

New Hire Report for the Period of  
(4/1/2013 - 4/19/2013)

LAST NAME	FIRST NAME	MIDDLE INITIAL	DEPARTMENT	EMP		HIRE DATE
				TITLE	STATUS	
APODACA	JARED	J	PUBLIC SAFETY DEPARTMENT	DETENTION OFFICER	PB	4/8/2013
BATISTA	MICHAEL	A	PUBLIC SAFETY DEPARTMENT	DETENTION OFFICER	PB	4/8/2013
MARTINEZ	ISAIAH	A	PUBLIC SAFETY DEPARTMENT	DETENTION OFFICER	PB	4/8/2013
MARTINEZ	CARLOS	C	PUBLIC SAFETY DEPARTMENT	DETENTION OFFICER	PB	4/8/2013
YBARRA	CRYSTAL	A	PUBLIC SAFETY DEPARTMENT	THERAPIST	PB	4/4/2013
PARKER	ROBERT	W	COUNTY CLERK'S OFFICE	CHIEF DEPUTY BUR OF ELECTIONS	PB	4/8/2013
ARCHULETA	TRUDI	M	COMMUNITY SERVICES DEPARTMENT	SECRETARY	PB	4/1/2013
LEYBA	LEO		PUBLIC WORKS DEPARTMENT	CUSTODIAN	PB	4/1/2013
ROMERO	DANIEL	A	PUBLIC WORKS DEPARTMENT	MAINTENANCE TECHNICIAN	PB	4/1/2013
SALGADO	OSCAR		PUBLIC WORKS DEPARTMENT	CUSTODIAN	PB	4/1/2013
GALLEGOS	ROBERT	J	PUBLIC WORKS DEPARTMENT	ROAD MAINTENANCE WORKER	PB	4/8/2013
FRANCISCO	JUSTINE	M	PUBLIC WORKS DEPARTMENT	UTILITIES MAINTENANCE WORKER	PB	4/8/2013

Revision:

Time:



**Daniel "Danny" Mayfield**  
*Commissioner, District 1*

**Miguel M. Chavez**  
*Commissioner, District 2*

**Robert A. Anaya**  
*Commissioner, District 3*



**Kathy Holian**  
*Commissioner, District 4*

**Liz Stefanics**  
*Commissioner, District 5*

**Katherine Miller**  
*County Manager*

## MEMORANDUM

**DATE:** April 30, 2013  
**TO:** Santa Fe Board of County Commissioners  
**FR:** Rita B. Maes, Constituent Services Liaison  
**RE:** Proclamation in Honor of Hillside Market Community Day

**Item and Issue:**

Commissioners Chavez and Holian herewith submit a proclamation in recognition of the Hillside Market for hosting a "Community Day" for the Santa Fe Community.

**Background Summary:**

The Hillside Market situated in Santa Fe County provides an eclectic array of handcrafted goods and fosters sustainability through promotion of local resources and community partnerships. On April 21, 2013, the Hillside Market joined many organizations to host a day-long celebration which included safety tips from our Santa Fe County Fire Department and helpful tips and information from "green" businesses, wellness providers, educators and community groups.

**Action Recommendation:**

Your support and approval of the attached proclamation recognizing the Hillside Market is greatly appreciated.



Robert A. Garcia  
Sheriff  
986-2455

[ragarcia@santafecountynm.gov](mailto:ragarcia@santafecountynm.gov)



Ron E. Madrid  
Undersheriff  
986-2455

[rmadrid@santafecountynm.gov](mailto:rmadrid@santafecountynm.gov)

35 Camino Justicia – Santa Fe, New Mexico 87508

## MEMORANDUM

**To:** Santa Fe Board of County Commissioners  
**Fr:** Robert A. Garcia - Sheriff *RAG*  
**Date:** April 2, 2013  
**Re:** Retirement/Andrew Quintana and Ben Chavez

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I am requesting your approval to recognize Detective Andrew Quintana and Deputy Ben Chavez upon their retirement at the BCC meeting on April 30<sup>th</sup>, 2013. Det. Quintana has been employed with Santa Fe County since July of 2003 and Dep. Chavez has been employed with Santa Fe County since March of 2002.

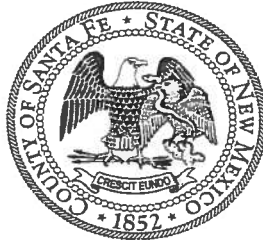
Thank you.



Daniel "Danny" Mayfield  
*Commissioner, District 1*

Miguel M. Chavez  
*Commissioner, District 2*

Robert Anaya  
*Commissioner, District 3*



Kathy Holian  
*Commissioner, District 4*

Liz Stefanics  
*Commissioner, District 5*

Katherine Miller  
*County Manager*

## MEMORANDUM

**Date:** April 30, 2013

**To:** Board of County Commissioners

**From:** Katherine Miller, County Manager *KW 4.22.13*

**Subject:** Recognition of Chief David Sperling for Completion of the Executive Fire Officer Program of the U.S. Fire Administration's National Fire Academy (County Manager and Board of County Commissioners)

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### Background

County Fire Chief David Sperling has successfully completed the U.S. Fire Administration's (USFA) National Fire Academy's (NFA) "Executive Fire Officer Program."

The Executive Fire Officer Program is an initiative of the USFA/NFA designed to provide senior officers with a broad perspective on various facets of fire and emergency services administration. The EFOP curriculum and research framework examines how senior authority figures can exercise leadership when dealing with difficult, adaptive problems within their jurisdictions.

EFOP participants enhance their professional development through a unique series of four resident graduate- and upper-level college-equivalent courses, and the completion of an Applied Research Project (ARP) for each course. The EFOP spans a 4-year period and consists of four "core" courses. Each course is 2 weeks in length. A Certificate of Completion for the entire EFOP is awarded only after the successful completion of the final ARP.

The four components of the program include: Executive Development; Executive Analysis of Community Risk Reduction; Executive Analysis of Fire Service Operations in Emergency Management; and Executive Leadership.

EFOP began as a three year professional development program in 1985 expanding to its current length (of four years) in 1988. The post-course Applied Research Project (ARP) component was implemented in 1990 and many of these ARPs are now archived and available to the public through the National Emergency Training Center *Learning Resource Center*. Twenty-five years later USFA/NFA is nearing a threshold of 3,000 EFOP alumni and a completion rate of ARPs in the thousands. Together, EFOP alumni and their research have resulted in significant changes to fire/emergency services

organizations and their communities in the US and internationally. Academically, there are a number of higher education institutions that have created degree programs which recognize EFOP courses and research, some doing so at the graduate level. EFOP is recognized both within the Fire Emergency Services Higher Education (FESHE) Model and within the Chief Fire Officer Designation (CFOD) criteria.

**Action**

It is with great pleasure that the Board of County Commissioners and County Manager Miller provide recognition of Chief David Sperling for Completion of the Executive Fire Officer Program of the U.S. Fire Administration's National Fire Academy.





**FEMA**

February 13, 2013

Katherine Miller, County Manager  
Santa Fe County Fire Department  
102 Grant Avenue  
Santa Fe, New Mexico 87504

Dear Ms. Miller:

Please accept my sincere thanks for your support of Deputy Fire Chief David Sperling during his participation in the U.S. Fire Administration's National Fire Academy's (NFA) "Executive Fire Officer Program" (EFOP).

Chief Sperling has now successfully completed the EFOP and the required applied research. On behalf of the NFA, the enclosed EFOP certificate has been forwarded to you for formal presentation to this dedicated member of your department. You may want to present the certificate at a formal ceremony and invite your community's elected officials and members of the local media to attend.

The Academy appreciates your commitment to this 4-year program and continued support of the NFA.

Sincerely,

A handwritten signature in black ink, appearing to read "Denis Onieal".

Dr. Denis Onieal  
Superintendent  
National Fire Academy  
U.S. Fire Administration

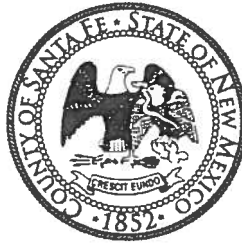
Enclosure



**Daniel "Danny" Mayfield**  
*Commissioner, District 1*

**Miguel M. Chavez**  
*Commissioner, District 2*

**Robert A. Anaya**  
*Commissioner, District 3*



**Kathy Holian**  
*Commissioner, District 4*

**Liz Stefanics**  
*Commissioner, District 5*

**Katherine Miller**  
*County Manager*

## MEMORANDUM

**DATE:** April 16, 2013  
**TO:** Santa Fe Board of County Commissioners  
**FR:** Rita Maes, Constituent Services Liaison on behalf of Commissioner Miguel Chavez  
**RE:** Presentation on Celebrate Santa Fe Tourism Week May 4-12, 2013, (Presentation by John Berkenfield, President of Santa Fe County Lodgers Tax Advisory Board and Cynthia Delgado, Marketing Director for Santa Fe Convention and Visitors Bureau)

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### Background Summary:

Numerous local tourism related businesses are uniting with the Santa Fe Chamber of Commerce and the Santa Fe Convention & Visitors Bureau to **Celebrate Santa Fe Tourism**, in conjunction with National Tourism Week, May 4-12, 2013.

Several Santa Fe County businesses will participate in the **Santa Fe Tourism Expo** which is endorsed by the Santa Fe County Lodgers Tax Advisory Board (LTAP). John Berkenfield, President of LTAP and Cynthia Delgado, Marketing Director for the Santa Fe Convention and Visitors Bureau will be in attendance to provide a short presentation on events planned for **Tourism Week** in Santa Fe.

### Action Recommendation:

No action required.



SANTA FE CHAMBER  
OF COMMERCE

Dear Tourism Colleague,

To mark the 2013 National Tourism Week, the Santa Fe Convention & Visitors Bureau and the Santa Fe Chamber of Commerce are joining dozens of tourism businesses and supporters throughout Santa Fe to “**Celebrate Santa Fe Tourism**,” and highlight the significant contribution the travel & tourism industry makes to our local economy and to take an opportunity to share all the exciting experiences that Santa Fe has to offer a visitor.

The tourism industry represents over \$620 million in economic output in Santa Fe. It is one of Santa Fe’s largest industries and largest employers. More than 7,400 Santa Feans’ jobs depend on travel. To protect this important industry, we want ensure that every visitor has an amazing stay. We need your help to accomplish sharing all that Santa Fe has to offer with the whole community...so that each one of us becomes a Santa Fe Ambassador.

As a travel industry stakeholder, we invite you to participate in the main event of this celebration: the **Santa Fe Tourism Expo**, which will be held May 9, 2013, from 10 am to 7pm at the Santa Fe Community Convention Center. The Expo will provide an excellent opportunity to share the authentic experiences and offers that you provide for visitors to Santa Fe. We will have a limited number of booths available for businesses to showcase their offerings at the Expo, which will be filled on a first come, first serve basis. The booths are free of charge for those who meet the requirements and fully commit to participating.

Here are the details. Your business must:

- 1) Be a member of the Santa Fe Chamber of Commerce OR have a listing on the Santa Fe Convention & Visitor’s Bureau website (santafe.org).
- 2) Be an attraction, event, activity, visitor service, government entity, or industry association related to tourism
- 3) Provide an in-kind donation of service (ie.gift certificates) to be given away at the expo as part of a drawing for attendees
- 4) Commit to staff the booth for the entire time (10am to 7pm)
- 5) Guarantee that 10% of your employees will attend the expo.
- 6) Send a representative to attend a participant orientation meeting at **4pm on Tuesday, April 9, 2013** at the Convention Center, in the Lamy Room.

The Expo is free of charge and the entire community will be invited to attend. Our volunteer committees are working diligently to publicize the expo and the celebration in order to achieve maximum participation. Please read the attached overview of the Celebrate Santa Fe activities. We look forward to hearing from you. [Click here to reserve your booth.](#)

Sincerely,

Jim Luttjohann  
Executive Director  
Santa Fe CVB

Simon Brackley  
President & CEO  
Santa Fe Chamber of Commerce

## DID YOU KNOW?

- The tourism industry represents over \$620 million in economic output in Santa Fe. It is one of Santa Fe's largest industries and largest employers. More than 7,400 Santa Feans' jobs depend on travel
- Santa Fe, the capital of New Mexico, is the oldest capital city in the United States
- More than 65,000 people live and work in Santa Fe and 1 in 6 jobs is directly related to tourism
- Condé Nast Traveler magazine consistently rates Santa Fe in the top three tourist destinations in the United States
- Santa Fe has 4,600 rooms in hotels, motels, spas and bed and breakfast inns
- Santa Fe has more than 300 restaurants, 250 art galleries, 70 jewelry shops, 13 museums and one world-famous opera



# CELEBRATE TOURISM → Santa Fe

May 9, 2013

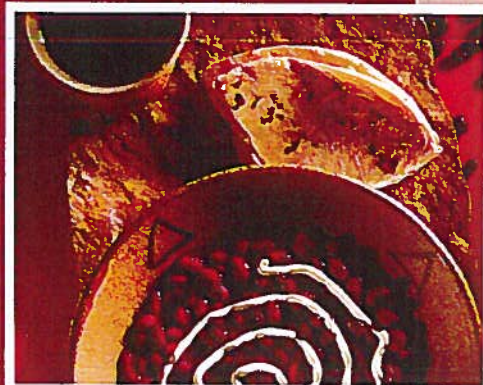
10 am to 7 pm

**Santa Fe Community  
Convention Center**


Kick-off of the season with the "Celebrate Santa Fe Tourism" collaborative event. During National Tourism Week, the Santa Fe Convention & Visitors Bureau and the Santa Fe Chamber of Commerce are joining hospitality and tourism businesses to excite and inform those who work in the tourism industry and locals alike about the many amazing experiences that Santa Fe has to offer.

Join us for this **FREE** event open to everyone. This is a great opportunity to expand your knowledge about our amazing city and become a **Santa Fe Ambassador**. Explore booths with activities, events, attractions, visitor services and more. Sign up for prizes and giveaways. **Come celebrate with us!**

- Tourism Expo with booths from tourism and travel related businesses and organizations showcasing their stuff!
- Restaurants will be giving you a taste of "their" Santa Fe
- Informative presentations on the pillars of customer service
- Behind-the-scenes tours of the Community Convention Center
- Chamber of Commerce social mixer/party from 5 to 7pm



## FOR MORE INFORMATION

 [.com/events/227976497340284/](https://www.facebook.com/events/227976497340284/)

**SANTA FE  
NEW MEXICAN**  
You turn to us.

  
SANTA FE  
CHAMBER OF COMMERCE

*Santa Fe*  
A COLORFUL JOURNEY  
— [SantaFe.org](http://SantaFe.org) —





NO PACKET MATERIAL  
FOR THIS ITEM

Daniel "Danny" Mayfield  
Commissioner, District 1

Miguel M. Chavez  
Commissioner, District 2

Robert A. Anaya  
Commissioner, District 3



Kathy Holian  
Commissioner, District 4

Liz Stefanics  
Commissioner, District 5

Katherine Miller  
County Manager

## MEMORANDUM

**Date:** April 22, 2013

**To:** Board of County Commissioners

**Via:** Katherine Miller, County Manager

**From:** Kathy Holian, Santa Fe County Commissioner, District 4  
Robert Anay, Santa Fe County Commissioner, District 3

**Re:** Resolution No. 2013- \_\_\_\_ A Resolution Establishing a Water Policy  
Advisory Committee (Commissioners Holian and Anaya)

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**Issue:**

The attached Resolution proposes the establishment of a Water Policy Advisory Committee composed of residents from Santa Fe County. Its purpose is to assist the County in several water related endeavors currently underway:

- to address a prior requirement of Resolution 2011-88 to convene a water focus group when the County embarks on aquifer storage and recharge (ASR) activities;
- to assist the County in addressing and implementing water related policies included in the Sustainable Growth Management Plan (SGMP), such as developing recommendations on conservation practices;
- to research and recommend updates for the 40-year Water Plan, and explore the concept of an independent regional water authority (or authorities).

This advisory committee would be composed of County residents with direct or indirect water related experience, bringing additional expertise and knowledge to bear on these large issues and to add to our current Public Utilities competence; could provide a valuable resource in reaching out to communities to act as information liaisons (such as the committee that helped establish the Conjunctive Management Plan); and assist the County in addressing water supply challenges in these times of persistent drought.



Historically the County has appointed a number of committees to assist in advising, gathering information, and making recommendations on a wide range of issues and endeavors of County responsibility, from road projects to acquiring property to Corrections policy and Health among others. These committees have provided a valued resource in collaborating with the public and stimulating public interface and interaction with local government. With the current and projected challenges due to changing climate and weather, this is a timely consideration.

**Request Action:**

Commissioners Holian and Anaya respectfully request the Board of County Commissioners' support and approval of this item.

**THE BOARD OF COUNTY COMMISSIONERS  
OF SANTA FE COUNTY**

**RESOLUTION NO. 2013-\_\_\_\_**

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**A RESOLUTION ESTABLISHING A WATER POLICY ADVISORY COMMITTEE**

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**WHEREAS**, the Board of County Commissioners seeks to create and maintain a coherent water policy that encompasses the full spectrum of water use and meets, to the extent possible, the needs of all water users;

**WHEREAS**, the County's Sustainable Growth Management Plan identifies water as an important County matter and in particular lists seven key water issues and eight keys to sustainability that will require a full community effort to address or implement;

**WHEREAS**, the County has numerous existing water policy documents that require occasional updating and cross-referencing;

**WHEREAS**, Resolution 2011-88 requires that a water focus group be convened to discuss aquifer storage and recharge (ASR) when the County begins to address this issue;

**WHEREAS**, it is in the interest of all residents of Santa Fe County to address water issues in a regional manner, including utility water service, source of supply, irrigation, and water reuse;

**NOW, THEREFORE BE IT RESOLVED** by the Board of the County Commissioners (BCC) that:

1. A Water Policy Advisory Committee (the Committee) is hereby created for the express purpose of providing factual information to the BCC regarding water, wastewater, and water management within the County and regionally.
2. The Committee shall be comprised of seven voting members appointed by the BCC.
3. Three members of the Committee will be appointed for an initial term of two years and four members shall be appointed for an initial term of three years. Thereafter Committee members shall serve terms of three years. In the event of a vacancy, the BCC shall appoint a member to serve out the remainder of the departing member's term, taking into consideration any recommendation from the Committee and Public Works staff to fill that vacancy. There shall be no limitation on the number of consecutive terms that a member may serve. Members may be removed by the BCC with or without cause.

4. Committee members shall annually elect a chair and a vice-chair by majority vote of the quorum.
5. The Committee shall meet as often as necessary to carry out its work, but no less than quarterly. The meetings of the Committee shall be held in the County Public Works facility and such other locations as may be conducive to visible and publicly accessible meetings. Meetings shall be held in accordance with all relevant County policies with regard to public notice, open meetings, and rules of order.
6. All matters coming before the Committee shall be resolved by majority vote of the quorum.
7. All Committee members shall reside within the exterior boundaries of Santa Fe County. One member shall be nominated by each Commissioner. The sixth member shall be at-large and may reside anywhere in the County and be nominated by any Commissioner. The seventh member may be nominated by the Buckman Direct Diversion (BDD) Board or by the City Council of the City of Santa Fe (and shall not be a member of City staff), at the direction of the BCC. If the City Council fails to nominate a member, the BCC may choose to fill the vacancy with a second at-large member. Membership should span a wide range of expertise and experience not limited to water but at least two members should demonstrate expertise in some aspect of water. Expertise may be demonstrated by membership in an established community water group, such as (but not limited to) the Santa Fe Basin Water Association, the Santa Fe Watershed Association, or the Estancia Basin Resource Association; by professional practice in the field of water, wastewater, hydrology, agriculture, or similar; or by other documented relevant professional or volunteer experience. Individuals with expertise in the water policies and practices of other governmental entities in the region are also qualified to serve on the Committee. Interested residents must submit a letter of interest and documented qualifications. In the event more than one individual seeks appointment to a position on the Committee, the Public Works Department will be asked to rank the competing applicants.
8. The County Manager shall appoint a member of the County Staff to serve as liaison to the Committee.
9. The scope of duties of the Committee shall include the following:
  - a. To make recommendations related to water policies in the County land development code, with focus on making recommendations in areas such as: land restoration practices and techniques that lead to water collection, restoration, and conservation; implementation of grey water and closed re-circulating systems; agricultural land restoration; protection of waterways such as the Santa Cruz River, within existing water resource allocations; etc.
  - b. To make recommendations related to County water and wastewater utility growth;

- c. To assist the County in addressing proposed aquifer storage and recharge activities, design plans, and projects;
  - d. Explore the concept of an independent regional water authority or authorities, including interfacing with the City of Santa Fe, the City of Espanola, the Town of Edgewood, mutual domestic water consumer associations, and other regional water users regarding a regional water authority or authorities;
  - e. Recommend updates to the current 40-year Water Plan, the Conjunctive Management Plan, or other plans;
  - f. Such other water related topics and issues as directed by the BCC.
10. Within two months of the creation of the Committee and at the second BCC meeting in January of each year thereafter, the chair of the Committee shall present to the BCC for approval a draft work plan for the upcoming calendar year or portion thereof. The work plan shall include a list of tasks or topics to be addressed by the Committee over the year along with a delivery schedule of updates, reports, and other deliverables. The chair may from time to time amend this work plan with approval from the BCC. The BCC can amend this work plan at any time. The chair shall update the BCC in accordance with this work plan.
11. The Committee may be incorporated into other County standing committees or otherwise dissolved at any time.

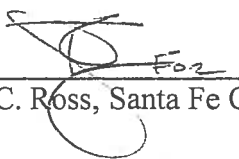
**PASSED, APPROVED AND ADOPTED this 9<sup>th</sup> day of April, 2013.**  
**THE BOARD OF COUNTY COMMISSIONERS OF SANTA FE COUNTY**

By: \_\_\_\_\_  
Kathy Holian, Chair

**Attest:**

\_\_\_\_\_  
Geraldine Salazar, Santa Fe County Clerk

**Approved to form:**

  
\_\_\_\_\_  
Stephen C. Ross, Santa Fe County Attorney

# Santa Fe County

## Fiscal Impact Report

Department / Division: Public Works Department

Action Item to be Considered: A Resolution To Establish a Water Policy Advisory Committee

Agreement Number: Resolution No. 2013 \_\_\_\_\_

Indicate with a <input checked="" type="checkbox"/> below	Section 1 -Identify the type of document below for BCC Consideration and Approval
<input type="checkbox"/>	Revenue, e.g. Grant, charges and fees, etc.
<input type="checkbox"/>	Contractual Services (includes change orders), e.g. Professional services agreement, construction, price agreement, joint powers agreement, lease agreement, etc.
<input type="checkbox"/>	Loan/Grant Agreement
<input checked="" type="checkbox"/>	Other: <span style="border: 1px solid black; padding: 2px; display: block;">Community Meeting</span>

Indicate with a <input checked="" type="checkbox"/> below	Section 2 - Funding Source Identify the item below for BCC Consideration and Approval
<input checked="" type="checkbox"/>	General Fund, e.g. property taxes, gross receipt taxes, etc.
<input type="checkbox"/>	Special Revenue Funds, e.g. Fire, Indigent, etc. <span style="border: 1px solid black; height: 15px; display: block; margin-top: 2px;"></span>
<input type="checkbox"/>	Capital Outlay GRT, (capital infrastructure only, does not include maintenance or repair costs)
<input type="checkbox"/>	Bond Proceeds (general obligation and gross receipt tax revenue bonds) <span style="border: 1px solid black; height: 15px; display: block; margin-top: 2px;"></span>
<input type="checkbox"/>	Grant Funds. If yes, indicate the percentage and amount required % and/or \$, and source. % <span style="border: 1px solid black; width: 40px; display: inline-block;"></span> \$ <span style="border: 1px solid black; width: 60px; display: inline-block;"></span> Source <span style="border: 1px solid black; width: 150px; display: inline-block;"></span>
<input type="checkbox"/>	Other: <span style="border: 1px solid black; height: 15px; display: block; margin-top: 2px;"></span>

### Section 3 - Ongoing operations and maintenance (O&M) requirements:

**Short Term** (Specify needs for the current fiscal year only)

New FTE's #  Position  Hourly Rate \$

Current Fiscal Year Cost \$  Annual Cost \$

Initial Costs (Vehicle, computer, office space, etc.)

**O & M** (Concisely identify the recurring needs, supplies, equipment, and the resources necessary for carrying out the job duties)

The resolution requires the WPAC to meet at least quarterly, but, given the broad scope of the WPAC, it is estimated to have at least 6 meetings a year to be conservative.

**Staffing requirements:** Citizen committees tend to request a lot of additional research, data collection, and analyses from staff as part of their understandable need to be as fully informed on the issues as possible. Staff time will also be required for the WPAC to 1) prepare public notices and posting of the meetings, 2) generate materials, presentations and agendas for each meeting, 3) review and approve transcribed minutes, 4) provide updates at BCC meetings, 5) travel to WPAC meetings if not at the PubWks building. Such committees also generate a certain amount of additional communication (media inquiries, e-mails and phone conversations with members, in-person meetings, etc.) that involves staff time. It is estimated that between 20-30 FTE hours will be required for each WPAC meeting, totaling 120-180 FTE hours for 6 meetings per year. If the WPAC were to meet monthly, break into subcommittees, and/or sponsor public forums throughout the County, all requiring staff involvement, the FTE requirement could reach 240-360 FTE hours per year or more.

It's important to note that it will be very difficult for the WPAC to fully accomplish its charge in its first year, if it meets just every other month, recognizing the broad, comprehensive "scope of duties" outlined in Section 9 of the resolution. Given this, upon its initial formation, it's recommended that the WPAC work with the BCC to prioritize the water issues that are the most critical to address early on.

**Expenses:** A \$40 estimate per meeting, for noticing by the newspapers - \$240 total for 6 meetings/year. Prepared minutes are estimated to cost \$260/meeting or \$1560 total. Should WPAC request or require a study or comprehensive analyses that cannot be accomplished by the PubWks Dept. in-house, then expenses will be incurred to retain consulting services.

Current Fiscal Year Cost \$  Annual Cost \$

**Long Term** (Specify the needs for the next four (4) years. This will include staff, O & M, asset renewal and replacement costs, and additional capital needs)

It will cost \$960 for noticing to the newspapers and \$6,240 for a hired recorder, over the next four years. There is an estimated 480-720 FTE hours, over the next four years.

**Salary & Benefits:**

\$16,200 to \$24,300 in estimated staff time over next four years (480 or 720 x 25 x 1.35)

**All other expenses:**

Meetings should be held in the County Public Works facility, but additional funds may be needed for other locations that may be more conducive to visibility and public accessibility

#### Section 4 - Revenue

**Short Term** (Specify the revenue potential for the current fiscal year only. If a grant, specify the total grant award amount and the term. If a fee or charge for service, explain basis of revenue projection).

Current FY Estimate \$

**Long Term** (Specify the revenue potential for the next four (4) fiscal years. If a grant, specify the total grant award amount and the term. If a fee or charge for service, explain basis of revenue projection).

Annual Estimate \$  Total (next 4 years) \$

**Additional Narrative**

(Should include additional information such as significant issues, administrative issues and technical issues. What consequences, if any, may occur if this item is not acted upon):

They estimate 42 FTE hours per year for the meeting. Assume the meetings are 2 hours long (the average length of the Road Advisory Committee meetings). Assume 3 hours of prep time per meeting. Assume 2 people attend the meeting. (42 hours)

Prepared by

Reviewed by



File Attachment



File Attachment



File Attachment





**Daniel "Danny" Mayfield**  
Commissioner, District 1

**Miguel Chavez**  
Commissioner, District 2

**Robert A. Anaya**  
Commissioner, District 3



**Kathy Holian**  
Commissioner, District 4

**Liz Stefanics**  
Commissioner, District 5

**Katherine Miller**  
County Manager

## **MEMORANDUM**

**DATE:** *April 17, 2013*

**TO:** *Board of County Commissioners*

**FROM:** *Adam Leigland, Public Works Department Director*

**VIA:** *Katherine Miller, County Manager* *KLM 4.19.13*

**ITEM AND ISSUE:** *BCC Meeting April 30, 2013*

**RESOLUTION 2013-\_\_\_\_\_, A RESOLUTION CREATING AN ASSET  
MANAGEMENT SYSTEM FOR COUNTY FACILITIES (PUBLIC WORKS)**

### **BACKGROUND AND SUMMARY:**

Santa Fe County owns an array of over 84 facilities, comprising over 850,000 square feet and spanning a wide range of function, age, and condition. Examples of County facilities and their broad variety include the 80-year-old main administration building, the recently completed state-of-the art court house, over 30 fire stations, the adult detention facility, and a dozen community centers. The condition of County facilities is clearly important for several reasons, including health and safety, employee productivity, utility expenditures, and constituent/customer satisfaction. However, current County practices make it difficult to, first, identify facility deficiencies, inadequacies, or opportunities for improvements; and, second, to properly prioritize and remedy the deficiencies or make the improvements. Facility maintenance practices tend toward reactive break-down repair and "Band-Aid" fixes, which don't optimize limited County resources and which can be frustrating to customers, employees, and the facility maintenance staff alike.

The subject resolution enacts a facility asset management process that attempts to address these shortcomings. This new asset management process first recognizes that capital investment decisions incur future operation and maintenance obligations that need to be explicitly incorporated into decision-making. Second, the process establishes an objective facility assessment and grading system called the Facility Condition Index, so that the true condition of a facility can be known and compared to others, thus facilitating work prioritization. Finally, the process guides the allocation of resources based upon the Facility Condition Index.

The County has already implemented a similar program for another aspect of its capital asset portfolio. All County roads are assessed using an objective 1-to-10 scoring system called PASER. Road maintenance and investment decisions are made based on PASER ratings. This program has been successful at preserving and improving the County network of roads within existing budgets. An asset management process for facilities can achieve the same results.

### **ACTION REQUESTED:**

Approval of subject resolution.

**SANTA FE COUNTY**

**RESOLUTION NO. 2013-\_\_**

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**RESOLUTION 2013-\_\_**  
**A RESOLUTION CREATING AN ASSET MANAGEMENT SYSTEM FOR COUNTY**  
**FACILITIES.**

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**WHEREAS**, Santa Fe County (the County) is undertaking a performance-based budgeting system;

**WHEREAS**, the County has adopted a rigorous, objective capital improvement planning process;

**WHEREAS**, the County owns, operates, and maintains a portfolio of over 84 facilities comprising over 850,000 square feet serving a mix of administrative, functional, and customer service purposes with ages ranging from newly constructed to over 80 years old;

**WHEREAS**, over the typical 30-year life cycle of a facility, operation and maintenance costs will surpass initial capital costs; and

**WHEREAS**, every dollar spent in planned facility maintenance and upkeep forestalls five to ten dollars in facility repair, and conversely, every dollar in deferred maintenance ultimately results in five to ten dollars of breakdown repair;

**WHEREAS**, total identified County capital needs generally exceed County capital resources by a factor of five;

**WHEREAS**, a facility investment policy that targets facilities based on their condition, that prioritizes maintaining existing facilities over building new ones, and that takes operation and maintenance costs into account when acquiring new facilities, will ultimately provide higher quality County facilities at a lower cost;

**WHEREAS**, County constituents and customers generally evaluate their total County customer service experience based largely on their impression of County facilities;

**WHEREAS**, County employees will be more productive and provide better customer service if they work in well-maintained facilities; and

**WHEREAS**, the Commission directed the creation of a County-wide capital asset inventory with Resolution 2013-1.

**NOW, THEREFORE, BE IT RESOLVED BY THE SANTA FE COUNTY BOARD OF COUNTY COMMISSIONERS THAT:**

1. Staff will be create for each proposed new capital asset, using parametric pricing factors, an annualized 30-year estimate of expected operation and maintenance costs, to include utilities; staffing; furnishings and equipment; and system maintenance, service, and replacement. The estimate shall be presented to the Board of County Commissioners (the Commission) alongside all other information when the new asset is presented for approval during the capital planning process.
2. Staff will create a numerical Facility Condition Index (FCI) encompassing assessments or evaluations of a facility's age and location; condition and appearance of its envelope, structure, and systems; and adequacy to meet its intended purpose. Each facility listed on the County inventory created under Resolution 2013-1 will be surveyed and evaluated to determine its FCI score, initially upon approval of this resolution and then again at least every three years in a rolling schedule such that approximately 33% of the County inventory is evaluated each year;
3. The Commission shall adopt a minimum acceptable FCI score that will guide facility investment decisions, and shall prioritize sustaining, maintaining, or upgrading existing assets over building or acquiring new assets to the extent possible, with an average of 60% of total County capital funds being used to upgrade existing capital assets. Capital projects identified through this process shall be entered onto the County's Capital Improvement Plan.
4. Annually, staff shall present the Commission with a report on the current County facility inventory, each facility's FCI score, and such other information as the Commission requests.

**PASSED, APPROVED, and ADOPTED THIS \_\_\_\_ DAY OF \_\_\_\_\_, 2013.**

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**Kathy Holian, Chair**

**Stephen C. Ross, County Attorney**

# Santa Fe County

## Fiscal Impact Report

Department / Division:

Action Item to be Considered:

Agreement Number:

Indicate with a <input checked="" type="checkbox"/> below	Section 1 - Identify the type of document below for BCC Consideration and Approval
<input type="checkbox"/>	Revenue, e.g. Grant, charges and fees, etc.
<input type="checkbox"/>	Contractual Services (includes change orders), e.g. Professional services agreement, construction, price agreement, joint powers agreement, lease agreement, etc.
<input type="checkbox"/>	Loan/Grant Agreement
<input checked="" type="checkbox"/>	Other: <input type="text" value="Resolution"/>

Indicate with a <input checked="" type="checkbox"/> below	Section 2 - Funding Source Identify the item below for BCC Consideration and Approval
<input checked="" type="checkbox"/>	General Fund, e.g. property taxes, gross receipt taxes, etc.
<input type="checkbox"/>	Special Revenue Funds, e.g. Fire, Indigent, etc. <input type="text"/>
<input type="checkbox"/>	Capital Outlay GRT, (capital infrastructure only, does not include maintenance or repair costs)
<input type="checkbox"/>	Bond Proceeds (general obligation and gross receipt tax revenue bonds) <input type="text"/>
<input type="checkbox"/>	Grant Funds. If yes, indicate the percentage and amount required % and/or \$, and source. % <input type="text"/> \$ <input type="text"/> Source <input type="text"/>
<input type="checkbox"/>	Other: <input type="text"/>

Section 3 - Ongoing operations and maintenance (O&M) requirements:	
Short Term (Specify needs for the current fiscal year only)	
<input type="text" value="None"/>	
New FTE's # <input type="text" value="0"/>	Position <input type="text"/> Hourly Rate \$ <input type="text"/>
Current Fiscal Year Cost \$ <input type="text" value="0"/>	Annual Cost \$ <input type="text"/>
Initial Costs (Vehicle, computer, office space, etc.)	
<input type="text" value="None"/>	
O & M (Concisely identify the recurring needs, supplies, equipment, and the resources	

necessary for carrying out the job duties)

NA

Current Fiscal Year Cost \$

Annual Cost \$

**Long Term** (Specify the needs for the next four (4) years. This will include staff, O & M, asset renewal and replacement costs, and additional capital needs)

Estimated \$100,000 for contract to initially develop the FCI and to perform the first facility assessments.

**Salary & Benefits:**

**All other expenses:**

Contract

#### Section 4 - Revenue

**Short Term** (Specify the revenue potential for the current fiscal year only. If a grant, specify the total grant award amount and the term. If a fee or charge for service, explain basis of revenue projection).

NA

Current FY Estimate \$

NA

**Long Term** (Specify the revenue potential for the next four (4) fiscal years. If a grant, specify the total grant award amount and the term. If a fee or charge for service, explain basis of revenue projection).

Long-term decrease in facility O&M costs--impossible to predict at this point.

Annual Estimate \$

see above

Total (next 4 years) \$

see above

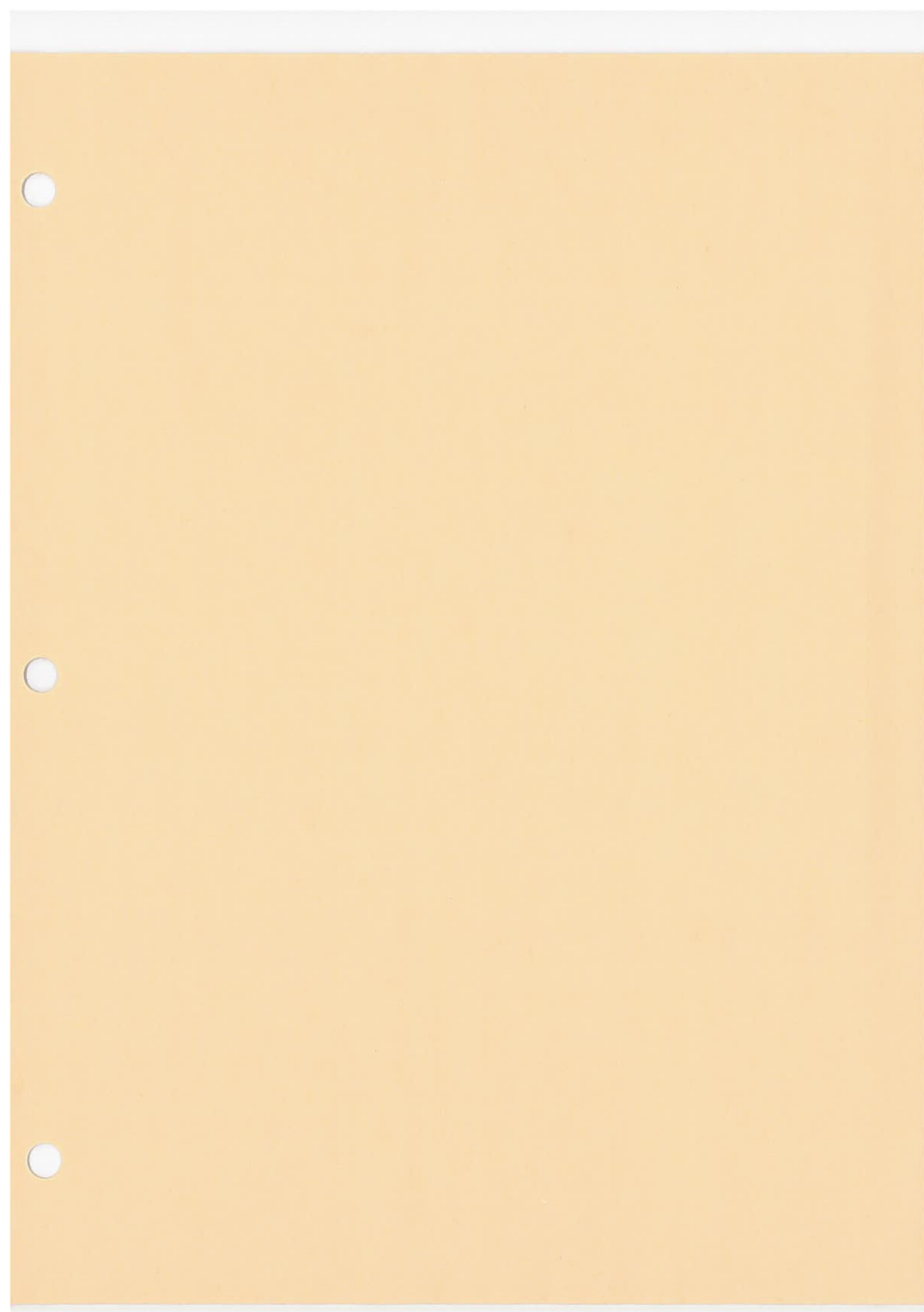
#### Additional Narrative

(Should include additional information such as significant issues, administrative issues and technical issues. What consequences, if any, may occur if this item is not acted upon):

The process outlined in the subject resolution will not increase O&M costs, and indeed, if followed correctly, will decrease them as our facility O&M procedures improve, though at this point it is impossible to estimate how much they will decrease. To start the process, a facility assessment protocol called Facility Condition Index (FCI) must be created and then all County facilities assessed using this FCI. It is recommended that the FCI creation and the initial assessment (say, the first 20 County facilities) be performed by contract. The County lacks the in-house expertise to create an FCI. (The PASER index, which is the analog of the FCI for roads, was created by the University of Wisconsin Transportation Information Center). A rough-order-of-magnitude cost estimate for this contract is \$100,000, but this estimate will be refined as the scope of work is drafted.

Prepared by Adam Leigland

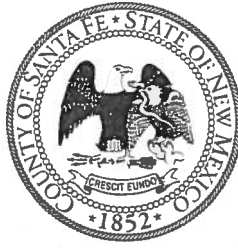
Reviewed by



Daniel "Danny" Mayfield  
Commissioner, District 1

Miguel M. Chavez  
Commissioner, District 2

Robert A. Anaya  
Commissioner, District 3



Kathy Holian  
Commissioner, District 4

Liz Stefanics  
Commissioner, District 5

Katherine Miller  
County Manager

**DATE:** April 17, 2013

**TO:** Board of County Commissioners

**VIA:** Katherine Miller, County Manager

**FROM:**  Chris M. Barela, Constituent Service Liaison District 3

**RE:** Resolution to support the use of water catchment systems throughout Santa Fe County and to direct staff to "Lead by Example" by considering the use of water catchment systems at Santa Fe County facilities and by collaborating with the Santa Fe County Extension Office and with Soil and Water Conservation Districts in and contiguous to Santa Fe County.

Board of County Commission meeting April 30, 2013

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**BACKGROUND AND SUMMARY:**

Santa Fe County is an arid county and may be met with significant water challenges; there is a renewed interest in the concept of rainwater harvesting and cisterns and it is however incumbent that the County "lead by example" on developing strategies for water catchment systems at County facilities. Enclosed please find the resolution.

**REQUEST ACTION:**

Commissioner Robert A. Anaya and Commissioner Daniel "Danny" Mayfield respectfully request that the Board of Santa Fe County Commissioners support this resolution.



## **SANTA FE COUNTY**

### **Board of County Commissioners Resolution No. 2013-\_\_\_\_\_**

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#### **A RESOLUTION TO SUPPORT THE USE OF WATER CATCHMENT SYSTEMS THROUGHOUT SANTA FE COUNTY AND TO DIRECT STAFF TO “LEAD BY EXAMPLE” BY CONSIDERING THE USE OF WATER CATCHMENT SYSTEMS AT SANTA FE COUNTY FACILITIES AND BY COLLABORATING WITH THE SANTA FE COUNTY EXTENSION OFFICE AND WITH SOIL AND WATER CONSERVATION DISTRICTS IN AND CONTIGUOUS TO SANTA FE COUNTY**

---

**WHEREAS**, the term “rainwater harvesting” is used primarily to describe a landscaping strategy designed to capture rooftop precipitation for irrigation and the landscape, reducing the need for supplemental potable water; and

**WHEREAS**, the New Mexico Office of the State Engineer (NMOSE), the agency charged with administering the state’s water use and supply, promotes helpful strategies for water conservation by use of Roof-Reliant Landscaping which includes xeriscaping, efficient irrigation, use of low-water plants, dryland gardening, use of mulch, erosion control, use of retaining walls and straw bale swales, and the use of active and passive rainwater harvesting systems; and

**WHEREAS**, because New Mexico is an arid state with significant water challenges, there is a renewed interest statewide in the concept of rainwater harvesting and cisterns; and

**WHEREAS**, given the increased cycles of drought coupled with population growth, the County’s limited water resources, not only does it make sense to explore ways to get the most use of rainwater, but it is also wise to design and create landscapes that need little or no supplemental water in order to thrive; and

**WHEREAS**, New Mexico receives 12 inches of precipitation per year on average and the NMOSE continues to respond to the public’s need for new and progressive ways to conserve New Mexico’s limited water supply; and

**WHEREAS**, water is a precious resource in New Mexico, and it is in our best interest to be good stewards of this life-giving resource; and

**WHEREAS**, on November 30, 2010, this Board adopted by resolution the Santa Fe County Sustainable Growth Management Plan (SGMP), which provides that all new development consider installing rain barrels, cisterns or other water catchment basins to capture drainage depending on their size; and

**WHEREAS**, the SGMP further observes that Santa Fe County is already in the forefront of requiring sustainable landscaping and xeriscaping, limiting water use for landscaping, and requiring rainwater catchment; and

**WHEREAS**, on January 29, 2013 this Board adopted by Resolution Number 2013-07 which indicates that staff be directed to "Lead By Example" in implementing cost-effective waste reduction, recycling and clean energy strategies in county operations; and

**WHEREAS**, in order to effectively support water catchment system strategies for the citizens and businesses of Santa Fe County, it is incumbent upon the County to "Lead by Example" at Santa Fe County facilities; and

**WHEREAS**, it is declared to be one of the policies and purposes in the Soil and Water Conservation District Act "to further the conservation, development, beneficial application and proper disposal of water"; and

**WHEREAS**, the New Mexico State University Cooperative Extension Service operates numerous county cooperative extension service offices, including the Santa Fe County Extension Office, which promote, among other things, the management and conservation of water used for agricultural purposes; and

**WHEREAS**, Santa Fe County has already approved and begun to establish a water catchment system in conjunction with the Soil and Water Conservation district and with the Santa Fe County Extension Office for the Edgewood Senior and Community Center.

**NOW, THEREFORE, BE IT RESOLVED:** that the Santa Fe County Board of Commissioners supports this resolution to support the use of water catchment systems throughout Santa Fe County and to direct staff to "Lead By Example" by considering the use of water catchment systems at Santa Fe County Facilities and by collaborating with the Santa Fe County Extension Office and with Soil and Water Conservation Districts in and contiguous to Santa Fe County.

**APPROVED, ADOPTED, AND PASSED** this \_\_\_\_\_ day of April, 2013.

**THE BOARD OF COUNTY COMMISSIONERS OF SANTA FE COUNTY**

\_\_\_\_\_  
Kathy Holian, Chair

\_\_\_\_\_  
Geraldine Salazar, County Clerk

**APPROVED AS TO FORM:**

  
\_\_\_\_\_  
for: Stephen C. Ross, County Attorney

# Santa Fe County

## Fiscal Impact Report

Department / Division: Commission District 3

Action Item to be Considered: Resolution Supporting Use of Water Catchment Systems

Agreement Number:

Indicate with a <input checked="" type="checkbox"/> below	Section 1 - Identify the type of document below for BCC Consideration and Approval
<input type="checkbox"/>	Revenue, e.g. Grant, charges and fees, etc.
<input type="checkbox"/>	Contractual Services (includes change orders), e.g. Professional services agreement, construction, price agreement, joint powers agreement, lease agreement, etc.
<input type="checkbox"/>	Loan/Grant Agreement
<input checked="" type="checkbox"/>	Other: Resolution

Indicate with a <input checked="" type="checkbox"/> below	Section 2 - Funding Source Identify the item below for BCC Consideration and Approval
<input type="checkbox"/>	General Fund, e.g. property taxes, gross receipt taxes, etc.
<input type="checkbox"/>	Special Revenue Funds, e.g. Fire, Indigent, etc. 
<input type="checkbox"/>	Capital Outlay GRT, (capital infrastructure only, does not include maintenance or repair costs)
<input type="checkbox"/>	Bond Proceeds (general obligation and gross receipt tax revenue bonds) 
<input type="checkbox"/>	Grant Funds. If yes, indicate the percentage and amount required % and/or \$, and source. % <input type="text"/> \$ <input type="text"/> Source <input type="text"/>
<input type="checkbox"/>	Other: 

### Section 3 - Ongoing operations and maintenance (O&M) requirements:

Short Term (Specify needs for the current fiscal year only)

N/A

New FTE's #  Position  Hourly Rate \$

Current Fiscal Year Cost \$  Annual Cost \$

Initial Costs (Vehicle, computer, office space, etc.)

O & M (Concisely identify the recurring needs, supplies, equipment, and the resources

necessary for carrying out the job duties)

There is no additional financial burden associated with this resolution.

Current Fiscal Year Cost \$ N/A

Annual Cost \$ N/A

**Long Term** (Specify the needs for the next four (4) years. This will include staff, O & M, asset renewal and replacement costs, and additional capital needs)

**Salary & Benefits:**

**All other expenses:**

#### Section 4 - Revenue

**Short Term** (Specify the revenue potential for the current fiscal year only. If a grant, specify the total grant award amount and the term. If a fee or charge for service, explain basis of revenue projection).

N/A

Current FY Estimate \$

**Long Term** (Specify the revenue potential for the next four (4) fiscal years. If a grant, specify the total grant award amount and the term. If a fee or charge for service, explain basis of revenue projection).

N/A

Annual Estimate \$

Total (next 4 years) \$

#### Additional Narrative

(Should include additional information such as significant issues, administrative issues and technical issues. What consequences, if any, may occur if this item is not acted upon):

This resolution does not impose any financial burden on Santa Fe County operations.

Prepared by Erik Aaboe for Chris Barela

Reviewed by

 File Attachment

 File Attachment

 File Attachment

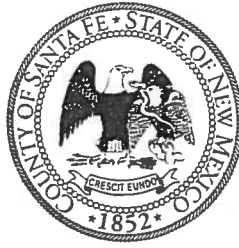




Daniel "Danny" Mayfield  
Commissioner, District 1

Miguel M. Chavez  
Commissioner, District 2

Robert A. Anaya  
Commissioner, District 3



Kathy Holian  
Commissioner, District 4

Liz Stefanics  
Commissioner, District 5

Katherine Miller  
County Manager

## MEMORANDUM

**DATE:** April 30, 2013  
**TO:** Board of County Commissioners  
**FROM:** Juan Rios, Constituent Services Liaison  
**VIA:** Daniel Mayfield, County Commissioner, Dist. 1  
Robert A. Anaya, County Commissioner, Dist. 3  
**SUBJECT:** A Resolution supporting clean and renewable energy projects to deploy and install energy efficient and renewable energy technology systems on Santa Fe County owned facilities, which will result in decreased utility costs for taxpayers, reduce negative environmental impacts from fossil fuel use and contribute to cleaner air quality and healthier communities. **(DISCUSSION ONLY, FIRST HEARING)**

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### ISSUE:

Presented for consideration for discussion by Commissioner Daniel Mayfield and Commissioner Robert A. Anaya on April 30, is "A Resolution supporting clean and renewable energy projects to deploy and install energy efficient and renewable energy technology systems on Santa Fe County owned facilities, which will result in decreased utility costs for taxpayers, reduce negative environmental impacts from fossil fuel use and contribute to cleaner air quality and healthier communities."

The Board of County Commissioners has approved and adopted Resolution No. 2013-07 on January 29, 2013, a resolution that requires that County government "Lead by Example" and implement sustainable resource management principles and cost-effective waste reduction, recycling and clean energy strategies in county operations.

The County has already constructed various building that incorporated energy efficient and renewable energy and has the ability to make Santa Fe County a clean energy leader by taking affirmative public policy action on environmental stewardship and climate change and supporting and implementing clean and renewable energy project to deploy and install energy efficient and renewable energy technology systems on County-owned buildings.

### REQUESTED ACTION:

Commissioner Mayfield respectfully requests Commissioners support of this resolution. This agenda item is for discussion only and no action is required. **(DISCUSSION ONLY, FIRST HEARING)**

**SANTA FE COUNTY**

**RESOLUTION NO. 2013-\_\_**

Introduced by Commissioner Daniel Mayfield and Commissioner Robert Anaya

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**A RESOLUTION SUPPORTING CLEAN AND RENEWABLE ENERGY PROJECTS TO DEPLOY AND INSTALL ENERGY EFFICIENT AND RENEWABLE ENERGY TECHNOLOGY SYSTEMS ON SANTA FE COUNTY OWNED FACILITIES, WHICH WILL RESULT IN DECREASED UTILITY COSTS FOR TAXPAYERS, REDUCE NEGATIVE ENVIRONMENTAL IMPACTS FROM FOSSIL FUEL USE AND CONTRIBUTE TO CLEANER AIR QUALITY AND HEALTHIER COMMUNITIES**

---

**WHEREAS**, the Board of Santa Fe County Commissioners (“the Board”) approved and adopted its Resolution No. 2013-7 on January 29, 2013, a resolution that requires that County government “lead by example” and implement sustainable resource management principles and cost-effective waste reduction, recycling and clean energy strategies in County operations;

**WHEREAS**, the Board adopted the Sustainable Growth Management Plan in 2010, which established, by policy, clean energy directives generally that includes the use of solar renewable energy in new development;

**WHEREAS**, consistent with these policy directives, Santa Fe County has already constructed various buildings that incorporated energy efficient and renewable energy including United States Green Building Council Leadership in Energy and Environmental Design Standards (“LEED”);

**WHEREAS**, the Board recognizes that buildings consume a large proportion of energy used in the United States and that it is in the best public interest and the best interest of Santa Fe County to address the County’s existing facilities to achieve the goal of conserving natural resources as well as to reduce the operational and maintenance costs at each County facility;

**WHEREAS**, Santa Fe County has the ability to lead by example and make Santa Fe County a clean energy leader by taking further affirmative public policy action on environmental stewardship and climate change and supporting and implementing clean and renewable energy projects to deploy and install energy efficient and renewable energy technology systems on County-owned facilities;

**WHEREAS**, Santa Fe County holds tremendous solar power potential that could reduce negative local impacts from fossil fuel use, create new jobs, and bring brighter possibilities for health, prosperity and sustainability to county communities;



**WHEREAS**, according to rankings developed by the Solar Energy Industries Association (SEIA), the State of New Mexico is already in its “top ten” list twice: fifth in Installed Solar Electric Watts Per Capita, and tenth in Cumulative Solar Electric Capacity;

**WHEREAS**, solar power systems mitigate climate disruption and reduce our collective dependence of fossil fuels, which leads to protection of air quality and conservation of water;

**WHEREAS**, solar energy does not produce any toxic fumes or air pollution, compared to fossil fuels, which release carcinogens, carbon pollution and other harmful air pollutants, that cause diseases such as asthma and cancer;

**WHEREAS**, as the world’s demand for energy continues to rise, solar power is one of the most abundant resources providing clean, cost effective energy around the world harnessing the power of the sun which is a critical path in global efforts to create a sustainable future and New Mexico and Santa Fe County are ideally suited to take advantage of these benefits;

**WHEREAS**, the Board recognizes the benefits of solar power, including:

1. **Economic:** Once installed, solar systems provide a low-cost means of receiving high quality electricity that will realize a return on investment for Santa Fe County for excess electric production including receiving Renewable Energy Certificate payments from the utility company;
2. **Environmental Stewardship:** Use of solar electric systems decreases the amount of local air pollution and photovoltaic systems produce electric power with no carbon dioxide (CO<sub>2</sub>) emissions;
3. **Health:** Air pollution will be reduced compared to fossil fuels, which release greenhouse gases, carcinogens and carbon dioxide and solar cells do not release any pollutants into the air; and
4. **Education:** Because the solar system will be publically visible, Santa Fe County will once again lead by example for our community. Enticing community members to ask questions seek information and engage in discussions about how to transition to a clean and local energy economy. Generating community support for future like-kind projects that will move forward a Community Solar Program in Santa Fe County;

**WHEREAS**, the Board wishes to continue to “lead by example” and further take action through affirmative, progressive public policy at the local government level to address climate disruption, reduce carbon pollution and create jobs in clean energy and energy efficiency for Santa Fe County’s families and businesses;

**WHEREAS**, this resolution will once again “lead by example” in the area of solar power and result in decreased utility costs for taxpayers, reduce negative environmental impacts from fossil fuel use and contribute to cleaner air quality and healthier communities; and

**WHEREAS**, the Board wishes to solarize the Tesuque Fire Department as a pilot project along with New Energy Economy, a non-profit corporation who has raised funds to assist with the project, and this pilot project can serve as a model to be pursued for existing County facilities generally, which will meet the energy saving objectives described herein and also employ locally trained installers, grow community capacity and provide valuable opportunities to work with not-for-profit entities. Once solarized, it is expected that the Tesuque Fire Station will definitely decrease its electricity costs resulting in returned utility money savings.

**NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF SANTA FE COUNTY COMMISSIONERS THAT:**

1. A pilot project with New Energy Economy to solarize the Tesuque Fire Department shall be and hereby is approved.
2. The pilot project will provide a benchmark and a model for Santa Fe County to pursue future additional energy efficiency and renewable energy projects on existing Santa Fe County public buildings.
3. Each County-funded project must consider energy saving features such as solar energy as well as features to conserve water and other natural resources and the County shall ensure that analysis of viable energy development and resource conservation shall be included on all County facilities before the project is approved regardless of whether or not such features are to be implemented on the proposed project.

**PASSED, APPROVED and ADOPTED this 30<sup>th</sup> day of April, 2013.**

**THE BOARD OF COUNTY COMMISSIONERS  
OF SANTA FE COUNTY**

**By:** \_\_\_\_\_  
Kathy Holian, Chair

**Attest:**

\_\_\_\_\_  
Geraldine Salazar, Santa Fe County Clerk

**Approved to Form:**

  
\_\_\_\_\_  
Stephen C. Ross, Santa Fe County Attorney



**SANTA FE COUNTY  
LEGAL DEPARTMENT  
MEMORANDUM**

**To:** The Board of County Commissioners  
Katherine Miller, County Manager *KMM 4.19.13*

**From:** Stephen C. Ross, County Attorney *SR*

**Date:** April 10, 2013

**Re:** Resolution No. 2013-\_\_\_\_, A Resolution Determining Reasonable Notice for Public Meetings of the Board of County Commissioners of Santa Fe County and for Boards and Committees Appointed By or Acting Under the Authority of the Board of County Commissioners; Rescinding Resolution No. 2013-03

Changes to the Open Meetings Act were made in the last Legislative Session. In particular, House Bill 21 was enacted into Law which requires, among other things, that agendas of upcoming meetings of a local public body be posted no later than 72 hours prior to the meeting.

Commissioner Mayfield has asked that this office prepare revision to Resolution No. 2013-03 to comply with HB 21, as well as to correct other minor errors.

A clean copy of the proposed resolution, which is before you for introduction only, is attached, along with a version of the same document showing changes from the previous version.



**THE BOARD OF COUNTY COMMISSIONERS OF  
SANTA FE COUNTY, NEW MEXICO**

**RESOLUTION NO. 2013-\_\_**

**A RESOLUTION  
DETERMINING REASONABLE NOTICE FOR PUBLIC MEETINGS OF THE BOARD  
OF COUNTY COMMISSIONERS OF SANTA FE COUNTY AND FOR BOARDS AND  
COMMITTEES APPOINTED BY OR ACTING UNDER THE AUTHORITY OF THE  
BOARD OF COUNTY COMMISSIONERS; RESCINDING RESOLUTION 2013-03.**

**(INTRODUCED BY COMMISSIONER MAYFIELD)**

**- DISCUSSION DRAFT -**

**WHEREAS**, NMSA 1978, Section 10-15-1(A) and -1(B) (1999) (the "Open Meetings Act")( hereinafter referred to as "the Act") provides that "... meetings of a quorum of members of any board, commission or other policymaking body of any ... county ... held for the purpose of formulating public policy, including the development of personnel policy, rules, regulations or ordinances, discussing public business or for the purpose of taking any action within the authority or the delegated authority of any board, commission or other policymaking body are declared to be public meetings open to the public at all times, except as otherwise provided in the constitution of New Mexico or the ... Act ..."

**WHEREAS**, the Act further provides that "(a)ny meetings at which the discussion or adoption of any proposed resolution, rule, regulation or formal action occurs and at which a majority or quorum of the body is in attendance, and any closed meetings, shall be held only after reasonable notice to the public ...;"

**WHEREAS**, the Act further requires a public body to determine in a public meeting at least annually what notice is reasonable when applied to that body; and

**WHEREAS**, the Board of County Commissioners of Santa Fe County (hereinafter referred to as "the Board") desires to determine what constitutes reasonable notice to the public of its meetings and for meetings of boards and committees appointed by or acting under the authority of the Board as required by the Act, and to otherwise specify important elements of its continuing compliance with the Act.

**NOW, THEREFORE, BE IT HEREBY RESOLVED BY THE BOARD OF  
COUNTY COMMISSIONERS OF SANTA FE COUNTY, AS FOLLOWS:**

**1. Regular Meetings.** Unless otherwise specified in the notice of meeting, a regular meeting of the Board will be held beginning at 2:00 p.m. on the second Tuesday of each month, and an Administrative Meeting will be held beginning at 1:00 p.m. on the last Tuesday of each month. A regular meeting of a board or committee appointed by or acting under the authority of

the Board shall be specified in the resolution creating such board or committee. Notice of a Regular Meeting shall be published in a newspaper of general circulation at least ten (10) days before such meeting. Notice of a Regular Meeting shall be provided to broadcast stations licensed by the Federal Communications Commission and newspapers of general circulation that have made written request for such notices.

**2. Special Meetings.** A Special Meeting of the Board may be called by the Chair or by a majority of the members of the Board at such time and place as the Chair or a majority of the members of the Board deem appropriate. A Special Meeting of a board or committee appointed by or acting under the authority of the Board may be called by the chair of that board or committee or by a majority of the members of that board or committee at such time or place as the chair of that board or committee or a majority of members of the board or committee deem appropriate. Notice of a Special Meeting shall be published in a newspaper of general circulation at least three (3) days before such meeting. Notice of a Special Meeting shall be provided to broadcast stations licensed by the Federal Communications Commission and newspapers of general circulation that have made written request for such notice.

**3. Emergency Meetings.** An Emergency Meeting of the Board may be called by the Chair or by a majority of the members of the Board to consider unforeseen circumstances that, if not addressed immediately, will likely result in injury or damage to persons or property or substantial financial loss. An Emergency Meeting may be conducted at a time and place as the Chair or a majority of the members of the Board deem appropriate. An emergency meeting of a board or committee appointed by or acting under the authority of the Board may be called by the chair of that board or committee or by a majority of the members of that board or committee to consider unforeseen circumstances that, if not addressed immediately, will likely result in injury or damage to persons or property or substantial financial loss, to be held at such time or place as the chair of that board or committee or a majority of members of the board or committee deem appropriate. If possible given the emergency circumstances, notice of an Emergency Meeting shall be posted in a conspicuous and appropriate place at the Santa Fe County Administrative Building and on the County's internet web site ([www.santafecountynm.gov](http://www.santafecountynm.gov)) at least twenty-four (24) hours prior to the meeting. If twenty-four (24) hours advance notice cannot be given, notice shall be posted as soon as possible given emergency. Notice of an Emergency Meeting shall be provided to broadcast stations licensed by the Federal Communications Commission and newspapers of general circulation that have made written request for such notice. Any action taken at an emergency meeting shall be reported to the Attorney General's office as provided in paragraph 4 of this resolution.

**4. Agendas.** Meeting notices shall include a preliminary agenda containing a list of specific items of business to be discussed or transacted at the meeting, or information on how the public may obtain a copy of an agenda. A preliminary agenda shall be prepared and posted in a conspicuous and appropriate place at the Santa Fe County Administrative Building and on the County's internet web site ([www.santafecountynm.gov](http://www.santafecountynm.gov)) at least seven (7) calendar days prior to the meeting. A final agenda shall be prepared and posted in a conspicuous and appropriate place at the Santa Fe County Administrative Building no later than seventy-two (72) hours preceding the meeting. Except for emergency matters, action shall be taken only on items appearing on the agenda. An emergency matter is an unforeseen circumstance that, if not addressed immediately,

will likely result in injury or damage to persons or property or substantial loss to the public body. Within ten (10) days of taking action on an emergency matter, the County shall report to the Attorney General's office the action taken and the circumstances creating the emergency, except in the event of a declared state or federal emergency.

**5. Recessed Meetings.** A meeting may be recessed to a later day, if, prior to recessing, the date, time and place for continuation of the meeting is specified, and, immediately following the recessed meeting, notice of the date, time and place for the reconvened meeting is posted on or near the door of the place where the original meeting was held. Only matters appearing on the agenda of the original meeting may be discussed at the reconvened meeting unless notice of the reconvened meeting is provided as otherwise set forth herein.

**6. Cancelled Meetings.** A meeting may be cancelled by posting a notice of cancellation in a conspicuous and appropriate place at the Santa Fe County Administrative Building, posting a notice on the County's internet web site ([www.santafecountynm.gov](http://www.santafecountynm.gov)), and posting notices of the cancelled meeting on the doors at the County Administrative Building, as soon as practicable prior to the time and date of the cancelled meeting. Notice of a cancelled meeting shall be provided to broadcast stations licensed by the Federal Communications Commission and newspapers of general circulation that have made written request for such notice.

**7. Participation by Conference Telephone.** A member of the Board of County Commissioners may participate in a meeting of the Board by means of conference telephone or other similar communications equipment when it is difficult or impossible for the member to attend the meeting in person, provided that each member participating by conference telephone can be identified when speaking, all participants are able to hear each other at the same time and members of the public attending the meeting are able to hear any member of the Board who speaks during the meeting.

**8. Closed Meetings.** A meeting of the Board of County Commissioners may be closed in the following manner:

a. If the Board is in an open meeting when a closed meeting is desired and authorized by the Open Meetings Act, then the closed meeting shall be approved on motion by a majority of a quorum of the Board and the authority for the closure shall be stated in the motion. The votes of the members on the motion shall be recorded in the minutes.

b. If the Board is not in a public meeting and a closed meeting is desired and authorized, public notice of the closed meeting, appropriate under the circumstances, shall be given stating the authority for the closure.

c. Following completion of any closed meeting, the minutes of the open meeting that was closed, or the minutes of the next open meeting if the closed meeting was separately scheduled, shall state that the matters discussed in the closed meeting were limited only to those specified in the motion or notice for closure.



9. **Application to County Boards, Committees.** This Resolution shall apply to each meeting of a board or committee whose members are appointed by the Board or which is acting under the authority of the Board, except the Extraterritorial Land Use Authority, the Extraterritorial Land Use Commission, the Buckman Direct Diversion Board ("BDDDB"), the Regional Planning Authority ("RPA"), the Regional Emergency Communications Committee ("RECC"), the Northern Central Regional Transit District ("NCRTD"), and the Solid Waste Management Authority ("SWMA").

10. **Definition: "Meeting."** For purposes of this Resolution, the term "meeting" shall be defined as a meeting of a quorum of the members of the Board and each meeting of a board or committee whose members are appointed by the Board held for the purpose of formulating public policy, including the development of personnel policy, rules, regulations or ordinances, discussing public business or for the purpose of taking any action within the authority of or the delegated authority of the Board or a Committee.

11. Resolution No. 2013-03 is hereby rescinded.

**APPROVED AND ADOPTED** this \_\_\_\_ day of April, 2013.

**THE BOARD OF COUNTY  
COMMISSIONERS OF SANTA FE COUNTY**

\_\_\_\_\_  
Kathleen Holian, Chair

**ATTEST:**

\_\_\_\_\_  
Geraldine Salazar, County Clerk

**APPROVED AS TO FORM:**

\_\_\_\_\_  
Stephen C. Ross, County Attorney

**THE BOARD OF COUNTY COMMISSIONERS OF  
SANTA FE COUNTY, NEW MEXICO**

**RESOLUTION NO. 2013-\_\_**

**A RESOLUTION**

**DETERMINING REASONABLE NOTICE FOR PUBLIC MEETINGS OF THE BOARD  
OF COUNTY COMMISSIONERS OF SANTA FE COUNTY AND FOR BOARDS AND  
COMMITTEES APPOINTED BY OR ACTING UNDER THE AUTHORITY OF THE  
BOARD OF COUNTY COMMISSIONERS; RESCINDING RESOLUTION 2013~~2~~-035.**

**(INTRODUCED BY COMMISSIONER MAYFIELD)**

**- DISCUSSION DRAFT -**

**WHEREAS**, NMSA 1978, Section 10-15-1(A) and -1(B) (1999) (the "Open Meetings Act")( hereinafter referred to as "the Act") provides that "... meetings of a quorum of members of any board, commission or other policymaking body of any ... county ... held for the purpose of formulating public policy, including the development of personnel policy, rules, regulations or ordinances, discussing public business or for the purpose of taking any action within the authority or the delegated authority of any board, commission or other policymaking body are declared to be public meetings open to the public at all times, except as otherwise provided in the constitution of New Mexico or the ... Act ..."

**WHEREAS**, the Act further provides that "(a)ny meetings at which the discussion or adoption of any proposed resolution, rule, regulation or formal action occurs and at which a majority or quorum of the body is in attendance, and any closed meetings, shall be held only after reasonable notice to the public ...;"

**WHEREAS**, the Act further requires a public body to determine in a public meeting at least annually what notice is reasonable when applied to that body; and

**WHEREAS**, the Board of County Commissioners of Santa Fe County (hereinafter referred to as "the Board") desires to determine what constitutes reasonable notice to the public of its meetings and for meetings of boards and committees appointed by or acting under the authority of the Board as required by the Act, and to otherwise specify important elements of its continuing compliance with the Act.

**NOW, THEREFORE, BE IT HEREBY RESOLVED BY THE BOARD OF  
COUNTY COMMISSIONERS OF SANTA FE COUNTY, AS FOLLOWS:**

**1. Regular Meetings.** Unless otherwise specified in the notice of meeting, a regular meeting of the Board will be held beginning at 2:00 p.m. on the second Tuesday of each month, and an Administrative Meeting will be held beginning at 1:00 p.m. on the last Tuesday of each month. A regular meeting of a board or committee appointed by or acting under the authority of

the Board shall be specified in the resolution creating such board or committee. Notice of a Regular Meeting shall be published in a newspaper of general circulation at least ten (10) days before such meeting. Notice of a Regular Meeting shall be provided to broadcast stations licensed by the Federal Communications Commission and newspapers of general circulation that have made written request for such notices.

2. **Special Meetings.** A Special Meeting of the Board may be called by the Chair or by a majority of the members of the Board at such time and place as the Chair or a majority of the members of the Board deem appropriate. A Special Meeting of a board or committee appointed by or acting under the authority of the Board may be called by the chair of that board or committee or by a majority of the members of that board or committee at such time or place as the chair of that board or committee or a majority of members of the board or committee deems appropriate. Notice of a Special Meeting shall be published in a newspaper of general circulation at least three (3) days before such meeting. Notice of a Special Meeting shall be provided to broadcast stations licensed by the Federal Communications Commission and newspapers of general circulation that have made written request for such notice.

3. **Emergency Meetings.** An Emergency Meeting of the Board may be called by the Chair or by a majority of the members of the Board to consider unforeseen circumstances that, if not addressed immediately, will likely result in injury or damage to persons or property or substantial financial loss. An Emergency Meeting may be conducted at a time and place as the Chair or a majority of the members of the Board deem appropriate. An emergency meeting of a board or committee appointed by or acting under the authority of the Board may be called by the chair of that board or committee or by a majority of the members of that board or committee to consider unforeseen circumstances that, if not addressed immediately, will likely result in injury or damage to persons or property or substantial financial loss, to be held at such time or place as the chair of that board or committee or a majority of members of the board or committee deems appropriate. If possible given the emergency circumstances, notice of an Emergency Meeting shall be posted in a conspicuous and appropriate place at the Santa Fe County Administrative Building and on the County's internet web site ([www.santafecountynm.gov](http://www.santafecountynm.gov)) at least twenty-four (24) hours prior to the meeting. If twenty-four (24) hours advance notice cannot be given, notice shall be posted as soon as possible ~~given under the emergency circumstances in existence.~~ Notice of an Emergency Meeting shall be provided to broadcast stations licensed by the Federal Communications Commission and newspapers of general circulation that have made written request for such notice. Any action taken at an emergency meeting shall be reported to the Attorney General's office as provided in paragraph 4 of this resolution.

4. **Agendas.** Meeting notices shall include a preliminary agenda containing a list of specific items of business to be discussed or transacted at the meeting, or information on how the public may obtain a copy of an agenda. A preliminary agenda shall be prepared and posted in a conspicuous and appropriate place at the Santa Fe County Administrative Building and on the County's internet web site ([www.santafecountynm.gov](http://www.santafecountynm.gov) ~~www.santafecounty.org~~) at least seven ~~three (73)~~ calendar working days prior to the meeting. A final agenda shall be prepared and posted in a conspicuous and appropriate place at the Santa Fe County Administrative Building no later than ~~seventy-two twenty-four (7224)~~ seventy-two (72) hours preceding the meeting. Except for emergency matters, action shall be taken only on items appearing on the agenda. An emergency matter is an

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unforeseen circumstance that, if not addressed immediately, will likely result in injury or damage to persons or property or substantial loss to the public body. Within ten (10) days of taking action on an emergency matter, the County shall report to the Attorney General's office the action taken and the circumstances creating the emergency, except in the event of a declared state or federal emergency.

**5. Recessed Meetings.** A meeting may be recessed to a later day, if, prior to recessing, the date, time and place for continuation of the meeting is specified, and, immediately following the recessed meeting, notice of the date, time and place for the reconvened meeting is posted on or near the door of the place where the original meeting was held. Only matters appearing on the agenda of the original meeting may be discussed at the reconvened meeting unless notice of the reconvened meeting is provided as otherwise set forth herein.

**6. Cancelled Meetings.** A meeting may be cancelled by posting a notice of cancellation in a conspicuous and appropriate place at the Santa Fe County Administrative Building, posting a notice on the County's internet web site ([www.santafecountynm.gov](http://www.santafecountynm.gov)), and posting notices of the cancelled meeting on the doors at the County Administrative Building, as soon as practicable prior to the time and date of the cancelled meeting. Notice of a cancelled meeting shall be provided to broadcast stations licensed by the Federal Communications Commission and newspapers of general circulation that have made written request for such notice.

**7. Participation by Conference Telephone.** A member of the Board of County Commissioners may participate in a meeting of the Board by means of conference telephone or other similar communications equipment when it is difficult or impossible for the member to attend the meeting in person, provided that each member participating by conference telephone can be identified when speaking, all participants are able to hear each other at the same time and members of the public attending the meeting are able to hear any member of the Board who speaks during the meeting.

**8. Closed Meetings.** A meeting of the Board of County Commissioners may be closed in the following manner:

a. If the Board is in an open meeting when a closed meeting is desired and authorized by the Open Meetings Act, then the closed meeting shall be approved on motion by a majority of a quorum of the Board and the authority for the closure shall be stated in the motion. The votes of the members on the motion shall be recorded in the minutes.

b. If the Board is not in a public meeting and a closed meeting is desired and authorized, public notice of the closed meeting, appropriate under the circumstances, shall be given stating the authority for the closure.

c. Following completion of any closed meeting, the minutes of the open meeting that was closed, or the minutes of the next open meeting if the closed meeting was

separately scheduled, shall state that the matters discussed in the closed meeting were limited only to those specified in the motion or notice for closure.

9. **Application to County Boards, Committees.** This Resolution shall apply to each meeting of a board or committee whose members are appointed by the Board or which is acting under the authority of the Board, except the Extraterritorial Land Use Authority, the Extraterritorial Land Use Commission, the Buckman Direct Diversion Board ("BDDDB"), the Regional Planning Authority ("RPA"), the Regional Emergency Communications Committee ("RECC"), the Northern Central Regional Transit District ("NCRTD"), and the Solid Waste Management Authority ("SWMA").

10. **Definition: "Meeting."** For purposes of this Resolution, the term "meeting" shall be defined as a meeting of a quorum of the members of the Board and each meeting of a board or committee whose members are appointed by the Board held for the purpose of formulating public policy, including the development of personnel policy, rules, regulations or ordinances, discussing public business or for the purpose of taking any action within the authority of or the delegated authority of the Board or a Committee.

11. Resolution No. 20132-035 is hereby rescinded.

APPROVED AND ADOPTED this 8th day of April, ~~January~~ 2013.

**THE BOARD OF COUNTY  
COMMISSIONERS OF SANTA FE COUNTY**

\_\_\_\_\_  
Kathleen Holian, Chair

**ATTEST:**

\_\_\_\_\_  
Geraldine Salazar, County Clerk

**APPROVED AS TO FORM:**

\_\_\_\_\_  
Stephen C. Ross, County Attorney

AN ACT

RELATING TO THE OPEN MEETINGS ACT; REQUIRING AGENDAS TO BE AVAILABLE TO THE PUBLIC AT LEAST SEVENTY-TWO HOURS PRIOR TO A PUBLIC MEETING; REQUIRING THE ATTORNEY GENERAL TO REVIEW A PUBLIC BODY'S ACTION ON EMERGENCY MATTERS.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

SECTION 1. Section 10-15-1 NMSA 1978 (being Laws 1974, Chapter 91, Section 1, as amended) is amended to read:

"10-15-1. FORMATION OF PUBLIC POLICY--PROCEDURES FOR OPEN MEETINGS--EXCEPTIONS AND PROCEDURES FOR CLOSED MEETINGS.--

A. In recognition of the fact that a representative government is dependent upon an informed electorate, it is declared to be public policy of this state that all persons are entitled to the greatest possible information regarding the affairs of government and the official acts of those officers and employees who represent them. The formation of public policy or the conduct of business by vote shall not be conducted in closed meeting. All meetings of any public body except the legislature and the courts shall be public meetings, and all persons so desiring shall be permitted to attend and listen to the deliberations and proceedings. Reasonable efforts shall be made to accommodate the use of audio and video recording devices.

B. All meetings of a quorum of members of any board, commission, administrative adjudicatory body or other policymaking body of any state agency or any agency or authority of any county, municipality, district or political subdivision, held for the purpose of formulating public policy, including the development of personnel policy, rules, regulations or ordinances, discussing public business or taking any action within the authority of or the delegated authority of any board, commission or other policymaking body are declared to be public meetings open to the public at all times, except as otherwise provided in the constitution of New Mexico or the Open Meetings Act. No public meeting once convened that is otherwise required to be open pursuant to the Open Meetings Act shall be closed or dissolved into small groups or committees for the purpose of permitting the closing of the meeting.

C. If otherwise allowed by law or rule of the public body, a member of a public body may participate in a meeting of the public body by means of a conference telephone or other similar communications equipment when it is otherwise difficult or impossible for the member to attend the meeting in person, provided that each member participating by conference telephone can be identified when speaking, all participants are able to hear each other at the same time and members of the public attending the meeting are able to hear

any member of the public body who speaks during the meeting.

D. Any meetings at which the discussion or adoption of any proposed resolution, rule, regulation or formal action occurs and at which a majority or quorum of the body is in attendance, and any closed meetings, shall be held only after reasonable notice to the public. The affected body shall determine at least annually in a public meeting what notice for a public meeting is reasonable when applied to that body. That notice shall include broadcast stations licensed by the federal communications commission and newspapers of general circulation that have provided a written request for such notice.

E. A public body may recess and reconvene a meeting to a day subsequent to that stated in the meeting notice if, prior to recessing, the public body specifies the date, time and place for continuation of the meeting and, immediately following the recessed meeting, posts notice of the date, time and place for the reconvened meeting on or near the door of the place where the original meeting was held and in at least one other location appropriate to provide public notice of the continuation of the meeting. Only matters appearing on the agenda of the original meeting may be discussed at the reconvened meeting.

F. Meeting notices shall include an agenda containing a list of specific items of business to be



discussed or transacted at the meeting or information on how the public may obtain a copy of such an agenda. Except in the case of an emergency or in the case of a public body that ordinarily meets more frequently than once per week, at least seventy-two hours prior to the meeting, the agenda shall be available to the public and posted on the public body's web site, if one is maintained. A public body that ordinarily meets more frequently than once per week shall post a draft agenda at least seventy-two hours prior to the meeting and a final agenda at least thirty-six hours prior to the meeting. Except for emergency matters, a public body shall take action only on items appearing on the agenda. For purposes of this subsection, "emergency" refers to unforeseen circumstances that, if not addressed immediately by the public body, will likely result in injury or damage to persons or property or substantial financial loss to the public body. Within ten days of taking action on an emergency matter, the public body shall report to the attorney general's office the action taken and the circumstances creating the emergency; provided that the requirement to report to the attorney general is waived upon the declaration of a state or national emergency.

G. The board, commission or other policymaking body shall keep written minutes of all its meetings. The minutes shall include at a minimum the date, time and place of the meeting, the names of members in attendance and those

absent, the substance of the proposals considered and a record of any decisions and votes taken that show how each member voted. All minutes are open to public inspection. Draft minutes shall be prepared within ten working days after the meeting and shall be approved, amended or disapproved at the next meeting where a quorum is present. Minutes shall not become official until approved by the policymaking body.

H. The provisions of Subsections A, B and G of this section do not apply to:

(1) meetings pertaining to issuance, suspension, renewal or revocation of a license, except that a hearing at which evidence is offered or rebutted shall be open. All final actions on the issuance, suspension, renewal or revocation of a license shall be taken at an open meeting;

(2) limited personnel matters; provided that for purposes of the Open Meetings Act, "limited personnel matters" means the discussion of hiring, promotion, demotion, dismissal, assignment or resignation of or the investigation or consideration of complaints or charges against any individual public employee; provided further that this paragraph is not to be construed as to exempt final actions on personnel from being taken at open public meetings, nor does it preclude an aggrieved public employee from demanding a public hearing. Judicial candidates interviewed by any commission shall have the right to demand an open interview;

(3) deliberations by a public body in connection with an administrative adjudicatory proceeding. For purposes of this paragraph, "administrative adjudicatory proceeding" means a proceeding brought by or against a person before a public body in which individual legal rights, duties or privileges are required by law to be determined by the public body after an opportunity for a trial-type hearing. Except as otherwise provided in this section, the actual administrative adjudicatory proceeding at which evidence is offered or rebutted and any final action taken as a result of the proceeding shall occur in an open meeting;

(4) the discussion of personally identifiable information about any individual student, unless the student or the student's parent or guardian requests otherwise;

(5) meetings for the discussion of bargaining strategy preliminary to collective bargaining negotiations between the policymaking body and a bargaining unit representing the employees of that policymaking body and collective bargaining sessions at which the policymaking body and the representatives of the collective bargaining unit are present;

(6) that portion of meetings at which a decision concerning purchases in an amount exceeding two thousand five hundred dollars (\$2,500) that can be made only

from one source is discussed and that portion of meetings at which the contents of competitive sealed proposals solicited pursuant to the Procurement Code are discussed during the contract negotiation process. The actual approval of purchase of the item or final action regarding the selection of a contractor shall be made in an open meeting;

(7) meetings subject to the attorney-client privilege pertaining to threatened or pending litigation in which the public body is or may become a participant;

(8) meetings for the discussion of the purchase, acquisition or disposal of real property or water rights by the public body;

(9) those portions of meetings of committees or boards of public hospitals where strategic and long-range business plans or trade secrets are discussed; and

(10) that portion of a meeting of the gaming control board dealing with information made confidential pursuant to the provisions of the Gaming Control Act.

I. If any meeting is closed pursuant to the exclusions contained in Subsection H of this section:

(1) the closure, if made in an open meeting, shall be approved by a majority vote of a quorum of the policymaking body; the authority for the closure and the subject to be discussed shall be stated with reasonable specificity in the motion calling for the vote on a closed

meeting; the vote shall be taken in an open meeting; and the vote of each individual member shall be recorded in the minutes. Only those subjects announced or voted upon prior to closure by the policymaking body may be discussed in a closed meeting; or

(2) if a closure is called for when the policymaking body is not in an open meeting, the closed meeting shall not be held until public notice, appropriate under the circumstances, stating the specific provision of the law authorizing the closed meeting and stating with reasonable specificity the subject to be discussed is given to the members and to the general public.

J. Following completion of any closed meeting, the minutes of the open meeting that was closed or the minutes of the next open meeting if the closed meeting was separately scheduled shall state that the matters discussed in the closed meeting were limited only to those specified in the motion for closure or in the notice of the separate closed meeting. This statement shall be approved by the public body under Subsection G of this section as part of the minutes."

**THE BOARD OF COUNTY COMMISSIONERS OF  
SANTA FE COUNTY, NEW MEXICO**

**RESOLUTION NO. 2013-\_\_**

**A RESOLUTION**

**DETERMINING REASONABLE NOTICE FOR PUBLIC MEETINGS OF THE BOARD  
OF COUNTY COMMISSIONERS OF SANTA FE COUNTY AND FOR BOARDS AND  
COMMITTEES APPOINTED BY OR ACTING UNDER THE AUTHORITY OF THE  
BOARD OF COUNTY COMMISSIONERS; RESCINDING RESOLUTION 2013-03.**

**(INTRODUCED BY COMMISSIONER MAYFIELD)**

**- DISCUSSION DRAFT -**

**WHEREAS**, NMSA 1978, Section 10-15-1(A) and -1(B) (1999) (the "Open Meetings Act")( hereinafter referred to as "the Act") provides that "... meetings of a quorum of members of any board, commission or other policymaking body of any ... county ... held for the purpose of formulating public policy, including the development of personnel policy, rules, regulations or ordinances, discussing public business or for the purpose of taking any action within the authority or the delegated authority of any board, commission or other policymaking body are declared to be public meetings open to the public at all times, except as otherwise provided in the constitution of New Mexico or the ... Act ..."

**WHEREAS**, the Act further provides that "(a)ny meetings at which the discussion or adoption of any proposed resolution, rule, regulation or formal action occurs and at which a majority or quorum of the body is in attendance, and any closed meetings, shall be held only after reasonable notice to the public ...;"

**WHEREAS**, the Act further requires a public body to determine in a public meeting at least annually what notice is reasonable when applied to that body; and

**WHEREAS**, the Board of County Commissioners of Santa Fe County (hereinafter referred to as "the Board") desires to determine what constitutes reasonable notice to the public of its meetings and for meetings of boards and committees appointed by or acting under the authority of the Board as required by the Act, and to otherwise specify important elements of its continuing compliance with the Act.

**NOW, THEREFORE, BE IT HEREBY RESOLVED BY THE BOARD OF  
COUNTY COMMISSIONERS OF SANTA FE COUNTY, AS FOLLOWS:**

**1. Regular Meetings.** Unless otherwise specified in the notice of meeting, a regular meeting of the Board will be held beginning at 2:00 p.m. on the second Tuesday of each month, and an Administrative Meeting will be held beginning at 1:00 p.m. on the last Tuesday of each month. A regular meeting of a board or committee appointed by or acting under the authority of

the Board shall be specified in the resolution creating such board or committee. Notice of a Regular Meeting shall be published in a newspaper of general circulation at least ten (10) days before such meeting. Notice of a Regular Meeting shall be provided to broadcast stations licensed by the Federal Communications Commission and newspapers of general circulation that have made written request for such notices.

**2. Special Meetings.** A Special Meeting of the Board may be called by the Chair or by a majority of the members of the Board at such time and place as the Chair or a majority of the members of the Board deem appropriate. A Special Meeting of a board or committee appointed by or acting under the authority of the Board may be called by the chair of that board or committee or by a majority of the members of that board or committee at such time or place as the chair of that board or committee or a majority of members of the board or committee deem appropriate. Notice of a Special Meeting shall be published in a newspaper of general circulation at least three (3) days before such meeting. Notice of a Special Meeting shall be provided to broadcast stations licensed by the Federal Communications Commission and newspapers of general circulation that have made written request for such notice.

**3. Emergency Meetings.** An Emergency Meeting of the Board may be called by the Chair or by a majority of the members of the Board to consider unforeseen circumstances that, if not addressed immediately, will likely result in injury or damage to persons or property or substantial financial loss. An Emergency Meeting may be conducted at a time and place as the Chair or a majority of the members of the Board deem appropriate. An emergency meeting of a board or committee appointed by or acting under the authority of the Board may be called by the chair of that board or committee or by a majority of the members of that board or committee to consider unforeseen circumstances that, if not addressed immediately, will likely result in injury or damage to persons or property or substantial financial loss, to be held at such time or place as the chair of that board or committee or a majority of members of the board or committee deem appropriate. If possible given the emergency circumstances, notice of an Emergency Meeting shall be posted in a conspicuous and appropriate place at the Santa Fe County Administrative Building and on the County's internet web site ([www.santafenm.gov](http://www.santafenm.gov)) at least twenty-four (24) hours prior to the meeting. If twenty-four (24) hours advance notice cannot be given, notice shall be posted as soon as possible given emergency. Notice of an Emergency Meeting shall be provided to broadcast stations licensed by the Federal Communications Commission and newspapers of general circulation that have made written request for such notice. Any action taken at an emergency meeting shall be reported to the Attorney General's office as provided in paragraph 4 of this resolution.

**4. Agendas.** Meeting notices shall include a preliminary agenda containing a list of specific items of business to be discussed or transacted at the meeting, or information on how the public may obtain a copy of an agenda. A preliminary agenda shall be prepared and posted in a conspicuous and appropriate place at the Santa Fe County Administrative Building and on the County's internet web site ([www.santafenm.gov](http://www.santafenm.gov)) at least seven (7) working days prior to the meeting. A final agenda shall be prepared and posted in a conspicuous and appropriate place at the Santa Fe County Administrative Building no later than seventy-two (72) hours preceding the meeting. Except for emergency matters, action shall be taken only on items appearing on the agenda. An emergency matter is an unforeseen circumstance that, if not addressed immediately,

will likely result in injury or damage to persons or property or substantial loss to the public body. Within ten (10) days of taking action on an emergency matter, the County shall report to the Attorney General's office the action taken and the circumstances creating the emergency, except in the event of a declared state or federal emergency.

**5. Recessed Meetings.** A meeting may be recessed to a later day, if, prior to recessing, the date, time and place for continuation of the meeting is specified, and, immediately following the recessed meeting, notice of the date, time and place for the reconvened meeting is posted on or near the door of the place where the original meeting was held. Only matters appearing on the agenda of the original meeting may be discussed at the reconvened meeting unless notice of the reconvened meeting is provided as otherwise set forth herein.

**6. Cancelled Meetings.** A meeting may be cancelled by posting a notice of cancellation in a conspicuous and appropriate place at the Santa Fe County Administrative Building, posting a notice on the County's internet web site ([www.santafenm.gov](http://www.santafenm.gov)), and posting notices of the cancelled meeting on the doors at the County Administrative Building, as soon as practicable prior to the time and date of the cancelled meeting. Notice of a cancelled meeting shall be provided to broadcast stations licensed by the Federal Communications Commission and newspapers of general circulation that have made written request for such notice.

**7. Participation by Conference Telephone.** A member of the Board of County Commissioners may participate in a meeting of the Board by means of conference telephone or other similar communications equipment when it is difficult or impossible for the member to attend the meeting in person, provided that each member participating by conference telephone can be identified when speaking, all participants are able to hear each other at the same time and members of the public attending the meeting are able to hear any member of the Board who speaks during the meeting.

**8. Closed Meetings.** A meeting of the Board of County Commissioners may be closed in the following manner:

a. If the Board is in an open meeting when a closed meeting is desired and authorized by the Open Meetings Act, then the closed meeting shall be approved on motion by a majority of a quorum of the Board and the authority for the closure shall be stated in the motion. The votes of the members on the motion shall be recorded in the minutes.

b. If the Board is not in a public meeting and a closed meeting is desired and authorized, public notice of the closed meeting, appropriate under the circumstances, shall be given stating the authority for the closure.

c. Following completion of any closed meeting, the minutes of the open meeting that was closed, or the minutes of the next open meeting if the closed meeting was separately scheduled, shall state that the matters discussed in the closed meeting were limited only to those specified in the motion or notice for closure.



9. **Application to County Boards, Committees.** This Resolution shall apply to each meeting of a board or committee whose members are appointed by the Board or which is acting under the authority of the Board, except the Extraterritorial Land Use Authority, the Extraterritorial Land Use Commission, the Buckman Direct Diversion Board ("BDDDB"), the Regional Planning Authority ("RPA"), the Regional Emergency Communications Committee ("RECC"), the Northern Central Regional Transit District ("NCRTD"), and the Solid Waste Management Authority ("SWMA").

10. **Definition: "Meeting."** For purposes of this Resolution, the term "meeting" shall be defined as a meeting of a quorum of the members of the Board and each meeting of a board or committee whose members are appointed by the Board held for the purpose of formulating public policy, including the development of personnel policy, rules, regulations or ordinances, discussing public business or for the purpose of taking any action within the authority of or the delegated authority of the Board or a Committee.

11. Resolution No. 2013-03 is hereby rescinded.

**APPROVED AND ADOPTED** this \_\_\_\_ day of April, 2013.

**THE BOARD OF COUNTY  
COMMISSIONERS OF SANTA FE COUNTY**

\_\_\_\_\_  
Kathleen Holian, Chair

**ATTEST:**

\_\_\_\_\_  
Geraldine Salazar, County Clerk

**APPROVED AS TO FORM:**

\_\_\_\_\_  
Stephen C. Ross, County Attorney

**THE BOARD OF COUNTY COMMISSIONERS OF  
SANTA FE COUNTY, NEW MEXICO**

**RESOLUTION NO. 2013-\_\_**

**A RESOLUTION**

**DETERMINING REASONABLE NOTICE FOR PUBLIC MEETINGS OF THE BOARD  
OF COUNTY COMMISSIONERS OF SANTA FE COUNTY AND FOR BOARDS AND  
COMMITTEES APPOINTED BY OR ACTING UNDER THE AUTHORITY OF THE  
BOARD OF COUNTY COMMISSIONERS; RESCINDING RESOLUTION 2013~~2~~-035.**

**(INTRODUCED BY COMMISSIONER MAYFIELD)**

**- DISCUSSION DRAFT -**

**WHEREAS**, NMSA 1978, Section 10-15-1(A) and -1(B) (1999) (the "Open Meetings Act")( hereinafter referred to as "the Act") provides that "... meetings of a quorum of members of any board, commission or other policymaking body of any ... county ... held for the purpose of formulating public policy, including the development of personnel policy, rules, regulations or ordinances, discussing public business or for the purpose of taking any action within the authority or the delegated authority of any board, commission or other policymaking body are declared to be public meetings open to the public at all times, except as otherwise provided in the constitution of New Mexico or the ... Act ..."

**WHEREAS**, the Act further provides that "(a)ny meetings at which the discussion or adoption of any proposed resolution, rule, regulation or formal action occurs and at which a majority or quorum of the body is in attendance, and any closed meetings, shall be held only after reasonable notice to the public ...;"

**WHEREAS**, the Act further requires a public body to determine in a public meeting at least annually what notice is reasonable when applied to that body; and

**WHEREAS**, the Board of County Commissioners of Santa Fe County (hereinafter referred to as "the Board") desires to determine what constitutes reasonable notice to the public of its meetings and for meetings of boards and committees appointed by or acting under the authority of the Board as required by the Act, and to otherwise specify important elements of its continuing compliance with the Act.

**NOW, THEREFORE, BE IT HEREBY RESOLVED BY THE BOARD OF  
COUNTY COMMISSIONERS OF SANTA FE COUNTY, AS FOLLOWS:**

**1. Regular Meetings.** Unless otherwise specified in the notice of meeting, a regular meeting of the Board will be held beginning at 2:00 p.m. on the second Tuesday of each month, and an Administrative Meeting will be held beginning at 1:00 p.m. on the last Tuesday of each month. A regular meeting of a board or committee appointed by or acting under the authority of

the Board shall be specified in the resolution creating such board or committee. Notice of a Regular Meeting shall be published in a newspaper of general circulation at least ten (10) days before such meeting. Notice of a Regular Meeting shall be provided to broadcast stations licensed by the Federal Communications Commission and newspapers of general circulation that have made written request for such notices.

2. **Special Meetings.** A Special Meeting of the Board may be called by the Chair or by a majority of the members of the Board at such time and place as the Chair or a majority of the members of the Board deem appropriate. A Special Meeting of a board or committee appointed by or acting under the authority of the Board may be called by the chair of that board or committee or by a majority of the members of that board or committee at such time or place as the chair of that board or committee or a majority of members of the board or committee deem\_s appropriate. Notice of a Special Meeting shall be published in a newspaper of general circulation at least three (3) days before such meeting. Notice of a Special Meeting shall be provided to broadcast stations licensed by the Federal Communications Commission and newspapers of general circulation that have made written request for such notice.

3. **Emergency Meetings.** An Emergency Meeting of the Board may be called by the Chair or by a majority of the members of the Board to consider unforeseen circumstances that, if not addressed immediately, will likely result in injury or damage to persons or property or substantial financial loss. An Emergency Meeting may be conducted at a time and place as the Chair or a majority of the members of the Board deem appropriate. An emergency meeting of a board or committee appointed by or acting under the authority of the Board may be called by the chair of that board or committee or by a majority of the members of that board or committee to consider unforeseen circumstances that, if not addressed immediately, will likely result in injury or damage to persons or property or substantial financial loss, to be held at such time or place as the chair of that board or committee or a majority of members of the board or committee deems appropriate. If possible given the emergency circumstances, notice of an Emergency Meeting shall be posted in a conspicuous and appropriate place at the Santa Fe County Administrative Building and on the County's internet web site ([www.santafecountynm.gov](http://www.santafecountynm.gov)) at least twenty-four (24) hours prior to the meeting. If twenty-four (24) hours advance notice cannot be given, notice shall be posted as soon as possible given under the emergency circumstances in existence. Notice of an Emergency Meeting shall be provided to broadcast stations licensed by the Federal Communications Commission and newspapers of general circulation that have made written request for such notice. Any action taken at an emergency meeting shall be reported to the Attorney General's office as provided in paragraph 4 of this resolution.

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4. **Agendas.** Meeting notices shall include a preliminary agenda containing a list of specific items of business to be discussed or transacted at the meeting, or information on how the public may obtain a copy of an agenda. A preliminary agenda shall be prepared and posted in a conspicuous and appropriate place at the Santa Fe County Administrative Building and on the County's internet web site ([www.santafecountynm.gov](http://www.santafecountynm.gov) [www.santafecounty.org](http://www.santafecounty.org)) at least seven ~~three (73)~~ working days prior to the meeting. A final agenda shall be prepared and posted in a conspicuous and appropriate place at the Santa Fe County Administrative Building no later than ~~seventy-two twenty-four (7224)~~ hours preceding the meeting. Except for emergency matters, action shall be taken only on items appearing on the agenda. An emergency matter is an

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unforeseen circumstance that, if not addressed immediately, will likely result in injury or damage to persons or property or substantial loss to the public body. Within ten (10) days of taking action on an emergency matter, the County shall report to the Attorney General's office the action taken and the circumstances creating the emergency, except in the event of a declared state or federal emergency.

**5. Recessed Meetings.** A meeting may be recessed to a later day, if, prior to recessing, the date, time and place for continuation of the meeting is specified, and, immediately following the recessed meeting, notice of the date, time and place for the reconvened meeting is posted on or near the door of the place where the original meeting was held. Only matters appearing on the agenda of the original meeting may be discussed at the reconvened meeting unless notice of the reconvened meeting is provided as otherwise set forth herein.

**6. Cancelled Meetings.** A meeting may be cancelled by posting a notice of cancellation in a conspicuous and appropriate place at the Santa Fe County Administrative Building, posting a notice on the County's internet web site ([www.santafecountynm.gov](http://www.santafecountynm.gov) ~~www.santafecounty.org~~), and posting notices of the cancelled meeting on the doors at the County Administrative Building, as soon as practicable prior to the time and date of the cancelled meeting. Notice of a cancelled meeting shall be provided to broadcast stations licensed by the Federal Communications Commission and newspapers of general circulation that have made written request for such notice.

**7. Participation by Conference Telephone.** A member of the Board of County Commissioners may participate in a meeting of the Board by means of conference telephone or other similar communications equipment when it is difficult or impossible for the member to attend the meeting in person, provided that each member participating by conference telephone can be identified when speaking, all participants are able to hear each other at the same time and members of the public attending the meeting are able to hear any member of the Board who speaks during the meeting.

**8. Closed Meetings.** A meeting of the Board of County Commissioners may be closed in the following manner:

a. If the Board is in an open meeting when a closed meeting is desired and authorized by the Open Meetings Act, then the closed meeting shall be approved on motion by a majority of a quorum of the Board and the authority for the closure shall be stated in the motion. The votes of the members on the motion shall be recorded in the minutes.

b. If the Board is not in a public meeting and a closed meeting is desired and authorized, public notice of the closed meeting, appropriate under the circumstances, shall be given stating the authority for the closure.

c. Following completion of any closed meeting, the minutes of the open meeting that was closed, or the minutes of the next open meeting if the closed meeting was

separately scheduled, shall state that the matters discussed in the closed meeting were limited only to those specified in the motion or notice for closure.

9. **Application to County Boards, Committees.** This Resolution shall apply to each meeting of a board or committee whose members are appointed by the Board or which is acting under the authority of the Board, except the Extraterritorial Land Use Authority, the Extraterritorial Land Use Commission, the Buckman Direct Diversion Board ("BDDDB"), the Regional Planning Authority ("RPA"), the Regional Emergency Communications Committee ("RECC"), the Northern Central Regional Transit District ("NCRTD"), and the Solid Waste Management Authority ("SWMA").

10. **Definition: "Meeting."** For purposes of this Resolution, the term "meeting" shall be defined as a meeting of a quorum of the members of the Board and each meeting of a board or committee whose members are appointed by the Board held for the purpose of formulating public policy, including the development of personnel policy, rules, regulations or ordinances, discussing public business or for the purpose of taking any action within the authority of or the delegated authority of the Board or a Committee.

11. Resolution No. 20132-035 is hereby rescinded.

**APPROVED AND ADOPTED** this 8th day of April, ~~January~~ 2013.

**THE BOARD OF COUNTY  
COMMISSIONERS OF SANTA FE COUNTY**

\_\_\_\_\_  
Kathleen Holian, Chair

**ATTEST:**

\_\_\_\_\_  
Geraldine Salazar, County Clerk

**APPROVED AS TO FORM:**

\_\_\_\_\_  
Stephen C. Ross, County Attorney

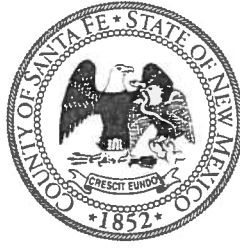




Daniel "Danny" Mayfield  
Commissioner, District 1

Miguel M. Chavez  
Commissioner, District 2

Robert A. Anaya  
Commissioner, District 3



Kathy Holian  
Commissioner, District 4

Liz Stefanics  
Commissioner, District 5

Katherine Miller  
County Manager

**DATE:** April 16, 2013

**TO:** Board of County Commissioners

**VIA:** Katherine Miller, County Manager *KW*

*CB*  
**FROM:** Chris M. Barela, Constituent Service Liaison District 3

**RE:** Introduction of a resolution opposing the North Central Regional Transit District's dedication of fourteen percent of regional transportation gross receipts tax revenues to the City of Santa Fe

*Board of County Commission meeting April 30, 2013*

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**BACKGROUND AND SUMMARY:**

On March 1, 2013 the NCRTD Board passed resolution 2013-04 amending the adopted financial policies. This amendment allows for a fourteen percent dedication of regional transportation Gross receipts tax revenues to the City of Santa Fe.

Enclosed please find the resolution opposing the NCRTD's dedication of fourteen percent of regional transportation gross receipts tax revenues to the City of Santa Fe, as well as NCRTD Resolution 2013-04 and minutes of the March 1, 2013 NCRTD Board meeting.

**REQUEST ACTION:**

Commissioner Robert A. Anaya respectfully requests that the Board of Santa Fe County Commissioners support this item of introducing resolution opposing the NCRTD's dedication of fourteen percent of regional transportation gross receipts tax.





**RESOLUTION NO. 2013-**

**A RESOLUTION OPPOSING THE NORTH CENTRAL REGIONAL TRANSIT DISTRICT'S  
DEDICATION OF FOURTEEN PERCENT OF REGIONAL TRANSPORTATION GROSS  
RECEIPTS TAX REVENUES TO THE CITY OF SANTA FE**

**WHEREAS**, Santa Fe County (the County) is a member of the North Central Regional Transit District (hereinafter referred to as "NCRTD");

**WHEREAS**, Santa Fe County Ordinance 2008-14 adopted the County Regional Transit Gross Receipts Tax, a one eighth of one percent (.125%) tax on gross receipts dedicated to the management, construction or operation of a public transit system or for specific public transit projects or services pursuant to the Regional Transit District Act;

**WHEREAS**, the County is collecting the County Regional Transit Gross Receipts Tax pursuant to NMSA 1978, § 7-20E-23, and transferring the tax revenues to the NCRTD;

**WHEREAS**, the County's Regional Transit Plan has historically included regional routes for the benefit of the City of Santa Fe;

**WHEREAS**, on March 1, 2013 the NCRTD Board adopted Resolution 2013-04 which amended the financial policies of the NCRTD to establish that fourteen percent of the annual gross receipts tax revenues collected by NCRTD would be expended on regional transportation needs for the City of Santa Fe, and further amended the policies to allocate only forty percent of the gross receipts tax revenues for all the regional transportation needs of Santa Fe County, Rio Arriba County and Taos County;

**WHEREAS**, Commissioner Robert Anaya, on behalf of the County, opposed adoption of NCRTD Board Resolution 2013-04 because of the allocation of a fixed percentage of gross receipts tax revenues to the City of Santa Fe.

**NOW, THEREFORE, BE IT RESOLVED THAT** the Board of County Commissioners of Santa Fe County resolves to oppose the NCRTD's amendment to their financial policies to the extent that the policy now dedicates a fixed percentage of gross receipts tax revenues to the City of Santa Fe and to support a more flexible methodology of allocating gross receipts tax revenues that allows for annual funding adjustments for each member jurisdiction if deemed necessary by the NCRTD Board.

**PASSED, APPROVED AND ADOPTED** this \_\_\_\_ day of April, 2013

**THE BOARD OF COUNTY COMMISSIONERS  
OF SANTA FE COUNTY**

By: \_\_\_\_\_  
Kathy Holian, Chair

**ATTEST:**

\_\_\_\_\_  
Geraldine Salazar, Santa Fe County Clerk

**APPROVED AS TO FORM:**

  
\_\_\_\_\_  
Stephen C. Ross, County Attorney



**North Central Regional Transit District (NCRTD)  
Resolution 2013 - 04**

**A Resolution Amending the Adopted Financial Policies**

**WHEREAS**, the Board of Directors is the statutory governing body in and for the NCRTD and finds it in the best interest of the constituents of the NCRTD to establish policies to ensure the financial stability of the District; and

**WHEREAS**, the current NCRTD Financial Policies were adopted on October 9, 2009 and amended on July 15, 2011 and November 4, 2011; and

**WHEREAS**, the Board at their May 6, 2011 meeting reviewed the recommended NCRTD Transit Tax allocation formula also known as the "Los Alamos Formula" for funding of services meeting the Board's adopted definition of regional services and approved said allocation methodology; and

**WHEREAS**, the Board at their May 6, 2011 meeting instructed the staff to use a static allocation methodology to address the Long Term Financial Plan; and

**WHEREAS**, the Board used the Los Alamos Formula in developing the Fiscal Year 2012 Budget and established the amounts that would be reimbursable utilizing the Board's adopted cost allocation model; and

**WHEREAS**, pursuant to the Board's direction a Task Force consisting of the Financial Officers from the City of Santa Fe, and Los Alamos County and other members met for four months in 2011 to review and recommended to the Board a Long Term Financial Plan and static NCRTD Transit GRT allocation methodology for regional services; and

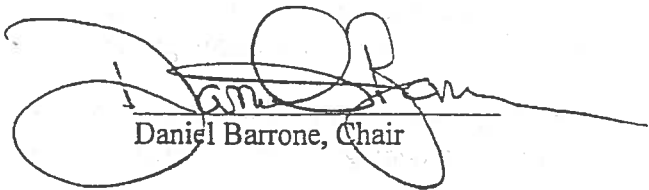
**WHEREAS**, at the Board's January 6, 2012 meeting the Board accepted the Long Range Financial Plan recommendations of the Task Force and concurred with the recommendation to continue to utilize the "Los Alamos Formula" as the preferred NCRTD Transit GRT allocation methodology for regional services; and

WHEREAS, the Board adopted the Fiscal Year 2013 Budget utilizing this adopted allocation methodology for establishing the funding of those member entities that provide regional services and whose service plans are submitted for approval by the Board; and

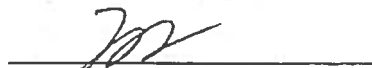
WHEREAS, the Board, after thorough consideration and several years of utilization of this formula, find's that it is prudent to amend the adopted Financial Policies by incorporating the following methodology into Section Two (2) Operating Program of the aforementioned policy along with accompanying policy language and other modifications in the amended Financial Policies attached hereto.

Entity	Percentage of Total Fiscal Year Adopted Projection of NCRTD Transit GRT Revenue
City of Santa Fe	14%
Los Alamos County	20%
Rail Runner	26%
NCRTD (Santa Fe County, Rio Arriba County, and Taos County)	40%

**NOW THEREFORE BE IT RESOLVED BY THE NCRTD BOARD THAT THE ATTACHED FINANCIAL POLICIES SHALL BE AND ARE HEREBY ADOPTED, AMENDING THE CURRENT NCRTD FINANCIAL POLICIES, AND ARE APPROVED AND ADOPTED THIS 1st day of MARCH 2013.**

  
Daniel Barrone, Chair

Approved as to form:

  
Peter Dwyer, Counsel



**North Central Regional Transit District  
Board Meeting  
Friday, March 1, 2013  
9:00 a.m. - 1:00 p.m.**

**CALL TO ORDER:**

A regular meeting of the North Central Regional Transit District Board was called to order on the above date by Commissioner Daniel Barrone, Chair, at 10:00 a.m. at the Jim West Transit Center, 1327 Riverside Drive, Española, New Mexico.

[At 9:00 there were three members present. At 9:15 there were five members present. At 9:20 there were six members present. The seventh member arrived at 10:08]

1. Pledge of Allegiance
2. Moment of Silence
3. Roll Call

Roll call indicated the presence of a quorum as follows:

Members	Elected Members	Alternate Designees
Los Alamos County		<i>Mr. Philo Shelton III</i>
Rio Arriba County		
Taos County	<i>Commissioner Daniel Barrone</i>	
Santa Fé County	<i>Commissioner Robert Anaya</i>	
Nambé Pueblo	<i>Lt. Gov. Gary Talachy</i>	<i>Mr. Lonnie Velarde</i>
Pojoaque Pueblo		

Ohkay Owingeh		
San Ildefonso Pueblo		
Santa Clara Pueblo		<i>Ms. Mary Lou Valério</i>
Tesuque Pueblo		
City of Santa Fé	<i>Councilor Patti Bushee</i>	<i>Mr. Jon Bulthuis</i>
City of Española		<i>Councilor Peggy Martinez</i>
Town of Edgewood	<i>Councilor Chuck Ring</i>	
Rio Metro (ex officio)		

#### **Staff Members Present**

Mr. Anthony J. Mortillaro, Executive Director  
 Ms. Glenda Aragon, Financial Manager  
 Mr. Mike Kelly, Transit Operations Manager  
 Mr. Jim Nagle, Public Information Officer  
 Ms. Stacey McGuire, Projects and Grants Specialist  
 Ms. Dalene Lucero, Executive Assistant

#### **Others Present**

Mr. Peter Dwyer, Legal Counsel  
 Mr. Carl Boaz, Stenographer  
 Mr. Lonnie Velarde, Nambé Pueblo  
 Mr. Greg White, NMDOT  
 Mr. David Harris, NMDOT  
 Mr. Andrew Martínez, Rio Arriba County  
 Mr. Craig Barela, Santa Fé County  
 Ms. Judy Amer, City of Santa Fé [telephonically]

## **4. INTRODUCTIONS**

All present introduced themselves to the Board.

## **5. APPROVAL OF AGENDA**

Lt. Governor Talachy said in listening to the discussion he wondered if the City of Santa Fé didn't have a vote now.

Chair Barrone declared they did have a vote because the resolution was not an intent to not be part of the organization but because of a misunderstanding.

Mr. Shelton asked how many invitations were still outstanding.

Mr. Mortillaro said the list included the Town of Taos, Taos Pueblo, Village of Questa, Town of Red River, Jicarilla Apache Tribe, Picuris Pueblo and Town of Chama. So there were seven and they were small.

#### **PUBLIC HEARING**

There were no public comments and Chair Barrone closed the public hearing.

**Commissioner Anaya said, based on the comments of Commissioner Mayfield and in the interest of inclusion, he moved to approve the membership of Nambé Pueblo to the NCRTD Board. Councilor Martínez seconded the motion which passed by roll call vote with Town of Edgewood, City of Española, Los Alamos County, Santa Clara Pueblo, Santa Fé County and Taos County voting in favor and City of Santa Fé voting against.**

The tally of weighted voting units yielded 17 in favor and 5 against which exceed the 2/3 majority needed.

Chair Barrone welcomed the Pueblo of Nambé to membership and Lt. Governor Talachy to his seat at the Board table. He invited Lt. Governor Talachy to address the Board.

Lt. Governor Talachy said this was his first year of his two-year term. Nambé had 600 enrolled tribal members and 400 residing on the pueblo. They wanted to dedicate themselves to the work of the NCRTD and to be present for all the meetings. Nambé was willing to be a responsible and active member.

#### **B. Review and Adoption of Resolution No. 2013-04 Amending the Financial Policies**

Mr. Mortillaro said Resolution 2013-04 amends the existing financial policies. On page 33 it showed the allocations of GRT revenue. The policy was termed the Los Alamos policy and was used to distribute to entities providing regional services. Atomic City and Santa Fé Trails were the regional providers and the amended policy then recognized the Rail Runner would get 50% of GRT collected in Santa Fé County.



The remainder of the GRT revenue coming to NCRTD was for services provided in the counties. The Board utilized this methodology in 2012 and 2013 budgets. It worked well and allowed the existing service plans the Board approved for the City of Santa Fé and Los Alamos County to be funded on an ongoing basis and allowed them to plan for it. It also did the same for the routes provided by the NCRTD.

Page 37 at the bottom showed the new funding formula and on the top of page 38 what would be done if the revenues were not all realized. The District has taken the hit in the past. This amendment presents an across the board reduction if revenues decline.

The NCRTD could use its reserves for District uses only and other entities would have to find other sources to make up the differences. Those were the changes to the policy.

This amendment followed what had been utilized in the past and past discussions. The Long Range Planning Committee included representatives from Los Alamos County and the City of Santa Fé to use this methodology into the future.

Councilor Ring asked for correction of Taos Chili Line to Taos Chile Line.

Councilor Bushee thanked the Board for the figures so they could put their CAFR together. She asked what the reserve policy was.

Mr. Mortillaro said it was on page 41 at the bottom. It was a 25% policy for the reserve fund.

Councilor Bushee thought that was a high reserve.

Mr. Mortillaro said this Board has the right to amend the policy.

Mr. Dwyer clarified that some of the reserves (from Los Alamos) were not subject to change.

Mr. Mortillaro agreed. There was about \$700,000 in the reserves ~~from Los~~ from Los Alamos and if used it would have to be restored within 180 days. It was a revolving operating reserve account

Councilor Bushee asked if Taos Chile Line was a regional provider.

Mr. Mortillaro said they received no funding from the NCRTD but they interconnected with NCRTD. They could be eligible to be funded. The Board spent a good year defining what regional services were.

**Councilor Bushee moved to approve the amendment to the Financial Policies.**

Commissioner Anaya noted the policy had changed since he was gone from the Board which had been that the interest of the NCRTD was to roll in the revenue without securing allocations to any particular entity and it would be up to the Board to evaluate needs and then allocate funding. This amendment didn't do that and he asked for an explanation about it.

Mr. Mortillaro said it did lump everything together. The 40% for the District was almost enough to cover all services for Santa Fé County and for Taos County and Rio Arriba County. That was supplemented with federal funding. One of the commitments during the election for GRT was that Santa Fé County would have 86% of revenue after the Rail Runner deduction. Once Santa Fé Trails was deducted out (roughly \$967,000), it left 734,000 available for Santa Fé County but actually the District spends \$1.2 million for funding the services in Santa Fé County.

Commissioner Anaya asked if Santa Fé County would get 14% but the county has to bill for it with services provided.

Commissioner Anaya noted the intent of the NCRTD when he was on the Board before was that when routes were evaluated that Board would evaluate all routes throughout the district and get away from guarantees for anyone. Once those carve-outs were done, that left the rest of the members battling for the rest of the money after the 44% was taken off the top. There was one route for which he would have to battle with the other counties because these other entities would get their guarantee of 14% and 20%.

The whole purpose of the board was to get away from that guarantee. So he wondered where he missed the boat and why the Board went in that direction when they decided not to do that. He asked if they were going to evaluate all the routes in the whole district, route by route to determine if these were the best route or if there might be other routes that would fit better. The guarantee didn't do that.

Mr. Mortillaro agreed he was correct to some extent and the way this worked was that the City and the County of Santa Fé through their RPA process would submit the routes they wanted to see funded and give a number for collections after Rail runner was subtracted. That happened a couple of times and then last year, the county submitted its own list of priorities including the Golden-Santa Fé Route if funding was available. LA also submitted their plan and the Board could accept it or request modifications.

The evaluation of all routes last year had only one route that was questioned - the route from Las Trampas and staff agreed to modify that.

When he brought that to the Board it could decide if canceled whether the funds could be reallocated and that was a decision to be made in the future. These

percentages were designed to support existing routes in the counties and provide the existing level of funding that Los Alamos County had developed routes for and the same thing for Santa Fé Trails. So their existing routes could stay in place and no guarantee that any future routes would receive funding.

Commissioner Anaya said just because a route existed in a county didn't mean it was the best use of the funds. The whole point was to evaluate the routes for function and connection with regional routes. From a Santa Fé County perspective the tax was approved by Santa Fé County voters and not by the City. If they were going back to all the articulations of data and put the will of the Board around this table on evaluation of the routes effectiveness. He was not comfortable with any guaranteed allocations and did respect the Councilor from Santa Fé and many of these affected his constituents. He also respected what Los Alamos did with their routes and respected their integrity.

Commissioner Anaya offered an amendment to remove those allocations.

Mr. Mortillaro said although the City of Santa Fé and Los Alamos County were required to submit their transit plan to this Board and what they would fund for their allocation, this Board has the right to accept them or not. On page 37 were the criteria for those definitions.

Commissioner Anaya understood but questioned that these two entities were guaranteed their allocation.

Mr. Mortillaro said it was not guaranteed and until the Board approved their service plan those routes didn't get funded.

Commissioner Anaya said this plan guarantees an allocation of dollars to those two entities as a carve-out. And he wanted it all put in to one pot with no carve outs.

Mr. Dwyer agreed with the history on that. Santa Fé Trails and Atomic City wanted assurance for funding.

Commissioner Anaya said Santa Fé County also wanted that agreement.

Mr. Dwyer said there was no agreement in place with any of them. Los Alamos continues to give money with the understanding of it funding for their services. The ultimate authority for all financial transactions was decided by this Board ultimately. The RTD was a separate entity from all member entities. This body would always approve a budget for allocation and not by contract. This was a compromise of some assurance.

Commissioner Anaya thought it was ironic they were having this discussion now. All routes should be considered and evaluated on an ongoing basis. He asked the members to consider an amendment of no allocation but through evaluation by the Board of all routes.

Mr. Mortillaro re-emphasized the first line above the chart that said services had to be approved by this Board. They still had to turn in billings to justify the expenditure of the allocation. The entity would only get what was spent on those routes. And it happens once a year prior to budget.

**Councilor Martínez seconded the motion to approve the amendment to the financial policies.**

Councilor Bushee said from her understanding, the City was not objecting to a non guarantee and would continue to discuss it here. But the City had to address their CAFR and could not submit a budget to the state without knowing the allocation. It was a projection and times do change. So the Council looked at the reserve requirement. They had to have some formula by which to project a budget and that's what their Finance Director needed. The City expends much more than it gets here.

Lt. Governor Talachy said no transit system makes money. They spend way more than they receive so it was always in a deficit. He asked if there was a formula that everyone who puts into the pot gets some back.

Mr. Mortillaro said for a long time they looked at what the county put in and how much they got back. This was a region and not a county. The \$1.5 million contribution from Los Alamos County which they were contributing was over and above what their GRT was. He provided a handout that showed that Rio Arriba received more services than what was put in. Santa Fé County was a winner also with more services funded than what was required.

The Board agreed to a consolidated budget to get away from that concept.

The Transit Service Plan addressed a listing of all routes needed and some were not funded for lack of money. They were going to update it and consultants would recommend which should be retained, which should be amended, which should be added and which should be deleted. When the service plan comes back, the Board would consider the budget.

Mr. Mortillaro explained the handout that showed collections and expenditures by county. The deficit was \$654,497 which was made up from reserves. The allocation formula showed they were still short and required a Los Alamos contribution to continue to provide continued services. New requests could be considered if the Board had more funds. Any money reoccurring and unallocated would go into reserves for use in other services.

This was recommended to the Board in FY 11 and FY 12. And he embedded it into the financial policies

Mr. Shelton pointed out that Los Alamos reports ridership every month as did Santa

Fé. This was part of the annual allocation. One thing that caught him by surprise was that he thought the amended language should have gone to the Finance Committee first. He thought this proposal was fair and showed what happens with shortages but not much with surplus. He had no problem with the proposal but it didn't go to Finance subcommittee.

Commissioner Anaya said his amendment was not considered yet.

Chair Barrone said he didn't call for a second.

Mr. Dwyer said there was no motion.

**Councilor Bushee again moved to approve the resolution. Mr. Shelton seconded the motion.**

Commissioner Anaya moved to amend the motion to have all the resources in one pot of money and no allocation. The motion to amend died for lack of a second.

Mr. Bulthuis said they did have contractual obligations to the Rail Runner.

Councilor Bushee liked that additional revenues went into reserves.

**The motion passed by roll call vote with Los Alamos County, City of Santa Fé, Taos County and City of Española voting in favor; Town of Edgewood, Santa Fé County voting no; Nambé Pueblo and Santa Clara Pueblo abstaining.**

Mr. Dwyer looked for but couldn't find the policy regarding abstentions.

In the tally there were 12 weighted votes in favor and six not in favor so the motion passed.

### **C. Commercial Advertising Bid Award for NCRTD Transit Advertising**

Mr. Nagle reported the award of advertising contract and briefly described the services which would allow for advertising on NCRTD property. It was determined the costs versus generated return would be to the District's benefit. The proposal was to contract with Templeton Marketing Services, a firm based in Albuquerque and their principal, Don Templeton, was present. It would be a revenue sharing agreement which was a fairly standard arrangement. He referred the Board to page 87 that described Mr. Templeton's experience. The projected revenue sharing over first four years was shown in a table and described a 50/50 sharing of gross revenues excluding production costs which would be borne by the advertising company. It would be a three-year agreement with a possible one -year extension. The proposal was in the packet starting on page 70.

**RESOLUTION NO. 2013-**

**A RESOLUTION OPPOSING THE NORTH CENTRAL REGIONAL TRANSIT DISTRICT'S  
DEDICATION OF FOURTEEN PERCENT OF REGIONAL TRANSPORTATION GROSS  
RECEIPTS TAX REVENUES TO THE CITY OF SANTA FE**

**WHEREAS**, Santa Fe County (the County) is a member of the North Central Regional Transit District (hereinafter referred to as "NCRTD");

**WHEREAS**, Santa Fe County Ordinance 2008-14 adopted the County Regional Transit Gross Receipts Tax, a one eighth of one percent (.125%) tax on gross receipts dedicated to the management, construction or operation of a public transit system or for specific public transit projects or services pursuant to the Regional Transit District Act;

**WHEREAS**, the County is collecting the County Regional Transit Gross Receipts Tax pursuant to NMSA 1978, § 7-20E-23, and transferring the tax revenues to the NCRTD;

**WHEREAS**, the County's Regional Transit Plan has historically included regional routes for the benefit of the City of Santa Fe;

**WHEREAS**, on March 1, 2013 the NCRTD Board adopted Resolution 2013-04 which amended the financial policies of the NCRTD to establish that fourteen percent of the annual gross receipts tax revenues collected by NCRTD would be expended on regional transportation needs for the City of Santa Fe, and further amended the policies to allocate only forty percent of the gross receipts tax revenues for all the regional transportation needs of Santa Fe County, Rio Arriba County and Taos County;

**WHEREAS**, Commissioner Robert Anaya, on behalf of the County, opposed adoption of NCRTD Board Resolution 2013-04 because of the allocation of a fixed percentage of gross receipts tax revenues to the City of Santa Fe.

**NOW, THEREFORE, BE IT RESOLVED THAT** the Board of County Commissioners of Santa Fe County resolves to oppose the NCRTD's amendment to their financial policies to the extent that the policy now dedicates a fixed percentage of gross receipts tax revenues to the City of Santa Fe and to support a more flexible methodology of allocating gross receipts tax revenues that allows for annual funding adjustments for each member jurisdiction if deemed necessary by the NCRTD Board.

**PASSED, APPROVED AND ADOPTED** this \_\_\_\_ day of April, 2013



**THE BOARD OF COUNTY COMMISSIONERS  
OF SANTA FE COUNTY**

By: \_\_\_\_\_  
Kathy Holian, Chair

**ATTEST:**

\_\_\_\_\_  
Geraldine Salazar, Santa Fe County Clerk

**APPROVED AS TO FORM:**

  
\_\_\_\_\_  
Stephen C. Ross, County Attorney









Daniel "Danny" Mayfield  
Commissioner, District 1

Miguel M. Chavez  
Commissioner, District 2

Robert A. Anaya  
Commissioner, District 3



Kathy Holian  
Commissioner, District 4

Liz Stefanics  
Commissioner, District 5

Katherine Miller  
County Manager

**CDRC CASE # V/Z/PDP 12-5340 FAMILY DOLLAR STORE VARIANCE/  
MASTER PLAN AND PRELIMINARY DEVELOPMENT PLAN  
GLENWOOD DEVELOPMENT COMPANY, APPLICANT**

**ORDER**

**THIS MATTER** came before the Board of County Commissioners (hereinafter referred to as "the BCC") for hearing on April 9, 2013, on the Application of Glenwood Development Company (hereinafter referred to as "the Applicant") for a Variance of Article III, § 4.4.3c (Parking Lot Location), a Variance of Article VIII, § 7.3, 7.8 and 7.14 (Design Standards for Permanent Signs), Master Plan and Preliminary Development Plan approval for an 8,320 square foot structure to be utilized as a Family Dollar Store on 0.87 acres. The Applicant also requests that the Final Development Plan be approved administratively. The BCC, having reviewed the Application and supplemental materials, staff reports and having conducted a public hearing on the request, finds that the Application is well-taken and should be granted, and makes the following findings of fact and conclusions of law:

1. The Applicant requests Master Plan and Preliminary Development Plan approval for an 8,320 square foot structure to be utilized as a Family Dollar Store on 0.87 acres. The request includes that Final Development Plan be approved administratively. The Applicant also requests a Variance of Article III, § 4.4.3c (Parking Lot Location) to allow the parking lot to be located in front of the proposed building and a Variance of Article VIII, §

7.3, 7.8 and 7.14 (Design Standards for Permanent Signs) to allow a sign to exceed the height and set back requirements and to allow a wall mounted sign to exceed 70 square feet in sign area.

2. The property is located at 18094 US 84/285, within the Pojoaque Valley Traditional Community, within Sections 6 & 7, Township 19 North, Range 9 East, (Commission District 1).
3. On August 30<sup>th</sup>, 2012, the Applicant conducted a Community meeting in compliance with Ordinance No. 2008-5 (Pojoaque Valley Traditional Community District), Section 12.8 (Community Notice and Procedural Requirements). Seven members of the community attended and none opposed the development.
4. On January 17, 2013, the County Development Review Committee (CDRC) met and acted on this case. The decision of the CDRC was to recommend approval of the Application for Master Plan and Preliminary Development Plan approval with staff conditions and to allow the Final Development Plan to be approved administratively. The CDRC also recommended approval of a variance of Article III, § 4.4.3c (Parking Lot Location) to allow the parking lot to be located in front of the proposed building and a variance of Article VIII, 7.3, 7.8 and 7.14 (Design Standards for Permanent Signs) to allow a sign to exceed the height and set back requirements and to allow a wall mounted sign to exceed 70 square feet in sign area. The CDRC recommended that the building mounted sign be reduced from the proposed 174 square feet to 105 square feet in sign area

and that the free standing sign not exceed 12 feet in height. The Applicant agreed to the conditions of approval.

5. Article V, Section 5.2.1.b states: “a master plan is comprehensive in establishing the scope of a project, yet is less detailed than a development plan. It provides a means for the County Development Review Committee and the Board to review projects and the sub-divider to obtain concept approval for proposed development without the necessity of expending large sums of money for the submittals required for a preliminary and final plat approval”.
6. Article V, § 7.1.3.a (Preliminary Development Plans) states: “a Preliminary Development Plan may be only a phase or portion of the area covered by an approved Master Plan, so long as the Preliminary Development Plan substantially conforms to the approved Master Plan”.
7. Article III, § 4.4.3c (Site Planning Standards) Parking Lot Location states: parking lots shall be placed or oriented on a site to the rear or side of buildings (or both) to encourage pedestrian safety and convenience.
8. Article VIII, § 7.3.a (Height and Setback Standards) states: “the maximum allowable sign height for a free standing sign located at the front property line is five (5) feet. Sign height may be increased a maximum of five (5) feet in height for each twenty-five (25) feet the sign is set back from the front property line. Maximum allowable sign height shall not exceed twenty-five (25) feet”. A sign 20 feet in height requires a setback of 75 feet

from the property line. A sign 12 feet in height requires a setback of 35 feet from the property line.

9. Article VIII, § 7.8 (Free Standing Signs) states: “all free standing signs shall have a base area equal in length to the sign's length along its longest side, and not less than two (2) feet in width and sixteen (16) inches in height, to be installed and maintained by the owner using one or combining both of the following: a banco, planter or a low wall compatible and complimentary to the building or premises; shrubs, flowers or a groundcover”.
10. Article VIII, § 7.14.b (Sign Area Size: Commercial or Industrial Non-residential Districts) states: “each single sign on the premises shall not exceed seventy (70) square feet in sign area”.
11. Article III, § 7.9.b states: “a wall or building mounted sign shall in no case exceed ten (10) percent of the area of the wall on which it is displayed or seventy (70) square feet in sign area whichever is less”.
12. Article III, § 3 (Variances) states: “Where in the case of proposed development, it can be shown that strict compliance with the requirements of the Code would result in extraordinary hardship to the applicant because of unusual topography or other such non-self-inflicted conditions or that these conditions would result in inhibiting the achievement of the purposes of the Code, an applicant may file a written request for a variance. A Development Review Committee may recommend to the Board and the Board may vary, modify or waive the requirements of the Code and upon

adequate proof that compliance with Code provision at issue will result in an arbitrary and unreasonable taking of property or exact hardship, and proof that a variance from the Code will not result in conditions injurious to health or safety. In arriving at its determination, the Development Review Committee and the Board shall carefully consider the opinions of any agency requested to review and comment on the variance request. In no event shall a variance, modification or waiver be recommended by a Development Review Committee, nor granted by the Board if by doing so the purpose of the Code would be nullified”.

13. The development is compatible with Code requirements generally.
14. The application is comprehensive in establishing the scope of the project.
15. The proposed Preliminary Development Plan substantially conforms to the proposed Master Plan.
16. The Application satisfies the submittal requirements set forth in the Land Development Code.
17. The review comments from State Agencies and County staff has established that this Application for Master Plan and Preliminary Development Plan is in compliance with State requirements, Ordinance No. 2008-5 (Pojoaque Valley Traditional Community District), Article III, Section 4.4, Development and Design Standards (excluding parking and sign standards), Article V, Section 5, Master Plan Procedures and Article 5, Section 7 Development Plan Requirements of the Land Development Code.



18. Jeff Kost Agent for the Applicant testified in support of the Application.
  - The Applicant proposed a 75 square foot wall mounted sign instead of the
  - 174 square foot wall mounted sign as a minimal easing of the Code.
19. Fred Richardson, Lee Waight, Marcia Richardson, Jim Trujillo, John Paul Romero, James Trujillo and William Mee testified in support of the Application.
20. Julia Takahachi testified in opposition to the Application.
21. The granting of the requested variances would be a minimal easing of the Code requirements.
22. Granting the variance requests will not nullify the purpose of the Code.
23. Staff recommended the following conditions for approval of the Application:
  - a. The Applicant shall comply with all review agency comments and conditions as per **Article V, Section 7.1.3.c.**
  - b. Master Plan and Preliminary Development Plan, with appropriate signatures, shall be recorded with the County Clerk, as per **Article V, Section 5.2.5.**
  - c. A detailed lighting plan shall be submitted at time of Final Development Plan as per **Article III, Section 4.4.4 h and Table 3.1.**
  - d. Prior to Final Development approval the Applicant shall provide landscape water budget that will be used to determine the size of cistern required for the development as per **Ordinance 2008-4.**

- e. Drainage calculations for site runoff shall be submitted for review and approval with Final Development Plan as per **Ordinance 2008-10 Flood Damage Prevention and Stormwater Management Ordinance.**

24. The BCC suggested the following conditions for approval of the Application:

- a. The wall mounted sign shall not exceed 75 square feet in sign area.
- b. The Development shall maximize the use of rainwater catchment of roof water for landscaping.
- c. The free standing sign shall not exceed 12 feet in height with a 5 foot setback from the property line.

25. After conducting a public hearing on the request and having heard from the Applicant and the general public, the Board of County Commissioners hereby finds that the Application for Master Plan and Preliminary Development Plan approval, the request for the Final Development Plan to be approved administratively, the request for a Variance of Article III, § 4.4.3c (Parking Lot Location) to allow the parking lot to be located in front of the proposed building and a Variance of Article VIII, §'s 7.3, 7.8 and 7.14 (Design Standards for Permanent Signs) to allow a sign to exceed the height and set back requirements and to allow a wall mounted sign to exceed 70 square feet in sign area should be approved conditioned on the Applicant complying with Staff and BCC conditions.

**IT IS THEREFORE ORDERED** that the Application is approved, and the Applicant is allowed a Variance of Article III, § 4.4.3c (Parking Lot Location), a Variance of Article VIII, § 7.3, 7.8 and 7.14 (Design Standards for Permanent Signs), Master Plan Zoning and Preliminary Development Plan approval, subject to the conditions set forth in paragraphs 23 and 24 above. It is further ordered that Final Development Plan approval shall be processed administratively.

I certify that the Application was approved by the Board of County Commissioners on this \_\_\_\_\_ day of \_\_\_\_\_, 2013.

The Board of County Commissioners of Santa Fe County

By: \_\_\_\_\_  
BCC Chairperson

ATTEST:

\_\_\_\_\_  
Geraldine Salazar, County Clerk

Approved As To Form:

  
\_\_\_\_\_  
Stephen C. Ross, County Attorney

XVI. A. 5.

**CDRC CASE # V/Z/PDP 12-5340 Family Dollar Store.**

**Glenwood Development Company, Applicant, Request Master Plan Zoning and Preliminary Development Plan Approval for an 8,320 Square Foot Structure to be Utilized as a Family Dollar Store on 0.87 Acres. The Request Includes Final Development Plan Be Approved Administratively. The Applicant Also Requests a Variance of Article III, § 4.4.3c (Parking Lot Location) to Allow the Parking Lot to be Located in Front of the Proposed Building and a Variance of Article VIII, Sections 7.3, 7.8 and 7.14 (Design Standards for Permanent Signs) to Allow a Sign to Exceed the Height and Setback Requirements and to Allow a Wall-Mounted Sign to Exceed 70 Square Feet in Sign Area. The Property is Located at 18094 US 84/285, within the Pojoaque Valley Traditional Community, within Sections 6 & 7, Township 19 North, Range 9 East (Commission District 1) [Exhibit 6: Letters to Staff]**

JOSE LARRAÑAGA (Case Manager): Thank you, Madam Chair. On January 17, 2013, the County Development Review Committee met and acted on this case, the decision of the CDRC was to recommend approval of the applicant's request, for master plan and preliminary development plan with staff conditions and to allow final development plan to be approved administratively. The CDRC also recommended approval of a variance of Article III, Section 4.4.3c to allow the parking lot to be located in front of the proposed building and a variance of Article VIII, Sections 7.3, 7.8 and 7.14 to allow a sign to exceed the height and setback requirements and to allow a wall mounted sign to exceed 70 square feet in sign area. The CDRC recommended that the building-mounted sign be reduced from the proposed 174 square feet to 105 square feet in sign area and that the free standing sign would not exceed 12 feet in height. The applicant agreed to the conditions of approval.

The applicant requests master plan zoning and preliminary development plan approval on a site known as Al's Liquors within the Pojoaque Valley Mixed-Use Traditional Community. The existing non-conforming structure, which is sited on .45 acres, will be demolished and a lot line adjustment with an adjoining parcel is proposed to allow for an 8,320 square foot structure to be utilized as a Family Dollar Store on 0.87 acres. The applicant also requests that final development plan be approved administratively.

The applicant also requests a variance of Article III, Section 4.4.3c to allow the parking lot to be located in front of the proposed building. The applicant states placing the parking lot to the front of the site provides separation of parked cars, noise and public activity from the neighboring residential properties; provides increased public safety and reduced criminal activity; allows for efficient on-site circulation of service and delivery activities.

The Applicant also requests variances of Article VIII, Sections 7.3, 7.8 and

7.14 to allow a sign to exceed the height and set back requirements and to allow a wall-mounted sign to exceed 70 square feet in sign area. The applicant is proposing a freestanding sign, 20 feet in height to be located five feet from the property line. The applicant also proposes a 174 square foot wall-mounted sign. The applicant states strict compliance with the code would result in hardship to the development due to the existing conditions and location of the site; clear site identification is imperative to the viability of the development and the safety of its customers and employees; the increase of the height of the pylon sign and square footage of the wall mounted sign will provide a safer way for customers and employees to find the Family Dollar.

The applicant is also proposing a lot line adjustment to create a 0.87-acre tract on which the proposed development would take place. The lot line adjustment would incorporate 0.42 acres, from Tract 1, to Tract A creating a 0.87-acre parcel. The lot line adjustment shall be processed administratively prior to final development plan approval.

On August 30<sup>th</sup>, 2012, the Applicant conducted a community meeting in compliance with Ordinance No. 2008-5 Section 12.8 Seven members of the community attended and none were in opposition of the development.

Building and Development Services staff has reviewed this project for compliance with pertinent code requirements and has found that the following facts presented support the request for master plan and preliminary development plan: the application is comprehensive in establishing the scope of the project; the proposed preliminary development plan substantially conforms to the proposed master plan; the application satisfies the submittal requirements set forth in the land development code.

The review comments from state agencies and County staff has established that this application, for master plan and preliminary development plan, is in compliance with state requirements, Ordinance No. 2008-5 Article III, Section 4.4, Development and Design Standards, Article V, Section 5, Master Plan Procedures and Article 5, Section 7, Development Plan Requirements of the Land Development Code.

Building and Development Services staff has reviewed the applicant's request for a variance of Article III, Section 4.4.3c and Article VIII, Sections 7.3, 7.8 and 7.14 for compliance with pertinent Code requirements and has found that the following facts presented do not support the request. Parking lots shall be placed or oriented on a site to the rear or side of buildings. The maximum allowable sign height for a freestanding sign located at the front property line is five feet; the maximum allowable wall-mounted sign area shall not exceed seventy square feet. A variation or modification of these sections of the code may be considered more than a minimum easing of the requirements.

Staff recommendation is conditional approval of master plan zoning and preliminary development plan to allow an 8,320 square foot structure to be utilized as a Family Dollar Store on 0.87 acres. Staff also recommends final development plan be reviewed and approved administratively.

Staff recommends denial of the applicant's request for a variance of Article III, Section 4.4.3c to allow the parking lot to be located in front of the proposed building and denial of the variance of Article VIII, Sections 7.3, 7.8 and 7.14 to allow a sign to

exceed the height and set back requirements and to allow a wall mounted sign to exceed 70 square feet in sign area.

If the decision of the BCC is to approve the Applicant's request for Master Plan and Preliminary Development Plan, staff recommends imposition of the following conditions:

If the decision of the BCC is to approve the Applicant's request for Master Plan and Preliminary Development Plan, staff recommends imposition of the following conditions. Madam Chair, may I enter the conditions into the record?

CHAIR HOLIAN: Yes, you may.

1. The Applicant shall comply with all review agency comments and conditions as per Article V, Section 7.1.3.c.
2. Master Plan with appropriate signatures shall be recorded with the County Clerk as per Article V, Section 5.2.5.
3. Detailed lighting plan shall be submitted at time of Final Development Plan as per Article III, Section 4.4.4 h and Table 3.1.
4. Prior to Final Development approval the Applicant shall provide a landscape water budget that will be used to determine the size of cistern required for the development as per Ordinance 2008-4.
5. Drainage calculations for site runoff shall be submitted for review and approval with Final Development Plan as per Ordinance 2008-10 Flood Damage Prevention and Stormwater Management Ordinance.

MR. LARRAÑAGA: Madam Chair, also, if the decision of the BCC is to approve the applicant's request for a variance of Article VIII, §'s 7.3 and 7.14, staff recommends imposition of the CDRC recommendation to allow a building-mounted sign 105 square feet in sign area and that the freestanding sign would not exceed 12 feet in height.

Madam Chair, I stand for any questions.

CHAIR HOLIAN: Okay. Are there any questions for staff?

Commissioner Stefanics.

COMMISSIONER STEFANICS: Thank you, Madam Chair. Could you identify what the reasons are for having the parking variance and the sign variance request?

MR. LARRAÑAGA: Madam Chair, Commissioner Stefanics, as stated in the applicant's request, the presentation, the building for the parking, they say it will be safer for their customer than if the parking is to the side or the rear of the building and way that the lot is going to be shaped and being right off the highway it would make sense to have the parking in the front of the building for a retail store.

Signage, the applicant had stated that the Family Dollar Store has certain standards for their signage, especially for the wall-mounted sign. That's why they requested that.

COMMISSIONER STEFANICS: Okay. Well, as far as the sign goes, we've already made several people change their signs in town and I don't know that

this would be something special to allow that, but based upon the parking have you been out to the site?

MR. LARRAÑAGA: Madam Chair, Commissioner Stefanics, yes, I have.

COMMISSIONER STEFANICS: So in your opinion, maintaining the parking in front of the building would be safer and should be considered the option?

MR. LARRAÑAGA: Madam Chair, Commissioner Stefanics, based on the site visit, yes.

COMMISSIONER STEFANICS: Thank you vmm, Madam Chair.

CHAIR HOLIAN: Okay. Commissioner Chavez.

COMMISSIONER CHAVEZ: So I can see that a site visit – and I’ve driven by the site numerous times so I know the area fairly well, but was that based on just a site visit, how can one determine that it would be safer in front versus the back? I would have to have other criteria that says that there’s a safety factor and the parking lot would be better in the back than in the front. I don’t see that. I think I see design standards that are, asking for a variance on those design standards, and I’m wondering if it’s a preference for the Dollar Store in their design to have it in the front versus the back.

I just pose that as a question. But I look at the visual impact that that parking lot is going to have, and if we have that parking lot, if we approve the parking lot in front that visual impact will always be there because the building I don’t think is going to move once it’s built. So that’s a decision that I’m going to pay a lot of attention to because once that decision is made we can’t go back. So I don’t – I kind of question the observation and the subjective judgment that one would make just based on a site visit. But I’ll just leave it at that.

COMMISSIONER STEFANICS: On this point.

CHAIR HOLIAN: Yes, Commissioner Stefanics.

COMMISSIONER STEFANICS: To pursue the parking, why couldn’t the parking be on the side?

MR. LARRAÑAGA: Madam Chair, Commissioner Stefanics, parking can be on the side. There is a zero lot line per the Pojoaque ordinance. They could push that building over to the property line and have the parking on the side and to the road. This is what the applicant is opposed and therefore upon meeting with staff we told him to request a variance of this the way they would set up the parking. And then again, staff is recommending denial of the variance because denial of the variance is approval of the master plan so for instance if the master plan got approved and the variances got denied they would have to redraw the site plan to show the parking along the side or to the rear of the building.

COMMISSIONER STEFANICS: So, Madam Chair, do I understand from the materials that if the parking was in back of the store it would back right up to a residential development?

MR. LARRAÑAGA: Madam Chair, Commissioner Stefanics, that’s correct. It would have to be screened or a wall would have to be put up. Either way it would have to be screened. Any commercial has to be screened from residential

development.

COMMISSIONER STEFANICS: So is the residential development in the back highly dense or big lots?

MR. LARRAÑAGA: Madam Chair, Commissioner Stefanics, it's one big lot. In fact this is – the residential to the rear of the lot is where they're going to be doing the lot line adjustment to incorporate .4 acres.

COMMISSIONER STEFANICS: Thank you, Madam Chair.

CHAIR HOLIAN: Okay. Commissioner Anaya.

COMMISSIONER ANAYA: Madam Chair, Mr. Larrañaga, so if I could get my bearings, do you have a map that you could point me to quickly? Because as I'm thinking of the layout, especially of the parking, it would seem to me that having the parking in the front would be a safety consideration as opposed to putting the building all the way towards the street. And then would the entrance still be on the street side of the facility if the parking's in the back? Or would the entrance be on the back of the facility?

MR. LARRAÑAGA: Madam Chair, Commissioner Anaya, the entrance still has to be directly off the highway. In Exhibit 4 it has the preliminary development plan and the master plan in which shows kind of the lot layout and the parking. The access either way, whether it's – if the parking's not in the front or if we go by code and we can go to the road, the access is still going to be directly off the highway.

COMMISSIONER ANAYA: So, Madam Chair, Mr. Larrañaga, if I'm looking at the site plan now, the recommendation would be to restore it back to the rear of the lot with the parking in front with the public access [inaudible].

MR. LARRAÑAGA: Madam Chair, Commissioner Anaya, the recommendation –

COMMISSIONER ANAYA: I'm not sure what the recommendation is. The request of the applicant is that the parking – the building would be pushed back to the back of the lot and the parking would be in the front where the public is going to enter the store.

MR. LARRAÑAGA: Madam Chair, Commissioner Anaya, that's correct.

COMMISSIONER ANAYA: So just based on that and I actually am looking forward to hearing the public comment. I want to hear the public comment and feedback. I appreciate the letters that were submitted. But just based on a practical application of going to a store and parking and wanting to go inside, I can't think of a business in the corridor that has the parking in the back. All the businesses that are existing, unless you tell me otherwise – there may be some – but just based on my recollection of what's existing, all of the businesses have frontage parking and then the building towards the back of the lot line. Are there examples there or is there – is there examples?

MR. LARRAÑAGA: Madam Chair, Commissioner Anaya, actually, Exhibit 18 submitted by the applicant at CDRC illustrates parking in front of other buildings, in fact directly across the highway or in close proximity to the site.

COMMISSIONER ANAYA: So I'm just trying – and I'm just trying to



understand patterns of development and growth. Are there any businesses, or maybe some of the public can address that when they come up. Are there other businesses where because of the planning in the Pojoaque Valley and is there maybe a changed desire to do something different. Is there something in our planning tools or their planning discussion that said it makes more sense to put the building in the front and the parking in the back?

MR. LARRAÑAGA: Madam Chair, Commissioner Anaya, in the Pojoaque Ordinance there really isn't any requirements for the parking as far as the Land Development Code where parking is only allowed on the side or to the rear of the building.

COMMISSIONER ANAYA: I guess that's what I'm getting at. Give me some examples, somewhere in the county that we recently required the parking on the side or the back, as opposed to what's traditionally been done parking in the front. Penny, maybe you can help me. What is the framework or the planning model that was utilized to say parking makes more sense on the side or in the back? Was it? Give me some basis as to why it's there? Do we have any basis?

MS. ELLIS-GREEN: Madam Chair, Commissioner, it's been in our code for a fairly long time. For a freestanding lot it can be difficult to meet this requirement and certainly the existing use that had been on this property had parking in the front. And a lot of that area has parking in the front. When you're clustering maybe three or four commercial lots it's much easier to kind of have a driveway going in and have your parking kind of behind the front two buildings. But when you've got one single freestanding building it can be difficult to meet that requirement.

COMMISSIONER ANAYA: What comes to mind, Madam Chair, Ms. Ellis-Green with design standards or some vision for why it should be on the side or the back, it's just been something that's been predominantly in the code that we're not exactly sure what the framework was for why?

MS. ELLIS-GREEN: Madam Chair, Commissioners, it's more to keep the building towards the street and so you don't – what you don't see is the major parking area. Then you've got to wonder, which is the front of the building because I'm thinking of the Turquoise Trail Business Park, if you're driving along State Road 14 you're seeing the building first, but actually if you go into the business park some of that parking is in front of the building if you take the front being the business park. But from the major highway you're seeing the building.

COMMISSIONER ANAYA: Madam Chair, Ms. Ellis-Green, I appreciate the feedback and I would just say from a traffic standpoint, having spent a little bit of time at the Department of Transportation, there are corridors that have different speeds, different types of highways, and I think a lot of what we decide, and maybe these are things we need to further analyze when we get in the new code, should have a basis on what type of highway or pathway we're talking about, the speeds, the other requirements associated therein. So thank you for answering those questions.

CHAIR HOLIAN: Do you have any more questions, Commissioner Anaya?

COMMISSIONER ANAYA: Not any right now.

CHAIR HOLIAN: Okay. Commissioner Chavez.

COMMISSIONER CHAVEZ: Well, I think Commissioner Anaya asked most of – I think you captured most of my questioning, and I'm wondering, why have design standards then? If we're going to ignore them or they don't really mean anything or if we can just variance around them. But anyway, again, those are just my comments. I think design standards, I think that they're going to mean different things to different people. A visual impact – my concern, the visual impact concern that I have may not be the same that you have, and so I think we have different design standards and different things that we're looking for. And so that's why I raised the question initially about the variances and the design standards and why we have them. And Commissioner Anaya expanded on that. So maybe we need to revisit that.

COMMISSIONER ANAYA: On that point, Madam Chair.

CHAIR HOLIAN: Yes, Commissioner Anaya.

COMMISSIONER ANAYA: I appreciate Commissioner Chavez' comments and my questions and comments were along the line of the types of corridors. And I could actually see a lot of merit in where a building sits and how it will be a detriment and visually impact an area. But I think just on this case, just on that one item, I haven't weighed in on the discussion on the signage yet, but just on the parking item, I think given the corridor and the historical use, there and around the area, that's what my comment is. But there absolutely in my mind could be a need on a smaller roadway with reduced speed limits and a desire to assure that there's parking in the back as opposed to the front where safety may not be as an issue or traditional use may be not an issue. So I don't want to downplay that there may be absolutely appropriate places to put the building on the front of the lot line as opposed to the back. I think there may be varying levels of need based on logistics and what's traditionally, historically existing.

CHAIR HOLIAN: Okay. Commissioner Mayfield, do you have any questions?

COMMISSIONER MAYFIELD: I do, Madam Chair. Thank you for recognizing me. A question for staff, Madam Chair, and also a question for our Land Use Director, Penny Ellis-Green and Attorney Ross. Madam Chair, time and time again you all finalized [inaudible] the code rewrite –

CHAIR HOLIAN: Commissioner Mayfield, I couldn't understand what you were saying.

COMMISSIONER MAYFIELD: I'm sorry, Madam Chair. [inaudible] Madam Chair, what I asked, for the code to address also, and I'm going to ask if staff has recognized – I'm speaking very loud, Madam Chair, so you all can hear me. But along that corridor, along the 285/84 corridor and the corridor going up to Los Alamos and also Nambe, Highway 503, and I am going to talk a little bit on this, Madam Chair. I've asked Mr. Ross to recognize the potential of an SDA-1 area out there and the reason I'm getting at this, and I'd also like staff to recognize that District 1 is within five pueblos. And the reason I bring that up, Madam Chair, is that this is a real uniqueness to the code. Other areas in Santa Fe County do not have to go through this within our code development plan. So anything that's being developed along these

corridors, and especially this commercial corridor that we go through along 285/84 in the north, and along 502 and 503 up in the north need to recognize that there are external boundaries for the pueblos, for that matter internal boundaries with the pueblos.

And in that there's private claims within those boundaries. And there's sovereign land within those boundaries. So something has to happen for commercial development along [inaudible]. It may not be applicable to that [inaudible] that's applicable to something under our current County code plan that's moving forward and the current County code plan. And that's what I've asked staff to recognize in the current draft of the code. So I hope those considerations are also taken into effect in terms of impact.

And I appreciate what Commissioner Anaya also brought up about some of the existing private claims that are along that corridor. And I'm going to ask staff this question: Have you identified, say from the Tesuque area coming down the hill all the way to the Santa Clara area where we're going into the City of Española – so from the City of Santa Fe limit all the way to the City of Española limit, how many private claims there are between pueblo claims. Can you tell me how many claims we have along that stretch?

CHAIR HOLIAN: How many what we have along that stretch?

COMMISSIONER MAYFIELD: How many private claims we have along that stretch from the City of Santa Fe to the City of Española.

CHAIR HOLIAN: I heard planes – is what I heard and I don't think you actually said that.

COMMISSIONER MAYFIELD: I did say that. I did say that, Madam Chair.

CHAIR HOLIAN: Oh, private claims. Does anybody know the answer to that question?

MS. ELLIS-GREEN: Madam Chair, Commissioners, I don't know the answer to that question.

COMMISSIONER MAYFIELD: Would you say there are many that are intermingled between pueblo land?

MS. ELLIS-GREEN: Yes.

COMMISSIONER MAYFIELD: Okay, Penny. So, Madam Chair, Ms. Ellis-Green, we can have one set of rules that apply, say, to a private claim, versus one that would apply to sovereign land within that claim. [inaudible] to develop on a commercial piece of land within a private claim and the County were very restrictive on that and they may not restrictive on the sovereign land right next door to them. [inaudible]

CHAIR HOLIAN: Can you repeat your question?

COMMISSIONER ANAYA: Madam Chair, I could help. The Commissioner is saying that there are sovereign lands adjacent to private claims in the sovereign lands you can have – and I'll just use this example, Commissioner, if you're okay. You could have a 100-foot sign and then adjacent to that you could have the County requirement for a very small sign and I think he's just bringing up that there's

parity concerns there, it sounds like. Did I capture what you were trying to say, Commissioner?

COMMISSIONER MAYFIELD: Madam Chair, Commissioner Anaya, exactly. And also as far as authority, we could have setback requirements as far as parking along the 285/84 corridor, where on sovereign lands they may not have the same parking restrictions along the highway. And the other thing that I also would like to bring up is when 285/84 was remodeled and they brought up all of the frontage road issues. Now we have setback requirements based on a frontage road that was never there before. So I think that's very important that staff recognizes. The new setbacks based on frontage roads that were there or were not there, especially on this one particular piece of land. That road was widened, so there's not a frontage road issue right there. But that area, stretch of the road was widened, therefore making a bigger setback there.

But I guess what I'm aiming at is that you all now might be requiring in our current code or our current draft code for parking to be in the rear, look along that whole 285/84 corridor. [inaudible] So I guess my question for staff would be that if somebody comes in and tries to do a remodel, even if it's somebody across the street, because I think in one of the exhibits it's mentioned. If somebody came to do a remodel of that store – and I know that one. I know the store that's across the street from the proposal that's in front of us tonight. But now would they be asked or have to reshift their whole parking? Because they don't have the room to park behind that store. So can staff give me an example on that store, that facility directly across the street, if they came in to do a remodel?

MR. LARRAÑAGA: Madam Chair, Commissioner Mayfield, I'm not sure about the property you're talking about. Now, an interior remodel we wouldn't require any kind of parking requirements. If they were coming in to expand the use, say it's a non-conforming use, or non-conforming signs that the property has, if they're coming in to expand the use and in some way to expand the building, then they would have to come in for master plan amendments and they would have to conform to the conditions or the code requirements as they stand now as far as parking and signage and everything else.

CHAIR HOLIAN: So, Commissioner Mayfield, I'd like to bring the applicant forward.

COMMISSIONER MAYFIELD: Madam Chair, I've got a few questions to ask of staff. I just think that's very important and I know that Commissioner Chavez also asked if there were some site visits. So as far as a site visit, there's also some residential property in the back, and I think you indicated that there was a four-acre residence in the past, but it's also a traditional community, correct? That could be split up into smaller pieces along that road. So I think the parking in the back could also be disruptive to the folks in the back. And right now, as far as the existing structure that's there, the grandfathered use, staff, how long has that establishment been there? Do you know?

CHAIR HOLIAN: How long has the applicant been there?

COMMISSIONER MAYFIELD: No, the establishment, the existing

establishment that has been there on the roadside, right there along that roadside.

CHAIR HOLIAN: Oh, how long has Al's Liquor been there?

COMMISSIONER MAYFIELD: [inaudible]

MR. LARRAÑAGA: Madam Chair, the applicant says since 1948.

CHAIR HOLIAN: So, Commissioner Mayfield, would it be okay if I brought the applicant forward and then you could ask questions of both the applicant and the staff?

COMMISSIONER MAYFIELD: That's fine, Madam Chair. I'll just defer to public comment and I'll reserve more comments for after that, after public comment.

CHAIR HOLIAN: Okay. Thank you. Is the applicant here? Would you please be sworn in and state your name for the record.

[Duly sworn, Jeff Kost testified as follows:]

JEFF KOST: Jeff Kost, 1333 North Greenfield Road, Mesa, Arizona.

Thank you for the opportunity to be with you tonight and present this to you. It's been a long evening for you. I've been to a lot of these meetings. I wanted to first off, just to let you know who I am, I'm not just a developer. I'll be the owner of the building. I've acquired a tenant, Family Dollar. They've signed a ten-year lease with me to be there. Family Dollar, they want to be here. They have teams of marketing groups that tell their VGs exactly where they want to be within a quarter mile, to be exact, of where they want to be. So they know their business, they know the clientele and hence have the lease with me. So you're speaking to the owner of the project, one who will maintain this as well and become a property owner, probably within the next 30 days, hopefully.

So with that, this is an 8,300 square foot building that we're putting in there. It's been a long night so I'll try to truncate this a little bit to help. For example, signage, I know there were some questions with regard to signage. We worked with CDRC in regards to signage. In that last hearing, we reduced it to 105. I've since worked with staff and I've agreed – and the tenant – and I've agreed to get them to compromise to 75 square feet, which is five feet off of the current code, because they make certain size signs that they have with national companies. I couldn't get them to get to the 70 but I got them to go to the 75. So that shows something not just to the neighbors but also to the Commission that we're trying to do something that works for the community.

In regards to the parking, I'd love to comment a little on that. I've site-planned this each way I could. Looking at it, it's a very small piece of property. It's 37,000 square feet. I've worked with John Dunn who is the property owner adjacent behind it, with Flavio Gurule who lives behind it as well. The main reasons why they wanted to orientation and they would speak to this. They were here at the last meeting, was because if they were going to have a [inaudible] they didn't want a parking lot behind their homes, they didn't want headlights, and from my standpoint as owner of the business, of the building with a tenant, I want my tenants to be, number one, as safe as possible in regards to the safety. If you are walking, parking in the back, you can't see where the cars are, walking behind and coming to the front of the building. I own this. I have a liability there. Let us set that aside. That's just the right thing to do in regards to safety for people coming in and out of that store.

So there's that aspect. There's also the delivery truck aspect. Family Dollar has delivery trucks. They've looked at the site plan. They've looked at every way we could

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make this work in regards to the turning movements and they have departments. All they do is they make sure that this thing can work. They've looked at it and this is the one that fit within the trucking movements, within the safety and within what is best for the adjacent property owners. So that's the reason why we're asking for that variance tonight. It's certainly not that we're trying to be difficult. We're trying to do what we want here. It's what we feel is best for that area, what's best for the tenant, what's best for their employees and what's best for the property owners behind us.

CHAIR HOLIAN: Okay. Thank you, Mr. Kost. Do you have any more? Because I have a question.

MR. KOST: Sure. [inaudible]

CHAIR HOLIAN: Okay. Go ahead. My question is not on the parking. So go ahead.

MR. KOST: I just also want to add that we're excited about what we're doing, what we're bringing to that area as well. It's been vacant for quite a while. We're coming in, removing that building, bringing in something that's going to bring some life to that area. At the CDRC meeting we had a property owner across the street come to the meeting. She was very frustrated with the crime that's happening in that vacant lot across the street. She asked me what I'm going to do about it. Well, we're going to bring a business in that's going to be operating and we're going to have additional eyes. We're going to be working together with them to try to help, to call 911 if we see somebody doing something they shouldn't be doing.

But my point is we're trying to move, hopefully, not just move but get rid of that type of activity in that area. I've passed on to Jose a petition of about 99 names for, on behalf of this development that he's passed on to you. [Exhibit 7] Or if not he will. Also, obviously the basics which we all know. The tax base that comes. We're going to bring five to seven jobs to the community. We feel we did a fairly good job with regard to notifications with the community. We did a neighborhood meeting requirement. In talking to County staff, there have been two notifications, one in the *Journal North*, one in the *New Mexican* for that neighborhood meeting. We had that. We had seven attendees. We had one who had questions about it, was not opposed, was not for, but just had questions in general who lived behind [inaudible]

We then moved forward with our other postings, certified letters to property owners within 500 feet. Code is 100 feet. I've done this for a long time. I always go further than I should in regards to notification. So I went 500 feet rather than 100 feet, noticed by certified letter 32 property owners. Also notified any papers as required and also the sign postings on site. The same has happened with regard to notifications, a certified letter for this meeting, and also the notifications in the papers.

I'm bringing that up and emphasizing that because I'm sure recently that [inaudible] We have. We've gone through the proper channels. I've asked and been proactive in what I should do in regards to the approval and notifications and we stand before you tonight seeking approval.

CHAIR HOLIAN: Okay. Thank you, Mr. Kost. Commissioner Chavez.

COMMISSIONER CHAVEZ: Yes, could you tell us the hours of operation?

MR. KOST: For this location, it depends on really how busy the store is. There are times we're open at 8:00 and other times and areas, I've seen them open until 10:00 at night.

COMMISSIONER CHAVEZ: So you don't have any ideas of what the hours for this store might be.

MR. KOST: Yes, I would –

COMMISSIONER CHAVEZ: In that range.

MR. KOST: From 8:00 am to approximately 10:00 pm.

COMMISSIONER CHAVEZ: Okay. Eight to ten. Can you tell us where the closest Dollar store is in proximity to this proposed dollar store?

MR. KOST: It's 3 ½ miles away if I remember correctly.

COMMISSIONER CHAVEZ: Thank you, Madam Chair.

MR. KOST: That is information that's given to us by Family Dollar as well. They know exactly where their stores are.

CHAIR HOLIAN: Thank you, Mr. Kost. I have a question. I noticed in the packet that you proposed a smaller cistern for your rainwater collection system than is recommended by our code. Is there a reason for that?

MR. KOST: It's mostly been the ability to – not only its Kost but also just the overall site size and what we can do to make this deal work and so it's the functionality and a practical approach. We try and do what we can in regards to the harvesting. In regards to our impact on what we're actually .15 acre-feet per year. So we're about equal to what it is currently, was there when Al's Liquor Store was open for business.

CHAIR HOLIAN: So you estimate your usage will be .15 acre-feet a year.

MR. KOST: Or less.

CHAIR HOLIAN: Okay.

MR. KOST: That's the maximum that other stores have used. Maximum they've seen out of five stores that they submitted to the County has been 130 gallons per day. That's the maximum that they've used.

CHAIR HOLIAN: Okay. Thank you. Any further questions?  
Commissioner Mayfield, any questions? Okay. Yes, Commissioner Anaya.

COMMISSIONER ANAYA: Did you pass out these pictures? *[Exhibit 8]*  
Talk to me about why you passed them out.

MR. KOST: Sure. Be happy to. The reason why the pictures have been passed out it's just to help the Commission – the first picture, to understand why the parking is in front of the existing building across the street. The signage that doesn't fit within code. If you look at the last picture, that's a current project that's under construction that's been approved that's a coffee shop that has the parking off of the front of the building.

COMMISSIONER ANAYA: Okay. So I got you on the parking. The square footage on the sign I'm looking at that says Pablo's, that's – I don't know how long it's been there. Do you know? Mr. Trujillo, do you know?

JIM TRUJILLO (from the audience): Probably about 20 years.

COMMISSIONER ANAYA: Twenty years. And just on that, with that sign on the building, do you know how big that is?

MR. KOST: I do not.

COMMISSIONER ANAYA: Okay. And then on the others, on the signage, does staff know whether or not those are above or below the code? Because I know that Mr. Trujillo just represented 20 years on the one across the street. Maybe some of these others are even more recent than that, but the sign that I'm looking at that has lighting, Las Hermanas, and I guess that's Done Right Glass, those are all pretty recent as compared to the Jerky Store and the property in question.

MR. LARRAÑAGA: Commissioner Anaya, yes. There's recent businesses that went into that non-conforming structure or use again that are replacing signs that were there previously. So the actual sign with the windmill, the height and everything else, those are non-conforming structures.

COMMISSIONER ANAYA: But the sign itself, for each of those, not all of them together, but for each of those, is that code? Or are those bigger or smaller than what the code requires? Because I did – well, let me explain so it's clear for the public. If you have a non-conforming use of a glass shop, let's say, and then the glass shop becomes a café, are they still allowed the same use? Or doesn't the use determine whether or not they've got to come in or not and get new permitting on that?

MR. LARRAÑAGA: Commissioner Anaya, we had this discussion with our supervisor because we always have these problems, especially along that corridor. Especially as Commissioner Mayfield mentioned where it's a frontage road and they're away from the traffic. And some of those signs do not meet the height limitations of the code and they're pre-code. So then new businesses go in and they just want to replace the actual signage, like you said, with a different business, so a different sign. We allow them to put the signs on there just so that they meet the same square footage as what was there before. But this was a non-conforming structure where the signage is and the new business goes in there.

COMMISSIONER ANAYA: So Madam Chair, Mr. Larrañaga, I'm looking at the sign that's been on that structure for many, many years that says Al's Liquors on it. And I understand that the business hasn't been functioning as a business of that type for a while now but what's the square footage of that sign?

MR. LARRAÑAGA: Madam Chair, Commissioner Anaya, I have no idea what the square footage is and if this development were going to use that exact same building with the exact – the way it is built right now and replace that sign, we'd probably allow it, if the use was compatible with the old ones. This particular one is a master plan. They're demolishing this building, they're moving in as a whole new development.

COMMISSIONER ANAYA: I understand what the request is and I still want to hear from the public. I'm just trying to establish that there is an existing sign that, just based on my glance at it is probably two feet by at least 15 feet, just from looking at it on here, which probably is beyond the square footage requirement that we have. And I'm just saying that there's a sign in place. When we talk about – and I know Commissioner Stefanics has a valid point because we've had some issues in the city limits even with our own County sign for the fairgrounds that we adhered to the requirement. Right? I had an interest in having a bigger sign, to be quite honest, and Commissioner Stefanics was the one that brought up that we ourselves need to follow the same threshold that we are asking other people to follow.



Now, my caveat to that would be that given something that has an existing sign, then I think we need to factor what was in place and how long has it been there and what was the type.

My last question on signage and then I'll be quiet, Madam Chair, for now is that on the sign for the County requirement, we get into not only the square footage, but whether it's illuminated or not and how it's illuminated, correct?

MR. LARRAÑAGA: Madam Chair, Commissioner Anaya, correct.

COMMISSIONER ANAYA: Whether or not it's a digital sign and we even have provisions that deal with the type of digital sign that we can have, that deals with whether they can flash or not flash, and that determines whether there's a variance or not a variance. Right?

MR. LARRAÑAGA: Madam Chair, Commissioner Anaya, correct.

COMMISSIONER ANAYA: That's all for now, Madam Chair.

CHAIR HOLIAN: Okay. This is a public hearing, so is there anyone here from the public who would like to speak either in favor or in opposition to this case, please, can I have a show of hands. And perhaps you could all stand up and be sworn in at once.

[The oath was administered to those wishing to speak.]

CHAIR HOLIAN: Okay. Why don't you start coming forward to speak and when you come to the podium please state your name for the record.

[Previously sworn, Fred Richardson. testified as follows:]

FRED RICHARDSON: Thank you, Madam Chair. My name is Fred Richardson. I live at 34 Tango. I am a resident of the Pojoaque Valley. I'm also a contractor that would like to bid on part of this project and have bid on it. So I stand to keep some of my employees employed with this going on. It will also employ five to seven people after the store is built. So I think it's very advantageous for the valley. Plus it would be a good asset for shopping, for keeping us from having to run either Santa Fe or Española to get the materials that are found in the store.

Also, in regards to the layout of this building, one of the big things that hasn't been discussed here tonight is that the septic system has to meet 100-foot setbacks from all wells. And the septic system that this particular building is going to have to have is an advanced treatment unit because of the groundwater effect. And there's not very many places on this lot that the septic can be put. It is most likely going to be put in front of the parking as a buffer feeder. The trees are going to be put on the other side of the parking. So our shrubs and what not that is going to be put between the parking and the street for visual. And that's kind of most of the area that will be utilized for septic. And the water harvesting system that was originally proposed for this was an over 80-foot long tank that would have had to have been put under the parking lot. That also was obviously an impossibility to put into one section. So the tank was downsized to try to make it accessible and to be pre-installed. Thank you for your consideration. I think the store should go forward.

CHAIR HOLIAN: Thank you. Next.

[Previously sworn, Julia Takahashi testified as follows:]

JULIA TAKAHASHI: I am Julia Takahashi. I live at 149 State Road 503, Santa Fe, New Mexico, 87506. And given the time, can I submit my written statement to your guys for the record? *[Exhibit 9]* I'd like to bring your attention to Santa Fe County

Ordinance No. 2008-5, Section 5.3, the Pojoaque Valley Traditional Community District. And I'll just kind of slip through this. Point A.2, all non-residential in the mixed-use zoning subdistrict shall be compatible with existing land use patterns, existing residential areas, landownership characteristics, and geographic features near the property. Under these considerations and inadequacies related to the community notice and procedural requirements, myself and 69 other signers of the petition submitted earlier to the County oppose the proposed plan.

And I'd like to bring up that I don't feel that the Family Dollar Store master plan is compatible with existing land use patterns or the existing residential area surrounding it. It's out of scale with existing neighborhoods. So I'd like to point – I'm going to run out of time – but I'd like to point out that as you're moving along the corridor that the nature of the corridor significantly changes after the overpass as you move north. So you go through the very high-density commercial development of the Pojoaque Pueblo area, and then you move into much more rural development. And so that's one reason we don't feel that this is really compatible.

I feel that the proposed project would create undue negative impacts on the neighborhood properties, security, lighting, air pollution, noise. There's an acequia that runs directly on the south side of the property.

CHAIR HOLIAN: Thank you, Ms. Takahashi. Next.

[Previously sworn, Lee Waite testified as follows:]

LEE WAITE: My name's Lee Waite. I live at 55 Banana Lane in the Pojoaque Basin. I support this building going in because it's going to bring in construction jobs. Also, it's going to eliminate the fact of Al's Liquor that's been abandoned for years, is going to be gone and it's not going to be an eyesore. It's also not going to have the graffiti that has been painted over several times. And the fact that the Sheriff has been called out there a couple of times just to remove transients or vagrants from that area. Also that building, because it has been abandoned for so long is starting to become a fire hazard because of the transients in the area and it does conform with the buildup in that area. Also it would be a business in that area that is not specifically controlled by the tribal members, therefore the members that work at that store will be able to pay taxes and defray the expenses in that area. And that's all I have to say.

CHAIR HOLIAN: Thank you, Mr. Waite. Who's next?

[Previously sworn, Marsha Richardson testified as follows:]

MARSHA RICHARDSON: My name is Marsha Richardson. I live at 34 Tango and I have lived there 30+ years. And I know the economic downturn and the high cost of fuel as a wife and a mother, to have affordability of merchandise instead of having to run to Santa Fe or to Española for just a couple things would be good. I don't think – I'm for the project. I think that it's great that you can bring jobs into the environment, no matter if it's a few or a lot. It puts people to work after the construction is done and even during the construction, it's going to be a huge impact.

There's a lot of signs that have come and gone over there in the last 30 years. Some really tall, some really short, not knowing the laws as far as the pueblo versus the County. I'm not familiar with that. So all I can say is over the years we've seen really big, humongous signs lit up like Christmas trees and we've seen other ones that are small. The sign itself to me is no big deal. If you drive by the Nambe Tribal Center or the casinos they're much worse. As far as the parking issue, as a woman and as an adult

female, especially at 10:00 at night I think the front is a safer issue. People who are going to be in that area shopping late at night will feel more comfortable. So I'm saying I support it. Thank you.

CHAIR HOLIAN: Thank you, Ms. Richardson. Who's next?

[Previously sworn, Jim Trujillo testified as follows:]

JIM TRUJILLO: Thank you. I am Jim Trujillo and I am the present owner of that property and it's been in my family since 1948. We ran a very successful business in the area. We supported the schools. We supported the community. We sponsored little league games. That was the place that I met my wife Victoria and Victoria and I bought the business in 1977 from her dad and mom, and we continued the business and it's just kind of sad that we had to let it go because as gaming came into being and there's no room for a mom and pop operators any more. You can't have small businesses. You can't make them profitable. So we had to vacate.

So now what we have is an empty building that is an eyesore that's hard to maintain. I do pay the electric bills so that the streetlights are on 24/7 when they're needed so I think this building, the Dollar Store building – and I have had several offers to lease and rent and sell to other people that I didn't like, and I felt that this was the best match for the community. And that's why I'm making every effort to get it approved so that I can process and become the former owner instead of the present owner because like I say, as time goes by you need to start thinking of in my case retirement and trying to sell some of my property, and that's the last one that I have so I would really appreciate your consideration. Thank you.

CHAIR HOLIAN: Thank you, Mr. Trujillo. Next.

[Previously sworn, Sef Valdez testified as follows:]

SEF VALDEZ: Madam Chair, Commissioners, my name's Sef Valdez, a 53-year resident of Nambe. I'd like to give my two minutes to Jon Paul Romero.

[Previously sworn, Jon Paul Romero testified as follows:]

JON PAUL ROMERO: Jon Paul Romero, 12 Feathercatcher Road, Santa Fe, New Mexico. Madam Chair, Commissioners, I'm standing here before you because I'm in support of this project. I've lived in the Pojoaque Valley all my life, 45 years. I've seen many changes along this corridor. I was the project engineer for the Louis Berger Group who did the study from Santa Fe all the way to Española, and I worked closely with the New Mexico DOT for the improvements that have occurred along this corridor. I believe this location is ideally suited for this type of retail development. It sits between two signalized intersections, so it makes for a safe environment entering onto US 84/285 which currently has over 40,000 vehicles a day that travel that corridor.

I know there's a lot of things that have been said with respect to some of the variances and I think Commissioner Anaya had brought up some very good points. Typically, when a development of this type is built it needs the parking along the front of the access, because that's where the patrons are going to come in. I know you as individuals, you wouldn't want to have to enter into the development from a bank from the bank and then walk around carrying the money in your pocket or having to carry the goods and services that you bought from that area back to your car. So with that being said, I would want you to really consider the variances that are being asked for today and to consider granting those variances.

There are many places along the corridor that are mom and pop shops that have gone under and we don't really have an opportunity to shop in the Pojoaque Valley. I know the developer said that the closest Family Dollar was three miles or 3 ½ miles, that's probably as the crow flies, but along the road way it's a little longer. So it's about nine to ten miles driving distance.

I know there are a lot of residents in the valley who are also in support of this who could not be out here tonight. The Family Dollar does allow for purchases of family good from toothpaste, detergent soaps, things that people use around the household that are very affordable and it keeps them in the valley. It's going to bring in gross receipts revenue. It's going to employ five to seven individuals in the retail shop. The cost of construction I believe is over \$800,000, so during the construction of this facility it's going to employ between 30 and 40 individuals of different trades – electricians, plumbers, framers, painters, window installers, roofers. That's much needed. We don't have a lot of economic development in this part of the county and we really need this for our community. Thank you.

CHAIR HOLIAN: Thank you, Mr. Romero. Next.

[Previously sworn, James Trujillo testified as follows:]

JAMES TRUJILLO: Good evening. My name is James Trujillo. I'm the eldest son of the Trujillo Family and I wanted to tell you we respect what our community – we acknowledge their concerns. I've been involved in the sale of this project for over three years. We tried to bring in a Blake's Lotta Burger and that didn't work. We tried very hard. We had offers from two liquor establishments, there were convenience stores. We had two bars that wanted to open bars in our store and sell alcohol of course, a distillery and a winery. Family Dollar came into the picture and it made sense to our family. It's a great, great company. Again, it's going to help the gross receipts.

We have the valley's best interest at heart. Me and my family, we made a decision and we want the valley to know we had the valley's best interest at heart when we made our decision. Thank you vmm for your time.

CHAIR HOLIAN: Thank you, Mr. Trujillo. Anybody else?

[Previously sworn, William Mee testified as follows:]

WILLIAM MEE: William Mee, 27 Camino Samuel Montoya, Santa Fe New Mexico. And I have worked with various communities and worked on the Agua Fria Community Plan, working through United Communities of Santa Fe County. The whole community planning function, people ask for in their communities like mid-size grocery stores I think is one of the biggest things. And that's to really stop the need to come into Santa Fe to pick up several items. The convenience stores are always so high-priced. They just don't fit the bill. So the Family Dollar really has a lot of grocery items in it and to this aspect I think it really fits in with a lot of community planning activities that I've seen done in the various county community plans. Thank you.

CHAIR HOLIAN: Thank you, Mr. Mee. Anybody else?

[Previously sworn, Larry Hays testified as follows:]

LARRY HAYS: Hi. My name is Larry Hays. I live in the valley. [inaudible] Like Jim said, he's always supporting the schools. [inaudible] The Family Dollar, especially the way the economy is, people that have kids all that, they save a lot of money and they get stuff they need. Thank you.

CHAIR HOLIAN: Thank you, Larry. Anybody else? Okay, so there's no one else who would like to speak about this case, either in favor or in opposition? Okay the public hearing is now closed on this case and I will just ask are there any more questions for staff or the applicant. Perhaps the applicant would like to make some wrap up comments? No? Any other questions for staff or the applicant?

COMMISSIONER ANAYA: Madam Chair, I have a question for the applicant.

CHAIR HOLIAN: Yes, Commissioner Anaya.

COMMISSIONER ANAYA: I just got through earlier in the meeting dealing with water catchment and Lead by Example in Santa Fe County and implementing rainwater harvesting in our buildings. So we as a County are doing and putting our resources where are ordinances and our mouth are and doing rainwater catchment. I'm real concerned about your request for reduction to what looks like a third of what the code has. Talk to me a little bit about that. I don't have a whole lot of heartache as one individual associated with parking. I've already made that clear and I really don't even think I have a whole lot of angst over the signage, but the harvesting I do. So talk to me about what modifications you would consider and I'll take those into consideration as I consider a motion.

MR. KOST: The main reason again was we looked at for code originally and it would span the whole front of the parking lot. And so we were looking at essentially to build to make this project work for us. That was the main thing. It comes down to the amount of tanks and things we have to do with water harvesting. We have a cistern. We've got a giant water tank. There are several costs that are involved. I know that's not something that [inaudible] necessarily want to hear but it's the reality of where this project is. We don't have water to tap into for a fire. So we have to put in a very large tank to hold enough water to take care of the fire suppression system that's there. We have a cistern. We have the water harvesting.

Those combined elements – I wish these deals with Family Dollar were very, very good for me. I'm thankful for them. I'm thankful for them. They allow me to have a little bit more life in regards to my family and paying bills, but they're not something I retire off of. And so Family Dollar has 9,000 stores. They understand how to make me not really make a lot of money on this. And so that's one of the aspects of it. It really comes down to the practical approach and the economics of it.

COMMISSIONER ANAYA: Madam Chair, I'm going to respectfully say I think this is a good project for the valley and there's a lot of merit in what's going on here but I was born at night but not last night associated with project development and resources. So I'm going to respectfully ask you again, relative to options, and I'm going to ask maybe – I don't know, is Buster Patty here from our Fire Department or Chief, if you could come forward. I know we've had systems. He just made a comment about water catchment associated with fire suppression, Chief, to deal with fire supply for the system. Could you speak a little bit to that fact and that piece of the project? I'm trying to think – I think we have some fire stations that have utilized water catchment as an alternative backup supply for actually using for fire suppression. Is there anything that you might offer or suggest associated with utilizing the typical water harvesting and some other combination that doesn't necessarily equate to a vast impact or overall cost to the

project? It might be out of the box but do you have any thoughts associated with that particular piece?

DAVE SPERLING (Fire Chief): Madam Chair, Commissioner Anaya, I believe on this project that there is a combined fire suppression system and water harvesting tank with some filtering in place to make sure that it meets the needs for our water harvesting and fire suppression. The original option was that they, in order to meet the fire protection needs, have a very large water storage system in lieu of hydrants, the other option being water storage of a smaller scale in order to meet a fire suppression system which I believe they decided to go with for cost and site effectiveness reasons. So there are options available to – with additional cost of course, combine water storage for both purposes.

COMMISSIONER ANAYA: Madam Chair, Chief, excuse me. I thought that's what you said that they did. So clarify it for me again. Do they have two separate tanks, one dealing with fire suppression and one dealing with harvesting project?

MR. LARRAÑAGA: Madam Chair, Commissioner Anaya, the cistern will hold water from the well to support the fire suppression system. That needs to be designed per the Fire Marshal's requirements and on top of that they will collect the roof water. Again, the comments on water harvesting are strictly, the ordinance specifically says with commercial you get the square footage of the roofed area of the commercial building and apply that to 1.5 gallon per square foot. But when they come in with a landscaping water budget to reduce that and this may allow – of course, they don't have that much landscaping, so that's going to be part of the final development plan. Conceptually as a master plan this is what they have to do. They have to have a cistern in place. So the cistern is going to be there and what we'll have to figure out at final development plan is based on the water budget for their landscaping how big does that cistern have to be to hold the water from the roof.

COMMISSIONER ANAYA: So if I can get the applicant back up here again. So respectfully – tell me your name again.

MR. KOST: Jeff.

COMMISSIONER ANAYA: Jeff, I respectfully asked you a question earlier associated with the cistern. You said you reduced the tank to accommodate space issues. Are you willing as the applicant, as you go forward to the next phases through construction to accommodate some of the other harvesting issues through landscape design and other aspects within your project beyond just the cistern to fully take advantage of the maximum amount we possibly can between a cistern and utilize the balance for landscaping.

MR. KOST: As I was saying, I'll work with staff on that.

COMMISSIONER ANAYA: So you're willing to maximize that use through the combination of the two, a cistern as well as working on landscape aspects? That's what I'm asking.

MR. KOST: Yes.

COMMISSIONER ANAYA: Okay. Madam Chair, I'll listen to the balance of the questions of the Commission.

CHAIR HOLIAN: Okay. Are there any other questions of staff or the applicant? Commissioner Mayfield, do you have any questions?

COMMISSIONER MAYFIELD: Madam Chair, just a quick follow-up based on the comments that were made and I appreciate the comments that were made. I just recognize them. Can you hear me okay?

CHAIR HOLIAN: Yes, but speak clearly and distinctly.

COMMISSIONER MAYFIELD: I'll speak clearly and distinctly, Madam Chair. [inaudible] Based on the comments that were made, some of the public comments. I heard that that highway design has crippled mom and pop businesses, so I guess the highway design – I'm not sure what the highway design was, but it has hurt the local mom and pop businesses out there, so what we can do to try to benefit some economic development in that community is much needed. I believe that anything that we can do to help our tax base within our local governments, I think that is definitely a plus.

I believe that comments that were made also by our staff indicating or at least by one of my colleagues, Commissioner Anaya, indicated that we have moved forward and approved some recent development projects out in that area. I think also there was a recent project where the Commission dealt with the signage, and staff, please correct me if I'm wrong, but we recently also approved a school out there, I think it was an equestrian center school across the street from [inaudible] Restaurant. What was the size of that sign? Do you all remember, what the footprint of that sign was? There was a school, an equestrian school we approved maybe a year ago, 18 months ago.

CHAIR HOLIAN: Commissioner Mayfield, they're discussing this.

COMMISSIONER MAYFIELD: Okay. Great.

MS. ELLIS-GREEN: Madam Chair, Commissioners, I'm not sure there was a signage issue on that. There was a parking issue.

COMMISSIONER MAYFIELD: [inaudible] there was a pretty large sign right there and we approved that.

MS. ELLIS-GREEN: Madam Chair, Commissioners, I'm not sure as to the sign that's being referred to.

COMMISSIONER MAYFIELD: Then let me just ask this question [inaudible]. If we approve something that is a sign or not a sign, don't we always have to be consistent when we approve something, when we look at the whole – I just want to make sure we're being consistent. So if we go out there and see if there's a sign and [inaudible]

MR. LARRAÑAGA: Madam Chair, Commissioner Mayfield, that was my project on that school. They probably had – they had a home occupation before, so they probably put up a sign that hasn't been approved yet. The issue on that was the amount of parking spaces per the square footage of the buildings and for a school they didn't need that many parking spaces. But that was the variance that they requested is the amount of parking spaces for that particular development.

COMMISSIONER MAYFIELD: Okay. Then Madam Chair, I'll just stop there. [inaudible] again recognizing the uniqueness of the northern part of Santa Fe County, recognizing the uniqueness of all of Santa Fe County, I'm going to bring this issue up, with the [inaudible] every issue is unique but I do recognize there are a lot private claims within pueblo external boundaries. Santa Fe County has to move forward and I would hope that we move forward positively to help the valley. Competition is not a bad thing and if we can do things to help our revenue base to tax the county residents

we don't have to raise taxes on the back end of people, I don't think that's a bad thing either. So Madam Chair, that's all I have. Thank you.

CHAIR HOLIAN: Okay. Thank you, Commissioner Mayfield. So what are the wishes of the Board?

COMMISSIONER MAYFIELD: I move for approval, Madam Chair.

CHAIR HOLIAN: With staff conditions?

COMMISSIONER MAYFIELD: Madam Chair, I'll move for approval [inaudible] Madam Chair.

CHAIR HOLIAN: But there are a number of conditions, Commissioner Mayfield. Are you saying no conditions at all?

COMMISSIONER MAYFIELD: With staff conditions. I want to allow the variances. Excuse me, Madam Chair. Without the variance of the signage or without the parking in the back. I'd allow the parking in the front and to allow the extra five – I believe it was five feet that the applicant needed for that sign.

CHAIR HOLIAN: Yes, Commissioner Anaya.

COMMISSIONER ANAYA: Madam Chair, Commissioner Mayfield, I would second that if you would accept the item that I brought up relative to maximizing the use of the roof water for harvesting going with the catchment size of tank they requested but they are willing to work with staff to maximize the use of the additional flow for other purposes on the site, landscaping and other uses.

COMMISSIONER MAYFIELD: Madam Chair, Commissioner Anaya, that's a current code requirement that we have right now, correct?

COMMISSIONER STEFANICS: Madam Chair.

CHAIR HOLIAN: Commissioner Stefanics.

COMMISSIONER STEFANICS: Madam Chair, Commissioner Mayfield, they already – the applicant was already working on changing the signage.

COMMISSIONER MAYFIELD: Madam Chair, Commissioner Stefanics, but they did indicate they needed that extra five feet, correct?

COMMISSIONER STEFANICS: Commissioner Mayfield, in our packet the applicant was agreeable to the recommendations that were made by the CDRC regarding the size of the sign.

COMMISSIONER MAYFIELD: No, Madam Chair, I just heard the applicant verbally say they need an extra five feet square footage. [inaudible] Correct me if I'm wrong on that.

MR. LARRAÑAGA: Madam Chair, I believe that the applicant in his presentation said that he would bring it down to 75 square feet, which would be five square feet over the maximum allowable. The CDRC recommendation was to reduce it from 174 square feet to 105 square feet, and to limit the sign height at 12 feet [inaudible].

CHAIR HOLIAN: And the applicant agreed to –

MR. LARRAÑAGA: The applicant agreed to the conditions of the CDRC.

CHAIR HOLIAN: Okay.

MR. LARRAÑAGA: At CDRC.

COMMISSIONER ANAYA: Which included – Madam Chair, on this point.

CHAIR HOLIAN: Yes, Commissioner Anaya.



COMMISSIONER ANAYA: Which included the additional five square feet, correct? From 70 to 75 is what Commissioner Mayfield is referring to.

MR. LARRAÑAGA: Madam Chair, Commissioner Anaya, I believe that's what Commissioner Mayfield is referring to but again, just to clarify, the CDRC recommended 105 square feet, reducing it from the proposed 174 square feet originally proposed by the applicant, and the freestanding sign was proposed at 20 feet and the CDRC recommended 12 feet. The applicant's presentation he said he would go down to 75 square feet which is still needing a variance with the 70 square feet.

CHAIR HOLIAN: Okay. Commissioner Mayfield, your motion was for what size for the sign?

COMMISSIONER MAYFIELD: The 75 that Commissioner Anaya just mentioned.

CHAIR HOLIAN: Okay. Gotcha.

COMMISSIONER CHAVEZ: May I ask about the height?

CHAIR HOLIAN: Yes, Commissioner Chavez.

COMMISSIONER CHAVEZ: What about the height? Is the 12 feet within the code?

MR. LARRAÑAGA: Madam Chair, Commissioner Chavez, no, it's not. At that setback, the five-foot setback from the property line the code only allows it to be five feet high. At ten feet it would have to be a 30-foot setback.

COMMISSIONER CHAVEZ: So would that not require another variance?

MR. LARRAÑAGA: Yes. At 20 feet or 12 feet it still requires a variance of the height. Yes.

COMMISSIONER CHAVEZ: Thank you, Madam Chair.

CHAIR HOLIAN: Okay. Do we all understand what the motion is?

COMMISSIONER STEFANICS: No. I don't understand what we've approved.

COMMISSIONER ANAYA: So, Commissioner, if I could, just because I'm on the mike, you mentioned approval of the variances for the parking in the front of the property, around the additional five square feet of the sign, square footage, the height of 12 feet on the sign and then my remarks that the applicant's going to work with staff relative to maximizing the water from rain harvesting beyond just the cistern and utilizing the water for landscape.

CHAIR HOLIAN: And I assume that this includes other staff conditions as well, not just the variances. Correct?

COMMISSIONER MAYFIELD: The applicant agreed with staff conditions already with the CDRC case.

CHAIR HOLIAN: Okay.

COMMISSIONER STEFANICS: Madam Chair.

CHAIR HOLIAN: Yes, Commissioner Stefanics.

COMMISSIONER STEFANICS: I appreciate Commissioner Anaya, could staff just repeat what that sign size is? We need to understand.

MR. LARRAÑAGA: Madam Chair, Commissioner Stefanics, yes. The variance to be approved would be the wall-mounted sign at 75 square feet, a freestanding sign at 12 feet in height at a five-foot setback. The parking lot to be in front of the building instead of to the side or to the rear.

COMMISSIONER STEFANICS: I was just asking about the sign. Okay.

CHAIR HOLIAN: Okay. Commissioner Chavez.

COMMISSIONER CHAVEZ: Follow-up question. So then Mr. Larrañaga, the freestanding sign, will that be held to the same 75 square feet, or will that be bigger or larger?

MR. LARRAÑAGA: Madam Chair, Commissioner Chavez, the dimensions of the freestanding sign will meet the code requirements. It's just the height per the setback that doesn't meet the code requirements. I believe it's 70 square feet of sign area for the freestanding sign. I think it's a few inches over but it's close to the code requirements.

COMMISSIONER CHAVEZ: So the freestanding sign and the wall-mounted sign will be approximately 70 square feet. Well, one will be 75 square feet and the other one might be 70 square feet?

MR. LARRAÑAGA: Madam Chair, Commissioner Chavez, that's correct. The 70 square foot sign on the freestanding sign does meet the code requirements as far as sign area.

COMMISSIONER CHAVEZ: Right. Not the height. Got it.

CHAIR HOLIAN: Okay. So we have a motion and second with staff conditions and variances for the sign size and for location of the parking.

**The motion passed by majority [4-1] voice vote with Commissioner Chavez casting the nay vote.**



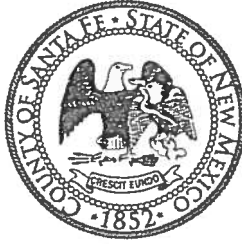




**Daniel "Danny" Mayfield**  
*Commissioner, District 1*

**Miguel M. Chavez**  
*Commissioner, District 2*

**Robert A. Anaya**  
*Commissioner, District 3*



**Kathy Holian**  
*Commissioner, District 4*

**Liz Stefanics**  
*Commissioner, District 5*

**Katherine Miller**  
*County Manager*

## **BOARD OF COUNTY COMMISSIONERS**

**CASE NO. Z/S 08-5430**  
**SPIRIT WIND WEST SUBDIVISION**  
**JOSEPH MILLER, APPLICANT**  
**DANNY MARTINEZ, AGENT**

### **ORDER**

**THIS MATTER** came before the Board of County Commissioners (hereinafter referred to as "the BCC") for hearing on April 9, 2013, on the application of Joseph Miller, (hereinafter referred to as "the Applicant"), and Danny Martinez (hereinafter referred to as the "Agent") for Master Plan Zoning approval for a 39-lot residential subdivision on 133.73 acres  $\pm$  and Preliminary and Final Plat and Development approval for Phase 1 which consists of 16 lots. The BCC, having reviewed the Application and supplemental materials, staff reports and having conducted public hearings on March 12 and April 9, 2013 on the request, finds that the Application is well-taken and should be granted subject to conditions and makes the following findings of fact and conclusions of law:

1. The Applicant requests Master Plan Zoning approval for a 39-lot residential subdivision on 133.73 acres  $\pm$  and Preliminary and Final Plat and Development approval for Phase 1 which consists of 16 lots.

2. The property is located south of Eldorado, on the east side of US 285, off Old Lamy Trail (CR 33), within Section 5, Township 14 North, Range 10 East and Section 32, Township 15 North, Range 10 East.

3. In support of the Application, the Applicant's Agent submitted a development report including proof of legal lot of record, a ready, willing and able to serve letter from the Eldorado Water and Sanitation District, proposed survey plat and development plans, a traffic study, an archaeological report, a terrain management plan, subdivision covenants, a disclosure statement and water restrictive covenants.

4. On December 20, 2012, the County Development Review Committee ("CDRC") tabled this case to allow the applicant to meet with the neighbors to discuss their concerns, to have the County Hydrologist present at the CDRC meeting to address questions about water, and to have staff contact the OSE to get an update on the status of the request by EAWSD for the additional Point of Diversion (POD)

5. On January 17, 2013, the CDRC met and acted on this case. The decision of the CDRC was to recommend approval of the request.

6. On March 12, 2013, the BCC heard this case and tabled it, with direction that the Applicant go back and meet with the community to see if any more differences could be ironed out and to identify the conservation measures planned for open space, water conservation, archeological sites and other aspects of the proposed development.

7. There were four members of the public who spoke against the Application at the March 12, 2013 BCC meeting. They raised concerns regarding water availability, the proposed lot size within the development, the proposal for the allowance of modular homes, the proposal for the allowance of two-story homes, and open space areas between the proposed subdivision and the adjacent subdivision, Spirit Wind Ranch.

8. On April 9, 2013, the BCC re-heard this case. There was one member of the public who spoke in favor of the request. There were 12 members of the public who spoke against the request (1 of whom spoke at the March 12, 2013 BCC meeting).

9. The Application complied with all relevant code requirements therefore, staff's recommendation was for approval of the Application subject to the following conditions:

- a. The Applicant shall comply with all review agency comments and conditions, **Article V, Section 7.1.3.c.**
- b. Master Plan and Final Plat and Development Plan, with appropriate signatures, and subdivision covenants and final disclosure statement shall be recorded with the County Clerk, as per **Article V, Section 5.2.5 and Section 5.4.5.**
- c. The Applicant shall submit a financial guarantee, in a sufficient amount to assure completion of all required improvements. The financial guarantee shall be based on a county approved engineering cost estimate for the completion of required improvements as approved by staff prior to Final Plat recordation. All improvements shall be installed and ready for acceptance within eighteen months as required by **Article V, Section 9.9.**
- d. The letter of commitment from the Eldorado Area Water & Sanitation District shall be amended to include water service for the 39<sup>th</sup> lot prior to plat recordation of Phase I, **Article VII, Section 6.3.**
- e. A market analysis will be required with the Preliminary Plat application for Phase 2 of the development, **Article V, Section 5.2.2.g.2.**

The Applicant was in agreement with all conditions.

10. The Master Plan and Preliminary and Final Plat and Development Plan are in accordance with Article V, Section 5.2 (Master Plan Procedures), Article V, Section 5.3 (Preliminary Plat Procedures), Article V, Section 5.4 (Final Plat Procedures), and Article V, Section 7 (Development Plan Requirements) of the Santa Fe County Land Development Code ("Code").

11. Under the circumstances and given the evidence and testimony submitted during the hearing, the Application should be approved subject to staff conditions.

**WHEREFORE, THE SANTA FE COUNTY BOARD OF COUNTY COMMISSIONERS HEREBY APPROVES** the Application for Master Plan Zoning



for a 39-lot residential subdivision on 133.73 acres  $\pm$  and Preliminary and Final Plat and Development approval for Phase 1 which consists of 16 lots subject to the conditions set forth in paragraph 9 above.

**IT IS SO ORDERED:**

This Order was approved by the Board of County Commissioners on this \_\_\_\_\_ day of \_\_\_\_\_, 2013.

**THE BOARD OF COUNTY COMMISSIONERS  
OF SANTA FE COUNTY**

By \_\_\_\_\_  
Kathy Holian, Chair

**ATTEST:**

\_\_\_\_\_  
Geraldine Salazar, County Clerk

**APPROVED AS TO FORM:**

\_\_\_\_\_  
Stephen C. Ross, County Attorney

## **XVI. PUBLIC HEARINGS**

### **A. Growth Management Department**

- 1. CDRC Case # Z/S 08-5430 Spirit Wind West Subdivision.  
Joseph Miller, Applicant, Danny Martinez, Agent, Requests Master Plan Zoning Approval for a 39-Lot Residential Subdivision on 133.73+ Acres and Preliminary and Final Plat and Development Plan Approval for Phase 1, Which Will Consist of 16 Lots. The Property is Located South of Eldorado, on the East Side of US 285, Off Old Lamy Trail (CR 33), within Section 5, Township 14 North, Range 10 East and Section 32, Township 15 North, Range 10 East (Commission District 4)**

CHAIR HOLIAN: We are in the public hearing portion of our meeting. Now, I'm going to start off by saying that I am going to recuse myself from this case due to statements that were made in the press. I do not feel that I can make an objective decision on this case and this case only, so I am recusing myself from this case and I will ask Commissioner Stefanics to serve as chair.

[Commissioner Holian left the meeting.]

COMMISSIONER STEFANICS: Thank you, Madam Chair. Good evening everyone. I'd like to make some introductory remarks before we start. First of all, we have two deputies in the room. Deputy Stephen Och and Deputy Bob Clark, because we believe we have some contentious hearings this evening. There are some ground rules. We will have presentations – a summary from the staff, a summary from the applicant. I believe Mr. Rambo has something to say, and then we will go to the public hearing portion. The public hearing is going to be limited to two minutes per person. It will be flashed on the screen. The screen will be your timekeeper. And the screen will move you along and if you can't move along by watching that, you're going to have peer pressure.

No profanity. No disrespectful comments to any parties. If need be, if somebody needs to be escorted out, I will ask the deputy, I will say, Deputy, please remove so and so, so that it is clear that the deputy is being asked to remove somebody out. It is rare that we have to do that in a public hearing but we've now had to set up those ground rules and some other ones as well, not just for the hearings this evening. So with that we'll get started and we have Ms. Vicki Lucero, case manager.

COMMISSIONER MAYFIELD: Madam Chair. [telephonically]

COMMISSIONER STEFANICS: Commissioner Mayfield, are you there?

COMMISSIONER MAYFIELD: I'm here. I just have a quick question for our attorney, Steve Ross.

COMMISSIONER STEFANICS: Commissioner Mayfield, okay. Thank you. Commissioner Mayfield is joining us by phone for this portion of the public hearing and consideration of the land use cases. Thank you, Commissioner.

COMMISSIONER MAYFIELD: Madam Chair, a quick question for Steve Ross. I don't know if my audio is good. I know there were some feedback issues a little earlier. [inaudible] But just clarification for me on recusal. As far as recusal, how

does that apply to participation in the case? Can we say we have questions and participate in that part of the procedure?

COMMISSIONER STEFANICS: Commissioners, yes. You will have the ability to ask questions of staff or the applicant during the presentation. After the public hearing we will go back to Commissioners' comments and questions. Did that answer your question?

COMMISSIONER MAYFIELD: If we're recusing ourselves from a case. How does that pertain to asking a question and so forth? That's my question for the attorney.

COMMISSIONER STEFANICS: Mr. Ross, I'm not understanding his question.

MR. ROSS: Commissioner Mayfield, are you asking something about recusal? Did I hear that right?

COMMISSIONER MAYFIELD: Yes. If a Commissioner is recusing herself from a case, how does that go as far as participation in a case? Can a Commissioner still participate in the dialogue about the case?

MR. ROSS: Commissioner Mayfield, no. As soon as, like for example Commissioner Holian just recused herself from this case and she's left the room, so she's not participating at all and that's the proper procedure.

COMMISSIONER MAYFIELD: Okay. [inaudible] Thank you.  
[inaudible]

MR. ROSS: Madam Chair, Commissioner Mayfield, as a Commission, you probably have that option but I don't believe she's going to exercise that. I think she's left.

COMMISSIONER MAYFIELD: Okay. Thank you very much. Thank you, Steve. I just wanted that for clarification. Thank you, Madam Chair. That's all I have.

COMMISSIONER STEFANICS: Thank you, Commissioner.

COMMISSIONER MAYFIELD: Madam Chair, I'm going to put my phone on mute. I am on the line. I just don't want that feedback to interfere with you so if you need me just speak up and I'll take my phone off mute.

COMMISSIONER STEFANICS: Thank you, Commissioner. Commissioner, we will see if you have questions of the staff or applicant before we go to the audience and then we'll make sure we ask you again after the audience.

COMMISSIONER MAYFIELD: Thank you, Madam Chair. I'm going to set my phone on mute but I am here.

COMMISSIONER STEFANICS: Thank you. Ms. Lucero.

VICKI LUCERO (Case Manager): Thank you, Madam Chair. On March 12, 2013, the BCC met and acted on this case. The decision of the BCC was to table this request to allow the applicant to meet with the neighbors once again, and to address open space, water conservation and archaeological issues in the subdivision.

A neighborhood meeting is scheduled for April 4, 2013. The appellate court mediator, Mr. Robert Rambo, who was at the community meeting is present this evening to provide an update.

The Applicant has provided photographs of the areas of open space dedication along with proposed pedestrian trail locations. An updated site development plan has

been submitted which shows a portion of the proposed open space as a trailhead with limited parking and picnic tables for use by the residents. That's in Exhibit 9.

The Applicant has also submitted an archaeological treatment plan and states that if the plan is not approved by SHPO, the roadway will be realigned in Phase 4 of the development to avoid the archeological site.

In addition, the applicant has submitted water restrictive covenants which are in conformance with County Code Requirements. At the time of building permit each lot will be required to install rainwater catchment systems in accordance with County Ordinance No. 2008-4.

On March 21, 2013, we received a revised review memo from the OSE which supersedes the previous memo but maintains a negative opinion. Their opinion is based on the Eldorado Area Water & Sanitation District proving a 100-year supply of water. The County Hydrologist's review and positive recommendation was based on compliance with the Santa Fe County Land Development Code.

On January 17, 2013, the CDRC met and acted on this case. The decision of the CDRC was to recommend approval of this request.

The Applicant requests Master Plan Zoning approval for a residential subdivision which will consist of 39 single family residential lots on 133.73 acres which will be developed in four phases. The Applicant also requests Preliminary and Final Plat and Development Plan approval for Phase I of the subdivision which will consist of 16 residential lots.

Staff recommendation is for approval of the request for Master Plan Zoning for a 39-lot residential subdivision and Preliminary and final plat and development plan approval for Phase 1, which will consist of 16 lots subject to the following staff conditions. Madam Chair, may I enter those conditions into the record?

COMMISSIONER STEFANICS: Yes, you may.

[The conditions are as follows:]

1. The Applicant shall comply with all review agency comments and conditions, Article V, Section 7.1.3.c.
2. Master Plan and Final Plat and Development Plan, with appropriate signatures, and subdivision covenants and final disclosure statement shall be recorded with the County Clerk, as per Article V, Section 5.2.5 and Section 5.4.5.
3. The Applicant shall submit a financial guarantee, in a sufficient amount to assure completion of all required improvements. The financial guarantee shall be based on a county approved engineering cost estimate for the completion of required improvements as approved by staff prior to Final Plat recordation. All improvements shall be installed and ready for acceptance within eighteen months as required by Article V, Section 9.9.
4. The letter of commitment from the Eldorado Area Water & Sanitation District shall be amended to include water service for the 39<sup>th</sup> lot prior to plat recordation of Phase I, Article VII, Section 6.3.
5. A market analysis will be required with the Preliminary Plat application for Phase 2 of the development, Article V, Section 5.2.2.g.2.

MS. LUCERO: Also for the record I just wanted to state that we handed out some letters and emails of opposition that we've received [Exhibit 6], as well as a phasing schedule that was presented by the applicant. [Exhibit 7] Thank you, Madam Chair. I stand for questions.

CHAIR HOLIAN: Thank you, and before we go to questions, Mr. Ross, would you please make a general statement to the audience about why we as Commissioners do not respond to their individual letters regarding land use cases?

MR. ROSS: Madam Chair, I'd be happy to. When we have time we try to send responses out in response to emails that you received to let people know that in these types of cases you are exercising a function similar to a jury. Jurors swear when they begin a trial that – in serving as jurors in a trial they swear that they don't really know anything about the case and they're going into the case with an open mind. It's the same thing with an administrative adjudicatory proceeding like this where County Commissioners take off their hats as legislators and put on judges' hats. And as a result County Commissioners have to be clean slates as far as the specifics of a case go. Therefore when supporters or advocates of a particular position in a particular land use case send emails to all of you those email are referred to either my office or the Land Use Office for handling, because it would be improper for you to sit down and learn about the case in advance from one or the other party outside of these proceedings.

With the idea of an ex parte communication, which is how it's referred to in our rules is a communication, ex parte communication which are prohibited are communications that occur outside the context of these hearings in this room. And so when you receive a communication from one of the other parties advocating for a position for one side or the other it's sent to Land Use or myself to be included in the packet so we can discuss it and hear about it for the first time here. That's the whole idea.

So these communications, while normally appropriate when you're serving a legislative role aren't appropriate when you're serving as an administrative adjudicatory body and so you don't read them. You send them to me. We include them in the packet and we discuss them here.

COMMISSIONER STEFANICS: On that point, Commissioner Anaya.

COMMISSIONER ANAYA: Thank you, Madam Chair. Just to further clarify the point, because it's an important one. The trigger for a case is the submittal for a case, because Commissioners are in constant discussion about land use patterns and densities and open space and all of those functions that happen throughout the County. The trigger for the ex parte communications and when not to use them is the case submittal itself, correct?

MR. ROSS: Madam Chair, Commissioner Anaya, that's correct. Land use policy which encompasses all those topics as you've just described are legislative matters.

COMMISSIONER ANAYA: Which, Madam Chair, Mr. Ross, happens continually throughout the County. Many of which submit cases, many community members, development community, everyone. Correct?

MR. ROSS: Correct.

COMMISSIONER ANAYA: Thank you, Madam Chair.

COMMISSIONER STEFANICS: Thank you. Okay we are now at that point of questions for staff. Commissioners, do you have any questions for Ms. Lucero? Okay. Thank you. Is the applicant here? And would you please introduce yourself for the record?

RON VANAMBERG: Yes, Madam Chair, thank you, Commissioners. I'm Ron VanAmberg here on behalf of Mr. Miller with Spirit Wind and with me is Danny Martinez who is the planner on this project. We have been tabled now several times, once when we were at the CDRC and once here in order to conduct – the Commission the last time they tabled us suggested that we try to reach out again to the community and I can't tell you how many times we have tried to do that. And there was a meeting which Mr. Rambo will discuss and Mr. Martinez will discuss held in early April out in Eldorado and there were about 75 participants there.

Following the tabling of this matter Mr. Martinez and I both tried to reach out to the community. Sort of the official community representative for this Spirit Wind was Mr. Beal and I contacted Mr. Beal. Mr. Martinez contacted Mr. Beal which is shown in emails which I think are part of the record here. The response of Mr. Beal to Mr. Martinez was, What is there left to discuss?

And indeed, the pattern of emails between myself and Mr. Beal was to the effect that we made concessions on covenant changes. We made other concessions and there were a few issues that were remaining but there was really no need for discussion. We were informed by Mr. Beal that there was another group that was forming. We tried to get names; none were provided. We were told that there was a meeting that was going to be held with this other group and that it would be a good forum for us to attend and meet. We then tried to find out the names of contacts. None were provided.

Mr. Martinez went to the County to try to find the names of people who maybe have registered with the County who would want notice. We sent notice out to them, and it was not until April 1<sup>st</sup> that finally emails started to emerge with the names of other people and comments being made, and we think that the delays were probably intentional. What I'm trying to conclude with is that Mr. Miller and Mr. Martinez have tried their utmost to reach out to the community.

With that said, reading the emails that recently came into the County Commission and also into Mr. Rambo's office there appear to be four or five areas that remain in dispute, and these are the common themes. The first one relates to water and the general concern there is there isn't enough water to support any further development. I would point out that we went over this issue rather exhaustively at the first BCC meeting and I pointed out the memorandum of understanding which is part of the record here where the County acknowledges its statutory duty to protect the public and to assure that a 99-year water supply is available, where the County acknowledges that the County's water experts have "fairly reviewed the district's source of supply and connection with recent applications to develop property and have agreed with the district that more than adequate water resources currently exist to serve existing customers and to serve new developments within the district's service area."

And then after the whereases the parties agree that Water and Sanitation District Act provides the Water & Sanitation District with all the powers and authorities and responsibilities specified therein, and when the parties agree that for a minimum of three years from the date of the execution of the agreement, which is October 2012, no further

information is needed and the County will accept a will-serve letter from the district that it is ready, willing and able to provide a customer with water service that is adequate for purposes of the required review under the New Mexico Subdivision Act. Mr. Miller has that letter.

The County and the district again agreed to a supplemental ensuring the water supply out in the Eldorado area by providing water from the Buckman Direct Diversion project, the negotiations of which were described by Mr. Ross at the last meeting, and that the County and the district agree to work together from time to time on other mutually beneficial agreements for infrastructure improvements, projects, etc. So we believe that the water issue has been resolved at least for the purposes of this application.

There is a concern over the fact that there are modular homes that are not prohibited from Mr. Miller's subdivision at Spirit Wind. I would point out that Section 3-21-0-5 essentially makes it illegal for an ordinance or a regulation to discriminate against modular homes in favor of stick-built site homes. I would point out that these modular homes are actually better constructed in that they are constructed inside facilities, plywood and things and 2x4s are not subject to weather. They are constructed with hurricane ties in order to ensure their safe transport and once they are up and functioning they are constructed as well or better than site-built homes. They are stuccoed and one really cannot tell the difference. We are informed that there are probably 30+ modular homes already in the Eldorado area.

There was a comment by one email that propane tanks were allowed to be above ground. That's not correct. We have agreed to require that they be placed underground.

Then there is a general concern raised about Mr. Miller's covenants being "harmonious." We're not sure what that means but we went through a considerable process with Mr. Beal to try to adjust our covenants to his satisfaction and except for these other areas that we've mentioned, essentially we accepted all of his suggestions and I wish that these people who are now concerned about these covenants had been a little more aggressive in making themselves known instead of essentially hiding their identity until very late in the game.

The issues raised as to the density, these lots average about 2.75 acres. Those are large lots and considerably larger than most lots in the Eldorado Subdivision.

There was a concern raised about the conservation of water. As reflected in your packet there are cisterns or rain barrels that are required, depending on the size of the house. We have water restrictive covenants that are in place. As we discussed last week there has been a drop in water usage in the Eldorado area as people as a matter of economics and as a matter of commitment are conserving more water and the double-edged sword out there is that the Water & Sanitation District charges probably the highest water prices in the state, which in turn has a deterrent effect for water usage. So we believe that the conservation issues have been addressed.

Unless there are any questions from the Commission I would like to have Mr. Martinez address the Commission.

COMMISSIONER STEFANICS: I do have some questions from you, Mr. VanAmberg, and you are an attorney, correct?

MR. VANAMBERG: Correct.

COMMISSIONER STEFANICS: Okay. I just want to explain we do not swear in attorneys because they are already under a code of ethics and we do swear in everybody else who speaks this evening. Commissioner Chavez.

COMMISSIONER CHAVEZ: I had just two questions. One, I think I can agree with some of the points you made regarding the modular homes but I'm wondering, will those be placed on permanent foundations?

MR. VANAMBERG: Absolutely. And stuccoed.

COMMISSIONER CHAVEZ: I didn't hear that part so I wanted to ask. And then I also wanted to ask if you are in agreement with the five staff recommendations that are part of the packet.

MR. VANAMBERG: Yes, we are, Commissioner.

COMMISSIONER CHAVEZ: Thank you, Madam Chair.

COMMISSIONER STEFANICS: Thank you. Commissioner Anaya, anything for this applicant? Okay. So Mr. VanAmberg, you wanted Mr. Martinez and Mr. Rambo to speak?

MR. VANAMBERG: I would appreciate that, Madam Chair.

COMMISSIONER STEFANICS: Okay. And this is still on the applicant's time, so Mr. Martinez, do you want to come up and be sworn in? You're not an attorney, right?

[Duly sworn, Danny Martinez testified as follows:]

DANNY MARTINEZ: No. Danny Martinez, agent for Mr. Miller. Madam Chair, members of this Commission and community, we welcome the community. We welcome their input. We welcome their participation. We've done everything we can to continue to try to work with them. The problem is individually, there are just too many and we just cannot try to work with every individual to try to satisfy their concerns. So again, I do welcome the community's input. I think that this is healthy and I think it will help in the decision making, in resolving any future potential problems that we can see.

Madam Chair, members of this Commission, we have worked diligently to satisfy the County land development requirements. We have gone above and beyond when it comes to affordable housing. We're actually happy to say we have an affordable housing agreement and that we're going to introduce affordable housing into the community that is still not too sure if it's a welcome item in the community. We feel that affordable housing in this particular subdivision will be a start for affordable housing that doesn't exist in the community of Eldorado now. So affordable housing was a big step in that process and we will stand by it that we worked diligently to make this come together.

There was settlement agreement that was reached with Mr. Miller, the settlement agreement also took an enormous amount of time, effort, and again, we're very happy to say a settlement agreement was reached and it was approved by this Commission. The settlement agreement took care of a lot of outstanding issues that have been going on for years with this developer and I will state that our original development application for other development started in 1991, so we're not new to this. We've been involved in this for quite some time now.

Water conservation – we are totally aware of the need for water conservation. In our efforts to meet water conservation we have expanded our conservation guideline, our restrictive covenants that go with it and that cover every aspect of water conservation that has been required of us, and we stand by water conservation because we feel that it is a



big issue. It's not over. When the first homeowner comes in and applies for a building permit he's going to have the same water conservation requirements that are going to be attached at development permit. So it's not over yet and we'll continue to work.

Again, water agreements by and between the water company, Eldorado Area Water & Sanitation District and Mr. Miller have been an ongoing issue for a number of years and this isn't just something that happened overnight. In this water agreement Mr. Miller transferred five wells to the water district, four of the wells were capped and abandoned because they didn't feel they were capable of producing water. One of the wells was a very productive well. The water company took this well and they actually went out there and they applied for a production well, which they've done. They've drilled this well. It's a 12-inch casing well. The hydrology report on it was just amazing, the capabilities of this well. It has the potential to provide up to 50 percent of the needs of the water company, and I think that the water company will acknowledge that this was a very important well to them, and again, there were no fees transferred between Mr. Miller and the water company when this took place. There was an agreement that Mr. Miller gave them these wells and there were also water rights that were transferred. They were water rights that were off of the Galisteo Basin well, and they were transferred to the water company, so that has been taken care of.

The will-serve letter that the water company provided is very clear in their agreement with Mr. Miller that they are more than willing and capable to serve Mr. Miller's developments.

Economic [inaudible] 11700 - the people in Eldorado are no different. Everybody was affected by the economic downturn. In our efforts to create something that we felt was good for the community, the affordability and the affordable housing, we wanted to keep our price range within a range that was comparable to 80 percent of the Eldorado area, which has been a big area. There are a lot of homes in this community. So we felt that our price range was very comparable with them. It's hard for us to try to be in competition with the developments around us that have three-quarters of a million dollar homes or greater, or less, but our efforts were more trying to create affordability in a community that needs to see the reality of affordable housing for this community.

We worked diligently. We are so anxious to either move forward, if we get turned down other options are available to us. We don't want to be turned down. We want to be able to forward. We want to be treated as every other development in this county would be treated, and that's to be given the fair shake that we have made and the fact that we have complied with every condition possible from the County through all the various state agencies.

Again, we're looking for discussion. If there's any comments, questions, we're ready to answer them all.

COMMISSIONER STEFANICS: So, Mr. Martinez, as was requested before, you are – the applicant is in agreement with all the conditions?

MR. MARTINEZ: Madam Chair, yes we are.

COMMISSIONER STEFANICS: Thank you. Questions for Mr. Martinez before we move to Mr. Rambo? Commissioner Chavez.

COMMISSIONER CHAVEZ: Can I ask a question of staff?

COMMISSIONER STEFANICS: Yes.

COMMISSIONER CHAVEZ: Is this proposal doing anything outside of our current Land Use Code? Are they complying with our current Land Use Code to the extent possible?

MS. LUCERO: Madam Chair, Commissioner Chavez, that's correct. We reviewed for every aspect of the County Land Development Code and the US 285 Corridor Ordinance and it's compliant.

COMMISSIONER CHAVEZ: So we're not applying any of the new proposed Land Use Code that might be adopted in the future? That's not applying to any of this development?

MS. LUCERO: Madam Chair, Commissioner Chavez, that's correct.

COMMISSIONER CHAVEZ: Okay. Thank you, Madam Chair.

COMMISSIONER ANAYA: Madam Chair.

COMMISSIONER STEFANICS: Commissioner Anaya.

COMMISSIONER ANAYA: I have a question for Vicki or for Steve. If I own a piece of parcel or of land, Madam Chair, Mr. Ross, by law, I can restrict that development use to, if I was able to obtain approvals, to single-wides only, if I wanted to, and have a restrictive covenant that would only allow single-wide manufactured housing if that was my desire as a landowner.

MR. ROSS: As a landowner. Yes. Correct.

COMMISSIONER ANAYA: But as a governmental entity I would not be able to restrict that use?

MR. ROSS: Correct.

COMMISSIONER ANAYA: Unless – I wouldn't period. The type of house within the code by law, because of fair housing and other issues?

MR. ROSS: There is a specific statute that Mr. VanAmberg made reference to, yes. With respect to manufactured homes and modular homes, there's a specific statute that doesn't permit government to discriminate between those types of homes and stick-built homes.

COMMISSIONER ANAYA: Madam Chair, Mr. Ross, I hadn't really thought about it. Permanent housing on permanent foundations as Commissioner Chavez brought up. That's a good option usually when someone is trying to borrow against a modular home because of financing reasons and it opens up opportunities for financing. But are we skirting that law in any way? Even though the owner agreed to those conditions? If someone was to say I can't put a permanent foundation?

MR. ROSS: Well, Madam Chair, Commissioner Anaya, the government is not making that restriction. It's a restriction the developer is making as a private covenant, just like you described earlier. So the government isn't making any kind of restriction on these lots but the applicant is.

COMMISSIONER ANAYA: Madam Chair, Mr. Ross, we probably – we couldn't even do that, could we?

MR. ROSS: That's right.

COMMISSIONER ANAYA: Okay. Thank you, Madam Chair.

COMMISSIONER STEFANICS: Thank you. Mr. Rambo. For those who don't know, would you introduce your role in all this?

ROBERT RAMBO: Sure. My name is Robert Rambo. I'm the appellate court mediator. I am an attorney, and I became involved with this through settlement

discussions through cases in the court of appeals about two years ago with cases that were up on appeal between Mr. Miller and the County and I have since then become involved in mediating between Mr. Miller, the Land Use Division, the Legal Department, County Hydrology, basically making myself available in any disputes that might arise in this process involving Mr. Miller, the County, and at this point the community.

Back in January there was a meeting that was held in Eldorado with some of the neighbors at the behest of the CDRC. That process that evolved since that meeting, I've monitored some of the communications by email and been updated by Mr. Martinez and Mr. VanAmberg and Mr. Beal regarding changes that were made to the covenants over time. Since the last BCC meeting Mr. Martinez made efforts to schedule another meeting with the community. He had arranged for a meeting March 28<sup>th</sup> at the Eldorado Community Center. For some reason the Eldorado meeting was cancelled. Well, it was cancelled because someone indicated that Mr. Miller was not a resident of the community.

I then contacted the Eldorado Community Center on March 28<sup>th</sup>, asked if they would consider rescheduling the meeting for next week, indicated that the Board of County Commissioners had requested that a meeting might be useful. I asked as the mediator involved with this to see if they would accept the meeting. They agreed. Eldorado Community Center scheduled a meeting for April 4<sup>th</sup> at 7:00. Published that on the website, also put information on the marquis in front of the Agora markets.

I mailed out some notices to some folks for whom addresses were in the file. Mr. Martinez mailed out some notices. There was then a flurry of emails of folks indicating the scheduling wasn't convenient, that there was another conflict. Some folks agreed and Mr. Miller agreed to be available as early as 6:00 pm on that Thursday, so the meeting began at 6:00 pm on Thursday and ran for about 2 ½ hours. And as reported, about 70 community members were able to adjust their schedules, get coverage for the other meeting and attend this meeting at the community center.

I mediated the meeting. I will tell you that interests were raised. Interests were explained to Mr. Miller from members of the community. It's my point of view as a mediator/facilitator that there really weren't a tremendous amount of new issues that were raised. There was a summary of issues actually that Cindy Clark reported in an email. I don't know if you want me to go into detail to read it, but suffice to say including in the interests that were raised by the Commission – unfortunately, at this point in the process with it being a four-month long process, it's my view as the mediator that Mr. Miller has made the concessions that he feels he can make from an economic point of view. We're reached a point where there's a significant amount of discussion fatigue and discussion frustration with new members who came to the meeting on April 4<sup>th</sup> hoping they could get further concessions from Mr. Miller and were disappointed and frustrated that they were not forthcoming at this point.

So my input on this is that all of the issues that could be raised have been raised. All of the resolutions that can be resolved have been resolved, and at this point it would be my view that further discussion would not yield any further compromise through that kind of a process. Any questions?

COMMISSIONER STEFANICS: Thank you, Mr. Rambo. Questions for Mr. Rambo?

COMMISSIONER ANAYA: Madam Chair.

COMMISSIONER STEFANICS: Yes, Commissioner Anaya.

COMMISSIONER ANAYA: I wasn't at the last meeting. Who were you hired by?

MR. RAMBO: I work for the New Mexico Court of Appeals and as part of the settlement agreement that was reached –

COMMISSIONER ANAYA: Got it. Thank you, Madam Chair.

COMMISSIONER STEFANICS: I the last meeting, Mr. Rambo was in the audience but did not have a speaking part.

COMMISSIONER ANAYA: Thank you.

COMMISSIONER STEFANICS: Commissioner Mayfield, do you have any questions of the applicants or the staff?

COMMISSIONER MAYFIELD: Madam Chair, I'll just wait till the very end, Madam Chair. Madam Chair, can you hear me?

COMMISSIONER STEFANICS: Yes.

COMMISSIONER MAYFIELD: I'll wait till the end. I want to hear what the public says.

COMMISSIONER STEFANICS: Okay. Thank you. We are now moving into that part of the meeting which is the public hearing. Every person that would like to speak would you please stand up in your place and you will be sworn. Every person that plans on speaking about anything, pro or con, related to this matter, our transcriber will be swearing you in in one minute.

[The oath was administered to those wishing to speak.]

[Duly sworn, Katherine Apodaca testified as follows:]

KATHERINE APODACA: Hello. My name is Katherine Apodaca. I'm a native Santa Fean. I have many generations of my family in Santa Fe, Galisteo, Stanley, Moriarty. I think that it's a wonderful opportunity that Mr. Miller is providing with all of these lots for many people that [inaudible] I'm the mother of three sons. Two of them are getting closer to becoming – to starting their own families and I would love for them to have an opportunity to have a home here. And it would be wonderful.

I'm actually living in a modular home myself and when we moved in it was 1996 and it looks like a beautiful adobe. It's wonderful. Otherwise [inaudible] start their families here and I think that it's a great opportunity. Thank you so much.

COMMISSIONER STEFANICS: Thank you, Ms. Apodaca. Next please. Next person. We need to keep moving on. Just come on up. You might as well just line up in the aisles so we can keep going one right after the other, please. We have several more cases after this one this evening.

[Previously sworn, Ursula testified as follows:]

URSULA FREER: My name is Ursula Freer. I live in Eldorado. Do you need the street address?

COMMISSIONER STEFANICS: Yes, please.

MS. FREER: 28 Avenida las Nubes.

COMMISSIONER STEFANICS: Thank you.

MS. FREER: I've heard a lot of wonderful things about all the wonderful things Mr. Miller is doing for us but I heard no details about the water conservation except a vague mentioning of cisterns, how many gallons of tanks. I would like to have more detail.

COMMISSIONER STEFANICS: Thank you. I am going to just refer you back to the website. This is the second public hearing. All of the details about this case have been posted on the website. And the last meeting was a couple of weeks ago so that is where you are going to find the detail.

MS. FREER: I was at the meeting. It was very vague.

COMMISSIONER STEFANICS: Thank you very much. Okay, next person please.

[Previously sworn, Duncan Sibley testified as follows:]

DUNCAN SIBLEY: My name is Duncan Sibley. I live at 18 Palacio Road in Eldorado. I'm a geologist and teach hydrology. I've read the 2007 Glorieta GeoScience report. It's very important. I don't know if it's within your purview to rate it. The report says Eldorado will need to find six new wells within 40 years – that was from 2007, in order to meet the demand. The report never says that Eldorado has an established 100-year water supply. The report says six new wells and the report also says the location of those wells is conceptual. There's nothing in the report that says where Eldorado will find this water. So I've asked the water district whether or not they have the siting for future wells and I've been told by the president of the board and the vice president of the board that no, there is no present location for new wells.

Well 18, which was referred to earlier, is a high producing well. What wasn't mentioned is that Well 18 in the pump test, which is available on the Eldorado Water Board site drew down Well 17, an existing well. So we have a new well drawing water from an older well. We still don't know where that additional water is going to come from. It was mentioned that the County may provide that water from the Buckman Direct Diversion project. Adam Leigland, Public Works Director, has told me they can guarantee water through the Buckman Direct Diversion for 33 years. We don't have a 100-year supply. Thank you.

COMMISSIONER STEFANICS: Thank you very much, Mr. Sibley. Next please.

[Previously sworn, Natalie Champion testified as follows:]

NATALIE CHAMPION: My name is Natalie Champion. I live at 14 Calle Cal and my issue with this development is not based on whether or not modular homes should be allowed or not. It's primarily a question of sustainability. It's not sustainable to keep building at the rate that this – if you approve this, it's going to draw water away from the people that live here that have houses here already. We already are in a water crisis and it's not going to get any better any time soon. We have had 336 months of consecutively higher temperature. That is not going to do anything good for our water supply. It's not a sustainable plan to continue to build. Why not fill the houses that are here? It just doesn't make sense to me for us to try to keep building, especially in an ecosystem as fragile as in New Mexico. Like Duncan said, there's no guarantee of where you should drill in order to get water. So it's a crapshoot. You're not going to be able to say, this is where we should drill and it's just not – it doesn't make sense to try to push through more development without making sure that there's enough water to even sustain the development that is already in place. Thank you.

COMMISSIONER STEFANICS: Thank you very much, Ms. Champion. Next please.

[Previously sworn, Roger Taylor testified as follows:]

ROGER TAYLOR: Roger Taylor, 54 Camino los Angelitos, Galisteo. My concern is looking a cumulative impact. We have a plan, a sustainable, manageable growth plan that was approved with a lot of citizen input in 2011. We have a draft code that's in process and we have an old code from 1996. If we look at the plan the plan talks about growth areas, SD-1's, SD-2's, SD-3's. Eldorado is classified as a moderate or SD-2 area. If we start looking at cumulative impacts, I'm not necessarily talking about this one development tonight. I'm talking about all the developments potentially that could be going along that ten-mile stretch from 285/25 to 285/41. You're looking at a large impact of density, of light pollution, of traffic. Increased traffic, by the way in the WIPP corridor where there is dangerous materials coming down that highway, you're looking at a number of different impacts that if you begin looking and step back and look at the number of developments that may be proposed and are in the pipeline you're going to start to see that there's a larger impact on this area.

I'd like to suggest that actually the County hold until the new draft code comes out. There are a number of communities that have been in this situation and have done that. If you look at Tacoma, Washington, Kirkland, Washington, Ann Arbor, Michigan and Boulder, Colorado, they all were in this issue. They had a plan, they had a draft code, they had an old code. They put a temporary hold on all development in certain areas in order that those areas would not be forced from one designation into another. If we look at the larger scale of the number of developments here, Eldorado could potentially go from an SD-2 to an SD-1. So I think we need to look at the larger perspective. Thank you.

COMMISSIONER STEFANICS: Thank you very much, Mr. Taylor. Could you please hold the clapping? I think everybody's comments are very important and to acknowledge one and not another is a little unfair. Yes, sir.

[Previously sworn, Damian Gessler testified as follows:]

DAMIAN GESSLER: Good evening. I'm Damian Gessler from 15 Acote Court. I'd like to share with you a little number. The number is 104. 104 is the number of building permits issued in this community, many of which over the last five years. That's from Housing and Development. It's a good measure of basically what the market demand is for houses. And we were talking about here [inaudible] in Galisteo, it's about seven percent of the count. So the demand in the county is development should be for six to eight house. Looking at subdivision, a small hamlet over the hill in the desert is a function of Old 285 in Galisteo. Maybe two to four house. Before 2007, my land, I built it, I could make or I could lose money. It's my business. But after 2007 when we saw trillions of dollars of wealth evaporate, it's not one's person's business. If you overdevelop in the area you're affecting thousands of people. We have in front of us a preliminary plan for phasing 16 lots. Sixteen is a much larger number than simple calculations show that this market can support. Now what are we doing? You build the roads and you build the lots and then you build the houses. And [inaudible] or they don't move. It isn't one individual's problem, it's an issue for everyone.

Madam Chair, Commissioners, you have a fiduciary responsibility to all of us and we all have a responsibility to ourselves to develop wisely, sustainably, with conscience about how it affects us and how it affects the children to come. I thank you for your time and please take this into consideration.

COMMISSIONER STEFANICS: Thank you very much. Next please.

[Previously sworn, Victor Hesch testified as follows:]

VICTOR HESCH: Madam Chair, Commissioners, my name is Victor Hesch. I'm a resident of 7 North Hijo de Dios, a lifetime resident here in New Mexico, and I've seen a weather pattern that is frightening and this is what prompts me to speak tonight. When I was a kid I remember when the Santa Fe River at Arroyo Mascarenas and Acequia Madre used to overflow its banks. That hasn't occurred since I was a child. Anyway, if you pay attention to the news media that's being broadcast over the last two or three weeks you will find out that the Rio Grande is at the lowest level from runoff that it's been for the last 14 years. The Buckman wells are scheduled to dry up according to lack of water conditions and so tying into the Buckman well is not going to happen. There's even talk about the reservoirs in the northern part of the state drying up and that's not good news.

So I'm here to defend further building not going through, or going through, I should say, I'm sorry, because of the water situation. We're in a ten-year drought. I've been communicating with the Fire Department people for the last four weeks and the news is not good. Lack of water, if we should have a fire, God forbid, I don't think that people are going to have the water to put out the burning stick-homes, which I find very entertaining. Anyway, thank you very much.

COMMISSIONER STEFANICS: Thank you, Mr. Hesch. Next please.

[Previously sworn, Frank Hersch testified as follows:]

FRANK HERSCH: I'm Frank Hersch, 769 Camino los Abuelos, Galisteo. I'm not here for or against the development. I'm against the expediency of using taxpayers' money. It seems to me that six years ago or so you hired Dr. Froelich to come over and do a new development plan at great expense. You changed that. I was on one of the committees that spent a lot of time and energy examining the new plan and finally the plan has been approved, again, at great expense and time to the taxpayers. And what about all this? Why isn't the plan in effect? [inaudible] You don't have the code yet. [inaudible] doesn't the plan take over. And why should we for the sake of expediency put through any development until it absolutely meets the requirements of the new plan. In other words, why in the hell did we the plan. Why don't we wait for the code? We're against expediency.

COMMISSIONER STEFANICS: Thank you very much, Mr. Hersch. Next please.

[Previously sworn, Monica Welsh testified as follows:]

MONICA WELSH: My name is Monica Welsh. I live in Lamy at 5 Ravensview Road. I just want to say I attended the meeting on April 4<sup>th</sup> and the applicants – well, Mr. Miller in particular spoke of covenants. Whatever he has set up as his covenants he said to us, I prefer very simple covenants and as soon as these lots are sold the 39 homeowners they can create their own covenants. So whatever is being told to us about covenants is not exactly binding, whether it's foundation or affordable housing. And Danny Martinez also minimized affordable housing to us as a local community. Those are two things I wanted to say.

The other thing is in terms of the traffic coming down 285 from Eldorado toward Galisteo, I mean I think that whole corridor will be impacted seriously by even 80 more cars a day. But speaking of my own personal experience coming down the crest over that railroad crossing which is designated 40 to 50 miles an hour, cars are coming down at 70,

80, 90 miles an hour. This is on the WIPP route. And I cannot tell you the number of times I have pulled off the road because of a WIPP truck crawling over the tracks. Cars sometimes right behind the WIPP truck, speeding right next to a WIPP truck and this is a situation I can only imagine will get worse. Thank you.

COMMISSIONER STEFANICS: Thank you very much, Ms. Welsh. Next please.

[Previously sworn, Paul Olshefsky testified as follows:]

PAUL OLSHEFSKY: My name is Paul Olshefsky. I live at 22 Mad Dog Drive in Lamy. Madam Chair, Commissioners, my wife and I moved to this area to enjoy the open space and the rural atmosphere. The scenic quality of this is now threatened by residential density and sprawl. We enjoy the accessibility of the Santa Fe Rail Trail, the Galisteo Preserve Trails and living near the historic village of Lamy. We are asking for more open space, public trails and less density in this development. I have two issues to address this. Regarding public trails, I spoke with Colleen Baker, the community Open Space and Trails and Park staff and she said she'd been more than willing to work with Mr. Miller on a public trail. The problem is Mr. Miller's proposed plan did not meet the County's standards for a trail.

The other issue is Mr. Miller did not even know that the State Game and Fish conceptual wildlife corridor engulfs this whole project and what's more, he didn't seem to care. This corridor is listed on pages 50 and 51 of the County's Sustainable Growth Management Plan. Little consideration for our area has been accepted by Mr. Miller. Mr. Miller's only motivation it seems is to make as much profit as he can and get his plan approved before the new codes are approved. Mr. Miller's development lacks a consideration of neighbors and will only enhance sprawl in our area.

With so many lots available in our area now is not the time for more development. I plea that you make a motion to table this development, to second it, pass it, until Mr. Miller proposes a reasonable plan for our community. Thanks for your attention and time.

COMMISSIONER STEFANICS: Thank you, Mr. Olshefsky. Next please.

[Previously sworn, Joseph Guerrero testified as follows:]

JOSEPH GUERRERO: Joseph Guerrero, 46 Sierra Blanca Road, Spirit Wind Ranch. We've lived in the house for seven years. My experience has been that there are a lot of issues that make living in that area less than affordable. We have radiant heating in the house. We found out after we moved in that we couldn't afford to run it, the price of propane being anywhere from \$1.80 a gallon to \$2.49 a gallon. We simply had to turn off the radiant heating and supplement with electric heating from small heaters.

We also found out about other maintenance issues. We have a road that requires maintenance. We have to set aside at least \$2,000 a year to have it crack-sealed. We have to have it snow-plowed. We have to deal with the drainage system, which we've spent a couple thousand dollars remediating. So there are a lot of issues that are considered maintenance costs that are going to make living there less than affordable. They're going to have to have the means to pay for those other expenses. So to market this as an affordable community really sort of rings like the sub-prime market, selling people things they're not going to be able to afford to live in. So we're concerned there are probably going to be homes – we've already had one home lose its certificate of occupancy because of problems with the foundation. It had to be torn down. We were fortunate that



someone in the community had enough money to buy the property and pay for it to be razed or we would have a vacant house sitting in our subdivision which would really decline the value of our homes. So we're wondering what kind of covenants are going to protect the properties that are going to be in our so-called sister community? Thank you.

COMMISSIONER STEFANICS: Thank you very much, Mr. Guerrero. Next please. Now, is there anybody else who wants to speak? Now's the time to be lining up because we'll be ending this public hearing as soon as there are no more people. Okay. Yes, ma'am

[Previously sworn, Cindy Clark testified as follows:]

CINDY CLARK: Yes. Hi. My name is Cindy Clark. I live at 16 Lime Kiln Road, Lamy, and I want the Commissioners to consider postponing the approval of Mr. Miller's plan. You've heard from many community members today and I think the overall request is that you delay until the new codes go into effect. I am here representing a newly formed alliance, the Highway 285 Galisteo Area Sustainable Growth Alliance. This group has come together because overarchingly, we're concerned about water but we are also concerned as citizens of all the communities that make up the area southwest of 25 and west and east of 285, including Eldorado, Cerro Colorado, the Arts Barn and Lamy and Spirit Wind West and Spirit Wind, which we're talking about.

All these different communities, the community that has gone into the Galisteo Basin Preserve, we all are looking at the cumulative effect, and people have talked about water, we've talked about the wildlife corridor, we've talked about the Dark Skies Initiative, and housing that is not sold up to this point. So please listen to your community. We are all being very respectful. We would like to have the science be evidence-based. There are conflicting reports on the water availability. We do not want to undermine Mr. Miller's chance to make a living, but we also hope that he does look at density and consider highly his plan.

COMMISSIONER STEFANICS: Thank you very much. Next please. Is there anyone else after this speaker? This will be the last speaker from the public then.

[Previously sworn, Fran Nicholson testified as follows:]

FRAN NICHOLSON: My name is Fran Nicholson. I live at 13 Lime Kiln Road in the Village of Lamy. There's been a lot of talk about Eldorado but really, not a lot of the outreach has gone to the people of the Village of Lamy which is where this development is going to be. There's about 50 residences in Lamy and this will almost double the population of our village. I think that's kind of crazy, personally. The village has been that way for a long time and we kind of like it like that. In terms of Joe Miller being good about outreach and trying to get anyone to come to a meeting, I disagree with that completely. There's a stand of mailboxes there. It has a number on every mailbox and he could have sent a letter to every one of those mailboxes. We got three days notice. The wind blew the sign down. He put a sign at the Agora. We don't go to the Agora. We live in the Village of Lamy and we're the people that needed to be contacted, not the people of Eldorado. I just feel that there's a lot of talk and a lot of it wasn't directed at the right population. And that's my opinion.

One more note that in terms of water, I used to house-sit in the house that I now own in the village and that was 20 years ago. The water was fine. Now my water is coming up bad. My water is coming up with minerals and salt and it's killing things, not nurturing things. So the nature of water in Lamy is really changing and I don't know

what's going to happen if you're feeding all these other households and giving more water to Eldorado. It's really serious. Anyway, that's what I have to say and I hope you take all of our comments into consideration. Thank you.

COMMISSIONER STEFANICS: Thank you very much, Ms. Nicholson. This public hearing is now closed, but I would like to, number one, thank every person who participated in any meetings between the last hearing and this hearing, who sent in any letters of opinion or comment, and for those of you who took the time to come this evening. I thank you very much. This is about community participation.

I have several questions but I would like to go to the Commissioners first for questions. We're back on questions or comments.

COMMISSIONER ANAYA: I have some.

COMMISSIONER STEFANICS: Commissioner Anaya.

COMMISSIONER ANAYA: I have some, Madam Chair, and I'll make others as you make yours and as time progresses. Madam Chair, Mr. Ross or Ms. Torres or Ms. Ellis-Green, any of you that want to chime in and answer this. Mr. Leigland is referred to in here but I think you guys are familiar with comments made to utility and I think, Ms. Torres, you are familiar with that.

I want to talk a little bit about legality associated with decisions made here at the Commission and process oriented with that legality. We, as a governing body establish a Land Use Code that outlines the legal process by which anybody comes in to use or undertake a land use. Whether that's one lot or 5,000 lots. Is that correct?

MR. ROSS: Madam Chair, Commissioner Anaya, yes, that's correct.

COMMISSIONER ANAYA: And within that process we have a checklist of items that we delineate that an individual has to follow whether they're building one house or whether a developer is going to build 5,000 houses. Correct?

MR. ROSS: That's correct.

COMMISSIONER ANAYA: Associated with that process there was a reference made to a settlement. I'm not going to get into aspects of the settlement because we can't, but typically what happens with land use cases that end up judiciary hearings or in court is there are times when we were like told that we would move to mediation and there would be some negotiation of whatever determination we made that has been disagreed upon by a jury or by an individual judge. Correct?

MR. ROSS: Right. That's correct.

COMMISSIONER ANAYA: Specifically related to this case and other cases in this region and anywhere in Santa Fe County, do we regulate water utility use? Do we regulate in any way the consumption and use of water of the Eldorado utility?

MR. ROSS: Madam Chair, Commissioner Anaya, the Eldorado Area Water and Sanitation District is a political subdivision, just like the County. It's a co-equal political subdivision with less powers than the County has, so no.

COMMISSIONER ANAYA: We don't regulate them. They fall under the auspices of the State Engineer, correct?

MR. ROSS: To some degree, yes.

COMMISSIONER ANAYA: The use of their utility or the administration of their utility is by water consumption under the State Engineer and depending on what type of utility it is, it can fall under the Public Regulation Commission, relative to oversight and administration.

MR. ROSS: Madam Chair, Commissioner Anaya, I actually don't think they file their rates with PRC, but yes, with the AFC and as far as their use of water it's then pursuant to State Engineer permits and they're highly regulated as we are in our utility by that entity.

COMMISSIONER ANAYA: So that the public can understand, those sitting in the room and those listening on the radio or watching on TV, what's the differentiation between what's a utility regulated by the PRC and what is a utility that's regulated by the State Engineer? What's a broad-brush summary of that, for the public's consumption that may not be aware?

MR. ROSS: Madam Chair, Commissioner Anaya, of course the State Engineer regulates the use of water through the thing we call water rights, which is a kind of property right, and so the State Engineer ensures that the constitutional requirements of first in time, first in right are adhered to and they've developed systems to deal with that, as distinguished from the Public Regulation Commission which deals with often investor-owned or co-op type utilities or voluntarily, municipalities or water & sanitation districts. They may regulate the rates that those entities can charge customers.

COMMISSIONER ANAYA: So, thank you for that summary. So Madam Chair, Mr. Ross, relative to this project, and there was reference made to a commitment that was rendered by Santa Fe County associated with supportive water, what's the basis for that determination? Where'd that come from?

MR. ROSS: Madam Chair, Commissioner Anaya, as you'll recall, the Commission entered into a memorandum of understanding with the water & sanitation district about a year and a half ago in which we promised to work with the district to get them backup water or even direct water should they so desire from the Buckman Direct Diversion system. We the County are not using our full allotment and have quite a bit of excess and so that pledge was intended to provide the Eldorado community with more security in their water supply.

Now, right now, and I mean right now, we're negotiating with the district for a water service agreement to accomplish exactly that. Mr. Guerrerortiz has got a project that's going eventually out to Cañoncito and there is a plan to hook that project into the Eldorado system at two points.

COMMISSIONER ANAYA: So, Madam Chair, relative to water use in that particular area, I want to say public I'm not agreeing to the knowledge base of what's occurred in that basin, the Galisteo Basin as well as Eldorado, but when you go back historically and look at the minutes and look at what has transpired in the last 30 years in that basin, you'll find that the desire of the [inaudible], and I was born and raised in Galisteo and I'm proud of that, but the corpus of a lot of what's happened within Santa Fe County to this date relative to Buckman Direct Diversion came from a desire of residents throughout that corridor to find an alternate source of water that was going to reduce the capacity that was being pulled out of the groundwater.

Pick your land use case, pick your County Commission meeting, pick your discussion on any developments that have gone on in the last 15 to 20 years in that basin and you'll find a recurring theme, not from one side, from both sides of a desire from community members just like yourselves to see a transfer of water use from groundwater wells that Galisteo itself for almost 30 years fought in court and the use of the Eldorado wells that are used to this day to advocate for less groundwater use and more surface

water use. Go to any land use case. Go to the legal cases. The corpus of what we at that time, myself included, that sat on that mutual domestic water board in Galisteo, was that we had to find some sources of water that were not coming from the groundwater and coming from the well sites.

That's exactly, that is exactly what Santa Fe County has progressed to where we now, finally after decades of talk are at the point of being able to deliver water from a surface water component as opposed to continued use out of the groundwater. That's exactly what we were after, that's exactly – if you go to the minutes of the meetings in the Board of County Commissioners and the legal issues that those community members were advocating for.

Just by a show of hands, I would like to know, in that sector – because I saw some of you that I've seen that I know have been around for many, many years, how many people have been in that corridor for over 20 years? By a show of hands. So there's a lot. I'm just making a point that there's a lot of history that's tied to exactly what the community's advocated for to get surface water as opposed to groundwater. Documented legal cases and Commission land use cases.

I would encourage any and all of you to research it. Go speak to people like Rod Hall in the Village of Galisteo who's been advocating for making sure we don't deplete our underground water resources for decades, for 40, 50 years plus.

So I guess I'm bringing these points up to each and every one of you to say that we have been asked as a County – I've only been here, I'm on my third year – but we've been asked as a County over decades of time to find alternate sources to utilize water for augmenting existing uses, but also providing for latitude for additional development. Plain and simple. That's what was asked of the County and that's what the County has done, over decades. And we're finally at the delivery point of being able to offset straight up the amount of groundwater that's coming out of the ground.

Two main priorities that I've had while serving on this bench is augment first, but don't close the door absolutely to any new growth whatsoever. I've said it from the beginning and I'll continue to say it.

That being said I want to go back to the question and the case at hand. Given the positions, and I want you to just speak from your experience. You're our County Attorney, Mr. Ross. Madam Chair, Mr. Ross, how many years have you been the County Attorney here at Santa Fe County?

MR. ROSS: Madam Chair, Commissioner Anaya, ten.

COMMISSIONER ANAYA: Ten years. For those cases – you don't have to represent individual cases but based on your expertise and your experience, if a project comes to Santa Fe County, takes the Land Use Code – any project, whether it's Mr. Miller or anyone that's ever come to the County, and follows what we've mandated, right? It's an ordinance. It's a law. The Land Use Code is a law. We say here's the provisions and parameters that you have to follow, they have to follow those provisions and parameters, correct?

MR. ROSS: Correct.

COMMISSIONER ANAYA: In your experience as the County Attorney, and they've happened, when those cases where the Commission has denied a case with not a direct reference to the Land Use Code, what has happened to Santa Fe County? What have we done? In the heat of the discussion and the moment, and listening to the

passion and desires and the avid disagreement on the case, what's happened in your ten years of experience when we've denied a case that we haven't substantiated based on the code? And I'm talking us or any other Commission.

MR. ROSS: Well, Madam Chair, Commissioner Anaya, we get – we see litigation as a result.

COMMISSIONER ANAYA: And what do we end up doing?

MR. ROSS: Sometimes we settle and sometimes we go to judgment.

COMMISSIONER ANAYA: And we spend time –

MR. ROSS: We spend a lot of time.

COMMISSIONER ANAYA: And taxpayer money. Over and over again. So now, it's been brought up several times throughout the course of the discussion about the new code. And we have parameters in the existing Sustainable Land Use Plan, that we adopted. I adopted it. I sat on this Commission with my colleagues and we adopted the Sustainable Growth Management Plan. Correct? In that Sustainable Growth Management Plan anywhere are there provisions for no development?

MR. ROSS: Madam Chair, Commissioner Anaya, no. It's not an anti-development or no development code. It's a regulated development code.

COMMISSIONER ANAYA: Within the land use cases that we have been processing, and maybe, Ms. Ellis-Green, if you want to chime in at any time please feel free to do so and stand up. Throughout the process, based on the Land Use Plan, not the code, we have been trying to work our way, if you will, towards recognizing the intent and the integrity of that plan as best as we possibly can even though our code is not done. Is that an accurate statement? Our Land Use Administrator, I ask that of you. And what I'm getting at is our Land Use Administrator does not disregard the plan because we have not adopted the code. Correct?

PENNY ELLIS-GREEN (Land Use Administrator): Madam Chair, Commissioner, that's correct.

COMMISSIONER ANAYA: We do our best to try and incorporate what the intent of the plan is as we're going through the evolution of the development of the code. Correct?

MS. ELLIS-GREEN: That's correct.

COMMISSIONER ANAYA: That's all the questions I have right now but I know I may have a couple more.

COMMISSIONER STEFANICS: Thank you, Commissioner Anaya. Commissioner Chavez? Okay. Thank you. I have a few questions. Mr. Ross, I have one little question and then I'll go to Ms. Lucero. Mr. Ross, would it be equitable – and I don't think that's the right word – would it be fair and equitable – we'll try – to make any case, this one included, wait for the passing of a new code when they've been in process for three months, six months, 12 years?

MR. ROSS: Well, Madam Chair, we've talked – we had a moratorium in place in the Eldorado area for over a decade at one point and we haven't really talked about returning to those periods. Moratoria are suspect in the United States constitution, specifically the takings clause. We have to be very careful in imposing development moratoria because you're imposing, essentially, a taking of people – you're taking from people the right to use their land for a particular period of time. It's a temporary taking to

be sure, but it is a taking. So we've always been reluctant here to return to the days when we had an unlimited, unfettered development moratorium in place.

It would be nice if we were able to get the code in place more quickly so that the plan wasn't just out there as a document that hasn't been put into place but we're very close to having it done. Actually, this development – Ms. Ellis-Green and I have talked about this several times. This development is a development that probably under these conditions would be approvable under the new code as well as the present code because the techniques that the plan refers to in the new code, growth management techniques, I think Mr. Hersch described are growth management techniques that are used around the country and they're related to managing growth by controlling infrastructure. And the way this particular plan – the plan describes that we'll do it in the way the code is going to implement it if you adopt it. In certain areas that are close in and already have established infrastructure, those areas will be relieved of the obligation of providing things like roads, sewers, waterlines, police protection, fire protection, because they already exist.

In areas like this area of Mr. Miller exists where his property is located the developer will have to bring all that stuff to the table and Mr. Miller is doing that. So in that sense the kinds of development you've seen over the last 20 years are self-funded by developers.

COMMISSIONER STEFANICS: Okay. Just in terms of my question – did you have a question on that point, Commissioner Chavez?

COMMISSIONER CHAVEZ: No, that was clarified.

COMMISSIONER STEFANICS: Okay. That was clarified. Okay, so Ms. Lucero, let's ask you a few questions and if you need to defer to Ms. Ellis-Green that's fine too. Did we ask for a market analysis on this project?

MS. LUCERO: Madam Chair, we do not require market analysis as part of the master plan but we do have a condition that with Phase II they will be required to submit one.

COMMISSIONER STEFANICS: Okay. Again, would you describe for my edification what we would be approving this evening, versus any future plans?

MS. LUCERO: Okay. This evening, the request before you is for master plan approval for a 39-lot residential subdivision to be completed in four phases, and preliminary and final plat approval for Phase I only, which will be 16 residential lots. So upon approval tonight and upon the applicant addressing the conditions they would be recording 16 residential lots. So that's what would be approved.

COMMISSIONER STEFANICS: Thank you. So Ms. Lucero, does this project fall within the parameters of the Sustainable Growth Management Plan and for the district?

MS. LUCERO: Madam Chair, yes, it does fall within the parameters of the district and the Sustainable.

COMMISSIONER STEFANICS: Okay. So Ms. Lucero, does the County or the state have a foundation requirement for the houses that we're talking about?

MS. LUCERO: Madam Chair, I believe the State Construction Industries is the governing body for foundations on modular residences, so they would be reviewing the plans for the foundations.

COMMISSIONER STEFANICS: So there's no way that the developer could avoid the foundation.

MS. LUCERO: Madam Chair, I am not entirely positive if they would allow a modular on a temporary foundation. That I'm not entirely certain of.

COMMISSIONER STEFANICS: Ms. Ellis-Green, can you answer that?

MS. ELLIS-GREEN: Madam Chair, I don't believe you can put a modular on a temporary foundation.

COMMISSIONER STEFANICS: Thank you. Commissioner Anaya.

COMMISSIONER ANAYA: Madam Chair, I actually asked this question earlier and I think Mr. Ross clarified it, but there's been a requirement for CID to have a structure on a permanent foundation. There's many, many modular units throughout the country that are not on permanent foundations. That's why I asked the question earlier about a subdivision, and that's what I've been told is part of the covenant. A subdivision can make a covenant that requires it but by law you can't tell a person because you're going to live in a modular home you have to put it on a permanent foundation. I could go buy a modular home tomorrow, put it on my property and not put it on a permanent foundation.

COMMISSIONER STEFANICS: So we are talking about a couple different things here. We're talking about mobile homes and we're talking about modular buildings. So Mr. Ross or Ms. Ellis-Green, do you have anything different legally you want to offer on this?

MR. ROSS: Madam Chair, a modular building is built to the building code and a manufactured home is built to HUD standards. So a modular building is something that covered by the Uniform Building Code and is built to those standards which are more stringent than a manufactured home. It's basically the same standards a stick-built house is built to.

COMMISSIONER STEFANICS: So would you clarify again publicly, very clearly, about the foundation?

MR. ROSS: Well, Madam Chair, in my opinion anything built to the Building Code must meet the Building Code standards for a foundation as well. A manufactured home doesn't; they have a different set of standards.

COMMISSIONER ANAYA: Madam Chair, on this point.

COMMISSIONER STEFANICS: Yes, on this point, Commissioner Anaya.

COMMISSIONER ANAYA: Some clarification which is always good. This subdivision is not manufactured, it's modular?

MR. ROSS: Maybe Mr. VanAmberg can clarify that but my understanding is that modular homes are permitted and manufactured homes are not by private covenant.

COMMISSIONER ANAYA: Is this subdivision manufactured housing or modular housing?

COMMISSIONER STEFANICS: And could you also refer us to the document that says that.

MR. MARTINEZ: Madam Chair, Commissioners, this development doesn't deny the opportunity to place a modular home. Manufactured homes, which is a single-wide, double-wide or triple-wide are not permitted within the development. Within

the restrictive covenants and in the disclosure statement it's very clear that the architectural committee that's formed after the sixth lot is sold will specify foundations per Construction Industry standards.

COMMISSIONER ANAYA: Madam Chair, thank you for the clarification. Major distinction based on that clarification that the modular homes are absolutely required by state law to conform to the same requirements as what's been referred to as a stick-built home. Manufactured housing is completely different, a completely different approval process. So essentially, just based on cost, sometimes there's a cost benefit to a modular and sometimes there's a cost benefit to building the same home as a site-built home. So that just depends on who's building the product and how you put them together. So huge, huge distinction between the two. Completely tied to the site-built construction standard; manufactured standard completely different.

So this subdivision is all modular homes, not manufactured homes.

MR. MARTINEZ: Madam Chair, Commissioner Anaya, it's not restricted just for modular homes. If somebody wants to come in and build a stick-built home, that could be the priority. About that distinction –

COMMISSIONER ANAYA: They can't bring – not based on the County's covenants. I believe that anybody should be able to live wherever they want in whatever type of house they want, whether it's site-built, modular or single-wide or double-wide or whatever their preference is. I have no distinction as to them as an individual, as to where they live or where they choose to live. Your subdivision, you're making a conscious decision as the developers to say we will allow modulars and site-built, those two. You don't allow others based on your own decisions. But there are very distinct differences between the three types, right? Or the two types. Manufactured is one set of requirements; modular falls under the same construction standards as the standards associated with site-built.

MR. MARTINEZ: Commissioner Anaya, you're correct. Site-built homes and modular homes are the same standards.

COMMISSIONER ANAYA: Thank you, Madam Chair.

COMMISSIONER STEFANICS: Thank you. So, Ms. Lucero, back to a few of my questions. Does this master plan zoning meet all of the affordable housing requirements?

MS. LUCERO: Madam Chair, the applicant has an affordable housing agreement in place which actually proposes that some of the affordables from this subdivision will be moved to Cimarron Village, which is another subdivision that the applicant is working on. However, they are actually proposing one affordable lot as part of Phase I of this development.

COMMISSIONER STEFANICS: So Ms. Lucero, what happens if the other project doesn't happen for many years?

MS. LUCERO: Madam Chair, I believe we would have to examine that with the Phase II when this project comes if for Phase II, we would have to examine whether or not the Cimarron Village has been approved or is being built out and whether or not we would want to require them to compensate the affordables within this subdivision.

COMMISSIONER STEFANICS: Okay, and my comment is really not based upon approval for the other project; it's really based upon the economic market and



whether or not something gets put on hold. If we move the requirements from one project to another and the other project never happens, have we in fact shot ourselves in the foot, in terms of our requirements?

MS. LUCERO: Madam Chair, I don't have the affordable housing agreement in front of me.

COMMISSIONER STEFANICS: Okay. Let me move on to my next question and Commissioner Mayfield, we're going to go to you next for questions. Fire. Could you talk about any fire concerns or fire issues or fire approvals?

MS. LUCERO: Madam Chair, we did send this application out for Fire for review and we did get comments back. They had some conditions of approval. They were supporting the application with conditions and the applicant has already addressed a couple of those conditions. There are, I believe three remaining conditions which will be addressed at the time of construction regarding inspection and fire hydrants and that sort of thing.

COMMISSIONER STEFANICS: Okay. Thank you. Commissioner Mayfield, do you have any questions or comments at this time...?

COMMISSIONER MAYFIELD: Madam Chair, can you hear me?

COMMISSIONER STEFANICS: Yes.

COMMISSIONER MAYFIELD: Madam Chair, I have been at the last month's meeting and I've been there in chamber to hear what was said by the applicant and staff, but I appreciate all the points that were brought up tonight. But, Madam Chair, the point you just brought up, depending on how this case moves tonight, if it does move forward, I would just share the comment or echo the comment that you just made on if this does move forward tonight that there would be a compliance with the current affordable housing requirement in this subdivision. We don't know what the future may hold for any of us for future proposals. But I would just share that comment that this [inaudible]

COMMISSIONER STEFANICS: Thank you, Commissioner. Anything else, Commissioner Mayfield?

COMMISSIONER MAYFIELD: No, that's all I have for right now. Thank you.

COMMISSIONER STEFANICS: Thank you. My next question is is there anyone here from the Eldorado Water & Sanitation District? Is Mr. Jenkins here or anybody? Okay. We have documentation. That's fine. Any other questions, comments, Commissioners?

COMMISSIONER ANAYA: Madam Chair.

COMMISSIONER STEFANICS: Commissioner Anaya.

COMMISSIONER ANAYA: Madam Chair, how much have we spent on the Buckman Direct Diversion project? Ballpark?

MR. ROSS: Madam Chair, Commissioner Anaya, ballpark, \$100 million.

COMMISSIONER ANAYA: \$100 million?

MR. ROSS: Yes.

COMMISSIONER ANAYA: And right now, we have how much total water rights that we have that we're allotted to utilize for whatever purpose, whether we wanted to recharge aquifer, use it for augmenting existing wells or new development? What's the total amount?

MR. ROSS: Madam Chair, Commissioner Anaya, we have in the area of 2,300 acre-feet of water rights of different types. We have capacity in the Buckman Direct Diversion, I just have to add these numbers up. Somewhere around 3,300 acre-feet.

COMMISSIONER ANAYA: So if we just isolate the 2,300 and we don't talk about the 3,300, of the 2,300, how much have we committed?

MR. ROSS: Committed through deliveries?

COMMISSIONER ANAYA: Yes.

MR. ROSS: Six, seven hundred, something like that at this point.

COMMISSIONER ANAYA: And of the amount of – and that's good for discussion. Of the amount we've committed, how much is that for new use and how much is for existing?

MR. ROSS: Madam Chair, Commissioner Anaya, it's all existing.

COMMISSIONER ANAYA: Every acre-foot of the committed 700 is all existing use, reducing the requirement for groundwater.

MR. ROSS: Current deliveries. Yes.

COMMISSIONER ANAYA: No additional?

MR. ROSS: There are things like – there are water service agreements out there that obligate us to deliver more like say to the Las Campanas development if they build out, but there's probably – there might be another 200 or 300 extra acre-feet of water not currently in use.

COMMISSIONER ANAYA: So if we added the 200, so roughly 200 of committed use for new – is that what we're saying? And 700, that's committed that's augmenting groundwater that we would have pulled out, those are utilizing surface water?

MR. ROSS: Correct. That doesn't include Aamodt, by the way, which is another 1,500 acre-feet involved in that development. In that project.

COMMISSIONER ANAYA: We're talking about Aamodt?

MR. ROSS: The Aamodt water system.

COMMISSIONER ANAYA: For northern Santa Fe County, we're still working through the logistics on that.

MR. ROSS: Correct.

COMMISSIONER ANAYA: And that is all predominantly existing users converted to surface use?

MR. ROSS: Yes. Right now we have the capacity of 1,500 acre-feet in that system. Right now the use is all groundwater, so presumably 1,500 acre-feet of current groundwater use of non-pueblo residents will be taken off groundwater.

COMMISSIONER ANAYA: That's all I have right now, Madam Chair.

COMMISSIONER STEFANICS: Thank you. Commissioner Chavez, anything right now? Ms. Lucero, I have another question or two. If a master plan in development is approved and they don't comply with all the conditions or requirements that they have adhered to, what is the County's process?

MS. LUCERO: Madam Chair, if the applicants do not comply with the conditions of approval then the plat will not be recorded, therefore the lots will not be created.

COMMISSIONER STEFANICS: So at this point in time, I'm looking at the different conditions, you're saying that there would not be a recording until all the conditions were met?

MS. LUCERO: Until the conditions as stated in the staff report and there are conditions that reviewing agencies have. Some of those cannot be addressed until they actually go into construction, as I mentioned earlier, like the Fire Marshal is requiring inspections on the fire hydrants, which will occur during construction.

COMMISSIONER STEFANICS: And Ms. Lucero, I don't know if you can answer this or Ms. Penny Ellis-Green, if in fact part of our agreement on this master plan is to allow the affordable housing to be attached to a different development, and that were not to occur for a long period, a lengthy period. We've had projects come back here for renewals two years a couple times, what would be our process on that and how would we address the lack of affordable housing? There's some of us who take that affordable housing very seriously.

MS. ELLIS-GREEN: Madam Chair, since it's tied to another development, if for example that development doesn't happen, he does have to come back to this Board three more times for the next three phases. And so we should be seeing progress on the other case and the affordable housing. I think if he comes back for the last phase and that hasn't happened we would have to question whether or not that affordable housing agreement is still in place. I haven't actually reviewed it. Usually we tie it to a phasing as well.

COMMISSIONER STEFANICS: I believe Commissioner Mayfield and I have expressed some sentiment about adding a condition, so we would relay upon you to think about something quickly about another condition to add about this while we go back to questions and comments. Commissioner Chavez.

COMMISSIONER CHAVEZ: So the condition of approval that you're suggesting would not allow the transfer or development rights for the affordable component?

COMMISSIONER STEFANICS: No, it would rest – what would happen or what a length of time might be or what would be the trigger to identify that it was not happening or – that's what I'm asking the staff. What language would you propose to ensure that affordable housing is really going to happen?

COMMISSIONER CHAVEZ: On that point, would it apply to all of the conditions or just the condition for affordable housing?

COMMISSIONER STEFANICS: His conditions on this are for the first section, right?

COMMISSIONER CHAVEZ: First phase?

COMMISSIONER STEFANICS: First phase.

MS. LUCERO: Madam Chair, the majority of the conditions are for the first phase, however, there are some conditions that will need to be complied with at subsequent phases, such as the market analysis. I believe it's probably just the market analysis.

COMMISSIONER ANAYA: Madam Chair.

COMMISSIONER STEFANICS: Yes, Commissioner Anaya.

COMMISSIONER ANAYA: Madam Chair, on that point, if it's under the current provisions of the affordable housing agreement, if they don't transfer –

COMMISSIONER STEFANICS: This is for staff only, Mr. Martinez.

COMMISSIONER ANAYA: So under the current provisions of the affordable housing ordinance, with 16 lots, how many lots do they have to have affordable?

MS. LUCERO: Madam Chair, Commissioner Anaya, they're required to provide 15 percent affordable, which comes out to two affordable units in the first phase.

COMMISSIONER ANAYA: So I think that the trigger is simple. That if there is a notion of potentially transferring that to a project that they would not be allowed to build out as a condition of the full project unless there was some other agreement or arrangement made on the transfer. In other words, you can't build all 16; you would only be able to build the 14 unless there's some other agreement in place.

COMMISSIONER STEFANICS: Mr. Ross.

MR. ROSS: Madam Chair, we have an affordable housing agreement in place. It's about one and a half years old and it requires that the majority of the affordable houses on this development and on the Tierra Bello Development be transferred to Cimarron Village.

COMMISSIONER ANAYA: We made that agreement.

MR. ROSS: We made that agreement, all of us in this room and that was even prior to the settlement. I think we're at the inception of this agreement. I think we need to give it some time to see if it works. If it doesn't work then we will visit through the termination provisions in the affordable housing agreement that we already have. But at this point we're just starting down this affordable housing agreement and it would probably be bad faith on our part to add additional conditions to this development that aren't contained in the affordable housing agreement at this point.

So I guess my advice is let's cross that bridge when we come to it.

COMMISSIONER STEFANICS: Okay. Commissioner Mayfield, are you okay with that? I'm fine with that. So let's see if we can keep moving. Okay, so any further questions, comments?

COMMISSIONER ANAYA: Madam Chair, I just have a comment.

COMMISSIONER STEFANICS: Yes, Commissioner Anaya.

COMMISSIONER ANAYA: My comment is this. This Commission will have opportunities through the process if this master plan is approved to make commitments on affordable housing or to fall through on those commitments already agreed upon to deal with water issues that deal with groundwater as opposed to surface water. There's other avenues that we still have opportunities to weigh in without question. Thank you, Madam Chair.

COMMISSIONER STEFANICS: Thank you. So, Commissioners, if there's no other questions or comments, what's the pleasure?

COMMISSIONER ANAYA: Madam Chair.

COMMISSIONER STEFANICS: Commissioner Anaya.

COMMISSIONER ANAYA: I'd move for approval of the master plan with staff conditions.

COMMISSIONER CHAVEZ: And I don't take a lot of pleasure in this. Land use cases are very difficult, but I am going to second the motion. We need to move this forward and there will be time to test this project to see if it's valid or not and I want

to give the project a chance to see if it will work out. So I do support the motion, with the staff recommendations.

COMMISSIONER STEFANICS: Okay so there's a motion and a second.  
Now, Commissioner Mayfield, are you on the phone?

COMMISSIONER MAYFIELD: I'm here, Madam Chair.

COMMISSIONER STEFANICS: Do you have any comments before we go to vote?

COMMISSIONER MAYFIELD: No, Madam Chair. I've heard everything. Thank you, Madam Chair.

COMMISSIONER STEFANICS: Thank you. Ms. Penny Ellis-Green.

MS. ELLIS-GREEN: Madam Chair, it's just to clarify. Commissioner Anaya stated approval of the master plan. This is master plan and with preliminary and final for Phase I. Is that included in the motion?

COMMISSIONER ANAYA: Master plan, preliminary and final for Phase I with staff conditions.

MS. ELLIS-GREEN: Thank you.

COMMISSIONER STEFANICS: Okay, so we have a motion and a second for preliminary and final plat and development plan approval for Phase I as well as the master plan zoning approval.

**The motion passed by unanimous [4-0] voice vote.** [Commissioner Holian had recused herself from deliberation and vote.]

also denied the applicant's request by a 5-0 vote. So my motion would support the CDRC recommendation and deny approval of this lot split.

CHAIR HOLIAN: Is there a second?

COMMISSIONER STEFANICS: I'm going to second.

CHAIR HOLIAN: Okay. I have a motion and a second. Is there any discussion? I will just say that I am going to vote against this variance. I do not find a very compelling reason to grant the variance, and this does seem to me to be an area in which large lot sizes are to be desired because of the fire danger in that area, the lack of water in that area, as well as the wildlife corridors in that area. So I have a motion and a second.

**The motion to deny passed by unanimous [4-0] voice vote.** [Commissioner Anaya was not present for this action.]

XVI. A. 5. CDRC CASE # V/Z/PDR 12-5340 Family Dollar Store. Glenwood Development Company, Applicant, Request Master Plan Zoning and Preliminary Development Plan Approval for an 8,320 Square Foot Structure to Be Utilized as a Family Dollar Store on 0.87 Acres. The Request Includes Final Development Plan Be Approved Administratively. The Applicant Also Requests a Variance of Article III, § 4.4.3c (Parking Lot Location) to Allow the Parking Lot to Be Located in Front of the Proposed Building and a Variance of Article VIII, §'S 7.3, 7.8 and 7.14 (Design Standards for Permanent Signs) to Allow a Sign to Exceed the Height and Set Back Requirements and to Allow a Wall Mounted Sign to Exceed 70 Square Feet in Sign Area. The Property is Located at 18094 US 84/285, within the Pojoaque Valley Traditional Community, within Sections 6 & 7, Township 19 North, Range 9 East (Commission District 1) Jose E. Larrañaga, Case Manager (**TABLED**)

XVI. A. 6. CDRC Case # Z/S 08-5430 Spirit Wind West Subdivision. Joseph Miller, Applicant, Danny Martinez, Agent, Requests Master Plan Zoning Approval for a 39-Lot Residential Subdivision on 133.73+ Acres and Preliminary and Final Plat and Development Plan Approval for Phase 1, Which Will Consist of 16 Lots. The Property is Located South of Eldorado, on the East Side of US 285, Off Old Lamy Trail (CR 33), within Section 5, Township 14 North, Range 10 East and Section 32, Township 15 North, Range 10 East (Commission District 4)

VICKI LUCERO (Case Manager): Thank you, Madam Chair. On January 17, 2013, the CDRC met and acted on this case. The decision of the CDRC was to recommend approval of this request.

On December 20, 2012, the CDRC tabled this case to allow the applicant to meet with the neighbors to discuss their concerns, to have the County Hydrologist present at the CDRC

meeting to address questions about water, and to have staff contact the OSE to get an update on the status of the request by EAWSD for the additional Point of Diversion.

A meeting between the Applicant and neighbors was conducted on Thursday, January 10, 2013. Staff did contact the OSE and was informed that the application for the point of diversion was approved. Staff requested a revised memo from the OSE. The OSE has provided an updated response however, they maintain a negative opinion.

The Applicant requests Master Plan Zoning approval for a residential subdivision located northeast of the intersection of US 84-285 and Old Lamy Trail. The subdivision will consist of 39 single-family residential lots on  $\pm 133.73$  acres, which will be developed in four phases. The proposed lots range in size from 2.50 acres to 3.47 acres. The property is located within the Homestead Hydrological Zone where the minimum lot size is 40-acres per dwelling unit with a 0.25 acre foot per year per lot water restriction; unless water availability is proven to support increased density or community water and/or sewer is available.

The Applicant also requests Preliminary and Final Plat and Development Plan approval for Phase I of the subdivision which will consist of 16 residential lots.

Staff recommendation is for approval of the request for Master Plan Zoning approval for a 39-lot residential subdivision and Preliminary and Final Plat and Development Plan Approval for Phase 1, which will consist of 16 lots subject to the following staff conditions. Madam Chair, may I enter those conditions into the record?

CHAIR HOLIAN: Yes, you may.

MS. LUCERO: Thank you. I also want to state for the record that we did hand out some letters of opposition that we recently received. [Exhibit 7]

[The conditions are as follows:]

1. The Applicant shall comply with all review agency comments and conditions, Article V, Section 7.1.3.c.
2. Master Plan and Final Plat and Development Plan, with appropriate signatures, and subdivision covenants and final disclosure statement shall be recorded with the County Clerk, as per Article V, Section 5.2.5 and Section 5.4.5.
3. The Applicant shall submit a financial guarantee, in a sufficient amount to assure completion of all required improvements. The financial guarantee shall be based on a county approved engineering cost estimate for the completion of required improvements as approved by staff prior to Final Plat recordation. All improvements shall be installed and ready for acceptance within eighteen months as required by Article V, Section 9.9.
4. The letter of commitment from the Eldorado Area Water & Sanitation District shall be amended to include water service for the 39<sup>th</sup> lot prior to plat recordation of Phase I, Article VII, Section 6.3.

CHAIR HOLIAN: Thank you, Vicki. Are there any questions of staff at this point? Okay, seeing none, is the applicant here?

RON VANAMBURG: Madam Chair, if it please the Commission, I'm Ron VanAmburg on behalf of Sprit Wind and with me is Danny Martinez.

CHAIR HOLIAN: Mr. VanAmburg, would you like to start with the presentation?

MR. VANAMBURG: Yes, I will start. I represent Spirit Wind Subdivision which has been in the progress for a long time. It was tabled once at the CDRC and then received approval from the CDRC, and we are here today. One of the things I would like to explain is the cooperation that Mr. Miller has shown with the representatives of the homeowners association, a Mr. Beal, and in particular, the concessions involved the covenants that Mr. Miller had planned for his subdivision.

On February 28<sup>th</sup> we sent Mr. Beal a copy of the subdivision covenants and that is shown on the first page of the Exhibit 4, which is a series of emails. [Exhibit 8] These covenants were sent without particular attention paid to the suggestions that Mr. Beal had made previously and the reason for that was because we had to get these covenants to the County for review. On the second page Mr. Beal reflects that he was not a happy camper because his suggestions were not properly considered. On February 28<sup>th</sup> I responded that the reason there was not sufficient consideration given was because we were in a hurry trying to get those covenants to the County, but then I stated that we would then give them the most consideration we could.

In that letter I also attached a red-line modified version of the covenants and explained to him that we had essentially adopted the changes that he had suggested except that Mr. Miller did not have a prohibition against modular homes and had a covenant which did not prevent two-story homes. Mr. Beal responded, We are almost there. Thank you for making the changes. In the subsequent email exchanges we explained that Mr. Miller, who wanted to have two stories because they are something that are desired by people, some people, but he would be willing to drop the two-story homes if he could get the support from Mr. Beal and his community.

Mr. Beal asked in subsequent emails whether or not the changes that we had already agreed to were also conditioned on his support and his association's support and we explained to Mr. Beal that we would make those changes anyhow out of consideration for Mr. Beal and his neighbors, even if they did not show up at the meeting and support us. And accordingly, that is what we have done. We have modified the covenants to a large extent in full satisfaction of Mr. Beal's comments and we have submitted those changes to the County and we are prepared to adhere to our commitment.

CHAIR HOLIAN: Mr. VanAmburg, I have a question about the covenants, since you brought them up. When I was reading through the packet there was some concern expressed by the people in the neighboring subdivision regarding storage of recreational vehicles and boats on the proposed lots in the new subdivision. What is your position on that at this point? Or what is Mr. Miller's position on that?

MR. VANAMBURG: Well, if it was raised by Mr. Beal we consented to it. I think the position is that there are two subdivisions going on. There is the Tierra Bello one and then there's Spirit Wind, and I believe that we do not permit storage of recreational vehicles. Mr. Martinez confirms that we do not permit the storage of recreational vehicles and trailers on the lots. And if that's not clear in the covenants we'll make it clear.

CHAIR HOLIAN: Okay. Thank you. Please proceed.

MR. VANAMBURG: Okay. I'm not exactly sure what the issues are that may be raised but in the past one of the issues that was raised was the issue of water. Mr. Miller has a will-serve from the Eldorado Water and Sanitation District and I'd point out that in



Exhibit 1 [*Exhibit 9*] there has been a study done by County staff, by a hydrologist by the Water & Sanitation District which relate to water rights and which relate to water capacity. The water rights, I think it is virtually unchallengeable exist to support this subdivision and other subdivisions that may come on board. These water rights are sort of unique. This property was formerly ranch land. All the Eldorado area was, and when AMREP bought the property there were a number of wells that were drilled throughout the area, and the question came up as to what water rights were attached to those wells.

In 1972 there was a court decree which established what the water rights were, and it broke it down into three categories. Some of the wells had the right to production and the right to water rights in four of the wells to the extent that production existed as of December 30, 1970. Some of the wells were allowed to be completed and repaired and rehabilitated and then the capacity of those wells would also be included as water rights. And some wells were allowed to be enlarged but not deepened, and then the capacity of those wells was added to the total of the water rights.

It then took a while to figure out exactly how that would compute, but right now, the State Engineer recognizes 783.4 acre-feet of water rights and of that, 254.4 acre-feet are within one of the wellfields and if you look at Exhibit 1 [*Exhibit 9*] which are the Eldorado *Water Notes* it says EAWSD's current water rights have been established at 783.4 acre-feet for withdrawing groundwater via the Office of the State Engineer's license issued June 4, 2010, and I'll get to that. The license also allows EAWSD to develop up to an additional 254.4 acre-feet of water rights in the central wellfield over the next 18 years if and as water demand and thus production increases. So there are a certain amount of water rights that are recognized and then there is reserved an additional acre-feet of water which can be developed as the need arises.

Out in the Eldorado are the annual production is averaged about 545 acre-feet for the last eight years but has decreased below the average in the past eight years to a range of 516 to 544 acre-feet. So there is a cushion in water rights of about 493 acre-feet.

These Water Notes also explain that it is anticipated that the Water & Sanitation District will be increasing its water capacity and has done so and it notes that for additional water production, two new wells have been drilled into the fractured granite adding 298,000 gallons per day of sustained production. It's also noted in here that ratepayers are actually reducing their consumption by about five to 15 percent.

Exhibit #2 [*Exhibit 10*] is a memorandum of understanding that has been entered into between the County and the Eldorado Water and Sanitation District, and this was signed by the County Commission on October 9, 2012. And in this there are a number of whereas clauses which recite the basis for the final agreement and then the final agreement itself. This is the product of a study that was done involving hydrologists and County staff. The fifth whereas says Whereas, consistent with the shared goals, the County through its Utility Division is willing to assist the District from time to time to improve the reliability of the District's system in times of drought or mechanical failure, or as otherwise agreed to by the parties by providing access to water supplies from the Buckman Direct Diversion or from any other sources.

What's happening now as I'm sure the Commission understands is there are negotiations going on now between the Water & Sanitation District and the County about

bringing waterlines which would be supplied with water from the Rio Grande diversion out to the Eldorado area. It would be there as backup in the case of any need, and as I understand it it is also anticipated that it's going to be going east to the Cañoncito area which is having problems.

The second whereas provides that the County has a statutory duty to the Subdivision Act, the Zoning Enabling Act and the Santa Fe Growth Management Plan and the Santa Fe County Land Development Code to assure that proposed development within the county is consistent with statutory requirements and that the LDC and specific to assure that a 99-year water supply exists for the proposed development within the County land use jurisdiction. Accordingly, the 99-year water supply requirement was investigated by the County and the conclusion was that this memorandum of understanding would satisfy that requirement.

The next whereas clause recites that the County acknowledges that the District's source of water supply are more than adequate at the present time to serve its customers and also acknowledges partial license RG-18529 and 18526 issued by the Office of the State Engineer, and the acknowledgement in those licenses that the District has available to it 783.43 acre-feet per year of water rights.

It continues and says that water experts have reviewed the District's source of supply and connection with recent applications to develop property and have agreed with the District that more than adequate water resources currently exist to serve existing customers and to serve new developments within the District's service area.

Finally, the whereas clause provides that, Whereas, a constructive way to assure progress on all of these objectives is for the County to agree that the District has provided sufficient present information concerning the District's water supply to justify the County's acceptance of a will-serve letter from the District, that the District is ready, willing and able to provide a customer with water service as adequate for purposes of the Subdivision Act and the Zoning Enabling Act, the Santa Fe County Code Growth Management Plan, and the Santa Fe County Land Development Code for a minimum of three years, and for the County and the District to agree to work together toward providing the District with water from the Buckman Direct Diversion or other sources as available to assist the District in times of drought or mechanical failure.

The County then – or this memorandum of understanding then says it is therefore understood and agreed by and between the parties as follows. One of the agreements is that for a minimum three years from the date of execution of this agreement no further information is needed and the County will accept a will-serve letter from the District that it is ready, willing and able to provide a customer with water service as adequate for purposes of the requirement, required review under the Subdivision Act, Zoning Enabling Act, and the Land Development Code without further technical review or inquiry.

The agreement also states that the County and the District agree to work together towards a subsequent agreement whereby the County provides the district with water from the Buckman Direct Diversion project to assist the district in times of drought or mechanical failure or as otherwise agreed by the parties on terms specified in the subsequent agreement. The last clause says this agreement shall be perpetual.

So we understand that there are concerns about water but we also understand that this has been thoroughly examined by the County, by the Water & Sanitation District, which is a

quasi-municipality, and that there's a contractual agreement here that will serve letters will be accepted by this County for a period of three years from October 9, 2012. Exhibit 3 [Exhibit 11] is for your reference and that is the partial license from the State Engineer's Office which goes through the mechanics of how the 783 acre-feet are established and recognized in the Water & Sanitation District.

Mr. Miller, who is the principal involved in this subdivision application has been working on this for a long time. He has held meetings, he has cooperated, he has responded to all County inquiries, has met all the requirements and we're asking for approval for his phase 1 of his Spirit Wind and for his preliminary and master plan approval. Are there any questions?

CHAIR HOLIAN: Thank you, Mr. VanAmburg. Are there any questions for the applicant or for staff? Commissioner Stefanics.

COMMISSIONER STEFANICS: Thank you, Madam Chair. We can start with the applicant first. There's 133.73 acres, correct?

MR. VANAMBURG: Right.

COMMISSIONER STEFANICS: And the subdivision will consist of 39 residential single-family residential lots.

MR. VANAMBURG: Right.

COMMISSIONER STEFANICS: So the – and I didn't do the math, but will the 39 residential sites take up the entire area or will there be green space and how much green space?

MR. VANAMBURG: I would like Mr. Martinez to respond to that who is the planner.

[Duly sworn, Danny Martinez testified as follows:]

DANNY MARTINEZ: Danny Martinez, agent for Mr. Miller. Madam Chair, members of this Commission, yes, there are 133 acres in the development, 39 lots with an average of 2.8 acres, more or less, and that's just average. There's a total of 13 acres of open space that will eventually be utilized within the development. In the immediate first phase there's a total of seven-plus acres that will be part of the open space. In addition, the 285 Corridor Ordinance is very specific that any development along 285 would have a 100-foot setback. We have also dedicated that area as open space. So we feel that we have met the criteria for our open space.

COMMISSIONER STEFANICS: Madam Chair, the next question I have is that some of the responses that you provided to us and that I'm reading from other people have to do with two-story versus one-story, and also manufactured housing. So could you clearly address each issue?

MR. VANAMBURG: The covenants do provide for two stories. The reason for that is it could be desired by some people. I would point out that the first part of the Spirit Wind West that the portion of the subdivision that was developed years ago is at a much higher elevation, so it's not as though the two-story would be blocking their views. Modular homes are allowed. Your mobile homes are not allowed. The modular homes have to be put on foundations; they have to be stuccoed; they have to pass the architectural committee and the intent is that they really – you can't tell the difference between that and a site-built house. They are built in accordance with building codes. They are built the same way and actually

better constructed than onsite houses because they have to be reinforced because of their travel. Again, they are placed on their own stem walls and stuccoed and they can be any size that you want. There's a 1,400 square foot minimum so –

COMMISSIONER STEFANICS: Great. Thank you, Madam Chair. That's all for right now.

CHAIR HOLIAN: Commissioner Mayfield.

COMMISSIONER MAYFIELD: Madam Chair, I'm reading through the packet this past week and I think there were a couple questions already broached, but as far as some of the covenants, sir, and maybe covenants from the adjacent Spirit – I may get the name wrong. But you touched on manufactured homes. You can't discriminate against manufactured homes, I think under state law, correct?

MR. VANAMBURG: There is a state statute that prohibits discrimination against them by a governmental entity. We could ban them through the covenants, likely, but it should not be a reason for turning down a subdivision.

COMMISSIONER MAYFIELD: How could you ban them through covenants if state statute prohibits that?

MR. VANAMBURG: Well, that's an interesting question.

COMMISSIONER MAYFIELD: Okay. Let me ask our attorney then. Mr. Ross, how could covenants ban a manufactured home if state statute does not allow that as discriminatory?

MR. ROSS: Madam Chair, Commissioner Mayfield, the state statute only prohibits us from making that a condition of development approval, but private people operating on their own with private contracts like private covenants can, in my opinion.

COMMISSIONER MAYFIELD: Okay. So that was answered. Thanks. Then a question about RV's and boats. Covenant restrictions say nobody can have an RV or boat on the property? In their driveway? On their lot?

MR. VANAMBURG: Yes, they're allowed to say that and that's not an uncommon covenant provision.

COMMISSIONER MAYFIELD: Okay, but then if the applicant then wanted to designate an area – five acres or maybe ten acres to say this is where the community can park their RV or their boat, that's permissible? That's not permissible?

MR. VANAMBURG: It's permissible if it were part of the application but it's not part of this application.

COMMISSIONER MAYFIELD: Okay, so I'm just going to ask this question. So then if people in the community have RV's and boats, but they don't want them in arguably that neighborhood, where are they supposed to park them? Are they going to move them – and I'm just going to say this – to my neighborhood?

MR. VANAMBURG: Well, there's another subdivision that we're proposing which has a commercial aspect to it and also have a storage area for boats and RV's which I think is really needed out there in the Eldorado area.

COMMISSIONER MAYFIELD: Okay. And then reading through a lot of just what I've read, I know there's a lot of questions about water and about the restrictions of .25 on each lot. I know there was an agreement or MOU that the County passed, I think back in October, knowing that we have our BDD and we're working with the Eldorado – and I might

get their water district wrong. There were some agreements I think. Our Utility Director might be kind of working a little different avenue now. And the reason I bring all this up because there might be an opportunity for the Eldorado area to tie in with our water utility. But I also recall that the applicant – and I don't want to say donated. That might be the wrong term.

MR. VANAMBURG: I think it's the right term.

COMMISSIONER MAYFIELD: Okay, then donated is the right term. I stand to be corrected by anybody. But did something where he donated them a lot of water rights or some wells to the Eldorado water situation for the actual water system. What was the amount of water that was given to that association? Donated, sold, whatever the term is? To help improve that whole system.

MR. VANAMBURG: Mr. Miller had a well which was tied in, not to the river, but is tied into the aquifer. There are two sources out there, one draws off the Galisteo River and the other draws off an aquifer. And it was a huge producing well. He donated that well to Eldorado and also gave them essentially the site. Well, there was a total of five wells that he donated to Eldorado and one of them was a very high producer. And then right next to that well the Water & Sanitation District spent a million dollars in drilling a large casing well which is probably going to be capable of servicing most of the needs out there. So there's been a substantial amount of wet water that has been added to the system.

COMMISSIONER MAYFIELD: And whatever this Commission decides to do with this application, these 39 lots would be subject to tying into that water system? Or would they still be permitted to drill their own private wells on these lots?

MR. VANAMBURG: No. The plan is to tie into the water system and that's why we got the will-serve letter from the Water & Sanitation District.

COMMISSIONER MAYFIELD: And then, Madam Chair, Mr. Ross or Ms. Ellis-Green, there's still that potential possibility that the Eldorado – and correct me again if I'm wrong – would still have the potential of working with the MOU that's in our packet with our County water authority through the BDD if there was ever that shortfall of water anticipated in the future. Correct?

MR. ROSS: Madam Chair, Commissioner Mayfield, since that MOU was passed we've had several meetings with the Water & Sanitation District, the most recent of which was last week, and there was the intent for the Water & Sanitation District to tie into the Buckman line in two places, probably fairly soon.

COMMISSIONER MAYFIELD: Thank you. That's all I have, Madam Chair. Thank you.

CHAIR HOLIAN: Okay. Thank you, Commissioner. Commissioner Chavez.

COMMISSIONER CHAVEZ: I did have a question. Commissioner Stefanics touched on this a minute ago but I want to revisit that. It has to do with open space. You had a number, Mr. Martinez that you gave us on open space, and then I have another number here in the packet which is different. But maybe I'll start with that. The open space – the packet indicates that a total of 7.4686 acres is proposed as open space. That's dedicated as a park. So will that be passive? Will it be active? And then I think the number you gave earlier was larger than that.

MR. MARTINEZ: Madam Chair, Commissioner Chavez, so I can be clear,

what we're dealing here is we're dealing with a phase 1 final that dedicates actual open space under phase 1. The future phases also dedicate a trail easement along the western boundary for a width of 25 feet that has the potential to be classified as open space also. So what I'm looking at – I was trying to give you the number of what we're dedicating under phase 1 and what the future potential could be dedicated. We were working with the Open Space and Trails Committee and they opted to not take on the dedication of the trail easement, which we thought was ample for the County to utilize because what it does is it ties in the 285 trail end and it would take it all the way into the Lamy or Santa Fe County Road 33 which ultimately ends up in Lamy. So again, we thought what we had was going to be an agreement to dedicate that trail but we still have it listed as part of our open space.

So again, immediately under phase 1 we're dedicating the 100-foot right-of-way section. We also have 100 feet that has to be separated between the railroad track and the first properties adjacent to the railroad track. So our total of open space, and I don't have it right off with me, is well over seven acres.

COMMISSIONER CHAVEZ: So this seven acres would just be for the first phase?

MR. MARTINEZ: Well, again, what we're doing in the first phase is we're actually dedicating two parcels along the south side of the highway, plus the 100-foot setback.

COMMISSIONER CHAVEZ: Okay. So that didn't track so that's part of why I wanted to ask the question. And it's hard not having – I don't know if you have a preliminary plan done or not but not having seen one it's hard to visualize it myself. Are we looking at phase 1 there or is that the whole development?

MR. MARTINEZ: Madam Chair, Commissioner Chavez, this is the whole development. Again, the 100-foot separation we have from the railroad track and along the 285 corridor, that's one set of open space. We will have an additional 100 feet on a future phase, and then we have the trail easement that would run along the west boundary that would tie into the south part of the development. To corner parcels over here, those are our dedicated open space parcels. Our preference at this stage of the game is there's an existing park right directly across from this property that's County owned park. It has picnic tables, it has the amenities of a park. We'd like to leave that open so that the homeowners association has the option of deciding how they want to develop their open space. So that's the extent of our open space is this parcel, this parcel, this strip all along the west side, and then the setbacks we have for the 285 and the railroad parcel.

COMMISSIONER CHAVEZ: Thank you, Madam Chair.

CHAIR HOLIAN: Okay. Thank you. Any further questions for the applicant or for staff? Okay, seeing none, this is a public hearing. Is there anyone here from the public who would like to speak on this case, either for or against. Please raise your hands so I can get a feeling for how many would like to speak. Okay. Perhaps you can all stand up to be sworn in and then when you come forward you can state your name for the record.

[Those wishing to speak were administered the oath.]

CHAIR HOLIAN: Okay, so who would like to start? Somebody please come forward and please state your name.

[Previously sworn, Kathy Olshevsky testified as follows:]

DRAFT

KATHY OLSHEVSKY: Hello. My name is Kathy Olshevsky and I live at 22 Mad Dog Drive. Mr. Miller supposedly met with the neighbors and he did with Spirit Wind but he unfortunately didn't meet with us at Mad Dog and we're actually adjacent to one of the first phase sections. Mr. Miller's agent talked about the trail easement that they had offered to the County and I thought that was really curious because I had spoke to Colleen Baker in the past and I knew that she really wanted to put a trail easement in from the rail easement which is across 285 into Lamy from east to west. And so I called her and eventually got to talk to her and she said that the trail easement that they offered was not suitable for what they required based on code. They needed it to follow terrain and it didn't. It was just basically a 15-foot easement, according to her, that followed the boundaries of the property and was not an east-west connection.

And of course I am concerned about water and I'm not quite sure that our concerns are being addressed per se. I know that there's at least three other developments, one of which is not Mr. Miller's that are going in or being proposed to go in. I just hope that the hydrologist is right because it would be really devastating to run out of water in 50 years. Anyway, I would really like to see larger lots being considered. I really do not want to see two-story buildings. I know that that maybe won't interfere with some of Spirit Wind but it could conceivably interfere with us, because the section closest to us is higher up. It's not as low down as they are referring to, the majority of Sprit Wind West.

So anyway, thank you.

CHAIR HOLIAN: Thank you, Ms. Olshevsky. Who's next?

[Previously sworn, Paul Rice testified as follows:]

PAUL RICE: My name is Paul Rice. I live at 35 Cerro Alto Road, and the first thing I'd like to address is Mr. Beal is not here tonight because of illness and his name was mentioned several times by Mr. Miller's counsel. And while I won't comment on whether the quotes were correct I feel strongly that the spirit of what Mr. Beal was trying to address his concerns were not well represented. While many of the things were talked about that was not the main concerns of not just the people in Spirit Wind, but we're only a small percentage of all the neighbors that will be affected and the community that will be affected by this project.

We are concerned about the water in spite of the fact that the County's water bureau has found to some extent in favor of this project. We know that laws that were passed and zoning that was passed in the 1970s could not have anticipated the crisis that we're in the midst of now in the southwest. And we know what the trend is for water. We understand. We live it daily. I've watched my water pressure drop from 2007 when I bought my home significantly over the years. So I am very, very concerned.

I'm also concerned – I don't see the economic value for the community. When my house was built in 2007, between 2006 and 2007, it employed upward of 20 people over the period of a year, countless contractors and people that lived and worked in Santa Fe were part of that construction. I don't see how modular homes that are coming from some other area are going to benefit our community.

I also think that – I'd like to understand how the spirit of the zoning code that requires a home in excess of 2,500 square feet to have a cistern. Now, I was just under 2,500 square feet but I put a cistern in because I felt it was the responsible thing to do. However, these 39 homes in such a dense area are clearly going to use more water than the surrounding area is

using because we don't have that kind of population, and yet I haven't heard anything in the covenants about cisterns of planning for water going forward.

So these are the concerns I think that many of us that are here and that have signed the petitions have. Thanks very much.

CHAIR HOLIAN: Thank you, Mr. Palmer. Who's next?

[Previously sworn, Paul Olshevsky testified as follows:]

PAUL OLSHEVSKY: Hello, Madam Chair and Commissioners. My name is Paul Olshevsky and I live at 22 Mad Dog Drive just adjacent to the proposed Spirit Wind West. The first question I'd like to ask all you Commissioners is if you received my letters that I sent to every one of you.

CHAIR HOLIAN: Yes. I think that was included in our packet.

MR. OLSHEVSKY: Okay. So I won't have to go over any of the facts in there. However, I did want to bring up it was talked about that there was less water being used by the people in the area. And I believe the reason for that is because the rates have gone up so much that it's a penny a gallon, over a penny a gallon now for our water. And so that's why I believe that people are using less water in the area.

And also I want to talk about the EAWSD, that's the water district that services us. They, in the past, their maintenance program, and I don't believe that they're that much better, has caused water restrictions in the last four years in their maintenance program that they're lacking in. They have exposed lines. They've had leaks, and they have these pressure valves that have been leaking on the south end of the district that have caused water restrictions where we couldn't even wash our cars. The landscape, cars, and I'm afraid that all the building that these proposed developments -- like my wife said there are going to be four of them that are proposed in our area, serviced by this water district. We'll not be able to meet that demand and if we have a leak or a severe rupture in one of those 8" lines that go down by our property we'll be in big trouble and Spirit Wind will be in big trouble too because they're serviced by that. I want to thank you for your time.

CHAIR HOLIAN: Thank you, Mr. Olshevsky. Who's next?

[Previously sworn, Kathy Beal testified as follows:]

KATHY BEAL: Hi. My name is Kathy Beal, and I just wanted to talk about three points pretty quickly. One was the higher elevation -- I'm sorry. I live in Spirit Wind Ranch and our property is adjacent to the new proposal and we don't have a height difference of 20 feet. We have a height difference of maybe three feet. Our property is right next door, so I would definitely not like to see two-story houses. And I wanted to demystify the myth that all Spirit Wind properties are at such a high elevation that a two-story house would not matter.

The other thing along those same lines is since these properties, these subdivisions are adjacent I'm wondering why there's no open space between the subdivisions. That would certainly have helped in our support of the project.

And lastly, everyone is concerned about water and while the wells from Mr. Miller's donation have been pumping in Eldorado we've still been on water restrictions as it is. Every summer we've had water restrictions. A couple years ago we couldn't plant any new plants for landscaping. Just because those wells are there and are pumping doesn't necessarily mean they can support all these new homes. Thank you.



CHAIR HOLIAN: Thank you, Ms. Beal. Is there anyone else who would like to speak from the public? Okay. The public hearing is now closed. Are there any – well, first of all, Mr. VanAmburg, would you like to make some closing statements?

MR. VANAMBURG: Just I understand that concerns were presented but I didn't hear the intensity of these issues as much as sometimes you hear in these proceedings. I would just like to point out that Mr. Martinez and Mr. Miller did what they could to meet with anybody who had some concerns. We were hopeful that Mr. Beal could round up everybody in the neighborhood and if he did not do that certainly I understand why. But we tried to meet with everybody we could just so we wouldn't have to hear at this meeting that we didn't meet with someone. So we apologize if we were at fault at all but we did our best.

This is not a response on the trail connection. My understanding from Mr. Martinez is we have not been told the reason why the trail was not accepted. We're still willing to talk to the County about having the connecting trail. On modular homes not providing jobs – these will not all be modular homes, I'm sure. I'm sure people are going to want to build their homes on site. It's just that if somebody wants to have a modular home it's not precluded.

The water rates are up. Yes, this is a high price for water that people are paying out there and the result is that people cut down on the water use. I don't think that's all bad. EAWSD, the Water & Sanitation District is a quasi-municipality that was approved by the courts. It inherited a system that was in disrepair. They are making repairs; they are adding wells. It's a professional organization and is not following the same patterns that maybe some of its predecessors did. So I don't think that we need to have concerns over EAWSD doing its job in the future.

That's it. If there are any questions –

CHAIR HOLIAN: Thank you, Mr. VanAmburg. Commissioner Chavez.

COMMISSIONER CHAVEZ: Yes, thank you, Madam Chair. Could you tell us how the development will handle conservation and things like water harvesting?

MR. MARTINEZ: Madam Chair, Commissioner Chavez, again, we're pretty much identifying on our subdivision plat that the development will comply with Santa Fe County ordinance, whatever it is, which is very clear. Water harvesting, cisterns. That's how we approach it is we approach it by stating on the subdivision plat that this development will comply with Santa Fe County ordinances. And again, that's the best way we can approach it because when they come in for a building permit pretty much mandates cisterns. They identify water harvesting. They identify the things necessary to follow those particular ordinances and that's what we're doing.

COMMISSIONER CHAVEZ: Okay, Madam Chair. I appreciate that, Mr. Martinez. I didn't see that in staff recommendations and I don't know if this is not the place for that right now, but would staff consider adding that or is that language that is somewhere else that I don't see?

MS. LUCERO: Madam Chair, Commissioner Chavez, it's not listed as a condition of approval but it is an ordinance that will be enforced with they come in for building permit. So we could add it but it will be done because they will be required to comply with our ordinance.

COMMISSIONER CHAVEZ: So if it's a standard it will be part of the review process and they go through the final development of the actual subdivision.

MS. LUCERO: Madam Chair, Commissioner Chavez, it will actually be – the water harvesting will be enforced at the time of building permit, because at this point we don't know the size of the structures that are going to be on each lot. So that's what regulates whether or not cisterns are required or if rain barrels would be sufficient.

COMMISSIONER CHAVEZ: Okay. Thank you, Madam Chair.

CHAIR HOLIAN: Any further questions? Commissioner Stefanics.

COMMISSIONER STEFANICS: Madam Chair, it's more a statement than a question at this point. There are many community concerns and we can identify – well, first the comment. When people buy property they have the right to develop it within the codes and the ordinances. And we've had many difficult cases come in front of us that haven't been received well by communities. And it comes down to whether or not – no one can just buy a piece of property and do whatever they want. They have to abide by the code and by the ordinance. And we are in the process of changing the ordinance, but they have a right to do something within their property.

So we've had difficult situations where oftentimes developers and existing residents have not always had the opportunity to negotiate or reach agreements. So sometimes we have postponed decisions to allow for further time and effort to be put into the process, and we did one just recently with Rancho Viejo. We've done it with Commonweal to actually a couple years. Saddleback. The Girls and Boys Ranch. We've had many, many, many land use decision cases that were even much more controversial than this. And the one thing I'm not quite sure about is whether or not the developer and the communities – plural – have really had the chance to be at the table.

I've heard today that Mr. Miller or representatives met with Spirit Wind but I'm not sure they met with some other areas somebody spoke today about. So I think there might still be some opportunity to work out some issues. I do think we also have been in situations before where we don't want something in our own backyard, and that's a very difficult issue. People say, oh, it's going to wreck my property value. Oh, this is going to happen. Oh, this is going to happen. Well, I'm the same way. I had somebody who was a fracker who wanted to move in next door to me and I was going ballistic.

So one of the things that happens though is trying to work with the code, the ordinance, to work with the community and the developer. And so I'm interested in hearing what my colleagues have to say but this also might be a situation that isn't ready to decide. Thank you.

CHAIR HOLIAN: Thank you, Commissioner. And actually, Mr. VanAmburg, would you like to respond to that?

MR. VANAMBURG: I would, but first I would ask the Commission's indulgence and maybe have Robert Rambo from the Court of Appeals address the efforts of trying to connect with the community.

CHAIR HOLIAN: Okay.

[Duly sworn, Robert Rambo testified as follows:]

ROBERT RAMBO: Robert Rambo, appellate mediator for the New Mexico Court of Appeals. I would – what I can add, Madam Chair and Commissioner Stefanics, is in the course of this process in the last two years of mediating with Mr. Miller and the County there have been opportunities that have been established to try and respond to the community.

As part of that I've been in two meetings that Mr. Miller has conducted with community members. One that was in the Agora Shopping Center in the community room there with members of Spirit Wind Ranch, is I believe the homeowners association and other folks as well. My understanding is the County Land Use has tried to coordinate opportunities to meet Mr. Beal. I've been in touch with him. He's the representative of Spirit Wind Ranch folks.

There have been continuing discussions and we continue to try and provide opportunities for conversations to take place. Any questions?

CHAIR HOLIAN: Thank you, Mr. Rambo. Any questions? And Mr. VanAmburg –

COMMISSIONER STEFANICS: Madam Chair, let me ask a question.

CHAIR HOLIAN: Yes, Commissioner Stefanics.

COMMISSIONER STEFANICS: In your estimation, is there anything that the developer did not attempt that could have been tried with the surrounding neighbors?

MR. RAMBO: I'm not familiar with the process beyond that the Land Use Department does try to collect information from community members and provide that information to the developer. I think there was a list that Land Use has of individuals that may want to speak. I'm not exactly sure how that part of the process works. I was just asked at one point to attend two meetings that were held and was in contact with Mr. Beal about continuing discussions. I guess maybe the answer is I've assisted with monitoring that process and being available if anybody wanted facilitated meetings I engaged in one of those.

COMMISSIONER STEFANICS: And Madam Chair, one other question. Was there great attendance at either of these meetings?

MR. RAMBO: The meeting at the Agora Shopping Center, the community room, I think there was about 20 to 30 people that were in attendance at that meeting. The other meeting involved another project, Tierra Bello, and that was out at the Community Center, I believe, the Eldorado Community Center and there was about a dozen or so folks attending that meeting.

COMMISSIONER STEFANICS: And Madam Chair, was there any changes made in the plans based upon the interactions?

MR. RAMBO: Yes. My understanding is changes were made following both of those meetings and there were continued discussions with Mr. Beal and the Spirit Ranch folks and changes were made all the way up to and including yesterday, there were some additional changes made based on those discussions.

COMMISSIONER STEFANICS: Thank you very much.

CHAIR HOLIAN: Okay. Thank you. Any further questions for staff or for the applicant?

COMMISSIONER MAYFIELD: Madam Chair.

CHAIR HOLIAN: Yes, Commissioner Mayfield.

COMMISSIONER MAYFIELD: Madam Chair, just for the applicant and staff. I don't know what position the Commission is going to take in a few minutes but my suggestion, just as an added staff condition is as far as the trailhead space, the 15-foot wide easement, if staff hasn't gotten back to the applicant or if there's still some language that needs to be addressed, that if you can make the topography of that land accessible as it was brought up I think – and I apologize, Ms. Olshevsky, if I pronounce your name wrong. But if

there's some inclines and stuff that makes that inaccessible in speaking with our staff that you would all address that. I think that's kind of what I've heard. I don't know if Ms. Ellis-Green if that's an issue with you all.

MS. ELLIS-GREEN: Madam Chair, Commissioner Mayfield, are you talking about the proposed trail easement?

COMMISSIONER MAYFIELD: Yes, the 15-foot wide – that's what I've heard.

MS. ELLIS-GREEN: Okay. I understand that the Open Space Department had said that they didn't think it was accessible, so are you asking them to move –

COMMISSIONER MAYFIELD: I'm just asking if that could become a staff condition if this Commission moves forward with this, that has to be addressed. It has to become an accessible 15-foot easement to access that open space.

MR. MARTINEZ: Madam Chair, Commissioner Mayfield, the property in general doesn't have this up and down situation. There's a power line and waterline actually within the same area in this trail easement. The power line, again, like I say, it's very gentle sloping terrain. In this agreement, in this effort to negotiate with Open Space there's an additional parcel that Mr. Miller offered to the County as a parking area coming off of the 285 trailhead that would have allowed anybody to come off and park off of 285 and utilize a trail, plus, they still have the access going south or north into the community of Eldorado. So that property was available to the County and the County just basically said we just don't feel that this trail meets our needs at this time. We're still dedicating it, but the County just felt that they didn't need it at that point. So even in regards to the parking, there was a request for proposals that was out to determine where they could put a parking easement at the beginning of this trail easement. Again, that issue never went anywhere. The County just decided they weren't interested in the trail at this time and they weren't interested in the parking. So that offer that Mr. Miller offered on this parcel of land, outside of this development, up against 285, basically went away.

So you can see, it's been a continuous effort to try to satisfy the trail easement part and we're still open to working with the County on this. It's just they've made the determination that they don't want the trail.

COMMISSIONER MAYFIELD: Thank you, Madam Chair, Mr. Martinez. You bring up another point now, just on some other issues I've dealt with up north. But as far as the parcel of open space – again, I don't know how big it is. Is it a few acres? Ten acres? Twelve acres? We're talking maybe with a picnic area?

MR. MARTINEZ: Madam Chair, Commissioner Mayfield, two of the parcels are greater than 3 ½ acres that would allow for picnic areas and development of the open space as a park for the community of the subdivision.

COMMISSIONER MAYFIELD: Okay. Great. And then it could access some also trail space.

MR. MARTINEZ: Correct.

COMMISSIONER MAYFIELD: And then you may have just broached this, but – because an issue that I deal with up north is parking. Because I would hope then when people decide to park there, because you're going to get other community members outside of this community that will go there, but the issue that I deal with is that there are community

members saying, well, we don't want people parking in our driveways or on our streets. So you guys are then respectfully affording for parking spots within this community also, so people are not parking in somebody's driveway.

MR. MARTINEZ: Madam Chair, Commissioner, that's correct. In these open spaces they would have their own parking spaces allotted for them is what they would do.

COMMISSIONER MAYFIELD: Thank you. Thank you, Madam Chair.

CHAIR HOLIAN: Okay.

MR. MARTINEZ: Madam Chair, if I could just point out one thing that's really important. As of yesterday, two-story houses are no longer in the subdivision. That's the biggest issue that we saw that was hanging over us. We have agreed to eliminate two-story homes entirely.

CHAIR HOLIAN: Okay. Thank you, Mr. Martinez. Okay, what are the wishes of the Board? Okay, well, I will just say that the developer has complied with a number of requirements by the County including protection of archeological sites, access requirements by the Department of Transportation, open space, affordable housing, terrain management, and they have met with the neighbors to try to address some of the concerns that the neighbors had and they have modified the covenants.

With regard to the water, I will acknowledge that there is a memorandum of understanding between the County and the EAWSD. In fact that MOU states the County will accept a will-serve letter from the District, that it is "ready, willing and able to provide a customer with water service." So we cannot really question that letter.

But, in my opinion, this is a development that is not in keeping with the vision of the Sustainable Growth Management Plan. It is sprawl. There's no way around that. That means that it has expensive to maintain infrastructure. It's expensive to travel to work, school, shopping, other things, and there's very little opportunity for efficient use or re-use of water.

This is the kind of development that we've had a lot in our county over the years, and it was very common practice 10, 20 years ago. But in my opinion it's not the kind of development that we really need or want at this point in time. So I really cannot in good conscience vote for this. So I guess I make the motion to deny CDCR Case #Z/X 08-5430, Spirit Wind West Subdivision. Is there a second? Okay, seeing none, the motion dies. Would anybody else like to make a motion?

COMMISSIONER MAYFIELD: Madam Chair, I will make a motion. My substitute motion would move that we would postpone this to our next land use meeting asking that the developer go back and work with the community, one last opportunity, seeing if there could be more differences that could be ironed out, hearing what was stated tonight, and they would come back to us at our next land use meeting, and we could have this case for final action at that meeting.

CHAIR HOLIAN: Is there a second?

COMMISSIONER CHAVEZ: Second.

COMMISSIONER STEFANICS: Madam Chair, I would add something, if the maker of the motion would consider this friendly. I would like to have identified when the applicant comes back the very specific conservation measures that plan to be taken with open space, water conservation, archeological sites and anything else that staff could recommend. But just so that we have very specific comments about it. Thank you. Is that friendly?

CHAIR HOLIAN: Commissioner Mayfield, are you okay with that?

COMMISSIONER MAYFIELD: I am, Madam Chair, but after we take this vote I just need before we adjourn to make one other point. Because that land use meeting will be on what day again, Steve?

MS. ELLIS-GREEN: April 9<sup>th</sup>.

COMMISSIONER MAYFIELD: And if you all will just indulge me, I'm going to just make another clarifying point after we take this vote please.

CHAIR HOLIAN: Okay. We have a motion and a second with an amendment for postponing this case until April 9<sup>th</sup>, with direction given.

COMMISSIONER STEFANICS: Well, Madam Chair, the only thing I would say is we might not need to put a date yet, because we didn't actually put a date on the other postponement we did, and it really is working. The developer and the community is meeting, but it took them almost six weeks to get it together to meet.

CHAIR HOLIAN: Okay. Fair enough. So this is an indefinite postponement until various issues can be worked out. So I have a motion and a second.

**The motion to postpone passed by unanimous [4-0] voice vote.** [Commissioner Anaya was not present for this action.]

CHAIR HOLIAN: So, Commissioner Mayfield, you wanted to make a point?

COMMISSIONER MAYFIELD: Well, I was just going to say if it was to the 9<sup>th</sup> I would just call in and take care of that other case on the 9<sup>th</sup> also.

COMMISSIONER STEFANICS: Madam Chair.

CHAIR HOLIAN: Commissioner Stefanics.

COMMISSIONER STEFANICS: I think just to clarify though, the applicant can ask to get back on the agenda at any time. So the applicant has that right to say I'm ready to come back, and we'll find out if anything has changed or not, in the one month or the three months or the six months. So thank you.

COMMISSIONER MAYFIELD: And then, Madam Chair, on that point, Commissioners. Steve, on that earlier case that we tabled because of the improper noticing, if that's the case I will make myself available by phone on the 9<sup>th</sup> of April that we can hear both of these cases. So I know that we asked to push that other case out, but if that's the case for April 9<sup>th</sup> if that other case has to be brought forward to us, I will just make myself Skype or phone to bring that case back. It is what it is. I'll call in from out of the country last time.

MR. ROSS: Madam Chair, Commissioner Mayfield, if that's the case maybe we notice it for the next available meeting so that we have flexibility.

COMMISSIONER MAYFIELD: Or even for that other case that we pushed back because it can just be heard of. That's fine then. Just so we can make that point of clarification right now please.

MS. ELLIS-GREEN: Madam Chair, Commissioner Mayfield, so can I confirm that that is CDRC Case 12-5340, the Family Dollar Store?

COMMISSIONER MAYFIELD: That's fine. If it's acceptable by this Commission, that's fine that we hear that case as soon as it can be heard, but I just want everybody to know, I will more than likely be participating telephonically. If you guys want

to see my face it will be done through Skype.

CHAIR HOLIAN: Okay. Thank you.

**XVII. ADJOURNMENT**

Having completed the agenda and with no further business to come before this body, Chair Holian declared this meeting adjourned at 10:05 p.m.

Approved by:

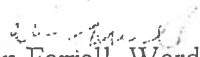
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Board of County Commissioners  
Kathy Holian, Chair

ATTEST TO:

GERALDINE SALAZAR  
SANTA FE COUNTY CLERK

Respectfully submitted:

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





