

**SANTA FE COUNTY**

**REGULAR MEETING**

**BOARD OF COUNTY COMMISSIONERS**

**September 11, 2007**

This regular meeting of the Santa Fe Board of County Commissioners was called to order at approximately 3:05 p.m. by Chair Virginia Vigil, 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 Virginia Vigil, Chair  
Commissioner Jack Sullivan, Vice Chairman  
Commissioner Paul Campos  
Commissioner Mike Anaya

**Member(s) Excused:**

Commissioner Harry Montoya

County Clerk Valerie Espinoza introduced her new Deputy Clerk, Vicki Trujillo, noting that Shirley Hooper Garcia will continue to consult.

**V. INVOCATION**

An invocation was given by County Chaplain Jose Villegas.

**VI. APPROVAL OF THE AGENDA**

CHAIR VIGIL: Are there any amendments or tabled or withdrawn items?

ROMAN ABEYTA (County Manager): Madam Chair, under X. Staff and Elected Official Items, we added B. Matters from the County Attorney, 1, which is a resolution awarding the \$20 million Santa Fe County general obligation bonds, Series 2007B to the best bidder. The only other change, Madam Chair, is under Public Hearings, XI. A. Growth Management Department, item 7, AFDRC Case #Z/S 06-5271, Tavelli Mixed-Use Subdivision, has been tabled. Other than that there are no changes from staff.

CHAIR VIGIL: Okay. Are there any requests or changes from the Commission?

COMMISSIONER ANAYA: Move for approval as amended.

CHAIR VIGIL: Is there a second?

COMMISSIONER CAMPOS: Second.

**The motion to approve the agenda as amended passed by unanimous [4-0] voice vote.**

CHAIR VIGIL: We have no Consent Calendar from what I can tell so there are no withdrawals.

#### **VII. APPROVAL OF MINUTES: August 14, 2007**

CHAIR VIGIL: Any corrections or changes?

COMMISSIONER SULLIVAN: Madam Chair.

CHAIR VIGIL: Commissioner Sullivan.

COMMISSIONER SULLIVAN: Some typographical corrections.

CHAIR VIGIL: I also have one. Are there any others?

COMMISSIONER ANAYA: Move for approval as corrected.

COMMISSIONER SULLIVAN: Second.

**The motion to approve the August 14<sup>th</sup> minutes as corrected passed by unanimous [5-0] voice vote.**

#### **VIII. MATTERS OF PUBLIC CONCERN – NON-ACTION ITEMS**

CHAIR VIGIL: I do know that there is someone to address the Commission under Matters of Public Concern and this is a presentation to the Santa Fe County Commission on the Forest Service. Would you please come forward and state your full name?

SHARON ELIASHAR: My name is Sharon Eliashar.

CHAIR VIGIL: Welcome Sharon. Please proceed.

MS. ELIASHAR: Mike, Jack, Virginia and Paul. First I want to thank you for hearing us today. I'll be as brief as I can. I'm with an organization called Glorieta Mesa.org and we're here to discuss the federal government travel management rule that they are proposing for the National Forest on Glorieta Mesa. The National Forest has been mandated to designate a system of roads and trails in areas for vehicle use by 2010. The motor vehicle uses that they're talking about that they have the most concern with are called OHVs. Those are called off-highway vehicles. An off-highway vehicle is a dirt bike, a dune buggy, a four by four and an

ATV.

They have found that they machines have been causing a lot of damage, soil erosion and a lot of conflict in their multi-use system, so they're coming up with a plan to designate trails for them so they can effectively manage them. The plan should be implemented by 2010, and we're right in the middle of the process. Right now the National Forest is open to many uses. It is open to hiking, biking, horseback riding and ranching, logging and motor vehicle use. The travel management plan, currently, a road right now on Glorieta Mesa is open unless deemed closed. The travel management plan would say all roads are closed unless noted as open. So this is a good thing.

This way they claim they can maintain the trails and have a way of making the riders accountable. The other positive thing about the plan that we see is that right now, the entire Glorieta Mesa is free for all OHVs. They can go anywhere in the National Forest on Glorieta Mesa and they're saying, okay, if we designate some trails we can control this problem. After they designate these trails it will be published on a map. So what does this map look like? *[Exhibit 1]* Right now when you get a map from the National Forest you see hiking trails, biking trails, horseback riding trails. In the future there'll be a map showing OHV users where they can go on the National Forest to ride their vehicle. Also sounds pretty fair.

One of our biggest concerns is that when this map is published it will be a form of legitimizing this use on our public lands and can be used by OHV enthusiasts to invite rallies and to encourage OHV tourism. And that's the main point we'd like to discuss with you today. Even though they propose to be decreasing possibly the trails or the usage, it seems like they might be increasing the usage of OHVs on Glorieta Mesa, and targeting the tourist industry.

The first draft that they made is the map that you have in front of you right here. We've been told that this is a draft and that the roads will be greatly reduced. But will they be greatly reduced? When one contacts the National Forest about this issue they're told, well, we're reducing all the roads on Glorieta Mesa by 55 percent. Doesn't that sound great? Well, it occurred to us that the maps that they're reducing from consist of every possible thing that can be identified as a trail or a road. It could be a cow trail, an animal track. It could be a road that's caused by erosion and that someone went around an alternate route. So they took a snapshot of all possible trails on Glorieta Mesa and they proposed it and now they tell us they're going to be reducing these roads.

I could go out there with my '63 Scout and create 200 miles worth of roads and then come to you and say "I'm reducing these roads." Okay? One of our people on our team compared the official Santa Fe National Forest map and their roads with this map, and this map has ten times the number of official roads that the National Forest published. So if they decrease it by half, they're actually increasing roads by five times. So that's a very important point to think about if we continue investigating this.

In any case, a more important issue: Whether they are increasing or decreasing the roads the current vision of the National Forest is to allocate 100 percent of motorized roads on Glorieta Mesa to OHVs. 100 percent. So no matter what their road map looks like at the end of this

process, their current vision is to allocate all those roads for OHVs, ATV use. That's the dirt bikes and the ATV and quads and four-wheelers. This would effectively create a single use situation and greatly interfere with traditional users of the Mesa, such as ranchers and woodgatherers.

Let's talk about the traditional users. For generations, ranchers and firewood gatherers have used Glorieta Mesa for their livelihood. Even with the low usage of ATVs on the mesa today, they are still experiencing a great deal of damage to their property. They have their water tanks blown out. They have their windmills shot at. Fences are torn down. They're getting buzzed by ATVs. And there's actually a problem now. If this map should come out and if the tourist is encouraged we're going to have a lot more problems with the traditional users of the mesa.

Contrary to what one would assume to be responsible management, the national forest seems to be increasing OHV uses but not increasing enforcement. In fact, the national forest will have very little enforcement. As it stands now, there's one enforcement officer for three districts. They are leaving it up to the riders when the map comes out to determine where their roads are, so there won't even be signage on the ground to say, hey, this road is closed, this road is open. Someone's going to get a map and say, oh, I have to take the left fork here because that's the open road.

I can go on and on about the impacts of OHV use on the mesa. I could speak about it for hours, but what I really want to focus on is the impact on Santa Fe County, which is why we're making the presentation to you today. It appears that the national forest, with their plan and their vision of Glorieta Mesa as we understand it would be setting up kind of a false infrastructure on Glorieta Mesa that encourages OHV tourist, but they're not going to be responsible for the consequences of it. We believe there will be an enormous negative impact on the County in the form of draining our resources that are here for taxpaying, voting citizens.

Some of these negative impacts: overburdening access, putting any ATV park in Santa Fe County would encourage visitors on Glorieta Mesa to access the national forest in Canoncito by the Eldorado Wilderness. Canoncito has a school bus stop and many pedestrians that walk County Road 51. The road itself is negotiable by locals who know all its innuendos but can you imagine a trailer carrying six ATVs going up those windy curves? It's almost a setup for some kind of accident from non-local use. And also the Eldorado Wilderness is the only wilderness area close to Eldorado where the members can go for a quiet walk. It would just take one OHV to discover the Eldorado Wilderness and form a trail and then have usage there, which would be probably impossible to stop and it would force Eldorado to patrol the area. That would be a burden on Eldorado Wilderness section.

Second point: a draining of our law enforcement. Any accident or incident involving people on their way to the national forest or in the national forest will have to be handled by the Santa Fe County Sheriff's Department. It's another drain on our resources. They're going to come up. If someone is tearing down someone's fence or something they're the ones that are going to get called.

Third point: a draining of our medical emergency care. OHVs are a hugely dangerous sport. In fact, they take up a disproportionate number of injuries admitted to emergency rooms across the country. Their numbers are on the rise and with this will be more injuries. It is my understanding that the national forest is not creating a medical branch to deal with the injuries dues to the increased ATV traffic on the mesa. Again, it will fall on Santa Fe County, draining our resources, our ambulances, our paramedics and perhaps our indigent fund.

Finally, increased risk of fire. I don't even need to tell you about that. When someone from Louisiana puts out a cigarette in Louisiana, it hits the swamp. When someone from Louisiana puts out a cigarette on the mesa it could ignite the entire mesa and beyond. We're not going to have people that are going to be sensitive to our vulnerabilities up on the mesa. Any fire violation in the national forest, on Glorieta Mesa, will ultimately be handled by Santa Fe County fire force. When I mentioned this plan to a fireman, he just dropped his jaw and said oh my God and just kind of got very sullen about it.

VALERIE ESPINOZA: Madam Chair, the speaker has one minute left.

MS. ELIASHAR: I have a closing paragraph.

CHAIR VIGIL: Great. Go on ahead.

MS. ELIASHAR: I'm done. The national forest plan to reduce roads in Santa Fe National Forest and designate trails for OHVs in order to more effectively manage them seems like a great idea. However, upon a deeper investigation it seems that the way they're proposing to implement this will have severe negative consequences for Santa Fe County. We recommend that you create a working session about this issue and we would love to work with you on it. Thank you for your time.

CHAIR VIGIL: Thank you. Any questions? We do have some guests here that need to be introduced. I have a real quick one. Have you worked with our Land Use staff in regard to this at all?

MS. ELIASHAR: No. No, this is the first time we're interfacing with the County.

CHAIR VIGIL: Isn't there a deadline? Isn't the federal government looking for comment and a deadline.

MS. ELIASHAR: Thank you for reminding me. I believe there's public input right now and the deadline I believe is October 19<sup>th</sup>, so we don't have much time. I also believe that when I spoke with Paul and he mentioned it was a federal issue, I believe that if Santa Fe County felt that it would be a negative thing, that the Forest Service would be open to your opinion. And it might influence – I think they're open to seeing what the community really wants.

CHAIR VIGIL: When is this deadline?

MS. ELIASHAR: I believe the final deadline is October 19<sup>th</sup>, but really, Ms. Vigil, I think it's a week. It's very soon.

CHAIR VIGIL: Okay. Can I recommend that you meet with Jack Kolkmeier, our Land Use Director? Speak with him about these issues. Have him clarify for us what role the County has here and what authority we have, and then we can look at a possible future hearing if

it's necessary. But I think our Land Use staff needs to be abreast of the issue.

MS. ELIASHAR: Okay. Great.

CHAIR VIGIL: And I think that would be a next step here.

MS. ELIASHAR: Wonderful.

CHAIR VIGIL: Thank you very much. Can I just ask you – I know you have other people here that are concerned about this. Would you like to introduce them?

MS. ELIASHAR: Well, I think I'll let them introduce themselves and I told them to be brief.

CHAIR VIGIL: Okay. If you could just state your name.

JOHN TURNBULL: Thank you very much Madam Chair and Commissioners. My name is John Turnbull. I've lived in lower Canoncito near County Road 51 for about 29 years and I have to say quite honestly that I cannot tell from the information that we've yet been given whether this proposal by the Forest Service is as it seems or whether it's a stalking horse for something much more and I have to plead ignorance at this point. I just cannot determine this. My greatest concern, living near County Road 51, and your Public Works people are out at our river crossing right now, doing the low water crossing, which we certainly appreciate. I wanted to mention that County Road 51 is an old road. It's been there for 100 years. It's narrow and it's winding and for 20 years we waited to try to get that paved simply for safety's sake. The County did this a few years ago, again, which we're very grateful for, but it still is a very narrow, winding road and my concern is that if major wide trailer, wide truck traffic is introduced to a road which is barely holding up engineering-wise under passenger vehicles, I think that kind of added traffic on the road, not only creating a pedestrian hazard in many places but also a vehicular hazard is eventually going to crumble the road and in a very short period of time I think this County is going to be required to re-engineer that road to a much higher standard, to completely rebuild it and to maintain many, many miles of that road in perpetuity, so long as this kind of traffic is on it.

Right now we've maintained it with nothing more than a chip seal on the road gravel surface, but I don't see that holding up under major heavy truck and trailer traffic as might be proposed. So that's my major point, not to recount what's been said but just to express my concern about this road.

CHAIR VIGIL: Thank you very much. Anyone else here on this project. Good afternoon.

RONNIE WHITMAN: My name is Ronnie Whitman. I live here in Santa Fe. I've used the top of the mesa for walking for a long time. It's very beautiful, very quite, very peaceful. I'd had to see it wrecked. That's all.

CHAIR VIGIL: Thank you, Ms. Whitman. Anyone else? Can I have a show of hands of anyone else on this project? Okay, we allocated about ten minutes so if you might be able to go ahead and make your statement and introduce everyone else, perhaps we could get their names on the record. And those of you who did not have an opportunity to speak to us today feel free to e-mail us on this.

LESLIE BARNARD: I actually have. My name is Leslie Barnard. I live in lower Canoncito. My home is very close to Route 51, also Ojo de la Vaca, which is the same road, and I would just reiterate what Mr. John Turnbull said. And I would like to introduce Mr. Richard Montoya, who's a rancher on the mesa.

RICHARD MONTOYA: Good afternoon. I'm Richard Montoya. I live on Ojo de la Vaca, and my main concern is about horses and the damage that's being caused up there by ATV and tearing up tanks. I've got a few photos if you people would like to see them, or not, and you can judge from there. If people want to see them I'll pass them out to you.

CHAIR VIGIL: Please feel free to. We'll make that part of the record. Thank you, Mr. Montoya. Is there anyone else that's here for this? I'm going to allocate just a little bit of time.

CARLA CRIAKA: I'll just speak very briefly. My name is Carla Criaka and I actually fear for the life of our community. The road is not capable of handling any more traffic. Yesterday, three people passed me at 50 miles an hour around a blind curve on a one-lane road. I also fear for the wildlife on the mesa and I also fear for the petroglyphs that are absolutely ancient and beautiful, and it's precious up there. Thank you.

CHAIR VIGIL: Thank you, Carla. Anyone else?

LAUREN JANSEN: Good afternoon. My name is Lauren Jansen and I live on the very top of the Glorieta Mesa on Ratona Community and I'm very concerned about our just moving here three years to New Mexico. I'm also really concerned, as everybody else talks about the fragile, very fragile wildlife that lives there, and also the architectural ruins and just the fragility of the erosion and seeing tons of trash as I drive through at least two to three miles of national forest on the way to my land. We feel that we're caretakers of the land and through this and already see it becoming trash that's developing up on the mesa from people coming in with their ATVs. Their usage there is pretty devastating now. I can't imagine how it's going to be compiled if this whole thing goes through. Also, the road up to the top of the mesa is very narrow. I've had several occasions where I'm had people flying down the road on these little motorized vehicles and it was pretty hairy.

The roads are really very narrow. I listened to what my neighbors have to say. People who have lived on these lands and their ancestors for hundreds of years and it's deeply concerning to me. So I will e-mail any other – I have many more things to say but I will be happy to do that as well. Thank you.

CHAIR VIGIL: Thank you very much, Lauren. Would you like to speak, sir.

CHRIS ONIFF: I'm Chris Oniff. I live on Ojo de la Vaca Road and I just wanted my name on the record as sharing the concerns of those who've already spoken.

CHAIR VIGIL: Thank you, Mr. Oniff. Please come forward. And those of you who want to speak, I will take two more speakers.

STEVEN CLARK: My name is Steven Clark. I live in lower Canoncito on Ojo de la Vaca Road. Although I've lived there for 40 years and am kind of used to the high degree of trash that's littered out in so-called wilderness areas, I'm really, seriously, grievously

concerned about the increased ATV, OHV use up on the mesa. They will displace all other legitimate uses and this will be turned into, within five or ten years, a moonscape of mud or dust. Unrestricted ATV use like the Forest Service proposes will displace all other legitimate activities. People won't be able to hike. People won't be able to picnic without getting blasted by the noise, the commotion, the trash, the infrastructure damage. I see on this glorious mural up here, preserve cultural traditions, pristine resources, diverse communities. It's awfully diverse up there. Dedicated to our ancestors, to the present and future generations.

The place is going to be wrecked to any legitimate human use. It's going to be war on the land. I rest my case. I don't see any good reason to allow unrestricted OHV use that would trump those particular objections. The Forest Service has an obligation for multiple use. It won't be practically possible multiple use anymore. I think one of the responsibilities of the County is to preserve the cultural integrity. If we don't have a healthy land we're not going to have a health cultural in the mesa's vast aquifer of natural entities and resources and it won't be that anymore if it's trashed under the Forest Service's management plan. Thank you.

CHAIR VIGIL: Thank you, Mr. Clark.

JEAN LANGELIER SIMINGTON: My name is Jean Langelier Simington and I've lived on Rowe Mesa for 14 years now and in Santa Fe and San Miguel County a little less than 32 years. Spent a lot of time on the mesa. One of the biggest things that stands out and was mentioned earlier but briefly is that there is one forest ranger to cover three districts. I have no idea how big a district is but you can only imagine. I see a ranger during hunting season maybe three or four times a year at the top of the mesa checking people for either wood permits – out of 365 days, I have no idea how this is going to be watched over. That's my biggest point is that it's something that can go haywire, out of control. Thank you for your time.

CHAIR VIGIL: Thank you, Jean. Who else is here on this project? Raise your hand who hasn't spoken. [Approximately 10 people raised their hands.] Okay. Thank you all for being here. We appreciate your concern for what may be happening in that area. I recommend those of you who have spoken and want to work and learn more about what the County can do, that you again work with our land use. Now I'm going to turn it over to the Commission for any questions.

COMMISSIONER CAMPOS: Madam Chair.

CHAIR VIGIL: Commissioner Campos.

COMMISSIONER CAMPOS: This testimony raises a lot of issues and a lot of issues connected to the County. How does it affect county residents? How does it affect the land, the environment? What I would suggest if the Commission has no objections is that we ask our County Manager to maybe do a preliminary report and report back to us in one month. After having a conversation and doing some more research, what rights does the County have to regulate issues as far as potential impact on County roads. So that's my proposal.

CHAIR VIGIL: I actually agree with that and I know you'll need to connect with Land Use on that. One of my concerns is whether or not an environmental impact statement has been done with regard to this and what that statement says and where that statement can take us.

Any other questions? Commissioner Anaya.

COMMISSIONER ANAYA: Madam Chair, a lot of that lies in my district so I'd like to continue on with what you all are saying and have the Manager look into it and get back with us and kind of give us some more information.

CHAIR VIGIL: Thank you. Thank you all for bringing this to our attention. We really appreciate that and can thoroughly understand your concerns. I'm going to ask Commissioner Anaya to introduce some special guests of his.

COMMISSIONER ANAYA: Thank you, Madam Chair. I'm going to have to do this quite quickly because they need to get out of here. But we have some special guests here from Pakistan and I had the privilege and honor to sit with them for about 45 minutes to an hour to talk with them and I would like to thank Tom McDermott, who's in the audience, for putting this together. He's with the Council of International Relations. Along with him are two escorts, Robert Acker – Robert, could you raise your hand? And Joyce Meadows. And I would like to call up Shakeel, because I want to have him read the names off. I don't want to butcher them too much. But I'd like to ask Shakeel to come forward and I'm going to go down there with you Shakeel and I've got some plaques that the Commission has signed and we want to give to you, and then I will read what this says after you introduce your folks.

SHAKEEL QADIR KHAN: Thank you very much. It's our privilege to be here and we thank you for letting us attend the meeting of the County Commission. We also thank Commissioner Mike D. Anaya for spending some time for us and we had a lively debate there. We have thoroughly enjoyed our stay in New Mexico. We were here for the last five days. We have visited some history, some tradition, some culture, some development, some common traditions, everything. So it was very fulfilling tour.

Let me introduce my group to you. The first one is Imrana Wazir. She is working in the Northwest Frontier Province. She is looking after the foreign aid projects in the whole of NWFD. That's the Northwest Frontier Province. Abdul Sattar is a trainer and he's working in one of the primary training institutes in Pakistan and he is training most of the government officers in the Northwest Frontier Province.

Palwasha Mohammed Behram Zai Khan belongs to one of the major political parties in Pakistan, that's the Pakistan People's Party, headed by Ms. Bhutto and currently it's the major opposition party in Pakistan.

Arshad Majeed, Arshad is the equivalent of a County Manager in one of the districts in the Northwest Frontier Province with a population of 1.1 million people.

CHAIR VIGIL: Does that make you feel better, Roman?

MR. KHAN: Noreen Bashir. Noreen is a government official. She's working in the province of Punjab and her current assignment is human resource management in the public sector there. And I'll be the last one. My name is Shakeel Qadir Khan and I am working in the federally administered tribal areas of Pakistan which are in the news these days. Right now I'm looking after the infrastructure and social sector development of the whole of the tribal areas. Thank you.

CHAIR VIGIL: Welcome. Commissioner Anaya, would you like a group picture also?

COMMISSIONER ANAYA: Yes. And I want to read what this says, Madam Chair. This says Santa Fe County recognizes Shakeel, the Board of County Commissioners, County Manager and the citizens of Santa Fe County acknowledge your outstanding dedication given to the people of Pakistan, through the Department of State International Visitor Leadership Program. Therefore, Santa Fe County presents you with a certificate on this day, the 11<sup>th</sup> day of September, 2007, and it has all our Commissioners' signatures and we thank you for being here. And if we could get a picture with the Commissioners –

CHAIR VIGIL: Before we return to public concern items I'm going to move on to item X. D. 1.

**X. D. Matters from the County Attorney**

**1. Resolution No. 2007-145. A Resolution Awarding the \$20,000,000 Santa Fe County General Obligation Bonds, Series 2007B to the Best Bidder**

CHAIR VIGIL: Mr. Ross, who will be presenting on this?

STEVE ROSS (County Attorney): Madam Chair, members of the Commission, we have Mr. Franklin here to present the results of today's bond sale, assisted by Kevin Powers, our financial advisor.

CHAIR VIGIL: Thank you. Mr. Powers, Mr. Franklin. Thank you for being here.

PETER FRANKLIN (Bond Counsel): Thank you, Madam Chair. Thank you, members of the Commission. Kevin is handing out a report on the results of the sale and I'm going to let Kevin give you the very good news about the County's rating and then I will walk you very quickly through the award resolution and we'll be done.

KEVIN POWERS (Financial Advisor): Thank you very much. It's a pleasure to be here today. We have some very good news, both on the sales result front and also on the County's bond rating front. As you may remember, every time we sell bonds we obtain an update on the County's bond rating. The County has a bond rating from Moody's Investor Service and for the last three bond sales we've handled that rating has been a AA2. It was just upgraded for this sale and it's now a AA1, which is the second highest bond rating available from Moody's Investor Service. The next highest bond rating would be a AAA. So you now enjoy the same bond rating that the state does for their GO bonds, which is excellent. And I say that first off because I think that rating upgrade had a lot to do with the favorable results we got from the sale today.

If you look on the handout, on page 2 of the handout we have a summary of the issue, \$20 million. The bonds mature between 2008 and 2027. The average life of the issue is about

12 years. The purchaser in this case, the best bidder out of seven decided to purchase an insurance policy in addition to the AA1 rating. That's from MBIA. The total interest cost to the taxpayers on the issue would be \$10,340,000 over the life. That brings the true interest cost to 4.23 percent, and there's no tax increase or no tax rate increase associated with the sale of these bonds.

On page 3 we have a listing of the bidders and the list of bidders is a who's who. We had local, regional, and national investment banking and banking firms bid on the bonds. The best bid of 4.232 was followed by bids of 4.24, 4.24 – so it was a very competitive, very close bidding. The market is extremely favorable right now. A couple of weeks ago I wouldn't have been able to say that but we've had a very steep decline in interest rates over the last ten days or so, and also we've had a flight to quality. Investors now are looking to buy very safe investments, so the higher the rating the better you are. People are buying US Treasury securities, AAA rated treasury securities, highly rated, AA, AAA rated municipal bonds and they're rewarding the sellers of those bonds with lower interest rates.

If you take a look at page 5, that's a chart of interest rates, and we've been seeing steady trends up in interest rates over the last couple of years. We happen to hit here in a bit of a down turn in rates. It doesn't show up on this chart yet because this chart really took into account what happened really from about the middle of last week and back. The last few days have really seen a steep decline. And if you look on the bottom of that page you'll see that the last three sales, including this one – we had an October 05 sale, a January of 2007 sale, and today. The interest rates that you received today are actually very favorable relative to those other two sales. The first sale in 05 had a shorter average life and it was a 4.2. So this one had a longer average life in an market where interest rates are actually higher on average so you did much better. A lot of that has to do with that rating upgrade.

We have a reprint of the rating comment by Moody's on pages 8, 9 and 10 and just to kind of sum this up in a couple of sentences, Moody sees the County as having solid financial operations which are bolstered by ample reserves, so that's one of the factors in leading to that high rating. And then you have a modest debt position which is expected to remain modest despite some planned capital projects and some additional debt but you're not going to – or at least not planning on going overboard with the debt issuance. So those two factors combine to create a positive atmosphere for the rating and that translated to a favorable sale.

With that I'd stand for any questions you might have on the process.

CHAIR VIGIL: Questions? Hearing none, is there anything further to this presentation?

MR. POWERS: I'll turn it back over to Peter to deal with the resolution.

Thank you very much.

CHAIR VIGIL: Mr. Montoya, are you here to address the Commission on this item? Just checking?

MR. FRANKLIN: Madam Chair, members of the Commission, the resolution

I just handed out [Exhibit 2] is the final version of the award resolution, which fills in the interest rate at pages 2, and I believe 6, which were bid by Merrill Lynch and Company, which submitted the best bid this morning at 11:00 am. So basically, this award resolution awards the bonds to Merrill Lynch and Company as the best bidder. It contains all the normal details we put in about the form of the bond, when the payment dates are, the County's obligation to levy property taxes to pay debt service on the bonds and the County's use of the bond proceeds for the purposes for which the bonds were authorized to be issued, which in this case are water projects and public works and road projects.

I'm happy to walk through the resolution in more detail if you'd like or answer any questions.

CHAIR VIGIL: Are there any questions? Commissioner Sullivan.

COMMISSIONER SULLIVAN: Is the low bidder Southwest Securities?

MR. FRANKLIN: Madam Chair, Commissioner Sullivan, the low bidder, the bidder of the best true interest cost was Merrill Lynch and Company.

COMMISSIONER SULLIVAN: Could you explain why their bid is \$10,340,000 and Southwest Securities is \$10,334,000?

MR. FRANKLIN: Madam Chair, Commissioner Sullivan, I cannot but Mr. Powers here can.

MR. POWERS: Madam Chair, Commissioner Sullivan, the basis of award for these bonds as in any bond sale that we conduct is the TIC, which is a present value calculation of the semi-annual principal and interest payments over the life of the issue. There's a couple of factors that come into play that cause this to happen. If you look at those two bids there's a couple of things present. One is, the Merrill Lynch bid has lower interest rates on the short end of the repayment schedule, whereas Southwest Securities has higher interest rates. So you're paying higher payments on the front end where the present value is less. Then when you look at the bid of Merrill Lynch, they're making a \$45,151 premium payment which is paid on closing, so you get that cash, which is a present value of 100 percent. So the combination of those two factors result in the difference.

It's clear that we have – actually these bids were verified with two different computer systems and the TIC of 4.23 is clearly better than the TIC of 4.24. It's the timing of the payments of the principal and interest and the present value factor that changes the results. And this happens – I wouldn't say it happens all the time but it happens quite frequently, probably 20, 30 percent of the time where you might have a payment of a premium like this with coupons up front like that that would cause that kind of an outcome.

COMMISSIONER SULLIVAN: And what does the County do with that premium of \$45,000.

MR. POWERS: I'll turn that over to Peter.

MR. FRANKLIN: Madam Chair, Commissioner Sullivan, the premium would go into the project fund, so it would be available for acquisition costs, for roads, completion of the Public Works facility and water project.

COMMISSIONER SULLIVAN: Just like the principal does.

MR. FRANKLIN: Yes.

CHAIR VIGIL: Further questions? Seeing, hearing none, what's the pleasure of the Commission?

COMMISSIONER SULLIVAN: Move for approval.

CHAIR VIGIL: Is there a second?

COMMISSIONER CAMPOS: Second.

CHAIR VIGIL: Motion and second. Any further discussion?

**The motion to approve Resolution 2007-145 passed by unanimous [4-0] roll call vote with Commissioners Anaya, Campos, Sullivan and Vigil all voting in the affirmative.**

#### **VIII. MATTERS OF PUBLIC CONCERN**

CHAIR VIGIL: We're back under items of public concern. We've heard two items on this. Is there anyone else from the public that would like to address the Commission? These are matters that are not part of the agenda.

#### **IX. MATTERS FROM THE COMMISSION**

CHAIR VIGIL: Commissioner Campos.

COMMISSIONER CAMPOS: None at this time.

CHAIR VIGIL: Commissioner Sullivan.

COMMISSIONER SULLIVAN: Madam Chair, I just wanted to echo the reference made by our chaplain to today's date of September 11<sup>th</sup> and just offer words of prayer and hope for the families, not only of the 2700 that were killed in that Trade Center collapse but the 40 or so who were killed in Pennsylvania, the more than 100 that were killed at the Pentagon, and then of course more than 3,000 who have been killed since then, Americans fighting in Iraq for almost six years. It's a tremendous sacrifice and that's certainly the best we can say about it. We all pray that these men and women will come home soon. Thank you.

CHAIR VIGIL: Thank you, Commissioner Sullivan. Commissioner Anaya.

COMMISSIONER ANAYA: Ditto with what Commissioner Sullivan said.

CHAIR VIGIL: Anything else?

COMMISSIONER ANAYA: That's it.

COMMISSIONER CAMPOS: Madam Chair.

CHAIR VIGIL: Commissioner Campos.

COMMISSIONER CAMPOS: I need to excuse myself for a couple of hours. I

expect to be back about 5:30 or 6:00.

CHAIR VIGIL: And I think we will probably be going into executive session and then coming out so maybe you can make it back before we're done with that so we can brief you on it. Thank you, Commissioner Campos.

**X. STAFF AND ELECTED OFFICIALS' ITEMS**

**A. Matters from the County Manager**

**1. Update on Various Issues**

MR. ABEYTA: Madam Chair, I don't have anything at this time.

**X. B. Matters from the County Attorney**

**2. Executive Session**

**a. Discussion of Pending or Threatened Litigation**

**b. Limited Personnel Issues**

**c. Discussion of the Purchase, Acquisition or Disposal of Real Property or Water Rights**

**d. Discussion of Bargaining Strategy Preliminary to Collective Bargaining Negotiations with a Bargaining Unit**

**Commissioner Anaya moved to go into executive session pursuant to NMSA Section 10-15-1-H (7, 2, 8 and 5) to discuss the matters delineated above. Commissioner Sullivan seconded the motion which passed upon unanimous 3-0 roll call vote with Commissioners, Sullivan, Vigil and Anaya all voting in the affirmative.**

[The Commission met in executive session from 4:00 to 6:10.]

**Commissioner Sullivan moved to come out of executive session having discussed only the matters outlined in the agenda, and Commissioner Anaya seconded. The motion passed by unanimous 3-0 voice vote.**

COMMISSIONER CAMPOS: I abstain, because I wasn't present for the executive session.

**XI. PUBLIC HEARINGS**

**A. Growth Management Department**

**1. Consideration of Ordinance No. 2007-\_\_\_. An Ordinance Amending Article III Section 10, Article V Section 9, Article VII, Section 6.5 and Article X of the Land Development Code, Amending the Requirements for Community Water and Sewer Systems or Shared Wells for Subdivisions and Land Divisions; Repealing Previous Inconsistent Language (SECOND PUBLIC HEARING)**

KAREN TORRES (County Hydrologist): I guess I wanted to start out by discussing what this item is proposing. There were four separate items on the ordinance. The first item on it was looking at some language clarifications and some cross references in the Land Use Code. The second item was amending a table that was in the subdivision portion of the Land Use Code by having the requirement of a community water system for different densities. One of the significant changes is moving that table from the subdivision portion of the Code to the zoning portion of the Code. I believe the implication for that is that the required improvements will be required not only for subdivisions but for all divisions of land that fall within those density and lot number categories.

What staff did – and I want to talk about the third portion of the ordinance, which discusses what is required for a preliminary engineering plan, which is in the water quality portion of the Code. There is a requirement that states that if you are using a shared well or a community water system you should have a preliminary engineering plan, but the basic design standards of what they should be engineering to were not really addressed in the Code and so the Environment Department, Construction Bureau guide for small water system was referenced in there, just so there was a standard guideline that the engineers could refer to and have some specifications.

And then the fourth section, I believe was talking about some definitions of shared wells, community water systems and things like that. What staff has done is we looked at – we addressed comments that happened at the first public hearing. We contacted a community water system. We contacted five, exactly. We contacted La Cienega, we contacted Eldorado, we contacted Agua Fria, we contacted Canoncito and we also contacted Greater Chimayo for their input on that. For the most part there was favorable opinions about the proposed changes to the Codes. I think a lot of the community water systems saw this as perhaps an aquifer protection program, aquifer protection and protection of the resource.

And then we also did a cost analysis, looking at the cost to the homeowner. I went through the changes that were being proposed by the ordinance and set up what I call different scenarios. So we I want to start my tack, actually going over definitions. What, for instance, a shared well is. Basically, one of the first changes that was proposed in this ordinance is requiring a shared well for the creation of two to four lots. The difference

between a single domestic well and a shared domestic well is just that. A single domestic well is just one household and a shared domestic well will serve, under this ordinance up to four households.

A domestic well, under this ordinance, is also known as a 72-12-1 well and they call them that quite frequently so I wanted to make sure you were aware of that. Then elsewhere I want to discuss what a community water system was. The comments that we did get back from the different community water systems that we talked to was whether this ordinance was only requiring the creation of a new community water system or if it did in fact apply also to existing community water systems. It's my understanding that it does apply also to existing community water systems that would serve the community water system requirement under this ordinance, but the definition of a community water system, which I did find in the Code, is a water supply system which serves five homes or more. It's under central or common ownership. It does not utilize a regular domestic permit or 72-12-1 permit, and generally, to create a new community water system requires a transfer of water rights and has to go through the OSE permitting process.

I'll do some more definitions. We also looked at wastewater too, at the request of Commissioner Montoya. We looked at advanced wastewater treatment systems for individual and for cluster systems. So I wanted to just go through what the difference in those systems was. So an individual wastewater system is essentially like an advanced septic system. That would serve one home, and they're utilized right now in the county where the conditions for a standard septic tank are not generally favorable due slope, perhaps fractures in the bedrock, something like that. And it probably is too much for the homeowner to maintain on their own and would require a maintenance contract.

Then this is a cluster wastewater system. A cluster wastewater system has basic elements of the advanced treatment except it's basically upsized. So it's more than one household. We did an analysis looking at cluster systems serving eight homes, because after that would require an NMPDES permit, which may be time consuming and a little bit difficult to get, and then the cost of the capital and the maintenance is shared amongst the homeowners that utilize that system.

Then with the cost analysis we looked at the annual cost to the homeowner. So what would it cost the homeowner – what would this ordinance cost the homeowner. On an annual basis, basically that means how much additional money would be put on their mortgage, so to speak. When I talk about annual costs, to convert that to a monthly cost, like a mortgage, you just divide that cost by 12.

So basically, those horrible charts you saw there, all those numbers that were together, this kind of synthesizes that information. So we look at the red bar at the top. That's the cost of an individual well which would serve one home. Then we went through and figured out what it would cost each homeowner if they were to utilize shared wells instead. And so in some instances, if you were to create two lots that wasn't as cost-effective as having individual lots due to the distance from the lots. But as more lots were added on to the

well there was more cost sharing. So when you get into three and four homes sharing the cost of a well it was quite a bit less than the cost of an individual well. Then the next scenario which is the requirement of a community water system for five to 24 lots that are in the size range of 25 to 10 acres we did a similar analysis where we compared the cost of hooking up to our County water system, and I presume that the cost would be similar to an existing water system, through that may vary from system to system, but I had to make some assumptions. So the blue line at the bottom, which is very flat is the estimated cost to the homeowner of hooking up to the County water system. And then the green line on there is the cost of four homes splitting the cost of a shared well, and the curve kind of goes up and down a little bit because with the fifth home they're having to share the cost of two wells, so you don't have as much economy. Then it sort of flattens out towards the end as you put more homes in there.

Then with the new community water system, the cost was quite a bit more for a few lots but it sort of evened out towards the end and if you'll notice there's a little bump that's towards the middle and that reflects the cost of adding a second well or a backup well for redundancy so I don't know if a lot of the small community water systems actually have that, so this is probably a bit over-engineered.

And then this is another scenario looking at larger lot size and the bright pink dots going across are the costs of an individual well and then the blue diamonds towards the bottom are the estimated costs of hooking up to the Santa Fe County system. I know this gets a little bit wiggly towards there. Then the green one is the shared well scenario and then the orange squares are the cost of a new community water system. It had a very similar pattern to the previous one. The larger lots and the cost of longer lines are reflected in this information. And again, towards the end the costs even out fairly well.

Then the last scenario with that was wastewater costs. And so we looked at the costs of an individual wastewater system, which would be the homeowner paying for the whole treatment system themselves, and that is the light blue squares going across the top. The next line is the cost of a clustered system, which is sort of the pink triangles. For that, like I mentioned earlier, we looked at a cluster system for eight units. So you see a little bump at nine homes which reflects the cost of an additional unit being purchased. And then we have the blue triangles which is the cost of the County sewer system where it is available, and then the cost of this individual septic tank. So the septic tanks in that scenario were a lot more affordable than the other systems.

That's pretty much all I have as far as slides and things like that, but I just wanted to go through a little bit of synthesis of talking through the slides and in fact what that may in fact mean to the homeowner. And I'll stand for questions.

CHAIR VIGIL: Questions? Commissioner Anaya.

COMMISSIONER ANAYA: Madam Chair, did you come up with all the data on your own or did you have any public comments or did you have a study session with the public or not?

MS. TORRES: Madam Chair, Commissioner Anaya, we did not have a study session. We weren't directed to have a study session but we were directed to get input from community water systems. We're not opposed to having a study session at all. The cost numbers that were used in the synopsis came from Doug Sayre, our utility engineer, and he called a lot of folks and tried to get costs which he thought were reasonable.

COMMISSIONER ANAYA: Madam Chair, I'm wondering if maybe we should put together a study session or a task force or something to look at this because I did receive some phone calls and people that were concerned about what was happening and I thought maybe that if maybe we had a study session where they could work with County staff and come up with some more ideas on this instead of moving forward with it now. That's my comment. I think that we would include the public more. I know that there's probably a lot of questions out there and I don't know if now is the time to go through it. Thank you, Madam Chair.

CHAIR VIGIL: Thank you. Further questions? Karen, I guess I'm going to have to underscore Commissioner Anaya's comments. Even in the report that we have before us there wasn't sufficient time to finish some of the requests that we had from the last meeting and I specifically, because this was such a new sort of approach, bought into the concept of trying to prevent the 72-12-1 from happening and making an alternative to that, and this seemed like it, but I was more concerned about unintended consequences, and after having given this a lot of thought it seems like there are some benefits but they're still fairly narrow. What will this do to zoning? What will this do to – it seems to me that this promotes clustering. Maybe that's not a bad thing but if we cluster cluster cluster, isn't that serial clustering? Aren't we really doing what we're doing now in avoiding a lot of the zoning problems? Trying to avoid, rather, a lot of the zoning problems.

I haven't had any input from any other staff divisions. I know you've worked very hard on this. I know I'm probably leaning towards Commissioner Anaya's suggestion that we move forward with more staff input, more from Land Use, and I'm not sure Land Use is even prepared to address any of these issues tonight. It has broad implications as far as I'm concerned. Are there any other questions for Karen? Okay. This is a public hearing, so at least we're at the point where we can get a little bit of community input on this. Is there anyone here who would like to address the Commission on this issue? Mr. Siebert. Please come forward. You know the routine on this.

[Duly sworn, Jim Siebert testified as follows:]

JIM SIEBERT: My name is Jim Siebert. My address is 915 Mercer. Let me point out a few things regarding this ordinance. First of all, I'm thinking a part of that issue of what needs further study would be is where a subdivision is in close proximity to the regional water system, there's some real merit in requiring connection to the regional water system. The question is how close or when and should there be perhaps in certain instances dry pipes put in the ground for later connections. There's a whole variety of issues that really need to be discussed relative to that.

The other issue is the cost of housing. What you have is – now you have community water. You have community sewer. You have affordable housing. All these costs eventually – some will get absorbed, but eventually they'll get passed on to the buyer. My concern is that you have a segment of the population that doesn't fit in the affordable category and yet they're barely on the edge of being able to make the payments on a regular home. Is this going to put them over the edge? In my opinion it is. I think you're going to take a large, a pretty significant portion of the population out of the market by adopting this ordinance.

The other issue is you're going to have to go out – where you can connect to the regional water system you have to buy water rights and they have to be basin rights. Basin rights are \$60,000 to \$80,000 an acre-foot. I think more importantly what happens is just as happened with water rights on the main stem of the Rio Grande is that you're putting a whole other sector in the competition. I know for example that Agua Fria has been looking for water rights for their community water system. They're very expensive. They're very difficult to get and now you're going to take in a whole other section of the population that's trying to comply with the community water and they're going to be out there competing for those same water rights. So what's going to happen is you're going to drive the water rights up and the domestics are going to have a harder time and a more expensive time to get water rights.

I think the last issue that's relative to the discussion on the number of lots permitted per shared well, it's pretty customary to allow six lots per shared well. It's consistent with the State Engineer. I've done a lot of them. It's consistent with the New Mexico Environment Department. I've done a lot of those, all of which are consistent with current regulations, state regulations. I'm not sure where the science comes in that says it should be four rather than six, because at some point in the future if you're going to connect to the regional water system you probably want more users on a shared well than less.

I appreciate your time to hear my comments. Thank you.

CHAIR VIGIL: Thank you, Mr. Siebert. Anyone else? Please step forward and state your name for the record.

ALONZO GALLEGOS: My name is Alonzo Gallegos. I live in La Bajada Village, west of Santa Fe. I grew up in the community of La Cienega. At this time could I present you with a formal protest letter?

CHAIR VIGIL: Please.

MR. GALLEGOS: My concern tonight is Article III, Section 10.5. My family has been around the La Cienega area for the last few hundred years, let's say. We held back from subdividing our property. We're ranching/farming family, and now it's come to the point where it's not very feasible to farm, continue farming, etc. because of – Mr. Siebert here identified the issues. I'll just basically echo them.

We've come to the point where we probably would like to subdivide and it would be on a small scale, a subdivision of five to 24 lots. With this proposed amendment to the ordinance it makes it almost impossible for a small guy or a small family, local individual investors as such that would look at it. So there's the Type I, II subdivision of 99 lots or up

100+ lots, they could probably afford it. Maybe out of town corporations coming in. So I think this is prejudiced to the little guy, the local investor. Also as far as water rights go, we're looking at a parcel of land of 60 to 100+ acres to put a subdivision on. In the past you were allowed to drill a well and I agree, sharing wells is great. Four lots per well is excellent. But this proposal now, it would require us to go out there and purchase water rights.

Again, Mr. Siebert identified what the price of water rights are right now. So that makes it again almost impossible for a little guy like myself to proceed with a small subdivision. As far as the septic part of it, Ms. Torres kind of mentioned that it would be time consuming and a lengthy period to go with the traditional septic system permitted. I think that's a lot cheaper versus putting in a community system, especially if you're looking at going uphill, trying to put this system in. It would almost be impossible again. It would drive the cost of the marketable lots compared to what a traditional lot today what's the City's ordinance would be. That's about all I have.

CHAIR VIGIL: Thank you, Mr. Gallegos. Next.

LINDA TIGGES: Linda Tigges. I have two kinds of comments. The first one, a kind of general one. Some years ago I worked both in Iowa and Kansas for the legislative counsel, helping to draft ordinances. One of the things that my bosses and the legislators taught me was always to look for unintended consequences that no matter how careful you are there was always unexpected results of legislation. So I hear your concern about some of the consequences and I think it was good that the County staff started to look at them. I'd be interested in some of the cost breakdowns, some of the numbers, how they were arrived at.

Another consequence would be just the one that was suggested by the previous speaker and that is the consequences on people that have had property that they considered their retirement or it's been in the family and how does it impact in other words the local people, the long time people, people who've lived here a long time. And one of the ways to look at it, it seems to me is simply to run the cost of a typical 23-lot, 20-lot subdivision. There are a lot of people that could do that, and then under the present ordinance, and then run the cost, run the numbers for one under this proposal and see where the increase in cost comes. For example, one obvious one is water rights. I think that would be helpful in seeing the impact on some of the small builders.

The second item that I had was on the ordinance itself and one thing that seems like it might need to be looked at is, just in the drafting of the ordinance there is a section that talks in the chart and also the ordinance that talks about alternative septic systems as an alternative. And in the table it also has item number one which is a nitrate alternative septic system, but in the chart that seems to have been removed. It seems not to be an alternative anymore, and I think maybe that needs to be cleared up or considered as an alternative rather than a community septic system.

Just in closing, I probably do more [inaudible] subdivisions in the city than in the county and one of them that I worked with for about eight months was some guy that had some family land and they wanted to do eight lots. And this was the city and they had sewer

connections and water connections and impact fees and all that and then right before they started to actually submit they got hit with the City's affordable housing ordinance and they simply couldn't do it. They just couldn't do it. And it was kind of a heart breaker because they looked on that as a family project and they just couldn't make the numbers work for them.

I'm talking about a different situation but I kind of hate to see that happen in the county because it kind of alters the social structure and people's view of the future and their alternatives here and what they can expect to do with their lives, their family life and their personal life or not. Thank you.

CHAIR VIGIL: Thank you, Ms. Tigges. Next.

KURT YOUNG: Good evening honorable chairperson and County Commissioners. My name is Kurt Young. I live at 204 Vuelta Roadway, Santa Fe, New Mexico. I just want to thank you for the time to come up and speak with you all. My concern on this particular ordinance is that it may be over-burdensome to the developers or lots in the Santa Fe area outside of Santa Fe, not just in Santa Fe where the economics will absorb the cost of the infrastructure that will have to be brought to create these lots.

In some cases I believe that the cost of these lots may go up by 100 percent based on this proposal and my concern is not the 30 percent that we create for affordable housing but the 70 percent that's left to sell. In other words, if you have a 10-lot subdivision and your infrastructure costs go up by a million dollars, that's absorbed by 70 percent of that subdivision. Those seven lots go up really high. That pushes out the middle class and you really have to wonder what will stop the cost of lots going up. Anyways, I just wanted to share my concerns with you and hope that maybe we can at least for now somehow table this proposal and sit down with some folks and see if we can come to a conclusion that will work for the whole of the county. Thank you.

CHAIR VIGIL: Thank you, Mr. Young.

ROBERT COCHRAN: Good evening. My name is Robert Cochran. I'd like to speak a little bit to the position that Mr. Siebert spoke to. We all know in reading the financial journals that there is a tremendous crisis in housing today. A number of lenders have gone bankrupt. Many of the lenders have stopped making loans, pulled back substantially. Traditionally, when a loan is made, the lender looks at 38 to 43 percent of the potential borrower's income as being available for housing. If we in fact start moving \$100, \$200 a month of additional cost in because of the additional infrastructure costs we dramatically impact the person's ability. It's not just \$100 or \$200, it's \$300 or \$400 or \$500 a month that that person has to have in additional income to qualify.

As more lenders have pulled back, it means that more people are not going to be able to qualify, especially in the range of affordable housing. We all know that Santa Fe is based upon tourism. Tourism needs people to work in that field. Those are normally people in the low to moderate income field. In other words what we're doing is specifically making it much more difficult for those people to qualify for the loans that they want to acquire

affordable housing.

We would perhaps have some numbers that would differ a little bit with staff's assumptions and would appreciate the opportunity to compare numbers with you. Also, it can be dramatically different, depending upon the topography of the development that you're talking about. Thank you very much.

CHAIR VIGIL: Thank you, Mr. Cochran. Is there anyone else out there?

ROSANNA VAZQUEZ: Good evening, Commissioners. My name is Rosanna Vazquez and I wanted to talk to you a little bit about a situation that I run into all the time being in this field. I probably get two or three calls a week from people in Peña Blanca right now who want to sell their water rights and sell their land with it. Those are Middle Rio Grande rights. We're not talking ground rights; we're talking Middle Rio Grande surface rights.

And they call, and they're looking for somebody to buy their land and to sell their water rights to so they can transfer. They no longer want to farm because it is much more profitable for them right now to sell their land and sell their water rights to developers that can use that water in Santa Fe.

This ordinance, what this does is it requires – it builds on a new market, and that market is groundwater rights in this county. Because in order create a water system and to transfer water rights into a well for this type of system, you would need to find groundwater rights. Where are those groundwater rights? They're going to be from the old wells in this area. Many of them are used agriculturally because I can tell you from my clients that most of the urban water rights that were wells have already been purchased.

So the concern that this Commission has had over the few years, which has been to preserve the traditional environment and the traditional communities in this area is at stake with this type of water rights, requiring them for subdivisions this small, from four on up. That's just one point, and I noticed a dramatic difference when three years ago, when the County became very concerned about water rights, wells in the northwest quadrant. The price of water rights instantly went up after those discussions. And I assume that in this area it will do the same, and it has a huge impact on our agricultural community here.

I think the other point is that this ordinance is very broad and Chairwoman Vigil, you mentioned unintended consequences. I think what we need to look at in this ordinance is a distinction between the urban environment and the rural environment in this county. In the urban environment, you've got areas that are high growth. You have areas that are close to utility systems. You have areas that need to be studied to see how it is that we can extend our water system and we can serve these areas without wells. But you have rural areas, areas that are farming areas, areas where the hydrologic zones require large lots. It's going to make it very difficult to 1) use a community water system because of the cost of infrastructure to pipe water to these different lots. And it many not work in those areas.

I took a look at the letter that Eldorado had written and Eldorado's letter was the only letter of one of the mutual water systems that were interviewed by the County that was

actually in the packet. I don't know if they've got any other letters. But that letter basically said, sure, in concept it's a great idea. But what you really need to look at is how feasible is it? It might make sense for areas that are close to utility systems to require those areas to tie into existing utility systems. But does it really make sense in terms of costs to put those types of systems or that kind of condition in rural areas.

I wanted to make that note because when I read the summary from the staff it made it sound like all the mutual water domestic systems were basically in agreement, but I think that concern is the same concern that's been echoed by Jim tonight, by every speaker that you've had before you. It may not work everywhere. And the unintended consequence may be that there is no development in the rural areas because of it. And I'm not sure that's what we want to do, because I don't think we want to move the population into the City of Santa Fe and leave the rest of Santa Fe County open.

Last, I want to talk a little bit again about the water rights because we're going through that with several of the subdivisions that we're working on. Three years ago an in-basin water right sold for \$36,000 an acre-foot. That was three years ago. A groundwater right. Right now they're selling for approximately \$60,000. That's just the water right itself. That's not the research that's done to make sure the water right is valid and that's the cost. That's not the cost of transferring that water right and working with the OSE to transfer that water right. So we're looking at a base cost of \$60,000 at this point for one acre-foot, which would basically cover a four-lot subdivision, but that doesn't include the transfer costs at all. It also doesn't include the timing of that transfer.

I can tell you that roughly those water rights transfers are taking about three years. So you're looking at a three-year wait period and the cost of that three-year wait period and the cost of that three-year wait period to developers is very difficult to swallow and to put into your pro forma. I think several speakers have spoken about how there's that 70 percent, not the 30 percent for the affordable, but that 70 percent that will have to absorb that cost. I agree that what is going on if this ordinance is transferred is not only will Santa Fe County be fighting for purchasing groundwater rights which you will need for your supplemental water system, but the mutual domestics will have to do the same and every developer who comes in with more than four lots will have to do the same, and you're creating a market for that water right for an increased price on that water right.

I ask you to allow us more time to work with you. We did not have a chance to take a look at the numbers and the graphs that were put together by Ms. Torres before this meeting and we'd like to work with her on that. We'd like to share some information with regard to not just costs but practicality of doing it. I think it's important that we have somebody from the Environment Department to look at the wastewater and the ordinance that you've put in. They've spent a lot of time coming up with that  $\frac{3}{4}$  acre number. They've spent a lot of time studying septic systems and I think it would be valuable to this Commission and to this public to include their comments on the wastewater system as well as the OSE right now.

You know that the OSE is making dramatic changes on their water rights transfers

regulation and I think it would be prudent for this County and for all of us to be able to sit down with OSE and see how we can make this ordinance work, apply it where it should be applied, if it should be applied at all. And lastly, I think what we need to do is take a look at all the other ordinances. You have a 40-year water plan. You are putting together a utility plan right now. You've got ordinances in effect right now that require subdivisions to tie into utility systems within 200 feet. I think all of those components need to be looked at together to see what sort of impact this ordinance, if any will have. Thank you very much for your time.

CHAIR VIGIL: Thank you, Ms. Vazquez. Next. Is there anyone else out there that would like to address the Commission on this subject? On this ordinance? If so, please raise your hand.

ORALYNN GUERRERORTIZ: Hi. I'm Oralynn Guerrerortiz and thank you for this opportunity to speak. I think a lot of the people covered most of the issues I thought were important. I did notice that there are some devils in the details. The costs that you saw before you presented made it appear that it is appropriate or financially wise to actually go to community systems, but I would advocate if that was true we'd see a lot more of them. There's some significant costs left out: engineering fees, permitting fees, preparation of discharge permits, O&M costs. We're going to have electricity costs associated with treatment plants, which we don't have currently with septic tanks.

I'm concerned that current costs for in-basin water rights are at \$60,000. I think the adoption of this ordinance would see a significant increase in the cost overnight, and that would impact the public, most dramatically, the City and the County. I've been an advocate for years of impact fees instead. I think it would be much better if the City and the County were the main purchasers of water rights and you weren't competing with developers. I think that would help keep the prices down for everyone and more importantly would give you more control also as to who gets those water rights, if you were the ones that were really purchasing them.

There's no demonstrated need for community wastewater systems for a subdivision of five to 24 lots. We really do need I think to look at the science and look at what studies have been done because there have been extensive studies done in our state demonstrating when septic tanks could be problematic. I also think when you centralize wastewater systems you reduce the ability to reuse that water and I'm an advocate of decentralization of wastewater systems because I'm an advocate of reusing of wastewater. I would like to see more spreading of graywater and blackwater and reusing the graywater on site at individual homes.

I think there's other things again that we should be looking at and looking at a broader picture. And I'm more concerned about – this ordinance doesn't protect family transfers which I thought, from my years in this community that that was something that was near and dear to most of our hearts and I'm very bothered because there's incredible up front costs associated with this ordinance and the fact that family transfers are going to be

impacted by it is insane. To me what we're allowing to happen is we're getting the small developers, the families, out of development and we're letting the larger developers or the out of state developers come in, because they're the ones that can afford the up front that we're looking at.

And I'm also afraid that we're going to lose our Chimayo chile because the water rights in some of our little farms in our community are going to be so valuable that we're going to dry up our farms, and we need to be very conscientious that we don't to dry up our farms in our community or our ranching and save that water for our traditional lifestyle. Thank you.

CHAIR VIGIL: Thank you, Ms. Guerrerortiz. Are there any questions thus far? Okay. Is there anyone else? I'll ask one more time, who wants to address the Commission from the public on this? If not, I will close the public hearings and I'll start by asking Commissioner Sullivan. Commissioner Sullivan, we've heard from Karen Torres, we've heard from people in the community. I also in our packets recognize that the Eldorado Water and Sanitation has requested a study session. You've heard my comments and Commissioner Anaya's comments in pursuing for the study on this. What is your position?

COMMISSIONER SULLIVAN: Well, Madam Chair, let me just bring up a few points that I think are important here and we can decide what route we want to go, at the Commission's discretion of course. And I understand there's always a fear of changing the status quo and I appreciate that. I appreciate really what the staff has done here because they've responded precisely to what the Commission asked them to do last time, which is to look at costs and to contact the mutuals and domestics and receive their input, and we can expect that input to be varied, although in general I think it was positive.

But I think what we want to be cognizant of is we're hearing that the costs of development will go up. And I think in some cases that's certainly true, but what we, I think as a Commission have a responsibility to look at is what is the cost to the homeowner over the long period. That's really I think who ultimately can afford housing in Santa Fe are what are those costs. And contrary to an earlier comment these numbers do have operations and maintenance costs included in them for the various types of systems. And I just want to for example, to point out that if for example you were to look at the chart that was the 2.5 to 10-acre lots, which are fairly large lots and a fairly uneconomical, as it were in listening to the testimony, to put community water systems on. If you look at the 10-homes point on the axis of the chart that Ms. Torres has prepared you'll see the difference between the annual cost to the homeowner – this is not the development cost. One suggestion was let's look at what it costs to develop a piece of land with this ordinance versus developing a piece of land without the ordinance, with the new ordinance.

But bear in mind that when you develop land with septic tanks and wells those individuals have to replace the pumps, they have to redrill the wells, they have to maintain the septic tanks. They have to reconstruct their leach fields. There's many, many other costs and those are what have been built into this table. But if you look at the difference between

the red and the green line that Ms. Torres had up on the screen, at, for example, the ten homes, the difference between the cluster systems, which we're doing now, and the community systems, which this ordinance would propose for a ten-lot subdivision is about \$200 a year.

Now, that's \$200 a year. And it varies and as we go further on, the line becomes more asymptotic and much the same as the cost of a shared well system. So I look at the advantage of a community water system, first of all, as a public health issue where we have much better control over the safety of the water. But it's also a fire protection issue and there's a letter of support in the packet from Stan Holden, the Fire Chief, addressing that issue. There's also a letter in support, by the way, from the Sierra Club addressing that issue.

The protection insurance premiums alone on a community system with adequate fire protection, would probably save the homeowner that \$200 a year right there. So I'm not persuaded that some additional costs for these systems are not in the public's benefit. It's much like when seat belts were proposed and everyone said, oh, that's going to run up the cost and people won't be able to buy cars and this, that and the other thing, but in fact they were mandated and they saved lives and so did airbags. But I wanted to point out that what the staff's costs show are that really we're not looking at a great difference in the ultimate cost to the homeowner. The annual costs to the homeowner – the annual costs, and really, that's what's important. That's what determines, as one speaker noted, how much mortgage they can afford and what level of house they can purchase.

So we have the advantage of the water system that's more reliable, that's safer, and one that protects the aquifer. Something that Ms. Torres didn't bring out but it's in the packet was the Jemez y Sangre report tells us that in our area we're drilling more than 1,000 wells a year, new wells every year. Now those wells are not being offset by retirement of any other wells, so the issue is, quite frankly, that at some point in the very near future we're going to start drying up existing wells and these are particularly going to be wells that are in the rural communities, the shallow wells that are the wells that were constructed before standards put in place by the Environment Department. These are the wells, for example on Route 14 that are drying up now.

So we're seeing this happen already and we have to have some aquifer protection mechanism. I think this does that. Water rights transfers is seen as a negative issue, but quite frankly, statutorily the Office of the State Engineer is empowered to evaluate water rights transfers for impairment. We don't have any other mechanism to determine when a developer wants to drill a well, whether he's going to impair a well or a group of wells that are a quarter or a half a mile away. That's what the State Engineer does. And it does take some more time, but quite frankly, impairment is extremely important and those same people that say let us drill wells now would be back in here a year later saying, well, my neighbor drilled a well and now my well is dry and he impaired me, and what are you going to do about it? And quite frankly, unless we have the teeth in the ordinance there is nothing we can do about it.

I think one of the consequences of this for the smaller subdivisions will be to cluster them together and that's really advantageous, putting it together, a grouping of subdivisions, they may not be the same developer, they can put together a system of two or three subdivisions each that has five or six or eight lots, and create a community water system that meets the standards and could possibly ultimately be taken over by Santa Fe County if our service area reaches that point. I don't think we're going to be in a battle with mutual domestics to acquire water rights, because if a developer wants to, say, tie into a mutual domestic water system for let's say a 15-lot subdivision it's his responsibility to provide that mutual domestic with the water rights that they need for that subdivision. That mutual domestic would not be charged with having to go out and do that. That would be the developer's responsibility to do that. So I don't think we're at cross purposes with the mutual domestics. I think we're really helping them protect their own water supply from developments that crop up on the periphery of their own system and will impair their wells.

So these are some of the things that I think I just want the Commission to be apprised of. In terms of the comment on shared wells, the Extraterritorial Zoning Authority Ordinance already specifies that for a maximum of four units per cluster well. So there's nothing really new about that. That's just bringing that part of the ordinance into conformance with the EZA Ordinance. So those are some of the things. I think the staff has done a really good job, Madam Chair, in putting this together. I'm sure that those in the development community would like to spend more time to pick away at the numbers and say, well, you know, this cost isn't right and that cost isn't right and certainly they're welcome to do that. I think that issues like existing water systems and bringing them up to snuff is what this ordinance will do.

If we don't have something that closes the loopholes that we currently have in our water ordinance we're never going to get a regional water system going. There's no incentive for them to get together and come up with innovative solutions. The incentive is just to continue to drill domestic wells and deplete the aquifer with no offsets. Once we have an ordinance such as this in place then I think we'll see some innovative solutions come forward to this Commission and we can respond to them. But without that, the loopholes remain and unless we close those loopholes we're going to continue to have systems that are not up to snuff, not up to any national standards and people coming to us as they already are in the Community College District area when their wells start running dry.

So I think there are a number of really strong and important issues on this. Whatever the Commission would like to do with this, Madam Chair, in terms of further study is fine with me. I think the staff has gained a lot of information and they can make that information available to whoever would like to see it. It's here. It's a public document. Not only are the graphs here. There was a question of we'd like to see where the numbers are but there's all the spreadsheets as to exactly what the numbers are.

COMMISSIONER ANAYA: Madam Chair, move to table.

CHAIR VIGIL: I'll second that. For further discussion, or you had mentioned earlier a study session.

COMMISSIONER ANAYA: For a study session or –

CHAIR VIGIL: Okay. I'm going to second that and with my second I'm going to say this whole hearing has brought up more questions for me than answers. In fact, while we did have staff work on it I think it was limited staff. I think we need more, broader analysis on this. I think Land Use needs to be more engaged. I have a huge concern about some of the consequences of this with regard to development, not necessarily for the developer who is capable of getting water rights but for the developer who isn't capable, and for the developer who may have water rights. And for what we're doing to the market. When we require water rights to come to the County we actually up the cost of water rights and we're frankly dealing with such rising costs that we may outprice even ourselves as a County for water rights.

There's too many issues that are involved in this. I agree. We need to do and set policy to protect the aquifer but it has to be broader policy. It has to be really wide policy. It has to be policy that identifies what our water service delivery areas are. It has to be policy that tells us this is going to be in the best interests of the future of water delivery systems in Santa Fe County. What this does is just put a stop-gap as far as I can tell, from what I'm hearing tonight. What I'd like to hear is what it does to the future of Santa Fe County from more input from staff.

The clustering idea is the thing to do today, but you can actually create serial clustering. You can actually create sprawl clustering when you start condensing your requirements with this kind of requirement. So my concern is – and those are the questions that have arisen for me and I'd really like staff from Land Use, staff from Finance, staff from the Legal Department and staff from all of those departments affected to have some input in that. So with that I do think a further study session is necessary and I'll defer to Commissioner Campos.

COMMISSIONER CAMPOS: Madam Chair, I think Commissioner Sullivan raises the question, what do we do about the aquifer? How do we protect it? What happens when we have not just two or three wells drying up but ten or twenty or thirty wells drying up, and we know that's going to happen because the weather patterns are going to be changing in this part of the country. The water in the ground is going to be drying up and there's just not going to be enough water. So you're going to have your house, which is your biggest investment in your whole life for most of us, and it's not going to have water. There isn't going to be any water in the ground.

In the next ten, twenty or thirty years I think there's going to be tragedy after tragedy if we continue to rely on individual wells. But I disagree with Commissioner Sullivan as to the approach to the problem. I think we have to look at growth areas where the County can focus infrastructure, bring water lines, water rights, and I think that's the way to go. That's the most economical way to go, and I think it makes the most sense from a planning perspective to stop sprawl, to keep homes affordable.

But if we ever do this, if we ever propose such an ordinance I know all the developers

here will come up with the same arguments. You're hurting this person, you're hurting that one. They're never going to be happy with whatever we propose to protect the aquifer or water or 72-12 domestic. They're not going to be happy because it doesn't satisfy their personal interests. I think there are better ideas than Commissioner Sullivan's. I appreciate the work he's done but I don't think it's worth, right now, spending a lot of time on this idea. I don't think it's worth getting staff all riled up for the next two or three months studying an idea that I don't think is going to go anywhere, ultimately. I don't think this is the idea that's going to take us to the future. I think the growth areas, if we can commit ourselves as a Commission to develop growth areas, with the infrastructure, with water lines, with wastewater systems on a larger scale than four or five or ten or twenty lots, I think that's how I would like to see the discussion go. I don't want staff to just get riled up, start down the wrong road and we have so many other things, so many other priorities. I don't want a study session.

COMMISSIONER SULLIVAN: Madam Chair, I would say that that could be certainly a viable part of the discussion as was mentioned, I believe, by Ms. Guerrerortiz. If you want to do that you need to pay for that and how you pay for that is through impact fees. That's basically it. You have to have some mechanism of recouping those costs, those capital costs in addition to the O&M costs. So I think that certainly an alternative to – and there's always a problem with having to purchase water rights, but bear in mind what that problem means. That problem means is that there's a limited amount of water. You're taking someone else's water and you need to compensate them for that. And that's what water rights does.

So I don't have so much of a problem with saying the cost of water rights is going up because what that means is the cost of water is going up, and it is. And the more we use that limited resource the more expensive it will be. That's just economic theory. But I think we don't need to get the staff riled up but I think they already have the data that we need and one alternative to look at and it's a combination with the ideas that are presented here is to say, okay, let's just build all the water lines ourselves and let's build all the treatment plants ourselves and let's charge whatever the impact fees are that are necessary to do that. And that's a viable alternative to look at, in the growth areas.

Now, what do you do when you're not in a growth area? Well, you need to think about that as well, and if the answer is continue to take someone else's water – you wouldn't take their car, you wouldn't take their cattle, why would you take their water? So I think that that is a viable alternative and I've proposed that in fact out on Route 14 where the County will be building a new sewage treatment plant. So I would say, Madam Chair, that a work session could and should include the concepts of an impact fee ordinance that would pay for these improvements and we could then require the same lot sizes to be within that requirement for water and sewer, but the water and sewer would be built by Santa Fe County and we'd have to get paid back through impact fees.

And we don't have impact fees, by the way. The City of Santa Fe – they're talking about affordable housing, the City of Santa Fe – we have only fire impact fees; the City of

Santa Fe also has development impact fees that are quite substantial. So the applicants here who are saying, oh, you're going to ruin affordable housing are doing projects, as one already indicated in the city, where they are already dealing with impact fees that are in the tens of thousands of dollars. So I would suggest that we look at that option as well and come up with that kind of a strategy.

CHAIR VIGIL: Commissioner Anaya.

COMMISSIONER ANAYA: Madam Chair, it's not very often that Commissioner Campos changes my mind, but I think I'm going to change my motion to move to table.

CHAIR VIGIL: I'm going to withdraw my second and I'll second the motion to table.

COMMISSIONER CAMPOS: What's going on?

CHAIR VIGIL: Let me explain to you what's happened for the record. Commissioner Anaya made a motion to continue this and have a study session. He withdrew that motion. I seconded that original motion; I withdrew my second. He now has a motion to table. I have seconded that motion to table.

COMMISSIONER CAMPOS: Just a simple motion to table without direction to have a study session, without having staff do all the research that Commissioner Sullivan wants them to do.

COMMISSIONER ANAYA: That's where you changed my mind.

COMMISSIONER CAMPOS: Well, what I'm arguing is even further than that, Commissioner Anaya. I don't think we should do it because I don't think it's going to sell. I don't think this Commission is going to buy Commissioner Sullivan's ideas, so why use additional staff resources to pursue that discussion.

CHAIR VIGIL: I don't think – my second did not include having staff have any further input in this. Did your –

COMMISSIONER CAMPOS: Well, then the question is, why table it?

CHAIR VIGIL: And what would the alternative motion be?

COMMISSIONER SULLIVAN: What's your alternative?

COMMISSIONER CAMPOS: Not to proceed.

COMMISSIONER SULLIVAN: Just continue to do what we're doing, which is depleting the aquifer and drying up shallow wells.

COMMISSIONER CAMPOS: Well, I'm not going to argue with you but I think there's a better solution. I've already expressed that.

COMMISSIONER SULLIVAN: Let's study that then. Let's get a study session going.

COMMISSIONER CAMPOS: We are – staff is already working on that.

COMMISSIONER SULLIVAN: I don't see staff working on that.

COMMISSIONER CAMPOS: Not right now. They're sitting here.

CHAIR VIGIL: There is a motion to table and a second.

**The motion to table passed by 3-1 voice vote with Commissioner Sullivan voting against.**

CHAIR VIGIL: The next item is an interesting item. We're on item 2. This is probably something that should have come under Consent, correct?

- XI. A. 2. LCDRC Case # V 06- 5710 Roybal/Chavez Variance (Approved 3-0) Edward and Marcia Roybal and Rick and Susan Chavez Variance of Article III, Section 10 (Lot Size Requirements) of the Land Development Code to Allow a Land Division of 2.0 – Acres into Two Lots. Approximately .77-Acres of the Property Lies within the Traditional Community and the Remaining 1.23-Acres are Within the Traditional Historic Community of La Cienega at #6 Camino Loma, via Camino C De Baca, within Section 6, Township 15 North, Range 8 East (District 3) FINDING OF FACT**

CHAIR VIGIL: This is a finding of fact.

COMMISSIONER ANAYA: So moved.

CHAIR VIGIL: Is there a second?

COMMISSIONER CAMPOS: I just need more information. There's a little

note –

CHAIR VIGIL: I second it for discussion.

COMMISSIONER CAMPOS: It says approved 3-0. What does that mean?

Who was here? What were the real issues?

MS. COBAU: Madam Chair, Commissioner Campos, this was heard by the BCC on May 8, 2007. You were here, Commissioner Vigil was here, Commissioner Sullivan was here; Commissioner Anaya and Commissioner Montoya were absent.

COMMISSIONER CAMPOS: Okay.

CHAIR VIGIL: There's a motion and a second.

COMMISSIONER CAMPOS: We're approving the order right?

CHAIR VIGIL: Right. The finding of fact.

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

- XI. A. 3. Ordinance No. 2007-10. An Ordinance Amending Article XV of the Santa Fe County Land Development Code (Ordinance No. 1996-10 as Amended) to Create a Media District Zone within the Santa Fe Community College District (Second Public Hearing)**

JACK KOLKMEYER (Land Use Administrator): Good evening, Madam Chair and Commissioners. Thank you. We have before you tonight another kind of a project that's been going along for a number of years and it's very exciting with regard to the media ordinance proposal, that it's come together both at an appropriate place, we feel, and a timely juncture in terms of the kind of industry developments that we've seen in Santa Fe County. I'm going to taken just a couple of moments to do a few introductory remarks and then I'm

going to turn it over to my senior planner, Robert Griego who will answer some of the questions that you raised from the first public hearing and suggest a couple of other amendments that staff would like for you to consider this evening on what we think is really important and maybe really the first true economic development effort that we've come to you with over the last seven years.

This all kind of started back with the Community College District Plan in 2000, in that plan where we recommended that we strategically position the Community College District within the regional economy. Of course that time we weren't really sure what the regional economy was, but we knew that a lot of it was based on the entrepreneurial abilities of the talented people in our county that range from being professional horseback riders and beauticians and contractors to writers and computer designers. It was kind of hard to see exactly where all that might fit, but also on that same plan we recommended that we begin to develop industry clusters that started to make sense for the Community College District and also to consider specific meaningful employment within the Community College District, recognizing that one of the reasons we created the Community College District was to take advantage of some of the institutions that were already there, most notably the Community College itself and also knowing that the institute of American Indian Arts would locate in that area as well. Also, that same area being in proximity to Bonanza Creek Ranch and some of the other employment activities that were happening at that time.

In 2005, you all, I believe it was everybody on this Commission, passed the County business plan, which began to identify the film and publishing sectors in particular as target industries that we needed to start to look at to see how we could stimulate those activities within Santa Fe County. Also we pointed out in that plan the importance of the arts and culture industries as well as being top contributors to economic development, not only in Santa Fe County but in New Mexico in general. Bearing that in mind we began to recognize at that time that the business park that we had in the Community College District was not functioning as we wanted it to. In fact, wasn't functioning at all, and we began to take a careful look at why it wasn't functioning. Of course as you all remember we had lease arrangement problems. We didn't really target the business park for anything at that time. We had a variety of different users coming forward to us to suggest everything from flea markets to call centers, none of which seemed to be the best scenarios for the use of that business park.

Also recognizing the constraint of where it was located, right adjacent to the detention facility and the state penitentiary. We recognized that we might have some problems in making that functional to accommodate any kind of identified industry. We began to work then with Santa Fe Economic Development and the Community College to try to figure out what some of the clusters were that we needed to really pay attention to, and again, we at that time fell back onto the activities that were evolving at the Community College, particularly in the media industry itself and also the activities unfolding at IAIA and recognizing that places like the Greer Garson studios has reached capacity pretty quickly

after they began to develop in the direction that they did, and so we recognized that focusing on the media industry, including publishing, broadcasting and the film industry would be a good way for us to move forward. So we recognized that how we could best serve what was clearly evolving and still is now, in fact not only evolving but is moving even faster than a lot of us expected, that we should focus on a designated cluster industry for that business park.

So where we have come to then at this point is to recommend to you and with you, because some of you have been involved in a lot of this with us that we would like to come forward with creating a media district for this area. I'm going to turn it over to Robert Griego, but I also want to point out and welcome – we have a number of people with us this evening who have helped us bring this media ordinance together, including Lisa Strout, the director of the New Mexico Film Office is with us here this evening. We invited the Santa Fe Economic Development, Cathy Zacher and Val Alonzo. I'm not sure that they're here, but also our technical advisor, Santa Fe Studios, members of that organization are with us here also this evening.

CHAIR VIGIL: Thank you, and welcome. Thank you, Mr. Kolkmeier. Mr. Griego.

ROBERT GRIEGO (Senior Planner): Madam Chair, Commissioners, at the first public hearing the Board raised some concerns regarding some of the standards within the published ordinance in regard to the lighting standards and compliance with the Night Sky Ordinance, and building height standards and building heights for special need structures. The Board also directed staff to look at industry standards to provide additional information to the Board and make recommendations to the Board for the ordinance. Recommendations for amendment to the ordinance were included in your packet material. However, we've met with industry and have made some additional recommendations for amendments based on discussions that we've had with the New Mexico Film Commission, film industry representatives and the City of Albuquerque who have also done a studio recently and we've talked with some of their staff members in regard to the their process for the Albuquerque studios project. So the amendments that we have handed out now Would be replacing the amendments that are in your packet. *[Exhibit 4]*

The proposed amendments are as follows: The definitions for special needs structures. Special needs structure would be a facility such as a sound stage, a recording studio that houses or supports a media use that requires additional height to accomplish the use based on industry standards. In regard to temporary uses, all temporary uses that do not comply with County noise and lighting standards shall require a temporary use permit. The temporary use shall comply with the New Mexico Night Sky Protection Act.

In regard to height, there are significant changes in regard to height for the building height and special needs structures. In regard to the building, the maximum building height of 48 feet, the proposed amendment here would be to allow buildings within the media district to be 48 feet and up to 60 feet for 40 percent of the building footprint. This

recommendation for the media district zone is intended to allow for architectural standards. They would also provide for some scale for special needs structure and allow for development needs for building height.

The special needs structures themselves are defined as a soundstages or recording studios that require additional height based on the industry standards. The industry standards for soundstages do require a building height of 80 feet based on our discussions with the film industry and existing film studios that have been developed. We have with us, as Jack mentioned, Lisa Strout, who is the New Mexico Film Commission director and she may want to address some of the questions in regard if there's some specific questions you have in regard to industry standards, and she also has some additional information she wanted to provide for you.

CHAIR VIGIL: Thank you, Robert. Welcome, Ms. Strout. Thank you for being here.

LISA STROUT: Good evening, Madam Chair and Commissioners. Thanks for having me this evening. First of all, I would just like to offer my own thoughts about the wisdom and the viability of a media district with the Santa Fe Community College District. As you know, the film industry has really taken off in the past 4 ½ years. We're handing out some of those statistics. *[Exhibit 5]* This is statewide, but in broad terms you can see that in terms of worker-days, which is the way that we calculate the workload, because the employment is project to project. The figure is six times what it was in 2007 as it was in 2003, and the economic impact is ten times the size of 2003.

We're seeing – we're very, very concerned about not just creating temporary jobs or creating an industry that will have a spike. We're looking at the long term, many generations of film workers and film industry in the state of New Mexico. We just had all the film Commissioners from around the world here in Santa Fe, which was pretty fantastic, a week ago, and it was wonderful to hear from the global community that New Mexico's model is one that is believed to be sustainable at this point because of the growth of workforce, because of infrastructure coming in, and the types of programs that we've put into place that are sustainable. I just want to share with you some of the things that I am seeing. As you know, for most of our film industry Santa Fe was the center. And that was based on a lot of westerns and westerns were really the key to film activity in this state. With the incentives coming in and the shift in this industry, that has changed tremendously. And of course we do work for the entire state and we're interested in seeing the film, the economic impact from film and the jobs be spread out.

We have seen – I just did a quick calculation this afternoon, but in 2005 there were six projects that shot in Albuquerque, six in Santa Fe, but three times the economic impact in Santa Fe than in Albuquerque. We have always gotten the larger projects, traditionally, because the directors, actors, producers, prefer the creative environment of Santa Fe. It just seems to be that way. In 2006, eight projects in Albuquerque, ten in Santa Fe, but five times the economic impact in Santa Fe. In 2007 it was equal. We're going by fiscal year here. And

in 2008 there have been 13 projects, 11 in Albuquerque, three in Santa Fe and five times the economic impact in Albuquerque. This is because of Albuquerque studios.

We have not had this kind of infrastructure in this state. Only the military has that size of facility, which is not accessible to filmmakers 99 percent of the time, and that is shifting everything. A great deal of our film workers are split between Santa Fe and Albuquerque. A great deal of them are now living in hotels in Albuquerque because the lion's share is heading that way. I just thought it might be helpful to hear how that has affected the industry in this state, how it is shifting the economic impact to the City of Albuquerque and somewhat away from Santa Fe.

In terms of industry standards we see 40 to 80 feet to the grid of a building as being industry standard. There certainly are many studios that are higher than that, and with an average size of 20,000 to 50,000 square feet per stage. Right now in Albuquerque there are two very large projects. One of them could have been shot anywhere where there was the space. It's completely a digital reality environment. It is completely green screen. The production never leaves the walls of that studio. That's a \$53 million picture. These are the kinds of things we can attract to Santa Fe and to other areas if the infrastructure exists.

We do see that there are some urban pictures going on. They are going to go to Albuquerque but the westerns are still hot and heavy and we're going to continue to have that presence here in Santa Fe. With that, I would just stand for questions.

CHAIR VIGIL: Are there any questions thus far? Commissioner Anaya.

COMMISSIONER ANAYA: Madam Chair, Lisa, I think last time I spoke with you I wanted to be involved in one of the western movies. Where have we gone with that?

MS. STROUT: Well, Commissioner Anaya, I'm happy to say we have a great western coming to town and we'll keep that in mind. With Ed Harris directing and it's going to be here in Santa Fe County.

COMMISSIONER ANAYA: Thank you.

CHAIR VIGIL: Thank you, Lisa. This is a public hearing. Is there anyone else out there who would like to address the Commission on this? Seeing, hearing none, the public hearing is closed. Questions, comments? What is the direction of the Commission? Commissioner Sullivan.

COMMISSIONER SULLIVAN: Madam Chair, question for staff. There's been a significant change in the height, which I wasn't aware of, requirements. Last time we had talked about the noise and lighting standards which has been modified to make it comply with the Night Sky Protection Act. But before the maximum height was 36 feet and up to 45 feet for 40 percent of the building footprint. Now it's 48 feet and up to 60 feet for 40 percent of the building permit. What occasioned this?

MR. GRIEGO: Madam Chair, Commissioner Sullivan, part of it was in regard to scale for the building. If you have an 80-foot building out there and you were trying to create massing for that it makes more sense to have buildings that are more closer to that

size. I think we're still trying to have architectural standards within the media district as per the Community College District Ordinance, and so by requiring massing and scaling of the buildings then it's a lot – the idea that they should be closer to the building sizes that are there makes sense. Also industry standards are also part of that. There's associated uses that might need additional height for buildings, based on discussions with Albuquerque and film industry representatives.

COMMISSIONER SULLIVAN: Is there some specific project that you looked at that indicated that we need these kind of heights?

MR. GRIEGO: When we talked with the City of Albuquerque staff, they were talking to us about – they were saying that you need – the way their process works is different than ours. They come in with a level A or a level B master plan and they approve that based on the master plan, rather than where we're creating the standards first and then allowing them to come in. So some of the discussions that we had with them had to do with the idea that we need the building height up front for that, if we're trying to create this sort of zone.

COMMISSIONER SULLIVAN: Well, I know we ran into a problem when we were building the Regional Communications Complex on height, and it had to do, I think with the fact that the property had been purchased from the Rancho Viejo Corporation or the owners, and that they had restrictive covenants on heights, and we had to scale back, my recollection is, to meet those requirements. I know this is on State Land Office Land so that doesn't apply. Obviously, they had those restrictive covenants for a reason. I assume the reason being that an 80-foot structure or a 60-foot structure is a big impact on the horizon and we're – part of this property is right up on the top of a hill. Some of the other part is somewhat down in the lower area.

So was there – are there some specific guidelines that are published by industry standards? This is not even saying it has to be a special purpose building. It just says you can have a building up to 60 feet.

MR. KOLKMEYER: Madam Chair, Commissioner Sullivan, let me take it apart in a slightly different fashion. And then we do also have members of the film industry here that can explain it, but let me compare for you 11.a and 11 d, on the handout that we gave you in red. First of all, the special needs structure or the soundstages, these are industry standards, Commissioner. You need to clear five stories inside, so that's 60 feet. Then we want to make sure that we have additional height them between 15 to 20 feet to take into account those kinds of things that we need to put on the roof of the building. So we're talking about 80 foot buildings for the soundstages only.

But if we want to ameliorate kind of the size and the massing of those buildings with let's say offices that surround that, or ancillary uses that surround that, we learned from again, some of the Albuquerque experience that we'd like to see those buildings be anywhere from 48 to 60 feet, but also stepped down. So that if we wanted to achieve something like a Pueblo-style architecture we'd be able to do that and those buildings and step-downs would

ameliorate the 80-foot height of the soundstages. So they came in part from industry standards for the size of soundstages, but also from the experiences that we've had with trying to deal with some of the larger buildings that we're seeing coming our way but also in relation to trying to look at this with some of these standards used for the Albuquerque studios. Does that help you a little bit with that?

So we have the big buildings of the soundstages and then around that would be the offices and the ancillary uses that we could step down and do in Pueblo-style, for example, if that's the way that that would work out.

COMMISSIONER SULLIVAN: Is that the way media buildings are built in Albuquerque? Are there buildings like this built there?

MR. KOLKMEYER: No, the buildings in fact in Albuquerque tend to be more big-box, just singular structures. What we want to achieve, particularly because of where it is on that high rise up there in the Community College District, I think that one of the things that we hear a lot about is the fear of big boxes in the Community College District, and we're talking about Walmart big boxes, not necessarily institutional type of architecture, but we feel that this is an opportunity for us to have stellar architecture, because of where it is, that will be visible from so many different points of view that we want to be able to have the large soundstage studios in fact enhanced by the architecture around them.

So it wouldn't really work if they were only 36 feet. We want to all them to be able to go up to 48 to 60 with setbacks to be able to accommodate the architectural design that will work best for the particular place that that is there in the Community College District. And then again not forgetting that we have some pretty tall structures around there too, at the state pen, and I don't know how tall – what is the height of the detention facility buildings? Three stories? Four stories? So in other words, we're trying to figure out the best way we can up front, Commissioner, to try to make things not only fit but also so that there is the potential for them to be designed in a way that will be attractive where they are.

COMMISSIONER SULLIVAN: Okay, so then given that or assuming that these are requirements of the media and film industry, what happens if a development comes in that's not a media or film industry? It can build up to 60 feet, right? Regardless of what it is.

MR. KOLKMEYER: No, not regardless of what it is because don't forget, these are special use buildings. And if you look at the definition of special use in there, these are only to accommodate those kinds of things within the media industry that would require large buildings. I'd like to suggest that Lance Houle from Santa Fe Studios could offer some additional comments on this, but I think that, no, nobody could come in there for example, and build a Walmart, Commissioner.

COMMISSIONER SULLIVAN: Well, 11.a doesn't refer to any special – 11.d is the special needs structures. 11.a is just maximum building height.

MR. KOLKMEYER: Yes, that's correct.

COMMISSIONER SULLIVAN: So that can be anything.

MR. GRIEGO: Madam Chair, Commissioner Sullivan, that's correct. That's the way that it's written now.

COMMISSIONER SULLIVAN: Okay, so we could have a 60-foot high Walmart under this ordinance. It has nothing to do with a film studio. 11.b is special needs structures, and then special needs structures are defined as a soundstage or recording studios that houses or supports a media use that requires additional height to accomplish the use based on industry standards. That's the special need that allows them to go up to 80 feet. 11.a just says you can go up to 60 feet for 40 percent of the footprint no matter what you are.

MR. KOLKMEYER: Madam Chair, Commissioner Sullivan, Walmart wouldn't qualify as a use in a media district.

COMMISSIONER SULLIVAN: Well, what other uses qualify? We've got a lot of uses that qualify in the Community College District. This is a media district within the Community College District. Am I not correct? That can be an institutional use. That can be a commercial use. We call it – I forget what we call it, job creation or something.

MR. GRIEGO: Madam Chair, if I may, that is correct. I believe Commissioner Sullivan is correct in the way that the ordinance, the way the existing – the proposed media district ordinance amends the employment zone so the uses within the employment zone would be allowed within the media district. So it's any use that was identified would be allowed within this district. So, Commissioner Sullivan, you are correct.

COMMISSIONER SULLIVAN: So anything – and I have a problem with that. Anything within an employment zone, or within an institutional zone, which currently exists in the Community College District, would be allowed to go up to 60 feet.

MR. GRIEGO: Madam Chair, Commissioner Sullivan, I think that is correct. I think the intent of this was to relate it to the media district –

COMMISSIONER SULLIVAN: I recognize the intent. I'm looking for the loophole.

MR. GRIEGO: Yes, maybe we can tighten that up. I think that's a problem. I think our intent was – but the reality is it would allow uses for that.

COMMISSIONER SULLIVAN: You need to say the maximum height of a structure that is a media-related business. I don't know what the proper language is. You also have to have some definition between our height limitations in the Community College District, which is 24 feet, other than cell towers which can go higher than that, and media operations here on this parcel.

MR. KOLKMEYER: Madam Chair, Commissioner Sullivan, if you go back and look at the Community College District Ordinance, there are again, restrictions on square footage size of 5,000 square foot within the employment centers. So you couldn't come in and do anything outside of the uses indicated here on Section 3 of the media district ordinance that would be larger than that. But I think you bring up a good point and that can probably be solved by just making sure that we – and maybe Steve can help us here with the language a little bit, but by just making it clear that these heights are for media district uses

only. Would that solve your problem with that then? So then it would be really clear what the media district uses are for which that would pertain, and then the Community College District Ordinance takes care of the other ones.

COMMISSIONER SULLIVAN: Correct.

MR. KOLKMEYER: Right.

COMMISSIONER SULLIVAN: Right.

MR. KOLKMEYER: Perhaps, Steve, would you want to suggest something for that?

MR. ROSS: Madam Chair, we already have a Section G, Height. That's in the red on this large handout. As you can see, 11.b, it starts out with a prefatory phrase, special needs structures, I think all you need to do to fix this minor issue is to add that same phrase in 11.a. That's defined. As you can see, the definition of a special needs structure is a facility such as a soundstage or recording studio that house or supports a media use that requires additional height to accomplish the use based on industry standards. So therefore between the fact that any use in an employment zone can't exceed 5,000 square feet and the fact that it has to be a soundstage or recording studio that supports a media use and requires additional height to accomplish the use based on industry standards, I think avoids the Walmart issue pretty soundly.

The way you would do that is just add the three words, special needs structures at the beginning of 11.a, just like it is in 11.b.

CHAIR VIGIL: Commissioner Anaya.

COMMISSIONER ANAYA: Madam Chair, I was kind of disappointed that we couldn't build a 60-foot high Walmart. I think that we would have called it the Super Duper Walmart.

COMMISSIONER SULLIVAN: We're working on it. We're working on it. The trouble is we can't get any water for it.

CHAIR VIGIL: Are you done, Commissioner Sullivan?

COMMISSIONER SULLIVAN: I would support the recommendation that Mr. Ross had for clarifying that 11.a by adding Special needs structures – dash – at the beginning of the sentence.

CHAIR VIGIL: Do I have a motion on this?

COMMISSIONER ANAYA: So moved, as amended.

CHAIR VIGIL: Motion to move forward on this ordinance as amended. Is there a second?

COMMISSIONER SULLIVAN: Second.

**The motion to approve Ordinance 2007-10 passed by 3-0 roll call vote, with Commissioners Anaya, Sullivan and Vigil voting in favor.** [Commissioner Campos was not present for this action.]

CHAIR VIGIL: Thank you. I look forward to working with the future of the film industry here in Santa Fe. Lisa, Mr. Houle and everyone that's been working on this project, we really appreciate your efforts. Santa Fe County has been looking for an anchor in its business park. We hope this is the anchor that promotes the future industry for the film in Santa Fe. And any way we can help, please let us know.

I'd like to have a show of hands of how many people are here on the Diamante Lumber and Beam Mill Variance. Those of you who are here on that, could you please raise your hands? Okay, what I'd like to do is take a five-minute break and then when we're back at five to eight, I'd like to hear that case next so that those of you who are here from the public don't have to wait throughout two more hearings until this case is heard.

[The Commission recessed.]

**XI. A. 8. CDRC Case # V 07-5090 Diamante Lumber and Beam Mill Variance: Julie Garcia and Aaron Rosas, Applicants are Requesting a Variance of Article III, Section 3 (Home Occupations) to Allow a Small Scale Lumber Mill as a Home Occupation. The Property is Located at 108 Canada Village Road (SFC Road 67A), within Section 26, Township 16 North, Range 10 East, Santa Fe County (Commission District 4)**

SHELLEY COBAU (Review Director): Madam Chair, this is Vicente Archuleta's case. He'll be presenting the staff report.

CHAIR VIGIL: Mr. Archuleta.

VICENTE ARCHULETA (Review Specialist): Thank you, Madam Chair. On August 16, 2004, the County Development Review Committee met and recommended approval subject to staff conditions. The Diamante Lumber and Beam Mill is run by a sole proprietor. Lumber is cut by a small, portable LT-40 wood miser band saw. The applicant states that the saw can only cut approximately 400 board-feet per hour and has a 28 horsepower twin cylinder gas engine with an electric starter.

The applicant states, "We will be cutting rough lumber for orders that we receive from customers by telephone. We will only be cutting what they request and we will be delivering all orders we receive. Our hours of operation will be from 8:00 am to 5:00 pm, Monday through Friday and 9:00 am to noon on Saturdays."

Per Article III, Section 3.2, a development permit involving a home occupation may be approved only if the following standards are met: Section 3.2.2, The use of the dwelling for the home occupation shall be clearly incidental and subordinate to its use for residential purposes by its occupants and not more than 50 percent of the floor area of the dwelling, including accessory buildings shall be used in the conduct of the home occupation. Therefore a variance is needed.

Section 3.2.3 states: There shall be no change in the outside appearance of the building or premises, nor other visible evidence of the conduct of the home occupation except for one non-illuminated name plate sign not more than nine square feet in area. Therefore a variance is needed.

Section 3.2.5 states: No equipment or process shall be used in the home occupation which significantly interferes with the existing use of property in the adjacent area. Therefore a variance is needed.

Per Article II, Section 3, Variances, Where in the case of proposed development it can be shown that strict compliances with the requirements of the Code would result in extraordinary hardship to the applicant because of unusual topography or other such non-self-inflicted conditions or that these conditions would result in inhibiting the achievement of the purposes of the Code, an applicant may file a written request for a variance. The applicant has not indicated that topography or any other such non-self-inflicted conditions exist.

Recommendation: Article III, Section 3.2 states "A permit involving a home occupation may be approved only if the standards are met." Staff does not feel unusual topography or non-self-inflicted condition is demonstrated as required by Article II, Section 3.1 and thus would not be considered a minimal easing of the Code criteria, therefore staff recommends denial of the requested variance. If the decision of the BCC is to recommend approval, staff requests the following conditions be imposed:

1. All other requirements of the home occupation permit must be following.
2. A Business License shall be obtained within 30 days of final approval.
3. Sawdust shall be removed once a month.
4. Applicant shall comply with Fire Marshall review.
5. Sawdust must be contained in an enclosure.
6. No expansion of home occupation.

And I'd like to also add a seventh condition.

7. Ongoing issues with Santa Fe County Road 67-A must be addressed with Santa Fe County Public Works Department. This includes dedication of 800 linear feet of a 50-foot wide right-of-way on the subject parcel and remaining tracts to the east to facilitate ongoing maintenance and emergency services, issues associated with a lumber operation and other parcels on Santa Fe County Road 67-A.

Thank you.

CHAIR VIGIL: Thank you, Mr. Archuleta. Are there any questions of staff? This is a public hearing. Is the applicant here? Please come forward and state your name and address. Be sworn in for your testimony.

[Duly sworn, Julie Garcia testified as follows:]

JULIE GARCIA: My name is Julie Garcia. I live at 108 Canada Village Road.

CHAIR VIGIL: Ms. Garcia, do you agree with the conditions that staff has

recommended?

MS. GARCIA: The only one is number 7. That one was just brought up to our attention now as we got here. Basically, the road doesn't belong to us; it belongs to my grandfather. So basically that's something – another case that the County has with my grandpa. But we're fine with the other conditions.

CHAIR VIGIL: Okay. Is there any testimony that you'd like to give to the Commission tonight?

MS. GARCIA: Yes, I just have a little brief statement here. There's just a small-scale sawmill that we run. My husband and I are the ones that manage and operate. The way our business works is we take orders over the phone and then we cut the orders to the customer's request and we deliver it to the customer. Our logs are delivered by a logging company at least once to twice every other month. Usually in the wintertime we don't get logs for at least three to four months, depending on how the weather is. Throughout the year we distribute free firewood to over a dozen families within our community due to the fact that a majority of the residents in Canada use wood as a primary heat source.

Some of our neighbors are unable to go out and get their own firewood. We have spoken to our neighbors and have found that one of our members of the community is concerned with the sound, because they live across the road from the sawmill. The existing sound will soon be reduced once we create an overhead roof and rear wall that will cut the sound by more than 60 percent. Our hours are from 8:00 to 5:00 Monday through Friday, Saturdays from 9:00 to 12:00 and Saturdays are only if necessary.

From the date of purchase, we bought the sawmill in April 2006 to the current date we have 671 hours on the saw. If you break it down it's coming to basically like ten hours a week that we run the saw. In the past there have been other sawmills throughout the area. There was one about 20 years ago just like up the hill from where we were. Also, there was one near La Barberia and Canoncito. Through the sawmill we support ourselves and our family. I'd like to thank you for your time and if you have any questions or concerns.

CHAIR VIGIL: Thank you, Ms. Garcia. Are there any questions of the applicant? Commissioner Anaya.

COMMISSIONER ANAYA: Madam Chair, Ms. Garcia, where do you get the lumber from, the logs?

MS. GARCIA: The logs we get them from – we have two companies that are delivering to us right now. One from outer Chama and Raton area, and the other one's from by Mora and Las Vegas.

COMMISSIONER ANAYA: And what diameter are those? And how long?

MS. GARCIA: Usually about 16 to 13 feet long. Diameters, it varies from like about eight to twelve in diameter.

COMMISSIONER ANAYA: And you cut lumber for whoever needs it?

MS. GARCIA: Right. We just take their request and do it for people that are doing additions or for contractors, whoever.

COMMISSIONER ANAYA: Is it already dried?

MS. GARCIA: Actually, some of it is from fires, where there have been fires and it's dried. Most of it is almost totally dry. We have been getting both dry and green. And usually it will dry eventually. The ones that have been burned, the trees, are pretty much completely dry so when we cut it's ready. And then the green it takes a while.

COMMISSIONER ANAYA: And what tract are you on? Tract 1, 2, or 3?

MS. GARCIA: We're on tract 1, I think. The very first.

COMMISSIONER ANAYA: The first tract?

MS. GARCIA: Yes.

COMMISSIONER ANAYA: I know there's been a long-standing issue with the road that goes through the property, through your property.

MS. GARCIA: It's my dad's property. The road's actually my grandfather's.

COMMISSIONER ANAYA: That serves the Forest Service road, or it serves the Forest Service. It serves 60 residents that live past there and it's a school bus route. I know the County has been working with Mr. Garcia to try to come up with an agreement there to widen that and to pave it and to improve it. I think that what I've been told is we've been working – we thought we were gaining some ground but all of a sudden things haven't worked out. I know that you're coming in for home occupation, but that road's been in the County inventory for over 40 years and now we need help to improve that.

MS. GARCIA: I'll have to have my cousin answer that. I can't answer the question because like I say, I have nothing to do with the road. Where the truck comes into our driveway is only a tenth of a mile that you're looking at of that private road. The semi will come into our driveway. It's only a tenth of a mile. So it's not really traveling that whole area there.

COMMISSIONER ANAYA: Well, then maybe if there's somebody that can comment on it to help me understand where you're coming from and why we haven't been able to work with Santa Fe County. Maybe if somebody could comment on it.

CHAIR VIGIL: Would you please step forward and state your name and address for the record and be sworn in.

[Duly sworn, Andres Garcia testified as follows:]

ANDRES GARCIA: Andres Garcia, 107-B Canada Village Road. Okay, Mr. Anaya, to answer some of your questions, we've been working with the County hard on this for about three years now. Where we are at right now is it's with an engineer out of Albuquerque as far as we know and they've shot practically a profile of the road to see where the water comes in and where it's going out and where it's going to affect and all that, is where we are right now. This summer's been a slow process on it. They're asking us for 50 feet of easement on our property. Fifty feet is lot more than what that whole road is even wide.

The County doesn't have 50 feet I don't think through anywhere in the village, and that's where we're really butting heads is the width that they want, because the width that the

want is knocking into the property, into our homes. My dad's well, Julie's well is very close. The road would be right there next to the well houses, and that's where we've run into a lot of problems on it.

COMMISSIONER ANAYA: Andres, how wide is the road now, approximately?

MR. GARCIA: No more than 30 feet.

COMMISSIONER ANAYA: So they're asking for –

MR. GARCIA: Twenty feet more.

COMMISSIONER ANAYA: Ten feet on each side?

MR. GARCIA: Ten feet [inaudible] There ain't much room in there. Thirty feet, we built roads on 30 feet all the time here in the county.

COMMISSIONER ANAYA: So you say it's 30 now and they're asking for 50 feet.

MR. GARCIA: Yes, it's approximately about 30 feet. Some places it may be even 25. In the village, as you pass from the church all the way through the rest of the village you're maybe at 20 feet. There ain't much room in there.

COMMISSIONER ANAYA: Yes, I know. I've been on the road. It's pretty narrow.

MR. GARCIA: You meet somebody at the mailboxes and somebody's got to slow down. I think the issue on the road shouldn't be held back on these guys because they have nothing to do with it. We're the ones taking care of that. That's a whole other ballgame there.

COMMISSIONER ANAYA: Okay. Thank you, Andres.

MR. GARCIA: Any more questions?

CHAIR VIGIL: On that matter, Robert, do you have a little bit of a history on this? Thank you, Mr. Garcia. I'm further confused about how there's a nexus between this road and this variance request.

ROBERT MARTINEZ (Deputy Public Works Director): Madam Chair, Commissioners, our issue isn't against the Garcias. Our issue is recommending or not recommending any type of activity beyond this section of the roadway, whether it be a building permit or a lot split or a commercial development. Anything that will add volume to this road. This road has been in our inventory as a County road through the Garcia property since the 70s. Now, the Garcias have disputed that. We visited with the Forest Service Department. I understand the Forest Service has granted a temporary easement for logging operations back in the 70s. According to some documents that we've been able to locate that were generated here at the County, this easement was supposed to be granted back to the County at some time. We cannot find any documents that actually do that.

So we've been meeting with the Garcias numerous times over the last several years. Back in 2006 Mr. Garcia sent the County a letter threatening to install gates and lock access to the roadway throughout his property. At that time the County went and got a restraining

order and the Garcias and the County went to court with Judge Hall and Judge Hall directed the County to work with the Garcias and the Garcias also agreed not to close the access. What we've been doing after that is we agreed to hire an independent engineer and engineer the roadway to come up with a design that would separate the driving surface from the drainage. That area of the roadway runs probably 90 percent of the year. There's a spring there that dumps water into the roadway continually. It's a big maintenance nightmare. We get calls from residents that live up beyond the Garcia property and there's approximately 60 residents that live up there. They call us continually about the road.

What we have done recently is we contact the Garcias prior to blading the road just to make sure that we show that we're cooperating and get their permission to blade the road. Now, I do repeat that this road has been in our inventory since the 70s at least. We had a meeting a couple weeks ago with the engineer that we hired. We brought the Garcias in from day one because I wanted to include them in the design. I know they had some concerns so we wanted to make sure that the engineer was aware of what their concerns were. At that meeting a couple weeks ago it was discussed by the Garcias that they would still like to leave the road in its current condition.

So I felt we kind of made some progress at first but after that meeting I could tell that we had gone backwards. I thought we were beyond the point of leaving the road in its current condition. The Garcias did – Mr. Garcia did send the County a letter offering to sell the easement to the County at \$50,000 an acre. It's approximately 1.5 acres but he did attach a couple of conditions and the two conditions were that the road will remain as it is, a dirt surface, and the road will remain the same width.

So, like Andres said early, we're kind of making two issues tonight. The home occupation and the road issue, but our concern at Public Works is that we do not recommend any type of activity up there that will increase volume to the road until the status of the road is resolved.

CHAIR VIGIL: Any further questions of Robert? Okay, thank you Robert.

MR. MARTINEZ: You're welcome.

CHAIR VIGIL: This is a public hearing. Anyone out there who would like to testify on this case, those of you in favor of the request for the home occupancy, please raise your hand. Okay. Are there any opposed out there. Okay. And we do have a petition before us that has numerous names of people who do not oppose the request, two or three pages. I'm going to assume most of you are familiar with that and probably have written your name on this petition. Okay, those of you who would like to speak on this case raise your hand. I see four hands. Please come forward and state your name and address for the record.

[Duly sworn, Cecilia Gutierrez testified as follows:]

CECILIA GUTIERREZ: My name is Cecilia Gutierrez. I'm George Garcia's daughter, the owner of the road. What I don't understand is why the – they traffic is coming from town. The road there like they said is only 20 feet wide. The same vehicles are going to be passing down the arroyo, which is it an arroyo; it's not a road. And why they need 50 feet

where my dad's property is. We have been working with them but one of the problems that we have had recently, since the County started to work on it is because they have filled up part of a road, lifted it up, and that makes the water come down faster and makes more [inaudible] all over the place.

What we told them at the last meeting, if they would take all that stuff that they filled out we wouldn't have the problems because we didn't have them before. I used to drive a just two-wheel drive vehicle and never had the problems. We didn't have that.

COMMISSIONER CAMPOS: Madam Chair.

CHAIR VIGIL: Hold on. We have a question here.

COMMISSIONER CAMPOS: We have a witness who's talking about an issue that's not directly related to the variance. So I think we have limits of time here and we have a lot of cases to hear. We have to get right down to the issue of why a variance should be granted and not get off on ancillary or secondary –

MS. GUTIERREZ: It's because they stuck that thing on the road –

COMMISSIONER CAMPOS: That has nothing to do with the variance.

MS. GUTTIERREZ: In at the end. That's why we wanted to say that we have been trying to work with them.

COMMISSIONER CAMPOS: That has nothing to do with the variance.

CHAIR VIGIL: Thank you, Cecilia. Next person.

[Duly sworn, Leo Gurule testified as follows:]

LEO GURULE: Leo Gurule, 136 Canada Village Road. Madam Chair, members of the Commission, glad to be in front of you. I have been a member of the community for the last 25 years and I've been before other Commissions to speak about issues and trying to prevent development in that community. And for the most part the Commission has gone against us and that has been in the development area. I'm here to speak for this mill that has very little volume as far as any noise is concerned. Any vehicle going down that road is louder than that say. A chainsaw is louder than that saw. It's very quiet. It has no impact and like the trucks that come in just come in down that road. They go through the community where some places the traditional community, they travel on that same road where it's only maybe 15 feet.

To put that restriction on this mill is unfair. There's no reason to do that and not take the rest of the road into consideration. There's dump trucks that come through there, all kinds of vehicles that go through that road and it makes an awful lot of noise. These trucks are coming down that road with no impact. I just live at 136 from 108 where this mill is at and it's very quiet and I'm strongly recommending that this be okay for a hard-working family. They're just trying to earn a living and they're very good at what they do and it's a quiet place. I'd rather have that next door to me than a private residence where who knows what's going to happen with that. They're hard, religious, working people and they're well behaved. So anything else, if I may answer any questions I'd be happy to.

CHAIR VIGIL: Thank you, Mr. Gurule. Mr. Garcia, you also wanted to

address the Commission.

MR. GARCIA: I want to go back and comment on something that Robert said that the County doesn't want to issue any permits above our point, well then maybe we should stop all the homeowners permits. There's an indoor arena built up in there. If we're doing to stop one permit we might as well stop them all.

CHAIR VIGIL: Okay. Is that all you'd like to say? Okay. Any questions from the Commission? And I believe there's nobody else out there that wanted to address the Commission – there is one more hand. Let me just ask one last time. Please come forward. Anyone else who would like to address the Commission before I close the public hearing? Okay, this will be the last testimony we taken then.

[Duly sworn, Angelica Gallegos testified as follows:]

ANGELICA GALLEGOS: Angelica Gallegos, and it's 20 Tierra Hermosa, Santa Fe, New Mexico. I'm a school teacher and the Garcia family was kind enough to donate some lumber to my classroom. I needed some shelves installed in there and they put it together for me and they donated their time and effort to build the shelves and to donate the lumber as well. So I really appreciate it because I didn't have enough money to buy the materials myself or to go out to the store and buy it or neither did the school. But they donated that time and effort and lumber.

CHAIR VIGIL: Thank you for your testimony on that. Would your son like to testify. This public hearing is closed. Sir, did you want to say something? Please.

[Duly sworn, Richard Montoya testified as follows:]

RICHARD MONTOYA: I'm Richard Montoya. I live in Ojo de la Vaca. Well, in the first place, I used to work for the state. I know about roads, okay? So as I've been to [inaudible] I've been going up and down those roads, there's a lot more roads that are more narrow. Not just that one. And I've been there and I didn't see no problem of people getting in and out. The only problem is that there's a lot of moisture in the ground, being that the water comes up and it's real soft, but they don't have no problem because they've put a lot of rock in there. And it's real sandy, so there's no problem getting in and out.

But when you start buckling the road, which you create a swamp then you start having problems. So therefore I think that they should have no problems in running their sawmill or getting in and out. There are no problems. So that's what I have to say.

CHAIR VIGIL: Thank you very much. And now this public hearing will be closed. Does anyone have any questions? Commissioner Anaya.

COMMISSIONER ANAYA: Madam Chair, I guess I have a question for Robert. I want to know why, or is it standard procedure that we automatically ask for 50 feet in terms of roadway?

MR. MARTINEZ: Madam Chair, Commissioner Anaya, I believe that's in the Land Use Code that dictates the easement width.

COMMISSIONER ANAYA: Okay, maybe I would suggest, I've been on that road several times and maybe we could work with the Garcias and not ask for 50 feet. You

guys come together and see if we can reduce that because I know going in that road, it's probably 30, 20, 15 at some places, and then we would expand it to 50 feet. To me, that particular instance it doesn't make sense, but I know where you got the figure now, because it's Code and you're just doing your job, but maybe what we could do is not be so strict on that in that particular area. Maybe when you meet with them you could reduce that somehow.

MR. MARTINEZ: Madam Chair, Commissioner Anaya, we can do that.

COMMISSIONER CAMPOS: There has to be consensus from the Commission. One Commissioner cannot order you to do anything.

CHAIR VIGIL: It seems to me that there's still some unresolved issues and the road being particularly one of them. I think that the applicant was caught a little bit by surprise that this is a condition of approval and probably has not had sufficient time for it to be explained to her and him. I know that you've probably been working with them, Robert, for quite some time, and this isn't really directed to you. I'm sure that there are other issues that there needs to be further communication on. I think that – I would just throw this out to the Commissioners, that we consider tabling this case until staff has had adequate time to explain to the applicant and we have had further information with regard to this road issue. And I'll just throw that out for the Commission's consideration and ask if there's any further discussion or motions on this. Commissioner Anaya.

COMMISSIONER ANAYA: Madam Chair, I think what I recommend is to the Publics Works Department was a good recommendation and I would just ask the rest of the Commission, how do they feel about that recommendation, and then we could move this project forward.

CHAIR VIGIL: And I think in response to that, Commissioner Anaya, I have similar concerns and that's why I'm considering that we consider tabling this. Did you want to respond to that?

MR. MARTINEZ: Yes, Madam Chair. A couple of things. First of all, Public Works found out about this case yesterday and that's why this is so late in the game that this was addressed. Second of all, I believe that from the report, prior to the road issue I believe staff was not recommending approval, prior to the road issue. So I don't think it's just a road issue that needs to be addressed; I think there's other issues that Land Use has that need to be addressed.

CHAIR VIGIL: And I also think there are some legal issues with regard to this. I've heard testimony that the road is not within the possession of the applicant who's requesting the home occupancy, that it's within the possession or the decision making power of the father. How does that interplay with the condition that we're trying to place here? I'm really insecure about that and I'm not sure that I have a clear, definitive direction to take with regard to this. I think we should put conditions of approval that are going to impact the traffic for a home occupancy business. I think that's a good policy to consider but I don't know that it's even possible to do that under these conditions. I do agree with Commissioner Anaya that we need to work with the applicant to see what easements are available, what can be realistic,

how the County can create a support system to make this happen. So I don't think any of that has actually happened tonight. And I actually see some underlying legal issues.

So Robert, with that, I have one question for staff. The home occupancy, that is requested because this does not run with the land? Am I correct in that?

MS. COBAU: Madam Chair, members of the Commission, we brought this forward as a home occupation variance because the other choice was to bring it forward as a variance to a commercial node. This type of use would only qualify as a major commercial node and we felt that this was a better way to bring this forward for your consideration.

CHAIR VIGIL: Thank you, Shelley. So that when the current occupants sell or transfer title in any way, this no longer is a home occupancy. Correct?

MS. COBAU: That's correct.

CHAIR VIGIL: Thank you. Okay. Those are my questions. What is the pleasure of the Commission?

COMMISSIONER ANAYA: Move for approval, with conditions.

CHAIR VIGIL: I'll second that. Are you including the conditions of the road, so there will only be conditions 1 through 6?

COMMISSIONER ANAYA: Yes.

CHAIR VIGIL: I'll second that.

**The motion to approve tied on a 2-2 voice vote with Commissioners Anaya and Vigil voting in favor and Commissioners Sullivan and Campos voting against.**

CHAIR VIGIL: Please consult with Land Use to find out what your options are with that vote. Okay? And thank you all for being here.

I'm going to move to – there is another family here tonight that has requested a hearing. It's a family hearing. It is item 5.

- XI. A. 5. LCDRC Case #VAR 07-5060 Jonathan and Mandy Garcia – Jonathan and Mandy Garcia Applicants, Request a Variance of Article II, Section 4.3.2cx (Family Proper) of Santa Fe County Land Development Code, to Allow a Family Transfer land Division to be Deeded from Son to Father. The Property is Located at 12 Amber Lane, via Los Pinos Road (County Road 54), within the La Cienega and la Cieneguilla Traditional Historic Community, in Section 28, Township 16 North, Range 8 East, (District 3)**

JOSE LARRAÑAGA (Review Specialist): Thank you, Madam Chair. On July 3, 2007 the La Cienega Development Review Committee met and acted on this case. The

decision of the LCDRC was to recommend approval of the applicants' request with staff conditions. The applicants are requesting a variance of Article II, Section 4.3.2C, family proper, of the Santa Fe County Land Development Code. The applicants have requested to convey 1.25 acres to Jonathan's parents by way of a family transfer. The applicants have stated due to Mandy Garcia's medical condition the applicants need their parents close by to care for Mandy and the children.

The Garcias have owned the 2.5-acre property for over eight years. The property lies within the Basin Hydrologic Zone in the La Cienega and La Cieneguilla Traditional Historic Community where the minimum lot size is ten acres. With water restrictions the lot size can be reduced to 2.5 acres. A family transfer land division allows for the creation of a lot of half the minimum lot size. The 2.5-acre lot has been in the family proper for over five years and can be divided as a family transfer into two 1.25-acre lots with water restrictions.

Family proper is described in Article II, Section 4.3.2C as lineal relations up to and including the third degree, i.e., grandparent, parent, child. Lineal in definition is the direct line of descent from an ancestor or hereditary. The applicants are requesting the variance to allow for a family transfer land division to be deeded from son to father, which is not considered a line of descent per Code. Article II, Section 3.1 states: Where in the case of proposed development it can be shown that strict compliance with the requirements of the Code would result in extraordinary hardship to the applicant because of unusual topography or other such non-self-imposed conditions or that these conditions would result in inhibiting the achievement of the purposes of the Code.

Jonathan and Mandy Garcia have owned and resided on the 2.5-acre property for over eight years. All requirements of the family transfer criteria have been met other than compliance with the transfer based on lineal descent described in Article II, Section 4.3.2C of the Code. Staff's position is that while the deeding of property from son to father, versus from father to son does not meet the specific definition of the family property, the parcel will remain in the family and the request is based upon a non-self-inflicted medical conditions which is grave in nature. Staff supports the variance request and views the request as a minimal easing of the Code. Staff recommends approval of this request subject to the following conditions:

1. Water use shall be restricted to .25 acre-feet per dwelling. A water meter shall be installed for both homes. Annual water meter readings shall be submitted to the Land Use Administrator by January 31<sup>st</sup> of each year. Water restrictions shall be recorded in the County Clerk's office.
2. The applicant must submit for plat approval for the family transfer land division to be processed administratively and comply with all plat conditions.

CHAIR VIGIL: Any questions? What is the grave medical condition? Could you speak into the microphone so we could make it a part of the record. Please state your name.

JONATHAN GARCIA: My name is Jonathan Garcia.

CHAIR VIGIL: What is the grave medical condition?

MR. GARCIA: My wife was diagnosed with multiple sclerosis seven years ago.

CHAIR VIGIL: Okay. Thank you very much. Are there any questions of staff beyond that? So you are the applicant. Would you like to step forward? Please state your name again and address for the record.

[Duly sworn, Jonathan Garcia testified as follows:]

MR. GARCIA: My name is Jonathan Garcia. I reside at #12 Amber Lane. First of all, I'd like to thank you for your time and we're here before you to request permission to split our 2.5-acre lot. This family transfer that we're requesting will be used to house my parents. My wife is a stay at home mom. She was diagnosed with multiple sclerosis seven years ago. Mandy experiences exacerbations and during these exacerbations she cannot walk. She has difficulty speaking and she needs help with our three young boys. Having my parents nearby will help me and Mandy immensely while I am at work.

We've resided here for eight years and we have no intentions of selling or moving. I can assure you that are motives are not financially fueled and we feel that denial of this request would put hardship and stress on our family. With this we thank you for your consideration.

CHAIR VIGIL: Thank you very much. Any questions of the applicant? This is a public hearing. Is there anyone out there who would like to speak on this case? Please raise your hand. Seeing, hearing none –

COMMISSIONER ANAYA: Madam Chair.

CHAIR VIGIL: Commissioner Anaya, then Commissioner Anaya.

COMMISSIONER ANAYA: Move for approval.

CHAIR VIGIL: Motion to approve. I'll second that motion. I have a question, but I'll let Commissioner Sullivan proceed.

COMMISSIONER SULLIVAN: Madam Chair, I understand that, speaking with Mr. Ross, that there's a conflict in our ordinance between the lineal relations and the state statute. My understanding is, from speaking with Mr. Ross that the state statute allows lineal relations for family transfers to the third degree, i.e., to grandfather, but it allows those lineal relations to occur both up and down, whereas in our Land Use Code, we specify that it be to second degree, i.e., father to son, father to daughter, whatever, and that it goes down but it cannot go the other direction.

So we have in our County ordinance a conflict with state statute and that is going to be rectified or is being rectified in the Code rewrite. So I would support the applicant only because they're complying with state statute and our ordinance doesn't comply with state statute. Thank you.

CHAIR VIGIL: Thank you. Any further? There's a motion and a second to approve with conditions.

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

**XI. A. 6. BCC Case # 07-5350 Tocatoro Café Liquor License -The Tocatoro Café (Julie Mendel), Applicant, Jesse Zalouder and Susan Benson, Agents Request Approval of Restaurant Liquor License to Sell Beer and Wine with Meals at Restaurant. The Property is Located at 2849 New Mexico Highway 14, within Section 36, Township 14 North, Range 78 East (Commission District 3)**

JAN DANIELS: Thank you, Madam Chair. On September 23, 2003, an election was voted on and was passed regarding the opportunity for restaurants in the unincorporated areas of Santa Fe County to serve beer and wine with meals. The Tocatoro Café is located in a commercial legal/non-conforming building used as a café established before 1981, then used as a pizza parlor for the last decade. The applicant is requesting a restaurant liquor license for the existing Tocatoro Café Restaurant to permit the sales of beer and wine with meals.

The State Alcohol and Gaming Division has granted preliminary approval of this request in accordance with Section 60-6B-4 NMSA of the Liquor Control Act. Legal notice of this request has been published in the newspaper and the Board or County Commissioners is required to conduct a public hearing on whether or not the proposed request for a liquor license should be granted.

Staff recommends approval. At our legal meeting, Mr. Ross informed us we cannot add conditions, so I'll have to withdraw the condition from the record.

CHAIR VIGIL: Thank you. So withdrawn. Any questions of staff:

COMMISSIONER ANAYA: Madam Chair.

CHAIR VIGIL: Commissioner Anaya.

COMMISSIONER ANAYA: On the notice here it says District 3 and on the packet it says District 5.

MS. DANIELS: It's in Madrid.

COMMISSIONER ANAYA: Oh, it's in Madrid. Okay. District 3.

CHAIR VIGIL: Any further questions? This is a public hearing. Does anyone out there wish to address the Commission on this? Is the applicant here? Would you care to address the Commission? Please state your name and address for the record and be sworn in.

[Duly sworn, Julie Mendel testified as follows:]

JULIE MENDEL: My name's Julie Mendel and I live at 39 Gopeyka Canyon in Cerrillos, New Mexico. We've owned the restaurant and we've been open for a year and we just wanted to have beer and wine to accompany the meals because it would really help to serve the community and the tourists that come through, because a lot of people want that with their meals, and if they don't come to us they may go somewhere else if we don't have it.

CHAIR VIGIL: Is this restaurant across from the fire station.

MS. MENDEL: Yes, across from the fire station, yes.

CHAIR VIGIL: Anything else you'd like to add?

MS. MENDEL: No, that's all.

COMMISSIONER CAMPOS: Does she agree to the conditions?

CHAIR VIGIL: We were informed by legal that the conditions, we cannot place conditions.

COMMISSIONER CAMPOS: No conditions at all. Okay.

CHAIR VIGIL: Thank you. Is there anyone else that would like to address the Commission? My understanding and this will go to legal is that the only real benchmark that we have or reason to deny is the fact that this is within 200 feet of a school. Is that –

MR. ROSS: Church or school. Yes.

CHAIR VIGIL: And the closest church here, I don't know but I guess Turquoise Trail is the closest school. Where's the closest church here? Do we know, Jan?

MS. DANIELS: Madam Chair, Commissioners, St. Joseph's Church is 2.7 miles and Turquoise Trail Elementary is 10.35 miles. Kirtland Military Base is 55 miles from the restaurant.

CHAIR VIGIL: Does that meet the criteria?

MS. DANIELS: Oh, absolutely.

CHAIR VIGIL: Thank you.

COMMISSIONER SULLIVAN: Sounds like Madrid needs a church.

CHAIR VIGIL: What's the pleasure of the Commission?

COMMISSIONER ANAYA: Move to approve.

COMMISSIONER SULLIVAN: Second.

CHAIR VIGIL: Motion and second.

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

**XI. A. 4. Consideration of Ordinance No. 2007-11. An Ordinance Amending Article X of the Land Development Code To Amend the Definition of Community Water System and Include a Definition of a Water and Sanitation District; Renumbering Remaining Definitions (2<sup>nd</sup> Public Hearings)**

CHAIR VIGIL: Who will be taking this presentation? Is that you, Dr. Wust? I understand you'd like to speak.

STEPHEN WUST (Water Resources Director): Thank you, Madam Chair. This is primarily a clarification of the language. There's been a discussion with the Eldorado Water and Sanitation District about where they fall in terms of classification for requirements

in the Land Use Code when someone hooks up to an existing community water system. The portion that's really where the debate is, there's a place that specifies for a municipality or a County, a letter or service is required. For other water systems a whole bunch of other things is required. Legal worked on some language for the ordinance that would clarify those definitions within the Land Use Code in order to specify where water and sanitation districts fall within the various defining parameters of community water systems.

I would defer to Legal if you have some specific questions on the language and where it falls and things like that. But that's basically, it's simply a clarification to allow our water and sanitation districts to be appropriately placed within the defining definitions as interpreted by our Legal staff at the County.

CHAIR VIGIL: Thank you, Dr. Wust. Any questions of staff? Seeing none, this is a public hearing. Anyone who would like to speak to the Commission, please step forward. State your name and address. Be sworn in for the record. Is it only staff that's out there? Okay.

[Duly sworn, Jerry Cooper testified as follows:]

JERRY COOPER: Jerry Cooper, 17 Cato Road, Eldorado. I believe that you have received, Madam Chair and Board of County Commissioners, I believe you already received this letter. It was in your packet earlier on item 1. In the looking at the definitions, there's two classifications within this proposal and we object to being put into the community water system definition. We think that we should be in the other definition, the C-1, which the municipalities and counties. This will interfere with us doing many of our functions and so therefore being I believe the only water and sanitation district in Santa Fe County we think that it should properly belong in the first classification, namely C-1, and not the second classification, community water systems.

CHAIR VIGIL: Thank you, Mr. Cooper. Are there any questions?  
Commissioner Anaya.

COMMISSIONER ANAYA: So are you not a sanitation district?

MR. COOPER: We are.

COMMISSIONER ANAYA: Meaning sewer?

MR. COOPER: Water and sanitation.

COMMISSIONER ANAYA: But you do not have a sewer system.

MR. COOPER: That is correct.

COMMISSIONER ANAYA: But you still want to be –

MR. COOPER: The question isn't that. Within this regulation, this proposed ordinance, there are two locations. One is municipal and county systems, which is where we think we probably belong, and then there's a second one that is community water systems mutual domestic and that kind of thing which we think we do not belong in the second classification. This subject has come up many times. The reason is because of the requirements of those two. The requirements of the first one, in order to serve anybody, it's just to issue a letter of service. The second one, and then we have certain requirements that

have to be done that community water systems have to go through and supply all of the geohydrology reports, 100-year availability, etc., etc.

We do not think that water and sanitation districts under the state laws belong in the second group. We think they belong in the first group. That's what's stated in the letter to you.

CHAIR VIGIL: Mr. Cooper, are you with the water and sanitation district? Are you an officer, a member?

MR. COOPER: I'm an officer and a member of the board of directors.

CHAIR VIGIL: Thank you very much for clarifying that. I'd like some comment from our Legal with regard to that testimony. Is it appropriate for us to be classifying a water and sanitation district under a community water system? Does that conflict with state statute? What is the impact?

MR. ROSS: Madam Chair, our obligation is to ascertain whether a development has a 100-year water supply. So insuring that developments have a 100-year water supply we can impose, like we have, requirements for developers to meet before we approve those developments. That's what these are. What this particular ordinance does is say that when a developer proposes to supply the development with water from the water and sanitation district, they must supply the same things that a proponent of a community water system would supply. It's a range of items that enable our staff and you to determine whether that person can fulfill the requirements that we're required to make them fulfill of a 100-year water supply.

Given the fact that there's currently a moratorium in place on approval of developments that access this particular water and sanitation district it doesn't seem unreasonable to require that when such an entity is proposed to serve a particular development that a higher level of scrutiny be applied to those applications and that's what this ordinance does, consistent, in my view with state law.

CHAIR VIGIL: Okay. Thank you. Any further questions? Just to make sure, I think that's all the testimony we're going to be taking unless any of the staff members are here to testify on this. Doug, did you want to say anything?

COMMISSIONER ANAYA: So moved.

CHAIR VIGIL: Motion to approve this ordinance. Is there a second?

COMMISSIONER CAMPOS: To adopt the ordinance – I'll second it.

MR. ROSS: Madam Chair, if I might, there's three typos in the version that you have in front of you. I just wanted to point them out and we'll make sure we correct them. If you look down under Section 1, the quoted section there, immediately underneath Section 1 is an excerpt from the current ordinance with the cite amendments, the word community needs to be underlined. In the quoted section under Section 2 there, there's a closed parenthesis missing at the very end of that section. And then in Section 3, we need to capitalize the word water in the third to the last line.

CHAIR VIGIL: Okay. Does the maker of the motion accept those changes?

COMMISSIONER ANAYA: Yes.

CHAIR VIGIL: Does the seconder?

COMMISSIONER CAMPOS: Yes.

CHAIR VIGIL: Okay. Is there any further discussion on this?

**The motion to approve Ordinance 2007-11 passed by 3-1 roll call vote with Commissioners Anaya, Campos and Sullivan voting in favor and Chair Vigil voting against.**

CHAIR VIGIL: Ordinance passes 3-1. Now, Mr. Ross, I'm just going to ask before I dismiss this, did we handle every item? Because we jumped around so much.

MR. ROSS: Madam Chair, it looks to me like you covered everything on the public hearing section. We adopted the media ordinance. We tabled the first ordinance. We adopted the findings of fact. We adopted this ordinance we just did. We took care of the Garcia case, approved it, and the liquor license. We tabled Tavelli and had a tie on the Diamante Lumber. So it looks to me like you got it all.

COMMISSIONER SULLIVAN: Madam Chair, I had a question.

CHAIR VIGIL: Commissioner Sullivan.

COMMISSIONER SULLIVAN: On the ones that we tabled with no dates, does that remain tabled until it's brought back off the table?

MR. ROSS: Madam Chair, Commissioner Sullivan, under our rules of order it would come back at the next, in this case the next land use meeting.

COMMISSIONER SULLIVAN: So it comes back automatically.

MR. ROSS: Right. So that would be the first ordinance, the one that was tabled. The Tavelli and the Diamante Lumber, since it was a 2-2 tie and Commissioner Montoya was absent, it needs to come back for a vote only. So those would all come back on the next land use agenda.

CHAIR VIGIL: I'm sorry. Would you restate the one that will come back next time?

MR. ROSS: The lumber case, the lumber mill.

CHAIR VIGIL: Okay, and?

MR. ROSS: Since there was a 2-2 tie and one member –

CHAIR VIGIL: Right. I understand that. There was one before that.

MR. ROSS: The Tavelli's been tabled and then the first water ordinance, the community water and sewer ordinance. That was tabled. So that should come back at the next land use meeting also.

COMMISSIONER SULLIVAN: Madam Chair, I just think that rather than have it come back with no – with hearing the same arguments that we heard tonight, whether you agree or don't agree with them, I think it's useful if we have some recommended staff report at the next meeting. And if the staff were to feel that they could conduct a work

session that would address some of these issues that they be allowed to bring that forward and recommend another procedure. They spent a lot of time on this and we need to set some direction for water policy. So I would hope that the Commission would be open to a staff recommendation. Thank you.

**XII. ADJOURNMENT**

Chair Vigil declared this meeting adjourned at 9:00 pm.

Approved by:

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Board of County Commissioners  
Virginia Vigil, Chair

ATTEST TO:

VALERIE ESPINOZA  
SANTA FE COUNTY CLERK

Respectfully submitted:

Karen Farrell, Wordswork  
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