

START

OF

BOOK

MINUTES OF THE BOARD OF COUNTY  
COMMISSIONERS

DATE OF MINUTES 3-10-98

DATE OF FILMING \_\_\_\_\_

CAMERA OPERATOR YVONNE SANCHEZ

REGULAR MEETING

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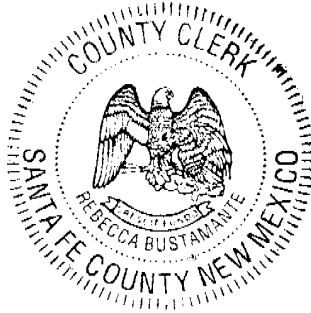
**BOARD OF COUNTY COMMISSIONERS**

**SANTA FE, NEW MEXICO**

**REGULAR MEETING**

**MARCH 10, 1998**

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



**SANTA FE COUNTY  
REGULAR MEETING**

**BOARD OF COUNTY COMMISSIONERS**

**March 10, 1998**

COUNTY OF SANTA FE  
STATE OF NEW MEXICO 1020 SS 119  
I hereby certify that this instrument was filed  
for record on the 15 day of Apr. A.D.  
19 98, at 1:09 o'clock P.m.  
and was duly recorded in book 1479,  
page 575 of the records of  
Santa Fe County.

Witness my Hand and Seal of Office  
Rebecca Bustamante  
County Clerk, Santa Fe County, N.M.

*Marcella Salazar*  
Deputy

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This regular meeting of the Santa Fe Board of County Commissioners was called to order at 5:10 p.m. by Chairman Javier Gonzales 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 Javier Gonzales, Chairman  
Commissioner Paul Duran, Vice Chairman  
Commissioner Richard Anaya  
Commissioner Marcos Trujillo  
Commissioner Joe Grinë

**Members Absent**

none

**IV. INVOCATION** An invocation was given by Commissioner Anaya.

**V. APPROVAL OF AGENDA**

**CHAIRMAN GONZALES:** Mr. Sanchez, do you have any changes at this time?

**DOMINGO SÁNCHEZ (County Manager):** Mr. Chairman, two changes to the agenda. First of all, on page 1 under Matters from the Commission, there is an item for Resolution 1998-no number. That item has been deleted. However, we did amend the agenda and it will just be replaced by the item that's stated in the amendment, and that is to request authorization to publish title and general summary of an ordinance establishing a moratorium on development along the I-25 and US 84/285 corridor in order to formulate ordinances and address development concerns specific to the corridor. So, that one item has

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been replaced with the amendment.

Then on page 2, Mr. Chairman, under IX. Public Hearings, item C. Land Use Department, number 4. CDRC Case #Z 97-5550 Smith's Grocery Store has been tabled and with that, Mr. Chairman, those are all the changes I'm aware of.

CHAIRMAN GONZALES: Okay, are there any other changes to the agenda at this time? Then what's the pleasure of the Commission?

COMMISSIONER TRUJILLO: Mr. Chairman, move for approval of the agenda as revised.

COMMISSIONER DURAN: Second.

CHAIRMAN GONZALES: Any discussion? If none, all in favor of the agenda as amended, signify by saying "aye." [Unanimous 4-0] All those opposed?

#### **VI. APPROVAL OF MINUTES: February 24, 1998**

CHAIRMAN GONZALES: Are there any changes at this time?

COMMISSIONER ANAYA: Mr. Chairman, on page 4, one correction toward the top of the page where Commissioner Anaya, it should be she carried a pretty good list, not mess. On page 13, towards the bottom of the page, third item, Commissioner Anaya, that was not me. I think it was Domingo that gave the presentation, or somebody else did. It was not me. And on page 27, again, it starts off with Commissioner Anaya towards the middle of the page, it says do we get a McClaine, and I think it was a commitment that the City is going to pave a portion, immediately upon approval. Those are the only corrections I have, Mr. Chairman.

CHAIRMAN GONZALES: Thank you, Commissioner Anaya. Are there any other changes at this time? What is the pleasure of the Commission?

Commissioner Anaya moved to approve the minutes as amended. His motion was seconded by Commissioner Griné and passed by unanimous [4-0] voice vote.

#### **VII. ADMINISTRATIVE ITEMS:**

##### **A. Committee Appointments**

##### **1. Santa Fe County Road Advisory Committee**

CHAIRMAN GONZALES: Mr. Martinez, do you have a presentation to make, or do we just go with our packet, what we have? There's a committee appointment that I'd like to bring forward to the Commission. I'd like to introduce Mr. Fritz Ireland, who's with us tonight -- could you stand up? Fritz is a member of the San Marcos Association, I believe, and has been brought forward by the president of the San Marcos

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Association, Helen Boyce to serve as that area's representative on the Road Advisory Committee. I want to thank you Helen and the people out there for bringing this forward. I guess I'll just say it's a busy committee and just asking you to please stay in touch with the community in the area, who'll let you know some of the road issues, especially the Rancho Alegre people who I think have continuous issues on their roads and so in addition to your San Marcos Association if maybe we can do an outreach to the Rancho Alegre people. I think that would be helpful.

Also, tomorrow night is our first meeting, is that right, Robert?

ROBERT MARTINEZ (Deputy Public Works Director): That's right, 6:00.

CHAIRMAN GONZALES: This is Robert Martinez. I'm sure you've met him. Robert is the Deputy Public Works Director and is going to be the staff person who'll be working with you on this Road Advisory Committee so we'll get you his name and number so that you'll have a contact person. But tomorrow night will be your first meeting and good luck. Thank you for volunteering to serve. As always, it's important that we have volunteers from Santa Fe County to serve on these important committees. It means the world to all of us that you're willing to offer your time, so thank you.

With that, I'd like to ask the members of the Commission to please enter Mr. Fritz Ireland's name up for nomination to serve on the Road Advisory Committee.

COMMISSIONER GRINE: So moved, Mr. Chairman.

CHAIRMAN GONZALES: Is there a second?

COMMISSIONER DURAN: Any discussion? If not, all in favor of Fritz Ireland being appointed to the Road Advisory Committee signify by saying "aye."  
[Unanimous 4-0] All those opposed.

Thank you again, we appreciate it.

## **VII. B. Committee expirations/resignations/vacancies**

CHAIRMAN GONZALES: Are there any at this time, Mr. Sanchez?

MR. SÁNCHEZ: Mr. Chairman, I'm not aware, nor was I given any information regarding resignations, so at this time, probably not.

COMMISSIONER DURAN: Mr. Chairman, I was just wondering about the chairmanship of the EZC. Carol Robertson Lopez won and I guess we need to find a replacement for her.

CHAIRMAN GONZALES: I think that the committee will probably elect their own chair, but maybe what we can do at the next Land Use meeting, if you guys would like, bring forward our names or requests. When's that? A month from now? So that gives us the time to go out and search.

MR. SÁNCHEZ: Mr. Chairman, last time, I know you discussed that and I haven't received anything yet. I know that you were going to ask for a resume. We talked about asking for the individual's resume and a letter requesting, or expressing the interest.

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So I haven't received any yet.

COMMISSIONER DURAN: Do we ever publish for that kind of vacancy?

MR. SÁNCHEZ: No.

**VIII. STAFF AND ELECTED OFFICIALS ITEMS:**

**A. Public Works Department**

**1. Resolution No. 1998-22. A resolution amending and certifying the Santa Fe County road map**

MR. MARTINEZ: Mr. Chairman, Commissioners, annually we're required to update the County road map, and our inventory list and submit it to the New Mexico State Highway and Transportation Department for certification. This is required by April 1 of every year. Last year, there were 592 miles that were certified that were in our inventory. Currently, the new list has come out to about 585 miles. The difference is we have been using the GPS system, which is accurate to one meter, so there are some discrepancies in the distances. We will be coming back in the near future to amend roads that we have found that should be taken off the County inventory or some that should be included. So this is a resolution to approve the County road map and the inventory list.

COMMISSIONER TRUJILLO: Robert, in my district, in District 1, we've run across some anomalies in some roads that extend into people's front yards, if you will, into people's properties, and they're designated like that on the County road map. Have those been taken care of?

MR. MARTINEZ: Mr. Chairman, Commissioner Trujillo, yes. We have collected the data on the County road map but it does extend into the private roads and it is distinguished by a different color on the map. Red, for example being County maintained. Black being other.

COMMISSIONER TRUJILLO: Okay. Is that new?

MR. MARTINEZ: Yes it is.

COMMISSIONER DURAN: Robert, I see some roads have been vacated. Is there a procedure to vacate a road? The reason I ask is that there was one that was brought to my attention out in Galisteo that went to a gravel mine or something and the sign was taken off of it. And someone determined that that road was no longer a County road and I'm just trying to find out how that happens and who made the determination. Do you know anything about that?

MR. MARTINEZ: Yes, Mr. Chairman, Commissioner Duran, back several years ago when County Road 33 was vacated inadvertently 38B was also vacated. If you'll look on your list, 38B is back on our inventory list. The sign will go back up and we will resume maintenance on it.

COMMISSIONER DURAN: On that road?

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MR. MARTINEZ: Yes.

CHAIRMAN GONZALES: Any other questions? Okay, what is the pleasure of the Commission concerning the resolution?

**Commissioner Duran moved to approve Resolution No. 1998-22 certifying the County road map. The motion was seconded by Commissioner Griñé and passed by unanimous [4-0] voice vote.**

#### **VIII. B. MATTERS FROM THE COUNTY MANAGER**

MR. SÁNCHEZ: Mr. Chairman, I just have one item that was brought to my attention today that I wanted to just apprise you of. We were called by the Department of Finance and Administration and they had expressed some concern over the article about payment of meals, as the article had indicated, I think it was \$119. And they discussed with us that they were going to be looking into that and we let them know that the issue of \$22.50 being a maximum regardless of whether you spend \$30 or \$300 a day to eat, is the rule or regulation that is prescribed by DFA that we follow. And so I just wanted to let you know that they read that and had some concerns, but we are following the rules. We do not provide for per diem reimbursement or real reimbursement in excess of \$22.50. That's clear; you can go through the documentation that we have.

But again, when it's printed or taken out of context or not understood it creates problems. So I just wanted to let you know that they are inquiring and we're looking in and working with them to give them the information that they need. But they understand that we are following their rule and mentioned again that information is available within the Finance Department so I just wanted to bring it to your attention.

CHAIRMAN GONZALES: Thank you. I appreciate that. I also received numerous calls after the article and people don't necessarily like to see that their elected officials are having steak dinners on their tax dollar and I think that's the way the article had portrayed it and that wasn't true, so I'm glad you guys are looking into that with due diligence. So that for the record we know that in fact there was an amount that was paid and it was actually much less. In fact, I think from notes I think it was \$16 on that particular one. So please bring that one back to us. I think it's important that we follow it. It's important that the taxpayers know that we're being held accountable. When issues like that are brought forward, we need to have a proper paper trail of it that was actually taken by the staff to verify and make sure that that was not the case. That currently is not within the procurement code to allow that.

MR. SÁNCHEZ: Mr. Chairman, again all that paper resides within Finance and it just causes us an awful lot of groundwork when something like that happens, so I just wanted to let you know we had the inquiry. So, we're addressing it, providing the

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information and that information is available for whoever has an interest in revealing that information.

CHAIRMAN GONZALES: Thank you. Any other issues?

### VIII. C. MATTERS FROM THE COMMISSION

CHAIRMAN GONZALES: Before we go on, let's leave probably the issue that's going to take the majority of our time for the end. Are there any other Matters from the Commission? I have a couple of issues that I want to bring up.

COMMISSIONER DURAN: I have two but why don't you go ahead.

CHAIRMAN GONZALES: This morning on Issues and Answers, that's a program on our radio station. Not to plug it or anything. There was a caller who had called in and indicated some concern that the County might be discriminating in its hiring practices and I asked Arturo to be here just so we can find out some official word. We would just ask Arturo if he could, I would like to ask that maybe in a month from now you could come back to the Commission and just report, a review of the hiring practices that we have in place in the departments, in the elected offices, and just some kind of audit assessments so that you feel comfortable that there is no discrimination that's being done in the hiring of personnel. I think that the caller was clearly very concerned about that and I had promised them that we would bring that to your attention and that we would ask you to come back to us after you reviewed the hiring practices of each of the department heads and the elected officials to make sure that we are in compliance with state laws and federal laws, and our own.

MR. SÁNCHEZ: Mr. Chairman, we can certainly do that. I'm not that concerned that it's an issue.

CHAIRMAN GONZALES: It would be in the same issue as in the travel issue. Something that we've got a place to deal with and do the review and have a paper trail. People have asked and we want to show them.

MR. SÁNCHEZ: Sure. And then we have a personnel system in place, personnel rules and regulations that we require all elected officials and department heads to subscribe to. And we do have a paper trail. It's something again that we can compile for the Commission.

CHAIRMAN GONZALES: Can we just again -- and I think it'd be healthy anyway for the personnel department to do and bring it before the Commission of the hiring practices for people that want to come in so that we know because clearly, obviously we're not involved in that. It would be helpful to monitor it.

The other issue is that me and Commissioner Grifé promised about a month ago that we would go to the 4-H Club, that we would work on a committee with them in dealing with their master plan. I had asked Deborah, Domingo to set up a meeting. Can you follow up

on that? They had appointed a committee that me and Commissioner Griñé agreed to serve on, would discuss the uses of the Rodeo Road property. I just want to make sure that we don't fail in that effort and I think Lucky Varela got \$100,000 for planning of that area so now that we have the money this might be the time for us to go. Has the governor signed that \$100,000 yet? Is it a different bill?

MR. SÁNCHEZ: Mr. Chairman, I'm not aware that it's been signed yet. As a matter of fact, I was reviewing this morning all the bills that he has signed and there've been very few and very few that have affected the County. So I guess the concern I have is, I think we only have two days left because of the outstanding issues the governor has with the legislature and the need for their special session that we might get caught up again in the discussions and the differences that they have over there. We'll be pretty much limited in what we've got. So I think that's what's going to happen. It's unfortunate. Hopefully not. We've got two days to find out.

CHAIRMAN GONZALES: Thanks.

COMMISSIONER DURAN: Mr. Chairman, thank you. Domingo, I was wondering if you could check into a sack lunch program for us when we go on travel?

MR. SÁNCHEZ: As long as it's within \$22.50 a day and it meets all the requirements that we have to follow. We'll be happy to look into it.

COMMISSIONER DURAN: I was wondering, if I could get the support from the rest of the Commission to give staff direction to work on a guest house ordinance. About a year or so ago we talked about it and there really wasn't anything done after that. And I know that I have some people that have come up, have asked me to check into this for them. There some decisions being made relative to the guest houses and accessory ordinance that are a little vague. I would just like to ask that we work on developing that, a guest house ordinance, a real guideline to the public.

CHAIRMAN GONZALES: That's an excellent idea, Commissioner, and that's something we promised we would do and we just have to pick up the ball on that. We should probably revisit that again. I think the legal part of that, we started working on some issues with the guest house ordinance.

DENICE KULSETH (Deputy County Attorney): Yes, Mr. Chairman, Commissioners, we actually had a draft last year and I frankly don't remember -- I remember it got tabled at a meeting and it just hasn't been revived, but I know there's a draft already that I worked on with Oralynn.

COMMISSIONER DURAN: If we could just work towards that goal it would be great.

MS. KULSETH: We could provide the Commissioners with putting it in your mail, the draft that we have and ask for comments.

CHAIRMAN GONZALES: I think that'd be very helpful.

MR. SÁNCHEZ: Mr. Chairman, would you actually like to see, in addition to the reviewing that this actually be put on the agenda? If you have an interest in it we can

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put it on for next month.

COMMISSIONER DURAN: I'd like to get it drafted --

MR. SÁNCHEZ: It gives you a month to review, talk to us and then we can

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CHAIRMAN GONZALES: It would be a land use ordinance so it would require two public hearings.

COMMISSIONER DURAN: And the other thing I'd like to bring up is I met with John Griego from the City about a month or so ago and I was telling him, basically how we had been discussing a new administration building and he pulled out some plans that were developed prior to Mayor Jaramillo's administration that had a joint City/County building on the railroad property. There were drawings made, there was \$100,000 study done, and I hope that by the next meeting I have those drawings for us to look at and consider. Now that we have a new City Council with a new mayor, I think it would be good to open up some dialogue. We're all looking for a new location. I think it would be worthwhile to consider that.

CHAIRMAN GONZALES: Very good. Thank you, Commissioner. Any other Matters from the Commission? I'd like to report that myself and Commissioner Trujillo had the opportunity this morning to meet with Director Browne at the Los Alamos National Labs and it seems that the labs are moving forward, as the director indicated a little slow, but in a manner that he felt he was comfortable in meeting the commitments he made to the community as far as the outreach programs, offering information. The labs did apologize for not providing the Commission with as much information on the shipments of the WIPP, of the waste they're generating to the WIPP site and they promised to participate with us in that and indicated what's going on in Los Alamos, about what's happening down in Carlsbad and he seemed very excited actually. He had only scheduled half an hour with us and he actually spent 45 or 50 minutes with us, and so I think that he is really serious and genuine in listening to local leaders and some of our concerns as we brought up the issue of WIPP.

We brought up the issue of the concern of early shipments that some of us had. We did present it, because we have not voted on it, as a matter from the Commission -- representing the Commission, but that some of us had had concerns with it and he seemed to be very receptive to the concerns that the community had. He acknowledged that it wasn't an issue of safety, but actually listening to the community as what their concerns were and the community was concerned about early shipments that the lab needed to look seriously at that. I felt good that he would be lending an ear to the community when they're saying hold off on those shipments until the bypass is completed. We'll have to wait and see on that.

COMMISSIONER TRUJILLO: [inaudible] coming from the perspective that the community didn't understand, but from the perspective of what the community wants. [inaudible] partner for local government impetus and communities to address issues. It

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reinforced, essentially, what he told us about partnering with communities and apologized for not so far being able to use local governments and these conduits into the community and committed, that in the future, he would do that.

CHAIRMAN GONZALES: Any other discussions? One other issue. I wanted to congratulate the staff. I don't know if the Commissioners know this, but this is the second year we've received the Truman Award from Quality New Mexico. And Quality New Mexico is an organization that was set up by Senator Domenici and Senator Bingaman to recognize quality in private and local governments and so for the second year, we've been recognized. It focuses on our financial strength. It focuses on the processes that we develop for our customers when they come in to use County government, and it's an independent organization that has reviewed that and said that we're on the right track in the status and quality of the incidents here in Santa Fe County. The next award I think is the Zia Award. We're going to be hopefully gunning for that next year. I need to talk to the managers a little bit more about taking it that extra step and they're doing a good job. So we want to say thanks -- please convey that to the managers. Thank you and it's a great honor. I think Santa Fe County was the only county government in the state of New Mexico that received that and not very many state agencies received it, and certainly not many federal here in New Mexico received it. So it is an honor.

COMMISSIONER TRUJILLO: Good work.

**VIII. C. 2. Request Authorization to publish title and general summary of an ordinance establishing a moratorium on development along the I-25 and US 84/285 corridor in order to formulate ordinances to address development concerns specific to the corridor**

CHAIRMAN GONZALES: I would like to spend some time outlining why I feel it's important to bring this up now and then open up for some dialogue if we can, and then usually what I do is give the podium over to present these issues, but I'm going to do it from up here.

I wanted to state some issues. This request, Commissioners, falls in line with our General Plan, with the policies. I want to briefly for the record show you or at least state areas in the General Plan where we've talked about doing exactly what I'm asking you to do know in the creation of this moratorium so we can create a Commission corridor. Under our land use and Growth Management area, number seven, it says, "Establish highway corridor district standards for roadways at the edges of communities that are experiencing rapid development." Number eight, in the General Plan policies under Land Use and Growth Management, "In new community districts, direct new growth into more compact development patterns with clear areas between developed areas in keeping with traditional patterns that are compatible with the unique character and history of different settlements

within the County and where infrastructure is efficient and available."

Under Community Resources, Community Character and Design, number 2.C. "Establish architectural guidelines, site planning and buffer standards for new communities in highway corridors." Under Community Resources, Utilities, Transportation and Public Service, under our transportation goals: "The County should promote a variety of transportation systems in the County, including mass transit, bicycles, pedestrians, equestrian uses, and vehicles. These systems should be developed to reflect rural, unique, and diverse community character and patterns and should emphasize an efficient network of smaller roads and trails, scenic byways, and buffered road and highway corridors between communities."

Under the Transportation Action, 3.H. "Minimize noise, light and visual impact." Number seven under the Transportation Action, "Develop standards for County scenic and historic byways." Under the Economic Development and Diversity, number 2A. "Integrate uses within residential areas or around transit or transportation centers so that location of businesses and institutions do not contribute to sprawl." Number three, "Develop detailed planning for corridors and gateways of critical concern because of commercial development pressures. Along Edgewood US 344, I-40, the Cerrillos Corridor, State Road 14, I-25, the I-25 and State Road 599 Corridors around Santa Fe and the US 285 Corridor north and south."

The regional relationships, specific issues which need regional planning solutions are the extent and areas of future annexation, creation and enforcement of urban area boundaries, open space buffers and trails, roadway and highway corridors and gateways, regional transportation, airport nodes, abatement and water planning. I bring this up, Commissioners, because under our General Plan policies we have basically stated that we should do what we're doing today, and that's begin this process of planning the highway corridor. But why have a moratorium? Why are we asking for such a drastic issue at this point? I believe because we have a critical nature facing our corridors, facing our communities along Santa Fe County.

I believe that by having a moratorium, by having an eight-month moratorium we have the opportunity to send several messages, one being that we are going to use the growth tools within our means to establish good growth management, good zoning along areas that are critical and important to this community. Let's see what's happened along the corridors and what's pending. As we all know and we've all had to deal with, the convenience store. There have been large amounts of criticism, but I believe we need to move forward in a very aggressive manner and we did well. The Turquoise Trail business park, Highway 14, they've received final approval. The Komis Business Park, 599 in the I-25 master plan. That's been approved. The Cook mixed use -- along 599 near Airport. That's been tabled. The Chamiso Business Park, on the West Frontage Road. They have master plan. Southwest Business Park, West Frontage Road. That's pending. The County Boarding Kennel's expansion. That's been approved. The Capitol Ford Auto Body Shop on the East

Frontage Road is pending. The [inaudible] properties on Highway 14 have been approved. And there are several properties along 599 that are pending.

We all know that the node concept of the code and the EZ zoning ordinance is not functioning as originally planned. So we have to do something when we're talking about commercial development along these node concepts in these major corridors. This moratorium will allow us to take time out, to take a breath, to bring in the community representatives, to bring in the property owners, to bring in the technical staff to sit at the table and say what are we going to do with the problems that are facing us today? So what I'm asking the Commission to do is to be wise in your decisions today to allow this moratorium to go forward, to be courageous in it. To stand up and say we will make aggressive decisions. We will make courageous decisions and we will plan when we need to plan.

But we have that opportunity today to do that. And so what I like to -- share with you a little vision of what I would like to see this Commission Corridor to look like. I believe that to some extent, all Commission's should be managed or should have at least enough people on there where these Commissions can deal with business in a manageable situation. And so we should be able to set a finite number of Commission people to serve on this Corridor Commission. What I would propose is one, that we approve this request for authorization to have the moratorium, send to staff to bring back a resolution that would create a Commission Corridor along these areas and that this Commission Corridor would be made up of one property owner from within each of our districts and one community member from each of our districts, so that we have an equal balance and equal voice at the table with those that are concerned about the development that is going on in their community and those that are concerned with protecting their private rights to develop, sitting at the table.

I would propose that one Commissioner go this committee and we ask the City or the mayor to send one City Councilor to sit on this committee and I would ask that our planning staffs, both the City and the County, send us technical support and advisors to this Commission on how we establish the land use plan and the zoning for this area. We asking for this, Commissioners, because there are a lot of issues facing us. And if we get started now, I believe we will have the opportunity, I believe in eight months to come forward with the land use plan along these corridors. And so it seems to me that we have the opportunity now to create a Commission that would be balanced and represent the balanced needs of the rights of developers of personal property and the right to enjoy your community.

And so with that I'd like to open it up for any questions that you guys might have about why we came forward with this now, how you feel we might be able to progress, but again I'm asking you to please be courageous in this decision, to please show these communities that we will plan where we need to plan, and to please make sure that always, always, we stand on the side of fairness and balance in moving forward to address these communities. I'll open it for questions.

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COMMISSIONER TRUJILLO: Mr. Chairman, I agree with your proposal even though the bypass is not constructed yet, I think that the General Plan should include any commercial development in that area in and around the bypass. So is that going to be included as part of the general planning process of [inaudible]

CHAIRMAN GONZALES: Commissioner, it's not listed but it can be if the Commission [inaudible]

COMMISSIONER TRUJILLO: Because there are areas that are designated for commercial development and we should, as you say, plan appropriately in and around corridors. I agree with the proposal.

CHAIRMAN GONZALES: Thank you. I hope we get the chance, Commissioner to get to that point, I certainly would support that kind of motion.

COMMISSIONER DURAN: Have you given any thought, Mr. Chairman, to those people that are caught in the middle of the process right now? There are some people that I know that have made applications based on the node concept. Would this moratorium affect their ability to proceed with their planning?

CHAIRMAN GONZALES: That's a good question. Yes. I think -- it would be my hope, Commissioner Duran, that I think the people that come forward for master plan are good people. I think they're concerned about community where their commercial development is going up. It would be a matter of sitting down with them and asking them to come to the table to be at least one of the property owners to come to the table to help develop this land use corridor plan and to be a part of it. One of the things that we've got to keep in mind is that all these master plan approvals, and the moratorium I believe should only be subject to a master plan approval. All these master plan approvals have to receive some type of imported water. So what I would say is that right now, we know that as a County, within our own water system that we're a long ways off, certainly not within the next eight months, of being anywhere near being able to provide these developments with water.

I think there are built-in measures right now that would prevent them from coming forward within the next eight months so that a moratorium would not be an adverse impact for many of these people. Rather it would be just a time to take a breath to come to the table to help develop this corridor plan. And it is again my hopes that they understand that and that it is -- it's a definitive amount of time. They can continue to plan, they can continue to meet the rest of the conditions and be a part of this planning committee as it goes forward.

COMMISSIONER DURAN: It doesn't seem fair to me to require someone who's spent a considerable amount of money planning the development of their property based on our current ordinance and then tell them I'm sorry you can't do what the ordinances allow right now. You have to wait and see what happens, what comes out of this planning commission, and it could very well wipe out any development that they had in mind because the Commission or the committee decides to change the zoning in that area.

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CHAIRMAN GONZALES: [inaudible] Commissioner Duran, why I wanted to have five property owners and five community people, so that there'd be a balance, so that their interests would be represented at the table, so that their developments would continue to be hopefully in the minds of that committee somehow dealt with. I believe that every individual out there who owns property has a right to recognize some economic benefit out of it. And I think that we all recognize that up here. The question is bringing these people to the table with their communities and figuring out how the best way to see their property meet two objectives. One, to be conscious to the community around it, and two, recognize their economic benefit. Because I think that's absolutely important. If I own property along this corridor, I'd be very concerned with this, but I'd also want to be at the table to make sure my voice was heard and that I could lobby for what I thought was effective.

COMMISSIONER DURAN: I think that -- my perception is that the concerns that everybody has, the community, the County Commissioners, and the City Councilors have is that the corridors are protected. And I don't think a moratorium is actually the vehicle to take care of our concerns. I think that we have a node concept in place right now and I wouldn't mind, I wouldn't be opposed to a moratorium for those areas outside the nodes where there isn't any planning. There isn't any zoning. But I think they have a moratorium on areas that are already zoned for development, and these are all -- the nodes are in the high traffic areas, not the corridors, but the intersections and I wouldn't be opposed to a moratorium in those areas that need the planning, that need some guidance. But I'm not sure it has to be across the board.

CHAIRMAN GONZALES: One of the things I would just add to that, Commissioner, in these heavy intersections where the nodes are they're eligible for zoning but not all the properties have zoning until they come in to get it. So I just want to make that clear. If that's the route that the Commission -- and I can respect where you're coming from and I think you're representing a fair side but we understand that not all the properties in commercial nodes have been zoned commercially. And so they don't have that automatic right to commercial zoning. Does that make sense?

COMMISSIONER DURAN: Yes, except that the node concept only allows - - you can't have commercial development out along the highway corridors except at nodes, whether or not you have to get approval, you can't get it anywhere else. The main reason that the County was opposed to strip development along the corridors [inaudible] I'm still not comfortable with having the moratorium apply across the board along all the corridors especially when we [inaudible]

CHAIRMAN GONZALES: I think we've all talked about this that it's not functioning that way we want it to function. So I guess my point would be that, why would we [inaudible] a concept that isn't working well for the community. [inaudible] and still make available for current developing when it isn't working correctly. So I would just throw that out for thought. But if you're saying Let's have the moratorium everywhere but the

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commercial nodes, it seems that it's going against the things that we're trying to correct. And the moratorium again, is not what's going to be used to correct the problem. It's the private property owners and the community people with the support of our planning staff that are going to be correcting the issue, coming forward with a land use plan.

All the moratorium does is it gives time to people for that to happen. It gives our staff a break from having to deal with these uncomfortable situations as things move forward and you have issues on the floor that don't necessarily meet the needs of what maybe this Commission would want. I think the moratorium has worked well in Eldorado and achieved clear objectives. I think it worked well in Cañada de los Alamos where we've achieved good objectives where we have that community coming out and planning now. So it's worked where we've been able to do it.

The Eldorado moratorium is an area where basically we've set the parameters and said, basically, we need to come up with a new, important source of water and when that happens we'll be able to lift it and move forward. It's helped out to some degree. So I think where we've been able to use it it's been very effective. That's why.

COMMISSIONER DURAN: It's been effective but it's been a very poor solution to the problem. That's one of the reasons why I have some concerns about a moratorium is that we use the moratorium as the answer to the problem and don't work on the problem. That seems to be happening out in Eldorado.

CHAIRMAN GONZALES: I especially disagree with you that that's been the answer to the problem out there. The answer to the problem out there, that we've said all along is for Eldorado utilities to come up with a renewable, stronger source of water for that community. And until they do it, that moratorium will stay in place. We're not using the moratorium out there [inaudible] So I just wanted to say I disagree with that. I would rather have this kind of discussion with you guys than [inaudible]

COMMISSIONER TRUJILLO: I have a question along with what Commissioner Duran is saying. What happens to developers who have extended or committed monies to the node concept and now if there's a revised or a new General Plan in place, do they have to start all over again, or do those developers who have started and are half-way through the development in conformance with the node concept, can they continue under that code? [inaudible] rather than going back in order to comply under the new corridor general plan?

CHAIRMAN GONZALES: I think legal can help answer it. My intention - people who have -- if you've passed your master plan approval and you're already working on your preliminary finals or you're already in the preliminary final stage, that's where you're starting to invest a lot of money getting the County basically around you to move forward. That seems to be a point where it would be unfair to tell them to come all the way back after they've spent money on an approved deal. The conceptual part of the master plan is what I'm saying. People who've developed a conceptual plan that we've blessed. I don't know what would happen. What I am saying and I guess we'd have to hear from legal, but

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what I'm asking is that people who have received master plan like Mr. Komis who I spoke with a little bit last night and the Chamiso business park, those are two people with master plans that actually have a role at the table in how -- and it's good for their property. They're going to be sitting down. They're going to be helping to solve the zoning for the corridor that goes along their property, rather than turning it over to somebody else to decide for them. All I'm saying is come to the table, be a part of that, as opposed to you waiting for someone else out there to tell you what you should do with your property.

They have master plan approval. I'm hoping that this can work and benefit them and benefit the community. We're looking for a balanced solution here, not something that's going to adversely affect either the community or the private property owners.

COMMISSIONER ANAYA: Thank you, Mr. Chairman. Mr. Chairman, I tend to agree with Commissioner Duran. I see no real potential merit in the moratorium. The reason on my thinking behind it is because when trends are set, and we're looking at it through appraisal terms, when trends are set, whether it's speculation or actual [inaudible] that are out there and things that have already been established. That sets a precedent as to what investors are going to do. But we've already approved, I don't think we would have any authority to go over there and try to overturn them, which I think is the intent of this particular moratorium is to overturn decisions which have already been made. I think that would put us in a regulatory taking type position and expose what we have to potential lawsuits. I really believe that.

I think that people that are out there that have already invested and already in place with the code today, I think there's already instruments within the code that can prevent any kind of non-aesthetic type of situations out there, for example PNM that was approved back in CRDC days seventeen years ago. We [inaudible] made an effort to buffer it through landscaping and the sort. But I think the people that are coming forward today I think we have an instrument in place right now to help prevent any kind of ugliness coming in through the corridor. I agree with Commissioner Duran, if there's to be an imposition of a moratorium, it should not be within the commercial nodes because of what I've said. The investments have already been made. I think anything outside of those nodes, those may be addressed for arterial purposes, or safety reasons and things of that nature.

Right now we don't know what the inventory is out there. We don't know how it's going to affect people and to make a decision right now on the moratorium I think would be a little bit premature. I think you've got to keep in mind the flack that the City caught when they wanted a 50-foot buffer along the bypass -- it was a bit exuberant anyway. And you've got to keep things like that in mind with that type of notion that came forth. I think that the intent of this moratorium is to rezone things that have already been approved and I'd be very skeptical to vote on a moratorium that would tend to be sent in that direction, Mr. Chairman. Other than that, I really don't conceivably see why a moratorium would be needed. Sorry, Mr. Chairman, but that's my feelings.

CHAIRMAN GONZALES: Commissioner Anaya, I respect those feelings,

much the way I respected them when we stood up in front of a group of angry property owners when we did the moratorium on Atalaya Hill. That's the way we stood up in front of the group of very angry developers when we did the moratorium on Cañada de los Alamos, and the way we did the moratorium in Eldorado. This Commission was bold enough at that point to make this decision recognizing that people in those areas had been long beyond the process of even a master plan phase. Long beyond the investments in the master plan phase, especially in the Atalaya area, what's going on in Eldorado and even in the Cañada de los Alamos area.

We said then, and I'm asking you to say today is that we're going to allow for a time out. Not that we're going to go in and rezone we're going to allow for a time-out so that property owners and so that community people can have a chance to talk with the support of our planning staff and the support of their governing body. So that's all I'm asking for. My goal is not to have a regulatory taking. I don't think I've ever voted on anything that would lead to a regulatory taking. If that was my intent I wouldn't bring forward the plan to put private property owners as a part of this commission. What a concept the way we had it.

I don't think we've ever had private property owners that have actually been able to come to the table and decide what's going to be important for them and their future. But now they're going to have that chance to sit down across from people that will be affected by the developments and engage in a very civil manner, how's the best way to deal with the corridor and how are we dealing with it. All I'm saying is we were bold before. We've withstood the criticism. We got through it. We developed a good ordinance on Atalaya Mountain, which you've protected to this day and I believe you're going to protect for as long as you can.

All I'm saying is that this corridor be given the same treatment that this mountain was given, that these corridors be given the same treatment and that we make the same statement we did then and that is to allow the communities to come forward. To allow the property owners. To develop regional, or develop corridor plans that will benefit, not only today but in the future. So it's not a regulatory taking and by no means is it meant to pull the rug out from under the feet of the people who've come forward. All we're doing is asking for a time out. We're still the decision-makers up here. It still has to come up to us to make the decision and I'm counting on all of you for when it finally comes up to make the right decision on what's important, what's fair for the community and what makes sense.

So we're not handing over decision responsibility over to a group of people that are going to say, everything along the corridors is going to be 1000 feet and we're all going to go open space and we're going to rezone everything that's been done. That's not what we're doing here today. What we're doing is we're seeking a balance. We're seeking a compromise, and there is an end in sight, and that's a zone that will exist along the corridors that will be blessed by this Commission. So you're going to have a strong say in what happens on that, Commissioner Duran, Commissioner Trujillo, Commissioner Grifé, along

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with myself, are going to be able to mull over this corridor plan and see is it fair? Is it balanced? Does it make sense? And if it doesn't, Commissioner, it's our responsibility to make sure that it does.

So all I'm asking for on this is a time-out. A chance to give people an opportunity to come to the table.

COMMISSIONER ANAYA: And as for the analogy, the analogy between the Mountain Ordinance and this is like apples and oranges. It's just a different sphere, totally different potential growth, totally different potential of direction.

CHAIRMAN GONZALES: Commissioner Anaya, I would ask you to visit with people in La Cienega, or visit with people along that corridor and ask them if this is an [inaudible] Because to them, their land sits on a corridor that they get to look at on a daily basis. So it's not apples and oranges. It's just as much an issue to them as it was to the people who looked up at that mountain on the eastside of this town.

COMMISSIONER ANAYA: For example, when the Komis property came before us, the development came before us, I kind of leaned towards the tendency to approve the whole master plan, instead of piecemealing which is one of the things you're attacking about piecemealing, and that whole area could have been planned arterially for roads and everything else on a basis of the whole, instead of the piece we approved. With that it would have given the developer the substance to do his buffering, to give up what was necessary and do some planning governed by staff, or directed by staff, if you would, to protect the notion that you want to establish today. Mr. Chairman, I think that that would have been the better direction.

I still feel that we need an inventory as to who it can affect and so forth, and once we have that basis, I think that maybe we could do a better decision. There was a notion that the nodes should be left alone.

CHAIRMAN GONZALES: Thank you, Commissioner Anaya.

COMMISSIONER GRIÑÉ: I agree with you conceptually with having a committee, but I still don't understand the real purpose of this moratorium. In discussions with you last night and today and most of my afternoon with staff and some people calling me in, I still don't see the meaningful reasons for this and I don't think we should go forward with it. I do essentially agree with you about forming a committee between the governing bodies and the citizens and set a time to be based on maybe 90 days and to report back to the governing body and to the City Council too. That's where I stand.

CHAIRMAN GONZALES: I appreciate it, Commissioner Griñé, and again, I'm dealing with what I feel is in the best interest of my district and hopefully the corridors in bringing this moratorium and again, it's only a time-out. It's only eight months. We have been so accommodating to people in the nodes. We were accommodating to Mr. Komis who I think is a good individual who was born and raised in this town and who should be able to do something with his property by expanding that node. -- We have been accommodating every single time that we need to be with individuals who came inside this

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commercial node who wanted more expansion of it. All I'm asking is that we accommodate the communities as well by allowing for eight months time out. Let's accommodate, let's give fairness, let's give them a chance to come to the table to take a breath without having to worry about who's next on the EZC agenda. Who's next on the CDRC? How do we do our phone banking together so that we can go over there and oppose it? It's constant opposition.

If we can move to the table and find compromise and find consensus then we don't have to worry about accommodating individuals so we can expand their node because we'll already have the buy-in of communities around it. So that's all I'm saying is that time and time again we've accommodated the developers, and I think that their developments have followed the code, and all I'm saying now is that we accommodate the communities around these corridors to give them a chance to have a say or at least to be at the table as we formulate the decisions that exist along the corridors.

COMMISSIONER DURAN: I think the developers that have asked for us to accommodate them in expanding the nodes, I think the reason we agreed to that is because it was a reasonable thing for us to consider. I don't think we gave them anything. I think what we did is we looked at each situation and made a decision based on the merits of the case. So I don't think we gave anything away to anybody. I think we all really share the same vision that you have. We're all concerned about the corridors. I asked Betty Lucero from the City to join us tonight because I've had complications with them in the past. One of the real concerns that the City has, it's one that I have, it's one that all of have.

No matter what happens whether a moratorium goes in place or if it doesn't I think that there needs to be some real effort to deal with those issues and to create a committee as you suggested so that we deal with those issues right away. I'm just not sure that an eight-month moratorium is going to do anything for us. I think that what we need to do is make a real effort to get the staff people assigned to work on this and get the commitment from both governing bodies to deal with the issues because it's a major concern of this community.

CHAIRMAN GONZALES: Thank you, Commissioner Duran. And I didn't mean to -- I think the Commission was reasonable in how we dealt with those issues, but I'm just saying that we be reasonable with them and I'm just with my last breath, we can be reasonable with the communities and what they're asking. I kind of feel like I'm on the Titanic here and trying to do everything I can to see if I could save this ship. So we're done with that. I'm going to ask for a motion. I'm going to ask again that the Commission show some courage and some vision in allowing this moratorium to go forward. Because I'm the chair I cannot put this forward so I'll ask for a motion from the floor.

COMMISSIONER TRUJILLO: Mr. Chairman, I move that we approve the request authorizing to publish title and general summary of an ordinance establishing a moratorium on development along the I-25 and US 84/285 corridor in order to formulate ordinances to address development concerns specific to the corridors. And I'd like to

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include in there the proposed bypass.

CHAIRMAN GONZALES: The New Mexico 599, is that correct?

COMMISSIONER TRUJILLO: Yes.

CHAIRMAN GONZALES: Okay, there's been a motion. Please let there be a second. I'm begging. All right, for lack of a second it dies. Okay, moving on then -

COMMISSIONER ANAYA: Mr. Chairman, may I, am I allowed to --

CHAIRMAN GONZALES: Absolutely.

COMMISSIONER ANAYA: Mr. Chairman, I'd like to move that we move forward and establish a corridor committee as suggested by the chairman as to how many committee members there should be and establish it for a timeframe period of at least three to six months and come back with some kind of information to us, perhaps we may enact some type of ordinance in the future to address the chairman's concerns. And I put that in the form a motion, Mr. Chairman.

COMMISSIONER GRIÑÉ: Second.

CHAIRMAN GONZALES: Okay, thank you, Commissioner Anaya, for supporting that. I think that yet again, I appreciate the Commission wanting to form this corridor commission and I understand at this point we don't have the moratorium but I'm grateful to all of you for allowing us to go forward with the corridor commission because it does fall in line with our general plan policies. So I think that's good. I guess I would recommend, unless there's any discussion that we -- I'm worried about a three to six month, I think it needs to be definitive. The only thing is, Commissioner Griñé, is what I'd like for these people to do is to actually come back to the Land Use planners to see if we can give them enough time. Maybe we can have the resolution come back and then we can debate the amount of people, but what I would recommend in the resolution would be that a member of the community and a private property owner along the corridor, the land use corridors including the bypass -- did you allow the bypass to go, Commissioner Anaya? Including the bypass. We have allowance for the community and the private property owners, and a councilor and a Commissioner, we should talk to them about that and we'll ask that the City appoint a councilor to serve on that and that both planning departments serve as the technical support. And then this resolution would have an eight-month time line to assess the current situation, develop options as to how we could see some kind of zoning take place in that, maybe in the form of an ordinance, actually have some zoning ordinance come back to support the corridors.

Can we have a resolution, can we do that through resolution, creating these committees and that way we could come back and get moving on that?

MS. KULSETH: Mr. Chairman, yes, it could be done through resolution.

COMMISSIONER ANAYA: [inaudible]

CHAIRMAN GONZALES: Absolutely. Staff has already done tremendous amounts of work, working on the maps for the corridors so we'll be ready [inaudible]

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COMMISSIONER ANAYA: Mr. Chairman, if I may make a statement. I really appreciate this Commission and the attitudes out here that we're not hostile and that we discuss things in a gentlemanly manner and I really appreciate that, Commissioners.

CHAIRMAN GONZALES: I agree.

COMMISSIONER DURAN: Thank you for not yelling at me.

CHAIRMAN GONZALES: Any other discussion? If none, all in favor of Commissioner Anaya's recommendation to appoint a Commission corridor committee signify by saying "aye." [Unanimous 4-0] All those opposed?

I think it's a move in the right direction. I didn't get entirely what I wanted but I thank you guys for at least getting it started. I appreciate it. We're going to move into our regular evening session at this point. Actually, why don't we take a ten-minute break and then we'll come back

CHAIRMAN GONZALES: Becky, we're going to move into executive session, for these ten minutes. So can we have a motion to move into executive session?

**Commissioner Anaya moved to go into executive session to discuss pending or threatened litigation. His motion was seconded by Commissioner Griñé. Upon roll call vote it was unanimously agreed to go into executive session.**

[The Commission met in executive session from 6:15 to 6:30]

**Commissioner Anaya moved to come out of executive session and the motion, seconded by Commissioner Griñé, passed by unanimous voice vote.**

[The recessed at 6:30 and reconvened at 6:47 with all members present]

#### **IX. PUBLIC HEARINGS:**

- A. Ordinance No. 1998 . An ordinance amending and replacing Ordinance No. 1997-5 declaring a moratorium on new subdivisions serviced by Eldorado Utilities, Inc. and encouraging conservation measures within the Eldorado Utilities Inc. service area [First reading]**

JACK FROST (County Hydrologist): Thank you, Mr. Chairman, Commissioners. I'll try to make this short. This is a recommendation to renew a revised moratorium for the Eldorado area. It only affects new subdivisions, submittals and approvals serviced by Eldorado Utilities. The basis for this recommendation is that there is no new information establishing sufficient long-term water availability in the area. The 1996 and 1997 moratoriums postponed new subdivision submittals until the subdivider, whose burden it is, or the utility demonstrate sufficient long-term production capability and water rights for the proposed project. There are reports by several agencies that indicate that that water

availability does not exist and there's no change in conditions of legal and physical water availability to argue otherwise.

In the fall, at a Public Utility Corporation hearing, the Eldorado Utility engineer testified that the utility service commitments to waiting subdivisions have expired and new commitments will have to be renegotiated with the applicants with them bringing either water production or water rights to the table. Without a commitment and proof that the utility is ready, willing and able to serve the master plans and other County approvals, that the subdividers have submitted to the County are invalid.

There is a change in conditions with the new moratorium. You would be adopting the following: new subdivisions and land division applications which do not rely on Eldorado Water service will be processed subject to the County Code. However, no density adjustments beneath 12.5 acres per dwelling unit, which is the basic Basin Fringe Hydrologic Zone minimum lot size, none will be considered below that level and these approvals will be contingent upon acceptable, site-specific hydrology reports, water use covenants, and proper well drilling and construction techniques which protect and optimize the source of supply.

Cluster housing is encouraged for those developments to proceed under these conditions. Notwithstanding the above if a comprehensive watershed-wide hydrologic study is conducted and clearly demonstrates to the reasonable satisfaction of the State Engineer and the County Hydrologist that there is adequate long-term water availability to allow density below 12.5 acres on domestic wells, such densities may be allowed. The basis for the change is to be able to consider submittals that want to develop that exist today within the Eldorado Utility service area but which are unlikely to be receiving service in the near future.

As before, the argument that the many approved lots in that greater area, they've yet to build out and must have a secure source of supply, that argument must be considered prior to considering new submittals.

The ordinance is lengthy but very similar to last year's in other considerations. Finally, I want to report to you that based on the initiation of several of the Commissioners, we are going to conduct a study in cooperation with several state agencies and members of the communities of Cañada de los Alamos, Seton Village, Eldorado and Cerrillos, all of which share their position and their source of supply in the watershed of the area. Hopefully to shed some light on future water availability on these lands and on yet to be developed lands between the Highway 14 area and Eldorado. Questions?

CHAIRMAN GONZALES: Any questions of Mr. Frost? I just want to on a side note give a quick update on the fire in Stanley that took 200 acres but it's been contained and it's down. No structures were taken in the fire but lots of grass.

COMMISSIONER DURAN: Jack, have you had any discussion with AMREP or Eldorado Utilities about the water situation out there in the last, since last time you came up before us to explain the moratorium?

MR. FROST: I just this evening had discussions with Mr. Spangler and Mr. Conkling about their presentation here tonight and we receive monthly updates from Eldorado, which I review. I also hear that they have been discussing and negotiating with the State Engineer. It is their position that they don't have to discuss their activities with the County. I think we would disagree with that, but I get a lot of feedback about the situation out there, Commissioner Duran.

COMMISSIONER DURAN: Have they been able to produce any new evidence of their water resource or have they been able to prove that they have water for the additional developments that have been halted by the moratorium?

MR. FROST: Chairman Gonzales, Commissioner Duran, a technical submittal would be required to make that argument.

COMMISSIONER DURAN: Have they brought anything to you?

MR. FROST: No sir.

COMMISSIONER DURAN: Thank you.

CHAIRMAN GONZALES: Any other questions of Mr. Frost? Okay, once again, Jack, just to reiterate, this is going on with Commissioner Duran, our discussion and the previous one about the moratorium in Eldorado about it not being able to solve the problem but it was actually doing something and I think Commissioner Duran started this effort. We're working at doing an assessment in the whole region area, is that correct?

MR. FROST: Yes, sir. Twelve people met here at the County last night that represented all the communities with Seton Village and included several hydrologists and engineers from there with the problem. It included a representative from the State Engineers Office and the New Mexico Environment Department to address these concerns. We made the commitment then that we're embarking on this and solicited their cooperation. So we're forming a group with potentially some funding coming from the state that we expressed some interest in. So we've taken action towards that.

CHAIRMAN GONZALES: Thank you. And thank you, Commissioner Duran, for getting that started. It's very important. Okay, this is a public hearing. If there are no questions of the staff, the representatives from Eldorado Utilities can step forward. Mr. Spangler, thank you for being with us.

MATT SPANGLER: Mr. Chairman, members of the Commission, thank you for letting me speak. I'm here on behalf of Eldorado Utilities and I'm here to give you an update on what has occurred during 1997 with regard to the Eldorado Utility system and to provide you with certain facts regarding the system. In 1996, the utility ended the year with 2,013 customers. In 1997 the utility ended the year with 2,143 customers, for a total of 130 customers added during 1997. That's approximately eleven customers per month.

In 1996 the utility sold approximately 364 acre-feet of water, and in 1997 the utility sold 404 acre-feet of water. The average unit use in 1996 was .18 acre-feet per year. In 1997 it was very similar. The average use was .19 acre-feet per year. The utility estimates in its master plan that with full build-out of the franchised area there will be 3,740 units

some time after, probably fairly far after the year 2010. The utility's water losses for 1997 were slightly less than 11%. The industry standard for water losses for a utility of this type are 15% so the utility's water losses were significantly under the utility standard.

Based on current usage and loss figures for 1997, the utility will require approximately 830 acre-feet of water production to meet full build-out for water requirements. If you look at the peak production from each of the existing wells during 1997 based on a peak-month production, the utility has the capability to produce 818 acre-feet of water to meet its production requirements. This does not include what are known as wells 10 and 11 which are not on-line, nor does it include the four new wells which the utility drilled during 1996 and 1997.

The utility has also been approved by this board to construct two new storage tanks in zones 2 and 3 of the utility system. These tanks will add an additional 600,000 gallons of storage capacity. The utility is currently awaiting permits from the County to build the tanks. The utility currently has 486 fire hydrants in its system. During 1997, each of those fire hydrants was tested and if necessary retested until each passed inspection by the Fire Marshal. The utility is now beginning to test all of those fire hydrants again for the upcoming year.

The utility has also applied with the State Engineer recently to obtain a permit to test one of the largest of its new wells in order to obtain information which the County is requesting on those new wells in order to evaluate the aquifer. During 1997, all litigation regarding the Lamy well has been effectively ended and the utility is now producing water from the state approved well at approximately the same rate as the old well. The utility during this year has not failed to deliver water to its customers. The utility's wells are not being used to capacity because excess water supply exists. Storage tank water levels are consistently high.

At our meeting last year you requested the utility to look into connection to the County system through a connection line as an alternative or as a solution to the problem that you saw existed. The utility did look into that connection and was told by County officials Jim Corbin and Jack Frost that the County did not have excess supply to meet the needs of Eldorado Utilities. It was explained to Eldorado that the County water supply comes from a five-year lease with the City. That lease can be extended for five years and you're three years into it, therefore the supply for the County system is in existence for an additional seven years. Therefore the suggestion was made that a connection to the County system would not be a solution because the County does not have any excess water supply.

At that past meeting you had asked me or a representative of Eldorado Utilities for what reason Eldorado Utilities opposes the passage of a moratorium ordinance and Eldorado Utilities does oppose the passage of this ordinance. One of the reasons Eldorado Utilities opposes this ordinance is that, in essence, this damages Eldorado Utilities because it prevents new customers from hooking on to its system. In a sense, the utility and the County system are in direct competition for new water users and with this moratorium in place the new

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water users do not have the choice of Eldorado Utilities and go to the County system or to some other system. Because of all these facts, we understand that you're not voting tonight but that you will vote at your next meeting and we would request that you would not vote to approve this ordinance and not to continue the moratorium in Eldorado. Thank you.

CHAIRMAN GONZALES: I have a question of Jack, then I want to make a statement so you might want to stick around to respond. I guess there was a -- Matt made a comment or a statement that there's been a new well that's been approved by the State Engineer, that Eldorado is currently using. Is that correct, Matt? Did I understand that comment right?

MR. SPANGLER: No, Eldorado drilled four new wells and has applied to the State Engineer to test those wells in order to -- just one of those wells, the largest one in order to obtain test data which County Hydrologist Jack Frost has suggested would be helpful to him in evaluating the system.

CHAIRMAN GONZALES: So then in your comment when you talked about the Lamy litigation that that well's been closed and you're using another well? Or did I misunderstand?

MR. SPANGLER: Essentially, you're correct. The Lamy litigation involved two well holes that were twenty feet apart. The State Engineer sought for Eldorado to stop using the well it's been using 1996 and in the past years and to go to the hole twenty feet away. Comments were made at past County Commission hearings in 1996 and 1997 that the new well would not produce as much water as the well that Eldorado had been using. I was reporting to you the fact that the litigation has ended. Eldorado has moved to the state approved hole, the original hole that was approved by the state and that that well is producing essentially the same amount of water that the original hole produced.

CHAIRMAN GONZALES: So then I guess my question, Jack, if that's the case, what's the assessment of the current water supply if they have a well that is providing as much output as the Lamy well. Because I understand the Lamy well was an important well for Eldorado.

MR. FROST: The Lamy well is their biggest producer. There was a lawsuit for many years over moving and redrilling that well.

CHAIRMAN GONZALES: It was the biggest producer, right?

MR. FROST: It remains their biggest producer. They went back to the old well and refurbished it and abandoned the new well in contention. That well dried up during the drought of 1996. It remains considered by hydrologists to be drought-sensitive, but it still provided over 30% of the water used by Eldorado this past year. Eldorado has no new water rights in the past three years. There's been no change in condition in that regard.

CHAIRMAN GONZALES: So you're saying that even with the new well that was brought on-line that in your view, and the State Engineer's view, they're just barely meeting their current demand, or--

MR. FROST: Chairman Gonzales, the issue is that they do have surplus

instantaneous production capability. But they have not established a long-term water right and water availability to service the 600 to 800 existing undeveloped lots and any more lots to be created. That's the difference. It is true that people are using less water at Eldorado. They're only using 80% of the water that they used in 1995. I don't know where the difference went. It's in part not -- can't be attributed to the utility. Rather it's the conservation of the water users.

CHAIRMAN GONZALES: So is it the long-range sustainability of the water supply that [inaudible] moratorium today? Is that what I'm hearing?

MR. FROST: Yes sir. Three things. PUC determination, State Engineer's determination, my own, our technical support for this and the fourth is that Eldorado's engineer itself has said that they don't have further commitments to any new subdivision unless they bring wet water or water rights to the table.

CHAIRMAN GONZALES: So we're talking really about the long-term situation now. You feel very comfortable that today Eldorado Utilities is able to service their current customers, with the assistance of the Eldorado residents and conservation methods.

MR. FROST: Yes, sir, Commissioner, and finally in the absence of the drought situation.

CHAIRMAN GONZALES: Okay, I guess I have another question. If we're talking about a long-term issue, we're talking about appeasing the State Engineer, the PUC and our technical staff in developing a long-term plan which we've all talked about since the early days, where do you stand on that? Is Eldorado prepared to bring water rights to the table? What are you going to do for the long-term sustainability of water in the Eldorado area?

MR. SPANGLER: We believe we have long-term sustainable water. The two questions that you're asking are water and water rights. The numbers that I showed to you or told to you, numbers of existing wells. So those are all in place and being pumped. And today basically meets the needs for water for the long-term. However, because of certain concerns by this Commission and other agencies, we are also developing new wells that will be available at the time that they're needed. As Mr. Frost state and as I was trying to put forward. We have plenty of water for the present situation and we're currently planning and working for the future by -- we've already drilled the wells. We've applied for a permit to test them and to assess them so that Mr. Frost will be comfortable. We also are working with several other things similar to what the County is working on such as line extension agreements that would include the commitment of water rights and the transfer of water rights from wells that are not producing as well as they could to some of these new wells that will produce additional water, so that we will have additional water for the long term.

Essentially we feel like we are planning for the future in a step-by-step process and we feel like we have done that in a -- we're doing that in a business-like manner and a reasonable manner, diligent manner.

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CHAIRMAN GONZALES: Let me ask you this question. Why is it then that the State Engineers Office which I'm assuming, according to Mr. Frost, that's the only agency you're really doing your negotiations with, and not so much the County, but why is it the State Engineers Office, have they not given the blessing to go forward, or they are saying they feel comfortable with your long-term water supply. What is it the State Engineers are saying?

MR. SPANGLER: Well, the State Engineer has essentially asked us in an informal manner to perform these tests on the new wells to provide them with the data that would be required for them to issue the opinion to Mr. Frost.

CHAIRMAN GONZALES: Do you know how long, how far away you are from submitting those reports?

MR. SPANGLER: I don't have an estimate of how long it would be. We've already started the process and it will depend on the public comment time and the limits that the State Engineer puts on what he requires of us.

CHAIRMAN GONZALES: So based on the report, the State Engineer will inform Mr. Frost whether they agree that you have some long-term sustainability or not, or have they done that already?

MR. SPANGLER: That would be the intent.

CHAIRMAN GONZALES: Anyone else from Eldorado Utilities?

MARK CONKLING: Good evening. I'm Mark Conkling as a spokesperson tonight I just wanted to reiterate a couple of things that I knew each of your were concerned with in the past and I think rightfully so. It's clear now that no emergency exists. It's clear now, with the rainfall and the moisture and the weather conditions that there's no drought. We know that many wells are drought-sensitive throughout Santa Fe County and throughout the city and their sensitivity to drought is really not the issue. The issue has to do with capacity. All of the 486 hydrants, that's a lot of hydrants, have been carefully tested and one of your primary concerns the last time we were before you was health and public safety. In fact, you thought it was your responsibility to look at that issue. That issue has been responded to and every hydrant has been tested.

Every one that found to be even a little bit low on pressure has been repaired. They've all been inspected. That's a lot of hydrants and it's been very diligent over the past year. So issues associated with health and public safety, we believe are behind all of us.

Further, the Lamy well has pumped every month reliably for the last twelve months. It is true we rely heavily on it but it's because it's a good well. You rely heavily on good sources. And it's pumped in excess of two million gallons a month and in some months four and six million gallons reliably. And that lawsuit is gone. We consider that to be substantial progress. The other progress that we think comes kind of backwards and that's that the slow growth of the area is considerably less than what we all anticipated, and you were rightfully worried in times of rapid growth that this could get out of hand. But we think that eleven new hook-ups a month, it's not anywhere near the same issue that it might have been in the

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past.

So we don't think a moratorium is necessary. We think careful monitoring of the situation is a reasonable alternative. A moratorium reflects poorly on what we think is a very good utility. We've put over 2 1/2 million dollars in the utility in the last three years. It's quite a good plant. And we're proud of a very good water utility. We've delivered clean and dependable water for over twenty years to many citizens in Eldorado. The moratorium in our view reflects poorly upon the utility. We think that the developers who want to develop and the utility can work together on finding the necessary rights and sources that would satisfy this Commission. Thank you for your time.

CHAIRMAN GONZALES: Thank you. Any questions of Mr. Conkling? Jack, let me ask you another question again just so we understand. Is it just the reports of the State Engineers Office that agrees to the long-term sustainability that we're waiting for to make our staff feel comfortable with lifting the moratorium or are there more issues out there?

MR. FROST: Chairman Gonzales, in response to that, there are more issues out there. I could take issue with a couple of the points made here. The wells that they're discussing as so important were drilled in 1996. They haven't done much until just announcing tonight that they're going to hook one up tonight and start producing it and that it's going to help a lot. They have done to their credit, a lot and their physical plant is in much better shape. But we keep returning to long-term source of supply issues. Yes, the State Engineer is a benchmark in our subdivision review process in part, by virtue of the state Subdivision Act. And there's nothing new regarding that. It is true that it is the burden of the subdivider.

CHAIRMAN GONZALES: Thank you. This is a public hearing. Would anyone else like to address the Commission concerning the moratorium?

KATHY PILNOCK: My name is Kathy Pilnock and I thank you for the opportunity to speak tonight. I speak on behalf of the US 285 Citizens Coalition. The Citizens Coalition is a neighborhood alliance representing homeowner associations along US 285 from Eldorado south to Lamy. Our members include Alteza, Belicia, Dos Griegos, Eldorado, Lamy, Los Caballos, Los Nubes, Los Ranchitos, Los Vaqueros, Old Road Ranch, Rancho Mirador, the Ridges, and Tierra de Casta. [See Exhibit 1]

One of our purposes is to have a voice in decisions that affect our communities. In April of 1996 the Board of County Commissioners adopted an ordinance declaring a water emergency within the service area of Eldorado Utilities. It is our understanding that this ordinance will expire in April of this year unless the Board of County Commissioners extends the moratorium. The purpose of this letter is to request that you continue the moratorium based on the water emergency which still exists in the Eldorado service area. We make this request due to the following considerations:

Eldorado Utilities has not demonstrated that its water supply will be adequate during periods of drought. Their wells in the Lamy area are especially susceptible to drought and

well #RG-18556 went dry during the drought of 1996.

Since the adoption of the ordinance Eldorado Utilities has not demonstrated that it has supplemented or managed its water supply so that the supply is adequate to meet existing demand, fire protection needs and storage requirements, especially during period of high use and low production.

Eldorado Utilities have not demonstrated that there is a sufficient supply of water available growth and expansion of its system.

The utility was required by both the PUC and the State Engineer Office to prepare a water conservation plan. The utility has made no effort to meet with affected water users in the development of that plan.

We believe that these facts demonstrate that the water situation in the Eldorado service area has not changed substantially since April of 1996, and that after review, you'll find that the water emergency still exists and that the ordinance should stay in effect.

[inaudible] a letter that we officially decided to send. I just would like to reiterate, I don't think I can say this often enough. As hydrologically sensitive the wells in the Lamy area are, RG-18556, from what I've heard tonight is going to supply 30% of the water needed for the utility and [inaudible] is not going to supply any water. There are a number of new wells that they have drilled. Those wells have not been tested over a period of years during rainy years and dry years both, to see if the water is always available. For those reasons I would ask that you keep the moratorium in effect. Thank you.

CHAIRMAN GONZALES: Thank you. Would anyone else like to address the Commission concerning this issue?

MIKE BRANSFORD: Chairman Gonzales, members of the Commission, my name is Mike Bransford. I'm here tonight because I happen to own land in Eldorado in Santa Fe County, near the Eldorado area. Two years ago this Commission ordered a moratorium on any new developments in the area because we were having a drought. Here we are two years later. We were told, by the way, that as soon as the drought was over that you would quickly move to remove the moratorium because you understood how much it hurt the landowners there. Now it seems that the moratorium is being used to control growth. I don't believe there's a water shortage in Eldorado and if there is then Santa Fe and the surrounding area and Albuquerque are all in the same fix because we're all in the upper Sonoran Desert.

We all need to conserve anyway. What I'm asking as a taxpayer and life-long member of this community, is not any special rights, only equal rights as my neighbors to hook up to the water. The water belongs to all of us. When there's a drought we'll all conserve. But it seems like we're being singled out here because there's a few people in the neighborhood that don't want to see anybody else move in, don't want to share the roads, or the views or the water. And so they come in here and speak up. Even members of the staff, I know they're trying to control sprawling. They're trying to control growth. But I feel like we're being singled out here in Eldorado. How come they've approved some of

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the other subdivisions around us?

The water table is pretty much from Galisteo all the way up to the Santa Fe Basin. We'll all going to have to put our wells into the same aquifer or related aquifers. I'm not an expert in this field, but it seems to me that we're being discriminated against in Eldorado as landowners. But people that already lived there, moved in, they seem to have more rights having hooked-up before I was. I've owned that land there a long, long time. We're paying a lot of property taxes. Most of my friends and brothers and members of my family have mortgaged their homes and their businesses to buy land out there. For ourselves and our children. We're not doing foolish things, golf courses or swimming pools or trying to waste water. We want to conserve water too.

But I just feel that I have equal rights under the law. I'm not asking for special rights. As a landowner, I would just like to have equal rights. And we are being hurt by the moratorium. Up here, last year you said that there's got to be a better way besides a moratorium. We can judge each subdivision by its merits and look at the good ones and let the ones that you feel are decent residential developments to go along and then try and manage some of the ones that aren't. Property rights and rights to own property and business is what made this country great. And I just feel that I see that threatened here. It concerns me. All I'm asking is that if at least the ones that have master plan approval and they've already spent money on archeological testing and impact studies and traffic studies and school studies and engineering. At least the ones that had been approved when the rules were different to let them go through if they meet the law. We're not trying to circumvent the law, we're just trying to go by the law and then they change the rules.

But remember that you guys gave us your word when the emergency was no longer, you would lift the moratorium. And that's what I'm asking, as a landowner and as a citizen of this community. Thank you very much.

CHAIRMAN GONZALES: Thank you.

COMMISSIONER DURAN: I have a couple of questions for you. Did you purchase your property from AMREP?

MR. BRANSFORD: No, we purchased it from a Dr. Delta who may have purchased it from AMREP. I heard had owned it for quite a long time.

COMMISSIONER DURAN: And when you purchased it, it was represented to you that you had to apply to hook up to the Eldorado Utility?

MR. BRANSFORD: We had commitments from Eldorado Utility, written commitments, which they're now saying are null and void or they're expired. We'd also checked with the County staff, with the Land Use, I think, and they had a list that showed how much water available there was and they said that there was adequate water so they seemed to give us the okay, that there was enough water there allocated. There was a list - they did have some problems with that. They said there wasn't a lot of water and they were going to have to do something. But at the time we bought it, we were promised that we had water available. I would have never bought the property if I knew we weren't going

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to be able to hook up to the water. And by the way my property taxes -- this is not just my land.

I don't have enough money to buy that kind of land. My brothers, my nephews, my cousins, a few close friends got together because we were trying to be able to get land for ourselves and for our children. And many of the guys don't even want to sell any of their land. They just want to get their land and be able to develop it and keep it and move there and live there. My sister lives in that area and my brother lives in that area now, across from where my land is. They were able to build before this moratorium came in. It's unfair that the people who were able to afford to build before I was, they just shut the door saying no one else can come in.

Even the roads were approved there. When you look at some of the development on the west side the roads, the utilities, there's natural gas. The Public Service Company put in a substation there on the corner of our property with 600 [inaudible] There's waterlines from Eldorado Utilities running through our property. We're surrounded with residential areas. One acre's on Eldorado on two sides and then there's homes on the other side, and we're trying to develop five-acre lots. We've checked with all the neighbors. The neighbors we're met with them a couple times and they were very happy to know we weren't going to go less than five acres because they were concerned about density, as we are too. But I just feel that Eldorado's been discriminated against, been singled out, because if you look at some of the other developments that have come there we seem to be on the same well sharing water. So I feel like we're really stuck.

COMMISSIONER DURAN: I think if the County represented to you that you had the right to hook up to the Eldorado --

MR. BRANSFORD: No, the County didn't.

COMMISSIONER DURAN: Was it the Eldorado Utility that represented to you or your predecessor that you had the right to hook up to the utility. I understand your concern, but I think the one responsible for it is the utility. That is the travesty that [inaudible] and instead of bringing solutions to the problem they keep on arguing and disagreeing with the County and the State Engineer in our interpretation of the water availability that these people have.

MR. BRANSFORD: They seem to be saying that they're willing and able that they do have enough water availability. Of course when there's droughts everybody's going to have droughts.

CHAIRMAN GONZALES: Thank you, Mr. Bransford. Anyone else like to address the Commission?

JOE MILLER: Mr. Chairman, Commissioners, my name is Joe Miller. I live southeast of town off of 285. It seems like the water company has done some things, that we don't have an emergency anymore. They've given a little and I think maybe the Commission should give a little, a little compromise here and Mr. Bransford brought it out good, is to have the people that already had master plans approved, permit them to go

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forward. I know maybe some of you aren't familiar with it but the County itself did put out water use lists. They took an inventory of water that was available and they allotted it to different developments and they improved that use list three or four time. I know our development was on the use list. We were allotted so much water. We were assured that that water was set aside for us.

And we asked the Land Use Administrator and some of the people on the staff, what if we do go ahead and put a lot of money in this investment and you come up and say there's no water. We were assured, no your water is set aside. There's no problem with you. You won't have no water problems. And now we come to get our preliminary and final developments, we've got a moratorium and that water's gone. I know there were some subdivisions that were approved after the use list was put out that were not on the use list, and yet they got their approval and they've gone ahead now. Some of us that were on that use list and relied on it, relied on the County's word, went ahead and now the use list disappeared. I have copies of almost everyone they put out. I think it would only be fair if the County stood behind their word when they assured us the water was there, there would be no problem. At least let us people go forward.

If you don't want to do that, the very least you could do is maybe make us some kind of a stipulation in this ordinance that people who are contributing and putting more water into this system that will be taken out, should be allowed to go forward. We have an arrangement with the Eldorado water company. There will be four new wells that were going into production when our Cimarron Division is approved. These wells will produce anywhere from eight to fifteen times more water than we will be using when Cimarron is built out. But that water's not going to get in that system until we get our approval. It seems strange that if you're really serious and concerned about the water it's not fair to the people that are using that water now to deny this additional water because of the moratorium. Especially when we're adding water to that system. If we could be approved, I assure you there'd be no need for a moratorium, because we're putting so much more water into that system that we've ever taken out. Thank you.

CHAIRMAN GONZALES: Thank you, Mr. Miller. Is there anyone else that would like to address the Commission?

JOHN CRAWFORD: Mr. Chairman, Commissioners, my name is John Crawford. I come from the Stanley area. And my concern on this issue is a prevalent problem that has raised its head more than once in our society and that is the practice of government by emergency decree. There are emergency decrees in our federal government dating back to Franklin Delano Roosevelt that are reaffirmed every presidential election. And if the emergency is gone, the legitimacy of governance by emergency decree has evaporated. If there is a need for legislation to address the issue, then it should be addressed in the normal procedures through ordinance. And that task should not be avoided by the continuance of an emergency decree. Thank you.

CHAIRMAN GONZALES: Thank you. Anyone else? I have a question for

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Oralynn. If for whatever reason that the Commission, let's say lifted the moratorium and we begin to see subdivisions coming in and you review them, what happens at the point that they get back and they get and they get a negative comment from the State Engineers Office, because I'm assuming that's what would happen now. The State Engineers Office it, assuming that they've got problems up there, they would send a negative comment back to the staff. What would happen at that point?

ORALYNN GUERRERORTIZ (Subdivision Engineer): Mr. Chairman, Commissioners, as you remember, there's approximately 800 lots that have been master planned but have not moved forward and the reason they haven't moved forward is they got negative letters from the State Engineer. State law, the state Subdivision Act requires that we get those recommendations and the Commission is supposed to consider that in deciding whether or not they should approve a subdivision. It's not a binding requirement. I know you need to turn this over to legal, but it's my understanding that they would make a recommendation to you as far as whether or not the subdivisions could meet the code requirement's 100-year assured water supply and it's my understanding at this time Eldorado cannot meet those so we'll be getting negative letters from the State Engineer.

CHAIRMAN GONZALES: Let me ask you, is the State Engineers Office using the 100-year mark because that's in our County Code, or the new Subdivision Law? Do they do this with Sangre de Cristo Water Company, or with other public utilities? Are they measuring Eldorado Utilities based on some state regulations that would measure whether there's long-term sustainability in a utility, or are they doing it just based on what our County Code says it should be and offering an opinion based on that.

MS. GUERRERORTIZ: When the state act was passed, the State Engineer made recommendations for the counties as far as what they recommended the different counties adopt. The County did adopt a requirement of 100-year water supply. It did not come out of the state act.

CHAIRMAN GONZALES: So that's what they're measuring now?

MS. GUERRERORTIZ: That's correct.

MS. KULSETH: Mr. Chairman, if I could just clarify a couple of matters. What would happen basically is, when you get a negative letter from the State Engineer, Oralynn's correct in that we are not bound by a state agency opinion. We are, however, bound by the state statute which says we must determine in approving any subdivision that there is an adequate water supply for the subdivision. The actual language is "sufficient water to meet the maximum annual water demand." So we have to come to that conclusion that we're satisfied that there's enough water to meet the actual maximum annual water demands for a subdivision.

CHAIRMAN GONZALES: Does the state pass that responsibility on the local government or is that responsibility placed on the State Engineer to determine whether there is sufficient?

MS. KULSETH: It's placed upon, Mr. Chairman, it's placed upon the local

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government to make that determination. The opinion from the state agencies are advisory, but clearly the statute even gives them the right to appear at a hearing and state their case. What I started to say and didn't finish was that actually what happens is there's a negative opinion, there's an additional 30-day period for the developer to submit additional information to rebut the negative opinion. The State Engineer then would have another 30 days to review the additional information and either change their opinion or have it remain the same.

At that point you simply go to a public hearing on the subdivision and that's where the burden lies on the local government body to make a determination that you believe there is sufficient water to meet the demands of the subdivision.

CHAIRMAN GONZALES: Okay, so if a development came forward with a negative letter, could there be something on our Commission docket for a subdivision out in Eldorado that has attached a negative opinion by the State Engineer or by the staff, would it ever make it to the Commission level for approval?

MS. KULSETH: Mr. Chairman, not with the moratorium in effect, but --

CHAIRMAN GONZALES: Without the moratorium?

MS. KULSETH: Yes, it could. Then obviously, you would be in a position of you deciding between the experts who to believe.

CHAIRMAN GONZALES: Okay, so if the Commission denied it, are we concerned that without a moratorium we could be sued in a court of law and then not be able to defend it, or do we feel very comfortable we would be able to defend -- if there's a lack of water out there, we say there's a lack of water. We go through that whole process, legally are the courts standing on local government's side when they make those determinations?

MS. KULSETH: Mr. Chairman, there's generally a presumption that we at lawfully and not arbitrarily. Do I think we could survive lawsuits? Yes. The position we could possibly be put in is if there's 800 lots, having 800 hearings with negative opinions from the State Engineer and 800 times going through possibly denials.

CHAIRMAN GONZALES: Thank you. The issue is if the moratorium was removed, what happens at that point, and the point is it puts us in a position of probably continuing to deny as long as the State Engineer, it seems to me, and our own technical staff, that says that there isn't sufficient water. If they're denied at that point, do they have to go back to the Land Use Department at the time, let's say the State Engineer says there is a renewable source of water. Would they have to begin their whole application process all over again after they're denied, or would they be able to resubmit a period of time later whenever Eldorado says, or the State Engineer says they do have sustainable water?

MS. KULSETH: Mr. Chairman, I believe that the current ordinance says that the period of the moratorium is not counted against them as far as where they are in the process. If the moratorium were lifted they would pick up where they left off. But your question I believe is, if we lifted the moratorium and we heard each of these 800-odd cases

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and there were denials, they would start over through the process again if at some point there was an adequate water supply they would resubmit. We would take them forward again as a new application, basically.

One other point I think you asked. If there was a denial, the process for the applicant would be to appeal that decision to district court.

CHAIRMAN GONZALES: Let me ask a question. Could the Commission pass an ordinance that would basically state that no submittals to be reviewed by the governing board unless there is a satisfactory comment from both the State Engineer and our staff, so that -- it would replace the moratorium, but it seems like it would build in a safety valve that we're all looking for and that's long term sustainable water and do we feel that it's sufficient to meet the current and the future demands of the subdivision. Could an ordinance like that be put into effect so that they could move forward with everything else they need to do and then it's just a matter of waiting until they get that [inaudible] and then the [inaudible] is actually released if you will for them to come up to the governing board.

If they can be prevented from coming to the governing board for a final decision until there was a positive letter from the State Engineer and our own hydrologist.

MS. KULSETH: Mr. Chairman, in fact I believe some counties in the state, especially where they don't have a County Hydrologist on staff, have adopted an ordinance that says -- it doesn't say we don't have the staff and the expertise, but it says we will not approve a subdivision if it has negative opinions from state agencies. So they're totally relying on state agencies because they don't have staff. Could we have an ordinance like that? Yes, we could, if you so chose to say Santa Fe County, unless you've got the State Engineer and Highway and all the other reviewing state agencies on board, we don't want to approve your subdivision. We could do that if we chose to.

The statute actually says we're not bound by those opinions, so we don't have to go with them, but if we chose to, we could.

CHAIRMAN GONZALES: Thank you. Matt, did you have a comment on that? Are there any other comments by the Commission? This is just the first public hearing, so there's not going to be any action taken on this.

COMMISSIONER ANAYA: I have a question, I guess clarification and information. I guess it would be either Mr. Spangler or Jack to answer. The occurrence of well #RG-18556 that went dry in 1996, has this been tested recently, and if so, what capacity flows through it.

MR. SPANGLER: Commissioner Anaya, the well, the Lamy well is currently being used. It's the well that's the largest producer for Eldorado Utilities. And this year it produced up to 192 gallons per minute over a month period.

COMMISSIONER ANAYA: And this is the same well that went dry in 1996?

MR. SPANGLER: It's not exactly the same well. It's the well -- as we said, there was the litigation and one well was closed down and the well twenty feet away was started. This is the well that's twenty feet away that's permitted. The well that was

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involved in the 1996 drought was the other well.

COMMISSIONER ANAYA: You went deeper --

MR. SPANGLER: No, we didn't go deeper. It's basically just the same well twenty feet away. It's just two holes twenty feet apart.

COMMISSIONER ANAYA: What's the consistency on it as far as flow?

MR. SPANGLER: It basically will produce up to about 200 gallons per minute. That was all we needed last year. That was the most that we pumped on a monthly basis. We report our figures to you all on a monthly basis so the figures that I have are monthly. And of course we pump a lot more in the summer. And then in the winter we don't use the well.

COMMISSIONER ANAYA: Jack, that's been verified?

MR. FROST: Yes, sir.

CHAIRMAN GONZALES: Thank you. Thank you, Mr. Spangler. Does anyone else want to address the Commission concerning this issue? Then if not, we will move on to our second hearing, which I believe will be one month from today. Is that right, Denice?

MS. KULSETH: Mr. Chairman, I believe it's the next --

CHAIRMAN GONZALES: At the administrative meeting? Okay, so two weeks from tonight, we'll have the second hearing on this Ordinance. [The actual ordinance number is not designated until formal action is taken]

MS. KULSETH: Mr. Chairman, it's actually three weeks. There's an extra Tuesday this month.

CHAIRMAN GONZALES: Thank you. Three weeks from tonight.

**IX. B. Ordinance No. 1998-. An ordinance creating a new Article VIII of the Land Use Development Code to outline the community planning process for the development of community plans, and amending Article III, Article IV, and Article X. This ordinance will establish a planning process to assist designated communities in developing their own land use plans and also identify the required planning criteria [First reading]**

JACK KOLKMEYER (Planning Director): Mr. Chairman, Commissioners, first of all we have had to make some amendments to this proposed ordinance which are being passed out to you right now. [Exhibit 2 and 3]. I'll explain that in just a minute. Those are available, also to anybody in the audience who needs a copy. To be brief with our comments since this is a public hearing and we'd like to hear feedback from the public on this ordinance. We have embarked on this community planning ordinance in response to a number of issues, most recently the directive from you as part of Part I, Policies of the General Plan which you adopted on December 17 to implement a community and district

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planning program and that's where this specific ordinance comes from.

The purpose of the proposed community planning ordinances are basically three. The first was to set up a procedure whereby community designations and boundary issues remaining from the 1980 Land Development Code can be corrected or changed. Secondly, to establish a community planning process for communities, sectors and districts with clear guidelines for adoption of community plans and thirdly, to provide opportunities for communities to solve the problems so identified through County-assisted funding and the creation of zoning ordinances which fit the unique circumstances in each adopted community plan.

One of the biggest issues in the adoption of the Policies of Part I of the County General Plan that we heard over and over again during our meetings was the desire for members of the community, particularly in traditional communities to have an input into their planning process as part of the County General Plan. We passed out an amended version of the ordinance at the recommendation of the County Attorney that proposes to separate community planning process from the procedures and issues for traditional community zoning districts. In other words, at the request of the County Attorney, we've separated some things that seemed to be mixed between the zoning and the Planning process.

Specifically, those changes are, and I'll try to explain this so you can see it in both copies, or Denise can do it, or you can correct me if I've missed something here. First of all, Article VI, Section 4.2 which is the second page of the new one that you have, language would change to creation and alteration of traditional community districts has been modified and expanded with sections 4.2.2 and 4.2.3 which were in Article XIII in the previous draft. In other words if you look at your previous draft, 4.2.2 and 4.2.3 were on page 5. They're now part of the Traditional Communities Zoning District Section.

Secondly, Article XIII --

COMMISSIONER TRUJILLO: [inaudible] You have set criteria that applies to traditional communities.

MR. KOLKMEYER: That's correct.

COMMISSIONER TRUJILLO: Those communities [inaudible] now they are involved in the process of community planning whether they want to be traditional or non-traditional. Even though they satisfy the criteria. [inaudible]

MR. KOLKMEYER: They are not traditional communities at this moment. That's correct. But the way that this is set up, and I'm going to need some help from Denise on this, is the reason why we separated them out like that is because they have to go through the community planning process to gain that designation, which is a zoning designation. So the process that they go through follows the way it's outlined in Article XIII, then when they're added to Article VI, 4.1, they have to go through a rezoning to be able to get that designation. Is that correct, Denise?

MS. KULSETH: That's correct, and Mr. Chairman, Commissioner Trujillo, if you look at on the new draft, page 2, 4.2.1, the first sentence after all those strike-

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through, "The board upon request from the community may alter or create Traditional Community Zoning Districts only after compliance with Article XIII of the Code" which is the community planning process. You'll notice in 4.1 above there that Cuarteles and Sombrillo are not mentioned there. So they would be one of these communities, if they want to create a traditional community zoning district, they can do that only after compliance with Article XIII, which is the community planning process. That's the process where they would decide what they want their zoning to be as a community.

COMMISSIONER TRUJILLO: [inaudible]

MS. KULSETH: That's correct.

CHAIRMAN GONZALES: Commissioner Trujillo, the idea again, I believe through this is to separate, one is to come up with a community planning ordinance. Not even address the issue of traditional communities, contemporary communities. We're going to be addressing that when we get to the mapping stage. We wanted to come with a community planning ordinance so that it was available and ready to move so that the communities out there could take advantage of it and move forward. I think that the County attorneys were wise in pulling out any issues before that existed when we talked about the communities. This community planning ordinance is about every type of community that exists in this County, from traditional to new community. The idea is to have an ordinance in place that will allow the plans to come forward aggressively.

So we wanted to keep the traditional aspect out of it and just focus on the community plan.

MR. KOLKMEYER: We specifically keep from naming certain communities. Just like we pulled also the names we had in earlier drafts suggesting that specific places might be contemporary communities, such as Eldorado and San Marcos, for example. In order for them to do that, they still have to go through the process for making that designation as well. So at the request of the County Attorney's office, it was suggested that we take all those names out and let the process determine then who would be added to that list.

Based on community plan -- that's the point here, because there was some concern in Sombrillo that they did not want 3/4-acre zoning to be the minimum lot size in their community. Again, one of the reasons as I stated earlier that we want to do this that if you go back and you look at the studies that were done from 1972 to 1980, the minimum lot size was not originally suggested to be 3/4 acre, that was to be determined through availability of community water systems and a variety of other things. In some places it was an acre and a half to 2 1/2 acres, but what has evolved over this 20-year period is the assumption that everybody automatically, that 3/4 acre is the minimum lot size for traditional communities.

What we're doing in effect is writing that and saying, just as it was through a series of community plan, community studies and research that was done at that time, to get the communities a right to determine what should be the minimum lot size in their community,

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because they're the ones who know the water, sewer, and traffic problems probably better than anybody else. We can go in and do the studies that we need to do to confirm that in that case. Cuarteles is a slightly different matter. They may want that, but the point is to determine that they have to go through that community planning process to become that zoning designation.

MS. KULSETH: Mr. Chairman, Commissioner Trujillo, if I could just also point out we may be getting ahead of what directly addresses this issue. If you look down at 4.2.3 on page 2, you'll see there "altering or creating" and that's what we've been talking about with Sombrillo and Cuarteles. A traditional community zoning district does not automatically grant 3/4-acre zoning to areas within the new boundary. So the planning staff wanted that in there to give assurance to any communities out there who might qualify to be a traditional community, that it's going to be up to them through the planning process in Article XIII to decide what their minimum lot size will be.

COMMISSIONER DURAN: Mr. Chairman, so Denise, Section 4.2.3 only applies to -- it does not apply to existing traditional communities?

MS. KULSETH: Mr. Chairman, that is correct. It applies to new ones and any existing community listed under 4.1 that would seek to alter its boundaries. I think that's correct. Is that correct, Jack?

COMMISSIONER DURAN: I believe what happened was when we were addressing the General Plan we assured the traditional communities that nothing would change within that community.

MR. KOLKMEYER: Yes. But I believe the altering -- didn't we have altering in there? Existing traditional communities.

MS. KULSETH: Right. Anyone who's listed up in 4.1, so if for instance the first one, La Puebla, La Puebla came in and said we want to alter our boundary. Then they would be kicked over into Article XIII, the community planning process and they'd have to go through rezoning. They'd have to do the same thing that a new traditional community would have to do.

MR. KOLKMEYER: That's correct. Yes.

COMMISSIONER DURAN: And then they could deal with densities and the other issues.

MR. KOLKMEYER: Yes, because in the case of an alteration it may not necessarily mean that that should be the 3/4-acre minimum lot size for something added to that existing traditional community.

COMMISSIONER DURAN: But an alteration of a traditional community has to be brought forward by the community itself.

MR. KOLKMEYER: That's the way that we're proposing, that is being proposed here yes.

COMMISSIONER DURAN: Any other questions on that particular issue?

MR. KOLKMEYER: We did have a conversation back in the General

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Planning hearings and this is something I guess maybe just to be mentioned to think about. There was a suggestion that we do away with the designations traditional and contemporary and just call everything a community. So if in the course of these public hearings we hear comments on this from the public, I just want to remind us all that we've considered that point of view as well, so there wouldn't be -- because what if somebody mentioned, say 50 years from now what is a contemporary community? Is that then a traditional community? So you just may want to bear in mind how to deal with these designations.

The third item changes Article XIII, Section 4.2. The zoning references were moved to Article VI. The section was edited to parallel 4.3, so that is originally Article XIII, Section 4.2. That was also moved up into this new section that we just looked at. Those are the only changes that we have proposed and really everything else then is pretty much the same. I'll just briefly run through the new material.

Article XIII, Community Planning has a Purpose and Intent Section, Traditional Community Designations, which is Section 2. Section 3 is the Contemporary Community Designations. Section 4 outlines the Planning Process including the application process, participation and representation, the creation of a planning committee for that community, submittals. Section 4.2 is the section there on determining traditional community boundaries. The following section is determining contemporary community boundaries. Section 4.4 page 6 is a reference to district and sector plans, critical planning areas. Section 4.6 is the County role. Section 4.7 addresses plan review. Section 5 on page 7 is the Planning Elements and we'd like to point out that we've set this up so that there is in a sense a streamlined process and then a more detailed one, because what we want this to be able to do is so communities don't have to spend years and years identifying their problems and making recommendations about how they might be resolved.

We set up a multi-step process that's outlined on 5.1, then documentation and mapping and the required planning elements that are outlined 5.3.1 that specifically refer to identification of problems, issues and proposed solutions. Section 5.4 is additional planning elements in the case that a community feels like the first portion of the planning process is inadequate to solve some of their problems. In here for example are things where we may need to have to study traffic, traffic circulation in more detail, and that would happen in this phase.

The final section, Section 6 is the status of community plans. So that's a brief outline of everything that's in there. Unless there are any further questions?

CHAIRMAN GONZALES: Any questions?

COMMISSIONER DURAN: I have one, Mr. Chairman. Jack, does this ordinance come out of our General Plan? Is this the first element of our General Plan?

MR. KOLKMEYER: Yes, in effect, as I read when I started that you saw most of the elements concerning the community planning process -- we're going to have to do some more detail work on things like the district plans and the highway corridor districts which is now another piece that will come out, but the answer is yes, this comes directly out

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of what was in the General Plan policies.

COMMISSIONER DURAN: Good work.

CHAIRMAN GONZALES: We're showing some tangible movement after the policies and I'd just like to really commend the planners for working very hard to bring up these issues.

MR. KOLKMEYER: And we're only asking for moratoriums on 19 communities.

CHAIRMAN GONZALES: Any questions?

CHAIRMAN GONZALES: This is open to the public for any comments.

MR. CRAWFORD: Mr. Chairman, Commissioners, my name is John Crawford again. I'm from the Stanley area. It's nice to see a planning ordinance coming. It's still a long way from being what we need. There are several major flaws with it as structured. The most critical one is in the district and sector plans.

CHAIRMAN GONZALES: Can you tell us a page, John?

MR. CRAWFORD: Page 6, Section 4.4.1. District and sector plans shall follow the planning process as outlined in this Article XIII. If you refer back to the planning process as outlined, the planning process outlines only planning for traditional and contemporary communities. In order for that section to enable a district or sector plan it needs to be amended so that where it says traditional or contemporary communities, it says traditional, contemporary communities and districts and sectors so that in that process, then you could totally eliminate Section 4.4 because it would be taken care of rather than permitted into limbo.

Section 4.5.3 on page 6, the Board of County Commissioners might want the option to get someone else besides just staff to participate in the planning process and some of the communities in particular would feel more comfortable if this was more open and not limited solely to staff. Section 4.6.1 on the same page suffers from the same deficiency as it's limited solely to staff. And 4.7.1, the necessity for staff to approve a plan is final before it can be presented to the board constitutes a pocket veto, allows staff to put a halt to any plan they wish to put a halt to. This of course has some opposition to it.

CHAIRMAN GONZALES: Could you repeat that location?

MR. CRAWFORD: 4.7.1 on page 6, lines 41 through 44. When the Land Use Administrator deems the application complete, scheduling appropriate hearings will occur. If the Land Use Administrator never determines an application to be complete, then the application will never get a hearing. That constitutes a pocket veto.

On page 7, Section 5.3.1, subsection a, lines 22 and 23, County staff and community shall make a decision as to whatever planning elements shall be addressed. This could be abused to change the requirement to the degree to make a plan impossible and it needs to be clarified and again, it leads a process around. Subsection i, lines 36 and 37, the concept of consensus. Consensus has been shown many times in many different ways and in numerous publications to be quite often solely a manipulative technique to deny the democratic process.

And its application here, especially as a means of directly denying the democratic process is very questionable.

Those are the major points

CHAIRMAN GONZALES: Could I ask you to hold off because it's time for the Commissioners to concentrate while we have our pictures taken. We want to pay attention to what you're doing here. The last one was on 38 and 39?

MR. CRAWFORD: Page 7, 36 and 37.

CHAIRMAN GONZALES: What was the last request you made there?

MR. CRAWFORD: The problem was that consensus has been abused in many different ways at many different times and consensus is quite often solely a manipulator's intent. Methods like parliamentary procedure quite often can be used. It's a way to reach a desired goal by the person deciding what consensus is, rather than a way of reaching what the community wants. Those are the major points I wanted to raise at this time. Do you have any question?

CHAIRMAN GONZALES: We're going to submit your changes. It seemed to me -- there are a couple of issues that seems to me that we'd be able to support so what I'd like you to do is have your changes with the staff so that we can visit on that. And the other ones we leave to debate with you at the next public hearing. Some pretty common sense changes that you had asked for, it seemed like.

MR. CRAWFORD: Okay, thank you. I'll get the proposed version on that to them as soon as possible.

CHAIRMAN GONZALES: You're going to make a copy for each of us, right? On the General Plan?

MR. CRAWFORD: I will give everybody copies of it once I've reached the wording. I need to get together with our planning committee and bounce it off of them so that they can catch mistakes I would make.

CHAIRMAN GONZALES: [inaudible] Anyone else like to address the Commission at this time concerning this issue?

TIM ODEN: Members of the Commission, my name is Tim Oden. I live in Edgewood. I'm concerned about the elimination about neighborhood center districts that were previously allowed anywhere in traditional communities, Section 4.2.2. Excuse me, 4.3 in this most recent amendment, page 3, line 19. In the past neighborhood center districts were very small scale, and they were allowed, I think they had a 500-foot radius or 500-foot diameter, a little node on them. They were allowed anywhere in a traditional community. They're being stricken now and they're going to have -- the neighborhood center districts will now have to follow small scale commercial locational criteria with this amendment, which effectively eliminates any small scale commercial neighborhood center district to allow as it has in the past anywhere in a traditional community. It's now being grouped in the locational criteria and the node criteria, if you will, with a small scale, under small scale type of uses.

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I don't understand the justification for that. I know that in the Edgewood area there are a lot of existing uses now which probably don't comply and haven't been zoned properly, but they're very small businesses. They're mom and pop type operations and I think probably if they did come in, they could be allowed anywhere in the traditional community. With this new amendment they would not be. They would have to follow the same locational criteria as all the other commercial districts, if you will. I don't know if it was the intent to do that, to make it more in keeping with the other classifications of commercial zoning or not. That's the effect of this.

Otherwise, that's the only comment I have. This document's been a long time in coming and it's certainly a welcome addition to the Code.

CHAIRMAN GONZALES: Thank you. Any questions? Next please.

GREG WHITTEN: Hello, my name is Greg Whitten. I'm a resident of Medina, Washington. I own property that's essentially in between the Cañoncito and Cañada de los Alamos area. It's about 1,200 acres of contiguous, undeveloped property. I'd like to submit my letter to the record. [Attached as Exhibit 4] It covers the older copy, so the subsection number references refer to the old copy. I'd like to make some comments on community planning and this particular ordinance.

We were involved in the Cañada de los Alamos community planning process. Also involved in the moratorium area. I think that was a process that was less than successful. We found that there were basically fairly major problems in the planning process there. We feel that this new ordinance goes a long way in correcting the problems in the existing Land Development Code. And we're for making changes of this nature. I'd like to go through some of it. I don't want to go through all the history in the Cañada de los Alamos planning area, but there is a pretty long history and I think the County staff knows what those issues were. You essentially run the risk of a community putting the County, by approving a community plan, at some amount of legal risk. You can read some of the other details in the letter.

I'd like to make comments on this particular ordinance. I want to say that I support the community planning process. I really commend the staff in going a long way and really listening to my concerns during the Cañada de los Alamos process, and I'm proposing a lot of new ideas. I think the bulk of the written ordinance provides a good process a community can follow. It's fairly easy to follow. There are some things I'd like to point out that I though are particularly good. This is in Article XII, subsection 4.5.3, for critical planning areas which allows the County to take control of a community planning process. I think this is very important because I think it ultimately comes back to what the County's legal responsibilities are and really, you know, keeping their act together, which really requires professional planning process. And having the County have the ability to make the judgement on the final oversight on that is actually very good.

I believe that the required planning elements and additional planning elements cover the essential aspects of good community plans and really provide for the community to

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develop a good vision of where they want to go and what their future community development is. I have some concerns about, in some of the additional planning elements where private property is considered as open space in these community plans. I have 1200 acres of undeveloped property. I don't intend to develop it very heavily and only for my family, but I do have a concern there. I'd like to see the County developing clearer guidelines about this issue that really respects the private property rights.

An additional point in the proposed ordinance, and I covered some of these issues with Alina Bokde, Planning Department. The proposed ordinance refers to a planning committee, a community contact person or organization and a few other subsections. I think there are better alternatives for the choices of these entities in this process. I would prefer to see a long-standing community association or a community association created that would have a long-standing nature rather than a planning committee be the final contact that the -- some of the final contacts and continuing contacts that the ordinance requires. So I think those changes, there's something that could be looked at. On page 2 of my letter I discuss some of those.

There are several aspects of this proposed community planning process ordinance that actually weaken the current Land Development Code, and I think puts the County at a little additional legal risk. The first one is the deletion of Article III, Subsection 5.3.6b requires all public participation meetings be recorded. I think it creates an accountability problem in the process. I think the cassette tapes is adequate to meet a recording requirement. It's not very expensive and I think that any group that uses best efforts can easily document their public meetings by that means. Then those tapes would be available to County staff or whoever wants to review it to see what the issues are in the process. So I would like to see a recording, public meetings be recorded.

The deletion of Article VI, Subsection 4.4, with respect to hydrology requirements, I think this really needs to be replaced by an understanding in community and staff that they have to be careful about looking at how much infill is allowed into some of these communities because you're essentially -- you could essentially be creating a dry subdivision. There was a very strong hydrology requirement in the current Land Development Code. It's being weakened here. I think that the staff just needs to be very cognizant of that issue. You really don't want to be put in a position where you've approved a lot of growth in a community and you're faced with a situation that there is no more water under the ground, particularly in communities that are well-based. The County could be responsible for figuring out how to import water to that community. It's just a risk that you need to be aware of. I don't know how you codify those kinds of guidelines in here, but it's just an issue. The scope of community plans could be a little more tightly defined, I think. They're fairly well defined, and that's good, but I was in a situation with the Cañada de los Alamos planning process where they basically almost went through every issue in the Land Development Code to try to incorporate their view of what they wanted in the community plan. Maybe just closer guidance by County staff through the beginning of the planning

process. You could really tighten that up and make it easier for communities to reach closure on some of these issues.

I have a whole series of minor little changes. There are places where it talks about County staff and I think it's probably more appropriate to indicated which person in the County or which staff function, like County planning staff rather than just County staff or in some cases, I've asked for approval by the Land Use Administrator in the process.

In the application process I'd like to see something added that would allow for written statements to be introduced in the initial application for the staff to review, either for or against elements of the planning process and how people think that the community ought to develop. I think that early review and early notice of community issues is important and will greatly simplify the process and provide not only the staff but the board with better information and more time to review it.

In conclusion may I say I support the concept of community planning. I'd like to see some changes to reflect the comments I've made which I feel provides residents, property owners and the County better protections. I don't know what the board has done with respect to issuing a motion for the staff to consider input on this issue from myself and other people. I'd like for the board to consider this, the staff consider these issues and write the necessary amendments to bring them forward for maybe the next public meeting if there's no adequate review time. As a final matter, in my letter I say as a final matter I'd like to see the board of County Commissioners make a policy statement regarding the following: Legally it is possible for anyone or any group to submit a General Plan amendment. In the case of community planning such a submittal would legally circumvent the requirements of the proposed Community Planning Ordinance if the board approved such an independent General Plan amendment. I would like the board make a statement to the effect that they will only consider General Plan amendments which follow an enacted Community Plan Ordinance if the amendment has an underlying purpose to change community zoning.

One of the changes that was made in the new draft that Jack handed out actually, on page 2, Article VI, Section 4.2.1, actually does require what I'm suggesting for traditional community zoning districts, essentially that says that to change the zoning, they have to do community planning. I'd like to see the same essentially said for contemporary community districts. I think that's a pretty important protection. This was in the community planning process that I was involved in. This was one of the things that was done. They considered their community plan to be a General Plan amendment submitted by the steering committee. That would have circumvented any of the subsections in the Land Development Code for community planning. So I really think it's important to take away that loophole or at least have the board make a policy decision that that's not the way they want to see community planning done.

Just some final points, having a few minutes to review this, I think the latest changes I saw from Jack look very good. I'd like to make a couple of comment. I think I have one additional comment. There's some discussion of whether community plans are difficult to

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produce. I think the current required elements and even the additional planning elements, they're not out of line to ask. I think something as expensive as the hydrology requirement on the old code which I think's a good idea but ultimately quite expensive. That was too much for a community to bear. Thank you.

COMMISSIONER DURAN: Thank you. Any questions of Mr. Whitten? I believe, Mr. Whitten that staff is reviewing your comments and that's why we have two meetings on this and then we can have time to review it. Thank you. Is there anyone else who would like to speak to this issue?

ELIZABETH WALDRON: I'm Elizabeth Waldron and I volunteered to be on the San Pedro planning committee. San Pedro is just south of Golden across from the San Pedro mine on 344. I appreciate the opportunity to participate in this process and indeed participate on a community planning group. I would like to direct your attention on page 7, area 5.3, required planning elements, that famous line 40i which says resolve this agreement by consensus. I certainly believe that any committee that had 49% one way and 51% the other way has not done its job but on the other hand, depending on how you define consensus, especially in the mountains where we have some pretty individualistic types of people, a small group could really lock up any kind of decision if that were required. So I'd like for you to rethink how that could be stated.

Obviously, the goal is to get as many people to agree as possible, but if you have a requirement of consensus, even with facilitation there are times when you cannot facilitate the problem. So I'd like for you to look at that. I appreciate your time. Thank you.

COMMISSIONER DURAN: Thank you. Anyone else out there?

MR. WHITTEN: Actually -- I'm Greg Whitten again -- I actually have some fairly strong issues on the subject of consensus. The Cañada de los Alamos community planning area decided their definition of consensus was by at some meeting they had a majority of the people vote that consensus meant majority decision. That really creates a problem. You essentially end up with issues, it basically divides the community rather than finding things the community can agree on. I think consensus is really about finding things that the community can agree on and incorporating them.

There'll be plenty of things they can't agree on and maybe they can never agree on. But they need to find the things they can agree on and that's what consensus is about. I would strongly support anything that leaves the issue of consensus in. I think it's extremely important. In communities it's important to have a consensus viewpoint rather than just polarizing communities with simple majorities. Farming coalitions, support this, support that. Let's find things that communities can agree on.

JUDY MCGOWAN (Senior Planner): Mr. Chairman, Commissioners, I just wanted to clarify some information about the comment that Mr. Oden made about the commercial uses in traditional communities. On page 3, where the Section 4.3 is shown. That section conflicts with precedes in time and conflicts with the later amendment to the code, which clarifies the commercial uses for traditional communities. So what we were

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doing is trying to clean in up. There is another section in the code that specifies how the commercial nodes happen and in fact says if there's no qualifying intersection that the community decides where the commercial goes. I just wanted to clarify that for you.

COMMISSIONER DURAN: The neighborhood centers --

MS. MCGOWAN: Neighborhood centers are allowed in traditional communities in the other section of the code.

COMMISSIONER DURAN: Any one else? That concludes tonight's public hearing and we will discuss this again next month or next meeting, next land use meeting.

MS. KULSETH: I believe it's at the next land use public hearing meeting which will not be the one at the end of the month but the first one in April.

COMMISSIONER DURAN: Thank you all for giving us your comments and see you next month.

[Chairman Gonzales returns]

**IX. C. LAND USE DEPARTMENT ITEMS:**

1. **EZ Case #M 98-5050. Sunset Spirits. Nitsimran, Ltd. Co. Dahya Bhai Bhakta, president, applicant requests transfer of ownership for a dispenser liquor license currently utilized at an existing retail store. The property is located along US Highway 84 (Old Las Vegas Highway) within projected Section 7 Township 16 North, Range 10 East**

ROMAN ABEYTA (Development Review Specialist): Thank you, Mr. Chairman, Commissioners. The State Alcohol and Gaming Division has granted preliminary approval of this request. In accordance with the Liquor Control Act the request is subject to consideration by the Board of County Commissioners and legal notice has been published in the newspaper. Please note that in 1986 the EZC and EZA granted zoning approval to permit the sale of package liquor on this site. A condition of the zoning prohibits serving alcohol beverages by the drink or consumption of package liquor on site.

Staff recommendation: Staff recommends approval of the requested liquor license transfer subject to the previous zoning conditions. Thank you.

CHAIRMAN GONZALES: Thank you, Mr. Abeyta. Are there any questions of Roman at this time? Okay, is the applicant here? Would you step forward?

[Previously sworn, Maurice Bonel testified as follows:]

MAURICE BONEL: Mr. Chairman, members of the Commission, my name is Maurice Bonel. I'm the broker for this liquor license being transferred and it's a transfer of ownership only. Yes, we will adhere to the conditions placed on this license from 1986. I'll stand for questions.

CHAIRMAN GONZALES: Thank you. Any questions of Mr. Bonel at this

time? Thank you. This is a public hearing. Is there anyone who would like to speak for or against this issue? What's the pleasure of the Commission?

**Commissioner Anaya moved to approve the transfer of the liquor license. His motion was seconded by Commissioner Grifé and passed by unanimous [4-0] voice vote.**

**IX. C. 2. EZ Case #S 97-4870. The Santa Fe County Public Housing Services Division requests plat approval for the subdivision on the existing Santa Fe County Public Housing development known as Valle Vista. The property is located off State Road 14, within Section 26, Township 16 North, Range 8 East**

MR. ABEYTA: Thank you Mr. Chairman, Commissioners. The proposed plat consist of creating 110 residential lots on 22.5 acres. Each lot has a residence except for nine proposed vacant tracts. The application was reviewed under Santa Fe County Ordinance 1995-11, titled Santa Fe County Housing Authority home sales ordinance. The application was reviewed for access, water supply, liquid waste, terrain management, fire protection, archaeological review and environmental review.

Required action: The BCC shall review and consider the findings of the report and take action to approve with conditions, deny or table the request for further analysis. The proposed subdivision meets all requirements set forth by the County Ordinance 1995-11. Appropriate infrastructure is not present to support the project. However, staff recommends approval if the following conditions are agreed to by the applicant.

[Conditions are prepared by reporter from Staff report]

1. Compliance with review comments from the following:
  - a. County Subdivision Engineer
  - b. County Public Works Department
  - c. County Fire Marshal
2. The subdivision disclosure statement, covenants, and homeowners association bylaws are subject to review and approval by the County Attorneys Office. The covenants must address, but not be limited to the following:
  - a. Maintenance of roads
  - b. Maintenance of on-site infrastructure of the sewer and water systems
  - c.. Solid waste disposal
  - d. Water restriction of 0.25 acre-feet per year per lot
3. Submit written verification from the County Public Works Department and County Housing Services Department verifying that the subdivision roads will be maintained by Santa Fe County.
4. The applicant must address proof of ownership and legal lot of record.

5. The water and sewer contract that was submitted is only for 50 units. A contract must be submitted for all 101 units and the nine vacant lots.
6. The water and sewer contract states that the County will be responsible for maintenance of the water and sewer lines. The covenants and disclosure statement must clearly state who will be responsible for maintenance.
7. A water quality test must be submitted.
8. A drainage analysis must be prepared to determine the flow patterns and identify any problem areas. The ponding areas on the street indicate drainage problems. These areas should be rectified prior to approval.
9. The applicant must submit proof of easement for the proposed off-site drainage area.
10. The applicant must submit proof of legal access to the subdivision.
11. Rural addresses must be issued.
12. The asphalt exhibits extensive cracking. It is recommended that the street system be crack sealed prior to approval.
13. Upgrade the road signing to meet current Manual on Uniform Traffic Control Devices (MUTCD) standards.
14. Make the entire complex handicap accessible to comply with Americans with Disabilities Act (ADA). If accepted without compliance, the County could be required to upgrade the complex to comply with ADA.
15. There is street lighting on the streets. It should be clarified who maintains these and who pays the utility bill.
16. There is a locking gate system at one end of the subdivision. It should be clarified what this is for and removed prior to approval by the County.
17. The fire hydrants must flow at a rate acceptable to the County Fire Marshal's Office.

CHAIRMAN GONZALES: Thank you. Mr. Rendon, step forward please.  
Does General Services Division agree with the conditions?

FRANK RENDON: Mr. Chairman, Commissioners, absolutely. This project is very important for the continued success of the Housing Services Division.

CHAIRMAN GONZALES: I understand this is in preparation for the home sales program. Is that correct?

MR. RENDON: Mr. Chairman, that's correct.

CHAIRMAN GONZALES: Any questions for Mr. Rendon at this time?

COMMISSIONER DURAN: Mr. Chairman, Frank, who's going to be building the homes?

CHAIRMAN GONZALES: Thank you. This is a public hearing. Does anyone want to speak in favor or against this proposal. What's the pleasure of the Commission?

Commissioner Trujillo moved to approve EZ Case #S 97-4870. Commissioner Anaya seconded the motion, which passed by unanimous [4-0] voice vote.

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- IX. C. 3. CDRC Case #S 97-5140. Lost Creek Ranch Subdivision. Belen Investments, Inc. applicant, Tim Oden, agent, requests reconsideration of a master plan of a 66 lot residential subdivision on 80.36 acres. The property is located south of County Road 10 east of State Road 344 in the traditional community of Edgewood, within Section 14, Township 10 North, Range 7 East**

CHAIRMAN GONZALES: We would like to welcome Ms. Vicky Lopez. This is her first appearance before the Commission and we'd like to make sure the Commissioners are nice to you. Vicky started with us as an intern and now is a full staff member, so she's with us in the Land Use Department and we're anxious to see a lot of good work coming from you. I'll try and go easy on the questions tonight.

VICKY LOPEZ: Mr. Chairman, Commissioners, on September 9, 1997, the BCC denied this request. On February 10, 1998, the BCC authorized staff to schedule a public hearing to rehear this subdivision case. The applicant has agreed to include additional language in the disclosure statement, covenants, and on the plat regarding the proximity of the Sandia Airpark runway. The applicant is also proposing to include a further 100 foot building set back on all the southern lots. This is in addition to the 150-foot set-back along the southern boundary of the subdivision. The applicant is willing to provide barriers, such as fencing and landscaping around the southern boundary of the subdivision to increase safety.

The applicant is requesting master plan approval for a 66-lot residential subdivision on 80.36 acres. Lot sizes range from one acre to 1.55 acres with an average lot size of 1.22 acres. This property is located within the traditional community of Edgewood. Minimum lot size in this area is .75 acres per dwelling unit. The application was also reviewed for access, water, fire protection and liquid waste.

Recommendation: On July 31, 1997 the CDRC met and acted upon this case. The decision of the CDRC was to recommend master plan approval of this subdivision subject to the following conditions:

1. Traffic counts and a capacity analysis at SR 344 and CR 10 will be submitted with the preliminary plan and plat application. The traffic impact analysis is to be signed and sealed by a registered professional engineer.
2. Grade at the approach to the intersection of Goldenrod Drive and Shadow Loop and to the T-intersection of Shadow Loop at Lot 2 shall not exceed three percent for 100 linear feet.
3. The applicant will revise the fire protection plan as follows:
  - a. The radius of the fire hydrant coverage will be shown
  - b. The hydrant on Shadow Loop between lots 30 and 31 will be relocated to Shadow Loop between lots 29 and 30.
  - c. Two additional hydrants will be installed between lots 5 and 6 on Shadow

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Loop and on the south side of CR 10 at Lot 22.

4. Prior to seeking preliminary development plan and plat approval the applicant will work with the school district.
5. County Road 10 from SR 344 to the eastern boundary of this property, must be paved or acceptable financial guarantee to insure its paving must be provided prior to final plat recordation.
6. The applicant will be responsible for the design and submittal of engineered plans for the improvements of CR 10; this will be submitted with preliminary plan and plat submittals.
7. The applicant will address all Subdivision Engineer redline comments on the disclosure statement, plat and reports. All redlines will be returned with the preliminary plat and plan submittal.
8. All lots will be restricted to .25 acre feet of water per year.
9. The applicant will have the final plat addressed for 911 numbers.
10. Prior to final plat recordation the applicant will show proof of ownership.
11. The applicant must submit engineering plans for an alternative liquid waste disposal system suitable for the poor drainage soils.
12. The applicant will provide additional language on the disclosure statement, covenants and plats regarding safety issues associated with the proximity of the runway.
13. The applicant will show 100 foot building setback on Lots 1-16.
14. The applicant will install fencing around the outside of the subdivision, not to include the buffer zone.

Mr. Chairman, Commissioners, staff also recommends one following condition be added, which would be condition number 15, That the applicant will work with staff and the homeowners association to add safety barriers on the southern property boundary to include fencing and landscaping.

CHAIRMAN GONZALES: Thank you, are there any questions of Vicky at this time? Is the applicant here? Can you step forward, Mr. Oden?

[Duly sworn, Tim Oden testified as follows:]

TIM ODEN: My name is Tim Oden. My office address is Box 5000, Moriarty. The developer of Lost Creek Subdivision wished me to convey his thanks for the reconsideration of the master plan here tonight. Normally when we come before you presenting a project the developer comes in and presents his project and shows how he demonstrates that his project has mitigated the impacts to the neighbors quality of life, reckoned in the neighborhood. We have attempted to do that. We've submitted to all state reviewing agencies. All County, state and federal agencies have made positive comments about the project with its environmental issues. The developer in addition has agreed to all these fifteen conditions at this early master plan stage and wishes to continue to do so. One of the conditions is that we pave County Road -- whatever the number is, Venus Road on

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the north side of the property, for some two miles between State Road 344 and this property.

There are a lot of neighbors that use that County road and are not present here tonight that are in favor of this project because to them it means that they'll get two miles of road paved, the road that they drive down. You won't hear any testimony from those persons tonight. They're not here. But you will hear voices from the airport next door has to do with the impacts of the airport to the future residents of this subdivision. Which is kind of turning the tables on normal projects. Normally, like I said, we discuss how we impact and attempt to mitigate our impacts of our development. Most of the testimony you'll hear tonight has to do with existing impacts of the airport as it pertains to us.

The developer, as I said, has done most everything he can think of and we've got together with staff and tried to come up with some ideas on how to mitigate the airport impact on these future residents. We're asking for a master plan approval so that we can continue to work in good faith towards mitigating the airports impact to the future residents of Lost Creek. Thank you.

CHAIRMAN GONZALES: Any questions of Mr. Oden? This is a public hearing. How many people would like to address the Commission concerning this issue, could you please raise your hand. Could we ask you to please stand up and all be sworn in at the same time so that you don't have to do it individually, those of you who'd like to address the Commission.

CHAIRMAN GONZALES: Okay we'll go ahead and start on this side and then we'll move over. And again, offer your testimony but please do not be repetitive. If you hear someone bring up an issue, in the interests of time, please move on to issues that haven't been conveyed to the Commission.

[Duly sworn, Mike Rice testified as follows:]

MIKE RICE: Thank you, Mr. Chairman, Commissioners. My name is Mike Rice. I'm the Aviation Director for the state of New Mexico. And I live in Albuquerque, 6212 Northland Avenue. My reason for being here is I'm an advocate of aviation. I'm also an advocate of property rights. I think you've got an opportunity here to work something hopefully that's going to be good for the community and aviation in the years to come. I'd like to talk a little bit about what an airport park is. It's similar to what a golf club or a living community around a lake would be. You've got a group of people that are very interested in doing some particular activity and committed to live in the area to do that kind of activity and accept the risk of it.

This group has gone out and developed this community and I am convinced that it is an asset to southern Santa Fe County and will be in the years to come. I ask you to consider that in your negotiations here. You have a very good airport park in southern Santa Fe County. In fact if I was going to rate airports in the state, I'd say it's right at the top, if not the top.

I've been in a similar type meeting today in Albuquerque on Albuquerque International and Double Eagle Airport and one of the chairman of the commission, of this

particular commission brought up a scenario of fast-forwarding to the year 2020 or maybe even 2040 and taking a look at what we've got. I ask you to do the same type of thing in this little community. You can stand up on the top of the Sandias and look across there and see what's there and imagine what could be have done to make this better? I think you have an opportunity here, through your planning and zoning rules and regulations and power to make it work for both entities. And I ask that you do that.

Normally speaking, the people that are in and around airparks and use them are good citizens, pay taxes, support the schools, that type of thing and I think that these folks are of that quality. You have the tools, there are engineering firms, there are aviation planning firms, the FAA that all have standards that can help you set up this type of information and I suggest that you use -- take as much time as it takes and use the tools and take your time. If you have any questions --

CHAIRMAN GONZALES: Any questions at this time? Thank you for your input. It's been helpful.

[Previously sworn, Ralph Laub testified as follows:]

RALPH LAUB: My name is Ralph Laub. I'm the past president of the airpark homeowners association and a landowner there. And I want to express my concern which kind of follows the previous gentleman about the longevity of the airport, which we believe is an asset to the community and also locally, to those of us like myself who are an aviation enthusiast. I think our general concern is that the Lost Creek Subdivision as proposed more or less hits close to the maximum density and is more or less pitched to entry level buyers. What we would of course prefer to see is that that community that immediately is adjacent to the airpark and the airport, that that community also have aviation enthusiasts in it so that we're not going to face in the future nuisance complaints and other kinds of things which will continually be trying to deal with in the future.

We're looking to you to give some balanced considerations to this. We're not against developing that area but I think it needs to be done pitched to a certain kind of person who will permit that airport to continue to exist over the long term. Thank you.

CHAIRMAN GONZALES: Thank you. Next please.

[Previously sworn, Carroll Bassett testified as follows:]

CARROLL BASSETT: Mr. Chairman, Commissioners, Carroll Bassett, live in Edgewood and I want to speak on the behalf of my brother that owns the land just right west of this Lost Creek Subdivision and he wanted me to -- he lives in Las Cruces and he asked me to say that he's in favor of it. I'm also in favor of it. I think it's going to be good for the community. It's something Edgewood would be proud of and I just want to say that I'm in favor.

[Previously sworn, Barbara Leonard testified as follows:]

BARBARA LEONARD: I'm Barbara Leonard. My address is P.O. Box 2067, Edgewood. I'm a Sandia Parks Estates resident. Mr. Chairman, Mr. Commissioners, first I'd like to take exception to some remarks that were made at the hearing last September.

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COMMISSIONER DURAN: But are you in favor or opposed to this?

MS. LEONARD: I am opposed to the development. The first picture is as you go north on Rainbow Road, which is the only recognized entrance to the airpark. You see the stone pillars marking the entrance, a sign there tells you you're going onto an airpark. Picture number two is about a hundred feet forth of those gates and it shows the rules of the road signs. Picture number three shows the aircraft parked on the left which should advise anyone to be alert and look around. Picture number four is taken Blanco Road and Rainbow Road. Blanco is the last east-west road before the runway. It's about 125 feet from the runway east. You can see that there are signs on each side and the last two pictures are the signs that are there.

Each taxi way entrance to the runway, and there are five, has a sign: "active runway, no vehicles beyond this point." And I would say that that's maybe more than one of those signs. Most of what I had to say has been covered already. I would like to say that we chose to come here because there was an airport here and because we could live next to it. We realize that not everyone shares our enthusiasm for aircraft but we came here so we could be around people who do share that enthusiasm. And the people in Lost Creek Ranch would be first time home buyers. There would be no requirement -- they would come there for the price. Not because they have any interest in or any tolerance of aircraft even. And first time home buyers generally means lots of small children. And small children and aircraft can present a special hazard.

Last week in the Albuquerque there was an article about neighbors complaining about the noise of the television station helicopters. They're stating that anytime -- they would like to see anytime the helicopters generate more than 80 decibels of noise they be fined up to \$900 per occurrence. I believe you each received a copy of some decibels readings that one of our members took, or two of our members took at our airpark. None of the readings was less than 50 decibels. So that would mean that we would be in violation anytime anyone flew, and it's obvious since there are people complaining that not everybody gets used to noise. They should but they don't.

If you do approve this opposed development, I would ask that you insist that the first thing that they do would be to put up a fence, a good fence to try to keep people and animals off the runway. We have problems all the time. The most recent was a policeman who was driving on the runway. And he surely should have known better. You can't expect small children to know better. But I am opposed to this development on the safety and the fact that they could put us out of business by complaining later. Thank you.

[Previously sworn, Harvey Kimray testified as follows:]

HARVEY KIMRAY: I'm Harvey Kimray, Post Office Box 1564, Edgewood, New Mexico. I am also a resident of Sandia Airpark. Mr. Chairman, County Commissioners, I brought with me tonight a AOPA pilot magazine. AOPA stands for Aircraft Owners and Pilots Association. In February they had an article in here just about what we're discussing tonight. Defending your asphalt. I'd just like to read some short

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paragraphs. It says the trend of airport closures has picked up pace in recent years, especially among privately owned, public use airports, and that's what we are. In 1969 there was a total of 6,700 airports available for public use. Today, there are approximately 5,100 in the United States. In other words, one general aviation airport is closed every week.

And then they go on to mention reasons for the death of an airport. They listed eight, but I figure there's two here that really apply to us. The first one is incompatible zoning. Areas around airports formerly zoned as agricultural are being turned into residential developments further reducing the airport's protected area and increasing the number of noise complaints from homeowners who didn't know there was an airport there. The other one deals with noise. If adjacent communities can hear airplanes, the popular belief is that one may fall on them. Noise is a popular excuse used by the general public to force the closure of an airport.

In a February of 1995 survey of the AOPA members, 37% said they are based at airports that have a noise problem with the local community. 50% of these people said the problem is severe enough that it has or could restrict operations at that airport. Thank you very much.

COMMISSIONER DURAN: Thank you.

[Previously sworn, Frank Hetznecker testified as follows:]

FRANK HETZNECKER: Mr. Chairman, Commissioners, my name is Frank Hetznecker. I'm a resident of Sandia Airpark. I was the first one there in 1988. What I'd like to say here is we have taken some noise measurements at our airport standing on Lost Creek property. Using just the airplanes that regularly visit our place and we couldn't get the coincidence of catching any military airplanes or anything like that that comes in which are much, much noisier. We took reading up to 101 decibels. I thought, at that time, we should allow another 10% just in case we get some noisy twin engine airplanes come in here. That would take you up to 111 decibels.

Looking in the informational book about noise, they list airplane noises you can expect 120 decibels. That's a lot of noise. Now, I bet it doesn't go on continually for one hour, but it can be very noisy. If the person that lives at Lost Creek, if they're aviation-orientated, you like it. It's music to your ears, almost. But if it's a young family and a mother has just come home with a little baby, a week or two or three, just got the kid to sleep, wham, he might be suddenly awakened. They wouldn't like that. Most people, when they buy property, they don't think about these things.

I think what you should have if this Lost Creek gets approved, I'd like to read the last paragraph of this letter I sent. Frequently real estate buyers do not fully read all the disclosures about property. We see that all the time. We would therefore recommend that the Lost Creek airport disclosure paragraph should be distinctly outlined in black, show a 120 decibel noise level, and include a line for the buyer's initial within that bordered paragraph. This requirement should assure that the buyer should be fully aware that they will be living near the runway noise. I think that's the least you can do in this case. Let

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them know what it is.

Some people say that hearing damage can occur at 90 decibels. That's the threshold of pain right there. But we all know that airplanes don't run continually like that but will get high, high peaks of noise periodically. I think you should at least clearly outline this in the sales papers or the covenants or whatever they have, that it's right out in front and is not buried someplace in a little paragraph number 42 or something where the buyer won't see it. Thank you very much. Any other questions.

COMMISSIONER DURAN: I just have one for Denice. Do we get involved in disclaimers? We can't really dictate what goes on in disclaimers, can we?

MS. KULSETH: Mr. Chairman, Commissioners, actually we do. We require disclosure statements as part of our code and we could add anything like this gentleman suggested. We do review those and make sure they adequately disclose to the consumer things like water availability. Actually there's a laundry list of things the Subdivision Act requires us to look for and we're allowed to add anything we think's appropriate.

COMMISSIONER DURAN: And that's not part of the disclosure right now, or the proposed disclosure.

MS. KULSETH: I have not reviewed the proposed disclosure statement.

MR. HETZNECHER: I believe the first proposal was 70 decibels and it was buried on paragraph 42 point something, in a hidden place, and I think you should avoid that. It doesn't have to be on the first page but it certainly should be maybe on the second page where -- oh, I know I'm getting into some noise.

COMMISSIONER DURAN: And your information came from, the 120 decibels came from where?

MR. HETZNECHER: That's a listing -- to get these readings I had to get a sound level meter. And with that came a booklet describing what typical sound levels were and we've seen it published in aviation magazines too. They say airplane noise can approach 120 decibels. And I'm not talking about like, sometimes at night drug people come in there with their black helicopters, they shake your house when they come in, but that doesn't happen very often. And it is an annoyance. It's more of a vibration you pick up.

MR. GARCIA: Mr. Chairman, Commissioners, the applicant has agreed to add some additional language in the disclosure statement, covenants and also on the plat regarding the Sandia Airpark runway if the Commission wishes to add a condition. If the gentleman's proposing here, certainly you can add a condition stating the decibels for the airpark and exactly how near it is or where exactly it is from the proposed subdivision.

COMMISSIONER DURAN: We'll leave that up to the maker of the motion, I guess. Anyone else like to speak to this issue. What's the pleasure of the board.

COMMISSIONER ANAYA: Mr. Chairman, on September 9 I made the motion for the approval of this proposal and it died for lack of a second. I'm going to make a motion for approval again. I think it is being consistent. I move for approval, adding the condition that on the disclosure statement that the proximity to the airpark be stated on the

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plat as proposed by staff. That it be part of the disclosure statement.

COMMISSIONER DURAN: There's a motion. Is there a second?

COMMISSIONER ANAYA: That it's on the plat itself, it's very conspicuous, stating the proximity to the Sandia Airpark, stating there that there's a potential of so many decibels.

MR. GARCIA: Mr. Chairman, if you turn to page 23 of your packet there, there's number 44 by the developer. He added some adverse conditions, which basically says 75 decibels are possible at this airpark.

COMMISSIONER ANAYA: So it is inclusive then, Rudy; is what you're saying?

MR. GARCIA: Mr. Chairman, I think that the gentleman says that it is higher than 75 decibels.

COMMISSIONER DURAN: Excuse me, sir, but there's a motion on the floor. We'll take care of it. I know what you're going to say. Can we say something like 75 and possibly in excess.

COMMISSIONER ANAYA: Seventy-five and possibly in excess can be included as part of the disclosure statement. The motion stands as amended with the condition.

COMMISSIONER DURAN: There's a motion. Is there a second?

COMMISSIONER TRUJILLO: Second.

COMMISSIONER DURAN: Motion and a second.

COMMISSIONER ANAYA: Mr. Chairman, I just want to say that those people that are concerned about the noise element out there, I live right next door to the hospital, St. Vincents Hospital over here, and on occasion, maybe twice, maybe three times a week, the helicopters come in with their emergency victims or whatever, and we've learned to live with it and to me it doesn't bother anything in the neighborhood. The neighborhood has accepted it and it's a constant occurrence with helicopters coming in any time of the day and night. I see no problem in that at all.

COMMISSIONER DURAN: In the last year since I've been on the Commission we've approved a zillion lots out there. If somebody wants to buy a lot close to the airport I think that would be their prerogative.

**The motion passed by majority [2-1] voice vote with Commissioners Trujillo and Anaya voted in the affirmative and Commissioner Griñé voted against.**

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- IX. C. 5. EZ Case #S 97-4860. Sonterra Subdivision. David Schutz, agent for Registro Partnership, requests master plan approval for a 97-lot residential subdivision on 244 acres. The property is located off Vista del Norte, within Section 30, Township 16 North, Range 9 East**

MR. ABEYTA: Thank you Mr. Chairman, Commissioners. The proposed master plan consists of 97 residential lots on 244 acres. The subdivision will be developed in three phases. Phase one and two will consist of 37 lots and the remaining 23 lots will be developed in phase three. This application was reviewed for access, water supply, liquid waste, terrain management, fire protection, archaeological and environmental reviews.

Required action: the BCC should consider the criteria listed in the staff report one through six under required action in making determinations and recommendations for approval of master development plan.

Recommendation: The proposed master plan meets all requirements set forward by the County Code and Extraterritorial Subdivision Regulations. On February 12, 1998 the EZC recommended approval subject to conditions 1 through 18 as listed in the staff report. Thank you, Mr. Chairman.

COMMISSIONER DURAN: Thank you, Roman. Are there any questions of Roman? Is the applicant here?

[Duly sworn, David Schutz testified as follows:]

DAVID SCHUTZ: My name is David Schutz, 460 St. Michaels Drive, Santa Fe.

COMMISSIONER DURAN: Mr. Schutz, are you in agreement with all the recommendations and requirements proposed by staff?

MR. SCHUTZ: Yes, we are. I have a brief 45 minute presentation. No, we've been working with staff over the last few weeks and hammered out all of our concerns and they've given us their concerns and we've worked them out. We're in accordance with their conditions.

COMMISSIONER DURAN: Are there any questions of the applicant. Okay, this is a public hearing. Is there anyone out there who would like to speak for or against this application? If not, what's the pleasure of the board?

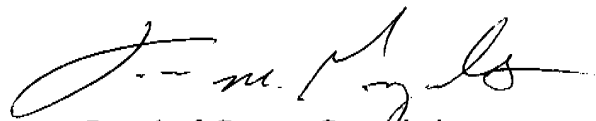
**Commissioner Anaya moved to approve EZ Case #S 97-4860 subject to the conditions imposed by staff and accepted by the applicant. Commissioner Grifé seconded his motion, which passed by unanimous [3-0] voice vote.**

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**ADJOURNMENT**

Vice Chairman Duran declared this meeting adjourned at approximately 9:15 p.m.

Approved by:



Board of County Commissioners  
Javier Gonzales, Chairman

Respectfully submitted:

  
Karen Farrell, Commission Reporter

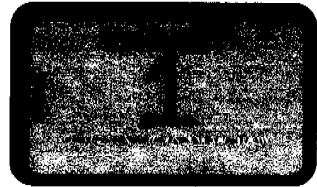
ATTEST TO:



REBECCA BUSTAMANTE  
SANTA FE COUNTY CLERK



**U.S. 285 CITIZENS' COALITION**  
**Lamy, New Mexico 87540**



March 10, 1998

Board of County Commissioners  
Santa Fe County  
PO Box 276  
Santa Fe, New Mexico 87501

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Dear Sirs:

The US-285 Citizens' Coalition is a neighborhood alliance representing homeowner associations along US Highway 285 from Eldorado south to Lamy. Our members include Alteza, Belicia, Dos Griegos, Eldorado, Lamy, Los Caballos, Los Nubes, Los Ranchitos, Los Vaqueros, Old Road Ranch, Rancho Mirador, The Ridges and Tierra de Casta. One of our purposes is to have a voice in decisions that affect our communities.

In April of 1996, the Board of County Commissioners adopted an Ordinance declaring a water emergency within the service area of Eldorado Utilities. It is our understanding that this ordinance will expire in April of this year unless the Board of County Commissioners extends the moratorium. The purpose of this letter is to request that you continue the moratorium based on the water emergency which still exists in the Eldorado service area. We make this request due to the following considerations:

1. Eldorado Utilities has not demonstrated that its water supply will be adequate during periods of drought. Their wells in the Lamy area are especially susceptible to drought and well #RG-18556 went dry during the drought of 1995.
2. Since the adoption of the ordinance Eldorado Utilities has not demonstrated that it has supplemented or managed its water supply so that the supply is adequate to meet existing demand, fire protection needs and storage requirements especially during periods of high use and low production.
3. Eldorado Utilities has not demonstrated that there is a sufficient supply of water available for sustainable growth and expansion of its system.
4. The Utility was required by both the PUC and the State Engineer Office to prepare a water conservation plan. The utility has made no effort to meet with affected water users in the development of that plan.

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We believe that these facts demonstrate that the water situation in the Eldorado service area has not changed substantially since April of 1996 and that after review you will find that a water emergency still exists and that the Ordinance should stay in effect.

Sincerely,

*Kathy Pilnock*\_\_\_\_\_

Kathy Pilnock  
Chairperson

Marcos P. Trujillo  
Commissioner, District 1

Paul Duran  
Commissioner, District 2

Javier M. Gonzales  
Commissioner, District 3



Domingo Sánchez III  
County Manager

# Memorandum

1479575

**To:** Board of County Commissioners  
**From:** County Planning Staff  
**Via:** Vincent "Corky" Ojinaga, Land Use Administrator  
**Date:** March 10, 1998  
**Re:** Community Planning Ordinance, No. 1998- \_\_\_\_

Attached is a revised draft of the proposed Community Planning Ordinance based on the recommendations of the County Attorney. The purpose is to separate the community planning process from the procedures and issues for Traditional Community Zoning Districts. The changes are:

Article VI, Section 4.2, language referring to creation and alteration of Traditional Community Zoning Districts has been modified expanded with sections 4.2.2 and 4.2.3 which were in Article XIII in the previous draft.

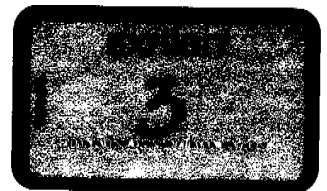
Article XIII, Sections 2 and 3: deleted designations of Contemporary and Traditional Communities. The designations of Traditional Community Zoning Districts remain in Article VI and new or altered community districts will be created in compliance with Article XIII.

Article XIII, Section 4.2: the zoning references were moved to Article VI, as noted above, and the section was edited to parallel Section 4.3.

The purposes of this proposed Community Planning Ordinance are:

1. To set up a procedure whereby community designations and boundary issues remaining from the 1980 Land Development Code can be corrected or changed.

See the memo dated February 23, 1998 for the staff recommendations concerning problematic designations of Traditional Communities. The process proposed in this ordinance would allow communities to propose or change their designation as a Traditional



# SANTA FE COUNTY

Ordinance No. 1998 - \_\_\_\_

1479575

## **An Ordinance Creating a New Article XIII of the Land Use Development Code To Outline a Community Planning Process for the Development of Community Plans, and Amending Article III, Article VI and Article X.**

BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF SANTA FE COUNTY, THAT THIS ORDINANCE WILL AMEND THE SANTA FE COUNTY LAND DEVELOPMENT CODE AS FOLLOWS:

### **Section 1. (Community Planning Ordinance)**

Article III, ZONING REGULATIONS, SUBMITTALS AND REVIEW, Section 5. Mineral Exploration and Extraction, Subsection 5.3.6. Local Land Use Plans, Community, Neighborhood or Sector Plans and Code Amendments is amended as follows:

Subsection 5.3.6 is repealed.

#### **5.3.6 Local Land Use Plans, Community, Neighborhood or Sector Plans and Code Amendments**

This section establishes additional procedures to create an amendment to the County General Plan for the purpose of designating agricultural, residential, commercial, industrial, mineral extraction, recreational, or other use areas to assure the locational suitability and compatibility of a wide range of existing and future land uses in greater detail than is provided by the County General Plan and Land Development Code.

- A. Amendments to the Land Development Code (1992 1) relating to zoning may be proposed to the Board, provided a local land use plan, community, neighborhood or sector plan or other general plan amendment is adopted by the Board.
- B. Components of local land use or sector plans must address a full range of land use classes for relationship, compatibility and intensity of types of uses and suitability of locations, including but not limited to, roads and utilities, a mix of housing types, commercial districts, industrial use areas, natural resource areas, open space areas, institutional uses, recreational uses, cultural properties, mineral extraction and lands unsuitable for development.
- C. Applications for local, community, neighborhood or sector plans should address special needs or conditions which justify the plan; outline required studies and results; describe procedures for implementation; and map the proposed planning area boundaries.
- D. All public participation proceedings shall be recorded and participation must represent a cross section of County residents, ethnic, cultural, economic and property interests, and other interested persons.
- E. Reports shall clearly identify and discuss major land use and development issues of the community and neighborhoods.
- F. The plan document shall include goals and objectives, the methodology used for analysis and be derived from current planning practice and techniques.
- G. Submittals for local land use, neighborhood, community or sector plans shall be reviewed in accordance with Article VI, Section 4, and according to the public hearing procedures in Article II of the Code. The Board shall make any general plan amendment based on clear and convincing evidence that such an amendment is in the best interests of the County, without working a hardship on residents of the area sought to be rezoned.

4.3.2 The Board may, after public hearing, approve a Local Land Use and Utility Plan for a traditional community. After approval by the Board, a Local Land Use and Utility Plan shall constitute an amendment to the County General Plan as it applies to the traditional community. To the extent that a Local Land Use and Utility Plan amends the Code, the procedures for adopting ordinances shall be followed in connection with adoption of a Local Land Use and Utility Plan.

#### 4.4 Critical Community Population Sizes

When a Traditional Community has reached its critical population size, as established in the County General Plan, the County shall grant no development permits under this Section unless:

- (1) water is imported;
- (2) a hydrology report establishes that ground water sources in addition to those water sources described in the County General Plan are available;
- (3) water conservation practices provided for in the Code to reduce the use of local ground water are made legally enforceable in the Traditional Community District; or
- (4) a policy is established to utilize existing irrigation water rights and supplies for the purposes of supporting urbanization.

#### 4.3 Neighborhood Center Uses in Traditional Communities

Uses allowed in neighborhood center districts are allowed anywhere within the boundaries of a Traditional Community, provided that any requirements of the Code, other than requirements concerning location of neighborhood center districts are met. See Article III, Section 4.2.2, Traditional Community Districts.

### **Section 3.**

In the following sections of the Code, the term "Local Land Use and Utility Plan" is deleted and the term "Community Plan" is substituted:

Table of Contents:

Article II, Section 9;

Article II, Subsection 1.3.1;

Article III, Subsection 10.3.3;

Article X, Subsection 1.3.3.

### **Section 4.**

In the following sections of the Code, the term "Local Land Use Plan" is deleted and the term "Community Plan" is substituted:

Table of Contents:

Article III, Subsection 4.2.2;

Article III, Subsection 4.2.3;

Article III, Subsection 5.3;

Article III, Subsection 5.3.6;

Article III, Subsection 5.4.3.

1 4.1.2 Participation and Representation

- 2 a) Any community undertaking a Community Plan shall first create a Planning Committee in  
3 conjunction with County staff. Members of this Committee shall be residents and property  
4 owners of the community and be representative of its diversity. Once this Committee is defined  
5 and organized, planning activities may begin.  
6 b) All planning sessions and activities shall be open to the public and advertised throughout the  
7 community. Open discussion and diversity of opinion shall be encouraged. The Community  
8 Plan shall document resident/owner participation and representation.  
9

10 4.1.3 A Planning Committee shall apply to the Board to proceed with a Community Plan. The letter of  
11 application to begin community planning shall include:

- 12 a) list of members of the Planning Committee.  
13 b) conditions which justify undertaking a Community Plan.  
14 c) a public participation plan assuring diverse representation of community residents and property  
15 owners.  
16 d) any request for County staff involvement, facilitation of meetings, use of County facilities,  
17 mapping and other available resources.  
18 e) a description of community commitment in terms of resources to be given to the process.  
19 f) a map of the existing and/or proposed community boundary.  
20 g) if a community is seeking Critical Planning Area designation, documentation of specific  
21 circumstances or problems that address criteria as set forth in Section 4.5.  
22

23 4.1.4 All submittals shall be reviewed by staff and presented to the Board with recommendations. The  
24 Board shall review the submittal, review staff recommendations and determine at a public hearing  
25 whether to proceed with a Community Plan. The Board may specify planning elements which need  
26 to be included, and areas that should be included in the Community Plan.  
27

28 4.2 Traditional Community Boundaries

29  
30 4.2.1 Boundaries shall be proposed for Traditional Community at the time of application to proceed with  
31 a Community Plan and the Board shall approve the boundary based on criteria as set forth in  
32 Subsection 4.2.2 and determined upon adoption of the Community Plan.  
33

34 4.2.2 Criteria to be considered when altering or creating a traditional community boundary and a  
35 Traditional Community Zoning District include:

- 36 a) natural resource limitations, such as water quantity.  
37 b) infrastructure limitations and needs.  
38 c) conformance with the Traditional Community Guidelines as set forth in Subsection 2.1.1.  
39

40 4.2.3 Any amendment to the current zoning and density requirements requires that an ordinance  
41 amendment be adopted by the Board.  
42

43 4.3 Contemporary Community Boundaries

44  
45 4.3.1 Boundaries shall be proposed for Contemporary Community at the time of application to proceed  
46 with a Community Plan and the Board shall approve the boundary based on criteria as set forth in  
47 Subsection 4.3.2 and determined upon adoption of the Community Plan.  
48

49 4.3.2 Criteria to be considered when altering or creating a contemporary boundary include:

- 50 a) natural resource limitations, such as water quantity.  
51 b) infrastructure limitations and needs.  
52 c) integration of a variety of mixed uses and appropriate contiguous areas that support community  
53 functions.  
54

notice include posting at central areas and other media such as radio. Any zoning ordinances shall follow notice and hearing procedures as set forth in Article II, Section 2.5 of the Code and applicable State Statutes.

## SECTION 5 - PLANNING ELEMENTS

### 5.1 Multi-Step Process

The County recognizes that communities have limited resources and need to solve problems in a timely and efficient manner. This community planning process is designed to allow individual communities to work at their own pace and within their resources. It is also recognized that the County often needs to guide the planning process of each community.

### 5.2 Documentation and Mapping

To support problem identification and proposed solutions for a Community Plan, communities may seek or develop documentation and maps showing unique community features, water supply, water quality, infrastructure, utilities, transportation facilities, public facilities, population and demographics, housing stock and conditions, and the extent and nature of development, including commercial uses. An environmental map shall designate slope, soils, wetlands and flood plains, vegetation and hydrologic zones. The County will assist in the preparation of any necessary maps and documents.

### 5.3 Required Planning Elements

#### 5.3.1 Identification of Problems, Issues and Proposed Solutions

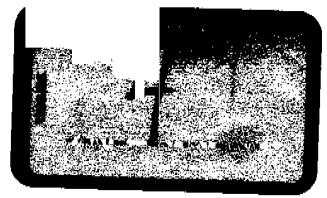
A community that desires to develop a Community Plan shall identify problems and issues, describe the reasons for needing a Community Plan and state how the Community Plan will conform to the policies of the General Plan. To accomplish this, each community shall undertake the following:

- a) Conduct a resident and property owner survey to identify issues, problems and assets within the community. Based on the survey results, County staff and the community shall make a decision as to what other planning elements shall be addressed.
- b) Develop a current land use map.
- c) Determine the extent of the community's traffic problem.
- d) Identify water quality and quantity issues within the community.
- e) Write a community vision statement, identify specific goals and objectives, and short and long term actions which address community and County wide needs.
- f) Delineate any areas in the community not suitable for development. The decision shall be defined based on applicable codes and regulations. (i.e. terrain, soils, flood plains)
- g) Delineate potential sites the community would like to develop, protect and improve based on survey results, mapping and other documentation.
- h) Recommend solutions and develop implementation strategies, e.g., zoning and design standards, local activities and initiatives, and funding strategies for suggested improvements.
- i) Resolve disagreements by consensus, rather than by majority voting. In cases where disagreements on key issues are not resolved, the County may assist through mediation or impasse resolution before a Community Plan is scheduled for public hearing and adoption.
- j) Recommend a community contact person or organization so that the County may communicate with the community about development projects and other pertinent issues.

5.3.2 In some communities, the process as set forth in Subsection 5.3.1 may provide sufficient information to formulate a community plan. Other communities may have more complex issues and may choose to do additional research and studies as set forth in Section 5.4.

## **Spirit Mountain Ranch Santa Fe, NM**

Gregory F. and Ruth Ann Whitten  
P.O. Box 0611  
Medina, WA 98039-0611  
phone: 425-451-9303 fax: 425-451-9302  
email: gregw@whitten.net ruthw@whitten.net



**March 10, 1998**

**1479575**

To: Board of County Commissioners, Santa Fe County  
Land Use Department, Santa Fe County

From: Gregory F. Whitten

Re: Comments on the proposed Community Planning Ordinance

First, I want to commend the county staff for understanding the importance of community planning to Santa Fe County and attempting to clarify the intent and process. The community planning process is one that has had a great impact upon us since purchasing our property starting in 1995. Our experience was a very difficult one in what was turning into an exclusionary process developing a flawed and unfair plan. This has given us a greater insight into how abuses occur and are hidden. It has also reinforced our convictions that these processes need to be fair and open. This is what can build communities instead of dividing communities.

### **Personal Background**

My wife and I own approximately 1200 acres of contiguous undeveloped property between Canada de Los Alamos on the north, Canoncito on the south and the National Forest on the east. It is possible that we would be impacted by two community planning efforts in the future –Canada de Los Alamos and Canoncito. One lot that we own was in the previous Canada de Los Alamos moratorium and planning area. This 261 acre lot was the eastern quarter of Camp Stoney. Our planned use for this lot would be for a few houses for our siblings and their families. The only pattern of development in the Land Development Code that fits our requirements is a subdivision plan.

### **Major Problems with the Canada de Los Alamos planning process**

In my mind, the Canada de Los Alamos community planning process was an example of the best and worst of planning.

The effort that the community expended on the planning effort was quite large. There was a good attempt to keep the process organized and goal-oriented. The stated community vision was very appealing.

The worst of planning was embodied in the attitude that the ends justified the means. From my point of view community and no-development activism closed down the open processes, replaced consensus with a coalition majority, and decided to take the law into their own hands and rewrite it to codify their self-interests. The very worst was the manipulation of the process to mislead the community stakeholders and the Santa Fe County government on a variety of important issues. This manipulation was very subtle and almost undetectable as I have indicated in formal complaint letters filed with the county in 1997.

March 10, 1998

1479575

It must be emphasized that poor community planning places Santa Fe County at legal risk. If the draft Canada de Los Alamos community development plan had been approved by the Board of County Commissioners, I would have been forced to institute a lawsuit against the county to protect my rights and every other community member's rights against a very unfair and closed process. I came to the conclusion that I could not cooperate with the community planning process because I could be held partially liable for being involved in a process that may have been improper. The entire situation was bad for all parties.

### **Comments on the proposed Community Planning Process ordinance**

In general, I support the proposed Community Planning Process ordinance. The bulk of the written ordinance defines a good process which communities can follow. This is a dramatic improvement from the previous provisions in the Land Development Code.

Subsection 4.5.3 for critical planning areas is one of the best subsections in the proposed ordinance. I believe that it is essential for the county to be able to assume control over any community planning process because of the county's legal responsibilities.

I believe that the proposed Requiring Planning Elements (Subsection 5.3) and Additional Planning Elements (Subsection 5.4) cover the essential aspects of a good community plan and provide for an additional vision statement about future community development.

I have some concerns about the treatment of private property as open space and trails in these community plans. Our undeveloped property is not public open space with trails. I am very opposed to any efforts, community or county, to designate my property as open space. I am already very concerned about the level of trespassing and vandalism on our property and I do not want it to increase. I believe that the county needs to develop clearer guidelines about this issue that respects private property rights.

The proposed ordinance refers to a Planning Committee and a community contact person or organization in Subsections 4.1.2.a, 5.3.1.j, 5.4.1.m, and 6.1. I believe that there are better alternatives to these choices of entities. The Land Development Code already has the precedent of recognizing road and utility associations as organizations. I would recommend the following requirement for communities that want or need to do community planning. First, they should form a Community Association that would be open to all residents and property owners within a community. The Planning Committee should be a subsidiary group to the existing and presumed to be long-standing Community Association. The Community Association should be the group to apply for non-profit status as discussed in Subsection 5.4.1.m restricting its charter as necessary to qualify. I prefer the Community Association as being the contact point for the County as defined in Subsections 5.3.1.j and 6.1 because the standard for open community representation is higher than for the smaller Planning Committee group which has no long standing purpose beyond planning.

There are several aspects of the proposed Community Planning Process ordinance that would weaken the current Land Development Code.

The deletion of Article III, Subsection 5.3.6.D that requires all public participation meetings be recorded creates a serious problem of accountability in the process. Recording via cassette tape recorders is not a serious economic burden. This would provide any stakeholder the ability to review the current state of issues in the planning process. It would also provide the county with better assurances that a proper

process was being followed. It would allow for easier analyses of complaints and early remedies for problems.

The deletion of Article VI, Subsection 4.4 with the hydrology requirements needs to be replaced by an understanding by the County staff about the impact of in-fill zoning in communities with wells. Water is still a serious issue in rural areas. Community zoning that allows additional in-fill must be examined closely. Community water systems that are going to be improved must meet the standards in the Santa Fe County Land Development Code. If the county approves additional in-fill without determining the water supply, it may become responsible for importing water to that community.

The scope of community plans could be more tightly defined. This would further aid communities by having a less open ended process. Some definition of which parts of the Land Development Code that could be changed would be helpful.

Lastly, planning is a professional activity with accepted methodologies, practices and legal expectations. Community plans must document their methodologies and justify these against existing and accepted practices. If a community group does not have professional help, then the county should provide county staff help and oversight. The lack of professional planning creates an unnecessary legal liability for the county.

### **Minor changes and additions to the proposed Ordinance**

4.1.2.a change to read: ... in conjunction with County planning staff and approved by the Land Use Administrator.

4.1.2.c add: All planning sessions and activities shall be recorded.

4.1.3.a change to read: list of members of the initial Planning Committee at the time of application.

The planning committee must not be a static group. Residents and property owners must be allowed to participate as Planning Committee members at any time.

4.1.3.h add: any written statements for and against planning activities and elements of the plan received by the Planning Committee.

I believe that it is important that a more complete written record of issues be presented to the staff as provided for in 4.1.4. Community feedback is essential at each step of the process. This feedback should not be able to be suppressed by a Planning Committee's separate agenda. At this stage of the process the county staff is acting as the professional planning agent. They need this extra information for their review because it can help establish whether or not the Planning Committee is taking a consensus position with respect to the issues.

4.2.2 change to read: Residents and property owners of the ...

4.2.3 change to read: ... traditional community boundary ...

4.3.2 add the same wording as 4.2.4. Any amendment to the current zoning and density requirements requires that an ordinance amendment be adopted by the Board.

### **Conclusions**

I support the concept of community planning. I would like to see some changes that reflect the comments that I have made that provide residents, property owners, and the county better protections.

March 10, 1998

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I would like for the Board to issue a motion to direct the staff to consider these issues for amendments to the proposed ordinance.

As a final matter, I would like to see the Board of County Commissioner make a policy statement regarding the following. Legally, it is possible for anyone or any group to submit a general plan amendment. In the case of community planning, such a submittal would legally circumvent the requirements of this proposed Community Planning ordinance if the Board approved such an independent general plan amendment. I would like the Board to make a statement to the effect that they will only consider a general plan amendment that follows an enacted Community Planning Ordinance if the amendment has an underlying purpose to change community zoning. In my opinion the Canda de Los Alamos Association's draft Community Development Plan and process was an attempt to circumvent the community planning sections in the existing Land Development Code.

END  
OF  
BOOK

MINUTES OF THE BOARD OF COUNTY  
COMMISSIONERS

DATE OF MINUTES-----3.10.98-----

DATE OF FILMING-----

CAMERA OPERATOR YVONNE SANCHEZ

REGULAR MEETING

## 5.4 Additional Planning Elements

### 5.4.1 The County may assist with research for additional planning elements which include the following:

- a) identify historic and cultural resources and elements contributing to local and rural character and document the history and important events;
- b) address densities and patterns of existing land uses and proposals for future growth, reflecting local character, resources, and community features;
- c) research history of variance requests, development proposals and evaluate appropriateness of current zoning;
- d) study possible residential and commercial design standards and guidelines;
- e) research the need for a variety of housing types, i.e. single family, multiple family, affordable housing within the community, mobile homes and manufactured housing; (strict adherence to "fair housing practice" is required to avoid exclusion of classes of people);
- f) inventory and analyze business and commercial uses, including home occupations, local businesses, industries of various sizes and recommendations for economic development;
- g) explore the need for institutional uses, including churches, schools, and post offices;
- h) consider the need for community facilities, including plazas, community centers, recreational facilities and fire houses;
- i) study circulation and traffic, on streets, roads, paths and trails used by motorists, bicyclists, pedestrians and equestrians;
- j) research needs for water, sewer and other utilities;
- k) assess needs for parks, open space, trails and natural resource areas, and identify potential open space and trails;
- l) recommend strategies for the protection of open space and trails;
- m) explore the need for the Planning Committee to incorporate with the New Mexico State Corporation Commission to receive non-profit status to seek private funding for proposed community projects;
- n) assess environmental quality.

## SECTION 6 - STATUS OF COMMUNITY PLANS

- 6.1 After approval by the Board, a Community Plan shall constitute an amendment to the County General Plan. Once a Community Plan has been adopted, the appropriate Planning Committee or designated contact person as set forth in Subsection 5.3.1 will be notified of development proposals within the traditional or contemporary boundary. Any projects and proposals identified through the planning process may be considered as possible projects in the Infrastructure Capital Improvement Program (ICIP) and the County's Capital Improvements Program (CIP).

1 4.3.3 Any amendment to the current zoning and density requirements requires that an ordinance  
2 amendment be adopted by the Board.

3  
4 4.4 District and Sector Plans

5  
6 4.4.1 District and Sector Plans shall follow the planning process as outlined in this Article XIII.

7  
8 4.5 Critical Planning Areas

9  
10 4.5.1 The BCC may designate specific communities as Critical Planning Areas and may establish priority  
11 for preparation of Community Plans for such areas. Critical Planning Areas are those Traditional  
12 or Contemporary Communities where one or more of the following critical problems are  
13 documented:

- 14 a) water delivery systems or water supply is inadequate or is threatened; or.
- 15 b) pollution of water resources has occurred or is threatened based on authoritative analysis; or.
- 16 d) fire protection is hindered as determined by the County Fire Department Chief; or.
- 17 e) 10% or higher annual rate of growth is occurring over a consecutive five (5) year period; or.
- 18 f) mediation is needed because of a lack of consensus on development issues among residents; or.
- 19 g) existing infrastructure is inadequate and detailed planning is needed; or.
- 20 h) significant open spaces and trails identified by the community are immediately threatened; or.
- 21 i) cultural integrity and unique character are immediately threatened; or.
- 22 j) a New Community District is proposed.

23  
24 4.5.2 The Board shall review submitted relevant documentation of the critical problems and make  
25 findings in order to designate Critical Planning Areas. The purpose is to prioritize Critical  
26 Planning Areas due to limited County resources.

27  
28 4.5.3 For Critical Planning Areas, the Board may direct County planning staff to lead the planning  
29 process and to prepare all or part of the Community Plan with community participation. These  
30 Community Plans shall meet required planning elements as set forth in Section 5.3 and shall focus  
31 on resolving the community's critical problem(s).

32  
33 4.6 The County Role

34  
35 4.6.1 The County planning staff shall assist with the planning process and provide for local public  
36 involvement in the development of the Community Plan. At the community's request and based on  
37 available or budgeted resources, the County may provide facilitation for meetings, provide mailing  
38 services, consult on methodology for surveys and studies, provide mapping, review documents and  
39 provide feedback, and offer technical assistance for community projects. Critical Planning Areas  
40 will be given priority for County resources.

41  
42 4.7 Plan Review

43  
44 4.7.1 Documents and maps shall be submitted to the County for review and when the Land Use  
45 Administrator deems the application complete, scheduling of appropriate hearings will occur  
46 within thirty (30) calendar days. County staff will review and make recommendations for approval,  
47 denial or modification.

48  
49 4.7.2 The Board shall conduct no less than two (2) public hearings to review each Community Plan, with  
50 notice to residents and property owners in the affected community. The Board may approve the  
51 Community Plan as submitted, approve with amendments, or deny. Public hearings shall be  
52 noticed in a newspaper of general circulation in the area of the affected community and in local  
53 newspapers and newsletters if applicable, at least ten (10) working days prior to the hearings.  
54 Public hearings may be held at a location within the community. Additional options for public

1 **Section 5.**

2 A New Article XIII, Community Planning, is established and shall read as follows:

3  
4 **ARTICLE XIII - COMMUNITY PLANNING**

5 **SECTION 1 - PURPOSE AND INTENT**

6 1.1 It is the intent of this article to allow Traditional and Contemporary Communities as those terms are  
7 defined herein, to obtain approval from the Board to begin a community planning process in conjunction  
8 with County planning staff to identify problems within the community and to propose solutions. The  
9 Board may direct the planning staff to begin work with communities designated as Critical Planning  
10 Areas. The community planning process shall provide diversity of representation in each community and  
11 shall conform to the overall goals and policies of the County General Plan.

12  
13 1.2 It is not the intent of this article to create or encourage exclusive residential areas.  
14

15 **SECTION 2 - TRADITIONAL COMMUNITY DESIGNATIONS**

16 2.1 Guidelines for determining Traditional Community status include:

- 17 a) continuous settlement since 1900;  
18 b) a historic pattern of diverse and mixed community land uses which has carried through to the  
19 present;  
20 c) presence of historic structures; and  
21 d) existence of a village center(s).  
22

23 2.2 Any community meeting the guidelines as set forth in Subsection 2.1 may appear before the Board to  
24 request Traditional Community status.

- 25 a) supporting documentation shall be reviewed by the CDRC who shall make a recommendation to  
26 the Board.  
27 b) the Board shall make a determination on whether the criteria has been met based on  
28 documentation and public testimony.  
29

30 **SECTION 3 - CONTEMPORARY COMMUNITY DESIGNATIONS**

31 3.1 Guidelines for determining Contemporary Communities status include:

- 32 a) located away from traditional settlements as a result of either large subdivisions or many  
33 adjacent small land divisions; and  
34 b) located in or near traditional settlement areas but the dominant development pattern has been  
35 determined by land subdivision or land platting, not by the social or functional needs of  
36 Traditional Communities.  
37

38 3.2 Any community meeting the guidelines as set forth in Subsection 3.1 may appear before the Board to  
39 request Contemporary Community status.

- 40 a) supporting documentation shall be reviewed by the CDRC who shall make a recommendation to  
41 the Board.  
42 b) the Board shall make a determination on whether the criteria has been met based on  
43 documentation and public testimony.  
44

45 **SECTION 4 - PLANNING PROCESS**

46 4.1 Application Process

47  
48 4.1.1 Any Traditional or Contemporary Community may prepare a Community Plan. Two or more  
49 communities may choose to do a joint Community Plan.  
50  
51

1 **Section 2.**

2 Article VI. SPECIAL REVIEW DISTRICTS. Section 4. Traditional Community Districts is amended as follows:

3 **SECTION 4 - TRADITIONAL COMMUNITY ZONING DISTRICTS**

4  
5 **4.1 Traditional Community Zoning Districts**

6  
7 La Puebla, Chimayo, Rio Chiquito, Cundiyo, the Pojoaque Valley (including Pojoaque, Nambe, Jacona,  
8 Jaconita, and El Rancho and San Ildefonso), Chupadero, Rio en Medio, Tesuque, Cuyamungue, La  
9 Cienega, Cañada de Los Alamos, Glorieta, Lamy, Galisteo, Arroyo Seco, Los Cerrillos, Golden, Madrid,  
10 Stanley and Edgewood are established as Traditional Community Zoning Districts, in the locations shown  
11 on Code Maps 40 through 57. (The boundaries for Rio en Medio and Tesuque are to be amended  
12 according to the Las Trcs Villas Plan.)  
13

14 **4.2 Alteration or Creation of Traditional Community Zoning Districts**

15  
16 4.2.1 The Board may alter the boundaries of a Traditional Community. If an interested party or parties  
17 applies for a development permit involving a change in the boundary of a Traditional Community  
18 District, in addition to the other requirements of law for amending the Code, the Board shall  
19 consider any existing approved Local Land Use and Utility Plan and shall seek the advice of the  
20 Community Development Review Committee, if any. The Board upon request from the community  
21 may alter or create Traditional Community Zoning Districts only after compliance with Article XIII  
22 of the Code. Upon adoption of the Community's Plan, the Board shall approve, deny, or approve  
23 with modifications the proposed Traditional Community Zoning District changes.  
24

25 4.2.2 Any alteration or creation of Traditional Community Zoning Districts shall constitute a rezoning  
26 and shall follow notice and hearing procedures as set forth in Article II, Section 2.5 of the Code  
27 and applicable State Statutes.  
28

29 4.2.3 Altering or creating a Traditional Community Zoning District does not automatically grant  $\frac{3}{4}$  acre  
30 zoning to areas within the new boundary. Communities may propose a variety of density and  
31 zoning areas, in order to:

- 32 a) include areas for infrastructure development.
- 33 b) protect sensitive environmental or cultural areas.
- 34 c) create buffer zones contiguous to the community for lower density.
- 35 d) designate areas for specific uses or activities to implement community planning goals.

36  
37 **4.3 Local Land Use and Utility Plan**

38  
39 4.3.1 Residents of a Traditional Community District may cause a Local Land Use and Utility Plan to be  
40 prepared for a Traditional Community. In order to be considered by the Board for approval, a  
41 Local Land Use and Utility Plan for a Traditional Community shall:

- 42 a. ~~establish policies and provisions for land use and the provisions of water and liquid waste~~  
43 ~~disposal services;~~
- 44 b. establish policies and provisions for water consumption, community layout, improvement and  
45 maintenance of utilities, critical community population size based on a refined analysis of the  
46 County General Plan Community critical size, environmental impact, if any, of development,  
47 housing, roads, open space and recreation, and historic, cultural and archaeological  
48 preservation;
- 49 c. ~~not include development proposals that might use or deplete a greater amount of local water~~  
50 ~~resources than is provided for under the water policies of the Code and the County General~~  
51 ~~Plan, unless the Plan demonstrates that water in an amount sufficient to adequately serve the~~  
52 ~~additional population is available; and~~
- 53 d. be consistent with any applicable State statutes or any County ordinances.

or Contemporary Community at the time their community plan and/or zoning designation is approved by the Board.

2. To establish a Community Planning process for communities, sectors and districts with clear guidelines for adoption of community plans.
3. To provide opportunities for communities to solve the problems they identify - through County-assisted funding and the creation of zoning ordinances which fit the unique circumstances in each adopted community plan.