

SANTA FE COUNTY

REGULAR MEETING

BOARD OF COUNTY COMMISSIONERS

March 11, 2008

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

Members Excused:

Commissioner Virginia Vigil

V. INVOCATION

An invocation was given by Chaplain Jose Villegas.

VI. APPROVAL OF THE AGENDA

A. Amendments

B. Tabled or Withdrawn Items

ROMAN ABEYTA (County Manager): Thank you, Mr. Chair. Staff does have the following amendments to the agenda. The first being under X. Matters from the Commission, we added an item H, which is direction to staff to revert \$22,500 from fiscal year 07 discretionary funds to cash and secure funds in fiscal year 08 for the purpose of retaining economic, legal, bonding and/or improvement district consultants to advise Santa Fe County. Then, under Consent Calendar, XII. B. Miscellaneous, the resolution urging cooperation between Santa Fe County and the Bureau of Land Management concerning the archeological sites owned by the County and listed in the Federal Galisteo Basin Archeological Sites

Protection Act. We have received a request from Commissioner Anaya that that be moved under Matters from the Commission.

Staying with miscellaneous items, number 2, the request for amendment to the NCA contract to allow changes to the floor plan and exterior of the new judicial courthouse. We had to fix that amount to \$108,014.10. On page 3 of the agenda, item XIV. Public Hearings, A. 1, the Pojoaque Valley Traditional Community District Ordinance, that has been tabled by staff. And on the last page, page 4 of the agenda, item number 4, CDRC Case #V 07-5360, Paul and Mary Jo Parker Variance, we received a request yesterday from Jim Siebert, the agent, for Paul and Mary Jo Parker requesting that that item be tabled until April 8, 2008, to allow conversations between the Parkers and neighbors concerning commercial in that area. Those are staff's recommended amendments, Mr. Chair.

CHAIRMAN SULLIVAN: Thank you, Roman. Any changes from the Commission?

COMMISSIONER MONTOYA: Mr. Chair, move for approval as amended.

COMMISSIONER ANAYA: Second.

CHAIRMAN SULLIVAN: Motion from Commissioner Montoya, seconded by Commissioner Anaya.

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

VII. APPROVAL OF CONSENT CALENDAR

A. Consent Calendar Withdrawals

CHAIRMAN SULLIVAN: Do we have any Consent Calendar withdrawals? One of them will be XII. B. 1, which is the BLM resolution that Commissioner Anaya will present. Are there any other withdrawals? I'll withdrawn item XII. B. 2, that's the amendment to the NCA contract for the judicial courthouse, and we can combine that with a review of the courthouse design which staff wanted to do anyway. Any other withdrawals? That's XII. B. 1 and 2.

COMMISSIONER ANAYA: Move for approval

CHAIRMAN SULLIVAN: Seeing none, we have a motion from Commissioner Anaya for the Consent Calendar, less those two withdrawals. Is there a second?

COMMISSIONER MONTOYA: Second.

CHAIRMAN SULLIVAN: Seconded by Commissioner Montoya.

The motion to approve the Consent Calendar with the exception of B. 1 and 2 passed by unanimous [4-0] voice vote.

VIII. APPROVAL OF MINUTES

A. February 8, 2008 Work Session

CHAIRMAN SULLIVAN: I have one typographical change on that. Are there any others? Seeing none, what's the pleasure of the Commission?

COMMISSIONER CAMPOS: Move to approve with the one correction.

CHAIRMAN SULLIVAN: Motion for approval as amended.

COMMISSIONER ANAYA: Second.

CHAIRMAN SULLIVAN: Seconded by Commissioner Anaya; the motion is by Commissioner Campos.

The motion to approve the February 8th meeting as amended passed by unanimous [4-0] voice vote.

B. February 8, 2008 Special Meeting

CHAIRMAN SULLIVAN: I have a typographical correction on that one. Actually, a couple small ones. Are there any other corrections on the minutes of February 8th Special Meeting?

COMMISSIONER CAMPOS: Move to approve with the two typographical corrections suggested by Commissioner Sullivan.

COMMISSIONER MONTROYA: Second.

CHAIRMAN SULLIVAN: Okay. Motion for approval with the typographical corrections by Commissioner Campos, and then seconded by Commissioner Montoya.

The motion to approve as corrected passed by unanimous [4-0] voice vote.

IX. Matters of Public Concern –NON-ACTION ITEMS

CHAIRMAN SULLIVAN: Item IX is an opportunity for any person in the public who would like to make a brief comment – I emphasize brief, please - to the Commission. These are non-action items that are not included on the agenda. If the item is on the agenda we'll get to it presently. If it's not, feel free to come up and state your name for the record for the recorder and let us hear what you have to say.

DIANE WOOD: Good afternoon. Thank you very much for this opportunity. I am Diane Wood, director of the northern office of the American Civil Liberties Union of New Mexico. We have approximately 3,500 members in northern New Mexico. Most are residents in Santa Fe County that will be impacted by the St. Vincent Hospital partnership with CHRISTUS. The ACLU has been working in coalition with Southwest Women's Law

Center, NARAL Pro-Choice New Mexico, American College of Obstetricians, Gynecologists, New Mexico Section, Compassion and Choices of Santa Fe, New Mexico Religious Coalition for Reproductive Choice, Resolve, the National Infertility Center, Equality New Mexico, the [inaudible] Watch Project, and the National Women's Law Center.

Over the past month, our coalition of community organizations met with St. Vincent's Hospital board of directors, held a community and gathered over 700 signatures from concerned community members, all in an effort to get legally binding assurances that family planning services and end of life care would be provided under the proposed partnership with CHRISTUS. St. Vincent's continues to offer vague promises and refuses to share the language in their partnership document that they say will protect patients. We are not asking for a lot. We are simply asking that a community hospital share with the community the language in its partnership agreement that pertains to family planning and end of life care.

Because of St. Vincent Hospital's ongoing refusal to be transparent and to provide written, legal, binding assurances to the community, we are here today to ask our County Commission to obtain reassurances from St. Vincent's that the over \$9 million, almost 1/6 of our County's budget, matched with federal funds of \$30 million, be used to serve the healthcare needs of all of us. We urge you to devote a working session or a public hearing to this matter and ensure that the County's funds are being used as you and the taxpayers [inaudible] Thank you very much for this opportunity.

CHAIRMAN SULLIVAN: Thank you, Ms. Wood. Is there anyone else who would like to address the Commission?

MELISSA TRENT: Good day. Thank you. My name is Melissa Trent and I'm an active member of the Santa Fe Choice Action Team. I'm here today because NARAL Pro-Choice New Mexico is opposing the proposed partnership between St. Vincent Hospital and the CHRISTUS Health, and I'm here to ask that the County Commission use its authority to encourage St. Vincent to make its partnership agreement public. NARA: Pro-Choice New Mexico, in coalition with other organizations has repeatedly asked St. Vincent Hospital to share with the public the legally binding assurances they say are in the partnership agreements to ensure that family planning services will continue to be provided under the partnership with CHRISTUS Health.

If St. Vincent Hospital has nothing to hide why won't they share their partnership agreement documents with the community. Every year Santa Fe County gives millions of dollars to St. Vincent Hospital to provide care. Because St. Vincent receives this money it must comply with state guidelines that require family planning services to be provided. It's very important that before this County gives any more money to St. Vincent Hospital that we get legally binding assurances that family planning care will be still provided under the proposed partnership. Again, I ask that the County Commission uses its power as a key funder of St. Vincent Hospital to insist that this community hospital not only be open and honest with the community by sharing its partnership agreement, but also that the hospital continue to use County funds as they are intended to, to provide a full range of healthcare

services, including family planning. Thank you very much.

CHAIRMAN SULLIVAN: Thank you, Ms. Trent. Next speaker.

LINDA SIEGLE: Commissioners, Linda Siegle. I am a 27-year resident of Santa Fe County and I'm here to speak as an individual and as a representative from Planned Parenthood of New Mexico. Planned Parenthood of course has an office up here. And the Family Planning Act of nm requires that family planning services be available to indigents, and since you all, as the County Commission, through the sole community provider money and through your contract with St. Vincent's, we would hope that you would look at that contract to make sure that those services to indigent people will continue as they have in the past. And really, the only way to do that is through your asking the County to see that contract because apparently they are unwilling to show it to the other groups, all of us that have been involved in this.

As an individual I'm very concerned that we're losing control of our community hospital, one that one point had Catholic roots but has become a non-profit community hospital. The contract with – the merger, whatever it is – they call it different things – with St. Vincent Hospital, has a contract with the management. CHRISTUS will be providing the management for our community hospital, and we will no longer have much control over who the CEO is going to be and who the other top management. So I hope that you will exercise your power as County Commissioners and please take a look at this contract and assure that all the services – end of life - St. Vincent's provides domestic partnership benefits for its employees. We would hope that would continue. That the family planning services continue. And you all have the power to assure that. Thank you.

CHAIRMAN SULLIVAN: Thank you, Ms. Siegle.

DR. SCHMIDT: Hello. I'm Dr. Schmidt. I'm the local president of Compassion and Choices, and also a medical doctor. And we are of course very concerned about end of life issues. We should demand a written promise from St. Vincent that our advanced directives will be honored. We have not been assured this yet. We are also very concerned with the possibility that the board of St. Vincent might disappear altogether and then St. Vincent may no longer be a legal entity. So please, Commissioners, help us, that our end of life choices will be honored and that St. Vincent will continue to exist. Thank you.

SARAH COOK: I'm Sarah Cook and I'm on the board of Compassion and Choices and I live in District 4. Mr. Campos is my Commissioner. I'm here to express opposition on behalf of Compassion and Choices to the St. Vincent-CHRISTUS merger. I won't talk about a lot of things. I'm just going to fill in a few details, because I see your agenda is really full. I attended the meeting and spoke on behalf of 700 signatures from the committee, from our petition, opposing the merger on the basis of the fact that the same services will not be given as before. Now, why would this be? We asked St. Vincent's to put in writing what services are put forth now and what services would be provided after the merger. They refused to do that but in a letter back to our coalition they said, and this is a quote from their letter: As our proposed partner is an organization sponsored by the Catholic Church it is subject to the ethical and religious directive, and St. Vincent Hospital has agreed

to abide by those directives. It's the abiding by the directives that gives us great concern about end of life and also family planning issues.

Those directives are 72 rules that are set forth by the US Conference of Catholic Bishops and some of the pretty much – well, they do state that an advanced directive, the wishes of a patient or of a surrogate made incidental to an advanced directive, will only be honored so long as they aren't contrary to Catholic moral teaching. Well, the Catholic moral teachings say that life sustaining procedures shall be maintained pretty much at all times. If I have feeding tube, if I have hydration, and I would like to have that discontinued, that is contrary to Catholic moral teaching, and I can go on with more fine-tuned things.

What I want to give to you all is a copy of this petition which I'll give to all of you with comments. There's about 700 signatures here. They're from members of the community. We've taken out the out-of-state signatures so that they would be pertinent to us. So what we're asking you all to do, because we've been turned down, is to ask once again – we understand you asked once – for the contract, so that you can be sure that our \$9 million, out of our \$60 million budget, goes to a hospital that can provide services to the entire community. To make that request once again if you can. And then see if there's binding language in there that says all people will be served.

CHAIRMAN SULLIVAN: Just provide those to the Clerk if you like. She'll make sure that we get copies of them and that the recorder also gets a copy. Yes, sir.

SANDY CLARK: Good afternoon. Thank you, Commissioners, for the opportunity to share a personal view with you. I moved here 29 years ago because I wanted to be a part of a vibrant community in all areas of art and culture where respect for each other would be so important. I have been very happy here. I've been a taxpayer and I look with real pleasure, which is hard to do, I must admit, on contributing in my taxes to our regional hospital. I have been served there many times and have been very, very happy with the quality and kind of service I have received.

The imminent combination of the hospital with CHRISTUS is what concerns me and concerns me personally, because although I may not look it I'm in my nineties and I don't have a hell of a lot of years left. And I feel that I am competent and will remain competent to make my own decisions about how I want to live. I've done it for all these years and I continue to want to do it. I do not place my decision in the hands of other people. I make my decisions and take what comes as a result of whether they're right or wrong.

The hospital has always had a written policy which enables me to feel that way. I could walk out at any time. But I find something now that is very distressing to me, and it is the fact that I may not be allowed, when my time comes, to die as I wish to die. I'm not asking the hospital for euthanasia. But I am asking them to allow me to decide when and how I will die of my condition is indeed terminal. I find that the arrangements that have been made among the hospitals in which CHRISTUS has been involved, that it would not be possible for me to deny taking any form of food or water so that my end may come more quickly in the event that I am in great pain. And I'm very concerned about that.

Inquiries at the hospital have been evasive and I get the impression that the

archbishop is going to make these decisions. I thought I was going to a community hospital, not a hospital in which only those espousing Roman Catholicism are happy. I want to be in a hospital. I want to be in a hospital in which my values will be respected, in which my maturity will be respected. And if I want to die in a way that will hasten my death, I'm not asking the hospital to do anything for me, that they are not going to put tubes into me as I gather they intend to do to keep me alive as long as possible if I want it or not.

This is insufferable. This is no longer a matter of respect for my values, and I ask the Commissioners who are dealing with my tax money to bear this in mind and to get assurances, not just verbally, but written assurances from the hospital that my wishes, when I'm on my death bed will be respected. Thank you very much.

CHAIRMAN SULLIVAN: Thank you. Mr. Clark. How many others do we have this afternoon that want to address the Commission? Last one? Thank you. Oh, I see a hand way in the back.

NORMAN BUDOW: Good afternoon, Commissioners. My name is Norman Budow and I to thank you Commissioners for allowing us a chance to give our position and why our position [inaudible] First of may I say I'm concerned about the merger for this reason. I want to see a contractual agreement. I want to see it in writing. There's a reason why. I'll give you a little anecdote which will tell you why I want to see it in writing. For 32 years – by the way, I work as a volunteer on Fridays at the State Agency for Aging and Disability, and I was in the hospital on October 17th for an operation. So I do have concerns for whole health issues. The situation in effect requires unfortunately a certain amount of, well, trust. Remember, some politician once said, Trust but verify. And contractually, it would be very comforting to see that.

I'm also a member of Compassion and Choice. For 33 years I was a college professor of sociology and American history, and one of my colleagues wanted to go to law school. This other professor asked the president of the college will this count towards professional advancement and growth. And he said, not to worry, not to worry. It certainly will. He went through, got his law degree. We didn't say that. We didn't mean that. So there is a real concern if you don't see it in writing, does it truly, truly exist? If the acorn falls in the forest and nobody heard it, did it truly fall? I would like to see them, that we have an agreement and I cannot see any reservation or care about why. Literally a contractual agreement to in effect comfort people who are concerned with the issue.

CHAIRMAN SULLIVAN: Thank you, Mr. Budow. I think it was President Reagan who said that, by the way.

ROBERT ANAYA: Mr. Chair, Commissioners, I'm not here to speak on the merger issue, but my name's Robert Anaya and I am going to say that I'm happy that the hospital that's been referred to is taking good care of somebody I care about very much right at this moment. I'm not pro or con relative to the merger, but my comments are here on behalf of the New Mexico Department of Transportation relative to the Rail Runner program and relative to the ongoing work that we're doing on the project and to express that we've been working full speed with the staff at Santa Fe County, Mr. Chuck Vigil, Mr. Romero,

who is going to be, my understanding, taking Mr. Vigil's place in participating in our ongoing discussions relative to the project, the Rail Runner project, as well as communications that have been expanded and opened up with Mr. Martin Vigil of your emergency services staff, as well as communication with the Sheriff's Department and their staff.

The DOT wants to maintain and expand that communication, not only in regards to the Rail Runner but also expand the communication in regards to other projects that come before Santa Fe County. Thank you, Mr. Chair, for your time.

CHAIRMAN SULLIVAN: Thank you, Robert. Commissioner Anaya.

COMMISSIONER ANAYA: Robert, questions. If you could take back – I know I had a discussion with Secretary Faught about Representative King wanted to put some speed signs or speed lights in Stanley and I had a conversation with Secretary Faught and she said she was going to look into that. If you could touch base with her on that. And then the intersection in the Village of Galisteo where 41 and 42 meet, they were going to meet with the County and put something together where we could sit down and figure out how to make that intersection safer or – so if you could bring that back up to Secretary Faught. And she'll know exactly what I'm talking about.

MR. ANAYA: Be happy to.

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

CHAIRMAN SULLIVAN: And just for clarification, Robert, you're representing DOT today?

MR. ANAYA: Yes, sir, Mr. Chair, representing the New Mexico Department of Transportation.

CHAIRMAN SULLIVAN: Okay, and you've been working on the Rail Runner?

MR. ANAYA: I've been working on the Rail Runner and other projects relative to community relations and expanding our relationship with local governments like yourself.

CHAIRMAN SULLIVAN: All right. Thank you very much. Let me recognize a couple of distinguished gentlemen we have in the audience today. I see Judge Hall and Judge Pfeffer here. I'd like to acknowledge you back there. Thank you for being here. One thing that I might suggest to the Commission, we have two items we have on the Consent Calendar. One has to do with special changes that are being suggested to the judicial court building. That was item B. 2, and another has to do with a resolution urging cooperation between Santa Fe and the Bureau of Land Management regarding archeological sites in the Galisteo Basin. And Commissioner Campos has to leave for a short period beginning around 4:25. He also has three items under Matters from the Commission, A, B, and C. I'm thinking, depending on how long these items might take, that we might move B. 1 and 2 and deal with those now and then go right on to A, B, and C, Matter from the Commission. Does that look to be okay with everybody? Commissioner Montoya, are you okay with that?

COMMISSIONER MONTOYA: It doesn't matter.

CHAIRMAN SULLIVAN: Commissioner Campos.

COMMISSIONER CAMPOS: It's fine with me.

XII. B. 1. Resolution No. 2008-36. A Resolution Urging Cooperation Between Santa Fe County and the Bureau of Land Management Concerning Archeological Sites Owned by the County and Listed in the Federal Galisteo Basin Archaeological Sites Protection Act (Legal Division)

COMMISSIONER ANAYA: Thank you, Mr. Chair. I'd also like to recognize the Honorable Linda Rendell, the state director of BLM here in New Mexico, and she's back there with Teresa Herrera. If you could both come forward while we discuss this issue, this is a resolution urging cooperation between Santa Fe County and the Bureau of Land Management concerning the archeological sites owned by the County, and I believe we own three sites. And that is to work in cooperation and to try to preserve these sites. The sites that the County owns is La Cieneguilla Petroglyphs, the Lamy Junction site, and Petroglyph Hill.

I'm all in favor of working in partnership with anybody and I'm just happy and glad that the director is here to help us with this and I'm going to turn it over to Steve Ross so he could kind of clarify exactly what this resolution is. Steve.

MR. ROSS: Thank you, Mr. Chair, Commissioner Anaya. As the resolution states, there's a federal statute called the Galisteo Basin Archeological Site Protection Act which was enacted, I think, in 2004 by members of the New Mexico congressional delegation. And it designates a number of sites, probably 15 sites in the Galisteo Basin and sets those sites aside for special protection and among those are the sites Commissioner Anaya, that you just referred to. The Lamy Pueblo, the Petroglyph Hill and the La Cieneguilla Petroglyphs. The County owns the land where the Lamy Pueblo and Petroglyph Hill are located and we have land very near the La Cieneguilla Petroglyphs.

The act provides for a number of things, one of which is an extensive study by the Department of Interior and a report back to Congress concerning things that can be done to identify, research, protect and interpret all of these various sites. But for purposes of today's resolution, the relevant part of the statute permits the Secretary of the Interior to enter into cooperative agreements with private or in this case public owners of sites listed in the act to provide for enhanced joint protection of those sites, and that is what the resolution calls for. It calls for the County staff and the BLM folks to sit down and hammer out such a cooperative agreement with respect to those three sites.

COMMISSIONER ANAYA: Thank you, Steve. I also want to recognize Amy Tremper who brought this to my attention. Linda, would you like to comment on this agreement?

LINDA RUNDELL: Certainly. Thank you, Commissioner. I appreciate the opportunity to address the County Commission. I have reviewed the resolution as it was

written and it certainly appears to be a very appropriate vehicle to further cooperative relationships between the County and the Bureau of Land Management and we would be more than pleased to enter into such an agreement as such time as we can work out the details.

COMMISSIONER ANAYA: Thank you very much for being here. Move for approval.

CHAIRMAN SULLIVAN: Okay, we have a motion from Commissioner Anaya for approval of resolution 2008-36. Is there a second?

COMMISSIONER MONTOYA: Second for discussion.

CHAIRMAN SULLIVAN: Second from Commissioner Montoya, discussion on the resolution.

COMMISSIONER MONTOYA: Mr. Chair, Commissioner Anaya, what if at all is there any relation to the ordinance that we're working on with the oil and gas in relation to this? Will this impact the development of that ordinance in any way?

COMMISSIONER ANAYA: I don't think this has any relation to the oil and gas. And Steve, correct me if I'm wrong.

MR. ROSS: Mr. Chair, Commissioner Anaya, at least on the current draft of the ordinance, sites identified in this act are off-limits for drilling. So it doesn't connect directly but –

COMMISSIONER MONTOYA: It indirectly does.

MR. ROSS: Indirectly, they are related.

COMMISSIONER MONTOYA: Okay. That's the only question I had.

Thank you.

CHAIRMAN SULLIVAN: Other questions? Commissioner Campos.

COMMISSIONER CAMPOS: Any fiscal impact on the County? Is this going to cost us any money? How much?

MR. ROSS: Mr. Chair, Commissioner Campos, unknown. We'll have a staff review of the situation but certainly if we have a cooperative arrangement with the BLM there's a potential to bring federal money to these sites for their protection. But Ms. Rendell I'm sure has better command of that than I do.

COMMISSIONER CAMPOS: Well, the question is what if anything will it cost the County? That's what my concern is. What will – how will it affect our budget?

MR. ROSS: Commissioner Campos, I don't think we'll know until we start the negotiations. Right now I believe the sites are just unprotected by the County. So I think the goal of any agreement would be to see if those sites can be protected and the cost would follow.

COMMISSIONER CAMPOS: I would like to know what the costs for the protection are going to be, the expenditure of any funds related to this resolution.

MR. ROSS: Mr. Chair, Commissioner Campos, I think any cooperative agreement will come back to you for approval.

COMMISSIONER CAMPOS: Okay. At that point we'll have the

opportunity to discuss those issues?

MR. ROSS: Yes. Correct.

COMMISSIONER CAMPOS: Thank you, Mr. Chair.

CHAIRMAN SULLIVAN: Other discussion?

The motion to approve Resolution 2008-36 passed by unanimous [4-0] voice vote.

XII. B. 2. Request Approval of Amendment No. 3 to NCA Contract # 27-0701-PFMD/MS to Allow for Changes to the Floor Plan and Changes to the Exterior of the New Judicial Courthouse in the Amount of \$108,014.10 (Community Services Department) [Exhibit 1: Summary of Changes and Renderings]

CHAIRMAN SULLIVAN: We'd like to have a little discussion about what this entails and any other comments that staff feels are appropriate with respect to the courthouse and of course any comments from Judge Pfeffer or Judge Hall would also be welcome. Judges, feel free to come up, if you'd like and participate.

JOSEPH GUTIERREZ (Community Services Director): Mr. Chair, in front of you today for your approval is an amendment – amendment number three for NCA. The basis for the increase of approximately about \$100,000 is for two items. Approximately \$23,000 represents a programming change by the judges in terms of office space and flow of people and rearrangement of some of their not court rooms, basically office space and clerical functions/administrative functions doorways and those types of things. This occurred approximately about two months and this occurred after the programming changes had been signed off. They were significant enough that there is was extra time needed and it was approved by staff in order to meet the needs of the judges. After it was completed and the programming had been signed off, it was reviewed and there were some improvements that could be made. So, that represents about \$23,000.

The other additional charge is about \$73,000 and those charges are incurred due to the changes that we've gone through in terms of the gyration of how the courthouse will look and to put a timeframe in your mind, the timeframe or the time that we started when we went out to the public was in early September, in terms of taking public comment, because at that point we had gone through the programming and we had a vision of what the exterior would be like. From September to now, which is almost seven months, we've gone through different gyrations of how the courthouse might look and with all those changes there were costs incurred by the architect in terms of direction that we gave them to accommodate the changes through our public meetings and to bring the building into a more – what you'll see today is a more territorial, true territorial, reflection of this building.

Again, we received these drawings, the latest version, this morning we reviewed them. We reviewed them with the judges and I think at this point I would like to turn it over to Mr.

Calvani and John Layman who are with NC Architects and they can walk you through the changes. And, again, all of these changes have occurred if you think of the timeframe from September through today with what I think we've had three or four or five public hearings, public meetings. We also had one extensive meeting with a group of local architects which took place on February 7th and the latest rendition of what you see was the suggestion of these local architects. So we're bringing you this for information. But this represents the additional charges by NCA that were incurred up to this point.

I'll turn it over to Bob and his team.

BOB CALVANI: Mr. Chair and Commissioners, as you know we were hired back in January of '07 and since that time we've done a number of schemes. And as you'll remember as Joseph said in September through January we have had four public meetings and then last on February 7th we had another meeting. And, we hope that we have addressed almost all of the concerns from the public in this latest rendition that we'll show you today. Today we're going to kind of go through a chronology of the various schemes that were produced our firm and our engineering group. But as you'll see we've gone through a number of things. We met a number of the parameters for the building which were security, providing the number of courtrooms that were needed for the court now and in the future, parking and being as of today, we are still on schedule. We are within budget and we are proceeding but I wanted John Layman to kind of go through the variations that we've done for you through these many, many months and meeting with the public. And, again, what we show you today is the result of those meetings and meeting some of the concerns that the public has had.

So, with that I'll let John just give you a little chronology of what's happened.

JOHN LAYMAN: Thank you, Commissioners. This is what you have – what was handed out includes all the boards that you're going to see right here. As Bob mentioned we have gone through several changes in the project. But the original design with is the first board here and your first picture in the handout indicates a four-story around 79-foot tall structure for the courthouse. This included obviously the 12 courtrooms inside and had battered walls and deep recessed windows and kind of had a neo-pueblo design to it. After further discussion with the owner and the users, the next board kind of went a little territorial but the big thing is that we reduced the height down to a 64-foot high building from the 79 foot. We eliminated the battered walls and introduced some brick material in the cornice design to kind of come to some sort of territorial design. We also eliminated quite a bit of the metal and the aluminum material that we had in the first design.

Then from September 13th to January 25th we had several meetings with the community, local architects and historic board and – these were changes prior to our meeting with the public – from September 13th to about January 25th we had several meetings and the consensus or what we talked about with the community and the local architects is that the first few designs just weren't quite there. We really worked with them on squaring up columns and creating a colonnade along Sandoval Road or Sandoval Street, and maybe changing out the bricks to another material and reducing some of the window sizes and also reducing the height of the building. Through these meetings we came down to a 48-foot high

three-story structure with a 52-foot high roof area above only the courtrooms on the third level. That area is set back about 20 foot from the perimeter face of the building. So there is a setback – the building itself would appear to be the 48-foot. We've further formalized the plaza, which you can see, which is illustrated by the portals and the shaped structures.

We moved the mechanical unit from the rooftop to the basement which allowed us to reduce the height of the building structure. This was met with some good feelings by the committees and we went with it and it became kind of a classical design. That was then presented on January 25th to the different groups that we have met with. The last meeting was on February 7th and we met with local architects and the Historical Board members as well as the owners. The consensus from this meeting which you see on your handout on the second page under February 7th was that we really needed to go to more of traditional territorial design which I think we've accomplished with the brick wainscot, the brick cornice, and the coping detailing. We also re-looked at the entry structure and how to make that a little more symmetrical with the door entries and how that comes in under the structure above. The consensus at that was to remove the pilasters. Which were along Sandoval Road.

Remove the stone base and introduce the brick wainscot. We looked at the windows and made them smaller in size by implementing the muntins or the frames of the windows and making them smaller in appearance. You can see that in this – the top view there is looking back along Sandoval Road where we have the pedestrian access route which is covered by colonnade which again allows for another set back of the building.

With all of these changes we think we've come up with the scheme that we will present to the local architects again when we present our 50 percent submittal. And, I think that's it. I could talk about some efficiency, energy efficiencies or answer questions.

CHAIRMAN SULLIVAN: Are you still in the schematic – would you say you're in the schematic stage?

MR. LAYMAN: No, we're in working drawings and that's why the amendment is such that it is. And you Commissioners are probably aware that there are two architectural firms, structural engineers, mechanical and electrical engineers – the costs that is within those amendments is because we are in working drawings and because those working drawings were pretty much towards 50 percent is why they're going to be like the wall sections on the exterior of the elevations – are going to be scrapped and redone to bring about this scheme that you see today. You can see all the different schemes that happened in various stages and I think that the courts, the County, and the AE team has worked pretty well with the community in coming up with something that will be a benefit to Santa Fe and Santa Fe County. But to answer your questions, no; we are in working documents.

COMMISSIONER MONTOYA: Mr. Chair.

CHAIRMAN SULLIVAN: Commissioner Montoya.

COMMISSIONER MONTOYA: What will that do in terms of the reduction of the size of the windows, I mean in terms of the green LEED –

MR. LAYMAN: We will still be LEED certified.

COMMISSIONER MONTOYA: It will still be LEED certified?

MR. LAYMAN: We're still going to meet the LEED and it'll still be energy efficient, still have day light and things of that nature but I think that the changes that we made not only keep the LEED certification, keep it energy efficient but meet the needs of the community and their concerns with not only the height but the aesthetics of the building. I don't know if you wanted the judges to speak now. We presented to them today this latest scheme and they could comment on that as well.

COMMISSIONER CAMPOS: Mr. Chair.

CHAIRMAN SULLIVAN: Commissioner Campos.

COMMISSIONER CAMPOS: I'm sorry, you still have the floor.

COMMISSIONER MONTOYA: I just had one comment also and that's the stages went from a pretty remarkable looking building to kind of a sterile institutional type –

MR. LAYMAN: Well, it's traditional, territorial and looks a lot like the buildings in Santa Fe and through all of the meetings with the community that's pretty much what it ended up to be. As you can see we went through different variations with community input and amazingly enough, that's pretty much what the community wants and feels like would be representative of what should be in Santa Fe.

COMMISSIONER MONTOYA: Thank you.

CHAIRMAN SULLIVAN: Commissioner Campos.

COMMISSIONER CAMPOS: I too am very disappointed in the outcome of this last proposal. It is very boring. It is very uninteresting. It is not what architecture is supposed to be. We're not a dead community. I understand all of the political pressure that you've been put under by so many people but this is unsatisfying as far as architectural work. I know it's not your fault. I know that you tried to work politically with other people who think that this is what Santa Fe style is and this is what we need.

I really have to think about this very carefully before I would consent to it.

COMMISSIONER MONTOYA: Me too.

COMMISSIONER ANAYA: Mr. Chair.

CHAIRMAN SULLIVAN: Commissioner Anaya. Yes, judges we will get to you. I think we have provoked some –

COMMISSIONER ANAYA: I was happy with the first drawing. Then I was happy with the second drawing. And I was happy with the third drawing. And these are what the fourth or the fifth?

MR. LAYMAN: These are somewhere around there.

COMMISSIONER ANAYA: I was happy with the fourth drawings and then I look at that building and it's like looking at every other building here in Santa Fe and there's nothing that really sticks out and says That's a different looking – it's something different.

MR. LAYMAN: Mr. Commissioner, I can assure you that our design team as well as Duran in Arizona were always trying to do something a little different we are pleased with this. We aren't as pleased as we were with some of the original designs but it meets the needs of getting the project done and built. I agree with you that – I think it's a good workable building. I think it'll fit within Santa Fe. But you're right we were a little disappointed in some

of concessions that were made but they were made to get the project –

COMMISSIONER ANAYA: And I can understand that we're trying to work with the community.

MR. LAYMAN: Right.

COMMISSIONER ANAYA: Or are we trying to work with five people here? Not this five people, but other five people. And I can understand their concerns but when do we stop going back to the drawing board and – like I said I look at that and I look at just like every other state building looks just like that. I wanted something different and you had it. You all had it. I met with Paul Olafson six times already and he showed me one and I'd say Yeah, good let's go build it, the judges are waiting. Our number one priority is safety and the longer we put this off, something could happen.

I know it's not your fault. It's maybe our fault. And maybe we need to pick a plan that we like and say build it. Thank you, Mr. Chair.

CHAIRMAN SULLIVAN: All right, Commissioner, I think that's fairly clear.
Judge Hall.

JUDGE HALL: Thank you members of the Commission. I haven't been here in a few months but as you can see a lot's been happening. Before I comment I want to thank you all with your efforts with the public generally as it relates to this project. I know a number of you have been involved in discussions or reaching out to the public to express the importance of this project. And I want to start just by thanking you for that.

The other thing I want to touch on before I talk about the building itself is the inside of the building because there's been a lot of discussion about the appearance and the outside of the building. But obviously the inside of the building is very important to us. Joseph mentioned changes that were made to the interior design of the building. I think \$24,000 of charges there. I do want to let you know that I think those are very important for the function of the building. They all relate to the efficiency and one I might point out that I think is particularly important is that as you know this building is set up with eight courtrooms and then two hearing rooms on of the things that we worked with the architects on was to expand the size of the hearing rooms so that in future they have a lot more flexibility as to how they could be used either with judges or with hearing officers. Those types of steps regarding the interior of the building are really important to us and I want you to know that we think we've made a lot of progress on that. I don't want everyone to forget about the inside of the building as we talk about the outside of it.

As it relates to the design process we have been through quite a bit over the last six or seven months. And, you know, I'm going to tell you I probably talked to more people than anyone about what they think about this building and there are opinions all across the board. I don't doubt that. There are differing opinions even internally amongst judges as to which design looks better. Those kinds of differences and disagreements I think happen and I don't think we're going to find a design that everyone says that's perfect and that's the one we want.

What we have tried to do is to work hard to have a process that takes input from the community. I think we've received input from the community. I don't think it's just been a

few dissatisfied folks. I think it truly has been across the board and we worked hard to work with that. We truly have in an effort to get some level of consensus and you know whether you like the final design or not, I guess I would say that I hope you will respect the process that we've gone through to get here. Personally, I like several of these designs including the last one. Does it have a lot of similarities to buildings, state buildings in Santa Fe? Of course it does. But there's a small strong voice in the community that feels like that's important. Is it the very first choice I would have made out of all of these design? Maybe not. But I do think it's important that we respect what's been provided.

The important thing from our standpoint is that we reached this point without sacrificing the function of the building and obviously there are a lot of people that were concerned about the size of it. We can't reduce the size any more and have it be a functional building. So to the extent we've been able to address other concerns without giving up on the function of the building we have tried to do that. The judges today, we saw these for the first time today, we looked at them and this more pure territorial design is acceptable to us. We are willing to move forward with it but that's our view because as everyone has said, we need to move forward with a functioning building and we tried to do that through some spirit of cooperation. Like I said, it may not be all the judges' first choice but we do think it's important that the project move forward and we do want to respect the input that we've received from the public.

I'll leave it to you as to how you want to proceed from here but that's how we've reached the point that we're at and obviously we're very interested in seeing the matter move forward. I'll be happy to stand for any questions that you might have in connection with this.

COMMISSIONER ANAYA: Mr. Chair.

CHAIRMAN SULLIVAN: Commissioner Anaya.

COMMISSIONER ANAYA: Thank you, Mr. Chair. Judge, I'm not saying that we didn't work with the public. I'm glad we worked with the public. But at what point do we stop? If you all are happy with that then I'm for moving things forward. I want to see things happen. We've come a long way and if the judges are okay with that. It has to okay with the Commission. I personally don't like the way it looks but I think I can get used to it.

CHAIRMAN SULLIVAN: That's because he lives in Galisteo. [laughter] Any other questions for Judge Hall? Commissioner Montoya.

COMMISSIONER MONTOYA: Judge Hall, regarding the internal design changes that you mentioned, it doesn't change in terms of your office space, any of that – what you had referred to earlier?

JUDGE HALL: Mr. Chair, Commissioner, it modifies things as far as the use of the building. Frankly, we think it's more efficient. We were able to find spaces for some additional offices and then make better use of the spaces. In terms of the overall offices I think we actually increased by a couple of offices by moving things around. But we think that's important for the function of the building. It doesn't change the overall size of the building.

COMMISSIONER MONTOYA: Now if we were to go to a different design, like one of the previous designs does that change the internal design again?

JUDGE HALL: The architects can tell you in this list or this set that they just presented in that the last few designs, they can give you specifics, have the same internal layout. It does, I've learned, it does affect the preparation of the drawings of the building when you even change the exterior slightly. I'm not saying that very clearly, Commissioner, I apologize for that, but they do have to go back and redraw things as it relates to the walls and the exterior structure and that's part of the reason that they've included this additional funding. But as far as the room themselves they have stayed the same through the last couple of designs that have been presented.

COMMISSIONER MONTOYA: Okay. Thank you, Judge. Thank you, Mr. Chair.

CHAIRMAN SULLIVAN: Just to add some comments of my own here. I'm also disappointed in what we've come to here. I look particularly at that drawing on the bottom there – we've been trying to reduce the impact of the height and I think by making it that very severe territorial design we've accentuated the impact of that height. I think it's quite frankly a dumbing-down of what was previously a pretty good design and probably what we should have expected when you design by committee – you've seen the cartoons about that. But, again, not to disparage the process of where we've had this input and the judges, particularly Judge Hall, have spent even yeoman's time on this up to now, or the architects who have been charged with trying to distill all of these comments into something that makes a courthouse building. I think we've gone too far, personally. I don't know what to tell you. I think that we need to approve the amendments that pertain to the interior renovations for certain because those are programmatic things that have apparently been worked out carefully. I personally think Scheme D which we have there, there's two sheets I think that show that, did a very good job of incorporating a brick coping at the top which gave it some territorial look but added some – a little something different, a little evolution in territorial. This reminds me of the supreme court building except just higher. It does; it looks almost identical.

Personally, I'm just not enthusiastic at spending \$55 million on this. Is that the current budget, Joseph?

MR. GUTIERREZ: Mr. Chair, members of the Commission, the current budget is \$55 million as the architect said. We're currently still on budget. I think we're at a critical decision point because as I mentioned before we've spent seven months on this process and the team is ready to move forward. We're ready to break ground this calendar year. We definitely want to break ground with this Commission and take the construction agreement to be approved some time in September or October. So right now we're at the point where we need to make a decision on the design. I think that all of these designs will probably still work from the architectural team and still probably be plus or minus with the \$55 million at this point but I do know construction costs will go up and we need to finish this design as soon as possible to meet groundbreaking before the end of this calendar year.

CHAIRMAN SULLIVAN: I appreciate that and what you're saying is that the buck stops here and we've got to provide some positive direction to the design team and that's why we get paid the big bucks up here is to do that.

COMMISSIONER ANAYA: Mr. Chair.

CHAIRMAN SULLIVAN: Commissioner Anaya

COMMISSIONER ANAYA: Which one was D?

CHAIRMAN SULLIVAN: D as in David. Do you see D there?

COMMISSIONER MONTOYA: I agree with you on D. I have a question. If we were to go to D, what happens?

MR. GUTIERREZ: If we were to go to D, I'll let Bob explain it, but I think that there will be some more changes. I don't think from a timeframe in terms of what we're presenting today that there would be any delays on that. I imagine there might be some cost considerations at this point but I don't see that as being significant. But I'll let Bob explain that.

COMMISSIONER MONTOYA: It's already been designed for D and then changed so couldn't we just go back one step instead of starting all over again?

MR. CALVANI: Scheme D had some higher elements. There were some mechanic spaces up on the roof. There were some vertical circulation spaces that were reduced and this is Scheme D where you have these high spaces and things. It did have a nice rhythm along Sandoval but it did have a lot of glass on the east that the citizens really took objection to – there was a large kind of cap –

COMMISSIONER CAMPOS: Some citizens, you're not talking about all citizens.

MR. CALVANI: Right, right, I understand. I saw your editorial on that and I enjoyed that. There was the entranceway – there were a lot of comments but it was a good solution as well. One of the big issues about that scheme was the glass on the east end and the height we had the mechanical spaces and the vertical circulation.

COMMISSIONER CAMPOS: Mr. Chair.

CHAIRMAN SULLIVAN: Yes, Commissioner Campos.

COMMISSIONER CAMPOS: I would just suggest as far as proceeding that we make a decision at the next meeting. We've wasted – we've spent enough time. I agree that the process was a good one. I think it was good to go out and get input from the community. Functionality is excellent. Energy efficiency I think is going to be state-of-the-art. The architecture, the appearance itself needs some work and maybe we can – there seems to be some consensus around D and maybe we can modify a little bit based on what we've learned since or some adjustments that may be necessary to use Scheme D. And, maybe we can look at that in the next couple of weeks and make a decision at the last BCC meeting of this month.

CHAIRMAN SULLIVAN: Is there anything between D and this latest one – what is that one? Is that D modified? That's E – what's E?

MR. CALVANI: E was somewhat of a territorial style and then the one that you see below which was another modification was more of a classical design with the cornice and things like that.

CHAIRMAN SULLIVAN: Do we have a picture of that in our packets?

MR. CALVANI: You should.

CHAIRMAN SULLIVAN: Yes, which one is that?

MR. CALVANI: The one right before the territorial –

CHAIRMAN SULLIVAN: That's the last one that doesn't have a number on it. Okay. I don't have heartburn about cutting off the mechanical and those types of things.

MR. CALVANI: To lower the building we took the mechanical and –

CHAIRMAN SULLIVAN: I understand. When I personally said D, this one that follows D, let's call it E, I think was another iteration. I don't have a problem, myself, with that either. I think it looks more interesting. The glass is reduced considerably from D.

MR. LAYMAN: Mr. Chair, if I could just make a comment. That one you're calling E is dated January 25, 2008, that took into account all of the concerns about height. So this one dated 1/25/2008 which you're calling E, basically has the same interior design. The mechanical stuff has been taken off the roof. The height has been brought down to the extent we were able to without having to addressing the function.

So in terms of the present designs, that is much closer to where the present drawings are.

CHAIRMAN SULLIVAN: The one that at the bottom right hand corner that says 1/25/2008?

MR. LAYMAN: That's correct. That was a version after we had addressed many to the extent we could, the issues related to height.

CHAIRMAN SULLIVAN: And the big difference in that seems to be a large change in the glass also.

MR. LAYMAN: Correct.

CHAIRMAN SULLIVAN: Excuse me, Commissioner Campos, I think you still had a comment.

COMMISSIONER CAMPOS: That's fine. The version dated 1/25/08 also seems to be a nice version. Something that would be acceptable and something that I think is worth reviewing it during the next two weeks and making a decision at the last meeting for the BCC this month.

CHAIRMAN SULLIVAN: Is it the consensus, let me ask the Commission, that we could authorize the amendments that Judge Hall referred to not to exceed \$24,000 for the interior changes which have already been made, the programmatic changes, as is my understanding and then come back at the administrative meeting for a final wrap-up with the obvious direction it looks like something very close to the drawing dated January 25, 2008 seems to be more acceptable to the Commission than this current rendering dated March 10, 2008. Is that – am I getting the sense? Commissioner Anaya.

COMMISSIONER ANAYA: Mr. Chair, I like that design but I also like the rock that they put on the first design and I don't know how you all feel but I would –

CHAIRMAN SULLIVAN: Now which one are you referring to?

COMMISSIONER ANAYA: This is the first picture where they had that rock – I think it's dated 10/18/2006. That one.

CHAIRMAN SULLIVAN: I don't have one dated – oh, here it is. Oh, back in 2007. Some rock out in the front there the pilasters.

COMMISSIONER ANAYA: I'd like to see that in that.

CHAIRMAN SULLIVAN: They went to more conventional kind of squared-off columns is what I think Mr. Calvani was saying as opposed to that concept.

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

CHAIRMAN SULLIVAN: Okay. I thought that first one was very interesting as well.

COMMISSIONER ANAYA: It took in Campos' solar, changed it up a little bit, made it different and –

CHAIRMAN SULLIVAN: I think the back structures were a little bleak in that one and needed some more work which the architect did.

COMMISSIONER ANAYA: Well, if we could incorporate some of that rock work in there.

CHAIRMAN SULLIVAN: Okay. Any other comments or suggestions? I'm just trying to arrive at some direction here for the architect and the staff. We're at a decision point. We either roll with this territorial version or we backup a little to the January scheme and massage that. Commissioner Campos?

COMMISSIONER CAMPOS: I would go along with that direction the one as summarized by the Chair saying that we work with 1/25/08 version.

CHAIRMAN SULLIVAN: Massage that a little bit.

COMMISSIONER CAMPOS: Commissioner Anaya would like to have some additional rock and maybe they can look at that too.

CHAIRMAN SULLIVAN: Okay, I think getting as much of a consensus as I can get here, I think we do have a strong feeling of where we would like to be. I would like to, with regard to this item on the agenda, perhaps get a motion that at least relates to the change order for the interior changes which as I understand it is – shall we say not to exceed \$24,000.

MR. GUTIERREZ: Mr. Chair, members of the Commission, right. The programming has taken place, but also the \$70,000, most of that work has already been incurred also and is reflected in all of these changes and we're asking the architects, which they will do, and go back and make one more change. It would be the preference of staff that –

CHAIRMAN SULLIVAN: Oh, I see. I misunderstood. I thought those changes were for the mechanical and the walls sections and everything that had to be done if we went to this new version.

MR. GUTIERREZ: It has already incurred and it reflects both of those the exterior and the interior. I'll let Bob explain that but what I'm saying is that those costs have been –

COMMISSIONER MONTOYA: It's all part of that \$108,000.

MR. GUTIERREZ: Exactly, exactly.

COMMISSIONER MONTOYA: I move for approval of the \$108,014.10.

COMMISSIONER CAMPOS: Second.

CHAIRMAN SULLIVAN: Motion and second. Do we want to include in that motion some direction to massage or work with the January scheme?

COMMISSIONER MONTOYA: Sure, I'll add that.

COMMISSIONER CAMPOS: I'll second that.

CHAIRMAN SULLIVAN: That motion was made by Commissioner Montoya and seconded by Commissioner Campos. Further discussion?

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

CHAIRMAN SULLIVAN: Thank you, gentlemen. Thank you, Judges, for your efforts. We're 98 percent of the way there.

COMMISSIONER CAMPOS: Mr. Chair, I have to go for about an hour.

CHAIRMAN SULLIVAN: Okay. Do you want to defer A, B, and C until you come back? Okay. We'll defer X, A, B, and C until Commissioner Campos comes back. This was an important, obviously, financial issue as well as community issue.

X. MATTERS FROM THE COMMISSION

D. Discussion and Possible Approval for an Expenditure of Discretionary funds in the Amount of \$6,000 to Chimayo Boys and Girls Club for the Provision of the Club's Summer Recreational Program (Commissioner Montoya)

COMMISSIONER MONTOYA: Mr. Chair, this is an expense that we had incurred last year as well for the recreation programs that are provided there in Chimayo and I would move for approval.

COMMISSIONER ANAYA: Second.

CHAIRMAN SULLIVAN: Motion and a second. Is there discussion?

The motion to approve passed by unanimous [3-0] voice vote. [Commissioner Campos was not present for this action.]

X. E. Discussion and Possible Approval for an Expenditure of Discretionary Funds in the Amount of \$2,000 to Semos Unlimited for the Provision of Providing Spanish Language Educational Materials to the Pojoaque Schools Bilingual Program (Commissioner Montoya)

COMMISSIONER MONTOYA: Yes, Mr. Chair, and I would move for approval.

COMMISSIONER ANAYA: Second.

CHAIRMAN SULLIVAN: Motion and a second. Discussion on this item?

The motion to approve passed by unanimous [3-0] voice vote. [Commissioner Campos

was not present for this action.]

X. F. Discussion and Possible Approval for an Expenditure of Discretionary Funds in the Amount of \$4,000 for the Provision of Water Diversion Improvements for the Maestas Ditch in La Puebla (Commissioner Montoya)

COMMISSIONER MONTOYA: Yes, Mr. Chair. This is something that again is part of the district that I have, a need for the improvements for the water flow and certainly with irrigation season coming up real soon they want to try and get this work done as soon as possible. I would move for approval.

COMMISSIONER ANAYA: Second.

CHAIRMAN SULLIVAN: Motion, seconded by Commissioner Anaya.

Discussion?

The motion to approve passed by unanimous [3-0] voice vote. [Commissioner Campos was not present for this action.]

X. G. Discussion and Possible Approval for an Expenditure of Discretionary Funds in the Amount of \$1,000 for the Chimayo Cultural Preservation Association for Programming of the Chimayo Museum (Commissioner Montoya)

COMMISSIONER MONTOYA: Thank you, Mr. Chair. This one is for the Los Maestros program. This particular program incorporates interviews with the elders there in the community, both in Chimayo and throughout northern New Mexico. I would move for approval and stand for any questions.

COMMISSIONER ANAYA: Second.

CHAIRMAN SULLIVAN: Motion and seconded by Commissioner Anaya.

Any discussion?

The motion to approve passed by unanimous [3-0] voice vote. [Commissioner Campos was not present for this action.]

X. H. Direction to staff to revert \$22,500 from fiscal year 07 discretionary funds to cash and secure funds in fiscal year 08 for the purpose of retaining economic, legal, bonding and/or improvement district consultants to advise Santa Fe County

CHAIRMAN SULLIVAN: The last item on the agenda is mine and that is direction to staff to revert \$22,000 in a prior discretionary fund allocation last year which you may recall I set aside for work on a history of Santa Fe County but haven't been able to quite get that together and instead, it's to be used by staff for the purpose of retaining economic, legal, bonding and/or improvement district consultants to advise Santa Fe on future bond and improvement district proposals. And the basic thought I have here is that we're going to see now as Albuquerque has seen, proposals coming forward for a variety of improvement districts. We've had one come forward, a public improvement district where the homeowners were asked to pay for the improvements. We're going to probably see another one come forward where the County is going to be asked to pay for the improvements or a portion of them through a diversion of the property taxes that we would otherwise collect. Those are called tax incentive development districts, TIDD's.

My concern is that we really, as these brand new concepts come forward don't have the expertise to really evaluate them, particularly what the economic impacts would be, what the bonding impacts are, and then I think I want to give the staff a little assistance here to go out for proposals and retain the expertise that they need as these come forward, because otherwise we're not going to be properly informed when they do come forward. So that's the purpose of that. I would move for approval.

COMMISSIONER ANAYA: Second.

CHAIRMAN SULLIVAN: Seconded by Commissioner Anaya. Discussion?

COMMISSIONER MONTTOYA: Mr. Chair.

CHAIRMAN SULLIVAN: Commissioner Montoya.

COMMISSIONER MONTTOYA: I guess I'm just a little – in terms of where we're at, we have, as I understand it, legal and bonding consultants already, under contract.

CHAIRMAN SULLIVAN: We do, Commissioner. We have a bond consultant who gives us information on the technicalities of the bond proposal, making sure the i's are dotted and the t's are crossed. That I think level of expertise is needed, but I'm looking for someone who is more in the preliminary stages when we're talking about what percentage of these, for example in Albuquerque, 67 percent of the tax assessment goes toward improvements and other proposals have been 50 percent. I'm looking for a wide variety there. Our bond consultant is paid if the bonds are sold. If the bonds are not sold he's not paid.

So I'm concerned that we have some independent evaluation of these proposals that go beyond just passing the bond and being sure that it meets all the fiscal criteria. And we may not need other bonding expertise but I think we are going to need people who are experts in these improvement districts, and again staff here would have some help. We may not need the legal. I've just kept it broad. And I don't know which one of these proposals may come first. I think one will probably at least come this year and there will probably be several others in the next couple of years that will come forward. So I left it broad enough that as staff felt they needed that expertise they could draw on this funding source.

COMMISSIONER MONTTOYA: I guess I just see it as potentially

redundant. If we're going to – if we're paying somebody know to do something – if they're doing it until the bonds are sold and then they get reimbursed, but to that point they provide us consultation that we need in order to then make that decision. So what additional value will we get out of spending this money on other legal or bonding consultants?

CHAIRMAN SULLIVAN: Well, I think you're going to be asked, perhaps this year and next year, to decide, for example, on a tax incentive development district whether the County should forego its property taxes to bond out improvements. So that's one policy question that needs discussion and needs some professionals to help us decide that. And if we decide that that makes sense then we need to talk about what is the economic impact? How much of that property tax can we afford to apply towards a development's infrastructure, bearing in mind that we still have law enforcement costs and other costs that go along with any development. And these are fairly new; that act was passed in 2006. There's only one of these districts in the state right now and that's in Albuquerque. That's the Mesa del Sol one. And they're coming here and the County's going to be confronting it. And I would just feel personally more comfortable having more information on our side of the ledger. When these proposals are brought forward they look so glowing and then we have – we don't have that depth of backup. If the staff doesn't feel that these services are needed, they will tell us. They'll say, we think this is straightforward and go for it.

COMMISSIONER MONTOYA: So this will come to us before any sort of action is taken, regarding procuring services of other entities in this?

CHAIRMAN SULLIVAN: My intent is to leave it up to our current procurement system. If they need the services they procure it through our current procurement system. If they don't, they don't. And I just wanted to give them a budget line item that would allow them to do that. Mr. Abeyta.

MR. ABEYTA: Thank you, Mr. Chair. In speaking with the County Attorney, we feel from a staff perspective that we do need more help when it comes to these requests that we get, and we were thinking of economic and planning, like land use planning. For example, with the last improvement district we had there wasn't really that analysis from a planning perspective – does this make sense or not. And I've spoken with our Planning Director, Jack Kolkmeier. We've talked about the need for some more expertise, outside expertise to come in and so it may or may not be legal or bonding but we do feel this is a good idea, especially for the economic and the land use planning, we could use that. I don't know if that helps but from a staff perspective –

COMMISSIONER MONTOYA: Okay. Yes, I guess looking at it from that perspective it would be expanding what we currently are doing.

MR. ABEYTA: Right. And as the chairman said, if we do get into bond and legal and we feel the need we've got it there, but we for sure feel the need in the economic and planning area.

COMMISSIONER MONTOYA: Okay. Thank you, Roman. Thank you, Mr. Chair.

CHAIRMAN SULLIVAN: Okay. Commissioner Anaya.

COMMISSIONER ANAYA: Mr. Chair, this money that came out of your discretionary fund last year was going to go for a consultant.

CHAIRMAN SULLIVAN: Correct. But I didn't use it.

COMMISSIONER ANAYA: You didn't use it.

CHAIRMAN SULLIVAN: I didn't use it.

COMMISSIONER ANAYA: So you want it to go back into your fund.

CHAIRMAN SULLIVAN: I'm just moving it into this fiscal year.

COMMISSIONER ANAYA: Into your fund.

CHAIRMAN SULLIVAN: No, not to my fund. I'm moving it into the County general fund. So it's not going to be at my discretion who gets hired.

COMMISSIONER ANAYA: But this came out of your –

CHAIRMAN SULLIVAN: This was part of my discretionary fund last year and was approved by the Commission.

COMMISSIONER ANAYA: You don't want to put it back in your discretionary?

CHAIRMAN SULLIVAN: At this point in time I think the best way to do it, because I don't know what the staff might need, so I don't want to micromanage and say, Hire this consultant or hire that consultant.

COMMISSIONER ANAYA: Oh, you want it to go to a consultant.

CHAIRMAN SULLIVAN: I want it to go to a consultant that they indicate they need.

COMMISSIONER ANAYA: Got it.

CHAIRMAN SULLIVAN: So it would still be a consultant as it was last year, but it would be a different category of consultant and it would be at their discretion. In other words, I'm not considering this to be discretionary funds anymore. I'm putting it into the Manager's budget and let him deal with it. If he doesn't utilize the money it will revert. But I think we will. I think we're going to be staring at this problem and needing some advice.

COMMISSIONER ANAYA: Thank you.

CHAIRMAN SULLIVAN: All right. We have a motion and a second. Further discussion?

The motion passed by unanimous [3-0] voice vote. [Commissioner Campos was not present for this action.]

CHAIRMAN SULLIVAN: I appreciate your comments. It is an issue that we need to talk about.

X. OTHER MATTERS FROM THE COMMISSION

CHAIRMAN SULLIVAN: Commissioner Montoya.

COMMISSIONER MONTROYA: Nothing right now, Mr. Chair.

CHAIRMAN SULLIVAN: Okay. Commissioner Anaya.

COMMISSIONER ANAYA: Mr. Chair, just one issue and that is apparently our task to eliminate the County surveyor position did not go through at the legislature because it wasn't germane. We are now faced with people running for the office of County surveyor. Maybe what we can do so that I know exactly what the County surveyor is supposed to do and the new County surveyor that comes in is supposed to do. We should put together a list of what we expect and what the County surveyor does for the County and how can we use him in maybe the Land Use Department surveying, checking surveys – I don't know. And maybe we can work with our current County surveyor and ask him to write down what he's doing now and maybe we need to do a little more. But I think it should come to this Board and we should have a list of things of what the Santa Fe County surveyor does.

Now, it was brought to my attention today that there is surveyors in other counties. They're not elected. Los Alamos County has a surveyor. Bernalillo County has a surveyor but they're not an elected position. Maybe we can ask those counties what their surveyor does so we can get some input on this list. That's all I had, Mr. Chair.

CHAIRMAN SULLIVAN: Roman, can we do that?

MR. ABEYTA: Mr. Chair, Commissioner Anaya, yes we can. A couple of surveyors have contacted me also that there is an interest in pursuing the County surveyor position when candidates sign up in March. They are amenable to sitting down and listing out duties of what would be expected and then having the BCC sign off on that. So I think Commissioner Anaya's suggestion is a good one. I will sit down with the surveyors. We could come up some parameters and general duties with the surveyor's input and then come back to the Commission with something like that for the Commission to sign off on. And then what I've been conveying to the surveyors that have contacted me is once they're elected in June and we have these parameters then we would analyze it between June and January and if indeed we do come to an agreement and we start seeing some progress then we could potentially hold off on pursuing that legislation to eliminate that position in January. Like I said, they seem amenable to that and I will be in contact with them and we'll start coming up with some suggested guidelines for our County surveyor.

COMMISSIONER ANAYA: Mr. Chair.

CHAIRMAN SULLIVAN: Go ahead.

COMMISSIONER ANAYA: Since it is an elected position, can we make them do the suggestions that we line out?

MR. ABEYTA: Mr. Chair, Commissioner Anaya, I don't know if we can, but what we can do is we can ask for the position to be eliminated again, and I think they get that message loud and clear. So I think with that kind of threat, for lack of a better word, I think we can make some progress. Because they understand our position now and like I said, it's going to be a trial and error because we may not be able to hold them to that, but I think it's worth giving it another shot, because like I said, surveyors are willing to talk to us about it now.

CHAIRMAN SULLIVAN: And I think, Roman and Commissioner Anaya, too, the Board of County Commissioners sets the surveyor's salary.

MR. ABEYTA: Right. That's a good point.

CHAIRMAN SULLIVAN: So I think the problem now is that we've set the surveyor's salary under an expectation that the surveyor would be doing some surveying.

MR. ROSS: Mr. Chair, the surveyor's salary is statutory. We don't get to set it.

CHAIRMAN SULLIVAN: We don't get to set it?

MR. ROSS: It's a set amount.

CHAIRMAN SULLIVAN: I remember voting on it. So it's statutory? The problem I have now is that we have this salaried surveyor and when they perform services they charge the County at an hourly rate. So it seems like there should be a certain level of services that they would perform and others would be like any professional, extra services. But now I think we're paying for everything.

MR. ROSS: Mr. Chair, it's a historical position. It dates from the 1870s. It was intended to provide a surveyor in counties where there were no surveyors at all. It was just merely to appoint somebody in town who would be responsible for making the surveys. There's no provision for them to perform the duties that they do under contract or as employees of Bernalillo County or Los Alamos. There's just nothing in the statute that requires them to fulfill those types of duties to benefit the government at all. It was intended for the people to have a surveyor where there was none. So to force them – they might agree to do additional duties voluntarily because we're frustrated that there's really essentially nothing for them to do. But to actually force them to do that is a problem. If they would voluntarily agree to do it, that's fine, or if they voluntarily agree to do it we could amend the statute to include those duties as a part of their job, right in the statute.

CHAIRMAN SULLIVAN: So it's kind of like paying to have a doctor in a rural area. He doesn't do free doctoring but at least he's there. He lives there and people have a doctor to access.

MR. ROSS: Exactly, the same thing. Yes.

COMMISSIONER MONTROYA: And then they charge for the care when they go see them.

CHAIRMAN SULLIVAN: Yes. But in this case I think perhaps Roman's strategy is the better one. If they don't come to some agreement on scope of work then we just say that's an expenditure we don't need and we'll go back to the legislature and in the next year's session it will be germane and we can deal with it again. Other comments, Commissioner Anaya?

COMMISSIONER ANAYA: That's all for me, thanks.

CHAIRMAN SULLIVAN: Okay. The only comment or issue I have to bring forward is about a month ago I wrote a letter to CHRISTUS, to Mr. Ernie Sadau who is the senior vice president of patient and resident care operation. He was at our Healthcare meeting, our regular Indigent Board meeting along with representatives from St. Vincent. And

we just received a response back and copies of it are in your basket. The letter primarily dealt with not the issues that we heard today, the issues of reproductive care and family planning and end of life issues, it dealt with the board and the structure of the board of St. Vincent and what the board of CHRISTUS would be, and it also dealt with their perception or understanding of House Bill 615 which was signed by the Governor, and I see that they seem to be on board with the fact and I'll just quote them as saying, "I also understand that House Bill 615 is discretionary on the part of counties as to whether they will allow a tax intercept to occur."

So I think that we need to be sure that that is clear to the state, if we need to do a resolution or something like that, Steve, then I think we should do it to be sure that we don't want to allow tax intercepts to occur. So that letter is in your mailboxes and it's rather lengthy, three pages, but take a look at it and I think you'll get some concept of what they're dealing with. I don't see too many changes other than the board will be 50 percent CHRISTUS members and 50 percent St. Vincent members and beyond that there's no requirement that board members be of any religious denomination and so forth. And they go on to say that if we have members that we would like to recommend, we would recommend them to CHRISTUS, not to St. Vincent. But any community members on the board would only be appointed by CHRISTUS, not by St. Vincent. I just wanted to point that out to you, and seeing nothing else –

COMMISSIONER MONTOYA: Mr. Chair.

CHAIRMAN SULLIVAN: Commissioner.

COMMISSIONER MONTOYA: A couple things popped into my mind.

CHAIRMAN SULLIVAN: All right. Second chance.

COMMISSIONER MONTOYA: Last chance. I just wanted to mention that Commissioners Anaya, Vigil and I were in Washington, DC for the NACo legislative conference and we were able to meet with our congressional delegation regarding priorities for not only NACo but for Santa Fe County in terms of payment in lieu of taxes, safe and secure schools, the Workforce Investment Act as well as a number of other initiatives, specifically the issue of unfunded mandates, that Congress as much as possible limit those types of mandates on counties and local governments that aren't going to come with any sorts of funding.

And then lastly, I just wanted to say the state basketball tournament is starting today and we've got a number of Santa Fe County schools out there and I just wanted to wish them well and I'm sure we'll be having a presentation of basketballs here pretty soon, somebody bringing home the blue trophy. Thank you, Mr. Chair.

CHAIRMAN SULLIVAN: Any predictions?

COMMISSIONER MONTOYA: I'll keep them to myself. A Santa Fe County school.

CHAIRMAN SULLIVAN: A Santa Fe County school. There you go. That's diplomatic enough.

COMMISSIONER MONTOYA: Got to remember, I've got a pretty big

district coming up.

XI. APPOINTMENTS/REAPPOINTMENTS/RESIGNATIONS

A. Appointment of La Cienega Development Review Committee Members (Growth Management Department)

SHELLEY COBAU (Review Director): Mr. Chair, members of the Commission, I came before the Commission last month with appointments to all the committees and in the confusion with the La Cienega Development Review Committee I failed to get the two appointments that we needed to make. The La Cienega Development Review Committee is a seven-member versus a five-member committee. We currently have five members sitting on that committee. We need two additional appointees. So I've included the résumés of Nathan Bailey, Gene Bostwick, Darlene Guerrero and John Herbrand in your packet for your consideration to appointment to the La Cienega Development Review Committee. And again, we need two members.

CHAIRMAN SULLIVAN: Didn't we have one person we appointed resign?

MS. COBAU: What happened, Mr. Chair, was C.C. Murski from the La Cienega Development Review Committee which created three vacancies and then his wife Cindy Murski was appointed to the La Cienega Development Review Committee which filled his vacancy. She is going to remain on that committee and in fact sat at her first meeting on Wednesday. So we just need two new members.

CHAIRMAN SULLIVAN: Okay. Discussion on four members that we have there.

COMMISSIONER ANAYA: Mr. Chair.

CHAIRMAN SULLIVAN: Commissioner Anaya.

COMMISSIONER ANAYA: I can make the motion to appoint Gene Bostwick and Darlene Guerrero.

COMMISSIONER MONTROYA: Second.

CHAIRMAN SULLIVAN: Gene Bostwick and Darlene Guerrero is the motion and the second. Discussion? Commissioner Anaya, any particular reasons for these individuals?

COMMISSIONER ANAYA: Very active in their community.

CHAIRMAN SULLIVAN: And neither of these have served before, Shelley?

MS. COBAU: Not to my knowledge, Mr. Chair.

CHAIRMAN SULLIVAN: Okay, and Ms. Guerrero is a native of Santa Fe, she says. She's lived in La Cienega for 11 years and involved in the neighborhood trying to get a lower water crossing. And the other one was Mr. Bostwick, you said?

COMMISSIONER ANAYA: Yes.

CHAIRMAN SULLIVAN: He's been a resident of Santa Fe County for 31 years, in La Cienega since 1998, chairperson for the community and currently co-chair of our

Rural Energy Conservation Project. Okay. There's the motion and the second.

The motion to appoint Gene Bostwick and Darlene Guerrero passed by unanimous [3-0] voice vote. [Commissioner Campos was not present for this action.]

XII. CONSENT CALENDAR

A. Findings of Fact

- 1. LCDRC Case # V 06-5630 Enriquez Variance. Suleika Enriquez Requested a Variance of Article 902.2.2.6 Of The Uniform Fire Code 1997 Edition to Allow the Grade of a Driveway to Exceed the Required 11 percent, and Variance of Article VII, Section 3.4.1 (Slope and Buildable Areas), to Allow Slope disturbance in an Area Where Slope Exceeds 30 percent. The Property is Located at 98-D Camino San Jose, Via the West Frontage Road, Within Section 32, Township 16 North, Range 8 East, (District 3) Approved 5-0**
- 2. EZ Case # DL 06-4340 Teresa Lovato Family Transfer. Teresa Lovato, Applicant Sal Vigil (Land Surveying Co.) Agent, Requested Plat Approval for a Family Transfer to Divide 2.49 Acres into Two Lots. The Lots will be Known as Lot 2-A (1.25 Acres More of Less) and Lot 2-B (1.24 Acres More or Less). The Property is Located at 10 Calle Hermosa, Via Camino Vista Grande, within Section 25, Township 16 North, Range 8 East, (5 Mile EZ, District 5) Approved 5-0**
- 3. EZ Case #DL 06-4530 Pomonis/Wikoff Land Division. Daniel Pomonis and Denise Wikoff Applicants, Requested Plat Approval of a Land Division to Divide 5.0 Acres into Two Tracts, Within the Alameda Ranchettes Subdivision. The Tracts will be Known as Tract C-1 (2.50 Acres More or Less) and Tract C-2 (2.5 Acres More or Less). The Property is Located on Sloman Court, Via Sloman Lane (County Road 70-A), within Section 25, Township 17 North, Range 8 East, (5 Mile EZ, District 2) Approved 3-2**

B. Miscellaneous

- 1. Resolution No. 2008-36. A Resolution Urging Cooperation Between Santa Fe County and the Bureau of Land Management Concerning Archeological Sites Owned by the County and Listed in the Federal Galisteo Basin Archaeological Sites Protection Act (Legal Division) See page 9.**
- 2. Request Approval of Amendment No. 3 to NCA Contract # 27-0701-PFMD/MS to Allow for Changes to the Floor Plan and Changes to the Exterior of the New Judicial Courthouse in the Amount of**

- \$100,000 (Community Services Department) See page 11.**
- 3. Resolution No. 2008-37. A Resolution Requesting Funding Through the 2008/2009 New Mexico Department of Transportation Local Government Road Fund Program (Growth Management Department)**
 - 4. Resolution No. 2008-38. A Resolution Authorizing the County Manager to Execute all Relevant Documents Concerning the Award and Subsequent contracting of IFB # 28-0111-CSD/RSM (“Demolition of Three Santa Fe County Buildings for the New Santa Fe First Judicial Complex”)**

[See page 2 for action on the Consent Calendar.]

XIII. STAFF AND ELECTED OFFICIALS’ ITEMS

A. Administrative Services Department

- 1. Resolution No. 2008-39. A Resolution Declaring the Intent of the Board of County Commissioners of Santa Fe County, New Mexico, to Consider for Adoption and Ordinance Authorizing Execution and Delivery of (1) A Loan Agreement By and Between the Agency and the New Mexico Environment Department in the Amount of \$2,000,000 and (2) A Loan Agreement By and Between the Agency and the New Mexico Finance Authority in the Amount of \$1,000,000 Each for the Purpose of Acquiring, Constructing, Extending, Enlarging, Bettering, Repairing or Otherwise Improving or Maintaining Sanitary Landfills, Solid Waste Facilities, and Solid Waste Disposal Equipment, Equipment or any Combination of the Foregoing; and Directing the County Manager and County Clerk to Publish Notice of Intent to Consider an Ordinance Authorizing Such Bonds in a Newspaper of General Circulation within the County (Solid Waste Management Authority)**

CHAIRMAN SULLIVAN: Who will be taking this, Roman?

MR. ABEYTA: Mr. Chair, I believe we have a representative from SWMA that could answer any questions that the Commission may have for him.

CHAIRMAN SULLIVAN: The only question I would have is who pays off the bond. I assume it’s SWMA, but tell me.

RANDALL KIPPENBROCK (SWMA Director): Mr. Chair, Commissioners, there are actually two loans that we’re looking at. One is \$2 million from the Environment Department and the second is \$4 million from the New Mexico Finance Authority, and it’s

being paid off from revenues that will be generated from the agency.

CHAIRMAN SULLIVAN: Okay, so is this a resolution that also has to be passed by the City?

MR. KIPPENBROCK: Yes. It is actually in conjunction with the City, County and the agency. This is actually a resolution of notice of intent to publish this ordinance in the newspaper and there is a draft ordinance out that we're working together, the agency, the City and the County. The County is Mr. Ross and we're all using the same bond company, Modrell, and that's where we're at. This is a requirement to publish notice.

CHAIRMAN SULLIVAN: Okay, so it's a \$2 million loan from the New Mexico Environment Department and a \$1 million loan from the New Mexico Finance Authority, and we have to pass this resolution, the City has to pass it. The loan will be paid off through revenues from the landfill.

MR. KIPPENBROCK: From the agency, yes.

CHAIRMAN SULLIVAN: Okay. That answers my question.

COMMISSIONER MONTROYA: Mr. Chair, move for approval.

COMMISSIONER ANAYA: Second.

CHAIRMAN SULLIVAN: Motion for approval from Commissioner Montoya, seconded by Commissioner Anaya. Other discussion?

The motion to approve Resolution 2008-39 passed by unanimous [3-0] voice vote.
[Commissioner Campos was not present for this action.]

XIII. B. Matters from the County Manager

1. Update on Various Issues

MR. ABEYTA: None, Mr. Chair.

CHAIRMAN SULLIVAN: That brings us at ten minutes to 5:00.

COMMISSIONER MONTROYA: Mr. Chair, I have one question for Roman and that was we had discussed at the last meeting, I believe, the ordinance for affordable housing, and I just want to get an update or status.

MR. ABEYTA: I'll let Steve answer that, Mr. Chair.

MR. ROSS: Mr. Chair, Commissioner Montoya, we're working on that right now. There's a number of problems that have developed. One problem came through the Attorney General's office as a result of the request that they issue an opinion on the taxability of liens imposed as a result of affordable housing ordinances. That's one problem, and in connection with that review of our ordinance they raised some other concerns. The second problem is that the NMFA is requiring that the County develop and implement an affordable housing plan before they even consider an infrastructure ordinance. So we're working through those difficulties with Mr. Maestas down in Albuquerque and with a member of the NMFA Board, Mike Loftin, and of course Ron Pacheco and I.

We have an ordinance drafted, we're just trying to jump through those various hoops so we can get it before you. The NMFA basically has to agree to the ordinance before we bring it to you for your consideration.

COMMISSIONER MONTOYA: Okay. Thank you.

MR. ROSS: So we're trying to get it.

COMMISSIONER MONTOYA: Appreciate it.

CHAIRMAN SULLIVAN: Commissioner, that was an ordinance on what?

COMMISSIONER MONTOYA: The affordable housing.

CHAIRMAN SULLIVAN: Changes to it?

COMMISSIONER MONTOYA: Yes. What I had requested –

CHAIRMAN SULLIVAN: Right. And Duncan Sill who was starting to work on some of those and he's since left.

COMMISSIONER MONTOYA: Right.

XIII. C. Matters from the County Attorney

1. Executive Session

a. Discussion of Pending or Threatened Litigation

b. Limited Personnel Issues

MR. ROSS: Mr. Chair, we need a closed executive session to discuss pending or threatened litigation and limited personnel issues. It can be fairly brief.

CHAIRMAN SULLIVAN: No water rights today.

COMMISSIONER MONTOYA: So moved.

COMMISSIONER ANAYA: Second.

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

CHAIRMAN SULLIVAN: I'm estimating about 6:00. Does that sound about right, Mr. Abeyta?

MR. ABEYTA: Mr. Chair, yes, especially in light of Commissioner Campos won't be back until six and the remaining items on the agenda are from here.

CHAIRMAN SULLIVAN: Yes, we still have his, plus the public hearing.

MR. ABEYTA: Right.

CHAIRMAN SULLIVAN: We can always shoe-horn his in between public hearings if we have to. Okay.

[The Commission met in executive session from 4:50 to 6:15.]

CHAIRMAN SULLIVAN: I'd like to call the meeting back to order and to get

a motion to come out of executive session please.

COMMISSIONER MONTOYA: So moved, where we discussed only pending or threatened litigation and personnel issues.

COMMISSIONER CAMPOS: Second.

CHAIRMAN SULLIVAN: Okay. There's a motion and a second.

The motion to come out of executive session passed by unanimous [4-0] voice vote, Commissioner Campos having rejoined the meeting.

CHAIRMAN SULLIVAN: Before we begin the public hearings, which is item XIV on the agenda we have three items left over from the afternoon session that we deferred because Commissioner Campos had an appointment to attend to. So we'll go back now to items X. A, B and C.

X. A. Discussion and Possible Approval for Expenditure of Discretionary Funds in the Amount of \$23,500 to the Santa Fe County Growth Management Department for Support of the Santa Fe County Water Conservation Program (Commissioner Campos)

COMMISSIONER CAMPOS: Mr. Chair, X. A, I'm proposing the expenditure of \$23,500 of my Commissioner discretionary funds for the water conservation program. This would constitute the purchase of software so that we could do well monitoring. Is there anyone from staff that would like to address the specifics of that need in the Water Conservation Division?

LAURIE TREVISO (Water Resource Specialist): Hello, Mr. Chair, Commissioners. As you know I was hired to implement the water conservation program and part of that, a component of that program is the well metering and the well metering database. So these funds would help fund a well metering database that has the capability for constituents to go on line. You can query, and also it has much more capabilities than the previous databases that were created.

COMMISSIONER CAMPOS: Mr. Chair, I would ask for support for this expenditure. I think it puts us in the right direction. We've talked about monitoring wells and monitoring them effectively is going to require a database. So I would move to approve the expenditure of \$23,500 from my Commissioner discretionary fund and I'd ask for a second.

COMMISSIONER MONTOYA: Second.

CHAIRMAN SULLIVAN: Motion and second. Discussion? I have a question. Do we have, Laurie, a contractor for this or is the intent to go out and hire somebody?

MS. TREVISO: We have a contractor and he's present today.

CHAIRMAN SULLIVAN: Oh. So we've already hired somebody.

MS. TREVISO: Right.

CHAIRMAN SULLIVAN: Okay. Maybe he could say a couple words.

MS. TREVISO: Sure. His name's J.P. Richmond with PDS Systems.

J.P. RICHMOND: Hello, Commissioners. I'm J.P. Richmond. I'm with Professional Document Systems, which is also known as PDS. We've done quite an extensive amount of work with the County as far as developing databases and tying customized programming to these databases. What we're proposing to do is to help the County develop a database that makes it – it will streamline managing the data for the water conservation ordinances, so that it's easy for the County to manage the data but it's also easy for the permit holders to get on line, get that information inputted, so that you guys can track the water usage going on as well as on an annual basis get that data back out to the permit holders so that they're aware of what their meter readings are as well.

CHAIRMAN SULLIVAN: How far back do you plan to go in the permit

process?

MR. RICHMOND: Well, it depends on what the ordinance requires, so –

CHAIRMAN SULLIVAN: I think the ordinance just requires that when we approve a subdivision that has metering restrictions that they report those restrictions to the County which many of them have not been doing.

MR. RICHMOND: Correct.

CHAIRMAN SULLIVAN: And those subdivisions go back, I think, 10+ years that have those kinds of stipulations on the approvals.

MR. RICHMOND: Right. Well, any time a person comes into the permit office and they bring in proof of having a meter, at that point the water restrictions are put on. So that would be one point in the process that we would begin tracking the water use for any new permits. As far as going back historically, our plan is to gather the data and sort out the data because some of those permits were grandfathered where they don't have the water restrictions, but some of them are. We're going to assist the County in sorting out that data so that we can track all of the historical – which I believe – I don't have the exact date but I believe it's back in the eighties.

We would with Laurie and her department in figuring out exactly which data [inaudible]

CHAIRMAN SULLIVAN: So is this amount that Commissioner Campos is designating, is that the amount of your contract or is that just to help pay for your contract?

MR. RICHMOND: The \$23,000?

CHAIRMAN SULLIVAN: Right.

MR. RICHMOND: What the \$23,000 is going to provide is customized software that's tied to an imaging software and the database so that we do all the customized programming specifically for the County. So it's an all-inclusive package that will provide access to an imaging database so that we can retain all the paper records electronically right from the permitting stage, and then keep it paperless throughout the rest of the period, through the rest of the process. It will include developing a webpage, so that the users can get on line and they can – an instance would be a year later after somebody gets an original permit, they have a water restriction, a year later it's required for them to submit that new meter reading so that the County can track that what that water use actually is.

So what the County would do is send out a letter letting the permit holder know that it's time to report his meter readings. They would have a unique ID that you could get on line and submit that information securely, but it would also verify who the user is. So if they put in an incorrect meter reading, like a number that's lower than what their previous year was, it's going to let that user know exactly. It's also going to go to Laurie's department and they're going to be able to verify that batch and make sure that that information is accurate and then submit it into the database for tracking and historical archiving.

CHAIRMAN SULLIVAN: Are you doing anything else or is this specifically what your contract is about?

MR. RICHMOND: For this contract, it would be specifically for the water

meter project.

CHAIRMAN SULLIVAN: So you're not doing anything else with the Water Conservation program right now. This is it.

MR. RICHMOND: Right.

CHAIRMAN SULLIVAN: And this is the amount of the contract.

MR. RICHMOND: Correct.

CHAIRMAN SULLIVAN: What period of time?

MR. RICHMOND: For the contract? The \$23,000, that was just basically for the software, all the maintenance necessary and any modifications that were required for the first year and then on an ongoing basis there'd be a percentage for maintenance and upgrades.

CHAIRMAN SULLIVAN: But how long would it take this running?

MR. RICHMOND: We could have it up and running in probably less than two months.

CHAIRMAN SULLIVAN: And you'll be digging back in the records or is that something that staff has to do?

MR. RICHMOND: We would work with the staff.

CHAIRMAN SULLIVAN: What does that mean?

MR. RICHMOND: It means we would work directly with Laurie and we would figure out the best way to analyze the data so that the data we put into the database is going to be accurate data, not just pushing all the data in, because of the grandfathered restrictions.

CHAIRMAN SULLIVAN: All right. Thank you. Questions? Commissioner Campos.

COMMISSIONER CAMPOS: Ms. Treviso, do we do any field checks at this point, or do we plan to do any field checks of any of the water meters at any of the wells that we have approved with restrictions?

MS. TREVISO: No, not at this time.

COMMISSIONER CAMPOS: Do you plan to do so in the future?

MS. TREVISO: I would like to start to do that, but now I think I just want to focus on getting the database set up. I think once we get the data into the database we can see people who have extreme water use and at that time that would probably merit a site visit, or if they have gone over their water allocation quite a bit. So that might be worth it to go out for a site visit. Because it could possibly be that we're finding leaks for them that they weren't aware of, or little things of that nature.

COMMISSIONER CAMPOS: Thank you.

CHAIRMAN SULLIVAN: Any other questions? Commissioner Montoya.

COMMISSIONER MONTROYA: Mr. Chair, in regards to the data that's going to be collected, is this only for people who are on the County water system or is it countywide?

MS. TREVISO: These are for domestic well. These are people who have domestic wells and have been required to put a meter on their well because their plat has

water restrictions, and when they come in for a development permit, at that time we take their information. So that database that they're using in the AS-400 system would basically populate this database. So we already have data.

COMMISSIONER MONTOYA: So people that are part of the Aamodt would be entered into this database.

MS. TREVISO: Right. And we were actually talking about this during the break, that we would work with the State Engineer as well to see what their water restrictions are and to verify the data. It's good because it's in cross-reference things as well.

COMMISSIONER MONTOYA: Okay. So when I submit reports to OSE, OSE will give them to you?

MS. TREVISO: No. Basically, I'm going to double-check on the WATERS database, which is a public database that OSE has, just to verify that some of the information is correct, just for double-checking, in case we get data that kind of kicks back to us or doesn't make any sense. I think that that would be a good place to start, is by going and working with the OSE.

COMMISSIONER MONTOYA: So would you want me to report my readings to you also?

MS. TREVISO: Right.

COMMISSIONER MONTOYA: So both to you and to OSE.

MS. TREVISO: Right.

COMMISSIONER MONTOYA: Okay.

CHAIRMAN SULLIVAN: But only if you are in a subdivision that had restrictions, right?

MS. TREVISO: Right.

CHAIRMAN SULLIVAN: So anybody on a well, all the people in the Aamodt area, correct me if I'm wrong, have to do this reporting.

COMMISSIONER MONTOYA: Exactly.

CHAIRMAN SULLIVAN: But this ordinance only applies to subdivisions that have water restriction requirements. Isn't that correct?

MS. TREVISO: Well, it's subdivisions, land divisions, any development –

CHAIRMAN SULLIVAN: Could be lot splits, family transfers, whatever.

MS. TREVISO: Yes.

CHAIRMAN SULLIVAN: Because the reason we let them build on smaller lots is that they agreed to water restrictions. So an individual that just happens to be on a well in the Aamodt area –

COMMISSIONER MONTOYA: So it would apply to me.

CHAIRMAN SULLIVAN: It wouldn't apply to you unless you happened to live in an area that was a lot split or a subdivision that had those restrictions recorded as a part of the approval.

COMMISSIONER MONTOYA: Oh, okay. But it would probably be good to have that information on our database too, wouldn't it. In terms of what the water usage is

in those areas as well.

MS. TREVISO: I feel that it will be a cumulative water database.

COMMISSIONER MONTOYA: So you can get it from OSE?

MS. TREVISO: Yes. And that was one of the options in order to populate the database was from the AS-400 system, or from the OSE database and just kind of doing a data dump into our database. It would be easier to filter out those people who don't have water restrictions than to enter in all the permits that we have. So that's an option. But that's what Mr. Richmond is going to work with me on.

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

CHAIRMAN SULLIVAN: Further questions? Commissioner Anaya? Okay. All right. We have a motion made by Commissioner Campos and a second I think by Commissioner Montoya.

COMMISSIONER MONTOYA: Yes.

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

X. B. Discussion and Possible Approval for Expenditure of Discretionary Funds in the Amount of \$2,070 to the Santa Fe County Human Resources Division for Support of the Santa Fe County Summer Internship Program (Commissioner Campos)

COMMISSIONER CAMPOS: Yes, Mr. Chair. Every summer every Commissioner is allowed to hire three summer interns. They're paid about \$6 an hour as I understand it, \$6+ an hour. And I would like to supplement that with my discretionary funds so that it would be about \$9.50 per hour. There would be three interns, and that's why I'm asking for the expenditure of \$2,070.

CHAIRMAN SULLIVAN: Would that create any issues with the other interns that are making \$6 an hour?

COMMISSIONER CAMPOS: Well, that would be a question, an issue between the Commissioner making the appointment and that intern. I feel that the \$6 amount is too low. I know we've considered as a Commission raising it but we haven't budgeted it. And it would be up to you to do what you wish to do with your appointments.

CHAIRMAN SULLIVAN: Other discussion?

COMMISSIONER MONTOYA: Mr. Chair, do you have any discretionary fund left, Commissioner Campos? So I could borrow some?

COMMISSIONER CAMPOS: I'm not lending any.

COMMISSIONER MONTOYA: I guess I would be concerned because it does get around that there are certain interns that are making – when someone's making more than another one they somehow find out and – I don't know, Roman, if there's some way to – I like the idea of giving them more, but how can we do it equitably, where – what I'm

saying is you don't necessarily have to use discretionary funds.

COMMISSIONER CAMPOS: What I did last year was instead of hiring three I would hire two and divide the total amount amongst the two so I felt that they were getting a fair salary. But this year I was thinking I have three really good candidates. I think \$9.50 would be a good sum, and this is the only option that was left to me.

COMMISSIONER MONTOYA: Okay.

CHAIRMAN SULLIVAN: I think it's still problematical because I know Commissioner Vigil did that last year too and dropped one off and used that money for paying someone else and I think it creates a situation where each Commissioner determines what the salary should be. So we have not only one tier different but we may have five different tiers depending on which Commissioner puts in how much money for which employees. And there I think we're getting too far into administrative details. Any comments, Mr. Abeyta?

MR. ABEYTA: Mr. Chair, we can, if you want us to up the salary for the interns we could probably do that. What are we looking at? If I do my math right it's about \$10,000 more that we put into the program so that everybody makes \$9 an hour or \$10. That way Commissioner Campos wouldn't have to use his discretionary. I'm sure we can find \$10,000 to do this.

COMMISSIONER CAMPOS: Or you guys could come up with your own money from your discretionary funds and opt to pay for the interns.

CHAIRMAN SULLIVAN: I just – there's a number of ways to skin a cat but I just don't think it's good what we have been doing, what some Commissioners have been doing where we have that discrepancy. I think an intern is an intern and as long as they're a high school student they get x. If they're a college student they get y. Just like any other employee. We have a job description and years in service and they get a fair pay. Otherwise, to me it smacks of patronage, having a Commissioner pay a friend of theirs whatever they want to pay them just to be a summer intern. That doesn't seem like a good policy.

MR. ABEYTA: Mr. Chair, I just received a note from Naomi letting me know that Human Resources, Finance and the Manager's office is looking into – we're preparing our FY09 budget and we were going to – Human Resources was going to propose \$9.50 across the board next summer. I don't know if you want to accelerate that to this summer. I guess that's something we were planning on proposing to the Commission anyway.

CHAIRMAN SULLIVAN: I can assist with some of my discretionary funds. I don't know how much. Whatever it takes to make it equal as a Commission policy I think is a better way to do it. Commissioner Anaya.

COMMISSIONER ANAYA: Mr. Chair, my concern would be what the rate, the pay scale is for a full-time employee. And if these people are coming in and working three months and they're going to probably make the same amount, maybe one of our employees – I don't know the rate scale but that's a concern to me.

MR. ABEYTA: And Mr. Chair, Commissioner Anaya, that would be the case. But the other thing, with our living wage now in Santa Fe, the law that the City passed,

everybody's making this whether they're part-time or they're students and I think that was some of the thinking behind Human Resources recommendation is the student interns at the City are making this, a student working at a restaurant is going to make this, so I think that was part of the thinking also is it's really the new minimum wage in Santa Fe regardless if you're working part time, full time, government, non-government. So I think we wanted to come into compliance with that. But I do understand Commissioner Anaya's concern is they probably would be making the same amount as someone who is in a permanent position just starting out with the County.

CHAIRMAN SULLIVAN: But they don't get benefits.

MR. ABEYTA: Right. These students won't get benefits where a regular employee would. That would be a way to differentiate that and justify it.

COMMISSIONER MONTOYA: Which is pretty significant. That's like, what? 60 percent in addition to their salary?

MR. ABEYTA: I think it's 30 percent.

COMMISSIONER MONTOYA: Thirty percent?

CHAIRMAN SULLIVAN: Commissioner Anaya.

COMMISSIONER ANAYA: Move to deny.

CHAIRMAN SULLIVAN: Perhaps we can just come to a gentlemen's agreement here. Roman, you feel you have the money to accomplish this for all the interns and that will accomplish Commissioner Campos' concern. As I said, I can throw in some money from my discretionary funds to make up the difference somewhere to even it out. Have you used up all of yours, Commissioner Montoya?

COMMISSIONER MONTOYA: I have \$1,500 left.

CHAIRMAN SULLIVAN: Okay. We'll take that. Okay, Commissioner Anaya?

COMMISSIONER ANAYA: I'm still trying to hit you all up for paying for the footballs and the basketballs.

CHAIRMAN SULLIVAN: Well, one way or another I think we can work this out administratively so that everybody is treated equally this summer. Is that okay, Commissioner Campos? We have that agreement.

COMMISSIONER CAMPOS: The agreement is?

CHAIRMAN SULLIVAN: The agreement is that we're going to come up with –

COMMISSIONER CAMPOS: \$10,000 somehow?

CHAIRMAN SULLIVAN: We're going to come up with \$10,000 somehow and pay everybody \$9.50 and you won't have to take it from your discretionary fund. Sounds like a win-win to me.

COMMISSIONER CAMPOS: It seems like a win-win. I've suggested this for years that we needed to raise the amounts paid for interns.

CHAIRMAN SULLIVAN: So there you have it, and you're getting what you want.

COMMISSIONER ANAYA: Mr. Chair, why don't we approve this and then we only have to come up with \$8,000.

CHAIRMAN SULLIVAN: Hey, that's a good idea. Okay. I'm for that. We've got a motion.

COMMISSIONER MONTOYA: Second.

CHAIRMAN SULLIVAN: We've got a second.

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

CHAIRMAN SULLIVAN: Good idea. That's why you get the big bucks, Commissioner Anaya.

X. C. Presentation by Cibola Engineering, A Case for Public Power in Santa Fe County (Commissioner Campos) [Exhibit 2: Presentation]

COMMISSIONER CAMPOS: Mr. Chair, for the last year or so I've been meeting with a group of citizens who have been discussing the idea of creating a publicly owned or a community owned utility and having this utility being owned by both the City and the County jointly. And the question for the Commission tonight is does it make sense to you? Would you like to pursue this idea to go to a feasibility study?

The first thing I think we would have to do is talk to the City. Do you want to do it? And if there was an agreement that we both wanted to do it, we'd figure out how much it would cost. Right now we figure it might cost about \$200,000 to do a feasibility study to see how we would design it and draw the parameters for the creation of a publicly owned utility company. The benefits that I see is that the community really chooses the energy it gets. It can get green energy. It can import energy. It can generate energy. It can manage its own resources, and it keeps the money local. Once you have a utility here the employees are County and City employees and this money stays in our community as opposed to being exported to New York City or to some other large area.

We could, like I said, produce clean energy locally for our own utility company. We could purchase it. My recommendation is that we vote to proceed, that we start small, that we think about production of our own green energy, importation of wind power, and maybe even in the near term we would buy from other utilities like Los Alamos County or Public Service Company of New Mexico. I think there is strong community support for this idea. The community of Santa Fe I believe is strongly in favor of alternative energy. This would provide us with the power to define our own energy destiny.

What I would suggest is that we start small. Maybe we feed the Buckman Diversion, the City wastewater, the Public Works building, the City wellfield, maybe the Community College District, the new media district. This would be areas where we could create the company and provide electrical energy to a lot of government entities or entities that are

connected to government. And that's the discussion I would like to have. Buck Monday from Cibola Engineering is here today and I've asked him to make a short presentation because I know we're busy and we have a lot to do, about the feasibility and his ideas. This would allow us to ask him some questions.

The idea that I have is that if we're willing to move forward tonight that we engage the City in a discussion to see if they want to move forward with us. If they do, then we come back and we decide about the feasibility study. So I would ask, Mr. Chair, if Mr. Buckman Direct Diversion Monday could forward and make a short presentation to the Commission about creating a utility company for the City and County of Santa Fe.

CHAIRMAN SULLIVAN: Go ahead, Mr. Monday. Give us your name please and your association.

BUCK MONDAY: Good evening, Mr. Chair, Commissioners. First, before I get started I'll give you a real brief bio. I'm a native New Mexican, have been in public power for about 20 years now and have a degree in electrical engineering with a power background from New Mexico State University. What I would like to do is make a case for public power and tell you where we have gone with the County. Some of the history that I have, I was asked to discuss the possibility of a County operated municipal utility, being as I've been in the public power arena for many years and am somewhat local. I live in Los Alamos and Rio Rancho.

When I thought about it I recommended that a study be done that would consist of three phases. The phases would be structured to minimize cost to the County, kind of take it a step at a time, kind of like Commissioner Campos described it. Phase I would be a technical evaluation of the electric system in the county and the reason for that is to see could you actually make the connections that are required, take out the system that's required to provide electrical service for the county. Phase II would be the economic evaluation. This would be lot – Phase II would be much larger, but it would be an economic evaluation that would look at billing and the power supply in the county, how much you could buy power for, how much you could sell power for, what kind of rates that you would end up having to do if you were going to municipalize the utility. Phase III would be the acquisition, more or less the final part of it which would be acquisition of the electrical utility.

Each phase would result in a go/no-go recommendation. This go/no-go recommendation would be by myself or others that you may retain to advise you on this, but in the end, the Commission really needs to make – the Commission and the City Council, if you partner with them, have to make these go/no-go recommendations and decide whether you want to continue on this.

I was asked to perform Phase I and I've done that and if a recommendation was going to continue past Phase I, when the County agreed then Phase II you would probably need to do an RFP and decide if you wanted to go into – well, do an RFP to look into the economics of the situation as I explained a little earlier and decided at that time whether or not you wanted to proceed further with them.

Now, I want to give you some facts about public power and why you would want to municipalize. There are actually over 2,000 public power organizations in the United States.

There are far more public power organizations than there are investor-owned utilities, as we call Public Service of New Mexico. There are seven public power organizations in New Mexico and you'll see eight listed there. The real ones are Aztec, Farmington, Gallup, Los Alamos, T or C and Raton. Springer I have always understood is a public power entity but I've never met anybody from Springer that claims to be in the public power utility. Las Cruces was made a public power entity. However, they have not really taken it over. They do run natural gas, water, sewer, solid waste and things like that out of their utility.

The good thing about it is that it's owned by the citizens of the area that it serves. And if Santa Fe wants to utilize whatever kind of power they want to utilize, it is the Council/Commission, the elected bodies have the ability to make those kinds of decisions and set a path for the utility to buy clean energy, for instance. Global warming is a big issue. If you wanted all solar energy you could do that. You probably wouldn't, but you could. You could say that you want to supply whatever kind of energy. Los Alamos, for instance has what's called a sustainability initiative going which the utility biller there has said that they do not want to buy any more hydrocarbon-based power, if we go out for a resource, for instance, a generator. If we're going to buy a generator they don't want it to be a coal-fired generator.

Los Alamos has about 20 megawatts of hydropower by Abiqui and El Vado, which is the cleanest and most renewable of all resources. If the rain falls, it runs down the river, it evaporates and does the cycle all over again. And you can balance resources. You can decide on some balance that you might want. Again, the decisions are made by we the people as to how that all comes about through our elected representatives.

COMMISSIONER MONTOYA: Mr. Chair.

CHAIRMAN SULLIVAN: Commissioner Montoya.

COMMISSIONER MONTOYA: Regarding decisions are made by we the people. Could you just expand on that a little bit more, in terms of – you're talking about the governance, the rate structures.

MR. MONDAY: Mr. Chair, Commissioner Montoya, the decisions are made by us who are an elected body. Again, if you run for office on a platform of buying solar power and the people in the area, the county, want that, they vote for you. They elect you, so the decisions are made by us, again through our elected representatives because the elected representatives run the counties and the cities through the Manager and that utility would work for the City and/or the County.

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

MR. MONDAY: Service quality – I don't know about Santa Fe but if you call PNM in Rio Rancho you get – it's really hard to get somebody to talk to. Call the cable company in Rio Rancho you get somebody in Phoenix. The phone company it's real hard to get anybody. Now if you call the Department of Public Utilities in Los Alamos or Gallup, the two that I know the most about, Las Cruces, probably, you'll get a body to talk to. Los Alamos I guarantee you'll get a body to talk to you. You'll get somebody that will take care of you. If you want to build a house, a store, whatever, and you have a utility question that you need answered, there's a service in the area, you'll get somebody, an engineer to help you out and sit

down with you and do it. And very easily. PNM or the phone company or whoever, they'll do the same thing but it's much more difficult.

You can set service levels, again, we the people set the service levels as good or bad as we want to. If you want to know anything about the system, it's public record. We'll give it to you. When I did some questioning down at PNM about some very simple little matters they told me that Homeland Security would be violated to give me some of this information. Well, if I'm a terrorist I'm not going to go blow up a transformer over here on Agua Fria. I would probably do something much bigger than that and yet they use that kind of stuff to just to keep people from talking.

Cost – in general municipal customers have lower rates. That's pretty standard, rates lower than private investor-owned utilities or co-ops. Co-ops are a different kind of thing because the density is not good enough so they have to run lines forever to get people. So we don't really like to compare them because they're a very good operation. They just don't have the density to keep the rates low.

Elected or appointed officials again can direct expenditures for citizen's desires. You can have a lot of maintenance or not much maintenance. Citizens are in charge of rates. The rates always have to be approved by councils, commissions, boards, however the structure is, and they can demand, they can say right here in this room that rates should not be this high, rates should be higher or however. It doesn't have to go through a big rate making process like the PRC. Citizens are in charge of salary structure. They're not going to stand for inflated salaries like some of – not some of, most of the IOUs have, \$500,000, \$1 million salaries. And you can structure, the rate structure can be used to shape usage. You can give better rates for people that use their power at night or on off-peak times and thereby reduce the utility's cost of power.

And one of the mantras of private industry, investor-owned utilities especially is the government can't do anything right. Why should they have a utility and why should they operate a municipal utility. And that's not at all true. Any organization is just as good as the organizational culture and the system that the organization operates under. There's something called the 95 percent rule that says five percent of the problems in an organization are caused by employees and 95 percent are caused by the system the employees have to work in. So if the system is set up right and managed right things work real well. Monopolies such as utilities, electrical, whatever, seem to operate better under a regulated type system. We have – in the country we were going to go to competition, remember a few years ago? With electrical systems, electrical utilities and it hasn't worked out very well. In fact it's worked out really badly in a lot of cases. The people that work in the organization make the organization. That's the bottom line. You hire good people you'll have a good organization, be it government, be it private, be it whatever. Generally, municipal utilities operators as well as private utilities, some of them may operate better, some worse, some the same. It has to do with the people that work in the organization.

Technically it would be very simple to remove the PNM system in Santa Fe County from the overall PNM system. Of course you'd have to – we're only talking about the

distribution system, not transmission, so you'd still have to buy power over the transmission lines PNM owns. If the County and City partner in a municipalization effort the cost should be – I say it will be, it should, effectively be the value of the PNM system in the county. Now, what that value is will be – if I'm selling I want a lot of money for it, if I'm buying I don't want to pay much, so you'll have to see how that shakes out.

COMMISSIONER MONTOYA: Mr. Chair. Now are we talking about both gas and electricity? Just electricity?

MR. MONDAY: Mr. Chair, Commissioner Montoya, no. Just electricity. I am kind of surprised that there was not an offer made to sell the gas systems to you, communities such as yourself, counties such as yourself. Other counties were in the – instead of that they went to a single buyer up in Michigan or something which seemed rather odd to me but that's what they did. I didn't include the co-ops in the study. I think the co-ops are fine. They're in the southern part of Espanola, north of Camel Rock Casino mainly. That's the Jemez Mountain Co-op and in the southern part of the county south of Madrid are the Central New Mexico Co-op. And those are not included. We're talking about the area of the county effectively between Madrid and Camel Rock.

It looks like there will be two substations that have to be built and we talk about – I call it the Caja and the new Buckman substation. With the new Buckman Diversion project it's going to take a bigger substation regardless of who builds it. That can be a municipal substation or PNM can build it. Somebody's going to have to build those two substations probably. I couldn't make a good case for a County-only utility. Thereby I'm not recommending that. There would be considerable expense and there would be some infrastructure. There again, in parts of the county the density is not that great.

The recommendation, at least from my perspective is to go ahead forward with phases that we're now calling IIa and IIb as outlined in the report, and this is a County-City combined utility. And with that, I'd stand for questions.

COMMISSIONER MONTOYA: Mr. Chair.

CHAIRMAN SULLIVAN: Commissioner Montoya.

COMMISSIONER MONTOYA: This next phase then, Buck, is the one that Commissioner Campos you said would be \$200,000?

COMMISSIONER CAMPOS: That's my understanding, a rough approximation. And if the City agreed we would divide it equally with the City.

COMMISSIONER MONTOYA: Oh, so it would be about \$100,000 apiece.

COMMISSIONER CAMPOS: About \$100,000 for the County.

COMMISSIONER MONTOYA: And is the part of the study, Buck, where we'll talk about the importation of wind energy, solar? Is the one that kind of outlines what we should look at in terms of alternative energy?

MR. MONDAY: Mr. Chair, Commissioner Montoya, no. If you go that far down the road you're going to be looking at more money. Probably \$400,000 to \$500,000. But the \$200,000 that I estimate, and we'd need to talk about the scope to get that nailed down for sure, but it would be the economic evaluation that says this would cost something –

this is how much you could give for the system. This is what rates would be. This is about what we can buy power for. Now, when you start going into alternative energies like you probably want to, then you're going to need to do a lot of research on just what alternative systems are costing you, because right now you will get a lot of people that are saying their power supply is real cheap. We just hear numbers all over the place.

So there's going to be a lot of research that has to be done to find out what those numbers actually are. What can you buy a solar plant and put here in Santa Fe County for? And what would that cost on a kilowatt-hour basis?

COMMISSIONER MONTROYA: Okay. Thank you, Mr. Chair.

CHAIRMAN SULLIVAN: Any other questions, comments?

COMMISSIONER MONTROYA: I guess Mr. Chair, I do. Roman, where would the funding come from? Commissioner Campos' discretionary fund?

COMMISSIONER CAMPOS: I've been saving for three years now.

MR. ABEYTA: Mr. Chair, Commissioner Montoya, I've had this discussion when this was first brought to my attention a few months back with the Finance Director and she is recommending that we take it out of our contingency fund that we have set aside for this year and there still is enough in there to cover this if the Commission were to do this.

COMMISSIONER MONTROYA: So I guess preliminarily, what would the average citizen save if we do this transition from a private to a public utility? Or is that another part of the phase study?

MR. MONDAY: Mr. Chair, Commissioner Montoya, it is, but effectively the cost should be about the same at this point, less the – depending on the salaries that were paid to utility workers. Because the value of the system, PNM has that in their rate base right now. So you shouldn't pay more than that value which would allow you to pretty much have the same rates as you do now. There wouldn't be any savings necessarily except for a small increment that again, the difference between City/County workers versus PNM workers, possibly. But that's going to be so small that it should effectively be the same rate right now.

COMMISSIONER MONTROYA: So will the potential savings to the customers come at a point where we're having alternative energy sources and not buying all of the power from PNM or whoever's going to supply them?

MR. MONDAY: The potential savings would come from the power supply that you could buy at a lower rate than what you're getting now. You're getting some pretty high, pretty expensive power with some pretty expensive add-ons for all of the things that go on in the county. There's been a lot of construction by PNM for reliability purposes. You're paying for that. So the savings would be long term. They would be what you could buy your own power supply for, what you can buy power on the open market for and that sort of thing. There's a potential for buying hydro-power through Western Area Power Administration, from what they call the Colorado River storage project. That reduces your cost and some things like that.

The other this is, of course the big one is how much do you have to pay for a PNM

system and that's what would be looked at in phase 2.

COMMISSIONER MONTROYA: Okay. Thank you, Buck.

CHAIRMAN SULLIVAN: Other questions, comments? Commissioner Campos.

COMMISSIONER CAMPOS: Mr. Chair, I think going public is important because it gives us control and gives us choice and keeps money local. We can make our community wealthier. We can provide better jobs for our kids, either in the production and generation or distribution of a system. That's hugely important to becoming a prosperous community. We could do other things. For example, we could invest some of our profits in the weatherization of homes now owned by seniors who have incredibly high fuel bills because their homes are not well constructed, because they have old heaters that use a lot of energy, because they don't have proper windows and doors and insulation.

So we can do what an investor-owned utility cannot do; we can invest in our community. We can keep more money locally. We can likely produce a better rate for our customers. And I think when you look at all these options I think it makes a lot of sense to explore carefully. And I would suggest the Commission give staff the direction to proceed with discussions with the City on this joint venture to provide local power together. Thank you, Mr. Chair.

COMMISSIONER ANAYA: Mr. Chair.

CHAIRMAN SULLIVAN: Commissioner Anaya.

COMMISSIONER ANAYA: Mr. Chair, I'm not ready to act on anything right now. I think this presentation was good. I'd like to hear more about it but right now our main concern is this public hearing that we're supposed to have. I think this should have happened prior to the public hearing but this could be a good thing. Right now I'm not ready to act on anything. I'm ready to get into the public hearing.

CHAIRMAN SULLIVAN: Okay. Any other – Commissioner Montoya.

COMMISSIONER MONTROYA: Mr. Chair, how engaged is the City in this process in terms of them paying for half of it?

COMMISSIONER CAMPOS: Well, we've had two Councilors involved in the discussion, Wurzbarger and Calvert, and the Mayor at times. The Mayor is very interested. Calvert is very involved and Wurzbarger has indicated that she's very supportive. So I think there's a good chance that the City would be very interested in pursuing this idea.

COMMISSIONER MONTROYA: And come up with \$100,000 to do it.

COMMISSIONER CAMPOS: Yes. We would go in as equal partners.

CHAIRMAN SULLIVAN: Perhaps what the direction we could provide is to approach the City with the concept and try to get something a little more formal with the City in terms of their support of the study and then of course it would have to come back to us anyway.

COMMISSIONER CAMPOS: Yes. And actually, to create a utility, we'd have to go to the voters.

CHAIRMAN SULLIVAN: Well, yes, but even before that. I mean before

embarking on the \$200,000 study, I'd like to see it come back here to us anyway, because I'm sure the City will have comments and PNM will have comments and they will be lobbying the City and so forth, and I think Commissioner Anaya is right. We probably need more time to talk about those comments and see if this is – if we want to put our \$100,000 into this or not. But I think it's worth taking that step, certainly, at this point. It doesn't cost us anything right now.

COMMISSIONER CAMPOS: So is there consensus then that we engage the City in discussions about creating a local electric utility company?

CHAIRMAN SULLIVAN: I'm fine with that, as long as it comes back here before any expenditure of funds.

COMMISSIONER CAMPOS: Of course.

COMMISSIONER MONTOYA: Ditto.

CHAIRMAN SULLIVAN: Commissioner Anaya, does that satisfy you? Okay, he's shaking his head yes. All right. I think that gives you your direction, Commissioner, and thank you, Mr. Monday for that.

Now, let's move on to the public hearings. Thank you for your patience out there and we'll get on to item XIV. 2. I'll save you some time. Number 1 has been tabled by the staff, for those of you who may not have been here earlier.

XIV. PUBLIC HEARINGS

A. Growth Management Department

- 2. AFDRC Case # V – 075410 Joe Mier Variance. Joe and Carmela Mier, Applicants, Paramount Surveys (Paul Rodriguez), Agent, Request a Variance of Article III, Section 2.4.1a.2b (Access) to Allow Access Through Camino Dos Antonios Which is a Legal Non-Conforming Road Which Does Not Meet Current County Standards for a Three-Lot Family Transfer Land Division. The Property is Located in the Village of Agua Fria Traditional Historic Community at 1800 Camino Dos Antonios, Which is Off Agua Fria Street, within Section 32, Township 17 North, Range 9 East, (Commission District 2) Vicente Archuleta [Exhibit 3: Photos of Property]**

VICENTE ARCHULETA (Case Planner): Thank you, Mr. Chair. Joe and Carmela Mier, applicants, Paramount Surveys (Paul Rodriguez), agent, are requesting a variance to be allowed to use Camino Dos Antonios which is a legal non-conforming road of approximately 10 to 12 feet in width, to access their property in order to create a three lot family transfer. There are at least 15 properties that take access from this road, however there are six properties that have to cross the Santa Fe River via a bridge that does not meet SF County Standards for Emergency Vehicle crossing.

On January 2, 2008 the AFDRC, the Agua Fria Development Review Committee met and acted on the case. The decision of the AFDRC was to recommend approval. Joe and Carmela Mier are requesting a variance

The applicant's agent states: "We would like to appeal the decision of the Santa Fe Fire Marshal to deny access to our subject property through a concrete bridge on Camino Dos Antonios. All we would like to do is have an access to these lots which has already been a long standing access to these properties off Camino Dos Antonios."

The applicants have submitted for a three-lot family transfer land division which is dependent on the variance.

Article III, Section 2.4.1a.2.b, Access, states: "All development sites created under this Section shall demonstrate that access for ingress and egress, utility service and fire protection whether by public access and utility easement or direct access to a public right-of-way can be provided and meet the requirements of this Code."

While family transfer land divisions are not subject to providing offsite improvements if held for three years per Article III, Section 2.4.2b.3c, which states: "Offsite improvement requirements do not apply to lots created by family transfer for the first lot per immediate family member, small-lot family transfer, or small lot inheritance transfer provided that the recipient does not sell or transfer such lot for three years from time the plat is recorded. For second and consequent lots and for lots sold or transferred by the recipient prior to such three year period off-site improvement requirements of this Code shall be met at the time of sale." For family transfers to be exempt from off-site road improvements for the first lot, the person transferring the lot shall file an affidavit as described in Article II, Section 4.3.2b.v.

Recommendation: Article III, Section 2.4.1a.2.b, Access, states: "All development sites created under this Section shall demonstrate that access for ingress and egress, utility service and fire protection whether by public access and utility easement or direct access to a public right-of-way can be provided and meet the requirements of this Code."

Staff believes that the variance request cannot be supported based upon the following: All weather access has not been proven; The existing bridge across the Santa Fe River has not been certified by an engineer licensed in the state of New Mexico for live loads associated with fire apparatus and it has not been demonstrated that the bridge is structurally stable and a dry lane maintained during a 100-year storm event as required by Article VII, Section 1.4.5.6

Therefore staff does not support creation of lots that have not demonstrated legal access or which are not provided all weather access, or sufficient emergency access.

Therefore, staff recommends denial of the variance. Thank you, Mr. Chair.

CHAIRMAN SULLIVAN: Are there any questions of staff? Before we get to that, let me just mention, in case there is anyone in the audience who is here for item 4, which is CDRC Case #V 07-5360, the Paul and Mary Jo Parker Variance in Cuyamungue, that has been tabled at the request of the applicant. Okay, back to item 2. Questions of staff? Okay, seeing none, is the applicant here? Could you come forward and state your name and have the recorder swear you in, please.

[Duly sworn, Joe Mier testified as follows:]

JOE MIER: Mr. Chair, Commissioners, I'd like to begin by showing you some photos that were taken to give you a visual of the property, the road, and the circumstances of the property. To begin with, with me here is my son Jeremy, our surveyor from Paramount Survey, Paul Rodriguez and Nick Larrañaga, and my son Julian.

This photo, which is number one, shows one of the accesses that we have to the property going south on Camino de Mi Angel from West Alameda and 599. That is one of the accesses that we have that would serve one of the lots, depending on how you look at the transfer, the lot split. It should be the lot closest to – on the north side closest to Alameda.

Photos two and three show the end of the road which is again Camino de Mi Angel. The subject property to the left, neighbors to the right. In one of the photos it indicates where if we did build a road down to the other two lots, where the road would need to be cut and where it would need to start. So mark that on the photos.

Number four was taken from the same location as photos two and three. This is showing the road going back toward West Alameda going north. It gives you a visual of that road or that access, again coming in from West Alameda and Camino de Mi Angel.

Photos five, six and seven show the subject property from different views. This is again one of the lots, the last lot on the north side, top of the hill.

Number eight shows the hill that the road would be constructed on. I'm showing the hill from the south side. The hill is approximately 66 feet high, more or less, and I've indicated if we built the road where it would need to be engineered through.

Photo number nine shows the slope of the hill from the east side as you're driving down Camino Dos Antonios going south, gives you a perspective of the slope of the hill.

Photo number ten is Camino Dos Antonios going south past one of my brother's homes, Gilbert here on the left, the subject property on the right and it gives you an idea of where one of the other access roads is located. That access road comes from the San Ysidro Crossing to the property and serves some other properties in between. This road again starts at San Ysidro Crossing and runs along the north side of the Santa Fe River. The Santa Fe City sewer trunk line is for the most part under this road. This road serves as an access to that trunk line and several households. There's approximately, I think there's five properties that are served by that access road. We don't use the road but we've allowed other property owners in the past and there's been a lot of water going down the Santa Fe River that they couldn't cross the San Ysidro Crossing, choose our crossing to get home in the afternoons.

Photos 11 and 12, again show the property as you're driving down Camino Dos Antonios and some of the homes that I was referring to earlier that use the access from the San Ysidro Crossing.

Photo number 13 shows the river crossing going south to Agua Fria Road. It shows two gates which are locked. The City keeps them locked to control the traffic to the trunk line but also gives you an idea of where the manhole that serves our property is located. And I think I also indicated on that photo approximately where that trunk line is.

Photos number 14, 15 and 16 show you a bird's eye view from the top of the hill and

show you the subject property below to give you an idea of the slope. It shows you the Camino Dos Antonios access, family properties to the east of the subject property, and I've also tried to indicate where the other access road again comes in from the San Ysidro Crossing.

Photos number 17 and 18, again taken from Camino Dos Antonios. This one taken from the crossing from the south side of the river facing north. The subject property to the left. It also indicates where the trunk line is located again. There's a better view of the gates I think, and I'm not sure if you can make out where the manhole is on the left-hand side. Again, that's where the trunk lines connect.

And lastly, photo number 19. This is again off of Camino Dos Antonios going north, north of the river, and I've tried to indicate where the access road connects to the left, where the access road connects to Camino Dos Antonios. And we don't use the access right now. We've never needed it. We've left it open. We know we're not legally obligated to because there have been many times that the other property owners, some of the people that live to our west have needed our crossing because again, the San Ysidro Crossing when it rains pretty heavily, you can't pass it. There have been some incidences that have been reported in the news of people trying to use the crossing and they've had to be pulled out. And that crossing is actually not passable for about an hour, two hours after a severe rainstorm.

Are there any questions regarding the photos?

CHAIRMAN SULLIVAN: Thank you, Mr. Mier. Are there any questions of the applicant from the Commission? I don't see any right now. This is a public hearing. Is there anyone in the audience who would like to speak?

MR. MIER: I'm not actually done.

CHAIRMAN SULLIVAN: Oh. Well, how much longer is it going to take?

MR. MIER: Not very long.

CHAIRMAN SULLIVAN: Okay. I thought you were finished. You asked if there were any questions.

MR. MIER: Regarding the photos. I said are there any questions regarding the photos.

CHAIRMAN SULLIVAN: Yes, I'll run the meeting. Thank you, Mr. Mier. We do the questions at the end of the applicant's presentation.

MR. MIER: Right.

CHAIRMAN SULLIVAN: Okay. Go ahead.

MR. MIER: I wasn't done.

CHAIRMAN SULLIVAN: All right. Well, you didn't indicate that. Go ahead and finish up please.

MR. MIER: Thanks. To begin with, the photos hopefully give you a perspective as to the condition of the property, the road and some of the other things that might help you understand the property and the access and so forth. I actually belong to the Agua Fria Village Association, the Agua Fria Water Association and I served on the EZC for a little over ten years so I do respect the process. I tried to follow the process. We actually

started working on this in July of 2004 and basically finally decided after that amount of time that we needed to go this route, which is seeking a variance, because we weren't really getting anywhere otherwise.

We've already invested time and money of course, although we're not actually doing this to turn a dollar. To make a buck. We're trying to do this for my family, my son, which I introduced earlier. They'd like to build a house as soon as possible. County staff and Fire Marshal have questioned our access of course but we in essence have three. The northern block has access from Alameda. There shouldn't be any problem with that. The other two lots, I guess the access to those is questioned, and one of the things we tried to do is look into engineering a road down that hill as I indicated on those photos to access the other two lots, but after talking to the engineer it didn't seem very practical and rather expensive.

And then of course, if you noticed by what I tried to indicate on that photo, that road would be pretty obvious and quite a scar on that hill and we don't feel that it's really necessary because like I've indicated, there are two other accesses, one of which again comes from San Ysidro and that actually is serving property owners already. That can't be closed. That has to be maintained because it also, that road which of course follows the north side of the river, the trunk line runs under most of it. So we have that access and of course we have Camino Dos Antonios. So that's one of the things that we pointed out.

Photos 2, 8, 9, 14, 15 and 16 pretty much illustrate how impractical it would be, especially when the two lots that we already have access to, and like I said earlier it would be rather expensive. County staff has asked us to prove all-weather access. That seems impractical and impossible because I know for a fact and I hope everybody here realizes that there aren't too many County roads and even City roads that can prove that. As a matter of fact the street that I live at, I live in the Candlelight subdivision, that road is never – our roads are never cleaned. We live on a hill and if I didn't plow our hill I doubt if an ambulance or a fire truck could get back into the houses in the back. So we've seen in the newspaper where there's been a lot of complaints about the roads, especially last year and this year regarding the snow removal. So would I guarantee that we would have all-weather access? Maybe, but probably not. I do plow when it snows, almost immediately and I keep the road clean. We've maintained the crossing. We do need to do some more maintenance. We do the maintenance around this time of the year, as soon as the snow melts and it gets a little bit warmer. We need to do some more concrete work because with erosion, because of the river, and the river tends to change, but I think it's stabilized. It's not dropping as it was for a while.

So we know that we need to maintain the bridge. We know we need to maintain the road. And if you look at the photos, that pretty much shows you that our road is pretty well maintained.

We've had basically two situations where emergency vehicles had to be called and they had no problem getting across the crossing. We have Fedex trucks, UPS trucks and Waste Management trucks crossing that bridge all the time. If you reference, I'd like to reference some of the comments that were made by the AFDRC, one of which, by Mark Gonzales, he pointed out that the historic village, there are many traditional roads in the area.

He has used the road and found the improvements to be adequate, more than adequate. He also said that it would be unfair to require private landowners to do more than the County can do.

Also Member Pike moved to approve the request and one of the things that Member Mee pointed out, quoting page 36 of the community plan with reference to private roads, that is, I worked on that plan when we worked on the Agua Fria Village Community Plan, and there's many roads in Agua Fria that are basically serving spaghetti strips. There are several instances where a vehicle, an emergency vehicle would have a hard time accessing. Our road is a little bit wider than most and as I say we maintain the road so we make sure that we can get in and out and we've never really had any problems. We've never had a day when we couldn't get in or out. Our road is maintained. We add sand and gravel every year and when it snows or it rains it doesn't get so muddy that you can't get through the road, like one of the other County roads or private roads. So we've done a real good job of trying to maintain it, obviously, for our own sake.

San Ysidro Crossing is a real dangerous crossing, especially during heavy storms, as I mentioned before, and I'm guessing that that was probably engineered by a certified engineer. But it's not a very safe crossing. We at one time, we had a slab that worked well for us for several years but with the fact that the riverbed has dropped due to mining down the river we had to abandon the slab because it was impractical, it was thought, with that kind of drop. So we had no choice but to do something with the crossing and the only choice that we had was to build a bridge and we built a bridge. It was constructed, 46 yards of concrete. We used _ - _" rebar. And then of course the 1/8" concrete mesh. So it's well reinforced. There's a lot of concrete. It was engineered to allow when there was mild runoff, to allow the water to run under it. And then when there was a heavy storm and there was a lot of water in the Santa Fe River, to allow the water to go through it. And as I say, we do need to make some repairs to it. We do every year, that concrete because of that erosion.

So the reason that we're here again is we feel that we've tried to do everything we can and we had no recourse but to come and ask for a variance. And I'm done.

CHAIRMAN SULLIVAN: All right. Thank you, Mr. Mier. This is a public hearing. If there's anyone here who would like to speak in favor of or in opposition to the request, this would be a good time to do it. Seeing none, the hearing is closed. Comments from the staff? I see we have the Fire Department here as well if there's some questions. I'd like to get some comments from Mr. Patty or anyone regarding the emergency access issues.

BUSTER PATTY (Fire Captain): Mr. Chair, Commissioners, good evening. We have reviewed the applicant's packet and looked at what they're trying to do with their land division and we have no problem with them splitting their lots or the different routes of access that they have presented to you. Our only concern really is that bridge that they've got. We did do some checking to find out that we have made some crossings on that, but crossings that we've made have been with brush trucks. The City's Med-8 has been across it, and we also had the Agua Fria rescue truck. We have not had a fire engine or a tanker across it and that's what our concern is is whether the bridge can support the weight of a tanker,

which is approximately 33,000 pounds. They do have a two-story structure being constructed up there, or somebody has, and that would be a possibility of bringing an aerial device across there. Now we're looking at 54,000 pounds going across the bridge.

I did make a crossing today in my pickup to look at it and it is, it's a very large piece of concrete up there that they've got and it feels very, very stable right now. I'm just concerned with the erosion on the downward side, what's going to happen in the future. As the applicant stated it is not an all-weather crossing. It's very good. When the river running it's going to be the same thing as the San Ysidro Crossing. When we get the heavy rains we're not going to be crossing that one either because we're always pulling people out of that one. Our main concern is crossing that bridge right now without having any kind of engineer stamp qualification on that bridge, we won't be taking any heavy equipment over it.

Now, if they have a fire or any kind of emergency up in that area we will seek whatever alternative route that we can but we don't have anything designated that's been given to us that would be a substantial route to get there that would support the weight of our trucks. Our trucks, the small tankers are averaging 2,000 gallons of water, which – and they're bobtails, they're just a single axle so they do sink pretty well. So we have to be real, real careful about the other routes that have been presented. I've not explored the other route that goes along the pipeline, that comes from the San Ysidro Crossing site. We still have that problem there also. Because we're not going to be crossing San Ysidro either, but from the Agua Fria we could access that area from the top side but now we still have this stretch from San Ysidro over to their property but I'm not real sure what that access would be stable-wise.

The road that they talked about, the driveway is very well packed. You can tell there's been years of gravel and compaction done. I think the road itself would sustain the weight of the vehicles. I didn't drive all the way up to their properties. I didn't feel I had the right to do that at this point right now to find out about turnarounds and I'm not – the lot that's up on top – we have no problems with that because they can access that from West Alameda. I've not seen any engineering plans or anything for coming down the side of that road where the grade would be coming off of that hill.

Our concern is that bridge that you guys have some pictures of. I took some pictures today for myself just to see for myself what we're looking at, I'm real concerned about the wash underneath that thing. That's all I have.

CHAIRMAN SULLIVAN: All right. Thank you, Buster. Any questions for Mr. Patty? Commissioner Anaya.

COMMISSIONER ANAYA: Not, for Mr. Patty, just to Mr. Mier. So you realize what the chief has said, and you would understand that. Let's say your house was on fire and you'd be waiting for a fire truck and they're not going to come. I just want to make sure you understand that. They're not going to cross that unless they go around the other way and try to get it to that way. But they probably could take a brush truck across that. That's what I'm hearing. Are you okay with that?

MR. MIER: Well, obviously, I would be because otherwise I wouldn't ask for

something like this. And there's actually several landowners on the north side of the river, probably starting at Siler Road where that supposed Siler Road bridge is going to be done. Pretty much all those people that live on that side, they can't be accessed from Alameda. It would be tough for a fire truck to go down some of those roads because of the way they're real narrow, a lot of twists and turns to them. That's to our east. To our west, some of the photos show some of the other homes there, they would be tough to access. The only access they would have would be through that access road coming from the San Ysidro Crossing.

If there was a fire and flood at the same time because of the runoff, well, yes, that would be a tough thing but typically – well, I couldn't say typically, but that would be – it's passable, I guess. As the Fire Marshal indicated, there's a fire station off of Alameda up a little ways. So it would take some time. But right now, I guess you could say we're in jeopardy. Everybody on that side of the river, as I say is in jeopardy. When we build our homes we're going to try to do them as affordable as we can but not in the sense that we're going to cut any corners and create any possible fire hazards for ourselves. We've never really had a fire. Those other occasions that I mentioned earlier, they weren't really house fires. They were – well, one was a storage shed somehow or another got caught and it burned. And then there was another that was a false alarm. Somebody doing fireworks or something. So, yes, I know.

And then there's a fire hydrant or water hydrant at the entrance to our property off of Camino Dos Antonios, right at the corner of the lot. So there's a water hydrant real close by.

COMMISSIONER ANAYA: I guess what I'm saying is I live 15 miles from a fire station on eight miles of dirt road and I know that if my house starts on fire it's probably going to burn down by the time somebody gets there. Volunteers, if they had manned stations, maybe I'd have a chance, but I know that because where I live it will probably burn down. Hopefully it will never happen, but that's where I chose to live.

MR. MIER: Yes. And as you say, like myself and most of my family lives in that area. A lot of cousins and relatives that live in that whole area, they're faced with the same problem. I know that my cousin Edward, his garage started on fire. He lost most of it. By the time the fire trucks arrived it was mostly gone. And then the fire station isn't very far down the road. There's a lot of factors and variables that have to be considered. And of course access is one of them.

CHAIRMAN SULLIVAN: Any other questions?

COMMISSIONER ANAYA: I'm done.

CHAIRMAN SULLIVAN: Okay. Commissioner Montoya.

COMMISSIONER MONTOYA: Steve, what liability do we still have in that sort of a situation?

MR. ROSS: Having approved or disapproved an application like this?

COMMISSIONER MONTOYA: Yes.

MR. ROSS: We have some, but I wouldn't say it's a huge liability.

COMMISSIONER MONTOYA: If we were to approve it and then –

MR. ROSS: If we were to approve this in the context of –
COMMISSIONER MONTOYA: A fire hazard.

MR. ROSS: Yes. With a known fire hazard.

COMMISSIONER MONTOYA: I guess my question, Mr. Mier, for you would be are you comfortable knowing that, as Commissioner Anaya said, you may have a catastrophe before we're able to respond or we may not be able to respond at all.

MR. MIER: Right. And then part of that liability is when you build a home and go buy your homeowners insurance, the liability, the risk is measured by the insurance company and they pretty much dictate whether they're going to insure you or not and what that premium is going to be. So most of the liability is addressed and taken care of when you buy a homeowners policy. So that's all concerned. But again, as I indicated to Commissioner Anaya, there's a lot of us in the county that are in jeopardy. And many of us even in the city are in jeopardy. There's no way that you could ever – I don't know about you, but I'm a worrywart. I don't know if I could ever be free of worry about not losing my home in a fire and how much of it I would lose by the time they arrived and put it out. I lost my first home to a fire, so I know the feeling.

COMMISSIONER MONTOYA: So you're willing to take the risk and willing to pay the higher insurance premium for your homeowners insurance.

MR. MIER: Of course. We wouldn't have even bothered if we would have been apprehensive about that kind of loss. It's just a risk you take. It's just like getting up in the morning. You don't ever know what's going to hit you.

COMMISSIONER MONTOYA: Thanks, Mr. Chair.

MR. MIER: Thank you.

CHAIRMAN SULLIVAN: I think that –

MS. COBAU: Mr. Chair, if I could just add a couple points of clarification to give you some more information.

CHAIRMAN SULLIVAN: Sure.

MS. COBAU: The alternate easement that the applicant has pointed out is in fact not for access. It's a sewer line easement. The maintenance of a bridge in the FEMA regulatory floodway, federal code prohibits or precludes people being able to place fill of any sort in the floodway of the Santa Fe River without first demonstrating through an engineering analysis to FEMA that that fill or whatever kind of work they're doing in the bottom of the river doesn't result in a lessening of the conveyance capacity of the river or in an increase in the 100-year water surface elevation. The 100-year flow in the Santa Fe River at this location is 8,500 cubic feet per second. The velocity is 14.1 feet per second, and the depth of flow at that location is eight feet. So the bridge would be submerged in a 100-year event under about six feet of water.

I would just like to suggest if the direction that the Commission is going to take is one of approving this variance that there needs to be some specific notes on this plat to alert future potential purchasers of this property that there is no access to this property in a storm event, and also to alert them of potential encumbrance on their fire insurance, their

homeowners insurance policies.

CHAIRMAN SULLIVAN: Okay. Thank you, Shelley. What I was going to say was that I don't think our consideration here should be whether or not Mr. Mier or his family are willing to accept the risks. I think we have an obligation to ensure that there is legal access, that there is sufficient emergency access and that there is a protection of the public health and safety for future users because these lots of course can be sold like any family transfer lots can be sold. So I don't really think the issue is, well, we know it's sub-Code but as long as you're willing to live with it then we'll approve it. I think we have a public health mandate to be sure that it's safe all around.

I've driven on this road and it's way too narrow. There's no way you can turn around on it with an emergency truck. We get into a situation of these lots being sold in the future and people come back and say, well, I can't afford to improve this lot. I'm just one person. It's way too expensive and it stays unimproved forever. It certainly needs a lot of work. I don't think this is a good – I wouldn't support this variance. I don't think it's at all in the public interest. It's extremely dangerous. And look at these photos of the bridge; they're scary.

But that's my feeling. Are there any other questions or comments from the Commission? Okay. Do we have any motions on AFDRC Case #V 07-5410?

COMMISSIONER ANAYA: Move for approval, with conditions.

CHAIRMAN SULLIVAN: Motion from Commissioner Anaya.

COMMISSIONER MONTOYA: Second, with the conditions that Shelley stated.

COMMISSIONER ANAYA: Yes, with the conditions that Shelley stated.

MS. COBAU: Mr. Chair, Commissioner Montoya, we don't have staff conditions along with our recommendation, so could we clarify what the conditions are?

COMMISSIONER ANAYA: Okay with the condition that you –

MS. COBAU: That no maintenance occur on the bridge without FEMA analysis being proved.

COMMISSIONER MONTOYA: That was one of them, yes.

CHAIRMAN SULLIVAN: In the condition on maintenance occurring on the bridge, that would be easy to satisfy just by not doing any maintenance on the bridge.

MS. COBAU: Maybe prior to –

CHAIRMAN SULLIVAN: Prior to exercising any use of the lots or any building permits you need to comply with that. It would seem to me that that's what you're talking about.

MS. COBAU: And disclosure on a plat regarding the lack of all-weather access and potential encumbrances, if we can come up with some kind of language that legal can support us on on the plat regarding the property being encumbered by potentially higher homeowners insurance, higher fire insurance, things like their maybe inability to even get it insured.

COMMISSIONER MONTOYA: Yes.

COMMISSIONER ANAYA: Mr. Chair, I might not agree to the first one. Clarify that one for me.

MS. COBAU: Federal law mandates that any time any fill or any type of work is done in a regulatory floodway that that is submitted to FEMA, and it requires an engineering analysis of exactly what's being done. They have to do a hydraulic analysis of what's going on in this conveyance prior to their activity and what is going on after their activity. So they would basically do a hydraulic model of the Santa Fe River showing the bridge, because it's existing, and then they would run another hydraulic model that would show what would happen with whatever work they propose to do. If they plan to put in new abutments, whatever they might do on that bridge. And we should really be concerned about regular maintenance because if any obstructions get underneath that bridge it will be taken out of there – tree limbs or something like that get underneath that bridge, the hydraulic pressure associated with that kind of flow is just going to remove the bridge. I don't know if that's clear.

COMMISSIONER ANAYA: Okay. Do you agree to that, second?

MS. COBAU: So just maybe follow – if we could have a condition that stated something that FEMA criteria regarding construction work in a regulatory floodway must be complied with. Something of that nature.

COMMISSIONER MONTROYA: Mr. Chair, Buster, do you have some –

CAPTAIN PATTY: Mr. Chair, Commissioners, if you want it put on the record that it does not meet the 1997 Uniform Fire Code for access, and that without engineering drawings for that bridge the Fire Department will not be taking any kind of heavy equipment over that bridge at all, the way the bridge stands right now. Brush truck, a pickup that have gone across, we're going to make every attempt we can to get there but we're not going to be taking tankers or engines across there. The hydrant that is on the opposite side of the road is over 1,000 feet from the end of that road and that's as far as we can lay line. It doesn't do any good to lay line if we don't have another engine on the end of that line.

CHAIRMAN SULLIVAN: Okay, so we have a motion with I think two basic conditions requiring FEMA review and approval and an engineering report, and one requiring recording. Was there something else, Shelley? Recording of the plat.

MS. COBAU: Yes, Mr. Chair. If we could ask – if staff could ask the Commission to add a third condition regarding the necessity to also obtain a Santa Fe County development permit prior to any activity, such as maintenance on that bridge also.

COMMISSIONER MONTROYA: That's fine with the seconder.

COMMISSIONER ANAYA: That's fine.

CHAIRMAN SULLIVAN: Okay, so we have a motion with three conditions. Does that cover it? Does the applicant agree with the conditions?

MR. MIER: I'm not quite sure if that makes any sense to me, because what you're saying is that I can't repair the bridge, or we can't repair the bridge until we get approval. And that's not really encouraging us to maintain that bridge. I'd like to be able to go in there and do what we've been doing for the last ten years, fix it every spring. That's

what's made it last this long. Sure, there have been instances that we've had tree limbs and even refrigerators get lodged in there, but the water has never created a problem under those circumstances. The water either flows around it, through it, over it. It doesn't last very long.

CHAIRMAN SULLIVAN: Excuse me, Mr. Mier, we've got to move this on. We've spent an hour on this. Just answer yes or no. Are you in agreement with conditions?

MR. MIER: I just don't understand –

CHAIRMAN SULLIVAN: You don't understand the conditions. Would you like us to table it and bring it back after you have a chance to discuss it with staff?

MR. MIER: I didn't understand why. It didn't make any sense.

CHAIRMAN SULLIVAN: You may not understand why, but do you understand the conditions?

MR. MIER: Yes.

CHAIRMAN SULLIVAN: Okay. And do you agree with the conditions or not?

PAUL RODRIGUEZ: I'm his agent, Paul Rodriguez, Paramount Surveys, 1925 Aspen Drive.

CHAIRMAN SULLIVAN: You need to be sworn in.

[Duly sworn, Paul Rodriguez testified as follows:]

MR. RODRIGUEZ: This clarification on this is he can't develop the property until that access is up to County standards or national flood standards or for FEMA? The clarification is why approve it if we can't build on it anyway. The whole reason we're here is to get away from having to go through that whole expense of having to upgrade the bridge to FEMA standards. That's the whole reason I think that we're here is to get these lots created for –

CHAIRMAN SULLIVAN: I can ask Shelley for a clarification. My understanding of it is that it's a federal requirement whenever you work in a navigable waterway, which the Santa Fe River is, so what we're clarifying is you need to upgrade the bridge and it needs to meet those federal requirements.

MR. RODRIGUEZ: I understand that but there was a wording in there that says that they can't do anything with the property until it's basically a FEMA water crossing. And I don't understand that part.

COMMISSIONER CAMPOS: Mr. Chair, I'd like to move to table this so that these folks can sit down with staff and understand what the conditions are. Because we could be here another half hour trying to explain this.

CHAIRMAN SULLIVAN: Yes, I think we need to move on here tonight and there seems to be some lack of clarity here.

COMMISSIONER CAMPOS: So that's a motion to table.

CHAIRMAN SULLIVAN: Motion to table.

COMMISSIONER ANAYA: Mr. Chair.

CHAIRMAN SULLIVAN: Commissioner Anaya.

COMMISSIONER ANAYA: I think that they don't understand and they're

asking us to explain it to them and that should be our duty. I think that my motion was that they are to – my motion was to approve their transfer or their lot split, and if they needed to do any work on the bridge that they would have to contact – who did you say?

MS. COBAU: They would first come and apply for a development permit through us. Then we would direct them to get whatever work they were doing approved by FEMA as far as maintenance.

COMMISSIONER ANAYA: Are you talking about the bridge only?

MS. COBAU: Yes. In the floodplain or in the floodway.

COMMISSIONER ANAYA: Yes. If they want to work on the thing, they go and get a permit from you, and they're going to tell you what they're going to do. Okay? Meantime, they can develop their property, according to my motion, they can develop their property. And if they want to work on that bridge they get a permit from you and then you issue them a permit and then they have to go to somebody else?

MS. COBAU: If what they're doing creates any rise in the 100-year water surface elevation of the Santa Fe River then they would have to apply to FEMA for a conditional letter of map revision before they could do the work. If they can demonstrate through an engineering analysis that what they're doing creates no rise, then we can go ahead and give them a permit.

COMMISSIONER ANAYA: Okay. So that's pretty easy, I think. That was my motion.

MR. RODRIGUEZ: That's the crossing, not the development of the –

COMMISSIONER ANAYA: Right. If this passes you can build, you can do your lot split. If you need to maintain that bridge you've got to go to the County and get a permit. If you're going to affect the flow, then you've got to go somewhere else and get a permit.

MR. RODRIGUEZ: That's what we wanted the clarification on. Thank you.

CHAIRMAN SULLIVAN: Do you want to go ahead with your motion to table?

COMMISSIONER CAMPOS: I'll withdraw my motion.

CHAIRMAN SULLIVAN: Okay. We have a motion with three conditions.

The motion tied by 2-2 voice vote.

CHAIRMAN SULLIVAN: Motion fails 2-2. Okay, is there another motion. I would move to deny the variance based on the issues of insufficient emergency access.

COMMISSIONER CAMPOS: Can I ask for legal advice on that point? I think the matter – because it's tied I don't think we need to do anything additional at this point. Mr. Ross, could you guide us?

MR. ROSS: Mr. Chair, Commissioner Campos, since there is a Commissioner missing, our rules of order provide that if the status quo being what it is that the motion to approve fails and a Commissioner is missing it gets placed on the next land use agenda. I

understand what Commissioner Sullivan is doing. He's made a motion to deny, which is perfectly appropriate. If that passes the matter is done with, but if there is not a motion to deny that's passed tonight then the thing gets put on the next land use agenda in April for a vote only.

COMMISSIONER CAMPOS: Okay. So you're making a motion to deny?

CHAIRMAN SULLIVAN: I'm making a motion to deny.

COMMISSIONER CAMPOS: I'll second that. I think from a public policy perspective, Mr. Mier, it's a bad thing to do. It's bad because you're putting a house on the market eventually, and that's what we have to look at, the big picture. It does not serve the public well to grant this variance so I will second that and vote to deny the variance.

CHAIRMAN SULLIVAN: Discussion on the motion. Commissioner Anaya.

COMMISSIONER ANAYA: I didn't hear anything that they're selling the property. This is a family transfer.

COMMISSIONER CAMPOS: What I said, Commissioner Anaya, is that eventually this house is going to be on the market. All properties are going to be on the market.

COMMISSIONER ANAYA: We're assuming.

COMMISSIONER CAMPOS: We know that.

COMMISSIONER ANAYA: I don't know that.

CHAIRMAN SULLIVAN: Okay. Other discussion?

The motion tied by 2-2 voice vote.

CHAIRMAN SULLIVAN: Motion ties, 2-2, and that will be taken up at the next Commission land use meeting in a month. Thank you.

XIV. 3. CDRC Case # APP 07-5490 Rachael Tapia Appeal. Rachael Tapia Appellant, is Appealing the Land Use Administrator's Decision to Deny a Home Occupation Business License For Operation of Loving Animal Services on Residential Property Consisting of 2.5 Acres. The Property is Located in an Existing Neighborhood in the community college Subdistrict within the Valle Lindo Subdivision at 40 Vista del Monte, within Section 25, Township 16 North, Range 8 East (Commission District 5) Vicente Archuleta [Exhibit 4: Opposition Letter; Exhibit 5: Emissions Evaluation]

MR. ARCHULETA: Thank you, Mr. Chair. On January 17, 2008 the County Development Review Committee recommended denial of a home occupation business license for operation of Loving Animal Services on residential property consisting of 2.5 acres. The appellant is requesting an appeal of the CDRC's decision to support the Land Use

Administrator's decision to deny an application for a home occupation business license for Loving Animal Services.

On July 25, 2007, the appellant was granted a home occupation for Loving Animal Services to pick up deceased pets and transport them to the Santa Fe Animal Shelter and to trap wildlife and relocate the animals to the Santa Fe National Forest. This business license was for the function of operating a home office for the business only. On November 5, 2007 the appellant submitted an application for the expansion of the home occupation which included placement of an incinerator on the property. This incinerator would be utilized to cremate deceased pets onsite. This application was denied by the Land Use Administrator on November 16, 2007.

The denial of the application was based upon the appellant's failure to comply with conditions set forth by Article III, Section 3.2 Home Occupation Performance Standards of the Land Development Code. Paragraph d (3) states, "There shall be no change in the outside appearance of the building or premises or other visible evidence of the conduct of the home occupation, except for one (1) non-illuminated nameplate sign not more than one (1) square foot in area; construction of walls, fences, sheds, studios, or other accessory structures to provide for storage of materials and equipment are allowed, as long as the floor area limitations of fifty percent of the residence, including the accessory buildings, are met." The appellant states that the 20 by 20" structure will be 11 feet high with a four-foot roof stack and will be located 200 feet from any surrounding residences. The structure will be incorporated into the existing property with a landscape plan that will add more trees and shrubs to those already existing and will resemble a garage.

Paragraph d (4) states, "The Home Occupation shall not involve operations or structures not in keeping with the residential character of the neighborhood."

CHAIRMAN SULLIVAN: Mr. Archuleta, do you want to just enter this into the record? We have all of that that you're reading here.

MR. ARCHULETA: I can go to the recommendation.

CHAIRMAN SULLIVAN: Okay.

MR. ARCHULETA: Recommendation: The application is not in compliance with Article III, Section 3.2 of the Land Development Code. Staff recommends denial of the appeal. Should the BCC decide to reverse the Land Use Administrator's decision and approve the application for a home occupation the following conditions shall apply. May I enter those into the record?

[The conditions are as follows:]

1. The appellant shall comply with Fire Marshal requirements.
2. A water-harvesting plan in accordance with Santa Fe County Regulations shall be approved administratively prior to obtaining a building permit.

CHAIRMAN SULLIVAN: Okay. Let's have any questions of staff by the Commission. Okay, I don't see any questions right now. Is the applicant present? Give us your name please and have the recorder swear you in.

[Duly sworn, Rachel Tapia testified as follows:]

RACHEL TAPIA: Good evening, Mr. Chair and Commissioners. My name is Rachel Tapia. Sitting behind me are my supporters. I own a business by name of Loving Animal Services and my business deals with people's pets who pass away. I recently purchased a piece of property that is 2.5 acres and at this time I'm trying to build my property so I can run a crematorium. I am trying to personalize cremations. I have a 19-year old pet of my own and I wish to cremate her when she does pass away.

The process would be as follows: If your pet passed away, I would pick up your pet from your home. I would transfer the pet to the crematorium. I would then cremate the pet, place the ashes in an urn and then return ashes to the pet owner. At the last meeting there were some concerns that came up and I would like to address those concerns if I may.

CHAIRMAN SULLIVAN: Go ahead.

MS. TAPIA: One of the concerns was emissions and odors. I do have a letter from the Environment Department. It states the New Mexico Environment Department Air Quality Bureau has made a determination that no air quality permit is required for Loving Animal Services crematorium. In spite of the letter from the Environment Department I also have a visible emissions evaluations test that I would like to hand out to you if I may.

CHAIRMAN SULLIVAN: Sure. A copy to the recorder please.

MS. TAPIA: On this visible emissions evaluation I did highlight in green the emissions color. It does state there is none. It also states the range reading. I also says zero. All the emissions on the right hand side do state zero. I also have a source layout sketch which shows that the emissions would continue to rise north. Also another concern was the sound. Here I have a decibel chart, a decibel is how to measure sound. Of course it shows total near silence would be zero decibels. A whisper is 15 decibels. A normal conversation is 60 decibels and a lawnmower is 90 decibels. A car horn is 110. The crematorium works at 54 decibels. It would also be housed in a building so there would be virtually no sound whatsoever.

Also I have kind of made up a little bit of a chart as to the properties that are surrounding mine. This middle piece here would be my property. This large x in the middle of the property would be where the crematorium would be. I have gotten written consent from the neighbor below me and the neighbor to the right of me. The neighbor to the left has mentioned that he wishes to remain neutral and let me do as I choose on my property. Unfortunately, I do have two other neighbors who do oppose it who are here in the audience today. I am willing to make any adjustments to my property to appease the neighbors. If there's any other questions that I can address at this time.

CHAIRMAN SULLIVAN: Thank you, Ms. Tapia. Questions for the applicant? Commissioner Anaya, then Commissioner Montoya.

COMMISSIONER ANAYA: Mr. Chair, I just wanted to thank her for her brief explanation. Her presentation and charts are basic. I wish everybody else would be like you.

MS. TAPIA: Thank you.

CHAIRMAN SULLIVAN: Commissioner Montoya.

COMMISSIONER MONTOYA: Is that it?

COMMISSIONER ANAYA: That's it.

COMMISSIONER MONTOYA: Okay. That was a brief question too. Mr. Chair, Rachel, regarding the emissions, you say there's none. What about the smell?

MS. TAPIA: There is virtually no odor. The temperature of the crematorium, the primary chamber, is 1800 degrees Fahrenheit. Basically, in a cremation process, the definition here basically says in consideration, the process is ignited and burns solid, semi-solid or gaseous combustible waste to carbon dioxide and water vapor. So it basically takes it to those states of carbon dioxide and just water vapor. There would be virtually no scent, no visible color and no sound.

COMMISSIONER MONTOYA: So is this a different crematory than what would be used for like livestock?

MS. TAPIA: I would imagine so. The crematory that I have is rather small. The largest animal I would assume would be maybe a 150-pound pet.

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

CHAIRMAN SULLIVAN: Any other questions from the Commission? Okay. Thank you. This is a public hearing. Do we have anyone in the audience that would like to speak either in favor of or in opposition to come forward and have a seat up front if you would, whoever would like to speak. I don't know who left the black hat there, but if you need a hat, there's one.

[Duly sworn, Joe Velarde testified as follows:]

JOE VELARDE: This is my son and my neighbor. I live [inaudible] Personally, I want to apologize to these people. I know them [inaudible] However, I am opposing [inaudible] because I don't think it's a good health deal there for the neighborhood. In summer, even when people are barbecuing even if they are three or four blocks away. I don't know [inaudible] if she's got enough business she'll be cremating dogs day after day and I don't think that's a good idea and I'm opposed to it. That's my son and I have three more sons and we all agree because I told them I'd come and speak for them because I won't be here too much longer, okay? But they'll be there and [inaudible]

CHAIRMAN SULLIVAN: Thank you, sir.

COMMISSIONER ANAYA: Mr. Chair.

CHAIRMAN SULLIVAN: Question.

COMMISSIONER ANAYA: Joe, on that map that she has, where do you live in relation to her property?

MR. J. VELARDE: We live on the left part.

COMMISSIONER ANAYA: Right down there on the bottom?

MR. J. VELARDE: Yes. [inaudible]

COMMISSIONER ANAYA: Thank you.

CHAIRMAN SULLIVAN: Thank you, Mr. Velarde. I think we got the question answered. Next speaker.

[Duly sworn, Paul Crumbacher testified as follows:]

PAUL CRUMBACHER: My name is Paul Crumbacher. I've been in my property for about 14 years. Valle Lindo is a little valley, a pretty valley is what it means. When I moved there 14 years ago I didn't expect to have to cope with a residential area turning into a commercial area, so I object from that standpoint. It's not zoned commercial. So it's going to change the character of the neighborhood. And I believe there is a potential for smells and other types of aggravations, noise, etc. and I know she's done her homework. And I have nothing – I don't know this lady from Adam; I have nothing against her but I'm living in a neighborhood and someday I do want to sell. And when I sell I don't want a potential buyer saying, oh, I don't want to buy it because you have a crematorium.

Let me ask you, would you like to have a pet crematorium next to your property and I don't think any of us would say that we do. I think there will be a drop in the value of my property. We're all homeowners. We're all paying mortgages. We don't want to see drops in our property any more than the national scene sets for us. So I think it affects my resale. I think it changes the character of the neighborhood and to a negative aspect. This is a nice little valley and all of a sudden I've got to deal with this kind of a thing which I don't think I should have to. I think it sets a precedent. Somebody else may want to come in and do other commercial types of things once the door is open and I don't think that's a good idea either. It just affects my general sensibility about where I'm living.

I know she spent money and maybe she didn't know that she couldn't do this commercially and that's somebody else's problem. It's not mine. I don't think this serves the public welfare as you were discussing with the last gentleman. This is a public welfare issue for our whole valley as far as I'm concerned. Would it affect our homeowners insurance besides? There are things here that she is not taking into account. She's just thinking about her own business and I relish her going out and setting up her own business but not in my neighborhood. I think it's a great idea and I think the concept is wonderful for people who love their pets and need pets. And I've had pets and I will probably have them in the future. So that's my statement.

COMMISSIONER ANAYA: Mr. Chair.

CHAIRMAN SULLIVAN: Question, Commissioner Anaya.

COMMISSIONER ANAYA: Two questions. Where is Valle Lindo? I've seen it a million times.

MR. CRUMBACHER: Valle Lindo is on your way out towards the prison, just as you go past the 599 cut-off on Highway 14. It's on your left-hand side as you go down toward the south, about a tenth of a mile there's a little road. Well, there's actually three roads. There's one on the top where her property is located. I'm on the north side of the valley, and then there's another road on the south side of the valley.

COMMISSIONER ANAYA: We just paved that road.

MR. CRUMBACHER: Yes, you did. It's very nice. We appreciate it.

COMMISSIONER ANAYA: And then where do you live in regards to that map?

MR. CRUMBACHER: In regards to the map, I think I'm probably right there.

COMMISSIONER ANAYA: Okay. And those are 2.5-acre lots?

MR. CRUMBACHER: Yes, they are.

COMMISSIONER ANAYA: And do you – sorry, I've got a question for Ms. Tapia. Rachel, do you already have that set up?

MS. TAPIA: No.

COMMISSIONER ANAYA: You haven't even –

MS. TAPIA: I purchased the crematory but I've yet to place it on the lot due to this situation where we're at right now until I know that I can actually run it, I won't bring it. There was one other thing that I'd like to address if I may.

CHAIRMAN SULLIVAN: Ms. Tapia, just answer the question.

COMMISSIONER ANAYA: Let me ask another question. How many crematories – is that what you call them? Crematories?

MS. TAPIA: Yes.

COMMISSIONER ANAYA: Where do they have them in Santa Fe? Are they located in the community for human? Is there other dog or animal crematories that we don't know of, that we aren't aware of that are in the City of Santa Fe?

MS. TAPIA: There is McGee's crematorium, which is right there off by Salvador Perez Park, which is right here in town.

COMMISSIONER ANAYA: So they have one in town.

MS. TAPIA: They do have a crematorium there. There are two other crematorium sites. One would be the Santa Fe Animal Shelter, which would be off of Caja del Rio. That's where the Santa Fe Animal Shelter is now. And then there would be Braemar, where they are located is off of Old Las Vegas Highway, kind of by that Bob's Bit.

COMMISSIONER ANAYA: Oh, Bobcat Bite. Okay. Thank you.

MS. TAPIA: Is there any way I can address one –

CHAIRMAN SULLIVAN: Go ahead.

MS. TAPIA: He was mentioning –

CHAIRMAN SULLIVAN: No, we're not doing rebuttals now. You'll get a chance after the public hearing for rebuttals. Yes, sir. Step forward.

[Duly sworn, Mike Velarde testified as follows:]

MIKE VELARDE: I'm Mike Velarde. Commissioners, I just have a couple things to say. I do run a business out of my house. I just run my truck out of there. I don't run my business personally. Because that's been brought to my attention, I have a business; why can't she have one.

Another thing that was brought up is that my truck smells. I'm in the sewage business. And I welcome anybody in the county that would like to go check my truck. It doesn't smell. And I do have a permit. We've had a permit for probably 28 years with the County, since we've been in business. My only problems were it's not commercial. The properties are not commercial out there. I feel that a business like that should be in a

commercial area. That's all I have to say. My dad addressed pretty much everything.

Another thing, as far as neighbors, I'd like to see a sheet of exactly what neighbors complained and were for her. Because I've been hearing all kinds of different things this week. So, everybody needs to get involved. We need to get all the neighbors here. That way everybody knows we're on the same page. Thank you.

CHAIRMAN SULLIVAN: Thank you. Is there anyone else who would like to address the Board in the public hearing? Okay, if not, I'll close the hearing. Ms. Tapia, would you like to comment?

MS. TAPIA: Mr. Crumbacher had mentioned he was worried about the depreciating of the property. I did receive a letter from my appraiser stating that this would not depreciate the values of any properties. It may increase the value if people decided that they wanted to go commercial on their property. That would be it.

CHAIRMAN SULLIVAN: Okay. Thank you. All right. Back to questions from the Commission. I have a question. Shelley, on home occupation licenses, do those run with the land?

MS. COBAU: Mr. Chair, they run with the business.

CHAIRMAN SULLIVAN: With the business.

MS. COBAU: But if there's a permanent structure there, I guess it would run – we issue business licenses every year. So if people don't renew their business license, their business license goes away. It's not like a variance where the variance goes with the land. The home occupation business license only goes with that particular occupation.

CHAIRMAN SULLIVAN: Okay. If they moved and someone else wanted to come in and use this incinerator to incinerate animals, could they do it?

MS. COBAU: They would have to apply for a home occupation business license under their name.

CHAIRMAN SULLIVAN: Okay. And would it be approved by virtue of the fact that this crematorium already exists on the property?

MS. COBAU: I think it would make sense that we would consider it almost like a legal non-conforming business. If somebody were, for example, running an office out of their house, something simpler and someone came in and wanted to run an office we would just reissue it under a different name.

CHAIRMAN SULLIVAN: Okay, so at least potentially it could continue on.

MS. COBAU: Right. The building could stay but the kiln or the device that's used to cremate the animals could be moved.

CHAIRMAN SULLIVAN: It would have to be moved?

MS. COBAU: Well, it could be. It's not necessarily a permanent part of the structure.

CHAIRMAN SULLIVAN: The other question was the reason staff is recommending denial as I understand it is a permit has already been issued for a home office for the business and home occupation standards state that there shall be no change in the outside appearance of the building or premise or other visible evidence of the conduct of

home occupation, and no signs and so forth. Is that the basic concern that staff has?

MS. COBAU: That's correct, Mr. Chair. If you look at Exhibit K in your packet there's an elevation of what this will look like and we felt that that is non-residential in nature.

MS. TAPIA: Excuse me, Mr. Chair, may I address that?

CHAIRMAN SULLIVAN: No. We're finished with the applicant's presentation and the hearing. Okay, so we have a picture of what it will look like here. Okay. That answers my questions. Any other questions from the Commission? Commissioner Anaya.

COMMISSIONER ANAYA: You have to give me a second. I can't remember it.

CHAIRMAN SULLIVAN: Take your time.

COMMISSIONER ANAYA: Question to the applicant or staff. Is there other animal crematories in Santa Fe County?

MS. COBAU: Yes. There are several. There's one that operates out beyond the Bobcat Bite at the Braemar. It's closer to Canoncito, at the intersection of Valle C de Baca Road. There's a stable there by the KOA campground, and I believe there's one there.

COMMISSIONER ANAYA: So that does what she does.

MS. COBAU: That's correct. I'm not certain what the status of their permit is. I think they came in before the current home occupation code was enacted.

COMMISSIONER ANAYA: And how many – I guess this is to the applicant. How many animals will you do a day, a year, a week?

MS. TAPIA: I would estimate no more than 20 a year, because at this point I do maybe three departed animals a year at this time.

COMMISSIONER ANAYA: And where do you do it?

MS. TAPIA: Right now I do my cremations through the Santa Fe Animal Shelter. If they do not want a cremation I do a proper disposal.

COMMISSIONER ANAYA: What is the unit made of? Does it operate on butane?

MS. TAPIA: It will operate on butane – propane.

COMMISSIONER ANAYA: I guess that's all I had. Thank you.

CHAIRMAN SULLIVAN: Thank you, Commissioner. Commissioner Campos.

COMMISSIONER CAMPOS: You're saying you're only going to do 20. How much do you charge per cremation?

MS. TAPIA: At this time I'm wanting to be more affordable for people. At this time cremations are very expensive. A large animal could cost up to \$150 so I would like to make it more affordable to people.

COMMISSIONER CAMPOS: If you're only going to do 20 a year you're not going to make very much money there are you?

MS. TAPIA: At this time that's what I'm kind of estimating. I don't think I

could ever go above 70 if that.

COMMISSIONER CAMPOS: Thank you.

CHAIRMAN SULLIVAN: Okay. Other questions of staff or the applicant?

COMMISSIONER ANAYA: Mr. Chair.

CHAIRMAN SULLIVAN: Commissioner Anaya.

COMMISSIONER ANAYA: In a way I want to support this, but then I put myself in their shoes and it seems kind of creepy. If I – Joe mentioned, Mr. Velarde about a barbecue. Right when he said that, I'm in the backyard and I'm having a barbecue and I'm thinking, my neighbors are burning dogs, or they're – I just get a creepy feeling. And if I would see it, or wouldn't know about it maybe I'd be able to eat my hamburger a little better. But with that, I think that this probably needs to be in a different location. It's hard, because I'm a small business owner too, but this type, I think it needs to go somewhere else. I move to deny.

CHAIRMAN SULLIVAN: Motion from Commissioner Anaya. Is there a second?

COMMISSIONER CAMPOS: I second.

CHAIRMAN SULLIVAN: Motion and second. Discussion on the motion?

The motion passed by unanimous [3-0] voice vote. [Commissioner Montoya was not present for this action.]

CHAIRMAN SULLIVAN: The appeal is denied.

XIV. 5. CDRC Case # V 07-5420 Hawkins Variance. John Hawkins, Applicant Request a Variance of Article III, Section 2.3.6b (Height Standards for Residential and Accessory Uses) of the Land Development Code to Allow a 24'-9"-Foot Residence, Which Exceeds the Allowable Height of 24' Feet. The Property is Located on Lot 1 of the Tierra Colinas Subdivision off Avenida de la Paz Road, within Section 30, Township 15 North, Range 10 East (Commission District 5) John Lovato

JOHN LOVATO (Case Planner): On January 17, 2008, the County Development Review Committee, CDRC, met and acted on this case. The decision of the CDRC was to recommend approval of the applicant's request with staff conditions.

The applicant is requesting a variance of Article III, Section 2.3.6.b, Height Standards for Residential and Accessory uses, to allow a 24'9" residential dwelling exceeding the maximum allowable height of 24 feet. The applicant is currently constructing the residential dwelling and accessory structure on the property. The applicant states that he is requesting this variance to accommodate the existing construction height of 24'9" on their residence. A residential permit and accessory permit were issued in 2000. Article III, Section 2.3.6.b states

the maximum height of any dwelling or residential accessory structure shall not exceed 24 feet. The vertical depth of fill materials from the natural grade, with or without retaining walls, shall be considered as a component of the building or structure; this depth shall be included in the determination of the building height.

Article II, Section 3, Variances, of the County Code, states that “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 non-self-inflicted condition or that these conditions would result in inhibiting the achievement of the purposes of the Code, the applicant may submit a written request for a variance.”

Recommendation: Article II, Section 3.1 of the Code states, “A Development Review Committee may recommend to the Board and the Board may vary, modify, or waive the requirements of the Code and upon adequate proof that compliance with the Code provision at issue will result in arbitrary and unreasonable taking of property or exact hardship, and proof that a variance from the Code will not result in conditions injurious to health and safety.”

Staff believes that the applicant’s request could be considered a minimal easing of the Santa Fe County Land Development Code, therefore staff recommends approval of the requested variance based on the following conditions. Mr. Chair, may I enter those conditions into the record?

[The conditions are as follows:]

1. Compliance with Rainwater Harvesting through construction of a storage Cistern.
2. Compliance with Terrain Management through construction of a retention pond.
3. All other structures planned on the site must meet the Code’s height criteria.

CHAIRMAN SULLIVAN: John, a question for staff on this. One question I had on this was what was the hardship? What was the circumstances? It’s just that they built the house and the architect didn’t realize that the Code required 24 feet or was there some topographic problem they were trying to get around, or what was the problem?

MR. LOVATO: Mr. Chair, this was explained to me and having worked in the construction industry, sometimes when you construct the measurements don’t always come out to the exact. You can have an eighth of an inch that can throw your whole project off, whether it be a slab issue or it be a height.

CHAIRMAN SULLIVAN: So it was supposed to be 24 feet and the contractor built it 24’9”, is that what happened?

MR. LOVATO: That’s correct.

CHAIRMAN SULLIVAN: I guess we won’t get him to do any construction on narrow dimension projects. Okay, and this is for the residence or is this for the barn that the exception is for?

MR. LOVATO: Mr. Chair, it is for the residence.

CHAIRMAN SULLIVAN: Okay. And are there also conditions from the

homeowners association that pertain to this?

MR. LOVATO: Having looked at a document that was presented from Mr. Hawkins to the CDRC, they had meetings and everything complied with their homeowners association.

CHAIRMAN SULLIVAN: Okay. And the CDRC's recommendation was what?

MR. LOVATO: For approval, Mr. Chair.

CHAIRMAN SULLIVAN: For approval.

MR. LOVATO: Yes.

CHAIRMAN SULLIVAN: And there was some mention in the minutes of a letter presented by a neighbor's attorney, and I didn't see that letter in the packet. Could you tell us what that was?

MR. LOVATO: It was a letter opposing. It went on to explain that Mr. Hawkins was not in compliance with the homeowners association. Mr. Hawkins is in legal actions with this specific person, so they're going through a whole legal battle. Everything led to more of a civil matter in that case, whereas everything in the property is up to our standards and there are no prior or no previous violations.

MS. COBAU: Mr. Chair, there is a letter from the attorney as Exhibit E in your packet.

CHAIRMAN SULLIVAN: Okay. I take it back. Exhibit E. Okay. It is in the packet. And did that letter address the nine-inch variance that was requested or was it basically looking at other issues?

MR. LOVATO: Mr. Chair, it did address the nine inch on the variance but it also addressed other issues as well.

CHAIRMAN SULLIVAN: So he refers to unusual topographic conditions or non-self-inflicted conditions. Okay. That's all the questions I have, John. Other questions for staff? Seeing none, is the applicant here? Come on up.

[Duly sworn, Gerald Chavez testified as follows:]

GERALD CHAVEZ: Mr. Chair, Commissioners –

CHAIRMAN SULLIVAN: You're representing the applicant?

MR. CHAVEZ: I'm representing the applicant. They're my documents that are included in the packet. And I'd like to clarify and confirm your questions, Mr. Chair. The drawings do represent and were permitted for a 24-foot height and the project was inadvertently constructed nine inches higher and it was discovered after the structure had been topped off and roofed. Additionally, for clarification, the opponents to the project in the attorney's letter references predominantly Construction Industry standards and requirements. All of those requirements are moot. We are in full compliance with Construction Industries and Santa Fe County requirements, with the exception of the nine-inch variance that we're here before you today.

The opponents have filed a \$250,000 lawsuit against my clients and have offered to settle for \$50,000 plus attorney's fees. My client has a specific opinion as well as action that

he will pursue in response to this. I just wanted to present that as clarification that I think their letter to you was without substance. If it were, the appropriate Code authority would have action against my client. That has been cleared up. If there's any questions I can answer for you, I'm available.

CHAIRMAN SULLIVAN: Okay. Questions for the applicant? Commissioner Anaya.

COMMISSIONER ANAYA: Mr. Chair, is this the same John Hawkins that built residences in the Village of Galisteo?

MR. CHAVEZ: It probably is. John Hawkins I believe has built in greater Santa Fe County.

COMMISSIONER ANAYA: Well, this is not the first time this has happened to Mr. Hawkins. He built a home in Ranchitos de Galisteo and it was over 24 feet. And the Ranchitos de Galisteo made him tear that house down. So you would have thought he would have learned already. And the reason I know that is because I used the material from that house to do the sub-floor at my house.

CHAIRMAN SULLIVAN: So you're looking for more sub-floor material?

COMMISSIONER ANAYA: I don't know if it was a couple feet higher or what, but when I saw the name there I went, ah, John Hawkins. He's doing it again. He's not paying attention to – he's not following the Code. I've heard this name. He's a nice guy. I know him. Not well, but he helped me out with the sub-floor in my house. I don't have a problem with this, but I do have a problem because he keeps doing it. Do you have an explanation to that?

MR. CHAVEZ: Mr. Chair and Commissioners, I do have an answer for that because I was the architect for that project as well. That project was constructed and permitted under the height that it was constructed at, and it was through a lawsuit action and a mediation and a mutual agreement that it was taken down and it was paid for by the homeowners association. It was not because the Code was violated. So you are correct; it was taken down. The trusses were removed. It is a rather extensive and expensive process, but that was done by mutual agreement, it was not something that was intentional or circumventing any codes and ordinances.

This particular circumstance totally came about surprise. We're not absolutely clear how the discrepancy occurred. The horizontal control on this, which is usually maintained pretty well by Mr. Hawkins was somewhere broken through the timeframe of construction and if you look at your notes this project has been under construction for quite some time from when it was originally approved. So we're not clear where the additional nine inches of height in the error resulted in that.

COMMISSIONER ANAYA: So is it just the pitch that's up nine inches more?

MR. CHAVEZ: On an 8' by 11" piece of paper, a half inch higher. That's exactly the point of the roof and it's a pitched roof, so we're looking at nine inches of that.

COMMISSIONER ANAYA: And who went over there and measured it?

MR. CHAVEZ: Actually, it was confirmed and measured by Wayne Dalton here with Santa Fe County and we are using that as the benchmark. As an architect, as landscape designer, we have other ways of remedying that as a solution but we decided because the terrain had been rough graded and final grading had not been put back that we would go for the variance and prove this up over the nine inches. There are other ways that we could have addressed this but I think this is the most direct and appropriate given that this is straddled with some legal action by the opponents.

COMMISSIONER ANAYA: Thank you, Mr. Chair. Thank you for clarifying that.

MR. CHAVEZ: Certainly.

CHAIRMAN SULLIVAN: Mr. Chavez, a question I had was we have a letter from a Linda Parker who says she's a member of the Tierra Colinas Homeowners Association and she's apparently concerned that this property be a residential unit and indicates that Mr. Hawkins has been unwilling to declare that the building on Lot 1 is residential and not commercial as it was originally designed to be. Was this originally designed to be a commercial project?

MR. CHAVEZ: No. This was originally designed as a single family residence. It is permitted as a single-family residence. It will be used and occupied as a single-family residence. Anything to the contrary is actionable by the jurisdictional authorities. Mr. Hawkins refuses to sign an affidavit that no one else in the subdivision is required to produce for approvals of the Tierra Colinas Neighborhood Association. That being, they are asking him to certify that this will never be used for any commercial purposes or anything other than commercial [sic]. If they asked this of all of the neighbors and it's a requirement of all of the neighbors, Mr. Hawkins would gladly provide that documentation. But this is neither required nor anyone else in the subdivision has been asked to do, and on principal Mr. Hawkins will not produce that document.

COMMISSIONER ANAYA: Okay. And is this being built by Mr. Hawkins for resale? In other words, is he a homebuilder who builds homes and sells them or is this his permanent residence?

MR. CHAVEZ: This is intended to be his permanent residence. When we started this project several years ago he's had to make some other changes in his plans because he had intended to occupy this house substantially before this timeframe.

CHAIRMAN SULLIVAN: One comment was that it's taken from 2000 to complete this and that's not in compliance with the Code. I don't know whether it is or isn't. I don't have a copy of the Code. Do you have a comment on that?

MR. CHAVEZ: Yes. It is in compliance with Code. A permit can be issued and then it can be extended during the construction period. We're in full compliance with Construction Industries and Santa Fe County requirements. The additional time in completing the project although has taken several twists and turns with the Tierra Colinas Neighborhood Association. The letter from the attorney represents the former chair of the Tierra Colinas Association, is the individual that has filed that lawsuit. The action of the neighborhood

association forced the mediation and that mediation, I believe in 2003, I believe those documents are included. They may not be but staff has those as part of that, was substantially to resolve the differences between the association and Mr. Hawkins. From that mediation all the construction was completed on the exterior of the project to the point where it is today. So it has been not timely but under the constant presence of the authorizing permits and the negotiation and mediation to proceed.

CHAIRMAN SULLIVAN: So both, what you're stating, if I'm reading you correctly is that both the Construction Industries and the Santa Fe County permits were extended to cover this period.

MR. CHAVEZ: That is correct and they are in full force as of today.

CHAIRMAN SULLIVAN: And also there's an allegation that the first floor was going to be designed for commercial use and you're saying there's no commercial use. This is going to be a primary residence of the applicant, right?

MR. CHAVEZ: Not only that but if you want to look charge for charge on allegation that they made I could repudiate with more clarification of all of those aspects.

CHAIRMAN SULLIVAN: That didn't answer my question. My question was it's not being used for commercial and it is a primary residence.

MR. CHAVEZ: That is correct.

CHAIRMAN SULLIVAN: Is that correct? Okay. So you're under oath and so that answers that question. Other questions for the applicant? Okay. Thank you, Mr. Chavez. This is a public hearing. Are there any individuals who are present who would like to speak in favor or in opposition to this variance request? Seeing none, we'll close the public hearing.

COMMISSIONER ANAYA: Move for approval.

CHAIRMAN SULLIVAN: We have a motion for approval from Commissioner Anaya.

COMMISSIONER MONTOYA: With conditions?

COMMISSIONER ANAYA: With conditions.

COMMISSIONER MONTOYA: Second.

CHAIRMAN SULLIVAN: With conditions and a second from Commissioner Montoya. There are three conditions. One of the conditions under discussion is all other structures must meet the Code's height criteria. My understanding is there are no other structures on the site. Is that correct? Are there any planned? No. The applicant is shaking his head no. Okay. Discussion on the motion?

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

- XIV. 6. AFDRC Case #V 07-5840 Dennis Hernandez Variance. Dennis Hernandez, Applicant, is Requesting a Variance of Article II, Section 4.3.3b (Small Lot Family Transfers) of the Land Development code to**

Allow a Family Transfer on a Piece of Property Held in the Family Proper for Less than Five Years. The Property is Located at 2264 Manuelito Lane, within Section 31, Township 17 North, Range 9 East (Commission District 2) John Salazar

JOHN M. SALAZAR (Case Planner): This is located in the Agua Fria Traditional Community.

CHAIRMAN SULLIVAN: Agua Fria. I would have known.

MR. SALAZAR: On January 6, 2008 the Agua Fria Development Review Committee met and acted on this case. The decision of the AFDRC was to recommend approval of the variance with staff conditions.

The applicant is requesting a variance of Article II, Section 4.3.3b of the Santa Fe County Land Development Code. The applicants are requesting the variance in order to subdivide 1.69 acres into five .33-acre lots by means of a family transfer. One lot would remain under the applicant's ownership, while the other four lots would go to his children and extended family members.

It is the applicant's intent to keep the property within his family and the applicant has stated that he is not splitting the lot for financial gain. The applicant has owned the lot since June 12, 2007. Article II, Section 4.3.3b.ii states: "Proof that the land has been in lawful possession of the family proper for no less than five years and that the recipient is an adult or emancipated minor is required."

The applicant will be required to connect to community water and community sewer and would thus meet density requirements as well as all other requirements for a family transfer except for the holding period. The applicant chose to apply for the variance in order to help out his daughter who is currently living in a rough area of the City and he would prefer to have her, as well as his granddaughter, closer to the entire family.

This property could be subdivided without using the family transfer mechanism, but the applicant would be subject to the affordable housing criteria of both the City (based on connection to city infrastructure) and the County, which would substantially reduce his ability to convey the lots to his familial members and preserve the family compound.

The Village of Agua Fria Community Plan as adopted by the BCC via resolution 2006-116 addresses both affordable housing and family transfers as follows: "The location, intensity, and design of new development shall respect existing neighborhood values, natural environmental conditions and carrying capacities, scenic resources, and resources of other social, cultural or recreational concern."

The plan states: "Family compounds are supported in the community and encouraged to maintain traditional lifestyles", and goes on to state: "family transfers are a practice and tradition which have provided a means for affordable housing to the communities of Santa Fe County for hundreds of years with very positive results. The Planning Committee desires that this practice be continued for generations to come."

Recommendation: While the applicant has not owned the property for the required five-

year holding period, the applicant has demonstrated through a prior family transfer coordinated by the applicant's father that the property will remain within the family proper. The property along the western boundary of the subject property is currently owned by the applicant along with various members of his family. The Village of Agua Fria Community Plan clearly supports the variance request therefore; staff recommends approval subject to the following three conditions. Mr. Chair, would you like me to read those or enter them into the record?

CHAIRMAN SULLIVAN: We'll enter them into the record.

[The conditions are as follows:]

1. The applicant shall connect to the Agua Fria Community Water Association as well as the City of Santa Fe sewer system in order to meet the density requirements for five .33-acre lots.
2. The applicant must submit for plat approval for the family transfer land division to be processed administratively and comply with all plat conditions.
3. The property shall be maintained in the family proper until June 22, 2012; the duration of the five-year holding period.

CHAIRMAN SULLIVAN: Questions for staff? I have a question. If they need to connect into the City sewer, and you indicated if it was subdivided under the normal process that would require them to comply with the affordable housing ordinance, does the City accept family transfers in the county as being exempt from the affordable housing ordinance?

MR. SALAZAR: Mr. Chair, that is correct. There is a loophole in their ordinance regarding hookups to their water or their sewer and family transfers are exempt from their affordable housing requirements.

CHAIRMAN SULLIVAN: Okay. And then you mentioned about the applicant has demonstrated through a prior family transfer coordinated by the applicant's father that the property will remain within the family proper. Was that nearby or could you explain that a little more?

MR. SALAZAR: Mr. Chair, on the western part of their property, that's where their family owns a long stretch of property along the western side.

CHAIRMAN SULLIVAN: Is that along the road – I can't read it – it looks like Pueblo del Sur is what it looks like, or something.

MR. SALAZAR: Rumbo al Sur.

CHAIRMAN SULLIVAN: Rumbo al Sur.

MR. SALAZAR: Yes, Mr. Chair. And all those small lots along Rumbo al Sur are the lots that are within their family.

MS. COBAU: Excuse me, Mr. Chair. Those are shown in Exhibit B.

CHAIRMAN SULLIVAN: I've got that in front of me. So this is a big family then, huh? Are they just the lots on one side or both sides?

MR. SALAZAR: Just the ones on the left side.

CHAIRMAN SULLIVAN: The left side or the right side? The east side of the

road or the left side?

MR. SALAZAR: That would be the east side.

CHAIRMAN SULLIVAN: The east side. Backing up to this property.

MR. SALAZAR: Yes.

CHAIRMAN SULLIVAN: So that's eight lots. So then are all those eight lots in the family? Everyone is shaking their heads behind you. You need to say it in the record.

MR. SALAZAR: Yes, Mr. Chair. The people who own it are the applicant along with his brothers and sisters and I believe nieces.

CHAIRMAN SULLIVAN: A basketball team, is that correct? A football team. Okay. And how long has that property been –

MR. SALAZAR: I believe that property was subdivided in 1981, Mr. Chair.

CHAIRMAN SULLIVAN: 1981. So quite some time ago. All right. Thank you very much, John. Are there any other questions for staff? Okay seeing none, is the applicant present? Step up, please.

[Duly sworn, Dennis Hernandez testified as follows:]

DENNIS HERNANDEZ: Mr. Chair, Commissioners, that property you talked about, I'm here to subdivide it and do a family transfer but the timeline put constraints on me but the development code requires that I hold it for five years before I do the family transfer. I've already held it close to a year now and I'm asking your permission to go ahead and give the approval of this request. I also want to touch a little bit on this property. This property was originally owned by my grandfather. Through a land grant. And it turned hands and finally I got it back. It's west of the property that my father had purchased and subdivided and gave to his son and daughters and I just want to do the same thing. I just recently retired from Santa Fe County and what I'd like to do is build my daughter a house.

CHAIRMAN SULLIVAN: So the property to the east of this is your property also?

MR. HERNANDEZ: That's the property that my wife and I just bought.

CHAIRMAN SULLIVAN: You just bought that. So now you own that. Is that that big parcel that's shown on the map?

MR. HERNANDEZ: It's 1.69 acres of land.

CHAIRMAN SULLIVAN: Okay.

MR. HERNANDEZ: There's currently right now there's three homes residing on the property right now. Three permitted homes. They all have septic tanks and community water. And what I'd like to do is just remove them and do the lot split and bring my family in.

CHAIRMAN SULLIVAN: But that's not the property we're talking about here. So you're going to divide this strip into five .33-acre lots. Is that correct?

MR. HERNANDEZ: Yes.

CHAIRMAN SULLIVAN: And then who are those tracts going to go to?

MR. HERNANDEZ: Well, one's for my horses and the other one's for me and then my kids get the other two.

CHAIRMAN SULLIVAN: I don't think horses qualify for family.

MR. HERNANDEZ: I understand, but I've got horses and I need a place to store them. And later on probably one for my wife and one for myself. And if my kids, my grandkids grow up we'll give it to them.

CHAIRMAN SULLIVAN: I hope they grow up.

MR. HERNANDEZ: I hope so too.

CHAIRMAN SULLIVAN: Okay. Thank you, Mr. Hernandez. Questions for the applicant? Commissioner Anaya.

COMMISSIONER ANAYA: Dennis, are you sure you want your daughter living next to you?

MR. HERNANDEZ: Yes, I'm really sure.

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

CHAIRMAN SULLIVAN: I guess he said yes. All right. If there's no other questions for the applicant – did you have something Mr. Romero? This is a public hearing. If there's anyone present who would like to speak in favor of or in opposition to this variance, now would be a good time. Seeing none, we'll close the public hearing.

COMMISSIONER ANAYA: Move for approval with conditions.

COMMISSIONER MONTROYA: Second.

CHAIRMAN SULLIVAN: All right. We have a motion from Commissioner Anaya for approval with conditions as shown by staff, three conditions, and a second by Commissioner Montoya. Discussion?

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

XV. ADJOURNMENT

Chairman Sullivan declared this meeting adjourned at 9:00 pm.

Approved by:

Board of County Commissioners
Jack Sullivan, Chair

ATTEST TO:

VALERIE ESPINOZA
SANTA FE COUNTY CLERK

Respectfully submitted:

Karen Farrell, Wordswork
227 E. Palace Avenue
Santa Fe, NM 87501