSIONER ANAYA: So, Madam Chair, Mr. Ross and members of the Commission, my colleagues, this goes for any agreement from my perspective. Any agreement that we have with any other entity, whether it be the City of Santa Fe, the Town of Edgewood, the State of New Mexico or any other governmental jurisdiction or otherwise, that we request or we agree – not request – we agree to do certain things that it's our obligation and our responsibility to do. Whether that's our responsibility to do them or

whether that's the other party's responsibility. If we don't, or if another party does not do it I think it's common sense from my perspective for us to officially make notice of the particular item and then seek a formal process to deliberate as to whether or not it still has merit. It might be something that was decades prior that maybe doesn't have relevance but this absolutely – water use and consumption would have relevance I would think.

But does that notice come from you or from the Manager saying x, y, z didn't uphold their obligations that they stipulated or that the Commission agreed to do with them. They didn't follow through. So I guess we need to think about that as a procedural aspect of not just this agreement but any and all agreements where we have things that are not dealt with. The thing that pops in my mind because we got through it after all these years was the annexation, the annexation agreement. And how long that took to finally get evolved. Do you have any comments on that relative to how we might be more aggressive I guess to understand where we have agreements that haven't been upheld and have some type of procedural recommendation as to how we might move to resolution on this and other similar types of issues that come up?

MR. ROSS: Madam Chair, Commissioner Anaya, I think that what we do or what we have done historically is address those issues as they come up and they vary. The issues that come up vary depending on the agreement and depending on the fact situation. I think with respect to this particular issue, I don't think we're quite there. I don't think we've gotten to the point where a formal notice would be appropriate because we're in the middle of the State Engineer proceeding. It's premature to say that what is going on with the City's application right now is violative of these agreements because we really don't know what the State Engineer's final opinion is on this. We've certainly had some hints from the opinion of the Water Rights Division and their opinion of the application. We had some concerns from them. It doesn't mean we shouldn't engage the City informally and I already have through the Attorney's office on this, the City Attorney's office when this came up, I don't know, six months ago. But perhaps at this point it might be a good time to go over and talk to them about this specific issue in the absence of a ruling from the State Engineer and knowing that they're engaged in settlement negotiations with the Engineer that we might be able to shape.

So with respect to this, I think it's probably timely to have a walk over to the City and talk to them.

COMMISSIONER ANAYA: So, Madam Chair, Mr. Ross, when I look at this particular application, I'm starting to break it down into terms of it was pre – the agreement that we had for conjunctive management agreement was after they already had a permit. They already had the 900 acre-foot permit and then in 2005 was when the agreements between the City and the County came about. So I could see that they already had a use prior to any discussion that the County made, that they may say this is a prior use prior to the agreements. What I'm having maybe unclarity about, maybe you can help me, Ms. Torres, is the difference between the 900 and the 1,358 that you're saying that they want to expand use of. Now, the 900, that's one issue but help me understand the difference between the 900 and the 1,358.

MS. TORRES: Certainly. Certainly, Madam Chair, Commissioner Anaya. The City would like to use 900 acre-feet of water from the northwest well, and that's on an annual

basis as a maximum from that, and that's based upon the capacity of the well, how much water they can get from that well. Now, of course with time it will decline but the increase in the water rights – the water rights in the municipal wellfield were permitted and established by the use of the water, so we call it beneficial use for a water law. And it's the opinion of the Water Rights Division that that ship has sailed. They have used their wells. They've been permitted and their recognized use of water is the 3,500 acre-feet.

Now when they actually filed the paperwork on these wells they filed what's called a declaration, they declared more water than that. They declared 5,000-some-odd acre-feet. So they have the ability to use those wells up to that declared amount. They were never able to do that due to the – they weren't to get the capacity. They weren't able to get the wells to pump that much water. So they drilled another well, the northwest well, in 1998, a much deeper well than the City municipal wells, much larger casing and thank you, Roger, for correcting my depth on there. I appreciate that, to 2,000 feet. And so that would allow them more production within that water right permit. And if allowed they could use their pumping from their municipal wellfield and add the pumping from the northwest well, increasing their usage of water totally or increasing their beneficial use of the water under that permit which would increase their water rights. So they would have gone beyond what their historic usage was in the declared wells in the municipal wellfield.

COMMISSIONER ANAYA: Madam Chair, I have one more question and then I think this is something that our Water Policy Committee can delve into further. But if I could ask Mr. Taylor to come forward I have a specific question for him. Understanding, I think, to a point, understanding the meat of the discussion. Did you suggest, and I just want you to be clear on the record whether you did or you didn't, did you suggest that a better use for the City would be drawing from Buckman field instead of the northwest well? I just want to make sure I heard that. If I heard that wrong then clarify it, but I just want to see what your comment is to that.

MR. TAYLOR: Madam Chair, Commissioners, Commissioner Anaya, I did not say that.

COMMISSIONER ANAYA: Okay.

MR. TAYLOR: And I would not make that recommendation. Certainly, I think the OSE has a better idea of how water supply could be maximized but from our own investigations what I can informally say is the City could certainly do a better job of maximizing the water from the City wellfield. There's repairs that could be done. There's leakage that happens that could be attended to, etc. before they go off and even try to grab additional water rights. But there are options they have but they cost money. And I think that there is a cost assumption in play here. The northwest well is probably a less expensive and therefore more viable option in their eyes for producing water than going and attending to an aging wellfield that repairs and things like that cost more money. The Buckman treatment center could probably be run more frequently, but as we know that costs money when you do that when you have detritus in the water, you have contamination or other discharged things that you're dealing with. So oftentimes cost, I believe, comes into a factor here.

COMMISSIONER ANAYA: And Madam Chair, Mr. Taylor I appreciate that you came back and responded to that because I think one of the things we also need to be

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cognizant of its impacts on the northwest well and the concerns that you are raising and others which we can't simply shift those to another area because the reality is in the Buckman wellfield and the area in and around La Cieneguilla and La Cienega is their desires in that whole region are, like the conjunctive plan said in the management agreement, use the surface water and reduce the pull of groundwater. So I think it's a broader discussion, much more complex discussion, and that's why the Water Policy Planning Group and the other discussions we're going to have as a Commission have to encompass everything in the whole region. So we don't shift a potential issue or concern from one area to the other that will re-engage another debate in another part of the county. So very complex, appreciate the work, appreciate Karen's report and I think it's an issue we need to continue to stay on top of and make the best possible decisions based on the best possible information we get from many, many sources. Thank you.

MR. TAYLOR: Madam Chair, Commissioner Anaya, if I could just add to that point. I think that's a very important component and Karen Torres touched on it briefly, but it's one of the things that we're trying to address in our protest, because there is a surface water component to this and that is that as you draw down groundwater it also draws down surface water. So, yes, it is complex because there are multiple effects that are interrelated here. So absolutely accurate.

CHAIR HOLIAN: Commissioner Chavez and then Commissioner Mayfield.

COMMISSIONER CHAVEZ: Thank you, Madam Chair. Based on the conversations we've had so far, I would be supportive of a letter of concern that we would send to the Office of the State Engineer even though we missed the official protest deadline. I think that a letter might not be bad if it's worded right and maybe really would speak to the issue regarding this one permitting process. And then I'm going to go back to staff's recommended action because I think that there's really three points that staff brought up and I don't know if it would be appropriate for us to direct staff to work diligently on those three points, being that Ms. Torres is already pretty much in the thick of it and maybe could work with other staff to get the discussion started with the City to update the long-range water supply plan, to incorporate their framework for regional conjunctive management strategies that addresses the safe aquifer yields, drought scenarios and future water demand, partner with the City to evaluate the viability of storing available surface water for use in drought years and then the third action would be develop the comprehensive joint conjunctive use and sustainability water resource strategy called for in the 2005 water resource agreement.

I think that's where I would hang my hat and if we could give direction to staff, that's what I would hope for in addition to the letter to the Office of the State Engineer because then we've covered, I think both of our bases and we're working – hope to work with our local government, the City, to make sure that the agreements that we sign off on, that we're going to follow through with. We don't always have a good track record on that but maybe we can improve that. Thank you, Madam Chair.

CHAIR HOLIAN: Commissioner Mayfield.

COMMISSIONER MAYFIELD: Thank you. Commissioner Chavez, thank you. A great suggestion. I wholeheartedly support that. I would just ask if we could include a copy of Karen's great report with that letter to the Office of the State Engineer. But also,

Karen, just – I'm just going to throw a theoretical question out there. If Santa Fe County – what's the term for a regular well 7521-F?

MS. TORRES: 72-12-1.

COMMISSIONER MAYFIELD: 72-12-1. So just imagine if everyone one of these wells, homeowner wells in the Tano Road area was afforded what the State Engineer affords people. What is that? Three acre-feet? Or is it one acre-foot right now?

MS. TORRES: If the well serves one home, it's one acre-foot.

COMMISSIONER MAYFIELD: Imagine if every one of these wells wasn't limited to what Santa Fe County does, .25. I'm not saying that these homeowners would be pulling that one acre-foot, but if these homeowners have grass, which they don't, they were watering their livestock. Some of them still have livestock up there. They have their domestic horses and everything else, and they were pulling down one acre-foot, this scenario that you presented us would be a lot different right now. And Santa Fe County has taken great strides of limiting the .25. I just want to put that out there everybody so we know that. And I respect the City having to do their needs and their services. So Santa Fe County's well permit is a 72 – it's a commercial – has to be commercial production well, correct?

MS. TORRES: Our well permit?

COMMISSIONER MAYFIELD: No, I'm sorry. The City of Santa Fe.

MS. TORRES: Okay. Yes. Yes, it's a commercial well.

COMMISSIONER MAYFIELD: So they can withdraw what they want right now. So just put that scenario in there. If we had one acre-foot from all these homeowners, which they don't have. Thank you. That's all I have, Madam Chair.

CHAIR HOLIAN: Commissioner Stefanics.

COMMISSIONER STEFANICS: Madam Chair, I don't believe we noticed this for any action and I think that – and I'm just giving an opinion and I would leave it to our counsel to advise us but I think that the strongest we could do is relay a past resolution that we passed and signed. But I'm more than happy to hear the County Attorney comment on this. I certainly believe there might be some issues here for us but I just want to be clear about what we can legally do.

MR. ROSS: Madam Chair, Commissioner Stefanics, it's just like one of our land use applications. If we send anything over there it's going to be treated as an *ex parte* communication, probably returned to us. We would probably be well served to do what we're doing now which is working through the protestants with Karen to assist them in getting basic factual information to the Engineer through that avenue rather than doing anything directly. We could sent it over there, something over there, but I think it will get returned.

COMMISSIONER STEFANICS: Well, that was going to be my next comment. You know we can learn our lesson by sending something and having it returned, but that's not my issue. My issue is we do not notice any action on this today.

MR. ROSS: Madam Chair, it's clearly a presentation.

COMMISSIONER STEFANICS: Thank you.

CHAIR HOLIAN: I also, Commissioner Stefanics, I did make that point at the beginning. Commissioner Chavez.

COMMISSIONER CHAVEZ: So scratch the letter maybe, but I don't see why

we couldn't direct staff to work on recommended action that they've already come up with. But if we can't even do that I guess then we can't. I think that's unfortunate but the recommendations were good. Keep working on it.

COMMISSIONER ANAYA: Madam Chair.

COMMISSIONER MAYFIELD: Madam Chair, I have a question too.

CHAIR HOLIAN: Gosh. I'm never going to get to say what my opinion is, I guess. Commissioner Anaya.

COMMISSIONER ANAYA: Madam Chair, you're the chair. You can say it whenever you want. Go ahead right now.

CHAIR HOLIAN: No, go ahead. I'll wrap it. Commissioner Anaya.

COMMISSIONER ANAYA: Madam Chair, Commissioner Mayfield, put it on the meeting. Put in on notice and let's have discussion and some action. Thanks.

CHAIR HOLIAN: Commissioner Mayfield.

COMMISSIONER MAYFIELD: Madam Chair, and I respect we have to carry this over to another meeting to actually notice whatever we have to do, but I just want to bring up a point and I'm going to ask the County Attorney for his position on this. Resolution 23-57, now therefore be it resolved as follows, and I'm just going to bring up bullet 2. If a breach is determined to exist the Board of County Commissioners shall direct staff to take any and all action deemed necessary to bring the County's concerns to the attention of the Office of the State Engineer to directly address the breach through appropriate legal action and to take other actions deemed necessary and proper concerning the pending application.

So Legal helped me draft this resolution that I brought forward that was approved. So I think I'm kind of hearing something different that we take to the OSE today. And again, I vetted this last resolution through Legal. Legal helped me draft this resolution and now I'm hearing that we can't take something to the OSE today? It can't be done today? So be it. I'll notice it for the next meeting. This is County – this resolution told me that we could take this to Legal if we determine something wrong to the OSE.

MR. ROSS: Madam Chair, Commissioner Mayfield, it's like I said to Commissioner Anaya a few minutes ago, we're not there. We're not at the point where we can determine that there's been any breach of the City's agreements. It's premature at this point so I'm certainly not going to recommend any action at this point with respect to the City and it's like I said, there's really not an avenue to bring our concerns to the attention of the State Engineer with respect to this application at this point. There is no avenue.

COMMISSIONER MAYFIELD: But then, Madam Chair, Mr. Ross, when would we know if there would be a breach? When the OSE makes it's determination?

MR. ROSS: Madam Chair, Commissioner Mayfield, that would be the time, yes.

COMMISSIONER MAYFIELD: Fair enough. Madam Chair, Mr. Ross, to protest the application, when did Santa Fe County know this application was filed and how long is a application filed for?

MR. ROSS: Madam Chair, Commissioner Mayfield, I'm not sure about the second question. I'm also not sure factually about the answer to the first question. I know that historically, the County has not protested City applications and I think that this is consistent

with that. I don't know when we received it or it would have been open for 30 days, a 30-day window to protest. But the second question I didn't understand.

COMMISSIONER MAYFIELD: Well, I guess the way I'd ask it is if somebody's filed an application with the OSE, pretty significant application asking for initially I think 1,400 acre-feet of water, I would hope that we would know about it if it was filed in Santa Fe County. And I just want to know like how long that application has to be on file with the OSE before it's acted on on the OSE. Like do we – like for future. And I think hopefully our new Water Advisory Board is going to be looking at this. I think we put that in there. When – do we search the legal ads? How do we get notification of stuff like this?

MR. ROSS: Madam Chair, Commissioner Mayfield –

COMMISSIONER MAYFIELD: We have a lot of potential applicants for [inaudible] Hopefully this could be a bill that would be passed that people would know of applications such as this being filed. I just think this is huge for people to know, for governments to know of these type of water grabs out there.

MR. ROSS: So Madam Chair, Commissioner Mayfield, we get the same notice that everybody else does which is a notice in the newspaper.

COMMISSIONER MAYFIELD: So do we have anybody, Mr. Ross, in the Legal Department or anybody I guess in Mr. Leigland's shop. I know this is really pre-Adam's time, that looks for these type of notices? Legal notices, to see if these things are being filed?

MR. ROSS: Madam Chair, Commissioner Mayfield, we don't do it in my office but I think it's historically been done in the Utility Department.

COMMISSIONER MAYFIELD: That's a resolution for the future. That's all I have, Madam Chair.

CHAIR HOLIAN: Thank you very much Karen. I'm going to make a few comments that are in a much more general sense, I think. I think that this is an excellent example of something that I've talked a lot about in the past about why we need regional water planning, at least basin to basin. We are really all in this together – the City, the County, the mutual domestics, water associations, private homeowners – we're all sharing a common resource. And what we need to do in order to use this resource wisely is to work together to have a comprehensive plan, and so I think that that's a really excellent recommendation on the part of staff to move forward on a joint conjunctive use and sustainable resource strategy, and I don't think we even necessarily need a resolution for that because it's actually called for in the 2005 water resources agreement, is my understanding.

So it seems like we could make some overtures to the City, possibly to start working on something like that. So anyway, again, I will emphasize that this is not an action item at this point. This is for discussion only, and we've had a lot of discussion so now I apologize to all of you who have been sitting there patiently waiting for the next two items, but we are human beings up here and I think we need a break. So I'm calling a ten-minute recess till 4:10.

[The Commission recessed from 3:50 to 4:19.]

CHAIR HOLIAN: I'd like to call this regular meeting of the Board of County Commissioners back to order. It is 4:19. We are now on item IX. B but I'm going to suggest, if it is okay with the rest of the Commission here to go to item IX. C first since that probably will not take as much time as IX. B.

IX. C. Presentation Recognizing the Accomplishments of the 2013 Grant Funded Youth Conservation Corps (YCC) – Santa Fe County Fire Department Wildland Hand Crew

DAVE SPERLING (Fire Chief): Thank you, Madam Chair. I'll just give a moment or our wildland hand crew to come up. I appreciate you moving the item up. We'll get these fine young men back out into the field as they're actually getting paid overtime here shortly. But I appreciate the opportunity also to introduce and recognize the accomplishments of our 2013 Youth Conservation Corps, Santa Fe County Fire Department wildland fuels crew. I thought I'd give you a brief overview of the history of the program. This is our third year that we've enjoyed this grant-funded program, put forward by the Youth Conservation Corps. They provide about \$150,000 to Santa Fe County to employ these individuals for a six-month period of time and Santa Fe County contributes in-kind services which I'll detail here in a minute. And it's been a really nice collaborative effort with the Youth Conservation Corps and in particular with their executive director, Wendy Kent, who was not able to be here today. She's got a wedding she's attending. And it is a program that is administered at the state level by the Energy, Mineral and Natural Resources Department.

The purpose of this grant-funded program is to prepare young men and women between the ages of 18 and 25 for a future career in emergency services, in particular wildland or county fire departments, and it provides them first and foremost with exposure to forest thinning projects and they are available for wildland fire response. We provide them education in hazardous fuels project work, such as tree thinning, creating fuel breaks, chip and mulch programs to prevent erosion in the wildland and development of interpretive trails. We also provide education on wildland fire science and forest ecology, and training on how to monitor changes in forest thinning projects over time.

We provide them with the basics on wildland firefighting and they receive a certification as wildland firefighters. They also receive training and experience in basic GPS use to survey sites and power saw use and maintenance, and basic search and rescue techniques. All these are provided by Santa Fe County Fire Department with an emphasis of course on safety and teamwork.

This year, by way of accomplishments, the crew completed 13 acres of treatment in the Talaya Parker area of Santa Fe County open space. They did an outstanding job on this area. They also responded to a number of fires, first and foremost, right out of the chute was the Tres Lagunas fire back in June. They were part of the initial attack assignment responding quickly from Santa Fe County. They were spiked for about ten days up in one of the horse meadows just above Tres Lagunas and worked really closely and hard with State Forestry and the US Forest Service. They were also involved in mop-up.

I had an opportunity to go up there and witness some of the work they had done that

first night and I can assure you that the actions of the crew saved a number of properties with just handwork. They dug line in some very difficult area under some very difficult circumstances. They responded to the 608 fires in the Jemez area, the Thompson Ridge BEAR fire. Perhaps some of you remember there was an article in the paper with a picture of them stacking sandbags, so it wasn't all glamorous work, but a lot of just backbreaking hard work in erosion control. They also responded to the trail fire in the Jemez area, the Schoolhouse fire and the Holiday fire, which was one of their last assignments and that was a Jemez fire and you will remember that unfortunately in surveying that fire a firefighter from the US Forest Service, Token Adams, was tragically killed in an ATV accident. Our wildland hand crew was part of the initial response assignment to suppress that fire and then they were redeployed to the search effort.

They had seven in-county fires and four emergency on-scene support exercises. By way of training, we conducted firehouse orientation and S-130/190 wildland firefighter course, an L-100 incident command class, an L-180, the human factor on wildland fire, a 212 chainsaw class, a firefighter type I class. They all received CEVO, which is certified emergency vehicle operator 3 driving for the fire service. They learned firefighter first aid and CPR. They were trained in ropes and knots, in search and rescue techniques including the use of a Stokes basket, basic packaging in the wilderness, and attended a search and rescue lecture from the New Mexico Mounted Search and Rescue Patrol.

They also had experience provided by Forest Guild in field monitoring techniques, as well of course Santa Fe County HR instruction. So over the last three years our partnership with the YCC has resulted in nine of our 30 individuals going on to become full-time firefighters and three more as volunteer firefighters. And we record that as a particular success.

I would like to introduce the crew now. On my right, Walter Dasheno. He's our crew boss. He's been with the County for six years. He is a full-time grant-funded participant. Walter does an outstanding job in crew leadership and has primary responsibility for overseeing the activities of the crew. He is funded out of a different grant funding source. He's assisted as the assistant crew leader, Jerome Tafoya. Jerome also does an outstanding job and is funded through the Collaborative Forest Restoration Program.

To my left, Bobby Garcia – he's on my right. Bobby Garcia, Connor Lino, Alex Locklin, Justin Maestas, Harrison New, with the crutches. Harrison was one of our team leads and unfortunately injured his knee. Carlos Vigil, Adrian Weber, Aaron Western. Aaron was also a team lead and Gabriel Wiede. Not with us today are Rachel Martinez and Scott Barlow. Both of those individuals early on in this year's program joined the career academy and just last night graduated to full firefighter II status. Missing is our team coordinator, Captain Mike Fuelner. Mike's in a training today, as well as our wildland prevention specialist, Chris Nystrom. And joining us I think Captain Jaffa is still here. He's our volunteer recruitment and retention coordinator. So that is the 2013 wildland hand crew from YCC and Santa Fe County Fire Department, and again I appreciate the opportunity to present them today and I wanted to let you know that their grant-funded period ends next Friday so they will be dedeployed, I guess. We have reapplied for a grant program for next year and I'm hopeful that some of these fine individuals will choose to join us again next year when we get

that grant. So I'll stand for any questions, comments that you may have.

CHAIR HOLIAN: Thank you, Chief and thank you to all of you for your hard work. We really appreciate it. Is the grant application on hold due to the shut down of the federal government?

CHIEF SPERLING: Madam Chair, I imagine at this time – the grant was submitted at the end of July, so it's in the review process. We normally don't hear until December, so perhaps it will mean somewhat of a small delay in notification. But beyond that, I'm hopeful there won't be any problems.

CHAIR HOLIAN: Thank you. So I'll take questions and comments from the Board now, and then we will all come down and shake your hand and take a group photo. Commissioner Stefanics.

COMMISSIONER STEFANICS: Thank you, Madam Chair and thank you very much for your service in participating in this program to all of you. What I'd like to know, Chief, is what – because of all the people listening and watching, if we receive this grant the next year, what is the age requirement, minimum and maximum?

CHIEF SPERLING: Madam Chair, Commissioner Stefanics, the minimum age is 18, maximum is age 25. They can't turn 25 during the term of the grant, so they have to be less than 24 ½ years old to begin with and I think we'll have notification some time in December and be looking at advertising to fill positions beginning in January or February, early February, providing we do receive the grant.

COMMISSIONER STEFANICS: So Madam Chair and Chief, you indicated that it was a six-month commitment?

CHIEF SPERLING: Madam Chair, Commissioner, that's correct. It's a six-month commitment and they don't need any particular prior training, just a desire to work hard and to become a team player in the area of wildland fire and willing to get some really great training. As I say, interest goes a long ways.

COMMISSIONER STEFANICS: So, Madam Chair and Chief, is there an expectation that somebody would apply who would have a GED or a high school diploma?

CHIEF SPERLING: Madam Chair, Commissioner Stefanics, correct. The minimum requirement is GED or high school diploma, with the age limitations as well.

COMMISSIONER STEFANICS: Well, listening to all the skills or all the classes that you all had, I think you're getting ready to go on as professionals, so I hope you will consider this as part of your career track, if you're interested. Thank you very much, Madam Chair.

CHAIR HOLIAN: Commissioner Chavez, and then Commissioner Anaya.

COMMISSIONER CHAVEZ: Well, that's exactly what I was going to say, because of the career path. Chief, you're providing these young men with the opportunity to get that training and that experience but it goes beyond that, because there's the potential for a career behind that. And we desperately need that. And so I want to commend and thank you for doing that. I want to thank all of the members of the Youth Conservation Corps for at least taking – pursuing this opportunity and those of you that are pursuing that career path, congratulations to you. In that regard it's working. So I really want to thank the Chief and all of you for at least going through the process and finding out if it's going to work for you or

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not. It may not be your career path but I think with this kind of experience you'll know in that six months. Right, Chief? If it's something that you really want to do or not. Am I pretty close on that?

CHIEF SPERLING: Madam Chair, Commissioner, that is correct. When we asked the group how many of you are returnees, we have four out of the nine on a team who were members last year and I think they know that this is a great career path for them and the numbers bear it out. Nine out of 30 moving on to career positions I think speaks for a lot.

COMMISSIONER CHAVEZ: That's great. And you know you really have to invest – you, individually have to invest in your career. You have to make that commitment personally and you have to find that dedication to make it work. And if you're doing that, again, my hat's off to you. Thank you, Chief. Thank you, Madam Chair.

CHAIR HOLIAN: Commissioner Anaya.

COMMISSIONER ANAYA: Madam Chair, Chief, as they stood up behind you, each one that stood up you got a little smaller and smaller back there. You've got some good backup right there, I tell you what. I appreciate each and every one of you. If you haven't been privy, those listening and watching in this room to watching or being part of a fire line and watching people work to do it, it's an amazing example, as you said, Chief, of team work and hard work. Many times people in the public might wonder how might a group of people under the influence of fire, a forest fire or wildland fire, that you would be amazed at how these fine young men and many others throughout the country do influence the course of a fire based on those primary precepts of teamwork and coordination, training and hard work. So congratulations to all of you. I very much appreciate your efforts and what you've done and would also encourage you all to consider continued application and service to the county and the citizens. Thank you very much. Thank you guys very much.

CHAIR HOLIAN: Commissioner Mayfield.

COMMISSIONER MAYFIELD: Madam Chair, thank you, chief. Thank you gentlemen and ladies who aren't here today. I heard some ladies' names in there. Thank you for the work you do and I do think it's a great path to go down. Chief, the work they do is extremely important to all of us. It's preventive firework also. You guys are out there taking care of a lot of this dead and downed debris that we have. There's a lot of it out in Santa Fe County. I know that we also need to do some river mitigation out there, of our bosques out there. They need that training. Chief, I think you're putting in for some of those grants also, so hopefully you're successful and fruitful in that, because there's a lot of that work out there.

But Chief, so I know and hopefully for continued, for the gentlemen and ladies out there, as a career path, are they able to collect benefits? Can this count towards PERA time for them if they continue to re-up or re-apply with us?

CHIEF SPERLING: Madam Chair, Commissioner, they receive some County benefits while they're working as term employees. I don't believe it counts towards PERA accumulation, as a six-month term.

COMMISSIONER MAYFIELD: Okay. And then you mentioned they assisted on the Tres Lagunas, right? So what type of work were they doing on that fire line?

CHIEF SPERLING: Madam Chair, Commissioner Mayfield, so in their initial attack assignment it was hard hand labor, digging fire line, protecting homes that were in the

path of the fire from the fire creeping across the ground and connecting with structures on ground fuels. So it means going out with shovels and other hand tools and scraping the vegetation away to get to bare earth. And there were a number of areas that I saw where the fire during the night had come down and hit their fire lines and the structure was saved. I also saw where they dug a fire line of a very steep hillside in an effort to prevent the fire from moving into Holy Ghost Canyon. Eventually the fire jumped that fire line and I think they dug several others in the same area, and I was amazed at the steepness of the terrain and the area that they worked. It is a testament to the hard and fast physical work that's involved in fighting a wildland fire.

You see air tankers and helicopters on the news but what puts out a wildland fire are firefighters on the ground doing hard handwork, and that is what happened on this fire. It was the hard work of these young men and women as well as many others from the Forest Service and other agencies around that saved the day in this area.

COMMISSIONER MAYFIELD: Thank you all for your hard work and great efforts and I look forward to seeing you all apply for permanent jobs in our department. I think hopefully the Chief has some open. I hear you were hired too so hopefully we have some more positions out there. Thank you, Chief. Thank you all for your work.

CHAIR HOLIAN: I would also like to commend our Fire Department for working with youth in doing these kinds of programs. Fighting wildland fires and learning how to reduce risk from wildland fires are jobs that are not going to go out of style any time soon. As we have experienced, as we all know, even more destructive fires in our wildland areas, these skills are even more in demand. And we know that we have many areas in Santa Fe County that are wildland-urban interface areas and anything that we can do that mitigates the risk will pay off in the long run, both in saved lives and saved homes. I know that sounds really, really dramatic, but it's true. So thank you all for your hard work and we will come down, shake your hand, congratulate you and take a group photo.

[Photographs were taken.]

IX. B. Update and Discussion and Possible Action on Nomination for District 50 House Representative Seat *[Exhibit 1: Supporting Material and Letters]*

CHAIR HOLIAN: The reason why we are hear today is sad. The untimely loss of Representative Easley and I just want to extend my deep sympathy to his family and friends. Nevertheless, our duty as a Board is to make a recommendation to the Governor for an individual to fill out Representative Easley's term. And we put this item on our agenda today so that we could hear from those individuals or representatives of those individuals who have submitted letters of interest to fill the District 50 House Representative's seat and who are here today. So I will invite all of you who are here or you who are representing someone to come forward for a two to three-minute statement. Then we will take public comment if there is anybody from the public who would like to address the Board, and then I

will open this up to discussion among the Board members. The Board could in principle take action today, however, two of the applicants will not be able to speak themselves until the October 15th meeting so that I would recommend as chair that we put off taking any action until that time.

So first I will call up the applicants in the order that I have them listed on my cheat sheet here. The first is Cynthia Lukas. Is she here? Please come forward.

CYNTHIA LUKAS: Good afternoon, Madam Chair and honorable County Commissioners. My name is Cynthia Lukas and I am applying for the open District 50 seat because I want to use my skills, time and energy to serve all the district residents one citizen at a time. My goal will be to represent the whole of this varied district, fairly, creatively and successfully. I have a masters degree in communications and I will pledge to use those skills to listen to and communicate frequently with my constituents in this geographically vast and culturally diverse district.

I have been a college level teacher for 25 years. I am now a documentary filmmaker with a non-profit media organization for the past ten years, and I seek through film, writing, and public speaking to educate and inspire people to take positive actions in their communities, for their communities to make them better, as well as make our world a better place. That is the foundational goal of my life, and I would like to bring this dedication to making positive improvements in District 50.

My greatest education for this public service was being a 24/7 public servant. I served as a two-term city councilwoman and was known as someone who was always accessible, who always answered and who always cared. Since we didn't have a district system in Scottsdale, Arizona where I lived before moving here to Eldorado in Santa Fe five years ago I represented the entire city of 220,000+ from the northern rural desert areas with their issues of land, water, ranch and agriculture, to the eastern corridor with their issues of transportation, pollution, infrastructure and parks, to the developed downtown with its issues of tourism, taxes, business regulation reform, and health and medical, to the southern redeveloped areas with their issues of redevelopment, neighborhood safety and human services. All of these areas with widely disparate needs and interests.

I was a Democrat in the predominantly Republican Scottsdale but even though the elections were non-partisan there for City Council, everyone knew my party affiliation, yet I was elected and re-elected to a second term for four years because I gave each citizen and each neighborhood my ear and my energy. My motto was serving all, one citizen at a time. That is still my philosophy. My practice will be one of listening to constituents. I have an open door and an open mind. As a local public servant I have much experience listening to and also respecting different viewpoints, some that are opposing to myself, viewpoints of my constituents and my colleagues.

Among my colleagues I am known for my passion for collaboration and my gifts in understanding analysis and organization. Also my sense of humor. I was often asked to chair meetings of other leaders such as being the chair of the county commission on domestic violence in Phoenix and also serving as chair for the Airport Commission in Scottsdale. Three of my greatest achievements as city councilwoman were first with the environment. I was instrumental in creating a large preserve in the middle of the city for the great benefit of

citizens, tourists, and the city's tax base. Second, with ethics. I introduced a resolution for the first time in Scottsdale's history that council members be required to follow an ethical code, such as disclosure of gifts that had never been done before in Scottsdale. And third, with interfaith harmony and neighborhood public safety. I was the key city leader who restored inter-religious and neighborhood harmony after a volatile situation and major neighborhood conflict which occurred as a result of 9/11.

Because of my more than 25 years as a college level teacher of English and communications, one of my particular legislative interests is education and its improvement. Another area of keen interest and extensive experience, which I believe can benefit District 50, is my experience in the environment. I am interested in natural resources, conservation, and of course water issues, especially drought and pollution and regional planning.

A third area of commitment will be that of economic development. We must always be diligent in seeking ways to stabilize and improve our economy and that includes providing a wide range of health and human services in an efficient and compassionate manner. I ask you for my nomination and I thank you greatly for your consideration. Thank you.

CHAIR HOLIAN: Thank you, Ms. Lukas. Is Ann McCampbell here?

ANN MCCAMPBELL: Madam Chair and Commissioners, my name is Ann McCampbell and I am a medical doctor and I do environmental and public health consulting. I've actually wanted to serve in the New Mexico Legislature for quite some time but it's only recently that a combination of finances, health and opportunity has made it a viable time for me to seek this vision. For the past 20 years I've been working as an advocate and a consultant to try to make the world a better place. I would like the opportunity to continue this work as a member of the legislature. If appointed, as a representative from House District 50 I would expect to vote like most Democrats including on core issues like boosting the economy, protecting and improving water quality and quantity, and improving education.

I support increased solar and wind power, promotion of non-polluting industries. I like the entertainment industry for that. In putting New Mexicans to work building roads and other infrastructure projects. I would oppose efforts to roll back environmental protections. I oppose fracking, and in short, I would make protecting New Mexico's clean air and water and land a high priority.

In addition, I have several pieces of legislation that I would like to sponsor. One would be a pesticide notification and right to know law. This would require commercial pesticide applicators to post signs in public places after applications. It would also give the public the right to find out about pesticides that are used in public places. This would seem to be a common sense public health protection and would not be duly burdensome to the applicators.

I also would like to sponsor a memorial requesting the State Attorney General to crack down on false and misleading advertising by pest control applicators. It's a violation of federal law to say that any pesticide is safe, even if it's registered by the EPA or even is used as directed, and as a result, oftentimes statements of safety are made businesses and homeowners are often lulled into a false sense of safety, even though hazardous chemicals are being used.

Another memorial I would like to do would direct the state to study problems with the

housing for chemically sensitive individuals and make proposals for providing safe housing. Unfortunately, many chemically sensitive people do not tolerate standard building materials and cleaners. Many are homeless and do not tolerate homeless shelters. This recommendation was actually in a report that went to the legislature in 1996 by the Governor's Commission on Disability. This was in response to a legislative memorial that had requested the Commission to look into the problems of the chemically sensitive.

And lastly, I would like a bill that would set limits on the distance that a cell tower could be sited near schools and daycare centers. One other thing I would like to follow up on is recommendations that were made by a state precautionary principle task force in 2006. This was convened by the Secretaries of Health and the Environment and some of the recommendations was to improve indoor environmental quality in state offices and workplaces. Among these were recommendations for using less toxic cleaners, building materials and pest control materials. I would like to update. I think some progress has been made by the state on this, but there's probably more that could be done.

Two other particular areas of interest has to do with disabilities. As a person with a disability myself I have a strong desire to make sure that other people with disabilities receive accommodations especially to work, but also to participate in all areas of life.

My overall vision is for a healthy New Mexico, with healthy people, healthy environment and a healthy economy, and this is for all people in New Mexico. Even though I recognize we have different views and needs, especially between the northern and southern parts of New Mexico and even in House District 50. I believe that most of us all want the same thing – a good job, safe housing and a safe housing and community for our families, and a good education and opportunities for our children. If chosen to serve in the New Mexico Legislature I would listen to all my constituents and work hard to promote laws and policies that will help New Mexico and New Mexicans thrive in all aspects of life. Thank you for considering my nomination.

CHAIR HOLIAN: Thank you, Dr. McCampbell. Matthew McQueen.

MATTHEW MCQUEEN: Madam Chair, members of the Commission, thank you for this opportunity today to address you. I believe you have a difficult decision ahead of you. I think there are a number of very well qualified candidates and I'd also like to thank you for the care and careful scrutiny that you've brought to this process. I'm here today because of a belief in public service, and I think you can see that from my résumé that I submitted. But it's not just the community activity and volunteer time I've spent. It also is a big part of my professional practice. About half of my practice is dedicated to land conservation. In other areas of my practice I represent local businesses involving real estate transactions and whenever possible I represent non-profit organizations.

In my 20 years of being a lawyer, recently I represented a children's summer camp, an animal sanctuary, a Christian organization, a Buddhist temple, the Grass-Fed Livestock Alliance – a wide diversity of organizations and the common thread between these organizations was that they are people who have come together who have an idea to make our community a better place, and I can't help but want to work with those people.

I personally am tired of seeing New Mexico show up at the bottom of the good lists and the top of the bad lists. And just two days ago, or yesterday perhaps, there was a study

that was released that suggested New Mexico is the fourth most dangerous state to live in in terms of violent crime. And I think it's important to recognize that this isn't just a crime issue. It's not just a law and order issue. It's also a socio-economic issue. It's a reflection of our schools. It's a reflection of our job opportunities. So for me, serving in the legislature is an opportunity to continue my public service, to expand that public service and to address all of these important issues that face New Mexico.

So why pick me? What do I have to offer? In addition to my law degree I have an MBA from the University of New Mexico. I have a masters of science in natural resources policy and I've worked in all these areas. And I believe this forms in educational background and practical experience a really powerful combination. As a lawyer I like to point out that I'm not a stereotypical lawyer. I'm not a lawyer you would see on TV. I'm not a litigator. I don't sue people. I have a transactional practice where I represent an interest and I work towards agreement. And I think this would be a really good model to take to the legislature. Represent an interest; work towards agreement.

I'm committed to this race. I'm working towards running in the primary. I'm ready to go door-to-door, do the fundraising, do the outreach. I'm committed to representing all the constituents in the district. Not just the northern part of the district, not just the Santa Fe County part of the district. It is a big sprawling district, and I'm committed to getting out there and listening to the constituents.

I think getting the nomination from Santa Fe County by no means puts me in that seat; it's a first step, and there's a lot of work left to be done. But I recognize that getting the nomination would be a really significant boost. And so today, with deep respect I ask for your support. Thank you very much.

CHAIR HOLIAN: Thank you, Mr. McQueen. Peter Mitchell.

PETER MITCHELL: Thank you, Madam Chair and Commissioners. I'm up here right now to respectfully request a mulligan until next week because I have a commitment that I have at 5:30 and I don't believe I'll be able to give fair responses to your question. I thought that you would be able to go through this so if it's possible I'd like to speak to you next week.

CHAIR HOLIAN: Mr. Mitchell, would you like to at least make an opening statement?

MR. MITCHELL: Sure. Absolutely. I think – I appreciate you folks giving us the opportunity to speak to you. I mentioned this last week in our forum and I know Commissioner Mayfield was there and Chair Holian and Commissioner Stefanics had a representative, so thank you, Commissioner Anaya, Commissioner Chavez, for letting me speak today. I am pursuing this position. I think it's a logical extension of my career. I've been a public servant either in the non-profit or in the public sector for the majority of my professional career and I think I've been successful in it. My background has been I worked at a Chamber of Commerce in Texas. We got a myriad of projects done through economic development, air transportation infrastructure. I moved back to New Mexico where I was appointed by Governor Johnson and was director of his Economic Development Division. I'm a registered Democrat; I was one of the few appointees of Governor Johnson who was a Democrat, and so that – and we got projects done throughout the state, in rural, urban, tribal

New Mexico. That I think speaks to the ability to work across the aisle with both parties to get things done.

After that, I was appointed by Governor Richardson to run his office of space commercialization. That was in southern New Mexico. And I think the work we did there, again, showed that we were able to work across both parties and get things accomplished. We had support from counties such as Otero, Eddy, Roosevelt to get this project done and I think it initially was the impetus for getting the spaceport where it is today. So I'm very proud of that accomplishment.

Finally, I was working – my last appointment was from Mayor Marty Chavez. He failed in his bid for Governor – to be his economic development director for the City of Albuquerque. And what was important about that it took a new approach to economic development that I hadn't had. It was a triple bottom line approach which means you look at the economic impact, the environmental impact and the social impact on projects, and that's the kind of economic development I think is crucial for our district. As I've said before, economic development is customized to the specific area where you are and for this district I think it's critical that we keep a sustainable economy, focus on renewable energy, focus on the film industry.

But to have a thriving economy I think we need a combination of everything. We need access to early healthcare services for our children. We need access to early education. We need equal civil rights for all of our citizens. We need access to behavioral healthcare. And we need to have an adaptive resource and land management program that lets us assess this difficult situation we're in. I'm doing this job because I think I can be successful, but I'm also – and it may sound cliché, but I'm doing it for my kids. I started late. I have a nine-year old and a four-year old and I see our world today as a much worse place than when I was growing up in terms of our economy, our access to healthcare and education, and I think we need strong voices in all levels of government to address these issues to make this a better place for our kids as we grow up.

So thank you for your time, thank you for your interest and I appreciate your consideration for a nomination.

CHAIR HOLIAN: Thank you, Mr. Mitchell, and I invite you to come to our October 15th meeting as well as any of the other applicants who would like to come. Billy Peterson.

BILLY PETERSON: Good evening, Madam Chair and Commissioners. I appreciate you all taking the opportunity to invite us down for these statements. I'd also like to thank as the last candidate did the attendance by those at our Eldorado forum. I'm interested in being this replacement in this role not only for the continuation of this period of time but also possibly for the re-election. And I'm a business owner. I kind of laugh when I see in the paper I'm listed as the owner of a frame shop and it sort of seems like perhaps that's the only thing I have, but I have a 31-year history in business in the semi-conductor, telecommunications. I've been in early childhood development research. I've been in Headstart type of compliance program that was not only across the United States but throughout the territories. And all of these, almost all of them in managerial roles.

And so I bring a tremendous amount of history of going in, analyzing situations and

looking for solutions in teamwork type scenarios. And so I'm trying to bring that now. At this point in my life I'm at a point where I've moved here, I have adopted this state. I'm originally in Colorado with an MBA from the University of Colorado, and I'm looking for the opportunity to get involved in what has now become my state. If you walk in my office at work on my screen is a screensaver picture or home page picture of my father, myself and my three brothers sitting in front of the welcome to New Mexico sign. And when we moved out here I told my wife you're going to have to carry me out of this house, because we moved across the country as the companies wanted me to move and solve different problems.

So what I'm trying to do at this point – I have the benefit of having my youngest daughter. And I started much earlier than the last gentlemen; my kids are both over 30. So I'm at the point I have my youngest daughter as my operational manager. It gives me a lot of freedom financially and time-wise to actually apply myself to the issues at hand, to be out in the district, and we're a long district, and to associate myself with the constituents.

My background beyond the education, beyond all the different jobs I've had – I've been a senior vice president and ran a division of a company. I've ran multi-million dollar projects, but my earlier beginnings was I worked on a family farm. Not my family's farm. And I'm probably – I don't mean to be harsh about this but I'm probably the only person here who actually has 600 acres of wheat under cultivation. So we're talking about a very large district here, and when you look at what we're trying to do and accomplish in this state for all of our people and servicing them, I think I have a very good background and skill set, even though I've not been in public service before.

We're also in a scenario if we're realistic about it, that we have a Republican Governor who is very likely to look at one of four candidates submitted by the four different districts and appoint a Republican. When you look at that, and I am, by the way, as a matter of disclosure, I'm a registered Republican, I might very well be the best candidate from this county because I'm a very socially liberal Republican and a fiscally responsible Republican. So when you look at the back here – I've been in this room a few times before but I'm always captivated by what's there and the equal justice under the law. I'm a firm believer that that's one of the things we have to do and the rhetoric on the right just doesn't make sense to me.

So I'm putting myself forward to you and to the constituents that might be able to vote in District 50 in the future as a viable candidate for Santa Fe County. And I'm looking forward to questions either from the public or from the Commission after this and again, thank you very much for that opportunity.

CHAIR HOLIAN: Thank you, Mr. Peterson. Richard Rogers.

RICHARD ROGERS: Madam Chair, Commissioners, thank you very much for letting me present my presentation here for my application. I agree with everything that has been said so far about what people want to do. In addition to that though, one of the main reasons I decided to participate in this was I'd like to see District 50 be represented – the southern part of Santa Fe represented by someone, not someone from way down 200 miles south in the state. So I'd like to have someone for here.

I am a practicing attorney, also a business owner. I've been involved in law and government for almost 50 years. I chaired a zoning commission for 22 years. I'm very much focused on economic development. And that was excellent experience. I grew up in New

Jersey. Went to Miami of Ohio to be a football coach. Liz knows where that is, originally. And then I went to Duke for law school. In my class in 1960 we had the first two women and the first two blacks in the history of Duke University. I was always kind of proud of that.

I worked in Chicago with a big law firm and then took a position as general counsel with a big firm of engineers. Worked on projects in Israel, behind the Iron Curtain in Poland. And then came to Dayton, Ohio in 1973 where I was an attorney or 35 years. I became general counsel of a company. It was in the water pipe business so water has been a big part of my life. I managed the international division. Managed projects around the world. The biggest project that I worked on was in Libya, believe it or not, when we were very much antagonists of the Libyan government, Khadafi, but it was a great man-made river project, and it was a total hundred-mile water pipeline, taking water from under aquifers in the desert and piping up 1,200 miles in four-meter inside-diameter pipe. A \$3 billion project that's still going on today, still being constructed. The largest civil engineering project ever done.

So I've been very involved with water. I was interested in hearing the presentations today. Then I set up my own law firm. For 18 years I was the entrepreneurs' attorney in Dayton. My practice was all related to business. I built a home here in Santa Fe in 2006, sold my law business and moved to Santa Fe in 2008 and when I came out here I switched. I became a publisher now. I publish a magazine, *Santa Fe Monthly*. It's a free publication; it comes out every month. And actually I work with Steve Easley in promoting his campaign in this and working with him on his ads and so forth, so I really got to know him quite well.

Earlier this year I passed the New Mexico bar. I hadn't done that since 1962 and so I can practice law again also. I am a registered Republican. That was because I wanted to vote in the primary. I think if Think New Mexico has their way that maybe that will change and you won't have to do that, but I'm a Centrist. Like for instance I'm very much in favor of women's right to choose, expanded gun control, amnesty for immigrants. I voted for Kennedy and Bill Clinton so I am a Centrist.

Thank you very much for hearing me out. Appreciate it.

CHAIR HOLIAN: Thank you, Mr. Rogers. Eric Luchetti and Debbie Larrañaga-Ortiz indicated that they will be at the October 15th meeting, and I believe that we have George Hadad here who will read a statement from Ann Jenkins.

GEORGE HADAD: Thank you, Madam Chair and Commissioners. This will be a very basic outline of Ann's background. Unfortunately she can't be here because of previous commitments. It is exciting to joint the others from this county who are willing to serve as our representative. Stephen Easley and Brian Egoff have set high standards for those of us who are following them. To introduce myself – I'm going to speak in the first person. By the way Ann looks more like the lady Commissioners than I do, so strain your imagination for a minute.

To introduce myself, first of all I'm a wife, a mother and a grandmother and family is extremely important to me. I grew up in a small, isolated town in the upper Mojave Desert, a valley that I like to say is between Death Valley and Poison Canyon. It has a quiet beauty that we find here in New Mexico. I understand the challenge of living far from central government services and would reach out as Stephen Easley did to represent the entire District 50. I went to the University of California at Berkeley and studied physical sciences

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with an emphasis in geology. Then to prepare myself for working with scientific information I earned a masters degree in library and information sciences at UCLA.

This was a time like today – a time for action, not apathy. I joined my husband Jim in the Peace Corps in the Fiji Islands. Fiji was shifting from being a British colony to national independence. Jim and I taught in high school classrooms while local teachers left for a year for their first teacher's training. Then we worked at the University of the South Pacific. It was both rewarding and stimulating, largely because of the different cultures and experiences there.

For over 30 years I have worked in information management. That means making information openly and easily available to people, not just on bookshelves but also through the web. Building accessible information systems is important but there's a lot more to my information management story. I also worked to solve real problems, to find the right information delivered in the right way so that we can make the right decisions. I worked with teams of scientists, business people and health professionals and the problems we faced were not easy and the solutions did not come easily.

We came to New Mexico eight years ago to make our home here. I've served not only in leadership positions but also as hands-on volunteer with library and homeowners associations. I've served to preserve our local environment and I've helped monitor conservation easements across northern New Mexico, including beautiful ridges, ranchlands and stream corridors of the Galisteo Basin. Through my experience with the Eldorado Water and Sanitation District I learned more about the complicated issues of water in New Mexico. I bring that experience to New Mexico. I bring the drive to serve New Mexico. I hope to represent Santa Fe County and District 50 in the New Mexico House. I promise to be open and to listen and to act.

And if I may make a personal statement on her behalf, in attesting to Ann's character and abilities. She is a person of high integrity, and a consensus building who is willing to tackle difficult challenges and is dedicated and diligent and effective in fulfilling her commitments. Ann would be an excellent choice to represent District 50 and Santa Fe County and will serve all of its citizens.

CHAIR HOLIAN: Thank you.

MR. HADAD: And I will make a comment, in case you have questions, I do not have any kind of platform information; she did not permit me to speak on that, so I won't be able to answer those questions. But I will take your questions and make sure she answers them.

CHAIR HOLIAN: Thank you, Mr. Hadad. We have heard from all the applicants or their representatives at this point who are here today. Is there anyone from the public who would like to address the Board about any of the candidates? Can I see a show of hands? No? Then I will open this up to discussion and questions from the Commissioners.

COMMISSIONER ANAYA: Madam Chair.

CHAIR HOLIAN: Yes, Commissioner Anaya.

COMMISSIONER ANAYA: I'm just going to ask a specific general question for everyone to answer or elaborate on that wants to. The district covers multiple counties. It covers everything from urban area, suburban, I guess you'd call Eldorado somewhat urban

but not quite. More suburban maybe, and then rural, very rural parts of the district. It also, pointblank covers people that are of a broad background of ideology and thought. People that are very conservative and people that are liberal. How would you handle the broad array of backgrounds that are existent throughout that district? Whoever wants to respond can respond to that.

CHAIR HOLIAN: Please come forward whoever would like to respond to that. Mr. Peterson.

MR. PETERSON: Thank you very much for the question. I think that what's really important for any candidate here who ends up in this role is the ability to be flexible with not only their understanding and realizing that they may not have all the answers but can go out and get them. My particular background in the corporate world, I was actually running programs that when I moved from one corporation to another they interviewed me to find out whether or not I could racially accept the community I was moving into. I spoke with a psychiatrist about it. I thought it was sort of random because the previous job I had probably five percent of the staff were Anglo and everybody else was everything from African-American, Hispanic, Asian, just across the board. So I'm so accustomed to working with people from different backgrounds ethnically that I don't think much about it.

In terms of working with people from different backgrounds, like I said I grew up in a rural Colorado town of about 3,500 people on the eastern plains, pretty much the same geography we have for a large part of New Mexico in this district. And I've also lived in the City - Boulder, Denver, Washington, DC and I recognize all those types of environmental issues that you have. In terms of what I bring to this particular role is you go in and look at an issue, seek the best information possible, work with other people to come to a good commitment. How you do that and how one of my employers once addressed me, he came to me and he said after I'd been in this particular role for about two months, he said, how do you do it? And that's all he said. So I looked at him and I said, I'm sorry. What do you mean, how do I do it? How do I do what? And he said you've gotten so much done since you've been here and you haven't pissed anybody off yet. He said even so-and-so who doesn't like anybody likes you. And I think - and I told him, I said, the reason I probably am successful here is I work with people with their real issues, no specific agenda other than getting the correct solution to that job done. Thank you.

CHAIR HOLIAN: Thank you, Mr. Peterson. Who would like to speak next? Mr. McQueen.

MR. MCQUEEN: Madam Chair, Commissioner Anaya, it is a very large, sprawling, diverse district. I happen to have a pretty diverse background. I've lived in Santa Fe County for 17 years now and this is my home. I've never felt more at home any place. But I have lived in other areas and been exposed to different ideas. Also, as an attorney I believe a lot of what I do is talking to clients, talking to other attorneys, talking to other parties, listening to them, understanding complex issues and conveying information. So I believe I'm very good at that. As I mentioned before when we talked, one of my ideas is to get out there in the district, spend time in different areas of the district, be in different parts of the district at scheduled times, have what I would call office hours, but in public places, in coffee shops or places where people gather in order to give them the opportunity to talk to me.

One other thing I would like to point out is that in my land conservation work a lot of that work is with farmers and ranchers, rural landowners, and I appreciate them. I love working with them. I think I understand how to work with them and how to talk to them. So with this district that includes a lot of those individuals I believe I'd believe I'd be very comfortable communicating with them. Thank you.

CHAIR HOLIAN: Thank you, Mr. McQueen. Mr. Rogers.

MR. ROGERS: Thank you. My background is working all around the world with a variety of cultures. I've lived in China. I've lived in Korea. Lived in the UK. Lived in Libya. Lived in Turkey. Managed project teams with many different cultures and I've always felt that was one of my strongest suits, working with people with different backgrounds, different interests and so forth. Thank you.

CHAIR HOLIAN: Thank you, Mr. Rogers. Dr. McCampbell.

DR. MCCAMPBELL: Thank you, Madam Chair, Commissioner Anaya. I believe that a lot of my success, my advocacy success in getting things done has been my ability to relate and communicate with people from different walks of life. I've spent a lot of time on numerous state task forces and groups, represented a lot of different opinions from different walks of life and what I've tried to do is one, listen intently, really try to understand where are people are coming from, what's important in their life or their job, and then try to see where it looks like there's an impediment and if somebody gets A then somebody's going to lose B and vice versa, and just seeing if there isn't some common ground and some really working towards consensus. And that would be my approach to try to pull together the needs for the entire district.

CHAIR HOLIAN: Thank you. Ms. Lukas.

MS. LUKAS: Yes. Well, I have lived in different locations around the country and as a documentary film maker I travel around the world – Turkey, India, Morocco and show our documentary films to audiences of different cultures and many times English is their second language and so this is one of my fortes in terms of communicating with people who English might be their second language. I've actually taught English as a second language on the college level. But I think I mentioned in my earlier statement that I have actually done what you're describing, working with people of different backgrounds, different languages, different economic stratas, in Scottsdale. You may have the idea that Scottsdale is one certain way but we had 220,000 people who went from the north of Scottsdale where it was very desert and there were ranches and agriculture even to areas that were downtown, very developed. Of course residential areas and then also in the southern areas there were the poorer areas that we had many redevelopment issues and so forth. But I was known as a consensus builder and one who could come into any part of the city as I would do here in this district. Go to any – I would seek people out in different parts of the city and I would in this district to find out what they were thinking and to use my communication skills in order to understand, listen – I think listening is extremely important when you're dealing with a diverse constituency. Listen and evaluate, study, and just reach out to people of all types so that I could understand and represent them in the best possible way.

CHAIR HOLIAN: Thank you, Ms. Lukas. Are there any more questions or

discussion? Commissioner Stefanics.

COMMISSIONER STEFANICS: Madam Chair, I'd like to thank all the candidates that are here today and those that are not for putting themselves forward. It's a pretty public process. Don't be surprised if you see your name in the paper tomorrow or anything that you've said. It can be correct, incorrect, it doesn't matter. And some people might think that all publicity is good publicity but I'd like to thank you for being interested in public service, for putting your name forward and I wish you well as we continue with our considerations. Thank you.

CHAIR HOLIAN: Commissioner Mayfield.

COMMISSIONER MAYFIELD: Madam Chair, thank you, and also I really enjoyed going to the forum the other night. I learned a lot about each and every one of you. You bring a lot to the table and you make this a very difficult choice to be quite frank. And I definitely echo what Commissioner Stefanics said and I would say that Santa Fe, the State of New Mexico would be fortunate to have any one of you representing you. Thank you so much.

CHAIR HOLIAN: I would also like to thank you very much for submitting your letters of interest. I was very, very impressed with the credentials and expertise of all of the applicants. Really, it is going to be a difficult decision, but most of all I think what I'm impressed with is how many people really want to give back to their community, and that makes me feel really good about Santa Fe County. So thank you and if there are no further questions we will continue this discussion at our October 15th meeting.

COMMISSIONER STEFANICS: Madam Chair, could they just keep our materials and not reproduce everything else again? The staff.

CHAIR HOLIAN: Would that be possible?

COMMISSIONER STEFANICS: We have everybody's letters.

CHAIR HOLIAN: The letters of interest, résumés and so on.

MS. MILLER: Madam Chair, we can collect your packets from you but if you take your packets then it's up to you. But we also can email it to you but we'll not reproduce it for next week. How's that?

CHAIR HOLIAN: As part of our Lead by Example initiative. Before we go any further I would like to ask, is anyone here for a land use case? Can I have a show of hands? We have a fair number of items until we get to the land use cases so I think it will be 6:30, probably more like 7:00. Let's say 7:00 at the earliest before we get to the land use cases so if you would like to go out and take a walk or have something to drink like a coke, please feel free to do so. We still have a number of land use cases as well as our executive session. I mean we have a number of other cases before we get to our land use cases as well as the executive session.

X. MATTERS FROM ELECTED OFFICIALS

A. Clerk's Office

1. Introduction and Possible Action on Resolution No. 2013-104, a Resolution Designating the Polling Places of Each Precinct in Santa Fe County, New Mexico, and Associated Waiver of Requirements of Resolution 2013-26 [Exhibit 2]

CHAIR HOLIAN: We need to have the requirements of Resolution 2013-26 to vote on this this evening.

COMMISSIONER CHAVEZ: Madam Chair.

CHAIR HOLIAN: Yes, Commissioner Chavez.

COMMISSIONER CHAVEZ: I'd make a motion to waive the requirements of the double hearing.

COMMISSIONER ANAYA: Second.

CHAIR HOLIAN: Okay. I have a motion and second to waive the requirements of Resolution 2013-26.

The motion passed by unanimous [5-0] voice vote.

CHAIR HOLIAN: We can vote on this this evening.

GERALDINE SALAZAR (County Clerk): Thank you. We appreciate this very much. Madam Chair, Commissioners, we have 13 polling places changes this year, and I'm going to read them out to you, the following. But if looked at the resolution you will see them all listed. We have 89. Remember, the last time that we asked for your approval to add a new precinct because we had many voters at one location. So now we're presenting to you, in addition to the resolution, we want you to be informed about the 13 polling place changes for the upcoming major election next year, 2014.

Precinct 4, Cundiyo Community Center. This was the Cundiyo fire station. The polling place did not move. We just corrected the name. It is officially known as the community center. The community center is attached to the fire station, so that's one change.

The next changes are for Precincts 23 and 61. Nambe Community Senior Center. This was Nambe Headstart. These two buildings share the same parking lot. The community and/or senior center is a County-maintained building and will better suit the needs of the voters.

Next, Precincts 26 and 27, Tierra Encantada Charter School at Alvord. This was previously at El Museo Cultural de Santa Fe. El Museo was used for a fee. There will be no charge for Alvord. A portion of the building that was used for voting was not ADA compliant, plus parking was an issue. We've used Alvord in the past before going to El Museo.

Next, Precinct 38, 39, 49 and 74, Genoveva Chavez Community Center. This was the Kearny Elementary precinct locations. Kearny Elementary is and will be under construction during the election year. The City has waived all fees for using this facility.

Next, Precinct 40, San Ildefonso Pueblo Visitors Center. This was San Ildefonso Pueblo. This polling place has not moved; it remains at that same place. We just gave it the

specific name which is the visitors center.

Precinct 48 and 55, St. John's Methodist Church. Precinct 48 was Atalaya Elementary School, which is and will be under construction during the election year. Precinct 55 was at the Elks Lodge. The portion of the building that was used for voting is not ADA compliant. The Elks Lodge had no plans on making that portion where we run the election ADA compliant. Also, the Elks Lodge was charging us a fee and was looking to increase the fee to cover the cost of closing down their bar while voting was going on. St. John's Methodist Church will be charging us a fee that is much less than the Elks Lodge.

Precinct 89, as you recall is Cesar Chavez Elementary. This is a new precinct and polling place. This is the result of the precinct split that was passed by the BCC last month. This was part of the Precinct 86, Ortiz Middle School. Precinct 86 had an enormous amount of voters and we thought it would be in the best interests to move this new precinct out to Ortiz Middle School. Thank you.

CHAIR HOLIAN: Commissioner Chavez.

COMMISSIONER CHAVEZ: I have a question on Precinct 80, the Agua Fria Community Center. Is that the same as the Nancy Rodriguez Center?

ERIC BARRAZA (Elections Bureau): Madam Chair, Commissioner Chavez, yes it is. It is the same. We try to defer using a candidate's name when declaring our polling places.

COMMISSIONER CHAVEZ: Yes, it's kind of hard to – I can imagine how it would be hard to get away from that. I'm just wondering if it isn't going to confuse the public because it's generally referred to as the Nancy Rodriguez Center. So I'm not sure how you're going to work through that, but it didn't seem like a good fit initially. Anyway, I'll just raise it for what it's worth and maybe just in outreach to the public and to the voters, maybe they'll get it.

MS. SALAZAR: This has been an issue. Yes. It's been brought to our attention. But as Eric mentioned, the potential of a candidate, it's been brought to the attention of the Clerk's Office. Senator Nancy Rodriguez, when she's running, is there a conflict? Yes, there is a conflict, so this is the way they put the name for this polling place, Agua Fria Community Center. But maybe as you state, outreach is important to make sure that the community knows that this is the Nancy Rodriguez Community Center.

COMMISSIONER CHAVEZ: Okay. Thank you, Madam Chair.

CHAIR HOLIAN: Commissioner Stefanics.

COMMISSIONER STEFANICS: Thank you, Madam Chair and thank you for the presentation but I have a couple of questions. So you're trying to get this passed this year and it would affect the primary and the general election of next year?

MS. SALAZAR: Yes.

COMMISSIONER STEFANICS: Okay. Now what if we have other building changes during that period of time?

MS. SALAZAR: If we have other building changes I think we'll come back to the drawing board.

MR. BARRAZA: Madam Chair, Commissioner Stefanics, there is a certain time period we do have to amend the resolution if needed. If it falls within so many days

within the primary election then we have to seek out a court order to change a polling place.

COMMISSIONER STEFANICS: You'd have to seek out what?

MR. BARRAZA: A court order.

COMMISSIONER STEFANICS: A court order. Okay. The next question I have, Madam Chair, is are all the sites accessible to wireless? I was told in the last Clerk's administration that that was a requirement for voting sites.

MR. BARRAZA: Madam Chair, Commissioner Stefanics, it's not a requirement to have wireless right now. We are in the future looking towards what we call voting convenience centers. At that point we will have to have wireless, but that's not until 2016.

COMMISSIONER STEFANICS: So Madam Chair and Clerk Salazar, on the evenings of elections, do you still – how do you receive your results? And what are all the ways you receive your results?

MS. SALAZAR: On election night, the poll workers, once they shut down the election they come to our office and they deliver all of their packet. And in that packet there's a card that is brought to the office and then that card is taken down to the basement and inputted into our system, which goes directly to the Secretary of State. And the results go to the Secretary of State, and then we can give unofficial results but not until they're all in and they're all into the Secretary of State, and then there's the official count eventually.

COMMISSIONER STEFANICS: Okay. So Madam Chair and Clerk Salazar, in the old days the poll workers used to run tapes from the voting machines and post one of the copies on the doors. Is that still a practice?

MS. SALAZAR: Yes. It's still a practice.

COMMISSIONER STEFANICS: Okay. So Madam Chair, you do not accept anybody calling in any results? That's what I'm asking you. What are all the ways that you receive information about the polling places.

MS. SALAZAR: They post right after the election because we have tapes, zero tapes and some tapes go to a judge, some tapes go to the SoS, the [inaudible] tape comes to us and that's how we do our canvassing also. But verbally, are we getting any verbals?

MR. BARRAZA: Madam Chair, Commissioner Stefanics, we have done it in the past but only in emergency situations. We had a snowstorm out in Edgewood and they called in the results to us. We inputted them. But then once the packet got here we erased those results and replaced them with the card results, the metric card receipts.

COMMISSIONER STEFANICS: So Madam Chair and Clerk Salazar, the reason I'm asking this question is the public would like to know, and usually it's a big secret. And for people who are following a candidate and I'm not running so I'm bringing this up for these candidates running for House District 50 or for anybody else running for office, people would like to know how you receive and how you post unofficial results that evening. Because everybody who's a candidate is waiting around and wanting to know.

MS. SALAZAR: They're waiting around at the County Clerk's Office. And so we do post at the polling places. The cards are brought to the Clerk's Office. They're retrieved. They go through a lengthy process of being checked in. Every document, every box, every key and the results and then they're brought down into our basement and staff

inputs it into the system. It goes straight to the Secretary of State's Office.

COMMISSIONER STEFANICS: So Madam Chair, I also heard in your presentation that accessibility, parking, and I'm assuming some facilities, like bathrooms are available at these places for people who might be waiting half hour, an hour?

MS. SALAZAR: They have to be available, yes.

COMMISSIONER STEFANICS: Okay. Thank you very much, Madam Chair.

CHAIR HOLIAN: Commissioner Anaya.

COMMISSIONER ANAYA: Madam Chair, thank you, Madam Clerk. I would be remiss though if I didn't make a few comments relative to some of the comments you made about the Elks Lodge. I'm a member of the Elks Lodge. There are many, many members of the Elks Lodge throughout the state and throughout the country and I would just say on the record that it's an organization that's one of the largest non-profit contributors in the country to things like cerebral palsy and youth programs and other initiatives. I don't know what specific communications you had nor do I want to get in between those, but I do want to state on the record that the Elks Lodge in Santa Fe and throughout the country has always been an organization that has supported youth and community initiatives and cerebral palsy in particular and veterans' organizations throughout the country. It sounds like maybe there was a little bit of frustration there but I can attest that it's a solid organization that does a lot of good for Santa Fe and for the country as well.

MS. SALAZAR: Right. And Madam Chair, Commissioner Anaya, what this is staff put this together for full disclosure. That was the negotiating information that was brought to you.

CHAIR HOLIAN: Commissioner Mayfield.

COMMISSIONER MAYFIELD: Madam Chair, Madam Clerk, thank you so much. This question might be more for I guess Mr. Martinez or Mr. Leigland is back there, so I want to talk to Adam if you don't mind. But just to bring to your attention, Madam Clerk, with polling place #4, the Cundiyo Community Center, I think that we've had to, or Mr. Leigland have kind of tried to work out with an adjacent private landowner. There's no parking up there. So the private landowner has erected a fence and a cable up there. So you might have parking space up there for one handicapped vehicle and maybe that's it. And because it's also adjacent to a fire station, so the fire trucks pull out. Also it's on a private road. That private road is not maintained going up that hill so basically it just has water that drains out of our drainage into that private road. So there's no maintenance really on that private road because of anti-donation and everything else. I've asked Mr. Leigland to look at that, address it. I don't know if they're going to try to bring a road adoption policy on there. I think they have worked with the adjacent landowner to lease it. I think also that the County is in negotiations to build out that parking lot. So I just want to bring that to your attention. I do hope there is definitely a place and a polling site up there. It's a beautiful community center. There's work being done up there. I just want to make sure you know that. And if Mr. Leigland would like to address that to tell me what's going on I'd appreciate that too.

MS. SALAZAR: Madam Chair, Commissioner Mayfield, let me see if Eric has anything to state about that.

MR. BARRAZA: Madam Chair, Commissioner Mayfield, I was unaware of

that. We were unaware of that.

COMMISSIONER MAYFIELD: Mr. Leigland is very well aware of that so we'll let him address it.

ADAM LEIGLAND (Public Works Director): Madam Chair, Commissioners, so yes, we do have a relationship with an adjacent landowner and we approached him actually through the gentleman that you and I met and he lets us park on his property. But we also have a larger project that's in progress right now to enlarge the parking area. We have it 100 percent designed but now it requires us to negotiate with the land grant, which we are doing right now. And so we think it will actually require us to cut into the hill and enlarge that parking area. So we are working on that, but the negotiations with the land grant are – working with land grants can be time-consuming at some point but that's in progress right now.

COMMISSIONER MAYFIELD: And Mr. Leigland, what about the road that's really non-accessible even getting up that hill?

MR. LEIGLAND: We are actually preparing the – we are going to bring a resolution to the body to adopt that and actually we are trying to contact all the landowners so they know it's coming.

COMMISSIONER MAYFIELD: Just to lease that one little part that's –

MR. LEIGLAND: Exactly. That's 400 feet. So then that will be adopted. So yes.

COMMISSIONER MAYFIELD: Okay. Thank you. And then I just – and I'll disclose and I think I've pushed them off to Mark Hogan. But I received some communication from maybe some compliance on ADA issues in some of our community buildings. Mr. Leigland, I haven't pushed them to you but I definitely did push them to Mark and to Rachel O'Connor. So we are certain that our buildings are ADA compliant? Just because I think it was broached up here.

MR. LEIGLAND: Madam Chair, Commissioner Mayfield, buildings that were recently constructed or renovated are, yes.

COMMISSIONER MAYFIELD: Thank you. That's all I needed for the record. Thank you, guys. Thank you, Madam Clerk. Thank you, Mr. Leigland.

CHAIR HOLIAN: This is a resolution. Is there anyone here from the public who would like to address the Board about this resolution? Seeing none, is there a motion?

COMMISSIONER CHAVEZ: Madam Chair.

CHAIR HOLIAN: Yes, Commissioner Chavez.

COMMISSIONER CHAVEZ: I'd like to make a motion to approve a resolution designating the polling places that were listed earlier.

COMMISSIONER ANAYA: Second.

CHAIR HOLIAN: Okay, there's a motion and a second. Any further discussion?

The motion passed by unanimous [5-0] voice vote.

XI. MATTERS FROM THE COMMISSION

A. Commissioner Issues and Comments

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

COMMISSIONER ANAYA: Madam Chair, a few months back we had the honor and the privilege of honoring the New Mexico Brigade and those individuals that were part of the Bataan Death March. It's sad to report that we lost our member from Santa Fe, Vincent R. Ojinaga. Vincent R. Ojinaga, age 95, died on September 30, 2012. Vincent was born Jan. 22, 1918, in Santa Rita to Josefa and José Ojinaga. Vincent is survived by his wife, Celia, 64, who lovingly cared for him, daughter Teri, and Mike, sons Richard and spouse Susan, John and Anna, Corky and Renee, Sam and Marcy; 17 grandchildren and eight great-grandchildren, his sisters-in-law, Lisa, Mary, Corry, Wally, his brothers-in-law, Sonny, Ray and Guillermo.

He was a graduate of Hurley High School at attended New Mexico Western University in Silver City, and was a graduate of the University of New Mexico with a bachelors in business administration. He retired from the State of New Mexico Taxation and Revenue Department as chief of administrative services. He served in the 200 Coast Artillery of the New Mexico National Guard and was federalized by the US Army for service in World War II. He served in the Asiatic Pacific theater of operations and was a survivor of the infamous Bataan Death March. As a member of our three-inch anti-aircraft gun crew he assisted in loading, aiming and firing of the gun to destroy enemy aircraft. He fought for four months using hand-to-hand combat tactics prior to his capture by the Japanese. He was captured by the Japanese army on April 9, 1941, and he was held prisoner of war for 3 ½ years and then liberated by the US army forces on September 7, 1945.

He received the American Defense Service Ribbon with one bronze star, Asiatic Pacific Campaign Ribbon, with one bronze star, Philippine Defense Ribbon, with one bronze star, good conduct medal, the purple heart, bronze star and POW medal. He also received the presidential unit citation with two oak leaf clusters, the victory ribbon, and earned seven overseas service bars. He served as an income tax counselor for the elderly, past president of the board of the Guadalupe Credit Union, past member of the State Employees Credit Union, minister of the Eucharistic for the sick and elderly, past treasurer of Our Lady of Guadalupe Parish Council, past treasurer of Casa Solana Neighborhood Association, member of the Knights of Columbus, Toastmasters, Elks, Disabled American Veterans, Veterans of Foreign Wars, American Legion, American Ex-Prisoners of War, and Survivors of the Bataan and Corregidor.

Vicente was preceded in death by his parents Josefa and Jose Ojinaga, his sisters, Soledad, Lupe Costales, Dolores, his brothers Anselmo, Jose, Ramon and Mike, his sisters-in-law, Maria, Josefina, Priscilla, Hortencia and Norma, his brothers-in-law, Arturo, Israel, Manuel and Alfonso. Pallbearers are Eric Gonzales, Jonathon Gonzales, Matthew Ojinaga, Steven Ojinaga, Mike Gonzales and Tudi Costales. Honorary pallbearers are Daniel Ojinaga and granddaughters.

To his family, to his friends, to those he served with, to those that passed before him, I thank him and we all thank him for his service and honor his service. A moment of silence I would request, Madam Chair.

Thank you, Madam Chair.

CHAIR HOLIAN: Commissioner Chavez.

COMMISSIONER CHAVEZ: Thank you, Madam Chair. I'd like to just personally extend my condolences to the Ojinaga family and the extended family here and throughout the country. Our thoughts and prayers are with their family at this time of loss. Thank you, Madam Chair.

CHAIR HOLIAN: Commissioner Mayfield.

COMMISSIONER MAYFIELD: Madam Chair, my condolences also go out to the family. Commissioner Anaya, for bringing that forward. Madam Chair, a little earlier a lot of members from the Tesuque Valley Community Association were here. I guess they left. I believe they're here because I received a letter, Madam Chair. I believe you were carbon copied on it. But they're just asking for I guess the status of their Tesuque Community Plan, and I know I'm just bringing this up. I know we have our code that we're going to be looking at. We have some community meetings and some workshops going on in our community plan also. But we have a few, I guess, community plans in the hopper right now. I know that we have La Cienega. We may have also one - I'll just specifically speak about my district.

But on the Tesuque Valley Community Plan, what's the status of it please? I know I briefly spoke with Ms. Ellis-Green. I think her staff is done with it. I know they've had their community readings on it. They're asking me if I can ask at this current in front of the Commission. I have attended various meetings on it out in the community. Penny, can you give me an update please?

PENNY ELLIS GREEN (Growth Management Director): Madam Chair, Commissioner Mayfield, yes. It has been drafted. It's in for an internal review at the moment. We did speak to the representatives from Tesuque and their attorney earlier on and I believe it will be heard by the Board. We put it on for resolution hearing in November and December. So it is one of those resolutions that will be introduced then heard. So I think that's a timeframe that we can work with and they were in agreement with that.

COMMISSIONER MAYFIELD: Okay. And again, did you get a copy of this? Do I need to turn it over to you all?

MS. ELLIS-GREEN: No, I haven't had a copy.

CHAIR HOLIAN: Okay. So, to just make sure of the follow-on procedure. Do I just give this over to you guys? Okay. Then I'll give it over to you. Thank you. I'm good.

CHAIR HOLIAN: Commissioner Stefanics.

COMMISSIONER STEFANICS: Thank you, Madam Chair. My sympathy of course to the Ojinagas and we also had another great person in Santa Fe die at the age of 95 yesterday morning, Mary Lou Cook. She was a dear friend of mine and to many other people here in Santa Fe. She was committed to open communication. She did a lot of training. She started out by providing trainings in calligraphy and moved on to spirituality and peace and she and others worked on trying to establish a Department of Peace under Governor Bill

Richardson. She was very good friends – as I mentioned she was friends of ours, but also friends of neighbors and different groups, and at the age of 80 or 82 she's gotten a pacemaker. And I said to her at a reception – it wasn't her birthday but just another reception – I said you realize with a pacemaker you'll never die. And she was able to go to the age of 95 and she contributed many, many things to our community. So later on, I will bring forward a proclamation for her family, recognizing her.

The staff, a few staff and I attended a meeting today about children and poverty. It was an interfaith meeting along with Envision, which is a collaborative group of non-profits that work with homeless. And specifically this group is focused on not single adults that might go to the Interfaith Shelter but families with children, and that their needs are quite different. There were some people missing from the table, much like a few years ago when Pete's Pets was envisioned as an interfaith shelter, but it was a great start and specifically I was asked by the group – Representative Carl Trujillo was there, myself, two City Councilors and the Mayor, and then of course many ministers, rabbis and non-profits. But I was asked by a few people at the meeting if the County Commission would take up the minimum wage in the county. I indicated it was on my agenda for the future and just left it at that.

I believe some of our staff will continue to be involved in some of these meetings, but the focus is about children and poverty. There is a request to actually establish a facility and I mentioned to them about some of the property the Boys and Girls Club has done south, because they're looking at the southern part of Santa Fe City.

I would also like to remind the public that we have vaccinations going on around the county, flu shots, and if there is a group, I'm going to stick my neck out here for Rachel, but if there is a group that would like to have us come to them for a series of shots we could arrange that. So if you would contract myself or any of our liaisons, or Rachel O'Connor in the Community Services Department we'll see what we could do. Thank you very much, Madam Chair.

CHAIR HOLIAN: Thank you. I just want to recognize that in the last couple of weeks we have lost three individuals who had one thing in common. They all made a profound and lasting impact on their community. Another thing that they also had in common was that they were all in their 90s and already Vicente Ojinaga has been recognized and I am truly thankful that he was present when we honored and recognized the New Mexicans who were in the Bataan Death March.

I will also point out that he outlived by 50 years what the doctors had predicted when he came back from the Philippines. And Mary Lou Cook, of course, I actually was fortunate to be her next-door neighbor for a while so I got to know her and she was a very interesting and terrific person, and I also read in her obituary that she even developed leukemia in her 50s and she managed to survive that for many years.

Another person who passed away who had a profound influence on our community was Harold Agnew. He was the former director of Los Alamos National Laboratory in the seventies. He was also, I will note, a New Mexico State Senator from 1955 to 1961 and he had a number of other important governmental positions in his career.

One thing that Harold Agnew had that I truly admired was a keen scientific mind and boundless curiosity. I like to think of him as the people's director up at the lab. If he was

interested in some scientific topic he would just pick up the phone and he'd call up the scientist who was working in that area and talk to him for hours about that topic so that he could learn more about it. And in fact he called my husband, who was a young scientist back in the seventies a number of times. My husband was working on simulations of radiation damage in nuclear reactors and that was something that Harold Agnew was very interested in, so he called him into his office and must have talked to him for several hours about that topic.

So I think that that was what was really admirable about him is he actually, unlike the other directors at the lab, really directly communicated with the scientists and tried to learn as much as he could and he never lost that sense of the importance of scientific inquiry. I will also note that he died I think while watching Monday Night Football. So while it is sad to lose these people, it's also I think gratifying. It's gratifying for me to think that their lives were long and their lives were well lived.

XII. APPOINTMENT/REAPPOINTMENTS

A. Request Appointment of Two (2) Members to the County Open Lands, Trails, and Parks Advisory Committee (COLTPAC)

COMMISSIONER ANAYA: Madam Chair, I would vote to accept staff's recommendation of the vacant position of District 3, for Mr. Baker with the recommendation of Almudena Ortiz Cue.

ROBERT GRIEGO (Planning Manager): Madam Chair, Commissioner Anaya, that's correct. Cue.

COMMISSIONER STEFANICS: Second.

COMMISSIONER ANAYA: Thank you, Madam Chair.

CHAIR HOLIAN: There's a motion and a second to accept the appointment and reappointment to COLTPAC.

The motion passed by unanimous [5-0] voice vote.

XIII. MATTERS OF PUBLIC CONCERN – Non-Action Items

CHAIR HOLIAN: We are now under Matters of Public Concern. These are non-action items. Is there anyone here from the public who would like to address the Board? Seeing none, we will move on.

XIV. CONSENT CALENDAR

A. Final Orders

1. AMENDED FINAL ORDER CDRC CASE #V13-5140 Robert Garcia Variance. Robert Garcia, Applicant, Requests a Variance of Ordinance No. 2008-5 (Pojoaque Valley Traditional Community District), § 12.5 (Density Standards) to Allow Two Dwelling Units on a Proposed 1.46 Acre Lot and a Variance of Article III, § 2.4.2b.3(a) (Road Access) to

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Allow a Road Access Width of Less Than Twenty Feet (20') to Access Three Lots. The Property is Located at 13A Old Pueblito Road (C.R. 84), in the Vicinity of Pojoaque, within Section 7, Township 19 North, Range 9 East (Commission District 1) Miguel "Mike" Romero, Case Manager. (Approved 5-0) **ISOLATED FOR DISCUSSION**

2. **BCC CASE # MIS 13-5240 Santa Fe Canyon Ranch Time Extension.** Santa Fe Canyon Ranch L.L.C. and Santa Fe County, Applicants, Request a 24-Month Time Extension of the Previously Approved Master Plan for a Residential Subdivision Consisting of 162 Lots (174 Residential Units) on 1,316 Acres to Be Developed in Three (3) Phases. The Property is Located Off of Entrada La Cienega Along Interstate 25 in the La Cienega/La Cieneguilla Traditional Historic Community, within Sections 1, 2, 10, 12, 13, Township 15 North, Range 8 East and Sections 5, 6, 7, 8, Township 15 North, Range 8 East (Commission District 3). Vicente Archuleta, Case Manager (Approved 5-0)

B. Miscellaneous

1. **Request Authorization of the Use of District 1 Capital Funds, Per Capital Outlay Policy, Allocating \$18,000 for Installation of a Photovoltaic Solar System on the Chimayo Fire Station (Finance/Teresa Martinez)**

For discussion:

- XIV. A. 1. AMENDED FINAL ORDER CDRC CASE #V13-5140 Robert Garcia Variance.** Robert Garcia, Applicant, Requests a Variance of Ordinance No. 2008-5 (Pojoaque Valley Traditional Community District), § 12.5 (Density Standards) to Allow Two Dwelling Units on a Proposed 1.46 Acre Lot and a Variance of Article III, § 2.4.2b.3(a) (Road Access) to Allow a Road Access Width of Less Than Twenty Feet (20') to Access Three Lots. The Property is Located at 13A Old Pueblito Road (CR 84), in the Vicinity of Pojoaque, within Section 7, Township 19 North, Range 9 East (Commission District 1) Miguel "Mike" Romero, Case Manager (Approved 5-0)

CHAIR HOLIAN: Penny, are you presenting this?

MS. ELLIS-GREEN: Madam Chair, Commissioners, this case came in from of the Board of County Commissioners on August 13th. The final order then came in front of you on September 10th. The final order – the case was approved. The minutes are attached in your packet. The final order stated that the case was approved and then at the end of the final order it stated therefore it is ordered that the case is denied. So it was a typographical error and so we are correcting the error now with this amended final order.

CHAIR HOLIAN: Commissioner Chavez.

COMMISSIONER CHAVEZ: Yes, thank you, Madam Chair. Penny, we have

an additional handout on this case that was not in our packet. *[Exhibit 3]*

MS. ELLIS-GREEN: Madam Chair, Commissioner Chavez, yes. We learned just before the BCC meeting that the amended final order actually wasn't in your packet. It was handed to the Clerk's Office. It was in the packet that we submitted but at some point it got pulled out, possibly because it looked like a duplicate. But the final order that was handed out is the amended final order and if you notice at the very bottom, just in front of the signature line, it states it is therefore ordered, and on the old final order it stated it is therefore ordered that the application for a variance is denied. So it was just those words that were deleted.

COMMISSIONER CHAVEZ: Okay, and that's kind of what I wanted to get to, because I did want to reference the handout that was on the dais, not the one that's in the packet, and then the last statement says that the amended final order has been correct to reflect the true decision of the BCC to approve the request. So just for the record and for the public, you touched on the corrections, but just expand on the point that it reflects the true decision of the BCC. Because there were a couple of different details in their request. Some I think fall under variance and some do not.

MS. ELLIS-GREEN: Madam Chair, Commissioner Chavez, the request was for a variance to allow for two dwelling units on 1.46 acres and to allow a road access less than 20 feet to access three lots. And so the decision of the Board of County Commissioners in the minutes was to approve those requests with I believe four conditions of approval.

COMMISSIONER CHAVEZ: Right. Okay. So those are the land use decisions, and there was another discussion regarding the limit that was placed on the individual well. Was that a variance or was that just the applicant agreeing to that condition of approval?

MS. ELLIS-GREEN: Madam Chair, Commissioner Chavez, there was discussion during the BCC about that. It was recommended by staff that it be a condition of approval and it is on the fourth page I believe of the findings under A. Water use shall be restricted to one acre-foot per lot. And there was that discussion, but it was included by the Board as a condition of approval.

COMMISSIONER CHAVEZ: Okay. So then that statement goes on to say that a water meter shall be installed for each lot.

MS. ELLIS-GREEN: Correct.

COMMISSIONER CHAVEZ: That was also part of the staff recommendation or condition of approval.

MS. ELLIS-GREEN: When the Board approved they did not amend any of the conditions of approval.

COMMISSIONER CHAVEZ: Okay.

MS. ELLIS-GREEN: They removed, I think, one that was condition number 3, but that was regarding permitting the structures that were on the property and we had already found, I believe, that there were permits for those structures, so we agreed that that condition could be deleted.

COMMISSIONER CHAVEZ: Okay. Thank you, Penny. Thank you, Madam Chair. I did pull this from the Consent just so that we could clarify the final order and then be

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clear on what was approved and the staff recommendations.

CHAIR HOLIAN: Is there a motion, Commissioner Chavez?

COMMISSIONER CHAVEZ: Yes, I would move for approval of the amended final order for CDRC Case #V 13-5140, the Robert Garcia variance.

COMMISSIONER MAYFIELD: Second, Madam Chair.

CHAIR HOLIAN: There's a motion and a second. Is there any further discussion? Yes, Commissioner Mayfield.

COMMISSIONER MAYFIELD: Madam Chair, again, this was already approved by the Commission. This is basically an errata notice correction, because there was a mistake made, it wasn't in the packet. It's an errata correction. I would ask for Steve to comment on that. The order was approved by this Commission and this is basically – as far as I look at it this is an errata correction. Am I wrong on that, Steve?

MR. ROSS: Madam Chair, Commissioner Mayfield, it's a corrected order. Yes.

COMMISSIONER MAYFIELD: Because there was a word that was wrong. It said it's therefore denied. This Commission approved it already and then today we're here again because it wasn't put in the packet again today. It had to be put in the packet so it was approved by this Commission. So it's like we're not reapproving this. It's just taking a word out that should never even been in there. It's an errata correction.

MR. ROSS: Right.

CHAIR HOLIAN: Steve, it's my understanding that what we're approving is an amended final order. Is that correct?

MR. ROSS: Madam Chair, that's correct. It's essentially a correction of the earlier order so that we can give the applicant an order that correctly reflects what happened. In 15 years they're going to want to have something to hold up that supports what they're doing on the property.

COMMISSIONER MAYFIELD: But it was never denied, correct?

MR. ROSS: It was never denied, no.

COMMISSIONER MAYFIELD: It was always approved.

MR. ROSS: It was always approved.

COMMISSIONER MAYFIELD: [inaudible]

MR. ROSS: Correct. Thank you, Madam Chair. Second.

CHAIR HOLIAN: Any further discussion?

COMMISSIONER CHAVEZ: Just that it was approved with conditions and I understand –

COMMISSIONER MAYFIELD: Yes. Under the same terms as it was approved.

COMMISSIONER CHAVEZ: Right. And the reason I – the only reason, and I do understand what is the point you're making, Commissioner Mayfield, but this last statement, the amended final order has been corrected to reflect the true decision of the BCC to approve the request. I just wanted to be sure that everyone was clear on that, including the applicant.

COMMISSIONER MAYFIELD: As we did that initial night.

COMMISSIONER CHAVEZ: Right. Right.

CHAIR HOLIAN: We have a motion and a second for approval of the amended final order for CDRC Case #V 13-5140, Robert Garcia variance.

The motion passed by unanimous [5-0] voice vote.

XV. STAFF ITEMS

A. Administrative Services Department

- 1. Request Authorization for Approval and Signature Authority for the County Manager to Execute Purchase Order for the Replacement of 32 HVAC Units at the Adult Detention Facility in the Amount of \$450,303.44 Inclusive of GRT**

BILL TAYLOR (Purchasing Director): Thank you, Madam Chair, Commissioners, before you is a request to provide authorization the County Manager to execute a PO. In March of 2013 the BCC approved a price agreement for heating, ventilation and air conditioning services. Four vendors were awarded the price agreement, Air Management Services, Welch's Boiler, Mechanical Control Solutions and B & D. The project was identified at Corrections, 32 rooftop units, HVAC units that are the original units on that facility needing to be replaced. They're life-cycled out. We obtained a quote from each of the vendors on the price agreement. Air Management Services was the lowest bid. The bids ranged from the \$450,303.44 to a high bid of \$535,363.47. With that, Madam Chair, I'll stand for any questions.

CHAIR HOLIAN: Yes, Commissioner Anaya.

COMMISSIONER ANAYA: Madam Chair, first, move for approval, and then I have a comment.

COMMISSIONER CHAVEZ: Second.

CHAIR HOLIAN: Okay, there's a motion and a second. Commissioner Anaya.

COMMISSIONER ANAYA: Madam Chair, Mr. Taylor, I wanted to express that I'm appreciative of some of the efforts that I've been hearing about relative to solicitation of bids dealing with local contractors. I think it's important that we continue to reach out to local contractors throughout the county and the region, and that when we can get bids from local contractors it's a good thing. So I appreciate those efforts that have been ongoing. I know the Commissioners are always bringing up that fact and even our other elected officials are bringing up that fact that it's important to try and get local business where it's possible.

In thinking about that, just as something maybe we could think about down the road, it would be nice if we would try and figure out maybe one time out of the year where we can do some direct outreach to contractors and local business where we bring them all in to these chambers and/or some other facility that the County has and just tell them about the many opportunities that are available to them as business owners and business people in the community, whether it be selling a product or a service that they might provide us, and then

giving them some background as to what it takes to become a vendor or become somebody that bids on projects. I know that my own experience was that many contractors and people in business were afraid of procuring government business because they maybe weren't aware of what to do or maybe they were discouraged based on paperwork or other requirements. So maybe it's something we could think about doing and figuring out a way, maybe once a year, to reach out to businesses to bring them in and tell them what it takes to be a vendor and how they might go after some of the contracts we have.

CHAIR HOLIAN: Commissioner Chavez.

COMMISSIONER CHAVEZ: Yes, Commissioner Anaya, I want to expand on that a little bit because I think that this discussion has come up during our economic development study session and I think that the new person, Dave Griscom has suggested that we actually do that and do study sessions that would inform and educate our businesses locally of what we have to offer. And I think that that could be a good service that we could provide to encourage them to bid on these government contracts. So I really support that.

MR. TAYLOR: Thank you, Madam Chair. Thank you, Commissioners.

CHAIR HOLIAN: I have a question, Bill. Did anybody look at the energy efficiency of these HVAC units? And is there such a thing as energy star for HVAC units?

MR. TAYLOR: I may defer to Erik on this, but we did require in the bid that these units that they're proposing meet a minimum energy efficiency rating of 12, which is going to result in a rebate from PNM on this installation.

CHAIR HOLIAN: That's good news. Erik, do you have something to add?

ERIK AABOE (County Manager's Office): Right. Madam Chair, members of the Commission, instead of doing a like for like replacement for the equipment that had worn out we used this opportunity to upgrade the efficiency of the equipment and as Bill mentioned, we will be able to apply for a rebate in the neighborhood of \$5,000 to \$6,000 from the local utility, and in addition, we expect the savings will be on about that same range per year for the next 20 years. That's the quick and dirty on how their rebates work. About a single year's savings in rebate, you can expect those with operational savings. So these pieces of equipment that were specified were more efficient than what was there. They were not the most efficient units available. They were kind of in the sweet spot of cost versus benefit.

CHAIR HOLIAN: Thank you, Erik. That's good news, indeed. We have a motion and a second for approval of the purchase – the purchase order for the replacement of 32 HVAC units.

The motion passed by unanimous [5-0] voice vote.

CHAIR HOLIAN: Commissioner Mayfield.

COMMISSIONER MAYFIELD: Madam Chair, Mr. Taylor, can we repurpose the old ones? Put them out for auction?

MR. TAYLOR: Madam Chair, Commissioner, we've looked at that. Where we're heading on that is having the contractor remove those. There's refrigerant in those units. We can't really cannibalize those for storage or rebate. They've given us a significant discount on the manufactured price list for those units and I think that that was over and

above what was originally bid on the price agreement IFB, which translates, I believe they're giving us credit for those units.

COMMISSIONER MAYFIELD: So they'll take them.

MR. TAYLOR: They're going to take them, and it's better to have professional handle that stuff.

COMMISSIONER MAYFIELD: But that was offered to everybody.

MR. TAYLOR: That's correct.

COMMISSIONER MAYFIELD: Thank you, Mr. Taylor.

XVI. MATTERS FROM THE COUNTY MANAGER

A. Miscellaneous Updates

MS. MILLER: Madam Chair, just a couple real quick items. It's been mentioned earlier today, a couple times, I just want to remind you and the public about next Tuesday being the first study session on the adoption draft of the land use code and it is on our web under hot topics for anybody who would like to look at it there, they can access it there. They can also request a printed copy and purchase one from the County. Directly following that there will be a special meeting. So we just kind of noticed it at noon but it's to make a selection on the House District 50 seat and so I had noticed those back to back, so we go straight from the study session into the remaining candidates that did not get to present today.

And then the Board can take action as they see fit at that time or if you want to put it to another date, but I just noticed it to make sure that we had that opportunity.

COMMISSIONER STEFANICS: Madam Chair.

CHAIR HOLIAN: Yes, Commissioner Stefanics.

COMMISSIONER STEFANICS: On that point, we have a candidate who is out of state, actually doing harvesting of a farm and was not going to be there for October 15th. I'm wondering if it would be acceptable for a phone, or if we're going to roll it out to the next Commission meeting. What are we going to do?

COMMISSIONER ANAYA: Well, we can't talk on the phone. That would be a travesty.

COMMISSIONER STEFANICS: I think we have let some of us speak on the phone.

COMMISSIONER MAYFIELD: I'm not going to be at the next meeting, so this is good.

COMMISSIONER STEFANICS: You're not?

COMMISSIONER MAYFIELD: I may not be.

CHAIR HOLIAN: Commissioner Anaya. Commissioner Stefanics.

COMMISSIONER STEFANICS: No, I'm just asking the question.

COMMISSIONER ANAYA: [inaudible] Are you saying for them to give a presentation?

MS. MILLER: Madam Chair, Commissioners, I think to Commissioner Stefanics, there were two more candidates that were going to be able to be present next week

but there was one who was not present either this week or next week. And they had a representative here I think there might have even been one more. Yes. Actually, there are two more than indicated they would be at the October 15th meeting, which is Eric Luchetti, and then Debbie Larrañaga-Ortiz. But Ann Jenkins notified us that she could not be at either. She had already committed previously to be out of town. We were trying to hit an opportunity for every person who had applied and expressed interest to be here. But the only other option is to do another date. We do, just for your information, have meetings every Tuesday. This month we also have a study session on the 22nd of October and then we have our regular BCC on the 29th.

Or as Commissioner Stefanics suggested, it might be appropriate just to have Ms. Jenkins call in.

COMMISSIONER ANAYA: Madam Chair.

CHAIR HOLIAN: Yes, Commissioner Anaya.

COMMISSIONER ANAYA: Madam Chair, Mr. Ross, I know we had a summary of the state law associated with recommendations. Could a Governor pick somebody without a recommendation from a County?

MR. ROSS: Madam Chair, Commissioner Anaya, no. They have to get recommendations from all of us and they have to pick from that list.

COMMISSIONER ANAYA: Okay. So I'm okay with whatever Commissioner Stefanics wants to do.

CHAIR HOLIAN: Commissioner Stefanics.

COMMISSIONER STEFANICS: Well, I guess, Madam Chair, Ms. Miller, it comes down to whether or not the Governor says I need somebody's name, and if they don't, we can do the 15th. We can do Ann Jenkins on the 22nd. We could vote on somebody on the 29th.

COMMISSIONER ANAYA: Madam Chair.

CHAIR HOLIAN: Commissioner Anaya.

COMMISSIONER ANAYA: Just a question. I think that if we're going to decide on a date I think we should tell them what day we're going to decide. I think we should just tell the public we're going to decide on this date. That way if they want to all show up that day they can and so whatever that day is I think we should say on this day we're going to decide.

CHAIR HOLIAN: Commissioner Mayfield.

COMMISSIONER MAYFIELD: It's on a different earlier point so I'll let them finish.

COMMISSIONER ANAYA: The 29th? The last week of the month?

COMMISSIONER STEFANICS: That is our regularly scheduled meeting. We have more of the public tuning in for the TV and the radio, so if we made a decision they would probably hear that better. Are we doing radio of our code meetings?

MS. MILLER: Madam Chair, Commissioner Stefanics, we will be taping them and I don't think we will have them on the radio. We do stream them live and they may be on the TV but they won't necessarily be played. I'll have to double check. But we typically record our study sessions and do them on the web.

COMMISSIONER ANAYA: So Madam Chair.

CHAIR HOLIAN: Commissioner Anaya.

COMMISSIONER ANAYA: In fairness to all the applicants and giving them the same type of opportunity today we had people that came at a regular BCC meeting, so maybe we give them the choice. If they want to come, give us feedback during one of the study sessions, they can, but if they want to wait till the 29th, they could do that too. That would be my suggestion. But we're going to make a decision on the 29th, I think is the recommendation.

CHAIR HOLIAN: So I'll ask the other Commissioners. Are you okay with the 29th as being the decision date?

COMMISSIONER CHAVEZ: Yes.

CHAIR HOLIAN: Commissioner Mayfield.

COMMISSIONER MAYFIELD: We passed the Open Meetings Resolution. I may be calling in on the 29th. [inaudible] Maybe. But I'm okay with it. So everybody knows, I'll get a phone that works.

CHAIR HOLIAN: Okay, Katherine. Is that straight now?

MS. MILLER: We had noticed for the 15th for the two candidates and then Ms. Jenkins, I can notify her that we can call her when it starts, so if there's questions, she can call it and we'll notice it for the 29th for the actual selection by the Commission.

CHAIR HOLIAN: Okay.

COMMISSIONER ANAYA: [inaudible] my point on that is – Commissioner Stefanics makes a good point. These are recorded. They're seen on TV; they're heard on the radio. Right? So I think that's helpful for the public. So if those two individuals want to come for the study session, they can, but if they want to come at the regular BCC we should give them that same opportunity.

MS. MILLER: Okay. Madam Chair and Commissioners, we'll do that and we'll actually notify all of them that they're welcome to come on – that's the course we're going to take. Because we've been letting them all know what we're doing so far and they've picked the dates they were available. So we'll at the 29th to the list and notice that it will be action time.

CHAIR HOLIAN: Thank you, Katherine. Anything further?

MS. MILLER: Okay. Yes. I have been meeting with the New Mexico Association of Counties, kind of a tax working group of some of the elected officials that are part of the board and a little subgroup with some other counties. So we've been looking at a couple of issues, one of them being Senate Bill 641, the hold-harmless fix that wasn't such a fix for the larger counties. It's presented that it's a real problem for counties and the Association to come up with a united solution because it pretty much pits the small counties against the large counties to make any other solution. So we're still working through that, and you may hear things from the Association of Counties trying to at least come up with some kind of unified position that we can put forward to the legislature to look at this issue again.

And the Municipal League is doing the same and they did pass the resolution asking for a fix, and that fix would be to go something back to the bill that was passed in 2010 but not signed by the Governor or line-item vetoed by the Governor relative to the hold-harmless

provisions remaining. It basically is the local option that counties and municipalities put in place, that those would go back to on food. There wouldn't be an exemption on those. And the state portion of the tax, that first five and an eight stays out. That's a resolution that's adopted by the Municipal League but was not found by the little tax group as something to put forward to their full board because as I said it's not necessarily advantageous to the smaller counties that were left out of Senate Bill 641 phasing out of the hold-harmless.

So that's to be seen. I just wanted to put that on your radar that it is being discussed and you may hear more about it in the interim and I'm trying to stay up on that and kind of make sure that I know what impact any of these options would have to Santa Fe County and the residents of Santa Fe County.

The second item is one that's also come up and that is HSD's targeting the County's second 1/8 gross receipts tax to pay for the increased Medicaid reimbursements to the hospitals and thereby eliminating the sole community provider contributions by Santa Fe County to hospitals like St. Vincent's. And I will say there's probably a position that is a little more unanimous about that and that is basically don't take a county's local option to fix a state problem. Period. It doesn't really get into where to find the funding but basically a position of - putting forward the position that maybe you need to look elsewhere. I am meeting tomorrow also with a smaller working group, with some LFC members and HSD representatives to see if we can look at some other alternatives for that. So there is a small working group trying to walk through some of those issues along with the hospitals.

I just give you kind of those updates because I don't think there's any easy solution for either of these issues because it affects the different five counties differently, each solution. But for the most part the larger counties lose out on their local tax being taken and redirected elsewhere.

And then finally the last issue is a - last night was seven cadets graduated from our Firefighter II certification program, the International Firefighters Association Congress Firefighter II certification and it's a pretty impressive bunch of young men and lady. So I did attend the graduation and expressed congratulations on behalf of the County and the Board of County Commissioners.

CHAIR HOLIAN: Thank you, Katherine. We're going to have a presentation on this at the end of the month, right?

MS. MILLER: I do believe they will be able to come to the Commission meeting, but it was a nice little ceremony last night, and they're a sharp bunch. We're happy to have them on our team. So that's it.

CHAIR HOLIAN: Thank you. Yes, Commissioner Anaya.

COMMISSIONER ANAYA: Madam Chair, I'm looking to you and my other fellow colleagues on this bench to ask for support to have a discussion. I've been bringing it up several times. This is probably the third or fourth time, where we organize a meeting between our fellow Class A counties in the state because of issues, and this is a good example right now of a very important issue that's primarily impacting those Class A counties. So I'd like to see if we can collectively work on something. I've asked staff to look at it but maybe for the Association of Counties we could figure out a carve-out, and we don't need to get real complicated with the initial meeting, we could have one or two focus items to discuss, but

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just utilizing the fact that we have the Association of Counties right next door every January as a mechanism to begin a dialogue with those counties that have very similar issues.

It doesn't mean we discount the smaller counties but the Class A counties we definitely have very similar issues that we contend with.

CHAIR HOLIAN: Katherine.

MS. MILLER: Madam Chair, Commissioner Anaya, to your point, we actually have reached out to the larger counties. Rachel has been trying to pull them together, at least on this second 1/8 issue. We haven't had as good as luck at that but I will say on this little task force there's representatives from San Juan County, Bernalillo, Santa Fe. The only – I don't believe there was anyone from Dona Ana. And then you had Los Alamos, Sierra County and Curry County. So we did have three of four or five large counties there. But as far as – we have actually reached out on the second 1/8 issue and just not getting real good responses of coalition. So it might help if we did something from the Board.

COMMISSIONER ANAYA: Thank you.

CHAIR HOLIAN: Okay. Thank you, Katherine.

XVII. Matters From the County Attorney

A. Executive Session

2. Limited Personnel Issues

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

MR. ROSS: Madam Chair, we need a brief executive session to discuss limited personnel issues.

CHAIR HOLIAN: Is there a motion?

COMMISSIONER CHAVEZ: I was just going to make a motion.

CHAIR HOLIAN: Is there a second?

COMMISSIONER STEFANICS: Second.

CHAIR HOLIAN: There's a motion and a second. Roll call please.

The motion to go into executive session pursuant to NMSA Section 10-15-1-H (2) to discuss the matter delineated above passed upon unanimous roll call vote with Commissioners Anaya, Chavez, Mayfield, Stefanics and Holian all voting in the affirmative.

CHAIR HOLIAN: Steve, do you think it will be about 45 minutes, or what is your estimate?

MR. ROSS: Madam Chair, 30 minutes.

[The Commission met in close session from 6:30 to 7:25.]

COMMISSIONER MAYFIELD: Madam Chair.

CHAIR HOLIAN: Commissioner Mayfield.

COMMISSIONER MAYFIELD: I move to come out of executive session.

CHAIR HOLIAN: Commissioner Mayfield, do you want to specify who was in our executive session and what we discussed?

COMMISSIONER MAYFIELD: Madam Chair, we had in executive session Commissioner Holian, Commissioner Chavez, Commissioner Anaya, Commissioner Stefanics, myself, Attorney Steve Ross, Attorney Rachel Brown, Manager Miller and we were discussing limited personnel matters.

COMMISSIONER CHAVEZ: And no action was taken?

COMMISSIONER MAYFIELD: No action was taken.

CHAIR HOLIAN: Is there a second?

COMMISSIONER CHAVEZ: Second.

CHAIR HOLIAN: We have a motion and a second to come out of executive session.

The motion passed by unanimous [5-0] voice vote.

XVIII. PUBLIC HEARINGS

A. Growth Management Department

1. **BCC CASE # MIS 13-5280 Andrew B. Scott dba Andy's Place.**
Andrew B. Scott, Applicant, dba Andy's Place, Requests Approval for a Transfer of Ownership and Location of Liquor License No. 2795. The Property is Located at the South & East Intersection of Alameda Street and Caja del Oro Grant Road, in the Area of South Meadows Road, within Section 31, Township 17 North, Range 9 East (Commission District 2)

JOSE LARRAÑAGA (Building & Development Services): Thank you, Madam Chair. The applicant requests approval for the transfer or ownership and location of liquor license #2795 from 242 Los Pinos Road to the property located at the southeast intersection of Alameda Street and Caja del Oro Grant Road. The liquor license is currently owned by MLH Enterprises, LLC, dba Sunrise Springs Inn and retreat. The applicant intends to open a restaurant with a full-service bar at this site. This site is within the presumptive city limits within Phase 2 of the annexation area.

The zoning statement was issued by the City of Santa Fe which states that this site is zoned as a general commercial district, C-2, where restaurants with full-service bars are allowed. The City has zoning authority within the presumptive city limits. The county has to conduct a public hearing on a liquor license located outside of the limits of a municipality.

The State Alcohol and Gaming Division granted preliminary approval of this request in accordance with Section 60-6-B-4 NMSA 1978 of the Liquor Control Act. Legal notice of this request has been published in the newspaper. The Board of County Commissioners is required to conduct a public hearing on the request to grant the transfer of ownership and location of liquor license #2795.

Growth Management staff has reviewed this project for compliance with the pertinent code requirements and finds the following facts to support this submittal: The site is within

the presumptive city limits within Phase 2 of the annexation area. The City has zoning authority within the presumptive city limits. The City issued a zoning statement allowing restaurant liquor sales on the site. The County has to conduct a public hearing on a liquor license located outside of the limits of a municipality. The applicant has met the State of New Mexico requirements for noticing, distance from schools and churches.

Staff recommendation is approval of the transfer of location and ownership of liquor license #2795 from MLH Enterprises, dba Sunrise Springs Inn and Retreat located at 242 Los Pinos Road, to Andrew B. Scott, dba Andy's Place, located at the southeast intersection of Alameda Street and Caja del Oro Road. Madam Chair, I stand for any questions.

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

COMMISSIONER CHAVEZ: Mr. Larrañaga, in our packet we have correspondence from the New Mexico Regulation and Licensing Department, Alcohol and Gaming Division, an in that correspondence it states that within 45 days after receipt of a notice from the Alcohol and Gaming Division the governing body shall hold a public hearing in the question of whether the department should approve the proposed issuance or transfer. It also goes on to say that the governing body would publish a notice of the date, time and place of the hearing at least once a week for two consecutive weeks in a newspaper of general circulation within the territorial limits of the governing body, which requires that two weeks of publication must be satisfied before a hearing can be conducted. Did we do all of that?

MR. LARRAÑAGA: Madam Chair, Commissioner Chavez, yes. All liquor licenses are published and actually 21 days prior to to meet our code requirements of the 21 days of a public hearing in the *New Mexican*. The applicant does do that.

COMMISSIONER CHAVEZ: Okay. I just wanted to double check because I think in the area of the presumptive city limits we know that the land use cases, the land use applications are going to be processed by the City, not the County. And I think that puts the responsibility on the City to have early notification meetings regarding any type of development in the presumptive city limits. I want to just make that as a statement because of the fact that in the presumptive city limits, even though those residents, those applicants are technically in the county, when it comes to land use cases and applications it falls under the city.

I know it's very frustrating and maybe it's something that we can work through so that in the presumptive city limits those residents are afforded early notification at the front end, not during the process or at the tail end. I just wanted to make that as a statement. But I do appreciate Mr. Scott and the residents meeting independently of whatever policy we may have in place, and it sounds like the outcome of that was good, and I would just encourage more of that in the future. Thank you, Madam Chair.

COMMISSIONER STEFANICS: Madam Chair.

CHAIR HOLIAN: Yes, Commissioner Stefanics.

COMMISSIONER STEFANICS: Thank you. If this property, if this site or this area of town had already been annexed, this wouldn't be in front of us, right?

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

COMMISSIONER STEFANICS: Okay. Thank you.

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CHAIR HOLIAN: Any further questions for staff? Is the applicant here? Do you wish to add anything? And if you do, you need to be sworn in.

LINDA AIKEN: My name's Linda Aiken. I'm the attorney on behalf of the applicant and Mr. Scott is with me and we're present for any questions you might have.

CHAIR HOLIAN: Ms. Aiken, I believe you don't have to be sworn in. Are there any questions for the applicant? Seeing none, this is a public hearing. Is there anyone here who would like to speak on this case, either for or against? Seeing none, any more questions for staff or the applicant. Commissioner Chavez.

COMMISSIONER CHAVEZ: Madam Chair, if I could, I would like to read – even though we have no one here that wants to approach the Commission, we do have a letter signed by the governing board of the West Santa Fe Association. It reads, Dear County Commissioners and County staff, On behalf of the West Santa Fe Association we would like to offer our cautious support for the applicant in BCC Case #MIS 13-5280, Andres B. Scott, dba Andy's Place.

We represent the Piñon Hills community west of 599, directly across from the proposed restaurant. Many members of our neighborhood have expressed deep concern that the first commercial development in our immediate area will serve liquor. We can't avoid driving the two-lane road passed the site every day. Our children are on those roads every day. Drunk driving is a deadly scourge in this state and nobody is happy about more impaired drivers on our local roads.

That said, most members of our neighborhood do want a local place to eat. Mr. Scott has been pro-active in reaching out to us and communicating his intent to up a Harry's Roadhouse type establishment, i.e., a family place and not a late night bar. He has been receptive to our voiced concerns about lighting, signage, noise and alcohol on the community.

Light pollution concerns were brought up by many members, and Mr. Scott agreed to abide by the Night Sky Ordinance in letter and spirit. He recognized that this is the only stretch of 599 not subject to scenic corridor status and would to mitigate excessive signage and visual impact. We are assured noise is not a problem. Many members worried that inebriated patrons would try to sober up in the adjacent public park. We were told it won't be that kind of place and staff would be well trained to cut off drunk customers.

We were also assured that Mr. Scott's record regarding drunk driving issues and his Ojo Caliente restaurant was spotless. While talk is cheap we certainly respect Mr. Scott's efforts to find out what our interests and concerns are. Our community clearly wants a local eatery and we've been told beer and wine needs to be part of any sustainable business model. We would ask that alcoholic spirits are not part of Andy Scott's model as it plays out in our backyard and on our narrow streets. In a spirit of good faith and neighborhood hospitality we want to welcome Mr. Scott and wish him good luck with his project. Sincerely, the Governing Board of the West Santa Fe Association. Signed by Ancona – George and Helga, Lena and Jim Hands, Rudy Fernandez, Nancy Maret, Joann Sterrett, Derek Cunningham, Pete Hayes, Michael Wiese and Tim Wilson.

So, Mr. Scott, do you accept and agree with everything that has been articulated in this letter?

CHAIR HOLIAN: Mr. Scott, can you be sworn in, please?

[Duly sworn, Andrew Scott testified as follows:]

ANDREW SCOTT: We share the West Santa Fe Association's concerns and are committed to creating and maintaining that type of establishment in those particulars that are set forth in the letter.

COMMISSIONER CHAVEZ: So on one specific point you would agree to beer and wine only and not a full-service bar?

MR. SCOTT: When we last spoke, and we still, to this day are not committed to or convinced that spirits are necessary in that establishment for it to be viable. We're still obviously in the preliminary stages of the business development model and execution but no, it is not inherently – it is not necessarily the case that spirits will be served in this establishment.

COMMISSIONER CHAVEZ: But are you saying that as a minimum you would like to have beer and wine?

MR. SCOTT: Absolutely. I think it's very important, as is stated in the letter, for the effort to be viable.

COMMISSIONER CHAVEZ: Okay. Thank you. Thank you, Madam Chair.

CHAIR HOLIAN: Is there a motion?

COMMISSIONER STEFANICS: I'll move for approval.

COMMISSIONER CHAVEZ: Second, and I would like to –

CHAIR HOLIAN: Is there any further discussion?

COMMISSIONER CHAVEZ: I would just like to present this hard copy for the minutes. Do you have it? Okay. [Exhibit 4]

CHAIR HOLIAN: Any further discussion? There is a motion and a second for approval of BCC case MIS 13-5280.

The motion passed by unanimous [5-0] voice vote.

- XVIII. A. 2. CDRC CASE # V 13-5190 Minnie Walsh Variance. Minnie Walsh, Applicant, Requests a Variance of Article III, Section 10 (Lot Size Requirements) and a Variance of Article III, Section 2.4.1a.2.B (Access) of the Land Development Code and a Variance of Article 4, Section 4.2 of Ordinance No. 2008-10 (Flood Damage and Stormwater Management) to Allow a Family Transfer Land Division of 1.195 Acres Into Two Lots. The Property is Located at 58 Arroyo Jaconita, within the Traditional Community of Jacona, within Section 11, Township 19 North, Range 8 East, (Commission District 1)**

VICKI LUCERO (Building and Services Division): Thank you, Madam Chair, I'll be presenting tonight. The applicant requests a variance to allow a family transfer land division of 1.195 acres into two lots. . The property is accessed by Arroyo Jaconita Road, which is a private road, and Loma Encantada which is also a private road. Arroyo Jaconita is

a dirt/sand driving surface and is located in and crosses a FEMA designated Special Flood Hazard Area. The portion of Arroyo Jaconita Road that services the property is approximately 750 feet in length and 15 feet in width. Loma Encantada is a dirt driving surface that ends and enters the Jacona Land Grant. A portion of Loma Encantada crosses a FEMA designated Special Flood Hazard Area and is approximately ¼ mile in length and 15 feet in width. Both Arroyo Jaconita, and Loma Encantada do not have all-weather driving surfaces and may be frequently impassible during and after inclement weather, and thereby are not all-weather accessible.

Currently, there is a manufactured home, a single-wide mobile home, and two accessory structures on the property. The property is served by two onsite wells, a conventional septic system, and a split-flow septic system. Article III, Section 10 of the Land Code states that the minimum lot size in this area is 0.75 acres. In order to divide the subject property into two lots, the property would have to be at least 1.50 acres. The Applicant is requesting a variance to this requirement.

In 2006, the BCC granted a two-year temporary approval to allow the placement of a second dwelling unit on the property. The Applicant never followed up with conditions of approval. The Applicant was to apply for temporary approval every two years to be approved by the CDRC and report water meter readings to the Land Use Administrator by January 31st of each year.

The Applicant states the reason for this is due to the loss of her husband, and it has taken a few years for the family to focus and take the necessary steps toward making a home for her daughter's family permanent. The Applicant would like to provide her daughter and her family with an affordable place to live and provide clear title to the land so that they may build a permanent residence. Furthermore, she would like to maintain family ties to the land where her daughter grew up.

This application was submitted on June 6, 2013. On July 18, 2013 the CDRC met and acted on this case. The decision of the CDRC was to recommend denial of the Applicant's request by a 5-2 vote. Growth Management staff have reviewed this application for compliance with pertinent code requirements and finds the project is not in compliance with County criteria for this type of request.

Staff recommendation is for denial of the variance of Article III, Section 10, Lot size requirements, a variance of Article III, Section 2.4.1a.2.b, Access, and a variance of Article IV, Section 4.2 of Ordinance No. 2008-10 to allow a family transfer land division of 1.195 acres into two lots. If the decision of the BCC is to approve the Applicant's request staff recommends the following conditions be imposed. Madam Chair, may I enter those conditions into the record?

CHAIR HOLIAN: Yes, you may.

[The conditions are as follows:]

1. Water use shall be restricted to .50 acre-foot per year per lot. A water meter shall be installed for each lot. Annual water meter readings shall be submitted to the Land Use Administrator by January 1st of each year. Water restrictions shall be recorded in the County Clerk's Office (Article III, § 10.2.2 and Ordinance 2002-13).
2. A Plat of Survey meeting all County Code requirements shall be submitted to the

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Building and Development Services Department for review and approval (Article III, § 2.4.2).

3. The Applicant must comply with all conditions of approval within 90 days and prior to plat approval.
4. The Applicant shall comply with all Fire Prevention Division requirements at time of Plat review (1997 Fire Code and 1997 Life Safety Code).
5. The Placement of more than one dwelling unit per lot and further division of the land is prohibited on the property (Article III, § 10).
6. The Applicant shall divide the property into two equal parcels.
7. A note must be placed on the Plat regarding the lack of all-weather access to the subject lots. This note shall include language as follows: The access to this property does not meet minimum standards set forth by County Ordinance and Code. Site Access, including access by Emergency vehicles, may not be possible at all times (Ordinance 2008-10).

COMMISSIONER CHAVEZ: Thank you. I stand for questions.

CHAIR HOLIAN: Are there any questions for staff? Seeing none, is the applicant here? If there is anything that you would like to add please come forward and be sworn in.

[Duly sworn, Minnie Walsh testified as follows:]

MINNIE WALSH: Madam Chair, Commissioners, my name is Minnie Walsh and I have my son-in-law, Mike Adams, he will speak on my behalf.

[Previously sworn, Mike Adams testified as follows:]

MIKE ADAMS: My name is Mike Adams, 58 Arroyo Jaconita. I do have some comments to make with your indulgence. To be clear, my mother-in-law's purpose is to request a family property transfer of the 1.19 acres that belongs to her to my wife Michelle and I for the purpose of building a new home on a permanent foundation so that we may live in close proximity to my mother-in-law, a widow, and help maintain and care for her and her property. I'll restate. Mother's purpose is to divide the 1.19 acres so that we might be able to build a house on a permanent foundation as a family transfer, that we might maintain our ties to the community and be able to help my mother-in-law just so she's not alone out there.

The history of the case, in 2006 the BCC granted us permission for a second dwelling to be placed on the property. This was a temporary permit but with permanent provisions such as a state-approved septic system and I must admit that kind of confused us and me in particular. The Walsh family always intended to split the property permanently so the temporary part of the provision was misunderstood as far as having to reapply when permanent facilities had been approved.

In 2008 before the process could be completed John, Minnie's husband, passed away. This caused an obvious sidetracking of the process and also in 2010 my mother-in-law lost a grandson in a tragic accident. This again took our family's attention away from the matters at hand. There's some legal issues I would like to consider as far as the lot side. As we're requesting a property division under the conditions of a family transfer it is our contention that the following facts should be considered. There is a provision for lots smaller than $\frac{3}{4}$ of

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an acre in the code, Section 10.3.3, covering traditional communities of which we are considered. Lots as small as 10,000 square feet, a little over a third of an acre are permissible under certain conditions related to community water and sewage utilization, local land use and utility plan.

It is our contention that the fact that we are a part of the Aamodt settlement, which includes a regional water system and have an advanced septic system which infiltrates no nitrates, only treated graywater, gives us compatibility with that standard. In the event that the Commissioners are not swayed by that argument, the fact that we have two state-approved septic and two federally and state-approved wells on the property presently would lead us to relevant judicial precedent, and I would cite the case of the *Incorporated County of Los Alamos v. Montoya*. I have the details if anyone's interested in them.

The court of appeals instruction in *Gold v. Santa Fe County* in 2001 is that the local ordinances should not permit an act that general law prohibits, or prohibit an act that the general law permits. According to this judicial precedent, the State Environment Department, which actually issues permits for septic systems according to density and other factors, has allowed two systems for our lot size. The State Engineer and by legal court order the federal government have also allowed two wells on the property. If applying the standard of *Gold v. Santa Fe County* the fact that the federal and state governments are satisfied that density requirements have been satisfied it would seem unreasonable to prevent the division.

Also, the area we are in will not see further development as it is land-locked by the Jacona Land Grant and the Pojoaque Pueblo. The pueblo plans no development on the adjacent land as it is their buffalo preserve. There's a letter to that effect with the rest of the permit application. [Exhibit 5] It is also worth noting that nitrate levels in the soil in that area are not an issue according to the County website.

Now, the variance for access I believe is a hardship. I would like to note that we have agreed to all the stipulations, the seven stipulations the County issued if you do grant the variance. This includes the Fire Department's three stipulations – a ten-minute fire suppression system, widening of the access roads to uniform standard, and providing a turnaround for the large trucks. The Fire Department also made it clear that they will attempt to reach the property no matter the conditions. It is also worth noting that it would take a minimum of 15 minutes to reach the property through El Rancho, no matter the weather or road conditions. This is why the ten-minute fire suppression system is crucial.

There are mitigating factors that render the all-weather access ordinance an unreasonable hardship. The access point and road is not on our property. In fact the crossing is through gated, privately accessed land with posted no trespassing signs. We have a legal easement agreement but it is impossible for us to control the land. We have had productive discussions with most of the other 11 families and two renters that rely on Arroyo Jaconita and Loma Encantada for access about some improvements that we may be able to undertake, but these would still have to be agreed to by the Jacona Land Grant. This is the very definition of hardship, as we are landlocked and have no control to effect any changes no matter how willing.

There are several common sense arguments also. We are but two of 11 families and two renters whose sole access is by Arroyo Jaconita and Loma Encantada. Also, the recent

rains showed us that having an all-weather road is not much benefit when many historic arroyos in the area are flooding. Just as recently as September County Road 84 was closed in several places by the authorities because the all-access paved road was impassable due to flooding arroyos. We were able to traverse the floodplain crossing in question and the other arroyo crossing on 84-C but not County Road 84.

These are just the realities of living in a rural area, which we accept. I would like to mention too there was opposition to our application at the CDRC meeting, and I wanted to clarify some things. At the CDRC hearing one actual neighbor and one area resident voiced their opposition to the variances. Chris Peterson who is our direct neighbor has mailed a letter to the County expressing his opposition to the variances. His reasons were as follows: There has been no attempt to improve the property and the entire rationale for the property division is to build a new home on a permanent foundation with landscaping. I can understand Chris' concern over property values with their own house for sale but they lived in a single-wide trailer before they built the very nice home they live in now, and it seems reasonable that we should have the same opportunity. The septic system they thought was inadequate but it's been re-inspected by the State and it is up to the codes.

The population density increase, we've already been there for seven years; we're not actually increasing the population density, and it sets a precedent for similar small divisions and I think that our case is extremely unique. Chris' father, Scott Peterson also voiced identical concerns. Chris also retained a lawyer who contended that we had an illegal well on the property and in reviewing relevant state laws and after discussion with Steve Massovich, who's the Aamodt water master, the facts are that the two wells on the property are both part of the final disposition of the Aamodt settlement. They are both therefore legal as far as the state and federal governments are concerned. He even suggested that the property division would be desirable as it would bring the permits into conformity with the Aamodt settlement.

Also, area residents Bill and Mary Ogle voiced their opinion that since they were unable to obtain a building permit we should not be allowed to either. I would like to respectfully point out that the Ogles' situation is very different from ours. Even though there is no record they ever actually applied for a permit the County representative that they dealt with relayed to me that they were initially told they would be denied a permit because their house is actually in the external limits of the Special Flood Hazard area, the arroyo crossing and that's why they would be denied a permit. They do not gain access to their property through Loma Encantada, so their issue is one of property unsuitability, not access or lot size. After a search of County records it is also true that they have never requested a variance or a permit. I feel confident if they had requested a hardship variance the County would have granted it with conditions.

I'd like to read – the Commissioners were given six letters of report and if it's okay can I read them to you?

CHAIR HOLIAN: Mr. Adams, we do have them here and we can read them.

MR. ADAMS: Okay. Well, in conclusion, something that I think is very important to me personally and to my mother-in-law. There's a lot of talk of legalities of it and the access and the different codes. But the whole reason why we're requesting this as a family transfer, and if you look at the County code it says the purposes of the family land

transfer is to maintain local cultural values by perpetuating and protecting a traditional method of land transfer within families, especially within the traditional communities, which we live in. And to permit transfers of lots which do not meet the lot size requirements of the code from grandparents, parents, or legal guardians as a one-time gift to a child or grandchild in order to provide a more affordable home site for these adult children. And I would ask the Commissioners that I believe that that's a moral imperative. There's something that goes beyond more than just an ordinance that was enacted in 2008. Family transfers are a tradition that goes back generations in northern New Mexico and I believe that because it's so important to the culture that there should be a very compelling reason for denying such a request.

CHAIR HOLIAN: Mr. Adams, let me ask you this. Is Mrs. Walsh in agreement with the proposed staff conditions, including no further lot splits?

MS. WALSH: Yes, I am.

CHAIR HOLIAN: Any questions for the applicant? Commissioner Mayfield, do you have questions, or do you want –

COMMISSIONER MAYFIELD: If there's anybody else that wants to speak first before I ask my questions.

CHAIR HOLIAN: Okay. This is a public hearing. Is there anyone here from the public who would like to speak about this case, either in favor or in opposition? Please, if any of you are not attorneys please can you stand up and be sworn in at once, and then when you come forward, state your name and address for the record. Please come forward to address the Board. Who would like to start?

[Duly sworn, Karen King testified as follows:]

KAREN KING: Madam Chair and esteemed Commissioners, my name is Karen King. I've lived next to these guys for the past 21 ½ years and they're very good neighbors. I don't see why they should be denied what the rest of us want, equal justice under the law.

CHAIR HOLIAN: Thank you, Ms. King. Who's next.

[Duly sworn, Michelle Adams testified as follows:]

MICHELLE ADAMS: Michelle Adams. I also live at 58 Arroyo Jaconita. Madam Chair, Commissioners, I'd just like to state that I have wonderful plans for our property and it's just a matter of – there's a process that needs to be taken and I'm in charge of all the yard stuff so my commitment is to make it very lovely and there's a gentleman by the name of James Ludy Construction out of Albuquerque that when this is all said and done the process is obviously – it will start and so there's weeds now and I would surely not leave it like it is but there are plans to make it very beautifully. Thank you.

CHAIR HOLIAN: Thank you, Mrs. Adams. Who would like to speak next.

JOSEPH KARNES: Good evening, Madam Chair, members of the Commission. My name is Joseph Karnes, Sommer, Karnes and Associates. I'm speaking tonight on behalf of Chris and Misha Peterson who live next door to the Walsh property at 19 Loma Encantada. Chris Peterson is here present this evening. And also present are Chris' parents, Scott and Eva Peterson who live nearby at 25 Loma Encantada. We stand in opposition to the application this evening and we agree with the recommendations made to

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you by the Growth Management staff, the floodplain administrator and the Fire Chief and the CDRC's recommendation that this application be denied because it does not meet any of the criteria for granting either the lot size variance or the access variances that have been requested.

As you well know, the applicant has the burden to demonstrate that grounds exist to satisfy the variance criteria and I know that you have lot size variance requests come before you on a fairly regular basis. The applicant has the burden of showing that strict compliance with the requirements of the code would result in extraordinary hardship to the applicant because of the unusual topography or other such non-inflicted condition, or that these conditions would result in inhibiting the achievement of the purposes of the code. Staff explains in bold face print the variance criterion does not consider financial or medical reasons as being extraordinary hardships.

You've read the staff report. You've had the report from the CDRC and the recommendation. You've heard from the applicant this evening. The applicant has not demonstrated any hardship relating to the physical characteristics of the property. They simply have a desire to have a second residence become permanent on the property and that is it. Their issue is the lot is too small. The staff report says clearly, contrary to the applicant's representation that the minimum lot size in this area is .75 acres. They need an acre and a half to have two lots and they have not demonstrated any physical criteria that constitutes that extraordinary hardship with respect to the lot size.

Typically in these types of applications that's the end of the story. There's simply not grounds present here for you to find that an extraordinary hardship exists and that variance criteria are satisfied. As has been discussed in the staff report and by the applicant, in addition to that you shouldn't confuse the issue. This application initially rises or falls based on the request for the lot size variance, but in addition to that it's been explained that there are serious access issues for this area. Eleven or so was mentioned property owners are facing the lack of all-weather access that is a serious problem. The Fire Department in their staff report observed that the Arroyo Jacanita actively floods at various times of the year. In fact this summer, both in August and a couple of weeks ago in September, the arroyos were running and there were serious issues getting to properties in this immediate vicinity, including my clients' property.

One could say, and it was said at the CDRC meeting that, well, these people all live here and deal with that situation, so what's the problem? Well, the problem is that these people aren't here asking you for a variance. There's a big difference. In fact others that you hear from tonight have – and they'll communicate themselves, but they have been before the County trying to get a building permit and they have been denied. The precedent of not making a bad situation worse has already been set in your County code and in the decisions you've made in the past. To get a variance for the access requirements to be allowed to cross arroyos that don't have all-weather crossings again requires a finding of extraordinary hardship. And if the floodgate was opened here, no pun intended, and every lot in this area doubled in density, the existing access problems would worsen, both emergency vehicles getting into properties when the arroyos are running and residents trying to get out. You'd be making a bad situation much worse and you could expect more applications if this particular

application was granted.

Again, the applicant attempted to describe the road hardship but they can get into their property. The applicant explained that Mr. Peterson constructed a nice home on his property; he did. He constructed one home on his property. He didn't come to you asking for a variance to construct two homes on a lot that was not large enough, and that's exactly what this applicant is asking you to do. They're asking you to take an extraordinary step and grant both a lot size variance and an access variance. Your Fire Department, your floodplain administrator and the CDRC all recommended against this and I urge you to follow their recommendations.

And I'll point out one more thing. The floodplain administrator identified in her staff report that in cases where somebody requests a variance to the access requirements, they're required to submit a floodplain analysis. They're required to come in, they have the burden to come in and demonstrate to you via evidence from an expert what their proposal is going to do with respect to the floodplain. There's nothing in your staff report. There's nothing in your case file. The applicant simply didn't submit that information. Rather, they came to you and said this is what we want to do, and we speak of justice and moral imperatives and so forth and we ask you to do it on some sort of equitable basis. That's not the law here. Your obligation is to apply the variance requirements and the criteria set forth therein to this application, and I submit to you that none of the criteria have been satisfied.

We ask that you consider the recommendations of your staff and the CDRC and deny this application. I'll stand for any questions you may have.

CHAIR HOLIAN: Thank you, Mr. Karnes. I have a question. Is any part of this property in the floodplain?

MR. KARNES: I think that's a question for staff. I do not know whether the property itself is in the floodplain.

CHAIR HOLIAN: Vicki, do you know whether any part of the lot is in the floodplain?

MS. LUCERO: Madam Chair, the actual property itself is not within the floodplain. It's just the access that crosses the floodplain.

CHAIR HOLIAN: Thank you. Is there anyone else who would like to come forward to speak from the public?

[Duly sworn, Mary Ogle testified as follows:]

MARY OGLE: Good evening, Commissioners. Thank you. My name is Mary Ogle. My address is 343-B County Road 84-C, Jaconita, and I we have property right next to the Loma Encantada Road that crosses a very large arroyo and we were to have been allowed to build on that property the Fire Department came out, sent a marvelous young fire assistant chief or whatever, or assistant whatever she was, and she explained that we would not be able to use the access that we usually use to get on our property which is due to the Jacona Grant and up the arroyo and into our property because the trucks would not be able to negotiate that sandy arroyo at all. So that's the same arroyo that just -- to the north of our property. Our property isn't on the Loma Encantada Road, which is the really the road that the Walshes would have to be able to cross, or the Fire Department would have to, or any other emergency vehicles would have to be able to cross. So that arroyo, when it runs, it completely takes out

the road and so the Fire Department told us we would actually have to build a big huge culvert and have a 20-foot wide road that would then come off of that road and onto our property. And we felt that that was a good reason to not try to pursue getting a building permit. And it made sense to us.

My grandfather in Las Vegas, New Mexico was volunteer fire chief for many decades so I learned early about fire protection and all of that. And we hadn't thought of that. So I would say that the road, the Petersons – Chris Peterson and his father, try to always fix that road so that it will stay passable and have done an extra Herculean effort this year with big boulders and bringing in a truck with big boulders to try to fix that road where the arroyo comes through. It just took it out with the last rain and it had been taken out before that so this time they did all this extra work so it was twice this year that even with all their extra work, and they worked very hard just the two of them and anybody they can hire. We have never helped and I've never actually seen anybody else help fix that road. I believe that John Walsh when he was alive did help try to maintain that road as I recall.

So it's a big job for more than one family. It requires a lot of money to put in a huge culvert, tens of thousands of dollars we understand, and that only takes care of part of the problem. We would have had to, in our case, also put the 20-foot road across the northern part of our property so that the emergency vehicles could get there.

So we feel strongly that having been told that this was not a safe or a good idea to just let it go and so we did. We have no further plans to ask for any building permits. Even if you were to grant these three variances I doubt if we would continue because of the cost and also because so much of the land would be torn up and the arroyo is already at such great risk, so I plan native plants all the time and seeds to try to help the environment. Thank you very much. Do you have any questions?

CHAIR HOLIAN: Thank you, Ms. Ogle. Any questions? Is there anyone else who would like to speak? Mrs. Walsh, you will have a chance to respond. I'm asking if there's anyone else from the public who would like to speak.

[Duly sworn, William Ogle testified as follows:]

WILLIAM OGLE: Madam Chairperson and Commissioners. I'm William Ogle and I just wanted to second what my wife has said. We have – we did try. We talked with the Fire Department. We talked with the – I think it was the zoning board here and found that there are several families that are affected by not being able to have all-weather access and therefore not able to get building permits in that area, and I think that if this is an issue that the families in the county should work together to try to resolve the all-weather access rather than granting individual variances. Thank you very much.

CHAIR HOLIAN: Thank you, Mr. Ogle. Is there anyone else from the public that would like to speak?

MS. OGLE: May I say one more thing?

CHAIR HOLIAN: Sure.

MS. OGLE: About when I say the road was taken out, there is a drop-off of anywhere between I would say two and four feet, just straight drop-off when that arroyo comes through on each side. Or it's certainly on one side; maybe not quite that much on the other side. Just to give you an idea of what we're up against with that. That's on the Jacona

Grant land, by the way, that road. Thank you.

CHAIR HOLIAN: Thank you, Mrs. Ogle. Is there anyone else from the public that would like to speak? Seeing none, the public hearing is closed. Mrs. Walsh, would you like to respond.

MS. WALSH: I've lived there for 30-something years and it is sometimes the road can be a problem, but I wouldn't give it up for nothing. The view there is absolutely beautiful. And there's others, about ten families in my area right there that use that road. The Ogles don't use that road. And I'm not going nowhere. I'm staying there. So I don't mind the inconveniences some times, because all my family lives there and I'm not going nowhere. Thank you.

CHAIR HOLIAN: Thank you, Mrs. Walsh. Yes, Mr. Adams.

MR. ADAMS: Could I address a couple things?

CHAIR HOLIAN: Sure.

MR. ADAMS: Going back to what Mr. Karnes said, obviously the reason why we request these variances is because the letter of the law is against us, but I think that the main issue is, if you go back to *Gold v. Santa Fe County*, the legal precedent is there that the County shouldn't make a law that prohibits something the state allows. The state has allowed our population density. We have legal septic permits; we have legal wells, the state has no problem with out population density. I think that that legal precedent is very strong and I think that would counteract Mr. Karnes' argument.

The other thing that is to me so important to emphasize besides the nature of the family transfer is that this is a private – the Jacona land grant, it's a – we have a legal easement but we are limited in our ability to control that access point. Now, we've had very constructive discussions with many of the families. I would welcome working with the Petersons and anyone to try to see what we can do. I think the Jacona Land Grant would be receptive to certain things, but it is an extreme hardship not to do any of it. If my reading of the code is correct it's a non-self-inflicted hardship. It's the nature of the land. My mother-in-law was there for years and years before the ordinance in 2008 was enacted. And I just – I understand the nature of the new permits but I believe those are cogent arguments. Thank you very much.

CHAIR HOLIAN: Are there any questions for staff or the applicant?
Commissioner Stefanics, then Commissioner Mayfield.

COMMISSIONER STEFANICS: Thank you, Madam Chair. Steve, I have a couple questions I think for you. If this variance were to be granted, then any of the other entities that either have not applied or were denied administratively could reapproach the County with their request. Is that correct?

MR. ROSS: Madam Chair, Commissioner Stefanics, you mean other persons?

COMMISSIONER STEFANICS: Yes.

MR. ROSS: Well, I suppose anything we do could suggest to people that they could file an application and seek the same thing that somebody else did. In other words, is it a precedent? It's not what I would call a legal precedent but it's certainly a factual precedent.

COMMISSIONER STEFANICS: And the second question, Madam Chair, is even under our new codes this wouldn't be approved. Is that correct?

MR. ROSS: Madam Chair, Commissioner Stefanics, certainly the density would be an issue under the new code just like it is under the current code. The all-weather access issue is supposed to be treated differently in the new code than it is in the current code. In other words, an applicant like this seeking a single lot division wouldn't necessarily be required to provide all-weather access but somebody providing five or more lots would be. And that's an artifact of our current floodplain ordinance. But certainly the density would be the same problem we currently have.

COMMISSIONER STEFANICS: Thank you very much.

CHAIR HOLIAN: Commissioner Mayfield.

COMMISSIONER MAYFIELD: Madam Chair, thank you and everybody who's here tonight, thank you. I guess Commissioner Stefanics broached a couple things I was going to talk about. One, recently in our ICIP and our CIP plan I have talked about our all-access crossings for the majority part of all northern Santa Fe County and I think this Commission has heard me pretty loud on that. So 84-C should also be being addressed in that plan, because it's a concern to me. So hopefully that will be being addressed also. But Mr. Ross, as far as what Commissioner Stefanics said and with what the applicants are asking for right now, and I do have the potential new code that we're going to be looking at next Tuesday in front of me. So if we look at 10.4 right now as far as an accessory dwelling unit, this potentially could fall right in line with an accessory dwelling unit as it's going to be proposed to this Commission.

As I'm reading it today I see Ms. Ellis-Green right here. I don't want to get off topic right now but depending what this Commission does with this tonight or not, I guess if they waited a week or two, maybe it would be a little longer than that they could just come back in and apply for an accessory dwelling unit on this property. Am I wrong with that, Ms. Ellis-Green? If this Commission approves it as it's written and proposed.

MS. ELLIS-GREEN: Madam Chair, Commissioners, the new code does propose accessory dwelling units. It does allow those. There is a square footage limitation and I don't know the square footage of these existing homes.

COMMISSIONER MAYFIELD: So Commissioner Stefanics just kind of put that out there.

MS. ELLIS-GREEN: Madam Chair, Vicki just reminded me, Madam Chair, Commissioners, that they're actually asking to divide the land. So an accessory dwelling unit would be different. It would be on one piece of property, a main house and a smaller second accessory dwelling unit.

COMMISSIONER MAYFIELD: Okay. So that would be without the land division. But any home could ask for an accessory dwelling though, if there was not the land division, it's a clear distinction of the land division.

MS. ELLIS-GREEN: Madam Chair, Commissioners, that is on our use table as accessory uses in all zoning districts, all residential zoning districts.

COMMISSIONER MAYFIELD: Regardless if it's in a traditional community at ¾-acre or whether we have our biggest land at 40 acres in Commissioner Anaya's district.

MS. ELLIS-GREEN: Madam Chair, Commissioner Mayfield, it's 160 acres.

COMMISSIONER MAYFIELD: Bigger than I thought. Thank you. So I just

wanted to let that out there also, if there wasn't the land split that there could be potential accessory dwelling. And hasn't this Commission already taken some action on variance requests anticipating the potential of an accessory dwelling? And I would go to Mr. Ross on that.

MR. ROSS: Madam Chair, Commissioner Mayfield, I don't remember accessory dwellings. Maybe Penny does, but we certainly have taken action in anticipation of the floodplain restrictions we were talking about. All-weather access.

COMMISSIONER MAYFIELD: Different for a single-family residence versus like a subdivision.

MR. ROSS: Right.

COMMISSIONER MAYFIELD: And I'm hearing concerns from both sides and from the attorney that was just here. But 84-C is that low-water crossing. But I just also heard from the applicant also that there could be access and looking at the maps that are provided to me, and I'm very familiar with the area, Arroyo Jaconita also. But you all, and this is a question I guess for the applicant, you do have an easement from the Jacona Land Grant to get into that back side, and I do see that as far as one of the restrictions or excuse me, as far as one of the requests from our Fire Marshal's office, that they would ask for an emergency access easement?

MR. ADAMS: I'm not sure I understood the question.

COMMISSIONER MAYFIELD: Let me just go to a page back here. I'm on – from our Fire Department, excuse me. I'm on our Santa Fe County Fire Department Fire Prevention Division. There's an alternate access to the property via the Santa Fe County Road 84-C through the Jacona Land Grant. So you do all have an easement through the Jacona Land Grant?

MR. ADAMS: Yes, Commissioner, we do.

COMMISSIONER MAYFIELD: And is that a permanent granted easement that you can use all the time?

MR. ADAMS: Yes. We pay for it every year.

COMMISSIONER MAYFIELD: Okay. And Mr. Adams, maybe through Ms. Walsh, do you all – are you part of the Jacona Land Grant?

MR. ADAMS: We're not part of it.

MS. WALSH: No, we're not.

COMMISSIONER MAYFIELD: Oh, but you do have that access easement through the Jacona Land Grant.

MS. WALSH: We all do that live in that area.

COMMISSIONER MAYFIELD: Okay. So you do not always have to go through then Arroyo Jaconita.

MS. WALSH: No, we don't. We have two ways to get in there. The Pojoaque River or the road in the back.

COMMISSIONER MAYFIELD: Right. And I do see here that Pojoaque Pueblo gave you all a letter also. So on that, and I guess this might be for our Chief Patty, and I know that you probably got a promotion there somehow, Chief Patty. Sorry if I keep missing it. So do – and do they put like a lock – I don't know what that's called? A Knox

lock? On that gate, or is there even a gate on that, on the land grant road?

MS. WALSH: The land grant did not put the lock there.

COMMISSIONER MAYFIELD: So there's just a full road that they can go on?

MS. WALSH: That's up to us if we want to put a lock on it. It's gated but –

COMMISSIONER MAYFIELD: Let me ask the Chief.

CHAIR HOLIAN: Marshal Patty.

COMMISSIONER MAYFIELD: Marshal. Thank you. Thank you for the promotion. So Marshal, on that, if it's gated, I don't know if it's locked but there would be a – what's that word?

BUSTER PATTY: Madam Chair, Commissioner Mayfield, you're correct. What it would be if they were to gate that second access it would be required to have a Knox lock placed on that. That is for Fire Department access only. They could have their lock on their also so that they could come and go, but it would be designated as an emergency ingress-egress only for our purposes.

COMMISSIONER MAYFIELD: For yours.

MARSHAL PATTY: Right. And it's for a dwelling in there, it would have to be a minimum 14-foot wide and meet grades and low-water crossings, all-weather driving surface.

COMMISSIONER MAYFIELD: But again, Madam Chair and Marshal, but hearing the applicants, you all have permanent use of that if you so choose to use that all the time.

MARSHAL PATTY: Sorry?

COMMISSIONER MAYFIELD: This was for the applicants. The applicants, you all have permanent use of that easement as long as you keep your payments up.

MR. ADAMS: Yes, Commissioner.

COMMISSIONER MAYFIELD: Thank you. Madam Chair, that's all I have for now. Thank you.

CHAIR HOLIAN: Commissioner Anaya, and then Commissioner Chavez.

COMMISSIONER ANAYA: Madam Chair, just statements. If I say anything inaccurate, Mr. Ross, you can chime in if you want to. This Commission and prior Commissions have approved variances associated with the size of a lot, going below lot sizes that are within the code, and this Commission and prior Commissions have also provided variances associated with crossing and whether or not they're all-weather or not and provided conditions. The difference that this Commission has done in particular associated with those crossing is made notations on the plat and there's been specific conversations and clarity to those applicants that they're understanding that they're taking on a responsibility and a liability that could be beyond service for emergency access.

The other thing I would point out is that on the record, we have said on many occasions that the County has ourselves roads that are County roads that are all-weather areas that when it floods, when it rains – I can think of several in my district. General Goodwin Road washed out completely where it was inaccessible at all, a County road, that we ourselves have many roads that during inclement weather are impassable. So Madam Chair,

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on those notes I just make those comments for the record. Thanks.

CHAIR HOLIAN: Commissioner Chavez.

COMMISSIONER CHAVEZ: Thank you, Madam Chair. I wanted to also touch on the all-weather crossing or the low-water crossing, because we have a combination of those types of crossing and as Commissioner Anaya pointed out the all-weather crossings can get inundated with water and are impassable. So they're not a foolproof solution. Unfortunately a lot of our roads and our waterways sometimes are one and the same. And they meander and the cross each other's paths. And when you have a storm event, the water doesn't discriminate; it makes its own path. It doesn't care if there's an all-weather crossing or if there's a road. It will undermine that if there's enough water in that event.

And so we're going to have to continue to deal with that and Commissioner Mayfield referenced the new code and even though we would hope that the County would be able to provide the financial resources to make all the improvements we do have a provision in the new code in Chapter 12 that is the public improvement district concept where we would be asking individuals, individual homeowners in a case like this to impose a public improvement district to establish a public improvement district for said improvements like all-weather crossings. It's going to place a financial burden on you for a while but once those improvements are paid for then the debt is satisfied. So I just wanted to bring that to our attention because the resolution declaring intent to form a district would only take 25 percent support of those individual property owners. It may not be the best solution but it is an option that I think we're going to have to pursue in the future. I just wanted to point that out as a future reference because I don't think that it's realistic for us to think that we are going to be able to provide all of the improvements. Thank you, Madam Chair.

CHAIR HOLIAN: Any further discussion? Commissioner Mayfield.

COMMISSIONER MAYFIELD: And I know the case law at hand but I know we've also on some other land use cases we've talked about the potential impact of a new code. Madam Chair, Attorney Ross or Director Ellis-Green, on our new code, where are we talking about family transfers in the new code?

MS. ELLIS-GREEN: Madam Chair, Commissioners, that would be in the subdivision chapter, which is Chapter 5, under the exempt divisions.

COMMISSIONER MAYFIELD: Okay. So I'm just going to look at that. So just give me a general overview of what you're proposing in Chapter 5 for family transfers.

MS. ELLIS-GREEN: Family transfers are an exemption to the State Subdivision Act and so they're listed as one of the exemptions.

COMMISSIONER MAYFIELD: Okay, so maybe as it would be applicable to this case that's in front of us tonight. Would it be –

MR. ROSS: Madam Chair, Commissioner Mayfield, that provision is not too different than the current rules because that's state statute and we're powerless to change that. So some of the things that are relevant to this discussion are the changes to the floodplain ordinance and low-water crossings, the requirement for all-weather access that previously was applicable – or it's currently applicable to any application like this.

COMMISSIONER MAYFIELD: Madam Chair, Mr. Ross, that's fine. So the case that Mr. Adams referenced, excuse me, Madam Chair, Mr. Ross, the case Mr. Adams

referenced a little earlier tonight. Could you give me maybe a little background if you have any?

MR. ROSS: Madam Chair, Commissioner Mayfield, that principle is not the law as far as I know. He's talking about a general pre-emption of local laws when the state acts to regulate in a similar but unrelated field. We have explicit and express authority to regulate the general police power for the public health, safety and welfare and to regulate against public nuisances, and the zoning authority which is extremely broad. All these regulations that they're chafing at here were enacted under the zoning authority and the state does not regulate zoning and it's not pre-empted by the state. There are ancillary regulations concerning installation of sewage, septic tanks and liquid waste facilities that have their own requirements for acreage. So for example if you're going to put in a conventional sewage system NMED regulations require you to have 1.25 acres. But that doesn't mean that the County must allow a lot of 1.25 acres. That's simply the minimum acreage on which you may place a conventional septic system. So those kinds of things, they really don't affect density rules that might be established under zoning.

COMMISSIONER MAYFIELD: And Madam Chair, Mr. Ross of Ms. Ellis-Green, are we looking at the advanced systems within our new code also or no?

MR. ROSS: Madam Chair, Commissioner Mayfield, advanced systems are encouraged but there's not necessarily a requirement of an advanced system. What is encouraged is hooking up to public water and wastewater where they're available or where they might be available in the future. So you may hook up to a conventional septic system but if the County or some other entity arrives on your street with centralized liquid waste disposal you'll be required to hook up.

COMMISSIONER MAYFIELD: Thank you. And a question for the applicant, Madam Chair. Do you all have an advanced system right now on your –

MR. ADAMS: Yes, sir. We do.

COMMISSIONER MAYFIELD: And question, Madam Chair, for applicants. You have two wells that have been permitted by the OSE?

MR. ADAMS: Yes, sir. They're part of the Aamodt settlement.

COMMISSIONER MAYFIELD: Well, as far as the Aamodt settlement, they've been dug. Just tell me what you mean by the Aamodt settlement. There are so many different things about the Aamodt settlement.

MR. ADAMS: I'm sorry. Yes, they're both legally permitted at the federal level. They have legal state permits that are recognized by the Aamodt decision.

COMMISSIONER MAYFIELD: Okay. So you have wells that have both been permitted through the OSE and recognized by the OSE?

MR. ADAMS: Yes.

COMMISSIONER MAYFIELD: Madam Chair, Mr. Adams, and are those wells, are they post-82? One might be a pre-82?

MR. ADAMS: My mother-in-law's well is pre-moratorium. Ours is not; it was drilled in 2007. As part of the settlement though we both have – we get half of an acre-foot a year. So the pre-moratorium, when I talked to Mr. Massovich, he said that's kind of out. He said everybody's going with a half-acre. So each well is limited to a half-acre.

COMMISSIONER MAYFIELD: Madam Chair, Mr. Adams, you had a permit from the OSE and even the County to drill that 2007 well?

MR. ADAMS: Yes.

COMMISSIONER MAYFIELD: Okay. And then Madam Chair, Mr. Adams, you also, your septic systems – I heard you, they're registered through the OSE also?

MR. ADAMS: Not the OSE but the –

COMMISSIONER MAYFIELD: I'm sorry. The Environment Department. Thank you. And they're advanced systems again, right?

MR. ADAMS: Well, one system, my mother-in-law's system is a conventional system, and then the system we have is an advanced treatment, the split-flow system. The state and the literature should have been in the packets. They claim are effective down to a quarter-acre. So that's why they have the two systems on there for the 1.19 acres.

COMMISSIONER MAYFIELD: And Madam Chair, Mr. Walsh, knowing what the new – I don't know if you're familiar with the – if you're following with the proposal of the new Santa Fe code. It's been out there. We've put a lot of publicity on what the potential new Santa Fe code is going to do, and understanding that we live in a traditional community, at least the area that we're all in is .75, and I don't know if it's online right now, our code, as far as the accessory dwellings. Have you all looked at that? Would you all be satisfied with doing something like that, of having the existing home and then doing, if this Commission again approves what the County staff would be recommending to us or proposing to us, accessory dwelling structures without that actual lot split?

MR. ADAMS: Well, the reason why we want to do a lot split is because we seek to build a new house with a mortgage. We want to secure the land so that we can build a new house and have a mortgage and those type of things. An accessory dwelling would basically be kind of like an extension of what we're doing now, and I suppose that if that's the best we can do we would prefer to be able to build a permanent new house on the land.

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

COMMISSIONER ANAYA: Madam Chair.

CHAIR HOLIAN: Yes, Commissioner Anaya.

COMMISSIONER ANAYA: I move for approval with the following conditions: Water use shall be restricted to .50 acre-foot per year per lot. A water meter shall be installed for each lot. Annual water meter readings shall be submitted to the Land Use Administrator by January 1st of each year. 2) A Plat of Survey meeting all County Code requirements shall be submitted to the Building and Development Services Department for review and approval. 3) The Applicant must comply with all conditions of approval within 90 days and prior to plat approval. 4) The Applicant shall comply with all Fire Prevention Division requirements. (1997 Fire Code and 1997 Life Safety Code). The Placement of more than one dwelling unit per lot and further division of the land is prohibited on the property. The Applicant shall divide the property into two equal parcels. Then, as I referred to earlier, a note must be placed on the Plat regarding the lack of all-weather access to the subject lots. This note shall include language as follows: The access to this property does not meet minimum standards set forth by County Ordinance and Code. Site Access, including access by Emergency vehicles, may not be possible at all times (Ordinance 2008-10).

COMMISSIONER CHAVEZ: Madam Chair, I'd like to second that motion and ask the applicant if they're in agreement with all these conditions of approval.

MS. WALSH: Yes, I'm in agreement.

COMMISSIONER CHAVEZ: Thank you. Thank you, Madam Chair.

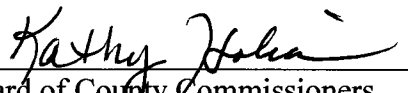
CHAIR HOLIAN: There's a motion and a second. Any further discussion?

The motion passed by majority 3-2 voice vote with Commissioners Anaya, Chavez and Mayfield voting in favor and Commissioners Holian and Stefanics voting against.

XIX. ADJOURNMENT

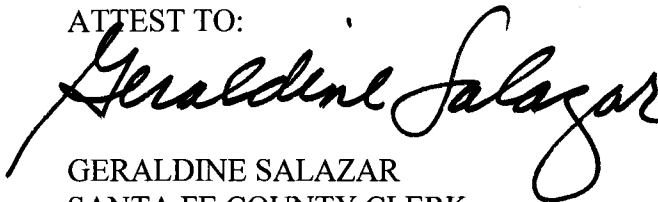
Having completed the agenda and with no further business to come before this body, Chair Holian declared this meeting adjourned at 8:45 p.m.

Approved by:



Board of County Commissioners
Kathy Holian, Chair

ATTEST TO:




GERALDINE SALAZAR
SANTA FE COUNTY CLERK

11/12/2013

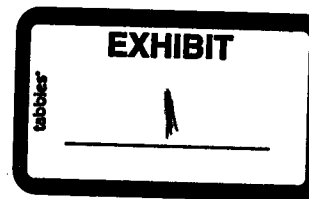


Respectfully submitted:


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

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Santa Fe County District 50 Applicants



Present for October 8

- 1 Cynthia Lukas
- 2 Ann McCampbell
- 3 Matthew McQueen
- 4 Peter R. Mitchell
- 5 Billy Peterson
- 6 Richard H. Rogers

Will be at October 15 meeting

- 7 Eric Luchetti
- 8 Debbie Larrañaga-Ortiz

Not Available either dates

- 9 Ann Jenkins

Commissoners,

Please see attached - Ann Jenkins sent her regrets that she cannot attend either meeting.
We have received two letters of support, both for Ann Jenkins, also attached.

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10/14/2013