

SANTA FE COUNTY
BOARD OF COUNTY COMMISSIONERS
REGULAR MEETING

July 12, 2022

Anna T. Hamilton, Chair - District 4
Anna Hansen - District 2
Hank Hughes - District 5
Henry Roybal - District 1

Rudy Garcia, Vice Chair - District 3 [Excused]

COUNTY OF SANTA FE)
STATE OF NEW MEXICO) ss

BCC MINUTES
PAGES: 89

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Katharine E. Clark
Deputy *Dorothy Romero* County Clerk, Santa Fe, NM



SFC CLERK RECORDED 08/10/2022

SANTA FE COUNTY

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BOARD OF COUNTY COMMISSIONERS

July 12, 2022

1. A. This regular meeting of the Santa Fe Board of County Commissioners was called to order at approximately 2:09 p.m. by Chair Anna Hamilton in the County Commission Chambers, 102 Grant Avenue, Santa Fe, New Mexico.

B. Roll Call

Roll was called by Deputy County Clerk Evonne Ganz and indicated the presence of a quorum as follows:

Members Present:

Commissioner Anna Hamilton, Chair
Commissioner Anna Hansen
Commissioner Hank Hughes
Commissioner Henry Roybal [2:25 arrival]

Members Excused:

Commissioner Rudy Garcia

C. Pledge of Allegiance

D. State Pledge

E. Moment of Reflection

The Pledge of Allegiance and the State Pledge were led by Chair Hamilton and the Moment of Reflection by Adeline Murthy of the Growth Management Department.

Commissioner Hughes asked for a moment of silence for Andres Griego Alvarado who died of a gunshot wound, and Commissioner Hansen asked for a moment of silence for Matt King, a co-founder of Meow Wolf.

F. Approval of Agenda

CHAIR HAMILTON: Manager Shaffer, do we have changes we need to note?

GREG SHAFFER (County Manager): Thank you, Madam Chair and Commissioners. The initial agenda for today's meeting was posted last Tuesday and the amended agenda was posted on Friday at approximately 5:05 p.m. In terms of the changes between the initial and final agenda they were as follows. With regard to item #3. A, the US Department of Agriculture Forest Service resolution, packet material was

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added. Packet material was also added for Miscellaneous Action item 6. F, concerning medical malpractice insurance. The caption was updated and packet material was added for Miscellaneous action 6. G. We also added 6. H and 6. I, concerning amendments to two of our collective bargaining agreements, one with the RECC bargaining unit and the other with the Deputy Sheriffs Association.

Matters from the County Attorney, for executive session we added item 2 concerning collective bargaining negotiations and packet material was added for one of our public hearings this evening, item 13. B, the Los Brios Subdivision matter. Those were the changes to the amended agenda, Madam Chair.

CHAIR HAMILTON: Excellent. Thank you so much. So what's the pleasure of the Board?

COMMISSIONER HANSEN: Madam Chair.

CHAIR HAMILTON: Yes, Commissioner Hansen.

COMMISSIONER HANSEN: I move to approve with amended changes.

COMMISSIONER HUGHES: I second.

CHAIR HAMILTON: Thank you. So we have a motion and a second.

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

2. APPROVAL OF MEETING MINUTES

A. Request Approval of the June 14, 2022 Board of County Commissioners Meeting Minutes

CHAIR HAMILTON: We have several sets of meeting minutes to approve.

COMMISSIONER HANSEN: Madam Chair, I move to approve the June 14, 2022 Board of County Commissioners meeting minutes.

COMMISSIONER HUGHES: Second.

CHAIR HAMILTON: Thank you. Motion and a second.

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

B. Request Approval of the June 7, 2022 Board of County Commissioners Special Meeting Minutes

COMMISSIONER HANSEN: I move to approve.

COMMISSIONER HUGHES: Second.

CHAIR HAMILTON: Motion and a second.

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

2. C. **Request Approval of the June 17, 2022 Canvassing Board Meeting Minutes**

COMMISSIONER HUGHES: I move to approve.

COMMISSIONER HANSEN: I second.

CHAIR HAMILTON: Thank you. Motion and a second.

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

3. **CONSIDERATION PROCLAMATIONS, RESOLUTIONS, AND/OR RECOGNITIONS**

- A. **Resolution No. 2022-050, a Resolution Urging the United States Department of Agriculture Forest Service (USFS) to Prepare an Environmental Impact Statement in Accordance with the National Environmental Policy Act on the Santa Fe Mountains Landscape Resiliency Project; to Request New Risk, Costs, and Benefits Assessment of USFS Forest Fuels Treatments on the Santa Fe National Forest Including Their Risk to New Mexico Health, Water Supplies and Economies; to Publicly Assess Use of Alternative Treatments under Accelerating Climate Change; and to Request that the USFS Cease Intentional Burns in Santa Fe County Until These Public Reviews**

CHAIR HAMILTON: I will go right to Commissioner Hansen.

COMMISSIONER HANSEN: Thank you, Madam Chair. The first thing I would like to do is I would like to read the resolution into the record.

CHAIR HAMILTON: Absolutely. Thank you.

COMMISSIONER HANSEN: So I will finish the caption, which goes to request new risk, costs, and benefits assessment of USFS forest fuels treatments on the Santa Fe National Forest including their risk to New Mexico health, water supplies and economies; to publicly assess use of alternative treatments under accelerating climate change; and to request that the US Forest Service cease intentional burns in Santa Fe County until these public reviews.

Whereas, the Santa Fe National Forest – USFS, United States Department of Agriculture Forest Service, issued a draft Decision Notice – a DN – and Finding of No Significant Impact, based on analysis in an Environmental Assessment for the Santa Fe Mountains Landscape Resiliency Project to conduct extensive ground disturbing activities in forests east of Santa Fe in March 2022; and

Whereas, the DN and the FONSI for the project selected Alternative 2 which calls for cutting and intentional burning of vegetation on 38,680 acres across a 50,566-acre project area over the next 10 to 15 years, all areas would be treated multiple times; and

Whereas, this area and the entire Santa Fe National Forest provide recreation and outdoor enjoyment to more than 100,000 Santa Fe County residents and thousands of

visitors each year and is home to the Santa Fe Ski Basin, Hyde Memorial State Park, portions of the Pecos Wilderness and Tesuque and Nambe Pueblos, extensive inventoried roadless areas and high value habitat for breeding birds and other wildlife; and

Whereas, the Santa Fe County Board of County Commissioners passed Resolution No. 2019-53, on April 4, 2019, encouraging the US Forest Service to conduct a comprehensive and objective analysis for the Santa Fe Mountain Resiliency Landscape Project; provide effective notice to the public including presentations in downtown Santa Fe, New Mexico; and incorporate a broad range of forest and fire ecology research before taking any action; and

Whereas, the Board passed Resolution No. 2010-110 on June 29, 2010, in support of wilderness designation for inventoried roadless areas adjacent to the Pecos Wilderness that will be impacted by the Santa Fe Mountain Resiliency Landscape Project and other Santa Fe National Forest projects; and

Whereas, National Environment Policy Act, NEPA, often described as the United States Magna Carta for the environment, helps public officials make decisions based on comprehensively understanding environmental consequences before actions are taken and mandating, to the fullest extent possible, citizen involvement in such decisions; and

Whereas, NEPA requires analysis of the direct, indirect, and cumulative impacts of the Santa Fe Mountain Resiliency Landscape Project on a variety of resources, including the risks of intentional burning on national forest lands bordering private property and impacts to air quality and public health, threatened and endangered species, inventoried roadless areas, water quality, soils, vegetation and wildlife; and

Whereas, on May 10, 2022, the Chief of the USFS, Chief, called for a review of the Hermit's Peak Fire/Calf Canyon fire which was a consequence of the escaped Las Dispensas intentional burn on the Pecos/Las Vegas Ranger District of the Santa Fe National Forest; and

Whereas, the Hermit's Peak/Calf Canyon Fire has destroyed at least 400 homes, forced up to 18,000 people to evacuate their properties, cost more than \$248 million in firefighting expenses and burned more than 341,000 acres; and

Whereas, the Chief's Review found that mega-drought and climate disruption are presenting unforeseen challenges to the planning and executing of intentional burns; and

Whereas, US Forest Service will undertake thousands of acres of intentional burns per year similarly endangering Santa Fe County this fall, adjacent to densely populated areas, without substantive changes to their flawed methods, use of personnel, or strategy for climate change; and

Whereas, neither the Chief's Review, nor other communications, analysis, or strategies by the US Forest on the Santa Fe National Forest, specifically re-evaluates the viability of Santa Fe National Forest projects and plan of forest treatments given extreme drought and accelerating climate change; and

Whereas, the growth of grasses and other fine fuels following fuel reduction activities, together with debris generated by fire line construction, contributes to increased fire risk; and

Whereas, unacceptable risks are taken by personnel conducting planned burns because they are pressured to accomplish the mission; and

Whereas, an Environmental Impact Statement, EIS, is appropriate because the EA for the Santa Fe Mountain Resiliency Landscape Project did not disclose or analyze the significant impacts to resources of an escaped intentional burn resulting from global heating and increased fine fuels produced by management and bureaucratic pressure to meet targets; and

Whereas, the risks and impacts of escaped intentional burns were not identified in the EA for the Santa Fe Mountain Resiliency Landscape Project or other Santa Fe National Forest projects, although the issue was raised in public comments.

Now therefore, be it resolved, that the Board of County Commissioners of Santa Fe County hereby:

1. Encourages the US Forest Service to prepare a comprehensive EIS for the Santa Fe Mountain Resiliency Landscape Project that would in every respect engage the public, respond to a full and fair discussion of significant environmental impacts, examine alternatives, including preserving forests in their natural condition, and document unavoidable adverse effects prior to commencing any action.

2. Urges the US Forest Service to investigate tactical and strategic alternatives to large-scale fuel reductions, both to restore the forest and to address wildfire risk, including costs and benefits of all current treatments and alternatives. Specifically, we request that additional experts in regenerative agroforestry, indigenous and historical approaches be consulted, with public access to presentations, and that additional science and community approaches be sought through public meetings.

3. Requests that the US Forest Service use an EIS or additional tools, agencies, or monies to investigate, analyze and disclose to the public, the risks of an escaped intentional burn, specifically under pervasive conditions of drought and climate-change, in comparison to the risk of alternative approaches and plans.

4. Requests that the US Forest Service re-evaluate the recent scientific literature on combined fire/heating/climate change impacts on high-altitude forests in their risk calculations for intentional burning, including critical parameters that now best predict forest mortality and regeneration failure, such as vapor pressure deficit, soil dryness, and maximum soil temperature, and implement new required metrics on both forest condition and in assessing conditions for intentional burning.

5. Requests the US Forest Service use an EIS and additional tools to assess the impacts of US Forest Service forest fuels' treatments on the ecosystems comprising the Santa Fe National Forest, including future catastrophic loss of tree regeneration and ecosystem integrity, and the risk of those treatments to New Mexico citizens, water supplies, and economies.

6. Requests the US Forest Service cease all prescribed burns on the Santa Fe Mountain Resiliency Landscape Project area until the greater understanding and concomitant risk reduction provided by these reviews is in place.

Be it further resolved, that the Board of County Commissioners of Santa Fe County requests that the County Manager forward this Resolution to the United States Secretary of Agriculture, Tom Vilsack, and Under Secretary of Agriculture for Rural Development Xochitl Torres Small, US Secretary of the Interior, the Bureau of Land Management Director, the US Forest Service National Director, New Mexico's Senators and Representatives in Congress, the New Mexico Governor, and State Senators and

Representatives in the New Mexico Legislature representing Santa Fe County and Counties in the Sangre de Cristo Mountain Range – the Santa Fe National Forest.

Thank you, Madam Chair. Commissioner Hamilton and I brought this resolution forward because of the seriousness that has happened to our community, and I feel very strongly that Chief Moore's report released was disingenuous in many ways. It glossed over the very real issues and risks to the US Forest Service and the National Forest. To the Chief Randy Moore and authors of this report: You did not review the ecological research to determine whether changing conditions of severe drought or climate change made burning in our forest too risky. Wildland forest science which focuses on fire behavior and conditions, not whether or not whether the ecosystem needs fire is incapable of addressing the valid question this report left unanswered. You did not review when any of your protocols are still valid under accelerating climate change conditions.

Hermit's Peak/Calf Canyon provided that these protocols are invalid for assessing the risk and approaches of executing a prescribed burn here in northern New Mexico. If the US Forest Service will not even do a test burn in the same dense forest they plan to prescribe burn, then all other indicators and protocols, as well as US Forest Service personnel's ability to understand what those things mean should also be questioned. Your report did not assess the cause of these failures. In fact the report main recommendations are to ignore failures and increase money for burning of forest, for fire training and for bigger fire networks, and to hand over our public forest to private entities who advocate for burns while getting paid to burn.

These inconsistencies are unacceptable when they involve our lives, our homes, our heritage and our future. Item number one: Santa Fe County asks you to do an environmental impact statement because US Forest Service used one on the Santa Fe Mountain Resiliency Landscape Project saying there was no environmental impact from these burns; that is wrong.

We ask you to consider alternatives to the fire to reduce wildfire and wildlife risk because you do not in that report, and we can find no record of you considering anything but fire since the last century. We are in a new climate regime and we request alternatives that come from experts in regenerative forestry, not just prescribed burning.

Item 3, we ask that you formally do a risk assessment of escaped prescribed burns versus these alternatives under our new climate conditions.

Item 4, we ask the Forest Service to re-evaluate the conditions of our National Forest to determine whether, as the latest science shows, prescribed burning will stress our trees into regenerative failure.

As we are already at risk of massive tree mortality under climate change conditions, we ask the Forest Service to evaluate when and how this can be prevented. If the only option for caring for our forest the Forest Service will consider is cutting our forests to only one to two ponderosas per acre and burning what is left it is time for other options. We ask in item 4 that the Forest Service assess its programs of treatment of the Santa Fe National Forest for explicit risk to our community and economy.

Until they fulfill our requests and can show us that they have addressed our serious scientific and community concerns to rethinking their failed approach Santa Fe County asks them to cease prescribed burns. We need to talk. US Forest Service, let's talk.

As all of you know, I have brought forward in 2017 our agreement to the Paris Accord and we have supported that, and burning forests is in violation of the Paris Accord. And so I think that it is something that we have to think about. President Biden has signed the Paris Agreement and so has our Governor. So I think that there are other ways to approach our forest and protect our wildlife and human beings. Thank you, Madam Chair.

CHAIR HAMILTON: Thank you, Commissioner Hansen. Commissioner Hughes, do you have –

COMMISSIONER HUGHES: Yes. Thank you. If we were allowed to have three sponsors on resolutions I would have been happy to co-sponsor this as well. I think that we all saw the disaster with the current practices in the forest where other considerations besides safety were taken into account to start the prescribed burns that resulted in the disasters on the east side. So I think it's very timely that we bring this forward and encourage the forest service to rethink its practices in a big way, about keeping us safe, about keeping our forests healthy, and figuring out how we're going to have forests in the regime of climate change. And I would just encourage anybody who's listening here and who cares about this issue to not stop today. We are the County Commission but we're not the Forest Service so we need to all together put pressure on the Forest Service and our federal representatives to make the changes that we need. Thank you.

CHAIR HAMILTON: Thank you, Commissioner Hughes. Commissioner Roybal, if you care to say anything.

COMMISSIONER ROYBAL: Thank you, Chair. I appreciate it. I think this is a really good resolution. I know it's something we do need to look at and we need to make changes. So I appreciate you guys bringing this forward. Thank you, Commissioner Hansen and Commissioner Hamilton. Really I think it's a great resolution that you've brought forward, so thank you.

CHAIR HAMILTON: Thank you so much. I was very grateful that first of all Commissioner Hansen did such a good job drafting this resolution and then asked me to co-sponsor. I'm all for having all the tools in the management toolbox, but I have to give you a little anecdote. As many of you know, not only am I an environmental scientist, I'm also a firefighter, and as such, I get notifications of prescribed burns. And I clearly remember talking with my husband that morning about the concept of lighting a prescribed burn on what was a red flag burn day, that that seemed to be in such poor judgment. And from that the Calf Canyon/Hermit's Peak fire happened.

It is the intent of NEPA, the National Environmental Policy Act assessments to look at the kinds of conditions that would allow or prevent certain actions from being taken and what the impacts would be. Everybody was depending on the Forest Service to make appropriate judgments in this case. Even having done only an environmental assessment and a FONSI, a finding of no significant impact, but Commissioner Hansen made a really important point. The risk profile of what can be done under current climate conditions is very different from what it was even three or four years ago, which it might even be a somewhat longer time, since the information that the Forest Service presented in their EA was generated.

And so the importance of doing a current, meaningful risk assessment is just very

clear to me and I think it's the reason I'm so anxious to push this in concert with Commissioner Hansen. It's critically important. We saw the effects that apparently the Forest Service considered a lot probability but an exceedingly high negative impact and their non-existent risk assessment.

So thank you for writing this and I really appreciate the support from everybody. I know there are people who would like to comment at this so at the Chair's discretion, we can hold public comment on this resolution. I don't know how many people might be present here in the audience or actually might be on Webex, but I'm going to go ahead and open a short period of public comment for anybody who wishes to speak to this matter. I actually have a list of people who signed up ahead of time. I'll go through the list and then ask if there's anybody else present who wants to speak. I'd like to limit everybody's comment period to three minutes, and I really appreciate that anybody who has anything to say on this but just for the sake of timeliness, if there are people who speak before you who've said essentially the same things, I would very much appreciate brief comments that indicate that you support what's been said and only add any new materials.

I'm going in the order the names were presented to me. Is Sarah Hayden available?

SARAH HAYDEN (via Webex): I'm here. Okay. In the environmental assessment for the Santa Fe Mountains Project, there was absolutely zero mention of the probability or the effects of escaped prescribed burns. Even in the Gallinas wood fire WUI Gallinas project where the Hermit's Peak/Calf Canyon fire took place they at least considered the possibility of escaped prescribed burns in the analysis but this time around, for the Santa Fe Mountain Project they decided it was irrelevant.

This is beyond unacceptable analysis. Somebody, one of you mentioned it, it's really not analysis at all. There's no risk assessment that's valid. Wild Earth Guardians, defenders of wildlife in their scoping comments for the Santa Fe Mountains Project discussed the Cerro Grande fire and even though it was a rare event it had catastrophic consequences and then stated every time a fire is started in the forest there are risks of the fire spreading, especially in the Santa Fe National Forest where winds can arise quickly and unexpectedly. The agency should evaluate the probability of a broadcast prescribed burn precipitating a fire in the Santa Fe National Forest.

This was 100 percent ignored. The agency was at least responsible to explain why they didn't put this into the analysis when it was brought up as an issue in the scoping comments and they didn't even do that. So just for that, it's unacceptable that they go forward without an environmental impact statement.

And then in the same assessment, for the air quality analysis which was critically important because so many people are suffering from the pollution from so many prescribed burns, they used as their baseline assumptions that over the next ten or fifteen years that the entire project area would either succumb to a wildfire, that the probability that that will happen is 100 percent if the proposed fuel treatments are not undertaken, even though it's two discontinuous areas and the probability of that happening is close to zero.

And if the fuel treatments are undertaken, the chances of a wildfire being ignited anywhere in the project area is zero percent. Those are baseline assumptions that have no

basis in reality, and yet all the parameters, all the analysis was based on those assumptions. So basically they never analyzed anything that is reasonably probable to happen. And that kind of assumption went through the whole analysis. One could go step by step through the analysis and point out any omissions, flaws, lack of reasonable analysis is within it, it's a non-analysis.

And finally, they used what's called a condition-based approach, and that's just raw parameters for what they might do. It didn't include where or how much or any specific information. So I just want to quote one thing that's under a map. They have a map that's potential vegetation thinning and prescribed fire treatment units. It says "Figure 2.1 and Figure 2.2 illustrate potential vegetation thinning and prescribed burning and treatment units that could be delineated from the project area. It is important to note that proposed condition-based treatments will not be limited to individual polygons as displayed in these figures."

So basically what they have said is we can thin inside the boundaries of the delineated areas or outside. And if you put inside and outside together you have everywhere. So they have said essentially nothing about where they're going to burn.

CHAIR HAMILTON: Thank you so much, but we're passed the limited time. We really appreciate your comments. Next we have signed up – and if I didn't make it clear, this is just comment with respect to the EIS resolution. We'll have public comment for the other matters on the agenda later on in the agenda. Is Valerie Gremillion available?

VALERIE GREMILLION (via Webex): Yes, I'm here.

CHAIR HAMILTON: Excellent. Welcome.

MS. GREMILLION: I do have a few comments. I'm a complex systems scientist who recently began working on large-scale ecological model of this forest as well as most of these forests and in that capacity I am reading these reports and listening to the Forest Service. I also live 500 yards from where they're planning the next burn which should have started directly after the Hermit's Peak fire, so in other words, Hermit's Peak fire quite possibly saved Santa Fe because they were going to do 1,000 acres between Cañada de los Alamos and down into the watershed, during those same crazy winds.

So I would just like to say a prayer and thanks for this insanity that is no blessing to anyone but may alert everyone to the risk that we undertake with these kinds of burns during climate change. They simply aren't considering these things. I have looked at this report and unfortunately – I just want to go over a small list of things. They chose the wrong fuel models. They did not note drought. They did not note we had no snowpack. They did not note we'd had no precipitation in the last year. They did not note climate change because that would have made them measure vapor pressure deficit and the most recent science on what they should be doing.

They did not note that ignition was higher than they expected. They did not stop the burn when they were aware that the capacity for an escape burn was much higher. So their judgment was in question. Their protocols are in question because they did not fulfill their own protocols. They did not even finish their own checklist for the fire. And they did not know what personnel were on the burn.

So given those two things, I would not let them run a carnival in my backyard,

much less set a fire to the back of the Santa Fe National Forest. And it is no longer the back of the forest in climate change. Their entire approach of opening up the forest to the radiative heat, which dries out the entire forest and increases the rate of death of trees is anti the fire risk they need to undertake.

So I have a lot more comments. I have references to provide to you guys, but I just want to thank you very much, all of you Commissioners. Thank you, Anna Hansen. Thank you, Anna Hamilton, for providing us this excellent resolution which finally addresses that the models of the Forest Services are completely inadequate to the task. They will only look at fire. They are not considering any other considerations and that means risk to us, our communities, our water infrastructure, the forest on which we all depend due to tourism, or anything else. So we need to ask them to change. Thank you very much for doing that in an elegant and precise and legal way. Thank you very much.

CHAIR HAMILTON: Thank you so much for your comments. Is David Birnbaum available?

DAVID BIRNBAUM (via Webex): Yes, I'm here. Thank you very much. My name is David Birnbaum and I live on the Old Santa Fe Trail, very close to the Village of Cañada de los Alamos. I want to thank you extremely much, ladies and gentlemen of the Commission for taking the initiative to reassert the rights of your constituents and all the residents of Santa Fe County. The National Forest does not belong to the Forest Service; it belongs to the people. I have seen very recently the decisions the Forest Service makes need to be carefully – especially when utilizing fire need to be carefully evaluated and final approvals on any actions need to be reviewed and agreed upon by knowledgeable scientists and the people of New Mexico.

The Forest Service has demonstrated that they are prone to hurry and rush into action when caution and thoughtfulness are very much needed. An extreme example of the negligence is the refusal in the approval process in the Santa Fe Mountain Resiliency Landscape Project to obtain an environmental impact statement. It would be my understanding and common sense would concur that the regulations regarding the environmental impact statements were created for exactly this type of project and the incredible arrogance of declaring a finding of no significant impact by the Forest Service is an attempt to ignore this wise and important process of evaluation for any project of this size and scope.

The concerns about endangered species and other wildlife that lives in the National Forest, the necessity to respect the wilderness areas and to prevent damage not only to wildlife and fauna but also to the very mountains themselves, which could easily be permanently harmed by bringing numerous vehicles, including large trucks, bulldozers and other heavy equipment in are just a few of the issues that need to be thoroughly explored by the environmental impact statement process.

The most recent scientific studies of areas that have been treated as the Forest Service intends to continue have revealed the necessity of re-evaluating and creating new rules because of the extreme drought conditions. I hope the Commission will unanimously use all of its power and influence to insist that an environmental impact statement be performed, that the latest science be considered, and the current plan be revised appropriately. Thank you very much.

CHAIR HAMILTON: Excellent. Thank you so much, David. Is Dorothy

Dean available?

DOROTHY DEAN (via Webex): Yes. Hi. I didn't prepare anything to say but I live in Cañada de los Alamos and I'd first like to really thank my neighbors for taking this issue up many years ago, and I participated in quite a few of the field trips with the Forest Service and it just seems if they would have been listening to this a few years ago this could have been possibly avoided. And I'm 100 percent behind the environmental impact statement. I also am a landscaper and just on those tours with the Forest employees, they even admitted there were fires. They took is to a prescribed burn that almost got away from them in a wet year.

I just really think that we really think that we need to look at all the impacts of their work that they've done, and I appreciate this resolution and I'm in complete support of it. I also – I just feel like they were leaving out things like erosion control, which seems to me like one of the biggest problems. The forest burns, but then the rains come and then the real huge damage happens afterwards with the erosion. They weren't even putting the trees on contours to slow erosion down when they were doing their work.

So I just – there's so much more work to be done and I feel like there's a lot of repair that should be done from the work they've done already. So I'm in favor of an impact statement and I really hope it goes through. And thank you.

CHAIR HAMILTON: Thank you so much for your comments, Dorothy. That is all the people I have who have signed up ahead of time for making comment on this matter, not to forget that we'll have public comments on other matters later in the agenda. But just to check – I just wanted to double-check if there's anybody else either here in the audience. If there's anybody, please come forward, or online, who wishes to make a comment on the EIS. We do have somebody here in the audience. Come on up and identify yourself and give us your comment.

SAM HITT: My name is Sam Hitt. I live at 48 Old Galisteo Way, District 4 in the county. And I don't want to repeat the things that have been said, so just really quickly, I think it was really a remarkable admission by the chief of the Forest Service who found that the models that were used to predict fire behavior for the intentional burn that was ignited on the morning of April 6th near Hermit's Peak was outdated and unreliable. This is really extraordinary. And that the agency also failed, not often said, but failed to understand that increasingly large piles of debris, which are the results of clearing activities can burn throughout the winter and can spread in gusty spring conditions, which is exactly what happened at Calf Canyon.

So of course NEPA requires that federal officials look before they leap, and that means doing a comprehensive environmental impact statement. It doesn't mean that the public concerns about intentional burning must be dismissed out of hand, which as people have said, has happened repeatedly. It means that independent scientists must be listened to and when they advise avoiding unnecessary risks in the rush to meet unrealistic goals, they should be listened to and they haven't in the past.

So just to quote from the chief's review, just quickly, because I think he said something that was quite remarkable. He said to better understand how mega-drought and climate change are affecting our actions on the ground we need to re-evaluate the entire federal fire policy. And that apparently, is ongoing. However, it's just going to be a project of the Forest Service. It needs to be a larger project that includes independent

scientists.

So just real quickly, environmental impact statement is more than a promise of never again. It is a resolve to manage our public lands responsibly. So thank you so much for this resolution and I hope it passes. Thank you.

CHAIR HAMILTON: Thank you very much for coming, Sam. Is there anybody else present? Please come up.

PAT WALKER: Hello. My name is Pat Walker and I just wanted to speak to a very specific part of this. Back in 2019 a group of us was saying these exact things that Anna is saying in her paper. And thank you all so much. Thank you, thank you. But we were really trying to work with the Forest Service to get them to listen to us. My experience was I was in a meeting that was two hours long at the Forest Service Center in southern Santa Fe City. People tried to raise their hands and talk and ask questions, and they said, no, you will have a chance to talk at the end.

And so after two hours of them telling us what they wanted to tell us we got a chance to speak for two minutes each. And I don't think that is acceptable public input. And even out of that, 5,000 people in Santa Fe County said no to this, to their plans and they ignored it. And so – anyhow. It goes on. But public input, democracy, that kind of thing. Anyhow, thank you very much for your work.

CHAIR HAMILTON: Excellent. Thank you very much for coming. Is there anybody else who wishes to speak to the EIS resolution?

DANIEL FRESQUEZ (Media Specialist): Madam Chair, we have William Mee raising his hand on Webex. We also have two phone callers. I'm not sure if they would like to speak but if they would like to they can hit star 6 to unmute.

CHAIR HAMILTON: Okay. And just to make sure, William, you want to speak to the EIS resolution because we will have public comment on other matters later in the agenda.

CHAIR HAMILTON:

WILLIAM MEE (via Webex): William Mee, Agua Fria Village. And there's a trend in climate change that the Forest Service might not be considering, and what it is – as a farmer, I keep precipitation records and the best one to illustrate this is in 2014. We had 14.6 inches of rain, and that's a really great total. But 75 percent of this was from September 15th through December 31st, or outside of the growing season. So native grass and trees were dormant and were not taking in all this water.

But instead it grew a bunch of weeds. They're annuals, which die, and they become a fire hazard. We actually had a two-inch rain in November which is highly unusual. Usually you get a snow. But the weeds just loved all of this moisture and I've noted that this 75 percent outside the growing season, it's been happening maybe only 50 percent but it is a trend and it is a climate change issue that the Forest Service should look at. Thank you, Commissioner Hansen and Hamilton for bringing this forward. And that's it. And I will comment later on.

CHAIR HAMILTON: Excellent. Thank you very much, William. Is there anybody else online or present who wants to speak to this matter? Hearing none, I think I'll go ahead and close public comment on the EIS resolution. Commissioner Hansen.

COMMISSIONER HANSEN: Thank you, Madam Chair. Thank you, everyone who spoke in support of this resolution. I want to thank the community who

helped me write this resolution. This was done in a collaborative manner and that is the way that I think we as elected officials need to be working with our constituents to reach out to them and for us to represent them. They are the ones who hired us and so it is important to me that we represent them and their concerns.

Yes, there are many issues with public participation with federal agencies and something that we all need to work on to make our federal agencies more responsive to our constituents. And with that I would like to make a motion to approve this resolution and ask for a second and I hope that we have unanimous support. So thank you, Madam Chair.

COMMISSIONER HUGHES: I second.

CHAIR HAMILTON: Thank you very much. Appreciate it. Is there any further discussion?

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

4. CONSENT AGENDA

- A. Request Approval of County Health Care Assistance Claims in the Amount of \$30.68 (Community Services Department/Jennifer Romero)**
- B. Request (1) Approval of the 7th Supplement to Addendum to Master Agreement and Schedule NM2016-001.01 for Licensed Software, Hardware, and Services Between Santa Fe County and TRTA Gov, Inc., Increasing the Amount of the Agreement an Additional \$113,406 and Extending the Term to July 1, 2023, and (2) Delegation of Signature Authority to the County Manager to Sign the Purchase Order (Purchasing Division/Bill Taylor and Assessor's Office/Jennifer C. Romero)**

CHAIR HAMILTON: Are there any items the Commission wants taken off for questions or what's the pleasure of the Board?

COMMISSIONER HUGHES: Madam Chair, I'll make a motion to approve the Consent Agenda as is.

COMMISSIONER HANSEN: Second.

CHAIR HAMILTON: Thank you. I have a motion and a second. Is there any further discussion?

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

[Deputy Clerk Gantz provided the resolution and ordinance numbers throughout the meeting.]

5. APPOINTMENTS/REAPPOINTMENTS

None were presented.

6. MISCELLANEOUS ACTION ITEMS

- A. Request (1) Approval of Amendment No. 7 to Agreement 2018-0282-CSD/KE Between Santa Fe County and Terri Werner, Increasing the Compensation an Additional \$75,000, Inclusive of NM GRT, for a Total of \$374,000, Inclusive of NM GRT, and Extending the Term for One Year for Event Coordination at the Stanley Cyclone Center, and (2) Delegation of Signature Authority to the County Manager to Sign the Purchase Order**

CHAIR HAMILTON: I believe the details Bill Taylor and Anna War can address.

BILL TAYLOR (Purchasing Director): Thank you, Madam Chair, Commissioners. A pleasure to be here. We are before the Board to request an extension to the contract with Terri Werner for the management services at the Stanley Cyclone Center. It does increase, it's an increase of \$75,000 for the fiscal year 23 for a total contract amount of \$374,000. We entered into this contract in August 2018. We've had activities there through the COVID pandemic and we've reduced some services, increased them back, but we are before the Board now to ask for an extension in which to continue the services. With that, Madam Chair, I'll stand for questions.

CHAIR HAMILTON: Excellent. So I know the Commissioner in that district is not here yet. Are there questions or comments from the Commissioners?

COMMISSIONER HANSEN: Madam Chair.

CHAIR HAMILTON: Commissioner Hansen.

COMMISSIONER HANSEN: Thank you, Bill. Thank you, Anna. I think it would be great if Ms. War could give us a little overview of what's happening at the Stanley Center so that we had a better idea. I'm definitely in support of this compensation but it's always good to hear what you're doing and how the community is being involved in the Stanley Center.

ANNA WAR (Community Services): Good afternoon, Commissioners, Madam Chair, Commissioner Hansen. I did put together some of the events that we've had since we reopened last year after COVID. In July we opened just for open riding and then in August we started opening for events.

So some of the highlights, we do have open riding that occurs down at Stanley every Tuesday and Thursday where you can go to the center, pay \$5 for a horse, exercise horse, just ride around the arena. We have a lot of private riding that is scheduled. You can get those in half-day and full-day slots. Some people would like to take three of their horses and just privately ride in an arena for about four hours, so we do a lot of that.

For the fall we had some cow clinics and a horse show that took place. The local Stanley Spurs 4-H group utilizes the classroom and we've actually had two other 4-H groups who are also utilizing the classroom on a monthly basis for their meetings. We have had a few other events. We had a three-day AKC dog scent work trial back in January. We also have the 4-H groups – we have three groups, an archery group that does practice a couple of times a month. We also have the 4-H rodeo who do some practice a few times a month, as well as the horse practice with our 4-H group. So we do a lot with our 4-H groups down in Stanley.

We had a three-day event Jackpot back in February, some horse trail clinics, and again, a lot more meeting with 4-H as well as some roping. We have some local roping groups that utilize this center. In the fall and the cold months they have their roping practice there. We also have another group who is a drill team, which I'm not too familiar with but they utilize the center once a month. And then we actually had a graduation party there. We have had a wedding there in the past. So we have sort of a plethora and then back in May we had the century race. The bicyclists utilized the parking lot as a pit stop for that century race.

So we have kind of a wide variety of things taking place out in Stanley. Terri gets calls and we do put the calendar up on the website so you can see that most days of the week are packed. The current fee schedule that we have, it was passed a few years back. I will say that it does not cover the cost of this contract. We can certainly put together a more comprehensive study of all the usage we get and how the fees tie into that if you'd like. We'd be happy to do that. And with that I stand for any other questions you may have.

COMMISSIONER HANSEN: Madam Chair, thank you. Thank you, Anna. It's good to see you. I think it's good for the public to know what the Stanley Cyclone Center provides for the community in the southern part of the county. It's actively used and that is important for people to know, I think.

MS. WAR: Absolutely.

COMMISSIONER HANSEN: Thank you, Madam Chair. And with that I'll move to approve..

COMMISSIONER ROYBAL: I'll second.

CHAIR HAMILTON: I have a motion and a second. Under further discussion? Commissioner Roybal, were you just going to second it or did you also want to make a comment?

COMMISSIONER ROYBAL: No, I just was seconding it but I know the Cyclone Center, along with all our community centers and we have the sports complex in the northern part of the county that's really used quite a bit. I know now during the COVID, it's important for our youth to get out there and use these facilities. So I'm glad to see it's still being used quite a bit. I guess a wedding happened at the Cyclone Center which is different, that we haven't seen yet. I'm glad to see they're using it outside the box and people are using our facilities as much as they can. I think it's a great opportunity. So thank you, Anna for the presentation and we appreciate all your hard work.

MS. WAR: Madam Chair, Commissioner Roybal, thank you.

CHAIR HAMILTON: Thank you very much. Is there any further comment?

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

6. B. Resolution No. 2022-051, a Resolution Requesting Budget Adjustments to Various Funds in the Net Amount of \$12,952,716 for Year-End Budget Clean-Up

YVONNE HERRERA (Finance Director via Webex): Thank you, Madam Chair, Commissioners. The budget adjustment before you is requesting the following adjustments for fiscal year 22. The first one is an increase of \$90,000 to the 2018 general obligation bond fund to provide additional funding from interest earnings. It will cover current year cost for the system distribution improvement project.

And then we have an increase of \$138,197 in the 2021 general obligation bond fund. This is to reallocate excess funds from the completed Star Vista project to County Road 67 project.

And then we have an increase of \$10,000 to the general fund and the farm and range fund. This increase will help the farm and range fund in their annual support to the Santa Fe/Pojoaque Soil & Water Conservation District in the amount of \$8,000. The funding for this support was to come from the Taylor Grazing Act. However, the distribution from those funds hasn't been sufficient. The current year distribution was only \$11,000 so the fund needed additional fund in order to be able to continue with the support based upon the memorandum of understanding that the County has with the conservation district.

And then we have an increase of \$1.5 million to the general fund and the self-insurance fund. This \$1.5 million will help the self-insurance come into compliance with minimum reserve requirement that was presented to the Board at the last BCC meeting. The minimum reserve requirement for the self-insurance fund was calculated to be at \$2,421,820 for fiscal year 22. The 22 estimated fund balance projection for the self-insurance fund is estimated to be \$710,252, which makes the fund out of compliance. It doesn't have enough fund balance to meet the minimum reserve requirement, so we're proposing a transfer of \$1.5 million.

So the \$1.5 million is a combination of the minimum reserve calculation that we presented to the Board for fiscal year 21 as well as 22. When we presented the reserve requirement for fiscal year 21 management chose to do – the policy allows for a three-year timeframe for the fund to come into compliance with the minimum reserve requirement so when we presented this to the Board last year, at that time we had only requested a transfer of \$600,000. Due to the high vacancy rate that the County has which results in less revenue being transferred to the self-insurance fund we thought that it would be prudent just to go ahead and transfer the full amount that the fund needs to be in compliance with the minimum reserve requirement.

The next budget adjustment is an increase of \$304,419 and this would increase the Utilities enterprise fund, as well as the 2020 lease agreement rental payment fund. Back in July of 2020 the Board passed Ordinance No. 2020-5 authorizing the execution and delivery of a lease-purchase agreement for a generator for the Santa Fe County water reclamation facility. Within the ordinance the County pledged net revenues from the water/wastewater utility system to finance the purchase. We then entered into an agreement in October of 2020 to actually purchase that generator which then was placed into service in October of 2021. At that time the County decided to exercise its option

just to purchase the equipment outright instead of making monthly payments. The total amount for that purchase, including tax is the \$314,418,49.

The next adjustment is an increase to the general fund of \$38,020 and this is to budget a FEMA grant which the County is eligible to receive reimbursement for costs related to preventing the spread of COVID-19.

Then we have a budget adjustment to American Rescue Plan Act fund, ARPA money. The general fund and various funds, the two components to this budget adjustment, the first one relates to allocation of \$12 million as revenue replacement that the Board approved back in September of 2021. At the time that we prepared the 2022 budget, instead of showing the full \$6 million as a transfer from the ARPA fund to the general fund we ended up allocating it throughout several funds in error. For the proper accounting of the grant we needed to be able to show that \$6 million was transferred to the general fund to support the County's FTE requests and compensation packages that were presented to the Board for fiscal year 22. So in order to correct that we need to correct the various funds that are listed in the Board packet in the amount of \$1,691,381.

In addition to correcting the revenue replacement portion of the ARPA funding we are also requesting an additional adjustment in the amount of \$4,059,500 to be realigned based upon the spending plan that was proposed and the Board approved back in September 28, 2021. The original ARPA budget that was included in the fiscal year 2022 budget was based upon the high level staff recommendation that was presented as part of the final budget to the Board back in June of 2021.

And our final adjustment is an increase of \$167,000 to the general obligation bond debt service fund, and this is to help cover some of the bond costs related to the issuance of the 2022 general obligation refunding bonds. Because we started the process in fiscal year 22 some of those bond costs will be recorded in fiscal year 22 while the remaining bond costs as well as the bond issuance will be accounted for in fiscal year 23. And with that, Madam Chair, I stand for any questions the Board may have.

CHAIR HAMILTON: Excellent. Thank so much, Yvonne. Are there any questions from the Board on this matter? Commissioner Hughes.

COMMISSIONER HUGHES: I was just going to make a motion to approve the budget adjustments requested by our Finance Director.

COMMISSIONER ROYBAL: I'll second.

CHAIR HAMILTON: Excellent. Thank you. I have a motion and a second. Is there further discussion?

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

6. C. **Resolution No. 2022-052, a Resolution to Adopt the Santa Fe County Transit Service Plan for FY 2023 and to Direct Staff to Submit the Transit Service Plan to the North Central Regional Transit District**

CHAIR HAMILTON: We have Brett Clavio. How are you?

BRETT CLAVIO (Transportation Planner): Hi. Good afternoon, Madam Chair, Commissioners. I'm doing well, thanks. How are you guys? It's going to be a long day, it seems, but I'll try to be brief with my presentation. Today, the item before you is a

resolution to adopt the Santa Fe County Transit Service Plan for fiscal year 2023 and to direct staff to submit that transit service plan to the North Central Regional Transit District.

Exhibit A in the packet lists all of the NCRTD routes in Santa Fe County, and Exhibit B describes those routes and explains any proposed service updates for 2023, either due to the COVID restrictions or due to NCRTD's recent service plan update. Since the preparation of this report I wanted to note that Route 255, the mountain trail, is back in service, coinciding with the reopening of the Santa Fe National Forest after the fires.

In conclusion, staff recommends approval of the resolution to adopt the Santa Fe County Transit Service Plan for FY 23 and to direct staff to submit that service plan to NCRTD. The NCRTD executive director, Mr. Anthony Mortillaro may be here virtually if you have any questions for him. Otherwise I can try to answer them. And that concludes my presentation so I stand for any questions.

CHAIR HAMILTON: Excellent. Thanks so much. Commissioner Hughes.

COMMISSIONER HUGHES: Thank you, Madam Chair, and I can ask Director Mortillaro myself if you don't know the answer but I was wondering if there is a contemplated timeframe for turning the routes that are now on demand back to the regular service. For example, in prior times I would often take the bus from Eldorado into town, more for the environmental reasons than that I don't have a car, because I do have a car, and I'm not really tempted to use the on demand service because why should I force the RTD to drive a big bus with just me in it when I can drive my car. But I think there are a number of people who use these routes for commuting when they're back to regular service. I just wondered if there was any timeframe that anybody knew of for that.

MR. CLAVIO: Thank you, Commissioner, Madam Chair. I am not sure when NCRTD is going to resume regular fixed route transit service on those routes that went to the on demand status. I do anticipate that to happen though over the next fiscal year. So hopefully within six months. But I can try to get more precise information for you on that.

COMMISSIONER HUGHES: Great. Thank you. Thank you, Madam Chair.

CHAIR HAMILTON: Thank you, Commissioner Hughes. Are there any other questions for Mr. Clavio? If not, what's the pleasure of the Board?

COMMISSIONER HANSEN: Madam Chair, I'm going to move to approve. I just was going to defer to Commissioner Hughes since he represents us on the board, but I am the alternate so I'm happy to make a motion to approve.

COMMISSIONER HUGHES: And I'll second.

CHAIR HAMILTON: Excellent. I have a motion and a second.

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

6. D. Resolution No. 2022-053, a Resolution Adopting a Remote Work Arrangement Policy

CHAIR HAMILTON: We have our Deputy County Attorney and our

Human Resources Director.

RACHEL BROWN (Deputy County Attorney): Thank you, Madam Chair and Board members. Before you today is a resolution adopting a remote work policy, and as you may recall, when we first encountered the COVID pandemic the Board gave the County Manager authority to adopt emergency policies, and one such policy was an emergency remote work arrangement policy allowing employees to work from home in order to deter the spread of COVID and protect our workforce.

Through that experience we've realized that remote work can be a feasible alternative to working in the office under the right circumstances and as a tool to assist in recruiting and retaining employees. It seems the right moment to move forward with a non-emergency remote work policy that puts in place criteria to evaluate who would be a good candidate for working remotely, and to ensure that proper supervision will occur for those working remotely, because the communication flow is different when you're out of the office and not face to face with your supervisor.

And so you'll see before you today a policy that allows for individualized evaluation of employees who seek to work remotely. The policy does identify that there are positions that are not appropriate for remote work, such as law enforcement officers and others who have constant contact with the public and need to be out in the field. And so we would happily take questions about the policy. This was carefully discussed with the AFSCME bargaining unit. We got a lot of really productive feedback from them regarding the policy which was incorporated and we stand for questions.

CHAIR HAMILTON: Excellent. Thank you. Does anybody have any questions? Commissioner Hughes.

COMMISSIONER HUGHES: Thank you, Madam Chair. I don't have a question. I think it's great that we're implementing a remote work policy for people who find it easier and better to work at home and I hope it helps us recruit people as well as keep some people who really enjoy that option.

COMMISSIONER HUGHES: Excellent. Thank you. Are there any other questions? I imagine that – more for the record than anything else, it seems to me that one of the nice things about what was written, what was presented to us is that it's flexible. It's not an all or nothing thing where you have to either work all at home or all in the office. There are options that can be tailored to each one and that accommodations that reflect the needs of that job would follow along with that. There might be available computer equipment, whatever. So I don't know if there's anybody else that has questions in that regard or anything you guys would like to emphasize just so people know about it. But I'm very glad to see something come through that provides the flexibility where you can meet work demands but accommodate with more consideration to workers and to the carbon footprint in controlling that sort of thing. Contributing. Thank you. Commissioner Hansen.

COMMISSIONER HANSEN: Yes, I think those are important aspects. A fellow commissioner that I work with from Austin, Texas, they also instituted a remote work plan and they were considering building more buildings and the commute to their offices was sometimes quite long for people, maybe up to two hours and traffic is a little more horrendous than it is here in Santa Fe in Austin, Texas. And they have found it to be a very valuable plan to have remote work. So I just wanted to share that because I think

that we're in this time of climate crisis and we really need to be thinking about how to support our workers, our employees, our County family so that they have the ability to participate in making the planet a better place. So thank you, Madam Chair.

CHAIR HAMILTON: Thank you. Commissioner Hughes.

COMMISSIONER HUGHES: Yes, I'd like to make a motion to approve a resolution adopting a remote work arrangement policy.

COMMISSIONER HANSEN: Second.

CHAIR HAMILTON: Thank you. I have a motion and a second.

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

6. E. **Request (1) Conceptual Approval of the Closure of the Electronic Monitoring Program at the Adult Detention Facility Due to the Creation of a Pretrial Services/Electronic Monitoring Program at the First Judicial District Court and (2) the Delegation of Authority to the County Manager to Negotiate and Execute on Behalf of the County (i) a Grant Agreement with the First Judicial District Court in the Amount of \$475,000 to Help it Establish its Pretrial Services/Monitoring Program and (ii) a Memorandum of Understanding with AFSCME 1413 Concerning the Closure of the Electronic Monitoring Program and Transition of the Two Employees Affected by the Closure to Other County Positions**

CHAIR HAMILTON: Sonya, do we still have you for this?

SONYA QUINTANA (HR Director): Yes, and I believe the warden will be making the presentation via Webex.

CHAIR HAMILTON: Warden, are you on? If you're speaking you're muted.

MS. QUINTANA: I can move forward with the details until he's able to join. Santa Fe County has had the opportunity to close its electronic monitoring program by working with the First Judicial District Court to move the services over from Santa Fe County to the court. They are facilitating a creation of pre-trial services and initially the County will be entering into a grant agreement in the amount of \$475,000, and also a memorandum of understanding with AFSCME 1782 concerning the closure.

And just for clarification that memorandum of understanding is ensure that we're working with current EM employees to be transferred into other jobs or be offered other opportunities for which they qualify within the County. The amount of employees impacted is very limited. It's less than a handful and so we have worked very closely with AFSCME and also with the warden and Deputy County Manager to facilitate and coordinate the closure of the EM program.

So we are requesting that you delegate the authority to the County Manager to negotiate and execute on behalf of the County, first, the grant agreement with the First Judicial District Court in the amount of \$475,000 to help establish the services needed for pre-trial services. Second, a memorandum of understanding with AFSCME 1413 concerning the closure of the electronic monitoring program and transition of the two

employees affected by the closure to other County positions. And with that I will take any questions that you have.

CHAIR HAMILTON: Excellent. Thanks so much, Sonya. Yes, Commissioner Hansen.

COMMISSIONER HANSEN: Madam Chair, thank you, Sonya. This is a one-time grant to the District Court?

MS. QUINTANA: I believe it is a one-time initial grant.

CHAIR HAMILTON: I think Manager Shaffer has something to address here.

MANAGER SHAFFER: Thank you, Madam Chair, Commissioner Hansen. Just to echo what Sonya was saying is yes, this is one-time funding. The draft agreement that we're preparing to circulate to the First Judicial District Court makes that abundantly clear, as well as the fact that we don't have any intentions to start this program back up. So this really is bridge funding to allow our local District Court to stand up its own program which we think is appropriate for any number of reasons, but principally because it brings operational and budgetary control together in the courts and we do believe that this is a court function, as opposed to a detention function. And finally, we support the statewide initiative to make these programs available across the state and not just in those counties like Santa Fe County that have electronic monitoring programs. I hope that answers your question.

COMMISSIONER HANSEN: Thank you, Manager. Thank you, Sonya. Yes, it does. Thank you, Madam Chair. With that I would request conceptual approval of the closure of the electronic monitoring program at the adult detention facility and for the County Manager to negotiate authority and execute.

CHAIR HAMILTON: Thank you. I have a motion.

COMMISSIONER HUGHES: I'll second, but I do have a question.

CHAIR HAMILTON: A motion and a second. Under further discussion, Commissioner Hughes.

COMMISSIONER HUGHES: Yes, I think this is a good idea. I just wanted to know if we're going to be able to monitor this to make sure that there's a smooth transition to the court system and what we might do if they don't follow through in the future, whether there's any thought whether we would take this back. I think it's an important program and I do agree it belongs at the courts, but I think we probably have a little bit of responsibility of making sure the transfer happens smoothly and that the program continues to operate smoothly.

MANAGER SHAFFER: Thank you, Madam Chair, Commissioner Hughes. Most definitely we have every intention of working collaboratively with the courts to ensure a smooth transition. The draft agreement being developed calls, actually, for the development of transition plan. Once they have funding in hand then we can work out the fine details of how quickly they can complete the procurements necessary to fully stand up their program and as Ms. Quintana noted, we are working actively with the two employees who are in the program to ensure their continued services in the program until that transition happens. So rest assured we share that interest with the courts to ensure there is a smooth transition.

COMMISSIONER HUGHES: Thank you. That was my only question.

CHAIR HAMILTON: Thank you. Is there additional discussion?

Commissioner Roybal.

COMMISSIONER ROYBAL: I don't have any questions. I'm fine with it.

CHAIR HAMILTON: That's great. I just wanted to add that some of my fellow Commissioners might remember there have been discussions about the difficulties of having this program separate from the court system at the County for several years so this seems like a very timely thing to have happen at this time, so I'm glad this is coming forward.

So if there's no other discussion we have a motion and a second.

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

6. F. **Request (1) Approval of Resolution No. 2022-___, a Resolution Delegating to the County Manager the Authority to Negotiate for Medical Malpractice Coverage for Fiscal Year 2023 and to Execute Purchase Orders, Agreements, and Other Documents Necessary or Advisable to Effectuate Such Coverage or (2) A Decision to Continue to Self-Insure Medical Malpractice in Fiscal Year 2023**

CHAIR HAMILTON: We have numerous people, so if you don't mind if you'll just introduce yourselves as you speak that would be great.

MELINDA JAGLES MOQUINO (Risk Assessment): Good afternoon, Madam Chair, honorable Commissioners. My name is Melinda Jagles Moquino. I am the Deputy HR Risk Management Division Director. Along with me is the vice president of our brokering company, which is HUB International. His name is Scott Gates, and also my superior, Sonya Quintana.

I'm here to address item F on the agenda and I want to just give you a brief history of what we went through with HUB International. We received two proposals for medical malpractice, one from GenStar, and Lloyds of London. Today HR and Risk Management are requesting the Board of County Commissioners to select between the two proposals submitted, or decide to remain fully self-insured for medical malpractice claims for fiscal 2023.

The two proposals we received were GenStar, Lloyds of London. GenStar proposed a \$50,000 deductible and \$1 million in premiums for one million per occurrence, with a \$3 million aggregate coverage. Lloyds of London offered \$250,000 to \$500,000 deductible and self-insured retention with premium of nearly one million for the same coverage. With the premium proposals received HR and the Risk Manager along with our broker believe that the best route to continue would be to self-insure the medical malpractice risk.

Santa Fe County is financially prepared with fiscal year 2023 financial budget to include \$1.2 million for medical malpractice to cover premiums, deductibles with self-insured retention and our self-insured claims. Should the Board of Commissioners choose to continue self-insured medical malpractice and claims during fiscal 2023 funds will be reserved from the final budgeted amount in collaboration with the third party administrator and legal representatives.

The funds reserved will continue forward to pay claims and into the future fiscal years as they resolve. The uninsured risk amounts will be include in the operating budget for future fiscal years. If either of the two proposals offered for fiscal year 2023 is selected, Santa Fe County would be paying more than the total average cost of insurance paid in the past calendar years of 2014 to 2020 of \$611,817. HR and Risk Management would recommend, should you choose between the two, GenStar with a \$50,000 deductible to result in a lower true cost of insurance versus Lloyds of London with a \$250,000 to \$500,000 self-insured retention.

With that, a resolution has been prepared should the Board decide to select and secure the coverage with GenStar to authorize the County Manager to negotiate and execute all agreements, purchase orders and other documents necessary and advisable to secure coverage with GenStar. With that we stand for questions.

CHAIR HAMILTON: Thank you. Commissioner Hansen.

COMMISSIONER HANSEN: Thank you, Melinda, Scott and Sonya. It seems to me that the better deal is to continue to self-insure and so I would like to make a motion to continue to self insure medical malpractice in fiscal year 2023.

COMMISSIONER ROYBAL: I'll second.

CHAIR HAMILTON: Thank you. So I have a motion and a second. Any further discussion? Are there any further questions? Manager Shaffer did you have some inputs on this?

MANAGER SHAFFER: No, thank you, Madam Chair. I don't have anything to add.

CHAIR HAMILTON: Commissioner Hughes, do you have any questions?

COMMISSIONER HUGHES: I don't have any questions. I need to vote on the motion.

CHAIR HAMILTON: Okay, we have a motion and a second.

The motion passed by unanimous [4-0] voice vote. [No resolution number was needed for this action.]

CHAIR HAMILTON: Before we proceed to item G, as the Commissioners realize we were presented some supplemental packet material on that item in hard copy, and so I propose we take a ten-minute recess so everybody has time to at least breeze through that and we will come back – it's 3:42 – how about 3:57.

[The Commission recessed from 3:42 to 4:00.]

6. **G. Request Consideration, Approval, or Disapproval of Change Order No. 1 to Agreement No. 2020-0014-PW/MAM Between Santa Fe County and Yearout Energy Services Company, LLC, Changing the Specifications for Two Solar Array Systems at Two County Facilities, Increasing the Contract Sum by \$74,436.25 and Extending the Contract Time by 15 Days [Exhibit 1: Staff Memorandum]**

CHAIR HAMILTON: The person at the podium is Bill Taylor.

MR. TAYLOR: Thank you, Madam Chair, Commissioners. Before you, before we adjourned for a quick recess was a supplemental memorandum and what is before the Commission today is regarding information surrounding the issue of fencing the Santa Fe County facility solar installations in the county. The rationale for fencing around a solar array is primarily – it's to protect the solar array itself, the wiring, the cables from the panels to the inverters and the electrical connections.

This supplemental memorandum before the Commission provides a recommendation to the Commission as a solution to the issue with solar array fencing. County staff does recommend that the default option for ground-mounted and/or pole-mounted solar arrays as County facilities should be scrims with no fencing. Scrims being protectors over the cabling and the back of the solar arrays. This minimizes cost. There's usually aesthetic issues with the communities that would not have to be dealt with and then it maximizes the amount of resources available for solar arrays, which is the paramount objective in the time of climate change and clean energy.

We have additional information and we can provide answers to any of your questions and of course Ms. Beam is here to talk specifically about the two locations that we're talking about in change order #1. With that I'll stand for questions.

CHAIR HAMILTON: Excellent. Thanks so much. Are there questions?
Commissioner Hansen.

COMMISSIONER HANSEN: Thank you, Madam Chair. Thank you, Bill and Jacqueline. So the scrims in the picture, one of the black item covering the cables, which seems like a very logical thing. One of the reasons I particularly like this and we had this discussion at the Agua Fria Village Association was that wildlife – rabbits and quail and birds and others can wander in underneath the solar panels. It's good for pollinators. We can start planting things. It allows for natural habitat to exist there. So I think this is a really good solution.

We have the City putting up a solar array in Las Campanas and there's been quite a bit of discussion about that and I think if there was no chain-link fence or other items it would be a much more attractive facility. So I completely support this because I think this is the right way to go. Agua Fria is quite happy to not have fencing around it, so I just wanted to share that. I'm all for more solar installations than using the money for fencing so thank you and I'll let my fellow Commissioners say other things about it too.

CHAIR HAMILTON: Excellent. Thank you very much. Commissioner Hughes.

COMMISSIONER HUGHES: Thank you, Madam Chair. I'm just wondering where did the idea for the change order to add the fencing come from.

JACQUELINE BEAM (Sustainability): Madam Chair, Commissioner Hughes, originally this was from the guaranteed utility savings contract with Yearout and as a part of their contract they folded in chain-link fencing for this array and for other ground-mounted arrays, but for this community since rustic is definitely a better option aesthetically we were going back and forth with the cost of coyote fencing, and coyote fencing has gone through the roof. And so really, it brought up the whole issue to maybe relook at our standards as a County at our facilities. And through the research that we've done the state does not require fencing. Our SLDC does not require fencing, and so this really does seem to be the most economic option as well as really a wonderful thing for

wildlife to be able to roam freely.

COMMISSIONER HUGHES: So it came from the fact that we didn't want to do the chain-link fencing and then we were looking at what other options would be – well, I agree with you and Commissioner Hansen that doing the scrims and no fencing is probably fine and a good idea. So in order to that you would just not approve the change order. Is that correct?

MANAGER SHAFFER: Madam Chair and Commissioner Hughes, if you make a motion to give staff direction to go forward with the scrims with no fencing what that would do is allow Jacqueline and Mr. Taylor to work with the contractor to come up with another change order. Again, this is within my signature authority so it wouldn't come back to the Board and you would be giving staff the direction that we're seeking as to how to proceed.

COMMISSIONER HUGHES: Okay. Well, I'll go ahead and make that motion then just to move this along, that we direct the staff to go with a scrim and no fencing.

COMMISSIONER HANSEN: I second.

CHAIR HAMILTON: Excellent. So I have a motion and a second. Is there any further discussion?

COMMISSIONER HANSEN: Yes.

CHAIR HAMILTON: Commissioner Hansen.

COMMISSIONER HANSEN: I just want to point out that in the pictures from the other – the original packet without this scrim is that the chain-link fencing with this barbed wire on top is really, really unattractive. It has a real prison or institutional effect. I did think that the chain-link fencing around the soccer field was not quite as offensive. But if we can do without it I'm all for it. So thank you.

CHAIR HAMILTON: Okay, so we have a motion and a second.

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

6. H. Request Approval of Amendment No. 2 to Collective Bargaining Agreement Between Santa Fe County and the New Mexico Coalition of Public Safety Officers Representing the Santa Fe County Deputy Sheriffs

CHAIR HAMILTON: And we have once again Rachel Brown and Sonya Quintana.

MS. BROWN: Good afternoon, Madam Chair and Board members. We are before you with an amendment to the bargaining agreement with our Sheriff's union and this is intended to address recruitment and retention concerns and to expend money that was allocated in the budget. So in your new budget you allocated enough money for a three percent cost of living increase and in addition, enough money for a 1.5 percent cost of living increase in January. That amount of money and an evaluation of the staffing patterns at the Sheriff's Department and the levels of vacancy over time suggested that if we reduced the number of full-time employees by six we would have sufficient resources to allocate to this contract to ensure competitive salaries and retention.

So with that in mind we were able to negotiate a ten percent increase to this pay scale. In addition, there will be a retention incentive payable in two lump sums over the next year at six-month markers, based on three percent of each bargaining unit member's gross wages during that period. That is putting us in the realm of competitive with neighboring agencies and will also assist significantly in our recruitment efforts.

And we also addressed concerns about how a shift differential was being calculated and reached agreement that we are going to try to get our software to apply shift differential to the regularly scheduled hours that are at shift differential as opposed to the manner that our system is calculating right now. If that's not possible we'll continue to apply shift differential the way it is now, but we are working with our software company to try to address that concern.

I think those are the extent of the changes that we negotiated. Did I leave anything out?

MS. QUINTANA: No.

MS. BROWN: And we will stand for questions.

CHAIR HAMILTON: Thank you very much. Are there questions? Just for clarity, the shift differential issue, is it currently applied to non-overtime hours?

MS. BROWN: Currently shift differential is applied to your regularly scheduled non-overtime qualifying hours. So if you work, for example, graveyard, it's applied to your graveyard hours if they're not overtime. But if you pick up a shift in the middle of the week, those hours intervene and some of your regularly scheduled hours are now overtime hours and don't qualify for shift differential. They get instead time and a half on those hours. And so what we're trying to do is have our system recognize the regularly scheduled hours as the first forty hours worked regardless of any additional shifts you may work, and then those additional shifts would be the overtime. It's very technical.

CHAIR HAMILTON: That sounds great though. I'm glad to get that clear.
Thank you.

COMMISSIONER ROYBAL: Madam Chair.

CHAIR HAMILTON: Commissioner Roybal.

COMMISSIONER ROYBAL: I don't have any questions but just comments, thanking Rachel Brown and also our HR Director for the hard work. So thank you, guys. You guys really thought outside the box to get to this place and where we're at today. And so we really appreciate it. It's really important for us to retain our public safety personnel and all of our sheriffs and we're looking at the Fire Department as well. I just want to say thank you guys for the hard work. It is definitely something that you guys worked hard on and thinking outside the box. So thank you. Appreciate it.

MS. BROWN: Thank you.

CHAIR HAMILTON: Commissioner Hansen.

COMMISSIONER HANSEN: Yes, Madam Chair. Thank you. I'm going to make a motion to approve amendment #2 to the collective bargaining agreement between Santa Fe County and New Mexico Coalition of Public Safety Officers.

COMMISSIONER ROYBAL: I'll second.

CHAIR HAMILTON: Excellent. I have a motion and a second. Is there anything further under discussion?

COMMISSIONER HUGHES: Madam Chair.

CHAIR HAMILTON: Commissioner Hughes.

COMMISSIONER HUGHES: Yes, I just wanted to say this is a great creative solution so thank you for working on it. Appreciate it, and look forward to hearing the results.

CHAIR HAMILTON: Excellent. Thank you so much. Anything else? I have a motion and a second.

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

6. I. Request Approval of Amendment No. 1 to Collective Bargaining Agreement Between Santa Fe County and the Regional Emergency Communication Center (RECC), a Subsidiary of the New Mexico Coalition of Public Safety Officers/NMCPSO

CHAIR HAMILTON: We'll go back to Deputy Attorney Brown and Director Quintana.

MS. QUINTANA: Madam Chair, Commissioners, before you today for consideration is the first amendment to the agreement between the Regional Emergency Communications Center, RECC, and the County. We are requesting consideration for the following purposes. Approval of this would replace the position of Emergency Communications Specialist I with Emergency Communications Specialist I – Basic and Advanced, in order to have a position which is capable or relieving the volume of calls to the center by answering non-medical calls so that dispatchers can focus their attention on emergency medical calls.

Second, adjust the title of Data Entry Specialist to CAD MSAG Systems Administrator, which is the title currently being used. Third, remove restrictions on scheduling so that staffing patterns can be more dynamic and hopefully we can improve our recruitment efforts and retention efforts as well. Create a Labor Management Committee so that we can regularly speak with RECC and Management to discuss ongoing issues. Create a more accurate system of compensation for time spent in court proceedings related to the work of the dispatchers. And finally, place all bargaining unit employees on an increase pay scale and create a career ladder for advancement within RECC utilizing money allocated for the three percent cost of living adjustment, as well as funds previously allocated for the elimination of one quality assurance position. With that we'll stand for questions.

CHAIR HAMILTON: Excellent. Thank you. Are there any questions from anybody? Commissioner Hughes.

COMMISSIONER HUGHES: Thank you. Same comment as last time, actually, just that this is a very creative solution and I hope that it gets us some results. I really appreciate everyone who worked on this including the people at the union and our administrators. Thank you.

CHAIR HAMILTON: Excellent. Thank you. Commissioner Hansen.

COMMISSIONER HANSEN: Thank you, Madam Chair. Thank you, Rachel and Sonya. Yes, we know that there are issues at RECC and I'm hoping that this

new approach will help alleviate some of the issues that we have been facing there. I think it is a good plan and it has taken considerable time and thought by everybody at the County to work together to come up with a good solution for the RECC and I'm sure that we'll be massaging this and working to improve our County employees who work at the RECC because it is a taxing position and dividing up the workforce and sharing different responsibilities I think will definitely help improve our efficiency and productivity. So with that I would like to move to approve the collective bargaining agreement between Santa Fe County and the Regional Emergency Communications Center.

COMMISSIONER ROYBAL: I'll second.

CHAIR HAMILTON: Thank you. I have a motion and a second. Under discussion, did you have stuff, Commissioner Roybal?

COMMISSIONER ROYBAL: I just actually also want to thank staff for working on this together. I know the positions in dispatch, they're really high stress position and situations that we have a lot of our 911 operators leave. I don't think everybody realizes that and understand that. So I just want to put on the record that I appreciate basically the first initial responders, or actually maybe not responders but dispatch personnel that actually get those phone calls and work directly with our constituents in emergency situations and non-emergency situations.

I know it's a high stress position and I know that it's something that has to be manned all the time. I know it's very difficult. I just want to thank staff for working on coming forward with this amendment that we're approving today. I just want to thank them once again. So thank you, Madam Chair.

CHAIR HAMILTON: Thank you so much. I actually did have a question about the Labor Management Committee. Is that specifically for the RECC and Management and how does that relate to the union, in terms of roles and responsibilities?

MS. BROWN: Madam Chair, Commissioners, all of our bargaining units have a Labor Management Committee. This one is specific to RECC and it's a mechanism for ensuring that the members can come together with Management outside of disputes or negotiations to talk about ways to improve the work environment and issues that may come up in the work environment during the course of the contract. And so while there was a committee identified in this contract it wasn't formally established as a Labor Management Committee with regular meetings, and so this will just ensure that that communications is improved.

CHAIR HAMILTON: That sounds great. I was wondering if they just didn't have it and everybody else did. Thank you. So I have a motion and a second. If there's no further discussion.

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

MANAGER SHAFFER: Madam Chair, before we move on from these items I did just want to take the opportunity to note that some of the core principles that guide most decisions of the County are sustainability and resiliency, and I think this Board's approach to budgeting, including compensation packages are no different. We endeavor to provide competitive compensation packages that can be sustained in the long run with recurring revenue within the context of a resilient budget that can withstand

recessionary and other stresses. In simple terms we want to write checks we think we can cash both now and in future fiscal years, and more specifically, we don't want to be in a position of balancing the budget through furloughs and salary reductions during hard times.

I think the CBA amendments that the Board just passed are consistent with those principles and in addition to Deputy County Manager Bernardino, Rachel, and Sonya, I want to thank and acknowledge Sheriff Mendoza, the interim RECC Director Roberto Lujan, and the respective bargaining units for working with County Management to come up with them. So thank you.

CHAIR HAMILTON: Excellent. Thank you so much for saying those things. Really appreciate it and they're very important.

7. PRESENTATIONS

None were brought forward.

8. MATTERS OF PUBLIC CONCERN

CHAIR HAMILTON: I know there are a few people who have signed up to make a comment during Matters of Public Concern. I just want to remind everybody, you can speak to any topic under Matters of Public Concern. There are a couple of people who have signed up, it appears on the list that they're interested in speaking on one of the Matters of Public Hearings. There will be a separate time; there will be separate time for public input during those hearings but people are free to make their choice of when they want to make a comment, so if you think you can't stay after 5:00 and want to make a comment now, that's fine, but I just wanted to make sure everybody was aware that those hearings will be held separately.

So I do have William and Roberta Richards listed. They indicated they wanted to speak to the Tierra Bello Conceptual Plan Extension but they signed up under this time slot. If you're here and you want to speak now you can unmute yourselves and let me know. Otherwise you can wait till the later public hearing. Daniel, are the Richards on Webex at the moment?

MR. FRESQUEZ: Madam Chair, I do not see Richards on Webex.

CHAIR HAMILTON: Okay. Great. I'll move on to Christopher Jennings. Are you available to make your public comment? Daniel, do you see Chris Jennings on Webex?

MR. FRESQUEZ: Madam Chair, I do not see Chris Jennings on Webex.

CHAIR HAMILTON: Oh, dear. Okay. William Mee, are you on and is now when you want to make your comment? Or are you wanting to wait till the public hearing on Los Brios? Daniel, do you see William Mee on Webex?

MR. FRESQUEZ: Madam Chair, I do see William Mee on Webex and I did communicate with him through email that he did want to speak for item 8.

CHAIR HAMILTON: So now would be the time, this being Matters of Public Concern. Mr. Mee, this is item 8. Would you like to speak now?

MR. MEE: Yes, Chairperson Hamilton.

CHAIR HAMILTON: Welcome.

MR. MEE: Thank you. Chairperson and Commissioners, since 2009 when the Agua Fria Development Review Committee land use approval body that I served on for 11 years was taken away from our village and six others with a promise from the Land Use Administrator and the County Attorney under the direct auspices of the Board of County Commissioners that something else was coming and would even be better than what we had. So we started some negotiations with the County on March 14, 2009 for the affected communities, including Agua Fria that had development review committees, wrote to the County Manager to ask for the reinstatement of the development review committees.

This letter was met with a County response of March 30, 2009 of a chart that did a County comparison of participation opportunities which outlined how much better off we would be with the community organization system. This was followed up with the Board of County Commissioners Resolution 2009-74, which outlined how the County would get the individual communities back to a level playing field to move forward on the community organization system. The promises to local communities to have a say-so in land use planning is essential to oversee orderly, planned growth countywide.

Citizens and the greater community at large lost the ability to affect land use policy that might forever change their lives if unchecked and unmonitored. All development has impact on the area surrounding the new subdivision, whether it be traffic, water, sewer, schools, parks and recreation, libraries, etc.

Now we find out that in the 2021 study by Christus St. Vincent's that the 87507 zip code is the most challenged in the county for receiving healthcare services. One example of this is multi-year waiting periods to become a patient of a primary care physician. So if community organizations can, under the County system, if they can meet and have free license to look at land use items it makes for a better county. I'll be talking later tonight, but I just want you to know the background of the community organization system. Thank you very much.

CHAIR HAMILTON: Excellent. Thank you very much, Mr. Mee. So that's everybody that I have who pre-signed up for comments under Matters of Public Concern. Is there anybody else present on Webex or the phone that wishes to speak during this time? Hearing none, I will close Matters of Public Concern and remind everybody who's interested in speaking during the public hearings that that will come up later in the agenda. So thank you to everybody who made comments.

9. MATTERS FROM THE COUNTY MANAGER
A. COVID-19 Updates

MANAGER SHAFFER: Thank you, Madam Chair. A few updates, first related to COVID-19. As you all are aware, the CDC currently scores Santa Fe County's community level as high. Under our emergency COVID policy that means that both visitors and staff are required to mask when indoors. I do want to acknowledge my appreciation for members of the public who have generally been cooperative with that change in policy. Not all have been, unfortunately, but nonetheless for those who have we very much appreciate their doing their part to help maintain the safety of our

workforce as well as their own safety.

Given the deteriorating situation relative to COVID the County has effectively immediately temporarily closed our senior centers and we have ceased all congregate meals served at the center. Community Service continues to provide home-delivered meals to anybody who wants them and these changes in our service modalities were approved by the Area Agency on Aging.

In addition, we have posted those changes at each senior center and included information concerning them on the County's website. We, like I'm sure everyone else, are looking forward to the Department of Health and Governor's press conference this Thursday, July 14th at 1:00 pm. We do continue to have vaccination events scheduled for the month of July. They are on Tuesdays and Wednesdays from 10:00 am to 2:00 pm. Both Pfizer and Moderna vaccinations are available. There is no need to pre-register and those events are July 17th at the Edgewood fire station, July 19th at the La Cienega fire station, July 20th at the Hondo fire station 2, July 26th at the Pojoaque fire station, and July 27th at La Cienega community center.

9. B. Miscellaneous Updates

MANAGER SHAFFER: Just a reminder for those Commissioners who are attending the National Association of Counties annual conference in Aurora. Our Community Services Department will be honored at the achievement award luncheon for its achievement award for the best in category for human services for the CONNECT program. So please do make sure that you're present when that significant award is given to our Community Services Department.

COMMISSIONER HANSEN: Madam Chair, Greg, do you know what day that is?

MANAGER SHAFFER: It is Saturday, July 23rd, and we'll be sure to follow up with an email to all Commissioners reminding them of the day and time.

CHAIR HAMILTON: Thank you.

MANAGER SHAFFER: Moving on, the emergency Ordinance 2022-02 concerning hazardous fire conditions imposing restrictions on open fires, smoking and other ignition sources expires by its terms on July 26th. Open burning permits will resume after July 26th, assuming that weather conditions remain moist and doing so is otherwise appropriate.

We did have some additional staff join our Fire Department and we have three new medics that started with the Emergency Medical Services, Mark Oshevsky, Anthony Gonzales and Garrett Maestas. We welcome them to our team, and we also have two medical directors who started serving the County on July 1st via contract at Fire and the RECC, and they are doctors David Rosen and John Cott. That's it for Miscellaneous Updates from the County Manager.

CHAIR HAMILTON: Excellent. Thank you so much. Are there any questions for the County Manager?

10. MATTERS FROM COUNTY COMMISSIONERS AND OTHER ELECTED OFFICIALS

A. Commissioner Issues and Comments, Including but not Limited to Constituent Concerns, Recognitions and Requests for Updates or Future Presentations

CHAIR HAMILTON: How about if we start with Commissioner Roybal today?

COMMISSIONER ROYBAL: Thank you, Madam Chair. I don't have anything to report or bring up today, so I appreciate the time.

CHAIR HAMILTON: Excellent. Commissioner Hughes.

COMMISSIONER HUGHES: Mine is short but not quite as short as Commissioner Roybal's. I am having a townhall meeting Hour with Hank this Thursday at 5:30, and then that will be the last one until September and people are welcome to attend online, since people seem to like the online format.

I've been consulting – I haven't done it yet but I've contact the Housing Advocacy Coalition just to give me input on the short-term rental questions and I'll be sure to share anything I learn about that with everybody else, and I will be attending the NACo conference next week as long as COVID doesn't interfere, one way or the other, and I'm looking forward to and I'll be sure to be at lunch on Saturday. Congratulations to our Community Services Department.

CHAIR HAMILTON: Excellent. Thank you. Commissioner Hansen.

COMMISSIONER HANSEN: Thank you, Madam Chair. So I have a number of things. One, we had a great Coffee and Tea under the Trees. I had both of the new Commissioners-elect come to the Coffee and Tea under the Trees, and that was very successful so I suggest that as a good possibility for other people if they wanted to do that at their townhalls, introducing people. It seemed to be very popular. I had a really good turnout and there was lots of people.

I also wanted to mention that both Commissioner Hamilton and I, and Commissioner Hughes, although he was remote, attended a WIPP meeting that took place in the Santa Fe Convention Center. It was really rather disappointing in the process that was presented. They basically did not allow people to speak in person. They made people write down cards on 3 X 5 cards and then they selected the questions which were basically their own questions. I presented them with a sheet of questions and none of those were asked. They were rude to the people who attended the meeting, and the meeting was packed. There was over 100 people in this very small room.

They didn't take any consideration into COVID or any of those issues, and then I was told afterwards that in Carlsbad and Hobbs, elected officials are always allowed to speak at WIPP meetings, but obviously not in Santa Fe. So that was also slightly offensive. It was a very poorly run meeting and not friendly and if they were there to engender support or good will they missed the target. So I think it's important to mention that in a public forum so that people understand that your elected officials did show up at this important meeting, especially since we have many WIPP trucks running through out county and we are also very concerned about the mission and concerned about the extended opening and length of the WIPP facility and the type of waste that is going to be

processed there or brought to it that is not trans-uranic waste, that is plutonium, PIT oxidized and then polluted, which is not part of the agreement for the WIPP facility.

So also, I also want to congratulate the Community Services Department for being recognized. That was something that Katherine and I had worked on before she left as County Manager because she knows I am quite active at NACo and so I'm very happy that our Community Services Department is being recognized on a national level. They deserve it. They have done a great job and I will of course be at the luncheon and I am very happy that Commissioner Hughes and I believe Commissioner Roybal is also going so that we can all be there to cheer them on and support them. Thank you, Madam Chair.

CHAIR HAMILTON: Excellent. Thank you very much. So I only have a couple of things. First of all, thank you, Commissioner Hansen, for sharing the sort of disappointing news on the WIPP meeting. I agree with her completely. It's not necessarily surprising to have had a very controlled meeting that avoided the need to take any public comment into account but it's not a good way to go.

And I also want to join all my colleagues in congratulating the Community Services Department. That's outstanding. They do such outstanding work and that's one of the key places where things that the community really needs gets done, so it's amazing to get that. Thank you, Commissioner.

And then to say I'm going to be having my Coffee with the Commish, which will, however, be virtual, next Wednesday. That's the 20th, from 5:30 to 6:30 and everybody should take a look out. Tina will be sending out the invitations very soon.

10. B. Elected Officials' Issues and Comments, Including but not Limited to Constituent Concerns, Recognitions and Requests for Updates or Future Presentations

CHAIR HAMILTON: Deputy Clerk, are you on today or is our Clerk on Webex?

EVONNE GANTZ (Deputy County Clerk): Madam Chair, I don't think the Clerk is on. We're just taking a very slight break between the primary and the general election and voter registration has reopened so anybody who's interested in registering can do so.

CHAIR HAMILTON: Excellent. Thank you. Are there any other elected officials present or on Webex who would like to speak at this time? Daniel, do you see anybody on who might want to speak? Our Treasurer or Assessor or anybody?

MR. FRESQUEZ: Madam Chair, I see the Undersheriff. I do not see any other elected officials.

CHAIR HAMILTON: Okay, Undersheriff, if there's anything to report at this time please feel free. If not we'll move right along.

11. MATTERS FROM THE COUNTY ATTORNEY

CHAIR HAMILTON: I'm going to go first to Manager Shaffer to introduce our new County Attorney.

MANAGER SHAFFER: Thank you, Madam Chair. I did want to take the

opportunity to welcome Jeff Young to our executive management team as our new County Attorney. In New Mexico Jeff's had a variety of high level positions with the State including general counsel to the State Personnel Office as well as the Children, Youth and Families Department, as well as being a counselor to the Chief Justice of the New Mexico Supreme Court. Prior to moving to New Mexico, Jeff had a variety of attorney positions at the federal and state level including with the CIA and the Texas Tech University system as well as the Colorado Community College system and the City and County of Denver, Colorado.

So we're excited to have Jeff join us and I did want to take the opportunity to introduce him to the Board as well as to the rest of the County and the public. Thank you.

CHAIR HAMILTON: That's excellent. Certainly we on the Commission really want to welcome you to the County.

JEFFREY YOUNG (County Attorney): Madam Chair, Commissioners, thank you, Greg and thank you, Madam Chair, for that really warm welcome, and as a citizen of Santa Fe and a lawyer it's just an honor and a privilege to really serve in this role and I look forward to doing that with integrity and everything else, so I really appreciate it. I guess that's all I have to say unless you guys have any questions on that.

CHAIR HAMILTON: We feel lucky and very grateful to have you here, so welcome. We'll do our best to give you as hard a time as possible and appropriate, but otherwise it should just be smooth sailing.

11. A. **Executive Session. Limited Personnel Matters, as Allowed by Section 10-15-1(H)(2) NMSA 1978; Board Deliberations in Administrative Adjudicatory Proceedings, Including Those on the Agenda Tonight for Public Hearing, as Allowed by Section 10-15-1(H)(3) NMSA 1978; Discussion of Bargaining Strategy Preliminary to Collective Bargaining Negotiations Between the Board of County Commissioners and Collective Bargaining Units, as Allowed by Section 10-15-1(H)(5); Discussion of Contents of Competitive Sealed Proposals Pursuant to the Procurement Code During Contract Negotiations as Allowed by Section 10-15-1(H)(6); Threatened or Pending Litigation in which Santa Fe County is or May Become a Participant, as Allowed by Section 10-15-1 (H)(7) NMSA 1978; and, Discussion of the Purchase, Acquisition or Disposal of Real Property or Water Rights, as Allowed by Section 10-15-1(H)(8) NMSA 1978, including:**
1. **Monsanto Class Action Settlement, *City of Long Beach, et. al. v. Monsanto Company, et. al.*, Case No. 2:16-CV-03439-FMO-AS, United States District Court, Central District of California – Western Division**
 2. **Discussion of Bargaining Strategy Preliminary to Collective Bargaining Negotiations Concerning IAFF Local 4366**

CHAIR HAMILTON: Would you like to take you first crack at reading us into Matters from the County Attorney?

MR. YOUNG: Absolutely. Absolutely, Madam Chair. Madam Chair and Commissioners, I would ask the Board move into executive session pursuant to discussion of bargaining strategy preliminary to collective bargaining negotiations. That's Section 10-15-1 (H)(5) and then also threatened or pending litigation in which the County is or may become a participant as permitted by Section 10-15-1 (H)(7) NMSA 1978.

CHAIR HAMILTON: Excellent. And do we expect a half hour or 45 minutes? I know that's unpredictable.

MR. YOUNG: Right. Yes, Madam Chair, I'd like to add the titles of the two items that are listed there, which is the Monsanto Class Action Settlement, *City of Long Beach, et. al. v. Monsanto Company* and also there is discussion of bargaining strategy preliminary to collective bargaining negotiations concerning IAFF Local 4366. I think no more than 45 minutes would be appropriate.

CHAIR HAMILTON: That sounds good. So just for a heads-up it's 4:45 so when we do go into executive session we can expect to return about 5:30 for the public hearings. Commissioner Hansen, and then Commissioner Hughes.

COMMISSIONER HANSEN: Yes. I would like to make a motion to go into executive session for the items that the County Attorney mentioned.

COMMISSIONER HUGHES: And I will second.

CHAIR HAMILTON: Excellent. So I have a motion and a second. Can I get a roll call please?

The motion to go into executive session passed by unanimous roll call vote as follows:

Commissioner Garcia	Not Present
Commissioner Hamilton	Aye
Commissioner Hansen	Aye
Commissioner Hughes	Aye
Commissioner Roybal	Aye

[The Commission met in executive session from 4:45 to 5:57.]

CHAIR HAMILTON: Good evening. We're back from executive session and I would entertain a motion to come out of executive session.

COMMISSIONER ROYBAL: So moved, Madam Chair.

COMMISSIONER HANSEN: Second.

CHAIR HAMILTON: Can we add the – thank you, so I have a motion and a second but could we add what was discussed in executive session were only those matters listed by our County Attorney in the motion to go into executive session, and no decisions were made?

COMMISSIONER HANSEN: Yes.

CHAIR HAMILTON: Excellent. So I have a motion and second.

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

11. B. Potential Action on Items Discussed in Executive Session

CHAIR HAMILTON: I'll go to Commissioner Hansen for item 11. B.

COMMISSIONER HANSEN: Thank you, Madam Chair. I would like to make a motion. I move that Santa Fe County participate in the Monsanto class action settlement as a class member, understanding that participation as a class member means that the County will release all claims arising from PCB contamination that were or could have been alleged against Monsanto and the other parties released as set forth in the proposed settlement agreement.

COMMISSIONER HUGHES: Second.

CHAIR HAMILTON: So I have a motion and a second. Is there discussion or questions?

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

12. PUBLIC HEARINGS on Proposed Ordinance and Other Matters Related to Community Solar

A. Ordinance No. 2022-05, an Ordinance Amending the Sustainable Land Development Code (SLDC), Ordinance No. 2016-9, to Add a Definition of Community Solar, to Add a New Section 10.25 to Address Standards for Community Solar Facilities, and to Add a New Clause to Section 8.11.3.5.2. to Prohibit a Community Overlay District from Restricting the Location and Procedures for Installing Community Solar Facilities

LUCY FOMA (Planning): Good evening, Commissioners. I'm here tonight to present the community solar public hearing for the adoption of the proposed ordinance. Staff worked hard and long across departments to develop this ordinance and we also gathered input from industry specialists and the public on what you'll see tonight. We presented this to you in May and then in June we presented to the Planning Commission and they recommended for adoption, and so that's why we're here with you tonight.

As background on this ordinance, the State passed the Community Solar Act last year and the PRC published the rules in the spring of this year. The salient parts about this act and the rules is that there's a loan income carve-out. We feel that this will really benefit our constituents in communities and make solar energy available to those who aren't able to put solar on their properties either because they're renters or because they can't afford the upfront costs.

Just a little more background about the difference between community solar and commercial solar. Community solar in the State of New Mexico is capped at five megawatts per project, and the State is capping the entire community solar for the first pilot two years to 200 megawatts. So all of this is to say that it's urgent that we act now. This is going to be just for these first two years a small portion of the electric available to our consumers but hopefully in 2024 we'll be able to add more community solar in the

county and throughout the state.

So what is the County's role in this? The County has jurisdiction over the zoning and design standards for community solar and what you have in the draft ordinance are what we thought to be best practices as well as the recommendations from industry leaders on how we make this as available as possible to the applicants who will be going forth to the State to apply to do community solar projects. There are a few differences between this draft ordinance and what we brought to you in May. One was we changed the height standards for non-residential and multi-family so that it could be eight feet above the height limitations that would be allowed for rooftop solar. The other change is that we made a clarification on what the infrastructure connection from the community solar to the existing utility would be, so we said that would be considered a distribution line, so that it doesn't fall under our transmission line category in the code.

Again, this ordinance was needed because the current code has commercial solar as a category for applicants but it's fairly prohibitive and we felt that without coming back and creating a Community Solar Ordinance none of the projects that would be proposed for the State Community Solar Act and rules would be able to be built in Santa Fe County. So this is to enable our own residents to benefit from greenhouse gas reductions, lower utility rates, access to solar job creation and dare I say our future?

CHAIR HAMILTON: Dare. Dare.

MS. FOMA: I believe we provided the memo and the draft ordinance in your agenda items and I'm available for questions if you have any.

CHAIR HAMILTON: Excellent. Thank you so much. I'll open it to public hearing in a moment but first I'll go for some preliminary questions. Commissioner Hansen.

COMMISSIONER HANSEN: Thank you, Lucy. Thank you, Madam Chair. So earlier in the evening, earlier today we made proposals of no fencing on solar installations, and so will that carry on over to this also?

MS. FOMA: Madam Chair, Commissioners, there is no screening requirement. However, if applicants propose a screening on their installation, we request that they build it with agricultural fencing, the four-inch spacing so that wildlife could go through.

COMMISSIONER HANSEN: Okay. Sounds good. And you'll do the same kind of screening or the scrim – that will be part of the requirement also for these community solar –

MS. FOMA: Maybe I misunderstood your question. You're talking about the fencing around?

COMMISSIONER HANSEN: Yes. But then underneath they're going to put a scrim.

CHAIR HAMILTON: It's just a protection off of that phase. It's an alternative. The logic of that was that if the fencing is primarily to protect the solar panels it was mostly the electronics on the back and wiring. So it was just a covering on the back of each panel to cover the wiring.

MS. FOMA: We did not include that in the draft ordinance, a screening on the back of each unit. I misspoke; it's a six-inch, not –

CHAIR HAMILTON: It wasn't that that was required. It was just for

those projects an alternative.

COMMISSIONER HANSEN: I just want to make sure – what I’m trying to get at is we’re having some consistency. Whoever wants to do this community solar, and it’s not Yearout or us, these people can then do the same thing that we are doing on our facilities.

MS. FOMA: Madam Chair, Commissioner, we will address that in – I can either have Joseph address it now, which it looks like he wants to address it now. Here you go.

JOSEPH MONTOYA (Community Development Director): Madam Chair, members, we don’t address it in this ordinance. It’s actually addressed through a State regulatory process. And so by definition, every one of the solar systems will have a screen on it. Just so you’re aware.

COMMISSIONER HANSEN: Okay.

MS. BEAM: I could answer that real quickly is that the State will certify – they have a green certification and they do require the scrim. So it’s very likely that that will be a requirement in the State process for RFPs.

COMMISSIONER HANSEN: Okay. I think it’s good for Land Use to know what’s going on, that we make this approval and that we have some consistency so we don’t have people coming and say they didn’t have to do that and we do. Okay. So, I think that that all sounds good. I’ll let you go to somebody else. I think I have another question but I’ll –

CHAIR HAMILTON: And we still have the public hearing and there’ll be plenty of time. Are there any other questions at this point before I go to the public hearing? So I’m going to go ahead, unless there’s any other information you guys want to present, I can open the public hearing at this point.

MS. FOMA: We have no further information at this point.

CHAIR HAMILTON: Okay. Great. So I’m going to go ahead and open public hearing. Is there anybody present in the chambers or on Webex who cares to speak to this matter? Daniel, do you see anybody on Webex, because nobody else has signed up formally. Do you see anybody on Webex who might want to speak to this?

MR. FRESQUEZ: Madam Chair, I’m not seeing anybody indicating that they’d like to speak to this item on Webex.

CHAIR HAMILTON: Okay. I appreciate it. So I will go ahead and close the public hearing. Do you Commissioners have any other questions or discussion on this or what’s the pleasure of the Board? Commissioner Hansen.

COMMISSIONER HANSEN: Yes. I’ll move to approve the ordinance amending the Sustainable Land Development Code, Ordinance 2016-9 to add a definition of community solar, to add a new Section 10.25 to address standards for community solar facilities, and to add a new clause to Section 8.11.3.5.2 to prohibit a community overlay district from restricting the location and procedures for installing community solar facilities.

COMMISSIONER HUGHES: I’ll second.

CHAIR HAMILTON: Excellent. May I please get a roll call?

The motion to approve Ordinance No. 2022-05 passed by unanimous roll call vote as follows:

Commissioner Garcia	Not Present
Commissioner Hamilton	Aye
Commissioner Hansen	Aye
Commissioner Hughes	Aye
Commissioner Roybal	Aye

12. B. Resolution No. 2022-054, a Resolution Adopting the Santa Fe County Community Solar Letter of Support Criteria, Letter of Support Template, and Zoning Statement Template

MS. FOMA: Madam Chair, Commissioners, thank you. I'm here with my colleague Nate Crail who's going to give you a presentation on this resolution.

CHAIR HAMILTON: Thank you. Welcome, Nate.

NATE CRAIL (Planning): Hello, Madam Chair and Commissioners. I'm here to present the resolution adopting the community solar letter of support criteria, template and zoning statement template. So just a little more background. To reiterate, community solar is solar arrays shared among subscribers for providing both savings to individual consumers, and it's based on the 2021 Community Solar Act passed in the New Mexico State Legislature. And in March 2022 the New Mexico Public Regulation Commission published their rulemaking that will regulate the community solar facilities in the state.

The State implementation timeline, the RFP opening is anticipated to happen this month with closing in October. It's subject to change, but nonetheless, timing is of the essence if we want to have community solar facilities in Santa Fe County, and so this resolution is to lend County support for community solar projects in the RFP process at the State level.

So the proposed resolution involves the following parts: First, it will designate the Community Development Department or its designee to authorize to issue a letter of support for a community solar project the department deems worthy of the County support, and that support will be determined by the letter of support criteria, and then we will also have the letter of support template and the zoning statement template that will all be used. The letter of support in the RFP process.

The following are the letter of support criteria. You can find the specific language of the criteria in Exhibit A. These are still subject to change depending on the final RFP rating process criteria, which are still up in the air. So the criteria involve things such as reseeding with native plants; the project may not be on a cultural site, not on land with healthy, intact ecosystem, sited on brownfields or degraded land, incorporate agrovoltaic systems, and not within a mile of a wildlife or migratory corridor or located on publicly and County-owned land, have subscriptions from county residents who are above the standards for low income subscribers, which for the state is 30 percent, so we would want more than that, the project is to have underground utility lines as well as have local

workforce and business opportunities.

Another aspect of the resolution is to update these criteria as appropriate as things change at the State level.

The next is the letter of support template, and you can review that in your packet. This is zoning statement template, and so we have this because in the RFP bidding process, in order to score higher in the process not only do you want to have a letter of support saying that the County supports this but also to say the building permits will be coming once the State approval happens.

And so any questions or comments.

CHAIR HAMILTON: Commissioner Hughes.

COMMISSIONER HUGHES: Yes, just a question about the siting on – like not siting it on intact ecosystems and siting it on – is that sort of an absolute, is that like you get more points for the more degraded the land is sort of thing? How does that –

MR. CRAIL: Madam Chair and Commissioner Hughes, we don't have specific points assigned to the criteria in this particular letter of support but if it is on a brownfield it will have a stronger letter of support, but if it is in fact on an intact ecosystem, maybe their letter of support won't be quite as strong.

COMMISSIONER HUGHES: And how would something like a parking lot of the top of a – I don't know – of a business or a shopping center? How would that be considered?

MR. CRAIL: A rooftop or built environment, so that would score well, because it's already an existing built environment and not a healthy ecosystem.

COMMISSIONER HUGHES: Okay. Thank you. That was my question.

CHAIR HAMILTON: Are there any other questions? Just as a follow-up, it can be tricky to figure out how you classify a healthy ecosystem. Does it have to be an original meadow, even if it's a grassland? Or if it's been previously disturbed, is it an acceptable place, like agricultural land, that kind of thing? Have you guys talked about that?

MR. CRAIL: We've had many discussions about whether agricultural land would be classified as a healthy ecosystem or not. I think what we had in mind was an open space or previously was not used for intensive agriculture, but those are details we'll have to look at once we actually get the projects.

CHAIR HAMILTON: Certainly. You have to look at them. There seems to be a lot of wiggle room in that. The intent makes sense. But I can think of lots of quasi-rural areas in my district, for instance that I would probably think would be fine, but how that definition would impact them is a question. Yes, Commissioner Hansen.

COMMISSIONER HANSEN: Madam Chair, I move to approve the resolution adopting the Santa Fe County community solar letter of support criteria, letter of support template and zoning statement template.

COMMISSIONER HUGHES: Second.

CHAIR HAMILTON: Excellent. So I have a motion and a second.

MR. YOUNG: Madam Chair, I think this is supposed to be a public hearing.

CHAIR HAMILTON: Thank you so much for keeping me in line, and sorry everybody. I'm going to go ahead and open the public hearing on this. Is there

anybody on Webex or in the audience who wishes to address this matter? Daniel, once again, do you see anybody on Webex who wants to speak to this resolution?

MR. FRESQUEZ: Madam Chair, I'm not seeing anybody indicating that would like to speak to this matter.

CHAIR HAMILTON: Okay, great. Just to give people time, is there anybody on Webex who would like to unmute and speak to this matter? Hearing no response, I'm going to close the public hearing, and at this point I will entertain the motion.

COMMISSIONER HANSEN: As restated, I move to adopt the resolution with the Santa Fe County community solar letter of support criteria, letter of support template and zoning statement template.

COMMISSIONER HUGHES: And I'll second it again.

CHAIR HAMILTON: Really appreciate it. Sorry for making you do it twice. If there's no further discussion I have a motion and a second.

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

MANAGER SHAFFER: Madam Chair, before we move on I just wanted to let you know that staff intends to solicit proposals from would-be community solar developers who may be interested in utilizing County property for such purposes. Any such arrangement whether by a lease, easement or what have you, would ultimately be brought back to the Board of County Commissioners for ultimate approval, but we are going to look to see if there are mutually beneficial opportunities for developers of community solar to partner in that way with the County on County facilities. So I just wanted to give you that heads-up that that's something we'll be working on on a separate track from what you approved this evening. Thank you.

CHAIR HAMILTON: Wow. That sounds excellent to me. Commissioner Hansen.

COMMISSIONER HANSEN: Thank you, Greg. On that point also I wanted to mention to staff that SWMA is considering doing a community solar, so you could also reach out to Randall Kippenbrock and let him know that we've gotten this passed, because they have been mentioning it at our board meetings.

CHAIR HAMILTON: That sounds great. Thank you, and thank you to staff for doing this. This was a lot of work and very valuable to have done. Really appreciate it.

COMMISSIONER HANSEN: Madam Chair, thank you very much.

13. PUBLIC HEARINGS

- A. Case # 22-5110 Arable LLC, Restaurant B Liquor License. Arable LLC, Applicant, Adela Duran, Agent, Request Approval of a Restaurant B-Beer, Wine, and Spirits Liquor License to be Located at 7 Avenida Vista Grande, Suite B-6, within the Agora Shopping Center in El Dorado. The Property is Zoned as Commercial Neighborhood Within Section 9, Township 15 North, Range 10 East (Commission District 5)**

JOSE LARRAÑAGA (Case Manager): Thank you, Madam Chair. Arable LLC, applicant, Adela Duran, agent, request approval of a Restaurant B – beer, wine, and spirits liquor license to be located at 7 Avenida Vista Grande, Suite B-6, within the Agora Shopping Center in Eldorado. The property is zoned as commercial neighborhood within Section 9, Township 15 North, Range 10 East, Commission District 5.

The applicant is requesting approval of a Restaurant B – beer, wine, and spirits liquor license. Beer, wine, and spirits will be served with meals at the Arable Restaurant. The property is located at 7 Avenida Vista Grande, Suite B-6, within the Agora Shopping Center in Eldorado. A restaurant with incidental consumption of alcoholic beverages has historically occupied this site. Arable Restaurant is in possession of a current Santa Fe County business license.

The zoning for this property is regulated by Ordinance No. 2016-9, the Sustainable Land Development Code, Chapter 9, Section 9.10, US 285 South Highway Corridor District Overlay. The site is zoned as commercial neighborhood.

Table 9-10-12 285 South Highway Corridor Overlay use table allows for a restaurant with incidental consumption of alcoholic beverages as a permitted use within the commercial neighborhood zoning district.

The State Alcoholic Beverage Control Division granted preliminary approval of this request in accordance with Section 60-6B-4 NMSA of the Liquor Control Act. The Liquor Control Act requires the Local Option District to conduct a public hearing on the request to grant a Restaurant B – Beer, Wine, and Spirits Liquor License at this location. In accordance with the Liquor Control Act the BCC may disapprove the issuance of the license if the location is within three hundred feet of any church or school; the issuance would be in violation of zoning or an ordinance; or the issuance would be detrimental to public health, safety or morals of the residents of the local option district.

Growth Management staff has reviewed this request for compliance with pertinent Code requirements and finds the following facts to support this submittal: Table 9-10-12, 285 South Highway Corridor Overlay use table allows for a restaurant with incidental consumption of alcoholic beverages as a permitted use within the commercial neighborhood zoning district; the applicant has met the State of New Mexico requirements for noticing; the site is one half mile from the nearest church and one mile from the nearest school.

Staff recommendation is for approval of a Restaurant B – Beer, Wine, and Spirits Liquor License (Restaurant B) to serve beer, wine, and spirits with meals to be located at 7 Avenida Vista Grande, Suite B-6.

Madam Chair, I stand for any questions.

CHAIR HAMILTON: Thank you very much. Before I go to public hearing, are there any questions? Commissioner Hughes.

COMMISSIONER HUGHES: Thank you, Madam Chair. So did Arable not have a license up to this point and it was just the previous restaurants in that location that had the liquor license?

MR. LARRAÑAGA: Madam Chair, Commissioner Hughes, yes. Arable was bought out by somebody else. Beer and wine is not transferable, so the new owner had to come forward and go the ABC to get approval. For beer and wine in this instance, the spirits, which is a Restaurant License B.

COMMISSIONER HUGHES: Okay, and so Arable, under the original owners only had the beer and wine license?

MR. LARRAÑAGA: That's correct.

COMMISSIONER HUGHES: Thank you.

CHAIR HAMILTON: Are there any other questions before I open public hearing? Okay, so I'm going to go ahead and open the public hearing on this case. Is there anybody present or on Webex who wants to speak to this case for a liquor license for Arable, LLC?

MR. FRESQUEZ: Madam Chair, Adela Duran is raising her hand on Webex.

CHAIR HAMILTON: Excellent. Adela Duran, I hope I got that name correct.

ADELA DURAN (via Webex): Yes, you did, Madam Chair.

CHAIR HAMILTON: Can you please get sworn in?

[Duly sworn, Adela Duran testified as follows:]

MS. DURAN: Thank you. My name is Adela Duran. My address is 141 East Palace Avenue and I do recognize that I am under oath for my testimony.

CHAIR HAMILTON: Excellent. Thank you. So if you could give us your testimony that would be appreciated.

MS. DURAN: Thank you, Madam Chair, members of the Commission. I only wanted to introduce myself as the agent for Arable, LLC. I have behind me Siri Bri who luckily goes by J.J. He's the new owner of Arable, and I just want to let the Commission know that we are appreciative your consideration of approval of her liquor license, and I will just state that the previous owners of Arable, LLC did have a license A+ which is beer and wine plus New Mexico spirits and J. J has applied for Restaurant – B as Jose mentioned, which includes all spirits, not just New Mexico spirits. But Jose did a great job, obviously, in explaining the license. He's also been very helpful to me and very patient, I might add. This is my second license and second hearing before the Commission, so I couldn't do it without Jose's help and that's really all I have tonight. Thank you very much.

CHAIR HAMILTON: Excellent. Thank you so much for the statement and for being available for questions to see this. Is there anybody else in public or on Webex who wishes to speak to this matter?

MR. FRESQUEZ: Madam Chair, I'm not 100 percent on this but I believe Roberta Richards might want to speak.

CHAIR HAMILTON: Okay. Roberta Richards, if you could unmute

yourself and get sworn in.

[Duly sworn, Roberta Richards testified as follows:]

ROBERTA RICHARDS (via Webex): Can I interrupt? I didn't want to speak to this issue. There was another issue I wanted to speak to.

CHAIR HAMILTON: Oh, okay. I think the issue you're interested in will come up shortly, so if you could just hang in there, and you can just confirm that you're still under oath. Sorry for the confusion. Is there anybody else who wishes to speak to the liquor license matter? Hearing none, I think I will close the public comment on this matter. Yes, Commissioner Hughes.

COMMISSIONER HUGHES: Thank you, Madam Chair. I would like to make a motion to approve Arable, LLC's Restaurant – B's liquor license.

COMMISSIONER ROYBAL: I'll second.

CHAIR HAMILTON: Excellent. Thank you. I have a motion and a second. Is there any further discussion?

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

COMMISSIONER HUGHES: Madam Chair, I just want to say I hope to eat there some day soon and look forward to the new owners, whatever they offer.

CHAIR HAMILTON: Exactly. And you can invite me. I hope to eat there soon.

MS. DURAN: J.J. and her staff will look forward to all of you coming out sometime in the near future. Thank you.

CHAIR HAMILTON: Thank you, J.J. We look forward to seeing you in person.

13. B. **Case # 22-5080 Los Brios Subdivision Conceptual Plan and Preliminary and Final Plat. JTT, LLC, Applicant, JenkinsGavin, Agent, Request (1) Approval of An Affordable Housing Agreement and (2) Approval of a Conceptual Plan and Preliminary/Final Subdivision Plat. The Applicant is Proposing a Subdivision of 56 Single Family Lots, Inclusive of Two Existing Homes. The 17.15±-Acre Property is Comprised of Two Separate Parcels (Lot 1, 9.02 Acres, and Lot 2, 8.13 Acres). The Applicant is Also Requesting Approval of the Subdivision Affordable Housing Agreement. The 17.15-Acre Site is Zoned as Traditional Community (TC) Within The Village of Agua Fria Community District Overlay (VAFCD). The Property is Located at 4738 Agua Fria Road, SDA-2 (Commission District 2)**

JOHN LOVATO (Case Manager): Thank you, Madam Chair and Commissioners. JTT, LLC, applicant, JenkinsGavin, agent, request 1, approval of an affordable housing agreement and 2, approval of a conceptual plan and preliminary/final subdivision plat. The applicant is proposing a subdivision of 56 single-family lots, inclusive of two existing homes. The 17.15-acre property is comprised of two separate

parcels. The applicant is also requesting approval of the subdivision affordable housing agreement. The 17.15-acre site is zoned as traditional community within the Village of Agua Fria Community District Overlay. The property is located at 4738 Agua Fria Road, SDA-2, Commission District 2.

Summary: This subdivision is classified as a Type 2 major subdivision containing 25-499 parcels where any parcel is less than ten acres in size. As the project consists of more than 24 lots, a conceptual plan is required and has been submitted. The applicant also requests preliminary and final subdivision plat approval for this single phase subdivision.

The property is located in Santa Fe County within the Village of Agua Fria Community District Overlay and is zoned Traditional Community per the SLDC Zoning Map. The parcel is 17.15 acres in size, and density in the traditional community allows for three dwelling units per acre when connecting to community water and community sewer. This allows up to 51 lots in which 15 percent of lots are required to be affordable, and the applicant will be required to provide eight affordable lots. A bonus of 2/3 unit per affordable unit is allowed per section 13.6 of the SLDC, which allows a bonus of five homes, bringing the total number of homes allowed to 56. There are two existing homes, so an additional 54 homes are proposed, and a total of 56 lots will be created.

The 56 residential lots range in size from 0.12 acres to 0.29 acres. In addition, seven open space tracts are proposed. The project includes 5.51 acres of open space, of which 1.44 acres will be improved as developed open space. The applicant states that the proposed lot sizes are consistent with the lot sizes in the vicinity.

The subdivision accesses off of Agua Fria via Los Brios North, and off of Rufina Street via Los Brios South. The proposed access off of Los Brios South and Los Brios North is a 20-foot roadway with a 45-foot right-of-way. The roadways provide a five-foot sidewalk and parking on one side of the street with two feet of curb and gutter.

The applicable requirements under the Santa Fe County Sustainable Land Development Code, SLDC, Ordinance 2016-9 which governs this application are the following: preliminary plats for major subdivisions, 5.8, final plat and conceptual plan.

The applicant is requesting conceptual plan approval as required for subdivisions of more than 24 lots in accordance with Chapter 4.9.9.2.1 of the SLDC. The applicant has addressed the conceptual plan approval criteria per Chapter 4.9.9.6 and staff has responded to the criteria as contained in the memo.

The following studies, reports and assessments were required as part of the application: adequate public facilities and service assessment. The applicant has demonstrated that there are adequate public service facilities to serve this project. Water service availability report, Section 6.5, the applicant has demonstrated that they can provide water to support this project. Traffic assessment, Section 6.6, the applicant has demonstrated that they can provide safe ingress and egress to the proposed development.

The application was reviewed for the following compliance with applicable standards set forth in the SLDC as follows: access, fire protection, landscaping and buffering, lights, signs, solid waste, parking and loading, water supply, wastewater and water conservation, open space, protection of historic and archaeological resources, terrain management, affordable housing.

Agency review: The following agencies have reviewed this application: NMED –

approval; City of Santa Fe Utilities – approval; City of Santa Fe Public Works – approval; County Public Works – approval; County Fire Marshal – approval with conditions; County Utilities – no comment; Soil & Water – approval; Santa Fe Public Schools – no opinion; and County affordable housing – approval.

Recommendation: The Affordable Housing Agreement has been reviewed and approved by the Affordable Housing Administrator and the Legal Department. Therefore, Staff recommends approval of the Affordable Housing Agreement attached as Exhibit 7.

Building and Development Services staff reviewed this project for compliance with pertinent SLDC requirements, and finds that the facts presented support the applicant's request for conceptual plan approval for a 56-lot residential subdivision and preliminary and final plat approval for Phase 56 lot subdivision on 17.15 acres for Los Brios Subdivision.

Therefore, Staff recommends approval of the applicant's request subject to the following conditions. Madam Chair, may I enter those conditions into the record?

CHAIR HAMILTON: Yes. Thank you.

[The conditions are as follows:]

1. The final plat shall expire 24 months after the final order is filed. Any time extensions shall be in conformance with the SLDC.
2. Compliance with applicable review comments from the following:
 - a. County Public Works
 - b. County Fire Marshal
 - c. County Utilities
 - d. County Open Space and Trails
 - e. County Affordable Housing
 - f. NMED
3. The Applicant shall record the Conceptual plan with appropriate County signatures, in the County Clerk's Office.
4. Final Plat with appropriate signatures shall be recorded with the County Clerk's office.
5. All staff redlines and comments shall be addressed prior to plat recordation.
6. The Applicant shall enter into a Subdivision Improvement Agreement with the County for completion of all subdivision improvements on-site and off-site, this agreement shall be signed by the Administrator, recorded and referenced on the plat. Water restrictions and conservation covenants shall be filed in the County Clerk's office and referenced on the plat.
7. A financial guarantee shall be submitted for all off-site and on-site improvements, prior to Final Plat recordation.
8. All roads/easements being created with the subdivision plat shall be named and rural addresses shall be obtained prior to plat recordation.
9. All utilities shall be installed underground.
10. The applicant shall submit a letter of approval from the City to use the existing well for open space irrigation.
11. Accessory dwelling units are prohibited on all lots. This shall be noted on the Final

Plat.

12. A Stormwater Pollution Prevention Plan (SWPPP) will be required at the time of Development Permit Approval.

MR. LOVATO: Thank you, Madam Chair and Commissioners and I stand for any questions.

CHAIR HAMILTON: Thank you. I think before we go to any questions does the agent have a presentation to make or want to make a statement.

MR. LOVATO: I think she does and she also has a presentation that's located on the T-drive and I sent an email to the IT Department so if they could present that for her. Thank you.

CHAIR HAMILTON: Thank you.

JENNIFER JENKINS: Good evening, Commissioners. My name Jennifer Jenkins with JenkinsGavin and I'm here this evening on behalf of JTT LLC in request for a conceptual plan and final subdivision plat approval for the Los Brios Subdivision. We're really excited about this project and I look forward to presenting it to you. We have a pretty brief presentation and then I'd be happy to stand for any questions.

[Duly sworn, Jennifer Jenkins testified as follows:]

MS. JENKINS: My name is Jennifer Jenkins. My address is 130 Grant Avenue, and I affirm that I am under oath. So as I mentioned, the owner and developer of the property is a local entity, JTT LLC. We represent them as their owner's representative, JenkinsGavin. Civil engineering services provided by Oralynn Guerrerortiz with Design Ingenuity, and traffic engineering services provided by Bohannon Huston.

So the subject property is located at kind of the western extent of Agua Fria Village. So the black line that you see here is the edge of Agua Fria Village. And so this is somewhat of a little bit of an island on the western extent of the subject property, and to the west you have the intersection of Airport Road and South Meadows here. It is bordered by Agua Fria to the north and it is bordered by Rufina to the south, and it is just over 17 acres.

So this is the zoning map. Everything that you see there in the orange is the Agua Fria Village traditional community and you can see the little finger sticking out there on the western extent that is the subject property. We are in the traditional community portion of the Village of Agua Fria Community District Overlay which does permit one dwelling per .33 acres if a project is served by community water and sewer.

So with respect to the Sustainable Development Area, Agua Fria Village, as I'm sure you are aware, is within Sustainable Development Area 2, which contains a mix per the SLDC, contains a mix of previously developed areas and areas where future development is likely and reasonable to occur.

So this map here shows – everything in the aerial that you see exposed is Agua Fria Village, and everything around it is from the City zoning map. So as you can see we're bordered by the City of Santa Fe to the west, the south and the east,

and you can see there's quite a variety of residential zoning densities within the vicinity, everything from R-2 up to R-6, R-12, right next door which is 12 dwellings per acre. We have mobile home parking zoning to the south so R-7 to the south. So it is quite a diverse neighborhood in this area of residential housing types.

So zooming in on the subject property here, as I said, it's just over 17 acres comprising two parcels. There are two existing residences on the property that you can see there kind of in the center, and we have frontage on Agua Fria as well as frontage on Rufina Street. The property slopes pretty gently from the east to the west and this property will be served by the City of Santa Fe with respect to public water and sewer service. That was generate previously; there was a memorandum of understanding that this body approved quite a few years ago for water and sewer service to the site, because this site is outside of the Agua Fria Village service area for water, because we are so far west, and subsequently to that the City and the County entered into a utility service agreement for Agua Fria Village and it basically said that the property south of Santa Fe River, if a property owner requests, it can be served by the City for water and sewer service. And we have received service approval letters from the City for those utilities.

So here is our site plan. As John mentioned, we have one access point on Agua Fria, and then we have a second access point on the south end of the property for Rufina. So we've divided the property in that way in order to limit the amount of traffic that is available to travel onto Agua Fria, and also to limit that amount of traffic that travels onto Rufina. But what this really creates is really quite special. The center of the property, we have a requirement for 5.5 acres open space per the County code and as part of that we are required to provide a 1.4-acre park area. So it really creates a really sweet opportunity to create a centralized park area that is accessible to both kind of halves of the neighborhood, if you will.

As I mentioned, there are two existing homes for which we are creating separate lots, and so there will be a total of 54 new homes, which is inclusive of eight affordable homes, which we are really proud of and really excited about. So our overall density here is just at 3.2 lots per acre.

So this just outlines the overall program. As I mentioned, with public water and sewer the permissible density here is one dwelling per one-third acre. The City of Santa Fe is providing water and sewer service, so we have a base density of 51 lots, and then with respect to the affordable housing, the SLDC provides for a density bonus of two-thirds of a unit for each affordable home that you provide. So that density bonus comes out to five lots. So that's how we arrive at the total lot count of 56 lots. So a total of 54 new homes.

Lot sizes range from just over a tenth of an acre to just over a quarter of an acre, and as I mentioned, we have 5.5 acres of open space inclusive of a 1.4-acre park.

So this is just zooming in on the park area. So we are designing a pedestrian connection between the north side of the neighborhood and the south side of the neighborhood, and the streets are served with sidewalks, which is actually not even a County code requirement for this type of project, but we felt that that pedestrian circulation and connectivity was really important. And so we're providing a nice

little trail pathway system through the park. We have lots of really nice, mature trees in that part of the site that we are preserving, and then we're going to supplement with additional landscaping, and then we're going to provide some benches, some doggie stations as well as some natural play for children. Boulders and different types of climbing things. That's really the direction that child play is going in terms of community parks is to do things that has more of a natural feel and also some of those elements can also be safer. So we're interested in creating a natural, passive environment here with some play opportunities, and this is really the community gathering place here. This is where neighbors are going to have an opportunity to cross paths and get together as they are walking the dog or taking the kids for a walk.

So we of course conducted a traffic study. This was a very extensive traffic study. We studied nine intersections. I've done much larger projects that did not come close to studying nine intersections. So we worked with Santa Fe County Public Works to ascertain and scope the study so they informed us which intersections we needed to analyze. You see them listed here. So as I believe this body is aware, when we do traffic studies, it's based upon how our intersections perform, and how they perform is based on a level of service analysis and the level of service analysis is a grading system.

A means very little delay, and that is an intersection that performs excellently. And then it goes all the way down to F, which is failing by national standards. But as far as the County code is concerned, the County code requires a minimum level of service of E. So the County code considers a level of service E as being failing.

This chart here shows – you see on the left there what the existing level of service is at each of the studied intersections. So we went out, we counted cars in the am peak hour, which is usually from 7:00 am to 9:00 am, and in the pm peak hours, which is 4:00 to 6:00 pm, which is our rush hour. So everything you see there on the left is how those intersections operate today. And then we take the anticipated traffic generation from this neighborhood and we add it on top, and then we re-analyze the level of service. And as you can see, it doesn't change at all.

So based upon this, Santa Fe County as well as the City of Santa Fe have approved the traffic study and determined that there is a negligible impact on the surrounding roadway network.

So lastly, late last week, and I believe you have this in your materials, we received a letter from Mr. William Mee from the Agua Fria Village Association asserting a few things that I would like to address really quickly and then I will wrap up my presentation.

So the first step in moving an application forward with Santa Fe County is you have a pre-application TAC meeting. TAC stand for Technical Advisory Committee. So you have a pre-application meeting. All the County staff that are involved in development review, the Technical Advisory Committee are there, and you present your project. There's questions and answers. It's very productive. And then following that meeting they send you a letter. Santa Fe County sends you a letter and says, okay. You need to do an environmental report. You need to do a traffic study, you need to do this, and you need to have a neighborhood meeting if

that is applicable. And then they tell you which registered organizations – HOAs, neighborhood associations, whatever community organizations that are registered with Santa Fe County, who do you need to notify of your neighborhood meeting. And they give you that contact information. They give you their name, their address, their email, if they have that information that has been provided by the organization.

And so you have to notify them of your neighborhood meeting and you also have to notify them of any public hearings. So what I've highlighted and what is boxed out in red there is the information Santa Fe County provided us for the contact information for Agua Fria Village, and that is to whom we sent the notice of the neighborhood pre-application meeting. And then you can see on the right is the email that was sent to the same email address provided by the County notifying them of the pre-application meeting.

And there was also a comment made in the letter about a requirement for us to present specifically to a community organization prior to submitting our application. There is no requirement for that in the SLDC because the SLDC implemented the pre-application neighborhood meeting. Those did not exist under the old code. So under the new code they said we're requiring neighborhood meetings for certain types of applications. So presenting independently to Tesuque, their little association, or to Agua Fria, that is no longer part of the new code. The neighborhood meeting is part of the new code and that is a requirement.

So we followed all of our obligations around noticing that meeting, noticing tonight's meeting, posting posters on the property. And so with that I will conclude my presentation. I really appreciate your attention. I'm happy to stand for questions. Thank you very much.

CHAIR HAMILTON: Thanks so much, Jennifer. I think we could – are there particular questions right now before we go to public hearing?
Commissioner Hansen.

COMMISSIONER HANSEN: Madam Chair, thank you. So I've been a Commissioner for 5 ½ years for District 2 and in that time there's been numerous different developments and almost every single one of them has contacted the Village personally and come to a Village Association meeting. So even though I'm having a hard time understanding how come the community organization that was created to have a meeting with the developer is not in the code when traditional historic villages have been told that that was their new pathway. And now there's not a new pathway is very concerning to me and is not just concerning to me for Agua Fria Village it's concerning to me for all the traditional communities and for any registered or community organization in the county that there wasn't notice.

I'm also extremely disappointed that the wrong zip code is on there for Katherine. As William said in his letter that I read, he's listed also at the Secretary of State so I am concerned about this discrepancy at Land Use and with understanding of the traditional historic villages and their understanding of not being notified. I would think that as a developer you would want their blessing and the fact that this is the only public hearing that exists for this entire development you would have made an extra effort to reach out to them, because I've heard, and I don't know if this is

true, that the neighborhood meeting was very poorly attended, and so possibly that was because the list of notifications was somewhat low.

So I'm going to go onto the next thing that – I would like some explanation on. So you have eight affordable houses and you get a density bonus of five, so that means that you can increase the amount to five more units but you're still building eight units of affordable housing? Okay. So you're still building eight units but because of the density bonus in the SLDC, does the SLDC then override the community plan for the traditional historic villages?

MS. JENKINS: I think Joseph Montoya is here. He may be better prepared, more appropriate to address that than I.

JOSEPH. MONTOYA (Community Development Director): Madam Chair, Commission, the density bonuses are provided for every unit – provided as a developer bonus in order to be able to achieve affordability. So the overall densities that are allowed to be provided under SLDC, there are times when you can't quite frankly, from a statistical standpoint, from a financial standpoint go over. In this particular case, the overall densities are still within the total SLDC allowed densities.

COMMISSIONER HANSEN: So, wait a second. So if there is 51 units allowed in the Village of Agua Fria, and then they got this density bonus, bumped them up to 56 units, then they're community plan no longer has standing?

MR. MONTOYA: Madam Chair, Commissioner, I clearly wouldn't say that the community plan doesn't have standing. What we're addressing is what the ordinance specifically says. So if you in fact have a development anywhere that's provided for water and sewer services you want to be able to provide the maximum possible allowability to be able to allow for the affordable housing or you're not going to get that affordable housing. So in order to be able to achieve that, that is what is actually in our code. And quite frankly, our intention is to actually increase those densities. Because what we're looking at is the financial issues as well as how to produce and create affordable housing, and folks are losing enormous amounts of funds trying to actually build housing, which is what we want them to achieve. We don't want [inaudible] We want them to build the housing. And so this is the way we have to allow for that.

COMMISSIONER HANSEN: Okay. Then the next question is what I have seen is really a large problem is when the HOAs are responsible for the parks and open space, a lot of times what happens is that the HOAs neglect the open space and neglect to take care of the park, and so how are you making sure that that is going to be addressed.

MS. JENKINS: Thank you, Madam Chair, Commissioner Hansen, Commissioners. So, yes, we are establishing a homeowners association because we have to maintain the streets, the open space, drainage improvements and the park, and we have already submitted a draft declaration of covenants. We're establishing a budget. There will be fees. We are designing the park to be relatively low maintenance. As I mentioned, there are already a lot of existing mature vegetation there that we are preserving. We are supplementing that. But our goal is that the park itself is not a maintenance burden for the community. But they are going to be maintaining the roads. They're going to be paying for snow plows. Would I love –

we're building these roads to County standards. Would I love Santa Fe County to maintain them? Yes, I would. But that's not available. And so we are establishing the association and the homebuilder is going to be running the association well into the construction and sales process. And so to ensure that they build a board of residents who understand how this is done. They understand and there will be full disclosure that when people buy their homes, whether it's a quarterly fee or monthly fee or however that is done, we don't anticipate the fees to be excessive. There are 56 lots to kind of spread it out. So we are doing everything in our power to not only set up the association properly, but also to be involved for a long period of time, usually up to 65 percent of the homes sold. The home building is going to have a seat on the board to ensure that everything is run properly.

COMMISSIONER HANSEN: Then on the park, so there won't be a playground, so to speak. There won't be like a slide and a swing and a – those are the two.

MS. JENKINS: Sure. Absolutely. So in working with our landscape architect, we worked with Consensus Planning out of Albuquerque on the design, and really allowed him to guide us on kind of the trend now around more natural play which statistics show can be safer for children. And so we're working out some of those details about what that's going to be, but there will absolutely be play opportunities, but they may be a little more untraditional than what we are typically accustomed to seeing in typical parks.

COMMISSIONER HANSEN: And so the homes in this development are one and two bedroom? Or three bedroom? What are they going to be?

MS. JENKINS: Most of these homes are going to be three and four bedroom homes.

COMMISSIONER HANSEN: So most likely they're going to have children.

MS. JENKINS: Correct.

COMMISSIONER HANSEN: So is there going to be any grass area in the park?

MS. JENKINS: We are not looking at doing turf, strictly for water use considerations, but we are seeding with native grasses and wildflowers. There's already good groundcover so like I said, there's good vegetation there right now that we really we want to disturb as minimally as possible, but we are creating pathways for walking or having a stroller or walking your dog, but it will be a little more native. Because like I said, we were just a little concerned about the water use for too much turf. So I live in the neighborhood I think you used to live in, Casa Alegre, and we have a wonderful park that people drive all over from all over the city.

MS. JENKINS: I remember that park.

COMMISSIONER HANSEN: To participate in and part of the reason they come there is because of the playground and because of the grass.

MS. JENKINS: Sure.

COMMISSIONER HANSEN: And so if we're building a community and a housing development I think it's really important that we think about the children and the access that they have to an actual playground that provides for

swings and slides and climbing apparatus. I've seen some of these ideas for the natural parks and they look great but I also think that it's important that children have some traditional type of activities.

MS. JENKINS: So we would be happy to work with staff as we move forward and circle back with our landscape architect and see if we can incorporate some additional active play opportunities and we'd be happy to work on that moving forward.

COMMISSIONER HANSEN: Okay. Madam Chair, I think that's all the questions I have at the moment.

CHAIR HAMILTON: Thank you. Further questions? Commissioner Hughes.

COMMISSIONER HUGHES: Thank you. I just have one quick question for Jennifer. I just wondered, is 56 homeowners pretty small for a homeowners association or what's your experience with that? Because I'm a little worried that that's not a huge number of people to draw from for a board and all that stuff.

MS. JENKINS: Thank you, Madam Chair, Commissioner. So it's relative, really based upon what those maintenance obligations are. So these are going to be paved roads, curb and gutter. Very low maintenance. These are going to be built to County standards, so yes, are they going to potentially have to have some snow removal done? Most neighborhood streets don't have snow removal. If you live in the city, like the neighborhood that I shared with Commissioner Hansen for quite a few years, they never removed snow off our streets because we were on these side neighborhood streets, right? So that would be kind of an option for the neighborhood association if they wanted to do that.

So the infrastructure is being designed in a very low maintenance way and so a lot of these associations with the roadway maintenance, it's about setting up reserve accounts. So most of those fees are going into reserve accounts. So when you do have to put on a fog seal on the asphalt or you do need to repair some curb, or you do need to do something of that nature, you have the funds to do that. So relatively speaking, I think 56 lots – I think it's a good number and we're working on that budget to make sure that nobody is, again, overly burdened with those fees. And the park is being designed to be quite low maintenance, low water use, because the City of Santa Fe charges a lot of money for water. So we are ensuring that there is going to be obviously, irrigation, to make sure that the new plantings that I'm hoping that once those plantings are established they can pull that irrigation out of there and they don't have to do it anymore. So I'm pretty confident, Commissioner, that we're going to be in good shape in that regard.

COMMISSIONER HUGHES: Thank you.

CHAIR HAMILTON: Are there other questions before I go to public hearing? So I'm going to go ahead and open public hearing. As far as I know I have three people who have requested to speak to this matter. I'll go through them and then I'll ask if there's anybody else. Is William Mee on Webex? Oh, you're here.

[Duly sworn, William Mee testified as follows:]

MR. MEE: William Mee. I'm president of the Agua Fria Village Association. And my address is 2073 Camino Samuel Montoya, Santa Fe, New Mexico, 87507. And I'm under oath. On June 21st I was reading my legal notices. I read legal notices every day and lo and behold, here is the development permit 22-5080. So I contacted the County the following day. I contacted Lucy Foma because I wanted to know why it hadn't gone to the community organization. She happened to be out on vacation for a week so I eventually contacted Robert Griego of Planning and asked, can you look into this. So we kind of went back and forth on different things and then finally we were able to get in on July 9th to actually see the applicant's case file.

So we looked at various things and then we noticed that actually the February 22nd letter went to Katherine Baca's address but it was the wrong address. She actually has a P.O. Box but she does have a street address also but it was the wrong zip code, so she never got anything. And I'd be curious as to what email address was supplied for the applicant. We were originally going to ask that this case be tabled and that we go through whole community organization meeting just to – as a matter of principle, because the community organization shouldn't be totally ignored in this process. We felt that it should be in the TAC, right up front at the Technical Advisory Committee. It should be a part. Whenever you have a traditional historic community and they have a community organization, they should be involved from the start.

Actually, I like the applicant's proposal. I like that they split the road in two. That's something that was kind of a precedent for Agua Fria Village, all the way back to our founding in 1993. So I would just kind of ask – this process – and maybe we need to add this to the Sustainable Land Development Code because my earlier testimony under Matters of Public Concern, there was a whole promise back in 2009 before the Growth Management Plan was done, that, okay, we took away your Agua Fria Development Review Committee, but we're actually giving you back something better. And what it is is you're going to have community organizations.

So the County did a Resolution 2009-74 and that particular resolution set out what every community needed to get up to speed for taking away their development review committee. So I really am just shocked at this whole process. If I hadn't read the public notice, we wouldn't be here tonight. There has to be more consideration of the communities.

Developers can come in and they can make a serious impact to the community and thankfully the applicant has really done a good proposal and it's not what my dad used to call rape and pillaging of the land, when he would talk about developers. That has always gone to the heart for me. But we're hopeful that we can welcome these people into our neighborhood, that we can be in contact with the HOA. These people are very fortunate because our community dates back to 1640, possibly 1603 which would pre-date the City of Santa Fe, and it's very important to us to preserve our community, and we thought we had the ticket with the community organization and now we're sadly disappointed. Thank you.

CHAIR HAMILTON: Is there a person here named Carol who wanted to speak?

MR. FRESQUEZ: Madam Chair, Carol is on Webex. It looks like she does not want to speak.

CHAIR HAMILTON: Okay. Is there anybody else present or on Webex who wants to speak to this matter?

MR. FRESQUEZ: Madam Chair, there's a gentleman named Dan who would like to speak.

CHAIR HAMILTON: Dan, if you could unmute yourself and get sworn in.

[Duly sworn, Daniel Romero testified as follows:]

DANIEL ROMERO (via Webex): My name is Daniel Romero, 3559 Placita Real Loop, and I am under oath. The developer or the woman that's representing the developer that it's gently flowing traffic on Agua Fria, but it's really not that gently flowing. On Rufina neither, based on pretty much flowing a lot of traffic. And then also my question is are the speed limits going to remain the same based on their traffic study on both those streets. Is it going to be the same at 25 or 35 miles an hour? I don't know what it is right now. I think it's 35 on Rufina.

And also I have a question as to the homes that are there on the borderline of that development, are they going to do anything there as far as any kind of fencing or walls or anything like that to that effect? I believe there are mobile home parks on both sides of that development as proposed. Those are the only questions I have right now.

CHAIR HAMILTON: Thank you very much. Is there any information you can provide on any of that?

MS. JENKINS: Thank you, Madam Chair. There is no need to alter the speed limits on either Rufina or Agua Fria, and as well, each of the backyards for the homes, everybody's going to have a fenced backyard as part of their home package. So that will de facto result in fencing along the east and the west edge.

CHAIR HAMILTON: So is there anybody else here or on Webex who wants to speak to this matter or has questions? Daniel, do you see anybody else who wants to make public comment?

MR. FRESQUEZ: Madam Chair, I'm not seeing anybody indicating they'd like to speak. However, there are four call-in users.

CHAIR HAMILTON: Okay. They could be calling in for some of the others also. If there's anybody on the phone that wants to speak to this particular public hearing on Los Brios, if you could unmute yourself and make yourself known. Hearing none, I think I'll close public comment. Is there other discussion on this item? Commissioner Hansen.

COMMISSIONER HANSEN: Thank you, Madam Chair. Okay, back to Mr. Romero's question about the walls and the fence, so along the one side there's open space, and then there's the trailer park next to it. So what's going to happen? I am really worried about these open spaces because they're not going to be maintained so I'm afraid there are going to be weeds and ignored, and then you have this long row, a small strip, which could be nice if it's maintained, but if it's not maintained then we're having problems. But is there a wall along that. I haven't driven to this property so I can't tell you what it looks like.

MS. JENKINS: Madam Chair, Commissioner Hansen and Commissioners, so on the east side where is that strip of open space there, we're actually quite a bit lower than the mobile home community that is to the east of us, and so there is an existing retaining wall. So there's already a wall. So, yes, there's a wall.

COMMISSIONER HANSEN: Okay. Good to know. Then I think that I should give fair warning to Land Use, the development review committee that used to exist is definitely going to come back up again. I know there is another new Commissioner-elect who has already mentioned that to me, so I think that if the community foundation or organizations were supposed to be a substitute for that, we need to figure out how to make that work for these traditional historic communities, because it's not. And I'm hearing that from not only my constituents but other communities such as La Cienega. I don't know about Commissioner Roybal but since there hasn't been very much development happening in District 1, things are going to change, eventually, and I do think that the traditional historic villages need a better pathway to hear about development. Because for William to have to find out about this in the legals doesn't really work for him or for me.

Just know that I am concerned about this open space, the HOA and everything being taken care of. As Commissioner Hughes said, it concerning because it's not a large number of people. Thank you, Madam Chair.

CHAIR HAMILTON: Thank you. Are there any other questions or what's the pleasure of the Board?

COMMISSIONER HANSEN: Madam Chair.

CHAIR HAMILTON: Commissioner Hansen.

COMMISSIONER HANSEN: I move to approve the conceptual plan and preliminary plat and application, approval of the affordable housing agreement and approval of a conceptual plan and preliminary and final subdivision plat for Los Brios. And I accept all the conditions that staff has listed.

COMMISSIONER ROYBAL: I'll second.

COMMISSIONER HANSEN: I think I caught everything in there. If I didn't they'd be up at the microphone.

CHAIR HAMILTON: He almost was, but you got that conditions piece. Okay, so I have a motion and a second.

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

CHAIR HAMILTON: So we're just being handed information now, so would it be acceptable to take a five-minute break to be able to read this? I propose that we come back at 7:21 and restart this after a slight recess so we can read this input. Thank you.

[The Commission recessed from 7:16 to 7:27.]

13. C. **Case # 20-5011 Spirit Wind West Conceptual Plan Extension. Kathy A. Miller, Applicant, Land Development Planning (Danny Martinez), Agent, Request an Amendment to a Condition Imposed by the Board of County Commissioners, Which Required the Applicant to Record a Conceptual Plan and Final Plat for Phase 2 by May 1, 2022. The Applicant Requests a Two-Year Time Extension of the Previous Approved Spirit Wind West Master Plan/Conceptual Plan (39 Lots to be Developed in Four Phases, on 133 acres) and to Amend the Previously Imposed Condition to Allow the Applicant Until May 1, 2024, to Record the Conceptual Plan. The Property is Located Off of Cerro Alto Road, via US Highway 285, within Section 5, Township 14 North, Range 10 East, and Section 32, Township 15 North, Range 10 East, Within the Bishop's John Lamy Grant (Commission District 4) [Exhibit 2: Opposition Material]**

CHAIR HAMILTON: We'll go right to Jose Larrañaga.

MR. LARRAÑAGA: Thank you, Madam Chair. Kathy A. Miller, applicant, Land Development Planning, agent, request an amendment to a condition imposed by the Board of County Commissioners, which required the applicant to record a conceptual plan and final plat for Phase 2 by May 1, 2022. The applicant requests a two-year time extension of the previous approved Spirit Wind West Master Plan/Conceptual plan and to amend the previously imposed condition to allow the applicant until May 1, 2024, to record the conceptual plan. The property is located off of Cerro Alto Road, via US Highway 285, within Section 5, Township 14 North, Range 10 East, and Section 32, Township 15 North, Range 10 East, within the Bishop's John Lamy Grant, Commission District 5.

The site for the proposed time extension is located in SDA-2 within a previously approved master planned area known as Spirit Wind West. The residential subdivision is within the U.S. 285 South Highway Corridor District Overlay and the underline zoning in the area is Residential Estate.

The applicant requests an amendment to a condition imposed by the BCC which required the applicant to record a conceptual plan and final plat for Phase 2 by May 1, 2022. The applicant requests a two-year time extension of the previous approved Spirit Wind West Master Plan/Conceptual Plan, and to allow the applicant until May 1, 2024 to record the conceptual plan. This request is in accordance with Chapter 1, Section 1.11.4 and Chapter 4, Section 4.9.9.10 of the SLDC.

The applicant states, "Our request is for a two-year extension on the conceptual development plan to May of 2024. This would allow the developments the time necessary to move through the development approval process."

On July 14, 2020, the BCC approved a two-year time extension of the master plan for Spirit Wind West. A condition of approval stated the following: Applicant must record a conceptual plan and final plat for Phase 2 per requested 24-month extension. If a conceptual plan and final plat for Phase 2 are not recorded by May 1, 2022, the previously-approved master plan for Spirit Wind West will become null and void and the proceedings on the subdivision shall terminate and a new conceptual plan application will

need to be submitted.

Staff have reviewed whether there have been any material code changes pertinent to the development of the area or material changes to the availability of services for the development and conclude that there have been no major code changes or change to the road system, zoning, density allowed, or any major development that could affect the proposed development.

Building and Development Services staff have reviewed this project for compliance with pertinent SLDC requirements and have found that the facts presented support the request. The SLDC does not include criteria to be met for an extension to be granted and there have been no major code changes since the development was approved. If such a code change had occurred staff would evaluate whether the approval should be extended and if so, whether additional conditions should be imposed to address any such changed circumstances. In this case, no such material changes have occurred.

Building and Development Services staff have reviewed this project for compliance with applicable requirements of the SLDC and conclude that there have been no major code changes that would affect this development and the facts presented support a two-year time extension of the previously approved master plan/conceptual plan. Staff recommends approval of the applicant's request for a two-year extension in accordance with Chapter 1, Section 1.11.4 and Chapter 4, Section 4.9.9.10 subject to the following conditions. Madam Chair, may I enter these conditions into the record?

1. Applicant must record a Conceptual Plan per requested 24-Month Extension (by May 1, 2024). If a Conceptual Plan is not recorded by May 1, 2024, the previously-approved Master Plan for Spirit Wind West will become null and void and the proceedings on the subdivision shall terminate and a new Conceptual Plan application will need to be submitted.
2. Applicant must comply with all previous conditions set forth by the Original Master Plan Approval as referenced in Final Order dated May 1, 2013, recorded in the office of the Santa Fe County Clerk as Instrument No. 1704253.
3. The Approval Condition recommended by Staff and the Previously Approved Conditions for the Project identified in the Final Order dated November 12, 2020, recorded in the office of the Santa Fe County Clerk as Instrument No. 1934201, shall be complied with.

MR. LARRAÑAGA: This report and the exhibits listed below are hereby submitted as part of the hearing record. Madam Chair, I stand for any questions.

CHAIR HAMILTON: Thank you, and my answer to the question as to entering the conditions. Is the applicant here and wanting to make a presentation or a statement?

DANNY MARTINEZ (via Webex): Yes, Madam Chair. I'm here.

[Duly sworn, Danny Martinez testified as follows:]

MR. MARTINEZ: Yes. My name is Danny Martinez. My business address is 5 Colina Way, Santa Fe, New Mexico, 87504, and I do affirm that I have been sworn in.

CHAIR HAMILTON: Thank you, Danny. Go ahead. Let us know what you'd like.

MR. MARTINEZ: Yes, Madam Chair, members of the Commission, again, I would love the opportunity to be present before you. I didn't realize we could do that. I think that it's so much more beneficial to be able to stand before to give presentations, to answer questions and again, I'm not too sure if it's just because of restrictions, but I wasn't aware that we could be present. At any future meetings I would hope that we could be present, therefore we could look at you straight in the eye and we could talk face to face, and again, that would be something I could really appreciate down the line.

In my effort, I want to kind of speak for item C, Spirit Wind, and possibly item D, Tierra Bello. But in the meantime what I'd like to do is I'd like to kind of give a little memorial to my good friend, Joe Miller. He passed away January 4, 2021. This gentleman had been a stout developer in the Eldorado area. He's been a vocal opponent to everything that's taken place when it came to creating the SLDC. We attended over 23 County meetings. We had close to 13 community meetings, so we have been actively involved with this for many, many, many years.

The situation at hand again, like I say is, when Mr. Miller passed away we found ourselves in a situation where we were trying to create an affordable housing amendment to the original affordable housing that was established for developments. In this amendment, what we're doing is we're working on a transfer of density rights to ER from Tierra Bello and Spirit Wind to our future known Cimarron Village which is more capable of handling affordable housing under the circumstances. In Tierra Bello and Spirit Wind, the problems that we have here is we're trying to develop on three-acre parcels where the water service fees are close to \$14,000 and there are no other County utilities that are offered for these developments.

So by transferring to Cimarron Village it gave us an opportunity to develop the property with the wastewater treatment plant that could handle a higher density, and it made it more affordable to create this affordable housing in the Eldorado community. And I will state, to date there is only one affordable home in the Eldorado area and we just recently sold that affordable home to a qualified applicant of a price of \$235,500, close to \$170,000 lower than the appraised value. It's a big hit for the developer but our commitment through Mr. Miller, which was approved by the BCC back in 2013, we agreed to affordable housing. We agreed that we would be a participant in this.

Then we ran into the situation of COVID coming in and everything taking place, so we've basically been shut down since July of 2018 when a submittal application with development fees, with everything in place, state agency reviews, was completed. But because of the transfer of the affordable housing we were basically put on hold for the last four years. So in April of this year we finally received an amended affordable housing that appears to be acceptable by the County and by the developers, which is now Kathy Miller and the Alteza/Spirit Wind, LLC.

So where we're at now at this point is we realize that those four years – it was hard on us because we really wanted to make this project move forward, and again, with conditions beyond our control we were basically held back. That was quite a hold-back for four years. So what's happened now is we finally find ourselves in a situation where we have to come back in and we have to ask for an extension of time, based on the fact that things couldn't happen in the period of time that we had. We were working with

them, and we realized, COVID was a big implication on us because we couldn't get anything done at that point. Documentation within our packet shows multiple, multiple meetings held with County staff, County members of staff and others that basically we're close to 60 meetings or emails or conversations that were held that didn't accomplish too many things.

Again, I've got to remember we just recently, in April of this year, received the amended affordable housing agreement and plan that was presented to us, which we are in agreement with. We are willing to sign them. We will take affordable housing away from this development and the development coming up next, and we will provide affordable housing in Eldorado which is in my opinion, way overdue. I don't want to look at this as being an anti-development against affordable housing or anti-development against residential development. In the first phases of the development we had issues because we had an original approval that allowed modular homes on our development site.

To date, we have developed homes in Spirit Wind. They have been sold. These homes that were developed and sold for below \$300,000 are now being appraised at \$500,000, \$600,000, so we're seeing for sale signs going up basically showing that people that developed them back then, or built their homes or homes that were bought from us are now capitalizing on this huge financial gain, which is very concerning because again, like I say, we didn't want half a million homes. We wanted to make affordable homes in the community of Eldorado.

So where we are at now is basically, not starting over because we haven't been denied. If we get denied tonight again we are starting over and it's a whole different game for us. So by granting the extension, I'm here to remind you, we're not asking for development approvals; all we are asking for is an extension of time to allow us to continue with the submittals that have already been presented. Like I say, development fees have been paid and let us move forth with our developments.

I am one that I am very open to working with the community. I try to be very forthcoming with people I meet with. The biggest issue for us, again, four years later, I think everybody just assumed that we went away. We can't go away. We want to continue where we left off and by this extension approval this will give us the opportunity to move forth.

Additional committee meetings will be held and I will state that one of the conditions that I have worked with with the Spirit Wind Homeowners Association and the US 285 All Committee is we are not going to be doing any more modular homes. The ability bring in modular homes to a community that really doesn't look very favorable upon them. They look more down on them. We'd like to say we are not going to be doing that anymore. We want to be part of the community, meet the architectural standards of the community, and provide homes that would basically be out of range for a lot of people that are wanting to live in Eldorado, but now as these homes will be developed, we're looking at homes at the same median income range that's currently affording at Eldorado in the \$500,000 price range. That wasn't our intention, but that's what's basically wanted by the community that we've been dealing with. I stand for questions.

CHAIR HAMILTON: Thank you very much. Very much appreciated and glad to hear your willingness to work with the community members. I think I'm going to

go ahead and open the public comment, and I have a suggestion. I know we have a couple of people who have requested time. The first is David Hollenbach. Are you on, David? Are you on Webex?

MR. FRESQUEZ: Madam Chair, he is on Webex. He is trying to unmute right now.

CHAIR HAMILTON: Okay. No worries.

DAVID HOLLENBACH (via Webex): Sorry. I had a hard time unmuting. My cursor wouldn't work.

CHAIR HAMILTON: We all do. It's no problem. Welcome. If you don't mind getting sworn in.

[Duly sworn, David Hollenbach testified as follows:]

MR. HOLLENBACH: My name is David Hollenbach. I live at 15 Cerro Blanco Lane in Spirit Wind Ranch Subdivision, which neighbors the Spirit Wind West Subdivision, and I do understand I'm under oath.

CHAIR HAMILTON: Thank you. Proceed, David.

MR. HOLLENBACH: Okay. It turns out I'm the secretary of the Spirit Wind Ranch Homeowners Association and our subdivision overlooks and neighbors Spirit Wind West. I speak for most of the HOA members and our president and our entire board. Our president, John Rubottom apologizes for not being able to be here. He's out of town but he approves this presentation.

So to give a little history, in 2013 the master plan for Spirit Wind West was passed after a somewhat contentious meeting and in it, through covenants, the developer promised or implied Santa Fe pueblo or territorial style homes with earth-tone stucco exteriors. But in 2018 the developers changed those covenant and they removed the stucco requirements. They made other changes, increasing the size of outbuildings and other changes.

Okay. Shortly thereafter, ten modular homes were rapidly put into Phase 1-B of the project, and I think you've read a handout that I think was just passed around, and if not maybe I can share a picture but I sent some pictures of the modular homes in Spirit Wind West. I included a picture of one of our own homes in Spirit Wind Ranch Subdivision which overlooks it and overlooks the Galisteo Basin.

In 2020 when the developers applied for another extension the neighborhood resisted further construction of a dense assembly of 39 homes to the master plan of what sort of looked like the double and triple-wide mobile homes. Covenants, as we saw, can be changed or not enforced, so we didn't ask for any changes on the covenants, but the then County Attorney Shaffer suggested voluntary conditions that were agreed upon by the developer could be inserted into the plat and made a condition for the County to give permits for the construction. So that would be something that was a little bit more enforceable and things wouldn't change on us.

So we worked together. The developers and Mr. Martine was very active in this, and he and the neighborhood came up with agreed upon wording for the voluntary conditions on August 20, 2020. And with these conditions, we the neighborhood, agreed to an extension of the two years. The wording included permitted uses are restricted to site-built custom homes. No two-story homes will be allowed. All home construction shall be built to meet pueblo style, Spanish colonial

territorial and southwest contemporary. No pitched roofs allowed. Exterior wall finishes shall be stuccoed with earth-tone colors. And so that was the wording that was supposed to go into the plat, and as you just heard, Mr. Martinez agreed to those and he says he still agrees with those.

But what happened was that at the November 2020 meeting of the Commissioners where the extension for the two years was approved, the wording in the plat had changed from this wording that we had all agreed on, unbeknownst to many Commissioners and certainly unbeknownst to us. The plat wording was very brief. It says that the homes adhere to Santa Fe territorial or pueblo style, including but not limited to earth-toned stucco exteriors and dark, flat roofs. So the wording had no requirement for a site-built custom home. The wording says but not limited to, and that means that there's no stucco or color requirement is put in. There's no roof requirement. There's no restriction on two-story. So the wording was greatly, greatly reduced and weakened.

So in essence, there's nothing there that would prevent further modular homes as in the photos that I included. These homes are large outbuildings. There are trailers and RVs that are out in the open against their own covenants. The lack of landscaping, the lack of enforcing their covenants, the whole thing is just not appropriate for the neighborhood.

The beautiful Galisteo Basin Preserve which is a home to county hikers and bikers neighbors this property and looks over it. Highway 285, which has become a major entry point for tourist to Santa Fe, as well as the old land trail Lamy Road to the rail station and Legal Tender goes right past this development and it is the first thing that tourist see as the enter the Santa Fe area.

We therefore ask that you only grant the two-year extension if the original voluntary conditions go into the plat as was promised and the conditions to get construction permits in Spirit Wind West. We also support if this cannot be done, the proposal that Roger Taylor of the 285 Alliance later describes. Thank you very much.

CHAIR HAMILTON: Thank you very much, David. Roger Taylor, are you on Webex?

ROGER TAYLOR (via Webex): Yes, I am.

CHAIR HAMILTON: Welcome. Can you get sworn in and then speak to us?

[Duly sworn, Roger Taylor testified as follows:]

MR. TAYLOR: Roger Taylor, 54 Camino los Angelitos, Galisteo, New Mexico, and I am under oath.

CHAIR HAMILTON: Go ahead. Thanks, Roger.

MR. TAYLOR: I am here tonight as the co-chair of the 285 Alliance and also representing the Galisteo Community Association. We raised the question about why an extension should be granted. Nine years have passed since this master plan was first approved. In terms of building anything that is commensurate to the area, little has been done on this master plan. There have been a series of extension. We really question the commitment of acting on this plan.

Local conditions – Mr. Martinez says nothing has really changed. However, local

conditions have changed. In the nine years since this plan was approved there are water shortages, there are water restrictions that are more common, there's historic drought that is being acknowledged. There is wildfire that we've all experienced this past year. As part of this discussion over two years ago for an extension Phase 1-B was proposed to be affordable housing and I can remember Mr. Martinez talking a whole list of the types of people who were buying them. Most of those homes are now selling, as Mr. Martinez said, in the \$600,000 to \$650,000 range. Three of them are on the market right now.

The density of Phase 1-B, they type of homes does not fit in the surrounding neighborhoods. The architecture is not in character. We're not sure what the benefit of affordable housing would be and we do agree with Mr. Martinez in that. However, the question would be, if there are three developments now all connected because affordable housing is going to Cimarron Village, maybe there should be a whole master plan for all three developments since they seem to be connected to each other.

So I think we would propose no extension and that a new master plan come back that addresses the connections between all three. Thank you.

CHAIR HAMILTON: Thank you very much, Roger. Is there anybody on Webex or telephone that wants to speak to this matter of Spirit Wind West? Daniel, do you see anybody else on the line who wants to speak to this matter?

MR. FRESQUEZ: Madam Chair, I'm not seeing anybody indicating they'd like to speak to this matter. However, there are three phone callers. If you hit star 6 that will unmute you on your phone.

CHAIR HAMILTON: Okay. So hearing none, I'm going to go ahead and close public comment. I assume, Danny Martinez, you're still available?

MR. MARTINEZ: Yes, Commissioner. I'd definitely like to respond though.

CHAIR HAMILTON: Let me ask you a question first. There's a whole discussion about the conditions that the community feels weren't – that you agreed to, and I'll happily read them again, but that the community feels were not included appropriately in the previous extension. And my question to you is are you willing – you were willing to agree to them before; are you willing to agree to them now?

The wording is, that I have here: Permitted uses are restricted to site-built custom homes with a minimum size of 1,600 square feet plus garages and accessory structures, no two-story homes will be allowed. Split level homes are allowed when terrain restraints are existing. All home construction will be built to meet pueblo style, Spanish Colonial, territorial, and southwest contemporary homes. No pitched roofs will be allowed. Exterior wall finish will be stucco finishes with earth-tone colors as approved by the architectural committee. Is that still acceptable to you?

MR. MARTINEZ: Madam Chair, most definitely. As a matter of fact I'd like to reiterate to Mr. Hollenbach and Mr. Taylor that in our previous meetings, this isn't a thing about the past plat. This is an issue about the plats to come forth as we move forth with the development. It was previously approved by the BCC back in 2013 allowed for modular homes. Again, it was really an experiment on our part trying to bring affordability into the community. Again, I've got to remind you, these aren't manufactured homes. These are modular homes. They may not be what everybody thinks they are but they're modular homes on permanent foundations.

CHAIR HAMILTON: But that was a previous section of the development. We're talking about for this extension.

MR. MARTINEZ: Madam Chair, again, like I say, we are in agreement with Mr. Hollenbach and Mr. Taylor. We are willing to change our covenants. There are no modular homes. We are willing to acknowledge their concerns. But again, it's going to be on the plats that will be coming up. The previous plat is a whole different game. Any future development approvals, it would be stated on the plat their conditions as were previously agreed to.

CHAIR HAMILTON: Well, thank you. So my suggestion that I'm going to put on the table right now and then I'm going to open it up to other comments from the Commissioners is to include this wording on the extension that would have to be included on each plat.

MR. MARTINEZ: That's acceptable.

CHAIR HAMILTON: Thank you very much, Mr. Martinez. So with that on the table, do other Commissioners have – Commissioner Hughes.

COMMISSIONER HUGHES: Thank you, Madam Chair. I like your suggestion for that part and I guess I want to address the concern that I think Roger Taylor brought up is I don't really understand how we have the affordable homes in Cimarron Village and the non-affordable homes in Spirit Wind. So I would hope somebody could explain to me how that would work, and I see Joseph standing up, which I was hoping he would. Because I think part of it is important that if we're going to build these homes to this standard then I think it's very important that the homes in Cimarron Village get built at the same time. I'm ready to hear from you, Joseph.

MR. MONTOYA: Madam Chair, Commissioner, I don't actually have any statutory authority when they can or cannot build. So we have timelines which they're allowed to be able to work in to establish a good relationship with the developer's consultant. We have a working draft in terms of what we believe is appropriate. The idea behind it is that we'd be able to transfer affordable units to an area that can be created affordable. As you know, density is incredibly important. They can't build affordable housing at those kind of lots, at that kind of density. So what we want to do is be able to provide affordable housing where you would have to build and have water and sewer service. That's the idea behind the agreement that we're proposing right now.

COMMISSIONER HUGHES: So if the affordable housing and the non-affordable housing were all in the same area, wouldn't you require that they be built at the same rate? In other words; an affordable home for every ten non-affordable homes. Couldn't we do the same thing here, even though they're a couple miles apart?

MR. MONTOYA: Madam Chair, Commissioner, yes, you're right. If it was in one development then there would be a relationship, a ratio relationship in terms of when you build an affordable and not affordable, so what we don't ever want to see is somebody build all the not affordable units, and then none of the affordable units are built at last at the end. That's not good public policy. And so in this particular case, because of both previous court cases and because of the understanding in terms of our transferability, what we're saying is we are going to allow two developments to go forward in the timeline that they have been allowed and they should be allowed to be affordable, can be allowed for approval.

However, what we have agreed to in concept is that we will put a bond issuance on so they can't just say, oh. All of a sudden I'm not going to be able to build these units later on. Right? So we have to protect ourselves from something like, who knows what might happen? The development might go bankrupt. They may choose not to go forward for a series of issues. Maybe they may want to sell out. So we need as the County to be able to protect ourselves and our assets. We need the affordability quotient on this issue.

So with that in mind, what we've done is we've had several conversations with the developer's representative, and so they've agreed in principle to that aspect of it. So they can actually build, create some capital. However, a portion of that capital is going to have to go into a bond issuance to allow us to make sure that if nothing happens in the future for this third development, we still get at least some aspect of affordability.

COMMISSIONER HUGHES: So you're talking about like a performance bond, basically.

MR. MONTOYA: Madam Chair, Commissioner, that's correct.

COMMISSIONER HUGHES: Okay. And that would be the same with Tierra Bello as with Spirit Wind?

MR. MONTOYA: Madam Chair, Commissioner, that's correct.

COMMISSIONER HUGHES: Okay. Thank you. And I just want to say that I think people in Eldorado that I've talked to are very much in favor of some affordable housing there. It has become, as Mr. Martinez mentioned, very expensive now to live in that part of the county to the point that people who work in Eldorado commute from Pecos because they can't afford to live anywhere nearby.

MR. MONTOYA: Madam Chair, Commissioner, I did want to point out one thing that Danny had mentioned is that we had worked very closely with a person who – one of the things that we worked as an interim agreement is to allow for rental, because the original agreement was just about just homeownership. So we agreed as an interim to be able to offer a rental unit to this lady who is a single mother and because of the generosity of the developer, she rented under the agreements that we had previously put in and then transferred that to an affordable housing unit, and the unit was actually sold at far below market rate in order for the person to buy that unit. She was [inaudible] and then we assisted in the financing of that deal. So that was a good outcome for that one particular family.

COMMISSIONER HUGHES: Okay. Thank you. Madam Chair, I just want to mention one other thing. In the agenda this is listed as being in District 5 and I believe it's actually in District 4.

CHAIR HAMILTON: That's a good point. Thank you.

COMMISSIONER HUGHES: So it's actually in your district.

CHAIR HAMILTON: I kind of knew that.

COMMISSIONER HUGHES: Tierra Bello is in my district. Same issues in both.

CHAIR HAMILTON: I failed to bring it – oh, yes, we have to correct that on the record. So thank you very much. Are there other Commissioners that have questions or comments? Yes, Commissioner Hansen.

COMMISSIONER HANSEN: So I'm glad that Mr. Martinez, Madam Chair, Mr. Martinez accepts the language and making sure that that's correct, but I have

real hesitation about the fact that they've been talking about building this subdivision for over nine years. If you would have built these houses nine years ago they would have been way more affordable. People could have maybe afforded them and the affordable housing would have been a much better deal, actually. And so we're nine years, and now we're going to be 11 years. So are you going to come back for another extension? That's my fear. I fear we're just going to kind of like get one more extension, one more extension, like, I couldn't get this together. Nine years is a long time.

So I would really like some assurances that something is going to happen. I know that it is both in Districts 4 and 5, these next two items coming up but it just seems strung out. So thank you, Madam Chair.

CHAIR HAMILTON: Thank you.

MR. MARTINEZ: So, Madam Chair, can I have a response?

CHAIR HAMILTON: Yes.

MR. MARTINEZ: Thank you, Madam Chair. Again, I've got to remind you, our efforts have been in vain. We have worked diligently. We have made submittals. In July of 2018 our submittals were taken. Development fees were accepted. We were prepared to make the changes necessary to move the developments forth. The delays were not caused on our part; the delays were caused because we could not get an amended affordable housing from the Land Use staff which implemented this change on us. So we waited for four years to get this final draft on April of 2022. That has hurt us. That has hurt us tremendously. Our ultimate goal was to build out, and again, like I say, working with Mr. Hollenbach or Mr. Taylor, we were prepared to move forth and put notes on plats and do whatever we had to do. So the delays have not been caused by us. It has been caused by the process, and again, like I said, do I call it an anti-development attitude? I was – for a while there, I was firmly believing that Land Use staff was with an anti-development mentality.

Affordable housing, and like I say, when we signed the affordable housing in 2013, we were ready to run. We're still ready to run. So for us to take the blame that we've been holding back, I don't think that's the case. I think what the case is we had to go through the process with staff which took extended time due to COVID and due to other reasons beyond our control. So the delays are not on our part. And again, we are prepared to take Cimarron Village, Tierra Bello, and Spirit Wind, combine them, and get them into the submittal process so that they can work together like the plan is calling for. And that's really where we stand. We would like to do that. We would hope that within the next – before the end of the year we will have all three developments back in order and get back before the Commission so we can move these projects forth. We are anxious and we are ready to do what we have to do. Thank you.

CHAIR HAMILTON: Thank you. So Jose and Vicki, can we – because the wording that would be on the plat has been an issue in the past. You guys handed out this letter and since the applicant agrees to this, can we add this wording that would have to be included for permits in this area?

VICKI LUCERO (Building & Development Services): Madam Chair, Commissioners, if it's the Commission's desire to impose this condition as a condition of approval, then as they come in for their separate plat approvals, we will ensure that this is a condition of approval on those and that it gets transferred to any subsequent subdivision

plats that are recorded.

CHAIR HAMILTON: Right. And you're clear on which words I read to the applicant that he agreed that are on the top of this handout, the underlined words? Actually, they're on the bottom of the first page. I think it's the same. Yes. I guess it's in my district. So I would move to approve the extension with the condition added.

COMMISSIONER ROYBAL: I second.

CHAIR HAMILTON: Do the attorneys think I need to re-read this at this time so that the words are explicit in the motion?

MS. BROWN: Madam Chair, just for clarification, is the condition you're imposing that permitted uses are restricted to site-built custom homes with a minimum size of 1,600 square feet plus garages and accessory structures. No two-story homes will be allowed, split level homes are allowed when terrain restraints are existing. All home construction shall be built to meet pueblo style, Spanish Colonial, territorial, and southwest contemporary homes. No pitched roofs will be allowed. Exterior wall finish shall be stucco finishes with earth-tone colors as approved by the architectural committee.

CHAIR HAMILTON: That's what I was referring to, and thank you very much for clarifying. I really appreciate it.

MS. BROWN: Thank you.

CHAIR HAMILTON: I have a motion and a second.

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

- 13 **D. Case # 20-5021 Tierra Bello Conceptual Plan Extension. Kathy A. Miller, Applicant, Land Development Planning (Danny Martinez), Agent, Request an Amendment to a Condition Imposed by the Board of County Commissioners, Which Required the Applicant to Record a Conceptual Plan and Final Plat for Phase 2 by June 12, 2022. The Applicant Requests a Two-Year Time Extension of the Previous Approved Tierra Bello Master Plan/Conceptual Plan (73 lots to be Developed in Eight phases, on 263 acres) and to Amend the Previously Imposed Condition to Allow the Applicant Until June 12, 2024, to Record the Conceptual Plan. The Property is Located off of Avenida de Compadres, via Avenida Eldorado, Within Sections 24 & 25, Township 17 North, Range 9 East, Within the Cañada de los Alamos Grant**

CHAIR HAMILTON: I'll go directly back to Jose to read this.

MR. LARRAÑAGA: Thank you, Madam Chair. Kathy A. Miller, applicant, Land Development Planning, agent, request an amendment to a condition imposed by the BCC which required the applicant to record a conceptual plan and final plat for Phase 2 by June 12, 2022. The applicant requests a two-year time extension of the previous approved Tierra Bello Master Plan/Conceptual plan and to amend the previously imposed condition to allow the applicant until June 12, 2024, to record the conceptual plan. The property is located off of Avenida de Compadres, via Avenida Eldorado, within

Sections 24 & 25, Township 17 North, Range 9 East within the Cañada de los Alamos Grant.

The site for the proposed time extension is located in SDA-2 within a previously approved master planned area known as Tierra Bello. The residential subdivision is within the U.S. 285 South Highway Corridor District Overlay and the underlying zoning in the area is residential estate.

The applicant requests an amendment to a condition imposed by the BCC which required the applicant to record a conceptual plan and final plat for Phase 2 by June 12, 2022. The applicant requests a two-year time extension of the previous approved Tierra Bello Master Plan/Conceptual Plan, and to amend the previously imposed condition to allow the applicant until June 12, 2024 to record the conceptual plan.

The applicant states, "Our request is for a two-year extension on the conceptual development plan to June of 2024. This would allow the developments the time necessary to move through the development approval process."

On July 14, 2020, the BCC approved a two-year time extension of the master plan for Tierra Bello. A condition of approval stated the following: Applicant must record a conceptual plan and final plat for Phase 2 per requested 24-month extension. If a conceptual plan and final plat for Phase 2 are not recorded by June 12, 2022, the previously-approved master plan for Tierra Bello will become null and void and the proceedings on the subdivision shall terminate and a new conceptual plan application will need to be submitted.

Staff have reviewed whether there have been any material code changes pertinent to the development of the area or material changes to the development of the area, or material changes to the availability of services for the development and conclude there have been no major code changes or change in the road system, zoning, density allowed or any major development that could affect the proposed development.

Building and Development Services staff have reviewed this project for compliance with pertinent SLDC requirements and have found that the facts presented support the request. The SLDC does not include criteria to be met for an extension to be granted and there have been no major code changes since the development was approved. If such a code change had occurred staff would evaluate whether the approval should be extended and if so, whether additional conditions should be imposed to address any such changed circumstances. In this case, no such material changes have occurred.

Staff recommendation: Building and Development Services staff have reviewed this project for compliance with applicable requirements of the SLDC and conclude that there have been no major code changes that would affect this development and the facts presented support a two-year time extension of the previously approved master plan/conceptual plan. Staff recommends approval of the applicant's request for a two-year extension in accordance with Chapter 1, Section 1.11.4, and Chapter 4, Section 4.9.9.10 subject to the following conditions. Madam Chair, may I enter these conditions into the record?

CHAIR HAMILTON: Yes. Thank you.

1. Applicant must record a Conceptual Plan per requested 24-Month Extension (by June 12, 2024). If a Conceptual Plan is not recorded by June 12, 2024, the previously-approved Master Plan for Tierra Bello will become null and void and

the proceedings on the subdivision shall terminate and a new Conceptual Plan application will need to be submitted.

2. Applicant must comply with all previous conditions set forth by the Original Master Plan Approval as referenced in Final Order dated June 12, 2013, recorded in the office of the Santa Fe County Clerk as Instrument No. 1708599.
3. The Approval Condition Recommended by Staff and the Previously Approved Conditions for the Project identified in the Final Order dated November 12, 2020, recorded in the office of the Santa Fe County Clerk as Instrument No. 1934201, shall be complied with.

MR. LARRAÑAGA: This report and the exhibits listed below are hereby submitted as part of the hearing record. Madam Chair, I stand for any questions. And Madam Chair, I stand for any questions.

CHAIR HAMILTON: Thank you. So before I take questions from the Board, once again, I'll go to the applicant, Mr. Martinez. Do you have some additional comments regarding this particular development?

MR. MARTINEZ: Yes, Madam Chair, members of the Commission. Again, I do appreciate the opportunity to present our side of where we're at with this. The issues at hand again are very similar to Spirit Wind. The issues that we had is we had Phase 1 approved, and again, in our original approvals we were granted the ability to develop modular homes on nine lots, which is considered Phase 1 of the development, which has been done. People that are living in these homes are people that are of medium income that really appreciate the opportunity to afford what they have, knowing that in today's real world, those homes are also like Spirit Wind's, capable of selling for well over a half a million dollars. So that was not our intentions. Our intention was to keep affordability into this thing.

And again, I will reiterate that these are modular homes. They're not manufactured homes and there is a difference between those two. In our case, we have agreed in principle that we will adopt the same conditions that were adopted under Spirit Wind. There would be no more modular homes. We're going to do custom homes, just as stated in the previous conditions under Spirit Wind. We are willing to take it to that level to where meeting with the community, we'll reiterate that to the community that that's our plan. And the plan would benefit what they have out there which is beautiful custom homes. And this particular case, like I say, we want to take that next step. We want to work with the community. We want to do what we have to do to satisfy a community that has concerns with previously developed modular homes.

And again, I hate to use the word home discrimination but we had to use that at one point in the previous extension because it is a form of discrimination. The people that buy these modular homes, that's what they can afford. That was pleasant for them because they fit into the community. In most cases they would never have been able to buy into this community. Again, by changing our thoughts and agreeing to the previous comments on Spirit Wind, we will do the same thing for the rest of Tierra Bello. We will eliminate modular homes and we will do purely custom homes per that statement that was issued on Spirit Wind. Thank you.

CHAIR HAMILTON: Thank you very much. I'm going to go ahead and

open public comment on this matter. Is there anybody present or on Webex who wants to speak to the Tierra Bello application for extension?

MR. FRESQUEZ: Madam Chair, Olivia Carril raised her hand as well as Jeremy Paul.

CHAIR HAMILTON: Okay, Olivia, why don't you go first. Can you unmute and get sworn in?

OLIVIA CARRIL (via Webex): I can.

[Duly sworn, Olivia Carril testified as follows:]

MS. CARRIL: My name is Olivia Carril. I reside at 19 Avenida de la Paz in Lamy, and I am under oath for my testimony to be considered valid. Thank you, guys, so much for letting me take a few moments of your time tonight to talk about something important to the home and land owners in the Tierra Colinas region. I'm Olivia Carril. I live out here in the Tierra Colinas community. It's one that abuts the side of Tierra Bello. I'm the current president of the Tierra Colinas Homeowners Association and I'm here tonight representing the concerns of my community of about 48 residents.

The homes in our community are widely spaced homes and they're in shades of more or less brown. Several look out over the Tierra Bello area and the residents there watched with some concern over the last several years when modular homes and homes in shades of other than brown started to appear in the development. My homeowners knew the area behind them would be developed some day but the covenants written for that area indicated that the homes would be stucco and in earth-tones. When I spoke before you two years ago it was because my neighbors were concerned to see that another 70-some homes were going to be put on the land right adjacent to them and as far as we could tell, they weren't going to abide by the covenants that were in place, covenants that my residents assumed would protect the value of their homes.

In an unprecedented moment, for which I'm still very grateful, the Board of County Commissioners agreed two years ago that the extension would be approved with the stipulation that the covenants would have to be followed when Tierra Bello applied for housing permits. Furthermore, one of the lawyers associated with this said that he would prohibit modular homes from being constructed, as he said, to prevent the demise of decades of hard work and costs on the Tierra Bello end. To be clear, none of us are anti-development or opposed to affordable housing. We understand that moving here is prohibitively expensive at the moment, but we're nervous though that as far as we know, maybe these covenants won't be enforced and followed through, and that things we thought were true about our homes won't be true.

I appreciate that Mr. Martinez pointed out that he will not be building more modular homes, which I'm sure many here from the surrounding communities breathed a sigh of relief over. However, based on our past experience I'm concerned that the pledges of Mr. Martinez and Mr. Van Amberg will not be upheld. Have the covenants be modified to include a clause stating there won't be more modular homes? And what consequences are there for not abiding by covenants moving forward. We here in Tierra Colinas have no contact with the developer or his associates since the development was first proposed, and based on our past experience lack of contact with the developers, we have little reason for trusting that the development will be considered as it was originally planned.

With no means of holding Tierra Bello land managers accountable ourselves we come to you in homes that you will make sure that pledges made two years ago are upheld before granting an extension. And we wonder what assurances there are that Mr. Martinez' current plans for Tierra Bello are maintained throughout the development phase. Thanks for your time.

CHAIR HAMILTON: Excellent. Thank you very much for your comments. Daniel, can you please introduce the next person? You gave his name and I didn't jot it down. I apologize.

MR. FRESQUEZ: Madam Chair, we have Jeremy Paul.

CHAIR HAMILTON: Jeremy. I'm very sorry. Can you unmute yourself and be sworn in and give your comments?

[Duly sworn, Jeremy Paul testified as follows:]

JEREMY PAUL (via Webex): My name is Jeremy Paul. I'm the president of the Sun Ranch Homeowners Association. I live at 135 Mejor Lado, Santa Fe, and I acknowledge I'm under oath. I don't need to rehash. I think everybody has already spoken to many of the concerns that our homeowners share. Mr. Martinez, we appreciate your candor. However, as with Olivia, he wrote us a letter in June of 2020 [poor connection] that whole scenario that happened two years ago promising to amend the CC&Rs. We've to date not seen the [inaudible] CC&Rs. I think that can be resolved if the Commission includes the same language that they included in the Spirit Wind relating to the type of structures and colors, and I think Mr. Martinez indicated that he was willing to agree to, if that was included in the Tierra Bello we would appreciate that. I think that would give us some assurances that going forward there wouldn't be any more modular homes and I understand the affordability issues on that.

The other issue that we have in Sun Ranch is the question of the paving of Avenida de Compadres, which was back in 2012 a settlement agreement between the Miller Trust and the County. It was supposed to be done for the development, and there is further development that's occurring behind our subdivision and so the traffic has already increased on Compadres, not necessarily because of the Tierra Bello Subdivision but because of other subdivisions. [Connection failed]

MS. CARRIL: There's quite the rainstorm happening out here and maybe that's what happened.

CHAIR HAMILTON: Thank you for that.

MR. HOLLENBACH: While we're waiting – this is Dave Hollenbach from Spirit Wind Ranch. I would say – the Commissioners probably know this but it was something that we learned was that covenants don't do anything for the neighborhood, because the covenants can be changed, and that's what happened in Spirit Wind West. The original covenants said there would be stucco but then they changed that. The developer always has the opportunity to change the covenants. So that's why we wanted things written into the plat, because that's something that is much more difficult to change. It really sets in iron. So the wording really needs to be in plats and the permitting process, not in the covenants. I was noticing that Ms. Carril was talking about covenants and I just wanted to warn you that covenants are not very powerful for the neighborhood.

CHAIR HAMILTON: Thank you. So is Jeremy Paul available again?

MR. FRESQUEZ: Madam Chair, this is Daniel. It looks like he may be

having – he’s back.

CHAIR HAMILTON: Jeremy, if you’re back, you might want to finish telling us – we lost you at the beginning of the traffic is increased due to other developments.

MR. PAUL: As one of the Commissioners pointed out, this has been going on for over ten years now and nothing seems to be getting done. And in fact over the last two years, the requirement for the completion for this thing was to submit a conceptual plan and final plat for Phase 2. Phase 2 is only ten lots. I understand with COVID and Mr. Miller’s death and all that, but it’s not unreasonable to expect a developer to be able to meet these submissions even if in April the amendment to the affordable housing was done, that gave them several months to modify whatever conceptual plan and final plat they were allegedly working on for the last two years to do it.

And therefore we would like some condition being placed upon them, some penalty for having to ask for yet another extension, which is now the third of these. There’s been two five-year extensions, one two-year extension. Require them to go ahead and pave Avenida Compadres, so when they do finally get around to development it’s already done. They’re going to have to do it at some point anyways. It would benefit the community. It would be a good faith gesture to the community at large in addition to agreeing to the non-modular homes to pave the roadway. Thank you.

CHAIR HAMILTON: Thank you. Is there anybody in the public on Webex who wants to speak to this matter?

MR. FRESQUEZ: Madam Chair, we have three more speakers: Traci McMinn-Joubert, Roger Taylor and – the last person is not in the meeting any more. I apologize.

CHAIR HAMILTON: Okay. No problem. Traci, can you unmute yourself and get sworn in, and then give us your comment.

[Duly sworn, Traci McMinn-Joubert testified as follows:]

TRACI MCMINN-JOUBERT (via Webex): My name is Traci McMinn-Joubert. I live at 5 La Pintera Place in the Las Nubes development, and I recognize that I am under oath. Again, similar to what several of the people have said before, which I won’t rehash, I just wanted to address similar concerns to what Mr. Hollenbach and Mr. Taylor said about the Spirit Wind and the Cimarron developments. I am concerned that we sat here two years ago and agreed as a community on the wording that would settle the minds and the hearts and create a pleasant agreement amongst the neighborhoods about what was going to be built, and I’m concerned that it seems like there’s been attempts to shift that wording in a way that is stepping away from what was agreed to two years ago.

So I appreciate that, Madam Chairwoman, in your own district are pushing for the wording to revert back to the agreed upon wording from the conversations in 2020, and I agree that I would love if there could be a condition of approval that that wording has to remain the same. I also am seeing a change in the traffic on the roads. In fact I used to walk back there on a daily basis and I have not walked back there in over a year because the traffic is so intense on that road. I do have concerns about if the road gets paved what are going to be the ways the speed gets controlled on that road or at least monitored.

But I just wanted to step in and offer my agreements with several other people

that have spoken from the other conjoining neighborhoods in the area. I too believe that it's important for us to have affordable housing. I don't think anyone's not agreeing with that but for it to be complementary to what is surrounding in the area and along with the same sense of being and aesthetic as the rest of the homes in the area. I believe that's what we're mostly asking for. And also so that we don't have to be here two years ago asking and double-checking that the wording hasn't been changed on plats or covenants or all of that over and over again. It feels like we're having to come back every two years and kind of watch and see if the wording's been changed. Thank you for your consideration. I appreciate your time.

CHAIR HAMILTON: Yes. Thank you very much, Traci. And Roger, are you wanting to speak to this? You've already been sworn in. If you could just unmute and state your name.

ROGER TAYLOR: Yes, very briefly. So basically, given the information we've received through this meeting that an agreement has been made to handle the affordable housing issue at Cimarron Village, we, the 285 Alliance, would be supportive of the two-year extension with the voluntary conditions, exact same as spelled out for Spirit Wind West, with the same enforcement on each iteration, phase of these plats. So exactly the same way that's been set up with Spirit Wind West. Mr. Martinez had indicated he's in agreement. So I think as a condition of approval, if that's read into the minutes, that would be sufficient. Thank you.

CHAIR HAMILTON: Excellent. Thank you so much, Roger. At this point, is there anybody else on the call, on the Webex, who wants to speak to this matter? Daniel, do you see anybody else?

MR. FRESQUEZ: Madam Chair, I do not see anybody indicating that they'd like to speak.

JAN STEPHENS (via Webex): I'd like to speak. My name is Jan Stephens.

CHAIR HAMILTON: Jan, would you please get sworn in and then give us your input?

[Duly sworn, Jan Stephens testified as follows:]

MS. STEPHENS: Yes, my name is Jan Stephens. My address is 106 Avenida de la Paz in Lamy, and I know that I am under oath. I just wanted to reiterate that both David Hollenbach and Roger had said, that I think it's really important to have the phrase: no modular homes. They promised that. Mr. Martinez had made. That wording, all of the covenant wording, and I know this has been stressed before, but including no modular homes needs to be put into the permanent process. Because I know the County can't otherwise, they have no control over the covenants, not unless they're put into the permanent process. So I would like to stress that I would like to have that and many other residents would like that in the permanent process.

CHAIR HAMILTON: Excellent. Thank you very much, Jan. Is there anybody else on who wishes to speak to this matter?

MR. HOLLENBACH: Could I just say one more thing? I'm sorry. Dave Hollenbach.

CHAIR HAMILTON: Well, yes. Make it quick, David.

MR. HOLLENBACH: Very quick. It was in response to Jan Stephens. It

seems that the wording that we put, which says onsite custom built homes, I think that rules out modular homes. If it doesn't, then I agree with her, but if it's in there then I don't think anything else has to be in.

CHAIR HAMILTON: Thank you. I guess I would tend to agree. I think it covers it and it would simplify to have the same wording in both. But we'll see when a motion is made. Is there anybody else who wishes to speak to this matter?

MR. MARTINEZ: Madam Chair, may I have a chance to respond?

CHAIR HAMILTON: Yes. Hang on a second, Danny. Do I have to close public hearing first before, or can Mr. Martinez respond during public hearing? Does it matter?

MS. BROWN: You could do it either way. I'd encourage you to close the public hearing.

CHAIR HAMILTON: I'm going to go ahead and close public hearing and then we're going to hear from Mr. Martinez.

COMMISSIONER HUGHES: Madam Chair. I just wanted to say that I would encourage Mr. Martinez to be very short.

CHAIR HAMILTON: Yes. Mr. Martinez, go ahead.

MR. MARTINEZ: Yes, Madam Chair, Commissioners. Again, our commitment is sincere. We are not doing any modular homes. We would accept any notes on the plats. Affordable housing would be transferred to Cimarron Village. It really is a big difference when you're trying to develop affordable housing on three-acre parcels. And yes, Avenida Compadres will be paved. It's hard to pave a road when there's so many other users that are using the road, by the speed that they're driving. And it's not from this development; it's from developments that are down off of Spur Ranch Road. If there was a way to control that we would do it. We have spend an enormous amount of money going out there and grading it as often as we can with the help of one of the other developers down the road.

So, yes, we would like to see this road paved. That's part of our plan. And again, our commitment to the community would be that we would change the covenants. We would enforce covenants that would eliminate modular homes and we would go with any notes that have to be placed on the plat. Thank you.

CHAIR HAMILTON: Thank you so much. So I'm going to go to Commissioners. Commissioner Hughes.

COMMISSIONER HUGHES: Thank you, Madam Chair. I'm just trying to move along because I want to go home before I fall asleep. If I seem anxious that's the only reason. I just have three quick questions for Jose and Vicki. How many lots are in this Tierra Bello Subdivision or phase that we're talking about? I think it said it somewhere but I just want to confirm.

MR. LARRAÑAGA: Madam Chair, Commissioner Hughes, 73 lots to be developed in eight phases.

COMMISSIONER HUGHES: And are we approving – is this conceptual plan going to be for all eight phases or just one of the phases?

MR. LARRAÑAGA: Phase 1 has already been approved and built out.

COMMISSIONER HUGHES: This is Phase 2 or phases 2 through 8?

MR. LARRAÑAGA: Madam Chair, Commissioner Hughes, yes. The

conceptual plan is for phases 2 through 8.

COMMISSIONER HUGHES: Okay. And if you don't know, don't worry, but do you know how many homes are in phases 2 through 8?

MR. LARRAÑAGA: I don't have the answer to that.

COMMISSIONER HUGHES: Mr. Martinez.

MR. MARTINEZ: Okay, phases 2 through 8, there's an additional 63 acre parcels of land. In our future conceptual plan we will come in for the amended conceptual land and then we will propose to develop phases 2 through 6, which is 46 lots. Phases 7 and 8 would be late next year, which would be 19 additional lots. So all together what's left is 63 lots.

COMMISSIONER HUGHES: Okay. Thank you. I just want to get that in my head. And then, Jose and Vicki, is the paving of Avenida de Compadres one of the conditions for this development?

MS. LUCERO: Madam Chair, Commissioner Hughes, this applicant actually submitted an application for Phase 2 which was approved several years ago, and one of the conditions of approval for Phase 2 was that they do pave Avenida de Compadres up to a certain portion of the development. That approval has since expired so they will have to come back in and request preliminary and final plat approval for Phase 2, so it's likely that that condition would get re-imposed at that time.

COMMISSIONER HUGHES: Okay. Should we put that condition into our motion, because I think – I've been on that portion of Avenida de Compadres and it does need to be paved. The dirt road can't handle that traffic anymore.

MS. LUCERO: Madam Chair, Commissioner Hughes, if it's the desire of the Board to add that condition on there, then I think that would be appropriate.

CHAIR HAMILTON: Would there be a timeframe included that would be appropriate?

MS. LUCERO: Madam Chair, I would recommend that there be a timeframe associated with it or a phase at which time the improvements would have to occur.

CHAIR HAMILTON: Commissioner Hughes, if you don't know what that is I don't know exactly who to ask.

COMMISSIONER HUGHES: I see Penny coming up now. Do you guys have a suggestion for a time period for paving Avenida de Compadres up to the Tierra Bello Subdivision?

MS. LUCERO: Madam Chair, Commissioner Hughes, we would suggest that it would be with the next phase.

COMMISSIONER HUGHES: Which would be Phase 2?

MS. LUCERO: Correct.

COMMISSIONER HUGHES: Okay, and then one last question was could you just explain – I think I understand but I want to make sure we're all clear. If we put this wording on the plat then it's up to the County? The County would have the ability to enforce these conditions. Is that correct?

MS. LUCERO: Madam Chair, Commissioner Hughes, yes. If this note is on the plat then at the time of each permit for a residential structure for each lot, we would enforce that condition.

COMMISSIONER HUGHES: Okay. Thank you. I have no more questions, but I'll make a motion whenever you're ready. All right. So I would move to approve the extension for the Tierra Bello Conceptual Plan subject to all the staff conditions stated in the memo, and also with a condition that this language be added to the plat: Permitted uses are restricted to site-built custom homes with a minimum size of 1,600 square feet plus garages and accessory structures. No two-story homes will be allowed. Split level homes are allowed when terrain restraints are existing. All home construction shall be built to meet pueblo style, Spanish Colonial, territorial, and southwest contemporary homes. No pitched roofs will be allowed. Exterior wall finish shall be stucco finishes with earth-tone colors as approved by the architectural committee. And with the additional condition that as part of Phase 2 Avenida de Compadres be paved up to the Tierra Bello Subdivision.

COMMISSIONER ROYBAL: Second.

CHAIR HAMILTON: Thank you. So I have a motion and a second.

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

14. CONCLUDING BUSINESS

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

Upon motion by Commissioner Hansen and second by Commissioner Hughes, with no further business to come before this body, Chair Hamilton declared this meeting adjourned at 8:45 p.m.



Approved by:

Anna Hamilton, Chair
Board of County Commissioners

ATTEST TO:

KATHARINE E. CLARK
SANTA FE COUNTY CLERK

Respectfully submitted:

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

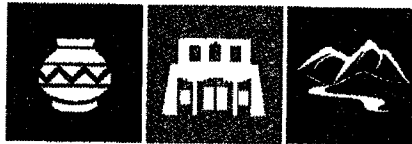
SFC CLERK RECORDED 08/10/2022



Henry P. Roybal
Commissioner, District 1

Anna Hansen
Commissioner, District 2

Rudy N. Garcia
Commissioner, District 3



SANTA FE COUNTY

Anna T. Hamilton
Commissioner, District 4

Hank Hughes
Commissioner, District 5

Gregory S. Shaffer
County Manager

MEMORANDUM

DATE: July 12, 2022

TO: Board of County Commissioners

FROM: Bill Taylor, Procurement Manager *BT*
Jacqueline Y. Beam, Sustainability Manager

VIA: Gregory S. Shaffer, County Manager
Joseph R. Montoya, Community Development Director
Yvonne S. Herrera, Finance Director

ITEM AND ISSUE: *BCC Meeting July 12, 2022*

Request Consideration, Approval, or Disapproval of Change Order No. 1 to Agreement No. 2020-0014-PW/MAM Between Santa Fe County and Yearout Energy Services Company, LLC, Changing the Specifications for Two Solar Array Systems at Two County Facilities, Increasing the Contract Sum by \$74,436.25. and Extending the Contract Time by 15 Days. (Purchasing Division/Bill Taylor and Sustainability Office/Jacqueline Beam)

This supplemental memorandum provides some additional information surrounding the issue of fencing of Santa Fe County (County) solar installations.

Rationale for Fencing is to Protect Solar Arrays: Cheaper Alternative Exists to Protect Critical Components at Fraction of Cost

The rationale for fencing solar arrays is to protect the solar arrays, primarily the housing for the cables from the panels, which are ultimately connected to an inverter. An alternative to fencing the entire installation is to install scrims on the back of the solar panels to protect the cables and cable housing. (See attached photos, which includes photos of the scrims on the panels of the existing array at the Vista Grande Library.)

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Scrim on the back of the panels would only cost about \$1,820, which would actually reduce the project cost.¹

Fencing at Other County Ground and Pole Mounted Solar Arrays

There is no fencing at the following ground and pole mounted solar arrays at other County facilities:

- Edgewood Fire Station #1 (31.9 kW);
- Nancy Rodriguez Community Center (12 kW); and
- La Cienega Regional Fire Station at 37 Rancho Viejo Blvd (63 kW).²

In contrast, two solar arrays at the following Buckman Direct Diversion facilities have chain link fencing:

- Buckman Direct Diversion Water Treatment Plant; and
- Buckman Direct Diversion Booster Station 2A.

Finally, as previously communicated, the existing solar array at the Vista Grande Library property is surrounded by a mix of coyote fencing and split rail fencing. The existing array has scrim installed on the back of the panels

Recommendation: County staff recommends that the default option for ground mounted and pole mounted solar arrays at County facilities should be scrim with no fencing. This avoids introduction of fencing material that does not match the design aesthetic of the surrounding community and protracted discussion concerning fencing aesthetics. It maximizes the amount of resources available for solar arrays, which is the paramount objective in the time of climate change. It also protects the cables and housing on the backs of solar panels. Finally, it reinforces that solar arrays are a necessary part of the modern landscape, as we transition to clean energy.

Attachments:

- Photos of scrim on the back of solar panels, including at the existing solar array at the Vista Grande Library
- Photos of split rail and agricultural fencing

¹ Yet another option would be to utilize split rail and agricultural wire fencing. While this has a more rustic look, it does not shield the solar array. Such fencing for the new solar array at the Vista Grande Library would increase the project cost by approximately \$13,625.

² The County's other solar arrays are roof mounted, so fencing is not an option.

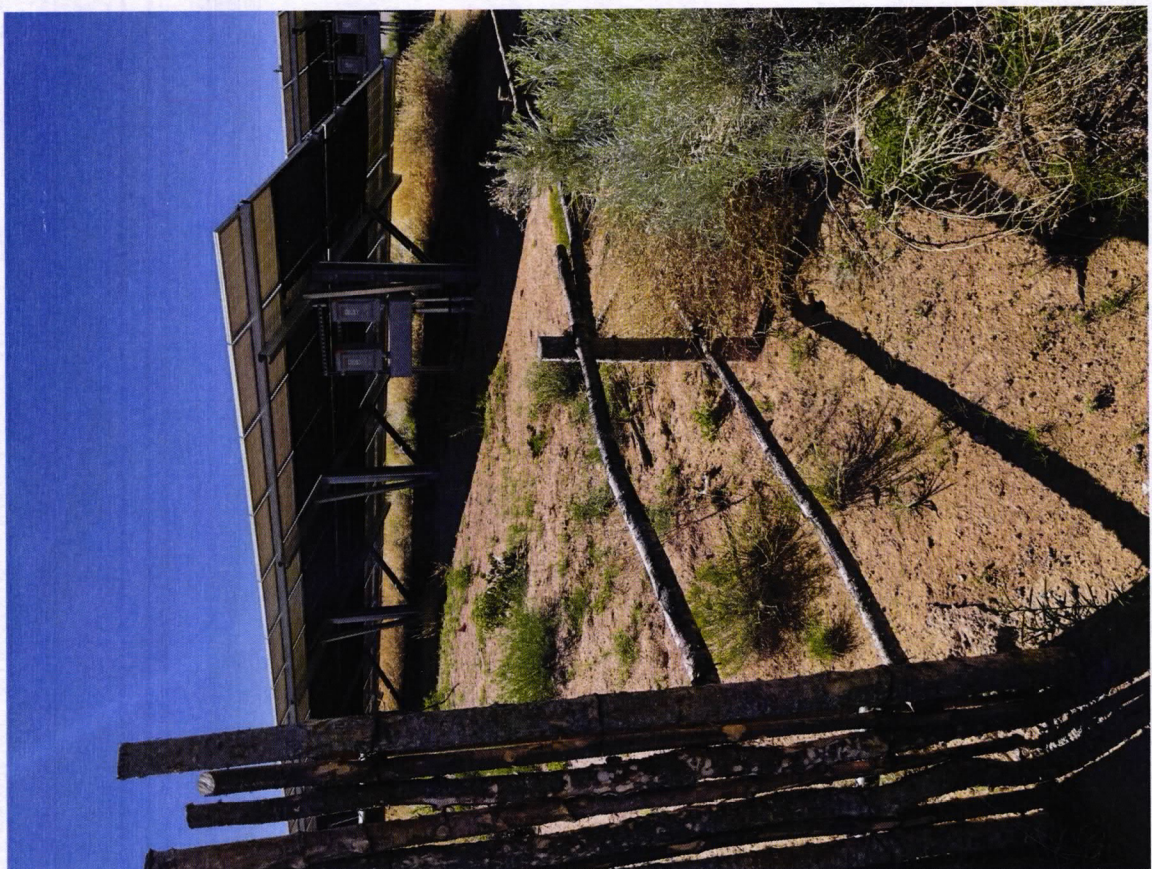
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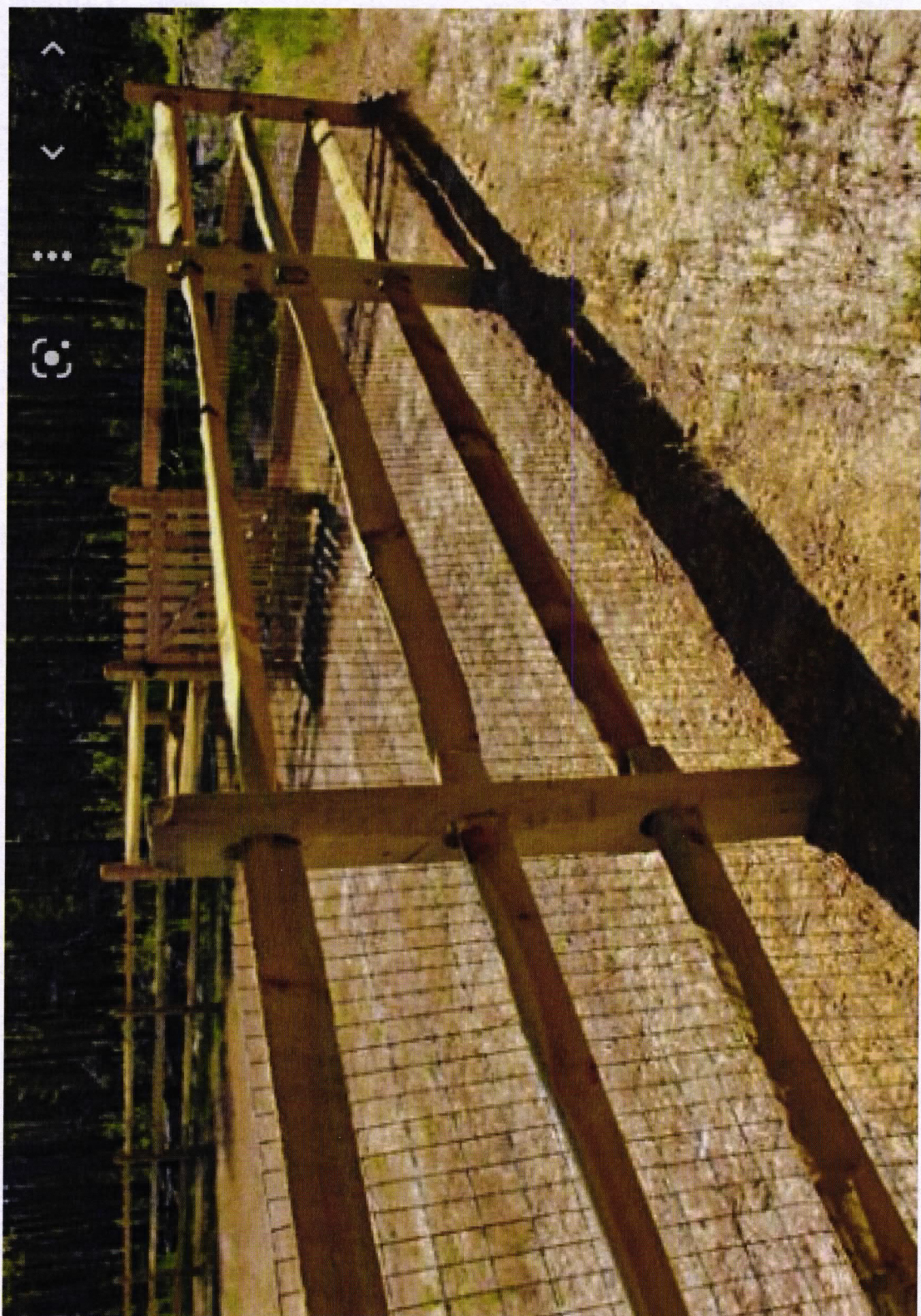
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Letter to County Commissioners: (with photos attached)

We represent the Spirit Wind Ranch Home Owners Association, the neighborhood group 285ALL, and interested other neighbors of the Spirit Wind West (SWW) development. SWW is asking at your July 12, 2022 meeting for a two year extension on their Master Plan. The original Master Plan was submitted in 2013. We attach photos below of Phase 1B of this project, a dense collection of modular homes with little to no landscaping and multiple trailers and RVs parked violating their own covenants. The developers Master Plan calls for at least 25 more homes on this stretch of land next to 285 and the Galisteo Basin Preserve.

Nine years have elapsed and conditions have changed. We face water shortage and water restrictions in this region. The density of these modular homes is much higher than surrounding neighborhoods, and their architecture is totally not in character. The beautiful Galisteo Basin Preserve, home to County hikers and bikers, neighbors this property and looks over it. Highway 285 has become a major entry point for tourists to Santa Fe and this development is literally the first thing they see as they enter the Santa Fe area. We therefore ask that you not grant an extension, but ask for a new improved Master Plan.

SFC CLERK RECORDED 08/10/2022

If you are unwilling to ask for a new Master Plan, we ask that you at least remedy a change made without our knowledge that occurred at the last extension granted in November of 2020. During this process the neighborhood objected to the extension on the basis of what had already been built in Phase 1B (see photos below). The Commissioners agreed to grant the extension if the developers and interested neighborhood groups could agree on conditions to go into the plat or the permitting process. Meetings were held between the developers and neighborhood in August 2020 and the agreed wording was:

"Permitted uses are restricted to site built custom home with a minimum size of (1600) one thousand six hundred square feet plus garages and accessory structures. No two-story homes will be allowed, split level homes are allowed when terrain restraints are existing. All homes construction shall be built to meet Pueblo Style, Spanish Colonial, Territorial and Southwest Contemporary homes, no pitched roofs will be allowed. Exterior wall finished shall be stucco finishes with earth tone colors as approved by the Architectural Committee."

The Commissioners met on November 12, 2022 and approved the extension. However,

the wording had been changed to:

"At the July 14, 2020 BCC meeting, Applicant also agreed to assure that all future residential construction in the development adheres to the Santa Fe style, Pueblo style, and/or Territorial style, including, but not limited to, earth-tone stucco exteriors and flat, dark roofs. Lastly, Applicant agreed that all construction within the development would be on permanent foundations. These agreed-to terms shall constitute conditions of approval of Applicant's request for a time extension, and shall be affirmed by appropriate notations on any final plat submitted for approval and recording."

We do not know where or how the wording was changed. We are looking into correspondence on this issue at Land Use. However, this change occurred without our knowledge. Note that the insertion of "**but not limited to**" allows developers to build anything they want including the modular homes in Phase 1B. In addition, no mention of height restriction (no 2 story homes). There is no requirement for site-built custom home. There are no size restrictions. The wording greatly reduces the impact of the original agreed wording. We therefore ask that the Commissioners NOT grant the extension unless the original wording is placed in the plat (the permitting process) as originally promised.

We attach below an e mail from Danny Martinez of the Miller group during the 2020 discussions below to document these claims, the original wording agreed to, and the final wording voted on by the Commissioners in November 2020.

Sincerely,

David Hollenbach Secretary of the Spirit Wind Ranch HOA

Roger Taylor Chairman of the neighborhood group 285ALL

Appendix A.

August 19, 2020. E mail letter from Danny Martinez of the Miller development group sent August 19,2020 to Spirit Wind Ranch HOA and 285ALL

"Presented for your review is the proposed note that would be placed on the final subdivision plat and will be incorporated into the new Restrictive Covenant for Spirit

Wind West Phases 2, 3 and 4 along with the five existing lots along Cerro Alto Road, if we can get to this point.

I look forward to Thursday's meeting.

"SPECIAL NOTE AND CONDITIONS"

Development of Spirit Wind West Subdivision, Phases 2,3 and 4 will adhere to the following conditions regarding individual home construction restrictions.

Home construction restrictions as noted include elimination of two story homes but allowing for split level homes where existing terrain may allow for this type of construction. Building heights will be limited to eighteen (18) feet from the highest point of the natural grade. Building structures will be on site stick built homes. Flat roofs will be allowed, pitched roofs are prohibited. No reflective shiny roof materials are allowed. Metal paneling will be allowed for roof finishes and will be hidden behind parapets. Metal colors shall be dull non reflective colors.

All exterior stucco finishes shall be natural earth tone colors such as brown,tan and other colors reflected in the existing neighboring community.

Design guidelines for new homes will adhere to Southwest style including Pueblo, Spanish Colonial, Territorial and Santa Fe Soft Contemporary Style.

Horses and associated out buildings will not be allowed.

Accessory Structures such as studios, guest homes, workshops with less that forty percent of the main structure size are allowed and must be placed within twenty five feet of the main structure.

This is my example of the noted conditions based on our previous meetings. I'm sure there are comments to be expected.

Let me know your thoughts.

Danny Martinez

Land Development Planning PHONE: (505) 660-5250 FAX: (505) 798-1959 e-mail ldplanning@comcast.net"

August 20, 2020. Wording agreed to in meeting with Martinez/Miller, Spirit Wind Ranch HOA

SFC CLERK RECORDED 08/10/2022

and 285ALL

Permitted uses are restricted to site built custom home with a minimum size of (1600) one thousand six hundred square feet plus garages and accessory structures. No two-story homes will be allowed, split level homes are allowed when terrain restraints are existing. All homes construction shall be built to meet Pueblo Style, Spanish Colonial, Territorial and Southwest Contemporary homes, no pitched roofs will be allowed. Exterior wall finished shall be stucco finishes with earth tone colors as approved by the Architectural Committee.

November 12, 2020. Wording approved by County Commissioners at Meeting of Commissioners.

At the July 14, 2020 BCC meeting, Applicant also agreed to assure that all future residential construction in the development adheres to the Santa Fe style, Pueblo style, and/or Territorial style, including, but not limited to, earth-tone stucco exteriors and flat, dark roofs. Lastly, Applicant agreed that all construction within the development would be on permanent foundations, These agreed-to terms shall constitute conditions of approval of Applicant's request for a time extension, and shall be affirmed by appropriate notations on any final plat submitted for approval and recording.

Note that the insertion of "**but not limited to**" allows developers to build anything they want. In addition, no mention of height restriction (no 2 story homes). There is no requirement for site-built custom home. There is no size restrictions. The wording greatly reduces the impact of the original agreed wording.

Appendix B.

Photos of Phase 1B of Spirit Wind West.





(Above) Photos of Phase 1B (taken July 2022). Phase 1B is characterized by lack of landscaping, multiple trailers and RVs parked outside contrary to their covenants, and closely spaced modular buildings.

(Below) Photo of home in neighboring Spirit Wind Ranch. Adheres to the Santa Fe style of the whole region.

