

SANTA FE COUNTY

REGULAR MEETING

BOARD OF COUNTY COMMISSIONERS

January 10, 2006

This regular meeting of the Santa Fe Board of County Commissioners was called to order at approximately 3:00 p.m. by Chairman Mike Anaya, in the Santa Fe County Commission Chambers, Santa Fe, New Mexico.

Following the Pledge of Allegiance and State Pledge, roll was called by County Clerk Valerie Espinoza and indicated the presence of a quorum as follows:

Members Present:

Commissioner Mike Anaya, Chairman
Commissioner Harry Montoya, Vice Chairman
Commissioner Paul Campos
Commissioner Jack Sullivan
Commissioner Virginia Vigil

Members Absent:

[None]

V. Invocation

An invocation was given by County Clerk Valerie Espinoza.

VI. Approval of the Agenda

- A. Amendments**
- B. Tabled or withdrawn items**
- C. Consent Calendar: Withdrawals**

ROMAN ABEYTA (Deputy County Manager): Thank you, Mr. Chairman, we have minor amendments to the agenda, the first being under IX. Matters from the Commission. We added a B. Reconsideration of AFDRC Case #DP 05-5430, PNM Miguel Lujan Line Extension.

Then Mr. Chairman, under XII. Staff and Elected Officials' Items C. 2, we would

request that that item be moved to the Consent Calendar, being that the Commission has already had discussion regarding the fire member coverage plan V for the collective bargaining agreement that the Commission has already acted on. Those are some minor items so we'd ask that that be move to the Consent Calendar.

CHAIRMAN ANAYA: Would that include i and ii?

MR. ABEYTA: Yes. i and ii. Thank you. Then XIII. Public Hearings. B. Land Use Department 4. CDRC Case #Z 05-5220, that has been tabled and we received a request to leave CCDRC Case #S 01-5572 Thornburg Master Plan Amendment tabled. That was tabled last month and they're requesting that it be tabled till February. Other than that there are no further changes to the agenda, Mr. Chairman.

CHAIRMAN ANAYA: B. 6 tabled?

MR. ABEYTA: B. 6. Yes.

CHAIRMAN ANAYA: Okay. Thank you, Roman. Is there any other changes from the Commission? Commissioner Campos.

COMMISSIONER CAMPOS: Mr. Chairman, item XIII. B. 2, the hot water recirculation system, I thought we had considered that already. Is this subject to the two public hearing rule? Because I don't think this is really a zoning issue.

MR. ABEYTA: Mr. Chairman, Commissioner Campos, it may have been resolved at the last hearing. What we would have to do is go back and check the record and see if action was officially taken or if you said that there would be a second public hearing and so action wasn't officially taken.

COMMISSIONER CAMPOS: Do we have the minutes from that meeting?

MR. ABEYTA: I don't know if they're in the packet but we can talk to Land Use before we get to this item and make sure that it's -

COMMISSIONER CAMPOS: We don't have the December minutes under item 7.

MR. ABEYTA: No, not yet. We just received them this week. They didn't make the packet. But we can check the draft that we have from December.

COMMISSIONER CAMPOS: Let's do that. Because if we have to vote on it today we should, but I thought this only required one public hearing. I think it only should have one public hearing and I think we've already had it. And I can't remember what we did exactly.

CHAIRMAN ANAYA: Yes. Me neither.

COMMISSIONER MONTROYA: I thought we were going to have a second one because I think Commissioner Vigil and myself -

COMMISSIONER VIGIL: That's my understanding.

COMMISSIONER MONTROYA: Had requested a second.

COMMISSIONER CAMPOS: Oh, you had requested a second hearing.

COMMISSIONER VIGIL: Yes. And no action was taken.

COMMISSIONER CAMPOS: So today the issue is going to be action - we're

going to vote on the ordinance?

COMMISSIONER VIGIL: That's correct.

COMMISSIONER CAMPOS: Is that correct?

CHAIRMAN ANAYA: That's the second public hearing.

COMMISSIONER CAMPOS: Which is today. Okay.

CHAIRMAN ANAYA: So you're clear on that?

COMMISSIONER CAMPOS: I think so. There's been a request for a second hearing.

CHAIRMAN ANAYA: Any other changes to the agenda?

COMMISSIONER MONTROYA: Mr. Chairman, move for approval.

CHAIRMAN ANAYA: There's a motion by Commissioner Montoya.

COMMISSIONER VIGIL: With amendments?

COMMISSIONER MONTROYA: With amendments.

COMMISSIONER VIGIL: I will second that.

CHAIRMAN ANAYA: And a second by Commissioner Vigil. Any more discussion?

The motion to approve the agenda as amended passed by unanimous [5-0] voice vote.

VI. APPROVAL OF MINUTES: November 8, 2005, pages 36-40

COMMISSIONER VIGIL: Mr. Chairman, I do have a change. There is some – there's a statement that's been attributed to me that actually needs to be attributed to Commissioner Campos on page 40. And I will just recommend that Commissioner Campos' name be placed there rather than mine. Right at the bottom.

CHAIRMAN ANAYA: So is that an approval as amended?

COMMISSIONER VIGIL: Yes.

COMMISSIONER SULLIVAN: Second.

CHAIRMAN ANAYA: Motion and second. Any more discussion?

The motion to approve pages 36-40 of the November 8th minutes as amended passed by unanimous [5-0] voice vote.

November 29, 2005

CHAIRMAN ANAYA: Is there a motion?

COMMISSIONER SULLIVAN: Mr. Chairman, I have some – I move for approval with some typographical amendments.

COMMISSIONER MONTOYA: Second.

CHAIRMAN ANAYA: Motion and seconded to approve with typographical amendments. Any more discussion?

COMMISSIONER VIGIL: I also have some typographical, but the motion speaks to that.

CHAIRMAN ANAYA: Okay.

The motion to approve the November 29, 2005 minutes as amended passed by unanimous [5-0] voice vote.

VIII. MATTERS OF PUBLIC CONCERN – NON-ACTION ITEMS ONLY

CHAIRMAN ANAYA: Is there anyone from the public, any concerns that they'd like to talk about?

IX. MATTERS FROM THE COMMISSION

A. Election of Chair and Vice Chair (Board of County Commissioners)

COMMISSIONER VIGIL: Mr. Chairman.

CHAIRMAN ANAYA: Commissioner Vigil.

COMMISSIONER VIGIL: I'm honored to bring forth to the Board of County Commission for their consideration our next chair and move that we appoint Harry Montoya, who currently is our vice chair, who has actually served in chairmanship positions for several of the committees that we have going. He is currently the RPA chair. He is currently also the Buckman Diversion chair. He filled in, Mr. Chairman, while you were gone, exemplarily and I move that we appoint Harry Montoya as our future chair. And with that motion, I'd also like to state that I, and I'm sure the other Commissioners, really have made several statements in public about what a wonderful job you have done as chair. We really appreciate all the effort and we know it requires a lot of additional responsibility and you've handled it very, very well. I appreciate it. Thank you for your service in that position. And with that, my motion to have Harry Montoya replace you stands.

COMMISSIONER CAMPOS: I'd move to close the nomination process and take a vote.

CHAIRMAN ANAYA: We have a motion and –

COMMISSIONER SULLIVAN: I second both motions.

CHAIRMAN ANAYA: And a second. Any more discussion?

The motion to name Harry Montoya as Commission chairman passed by

unanimous [5-0] voice vote.

CHAIRMAN ANAYA: Is there a motion for vice chair?

COMMISSIONER CAMPOS: Mr. Chairman.

CHAIRMAN ANAYA: Commissioner Campos.

COMMISSIONER CAMPOS: I'd like to nominate Commissioner Vigil. She's been here with us for one full year now. She's been very committed. She's shown a great deal of leadership, hard work and focus on a number of really important issues. I think she would make an excellent vice chair so I would nominate her.

COMMISSIONER MONTROYA: Second.

CHAIRMAN ANAYA: There's a motion and a second to nominate Commissioner Vigil as vice chairman of the Board of County Commissioners. Any more discussion?

The motion to name Virginia Vigil as vice chair passed by unanimous [5-0] voice vote.

IX. B. Reconsideration of AFDRC Case #DP 05-5430 PNM Miguel Lujan Line Extension (Commissioner Campos)

COMMISSIONER CAMPOS: Mr. Chairman, thank you. A question for legal: Do we need a motion at this time or is this simply a request to put it on the agenda for consideration at our next meeting. That's the practice, that's what we have done in the past.

STEVE ROSS (County Attorney): Mr. Chairman, I believe the practice has been that this would be an appropriate time for a motion and then we'd have to go through the publication and notice procedures to get it on an agenda in the future. It might take 30 to 45 days to get that done.

COMMISSIONER CAMPOS: So this would require a motion.

MR. ROSS: I think it would require a motion.

COMMISSIONER CAMPOS: Okay. I would move for the reconsideration and the placement of this matter on a subsequent agenda. My feeling is that when we heard it last time I didn't get sufficient information. I think I need more information. This is an important issue and we really need to decide what we want to do this ordinance. If we keep granting variance after variance, perhaps we need to decide what we want to do with it. But I think it's an important ordinance that merits consideration.

I think we're talking about Rule 22 of the PRC, General Tariffs, and we're also talking about two 115 kV lines which may not be subject to Rule 22. What I think PNM should do is clarify this issue. They tell us something but it's truly an undecided issue whether these tariffs are going to be passed on to the ratepayers. And I think PNM should have the burden of going

to PRC and getting that clarified before we move forward. So based on those things, I would move for the reconsideration.

CHAIRMAN ANAYA: There's been a motion for the reconsideration of the Miguel Lujan line extension. Is there a second?

COMMISSIONER SULLIVAN: Second.

CHAIRMAN ANAYA: There's a motion and a second. Is there any more discussion on the issue?

COMMISSIONER SULLIVAN: Just for discussion. I voted against this the first time around for aesthetic and safety reasons, but I wasn't aware, at least from the testimony that was presented to us, was that the cost of these 100-foot poles, if they had to be undergrounded, would be passed on to the consumer. That was the testimony I believe, made by the applicant. If in fact that's not the case it seems that we ought to get that information in front of us and make a decision based on the right information.

CHAIRMAN ANAYA: Thank you, Commissioner Sullivan. Any more discussion?

The motion to reconsider the Miguel Lujan line extension passed by majority 3-2 voice vote with Commissioners Vigil and Anaya voting against.

CHAIRMAN ANAYA: The ayes have it. We'll put it on the agenda next month. Next month?

MR. ROSS: Mr. Chairman, we'll have to study the notice issue and we'll get it on the first agenda that's possible given the notice we'd have to provide.

CHAIRMAN ANAYA: Okay. Thank you. Thank you, Commissioner Campos.

COMMISSIONER CAMPOS: Thank you, Mr. Chairman.

IX. OTHER MATTERS FROM THE COMMISSION

CHAIRMAN ANAYA: Commissioner Vigil, do you have anything?

COMMISSIONER VIGIL: I think that the matters that I'm concerned with can be brought up with separate items on the agenda.

CHAIRMAN ANAYA: Okay. So you'll wait?

COMMISSIONER VIGIL: I'll wait.

CHAIRMAN ANAYA: Thank you. Commissioner Campos.

COMMISSIONER CAMPOS: A couple of questions for the County Manager. EZC, CDRC, other appointments, are typically made in January, are they not? And in the past, we've been asking for people who are interested to submit applications so that we can have as many applicants as possible to fill these positions.

MR. ABEYTA: Mr. Chairman, Commissioner Campos, that's correct. They typically are made in January, but because of the direction that we've received in the past from the Commission about going out to advertising, we've chosen to advertise now in January and hopefully we can start getting letters of interest in before the February meeting and we can start making appointments in February. But we wanted to make sure that we did a large advertising for interested individuals, and there are several committees. So hopefully by February we can start making the actual appointments.

COMMISSIONER CAMPOS: You've already asked for potential applicants to apply?

MR. ABEYTA: I've informed Land Use back in December that they need to start seeking that and it's my understanding that they're going to do that now in January.

COMMISSIONER CAMPOS: So in January you expect that at some point they're going to advertise in the newspaper.

MR. ABEYTA: That's the direction the Manager's office gave to Land Use.

COMMISSIONER CAMPOS: Okay. So would you just follow that and let me know. Because I would prefer to make them in January, if possible, next year.

MR. ABEYTA: Okay.

COMMISSIONER CAMPOS: As opposed to February. The second issue, Mr. Chairman, is we've talked about policy initiatives by Commissioners, and I think when a Commissioner makes a major policy initiative I think they should come to the entire Commission and explain what they're seeking and obtain at least some kind of consensus so that if it goes out, it doesn't take a lot of staff time and then perhaps it comes back and we discover that we don't have a consensus. So I think that's important. And I understand that there's a couple of things happening out there where there are major policies, ordinances that are being moved along by staff that were never presented to the Commission for consensus. I would hope that we stick to that. That's the only way to really keep our focus and not have staff working in two or three different directions. So that's a suggestion for our new chair and our vice chair. Thank you.

CHAIRMAN ANAYA: Thank you, Commissioner Campos. Commissioner Sullivan.

COMMISSIONER SULLIVAN: I just, Mr. Chairman and chair-elect and vice chair-elect, congratulate you on your service in your upcoming year and I wish a happy new year to our staff and to all of our Santa Fe County residents and constituents. We all look forward to working with you this upcoming year and if there are any questions or comments we are always open and the staff is always open to hear them. Thank you.

CHAIRMAN ANAYA: Thank you, Commissioner Sullivan. Commissioner Montoya.

COMMISSIONER MONTROYA: Thank you, Mr. Chairman. Just a reminder to the Commissioners also that any information that I attend when I'm in attendance at meetings with either the New Mexico Association of Counties or with the National Association

of Counties, I always bring it back and we do have it in there and I would hope that you do take a look at it because there may be some things in there that may be of interest to us in regards to what Commissioner Campos said that may relate to policy ordinance development. And just for your information, most recently, I did attend the board meeting for the North Central New Mexico Economic Development Corporation so that will be in the box as well for your review.

And Mr. Chairman, I just wanted to wish you a happy belated birthday.

CHAIRMAN ANAYA: Thank you.

COMMISSIONER MONTOYA: Twenty-two.

CHAIRMAN ANAYA: Twenty-two.

COMMISSIONER MONTOYA: And Mr. Chairman, also, to just thank you for your leadership this past year and I hope that I can do as well as you've done in facilitating the meetings, especially the public hearings that we'll be having in the future. So I just wanted to thank you for your term, Mr. Chairman.

CHAIRMAN ANAYA: Thank you.

COMMISSIONER VIGIL: On that note, Mr. Chairman. I just wanted to congratulate Commissioner Harry Montoya who has taken a step in representing the southwest sector of the United States as a candidate for vice president for the National Association of Counties. I'm really proud that Commissioner Montoya has taken that step. I wish you very much success with that and if there's anything Santa Fe County can do to support your candidacy please let us know.

CHAIRMAN ANAYA: Thank you, Commissioner Vigil.

CHAIRMAN ANAYA: I just would like to say that being the chairman of the Santa Fe County Commission has been a big experience for me. And without the help of all the Commissioners and staff I couldn't have been able to do it. It's been a big experience, like I said and I won't forget it, but I think it's time to turn it over to Commissioner Montoya and you've been a great vice chair and I know you're going to be a great chairman. Commissioner Vigil, I'm sure you'll be an excellent vice chair. So again, thank you all very much for your support in helping me out. Thank you.

COMMISSIONER CAMPOS: Thank you, Mr. Chairman.

X. Appointments & Reappointments

A. Resignation/Appointment of the Probate Judge

COMMISSIONER VIGIL: Mr. Chairman.

CHAIRMAN ANAYA: Commissioner Vigil.

COMMISSIONER VIGIL: I move that we accept the resignation of Ann Yalman as probate judge. She has currently been appointed municipal judge and congratulations to her. I think we have an item on the agenda later on recognizing her, but at

this point in time, to follow the agenda's protocol, I move we accept the resignation of Ann Yalman.

CHAIRMAN ANAYA: There's been a motion. Is there a second?

COMMISSIONER CAMPOS: Do we need to accept the resignation.

CHAIRMAN ANAYA: I think so.

COMMISSIONER SULLIVAN: Second.

CHAIRMAN ANAYA: Motion and a second. Any discussion?

The motion to accept Ann Yalman's resignation passed by unanimous [5-0] voice vote.

GERALD GONZALEZ (County Manager): Mr. Chairman, before we move on, we do have an item a little further on down as Commissioner Vigil indicated recognizing our former probate judge, Ann Yalman. We do have a little presentation we would like to make to her so I leave it to the discretion of the Commission when you would want to do that but she does have an appointment, I think, coming up around 4:00.

CHAIRMAN ANAYA: Okay. Thank you, Gerald, for pointing that out. Let's go ahead and if the Commission is okay with it let's go ahead and hear the presentation.

XI. C. Matters from the County Manager

1. Recognition of Judge Ann Yalman

MR. GONZALEZ: Mr. Chairman, members of the Commission, we have a certificate of appreciation to present to the Honorable Judge Ann Yalman. She continues to be a judge as we know, and it reads "The Board of County Commissioners and County Manager greatly acknowledge your hard work and dedication. You have provided outstanding quality service for the constituents of Santa Fe County for the last seven years. Thank you. We will miss you and good luck. Unidos aquí para la gente. Here, united for the people. Presented this 10th day of January, 2006.

CHAIRMAN ANAYA: Come on up, Ann.

ANN YALMAN: Mr. Chairman and Commissioners, I just wanted to say I thoroughly enjoyed working at Santa Fe County. It was a wonderful place to work. It was unexpectedly wonderful. I did not expect that, that I would so enjoy working both with the Commission and all of the County employees. They were all extremely helpful and hardworking and I greatly enjoyed my time here. I'm certainly going to miss this wonderful room. It cannot be duplicated anywhere else. You have the nicest courtroom in the state in my opinion. So thank you very much.

CHAIRMAN ANAYA: Thank you, Ann. I've got a little question. First of all I want to thank you for all your hard work. You know, we never heard anything about you so

apparently you just did your job and nothing ever bad was said and you were here and you were gone.

MS. YALMAN: That's how I like it.

CHAIRMAN ANAYA: But if you could just briefly tell me some of the duties that the probate judge handles.

MS. YALMAN: Well, the probate judge handles informal probate. And informal probate, the judge has a very limited responsibility. All we really can do is appoint the personal representative, is to make sure that the person who applies is the proper person under the statute and make sure that person can be the personal representative. Informal probates are totally unsupervised, except for that appointment. So if there's any conflict, if there's any problems with the probate, the case gets sent up to district court. So it's kind of a nice way to be a judge because you're not really ruling on very much except who can be a personal representative.

But in terms of how I handled the job, we have forms that were prepared by the New Mexico Supreme Court. Many of the people who appear in probate court do not have lawyers, really are not used to paperwork, they're not used to computers and they're not used to forms and so I assisted them in how to fill out the forms. The Supreme Court is really strong that we're not supposed to do that for them but I felt it was sort of like legal aid for probate. You are helping people get through a process when they're going through a hard time in their own lives anyway. So I think it was helpful. I think probably one of your questions is did it matter that I was a lawyer or not? It's not essential. It certainly was helpful in terms of dealing with the probate.

The only other thing that I did and actually it took a lot of my time was weddings. I did a lot of weddings. Because it's not that busy a job per se – the conflict is all in district court – I had time to do weddings whereas the other judges really do not have the kind of time that it takes to do a lot of weddings, and I thoroughly enjoyed doing the weddings. But that's pretty much it. I don't have a lot of rulings and writing or anything else. You do have to have an understanding of the probate system but it is not as difficult as ruling on it if you were a district judge at all.

MR. GONZALEZ: Mr. Chairman, on a personal note, I have to thank Judge Yalman for doing my wedding in this room almost three years ago. It will be three years ago this coming February 21st, so thank you, Ann.

MS. YALMAN: You're welcome. I enjoyed it.

CHAIRMAN ANAYA: Thank you, Ann, for all your service to Santa Fe County and good luck in your new position.

MS. YALMAN: Thank you.

COMMISSIONER VIGIL: We'll miss you.

CHAIRMAN ANAYA: I'd also like to recognize Judge Hall is in the audience back there. Thank you for being here, Judge.

X. Appointments & Reappointments

A. Resignation/Appointment of the Probate Judge [Exhibit 1: Resume]

COMMISSIONER VIGIL: Mr. Chairman, I wasn't really clear whether or not we were going to move forward on this. I think after reviewing our options on this, I'm going to recommend to my colleagues on the Commission here that we sort of talk about process with regard to this. We've received letters and resumes of interest from at least three applicants who are interested in this position, none of which are the current candidates, which I'm actually pleased about because in terms of policy, I think it is an appropriate policy for an interim appointment not to be a current candidate. So I am going to open for discussion the opportunity to look at a process and perhaps even ask Gerald if it's possible for him to establish something to put in place for interested parties to be interim appointee for probate judge. It is a one-year appointment and it would be an appointment that would terminate upon the election.

The underlying really rationale for this policy, at least on my part is the fact that this is an elected position and it really should be the electorate who should make the decision for this, and I think if we actually did elevate a current candidate to that position, at some level I see that as an unfair advantage to other candidates. So I do believe that the interim appointment would probably be the most appropriate and the most fair and judicious way to move forward. And with that, Gerald, I would just ask the question: Is it possible to put a process in place to get interested parties' resumes, applications, perhaps have some kind of a review process in place to bring forth a recommended candidate or perhaps some finalists?

MR. GONZALEZ: Mr. Chairman, Commissioner Vigil, I believe the Commission has actually done that in the past for other positions, so you'd simply have to establish the criteria that you would want people to present in order to be considered. Staff certainly could go through those and provide you either with a list of names or a pared down list of names, whatever you would feel comfortable with if you decided to do a process like that.

CHAIRMAN ANAYA: Commissioner Campos.

COMMISSIONER CAMPOS: Question, Mr. Gonzalez. Now that Judge Yalman is no longer in that position, do we have a temporary judge at this point? We have no judge.

MR. GONZALEZ: Mr. Chairman, Commissioner Campos, at this point we have no judge.

COMMISSIONER CAMPOS: Okay. I understand there's a significant backlog, some work to be done from what I've heard. Now, what you're suggesting is we're going to appoint someone for the rest of the year.

COMMISSIONER VIGIL: Correct.

COMMISSIONER CAMPOS: Because there are two options. One, appoint

someone now, whoever that might be, or appoint someone who commits not to be a candidate for the probate position. Is that what you're suggesting?

COMMISSIONER VIGIL: I believe that that would be my preference, but I don't know that we can actually require that. We can perhaps speak to potential candidates to see if that is their interest. But I don't think that we can require it or prohibit it. But that would be my intent, Commissioner Campos.

COMMISSIONER CAMPOS: I would just hope that we could do this quickly. I'd like to hear from the other Commissioners as to what they'd prefer to do.

CHAIRMAN ANAYA: I don't have a problem with what Commissioner Vigil is proposing, for Gerald to get together a team to look at individuals that possibly would not be wanting to run but would be willing to help out in Santa Fe County for a year in terms of helping with the probate. Any other comments? So is that something the Commission would like to do? I feel okay with it. And maybe get back to us so that we can make a decision at our next meeting. That way we don't prolong things.

COMMISSIONER CAMPOS: In two weeks or four weeks?

CHAIRMAN ANAYA: Two weeks.

COMMISSIONER VIGIL: I agree with that.

CHAIRMAN ANAYA: Commissioner Sullivan.

COMMISSIONER SULLIVAN: I think that the other thing that Mr. Gonzalez asked was what criteria we want them to categorize or evaluate the candidates by. Do we have any guidance on that?

CHAIRMAN ANAYA: So that they can offer us a list of one to twenty?

COMMISSIONER SULLIVAN: Precisely. I think we need to give Gerald some direction. There are a couple of options. Number one, we can just simply say review all the candidates and come back with a recommendation. That's one option. Another option is review all the candidates and come back with three recommendations. Another option is review all the candidates and rank them, or review the candidates and set up three of them to make a public presentation. There's a variety of ways we can do this. My personal preference would be review the candidates, come back with one staff recommendation. Put all of the other resumes in the packet so we can see them and evaluate them personally, but have one staff recommendation. I think that would be the easiest.

CHAIRMAN ANAYA: How does the rest of the Commission feel?

COMMISSIONER VIGIL: I'm in agreement with that. I also think that Gerald had asked for some criteria with regard to what we're looking for and I think I would just ask staff or Gerald to defer to what the statute specifically identifies. Qualifications are minimal there. But I think it's important that this person identify their interest. That they identify that they're going to take a position whether or not they are willing to terminate this office in a year's time. That in fact they inform us how well they work with the public. That they inform us whether or not they're able to communicate bilingually, and that they inform us of their experience with probate and with the general public with regard to issues associated with that.

Thank you.

CHAIRMAN ANAYA: Commissioner Campos.

COMMISSIONER CAMPOS: Just a clarification. So anybody who wants to be a probate judge whether they're going to seek election or nomination in June and election in November, right? That's what I heard. Everybody, anybody can apply.

COMMISSIONER VIGIL: No. No, I think I was perfectly clear that it is my intent that we appoint a temporary probate judge and that that temporary appointment not seek election.

COMMISSIONER CAMPOS: You recognize that we couldn't require this of anybody.

COMMISSIONER VIGIL: I do.

COMMISSIONER CAMPOS: So that if the person's who's selected is the most qualified is also a candidate, that person may be selected by this Commission in two weeks.

COMMISSIONER VIGIL: No, I think my comments were that I would prefer not to elevate a candidate.

COMMISSIONER CAMPOS: Okay.

CHAIRMAN ANAYA: Gerald.

MR. GONZALEZ: Mr. Chairman, Commissioners, one other piece of information. I understand the annual training that the Association of Counties performs for probated judges is occurring next week. So it might be important in your considerations to think of somebody either who has familiarity with probate or else legal background who can quickly acclimate to the probate statutes.

CHAIRMAN ANAYA: Okay. Thank you, Gerald. So do we want to have staff evaluate it and come back with one person?

COMMISSIONER CAMPOS: I would say three.

CHAIRMAN ANAYA: Three?

CHAIRMAN ANAYA: I'd like three. And maybe those three could come to the Commission and present themselves.

MR. GONZALEZ: We can do that.

CHAIRMAN ANAYA: Are you okay with three?

COMMISSIONER VIGIL: I'm fine with that.

COMMISSIONER SULLIVAN: Mr. Chairman.

CHAIRMAN ANAYA: Commissioner Sullivan.

COMMISSIONER SULLIVAN: Mention was made of two weeks. Our next administrative meeting is in three weeks.

CHAIRMAN ANAYA: It's in three. Okay, so the next meeting, which will be in three weeks.

X. B. Appointments to the Extraterritorial Zoning Authority (EZA)

CHAIRMAN ANAYA: What's the pleasure of the Board? Who would like to sit on the EZA first of all?

COMMISSIONER CAMPOS: Mr. Chairman, I would.

CHAIRMAN ANAYA: One, two, three, and I would like to also.

COMMISSIONER CAMPOS: Would you?

CHAIRMAN ANAYA: So that's four of us.

COMMISSIONER SULLIVAN: Let's all come.

COMMISSIONER CAMPOS: The next BCC is on the 24th, by the way.

COMMISSIONER SULLIVAN: Well, that's a special meeting.

COMMISSIONER CAMPOS: That's a special meeting on affordable housing, right?

COMMISSIONER SULLIVAN: Yes. It's at 6:00 pm.

COMMISSIONER CAMPOS: The 31st is the last Tuesday, right?

CHAIRMAN ANAYA: So we're going to keep it the 31st? So back to the EZA. There's four of us that want to be on it. I guess I should ask, does anyone want to get off of it. Because we only need three.

COMMISSIONER CAMPOS: And a substitute.

CHAIRMAN ANAYA: A substitute?

COMMISSIONER CAMPOS: We've had a substitute for the last three or four years.

COMMISSIONER MONTROYA: Who's on it now?

CHAIRMAN ANAYA: Who's on it?

COMMISSIONER VIGIL: Commissioners Campos, Sullivan and myself.

CHAIRMAN ANAYA: Okay. I know last year I wanted to be on it and I was thrown off.

COMMISSIONER SULLIVAN: Mr. Chairman.

CHAIRMAN ANAYA: Commissioner Sullivan.

COMMISSIONER SULLIVAN: I think any of us can handle that assignment equally well. The only reason that I'm suggesting that I remain on it is that once we finish up this affordable housing ordinance, which I've been very involved in and very interested in seeing it come to fruition it will be necessary to do the same ordinance in the Extraterritorial Zone. Because that ordinance applies excluding the EZ. So that I would just like to continue to move that forward, that affordable housing initiative that we've been doing. That's one of my primary reasons that I would want to remain on it.

CHAIRMAN ANAYA: Okay.

COMMISSIONER MONTROYA: Mr. Chairman, I'd like to make a motion that for this year then that the appointments be Commissioner Campos, yourself, and Commissioner Vigil, with Commissioner Sullivan as the alternate.

COMMISSIONER VIGIL: Second.

CHAIRMAN ANAYA: There's a motion and a second. Any more discussion?

The motion to appoint Commissioner Campos, Commissioner Anaya, and Commissioner Vigil, with Commissioner Sullivan as the alternate to the EZA passed by unanimous [5-0] voice vote.

CHAIRMAN ANAYA: Okay then, to restate that, Commissioner Sullivan, you'll be our alternate on the EZA.

X. C. Appointments to the Solid Waste Management Authority (SWMA)

CHAIRMAN ANAYA: Who would like to be on it?

COMMISSIONER CAMPOS: Mr. Chairman, I'm on it. I'd like to stay on it. I think we have three positions, three Commissioners and three Councilors.

CHAIRMAN ANAYA: Commissioner Vigil, would you like to stay on it?

COMMISSIONER VIGIL: I am currently chairing that board. I would like to stay on it.

CHAIRMAN ANAYA: Commissioner Sullivan?

COMMISSIONER SULLIVAN: No.

CHAIRMAN ANAYA: Commissioner Montoya?

COMMISSIONER MONTOYA: No.

CHAIRMAN ANAYA: Okay, since you all don't want to do it, I'll do it.

COMMISSIONER CAMPOS: You like it. Okay, I move that Commissioners Anaya, Vigil and myself be members of the SWMA Board. We need an alternate. Who would like to be the alternate? Can we just appoint someone?

CHAIRMAN ANAYA: Commissioner Sullivan, he's good at alternates.

COMMISSIONER CAMPOS: Jack was the alternate. He was forced last time so let's force Commissioner Montoya this time.

COMMISSIONER SULLIVAN: I'll pass on it this time, thank you.

COMMISSIONER CAMPOS: Okay, Commissioner Montoya will be the alternate.

CHAIRMAN ANAYA: Okay. Is there a second?

COMMISSIONER VIGIL: Second.

CHAIRMAN ANAYA: Any more discussion?

The motion to appoint Commissioners Anaya, Vigil and Campos to the SWMA Board, with Commissioner Montoya as alternate, passed by unanimous [5-0] voice vote.

X. D. Appointments to the Regional Planning Authority (RPA)

CHAIRMAN ANAYA: The Regional Planning Authority.

COMMISSIONER MONTROYA: Mr. Chairman, I make a motion that we keep it the same, which excludes you.

CHAIRMAN ANAYA: I'll second that.

COMMISSIONER CAMPOS: Commissioner Anaya is the alternate.

CHAIRMAN ANAYA: Okay. Is there a second? I seconded it.

The motion to appoint Commissioners Campos, Sullivan, Montoya and Vigil to the Regional Planning Authority, with Commissioner Anaya as alternate passed by unanimous [5-0] voice vote.

X. E. Appointments to the Buckman Direct Diversion Board (BDD)

COMMISSIONER VIGIL: Mr. Chairman.

CHAIRMAN ANAYA: Commissioner Vigil.

COMMISSIONER VIGIL: I make a motion that Commissioner Sullivan and Commissioner Montoya remain on the Buckman Diversion Board until the June termination date occurs and at that point in time, Commissioner Campos replace Commissioner Montoya.

CHAIRMAN ANAYA: And Commissioner Montoya would then be the alternate?

COMMISSIONER VIGIL: And Commissioner Montoya would then be the alternate. Thank you for clarifying that.

CHAIRMAN ANAYA: Is there a second?

COMMISSIONER CAMPOS: Second.

CHAIRMAN ANAYA: Any discussion?

The motion to appoint Commissioners Sullivan and Montoya to the Buckman Direct Diversion Board, with Commissioner Montoya to be replaced by Commissioner Campos in June, passed by unanimous [5-0] voice vote.

COMMISSIONER MONTROYA: Mr. Chairman.

CHAIRMAN ANAYA: Commissioner Montoya.

COMMISSIONER MONTROYA: I'd just like to remind the Board also and staff that although they aren't here, we do have appointments and re-appointments to the North Central Regional Transit District as well as the North Central New Mexico Economic Development District. Currently, I'm on those two boards as well and if anyone wants to kick

me off, please.

COMMISSIONER CAMPOS: Do we need Commissioners on these two boards?

COMMISSIONER MONTOYA: Jack Kolkmeier has actually been filling in pretty much on the NCRTD, the North Central Regional Transit District. But I've been attending the North Central Economic Development.

COMMISSIONER CAMPOS: Would you like to stay on these committees?

COMMISSIONER MONTOYA: I can stay on as the designee on both.

CHAIRMAN ANAYA: Let me get some more comment here, then we'll go.

COMMISSIONER SULLIVAN: I was just saying that there has been some discussion in the transit district about the separate initiative on the Eldorado Commuter line, which is a part of District 5, so that if Commissioner Montoya wants to get off that board I would take that spot because of that interest in it.

CHAIRMAN ANAYA: The North Central Region Transit?

COMMISSIONER SULLIVAN: The transit district.

COMMISSIONER MONTOYA: Maybe we can publish that for the next agenda then. Both of those. And we can discuss it.

COMMISSIONER SULLIVAN: Yes, and I think we have another one too. We have the – what's it called, Commissioner Vigil? The insurance board.

COMMISSIONER VIGIL: Thank you for bringing that up. The Multi-line Pool Board. I don't know if the term expires. I have been serving on behalf of Santa Fe County with the State Association of Counties. I don't know if that has to be an official appointment. So maybe we – if it does, we need to publish that in the next agenda.

COMMISSIONER SULLIVAN: Mr. Chairman, I can tell you that for the last five years we've appointed the Multi-line Pool representative with no notice. Now, either we've done it wrong for five years or it's been okay and let me check and ask Mr. Ross if we could go ahead and make that appointment today in his opinion.

MR. ROSS: Mr. Chairman, Commissioner Sullivan, if it's not on the agenda we can't take formal action on it so if there's a need to consider that appointment we probably ought to publish it and do it the correct way so no one can complain about it.

CHAIRMAN ANAYA: Thank you, Commissioner Sullivan. So we'll get those published then and get them, on the next one.

I. Consent Calendar

A. Professional Service Agreements

- 1. Request Approval to Award a Construction Agreement to the Lowest -Cost Bidder Responding to IFB #26-00707-PFMD/RH, to Renovate the Coordinated Health Complex Providing Appropriate Space for a Sobering Center \$691,304(Project &**

Facilities Management Department)

- 2. Request Approval to Award a Construction Agreement to the Lowest-Cost Bidder Responding to IFB#26-0708-PFMD/RH to Construct the Vista Grande Senior Services Center \$1,080,000(Project & Facilities Management Department)**

B. Miscellaneous

- 1. Request Authorization to Enter into Network Support Services Agreement in the Amount of \$27,851.47 (Project & Facilities Management)**
- 2. Findings of Fact: CDRC Case #04-5261- Stacy Crossingham Variance**

XII. C. Matters from the County Manager

- 2. Implementation of Municipal Fire Member Coverage Plan 5, per Collective Bargaining Agreement**
 - i. Resolution No. 2006-1. A Resolution Authorizing an Election for Adoption of Municipal Fire Member Coverage Plan 5**
 - ii. Resolution No. 2006-2. A Resolution Authorizing 75% Pick Up of Bargaining Unit Member Contributions Under Municipal Fire Member Coverage Plan 5**

COMMISSIONER MONTTOYA: Move for approval.

CHAIRMAN ANAYA: There's a motion.

COMMISSIONER CAMPOS: Second.

CHAIRMAN ANAYA: And second. Any discussion?

The motion to approve the Consent Calendar and items XII. C. 2 i and ii passed by unanimous [5-0] voice vote.

XII. Staff and Elected Officials' Items

A. Finance Department

- 1. Consideration of Ordinance No. 1. An Ordinance Pertaining to the Issuance by the County of up to \$7,000,000 of County of Santa Fe, New Mexico, Charter School Foundation Bonds (ATC Foundation Project), Series 2005, to be Issued in Two Series, Tax-Exempt Series 2005A and Taxable Series 2005B, for Benefit of the ATC Foundation**

MR. GONZALEZ: Mr. Chairman, I know there's been some confusion about the documentation. It's been passed around but we have with us our bond counsel, Peter Franklin, who I think can sort of straighten out what all this paper is that's sort of been going back and forth.

CHAIRMAN ANAYA: Peter.

PETER FRANKLIN (Bond Counsel): Mr. Chairman, Commission members, about two weeks ago, the applicant submitted a form of bond ordinance with some blanks in it as well as a bond purchase agreement, also with some blanks in it, and a series of forms of documents which are being approved as the form by the ordinance. What the blanks pertain to is that the bonds at that point had not yet been priced to investors and what is typical in this situation is that after the bonds are priced and basically marketed to investors the applicant returns with a filled-out form of bond ordinance and bond purchase agreement. My understanding is they have the filled out forms of those documents here today.

I've reviewed the bond ordinance and the bond purchase agreement with the numbers filled in and basically, the various versions of revised documents that apparently you've seen along the way, I'm not sure why those actually went to you. They would not ordinarily go to you. Those were really meant to be copied to me and to the County Attorney. The only thing that's changed from what is in your – the only thing meaningful anyway – that's changed from the drafts of the bond ordinance and the bond purchase agreement that you have in your agenda packets is the actual terms of the bonds that are proposed to be sold are now filled in in those documents.

CHAIRMAN ANAYA: Any questions of Peter?

COMMISSIONER MONTOYA: Mr. Chairman, what are those terms, Peter?

MR. FRANKLIN: Mr. Chairman, Commissioner Montoya, the terms basically involve the interest rates and the maturity of the bonds. That appears, and I think bond counsel from Brownstein, Hyatt and Farber, Eddie Duffy is here. He can provide you with a filled-out form of ordinance and bond purchase agreement if that's what you would like. At this point there's been so much paper coming at you that we thought we'd wait and see if you actually wanted that before he handed those things out.

But basically, the terms are the principal amount maturing each year and the interest rate that will be charged on that maturity until paid, and what are called mandatory sinking fund redemption fund terms which really don't affect the County at all.

CHAIRMAN ANAYA: Any other comments?

COMMISSIONER MONTOYA: So, Mr. Chairman, I know that these were listed on the agenda as 2005 and 2005A and the documents that we have, I believe are 2006 and 2006A.

MR. FRANKLIN: Mr. Chairman and Commissioner Montoya, that's correct. Because of the delay, you may recall that they were intending to come forward with this ordinance last month in 2005. That's one of the things that got corrected in these final documents. The agenda refers to 2005. The correct title of the bonds is 2006 A and B.

COMMISSIONER MONTOYA: Mr. Chairman, Steve, could there be some potential problem with the publishing of the agenda and with what we're acting on if we're to act on this?

MR. ROSS: Mr. Chairman, Commissioner Montoya, perhaps Mr. Franklin can address that.

MR. FRANKLIN: Mr. Chairman, Commissioner Montoya, I don't think that's a substantive flaw in the notice. The notice indicates what the amount of the bonds is supposed to be and what the purpose of the bonds is, especially when you're crossing over from one calendar year to the next. We've run into these glitches occasionally. I think it's a non-substantial notice question. It's a question, but –

COMMISSIONER MONTOYA: Thank you.

CHAIRMAN ANAYA: Commissioner Sullivan.

COMMISSIONER SULLIVAN: Thank you. Two questions I had in just looking over this. I see that there's a lease agreement as a part of it to the foundation. And if there's a default on that lease, which hopefully wouldn't occur, it is deferred to the trustee for action. Now, who is the trustee? In looking through it it looks to me like the Bank of Albuquerque is the trustee. Is that correct?

MR. FRANKLIN: That is my understanding.

COMMISSIONER SULLIVAN: What does the Bank of Albuquerque do if ATC defaults on its lease payments for the facility?

MR. FRANKLIN: Mr. Chairman, Commissioner Sullivan, I can certainly take a stab at answering that but I might like to defer these questions about the substantive elements of the transaction itself to bond counsel. It's your call, but I know he's come up here from Albuquerque to answer these questions.

COMMISSIONER SULLIVAN: Mr. Chairman, whoever could answer them would be the best person to answer them.

CHAIRMAN ANAYA: Who do you have? Are they not here?

MR. FRANKLIN: No, they're here.

CHAIRMAN ANAYA: Okay, well, come on up.

MR. FRANKLIN: They're right here.

EDUARDO DUFFY: In the event of a default what the trustee would do, the trustee would accelerate the amount of the bonds and what that would mean is it would have to go over the revenues due from the foundation under the lease agreement. It couldn't independently go after any other assets of the County or any revenues of the County. The bonds are to be paid exclusively from whatever monies are to be paid by the foundation to the County under the bonds.

COMMISSIONER SULLIVAN: So if there were money due the County, could the trustee attempt to regain that money as a part of the default.

MR. DUFFY: Mr. Chairman, what would happen is that the – the way the deal is structured the County will be making the payments, but the way the County is going to be

making the payments is going to be from money it receives from the foundation under the leases agreement. So if there were a default, then the trustee, on behalf of the bondholders could exercise or would exercise on the collateral it has received under the indenture from the foundation. Those assets are essentially the monies it has, it's entitled to under the sublease agreement which it's going to pay in its assets and land which has been mortgaged.

COMMISSIONER SULLIVAN: Okay, what I'm hearing, I'm assuming that the Bank of Albuquerque will be looking after the Bank of Albuquerque, not the County of Santa Fe. So that if Santa Fe County is leasing the facility and the funds are coming to Santa Fe County, Santa Fe County is incurring some liability or some administrative costs there, how does Santa Fe County protect itself in the event of a default?

MR. DUFFY: In the event of a default, I think what would happen is that they wouldn't be able to go after the County. I think that's essentially the protection the way the deal is structured. I'm not sure if that's answering your question but the trustee would need to go against the foundation. It couldn't really, if there was a default, money is due from the County, but the County only owes that money that it's entitled to from the foundation. So the trustee would, on behalf of the bondholders, take actions to protect the bond holders by going after the foundation, but it wouldn't have any recourse independently against the County for any other assets.

COMMISSIONER SULLIVAN: The County is the conduit. That's my understanding.

MR. DUFFY: Exactly.

COMMISSIONER SULLIVAN: And the County is the middleman between the foundation and the bank.

MR. DUFFY: Correct.

COMMISSIONER SULLIVAN: So if there's a default, the bank is going to look after the bank. My concern is the bank going to look to the County for payment of that and you're saying you don't think so.

MR. DUFFY: No. It will only go to the foundation.

COMMISSIONER SULLIVAN: Okay, it will. You're absolutely 161 percent sure of that.

MR. DUFFY: Yes.

COMMISSIONER SULLIVAN: Okay. Good. I think our bond counsel is indicating that's true. Is that correct? I want to be very sure that we're not putting ourselves out on the end of the diving board here.

MR. FRANKLIN: Yes, Mr. Chairman, Commissioner Sullivan, that is the case. The rents that the County in theory receives actually never go to the County. They go straight from the foundation to the trustee and then the trustee pays them to the bondholders. So if the foundation for some reason doesn't receive the money from the school, what the trustee does is go after the foundation and the County essentially drops out of the entire transaction after the bonds are issued. It's there in the documents but it has no liability to do

anything.

If somehow the County – if somehow the payments went to the County rather than the trustee, the trustee would have an obligation to go get them from the County and pay them to the bondholders, but that won't happen under the transaction the way it is set up and the way any of these are set up.

COMMISSIONER SULLIVAN: Okay, and if that were to occur and if there were a default, would that have any bearing on the County's bond rating?

MR. FRANKLIN: Mr. Chairman, Commissioner Sullivan, no, it would not.

COMMISSIONER SULLIVAN: It would have no change to our bond rating.
Okay.

MR. FRANKLIN: No.

COMMISSIONER SULLIVAN: Then the other question that I had that was brought up at the last meeting had to do with the water service. I understand – there's been some documents back and forth. I saw one document from an attorney that I can't recall that talked about water and it basically I think said don't worry about it. Aside from that, the facility is in the County of Santa Fe and it's in the County of Santa Fe water service area. Is it the case that the wet water as well as the necessary water rights are coming through the County? The water will be wheeled through Santa Fe County lines and the project will be meter by Santa Fe County and payments will be made – and here's my question, to whom? Santa Fe City or Santa Fe County?

MR. FRANKLIN: Commissioner, I have Matthew McQueen who is counsel for the foundation who has been working on that water issue.

MATTHEW MCQUEEN: I'm Matthew McQueen and that letter was from me, Mr. Chairman, Commissioner Sullivan. I've had conversations with water officials in both the City and the County and although I don't have anything in writing saying x, y, and z is going to happen, I've been assured that it's really an administrative matter, easily done and something that the City and County already do. It's not – we don't have to reinvent the wheel. We don't have to go through any major heartburn. It's just something that we'll take care of in due course. I do not know who the payments would be made to. I assume it would be done the same it already is done the same way it already is done with other City water users within the county.

COMMISSIONER SULLIVAN: They only one of which I can think is Community College. Maybe if Mr. Wust is here he can help us out on that. I just have to warn you that sometimes as obvious as something may be between the City and the County often doesn't become quite so obvious once it gets into discussion and as a document.

MR. MCQUEEN: I understand, Mr. Chairman, Commissioner Sullivan. Two things, one, IAIA might have this structure. I'm not positive about that. And the second, Mr. Lee Pittard, our project representative has some further information on that.

LEE PITTARD: Thank you, Mr. Chairman, Commissioners. I met with the County water division and also with the City water division. In both cases what will happen, in

answer to your question, that will be the City. A master meter will be set at the point on Richards Avenue that intersects with I-25. At that point, all of the lines that are south of that point are considered the County system, whether they were built by the City or the County, they're considered within the County system. All of the lines north of that line are considered within the City system. And that's just the working relationship the two departments have going. The same thing applies right now towards I think the Community College and also IAIA.

The meter would actually meter the water that comes through that would go to this destination and the bill would be billed to the City because it's the City's water. They're considering now whether or not there would be an additional charge of any kind. Right now they don't have one for these cases, that the County would make for any administrative costs they would have. The cost of the meter, the cost of the installation, all of those things are the cost of applicant which would be the school, or the foundation.

COMMISSIONER SULLIVAN: Okay. Well, not to belabor it because it doesn't seem like we quite know what's going to happen but if I understand what you're saying, there will be a master meter put on the City's line on Richards Avenue.

MR. PITTARD: Yes.

COMMISSIONER SULLIVAN: Because I don't think there's one there now.

MR. PITTARD: There would be a master meter installed on the lines that are currently – let's call them the City's lines north of I-25 on Richards.

COMMISSIONER SULLIVAN: There's two lines north of I-25. One's the County's line and it already has a meter on it.

MR. PITTARD: Right.

COMMISSIONER SULLIVAN: Because the County buys water from the City and that's how we pay for it is as it comes through that meter we tabulate it and we pay for it. On the other side of the road is the City water.

MR. PITTARD: Right.

COMMISSIONER SULLIVAN: So is the water meter then going to be placed on that?

MR. PITTARD: No. At this point, the way that Mr. Sayre of the County water division explained it would be that most probably the water that would be coming to ATC would come through the current County line. What they told me is that the lines, the way that they distinguish, both lines, one may be City, one may be County, as far as the initial capital outlay, but now, for their operational purposes, if it's north of I-25 and Richards it's considered City system, if it's south, it's considered County system. So at that point, the meter that's there now would also meter the water for ATC, or could also come through the other line, which would have a similar meter installed. They didn't give me a decision as to which line it would come through, just that it was a simple administrative matter that would be handled the way that it currently is.

COMMISSIONER SULLIVAN: Okay, I don't think it's simple, but I think

Mr. Chairman, maybe what we need is a water service agreement that goes with this. I think that's what we're going to need here at some point in time because we have other entities that are off that same line, the subdivisions of La Pradera and Oshara, all of those is the Community College District, IAIA are on those same lines. So obviously, there's got to be a mechanism for isolating the water used for this facility and the water used for others. I imagine they'll have a meter at their facility and then the question is who sends the bills out and who gets the payment.

So I can only suggest that if we move forward on this that we move forward subject to the preparation of an appropriate water service agreement.

CHAIRMAN ANAYA: Okay. Thank you, Commissioner. Commissioner Montoya.

COMMISSIONER MONTROYA: Mr. Chairman, when will these bonds be sold?

MR. DUFFY: The bonds are scheduled to be sold on February 14th, and the reason that is is we wanted to do one month after the consideration of this ordinance so the ordinance would take effect and give us just a couple days to make sure the closing documents and everything else is in shape.

COMMISSIONER MONTROYA: Okay. So that's the projected date then for sale. Okay. Mr. Chairman, I'd move for approval.

CHAIRMAN ANAYA: There's a motion. Is there a second? I'll second it. Any more discussion?

COMMISSIONER CAMPOS: This is for the ordinance, right?

COMMISSIONER MONTROYA: Yes.

MR. ROSS: Mr. Chairman, I believe we're going to need a roll call on this as well.

CHAIRMAN ANAYA: There's been a motion and a second.

COMMISSIONER SULLIVAN: Mr. Chairman, I have a question. Where does the water service agreement fit into the picture? Does that come as a part of the ordinance motion or does that come as a later motion or how do we –

CHAIRMAN ANAYA: Maybe that will come as a later motion.

COMMISSIONER SULLIVAN: Mr. Ross, is that appropriate?

MR. ROSS: Mr. Chairman, Commissioner Sullivan, I think that's right. Since we're passing an ordinance right now I wouldn't want to clutter it up with a side issue.

The motion to approve Ordinance 2006-1 passed by unanimous [5-0] voice vote.

COMMISSIONER SULLIVAN: Mr. Chairman, then I would make a motion that the applicant prepare for the staff review a water service agreement pertaining to this project and that agreement be reviewed, be submitted to the BCC for approval.

CHAIRMAN ANAYA: So is it okay to make a motion or do we just give

direction now at this point?

MR. ROSS: Mr. Chairman, it might be a good idea if we take that as direction. I guess my first question would be would this water service agreement be between the County and the ATC school or would it be between the City and the ATC school? My understanding of the arrangement right now is that the City is perhaps offering a water service agreement to them, not the County, and that the proposal is that they wheel the water just like they do at IAIA across the county line there.

CHAIRMAN ANAYA: So then we're looking at a wheeling agreement instead of a service agreement.

MR. ROSS: And you know the whole wheeling issue we haven't resolved yet. We left that aside when we worked on the water agreements last year with the thinking being that eventually we would do an accounting of the wheeling that both parties are doing on the others' line. There's a significant amount of County water wheeled on City lines and vice versa. This seems to be another example of that, if the City is in fact offering them water service on this line. Remember, at the end of this line is IAIA and they are a City customer, not a County customer. But the water that they use is transported through County lines from the Richards Avenue master meter.

COMMISSIONER SULLIVAN: Mr. Chairman, if not an agreement, could we have some memorandum of understanding. I would just think it being necessary to have a document of understanding of exactly what we're getting conflicting opinions on here and that's what I'm suggesting if the water services agreement – I would amend the motion to say a water service agreement or other appropriate document to establish the water service procedures for the facility.

CHAIRMAN ANAYA: Okay. Commissioner Montoya.

COMMISSIONER MONTOYA: Mr. Chairman, I guess I'm just – I was also under the impression also in reading some of the minutes here that their water was being provided but I guess I'm also confused as to what a water service agreement has to do with the sale of the bonds. Usually when you sell bonds you don't put stipulations on anything other –

COMMISSIONER SULLIVAN: We've already passed that. That's already been passed. The bond ordinance has already been passed. We're just now saying in discussion on this same agenda item, what other things are outstanding here and that still seems to be an outstanding item.

CHAIRMAN ANAYA: Okay, well, maybe we could –

COMMISSIONER MONTOYA: Isn't that what the City did though on December 29, 2004?

COMMISSIONER SULLIVAN: They authorized two acre-feet to be allocated to the facility, so we have that commitment. I just feel it's important to have something document as to how this works administratively.

MR. ROSS: Mr. Chairman, perhaps Mr. Wust and myself could run this down and report back to you at the administrative meeting.

CHAIRMAN ANAYA: That would work. Thank you, Commissioners.

COMMISSIONER SULLIVAN: That would be fine. I withdraw the motion, subject to a report at the January 31st meeting.

CHAIRMAN ANAYA: Okay. That motion passes. Thank you all.

XII. B. Project & Facilities Management

1. Presentations and Discussion on Site Feasibility Study for the 1st Judicial Courthouse (Project & Facilities Management) [Exhibit 2: Powerpoint; Exhibit 3: Supporting material]

CHAIRMAN ANAYA: How long will this take?

JOSEPH GUTIERREZ (PFMD Director): The presentation won't take that long. Maybe ten minutes or so, then discussion and questions by the Commission.

CHAIRMAN ANAYA: Okay.

MR. GUTIERREZ: Mr. Chairman, members of the Commission, today we have a presentation for you on a site feasibility study for the judicial courthouse. The first slide here gives us some background information. On December 13th which was the last Commission meeting we brought to you a professional services contract to perform a site feasibility study. You gave us approval to move forward on that. During the month of December we worked with DCSW and in early January we had several meetings where DCSW presented to staff 17 conceptual site plans to look at. Upon those reviews we met with DCSW and we have selected five to show you here today. Again, this is just a site feasibility study showing the footprint of the land that the County partially owns and looking at square footage and the size of a judicial courthouse to see if that footprint will work on this area.

To give that presentation, I'd like to introduce Mark Schiff who is a principal with DCSW and he'll walk you through this presentation.

MARK SCHIFF: Thank you, Joseph and members of the Commission. We'll run through this for you as quickly as we can. What we have here in this picture is an aerial view of the site that is question, and it's at Montezuma and Sandoval Street. All of this land and buildings, except for this building which is called the Blue Monkey building is currently in title with the County. In other words, it's County ownership now. And what we did as our task was to do what we call a test fit and we took several options for laying out what amounts to eight formal courtrooms and four large hearing rooms on the site in different configurations and different heights. We'll show you a couple that are at four-story configuration and several that are at three-story configuration to verify that the site is large enough to support a courthouse.

What this graph shows you is the summary from the space needs study that we did in 2004 for the County, and it shows, in this column the present day space needs, or 2004 space needs, for the First District Court. In the second column it shows the space needs that were

roughly nine years out from the time of the study, now seven years out, and we are using this space summary as our test fit. In other words, we're recommending that you look at this amount of space to see if it will fit on the site and it represents the space needs out to about 2015/2016.

The right-hand column shows the space needs projections out to 2023 and what you'll see in the studies is a test fit of 151,000 square feet on the site and that includes 21,000 feet for the district attorney, who in the scenario we're showing you would be housed, potentially, in the first building that you build on the site and then at a future date could move off of site and then you'd be able to expand into the building that was there without building an addition. It really represents the scenario where the district attorney and associated future expansion space would be contained within the initial construction.

Now, you don't have to do that. It could be smaller by 21,000 square feet and then the assumption is, in that scenario, in 2023, 2025, you'd build an addition to the building. So what we're showing you is a test fit of a square footage arrangement on the building that can take you probably out to about 2030 without doing any expansions or additions, and then options for expansion beyond that.

What you see here comes right off the program that we did in 2004 and the one thing that we're also adding in the square footage is secure parking for 15 judges under the building. What's included inside the courthouse, eight finished district courtrooms and support spaces – judges' chambers, etc., four family courtrooms and support space, 124,000 square feet of court space, secure parking for the judges, a district attorney space area of 20,000 square feet which becomes future expansion space, public plaza, a secure inmate sally-port, which is a discharge point for inmates from the jail, and holding areas in the basement for this inmates, as well as secure circulation inside the building and holding cells between the courtrooms to secure inmates within the building.

This last line describes that at four floors we'd be looking at a building that's about 66, 67 feet tall and three floors about 50 feet tall.

We're going to now show you these layouts and I want to introduce Mr. Don Dwor, from Spilles Candell Architects, who's been working with us on the project and Don, if you would like to go through these.

DON DWOR: What I'll try to do right now is take you through five of the seventeen schemes that we looked at and in your packets you'll see them expanded and the additional schemes. Just to orient you a little bit better, we're due north on this slide. This is Montezuma on the south, Sandoval on the west, down here a little bit is De Vargas, and then over here to the right is where Cerrillos splits and becomes Galisteo. As Mark said, we looked at schemes that were either three or four stories tall. We looked at schemes that either had four courtrooms per floor or six courtrooms per floor, because the footprint increases and as you increase the footprint you can lower the height of the building.

We positioned all of the schemes on the site in various configurations and you'll see as I walk through them, let me just give you a little bit about what the red, yellow, blue signifies

on those slides. The public area in the building is shown in yellow. Now, the pedestrians come in the lobby and they circulate through the building. The red signifies secure or prisoner movement, and we always position prisoner elevators between two courtrooms so we can bring them up from the sally-port below and distribute them into the courtrooms as necessary. The blue signifies judicial movement, very secure area behind the scenes, and you are only buzzed in or allowed in a secure corridor by someone that has that capability. There are secure elevators for judges also in that secure area because when they come in the building on the lower level and park their cars, they could come up these elevators directly to their chambers and then into the courtrooms without crossing any circulation. It's very common that this is done in today's contemporary courthouse. So we'll always show the red, yellow and blue in these schemes.

This is called Scheme 1, a very straightforward, four-courtroom per floor scheme. It's a very small footprint, but it requires going four stories in the air, and on the right, you can see we've positioned four courtrooms on the fourth floor. They'd be districts. Four on the third floor. The family courtrooms would be located on the second floor, at least in this scenario, and the office functions which punch out bigger around and show in this panned element. So the first floor would be bigger than the top three floors. And that's the way we get roughly the 140,000 to 150,000 square feet.

Parking is shown in a dotted line, that somehow we would be able to park underneath this scheme, if required. It's expensive, but if we couldn't get parking underneath this scheme we would have the secure parking only under the courthouse proper itself and the public parking below. We show off the right a little bit of future expansion which could go here. It would probably be much more in the way of office space, and if we needed additional courtrooms we'd probably take some of that office space off the first floor, because we've already got a vertical stack in line, and that way we'd get some additional courtrooms by building a future expansion space or future office space.

This scheme is oriented to the northwest as you see. One of the things that we liked when we took a look at this site is when you come from downtown, you rise up six or seven feet on Sandoval and it would be a rather nice entry position to locate a very public building on that access. So we looked at this scheme. We call it an L-shaped scheme. Obviously, you can see it in its configuration. This scheme has more square foot per floor. It still has the four courtrooms on the third, the four courtrooms on the second, the family courtrooms on the first, but it also provides on all three floors, this large chunk of office space that supports the courtroom on the floor. So it's a three-story scheme, a bit lower, and one of the problems maybe with this scheme is expansion space. It's a little tough even though we're showing expansion space with the dotted line. It can be done. This office space can punch out and we could expand it. Just a little different orientation.

This scheme, I call it the see-through or the atrium scheme. As you can see from the entrance, you'd be able to come straight on through this building, possibly a skylight or entrance, but it flanks the courtrooms on both sides of an atrium. Again, this could be a three

or four-story scheme. We're going to talk about it as a four-story. We put four courtrooms on four, four on three, four families on two, and the office area in this case is a little bit bigger on the ground floor to get all the square footage in. Expansion space is very easy in the future. We can mark additional courtrooms or office space to the north as we can on this scheme.

On this scheme with the initial layout we also looked at the possibility of putting a parking garage on grade and we call it here four levels, two above grade, two below grade. It gets very tight on the site when you do that and prohibits future expansion the way we would like to see it so even this scheme, if we go to parking on site, we may put it all below. But the possibility exists because the footprint is small.

This is another variation of an L-shaped scheme but it does a little different kind of thing for us. The four courtrooms are located here oriented towards the west with a large public plaza, but it's a three-story scheme. Four courtrooms on three, four on two, four families on the first, and some office functions on the family court, because the courtrooms are not quite as big, but it gives a large chunk of office space up here on the north, which could be two or three stories. It has the potential of saving some money because building that as office space is cheaper initially than building the courtroom space. It could be built as two or three stories, it could have setbacks, etc. But it's a nice way to isolate a lot of office function out from the stack of the courtrooms. So we looked at that. Again, future expansion could be in this direction. In many of the schemes, this building, I call it the utility building, it's named the Anacon Building, could be left in place during construction, could even be remodeled for some temporary offices if need be. In most of the schemes it's the future that would need that space for additional square footage.

This is scheme 14. This has a large footprint. This is a scheme we looked at again. It orients to the southwest off Sandoval and Montezuma. We could possibly leave the DA building in place while this is being built. This scheme gives you six courtrooms, three pairs on the third floor, six pairs on the second floor. That would be comprised of two of the districts and the four families to get the six, and it leaves the entire first floor for office functions – clerk, court administrator, district attorney, etc. It's a little different configuration. It's a big footprint. Again, some future expansion could punch out in this direction, but with this scheme, if initially we located the DA, say, in this location, in the future we could add office space here and then bring a couple more courtrooms on line. This was the scheme that looks at six courtrooms per floor.

I would say on all of these schemes and in addition to the other dozen we studied, they all fit on this site. The square footage that Mark's going to talk about in a minute, they're all between 140,000 and 150,000 square feet like he explained in the program, in the needs assessment. And we've gone through and estimated a building at 150,000 square feet just to give you some idea of what the cost of a new courthouse like this would be.

MR. SCHIFF: And we'll go very briefly through this. This is what we call a cost model and it shows the relative costs that we feel should be budgeted for 150,000 square foot building. Line A is really an administrative cost for a County project manager to run the

project for the County side, represent the owner. Group B is the construction costs of the buildings themselves. The first line is a courthouse that we're putting a budget in at \$250 a square foot. That assumes that construction starts about a year from now, so that has a healthy escalation built into it to cover the rising construction market which we've been living in.

Parking below grade – we've put a budget line item of \$3 million in for parking below grade. Now, that parking could be adjacent to the site or off the site above grade, but it's a budget for structured parking, and we can talk about that at the end of this budget. There's some other options, potentially for that. Site work, demolition of existing buildings, construction contingency, and the last line is a potential tax savings if the County purchases equipment and materials directly. A lot of counties are doing this now to save gross receipts tax. So the construction of the building is at about \$43 million.

The soft costs, we'll say below the line, of design fees, furnishings, the owner-design contingency, that is an owner's contingency that is a discretionary contingency, belongs to the owner. It is not for contingency during construction; it's for changes that the owner might initiate or add in the building. Hopefully you don't spend all of that. Permits and fees, testing of materials, and the last line is audio-visual equipment, communication, computers, and security equipment. Those soft costs or other costs besides the hard construction add about \$8.8 million. So the total project estimate, including contingencies, we have at \$52 million and gross receipts tax at about \$4 million.

Now, this may sound like a shocking amount of money and it is a lot of money, obviously. But what we want to emphasize is the construction costs for courthouses are escalating like all other construction costs and we've based this on comparable facilities that have been built in the last five years in various counties in New Mexico, so that you have at least the picture of a safe budget figure.

To go back to the parking for a moment. We wanted to make sure there was a parking component in the budget. If you do not elect to build parking for the public under the site, which has many disadvantages and liabilities to it from a time and cost standpoint, there probably will have to be parking either leased or built at another site. There is a proposal right now that the City is going to build a parking garage at the railyard, which is really three, three and a half blocks away, which probably would have a lot of empty spaces in it during the times that the courthouse is in session. So that's a possibility to look at for leasing parking, as opposed to the County building parking. But it has a cost attached to it nonetheless. So we felt that this is a fairly complete budgeting to be able to within a year or so from now be able to safely have enough funds to build the courthouse. And as we've said before, this budget contains the expansion space that would be occupied in the near term by the district attorney and then could become two new courtrooms in the future.

MR. GUTIERREZ: Mr. Chairman, members of the Commission, the last slide is basically just outlining what we in the department looked at in terms of the next steps. We are obviously still looking at land acquisition. We haven't formalized a building committee. We did meet with the DA last week and we will formulate a committee that will look at this

project in terms of getting the judges involved and the district attorney. I think a big contingency is what the outcome of the legislative process will be in terms of financing, if any dollars will be allocated to the County for this project.

After that we would look at finalizing a financial plan that could be presented to you or would be presented to you and the last step in terms of moving this project forward would be soliciting architectural and engineering services. And I want to mention also in your packets, for each of the site plans that you did receive in your packet, there's also an attached page that shows some detail in terms of courtroom square footage and other items. We stand for questions, Mr. Chairman, members of the Commission.

CHAIRMAN ANAYA: Thank you, Joseph, for that great presentation. Commissioner Vigil, then Commissioner Sullivan.

COMMISSIONER VIGIL: Thank you, Mr. Chairman. I need some clarification with regard to the legislative funding that we're seeking. If I recall correctly from our legislative reception, we were going to be asking for three million for Santa Fe County and then I think the \$12 million request is also going before them. That's only \$15 million. Are we just way off base, based on the cost estimates we've just heard?

MR. GUTIERREZ: Mr. Chairman, Commissioner Vigil, originally when we moved with this conceptual plan in terms of what we were looking at for our budget was somewhere in the neighborhood of \$40 million. We presented to you last time in terms of that there is a GRT in place that could be potentially allocated to this project, that 1/16. In talking to Susan in Finance, what the bonding capacity would be on that would be about \$20 million. So the \$20 plus potentially the \$12 million would come up to \$32 million. But I do have a meeting with Susan and Roman in terms of looking at a financial package and other bonding capacity the County might have in terms of moving forward with this project.

COMMISSIONER VIGIL: Okay. And I think it's really critical, Mr. Chairman and Joseph, that we really are clear in the numbers before we go to the legislature. And I know the legislators are being told repeatedly that construction costs are going up and that there are unique construction costs for a judicial complex. So as much as we can be definitive and clear about what the needs are for this project I think our chances of receiving funding for this project are very good. However, I'm sort of taken a little bit aback by the fact that I'm seeing a \$52 million number versus some of the initial forecasts we had. So as much as we can get that clear, I think it will be important for our legislative delegation to know that. Thank you, Mr. Chairman.

CHAIRMAN ANAYA: Thank you, Commissioner Vigil. Commissioner Sullivan.

COMMISSIONER SULLIVAN: Thank you, Mr. Chairman. Just a couple of quick questions. If my recollection serves me, when Judge Hall made his presentation before he cautioned against combining the district attorney with the district court. Is that correct, Judge Hall? Or was I thinking of something different?

JIM HALL: Mr. Chairman, Commissioner Sullivan, it was an issue that we

raised. We would prefer it not be the case. My understanding is this approach would be having them housed there temporarily in what might be expansion space for the court in the future and at some other date they would move out. I can tell you we can live with that. It's not the ideal.

COMMISSIONER SULLIVAN: Kind of like the temporary buildings on the College of Santa Fe? Kind of like those?

JUDGE HALL: I had some other locations in mind. It's not the ideal. It's not what we would prefer but if that's what the County needs to do in connection with the project I'm sure we can put into place some plans to get rid of any conflicts.

COMMISSIONER SULLIVAN: Thank you, Judge. Back to the architect. Four of the proposals show what appears to be the Anacon Building still in place. Is that where you propose to move the district attorney's office? To the Anacon Building?

MR. SCHIFF: Those diagrams show that it would be possible to leave that building in place during construction or some time after that and use it as office space for the County for whatever uses the County would desire. Certainly, it has some potential to become a temporary location for the district attorney without really moving them from the site area. So we did consider that.

COMMISSIONER SULLIVAN: So that's a possibility.

MR. SCHIFF: It's a possibility, yes.

COMMISSIONER SULLIVAN: A separate building for the DA, which wouldn't be in the main facility, which might serve the district courts a little better.

MR. SCHIFF: Absolutely. And the one adjustment that might need to be made there is to figure out a way to expand that building somewhat because it's about 9,000 square feet. So the district attorney's space needs have already exceeded that 9,000 square feet. But all things are possible. That could have a second floor addition put on it, for instance and double it in square footage.

COMMISSIONER SULLIVAN: In this part of the city, what's the City's height limitation, zoning height?

MR. SCHIFF: I'd like to call in Jeff Sears from our Santa Fe office.

JEFF SEARS: Mr. Chairman, Commissioner Sullivan, the heights are under the purview of the Santa Fe Historic Design Review Board. What would take place is then an evaluation of the buildings in the surrounding areas and then a height calculation would be produced. We have not proceeded with that based on the process this project would need to have defined in terms of the amount of City purview over this issue.

COMMISSIONER SULLIVAN: So there's no current zoning like 51 feet that is the level? If you were doing a commercial building on this site right now, there's not a specific height?

MR. SEARS: Under the DCD current zoning, I'm not sure if Don has that figure. We do not have that figure.

COMMISSIONER SULLIVAN: But the highest that you're talking here is four stories. The Eldorado Hotel is four stories, I believe.

MR. SEARS: Six. The current City of Santa Fe zoning regulations are assuredly going to be lower than the 50 feet or so of even a three-story building. Depending on what the interpretation that comes back from the City of Santa Fe, it's probably likely to be in the 28 to 36-foot range because it's surrounded by very low buildings. This project will require a variance if it is to be taken through the Santa Fe City approval process.

COMMISSIONER SULLIVAN: Okay. So that's good to know. So that's kind of a key issue to perhaps put on that last page of things to do. Because if it were determined that this facility were subject to the City of Santa Fe's review process, none of the proposals that you have proposed here would probably meet that current requirement. Is that what you're saying?

MR. SEARS: Yes, Commissioner, that would be without getting a variance.

COMMISSIONER SULLIVAN: I understand.

MR. SEARS: In many of the courts projects that we've done around the state, the counties have taken the position of working with cities cooperatively but working on a collaborative basis rather than a strictly legal basis. So certainly it's an issue that gets confronted commonly with these kinds of projects.

COMMISSIONER SULLIVAN: Okay. So kind of a gray area. Then the last thing that I just wanted to emphasize is that downtown Santa Fe is short on parking, no matter what you say. And I don't know what the security issues would be about not having underground parking for the public but I see that it represents about \$3 million of the \$56.5 million cost, so I guess when we're talking such big numbers, \$3 million doesn't look like such a big number to me anymore, only 5 percent of the project cost. Personally, I think we need to look very carefully at parking and I think that it's a point well taken that parking does preclude expansion options. So we need to think about that as well, which in many cases seems to maybe work in favor of the underground parking.

But no matter how we do this, as the City has seen, the parking has become the critical path in their convention center project and anything that you talk about downtown, it seems like parking becomes, one way or another, the critical path element in doing that. So we probably ought to not blow off parking and jump right into the morass and start wrestling with the parking issue, because it just always seems to be the thing that finally holds us up. Those are some of my thoughts, Mr. Chairman. Thank you.

CHAIRMAN ANAYA: Thank you, Commissioner Sullivan. Commissioner Campos.

COMMISSIONER CAMPOS: Thank you, Mr. Chairman. Mr. Gutierrez, have you addressed the issue of energy efficiency and those issues that we've been talking about the last few months with the County?

MR. GUTIERREZ: Mr. Chairman, Commissioner Campos, we have not. We would not probably address those issues until we get into the design phase. Again, this is just a phase that talks about the size of the complex and the footprint that we have. But we would definitely include that in terms of the A & E once we got out to RFP and structure a contract.

COMMISSIONER CAMPOS: Okay. They understand – I hope they understand that it's going to be a critical component of our assessment.

MR. GUTIERREZ: Yes, Mr. Chairman, Commissioner Campos, and this contract that we have with the site feasibility study is not completed yet. It's actually in place to I believe the end of March.

COMMISSIONER CAMPOS: Thank you.

CHAIRMAN ANAYA: Thank you, Commissioner Campos. Commissioner Montoya.

COMMISSIONER MONTROYA: Mr. Chairman, Joseph, at one time we had discussed other potential locations. Why was this the only one that was looked at?

MR. GUTIERREZ: Mr. Chairman, Commissioner Montoya, I know that when DCSW presented the site feasibility there were other sites that were presented, but it was my understanding that the Commission was looking at the site downtown and that's why we did the test fit just for this site downtown.

COMMISSIONER MONTROYA: Okay. And then they – and I know we're looking at expansion, but we're going from eight to twelve courtrooms. Is that – what 2023, is that what was on that one slide. Is that what's projected in terms of the need for courtroom space by 2023, is 12 courtrooms?

MR. DWOR: Mr. Chairman, Commissioner Montoya, the needs assessment that was done in 2004 projected a need of eight district courtrooms by the year 2013, increasing to more at the year 2023, which on a national average is pretty reasonable. The need for judges, obviously, comes from the amount of crime, the caseload, and population. So those courtrooms, the district courtrooms in the program, eight initially and two in the future, which is one reason why we positioned the 21,000 square feet for the district attorney initially to get those future two courtrooms. There's also four family courtrooms/hearing rooms in the initial program. They're a bit smaller. They're about 1280 square feet where the district's are 1800 to 2200 square feet. So they're a bit smaller.

Initially, the year 2013, there's a need for 12 – eight districts and four family and then two additional are added as we go out.

COMMISSIONER MONTROYA: So the way you're projecting this or actually even designing it is that each judge will have their own courtroom?

MR. DWOR: Yes, one on one. Which is also pretty typical of the United States. We're working in many states throughout the country and it's pretty typical. The parking questions are very typical too, Commissioner Sullivan. They've got to be resolved. The places we worked, maybe not as historical, but we've done a large courthouse in Annapolis, in Anne Arundel County, Maryland, Coral Gables, Florida, St. John's County, which is St. Augustine, Florida. And parking in historic downtown areas is also always a critical element. But another thing that I think is the right decision has been made is to keep the courthouse downtown. We see a lot of counties where they go out to the suburbs and it's detrimental to the cities, obviously, the businesses, the lawyers that have offices, etc. So

keeping the courthouse in downtown, in my opinion is an excellent choice.

COMMISSIONER MONTOYA: Then, Judge Hall, you currently have, what? Six judges? What's the size of your –

JUDGE HALL: Mr. Chairman, Commissioner Montoya, there's seven judges in the First Judicial District. Judge Garcia's main office is in TA. So there are six district judges that are housed here. We have in addition two full-time hearing offices who conduct domestic violence hearings and child support hearings. So effectively in Santa Fe we have eight judicial officers operating. And Judge Garcia then of course is here from time to time.

COMMISSIONER MONTOYA: Okay. And then I guess the last thing is that we're pretty much assuming that somehow the Blue Monkey is going to be acquired or a part of this scenario, right? As I look at this it's part of this space, right?

MR. GUTIERREZ: Mr. Chairman, Commissioner Montoya, if this scenario is adopted by the Commission, and it doesn't have to be adopted today, but if this is the direction that we move based on the footprint that you're looking at I think that we would need that property.

COMMISSIONER MONTOYA: So yes. I guess this is the one option that we've been presented to date. So is this what staff's recommending?

MR. GUTIERREZ: Mr. Chairman, members of the Commission, I think if the Commission wants this function to be in the downtown area, this is probably the most viable at this time. I think staff will pursue the building code options we need to look at. Parking options, in terms of the city. Those types of things. But in terms of the downtown area, given this is the property the County owns at this time.

COMMISSIONER MONTOYA: Okay. Thank you, Mr. Chairman. Thank you.

CHAIRMAN ANAYA: Thank you, Commissioner Montoya. Okay. Thank you for the presentation and I believe that all the Commission is on the same page and we feel that staff should just continue. Do you need us to pick one of these or not right now?

MR. GUTIERREZ: Mr. Chairman, members of the Commission, this was just an informational piece, just to give a key piece of information before the legislative session starts. And again, the study's not complete but if we keep this project moving this is just to keep you updated.

CHAIRMAN ANAYA: Okay. Good.

MR. GONZALEZ: Mr. Chairman, part of this was just to demonstrate to you that use of that site would be feasible for the purpose that you've asked us to look at it for.

CHAIRMAN ANAYA: Okay. Thank you. Thank you, DCSW for the presentation. Thanks, Joseph, Rudy.

COMMISSIONER VIGIL: Mr. Chairman.

CHAIRMAN ANAYA: Commissioner Vigil.

COMMISSIONER VIGIL: While we have Judge Hall here I just would like to ask if he has any comments or recommendations based on this feasibility study in representing

the First Judicial District Court.

JUDGE HALL: Mr. Chairman, Commissioner Vigil, I don't think I do. I share the same concerns that you raised. The parking issue is an important one for us to consider and I guess I would second the observations regarding the costs. And as you know, we're meeting with our local legislators tomorrow morning. What we are presenting is a request for an additional \$12 million and so we will continue to pursue that. That was a figure that we were given after talking with County staff and I think it's appropriate to simply go forward with that figure at this point, so that's what we'll be presenting tomorrow and pushing during the session.

COMMISSIONER VIGIL: Okay. Mr. Chairman and Judge Hall, it has occurred to me and our experience has been that every time we go into these projects escalate. In consideration of that escalating experience, has anyone contacted our congressional delegation for some support with regard to this project?

JUDGE HALL: Mr. Chairman, Commissioner Vigil, not that I'm aware of. We certainly have not undertaken that. We have looked primarily to the County Commission who has the legal obligation and then tried to assist with the monies that we're going to seek from the state. But I'm willing to talk to anyone that you like in connection with this, but we haven't taken that step.

COMMISSIONER VIGIL: Okay. Thank you, Mr. Chairman. And I think it's an option that the Commission should take a leadership role in too, with regard to this judicial complex. I know that there are federal dollars that have been provided for building courthouses throughout the nation. It isn't a project that's a high priority but I think our congressional delegation should be apprised of this and at some level we should be in communication with them as the escalation of these costs occur. Thank you, Mr. Chairman. Thank you, Judge Hall.

CHAIRMAN ANAYA: You're welcome, Commissioner Vigil. And on that, Judge Hall, we'll go to Updates on various issues and I think Gerald is going to give us an update on the Washington lobbyists which we've been trying to come forward with which would possibly help us out with some money from the congressional delegation. So Gerald, could you let us know what's happening there?

MR. GONZALEZ: Mr. Chairman, members of the Commission, I've circulated to you a copy of a draft scope of work and request for deliverables for a federal lobbyist. *[Exhibit 4]* My recollection was that the Commission had asked that we develop that scope of work and then circulate it to you for your feedback, and then – it looks like Commissioner Sullivan is still looking for his copy. You have one coming. Anyway, this is a draft for you to take a look at and after you've had a chance to review it to give us your feedback per your request so that we can continue to move forward with the RFP process.

I don't need the feedback immediately but just wanted to make sure you have the copy in front of you so that you can take and look at it in your leisure and provide us with your comments. If you want to schedule it for discussion at the next BCC meeting we can do that

too, to move forward or you can give us your comments informally and we can move forward that way in terms of preparing a final RFP scope of work.

CHAIRMAN ANAYA: I'd like to see – I haven't gone through all of this yet but I'd like to see, and I don't know how the rest of the Commission feels but go through the final RFP and then put that on the next, in the three weeks, put it on the agenda so that we can go out for an RFP.

MR. GONZALEZ: We can do that if you'll give us your comments individually after you've had a chance to go through it. We'll compile all those and roll them into a proposed final RFP for your review and approval at the next BCC meeting.

CHAIRMAN ANAYA: Okay, any other comments?

COMMISSIONER MONTROYA: Mr. Chairman, I would support your comments.

CHAIRMAN ANAYA: Okay.

COMMISSIONER VIGIL: I also am in support of that.

COMMISSIONER SULLIVAN: Mr. Chairman.

CHAIRMAN ANAYA: Commissioner Sullivan.

COMMISSIONER SULLIVAN: Have we decided that you're going to hire a lobbyist? Has that decision been made?

COMMISSIONER MONTROYA: No.

COMMISSIONER SULLIVAN: We're talking about different pros and cons of different components of this scope of work but I just want to be sure we're not getting the cart before the horse. I think we also have to talk about whether or not we feel hiring a lobbyist is beneficial.

MR. GONZALEZ: Mr. Chairman, Commissioner Sullivan, I believe your recollection is correct. The direction to us at staff level was put together the RFP. Let's take a look at it and then let's decide whether we want to go forward with it or not.

COMMISSIONER SULLIVAN: Okay.

CHAIRMAN ANAYA: Thank you, Commissioner. So that's where we're headed.

COMMISSIONER MONTROYA: So the RFP will be on the next agenda?

CHAIRMAN ANAYA: With out comments. So you're wanting our comments before it gets on the next agenda.

MR. GONZALEZ: Right.

CHAIRMAN ANAYA: And if we don't give you any comments –

MR. GONZALEZ: We'll still prepare an RFP.

CHAIRMAN ANAYA: To put on the next agenda.

MR. GONZALEZ: But we'd like to have your comments in order to do that. Then you'll have it before you. You can discuss whether it makes sense and also whether you want to move forward with the RFP.

CHAIRMAN ANAYA: So if you don't hear from us, that doesn't mean don't

do anything.

MR. GONZALEZ: No.

CHAIRMAN ANAYA: Just go ahead and get something started for the next meeting.

MR. GONZALEZ: That's how I understand your direction.

CHAIRMAN ANAYA: Okay. Thank you. Thank you, Judge and thank you all. Any other updates?

MR. GONZALEZ: I do have some other updates. I don't know whether you want me to go ahead and present those at this point. I can do that fairly quickly.

CHAIRMAN ANAYA: Go ahead.

XII. C. 3. Updates on Various Issues

MR. GONZALEZ: You had requested some information concerning the jail consultant contract. This was a consultant to come in, take a look at the adult facility and make sure that we as a county are moving in the right direction and taking the right steps as we take over the adult facility. We have issued the RFP. We've gotten three responses to the RFP and tomorrow at 2:30 the evaluation committee will meet to take a look at those responses. We would have met before today but unfortunately our Deputy County Attorney had sort of the same illness that's been circulating throughout the whole County and he wasn't able to make our originally scheduled evaluation date. So that will occur tomorrow at 2:30.

Then I have also asked that there be circulated to you a draft resolution that was proposed at a meeting with Los Alamos County yesterday. *[Exhibit 5]* As you know, Los Alamos County has been visiting its brother and sister local governments to discuss how to deal with a potential GRT surplus and the hope is that through that process, Los Alamos County, the County of Santa Fe, Sandoval County, Rio Arriba County, the City of Taos, the City of Española and the City of Santa Fe will all be able to come to some kind of consensus about how the – what you mind call a windfall of GRT would be dealt with.

And it's not clear exactly what the amount that that windfall would be as a consequence of the fact that the lab manager at Los Alamos National Laboratories will be shifting from a purely tax exempt status as an educational institution to a collaborative of three entities, including one which is the University of California. But the anticipation is that there could be a significant increase in the GRT that Los Alamos County receives as a consequence of that change in the management of Los Alamos Laboratory. The concern, and I think commendably, the concern of Los Alamos County is that if we don't come up with a plan, then we're leaving that money out there potentially to be picked off, if you will, by either the state legislature or the executive branch, and used in other places than those that will be directly impacted by the change in laboratory management.

Some of the issues that were discussed at the meeting yesterday had to do with

transportation, economic development, technology transfer, loss of employment, change in contracting processes and consequent loss of economic advantage to the surrounding local governments. So what Los Alamos has proposed was that each of those local governments they're conversing with adopt a resolution similar to what has been passed out to you. They were notified that we probably wouldn't be able to adopt it until the next BCC meeting, but that it be adopted and then be sent to the governor's office and to the legislature, basically advising them that we are in a collaborative process. We're asking them not to take any immediate action to deal with potential windfall GRT gains by Los Alamos County and let us work out a plan and then bring it forward.

The thought is that each of those entities would adopt a resolution similar to what you have in front of you. Then, in the meantime, the managers of all of those entities, the Town Manager for Taos, the City Manager for Española, the County Manager for Santa Fe, from Los Alamos, Rio Arriba, Sandoval, would all get together and come up with a list of issues that need to be addressed and then begin to quantify what the economic impacts are. We won't even know that until Taxation and Revenue makes their decision about how they're going to impose GRT on whatever entity it is that ultimately runs the lab. So that's still up in the air.

But the thought is that we begin to move the process forward so we're not caught flat-footed once Taxation and Revenue makes that decision. Then following that, there would be a subsequent joint resolution of all of the participating entities that would take further steps to make recommendations to the legislature and the executive branch about how to deal with it.

So I've circulated that so you have an opportunity to take a look at it. Let me know if you want it to come forward at the next BCC meeting so we can adopt it and pass it on.

CHAIRMAN ANAYA: Gerald, thank you for attending those meetings and I would like to see this on the next meeting of the BCC. I don't know how the rest of the Commission feels.

COMMISSIONER VIGIL: I agree.

COMMISSIONER MONTROYA: Ditto.

CHAIRMAN ANAYA: Commissioner Campos.

COMMISSIONER CAMPOS: Mr. Chairman, just a quick question for our County Manager. Have you had an opportunity to discuss this issue with our legislative delegation?

MR. GONZALEZ: We have with a number of members of the delegation. Representative Jeanette Wallace was at the meeting yesterday. She attended a previous meeting here in our County offices two weeks ago, along with Senator Phil Griego and I know that both of them have also been talking to other members of the delegation because Representative Jeanette Wallace mentioned that fact yesterday. She said her feeling was that the Santa Fe delegation is poised to support this. It doesn't mean that they'll be able to keep other members of the legislature from keeping their fingers off of it but at least we have a strong component of the legislature that is prepared to advocate for what we're trying to do here.

COMMISSIONER CAMPOS: Are we going to – if it gets to the point where it

becomes realistic to believe that these monies will be kept locally, are we going to be looking at local public works projects or a division between entities or still undecided?

MR. GONZALEZ: It's still undecided. There have been discussions about a number of things. Transportation could be handled in a number of ways. For example, we have the Regional Transportation District that could potentially be a beneficiary of this. They talked about other transportation possibilities. They've talked about joint entities that could operate to do that, but at the same time they've also looked at the possibility of maybe just doing a per capita kind of allocation based on the economic loss or potential economic loss of each of those other entities. The one thing that Los Alamos asks for is that they just be held whole in this process so that they wouldn't lose, but at the same time, whatever would come in over and above what they're currently receiving or could receive in the future, they want to share with the rest of those entities.

COMMISSIONER CAMPOS: Thank you, Mr. Chairman.

CHAIRMAN ANAYA: Okay. Any comment. Thank you. Anything else, Gerald?

MR. GONZALEZ: Sure. Two other quick items. Just so you know, at the staff level we're looking at – you just saw the presentation of the proposal with respect to the judicial complex, but we are looking at an overall plan for future bonding and other financial transactions on the County side. At some point we'll be bringing that forward as an informational briefing for you and also for your input so that we make sure that we're headed in the right direction. But we're looking at how we can use bonding and other funding, GRT and so forth, in order to fund all of the projects that we have on the slate right now for the County. That would include BDD, it would include potentially Aamodt. It would include the judicial complex, the future administrative complex, all of those items. We want to make sure that we have a plan for dealing with them rather than getting in over our head before we realize that we've done that. So we're in the process of working on that.

And then the last item I just wanted to brief you on, we did have a presentation at a senior staff meeting a couple of weeks ago from the state deferred compensation plan. And we do not participate in that plan. We're currently participants in the VALIC Plan. There are a number of advantages to participating in the state sponsored plan. However, it would require a resolution on the part of the County to dissolve the relationship with VALIC. It wouldn't affect any accounts that are there because VALIC would continue to hold them as deferred accounts for employees, but it would give them some additional options in terms of deferred compensation and deferred compensation investments using the state plan as opposed to the County's plan.

I wanted to get a sense of the Commission whether you would want to have a presentation about the advantages of participating in the state plan. Currently we have, at last count, 58 County employees who are participating in deferred compensation at one level or another. Having participated at this point in three different plans, including the state sponsored plan that's administered by Nationwide, my personal assessment is that there's much more

flexibility and more options available in the state sponsored plan. In part I think that's because there are so many participants at the state level that it allows them to leverage additional benefits for purposes of deferred compensation that we as an individual county are unable to access at this point.

COMMISSIONER VIGIL: Mr. Chairman.

CHAIRMAN ANAYA: Commissioner Vigil, then Commissioner Montoya.

COMMISSIONER VIGIL: Thank you. Gerald, I would recommend that you do bring a presentation forward with the state deferred compensation plan. I think we'll be doing a disservice to our employees without having that knowledge. I, as a state employee have participated in several and my experience has been that we really need to know all that's available before we can make an informed decision at this point in time. We don't have that information so I highly recommend you bring that presentation forward.

CHAIRMAN ANAYA: Thank you, Commissioner Vigil. Commissioner Montoya.

COMMISSIONER MONTOYA: I guess along those lines, why would we limit it to what we are right now?

MR. GONZALEZ: Well, as I understand the state plan, you can either have the state plan or your own plan. So the choice would be between one over the other. The VALIC Plan –

COMMISSIONER MONTOYA: Oh, so you can't have both.

MR. GONZALEZ: No. If you adopt the state plan then what that means is that you sever the deferred compensation relationship, as I understand it, with VALIC, who's the current provider for those services. All the employees' accounts that they have with VALIC would remain there unless they wanted to transfer them over to the Nationwide Plan that's the administrator for the state plan. So they would have the choice of either leaving some or part in the VALIC plan but all future deferrals would then go into the state plan. So actually, employees would have the benefit, which can be advantageous for certain purposes, for being able to participate in two different deferred compensation plans.

COMMISSIONER MONTOYA: Thank you.

CHAIRMAN ANAYA: Thank you. Commissioner Campos.

COMMISSIONER CAMPOS: Mr. Chairman, it seems to me if staff has assessed this option and found it superior, I don't think we need a presentation. I think a staff assessment is sufficient for me. We have plenty of things to do. If there's a staff assessment that this plan is superior, let's go for it.

COMMISSIONER VIGIL: Is that what you're recommending, Gerald?

MR. GONZALEZ: That would be my recommendation if I were to make one.

CHAIRMAN ANAYA: So no presentation, just –

MR. GONZALEZ: What we can do is just bring forward the resolution and you can discuss it at that point.

CHAIRMAN ANAYA: Okay. That sounds good.

XII. D. Matters from the County Attorney

1. Resolution No. 2006-3. A Resolution Determining Reasonable Notice for Public Meetings of the Board of County Commissioners and for Boards and Committees Appointed by or Acting Under the Authority of the Board of County Commissioners

MR. ROSS: Mr. Chairman, this is the annual Open Meetings Resolution, required by the Open Meetings Act. It requires any local public body like this body to annually determine the applicable notice and agenda provisions that it will use in the upcoming year. I have in your packet a resolution that is identical with last year's resolution. It essentially preserves the status quo which is that we will have two meetings a month, an administrative meeting and a public hearing meeting like today's meeting. We can have special meetings upon three days notice and an emergency meeting on notice that can be given, given the type of emergency.

It provides for the posting of agendas on the website and on the wall downstairs. It also provides for notice of the meetings through our newspapers and radio stations. It provides for closed meetings in the usual manner, just as we're accustomed to doing here and that we've done for the last year. The resolution on its face applies to all the boards and committees that we have set up and whose members you appoint.

I have had some discussions with Commissioner Vigil concerning her desire that agendas of meetings be published in their entirety in the newspaper like the City of Santa Fe does. That's not included in here but it would be an easy amendment if you desired to do that and that could be amended into paragraph 4.

CHAIRMAN ANAYA: So Commissioner Vigil was talking about in the newspaper?

COMMISSIONER VIGIL: Right.

CHAIRMAN ANAYA: How about newspapers?

COMMISSIONER VIGIL: Part of the problem, Mr. Chairman, if I might be able to respond with regard to this, can we amend this in the future or does it have to be amended at this point in time? Because my request, I requested specific information and I know there are staff people working out there. We don't know what the costs are. We don't know what it's going to mean to the process within the County Manager's office with regard to what kind of time line staff is going to be working with. None of that information is there, so I don't know that we're ready to even make a decision with regard to that. I think there's still a lot of information that needs to be brought before us. I do highly recommend that we provide as much notice as possible to the public and that is why I requested this. But at this point in time, Mr. Chairman, without having the information on amending this, I would move that we

accept it as presented to us without any amendments.

COMMISSIONER CAMPOS: Second.

CHAIRMAN ANAYA: There's a motion and a second. Any discussion?

Commissioner Montoya.

COMMISSIONER MONTOYA: Mr. Chairman, I'd just like to point out to the Commission and staff that I believe in number 1, it talks about the two meetings and I believe that we've been meeting on the last Tuesday, which is not always the fourth Tuesday as is happening this month. So we need to make sure that we stick to the fourth Tuesday, as opposed to the last.

COMMISSIONER SULLIVAN: Last Tuesday. That's when we've been doing it is on the last Tuesday.

COMMISSIONER MONTOYA: I know. Exactly. And this says the fourth Tuesday.

COMMISSIONER SULLIVAN: That's an error.

MR. ROSS: Mr. Chairman, this is how the policy has read for five or more years, but I agree with you. We have been using the last Tuesday. So my suggestion would be you just instruct me to reprint this first page with the word "last" in place of the word "fourth" and go forward with this. If that's the understanding of when the meetings are.

COMMISSIONER VIGIL: I would accept that as a friendly second to a motion.

COMMISSIONER MONTOYA: Do we want to do that or do we want to go with the fourth Tuesday?

CHAIRMAN ANAYA: We've been doing it the fourth, right?

COMMISSIONER SULLIVAN: No.

COMMISSIONER MONTOYA: The last.

CHAIRMAN ANAYA: Oh, the last. Okay. What would be the advantages?

COMMISSIONER SULLIVAN: Mr. Chairman.

CHAIRMAN ANAYA: Commissioner Sullivan.

COMMISSIONER SULLIVAN: One of the things is I think they've structured BDD meetings, some of the other meetings around that, that we have jointly with the City. So if we go to the fourth, then we'd have a conflict with some of these other meetings. Not that it's something we couldn't work out but it seems like it would just as easy to continue with the last.

CHAIRMAN ANAYA: So do we want to amend the motion to say last? Which Commissioner Vigil already did,.

COMMISSIONER CAMPOS: Okay.

CHAIRMAN ANAYA: Commissioner Montoya, how do you feel?

COMMISSIONER MONTOYA: That's fine.

CHAIRMAN ANAYA: Okay. So that's amended. Commissioner Sullivan.

COMMISSIONER SULLIVAN: Steve, on the agenda, item 4, paragraph 4,

we also have a resolution pertaining to the preparation of packet material and the timeliness of getting that available to the public and to the Commission. Is that congruent with what we have here? Is there any need to look at that? I'm not sure that some of our newer Commissioners are even aware of that resolution or ever seen it. But are we okay with that resolution in terms of publishing agendas and so forth?

MR. ROSS: Mr. Chairman, Commissioner Sullivan, Mr. Gonzalez just told me that we based the development of our calendar for the year that has all the various deadlines on it that you're referring to, based on the assumption that the meeting would be the last Tuesday of the month. And every three months of course we have one of these longer months and apparently the calendar has been developed and published based on that assumption.

COMMISSIONER SULLIVAN: Yes, my question is – I'm okay with the last. I'm in favor of keeping it as the last. My question is on that other resolution that pertains to having packet material ready for the Commission and the public by close of business on the Thursday before the Commission meeting.

MR. ROSS: Yes, the calendar I'm referring to has all those deadlines on it, including the packet deadlines.

COMMISSIONER SULLIVAN: Okay. That's fine. So there's nothing in that resolution that needs to be incorporated in this resolution. It's a separate, stand-alone resolution.

MR. ROSS: No. It could be but it hasn't been.

COMMISSIONER SULLIVAN: Okay. I would suggest just for the information of some of the newer Commissioners that we get a copy of that and provide that in the mailboxes just so we can know what that says. It's a pretty short resolution but it purposes to keep the public informed and let everybody get packets on a timely basis, including the press and the public.

CHAIRMAN ANAYA: Thank you, Commissioner.

COMMISSIONER MONTROYA: This is on number 4?

COMMISSIONER SULLIVAN: Well, that's a good point. It's not under number 4. But if it were to be in this resolution, that's where it would be. I was just saying that we have a separate Commission resolution relating to when packet material is made available, and that resolution says among other things that it's made available by close of business on Thursday before the Commission meeting. So we don't say that anywhere in this open meetings thing and I was just wondering if we needed to incorporate that in there and the answer I'm getting is that it seems to be okay as a separate, stand-alone resolution. It's already been factored into the schedules that staff uses to bring packet material in.

The motion to approve Resolution 2006-3 passed by unanimous [5-0] voice vote.

XII. D. 2. Resolution No. 2006-4. A Resolution Establishing Rules of Order for Santa Fe County Boards Repealing Resolution No. 2004-62,2000-164, 1999-154, and Any Resolution Inconsistent Herewith

MR. ROSS: Mr. Chairman, this is another one of those housekeeping items that comes up periodically. It's not always handled at the first of the year, but I thought this would be a good opportunity to consider one particular amendment to the rules of order and that is one that has become more common during the last year, and that is the motion to reconsider. So the proposed resolution that's in front of you includes a new paragraph, paragraph 8 on page 5 in Section 5, Motions, that permits explicitly a motion to reconsider.

I believe that the prior rules of order implicitly permitted a motion to reconsider be made but it wasn't discussed, and the general guidelines for making such a motion were not included in our prior rules of order. I recommend that if we're going to have motions to reconsider – we had one this evening – that we have some guidelines. Paragraph 8 is the result of my research into such motions in Robert's Rules of Order and it essentially says you can make a motion to reconsider. You can make a motion to reconsider an item on the administrative agenda at the next administrative agenda, and you can make a motion to reconsider a motion on this agenda, the land use agenda, at the next land use meeting.

If you want to make a motion to reconsider an item on a special meeting, you need to make that at the next meeting, whatever that is, administrative or regular. The paragraph I drafted up here restricts a motion to reconsider somewhat, and this is consistent with Robert's. Normally you can't make a motion to reconsider any matter upon which you've had a motion to reconsider previously. You can't have two motions to reconsider, just one. And you can't have a motion to reconsider on a motion to adjourn, a motion to table, a motion to take a recess, a motion to reconsider, a motion to approve the agenda, a motion to amend the rules of order, or a motion to appoint a person to a board or committee. Those are typical; those are what Robert's has provided for for several hundred years.

The final concept to remember in this paragraph is I have included language restricting the use of a motion to reconsider to this Board and this Board only, not to any of the subsidiary boards like CDRC or any of the other boards that you appoint for the simple reason that were a motion to reconsider permissible in one of those subsidiary boards, it would stretch the process out potentially interminably and complicate noticing and all the other things that we do to get things ready to present to you. So I thought it wasn't probably a very good idea procedurally to have such a mechanism available in the lesser boards that you appoint.

What we've also done is every time we revisit this the Legal Department takes the opportunity to clean up some of the language which we've also done, and there's some minor clarifications provided to strengthen the rules even further.

CHAIRMAN ANAYA: Speaking of motions, can I get a motion?

COMMISSIONER MONTTOYA: Mr. Chairman.

CHAIRMAN ANAYA: Commissioner Montoya.

COMMISSIONER MONTTOYA: I'll move for approval as presented.

COMMISSIONER CAMPOS: Second.

CHAIRMAN ANAYA: Motion and second. Any discussion? Commissioner Sullivan.

COMMISSIONER SULLIVAN: A couple of questions, Mr. Chairman, on this. Let me start with changing votes. We don't address anywhere the issue of changing votes that I can see.

COMMISSIONER MONTTOYA: What page are you on?

COMMISSIONER SULLIVAN: I'm not on any page because we don't address it. I know I've seen it on the EZA happen and apparently the City does it and I'm not sure whether we have done it or whether we should do it. I know in some cases elected officials will change votes at the end of a vote in order that they can be in the affirmative, so they can bring a motion back for reconsideration, or they may change their vote just for some public reason. If they're defeated four to one, they may decide, what the heck, I'll be in the majority and I'll change it to five, just to provide some support to the majority of the Commission.

So what's your thoughts on changing votes?

MR. ROSS: Mr. Chairman, Commissioner Sullivan, theoretically, under Robert's and all the other rules of order that I've looked at, you're supposed to take the vote simultaneously or by roll call vote. There shouldn't be any changing of votes that occurs. The concept that you described is present in the new paragraph 8. It does require that a maker of a motion to reconsider be on the prevailing side of the motion and that's one of the thing you've observed. But I don't think it would be in order, and the chairman should probably restrict the changing of votes should they occur. I think the vote needs to be just taken once.

COMMISSIONER SULLIVAN: Okay. Well, that happened of course with the City on the Walmart project and it also happened during my tenure on the EZA by a City representative.

COMMISSIONER MONTTOYA: They don't follow Robert's Rules?

COMMISSIONER SULLIVAN: Well, I don't know whether it's Robert's Rules or not. We don't have a sergeant at arms or anything, but all I can say is that has happened. So if you're confident enough that Robert's Rules says you can't do it then we should enforce that I guess in all of our meetings.

MR. ROSS: Mr. Chairman, Commissioner Sullivan, our rules are not Robert's Rules of Order. We have our own rules. The EZA has its own rules as well but neither of them, in my opinion permits folks to change votes in the middle of taking a vote and the chairman of both of those bodies is vested with the necessary authority to enforce the proper takings of votes and I would encourage chairs to do that if there's a feeling that somebody is engaging in an improper activity the chair should police that.

COMMISSIONER SULLIVAN: So your opinion is that after the vote's been taken, no one changes their vote.

MR. ROSS: As soon as the chair calls the result that's the end of the matter.

COMMISSIONER SULLIVAN: Okay. And even though we don't address that in our rules of order and we don't use Robert's Rules of Order you feel that's clear enough that it doesn't need to be in here.

MR. ROSS: Well, it could be in here. I'm not sure it needs to be though. I think the chairman has adequate authority in here to police those kinds of tactics.

COMMISSIONER SULLIVAN: Okay, I just wanted to get it on the record.

COMMISSIONER MONTROYA: I think it is in here, Mr. Chairman, if I may. Under the protocol under the role of the chair, under E. 7 on page 2. It does say that the role of the chair is to announce the results of all votes.

MR. ROSS: Right.

COMMISSIONER MONTROYA: So I believe that that's covered in that sentence there.

COMMISSIONER SULLIVAN: Okay. I've never experienced it, I don't remember experiencing it on the BCC. I have experienced it on the EZA and I know the City does it so they apparently take a different view of Robert's Rules of Order than you do, for whatever reason.

COMMISSIONER MONTROYA: It was evidenced at our last RPA meeting also.

COMMISSIONER SULLIVAN: And at the RPA meeting.

CHAIRMAN ANAYA: They started changing their votes? I think that's confusing.

COMMISSIONER SULLIVAN: Well, I just bring it up. If we feel comfortable that we're covered then I'll move on. On item 7, ending debate in voting, if the vote results in a tie and one or more members are absent for a reason other than voluntary or involuntary disqualification the item shall be tabled until the next meeting at which a greater number of members are present, or a special or emergency meeting if necessary.

Now, I want to make something clear. That says if the vote results in a tie. If there were three Commissioners attending that meeting, which would be a quorum, and a particular issue was voted 2-1, then that would be the end of that issue. Is that correct?

MR. ROSS: Yes.

COMMISSIONER SULLIVAN: Okay. So the only instance when we would table automatically would be in the case of a tie. So that could only be two to two. Obviously it couldn't be one to one; we wouldn't have a quorum. Okay. Just wanted to clarify that. And then going down under paragraph 8, about in the middle of the paragraph, I think you've left out the word be. It's nine lines down in paragraph 8. Paragraph 8 is all new language. It says, "and a vote on a motion to reconsider shall only be made when the matter is placed on the agenda for reconsideration." There should be a "be" in there.

MR. ROSS: Mr. Chairman, Commissioner Sullivan, that's correct.

COMMISSIONER SULLIVAN: And then the only other question I had is when we pass an ordinance or I guess any action, there's a 30-day period for that to take effect

once it's filed in the County Clerk's office. Is that a result of our rules of order or is that a state statutory provision?

MR. ROSS: Mr. Chairman, Commissioner Sullivan, there are a number of state statutes and it depends on what you're doing, but you're right. State statutes require like for example the bond ordinance we passed tonight. It has a 30-day period after it's recorded with the County Clerk that certain actions could be taken with respect to it. It's different with zoning ordinances and a different requirement. For example, in zoning ordinances, there's a requirement of publication, but in general, that's correct.

COMMISSIONER SULLIVAN: Okay, so these are all state statutes. So there's nothing we need to have in here that says 30 days or if we wanted to make it 15 days, we couldn't do that.

MR. ROSS: That's correct.

COMMISSIONER SULLIVAN: Okay. Because I think 30 days is too long, but if we can't change it then we can't change it. Those are the only questions I had, Mr. Chairman. Other than that one typographical change.

CHAIRMAN ANAYA: Thank you. Commissioner Montoya, did you have anything?

COMMISSIONER MONTOYA: I just have also probably a typographical error. On page 3, on the top on H, under decorum. The chair will assure that these rules are fully complied with at all Board meetings. I would just suggest maybe adding meetings at the end.

COMMISSIONER SULLIVAN: Sounds good.

MR. ROSS: Mr. Chairman, I agree. It should probably be Board meetings.

COMMISSIONER MONTOYA: That's all I had, Mr. Chairman.

CHAIRMAN ANAYA: Everything's okay with the seconder?

The motion to approve Resolution 2006-4 passed by unanimous [5-0] voice vote.

CHAIRMAN ANAYA: Do we need to go into executive session?

MR. ROSS: Mr. Chairman, yes. We need an executive session on pending or threatened litigation and briefly on a discussion on the purchase, acquisition and disposal of water rights.

XII. D. Matters from the County Attorney

1. Executive session

a. Discussion of pending or threatened litigation

b. Discussion of possible purchase, acquisition or disposal of real property

Commissioner Montoya moved to go into executive session pursuant to NMSA Section 10-15-1-H (7 and 8) to discuss the matters delineated above. Commissioner Campos seconded the motion which passed upon unanimous roll call vote with Commissioners Campos, Montoya, Sullivan, Vigil and Anaya all voting in the affirmative.

[The Commission met in executive session from 5:30 to 7:00.]

Commissioner Vigil moved to come out of executive session having discussed only the matters outlined in the agenda, and Commissioner Sullivan seconded. The motion passed by unanimous voice vote.

CHAIRMAN ANAYA: I know we're going to go into XIII. Public Hearings, but before we go into the Housing Department, I know there are some people here wanting to talk on the ordinance about hot water recirculation systems and I believe that – what did we not do right, Steve?

MR. ROSS: Mr. Chairman, there was a not adequate notice in the newspaper of tonight's hearing, so we need to postpone that to the next land use meeting. I'll make sure that the information gets properly published for that.

CHAIRMAN ANAYA: Okay, so we need to get a motion to table this.

COMMISSIONER VIGIL: So moved.

COMMISSIONER SULLIVAN: Second.

CHAIRMAN ANAYA: There's a motion and a second. Any discussion?

The motion to table consideration of the recirculation ordinance passed by unanimous [5-0] voice vote.

CHAIRMAN ANAYA: Joseph and Diane, thank you for being here. I know that I asked you to be here but it was our error and hopefully you'll be back when it comes before the Commission. Thank you.

XIII. PUBLIC HEARINGS

C. Housing Department

- 1. Santa Fe County Ordinance No. 2006-__ An Ordinance Requiring Affordable Housing In Projects and minor Projects Developed within the Central Area of the County, Creating the Position of Affordable Housing Administrator, Providing for Enactment of Affordable Housing Regulations, Providing for Incentives to Ameliorate the Cost of Providing Affordable**

Housing, Ensuring Long-Term Affordability, Providing for Alternate Means of Compliance and Means to Address Hardship Situations, Amending Ordinance Nos. 1996-10, 1997-03, 2000-13, 2001-7, and 2002-1, Repealing Section K of Ordinance no. 2002-12, and Repealing Ordinances No. 1997-02, 1997-10 and 2000-11 (FIRST PUBLIC HEARING)

MR. GONZALEZ: Members of the Commission, you're correct. It's the first of at least two public hearings. Two public hearings of course are required for adoption of an ordinance by the Commission. I'll comment shortly on the possibility of after the conclusion of the two public hearings, possibly even having a final wrap-up, not hearing, but a final work session of the Commission to adopt the proposed ordinance. Outstanding currently as issues that have been given some staff focus and that have been addressed by the Commission and may warrant additional discussion and will probably receive additional discussion this evening are the issues of the incentive applicability. The County staff has taken a look at revenue impacts with respect to incentives. We do have some preliminary information. It's still being refined but that's the memorandum that's been passed out to you analyzing revenue impacts based on potential application of incentives.

Also still out there I think, that will receive some additional comments and discussion this evening will be the four tiers versus three tiers of income ranges and how those are proportioned out. There is a requirement for a map that would cover the area in which the proposed ordinance would apply. We are working with GIS to prepare that map. We don't have anything this evening in a definitive form to be able to put in front of the Commission, but there may be some additional discussion of exactly where to apply the ordinance.

Also, one of the issues that we believe will merit additional discussion and comment are the alternative means of compliance and how that would be applied, not only within the area, the central area covered by the ordinance and in other areas. Staff has not analyzed for example the potential impact of alternative means of compliance with respect to movement of affordable units outside of what are currently the County growth areas. So that's something that at the staff level we'll continue to take a look at, but again, it's going to depend on how the incentives are being applied by the proposed ordinance and the issue there is just ensuring that if we have potential growth areas as we apply the ordinance, that the alternative means of compliance don't begin to squeeze the affordable units out of there into other areas that might create scattered development in ways that are not wanted by the County.

We also need to move the regulations on track with the ordinance. Again, this is going to require having a better fix on what the ordinance says. That's why I commented on the possibility of a wrap-up study session and adoption session after the conclusion of the two public hearings, because staff will need to take what you have finally decided ought to go into the ordinance and distill that into the regulation form. And I think the commitment that we're trying to keep here is that we will bring regulations forward at the same time as we bring the

ordinance forward so people can plan with certainty on what the impact of not only the ordinance but the regulations is going to be.

There is a subsequent ordinance that will come later. That's the funding ordinance that will deal with the fund that would be funded by whatever revenues are generated through this ordinance. And then just a reminder, at this point, we're talking about regulation of lots and not buildings per se. Those are kind of my initial comments. Again, as I said, we're here to take the public input and staff of course also stands ready to respond to your questions as we go through the public input. If you want additional questions answered at the end, we'll be glad to do that as well.

CHAIRMAN ANAYA: Thank you, Gerald. Okay, this is a public hearing. Who would like to start off. The podium is yours, whoever would like to start off. Come on up, sir.

CHRIS TAFOYA: I'm Chris Tafoya, and I reside at 3375 Avenida San Marcos here in Santa Fe. As the past housing director for the City of Santa Fe for 27 years, I've worked in the trenches with the ultimate in affordable housing as Robert does on a day-to-day basis. But first of all, I think we need to get away from the word affordable housing. I've been trying to get a new buzzword for years, and that's not a good word. It doesn't work and it doesn't apply to us.

My only suggestion with this plan was the 30 percent, and I've shopped it to the City but I think it's such a simple plan that they don't want to understand it or they don't want to grasp it. I would suggest that we do a 30 percent, or part of 30 percent into raw land, develop infrastructure lots and that's it. And I think what that does is three things: It promotes economic stability, it promotes small contractors to be able to do their own work, local financing with local banks here in town instead of the developer bringing in out of town money to do all these, but most of all what it does is it creates cultural identity in Santa Fe, in Santa Fe County, where we have a history of building our own homes. And if the County sets aside a certain amount of just raw land, develops infrastructure, then I think it gets everybody involved and of course anybody that gets it would be abiding by the covenants of the County or the Commission, or of the development of that area. But I think it brings home building back where it should be, in the hands of whoever has the capacity to build.

And Santa Fe is noted for craftsmen and tradesmen that can do their own work and the families that will participate in that. Thank you.

CHAIRMAN ANAYA: Thank you, Mr. Tafoya. What do you recommend us call it then?

MR. TAFOYA: They call it affordable but it's not really affordable. I've thought of a thousand words and I still can't figure it out.

CHAIRMAN ANAYA: Thank you for your comments, Chris. Okay, anybody else? If you all would come forward and maybe sit in the front, that will give me an indication of how many people want to speak.

IKE PINO: Hello, Mr. Chairman. How are you? I guess I don't have to swear

to tell the truth tonight. Mr. Chairman, just a couple of comments. First of all, I've been involved in the issues around affordable housing in this community for 20 years, either in the government sector or the private sector, and it's my opinion, it's a personal opinion that the market in Santa Fe can't provide housing that's affordable to many of our citizens. Santa Fe has just reached that level of popularity, if you will, where people are willing to pay just about anything for just about anything. That makes it impossible to hold prices at a level where other folks that need the help can actually get into a house they can afford.

So an affordable housing program, to my way of thinking makes sense. To my way of thinking, having it in areas of the county where you can partner with those of us that are engaged in the process of building homes and communities makes a lot of sense. And that's what we view this whole process as being. I want to commend this Commission for being very prudent and judicious and moving slowly, but all the time making progress on this ordinance. When we came and we asked you if we could have some time to meet with the task force and the staff you granted that. You've had two or three study sessions. There's just been accessibility on all levels and we appreciate that and we'll continue to work with that because Gerald pointed out that there are a number of issues still unresolved or that need a little more work, and to the extent that we can offer any input to that or observations that might be of some use for the ordinance, we're going to continue to do that until you finally vote and adopt the ordinance.

Mr. Chairman and Commissioners, we remain available as members of the building community and development community to work on this issue because while we might be viewed as the big, bad developers out there, we are part of this community and our residents are part of this community, and we need to figure out the best way to make these types of programs work. Thank you, Mr. Chairman.

CHAIRMAN ANAYA: Thank you, Mr. Pino. Commissioner Duran.

PAUL DURAN: Good evening, Commissioners. Nice to see you all. I just have a few questions relative to the ordinance. The first one is, did I understand that the 30 percent is probably easier for those who own property in areas where there's imported water because there's a density bonus, or my understanding is that there would be a density bonus to meet that 30 percent requirement. But I'm wondering how does the 30 percent apply to an area outside of the areas that actually have imported water, or areas that don't have imported water? Because there are some properties out there in neighborhoods that are close to undeveloped lands that don't want to see any increased density and if a density bonus is the process that you use to get that 30 percent, how do you deal with it in areas where there isn't imported water?

CHAIRMAN ANAYA: Do we want to answer those questions or are we just taking—

MR. DURAN: Oh, is this just a comment? Okay, then I can turn it into a comment.

CHAIRMAN ANAYA: That would be easier.

MR. DURAN: Then I think that if the way that you get to that 30 percent is by

density bonus, then I don't think it really works in those areas where there is not imported water, and perhaps another way of doing that is to implement a fee-in-lieu-of, so that those that can't provide – where neighbors don't want increased density you have the process of the fee-in-lieu-of that somebody can contribute to the affordable housing effort and everything pretty much stays the same in terms of density in those areas.

CHAIRMAN ANAYA: Okay. Thank you. And that was former Commissioner Paul Duran, and if you would all just introduce yourself. We might know who you are but the listeners – If you would just state your name.

MS. VAZQUEZ: Good evening. My name is Rosanna Vazquez. I'm here on behalf of many of my clients and my clients range from the small-lot family transfers and your small subdivisions to your larger subdivisions. So I come before you to talk to you a little bit about some of the concerns that we've brought with respect to the ordinance.

I want to begin by saying that there is a very, very positive point to this whole process as I've mentioned, and that is that my clients and the people I represent, and this County staff and the County Commission have in common the goal to provide affordable housing in the county. We came forward not to fight the 30 percent. We came forward not to argue against what was going on. We came forward to become a partner with this Commission and this County to put together an ordinance that would work. So we hope to bring to you, as we've done through the study sessions, practical applications of this ordinance to different sized subdivisions.

With that, I just wanted to make a couple of point with regard to the incentives. The concern that we've got with respect to this ordinance as it is submitted in your packet is that many of the incentives are not being applied to different levels. And I'm going to start out with level service 1 and level service 2, which is your urban growth areas. And your urban growth areas are going to produce 90 percent, approximately, of all the affordable housing and all the development is in that area. And the big bulk of that is the College District. Under the current ordinance, under level service 1, we're allowed a density bonus. But in the College District, you don't need a density bonus because you have a minimum density there. The only incentive you've got are in your major growth areas where most of your development is coming is the water incentive. No other incentives in the ordinance apply to level service 1.

And I ask you to consider putting back those incentives for level service 1 because if the goal, the ultimate goal here is to create affordable housing and your growth areas are creating 90 percent of your development, instead of taking away incentives, the partnerships should be to try to create more incentive and create more development in that area so that we can create more affordable housing. That's with respect to level service 1 and level service 2.

The way the ordinance is written with respect to level service 3, 4 and 5 is precisely what Commissioner Duran stated earlier. How do you apply a density bonus to that development? Under the ordinance right now you don't. A density bonus is not allowed in level service 3, 4 and 5. The only incentives that are allowed for them are a waiver of development fees and smaller lots, assuming you can meet Environment Department regs.

I would ask you to consider that all of the incentives, including the density bonus be allowed in level service 3, 4 and 5 with the caveat that they prove up water and with the caveat that they meet the Environment regs, so that they have that ability. Because the density bonus in level 3, 4 and 5 is the biggest incentive that you can give in that area. I think you will be protected if you required proving up water, a 100-year water supply, and meeting the regulations.

Commissioners, we've worked very hard with staff and we do commend you for the work that's happened and we would commend staff for all the work that they've done. We'd like to continue working with everybody to see if we can reach a compromise with respect to the incentives. By applying the incentives to all the levels, we're allowing for the maximum amount of affordable housing to come forward and that is after all the ultimate goal that this Commission wanted in the affordable housing ordinance and we would like to work with you on that. Thank you.

CHAIRMAN ANAYA: Thank you, Ms. Vazquez.

ANN LACY: My name is Ann Lacy. I'm a county resident and I'm on the board of the Santa Fe Land Use Resource Center. And like some of the other speakers I commend you for working so hard to develop affordable housing in the county. When I actually asked myself what is really important in terms of the things that we can do in the county, one thing I think is the idea of building stability in our community. And stability in housing moves right into stability in the workplace, stability in schools and our educational system, and the ways that we as a community share and depend upon each other. So I think what you're doing is putting together something that's very, very basic to a community so I'm very excited that in this process, the Commissioners and the County staff, developers, and the rest of us in the county are able to enter into a process to solve some very basic and needed problems. Thank you.

CHAIRMAN ANAYA: Thank you, Ann.

REBECCA FRENKEL: Good evening. My name is Rebecca Frenkel and I'm here representing the League of Women Voters. Even though I live in the city I'm still a resident in the county and I'm very interested in what you do as I have been for the last eight years. This is an issue that the League has been interested in. Three years ago we looked very carefully at what were the needs in the city, what were the opportunities for people to buy homes, and then last year we looked at the studies and followed the findings of the task force, which you so wisely appointed, and looked then at how could the County help meet some of the needs of our citizens to have a home.

There are a couple of things that I would just like to bring up. First I want to, like everyone else, congratulate you for the effort because I've had an opportunity to come to at least parts of your work sessions, and I tell you, if people don't know it, you guys really work hard. And this has not been an easy job for you.

A couple of things I want to ask about, or at least comment on, is this idea that you put a lien on the house when someone buys it. I hope that after you've had some experience with

this that you will relook at that and see what kind of an effect it's had on those citizens who have taken advantage of this program. I'm saying this because one of the requirements is that – or regulations will be that they may only buy their first home through this program. A young couple with one child, six or seven years down the road they have three children and they really need a different home. But if they have not been able to build up any equity to speak of in the home in which they've been buying, then it's going to be really difficult for them to buy that second home.

So after a while, I hope you will review that program and see how it works. I understand that there certainly will be a need for you to build up your trust, your affordable housing trust so that you can continue this program, but I did want to ask you to keep that in mind. The other thing is on the alternative means of compliance. I am a little concerned about including a land donation and offsite construction, because one of the goals that housing folks usually think is important is that you have a mixed neighborhood. And I can see with offsite construction without a lot of care that you could forego having a mixed neighborhood unless you require that there be that mixed neighborhood in your offsite construction.

Perhaps your ordinance does or will require that, but I hope that in another couple of years after this has had some time that you will also go back and look at those alternative means of compliance. Thank you for all the work you've done and for putting this forward for the people in Santa Fe County.

CHAIRMAN ANAYA: Thank you, Rebecca, and thank the League of Women Voters for being so interested and concerned. Mike.

MIKE LOFTIN: My name's Mike Loftin and you've seen me up here before. I'll try to keep it brief. I really want to thank a lot of people for their hard work on this. I want to thank the Commission for all your work in the numerous study sessions that you've had. I think you've really dug into this and I think we have a pretty good understanding of what this ordinance is and I think we've made a ton of progress. I also want to thank County staff for all the hard work that they've done on developing this, and the Housing Authority staff, Robert Anaya and others who have worked a lot on this.

I also want to thank the Affordable Housing Task Force that spent a lot of time on this as well, many of whom are in the audience today, for all their hard work grappling with a lot of these issues. I think they were the real issues. Like I said, I think we've made a lot of progress on this. I think we're about 95 percent there. I think we have an ordinance that seems to work, there's wide agreement on it. I'm excited about it. You can see that we're heading towards the end here.

I think there are some issues that came in the last study session. Gerald mentioned some of them. The whole incentive thing of figuring out how that works and that was kind of – a new issue is that the right thing between service areas and income ranges. Where should the incentives apply? I think that obviously – it still seems like that's hanging out there a little bit. We need to work on that. There's also looking closely at the ordinance, there's some technical changes that I don't think are major ones. We've met with Steve Ross about some of those.

We just need to clean up and clarify some of the language. Nothing policy change-wise but I think there's some stuff that will make it easier to use and a little clearer. But I think that's all very do-able.

We spent so much time on the nitty-gritty of this, on what's the incentive, and how does the lien work and all this kind of detail. I'd like to take just a moment and get back to why we're doing this. We're doing it for very good reasons and I just want to remind everybody who's here today that we have a huge problem here. We can spend a lot of time talking about what's the cost of doing this and we also need to talk about what's the cost of not doing something along these lines.

The median price of a home in Santa Fe County now is over \$360,000. You need about a \$98,000 income to buy that house. 81 percent of people living in Santa Fe County cannot buy that house. 81 percent cannot buy a median price home. So if we don't figure out a way to get more affordable housing, more workforce housing we just have a huge problem. We're going to have a problem recruiting nurses to our hospitals, teachers to our schools, sheriffs or Public Safety Department. So what we're doing here is there's a lot of technical stuff and we have to do a good job on that but I just want to remind us all that the reason we're doing this – there's very good reasons behind this and I want to commend the Commission for really digging into one of the key issues in Santa Fe, and really grappling with something and I think by the time this is all over and the hearings are done and a vote is taken I'm pretty confident that we're going to have a very good ordinance and people who were born and raised in Santa Fe can own a home in Santa Fe again. Thank you very much for your time.

CHAIRMAN ANAYA: Thank you, Mike.

DEACON ANTHONY TRUJILLO: Good evening. I'm Deacon Anthony Trujillo. I'm currently assigned to Our Lady of Guadalupe Parish here in Santa Fe. In fact I ran over here from the parish. I've got 100 kids over there that I'm going to have to run right back after this. But this is such an important issue. I also represent our parish on what's called the Santa Fe Partnership for social justice, which is made up of the majority of the Catholic churches here in town. And we have already taken a stand. We did with the City and we will with the County also in favor of the affordable housing.

To us it becomes a family issue. I know several families now that have to share a home because by themselves they can't afford one in this community, whether they be in the county or whether they be in the city. So this kind of an issue becomes very important to us and I also want to thank all those who are responsible for bringing this forward and all those who have worked on this because it is such an important issue. Again, it also addresses some of the social justice concerns within the Catholic community because a lot of our parishioners are from the lower income level, especially here at Guadalupe where 75 percent of our parishioners are immigrant and in some cases you'll find four families sharing one home because one family alone can't do it.

So you're having people that are, just to be able to afford to live in this community having to work two, three or four jobs. The problem with that is that there's nobody home to

welcome the kids when they get out of school. So anything that you all can do to help in that – what it really does is it brings back the family unit – would be greatly appreciated. Thank you for your time.

CHAIRMAN ANAYA: Thank you, Deacon.

OUIDA MCGREGOR: My name is Ouida McGregor and I've been here before you as well on this issue. One thing I'd like to talk about, two of them, actually. I want to add to the praise that you've all had. You can all go home and feel quite liked tonight for the amount of praise you're going to get, and to your staff. I want to tell you that working with the County staff was an absolute joy. Robert and Diane managed to put things together in a comprehensive and complex way that made it possible for us to understand what they were analyzing.

I think that you should look very hard at their incentives. They weighed very carefully the cost of the incentives and what it brought and what the developer needed to contribute, and I think they've done a remarkable job on that, using many of the developers' own figures on development to do so.

And then finally, I want to tell you that I know that this is going to be an important step in County housing, but I want you to know that we're probably all going to be back, because we have a continuum of housing to talk about and we can't forget. We have homeless people who need to be moved into more stable apartments and then perhaps into long-range leases. We have elderly people who have very specific physical needs and we need to be able to meet those needs. We have young people who need temporary and other housing, and we must look, once we are providing people their homes, we must come back and recognize all of the unconventional and other kinds of continuums we need to provide homes for people in this area. I thank you again, Robert, and I guess Diane's not here. Thank you.

CHAIRMAN ANAYA: Thank you.

LYNN CANNING: Hi everybody. I'm Lynn Canning and I served on the RPA task force and the County task force. And I want to thank you all – the staff, the Commissioners, and fellow members of the task force. I'm actually reading a letter this evening from a builder friend of mine who had a family illness and wasn't able to read it himself. This is Lynn as David Birnbaum.

Greetings. I am a licensed general contractor working in the Santa Fe area and have been since 1985. I believe that this increase in requirement in affordable housing is appropriate and is an important step toward maintaining the character of the city and enhancing its desirability as a unique and healthy human environment. And by the city he also obviously includes the county and our whole community.

One of my long-time employees who is married, has children, is at least a third generation Santa Fean and has worked for the same local employer for over 15 years has had to move to Rio Rancho last year and now has to commute almost an hour each way. He was able to buy four times as much land, a two-car garage and almost twice the heated space for the same price by moving to Rio Rancho. What is a shame is that this type of individual and

his family are forced out of our community by the high cost of housing. We definitely need to do more to make housing more affordable and requiring developers to help is a fair exchange for the privilege of making a lot of money by further burdening our infrastructure and services. He just closes by saying that as a builder he absolutely believes that it is in his best interest and the community's best interest, and believes that he makes enough of a profit to be able to afford the less financially fortunate. Sincerely, David Birnbaum. Thank you.

CHAIRMAN ANAYA: Thank you very much.

CAROLYN SIGSTEDT: Carolyn Sigstedt. Well, I think this ordinance is long overdue and the timing of it is really important because in my opinion, you've got a number of developments in the process that I think should even be held in abeyance until this ordinance is passed so that they will have to comply to it. It's easy though to pass an ordinance that doesn't have any teeth. And so I don't want you to pass something that we can all talk about but get around.

We all know that in this community the folks that have made the most money over the last number of years have been developers. Real estate is an unbelievable – well, it's just escalated over the years. So these folks in this industry should be very grateful for living in this region and should have a lot to give back. I also think that development in the future will be very, very expensive and a lot of that, we both know, deals with the infrastructure. Mainly water, but other things. Waste systems and so forth, that we need to put in place. And I really want the county to run.

So if development is expensive what ends up happening, especially if we get into transferring of water and so forth, then we're talking about large-scale, very high-end development usually. Because it's the way the numbers crunch out. If you're just a businessman you have to build these kind of trophy, large-scale homes to have the bottom line balance in terms of what you put into these projects. And then the scale of these projects are also huge. And we've seen that over and over again at the county. In fact more so than the city, in my opinion. So this is something we have to guard against.

What we have to ask ourselves is is this what we want? In other words, if you have a development coming up and you say that you have a policy at the County that no one can have over .25 acre-feet, and yet developments come up wanting more. Let's say .45. Is this correct? Is this just? And doesn't more water mean a larger scale, which also creates an economic divide in our community, that we don't want to continue to have grow.

So I guess what I'm saying is that part of this ordinance, where you put here in red that all legal lots subsequent to the adoption of the TAP community plan will limit water use to a maximum of .25 acre-feet per year. All existing undeveloped legal lots of record will follow this same standard. That's crucial. If you're going to talk about affordable housing, you always have to talk about water too. And if you limit the amount of water, then the scale of your affordable housing with your non-affordable housing will complement each other and not insult each other, and we don't have to talk about developments paying fees so that lower income people can build their houses somewhere else and create a barrio in our community.

We can actually begin to grow slowly and consciously a health community. But I would ask you that this ordinance have teeth and that the ordinance around water use, .25, have teeth as well. And then I would also ask that all the developments in process now be held in abeyance until this ordinance is passed. Thank you and congratulations.

CHAIRMAN ANAYA: Thank you, Carolyn.

JAMES BORREGO: Mr. Chairman, County Commissioners, we've worked long and hard through our consultants, with County staff in trying to craft an ordinance which I think is a workable part of creating affordable housing. Some of the key elements that I'd like to really focus on is the additional workforce housing, which is the fourth tier. That gives people who would typically be condemned to living in an affordable housing a place that they can move up to and possibly make it to the next level in affordable housing.

I'd really like to thank County staff. They've been very receptive to a lot of our ideas and those things that make construction difficult. One of the items that I would like to have the Commission consider is Section 4.D which addresses the proportionate spreading out of affordable housing within a development. I think that that needs to be considered very carefully because in several large developments where lots sometimes exceed 2.5, 5, 10-acre tracts, they should become, when you locate affordable housing, a proportionate manner, you start extending infrastructure long distances and this tends to drive up costs to the extreme number. In areas where you've got five-acre lots, sometimes you're driving infrastructure 400 and 500 feet. If it's just to a small, affordable lot, it doesn't make financial and economic sense at that level.

I would like to propose that the 4. D be given a separate section, and basically it says, the Santa Fe County Planning staff in the review and through the approval process may approve affordable housing density up to 70 percent affordable and 30 percent market when part of a large master plan containing villages, compounds or other designations. And basically what this allows – it gives staff a tool so that they are not interpreting the ordinance on a very narrow and limited scope. And it says, you know what? Staff, if this development makes sense and the developer has brought to you a plan where a mix of affordable and market rate housing makes sense, we would allow you the opportunity to review that. And also that moves it forward through the EZC and the various other Commissions that have to look at this.

When you have large open spaces within a development, and I'm talking like 60 percent open space, 70 percent open space, once again you have the issue of having to run infrastructure for long distances. And this creates an added expense. I thank the Commission for their time and their diligence in trying to move affordable housing forward and I'd like to thank staff also.

CHAIRMAN ANAYA: And that was Jim Borrego, a local builder here in Santa Fe. Thank you, Jim. Would anybody else like to address the Commission? Hearing none, would the Commission like to say a few words? I would like to thank the people that have come forward, not only today but throughout this whole affordable housing endeavor that we're trying to do here. What this Commission would like to see is the affordable housing go

through and go through and work for many, many years. So that's why we have taken our time and asked for your input. And I'd like to personally thank the Commission and the County staff and the Affordable Housing Task Force for all their hard work, and the developers and the citizens. You thank us but we're thanking you because this wouldn't have happened if it wasn't for all of us and you working together. So thank you Robert and Gerald. Steve, did you get all those comments so that we can discuss those at a later time. And we'll have one more public hearing, and that is when, Gerald?

MR. GONZALEZ: That will be January 24th at 6 pm.

CHAIRMAN ANAYA: Okay. Thank you all very much.

XIII. B. 1. Land Use Department

1. Request Approval of a Resolution Adopting the Tres Arroyos del Poniente Community Plan as an Amendment to the Santa Fe County Growth Management Plan (Resolution 1999-137) (FIRST PUBLIC HEARING)

JUDY MCGOWAN (Senior Planner): The chairman of our committee who is doing the major presentation is out in the hallway waiting for the other hearing to be over, I think.

CHAIRMAN ANAYA: What hearing are you talking about, Judy?

MS. MCGOWAN: The Tres Arroyos del Poniente plan. I'll begin the presentation. We have a power point explaining the community plan and the amendments that are coming forward with it. Tom Terwillinger, which is the chairman of the planning committee, the community planning committee will do part of the presentation and I will wrap it up. I know it's been a long evening already, afternoon, and there's more for you to do so we'll go as quickly as we can while still being clear.

This plan has been in the works since 1999 when both the Board of County Commissioners and the EZA authorized the West Side Planning Coalition to do a contemporary community plan for this area. One of the first requirements was that the community rename itself something besides west side, which was confusing. And so they met and came up with the idea of the Tres Arroyos del Poniente, and that's named after the three most obvious physical features in the area, which are the three major arroyos traveling from northeast to southwest through the planning area. The planning area is west of the bypass, New Mexico 599, south of Las Campanas and east of the City municipal recreation complex. So it's a triangular area. A portion of it is in the EZA, within the Two-mile EZA area, and the rest is outside so they have to go get approved by just about everybody in the world.

The planning committee has met since early 2000. They've done some extensive public outreach. They've had some initial community-wide meetings. They've done a community survey. They've done community-wide mailings, flyers, signs on the roadside, newspaper

notices, and then we have also finished up in 2005 with two community-wide meetings to get input on the final draft of the plan. This is the first public hearing before the Board of County Commissioners. They've already gone to CDRC for a recommendation. The plan will be going to EZC this Thursday night for a recommendation from them to the EZA. There has been public notice in the *New Mexican* in December and January for this hearing tonight and for the one on Thursday, and notice was mailed to all the property owners inside the planning area also.

The plan, I believe meets required planning elements of the County's Community Planning Ordinance. It includes all of those. The committee has worked really hard to deal with some of those issues. And they developed pretty much what is the final draft almost two years ago, maybe even a little longer, and then ran into some issues that they could not resolve. Some members of the planning committee wished to strengthen portions of the plan, other members did not agree and so we no longer could reach consensus. The County hired a mediator/facilitator to try to help move this toward consensus and also to help facilitate the community-wide meetings. Those community-wide meetings did happen. We got some input on issues from residents, but we were still unable to resolve the final issues.

What the committee did agree was that the unresolved issues and any proposed changes would go forward with the plan and that they agreed that the final decisions would then be made by the EZA and the BCC on those proposed changes, whether to include them or not, exact wording or not. So that is what's coming forth to you.

In your packet you were given a copy of the draft plan. Also a copy of some proposed changes that were put forward for the CDRC, EZC, EZA and BCC to consider. You were given the notes from the two community-wide meetings that were held on September 28th and on March 2nd, a copy of the draft resolution. There is also an e-mail letter from the Baca family with their comment on proposed changes in your packet. And finally, when the CDRC considered this in December, they approved the draft plan and they approved the proposed changes with their amendments to the proposed changes. So the piece that you have in your packet that's red and black, with the red being the changes that the CDRC was recommending is those amendments coming forward with the CDRC motion.

The action requested is approval of the resolution but this is the first public hearing so staff is recommending that you listen to all the public comments and take them into consideration. The second public hearing is currently scheduled for February 14th at your next public hearing meeting. We had tried to see if we could set up a joint meeting with the EZA so that the plan looked the same coming from both bodies, but we've been unable to do that so far.

I think with that, Tom Terwilliger will start the power point and lead you through what the plan's contents are.

CHAIRMAN ANAYA: Thank you, Judy. Your first name is Tom?

TOM TERWILLIGER: Yes, Tom Terwilliger.

CHAIRMAN ANAYA: Okay, Tom.

MR. TERWILLIGER: And I'm here representing the residents and landowners in the Tres Arroyos del Poniente area. I'd like to tell you just very briefly about the process that we went through and to summarize the most important features of the plan. I want to emphasize, as Judy pointed out that we carried out a consensus process for developing the plan up until recently, and the plan itself, the intact plan was what was essentially agreed upon by everyone. So that is a consensus plan. And there is an addition to that, proposals for amendments to that plan that's not agreed upon by everyone. So in this part of the presentation I'm going to try to represent everybody, the consensus planning process.

So this started out in 1999, so we've been working at this for quite some time now over some 45 different planning meetings. We've met together. All of them have been open. Some have been publicly advertised specifically for that meeting. They've all been announced by e-mail to anyone who's been interested in coming. A very large number of different people have come to the planning meetings over the years and in your planning packet is a list of everybody that we have a record of. There have been a core of people that have come all the way through this planning process. Some of the people who have been participating in this are present here today. Maybe a few people could raise your hand if you've been part of the planning process. We have a few of them here today.

We carried out a community survey early on. I want to show you here some of the highlights of that survey, highlights of things that a very large fraction of the people responding had a common viewpoint. So at the top there is the two best aspects of day-to-day life in the TAP. People just were encourage to list words: quiet, rural, beauty, views, open space, occurred in almost everybody's responses. Maintaining rural character to the area was clearly very important to a very large fraction of the people. Open space necessary to maintaining that was agreed upon by very many people. A large number of people are interested in biking, hiking and so forth.

Many felt that affordable housing was appropriate in this area. Many people agreed but not everyone that graywater reuse in the area was important. Many felt, and some strongly disagreed with the idea that land use restrictions are a good means of protecting natural resources. This shows the existing land use in the area. The yellow corresponds to subdivisions that are large-lot subdivisions that already exist. Essentially, that's the main developed areas and on the upper right is Aldea de Santa Fe, which is a village. Much of the rest of the area is not developed. Here are the statistics on that. There's 4500 acres total, 1360 of that is developed. Proposed development is another 1/3 of it and about 1/3 of it is not developed and not proposed for development at this time. There's no County-owned open space within the entire TAP planning area, and about a third of it is in the County water service area.

The vision of the plan, I won't read it, but down at the bottom really summarizes, the last sentence really summarizes it. We recognize that growth comes with an increase in traffic and congestion. This plan seeks to allow development in such a way as to preserve the rural character of the area. So we tried to do that.

The purpose of this plan is to provide for guidance for zoning and development in the

area and for ordinances that affect the quality of life in the area for future County acquisitions of land and for infrastructure. We hope it will influence all those. Our proposal for implementation of this is to require land use applicants to describe how their planning is consistent with this.

So here is a quick summary of the features that the plan proposes as implementation. So under housing and development density, consistent with the relatively rural feel of the area, it is felt that generally one house on 2.5 acres as the general development pattern was appropriate. Clustering of houses is encouraged. Density bonuses for preservation of open space, affordable housing encouraged but not segregated from market housing. Primary village center at Aldea. There was a lot of discussion about new development attempting to respect character of existing neighborhoods.

A very large amount of discussion in our meetings was focused around trails and open space. It was felt that this was a very, very important aspect of the plan and maybe the most important aspect of the plan as it's set out. The developments are encouraged to provide trails and trail connections with neighboring properties. The general concept here was to try to have a trail plan that encouraged connectivity within the TAP area and between the TAP area and the neighboring areas and the next map kind of shows that a little bit. The bright green are arterial roads, all of which go with an associated trail, and then there's dotted green lines that you can see kind of go southwest to northeast that go all the way across the entire TAP, connect up to the rec center to the west and follow the Arroyo Frijoles up to the northeast. And north-south connections between the river ultimately and Las Campanas to the north of us. So the idea is to try to have a trail network that covers that as much as possible, and to do it in a voluntary way.

Roads and transportation, the group felt it was appropriate to simply follow the ARTF, the County task force recommendations for roads in the area, mentioning that it would be nice to have bus service along 599. The future expected land use is mostly residential, so that's all the yellow that's listed up there.

The group felt it was important to mention the importance of minimizing light pollution, minimizing use of water in this area, maximizing water conservation, reuse of water, sound pollution minimization and for visual effect to have new utilities underground.

It was felt that it was appropriate to have some commercial development, but it's primarily residential, agricultural and ranching. The commercial zone recommended is Aldea which is already present and being developed, a small amount of mixed use and a couple of properties that are already mixed use. And perhaps very importantly, supporting home-based occupations. There are very many people in the TAP area that have home-based occupations and it was felt that was a very good thing that ought to be encouraged. Development along 599 ought to be consistent with the Highway Corridor Plan.

We spent a small amount of time with design standards, recommendations for both residential and commercial standards. We didn't feel these were particularly limiting but they seemed like reasonable guidelines. This is the vicinity around the Tres Arroyos del Poniente

planning area. You can see that to the west is the rec center and public lands farther to the west would stop at Las Campanas and north of 599. That's the end of my part.

CHAIRMAN ANAYA: Thank you, Tom.

MS. MCGOWAN: Mr. Chairman, Commissioners, I just want to go through as briefly as I can without getting too confusing I hope, the proposed changes that have been submitted. A sub-group of the planning committee proposed some changes as we mentioned earlier and the planning committee was not able to reach consensus on these. They agreed that these would come forward and that you and the EZA would make the final decision on whether to include the changes. Obviously, there was a piece of paper with some proposed changes in front of them, the CDRC felt free to edit and change those too. So I hope it doesn't get too confusing before the end.

The changes that were proposed are drafted in the format – sort of ordinance format. It takes the existing text in the draft with additional language underlined and deletions interlineated. Those changes were a recommendation that there be a ten-year holding period for family transfers that exceed the minimum lot size for the hydrologic zone. Those are the small lot family transfers. On trails and open space, that new developments much provide an easement for trails, rather than being encouraged to provide it, and that they carry out a trails inventory and provide easements or alternatives for existing trails. That trails generally be spaced a half-mile apart and be for non-motorized use only. And that new developments provide 30 percent open space.

Now, inside the Two-mile EZ area this is already a requirement. But it's not a requirement under the County Code areas. That the open space be integrated with the trail system and that half of that be public open space.

A number of additions or changes were recommended under the plan section on light, water, power and noise, part of which is quite a thorough discussion about what are the existing situations and the issues in this area. It's quite a complex area for utilities. As Tom mentioned earlier, 1/3 of the area is in the County service area, and yet the City provides water to at least two developments in the area, possibly three; it's not entirely clear. Then a lot of the area is either vacant with no development or on wells and septic tanks. So it's a complex area.

So there's a new statement about the status of water and wastewater that's being proposed, pointing out that many new developments have been on community or City water and only a few on sewer. That there is a dependence on wells and that the expense of converting to County water and sewer would be an impediment for many existing residents, not to speak of the fact that the County may not have adequate water rights to serve all the residents. But there was general consensus that promoting countywide water and sewer systems and protecting the aquifer are in the best interests of all residents.

Then the proposed changes were separated into two sections. One having to do with new development and saying that integration of water and sewer systems should be required for new development, laying out these requirements. That subdivisions of 12 units or more

should design water and sewer system to connect to the County system as soon as it's available. And subdivisions of 24 units or more should connect and also recycle sewage and not deplete the aquifer.

Also encouraging clustering to limit the long-term maintenance and cost of systems. That of course also limits the initial capital costs. And new developments should be plumbed to simplify future graywater recycling. For existing residents, that statement basically says that they need support from the County to better conserve, including the County helping to organize large-scale purchases of equipment and installation for such things as rainwater collection, graywater recycling, voluntary water metering. That the County should work to organize large-scale maintenance efforts for such systems and to work with the state to develop codes that simplify these things for retrofits.

Also that small-scale water collection projects for groups of homes may be feasible, and that the County could work with residents to help identify where these may be possible. There was also a recommendation – this came directly from the last community meeting – that we add a utilities map. So staff has gone ahead and drafted a preliminary utilities map, which should be in your packet also, and there's a large-scale one over here. We'll continue to work on gathering the data to help to complete that. But I have to be honest with you. We're running into problems finding the data on where water lines are and where sewer lines are in the area.

CDRC approved the plan and recommended approval of the plan, and recommended approval of the proposed changes, and then they did their own rewriting to some sections of those proposed changes. So this will just highlight where the changes were.

They did some minor language changes and I'm not going to highlight those. These are just the major ones. On the trails and open space, they changed it to read that developments must provide at least one trail and trail connection if that trail is vital to the overall connectivity of a regional trail system, rather than a blanket requirement. They deleted the requirement to carry out a trails inventory and provide an easement for alternates to existing trails. In fact I believe the County has already carried out an inventory in that area. They kept the comment about trails being for non-motorized use but deleted the spacing requirement. And they kept the 30 percent open space requirement, integrated with the trail system, deleted the comment that half of that be public open space.

On the light, water, power, noise section, which is primarily about water and sewer, they wanted to clarify that connection or integration of water and sewer systems can only be required when the regional systems are available. And they deleted the reference to the number of units. So that changed the one section saying that all subdivisions shall design water and sewer systems to connect to the County system as soon as it's available, and they deleted the specific section about 24 units or more. And also about not depleting the aquifer. They left in the statement about encouraging clustering and the graywater recycling. They added a statement which was referred to in the prior hearing I believe about the quarter acre-foot limit per lot or per unit. And the way they worded that is that it would apply not only to future subdivisions, but also to future development on existing lots.

They also said that the area should consider formation of a special assessment district to help existing residents hook up to central water and sewer when it's available.

The other thing I wanted to highlight, and this was something staff asked for, is that currently the list of members and participants are in your appendix and consistent with our other community plans we think that should be moved up to the plan body, right up front, consistent with other plans.

We also want to include the proposed utilities map as it is drafted so far. You can see the yellow area is the area that's in the County's water service area, and at least two developments, possibly three, it's not entirely clear, within that area are on City water and a number of the others are on County water through the Las Campanas system, which could be County in the future.

I wanted to just also make sure you understand that the plan supports the ARTF roads plan as Tom states. They also support the Metro Highway Corridor Plan in the area which limits commercial development along the corridor. This is in the scenic highway corridor section. I also reviewed the RPA Future Land Use and Growth Management Plan to make sure that what's being proposed in this plan supports and conforms to those policies, and I believe it does. And I believe this plan in its draft form was considered by the RPA staff when that plan was put together.

CHAIRMAN ANAYA: Thank you. Okay, this is a public hearing, the first public hearing. Is there anybody that would like to speak to this? If you could, just come forward and that way I'll know how many.

PAUL DURAN: Hello, my name is Paul Duran. My mailing address is 231 Washington Avenue. When I was a Commissioner I was involved somewhat with this plan and I think the work that has been done over the last several years is great. I think that the community plan represents some consensus. I know that there are some people that have some issues with this but I think it does represent pretty much the consensus of the area, the people that live in that area. The only concern I have is that this plan has taken several years to adopt and in the hour or so that the CDRC had to look at this they butchered it.

I guess I really don't have too many problems with what they've come up with except they've done a lot of rewriting of the plan that kind of steps over into Code rewrite issues that you all are in the middle of working on. And I'd like to report to the new developments section of this where the plan basically said that subdivisions of 12 units and over shall design their water systems to connect to a County water system, they've scratched that out. So that means that is I was doing a – if I was splitting a piece of property into two lots, that I would have to design a water system without any concern to where imported water was going to be or how far it was from my property.

So I'm not sure that that really is fair. And the other issue is the CDRC also changed subdivisions of 12 units and over shall design sewer systems to allow common collection of water for a County sewer system. They took out the 12 units. Again, that applies to just a lot split.

And I'm not even sure how a common collection system for a County sewer system works in that particular area. As we all know, sewer systems rely on gravity and there's a lot of slope out there. I don't really know how you would have a sewer system out there. So I would just ask that as this plan moves forward, that you give those two items some thought and really try to find out how you can apply those changes and have it be equitable and fair.

I think the statement that they've made where all subsequent – where all legal lots of record platted subsequent to the adoption of the community plan be limited to .25 acre-feet is a great change to this plan. I think that we live in a desert and .25 acre-feet is the only way that we're going to manage our resources out there, our water resource out there. Thank you very much.

CHAIRMAN ANAYA: Thank you, Commissioner.

PHILLIP BACA: Mr. Chairman, members of the Commission, my name is Phillip Baca. I'm very interested in hearing the presentation of the CDRC changes. Too bad that the Baca statements, and I don't know if they were passed out to the Commission – you do have the memo from the Baca family – regarding each of the changes that CDRC proposed. They weren't explained tonight but I understand you have them. Those are pretty important. I was not able to appear before the CDRC when they met last month for the reason that my brother had passed away that day and I unfortunately had other things to do and I couldn't make it to the meeting.

But again, I want to thank you for allowing me to be here tonight to go over some of the things that we have regarding the Tres Arroyos del Poniente Community Plan. These comments that I'm making tonight are on behalf of the 80-year old Baca ranch which is privately owned land totally over 350 acres in the planning area, and another approximately 300 acres of land that is leased from the State Land Office with an agreement that expires in the year 2010.

One of the portions of the parcel that we have that is within the plan is on the extreme southwest corner right by 599. That particular parcel that's in gray on your map there has been in the Baca family since 1917. For over five years the Baca family attended and participated in the TAP planning committee meetings. The overarching direction we received from the County Planning staff was to develop with our neighbors a consensus – and this is very important – a consensus based plan for the planning area. With this direction in mind, our family made a good faith effort to work with other property owners and the County staff.

The draft plan which we support was brought forth for the first hearing in front of the County Development Review Committee on December 15, 2005. During this meeting, significant amendments were brought forth by a small minority group within the planning area and adopted almost in their entirety by the CDRC. With the addition of these last minute amendments the Baca family can no longer support this plan.

I should first note that many heated and confrontational discussions occurred over each of these amendments during the past several years. Early on it became apparent that a major schism had developed between the newly arrived population that had made this scenario

composed of exclusive, high-priced neighborhoods in a traditional, land-based culture that is the foundation of Santa Fe and northern New Mexico. Emotions ran high and become ugly. One of the lowest points occurred in the spring of 2004 during a discussion related to acceptable exterior home colors. The same individuals who have pressed their amendments on the CDRC vehemently disagreed with my daughter Phyllis in her desire to build a home on our family property that would be turquoise blue and was the house that was similar to the house that I raised my family in here in Santa Fe.

In exasperation, my daughter Phyllis stated that she was of Mexican ethnicity and that these are the colors that appeal to her. A response from someone I believe was the president of one of the neighborhood associations was chilling. He stated in front of all present at the meeting, that if that was her preference, she should go back to Mexico. I should note that he later wrote her a backhanded letter of apology, an apology that she has declined to accept. The individual's letter of apology and my daughter's response are in the packet that was handed out to you by my son Matthew and tabbed with a red marker. [This packet was not made available to the recorder.]

Another frightening exhibition occurred during the discussion regarding the placement of a signalized intersection at Caja del Rio and State Road 599. Basically, I'd like to give you a little bit of history of how Caja del Rio was born. Caja del Rio was born in 1992/93 when the County and City were looking for a new location for a dump. The Pinon Hills Subdivision and the Puesta del Sol Subdivision were against relocation of the dump in this area. They agreed with the County at the time that if they found an alternative route to County Road 70 to the new dump that they would drop their opposition to it. At this point the County asked the Highway Department for an intersection at 599 and Caja del Rio. The Highway Department agreed to build an intersection at 599 and Caja del Rio. That in turn got three more agreements signed by the Baca family, one with the County Commission and the Highway Department for a signalized intersection at that point. I met last February the County Manager, Gerald Gonzalez, because in 2003 the County and City changed their position and voted against an intersection at that point and it's just common sense that that's where the intersection ought to be. That is just giving you a little bit of background on the intersection at 599 and Caja del Rio.

My family has and intends and continues to support the location for placement of the intersection. Tempers again flared among those who feel their opinion of Santa Fe's future trumps those whose families have built Santa Fe's past. After the meeting, the president of Well Water Owners Association approached the same daughter, Phyllis, outside the meeting hall and began to scream at her that she was a murderer for her position on the intersection. I do not believe any of this Board or County staff envisioned such an occurrence when they created the planning committee.

To give you a little background on my daughter. Our family and my daughter's roots go back to, in Santa Fe, the Cienega area, go back to the year 1600 and Capitán Cristóbal Baca. This family has resided in the Cienega/Santa Fe area continuously to this day. The list of

Phyllis' ancestors included Juan Paez Hurtado from the early 1700s served as the Secretary of Water under don Diego de Vargas and as acting governor of the province on two occasions. Paez Hurtado was a signator of the proclamation that in 1712 established the celebration that evolved to the present day of the Santa Fe Fiestas.

My daughter's roots go that far, and in the future, Phyllis is a chemical engineer and she was cleared for two clearances at Los Alamos. That is the highest secrecy clearance that you get at Los Alamos for working in the laboratories. To me I don't think this is a profile of a murderer. But that's what she was told that she was because she backed this intersection. I had brought it before the committee. The committee did not act on it. She brought it again, just like they brought their trail systems numerous times. We thought that maybe the committee might consider, and this is what she got out of it. And this is just despicable.

I should again note that the individual made an apology to my daughter at the later date and again she chose not to accept the apology. So what do these incidents have to do with the amendments? I think they are fine examples of our family's determination to withstand the intimidation and browbeating of those who would use these methods to push theirs upon others. We do not like confrontation. We have also learned from Santa Fe history that those who acquiesce to these tactics have often seen the rights and their damages, their lands damaged or lost.

So the amendments approved by the CDRC appear to only affect our family's land. The new language mandating rather than encouraging trails was discussed at a community meeting in March of last year. Approximately 70 people were in attendance and my son Matthew asked all those whose property was impacted by the requirement to raise their hand. Matthew was the only one whose hand was raised in the air. The County minutes of that meeting describe the event and are in the packet that was passed out to you and marked by the blue tab.

I must take this opportunity to note that there are other adjacent property owners who would have been affected, but they were able to convince the previous County Commissions to carve out the properties from the planning process. This includes the properties to the west and south obtained by the King family in a well-known land swap of the early 1990s, and lands owned by Las Campanas to the north. As such, any trails will dead-end on our property. As was described by Judy at the beginning, they described to Judy that the property is bordered on the west by the Municipal Recreation Center. It is only partially bordered on the west by the Municipal Recreation Center. A big portion of it, as you look at the map there where you see that brown area, which is our property, that is all bordered on the west and on the south by the King property that was exempted from this plan and is exempted from all the requirements that are now being forced, or trying to be forced on the Baca property.

In no way in the world can trails go west of the Baca property or south of the Baca property because this land was exempted and their plans have been approved without trails, without open space and without any of these other amenities, and now they're trying to force them on us and they have nowhere to go, because they do not connect to the recreational

center.

On the open space, this area is one of the areas in Santa Fe that has the greatest amount of open space in all of Santa Fe County. The MRC has over 2,000 acres of open land that the City has that came from the BLM. And just beyond that is over 100,000 acres of Forest Service land that is open to the public. You show me any other neighborhood in this county that has that much open space other than the forest in the east of Santa Fe. So there's a lot of open space out there. The approach for those desiring to see our family's property open as recreation area has been two-pronged. When it became apparent that we would not submit to their arm-twisting and despite the overarching direction for consensus – and consensus is real important – they asked the property owners in the planning area to vote on the amendments that were adopted by the CDRC. The ballot came in an e-mail form from the head planning committee, Mr. Tom Terwilliger, who presented here tonight, with the subject heading “TAP planning, Please vote on changes in text by reply e-mail.”

This is included in the package I handed out and marked with a yellow tab on the one sent out by my son tonight. What this small group didn't realize is that our family is fairly large and extended and we have 21 votes opposing the amendments. Once it became apparent that our votes provided a wide margin of defeat to the amendments, the same group pushing the amendments simply decided to void the election in a manner tantamount to the Santa Fe ring that seized so much property in Santa Fe over 100 years ago. This abuse of a mechanism held so dearly in our country is mind-boggling to say the least. The amendments also pose a legal problem for the County if adopted. We tried to explain this to the planning committee at our own expense. Our attorney, Mr. Ronald VanAmberg addressed the committee and explained how many of these amendments fall under the definition of property taking and require compensation.

Mr. VanAmberg sent a letter to the Board of County Commissioners yesterday and I hope you have it before you describing the case law surrounding the amendments adopted by the CDRC. [Exhibit 6] At the planning committee where Mr. VanAmberg made his presentation, we requested that County Planning staff confer with the County Attorney on the information provided by Mr. VanAmberg. It is unclear as to whether this discussion ever took place, but based on the CDRC acceptance of the amendments, we conclude that they did not. Mr. VanAmberg will enter into the record a brief description of his legal analysis. I will complete my comments by speaking briefly to the new restrictive requirements for family land transfers that were adopted by the CDRC.

This package of amendments which applied to our family more than to any other landowner in the planning area. This includes a 10-year holding period after a transfer is made which is five years longer than uniformly mandated throughout Santa Fe County. During the 80th year of life of the Baca ranch, our family has only sold land because of a condemnation by the City and County for the Caja del Rio Landfill. We do not intend to be selling our land in the next five or ten years or maybe in 50 years. However, as a matter of policy, we think that it is ill advised to have a patchwork of family land transfer requirements scattered throughout

the County.

In closing, our family requests that the Commission consider to strike the amendments adopted by the CDRC at the December 15th meeting and return to the consensus document put forth by the planning staff and property owners of the area. At this point I would like to introduce Mr. Ron VanAmberg so that he can briefly go over the legal problems that he has with the CDRC amendments and we would stand for any questions that is determined that you or any of the Commissioners might have. Thank you very much for the time and we really appreciate it. I'm very sorry that we were not able to make our comments before the CDRC because of a family problem. Thank you.

CHAIRMAN ANAYA: Thank you, Mr. Baca. Sorry to hear about your brother. Do we need to hear from Mr. VanAmberg? Does the Commission need to hear? What were you going to go over? The changes that the CDRC made?

RONALD VANAMBERG: I was going to go over my perception of the legalities of the changes, the impact on the Baca property and the issue of the ten-year holding period which is apparently created for the Bacas, and also the issue relating to the trail map, which is going to be published as a matter of public record and the impact of that.

CHAIRMAN ANAYA: Okay. Go ahead.

MR. VANAMBERG: May it please the Commission, I'm Ron VanAmberg and I'm here on behalf of the Baca family. I had previously delivered to the Commission a letter outlining the position of the Baca family as to the legalities of what is being proposed by some of these amendments and I hope that the staff delivered that to the Commission. I would like to enter that into the record. This plan has developed over a period of about six years or even more, and as Mr. Baca described, this was supposed to be a plan which developed through consensus and for the most part it did. The Bacas and others worked diligently to accomplish this. Relatively recently, there were some proposed amendments that were made. The Bacas are not exactly sure as to how they were formulated, who formulated them, and why they were carried forward in such a manner.

Under the original consensus plan, which is before you, there were provisions relating to horse and pedestrian trails. These were to be strongly encouraged as being a network throughout the entire TAP area. And the Bacas had no problem with that. The amendment, however, that came up recently took away the provision which said that the horse and pedestrian trails would be strongly recommended and as it applied to undeveloped property, it was to be required. Along with this there was to be a 30 percent open space requirement, 15 percent of it was to be devoted to public use. There's a difference between having a landowner provide for open space, and having a landowner provide for a public easement or a public park on his property.

The recent amendment to the amendment to the amendment made by the CDRC took out the language relating to 15 percent devoted to the public, but what it did do was say that the 30 percent needed to be integrated into the trail system, so what that does is change the requirement of devoting 15 percent of the property to the public to now a requirement that a

property owner of undeveloped land now devote 30 percent as part of an integrated trail system.

The Bacas, it is ironic, have owned this property for generations and they have elected specifically not to develop but to devote the property to traditional grazing uses and that's what it has been used for. It is now apparent that it is the Bacas who are going to be feeling the brunt of the amendments that are being proposed. If you look at the map above you and page 30 of your plan, you'll see that the Bacas have property up in the northwest corner. To the north is Las Campanas. They are not part of the TAP area. To the west is property which has been subdivided and sold by the Kings. They were exempted from the TAP area. To the south is also King property, subdivided and sold. That is not part of the TAP area, and it has not been mentioned here tonight, is the property owned by Gerald Peters, which has been the subject of some controversy, and I believe has either been approved by this County Commission or is on the way to approval by the County Commission. My understanding is that the Peters property, which is going to be the home of a substantial equestrian facility, will not be part of this trail system, or has the ability, if it is part of the trail system, to close off it's property if it feels that it is being abused or is inconvenient to its residents.

So that leaves us basically with the Bacas and a trail system which is serving Las Campanas, the King property and the Peters property, all of whom get to ride on the Baca property but anybody who owns property on the Bacas do not have a reciprocal right. So essentially, according to the recent amendments, the Bacas are going to be a recreational facility for high-end subdivisions that surround it.

In the letter which I tendered to the County yesterday, and also a copy to County Attorney Ross, we have several problems with the legality of this. The Baca property, if it is developed, is not the source of the problem that there are no trails in the area. And it is our position that requiring the Baca property and not requiring, and particularly not requiring other properties to be devoted to a trail system and an open system constitutes a taking. There is a considerable body of authority to the effect that if there is a physical requirement of easements across properties, that this constitutes a physical occupation of property and condemnation damages are allowed.

The Commission can do this, but it is our position that the Commission should be aware that it may be an expensive proposition. Additionally, there is an equal protection problem that we've got in that the Bacas who own property are required to put in trails upon development while surrounding individual landowners are not required to subject their property to trails. We also, frankly, just don't think that this is fair to single out primarily the Bacas for this burden. The Bacas do not oppose trails and good planning probably would encourage that. And it could be a benefit to surrounding property owners to get together and comprise and develop a series of trails, but if they do that, then what happens is they have control over the process. They can determine what the location is so it doesn't interfere particularly with the use of their property, they can determine what use can be made of it, they can make plans so that they can limit the liability, which might come from having trails across

their property, and they can address a number of other controls and issues. But these should be voluntary matters between private property owners and not imposed in such a haphazard fashion as the amendments propose.

The other issues that we are concerned with on behalf of the Bacas is Exhibit C to the letter, which is on page – I believe it's page 31 of your plan which is a map which will purportedly be filed of record and it shows a trail system. Now, this is going to create a title nightmare, when a title company sees this as a matter of public record with trails going across people's properties such as the Bacas. We have no problem with reflecting the reality but reflecting a wish list as a matter of public record is going to create problems and what we would request is that that map be amended to reflect actual dedicated trails and it can be updated from time to time and not be placed as a matter of public record.

Finally, we believe that a ten-year holding period which applies only to the Bacas and only to this TAP area and does not apply to anyone else in the county, has serious constitutional implications. We suggest that it should not be part of this plan. What we're asking on behalf of the Bacas is that the plan that is presented to you and was developed through consensus be the plan that is approved. These relatively last-minute amendments and rewrites by the CDRC we believe are ill advised. They are not the result of consensus and that they not be approved by this Commission. Thank you very much.

CHAIRMAN ANAYA: Okay. Thank you very much. Is there anybody else that would like to speak? So I guess what I'm hearing is that they had their meeting for 45 meetings, you came to consensus, you came to the CDRC and they changed it all up and the Baca family doesn't like it. That's what I'm hearing. Is that – no, Judy? I'm looking at you.

MS. MCGOWAN: I can't interpret for the Baca family what they think happened or didn't happen. There was a lack of consensus before it went to CDRC.

CHAIRMAN ANAYA: There was a lack of consensus before it went to CDRC?

MS. MCGOWAN: Yes. But that's not – they're shaking their head no. It sounds like – I can't answer that. I tried to explain in my presentation that the plan got to a certain point where there was consensus. A subgroup of the planning committee wished to strengthen some language. The Baca family did not agree on those changes and we worked really hard to try and come to some agreement and could not. The rest of the committee did agree to changes for the Baca family, including removing trails or proposed preferred trails from their property. They're not shown anywhere on their properties on the trails map. And that was done at the behest of the Baca family and the rest of the committee did agree to do that, and that's been quite a while ago. But the lack of consensus preceded going to CDRC, but I think what Mr. Baca is saying is in addition to that, they definitely do not agree with the recommendations that CDRC made.

CHAIRMAN ANAYA: Okay. Mr. Baca, I'll let you say one more thing and then we're going to close the hearing.

MR. BACA: Thank you very much, Mr. Chairman, members of the

Commission. I hate to take this much of your time. The understanding when we started this was that these plans were built on consensus. We've been working on another one which is the Airport Development District, and again, when Jack Kolkmeier opened those meetings up, he said we work on consensus and whatever the consensus is. So the original plan as submitted to the CDRC was a consensus plan that everybody backed up. Now, many of the things that were brought to the CDRC were things that had come up over and over and over again over the five-year period and there was not consensus of it. And our understanding is that the County Commission wanted consensus and we were told that the Rancho Viejo plan and many other plans, it was about consensus. There were things that were not agreed upon and that's too bad. If there wasn't consensus, there wasn't consensus. And that was our understanding from day-one. That is our understanding that the Airport Community Development District plan, which is larger than this one, we've been working on this one for about four or five years also and there has to be consensus.

The second part of it here on the consensus issue is nowhere wherever all the property owners, or the Baca property given any weight whatsoever. It was also like if it was just one property owner and that was equal to one property owner in say, Pinon Hills. The Baca property has a total of 21 owners and that was never – we could never get that across, that sort of thing. It was never bought, but again, the big issue and what we were told on day-one is that the plan that would come forward and hopefully be approved by the County Commission was the segments where there was consensus on them. And that was brought forward to you.

Most of these amendments that were adopted at CDRC were tried time and time and time again and consensus was not reached, and they should have been dropped there because there was no consensus.

CHAIRMAN ANAYA: I see. Okay, thank you, Mr. Baca. This public hearing is closed and I'd like to turn to the Commission to see if they have any comments.

COMMISSIONER VIGIL: Thank you, Mr. Chairman. I think while we're getting caught up in consensus and whether or not it was reached, from what I read of the plan and my participation in it, and I did participate in a couple of meetings, this community came a long way from where they started. I really think that kudos need to be extended because there was a lot of negotiation that went on through this process and it was difficult negotiation. And it was negotiation that happened in a safe setting at some times and sometimes I thought maybe it wasn't so safe because some of the comments went to a personal level and I thought that was unfortunate.

My sense is at this point in time that we have accomplished quite a bit and I don't think we should lose sight of that. This is our first hearing, Mr. Chairman, and I'm glad to know we have a document to work with and that there are some recommendations and there are some changes. I would like to have staff be able to respond at our next meeting to some of the issues that came up and I'd also like legal to look at some of these issues of the holding, the family transfer holding, the 30 percent open space, the trails and how that regards any legal issues that might potentially implicate Santa Fe County, and I'd like that information brought forth

for our next hearing. I think we need that clarity and I think we'll be better able to make a decision at that point in time, Mr. Chairman. Thank you.

CHAIRMAN ANAYA: Thank you, Commissioner. Thank you, Judy.

MS. MCGOWAN: Thank you, Commissioners.

XIII. B. 3. EZ Case #S 04-4583 – Tesuque Villas Residential Subdivision – Tesuque Villas (Heather McCrea, Applicant), Requests Final Development Plan and Plat Approval for a Residential Subdivision of Eight (8) Lots on 30.134 Acres and a Variance of Section 3.5 (Road Requirements and Standards) of the Extraterritorial Subdivision Regulations (ESR) to Allow a Cul-de-sac with Lengths Greater than 1,000 Feet. The Property is Located 3.2 Miles North East of Tesuque Village on State Road 592, within Section 8, Township 18 North, Range 10 East (5-Mile Extraterritorial District, Commission District 1)

CHAIRMAN ANAYA: Who's going to take this case? And how's Vicente Archuleta doing? I heard –

DOLORES VIGIL (Land Use Administrator): Mr. Chairman, I heard he's actually out of the hospital. He's at home. He hopes to come back next week, but I don't know if he'll be able to because his jaw is wired shut. Wayne Dalton will be doing the presentation. He'll be in here. I don't know where he's at. I was actually a part of this application before I was hired by the County so I would not like to comment on it at this time. Heather McCrea was one of my clients. So he should be here any moment.

CHAIRMAN ANAYA: Okay. Let's take a five-minute break.

[The Commission recessed for ten minutes.]

CHAIRMAN ANAYA: Let's call this meeting back to order. Staff, I believe – who's going to do the case? Vicki?

VICKI LUCERO (Zoning Director): Mr. Chairman, yes. Tesuque Villas, Heather McCrea, applicant, requests final development plan and plat approval for a residential subdivision of eight lots on 30.134 acres and a variance of Section 3.5 (Road requirements and standards) of the Extraterritorial Subdivision Regulations to allow a cul-de-sac greater than 1,000 feet. The property is located 3.2 miles north east of Tesuque Village on State Road 592, within Section 8, Township 18 North, Range 10 East (5 mile

Extraterritorial Zoning District.

On November 10, 2005, the EZC met and acted on this case. The decision of the EZC was to recommend approval for final development plan and plat subject to staff conditions.

On October 14, 2004, the Extraterritorial Zoning Commission met and acted on this case. The decision of the EZC was to recommend preliminary plat/development plan approval and a variance of Section 3.5 to allow a cul-de-sac greater than 1000 feet in length subject to staff conditions. On December 14, 2004, the Vista Redonda Homeowners Association appealed the decision of the EZC to the Board of County Commissioners. The decision of the BCC was to grant the appeal and remand the case to the EZC for reconsideration to address issues by the appellant and consider reducing the number of lots.

On July 14, 2005, the applicant requested preliminary and final development plan and plat approval for a nine-lot subdivision and a variance of Section 3.5 of the Extraterritorial Subdivision Regulations to allow a cul-de-sac to exceed 1,000 feet.

The EZC recommended preliminary development plan approval for eight lots subject to City and County staff conditions. The applicant is requesting final development plan and plat approval of an eight-lot residential subdivision on 30.134 acres. The proposal is for eight lots that vary in size from 2.5 acres to 6.43 acres. The property is in the Basin Fringe Hydrologic Zone where minimum lot size is 50 acres per dwelling unit without water restrictions. Lot sizes can be reduced to 12.5 acres per dwelling unit with .25 acre-feet per year water restrictions or to 2.5 acres with a geo-hydrologic report that proves water.

The proposed project will be constructed in its entirety upon approval of final development plan and plat. The project will provide a site design that will integrate well with the surrounding properties. The use of native plant species for the project's landscaping will enhance the appearance of the property from NM 592, and the entire property will be fenced along all property boundaries.

The applicants are also requesting a variance of Section 3.5 of the Extraterritorial Subdivision Regulations to allow a cul-de-sac to exceed 1000 feet. Section 3.5.2.F.2.b.2 states, "In order to accommodate circumstances such as difficult terrain, large lots ten acres or more, cluster subdivisions with large open space tracts, the EZC may allow cul-de-sacs of up to 1,000 feet in length as long as the average traffic of 300 vehicles is not exceeded, and the County Fire Marshal approves the plan for fire protection and public safety factors.

The applicant has responded to the variance review criteria as required by the EZO, and Mr. Chairman, I believe those have been handed out to you. *[Exhibit 7]* This application was reviewed for existing conditions, adjacent properties, access, water, fire protection, liquid and solid waste, terrain management, stormwater retention, landscaping, archeology, open space, signage and lighting.

Recommendation: On November 10, 2005, the EZC met and acted on this case. The decision of the EZC was to recommend approval for final development plan and plat subject to staff conditions. The proposed plat/development plan is in accordance with the procedures and submittals for final development plan set forth in Section 3.6 of the EZO.

Staff recommends final plat/development plan approval subject to the following conditions.
Mr. Chairman, may I enter those conditions into the record?

1. Compliance with applicable review comments from the following:
 - a) State Engineer
 - b) State Environment Department
 - c) State Department of Transportation
 - d) County Hydrologist
 - e) Development Review Director
 - f) County Fire Marshal
 - g) County Public Works
 - h) County Technical Review
 - i) Soil and Water District
 - j) State Historic Preservation Division
2. Submit homeowner documents (covenants, by-laws, articles of incorporation, disclosure statement) subject to approval by staff and shall include but not limited to the following:
 - a) Water Restrictions shall be .40 acre-feet per lot and subject to meters for each lot
 - b) Water conservation measures shall include water storage from roof drainage.
 - c) Maintenance of roads, drainage facilities, common area and fire protection system
 - d) Maintenance of septic systems
 - e) Solid waste disposal by home owners association in the event that homeowner is not complying
 - f) Exterior lights
3. Submit solid waste fee in accordance with subdivision regulations and submit fire review/inspection fees in accordance with Resolution No. 2003-47.
4. All redline comments shall be addressed.
5. Submit a cost estimate prepared by a licensed engineer and financial guarantee for the completion of required improvements as approved by staff.
6. A liquid waste permit must be obtained from the Environment Department for the proposed septic systems prior to issuance of building permit.
7. The applicant must record water restrictive covenants simultaneously imposing .40-acre ft. per year per lot. Water meters for each subject parcel must be installed to monitor water use. Water consumption reports must be submitted to the County Hydrologist by January 31st of each year and submitted to the Office of the State Engineer on a quarterly basis. The applicant shall add this responsibility to the Director's duties listed in the Well Sharing Agreement.
8. Trails shall be developed within open space.
9. The sign area shall not exceed 20 square feet as per the Santa Fe County

Development Code.

10. All utilities shall be underground.
11. Road section shall comply with minimum standards for a local road (50' easement with a 22' roadway).
12. Approval of rural addresses.
13. Submit school impact report.
14. The applicant must address all minor redline comments by the County Subdivision Engineer as shown on the plat of survey and terrain management plan. These plans may be picked up from Vicente Archuleta, Development Review Specialist within the Land Use Dept. These plans must be resubmitted with the Mylar prior to recordation.

CHAIRMAN ANAYA: Thank you, Vicki. Is there any questions of Vicki from the Commission? How long do they want the cul-de-sac? They want it for a long, long time. Does the applicant agree to the conditions? I guess I can ask them that later.

MS. LUCERO: Mr. Chairman, I'm not sure what the exact length is. I know it's over 1,000. I don't have the exact figure in front of me.

MS. VAZQUEZ: Commissioner, it's about 1500 feet.

CHAIRMAN ANAYA: Okay. Thank you, Rosanna. Okay, any other questions of Vicki? Thank you, Vicki. Is the applicant here? Rosanna?

MS. VAZQUEZ: Good evening, again, Mr. Chairman, Commissioners. My name is Rosanna Vazquez and I'm here with the applicant, Heather McCrea, her husband and Jon Paul Romero and if there's any questions with regard to the variance we can address many of those questions. Commissioners, this is not the first time we've come before you and this development has been highly scrutinized from day-one. And that high scrutiny has come forward and brought you a compromise between the applicant and the neighbors who were concerned about a lot of issues.

The public involvement, the County Code review and the County Land Use's review of alleged Code violations have brought this case before you as clean as it can be at this point. County staff did look at alleged Code violations and did find that there were none, no violations on the property, and thus we reached a compromise.

I want to talk to you a little bit about where this development started and where we are now. As Vicki said, with proving up geo-hydro, this development is eligible for 12 units on the property, and if I could just show you briefly an area map of the entire area. We've got Vista Redonda down here, Pueblo Encantado, Rancho Encantado here, and you've got some of the smaller lot subdivisions in the Chupadero area behind you. Our development is located in green here. What this parcel map shows is that you've got a lot of parcels in the area that are under three acres in size.

CHAIRMAN ANAYA: Rosanna, tell me, just so I can get oriented. Where's Tesuque?

MS. VAZQUEZ: It's down here and over here.

CHAIRMAN ANAYA: So we're going up that –

MS. VAZQUEZ: We're going up the back road to the ski basin, essentially.

CHAIRMAN ANAYA: Okay.

MS. VAZQUEZ: So the allowable density is 12. When we came forward to EZC the first time we got unanimous approval on ten lots. But the neighbors were concerned about density among other issues. So we sat down with the neighbors. We reduced the dwelling units in this area from nine to eight. We come before you with a subdivision of eight units, which is approximately 67 percent of the allowable density in the area. And we did that as a compromise. That compromise was reached at the last meeting.

The neighbors were also concerned about the setbacks, with reason. This area has a lot of slope issues and I want to pull out a slope map so you can just take a look at some of the slopes that exist in the area. The neighborhood directly adjacent to this development is Vista Redonda and you will be hearing from many of the people who live in that subdivision. They had a concern about slopes. They have a concern about ridgetops and you can see why. In their subdivision, and this is the slope analysis of the Vista Redonda Subdivision, which was created by Santa Fe County, you can see the large amount of slopes of over 30 percent on this subdivision. So they have a concern about ridgetops, rightly so.

I'd like you to compare it to the slope analysis done on Heather McCrea's property. Her property lies right where this arrow is and this green road is the other end of her property. And you can see that there's a flat area right there and on this end here. The development and the way that the lots are laid out are going to be placed in the flat areas of that development, of that land.

But despite the different slope issues there was still a concern with the neighbors with regards to setbacks. So we agreed to a 25-foot setback from the property line. We believe that is a sufficient setback because, one, it's beyond what the Code requires and two, the topography on this land is not as steep. It's a little bit easier to build on that Vista Redonda. So we believe it is sufficient for this type of development. I want to pass out to you some pictures because the slope analysis map and the maps of the surrounding area really don't do the area justice with regard to what kind of building there is out there. *[Exhibit 8]* And I want to give you a flavor of the area, the types of houses that are built in the area so that you can see how these houses are sitting, so you can ease your concerns that these are going to be monstrosities on top of ridgetops that are going to affect the entire area.

One thing to make a note of, the McCrea property sits higher than the Vista Redonda property. So if you look through some of these pictures and in particular – the only picture that's not numbered and I think it's the one at the end of your packet, shows the McCrea home at a higher level. So you can see that you can't see it well. And you can take a look at picture 3A as well. I think there's a big black arrow pointing to the house and you can see how it's being built and how really it's not open and huge and a distracter of the view in that area.

I'd also point you to picture 2B which also is taken from Vista Redonda, looking over

to Heather McCrea's property, and you can see again that the home that's been built there is not visible from – or slightly visible from the Vista Redonda property. I give these to you as examples of my clients' commitment to trying to work with the neighbors with regard to building homes that aren't visible from their area, with regards to the compromise that they've made to try to work out the issues on this development.

Commissioners, this case is not about personalities. It is not about a he-said-she-said argument. It is about whether or not this development meets the Code. And as I stated to you before, we had an allowable density of 12 and we are down to eight. We agreed to eight. We agreed to a 25-foot setback. We agreed to meet every standard set forth in the EZ Code with regard to building permits which will also include any concern that the neighbors might have with regards to ridgetop issues.

This case is a compromise and what is before you Commissioners, is a compromise that is a reasonable compromise that my client has made to meet the concerns that Vista Redonda has brought before you. We ask for approval for this development as it stands and we know and you are assured that this case will continue to have high scrutiny through plat recordation and building permit stage. I stand for questions if you have any.

CHAIRMAN ANAYA: Do you agree with the conditions?

MS. VAZQUEZ: Yes, we do, Commissioner.

CHAIRMAN ANAYA: Okay, are there any questions of Rosanna from the Commission? Okay, this is a public hearing. Is there anybody in the audience that would like to speak for or against this case? How about for this case? Okay, against this case, come forward. If you could state your name and address for the record, and then we will swear you in.

[Duly sworn, Christian Van Schayk testified as follows:]

CHRISTIAN VAN SCHAYK: Christian Van Schayk, 98B Paseo Encantado Northeast, Santa Fe. I'm president of the Vista Redonda Water and Property Owners Association. Vista Redonda has some 82 lots, 62 houses are built, another two are underway. We are not only a homeowners association we are also a mutual domestic water consumers association so we operate a small water system for our community, consisting of some seven wells, two large tanks, the pipes and so on. We were told by the state that we have one of the best small systems in the state. We do this through volunteer effort and we work hard. We're very proud of our community.

My purpose here is really to give you a brief overview of this issue which will differ to some extent from what you just heard. I would also like to say we will appeal for what we feel is a just and fair settlement. We will ask you to place height and setback requirements on those vacant lots that abut Vista Redonda and overlook Vista Redonda.

At the EZC meeting in November one of the Commissioners seemed to be under the impression that we have opposed this development right from day-one and let me just say that at the beginning of this, the story was not with the application for a development of ten units, the beginning of this story starts shortly after Mr. McCrea had bought the 30 acres adjacent to

Vista Redonda. He approached us to become part of Vista Redonda. We were delighted. We knew Mr. McCrea. The only question we had was with regard to water rights. As I said, we're a mutual domestic water association. That means we have a fixed water budget for the entire association. It's approximately 29.08 acre-feet per year. So at build-out, each of our homeowners has about 1/3 of an acre-foot per year, which is about 10 percent of what many private well owners have. So obviously, if we were going to bring in six units, because Mr. McCrea understood that we have a five-acre minimum. We had talked about bringing in six units, that we would need additional water rights in order not to dilute our present homeowners.

So he claimed to have such rights and we of course were compelled to vet those claims and so we hired a water lawyer, a lawyer that specializes in water issues and asked to confirm those claims. Well, after many thousands of dollars, unfortunately, the answer was that the water rights that Mr. McCrea claimed he had and were transferable, unfortunately were not transferable. And I have to believe – and we certainly were hoping that they would be transferable. Had the answer been different we wouldn't be here today and I think certainly the result would be better off for it and we'd be a lot happier.

I just want to just emphasize that initially we spent thousands of dollars not to stop this development. In fact we wanted to bring it into Vista Redonda and make it part of Vista Redonda, make it part of our water system. Why were we willing to spend that amount of money on this particular development? There were at least two reasons. First of course is that this is the first major development in over 30 years in this region. And we knew that if this development did not meet the standards that had prevailed for the past 30+ years that this would set a very dangerous precedent for subsequent development. In other words, the proverbial slippery slope. So that was certainly one major reason. The other reason that we were so concerned about this, and willing to spend the money as it were, was that obviously, the nature of this particular property is such that to the casual observer, it's part of Vista Redonda. It overlooks Vista Redonda. It is visible from much of Vista Redonda. So we wanted to make sure of course that it met the requirements and was consistent with the covenants that we had in Vista Redonda.

So just to summarize, I think, the density is such to the extent that this particular piece of property had a density greater than that of Vista Redonda not only had implications for future development but also, in effect meant that there was a transfer of value. That is it would detract from the value of Vista Redonda if you graft onto Vista Redonda a smaller development that has a higher density. The other concern of course was with regard to whether the placement of the aforementioned, the speaker before alluded to this, that the placement of those houses, especially the ones that overlook Vista Redonda. Of course it's very important because if they did not have the proper setbacks, if they weren't restricted in terms of their height, they would constitute a considerable negative impact, in terms of both aesthetics and environment, and that would detract from Vista Redonda.

So you can see that for both long-term, in terms of preserving the rural character of

this region and setting precedents for future development, that was certainly a concern of ours, and of course the more immediate concern with regard to the impact of this development on our property values. I would perhaps at this point ask my colleague on the board of directors, Ms. Keitha Leonard to come forth with what we hope is a modest proposal to try and steer a middle course and resolve this conflict. So if I may, I'd like to give the mike to Ms. Leonard and I would also certainly reserve the right to rebut or answer points raised during this particular hearing. Is there any questions?

CHAIRMAN ANAYA: Yes, Chris, I have a question. These pictures that were passed out to me – I don't know if you've seen them, but I'll let you look at them. I just want to know, are these Vista Redonda residences? Are all these pictures from your subdivision?

KEITHA LEONARD: We have some other pictures that show Tesuque Villas, in other words, what's proposed from Vista Redonda.

CHAIRMAN ANAYA: Ma'am, hold on.

MR. VAN SCHAYK: There are – let me say there are 62 houses in Vista Redonda. And I just noticed, I think, page number 41, which I do recognize as being part of Vista Redonda. There's 62 houses that are presently that are occupied in Vista Redonda. Now, there's a handful of Vista Redonda lots which are very, very narrow, all right? And where we have allowed two stories simply because of the very, very limited building envelope that you have. But these constitute, they are literally a handful. So I don't particularly think that the lowest common denominator should set the tenor for future development.

CHAIRMAN ANAYA: Are these pictures from your subdivision?

MR. VAN SCHAYK: I recognize some of them. I can't speak to all of them.

CHAIRMAN ANAYA: Because I was noticing them, all the ones that I see are on ridgetops. Thank you. Ma'am, you can come up.

[Duly sworn, Keitha Leonard testified as follows:]

MS. LEONARD: Hello everyone and thank you for hearing us tonight. My name is Keitha Leonard, and I'll say off the bat, I'm pretty sick and I have a pretty bad head cold and my head's pretty fuzzy. So I apologize for that. But I did feel that it was very important to come here tonight anyway because your decision tonight will affect a large number of people in our area. There are residents from Vista Redonda and Chupadero in the audience tonight, but there are many more residents who could not be here and who are very concerned about the decision that you will make tonight. And when we get home, we'll report back to the entire community, but rather than have everyone in the community troop in here and perhaps testify in front of you, Chris and I thought that we would try to summarize what our neighbors were thinking and basically what we're asking for. We're not asking for much, but just a few things.

As Chris mentioned, we don't oppose this development. We're only asking that in your official approval of this development, you impose certain requirements. These requirements are very reasonable and will impose no particular burden on Mr. McCrea or anyone else who builds a home on the ridgetop that Mr. McCrea now calls Tesuque Villas. The EZ board

recommended eight lots on this land. This is greater than the density of any other development in this area in the last 35 years. However, we are, as Chris mentioned, willing to accept eight lots as a compromise.

But we would ask that of these eight lots that you say that four lots would be on the ridgetop and four would be on the other side of the development which actually faces Highway 592, because those lots on Highway 592 are tucked in better. In other words, they just don't show as much. The ridge that faces Vista Redonda is much more sensitive. It's much more visible. And that's why I passed out those photographs. That's the view of the ridge taken from Vista Redonda. In other words, that's the ridge that we're talking about. That's the primary ridge that is so visible from all the other neighbors' points of view.

In addition to putting the requirement or restriction of having four lots on the ridgetop and then four lots on the other side – that still gives them eight lots – we're also asking for three very simple, basic, very easy requirements. As you can see, the lots in Tesuque Villas that face Vista Redonda are ridgetop lots, and I'm not sure what the actually shows in the plat, I didn't actually see it, but I just know from living out there that there's a ravine on that particular ridge, a very deep ravine on each side. So it is specifically a ridgetop or it's a ridgetop area. It's a ridgetop lot.

So these ridgetops, or this ridgetop and all of these lots will be highly visible from Vista Redonda and from just the neighbors in general. So our first request is that you require a setback of 50 feet from the ridgeline, or 50 feet from the nearest Vista Redonda property line, whichever is greater. We're asking for this setback on some of the lots only, not on all eight lots, and only on the unbuilt lots that would sit on the ridge that faces Vista Redonda. As I mentioned earlier, this is the ridge that is the most visible and the most sensitive and is the most vulnerable to negative developmental impact.

Now I need to qualify or clarify what we're talking about when we say ridgeline and property line. Ms. Rosanna said they would agree to a 25-foot setback from the property lines. Well, the problem with that is that on those particular lots, most of those property lines are way down in that ravine so it's not really of any use.

MS. VAZQUEZ: It's not because the property line is here, the ridgetop here and it's flat here on this area.

MS. LEONARD: What we're specifically asking for here – wait, yes, exactly. We have another – we have something else here. What we're asking for here is specifically a setback off the ridgeline, not the property line, and by ridgeline, what we're talking about is where the property starts to become a slope greater than 30 percent. So literally, we're just talking a setback from that point, rather than the actual property line itself, so there literally is setback from the ridge. As simple as that.

CHAIRMAN ANAYA: You don't want them on the ridge.

MS. LEONARD: Well, we don't mind them being on the ridge but we would prefer that he be backed up somewhat so that the visibility is lessened.

CHAIRMAN ANAYA: Are your houses on the ridge? Is your house on the

ridge?

MS. LEONARD: We do have some houses on the ridges because obviously, the whole area is ridgetop. Or I shouldn't say it that way because it's not ridgetop as the County defines it, but certainly, there are a lot of ridges out there. I mean, there's no question about it. And so that's literally all we're asking for, that he just be set back so it's less visible. So that the impact, the visual impact and the environmental impact is simply lessened. And again, if he's set back off the property line, in most instances, I don't think that's going to help. What we really need is a setback off the ridgeline.

There are a couple of cases, I think, where what we would actually need is a setback, in other words a 50-foot setback from the Vista Redonda property lines, because on some of these lots, it would actually – if it doesn't have a setback off the Vista Redonda property line it would be very close to a Vista Redonda house. And that's actually what Vista Redonda requires of its residents also. So to summarize, what we're asking for is that you state in your official approval that all buildings in this development have to be set back 50 feet from the ridgeline, or 50 feet from the nearest Vista Redonda property line, whichever is greater. And there's a lot of room on those lots to build even with this setback and also to – wait, let me mention this.

Ridgeline here, what we're defining ridgeline is is the area of the lot where the slope of the property becomes greater than 30 percent. So we're just literally asking him to be set back off of this.

CHAIRMAN ANAYA: Ms. Leonard, let me ask you a question. Did you say that Vista Redonda has a 50-foot setback requirement in their subdivision?

MS. LEONARD: Yes. What we require is that, for example, on a property line, if you're going to build close to that property line, it has to be a 50-foot setback. Is that what you're asking?

CHAIRMAN ANAYA: No, you were talking about the ridgetop.

MS. LEONARD: Exactly. In other words, what I'm saying is that on some of these areas, on some of these lots, we're also asking for a 50-foot setback from the Vista Redonda property line.

CHAIRMAN ANAYA: I understand that. I understand that but my question is does Vista Redonda have a 50-foot setback on the ridgeline?

MS. LEONARD: I'm not sure, sir, and I believe that our --

CHAIRMAN ANAYA: You just said that, I think.

MS. LEONARD: No, no. What I'm trying to say, and I realize I'm not being clear, is that Vista Redonda has a 50-foot setback from the property line.

CHAIRMAN ANAYA: Okay, from the property line.

MS. LEONARD: Yes. Exactly. In other words, and for example, on some of the houses that you saw photographs of, those lots where you have a two-story building, some of those lots are literally about 70 feet. So if you didn't build a two-story house on a lot like that you couldn't build it.

CHAIRMAN ANAYA: Thank you. I'm just trying to stay clear on what you're saying.

MS. LEONARD: Sure. Absolutely. No, I understand. And actually, just to continue on in the vein of the two-story houses, which is another request that I'll get to in a minute, those particular houses, as I understand it, the owners asked specifically for a variance from the County and received it, only because they couldn't have built on their lots otherwise. So there are some very narrow lots in Vista Redonda, not a lot, but a few of them.

Okay, so that takes me actually to my second request. My first was the setback off the ridge. My second request is that you state in your official approval that there can be no two-story houses on that same ridgeline. In other words we're asking that there would be no two-story houses on the unbuilt ridgetop lots that face Vista Redonda. And again, in Vista Redonda as I just mentioned some of those lots are very narrow. That's not the situation here. So the two-story houses are not necessary to get a house on that particular lot.

Now, my third request is that you state in the official approval of this development that there can be no guesthouses on these lots. The density in this development is already much greater than the historical density in this area. Most of the lots in Tesuque Villas are between 2.5 and 3.5 acres, while Vista Redonda and other older developments out there are a minimum of five acres or more. If you allow guesthouses on the lots in Tesuque Villas there would be 16 buildings in this development rather than eight. Obviously, this would greatly increase the perception of density that the community is so worried about.

Now, I'd like to say something about our three requests and the County Code. What we're asking for is either no different or not much different from what the County Code already requires. For example, under the County Code, there can be no guesthouses on lots that are less than five acres. Most of Mr. McCrea's lots are less than five acres. So most of these lots would not qualify for guesthouses anyway. It would be no extra burden on Mr. McCrea for you to state in this approval that there can be no guesthouses in this development. It's the same situation with the two-story restriction. At least two, and probably four of lots that are facing Vista Redonda are ridgetop lots as the County Code defines that. In other words, there's a steep ravine on either side of the lot.

Under the County Code, there cannot be any two-story buildings on these lots anyway. The height restriction on a ridgetop lot is 14 feet. So writing this requirement into your official approval will not create an additional burden on this development. And it will go a very long way towards minimizing the visual and environmental impact of the development. Some of our requests are already covered by the County Code. We're asking you, as a Board, to put them into your official approval of this development. We need to have these requirements in writing as conditions of your approval so that we have no further misunderstandings and no further arguments about this development. We don't want to be fighting about this later. We don't want to have to protest a request for a variance down the road. We really want this to be over with. If these restrictions are in your official approval, that would provide us with closure on all of these issues. We'd literally be done with it.

Unfortunately, we've had several misunderstandings with Mr. McCrea in the past year and a half and in fact, the level of misunderstanding reached a very unpleasant level. These misunderstandings are very regrettable and I'm sure that Mr. McCrea didn't like them any more than we did. That's again why we're asking that you put this in your official approval; it would help all of us.

So putting these three requirements into your official approval as specific conditions for this development to proceed would be a great benefit to our community and would also benefit Mr. McCrea. With these three requirements for a setback, no two-stories, and no guesthouses in your official approval, everyone will know exactly what can and can't be built in Tesuque Villas. There would be no further argument, no further misunderstandings and no further disputes.

The Code gives you the power to impose reasonable restrictions on a development to minimize environmental, visual, and other aesthetic impacts of the development. The Code also gives you the power to impose these reasonable restrictions to preserve the feel and spirit of a community. And that's what we're asking for tonight. These simple, basic restrictions – setback, two-story and no guesthouses that would all go a long ways to work to minimize the impact of this development and preserving the rural feel of our community. Thank you.

CHAIRMAN ANAYA: Thank you.

COMMISSIONER MONTOYA: Mr. Chairman.

CHAIRMAN ANAYA: Commissioner Montoya.

COMMISSIONER MONTOYA: Actually, there's four, Ms. Leonard, and that one was the first one that you mentioned, the four houses, one on each side.

MS. LEONARD: Oh, you're right. You're right.

COMMISSIONER MONTOYA: And I had a question on that. And this picture that you gave us, does that four include the blue, which is the McCrea house now? The four that you have here that are on ridgetop on one side and four on the other side, where does this blue one fit?

MS. LEONARD: That's the one that Mr. McCrea has already built. I think the construction is almost finished. So we're not worried about that one now. I mean that one's done. But the other ones, I think the other four ones are the ones that he's now proposing, that particular one in blue is in this proposed subdivision but it's already built. But there are four other lots that he's requesting and that shows what those lots would look like from our point of view.

COMMISSIONER MONTOYA: So there's nine total. A potential nine total houses on this.

MS. LEONARD: We're hoping, we're assuming – I thought that it was eight total. Is that what you're proposing, Rosanna? Okay, right. Eight lots including the one that's already been built.

COMMISSIONER MONTOYA: So there may be five here?

MS. LEONARD: Exactly. Right now –

COMMISSIONER MONTROYA: Which would throw this request out in terms of four on one side and four on the other.

MS. LEONARD: Exactly. That's what Mr. McCrea has proposed now. He's proposed five on the ridgetop and three on the other side that face the highway. What we're asking for is that you would say four on the ridgetop and four on the other side. He still has eight lots.

COMMISSIONER MONTROYA: Okay. And then the requirement – and this is for legal in terms of the 50-foot setback from the ridgeline. Can we do that?

JACK HIATT (Deputy County Attorney): Mr. Chairman, Commissioner, you can do it in terms of the aesthetics. This entire presentation appears to be the aesthetics and whether or not it fits. It sounds as if they are not even contesting the variance that's requested of the Commission and they're just referring to the aesthetics. And you have some reasonable parameters that you can address, but they sound like they have presented – I haven't heard anything that they've presented in opposition that doesn't fall within the Code. And the staff has been out there, seen the properties and made a recommendation to you.

COMMISSIONER MONTROYA: Okay. Thank you.

MS. LEONARD: Thank you.

KARL SOMMER: Chairman Anaya, members of the Commission, my name is Karl Sommer and my address is Post Office Box 276, Santa Fe, New Mexico. I represent the Vista Redonda Homeowners Association and I'll be very brief. Commissioner Montoya asked a very serious question. Do you have the authority to do this, and in this case, they're asking for a variance to one of your requirements that's aimed at safety, and that is the variance with respect to the length of a cul-de-sac. It was handed out to you tonight in Exhibit A [*Exhibit 7*], which is a letter from Mr. Romero who is the agent for the applicant. And he says a very telling thing in that presentation of that letter.

As you all know, the variance in this case goes directly to safety and fundamentally, a variance to a zoning requirement or a subdivision requirement rests on the concept of a hardship to the applicant that would result if the literal interpretation of the Code is applied. I know this because I tried a case in front of the New Mexico Supreme Court out of Albuquerque that set the standard in New Mexico for this issue of hardship, and it is what goes to a variance. And it's to allow a county or municipality to vary its requirements if the results would be harsh, unduly harsh on the owner. Now, that has to result from not a condition imposed by the owner or created by the desire of the owner, but by a condition of the land that is unique and not different from other areas near the land so that the property an owner can enjoy the rights usually enjoyed by other owners in the area.

And when I say that the letter from Mr. Romero is telling, it is important for a property owner that comes in front of you to ask for a variance that they demonstrate that all the criteria of your Code have been met to get the variance. And if you would look at letter C, on page 2, you'll see what I think is a quite honest admission of the applicant that there are no elements to this request that meet the criteria of a hardship. That is the central focus of a

variance. So I submit to you that the variance request is not the result of a condition of the property, it is a result of the design of the subdivision, and that is not the basis for a variance, and if you see fit to grant this variance, you have the authority to impose whatever conditions you think are reasonable to mitigate the effects that the variance would allow.

What would it mean in this case to not allow the additional 500 feet on the subdivision? It would mean there would be fewer lots. That's what the Code says. Because you wouldn't have the lots strung out along this ridge without that additional footage on the road. So if you grant the variance, you have the ability to impose reasonable conditions that mitigate the effects that the variance would allow. And in this case, what the variance allows expressly is additional lots. So if you take that road and cut it back 500 feet, you will find that there are probably two or three additional lots along the ridge that would otherwise not be there.

I think that this variance is suspect from the beginning because the criteria haven't been met. But if you see fit to grant it, you have the ability to impose height restrictions. You have the ability to impose setbacks from ridgelines and you have the ability to impose the criteria related to guesthouses. All of those mitigate the impact of the density allowed.

I think that what has been presented to you tonight here is the effort by the applicant to probably produce what is reasonable to the community in terms of the density, 12 lots on a gross basis would be allowed, eight are being proposed. I think that you hear a consensus that's probably reasonable. But reasonable under certain conditions, and the conditions that are being requested are height, guesthouses and setbacks. You have the authority to do that and I really believe that this variance is suspect, given the fact that the applicant has admitted that they don't meet the very criteria that are required for a variance, and that is that there is a hardship imposed by the condition of the land.

So I would submit to you that the request being made by the Vista Redonda Homeowners Association is not only reasonable, it probably is necessary to mitigate the impacts of the increased density allowed by the variance. We would stand for any questions you have. Thank you.

CHAIRMAN ANAYA: You're welcome. Any questions? Commissioner Vigil.

COMMISSIONER VIGIL: I have a question.

[Audio difficulties]

MS. VAZQUEZ: You have before you pictures, pictures that are very telling. Those pictures, and I believe the question was asked, are these Vista Redonda? Well, my client took those pictures and he took them from her property and his property, and they were on Vista Redonda. And what do you see as the flavor and the predominant look of the area? You see homes on ridgetops, approved by the County I'm sure with conditions. That's what we want; the same thing Vista Redonda has. You see pictures of two-story buildings. If they're allowed in the area, and the aesthetics are fine, and we're not on a ridgetop, we'll apply for a two-story, because it's allowed under the Code. But we will meet those Code guidelines.

There are also guesthouses. If we meet that requirement on accessory structure, we will go ahead and do what needs to be done with regard to the Code. With regard to the

question of changing the lots down to the four lots to the other side, all that we'll do is move the development over so that Chupadero, the traditional village, gets all of the lots. Secondly, it's not physically possible to create four lots that are a good size on that area because it's a much smaller, flatter terrain. The flatter terrain in that area is much smaller and can't hold four lots in that area.

With regards to the issue of the variance, the variance does not go directly to safety issues. It goes directly to topography issues. This lot is irregular shaped. It's rectangular in shape. It's very difficult to put lots in there and put them in a way where you can actually access them and that was why we requested a variance. And I believe that the variance criteria specifically state that.

And we have reduced the number of lots. We've gone down from 12 to 8 lots to address concerns with regards to that variance as well. My last point, which is a key point to us is when we went before EZC, we were asked specifically by that commission, take a break and figure out what you'll agree to. My client agreed to eight lots and Vista Redonda was asked, will you agree to eight lots. They went back, they huddled, they agreed to eight lots. They came back with everything else that they brought before you today, but we had agreed to eight lots on the condition that they would agree to the eight lots.

We will meet the County Code requirements, Commissioners. We just ask that no more conditions be put on this development until we have adequate information as to whether or not we're on a ridgetop here. We've already gone beyond what is required under the setbacks from ten feet to 25 feet from the lot line. We believe that is sufficient. Most of those lots can't even see the lots on Heather McCrea's property. Mr. McCrea would like to talk to you.

[Duly sworn, James McCrea testified as follows:]

JAMES MCCREA: Hi, my name's James McCrea. Being as we're at this last moment, I'd like to clear up some of the issues that were stated to this evening by Vista Redonda. As far as the initial meetings and then spending thousands of dollars, the first meeting consisted of meeting Mr. Burger and Mr. Rubel over at the Tesuque Market. I said, I'm thinking about buying this property, what do you guys think about incorporating into Vista Redonda? Sam Burger laughed at me and thought it was kind of funny, but said they'd talk about it. We had one meeting where I went to my attorney's office and an attorney that they had hired called that office and she said, well, you can't really transfer this property because it's a domestic well. That was the end of all negotiations, so I don't know how they spent thousands of dollars on that.

I would like to point out that that photograph that Vista Redonda submitted to you is a blow-up, a close-up. It is not the perspective of what the property really looks like. And the reason for that is two-fold, and that is the reason they're giving you a close-up, making it look like it's this thing just looming over Vista Redonda. When you look at the other photos that I submitted to you, there's no tricks involved whatsoever. Those are all taken from the highway, from the roads throughout Vista Redonda.

One major issue that has not been brought up here about the topography is, if I may, as displayed in their photograph, they're showing the images of all of these homes that are going to be, as I mentioned, looming over Vista Redonda. That's not true because as you noticed, this is our property. This is the west portion. These two lots, this lot – belong to the Sherwood family. Now they are at the exact elevation of our property, so therefore, for this section right here, over, you cannot see the edge of our property due to the fact that those two lots consist within the Vista Redonda development and they're at our same elevation, which any of these topo maps can show. So they're distorting the view.

And the reason we got the eight lots, to be quite frank, was because there was distorted information that was given by Vista Redonda as I mentioned in my e-mail to each one of you. So we came down to eight lots because of financial duress. We're not going to devalue their property. It's only going to increase their property, and at the first BCC meeting they sounded like an advertisement for us in a positive manner because they enjoyed what we did when I built in Vista Redonda.

As far as splitting the lots up, the theme of it is to drive in and you have a community, not to have four that are right next to the highway and they would be subjected to the noise of the highway, where the other two lots are. We feel that when we came in with this project, we looked at it aesthetically. I'm not looking to cram any houses on a piece of land. Our land is much flatter. You can notice the elevations, how consistent they are from one end of the property to the other and that doesn't exist in the Vista Redonda Subdivision anywhere. As you can see in some of those photographs, some of those homes are five feet from the edge of the arroyo that drops off a hundred and some feet. And they actually even testified is the reason they allowed some two-stories is that there's not enough room on the lot. Well, we don't have that problem. We're going to do a beautiful project and it's not going to devalue anything. I appreciate your time and thank you very much.

CHAIRMAN ANAYA: Thank you, James. Okay, Commissioner Sullivan.

COMMISSIONER SULLIVAN: A couple of questions, Mr. Chairman, for whoever, and the applicant would like to respond. The staff report, and the conditions mention .4 acre-feet a year, and your report mentions .49 acre-feet a year. That's in the packet on NB6-12. Someone may clarify, are you requesting .4 or .49?

MS. VAZQUEZ: Mr. Chairman, Commissioners, the well proved up availability of a .49. We agree to a .4. That was the compromise.

COMMISSIONER SULLIVAN: Okay. Then let me ask about the letter from the State Engineer dated May 13, 2005. That's NB6-59 in the packet. That letter says that the figures were based on a water use study by the City of Santa Fe. This method is flawed as the proposed subdivision is in the NPT, which means Nambe-Pojoaque-Tesuque adjudication area, where by court decree, outdoor water use by water obtained from a 72-12-1.1 domestic well is prohibited. This prohibition includes usages for livestock and landscaping.

The staff report says that the .4 is being needed to allow for horses and attached guesthouses. So could you comment on the uses of that .4 for outdoor water use for livestock

and landscaping in connection with the NPT adjudication area?

MS. VAZQUEZ: Mr. Chairman, Commissioners, two points with regards to that. The NPT adjudication area is just that, it's an adjudication area at this point. There's not been anything completely resolved in that. What was one of the reasons why, when we took a look at our water budget we did go down to a .4 because there was, there is a potential for some of the uses to be limited. When those uses are limited we will be covered by that adjudication and that final decree with regard to that. And any other further questions with regard to it can be answered by the utility director.

COMMISSIONER SULLIVAN: Okay, well let me go back to the letter again for whoever would like to respond to it. The letter from the State Engineer's office says the NPT adjudication area, where, by court decree, outdoor water use is prohibited. Now, as a lay person insofar as legal issues, I would read that to mean that the court has made a decree and that outdoor water use is prohibited. So it would seem that a reasonable use would certainly be down in the .25 area that everyone else has to commit to or I guess what they're figuring on in the Vista Redonda area according to the testimony is a third, which would be .33. Does someone want to explain that?

MS. VAZQUEZ: First of all, Commissioner, I believe that we will agree to the water conservation measures in the paragraph that you're referring to and with the court decree allowing no outdoor water uses, we'd be willing to reduce that water budget and eliminate the horses on this subdivision. And that would give a reduction of a .05 to the .4 water budget.

COMMISSIONER SULLIVAN: I don't know that we know that and my concern here is that – I certainly appreciate your agreeing to what the court has decreed but I would feel more comfortable about this if we had this water budget reviewed by our staff. This is a request not only for final development plan but for final plat. So we're having a shared well here. I don't see a water budget anywhere in the documents, other than the numbers that we just talked about insofar as breaking that out per item, and the only comments I see on the water budget are from the State Engineer where it says that it was based on the City of Santa Fe and this method is flawed. Is there any other document that is the water budget?

MS. VAZQUEZ: Mr. Chairman, Commissioners, the geo-hydro that was submitted to the utility director and that we sat down and discussed with him had the attached water budget. And that water budget detailed how much was going to be used for horses and based on the water budget that was submitted in the geo-hydro we reduced it down to a .4. So it has already been reviewed by your utility director.

COMMISSIONER SULLIVAN: Well, perhaps let me ask Mr. Wust then to comment on the adjudication area and the use of .40 acre-feet for horses and guesthouses.

DR. WUST: Mr. Chairman, Commissioner Sullivan, I can give you that whole background. First off, you'll notice, by review is before the Office of State Engineer, so based on their review, I agree with you. That is the adjudication area and I doubled checked that, and no outdoor use. That's my interpretation also, that there shouldn't be any outdoor use. In terms of what that does to the water budget, if you look at my review, I put there originally, a

one-sentence version of it, that this Commission went back and forth quite at length with Las Campanas and the Estancias at Las Campanas, debating about what would be a reasonable water budget for a house, a house and guesthouse, a house and guesthouse and a horse, and on those various permutations, the Commission approved for the Estancias, .4 acre-feet per year for a house, a guesthouse and a horse. And that's where that .4 number came from, and it was basically trying to be consistent with what this Commission had debated with the Estancias.

I believe, although I'm trying to recall from memory now that for a house and guesthouse, the Commission came to the conclusion of a .35. It may be slightly different from that but that's what I recall. So that's what I used when I gave my review on a water budget, instead of redebating what all these things come out to be, we have some precedent that this Commission had gone through with Las Campanas and the Estancias. And those were the numbers that I concluded. I would agree with you based on the Office of the State Engineer result that I would also conclude that we need to remove the horse part of that water budget and any outdoor landscaping. And so a .35 at most, or certainly a .33 which is what the mutual domestic uses should be reasonable for a house and a true guesthouse.

COMMISSIONER SULLIVAN: Okay, so that answers that question. So the .40 from Las Campanas, your recommendation there, that included landscaping and that included horses. They didn't have this restriction.

DR. WUST: Mr. Chairman, Commissioner Sullivan, that's correct. That's what I based it on.

COMMISSIONER SULLIVAN: So you're saying something, .33, .35 would be appropriate given the court decree. And the only other comment, Mr. Chairman, I would have on the water is that I'm sorry that they couldn't come to an agreement on connecting the systems. It seems a shame to be so close to a fairly large mutual domestic and not be able to connect it in. I don't know if there were any possible water conserving measures that Vista Redonda could take to reduce its .33. Perhaps with the assistance of the Tesuque Villas Subdivision financially or otherwise, to put in water saving devices and both come to a point .30 or a number that would then meet the water rights that they have. I guess that's not something, obviously, that we can dictate on the applicants but it does seem to be a waste of money to drill another well, several wells, and a waste of water.

The other question, Mr. Chairman, was again, we're at final plan and plat stage and we have no archeological study. The archeological review says it's a moderate archeological zone. The staff report says that a survey must be submitted. Here we are. Where is it? But even that, it's not one of the conditions that they submit it either. So I think if the Commission is going to move this development forward with whatever other conditions it wants to add, number one I would say that water usage should be – there should be no outdoor landscaping and no horses allowed and water usage should be no greater than .33 acre-feet. That would be one. And number two would be that the applicant must submit an archeological survey. Those are two comments I had, Mr. Chairman.

MS. VAZQUEZ: Mr. Chairman, an archeological has been submitted already.

CHAIRMAN ANAYA: Okay.

COMMISSIONER SULLIVAN: It's not in this packet, Mr. Chairman.

MS. VAZQUEZ: I'm not sure how they create the packets –

COMMISSIONER SULLIVAN: Mr. Chairman, I don't think it's appropriate. I think the applicant has had over an hour here. I'm not here to debate Ms. Vazquez. I think it's our turn now to debate the issue, and I think if she's called upon, and it's your job to decide if she needs to respond to an issue, but I'm quite frankly a little tired of being interrupted by Ms. Vazquez every time I try to say something. Now, the issue is that we are charged – and I don't have to tell you and certainly the other Commissioners this – with reviewing what is in the packet, and what is being presented to us for decision. Now, there is no archeological survey in the packet, and the memorandum from the staff dated January 10th, today's date, says that an archeological survey must be submitted. This memorandum is dated today. So my simple comment is that if we're going to approve this subdivision, then that needs to be a condition. I don't think that needs an argument. It's late and I really object to that type of tenor of this applicant.

CHAIRMAN ANAYA: Thank you, Commissioner. Is there any other comments from the Commission?

COMMISSIONER MONTOYA: Mr. Chairman.

CHAIRMAN ANAYA: Commissioner Montoya, then Commissioner Campos.

COMMISSIONER MONTOYA: Regarding the issue on the well, does this – this is a question for staff – is this part of the Pojoaque water basin? Is it subject to the Aamodt impositions, if you will?

DR. WUST: Mr. Chairman, Commissioner Montoya, I believe it is. I don't know the exact boundaries but it certainly looks like the area where we've been discussing the settlement negotiation that would be included. Whether it's in one of the – I think it's in one of the – what we discuss in the more extended areas as the water system grows, where it would reach in the future. And so not one of the immediate areas but certainly in one of the extended areas of the settlement.

COMMISSIONER MONTOYA: So as part of that water basin, then they're restricted to the post-1982 ruling of no outside use then.

DR. WUST: Mr. Chairman, Commissioner Montoya, that was my interpretation. I'm not a legal expert on this. But it's my interpretation of why the State Engineer talked about the adjudication. I'm not sure whether it's post-88, post-86.

COMMISSIONER MONTOYA: I'm subject to that; that's why I know.

CHAIRMAN ANAYA: Okay, are you done, Commissioner?

COMMISSIONER MONTOYA: Yes. That clarifies that. Is that correct?

MR. HIATT: Mr. Chairman, Commissioner, I'm not sure. I can spell Aamodt but that's about it. I'm not working on that settlement. I don't know the parameters. I'm not even sure I can spell it, frankly.

CHAIRMAN ANAYA: Commissioner Campos.

COMMISSIONER CAMPOS: Question for staff about guesthouses. What is the rule out there? Are guesthomes permitted?

MR. DALTON: Mr. Chairman, Commissioner Campos, in this are the density is 2.5 acres per dwelling unit.

COMMISSIONER CAMPOS: And the lot sizes proposed are?

MR. DALTON: They range from 2.5 acres to I believe a little over six acres.

COMMISSIONER CAMPOS: So not all of the lots will have guesthomes? Just certain? Or is it an average?

MR. DALTON: Mr. Chairman, Commissioner Campos, it's my understanding that the 2.5-acre lots would not under Code be allowed to have a guesthouse but the applicant's water budget and water availability does prove up enough water to allow a guesthouse on the property.

COMMISSIONER CAMPOS: So it's just a question of the hydro study.

MR. DALTON: That's correct.

COMMISSIONER CAMPOS: Thank you.

CHAIRMAN ANAYA: You're welcome. What's up with the archeological study? Do you have it and why wasn't it in the packet?

MR. DALTON: Mr. Chairman, the survey was not addressed in the applicant's report so we're not sure if that ever got submitted or not.

CHAIRMAN ANAYA: The survey wasn't addressed?

MR. DALTON: The arc. Survey.

CHAIRMAN ANAYA: The survey wasn't addressed.

MR. DALTON: The arc. issue wasn't addressed within the applicant's development plan report.

CHAIRMAN ANAYA: So they were supposed to, and they didn't?

MR. DALTON: That is a requirement that they do submit an arc. survey.

CHAIRMAN ANAYA: Okay. So is staff recommending approval?

MR. DALTON: Mr. Chairman, yes. Staff is recommending approval of this development.

CHAIRMAN ANAYA: Okay. Any other questions? Hearing none, what's the pleasure of the Board?

COMMISSIONER VIGIL: I have a question for staff.

CHAIRMAN ANAYA: Commissioner Vigil.

COMMISSIONER VIGIL: Is this the first time staff has heard from the Vista Redonda neighborhood representatives on the requests that they're making?

MR. DALTON: Mr. Chairman, Commissioner Vigil, these requests were also made at the EZC meeting.

COMMISSIONER VIGIL: Did staff have an opportunity to evaluate these requests?

MR. DALTON: Mr. Chairman, Commissioner Vigil, yes. Staff has.

COMMISSIONER VIGIL: And do you have a recommendation with regard to them?

MR. DALTON: Mr. Chairman, Commissioner Vigil, as far as the ridgetops, that determination has not been made. That determination will be made at the time if and when an applicant actually comes and submits for a building permit. Then County staff will go out there and make the determination whether or not it's a ridgetop. If it is determined as a ridgetop, then the applicant would only be allowed 14 feet maximum height on a ridgetop then the applicant would be allowed 24 feet.

COMMISSIONER VIGIL: And would that prohibit two-story homes?

MR. DALTON: Mr. Chairman, Commissioner Vigil, if an applicant is allowed 24 feet per residence that would allow for a two-story house on the property.

COMMISSIONER VIGIL: Okay. We currently have an ordinance, and it's not uppermost in my mind that I do recall that we need to review ridgetops with regard to access and I believe a 30 percent incline. Is that going to be a problem for this development?

MR. DALTON: Mr. Chairman, Commissioner Vigil, a ridgetop is actually defined as having 30 percent slopes on two sides of the property. That's what a ridgetop is defined as in the County.

COMMISSIONER VIGIL: Okay. And that determination will be made once you do the site visit.

MR. DALTON: That's correct.

COMMISSIONER VIGIL: Thank you. Thank you, Mr. Chairman.

CHAIRMAN ANAYA: You're welcome. What's the pleasure of the Board? I'll go ahead and make it. From the testimony that I have heard, looking and seeing from the pictures, I'm going to make a motion to approve this case. I see that the adjacent subdivision has houses on the ridgetop. They have two-story homes. I would like to add two conditions and that would be that the water usage be .33 acre-feet per unit, and that we work on getting an archeological survey before any building takes place over there. That would be 15 and 16. The acre-feet and the archeological.

COMMISSIONER SULLIVAN: Second.

CHAIRMAN ANAYA: Motion and second. Second by Commissioner Sullivan. Any further discussion?

The motion to approve EZ Case #S 04-4583, with two additional conditions listed above, passed by unanimous [5-0] voice vote.

XIII. B. 5. CDRC Case # V 05-5320- Mark Wood Variance – Mark Wood, Applicant, Requests a Variance of Article III, Section 10 (Lot Size Requirements) of the Land Development Code to Allow a Land Division of 12.94 Acres into Two Lots. The Property is

**Located at #11 and #12 Woodland Way in Cerrillos, within
Section 30, Township 14 North, Range 8 East (Commission
District 5)**

CHAIRMAN ANAYA: Jonathan, how are you?

JONATHAN SALAZAR (Review Specialist): I'm a little tired, to be honest, but I believe we all are.

CHAIRMAN ANAYA: I'm not.

MR. SALAZAR: On December 15, 2005, the CDRC met and acted on this case. The decision of the CDRC was to recommend approval of a variance of Article III, Section 10, that would be lot size requirements of the Land Development Code to allow a land division of 12.94 acres into two lots. The property is located in the Homestead Hydrologic Zone where the minimum lot size is 160 acres per dwelling unit. With water restrictions of .25 acre-feet per year, the density can be reduced to 40 acres per dwelling unit. Lot sizes to a minimum of 2.5 acres are allowed based on a water availability report as approved by the County.

There are currently two permitted homes on the property; each home is served by its own well and septic system. The applicant is making this request in order to put the two existing residences on separate lots in order to pass these homes onto his children. The property's current untraditional arrangement has limited his financing options and is affecting the value of his property.

Staff recommends denial of the request for variance based on Article III, Section 10 of the Land Development Code, which states that the minimal lot size in this area is 160 acres per dwelling unit or 40 acres per dwelling unit with .25 acre-feet water restrictions.

Again, on December 15, 2005, the CDRC met and acted on this case. The decision of the CDRC was to recommend approval of a variance of Article III, Section 10 of the Land Development Code to allow a land division of 12.9 acres into two lots subject to the following conditions. Mr. Chairman, may I enter the conditions into the record?

[The conditions are as follows:]

1. Water use shall be restricted to 0.25 acre-feet per dwelling. A water meter shall be installed for both homes. Annual water meter readings shall be submitted to the Santa Fe County Land Use Administrator by January 31st of each year. Water restrictions shall be recorded in the Santa Fe County Clerks Office.
2. The existing driveway will serve all homes.
3. The applicant must follow all other buildings permit regulations including terrain management improvements as required by staff.
4. The applicant shall submit an updated Environmental Department Liquid Waste Permit showing correct lot size and correct number of homes.
5. The applicant must submit a survey plat for Land Use approval and record and file the final plat.

6. Failure to comply with all conditions shall result in administrative revocation of the appeal.
7. No additional dwellings or land divisions will be permitted on these lots.

CHAIRMAN ANAYA: Commissioner Sullivan.

COMMISSIONER SULLIVAN: Mr. Salazar, you entered the conditions into the record. I don't see any conditions. Are there conditions?

CHAIRMAN ANAYA: Second page. One through seven.

COMMISSIONER SULLIVAN: I've got the wrong one here then. Got it.

Thank you.

CHAIRMAN ANAYA: Okay, Jonathan, thanks. Is the applicant here? Come forward. If you could, Mr. Woods, state your name and address for the record.

[Duly sworn, Mark Wood testified as follows:]

MARK WOOD: My name is Mark Wood. My address is 12 Woodland Way, Cerrillos, New Mexico.

CHAIRMAN ANAYA: Do you have anything to add, Mr. Wood?

MR. WOOD: Well, Mr. Chairman, Commissioners, I would just like to ask for approval of this variance to split this lot back into two lots like it used to be. There are two existing homes, there are two existing wells. There would be no increase in intensity of the use on this property, and it has been a hardship through the financing to the valuation of the property and to the ability to pass it on.

CHAIRMAN ANAYA: Okay, Mark. After spending some time with staff, they told me that when you purchased the property you did purchase it in two separate parcels and then you made it into one parcel, and now you're getting it back into two parcels. Is that correct?

MR. WOOD: That's correct. When I bought it as two, the two lots were stacked behind each other and what I first did is I came to the County to try and set up a density transfer to be able to build both the homes closer to the road. The back ten or so acres is beautiful cliff rockwork, sandstone, gorgeous property, and I'm a naturalist by profession, and I did not want to disrupt that property. So I came asking to have that transferred forward. At that time, they recommended the lot consolidation, although now I understand that I could have done a property line adjustment at the time and left it as two lots. At the point that I did that consolidation, I did not understand the impact to the financing and the value of the property.

CHAIRMAN ANAYA: Okay. Commissioners, do you have any questions of Mr. Wood? Commissioner Vigil.

COMMISSIONER VIGIL: When did you first purchase the property? How long have you owned it?

MR. WOOD: I bought it in 1997.

COMMISSIONER VIGIL: And do you have property anywhere else within the

County?

MR. WOOD: I also have a house in Eldorado.

COMMISSIONER VIGIL: Okay. Do you reside in Eldorado?

MR. WOOD: I reside at 12 Woodland Way. I reside on this particular property.

COMMISSIONER VIGIL: That's all I had, Mr. Chairman.

CHAIRMAN ANAYA: Thank you, Commissioner. Okay, this is a public hearing. Thank you, Mr. Wood. This is a public hearing. Is there anybody that would like to speak for or against this? Hearing none, what's the pleasure of the Board? I'd like to move for approval of this, since it already has two houses. It already has two septic tanks. It already has two wells, and you were just not aware of how the County operates. So I would like to move for approval on this case. Is there a second?

COMMISSIONER VIGIL: I'll second it.

CHAIRMAN ANAYA: There's a motion and a second. Any further discussion?

COMMISSIONER CAMPOS: That's with the conditions?

CHAIRMAN ANAYA: With the conditions.

The motion to approve CDRC Case #V 05-5320 passed by unanimous 4-0 voice vote. [Commissioner Campos was not present for this action.]

- XIII. B. 7. EZ Case #S 02-4324 – La Pradera Subdivision Phases II-VI. Gardner Associates, LLC, (John McCarthy) Applicant, Oralynn Guerrerortiz, Agent, Request Preliminary Plat and Development Plan Approval for Phases II-VI of La Pradera Subdivision which will Consist of 157 Residential Lots on 94 Acres. This Request Also Includes Final Plat and Development Plan Approval for Phases II and III, which will Consist of 97 Lots. The Property is Located Along Dinosaur Trail in the Community College District, within Sections 17 & 18, Township 16 North, Range 9 East (2-Mile EZ District, Commission District 5) [Exhibit 9: Additional letters]**

MS. LUCERO: Thank you, Mr. Chairman. On December 8, 2005, the EZC met and acted on this case. The decision of the EZC was to recommend preliminary plat and development plan approval for phases 2 through 6, and final plat and development plan approval for phases 2 and 3. On March 9, 2004, the BCC granted final plat/development plan approval for a mixed-use subdivision known as La Pradera Phase 1, consisting of 80 residential units and 16,335 square feet of commercial space, including live/work units on

69 acres.

On June 30, 2005, the EZA granted approval of a master plan amendment to the previously approved La Pradera Phase 1 mixed-use subdivision to allow an expansion of an additional 158 residential lots on 94 acres, subject to conditions and further analysis and alternatives regarding relocation of Dinosaur Trail. The applicant is requesting preliminary plat and development plan approval for phases 2-6 consisting of 157 lots and final plat and development plan approval for Phases 2 and 3 consisting of 97 lots. The phases as proposed are shown in the staff report.

This application was reviewed for access and traffic, water, wastewater, fire protection, solid waste, terrain management, open space, landscaping and archeology.

Recommendation: Staff concludes that there are still outstanding issues to be addressed. Water allocation remains an issue that needs to be addressed. Some of the other issues that staff had when this report was prepared have actually been resolved at this time. We have a letter from the Public Works Department addressing traffic control at Rancho Viejo Boulevard and Dinosaur Trail intersection. Also, we did receive a response from the State Engineer's Office and it was actually a negative response, but staff feels that there are still issues regarding the water allocation that need to be addressed prior to final development plan approval. Therefore, staff recommends preliminary plat and development plan approval only for phases 2 through 6, subject to the conditions as recommended by the EZC. The decision of the EZC was to recommend preliminary plat and development plan approval for phases 2 through 6 and final development plan and plat approval for 2 and 3, subject to the following conditions. Mr. Chairman, may I enter those conditions into the record?

[The conditions are as follows:]

1. The Water Service Agreement shall provide an allocation of water as required by the Utilities Department Resolution for 0.19 acre-feet per unit.
2. All redline comments must be addressed.
3. Final development plan and plat with appropriate signatures must be recorded with the County Clerk.
4. The grading and drainage plan must be signed and sealed by a Professional Engineer.
5. Road names and addresses must be approved by Rural Addressing.
6. Water restrictions, final homeowner's documents, and disclosure statement are subject to approval by staff and shall include but not be limited to:
 - a) Low water use front load washers using a maximum of 25 gallons per cycle.
7. All utilities must be underground.
8. The applicants shall address traffic control at the Rancho Viejo Boulevard/Dinosaur Trail intersection as approved by County Public Works and NMDOT.
9. The applicants must submit solid waste fees as required by the subdivision regulations.

10. All lots are subject to the Santa Fe County Fire and Rescue Impact Fees. This must be clearly noted on the final plat.
11. The applicant must submit an engineer's cost estimate and financial guarantee for all required improvements (i.e. road construction, street and traffic signs, fire protection, etc.). A schedule of compliance projecting time period for completion of improvements must be included. Upon completion, the applicant must submit a certification by a registered professional engineer that improvements have been completed according to the approved development plan.
12. Compliance with applicable review comments from the following:
 - a) State Engineer's Office
 - b) State Environment Department
 - c) Soil & Water District
 - d) State Department of Transportation
 - e) County Hydrologist/Utilities Department
 - f) Development Review Director
 - g) County Fire Marshal
 - h) County Public Works
 - i) County Technical Review Division
 - j) State Historic Preservation Office
13. The following note must be put on the plat:

Permits for building construction will not be issued until required improvements for roads, drainage, and fire protection have been completed as required by staff.
14. Credits and reimbursements regarding construction of off-site infrastructure (i.e., traffic signal) shall be subject to participation in a future infrastructure extension policy for district-wide improvements as required by the County.
15. Approved discharge permit from the Environment Department shall be submitted prior to plat recordation.
16. Water assignment from the Greer water service agreement must be completed prior to final plat/development plan approval.
17. The applicant must address the water allocation of 0.19 acre-feet per dwelling unit as required by the County Hydrologist/Utilities Director prior to final plat/development plan approval.
18. The affordable housing agreement is subject to approval by the Land Use Administrator.
19. Final development plan submittal shall include but not be limited to the following:
 - a) Details of proposed speed tables
 - b) Specific location and number of park benches for neighborhood park
 - c) Plans specifying 3" paved asphalt village trail

- d) Compliance with the signage regulations which allow a maximum of 220 sq. ft. signs for the entire subdivision (including phase 1)
 - e) Finish road grades at the approach of an intersection shall not exceed 5% for one hundred linear feet from the radius return of the intersection
- 20. Final plats are subject to compliance with the plat checklist.
 - 21. Final plat/development plan for all phases will require EZC/BCC approval.
 - 22. Water budget shall provide a minimum of 0.16 acre-feet per residential unit. If La Pradera can demonstrate a lower water usage with sufficient data, then we could agree to reduce the per-dwelling unit amount.

CHAIRMAN ANAYA: Any questions of Vicki from the Commission?

Commissioner Sullivan.

COMMISSIONER SULLIVAN: We don't have the letter from the Public Works Department. What does that say?

MS. LUCERO: It was just handed out, I believe, Mr. Chairman.

COMMISSIONER SULLIVAN: We just got one from the State Engineer.

MS. LUCERO: There should be one from Public Works attached to that also.

COMMISSIONER SULLIVAN: Okay. That's dealing with Bisbee Court in Rancho Viejo. Is that the one you're talking about?

MS. LUCERO: Yes, Mr. Chairman, Commissioner Sullivan.

COMMISSIONER SULLIVAN: Okay. Thank you.

CHAIRMAN ANAYA: Any other questions? The applicant, Oralynn.

[Duly sworn, Oralynn Guerrerortiz testified as follows:]

ORALYNN GUERRERORTIZ: Good evening, gentlemen. I'm Oralynn Guerrerortiz with Design Engenuity, P.O. Box 7258 here in Santa Fe. With me today is my husband, also with Design Engenuity. I sometimes call ourselves a mom and pop firm. That's pop. I'm mom, obviously. Also with me is Rosanna Vazquez, and the owners of La Pradera, which includes Bobby Lee Trujillo, John McCarthy and Alexis Greer. We also have in the audience the Bertrams, who owned part of this property and we're purchasing it from them.

We're presenting La Pradera once again. It's nearly identical to the last time. Some of you have seen it during the master plan stage. What we've got now is a little more detail and some of the things that we've agreed to with the neighbors, including a 195-foot setback from this border. We've added several split road sections. I don't if you can really see them but they're little green areas along what we propose as a new alignment for Dinosaur Trail. There's also these little dark areas that are speed humps. That's to help reduce the speed along that road and keep it to 25 miles per hour.

There's a total of 157 lots on 94 acres. Half is open space. There are two active parks. A kids' playground with equipment that my children chose. It includes a tire swing, an S-slide, a fire pole, a swinging bridge, and some other equipment. There's a pergola structure, which is a type of ramada structure, with a picnic table, a barbecue. There's also a 100-foot by 300-

foot large grassy area down in this area, and there is a horseshoe pitch. Trails criss-cross the project. All the amenities are open to the public and especially our nearest neighbors.

Right now, the school bus brings the children to this area right here. We are also providing a pull-out area for five cars to park while they wait for their children to get off the school bus.

CHAIRMAN ANAYA: Is that Richards?

MS. GUERRERORTIZ: No, this is the existing Dinosaur Trail. The existing trail takes a wicked bend on our property, and then another wicked bend. And so what we're doing is bringing the majority of the traffic will come through here, and in essence, only local traffic that's neighborhood will use this road down through here.

CHAIRMAN ANAYA: Oh, so I-25's on the top there.

MS. GUERRERORTIZ: I'm sorry. I-25 is up here. Yes.

CHAIRMAN ANAYA: Okay. Thank you.

MS. GUERRERORTIZ: The water conservation measures are top notch. All wastewater is treated at a wastewater treatment plant that was built already in phase 1. We'll be expanding that plant. The treated, reclaimed water is pumped back to each home and to our parks and all the outdoor landscaping and street trees will be watered using reclaimed water. No potable water will be used outdoors and there is one exception to that, and we do have this written in a report. Our neighbors would like us to plant screening trees right up front. We believe that the water budget for the 55 trees we propose to plant will take about .13 acre-feet a year. We'd like to go ahead and use our potable water to water those trees immediately, install those before we do other work on the property. Once we start having people living in the development, we'll turn off the potable water and we'll use reclaimed water. So it will take us a few years before we've got the water generated when we have people living there, but we want the trees to go in first, have a couple years to grow because the houses will take a couple years to develop.

CHAIRMAN ANAYA: The trees will take a couple of years to develop.

MS. GUERRERORTIZ: That's true too, because we want to get them started. It is possible. That's right. By the way, our water restriction that we're proposing, the covenants we're using, our 0.126 acre-feet per home. That's nearly one-half the typical home. Fifteen percent of the homes are affordable, 24 affordable homes total. All roads are paved, including we're going to pave the existing one that really is offsite. It serves the neighborhood. We'll pave this road also. We will be using County water. We'll make a connection on the County water system to complete a 12-inch line that you have, so that will complete a loop between Rancho Viejo and Richards Avenue. Our treatment plant is an advanced reclaimed water plant. It uses ozone and ultraviolet radiation to disinfect, rather than chlorine, and the reason we do that is because we reuse our water on plants and chlorine can hurt plants. This is a very healthy, green community and we hope you'll approve it tonight.

With phase 1 of La Pradera we've committed to some substantial offsite improvements. On the far west side where the frontage road or Dinosaur Trail meets up with State Road 14,

the new construction is ongoing right now to bring that into Rancho Viejo Boulevard at Bisbee Court. That work is being done by Rancho Viejo and our owners are contributing to the cost of that work. We also have a new intersection that we're developing at Richards Avenue and Dinosaur Trail. I think I have it here. We're moving the existing road – this is I-25 up here. Existing Dinosaur Trail comes in here. We're moving it much further south and we propose to put a traffic signal light in and those plans have been approved by the County and we're going ahead and getting proposal costs for putting that traffic signal in. It's our intention to go ahead and pay 100 percent of the traffic signal costs up front. We hope that in the future when other projects come in that they will contribute money back to us. I think you approved the Oshara project. Their phase 2 is supposed to contribute to that signal. So hopefully someday we'll get some of that money back.

There has been some discussion also about putting a roundabout here. We don't have a whole group of people here tonight, thank the Lord, about putting the roundabout here. And I know there's a lot of pros and cons for roundabouts versus signals, but one issue I hope – we'll bring it up again and I think it's the most important issue, is pedestrians can't cross Richards Avenue at a roundabout. It's impossible. Traffic signals provide a safe way for horses and people to get across this major road and that's one of the main reasons I think it should be a traffic signal. Otherwise, we'd have to put a pedestrian bridge in or something to do it safely, and no one has proposed to pay for that.

The final issue I wanted to discuss with you is the State Engineer's review. At our EZC meeting we had a bad review from the State Engineer. We had a lot of inconsistencies in our report. Those were errors, primarily on our part, my part, by throwing a report together. I spent tons of time on the engineering plan and not so much time on the report writing and there were little stupid errors in there which Mara Smith wonderful in catching. We cleaned up those inconsistencies and made it all consistent. We got a new report, we thought, for the first time this morning, I think. And I'm still scratching my head trying to figure out what's going on. I'd love to sit down with them. Our proposed water budget is .126. We have been recommended by Stephen Wust an extra 20 percent on top of that as a safety picture because .126 is pretty darn aggressive, and we agreed to that.

In the letter from the State Engineer the suggestion was there was no safety factor at all. There is a safety factor. Our budget of .126 – we have water for .16, and that's how much water we had for phase 2 and 3, which is what we're asking for final approval tonight. She also pointed out that we don't have water for the entire project. No, we do not have water today for phases 4, 5, and 6. And that's true. When we have got water we'll come before you and Rosanna will speak to the water issues in a little more detail.

We've asked for final approval on phases 2 and 3. We believe that the outstanding issue on this project amount to paperwork. There will be no more changes to our plans as you see them today. Therefore we hope that not only you'll grant preliminary approval on the entire project but final approval on phases 2 and 3, subject to conditions, and we agree to all conditions. Rosanna will speak further on the water issues and neighborhood issues.

MS. VAZQUEZ: Good evening again. My name's Rosanna and I wanted to talk a little bit about the OSE letter that you received today and talk to you a little bit about our sources of water that we have for this development. As Orallynn stated, our water budget was .126 and the utility director recommended a .16 water budget, which is what we have agreed to. We have put into place covenants at a .126 because we believe we can meet that, but we did agree to the .16. What the utility director also recommended was on top of the difference between the .126 and the .16, that an additional 20 percent be added to that .16. That would bring the water budget up to a .19. What we have in water service agreements that are available for this development is seven acre-feet from the Berridge water service agreement, 8.76 acre-feet from Greer, which gives you a total of 15.76 acre-feet of water for this development. The total amount that's needed for final development approval for phases 2 and 3 is 18.43 acre-feet, which is a difference of under three acre-feet of water. There is a condition of approval that requires us to get a water service agreement and we were going to go forward to do that. The chart that I've given you also demonstrates that we have 50.08 – fifty acre-feet of Pena Blanca water rights, and 5.53 of Stagecoach. So this development has the potential of 71 acre-feet of water.

So we're requesting final because we feel comfortable that we've got the additional water to convert into a water service agreement. And keep in mind, that is only under three acre-feet and it is only for the additional 20 percent safety factor.

I want to talk to you a little bit about those Pena Blanca water rights so that you're more comfortable with where we are on them. Greer Enterprises and the Santa Fe County entered into an intent to dedicate water rights and an acknowledgement, and what I'm passing out to you is that agreement. [Exhibit 10] That intent to dedicate water rights basically said you're going to give us 50 acre-feet. We've looked at it. It looks like good water rights and we agree to jointly apply to the Office of the State Engineer for the transfer of those water rights. That intent to dedicate is the first thing that you've got in this packet. It was approved in May of 2005, and what you see in the following packages are the applications, which are joint applications with the County of Santa Fe and Greer Enterprise to transfer that water.

So the 50 acre-feet is already in the process of being transferred now. All we need to do is complete the transfer process and enter into a water service agreement. That's why we feel comfortable asking you tonight for final development approval, because we've started the process, because the process looks good, and because it's only under three acre-feet of water that we need for an additional water service agreement.

I wanted to talk to you a little bit about some of the neighborhood requests and the efforts that these owners have made with regards to the concerns that were raised by the neighborhood. And I'm very proud to be working for these property owners because they've done an exceptional job with regards to listening to the neighbors and really coming to agreement on a lot of the major issues. When we met with these folks, when we initially submitted this master plan, we submitted for 211 units in this area. Once we submitted we went to the neighborhoods and they were very concerned about the density in this area. Their

main concerns were density and traffic.

So we sat down, we had various meetings with them, and we stopped the process before you so we could meet with them on our own accord and try to come up with a solution. The solution that we came up with was the buffer, which is 195 up to this point. That was the first things. The second thing was the school bus turn-out that Orallynn has talked to you a little bit about. The third thing was the decrease in the density from 211 units to 158 units. The fourth thing, which is a very important issue to the neighbors was the traffic. They did not want the traffic for this subdivision to go in front of their neighborhood. So we relocated Dinosaur Trail and we relocated it from right in front of the Vista Ocaso neighborhood to the area, the open space area adjacent to I-25.

We also addressed, in creating that road, some safety concerns. They didn't want high-speed traffic; we agreed. We put speed tables. We did a divided highway. We agreed to a speed limit in that area. In order to keep the traffic at a safe speed in that area.

The other thing we did is they wanted equestrian trails. We went ahead and provided equestrian trails as they requested. They wanted a new gateway to their development, something that said, Entering Vista Ocaso. We agreed to construct that. We agreed to the landscaping that Orallynn talked to you about, putting it up front first so they wouldn't see the construction and they wouldn't see – their view of the new subdivision would be buffered more. Our attempt was to put together a subdivision that not only was cohesive with the area, but was also going to create a subdivision in its own right that created a neighborhood, that created a place where people wanted to live. And that was why the relocation of Dinosaur Trail up to I-25 was a key component of creating a neighborhood and pedestrian-friendly subdivision.

I can't say that there are many subdivisions that I believe the owners have worked so hard to reach a compromise and I believe we can. And we are requesting final development approval because we just need a water service agreement for the safety factor. Out of the conditions that have been put into the record, Commissioners, there are only four conditions in that record that have not been met. One is the water service agreement, two are the redlines which we have not received to address. Three is the discharge permit and four is the submittal of the financial guarantee. Every other condition of approval that is set before you in the staff report has already been met by this applicant and we would respectfully request that you allow us the ability to get a water service agreement before we record the plat, keeping in mind it is below three acre-feet. I stand for questions on any of the information I've given you with regard to the water rights that we have, and anything else you may like me to address.

CHAIRMAN ANAYA: Any questions for Rosanna?

COMMISSIONER MONTTOYA: Mr. Chairman.

CHAIRMAN ANAYA: Commissioner Montoya.

COMMISSIONER MONTTOYA: Rosanna, the water rights, how old are those water rights?

MS. VAZQUEZ: Mr. Chairman, Commissioners, the Pena Blanca water rights

are pre-1907 water rights and that's the bulk –

COMMISSIONER MONTOYA: The Pena Blanca ones are pre-1907?

MS. VAZQUEZ: Yes. And they're 50 acre-feet.

COMMISSIONER MONTOYA: And those are the ones we're partnering with you as the co-applicants?

MS. VAZQUEZ: Mr. Chairman, Commissioner Montoya, that is correct.

COMMISSIONER MONTOYA: Okay. And that looks like it started in January of 2005?

MS. VAZQUEZ: June of 2005.

COMMISSIONER MONTOYA: June? What was the January date then?

MS. VAZQUEZ: That is the change of ownership of the water rights.

COMMISSIONER MONTOYA: Okay. Have there been any protests yet?

MS. VAZQUEZ: Mr. Chairman, Commissioners, there have been and I would request that you ask the County Attorney with regards to that. I know that John Utton has been working with some of the protests on that. I believe there's only one left that we need to resolve. Two left that we need to resolve.

COMMISSIONER MONTOYA: Steve, can you comment on any of the protesters?

MR. ROSS: Mr. Chairman, Commissioner Montoya, it seems to me that the Santo Domingo Pueblo and maybe some possibly some folks in La Cienega. I don't exactly remember. I think the La Cienega issues have been resolved but we're still talking to the Santo Domingo Pueblo.

COMMISSIONER MONTOYA: Okay. So that's maybe likely to happen? In terms of the transfer?

MR. ROSS: Mr. Chairman, Commissioner Montoya, did you ask whether it's likely to happen?

COMMISSIONER MONTOYA: Right. Whether it's likely to happen.

MR. ROSS: I think that would be a question better put to Mr. Utton. It seems to me that he's not overly concerned about the matter. There are some issues to work through with Santo Domingo but they're actually larger than the strict water rights issues. They have a lot of issues they'd like to talk to us about.

COMMISSIONER MONTOYA: Oh, okay.

MR. ROSS: Wide-ranging discussions. They don't seem to have any specific objections to this transfer once they learned what was being contemplated.

COMMISSIONER MONTOYA: Oh, okay.

MR. ROSS: I've attended some of those meetings.

COMMISSIONER MONTOYA: Okay. And Rosanna, regarding, you mentioned about having the water service agreement in place before recording the plat?

MS. VAZQUEZ: That is correct, Commissioner. That's our request. That you grant final approval. It would save us having EZC review again and BCC look at this for final.

And you would be protected because we would not be able to record the plat unless we got a water service agreement. And we're only requesting this because it's under three acre-feet and we've worked very hard on this development. We've stopped it to work with the neighbors and it's a reasonable request, I believe, for such a development. And Commissioner Montoya, I just want to point out that the Stagecoach rights that are attached in your application, these Stagecoach rights are in-basin rights. They're already adjudicated. So these Stagecoach rights would only require a change of ownership, a change of name to the County to be converted into a water service agreement. There would not need to be the same process through OSE because they're in-basin rights. So that's another set of rights that we have that could easily be converted to a water service agreement.

COMMISSIONER MONTOYA: The 5.53?

MS. VAZQUEZ: That is correct. And it would cover what we would need for final.

COMMISSIONER MONTOYA: Would you attach that condition that you're suggesting to number 1, or would you suggest that be a separate condition?

MS. VAZQUEZ: The request that we get the water service agreement prior to plat recordation? Yes, we would say it's part of number 1. Even though it doesn't say it, Land Use would not allow us to record that plat unless we had a water service agreement even if it doesn't say. But we would be fine adding that language to condition number 1.

COMMISSIONER MONTOYA: And you said that all of the other 22 conditions have been met, minus three?

MS. VAZQUEZ: There's four conditions that have not been met, the water service agreement, the redlines that we have not received back from Land Use, the discharge permit.

COMMISSIONER MONTOYA: What number is that?

MS. VAZQUEZ: Number 15. And the posting of the financial guarantee, which is done at plat recordation.

COMMISSIONER MONTOYA: Okay. So those are the four outstanding conditions.

MS. VAZQUEZ: Besides getting signatures from Land Use, which is required on every plat, yes.

COMMISSIONER MONTOYA: I had a question regarding the roundabout. Oralynn, you said that that would be impossible to cross?

MS. GUERRERORTIZ: Well, sir, a roundabout allows continuous traffic. It doesn't stop traffic moving down Richards Avenue. So somebody who wanted to cross Richards Avenue - we're bringing a paved trail all along Dinosaur Trail to Richards Avenue, and how would those people cross? You could put a bridge in or put a signal in to stop the traffic.

COMMISSIONER MONTOYA: Where would they be crossing to?

MS. GUERRERORTIZ: They would be going across the road to Oshara, to

hopefully the coffee shop that's going in there, that I believe is going in there, and to the Community College.

MS. VAZQUEZ: And the trails. The trails would continue through Oshara and over into the Community College.

MS. GUERRERORTIZ: That's a real down-side of roundabouts in my opinion. Especially if you're trying to create a community where people can move, on horses or walking or bicycles.

COMMISSIONER MONTROYA: Okay. Thank you, Mr. Chairman.

CHAIRMAN ANAYA: How do they cross the road in Europe?

MS. GUERRERORTIZ: I don't know.

COMMISSIONER SULLIVAN: They drive.

MS. GUERRERORTIZ: I don't think they try to in those areas. I don't know. Or do they have less traffic? It's Richards Avenue though, which has a lot of traffic.

CHAIRMAN ANAYA: Nobody walks. Commissioner Sullivan.

COMMISSIONER SULLIVAN: A question on the water rights and then after the hearing I've got another question. But if our requirement is that water rights be in place for final approval, I think the applicant understands that, they're apparently about three acre-feet short, I'm not quite sure what this intent to dedicate water rights agreement is. I guess it's agreeing that they intend to dedicate a water right. It's not signed by the applicant. It's not signed by Alexis Girard. It's not notarized, so I guess it's a piece of paper is what it is. I guess it occurs to me that if they want to move forward that they should move forward with the amount of development that they have enough water for instead of requesting final approval for 2 and 3, that they request it for 2 or 3 or whatever phase they want to do, until they have the water rights that they need to complete the process. Does that make sense? Does someone from the applicant want to respond to that? Other than your faith, I know, that everything will be fine and there will be no problems with La Cienega and there will be no problems taking care of the protest. Am I missing something here? It seems like you would want to come forward for the amount of project that we have the water rights in place for which is currently 15.76, right?

MS. VAZQUEZ: Mr. Chairman, Commissioners, I'll try to answer your question, Commissioner Sullivan. First of all, what you have in this packet isn't signed but there is a signed agreement, an intent to dedicate and that's what started the ball rolling on the application. The other reason why we thought we could request this is because when this Commission approved Oshara, there was an issue of safety factor. And there was not a water service agreement in Oshara that covered the safety factor. The argument that Oshara made to you is look, we've got a great water budget here and we want to be able to meet our water budget and we want to get the development approved. And so give us the opportunity to get that water service agreement before we record. And it was done that way.

In this case we've even less water that we need. And because the process has already started with the transfer we felt comfortable with the 50 acre-feet, and because the 5.53 acre

feet don't need to be transferred and can be converted to a water service agreement like that, we felt comfortable making this request.

COMMISSIONER SULLIVAN: Why don't you just go ahead and – and by the way, on the Oshara, my understanding was it was forgotten. The 20 percent was left out, but we later got it back in. Why don't you just go ahead and transfer the 5.53 right now? Then you'd have 21 acre-feet. Then you'd have enough. Why don't you just do that now?

MS. VAZQUEZ: Mr. Chairman, Commissioners, we would agree to do that and enter into a water service agreement that would be heard before you as soon as we could get it onto the agenda we would.

COMMISSIONER SULLIVAN: No, no. I'm not talking to agreeing to it. I'm talking about the conditions of plat approval are that you have adequate water for the development. That seems to be fairly understandable to me. So my suggestion is the staff is not recommending final at this point. They're recommending preliminary. So my suggestion is that in the interim that you go back and transfer the 5.53 and then you'll have enough for phases 2 and 3. Wouldn't you?

MS. VAZQUEZ: You're right, we would. But we've made this request and we appreciate being able to do that so we could go forward with phases 2 and 3.

COMMISSIONER SULLIVAN: I understand you made this request. Ms. Vazquez, in the last public hearing we just had you made a very long and involved point about complying with the County Codes and that that development complied with the County Codes. Now, would it be unreasonable for us to suggest that the development should comply with the County Code. That you need enough water to move forward with the phases that you're proposing. Is that unreasonable?

MS. VAZQUEZ: Mr. Chairman, Commissioner, that is at your discretion.

COMMISSIONER SULLIVAN: I think it's in the Code. I don't know that it's in our discretion. I think it's what the Code says. Is that your understanding of the Code?

MS. VAZQUEZ: My understanding is that before final recordation – I believe

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COMMISSIONER SULLIVAN: Are you asking for a variance of the Code? I didn't see a variance on that?

MS. VAZQUEZ: Mr. Chairman, we are not.

COMMISSIONER SULLIVAN: Okay. You are not asking for a variance. Okay. So I think we're in agreement that the Code requires that and I think you're asking us to waive final plat and approve final plan with the condition that you get these water rights. Am I summarizing it correctly?

MS. VAZQUEZ: Mr. Chairman, Commissioner, I think you're about right.

COMMISSIONER SULLIVAN: About right. Okay. That's as close as I'll ever get. I don't think that's good policy, Mr. Chairman. I think the staff recommendation is appropriate in this regard until we get the water in place. But I think we should probably go ahead with the public hearing.

CHAIRMAN ANAYA: Thank you. Okay, this is a public hearing. Is there anybody that would like to speak either for or against this project? Hearing none, is there any other questions of the applicant? Commissioner Vigil.

COMMISSIONER VIGIL: I have a question of Steve Wust. Steve, have you had an opportunity to evaluate this and what is your recommendation?

DR. WUST: Mr. Chairman, Commissioner Vigil, I have reviewed it through master plan, preliminary and final request now. It was my recommendation that the water budget be .16 and with a 20 percent line capacity addition that we put on our utility. That comes out to .19 per unit, which puts them a little short by a few acre-feet. The question about whether to allow it to move ahead without that final water service agreement is a policy question that I leave to the Commission. It's certainly doing a water service agreement for a few acre-feet should not be an issue. The water rights look – certainly the Stagecoach ones are do-able. They Pena Blanca are probable. I don't know how much, if it will be all 50 acre-feet. But there's always a timing issue on some of these when they go to the State Engineer. But certainly we can enact a water service agreement once the transfer takes place. But whether to allow it to go forward without a water service agreement in place at the moment is a policy decision the Commission needs to decide.

COMMISSIONER VIGIL: You're just a lot of help.

COMMISSIONER SULLIVAN: Mr. Chairman.

CHAIRMAN ANAYA: Commissioner Sullivan.

COMMISSIONER SULLIVAN: On another issue, the traffic and the plan, the master plan approval that was done on June 30th, which was moved by Commissioner Vigil and seconded by myself, was approved with the staff conditions and two additional conditions. One was to set aside the issue of Dinosaur Trail for further study. There was a great deal of discussion about where that was, and alternatives be presented at preliminary. Now, from what I see in the plan is your response to those alternatives is to just put some speed tables there? Is that it?

MS. GUERRERORTIZ: We added speed tables and split road sections, added more curves to the road to again help reduce the ability for cars to go more than 25 miles per hour. It's pretty impossible to cross a speed table at more than 25 miles per hour and I think that assures it. And we basically have something, whether it's a split road or a speed hump, every 300 feet.

COMMISSIONER SULLIVAN: It would seem like, and my concern all along is this is going to be – and apparently the neighbors as well, that it's going to be a frontage road and a high-speed alternative to get to Richards Avenue. It would seem that if you were going to do that that should have been done on phase 1 as well.

MS. GUERRERORTIZ: I think that when we worked on phase 1, that issue never had come up. It certainly did come up in the discussions with the neighbors this time so that's why we suggested these changes and these alterations. The existing stretch of Dinosaur Trail that runs further from this property, further to the east is a straight shot. It goes up and

down vertically but there's no curves in it at all because there's a limitation on right-of-way. So there really wasn't that ability to do it. Although I think people do go down that road more than 25 miles per hour and you could probably speak best to that, Commissioner.

COMMISSIONER SULLIVAN: I would suggest in consideration that if you're going to continue with – if that's the solution – I don't see any alternatives here as requested, that those speed humps continue in front of phase 1 as well, which is still under construction. They haven't finished the paving on that. At least not as of this morning.

MS. GUERRERORTIZ: I will say that we did meet with the Public Works Director, Mr. James Lujan, and he did approve this design. But sir, if you want to speak to further speed reductions, I don't think we can add, because of the right-of-way issues, we don't really have a lot of space, but maybe speed humps could be added.

COMMISSIONER SULLIVAN: I don't understand how a right-of-way has anything to do with speed humps. I was just talking about speed humps in front of phase 1.

MS. GUERRERORTIZ: Oh, just in front of phase 1? Great. We could do that.

COMMISSIONER SULLIVAN: I don't understand how right-of-way would have anything to do with it. I'm just talking about, obviously, you can only be responsible for the parts of development you're doing. I have a larger question though for the Commission and for the staff. It has come up on this project and it will come up on other projects. The relocated Dinosaur Trail, which you see to the north there, that's just vacant land now. It's in shrub brush. There's nothing there. That's located within the 265-foot highway corridor setback, the so-called required setback. There's two kinds of setbacks in our highway corridor ordinance. There's a required and a desired. And the 265 feet is within the required setback. And that forms the edge of their lot.

Okay. The question is, what can you put, what can you build in the required setback? Obviously, you can't build homes there. And it was a question I had for myself. So I went back and I looked at the ordinance that formed these setbacks and how it was formed. The ordinance that formed the highway corridor setbacks was 2000-12. That was before my time, or actually before any of our times here on the Commission. But in that ordinance, they – it was 2000-1. That's what formed it. And in that ordinance they incorporated the corridor plan. The corridor plan defines the required setback as this is the minimum setback for development. So that means no development on the setback.

Now, the problem I have is that I find no definition for the word "development". So I only can look at how the corridor plan setback was determined. And I wasn't ever quite clear about how that happened. But how it was determined, and it's in the corridor study, which was a part of the ordinance. The whole study is incorporated by reference in the ordinance – everything – all the little annotations and everything. How that was determined was by a study that was done by Taschek Environmental Consulting in 1998, and it was determined by doing a 65 decibel noise level and adjusting that distance to the topography. In other words, if you have hills in the way then your distance is less. If you have a flat area, your distance is more.

So what we have is now, is we have that setback is there for noise purposes. Now, if

we build another road there, we're going to be contributing to that noise, we're going to be adding to that noise. And this is going to come up again in other developments in the Highway Corridor Ordinance as we get along 599 for other projects. I think it's pretty clear that development includes roads. And I think what we're doing, what's being suggested here is to build a portion of the development in the highway corridor and contribute to the noise level and change that noise contour.

So I don't think a road is appropriate in that corridor. And I also looked at the Community College District plan to see if we had any definitions in the Community College District Plan that would give us any more guidance. All I found in the Community College District Plan was the maps that form the part of the plan show the 265-foot highway corridor, and they call it a buffer. And it's shown on the maps. There's no definition as to what can go into that or not go into that. So you have to go back to the initial 2000-01 ordinance to determine how it was developed. And quite frankly, the way I read the ordinance, you can't construct highways or roads in the highway corridor setback or anything that would create noise, because that then changes the setback.

I'm sure the applicant has addressed this and has thought of this and so I would certainly want to know what their thoughts are on that as well, or how they would ameliorate the problem of keeping the noise at 65 decibels. I guess you could put a big barrier there, but if you did that it would look awful ugly and I don't think the residents would like that either. Particularly the ones that were purchasing lots.

MS. GUERRERORTIZ: Thank you, Commissioners. Commissioner Sullivan, we've done a lot of reading of the Community College District Ordinance ourselves. Our understanding of that ordinance is that there are several things that are allowed in that setback: playgrounds, fields, trails, even cemeteries, and roads. The road itself that we're proposing is depressed a few feet. I think it's on the average, three feet, as much as five feet. We're doing that in part to help reduce noise to our neighborhood, because we'll be the closest neighborhood to this new road.

CHAIRMAN ANAYA: What do you mean by depressed three feet?

MS. GUERRERORTIZ: Oh, depressed meaning from natural grade, we're going to push the road down. We're going to remove dirt and it's going to be a minimum of three feet down. Our average is three feet down and that's because I wanted the headlights lower than the houses, so the headlights will be partially hidden, in some places by as much as five feet. Again, in general that helps with noise and light pollution coming from that road, and that's again to protect our neighborhood, which is the closest neighborhood and also in consideration of the Vista Ocaso neighborhood.

There is also one other thing. Rosanna could probably speak best to it. It's regarding the Al Pitts study and the designation of Dinosaur Trail as a primary road.

COMMISSIONER SULLIVAN: Before we get to that - I think I still have the floor, Mr. Chairman - could you show me where in the Community College Ordinance that that does, because by, I'll tell you. I really looked for it, where that says you can have

playgrounds and roads in the ordinance? I looked through the chart. I don't see it in the chart. It calls it a buffer and it says nothing is allowed in a buffer. It's number 7 on the chart, circled 7 is the corridor setback. Could you – I have a copy of it here if you wanted to – if you're familiar with it. If either of you are, and you can show it to me because I really was interested because this is going to be an issue that we're going to have to deal with, not only with this development but with others as well.

MS. VAZQUEZ: Mr. Chairman, Commissioner, I think they've gone to get the plan, but I think it's a plan issue. I don't think it's an ordinance issue. I'd have to check the ordinance again. But when the planning process was done for the College District there was a lot of study as to what could and couldn't be done in the setbacks.

COMMISSIONER SULLIVAN: I read through the entire Community College District Plan also, and I have the ordinance here. I have the plan here, and I have the land use table, and I have the big, large table. So anywhere on those documents, could you point out where we have that direction as to what can go in the highway corridor. I have the ordinance – no, I don't have the full plan. I take that back. I have the ordinance. I have the corridor plan is the plan I have. I don't have the CCD plan. But I have the land use chart that goes with the plan. But I read through the plan and I'll just also mention that I did discuss it with staff and we read through the plan together and we couldn't find it, so I'm really excited that it's in there, and I'd like to know where.

MS. VAZQUEZ: Mr. Chairman, Commissioner, I can't quote you where it is. I can, based on the fact that we were involved in the planning process, is that there was a lot of discussion on this very topic, Commissioner Sullivan, because the highway corridor actually takes a large portion of the Taurus project and there was a large buffer on the other side of Oshara, close that existing neighborhood. So there was a lot of discussion with regards to it. I'd have to pull out the plan.

COMMISSIONER SULLIVAN: They'll get it. And if you can point right to it, that will answer my question immediately. But you can see my concern is that the basis of the highway corridor boundaries are a 65-decibel sound boundary. That's how they drew those lines, all up and down 599 and I-25. And it was done by Taschek Environmental Consulting. So if we're putting another highway there, we're obviously putting more noise in that corridor. So that seems to be contrary to the intent of the corridor, which is to set back a development to a point where it gets below 65 decibels. Does that make sense?

MS. VAZQUEZ: I understand your point, Commissioner. I just want to talk a little bit about the Al Pitts study because I think it relates directly to what you're talking about. When Al Pitts was contracted by the County to take a look at where roads should go in the College District, Al Pitts specifically reviewed where Dinosaur Trail should be. And he had several options to look at, recommended by the County Commission, by staff and he did look at them. And one of the options that he looked at was creating the road along this area and moving that boundary down. That was one road configuration and road location that he looked at. The other one that he looked at was completely moving Dinosaur Trail all the way down

behind Churchill Estates, and coming up that way. And that was rejected by the Al Pitts study.

What the Al Pitts study did approve was a couple things, and they're key points to this point, Commissioner Sullivan, and that is –

COMMISSIONER SULLIVAN: Wait a minute. Did the Al Pitts study have some ability to approve things? The only document I know that has received Commission approval is the Community College District Plan. We've never completed the transportation study that Al Pitts participated in. It's been promised for many years, but that transportation study has never been done and never been brought to the Commission and never approved.

MS. VAZQUEZ: Two points on that. What he studied was the plan that you all approved, the road plan that you approved in the College District Ordinance. That's the first thing he studied, with a bunch of variants to it. The second thing, it was presented to you and the recommendations in that plan were presented to you, and I don't believe that Al Pitts was ever given a request for further traffic studies for that area. But getting back to the point, Dinosaur Trail, in that study that was requisitioned by this County, was looked at as a primary road. And therefore its location with regards to neighborhoods and sound was specifically looked at. I think that was one of the reasons why we felt comfortable going with the neighborhood recommendation to move that road up by I-25.

COMMISSIONER SULLIVAN: You mean Al Pitts in his study determined that the 65 decibels would not change with the inclusion of that road on the highway corridor?

MS. VAZQUEZ: Al Pitts' study recommended that this was the best location for the road, given the fact that it was going to carry so much traffic. That's what he recommended.

COMMISSIONER SULLIVAN: I see.

MS. VAZQUEZ: He rejected moving it down here, Commissioner Sullivan, and he approved and recommended that we move the interchange down on Dinosaur Trail, which we did. He recommended a stoplight there, which we've also agreed to. It's not directly on point, Commissioner Sullivan, but I think it's a notable point that needs to be brought up.

COMMISSIONER SULLIVAN: I understand. But if you'll look at the traffic plan in the Community College District study, it shows Dinosaur Trail where it is now. It doesn't show Dinosaur Trail along I-25. It shows it in its current location.

MS. VAZQUEZ: That is correct.

COMMISSIONER SULLIVAN: Is that correct?

MS. VAZQUEZ: And that is what I said earlier, that they studied it –

COMMISSIONER SULLIVAN: That's the plan.

MS. VAZQUEZ: But they also studied –

COMMISSIONER SULLIVAN: That's the plan that created the Community College District Ordinance. There's been no other amendment to the Community College District Ordinance other than the terrain amendment that you all did for this project, changing the contours. So there's been no change. That location of Dinosaur Trail is not on the Community College District Plan and it's not in the 65-decibel requirement if we put a road

there. So it would seem that if you want to put a road there, and I'm not saying that you shouldn't, that you need to move back, you need to redefine where 65 decibels go and move your development back to accommodate that.

MS. VAZQUEZ: I'm not addressing the 65 decibel issue, Commissioner. I'd like to look at the ordinance with regards to that. I do know that Dinosaur Trail was a road that was designated as requesting needing further study. I think that's why Al Pitts is important.

COMMISSIONER SULLIVAN: That's my point. I think we're premature at this point to go to final, not only because of the water issues and the staff recommendation but because of this issue of what can be constructed in the highway corridor setback. Thank you.

CHAIRMAN ANAYA: Thank you. Commissioner Montoya.

COMMISSIONER MONTOYA: Mr. Chairman, I guess I'll just say I'm glad that discussion is over because I didn't see how it was germane to the four issues, at least the four issues that the applicant has said that are remaining that are outstanding, none of which discuss anything about traffic or Dinosaur Trail.

COMMISSIONER SULLIVAN: It's germane, Commissioner Montoya, because the master plan approval was contingent upon an analysis of the traffic situation. Those were two additional conditions that were added to the master plan approval and the presentation of alternatives. So I think it was unresolved at the master plan level. And we went ahead, took the leap of faith, I seconded the motion, and said, okay, let's have an analysis of the alternatives and let's have the traffic issue thoroughly vetted. We have a suggestion for speed bumps but we don't have an answer to what goes into the highway corridor, and we don't have any alternatives to look at either. So I think we're still not – I think we're still at a preliminary level here and we're not at a final level. That's why I think it's germane to the issues.

COMMISSIONER MONTOYA: So it should be a condition then.

COMMISSIONER SULLIVAN: Well, it was a condition. It was a condition at master plan approval. It hasn't been met yet. So do we just keep rolling forward the conditions, or do at some point we say let's get that solved.

COMMISSIONER MONTOYA: Well, on this it says staff concludes there are still outstanding issues regarding water allocation, water assignment, traffic control at Rancho Viejo and Dinosaur Trail, but it's not a condition. They're addressing it here as it being an outstanding condition but not –

COMMISSIONER SULLIVAN: You're right. They don't put it as a condition. They say in their approval letter or their recommendation letter, that traffic control is an outstanding problem which is why they're only recommending preliminary.

COMMISSIONER MONTOYA: For 2 to 6.

COMMISSIONER SULLIVAN: Correct.

COMMISSIONER MONTOYA: And final for 2 and 3.

COMMISSIONER SULLIVAN: No, they're not recommending final for 2 and 3. They're recommending preliminary for the whole subdivision. That's the way I read it.

COMMISSIONER MONTROYA: Oh, it was EZC who recommended –
COMMISSIONER SULLIVAN: Correct.

MS. VAZQUEZ: Mr. Chairman, there is a definition, actually, that might help you with your decision making on this issue. In the highway corridor ordinance, if you look under required setback, it means the minimum setback from the edge of rights-of-way from Interstate 25 and New Mexico 599 from which buildings shall be located as established in the official Highway Corridor Ordinance map. So it prohibits buildings within that setback but does not prohibit anything else. And I think that's where we're coming from in the College District Plan. You can't put a structure, you can't put like a building in a setback, but you can use it for playgrounds, you can use it for cemeteries, you can use it for roads, you can use it for a lot of things because you want to be able to use it, but that's the only place where it speaks to it. And that's on page 3, under definitions, and it's definition number 8.

COMMISSIONER SULLIVAN: Mr. Chairman, let me just expand on that. Where Ms. Vazquez is reading from is Ordinance No. 2002-1, which is amending the EZ Ordinance, and replacing map 5, and putting in a Section 9.9. Under Section 9.9 are those definitions. Now, if you go up to paragraph 6 in there, it says Section 9.9, which is where Ms. Vazquez read those definitions, shall apply to all properties in the Highway Corridor Special Review District with the exception of the area that falls within the Community College District. So that definition that she just read does not apply to parcels within the Community College District.

MS. VAZQUEZ: The Community College District did incorporate though the highway corridor. And it's set out in the map that was adopted.

COMMISSIONER SULLIVAN: It set out, all it says is Highway Corridor. So you don't go to Section 9.9 because that doesn't apply. You go to the original Highway Corridor Ordinance which is 2009-01, which says that there is no development in the highway corridor. So the definition that you read is not applicable, none of the definitions are applicable to the Community College District. The two documents you have to work with are the Community College District Plan and ordinance itself, and the Highway Corridor Ordinance. That's what you have to work with.

MS. VAZQUEZ: I don't have that 2000 ordinance to look at.

COMMISSIONER SULLIVAN: Here it is right here if you want to look at it.

CHAIRMAN ANAYA: Okay.

COMMISSIONER SULLIVAN: Mr. Chairman, I would move for adoption of the staff recommendation with regard to this project, including the conditions as outlined.

CHAIRMAN ANAYA: The recommendations were –

COMMISSIONER SULLIVAN: For preliminary approval of phases 2 through 6, but not final approval of 2 and 3 until these staff issues as well as the corridor setback issue is properly researched.

CHAIRMAN ANAYA: There's been a motion. Is there a second?

COMMISSIONER CAMPOS: I'll second it.

CHAIRMAN ANAYA: Motion and a second. Any more discussion?

The motion to support staff's recommendation in EZ Case #S 02-4324 tied 2-2 by voice vote with Commissioners Anaya and Montoya voting against the motion.

CHAIRMAN ANAYA: It's a tie so we'll wait till Commissioner Vigil gets back, put it back on the agenda and we'll vote again. Thank you all.

XIV. ADJOURNMENT

Chairman Anaya declared this meeting adjourned at approximately 11:25 p.m.

Approved by:

Board of County Commissioners
Mike Anaya, Chairman

Respectfully submitted:

Karen Farrell, Commission Reporter

ATTEST TO:

VALERIE ESPINOZA
SANTA FE COUNTY CLERK