

SANTA FE COUNTY
REGULAR MEETING
BOARD OF COUNTY COMMISSIONERS

October 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 Harry Montoya, 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 Harry Montoya, Chairman
Commissioner Virginia Vigil, Vice Chairman
Commissioner Paul Campos
Commissioner Mike Anaya [participating telephonically for portions of the meeting]

Members Absent:

Commissioner Jack Sullivan

V. Invocation

An invocation was given by Chaplain Jose Villegas.

VI. Approval of the Agenda

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- B. Tabled or withdrawn items**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

ROMAN ABEYTA (County Manager): Thank you, Mr. Chairman. Staff is requesting that item X. Consent Calendar, B. 1 be tabled; that item XI. Staff and Elected Officials' Items B. 1 be added to the agenda, which is a resolution proclaiming October as Fire Prevention Month; and under Public Hearings, XII. A. 2, that case has been tabled. And we received a request this afternoon to withdraw case 7. EZ Case #V/S 05-4490, Cielo Son Risa Subdivision. And there are no other changes from staff, Mr. Chairman.

CHAIRMAN MONTOYA: Okay. Roman, on that withdrawal, does that mean that that begins – it has to go through the whole process again?

MR. ABEYTA: Mr. Chairman, yes, and that's per the request of the agent, Southwest Design.

CHAIRMAN MONTOYA: Okay. Commissioner Vigil.

COMMISSIONER VIGIL: Mr. Chairman, there is a request for item 8, under Public Hearings, that's XII. A. 8, to be placed further up on the agenda, perhaps as number 2. The same people from the northwest quadrant that are interested in both of these items will be here. I believe there's an elderly person that needs to be taken care of and there are children involved in these hearings. So I'm requesting that we move item XII. A. 8 to be number two.

And I believe that Commissioner Anaya who is not with us but who would like to be here for the public hearings, particularly items XII. A. 4 and 5, that those be placed respectively as items 3 and 4. So basically, item 3 would be moved to being item 5.

CHAIRMAN MONTOYA: Okay. Any other changes? Commissioner Campos?

COMMISSIONER CAMPOS: No, sir.

CHAIRMAN MONTOYA: Okay. Could we have a motion?

COMMISSIONER VIGIL: Move to approve as amended.

COMMISSIONER CAMPOS: Second.

CHAIRMAN MONTOYA: Motion by Commissioner Vigil, second Commissioner Campos. Discussion?

The motion to approve the agenda as amended passed by unanimous [3-0] voice vote.

VII. APPROVAL OF MINUTES: September 12, 2006

COMMISSIONER CAMPOS: Move to approve.

CHAIRMAN MONTOYA: Motion by Commissioner Campos.

COMMISSIONER VIGIL: I do have some clerical changes, but I will second it with the clerical changes.

COMMISSIONER CAMPOS: Maker accepts.

The motion to approve the minutes of September 12th passed by unanimous [3-0] voice vote.

VIII. MATTERS OF PUBLIC CONCERN – NON-ACTION ITEMS

CHAIRMAN MONTOYA: This is the point in the agenda where anyone who would like to discuss an issue or bring forth an issue to the Commission is welcome to do so. Freddie.

FREDDIE CARDENAS: Buenas tardes, Mr. Chairman, Commissioner Vigil, Commissioner Campos. My name is Freddie Cardenas. I'm the president of the Galisteo Community Association and we're here to present a petition to you, but before that, I'd like to introduce some of my colleagues. First of all, Mr. Richard Griscom, his wife, Janice Felty Griscom, Lucy Lippard, Amy Tremper and last but not least, Frank Hirsch. We have a petition signed by 157 voting community members in Galisteo and we'd like for Richard to go over the content briefly. I have copies of it. We sent them in and I'm not sure you received a copy. Did you get a copy by any chance, of the petition?

CHAIRMAN MONTOYA: Yes, I did.

COMMISSIONER VIGIL: I did.

MR. CARDENAS: Good. I'm just going to give you another one so I don't carry it home, okay?

RICHARD GRISCOM: Mr. Chairman, Commissioner Vigil and Commissioner Campos, it's a pleasure to be with you this afternoon. We wanted to bring to your attention this petition which members of our planning committee, which has been set up under the aegis of the County Commission, circulated among the villagers and we got a very high response rate. We got 157 out of approximately 230 in the village. So it's a response rate and a signature rate of about 68 percent. We're very pleased. Twelve different members of the planning commission took the petition around and circulated it and got signatures.

I've been a resident of Galisteo since 1971 and it has been disturbing to me to watch over the years how the Galisteo Creek, the perennial reach of the Galisteo Creek has gotten consistently shorter over the years. I am told that 50 years ago the stream ran perennially through to Lamy and I'm also told that at the Vista Clara Ranch it ran perennially approximately 30 years ago, and I know from personal experience, when I was a commuter driving from Galisteo to Santa Fe everyday that it ran perennially just south of the Vista Clara Ranch. Now, unfortunately, it rises just north of the village boundary, just north of the San Cristobal Ranch, and goes underground again just south of the village, just south of the bridge over State Route 41.

Now the immediate cause of that is probably drought, but the long-term trend, in spite of the wet years of the 80s and 90s, the long-term trend has been for the stream to diminish. So we believe that not only drought has been part of the problem but also the development upstream. The purpose of the petition is to bring your attention to this and to urge you to approve only those developments which are water sustainable, where there will not be a net draw-down on the water resources of the area. We think developers should be responsible for water resources. If they are unable to prove that the impact on the Village of Galisteo or the Village of Lamy is negligible, then I submit to you it should not be approved. And if developments are approved and it turns out that there is a draw-down of the wells in Lamy or Galisteo or Cerrillos, then the developers should be held accountable. They should be made accountable to make us whole with our water resources.

Recently, the Earthworks Institute, with federal money through the New Mexico Environment Department selected the Galisteo Creek and the bosque in the Village of Galisteo to be one of the areas where they will use their resources to restore watershed, restore the wetlands and try to bring back as many of the species as possible. Currently there are at least 97 species of birds that have been identified in the area, and if the wetlands are restored, we think there can be

more. So that's the purpose of the petition and we appreciate your listening to us and we'd be happy to have any questions and Freddie, I'll turn it back to you.

CHAIRMAN MONTROYA: Commissioner Campos.

COMMISSIONER CAMPOS: Mr. Cardenas, have you had significant contact with our Land Use staff about this issue of restricting development along the creek?

MR. CARDENAS: We have a subcommittee and they've been working, the different committees have been working with Land Use people. I think they've been very supportive.

COMMISSIONER CAMPOS: What ideas have you generated as far as limiting development along the creek to preserve water?

MR. CARDENAS: We have all kinds of ideas. The problem is that – have you been to Galisteo lately? The development has exploded, all the way from Eldorado down Lamy Hill, there is like 40 homes and as you know, Commonweal, there's a lot of activity that's Commonweal. There's also a spate of development in the northwest. There's quite a few sites, Vista Clara and Saddleback. They might be selling and we're afraid that they're going to be developing. If they develop it's going to have direct impact on Galisteo. It's scary, but Galisteo has remained so small for many, many years and all of a sudden there's all kinds of encroachment. There's homes everywhere. And we're just worried. It's interesting to note that we even have deer. I saw one run across the run so even the deer are coming down to drink water out of the creek, and it's just a trickle of water. But that's our fear is that there will be development on most of the river.

COMMISSIONER CAMPOS: Do you have a water system?

MR. CARDENAS: Yes, we do.

COMMISSIONER CAMPOS: One well?

MR. CARDENAS: One well. Actually, we have two wells now.

COMMISSIONER CAMPOS: How are they doing? How are the wells doing?

MR. CARDENAS: The wells are doing okay. They haven't dropped yet.

COMMISSIONER CAMPOS: How many people actually use the wells?

MR. CARDENAS: We have, if I recall correctly, 65 families.

COMMISSIONER CAMPOS: Sixty-five families. Are you looking down the road as to what you might do with these wells if they start going down?

MR. CARDENAS: Yes, we are. As a matter of fact we just received a legislative appropriation for \$150,000 to fix our water system, and one of the things we did was add another well. A big problem is storage. We have three tanks up there. One of them has about – I'm not going to say how many gallons it holds but we're looking to fixing the system. Our hope is that we have more families tie into our water system because we need to.

COMMISSIONER CAMPOS: Potentially you could tie up a lot of additional families?

MR. CARDENAS: Yes, that's our goal. We have some families are having water – Lucy, for example, has been in the Village for 14 years and her well isn't very good so she's been hauling water, pretty much. So we have four families that are hauling water. Our hope is that we can tie them in as soon as possible. So we're going through the whole bureaucracy of accessing the money and going through those kinds of things. We're doing well. It's going slowly but surely.

COMMISSIONER CAMPOS: Have you thought about wastewater treatment?

MR. CARDENAS: We're not even there yet, I'm embarrassed to say. I think our main goal is to tie more families to the system, fix it. We have one old red storage tank that we have there for fire protection and it's kind of – once in a while it gets that *e. coli* stuff so we have to flush it with chlorine and stuff like that. So we want to get rid of those and extend the tank.

COMMISSIONER CAMPOS: If you do have wastewater eventually at some time in the future that adds additional water to your system. You take less out. You reuse it for vegetation or whatever. So that would be, I think, helpful to preserving your wells in the long term.

MR. CARDENAS: Yes, I think so. What's scaring us, Mr. Chairman, Commissioner Campos, is that it's going everywhere and we just keep seeing more and more houses and the little Village of Galisteo hasn't been able to grow because there hasn't been the funds to fix it. But now with the funds that we get hopefully we can tie more people but all around us there's people building constantly. Houses are popping up everywhere. It's scary. So we're worried about our children. Where are our children going to live? There's not going to be a place for them to live in the future, I don't think.

CHAIRMAN MONTOYA: Okay. Commissioner Vigil.

COMMISSIONER VIGIL: Freddie, has Galisteo gone through a planning process?

MR. CARDENAS: We're in the middle of it?

COMMISSIONER VIGIL: Okay. What stage?

MR. CARDENAS: We're getting ready to meet with the community, the first week in December, to go over the tradition boundaries and commercial, all that stuff that we need to do.

COMMISSIONER VIGIL: Will you be a traditional historic village? Or a traditional village? Do you know?

MR. CARDENAS: Well, we have a historical area, and then we also have a traditional boundary that we're going to try and establish.

COMMISSIONER VIGIL: Okay. Okay. I think what you present to us today is quite reputable and I appreciate the community's concern about this. Also I think that through the planning process you can address a lot of these issues too, because the planning process itself is an opportunity for the community to come together to plan for what their future will be like and I think we need to plan around water resources and what's available. So through your planning process I would encourage you to continually address this issue that you bring before us about the Galisteo Creek. I think it's wonderful that the community has come together to try to protect that.

MR. CARDENAS: Thank you. I want to say that the last time we were here for the planning process, Commissioner Sullivan asked us for five important things, and I was thinking at the time, I couldn't say what they are. But the five important things in Galisteo are water, water, water, water and water.

CHAIRMAN MONTOYA: And wastewater.

MR. CARDENAS: I do want to say that I want to compliment the community of Galisteo because they've really come together to work on the planning process. These individuals, we meet like every other week and they're die-hards. They're there all the time and bring up all kinds of interesting issues. With that, I thank you for your attention. Mr. Chairman, I can't believe

you went from a school board member to a County Commissioner. I can't even imagine how tough that is. You guys must have a lot of pressure.

CHAIRMAN MONTOYA: It's a little bit more difficult.

MR. CARDENAS: I saw your agenda. It's pretty impressive. Thank you.

CHAIRMAN MONTOYA: Thank you, Freddie. Appreciate all the work you're doing with Galisteo and the members as well. Thank you for being here. Appreciate it.

Anyone else? Yes, ma'am. Please come forward.

SHARON ARGENBRIGHT: Thank you, County Commissioners. My name is Sharon Argenbright and I'm a nurse and I want to refer to an article that was in the *New Mexican* this Sunday on the front page. I worked briefly at the County detention center for four months only and was forced to quit because of the conditions over there. It's horrible. It's deplorable. And I just wanted to say that I'm not alone; there are several other nurses that quit because of the conditions. And there's probably at least five us of that would go back if the conditions were not similar.

I just think it's kind of horrendous in this part of the country we have a terrible drug and alcohol problem and when these inmates get in there for those problems, instead of making the problems a little bit more bearable, we make it worse. And they leave that system worse than when they enter. I think Santa Fe County has a lot of resources. We could be a premier clinic. I just wanted to say that what was in the article was true, all true, and it's a lot worse. You don't see everything that's going on.

CHAIRMAN MONTOYA: Commissioner Vigil.

COMMISSIONER VIGIL: Sharon, what is your recommendation? Like Bernalillo County, they have a drug withdrawal program, a meth program of some kind. I'm really not sure. But what would be your recommendation to implement at the jail at this point in time to intervene for the drug and substance abuse problem you say is there.

MS. ARGENBRIGHT: Well, I think that would not hurt. I've seen people on methadone being managed beautifully on methadone. That would be fine. My biggest problem was the treatment of the people. Not only the inmates but the people that work there. It's pretty despicable. People don't deserve to be treated like that. I don't like to say can the whole bunch of them, but there were some names named in newspaper that are not doing their job. I asked what was the result of the investigation? What did the inmate respond to you? And I was told that was none of your business; that's not your job. I understand that inmates deny what they've formally reported as a problem. That's their prerogative because they don't want to be withheld anything else, but I was not – I asked many times over, what about this? What about this? And it's all covered up, Commissioner Vigil.

It's covered up and excuses are made. I'm one of at least five, if not more nurses that quit because of that current chain of command and those people mentioned in the article that work there every day.

COMMISSIONER VIGIL: Do you have any specific recommendation, and I understand what you're addressing at this juncture. But in terms of programs because we as Commissioners do tour the jail on a regular basis and we all have recommendations. When I left my last tour I thought we needed to just invest a lot into programs and try to get the County inmates as many programs as the state inmates. At minimum I saw that as the resolution. But the drug and

alcohol problem were huge and I think currently the only thing that we have are volunteer services in the community such as AA and NA, and as I said, Bernalillo County has more strong intervention programs. Other than the meth, do you have any specific recommendations?

MS. ARGENBRIGHT: Other than the AA and the NA programs that are alive and well, anything that builds on somebody's self-esteem, that lets them feel better instead of worse. I suggested yoga when I worked there. And I don't think that would be expensive and I think it changes people's outlooks. People kind of pooh-poohed me and laughed but I don't see why something like that couldn't be implemented as a trial. I think anything could be tried. The sky's the limit. And I believe that these types of rehabs are on the forefront in correctional facilities. When they get released the programs are being more influential. I've watched the media across the country and instead of having the revolving door policy, they have more support for these people. And as you know, this is a really bad part of the county and we need more support for the families.

COMMISSIONER VIGIL: Thank you, Sharon. Thank you, Mr. Chairman.

COMMISSIONER CAMPOS: Mr. Chairman.

CHAIRMAN MONTROYA: Commissioner Campos.

COMMISSIONER CAMPOS: Could you say your name again, I didn't catch it.

MS. ARGENBRIGHT: Sharon Argenbright.

COMMISSIONER CAMPOS: When did you work there? You said three or four months?

MS. ARGENBRIGHT: March through June.

COMMISSIONER CAMPOS: Of 06?

MS. ARGENBRIGHT: Yes. I was recruited by Joe Gallagher from the Community College. He asked me. He said the jail really needs nurses. Could you come and work there. And I said, okay. I'll try it. No problem.

COMMISSIONER CAMPOS: Had you worked at any other jail facility?

MS. ARGENBRIGHT: Never.

COMMISSIONER CAMPOS: What I'd like to have done is I'd like to have you interviewed by someone on our staff, if that's okay.

MS. ARGENBRIGHT: I would like to do that. Thank you, Commissioner.

COMMISSIONER CAMPOS: And if you could give Mr. Abeyta, our County Manager a phone number, I'd like to have an interview.

MS. ARGENBRIGHT: Thank you.

COMMISSIONER CAMPOS: I think that's an important first step.

MS. ARGENBRIGHT: Thank you very much.

COMMISSIONER CAMPOS: So if you would make a contact with our Manager's office they will follow up.

MS. ARGENBRIGHT: I will do that. Thank you.

COMMISSIONER VIGIL: And Mr. Chairman, in addition to that, if that interview and the results of that interview could be a part of a record or something that could be shared with our jail advisory board, I think that's also a necessary piece of exchanging the kind of information you probably have.

MS. ARGENBRIGHT: Yes, I would like to do that. Thank you much.

CHAIRMAN MONTOYA: Thank you, Sharon.

COMMISSIONER CAMPOS: Thank you for taking the time to come in.

COMMISSIONER VIGIL: Thank you.

CHAIRMAN MONTOYA: I think it's important that we get this type of feedback.

A lot of times we get what we want to be given, but we don't get what we should be given, and I think this is an opportunity to take a look at that from a different perspective. Anyone else that would like to address the Commission?

IX. MATTERS FROM THE COMMISSION

1. A Resolution in Support of the New Judicial Complex for the First Judicial District Through Lobbying Efforts During the 2007 Legislative Session (Commissioner Montoya, Commissioner Vigil, Commissioner Anaya, Commissioner Campos, Commissioner Sullivan)

[Exhibit 1: New Text of Resolution; Exhibit 2: Albuquerque Journal Article]

CHAIRMAN MONTOYA: This is being introduced by the full Commission.
Commissioner Campos.

COMMISSIONER CAMPOS: Basically, I'd like to state that we've been working at a new courthouse for over ten years. There have been substantial security issues that we have to look at. The resolution notes 27 personal threats to judges and staff, seven acts of violence, six unauthorized entries into secured areas, vandalism and even theft. The courthouse is a serious problem for us. Also we have problems with parking, accessing, we don't have enough space for staff. It's just not a safe place to work.

We need a new courthouse. I would urge the voters to approve the bond that's coming up in November. One of the positives is it's going to be downtown and it's going to be a state of the art facility. I think it's something that the community can be really proud of. But we really have to get the public support to get that \$25 million bond. I think it's critical. There's just so many issues that are at stake. So many people work there and so many people have to do business there. We have our staff there, the court staff. A lot of people are involved and a lot of people are exposed to some of the security risks. So I would urge a huge positive vote for the passage of the bond.

COMMISSIONER VIGIL: Mr. Chairman.

CHAIRMAN MONTOYA: Thank you, Commissioner Campos. Commissioner Vigil.

COMMISSIONER VIGIL: I think it's really critical that the public know that there is no increase to their taxes for this approval of this bond. Oftentimes that kind of fear is out there to the general public that this is going to increase their property taxes at some level. We are retiring debt as a result of time lines and dead lines being brought up. There will be no increase to taxes to any residents of Santa Fe County if this referendum is passed.

And just from a personal perspective, Mr. Chairman, and being a prosecutor similar to Commissioner Campos, the very first trial I ever had in the First Judicial Complex it was an aggravated battery and assault on a family member and an aggravated possession of a deadly

weapon. And I remember – I co-counseled it with one of the senior attorneys there and we were able to get a conviction. When we went to the sentencing the defendant walked out, left the city, left the state, left the nation. He was located about eight months later in Mexico City. This was way before we had as many sheriffs that are actually there now. So we've stepped up a little bit in security but the problem with our current judicial complex is the design of it. Actual inmates and defendants who are brought over from the jail have close proximity, almost personal possible contact with the general public. The really new standards for a judicial complex do not allow for that to happen, and the proposed designs that we have will make for a safer community.

But I think, Mr. Chairman, thank you for the opportunity to speak on this because it's, to me, and I will repeat it again, this will not affect anybody's pocketbook. Thank you, Mr. Chairman.

CHAIRMAN MONTOYA: Thank you. I think it's been said by both the Commissioners, this is certainly something that we would appreciate people's help in terms of providing the type of facility, the type of work environment that is needed for the people that serve the community. Certainly we try and upgrade schools and work on capital projects like that for the improvement of students and improvement of the community and when it comes down to it this is a health and safety issue for the welfare of our community. So I think to do anything less than support this would be not in the best interests of our community and I think we would be negligent in our jobs as Commissioners in ensuring that health and safety is granted for the community as well.

Certainly I would urge people as my fellow Commissioners have to vote and support this, and it can't be said enough that there will not be any additional tax burden on an individual. So that's critical to know. I know the judges are working diligently on this as are the County staff, Joseph Gutierrez and other staff members and as long as we continue to educate people about the need for this and really the lack of impact it's going to have, hopefully we'll be able to support this during this voting period. So with that, I entertain a motion for Resolution 2006-162.

COMMISSIONER VIGIL: Move to approve.

CHAIRMAN MONTOYA: Motion by Commissioner Vigil.

COMMISSIONER CAMPOS: Second.

CHAIRMAN MONTOYA: Second by Commissioner Campos. Any other discussion?

COMMISSIONER VIGIL: Could I just – this resolution, and I hope somehow we can get the word out to the general public, in recent history there have been 27 personal threats to judges and staff, there have been seven acts of violence at the judicial complex, there have been six unauthorized entries into secured areas, there's been one act of violence and one act of theft. I think what the judges and the Commission are trying to do is to prevent a disaster, a tragedy, in our judicial complex. If the voters decide to pass this general obligation bond that is no effect to their pocketbooks we will be able to prevent something that I think is foreseeable at this point in time.

COMMISSIONER CAMPOS: Mr. Chairman, also I've had Ms. Roybal rewrite this resolution. [Exhibit 1] It's not the one in our packet; it's another one. I think you've seen it, where it just simply changes the order of the whereases. The substance remains the same.

COMMISSIONER VIGIL: That is the resolution I'm moving to approve.

CHAIRMAN MONTOYA: Okay. Any other discussion?

The motion to approve Resolution 2006-162 passed by unanimous [3-0] voice vote.

IX. B. Consideration of A Joint Resolution Wherein the County of Santa Fe Agrees to Dedicate a Portion of the Revenue From the Proposed Emergency Communications and Emergency Medical Services Tax to Fund Operations of the Regional Emergency Communications Center (“RECC”) and the City of Santa Fe Agrees to Support Passage of the Proposed Tax Authorizing Appropriate Amendments to the Joint Powers Agreement (Commissioner Montoya) [Exhibit 3: Presentation]

COMMISSIONER CAMPOS: Mr. Chairman, is there something in our packet to look at? I didn't find it.

CHAIRMAN MONTOYA: No.

COMMISSIONER CAMPOS: Do we have a resolution or are we just in the pre-resolution discussion?

STAN HOLDEN (Fire Chief): Just a presentation. Thank you, Mr. Chairman. There's been quite a great amount of discussion regarding the proposed gross receipts tax for emergency communications and emergency medical services in the community lately, between the City and the County. So I wanted the opportunity to one more time bring this issue before the Commission to cover some very basic issues surrounding the permissible uses of this tax and what the proposed uses would be.

Mr. Chairman, first, the legislative permissible uses are very restrictive. They are first, funding emergency medical services that are provided by the County, and number two, funding emergency communication for a DFA approved consolidated dispatch center. And our Regional Emergency Communications Center that we jointly operate with the City of Santa Fe meets that criteria as defined by the Department of Finance and Administration.

Next, proposed uses that I have recommended to this Board were funding the City/County expenses associated with operating the Regional Emergency Communications Center, and two, funding County fire/emergency medical services by first replacing the existing funding for fire administration and regional paramedic program that we currently have in place. Next, to provide a new recruitment and retention incentive program for our volunteer firefighters and EMTs. Next, to add an additional 48 firefighters/paramedics for a new EMS program countywide and those 48 additional personnel would be spread around the county. Two, new EMS program operation funding, that is in support of those new personnel, and to replace existing capital and infrastructure needs.

As this Commission knows we are faced with significant volunteer staffing shortages in the county, primarily Monday through Friday from 7:00 am to 6:00 pm. That coincides with what we see with our volunteer workforce traveling to and from their places of work during the day, Monday through Friday, whether it be in the City of Albuquerque, the City of Santa Fe, Los Alamos or Española. Whatever the cause, they're simply not available in their community to respond to

emergencies.

In addition, because of the new growth in the county, which has been fairly significant over the last decade, the call volume demand on those volunteers is also increased, not to mention the addition federal and state training standards that have been put in place and the national staffing requirements that are being placed on fire departments nationwide. And finally, because of out-of-pocket volunteer expenses, it's become more expensive for our volunteers and I'm sure this Commission knows and understands that the majority of our volunteer workforce is made up of lower middle class to middle class income earners who can least afford an additional burden on themselves and their families as a result of volunteering their services to the County, and ultimately to the citizens of Santa Fe County. So what we're hoping to do is offset those expenses.

Today in Santa Fe County we have four regional paid firefighter/paramedic crews that are duty 24 hours a day, seven days a week. There are two people in each of the four regions on duty 24/7 for a total of eight, for 2,000 square miles. In addition, we have 300 volunteers. Of those 300 volunteers, 106 are trained as firefighters, 127 are trained as EMTs, and the rest make up an auxiliary force that are in support of those personnel, whether they function for fundraising purposes or they function as pump operators for the engines, or they do reports, they enter reports for the NFIRS. They are indeed just support personnel.

Last year we had over 5700 emergency calls in the county, of which 80 percent were EMS, ten percent were fire, and the remaining were other. Those other were fire alarm calls, EMS alert calls or rescue specific type calls.

In the following slide there that you have is just a representation of the one paramedic crew that we have on duty in the four regions. Mr. Chairman, I appreciate the opportunity to address the Commission one more time on this very important issue and we certainly appreciate the previous support that we've garnered from this Commission and I'd stand for any questions.

CHAIRMAN MONTOYA: Thank you, Stan. Any questions? Commissioner Vigil.

COMMISSIONER VIGIL: I don't have any questions. Stan, thank you for the presentation. I appreciate all the work you've put into this. I just want to apprise the Commission of what has happened up to date and the work we've been doing with City Councilors on this. Commissioner Sullivan and I met with David Coss, Rebecca Wurzbarger, Carmichael Dominguez and Mr. Ron Trujillo was also there for a brief period, prior to a study session that was advertised by the City. At that time I think we came to an agreement of three particular principles. That is, that the County would become the fiscal agent, that Santa Fe County would fund the operations and the management of the RECC with the funding for this, and that the governance structure would remain the same. After the study session that we had subsequent to that meeting I think we were pretty much in a consensus mode with that and the communication occurred that we would bring forth a resolution to the Commission for the Commission to take action on it that would represent at least those three principles. And at this point in time I think that we've discussed whether or not to move forward with that, Mr. Chairman, based on the fact that we don't have the full Commission here and I'm open to see what the other two Commissioners feel about that.

But I think part of the problem that we've had with this issue, at least from my perspective has been that not everybody has a clear understanding of what this GRT is limited to do, nor do we have a clear understanding of the benefits that it will create for the community, and for the most part,

when we met in study session with City Councils, a lot of what we were communicating, they were hearing for the first time. So I think that we still have a lot of communications to exchange and it has always been my perspective that this is the way these three principles that have brought forth consensus is the way we should move forward.

I think at this point in time, unless there's some kind of a glitch the City may come on board with the resolution that proposes support for this. Currently, the City has taken action opposing it. That concerns me because that does pit the City against the County and I don't think that that's what we're here for and I think the consensus that we've reached can be recognized by all residents that this is the best way to move forward to benefit all. So with that, Mr. Chairman, I just wanted Commissioner Campos and you to be advised that meetings have taken place whereby I think we are in a conciliatory mode and can move forward with a resolution that perhaps addresses everyone's concerns.

CHAIRMAN MONTOYA: Commissioner Campos.

COMMISSIONER CAMPOS: Pass for the moment.

CHAIRMAN MONTOYA: Okay. Does any other staff, Roman or Steve, have anything to add? I think that it's important, personally, that we get the full perspective of the Commission. Currently I'm not sure, and I'm comfortable with moving forward with what's being proposed that has been discussed with the Councilors and the Commissioners. However, I feel that not having a full Commission here to discuss and consensually move forward with this would probably be in our best interest. I think the City Council needs to know that we are united and we are working as a Commission to move this agenda forward as has been discussed.

I don't know where Commissioner Anaya is at with this. I don't know where Commissioner Sullivan is at, although I feel that he is supportive of the three principles but as far as being able to move forward without having them here for that discussion, I feel we need to be 100 percent behind this for the full Commission.

COMMISSIONER VIGIL: Mr. Chairman, because this is a time-sensitive thing, and if that's the direction we as three Commissioners decide to go, is it possible for us to consider having a special meeting on this. Actually voting has started today and I think the quicker we act on this the more likely we are to create the united front you reference. I'm not sure when Commissioner Anaya or Commissioner Sullivan is will be available but I think they'll be here by the end of next week and I'd just like to recommend if we do decide to go forward with waiting on this until the full Commission is here I think we should have a special meeting for that.

CHAIRMAN MONTOYA: Okay.

COMMISSIONER CAMPOS: I have a question for our County Manager. Mr. Abeyta, do we have to have a special session? How critical is the time element?

MR. ABEYTA: Mr. Chairman, Commissioner Campos, I would recommend that we have a special session and soon, because the voting has already started.

COMMISSIONER CAMPOS: What is the City proposing to do tomorrow on its agenda? Do they have this matter for consideration?

MR. ABEYTA: I'm not sure if it's on their agenda or not but pursuant to our discussion last week, the Mayor was going to introduce a new resolution that doesn't oppose the tax and may actually support it. That would be tomorrow.

COMMISSIONER CAMPOS: He plans to do that but that's contingent on the County Commission doing something today?

MR. ABEYTA: That was my understanding last week, yes.

COMMISSIONER CAMPOS: Okay, so we don't have any resolutions and certainly that concerns me. I don't know what the problem is. I'd say that in concept I support the three ideas set forth by Commissioner Vigil in support of the GRT. I'd like to see a resolution circulated and I think I saw one, some ideas circulated by Attorney Ross. That seemed to meet all the legal requirements.

CHAIRMAN MONTROYA: Commissioner Campos, my understanding is that at the work session, the City would not agree to that version. They felt that there were too many other issues that were being thrown in and didn't feel that it was necessary to be a part of the resolution. We felt – our staff felt on the other hand that it should be a part of a resolution, being that it's going to significantly change the way that the JPA is currently operating and it was merely in reference to the JPA as it would be reflected under the new structure. So that was my understanding that the City opposed what we were presenting.

COMMISSIONER CAMPOS: It seems to me that we have to do it in a way that we're comfortable with. The County has to make its own decisions. The City can't tell us exactly how to pass this resolution. If we pass a resolution to share some of the GRT tax and our legal counsel and staff is comfortable with that I think we should move forward with that. Because the analysis is ultimately a legal one. There's some things that must be included. I think that's what Attorney Ross has said, that there's some things that must be included in this resolution to make it lawful, and not to include them I don't think would be good for the County. So long as we move forward with the three basic principles, I think that should be sufficient to satisfy the Council and the Mayor.

Mr. Ross, what are your thoughts about the draft resolution that you proposed? You had included certain elements that were objected to, or allegedly objected to in some form by the City Councilors.

MR. ROSS: Well, Mr. Chairman, the resolution pertains to a joint powers agreement that's in force between the City and the County concerning the 911 center. It's a very complex joint powers agreement and it sets up the operations of the RECC in a particular way. This resolution proposing to have the County fully fund the 911 center would change all that and it would change probably a dozen paragraphs in the joint powers agreement. So in connection with this project I went through the joint powers agreement word by word and identified all those articles in the joint powers agreement that would need to be changed, and identified those in the resolution that I forwarded to all of you.

Since that time I had a discussion with Commissioner Vigil. She indicated that the City was uncomfortable with the level of detail that was in my proposed agreement. Now, that alone makes me nervous, because if we're going to enter into an agreement with the City, we need to make sure we know what the agreement is. We've been down that road before. Nevertheless, she and I worked up a resolution which you can call resolution-lite if you want, which I think hits all the key points from which we could negotiate changes in the joint powers agreement along the lines that I suggested in the resolution. So I have a heavy and light version here. If you want to look at those

you're welcome to look at them. I can pass them out if you'd like.

COMMISSIONER CAMPOS: I'm certainly inclined to go with the heavy version because you prepared it and you're comfortable with it and it addresses the issues that you think are important. We have had many problems with the City as far as the interpretation of contracts and they always come back to haunt us. So I think we should do it up front instead of on the back end, struggling to come up with some consensus. So I don't think we're in a position today to adopt a resolution, are we? Based on our notice requirements?

MR. ROSS: Mr. Chairman, I placed an item on the agenda which I thought was general enough so that we could adopt any number of the resolutions that are on the table, including those proposed by the City. It's general and specific; it hits the high points.

COMMISSIONER CAMPOS: Maybe we can do it today if the Commission wants to. I understand the concerns of Chairman Montoya. I understand what his concerns are but time is of the essence, I believe. I think we should do something today if possible. If not now, let's put this back on the agenda a little bit so we can have time to read it, perhaps at break. If that's okay with the Commission.

COMMISSIONER VIGIL: On that point, Mr. Chairman. I think that what's happened is that a lot of these resolutions have been drafted quite expeditiously and I think actually from some of the meetings I've had with you, Stan, there was some concern as to whether or not our post resolution needed some revision based on the Fire Protection Act. I don't know if you've had the opportunity to review it. I don't if you've had the opportunity to review it. I don't know if you feel comfortable about taking some time off. Maybe we can table this until later on in the meeting and looking at the hybrid that is proposed at this time and seeing if there does need to be more time taken off and stepped back from to look at the Fire Protection Act.

So part of the problem that I see is that we've acted on this so quickly that no one's really had time to do the analysis for it. I am happy to consider tabling this until later on in the agenda, giving Stan an opportunity to review it and Steve an opportunity to have Stan look at it. I agree, we need to move expeditiously but I don't know that what we have is compliant with all our needs. So perhaps maybe, Mr. Chairman, I'm open to considering any motion.

CHAIRMAN MONTROYA: I will share with the Commissioners that I did ask Steve when we received a copy from the City to take a look at that copy and to see if there were things that should be, according to what's in the JPA, worked on, added, modified, revised, to come up with a copy that we might be a little more comfortable with in terms of ensuring that the coverages are there for everyone in terms of what's in the JPA and what we're proposing to do with this resolution. And that was done. He did do that and that was what was presented to the City that they objected to. So I guess if there's a heavy light version, what would that be? Medium?

COMMISSIONER VIGIL: A hybrid? One of the reasons I think – and let's probably just wait to discuss this later until we get some further input on the hybrid. But one of the reasons why I think it's necessary to have maybe perhaps a little time for review is to have City and County staff both look at the same resolution because that actually never did occur. We received a resolution that was drafted at the 11th hour. We drafted the resolution at the 11th hour and at the 11th hour it's hard to make a very well informed decision. So at some level I'd like to keep the special meeting on the burner, so to speak, because that will provide for a little time for us to make

sure both City and County staff are comfortable with the resolution. In my mind, it's very clear. A resolution just states intent. If we come to a consensus, let's just state the consensus and the JPA can be worked out later. But I recognize that a lot of the Commissioners are coming from their experience with the BDD board and want some clarity up front and perhaps the City does too. That way there is no room for confusion on down the road. Because we are at a point of consensus I would ask, Mr. Chairman, that we continue this particular item till perhaps before our land use hearings this evening. I don't know if that gives you sufficient time. That's about 6:00. Is that correct? Around 6:00? And perhaps we can readdress it at that time.

COMMISSIONER CAMPOS: Mr. Chairman, I agree. Let's bring this back at 6:00 to see if staff can work on this and come up with something that is acceptable. But I will insist on sufficient detail. I'm not going to waive all that detail. We've had too many problems with the BDD agreement and other agreements. We have to have specificity up front. Whether the City agrees or not we have to take a position that represents our best interests and the community's best interest.

COMMISSIONER VIGIL: But you understand that a part of the problem with that detail is that it violates some of the federal acts, and that's why Stan's reviewing it.

COMMISSIONER CAMPOS: We do have an attorney that's looked at it very carefully and I don't think he agrees that that violates part of the federal. But let's have them talk about it.

COMMISSIONER VIGIL: And Stan, you and Steve can work those out. Okay? I know what's you do, Jack Hiatt is here from the City and perhaps maybe there can be some consultation with him on that.

COMMISSIONER CAMPOS: And congratulations to Jack Hiatt on your new job with the City. You have a smiling face again.

CHAIRMAN MONTROYA: Okay, so we will defer this – why don't we defer this to Matters from the County Manager? Will that give us sufficient time? Or are you saying use the break to review it and decide how you want to proceed?

COMMISSIONER CAMPOS: I'm saying we may need that break for them and even for us, to sit down and look at a new document.

CHAIRMAN MONTROYA: So we will defer that item until 6:00. [See page 30.]

IX. OTHER MATTERS FROM THE COMMISSION

COMMISSIONER VIGIL: Yes, Mr. Chairman, I do have one matter, and actually I've gotten some information from staff on this. We have a huge graffiti problem in our county and we really haven't created a focus for it. We've been somewhat responsive to requests from particular citizens throughout the county. I will be working together with the County Manager and all relevant staff to try to get some structure in place for a graffiti removal program. It's a necessary piece of the future of Santa Fe County. It's a necessary piece that has existed in a problematic way and I think we do the best we can with what we have but we haven't really created a focus for it, Mr. Chairman.

So I do have some preliminary numbers from director of operations, Frank Jaramillo on costs for graffiti removal. That would be \$4,000. A power washer would be \$4,000. The primer and paint would be \$4,000. Paintbrushes and roller would be \$1500. That is about \$13,500 and I'm going to be negotiating with some of the members of the Board of County Commission because this I hope to be a countywide graffiti removal program and ask you to look at some of your discretionary funds to perhaps participate in this countywide program. But for the meantime, Roman, I'd like to request that we schedule a meeting with all relevant personnel with regard to a graffiti removal program and start mobilizing the troops to try to get this problem taken care of. Thank you, Mr. Chairman.

And the chair is on the phone so the vice chair takes over. Commissioner Campos, do you have any Matters from the Commission?

COMMISSIONER CAMPOS: I'd just say I don't, but let's take a five-minute break. I think the chairman is on with David Coss.

[The Commission recessed from 4:02 to 4:12.]

CHAIRMAN MONTROYA: I apologize for that. Just a phone call from the Mayor, giving him an update on where we are on this issue, on this item.

X. CONSENT CALENDAR

A. Findings of Fact

1. **CCDRC Case # MIS/DP 06-5200 Mesa Vista Business Park (Approved)**
2. **AFDRC Case # Z 05-5500 Haciendas del Alamo (Approved)**
3. **Final Order, CDRC Case No. MIS 06-5020, Applicant of Paul Parker for Amendment of a Temporary Condition, Paul Parker Applicant, Jim Siebert, Agent (July 11, 2006 BCC)**

B. Miscellaneous

1. **Request Approval of a Lease Agreement Between Santa Fe County and the State Land Office for a Three Acre Parcel Located off of State Road 344 within Section 16, Township 10 North, Range 7 East, Southern Regional Fire Station (Projects and Facility Management Department) TABLED**
2. **Approval of the Employment Agreement for Roman Abeyta to Serve as Santa Fe County Manager (County Managers Office)**
3. **Approval of the Employment Agreement by and Between Gerald T.E. Gonzalez and the Board of County Commissioners of Santa Fe County (County Managers Office)**
4. **Approval of Employment Agreement for Stephen C. Ross to Serve as Santa Fe County Attorney (County Managers Office)**

COMMISSIONER VIGIL: Move to approve.
COMMISSIONER CAMPOS: Second.
CHAIRMAN MONTOYA: Motion and second.

**The motion to approve the Consent Calendar with the exception of tabled item X.
B. 1 passed by unanimous [3-0] voice vote.**

X. STAFF AND ELECTED OFFICIALS' ITEMS

A. Water Resources Department

**1. Consideration and Possible Approval of Amendment No. 1 to the
Joint Powers Agreement Between the City of Santa Fe and the
County of Santa Fe Governing the Buckman Direct Diversion**

MR. ROSS: Mr. Chairman, I don't see anyone from the Water Resources Department here but I know about this item. These two agreements that are on the agenda, 1 and 2 under Water Resources Department, are agreements that relate the Buckman Direct Diversion project. The first of those is the proposed amendment to the joint powers agreement that we entered into with the City of Santa Fe about a year ago, maybe a year and a half ago concerning that project. And the second agreement is the Facility Operations and Procedures Agreement.

These two agreements had their genesis in extended discussions between the City and the County concerning the operation down the road of the Buckman Direct Diversion. Oh, there's Mr. Sayre. Oh, good. And Mr. Harwood is here also to discuss this item. The two agreements are operating in parallel. The joint powers agreement makes certain changes that over time we've realized are necessary to the joint powers agreement, and the Facilities Operations and Procedures Agreement is the first of three agreements which are going to pass in front of you concerning the Buckman Direct Diversion and it's operation and maintenance.

The primary purpose of the Facility Operation and Procedures agreement is to establish amongst three parties, the City, the County and Las Campanas, operating rules going forward. Probably the most pressing need is to establish that the Buckman Direct Diversion is the entity that is going to receive the federal permits for purposes of those environmental and permitting processes that are currently going on at the federal level. So with that introduction, Doug Sayre is here.

DOUG SAYRE (Utilities Director): Mr. Chairman, Commissioners, certainly he's covered the background on this. I think what we were looking at in getting these passed will facilitate one, a correction of some things in the JPA as far as how the Buckman Direct Diversion board feels they should operate the system and then the second thing is to look at this FOPA as a means of agreement between the partners to operate the facility and to show agencies that we are in agreement to operate it in a fashion in tandem with everybody that is participating.

With that, I think questions need to be addressed probably to the two drafters since they know more about how this was arrived at than what I do.

CHAIRMAN MONTOYA: Okay. Any questions?
COMMISSIONER CAMPOS: Mr. Chairman.

CHAIRMAN MONTOYA: Commissioner Campos.

COMMISSIONER CAMPOS: Question for Mr. Ross. The amendment 1, page 2, paragraphs 3, 4, and 5. They all use the word shall in saying that upon review and recommendation of the BDD board, the City, County and project manager shall enter into the PFMFSA or the FOPA. Does that mean that when the BDD approves a particular contract, the City and the County are all bound by it? They must adopt that version? Is that what it's saying?

MR. ROSS: Mr. Chairman, Commissioner Campos, I don't believe that's what that says.

COMMISSIONER CAMPOS: Okay. What does it say?

MR. ROSS: What does it say?

COMMISSIONER CAMPOS: The "shall" is not binding on the City or County or project manager?

MR. ROSS: It means when we negotiate an agreement that's acceptable to all parties that we shall enter into an agreement.

COMMISSIONER CAMPOS: Okay, so upon review and recommendation of the BDD board – I'm assuming that means that the BDD board will look at a document and say this is what we want. And then it will submit it to the City and the County for discussion and further negotiation?

MR. ROSS: Exactly.

COMMISSIONER CAMPOS: That's what it means?

MR. ROSS: Mr. Chairman, Commissioner Campos, it's the same process we've just gone through with the Facility Operations and Procedures Agreement. I think that's what's intended.

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

CHAIRMAN MONTOYA: Any other questions on this?

COMMISSIONER VIGIL: We're acting only on the amendment to the JPA?

COMMISSIONER CAMPOS: Amendment 1.

COMMISSIONER VIGIL: Okay. Move to approve.

CHAIRMAN MONTOYA: Motion by Commissioner Vigil.

COMMISSIONER CAMPOS: Second.

CHAIRMAN MONTOYA: Second, Commissioner Campos. Further discussion?

The motion to approve the amendment to the BDD JPA passed by unanimous [3-0] voice vote.

XI. A. 2. Consideration and Possible Approval of the Facility Operations and Procedures Agreement for the Buckman Diversion Project Between the City of Santa Fe, and Santa Fe County and Las Campanas LP

MR. SAYRE: You have what's before you and I think Steve Ross has explained pretty much what this agreement is about. As I said, it's an agreement that's necessary to show that

we are in agreement and if the other agencies see that we are proceeding to have some kind of Facility Operations and Procedures Agreement to provide to them, so that they can go forward with all of the rest of the requirements as far as permitting and I guess finalization of the EIS regarding this project, which is the BDD.

CHAIRMAN MONTOYA: Okay. Any discussion?

COMMISSIONER CAMPOS: Mr. Chairman.

CHAIRMAN MONTOYA: Commissioner Vigil, then Commissioner Campos.

COMMISSIONER VIGIL: And whoever can answer this. I don't have a full copy of the FOPA, I don't think. At least I haven't found it. Page 6, line 33, item 21, Cost-sharing variable OMR&R costs for the shared facilities. It references that that cost is in FOPA Section 27, the annual operating plan. Can you just highlight that for me? It says Variable OMR&R cost for the shared facilities. And it says variable OMR&R costs of the shared facilities shall be apportioned between the County, the City and Las Campanas based on the actual delivery of water to each BDD partner in accordance with FOPA Section 27 annual operating plan. Is that yet to be drafted but has been agree to? I don't have a copy of it.

MR. ROSS: Mr. Chairman, Commissioner Vigil, that annual operating plan that is referred to in Article 27 is developed by October 1 of each year. So it's an operating plan that's developed during each year of operation of the Buckman Direct Diversion. It's not in front of you now because it hasn't been developed and won't be developed until – what happens is each partner during the year when the Buckman Direct Diversion is operating, informs the Buckman Direct Diversion how much water it's going to be needing. So then the board takes a look at that, or the project manager and the board take a look at that and determine how the facility is going to be run in the subsequent year. They document that in an annual operating plan which then everyone gets to review and approve. And it of course has to be in place by the first of the year.

COMMISSIONER VIGIL: Okay.

MR. ROSS: So that's why that's not in there, because it isn't developed and it won't be developed until the project is actually in use and all the partners at that time understand their water use, at that time.

COMMISSIONER VIGIL: Very well. Thank you. Thank you, Mr. Chairman.

CHAIRMAN MONTOYA: Commissioner Campos.

COMMISSIONER CAMPOS: I don't have any questions.

CHAIRMAN MONTOYA: Okay. Can we have a motion?

COMMISSIONER CAMPOS: Mr. Chairman.

CHAIRMAN MONTOYA: Commissioner Campos.

COMMISSIONER CAMPOS: Motion to approve the FOPA.

CHAIRMAN MONTOYA: Motion for approval by Commissioner Campos.

COMMISSIONER VIGIL: Second.

CHAIRMAN MONTOYA: Second, Commissioner Vigil. Further discussion? I just want to thank the staffs that have been working on this, and Kyle Harwood is here from the City. Thank you for working on this and getting through this agreement.

The motion to approve the BDD FOPA passed by unanimous [3-0] voice vote.

XI. B. Fire Department

1. Resolution No. 2006-163. A Resolution Proclaiming October as Fire Prevention Month [Exhibit 4: Resolution Text]

CHIEF HOLDEN: Mr. Chairman, first of all I apologize for the tardiness of submitting this resolution proclaiming October as Fire Prevention Month. It was an oversight by my department and I appreciate the short time frame that the County legal department had to review this document. If I could, Mr. Chairman, if I could just read into the record. This is a resolution proclaiming October as Fire Prevention Month.

Whereas, the Santa Fe County Fire Department is responsible for public safety in the areas of fire, rescue, emergency medical services and special operations within Santa Fe County; and

Whereas, October is National Fire Prevention Months and Fire Prevention Week is October 8 through October 14, 2006; and

Whereas, Santa Fe County Fire Department in conjunction with Santa Fe County Fire Volunteer Districts are promoting fire safety at local schools and senior citizen centers; and

Whereas, Santa Fe County recognizes the importance of this month and a message to its citizens regarding fire safety, exit drills in the home, "stop, drop, and roll", and testing your smoke alarms once a month and to change the batteries twice a year;

Now, therefore, be it resolved by the Santa Fe County Board of County Commissioners in support of a program of preparedness, training, safety and public information and recognition of National Fire Prevention Month and Fire Prevention Week of October 8 through 14, 2006, do hereby proclaim the month of October as Fire Santa Fe County Prevention Month.

And I stand for any questions, Mr. Chairman.

CHAIRMAN MONTOYA: Questions? Motion?

COMMISSIONER CAMPOS: Move to approve or adopt.

COMMISSIONER VIGIL: Second.

CHAIRMAN MONTOYA: Motion, Commissioner Campos, second, Commissioner Vigil. Further discussion?

The motion to approve Resolution 2006-163 passed by unanimous [5-0] voice vote.

IX. OTHER MATTERS FROM THE COMMISSION

COMMISSIONER VIGIL: Thank you, Mr. Chairman. There's just one other item I had and that is to inform the public that October 16, Monday at 6:00 there will be a townhall meeting at the Agua Fria Fire Station for Agua Fria and surrounding residents. There will be senior staff there to respond to any questions or concerns that residents have in that area. I think this is an appropriate time to have a townhall meeting. Their community plan has been adopted and despite the adoption of the community plan, such as graffiti which I referenced earlier that need to be

discussed and some information needs to be shared between County officials and the residents of Agua Fria.

So, I'd just like to announce that Monday, October 16, 2006 at 6:00 at the Agua Fria Fire Station, the first of several townhall meets will be held in that area. Thank you, Mr. Chairman.

CHAIRMAN MONTOYA: Okay. I just have a couple of items. One on the graffiti issue. I know if Sheriff Solano, I don't know if he ever purchased the equipment, but in Pojoaque – and that might be a model to begin taking a look at – we actually have some people that volunteered to clean up in that area. But again, maybe it's something to take a look at so that it's countywide. I think probably the buildings that Frank's referencing are the ones that happen to be in my district. But there are probably others as well. We do have that group of individuals who has volunteered to do that. I'm glad you said that because I promptly need to follow up and make sure that that is happening.

Then I would like to congratulate and welcome back Roman Abeyta. I should have done that earlier. I apologize for not having a fuller audience here, Roman, but welcome back to the County in our County Manager's position.

MR. ABEYTA: Thank you, Mr. Chairman. I'm glad to be back.

CHAIRMAN MONTOYA: Great. And I'd also like to offer congratulations to Gerald Gonzalez in his new position as the provost and special policy advisor to the Commission and also to our County Attorney Steve Ross who go a renewal also to his contract. So glad to have the team back intact and look forward to many good things happening in Santa Fe County with the leadership team that we've got.

XI. C. Matters from the County Manager

1. Approval of Memorandum of Understanding Between EMS and Fire Services and Related Fees (Fire Department)

MR. ABEYTA: Thank you, Mr. Chairman. Staff is requesting approval of a memorandum of understanding between the City of Santa Fe and Santa Fe County regarding EMS and fire services and related fees. The fees that we are talking about specifically are the fire impact fees that we have been collecting over the past four or five years when applicants for building permits come in they are charged per square footage and that money goes to the fire district for which they are building their residence in. In the Extraterritorial Zone, the County collects impact fees for the areas of Agua Fria, Tesuque and the La Cienega fire districts, and this agreement states that the County will distribute a percentage of those fees to the City on an annual basis, on or about July 1st of each year.

For calls responded to by the City on or after July 1, 2005, fees distributed to the City shall equal a percentage of the impact fees collected by the County in the Agua Fria, Tesuque, and La Cienega fire districts. The percentage shall be the percentage of calls responded to within the Extraterritorial Zone by the City in Agua Fria, Tesuque and La Cienega. For calls responded to by the City before January 1, 2005, fees distributed to the City shall equal 65 percent of the impact fees collected by the County in Agua Fria, 14 percent in Tesuque and 12 percent in the La Cienega

fire district, all within the Extraterritorial Zone. The total of such percentages is agreed to be \$496,415.38.

The MOU goes on to state other items such as the City submitting an annual report to the County documenting the calls to which the City responds to in the Extraterritorial Zone. The County submits an annual report to the City documenting the impact fees collected within the Extraterritorial Zone, and that the City agrees that all impact fees distributed shall be used only for the purposes allowed under the state act that allows us to impose impact fees. And that the MOU will become effective upon signing of the last signature. Thereafter, it shall remain in effect unless terminated upon 90 days written notice by either party to the person designated to receive notices.

Mr. Chairman, this is something that we've been working on with the City for quite some time now, and I think we've finally reached the point to where we're ready to approve this MOU and upon approval by the City Council then we will distribute to the City the \$496,000+ that we have been collecting over the past four or five years. Thank you, Mr. Chairman. Myself and Chief Holden stand for any questions you may have.

CHAIRMAN MONTOYA: Okay. Any questions for Roman?

COMMISSIONER VIGIL: Mr. Chairman, Roman, does this constitute all that is owed the City up to this point in time?

MR. ABEYTA: Mr. Chairman, Commissioner Vigil, yes.

COMMISSIONER VIGIL: Okay. So annually, we will calculate that on the EZ we're allowed to do the impact fees through the RECC? Or how will that be calculated?

MR. ABEYTA: Mr. Chairman, Commissioner Vigil, yes, it's through the call information that we get from the RECC.

COMMISSIONER VIGIL: Okay. It's a database and so that's why it's important that it be protected and the City have access to it. That's the reason why the governance structure needs to remain the same, and that makes sense to me. With that, Mr. Chairman, I move we approve this MOU.

CHAIRMAN MONTOYA: Okay.

COMMISSIONER CAMPOS: Second.

CHAIRMAN MONTOYA: Motion Commissioner Vigil, second Commissioner Campos. Further discussion? I'll just say that I'm glad that this is getting done. I think this will certainly move us forward in terms of hopefully quitting the pointing of fingers from the City at the County and saying we're not doing what we're obligated to do. This is certainly putting forward the fact that the County does want to move forward and just taking responsibility for what needs to be done. For whatever lack of oversight or whatever the situation has been in the past, that that won't be occurring and we will be good about the agreements that we have with them on this. So I appreciate you moving on this, Roman.

The motion to approve the MOU with the City on fire impact fees passed by unanimous [3-0] voice vote.

COMMISSIONER VIGIL: How soon can we cut the check, Mr. Chairman, Roman?

MR. ABEYTA: Mr. Chairman, Commissioner Vigil, we just need the City to sign off on the MOU and then we can write them a check.

COMMISSIONER VIGIL: Is this on the agenda tomorrow night?

MR. ABEYTA: I'm not sure if it is or not, but I will call the City Manager and let her know that we've done. The ball's in her court, basically.

COMMISSIONER VIGIL: Thank you.

XI. C. 2. Update on Various Issues

MR. ABEYTA: None at this time from the County Manager, Mr. Chairman.

COMMISSIONER CAMPOS: I have a question.

CHAIRMAN MONTOYA: Commissioner Campos.

COMMISSIONER CAMPOS: How's it going so far, Mr. Abeyta?

MR. ABEYTA: So far, so good. It's a busy office, but so far, so good.

XI. D. Matters from the County Attorney

1. Review of the Packet Submission Guidelines Contained in Resolution No. 2004-62 ("A Resolution Establishing Rules of Order for Santa Fe County Boards and Commissions; Repealing Resolution No. 2000-164")

CHAIRMAN MONTOYA: Did we table this? No, we didn't.

COMMISSIONER VIGIL: No, but I'm happy to let Mr. Ross address this, but I do think this is an item we need to consider tabling. I don't know if I'm jumping the gun. Is there anything you want to particularly address?

COMMISSIONER CAMPOS: Are you talking about item C. 1?

CHAIRMAN MONTOYA: XI. D. 1. That was the information that Commissioner Sullivan had requested that we take a look at our rules of orders for Santa Fe County and our boards and Commission. He's actually – again, he's not here to discuss this so the discussion that I had briefly was that do we continue on with this or do we want to wait?

COMMISSIONER VIGIL: Mr. Chairman, Steve, is there anything you want to address on this?

MR. ROSS: Mr. Chairman, Commissioners, that's correct. During the last meeting, Commissioner Sullivan indicated that he wanted us to engage in this review of our packet deadlines, packet submission rules, etc. and I've prepared a memo and put it in your packet. It included a copy of the rules of order and described in general the packet guidelines that are really internal to the Manager's office, and inquired what if any changes you'd like to make to those.

As you recall, a couple of years ago we took a number of resolutions that the Board had in place that are called rules of order and packet submission deadlines, things like that, and consolidated them into the one resolution you see in front of you, 2006-4. It contains all the rules

that this Board operates under. There is a requirement of an agenda. There is a requirement that there be a staff presentation and an applicant presentation. A lot of these rules that are preserved in here were initially set up to deal with the administrative and adjudicatory proceedings that will occur at 6:00, as opposed to the rules under which we might operate differently during this type of meeting where we're dealing with administrative matters.

As I pointed out in the memo, there's really no deadlines in there about submitting packet material or anything like that. There is a requirement that documents be filed by applicants, once again referring to situations where we're in the administrative adjudicatory type proceedings. So the question that leads to is do you want guidelines, packet deadlines and things like that that we have established internally through the Manager's office memorialized somehow. Of course one advantage to doing that is that you will have rules and the packets will be more complete than they have in the past. The disadvantage of course is the lack of flexibility. The last minute items that don't meet the deadlines wouldn't be able to be included on agendas. So there's some pros and cons to having more detailed deadlines.

What we do every year with the rules of order is work on them, since it is a work in progress. It's a very old document. It dates back to the 80s, originally, and just going through this exercise at the invitation of Commissioner Sullivan I identified a number of areas which I'll bring back to you in January and make some recommendations for how to bring the document into the 21st century if we can. But the purpose of this discussion I think was to, with Commissioner Sullivan, to work through the issue of packet deadlines and agenda topic submission deadlines.

COMMISSIONER CAMPOS: Mr. Chairman.

CHAIRMAN MONTROYA: Commissioner Campos.

COMMISSIONER CAMPOS: Mr. Ross, did Commissioner Sullivan have any specific suggestions? You said you do have some that you'd like to bring forward in the future?

MR. ROSS: Mr. Chairman, Commissioner Campos, one of the areas which I thought was weak in the document was what I just mentioned. There's no distinction between administrative adjudicatory proceedings and administrative proceedings. It makes sense to me that we have different rules for different types of proceedings. Because in the administrative adjudicatory context there are due process rights at issue of course and sometimes property rights. So we need to have more rigorous procedures and the opportunity to cross examine and the opportunity to present documents and the opportunity to present evidence, sworn testimony, all that stuff.

None of that applies when we're legislating or in the context of passing an ordinance, or just dealing with administrative matters as we have been since 3:00. So it occurs me that we ought to preserve that distinction in our rules of order so we have different rules for different types of proceedings. I'll work on that. Of course if you guys have any suggestions on how you'd like those things to work, that would be helpful. But I think if I structured the document a little bit different, moved things around, that it might be easier for people, particularly members of the public to understand what we're doing at any particular time.

COMMISSIONER CAMPOS: I think that's important. Also, another question about the packet material that's submitted. Do you have ideas as to how that should be handled? New ideas? You talked about memorializing, I assume you're talking about a resolution. There could always be a clause allowing for the County Manager to allow an exception under exigent

circumstances. That would allow us to proceed under urgent matters that come up at the last minutes.

MR. ROSS: Mr. Chairman, Commissioner Campos, I'm sorry. I've answered the first part of your question and not the second. The second part was the concern that Commissioner Sullivan raised, which was that there was an item on that agenda, the last agenda we had, that was a late item. There wasn't packet material and I think he was frustrated about that and I think that's why he raised the issue in the first place. What we do every year – in the back of your packet, we develop a schedule that the departments follow. And I guess what Commissioner Sullivan wondered was whether we should have these types of deadline memorialized in some form. Probably the place for it would be in the rules of order, with an escape clause like you mentioned for later items, so that everybody's on the same page and we know what the rules are.

COMMISSIONER CAMPOS: That's the only issue, that we want to memorialize this calendar that sets forth deadlines for things that are being submitted to the Manager's office for packaging purposes.

MR. ROSS: Right. Because otherwise, if the deadlines are blown, and particularly the packet deadline, you may not have the information you need on the day of the meeting to make the decisions you need to make.

COMMISSIONER CAMPOS: I agree. It's very frustrating when someone gets up and passes out a lot of materials at the time of the decision making. It's impossible to look at. So I would be – Mr. Chairman, you're thinking that you want to table this till we have Commissioner Sullivan back so he can express his ideas?

CHAIRMAN MONTROYA: It seems like Steve actually expressed them pretty well for Commissioner Sullivan. I think that was the point. Commissioner Vigil.

COMMISSIONER VIGIL: Mr. Chairman, I think I agree. If it was brought forth by Commissioner Sullivan he should actually be here as a proponent of it and I'd like to hear from his prospective what his intention was. I was just wondering, Steve, if this should be used as an opportunity to do a more comprehensive review of our rules and regulations. I actually went through it and thought we could go into a lot more detail, particularly about parliamentary procedure and we haven't adopted Robert's Rules of Order or anything of that nature. I don't even know if it's necessary that we do because I just think functionally we're okay and we're just a five-member governing board. But I would also like the opportunity for staff to step back and say you know, perhaps this might work a little better and come forth with some recommendations.

I really want the flexibility, because it's been my experience as a Commissioner that there are things that come up over the weekend that we have to notice Monday that are exigent or urgent and without us having that flexibility we won't be able to address those urgent matters. So in terms of those kinds of issues I think that needs to be a component of this and certainly giving the County Manager the decision power to identify what is exigent or urgent I think is an alternative resolution. My concern as I read through this is there sufficient parliamentary procedure guidelines in this? We haven't been stuck with motions because I think we just by nature have a sense of respect for each other and keep moving. But is it necessary, and perhaps staff needs to discuss that, to step back and do more comprehensive review to include parliamentary procedure?

MR. ROSS: Mr. Chairman, Commissioner Vigil, those are the parliamentary

procedures that are contained in there. They're broad and flexible and they're not Robert's Rules of Order in a couple really important respects. You'll see the parliamentary procedures set forth under motions, at the beginning on page 4. One of the key differences between these rules and Robert's Rules of Order is with respect to amendments. This Board only permits friendly amendments. For example, the City of Santa Fe permits unfriendly amendments. The problem that happens when you follow Robert's Rules of Order, particularly late in the evening, it's very difficult, sometimes, to figure out what happened. Very difficult for the recorder and the Clerk and others. So this Commission has for many years operated under the premise that if an amendment is not friendly, that it is made later in the form of a motion on the matter.

But these are the rules of orders and they're not Robert's and I'm not sure I would recommend that this Board adopt Robert's because Robert's was really designed for legislatures and large parliamentary bodies and they really restrict small bodies like this that need to operate quickly and flexibly to move things along. Plus, we've been operating under the rules we've been operated so long we'd have to have pretty significant retraining and appoint of parliamentarian and all that kind of stuff. I don't know if you want to go to those lengths or not. If you do, we can go there and restrict ourselves more. But these are the rules we're operating under at the present time. They were designed in part by past Commissions and in part by drawing on the experience of the 33 counties. We've been amending them for the last three or four years since I've been here to try and make them flexible and sensible but also workable and defensible.

COMMISSIONER VIGIL: Thank you. That answers my question. Just a point of clarification. As I read these rules, I have been confused about bringing forth a motion to reconsider an item that's been acted on in the agenda, and apparently these rules allow us 30 days to do that. For example, if an administrative item was taken action on and a Commissioner wants to reconsider it, they can reconsider it at the next administrative meeting, and the regular meeting, if we need to reconsider that. Well, I don't want to say 30 day, but approximately, because there are approximately 30 days between administrative and regular meetings. And I was acting under the impression that it had to be at the next meeting, whether it was administrative or regular. I read it correctly. We have that sort of 30-day window.

MR. ROSS: That's correct, and it's primarily because of the land use cases that require noticing, so there's adequate time to get out there and get the sign reposted and get the residents apprised of what's going on, that there's a motion on the table to do something.

COMMISSIONER VIGIL: Okay. That's all I had, Mr. Chairman. Thank you, Steve.

CHAIRMAN MONTROYA: Okay.

COMMISSIONER VIGIL: I will move that we table this item for the next meeting when we have a full Commission.

CHAIRMAN MONTROYA: Okay. Motion to table. I'll second.

The motion to table consideration of packet guidelines passed by unanimous [3-0] voice vote.

COMMISSIONER VIGIL: It's going to be at the next administrative or regular

meeting?

MR. ROSS: Mr. Chairman, it's really up to you. We could move it to the administrative hearing meeting. That might be an appropriate place to have that discussion.

COMMISSIONER VIGIL: I would say administrative.

CHAIRMAN MONTOYA: Let's do that then. So that's time specific.

XI. D. 2. Executive Session
a. Discussion of Pending or Threatened Litigation
b. Limited Personnel Issues

MR. ROSS: Mr. Chairman, we need a closed executive session to discuss pending or threatened litigation and limited personnel issues. It shouldn't be a lengthy one.

CHAIRMAN MONTOYA: Okay. Items 2. a and b.

COMMISSIONER VIGIL: Mr. Chairman, I move we go into executive session to discuss pending or threatened litigation and limited personnel issues.

The motion to go into executive session pursuant to NMSA Section 10-15-1-H (7 and 2) passed by unanimous [3-0] roll call vote with Commissioners Campos, Vigil and Montoya all voting in the affirmative.

[The Commission recessed from 4:50 to 6:25.]

CHAIRMAN MONTOYA: I'd like to call this meeting back to order. If we could have a motion to come out of executive session?

COMMISSIONER VIGIL: Mr. Chairman, I'll move that we come out of executive session where the first two items on the agenda were discussed, the discussion of pending or threatened litigation and limited personnel issues.

COMMISSIONER CAMPOS: Second.

CHAIRMAN MONTOYA: Okay. Motion and second.

The motion to come out of executive session, having discussed only pending or threatened litigation and limited personnel matter passed by unanimous [3-0] voice vote.

IX. A. Resolution 2006-164. A Joint Resolution Wherein the County of Santa Fe Agrees to Dedicate a Portion of the Revenue From the Proposed Emergency Communications and Emergency Medical Services Tax to Fund Operations of the Regional Emergency Communications Center (“RECC”) and the City of Santa Fe Agrees to Support Passage of the Proposed Tax Authorizing Appropriate Amendments to the Joint Powers Agreement (Commissioner Montoya) [Continued from page 16]

MR. ROSS: Mr. Chairman, members of the Commission, before, in the discussion earlier this afternoon we were talking about two resolutions that I had prepared in response to some draft resolutions we’d seen from the Mayor’s office. I had sort of labeled them “light” and “heavy”. The light version being the less detailed, more general resolution that made the following points. The first point that it made would be that if the proposed countywide emergency communications and emergency medical services gross receipts tax is approved that the County would agree to amend the joint powers agreement we currently have with the RECC, the 911 center, to provide that the County would become the fiscal agent for that organization. Currently the City is the fiscal agent, and that all the employees of the RECC who are now City employees would become County employees, and that the County would, from that point on, pay for the day-to-day operations of the entire 911 center.

We’ve analyzed that; we think that’s a budget impact to the County of about \$2.3 million, in addition to the ¾ of a million dollars that the County currently pays for that operation. We would amend the joint powers agreement to provide what I just said.

The heavy version we were talking about of the resolution laid out in excruciating detail the various paragraphs of the agreement that would have to be changed and how they would have to be changed. So there’s pros and cons to adopting either version. The heavy version, obviously, were we to adopt that, there’d be less reason to discuss the various provisions in connection with the negotiation of changes to the joint powers agreement, but it’s also a very long, complicated agreement that may not make the points as succinctly as you might want to.

The second big point in both resolutions is that the City would agree to support in an appropriate manner the question before the voters on the adoption of the proposed tax.

That’s kind of a summary of light versus heavy, and I have both here. We’ve noticed the question in a general way so that we can adopt either version, should you choose to adopt one.

CHAIRMAN MONTOYA: Okay. And the light is the one that was agreed on in a work session that Commissioner Vigil and Commissioner Sullivan were here with the City Councilors and the Mayor and goes along the lines with what the Mayor has proposed.

MR. ROSS: Mr. Chairman, I think the points that were agreed upon during that study session are embodied in the light version. I don’t think they had the light version before them because until today I had only circulated it internally.

CHAIRMAN MONTOYA: Okay. But they opposed the heavy version?

MR. ROSS: They opposed the concept of the heavy version.

CHAIRMAN MONTOYA: The concept of the heavy version. Commissioner

Vigil.

COMMISSIONER VIGIL: I think, Steve, and correct me if I'm wrong, did you also include one of the agreed to points, which was the governing structure would remain the same? Was that also included?

MR. ROSS: Yes. That principle is embodied in both light and heavy.

C: Okay. The light one just to kind of for my purposes, actually represents the Mayor's intent in moving forward with this resolution. Would you make that assessment?

MR. ROSS: Mr. Chairman, Commissioner Vigil, yes.

COMMISSIONER VIGIL: Okay. And Mr. Chairman, I would propose that we consider taking action on the light version. I think it actually does represent some of the negotiations that have taken place and I think as we move down and look at the joint powers agreement we'll be able to work out all the technical changes that need to be done, but I think the principles that we agreed to are represented as our attorney said, in both versions, but it seems to me that a way to move forward in a conciliatory manner is to consider adopting the light version. And that's how I'd like to move forward.

CHAIRMAN MONTOYA: Okay. Commissioner Campos.

COMMISSIONER CAMPOS: Mr. Chairman, Mr. Ross, your resolution addresses some sort of approval by the City government?

MR. ROSS: Mr. Chairman, Commissioner Campos, it is styled as a joint resolution of the City and the County.

COMMISSIONER CAMPOS: So in order for this – what would be required as Council support then? Council approval of this joint resolution.

MR. ROSS: That's correct.

COMMISSIONER CAMPOS: Okay, and we intend to present this resolution to the City at what point in time? Tomorrow?

MR. ROSS: Mr. Chairman, Commissioner Campos, I think the hope is that it will be presented tomorrow during the meeting.

COMMISSIONER CAMPOS: Okay. Thank you.

CHAIRMAN MONTOYA: Commissioner Vigil.

COMMISSIONER VIGIL: Mr. Chairman, I move that we adopt the lighter version of the resolution that represents the agreements thus far discussed between the City and the County, in particular that the County would be the fiscal agent, that we would fund the operations and management of the RECC, and that the governing structure would remain the same as represented by our attorney.

COMMISSIONER CAMPOS: Mr. Chairman.

CHAIRMAN MONTOYA: Commissioner Campos.

COMMISSIONER CAMPOS: And that these employees would become County employees.

COMMISSIONER VIGIL: I think as fiscal agent that kind of follows.

COMMISSIONER CAMPOS: I want to be more explicit.

CHAIRMAN MONTOYA: I think they wanted that to be kind of explicit.

MR. ROSS: Mr. Chairman, it does say that explicitly. The one thing that it doesn't say explicitly is that the governing structure of the joint powers agreement will remain the same, but

that's implicit in the first paragraph. The only changes to be made are the change in fiscal agent, the change in employees and the change in funding and financing the operation. If we want to be more explicit than that we should probably add a sentence.

COMMISSIONER VIGIL: I would prefer that we be explicit about that, because that was an explicit agreement.

COMMISSIONER CAMPOS: And I'll second that.

CHAIRMAN MONTOYA: Okay. We have a motion and second. Further discussion?

The motion to approve Resolution 2006-164 as discussed above passed by unanimous [3-0] voice vote.

CHAIRMAN MONTOYA: So this will go to the City Council for their consideration tomorrow. I understand they have a meeting at which they will hopefully support this and eliminate any opposition that we've experienced from that up to this point. This is an issue of safety for everyone.

MR. ROSS: Mr. Chairman, just to make sure we're all on the same page, I just wrote this sentence that we'll add to the end of the resolution. It says, "The governance structure as set forth in the agreement shall not otherwise change as set forth herein." Does that sound okay to everybody?

CHAIRMAN MONTOYA: Fine.

COMMISSIONER CAMPOS: It's okay with me.

CHAIRMAN MONTOYA: Okay. Thank you.

XII. PUBLIC HEARINGS

A. Land Use Department

- 1. First Public Hearing for Ordinance 2006 - __. An Ordinance Amending the Santa Fe County Land Development Code (Ordinance 1996-10, as Amended) to Add a New Section 9, Tres Arroyos del Poniente Zoning District (TAP) to Article XIV, Traditional and Contemporary Community Zoning Districts, Judy McGowan, Case Planner**

JUDY MCGOWAN (Senior Planner): Mr. Chairman, Commissioners, this is the first public hearing on the ordinance amending the Santa Fe County Land Development Code to incorporate a new Section 9, Tres Arroyos del Poniente District, which will be known as TAP, to

Articles XIV, the Traditional and Contemporary Community Zoning Districts.

I want to do a very brief power point, which is not too exciting but it helps me to lead you through the ordinance and explain what's in the ordinance and where it came from. But I want to point out before I start that you authorized the publication of title and general summary for this ordinance in August. The EZA also did in August. There needs to be two ordinances because the TAP is – not exactly bisected but it's split between the Extraterritorial Zoning District and lands outside the Extraterritorial Zoning District.

On August 28th there was a community meeting and there was notice of that meeting published in the newspaper and also sent to all property owners on record in the district. Comments and suggestions from that meeting, which was a very explicit meeting, actually. Some very explicit suggestions made that have been incorporated into the public hearing draft that's before you today. Copies of the draft of ordinance have been on the website and have been available from the County Land Use Department. And the notes from that community meeting were in your packet.

Just to remind you, the TAP area is west of the bypass and bounded on one side primarily be the City's Municipal Recreation Area, and on the north the boundary is the boundary of the Santa Fe North Community Plan, the SNCC area. The Board adopted the TAP plan this last March and the EZA also adopted identical provisions for the TAP plan last March. So we're going forward with two ordinances to implant the zoning concepts and standards in the plan. The concepts that are important that are, hopefully, articulated in the draft ordinance are the comments about residential density that were in the plan. That would be an average of one DU per 2.5 acres. The basic zoning districts in the county portion would stay the same and prior approvals such as Aldea would be recognized.

So we've had to try and draft the ordinance around those concepts. A big portion of the plant are new standards that are called for that are in addition to or in place of existing Code standards for home occupations, open space, roads, trails, water and wastewater, utilities, landscaping, architecture, lighting, signs, off-street parking and loading. If you'll recall, a number of those areas, trails, water and wastewater and open space in particular were amendments that were crafted into the plan at the final public hearings.

Another issue that had to be addressed is the plan talks about where non-residential uses should be located in the TAP area. It specifies that the community center or the village center in Aldea should be the major non-residential area. It provides for home occupations and also provides the possibility for a mixed use area in the southwest corner of the TAP area where there is some non-residential development that's either existed for a long time, pre-Code, or has been approved recently, mostly institutional uses such as the animal shelter and Challenge New Mexico, adjacent to those properties. So we're providing for a mixed use overlay to take care of that issue.

A third concept that's important is incorporating better notice and community review procedures for new subdivisions and non-residential developments. Actually, the slide's not exactly correct. In the community meeting it was asked if we could expand that notice so that there would be mailed notice for home occupations and developments such as those, because people feel like the posters that get hung up don't always work. That section is built on the Code rewrite section that also accomplishes that end.

This is the future land use map that was adopted in the plan so you can see it's primarily

rural residential. The orangish color is the more clustered development including the Aldea Village that's been approved and already zoned, and then in the lower left-hand corner, southwest corner, the blue dot on the left is the potential or possible mixed-use area.

The ordinance contents, much of the language comes directly from the plan. Why reinvent it? Some sections had to be expanded upon because there was general direction in the TAP plan and not detail in there that could be absolutely incorporated, and some sections are responding also to gaps or older language in the Code that's not up to the changed conditions and the goals of the plan. So the expanded section, first of all we've used the format of the County Code rewrite. Hopefully that will help it to be incorporated later when the Code rewrite and the new County Code gets adopted. We had to fill in some sections, such as accessory uses, which don't currently exist in the County Code that were needed, we thought, to clarify the land use table in this proposed ordinance. And of course the land use table is one of the big changes that's different from the existing Code but you've seen several of those and adopted several of those now. It seems to be well received in the communities and by the public because it makes clearer what's allowed and what's not allowed than the current Code.

So we've developed the land use table. The proposed subdistricts at this point are residential basin fringe, residential basin, with the standard hydrologic zoning districts we have now, a new village overlay and a village center, which corresponds, hopefully. We've tried to make them correspond to the approved zoning that's already been done for the Aldea development and then the neighborhood mixed use overlay is a new potential zoning district that's been developed. The new village and the village center are in the Extraterritorial Zoning District so they don't show up in this ordinance.

There's a density and dimensional table that also follows the standards and the layout of the Code rewrite. Supplemental use regulations – we've had to add language for accessory uses and home businesses to clarify what those are and how they relate to the land use table. The land use table is for principle uses only and we've incorporated the home occupation language that was proposed in the plan.

Another expanded section, the open space requirements and standards, in the final public hearings, I think it was either members of the Board or the EZA made some amendments but there wasn't specific language on how to implement and there was discussion in those public hearings, if you recall about what could be open space and what wouldn't and whether it would be private or public. So we've taken existing language from the Extraterritorial Zoning Ordinance which already dealt with that issue and that's what was explained in those public hearings. And we've also taken some language from the Community College District which had very simple language about criteria for what lands should be counted as open space.

On trails, there are existing standards in the Extraterritorial Subdivision Regulations for trails, but they're pretty broad and they don't reflect what we've learned since 1989 about trails and how they work and don't work, such as trail widths of four feet. That doesn't work if you're trying to do pedestrian plus horses. So we drew on again some language in the Community College District that's previously adopted language, and we also had help from the County Open Space Division staff to develop some trail standards. I want to point out to you that the hope is at some future point to bring forward an ordinance that would have countywide trail standards in it so that we don't have

different trail standards in each little tiny area. But those were not ready for right now.

Mixed-use overlay subdistrict use section, it's very brief. It's one page. We tried to express very specifically the plan intent. Why mixed use was thought to be a potential use in that area to put in standards that are clear but flexible because the property owners don't, at this point, what type of mixed use or what type development they might proposed on their lands. We used limits from comparable districts that are already in the Code. We were especially relying on the neighborhood commercial district. We didn't want to reinvent things.

If you'll notice, the area on the map is shown as eligible to be zoned, not zoned, and that once again is because the property owner doesn't have specific plans and we felt it was important for the neighbors to the property to be able to come forward to a rezoning hearing and understand exactly what is being proposed when the property actually got zoned.

I can tell you that doing two ordinances, that you're trying to make comparable for one area is very confusing. I've already gotten mixed up between the two drafts myself and erased one thing here and not put it over there, so if you notice anything when you're sitting at the EZA that I messed up please tell me. But to avoid confusion, we're trying to keep the ordinances for the County Code and the EZA the same as much as we can. Obviously, they won't be identical because the zoning subdistricts are different and they're responding to some different things in definitions, etc. in the respective codes.

For mapping, what we're trying to do is make it really clear because we've had a problem with this in the past, which zones are in which jurisdiction, so it's real clear on the map. So we've developed a map for the County Code that is this one that was in packet in the draft ordinance that kind of blanks out slightly what is covered under the Extraterritorial Zoning District, and the one for the EZO does the reverse. And then of course in the GIS system it can be all mapped as one illustrated map without the blank outs.

If you'll note once again, it doesn't show really well, but once again the districts that are in the county section are the residential basin and the residential basin fringe and then the eligible for neighborhood mixed-use overlay. The EZ is much more complicated because there's a highway corridor district too. The other map, because of the trails, that needs to be adopted because of the ordinance is the circulation, the roads and trails map that was in the plan. This is basically the same map that's in the plan. We're trying to keep it updated with the latest version of what roads have actually been built so that's clearer. And I noticed tonight that there is an error on this so we'll work on fixing that. There's some roads out there that are floating in space and don't attach to anything. Obviously, that's not correct so we'll continue to make those corrections.

And just a final point, which is not for this ordinance specifically but since some of you will be hearing this again at the EZA, is that one of the issues that came out of the community meeting was to reconsider the urban area of the TAP because of changed conditions and because of primarily plans that have been adopted since 1980 that don't conform to that, and also that there will be overlay zones in that to implement the already zoned areas for Aldea Village and the Aldea Village Center. And that we are leaving the highway corridor overly unchanged. We're not changing any of those standards. That's pretty much it for my presentation. I want to point out just that I've already gotten a couple of comments about language clarifications for this draft so for the second public hearing I will be bringing forward at least those amendments and any other amendments the

Board would like to direct in that time.

CHAIRMAN MONTROYA: Okay. Questions?

COMMISSIONER CAMPOS: Mr. Chairman.

CHAIRMAN MONTROYA: Commissioner Campos.

COMMISSIONER CAMPOS: Water in this area is mostly from wells and wastewater goes mostly to septics? Is that right?

MS. MCGOWAN: It's a real mix in this area. The majority of the area is on wells and septic tanks and a good part of the area has been developed since the 70s, subdivided since the 70s. And then there has been fairly rapid subdivision and land division in the area in the last five years, six years, seven years. It's really quite rapidly being fully developed out and some of those developments are on City water and sewer. The Aldea development is and I believe the Tessera development is. It's a Hurlocker development that's right adjacent to Aldea. There are some developments that are on water but not on sewer, up in the northern area, this area of the TAP area.

COMMISSIONER CAMPOS: Are they private water systems?

MS. MCGOWAN: No, they're on the Las Campanas water system, I believe, and maybe one on the City water system.

COMMISSIONER CAMPOS: Is there any County water in this district, as far as the County water system?

MS. MCGOWAN: Well, there will be, because you've already given approval to the Suerte development and that will be on County water. It's pretty much right in the middle of this area. Much of the Hager Estate – the Hager Estate was divided between his heirs and the archdiocese, the Catholic Foundation, and much of that has been purchased as smaller parcels and then resplit. Most of that, except for the portion that comes in with Suerte is developing on wells and septic tanks.

COMMISSIONER CAMPOS: Was there thinking during the plan process as to future water service and wastewater service? I don't remember reading that.

MS. MCGOWAN: The committee tried to get an opinion or direction or a commitment from the County on what the County's goals were in that area and were unable to get it.

COMMISSIONER CAMPOS: When you say the County, who are you talking about?

MS. MCGOWAN: The County. The County could not –

COMMISSIONER CAMPOS: The County Utility Department? The Board of County Commissioners? The Planning Division?

MS. MCGOWAN: The Utility Department primarily. They met with the State Engineer, also, on water issues. They really looked at that but could not – except that it's mixed and at some point in their future there's likely to be water service, there was not direction given to them on how to handle that. So in the final amendments to the plan, they included sections about – and that's any ordinance, saying that development should be set up for future connection to County water and County sewer.

COMMISSIONER CAMPOS: What about the usage per DU of water? Is that the old .25 acre-feet per DU?

MS. MCGOWAN: There's a limitation in the plan and in the ordinance.

COMMISSIONER CAMPOS: Of late we've gone below that because we know that homes don't – that .25 acre-feet is a lot of water and most dwelling units don't consume that much water.

MS. MCGOWAN: The language – let's see what page it's on. It's in the water section. This was language that came from CDRC and that the Board approved. The bottom of page 15, the top of page 16. It's a maximum of .25 acre-feet per year per legal lot of record that will be allowed. So if you're on a water system, if you're doing graywater, if you're doing some kind of water circulation, I'm assuming that could approve a lesser amount of water per lot.

COMMISSIONER CAMPOS: There's also water harvesting. I assume it would be mandatory in this area, if a home is of so-many square feet, right?

MS. MCGOWAN: That's right. We're not changing the water harvesting. The other additional standard in here that doesn't exist anywhere else is we're asking that new buildings be plumbed to enable graywater use.

COMMISSIONER CAMPOS: Okay. What about guesthomes? What's the idea about having guesthomes?

MS. MCGOWAN: We brought that up at the community meeting. I have to see if I can say this correctly. They feel that whatever the County standard rules for guesthomes is what should apply in this area. In other words, they didn't want to invent a new rule for guesthomes.

COMMISSIONER CAMPOS: What is the County rule for guesthomes?

MS. MCGOWAN: If they have a kitchen and bathroom they're counted as another dwelling unit and you'd have to have the density to allow the two dwelling units.

COMMISSIONER CAMPOS: So if it's 2.5 you really have to have five acres.

MS. MCGOWAN: That's correct.

COMMISSIONER CAMPOS: What about the connection of 599 and County Road 62 and 70? We know that these intersections are fairly dangerous and there's been a lot of study going on. It seems that as this area grows there's going to be more and more traffic in and out through County Road 62 and 70. These are not grade-separated intersections. What was the thinking there if any?

MS. MCGOWAN: The committee looked at, and many of them have participated in the Arterial Roads Task Force plan, so they adopted that plan or said that plan is what should – they didn't try and reinvent that. So what the arterial road task force plan lays out for the arterials that are shown on the road map and one of them is a realignment of County Road 62. I don't know if that will ever happen. The Arterial Road Task Force plan said all those intersections along the bypass need to be studied and replaced with safer intersections. So I think the committee didn't try to overrule any of that. So it would be what comes out of the corridor studies that are now starting and what will happen as far as where intersections go and where they won't go and how they will be funded or not.

COMMISSIONER CAMPOS: There's a lot of discussion that sprawl development is really not good for a community, that we should have clustering and higher densities to use land more efficiently and infrastructure more efficiently. Was there any discussion about that in this plan?

MS. MCGOWAN: I think the plan encourages clustering and open space, and the open space – there is in the Extraterritorial Zoning Ordinance there's a density bonus for open space that's not in the County Code. So in the Extraterritorial Zoning Ordinance portions of it you could get a density bonus for preserving open space.

COMMISSIONER CAMPOS: But you do anticipate that most of these lots will be 2.5 acres per DU?

MS. MCGOWAN: I think the applications may mostly be in before the ordinance is actually in effect. Not all of them, no. But the area is really developing very quickly, being platted very quickly.

COMMISSIONER CAMPOS: It's being platted at 2.5 acres per dwelling unit?

MS. MCGOWAN: That's correct.

COMMISSIONER CAMPOS: Thank you, Mr. Chairman.

CHAIRMAN MONTOYA: Commissioner Vigil.

COMMISSIONER VIGIL: Thank you. Judy, this is just for my clarity. Serving on the MPO, has the DOT, the Department of Transportation requested that Arterial Roads Task Force study for their highway corridor study? Do you know if that has occurred yet?

MS. MCGOWAN: It's been given to the consultants. And a copy of the Tres Arroyos plan has been given to the consultants and the Agua Fria plan, and the Community College. All the plans have been given to them.

COMMISSIONER VIGIL: Okay. I think that we have emphasized in the MPO how necessary it is to do a separate grade consideration for crossings over that 599. I think that's consistent with all of the safety standards and the concerns of the community there. I just have a question with regard – I know that we've requested – at least I've requested from our COLTPAC open space and trails people, to come forth with a plan on a countywide trail system and connectivity. Highlight for me and refresh my recollection of what the trail issue was here, and where we are with it. I know that this community was very concerned about incorporating trails and development. I think the County is also, and the plan also actually makes that recommendation. Is that correct?

MS. MCGOWAN: That's correct. You adopted the trails map and the roads map, and some of those roads are from the Arterial Roads map and arterial roads by definition have either sidewalks or trails with them as the pedestrian accessory for multi-use or multi-modal facility. The trail in Arroyo Frijoles, in or adjacent to the Arroyo Frijoles is also on the County's open space and trails plan as one of the major links countywide. The Extraterritorial Subdivision Regulations currently require that you provide trails with your roads in certain instances, and then they refer you to an adopted trail map if there is one. So this would be the map that would be referred to. And development review and the County trails person in the Open Space Division have been working together with Planning staff and with residents and applicants to locate the trails appropriately as applications come in.

COMMISSIONER VIGIL: Okay. And Judy, the amendments that you're proposing tonight, was there unified consensus or was there any dissenting opinions on these amendments?

MS. MCGOWAN: That came from the community meeting?

COMMISSIONER VIGIL: Yes.

MS. MCGOWAN: There was pretty much consensus.

COMMISSIONER VIGIL: Okay. Thank you, Mr. Chairman. I'd like to hear further comment if there is any.

CHAIRMAN MONTOYA: Any other questions for staff? If not, this is a public hearing, the first public hearing. I'd like to hear from people who would like to speak on behalf of or in opposition to this plan, if you'd please come forward at this time.

TOM TERWILLIGER: Hi. My name's Tom Terwilliger. I've been leader of the planning group. First I'd like to thank you for your contributions to the TAP plan already, particularly Commissioner Vigil who helped us explicitly in the latter stages of our planning effort. And also I want to thank at this time the County staff for the efforts during the time since you passed the plan and in drafting the ordinance. County staff has done a tremendous amount of work and I'd like to congratulate them on the quality of that work, in particular Ms. McGowan who just presented to you.

I also want to thank all the community people who helped develop this plan and the ordinance. It's been a really long process and we've come up with I think a very, very good plan. So I just want to support what County staff has put forward to you, so what County staff has done is taken the plan that you approved last year and fleshed out that plan and put in the details that make it into something that's suitable for an ordinance. In doing this, County staff has followed the intent of the plan very, very closely. So the ordinance that you have before you really does have the same content but just more detail than the plan that you approved last year.

In particular, the details, as Ms. McGowan said, are in the trails, where it specifies the spacing of trails, the standards for building trails, the use table, which is a major addition which had a lot of input from the community and which is consistent with the land use Code that you are developing, and the open space is defined in this ordinance. It wasn't actually defined in the plan. So we have definitions that are important, and home occupations and businesses are spelled out much more clearly in this ordinance than they were in the original plan. This was presented to the community in the community meeting on August 28th and on the website. At that community meeting I would say there was enthusiastic support, not just support for the ordinance, but enthusiastic support for that ordinance, with some very, very minor details that were suggested for the changes. So with that, I'll stop and I'll say that I support this ordinance very, very much as it is. I think that it is the result of a lot of planning and I think it's a very good ordinance. I wish we'd had it seven years ago to start off with.

CHAIRMAN MONTOYA: Thank you, Tom. Any questions?

COMMISSIONER VIGIL: I just want to thank Tom for all the work that he put into it. He provided a strong leadership role for the community. As I mentioned before when we adopted the original plan, this was not an easy plan to come forth with. There were a lot of adversarial positions taken so for them to come to a consensus and come forth with this plan I think is an incredible feat, and it took the dedication of people like Tom and all the other people who participated in this planning process. I know it hasn't been easy, but I applaud your patience, your effort and your dedication to it. Thank you, Mr. Chairman.

CHAIRMAN MONTOYA: Okay. Anyone else like to speak?

ANN NOBLE: Good evening. My name is Ann Noble and I'm from Puesta del Sol Property Owners Association, and I want to thank everybody for their extreme hard work on this plan. We totally, totally agree with it. We would like you to adopt it as ordinance and we are backing it wholeheartedly. Thank you.

CHAIRMAN MONTOYA: Thank you, Ann. Anyone else?

HELGA ANCONA: Hi. My name is Helga Ancona. I'm a member of the board of the West Santa Fe Association. Tom Terwilliger was a really good shining light through all of this and that he hung in there for seven years is miraculous. I also wanted to thank the Board. I think we are having a very enlightened Board these days and I really thank you for being so supportive of this plan.

The West Santa Fe Association wholeheartedly recommends that you adopt this ordinance. We think it's going to make a big difference in our area which is going through an incredible change suddenly. So many people have discovered the south side of town and we are worried about how this is all going to go on. So I think the TAP is a great beginning and it's showing the way on how the south side of town or the south side of the county should be developed. Thank you.

CHAIRMAN MONTOYA: Thank you, Helga. I don't see anyone else coming forward. This is the first public hearing. The second one will be on November 14, 2006. Judy, did you have any closing comments?

MS. MCGOWAN: Not really. Just thank you. I did forget to mention that we enjoyed pretty close collaboration with Carolyn Glick from legal staff on this ordinance too. It was delightful to work with her.

CHAIRMAN MONTOYA: Great. Thank you.

COMMISSIONER VIGIL: Thank you, Judy.

XII. A. 8. EZ Case #S 06-4310 Ponderado Subdivision. Linda Tigges, Agent for Ponderado Subdivision (Ted Wegner and Judy Ross), Request Preliminary and Final Plat Approval for a 14-Lot Residential Subdivision on 43.245 Acres More or Less. The Proposed Subdivision is Located at the End of Camino Peralta, off County Road 68, Which is North of NM State Road 599, Within Section 30, Township 17 North, Range 9 East NMPM, Santa Fe County (5-Mile EZ District 2) [Exhibit 5: Wiese Letter]

VICENTE ARCHULETA: Thank you, Mr. Chairman. On August 16, 2006 the EZC met and recommended approval for a 14-lot residential subdivisions subject to staff's conditions.

The applicant requests preliminary and final development plan and plat approval for a 14-lot residential subdivision on 43.24 acres. The subdivision consists of 14 lots, which includes two affordable lots meeting the County's Affordable Housing Ordinance. The lots vary in size from one acre to 3.542 acres.

The property is located within the Basin Hydrologic Zone, which allows one dwelling unit

per 2.5 acres with proof of adequate water and .25 acre-feet water restrictions. The project will proceed in two phases. Phase 1 will consist of a dwelling unit located on the far southeastern parcel (Lot 12 -3.373-acres more or less) which will use Camino Peralta as access. Phase 2 will consist of the remaining lots and will be developed in coordination with the construction of Hager road.

The applicant is considering donating the two lots provided for affordable housing to the Santa Fe Community Housing Trust.

The application was reviewed for the following: Existing conditions, access, traffic, water, fire protection, liquid and solid waste, terrain management, storm water retention, archeology, open space, homeowners association, affordable housing.

The proposed plat/development plan is in accordance with the procedures and submittals for preliminary plats set forth in Sections 3.3.4.B of the EZ Subregs. However, there are issues that still need to be addressed prior to final approval. Therefore, staff recommends preliminary plat/development plan approval subject to the following conditions. Mr. Chairman, may I enter the conditions into the record?

[The conditions are as follows:]

1. Compliance with applicable review comments from the following:
 - a) State Engineer.
 - b) State Environment Dept.
 - 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) Santa Fe County Affordable Housing
2. Final plat to include but not be limited to the following:
 - a) Compliance with plat checklist.
 - b) Approval of rural address and street names.
 - c) Installation of sprinkler systems.
 - d) Development permits for building construction will not be issued until required improvements for roads, fire protection and drainage are completed as approved by staff.
 - e) Public trail easement along Los Suenos Trail.
3. Final 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 .25 acre-feet per lot
 - b) Water conservation measures shall include water storage from roof drainage.
 - c) Maintenance of roads and drainage facilities.
 - d) Maintenance of septic systems.
 - e) Solid waste removal by the Homeowners Association if the homeowner is not

- complying.
4. The homeowner shall contract with a licensed solid waste disposal service for trash pick-up.
 5. All redline comments shall be addressed.
 6. Applicant shall address the following issues from the Santa Fe County Hydrologist:
 - a) All water will be supplied by shared wells, each supplying at least three lots.
 - b) Submit a copy of the Water Quality Analysis from NMED to fulfill the water quality requirement.
 7. A liquid waste permit must be obtained from the Environment Department for the proposed septic system prior to issuance of building permit.
 8. The applicant must record water restrictive covenants simultaneously imposing .25-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.
 9. Trails shall be developed within common open space around perimeter of subdivision.
 10. Submit Engineers cost estimate and acceptable financial surety for completion of required improvements as approved by staff. Upon completion, submit certification by registered engineer that improvements have been completed in conformance with approved development plans.
 11. Submit solid waste fees in conformance with the ESR.
 12. Development Plan submittals shall comply with the following:
 - a) Common ponds for road drainage.
 - b) Access roads shall have an easement width of 50 feet with a roadway width of 22 feet.
 - c) Finished road grade shall not exceed 3% for 100 feet from intersection.
 - d) Engineer calculations for size of culverts.
 13. 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 MONTOYA: Questions for staff?

COMMISSIONER VIGIL: Question.

CHAIRMAN MONTOYA: Commissioner Vigil.

COMMISSIONER VIGIL: I'm reading that staff recommends preliminary development plan approval only on the recommendation. Would you restate the phase 1, phase 2?

MR. ARCHULETA: Mr. Chairman, Commissioner Vigil, we're recommending final for phase 1 only, and preliminary for phase 2.

COMMISSIONER VIGIL: Thank you.

CHAIRMAN MONTOYA: Okay. Commissioner Campos, any questions?

COMMISSIONER CAMPOS: No, Mr. Chairman.

CHAIRMAN MONTROYA: Is the applicant here?

[Duly sworn, Linda Tigges testified as follows:]

LINDA TIGGES: Linda Tigges, Tigges Planning Consultants, 1925 Aspen Drive. Mr. Chairman, Commissioners, I would like to introduce the applicants, Judy Ross and Ted Wegner and the project team, Mike Gomez, traffic engineer, Rachel Friedman, the civil engineer, Ivan Trujillo is with us tonight as well. He's the project designer engineer for Hager Road, hired by the Hager Road Trust.

Just to get started I'd like to remind you of the location. The property is located right here, on the Arroyo Frijoles at the end of Camino Peralta. Campos Arroyo is down there. This is the proposed Hager Road. Suerte is up here. Puesta del Sol is over here, and Pinon Hills is over here. I may have got that backwards. Anyway, it's between those two. This is the archdiocese, which as you may recall was seven acres. This is one of the lots that was split out of there. There's a lot here that still belongs to the archdiocese. This one belongs to Danny Marmion and another person and this one as well, and then Driscoll and DeBella, who are here own this one, and then the other two belong to the archdiocese. This one is the first one in.

The applicant does agree with the conditions of approval. We are asking for final approval for all aspects of the project, phase 1 and 2. It was advertised as such. We understand that staff is asking for preliminary and final. However, in the last two and three weeks we made a lot of progress in dealing with some of the concerns, a lot of the conditions of approval have been met and we feel that we have made great steps in satisfying some of staff's questions. So we are at this time asking for final development plan for both.

To support that, Judy Ross, one of the applicants, will make a presentation talking about the neighborhood meetings, the site plan, affordable housing and the trails and how it coordinates with the TAP plan, and then perhaps a little more in detail than the other, how we are expecting Hager Road to be built.

[Duly sworn, Judy Ross testified as follows:]

JUDY ROSS: Good evening. Our goal for Ponderado Estates is to make it a great place to live and to be a good neighbor. My husband and I plan to keep two of the lots for ourselves and we will be living on the property. So in that light, we decided that we really wanted to focus on neighborhood meetings and talking to the neighbors and to make sure that we were living up to both the spirit and the letter of the law of the TAP plan. So everything that you just heard from Judy McGowan is something that we've taken to heart and tried to incorporate, as I said, both the spirit and the letter of the law.

We've had over 20 discussions with the neighbors. Probably the most important were two face-to-face meetings in which we brought our advisors, the experts that Linda just introduced to you to answer questions for the neighbors. And based on their concerns we did two major things. One is that we strengthened the architectural review committee. Although our covenants are very restrictive and reflect the spirit of the TAP plan, we felt that because Puesta del Sol has to look at our property and it's kind of what they see in their sky and in their horizon, that we would make sure that our architectural committee was a little stronger so that we could meet some of their concerns about the kinds of things that they don't want to see.

In addition to that, the second big issue was trails. As you heard on the TAP plan, trails were a very, very big issue. Arroyo Frijoles, which is a major part, it's a district level trail, as well as the trail running along Hager Road is also a district level trail, we had a lot of input from the neighbors about the width of it, its placement, etc. And so we have taken their concerns to heart, and we'll be talking a little bit more about trails. We have placed the trail where they want it, which is out of the arroyo proper. We'll be building it according to the new standards that are in the TAP plan. In addition to that, the neighbors were very, very concerned about it being placed along Hager Road. So that's a major thing that we have done in order to meet what the neighbors are concerned about.

So let's take a look at the map and look at the site plan.

COMMISSIONER VIGIL: Mr. Chairman, let me ask a question. When you said you have taken to heart what the neighbors have requested with the trails, does that mean that you will be having a trail on the west boundary and Frijoles?

MS. ROSS: I'll show you where the trail is going to be. If you take a look at the map here you can see the area that's brown here, so the trail comes from here along Frijoles, and then it comes across the arroyo and then comes over here. So originally when we had it platted out, we had it essentially going down the trail itself. There was actually a site visit where we had Vicente, Wayne, Judy McGowan, who's the new Open Space and Trails Director, they spent about half a day out here making sure that it got placed. And then Scott Rivers went back out there with our surveyor to make sure that it was placed up on the lip of the arroyo and the 15-foot easement was placed there, then there will be eight feet of trail there.

So you can see where it's placed. And it goes right along the arroyo itself, but it is up on the lip so that it's not difficult walking in the sand. That was one of their concerns. As you can see, the site is difficult because it was bisected in one direction by the arroyo.

COMMISSIONER VIGIL: I'm seeing the upper right portion is west. The remainder just cuts through. Is that all arroyo?

MS. ROSS: This is all arroyo. Yes. If you want to look here at this, you can see the sandy portion of the arroyo and you'll see that our border essentially comes along there. So we've essentially taken all of the arroyo and made it common open space for public access. So it will be access for horses, bicyclists, people walking, whatever they'd like to do with that. And it will be public access. You can see that this section here that's dotted that's kind of the lighter green is open space for public access. But the trail itself that will be built up is a 15-foot easement that will be developing. It will have some sort of crusher finds or something for the trail itself. Did that answer your question?

COMMISSIONER VIGIL: It doesn't look on the map like it's on the west boundary, and I think that's at least one of the requests that I received.

MS. ROSS: Are you asking about this trail here? Okay. The original TAP plan showed the trail going along Hager Road and one of the things that the neighbors requested of us is take it off Hager Road because they didn't think horses along Hager Road was a good idea. So they asked us to put it here. And we have represented here Danny Marmion, Rick Driscoll, and we've also gotten a written agreement with the Catholic Foundation. So County staff and open space have agreed to the moving of the trail from the road to the western border, and it will be

continuous, so that we make sure that we have a continuous trail from Arroyo Trampas to the Suerte border.

COMMISSIONER VIGIL: Okay.

MS. ROSS: To assure you that that trail is there. You can see the lots vary in size from one to as Vicente said, 3.5 acres, and Hager Road is this road that goes through here, and then we'll be building two small streets to access the property. This lot right here is the one that's accessed by Camino Peralta. It is a County road; it dead-ends at the arroyo. So you can see what the lot layout looks like.

COMMISSIONER VIGIL: So that bottom road would only access those two bottom lots.

MS. ROSS: This road here only accesses this lot. These two lots would be accessible through –

COMMISSIONER VIGIL: Hager Road. Right.

MS. ROSS: And as you can see also from this, it's pretty easy to meet the 30 percent open space because this line right here is the FEMA floodplain. So it's pretty simple to say you're not going to be able to build in the floodplain. That's where the open space is, etc.

CHAIRMAN MONTOYA: Okay. Any questions for the applicant?

MS. ROSS: I have a couple more things. Okay, we've talked about the trails, affordable housing. We do have two lots that we're dedicating for affordable housing. It has been approved by the affordable housing director. And then the last thing that I'd like to talk about saving the "easiest", and I use that in quotes, for the last, is to talk about Hager Road. So I passed out to you earlier, and I don't know if you got it in your mailboxes. Did you guys get a copy of the presentation and the letter from our attorney?

CHAIRMAN MONTOYA: Hyatt and Brownstein?

MS. ROSS: I have extra copies here. Let me just pass them out. So in this part of the presentation I'm speaking as a representative of the Hager Road Trustees. As Linda mentioned earlier, there were seven 43-acre parcels that the Catholic Foundation split and sold. Four of them have been sold, three still remain with the Catholic Foundation. We have in the audience Danny Marmion and Joe DeBella and Rick Driscoll who represent two of the parcels. And so in talking about the status, the engineering for Hager Road has been completed and we have the engineers for the project here, and you can see the engineers' drawing on the aerial photo there. So that has been completed. The Army Corps of Engineers and Santa Fe County staff are reviewing it.

If you look on page 3 you will see the Santa Fe road classification versus the traffic. First we have the number of dwelling units. We show Suerte at 306. I think the last time they spoke to you it was like 264 units. Our assumption is that they'll be coming back in for affordable housing units, so the number is likely to go up. So I wanted to show you what I believe will be the real situation. In addition, we have the Hager properties at 96 units, and Ponderado at 14 units. That's what, when you sum all of it together it puts it in the minor arterial category, and the Hager Road design is giving you on the right-hand column, we have designed the road to 66 feet. It will be two lanes of 12 feet each, and there will be two six-foot shoulders. The pavement depth will be four inches.

One of the other requests from the neighbors has been to not post the road at 45 which is

what a minor arterial would require, and we are asking that we be able to post it at 35, which is what the neighbors want as well.

So if you take a look at this classification you can see that if the Hager trustees were to build the road themselves without Suerte, we would be in the collector category, which is in the number of dwelling units of 60 to 199.

So if you look at the next sheet in your presentation, to our knowledge, there has never been a requirement by the Commissioners that the Hager properties be tied to Suerte. We have funds in escrow in order to build the road. We could build the road to the collector level, which is at the 24-foot, but make the basecourse for 36 feet and have the right-of-way at 66 feet, and those easements have already been dedicated. That would enable us to go forward. Hager Road has access to CR 70 in the south, and we can stub the road out at the Suerte border or something close to it. So from our prospective there is no prudent or legal reason that we should tie the Hager properties and their time frames to Suerte del Sur.

If you take a look at the next sheet, I wanted to refresh your memories. This is our understanding of what you required of Suerte del Sur with Hager Road, and that is you required Suerte to, as a condition of final approval, to execute a cost-sharing agreement with the Hager Road archdiocese properties. And I've given you the quote from the amended minutes so that you can take a look. Basically, it says that they need to enter a cost-sharing agreement with us.

So we would like to propose that the Commissioners can achieve cost sharing by doing the following: allowing the Hager Road trustees to build the 24-foot road, but put the basecourse at a 36-foot basecourse level that's required for a minor arterial. We've already provided the 66-foot easement that's required for a minor arterial, and we've engineered the road to a minor arterial level. Then you could require Suerte to widen the road when and at such time as they decide to develop. And then they could pay for the cost of improvements that are needed at Highway 599 and CR 70, and if there is a need for additional easements they could pay for those. In this proposal I speak for all of the trustees, not just for our subdivision.

So in order to give you an idea of the reason we're proposing this, and that is that the status of the negotiations with Suerte. We've had two verbal agreements with Suerte that we've had since February, that we've done two different times since February. We've had on signatures on either the first or second agreements which were committed to writing, and those signatures appear to be forthcoming. So the timing of when Suerte might sign is unknown to us. And in that light, the trustees are ready to proceed without Suerte. So I would like to request your approval to proceed forward and to make a condition of approval the financial surety for the road but to allow us to proceed. This concludes my presentation and I stand for questions.

COMMISSIONER VIGIL: Mr. Chairman, I have another question.

CHAIRMAN MONTOYA: Commissioner Vigil.

COMMISSIONER VIGIL: Another thing that's been pointed out to me, you did testify about covenants. Are these covenants compatible with the current covenants existing in surrounding areas?

MS. ROSS: There are a couple of differences that I know about. The basic answer is yes. Puesta del Sol has a height restriction of 14 feet. We have a height restriction of 17 feet. So there is a three-foot difference. And our reason for that is that in order to hit the 14 feet a lot of

times you have to have step-downs in order to get the clerestory windows and so forth and we don't think that that's compatible with wheelchair access and other things like that. So we want to be able to have one floor, no step-down sort of situation.

COMMISSIONER VIGIL: And have as part of your neighborhood meetings, has that been agreed to by neighborhoods?

MS. ROSS: It was raised as an issue. The 17 feet, we did not change it but we have strengthened the architectural committee so that if somebody believes, from Puesta believes that it's going to be too abrupt on the horizon, it's something that we can talk about.

COMMISSIONER VIGIL: Okay. And there is a water agreement?

MS. ROSS: Yes, there is a water agreement. There's a shared well agreement. I have a copy of it if you'd like to see it. I can provide it to you.

COMMISSIONER VIGIL: And this is for staff. Is the water agreement part of the conditions of approval?

MR. ARCHULETA: Mr. Chairman, Commissioner Vigil, the water restrictions will be to County standards.

COMMISSIONER VIGIL: Okay. So that is in the conditions?

MR. ARCHULETA: That's correct.

COMMISSIONER VIGIL: And the water agreement is in conformity with County requirements?

MS. ROSS: Yes, it does. In fact there were three additional requests that Karen Torres had for us and we did include those and revise them and provided a copy back to this entry.

COMMISSIONER VIGIL: Thank you. Thank you, Mr. Chairman.

CHAIRMAN MONTOYA: Any other questions for the applicant? If not, this is a public hearing. Anyone who would like to speak in support of or in opposition to this case, if you'd please come forward and sit at the bench over here. You'll be sworn in. If we could swear them in simultaneously that would expedite the hearing process. So there's one, two, three people. Okay. So if you three would come up. Four.

[Duly sworn, Hazel Mack testified as follows:]

HAZEL MACK: I'm Hazel Mack from Puesta del Sol, and I just want to publicly thank Judy for coming to the community of Puesta del Sol and considering the changes and proposals that we made to her. She has done what we have requested in that area. And we're very thankful for that.

CHAIRMAN MONTOYA: Thank you, Hazel. Next, please.

[Duly sworn, Michael Wiese testified as follows:]

MICHAEL WIESE: My name is Michael Wiese. I'm at 12 Calle Francisca and I'd like to enter a letter into the record and read a little bit from it. *[Exhibit 5]*

Thank you for hearing us this evening. My name again is Michael Wiese. My family and I live in Pinon Hills where I run a small business. I'm also a member of the West Santa Fe Association. We are adjacent to the proposed Ponderado Subdivision and I would like to thank this opportunity to welcome all of our new neighbors to the community. I appreciate their efforts in trying to communicate their plans to us.

While our semi-rural day-to-day life is about to change very dramatically as the former

Hager land is developed, I think our neighborhood is happy to embrace this sensible growth. It brings new faces, new infrastructure and new challenges to a fragile landscape. I want to express my respect for the Ponderado's commitment to the TAP principles, including preserving a practical trail system along their western boundary and through Frijoles Arroyo. These routes have been in place for decades and are essential to proper community circulation. The adjacent landowner, Danny Marmion, has also very generously agreed to continue these trails to connect to the rest of the system.

I also respect their long-term water plan, which as far as I understand it requires the timely capping of their wells when the County water system is in place, if it ever is in place. We would ask that the master plan approval is contingent on the explicit requirement of these previously verbal commitments. We also asked that approval be contingent on the final approval of the Hager-Los Suenos Road project, and as you know, this road will be a very significant new artery. It will change the nature of our community forever, and aside from the huge increase in traffic, it will directly facilitate the building of more than 100 new homes, and that is a great thing in our view but it necessitates public consideration and input.

The Hager land was sold by the Catholic archdiocese to several developers at the same time. These were all very fine people and while some of these potential new developments might be small enough to avoid the legal threshold of public scrutiny, they all rely on the same quasi-public infrastructure, i.e., Hager Road. I think that this might give the impression of just being a serial subdivision that can potentially disenfranchise the local community unnecessarily. It forces us to address the same issues again and again before the BCC with each sub-subdivision. It potentially subverts larger community visions for open space, emergency egress and trail networks.

All we're asking for is a voice in our current local investment and in our future. Hopefully, the implementation of a strong TAP plan will mediate some of these concerns. One brief note regarding emergency egress, as the BCC has heard many times before, Pinon Hills currently has one egress. A second is thankfully planned for Penny Lane. However, in the unfortunately very lively event of a fire moving rapidly from the southwest, people trapped on the north side of Pinon Hills will have no recourse other than a pair of bolt-cutters and a four-wheel drive vehicle to get to the new main road, which is just a few hundred feet away.

This is currently a very welcoming, open-minded community. We look forward to the changes around us with some apprehension but with the recognition that smart growth helps us all. So welcome again and thank you for your consideration.

CHAIRMAN MONTOYA: Thank you, Michael. Next, please.

[Duly sworn, Ann Noble testified as follows:]

ANN NOBLE: My name is Ann Noble, 40 Calle Verada, Santa Fe. I'm with the Puesta del Sol Neighborhood Association and I want to thank Judy for all her work with us. She has had a lot of dialogue with us and we've she's addressed a lot of our concerns. We do want the Hager Road built. We understand that they've had a lot of problems with that and so I'm asking for you to approve their initial Hager Road plan. We ask that the lowest possible speed limit be put on that road because we know it's going to command a lot of traffic and it is going to be going through major residential areas. We think it should be as low as possibly posted. We would like 25 but I doubt that that would go with the County but that is a concern because it will command a lot of

traffic. We would like a lot of dialogue coming from them as they build and I hope that we can keep that dialogue alive.

The water issues are pretty much straightforward. We don't think that that's really a big problem and they have worked very hard to address the trail concerns and things like that. So we want to thank her and welcome her to the community, and thank you all.

CHAIRMAN MONTOYA: Thank you, Ann.

[Duly sworn, Seguna Severson testified as follows:]

SEGUNA SEVERSON: Hi, I'm Seguna Severson, president of the West Santa Fe Association, 2 Calle Francisca. Thank you, Judy and Ted for working with us and I wanted to say again, we would also like that lower speed limit on the Hager Road because that is going to be the biggest change in our neighborhood of all that we can imagine, because a lot of the central Las Campanas traffic is going to come down Los Suenos Trail and Hager Road.

I just went to the DOT meeting down at Genoveva Chavez tonight. I guess what it brings up is that we all have to work together. A lot of people at the DOT meeting didn't even know about Los Suenos Trail and all these developments that were coming and hadn't talked to the County much about what's happening, so I'm just asking for more discussion among all the groups and all of us. And Michael brought up about emergency access and we don't have to get into it tonight, but when we're thinking about the whole Hager land, it really is one big subdivision which has just been bought in little parcels and we are a little concerned about Tierra Bella, which is the one that got subdivided into ten-acre lots which will end up being 2.5-acre lots.

I want to say Ted and Judy had to do so much work at the EZA and EZC, BCC, and then other developers come in and do this ten-acre lot into 2.5-acre lots and that doesn't seem fair. They came and met with us and followed all the requirements and now there are people who buy 40 acres of the same Hager land and can just do this sort of – it looks a little funny to me.

I want to thank Danny Marmion, because he's agreed to continue that western trail so that it really works, so that we can all get in, but just to think in the future because we're going to have to keep coming for each 40 acres. It seems kind of a shame that it couldn't have been master planned and maybe for the future, the County could think of a way to take these big parcels, even though they have different buyers and maybe master plan them. Save us all time. But it's true, what Michael said. I'm going to be able to see Hager Road from my house but I won't be able to get there if there's a fire or flood. We have to get out through this all-weather crossing on Sloman Lane that's disintegrating in front of our eyes.

So if there's a way in this whole master plan to have – it just seems a shame to be so close to Hager Road and not be able to get there in an emergency. I don't mean a real road. I mean like Suerte is going to do for us an emergency break-away gate. So just to put that out for the future. Thank you all for working with all of us.

CHAIRMAN MONTOYA: Thank you.

[Duly sworn, Helga Ancona testified as follows:]

MS. ANCONA: I just forgot to add – I'm Helga Ancona again of the West Santa Fe Association. You were asking at the previous Tres Arroyos del Poniente about the intersections on 52 and 70, we have been asking for years that instead of making an overpass, which would be terribly unsightly, to extend the frontage road all the way to Airport Road. That seems to make

much more sense. We have the frontage road. It could be widened some. But it should be extended to Airport Road. It would be much cheaper and it would be so easy because there's only a little bit left. It goes way beyond Caja del Rio, so it would make total sense to do that.

I hope that all the trail system will really work out. I walk about in the Arroyo Frijoles and I hope that there will be no impediments in the future for us all to continue doing that. Thank you.

CHAIRMAN MONTOYA: Okay. This public hearing is closed. Any other questions from the Commission?

COMMISSIONER CAMPOS: Mr. Chairman.

CHAIRMAN MONTOYA: Commissioner Campos.

COMMISSIONER CAMPOS: Question for staff. Mr. Archuleta, you've recommended that this only be preliminary at this point in time? In your report?

MR. ARCHULETA: Mr. Chairman, Commissioner Campos, that's correct.

COMMISSIONER CAMPOS: That's still your position after the hearing?

MR. ARCHULETA: That's correct.

COMMISSIONER CAMPOS: What are the significant issues you think need to be addressed?

MR. ARCHULETA: Mr. Chairman, Commissioner Campos, some of the issues are they still have to deal with the access off of Hager Road. I believe that they have money in place for part of the road, but it's going to take more money to continue to finish the road.

COMMISSIONER CAMPOS: For the Hager Road?

MR. ARCHULETA: For the Hager Road, to their property. We have some issues as far as access off a minor arterial road that still need to be addressed with staff, so that's why we're recommending final for phase 1, which is one lot off of Camino Peralta, and then preliminary for the rest. At that time we'll work out our differences.

COMMISSIONER CAMPOS: Final for phase 1 only?

MR. ARCHULETA: That's correct.

COMMISSIONER CAMPOS: Do you think this problem with Suerte del Sur is going to be an impediment here?

MR. ARCHULETA: Mr. Chairman, Commissioner Campos, I don't believe so. They have enough money in place now to get the road probably to Ponderado. The additional monies that will need to be collected will continue the road to the Suerte property and Fire, I believe is okay with their situation at this point.

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

COMMISSIONER VIGIL: Mr. Chairman.

CHAIRMAN MONTOYA: Commissioner Vigil.

COMMISSIONER VIGIL: And I know with the current proposal with the developer with the basecourse it isn't – or maybe it is possible. Is anybody here from Public Works, and if not, perhaps somebody could pitch in here. In the future design of this road it seems to me some of the request was to keep the speed limit down and I think that should be looked at, but are speed humps – have they been considered or are they part of a plan here? Have they been discussed?

SHELLEY COBAU (Review Division Supervisor): Mr. Chairman, Commissioner

Vigil, we're not aware of any speed hump or traffic safety study that's been done in this area. However, we could request that Public Works perform a safety study and determine if there were a need for speed humps in this area, based on design speed and traffic volumes.

COMMISSIONER VIGIL: I think we need to incorporate those safety mechanisms in this and with that, that might be part of the preliminary sort of review. As is proposed tonight with the basecourse, I don't have a clear understanding that speed humps are possible with basecourse but certainly if we go through with the development and an agreement is come to with Suerte del Sur and the actual paving occurs, I think it's important that we incorporate these safety mechanisms into this.

And I also think it's important – this entire area has had some difficulty with fire access and there are some areas that are long in existing residents that have a high level of concern about fire access. I think that should be part of the discussions here. That's not particularly to place a burden on the developers but I think it's to look towards the future of fire access to a lot of these areas. Was that at all discussed?

MS. COBAU: Mr. Chairman, Commissioner Vigil, first of all, regarding the placement of speed humps, they can't be placed on a basecourse road. They can only be placed on a paved road. Vicente will speak to the fire access issues.

COMMISSIONER VIGIL: Particularly on Sloman Lane, Vicente. Are you familiar with that issue?

MR. ARCHULETA: Mr. Chairman, Commissioner Vigil, I believe the future plans are for Calle Estevan, I believe, will be an access point that will be connected to Hager Road. And also, off of Penny Lane there may be an extension that's going to be – it's a future extension, I believe, and then the fire issue with Pinon Hills will be taken care of. If there is an issue with a secondary access for the Hager properties, they could probably come off of Calle Estevan and get back on to County Road 70.

COMMISSIONER VIGIL: Okay.

MS. SEVERSON: Just to say something. I live on Calle Estevan. If it was going to connect to Hager Road it would have to go right between the two lots on Judy and Ted's property. That's the only connection you can make from Estevan onto Hager.

COMMISSIONER VIGIL: Okay. And I think that's why we need our traffic experts to look at some of the potential avenues for eliminating the fire access issue. So we don't want to create an island where we can't promote fire access.

The other question I have which was curious to me because I've actually traveled on the frontage road and gotten onto Airport Road from the frontage road. It's really not accessible. But why isn't that frontage road extended? And perhaps you can't answer it. Does anybody have an answer? There's a little route you can take and sometimes it's accessible and sometimes it's not, but it actually doesn't have an invitation to get there.

MS. COBAU: Mr. Chairman, Commissioner Vigil, I believe the frontage road is owned by the Department of Transportation and it's outside the planning capacity of the County, as such. It would be a state-funded roadway.

COMMISSIONER VIGIL: Okay. So that's something that the Metropolitan Transportation Policy Board can bring up with DOT? Okay, I certainly will. Thank you. No further

questions, Mr. Chairman.

COMMISSIONER CAMPOS: Mr. Chairman.

CHAIRMAN MONTOYA: Commissioner Campos.

COMMISSIONER CAMPOS: If you have no questions, I have a couple others for staff.

CHAIRMAN MONTOYA: I have a couple.

COMMISSIONER CAMPOS: Go ahead. In terms of the Land Use Code as it's being rewritten, is it going to allow for the type of planning to be done, even if they're small parcels in a huge piece of land, to do some sort of conjoint planning?

MS. COBAU: Mr. Chairman, I'm not familiar with that portion of the Code rewrite. Unfortunately I can't address that at this point in time.

CHAIRMAN MONTOYA: Okay. I guess what I would encourage staff to do then is to look at these sorts of tracts of land that are potentially going to be developed by multiple developers and see how maybe proactively we can take a look at doing some of this master planning that is being suggested. In terms of Hager Road, is that a public road? Is that a County-maintained road.

MS. COBAU: I believe Hager Road is a County-maintained road. Is that correct?

MS. ROSS: The agreements of the Hager Road trustees provide for the dedication of the road because it is part of the arterial plan, provide for the dedication of the road to the County, and at such time as the County accepts it, then it would be a County-maintained road. Until that point we have the mechanisms and the agreements in place to both build it and to maintain it, privately. And we do have the agreement of the trustees to put in additional money so that we can provide the financial surety for the road.

CHAIRMAN MONTOYA: So it's not a public road right now.

MS. ROSS: Not yet.

CHAIRMAN MONTOYA: Okay. Commissioner Campos.

COMMISSIONER CAMPOS: For legal counsel, Mr. Ross, we're approving a lot of subdivisions at .25 acre-feet, and it seems like in the past we've discussed that this is a lot of water for a single family. Do we have authority to say that it should be less than .25? They're using domestic water. They don't have water rights and it seems like it would be good policy to keep water usage as low as possible.

MR. ROSS: Mr. Chairman, Commissioner Campos, we've talked about this a little bit before. We don't have a mechanism in the ordinance to necessarily limit water use to a particular number. The requirements in the ordinance are really designed to establish minimum lot sizes rather than to regulate the amount of water somebody draws or uses on a particular lot. Now the utility system lots, lots that are on the utility system, are regulated in that manner. But just by virtue of the fact that we have a utility system and it has its own rules that it operates under, but for these kinds of situations where they're on wells, and we've talked about this a lot, it's sort of a limitation on the hydrologic zoning system we have, that we've talked about a lot. It's really sometimes a limitation on your authority.

COMMISSIONER CAMPOS: Would it require an amendment to the ordinance to say that if you want a lot of 2.5 acres you'd have to come down to .2 instead of .25? Is that a

way to deal with the issue?

MR. ROSS: That would be one way to deal with it.

COMMISSIONER CAMPOS: Okay. I'd like to have some discussion of that from Land Use and the County Manager where we can engage Land use. Because .25, it seems to me it's too much water. Especially because we're going to require water harvesting, the plumbing is going to be efficient, the watering outdoors is going to be restricted, the planting is restricted. That's a lot of water. I think we need to go in a different direction. So I'd like to have that discussion. Thank you, Mr. Chairman.

CHAIRMAN MONTOYA: Commissioner Vigil.

COMMISSIONER VIGIL: Along those lines, Mr. Chairman, I agree with Commissioner Campos. I know in some of the Community College Districts we've actually – and correct me if I'm wrong, Mr. Ross – made an approval of some of those developments conditional upon accurate readings of water use. So I think the approval has been conditional and once we get a more accurate reading then we can redistribute the allocation and redefine the acre-feet of water. Perhaps we could do that. That seems to be a workable solution in this community when we have to actually work along with water conservation and water restrictions because in effect, it really does give an actual and accurate reading of water use. Is that a possibility? And perhaps that's something that staff could discuss.

MR. ROSS: Mr. Chairman, Commissioner Vigil, that would be a requirement that would also logically fit into what Commissioner Campos was just talking about. We don't have that requirement right now, but we have a lot of subdivisions out there where developers have agreed to impose those kinds of conditions on the individual lots. There were quite a few lots that are required to submit annual readings on their wells to the County Hydrologist. That's not by ordinance, that's by agreement of the developer. It would be logical to put a restriction or a requirement like that on an ordinance as Commissioner Campos has suggested.

There was logic to the hydrologic zoning scheme that we imposed back in the 90s but there were also a lot of restrictions that we're learning about as we work with it.

COMMISSIONER VIGIL: Does our hydrologist have any comment on that?

KAREN TORRES (County Hydrologist): Mr. Chairman, Commissioner Vigil, it's interesting that our County does actually have a requirement on meter reading on domestic wells per lot. We're really forward-thinking compared to other counties' water management. Sadly, the numbers have never been really compiled so that's something that I've been tasked with specifically. So I will be actually – and I've gone on the radio already warning people about this occurring. So we will be sending out notification letters to people to let them know that yes, this is a requirement. And as far as I understand, the conservation ordinance that was passed in 2002 has that meter requirement on lots. So I'm not sure if we don't have that requirement already.

But I would like the opportunity to collect the data and study it to see if the water use per lot for folks on a domestic well with a larger lot is in fact more than folks that are on utilities, where this is a built-in conservation measure of an inclining rate structure.

COMMISSIONER VIGIL: So am I to understand that you probably would be in agreement for us to actually approve this conditional upon readings and then reallocation of this water allotment?

MS. TORRES: I don't think it would be a problem for me. I know a .25 on the

data that I've looked at so far in the county is fairly robust, but you have to remember that is an average. We have folks that are very low and then folks that are up here.

COMMISSIONER VIGIL: Perhaps after collecting the data that average would be a part of this development but without having that data we're just sort of saying we think this is appropriate. But I agree with Commissioner Campos. A family of four uses less than that, particularly with water conservation measures and I think we need to be diligent about that. So I would strongly consider that the approval of this and the preliminary – the final approval for phase 1 and the preliminary for phase 2 include a condition that allows for reassessment and reallocation of the .25s. I think we're probably on the same page about that.

The next question I have, probably – thank you, Karen. The next question I have goes to the developer. On the Hager Road, currently you testified that you have a 66-foot – what is your current allocation for the Hager Road.

MS. ROSS: A 66-foot easement.

COMMISSIONER VIGIL: With two lanes of 12 each? Twelve foot each, and then a six-foot shoulder –

MS. ROSS: A six-foot shoulder on each side. So that's 36 feet. Ivan, would you like to address exactly how you've allocated the space on the 66 feet?

COMMISSIONER VIGIL: Well, and I don't know that that's necessary because my question goes more to the future. If in fact an agreement is reached with Suerte del Sur, will they require more easement because of additional traffic? Or do we know that?

MS. ROSS: If you look at the table and the traffic table that I showed you, basically it is at the top end of a minor arterial, and that where it's been planned for. And that's what we're working with County staff on, Paul Kavanaugh

COMMISSIONER VIGIL: Okay.

MS. ROSS: So whether or not additional easement is required is not known at this point.

COMMISSIONER VIGIL: Okay. So it would seem to me that would be part of why the preliminary development is being recommended, because that's one of the issues that needs to be addressed. Is that correct, Vicente? Whether or not additional easements will be required once Suerte del Sur comes on board?

MR. ARCHULETA: Mr. Chairman, Commissioner Vigil, I believe that's one of the issues in place right now.

COMMISSIONER VIGIL: Okay. Thank you.

MS. ROSS: And Commissioner Vigil, I would like to clarify one other thing. What we were proposing is a basecourse of 36, but then actually a paved road of 24, which is what a collector requires. So it would be a paved road, because it's an unknown time frame as to when Suerte would develop. The time frame would then be very critical to us as developers.

COMMISSIONER VIGIL: And does the paved road include speed humps or any kind of safety –

MS. ROSS: It doesn't at this point but that's certainly something that's subject to discussion because we like the neighbors, because we're going to live there, we'd like to keep the speed down. So it's certainly something we could discuss.

COMMISSIONER VIGIL: And I think – it seems to me from all the testimony that I've heard that there's been a real conciliatory arrangement with the neighbors, so I think –

MS. ROSS: We've learned a lot from them. They've been very helpful.

COMMISSIONER VIGIL: So I would recommend that that kind of safety mechanism is discussed. I heard a recommendation of 25 miles per hour. I don't know if that meets with our County standards. I think that needs to be explored. But also the safety mechanism of speed humps, which works. Okay. Thanks.

COMMISSIONER CAMPOS: Mr. Chairman.

CHAIRMAN MONTOYA: Commissioner Campos.

COMMISSIONER CAMPOS: One last question for legal. We're considering the TAP plan and some point we'd like to make it into an ordinance, perhaps in a month or so. In that ordinance could we say that the amount of water per lot would be less than .25? Could we establish a standard by ordinance in that way for this particular area?

MR. ROSS: Mr. Chairman, Commissioner Campos, the plan is before you? No, the ordinance.

COMMISSIONER CAMPOS: We had the first public hearing on the ordinance.

MR. ROSS: Well, I suppose if we geared up and presented some testimony to support a requirement like that it could be made a requirement.

COMMISSIONER CAMPOS: That might be a way to do it earlier rather than later. How do the Commissioners feel about that?

COMMISSIONER VIGIL: I really would like to explore it because I know this particular area is complicated with private wells and the potential infrastructure that will go into place. I think we have enough information where we can discuss that and perhaps create a vision for this particular area to actually use the water – allocate the water that's actually used. I think that would be a prudent thing to do.

CHAIRMAN MONTOYA: Would it allow for the master planning that I've suggested as well?

COMMISSIONER VIGIL: I think, the way I look at that Commissioner Montoya, is I think the TAP plan itself is the general plan for that and I agree with the fact that there are developments that are sort of coming up and cropping up, but now we are at a place where we've actually developed a plan for that area and I think if we comply with that plan we're creating a master plan, as this development did, and addressed all of the trail issues and the open space and the zoning component of it. It seems to be well thought out and I'm particularly impressed with having to make a decision for a development that has worked well with the neighborhood association. That isn't always the case.

CHAIRMAN MONTOYA: Okay. So what are the wishes? Commissioner Anaya is waiting.

COMMISSIONER VIGIL: Mr. Chairman, I move that we go forward with staff's recommendation and that would be a final for phase 1 and a preliminary for phase 2, and all the issues that were brought up be discussed and brought forth for final development plan on phase 2.

COMMISSIONER CAMPOS: Mr. Chairman.

CHAIRMAN MONTOYA: Commissioner Campos.

COMMISSIONER CAMPOS: Commissioner Vigil, does that include your condition about the adjustment, future potential adjustments of water usage?

COMMISSIONER VIGIL: Yes it does. And that condition would be specific to a reassessment, once the development is in place, and an actual assessment of water use, come before the BCC for a reallocation. Is that accurate, Steve, or why are you frowning?

MR. ROSS: Mr. Chairman, Commissioner Vigil, would you rephrase that so I can think about it. I wasn't 100 percent sure I understood your statement. That's why I was frowning, trying to figure it out.

COMMISSIONER VIGIL: Okay. I think water restrictions currently are at .25 acre-feet per lot. I think we can use that as a benchmark, but in addition to that, I would like for a condition to be included that allows for a data assessment of the actual allocation of water use by each lot and once that assessment has been made that this development come before us for a reassessment of a water allocation. Is that more understandable?

MR. ROSS: I've got it now, Commissioner Vigil.

COMMISSIONER VIGIL: How would you phrase it?

MR. ROSS: What you're asking for is that the wells be metered and then at some point, which we probably want to specify, you would then reassess the water budget and make appropriate adjustments.

COMMISSIONER VIGIL: Correct. Linda, do you guys have a problem with that?

COMMISSIONER CAMPOS: Mr. Chairman, I have a follow-up question. We're still considering the TAP plan. If we decided to say in the TAP ordinance that water per lot would be less than .25, we could make this plan subject to that change. I don't know. Just thinking out loud.

MS. COBAU: Excuse me, Mr. Chairman, the County Hydrologist has just suggested that if metered use is placed on these wells that it be a monthly use so that each month the indoor and outdoor use could be assessed on a monthly basis.

COMMISSIONER VIGIL: I would include that in the condition. And I think that that's not unexpected. That's how we're approving most developments now.

COMMISSIONER CAMPOS: Mr. Ross, are we causing more problems for you? You seem to have a physical reaction.

MR. ROSS: Well, assuming these lots are going to be sold, and fairly soon, the basis for the meter readings will be customers who presumably bought platted lots. What I was trying to figure out is how we would adjust conditions under which those folks purchased those lots, after the fact. My current body language was expressing my discomfort at that realization.

COMMISSIONER VIGIL: Is it possible to do, Mr. Ross?

MR. ROSS: It may be difficult. Because folks who would be buying under a set of assumptions and then you'd be changing those post hoc, which kind of bothers me. I haven't analyzed it but I wonder how practical it is.

COMMISSIONER CAMPOS: What about the alternative of adding a condition in the TAP ordinance that says it's point-whatever. Less than .25, and take care of it that way. It seems a lot simpler.

MR. ROSS: Mr. Chairman, Commissioner Campos, Dr. Wust isn't here but I

know he's spoken a lot about what he's observed in other developments that have water restrictions and he has some feelings about what the water use per lot is in those developments and he might be able to shed some light on this.

COMMISSIONER CAMPOS: I don't know if Dr. Wust is here but let's – I prefer to consider the TAP amendment to amounts of water per lot and we could do that next month or within a month.

COMMISSIONER VIGIL: Can we move forward and make as a condition of approval in my motion that the applicant comply with all TAP ordinance requirements as amended? Or is there a time line problem?

MR. ROSS: Mr. Chairman, Commissioner Vigil, we've done that before. I think that the ordinance would apply anyway but as a precaution and to make sure everyone's on the same page, that might be something you could ask the applicant to agree to.

COMMISSIONER VIGIL: Okay. Linda, would you agree to comply with a TAP plan that really tried to define this issue and make it an appropriate allocation?

MS. TIGGES: There's always a concern about agreeing to something when you haven't see what it looks like. The TAP plan will probably come up next month. Our application for final would be coming up after that and I think I'd feel more comfortable if we had an opportunity to look and see what the TAP plan looked like. Without knowing what it is I'm a little uneasy at preliminary to say that we would.

COMMISSIONER VIGIL: But then we do have a final approval for you tonight.

MS. TIGGES: On that one lot.

COMMISSIONER VIGIL: Yes.

MS. TIGGES: And I'd have to ask the applicant on that. It might be easier – I haven't asked the applicant – it might be easier to say on that one lot we agree to .2, rather than – because you're bringing in a whole lot of other things that we don't know. If I could just – We would agree to – let's see if I can say this. We agree to a condition of approval on phase 1, final development plan to limit the water use to .20 acre-feet per year. Lot 12 is phase 1.

COMMISSIONER VIGIL: Okay. Then I would amend my motion to state that I move that we move forward with staff's recommendation for final for phase 1 to include a condition that this lot will have a .20 water allocation and that we move forward with preliminary for phase 2 and we'll wait and see what happens to the TAP plan and make a decision on that.

COMMISSIONER CAMPOS: I'll second that but I'd like to hear more from Attorney Ross. Is that adequate? Do we need to add additional language? Any clarity or supplementation?

MR. ROSS: Mr. Chairman, Commissioner Campos, I think that's fine. That works.

COMMISSIONER CAMPOS: Okay.

CHAIRMAN MONTROYA: Okay. Any other discussion?

COMMISSIONER CAMPOS: Subject to all conditions, right?

CHAIRMAN MONTROYA: Yes.

COMMISSIONER VIGIL: Inclusive of all other conditions.

The motion to approve EZ Case #S 06-4310, with conditions as noted above,

passed by unanimous [3-0] voice vote.

MS. TIGGES: Mr. Chairman, we want to be very clear that the County is accepting our solution to the road situation.

CHAIRMAN MONTOYA: Is it part of the conditions? If it's part of the conditions then yes.

MS. TIGGES: It certainly was not part of the conditions. It was part of our presentation on how we would deal with Hager Road. And because we're here for preliminary except for one, that preliminarily, I heard that you were giving us permission to proceed in that way. With our solutions regarding Hager Road.

CHAIRMAN MONTOYA: But there was no additional condition added addressing your Hager Road discussion.

MS. TIGGES: There was no condition added but that we would proceed with Hager Road in the manner we laid out for final, unless there was agreement with Suerte, I think is what I heard. I didn't hear any opposition to that so I think we will proceed in that way.

CHAIRMAN MONTOYA: I don't think so.

COMMISSIONER VIGIL: Yes, I think my understanding of that when I asked the question of staff was are there outstanding issues there and staff responded yes. So I think those outstanding issues need to be addressed before you can proceed. And I would just refer to staff on that and work with them a little more. And it could be that the resolution is what you've proposed, but my motion did not include moving forward with your current recommendation. That may be the most ideal, but I'd like to hear back from staff and I'd like to get their affirmation that that's the way we should proceed. My understanding from the questions I posed was that that was still an outstanding issue.

MS. TIGGES: Thank you. That helps.

COMMISSIONER VIGIL: Thank you.

[The Commission recessed from 8:10 to 8:17 and the meeting reconvened with Commissioner Anaya joining telephonically.]

XII. A. 4. CDRC Case #APP 06-5361 New Cingular Wireless Appeal. New Cingular Wireless, Applicant, is Appealing the County Development Review Committee's Decision to Deny Preliminary and Final Development Plan Approval for a New Wireless Communication Facility to Include a 36' Light Pole Tower and Equipment Facility on .037 Acres of Leased Area. The Property is Located at 284 Frost Road, Edgewood, Within Section 33, Township 11 North, Range 7 East (Commission District 3)

JAN DANIELS (Review Specialist): Thank you, Mr. Chairman. On July 20, 2006, the CDRC met and acted on this case. The decision of the CDRC was to deny preliminary and final

development plan approval for a new wireless communications facility on 0.037 acres of leased area on the feeling that sufficient noticing was not complied with, and the applicant did not meet with the community.

The applicant states that they have complied with the noticing requirements set for in ordinance 2001-9. The following are the requirements for noticing within Ordinance 2001-9: 1. Posted notice, 21 calendar days prior o the date of the public hearing. 2. Mailed notice 21 calendar days prior to the date of the public hearing. 3. Notice published in the legal section of a newspaper of general circulation in the area 21 calendar days prior to the date of the public hearing.

The applicant also states that the ordinance does not require a neighborhood meeting and that no detailed information or evidence stated by those in opposition during the meeting could support denial. The applicant also requests preliminary and final development plan approval of a cellular facility to consist of a 36-foot light pole tower and equipment facility on .037 acres of leased area. The proposed pole structure will be 36 feet in height and 30 inches in diameter. The proposed structure is a steel stealth pole which resembles a light pole. There will be three antennas to be mounted inside of the pole and not be visible to the public.

The applicant states that the site is within a utility compound which is the least obtrusive site in the area and that the proposed tower is architecturally integrated to resemble a light pole. The technical need for the proposed Cingular tower will be to accommodate the needs of the customers in the Edgewood and Golden area and provide highway coverage on Highway 284 and Highway 344.

On July 20, 2006 the CDRC met and denied this case. Staff feels that this application is in accordance with Ordinance 2001-9 regarding noticing requirements. Staff has also determined that neighborhood meetings are not required within the County Code or Ordinance 2001-9. Staff recommends approval of the appeal. Staff recommends preliminary and final development plan approval for a cellular facility on .037 acres subject to the following conditions. Mr. Chairman, may I enter the conditions into the record?

[The conditions are as follows:]

1. All staff redlines will be addressed; original redlines will be returned with final plans.
2. The master plan and development plan shall be recorded in the County Clerk's office.
3. A Knox Lock entry system will be installed on all gates to the site.
4. All outside lighting shall be shielded.

CHAIRMAN MONTOYA: Any questions for staff?

COMMISSIONER CAMPOS: One question.

CHAIRMAN MONTOYA: Commissioner Campos.

COMMISSIONER CAMPOS: Ms. Daniels, is the height limitation within the Code, the height proposed?

MS. DANIELS: Mr. Chairman, Commissioner Campos, the height is within the requirements of the ordinance.

COMMISSIONER CAMPOS: Okay. Thank you.

CHAIRMAN MONTOYA: Commissioner Vigil.

COMMISSIONER VIGIL: Staff, there's no variances requested with this

proposal, is there?

MS. DANIELS: Mr. Chairman, Commissioner Vigil, not in this case.

COMMISSIONER VIGIL: I understand that. And looking at the pictures, this is going to be next to a water tank?

MS. DANIELS: Yes.

COMMISSIONER VIGIL: And they painted it blue. Is this the least environmentally intrusive way to approach this?

MS. DANIELS: Mr. Chairman, Commissioner Vigil, it seems that way. You may want to ask the applicant, the appellant that is here tonight.

COMMISSIONER VIGIL: It seems like there's just grazing land next to it.

MS. DANIELS: There's some other light poles out there.

COMMISSIONER VIGIL: And other light poles.

MS. DANIELS: In the photographic simulation it does show some other ones.

COMMISSIONER VIGIL: Thank you.

MS. DANIELS: You're welcome.

CHAIRMAN MONTOYA: So, my understanding in reviewing this case is that the application was denied because the CDRC felt that the applicant did not meet with the neighbors?

MS. DANIELS: Mr. Chairman, that and that there was insufficient noticing.

CHAIRMAN MONTOYA: And staff has said that the applicant has abided by both of those requirements.

MS. DANIELS: Yes.

CHAIRMAN MONTOYA: Okay. Any other questions?

COMMISSIONER VIGIL: The certified mail return receipts that we have, those were all the surrounding neighbors, we're advised. Not all of them were signed, but I assume that even though this wasn't a requirement that this was the applicant's attempt to meet with the neighbors and perhaps not all of them received the certified mail notice or received it and didn't go sign for it, that sort of thing. But this represents the surrounding neighbors?

MS. DANIELS: Mr. Chairman, Commissioner Vigil, the certified letters are sent to inform the neighbors of what is going on and they're sent to neighbors within 500 feet of the project. It's a separate thing from the neighborhood notification. And although the appellant was not required to have a neighborhood meeting, they did.

COMMISSIONER VIGIL: Did the CDRC see these certified mail receipts at the time they made their decision? Do you know?

MS. DANIELS: I don't believe they did, but we're putting them in the exhibits from now on.

COMMISSIONER VIGIL: Okay. Thank you.

CHAIRMAN MONTOYA: Okay, is the applicant here?

[Duly sworn, Greg Lake testified as follows:]

GREG LAKE: My name is Greg Lake. I'm with Cingular Wireless.

CHAIRMAN MONTOYA: Greg, first of all, do you agree with all of the conditions that have been outlined by staff?

MR. LAKE: Yes, Mr. Chairman, we do.

CHAIRMAN MONTOYA: Okay, is there anything in this case file that we should know that isn't in here? I notice we have about an inch worth of paperwork that we've read.

MR. LAKE: If I could make just one point. Commissioner Vigil asked the color of the pole. It's actually tan. We can paint it whatever color you want, but we painted it tan in order to make it consistent with the surrounding area.

CHAIRMAN MONTOYA: So it's only blue in the illustration.

MR. LAKE: That's the photo-simulation so you can identify where it is. So you have taken a look at the photo-simulation. One other important thing that I'd like to point out is there are really two types of cellular sites. One site is for capacity, when you need more capacity at a particular location. Another type of site is a coverage site, when you don't have coverage and you need to have coverage in order to provide safety, day-to-day communications, emergency communications. This site is a coverage site. We currently do not have coverage in this area and this site will provide coverage to Highway 344 and 472.

CHAIRMAN MONTOYA: Okay. Any questions for the applicant?

COMMISSIONER ANAYA: Mr. Chairman.

CHAIRMAN MONTOYA: Commissioner Anaya.

COMMISSIONER ANAYA: Thank you, Mr. Chairman. Good evening. I've got a question just to clarify what I've been hearing and that is that the CDRC did deny this for lack of notification. Is that correct?

CHAIRMAN MONTOYA: Yes. One of the things was lack of notification and the other was lack of public meetings.

COMMISSIONER ANAYA: So my question is to the applicant. Did he go back and meet with the neighbors and have those meetings?

MR. LAKE: Mr. Chairman, Commissioner Anaya, yes, we did send out notice and hold a neighborhood meeting. I personally was not there, however, Kim Wood, sitting here representing Cingular Wireless did attend.

COMMISSIONER ANAYA: Could you tell me exactly where this tower is going to be located?

MR. LAKE: This tower is located at the Entranosa utility yard at the corner of Frost and Highway 344.

COMMISSIONER ANAYA: Okay. I remember now. Thank you, Mr. Chairman.

[Duly sworn, Edward Gilliam testified as follows:]

[audio difficulties] Mr. Gilliam said he was from the Madrid area, and referred to an Associated Press article regarding federal regulations precluding concerns about health risks, which he disagreed with.

[Duly sworn, Fran Broce testified as follows:]

FRAN BROCE: My name is Fran Broce, 6 Calle C. The tower is near a school. We were told that the school would be notified that there would be a meeting and the parents of those children would get to decide whether they wanted their children to spend their day next to a cell phone tower, which does emit radiation.

On Thursday, October 3rd – I picked my son up, came home. At 5:30, went to my mailbox and here was a notice saying the meeting was at 7:00, an hour and a half. I called my neighbors;

they didn't get a letter. So I know many parents whose kids go to the school. I called four. They called four. I know three people on the board of the PTA. The PTA met that day. There was no information on their agenda about the cell phone tower being put up across the street from the school. I showed up at 7:00 – there were no chairs because there would be no one to be there but me and my neighbors. Because no one was notified.

So they did not comply with what was asked of them. I've lived there eight years. My phone works every day for the eight years that I've had my phone. So saying there is no service is not the truth. There is service there. It might not be [inaudible] but there's service. What wasn't brought up the last time was that five months ago already put in the meter. So much for our houses that are right next door.

So we went, talked to them. We made a few phone calls and said, well, we're going to find out why you're putting in this meter. I called Kim Wood. She said she didn't approve it. I called Jan. Jan said that shouldn't be happening. Jan actually called Kim Wood, and it's still sitting there, but they didn't go through with it. They already dug the hole for the tower. So they were assuming that there was going to be no opposition. So as far as I'm seeing they did not meet the criteria. They did not have sufficient notice. My neighbors didn't get one, and there was no meeting. I talked to the principal today. There was no information about set up to the PTA for the parents to know. There are 350 kids at that school.

Ten years from now, if we find out that, yes, it does create a problem, how can we live with ourselves knowing if even kid gets sick out of that 350. It's across the street from the school. There are plenty of areas around that they can put that tower where it's nowhere near a school or a residence, and I really hope you take that into consideration. Thank you.

CHAIRMAN MONTOYA: Thank you. Next, please.

COMMISSIONER CAMPOS: Mr. Chairman.

CHAIRMAN MONTOYA: Commissioner Campos.

COMMISSIONER CAMPOS: I think I'm going to have to leave and I don't want to lose quorum. I understand Commissioner Anaya is on the telephone and I was just wondering if we could ask Commissioner Anaya if he's going to stay to the end of the meeting.

COMMISSIONER ANAYA: Mr. Chairman, did he ask if I was going to stay for the rest of the meeting?

CHAIRMAN MONTOYA: Yes.

COMMISSIONER ANAYA: I will stay as long as my phone allows me. I don't have a charger here and if I lose it, it's over.

COMMISSIONER CAMPOS: I've got to be out of here in 15 minutes and this thing is stretching beyond the time I can spend here. Is it okay if I leave now with Commissioner Anaya on the line?

CHAIRMAN MONTOYA: Yes. I guess we'll check in every couple minutes to make sure he's still there.

COMMISSIONER CAMPOS: Okay.

[Commissioner Campos left the meeting.]

CHAIRMAN MONTOYA: Next please.

[Duly sworn, Ellen Curley-Roam testified as follows:]

ELLEN CURLEY-ROAM: Good evening. My name is Ellen Curley-Roam and I live directly behind the water tank where they're proposing to put this tower. First, I would like to request that this hearing be postponed because I was not notified of this meeting in accordance with the regulations of Santa Fe County. I didn't not receive a notice, written, phone call. I found out about tonight's meeting by my next-door neighbor calling me.

Last Thursday night I found out about this so-called town meeting when she called me. I was at Paseo del Norte in Albuquerque. I immediately left and it took me an hour to get home to the meeting. The only person that was there from Cingular or any neighborhood was Kim Wood, and that's because nobody else was notified, and I think that was on purpose.

I just want to know if you will consider my request to postpone the hearing, based on the fact that I wasn't notified.

CHAIRMAN MONTOYA: Can we do that? Because one person wasn't notified?

MR. ROSS: Mr. Chairman, if you have concerns about notice you can always entertain a motion to table or postpone. She's here. She may not have gotten the proper notice but she is here and courts do consider that.

MS. DANIELS: Mr. Chairman, she was sent notice. We have a copy of the receipt. It was sent to her New York address – she's a recent immigrant to Santa Fe County. It was sent to her New York address and it came back to the appellant stamped – I have a copy of it here. Forward time expired. Return to sender. And it's to Ellen Curley-Roam. So the appellant did send a notice.

CHAIRMAN MONTOYA: Commissioner Vigil, do you want to proceed.

COMMISSIONER VIGIL: Please.

CHAIRMAN MONTOYA: Commissioner Anaya, we're going to proceed. Go ahead, Ellen.

MS. E. CURLEY-ROAM: I have to object to this proceeding. I wasn't given enough notice. How they can consider notifying me when they sent it to New York and I don't live there, and I appeared at a hearing here in July, I believe, gave them my address, which is directly behind where this tower is going to be. I'm the neighbor that's going to be the most affected by this proposal. At any rate, I'll go and do what I can, but under protest, because I haven't had enough notice to really get the information that I need.

First of all, I'd like you to take a look, if you would, at the aerial photograph that I gave to you. On the lower left quadrant – it's not too clear, but it's on the right part of that you'll see the water tower that's the round structure. There's a direct line from there to my house and it indicates that it's less than 500 feet away from the proposed site of the water tower. If you look at the area you will see that there is nothing out there. There are very few houses; there are no trees. There's not much out there. There is nothing that will obstruct the view from my house to that tower if it's put up there.

I have serious concerns about the impact of such a tower on my health and on my property values. Cingular has been proceeding as though they already have your approval. They have meetings and we are not notified. They moved all the equipment into the Entranosa property and they were ready to erect the tower as soon as they got the approval. They even sent a crew to begin digging the hole several months ago, and when I questioned the crew about what they were

doing they said they didn't know. They were just there to dig a hole. Hard to believe. They then produced a permit from the state, which they acquired illegally since they needed Santa Fe County approval before getting state approval. When we told them they were operating without a valid permit, they packed up, filled in the hole and left.

We were told by Kim Wood that there is a notice posted about today's meeting, which we did not see, I went and looked for it and did find it. In order to see this notice, one has to climb over a culvert, through two-foot high grass, and look at the notice on the side of the fence that is not facing the road. If they intended for anyone to actually see the notice it would have been put on a stake near the road where it was visible.

I believe that Cingular has tried to thwart the legal process and is being disrespectful of the County of Santa Fe and its citizens and taxpayers in this situation. They want it to appear that there is no public opposition to the cell tower, but in fact the public is unaware of the proposal and cannot be here to have their opposition heard, because they haven't notified anyone.

When I first found out about the proposed cell tower I did extensive research on the effects of the exposure to cell tower emissions and I found a substantial amount of information that this exposure can cause severe, chronic health problems such as cancer, leukemia, especially in children, skin heating, asthma and many other problems. Recently, the Supreme Court determined that five class action suits alleging illness caused by cell phone towers could proceed. So they're becoming aware that this is a serious problem.

When I asked Kim Wood, the representative of Cingular, who picked the proposed site for the tower, she said that she personally selected it. I asked her why she would pick this site in a rural area with an elementary school less than 1000 feet away, and she said it's because it's an industrial area. I ask you to look again at the photographs; it's not an industrial area, but she considers it so because there's a water tank there.

I ask you to look at picture 1 again which shows the water tank, my house and not much else. No trees to obscure the view of the tower. In such a rural area with so much open space where no one would be impacted if the tower were sited elsewhere, it doesn't make sense to put the tower where it will have negative impact on some residents and the students at the nearby elementary school. I believe that the law requires the cell phone provider to make an honest effort to find a location that would not adversely impact anyone because of the siting of the tower. I don't believe they've made a good faith effort to do that.

Aside from the health risks involved, I'm concerned about property values, and the FCC regulation does allow for rejection of a tower siting because of an adverse effect on property values. I was a real estate broker in New York for ten years, and when I was a realtor, I showed a listing to a buyer who wanted a specific property where they could have horses. In this suburban community, such a property was difficult to find, but I found just what they were looking for. The house was beautiful. It had the right amount of property. It had stables and corrals. But the buyer wouldn't even consider it because it was near a high-tension electrical wire which creates the same perception of danger as the cell phone towers do.

I believe that a cell phone tower in plain view of my backdoor – and it wouldn't be hidden by anything, except if you were standing on the other side of the water tower, could cause any potential buyer to look elsewhere. The health issues are the same for the location of cell towers. I

saw firsthand that the proximity to these facilities makes it difficult if not impossible to sell your house and to do so entails a significant decrease in the selling price. And if you look at the other handout that I gave you, the legal precedents show that if there is even a perceived danger of health problems, that perception is acceptable as a cause to substantiate decrease property values. In other words, anyone coming to look at my house and seeing the location of the cell tower could perceive that there's a danger and those laws allow that as a reason to decline permission to put a cell tower up.

This decision that I've enclosed is from the United States Court of Appeals in a decision against locating a cell tower on a golf course and near a middle school because of residents' perceptions of a loss health and property values. The ruling was made because local residents' concern about the impact that the tower would have on the value of their property. The residents also cited safety concerns because of proximity to a school, and these two arguments were considered to be substantial evidence as required by the 1996 FCC legislation.

We do not have the financial means of Cingular to fly in experts to testify to our concerns. We can only rely on a recitation of numerous studies that have been conducted and that contradict the conclusions of their one expert that they presented in July. We didn't have enough time to assemble and summarize the research to present to you because we weren't given proper notice of this meeting. I plead with you members of the Land Commission to deny their application to erect a cell tower in my backyard. It would negatively impact my health and well-being and destroy my property value. I urge you to require Cingular to find a location among the vast amounts of open space in Edgewood that is not near any homes or schools, and that would allow them to provide quality cell phone service to their subscribers.

CHAIRMAN MONTOYA: Any questions? Commissioner Anaya, are you still there?

COMMISSIONER ANAYA: Yes.

CHAIRMAN MONTOYA: Okay. Next, please.

COMMISSIONER ANAYA: Mr. Chairman, she said it was in her backyard? Is it in her backyard?

CHAIRMAN MONTOYA: About 500 feet away, I guess. Open to interpretation.

MR. LAKE: The cell tower is located in a utility yard that is not in her backyard. This is not part of her backyard. This is in a utility yard.

[Duly sworn, Mark Bremer testified as follows:]

MARK BREMER: Thank you. My name is Mark Bremer. I'm at 3 Opera House in Madrid. I'm up here to speak because I see the similarities in this case as well as the next one that follows and I'm here to amplify what I believe is missing. I forget the woman commissioner who's on the CDRC and I apologize for not remembering her name but the motion that she made, which actually supported the denial of this application and the one that follows, was because in her opinion, and I paraphrase, she did not feel as though the community was involved in the decision and she believed that the community should be involved in the decision on the cell tower in this case.

When I look at the memorandum I was handed from staff, it says that what was missing was a proper notification. What it says was missing was a community meeting. What I think is missing is community involvement. That's why we notify people and that's why we have the meetings, so that

people can actually come and get involved. I saw the great involvement that went on in the application for the houses and I saw people that were actually working with the community and saying, what are your concerns? What's important to you? And then when I come here and I listen to the notification that's done at the last minute and that only a limited number of people in the community are contacted, something's missing.

And I just want to amplify that. I don't believe that the applicant is interested in involving the communities that they're impacting, and I don't think they want to hear the concerns that the community has. And I hope by stating this I'm creating a listening for you in what's missing in the applicant.

CHAIRMAN MONTROYA: Thank you, Mark. Next.

[Duly sworn, Reverend Lynette Curley-Roam testified as follows:]

REVEREND LYNETTE CURLEY-ROAM: I'd like to give you some information about this. My name is the Reverend Lynette Curley-Roam, and I also live directly behind this site that's proposed for this cell phone tower. I tried to make this as concise as I could so I'm going to read to you what I wrote about this because there's a lot of details involved.

As you know, our last venture at a public hearing in Santa Fe was successful in defeating the application of Cingular for a cell phone tower that's actually 400 feet from my rear door. I'd like to give you some information regarding the manner in which Cingular has handled this whole matter from the very beginning. Late last September we relocated to our new home in Edgewood from New York state. Our move here was to effect a very different lifestyle in a rural environment that was unaffected by much of the suburban and urban blight affecting Long Island, our former home.

Much to our dismay, one Friday we learned from our neighbor that a cell phone tower was proposed to be erecting directly behind our home. The following Monday the neighbors stated that there would be public hearing in Santa Fe. I phoned Santa Fe to ascertain the time of the public hearing. I was told by Wayne Dalton that there would be no public hearing, that information was being considered and that there was no choice but to grant the permit to the company applying as long as they complied with all the regulations. He said that there was nothing he could do. When I asked him if it would be necessary for me to retain an attorney to fight the application, he told me to go right ahead, that they had plenty of lawyers in Santa Fe.

When I protested that the previous Friday I had received a card from the post office to pick up a letter from Cingular but I had not yet picked it up and that that amount of time of notification did not seem to be legal, I was not believed about the time of notification. I allowed that letter to go back to Santa Fe without taking delivery. Suddenly Wayne began to look at the fact that the letters were not sent out in a timely manner to give all concerned 21 days notices and said that the hearing would have to be postponed.

Fast forward to this public hearing. Again, we received no notification from Cingular. Last Wednesday, I phoned Santa Fe and spoke with Jan Daniels, who stated that she could do nothing, that she had a receipt that proved that I had received notification. She told me to phone Cingular's Kim Wood. When I spoke to Jan later, she stated that she had phoned Kim Wood to bring the receipts to her in Santa Fe. After I phoned Kim Wood about this, Kim faxed me the receipt for the notification that was mailed not to our present address, but to our former Long Island address. By the way, after the last public hearing, I spoke with Kim outside the door here and I also stated here

at this podium that I live behind the water tank. And I reminded her of that outside. So I don't understand – first of all, I don't know where they got our New York address from. We haven't lived there in over a year and this was the notification for this hearing was sent.

The next night at 6:00 pm I received a phone call from our neighbor Fran that spoke previously. I was on Paseo del Norte in Albuquerque, about an hour from Edgewood. Fran stated that she had received a letter that day at 5:30 regarding a meeting that Cingular was having for the community at South Mountain Elementary School, about 1000 feet from the proposed cellular tower site. We rushed back to get to the meeting. Fran phoned some of the community members that she knew through the school system who also stated that they received no notification about the meeting. As Fran said, no one else attended the meeting except Fran and the two of us. And no chairs. We walk into this huge room that was supposedly there for the meeting and there were no chairs available for anyone to sit in.

When asked, Kim Wood blamed our notification about the public hearing and the community hearing being mailed to New York on a disaffected employee. When I asked her why she didn't mention the community meeting to me in my phone call to her the previous morning, she said that she thought I already knew. However, she knew the notification was mailed to New York and faxed me a receipt indicating that.

In addition, Cingular's community meeting was scheduled on the same night as Entranosa's annual meeting, the property that the tower is proposed for, therefore people would think that would have to choose between the two meetings that night.

Do I think that these were mistakes? I don't.

I rushed to the Entranosa meeting that night after we spoke with Kim. The Q and A time was not until after 10:00 pm. I asked the president of Entranosa about their deal with Cingular in the public forum. He stated that it was purely a business decision, paying them \$2000 a month from Cingular for the use of the property. I asked him if he had done any research about the location of the cell phone tower next to a water storage tank and he replied that he had handled RF in the Navy and was sure that it was safe. I told him about the recommendation of a group of research scientists in a Connecticut seminar that recommended that cell phone towers not be located next to water storage facilities unless they were empty and he dismissed my observation. By the way, that Connecticut seminar is located in this book and I'll speak more about this a little bit later. They used the actual people who did the research.

Going back in time again before the first public hearing, on a Friday morning, looking out my sliding door I noticed there was construction going on behind our home on the Entranosa property. I walked over there with my son who was visiting from Florida to discover that the workers were digging a hole for a cell phone tower and also digging for electrical connections. When confronted, the workers stated that they did not know what they were doing, that they were told to dig. I told them that they were digging for a cell phone tower installation illegally since the public hearing required by the County had not taken place.

After putting pressure on them, telling them I was going to complain to Santa Fe, they phoned their superiors, packed up all their equipment, filled the hole, removed the state permit that was on the fence, and departed, leaving behind the cell phone tower lying on the ground. I have a picture of the workers digging with a backhoe. Reportedly, the sought and acquired a permit from

the State of New Mexico, circumventing, or so they thought, of obtaining a permit from the County of Santa Fe. I phoned Santa Fe and Santa Fe dealt with the issue immediately. I was told by Kim Wood of Cingular that this was a mistake. Do I believe this? Would you? I don't.

Please tell me if this is the job of government to make my life chaotic in order to obtain my rights to a fair hearing. Cingular's Kim Wood continues to tell me that these are all mistakes, but I find that hard to believe. If Cingular is making this many mistakes now, what might happen if they are permitted a cellular tower installation 400 feet from my backdoor, I shudder to think.

Again, referring to this book, in 1970, a group of concerned citizens in Berkshire County, Massachusetts and Litchfield County, Connecticut, became alarmed about an ill advised public works project that would have had far-reaching negative impacts on the area's environment. In response, they formed the Berkshire-Litchfield Environmental Council, BLEC. Their response including sponsoring the cell towers forum, state of the science, state of the law, on December 2, 2000 in Litchfield. The conference was a huge success, resulting in some of the most stringent telecommunications regulations in the country being adopted by numerous towns along the east coast, in addition to those towns across the country adopting variations of this approach.

Due to the fact that I and other concerned citizens are not experts regarding all of the factors involved in the proposed cell phone tower siting just behind my home, I'm citing the facts put forth by the experts doing the pertinent research who spoke at the BLEC conference. The participating organizations included the following: the Nature Conservancy, the Housatonic Valley Association, the Berkshires Natural Resources Council, Orion Afield, Sharon, Audubon, Scenic Hudson, Lake Watch Educational Institute, the EF Shumacher Society, with a grant provided by the New England Grassroots Environment Fund and the AKC Fund.

BLEC saw that it was important to hear from the actual scientists that were doing the research, rather than someone with credentials gathering information. BLEC had people in government agencies help the audience to understand what was happening at the federal level and also included attorneys taking the telecomm cases to the higher federal courts with local municipal attorneys as part of the audience.

Speakers included Ed Baron, Deputy Chief Counsel for US Senator Patrick Leahy, Whitney North Seymour, Jr. of Landy and Seymour, in New York City, Connecticut legislators Andrew Rorarch and Phillip Crowley, B. Blake Levitt, who edited this book and who has been awards. I can speak to that later. Carl Blackman, PhD, Henry Lai, PhD, Albert M. Manville II, PhD, Andrew A. Marino, PhD, Bill P. Curry, PhD, Robert F. Cleveland, Jr., PhD, Joanne Rheinbold, James R. Houseton, Esquire, Jeffrey Azovino, Raymond S. Hassovich, BSEE, MSE, PE, Mark Hutchins, Tony Blair, industry researcher from Motorola and other companies were invited to speak but cited scheduling conflicts. Two satellite-based companies, Global Store and Telesit were also invited to speak but also cited scheduling conflicts.

CHAIRMAN MONTOYA: If I could ask you to please just summarize what's salient to this issue, then we will enter all of that for the record.

REV. L. CURLEY-ROAM: The next part of this is kind of a summary of my concerns. And these come from the research that I did including this book. A cell phone tower near a residential property lowers the current value of that property. A cell phone tower near a residential property limits or reduces the otherwise expected increase in the expected increase in the resale

value of that property. It is difficult to sell a home that is near a cell phone tower. I also was a licensed realtor in New York state. The presence of a cell phone tower in a neighborhood encourages the presences of lower income housing such as trailer parks. A partial listing of the people against them includes people from Harvard School of Public Health, Harvard Medical School, Boston University, State University of New York at Albany, New York Medical College, Children's Health and the Environment at Mt. Sinai School of Medicine, and I'd like to read you a quote from Dr. Helen Caldicott that many of us are familiar with, the founder of Physicians for Social Responsibility. "Radio frequencies emitted from mobile telephone towers will have deleterious medical effects to people within the near vicinity, according to a large body of scientific literature. Babies and children will be particular sensitive to the mutagenic and carcinogenic effects of this radio frequency."

Other countries have strict regulations as to where these towers can be placed. The guidelines are that you cannot place a tower within 1000 feet of a permanent residence. This would be within 400 feet of our backdoor. California is catching on with their strict local control of these towers. This seminar recommended 1500 feet from any residence. I'm trying to be concise.

CHAIRMAN MONTOYA: Okay. Because we need to move on before we lose Commissioner Anaya.

REV. L. CURLEY-ROAM: I understand. Please note that once the cell phone tower is permitted the values of our homes will immediately descend. To what level, we don't know. Will we be able to sell our homes? We do not know. The research scientists that I mentioned before who took part in the Connecticut conference recommend the following – and this is the important part of my presentation: that cell phone towers not be located next to water storage facilities unless they are empty, as the metal tank might create a hot spot; that they not be located near residential areas where children and/or older people reside; that they not be located near medical facilities.

Please look into more than an opinion provided to you by a company with a vested interest in the cell phone tower being located in our backyard. Please study what those disinterested parties that are doing the research have to say. I remind you that the legal liability to the County and individuals working for the County that make the citing decision is great, according to the research that I did. I call upon you as our government officials to hold high the importance of protecting citizens and property, as it says above your heard. The Telecomm Act still permits you to regulate many aspects of tower siting; I'm sure you're aware of that. Where a tower is located, how tall it can be, what can go on the tower and how much installations are monitored for RF emissions, to make sure that they are in compliance with FCC standards.

These things still fall under local jurisdiction. Please do not do this to us. We implore you to stop now. Study the subject and then establish legal standards for companies such as Cingular and others who only have their own interests in mind. Consider the following: Has the company sought a reasonable alternative site? The impact on our property values, has that been considered? Inconclusive research on health concerns still hang over our heads. Does the gap in service exist? Is it significant? Is the gap being filled by another provider? We have cellular service in the area in addition to high-speed internet. Has the company submitted evidence of an inventory of physical feasible sites and proven the unavailability of those sites? And the number of customers affected by

the gap.

What I am asking you tonight, and I asked this the last time also, is to please declare a moratorium on tower construction allowing time to study the issue. Then, enact strict ordinances that require the industry to respect community desires, such as building the minimum towers necessary in appropriate locations away from residential areas. During this moratorium other communities such as in California are preparing non-industry biased studies of cell phone tower needs and creating cell tower master plans, as we heard tonight about communities here, to help protect the rights and health of citizens while complying with the law.

Require contractual partners of a wireless company such as Cingular, such as Entranosa, whose property it will be located on, to be part of the process of consideration of the citing of the cell phone tower. Citing of cell phone towers is an important function of our government officials. Protection of citizens' health and property rights should be foremost in the responsibilities of local government. We urge you to protect the health and welfare of the citizens who live here rather than big money interests with profit as their bottom line. I also am here giving you this information tonight under protest and I was not notified of this meeting and I had to stay up many nights trying to accumulate some kind of research to present to you tonight. I'm not entirely satisfied with what I've presented but I hope that you have heard me and that you will really consider the rights and responsibilities to the citizens. Thank you.

CHAIRMAN MONTOYA: Lynette, have you read the Santa Fe County ordinance that we have in place for wireless communication towers?

REV. L. CURLEY-ROAM: No.

CHAIRMAN MONTOYA: Okay. Thank you.

REV. L. CURLEY-ROAM: I'm wondering why you asked me that.

CHAIRMAN MONTOYA: I was just curious if you'd read whether or not we were in compliance with FCC regulations in developing this Code, whether we took those into consideration.

REV. L. CURLEY-ROAM: I have not had access to that information, no.

CHAIRMAN MONTOYA: Okay. Thank you.

COMMISSIONER ANAYA: Mr. Chairman.

CHAIRMAN MONTOYA: Commissioner Anaya.

COMMISSIONER ANAYA: Yes, a question for the lady. I didn't get her first name. But do you have a cell phone?

CHAIRMAN MONTOYA: Did you hear the question?

REV. L. CURLEY-ROAM: Of course.

COMMISSIONER ANAYA: Yes?

CHAIRMAN MONTOYA: Yes.

COMMISSIONER ANAYA: Thank you.

REV. L. CURLEY-ROAM: You're welcome.

CHAIRMAN MONTOYA: This public hearing is closed. Final – any questions for staff or the applicant?

COMMISSIONER ANAYA: Mr. Chairman.

CHAIRMAN MONTOYA: Commissioner Anaya.

COMMISSIONER ANAYA: I kept hearing from the public that the notification and including the community on their input. And the question, I guess is to staff. Did they follow our requirements that we have? Did Cingular go through all the steps that they needed to do in order to notify the public?

MS. COBAU: Mr. Chairman, Commissioner Anaya, Cingular followed the notification requirements of 21 days before the hearing they placed an ad in the newspaper. They sent certified letters to everyone within 500 feet, based on information that they obtained from the Clerk's office, which is how we direct all applicants to obtain addresses. Certainly if there are addresses that are wrong at the Clerk's office it's not really in the applicant's control to know if the addresses that we provide them based on taxation records are the correct addresses. So I'd just like to point that out. But yes, they did follow the notification procedures are required by the Code.

COMMISSIONER ANAYA: What about notifying community associations? Is there any in that area?

MS. DANIELS: Mr. Chairman, Commissioner Anaya, there is no neighborhood association in that area and that was all that was asked for.

MR. LAKE: However, this is Greg Lake speaking. We did notify the principal of the school across the street and him aware of the community meeting.

COMMISSIONER ANAYA: Okay, so what I'm hearing is you all notified – staff, you're telling me that the applicant notified everybody that they were supposed to, but yet I'm hearing from the public that they didn't.

MS. DANIELS: Mr. Chairman, Commissioner Anaya, that is correct. All the noticing was done correctly.

COMMISSIONER ANAYA: Okay, can you tell me – I guess this is a question to the applicant. Why did you guys start working before you got the permit?

MR. LAKE: The answer to that question goes to PNM. PNM will need to be doing electrical work out at that location. An application was made with PNM to put them on notice that perhaps soon they would need to come out and start trenching for electrical. That's all that was done. There was no digging for a tower. There was trenching for electrical, and PNM received that notice and began work.

COMMISSIONER ANAYA: Thank you, Mr. Chairman.

CHAIRMAN MONTROYA: Okay. Any other questions for staff or for the applicant?

COMMISSIONER VIGIL: I have a question.

CHAIRMAN MONTROYA: Commissioner Vigil.

COMMISSIONER VIGIL: This is for the applicant. Were alternative sites considered?

MR. LAKE: Yes, alternative sites were considered. However, when you identify a cell site, three issues come together. Number one, you have to have a willing landlord. Number two, you have to have County regulation permitted in the zoning district. And number three you have to have a cell site that will provide coverage to the proper area. This is an area – as was mentioned throughout this hearing, this is largely an agricultural area. This utility compound with the water tower and the outbuilding and the fencing and so on is the closest thing we could come to to being an

industrial type area. We're putting in a light pole. We're not putting in a huge cellular tower. We're putting in a light pole, and the antennas will be located inside the pole itself. We found the best location we can possibly find and we're putting in the least intrusive facility that we can possibly locate there.

COMMISSIONER VIGIL: Okay. This question, Mr. Chairman, is for Steve Ross. I always get a little red flag when I hear "moratorium". Would a moratorium prohibiting cell towers for the purposes of further evaluation or updating our current ordinance go against the Telecommunications Act? Or is that something that's going to require more legal analysis?

MR. ROSS: Well, Mr. Chairman, Commissioner Vigil, the m-word of course is a bad word. I haven't analyzed that specific question but I can tell you that we had our ordinance analyzed by a firm less than two years ago and they thought it was more than adequate and one of the better ordinances that they'd looked at in New Mexico. You always have to have experts look at these things.

COMMISSIONER VIGIL: And did the experts conclude that it was in compliance with the Telecommunications Act, I would assume.

MR. ROSS: Yes.

COMMISSIONER VIGIL: That's why it was acted on.

MR. ROSS: Yes.

COMMISSIONER VIGIL: Thank you. Thank you, Mr. Chairman.

CHAIRMAN MONTOYA: I'll just say that in terms of reviewing again our ordinance, this has been one of the model ordinances that other counties have requested and taken a look at in terms of what Santa Fe County has done with this tower issue. It talks about the FCC requirements, etc., etc. which have been discussed by some of the presenters here this evening. So what are the wishes of the Commission?

COMMISSIONER ANAYA: Mr. Chairman.

CHAIRMAN MONTOYA: Commissioner Anaya.

COMMISSIONER ANAYA: I guess from the testimony that I've heard in terms of notification that the applicant has followed all those requirements and I heard from the applicant that they weren't jumping the gun over there. And that the health risks that were spoke about this evening have been looked into and that that is not an issue, because we have cell towers everywhere and even the applicants use cell phones. We all use cell phones. I would make a motion to approve this case, Mr. Chairman.

CHAIRMAN MONTOYA: Okay. Motion to approval with staff recommendations, with the conditions. I will second that for discussion. Any further discussion?

The motion to approve CDRC Case #APP 06-5361 with conditions passed by majority 2-1 voice vote with Commissioner Vigil dissenting.

CHAIRMAN MONTOYA: Commissioner, are you still able to hang on for a little bit?

COMMISSIONER ANAYA: Yes. Keep going.

XII. A. 5. CDRC Case # APP 06-5381 New Cingular Wireless Appeal. New Cingular Wireless, Applicant, is Appealing the County Development Review Committee's Decision to Deny Preliminary and Final Development Plan Approval for a Wireless Communication Facility to Include a 24' Stealth Monopine Tower and Equipment Facility on .013 Acres of Leased Area. This Request Includes a Variance of Ordinance No. 1998-15, Section 8.3.8 to Allow 600' of Utility Line to be Placed Above Ground. The Property is Located at 12C Icehouse Road in the Traditional Historic Community of Madrid Within Section 25, Township 14 North, Range 7 East, (Commissioner District 3) [Exhibit 6: Petition in Favor; Exhibit 7: Ordinance 2002-1; Exhibit 8: Article II, Section 2.4.4.0, Telecommunications Draft Code]

MS. DANIELS: Thank you, Mr. Chairman. On July 20, 2006, the CDRC met and acted on this case. The decision of the CDRC was to deny preliminary and final development plan approval for a new wireless communications facility on .013 acres of leased area based on the feelings that sufficient noticing was not complied with and the applicant did not meet with the community. The applicant states that they have complied with the noticing requirements set for in ordinance 2001-9. The following are the requirements for noticing within Ordinance 2001-9: 1. Posted notice, 21 calendar days prior to the date of the public hearing. 2. Mailed notice 21 calendar days prior to the date of the public hearing. 3. Notice published in the legal section of a newspaper of general circulation in the area 21 calendar days prior to the date of the public hearing.

The applicant also states that the ordinance does not require a neighborhood meeting and that no detailed information or evidence stated by those in opposition during the meeting could support denial. The applicant also requests preliminary and final development plan approval of a cellular facility to consist of a 24-foot light pole tower and equipment facility on .013 acres of leased area. The proposed pole structure will be 24 feet in height and 18 inches in diameter. The proposed structure is a monopine with artificial pine branches which are intended to cover the antennas that would otherwise be exposed. There will be three antennas which will be painted green to match the pine branches to make them less visible. The pole will be painted brown. The ground-mounted equipment will be screened behind a six-foot coyote fence. The 6'4" tall equipment facility will be on a 15 by 18 concrete slab.

The applicant states that the proposed wireless facility is necessary to accommodate the needs of customers in the area of Highway 14 in Madrid as there is little to no coverage in the area. The applicant also requests a variance of Ordinance 1998-15 to allow 600 feet of utility line to be placed above ground. Ordinance 1998-15, Section 8.3.8 states that all utility lines shall be placed in the ground as provided in subsection 2.3.9.b.1 or upon final approval of the Board of County Commissioners, who shall consider environmental and visual aspects.

Recommendation: On July 20th the CDRC met and acted on this case. The decision of the CDRC was to deny preliminary and final development plan approval for a new wireless

communications facility on .013 acres of leased area based on the feeling that insufficient noticing was not complied with and the applicant did not meet with the community. Staff feels that this application is in accordance with Ordinance 2001-9 regarding noticing requirements. Staff has also determined that neighborhood meetings are not required within the County Code or Ordinance 2001-9. Staff recommends approval of the appeal.

Staff recommends denial of the requested variance based on Ordinance 1998-15, Section 8.3.8 which states that all utility lines shall be placed underground as provided in Subsection 2.3.9.b.1, or upon final approval of the Board of County Commissioners, who shall consider environmental and visual aspects.

The position of staff is that this application is in accordance with Ordinance 2001-9. Staff recommends preliminary and final development plan approval for a cellular facility on .013 acres subject to the following conditions. Mr. Chairman, may I enter the conditions into the record?

[The conditions are as follows:]

1. All staff redlines will be addressed; original redlines will be returned with final plans.
2. The master plan and development plan shall be recorded in the County Clerk's office.
5. A Knox Lock entry system will be installed on all gates to the site.
6. All outside lighting shall be shielded.

CHAIRMAN MONTOYA: Questions for staff?

COMMISSIONER ANAYA: Mr. Chairman.

CHAIRMAN MONTOYA: Commissioner Anaya.

COMMISSIONER ANAYA: Yes, a question for Jan. Was there a petition that went around in support of this cellular tower?

MS. DANIELS: Mr. Chairman, Commissioner Anaya, there was one that came around in support. [Exhibit 6] We just received the complete one today. It had about 300 signatures. And we also had one from the people that did not want the cell tower in Madrid, and I need to tell you at this point that they both allowed tourists from outside of the town to sign, the opposition and the ones that wanted it.

COMMISSIONER ANAYA: So 300 were in support of the tower, and how many were against it?

MS. DANIELS: Oh, gosh. I think 100 –

COMMISSIONER ANAYA: So clearly there was no notification problem there.

MS. DANIELS: Mr. Chairman, Commissioner Anaya, no, there was no notification problem. Let's see. Three, three and a half pages with about 26 lines on each page would be about 90 against it. Wait. There's more. I'm sorry.

COMMISSIONER VIGIL: Commissioner Anaya, there's about 160.

COMMISSIONER ANAYA: Thank you, Mr. Chairman.

CHAIRMAN MONTOYA: Commissioner Anaya, any other questions?

COMMISSIONER ANAYA: No, I would just ask, Mr. Chairman, if you could please limit the comments to at least two minutes or less.

CHAIRMAN MONTOYA: Okay. Commissioner Vigil.

COMMISSIONER VIGIL: No questions at this time.

CHAIRMAN MONTOYA: Okay. The applicant.

MR. LAKE: Greg Lake on behalf of Cingular Wireless. There are a few items, relatively few that I'd like to point out. Number one, this is a coverage site. If you look in your packet you'll have a before and after picture. Currently there is no Cingular cellular coverage in this area. Afterwards, there will be a good footprint for Cingular cellular coverage. The second item that needs to be pointed out, and that is the responsiveness of Cingular to the community here. Initially when this application was submitted it was for a 36-foot monopine to be placed. Based on input from the neighborhood and from planning staff, that monopine was reduced to 25 feet. From further input it was reduced again to 24 feet. With additional input we again changed the location of the monopine so that it would be less visible from the area. So there has been significant responsive actions on behalf of Cingular to deal with the neighborhood's concerns.

We've heard about the petitions. Certainly there are people here in this room that will be for and against. There's also over 300 people who have voiced their support through a petition. And we've talked about the health issues so I don't need to beat that again. You cannot turn down the site based on health. And also based on discrimination, there was some discussion in the past here and there may be in this particular hearing. Just because you have perhaps Verizon or Alltel coverage in an area, the FCC Telecom Act says that you can't discriminate and say, okay. Because we have Verizon and Alltel, let's don't worry about Cingular. You can't discriminate among carriers. Any questions?

COMMISSIONER VIGIL: So that your service would include – your post would include service for all carriers?

MR. LAKE: No, our –

COMMISSIONER VIGIL: You're only servicing Cingular customers?

MR. LAKE: My point in my last comment was some people may say we don't need Cingular here because we already have Verizon and Alltel coverage. What I'm saying is the Telecom Act states that municipalities cannot discriminate among carriers and allow some carriers to put in coverage site and other carriers not to.

COMMISSIONER VIGIL: And it's Verizon, and what other service providers?

MR. LAKE: Verizon works out there. It doesn't? All right. It doesn't. There was an interesting – we received a letter of support the night we had our neighborhood meeting. A gentleman went to a theater and he sent us a letter that night in support of the application. At the very end he said, I'm sorry I couldn't be there. I was at the theater, but curiously, he wrote, and I quote, "In the theater, our piano player in his introductory comments made the following announcement: 'We ask you please do not turn off your cellular phone. For if you get a signal, I want to know who your service provider is.'" So there is a paucity of coverage in that area.

CHAIRMAN MONTOYA: Are there any schools in that area?

MR. LAKE: I'm not aware of any. However, some of the people who live in the area of Madrid may be able to tell you.

CHAIRMAN MONTOYA: Okay. And regarding the property values of the place you're proposing to put this tower. Are there going to be reductions in property values there?

MR. LAKE: There's no proven – as much as people can stand up here at this podium and claim that property values are reduced by cellular sites, there's no proven evidence to

that. In fact, I bet if you took a survey of property in the area of cellular sites over the last year to ten years you would see significant increases, for various factors. You cannot completely factor in a cellular site as a reduction. Plus, there's nothing in the ordinance or the Telecom Act that allows you to regulate cellular sites on the basis of what it may or may not do to property values.

CHAIRMAN MONTOYA: Have you read our ordinance?

MR. LAKE: Yes, I have.

CHAIRMAN MONTOYA: Have you complied with what's requested in that ordinance?

MR. LAKE: Yes, we have.

CHAIRMAN MONTOYA: Okay. This is a public meeting. Are there any other questions for the applicant?

COMMISSIONER VIGIL: Not for the applicant but before we go to the public hearing I want to ask staff, you have – they are in compliance with our cell phone tower ordinance, but they're not in compliance with our underground ordinance? Is that where your recommendation goes to a denial?

MS. DANIELS: Mr. Chairman, Commissioner Vigil, we always deny the variances. We just deny them because they are not in accordance with the Code and it's up to the BCC to determine that. I know that all of the electric in Madrid is provided by overhead poles because the rock in the ground is so hard. Cingular Wireless said their head of construction and engineer went to the site and looked at it and walked the rest the area. It's just solid rock underneath and that's why there's overhead electricity.

COMMISSIONER VIGIL: But your denial was based on the underground requirement, right?

MS. DANIELS: Absolutely, yes.

COMMISSIONER VIGIL: Thank you.

CHAIRMAN MONTOYA: Those who would like to speak in favor or in opposition to this, if you would please come to the front over here and be sworn in. You will be limited to two minutes on your testimony. Please be assured that we have a packet of information here as thick as the packet we received previously. We have numerous letters of protest, letters of support, so I ask that you limit your comments to two minutes.

[Previously sworn, testified as follows:]

EDWARD GILLIAM: My name is Edward Gilliam. I'm a resident of Madrid, New Mexico. I live within 500 feet. The tower is directly opposite our house. I am basically a long-term resident of New Mexico. I came here in the year 1964 to study the Pueblo Indians for the University of New Mexico, at the Pajarito Plateau, out at El Rito. I'm an atomic veteran. I have a daughter who was born with birth defects. I believe it was from the nuclear blast I was very close to. I was a radarman in the Navy on the USS Yorktown. I was always instructed to stay out of the range of the radar emissions. I don't believe that there is any scientific evidence over a long period of time that cell phone emissions are harmless. I agree with Dr. Helen Caldicott that there is a possibility of long-term damage for children and the residents of Madrid, New Mexico over a 20-year basis or so.

I think we've seen this time and time again, with these large corporations coming in, whether

it's the tobacco industry or the atomic industry, it seems to be that staff is basically adversarial to the citizens of Madrid in their approach to this and that we've been discounted. The citizens of this small historic town, it doesn't really require any kind of modernistic apparatus like this dominating our little town. I think we need to look at the history of this state and the history of our town and think of it in those terms. As good New Mexican citizens, are we really serving the populace of this traditional community. Thank you.

CHAIRMAN MONTOYA: Thank you. Next, please.

[Previously sworn, William Brunson testified as follows:]

WILLIAM BRUNSON: Hello, my name is William Brunson. I've been a resident of Madrid, New Mexico, since birth. I've seen a lot of changes in that town and I am most definitely opposed to the building of this tower due to health concerns that are unknown. Also due to unsightly looks of this tower and that it is not being built in consideration of the local residents and I think it's a very great concern that the petitions were not limited to the residents of the area and especially that the petition opposed to the tower is very vague. I find that very concerning and I believe that these things should be looked at more seriously. I'm concerned that building a tower of this kind will sort of be a stepping stone for many other things like this to occur in our area that are not beneficial to the local people of this town. I do know lots of people who live in this area to get away from these sort of things. I know people that live in these areas because of, what do they call it? sort of sensitivity to ecological – so I would like to state that I am very opposed to this.

CHAIRMAN MONTOYA: Okay. Thank you. Next, please. Commissioner Anaya, we were just handed a copy of Santa Fe County Ordinance 2002-1 [*Exhibit 7*] That's what's being referred to in these comments.

[Previously sworn, Rebecca Knappe testified as follows:]

REBECCA KNAPPE: Mr. Chairman, Commissioner Vigil and Commissioner Anaya, my name is Rebecca Knappe. I own a house within 500 feet of this proposed cell tower. I also make my living in Madrid and have for about 15 years now. I've handed you a copy of Ordinance 2002-1, which has been approved by the County, and in it, on page 3 is Section 4.8.3, Building on slopes and ridgetops. It says, "In order to preserve the unobstructed horizons surrounding Madrid, no portion of a residential, commercial, or any other structure shall be visible above the ridgetop when viewed from the centerline of Highway 14 at the nearest spot on the highway with a direct view of the proposed structure." This tower is going to be definitely visible. It is in violation of this County ordinance that has been approved.

Some people are going to say, and even Cingular, that it's going to make Highway 14 in Madrid safer because we can make 911 calls. I did some internet statistic research and Verizon holds about 73 percent share of the cell users in this area. So it will not make Madrid or Highway 14 safer because everyone would have to switch to Cingular and that's not going to happen. That's what they're trying to get us to do, but we're not going to do it. As far as the notice, I have a pick-up notice dated 9/21 from the post office for a registered letter. The meeting was on 9/25. That's four days. I'm sorry, but it is not true that we were given notice in a timely fashion. It was not 21 days; it was four days. Thank you.

CHAIRMAN MONTOYA: Next please.

[Previously sworn, Mark Bremer testified as follows:]

MARK BREMER: Hello, my name is Mark Bremer, 3 Opera House in Madrid. I'm here representing the Madrid Cultural Projects. I'm the vice president. The Madrid Cultural Projects was initially created back in 2000 to preserve the historic ballpark. The Madrid Cultural Projects was instrumental in working with the New Mexico Heritage Preservation Association in getting it nominated to the ten most endangered structures in New Mexico. The reason why I bring this up is because Madrid Cultural Projects has been very strong in preserving the historical nature and integrity of the community.

I would like to state that the board of directors of the Madrid Cultural Projects unanimously request your denial of support of the Cingular Communication's appeal to install a cell tower within the Township of Madrid. I think in addition to the County ordinance previously mentioned, I would like to offer the Santa Fe County Land Development Code use regulations which are currently under public review, draft #2. [Exhibit 8]. It concerns locations. "Discouraged locations include ridgetops. The current location fails on that. Discouraged locations are scenic areas, scenic corridors and viewpoints. This is on the America's Byways Scenic Trails. And third, it's also on the next page it says C. Discouraged locations include existing or planned residential subdivisions or traditional, traditional historic or contemporary communities.

So in view of the proposed language in these regulations it fails on the only requirements that are stated. I ask that you preserve the intent of all the work that went into these regulations, even though they're in draft form. I ask that you preserve that intent.

CHAIRMAN MONTOYA: Okay. Thank you. Next, please.

[Previously sworn, Matt French testified as follows:]

MATT FRENCH: Yes, I'm Matt French. I'm trying to build a house about 400 feet away from this cell tower. I really have a question. Why is it a requirement to notify citizens surrounding that there's going to be a tower there? Why is that a stipulation for them to notify? Is it in order to get our feedback? Or just let us know, hey, we're going to put a tower in your backyard. I don't know what the intent of that is. Hopefully, it's to field our concerns. Overwhelmingly we have a limited time to tell your our concerns because there's so many of us. Unfortunately a lot of people couldn't be here.

CHAIRMAN MONTOYA: We have a wealth of information here, again, I'll state, both in support and in opposition that we've reviewed. We've reviewed the minutes from previous meetings. So this isn't the first time we're hearing this.

MR. FRENCH: I wasn't able to make it to the bar, the saloon, to sign the in favor ones, but I'm just curious. Why is it so important that people are notified? Is it just to let them know that there's going to be a cell phone tower? Or is it so that we can come and voice our concerns?

CHAIRMAN MONTOYA: Both.

MR. FRENCH: Because it seems like the determining factor here is whether or not they sent out a few certified letters. Are the letters in order to bring us here to give our concerns or are our concerns just a side note?

CHAIRMAN MONTOYA: Both.

MR. FRENCH: Both. Okay.

CHAIRMAN MONTOYA: They're to hear concerns and to notify you that these things are going on. It's not just cell towers. It's any variances or building, subdivisions that are

going into a particular location. It's all of those sorts of developments.

MR. FRENCH: People are notified in order to bring their concerns.

CHAIRMAN MONTTOYA: Correct.

MR. FRENCH: Okay. And I just wanted to reiterate that we do have a landowners association in the traditional Township of Madrid that does govern and is accepted by the community. By the County, rather. It has meetings that they are fully aware of and that is across the board against the cell phone tower. This Madrid Landowners Association. Thank you.

CHAIRMAN MONTTOYA: Thank you, Matt. Next, please.

[Previously sworn, Susan Benson testified as follows:]

SUSAN BENSON: My name is Susan Benson and I'm a new resident of the area. My husband and I have been here for about two and we came from California to live in Madrid because we love the area. We love the culture of the town and we live on the other side of where this tower is going to be proposed, but we will see it because it will be sticking up on the ridgetop. I was going to explain, the way people feel in this area is we have a neighborhood to preserve. We have nature to preserve there. If we have a cell tower there, it's not just the ugliness of it it's that it destroys the very culture of the area because it's bringing in something – everything we oppose.

It's hard to put into words, how fond I've become of this area, but a cell tower is going to ruin that and it's going to ruin our view, and we have neighbors in our area that live off Gold Mine Road that they've made the extra expense and the time to put all their wires underground, because nobody wants a telephone pole. And now we're going to have this huge tower. So I am vehemently opposed to this tower and I know a lot of my neighbors are too. And I don't even live in Madrid, but I'm going to see that tower.

CHAIRMAN MONTTOYA: Thank you, Susan. Next, please.

[Previously sworn, Jesse Hoorek testified as follows:]

JESSE HOOREK: Good evening, Mr. Chairman. My name is Jesse Hoorek. I'm Susan's husband. We specifically moved to this area from California to get away from all the population and all the cell phones and all the traffic. We didn't even move to the City of Santa Fe. We moved to Madrid because we wanted to be away from all that stuff. And part of what we wanted to be away from specifically, was cell phone towers. I'm totally adamant on that point. The people, the other residents in Madrid, most of them feel the same way. They're out there because we don't want to be in the middle of the digital divide.

New Mexico is a beautiful state and why don't we try to keep it that way. We don't have to have cell phones every square inch of the landscape. There ought to be some place you can go and get away from cell phones. It's amazing to me why we as a citizenry have to defend ourselves against the influx of cell phone towers. These people seem to be able to just plunk them wherever they want them, and we're stuck with them whether we like them or not. And once it's there, it's there. There's no recourse. Why are we in the position of having to defend ourselves? Why can't they be put in the position of having to defend why do we need it? There's already reception. I don't mean specifically there, but through most of the country there is reception. And yet they keep popping up like dandelions. So I don't think we need so many. I've had a cell phone for ten years. Our phone works fine out there. It totally destroys the nature and the underpinnings of what Madrid is about, being a historical community, to have a cell phone tower there. It's the complete opposite

of what Madrid is. Thank you.

CHAIRMAN MONTROYA: Thank you, Jesse. Next, please.

[Previously sworn, Heather Novak testified as follows:]

HEATHER NOVAK: Hello. My name is Heather Novak and I am the owner of 12-B Ice House Road, the direct adjacent property to 12-C Ice House Road where the tower is going to be erected. We bought the property in February and this came to our knowledge, we found out about this in March. I would have never purchased this property if I would have known about it. We're building a house there and we're going with underground power, just to be respectful. We actually got a variance, but we wanted to be respectful of the community and go underground, because the community is very sensitive about what is on our hillside. It's also a very sensitive community about how – the community is a family. I've never felt so welcome in a place and if this goes through – Matt and I were just married a month ago and we're wanting to start a family. I would never get pregnant or raise a child in a place that I felt could at all harm them or myself or my husband.

I'm asking you to go with the CDRC. We were not notified the last time or this time of this. I knew about it. I've been very active in making sure that we do know about this and making sure that the community knows about this. Most of the community, I say this completely honestly, is very, very against this, whether they signed the petition for it. So I'm begging you to please deny this application.

CHAIRMAN MONTROYA: Thank you, Ms. Novak. Next, please.

[Previously sworn, Tondra McLaughlin testified as follows:]

TONDRA MCLAUGHLIN: My name is Tondra McLaughlin. Mr. Chairman, Commissioners, thank you for listening to us. I know there's a lot of us but we feel very, very strongly about this. I'm a landowner, a business owner, as well as an employee in other businesses. I've lived and worked in a leased building that's going to be within a few hundred feet, within 500 feet of the cell tower. I'm also the current treasurer of the advisory board of the Madrid Landowners Association. And when I look around this room at my fellow community people that are speaking against this, just in case there's a perception that it's a small interest group that's against this I see people are not just business owners but that are involved in preserving – who care about the community, both old-timers – what we call old-timers who've been here since the 70s and the beginning of the community, up to more recent arrivals and myself three years ago, to those who are on the Madrid Cultural Project, the water co-op, the board of advisors, active in doing things for the community. Free food bank, all those people are here and we're against this and I think what Mark spoke to about the proposed plan that people have put a lot of work into this. This is against everything that those of us who are there care about.

Those of us who live there put up with things that other people would consider very large inconveniences: water that's hardly drinkable, roads that you can barely drive on. But those things don't matter to us. What matters to us is the beauty of the land, the historic community, and that it's not business as usual. So I ask you please, very sincerely from the bottom of my heart, to not let the forces of corporate greed and business as usual come into what is a unique community that can never be repeated. It's one little piece of magical New Mexico and there's many, many wonderful places. Madrid has its own character and community and this will be an inroad into the beginnings of

destroying it. Thank you very much.

CHAIRMAN MONTOYA: Thank you, Ms. McLaughlin. Next, please.

[Previously sworn, Hugh Hackett testified as follows:]

HUGH HACKETT: Mr. Chairman, Commissioners, ladies and gentlemen, my name is Hugh Hackett. I'm a resident of Madrid and surprisingly enough, I am going to speak for cell phone service. The location of the tower and health issues can be dealt with by wiser minds. And I will be brief. Cell phones have become an essential part of our lifestyle. They are a logical progression of modern communication starting out with the heliograph, the telegraph, the telephone, the wireless, the computer, and last but not least, the cell phone. We live in an age of information and communication. This is an unavoidable fact of our life. Most of us have become complacent about the ease at which we conduct our daily business, both professional and personal, on our cell phones.

We enjoy this facility because other communities have allowed cell towers to be installed in their districts. How would it be if we all had to go back to the good old days of locating a working pay phone, locating change or have to return to our offices or homes to deal with everyday issues. I know Madrid is not a welcoming area for a lot of progressive thinking, and that's their right to do so, and that is part of its charm which I truly enjoy. However, the issue is not just about Madrid. Hundreds of people, sometimes thousands come through our community on a daily basis, and many of these visitors also have a right to expect cell service. For the elderly, the infirm or the disabled it can be a life-saving service. Parts of our roads are very dangerous, especially in winter. There's mile after mile of downhill grade on the southern slope and if cars go off, which they have, some people have laid down there for days before they were discovered. I'm not saying it would save a life but it certainly has proven its worth in the past.

I would like to thank Commissioner Anaya for providing a perfect example of how dependent we've become on cell phone service. And the answer to your question, before anybody else asks, I do not have a cell phone, but I still would like to see service. Thank you.

CHAIRMAN MONTOYA: Thank you, Mr. Hackett. Next, please.

[Previously sworn, Roxanne David testified as follows:]

ROXANNE DAVID: Roxanne David, 2873 Highway 14, within 500 feet of cell phone tower. I'm going to give you my letter because I'm not going to bring that up. What I'm going to bring up is that – I did not get a notice of this hearing. I did not get a notice that there was a public hearing in town. I heard that there were a few people that were there but I am not one that was notified. I got the first letter the first time – the first registered letter I received. The second, for this hearing, I did not. So I am strongly against that. I think it change the traditional Township of Madrid and it would only serve the Cingular people. It would not help with the cell phone.

I was a volunteer firefighter for 20 years. What happened when you called 911 on cell phone? It goes to Bernalillo and it confuses everybody and it does not come to Madrid. So it has caused more problems when I was in the fire department, people calling on their cell phone and people using a land line. And that's all I have to say. Thank you.

CHAIRMAN MONTOYA: Thank you, Ms. David. Next, please.

[Previously sworn, Gail Snyder testified as follows:]

GAIL SNYDER: Hi, my name is Gail Snyder. I've lived in New Mexico since

1981. I came to New Mexico because it was one of the last bastions that I could find in the country where people cared about each other and were not so susceptible to what was becoming even back then the prevailing mood of this country and I eventually, four years ago, had to move out of Santa Fe because I felt the encroachment of all of those things there and I moved to Madrid, where I have been involved with the food depot for the people in the community who can't afford food every week and I'm mentioning this because when people like Heather Novak have tried to describe to you the fact that we really are a family, a community that is like a family, that's the truth. And there are so many of us who are against the cell tower who are still here tonight at 10:00 or after because we care about this issue and we want to be heard. Please take that into account. I myself don't have a cell phone. I don't ever intend to have a cell phone and I think that's an important point also. And one other thing that it could be placed anywhere outside of the town if it's such a big deal to so many other people. I don't think it needs to be where they're proposing to put it. Thank you.

CHAIRMAN MONTOYA: Thank you. Next, please.

[Previously sworn, Barbara Ontagh, testified as follows:]

BARBARA ONTAGH: Barbara Ontagh, 2272 State Highway 14. I'm a business person in Madrid. I have a small shop, property owner. And I just have to address the issue that I get people coming in my shop all the time, particularly during the busy season that say what an amazing place this is. It's so beautiful. It's so quite. And when I'm in the store, nobody's talking on the phone. When you go to shop in Santa Fe and you go to department stores, you go anywhere, people are standing around talking, personal conversations going on, yelling in loud voices. When you're in Madrid, you don't hear any of that. And the people who come to Madrid, which is really our bread and butter for the community, come there because of the historic value there, the history and the beauty of the land. Thank you.

CHAIRMAN MONTOYA: Thank you, Barbara. Next, please.

[Previously sworn, Edith Saltkel testified as follows:]

EDITH SALTCEL: Mr. Chairman, Commissioners, my name is Edith Saltkel, also known as Edy Kato. My husband and I are the proprietors of the Mine Shaft Tavern, the Old Coal Mine Museum, Old West Photography Studio and the Old Madrid Melodrama, and we consider ourselves stewards of Madrid and have been for 24 years and counting. We are permanent residents. Our primary concern is safety. We are often, and especially where we live and in this last storm, we were eight hours without phone service. I have medical issues. There are people in and out of town, tourists, visitors and locals, and those of us who are aging, who need phone access communication, whether it be for a fire emergency, automotive problems or health emergency.

Therefore, being probably least popular here, although we all know that those who are opposed to a situation are always more vocal than those who are proponents, I'd like to say that we feel as a safety issue that it is an essential to our community that this now inobtrusive facility be installed so that those of us who need emergency communication can have it. And I thank you for listening.

CHAIRMAN MONTOYA: Thank you, Edy. Next, please.

[Previously sworn, Gerald Warrick testified as follows:]

GERALD WARRICK: My name is Gerald Warirck, 30-year resident of the

community, former fire chief, current member of the board of advisors. I take exception with the petitions that were stated that they were 300 signatures in favor of this. There frankly aren't that many people that live in the community and they certainly wouldn't have had that number supporting this. I think that it was a polluted petition, based on the fact that it was largely signed in the bar and pushed by people who stand to gain from this. Thank you for your time.

CHAIRMAN MONTOYA: Thank you, Gerald. Next, please.

COMMISSIONER ANAYA: Mr. Chairman.

CHAIRMAN MONTOYA: Commissioner Anaya.

COMMISSIONER ANAYA: I didn't catch all what Gerry said. He was saying something about everybody that signed that petition for it did not live in the Town of Madrid?

CHAIRMAN MONTOYA: Correct.

COMMISSIONER ANAYA: Thank you.

MR. WARICK: Commissioner Anaya.

COMMISSIONER ANAYA: Yes.

MR. WARICK: There simply aren't that many people in town that could have possibly signed the petition, and it's my contention that it was signed by patrons, non-residents of the tavern, that had it pushed by the owners of the tavern who stand to gain from this proposal. Thank you.

COMMISSIONER ANAYA: Thank you, Gerry.

[Previously sworn, Clifford Kitzrow testified as follows:]

CLIFFORD KITZROW: I'm Clifford Kitzrow and I'm for the tower and in rebuttal, I will say that the 300 signatures for the tower came from residents, not only of Madrid but of the area. I travel Highway 14 daily to Santa Fe. Seventy-three percent coverage isn't a lot. Verizon says can you hear me now? No. I can't get a decent signal until I'm 11 miles north of town. And going south on 14 is even worse.

It's safety factors. I just hate to be out in the middle of the night, have an auto accident, and not be able to reach anybody. The tower itself is going to be an unobtrusive tower. It is a stealth tower. It's going to be camouflaged, so it will look like a pine tree, but it's still not something that's going to stand out like a sore thumb. It is also right out my front window. If I was going to have a problem with it I would be objecting to it also, but I don't have a problem with it. And believe me, wherever Cingular builds a tower, whether it's on my property or somebody else's down the road, it's going to be a benefit to the area. Thank you.

CHAIRMAN MONTOYA: Thank you, Clifford. Next, please.

[Previously sworn, Glenn Bowden testified as follows:]

GLENN BOWDEN: Good evening, Commissioners. My name's Glenn Bowden. I lived in Madrid 29 years. I'm vice president of the water co-op. I'm not against cell phones. I'm not against cell phone towers. I'm here for the place they're going to put it. They're going to put it in the wrong place. To put it there violates the master plan of Madrid which you all voted on and passed. There is plenty of property around there that it could be put, and there's probably places that it could be put that it would serve the area much better. Like Clifford said, it's the Ortiz Mountains, it's all hills. These radio waves work on line of sight or a straight line. Everything to the south is hills and mountains so the signal is not going to get out there. There are better places to put this tower.

Thank you.

CHAIRMAN MONTOYA: Thank you, Glenn. Anyone else? Okay, seeing none, this public hearing is closed. Questions for staff or the applicant?

COMMISSIONER VIGIL: Mr. Chairman.

CHAIRMAN MONTOYA: Commissioner Vigil.

COMMISSIONER VIGIL: I would just like to ask staff, we did get a copy of the Madrid traditional plan and it references Section 4.8.3 with regard to building on slopes and ridgetops and it does have some prohibitive language. Does this proposal violate that? My interpretation of this is that this community plan on building on slopes and ridgetops is specific only to residential or commercial units, not necessarily to cell towers. Is that how staff interpreted it? Or maybe Mr. Ross, I should ask you because it's probably more of a legal question.

MR. ROSS: Mr. Chairman, Commissioner Vigil, it's hard to reconcile those two ordinances. They were passed in the same year. In general, a court would look at a situation like this and say the more specific governs over the more general. But you are the author of these ordinances; you are the Board of County Commissioners and you basically have the first crack at that.

COMMISSIONER VIGIL: Would the more specific be the cell tower ordinance? That is specific to ridgetops, is it not? And what does that say?

MR. ROSS: Well, there's some language that in the back of the ordinance. It's sort of an isolated reference. It says that the Code Administrator – it speaks in terms of who can approve certain applications, and it does say the Code Administrator can –

COMMISSIONER VIGIL: I think it's on page 10.

MR. ROSS: It says that the Code Administrator can approve an architecturally integrated cell tower that's less than 20 feet in height located on a ridgetop. Unfortunately, there are no parallel references that speak in terms of the Board's authority and if you take a look at the siting requirements on page 4, there's encouraged locations and discouraged locations. There's no prohibited locations.

COMMISSIONER VIGIL: Okay, also, through the testimony we received, Section 2.4.4.0, with regard to telecommunications facilities, again that talks about discouraged locations. My understanding is this is a draft of the new Code and we haven't even enacted this. Is that accurate?

MR. ROSS: Mr. Chairman, Commissioner Vigil, that is the Code rewrite; it has not been enacted.

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

CHAIRMAN MONTOYA: Any other questions? Commissioner Anaya.

COMMISSIONER ANAYA: Sounds like half of Madrid is there. Who's watching the Town of Madrid. I have no further questions, Mr. Chairman.

CHAIRMAN MONTOYA: All righty.

COMMISSIONER ANAYA: Are you ready for a motion?

CHAIRMAN MONTOYA: Yes. I think we are.

COMMISSIONER ANAYA: Mr. Chairman, from the testimony that I heard today, I too would want to preserve the historic look of Madrid. Glenn spoke on the location of the

tower. I think that there could be, and there probably is – I'm not against cell towers. I do have a cell phone and it does get frustrating when you drop a call. But I think Glenn spoke on location and I think that possibly we could work together with the community, hopefully, to come up with a better location. The ridgetop came up and I don't particularly like it on a ridgetop but that seems to be the best place that they operate. Gerry spoke on signatures. I know that he would tell me the truth when most of those signatures didn't come from the Town of Madrid.

So with that, I think I would like to make a motion to deny this case, from the testimony that I heard and postulating that maybe the applicant can work with the community to find a new location so it does not impact the Town of Madrid as it would. Thank you.

CHAIRMAN MONTOYA: Okay. So essentially we have a motion to deny the variance request as well as the appeal. And I'll second that for discussion. Any other discussion?

The motion to deny the appeal in CDRC Case #APP 06-5381 passed by unanimous [3-0] voice vote. [Commissioner Campos was not present for this action.]

XII. A. 3. CDRC Case # V 06-5420 Clyde Hayes Variance. Clyde Hayes, Applicant, Requests a Variance of Article III Section 10 (Lot Size Requirements) of the Land Development Code to Allow a Land Division of .580 Acres into Two Lots. The Property is Located at #15 George Hayes Place in Traditional Community of Cuyamungue, Within Section 17 Township 19 North, Range 9 East (Commission District 1)

CHAIRMAN MONTOYA: We are back to the Clyde Hayes Variance.

MS. COBAU: Mr. Chairman, I'm standing in for Wayne Dalton this evening and I'd like to ask if the applicant is here, because I don't believe the applicant is here and I'd like to request if the applicant isn't here that this case is tabled.

CHAIRMAN MONTOYA: Is the applicant here? No. So motion to table.

COMMISSIONER VIGIL: Second.

CHAIRMAN MONTOYA: I guess I made the motion.

The motion to table CDRC Case #V 06-5420 passed by unanimous [3-0] voice vote. [Commissioner Campos was not present for this action.]

XII. A. 6. Case # 06-5560 Puerto Penasco, LLC (Ruben Rodriguez and Maria Teresa Miramontes) Liquor License Penasco, LLC, (Ruben Rodríguez and Maria Teresa Miramontes), Applicant is Requesting a Restaurant Liquor License. The Property is Located at 4681 Airport Road, Within Section 6, Township 11, North, Range 9 East (Commission District 5)

MS. DANIELS: Thank you, Mr. Chairman. On February 23, 2003, the EZA granted master plan, preliminary and final development plan approval for a small-scale neighborhood center with restaurants included in uses on 1.852 acres located at the Zia Center. The applicants are requesting a restaurant liquor license for the existing Puerto Penasco Restaurant to permit the sales of beer and wine with meals. Staff recommends approval subject to the following condition. Mr. Chairman, may I enter the condition into the record?

[The condition is as follows:]

1. Portable signs and poster signs located on the exterior of the building advertising beer and wine beverages are prohibited.

CHAIRMAN MONTOYA: Any questions for staff?

COMMISSIONER VIGIL: Mr. Chairman, the only question I have, I think the only guideline we have is that this liquor license not be within, what? Five hundred feet of a school zone.

MS. DANIELS: Mr. Chairman, Commissioner Vigil, that is correct and it is not.

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

CHAIRMAN MONTOYA: Okay. Is the applicant here?

[Duly sworn, Jesus Rodriguez testified as follows:]

JESUS RODRIGUEZ: I'm Jesus Rodriguez and I applied for a beer and wine license and am here to see if I can have it.

CHAIRMAN MONTOYA: Okay. Any questions for the applicant?

COMMISSIONER VIGIL: Are you Ruben Rodriguez?

MR. RODRIGUEZ: Yes, ma'am.

COMMISSIONER VIGIL: Are you in agreement with any conditions? There's a recommendation that portable signs and posted signs –

MR. RODRIGUEZ: Yes.

COMMISSIONER VIGIL: Okay.

CHAIRMAN MONTOYA: Staff, how many liquor licenses are in this area? On Airport Road?

MS. DANIELS: Mr. Chairman, it's really hard to know. I could only guess and that's not good enough to give you a correct answer. There are some several restaurants on Airport Road that would serve beer and wine but I could not tell you how many.

CHAIRMAN MONTOYA: Mr. Rodriguez, is this a new license or is this a transfer?

MR. RODRIGUEZ: It's a new license.

CHAIRMAN MONTOYA: It's a new license. And you've already gone through the Alcohol and Gaming?

MR. RODRIGUEZ: Yes, sir. It's a little strange. I applied in May to put the posting on the window. They approved it right away, May 18th. It takes four months to put it on the window. It takes five minutes to do it. I've been waiting. I've been doing everything they asked me. I do everything.

CHAIRMAN MONTOYA: Okay.

COMMISSIONER VIGIL: What is the name of your restaurant?

MR. RODRIGUEZ: The name? Puerto Penasco.

COMMISSIONER VIGIL: Is that located along that strip mall? How far down is it?

MR. RODRIGUEZ: It's right on the corner.

COMMISSIONER VIGIL: Mr. Chairman, I move we approve.

CHAIRMAN MONTOYA: Okay. We have a motion for approval.

COMMISSIONER ANAYA: Mr. Chairman.

CHAIRMAN MONTOYA: Commissioner Anaya.

COMMISSIONER ANAYA: Did we do a public comment?

CHAIRMAN MONTOYA: No. There's nobody left but you and I, buddy.

COMMISSIONER ANAYA: I'll second.

CHAIRMAN MONTOYA: Okay, there's a motion and second. Steve, do I need for the record to go through the formality of –

MR. ROSS: You might, Mr. Chairman, just state for the record that there's no need to conduct a public hearing because there's nobody here.

CHAIRMAN MONTOYA: Okay, so there is no need to conduct a public hearing and we'll go with the motion and second from Commissioners Vigil and Anaya respectively. Any other discussion?

The motion to approve Case #06-5560 passed by majority 2-1 voice vote, with Commissioner Montoya voting against. [Commissioner Campos was not present for this action.]

XIII. ADJOURNMENT

CHAIRMAN MONTOYA: Seeing no other cases, we are adjourned.
Commissioner Anaya, thank you.

COMMISSIONER ANAYA: Thank you, Commissioners.

Chairman Montoya declared this meeting adjourned at approximately 10:20 p.m.

Approved by:

Board of County Commissioners
Harry Montoya, Chairman

Santa Fe County
Board of County Commissioners
Regular Meeting of October 10, 2006
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Respectfully submitted:

Karen Farrell, Wordswork
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ATTEST TO:

VALERIE ESPINOZA
SANTA FE COUNTY CLERK