

SANTA FE COUNTY

BOARD OF COUNTY COMMISSIONERS

REGULAR MEETING

December 9, 2014

Robert Anaya, Vice Chair - District 3
Miguel Chavez - District 2
Kathy Holian - District 4
Liz Stefanics - District 5

Danny Mayfield, Chair - District 1 [excused]



COUNTY OF SANTA FE)
STATE OF NEW MEXICO) ss

BCC MINUTES
PAGES: 67

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SANTA FE COUNTY
REGULAR MEETING
BOARD OF COUNTY COMMISSIONERS

December 9, 2014

This regular meeting of the Santa Fe Board of County Commissioners was called to order at approximately 2:09 p.m. by Vice Chair Robert Anaya in the Santa Fe County Commission Chambers, Santa Fe, New Mexico.

b. Roll Call

Roll was called by County Clerk Geraldine Salazar and indicated the presence of a quorum as follows:

Members Present:

Commissioner Robert Anaya
Commissioner, Kathy Holian
Commissioner Miguel Chavez
Commissioner Liz Stefanics

Members Excused:

Commissioner Danny Mayfield

- C. Pledge of Allegiance**
- D. State Pledge**
- E. Moment of Reflection**

The Pledge of Allegiance was led by Caleb Mente, the State Pledge by Erle Wright and the Moment of Reflection by Amanda Hargis of the Growth Management Department.

1. F. Approval of Agenda

KATHERINE MILLER (County Manager): Mr. Chair, Commissioners, yes, we have a few amendments and tabled items. On page 2 of the agenda, under Action Items, Resolutions, C. 1 has been tabled, a resolution supporting the federal Endangered Species Act. On page 3, under Miscellaneous Action Items, request authorization to execute the NCRD agreement has also been tabled.

Then under Matters from the County Attorney, item VI. A. 1, b, c, d, e, and f, pending or threatened litigation, those cases have been added, or those items have been added. And then under Public Hearings, items VII. A. 3, 4, and 5 of the land use cases have been tabled. Those are the amendments and tabled items on this agenda that I have

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today.

COMMISSIONER ANAYA: Thank you, Ms. Miller. Other amendments from Commissioners? I have one but I'll hold it until I hear from the other Commissioners.

COMMISSIONER HOLIAN: Mr. Chair.

COMMISSIONER ANAYA: Commissioner Holian.

COMMISSIONER HOLIAN: I would like to request that item III. E. 1 which is a proclamation recognizing the 20th anniversary of the Santa Fe Conservation Trust be heard as close to 5:00 as possible, because there are a number of people who would like to speak about that and I told them that that would be a good time to come.

COMMISSIONER ANAYA: Okay, Commissioner. Other Commissioners? I would like on the Action Item III. B. 3, appointment of EVEDA board of directors member, I'd like for Mr. Griscom to continue going to the meetings if we don't make that appointment officially, but I'd like to table that until January. I want to give that some thought.

COMMISSIONER STEFANICS: I'm sorry, Mr. Chair. Which item were you talking about?

COMMISSIONER ANAYA: Action Item III. B. 3.

COMMISSIONER STEFANICS: Thank you.

COMMISSIONER ANAYA: Are there any other amendments? Any other questions or comments? Is there a motion?

COMMISSIONER HOLIAN: Mr. Chair, I move for the amended agenda.

COMMISSIONER STEFANICS: I'll second.

COMMISSIONER ANAYA: There's a motion and a second to approve all the amended agenda. Any further discussion? Seeing none.

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

I. G. Approval of Minutes of County Canvassing Board
1. Approval of November 7 & 14, 2014 Canvassing Board Meeting Minutes

COMMISSIONER ANAYA: Is there a motion from the Board?

COMMISSIONER STEFANICS: Mr. Chair, I would move approval of the November 7th and November 14th Canvassing Board meeting minutes.

COMMISSIONER HOLIAN: Second.

COMMISSIONER ANAYA: There's a motion from Commissioner Stefanics, a second from Commissioner Holian. Any discussion? Mr. Shaffer.

GREG SHAFFER (County Attorney): Mr. Chair, I think since these were minutes from the Canvassing Board meetings it would be appropriate if the Board could temporarily adjourn and reconvene as the County Canvassing Board and approve these minutes of the Canvassing Board in that capacity. That would be appropriate.

COMMISSIONER ANAYA: Excellent. I'd entertain a motion to adjourn as the Board of County Commissioners and reconvene as the Canvassing Board.

COMMISSIONER STEFANICS: Mr. Chair, I would first rescind my

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motion and then move to adjourn.

COMMISSIONER ANAYA: Rescinded motion. Is the seconder okay with that?

COMMISSIONER HOLIAN: Yes.

COMMISSIONER ANAYA: So is there a motion to reconvene?
Commissioner Chavez.

COMMISSIONER CHAVEZ: So moved.

COMMISSIONER ANAYA: Is there a second?

COMMISSIONER HOLIAN: Second.

COMMISSIONER ANAYA: Motion and a second. Any further discussion?

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

COMMISSIONER ANAYA: Commissioner Stefanics.

COMMISSIONER STEFANICS: Mr. Chair, as a member of the County Commissioners Canvassing Board I would move approval of the November 7th and 14th Canvassing Board minutes.

COMMISSIONER HOLIAN: Second.

COMMISSIONER ANAYA: There's a motion, Commissioner Stefanics, second, Commissioner Holian. Any further discussion? Any comments, Madam Clerk or anyone else relative to this approval? Seeing none.

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

COMMISSIONER STEFANICS: Mr. Chair, I move that we come back into session as the Board of County Commissioners.

COMMISSIONER HOLIAN: Second.

COMMISSIONER ANAYA: Motion to come back into session as the County Commission. There's a second, Commissioner Holian. Any further discussion? Seeing none.

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

I. H. Employee Recognition
1. Recognition of Years of Service for Santa Fe County Employees

MS. MILLER: Mr. Chair, I just wanted to point out that last meeting I usually do the employee recognitions at the end of the month but I happened to miss the November anniversaries of our employees so I wanted to make sure, since we don't have a meeting at the end of this month that I did get it done. Just to note, we have a few employees who have hit their five-year anniversary with Santa Fe County in the month of November and that's Brian Brandle II, a Sheriff's Deputy, had five years as of 11/30 this year. Ronaldo Ulibarri, also a Sheriff's Deputy with five years from 11/30, and our

constituent liaison, Tina Salazar has hit her five-year anniversary with the County.

COMMISSIONER HOLIAN: Mr. Chair.

COMMISSIONER ANAYA: Commissioner Holian.

COMMISSIONER HOLIAN: I would like to make a correction. In talking with Tina, she has ten years of service, and she did get a ten-year pin.

MS. MILLER: Mr. Chair, Commissioner Holian, thank you for that correction. It is ten years for Tina. So I just want to express my appreciation for those employees who have been with the County for several dedicated years of service.

COMMISSIONER ANAYA: Thank you, Ms. Miller. Commissioner Chavez, then Commissioner Holian.

COMMISSIONER CHAVEZ: Yes, I would actually like to extend a personal thank you to these employees that were mentioned here for their dedication and service and also to their families, that they have a safe holiday season and that they be in good health.

COMMISSIONER ANAYA: Thank you, Commissioner Chavez. Commissioner Holian.

COMMISSIONER HOLIAN: Thank you very much, Mr. Chair. I also would like to thank the employees for their years of service and in the past I think that we've talked before about having years of service, being here a while, really improves the knowledge base of our County and it's really a good thing to encourage people to be here for long periods of time. Anyway, I would of course especially like to thank Tina, who is the constituent services liaison for District 4, and she's really an example of how years of service can be so valuable, because she's really great at responding to the constituents of District 4. Of course that's her job. But she's really great at answering questions that they have or putting them in touch with the appropriate staff if there is something that needs to be fixed.

So in other words, she's really good at making sure that their issues are taken care of and it's partially because of her years of service and her experience at her job and having been in a number of different positions in the County. So, Tina, I hope you're listening right now because I really want to thank you, not only on my behalf but also on behalf of the constituents of District 4. Thank you.

COMMISSIONER ANAYA: Thank you, Commissioner Holian. Other comments of Commissioners? I echo those sentiments and comments. Congratulations on those years of service.

II. CONSENT AGENDA

A. Final Orders

1. **BCC CASE # PCEV 14-5220 Mark Ruttle Vacation of Easement. Mark Ruttle, Applicant, Requests Approval to Vacate and Relocate a Platted Fifteen-Foot (15') Wide Public Access and Utility Easement on one lot Totaling 0.901 Acres. The Property is Located in the Traditional Community of Tesuque at #29 Glowing Star Road, Within Section 25, Township 18 North, Range 9 East, (Commission District 1) (Approved 5-0) Miguel "Mike" Romero, Case Manager**

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COMMISSIONER ANAYA: Are there items that Commissioners would like to pull for brief discussions?

COMMISSIONER HOLIAN: Mr. Chair, I move for approval of the Consent Agenda.

COMMISSIONER ANAYA: There's a motion.

COMMISSIONER CHAVEZ: Second.

COMMISSIONER ANAYA: Motion from Commissioner Holian, second from Commissioner Chavez. Any further discussion? Seeing none.

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

III. ACTION ITEMS

B. Appointments/Reappointments/Resignations

1. **Resignation of Robert Griego from the Santa Fe City and County Advisory Council on Food Policy**

TONY FLORES (Deputy County Manager): Thank you, Mr. Chair. We have two items that are related. We'll take them individually. As many of the Commissioners know, the City and the County are involved in a joint council on food that was established by resolution back in 2008. As part of the resolution, staff from both the City and County were appointed as board members to this council. We have two members from Santa Fe County – Robert Griego and Patricia Boies both serve on that council today. However, due to Mr. Griego's commitments on the SLDC and the map he's unable to fulfill those duties so staff is recommending that you accept the resignation of Mr. Griego from that council.

COMMISSIONER ANAYA: Thank you, Mr. Flores. Is there a motion?
Commissioner Holian.

COMMISSIONER HOLIAN: Mr. Chair, I move to accepting the resignation of Robert Griego from the Food Advisory Council.

COMMISSIONER STEFANICS: Second.

COMMISSIONER ANAYA: There's a motion, second from both Commissioners. Any further discussion? Commissioner Chavez.

COMMISSIONER CHAVEZ: Thank you, Mr. Chair. Let me see. Mr. Flores, in accepting this resignation, what will you do to move forward in announcing this vacancy and trying to bring someone on board? What are your plans? What do you see in the future on that?

MR. FLORES: Mr. Chair, Commissioner Chavez, the next item on the agenda is action requesting the appointment of a Planning staff member to fill this vacancy.

COMMISSIONER CHAVEZ: Okay. That's good. Thank you.

COMMISSIONER ANAYA: Thank you, Commissioner Chavez.
Commissioner Holian.

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COMMISSIONER HOLIAN: Thank you, Mr. Chair. I just really want to thank Robert Griego personally for being on the Food Policy Council. He was really a terrific member. I have many long conversations with him about food policy issues, agriculture, access to healthy food, and things like that and I understand why he's really overworked now and can't continue, but I hope he'll still remain involved in one way or another.

COMMISSIONER ANAYA: Thank you for those comments, Commissioner Holian. Any further discussion?

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

III. B. 2. Appointment of Erin Ortigoza to Serve on the Santa Fe City and County Advisory Council on Food Policy

MR. FLORES: Thank you, Mr. Chair. So to segue into Commissioner Chavez' request, we're bringing forward the item now to actually replace or fill the vacant position that we just accepted the resignation for from Mr. Griego. I think the County is very fortunate to have Ms. Erin Ortigoza on staff now who actually served in a similar capacity with the City of Santa Fe and she saw the light and came to the County to work for employment. I think it's a natural segue for her experience, both professionally and personally to actually fill this vacancy through the term of January of 2016. So staff is recommending the appointment of Ms. Erin Ortigoza for the vacant position on the Food Council.

COMMISSIONER ANAYA: Thank you, Mr. Flores. What's the pleasure of the Board?

COMMISSIONER HOLIAN: Mr. Chair.

COMMISSIONER ANAYA: I move for approval of the appointment of Erin Ortigoza to be the County's representative on the Food Policy Council.

COMMISSIONER CHAVEZ: Second.

COMMISSIONER ANAYA: There's a motion from Commissioner Holian, a second by Commissioner Chavez. Any further discussion? Commissioner Holian.

COMMISSIONER HOLIAN: I would like to thank Erin for being willing to serve on the Food Policy Council. I know that she was on the Food Policy Council in her role with the Farm to Table for many, many years. So she is incredibly qualified to do this and she's also qualified in other ways. She and her husband actually have a farm and they sell their produce at the farmers market, as well as to the school district. So I think she's going to be an excellent addition.

COMMISSIONER ANAYA: Thank you, Commissioner Holian. Commissioner Chavez.

COMMISSIONER CHAVEZ: I just wanted to point that out as well and we're fortunate that in this case there will be no gap in the committee's work on the person that's filling the position that was just vacated. Well, it really wasn't vacated for

very long, which is good. The background that this person brings to the County and to this work that the County's committed to speaks to the quality of County employees, not only in the task that they were hired to do but their expertise in other fields that helps the County do their work that goes just beyond the call of duty. In this case it's committee work that it's in addition to your 8 to 5, 40-hour week. So again, I want to thank our staff for taking extra charge. In this case I think it's very important that we address the food issue, the issue of those that are underserved, both in the schools and in our larger community. So thank you.

COMMISSIONER ANAYA: Thank you, Commissioner Chavez. Any further discussion? Seeing none.

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

III. C. Resolutions

2. Resolution No. 2014-143, a Resolution Establishing Signature Authority of the County Manager with Respect to Certain Agreements and Applications and Ratifying Certain Intergovernmental Agreements Previously Signed by the County Manager Based Upon Apparent Authority

MR. SHAFFER: Mr. Chair, the resolution in front of you would establish hopefully in clear terms and easy to understand and follow format signature authority of the County Manager with respect to contracts whereby the County purchases items of tangible personal property or services as well as grant agreements and contracts related to County property as well as real property owned by third parties. By way of background it's become recently apparent that a resolution adopted by the BCC, #2012-57, created some ambiguity regarding the County Manager's signature authority with respect to certain intergovernmental or grant agreements. And so that was the initial genesis for the proposed resolution which would remedy that ambiguity by clearly re-establishing historic signature authority and ratifying certain agreements that the County Manager has signed since the adoption of Resolution No. 2012-57.

As part of that effort to remedy and address those ambiguities staff took a more general look at the County Manager's signature authority and would propose that it be augmented in certain respects. In particular, staff would recommend that the County Manager be allowed to sign grant agreement amendments so long as the increase in grant revenue to the County – these would be grants initially approved by the BCC – so long as the increase in grant revenue was not more than 10 percent or \$500,000. That's consistent with the County Manager's authority with respect to contracts generally. So there is some consistency there.

And then secondly staff would recommend that the County Manager be given limited signature authority with respect to real property, specifically that the County Manager be able to approve short-term agreements of one year or less regarding County real property where the payments to the County are \$250,000 or less. The idea here would be to provide some short-term flexibility with respect to the management of County assets, while preserving long-term decisions with respect to County real property

exclusively with the BCC. And then secondly, staff would recommend that the County Manager be able to approve agreements of four years or less under which the County's payments do not exceed \$250,000 when the County is leasing or otherwise acquiring a temporary interest in real property.

So that's my overview of the proposed resolution. I would stand for any questions.

COMMISSIONER CHAVEZ: Mr. Chair.

COMMISSIONER ANAYA: Commissioner Chavez.

COMMISSIONER CHAVEZ: Thank you, Mr. Chair. Mr. Shaffer, earlier on our agenda there was a tabled item that has to do with intergovernmental agreement and the RTD. Was that tabled? Are the two related or is that separate?

MR. SHAFFER: Mr. Chair, I don't believe that they are related. The type of intergovernmental agreement, the NCTRD, as I understand it where governmental bodies are coming together to jointly exercise their power to exercise a governmental function would not be governed by this document and this signature authority. Rather, the agreements that would be subject to this is where, number one, we're potentially buying a good or service from another governmental entity, or we're receiving a grant from another governmental entity, such as the Local Government Division, or the New Mexico Department of Transportation, or we're potentially leasing real property.

But when you're dealing with that sort of governmental agreement where the County and another government are coming together to exercise governmental functions that would not be something that the County Manager would have the authority to approve under this agreement.

MS. MILLER: And Mr. Chair, to add to that, Commissioner Chavez, that item was only tabled because we did not have the original version of the agreement but I saw it today so it will be on the next meeting agenda.

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

COMMISSIONER ANAYA: Other questions or comments? Just a brief comment. Anybody else? Just a brief comment, Ms. Miller. I think I and Mr. Shaffer, offline I'll have a conversation relative to some of those real property leases and how those roll back into our overall planning process when we're budgeting for items that might reach up to \$250,000 just to have clarity that there would be mechanisms and discussions that the Board will have that deal with the budgetary aspect before you would be in a position to sign those, so there's still some checks and balances, if you will, of budgetary items. Do you want to just briefly expand on that, just for clarity for the public, Mr. Shaffer, relative to and specifically when we're talking about leases up to \$250,000 for real property, for an office space, I guess I'm assuming that might be. Those would be items that we previously as a Commission might have had a discussion on and budgeted in a specific line item. Correct?

MS. MILLER: Mr. Chair, I can say that for any property leases we have – I could give the example across the street. Those – it's interesting when I look back historically, those have come to you since I've been here but previous to that they've been signed by the County Manager and that was one of those issues of some ambiguity because it was a contract. I wanted to make sure that in working with the Attorney that it was clear, but most definitely, the budget would have to be available to enter into any

agreements, whether they're contracts or leases, anything before it even comes through the Manager's Office, there have to be requisitions established at the department level with the existing budget to do so.

COMMISSIONER ANAYA: And I say that and appreciate the clarification, knowing that we're going to be engaging in a planning process that might encompass expenditures of resources for new facilities. And so any expenditure of dollars that we make as a Board, we're going to have extensive discussions and input from staff and others through that process. If there's no other questions or comments, is there a motion from the floor?

COMMISSIONER HOLIAN: Mr. Chair.

COMMISSIONER ANAYA: Commissioner Holian.

COMMISSIONER HOLIAN: I move for approval.

COMMISSIONER STEFANICS: I'll second.

COMMISSIONER ANAYA: There's a motion to approve Resolution No. 2014-143 and a second by Commissioner Stefanics. Any further discussion?

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

III. D. Purchasing

1. Requesting BCC Approval to Utilize the Existing State Price Agreement with Centurylink to Purchase Voice and Data Communication Services Pursuant to Section 1 of Ordinance 2012-5 and Authorizing the County Manager to Sign the Purchase Order

BILL TAYLOR (Purchasing): Thank you, Mr. Chair, Commissioners. I'm here before you to request BCC approval to utilize the existing state price agreement with Centurylink to purchase voice and data communication services pursuant to Section 1 of Ordinance 2012-5 and authorizing the County Manager to sign the purchase order. Mr. Chair, this requirement is in the ordinance, any existing, current price agreement that's out there that exceeds \$250,000 in compensation that Board approval is required. With that I'll stand for questions.

COMMISSIONER ANAYA: Any questions of Mr. Taylor from the Board? Is there a motion from the Board?

COMMISSIONER HOLIAN: Mr. Chair.

COMMISSIONER ANAYA: Commissioner Holian.

COMMISSIONER HOLIAN: I move for approval.

COMMISSIONER ANAYA: Motion to approve.

COMMISSIONER CHAVEZ: Second.

COMMISSIONER ANAYA: Second, Commissioner Chavez. Any further discussion? Seeing none.

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

2014-143 BCC APPROVAL

III. D. 2. Request BCC Approval to Modify the Term of the Agreement with Centurylink for Primary Rate Interface (PRI) Service and Allow the County to Enter Into a Five (5) Year Term Agreement for Such Services, Pursuant to Section 2 of Santa Fe County Ordinance 2012-5

MR. TAYLOR: Yes, thank you, Mr. Chair, Commission. We're requesting BCC approval to modify the term of an agreement with Centurylink for primary rate interface services. We're not before the Commission today to ask to approve the contract; it is the term. This is pursuant to, again, our Ordinance 2012-5 that anything above a four-year requires BCC approval. So we're requesting at this time that the Board allow us to negotiate and enter into a five-year term. I'll stand for questions.

COMMISSIONER ANAYA: Is there any questions of Mr. Taylor from the Board? Is there a motion?

COMMISSIONER CHAVEZ: Move for approval.

COMMISSIONER HOLIAN: Second.

COMMISSIONER ANAYA: Motion from Commissioner Chavez, second from Commissioner Holian. Any further discussion? Seeing none.

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

III. D. 3. Request Authorization from the Board of County Commissioners (BCC) to Utilize the Design-Build Project Delivery Method for the Public Safety Complex Renovation and Improvement Project

MR. TAYLOR: Thank you, Mr. Chair. We are – let me get my exact request here, Mr. Chair. Request authorization from the Board of County Commissioners to utilize the design-build project delivery method for Public Safety Complex renovation and improvement project. Again, from our Ordinance 2006-60, it requires BCC approval after recommendation to the County Manager. County Manager Miller recommended and agreed with my determination to utilize that delivery method and the next step is to be before the Board and request approval to go forward with the design-build concept for that project. And I'm happy to stand for questions regarding that delivery method.

COMMISSIONER STEFANICS: Mr. Chair.

COMMISSIONER ANAYA: Commissioner Stefanics, then Commissioner Chavez.

COMMISSIONER STEFANICS: Mr. Taylor, this design-build project is for the RECC, the Regional Emergency Communications Center?

MR. TAYLOR: Mr. Chair, Commissioner Stefanics, that's correct.

COMMISSIONER STEFANICS: And this would go out to bid, Mr. Taylor?

MR. TAYLOR: Mr. Chair, Commissioner Stefanics, that is correct. If I may clarify, it will be a competitive sealed proposal process.

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COMMISSIONER STEFANICS: Thank you very much.

COMMISSIONER ANAYA: Commissioner Chavez.

COMMISSIONER CHAVEZ: I just wanted to point out for the record and I don't think the numbers have changed but the estimated construction cost is \$2.8 million, plus the BCC has allocated \$2.5 million to date. Are those numbers still accurate?

MR. TAYLOR: Mr. Chair, Commissioner Chavez, that's correct.

COMMISSIONER CHAVEZ: And the project – so this will be funded through the long-term GRT going back to 2012. So it's one of those projects that's really needed and I'm sure we'll be hearing a little bit more about the design and where we are as we go through the process. I know they're busting at the seams and this RECC is one of the most critical pieces of our infrastructure. So anyway, I just wanted to touch on the dollar amount and point out that we do have some funding behind the project and so I think it's one that will, hopefully be breaking ground within the next year. But we'll stay tuned. Thank you.

COMMISSIONER HOLIAN: Mr. Chair.

COMMISSIONER ANAYA: Thank you, Commissioner Chavez.
Commissioner Holian.

COMMISSIONER HOLIAN: Thank you, Mr. Chair. I just want to say that I think design-build is a particularly good strategy for a complex project like this. It worked very well for the BDD water treatment project. So I move for approval.

COMMISSIONER STEFANICS: Second.

COMMISSIONER ANAYA: There's a motion from Commissioner Holian, a second from Commissioner Stefanics. Under discussion, I see Mr. Martinez back there. If he could come forward I'd appreciate it. Mr. Martinez, the director. As stated, this has been a project, Mr. Martinez, trying to get funding. Could you just, for the public's edification, provide a brief synopsis of what this will do once we have this project constructed and implemented?

KEN MARTINEZ (RECC Director): Thank you, Mr. Chair. The RECC is sorely in need of expansion. We've run out of a lot of space. Our floor of operations is being taken up not only by our 911 operators but also by our administrative staff, and so we're hoping to expand the facility so that our administrative staff can have adequate space to conduct their functions with regard to administrative issues in the 911 center, and give the floor of the space for the operators to have and conduct their business, as well as places for training, for classes, for storage of our files. We're the record keepers for all of our client agencies and so if you visited the center you would see that all of our files are in a hallway along the wall and so this is a very much needed and very much appreciated project for the 911 center.

COMMISSIONER ANAYA: Thank you, Mr. Martinez. Just briefly, could you touch on the capital investment? Where's the resources coming from to build this project?

MR. MARTINEZ: Mr. Chair, I'd have to defer to Tony.

COMMISSIONER ANAYA: Mr. Flores, if you could.

MR. FLORES: Mr. Chair, the funding for this project is coming from the capital outlay gross receipts tax.

COMMISSIONER ANAYA: Mr. Flores, is there a proportionate share on the capital side that we work with our partners, with the City as well as the Town of Edgewood? And how does that – I know we're going to continue to have discussions on it, but I bring it up on purpose. This is fully funded by the County gross receipts tax? Ms. Miller?

MS. MILLER: Mr. Chair, yes. The agreement, the JPA on capital expenditures if 50-50 or 40-40-20 up to a certain maximum with Edgewood, but the facility itself, the actual building, the County has always paid for the building because it owns the building. When we built it and put the center in there the County paid 100 percent for the construction of the building, but it's a good point to note because it requires no expenditure by any of the other parties to the JPA to actually house the RECC. We bear that full cost.

COMMISSIONER ANAYA: Thank you, Ms. Miller. Any further discussions of the Board?

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

COMMISSIONER ANAYA: Before we go any further I want to acknowledge former Governor Charles Dorame from Tesuque Pueblo in the audience. Governor, good to see you. Are you hear for an agenda item, Governor? Excellent. Thank you for being here.

III. F. Ordinances

1. Request Authorization to Publish Title and General Summary of Ordinance No. 2015-__, the Santa Fe Brewing Company Local Economic Development Act (LEDA) Project Ordinance

DAVID GRISCOM (Economic Development): Mr. Chair, Commissioners, what you have before you is an ordinance, a LEDA ordinance, Local Economic Development Ordinance for the Santa Fe Brewing Company. The Santa Fe Brewing Company has requested \$250,00 from the State of New Mexico through the Economic Development Department and the State of New Mexico has determined that they are in fact a qualifying entity. They're a qualifying entity under an industry for the manufacturing, processing or assembling of agricultural or manufactured products.

They have requested a support from the state and also requested support from the County and as such, we have put forth a proposed ordinance. Today we are requesting that you authorize publishing title and general summary for that ordinance. Just really quickly, the brewery is planning on expanding its operations to include a more regional, national and international sales market. To access those sales markets they are proposing to go from 17,000 barrels of beer to 80,000 barrels of beer. The craft beer industry is an expanding industry not only statewide but nationwide as well. In fact in the paper today it was noted that Albuquerque is one of the top ten craft brew cities in the country and I know that Santa Fe Brewing Company is proposing a new taproom in Albuquerque.

So their sales would go from \$4.2 million up to \$17 million and the proposal is to create 105 – to have 105 jobs by January 1, 2020. So there's a pretty clear economic

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development impact. I listed in the memo some other economic development impact items including gross receipts tax, payroll tax, property tax and excise tax.

In the ordinance we are proposing that on behalf of the County that we waive the building development permit fees for the brewing company. Those permit fees would amount to approximately \$14,910. At the moment there are several moving parts to the proposed expansion. One of those moving parts you approved in the form of an MOU two weeks ago. The MOU between the City and the County to allow the brewery to discharge its waste into the TTMA, Turquoise Trail Master Association system, and thereby access the City's system.

There's also a master plan in process which will be before you soon, so in sum, we are requesting authorization to publish title and general summary. With that, I stand for any questions.

COMMISSIONER ANAYA: Commissioner Chavez.

COMMISSIONER CHAVEZ: Thank you, Mr. Chair. Thank you, David.

So I just – I appreciate your presentation and I'm going to just clarify, just maybe two or three points of your presentation relative to the County's contribution and the fiscal impact to the County, and the benefit as well. You touched on a lot of the benefits. So the Santa Fe Brewing Company has qualified for the Local Economic Development Act as a project. They'll use \$250,000 from the New Mexico Economic Development Department to plan, design and construct an onsite wastewater treatment system. And so that's where the permit process comes in? We're waiving the permit for the construction of that wastewater treatment system?

MR. GRISCOM: Mr. Chair, Commissioner Chavez, that's correct. The permit will be for – there are two additional buildings that are planned and the permits will pertain to those additional buildings.

COMMISSIONER ANAYA: So the memo states that the ordinance will allow Santa Fe County to waive all master plan permit fees totaling \$2,350, but the actual savings to the brewing company will be the \$14,860 in permit fees.

MR. GRISCOM: Mr. Chair, for clarification, Commissioner Chavez, the \$2,350 is a fee that the brewing company has already paid to the County, and so we are not proposing to waive that fee; we're proposing to waive all future fees. Those future fees are the building and development permit fees related to the new expansion.

COMMISSIONER CHAVEZ: Got it. Okay. So I don't know if you would need to clarify that, if it's in the fiscal impact report. But the real contribution and the significance is the permit fees for the related wastewater treatment plant and then the beneficial use that the County will have in that treated effluent.

MR. GRISCOM: Mr. Chair, Commissioner Chavez, that is correct.

COMMISSIONER CHAVEZ: That's all I have, Mr. Chair.

COMMISSIONER ANAYA: Commissioner Holian.

COMMISSIONER HOLIAN: Thank you, Mr. Chair. Thank you, David. I have a question about the wastewater treatment plant. Here under water conservation it says that this will actually help them conserve water because they reuse water? Is the water cleaned up so much that it can actually be reused in the brewing process?

MR. GRISCOM: Mr. Chair, Commissioner Holian, Brian Locke, the present CEO of the brewing company was supposed to be here. I don't know where he is.

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He can answer that question in much more detailed fashion than I can. But I do know that the wastewater treatment facility will reduce the amount of effluent that comes out of the brewing process. I don't know if they're going to reuse any of the water for processing, but it will reduce the amount of water that comes out of the process, thereby reducing the amount that gets into the City's wastewater treatment facility.

COMMISSIONER HOLIAN: Well, under this project application that's in our packet here it actually says that water is reused multiple times in the brewery process. That's kind of intriguing.

MR. GRISCOM: And I have the proposal from the brewing company to purchase this equipment that will make it more efficient but I couldn't elaborate on how it's reusing any of that.

COMMISSIONER HOLIAN: Thank you.

COMMISSIONER ANAYA: Thank you, Commissioner Holian.
Commissioner Stefanics, anything?

COMMISSIONER STEFANICS: No. Mr. Chair, I agree with Commissioner Chavez that the summary of the master plan permit fees and then the actual fees that we would be waiving are a little confusing. So just to clarify, we would be waiving approximately \$14,860. Is that correct, Mr. Griscom?

MR. GRISCOM: That is correct, Mr. Chair, Commissioner Stefanics. \$14,860 in future development fees, plus an additional \$50 to notice this, post this in the paper.

COMMISSIONER STEFANICS: Thank you very much, Mr. Chair.

COMMISSIONER ANAYA: Thank you, Commissioners.

COMMISSIONER STEFANICS: I would move for approval.

COMMISSIONER HOLIAN: Second.

COMMISSIONER ANAYA: Motion from Commissioner Stefanics, second from Commissioner Holian. Under discussion I would echo the comments of my colleagues but also say that the direct benefit is the additional jobs that we're going to obtain from the facility itself so I see that there is a waiver and a short-term maybe loss, if you will, of a small amount of revenue for a gain of economic development and jobs that I think the whole Commission acknowledges. Commissioner Chavez.

COMMISSIONER CHAVEZ: I want to go back to Commissioner Holian's point on water and conservation and potential reuse. Is any of this being metered? Will it be monitored so that we know the before and after picture? Is that all part of it?

MR. GRISCOM: It is being metered. If Claudia were here she could go into – oh, there she is. Would you like to answer that?

CLAUDIA BORCHERT (Utilities Director): Sure. Good afternoon, Commissioners, Commissioner Chavez. Yes, so the requirement for the brewery is that first there's a meter – they have two sources. They buy water from the County Utility and have their own well. So both of those are required to be metered and reported every month and then they're also required to report what is the amount that goes into their reuse system which is what they use for irrigation system. So the difference we'll be able to tell and I think from them we'll be able to get the numbers of how much they produce in terms of volume sold and in that way we'll be able to see the water budget balance

onsite.

COMMISSIONER CHAVEZ: So as far as you know, Claudia, and you don't have to if you're not comfortable, you don't have to answer, their resuse then as far as you know is onsite landscaping.

MS. BORCHERT: Yes, Commissioner Chavez and members of the Commission, they have – I think they plan on using about 75 percent of the water that they're producing onsite all for landscaping. They submitted a landscaping budget. They plan on having something like 70 tress and 100 bushes and other kinds of landscaping around in that area.

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

COMMISSIONER STEFANICS: Mr. Chair.

COMMISSIONER ANAYA: Commissioner Stefanics.

COMMISSIONER STEFANICS: I wanted to clarify that I was moving to publish title and general summary only.

COMMISSIONER ANAYA: Motion to publish title and general summary. A second from Commissioner Holian. Any further discussion? Is there a correlation between the resuse of water and the taste of the beer, Mr. Griscum?

MR. GRISCOM: I haven't tasted it, Commissioner.

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

III. G. Public Hearing

1. Community Development Block Grant Program- Project Proposals (2nd Public Meeting)

MR. FLORES: Thank you, Mr. Chair. We're bringing forward the second public input meeting today for the Community Development Block Grant project proposals for calendar year 15. We reported last month of the public outreach that staff, primarily Mr. Miller and Mr. Garcia conducted and the projects that have come back in response to that outreach. The next step in the process is to take a look at any additional projects that may come forward today other than what is on the list. Then we will develop a package based upon the Community Development Council's latest rule changes that were adopted at last week's CDC meeting and after the application workshop this Thursday. We'll bring back each of the projects to the Commission in January with the data on the low to moderate income levels, the population, the demographics, the cost benefit analysis and return of investment which is a requirement under CDBG and we'll present those to the Board in fashion that then the Board can direct staff on which project to move forward on.

Mr. Chair, at this time I would humbly request that you open up for any additional public comment and then I'll be able to answer any questions there might be.

COMMISSIONER ANAYA: I'll go to comments of Commissioners and then I'll open for the public hearing. Commissioner Chavez.

COMMISSIONER CHAVEZ: Thank you, Mr. Chair. Mr. Flores, would it be safe to read the list of projects that have been recommended or suggested to date?

Would you want to read those in?

MR. FLORES: Mr. Chair, Commissioner Chavez, that's an excellent suggestion. We have received project requests not so much recommendations because we can't preselect. But we've had requests for a Madrid fire protection system, the Glorieta Mutual Domestic Water Consumers Association Project which would be a continuation of their existing projects, development of the Stanley Cyclone Center, improvements to the Nambe Community Center when it comes to the ADA Act, development of a future plan for the Pojoaque recreation complex, improvements to the Westside La Familia Clinic – that's the one located in Romero Park formerly known as Agua Fria Park, improvements to the clinic in the Village of Cerrillos, a wastewater system for Pojoaque Valley, development of a Food Co-op that we discussed at the last meeting and there's quite a bit of dialogue that goes along with that because it would be located within the city. Development of a Southside Boys and Girls Club and an education and outreach program also housed at the Nambe Community Center. And those are the projects, Mr. Chair, Commissioner Chavez, that staff has received to date.

COMMISSIONER ANAYA: Thank you. Commissioner Chavez, any other questions?

COMMISSIONER CHAVEZ: No, I would just note that they are all worthwhile projects. I think that one or two might stand out for me but they're all important and I think that they're all needed. It's good to know that the public is focusing in these areas. Thank you, Mr. Chair.

COMMISSIONER ANAYA: Any other comments from Commissioners? Seeing none, I'll open the public hearing. Are there any individuals that would like to come forward to request consideration for Community Development Block Grant Funding?

Mr. Flores, do you have anything you want to add?

MR. FLORES: Mr. Chair, that would conclude our requirements under the public outreach. As I indicated at previous meetings, we are required one public meeting by the Board to select a project and that would happen in January. We will be bringing forward an analysis of each of the projects that we just read into the record. And with that, Mr. Chair, I will stand for any questions.

COMMISSIONER ANAYA: Mr. Flores, I just want to put out in the public record that I brought forward the request on the Stanley Cyclone Center, I'm going to remove that, the request on the Stanley Cyclone Center for the Community Development Block Grant because as I stated at the last meeting I'm going to put all my energy and efforts working toward the Southside Boys and Girls Club.

Any other questions or comments? Commissioner Chavez.

COMMISSIONER CHAVEZ: Mr. Chair, on that point, I think that's pretty gracious and it also speaks to the CDBG but Tony, Mr. Flores, if you could for the record and the public explain the Community Block Grant Funding. its purposes. And I think that ties right in with the comment that Commissioner Anaya just made with regards to the Boys and Girls Club.

MR. FLORES: Thanks you, Mr. Chair. Commissioner Chavez, Community Development Block Grant funding is a federal program through the Housing

and Urban Development Department that flows to the State of New Mexico. The Department of Finance Administration is the state administering agency, the SAA. That money is intended to serve low to moderate income levels of residents, to remove blight and for emergency situations. If you read through the legislation that established that, much similar to other federal programs, the basis of that is to get money into communities that were in distress either financially, economically, demographically, et cetera. So the intent of CDBG funding is to improve communities. That's why it is under those auspices. So the funding has primarily been used for a water, wastewater infrastructure projects. For reliable drinking water/potable water, for community centers, for senior. So the range of the program is broad but it's geared for a specific demographic population.

COMMISSIONER CHAVEZ: And, thank you Mr. Flores, Mr. Chair, can we expect a dollar amount? Historically I know the City and County have fared well but could you give us a snapshot of what that might look like?

MR. FLORES: Mr. Chair, Commissioner Chavez, the maximum amount of application funding is half a million dollars, \$500,000. Historically we have seen much less than that around \$300,000 to \$400,000 for projects in my previous life here. I know our current project that will be brought before the Board in January to do the official close out which in the Glorieta Mutual Domestic Water Consumers Association. I think the HUD funding through CDBG was about four and a quarter. So we're able to apply for \$500,000 but as Commissioner Stefanics can attest it's much like capital outlay at the legislature, they only have a limited amount of funding in a pot and we're all competing for the same dollars. So although \$500,000 would be the ceiling, I would anticipate much less and that is why they strongly encourage phasing of projects.

COMMISSIONER ANAYA: Thank you, Commissioner Chavez. Any other comments from Commissioners? I would just add a list of projects that the County has been involved in that I'm directly aware of and I think you can add to it if there are others that I leave out. The Teen Center up in northern New Mexico. The Southside La Familia Medical Center, CDBG project. Youth Shelter and Family Services also CDBG project and also as you noted the Glorieta Water system a recent one. Others, Mr. Flores?

MR. FLORES: The Nancy Rodriguez Community Center in the Village of Agua Fria was also a CDBG project.

COMMISSIONER ANAYA: Nancy Rodriguez Community Center, excellent, thank you. Commissioner Holian.

COMMISSIONER HOLIAN: Thank you, Mr. Chair. Tony, are there certain kinds of projects that are more likely to actually be successful?

MR. FLORES: Mr. Chair, Commissioner Holian, excellent question. We are threatened and I use that word lightly, but we are told every year that there will be an emphasis on water and wastewater projects. That has been the mantra that has existed ten and a half years ago when I left the County. So it's always that water and wastewater projects have a higher ranking on the list of CDBG recommended projects but that doesn't preclude others. So I think if we attack the project proposals that we bring forward and utilize the matrix in a sense of how the evaluation criteria would play out, that would provide the best opportunity to select a viable project.

COMMISSIONER HOLIAN: And so they can actually turn down our grant, right?

MR. FLORES: Mr. Chair, Commissioner Holian, it's a competitive process so we always run the risk of not receiving funding based upon the evolution criteria.

COMMISSIONER HOLIAN: Okay. So it's really in our best interest to put forward the strongest project as far as their criteria.

MR. FLORES: Mr. Chair, Commissioner Chavez, absolutely.

COMMISSIONER HOLIAN: Thank you.

COMMISSIONER ANAYA: Other questions or comments? Is there anybody that would like to comment on this public hearing? Seeing none, the public hearing is closed. Thank you, Mr. Flores. Thank you, Mr. Garcia.

IV. MATTERS OF PUBLIC CONCERN

None were offered.

V. DISCUSSION/INFORMATION ITEMS/PRESENTATIONS

B. Matters from the Commission

1. Commissioner Issues and Comments

COMMISSIONER ANAYA: Commissioner Chavez.

COMMISSIONER CHAVEZ: All right, you're going to put me on the stop. Okay, thank you, Mr. Chair. The only thing that comes to mind is that I really want to take this opportunity to again thank staff for their dedicated service to Santa Fe County and to their families. Best wishes to staff and their families and that they have a safe and prosperous holiday season and New Year. I know the year goes by pretty quick but I'm sensing that Santa Fe County has done well the last couple of year and we have a lot on our plates. We've taken a step back on a couple of things which I think is good. And so I'm just hoping that in the next couple of years that we can move forward on some of those projects like our land use map and the code. There's a few things that have been a daunting task and my colleagues and staff have laid the ground work on a lot of things that I have in my mind so I just would like to see those things move forward in the next year. But I've enjoyed working with my colleagues here on the dais and working with staff. So to my colleagues and their families, be safe and prosperous holiday season to you as well.

COMMISSIONER ANAYA: Thank you, Commissioner Chavez, to you as well. Commissioner Stefanics.

COMMISSIONER STEFANICS: Thank you, Mr. Chair. I have provided all the Commissioners a handout from this morning's Affiliate meeting. The second page is about the lifecycle of the New Mexico Association of Counties legislative process. The third page are the priorities from the Association of Counties and the last handout is a memorial that has been already adopted as a priority by the Courts and Corrections Committee to study housing and clinical service options for individuals with serious

NO OTHER RECORDS AVAILABLE

mental illness who are in custody awaiting trial, and that's just an informational item.

The second thing is that I have all the Commissioners have signed certificates of recognition to the Ten Who Made a Difference. And I'd like to read their names: Socorro Aragon, teacher and playwright, historic preservation; John Berkenfield transformed El Rancho de los Golondrinas into a living history museum; Kathy Olshefsky, search and rescue by horseback; Kathryn Wells, petroglyph preservation; John Rochester, charity work in numerous fields, theater, food insecurity and philanthropy; Anna Cardenas, cultural preservation efforts in Galisteo; Kristine Johnson, longtime nurse, volunteer work for cultural, educational, political, legal and church groups; Bette Booth, youth advocate; Robert Ortiz, Chaplain, Santa Fe County volunteer services coordinator at the adult correctional facility; and, George Rivera the Pojoaque Pueblo Governor for working on the tradition and history of his pueblo. And these are ten people who made a difference who were nominated to *The New Mexico* that was chosen. They do this every year around the Thanksgiving period and the Board of County Commissioners will be sending them certificates of recognition. Thank you, Mr. Chair.

And, I would wish everyone a happy holiday as well.

COMMISSIONER ANAYA: Thank you, Commissioner, and the same to you and I would just echo your comments relative to those recipients. I know several of them, Socorro and Anna and others but they've done exceptional work for the community. Commissioner Holian.

COMMISSIONER HOLIAN: Thank you, Mr. Chair. And, I too would like to thank you, Commissioner Stefanics, for bringing forward recognition of the Ten Who Made a Difference. I would like to wish everybody in the County a happy holiday season no matter what holidays that you are actually celebrating and I hope you have a relaxing time during the holiday season and are able to spend time with friends and family, a restorative time. This coming year is going to be very busy looking at the schedule of things that we have to accomplish in the next year.

I also want to ask you to please take care of yourself. I read recently, for example, that the flu vaccine that is out this year is not as effective as flu vaccines have been in previous years. But if you do get a sick, I'm going to be a mom here, you should stay home, drink lots of liquids, get some rest and really pamper yourself. It really does no good to force yourself to come to work if you're sick. You'll just probably end up infecting other people and it's hard to concentrate on your job anyway if you're not feeling well. So please, please, take good care of yourself this holiday season. And, in fact, for the rest of the year. Thank you, Mr. Chair.

COMMISSIONER ANAYA: Thank you, Commissioner Holian. Thanks to my colleagues. I want to once again publicly thank the Chairman, Chairman Danny Mayfield for his work and his efforts on the Commission. He was excused today but I wanted to acknowledge his work for his district as well as for Santa Fe County as a Santa Fe County Commissioner.

Also, want to welcome Mr. Roybal to the bench. I know we'll be having many discussions as a Commission with our staff and with our community. I look forward to that. And I wish everyone a happy holiday season and a prosperous New Year for everyone.

On a sadder note I wanted to acknowledge, I'm going to read it in later, but I

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wanted to acknowledge an individual who was part of a trio of individuals in the southern part of Santa Fe County, Mr. Sam King brother to Bruce King, the eldest of the three. It was Sam King, Bruce King, and Don King. Sam passed on. He was over 90 years old and he was an individual who dedicated multiple decades to the school board in Moriarty/Edgewood School District, was on many boards that dealt with agriculture, service – and just an excellent man. He was probably one of the people behind the scenes in many ways. He wasn't behind the scenes in any way in the Edgewood and Estancia Basin but on statewide politics he was an individual that the former governor and Don and many others went to for advice and support and direction and maybe critic and other things but an excellent individual. The farmer, I would say, of the three. A true, true agricultural individual that was all about taking care of what he had and preserving the environment and his lands and many others. But one of those three pioneers passed on and so I would just acknowledge him and his work and his family, condolences to the family and would ask that we have a brief moment of silence in honor of Sam King. [A moment of silence followed]

Thank you very much for the Commissioners. Ms. Miller are there items on the agenda that don't involve any of the discussion from executive that we could go to now before we move to other – actually no, my apologies, my apologies. Any other matters from Commissioners.

V. C. Matters From The County Manager
1. Miscellaneous Updates
a. Legislative Update

MS. MILLER: Mr. Chair, Commissioners, I have a few updates for you. First of all, as you know the legislative session is right around the corner starting new month and actually starting December 15th is pre-filing period for 2015 Legislative Session. On January 13th and we've sent out a save the date for your calendars is the lunch that we've scheduled, or brunch I should say, that we've scheduled with our Santa Fe legislative delegation at the State Capitol from 10 a.m. to 12. And then on January 29th we have for the first time a Santa Fe County Day at the State Capitol from 8:30 to 1 p.m. and we have I believe about 13 tables or so of different county programs and departments there. And then the session starts on January 20th and ends on March 21st. So we'll be providing you from now forward through the session and after the end of the session updates relative to any legislation that the Commission or the Association of Counties is following.

The next item is that we've also sent out an email with a board BCC committee matrix, the one that we do every year at the beginning of the year to have Commissioners select which boards they would like to be on for the upcoming year. We sent that out with the intent to have you review and provide your selections of the boards and committees that you'd like to serve on next year. In addition we have sent it to the incoming Commissioner Roybal and we'll be providing you updates on that as we get feedback from each of the Commissioners as to what board you'd like to be on. Then, hopefully, in the first meeting in January we'll be able to make a selection for all the different boards and committees.

Then also –

COMMISSIONER STEFANICS: On that point, Mr. Chair.

COMMISSIONER ANAYA: Commissioner Stefanics.

COMMISSIONER STEFANICS: On that point, Mr. Chair, I would recommend that if there are any meeting in January before January 13th when we meet that the regular members continue to serve so that we don't have a vacancy at a meeting. For example, I know that the BDD will be meeting prior to that date and I would hate for any of us not to be present. Thank you.

COMMISSIONER ANAYA: I see concurrence from my colleagues on that. Commissioner Chavez.

COMMISSIONER CHAVEZ: And I guess there are other committees that come to mind in my case where I would be vice chair and then chair for the next year. So I would think that we want some continuity on those committees where it is already predetermined. But I'll go through my list with you and we can see where that shakes out.

COMMISSIONER ANAYA: Commissioner Chavez, you're the chair of all of those – so do you want us to just wait?

COMMISSIONER CHAVEZ: No, no.

COMMISSIONER ANAYA: Just kidding. You're doing good work. You're chair of MPO now, correct?

COMMISSIONER CHAVEZ: Right. Vice chair of SWMA.

COMMISSIONER ANAYA: Vice chair of SWMA, okay.

COMMISSIONER CHAVEZ: Or vice versa. I'll have to review the list.

COMMISSIONER ANAYA: Excellent – you're chair of SWMA and vice chair of MPO.

COMMISSIONER CHAVEZ: And vice chair on RTD as well.

COMMISSIONER ANAYA: Busy, busy man. Duly noted.

MS. MILLER: Mr. Chair, we'll go over all of that. And what we'll try to do is make sure that you all can see the matrix ahead of time so you can see where we might have conflicts or too many members wanting to be on something or nobody wanting to be on something. So we try to work that out ahead of time and we will work with you to do that.

Also, I wanted to remind the Commission that you'll get other information relative to it but the inauguration for incoming elected officials we have that scheduled for the 31st and I think we're going to move the starting time from 10 a.m. to 9:30. But most notably it's on New Year's Eve as opposed to New Year's Day. So that morning here at the chambers and we're working with all of the incoming elected officials to make sure that they're available for that and we are coordinating with the ones that are within the County but also at magistrate court as well.

COMMISSIONER STEFANICS: Mr. Chair.

COMMISSIONER ANAYA: Commissioner Stefanics.

COMMISSIONER STEFANICS: Doing it on the 31st is great. Do we meet the statutory requirements by doing that?

MR. SHAFFER: Mr. Chair, Commissioner Stefanics, in my opinion, yes. What's actually going to occur is the formal taking of the oath of office and the statute

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and constitution just generally provide that the oath of office must be taken before entering upon your duties. So this would be the formal taking of the oath of office such that the transition and the assumption of office can happen seamlessly at the stroke of midnight.

COMMISSIONER STEFANICS: Thank you very much.

COMMISSIONER ANAYA: Commissioner Stefanics, I had the same question. I guess I was one of the only ones everyone else was ready to do it on the 31st and break with tradition and after I thought about it for awhile I thought, well, people maybe want to relax and enjoy their New Year's –

COMMISSIONER STEFANICS: Well, Mr. Chair, they must think that we're going to party hardy the night before.

COMMISSIONER ANAYA: I guess so. But it's all good. I think we'll do it in the morning and I appreciate staff's work on that. I'll be working closely with Ms. Miller and the team. So thank you very much for that. Other items, Ms. Miller?

MS. MILLER: Yes, I have a couple more items. Another item is just a reminder that our volunteer firefighters graduate, the cadets, there's a cadet graduation this Friday night, December 12th at 6:30 p.m. at IAIA. I believe we have about 16 volunteer cadets that will graduate in this class. So we congratulate them and if you're available Friday night for their graduation you should have an invitation in your mailboxes to attend that as well.

And then finally, there's been a lot of activity relative to the Association of Counties and NACo on the secure rural schools funding as well as the PILT funding and I just received an update. We had received a call from Senator Heinrich's office letting us know that it looks like there's some PILT funding and that that's been obtained according to the Association of Counties, the National Association of Counties, that \$70 million is included in the National Defense Authorization Act for FY 2015. Which is good news but the bad news is that it did not include the secure rural schools. So NACo wants to encourage the counties to make sure that we contact our delegation as well as any other congressional members to make sure that they do not forget about the secure rural schools funding even if they have a one-year fix for the PILT funding again. So I just wanted to give you that update and I will send you this email and also we are putting together a letter or an email that we are going to send out and we will send you a copy of that as well that you might be able to forward on in your name to any contacts that you might have in congress.

And those are all of my updates, Mr. Chair.

COMMISSIONER ANAYA: Thank you, Ms. Miller. Any more questions or comments? Do we have – I see Mr. Cook here and I want to welcome him and Mr. Segura. Do we want to go ahead and go to that discussion on multi-line?

MS. MILLER: Mr. Chair, that is an item in executive session and so we would request that they brief you on that issue in executive session.

COMMISSIONER STEFANICS: Mr. Chair.

COMMISSIONER ANAYA: Commissioner Stefanics.

COMMISSIONER STEFANICS: Speaking about multi-line, Commissioner Mayfield was serving as our Commissioner on multi-line and you were is alternate and then he was your alternate to worker's comp and in an off-line conversation

we are allowed to have an elected official or a staff and if – I want to put out an idea for you as the chair to consider – but if our County Manager is interested in that position and I don't know if she has the time, that might be something that she would want to participate in. But I just wanted to give you that as an idea to think about. Thank you.

COMMISSIONER ANAYA: Thank you, Commissioner Stefanics. Is there other questions or comments?

VI. MATTERS FROM COUNTY ATTORNEY

A. Executive Session

1. Threatened or Pending Litigation, as Allowed by Section 10-15-1(H)(7) NMSA 1978

- a. Threatened or Pending Litigation Concerning Applications of O Centro Espirita Beneficente União do Vegetal, Nucleo Santa Fe for Development Approvals or Permits for a Community Service Facility Located at 5 Brass Horse Road Santa Fe NM**
- b. PNM Rate Increase Application Pertaining to Rate 11B – Water and Sewage Class**
- c. Threatened or Pending Litigation Concerning High Summit III Subdivision**
- d. Public Regulation Commission Case No. 13-00390-UT – PNM Replacement Energy Case**
- e. Pending Litigation Involving Whistleblower Protection Act Claims**
- f. *New Mexico Gas, et al., v. Board of County Commissioners of Santa Fe County, State of New Mexico, County of Santa Fe, First Judicial District Court, No. D-0101-CV-2009-02050***

VI. A. 2. Discussion of Sole Source Contracts and Contract Negotiations Related to Competitive Sealed Proposals Solicited Pursuant to the Procurement Code, as Allowed by Section 10-15-1(H)(6) NMSA 1978

- a. Discussion of Contract Negotiations with New Mexico Association of Counties Multi-Line and Law Enforcement Pools for Insurance Coverage in Calendar Year 2015**

COMMISSIONER ANAYA: Mr. Shaffer.

MR. SHAFFER: Mr. Chair, the statutory basis and the specific items to be discussed in executive session are listed on the agenda. So if it pleases the Board I just respectfully suggest that any motion to go into executive session should at least incorporate by reference that statutory basis as well as the specific items as listed. In terms of an estimate, depending upon the extent of the conversation, I would estimate anywhere from 70 to 90 minutes.

COMMISSIONER STEFANICS: Mr. Chair.

COMMISSIONER ANAYA: Is there a motion and if you could include a 10 minute break before that starts. Commissioner Stefanics.

COMMISSIONER STEFANICS: Mr. Chair. I would move we go into executive session with a 10 minute break prior, to discuss threatened or pending litigation, as allowed by Section 10-15-1(H)(7) NMSA 1978 regarding UDV, PNM rate increase, High Summit Subdivision, PRC case and Whistleblower Protection, as well as New Mexico Gas. And also a discussion of Sole Source Contracts and Contract Negotiations regarding multi-line and law enforcement.

COMMISSIONER HOLIAN: Second.

The motion to go into executive session pursuant to NMSA Section 10-15-1-H (7, 6) to discuss the matters delineated above passed by unanimous roll call vote as follows:

Commissioner Anaya	Aye
Commissioner Stefanics	Aye
Commissioner Holian	Aye
Commissioner Chavez	Aye

[The Commission met in closed session from 3:25 to 5:30.]

Commissioner Stefanics moved to come out of executive session having discussed only the matters outlined in the motion, and Commissioner Chavez seconded adding no action was taken. Commissioner Stefanics identified that the County Manager, County Attorney, Deputy County Attorney and the four Commissioners attended the closed session. The motion passed by unanimous [4-0] voice vote.

VI. B. Resolution No. 2014-144, a Resolution Authorizing the County Manager to Negotiate with the New Mexico Association of Counties Multi-Line and Law Enforcement Pools for Insurance Coverage in Calendar Year 2015 and to Execute Purchase Orders and Other Documents Necessary to Effectuate Such Coverage

COMMISSIONER ANAYA: I'll entertain a motion, Commissioners.

COMMISSIONER HOLIAN: Mr. Chair.

COMMISSIONER ANAYA: Commissioner Holian.

COMMISSIONER HOLIAN: I will make a motion for approval of a Resolution authorizing the County Manager to negotiate with the New Mexico Association of Counties Multi-Line and Law Enforcement Pools for Insurance Coverage in Calendar Year 2015 and to execute purchase orders and other documents necessary to effectuate such coverage.

COMMISSIONER CHAVEZ: Second.

COMMISSIONER ANAYA: Motion and second. Any further discussion?

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

COMMISSIONER ANAYA: Motion carries unanimously. Madame Clerk.

CLERK SALAZAR: That is resolution number 2014-144.

VI. C. Resolution No. 2014-145, a Resolution Delegating Authority to the County Manager to Negotiate and Execute a Written Agreement Between the County and O Centro Espirita Beneficente União do Vegetal, Nucleo Santa Fe Memorializing the Parties' Mutual Understandings Concerning Implementation of Their Settlement Agreement

COMMISSIONER ANAYA: I would entertain a motion on item C, Commissioners.

COMMISSIONER HOLIAN: Mr. Chair.

COMMISSIONER ANAYA: Commissioner Holian.

COMMISSIONER HOLIAN: I move for approval of a resolution delegating authority to the County Manager to negotiate and execute a written agreement between the County and O Centro Espirita Beneficente União do Vegetal, Nucleo Santa Fe memorializing the parties' mutual understandings concerning implementation of their settlement agreement and in the resolution that we commit the County to expenditures – we cannot commit the County to expenditures in excess of \$420,000 without further authorization from the Board and those expenditures shall come from the litigation set aside within the County General Fund.

COMMISSIONER STEFANICS: Second.

COMMISSIONER HOLIAN: Motion and a second by Commissioner Stefanics. Is there any further discussion. Seeing none --

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

COMMISSIONER ANAYA: Commissioners, we will now move back to action item items E.

CLERK SALAZAR: Mr. Chair, for the record the resolution you just passed is 2014-145.

COMMISSIONER ANAYA: Thank you, Madame Clerk., 2014-145.

III. E. Miscellaneous

1. A Proclamation Recognizing the 20th Anniversary of the Santa Fe Conservation Trust

COMMISSIONER HOLIAN: Thank you, Mr. Chair. It is a real honor to present this proclamation recognizing the 20th anniversary of the Santa Fe Conservation Trust. The Trust has given so much to the community. For example, getting easements for trails and building and maintaining those trails for recreation in our County. For preserving land. Land that has historical significance. Land is habitat for wildlife, places for outside recreation and ranches and farms, preserving ranches and farms. There are many cases in which the owners of ranches and/or farms are getting elderly and they want to make sure that their land continues as a ranch – as an intact ranch or a farm beyond their lifetime and the Conservation Trust helps people to do that. Also their Night Sky Initiative so that not only will we enjoy being able to see the stars in the sky at night but our children and our grandchildren and our future generations will be able to experience that in the coming years. So I would like to read the proclamation and then I will ask Charlie O’Leary who is the director of the Santa Fe Conservation Trust to come forward and say a few words and then I hope we’ll be able to take a picture although I don’t know if we have anybody here who has a camera.

COMMISSIONER ANAYA: Chris, can you find a camera.

COMMISSIONER HOLIAN: Great. It looks like our assistant County Manager is checking on that.
Santa Fe County Proclamation recognizing the 20th anniversary of the Santa Fe Conservation Trust.

Whereas, the Santa Fe Conservation Trust is celebrating 20 years of successful land conservation in northern New Mexico;

Whereas, in 1994, the Santa Fe Conservation Trust was instrumental in the protection of Atalaya Mountain;

Whereas, since 1996, the Santa Fe Conservation Trust has played an instrumental role in the completion of the Rail Trail, the Spur Trail, the Dale Ball Trail system and the La Piedra Trail, providing our community and our visitors with a variety of hiking, biking and other outdoor recreation opportunities;

Whereas, in 2004, the Santa Fe Community Foundation presented the Santa Fe Conservation Trust with a Pinon Award for Excellence in the Environment;

Whereas, in 2007 the Santa Fe Conservation Trust hosted the first Trail Summit bringing together key players in the arenas of non-motorized trail planning, police, construction, and stewardship to share information, contribute to a common vision for a regional trail system, and create strategies for a coordinated effort to realize mutual goals;

Whereas, in 2008 the Santa Fe Conservation Trust launched a dark skies program to bring awareness to the community about the dangers of light pollution and its effect on our enjoyment of the beautiful starry skies in New Mexico;

Whereas, in 2008 the Santa Fe Conservation Trust worked with the Taos Land Trust to provide public access to the Rio Hondo in Taos County;

Whereas, in 2010, our community came together and with the help of the Trust

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for Public Land and the Santa Fe Conservation Trust, a significant conservation easement was recorded on Sun Mountain, preserving this iconic Santa Fe landmark from development that would have forever scarred this hillside;

Whereas, the Santa Fe Conservation Trust, since 1993 has protected over 35,000 acres of land including wide open pastures, working lands, wildlife habitat, cool running rivers, and public trails;

Whereas, the Santa Fe Conservation Trust has recently received accreditation from the Land Trust Alliance Accreditation Commission, place the Trust among the ranks of 280 land trusts throughout the nation and assuring donors and land conservation partners that the Santa Fe Conservation Trust adheres to the most rigorous legal, financial and ethical standards;

Whereas, the Santa Fe Conservation Trust is poised to celebrate 20 more years of preserving the very best of northern New Mexico – and I hope that's another 20 years.

Now therefore, the Board of Santa Fe County Commission of the Santa Fe County hereby proclaims that we recognize the Santa Fe Conservation Trust for the outstanding contributions the organization has made to our local community and northern New Mexico, be acknowledged as our local land trust, honored for the organization's commitment to another 20 years of improving the quality of life for all. Signed by the County Commissioners, our County Manager, County Attorney and our County Clerk.

So with that I will move for approval.

COMMISSIONER STEFANICS: Second.

COMMISSIONER ANAYA: Motion and a second. Comments from Commissioners.

COMMISSIONER CHAVEZ: I would just like to thank and congratulate Commissioner Holian for bringing this forward and recognizing the hard work of the Santa Fe Conservation Trust. The proclamation actually speaks for itself but doesn't capture everything but I think it is fitting to acknowledge the Trust for the accomplishments that they have been able to achieve for the last 10 or 15 years. Thank you, Commissioner.

COMMISSIONER HOLIAN: Thank you, Commissioner.

COMMISSIONER ANAYA: Commissioner Stefanics.

COMMISSIONER STEFANICS: Thank you, Mr. Chair. And I would ditto that. The organization has been instrumental and integral to the development of community trails and services and I would thank them very much.

COMMISSIONER HOLIAN: Charlie.

CHARLIE O'LEARY: Chairman, Commissioners, thank you very much for the recognition tonight. Twenty years has been quite an accomplishment for us. I agree with Commissioner Holian it should read 200 years in the future. We're one of the few organizations that is really focused on perpetuity. The easements that we are engaged in are not term easements they are perpetual. And we're really planning for the future of Santa Fe County and northern New Mexico.

Thank you again for the recognition and I also want to say that we've been very successful in partnering with the Santa Fe County with the staff, with the commissioners in extending the public trail system that we have here. We've also been very successful on projects such as the Ortiz Mountain Preserve where we hold the conservation

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easement. The La Piedra trail and open space. I think we have a lot of great partnerships that are real success stories to the community and I look forward to more of those in the future. Thank you very much.

COMMISSIONER HOLIAN: Thank you. And I hope we can all go down for a picture.

COMMISSIONER ANAYA: I would just say ditto on all the comments of my colleagues and thank you and Charlie thank you for your work and everybody that is involved in doing your work. Thank you very much.

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

[Photographs were taken.]

VII. PUBLIC HEARINGS

A. Land Use Cases

1. **PCEV 14-5120 Heather McCrea Vacation of Easement.**
Heather McCrea, Applicant, Requests Approval to Vacate a Platted Twenty-Foot (20') Wide Private Ingress/Egress and Utility Easement on One Lot Totaling 2.50 Acres. The Easement Will Be Relocated On-Site. The Property is Located in the Traditional Community of Chupadero at 64A Paseo Encantado NE, within Section 6, Township 18 North, Range 10 East (Commission District 1) (Public Comment Limited to Applicant's Request to Withdraw the Application)
 - a. **Order Approving Applicant's Request to Withdraw Application**
 - b. **Order Approving Applicant's Request to Vacate Easement**

COMMISSIONER ANAYA: Just one notation for Vicki, for yourself and staff. These cases are all Land Use cases that have been duly noticed. The information is all readily available for public review. So I'm not going to ask that you read into the record the entire memo. I am going to ask that you provide a summary of the case with recommendations. And if there's any questions of Commissioners and further details those can be raised. This is a public hearing so individuals will have their due process and opportunity to make comment at that time. Okay?

VICKI LUCERO (Building and Development Manager): Thank you, Mr. Chair. Just for clarification are we on item VII A. 1, the Heather McCrea vacation of easement?

COMMISSIONER ANAYA: That's correct. My apologies. I was looking at a final order. So you're correct, Vicki.

MS. LUCERO: Thank you, Mr. Chair.

COMMISSIONER ANAYA: Just for clarification that would be Land Use Case PCEV 14-5120, Heather McCrea vacation of easement.

MS. LUCERO: Thank you, Mr. Chair. Heather McCrea applicant, requests to withdraw an application to vacate a platted easement. On May 13, 2014 the

BCC heard an application by Heather McCrea to vacate and relocate a platted 20 foot wide ingress/egress and utility easement on 2.5 acres. The application proposed to relocate the 20 foot easement to the east of its current location with the entire relocated portion of the easement remaining on the applicant's lot. As proposed in the application the easement would have entered the adjoining property at a different location than is currently platted.

The decision of the BCC was to approve the easement vacation subjected to the conditions listed in the staff report. On November 14, 2014 the applicant and James MacCreight recorded a documented titled, Request to Withdraw Application with the Santa Fe County Clerk which document is recorded as instrument number 1750826. The document provided that this is a request to withdraw our application regarding our property that is located in the Traditional Community of Chupadero as 64A Paseo Encantado NE, within Section 6, Township 18 North, Range 10 East. After much deliberation we have come to the decision that we want to formally withdraw our application. The applicant's request for withdrawal resting in part on the fact that the applicant's application was not granted in its entirety.

Staff notified Alanna Burke and William Berra the owners of the only property that would be effected by the easement vacation of the applicant's request to withdraw the application and that the Board would be considering the withdrawal at it December 9th meeting. Ms. Burke and Mr. Berra submitted a letter which is attached as Exhibit E. In it they state that the discussion during the case has raised concerns about a grant of easement that they have. This grant of easement has not been part of the discussion by the Board.

Staff has prepared orders to either approve the applicant's request to withdraw the application or to act on the May 13, 2014 approval. Staff recommendation is that the Board adopt one of the attached orders.

Thank you, Mr. Chair, I stand for questions.

COMMISSIONER ANAYA: Thank you, Ms. Lucero. Any questions of Ms. Lucero?

COMMISSIONER STEFANICS: Mr. Chair, I have a question for our County Attorney.

COMMISSIONER ANAYA: Commissioner Stefanics.

COMMISSIONER STEFANICS: So, Mr. Shaffer, based upon our previous actions is it A or B that would support the previous action?

MR. SHAFFER: Mr. Chair, Commissioner Stefanics, it would be B. A would approve the applicants request to withdraw their application and in essence stop any further proceedings in the matter or in other words nullify the vote take by the Board at the initial public hearing.

COMMISSIONER STEFANICS: So, Mr. Chair, Mr. Shaffer, is there any reason legally that we could not rescind our previous order?

MR. SHAFFER: Mr. Chair, Commissioner Stefanics, in the circumstances of this particular case as set forth in the draft order I would not see any reason why the Board cannot do that.

COMMISSIONER STEFANICS: Thank you very much.

COMMISSIONER ANAYA: Commissioner Holian.

COMMISSIONER HOLIAN: Thank you, Mr. Chair. Mr. Shaffer do we need to vote on both of the orders that are presented before us?

MR. SHAFFER: Mr. Chair, Commissioner Holian, it would be either or so you would do one or the other but not both.

COMMISSIONER HOLIAN: Thank you.

COMMISSIONER ANAYA: Thank you, Commissioner Holian. We'll go to the applicant relative to the issue, Mr. MacCreight.

[Duly sworn, James MacCreight testified as follows]

JAMES MACCREIGHT: James MacCreight. Mr. Chair, Commissioners, it seems to have become a very complicated case and considering that there was an arbitrary opinion inserted into our initial application and we were never asked by the Commission whether or not we agreed with it and then the Commission voted on it – I'd like if could, Mr. Chair, Commissioners, to ask Mr. Shaffer if he could make a comment on why it is that we're asking a Commission to give me permission to withdraw our application because from all the attorneys I have spoken with that is unprecedented. So if he could make a comment on that for the record – in a sense we should actually be discussing do I have the right to withdraw that and why do I need the Commission's, with all due respect, why do I need your permission to withdraw when I didn't need the Commission's permission to make an application.

COMMISSIONER ANAYA: Mr. MacCreight we have a case before us and I would defer to Mr. Shaffer if you would like to make a comment but we do get advise and consent from our counsel before we make determinations. Are you an attorney? Just out of curiosity.

MR. MACCREIGHT: No, I'm not.

COMMISSIONER ANAYA: Okay. Mr. Shaffer, do you have any comments that you'd like to make?

MR. SHAFFER: Yes, at the pleasure and discretion of the Board, if you'd like me to comment I would be pleased to do so.

COMMISSIONER ANAYA: Thank you, Mr. Shaffer. Mr. MacCreight, you have a request before us today that is withdraw your application. Do you have anything else you'd like to add relative to that request.

MR. MACCREIGHT: Mr. Chair, Commissioners, I was trying to save the Commission a long drawn out review of what took place and why the withdrawal of this application is warranted.

COMMISSIONER ANAYA: So your request is to withdraw the application. That's your request, correct?

MR. MACCREIGHT: That is my request. And I'm not opposed to hearing from my neighbor. I think from the stand of things, Mr. Chair, Commissioners, I think I'm going to have to elaborate on this whole case.

COMMISSIONER ANAYA: Mr. MacCreight, I'll give you an opportunity to comment if you'd like to make comment and then I'm going to go to a public hearing and ask for feedback from the public. That's our process and that's what I'm going to afford in this process.

MR. MACCREIGHT: Mr. Chair, Commissioners, I appreciate the opportunity. What we're talking about here is first of all, and I think that there's been

some miscommunication about this is an access – and easement going through our property to a vacant piece of property. We are not trying to deny our neighbor their legal right to access that property through our property. But they do not necessarily have to do that tonight or in the next month or anything because there is no road through there. They've owned it for maybe 10 years or maybe longer, I'm not sure. But what we have is a very strange case and I'll proceed.

We have three pieces of property. We have a property here, here and here. We own this property. The property here is the property that has the easement coming through our property to access that. They live in the next property which they make access to ingress and egress through Vista Redondo Subdivision. Our property happens to be a smidgen of land that comes right into that subdivision but is actually located in the Chupadero Traditional Community. So what happened was the original owner sold them a lot. He also gave our lot to his daughter who inadvertently built a home in the easement going to their property.

COMMISSIONER ANAYA: Mr. MacCreight, I'm going to respectfully stop you. We're very familiar with the case. We heard the entire case. We know the issues associated with the case and right now we're just hearing as to whether or not we're going to grant an application or sustain the original decision we made.

So we understand the case. We know that there's a house built on the easement. We understand the complexities of the case. We're just hearing whether or not we're going to withdraw it or whether or not we're going to uphold the decision that was made. In essence that's what we are doing. So there is no need to go back through the entire case because we are very aware of what the case is. And, I say that respectfully.

MR. MACCREIGHT: Thank you, sir. I appreciate that. Mr. Chair, let me deal with the particulars on why we want a withdrawal and I'll try to keep it as abbreviated as possible. Number 1, there was no comprehensive study. We were initially told that this was going to be approved by Land Use, so, therefore, we paid for a survey. We found out that that wasn't going to be the case so when they sent the inspectors out to inspect the easement that we were proposing they never looked at the easement that was supposed to be in action. So what happened is we have no comprehensive study for a piece of land where five homes can be built on this land so we're going to have all of these people travelling through our property, potentially.

So we didn't create this problem. Our neighbor was part of the process and for whatever reason it wasn't done right so we inherited that and with that inheritance we're also – we also have the right to have a say in what's going to take place because it was never executed properly. So now we have, if you were to vote against us and not allow us to withdraw – this is actually, and even their own attorney said this belongs in the courts it doesn't belong here because it's a property rights thing – we would actually lose our initiative and recouping our money because of all the fees that were spent on identifying this through the attorneys with the title company.

So if you grant what they're asking which is arbitrary decision made by Land Use – it wasn't requested by us nor were we asked to vote on it – so if you grant that you're taking away our property rights and you're denying us a fair and impartial hearing. So the thing is that, the title company should be the people that are handling this and again, it's a piece of vacant property and we're leaving here with an easement if you vote for that to

withdraw, we still have an easement going through our house and we still have the other easement that is potentially clouded because it wasn't processed properly. So what I'm saying is that – and another thing that came into play was we were asked to come in here for a final order and I have here a document, an email from my neighbor making comment about the final order and asking for language to be inserted into the final order that we didn't even know existed. So on the morning of that final order reading we got an email at 10 o'clock and a phone call asking us to come in but my neighbor had sent an email the day before with language in there changing the final order which they had to some degree and we didn't even know about it. And, I just respectfully would remind you that we're the applicant.

So the thing is that the whole thing is clouded and I don't want to get into suing the County if you vote against us in order to get my right to go to court to have this decided. It's not necessary. I'm not getting away with anything here. My neighbor is not getting anything. We have to sit down and decide this. Unfortunately, I talked to them and I felt that their demands were outrageous for what they wanted and here we are today.

COMMISSIONER ANAYA: Mr. MacCreight, I just want to say publicly that we fully as Commissioners understand and know that any determination that we make either for or against a particular case gives any individual citizen the right to appeal that. So whatever the decision we make for whichever order that entitles yourself and anybody in the community to contest that and use the judicial process. So, we understand that and that is afforded to anyone and everyone.

Are there any questions of the application from Commissioners? Commissioner Chavez?

MR. MACCREIGHT: I respectfully request that I may make a comment if there is something that arises from any statement that is made, thank you very much. I appreciate your time and happy holidays.

COMMISSIONER ANAYA: Thank you, Mr. MacCreight. Is there anybody who would like to speak on this case either for or against? Seeing none, what's the pleasure of this Board.

COMMISSIONER STEFANICS: Mr. Chair.

COMMISSIONER ANAYA: Commissioner Stefanics.

C: I move to approve the applicant's request to withdraw the application.

COMMISSIONER CHAVEZ: Second.

COMMISSIONER ANAYA: Motion from Commissioner Stefanics to approve the applicant's request. Second from Commissioner Chavez. Discussion? Seeing none.

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

VII. A. 2. **BCC CASE # MIS 14-5460 BL Santa Fe, LLC, Liquor License. BL Santa Fe, LLC, dba Bishop's Lodge, Applicant, Linda Aikin, Agent, Request Approval for a Transfer of Ownership of Liquor License No. 0469. The Property is Located at 1297 Bishop's Lodge Road, Within Section 4, Township 17 North, Range 10 East (Commission District 1)**

JOHN SALAZAR (Case Manager): Thank you, Mr. Chair. BL Santa Fe, LLC, Liquor License. BL Santa Fe, LLC, dba Bishop's Lodge, Applicant, Linda Aikin, Agent, Request Approval for a Transfer of Ownership of Liquor License No. 0469. The Property is Located at 1297 Bishop's Lodge Road, Within Section 4, Township 17 North, Range 10 East, Commission district 1.

As stated in the caption, Mr. Chair, the applicant is requesting approval to transfer the ownership of an existing liquor license. The liquor license will remain onsite, however, the ownership is changing from Bishop's Lodge VEF Beverage Management, LLC to BL Santa Fe, LLC.

On February 9, 2000 the County Development Review Committee granted final development plan approval for the Bishop's Lodge allowing this type of use to be on that property. This application was submitted on October 30, 2014. Growth Management staff has reviewed this project for compliance with pertinent code requirements and finds the following facts to support this submittal. Article V, Section 7.2 designates this final development plan which allows restaurants serving liquor as a permitted use. The County Development Review Committee approved the final development plan for the Bishop's Lodge which allows a hotel, restaurant, and lounge as a permitted use.

Liquor license number 0469 is an existing liquor license already in place. The applicant has met the State of New Mexico requirements for noticing and distance from schools and churches. Therefore, Mr. Chair, staff recommends approval for the transfer of ownership of liquor license number 0469. I'll stand for questions.

COMMISSIONER ANAYA: Thank you, Mr. Salazar. Questions of staff? Commissioner Chavez.

COMMISSIONER CHAVEZ: Mr. Salazar, would there be any standard requirements in approving a liquor license like this? The only examples I could come up with is that they would have to comply with land use designations or densities and would there be any noise ordinances or anything like that that a business like this would have to comply with?

MR. SALAZAR: Mr. Chair, Commissioner Chavez, they will have to comply with the approvals that they received for their final development plan. The use list that they designated for this property. They'll also have to comply with the conditions that the State Alcohol and Gaming Division puts on them as well.

COMMISSIONER CHAVEZ: So I'm wondering if those conditions are ever noted in your staff recommendations? I don't imagine that we're approving transfer or ownership of liquor licenses. It probably doesn't come up that often. But I'm just wondering if it wouldn't be worth it to note those recommendations in your summary. Maybe not for this one, but food for thought for the next one.

MR. SALAZAR: Mr. Chair, Commissioner Chavez, we can include the conditions that Alcohol and Gaming placed in their memos.

COMMISSIONER CHAVEZ: Okay, that would be fine. Thank you, Mr. Chair.

COMMISSIONER ANAYA: Thank you, Commissioner Chavez. Other questions of staff? Seeing none, is the applicant present?

[Duly sworn, Linda Aiken, testified as follows]

LINDA AIKEN: My name is Linda Aiken, I'm the attorney that's handling the liquor license portion of this transaction.

COMMISSIONER ANAYA: Excellent. Do you have anything further to add?

MS. AIKEN: I think that Mr. Salazar has done an excellent job of explaining. It's purely a transfer of ownership. It's the same business.

COMMISSIONER ANAYA: Okay. Any questions of the applicant? Seeing none, is there anybody here that would like to speak in favor or against this transaction – case? Anybody here? What's the pleasure of the Board.

COMMISSIONER HOLIAN: Mr. Chair.

COMMISSIONER ANAYA: Commissioner Holian.

COMMISSIONER HOLIAN: I move for approval of BCC case #MIS 14-5460.

COMMISSIONER CHAVEZ: Second.

COMMISSIONER ANAYA: A motion, Commissioner Holian. Second by Commissioner Chavez. Any further discussion? Seeing none, all those in favor.

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

VII. A. 3. **BCC CASE # PCEV 14-5420 Ernest Chavez Vacation of Plat. (TABLED)**

VII. A. 4. **BCC CASE # PCEV 14-5450 Kelly Wilson Vacation of Easement. (TABLED)**

VII. A. 5. **BCC CASE # PCEV 14-5410 Richard Berman Vacation of Easement. (TABLED)**

VII. A. 6. **CDRC CASE # V 14-5230 Sam Mendoza Variance. Sam Mendoza, Applicant, Requests a Variance of Article II, Section 4.3.3bii (Small Lot Family Transfers), of the Land Development Code to Allow a Small Lot Family Transfer of 2.79 Acres into two Lots Prior to Being in Possession of the Family Proper for a Five-Year Period. The Property is Located at 58 Camino Don Fidel, off the 599 West Frontage Road, Within Section 36, Township 17 North, Range 9 East (Commission District 2)**

MATHEW MARTINEZ (Case Manager): Good evening, Mr. Chair,

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Commissioners. My name is Mathew Martinez, Building Development Services. Sam Mendoza, Applicant, requests a variance of Article II, Section 4.3.3bii, Small Lot Family Transfers, of the Land Development Code to allow a small lot family transfer of 2.79 acres into two lots prior to being in possession of the family proper for a five-year period. The property is located at 58 Camino Don Fidel, off the 599 West Frontage Road, within Section 36, Township 17 North, Range 9 East, Commission District 2.

The subject lot was created in April 2005, by way of Family Transfer and is recognized as a legal lot of record. The Applicant has owned the property since March 18, 2014. Since the Applicant has only owned the property for a five month period, the property is not eligible for a Small Lot Family Transfer.

The property is currently vacant. Article II, § 4.3.3bii, Small Lot Family Transfers, of the Land Development Code states proof that the land has been in the lawful possession of the Family Proper for no less than five years and that the recipient is an adult or emancipated minor is required. The Applicant is requesting a variance of Article II, § 4.3.3bii, Small Lot Family Transfers, of the Land Development Code to allow a Small Lot Family Transfer of 2.79 acres into two lots prior to possessing the property for a five year period. The Applicant states a variance is needed in order to give property to his grandchildren. The Applicant purchased the property with the intent of giving his oldest granddaughters a piece of property of their own. This would allow his grandchildren to reside next to and support each other after the passing of their mother.

On August 21, 2014, the County Development Review Committee, CDRC, met and acted on this case, the decision of the CDRC was to recommend approval of the Applicant's request with staff conditions by a 3-2 voice vote. Minutes Attached as Exhibit 1.

Staff recommendation: Denial of a variance of Article II, § 4.3.3.b.ii, Small Lot Family Transfers, of the Land Development Code to allow a Small Lot Family Transfer of 2.79 acres into two lots prior to being in possession of the Family Proper for a five-year period.

The decision of the CDRC was to recommend approval of the variance subject to the following conditions. Mr. Chair, may I enter these conditions into the record?

COMMISSIONER ANAYA: Yes, you can.

The Conditions are as follows:

1. Water use shall be restricted to 0.25 acre-feet 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 (As per Article III, § 10.2.2 and Ordinance No. 2002-13).
2. A Plat of Survey meeting all County Code requirements shall be submitted to the Building and Development Services Department for review and approval (As per Article III, § 2.4.2).
3. Future division of either tract is prohibited: this shall be noted on the plat. (As per Article III, § 10).
4. The Applicants shall comply with all Fire Prevention Division requirements at

time of Plat Review (As per 1997 Fire Code and NFPA Life Safety Code).

MR. MARTINEZ: I stand for any questions?

COMMISSIONER ANAYA: Any questions? Is the applicant here? Mr. Mendoza, if you'd like to come forward please. If you'll raise your right hand you can be sworn in.

[Duly sworn, Sam Mendoza testified as follows:]

SAM MENDOZA: My name is Sam Mendoza. Good evening, Mr. Chair and Commissioners. I put in for this variance because my daughter passed away and my grandchildren were left orphans basically with no one else to take care of them but me and my wife. And I feel that they're at the age that having a piece of property in order to survive in this town and get a little place to live on their own so they'll be able to stay in Santa Fe with the rest of the family members.

I'm not a developer. I'm not here to make a profit. And that's about it. That's the only reason that I ask for a variance. And me and my wife, Gloria, would appreciate your – whatever you can give us.

COMMISSIONER ANAYA: Thank you, Mr. Mendoza. Commissioner Chavez.

COMMISSIONER CHAVEZ: Mr. Mendoza, do you understand the conditions of approval?

MR. MENDOZA: Yes, I do. I have read through them.

COMMISSIONER CHAVEZ: And I think the one that maybe would stand out more is condition number 3, further division of either tract is prohibited. This shall be noted on the plat. You guys are okay with that, no?

MR. MENDOZA: Could you say that again?

COMMISSIONER CHAVEZ: It says, further division of either tract is prohibited. This shall be noted on the plat. And you're okay with that?

MR. MENDOZA: Yes, I agree with that.

COMMISSIONER CHAVEZ: Thank you, Mr. Chair.

COMMISSIONER HOLIAN: Mr. Chair.

COMMISSIONER ANAYA: Commissioner Holian.

COMMISSIONER HOLIAN: Thank you, Mr. Chair. Mr. Mendoza, is there a reason why you can't wait for another four years to do this family lot split?

MR. MENDOZA: Well, my wife has been very ill. I'm getting up in age and I'd like to settle that estate now that it is possible. It is still a bare piece of land. The well has be dug on it. It's going to take still four or five years to get that done. I don't have the monies to go and do it. So I want to get it where I can get started on doing this.

COMMISSIONER HOLIAN: Are you planning on selling one of the lots?

MR. MENDOZA: No. They're both given to two of my granddaughters and not to be sold.

COMMISSIONER HOLIAN: And couldn't you leave the land to them jointly and then they could split it later on?

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MR. MENDOZA: Like I say, I'm getting up in years and I'd like to get this thing settled. Knowing how family things happen, it's better that they each have it in their own name. That's the way I feel and I feel it needs to be settled now and taken care of for the future and, you know, before this land is even developed it's going to take a while.

COMMISSIONER HOLIAN: So you visualize that you'll split the land and then each granddaughter will have one lot and they'll build on it; is that correct?

MR. MENDOZA: That is correct.

COMMISSIONER HOLIAN: Thank you, Mr. Mendoza.

COMMISSIONER ANAYA: Other questions of Mr. Mendoza? I have one. Other than the – this is for staff, Vicki or Ms. Lucero or whoever wants to answer it, Mr. Martinez, I'm sorry. Other than the provision of the term this would meet the criteria for the size of the lot?

MR. MARTINEZ: Mr. Chair, that is correct.

COMMISSIONER ANAYA: Okay, thank you. Commissioner Stefanics.

COMMISSIONER STEFANICS: If once we approve this there is – I should ask this as a question to Mr. Shaffer, is there not a statutory requirement at the state level that the family retain it for at least five years on lot splits?

MR. SHAFFER: Mr. Chair, Commissioner Stefanics, I don't actually know that at the top mind. I'd have to look at that very quickly and get back to you.

COMMISSIONER STEFANICS: Well, the other thing, Mr. Chair, is I believe we have made that a requirement of some other non-conforming lot splits that we have done so if the Commission is amenable I would add that to the conditions. That the family would have to hold it for at least five years.

COMMISSIONER ANAYA: What's the pleasure of the Commission? I would just comment, Commissioner Stefanics, my take on this particular case is that it would fall underneath the lot size requirements and I don't think the kids have an intention but I don't know their situation associated with their finances or anything like that so I think that would add an additional hardship that they're already dealing with associated with the loss of their mother. So I'm okay not putting a timeframe given the fact that it's within the lot size requirements. That's my take.

COMMISSIONER STEFANICS: Mr. Shaffer, did you find an answer?

MR. SHAFFER: Mr. Chair, Commissioner Stefanics, I'm informed by the Deputy County Attorney that there is not such a requirement of holding the lot after it is created. And in addition that would raise potential alienation of property issues that I think would be best if we avoided.

COMMISSIONER CHAVEZ: Mr. Chair.

COMMISSIONER ANAYA: Are you done, Commissioner Stefanics?

COMMISSIONER STEFANICS: I am, Mr. Chair, except that I do think that we have imposed that on some other decisions but I am willing to listen to others.

COMMISSIONER ANAYA: Commissioner Chavez.

COMMISSIONER CHAVEZ: Thank you, Mr. Chair. Commissioner Stefanics, I could see the concept that you're trying to present and I could see how that

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might apply to other applications or other applicants. But I think the intent of this applicant is for the family not to sell the land, to keep it in the family and try and keep the family here in town. So to propose that they would have to keep it in the family structure for five years and then be able to sell I think goes against the concept of what Mr. Mendoza is asking for. I think you're hoping that they don't sell the property, right?

MR. MENDOZA: I have no objections to what Ms. Stefanics said there. If you want to put a five year restriction on there, it wouldn't bother me a bit. I'm sure I wouldn't be sold not even in a five years from now. My intent is for the family, for them to use the property for their lives and to improve their lives and – I can't – if I pass away next year I can't really project what they would do with it. I'm hoping that they would keep it for the rest of their lives.

COMMISSIONER CHAVEZ: So anyway, I'm kind of sympathetic to the request and knowing the family I think I would trust that they will respect what you're doing and not sell. But you're right, we don't always know what the future will hold. But I don't see that condition being necessary in this case but I'll yield the floor, Mr. Chair.

COMMISSIONER STEFANICS: Mr. Chair.

COMMISSIONER ANAYA: Commissioner Stefanics.

COMMISSIONER STEFANICS: Mr. Chair, I think that probably many of us know the family. And so it's not about the family. It's about equitable standards. And if we have in fact imposed this on other lots splits, that is what I'm talking about. I'm not talking about putting anything different on this decision for this family. And so it – I might be losing my memory about this but it bothers me if we do different standards. That's all I'm saying and I have no doubt about the family's intention and we're all bordering on relying on the family reputation. So I'll just stop there.

COMMISSIONER HOLIAN: Mr. Chair.

COMMISSIONER ANAYA: Commissioner Holian.

COMMISSIONER HOLIAN: Thank you, Mr. Chair. It just sort of bothers me – you know, I think that the family – I can understand why they're doing what they're doing and I am sympathetic to what they're doing but this property has only been owned for less than a year actually. This goes against our County Code and it is a variance and what I'm worried about specifically is that it sort of opens the doors for, you know, everybody in the County saying, Hey, you approved this particular case. So they go out and buy and lot and –

MR. MENDOZA: -- you could do that anyway –

COMMISSIONER HOLIAN: Pardon?

MR. MENDOZA: You could say that about every case that comes up. I mean, every case that comes before the Commission.

COMMISSIONER HOLIAN: Certain cases, yes, you could say that about. But I would feel more comfortable if there were a five year limit before the lots could be sold, myself.

MR. MENDOZA: I would too. But circumstances change things. I'm doing this as a grandfather trying to take care of my grandkids in order that they have a future and now is my opportunity to do it and that's what I want to do.

COMMISSIONER HOLIAN: But then why do we have a code? You know, why do we have a code with certain rules in it.

MR. MENDOZA: Well, that's why I'm here for a variance.

COMMISSIONER ANAYA: If we could – if we could, Commissioners, if we could come back to the Chair just to make sure that we keep decorum. But you still have the floor Commissioner Holian.

COMMISSIONER HOLIAN: Thank you, Mr. Chair. I'm just sort of saying that I would feel more comfortable if this were consistent with the code.

COMMISSIONER ANAYA: Thank you, Commissioner Holian. Any more questions or comments? I would make a comment before I go to Commissioner Chavez and I think that having sat here for four years – I would first go back to you, Commissioner Stefanics, and say that, yes, in not all of the cases but absolutely in some of the cases we have imposed terms on the cases. We have done that. And I think what we found in some of the past cases that there were some people that were just doing a lot split to sell it. And that goes against the integrity of the family transfer and so I would acknowledge that cause we did in fact do that. And, I think going to what you're Commissioner Holian, we have the latitude to provide for variances and have done that in the past and people have an avenue if they choose to oppose a variance to go to court. And in some cases they have done that. But in many, many cases at this Commission with us as well as prior Commissions well before we sat in these chairs, the family transfer has afforded people an opportunity that they wouldn't have otherwise had through variance. And you're right there are recommendations that run contrary with some of the provisions of our code but we've made those determinations in many, many people have had the opportunity to live and have property and homes.

So, I said it before, respecting the judicial system, I'm willing to take that chance to assure that there are opportunities even at the risk that someone might oppose it and at the risk that it might be overturned because I think the vast majority of times that they haven't been. That being said, I'll leave it at that. Commissioner Chavez.

COMMISSIONER CHAVEZ: Well, this case was also reviewed by the CDRC, the County Development Review Committee met and acted on this case and their decision was to recommend the applicant's request with staff conditions by a 3-2 voice vote. So I'm sure questions were raised there similar to the questions that we're raising here this evening.

But what I would like to do, Mr. Chair, is to make a motion to approve the variance with the staff recommendations and I would add a fifth recommendation that the two lots created, if this is approved, would not be sold for five years.

COMMISSIONER HOLIAN: I will second that.

COMMISSIONER ANAYA: There's a motion on the floor and a second by Commissioner Holian. Any other discussion? Commissioner Stefanics.

COMMISSIONER STEFANICS: Does anybody else want to speak?

COMMISSIONER ANAYA: You're correct. We're going to go to the floor. Is there anybody in the audience who would like to speak in favor or against this particular action? Thank you, Commissioner Stefanics for – is there –

MR. MENDOZA: Thank you for your consideration.
COMMISSIONER ANAYA: Seeing none.

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

MR. MENDOZA: Thank you for your consideration. Thank you very much.

- VII. A. 7. **CDRC CASE # V 14-5190 Pablo & Maria Cerquera Variance.**
Pablo and Maria Cerquera, Applicants, Request a Variance of Ordinance 2007-2 Village of Agua Fria Zoning District, Section 10.6 (Density and Dimension Standards), to Allow a Third Dwelling Unit on 0.962 Acres. The Property is Located at 2247 Paseo de Tercero, in the Traditional Community of Agua Fria, Within Section 5, Township 16 North, Range 9 East, (Commission District 2)

MR. MARTINEZ: Pablo and Maria Cerquera, Applicants, request a Variance of Ordinance 2007-2 Village of Agua Fria Zoning District, Section 10.6, Density and Dimension Standards, to allow three dwelling unit on 0.962 Acres. The property is located within the Traditional Village of Agua Fria at 2247 Paseo de Tercero, in the Traditional Community of Agua Fria, Within Section 5, Township 16 North, Range 9 East, Commission District 2.

The subject lot was created in 1991, by way of Family Transfer and is recognized as a legal lot of record. The Applicants have owned the property since 1994. There are currently two dwelling units on the property. Currently the Applicants and their family reside in one of the existing homes and the other is occupied by tenants. The Applicants have stated the proposed home will also be occupied by tenants until such time their children are of age/adults.

The Applicants request a variance of Ordinance No. 2007-2, Village of Agua Fria Traditional Community Zoning District, § 10.6, Density and Dimension Standards, to allow three dwelling units on 0.962 acres. The Applicants state a variance is needed in order to develop the remaining portion of the property. The Applicants intend to place an additional manufactured home on the property to provide them with additional income and for future use for their children. The property is lacking approximately 0.038 acres or 1,152 square feet in order to meet Code requirements for a third dwelling unit on one lot.

On August 21, 2014, the County Development Review Committee, CDRC, met and acted on this case, the decision of the CDRC was to recommend approval of the Applicants request with staff conditions by a 5-0 voice vote with the finding that the amount of acreage they are lacking to meet code requirements is minimal. Minutes Attached as Exhibit 1.

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: Denial of a variance of Ordinance No. 2007-2, Village of Agua Fria Zoning District, § 10.6, Density and Dimension Standards, to allow three dwelling units on 0.962 acres.

The decision of the CDRC was to recommend approval of the variance subject to the following conditions. Mr. Chair, may I enter these conditions into the record?

COMMISSIONER ANAYA: Yes, you may.

Conditions:

1. The Applicant shall comply with all applicable water conservation measures. (As per Ordinance No. 2002-13).
2. The Applicant must obtain a development permit from the Building and Development Services Department for the additional dwelling unit. (As per Article II, § 2).
3. The placement of additional dwelling units is prohibited on the property. (As per Ordinance No. 2007-2 § 10.6).
4. The Applicant shall comply with all Fire Prevention Division requirements at time of development permit Application (As per 1997 Fire Code and NFPA Life Safety Code).

MR. MARTINEZ: I stand for any questions.

COMMISSIONER ANAYA: Is there any questions of staff?

Commissioner Chavez.

COMMISSIONER CHAVEZ: I should have asked this question of the last case too. CDRC voted recommended approval 5-0 and the Growth Management staff denied the permit because it's not in compliance. Could you explain a little bit about the Growth Management staff and your position on this and how it varies from the CDRC?

MR. MARTINEZ: Mr. Chair, Commissioner Chavez, I think what the CDRC found was it was such a small percentage that they were lacking of property. If they would have had a little bit more of property they would have met our criteria.

COMMISSIONER CHAVEZ: So based on that you have to deny the applicant's request but then suggest conditions for approval?

MR. MARTINEZ: Mr. Chair, Commissioner Chavez, that is correct.

COMMISSIONER CHAVEZ: Thank you, Mr. Chair.

COMMISSIONER ANAYA: Is the applicant present?

[Duly sworn, Maria Cerquera testified as follows:]

MARIA CERQUERA: Maria Cerquera. Mr. Chair and Commissioners, my name is Maria Cerquera and this property was given to us by my parents. They divided the lot into 10 siblings that we had so we each got the same amount. It's under the amount needed so we're asking for a minimal variance.

COMMISSIONER ANAYA: Thank you, Ms. Cerquera. Is there any questions of the applicant? This is a public hearing, is there anyone present to speak in favor or against this particular case? Seeing none, the public hearing is closed. What is the pleasure of the Commission?

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COMMISSIONER CHAVEZ: Mr. Chair.

COMMISSIONER ANAYA: Commissioner Chavez.

COMMISSIONER CHAVEZ: I'm going to make a motion to approve the request for a variance with staff recommendations.

COMMISSIONER STEFANICS: I'll second.

COMMISSIONER ANAYA: There's a motion and a second to approve with staff recommendations to approve the variance. Any further discussion or questions? Commissioner Chavez.

COMMISSIONER CHAVEZ: Yeah, I guess this would be to staff. On the sewer system, the City of Santa Fe sewer system, the applicants have received a letter of commitment; does that give them the go ahead?

MR. MARTINEZ: Mr. Chair, Commissioner Chavez, that's correct.

COMMISSIONER CHAVEZ: Okay, that's all I have. Motion and a second with no further discussion.

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

VII. A. 8. **CDRC CASE # V 14-5270 Madeline Wells and Mary O'Brien Variance. Madeline Wells and Mary O'Brien, Applicants, Request a Variance of Article III, § 10 (Lot Size Requirements) of the Land Development Code to Allow Two Dwelling Units on 6.195 Acres. The Property is Located at 30 Sibley Road, within the Vicinity of Cañoncito, Within Section 13, Township 15 North, Range 10 East (Commission District 4)**

JOHN LOVATO (Case Manager): Thank you, Mr. Chair, Commissioners. Madeline Wells and Mary O'Brien, Applicants, Request a Variance of Article III, § 10, Lot Size requirements, of the Land Development Code to allow two dwelling units on 6.195 acres.

The subject lot was created in 1993, by way of a Land Division, approved by the Land Use Administrator, and is recognized as a Legal Lot of Record. In 1995, by warranty deed, Maria O'Brien transferred to Madeline Wells an undivided half interest in the subject property. There is currently a residence, an abandoned structure, and two storage sheds located on the property. The abandon structure is non-habitable, and the current habitable residence is 1,425 square feet.

The Applicants request a variance of the Land Development Code to allow two dwelling units on 6.195 acres. The Applicants state, when they initially purchased the property in 1993, both structures existed. Since the purchase of the property, the structure across the creek has been abandoned and is no longer accessible due to lack of all-weather access and the structure is non-habitable. The proposed structure will not be located across the river and will have all-weather access. The Applicants state they purchased the property together with the intention of constructing a second dwelling so they both have homes they could reside in. Their request is to replace the abandon second dwelling with a habitable dwelling. There are several properties with similar lot sizes and

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multiple dwellings and accessory structures in the immediate area.

On October 14, 2014, the County Development Review Committee met and acted on this case. The decision of the CDRC was to recommend approval of the Applicants request by a 3-1 vote.

Staff recommendation: Denial of a variance of Article III, §10, Lot Size Requirements, of the Land Development Code. If the decision of the BCC was to grant approval of the variance, staff recommends imposition of the following conditions. Mr. Chair, may I enter those into the record?

COMMISSIONER ANAYA: Yes, you may.

Conditions:

1. Water use shall be restricted to 0.25 acre-feet per year per home. A water meter shall be installed for each residence. 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 at the time of Development Permit (As per Article III, § 10.2.2 and Ordinance No. 2002-13).
2. The Applicant must obtain a development permit from the Building and Development Services Department for the additional dwelling. (As per Article II, § 2).
3. The Applicant shall provide an updated liquid waste permit for both homes from the New Mexico Environment Department with the Development Permit Application (As per Article III, § 2.4.1a.1 (a) (iv)).
4. The placement of additional dwelling units or Division of land is prohibited on the property. (As per Article III, § 10).
5. The Applicant shall comply with all Fire Prevention Division requirements at time of development permit Application (As per 1997 Fire Code and NFPA Life Safety Code).
6. The Applicant shall remove the abandon structure on the property prior to Development Permit issuance. (As per Ordinance No. 2009-11).

COMMISSIONER ANAYA: Are there questions of staff? Commissioner Stefanics.

COMMISSIONER STEFANICS: Thank you, Mr. Chair. So would the existing dwelling, the abandoned structure be allowed , even though it is non- habitable, would it stay standing?

MR. LOVATO: Mr. Chair, Commissioner Stefanics, that's probably a question you should ask of the applicant. It is recommended that it be removed or otherwise converted into a studio.

COMMISSIONER STEFANICS: Mr. Chair, the reason I asked the question is that I know it takes time and money to remove something but then there would be three. So it's part of your staff condition; right?

MR. LOVATO: Mr. Chair, Commissioner Stefanics, that is correct.

COMMISSIONER STEFANICS: And the applicant is in agreement with all of the staff conditions?

MR. LOVATO: Mr. Chair, Commissioner Stefanics, I leave that up to her.

COMMISSIONER STEFANICS: I'm sorry?

MR. LOVATO: She hasn't come forward stating she wasn't against them but I would defer that question to her.

COMMISSIONER ANAYA: Any other questions of staff?
Commissioner Chavez.

COMMISSIONER CHAVEZ: I had that same concern and so I think that one condition does speak to that but I think you're right, Commissioner Stefanics, that abandoned building could be remodeled or repurposed into a – it could serve a purpose so I think we do need to have that discussion. But that question would go to the applicant.

COMMISSIONER ANAYA: So I have a question of my colleagues, I guess. If there's a structure – so what we're talking about is habitable space, another dwelling, but there are other structures that are storage units or studios so I guess I should ask the question, Are you suggesting that we clarify what types of space it could be if it wasn't – I mean, we obviously don't want it to be another habitable dwelling but it could be a storage building or a studio within the code. Correct, couldn't it? I guess I would look to staff.

MS. LUCERO: Mr. Chair, it could be converted into a garage or a storage facility of some sort.

COMMISSIONER ANAYA: So does the conditions say it has to be removed or it can be used as a dwelling I guess is what I'm hearing, just for clarity.

MS. LUCERO: Mr. Chair, the condition in the staff report is that they remove the abandoned structure on the property and it's my understanding that the structure is non-habitable and I don't even know whether it is structurally stable.

COMMISSIONER ANAYA: I got you, understood.

COMMISSIONER HOLIAN: Mr. Chair.

COMMISSIONER ANAYA: Commissioner Holian.

COMMISSIONER HOLIAN: In the notes under the summary it also says that that particular structure lacks all-weather access as well.

COMMISSIONER ANAYA: Okay, thank you. Other questions of staff?
Is the applicant present? If the applicant would please come forward and be sworn in, thank you.

[Duly sworn, Madeline Wells testified as follows:]

MADELINE WELLS: My name is Madeline Wells. I'm one of the two applicants primarily taking care of the application process. If I may clarify about the existing structures on the property. There's – we started out with two habitable structures, both small houses. The one that you're speaking of his the main house, the habitable structure, has been enlarged with proper permitting. That's habitable. It's accessible to the road. The structure in question that you're recommending that it be removed, that one does not have all-weather access. We had, my co-owner and I, had contemplated having it razed because the roof is actually caving in and because of the lack of all-weather access it's really not repairable. So my visualization of the process is that when weather permits we would actually have a backhoe come and knock it down.

COMMISSIONER ANAYA: Thank you, Ms. Wells. Are you okay with all of the other conditions that were set forth?

MS. WELLS: Yes.

COMMISSIONER ANAYA: For clarification of the record.

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MS. WELLS: Yes.

COMMISSIONER ANAYA: Do you have anything else you would like to add?

MS. WELLS: I just wanted to clarify the fact that we are – that when I bought a share of the property from Mary O'Brian who at the time was sole owner there were the two habitable structures there and we had intended to occupy them separately. Because of erosion in the creek the one, you know, like lost its all-weather access so basically we're wanting to replace that one by something that would be with a size ratio that would be allowed in that area should the new zoning be implemented.

Thank you very much, Mr. Chair and members of the Commission.

COMMISSIONER ANAYA: Thank you, Ms. Wells. Any questions of the applicant? This is a public hearing, is there anybody here who would like to speak either in favor or against? This is a public hearing. Seeing none, what's the pleasure of the Board?

COMMISSIONER HOLIAN: Mr. Chair.

COMMISSIONER ANAYA: Commissioner Holian.

COMMISSIONER HOLIAN: I will note that historically there have been two dwellings on that lot for quite awhile and what is requested is consistent with the neighboring lots so I would like to move approval of CDRC Case V 14-5270, Madeline Wells and Mary O'Brien variance with staff conditions.

COMMISSIONER STEFANICS: Second.

COMMISSIONER CHAVEZ: Second.

COMMISSIONER ANAYA: There's a motion and two seconds for approval of the variance with staff conditions. Any further discussion?

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

MS. WELLS: Thank you, Mr. Chair and members of the Commission.

- VII. A. 9. **CDRC CASE # S 12-5452 Cielo Colorado Estates Final Plat and Development Plan For Phase 1. Cielo Colorado LLC, Applicant, James W. Siebert, Agent, Request Final Plat and Development Plan Approval for Phase 1 (Lots 11-16) Consisting of Six Lots of the Cielo Colorado Estates 24-Lot Residential Subdivision on Tract 15A-2 of the Eldorado at Santa Fe Subdivision Consisting of 246.30 Acres More or Less. The Applicant Also Requests Approval to Vacate and Relocate two Portions of the Camino Acote 50-Foot Ingress/Egress and Utility Easement That is Located Within Proposed Lot 1, Vacate the Portion of Camino Acote that Runs Through Lots 10, 16, 17, 18 And 19 and Vacate the Old Ingress/Egress and Utility Easement That Runs Through Proposed Lot 1, Which is no Longer in Use. The Property is Located on the East Side of US 285, off Camino Acote, Within Sections 20, 21 and 22, Township 15 North, Range 10 East (Commission District 4)**

MS. LUCERO: Thank you, Mr. Chair. Cielo Colorado LLC, Applicant, James W. Siebert, Agent, request Final Plat and Development Plan Approval for Phase 1 consisting of six lots of the Cielo Colorado Estates 24-Lot Residential Subdivision on Tract 15A-2 of the Eldorado at Santa Fe Subdivision consisting of 246.30 acres more or less. The Applicant also requests approval to vacate and relocate two portions of the Camino Acote 50-Foot Ingress/Egress and Utility Easement That is located within proposed Lot 1, vacate the portion of Camino Acote that runs through Lots 10, 16, 17, 18 And 19 and vacate the old ingress/egress and utility easement that runs through proposed Lot 1, which is no longer in use. The property is located on the east side of US 285, off Camino Acote, within Sections 20, 21 and 22, Township 15 North, Range 10 East, Commission District 4.

On October 16, 2014 the CDRC recommended approval of the Final Plat and Development Plan for Phase 1 consisting of 6 lots, Lots 11-16, of the Cielo Colorado Estates 24-lot residential subdivision consisting of 246.30 acres. On September 10, 2013, the BCC approved the request for Master Plan approval for a 24-lot residential subdivision. On April 8, 2014, BCC approved a request for Preliminary Development Plan and Plat approval for 24 lots on 246.30 acres in conformance with the approved Master Plan and a Variance of Ordinance No. 2008-10 to allow access through a 100-year floodplain without an all-weather crossing.

The Applicants now request Final Plat and Development Plan approval for Phase 1 consisting of 6 lots in conformance with the approved master plan which was to be developed in four phases. Lot sizes will range from 8.72 acres to 14.89 acres.

The Applicant also requests to vacate and relocate approximately 800 feet of the Camino Acote 50-foot wide ingress/egress and utility easement that is located within proposed Lot 1. At the time Camino Acote was constructed, the alignment straightened the road which caused portions to be located outside of the easement. Therefore, the Applicant is requesting to vacate and relocate the portions of easement to include the road.

The Applicant is also requesting to vacate the portion of Camino Acote, which was a looped road that runs through proposed Lots 10, 16, 17, 18 and 19. A cul-de-sac at Lots 18, 19, 20 and 21 was approved by the CDRC on July 17, 2013, which will be constructed within a future phase.

Finally, The Applicants requests to vacate the old ingress/egress and utility easement that runs through proposed Lot 1, which is no longer in use.

This application was submitted on May 14, 2014. Growth Management staff have reviewed this application for compliance with pertinent Code requirements and finds the project is in compliance with County criteria for Final Development Plan and Plat approval for Phase 1 and recommends approval of the vacations and relocations of the easements as proposed.

Staff recommendation: The Application for Final Plat and Development Plan approval is in conformance with the previously approved Master Plan and Preliminary Plat and Development Plan and with all Code requirements. Approval of the vacation and relocation of the easements as proposed will not adversely affect the interests of

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persons on contiguous land or of persons within the subdivision being vacated. Therefore, staff recommends approval of the request for Final Plat and Development Plan for Phase 1 and approval to vacate/relocate the easements as proposed subject to the following conditions. Mr. Chair, may I enter those into the record?

COMMISSIONER CHAVEZ: Yes you may.

Conditions:

1. The Final Plat and Development Plan must be recorded with the County Clerk's office.
2. The Applicant shall submit a financial guarantee, in sufficient amount to assure completion of all required improvements prior to Final Plat recordation as per Article V, Section 9.9 of the Land Development Code.
3. The Affordable Housing Agreement must be, reviewed and approved by the BCC prior to plat recordation of Phase 1.

MS. LUCERO: Stand for questions?

COMMISSIONER CHAVEZ: Questions of staff? Thank you, Ms. Lucero. Is the applicant here?

[Duly sworn, Jim Siebert testified as follows:]

JIM SIEBERT: My name's Jim Siebert. My address is 915 Mercer. This is the third time now this same project has been before you. First is master plan then preliminary plat and now final plat for the first phase.

We're in agreement with all conditions stated by staff and I'll answer any questions you might have.

COMMISSIONER CHAVEZ: Any questions of the applicant?

COMMISSIONER HOLIAN: Mr. Chair, Mr. Siebert, can you kind of just show us, sketch out on your map there the easement vacations that you're requesting.

MR. SIEBERT: There's two. The one vacation is right here. It may be hard to see but there's a dotted line and that's actually the easement and what happened is they built a road just slightly outside the easement so these folks have actually been living with a road that is not consistent with the easement. We're going to correct that situation.

The other one was when they had the original master plan for this property and there was 91 lots and the easement was created here to loop this road back to Camino Acote. So from here to here we're proposing to eliminate that because of the substantial reduction of the number of lots.

COMMISSIONER HOLIAN: Thank you.

COMMISSIONER CHAVEZ: Thank you, Mr. Siebert. I want to now go to the public to see if there's anyone who would like to speak in support or opposition of this case? Seeing none, I'll close the public hearing portion of the meeting and ask the Board what they would like to do.

COMMISSIONER HOLIAN: Mr. Chair.

COMMISSIONER CHAVEZ: Yes.

COMMISSIONER HOLIAN: I would like to move for approval of # S

12-5452 Cielo Colorado Estates Final Plat and Development Plan with staff conditions.

COMMISSIONER ANAYA: Second.

COMMISSIONER CHAVEZ: Motion and a second. Any discussion?

Seeing none --

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

**VII. A. 10. CDRC CASE # V 14-5300 Cathy and Chris Stoia Variance.
Cathy and Chris Stoia, Applicants, Request a Variance of
Article III, § 10 (Lot Size Requirements) of the Land
Development Code to Allow a Land Division of 13 Acres into
two Lots. The Property is Located at 20 La Barbaria Road,
Within the Vicinity of Old Pecos Trail, Within Section 17,
Township 16 North, Range 10 East (Commission District 4)**

MR. LOVATO: Thank you, Mr. Chair. Cathy and Chris Stoia, Applicants, request a variance of Article III, § 10, Lot Size Requirements, of the Land Development Code to allow a land division of 13 acres into two lots.

The subject lot is recognized as a non-conforming lot. There is currently a residence and an accessory structure/shed on the property. The residence on the property is recognized as legal non-conforming and was constructed in 1974. On December 11, 2012, the Applicants were granted a variance of height and placed an addition onto the existing residence. The Applicants now wish to divide their property into two lots: One lot consisting of 5.06 acres and one lot consisting of 7.81 acres. Currently, there are two wells located on the property and each lot will have its own well.

The minimum lot size in this area is 20 acres with 0.25 acre-foot water restrictions. Lot size can be further reduced with proven water availability. The Applicants state, they have stalled their Application in hopes the Sustainable Land Development Code, SLDC, would take effect. The Application would be in conformance with the proposed SLDC, where the property falls within the Residential Fringe Zoning District and will be subject to minimum lot sizes of one dwelling per 5 acres. The Applicant further states that the proposed 5.08 acre lot and 7.81 acre lot are larger than most lots in the surrounding area and will not be out of character with existing densities in the area. Lot sizes range from 1.55 acres to 7.87 acres within the immediate area as noted in Exhibit 9.

On October 16, 2014, the CDRC met and acted on this case. The decision of the CDRC ended in a tie vote with two members voting in favor of the motion for approval of the requested variance and two members voting against the motion to approve the variance. Under Commission rules, the order and application was automatically tabled until the next meeting which a greater number of members were present. On November 20, 2014, the CRDC met and acted on this case. The decision of the CDRC was to recommend approval of the Applicant's request by a 3-2 vote.

Staff recommendation: Denial of variance of Article III, Subsection X, lot size

requirements to allow land division of 12.87 acres into two lots. The CDRC was to recommend approval of the Applicant's request with imposition of the following conditions. Mr. Chair, may I enter those conditions into the record?

COMMISSIONER CHAVEZ: Yes, you may.

MR. LOVATO: Thank you, Mr. Chair. I stand for any questions.

Conditions:

1. Water use shall be restricted to 0.25 acre-feet 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 (As per Article III, § 10.2.2 and Ordinance No. 2008-05).
2. A Plat of Survey meeting all County Code requirements shall be submitted to the Building and Development Services Department for review and approval (As per Article III, § 2.4.2).
3. Further Division of either tract is prohibited; this shall be noted on the plat. (As per Article III, § 10)
4. The Applicant shall comply with all Fire Prevention Division requirements at time of Plat Review (As per 1997 Fire Code and NFPA Life Safety Code).

COMMISSIONER CHAVEZ: Questions of staff.

COMMISSIONER STEFANICS: Mr. Chair.

COMMISSIONER CHAVEZ: Yes, go ahead.

COMMISSIONER STEFANICS: Why are not the applicants waiting for the new code? Because it says it in the materials that you provided.

MR. LOVATO: Mr. Chair, Commissioner Stefanics, it's my understanding but I can refer this to the applicant's agent, that the – that there's some health issues within the family and they are bound to this property and in terms of losing the property due to the health conditions. But I will let her further reiterate that.

COMMISSIONER STEFANICS: So the intention here is not to keep the divided property.

MR. LOVATO: Mr. Chair, Commissioner Stefanics, I will also defer that question to the applicant.

COMMISSIONER CHAVEZ: Other questions of staff? Then I'll go to the applicant.

[Duly sworn, Antonia Quast testified as follows:]

ANTONIA QUAST: My name is Antonia Quast. I am the representing agent and business partner of the Stoias. Mr. Chair, Commission, thank you for hearing me.

We are asking for what is being proposed already in the new zoning a little ahead of time due to financial hardship with the failing health and soon passing of our father, Kathy's dad. With that would have to be the entire sale of what has been Kathy and Chris' dream home. The idea of the subdivision a little ahead of time is because myself and my partner would be the ones purchasing the other side. I'm a Santa Fe resident. So if that answers your question, Commissioner Stefanics. I'm sorry if that isn't clear

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enough.

And the second issue being the water use under the new proposal imposed by the County would actually have the two homes on the property using less water than what the single family home has been using for 40 years. And I believe that those have been the two issues at hand and we have absolutely no opposition either from any of our neighbors in the zoning.

COMMISSIONER CHAVEZ: Any other questions of the applicant. What I would like to do now is ask if there are any members of the public here tonight that would like to speak in support or opposition of this case? Please approach.

[Duly sworn, Paula Tackett testified as follows:]

PAULA TACKETT: Paul Tackett. I'm a neighbor of the Stoias and I was at the earlier hearing and was in opposition because of the water usage. And when Commissioner Anaya, there was something about going to .25 acres per lot and recognizing in a year this permission will be allowed it seemed to make sense to myself and a few of the neighbors that I talked to that if the Stoias were willing to go with a .25 per lot it will be less than they are allocated or allowed to use at this point and that would address in a more rational manner the use of water. We all recognize that water is a terrible issue in this state, in this city, everywhere. And why we're getting so much rain and not snow, I don't understand it, Mr. Chair, but we'll take whatever water we can get.

So in discussions with Ms. Quast and just some of the neighbors we thought well, .25 acres per lot that half an acre that beats 3 acres and I think we were persuaded given that they're here and that they spent a considerable amount of money adding onto their dream home and seem to want to be good neighbors I think we thought, Well, we would – I would withdraw my objections at that point and that's why you have a letter reflecting that in your packet and I would stand for any questions.

COMMISSIONER HOLIAN: Mr. Chair.

COMMISSIONER CHAVEZ: Yes, Commissioner Holian.

COMMISSIONER HOLIAN: Ms. Tackett, so by in large as far as you know the neighbors are okay with this.

MS. TACKETT: I only talked to a couple and they were okay with the conditions that have been imposed or that would be imposed in terms of third party monitoring, reporting and the limitation.

COMMISSIONER HOLIAN: And while you're here, in the packet I think in one of the letters that we received it was mentioned that some of the wells have been going dry in the La Barbaria area, can you fill me in on that?

MS. TACKETT: I only know that from conversation. I don't know that – that's further up La Barbaria and I believe it's further up to where Representative Max Coll's house was or is – he's no longer around, but that whole area up in La Barbaria. The spring used to run and it no longer runs.

COMMISSIONER HOLIAN: How about in your area? How about your well?

MS. TACKETT: Well, my well has – I had to put a new well in not because of the water but because the original folks had just cased it down 20 feet and the

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granite sort of fell in on it finally and I had to do a new well. Originally I went to 350 but the originally well went to 160 and then this was years ago and then with all of the building suddenly I had no water and no recharge so I went back in and lowered it back down and – I have to wait. I can't do too many things at once but it does recharge. There are periods where the hose kind of stops and the bathtub fills to that and stops and that makes it a little cold but other than that, if I wait or be quick, is what I've learned to do. Water is an issue. We just – I was born and raised in New Mexico and I know water is an issue.

This seems to be a rational, reasonable working out of the situation.

COMMISSIONER HOLIAN: Thank you, Ms. Tackett.

COMMISSIONER CHAVEZ: Thank you, Ms. Tackett. That will close the public hearing portion of the meeting. Oh, Commissioner Anaya, you had a question or comment.

COMMISSIONER ANAYA: I was just going to say it was good to see you Ms. Tackett. You had many, many years of service, public service and we thank you for that. But it's good to see you and appreciate the compromised that you struck with your neighbor.

COMMISSIONER STEFANICS: Mr. Chair.

COMMISSIONER CHAVEZ: Commissioner Stefanics.

COMMISSIONER STEFANICS: I have a question. There's a couple of questions. So I'm looking at the staff recommendations about the water use being restricted to .25 feet and that water meters have to be installed for each lot. So does that mean there will not be a shared well and there will be two separate wells?

MR. LOVATO: Mr. Chair, Commissioner Stefanics, that is correct.

COMMISSIONER STEFANICS: Okay. Later on in the materials I read that there might be use of one of the houses or one of the pieces of the property in a house for a vacation rental but now I'm hearing something different?

MR. LOVATO: Mr. Chair, Commissioner Stefanics, I believe that was in one of the letters of opposition.

COMMISSIONER STEFANICS: So could I ask the applicant please.

MS. QUAST: Yes, ma'am, in the past, a few time when Cathy and Chris were out of town they had friends that stayed in their home and rented, more or less rented it from them for a couple of weeks.

COMMISSIONER STEFANICS: So what is the intent of the second home?

MS. QUAST: For me to live in.

COMMISSIONER STEFANICS: So it's not going to be used for a vacation rental?

MS. QUAST: No, no.

COMMISSIONER STEFANICS: Okay, I think that concludes my questions, thanks.

MS. QUAST: Thank you, ma'am.

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COMMISSIONER HOLIAN: Mr. Chair.

COMMISSIONER CHAVEZ: Commissioner Holian.

COMMISSIONER HOLIAN: I move for approval of CDRC Case V 14-5300, Cathy and Chris Stoia a variance with staff conditions.

COMMISSIONER ANAYA: Second.

COMMISSIONER CHAVEZ: So there's a motion and second with staff conditions. Any further discussion?

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

- VII. A. 11. **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 Board of County Commissioners rendered a decision to approve this request on October 8, 2013. The BCC's decision was then appealed to District Court, and the Court Decision on July 31, 2014, was to remand the case back to the BCC for a rehearing. 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)**

MR. LOVATO: Thank you, Mr. Chair, Commissioners. 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 Board of County Commissioners rendered a decision to approve this request on October 8, 2013. The BCC's decision was then appealed to District Court, and the Court Decision on July 31, 2014, was to remand the case back to the BCC for a rehearing.

On October 8, 2013, the request came before the BCC. The decision of the BCC was to approve the request by a vote of 3-2 with staff's recommended conditions. The BCC's decision was appealed to the First Judicial District Court by Chris and Misha Peterson. The Honorable Raymond J. Ortiz remanded the case back to the Board so that the board can make specific written findings under its Land Development Code requirements and also under both prongs of the Paule case to justify the decision they made. Similarly, this is also required for the floodplain variance, for a re-representation of evidence for written findings to justify the decision and make specific findings, or to make specific findings whether or not those requirements are applicable in the first instance.

Mr. Chair, I can summarize the case for you or keep on going?

COMMISSIONER CHAVEZ: No, I think it would be good for you to summarize from this point on.

MR. LOVATO: 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, a private road, and Loma Encantada, a private road. Arroyo Jaconita is a land/dirt/sand 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 1/4 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 double wide manufactured home, a single wide mobile home, and two accessory structures/sheds 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 Development 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 failed to remove the structure at the conclusion of the two year period, as Exhibit 11 on the previous report. The Applicant stated that they sought to retain the second dwelling unit for more than two years; 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.

Staff recommendation: On October 8, 2013, the decision of the BCC was to approve the request for a 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 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, with these conditions listed below.

If the decision of the Board is to approve the request, staff also recommends the following findings of fact and conclusions of law in support of the decision. The findings of fact and conclusions for the floodplain variance:

1. Portion of access that crosses the FEMA designated floodplain is off-site. Family Transfers are exempt from off-site improvements.
2. Six other parcels utilize the same secondary access to the subject parcel.

3. Four other parcels utilize the primary access to the subject property.
4. All-weather access affects many of the properties in the area. For this reason, staff is recommending that the floodplain section be amended in the Sustainable Land Development Code to require all-weather access only for major subdivisions, multi-family developments, or non-residential development over 10,000 square feet.
5. It would be an extraordinary hardship to the Applicant if they were required to construct an all-weather access due to unusual topography that would benefit everyone who utilizes the access. Moreover, applicant does not own the land constituting the 750 feet long and 15 feet wide all-weather crossing and there is no other access to the parcel.
6. The road crossing the FEMA designated floodplain is existing and no improvements are proposed so there will be no construction within the floodplain

Minimum Lot Size Variance:

1. Primary Home is 2,200 square feet and the secondary home is 952 square feet. This meets the requirements of the SLDC for an accessory dwelling.
2. Strict compliance with the requirements of the Code would result in extraordinary hardship to the Applicant in that Applicant is seeking to permit one of her daughters to divide the lot by way of small Lot Family Transfer pursuant to a variance to assist her daughter with an affordable place to reside and own, where so the Applicant's daughter has been living in a residence on the property since 2006.
3. The granting of the requested variance is a minimal easing of the Code requirement to address topography or other such non-self-inflicted conditions to allow a Family Transfer Land Division on the applicant's property and will not nullify the purpose of the Code.

Thank you, Mr. Chair. I stand for any questions.

COMMISSIONER CHAVEZ: Thank you. Questions of staff.

Commissioner Anaya.

COMMISSIONER ANAYA: Mr. Lovato if you don't know the answer you can go to someone on staff that might but I'm sure you might know it. There was temporary approval for an additional structure for a two-year timeframe. What are the parameters of a temporary approval when we grant temporary approval on a structure? What do we utilize to grant a temporary approval of a structure? There was two structures, right? Am I correct that I heard that?

MR. LOVATO: Mr. Chair, Commissioner Anaya, that is correct. There were two structures that were permitted through a variance process that was later deferred by the Board to turn into a temporary approval for a, I believe, it was a four-year period. Every two years the CDRC was to grant further approval if the hardship was necessary at the time.

COMMISSIONER ANAYA: Okay, that's all I have right now. Thanks.

COMMISSIONER CHAVEZ: I guess I'm trying to get some clarify myself on this case because we already heard it, it went to District Court and it's back here for reconsideration. The judge is asking for written findings under the County's Land Development Code; have we responded at all to the judge's request?

MS. LUCERO: Mr. Chair, under the staff recommendation we did point out some finding of facts and conclusions of law if the Board wants to grant approval of this request.

COMMISSIONER CHAVEZ: What page are you on?

MS. LUCERO: It starts on page 6 of the staff report.

COMMISSIONER CHAVEZ: Okay.

COMMISSIONER ANAYA: Can I ask another question?

COMMISSIONER CHAVEZ: Yes, Commissioner Anaya.

COMMISSIONER ANAYA: Just if I could, Mr. Chair, a follow up to his question is we approved the decision by a 3-2 vote, that was appealed to District Court. The judge said he wants us to rehear it and provide additional findings of fact and we added to our final order additional findings of fact or are you just referring to the findings of fact that he ruled that we rehear this case?

MS. LUCERO: Mr. Chair, Commissioner Anaya, the findings of fact that we established were not part of the order they were just conclusions of law that we were putting forth in front of the BCC. If you do want to approve the variance then these are suggested findings for your approval.

COMMISSIONER CHAVEZ: Commissioner Anaya, maybe we could ask staff to read those into the minutes then, the points that would clarify our findings for the judge.

COMMISSIONER ANAYA: And, if I could, Mr. Chair.

COMMISSIONER CHAVEZ: Yes.

COMMISSIONER ANAYA: I guess the other thing that I want clarity on and maybe this has to come from you, Mr. Shaffer, is there was a case heard and a decision rendered. The district judge did not overturn the case. He asked us to rehear the case with findings of fact. So in my head if he did not receive the findings of fact that we – we didn't remit any findings of fact we just remitted the final order, correct? Is that correct? Did I hear you correct Ms. Lucero that we just remitted the final order but we did not remit findings of fact to the judge?

MS. LUCERO: Mr. Chair, Commissioner Anaya, the final order was submitted to the District Court and if I understand correctly the judge's decision is there were not adequate findings in that final order to approve the variance.

COMMISSIONER ANAYA: So if I could, Mr. Chair, you then, we then expanded upon those findings of fact and those are in the packet?

MS. LUCERO: Mr. Chair, Commissioner Anaya, the final order has not been amended. These are just part of staff recommendations if the Board wants to approve the case again to adopt – these are suggested or recommended conclusions of law that the Board may want to include in their decision.

COMMISSIONER ANAYA: So and maybe it's flawed but my logic tells me that we already voted on the case and we should remit those findings before we – we shouldn't take another vote. We should remit those findings that we have in the packet to the judge for consideration based on the decision that has already been rendered not revoke the case. That's my take on it.

MR. SHAFFER: Mr. Chair, I would ask Assistant County Attorney Willie Brown to interject if I've got it wrong but the order from the court was a remand back of

the case to the Board of County Commissioners so that evidence can be represented and the Board can make specific written findings under its Land Development Code requirements and also under both prongs of a Supreme Court Case abbreviate by shorthand here Paule Case to justify whatever decision they make. Similarly on the flood plain variance the court remanded the case back to the Board for a representation of evidence and for the Board to make a decision support of detailed written findings with respect to all requirements as to the requested flood plan variance to justify its decisions or to make specific findings as to whether or not these requirements are applicable in the first instance if that is the Board's position.

So the Court has instructed that the case be reheard and I think in that remand order allows the Board if it feels as if in light of the additional evidence or the representation of the evidence to make a different decision then it would have the leeway to do that under the court's remand. Whatever decision the Board ultimately makes will result in a final order that will include findings of fact and conclusions of law that would support the Board's decision which then again could be appealed to the district court.

I hope that clarifies things, Mr. Chair.

COMMISSIONER ANAYA: I thank you, Mr. Chair, if I could.

COMMISSIONER CHAVEZ: Yes.

COMMISSIONER ANAYA: And following that logic then it would be my desire to remit the additional information that Ms. Lucero referred to in consideration of the vote that has already taken place, not a revote.

And so I would move that the original action – the original vote is sustained and that the additional information that staff is providing us today in the packet that that be provided as justification for the order and findings of fact if that's the right language.

COMMISSIONER CHAVEZ: And I would second for purposes of discussion and I want to go back to the question that I asked of staff earlier because the Court is asking us to justify the decision that we made prior and so you've added conditions of approval that you believe will satisfy the Court's concern. I know staff did earlier but just the points that you added in conditions of approval.

MS. LUCERO: Mr. Chair, are you referring to conclusions of law that staff added in support of an approval of a variance?

COMMISSIONER CHAVEZ: Yes.

MS. LUCERO: The conclusions of law for the floodplain variance are as follows:

1. Portion of access that crosses the FEMA designated floodplain is off-site. Family Transfers are exempt from off-site improvements.
2. Six other parcels utilize the same secondary access to the subject parcel.
3. Four other parcels utilize the primary access to the subject property.
4. All-weather access affects many of the properties in the area. For this reason, staff is recommending that the floodplain section be amended in the Sustainable Land Development Code to require all-weather access only for major subdivisions, multi-family developments, or non-residential development over 10,000 square feet.
5. It would be an extraordinary hardship to the Applicant if they were required to construct an all-weather access due to unusual topography that would benefit

everyone who utilizes the access. Moreover, applicant does not own the land constituting the 750 feet long and 15 feet wide all-weather crossing and there is no other access to the parcel.

6. The road crossing the FEMA designated floodplain is existing and no improvements are proposed so there will be no construction within the floodplain

The conclusions of law for the Minimum Lot Size Variance are as follows:

1. Primary Home is 2,200 square feet and the secondary home is 952 square feet. This meets the requirements of the SLDC for an accessory dwelling.
2. Strict compliance with the requirements of the Code would result in extraordinary hardship to the Applicant in that Applicant is seeking to permit one of her daughters to divide the lot by way of small Lot Family Transfer pursuant to a variance to assist her daughter with an affordable place to reside and own, where so the Applicant's daughter has been living in a residence on the property since 2006.
3. The granting of the requested variance is a minimal easing of the Code requirement to address topography or other such non self-inflicted conditions to allow a Family Transfer Land Division on the applicant's property and will not nullify the purpose of the Code.

COMMISSIONER CHAVEZ: [speaks away from microphone]

MS. LUCERO: Mr. Chair, that's correct and if the decision of the BCC is to incorporate these they would be incorporated into the final order.

COMMISSIONER CHAVEZ: Are there any other questions to staff? Then I would like to open this to the public and ask if there are any public here tonight who would like to speak in support or opposition of this case. Please come forward.

While the public is approaching the dais I am remiss in asking the applicant if they would like to approach the Commission. If the applicant could please come forward and correct anything or add anything to the record.

[Duly sworn, Minnie Walsh testified as follows:]

MINNIE WALSH: Mr. Chair and Commissioners, my name is Minnie Walsh and I would for my son in-law, Mike Adams, to speak in my behalf.

[Duly sworn, Mike Adams testified as follows:]

MIKE ADAMS: Mr. Chair, Commissioners, thank you for hearing us. I would just like to state that we agree to the conditions of approval and those haven't changed and that I totally – my argument would be the findings of fact that the staff has presented. So I think that eloquently expresses everything that we would have say. The only thing I would mention as far as setting a precedent for other properties is that the state requires any property sizes less than 3/4 of an acre to have an advanced septic system that we already have and we will part of the regional water system. Other than that I can't think of anything else that would say our case, other than you already approved it. Nothing legally has changed in the proceeding time except that the 2008-10 ordinance has been overturned or repealed/replaced. I don't think anything has changed legally that would hurt our case and we certainly agree with the conditions and the stipulations that are being made as findings of fact, I would agree and that would be the basis of any argument I would make to you.

COMMISSIONER CHAVEZ: Thank you. Thank you for being patient.

Ma'am.

COMMISSIONER HOLIAN: Mr. Chair, I have a question of the applicant.

COMMISSIONER CHAVEZ: Yes, go ahead.

COMMISSIONER HOLIAN: One thing that I'm a little worried about is that septic systems are really proliferating in the valley and they're getting very close together and they're getting very close to the wells. It's mentioned here in the packet that you have two septic systems already on the property and one of them is called a split flow septic system; what does that mean?

MR. ADAMS: It doesn't put any black water in the ground. It uses holding tanks. It processes the gray water and then reintroduces it into the ground. But it's totally processed. And then the black water is in holding tanks that we remove periodically. I would also notice you that in the packet originally there's a letter from the Pojoaque Pueblo Development Corporation which the Pojoaque Pueblo borders us and that there will be no further development in that area, that none is planned. That's part of the bison reserve. The Jacona Land Grant is our other neighbor to the west and they have no plans to develop that area. So we're not having if you look on the state reports, we're not having any septic issues there. We also don't have water issues right now and of course we would be part of the regional water system. So any concerns about septic systems, the state's been out the Petersons raised a concern about it and the state came out and reinspected and they found the systems are up to code and like I say, the bordering properties are not going to be developed. So all of the houses that are there are the ones that are there now.

COMMISSIONER HOLIAN: Thank you.

COMMISSIONER CHAVEZ: Any other questions for the applicant? Thank you for catching that Commissioner Holian. Okay, I'll go now to the public, members of the public who would like to speak in support or opposition of this request?

[Duly sworn, Karen King testified as follows:]

KAREN KING: Honored Commissioners, my name is Karen King and I've lived just south of the Walshes for the past 22 years. I want to start with what I want to say by telling you a little bit about myself. I spent 22 years in law enforcement including 11 years as a special agent for the New Mexico [inaudible] and what I did was investigate illegal subdivisions in the state. And this area is most – can best be described as a checkerboard area. We've got the Jacona Grant there to the west of us or the north of us and west of us. And then we've got the Pueblo directly to the east. My property is to the south. The Petersons property is to the west – the other west. Anyway, it is a particular area that not everyone would like to live in. It's beautiful but it's very challenging. And all of us need one another. We have all helped one another. The Petersons have helped me when people were stealing property, you know, metal off of my property and called. They helped when my dog was run over to carry the dog to the car to transport it. The Walshes the same way. Mike Adams often borrows a tractor to make the road passable. And we help each other by pulling each other out. I gave a ride to one of the Peterson's tenants not long ago because she couldn't get her car in that area.

So it is an unusual piece of property but we enjoy living there. My neighbors are wonderful people and they deserve to be able to enable their family to live and stay there.

That's all I'd like to say, thank you.

COMMISSIONER CHAVEZ: Thank you, ma'am.

JOSEPH KARNES: Good evening, Chair Chavez, members of the Commission. My name is Joseph Karnes, Sommer, Karnes and Associates here tonight on behalf of Chris and Misha Peterson who live adjacent to the Walsh property.

We stand tonight in opposition to this application. I'll start by pointing out that your Growth Management staff has recommended denial of this application, although, that was not made very clear tonight. The flood plain administrator, Ms. Lucero, has recommended in her staff report denial of this application. She is here tonight. The County Fire Department has recommended denial of this application. Mr. Patty from the Fire Department is here tonight. The CDRC when they considered this application a year or so ago recommended denial of this application. And Judge Ortiz rejected this application and sent it back to you. Why? Because the order that was adopted by this Commission did not contain adequate legal findings to support the variances that this Commission decided to grant.

Now I heard earlier tonight some discussion on another case about equal treatment and equal application of this County's code to equally situated applications. I stood before you in August of this year on an application that you may recall, requesting a lot density variance for a property that had a minimum lot size of .75 acres, the same as this minimum lot size. A well respected attorney here, Lorenzo Atencio came before you. He had a property that was 1.45 acres in size. He came before you and asked for a variance to allow him to split that lot into two parcels and this Commission denied that application unanimously and properly so because the findings that are required by law and by your code could not be met. What are those findings? With respect to a land division the finding needs to be that it can be shown by the applicant that strict compliance with the requirements of the code would result in an extraordinary hardship to the applicant because of unusual topography or other such non-self-inflicted conditions. Mr. Atencio made a number of creative arguments to try and convince you that his 1.45 acre should be allowed to be split subject to a variance and you rejected it unanimously. Why? Because his lot was too small. If your code means anything at all your point .75 acre minimum lot size has to be respected unless there is a situation involving unusual topography or some other non-self-inflicted condition.

This case is worse than that. This parcel is 1.19 acres in size. Not 1.45. Mr. Atencio was .05 acres short of making the required 1.5 acres. This parcel is .3 acres short. It's far short. And I explained to you in August if you allowed your code to be abused in this way there will be a land rush of property owners who have parcels that are too small. I'd go out and buy one myself if I knew I could come in and get a lot split based on a variance. That's not what your code allows.

There was discussion earlier about recommended findings to satisfy Judge Ortiz when he sent this back to you because the findings that were adopted before weren't good enough. And what is the finding that is before you tonight? I'm going to read it to you. This is what your staff is recommending that you adopt as far as the minimum lot size variance: The Applicant is seeking to permit one of her daughters to divide the lot by way of small Lot Family Transfer pursuant so that her daughter can be provided with an affordable place to reside and own, where the Applicant's daughter has been living in a

residence on the property since 2006.

That doesn't meet your standard. That's a self inflicted condition. This applicant came and bought a property that's too small. That's not your problem. That's not my problem. That's not the Peterson's problem. That's their problem. I'd like to split my lot too so that my daughter can have a place to live. That's not a good enough reason. In bold face print in the staff report it says, the variance criteria does not consider financial or medical reasons to be extraordinary hardships. They've come before you and the only evidence they presented to you is a financial hardship. That is not good enough. That was not good enough for Mr. Atencio and that's not good enough for the Walshes and that's not good enough for any court in the State of New Mexico.

Now, I want to give you a little bit of background on this case. In 2006, it was described that there was an approval by this Commission, a previous Commission, for a temporary permit for a second unit. A temporary permit. I submit to you that there is nothing in your code to allow for a temporary permit. But in any event, back in 2006 the Commission required that the applicant come back every two years to renew that temporary permit. The applicant didn't do that for over seven years and is now coming before you to ask that you allow for a lot split. They've also explained previously and tonight that they put in a septic system and they put in a well on reliance on that temporary permit. I submit to you that that's not a reason, that's not a rationale to bootstrap a temporary approval into a permanent lot split. Who would go out and put in permanent improvements in reliance on something that was temporary? That doesn't go anywhere toward satisfying your code. The septic system may be in compliance with all of the Environment Department regulations. The well may have been approved by the Office of the State Engineer. But that says nothing about meeting the requirements of your code that the extraordinary hardship be based on unusual topography or other non-self-inflicted conditions. Those conditions don't exist here and drilling a well and putting in a septic system don't address those concerns. Those are not rationales for you to approve this application. Nor make findings to approve this application.

The applicant's approach is a recipe for making your rules irrelevant. They're asking you to ignore your rules. You didn't do that in the Atencio case and there's no basis for you to do that here tonight. The only argument that the applicant has made is that I want to have a second unit so my daughter can have her own unit on a separate piece of property that she could sell someday. That is not consistent with your code and that is not consistent with your requirements or the variance requirements.

I want to speak briefly about the flood issues because this is an important subject. I understand that your new code that has not come into effect yet would allow for people to transverse across a non all-weather access to their property but I'm not going to make this argument to you. I'm just going to read from your flood plain administrator's staff report. Ms. Lucero on August 7, 2013, said the following, I'm going to summarize. She wrote a three-page staff report that recommended denial of this application. And she said, the applicant has not provided the stormwater analysis which identifies the quality – excuse me, the quantity, depth and velocity of flows present in the crossings. The information would be needed to assess the potential danger of this crossing. Note the flow depths as little as 12 inches when velocities are considered are enough to wash away or create buoyancy of an average vehicle. This is a dangerous and sometimes deadly

situation. As a minimum the applicant should be required to provide an analysis of the depth and velocity of flooding expected at this crossing using the specified methodology in place of culverts or other conveyances needed based on the report to provide dry access for emergency vehicles. Why is that important? Because your Flood Plain Ordinance requires a finding based on evidence that the granting of the variance will not result in additional threats to public safety. What Ms. Lucero was asking for was an analysis to say when the arroyo is running, how much water is running that arroyo, how many feet is it? Is it 12 inches which is enough to wash away a vehicle? Is it 2 feet; is it 3 feet; is it 5 feet? We don't know; why? Because as Ms. Lucero said, the applicant has not provided a stormwater analysis. There's no basis upon which you can determine based on evidence that this application, this second unit if allowed to remain, would not result in what, additional threats to public safety. When the arroyo is running there are threats to public safety. Who is that threat going to be borne by? By the Fire Department? By the Sheriff's Department? By ambulances that may need to come out to the property to rescue somebody or to attend to somebody who has a problem resulting from the rains and floods and they're going to have to cross what? What kind of flood will they have to cross? We don't know. Ms. Lucero observed that we don't know because the applicant didn't comply with your rules. That's the problem here.

However, that's secondary. The first issue is you don't even get to that point because your code requires that in order for you to grant a density variance the applicant needs to show an extraordinary hardship based on an unusual physical condition or some other non self-inflicted condition. Judge Ortiz looked at the findings that you adopted previously and said, Un uh. It's not there. I can't accept this. That's why he sent it back. Your staff has done their best. They wrote some findings and they say what I read before, the applicant wants to provide a second unit for their daughter. Well, that's fine and dandy but that doesn't address your code requirement. That doesn't meet the legal requirements and for that reason this application has to be denied. And I'll make one more observation, if you approve it tonight, what is somebody like Mr. Atencio going to think or any other applicant that has been denied on the same exact type of application. In fact, Mr. Atencio is only .05 acres short. This applicant is overly .3 acres short. What is Mr. Atencio going to do, this fine attorney in Santa Fe County. He's going to charge you with discrimination. Denial of equal protection or some other creative legal theories he might come up with. Your decision shouldn't be based on who the applicant is or what their rationale is. It should be based on equal application of the law to an equally situated application. And this application has a 1.19 something acre parcel. It's .3 acres short and there is absolutely no basis in the findings that have been submitted to you, they'll fail, because we'll challenge this again. And this application has cost the County money. It's cost the applicants' money. It's cost my clients' a lot of money and time dealing with it. And what are we joking here. There's no basis at all. Somebody coming forward with a serious finding that you can make to justify the requirement in this County Code of an extraordinary hardship based on unusual topographic conditions or other non self-inflicted condition. The applicant is saying, Oh, the lot's too small and I want an extra lot for my daughter. That doesn't cut it and for that reason this application needs to be denied. Thank you.

COMMISSIONER CHAVEZ: Thank you. Any other members of the

public. I'm going to give the applicant just a few minute to respond. Okay good and then I'll let the applicant respond briefly.

[Duly sworn, Jim Roybal testified as follows]

JIM ROYBAL: My name is Jim Roybal and I'm a member of the Jacona Land Grant Board of Directors. And the Jacona Land Grant in principle would like the County Commission to stick to the 3/4 acre divisions where they are set in the traditional communities. But in this case we do not oppose this division. We recognize that there's a lot of properties in the valley that are much smaller and there's all sorts of properties that do not meet the requirements. However, our property does border their thing and we have no plans at present to develop this property but as it stands now we were proposed to have a 10 acre per house lot size for the adjacent property to this lot and in a recent hearing they wanted to increase that to 20 acres per lot size. So that seems just a little uneven even though we are within or right on the border of the traditional community to go from 3/4 of an acre to 10 acres.

Our concern was that we just maintain the same easement that they currently have. They're paying for an easement to the north and the easement across the river has never been granted by us. They just – it has been used over the years and it's just taken by grandfathered or by perpetual use. They don't have a legal easement to cross the grant property which is the river there. So that's all I have to add to this, to your consideration. Thank you for your time.

COMMISSIONER CHAVEZ: Any other member of the public who would like to speak please come forward. Sir, if you would like to approach and be sworn at the same time.

MICHELLE ADAMS: My name is Michelle Adams. I'm the daughter of Minnie that will be living on this piece of property and he does not know me. He does not know me. This is my home. And I am in need of this property to live there by my mom who is not getting any younger. The reason we moved there is because of my father's health. He has now passed away and my mom is not getting any younger. And it may not be a financial – it may be a financial at this point but my mom can't even take off a lid on a water bottle. We help her. We love her. I have no intention of ever selling that property. That is my home. And that will be given to my children, to their children and to their children. And for him to speak of me like I'm so shallow. He doesn't know me. I love my mother. I have every intention on taking excellent care of her because of love her like we did with my father. And we all share the road that he talks about the flood. We all share it. It is his access as well as it is for us.

I'm a little like – why is it okay for them and not okay for me, why? I love my mom and I have every intention of taking good care of her regardless of what they say. I will take care of my mom.

Thank you very much for your time. I appreciate being able to stand here and say that. Thank you.

[Duly sworn, Scott Peterson testified as follows]

SCOTT PETERSON: My name is Scott Peterson. I never wanted this to be a personal issue. I never wanted it to come to this. But when this first came up it was a two-year temporary use to have their trailer there. And we were concerned about it at the time but we decided not to object giving them the benefit of the doubt. We all go

through hard times but it is hard to believe that someone can forget for five years that they're there on a temporary permit and then in the meantime put in a well and a septic system on a temporary permit. We didn't quite understand that.

When we chose to build our home there it was a major investment and we obeyed all the rules and trusted everyone else including our neighbors would be made to do the same. And we trusted our County government to uphold these rules. That's all I have to say, thank you.

COMMISSIONER CHAVEZ: Thank you.

MINNIE WALSH: I can't remember the date but it's been a couple of years back. Yes, we did not follow through and the reason for that was because my husband got sick and he couldn't and he got worse and he got worse and finally he passed away. Well, if anybody has had somebody to pass away it took me – it's still taking me a long time to recover from it.

I'm not going no where but unfortunately Mr. Peterson is trying to selling his house and moving. Thank you.

COMMISSIONER CHAVEZ: Yeah, I'm going to let –

MR. ADAMS: Thank you, Mr. Chair, Commissioners. I think it's very important to mention that this is not a personal issue at all. Nobody in our family holds any animus towards the Peterson. They have their right absolutely to oppose what we're trying to do and I am completely understanding of that. I would like to address what Mr. Karnes said. Mr. Karnes is an excellent lawyer. With the Atencio case he didn't mention anything else. It's hard to believe the Commission would vote 5-0 against such a small variance if there weren't other factors involved. And like a good lawyer he's only mentioning the things that fit his position.

There's no info against the findings. He made a great argument against the previous code if 2008-10 ordinance still existed maybe there's an opportunity for that, but of course, that doesn't fit his argument. He didn't mention the fact that our property is not involved with the floodplain at all. It doesn't border a floodplain. It's 3/4 of a mile from the floodplain. That's something that needs to be brought out.

About the improvements to the property too, the County Commission stipulated that we do permanent improvement to the land. We were stipulated that we do a state approved septic system. We would do a state approved well and we would do all the other permits. I'm not sure what happened but that's the reason that we did that. We didn't do that to try and force the Commission to do it. The Commission stipulated that as part of their order back in 2006. And something else that – Mr. Karnes is an excellent lawyer and he's making the points that fit his position but the purpose of the code is to permit family transfers. It clearly says that. In fact, I've got it – Section 4.3.1.B of the Code permits transfer which do not meet lot size requirements in order to provide more affordable home sites – it's been mentioned before that this is a financial hardship issue, the code just says more affordable. That's what the code says, that we permit family transfers. In fact, in the new code there really aren't too many requirements at all except trying to prevent the fraud where people subdivide land illegally. But the code permits family transfers and I just thought those points were important to mention and I know this is really dragging on. Thank you.

COMMISSIONER CHAVEZ: In some cases land use decisions and land

use cases just by their nature tend to be a little divisive. You know, people are very protection of their property, their personal property and their property rights and so it presents us with a challenge. I think this is one of the more challenging cases that I've experienced in the two years that I've been on the Commission. And so it doesn't make any of our jobs easier.

So I'll close the public hearing portion of the meeting and bring it back to the Commission and ask for your direction. Commissioner Anaya.

COMMISSIONER ANAYA: Mr. Chair, I believe we have a motion and a second on the floor. I just want to make a few brief comments. I think your assessment of this case is accurate. We sit as Commissioners hearing land use cases on a regular basis and they're not easy. They're difficult cases. I don't think we have any attorneys on the Commission but I might be mistaken maybe we do. I don't think we do though. But I always continue to learn when I sit on the bench but I always go back to some fundamental precepts of, you know, why I sit here and I do anything in my power every day all the time as a Commissioner to be fair and objective in my deliberations in what I do. But I think tonight it's amazing that tonight even more emphasizes the need for us as a Commission to continue to provide mechanisms in our procedures and our policies that provide us even more latitude to do what's right and to do what we can to, where we can, help people in a responsible manner.

I respect the Petersons and their rights as citizens to hire an attorney. I respect the Walshes and their right to follow their path whatever that might be. And Mr. Karnes I can respectfully say, I can't speak for Judge Ortiz and I can't pretend to know what he thinks. I think you maybe can but I can't and I won't speak for him. I respect you, and I respect all of you. We make decisions. Whatever the decision is of the court we'll respect. Whatever the decision of my colleagues is I'll respect. But we in my estimation need to do whatever we can to help our families and also sustain a code that's responsible and it's a balance and many times it's a challenging balance. So I would leave it at that, thank you, Mr. Chair.

COMMISSIONER STEFANICS: Mr. Chair.

COMMISSIONER CHAVEZ: Commissioner Stefanics.

COMMISSIONER STEFANICS: Could you repeat the motion?

COMMISSIONER ANAYA: I made a motion to submit the findings that are presented in our packet that were, under my understanding, not presented to the judge that expand upon why the decision was made to approve the variance. And if I could restate it, we never remitted the additional items that Ms. Lucero spoke to earlier and I believe I had a second on the motion.

COMMISSIONER CHAVEZ: Mr. Shaffer, did you have a comment? I think you were holding a comment that you wanted to make earlier.

MR. SHAFFER: If I could, Vice Chair. The comment I wanted to make was that I don't read anything in Judge Ortiz' order that would mandate that the Board adopt specific findings this evening. In other words, the Court ordered a representation of the evidence and the Board to make a decision on that representation as well as the evidence that was submitted before. Ordinary course then would be for a final order including findings of fact and conclusions of law to come back at a further meeting. And so I just wanted to be clear that I don't feel that the Board is constrained to adopt any

specific findings this evening but that even if the Board were to direct to herein include some variation as a directional comment on the findings that were presented by staff you would still have a final order that would come back to the Board that would incorporate those findings of fact and any other findings of fact that the Board wanted to adopt when it acts on that final order. So it's really just a procedural note that I would offer for the Board for what it is worth.

COMMISSIONER ANAYA: Mr. Chair.

COMMISSIONER CHAVEZ: Commissioner Anaya.

COMMISSIONER ANAYA: Mr. Chair, Mr. Shaffer, and I apologize if I'm going to be just blunt but did the judge ask us to revote again? I heard – I've heard several things from you and I heard multiple things from Mr. Karnes and others. Did Judge Ortiz ask us to revote this case? Yes or no. That's what I want to know.

MR. SHAFFER: Mr. Vice Chair, Commissioner Anaya, that is my understanding of the Board's order. That was a representation of the evidence and for the Board to make a decision based on the representation of the evidence.

COMMISSIONER CHAVEZ: So, Commissioner Anaya, if I'm reading the memo the District Court decision on July 31, 2014 was to remand the case back to the BCC for a rehearing. So in that direction we were to rehear the case and vote again even though we had already taken prior action.

MR. SHAFFER: Commissioner Chavez, I'm reading from the order. It says that some evidence can be represented and the Board can make specific findings under its Land Development Code requirements. It also [inaudible] under both prongs of the Supreme Court Case, the Paule Case, to justify whatever decision they make. So, again, I read that as being a call for any decision. It can be the same decision that was reached in the first instance but that's how I read the order. And I defer to Mr. Brown who was present in those proceedings as to whether or not that was his understanding.

WILLIE BROWN (Assistant County Attorney): Good evening, Mr. Chair and members of the Commission and I was in court along with Mr. Karnes and I did hear the Judge's verbal instructions and then we came to an agreement as to the proposed order which the judge signed. By all intents and purposes I interpret what the judge did in remanding the case back for a full rehearing, which you did, you heard from both sides. You gave anybody who wanted to speak to speak including all members of the audience. And at the end of that because you're an elected body you can only make decisions by a quorum present and a vote and in no uncertain terms in the remand order it says a couple of times, it uses the word "to make a decision." So I would interpret that to make a decision that you have to vote on it. That you can't just remit findings of fact.

COMMISSIONER STEFANICS: Mr. Chair.

COMMISSIONER CHAVEZ: Yes, Commissioner Stefanics.

COMMISSIONER STEFANICS: I move to table until the January meeting.

COMMISSIONER HOLIAN: Second.

COMMISSIONER CHAVEZ: There's a motion –

COMMISSIONER ANAYA: Mr. Chair, we already had a motion on the floor. I'll pull my motion. I want to remove my motion if you're okay as the seconder.

COMMISSIONER CHAVEZ: I'll withdraw my second. But I think a

tabling will actually superseded will it not? And there's no discussion.

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

COMMISSIONER CHAVEZ: Thank you all for your patience and we'll continue the discussion.

VIII. Concluding Business

A. Announcements

COMMISSIONER ANAYA: He was just here. Commissioner-elect Roybal was here. Did he step out? I just wanted to thank him for coming to the meeting today and acknowledge that he was here.

B. Adjournment

Having completed the agenda and with no further business to come before this body, Chair Mayfield declared this meeting adjourned at 7:50 p.m.

Approved by:



Board of County Commissioners
Robert Anaya, Commissioner



ATTEST TO:

Geraldine Salazar
GERALDINE SALAZAR
SANTA FE COUNTY CLERK
1-13-2015

Respectfully submitted:

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REC'D OF REC 2015 01 15 2015