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BCC MINUTES
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SANTA FE COUNTY

BOARD OF COUNTY COMMISSIONERS

REGULAR MEETING

March 11, 2014

Danny Mayfield, Chair - District 1
Robert Anaya, Vice Chair - District 3
Miguel Chavez - District 2

Kathy Holian - District 4 [excused]
Liz Stefanics - District 5 [excused]

SANTA FE COUNTY
REGULAR MEETING
BOARD OF COUNTY COMMISSIONERS

March 11, 2014

This regular meeting of the Santa Fe Board of County Commissioners was called to order at approximately 2:10 p.m. by Chair Danny Mayfield in the Santa Fe County Commission Chambers, Santa Fe, New Mexico.

I. B. Roll Call

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

Members Present:

Commissioner Danny Mayfield, Chair
Commissioner Robert Anaya, Vice Chair
Commissioner Miguel Chavez

Members Excused:

Commissioner, Kathy Holian
Commissioner Liz Stefanics

C. Pledge of Allegiance

The Pledge of Allegiance was led by Deanna Lopez of the Housing Department.

D. State Pledge

The State Pledge was led by Roberta Martinez from the Housing Department.

E. Moment of Reflection

The Moment of Reflection was led by Marcus MacDonald of the Housing Department.

F. Approval of Agenda

- 1. Amendments**
- 2. Tabled or Withdrawn Items**

CHAIR MAYFIELD: Commissioners, we have an agenda in front of us. Ms. Miller, are there any needs for any changes?

KATHERINE MILLER (County Manager): Mr. Chair, Commissioners, the only item we have that's changed is under the land use cases, item VII. A. 4 has been tabled.

CHAIR MAYFIELD: VII. A. 4? And that was case #V 14-5020, Dennis and Lynn Comeau Variance. So that has been tabled.

MS. MILLER: Yes.

CHAIR MAYFIELD: Thank you. Commissioners, could we have a motion for approval of our agenda with the amendment?

COMMISSIONER ANAYA: So move, Mr. Chair.

COMMISSIONER CHAVEZ: Second.

The motion passed by unanimous [3-0] voice vote.

I. G. Approval of Minutes

1. Approval of February 11, 2014 BCC Meeting Minutes

CHAIR MAYFIELD: Do we have a motion for approval?

COMMISSIONER CHAVEZ: Mr. Chair, I was not able to attend that meeting. I was excused, so I don't know if you want to postpone the minutes or if we –

COMMISSIONER ANAYA: Mr. Chair.

CHAIR MAYFIELD: Vice Chairman Anaya.

COMMISSIONER ANAYA: Mr. Chair, I would move for approval of the minutes.

CHAIR MAYFIELD: And I'll second that. I was here at that meeting. Commissioner Chavez, as long as you're still comfortable voting on them I don't think that would be a problem. Steve, would that be okay?

STEVE ROSS (County Attorney): Mr. Chair, Commissioner Chavez, this action just says that these are our minutes and so we should vouch for them. So I think it would be okay if you wanted to vote for them.

COMMISSIONER CHAVEZ: I'm fine with that. I just wanted to note that for the record.

CHAIR MAYFIELD: Thank you, Commissioner Chavez.

The motion passed by unanimous [3-0] voice vote.

II. CONSENT CALENDAR

A. Final Order

- 1. BCC CASE #PCEV 13-5370 Thomas Neff & Mary Lyndon Haviland Vacation of Easement. Thomas Neff & Mary Lyndon Haviland, Applicants, Rick Chatroop, Agent, Request Approval to Vacate a Platted Fifty-Foot (50') Wide Private Access and Utility Easement on 1279.30 Acres. The Property is Located at 300 Old Cash Ranch Road, within Section 12, Township 13 North, Range 8 East (Commission District 3) Miguel "Mike" Romero, Case Manager (Approved 4-0**

2. **BCC CASE # PCEV 13-5250 Thomas Wagner Vacation of Plat Note. Thomas Wagner, Applicant, Requested Vacation of a Plat Note That Requires Roadway Improvements on Lots 2A-1 and 2A-2 Prior to Development of the Property. The Property is Located at 67 Camino San Marcos, Off Goldmine Road (CR 55), within Section s 3, 4, 9 & 10, Township 13 North, Range 8 East (Commission District 3) Wayne Dalton, Case Manager (Approved 4-0)**

B. Budget Resolutions

1. **Resolution No. 2014-30, a Resolution Requesting a Budget Increase to the Alcohol Programs Fund (241) to Budget a Reversion Grant Awarded to the DWI Program/\$147,225 (Community Services Department/Lupe Sanchez)**

COMMISSIONER ANAYA: Mr. Chair.

CHAIR MAYFIELD: Commissioner Anaya.

COMMISSIONER ANAYA: I just have a brief question or would just like a brief summary on B. 1 under Consent.

CHAIR MAYFIELD: Okay. So we will do B. 1. Thank you. Commissioner Chavez, do you have any?

COMMISSIONER CHAVEZ: No, Mr. Chair.

CHAIR MAYFIELD: Thank you, Commissioner Chavez. Also, these are for public comment, so do we have public comment on any of these items? Seeing none, let's go ahead, Commissioner Anaya and move to B.1. Mr. Lupe Sanchez and Ms. Teresa Martinez.

COMMISSIONER ANAYA: Mr. Chair, Ms. Martinez and Mr. Sanchez, I would like for the public's edification if you could just give a brief summary of what this grant is. It's something I've worked with and am familiar with but I think so the public understands what we're doing here. Where do the programs come from and what are we using them for, if we could, Mr. Sanchez.

LUPE SANCHEZ (DWI Coordinator): Mr. Chair, Commissioner Anaya, this year the vast majority of the funds are being dedicated to public awareness. We have another Section of the funding that's going to be used to help out the magistrate court to implement a random urine testing program for DWI offenders convicted of a first or second offense. And then we have some funding that's going to the Sheriff's Department to do increased enforcement, checkpoints and saturation patrols. So that's what the funding has been identified for.

COMMISSIONER ANAYA: Thank you, Mr. Chair, Mr. Sanchez. Several different programs to continue our efforts with our DWI program. These are all funds that we've coordinated and communicated through our DWI Council?

MR. SANCHEZ: Yes, sir.

COMMISSIONER ANAYA: Thank you, Mr. Sanchez. And could you just tell the public where the funds come from?

MR. SANCHEZ: Mr. Chair, Commissioner Anaya, the funds come from the liquor excise tax. These funds in particular are funds that the program actually reverted back and that's what the reversion grant did. So rather than use the funding wastefully, because we had some vacancy savings, we identified these funds to revert back and then apply them to those areas that I mentioned earlier.

COMMISSIONER ANAYA: Thank you, Mr. Sanchez. I appreciate your work and the work of the council. I would move for approval.

COMMISSIONER CHAVEZ: Second.

CHAIR MAYFIELD: Thank you, Commissioners. And Commissioners, this is still within our Consent Agenda item, so we'll still roll that under our Consent.

COMMISSIONER ANAYA: Okay.

CHAIR MAYFIELD: Mr. Sanchez, thank you for all the work you also do with our program.

MR. SANCHEZ: Thank you.

CHAIR MAYFIELD: Commissioners, also, we didn't pull anything else from our Consent items but I am just going to read in both cases. That way we'll be approving on Consent today. So we have two final orders. The first one is BCC CASE #PCEV 13-5370 Thomas Neff & Mary Lyndon Haviland. It was a vacation of easement.

The second case on Consent is BCC CASE # PCEV 13-5250 Thomas Wagner vacation of plat note. These are all on our Consent including the one that Commissioner Anaya just pulled, the resolution requesting a budget increase to the alcohol programs fund.

COMMISSIONER ANAYA: Just for the record, a motion and a second on the Consent Calendar? I so move.

CHAIR MAYFIELD: We have a motion for approval.

COMMISSIONER CHAVEZ: Second.

The motion passed by unanimous [3-0] voice vote.

IV. MATTERS OF PUBLIC CONCERN

CHAIR MAYFIELD: Do we have any members from our public who are here to discuss any Matters of Public Concern that are not on our calendar today? Seeing Mr. Martinez walking forward.

DANNY MARTINEZ: Mr. Chair, members of the Commission. My name is Danny Martinez. I've been a development planner for over 28 years. I've been active with many municipalities throughout the state. I'm here because I have a serious concern and my concern is probably leaving a target on my back. My concern is I think that there's a serious lack of concern regarding economic development, development approvals, the process of going through the approval process and what it's doing is it's really running out a lot of people that would want to do something in Santa Fe County. My concern is the development code. We're going to face a development code that is really [inaudible]. This code that's

going to dictate how we approach developments throughout the county, how we do the process of approval. The changes I've seen have to start now and it has to start with a willingness of all the departments to work with the development projects and not just presenting them, whose project it is, but from economic development. This is [inaudible] about economic development. We're about moving projects through. We're about making progress. We're about tax revenues. We're about everything that we're supposed to represent.

My concern – we need some change. We need some coordination with all the departments that works for us instead of against us. And again, that target that's on my back, it doesn't phase me because after 28 years of doing this all I see is battle after battle after battle. We can't do that anymore. We've got to work with the development community, the property owners, and those that are working [inaudible] in Santa Fe County. I'm expressing this. I've got a number of projects coming before this County and it scares the daylights out of me to think that I'm going to come up here and fight these battles [inaudible] I strongly recommend that as the County has over the years of development projects that maybe a citizens committee should have overview of staff review. And I say that – nothing against anybody in particular; it's the process of elimination. If that process of elimination scares me away from wanting to do anything, what's going to happen in Santa Fe County?

I'm going to use one example though. Seven years ago I brought in a manufacturer, a contact [inaudible] who was interested in coming into the City of Santa Fe or Santa Fe County. These people were from California. They were talking 60 jobs starting up. After our initial interview these guys walked away and said no. They ended up in [inaudible]. That's the focus that I'm pushing. We cannot shut down economic development in any way, in any manner. I just really feel that there's a need for better coordinated effort between staff, the developers, the property owners, and again, like I say, on my part, I do this on my own, I know it will probably come back and haunt me but that's okay because I can fight that battle.

I turn to you guys because I feel it's necessary to express how I feel where we're headed and what this new development code could ultimately impact us. What I'm asking for is do we need an oversight committee so we can see how we can correct these things? Yes, we do. We really do. Thank you very much.

CHAIR MAYFIELD: Thank you, Mr. Martinez.

COMMISSIONER ANAYA: Mr. Chair.

CHAIR MAYFIELD: Vice Chairman Anaya please.

COMMISSIONER ANAYA: I'm not going to make a lot of comments but I'll make a few brief comments. I don't think it was the intention of this governing body at all to stifle economic development. I think that there's the new code and there's some new opportunities in my opinion to do development and do projects and do them in a responsible manner. But I do appreciate the comments that were made associated with process and protocol, so, Mr. Chair, I don't know how you feel, Commissioner Chavez or Commissioner Mayfield, but I think that we could always learn from other governmental entities in the state of New Mexico and even in other states on protocol, process and procedure. We should have a fair process. We should have a common process and we should have a process that doesn't drag on for years and years. So as we go through and finalize the development plan and the maps, I'm going to ask our Manager and our staff to be looking at other entities in New

Mexico in particular to start with to see how we might refine our process and make sure that it's equitable and fair. And nobody should feel like they can't come speak to the Commission or staff or anyone else. I think we should always be cognizant that whatever the rules are, the rules are, but that we need to work with people to achieve a common end. So I just would make those general comments for now and then as we go through the mapping and the other process, maybe there are ways we can garner some efficiencies in our new code.

CHAIR MAYFIELD: Commissioner Chavez.

COMMISSIONER CHAVEZ: Thank you, Mr. Chair. The only thing I would add is that I think that constructive criticism can be good. I think that we have to learn from both sides, but I agree with Commissioner Anaya. There was a lot of thought put into the new land use code. I think that there are going to be challenges in the new code but there are a lot of opportunities to encourage economic development in all forms, and to do that, as was stated, in the right way in certain areas. That's not to say that we can't focus on other needs as well. But I think that the opportunities are there; we just need to work through the details.

If anything needs to be adjusted or amended we're going to have to have a larger discussion about that and do that from a policy perspective so that we have everyone on the same page. But the new land use code, it's new. We're still learning about it and I think that there will be time to make adjustments as we move forward.

COMMISSIONER ANAYA: Mr. Chair, if I could?

CHAIR MAYFIELD: Vice Chairman Anaya.

COMMISSIONER ANAYA: Mr. Chair, I appreciate very much my colleague's comments. I think we have an opportunity now in the code as we're developing the practices to look at our protocols and procedures. I think that's kind of what I hear and I don't just hear it from Mr. Martinez in his presentation today but I've heard that, that sometimes there are internal, territorial struggles that occur in any organization and however we can make a process as smooth as possible from start to finish, understanding it is a new code and there's opportunities, I think that's always going to be helpful. So I think you said it best when you said constructive criticism and feedback is a good thing and I just want you to know, Mr. Martinez, or anyone else. This pulpit here that you stood at is a public pulpit, not ours and so feedback and input is always welcome and we welcome it from staff as well as our citizens in the community. So thanks a lot for your feedback.

CHAIR MAYFIELD: Commissioners, thank you so much. Mr. Martinez, thank you for bringing your concerns forward and also just for staff and for our County Manager, I just want to share and working with this Commission and working with our County Manager and staff that everybody that brings a concern forward to this Commission has no worried about any type of retaliation or trying to identify something that they feel may need to have some improvement from this Commission. That's what we're here for is to try to facilitate any improvements that we can.

But I guess this question would be for our County Manager if she can address it or if she needs to go into staff. Ms. Miller, as far as like how the existing code is and the new code that we've adopted, as far as any transition that we're still working, knowing that we're going through our zoning maps and if individuals have, say, plan requests within our Land Use Department or Public Works or anywhere else. I know I've asked numerous times for some

timeline reports from our public – from our Land Use Department of what is the timelines when people submit a plan request? I mean, typically is it a 30-day turnaround? Maybe if it gets kicked back to the applicant that they may ask for additional information, but typically it should be a 30-day turnaround on an application that needs an administrative approval. Otherwise it would get vetted out to go to the CDRC and then it could come back to this full Commission if it doesn't take administrative review, or is it just – and I know that I've asked that question. Is it a subjective approval or do we have approval that gets vetted out consistently? And I see that Ms. Ellis-Green is here now so thank you, Penny for coming forth. What is our process when somebody submits a plan for review to – and then if it has to go across departments? If it has to go to your department, then if it has to get kicked over to our Fire Department, if it has to get kicked over to Public Works Department. Do you all meet regularly on that?

PENNY ELLIS-GREEN (Land Use Administrator): Mr. Chair, Commissioners, it will completely depend on the type of application. A building permit, a business license, is a 15-working day review period. In that it is also sent to the Fire Marshal's Office for review and that coordination needs to happen between the departments to get an approval within 15 working days. A plat is more like a 30-working day. Now, what we do is we take a plat in, we do our review, we take that and we give our redlines and our comments for changes back to a surveyor, and then it kind of comes down to how long a surveyor takes to turn that around and get it back to us, for us to check the redlines, that they've taken care of those, have, for example, the right easements, the right lot size, have tied corners, things like that, and then we sign.

A project that is like a subdivision or a rezoning request is submitted. Within approximately seven to ten days we send that request – we check it for completeness, we sent that request out to reviewing agencies. Those reviewing agencies have a 30-day review time and that's whether it's Public Works, Fire Department, the Environment Department, the Office of the State Engineer, the DOT, they get their report back to the case manager and that that point the project is given legal notice and put on the CDRC agenda. From the CDRC agenda they make a recommendation and after that they move on to a Board of County Commissioners agenda.

CHAIR MAYFIELD: So each department could have 30 days if it needed to go, say to Public Works, they have 30 days. Then if it goes over to Fire, if it goes to an outside state agency, so we could talk about somebody looking at six months?

MS. ELLIS-GREEN: Mr. Chair, Commissioners, they're all sent out on the same day. So everyone has the same 30 days. It doesn't go to Fire for 30 days and then after that, to Public Works for 30 days. So we check for completeness and then it goes out for a 30-day review period.

CHAIR MAYFIELD: And then Penny, so when that applicant brings in that application it's stamped received on such day and they should be looking around a 30-day – I guess give or take mailing, 45-day window to get an A&E back from us or what they need to come into compliance with?

MS. ELLIS-GREEN: Mr. Chair, they should get all of their reviewing agency comments back within that 30-day review period. And then at that point my staff put together

a staff report that comes to you with information from all of the reviewing agencies, and they go on to – the applicant goes on to a CDRC or BCC agenda. The one thing that can be triggered there is, for example, if the DOT or Public Works come back and say, yes, there was a traffic report submitted but it is not an adequate traffic report. It is not for the square footage that is proposed. It isn't for the number of units that's proposed and at that point request a complete submittal be made by the applicant. And then it's down to how quickly the applicant gets it back to us. But if that was the only negative comment that we got we would wait for that to be resubmitted, and it wouldn't need to go through the review of the other reviewing agencies again.

CHAIR MAYFIELD: Thank you. And then, I guess Mr. Ross or Penny, in our new Land Use Development Code or even in the zoning – I don't recall seeing it, but was there any discussion of maybe a citizens' oversight review or any other type of outside entities looking at any type of approvals that we're doing or kind of monitoring our review process? Or just for process improvements or enhancements?

MS. ELLIS-GREEN: Mr. Chair, Commissioners, not in that respect, but if you remember, we have set up the RO and the CO organizations which would get developments sent to them for their review. There's been a very strong call from the community to allow that review time of projects to the community to allow them to know what is coming in, large-scale subdivisions, mixed-use developments, that kind of thing – to allow there to be a public process.

CHAIR MAYFIELD: Okay.

MS. ELLIS-GREEN: And information given to the community.

CHAIR MAYFIELD: And then, Ms. Ellis-Green, we still have our community plans within the certain areas that could have a look at these, at any type of projects that came, correct?

MS. ELLIS-GREEN: Mr. Chair, Commissioners, the way that the code was set up is that the procedure shouldn't be different in different communities but certainly communities can do community planning. They're an overlay district and that may amend some of the regulations in that area, but for consistency and for – really for consistency, the actual procedure should stay the same wherever you are in the county. So it wouldn't really matter where you are; you're procedure should stay the same.

CHAIR MAYFIELD: And Penny, do you all, like say when you have a plan, let's say at least within the county. Do you get together on a certain plan that comes in front of you? If it's commercial, residential, with all the entities, one day, say, look, we're going to knock out x-amount of plans that have come to us on a certain month and collectively get together from Fire, from Public Works, from Land Use, sit together at the same table and identify any issues that we may have individually or collectively to see how these – how we could work these issues out? If we do this it's going to have an impact here?

MS. ELLIS-GREEN: Mr. Chair, Commissioners, we do have what's called a technical review committee. An application for a large scale development will come in front of that committee before they've even made application, so they could hear what some concerns are, so they can be given guidance as to how to submit a complete application. After

the applications have happened, they're sent out to the reviewing agency and that technical review committee meets twice a month.

CHAIR MAYFIELD: Okay.

MS. ELLIS-GREEN: So for a larger project, yes, they do meet twice a month and they can review those projects there. Also, within the Growth Management area the staff there will get together to review, for example, plats are reviewed on a regular basis with the plats examiner and a team leader and the manager of that division.

CHAIR MAYFIELD: Okay. Thank you so much. Vice Chairman Anaya please.

COMMISSIONER ANAYA: Mr. Chair, just a few brief follow-up comments. Ms. Ellis-Green, in no way are any of my remarks malicious in any way towards your staff, yourself, the Manager or anyone else. I would equate it to when I had the opportunity of being administrator to auditors when they would come in. In those actions, committees with auditors, I would sit down with the auditors and say whatever you come up with that you find in your findings are opportunities for us to improve what we're trying to ultimately achieve. And so I think where we're getting at is whatever opportunities we might have to be more efficient or learn from other entities, let's continue to do that as I know you do, and try with our code to become if not number one, close to number one in the state for a process that's clearly delineated, that people coming in to submit applications from cradle to grave understand what their obligations and responsibilities are to minimize extensions or other things that come up.

Now, I understand very much that not every application is the same and it's not all a bucket of apples that we're talking about but over all, if we continue to do as you've done and the Manager and staff have done, but work with other entities in the private sector to make sure we fully understand and I think the example you gave, if somebody turned in a traffic study and the traffic study was missing components or wasn't complete, you have to give it back. But the more we can give to the hands of people that are trying to do projects, what a good traffic study looks like or what a complete traffic study is, the less we'll have issues that come in. I know you do that but let's look around a little. Let's look and see what other opportunities we might have to improve as we know there's always opportunities to improve and grow. That's all I'm suggesting, that we continually do as I know we work on.

I kind of appreciate where the chair was going when he talks about getting people at the table and you talked about that technical advisory committee and what they do. So I just look forward to us continuing to develop and improve so that people fully understand what's in the code and what their expectations are, and that it's hopefully not a moving target. Thank you, Mr. Chair. Thank you, Ms. Ellis-Green.

CHAIR MAYFIELD: Thank you, Commissioners. Thank you, Mr. Martinez. Is there anybody else from the public that cares to bring a public matter to this Commission? Yes, sir. Please come forward.

JOE ORTIZ: Mr. Chair, members of the Commission, my name is Joe Ortiz. I live at 99 San Marcos Loop in Rancho San Marcos. My comments are general. Only to the spirit of your comments, Commission, about the definitive relationship of the code to the application and the process so that it's [inaudible]. The code is obviously expanded and so

that we require more time but one of the things that I had asked earlier in the process was to have an economic impact study that was – that would define what it would cost to really meet the letter of the law and to manage the code, and what are the offsets for that? I'm talking about a [inaudible] study, something that the banks need, appraisals and things like that, but a lot of the processes are – they're not clearly defined from an economic standpoint. From an economic standpoint, what they will obligate the County for in what they're being asked to approve and what the developer will have to front in terms of the cost.

And sometimes when projects are small – now, in large-scale master-planned community developments they're deep pockets and they just absorb those costs and it's just kind of the cost of doing business. We have fewer and fewer of those in our neighborhood right now. You can name them on a single hand actually, that could actually afford those pre-development costs that go into the application. So what you've effectively done, unknowingly in the code is taken out the little guy. You try to go in for a small 10-, 15-lot subdivision that you want to just build some houses, back in the day when Santa Fe style was created it was created by the Oteros and the the Borregos and the Tapias and all those many who did it on their brow and on their sweat. And they didn't build 15 homes a year; they'd build five or six and they were quality homes and they made our community much richer. Those people don't exist today, literally.

Their children are finding safe havens and employment to weather this economic storm but the parents, those fathers, those patrons and that whole skill set is literally a vanishing breed. And I am trying to in some way articulate to the committee that there is a – there's a threshold of pain economically that men like myself who are turning 50 who love building homes in this town, in this community for the last 25 years are taking a hard look at new professions, a real hard look.

I want to create jobs. I love my hometown. I'm not leaving but I am having an extremely difficult time just figuring out how to take my existing assets and repositioning them in the market place that is so challenging from so many other aspects, whether it's a ton of foreclosures that are coming on the market that are flooding us, the give-backs of the lots that the banks are holding. The shallow inventories in our current economy are probably north of 500 lots, and that's a staggering number, when anybody can walk in and buy a full developed lot for \$22,000, \$24,000 and at zero risk.

Why in the world would I start a new project when that is my competition? And I just wanted to throw that out and see if there's a specific comment, Commissioner, but I think it's something collectively we have to have a season of the little guy. And how do we address that? How do we encourage that person to fight the good fight and stay in the game? Thank you.

CHAIR MAYFIELD: Thank you. Commissioner Anaya.

COMMISSIONER ANAYA: Mr. Chair, Mr. Ortiz, I appreciate those remarks and I'm going to say it again and maybe modify it a little but I don't look in any way at the code that we just approved and a cloak for no development. And I think there are people in the community that have the feeling that somehow a cloak goes over the county that essentially closes the door for opportunities. I don't look at it that way at all. I think because of the fact that we have specific zoning now that's going to be in place and once we tie it to

the development maps it's going to be very important, it's the process we're going through right now, for the first time in the history of the county we're going to have specific areas that are identified for economic development opportunities but there's still perception out there from some that we just through a cloak over development and said we don't want it.

I don't think that was – that wasn't my intent in no way and I don't think it was the intent of my colleagues to do that. So as we go through and we go through this new process as Commissioner Chavez has articulated we need to be cognizant that we didn't create or want to create an environment that you or others that are on the smaller-scale side of the equation would not have opportunity. And so we're going to learn and we're going to grow and we're going to go through that process and look at those procedures and evaluate how we might be efficient and at the same time provide those opportunities to do the developments that need to be done. So I appreciate your comments.

MR. ORTIZ: Thank you, Commission. Thank you, Commissioner Anaya. Absolutely. I don't feel that way personally at all and my comments were never construed in that regard. You have a fabulous staff; you're blessed with that. They know their job. They understand the code. They do everything in their power to get us through the process in an expeditious time and then so to that extent – and the quality which the code is expanded and now that it's large it has a lot of good stuff and I think they took a lot of comments. But one thing that you hit on not long ago that I failed to mention earlier, we talk about opportunity. If you were going to do a small mobile home park or a small apartment building, when you look at the total amount of acreage of zoning R-1 to R-5 category as opposed to the multi-family, which really needs to be in the R-12 to R-15 and frankly I'd like it to be at the R-21 level, but we [inaudible] Literally, I would suspect there's not 1,000 acres combined of commercial land in the zoning code. And it's really lop-sided from the skewed standpoint.

One of the things that that's going to hurt us on is that we in the marketplace, there's a very large manufacturer that wants to do batteries. Have you heard about this? It's the Tesla folks. We need to phone those guys, in New Mexico, in northern New Mexico particularly. They like Sandia, they like Albuquerque. They like [inaudible]. Today I can think of maybe two spots that we could fit them in and that's hard. So when you think about the code, I am always up-code, up-code, up-code because what happens to us if I need to go in for rezoning, if I knew whether it's 90 days or 60 days because I put in a year, and that's not because I think it's going to happen. It's not because I don't believe we're going to do the best thing here, it's the fact the bankers in the community will not lend me any money unless I put in a year of due diligence of pre-approval. Because they've got the [inaudible]

So there are things – if I had one criticism of the entire code, not the code but the zoning map itself, I don't think it expanded enough in the commercial and multi-family and specifically denied our representation in the mobile home park community, which is a vibrant part of our community and I really think that it's an injustice to the community to think of that as a negative in housing. What that actually does for us is that's a step up in the rental, first-time-homeownership. First time homeownership should not start at \$175,000. That's ludicrous. First time homeownership should be starting at or around \$100,000 and lots and utilities with manufactured housing – I owned a manufactured housing plant. I know I can do a house for \$100,000 if the land is right [inaudible] and the market's there.

So but you get those figures by density. I can't do that on a 2 ½ acre lot. I need to be on an R-5 or an R-4 lot and I struggle with that. I look at the map and I'm going to be studying the map for the next two days and I'm going to sit here for the duration because I'm looking for my next project, and if I can't point to it on the map, what have you done? It just doesn't make sense. Thank you.

COMMISSIONER ANAYA: Thank you, Mr. Chair. I think we've run on a little tangent but I think it was worthwhile. We still have a process that we're going through and we're going to continually get feedback that I welcome.

CHAIR MAYFIELD: Thank you, Commissioners. Do we have any other matters of public concern? Seeing none, we'll move on.

V. DISCUSSION/INFORMATION ITEMS/PRESENTATIONS

A. Presentations

1. Acknowledgement and Recognition of the Caja del Rio Road Improvement Project Team

COMMISSIONER CHAVEZ: Thank you, Mr. Chair. Thank you, Commission, staff. This project I will say I know for sure the stage has been set for this project well before I came on the scene and so having said that I want staff to take the presentation from here and recognize the project team on this Caja del Rio Road improvement project. And I know that there's one of the team members that's been with the County for 18 years so I think if we totaled those years there's probably quite a few. That tells me that we have a dedicated staff that are committed. They must like what they do and they're here day in and day out regardless of who is on the Commission at that point in time. So I want to recognize them for their dedication as will staff as we go through the presentation.

Unfortunately, those that are being recognized today are at work, so I guess we'll get the presentations to them at some point in time? Thank you. Tony, if you could, go ahead.

TONY FLORES (County Manager's Office): Thank you, Mr. Chair, Commissioners. As Commissioner Chavez noted this project has been in the works for a while and we felt it was important to start highlighting some of the success stories that the County has realized in moving some of these projects forward. Real quickly, the project in general was to rehab about 1.9 miles of Caja del Rio asphalt surface from approximately Wildlife Way to 200 feet south of Las Campanas Drive. The major emphasis of this was not only to improve or to implement the required approvals for the road but also to provide accel and decel lanes and bicycle and walking paths as part of the project.

The initial design of the project requires constructing two temporary roads to alleviate the construction zone to put the improvements in. However, what was significant on this project was that the project team, they actually looked at alternative methods and an accelerated schedule and actually were able to save those two weeks with the efforts of the project team, our public information officer, the contractor and the engineer. And we didn't have to go through any of those major inconveniences, per se, to the residents. We were able

to do some alternative methods of construction that actually shortened the time as well as provided some significant cost savings to the County in the final completion of this project.

The project was funded from a series of GO bonds, the 05, 07, and 09 projects as well as some capital outlay GRT. The total project budget when it was conceived or estimated was a little over \$4.2 million. With the accelerated schedule the final construction cost and acceptance by the County had us accepting the project at \$3.9 million. So we had a quarter of a million dollars cost savings in addition to the alternative methods of construction without inconveniencing the contractors or the county residents.

What we'd like to do is there were some key players in this project. The Louis Berger Group was actually our project representative design group, quality control and inspection. Albuquerque Asphalt was the actual contractor that was awarded the bid. And then from our staff, as Commissioner Chavez indicated, we have over 70 years of experience in the combined team that put this in. From Mr. Paul Kavanaugh with the Public Works Projects Division, Mr. Chuck Vigil from the Public Works Projects Division, Mr. Johnny Baca and Matt Roybal from Public Works Traffic Department, Ms. Kristine Mihelcic from our County Manager's Office who actually was instrumental in coordinating the schedule as well as the communication back out to the neighbors of any potential closures.

So with that, Mr. Chair, Commissioner Chavez, I do thank you for your comments about being new on board was this project was already underway but this is one of the examples of projects that actually have made a beneficial impact to the residents and to the County in the cost savings. And if I could, Mr. Chair, I'd like to turn it over to my boss and to Ms. Mihelcic.

MS. MILLER: I just have Kristine Mihelcic's certificate.

MR. FLORES: Thank you, Mr. Chair, Commissioner Chavez. I stand for any questions.

COMMISSIONER CHAVEZ: No, I just thank you. Thank you again to staff for all your hard work. I don't know if the other Commissioners want to make a comment but I know that the list of projects are long and the day is short. And so we keep looking at that list and keep checking off with the projects. And so I just hope that as we move forward that staff will work on the list of projects and that the projects will be spread countywide and that they'll be priority driven and driven by need more than anything else. So I really appreciate staff's effort in this. It makes my job easier.

CHAIR MAYFIELD: Vice Chairman Anaya.

COMMISSIONER ANAYA: Mr. Chair, I appreciate Commissioner Chavez' comment that those projects were in District 2 and now will be spread into District 3 too. That seems to make logical sense. All kidding aside, Commissioner Chavez, Commissioner Mayfield, I appreciate the acknowledgement of the staff and the work that staff has done and their efforts. I also appreciate that you acknowledged the partners, Louis Berger and Albuquerque Asphalt because we constantly at the County, every single meeting, approve projects that are public-private partnerships that create those economic development opportunities that we were just talking about in the previous discussion. So there's quality people in the County and there's quality people in the private sector. Louis Berger, I think Ivan Trujillo is one of the key people over there in that shop and there's many others that we partner with.

So I would actually like to see – the one request that I would have, Commissioner Chavez and Ms. Miller and Mr. Chair, is that I don't think the wheels of government are going to stop if we take a little time and get those people to physically be able to come before the Commission. Maybe not every time but some times. It doesn't hurt to bring them in and have them here and it really doesn't hurt bringing those private sector partners in and acknowledge them as well, which I have no problem doing. So I greatly appreciate Commissioner Chavez' efforts in this regard. I think we've all tried to acknowledge people, but I appreciate that he's done this and that I would ask that we would try to get them here and give them their day before the Commission and the public to acknowledge their work and efforts. So thank you, Commissioner Chavez.

COMMISSIONER CHAVEZ: Well, if I could, Commissioner, I really appreciate your comments on that point and if we could go back on this the work was already scheduled so we'll take note of that. We'll just have to watch the agenda and schedule things so that we can be sure that staff will be able to be here; I think that would be better. But we'll move forward on this one and then follow your comments in the next round. Thank you. Thank you, Mr. Chair.

CHAIR MAYFIELD: Thank you, Commissioner, and Commissioner Chavez, thank you for bringing this forward and staff, thank you for all the work you do on this.

V. B. Matters From the Commission

1. Commissioner Issues and Comments

CHAIR MAYFIELD: Commissioner Chavez.

COMMISSIONER CHAVEZ: Thank you, Mr. Chair. I have a resolution that was just presented to me today. It's a City of Santa Fe resolution introduced by Councilor Bushee and co-sponsored by Councilor Dominguez and Councilor Rivera. It's a resolution directing staff to explore the options for constructing single-track and stacked looped trails in a 30-minute zone surrounding Santa Fe supporting efforts for Santa Fe to be designated as a ride center by the International Mountain Biking Association, and calling on Santa Fe County and the Santa Fe Fat Tire Society to support and joint the City of Santa Fe in such efforts.

We're mentioned in the resolution, Be it further resolved that the governing body calls upon the Board of County of Commissioners of Santa Fe County to support efforts to construct single-track and stacked looped trails around Santa Fe and make Santa Fe an IMBA designated ride center. I did have a big conversation with Councilor Bushee about this and thought that it was a good idea. At the time I did not know that we would be mentioned in their resolution. I don't know that it's all bad that we're mentioned in the resolution but I'm concerned about any fiscal impact that might be associated with the Be it further resolved. So I'm bringing this to the Commission's attention. I want to pass it on to staff and see where we fit in on this resolution. I think it probably is a good effort. It would tie in with, let's see – well, we know that we've invested millions of dollars in trails and open space. We know that the City's done a lot of work on the Dale Ball Trail. We have the La Tierra Trails and over 50 miles of hiking and mountain biking trails in the area.

This could be used – we were talking about economic development earlier. This would be part of our economic development or one of the components in economic

development that would fall under what's called eco-tourism. Certainly mountain biking is part of that and so we have the area and I think we have the ingredients to encourage that. I just, again, am concerned about the fiscal impact. And maybe – I'll leave this with staff and have staff communicate with our City counterparts to see where it is in their process. I think it's gone through a couple of committee and get more information on it, Steve. Thank you. That's all I have, Mr. Chair.

CHAIR MAYFIELD: Thank you, Commissioner Chavez. Vice Chairman Anaya, please.

COMMISSIONER ANAYA: Mr. Chair, a couple items. On a sad note we have two individuals from the community in the southern part of the county passed on. Mr. Pat Baca, who was a lifelong member of the Sociedad de San Jose de Galisteo passed on and Charlie Anaya, who I mentioned earlier, worked for the County and retired after over 25 years of service. So I wanted to acknowledge publicly and provide public condolences to those two. One former County employee and one former DOT employee that were long-standing, solid citizens in our region.

The other thing I would like to do, Mr. Chair, Commissioners, and the public is congratulate those members in the recent City election that will join the City Council, Joseph Maestas, who was elected, Ronnie Trujillo was re-elected, Carmichael Dominguez who re-elected and I believe, was it Mr. Lindell, Sig Lindell that was also elected to the Council.

I'd also like to publicly congratulate Mayor Coss and thank him for his service as the Mayor of Santa Fe. I'm going to ask the chairman to work with me on a resolution that I know the Commission would support, acknowledging his service to the City of Santa Fe and most recently his efforts in and around annexation. I know that Commissioner Chavez worked on it for so many years as well.

And lastly, I want to congratulate our new Mayor of Santa Fe, Mayor Javier Gonzales, former County Commissioner from District 3, former State Democratic Party Chair, an individual who worked hard in the community in District 3 and in my opinion will bring and make the community continue to be strong, a long-standing citizen of the region but also his father, former Mayor George Gonzales. I congratulate them on their elections. I also, Mr. Chair, thank Rebecca Wurtzburger for her service on the Council and also thank any individual, those that were unsuccessful in this and any other election for their desire to work and be a public servant, which is definitely a commitment that those people make in the interest of I believe serving citizens. So thank you for that. Best of luck to those individuals and the Mayor and I know that we will continue to work well and continue to work with Mayor Gonzales and the Council moving forward.

Also, Mr. Chair, I congratulate those individuals that were re-elected to the Edgewood Town Council, Rita Loy Simmons and Chuck Ring, re-elected. I wish them well in their efforts in the Town of Edgewood and also Española and other jurisdictions that work with this County. Thank you, Mr. Chair.

CHAIR MAYFIELD: Thank you, Commissioner Anaya. Also, on that note, just congratulations to Mayor Lucero of Española. We look forward to working with Mayor Lucero. Also to all the councilors that have won up in Española and to Commissioner and now Mayor Dan Barrone of Taos, who will be joining us also in similar joint boards. And I

don't know the whole Council slate up there but there's also a Council slate that won up on Taos. I shouldn't say slate, but new Council members.

And Commissioners, also, I had the honor of going out to a NACo meeting, I guess last week, a couple weeks ago and the National Association of Counties, I'm just going through my packet here to a couple of the resolutions that we looked at, and just so I can bring you up to speed I'll go to the full board meeting in July. But a couple of the resolutions that were looked at, at least in Finance and Intergovernmental Affairs Committee that I'm on, and these are some regional issues. And then let's go back to NACo, and I talked to Ms. Miller about this and Commissioner Stefanics also sits as a NACo representative on one of the steering committees on health and she also is a member of the executive board. But NACo is very important to us. It helps us set national policy that gets pushed down to us at a local level throughout all of the government. And they help us with policies and they help us where we don't have to reinvent the wheel if another local government has done it.

And I guess where I'm going to go with that is I know you all have heard me talk immensely about IT. I've talked a lot about cloud technology. They had a big discussion about cyber technology and cyber security. Commissioner Stefanics and I talked immensely about that on this trip. I have a full report in here that I brought back for our IT Department and I will share that with our IT Department. I believe Commissioner Stefanics may want to share some thoughts with you on that also so I'll hold that for her discussion with you and we'll maybe go into that jointly. And there's a lot of information out there that you can access through the NACo website, tutorials and trainings, but that goes for all of our departments, even there was some presentations with our justice departments on how some counties are managing, and I think it's Montgomery County that is managing their services for inmate detention and some of the programs they have that are working with them, and I think they have the lowest detention rate in the country, as far as what they're doing with their inmate services and with the incarceration. So that's a great program.

They talked – there were some presentations by HUD and RUS. I know we have REDI-Net that we discussed but how the stimulus package may have worked for fiber but also for not fiber – broadband technology and how some of the counties are forming some PPPs, private-public partnerships, to deploy broadband area and how they're looking back. It may not be the best economic means to take fiber the last mile into the home but how you may want to find some certain areas to deploy that fiber to and from there you provide the broadband shot for economic development potentials.

Clerk Salazar, I also brought you some information on the Americans Voting Experiences and I saw that one of our clerks from another county was part of that discussion so they discussed New Mexico on this and I almost think New Mexico leads a great charge, a very good charge on what we do with our voters' rights in the State of New Mexico, from what I hear happens in a lot of our other counties throughout the nation.

But again, I am putting in a plug for our interaction with NACo, what we do with NACo. I think it's very important. I believe that there are many trainings and tutorials that could benefit all of us. I see Ms. O'Connor in the back with public health, public safety, that could be a great benefit that we all could learn from. I talked again to Ms. Miller about this. There is many trainings out there for all of us to take advantage of. We don't have to travel to it. I would though recommend that, Ms. Miller, if we could afford that to send any staff

members to any of these trainings if we could afford it. I think it's great for our employees to be able to have that opportunity and I don't think networking is a bad thing by any means and seeing what other states, other counties are doing that could bring back and provide a direct benefit to the people who we are here to represent and take care of, and also a cost benefit to them.

And with that, I think Commissioner Stefanics and I are going to get together and present a good presentation to put out all the information just so I don't waste everybody's time with that.

COMMISSIONER ANAYA: Mr. Chair.

CHAIR MAYFIELD: Commissioner Anaya.

COMMISSIONER ANAYA: Mr. Chair, you mentioned to me that there might be some collaborative opportunities between our neighboring counties and cities. Could you just briefly talk about some of what you were sharing with me?

CHAIR MAYFIELD: Thank you, Commissioner. So one of the presentations that I was at, and the presentation was under HUD, and I think Mr. Garcia was here a second ago. There he is. And there's going to be, and I was kind of looking through my paperwork, a new way I think that may be looking at CDBG grant funding through the RUS. And what they're doing now is collaboration between different counties right now as far as economic development. So instead of maybe just one county applying for some individual grant, if neighboring counties with economic development plans get together in some of the ruraler areas it may be a little more advantageous of pulling in more funds regionally. So that might be a different opportunity to secure more money at a federal level because some of the – a lot of the stimulus money is pretty much gone unless you can find some funds that weren't applied out there right now. So that's some way that right now the RUS is applying when these two local governments – Rural Universal Service lines.

So if you look at that and if you can partnership with other local governments, so if, let's say, oh, I'll just kind of use Santa Fe County, maybe Torrance County, Bernalillo or Sandoval County in your area, up north, and again Santa Fe County, Rio Arriba County, Taos County – if we get together with our economic development teams and we could find some regional grant, maybe that could even tie in through the REDI-Net projects, the broadband projects that we're looking at or even how these folks are doing it with private-public partnerships for some economic development opportunities and they're able to pull in the federal dollars through federal grants, they were able to go up there and start some start-up businesses. So that's another thing that I wanted to talk with David Griscom about on some of the presentations that were out there.

Other things right now, I think Ms. Martinez is back there. They had a big discussion, Ms. Martinez on municipal bonds and there was maybe the tax exempt that may be changing right now for local governments. And I know Ms. Miller asked me to be on the lookout for that also. So they're really looking at that right now under the GASBE reporting, that that may be going away for local governments with municipal bonds and that would hurt the AA-rated or higher counties if we're not going to be able to get those interest rates, the way I understand it. That's probably more your lingo than my lingo, but I just want to put that out there that they're really looking at changing that at a federal level for that tax exemption that we're able to benefit from.

So I have all that in the paperwork that I'll push out to you all but it's out there. There is many other things going on even with immigration reform, what they're looking at. Right now, there was one county commissioner in Denver, El Paso – I think it's El Paso County that was trying an initiative right now at a national level. It's called the Smart Program and I have it right here where their pension funding is a little different in Colorado and two counties right now in the state of Texas have it where they don't have to pay into Social Security because of the way they fund their pensions. So they were trying to ask for provision to have an exemption from Social Security investment and they wanted to go out into their own private portfolios to do investing for their employees through private funds. So that didn't pass right now but that's what they're looking at right now is asking for the feds to look at – and I don't know the terminology on that, but for that waiver requirement for local governments to be able to do self-investing on their pension portfolios. And that's a big discussion right now in local governments is pension investments. I let them know New Mexico is a little different but we're one of the very few states that still have our pensions intact the way we have in the State of New Mexico, from a defined benefit versus defined contribution plans. Other states don't have that, so that's a little different than we are.

But it's very interesting discussions that they have. Commissioners, that's all I have.

V. C. Matters from the County Manager

1. Legislative Update [Exhibit 1]

MS. MILLER: Mr. Chair, Commissioners, sorry I stepped out. I was taking a very important phone call about the status of some of our capital outlay, trying to save it from the pen.

CHAIR MAYFIELD: We have two more days, right?

MS. MILLER: Actually I think it's probably already done, whatever's done. So there's really no more days. I think it's tomorrow at noon but having been there, they already do the budget. They finished the budget bill and I think they've finished the capital bill. So what I wanted – we put that on just in case there was additional information as far as bill signing and I think – Tony, do you have a report, a current one for all of the Commissioners? Some of the ones we mentioned last meeting, the liquor tax distribution to the DWI grant fund, I don't know if that's been signed yet but I was told it was going to be signed.

MR. FLORES: Mr. Chair, Ms. Miller, yes. The House Bill 16, the liquor tax distribution to the DWI grant funds was signed. That provides an increase of approximately 4.5 percent over the next three years starting in FY16. So that was signed. Another bill that had some direct impact to Santa Fe County was House Bill 287, which provided \$250,000 in supplemental death benefits. Once they go through a process for firefighters. The other bill of note is Senate Bill 164 which is the public use of adjudicated waters. That bill has been signed which amends the Water Leasing Act, so basically takes state law and conforms it to federal law for the leasing of the Taos, Nambe, Pojoaque, San Ildefonso and Tesuque Pueblos' water rights and it gives other language in there for their respective settlements. Those bills have been signed. We received notice about 20 minutes ago that Senate Bill 313

which is the – I guess for lack of a better term it's the State's budget bill instead of House Bill 2 which went to the Senate side. That has been approved and signed, however, they're trying to quickly go through it because there were some line item vetoes in there and we haven't completed the analysis of that. It just came through a few minutes ago. So with that, those are the bills that have been signed that we're aware of.

CHAIR MAYFIELD: Excuse me, Tony. Commissioner Chavez, please.

COMMISSIONER CHAVEZ: Yes, Tony, there was one bill for a small project. I thought it was going to be under water projects in the countywide list. It was the sewer project for Vista Aurora.

MR. FLORES: Mr. Chair, Commissioner Chavez, yes. That actually is included in House Bill 55, which is the capital outlay bill. That one we have received some communications that there are certain things that may have already been subject to the red pen but we have not seen the final adopted version.

COMMISSIONER CHAVEZ: Okay. So stay tuned on that one.

MR. FLORES: Yes.

COMMISSIONER CHAVEZ: Okay, and then under Senate Bill 268, Sole Community Provider for compliance. For my clarification and actually for the clarification of the public, the terminology is changing but not our responsibility related to our community hospital. So the sole community provider, the term will now change and that will be safety net care pool fund?

MR. FLORES: That's correct, Mr. Chair, Commissioner Chavez. That terminology has changed.

COMMISSIONER CHAVEZ: But not our responsibility, not our role in providing funding for that hospital to provide for those that do not have healthcare.

MR. FLORES: Mr. Chair, Commissioner Chavez, the gist of the bill was one, to provide us some alliance, so to speak, with the federal Medicaid Act, but the bigger purpose of that bill was to – the state to be able to fund the match portion of those federal dollars coming in. So I wouldn't per se say that it releases us from any obligations for indigent residents.

COMMISSIONER CHAVEZ: Right.

MR. FLORES: It just takes a mechanism, but it does remove it from the control of the Commission as to how those dollars would come in and go out because they're going to take that 12th portion of that prior to it hitting our coffers.

COMMISSIONER CHAVEZ: Well, in watching the City Council meeting where this was discussed, in there the resolution that was presented it made it sound like the County was no longer in that role because of the terminology and how things are changing. So I just wanted to have a bit of discussion on that now. I'm sure as the Affordable Healthcare Act plays out and our relationship with the federal government changes it doesn't change our responsibility. I think all of that information will start getting out to the public. I mean it's already getting out to the public so I think that's new and so the terminology is new and the understanding of our relationship, the County and the community hospital. I think that's still in the works but it's a little confusing.

MR. FLORES: Mr. Chair, Commissioner Chavez, it's still extremely confusing today, although the bill hasn't been signed. We've had some discussions here on

that matter. The relationship I think will still exist but how we go about doing our business will change in some respects.

COMMISSIONER CHAVEZ: Right. Yes. So anyway, I just wanted to just have a brief discussion on that. Thank you, Mr. Chair. Thank you, Tony.

COMMISSIONER ANAYA: Mr. Chair, Mr. Flores, House Bill 287, Firefighters Supplemental Benefits, \$250,000 – are those extended to volunteers as well as paid? And is that in the line of duty?

MR. FLORES: Mr. Chair, Commissioner Anaya, the way that bill reads there is actually a committee that is set up now for anybody that's in that classification that goes through a review. They then determine not the cause of death but if it was in the line of duty, so it actually goes through a review process right now or through part of this bill. And it may set aside a \$250,000 death benefit for the survivor and the children of a firefighter.

COMMISSIONER ANAYA: Regardless of –

MR. FLORES: The way the language is right now –

COMMISSIONER ANAYA: Could you pull it? Because I would say, and I know it is what it is but I'm supportive of anything that benefits firefighters but some times volunteers get left out of the equation and I was just curious if this going to be something that's extended to pay volunteer firefighters.

MR. FLORES: I'll get that pulled right now, Mr. Chair, Commissioner.

COMMISSIONER ANAYA: Thank you.

CHAIR MAYFIELD: So, Ms. Miller, what's the status of Senate Bill 268?

MS. MILLER: Mr. Chair, that one still has yet to be signed. I believe it will be signed. Whether anything else happens to it is still up for question but I think it will be signed because the state, without that would not receive the \$27 million from counties across the state towards the funding of that. So I would venture to say it will be signed before noon tomorrow, but perhaps it will look different.

CHAIR MAYFIELD: Now, if it would just be a line item veto – line item, correct?

MS. MILLER: Then the question would be whether you can actually line item in a non-appropriation bill. So I think that one will be interesting to see how it plays out.

CHAIR MAYFIELD: Ms. Miller, when does the funding need to happen by for the federal government?

MS. MILLER: Mr. Chair, on this particular thing with the federal government it's automatic that when there's a Medicaid claim that they will reimburse. I think what we'll have to see on this one is at what point the state will actually change the Medicaid reimbursement rates. They'll start taking the funds from the counties come July 1, but it takes a while for them to change Medicaid reimbursement rates. So the hospitals won't receive funding until the rate goes up and the uncompensated care pool actually exists. Because you're going to have two pieces to that safety net care pool. One is the uncompensated care, which our hospital, St. Vincent's, will not have access to that pool of funds. They will receive funds by an increased rate in their Medicaid reimbursements. So when they have a Medicaid-eligible patient they will get a higher reimbursement from the state on those claims, and that's matched with the federal funds.

So the proposal was to increase that rate by 70 to 75 percent over what they currently get now, which I believe the rate has not – the current rate does not even cover their cost to provide service to a Medicaid patient. The intent of this change in the way they're doing the formula was to get them a reimbursement rate that was more reflective of the actual cost of providing Medicaid services.

CHAIR MAYFIELD: And also the general appropriations act hasn't been signed either?

MS. MILLER: Mr. Chair, they have signed the general appropriations act and that was clocked in today, but there were line items vetoes and staff's going through those right now to make sure we have an evaluation of what was line-item-vetoed. There wasn't much in there that would have had an effect on Santa Fe County. And then the other bill we're waiting on, which I would believe is probably being clocked in right now is the capital outlay bill and that would have – we had several hundred thousand dollars worth of appropriations in there and to include the Vista Grande Library expansion, Alamo Lane improvements, La Familia, South Side Clinic improvements, Women's Health Building renovations, roads in Eldorado, our fire station and our fire station solar initiative as well as the fairgrounds. And the Pojoaque ballfields. So we are waiting to see what happens with all of those.

CHAIR MAYFIELD: Thank you. Is there anything else, Ms. Miller?

MS. MILLER: Mr. Chair, I think that's in on the legislative update.

MR. FLORES: Mr. Chair, Commissioner Anaya, we just checked the bill and the fiscal impact report. It does include volunteer firefighters.

COMMISSIONER ANAYA: Excellent. Thank you, Mr. Flores.

V. C. 2. Miscellaneous Updates

CHAIR MAYFIELD: Ms. Miller, miscellaneous updates?

MS. MILLER: Mr. Chair, that's all on anything legislative. I did have one other item to go over with you and that was the amended land development code schedule. The main issue – we did send out a revised schedule, because we did not realize that we had scheduled the special meetings right over the top of actual election day so we moved that and so I just want to make sure that we are good with our dates, because we sent it out and we're looking for any comments back as to whether there's a problem with the special Board meeting dates, because we do have to notice that and stick to that schedule. So currently we have May 20th as a special Board meeting for the first public hearing on the zoning map, and the first public hearing on the technical changes to the code, and then we have June 17th as the second public hearing for the adoption of the zoning map and adoptions of the technical changes to the code.

So if you could double-check your schedules and make sure you'll be available for those two. Those two are the critical dates as far as noticing requirements, and then we have several other community meetings and we are sending out a mailer to all property owners on the zoning map and have the review period for individuals during May and June for those issues to be addressed.

CHAIR MAYFIELD: Fair enough. Ms. Miller, right now I'll let you know I do have a personal issue that I will be attending to in June so I just have to see when that will be and I'll get back to you with those dates, but it will take me out of state.

MS. MILLER: Okay, Mr. Chair. If you could just let us know, we are trying to work around everybody's schedule. We want to make sure that all the Commissioners are available when we have the final hearing. And then we also still have the six-month review schedule for December of 2014 because when the initial approval of the code was passed we said we'd go through, do technical changes between now and the zoning map adoption and then again in six months, so we would have that six-month review in December in order to try to deal with any technical changes that need to be made that we didn't account for as it actually is being implemented. And that is all I have from the Manager.

CHAIR MAYFIELD: Thank you. Let me just go back really quick to Matters from the Commission. If I can ask this – I ran into one of my constituents from the northern part of Santa Fe County and this goes back to the Aamodt meetings that are being held, and I did ask her, and she gets transported by either the NCRTD blue buses or our community health vans through our senior programs. So Mr. Ross, and I know that Ms. Bushnell is having some outreach meeting based on our schedules through various communities and also on Saturdays. But on that note, I don't know if we could maybe have some Aamodt outreach meetings at our senior centers, community centers? If that would be possible? It's not Ms. Bushnell if it at least could be County staff that could do that? Now that I just saw – I ran into her. She was just saying I really don't know. I know she was talking to me about a pre-basin well that she had, to get a little bit more information, but I was just thinking that might be a good avenue to do.

I think we definitely have the El Rancho Community Center but I don't really think the Nambe Senior Center/Community Center has very much – has a standing lunch or anything there but the El Rancho does, and I don't think the Chupadero Center does. But I just thought if these individuals can't make those meetings at nighttime, because she said she can't make a nighttime meeting, and I don't know if our vans run on Saturdays, for those Saturday meetings. If we could maybe do that I'd appreciate that please.

And that's all I have, so Commissioners, do you have anything else since I went back to that item? Thank you.

VI. MATTERS FROM COUNTY ATTORNEY

A. Executive Session

MR. ROSS: Mr. Chair, we do not need a closed executive session today.

CHAIR MAYFIELD: Okay. So seeing that it is about 25 minutes of 4:00 and our land use meeting is not to start any earlier than 5:00, although Clerk Salazar's meeting is at 5:15 downstairs, so I'm going to say that we will most likely convene about – what do you think Clerk Salazar? About 5:30? Is that a safe time? 5:30? You think? You think 15 minutes?

CLERK SALAZAR: The numbers will be drawn at 5:15.

CHAIR MAYFIELD: So I believe our public hearing will start between 5:30 and 6:00 this evening. So with that we are adjourned to 5:30, 6:00 pm.

[The Commission recessed from 3:36 to 5:30.]

VII. PUBLIC HEARING

A. Land Use Cases

1. **CDRC Case # V13-5350 Joseph Lujan Variance.** Joseph Lujan, Applicant, Requests a Variance of Article III, Section 10 (Lot Size Requirements) of the Land Development Code to Allow Three Dwelling Units on 2.371 Acres. The Property is Located at #27262 I-25 East Frontage Road, in the Chuck Taylor Subdivision, within Section 4, Township 15 North, Range 8 East (Commission District 5)

MIKE ROMERO (Case Manager): Good evening. The Applicant requests a variance of Article III, Section 10 of the Land Development Code to allow three dwelling units on 2.371 acres. The subject lot was created in 1977, and is recognized as a legal non-conforming lot. There are currently three dwelling units and two accessory structures on the subject property. The Applicant states their residence was constructed shortly after the purchase of the property in 1977, an aerial photograph from 1981 shows only one residence on the property. A pre-code home would not have received a development permit. A 1992, aerial photograph shows that an addition was added to the main residence, a detached garage was constructed for the main residence and a singlewide mobile home was placed on the property where the applicant's son lives. The addition was not permitted by Santa Fe County.

A 2001 aerial photograph shows that the applicant's daughter had already moved her manufactured home onto the property without a development permit from Santa Fe County. An aerial photograph from 2005, shows that the applicant's son had constructed an addition to his residence and built a detached garage without permits from Santa Fe County. According to the applicant, approximately 16 years ago the applicant's daughter moved her manufactured home onto the property due to a divorce and financial hardship. The applicant along with his son and his daughter all reside in their individual homes on the subject property.

On September 27, 2013, the applicant applied for a development permit for roof mounted solar panels to be placed on his residence. On October 24, 2013, Santa Fe County Code Enforcement conducted an inspection at the applicant's residence pertaining to the development permit application and observed multiple dwelling units and accessory structures on the property. During the inspection Code Enforcement staff reviewed the application to find that the applicant only listed one residence on the development permit application. At that time Code Enforcement issued the applicant a Notice of Violation for Unpermitted Development and Exceeding Density.

In 1991 the applicant requested a variance, CDRC # V 1991-1, to allow two dwelling units on 2.37 acres. At that time staff recommended recognizing the lot as 2.5 acres so the applicant could qualify for a family transfer. The BCC approved the variance for a family transfer and to recognize the lot as 2.5 acres with the following staff conditions:

1. Mike and Henrietta Lujan can only divide the property for family transfer

- purposes or through the approval of a positive geohydro report.
2. Both mobile homes will need to be properly skirted and anchored as per State Mobile Housing guidelines.
 3. Installation and location of the mobile homes must meet all applicable state and County ordinance standards.
 4. The variance will be for a second dwelling unit only. Changes deviating from this approval will not be allowed unless approved by the CDRC/BCC.
 5. A County development permit must be obtained from the Land Use Department prior to placement of a second dwelling unit.
 6. The mobile home will need to meet fire separation requirements as required by the State and County Fire Marshals.
 7. Any improvements or modifications made to the existing septic system or installation of a new system must meet all applicable CID, EID requirements prior to issuance of a mobile home permit. An approved septic tank permit must be submitted prior to issuance of a mobile home permit.
 8. Water restrictive covenants be imposed for each dwelling unit/lot if created not to exceed .25 acre-feet of water usage per year per lot and installation of meters to monitor water usage. Annual reports must be provided if determined necessary by the Land Use Department.
 9. All inoperable vehicles and debris must be removed from the property within a reasonable period of time, not to exceed three months from the date of approval
 10. The second dwelling unit should be sited on the property so as not to adversely impact the view of adjacent property owners.
 11. A plat be prepared by a certified surveyor for the family transfer lot.

Since that time the applicant has not moved forward with a family transfer nor has he complied with staff conditions or obtained a development permit. The applicant has been informed by staff that they could still move forward with a small-lot family transfer. However, the applicant now states that rather than divide the property it is their intention to move forward and request a variance to allow three homes on the property.

Staff recommendations: Denial of a variance of Article III, Section 10, Lot Size Requirements, of the Land Development Code. The decision of the CDRC was to recommend denial of the applicant's request. If the decision of the BCC is to approve the applicant's request staff recommends imposition of the following conditions:

1. Water use shall be restricted to 0.25 acre-feet per year per home. A water meter shall be installed for each residence. Annual water meter readings shall be submitted to the Land Use Administrator by January 1st of each year. Water restrictions shall be recorded in the County Clerk's Office.
2. The Applicant must obtain a development permit from the Building and Development Services Department for all structures on the property .
3. The placement of additional dwelling units or Division of land is prohibited on the property.
4. The Applicant shall comply with all Fire Prevention Division requirements at time of Development Permit Application, as per 1997 Fire Code and 1997 Life Safety Code.

5. All junk vehicles, litter and debris must be removed from the property.
6. The Applicant shall comply with all conditions of approval within 90 days.

I stand for any questions.

CHAIR MAYFIELD: Thank you, Mr. Romero. Does the Commissioners have any questions of staff? Commissioner Chavez, please.

COMMISSIONER CHAVEZ: So, Mr. Romero, this request to increase the density by allowing more dwelling units is really after the fact because the three units are already there.

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

COMMISSIONER CHAVEZ: And could you, for the record, tell us the allowable density in most cases for a lot that's 2.37 acres? What would the density allow them to do following the ordinance?

MR. ROMERO: According to this hydrological zone, the minimum lot size per code is ten acres per dwelling unit, but the lot size may be further reduced to 2.5 acres with signed and recorded water restrictions.

COMMISSIONER CHAVEZ: So they've exceeded by one dwelling unit without doing any of the hydrological reports?

MR. ROMERO: Correct.

VICKI LUCERO (Growth Management): Mr. Chair, Commissioner Chavez, if I could just clarify, the lot itself is 2.3 acres so it's a non-conforming lot so it doesn't meet the 2.5-acre requirement that we have today. It's a pre-code lot. So it was created before our code came into effect.

COMMISSIONER CHAVEZ: So that makes it a non-conforming lot?

MS. LUCERO: That's correct.

COMMISSIONER CHAVEZ: But it's legal –

MS. LUCERO: It's a legal non-conforming lot, right. That would allow for one dwelling unit. The applicants currently have three on there so they're actually exceeding density by two dwelling units.

COMMISSIONER CHAVEZ: By two units.

MR. ROMERO: Mr. Chair, Commissioner Chavez, the lot was created in 1977 and then the residence, the main residence where the applicants live was created – was developed shortly after that, making the residence and the lot legal non-conforming. So after the code there were two more residences placed on the property without any development permits or approval from Santa Fe County.

COMMISSIONER CHAVEZ: Yes.

MR. ROMERO: So at this time the applicant wants to move forward with a variance to allow the two additional homes. There's three homes actually on the current density of the property, which is 2.37 acres.

COMMISSIONER CHAVEZ: Okay. Thank you. And I guess the reason I ask this question, it's not to discriminate or anything like that, because I know that housing can be very expensive and cost prohibitive and you want to be able to allow the extended family to reside on a parcel. But that parcel I think has to be big enough to support the extended family. And also, when we increase density, whether it's through a family transfer or a lot split you're adding future load to the water system, to the septic systems, to the roads. We

have to factor that in because the County and County staff, not us sitting up here, are going to be responsible for responding to calls or to situations that happen in your neighborhood. So density can be a good thing. Family transfer can be a good thing but it can also be abused and I think that for me, we need to be cautious in how we're approving variances to begin with and then when they're after the fact, what do you do? I think it would be hard for the County Commission to say to anyone remove one of those manufactured homes or, you know. I can see that that would cause a lot of problems and so it would be better for all of us if that planning was done at the front end instead of after the fact. I think that we need to encourage people to apply for the permits before construction is done, not after the construction is done, so I don't know how we're going to get to that point but to me this doesn't seem to be the best approach in approving land use cases or accommodating future growth. Thank you, Mr. Chair.

CHAIR MAYFIELD: Thank you, Commissioner Chavez. Commissioner Anaya, do you have any questions for staff at this point?

COMMISSIONER ANAYA: Not right now.

CHAIR MAYFIELD: Thank you. Mr. Romero, do we have the applicant here and does applicant representation care to make comments?

MR. ROMERO: Mr. Chair, yes.

[Duly sworn, Joseph Lujan testified as follows:]

JOSEPH LUJAN: My name is Joseph Mark Lujan.

CHAIR MAYFIELD: Mr. Lujan, the floor is yours, please.

MR. LUJAN: We're here, like the gentleman indicated, to request a variance for the three dwellings that we have on our property. Due to unforeseen circumstances my son and my daughter and myself – I went through a time that I was pretty sick because I was suffering from post-traumatic stress disorder because I'm a Vietnam veteran. So I really didn't have a handle about what was going on at that time. But our purpose was not to skirt the issue or to break any ordinances or any laws. Like the gentleman just stated there are aerial photographs prior to this but at no time was I confronted by staff at the County to say that I was in violation of these things.

On September 27th when I applied it was a solar company that applied for that permit and it states in here that I failed to tell them that I had three dwelling units. Well, I wasn't putting solar collectors on all three houses. It was just for my house. So in that regard I don't think that I misled the County because that was not my intention, like I say. The solar company is the one that applied for the permit, not me.

And I respectfully submit to Commissioners and we have a situation where my daughter got divorced and two young boys were left in this dwelling and they don't have a father so to me that provides a hardship for me because we had to take over the finances of paying the trailer and all this stuff, so we were caught between a rock and a hard place. But like I say, it's nobody's fault but my own, so I'm here to take responsibility for whatever you decide to do.

CHAIR MAYFIELD: Thank you, Mr. Lujan. Ms. Lujan.

[Duly sworn, Henrietta Lujan testified as follows:]

HENRIETTA LUJAN: I would just like to state one thing. Mr. Romero, I told Mr. Romero that they haven't been by to check out the property but the Assessor's Office had and all that we have on that property has been properly assessed, taxes that we've been paying on them. That's all I needed to say.

CHAIR MAYFIELD: Thank you. Mr. Romero, on Ms. Lujan's point, can you talk to me on the Assessor's tax assessments on this property please?

MR. ROMERO: From my understanding, Mr. Chair, Commissioners, from my understanding, the assessors go out and they just assess the assessments on the property and if staff can correct anything or maybe add anything. But still, that isn't anything – the Assessor's Office and the Land Use Department are two different departments as you well know. But the situation is that even though the assessors assessed three different residences on the property they're still in violation of the land development code. And Mr. Lujan did state before that staff did not go out there and basically tell him what he was doing wrong. However, it was very clear in the variance from 1991, not only through CDRC but the BCC, there was a list of staff recommendations. I read those to you. And it was made very clear then what needed to be done. And so therefore even the developments that took place without the Lujans proceeding with a lot split and permitting but they still continued to add dwelling units and accessory structures.

CHAIR MAYFIELD: And Mr. Romero, I appreciate that and you're just the one I was talking to you today, because we don't have anybody from the Assessor's Office, I believe. And let's see if our County Attorney is here. But on that note, was it the three different households receiving a tax bill or was one household receiving a tax bill? Do you know?

MR. ROMERO: As far as taxes paid for the property, according to what the applicant brought in, they're paid – they're up to date in payment for the property. As far as each individual residence, I'm not too sure; I don't have that information.

CHAIR MAYFIELD: We'll ask the applicant. And then again, just a little earlier in the County Commission meeting discussion a little earlier, it's just the coordination between our offices on the dialogue that needs to happen between our offices. Because if there was some permitting requirements that were asked of the applicants to comply with and if they were in compliance or not in compliance, yet our Assessor is taxing all of these properties, I still think the County needs to cue with one another with what's happening or what is not happening. And I just think that there needs to be some communication that happens internally between elected offices and non-elected offices and just departments. Because it can cause the public to be confused of what's going on. Now we're paying our taxes on each individual property. So that's just maybe a side note, just as it rolls into this case.

So if I can ask the applicant this question. Mr. Lujan, on your property assessments, do you know if they were going individually to yourself and to your children or were they all just going to –

MR. LUJAN: One was coming to me, the other one was coming to my son and the other one was going to my daughter.

CHAIR MAYFIELD: Okay. Thank you.

MR. LUJAN: Can I address this, Commissioner Mayfield?

CHAIR MAYFIELD: Yes.

MR. LUJAN: Going back to what Commissioner Chavez said about the water usage, my residence is just myself and my wife. My son, it's himself and his wife. And then in the third dwelling it's the two boys that live there. So I can't understand why I would be exceeding the water usage.

CHAIR MAYFIELD: Ms. Lujan please.

MS. LUJAN: Yes. That well was drilled in 1977 or 1978. So there's [inaudible] We never had problems with the water. We have complied with the requirements. They each have their own septic system. They each have their own utilities. We have met all the requirements except we haven't formally divided the property.

CHAIR MAYFIELD: Thank you, Ms. Lujan. Commissioner Chavez please.

COMMISSIONER CHAVEZ: Thank you, Mr. Chair. I guess I wanted to ask staff again – I'm going to go back to the density. I know that – I understand that you have your individual well and that the size of the lot allowed only the one unit and as you add units to that it's going to impact – it has to impact the water table at some point in time. And the density, as you increase the density septic tanks have to be maintained on a regular basis, otherwise it's going to affect the groundwater and on and on. So again, we have to be careful in how we do that. At one point in time, as staff pointed out earlier, there was a family transfer that had been approved that would have also increased the density on this same lot. Would it have increased the density more than the three units? Or would that have been the allowable density even under the family transfer?

MR. ROMERO: Mr. Chair, Commissioner Chavez, that would have been into two dwelling units as what was required and approved in 1991. County staff was going to allow the Lujans to recognize two lots, each dwelling unit on each lot. That's what they approved in 1991. And it was for only two residences, not three.

COMMISSIONER CHAVEZ: Okay. So that's the difference in the family transfer and what we're discussing today.

MR. ROMERO: yes.

COMMISSIONER CHAVEZ: I guess that's all I have for now. Thank you, Mr. Chair.

CHAIR MAYFIELD: Thank you, Commissioner Chavez. This is a public hearing. Is there anybody from the public who wishes to comment on this case? Yes, sir.

[Duly sworn, Vincent Salazar testified as follows:]

VINCENT SALAZAR: My name is Vincent Salazar. I'm just here in support. We all wish and hope that our children can go out and make a perfect living for themselves. Unfortunately, things happen to where they're not able to. Mr. Lujan is able to help his children, his grandchildren, maybe not financially but he does have a place to put them. He was responsible enough to go ahead and make sure they have their own utilities, make sure the taxes are paid, make sure that they have their septic systems in place. Had the County gone out and seen him when those aerial photographs were taken I'm sure he would have

done what he needed to do to get the proper permits for these residences. So I am in support. I am a county resident. The CDRC asked me that question. And those guys have my support.

CHAIR MAYFIELD: Thank you, Mr. Salazar. Is there anybody else from the public wishing to comment on this case? Seeing none, this part of the public hearing is closed. Commissioners.

COMMISSIONER ANAYA: Mr. Chair.

CHAIR MAYFIELD: Commissioner Anaya.

COMMISSIONER ANAYA: Mr. Chair, I have a few comments and then I'm going to make a motion.

CHAIR MAYFIELD: Yes, sir.

COMMISSIONER ANAYA: The comments I'm going to make are consistent with what I've done while I've sat on this bench over the last three-plus years. We've had many discussions on land use cases and many difficult issues that we deal with on a regular basis. And one of the things that at least early on when I sat on this Commission is what time of code and process do we have for making decisions about enforcement of our code. And while sitting here time and time again I came to understand that because of available budget and expenses most of what comes in the way of issues that arise on the County Commission come in a similar fashion as was brought up today where somebody either calls in and turns somebody in, basically, or in this case another solar company came in to follow the permit process and that's how the issue arose.

And every time one of these issues comes up I go through the same process in my mind about what was the intent of the individual and was there or is there any malice associated with that intent. And then I ask the next question about consistency within our code and as Commissioner Chavez, you brought up earlier, which is a very valid point, you can't have an unending process of over and over granting exceptions or increasing density over and over and over again, but I guess I would say it maybe a little different. There also has to be some reasonable in my mind, and we're going into a new code process and maybe now is an opportunity for the County to do, is to engage in some outreach to communities throughout Santa Fe County to say, you know, we're moving into a new code process, here are some of the parameters or some of the requirements and restrictions that the County has. Here as some of the things the County is going to look at in an overall area to evaluate the number of lots that are on a site or the number of lots approved, and then create some process by which people will be able to come in. Not where we found them by – on accident, essentially, but where we do outreach and it's a more holistic approach where we're looking at an entire area and saying let's evaluate this area and if there are code issues and concerns let's figure out some reasonable process so that people can maybe try and rectify the situation.

The other thing that comes to mind is comments that we hear over and over again about capacity or availability of housing and what people try and achieve with the family transfer. Right now we have an ordinance on the books that affords for family transfer. On this particular lot we have two particular lots that were approved that never were fully executed but we also in our new code that we just approved have a provision for accessory dwelling on an individual lot. We have that in our code right now, where you could have –

and I think we even tweaked the language some before our final approval and made a note inside our language and talked about accessory dwellings for family. I think we even went that far and had some discussion about that. I think the wording in our code said something to the effect that with the intent – if I remember it correctly, Penny, and correct me if I'm wrong, but the intent of that Section of the ordinance was that that accessory dwelling would be for a family member. That was the intent.

All those things being said, if we have an ordinance that we ask as a County to put forward, my perspective has always been we should be cautious to approve ordinances that we ourselves can go find out or can check and see if there's been violations. And it's a balance because mostly it's reactionary. Mostly it comes by chance or it comes by somebody trying to come in and do something else. That being said I don't see malicious intent in what happened in this case at all. And I also know the area and am familiar with the area and that if we did do some methodical review of the area and said we're going to look at all the lots in this whole Section we would be embroiled in an issue that probably the County's never seen if we started saying now we're going to start taking houses down, one by one methodically. If we did that in any Section we would engage ourselves in that kind of determination.

And I'm going to go on a little bit, Mr. Chair. I'm going to go on a little bit, because the other thing that comes to mind is our water ordinance. There's people in La Cienega that have concerns about water use and consumption. And there are some provisions that we put forward, the County, before I sat on this bench. Before my predecessor and their predecessors sat on this bench, there were subdivisions that were approved by the County that said when the County water line gets to within 200 feet or whatever the proximity – I don't remember. Penny, what is it? What are those general provisions? A couple hundred feet?

MS. ELLIS-GREEN: Mr. Chair, Commissioner Anaya, I believe it was 200 feet.

COMMISSIONER ANAYA: 200 feet. So whenever a water's got within 200 feet of a residence, that that residence then had to hook up to the County utility. So here we are now decades in some cases later and we're raising those questions as a Commission, all of us. We're having that discussion not just in La Cienega. We're bringing it up and saying, we've got to figure out how to come to grips with this and we've got to figure out a way to do what? To not just have the requirement but to figure out a way to complement the requirement and help get the hookup established.

So it's easy on the one hand to say hook up and require someone to hook up, what's hard is there wasn't a whole lot of discussion at the time as how are you going to hook them up and who's going to pay for it? So now what I hear is the same. We need to hook into the County utility, which I agree with, but we can't just blindly say, go hook up, sir. That's your responsibility and your obligation. We need to provide some coordinating mechanism to help make that happen. That's the way I see it.

And so for this case can I sit here in good conscience and say we're going to start today? We're going to start today with Mr. Lujan and today with Mr. Lujan we're going to send a message and we're going to go and we're going to take away one of those houses, or two of those houses, and make him go take them away? Because I could do that in good conscience because then my next pattern of thought would be that we better sweep the entire

county. And one by one, house by house, what? We're going to go into people's yards and areas and start disconnecting and pulling houses up? I don't think so.

I couldn't do it. I couldn't do it. But what I will say, and I will say it emphatically and we have the opportunity now, and today in an earlier part of our meeting we were talking about procedures and we were talking about practices in the new code and the new opportunity. We have an opportunity now to set the bar and say, no more, in the new code. We have an opportunity to say whereas we may have worked through an issue or provided a mechanism for people to get out of a requirement, I don't have any other way to say it, but moving forward we can set the bar and say we're going to do periodic reviews of areas and we're going to provide the staff that the Land Use Department needs to do that and we're going to catch these things in a more holistic way rather than a case by case basis where some individual may get hurt and another individual may not because nobody found out.

So that's where I think we need work and actually that's why I think we have an opportunity as we go forward with the new code for new things to make those changes. But now, can I sit here in good conscience listening to individuals that came forward and the intent, three family members on this parcel and say now is the time that we start with you? I can't do that.

So I see the conditions before me that I believe are well thought out and when the time's right I'm going to make a motion. In the interests of my colleagues I'm going to defer and let my colleagues do what they feel is appropriate but I'm prepared to make a motion, Mr. Chair, when the time is appropriate.

CHAIR MAYFIELD: Commissioner Chavez.

COMMISSIONER CHAVEZ: Well, I think, Commissioner Anaya, I think the time is now for the motion. I think that you can make a motion and there could be a second and we could further the discussion. I may even make a motion if you're not, and the motion would be to approve with conditions and I was not suggesting that we start with this case in removing houses from properties. I'm just pointing to a situation that variances after variance after variance, it's a slippery slope. And so if you say, yes to one and no to the other, then yes, you cause some problems. And so I think that we really haven't had a discussion about variances. We're now starting to have a discussion about variances because I think we see the impact. We're now starting to see the consequence of the variances that have been approved to date. And we see a pattern of that on the Commission. I don't think that we can take full responsibility for setting that pattern in motion but it's a pattern that we're going to have to deal with. And I think that you're right, in the new code we hopefully will have the mechanism so that we can thoughtfully approved land use cases that increase density without having to do as many variances as we have in the past.

When you talk about code enforcement, all of our code enforcement is complaint driven. It's on an honor system. That means that if you're supposed to be doing the speed limit, it's 25 miles an hour, it's up to you, the driver to do the speed limit. If you're supposed to have your dog on a leash it's the owner's responsibility. If you have a piece of property and you're making improvements on that property, whether you like it or not, whether I like it or not, I'm supposed to get a permit. It's easy to say, well, the solar guy got a permit and now I'm in trouble. Well, the solar guy didn't ask for the family transfer. The solar guy wouldn't

have been there if the owner wouldn't have asked the solar person to go do work on that property. So you can't – it's a series of events that led to where we are today.

And so I agree with the reason and the intent behind the family transfer. I understand the reason and the intent in increasing the density to benefit family members but the consequences in increasing that density will still be there. We can't ignore that. And I just – I have to point that out in each and all of these cases. So, Commissioner Anaya, having had that discussion and raised those questions, I know we can't go back. I'm not suggesting that we tear down one of those houses, but I'm suggesting that we need to be careful in how we move forward so that we don't have to continually regress into this kind of a discussion, after the fact, after the fact.

And so looking at the situation, I agree with you, it has to be case by case but the issues still have to be raised. We still have to have the discussion. So I'm comfortable with the conditions of approval. There's a motion on the floor if you're comfortable in a second I would hope for a second and we could continue the discussion and I think we should read the conditions of approval into the record. I made a motion.

COMMISSIONER ANAYA: Mr. Chair, I'd second Commissioner Chavez' motion to approve with conditions.

CHAIR MAYFIELD: [inaudible]

COMMISSIONER CHAVEZ: Under discussion.

CHAIR MAYFIELD: [inaudible] So staff, as far as the conditions, the applicant must [inaudible] Mr. Romero, explain that to me please.

MR. ROMERO: So we're looking at condition #2, correct, Mr. Chair?

CHAIR MAYFIELD: Yes, sir.

MR. ROMERO: Okay. So essentially, the applicant will not have to get a development permit for the residence that was created right after the purchase of the lot in 1977. However, everything on afterwards that was developed on the property would need to get a permit, an after-the-fact permit from our department. That is what is required by our code. I'm not too sure if –

CHAIR MAYFIELD: So, Mr. Romero, I guess my question is, an after-the-fact permit, staff could potentially still deny that after-the-fact permit, could they not?

MR. ROMERO: Mr. Chair, Commissioner, if you guys approve this variance with staff conditions, and at that point, we would allow the applicants to come in and apply for development permits. They would have to complete the development permit application which requires paperwork, including a site plan, elevations of what's on the property and so forth. At that point in time, Code Enforcement will go back out there once the applicant submits the development permit application. I've already spoken with the Lujans as to what we're going to look for, as far as any junked vehicles that are going to be on the property, then we will look at that and we'll work with the applicant to assure that after this process has been approved that the application process is something that can be done – I think what we asked was 90 days.

So approve with conditions, staff will make sure that the applicant, once he submits the application for new developments on the property – additions, accessory structures, additional homes, get permitted and we'll work with the applicant on that.

CHAIR MAYFIELD: And Mr. Romero, if they applicant had to hire somebody to help them with this, can that be accomplished within your 90-day window?

MR. ROMERO: I don't see why now, Mr. Chair.

CHAIR MAYFIELD: You're talking about elevations, site elevations. I mean, they may have to hire professional services to complete this task.

MR. ROMERO: It would be something that the applicants can do themselves. It may be said that the applicant would have to hire someone to do this. At this point in time this would be up to the chain of command to decide whether or not this 90 days would comply with the applicants. If 90 days is not reached that's going to be up to my supervisor to make that determination, whether or not they may need more time. But I think up until that point, up until we do have a problem that way I think we're looking at the 90-day for the applicant. The applicant shall comply with all conditions including the 90 days. So if the applicant comes in, submits the application, we're willing to work with the applicants to get this out. And we'd be willing to work with the applicants.

CHAIR MAYFIELD: I'm going to defer to Ms. Ellis-Green. Ms. Ellis-Green.

MS. ELLIS-GREEN: Mr. Chair, Commissioners, we have individuals all the time make their own application for mobile homes. These are two mobile homes that need to be permitted. Really, they're not, at that point you're kind of hand-drawing them yourself. You can estimate heights, widths, you can measure those. It's not an overly burdensome application process that you would need to have an architect, for example, draw up a permit for a mobile home.

The one issue that I would raise is on condition #5 is that all junk vehicles, litter and debris must be removed from the property, that had been an issue in 1991, still is an issue, so again, we would want to see that there had been substantial progress within the 90 days, but if Code Enforcement came to me and said the applicants are trying to clean up but they've had to hire whoever to remove some of these vehicles or whatever, as long as we're seeing progress we can still work with somebody.

CHAIR MAYFIELD: Thank you. Commissioner Chavez, please.

COMMISSIONER CHAVEZ: Thank you, Mr. Chair. I wanted to as part of my motion and part of the second for discussion read into the minutes the conditions of approval.

[The conditions are as follows:]

1. Water use shall be restricted to 0.25 acre-feet per year per home. So that's three meters. A water meter shall be installed for each residence. That's three meters. Annual water meter readings shall be submitted to the Land Use Administrator by January 1st of each year. Water restrictions shall be recorded in the County Clerk's Office as per Article III, Section 10.2.2 and Ordinance 2002-13.
2. The Applicant must obtain a development permit from the Building and Development Services Department for all structures on the property as per Article II, Section 2. As

staff just stated earlier it doesn't have to be a real complicated, sophisticated architectural rendering. It could be a simple, hand-rendered scale drawing.

3. The placement of additional dwelling units or division of land is prohibited on the property as Per Article III, Section 10.
4. The Applicant shall comply with all Fire Prevention Division requirements at time of Development Permit Application as per 1997 Fire Code and 1997 Life Safety Code.
5. All junk vehicles, litter and debris must be removed from the property.

Thank you, Mr. Chair.

CHAIR MAYFIELD: Thank you, Commissioner Chavez.

COMMISSIONER ANAYA: Mr. Chair.

CHAIR MAYFIELD: Commissioner Anaya.

COMMISSIONER ANAYA: Mr. Chair, I'm going to turn my chair towards my colleague over and just say this. Commissioner Chavez, if there's one thing that – and trust me, sitting on this Board of County Commission bench in the last 3 ½ years is not where I cut my teeth in working with boards and committees. It started in Galisteo, in a small village in the fire department and the water association and church organizations and many others. But what I will say to you is that my comments aren't to take away anything of what my colleague, Commissioner Chavez or Commissioner Mayfield or Holian or Stefanics might say, but my comments are made to be clear on what I say from my perspective. I have a great deal of respect for all of my colleagues, even though from time to time we have different perspectives.

I actually concur very much that we can't just continually follow a similar path and pattern of issues around land use and look the other way and pretend we're going to get anywhere. We truly do have an opportunity with the new code and we truly do have an opportunity to be – and I like the point you bring up about traffic citations and permits. We're obligated under law to drive the speed limit and we have individual decisions and choices we make all the time. But there are times within laws like that where there are pro-active approaches that are taken by those organizations to say, you know, here's some outreach we're going to try and do and some coordination to try and figure out how we might progress or reduce the number of [inaudible]. There's pro-active things that entities can do aside from an ordinance or a law itself.

So I appreciate Commissioner Chavez and I know that from time to time in the delivery of our thought that maybe we try and impose our rule or impose our thought on someone else. In no way, in no way was that my intent. I just want to, from my perspective, Commissioner, Mr. Chair, Commissioner Chavez, want to convey that we have to be balanced and I didn't hear him say that he wanted to start with Mr. Lujan but I don't want us to start with Mr. Lujan. I want to figure out how to work through it. So I think the conditions – I'll note on the conditions, when things like this do happen it's not a complete negative aspect. I'll say that. There's meters that are going to be put on the three houses and a 1977 well permit – and what's the term for those well permits, Commissioner Mayfield? You know the term.

CHAIR MAYFIELD: 72-12.

COMMISSIONER ANAYA: A 72-12. On a 72-12 well, especially from 1977 we had provisions that could allow Mr. Lujan or an individual holding that permit to use up

to three acre-feet of water. So in this action if well meters are put on it, which they are required to and they will be, Mr. Lujan, if this passes, then we do have a mechanism that we didn't have before to assure that there's an opportunity for the family to continue living there but also to protect the natural resource. So I think that's an important point.

And on fire code, I'll say this to Mr. Patty because he's here a lot, but a lot of times the Fire Department takes the brunt of a lot of heat from the Commission asking tough questions but the intent always on the part of the Commission and the part of staff – Penny and the rest of the staff, is the best interests of the people and trying to figure out how best do we provide the safety and the mechanism for safety to save lives.

And so I've said enough but I fully respect your comments, Commissioner Chavez, as yours, Mr. Chair, and I'll gladly second and gladly appreciate the conditions read in. That's all I had, Mr. Chair.

CHAIR MAYFIELD: Thank you, and I just appreciate all of the comments by both my colleagues and we're just going to move this case forward. Please, Ms. Ellis-Green

MS. ELLIS-GREEN: Mr. Chair, Commissioners, I just wanted clarification. Commissioner Chavez read in conditions 1 through 5 but not #6. Was the intent to not include #6? Which is the 90-day period?

COMMISSIONER CHAVEZ: No. I just overlooked that. But, no, I think the 90-day time period is fine. Staff did say that they're more than willing to work with the applicant. If it exceeds the 90 days it's not going to be the end of the world but we know that the conditions will stay and that you'll work with the applicant. So all six conditions of approval.

CHAIR MAYFIELD: Commissioners, let me just ask one question. Mr. and Mrs. Lujan, are you aware of these conditions as they were read in by Commissioner Chavez and staff and that they're asking that they be complied with in 90 days? If there is a hardship, that staff will try to adjust and work with you on that, but they are asking that there is compliance with these within 90 days? Are you in agreement with that if this is approved today?

MR. LUJAN: Yes, sir.

CHAIR MAYFIELD: Thank you. Commissioner Anaya.

COMMISSIONER ANAYA: Mr. Chair, and maybe Commissioner Chavez, maybe this is an opportunity to take some proactive steps. Ms. Ellis-Green, what I would like as we're going forward with land use decisions is – and it may take some time to compile the older ones, but going forward from now if we issue conditions and we get to the end of these terms of time, I think it's important for the County Commission to be aware of what's being upheld and what's not being done. So maybe we could put some triggers in place and maybe we could come up with a simple spreadsheet that articulates somebody coming to the end of a compliance period, so that you could stand up before us or one of your staff and say we have this land use case and this land use case and this particular individual in Stanley or wherever it is hasn't done anything. They haven't fulfilled any of the requirements. They haven't worked with us. And that way we're aware of it and if need be we might need to take some action. I think that may be a trigger for the Commission and as we've talked, all of us and Commissioner Chavez bringing it up, to then be doing a little more pro-active work.

MS. ELLIS-GREEN: Mr. Chair, Commissioner, absolutely we can do that.

Maybe what we can start with is looking back for the last year. I submit to the Board a monthly gross management report and we can add that to the growth management report either in the report or as an attached spreadsheet stating the case number, what the time frame was and whether or not it's been complied with.

COMMISSIONER ANAYA: Mr. Chair, thank you, Ms. Ellis-Green, because I would add we're looking at a case from 1991 and I don't see anything else in there, and I'm not picking on anybody, but if we said in the initial process whereby applicants when they would come in would understand what their expectations are of what they're supposed to do, but they may be [inaudible] follow-up, then I think we're going to have less and less non-compliance over time. Thank you, Mr. Chair.

CHAIR MAYFIELD: Thank you, Commissioner Anaya. We have a motion and second on the floor. All those in favor of the motion in front of us as stated with staff conditions signify by saying aye.

The motion passed by unanimous [3-0] voice vote.

VII. A. 2. CDRC Case # V 13-5340 Vincent Salazar Variance. Vincent Salazar, Applicant, Requests a Variance of Ordinance No. 2002-9 (La Cienega/La Cieneguilla Traditional Community Planning Area and La Cienega Traditional Zoning District), Section 6.4.3 to Allow Two Dwelling Units on 1.00 Acre. The Property is Located at 73 Camino Torcido Loop, within Section 17 & 20, Township 16 North, Range 8 East (Commission District 3)

JOHN LOVATO (Case Manager): Thank you, Mr. Chair. The subject lot was created on January 8, 1968 by way of subdivision, and there is currently a residence and a garage on the property. The residence and garage were permitted in 1999 and the garage is now being converted into a dwelling unit. On August 16, 2013 Building and Development services received a complaint regarding unpermitted development. On August 19, 2013 code enforcement conducted an inspection on the property and issued a Notice of Violation for exceeding density.

The applicant states his son is attending Santa Fe Community College pursuing an education in nursing. The applicant further states he has another son and his family residing in his house which interrupts with his son's education and study time. The applicant claims he cannot afford to pay for housing for his son so that he can continue his education and concentrate on achieving his goal of graduating.

On January 16, 2014 the County Development Review Committee met and acted on this case. The decision of the CDRC was to recommend denial of the requested variance with a 4-2 vote as noted in Exhibit 1.

Staff recommendation: Denial of a variance of the La Cienega/La Cieneguilla planning area and La Cienega traditional zoning district to allow two dwelling units on one acre. If the decision of the BCC is to recommend approval of the applicant's request, staff recommends imposition of the following conditions. Mr. Chair, may I enter those conditions

into the record?

CHAIR MAYFIELD: Yes, if you would also read them in please.

[The conditions are as follows:]

1. Water use shall be restricted to 0.25 acre-feet per year per home. A water meter shall be installed for each residence. Annual water meter readings shall be submitted to the Land Use Administrator by January 1st of each year. Water restrictions shall be recorded in the County Clerk's Office (As per Article III, Section 10.2.2 and Ordinance No. 2002-13).
2. The Applicant must obtain a development permit from the Building and Development Services Department for the additional dwelling unit. (As per Article II, Section 2).
3. The Applicant shall provide an updated liquid waste permit from the New Mexico Environment Department with the Development Permit Application (As per Article III, Section 2.4.1a.1 (a) (iv).
4. The placement of additional dwelling units or division of land is prohibited on the property. (As per Ordinance 2002-9, Section 6.4.3).
5. The Applicant shall comply with all Fire Prevention Division requirements at time of development permit application (As per 1997 Fire Code and NFPA Life Safety Code).

CHAIR MAYFIELD: Mr. Lovato we have one more. I can read it.

6. The Applicant shall comply with all conditions of approval within 90 days.
Commissioner Chavez.

COMMISSIONER CHAVEZ: I just want to point out again, and this is not really pointed at any one in particular, but this is just how our system works. And I'm going to read this again. On August 16, 2013 Building and Development services received a complaint regarding unpermitted development. So our ordinances are complaint driven. And it's really hard. It's not the best system because sometimes you're complaining about your neighbor and you don't want your neighbor to know that you're complaining about them, that something's not right. So it's hard to say something. I wish there was another way that we could do it. The only other way would be to have officers patrolling the area looking for things that aren't right. People probably wouldn't like that too much either.

So it's not easy. We want rules but we don't always really want to follow them. And I'm there with you guys some times. But it's really the only way we can approve development and have safe neighborhoods not just for today but if we're going to do family transfers and we're going to want to pass our land, whatever we have, on to the next generation and hopefully the next generation thereafter we want something that they can live on, something that's worth passing down. And so what we do today is going to impact those future generations and if we don't get it right it's not going to be right for them either.

So I just wanted to point that out for what it's worth. I think that the variances present that problem because you have to figure out a way to compensate for that. Commissioner Anaya pointed that out earlier. The one consolation that we do have that we didn't have before in most of these cases is just the fact that we can meter wells. Because people with individual private wells they don't want those meters. And I don't blame them but it's the direction that we're going to have to go in because it's the only way we have to manage our water resource. And we can't go back to the day where we're all using 300 acre-feet of water.

We just can't. And that's not going to work for the next generations either. We're going to deplete that water source.

So again, I think that the variances, they all present – they generate the same debate generally. The conditions are the same. The conditions of approval are about the same, having to do with water and the fact that after this, the applicant – the placement of additional dwelling units or division of land is prohibited on this property. That means that that density and rightly so will not be able to increase after that. That's it. You're locked in. And so I think it's, in a roundabout way, even though it's not the most comfortable way, in a roundabout way it's getting us to where we need to be as far as restrictions, increasing the density and managing our resources. So I guess those are just comments. The cases are all similar, and I'll leave comments to my other colleagues.

CHAIR MAYFIELD: Vice Chairman Anaya, please.

COMMISSIONER ANAYA: Mr. Chair, Ms. Ellis-Green, without a division of land, based on the intended use, would this second dwelling fall under the provisions of the accessory dwelling ordinance?

MS. ELLIS-GREEN: Mr. Chair, Commissioner Anaya, yes it would. So under the new code, when that becomes effective, this actual application could have been reviewed and approved administratively.

COMMISSIONER ANAYA: So, Mr. Chair, does the applicant understand that?

MR. LOVATO: Mr. Chair, Commissioner Anaya, he does understand that. I believe he was in the process of constructing it and somebody came forward for the variance just because there was a violation of the property.

COMMISSIONER ANAYA: Okay. I'm going to hear some public comment and then I might have some more questions.

CHAIR MAYFIELD: I have no questions of staff. Is the applicant here or a representative for the applicant?

[Previously sworn, Vincent Salazar testified as follows:]

VINCENT SALAZAR: Commissioners, I am aware of the new County code but I figured I'm already about \$600, \$700 into this so I may as well continue. If you don't mind I'd just like to read.

CHAIR MAYFIELD: Please.

MR. SALAZAR: I'm requesting this variance for a second dwelling so my youngest son, Tomas, who is attending classes at the Santa Fe Community College can continue his education. He's about to start his clinicals. He is interested in getting a degree in nursing. Once he starts his clinicals at an area hospital or in another city he's not going to be able to work, do his homework and do his clinicals, which he will be doing the clinicals during different shifts.

I currently have my eldest son, Antonio, my daughter-in-law, Marquita, my three grandchildren, Leah, Xavier and [inaudible], living with me in a four-bedroom house. It is almost impossible for my youngest son to conduct his studies in that environment, especially

if his clinicals are during the graveyard shift. Having his own house will allow him to have a place to do his studies without worrying about a place to live, rest and sleep.

I also have a middle son who is currently living on the streets; he's homeless. It's very hard for him to get a job to support himself. He did make some bad decisions when he was younger. I do encourage him and help him as much as I can or as much as he lets me. If all goes well my hope is that my son gets his nursing degree, moves on to care for the community and can be living for himself. This allows for there to be a place when my middle son decides to come home, if he decides to.

Back when I was younger I adopted these three boys. I promised myself that I would be there for them in any situation and this is one of those situations. I did go before the CDRC who denied the motion for the second dwelling and I hope the County Commission does allow the second dwelling. I take it as investing in my future. I do have an illness; I have diabetes. Every time I go to the doctors they want to take biopsies of my liver, so as far as being able to send my son to become a nurse I feel as though it's actually investing in my future. There are times when I am glad my other son is living with me because there's times where he's had to take me to the hospital. And of course with the La Cienega Fire Department moving further and further away from Cieneguilla it would be nice to have someone that has medical training.

I do work as a security officer so my funds are limited in how I can help my son and just being able to provide him with a place to live, providing my other son with a place to live should he need it, that would really help. That's it. If you have any questions?

CHAIR MAYFIELD: Mr. Salazar, thank you. Commissioners, any questions of the applicant?

COMMISSIONER ANAYA: Mr. Chair.

CHAIR MAYFIELD: Vice Chairman Anaya.

COMMISSIONER ANAYA: Mr. Chair, Mr. Salazar, do you understand the conditions that the County has asked be placed if this passes? Do you understand the ramifications of those conditions?

MR. SALAZAR: Yes, sir.

COMMISSIONER ANAYA: And tell me, when did you get your well permit?

MR. SALAZAR: I got it in – April 27, 1999, at 9:32 am.

COMMISSIONER ANAYA: Okay. And Mr. Salazar, what acreage of water did they afford you in that particular permit?

MR. SALAZAR: It's three acre-feet. I do live in an agricultural community. And that was one of the questions I had because I do plant a good-sized garden every year.

COMMISSIONER ANAYA: I think, correct me if I'm wrong, Ms. Ellis-Green, but I think we put provisions in our code that would talk about the house use but wouldn't hurt somebody that was trying to water a garden?

MS. ELLIS-GREEN: Mr. Chair, Commissioner Anaya, the condition says per year per home. So the meters would be on the homes.

COMMISSIONER ANAYA: Because we're trying in our code to encourage people to have agriculture, a reasonable amount and to be able to grow their own food, right?

MR. SALAZAR: And I am teaching my grandson about gardening. He loves his cucumbers.

MS. ELLIS-GREEN: Mr. Chair, Commissioners, I'm taking a look at the new code. Yes, we said a quarter acre-foot and I believe we said that didn't include -- that was indoor use only.

COMMISSIONER ANAYA: Okay. Mr. Chair, that's all I had right now. Mr. Salazar, I would like to listen to anybody that's here to speak on the case, either for or against. Thank you, sir.

CHAIR MAYFIELD: Thank you. This is a public hearing. Is there anybody from the public who would wish to comment on this case? Sir, please come forward, state your name for the record. We may ask for your address, and be sworn in please.

[Duly sworn, Ignacio Salazar testified as follows:]

IGNACIO SALAZAR: Ignacio Salazar. Good afternoon, gentlemen. First and foremost I would like to say that if the County Commission of 1993 I would first say thank you very much. In 1993 the County Commission granted me probably the first variance for a second dwelling on a one-acre parcel in La Cieneguilla. From that time forward, two of my sons have lived in that dwelling till they were both able to afford their own homes to move their families in, one of them being Vincent. I've had a grandson live there until he was able to afford to buy his own house. I've had nieces live there, nephews, and now I have a niece that's living there. And if it wasn't for the County Commission in 1993 that granted me the variance, maybe they'd still be in my house. I don't know. I don't know. But I would thank them right now.

My variance I believe was the very first one. It's variance number one, 1993. Since that time I believe different County Commissions have granted I think it's six or seven different variances because now there are six or seven different properties of one acre that have a second dwelling. We were able to prove to the County Commission that we had the water rights. Each one of our properties had three acre-feet of water rights that were due to a lawsuit filed against PNM.

Again, I'd like to thank the 1993 County Commission for the opportunity they gave me and I'm hoping that our County Commissioners right now will afford my son the opportunity to do what I did, to help his family. Thank you.

CHAIR MAYFIELD: Thank you, Mr. Salazar. Is there anyone else wishing to comment on this case. Please, Mr. Lujan.

[Previously sworn, Joseph Lujan testified as follows:]

JOSEPH LUJAN: Just a few words in support of Mr. Salazar. We see a father and we see a grandfather and sometimes we as parents are put into a situation we have no control of and we're just trying to help our kids. But also I appreciate you Commissioners because you weigh the factors in your decisions so I just want to support Mr. Salazar because I know what he's going through. Thank you.

CHAIR MAYFIELD: Thank you, Mr. Lujan.

[Duly sworn, Jose Villegas Sr. testified as follows:]

JOSE VILLEGAS, SR.: Jose Villegas, Sr., 10 Camino Torcido Loop, La Cienega.

CHAIR MAYFIELD: Mr. Villegas, welcome.

MR. VILLEGAS: Commissioners, good to see you guys.

CHAIR MAYFIELD: Same here.

MR. VILLEGAS: I'm here because I need to support my brother and my nephew. This particular area is really special to me as all three of you know. I commend you guys for the first time in the longest time that I can actually witness and three good people talking about variances. That really has impacted our community, La Cienega. From the heart. I am one of those individuals, landowners there in La Cienega that also got a variance. And I remember when I posted my variance notice for a hearing a neighbor complained. I thought that was pretty funny. However, it was one of those situations where I had to come in front of the Board and before the CDRC and the Board, and state why was the reason why I wanted to build this casita for my mom. To this day it's there.

This particular area, it's a really hot area for the County Commission because you're going to be dealing with later on because as you already know, the Anaya, the Anaya vs. PNM or PNM vs. Anaya adjudication case hasn't been resolved since 1976. So what the means is that on my property where my house is, where my little casita is as well, it has the additional – it has three acre-feet of water that's allotted by the State Engineer. But it also has three acre-feet of water that was given to us by the State Engineer's office for not using the surface water in the Santa Fe River. So along this Camino Torcido Loop or the La Cieneguilla land grant, that particular area is just a hot potato for the adjudication case because it hasn't been resolved, and as you know we do have the water, the potable water is available for this particular lot here or this particular acreage that Vincent wants to have his casita, we do have the wet water and we do have the senior water right that goes along with it with the paper water right.

But it's not the threat of the little casitas that are going up there. It's not those little houses with the variances that you guys are helping us with for our families. It's the Hagerman well that's threatening. Because that Hagerman well is a hot – is a mama well that is being sucked up right now as we're speaking by the polo grounds. And who owns the polo grounds? The First National Bank of Los Alamos. So I give you guys a lot of credit for having the courage to talk about variances for today, and I'm here to support my nephew and in good standing, my brother Ignacio, the families there in Cieneguilla, and again, thank you for allowing me to voice my support for that. Blessings to all three of you.

CHAIR MAYFIELD: Thank you. This is a public hearing. Does anybody else wish to comment? Yes, sir, please.

[Duly sworn, Victor Montano testified as follows:]

VICTOR MONTANO: Victor Montano.

CHAIR MAYFIELD: Mr. Montano, please.

MR. MONTANO: Mr. Chavez, how are you. I didn't realize I was going to be up here speaking for Ignacio. I've known him since high school days. The little bit that I've heard I think he's in the right. We always fought for our family to have a future and I'm

going to say be independent and help them out. It's always about family. I haven't been – I just walked in but I feel the little that I heard Mr. Ignacio and his son are in the right to do what they want to do, having the water rights. And I know for a fact that the family around his neighborhood, they have one or two dwellings and I believe that – I don't know if there's been any complaints on this but I believe that he should be granted what he wants to do. The bottom line, it's about family. You have family. Mr. Ignacio here, I've known him from high school days. Like I say, I just walked in and [inaudible] So the bottom line is how you do it to help your family. I would support what he wants to do. Thank you, Mr. Commissioner and Mr. Chavez and Mayfield. Have a good day.

CHAIR MAYFIELD: Are there any other members from the public wishing to comment on this case? Seeing none, this portion of our public hearing is closed. Vice Chairman Anaya, please.

COMMISSIONER ANAYA: Mr. Chair, I appreciate all the comments that have been made tonight from my colleagues as well as the individuals in the audience and the members of the public. And I think that it's about family, I would agree with the comments that the individual made that was just at the podium. But it's also about resources. And I think that what we continually try and do is create policy and ordinances that provide for the maintenance of the integrity and the wholeness of a family but also create an opportunity to preserve the resources that we have that we know for a fact are limited. And so I think what we've been doing, and I don't say we just people on this Commission but every other Commission that has come before has been on a progression to try and preserve culture, family and tradition but also try and create an opportunity to preserve our resources.

The Buckman Direct Diversion project is a specific example of that, to utilize surface water instead of groundwater, to reduce, if we can, the amount of water we're taking out of the aquifer as Mr. Villegas said earlier referring to some of the wells in the region. And I think that a lot of Commissions have worked in a progression to do that. But we do have to do both, and I think with our new code and the provisions we're moving towards and following up on it, I think Commissioner Chavez and Mr. Chair Mayfield, to make sure that those conditions are followed through consistently, that we do it consistently for all that we go forward with. I think that's the balance. If we place conditions but they don't occur, well, then I think we're wasting our time. And so I think we need to do both. Family and maintain those limited resources. And I think this gets us there.

And I also would like to point out again that the provisions of the new code exactly target this particular issue so that individuals and families can go directly to the Land Use Administrator through a process that doesn't engage some of the frustration and angst that can come with sitting over there. And I don't say that blindly; I've been over there. I've been your chair for a division of land for family to be able to try and keep things moving forward to help your kids.

So I move for approval with conditions as stated by staff and hope for a second and if – I think Commissioner Chavez may have started a good pattern as you've done it, Commissioner, Mr. Chair Mayfield as not only saying the conditions but reading them in, so Mr. Chair Mayfield would you like to read those in or would you like me to read those in? I defer to Commissioner Chavez.

COMMISSIONER CHAVEZ: Mr. Chair, I think staff read these ones in.

CHAIR MAYFIELD: If I could just ask staff to always read them in I think at the onset so that the applicants are fully aware of them also. And I'll second.

COMMISSIONER CHAVEZ: So I think we're good on that, Commissioner, but if I could, I support the motion. I know there's a second but under a second I just want to ask – and this would go to all applicants, not just this one. But we have a condition of approval that says the Applicant shall provide an updated liquid waste permit from the New Mexico Environment Department with the development permit application. So I'm assuming that's for the septic tank. So what's to say that the Environmental department did not – was not comfortable issuing an updated permit? What would the applicant do in that case? This is a what-if question.

MR. LOVATO: Mr. Chair, Commissioner Chavez, they would probably be required an advanced septic waste system or an upgrade or larger tanks, some upgrade to their tanking. Should they not get this then I don't think we'd be able to permit the structure.

COMMISSIONER CHAVEZ: Okay. I'm just asking the question because it's one of the requirements. We're approving additional dwelling units close, in close proximity to a well with septic tanks. We know that if those septic tanks are not maintained well it affects our groundwater. So we need to take care of that as well. And so it's going to present a challenge because the septic tanks are not adequate then we're going to have to upgrade for the additional dwelling units. So wherever we go it's – there's going to be a cost incurred, right? There's no free lunch. And when there is you're in trouble. And so I just want to bring these up because we want to encourage this but then we want to be sure that things are done right. That's all. I just want to point that out for the record, and I just want to go back to this just for a minute. So I'll yield the floor.

COMMISSIONER ANAYA: Mr. Chair, I appreciate that comment. The conditions, especially as they relate to groundwater and liquid waste, sewer disposal, have to fulfill the requirements of the Environment Department, whatever those might be. So I would concur. Thank you, Mr. Chair. Thank you, Commissioner Chavez.

CHAIR MAYFIELD: Thank you. Mr. Lovato or Ms. Ellis-Green, but there might be options with the Environment Department. Advanced systems.

MS. ELLIS-GREEN: Mr. Chair, Commissioners, actually the last case that we heard had holding tanks. They do need to be pumped. They are fairly expensive but that could be an alternative. In addition, the second home on this property seems to be fairly small. A little less than 800 square foot. So I don't know, with the number of bedrooms exactly what the Environment Department would require, but if this is only a one-bedroom they may have the capacity to hook up to the existing septic system. But again, that's down to the Environment Department, and you're right. There could be options when they go to the Environment Department if their existing system cannot work for the additional dwelling unit.

CHAIR MAYFIELD: Thank you, Ms. Ellis-Green. Commissioners, we have a motion and a second on the floor but I just want to bring up a point from my observation of what we see with variances that come in front of Santa Fe County and the needs for all of our families. With two of the maps that I've had in front of me tonight, the current one that I have

in front of me, you look at the footprints on these homes in front of us and as we approve home developments in Santa Fe County and/or as we grant some variances within Santa Fe County, you could look at a footprint of one home and that home could be sustaining in that home one person, or for all I know, five, six, seven, eight people. And then you could look at the footprint on an adjacent piece of property and all two or three homes could fit inside that footprint of that other home on the adjacent property.

So I think we might need to start looking at consideration of that. Because if there's five or six people living in that bigger footprint of that home they could be putting that much wastewater into that septic system. They could be sucking out that much more water out of that well versus the three smaller homes on that adjacent property also. And I don't know, Ms. Ellis-Green, how you all recognize that. I'm not saying that I want to reinvent the wheel at Santa Fe County by any means, establishing a footprint of how big somebody's home could be, but I have seen in Santa Fe County that again, there are some smaller homes where people are trying to help out their family members, help out their children versus an individual coming and building a five, six, seven eight thousand square foot home.

MS. ELLIS-GREEN: Mr. Chair, Commissioners, what the Environment Department will look at is the number of bedrooms. So if you have a five-bedroom house they don't look at it any differently as if there was one person living in it with four empty bedrooms or all of the bedrooms being occupied.

CHAIR MAYFIELD: And I appreciate that and I'm trying to make a comment that I'm going to regret. You could have a one-bedroom or two-bedroom house that had ten bathrooms and you could have 50 dinner parties a week, using that much water and putting that much sewage into the ground. I'm just going to say that out there. Does that happen in Santa Fe? I'm assuming it happens in Santa Fe, versus somebody who has a couple of homes providing for their children that aren't using that same amount of water and/or putting that much wastewater into the ground. Just an observation because I've probably been to a few functions like that also. Just again, it's an observation point that I had out there.

But with that, I'll just probably be quiet. Commissioners. We have a motion and a second on the floor. Vice Chairman Anaya, please.

COMMISSIONER ANAYA: There's a gentleman out there.

CHAIR MAYFIELD: Mr. Montano, if you would come forth. We've already closed this portion of the public hearing, sir. I apologize. Commissioners, if you'll indulge me, I'll open up the public and afford him some comments. If you come to the front, to the podium, sir. So with that, I'm going to open this public hearing again and I will afford public comment for anybody else. Please, sir.

MR. MONTANO: Years ago, I was in the septic tank business. I think Mr. Chavez may remember. Maybe you, Mr. Commissioner, Mr. Mayfield. But you know for years ago many people had an acre of land and they would put what you call a guesthouse. It didn't matter if it had four or five bedrooms and they were allowed to have one septic tank for this one acre of land. Whether, like you mention, five bedroom or whatever, I know for a fact that a lot of people had like a three bedroom and they'd build a guesthouse. They'd build a guesthouse that was bigger than the main house and they had one septic tank on this one acre or whatever.

I just feel that Ignacio should have the right for his son to do what he wants to or it could be a burden on their lives. I don't want to go into details but like I say, I was a septic tank installer for many years and I think he's in the right path and he has the water rights. The property's one acre I believe, or whatever, but my honest opinion, I think he should have the right and the courtesy to do what he wants to do for his family. I just talked to him, like I said before. I know Mr. Ignacio so I hope you give him the courtesy that he can do what to help his family. Thank you again.

CHAIR MAYFIELD: I did reopen up the public hearing. Is there anybody else wishing to comment on this case? Seeing none, I will reclose this public hearing. Penny, I do have one follow-up question and it was I think on either Commissioner Chavez' point or Commissioner Anaya's. So going back to restriction number one, the restriction of .25 acre-feet. Excuse me, but the Salazars had a 99 domestic well permit through the Office of the State Engineer for three acre-feet for both agricultural use and – do you have a copy of that? I don't know if you have it or not.

MS. ELLIS-GREEN: Mr. Chair, no, I don't have a copy of that. I believe the standard 72-12-1 well is up to three acre-foot, and just for clarification, what the new code says it does say a quarter acre-foot per year for the residential dwelling. This limitation shall not apply to the use of water derived from a well created pursuant to Section 72-12-1 that is used for agriculture. So as long as it's in accordance with the permit. So that is the inside use.

CHAIR MAYFIELD: Inside. So the way that this Section is being applied to the Salazars it would be for the indoor and they would still be permitted to use that three acre-feet for their agricultural as would be permissible under our new code that we adopted.

MS. ELLIS-GREEN: Mr. Chair, Commissioners, yes. This says per dwelling unit.

CHAIR MAYFIELD: Thank you. With that Commissioners we have – and I understand that, Mr. Salazar. I hope you're comfortable with that interpretation also. We've already – I just hope that you're comfortable with that interpretation but it affords you also the use of that water outside for your agricultural purposes. As I understand it. Penny, correct me if I'm wrong.

MS. ELLIS-GREEN: Mr. Chair, could you repeat the question?

CHAIR MAYFIELD: If I'm wrong on my interpretation. He will still have the authority, based on that permit to use that water outside for agricultural purposes. Even with the restrictions you all are imposing.

MS. ELLIS-GREEN: Mr. Chair, it is my understand that that is correct, that the indoor water use is restricted to a quarter acre-foot.

CHAIR MAYFIELD: Outside is still permissible under the current –

MS. ELLIS-GREEN: In accordance with his approved permit.

CHAIR MAYFIELD: Thank you. Commissioners, we have a motion and a second on the floor.

The motion passed by unanimous [3-0] voice vote.

[The Commission recessed from 7:10 to 7:20.]

VII. A. 3. CDRC CASE # V 13-5400 Tod Amon Variance. Tod Amon, Applicant, Requests a Variance of Article V, Section 8.1.3 (Legal Access) of the Land Development Code to Allow a Road That Does Not Have All Weather Access and Does Not Meet the Required 20' Width to Access a Driveway to a Property Consisting of 18.46 Acres. The Property is Located at 29 Puertecito Road, within the Vicinity of Golden, within Section 19, Township 12 North, Range 7 East (Commission District 3)

MR. LOVATO: Thank you, Mr. Chair. The Applicant requests a variance to allow a driveway to access a buildable site on 18.46 acres. The access is located off of Puertecito Road which is a private road that does not meet County road standards of having 20-foot wide driving surface and it crosses a drainage way through a low-water dirt surface. Puertecito Road ranges from 15'-20' in width throughout the length of the road, is approximately- Mr. Chair, if I say there's a typo; it's a quarter mile in length, and enters Sandoval County.

Article V, SubSection 8.1.3 states legal access shall be provided to each lot and each lot must directly access a road constructed to meet the requirements of Section 8.2 of the code. Parcels to be accessed via driveway easement shall have a 20-foot all-weather driving surface, grade of less than 11 percent and drainage controls necessary to ensure adequate access for emergency vehicles.

The Applicant states he has contacted several Professional Engineers and has received quotes for costs of construction of a crossing and states he cannot afford to construct a bridge or place culverts for the crossing. The lowest quote for this project was \$116,000 and the highest was \$225,000.

On February 20, 2014 the County Development Review Committee acted on this case. The decision of the CDRC was to recommend approval of the variance request by a vote of six to zero.

Growth Management staff have reviewed this application for compliance with pertinent Code requirements and finds the project is not in compliance with County criteria for this type of request.

Staff recommendation: Denial of a variance from Article V, Section 8.1.3, Legal Access, to construct a driveway from Puertecito Road which does not have adequate drainage control and does not have a 20-foot driving surface. If the decision of the BCC is to grant the applicant's request for a variance, staff recommends imposition of the following conditions:

1. The Applicant must obtain a development permit from the Building and Development Services Department for the driveway and residence.
2. The Applicant shall comply with all Fire Prevention Division requirements at time of Development Permit Application

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

CHAIR MAYFIELD: Thank you, Mr. Lovato. Commissioners – Commissioner

Anaya please.

COMMISSIONER ANAYA: Mr. Chair, I'm going to hear the case but we've already made some approvals on projects like this with the recommended conditions of staff on fire prevention due to costs in several districts throughout Santa Fe County so I'm ready for a motion but I'd wait for comments and the public hearing as well.

CHAIR MAYFIELD: Thank you, Commissioner Anaya. Commissioner Chavez, do you have anything?

COMMISSIONER CHAVEZ: No, I'll wait. Thank you, Mr. Chair.

CHAIR MAYFIELD: Thank you, Commissioner Chavez. Is the applicant here or a representative for the applicant? Please sir.

[Duly sworn, Tod Amon testified as follows:]

TOD AMON: My name is Tod Amon. I am the applicant. I'll also keep my comments a little bit briefer than I did at the previous meeting. Puertecito Road, I believe it's not conforming and the road that I seek to use – I seek to use about 1,500 feet of Puertecito Road before it enters Sandoval County. Puertecito Road is not a big road but down there in that part of the country it's the biggest road in town. It's one of the few roads that does connect Highway 14 all the way to I-25 and my property is about 1,500 feet down Puertecito Road. Most of Puertecito Road is in Sandoval County. Sandoval County is maintaining Puertecito Road [inaudible] a portion of Puertecito Road on occasion. As you'll see in my application a note from the Sandoval County Road Manager, Jason Clark.

So my request is really just to make use of essentially Puertecito Road instead of having to put in my own crossing, which would be approximately \$150,000 in cost and simply prohibitive for me to do that. I guess I'll just keep it brief and entertain any questions you have.

CHAIR MAYFIELD: Thank you, Mr. Amon. This is a public hearing. Is there anybody from the public wishing to comment on this case? Seeing none, nobody's behind you, Mr. Amon, this portion of our public hearing is closed. Commissioners, I don't know if you have any questions or comments but I know I do.

COMMISSIONER ANAYA: Go ahead, Commissioner.

CHAIR MAYFIELD: Commissioners, Ms. Ellis-Green, I don't see anybody, but is there anybody from Public Works here? I know sometimes they're in the back.

MS. ELLIS-GREEN: Mr. Chair, no. We don't have anyone here from Public Works.

CHAIR MAYFIELD: Okay. I guess just on Mr. Amon's comments, and Penny, I don't want to put you on the spot and if you can't answer it don't worry about that, but as far as Sandoval maintaining a portion of our County road, did you have any discussion with our Public Works Department on that? Are Sandoval's – or Mr. Lovato, are Sandoval County's requirements the same as ours?

MR. LOVATO: Mr. Chair, I have not spoken with any of them. I don't know what their requirements are, but Puertecito Road is a private road. It's not County-maintained from our standpoint.

CHAIR MAYFIELD: Okay. Vice Chairman Anaya, please.

COMMISSIONER ANAYA: Mr. Chair, I would comment that it has been customary for County Commissions at Santa Fe County to work collaboratively with governmental entities. I know Commissioner Anaya had conversations with Commissioner Don

Leonard in Sandoval County and also worked closely with commissioners in San Miguel County as to I to try and work with town councils like the Town of Edgewood to coordinate where it does make sense, where you have roads that are county-maintained. I was unaware of that particular piece but that's something that I want to look at if it's a County road except for that segment, that's something that I think makes sense for us to analyze on a different note, but I am aware of that and I think it's a good thing that we do that. We have a memorandum of agreement with the Town of Edgewood for example where we trade off particular work on roads that make sense. So is it okay if I make a motion, Mr. Chair?

CHAIR MAYFIELD: Yes, definitely.

COMMISSIONER ANAYA: Mr. Chair, I would make a motion for approval with staff conditions that have been read –

COMMISSIONER CHAVEZ: Second.

CHAIR MAYFIELD: Okay. We have a motion and a second, Commissioners. Again, just to follow up to some of my questions, I was going to say that. I think if we can work with other entities I think that's great, especially if we have to – in the northern part of Santa Fe County this isn't the case in front of us, but up north we'd be in Rio Arriba County throughout – we'd be on a state road in Rio Arriba County, jump a river over a bridge and then we wind up in Santa Fe County. And I think that – does it make sense for us to take a grader and our road maintenance crew all through all of that when we can just maybe work out an agreement with one of our adjoining counties to do a little bit of road maintenance work and we reciprocate that somewhere else. But it's good to know maybe what the road standards are for that county and if they have an 18-foot requirement, if they don't have all these requirements for all-weather access bridges and everything else that's something to look at.

And I just want to say this also, Ms. Ellis-Green. I know I'm going to be up here beating my own bandwagon here of what I do here typically. I know Commissioner Chavez and I had many discussions on this. But when Santa Fe County is not even putting the investment into – and I'm sorry you're just hearing this because you usually hear it, the investment – and I see our Chief Patty back there, Captain Patty. I do know sometimes I get your rank wrong. I apologize. And we all are following the code. But Santa Fe County through our dollars that we receive from our constituents, we are not providing all-weather access on the County roads that we maintain. But here we go to our constituents and our residents who are trying to get to their driveways, to their homes. And we're asking them to potentially invest \$116,000 to \$225,000 just to get to their driveway for an all-access weather crossing when our County roads don't even have that type of infrastructure.

Commissioner Chavez and I have had this debate on this bench, where whose district is more important than someone else's for this all-weather access crossing. And sometimes it doesn't make practical dollar sense, because we just can't do it. We have too many needs within our community to do it and you have to address that. So an all-weather crossing sometimes makes sense and understanding that that 100-year storm may happen. The residents may understand that. I know, God forbid, I have an ailment, I have – I'll speak for Danny Mayfield. I have a heart attack. Okay, I'll acknowledge that that ambulance may not get to me through my driveway. I'll recognize that.

But I just want to know the hardship that we do impose on some people when we're asking them to put a \$225,000 investment to get to their driveway when the County's not able

to do that on our County infrastructure. You guys have heard me say that time and time again. I know you all are just following the code as it's there, but I just wish somehow we could really recognize that and it does provide a financial hardship on individuals that I believe is really unrealistic. With that, Commissioners, I'll just stop, and we have a motion and a second on the floor for approval with staff conditions. Mr. Amon, you aware – you're in agreement with staff conditions?

MR. AMON: Yes, I am.

CHAIR MAYFIELD: Thank you.

The motion passed by unanimous [3-0] voice vote.

CHAIR MAYFIELD: Thank you, Mr. Amon.

- VII. A. 5. **BCC Case # MIS 13-5061 Robert and Bernadette Anaya. Robert and Bernadette Anaya, Applicants, William Sutherland (Sutherland Law Firm), Agent, Request Reconsideration of Conditions Imposed By the BCC for Master Plan Zoning Approval. The Property is Located at 2253 Ben Lane, within the Traditional Community of Agua Fria, within Section 31, Township 17 North, Range 9 East (Commission District 2) [Exhibit 2: Letter from Land Use Administrator, 9/26/89]**

JOSE LARRAÑAGA (Case Manager): Thank you, Mr. Chair. On August 14, 2012, the BCC approved a request by the applicants, for a variance to allow a towing business as a special use under Ordinance No. 2007-2, Section 10.5, Village of Agua Fria Zoning District Use Table. A special use is an allowed use which is subject to Master Plan approval by the BCC. The use as a towing company falls under the category of vehicle service not listed, which is not allowed as a use as outlined in the commercial use category within the Traditional Community Zoning District.

On June 11, 2013, the BCC approved a request by the applicants, for Master Plan Zoning to allow a towing business on .33 acres more or less. The approval included staff conditions and conditions imposed by the BCC.

On August 13, 2013, the BCC approved a final order with findings that the application for master plan zoning for a commercial towing business as a special use under the Village of Agua Fria Zoning District Ordinance Use Table, Ordinance No. 2007-2, on 0.33 acres should be approved conditioned on the applicant complying with the following conditions: Master Plan with appropriate signatures, shall be recorded with the County Clerk, per Article V, Section 5.2.5; Preliminary and Final Development Plan shall be submitted in a timely manner, meeting all criteria set forth in Article V, Section 7, to be reviewed and presented to the CDRC for consideration; the applicant shall comply with Ordinance No. 2007-2, Section 10.6; storage of towed vehicles shall not be permitted on this site as per the 1989 decision of the Extraterritorial Zoning Authority; a note stating that the storage of towed vehicles on the site shall not be allowed shall be placed on the Master Plan; no more

than three small tow trucks and two large tow trucks may be stored on the site at any given time; the applicant shall submit Preliminary and Final Development Plan to the County Development Review Committee for consideration within 90 days of approval of the Final Order. The approved Final Order was recorded with the County Clerk's Office on August 20, 2013.

The applicants request reconsideration of conditions imposed by the BCC for Master Plan Zoning approval. The conditions that the applicants request the BCC to reconsider are: the applicants shall submit Preliminary and Final Development Plan to the County Development Review Committee for consideration within 90 days of approval of the Final Order; no more than three small tow trucks and two large tow trucks may be stored on the site at any given time; the implementation of a landscape buffer on the east side of the site alongside the platted easement; and the listing of personal vehicles that will be stored on the site.

The applicants request that a condition discussed by the BCC concerning the listing of all personal vehicles to be stored on the site be disregarded.

Staff response: The BCC did not impose a condition to list the personal vehicles to be stored on the site; the applicants' master plan submittal listed the placement of two recreational vehicles, one boat, two low-boy trailers and other personal vehicles on the site; the site plan, submitted by the applicants, illustrated seven parking spaces for personal vehicles; the site plan illustrates a very constricted parking area for the amount of vehicles already allowed by the approved Master Plan; to allow additional personal vehicles may impede the circulation of the Tow Trucks on the 0.33-acre site.

The applicants state that the condition for a landscape buffer on the east side of the site alongside the platted easement will create a burden on the applicants to safely park the tow trucks on the site.

Staff response: The site plan submitted by the applicants illustrates an adequate circulation of vehicles on the site with the landscape buffer in place; the applicants' Master Plan submittal proposed six-foot walls on the north, south and west side of the site as buffers to the existing residences; a landscape buffer was proposed on the east side of the site; the proposed buffers meet the Land Development Code requirement for landscape buffers of a non-residential use; a request to deviate from this requirement would need to go through a variance process.

The applicants state that the condition to limit the applicants to three small tow trucks and two large tow trucks at any given time to be stored on the site will affect the business for the following reasons: It will force the applicants to seek other property to store the remainder of their tow trucks; affect the response time to emergency calls; jeopardize the business as it currently exists.

During discussion of this case some of the comments made, by the BCC, were that limiting the applicants to three small tow trucks and two large tow trucks at any given time to be stored on the site "balances the business interest and the neighborhood's needs" and that "there was a need for compromise."

The applicants are requesting an extension of the condition, imposed by the BCC, of the 90-day requirement to submit Preliminary and Final Development Plan to the County Development Review Committee for the following reasons: to ask for relief of the above

mentioned conditions imposed by the BCC; to address the requirement of the 28' radii required by the County Fire Department on the entry to Ben Lane from Agua Fria. The applicants go on to state that if negotiations to acquire the easement needed for the 28' radii are not successful, a request for a variance of this requirement will be submitted for consideration by the BCC.

Staff's response: neither the applicants nor the agent for the applicants opposed the conditions of approval of the Master Plan on June 11, 2013; the agent for the applicants accepted the need to make the investment for the 28' radius and accepted the implementation of the 28' radius as a condition of approval; the Final order was approved by the BCC on August 13, 2013 and recorded on August 20, 2013; the 90 days in which the Applicants were to submit a Preliminary and Final Development Plan started on August 20, 2013; the BCC approved the Master Plan on June 11, 2013 which allowed the applicants 49 additional days from the date of approval by the BCC and the recordation of the Final Order to prepare and submit a Preliminary and Final Development Plan; the Applicants did not appeal the final decision of the BCC; the 28' radius is required by the Santa Fe County Fire Marshal based on the 2003 International Fire Code, therefore a variance cannot be granted by the BCC.

The applicants continue to operate illegally without a County Business License. The time constraint of submitting a Development Plan and the imposition of the above mentioned conditions were required by the BCC to mitigate the effect that this type of business may have on the neighboring residences.

Staff recommendation: Staff recommends denial of the Applicants request based on the following: Two of the conditions that the Applicants request the BCC to reconsider were imposed, by the BCC, as conditions of the Master Plan Zoning approval for a Towing Business within a Traditional residential area in order to balance the business interest and the neighborhood's needs. It is at the discretion of the BCC to consider a change to the approved conditions;

The Applicants' site plan illustrated seven parking spaces for personal vehicles and the Applicants Master Plan request listed the type of personal vehicles to be placed on the site, therefore the Applicants placed this restriction on themselves. The Master Plan was approved by the BCC with these parameters as proposed by the Applicants. Approval to allow more than seven personal vehicles may impede circulation within the site.

A landscape buffer between the residential and non-residential use is required by the Land Development Code. Staff's recommendation for approval of the Master Plan was based on compliance with the Land Development Code. Changes to the landscape buffer would require a variance.

Mr. Chair, I stand for any questions.

CHAIR MAYFIELD: Mr. Larrañaga, thank you. Commissioners, do you have any questions of staff? Vice Chairman Anaya.

COMMISSIONER ANAYA: Mr. Chair, I have – I'm very familiar with this case. I want to hear any comments from out there and then I have a specific recommendation that I worked on with Legal based on all of the cases that we've heard on this thus far. But I'll listen for now. Thanks.

CHAIR MAYFIELD: Commissioner Chavez.

COMMISSIONER CHAVEZ: Yes, I do have a question. Mr. Larrañaga, could

you for the record give us a timeframe on how long this has been in your office? This request.

MR. LARRAÑAGA: Mr. Chair, Commissioner Chavez, I've been working on this project for about two years, beginning with the applicants coming forward with a variance and then going forward to CDRC for the master plan and then coming forward to the Commission for a master plan. So about two years. This particular request has been in my office for about six months. It's been tabled a few times.

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

CHAIR MAYFIELD: Thank you, Commissioner Chavez. Mr. Larrañaga, I have a question for you on what you read. It says the applicants continue to operate without a County business license. Is that because staff is not – or they're just not coming in for one?

MR. LARRAÑAGA: Mr. Chair, they have to have the zoning to acquire the business license.

CHAIR MAYFIELD: Okay. So it's not because they're not coming in to try to comply with that component. It's because of the zoning.

MR. LARRAÑAGA: Mr. Chair, correct. They need the zoning before they get the business license and the final development plan.

CHAIR MAYFIELD: Thank you. Is the applicant here? Or representations for the applicant? Mr. Anaya, do you care to comment?

[Duly sworn, Robert A. Anaya, Sr. testified as follows:]

ROBERT A. ANAYA, SR.: Robert A. Anaya, Sr.

CHAIR MAYFIELD: Any comments you care to make?

MR. ANAYA, SR.: The only comments I have to the Commission is we've been trying to do everything possible to make things work. We've already got to the point where we're exhausted. We can no longer find any other alternatives. We've been taking advice from the Commission to try to find land. We've tried doing that; that's impossible. Land is not available and if it is, it's way out of our reach. Through the 25 years I've been in business I've tried to do everything in scope of the law, not knowing I was breaking the law when all this came down.

The reason why this came down was a minor incident that happened. We realized we needed to find out, getting properly licensed, whatever needed to be done and this is what's turned out, where we're at now. I ask the Commission to please work with us. I just – I have no more alternatives; I don't know where to go. We just found out tonight that the attorney that we had hired backed out of the case. He didn't even show up tonight. That was a surprise. And it's just like – I don't know what to do anymore. Everything seems to be falling apart.

I've done everything I possibly can. I employ four people which have families and they're trying to survive in this town and make something happen and by you guys coming in and putting these restrictions in they're going to now be in the unemployment line. Who knows where else we're all going to be. And all I've ever done is just to try to do things the right way. I run a successful business, pay my taxes. I do what I got to do, even though I feel into this situation. It's one of those things that I knew nothing about.

Twenty-five years we thought we were doing the right thing. We were never bothered by anyone, by your staff, by anyone else to let us know that we were in violation. If we would have known we were in violation this would have been addressed years ago. I don't know

what to say any more than that.

[Duly sworn, Robert Anaya, Jr. testified as follows:]

ROBERT ANAYA, JR.: As our previous attorney has stated he spoke with Mr. Ross and he gave us a list of a few pieces of property that Mr. Ross thought would be in our best interest. I explored those interests. I went through and I called and made the effort to see what we could do about maybe acquiring some property. The properties that were available in the industrial zoning were upwards of \$1.2 million. We're a small business. We can't afford a \$10,000, \$15,000 a monthly payment just on property just to park our trucks. I mean, yes, of course, we'd move our whole business out there but still. Santa Fe doesn't – we don't bring in that type of revenue in this small town to justify having a piece of property, a two, three-acre lot that costs \$1.2 million. Santa Fe's a non-industrial city and you're very limited on where you can go.

There's only a handful of properties out there and they're way out of our reach, price-wise. At this point we are still running our trucks, parking our trucks on our property where they were before because we can't get a business license without the zoning, like Mr. Larrañaga said. At the moment we have moved a few vehicles to try to accommodate, just to make it a little easier on the neighbors and whatever. We are – the only thing our trucks do while they're on the property is sit till they've got to go out on the next call. Some trucks move on a daily basis; some trucks move on a weekly basis and some trucks, our big recovery truck, only moves when it needs to go on a recovery and that could be maybe once every two, three months.

So I mean do keep that in mind. All our immediate family that's on our road, them, their kids, all of us aware. We've always been – we grew up around the trucks coming in and out. All the little kids, they know when the trucks are coming through; they move to a side. And as long as – and us the drivers, myself and our drivers, when we're coming through, that's the first thing we look for is a little kid, any animals running around, whatever that may cause some potential accident. We're 100 percent aware of our surroundings as we're coming through. So do keep that in mind also. We are very conscious of our surroundings while we're coming in and out of the property. Our work is out. When we do conduct business and do our work, it's not on Ben Lane and that's the Sheriff's impound a vehicle on Ben Lane. Then we would be picking up a vehicle from that area.

Other than that I do – we tow all over Santa Fe County and Rio Arriba County, Sandoval County, Mora County and San Miguel. We travel wherever we need to go as we're needed. But we are – our work is not done on Ben Lane. It's on the public roads. So that's all I have to say. Questions?

CHAIR MAYFIELD: Commissioner Anaya? So again though, when you do have a vehicle that you pick up and say you do have to keep it for, say, a police department impound. You have a tow yard you take it to, correct?

MR. ANAYA, SR.: Yes, sir.

CHAIR MAYFIELD: And that's not on Ben Lane.

MR. ANAYA, SR.: The only thing we keep on Ben Lane is our personal equipment.

CHAIR MAYFIELD: So when you're taking an impounded car or vehicle or whatever to the tow yard, is that your tow yard that you're taking it to?

MR. ANAYA, SR.: Either to our tow yard or the police crime lab or their holding facilities.

CHAIR MAYFIELD: Well, let's say you tow my truck and I need to go pick it up a day later or two days later.

MR. ANAYA, SR.: Well, we rent a lot on Industrial Road off of Siler, and that right there is approximately – it's not quite a full acre. That's the only land that we can find within the city limits to comply with the city ordinances, to operate on the city police rotation.

CHAIR MAYFIELD: But also that has to comply with PRC rules in having a tow yard.

MR. ANAYA, SR.: Correct. Correct. And that tow yard it's for your vehicle. We don't take these vehicles to our residence for any reason. Unless I own the vehicle. If I buy a car I take it to my house. You know what I'm saying? And I'll turn around and sell it or whatever but there's times that I do, when I buy a personal vehicle I will take it to my home and keep it there until I can sell it or do what I want to do with it.

CHAIR MAYFIELD: Going back to your tow yard that you either rent or lease or own, you can't keep any of your tow vehicles at that yard?

MR. ANAYA, SR.: Yes, we keep stuff over there and store it there as well.

CHAIR MAYFIELD: Your vehicles that you do the towing with.

MR. ANAYA, SR.: Our tow trucks? We tried doing that and we had a lot of vandalism happening on the stretch of property that we're on, and it was unfeasible for us to have them there because they were just stealing equipment off the trucks like dollies or chains or puncturing the tires or cutting the hydraulic lines. It just was just cost-prohibitive. We just couldn't do it.

CHAIR MAYFIELD: Mr. Anaya, I'm going to ask some PRC questions. So what do you do about those vehicles that you have in your custody? Are they getting the same vandalism to them?

MR. ANAYA, SR.: There's times that we've had vandalism.

CHAIR MAYFIELD: You're responsible for those vehicles in your tow yard.

MR. ANAYA, SR.: That's correct. We have, we do make police reports. They come out and they do their stuff and the insurance does what we pay the insurance to do. That's why we have garage keepers.

CHAIR MAYFIELD: And those same insurance policies wouldn't cover your tow vehicles on that tow yard?

MR. ANAYA, SR.: They only cover them up to a certain degree.

CHAIR MAYFIELD: I'll just ask these questions. Couldn't you increase those limits to protect your vehicles there?

MR. ANAYA, SR.: We have, but we according to the state requirements, whatever the state requires us to do. And the other thing is there too, because of the size of the lot at Industrial Road, I move all my trucks over there then I ain't going to have no room to put vehicles in that facility. It puts a damper on our business because in our business we're required to be able to house so many vehicles to be in compliance. And we tried, like I say, we exercise that. We tried doing that and it's impossible. We can't meet it. Not only that, we're just – for instance, we parked two of our heavy trucks at a different location a few

months ago, just trying to try out different things to see what would work for us. And the response time on that was not feasible. We could not get there in time to start the truck, do your pre-trip. Get the truck ready to respond.

We had a fatality out in Mora County. Not Mora County. Out towards Las Vegas. San Miguel County. They needed the trucks out there for a person that was entrapped in the truck and they asked us to please respond. And normally, if we'd have had the equipment there like we were supposed to we would have been on the road in 15 minutes, tops. It took us an hour and 10 minutes to get to the truck, do the pre-trip, get all the stuff that we needed and then get on the road. I mean when someone's life is on the line you really don't have that time to play with. And that's the thing that we come across. It's not so much having the vehicles parked there because we want to have them there; it's we're in an emergency situation and if we're needed we need to respond right away. Because the golden hour is one hour. If you don't get that patient where he needs to be in that golden hour he's going to die.

So basically, the reason why we pushed this whole issue is because we have to have that ability to respond when needed. And that's any wrecker service you would talk to here in Santa Fe County. We're not the only ones. Everyone that's on the rotation that is willing to provide that service. And the thing is there, you're going to find all the other companies, they have their trucks at home with them or wherever they go. It's like this, you go to lunch, you move your tow truck. You go in the grocery store, you go in your tow truck. You go to a funeral or a wedding, you go in the tow truck. Because when this pager goes off or this phone rings I need people going to save your life, a family member's life – someone. We never know. We never know where we're going to be. We don't know what the situation is but we have to be able to respond.

And I know what it's all about because I was a chief for the Fire Department. I did it for a long time. I was also part of Santa Fe County for the longest time. I provided a service at my home at one time where I had the fire trucks parked at my garage till we could build the fire station in Agua Fria. I had the rescue trucks in my driveway, providing that service for the community. So I know how valuable life – what it means. And a lot of the time that we do this service here too, we don't get paid for it. Some times I have to delete it because people don't have insurance. I just don't know how to explain what we do. But what we do we take pride in it, and we do it for the community. And I know by you guys pulling these trucks from our grasp is going to hurt a lot of people, because we're the only ones in Santa Fe County that have the equipment that's capable of doing what we do.

And like I said, it's going to be a hardship. Because I will have to, more than likely, if I get pulled out of where I'm at I'm going to have to find – move somewhere where I can be next to my trucks. The other problem that we're seeing, like I said, because we challenged this after talking to you guys to try to figure out, there's got to be a way. Drivers started taking their trucks home. Keep them with you; we don't want them on the site. Well, there's a city ordinance. You cannot take a commercial vehicle home with you. So my driver gets evicted from his home on Onate Place because he was taking his tow truck home. He got cited for it. We had to go to court for it. And we lost. Because there's an ordinance that says you cannot take a commercial vehicle home. In the City of Santa Fe.

So now we have the County, because of this ordinance. We have the City, because of this ordinance. What are we supposed to do? That's why we can't understand what's going

on. We provide a very important service to everybody but nobody sees what we're having to be – the obstacles that we're having to go through to meet whatever ordinances or whatever the City wants or the County wants or whatever it is.

CHAIR MAYFIELD: Thank you, Mr. Anaya. Commissioner Chavez.

COMMISSIONER CHAVEZ: Thank you, Mr. Chair. Mr. Anaya, I'm going to make a few comments and I don't mean for these to be personal, okay? Because anybody and everybody in business has a challenge to face and there are services that some – businesses that provide that may be a higher level of service than others, but that business, any business anywhere has the same challenges that you have, that goes across the board. So I don't mean these comments to be directed at you but just part of the discussion, part of the debate. And I'm going to read the first paragraph of the summary that was already read earlier that really sets the stage, if you will, for the challenge that we're facing as a community. Not the challenge that you're facing as a business owner but the challenge that we're facing as a community.

On August 14, 2012, the BCC approved a request, by the Applicants, for a variance to allow a towing business as a special use under Ordinance No. 2007-2, Section 10.5, Village of Agua Fria Zoning District Use Table. A special use is an allowed use which is subject to Master Plan approval by the BCC. The use as a towing company falls under the category of vehicle service not listed, which is not allowed as a use as outlined in the commercial use category within the Traditional Community Zoning District. You can sit if you want. Okay.

So even though you're providing a service that is needed there is an impact that that activity has on the surrounding neighbors, whether it's family or not. If someone lives in a residential neighborhood next to a house where a tow truck is parked, that's disruptive to that neighborhood, because not everybody has to get up when that beeper goes off. I know your driver does because that's his responsibility but if others need their rest because they have to get up to go to work at whatever – seven or eight o'clock comes around, that can be disruptive to them.

So we collectively have to balance those needs across the board. As it was stated also during the discussion of this case comments were made limiting the applicants to three small tow trucks and two large tow trucks at any given time to be stored on the site. This balances the business interests and the neighborhood's needs. And so we've tried to find a compromise so that the business can work in a residential setting. It's going to be very hard on a .33-acre site where you want to live, run your business and store your personal vehicles. That's a lot happening on a small site.

I know that staying in business is not easy. Commissioner Mayfield raised some questions about the other tow yard that you do have and I know that other tow companies will place a trailer of some kind for someone to use, either to live in or to provide security for that tow yard. I know these are going to add to your business, maybe add to the expense of doing business but I think that those are options that could be pursued. You talked about a list of properties that the County Attorney provided to you, and Steve, could you share with us that list of property and how you arrived at providing that list to the applicant?

MR. ROSS: Mr. Chair, Commissioner Chavez, I worked with the applicant's lawyer on the theory that – his theory and my theory that this incompatibility with the immediate neighborhood wasn't going to be easy to solve and that maybe the easiest way to

solve the problem would be to find property near the bypass or near the interstate that was already zoned industrial or commercial and that could serve as a home for the business and for these trucks. So I did give him the names of several folks who I know have tracts like this around and I believe they discussed that with those persons. I was surprised to hear the number. I'd encourage them to check, double-check with the people who they talked with because when I talked to their lawyer the properties I knew of were in the vicinity of \$160,000.

But I did do that. We did have that discussion. That was kind of the focus of what we were trying to do was to find a more appropriate location for it for the long term, for the future.

COMMISSIONER CHAVEZ: Okay. Thank you, Mr. Chair. That's all I had.

MR. ANAYA, SR.: Sir, could I address that? The whole thing that's got me really confused here is when we came to the County to try to get a variance it was a variance to park trucks. Not to operate a towing service, not to do anything other than parking trucks when we were not using them. They said there was no way of doing that. The only way they could put it under a heading was a tow business. The difference between a towing business is operating the trucks, somewhat of what we do, park and store vehicles on the property. That type of thing. We don't do that there. We're only parking vehicles that we are not utilizing during the day or at night. I have multiple equipment. When this whole thing started off, if the County would have been there to say, hey, Mr. Anaya, you're only allowed this much equipment. This is all you're allowed to do, then I would have never gone over that cap.

But not knowing all these years, 25 years in business, not knowing, I did like any other business does. You grow. As you grow you buy equipment and you just keep going and going and going and going. Well, that put me in the position I'm in now. I've grown to the point where I have the amount of equipment I have. Now, if I'd have had some kind of guidelines back in the day then I would have been able to say, you know what? I need to find property. I need to move this business from here because it's not working out. Nothing's ever happened in 25 years.

The type of operation we do is the same that we did back then to now. It's never changed. We park the same trucks there. We move the same trucks we needed. I mean, it's not like really made any impact. It's been the same all along. We use the same driveway. We park the same place, we turn around the same time. I mean, it's something that we've done beyond, beyond for the last 25 years. And like I said, all we were asking for was a place to park the trucks because if we didn't have a truck that's \$250,000. Are you going to leave it parked somewhere in some space where you don't know if it's going to be vandalized or what could happen to it? The type of business that we do you get people that are always upset with you because they think you took their vehicles or you're in cahoots with the cops or whatever, whatever they did, they want to take it out on you when you come to pick up their vehicles.

And like I said in the past, we've had our tires slashed, we've had chains stolen from the trucks, the windows broken, even at the grocery store. But what I'm saying is, for me to utilize my equipment I need to keep it where I can see it. If I park it somewhere else, how am I supposed to keep an eye on it? How do I know if I get a State Police saying we have an 18-wheeler with people trapped over here. We need your services now. Can you get out here?

And I go out to my truck and the tires are slashed or the windows are broken. That truck now is inoperable to get out there. But at least where I have it where I can keep an eye on it, I know it's going to be able to respond when I need it. You know what I'm saying? That's what I'm saying now.

[inaudible] what I've got here I know we could probably make it work. If I have to sleep in the trucks, I've got to do what I've got to do to stay in business. Like you said, business is a hard thing to do. But like I said, I don't understand because of the way the actual variance falls. It's not worded properly or whatever. If it said, well, it's a parking lot, then it would be a whole different type of variance, because we're using it as a parking lot. But everything keeps coming back that it's a commercial, it's going to be a tow business. It's not a tow business; it's just a place to park a few trucks that we cannot utilize all the time. Because my drivers take their vehicles home, that are employees. They have their vehicles with them 24/7 because that's what they operate. That's how they make their money. These trucks aren't sitting on that lot. The only trucks that are sitting there are the ones that we cannot drive at the time.

My son is issued one truck. I'm issued a truck and my other drivers are issued a truck that they normally use on a daily to daily basis. These are vehicles that we cannot drive on a daily basis, that we can take out of there and park somewhere else. They're there because that's the only place I can put them.

CHAIR MAYFIELD: Mr. Anaya, I'm going to make a couple of points. And I appreciate what you said and I know it's very tough to operate a business. Or I guess I shouldn't say that it's very tough because I don't operate a business, but I'm assuming it's very tough. But even on your points, you're worried about vandalism and I also would worry about vandalism, but also seeing, you know, the residential community that you live in, so vandalism could potentially happen on a lot where you have your vehicles parked. That vandalism could happen where you have your vehicles right now.

So individuals who are upset with you where your vehicles would be parked at that tow lot or they could be coming to do that damage where you have your vehicles parked at your home residence. So that could be coming into the neighborhood too. So I mean you just have to take that into consideration for those homes that are around you also. If that would be cited. I guess one other point that I would look at in this is that we've talked about the Sustainable Land Development Code. I think you were here through this. One thing in the Sustainable Land Development Code and I'm very empathetic to what you're saying and I talked to Mr. Ross and Ms. Ellis-Green about this is even on a small home business, if it's an individual who provides – we talked about septic, sewage tonight. An individual that has a backhoe. An individual that has a tandem truck and maybe a trailer and maybe a bobcat. Our code is telling somebody that they can have one piece of heavy equipment in their yard if they're a small mom-and-pop operation, if they have a business license. I guess if you come in for conditional use, and I think we upped that up to a couple pieces of heavy equipment.

So I'm hearing what you're saying on the variance request to afford additional equipment, and that's why I'm really listening to this, because I'm looking at other individuals who have to make their livelihood within our rural community, understanding [inaudible] the City of Santa Fe and what you just said to me tonight, of somebody can't go and take that truck home because of the City ordinances. But I also have to – I'm also

recognizing individuals who make their livelihood without rural Santa Fe County and they can have two pieces of heavy equipment parked on their lot. And that's how – Mr. Ross and Penny – I want to go back to our code, but I think that's how our new code is also stating, right? Right now we're only affording a couple pieces of heavy equipment? In the new proposed code, regardless of a home occupation business?

MS. ELLIS-GREEN: Mr. Chair, I believe that's correct and I can check but I think we stated that towing businesses are not allowed as home occupations simply because of the possible incompatibility.

CHAIR MAYFIELD: Excuse me for one second. I have a question of staff. I'm putting staff on the spot so they're doing a great job, Penny, so take your time.

MS. ELLIS-GREEN: Mr. Chair, yes. In the new Chapter 10, Section 6, under Home Occupations, it says roofing or towing businesses, construction yards, port-a-potty leasing, vehicle leasing, crematories, auto paint and body shops or heavy industrial uses are not allowed as a home occupation.

CHAIR MAYFIELD: Ms. Ellis-Green, I guess when we talked about the zoning map too earlier, and I'm sorry I'm getting off of your case but this is important for me on the decision I'm I'll be making tonight. So, Ms. Ellis-Green, on that, what we're saying, and some of the comments I heard from the applicant tonight, they're out there trying to secure you a piece of property close to their home, but if there is very limited industrial space even within Santa Fe County based on our zoning we are going to put, I believe, such a premium on land value, because we have conditional requirements such as this in our code. Where would somebody be able to even – and it is a needed service to have towing industry out there. If I told you how many times my truck broke down and I've had to call Triple A, I'm just glad I've had that response. Where are these tow yards going to be able to go within our new zoning map, to acquire a piece of property to exist? Are we going to have any in Santa Fe County?

MS. ELLIS-GREEN: Mr. Chair, we do have identified, and you'll see on the zoning map when that comes forward, several industrial areas and commercial –

CHAIR MAYFIELD: Are there any in District 1?

MS. ELLIS-GREEN: I'm not sure where the line runs but there is one at 599 and Airport Road in that Airport Development District.

CHAIR MAYFIELD: I'm going to digress a little bit. This gentleman here in front of me today, wherever he is or isn't, he is going to have some fees incurred, and I don't know what – tell me, Mr. Anaya, please. What is it called? Dead head fees? The gas that's going to have to go and pick me and come and take me back. So I just hope that we take that into consideration of our zoning map too, when we are going to be not approving or approving these type of permissible uses within our zoning map. Because I do think if he's out there trying to buy a piece of property now for a million-plus, Mr. Ross is saying there might be property adjacent for close to \$200,000, we may be putting a pretty high premium on land based potentially on some of our zoning decisions. So I'm going to kind of leave it at that. Just food for thought and I appreciate this little conversation we had and I'll go back to the Anayas.

MR. ANAYA, JR.: Can I bring something up?

CHAIR MAYFIELD: Sure.

MR. ANAYA, JR.: On the pieces of property I have found they're all industrial in that same area, from where the new Fedex is on Hart Lane to down the street next to Honstein's on Paseo Rael, to the new back piece Mr. Ross projected also was a 32-acre parcel just across the Santa Fe River on Paseo de River. Everything in that area, even the cheapest one I found was a piece of property next to Honstein's, next to the sewer treatment plant, back beyond the Santa Fe River is the road you'd have to build to get back there, was \$1.2 million. \$1.3 million across the Santa Fe River to get into that little industrial park. Do these realtors know how important and how limited industrial land is in Santa Fe. The price of dirt for them is ridiculous.

If you go to Albuquerque or any other industrial cities, industrial land is dirt cheap because nobody – you can only use it for certain things. It's way backwards in Santa Fe because of the limited use that you guys have for us. It's making it hard on the actual businesses trying to do anything because it's just – if you don't have multi – hundreds of millions of dollars in your account you really can't get anything accomplished here. And we work with what we can do and it just totally backfires on you because you have a couple complaints.

CHAIR MAYFIELD: Commissioner Chavez.

COMMISSIONER CHAVEZ: It was just maybe for clarification because we see the location that we're talking about is 2253 Ben Lane. It's in the traditional community of Agua Fria so it's within the Agua Fria Village, so it's not rural; it's really urban. It's a neighborhood setting. The applicant is saying that he's only parking trucks there but the request says that he's asking for a variance to allow a towing business. So if any of this – let's see. There's two things happening. One is that there were conditions of approval that were placed on and there was a timeframe in which that was supposed to happen. It hasn't happened because of I guess financial constraints or limitations.

But I guess I would ask the applicant, is it your attention to have a business license at 2253 Ben Lane?

MR. ANAYA, SR.: Our intent is to park the trucks there. We do not want to commercialize the property. We do not want to bring the two business there as we said.

COMMISSIONER CHAVEZ: But where are you conducting that businesses from?

MR. ANAYA, SR.: Right now we conduct – the answering of the phones is conducted out of our home. We answer the phone 24/7.

COMMISSIONER CHAVEZ: So where are you going to apply for a business license?

MR. ANAYA, JR.: We have a business license in the City of Santa Fe at 2876 Industrial Road. That's where we park our cars, the towed vehicles as well as we do our booking and all stuff like that. The definition of a towing business that you guys have to what you're perceiving us to do is not what we're trying to do on the property. All our property is is just basically a parking area.

COMMISSIONER CHAVEZ: But you're dispatching trucks from there.

MR. ANAYA, JR.: After hours. We take a phone home –

COMMISSIONER CHAVEZ: But you're still dispatching even if it's after hours.

MR. ANAYA, JR.: I can dispatch my phones from right here.

COMMISSIONER CHAVEZ: No, that's good, but you're still dispatching – your trucks are leaving from 2253 Ben Lane or from other parts of the city?

MR. ANAYA, SR.: They are leaving from wherever location the driver is. If the driver's at home on Prairie Dog Loop, the call comes in, he is dispatched from that location to wherever. What we're saying is we get up and go to work like everyone else. You guys come to the County every day. We get up and go to Industrial Road from 9:00 to 6:00. Those are our hours at the lot, 9:00 to 6:00. We have to be open for the public to pick up personal property, insurance, whatever, to come and see wrecked vehicles. Those are our hours and that's where we conduct our business.

Our business then is transferred after 6:00 to our homes so that we can go home, try to relax, eat dinner and do what normal people do until we get an emergency call for us to leave. There's times that we leave right away; there's times that we don't go out at all. We stay home. It depends on what's going on. That's all we're asking. We didn't want to bring commercializing into the property or anything like that because we don't want people to come to our business. Once it's commercial, they're going to want to come over there. That's why we don't even advertise our address there. It's 2253 Ben Lane, if you want to see us, that's where it is. You need to talk to us – I mean, 2876 Industrial Road, that's where you need us, that's where we conduct business. The only time we take these vehicles home, like I said, is at night or weekends or holidays when it's time to go home.

COMMISSIONER CHAVEZ: So I have a question to staff then, because this is getting a little hard to track. So Jose, we're hearing from the applicant that they have a business license somewhere else but it's indicated in the staff summary that for them to conduct whatever business they're doing they would need a variance. So let's say that they're not conducting their business from 2253 Ben Lane or they're only conducting a portion of their business from 2253 Ben Lane they would still need some type of a business license to do what they're doing at both locations, I guess, if they have two locations.

MR. LARRAÑAGA: Mr. Chair, Commissioner Chavez, initially, having a business license in the City, you have to have a business registration in the county to conduct business in the county. Any business license is valid in the county. Initially, when I first met with this –

COMMISSIONER CHAVEZ: And is that physical location in the city or in the county?

MR. LARRAÑAGA: For a physical location in the county you would need a business license.

COMMISSIONER CHAVEZ: But the other location they claim to have –

MR. LARRAÑAGA: That's just a business licenses within the city. It doesn't help with any code criteria in the county as far as –

COMMISSIONER CHAVEZ: But I'm trying to figure out if that physical location is actually in the city. Do we know?

MR. LARRAÑAGA: The Industrial Road? That's south of Siler Road.

COMMISSIONER CHAVEZ: Okay. So they're two separate. So one doesn't have to do with the other. Okay. So then for them to conduct some type of business in this residential area they would have to have a variance and a business license. What type of a

variance and what kind of a business license would they need if they're just parking trucks there and not running a business?

MR. LARRAÑAGA: Mr. Chair, Commissioner Chavez, just to – when we initially met with the applicant they were cited for running a business without a business license, we tried to fit them into the criteria set forth in the Agua Fria Ordinance. That type of business did not fit in a perfect slot so it was categorized, as I stated in the summary. So the variance was brought forward to CDRC and BCC to qualify this type of business as a special use. That's what the variance is for.

COMMISSIONER CHAVEZ: So a business is a business. We can't say that they're only parking trucks there and so it's not a business. Because that's what I'm hearing.

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

COMMISSIONER CHAVEZ: Okay. So I guess for me then we're back to square one. For me it just doesn't seem to be the right fit. I don't know what kind of compromises can be made to accommodate that. I thought that the conditions of approval that were placed on it back in June would have done it. It doesn't seem to be happening so I don't know where to go from here, but I'll yield the floor. Thank you, Mr. Chair.

CHAIR MAYFIELD: Thank you. This is a public hearing. We're going to go to the public hearing portion. I see one hand. I see Mr. Montano. Do you care to come forward? You've already been sworn in.

MR. MONTANO: Mr. Commissioner, actually, I came here in support of Mr. Anaya because I do business with him. I have like 30 or 40 trucks and he does all my towing for me, but then at the same time I found out that the Romeros are friends of mine, next door neighbors. This is a hard one for staff. In listening what was said here and so forth I went by Mr. Anaya's property because there might be a way that I can help him out. I noticed they do have a maintenance shop and this maintenance shop could be very important to him as far as the upkeep of the equipment.

How that will work for the zoning or whatever, I don't know but vandalism, it is a high deal right now and I know because we have the landscaping job up there on Airport Road and of course the redimix operation up there on Aviation. We had thousands and thousands of dollars in batteries. I guess batteries are like gold. They steal them and sell them – I don't know. We keep checking the junkyards and so forth and we don't know where those batteries are going but I've been in Agua Fria for a lot of years. I used to have – I still have a redimix operation in Agua Fria, the village that I've had for years and years with Tercero from the County. That property is zoned commercial, about ten acres there. We are using it as commercial purposes

I would like to help the Anayas somehow because they tried to build a future and they have a good business; they really do. Sure they're 24/7. That's why they're so successful. They go out – they'll go as far as the border with Colorado in emergencies. Like I say, I'm here to help him. I don't know how I can help him. I know that properties are very hard to acquire for a business like that. I'd tell the Anayas that I may have some – I just don't know. This Agua Fria property, I know I had to come in front of the Board, if I can help him on that – it's in the Agua Fria Village. I gave it to my daughters and I'm hoping that maybe we can work out something where they can do their thing there.

I think the Anayas are going to go through a hardship. I understand that. I understand

that I went through all these things with the neighbors when I was in business in Agua Fria. I just wish them good luck and so forth, but if there's a way that I can help him maybe I'll come by to the County and that Agua Fria – I don't know. But there's other ways that I can help him but I think one of the things that might happen, at least alleviate some of the hardship is their maintenance shop as was discussed but other than that, I wish everybody luck. The Romeros are our friends and so are the Anayas. So thank you.

CHAIR MAYFIELD: This is a public hearing. Is there anybody else wishing to speak on this case? Either position.

GEORGIA ROMERO: Hi. We're that small incident that Mr. Anaya is talking about. Back in January of 2012, with his tow truck, one of the biggest things he moves, he backed up into our wall causing \$7,000 worth of damage. We finally had to claim it on our home insurance policy because he refused to pay to rebuild it. Then, to even be able to build it, we got it built in April of 2012, the very last week, and we had to get a restraining order to be able to do that. So we're out like \$1,000 in court costs, we're out \$1,000 in our deductible, and it's already 2014, two years later and we haven't seen a penny from him. We just got a letter from our insurance saying that they're going to go through his motor carrier insurance policy because he refused to claim it on that.

But this isn't just about that. You have as a committee have set up the recommendations and conditions on what they're supposed to have done months ago. This affects ten families. This is a residential area. Right now they still have dump carts back there. They're parking four tow trucks because the rest of them don't fit back there on that little .3 acres that they want to put all this business on. The rest are parked on the easement. There are five property owners on that easement and nobody else parks on that easement but the Anayas and their company trucks. There's anywhere from five to six trucks. I've brought you pictures in the past.

And they don't just park the trucks there. They go in there and they turn trucks all day long on that property. Those trucks run 24/7 every day of the week. These families can't have a barbecue. You can't hang clothes on your clothesline because of the fumes. They're noisy. They're obnoxious. And no one else in this room has to live like the people in that area. And the reason the other ones don't come is because they live in fear of him. They're all relatives. They all live on that little dirt road. There's five people that have inherited property and they're all on .75 acres. So he can't move because he doesn't want to move out.

He also has other places where he can park. He's got property on Prairie Dog Loop, an acre and a half. He's got the land on Industrial Road and now he says it's less than an acre; it's about an acre. He came in and testified he had an acre and a half at one time. He also has Ramada Ridge going out of Santa Fe, which is another piece of property. He's got a lot of places to park. Actually, he even mentioned that one of his tow trucks is up there on Prairie Dog Loop. That's where they moved some of these trucks a while back and he's brought them back. It's not that he's living in poverty. He has to be making good money. We're not going to destroy his business. This is not just a mom-and-pop business; this is a corporation.

And for you, Mr. Mayfield, you know that PRC rules say that if he's parking trucks, any vehicles on Industrial Road it has to be security. His office has to be there, not on Agua Fria. All his business is coming out of Agua Fria, without a license. Yes, he's been in business for 25 years. In 1989 we came in front of the Board and they rejected him. He went

into our property – cut the fences and started to tow in vehicles. When we came home there were like 25 of them in our backyard. And the County at that time stopped him. He knew since 1989 that he was not in compliance, that he had to have a license. This isn't something new.

We've been working with you for over two years. He should have been licensed by now. But he's not ready to be licensed. On that variance he's asking for, Mr. Chavez said that he could have five trucks. He doesn't want five trucks; he wants all nine. And he's actually running a business. He's not parking trucks there. If that's all he was doing then how would he get to his trucks? He's running a 24/7 business out of there. And it's not fair to the other people that live on that street. Like Mr. Chavez said, we do have to get up in the morning. A lot of us go to work. Children have to go to school. And tow trucks are not quiet. To this day I cannot hang clothes on my clothesline in my backyard because the minute I do they go start up a truck and there's diesel. You can't have a barbecue. You can't even enjoy your home.

Our property prices and values are going to go down because you can't have someone like that. Yes, he does save lives but the reality of that is that when you go to an accident site, first the police are called, then your ambulances and your medics. The last people on that site are the tow trucks; they're the cleanup crew. They're like the buzzards. They come in and they do the cleanup crew. Yes, I understand that they can save a life but how many of those accidents do we have?

And there's other companies with the same equipment. There's 45 tow companies in Santa Fe. They're not the only tow company. I guess I don't have anything else to say, but they should be in compliance, and he's got to get his story straight. Every time he comes in here there's a different lie to you and it's getting kind of old. You have it in writing, what he's asking for and what he needs and he comes up here and asks you for something completely different. And the other ten families, we're taxpayers too. We pay our taxes. We all get up. We go to work. We're honest people. We've worked very hard for what we have. And if he wants a business and be a corporation get your nine tow trucks and find a place that fits your business. This is a residential area, a very small residential area. People on the other side of our wall are living bumper to bumper and it's not fair. It's not fair. And they say they can drive and not run over a child – you guarantee me that. There are like, what? Ten, 15 kids running around on that site. You don't know what a child's going to do. Thank you.

CHAIR MAYFIELD: This is a public hearing. Is there anybody else from the public that would care to comment? Seeing none, this portion of our public hearing is closed. Commissioners, do you have any other questions. I have a question of the applicant, please. Mr. Anaya, where does the PRC conduct your vehicle inspections?

MR. ANAYA, SR.: 2876 Industrial Road, sir.

CHAIR MAYFIELD: They don't do it on Ben Lane?

MR. ANAYA, SR.: No, sir. All our licenses and stuff are for 2876 Industrial Road.

CHAIR MAYFIELD: That is where all the PRC –

MR. ANAYA, SR.: That's where they've been for the last 25 years. Sir, may I add a couple of things, please? In order for us not to operate for the PRC they do annual inspections of our vehicles, our drivers and so forth. Facilities, the whole nine yards in order for us to operate. I've yet to this day been fined for not complying. For the Romeros to come

up here and say that I'm not licensed and this and that, I don't see how. I would be shut down in a moment's instance. The PRC, you don't mess with them. They have their people come and they shut you down if that's the case. That's one question I want to ask.

The second question I want to ask and I think it's very vital. If I do get properties anywhere in Santa Fe County I'm going to have to come in front of this Board to get a grant to operate on that property. This variance, according to your County is a very special type of variance, the way it's worded. The reason why I was put down as a towing business is because there was no other way to describe it. As I say when we came to the Commission it was basically a place to park trucks. How it got turned over to that it's been our biggest problem. It's really not the right definition. My question to you is if the City has this ordinance that you cannot take a commercial vehicle home and my drivers are conducting taking these vehicles home from work they're considered employees and they're using that home occupation supposedly to operate, being able to take your vehicles home. Is that going to be an issue for our industry, for all the owners of tow trucks to let their drivers take their vehicles home? We know the City does not allow it now. The County? If that's the case, where are we going to be put?

CHAIR MAYFIELD: Mr. Anaya, let me ask Mr. Ross one question. Thank you. Mr. Ross, on Mr. Anaya's point and the point I asked Ms. Ellis-Green. So on heavy equipment, and I don't know what the County did or what the classification is, and depending on what class a tow truck is, Class A or Class B or C, would a tow truck be considered a piece of heavy equipment? And on his point, not knowing the City's ordinances, but if a driver drives a tow truck home, and let's say that that homeowner has a bobcat and a backhoe on their own personal home, is that in violation of our potential County code and having three pieces of heavy equipment? Mr. Montano, technically you've already – the public hearing's closed. Mr. Montano, we're done with the public hearing right now. Thank you.

Would they have three pieces of heavy equipment?

MS. ELLIS-GREEN: Mr. Chair, the backhoe, if it's private and personal it's not part of a commercial business. So we wouldn't – if they were running a backhoe business and also a towing business.

CHAIR MAYFIELD: They have a part-time job as a tow truck operator. Now they drive home a tow truck to their house.

MS. ELLIS-GREEN: But you gave the example of the backhoe and a flatbed. If they were personal vehicles then we wouldn't include those in the calculation.

CHAIR MAYFIELD: Say in their day job they did that. At nighttime they put feet on the table and they work at night with a tow truck operator. And they kept that in their yard. I just don't know if that would be considered – if a tow truck would be considered a piece of heavy equipment, under our code. While you all go through that I'm going to Commissioner Robert Anaya.

MS. ELLIS-GREEN: Mr. Chair, Commissioners, heavy equipment or vehicles is defined in the new SLDC as a vehicle designed to carry freight, goods, construction materials, or heavy articles, or a vehicle designed for heavy work, construction work or towing.

CHAIR MAYFIELD: So it is. So somebody could potentially be in violation if they did take their tow truck home.

MS. ELLIS-GREEN: Mr. Chair, in relation to a business, if you were running a business and having tow trucks, if you were employed by someone and you were a plumber, a roofer and whatever and you brought your truck home, a business truck being taken home, I don't know that you're running a business and therefore it wouldn't be the same issue.

CHAIR MAYFIELD: Okay. Thank you, Penny. That's all I have.
Commissioner Anaya, please.

COMMISSIONER ANAYA: Mr. Chair, I have a lot of comments on this project and they're all reflected in the record in writing. A whole bunch of comments. I think the one comment that I'll say again is that in my votes and in the discussions that I had with the prior Commission and with this Commission I never had a desire to close down the business. In the decisions that I rendered and many of the conditions I never intended that there be additional cost to buy easement, to get a fire truck in for example. In fact, in the discussions and the deliberations on this project they actually drove a fire truck in the site and showed that the fire truck could get in and get out. I use that as part of my determination when I said I don't want any conditions in addition to that and I never made a condition that would have required them to buy more easement, which is something I heard later, after the fact I heard that come about.

I went to the attorney, Mr. Ross and I said, Mr. Ross, what kind of things might we do to afford the conditions that we had put in place that had to do with parking and some of the other issues to allow the business to continue to be in place and he gave them to me; they're in my pocket. And I'm going to keep them there for now. I'm not going to close – I'm not going to vote on an item to close this business or to tell them can't do a business anymore. If my colleagues feel that that's the appropriate thing to do – I don't know what they feel, but I'm not going to go down that road. But I want to say on the record, clearly, very clearly, in the votes and the motions that I made it was to sustain the business. Not to add additional costs on the easements for the fire trucks. If there's going to be extra cost for a landscape buffer? You bet. Is there going to be an extra requirement for you, Mr. Anaya to come back to accept the master plan, number one, which you haven't done yet, but you have to accept it and then you're going to come back with a preliminary and final development plat. Is there going to be extra costs associated with that? You bet.

Those things I would never change. But it still afforded the opportunity to continue doing business. So that's all I have right now. I'm going to listen to my colleagues and see what they have to say and then I'll vote accordingly if there's a motion and a second.

CHAIR MAYFIELD: Commissioner Chavez.

COMMISSIONER CHAVEZ: So on the condition of approval, there's one condition of approval that I thought at that time was agreed to and I didn't know if there was going to be a cost incurred or not. It just seemed to make sense to me, not because of a fire truck needing to get in and out. That was one factor, but because the size of the trucks that were entering and exiting that piece of property in addition to neighbors and other traffic. So I was interested in this condition of approval that said that there would be a 28-foot radius that was required by the Santa Fe County Fire Department on entry to Ben Lane from Agua Fria. I didn't make that up. I thought that that was something that our Fire Department would like to have. And I see a member of our Fire Department here. Would you like to respond to that one condition of approval?

BUSTER PATTY (Fire Marshal): Mr. Chair, Commissioner Chavez, that is in the 1997 Uniform Fire Code and the 2003 International Fire Code that the state goes by. The requirement on a 20-foot wide road requires a minimum of a 28-foot inside radius to be able to make a legal turn going west on Agua Fria and making a turn into Ben Lane. Without that you cannot make a turn – you can get in there, but you have to make an illegal traffic move to do that. You have to go into the oncoming lane and with something new like this, I cannot sign off and approve that.

COMMISSIONER CHAVEZ: Thank you. So Commissioner Anaya, and to the applicants, I don't want to put anyone out of business either and I do know a little bit about being in business because I've been self-employed for 30 years. I am fortunate to be able to use the home occupation license in the City of Santa Fe but for me to have a small shop in my backyard where I produce furniture, there are certain things that I can and cannot do to be able to conduct a business in a residential neighborhood. And so that's where the rub is. It's not, do we support businesses? Do we want to put a business out of business? That's not part of my thought process. It's is – my thought process is can that business be compatible with the surrounding neighborhood. It's either yes or no. And that business may be able to adjust their business hours and their activity to fit into that residential setting or they may not.

I have to because I have nowhere else to go. So that means I cannot turn on a machine before 7:00 and I cannot have a machine running past I think 9:00 or 10:00. I cannot generate traffic into the neighborhood. I have to go get the material downloaded from a larger truck onto my truck and then bring that material into my yard. If I have employees, which right now I don't, I have to provide off-street parking. That means they cannot park on the street. So that's going to – those are things that cost, if you want to keep doing business in a residential setting.

So the conditions of approval to me still keep the business, because that's what it is, at that location but it is going to cost. It's going to cost to relocate. There's a cost in doing business no matter where you go. You just can't get away from it. The only difference is the scale of economy – how much you have to spend between one business or another to be able to stay in business. So I just wanted to ask those questions on the radius. That was one I was interested in. The number of trucks and the final development approval I think, as Commissioner Anaya pointed out still has not been submitted and that would tell us I think a little bit more exactly what it is you would do on that property. But I'll leave it at that. Thank you, Mr. Chair.

CHAIR MAYFIELD: Thank you, Commissioner Chavez.

COMMISSIONER ANAYA: So, Commissioner Chavez, it's District 2. It's your district. What do you want to do?

COMMISSIONER CHAVEZ: I would have a hard time with any reconsideration of the conditions so I don't know. I don't know if a motion to reinstate the conditions – what kind of a motion, Steve? What would we do from here if – because we have conditions that were placed on the applicant. There was a timeline that was already outlined where certain things were to have taken place that hasn't happened for whatever reasons so where would our next step be?

MR. ROSS: Mr. Chair, Commissioner Chavez, the application was to

reconsider a number of conditions, so if you're not okay with that the motion would be to deny. You could give them more time to comply because the time has run from the date of the original order.

COMMISSIONER CHAVEZ: Well, I don't want to place any more of a hardship than there might already be because of the conditions that the business is operating under so I would be more comfortable with making a motion to extend the 90-day period for the applicant to respond, and I want to ask staff – I know we've been down this path before. You're always willing to extend that 90-day period, right? If the applicant shows some interest in working with staff that 90-day period. Do you have administrative authority to extend that 90-day period if you see some movement in the case from the applicant?

MS. ELLIS-GREEN: Mr. Chair, Commissioner Chavez, we spoke about that before for the prior case. It was to do with a lot of junked vehicles and litter on a property and debris on a property and if we saw someone removing that, yes, we would extend. But in this case there was 90 days given a long time ago and I think staff would recommend 90 days from today to allow a development plan to come in.

COMMISSIONER CHAVEZ: Okay. So my motion then would be to allow another 90-day timeframe to allow the applicant to submit the master plan – the final development plan and to meet any other conditions of approval.

So, Mr. Chair, I guess that motion dies for lack of a second.

CHAIR MAYFIELD: Commissioner, give me one second. So we have a request on the floor for a motion. Seeing no second it does die for lack of a second. Commissioner Anaya, do you have an alternate motion?

COMMISSIONER ANAYA: What are your thoughts, Mr. Chair?

CHAIR MAYFIELD: Well, I'm looking at the request, Commissioners, on the applicant's request for an extension for the conditions that Commissioner Chavez just mentioned. I'm also looking at the issue to address the 28 radii required by the – and I might be pronouncing that wrong – by the County Fire Department. And what I heard, Mr. Patty, Chief Patty. Ask you a question please. And maybe this is also for staff. Is the applicant needs to go and purchase easement to comply with that?

CAPTAIN PATTY: Mr. Chair, it's not my call.

CHAIR MAYFIELD: I'm sorry. I think this might be staff.

MR. LARRAÑAGA: Mr. Chair, per the requirements of the approved master plan coming in here that was one of the conditions per the Fire Marshall requirements. I don't know if the applicants have negotiated with the property owners to acquire that property to have that radius into – from Agua Fria to Ben Lane. But all these requirements that we did on the master plan, the approved master plan, like the landscape, that came from code requirements, the parking requirements, the drainage, anything like that, to have a dumpster that's enclosed and so on. The hammerhead at the end of that was a Fire Marshal requirement too but that's utilizing the existing easement so it's not taking up any more space in that .33 acres for the site.

CHAIR MAYFIELD: Commissioner Anaya, please.

COMMISSIONER ANAYA: Mr. Chair, Mr. Larrañaga, on that particular point, we had an extensive discussion about the hammerhead and get the truck in and out and there was no discussion about the need for additional radius in the deliberations that we had

in our discussions. We had the hammerhead discussion and property that they had was existing fulfilled that. The radius discussion absolutely changes the entire game of the project and does require them to buy new property. So if we take the assumption that the conditions are fair and reasonable, the fact that a neighbor would not want to sell the easement would automatically take this business out of business. Let's call a spade a spade.

So let's not go back and forth about what conditions. I already said that there were conditions that I was part of that talked about the number of vehicles, that talked about the landscape. I'm not walking away from any of that. But now we're talking about the radius that would require additional purchased land was never a debate in the discussion and the deliberations that we had. We had the hammerhead discussion and the fact that they could get in and out.

My follow-up question and this goes to Mr. Patty. I don't know if you know or not, Mr. Patty. On businesses up and down Agua Fria, we're talking about businesses that are in a tight window of traffic. And I think it's something that the chair has brought up many, many times in northern Santa Fe County where you would never have a roadway in the tight communities with roadways that are less than 15, 12 and some even 10, 11 feet wide. One lane roads. In an existing business – we have existing businesses, many throughout the county, that have larger vehicles that do turn in that don't meet the letter of the fire code just by nature of them being in existence for many years. Let me just ask it. I'm not going to ask a leading question. Do we have businesses that have to turn not to the letter of the code to get into a property and a driveway? That exist now? And let's not even say businesses that don't have a business license. Let's say businesses that are bona fide businesses that have been in existence for many years, do we have those types of businesses that have to make turns that don't conform to the letter of the International Fire Code or any other highway and transportation code in Santa Fe County?

CAPTAIN PATTY: Mr. Chair, Commissioner Anaya, yes we do. Those are businesses that are considered legal non-conforming. They were legal that time, before there was pre-code. Any time any of those businesses make a change to their business or a new business coming in, they have to meet the intent of the current code. For example, just down the road on Agua Fria we do have a new business that was just applied for and approved that did require the 28-foot radius on Agua Fria and they've met that.

COMMISSIONER ANAYA: I'm going to have several comments or questions, Mr. Chair, just FYI. So on this point, we're not talking about a new business. We're talking about a non-conforming business that didn't have a license that was doing business for 25 years. We're not talking about a brand new business that is coming into Agua Fria or any other community. We're talking about a debate and a discussion that we had over many meetings that said – that they said we're running a business. And everybody said they're running a business. Our conditions that we had applied went in and provided some limitations and some requirements. They provided requirements on parking. They provided requirements on landscaping and the other ones. And the radius one I have a big problem with because that itself, along in itself, would in fact put them directly out of business immediately if one person didn't want to sell them an extra few feet to accommodate that radius.

That's the facts. So it would be an existing business but a non-conforming business

which there are other non-conforming businesses that have to do with those types of turns. If it was approved, if we approved it, if we made a motion and it passed tonight it could be approved as a non-conforming use similar to other uses in the area. Is that –

CAPTAIN PATTY: Mr. Chair, Commissioner Anaya, they are an existing business, but the business license is in the city. They're applying for a new business in the county. So we're looking at it, it is now a new business being provided in the county, so they have to meet current code. If you choose to approve this then that's your choice whether you want to approve that or not. It's still – the turning radius is still what the code reads. I can't say anything less, otherwise I'm violating my own code. If I say –

COMMISSIONER ANAYA: I understand. I just want to make it clear on the record that there are other non-conforming businesses that have to make turning radiuses that are non-conforming, I guess, for lack of a better term.

CAPTAIN PATTY: Mr. Chair, Commissioner Anaya, if there's new businesses that are applying for business today they have to meet that code.

COMMISSIONER ANAYA: Thank you, Mr. Chair. I'm done.

CHAIR MAYFIELD: Commissioner Chavez.

COMMISSIONER CHAVEZ: Yes, new business, old business. At one point in time – staff, help me out. Jose, Mr. Larrañaga. The applicant came in and did a lot split on this property. Is that correct?

MR. LARRAÑAGA: Mr. Chair, Commissioner Chavez, the way the lots were created on the east side where the applicant's house is, those were created as .33-acre lots with sewer and water. And then that's all families so they got more land and that's how this lot is configured kind of a little different and it's not .75 acres, $\frac{3}{4}$ of an acre. So really it's one lot where their house is and the total lot where the parking of the vehicles is, the parking of the tow trucks is. Part of this application would be to split the lot, which they can do to keep the residence on .33 acres and keep the storing of the tow trucks or the business on the .33 acres at the back end of that property.

COMMISSIONER CHAVEZ: But does it create two different land use designations? One residential and one more commercial?

MR. LARRAÑAGA: Yes. The reason for this recommendation when we met was so that way the entire property, the entire $\frac{3}{4}$ of an acre wouldn't be zoned commercial. They'd have still the residential where they live and the back portion of the $\frac{3}{4}$ -acre lot. In other words, once they would – before recording the final development plan they would have to come in and do a land division to split that .33-acre lot. They're asking for the zoning on the .33 acres right now.

COMMISSIONER CHAVEZ: Right. So I think that the County is trying to make some accommodations by recognizing that they want to live and conduct their business on the same piece of property. That keeps it affordable.

MR. LARRAÑAGA: Mr. Chair, Commissioner Chavez, actually, it would be two separate pieces. Right now it's one piece of property. Prior to the master plan, well, after the master plan's approved and gets recorded prior to the preliminary development plan and final development plan, they would have to come in and survey the property and split the property so it's two separate lots.

COMMISSIONER CHAVEZ: So in doing that then it keeps the scale of

economy within reason and allows them to live and work on the same property.

MR. LARRAÑAGA: Yes. The lots would be across the street from each other.

COMMISSIONER CHAVEZ: Right. So I think that's good. So that's not putting them out of business. It's helping them stay where they're at. Now on the 28-foot radius, I didn't know at the time that it was going to be a challenge for them as far as having to acquire property from a neighbor, but if there's a neighbor that is not a willing seller, why should they have a valid reason for not wanting to sell the property to – for this particular request because they have to live with it more than we do and if I hear the other side in this request this business doesn't seem to fit into a residential setting. Not at this scale. If it was a different scale, maybe. But I think that's where the conditions try to limit – not put the business out – but put some limit on the type of activity and the number of trips in and out, the number of trucks that would be stored there. All of those things I think were considerations to allow the business to continue there but still fit in a little bit better with the neighborhood. That's all I was asking for and I'm going to still try to find that balance between those two because that's – I see no other way to approach this. Thank you, Mr. Chair.

COMMISSIONER ANAYA: Mr. Chair, I move that the hammerhead requirement that was discussed in previous discussions remain intact but the radius discussion, the radius requirement be removed and that the applicant be given 120 days to fulfill the requirements as previously noted as conditions.

CHAIR MAYFIELD: [inaudible] Did you get what I said or do I need to repeat that? So that's seconded and we're moving on to discussion. And as far as what was previously approved by this Commission and then what the applicant asked, for an extension on the conditions. And now I'm not Exhibit 3. Mr. Larrañaga, so the applicant needs then – Commissioner Anaya, as I understand your motion – comply with all of the landscaping on Exhibit 3 and every other provision that was stated with the exception of this 28 radius that is required because of kind of a prior discussion that just took place a little earlier.

COMMISSIONER ANAYA: That's my motion. And giving them 120 days to submit for preliminary and final development plan approval.

CHAIR MAYFIELD: Thank you. Commissioner Chavez.

COMMISSIONER CHAVEZ: Well, I don't know that the hammerhead was really ever an issue because that's – they have the adequate – so the hammerhead is only for their vehicles to be able to turn around and exit the property.

COMMISSIONER ANAYA: Mr. Chair, respectfully, the hammerhead would be for theirs and an emergency fire apparatus that would pull into the property to service the property in the event of an emergency. So it's their vehicles and it's a hammerhead to get an emergency apparatus in and out.

COMMISSIONER CHAVEZ: Well, so you're accommodating them but not the Fire Marshall and he's asking for a 28-foot radius at Agua Fria and Ben Lane. So that doesn't make any sense to me. I think that one would argue for the 60-foot hammerhead you would also argue for the radius at Agua Fria and Ben Lane, but I guess that's not where the discussion is going, so I'm not going to be able to support the motion.

CHAIR MAYFIELD: This discussion, Commissioner Chavez, and even with

Chief Patty, and Chief, I probably get that wrong. It's Captain now, right? But that's okay. Chief Sperling's not here. So on Commissioner Chavez's point and the hammerhead, the hammerhead would also – again, I don't want to use the wrong word – suffice our fire needs, but you – the fire departments would be able to utilize that hammerhead, also. Correct?

CAPTAIN PATTY: Mr. Chair, Commissioner, yes. That's the whole purpose of the hammerhead is to be able to go into any lane or any driving surface that is deeper or longer than 150 feet, you have to provide a way for a fire truck to legally turn around. You can't just go on somebody's property and say, okay, I'm going to turn around in this great big cul-de-sac. They do have a piece of property big enough to turn around but it's not designated as turnaround so they could fill that up with their equipment.

CHAIR MAYFIELD: Well, I'm going to ask another question. Thank you. And that's again for all emergency vehicles, ambulances and anything. And I'm going to go back to the applicant. Mr. Anaya, please. So hearing the Romeros a little earlier, there are no vehicles being parked in this easement or the hammerhead? Your vehicles. I just want to get this clear for the record in case we did have to have emergency services vehicle using that hammerhead, knowing that you all need to turn around in that hammerhead also.

MR. ANAYA, SR.: The easement that we have provided to the County is 30 feet. The entry way to the end of the property with the hammerhead is [inaudible] The neighbors in front have put a wall, a fence, on the easement so that we cannot meet this requirement. There's a family feud between my wife and her families. After her father passed away people got property and it's been a big thing going on. In the paperwork, and I brought this to Mr. Patty's attention earlier, is this a civil matter in order for us to get them to meet the federal code? Because that easement has to provide access for fire equipment to get in and out. He said no, that the Fire Department cannot step in because it was a civil matter. Even though it's on the code it says it has to be all the way through. But because this guy does not want to give his part, now it turns into a civil matter between me and them to get them to open up that piece of property, even though by law it's supposed to be open.

We went to PNM and we got them, and requested for them to move some utility poles to make the access into the property, for us to be able to do it, and they agreed to do it, once this whole thing goes into effect. If it doesn't go into effect they're not going to take the man-hours of time to move this utility pole. Now, if we get – if it's approved, they're going to come and move it and that was by Dennis Hernandez from PNM. That gives us all the room that we need for them to access in and out of the property. The only problem we have is exiting the property on the west side, on to Agua Fria, is where we come across that family feud and they do not want to accommodate us the way it should be. Right now we have an eight-foot wall, you can't even see the oncoming traffic unless you drive on to the road to see if it's coming.

But because of what's going on here and the family feud, they're playing that against us. We're already gone, we've already tried, and the only thing that we're looking at right now is it's going to be a civil matter against us to get the courts to get them to comply with the federal code. And Patty could come up here and verify that, because they can't step in and do it.

CHAIR MAYFIELD: Thank you. And again, Mr. Anaya, for my clarification, you will not be parking vehicles in that hammerhead?

MR. ANAYA, SR.: The reason why the vehicles are parked in the hammerhead right now is because the properties have not been split up and the way the property works is it comes out in an angle like this, shoots across, shoots down the easement to adjoin the property that's in the back. So right now there's nothing parked in there; it's vacant. The only thing that you see parked on the actual easement is his RV trailer, my RV trailer, and every once in a while my tow truck when I park on the side of the road so I can run in and get paperwork or whatever, and it sticks out into the easement because it's so long.

But I personally request the Commission to come down and see the site [inaudible] so you could see yourself how it could be utilized and you could see what we're talking about.

CHAIR MAYFIELD: Commissioners and the applicant and for staff, so you're aware of the past order and the motion that was made tonight be Commissioner Anaya, and you will comply with all the other requests?

MR. ANAYA, SR.: Without a problem. The only problem I do see forward is the situation with the radius on the road. Because like I said, the family member is refusing to do anything to accommodate federal standards.

CHAIR MAYFIELD: Thank you. I'm going to go back to staff, or Commissioner Anaya. So if we take off that radius requirement of the 28 feet, what is that going to narrow that road down to? So right there, Mr. Larrañaga, so on – let me just go to this paragraph. So under your summary, second page, second paragraph from the bottom, to address a requirement of a 28 radii required by the County Fire Department. We're asking for that to be struck, Commissioner, correct? So there won't be any request now for a 28. Is there going to be any type of a radius? Any width whatsoever?

MR. LARRAÑAGA: Mr. Chair, that condition of approval when the Fire Marshal reviewed this project for master plan approval, that was their condition of approval to get that radius. So if they come back, if the Commission says that that doesn't have to be there and they come back showing it as a straight shot off of Agua Fria, then that's when they'll bring it up. But the rest of the conditions would have to be met. On the master plan that would have to be drawn in. We would record that, get all the signatures, record that and we would have to come to you with a preliminary and final development plan to go forward to the CDRC.

CHAIR MAYFIELD: Thank you. Mr. Larrañaga, I need a visual for a second if you don't mind. So I have Exhibit 3 and maybe Commissioner Anaya could show me. So where was that proposed radius?

COMMISSIONER CHAVEZ: On the backside of Exhibit 3 there's another rendering.

CHAIR MAYFIELD: Okay.

MS. ELLIS-GREEN: Mr. Chair, can you check – is there a page NB-26?

CHAIR MAYFIELD: Yes. Thank you. I'm there right now.

MS. ELLIS-GREEN: Okay.

COMMISSIONER CHAVEZ: Mr. Chair.

CHAIR MAYFIELD: Yes, sir. Commissioner Chavez.

COMMISSIONER CHAVEZ: If you look at this rendering, NB-26, I know we've been discussing a 28-foot radius but for some reason this rendering is done by Walker Engineering, but he has indicated a 27-foot radius, so what's the difference there, Mr.

Larrañaga?

MR. LARRAÑAGA: Mr. Chair, Commissioner Chavez, that was a mistake by the engineer. It should be 28.

COMMISSIONER CHAVEZ: Okay.

CHAIR MAYFIELD: Okay. I see it.

COMMISSIONER ANAYA: So, Mr. Chair, I have another question.

CHAIR MAYFIELD: Yes, please.

COMMISSIONER ANAYA: There are other – Mr. Patty, if you could come forward. There are other non-conforming businesses in the county that don't have this radius that are businesses, so we don't get caught up in new businesses or old. There are other non-conforming businesses that don't have this radius in place.

CAPTAIN PATTY: I'm sure there are in the county. I can't tell you which ones right now.

COMMISSIONER ANAYA: Thank you, Mr. Chair.

CHAIR MAYFIELD: Thank you.

COMMISSIONER CHAVEZ: Mr. Chair.

CHAIR MAYFIELD: Commissioner Chavez, please.

COMMISSIONER CHAVEZ: I don't want to spend too much more time on this, Commissioner Anaya, but where does that get us? Where does that get us, because to say that they're in non-compliance is to say meeting any future code requirements. If this particular business wouldn't have requested any variances we wouldn't be talking about this 28-foot radius, but they requested certain things from the County, a lot split and other things, to continue to conduct their business there. But they were asked to do certain things. If those other businesses come in at a later point in time to expand or whatever, they're going to have to meet the new requirements. So at some point all of those conditions that do not meet the code are going to have to play catch-up. So I don't know that leaving the situation the way it is gets us anywhere or does any good. But I'll just state that for the record and I guess we can take the vote and see where this goes.

COMMISSIONER ANAYA: Mr. Chair.

CHAIR MAYFIELD: Commissioner Anaya.

COMMISSIONER ANAYA: And I'll say it again, on the record, the difference is that this business has been a business and has been in place for over 25 years. That's the difference. It's not something that has been happening in a vacuum. They've been doing business, and from the first day this case came to this Commission I said I don't want to put a decision in place that would force them to stop doing business. So I'm being consistent with what I've said from the onset. It's not a brand new – Mr. Anaya didn't show up today or two years ago and say I want to start parking my vehicles here to do business. He was doing business all those years. So that is the difference. And there are many non-conforming uses in the county that are businesses and even non-conforming uses that are not business. So, I'll stop. Thank you, Mr. Chair.

CHAIR MAYFIELD: Thank you. Commissioners, and to the Anayas, there is a motion and a second on the floor to remove that radius up on the Agua Fria entrance, but my suggestion would though that you still, depending on where this goes tonight, but still work with I guess those two folks up in that front entrance and so if they would – I mean I

could see the benefit of still having that cut-out on both of those sides. Mr. Anaya, please.

MR. ANAYA, SR.: Commissioner, I have been working with them. I would offer to pay whatever the fees are to relocate the wall, the way they want it, whatever. Like I said, it's just being a family feud right now. And the problem that I'm having with the Romeros, spending a lot of time with these people, this is why where we're at. We can't seem to be getting anywhere because they really want us out of there and they're doing the best job. Like I said, I can afford so much. I've offered to throw down the wall, get professionals to come in and do it, whatever it takes. They're refusing. But like I tell them, you still don't understand, it's a federal situation here.

And I want to know if this whole thing goes through and they still don't meet that standard, who's liable for if anything does happen in the back. If my wife has a heart attack and we can't get an ambulance in because the damn road is being blocked because of that wall, or whatever the situation may be. And that's the question I brought to the Fire Marshal earlier because I want to know, whose liability it is. We know by federal law that that easement is 30 feet and it has to be open. But it's a law. These guys build a wall on it. They got a fence on it. They've narrowed it down. They know the easement is 30 feet. They're just challenging it but yet nobody can do anything unless I take it to federal court, or whatever court it is to get a judge to make them do it because I am the applicant trying to get a license.

And the thing is it will be fine. If I don't get the license, if my thing does not go through, we're still going to have that situation sitting there for years to come. Whose liability is it? The County? Because we have a County Fire Marshal out there? Staff up here? Who's going to be liable?

CHAIR MAYFIELD: Thank you.

MR. ANAYA, SR.: Thank you, sir.

CHAIR MAYFIELD: Commissioners, I did this a little earlier and I'm going to be consistent tonight, hoping we can get out of here soon. But I reopened the public hearing and I did see the Romeros' hands go up and I went back to the applicant a few times. So I'm going to open up the public hearing for a few more seconds to afford Romeros to comment.

[Duly sworn, Henry Romero testified as follows:]

HENRY ROMERO: Henry Romero. You know this has been going on since 1989. He was denied then, back then. First time, just cutting our fence to utilize it as a driveway to bring junk cars in there, back in 89 without my permission. That was my personal fence. He just took it into his own hands, drove vehicles in there, started piling up [inaudible], started building up a fence without a permit, and then, at that time, my granddaughter had just come in, my daughter had just come out of the hospital. She had a broken neck and she had a halo. He persistently – I had to have the State Police, the Sheriff and the City Police, all three departments to have to try to control me, because he was pounding on the back of his tow truck with his hammer. He was being abusive. He has been abusive for the past 25 years.

He has been in business for 25 years, maybe, like you state, but get the record straight. He just started parking those trucks back there three years ago. We have aerial views and we have pictures of it. We brought you those pictures. Pay attention. We brought you those pictures so you can observe everything legally and properly. It's not been done. There's an

aerial view of there from 2009 where you can see where they used to go by in their four-wheelers, raising hell, making donuts, raising hell. Every time my wife would hang clothes, they'd deliberately go out there and raise hell. And I'm fed up with it. And I'm going to set all of you straight. Get this thing straight.

We're being abused. I've been being abused for 25 years and nothing's been done. If I have to take this into my own hands I will do it. Because if you guys can't do the job then I'll take care of it. Because I'm fed up. He's obnoxious and he's an idiot.

CHAIR MAYFIELD: Mr. Romero, please. If you have no further comment –

MR. H. ROMERO: I knew I was going to get out of hand, but you know, get the record straight. He's just been parking his trucks there for the past three years. He deliberately knocked down that wall. My wife had just finished getting clothes off that clothesline fifteen minutes prior, to him knocking down that wall. [inaudible] if anybody would be liable. He's talking about people being liable, [inaudible], because if he had knocked down my wall and crushed her – you should have seen it. I have pictures [inaudible] from here to here from the impact of that truck. Get the record straight. We brought you pictures already.

CHAIR MAYFIELD: Thank you, Mr. Romero. Ms. Romero.

MS. ROMERO: When you're talking about the 25, 28-foot radius, I think you have to understand that right before Ben's Lane, Lopez Lane and Agua Fria do a four-way stop. To even get down that four-way stop we have been on the road where they have to back up their tow trucks and stop the traffic just to get back on Agua Fria off Lopez Lane, because they can't make the radius. Then you come down just a few yards and there is Ben's Lane. To get into Ben's Lane they drive into the other lane, back up into oncoming traffic and stop all the traffic on Agua Fria to get down Ben's Lane. They definitely need that 28-foot radius. We have school buses. We have other emergency vehicles. Who is going to expect a vehicle to back up into their own lane of traffic? That's the reason that they're asking for this 28-foot radius.

Yes, the people up front have a wall but they have conformed to County regulations. They moved back the wall and they can see the road now. Everybody has to stop to get out onto Agua Fria. And yes, they have a 30-foot area, but it's not all utilized as roadway. He has vehicles on both sides of the easement. How much – how many feet are there in a vehicle, especially these big tow trucks. So that means the other people on that little road of Ben Lane, we have seen it where they park their tow truck right in front. There are other tow trucks on either side, and then they're home, and they won't let anybody pass. We've had incidents where one of his nephews, one of the C de Bacas bought a trailer and he parked his tow truck in the way so they can't bring in the trailer. They had to call the police department to come make him move his trucks so this trailer, this double-wide could get moved in.

So he is an obnoxious, abusive person and you're letting him move into a residential with ten families with five lots of .75. You have to really look at the picture of what you're putting everybody else through. And the fact that he isn't – he is a big – I shouldn't say he isn't; he is a big safety issue. These trucks are humongous. These are the trucks before time with the dinosaurs. That's how big they are. And you guys did put a limitation. Two big trucks, three little ones. Now he doesn't want to do that. So from point A, where he started, you guys went to B, all the way to Z and now we're back at point A.

When does this committee look at what you're not doing? It's time to take care of it. There are expenses with a new business, lots of expenses. But that is the risk you take when you get a business. It's the same thing with the rest of us. We go to work. We buy lunch. We have to get gas. We pay all our other things. Our taxes. We have driving licenses. I mean it just goes on and on. When does this person conform to what the County is telling you does not fit. You know that from the very beginning he didn't fit. His little peg didn't fit. And you continued to keep giving him breaks. Another 120 days? And getting rid of the radius? What are you going to do if someone dies there? When he backs up into somebody's path out of his own greed because he's too lazy or too inconsiderate to make an expense for his business. That is what having your own business is. Expenses.

I worked 25 years for Tax and Revenue; I know about expenses. I used to audit people like him. You have worked for the PRC. You know he's got another lot. He's got to have security or he has to have somebody there watching things because he's got other people's vehicles there. Now he's saying, oh, well, they'll destroy his property. Is it his property when your car gets towed over to his lot and nobody's watching it? Is it his property when he doesn't even have an office on Industrial Road? It's over on Agua Fria. That's what you've got to look at.

Yes, he's going to have a business office. He's going to have a lot to park trucks in. When do these trucks move then if they're just going to be parked there? Somebody's got to drive them when these calls come in and they've got to get started there.

COMMISSIONER ANAYA: Mr. Chair.

MS. ROMERO: But thank you. I want you to consider all those things. You just don't consider the fact that you're taking him out of business. You're not taking him out of business. He just has to relocate to do his business. There is a difference. And if that's what you've got to do to keep your business, you relocate. He's not the only person in the world that has had to relocate. But he is an inconvenience and it is not right for the neighborhood to have to live with that. And he's going to cause a major accident on Agua Fria. If this is just a residential area they don't need a 28-foot radius but he does. You can't take that off the books. It's not right. You're not doing your job if you take off that radius. Thank you.

CHAIR MAYFIELD: Thank you, Ms. Romero.

COMMISSIONER ANAYA: Mr. Chair.

CHAIR MAYFIELD: Commissioner Anaya. Mr. Anaya, no.

COMMISSIONER ANAYA: Mr. Chair, I would suggest that we not have any more comment, and I'm going to withdraw my motion and I'm going to make some comments to you, Mr. Romero and to everyone in this room and everyone listening on the radio. I don't appreciate one bit a threat to me or to this County Commission, or anybody in these chambers. And I am going to ask that Mr. Ross, when all of our colleagues are back that we go into executive session to have a discussion about this particular case. But I'm not going to accept derogatory comments. I'm not going to accept being pointed at and accused of things. I sit on this bench as a volunteer. I get paid. We do get paid a stipend, but I volunteered to run for office and I accept those responsibilities, but I'm not going to accept this Commission or this staff being treated in a derogatory manner.

And so I'm going to ask, Mr. Ross, that at the next meeting we have an agenda item

specifically listed for executive session to have a discussion with yourself as the attorney based on comments made here to night and comments made throughout the case. I've said it all night long. I don't believe the staff of this County, any staff, any one individual operates with a notion of malice or distaste or discontent. I believe they operate in good faith. We do not as a Commission have a role in engaging in civil matters that are between individuals and I'm not going to start today and I don't suggest that we ever go down that path. That's why there is the court system that's in place for individuals to take whatever cases or grievances they might have to a magistrate or district court or some other level. That's the purpose of our judiciary. And I don't believe we do ourselves any justice by engaging in deliberations that get into those civil matters and I think we've broached that mark.

And so with that, Mr. Chair, I would move to table, and if I could, Mr. Ross, do we know if the Commissioners are going to be present at the next meeting or could I table to a date that all five Commissioners would be present? Is that a legal action I could take?

MR. ROSS: Mr. Chair, Commissioner Anaya, we understand you want all the Commissioners present so we'll check to see if everyone is going to be back for the very next meeting and if they are we'll put it on that agenda. If they're not, we'll wait till the following meeting.

COMMISSIONER ANAYA: And I guess my last comment would be there might be an action of no action that would require court action, I guess, for lack of a better term or terminology. But I would move to table until such time as the five Commissioners are available and we can have a discussion in closed session regarding the case and regarding the potential steps forward.

CHAIR MAYFIELD: I'm just going to go to a quick discussion before we –

COMMISSIONER CHAVEZ: I'll go ahead and second and hope that we can have discussion.

CHAIR MAYFIELD: Commissioner, I know we have some rules established on that. So there's a motion and a second on tabling and there will be no discussion, as I've been informed by our County Attorney many a time on tabling motion. So with that, Commissioners, we have a motion and a second to table this case to the next meeting to go into executive session when all five Commissioners are present.

The motion passed by unanimous [3-0] voice vote.

CHAIR MAYFIELD: Motion passes unanimously.

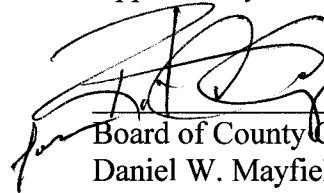
This is a conclusion now for business at Santa Fe County tonight. Commissioners, thank you. Staff, thank you. Applicant and residents, thank you. Commissioners, thank you for your comments tonight. I really appreciate them, Vice Chairman Anaya, and may we have a motion to adjourn?

VIII. CONCLUDING BUSINESS

- A. Announcements**
- B. Adjournment**

Having completed the agenda and with no further business to come before this body, Chair Mayfield declared this meeting adjourned at 9:40 p.m.

Approved by:




Board of County Commissioners
Daniel W. Mayfield, Chair

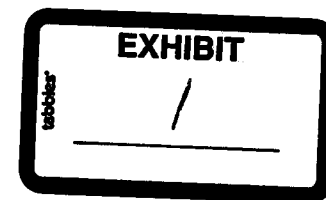



GERALDINE SALAZAR
SANTA FE COUNTY CLERK

4-8-2014

Respectfully submitted:


Karen Farrell, Wordswork
453 Cerrillos Road
Santa Fe, NM 87501



LEGISLATIVE REPORT

2014

Regular Session

March 11, 2014 Board of County Commissioners Meeting

Legislation Signed By Governor as of 3/10/14

House Bills

HB 1 FEED BILL Rick Miera
HB 9 REQUIRE NEWBORN INFANT HEART DISEASE TESTING Nora Espinoza
HB 12 NMFA PUBLIC PROJECT REVOLVING FUND PROJECTS Patricia A. Lundstrom
HB 14 AIRCRAFT PARTS & MAINTENANCE GROSS RECEIPTS James P. White Carlos R. Cisneros
*HB 16 LIQUOR TAX DISTRIBUTION TO DWI GRANT FUND Carl Trujillo
HB 24 COMMERCIAL OR MILITARY CARRIER GROSS RECEIPTS Bob Wooley
HB 50 BAIL BONDSMAN QUALIFICATIONS & LICENSURE James E. Smith Daniel Ivey-Soto
HB 51 RIGHT TO FARM NUISANCE CHANGES Yvette Herrell
HB 92 SCHOOL CHILD SEXUAL ABUSE DETECTION TRAINING David M. Gallegos
HB 126 PHARMACY BENEFIT MANAGER ACT Nora Espinoza
HB 144 NO INSURANCE TAX FOR PRC ELECTIONS ACCOUNT Thomas C. Taylor
HB 156 FUEL PRICES & SCHOOL TRANSPORTATION EMERGENCY Mimi Stewart
HB 223 CONVENTION CENTER FINANCING ACT DEFINITIONS Roberto "Bobby" J. Gonzales
HB 232 RENEWABLE ENERGY REPORTING DATES George Dodge, Jr.
HB 271 K-12 BREAKFAST AFTER THE BELL PROGRAMS W. Ken Martinez
HB 273 ECONOMIC DEVELOPMENT GRANT & PROGRAM W. Ken Martinez Mary Kay Papen
*HB 287 FIREFIGHTER SUPPLEMENTAL BENEFITS Emily Kane
HB 288 BIODIESEL TAX DEDUCTION Roberto "Bobby" J. Gonzales
HB 328 MINOR PARTY ELECTION NOMINATING PETITIONS Edward C. Sandoval

Senate Bills

SB 9 ONE-STOP BUSINESS PORTAL ACT Mary Kay Papen Luciano "Lucky" Varela
SB 19 PROHIBIT TEXTING WHILE DRIVING Peter Wirth James E. Smith
SB 21 THEFT OF UTILITY & RAILROAD HARDWARE PENALTY Steven P. Neville
SB 31 LOCAL GOVERNMENT PLANNING FUND Mary Kay Papen
SB 44 USE OF "HIGH SCHOOL EQUIVALENCY CREDENTIAL" Gay G. Kernan
SB 49 CO-OP RENEWABLE ENERGY PURCHASE REPORTING Pat Woods
SB 80 EXEMPT HUMATE MINES FROM MINING ACT George K. Munoz
SB 88 INFUSION THERAPY & MED. SUPPLY GROSS RECEIPTS Mary Kay Papen
SB 110 REAL ESTATE APPRAISER REQUIREMENTS Sander Rue
SB 116 PERMIT RACETRACK EJECTIONS FOR SOME ACTIONS Mary Kay Papen
SB 119 EXPEDITED NURSE FROM OTHER STATE LICENSURE Benny Shendo
SB 124 REAL ESTATE FOREIGN BROKER LICENSURE Phil A. Griego
SB 130 SERVICE MEMBER CHILD CUSTODY ACT Daniel Ivey-Soto Nathan P. Cote
SB 136 FIX OUTDATED CHILD ABUSE NMSA REFERENCE Daniel Ivey-Soto Zachary J. Cook
SB 140 TAX INCREMENT DISTRICT BASE-YEARS Daniel Ivey-Soto
SB 158 DUAL CREDIT PROGRAM PARITY Daniel Ivey-Soto Dennis J. Roch
SB 159 EDUCATION TECHNOLOGY INFRASTRUCTURE FUNDING Jacob Candelaria Mimi Stewart
*SB 164 PUEBLO LEASE OF ADJUDICATED WATER Carlos R. Cisneros
SB 182 CORRECTIONS INDUSTRY DIV. PRODUCT SALES Bill B. O'Neill
* Note: Asterisk highlighted items are Bills that have passed that would have impact to the County.

Bills that the Governor has VETOED

SB 304 LEGISLATIVE RETIREMENT TO JUDICIAL RETIREMENT Stuart Ingle Luciano "Lucky" Varela

Bills that are PENDING Governor Action that Affect Santa Fe County

HB 33 JUDICIAL RETIREMENT CHANGES Luciano "Lucky" Varela

(Endorsed by the Investments and Pensions Oversight Committee) Amends the Judicial Retirement Act to incorporate the Administrative Office of the Courts pension reform proposal (a reported \$500,000 budget-impact package) by changing age and service requirements; decreasing the pension multiplier; decreasing and delaying the cost-of-living adjustment; increasing the maximum pension benefit; increasing contribution rates; requiring contributions from non-members and their employers; and changing the pension form of payment.

HB 55 2014 WORK NM ACT- SEVERANCE TAX BOND PROJECTS Jim R. Trujillo

Santa Fe County Capital Outlay Funding Requests in the amount of \$ 680,800 is included in this bill. Cited as the 2014 Work New Mexico Act, authorizes the issuance of severance tax bonds and appropriates bond proceeds together with other funds and balances for a multitude of capital projects. Imposes time deadlines for the use of appropriations; otherwise, proceeds revert to the funding source within specified time periods, i.e., Severance Tax Bonding Fund, General Fund, and Other State Funds . Except for appropriations to the Capital Program Fund, the use of funds for indirect project costs is prohibited.

HB 216 MAGISTRATE RETIREMENT CHANGES Jim R. Trujillo

(For the Investments and Pensions Oversight Committee) (Shares some elements of SB160) Amends Magistrate Retirement Act provisions applicable to certain members by changing age and service requirements; changing the pension multiplier for service credit earned after June 30, 2014; temporarily suspending, and decreasing and delaying, the cost-of-living adjustment; increasing the maximum pension benefit; increasing contribution rates; requiring members and non-members to pay applicable contributions; and changing the pension form of payment. Appropriates \$5,000,000 to improve the funded ratio of the Magistrate Retirement Fund.

HB 222 PUEBLO LEASE OF ADJUDICATED WATER Roberto "Bobby" J. Gonzales

Provides for pueblo lease of adjudicated water rights for a term authorized by federal statute approving a settlement agreement. A water use may be leased for forty years by municipalities, counties, state universities, special water users' associations, public utilities supplying water to municipalities or counties and member-owned community water systems as lessee and shall be entitled to the protection of the forty-year water use planning period as provided in Section 72-1-9 NMSA 1978.

SB 53 GENERAL OBLIGATION BOND PROJECTS Carlos R. Cisneros

Authorizes the issuance and sale of 10-year general obligation bonds to cover capital expenses for senior citizen facility improvements and acquisitions, for library acquisitions, and for improvements and acquisitions at institutions of higher education, state special schools and tribal schools. Imposes an ad valorem property tax levy for the payment of principal, interest and costs related to the bonds. Requires voter approval at the 2014 General Election.

SB 112 WATER PROJECT FUND PROJECTS Joseph Cervantes Patricia A. Lundstrom

(For the New Mexico Finance Authority Oversight Committee) Authorizes the New Mexico Finance Authority (NMFA) to make loans or grants from the Water Project Fund for 120 various water projects throughout the state. Also authorizes the award of grants to be made by NMFA from the Acequia Project Fund for five acequia projects.

Projects within Santa Fe County include:

- the Canoncito at Apache Canyon mutual domestic water consumers and sewer water association for a water storage, conveyance and delivery project;
- the Cuatro Villas mutual domestic water users association for a water storage, conveyance and delivery project;
- the Eldorado Area water and sanitation district for a water storage, conveyance and delivery project;
- the greater Glorieta community regional mutual domestic water consumers and sewer association for a water storage, conveyance and delivery project; and
- the Pueblo of Tesuque for a water conservation, treatment, recycling or reuse project.

SB 160 MAGISTRATE RETIREMENT CHANGES Sue Wilson Beffort

(For the Legislative Finance Committee) Amends Magistrate Retirement Act provisions applicable to certain members by changing age and service requirements; increasing the number of years used to calculate final average salary; changing the pension multiplier for service credit earned after June 30, 2014; temporarily suspending, and decreasing and delaying, the cost-of-living adjustment; increasing the maximum pension benefit; increasing contribution rates; requiring membership; and changing the pension form of payment and survivor beneficiary provisions. Appropriates \$1,000,000 to improve the funded ratio of the Magistrate Retirement Fund.

SB 268 SOLE COMMUNITY PROVIDER FEDERAL COMPLIANCE Nancy Rodriguez

- The bill is a compromise in which counties agree to continue to assist hospitals with funding shortages.
- SB 268 balances the need for counties to continue to provide indigent health care services to their residents and the need to fund New Mexico hospitals.
- This was a team effort, with the counties contributing approximately \$27 million and the state providing \$9 million, which will be used to leverage federal dollars.
- SB 268 has a three year sunset provision, allowing the state, hospitals, and counties to continue to work on this issue.
- Under this bill as amended, a one-twelfth increment of gross receipts tax (or equivalent) will be transferred to the "Safety Net Care Pool Fund" to make payments to hospitals. This transfer would expire after 3 years (July 1, 2019).
- Under this bill, a one-twelfth increment of gross receipts tax (or equivalent) will be transferred to the "Safety Net Care Pool Fund" to make payments to hospitals. This transfer would expire after five years (July 1, 2019). The bill provides the counties with additional gross receipts taxation authority for general purposes of one-sixteenth percent or one-twelfth percent.

Required Reports:

- Qualifying hospital must report within 30 days of receiving payment from the Safety Net Care Pool Fund the amount of the payment to the county within which it is located.
- Qualifying hospital must report annually to the county in which it is located the total cost of health care services provided in the previous calendar year.
- The Human Services Department must report by July 1 of each year to each county and to each qualifying hospital on the previous calendar year's payments from the Safety Net Care Pool Fund for uncompensated care to qualifying hospitals and estimated payments of enhanced Medicaid base rates.
 - Many statutes are amended or repealed to replace or remove references to sole community provider hospitals and to make conforming changes.
 - Declares an emergency.

SB 313 GENERAL APPROPRIATIONS ACT OF 2014 John Arthur Smith

The language in Senate Bill 313, regarding our jail and DWI funds:

1.) The annual transfer of DWI funds to help fund the drug courts. Notwithstanding the provisions of Section 11-6A-3 NMSA 1978 or other substantive law, the internal service funds/interagency transfers appropriation to the special court services program of the administrative office of the courts in the other financing uses category includes five hundred thousand dollars (\$500,000) from the local DWI grant fund for drug courts. Any unexpended balances from appropriations made from the local DWI grant fund remaining at the end of fiscal year 2015 shall revert to the local DWI grant fund.

2.) The Detention Fund appropriation was put back into the budget: (r) County detention of prisoners 3,300.0

3) This bill included language authorizing the state share of money to fund the Safety Net Care Pool. The legislation referred to is Senate Bill 268, which passed. Contingent on enactment of legislation during the second session of the fifty-first legislature establishing a matching contribution from the counties, the general fund appropriation to the medical assistance program of the human services department in the other category includes nine million dollars (\$9,000,000) for safety net care pool payments for hospitals. So, it appears Counties were given back the \$6.6 million that was taken out of jail and DWI funding, to make up the perceived shortfall in funding the hospitals. It was restored in the Senate version of House Bill 2, which passed the House without amendment.

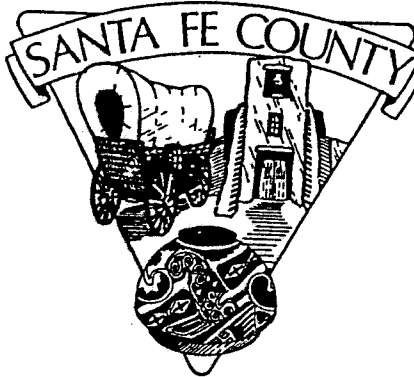
4.) The bill also provided funding to the State Land Office in the amount of \$200,000 to conduct a study to assess the feasibility of acquiring lands identified by the federal bureau of land management as being subject to disposal for the purpose of generating revenue. The state land office shall report the findings and recommendations of the study to the governor and to the legislature. There is potential for acquiring lands for funding for Early Childhood Education.

BOARD OF COUNTY COMMISSIONERS

Raymond M. Chavez
District No. 1

Nancy Rodriguez
District No. 2

Linda Grill
District No. 3



GIL D. TERCERO
COUNTY MANAGER

September 26, 1989

Mr. Robert Anaya
Rt. 6 Box 17
Santa Fe, NM 87501

Re: A request for a special exception of the EZO to operate a small scale commercial vehicle impound yard on .41 of an acre.

Dear Mr. Anaya:

Corrected letter of September 21, 1989.

The Extraterritorial Zoning Authority at its regularly scheduled meeting of August 28, 1989, met and acted upon the above referenced case.

The decision of the Authority was to deny your request. You have 45 days to discontinue all commercial activity starting August 29, 1989 and ending October 14, 1989.

If you have any questions regarding this matter, please do not hesitate to contact this office.

Sincerely,

TOM WILSON
Land Use Administrator

TW:mlj

