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BOARD OF COUNTY COMMISSIONERS

SANTA FE, NEW MEXICO

REGULAR MEETING

FEBRUARY 9, 1999

**Paul Duran, Chairman
Richard Anaya, Commissioner
Javier Gonzales, Commissioner
Joe Griñé, Commissioner
Marcos Trujillo, Commissioner**

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SANTA FE COUNTY
REGULAR MEETING
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February 9, 1999

This regular meeting of the Santa Fe Board of County Commissioners was called to order at 5:45 p.m. by Chairman Paul Duran in the Santa Fe County Commission Chambers.

Roll Call preceded the Pledge of Allegiance and indicated the presence of a quorum as follows:

Members Present

Commissioner Paul Duran, Chairman
Commissioner Joe Griñé
Commissioner Richard Anaya
Commissioner Marcos Trujillo
Commissioner Javier Gonzales

Members Absent

[none]

IV. INVOCATION

An invocation was given by Ralph Jaramillo.

V. APPROVAL OF AGENDA

CHAIRMAN DURAN: David, are there any amendments?

DAVID WOLF (County Manager): Yes, Mr. Chairman, there are a number of amendments. First, an item that was posted as an amendment, that's item VII. A. 1 needs to be tabled. And then we're amending to add, the second amendment would be to add item VII. C. 4 is added to read "Discussion on Regional Planning Issues." Item VII. C. 5, which was added as an amendment should now be tabled.

CHAIRMAN DURAN: I'm sorry, VII. C. 5?

MR. WOLF: Yes. That's to be tabled.

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CHAIRMAN DURAN: That's the public awareness resolution?

MR. WOLF: Yes. We'll bring that back at the administrative meeting. Item VII. D. 5 is added to read "Resolution No. 1999-___. A resolution granting a certificate and acceptance of franchise to U.S. Cable to operate a cable television system within the northern part of Santa Fe County and approving the transfer of a cable television franchise from Mark Twain Cablevision to U.S. Cable. That's added as an amendment. That amendment stands.

Then under the regular agenda, item VII. A. 1 should be tabled. Item VIII. B should also be tabled, the ordinance regarding the Santa Fe County resources management plan. We request that that's tabled. I believe that's all the amendments, Mr. Chairman.

CHAIRMAN DURAN: If the Board will allow me, I would like to table item VII. C. 4, a Discussion of Regional Planning Issues. I'd like to discuss it at the next meeting, if you could put it on the next agenda.

MR. WOLF: Which one was that again, Mr. Chairman. I'm sorry. Item VII. C?

CHAIRMAN DURAN: VII. C. 4. Could you put it on the next meeting?

MR. WOLF: At the administrative meeting? Yes.

CHAIRMAN DURAN: Are there any other amendments or changes?

Commissioner Griñé moved to approve the agenda as amended. Commissioner Anaya seconded and the motion passed by unanimous voice vote. [Commissioner Gonzales was not present for this vote.]

VI. APPROVAL OF THE MINUTES: January 12, 1999

Commissioner Anaya moved to approve the minutes of the January 12, 1999 meeting as presented and Commissioner Trujillo seconded. The motion passed by unanimous voice vote. [Commissioner Gonzales was not present for this vote.]

January 26, 1999

Commissioner Anaya moved to approve the minutes of January 26, 1999. His motion was seconded by Commissioner Griñé and passed by unanimous voice vote. [Commissioner Gonzales was not present for this vote.]

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VII. STAFF AND ELECTED OFFICIALS

B. MATTERS OF PUBLIC CONCERN - NON-ACTION ITEMS

None were presented.

VII. C. MATTERS FROM THE COMMISSION

- 1. Resolution No. 1999-15. A resolution supporting legislation enactment prohibiting the possession and banning the use of laser pointers by minors**

VIRGINIA VIGIL (Assistant County Attorney): Mr. Chairman, members of the Commission, this resolution before you was presented to you by testimony at the last County Commission Board meeting. If you will recall, Jose Villegas presented to you the dangers of it. The resolution in its basic format actually just supports the recommendation that a statute be enacted prohibiting the laser pointers and prohibiting the possession of them to minors because of the current danger, based on the testimony that was heard by Mr. Villegas. So if the Commission decides to enact this resolution today, you would just be supporting the enactment of statutory language. If you have any questions I'd be happy to answer them.

CHAIRMAN DURAN: Any questions of Virginia?

Commissioner Anaya moved to approve resolution No. 1999-15 and Commissioner Griñé seconded the motion.

COMMISSIONER TRUJILLO: I have a question. The resolution will now be given to the legislature for consideration of changing of the state statute regarding lasers? Is that what this resolution is about?

MS. VIGIL: Mr. Chairman, Commissioner Trujillo, certainly we can do that if directed by the Commission. I believe that there was going to be, my understanding from what Mr. Villegas had spoken was that they would be presenting the request for the statutory language, but if the Commission requests that we follow through with that, certainly we could.

COMMISSIONER TRUJILLO: I think that it needs to go to the state legislature so that they understand what the position of the Santa Fe County Board of County Commissioners is so that when Jose Villegas goes before the legislature they know that there's support from this local government entity.

MS. VIGIL: And certainly, Mr. Chairman, Commissioner Trujillo, because I'm following the legislation, I would be there on behalf of the County Commissioners testifying that a resolution had been enacted if the Commission chooses to do so.

COMMISSIONER TRUJILLO: I'd like to see that.

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MS. VIGIL: Very well.

COMMISSIONER ANAYA: It's probably the same route that the spray can legislation followed, go through the committee, of course. And they iron it out from one committee to another over there as far as the verbiage of the legislation and the intent of the legislation. I think we're steering in the right direction. Right now is the proper time for the momentum to let the legislature structure some type of support to this type of resolution.

MS. VIGIL: May I just have a point of clarification if the motion is before you, if in fact the Commission is asking that we draft the legislation or that we just support the legislation should it be presented to the legislature? I would just like a point of clarification on that.

CHAIRMAN DURAN: Well, who would draft the legislation?

MS. VIGIL: My understanding is that Jose Villegas was going to request the statutory changes to the legislature. In fact, I think that the appropriate route after that would be, once it has been enacted, the Commission would present testimony to that committee who are hearing the statutory change that we have enacted or passed, if you choose to do so, a resolution supporting to do so.

CHAIRMAN DURAN: I don't know much about the bill making process but my understanding is that you need to find some one that will sponsor the bill and maybe the Association of Counties would help us draft that bill since we've adopted this as a resolution and then try to find a senator or someone that would sponsor it. I think you'd probably get it approved a lot quicker than I think petitioning them just from the floor.

COMMISSIONER ANAYA: I think we have until February 13, the legislature has until February 13, which is the deadline for presentation of any kind of legislation.

MS. VIGIL: Mr. Chairman, Commissioner Anaya, it's February 18 at 5:00 is the deadline.

COMMISSIONER ANAYA: February 18, okay. And then perhaps from there on, somebody will sponsor the bill and it will go on to Business and Industries in the House, probably, and Corporations in the Senate Judiciary in both houses. And from there on, it's the force of whoever sponsors the bill and the language in the bill that probably will give it the thrust of enactment. It's quite a process.

CHAIRMAN DURAN: What if we leave the route that this thing takes up to you, find the quickest and most effective way of doing it.

MS. VIGIL: I would so be directed.

COMMISSIONER TRUJILLO: That's fine.

COMMISSIONER ANAYA: Find who sponsored the spray can graffiti bill. That's a start.

Upon voice vote, the motion to approve Resolution No. 1999-15 passed unanimously.

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CHAIRMAN DURAN: Thank you, Virginia.

VII. C. 2. Discussion on adopting policies and procedures in preparing the budget

CHAIRMAN DURAN: This is an item that I brought forward after a meeting I had with the League of Women Voters and I see that we have a representative out there. I forgot to bring that paperwork that you brought me and I was wondering if you might be able to just give us a quick run-down. Actually, I don't mind dealing with it. So the League of Women Voters actually had some suggestions dealing with routine monthly budget reports. It is their opinion that the Commission has not been given timely information about the budget and their suggestion is that we should be routinely given monthly reports on the budget.

David, I'm just going to go through these quickly and if you could respond to them, because I know that you had some ideas on how to streamline the budget process or to amend it somehow so that we are fully apprised of the budget as the year progresses. On the annual budget, the observation is that the Commission has not been given adequate information in the budget document presented to it annually for its approval. What has been presented is a thick stack of spreadsheets in which the big picture is lost in the detail. And I was told that the report that's given to DFA is much more concise and easier to read for the layperson, of which I happen to be one of them. And so it would be nice to have something that is easily read and understood.

I remember seeing a stack of computer print-outs on the budget when I first asked for information on it. That was a different -- when I first got into office. And then addressing the DFA concerns, the Commission has not had adequate contact with those outside the County staff who could tell the County about the budget problems and -- I'm just going to read this to you. "When DFA invites members of the Commission to meetings between County staff and DFA staff, at least one member of the Commission should attend to insure that members of the Commission hear first hand of DFA's concerns about the County's budget and finances." And perhaps if one of us had been at one of those meetings when we had the problem last year, it wouldn't have come as such a big surprise.

So with that, I'll leave it to you, David, to comment a little bit on that. I know that in the last few months, you've really kept me posted on some of the issues and the budget, so the floor is yours.

MR. WOLF: Thank you, Mr. Chairman, Commissioners. First of all, we started this fiscal year off with a number of budget and financial problems that we've addressed. We've taken care of the \$3 million budget deficit, we've addressed the qualified audit issues, and at the same time, the Finance Department has really done a good job, and the MIS staff in converting systems. That's going to give us more flexibility in the kind of

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reports that we'll be able to provide to the Commission. Then in December, we started giving to the Commission, and this will be monthly at the administrative meetings, an update on our revenue projections versus budget. So we'll continually roll our projections on a monthly basis and compare those to budget to give you a status of where we are. And the last projections that I gave you, we were within \$50,000 to \$60,000 on our general fund projection versus budget, which is less than a quarter of a percent within budget, so very close on the revenue projections.

And then we will give you on a monthly basis a status of budget expenses at a category level, which I think won't be so cumbersome. There won't be so much detail. If I tried to give you line item information throughout the County I think that's in so much detail that wouldn't do you any good. But I think if we can give you category type budget status information on the expense side by cost center within the departments, I think that would be at least something to start with and then that may evolve on what turns out to be the best kind of information to provide the Commission and we can go from there.

So that information -- and I'm open also to looking at the reports we provide DFA and see if that might be some information we can give you also. In regard to the new budget, fiscal year 2000, the budget packages will be going out to the department heads, I believe, next week for them to start to put their budgets together for the upcoming year. And then I want the departments to spend some time thinking about that. And a couple, two to three weeks after that, I want to hold a study session with the Commission so we can incorporate the Commission's initiatives and ideas into the budget cycle instead of bringing the budget to the Commission at the tail end after the budget has already been completed at the staff level. And hopefully, the study session will be a good opportunity to brainstorm and educate the Commission or have some dialogue on the sources and uses of funds and what the Commissioners' issues are. So that's kind of an overview, I think of where we are and where we're going.

COMMISSIONER GONZALES: Mr. Chairman, I would also concur with you that David has kept certainly me up to speed as to how our finances are progressing. That communication has definitely existed so we're able to really feel good that things are progressing. On the budget for this fiscal year -- well, the other thing that I would say, David, is that for members of the public who may want it, that's always available also. If someone put in a request and they wanted to know the financial situation of where the County was today and how much we spent of what our budget is, that's all public information that can be provided in a fairly decent timely manner. Is that right?

MR. WOLF: That's correct.

COMMISSIONER GONZALES: So that's available. The second thing I would also point out why I support how you want to do the budget this year is because I think it's better, as opposed to what's happened in the past. What's happened is that the department heads have had the first shot at our budget, and that's been allocated, and then whatever's left over, we get the chance to actually talk about up here and seeing how we're

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going to use that for our roads or for culverts or whatever it is, we basically move in at the end of the budget and whatever's left over we get to actually try and allocate to our constituents.

This other way helps us in the fact that we'll set the priorities before that is done. David will know what the Commission direction is as far as how many more roads we want to take care of or how much of an increase in staff we want in some areas, or police protection or whatever it is so he has an idea of where we want to go and so when he's sitting down with the department heads then he can control that budget process up front as opposed to us coming in at the tail end. I really concur with that, David, and the study session -- it's more than a study session, it's a budget session where the Commission is in there talking about what our priorities are and telling you, this is what we'd like to focus on for the year and then building your department budgets around those priorities, which is great. I don't think we've ever done that.

CHAIRMAN DURAN: I know, David, at the end of the year, or at the mid-year budget review that you gave us that that was very informative and I appreciate all the effort you put into getting us up to speed on where we were in the budget. This is pretty much kind of an informative thing. I just wanted the League of Women Voters to know that the County Manager has taken some steps to address some of your concerns and it is going to be an ongoing process of trying to make it more effective and more -- so that it's easier for us to understand and to work with in it.

NEVA VAN PESKI: We've discussed our concerns with the County Manager.

VII. C. 3. Discussion on the extension of South Meadows Road to State Road 599

CHAIRMAN DURAN: This actually affects Commission District 2 and 1 --
COMMISSIONER GONZALES: And 3.

CHAIRMAN DURAN: And 3, and basically, I think what we really need to do -- I know that the Arterial Road Task Force has recommended that South Meadows Avenue be extended to 599 and we all know that those recommendations have taken a little bit of time to go through the City and the County. One of the things that I'd like to do is to ask the Commission to give Larry Velasquez some direction here to go out there and to actually work with the state and any other entity that can help us in achieving this goal.

In one of the meetings that I had with the state they indicated to me that there could be state funds available to the County if South Meadows Road actually extended to a State road and that State road is 599. So I would like for Larry to give us a presentation this evening but ultimately, when we're through, I'd like for you, Larry, to go out there and actually pursue this vigorously and see if it's something that we can put together in the near future. It will alleviate traffic, which is desperately needed on Agua Fria Street, on Airport

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Road, that whole section just needs some traffic relief and I think this would be a major arterial road that would provide that. Larry?

LARRY VELASQUEZ (Public Works Director): Mr. Chairman, Commissioners, this particular corridor has been talked about probably at least seven years that I'm aware of and in general it has had positive support both from a technical standpoint and from a community standpoint. A portion of this, and I think it's easier to talk off the map, but the portion south of Airport Road to Jaguar Drive is built and there's also one concern that the community of Agua Fria had, because there was also a proposal at one point by a developer to build between Airport Road and Agua Fria and they were concerned that if that was done, then all the traffic would just go onto Agua Fria.

They said, well, if you built it backwards, essentially from the Relief Route down and the Relief Route didn't exist at the time, then that connection would assure them that it would be a connection to move beyond Agua Fria. Now that at least the frontage road of the Relief Road is constructed, it seems timely that some development start on this because the window of opportunity may start closing. There is a request before the legislature for \$100,000 and the bill has been introduced to start an alignment and preliminary design and hopefully that may be -- hopefully we'll be successful in getting funds for that. If that happens then we will try to establish a design team with people from the community, the City and probably the Highway Department and the schools probably to develop that.

I think the alignment, at least between Agua Fria and Airport Road is pretty much set. There's not a whole lot of places to move it. The north side of the river, there's a whole realm of possibilities with that. Some make sense, some don't. Most of the property owners that are included in here, at the time that we were having some discussions, most of them were very supportive and very willing to participate with easements and right-of-ways. There is a potential for one house to be affected. We had some discussions with that and there were possibilities to address that, relocate the house and issues like that.

So I think there's a lot of at least grass roots support for this. If we're directed to move forward, we'll certainly do that.

COMMISSIONER TRUJILLO: Mr. Chairman, how does this fit within the ARTF?

MR. VELASQUEZ: The ARTF actually supports this. They endorse this corridor.

COMMISSIONER TRUJILLO: So it's within the road infrastructure, traffic distribution, master plan in this area?

MR. VELASQUEZ: Yes it is. They had endorsed this particular one.

COMMISSIONER GONZALES: Mr. Chairman, Larry, I agree with you that there is community support in seeing this eventually come to be. In the meantime though, I know that several people have expressed concern about what's happening on the Peppard property as far as what traffic is doing right now and the fact that because of a lack of barriers that it's creating a lot of use on that property that really hasn't been approved or

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gone through a public hearing or had input. And I guess, and I don't know, Denise, I don't know if you could provide counsel on this, but what happens in areas where there's this vacant land sitting between two major arterials -- it hasn't been approved for use for general public use. The property owner apparently has opened it up and the public is using this road, or using this property to access other areas. And it's affecting the community right next to it or at least the neighborhoods right next to it.

I don't think our obligation enough is to say, well, we told them to put up the barrier. Is there more that we can do to assure that this property doesn't turn into just a regular traffic area and affects the neighborhoods around it?

MR. VELASQUEZ: Mr. Chairman, Commissioner Gonzales, the problem out there is that everything is pretty flat and there's essentially trails all over. I had a discussion with Dr. Peppard, probably about two, three weeks ago, and he indicated that he had actually fenced off -- I don't know if he fenced off the whole thing or the areas he thought were a particular problem, because basically they were trespassing over his property. And apparently, they've gotten around those, the barricades that he placed.

COMMISSIONER GONZALES: Let me ask you this, Larry, when they get around the barricade, is the road that they're using the proposed alignment to South Meadows or is it different?

MR. VELASQUEZ: It's all over the place. There's trails all over the place. I don't think that it necessarily follows the alignment of South Meadows.

COMMISSIONER GONZALES: if this road is in continual use though, don't property owners try to establish it as being some sort of right-of-way use or that it can become a road because it has been used for a period of time? Aren't we concerned that this just will de facto become a road because people have been using it?

DENISE BROWN (County Attorney): Mr. Chairman, Commissioner Gonzales, it would require -- you're talking about someone acquiring a prescriptive right to use that road and they could if the landowner doesn't block off the road. If the landowner makes efforts to block the road and it's still used illegally, that's a trespass and it can't establish a prescriptive right. If there are efforts made and you plow over the fence or break the gate -- to stop a prescriptive right from occurring on your property, you just have to make reasonable efforts to stop people from using it. If they continue to override your efforts, that will not allow them to establish a prescriptive right.

COMMISSIONER GONZALES: Is there anything that the County can do though, other than requiring him to have a barricade up, to prevent the use? Again, we have people here from the neighborhood that are being adversely affected by the fact that these barriers aren't preventing people from using that property to get from one side of Agua Fria to Airport Road and I think they're looking to us for some kind of help in this area. I don't know -- it's hard for me to go back and say, well, we told them to put up the barrier. People are just going around it.

MS. BROWN: Mr. Chairman, Commissioner Gonzales, it would be up to

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the private landowner. If they requested our help and we thought there was a health and safety issue, we might be able to assist them, but without the request from the landowner over whose property these folks are driving, we wouldn't have a right to go on their property and put barriers on our own.

COMMISSIONER GONZALES: Has it been a requirement of us to have them barricade them? Has the County officially indicated to Dr. Peppard that that property needs to be barricaded?

MR. VELASQUEZ: Not that I'm aware of. The indication I got from him was that he had done that on his own, just to keep people from trespassing. As he indicated, they have gotten around it. So I think he is willing to try and do something but I don't know to what extent you can physically barricade something without them getting around it.

COMMISSIONER GONZALES: Mr. Chairman, I know that's it's a busy night but is there a chance for the people in that area, to listen to their concerns? They've asked for this also and I don't know if Mary can come up and maybe describe what the concern is with the use of our property, whether that's appropriate or not.

CHAIRMAN DURAN: Well, Commissioner, let me ask you a question. You're wondering how we can require the property owner to prevent people from trespassing?

COMMISSIONER GONZALES: I think what I'm wondering is what we can do to protect the neighborhood that's being affected by continuous use by a number of vehicles throughout the day on Dr. Peppard's property. And this is in line with South Meadows. It's not necessarily going to be the alignment but this neighborhood has been complaining for some time about the use of this property illegally. I just don't -- is it enough for us to tell the neighborhood, sorry, we can't do anything about it? Or is it enough of a health and safety issue that we need to do something about it?

CHAIRMAN DURAN: What could we do?

COMMISSIONER GONZALES: That's what I'm asking. And I don't know if I'm properly articulating what the neighborhood's concerns are and I know they've been asking to discuss this and that's why I'm asking for your indulgence if they could just briefly state what their concern is.

CHAIRMAN DURAN: Well, sure. What about land mines?

COMMISSIONER GONZALES: Thank you. If the neighborhood could just be cognizant that this is a busy night, if we could keep it brief.

MARY DELORENZO: Thank you, Commissioner. Thank you, Mr. Chairman. I'm Mary Delorenzo with the Tiempos Lindos Homeowners Association and I just wanted to clarify one point and then if you'll allow Helen Wunnicke, who is our development committee chair just to kind of give you some further information.

The barricades that Dr. Peppard is describing, he actually fenced off his portion of the property in two sections. And those fences are intact. But he left the corridor in between the fences for cars to drive down the South Meadows easement and he opened up

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the easement for the Rufina Street and is routing traffic along that easement and then onto our private road. And we understand from the City that he was not given permission to open the easement on the Rufina Street onto our private road. And what we have been asking is for him to close access to our private road that he opened on the Rufina Street easement.

But you really need to close it at the other end also or people are going to drive down the South Meadows to the Rufina and then when they find that end barricaded I could see how they could try to get around. But as far as the neighborhood is aware, his fences are still intact and nobody has torn those down because he's created a roadway in between the fences and along Rufina Street and as far as opening up that easement, we understood that there is typically a.) written permission given and b.) some kind of reports done before you can even grade a road and just open it up, and he did none of that. We have tried contacting him. The association has sent him correspondence registered return receipt and he has refused our correspondence.

So then we turned to the County for some help because the City said that it is their easement but it's a County issue and since it's a private road we really didn't know where else to turn so that's why we came to the County and said can you help us get the heavy traffic off of our private road. We're concerned that it presents a safety problem and also people will get used to using that. We're getting traffic from Cottonwood cutting through our neighborhood and using this illegally opened access.

COMMISSIONER GONZALES: So, Mr. Chairman, Mary, so what you're saying is that there was a previously closed point that went into your community and now that he's directed traffic, he's directing traffic right into your neighborhood as a means of getting through from Agua Fria to Airport?

MS. DELORENZO: Yes. And it's an easement that the City owned, but it had been fenced off for the eleven years that I've lived there and just recently, in the last six months when he put up his fences to keep people off his property, he opened up the Rufina Street easement.

COMMISSIONER GONZALES: So he's directing traffic so that it stays off his property but it moves through yours?

MS. DELORENZO: Right. And Helen has a map.

HELEN WUNNICKE: I'm sorry that I don't have this arranged so that everyone can see in this drawing because I didn't know what we were going to be discussing or how far. It is a small scale. But what I'm showing is that this is the existing South Meadows Road south of Airport Road now. In following what Mary has said, this is the land of Dr. Peppard's and this is too. And this is too. This is the proposed Rufina storm sewer and street right-of-way. That right-of-way continues through here for the storm sewer. I'd like to give you some information updated from last night's public works committee after we talk about this.

When Dr. Peppard fenced his land, he fenced around here. He fenced around here

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and then he graded the City right-of-way. I myself stopped the grader operator. It was on August the 8th. And I went out and talked to the grader operator who did not have a permit and this person was working for Dr. Peppard, who took the virgin land and graded a road, running from this intersection of this proposed right-of-way and your County proposed South Meadows Road. So he graded a road through here, took down a tree, and opened it onto our private road which is Morning Drive.

So what has happened as a result now, this is all fenced and no one is breaking fence. I actually live here so I see everything over here. The people are not going through the old trails in the field the way they used to go. Not that many. But now they're going here and going here and going here. Or coming up this way, getting lost and tearing around in our neighborhood and it is a private road. This is a designated private road of ours.

I did talk to the City months ago. I talked to Chuck Lange and he said it would be fine if we put a barricade here to protect our private road from this business here in the City right-of-way. He said that would be okay. Well, what needs to happen as well is that it is barricaded up here. Of course this is Ted Berridge's now. He's going to put his place and you've got your signal going up here. But we need to have at the back of Ted's place here, we've got to have really a very clear barricade because as Mary said, people come down and all heck will break loose if they go down these corridors and there sometimes are yahoos going through.

CHAIRMAN DURAN: Is this a dedicated easement?

MS. WUNNICKE: This is? Yes it is. South Meadows is a dedicated easement and each property owner along the way has your 60-foot width easement platted into their development. So Ted Berridge does with his Texaco station, he's getting ready to do and it's platted through and he's going to build a portion there. And then Dr. Peppard also had to dedicate his portion through here. This is Lino Garcia's property and the County needs to work with Mr. Garcia. He's up in Abiqui now and there have been some problems in the past because it was kind of splitting up his family land. So there's some work with Mr. Garcia.

COMMISSIONER TRUJILLO: So it's not a dedicated easement on the proposed --

MS. WUNNICKE: Over here or down here?

COMMISSIONER TRUJILLO: On the proposed?

MS. WUNNICKE: Well, this is all proposed if my map isn't clear. I don't know the answer to that.

CHAIRMAN DURAN: Larry, do we have the right to enter onto this property, this section here?

MR. VELASQUEZ: The only part that's clear is this 800 feet which Berridge will build. There seems to be some confusion about whether this is dedicated or not. Dr. Peppard bought this from Lee Brown. And Lee Brown had a proposal way back many years ago and Dr. Peppard's opinion is that that is dedicated, but it's not real clear as to whether

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or not -- the issue is that whether it is or not, they're willing parties to grant the easements. So it's unclear as to whether that's dedicated at this point or not.

CHAIRMAN DURAN: But until we actually agree to use this as a road, can we go in there and put a barricade here?

MR. VELASQUEZ: That's the proposal we have for Berridge, because they're going to build about 800 feet of this road and at the end of that there will be a big barricade on that. How long it will last, it's difficult to say.

CHAIRMAN DURAN: So that takes care of it then.

MS. WUNNICKE: It does if we can get some help to get closed on this end, because frankly -- that would take care of it except that we need the barricade on the side of the City right-of-way over here. And our neighborhood does have liability concerns if we go and put barricades up there, what should we put up and if somebody runs into it or they break it over here and run into it -- we would like some help and that would probably be working with the City to get this closed back off again except for pedestrian use, that people could go ahead and walk on here.

And that part makes sense because we are currently in the works of getting this designated for an urban trail. We've been doing lots of work with the City and I do have a little information to help you with South Meadows. But currently we're looking at this area beyond South Meadows to be a designated urban trail through here, which is San Felipe. So this is a walking thing and we would like to have continued walking access on the City right-of-way and that's fine with the City and it's fine with them if we block it off to the vehicular traffic, because it needs to be closed again on the two ends. But we're not sure who to turn to to get this blocked off on the city side. We appreciate very much the willingness to get this thing closed up here. We don't know what to do here. Actually Rufina's not going to go through there.

We've been working with the City, actually and all we have to do is get final council approval and Rufina Street is --if we get full council approval and we obtained unanimous approval from the City Public Works, as well as ARTF recommendations to stop Rufina Street as South Meadows. So this is actually coming out. It's no more. I do want to tell you one thing that did happen at the Public Works meeting to help you with this part.

CHAIRMAN DURAN: Just a sec. Commissioner Anaya, did you have a question?

COMMISSIONER ANAYA: I have a question. It's probably more of a concern. Should that particular corridor -- if we should structure a barricade there, I'm sure that would come before the EZA, is there a potential of the back lands there since Rufina is merely proposed at this time, would we be controlling access to those points. I'm not sure as to the legalities. I'm not sure what kind of dedication rights or prescription rights are allowed on that particular proposed South Meadows Road.

MS. BROWN: Mr. Chairman, Commissioner Anaya, I'm not even clear where this property is. Is it in the EZ? Is it in the County's jurisdiction? It's really hard

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for me to render any kind of legal opinion. I've never seen a map of this and I really don't know what we're talking about. It seems to me that we need to be concerned about -- so this property is --

CHAIRMAN DURAN: I think the answer is no. The Peppard property is on either side of this and if this barrier is right where his barrier begins, I don't think he can be landlocked, especially since his proposal is to extend an easement through his property.

COMMISSIONER ANAYA: Either way, I think it will surface later on. I just bring it out as a matter of concern. After all, this is only discussion anyway, but these are things I'm sure will surface later on.

COMMISSIONER GONZALES: Mr. Chairman, let me just ask this question. So if I understand correctly, was there a barrier on the entrance into Morning Drive, the Morning Drive subdivision? Was there a barrier that was there? There's never been a barrier for the easement? There was a fence that went from the easement of Rufina -- that prevented the easement from Rufina from going in to the Tiempos Lindos. So there was a barrier there?

MS. WUNNICKE: Yes, there was. There was an existing barbed wire fence across that right-of-way that he graded and he took it down.

COMMISSIONER GONZALES: So during this whole process, he took it down and directed traffic right into the Tiempos Lindos Subdivision.

MS. WUNNICKE: That's correct.

COMMISSIONER GONZALES: So my question, Denise, if he went and he voluntarily took down this barricade, and it routed traffic onto that private road, can't we require him to put that barricade back up?

MS. BROWN: Mr. Chairman, Commissioner Gonzales, without looking at the deeds, generally, private property owners can do whatever they want with their property. And if I want to put a road on my property or a driveway or a house or a barn, I can. If at the point that those folks become trespassers is apparently not on Mr. Peppard's property if he's allowing people to drive on to it, they're not trespassing.

COMMISSIONER GONZALES: What he's done in effect is he's created a route that is routing them into a private subdivision.

MS. BROWN: Which would require the folks who believe he is trespassing, those drivers are trespassing to barricade the point that they think the trespass begins. So it would be incumbent upon -- if my neighbor were doing this and put a road straight across their property and it dead-ended into my property line so logically then people would drive onto my property, I need to barricade my property to keep people from coming on to it.

COMMISSIONER GONZALES: So you're saying that the Tiempos Lindos Subdivision needs to barricade the road on their side of the property.

MS. BROWN: That's right.

COMMISSIONER ANAYA: Mr. Chairman, that's exactly the reflection of my concern as to where the barricade should go.

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COMMISSIONER GONZALES: What about the issue that they brought up about liability?

MS. BROWN: I have the same concerns. I'm not real clear, but I kept hearing that it's a City right-of-way.

MS. WUNNICKE: That's correct. It's the Rufina sewer right-of-way that intersects our private road, and that is the right-of-way that Dr. Peppard opened up and graded within the City right-of-way.

MS. BROWN: So the City owns that right-of-way.

MS. WUNNICKE: That's correct. And so this is not a case of people trespassing through Dr. Peppard's land. It is fenced and there's no fence breaking going on.

MS. BROWN: I would be concerned about us going on -- that's basically a City-owned easement. We certainly would want the City's permission. If we're going to barricade their easement.

COMMISSIONER GONZALES: I understand and I agree with your concern. Is there a reason why Mr. Lange didn't want to put up a barrier or why the City is not -- you understand the dilemma the County is in. This is City-owned property and to exert [sic] a barrier there is going to prevent -- they just wouldn't allow it. Why is it that the City indicated they wouldn't put a barrier up?

MS. WUNNICKE: I think maybe it's because we haven't pressed the point and we'd be certainly happy to write another letter and see if we can get written documentation from the City for their help in getting this done then we could report back to you.

COMMISSIONER GONZALES: Mr. Chairman, can I ask if we help in pressing that point, possibly by issuing a letter from the Chair asking the City to consider this on behalf of the neighborhood. The Commission has deliberated. We're concerned with it. We're asking the City to put up the barricade and to listen to the neighborhood's concern.

CHAIRMAN DURAN: Sure. That would be fine with me. The other thing I'd like to add, maybe we can ask David. I don't think Mr. Peppard is an unreasonable man. Maybe he doesn't want to deal with you but I think that if the County Manager gave him a call and told him we had a concern, that I can't imagine that he wouldn't be cooperative with us. He's going to need our support and the City's support some time. It would be a nice thing for his to do, I would like.

COMMISSIONER GONZALES: That's a good suggestion.

CHAIRMAN DURAN: But coming from the manager I think would be the best thing. That would be another way we could help the neighborhood.

MR. WOLF: Mr. Chairman, I'll call him.

CHAIRMAN DURAN: Do you know how to get a hold of him?

MS. WUNNICKE: I've got an address and a number. That's the most current thing that I have so I'd be happy to give that to you.

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CHAIRMAN DURAN: Actually, you know what, David? I think Oralynn knows how to get a hold of his agent. Isn't his agent Richard Gorman?

ORALYNN GUERRERORTIZ (Subdivision Engineer): We have Dr. Peppard's number also.

MS. WUNNICKE: Okay, because it used to be Richard Gorman and I think it's not now.

CHAIRMAN DURAN: Okay, great. Well, that sounds like a plan.

COMMISSIONER GONZALES: Mr. Chairman, with that, can we ask Larry to draft a letter for your signature?

CHAIRMAN DURAN: Either mine or Commissioner Gonzales.

COMMISSIONER GONZALES: Or mine. I don't mind sending it. I thought it was more effective from the Chair.

CHAIRMAN DURAN: I'll do it.

COMMISSIONER GONZALES: We could do both of our signatures. How about all five of us?

CHAIRMAN DURAN: Could you do that for us, Larry?

MS. WUNNICKE: Mr. Chairman, would it be possible for us, in that letter for this fencing along the Rufina Street side adjacent to Morning Drive, that this be built in a way that is suitable for pedestrian access?

CHAIRMAN DURAN: Why don't you get with Larry? Why don't the two of you come up with what the neighborhood would like and have David take it to them.

COMMISSIONER GONZALES: Mr. Chairman, this would be more -- the letter would go to the City, asking them to do this. David, I think your suggestion of David meeting with Dr. Peppard is an excellent one.

MS. WUNNICKE: We really appreciate your help. I know that we've taken a lot of time and actually, I wanted to stand up to give you a point of information, because I've been doing a lot of work with the City and there was an issue that came up at Public Works Committee last night that directly affects this issue that you're dealing with, South Meadow. I wanted to just give you information from that.

CHAIRMAN DURAN: I'm not sure if this is a public input item. I really just wanted some discussion amongst the Commissioners, but I'll allow you a few minutes to talk to us about it. We have to get moving along.

MS. WUNNICKE: Okay, I'll go very briefly. I'm just giving you this because I'm hopeful that this will be helpful to you. Basically, because of the work that we've been doing and the neighborhoods in our area have been doing for the last six months, it -- Rufina Street, it looks like, is going to terminate at South Meadows. Because of this, the City Engineer's Office is now looking at taking the Rufina Street storm drain, and instead of running it along the old alignment over to San Felipe, it's looking at turning it north on the South Meadows right-of-way and into the river and they're looking at the issues of whether they can clear the utilities in Agua Fria Street, because it's going to be a big

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pipe, 84", and get to the river or not.

They figure they're going to save some money and contribute to South Meadows, so I'm just going to read you this very small bit. The benefit to the City of this modification to the storm sewer outfall if the storm sewer outfall is possible is some savings in land costs and construction costs as well as reallocation of these funds to securing rights-of-way along South Meadows Road to Agua Fria. So I just wanted you to know what had happened, because it may be that if the City is going to reroute their storm drain north on South Meadows that that will help the County to procure the right-of-way between south of the river and that that might help. If the City and the County are working together, maybe the City will procure some right-of-way and you guys don't have to do it. So I just wanted you to know what had happened in case that might be helpful to the process.

CHAIRMAN DURAN: Thank you very much.

MS. WUNNICKE: Thank you so much for your help from all of us in the neighborhoods over there. It's really nice of you to take the time for us.

CHAIRMAN DURAN: The last thing under Matters from the Commission is I just wanted to ask Larry and David if you could check something for me. Actually, maybe it's Oralynn. The Agua Fria Village Association has heard a rumor that the City's General Plan is going to take away the historic designation of the village. And I was just wondering, I've never heard that, but to dispel these rumors, I was wondering if you could investigate that for me and get back to me as soon as you can.

MS. BROWN: Mr. Chairman, I can answer that now. Agua Fria became a traditional historic community under state law and the purpose of that state law was to prevent involuntary annexation by a city. So the Village of Agua Fria can only be annexed by the City if there's a certain percentage -- and I don't remember what it is -- of the voting members in the Village of Agua Fria who allow the annexation to occur. But the City doesn't have any jurisdiction or power to delete its status.

COMMISSIONER ANAYA: We went through that through the hearings as they wanted to incorporate and all that and that was extensive hearings in those days.

CHAIRMAN DURAN: Well, we're going to take a two-minute break here and go into executive session. We have a very special guest here this evening. It's Commissioner Gonzales' daughter. I'll entertain a motion to go into executive session.

Commissioner Anaya moved to go into executive session to discuss limited personnel matters and was seconded by Commissioner Grifé. Upon roll call vote, Commissioner Anaya, Commissioner Grifé, Commissioner Gonzales, Commissioner Trujillo and Chairman Duran voted to go into executive session.

VII. D. MATTERS FROM THE COUNTY ATTORNEY

1. Executive Session

a. Limited personnel matters

[The Commission met in executive session from 6:45 to 7:30 and reconvened with all members present.]

Commissioner Anaya moved to come out of executive session, having discussed limited personnel matters. Commissioner Gonzales seconded and the motion passed by unanimous voice vote.

COMMISSIONER GONZALES: There was one issue that came up prior to us finishing Matters from the Commission. I don't know if this was brought up but I was informed by people from the southern part of the county that we've discontinued our notification down in the Edgewood area of public hearings. Orallynn, are you saying "no" because you know for a fact we've put publications or we've put listings in the Edgewood paper?

MS. GUERRERORTIZ: Yes, I do know that.

COMMISSIONER GONZALES: Do we have the receipts of all that and everything just to make sure so people can see it? Good. Well, in that case, I just wanted to make sure that that continues to happen. I don't know if you need anything from us but let's make sure that that doesn't cease. Thank you

CHAIRMAN DURAN: Thank you, Commissioner Gonzales.

COMMISSIONER GONZALES: And if you can provide those to Mr. Powers, because Mr. Powers actually brought it up, just the documentation that shows that we've been doing the notifications in that paper.

VIII. PUBLIC HEARINGS

- A. Low income taxpayers' rebate 7-2-14:3 NMSA 1978, provides for Santa Fe Board of County Commissioners to conduct a public hearing on the question of whether or not the property tax rebate benefitting low-income property taxpayers should be made available through adoption of a County ordinance**

COMMISSIONER ANAYA: Mr. Chairman, being that it's just a matter to conduct a public hearing, I see no reasoning to discuss any matters. We can just put it out to a vote, simple as that and then go into a public hearing and listen to the whole thing then. It would be redundant right now to hear any input.

COMMISSIONER GRINÉ: So is that a motion?

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COMMISSIONER ANAYA: Mr. Chairman, I move that we allow that this be published to allow that we conduct a public hearing on the question.

COMMISSIONER GRINÉ: Second.

CHAIRMAN DURAN: Okay, there's a motion and a second. Any discussion?

COMMISSIONER GONZALES: What you're saying, Commissioner Anaya, is that --

COMMISSIONER ANAYA: My understanding, Commissioner Gonzales, is that this is going to be published for a public hearing and that that's what the request is.

COMMISSIONER GONZALES: So we're allowing a public hearing for an ordinance, at that time we'll go through the details of the rebate itself. Is that what you're saying?

COMMISSIONER ANAYA: I think that's procedure, Mr. Chairman, Commissioner Gonzales.

CHAIRMAN DURAN: Okay, any further discussion. All those in favor of the motion signify by saying "aye." [Unanimous] Opposed? The motion carries. Thank you, Donna.

COMMISSIONER GONZALES: So we go forward for an ordinance then basically. Can we also -- this is administrative so this would only require one public hearing?

MR. WOLF: That's correct, Mr. Chairman, Commissioner Gonzales.

COMMISSIONER GONZALES: This is a fairly large issue. Would we want to go for two public hearings just to make sure the public has ample opportunity or do we want just to keep in under one.

COMMISSIONER ANAYA: Are we are on the first issue of the first question, Mr. Chairman?

COMMISSIONER TRUJILLO: Yes, I think if we advertise it.

COMMISSIONER GRINÉ: It's been noticed already.

COMMISSIONER GONZALES: I'm talking about when we go through the actual public hearings for the ordinance itself. Do we want to just do it under one, or do we want to make sure that there's ample time?

COMMISSIONER ANAYA: Is that our option, Denise?

MS. BROWN: Mr. Chairman, you might need to direct that question to Virginia. I haven't worked on this at all. I guess the issue would be whether we're under any time line.

COMMISSIONER TRUJILLO: It's a referendum.

COMMISSIONER GONZALES: Oh, I didn't know it was a referendum. I apologize.

MR. WOLF: Mr. Chairman, Commissioners, the way it would work in my understanding is the Commission would decide whether or not we want to have a public

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hearing to adopt an ordinance to provide for this rebate. I don't believe the rebate itself is by referendum. I think the ordinance imposes the rebate. The rebate has significant consequences to it. The mechanism to fund the rebate for property taxes for low-income level taxpayers is by raising property taxes across the board and then they get the rebate back from Taxation and Revenue Department to do their income taxes and we end up having to pay the Taxation and Revenue Department. So there's a lot of ramifications to this issue, so maybe two hearings isn't a bad idea.

CHAIRMAN DURAN: So does the motion still --

COMMISSIONER GONZALES: The motion would be that we are going to go -- we are allowing this to go forward in ordinance form, to have public hearings on the ordinances themselves.

COMMISSIONER ANAYA: That's what it is, Commissioner Gonzales, and naturally it's going to be publicized. To me it's just a matter of publication at this point.

COMMISSIONER TRUJILLO: I think what Commissioner Gonzales is asking that because it's such an important matter is that we should allow for two public hearings instead of one. This impacts property owners across the county.

COMMISSIONER GONZALES: Mr. Chairman and Denise, I'm looking at a synopsis of the act. It says one of the sections of the act requires the Board of Commissioners of the County conduct a public hearing on the question of whether the property tax rebate provided in this section benefitting low-income property taxpayers in the county should be made available through a County ordinance.

CHAIRMAN DURAN: Commissioner Gonzales, my understanding is that this opportunity really has a lot of pros and cons and I would really like to be able to have as much input, not only from the public but from people -- I think the Association of Counties even has taken a stand on it as I recall.

COMMISSIONER GONZALES: Not on this particular one. It's on another one that Representative Lujan wanted. But I think you're right. This is a big bill and we should go to two public hearings. Maybe it might be better and in the best interests of the community if they had ample time.

COMMISSIONER ANAYA: Mr. Chairman, I would agree with that.

COMMISSIONER TRUJILLO: I make a motion that we go in on two public hearings for this ordinance.

CHAIRMAN DURAN: We already have a motion, so that would be a friendly amendment.

COMMISSIONER ANAYA: I accept the friendly amendment for two public hearings.

COMMISSIONER GRINÉ: I second the amendment.

CHAIRMAN DURAN: Any further discussion? Those in favor signify by saying "aye." [Unanimous] Opposed? Motion carries.

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VIII. C. Ordinance No. 1999-1. An Ordinance amending the Santa Fe County Land Development Code, Article VII, Section 2, "Liquid Waste Disposal" for the purpose of modifying in what case a liquid waste system with nitrate removal is needed and requiring system testing (Second hearing)

MS. GUERRERORTIZ: Thank you, Mr. Chairman. Again, this is the second time you've heard this issue. We want to change the liquid waste ordinance just slightly. That would be allowing small commercial development projects that have typical domestic waste like toilets and coffee pots, things like that to use a typical septic system rather than a more expensive system which is now required by Code. We've removed the language with regards to inadequate soil at the request of the Commission at the last meeting. And we are requesting also that if you do have these more advanced systems that you do have them tested annually to make sure they're working properly. And that's all there is to it. Any questions, gentlemen?

CHAIRMAN DURAN: Any questions of Oralynn? This is a public hearing. Is there anyone out there in the public that would like to address this issue? If not, what's the pleasure of the Board?

Commissioner Anaya moved to approve Ordinance 1999-1 as presented. Commissioner Griñé seconded. Roll call vote was taken and Commissioner Anaya, Commissioner Gonzales, Commissioner Griñé, Commissioner Trujillo and Chairman Duran voted to approve the ordinance.

VIII. D. LAND USE DEPARTMENT ITEMS

1. **CDRC Case #MIS 98-5750. Santa Fe Vineyards Wine Growers Master Liquor License. Donna Rosingana (Santa Fe Vineyards), applicant, requests approval of a new liquor license (No. 3677) in order to allow the applicant to continue the Wine Growers Master License which is currently held on this property by Leonard Rosingana (License No. 6014). The property is the Santa Fe Vineyards, located on US 285 in Arroyo Seco, within Section 30, Township 20 North, Range 9 East**
2. **CDRC Case #MIS 98-5760. Santa Fe Wholesale Liquor License. Donna Rosingana (Santa Fe Vineyards), applicant, requests approval of a new liquor license (No. 3678) in order to continue the Wine Wholesale License which is currently held on this property by Leonard Rosingana (License No. 6819). The property is the Santa Fe Vineyards, located on US 285 in Arroyo Seco,**

within Section 30, Township 20 North, Range 9 East

PENNY ELLIS-GREEN (Review Specialist): Mr. Chairman, Commissioners, the property was zoned in 1987 for the manufacture and sale of wine. Liquor licenses have been held on this property since 1998 by the applicant's husband. The applicant is now requesting new licenses to allow her to continue to operate the business. Case 98-5750 is for a Wine Growers Master License, license No. 3677, and case 98-5760 is for a new Wine Wholesale License, which is license No. 3678.

There are no schools or churches within 300 foot of the property. The recommendation is that staff's position is that these liquor licenses are in accordance with the approved zoning on this property. Staff recommends that liquor license number 3677 and 3678 be granted.

CHAIRMAN DURAN: Are there any questions of Penny? Is the applicant here?

[Duly sworn, Jack Caffrey testified as follows:]

JACK CAFFREY: My name is Jack Caffrey. I'm representing Donna Rosingana. My address is 137 County Road 51, Santa Fe.

CHAIRMAN DURAN: Jack, do you have anything to add to the report?

MR. CAFFREY: No, other than the reason for the change on this license, the new application, is that Leonard Rosingana passed away last week and he had been obviously very critically ill with a brain tumor and he knew that in order to change things after he was gone, it would make things much simpler for Donna if her name were on the license. So in order to do that, we had to go through the whole process again, just to add her name, and that's all that this is. The business is continuing the same as always, it's just with her name on it.

CHAIRMAN DURAN: That's sad news. I knew Len when he was growing grapes in Galisteo.

MR. CAFFREY: Yes, when the cows got in them.

COMMISSIONER ANAYA: This is strictly a wholesaler's license for you to vintage your product and sell it out to the retailers, am I correct?

MR. CAFFREY: That's correct. We sell three ways. We sell retail in the tasting rooms and in the winery itself, and then we sell wholesale to restaurants and bars, whoever would want it, hotels. And also we deal with national distributors at this particular point in time down in Albuquerque and then we sell to them and then they distribute it out throughout the state. We don't export beyond the limits of the state at this particular time.

COMMISSIONER ANAYA: Okay, thank you, Mr. Caffrey.

CHAIRMAN DURAN: Any other questions of Jack? This is a public hearing. Is there anyone out there that would like to address the Commission or this issue?

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Commissioner Trujillo moved to approve cases 98-5750 and 98-5760 and he was seconded by Commissioner Anaya. The motion passed by unanimous voice vote. [Commissioner Griñé and Commissioner Gonzales were not present for this vote.]

- VIII. D. 3. EZ Case #DP 98-4810. Santa Fe Summit. Summit Homeowners Association (Barbara Ruther), applicant, is requesting an amendment of the approved subdivision plat/development plan, to permit installation of a gate for the primary access road. The property is located off State Road 475 (Hyde Park Road) within the 2-mile Extraterritorial District, Section 9, Township 17 North, Range 10 East**

JOE CATANACH (Review Specialist): Thank you. Mr. Chairman, Commissioners, in 1995, The EZC/BCC granted final plat/development plan approval for 58 residential lots on 108 acres which was phases 4, 5 and 6. A condition imposed on the subdivision stipulated that gates could not be installed on the subdivision roads unless approved by the EZC. The Extraterritorial Subdivision Regulations specify that subdivision roads shall be granted for public use, therefore the subdivision roads are owned and maintained by the Summit Homeowners Association with a public easement for road access.

The Extraterritorial Subdivision Regulations do not specifically address gated communities. The gate is proposed for the primary access road, which presently terminates as a dead-end road within the subdivision. However, the developer will be extending the road to connect with Sierra Norte Road for access back to Hyde Park Road. Until that construction occurs, the only other access to Hyde Park Road is a temporary construction road. Although the subdivision road is granted for public use it is not part of the Extraterritorial road plan. I would clarify here that the BCC should consider a policy decision regarding the issue of gates on roads granted for public use.

If the gate is approved, staff recommends the following conditions:

1. If the road is accepted by the County or City as a dedication for ownership and maintenance, the gate must be removed.
2. Compliance with review comments by City/County fire departments.
3. Gate shall remain open daily from 7:00 am to 8:00 am.
4. Plat amendment, that installation of gate does not constitute any intention to rescind status of road as a public easement.
5. Encourage Summit Homeowners Association to work with other Hyde Park area neighborhood groups regarding this issue.

Thank you, Mr. Chairman.

CHAIRMAN DURAN: Are there any questions of Joe? I have one Joe, number one, if the road is accepted by the County or City as a dedication for ownership and

maintenance. Do you anticipate the association asking for one of those bodies to accept it as a road? What discussion have you had with them concerning that?

MR. CATANACH: Mr. Chairman, I think that there would be more of a possibility that the road could become a City road at some time in the future. Summit Subdivision is adjacent to the city limits. As a matter of fact, phases 1, 2, and 3 of the Summit are within the City, and then the rest of the phases are in the EZ area. So this subdivision is immediately adjacent to the city limits and I think there is more of a possibility that at some point in time, through annexation, that there could be an annexation, it could possibly become a City-owned, a City-dedicated road.

CHAIRMAN DURAN: But aren't these roads that are anticipated as being access to the City land, don't they terminate at a point where the terrain really is pretty much unacceptable for a road because of the grade.

MR. CATANACH: This road that they want to put the gate on will ultimately connect with Sierra del Norte Road, which is a City road for access back out to Hyde Park. There is a bond or a letter of credit that has been submitted that there will be construction to extend the road so that it will connect with Sierra del Norte Road some time in the future. I would think in the next year to 18 months.

COMMISSIONER TRUJILLO: Mr. Chairman, Joe, this is not a dedicated County road?

MR. CATANACH: No, the road is not dedicated. It has a conditional dedication, meaning that the road has a conditional dedication, meaning that at some time in the future, when either the City or the County decide that the road needs to become a City or County owned road that the road could be accepted in the future by either the City or the County.

COMMISSIONER TRUJILLO: But it has to go through the existing protocol before it's dedicated to the County. At this point, it would seem to me that it's a civil matter and I don't understand why it's before us.

MS. BROWN: Mr. Chairman, Commissioner Trujillo, I think we're sort of mixing words here. It's been offered to be dedicated to the City or the County. It's been offered to the public, is my understanding. But it requires a second step and that is for one of the governmental bodies to accept that offer of dedication. So it's been offered as a road available to the public but at this point, for maintenance purposes and ownership purposes, my understanding is neither the City nor the County has accepted that road.

COMMISSIONER TRUJILLO: But there's a set of criteria that needs to be satisfied before it's dedicated to the County.

MS. BROWN: Well, the dedication could be made but the acceptance, before we would accept it, we have this list that you all have been working on adopting.

CHAIRMAN DURAN: I don't think we want that road.

MR. CATANACH: Like I say, I think the road has more of a potential to become a City-dedicated road more than a County, but again, as Denise mentioned, right

now it's set up so that at some point in time, either the City or the County can take formal action to accept the dedication for ownership and maintenance. But right now it's under a conditional dedication which means that the homeowners association retains ownership and maintenance. However, the road is open for public use.

COMMISSIONER TRUJILLO: So they can decide whether to gate it or not.

MR. CATANACH: Well, I think there's County public roads out there and there's roads that aren't owned by the County but they still have some kind of public status. I think that's the case here. So what you have is you have a situation of whether it's appropriate, or whether you can put a gate on a road and will it still have a public access? I feel comfortable that because of condition number three, that effectively the road still has public access except at night and that's really the intent of this gate and this request for a gate is. They want the security of the gate for nighttime hours. So the gate, for the most part is going to remain open at the time that it would be needed or necessary for public access.

MS. BROWN: Mr. Chairman, Commissioner Trujillo, if I could just clarify, I think the reason this isn't a purely civil matter where we typically don't get involved is that a condition of approval for the subdivision was that they could not install a gate. That's why the applicant is before you asking that that condition be changed.

COMMISSIONER GRINÉ: Just for the gate only.

MS. BROWN: That's correct.

MR. CATANACH: I agree with that and that's part of why this is up here. The other part is the ordinance is specific. It says that roads are granted for public use. So if you have a gate on a road, are you effectively then taking away the public use of the road? So that's why this is up here as well. The ordinance is specific that subdivision roads are granted for public use.

COMMISSIONER GONZALES: Mr. Chairman, Joe, and I think there's lots of opportunity to argue one way or another. I think that public use of the road can constitute the homeowners that live on that subdivision. They are public and they're using the road. It's a barrier that the owners have chosen to put up for safety issues or whatever it is. I guess my question to you is that, I mean reading their letter, they're concerned about non-residential use or non-subdivision use of the road by other people up there. Are there other roads up there that this is accessing that is creating additional traffic for the community up there that's creating additional safety concerns that we know of?

MR. CATANACH: No, like I mentioned, the road as it exists right now dead-ends within the subdivision. So the only traffic it's getting is the subdivision traffic.

COMMISSIONER GONZALES: Let me ask this question then. Why would we encourage condition three that says the gate shall remain open daily from 7:00 to 8:00 when it's purely residential traffic that's going in. I'm assuming either the residents are going to have either a code or a card to get through it. Why is that -- are we saying that needs to be open for any general member of the public to be able to drive into their

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subdivision at any point for whatever reason, and that's why we're encouraging that condition or is it just a policy issue that we would make all gates in Santa Fe County be open from 7:00 to 8:00?

MR. CATANACH: Actually, that condition came about as a recommendation from the EZC and actually it was something that the applicant had agreed to. They had already stated that this gate was going to stay open these hours.

COMMISSIONER GONZALES: I mean, to me, a lot of people work during the day and I would be just as concerned about someone going into a subdivision, if they're concerned in this area, isolated from other dense areas, they would be concerned just as much during the day as they are in the evening. I personally have a problem with condition 3, if they want the gate, it's there to provide some security during the whole day.

MR. CATANACH: Well, there was a lady that was at the EZC meeting that did represent herself as having interest in the Hyde Park Planning Group, and this was the group that I guess several subdivisions in this area that put together the Hyde Park Neighborhood plan and she had some concerns about the gate and certain understandings, if you will that people that don't live in the subdivision would be able to get in, to be able to access some adjoining forest land, I believe. That's kind of how that condition evolved. The lady got up and she felt that this gate was, if you will, infringing on an understanding that she thought she had with the developer regarding access into the forest land. But certainly I think you can maybe talk about that some more.

COMMISSIONER GONZALES: She was a -- the lady was a resident of the Summit?

MR. CATANACH: No, she was not. She represented herself as having interest in the Hyde Park Planning Group that was involved in putting together the Hyde Park Neighborhood Plan.

COMMISSIONER GONZALES: Thank you, Joe.

COMMISSIONER TRUJILLO: One more question. If the County approves this gate, Denise, what sort of liability does it place the County from an emergency response perspective? Somebody -- a fire could occur at night. Somebody might get sick. Somebody might allege that they couldn't get in because of the gate even though they have a card to open it. They might get there too late.

MS. BROWN: I think Mr. Chairman, Commissioner Trujillo, that because it's a privately maintained road, that I don't see any increased liability for the County. Anyone who lives there would see the gate; it would be visible. They'd know that they're living there subject to this gate existing. I think probably condition number one is important to keep in place, which says if it becomes a County road, the gate comes down, because then the condition of that road and things that impede emergency access may increase liability for us. I'm not sure if it would, but there's a possibility.

COMMISSIONER TRUJILLO: Even though the County approved the installation of the gate?

MS. BROWN: I don't think it would increase any liability for the County. I know we run into the same issue when we talk about speed humps and speed bumps and those sorts of things. I think as long as the homeowners -- it's a visible impediment, if you will and as long as everyone's aware that it's there and they're willing to take on that increased delay in time, that they are subject to whatever delay it causes.

CHAIRMAN DURAN: Joe, is this a breakaway gate?

MR. CATANACH: I don't believe it's a breakaway. I believe it's going to have some type of rapid entry system, either card or code like you mentioned or even some type of remote control type of deal. I would only again point out again to condition number two, that is requiring the City and County fire department to review this to make sure we don't have any kind of problems in emergency access.

CHAIRMAN DURAN: But isn't a breakaway gate, doesn't it allow for a fire truck to come in --

MR. CATANACH: If a fire truck needs to come in, it's going to break right through that gate, exactly, Mr. Chairman.

CHAIRMAN DURAN: Any other questions of Joe? Is the applicant here?
[Duly sworn, Ike Pino testified as follows:]

IKE PINO: Mr. Chairman, my name is Ike Pino and I'm here representing the Summit Homeowners Association. My address is 1660 Old Pecos Trail. Mr. Chairman, if I may just clarify a few things, because I think you have the gist of things. First of all, the condition on the plat that has this before you said that the approval of the gate, the gate could not be installed without the approval of the EZC. That's how we wind up here. Karl Sommer will talk about the regulatory issues very briefly, because you had some questions about that. The gate will be on North Summit Drive, about 400 feet off Hyde Park Road.

It will be equipped with a technology called Opticom because the fire departments are going to an Opticom systems where they can from inside the truck with a special light-type situation tell the gate to open. This is the same system that a lot of cities use to be able to turn lights to green when they're going through traffic intersections. It's a technology that's been around a long time. So they won't have to crash the gate, actually, they can use the Opticom system to get in there. Absent the Opticom, they always have access through codes or the ability to knock through a Knox lock, so to speak, to get in. So there's no impediment to them getting into the subdivision if the gate's closed.

As indicated, the gate would only be closed at night. The security there is supplemented with live security, however, they have to make rounds and they have to leave the front entrance unmanned for several hours during the night. That's the time when we would like to see the gate closed. Open 7:00 am to 8:00 pm.

There was a woman who came to the EZC meeting. She represented herself as having been a part of the Hyde Park Planning Group several years ago. Subsequent to that meeting I went to the City who was in charge of that group. They no longer recognize that group as an official entity. It apparently has ceased to exist. I sent a letter to the post office

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box that she gave as her address and had no response from her because we were asked to try to coordinate something with her and talk about the gate issue. So we did as the EZC asked us, to try and make contact with this woman.

Her testimony was that she wanted to go up and see Zozobra and look at the stars at night. That's what she said. It's not in the minutes, but that's what she said. And frankly, the EZC was concerned that they wouldn't like to have people they don't know walking by their homes at night and that's why they were not averse to having the gate closed at nighttime. Mr. Chairman and Commissioners, there's really not much more to add. I'd like to have Karl just spend a couple of minutes talking about the regulatory issues so you feel comfortable with those because most of your questions were around that and then we'll stand for questions.

[Duly sworn, Karl Sommer testified as follows:]

KARL SOMMER: Mr. Chairman, members, my name is Karl Sommer. My address is Post Office Box 1984, Santa Fe, New Mexico, 87504. A couple of questions have been asked about the nature of the road and that sort of thing. It is a privately owned road which is maintained, managed and operated by the homeowners association. They cover all the liability on it. They have liability insurance on it. They cover everything including the regulation of the road. As Joe has indicated dedication is the dedication of a public easement and if required by the County, the dedication of the roadway if it's going to be accepted. There's never been any indications that the County wants this roadway and everything I can see is that the County isn't going to take this roadway ever.

The issue of regulation is it's a privately maintained roadway and essentially, this is no different from the speed limits we've put up. It is not uncontrolled public access. There's no limitation of the access in terms of people being able to enter and exit. It is simply being able to control and know who's going in so the amount of burglaries or there's some sort of safety up there that is lacking right now. There've been several burglaries up there. Thefts on a continual basis from construction sites. It has been difficult to manage.

So I think that from a regulatory standpoint, the homeowners association is charged with regulating its use. I agree with Joe; you cannot cut off the public use but you certainly can regulate it and that's essentially what we're trying to do. We're not trying to cut off public use, we're just simply trying to regulate it for the safety of the people that live along the road. I don't think it is contrary to any public responsibility on the part of the County, so long as the association is not trying to keep people out. There's no prohibition finding out who's going into the subdivision and why they're there. Essentially that's it.

I'd like to point out that the access to this subdivision, this subdivision has through it public trails, so those public trails remain in effect. People are hiking through the area, they can hike through the roads, or they can hike on the trails and they can go through the subdivision trails that have been put up there and dedicated for public access. So the developer, Mr. Ralph Brucci, has been very conscious as to maintaining a sort of corridor from inside the city out to the national forest which is not adjacent to this property but it's

in the vicinity and there are public trails going through it. This is not any other issue than safety. So essentially, that's what I'd like to say and we'd stand for any questions you might have.

CHAIRMAN DURAN: Are there any questions of Karl?

COMMISSIONER GRINÉ: Mr. Chairman, move for approval for EZ Case #DP 98-4810 and also delete one condition, condition number three.

CHAIRMAN DURAN: We'll do that in a second. It's a public hearing. Is there anyone out there that would like to address the Commission or this issue?

COMMISSIONER GONZALES: I'll second then, Mr. Chairman.

CHAIRMAN DURAN: Okay, there's a motion by Commissioner Griné and second by Commissioner Gonzales. Is there any other discussion? Those in favor signify by saying "aye."

COMMISSIONER ANAYA: For discussion, Mr. Chairman, before you call for the question. Condition number three, the gate shall remain open daily from 7:00 am to 8:00 pm, you're eliminating that condition?

COMMISSIONER GRINÉ: Because we can't enforce it?

CHAIRMAN DURAN: Okay, any other discussion? There's a motion and a second. Those in favor signify by saying "aye." [Unanimous.] Opposed? The motion carries.

VIII. D. CDRC Case #98-5700. US Cable Franchise Agreement. US Cable has requested a transfer of a cable television franchise from Mark Twain Cablevision to US Cable. They will provide cable television service in the Española, Chimayo, La Puebla and Arroyo Seco area pursuant to Ordinance No. 1982-5 [Conditions on file with Land Use Department]

MS. GUERRERORTIZ: Mr. Chairman, Commissioners, I guess that this franchise agreement has transferred hands several times. It was originally granted in 1984 or 1985 to Southwest Cable Company. It went then to Española Cablevision and then Mark Twain Cablevision and now there's to be a new owner, US Cable, and they just want to take over the existing franchise. Franchises are regulated under Ordinance No. 1982-5 and 1993-8. They propose no changes to the service area, to the customer fees and the original term of the franchise is going to expire in February of the year 2000.

The CDRC did approve this last month, in January with 8 conditions. They're all pretty standard things like they have to have the cables underground unless there are existing poles and they can attach to those poles and they have to go through zoning if they're going to put any new buildings up.

CHAIRMAN DURAN: You don't need to read those into the record. We can just make note of them.

MS. GUERRERORTIZ: Okay.

COMMISSIONER ANAYA: Mr. Chairman, I have a question of Oralynn. This is merely an ownership change is all it is?

MS. GUERRERORTIZ: Yes, sir, it is.

CHAIRMAN DURAN: Are there any questions of Oralynn?

COMMISSIONER TRUJILLO: Mr. Chairman, the lines for this cable will go through existing --

MS. GUERRERORTIZ: Existing poles where they exist and where there's no poles, then they have to go underground.

CHAIRMAN DURAN: Any questions? Is the applicant present?

[Duly sworn, Phil Griffin testified as follows:]

PHIL GRIFFIN: Mr. Chairman, members of the Commission, my name is Phil Griffin. I'm the general manager of the New Mexico Cablecom. I will also be the general manager of the US Cable once this is finished. I live in Leyden. My address is P.O. Box 5080, Fairview Station, 87533.

CHAIRMAN DURAN: Are you in agreement with the conditions set out by staff?

MR. GRIFFIN: Yes we are, Mr. Chairman.

COMMISSIONER ANAYA: Mr. Chairman, being that there's no one in the audience to oppose this --

CHAIRMAN DURAN: Well, let's make sure of that first. Do you have anything else to add to this?

MR. GRIFFIN: No, sir. I've pretty much stated everything as reported to you by the CDRC.

CHAIRMAN DURAN: Okay, any questions of the applicant? Is there anyone out there in the public that would like to address this issue?

Commissioner Griñé moved to approve CDRC Case #MIS 98-5700 and Commissioner Anaya seconded. The motion passed by unanimous voice vote.

VIII. D. 5. Resolution No. 1999-16. A resolution granting a certificate and acceptance of franchise to US Cable to operate a cable television system within the northern part of Santa Fe County and approving the transfer of a cable television franchise from Mark Twain Cablevision to US Cable

There was no one in the audience wishing to speak to this issue.

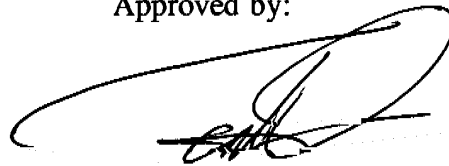
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Commissioner Grifé moved to approve Resolution No. 1999-16. The motion was seconded by Commissioner Anaya and passed by unanimous voice vote.

ADJOURNMENT

Chairman Duran declared this meeting adjourned at approximately 8:20 pm.

Approved by:

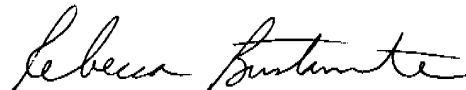


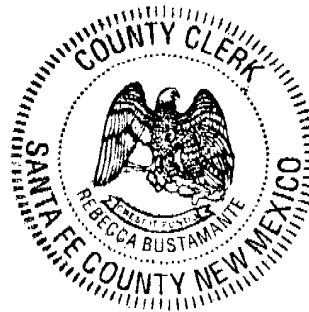
Board of County Commissioners
Paul Duran, Chairman

Respectfully submitted:


Karen Farrell, Commission Reporter

ATTEST TO:

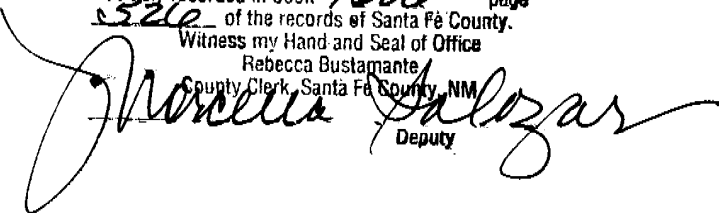

REBECCA BUSTAMANTE
SANTA FE COUNTY CLERK



1042.686
COUNTY OF SANTA FE
STATE OF NEW MEXICO

I hereby certify that this instrument was filed for
record on the 24 day of Feb. A.D.
19 99 at 10:26 o'clock p.m. and
was duly recorded in book 1606 page
526 of the records of Santa Fe County.

Witness my Hand and Seal of Office
Rebecca Bustamante

County Clerk, Santa Fe County, NM

Deputy