

SFC CLERK RECORDED 04/23/2007
RECORDED 04/23/2007

SANTA FE
BOARD OF COUNTY COMMISSIONERS

MEETING

March 13, 2007

Virginia Vigil, Chairman
Jack Sullivan, Vice Chair
Michael Anaya
Paul Campos
Harry Montoya

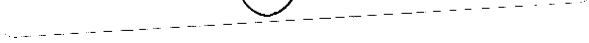


COUNTY OF SANTA FE)
STATE OF NEW MEXICO) ss

BCC MINUTES
PAGES: 124

I Hereby Certify That This Instrument Was Filed for
Record On The 23RD Day Of April, A.D., 2007 at 11:17
And Was Duly Recorded as Instrument # **1479813**
Of The Records Of Santa Fe County

Witness My Hand And Seal Of Office
Valerie Espinoza
County Clerk, Santa Fe, NM
Deputy *Marcello Salazar*



SANTA FE COUNTY
REGULAR MEETING
BOARD OF COUNTY COMMISSIONERS

March 13, 2007

This regular meeting of the Santa Fe Board of County Commissioners was called to order at approximately 3:10 p.m. by Chair Virginia Vigil, in the Santa Fe County Commission Chambers, Santa Fe, New Mexico.

Following the Pledge of Allegiance and State Pledge, roll was called by County Clerk Valerie Espinoza and indicated the presence of a quorum as follows:

Members Present:

Commissioner Virginia Vigil, Chair
Commissioner Jack Sullivan, Vice Chairman
Commissioner Paul Campos
Commissioner Mike Anaya
Commissioner Harry Montoya

Members Absent:

[None]

V. INVOCATION

An invocation was given by Chaplain Jose Villegas.

CHAIR VIGIL: Before we go to approval of the agenda, I'd like to recognize Dr. Ray Morales and Bill Heinbach from Los Alamos National Lab. Thank you, gentlemen for joining us today.

VI. APPROVAL OF THE AGENDA

- A. Amendments**
- B. Tabled or withdrawn items**
- C. Consent Calendar: Withdrawals**

ROMAN ABEYTA (County Manager): Thank you, Madam Chair. We have a few additions, the first under IX. Matters from the Commission, E. Discussion and possible

approval of discretionary funds in the amount of \$1,645.13 to L & L Portables. Then, under XI. Consent Calendar, B. 2, A resolution requesting increase to the US Environmental Protection Agency Fund, Cundiyo water project, for a federal grant award.

XII. Staff and Elected Official Items, A. 1, Matters from the County Manager, a resolution approving the County Manager's reorganization plan, and B. Matters from the County Attorney, c.i. Consideration and approval of amendments to the lease between Santa Fe County and Women's Health Services, and ii, Purchase agreement by and between the Board of County Commissioners of Santa Fe County and New Solana Center. And we added under item B, Matters from the County Attorney, B. 2, Consideration and approval of amendments to a lease by and between Santa Fe County and Women's Health, 3. Purchase agreement by and between Board of County Commissioners and New Solana Center, and 4. A resolution authorizing execution of amendments to the lease by and between Board of County Commissioners and Santa Fe County.

Under Public Hearings, XIII. A. Land Use Department, 1, we've noted on the agenda that item 1, the resolution for Turquoise Trail public improvement district is for discussion only. Lastly, Madam Chair, on the last page of the agenda, item #13 has been tabled.

CHAIR VIGIL: I also have item #9 with tabled.

MR. ABEYTA: Right. And #9.

CHAIR VIGIL: Nine and 13 remain tabled?

MR. ABEYTA: Yes.

COMMISSIONER MONTTOYA: Madam Chair, move for approval.

CHAIR VIGIL: Motion for approval. Is there a second?

COMMISSIONER CAMPOS: Second.

COMMISSIONER SULLIVAN: Madam Chair.

CHAIR VIGIL: Commissioner Sullivan.

COMMISSIONER SULLIVAN: Do you want to do withdrawals?

CHAIR VIGIL: Yes.

COMMISSIONER SULLIVAN: Okay. Also, under the agenda, I think it would be wise if we had a combined hearing on the three Eldorado moratorium ordinances. I think any discussion that we might have will be from people that might have thoughts on one or the other or all three and we could still vote on them separately, and I would like to do that because I would be hesitant to vote on the first ordinance until I knew what we were doing with the second and third ordinance.

CHAIR VIGIL: So that we can have presentations on item XIII. A. 3, 4 and 5, and then have discussion, take public comment and take action on each of them independently.

COMMISSIONER SULLIVAN: As a combined hearing and then after you close the combined hearing then we can take separate action in whatever order we want, but I'd like us not to do the first one first because I wouldn't know how to vote on that until I found out what the Commission's feeling is on the other ordinances.

CHAIR VIGIL: Okay is the maker of the motion and the seconder okay with that request?

COMMISSIONER MONTOYA: Madam Chair, I think that's just a matter of facilitation of the meeting, so to me, they're already in the order that they're in there and however we decide to take action on them.

COMMISSIONER CAMPOS: I think it's a good idea, as the seconder of the motion.

CHAIR VIGIL: Okay. Any other changes?

COMMISSIONER SULLIVAN: Withdrawals.

CHAIR VIGIL: Withdrawals.

COMMISSIONER SULLIVAN: Yes, I have a quick question on the Consent Calendar, items XI. A. 1 and 2, and it has to do with the conditions. The conditions aren't included in those findings and in the past we've asked that the conditions be in the findings, the conditions of approval, all of the conditions.

CHAIR VIGIL: So would you like to pull those?

COMMISSIONER SULLIVAN: I'd like to pull those off for discussion.

CHAIR VIGIL: XI. A. 1 and 2?

COMMISSIONER SULLIVAN: Correct. And I don't think the third had any conditions. It was a height variance and I think that was just approved.

CHAIR VIGIL: Okay. Anything further?

COMMISSIONER SULLIVAN: Not from me.

CHAIR VIGIL: Okay, we have a motion and a second with removals from the Calendars. Is there any further discussion?

The motion to approve the agenda as amended passed by unanimous [5-0] voice vote.

VII. APPROVAL OF THE MINUTES:

A. February 9, 2007 - Special Meeting

CHAIR VIGIL: Are there any changes to those?

COMMISSIONER SULLIVAN: I have some typographic changes, Madam Chair.

COMMISSIONER ANAYA: So moved.

CHAIR VIGIL: Motion to approve.

COMMISSIONER ANAYA: As amended.

CHAIR VIGIL: Is there a second?

COMMISSIONER SULLIVAN: Second.

CHAIR VIGIL: Motion and seconded. Any further discussion?

COMMISSIONER CAMPOS: I recuse myself; I wasn't at that meeting, nor was the chair.

CHAIR VIGIL: Okay. We will be recused then. Any further discussion?

The motion to approve the February 9th special meeting minutes passed by unanimous 3-0 voice vote with Commissioners Campos and Vigil having recused themselves.

B. February 13, 2007

CHAIR VIGIL: Any changes?
COMMISSIONER SULLIVAN: Madam Chair, a typographical change.
CHAIR VIGIL: Typographical changes? Anything further? Motion?
COMMISSIONER MONTOYA: So moved, as amended.
CHAIR VIGIL: Is there a second?
COMMISSIONER SULLIVAN: Second.
CHAIR VIGIL: Motion and seconded. Any discussion?

The motion to approve the February 13th regular meeting minutes, as amended passed by unanimous [5-0] voice vote.

C. February 13, 2007 – Study Session

CHAIR VIGIL: Do you have any typographical errors, Commissioner Sullivan?
COMMISSIONER SULLIVAN: Madam Chair, yes.
CHAIR VIGIL: Okay. Anyone else for changes? Seeing, hearing none, do I hear a motion?
COMMISSIONER SULLIVAN: So moved, as amended.
COMMISSIONER CAMPOS: Second.
CHAIR VIGIL: Motion and seconded as amended? Any discussion?

The motion to approve the minutes of the February 13th study session passed by unanimous 4-0 voice vote with Commissioner Anaya abstaining.

VIII. MATTERS OF PUBLIC CONCERN – NON-ACTION ITEMS

CHAIR VIGIL: We are now under Matters of Public Concern. These are non-action items. This the part of the meeting where we ask anyone in the audience if they would like to address the Board of County Commissioners on any subject other than a subject that is in the agenda today. Is there anyone out there that would like to speak on a matter of public concern. Our chaplain, Jose Villegas.

JOSE VILLEGAS: Madam Chair, members of the Commission, on behalf of Ms. Franco, she wants to convey her thanks to the Board of County Commission, to County

Manager Mr. Abeyta, and to Ms. Romero from the Corrections Department, and Sheriff Solano, for allowing me to be there for her son. Eric died in an accident in La Cieneguilla about two weeks ago. He was an 18-year old young man who had just come back from boot camp for the Marine Corps and it was a DWI situation. I was there for that family on the scene until we buried him. He had a military escort, Sheriff Department escort to his burial site. And she conveys her thanks for allowing me to do the work that I do for families like that.

This Marine, this young Marine, 18 years old – it was pretty heavy. This was my first Marine that I had to bury and actually he was my first Marine that I had to dress him up in his dress boots, put them on him. But I wanted to come and convey that on behalf of Ms. Franco. So thank you.

CHAIR VIGIL: Thank you, Chaplain Villegas, and thank you for all the work that you do in helping these families out in a time of crisis. Is there anyone else that would like to address the Board?

VIII. MATTERS FROM THE COMMISSION

**A. Presentation on NMDOT Regarding US 84/285 Corridor Project
(Commissioner Montoya) [Exhibit 1: DOT Flyer; Exhibit 2: Project Map]**

COMMISSIONER MONTOYA: Thank you, Madam Chair. I thought it would be important for the Board to be cognizant and aware of the proposed construction that's going to be taking place on the corridor between Pojoaque and the City of Española. I had the opportunity to meet with these gentlemen a couple weeks ago and feel that this will be something that will be impacting Santa Fe County in ways other than just transportation and roads, that would include water and wastewater systems as well. So Armando Armendariz is here, along with – Armando, you're with DOT, correct? And Bill Garcia, who is also with DOT, so thank you for being here. Carlos Padilla with Berger Engineering and Ivan Trujillo with the Louis Berger Group. So thank you all for being here.

ARMANDO ARMENDARIZ: Commissioner, thank you. Madam Chair, Commissioners, thank you for having us here. I'll be a little brief. What we wanted to do is we wanted to give you a brief presentation of what's going on for the corridor. Currently we have this first project under construction that any of you who drive through the corridor have seen. That one's going to finish up here within the next 100 days.

The corridor goes from Pojoaque all the way over to Española so we can orient everyone here on to the Board. We have improvements that are scheduled for the whole corridor. We're suggesting some frontage road systems that we're going to implement right about right here by the Pojoaque Pueblo boundary that continues on north.

COMMISSIONER ANAYA: Madam Chair.

CHAIR VIGIL: Commissioner Anaya.

COMMISSIONER ANAYA: Does that road – what is it? Two different pictures?

MR. ARMENDARIZ: No, sir. I'm sorry, Madam Chair, Commissioner Anaya, this is Pojoaque. It continues on this way. This is the Pojoaque Pueblo boundary. This is Calle Molina, and you keep going. It ties in, this line and that line tie into each other. This is County Road 88 right by La Puebla. This is Contract Road in Arroyo Seco. This is the Dreamcatcher Theater, New Mexico 399-106, and then we enter on into the City of Española. This is Upper San Pedro Road.

COMMISSIONER ANAYA: Thank you. Thank you, Madam Chair.

MR. ARMENDARIZ: As I was saying, the frontage road system starts here about the Pojoaque Pueblo boundary and that frontage road system will continue on through to 399. The frontage road system is designed to help alleviate the traffic. There's a high level of traffic projected for the corridor. Then we enter into an urban type of a concept here into the Española area. What I'd like to do is just go over briefly the projects and then stand for any questions you may have.

The first project is here in the Pojoaque Pueblo land. There's not any right-of-way that's needed for the job. The job is about 1.3 miles long. It's going to look very similar to what is out there today. The depressed median and the four-lane roadway. Not much change, just the median improved, an improved, smoother ride, smoother typical section.

Once we hit this second phase here, the second project, this is the frontage road system. There's an access location here for the frontage road system to begin or end, depending on your direction of travel. That continues on through the corridor. There is a second access location here at Calle de Molino. The recommended alternative we're showing here is a grade-separated access, similar to an overpass it would be - similar to something you might see on the interstate system.

Continuing on over to right over here in this area by the Knights of Columbus is where the project stops. This project is about 1.6 miles in length and so this is new four-lane construction that you see existing there with the addition of two two-way frontage roads both on either side of the four-lane system.

The next project is about 2.3 miles in length from here, the Knights of Columbus area all the way to just past by the Dreamcatcher or New Mexico 399-106, a continuation of the frontage road system. The recommended alternative here, La Puebla, is an interchange, a grade-separated access location. There's some design issues that the department is going to work out with regard to the Arroyo Seco area. There is a right-of-way associated heavily in this area. There are some relocations of residents and right-of-way acquisition that we will be working with the residents in that area.

Continuing on, near Contract Road or Camino de Arroyo Seco is another access location. Recommended alternative is the grade-separated - an overpass type of facility with access going northbound. Again, the frontage road systems all tie into these access locations and people will be able to go either direction on this route.

Then it ties in over here to New Mexico 399. The frontage road systems you see flare out in this area. The reason for that is this access location is going to - we're recommending that it stay a signal, but we would upgrade the existing signal for timing and access and

capacity. The spacing is necessary so we don't have traffic backing up on either side and the frontage road traffic comes to 399 and 106. Like I said, this project is 2.3 miles long.

The last project is here in the Española area. This project is 1.5 miles in length. The idea here is some median access modifications to improve access to the businesses to help direct patrons who are going to be using this area in or out of the businesses easier. There's a new signal that would be installed at Upper San Pedro Road. The signal currently meets one of the necessary eight warrants for new signal installation. There is some right-of-way associated with this section of the corridor as well. There are a lot of utilities and drainage issues that we're going to be working on in this area.

Finally, the project terminates here at New Mexico 68 in the City of Española and there are proposed signal improvements and modifications to this area of the corridor.

If I could go back and describe the order they're going to come in, it's projects 1, 2, 3 and 4, we're not releasing them to the contracting community in that order because of technical fees or lack thereof. This first project is scheduled for a July letting and so this project is being designed internally by myself and some other gentlemen with the DOT. The second project that would be let to the contracting community is this Española project here that I described. This project is let to the community about October of this year. That is being designed with the help of Louis Berger under Ivan Trujillo's guidance there. The third project comes here, from 399 to over here by the Knights of Columbus. This project is probably one of the more technical ones. It has all the right-of-way involved with it or a significant amount of the right-of-way involved with it. This project is scheduled to go to the contracting community about February of 2008. This is under the supervision of Louis Berger and Ivan Trujillo here.

And then the last segment is this portion here that we described, that second project, near the Pojoaque Pueblo boundary through the Avenida del Molino area. That project is scheduled to go to the contracting community about April of 2008. That's kind of in a nutshell, not to take up too much of your time for the day here is the project. We'll be happy to answer any questions. We've provide the handouts. We do have a comment period that we're looking for our environmental documents. That closes the 23rd of March. So on there there were some handouts that show the DOT website. We'll take any comments at that time or up until that time via e-mail or you can mail them into the address that was shown on the flyer. So thank you for your time.

CHAIR VIGIL: Thank you. Are there any questions? Commissioner Sullivan.

COMMISSIONER SULLIVAN: Just one on the intersection where the Dreamcatcher is located. What's going to go to the west of the Dreamcatcher? Not the southwest, the northwest.

MR. ARMENDARIZ: Madam Chair, Commissioner Sullivan, that area is the property of the Santa Clara Pueblo. So what's going to go there - we don't have any anticipated access locations for. The Pueblo - we're re-establishing an existing access - I believe it's about right here. We're moving it out of the way in our coordination with Santa Clara Pueblo and the Santa Clara Development Corporation, and we're re-establishing this access that is currently to the property here.

COMMISSIONER SULLIVAN: Because as I recall, a year or two ago they graded it, a tremendous amount of that land out there and flattened it all out. It looked like there was going to be a substantial development there. It seems like if there is it would be a good idea to know what it is while you're designing a road.

CARLOS PADILLA: Madam Chair, Commissioners, I'm Carlos Padilla, consultant for the Department. We've been talking to Santa Clara Pueblo for about the last two years and Commissioner, you are correct. Originally, they had done some grading on that portion. They call it the Four Corners area. They had some plans for some type of a big-box development that I think currently is not - I guess they delayed that. I don't know particulars on what type of development the Pueblo is looking at but I can tell you they do have development plans for all four quadrants of that area. They refer to it, as I said, as their Four Corners area and that development is being done or managed by the Santa Clara Development Corporation. So they don't have any plans yet. We've been working with them to coordinate the highway improvements. They will be - as their plans develop, they will have to come back to the Department to look at access and other issues depending on what they're going to plan on putting there.

COMMISSIONER SULLIVAN: So then is that existing road that goes in front of the Dreamcatcher, is that them obliterated and the new road takes its place?

MR. PADILLA: Yes, Commissioner, that is the plan. The Pueblo has not approved that yet. The Department is still waiting for final approval. There is a chance that they will ask to keep the intersection located where it's at but for a number of various reasons it was felt advantageous to move the intersection slightly to the south.

COMMISSIONER SULLIVAN: And the last question that I had is, coming into Española, it's a real grade down to the north. And you're going to be a traffic light right at the bottom of that grade? Is that safe?

MR. PADILLA: That has come up. There's a couple of things we try to do in this study to address that concern. First of all, as it enters into design, the design teams are looking at being able to depress that grade as much as possible. There are some constraints here because there's a historic acequia that runs right on one side of the road that kind of limits the amount of grade change you can do. One concept that's been looked at - and again this has to be coordinated with the Santa Clara Pueblo because they own the land, but it's this kind of bubble out up above that area and the idea was to try to give a break in the linear path of the road to try to slow people down. So we're going to try to look at some type of traffic calming measures, lowering the grade as much as possible, and there will be the signal at Upper San Pedro but it is a substantial grading coming back down into that.

COMMISSIONER SULLIVAN: Because on a smaller scale, we've had tremendous problems on Rodeo Road with the signal located at that depressed location at Zia. In fact there have been fatalities there as a result of that. Any time I look at a traffic light in a downhill stopping situation, whether it's ice or snow or just people speeding I always get nervous and that one makes me nervous, just when I'm going into Española.

MR. PADILLA: And that intersection has other problems as well so the idea is

to try to increase the safety of the intersection by putting a light there, making some geometric improvements. Again, in regards to the grade coming up, working with the Santa Clara Pueblo to see if we can get some additional right-of-way and again, in design, I think there's a potential to lower that grade somewhat, but it's not going to be – and there are some boundaries in terms of how flat that it can result.

COMMISSIONER SULLIVAN: Thank you, Madam Chair.

CHAIR VIGIL: Any further questions?

COMMISSIONER MONTOYA: Madam Chair, Armando, if you could just maybe point out in terms of the utilities that we had talked about in terms of potential future for water and wastewater in this Cuatro Villas area that could be the service area there?

MR. ARMENDARIZ: Madam Chair, Commissioners, we did have a brief discussion. There is fiber optic that is going to be included throughout the entire corridor. The Department is going to be installing three conduits. One will [inaudible] one will have fiber optic, and one will be vacant for future growth. Those fiber optic lines or those utilities will run from the 503 intersection all the way over to New Mexico 68. That was something that was discussed with the utility companies earlier on. As Commissioner Montoya was talking about in this area here, this Four Corners area that Carlos was talking about, there's a lot of growth with regard to crossings or the need for utility coordination and installation along the corridor.

At this time we can continue the design phase if we know that there's going to be a need for a crossing of a utility in this area; we can accommodate that crossing and then as the future need for the development, for whatever is necessary, whether it be a sanitary sewer or water, can be incorporated into that crossing. We would like to incorporate as much of the current utilities' future growth that's anticipated now in the design process if we can work with the engineering firms that are working on the sewer or water in that area.

There also is an extensive effort that we're working with the current utilities in this area that we're going to provide a utility corridor throughout the DOT corridor from Nambe to Española and that's going to probably be located somewhere between the mainline, the four lanes, and the frontage road. That way we don't tear up new pavement as soon as we've developed this. I think I'll let Joe probably add a few things here that I might have overlooked.

JOE GARCIA: Madam Chair, Commissioners, I'm Joe Garcia, the design manager. A utility corridor will be established between the frontage road and mainline on both sides of this facility from Española into the 503 area. We have at least three water firms – the City, Santa Clara and the Cuatro Villas, that we will coordinate laterals and place sealed casings for future growth. The County has already approached us for some water crossings in the Pojoaque Pueblo area, as has the Pojoaque Pueblo. So those are all design issues, but this corridor is affording use of the right-of-way and we are going to vacate any utility you have out there on both sides of the facility for future growth. Just wanted to clarify that.

CHAIR VIGIL: Thank you.

COMMISSIONER MONTOYA: Thank you, Joe. Thank you, Armando.

CHAIR VIGIL: Any further questions? Seeing, hearing none, thank you for the presentation. I believe the next item is related to this.

IX. B. Resolution No. 2007-44. A Resolution of Support from Santa Fe County for the New Mexico Department of Transportation Proposed Project to Improve US 84/285 from the New Mexico State Road 503 Intersection in Pojoaque to the NM State Road 68 Intersection in Española (Commissioner Montoya)

COMMISSIONER MONTOYA: Yes, Madam Chair, and this totally is related to the presentation that was just given. I'd move for approval.

CHAIR VIGIL: Motion for approval. Is there a second?

COMMISSIONER ANAYA: Second.

CHAIR VIGIL: Is there any discussion on this motion? Commissioner Sullivan.

COMMISSIONER SULLIVAN: Madam Chair, I just wondered, is this just something that we'd like to do as a courtesy to the Department or is this something that's required by the Federal Highway Administration? I see Mr. Garcia shaking his head no.

MR. GARCIA: Madam Chair, Commissioners, this is just a courtesy to the Department at this point. This is not a requirement of Federal Highways. We have presented now to all the stakeholder groups and public entities along the corridor, and it's just a respectful request of a continuation of the support we've enjoyed through the corridor's development and an agreement to continue to work in a cooperative sense with any utility, land development, or other impacts to the County. And that's all we're requesting today.

COMMISSIONER SULLIVAN: Thank you, Madam Chair.

CHAIR VIGIL: Thank you. Are there any further questions?

The motion to approve Resolution 2007-44 passed by unanimous [5-0] voice vote.

CHAIR VIGIL: Congratulations, gentlemen and thank you for your presentation. I also won the little rail trail car by raffle at the state and it's still somewhere at the DOT so secure it for me, make sure - I think Rebecca has it. Was that a miniature train that was raffled?

MR. GARCIA: I believe it was, Madam Chair. Armando Armendariz will track that down for you and bring it to you personally.

CHAIR VIGIL: Great. I would appreciate that. Thank you very much.

IX. C. Resolution No. 2007-45. A Resolution Opposing the United States Citizenship and Immigration Services Fee Increase (Commissioner Montoya)

COMMISSIONER MONTOYA: Thank you, Madam Chair. This is a resolution that through the National Association of Counties and other counties throughout this country that are urging the United States Immigration Service to look at a way of seeking

alternative ways of increasing their revenues, increasing their funds. Currently they're utilizing the fee that's being charged for the naturalization process to essentially pay for their operations and they're saying that the increase from \$400 to \$675, which is an increase of about 69 percent, is going to be needed in order to be able to operate this particular office.

What this resolution is asking is that it, number one, not have a fee increase for the naturalization application process, and that we would call on the director of the Immigration Service to ask President Bush and Congress to get accurate information in terms of exactly what the federal appropriations would be in order to have them modernize their operations. Secondly, would also be to ask the President and US Congress to address some of the fundamental problems that we are experiencing in terms of the financing for immigration services and third, we would ask our County Clerk to submit a certified copy of this resolution to the director of the USCIS as well as the President of the United States, the Speaker of the US House of Representatives, and the President Pro-tem of the US Senate as part of the record and reflecting that Santa Fe County feels that, in terms of the naturalization process we would not want to see it made more difficult for people that are encountering or going through the process and as difficult as it may be already and as expensive as it may be already. I would move for approval, Madam Chair.

CHAIR VIGIL: Motion. Is there a second?

COMMISSIONER ANAYA: I'll second.

CHAIR VIGIL: Okay, there's a second. Any discussion on this? Commissioner

Sullivan.

COMMISSIONER SULLIVAN: A couple of questions. Does this apply, or do these fees apply to the President's proposed guestworker program?

COMMISSIONER MONTOYA: These are just fees that the USCIS, the United States Citizenship and Immigration Services is asking for. It does not have anything to do with the guestworker program.

COMMISSIONER SULLIVAN: So these are just fees for permanent residents and permanent citizenship.

COMMISSIONER MONTOYA: Yes.

COMMISSIONER SULLIVAN: A lot of times on these Association of Counties resolution I just have a feeling that I'm only seeing one side of the coin. Do we know or was there anything presented by the USCIS that justified that increase? There is more staff required or did they just arbitrarily up it to that amount?

COMMISSIONER MONTOYA: The understanding that I have is that they have arbitrarily upped to that amount and that's why we are asking that the information be looked at and scrutinized in terms of exactly what is needed for financing of the enhancements or the upgrades of the system. And I'll just add that the National Association of Counties is one of many other organizations, including the National Council of La Raza, MALDF, the Mexican-American League Defense Fund. A number of different national organizations are also looking at this as a result of the somewhat arbitrary increase in the naturalization fee.

COMMISSIONER SULLIVAN: And we certainly – at least I feel it's

appropriate to help people who are legal residents and who want to obtain their citizenship. In one of the paragraphs it says that the USCIS believes that it needs this massive fee hike to pay for major infrastructure investments and process enhancements such as improvements in timeliness of background checks, modernization of its outdated business systems through technology upgrades, facilities improvements and enhancements in its personnel training and recruitment programs. All of that sounds pretty good to me. That seems like things that would speed it along.

Is it our feeling or yours, Commissioner, that this money wouldn't go to that or it's not needed?

COMMISSIONER MONTOYA: That's exactly the question: Is it needed? Because it hasn't been substantiated. In other words, they're saying we need to do this fee increase in order to do this, but there hasn't been significant documentation to verify the request or their recommendation that this be increased. And again, that's what this is asking for is that as part of the second Now, therefore, call on USCIS to direct it to get accurate information to ascertain the amount of federal appropriations that would be needed to enable the USCIS to modernize its operation and have these operational services without raising the naturalization fee.

So that is lacking, so that is what this is requesting also in terms of getting some accurate information.

COMMISSIONER SULLIVAN: Thank you, Madam Chair.

CHAIR VIGIL: Any further discussion? Seeing, hearing none, we'll vote on the resolution.

The motion to approve Resolution 2007-45 passed by unanimous [5-0] voice vote.

IX. D. Recognition of Service – Irv Breslauer, a Member of the Community College Development Review Committee who Recently Passed Away (Commissioner Sullivan)

COMMISSIONER SULLIVAN: Are there any members of Mr. Breslauer's family that are here this afternoon? I would like, Madam Chair, members of the Commission, just to take a moment to recognize the passing of Irv Breslauer, who I was on the phone with many times during his service with the Community College District Development Review Committee starting back in April of 2003. He was one of the charter members, almost of that development review committee. He recently passed away following a bizarre and unfortunate parking lot accident where he was hit by a car in a parking lot and passed away several weeks later.

We would like, the Commission and the Land Use Department staff to recognize his dedication to our community and extend our heart-felt condolences to his family. Irv was an active member of the CCDRC and he brought an interesting and lively perspective to their

meetings. As I said, he was in frequent contact with me on issues involving Rancho Viejo where he lived and on the entire Community College District. I always enjoyed visiting with him about that. So we're really going to miss him on that committee. A memorial fund has been established at the Temple Beth Shalom for those who wish to contribute on his behalf. So if I could just ask for a moment of silence in honor of his passing. Thank you, Madam Chair.

CHAIR VIGIL: Thank you, Commissioner Sullivan, for bringing this forward and I would be very amenable to drafting a letter to the family and extending our condolences and assuring them that we have not forgotten his services. If you've already done that, that's fine.

COMMISSIONER SULLIVAN: We appreciate that and just a bizarre circumstance, Madam Chair, that the staff drafted a letter of appreciation and thanks to him after he had the accident and was ready to bring it to the Community College Development Review Committee for approval and they didn't have a quorum because he was in the hospital and injured. So the letter didn't go out to him and he subsequently passed away without ever having received the letter. But the letter has been sent to his family and his family has sent a thank you note back to us acknowledging his service and saying thank you for recognizing him and I hope we will be able to prepare a plaque as a result of his service the way we do for all member and then have that presented to the family.

CHAIR VIGIL: Thank you for bringing this forth.

IX. E. Discussion and Possible Approval of Discretionary Funds in the Amount of \$1,645.13 to L & L Portables to Provide Facilities to the Villages of Cerrillos and Madrid for the Remainder of Fiscal Year 2007 (Commissioner Anaya)

COMMISSIONER ANAYA: Madam Chair, I'll stand for any questions.

COMMISSIONER MONTOYA: Move for approval.

CHAIR VIGIL: There's a motion to approve. Is there a second?

COMMISSIONER SULLIVAN: Second.

CHAIR VIGIL: Motion and second. Any discussion?

The motion to approve the discretionary funding for Cerrillos and Madrid passed by unanimous [5-0] voice vote.

IX. OTHER MATTERS FROM THE COMMISSION

CHAIR VIGIL: Let me start to my right. Commissioner Anaya, are there any matters from you?

COMMISSIONER ANAYA: Madam Chair, first of all I want to thank Stan

Holden and the Fire Department for putting on the groundbreaking at Thunder Mountain for our new fire station in that area. We did that on Saturday. We had a good turn-out and I want to thank staff for putting on a good groundbreaking. Thanks, Roman.

And then in terms of the Correctional Department, in the past we had inmates clean up our County roads and I believe that that program is not working right now and I don't know why but I would like to see that that program get implemented again. We have a lot of County roads and we could use those inmates to clean those roads up. I would rather them be doing something than to just sit in the jail. So if we could look at that, Roman, and let me know what's happening there.

MR. ABEYTA: We'll do that.

COMMISSIONER ANAYA: Madam Chair, that's all I had.

COMMISSIONER MONTOYA: Madam Chair.

CHAIR VIGIL: Thank you, Commissioner Anaya. Commissioner Montoya.

COMMISSIONER MONTOYA: Just in regards to that issue, my understanding - we utilized them a lot in the northern part of the county also - is that the inmates do not want to work and we can't force them to, so no one's willing to go out and do the work as far as the inmates are concerned. That's what I have heard. I don't know if things have changed.

MR. ABEYTA: Madam Chair, Commissioner Montoya, Commissioner Anaya, that is something we had heard the last time we looked into this which was several months ago. I'll discuss this again with Annabelle Romero and maybe - the population changes there and maybe we will have inmates that would be wanting to work. So we'll look into it again. Either way, I'll get back to the Commission on this issue.

COMMISSIONER ANAYA: Thank you.

CHAIR VIGIL: Anything further, Commissioner Anaya?

COMMISSIONER ANAYA: No.

CHAIR VIGIL: Commissioner Sullivan.

COMMISSIONER SULLIVAN: Madam Chair, only, since this will be the last meeting we will have before the legislature ends, ending on St. Patrick's Day, as it were, I wanted to thank them for their service and for the time that they've spent and that all the staff has spent, and Commissioners, in pursuing our priorities at the legislature. Everyone's been working really hard, but in particular, in a few of the meetings I've been in with the legislators, they really have a difficult time with no staff and I realized how fortunate we are as Commissioners to have staff to support us. When we're researching ordinances and actions and resolutions and land use codes and things, that's really a valuable backup that we have that these legislators don't have. So everything that they do is pretty much their own time and their own sweat, blood and tears. So I really want to express my appreciation and I'm sure the other Commissioners feel the same for the service that they provide to us and the responsiveness to the issues Santa Fe County has brought forward to them. Thank you.

CHAIR VIGIL: Thank you, Commissioner Sullivan. Commissioner Campos.

COMMISSIONER CAMPOS: I have nothing at this time.

CHAIR VIGIL: Commissioner Montoya.

COMMISSIONER MONTOYA: Madam Chair, as you're aware, we are going to be visiting with our congressional delegation next week, a joint visit between the City and County. I did receive a copy of the water supply projects update that apparently is going to be our talking piece while we're out there. Needless to say, maybe I need to be directed to another path, but the only thing of significance on this whole thing is the Buckman project and everything else is City projects. La Tierra tank, [inaudible] water, water distribution infrastructure improvements. And I guess it's probably kind of late, because certainly the City is involved in the Aamodt lawsuit as well. They're one of the parties that needs to be part of the settlement. So I don't know if it's probably too late to get anything in on this and again, it just reflects the lack of sensitivity, I guess to the County's projects and other issues that we have regarding our water supply needs.

The other piece is that when we were in Washington last week as part of the legislative conference for the National Association of Counties it was clear that if we didn't have our requests in at this point, to go in - which was last week, which is if we go in next week, well, I'm kind of wondering what sense it's going to serve to go out there when legislative requests should already be in as we speak and as was told to me last week. They all should have been in.

So just a couple of concerns that I have regarding the continued working with the City on this joint project, and how we would look at expanding these things in the future. That's all I have, Madam Chair.

CHAIR VIGIL: Thank you, Commissioner Montoya. Any other comments? I do have an item that I'd like to get some feedback, I guess on, from my fellow Commissioners. We have all been receiving e-mails with regard to the permitting for those wells at the State Engineer's Office. I have been really swallowed up at the legislature and frankly unable to be fully responsive to some of those e-mails. And I think we're going to continue to receive them. I think part of the problem that we might be experiencing right now is there's a lot of information that's getting out there that may not be fully accurate. I'm wondering how the Commissioners feel about conducting a public hearing to disclose the process that we need to engage in, to identify to the public how we got to the point we are, through our 40-year water supply and our hydrological study, and perhaps even to bring the State Engineer, not to comment on the protest, because there are protests that are going on but to perhaps comment about the process and the protest process and what our application process might bring forth in terms of information that would help us make better decisions with regard to this.

So that would be sort of the framework of the public hearing, to explain information, gather information from the public. This is not, of course, intended to offset the protest process because I firmly believe in that process. I believe the protest process is necessary to gather further information and data and give us more clarity in terms of what we should do for this community. But I sort of wanted some feedback from Commissioners with regard to whether or not that was something they would entertain. Does anyone have any feedback? Commissioner Sullivan.

COMMISSIONER SULLIVAN: Madam Chair, I think certainly more communication would be useful in all of this. I've asked the County Manager to give us a

report as to what actions we've actually taken and what actions we may have authorized or at least perhaps tacitly authorized, and he's indicated that he's going to provide that report to us. I think it would be useful to have a work session. I really feel that there's a disconnect here between all the information that was carefully built up over the years in this hydrologic study and the careful attention we've paid to the hearings, and this next step of applying for permits to various wells. And that's an important step. I'm not saying that we should not be taking that step, but perhaps we should be taking that in some phased manner rather than the shotgun approach that we're using.

So I guess I would support, Madam Chair, what you're saying. I would suggest perhaps, if we label it as a work session but also set aside some time, as we did in the PID work session for some public comment as well, that would make the forum a little more informal and perhaps get the communication moving a little better.

CHAIR VIGIL: Thank you, Commissioner Sullivan. Commissioner Campos.

COMMISSIONER CAMPOS: I don't have a comment. I would say, what does staff think? I would ask for their input. I'm not sure it's necessary but I'm willing to listen.

MR. ABEYTA: Madam Chair, speaking as the County Manager I would actually prefer a study session. I think it's a good idea. I don't think we all have the same information. I think we all need to get on the same page and I think a study session would do that for us. So I favor that suggestion.

CHAIR VIGIL: Okay. Any other comments on that?

COMMISSIONER MONTOYA: Madam Chair, I guess the question I have, as Commissioner Campos does, I was under the impression that this was part of the process, was to have at some point a public meeting as to what was going to be proposed. I guess I'd like to hear from Stephen Wust exactly where we are in this time line on this chart on this whole process.

STEPHEN WUST (Water Resources Director): Madam Chair, Commissioner Montoya, the process was to develop the model to look for good areas to look for groundwater sources. Then we came before the Commission and asked for direction on whether we should pursue all the potential locations or just some of them, and the Commission directed us to look at all the locations. This is the next step where we're actually taking definitive steps to be able to look in detail at any particular location before we select one or more to either acquire a well or drill a new well and move water rights to a particular location.

So in the public part of the meeting last fall we presented to you a map showing the aquifer characteristics and a number of well locations and asked for directions about whether we should again pursue all of them or just some of them and the Commission as a whole directed us to look at all of them. Then when we discussed water rights in the executive session, which is where water rights are discussed, it was basically the same question: Do you want us to look at all the wells in terms of water rights transfers or just some of them, and the direction given was look at all of them, and that's what we did. So that's the step we took.

The next step after this is when we get - there's a couple things we need to hear back from. One is any private well owners, whether they're willing to discuss with us possible

County acquisition of private wells, which we haven't made a decision on. We're just into the discussion phase. Depending on the results of that, we will come to the Commission with definitive information for specific well locations and ask for your approval of whether we should pursue certain wells or not for acquisition – those are privately owned wells.

We've already gotten approval to drill a well, the Public Works well, and any other wells we want to drill in the future will be the same thing, require Commission approval for drilling those wells. And then when we hear back through the State Engineer's hearing process where we find out the State Engineer's ruling on water rights transfers, since there are a number of wells on that list, what we are expecting in terms of a response from the State Engineer is basically what can be moved to which locations. Then again, we'll have definitive information on specific locations and then we'll come back to the Commission with that information and by then also, at the same time with the amendment that the Commission approved late last year, amendment to our contract with Intera, who did the hydrologic model, they're in the process of calibrating that model which is working up the calculations so they more closely match what we expect and start the second round after they develop the model.

That will give us information on draw-down, that is impact that any particular pumping location may have on the surrounding aquifer. That's being done right now. All these are pieces of specific information for specific locations. And when we have all that together and the time frame of all that is running in parallel because the idea is the next step is to come in front of the Commission with all this information on specific locations and to add that all together and say the State Engineer said, for example, they've tapped any water rights transfer possible to this location, at x. The model says that if we pump that at x it's going to have this effect on the aquifer, and say it's a privately owned well and we've talked to them and they're interested or not interested in talking to us about acquiring that well, put all that together and make recommendations, saying we believe that this location, this location, this location are the best, with all that information, for specific locations to actually move water rights to and get the well or drill the well and start pumping and add it to our system.

So the step here is that we did the general picture and the general issue and identified a whole bunch of locations. The direction of the Commission has said look at all those locations for specific information, and once we get all that specific information – again, a bunch of things running in parallel, we'll come back to the Commission for approval to say, okay, this one's good. Commission approves this one, doesn't approve this one. Whatever it is, it would be very specific locations at that point.

COMMISSIONER MONTOYA: So when will we be getting all of that information on those?

DR. WUST: Madam Chair, Commissioner Montoya, the water rights transfer process generally takes about a year and a half. So we put in the application late last year, I believe. They're about to be noticed in the newspaper, so it's going to be late next year, probably. The calibration and some information on the modeling draw-down is going to be sooner than that, because we have some hearings on other water rights transfers that we've been pursuing before this grouping. And so we're going to be getting that a little earlier but they're

going to be targeting specifically the water rights transfers that are going to hearing process right now. But that calibration is being done. That will be done by the end of this year.

In terms of the acquisition, that will probably be a policy decision and it's got to do with do we want to talk about acquisition of a privately owned well before we hear from the State Engineer or not. That's a decision that I'm going to be discussing with the County Manager. We'll probably poll the Commission on how they want to proceed on that end of things. So I don't know the time frame on that one. One well has been drilled on County property, as I mentioned. We're working on an RFP to drill more wells on County property - the Valle Vista location, so those are things that need to be done anyway, so we're proceeding on those. The wells will probably be by the end of this year. Some of the wells. Then there will be more next year.

COMMISSIONER MONTOYA: Thank you.

CHAIR VIGIL: Commissioner Campos.

COMMISSIONER CAMPOS: Dr. Wust, a proposal was suggested that we consider having a public hearing to discuss the issue raised by a number of e-mails protesting our OSE applications. Now, we still have a lot of work to do. We still have to go through the OSE process. We still have to get the Intera information. When do you think would be a good time to have such a meeting? Do we need to wait to get additional information? I know there's a concern to respond rapidly but there's other ways of doing it effectively. But having a public meeting to have people come in and talk generally is one thing but once - how much information do we need as a Commission so that there can be meaningful input from the public?

DR. WUST: Madam Chair, Commissioner Campos, I guess that would be dependent on what the purpose of that meeting would be. It sounded like Commissioner Vigil was mainly talking about a working session or to inform the public, just basically what I've just explained to Commissioner Montoya, where we are in the process and how we got there and where we're going from here. If that's the purpose, it could be done now. If the purpose is a working session where the Commission can really start putting their fingers on maps and saying here are some good well locations we'd like to look at - again, until we get the detailed information for specific well locations it's going to be more speculative than definitive at this point. So, again, it sort of depends on what you would like out of this meeting, when would be a good time to have it.

COMMISSIONER CAMPOS: Madam Chair, my feeling is we can communicate - we have maybe 50 to 100 e-mails that were sent in protest. We could reply to these 50 to 100 people who are protesting and explain our position. It's easier than having a public meeting. Once we have more definitive information, then we could really start talking about locations. I think that's where they want to have input and I don't think we're ready to have that discussion yet. So those are just my thoughts at this time.

CHAIR VIGIL: I guess my concern is we're going to start getting even more e-mails because La Cienega and the Highway 14 people are getting conclusionary information. They're saying Santa Fe County has already selected wells. There's information out there that's

being exchanged that I do not believe accurately reflects where our process is. So I think before that information continues to get going down the pipeline, we probably should at least provide a leadership role here to identify where we are in our process, where we have been, how we got here, and perhaps bring John Utton in and let him talk about his advisory role to us and how broadening our portfolio – and the State Engineer in terms of what they can do and how they evaluate protests.

I think it could only provide a valuable piece of information, not only for the Commission but for communities who want to learn more about this, other than through the echoings of community members who are in contestation of our position right now. So I actually think if we look at a study session, identifying at least for the benefit of everyone, where we're at, where we hope to go once we gather information, what kind of information we hope to gather, and let the public know that no decisions have been made with regard to this, which I think is a necessary message to them. I think we'll providing, from my perspective at least, a leadership role in this. Commissioner Sullivan.

COMMISSIONER SULLIVAN: Just a quick question, Steve. Are there applications all for existing wells? Or are they well locations as well?

DR. WUST: Madam Chair, Commissioner Sullivan, there's at least one that's just a location. That's the Public Safety Complex. I believe all the others have wells with them but there may be one or two others that are a location and not a well, and that includes both County wells and privately owned wells.

COMMISSIONER SULLIVAN: Could you get us a map or somehow – a map would be good.

DR. WUST: We actually have one. We presented it at the EBTAG conference last week, so we could certainly get that to you. It's got the move-from locations and the move-to locations.

COMMISSIONER SULLIVAN: Yes, that would be good because I haven't seen that.

CHAIR VIGIL: And that kind of information could also be provided during the study session. Commissioner Sullivan is requesting one earlier than that. I'm not familiar with that map. It sounds like something that was just created for a particular conference or presentation that you had.

DR. WUST: Madam Chair, it was created for the conference but the list of wells has been submitted to the State Engineer and it's very public, having all the locations on. Actually, it's superimposed on our map of the hydrologic characteristics.

CHAIR VIGIL: And I'm remembering that too. So I'm hearing that there's some concern about whether we should move forward. I guess – let me just say that it sounds like it might not be a bad idea to see whether or not we could mobilize staff to do this. Commissioner Montoya, do you have a position on this at all? Commissioner Anaya, do you have a position?

COMMISSIONER ANAYA: I agree with Commissioner Campos.

COMMISSIONER CAMPOS: I agree with myself.

COMMISSIONER MONTOYA: I agree with Commissioner Campos and his self.

CHAIR VIGIL: Okay. Sounds like there's a consensus here.

X. APPOINTMENTS/ REAPPOINTMENTS / RESIGNATIONS

A. Appointment to Tesuque Development Review Committee. The Terms for the Following TDRC Members Have Expires: Cathi Sullivan and Cheryl Alters Jamison. Bill Jamison has Resigned from the TDRC. The Land Use Department Has Received Letters and Resumes from the Following: Cathie Sullivan Requests Re-Appointment; Cheryl Alters Jamison Requests Re-Appointment; Jack M. Jackson and Wm. David Dougherty Requests Appointment to the TDRC

CHAIR VIGIL: Is there anything you'd like to comment on, Shelley, with regard to this? It's pretty self-explanatory.

SHELLEY COBAU (Review Division Director): Madam Chair, members of the Commission, what the staff report doesn't include is the amount of time Cathi Sullivan and Cheryl Alters Jamison have served on the Tesuque Development Review Committee. They have both served since September of 2005.

CHAIR VIGIL: Okay. Anything further?

MS. COBAU: Also in this case we have three vacancies or reappointments or appointments that need to occur for the Tesuque Development Review Committee. And we received the two existing members who would like to be reappointed and we did receive two applications for people who would like to serve on the committee. So in this case we have more people interested than we have vacancies.

COMMISSIONER MONTOYA: Madam Chair, I would like to nominate the two reappointments, Cathi Sullivan, Cheryl Jamison and new member William David Dougherty.

COMMISSIONER ANAYA: Second.

CHAIR VIGIL: There's a motion and second for three members to be appointed. Any further discussion? That's the only appointments you need to make is three vacancies, correct?

MS. COBAU: That's correct.

The motion to appoint Cathi Sullivan, Cheryl Alters Jamison and David Dougherty to the TDRC passed by unanimous [4-0] voice vote. [Commissioner Campos was not present for this action.]

X. B. Appointment to Agua Fria Development Review Committee. The Term

for Henry Chavez has expired; Mr. Chavez Requests re-Appointment to the AFDRC

CHAIR VIGIL: Is there any presentation on this?

MS. COBAU: Mr. Chavez has served on the AFCRC since February of 2005, and he would like to be reappointed for a two-year term which would expire on December 31, 2008.

COMMISSIONER ANAYA: So moved.

COMMISSIONER MONTOYA: Second.

CHAIR VIGIL: Motion and seconded. And I just want to thank Mr. Chavez for being a part of that. He's been wonderful to work with for the community as a whole and I'm glad to know he's willing to be reappointed. Motion and second.

The motion to reappoint Henry Chavez to the AFDRC passed by unanimous [4-0] voice vote. [Commissioner Campos was not present for this action.]

X. C. Appointment to Community College Development Review Committee. The Community College Development Review Committee Currently has a Vacancy. The Land Use Department has Received a Letter From R. Thomas Berner, Who Requests Appointment to the CCDRC

MS. COBAU: This appointment would end on December 31, 2008 and this would fill Mr. Breslauer's - the vacancy created by Mr. Breslauer's death.

CHAIR VIGIL: Okay. Is there a motion?

COMMISSIONER SULLIVAN: Move for approval.

CHAIR VIGIL: Motion. I'll second it. Any discussion?

COMMISSIONER MONTOYA: Madam Chair.

CHAIR VIGIL: Commissioner Montoya.

COMMISSIONER MONTOYA: This was the only applicant?

MS. COBAU: Madam Chair, Commissioner Montoya, these are the only applications we received. We began advertising for vacancies on the committees in January. We advertised several times, large ads, and these were the only people who were interested in serving on the committees.

COMMISSIONER MONTOYA: Okay.

CHAIR VIGIL: Any further questions? Seeing, hearing none, there's a motion.

The motion to appoint R. Thomas Berner to the CCDRC passed by unanimous [4-0] voice vote. [Commissioner Campos was not present for this action.]

COMMISSIONER SULLIVAN: Madam Chair.

CHAIR VIGIL: Commissioner Sullivan.

COMMISSIONER SULLIVAN: Shelley, on the Tesuque Development Review Committee, is there a provision, or do we have provisions on these committees – and I know they have sometimes problems with getting quorums together – do we have provisions for alternates?

MS. COBAU: We do not. It's probably a good idea to have a provision for alternates because we frequently have quorum issues with the recommending committees.

COMMISSIONER SULLIVAN: Does that, Mr. Ross, does that take some change in our ordinance or is that something that we can do? I was looking at the resume of Mr. Jackson and he certainly seems to be active in the Audubon Society and a lot of very noteworthy volunteer efforts and he seems like he'd be a good person to have as an alternate. Would we need to change something to provide for alternates?

MR. ROSS: Madam Chair, Commissioner Sullivan, I don't have that ordinance committed to memory so I don't know whether it doesn't provide for alternates, but if it doesn't have alternates in there then I think you'd probably want to amend the ordinance to provide for alternates rather than appoint them at this point.

COMMISSIONER SULLIVAN: Maybe we could take a look at that and if it doesn't provide for alternates perhaps we could bring back some changes. I'd like to certainly bring someone forward such as this who has an interest and seems to have a good background and the time to participate. Seems like a shame not to utilize that talent.

MS. COBAU: Madam Chair, Commissioner Sullivan, I agree, and if there is a provision in the ordinance to allow for an alternate, would you like us to send him a letter identifying that he has been selected as an alternate?

COMMISSIONER SULLIVAN: I would move for that, if that's acceptable to the Commission?

CHAIR VIGIL: I don't think we can take action on that because we didn't have it noticed appropriately. It seems to me that what we need to do is consider the option, have legal look at whether or not the ordinance needs to be amended, how it does, and once we do get the ordinance amended, consider not only this particular gentlemen but also every development review committee for alternates that we could incorporate.

MS. COBAU: Okay. Very good. Thank you.

COMMISSIONER SULLIVAN: Well, Madam Chair, I think if we wanted to do it, since we have this one here, the notice just says appointment to Tesuque Development Review Committee, whether it's alternates or not. It seems like if alternates are permitted under our ordinance that that could be considered as a part of our appointments. I'm just trying to save time and having to bring it back if in fact we could do that. That's all.

CHAIR VIGIL: Mr. Ross.

MR. ROSS: Madam Chair, that sounds like a good way to resolve the issue, just have a conditional appointment and we'll check the ordinance. I actually just sent

somebody an e-mail asking them to bring it down here. So maybe we would want to move to another item and then we'll have the answer for you in ten minutes.

CHAIR VIGIL: Okay.

X. D. Appointments to Corrections Advisory Committee – Neil W. Curran and Deborah Tang

MR. ABEYTA: Thank you, Madam Chair. We have two vacancies on the Corrections Advisory Committee. We have received letters of interest and we put resumes in the Commissioners' packets for Neil Curran and Deborah Tang. The Corrections Advisory Committee is a seven-member committee and currently we have five. So staff is requesting appointment of Neil Curran and Deborah Tang to the Corrections Advisory Committee.

COMMISSIONER ANAYA: So moved.

COMMISSIONER MONTOYA: Second.

CHAIR VIGIL: Motion and second. Any discussion?

The motion to appoint Neil Curran and Deborah Tang passed by unanimous [4-0] voice vote. [Commissioner Campos was not present for this action.]

CHAIR VIGIL: We can go back to the Tesuque Development Review Committee upon Mr. Ross' flagging me down when you have some comment on that. Okay?

XI. CONSENT CALENDAR

A. Findings of Fact

1. **EZC Case #S 02-4494 Las Cordilleras Subdivision Phase III (Formerly Mountain Vista) ISOLATED FOR DISCUSSION**
2. **CDRC Case #Z/DP 05-5220 The Bad Ass Coffee Co. ISOLATED FOR DISCUSSION**
3. **CDRC Case #V 06-5330 David Ita Variance**

B. Miscellaneous

1. **Approval of Underground Easement in Favor of Public Service Co. of New Mexico Across Property Owned by Santa Fe County but Occupied by the Academy of Technology and Classics (Land Use Department)**
2. **Resolution No. 2007-46. A Resolution Requesting an Increase to the US Environmental Protection Agency Fund (260) / Cundiyo Water Projects for a Federal Grand Awarded for Expenditure in**

Fiscal Year 2007 / \$291,000 (Projects & Facilities Management Department)

COMMISSIONER ANAYA: So moved.
COMMISSIONER SULLIVAN: Second.
CHAIR VIGIL: Motion and second. Any discussion?

The motion to approve the Consent Calendar with the exception of items XI. A. 1 and 2 passed by unanimous [4-0] voice vote. [Commissioner Campos was not present for this action. Commissioner Sullivan recused himself from voting on item XI. B 2. q.v. page 28.]

XI. A. 1. EZC Case #S 02-4494 Las Cordilleras Subdivision Phase III (Formerly Mountain Vista)

COMMISSIONER SULLIVAN: Madam Chair, my question on this and also the other was that in the past we had asked that we make these findings of fact all inclusive so that they included all of the conditions in one place so that once they become a legal document there's no question on the part of the staff when they're administering it as to what was said. They don't have to go through and dig through minutes and so forth. This one just says subject to staff conditions. Staff conditions aren't in there. And sometimes there's some confusion over conditions when the Commission adds conditions or deletes them or the CDRC recommends conditions that the Commission doesn't adopt and so forth. So I think it's always a good idea to have those in there and I've mentioned this before. So my recommendation would be that this findings of fact be modified to include the Commission-approved conditions.

CHAIR VIGIL: Shelley.

MS. COBAU: Madam Chair, Commissioner Sullivan, we inadvertently did not include the meeting minutes in your packet and we have them there and in the meeting minutes, the conditions are cited. And those are normally recorded along with the findings of fact and those are normally in your packets, which would outline the conditions. We have gone through a process where we're trying to simplify the findings, we do the findings with our legal staff and we're just preparing the findings as directed and trying to simplify the process, instead of having a ten-page finding, we can attach meeting minutes and that's what's been done in the past. Although we can certainly revise them and add the conditions directly into the findings so they'll be in the minutes, which Steve has to hand out to you right now.

CHAIR VIGIL: Okay.

COMMISSIONER SULLIVAN: That's my preference. I don't know that we need to have them as long as they've been. Certainly I agree with that but I also think it's important to have everything in one place, the key conditions that are to be enforced by the staff. Whether you need all the minutes attached or not, I don't know whether that's necessary. That's up to staff, but I sure do like to see these conditions because sometimes it jogs my

memory on an issue. That's my feeling, Madam Chair, that I think that's an important thing and it would add another page to the findings of fact but I think that would be an important page.

COMMISSIONER ANAYA: Madam Chair.

CHAIR VIGIL: Commissioner Anaya.

COMMISSIONER ANAYA: I don't have a problem with that.

CHAIR VIGIL: This is for Steve Ross. Is this the recommendation from the Legal Department to not include the conditions of approval in the findings of fact?

MR. ROSS: Madam Chair, Commissioners, we are trying consciously to simplify the orders and unless there's some confusion about what the conditions are we've been hoping to just refer to the staff conditions in the record. We don't have to do it that way but it does make the order quite lengthy and sometimes draws attention, perhaps to the fact that there are an excessive number of conditions attached to our orders, which is really a failing of our ordinances. So we've been trying to simplify them and improve them over time and only put in the order things that are significant, like for example, additional findings that the Board might impose as a result of its approval process. If you don't like that, we can certainly go back to the old way of doing things.

CHAIR VIGIL: So the purpose of these findings of facts are really just in case there should be any kind of judicial review, we've actually taken action on the facts that we've previously taken action. Is that it?

MR. ROSS: Madam Chair, that's one purpose. Another purpose is the New Mexico statutes require these orders to be prepared in every case.

CHAIR VIGIL: And Commissioner Sullivan, I would ask you, is your purpose for this request so that it would assist you in refreshing your memory in terms of the action we took?

COMMISSIONER SULLIVAN: Not so much that, because that's fairly rare. I usually remember what was done, but it's more that this is a document, I believe that also goes to the applicant. When the applicant makes a land use application the only document that he or she gets back I think is findings of fact, which is mailed to them, and I believe that's statutory.

MS. COBAU: Madam Chair, Commissioner Sullivan, actually, when you have rendered a decision on a case, staff sends the applicant and/or agent a follow-up letter and in that follow-up letter we cite staff conditions. We list the conditions in the follow-up letter and then we also prepare the findings of fact for the file.

COMMISSIONER SULLIVAN: So maybe an easier way, then, to streamline things, because now you're doing what Steve Ross is trying to protect against and that's having too many interpretations of the same thing. Maybe instead of reciting them in the follow-up letter to the applicant, maybe you just send the applicant a letter saying attached is the findings of fact. Period. And therein is the whole case, along with the conditions. So you would only do it once. And you don't send that letter out until the Commission has approved the findings of fact, right?

MS. COBAU: We send the follow-up letter out immediately after the hearing so

that the applicant can start addressing the staff concerns and comments. We're also trying to expedite getting the findings to you quicker than in the past.

COMMISSIONER SULLIVAN: I can see a problem in sending something out like that before we approve the findings of fact, only because if there's some change to the findings of fact, then we have two documents in the hands of the applicant that may differ.

MS. COBAU: I think that's a very good point.

COMMISSIONER SULLIVAN: So I guess, Madam Chair, my preference still is to make this the one operative document, send this to the applicant and say here's what transpired. Of course there are minutes and you can go back and read the verbatim minutes and do all that if you have questions about any of those issues, but here's the one document, the Commission's approved it. It's all said and done. We don't have a couple of documents floating around. We've had cases in the past where there've been letters from the Land Use Administrator saying yes, you can divide your land or no you can't. There hadn't been Commission action recorded as a result of that so the applicants got two different staff letters, neither of which are legal documents. I would like to tighten up the process. That's my personal feeling.

CHAIR VIGIL: Is there any other comment or concern? I'm not sure how to proceed in this. We can't necessarily take action. Is action necessary here?

COMMISSIONER SULLIVAN: Well, we have to approve or not approve findings of fact, Madam Chair, so I guess I would make a motion that the findings of fact be tabled until the next meeting and revised to include the staff conditions.

CHAIR VIGIL: There's a motion. Is there a second?

COMMISSIONER CAMPOS: I have a question for Commissioner Sullivan.

CHAIR VIGIL: Commissioner Campos.

COMMISSIONER CAMPOS: Do you want to revise them in a specific way?

COMMISSIONER SULLIVAN: Yes, just to include the staff conditions in the - or we could approve them subject to the inclusion of the staff conditions. Would you rather do that?

COMMISSIONER CAMPOS: I'm comfortable with the way legal is handling it now and I would ask that legal advise us and tell us how they think what the best way is to proceed. I think this is a question for legal, not for us.

CHAIR VIGIL: There is a motion. Did I hear a second.

COMMISSIONER ANAYA: Madam Chair, I seconded the second motion.

COMMISSIONER SULLIVAN: Which was to approve Consent Calendar item A. 1 subject to the inclusion of the staff conditions.

CHAIR VIGIL: I'm in agreement I guess with Commissioner Campos. I don't think we should be creating anything that staff has already come to a decision with with regard to how they can best move forward on findings of fact and identifying for the applicants what conditions of approval were through a letter. It seems to me that they've already worked on this and I think we're creating a cumbersome process and perhaps maybe through our discussion you have another alternative but I'm not willing to require staff to do something. So anyway,

there's a motion and a second.

The motion to approve the findings of fact in XI. A. 1 subject to inclusion of staff conditions failed by 2-3 voice vote with Commissioners Anaya and Sullivan voting in favor.

COMMISSIONER SULLIVAN: Madam Chair, let me just say too that I don't think sending out two documents to an applicant that could be different is good administrative procedure nor is it a streamlined procedure and legal and the County Manager can handle that however they want but it doesn't make a lot of sense to me.

CHAIR VIGIL: Is there a motion to approve item XI. A. 1?

COMMISSIONER ANAYA: So moved.

COMMISSIONER CAMPOS: Second.

The motion to approve item XI. A. 1 passed by unanimous [5-0] voice vote.

X. A. 2. CDRC Case #Z/DP 05-5220 The Bad Ass Coffee Co.

COMMISSIONER SULLIVAN: We can make this shorter, Madam Chair. It's the same problem. The only difference on this one is that it says subject to the conditions recommended by staff and the following two additional conditions. And in this case in our findings of fact we added two conditions that the Commission added during its deliberation. Again, I just felt that if we're going to be adding conditions in the findings of fact that it's clearer and more convenient to have it there and they should all be there. Thank you.

COMMISSIONER MONTOYA: Move for approval.

COMMISSIONER ANAYA: Second.

CHAIR VIGIL: Motion for approval of the case - with Commissioner Sullivan's request or without?

COMMISSIONER MONTOYA: Just move for approval of the case.

CHAIR VIGIL: Okay. There's a motion and second that we approve the case and the findings of fact as is. Any further discussion?

The motion to approve XI. A. 2 passed by 4-1 voice vote with Commissioner Sullivan voting against.

XII. Staff and Elected Officials' Items

A. Matters from the County Manager

- 1. Resolution No. 2007-__ . A Resolution Approving the County Manager's Reorganization Plan Which Reorganizes Santa Fe County into Four Major Departments to be Known as "Administrative Services", "Public Works", "Growth Management" and "Community Services;" Authorizing the County Manager to Appoint Certain Persons as Director of Each Department; and Authorizing the County Manager to Reclassify Certain Employees Within the Reorganized County Structure**

MR. ABEYTA: Thank you, Madam Chair. The County Attorney is passing out an organizational chart -

COMMISSIONER SULLIVAN: Madam Chair, before we get into this.

CHAIR VIGIL: Commissioner Sullivan.

COMMISSIONER SULLIVAN: There was an item added to the Consent Calendar concerning an increase to the Environmental Protection Agency fund for the Cundiyo water project, and this was added - it wasn't on my calendar, but I need the record to reflect that for that Consent Calendar, which I voted in favor of, that I recused myself.

CHAIR VIGIL: Okay. So noted. We are back on item XII. A. 1. Mr. Abeyta, please proceed.

MR. ABEYTA: Thank you, Madam Chair. We discussed at the last BCC meeting a reorganization of the County structure from 11 departments or division that answer directly to the County Manager to four. The departments that the Commission agreed to were an ASD department which would contain a Finance Division, an IT Division, GIS Division and Purchasing. The ASD Director would also serve as a liaison to the County Treasurer. The second department is the Growth Management Department which will consist of Land Use, Planning, Affordable Housing, Economic Development, and Growth Management. That department director would serve as the liaison to the County Assessor and the County Clerk.

The third department would be a Public Works Department which would consist of a Road Division, which is in our Public Works Department, a Road and Water Projects and Engineering Division, and a Utilities Division with water, wastewater and solid waste. And the fourth department would be a Community Services Department which would consist of a Health Division, Fire Division, Corrections Division, Teen Court and Community Projects Division, and that individual department head would serve as a liaison to the County Sheriff.

The Legal Department would be expanded by having a Risk and Safety Division and Legal would serve as a liaison to the probate judge. Human Resources would continue to report to the County Manager and the Housing Authority would report to the County Manager and the Board of County Commissioners.

In speaking with the County Finance Director, she had suggested that we approve the organizational structure at this time due to the fact that we are going to undertake our budget

preparation for fiscal year 2007/2008, so it's actually timely that we're doing our reorganization now that we are. There will still be work that will need to be done, details that will need to be worked out between myself, the Finance Director, primarily and the Human Resources Director in regards to the movement of positions and people to fit the new organizational structure. So I'm asking for authorization to conduct that work. I will prepare and bring forward a final report to the BCC probably when we do the budget that has all the positions in place. If I need direction on anything of if there is a substantial change that I don't feel comfortable making, I will bring it forward to the BCC for approval. For example, the change of job classification from exempt to classified, I would make sure that that decision is made by the entire BCC and not by myself.

I will communicate the changes with the BCC and provide you periodic updates. So for the purpose of getting your feedback, and if at any point, you feel a change I am proposing would require some additional discussion and approval then I would bring that forward to the Commission. As far as the appointment of certain persons as directors of each department, that is something that I would like to discuss with you this evening in executive session, so I would actually ask that the Commission allow that discussion to take place first and then we'd come out of executive session and approve the resolution based on what is discussed in executive session.

I just want to remind the Commission that the reorganization is a result of the strategic planning efforts that we have undertaken over the past two years and the strategic plan has recognized the need for us to consolidate services into four major departments so that we can better serve the public. Thank you, Madam Chair.

CHAIR VIGIL: Okay. Commissioner Campos, then Sullivan.

COMMISSIONER CAMPOS: I have a question. What about net dollars? Are we saving money or spending more money with this reorg?

MR. ABEYTA: Madam Chair, Commissioner Campos, at this point we are not going to increase any costs to the County. If there are increases it will be minor. Nothing to the amount of a full position or a full FTE. So right now there would be no cost. Long term though the vision is to ultimately save the County money or allow us to use money for future expansion. For example, existing positions are going to become division directors instead of department directors. In the long run we're going to save money because when we have a vacancy, for example, let's take the Utilities Department, for example. We're paying right now a department director salary for that position. One possibility is when that position becomes vacant and we go to refill it, we're refilling it as a division director level instead of a department director level. So there could be cost savings in the future as a result of this reorganization, but that's something that I'm working on with the Human Resources Director and we're going to bring forward a plan to the Commission to show how we can actually obtain savings.

But right now, what I'm proposing today will not add increase to the County.

COMMISSIONER CAMPOS: You've also - we've also recently lost our strategic planner. Is that something you're still thinking about as far as the strategic plan? What

are your thoughts, if any at this point?

MR. ABEYTA: Madam Chair, Commissioner Campos, my thought is if you take a look at our strategic plan, we're at the point where the different components of the strategic plan can now be – the different recommendations of the strategic plan could now be assigned to specific departments and each department that's laid out here will have a specific project that the strategic plan calls for. So in my mind, what I would need that strategic planner to do is out of the County Manager's office is monitor the progress that each of those departments are making as it relates to the specific project the strategic plan recommended.

One thing that we have done in the past that I'm not sure I'm going to do is fill that strategic planning position with a land use planner, and I don't know if that's what we need at this point. I think we did at the time when we started the strategic planning but now that component actually needs to be handed off to Growth Management and they need to take on that part of the strategic plan for us. So I need more of a project manager type position to make sure that each of these projects that the plan calls for are being followed through by each of the directors. And then a report is compiled once or twice a year that we provide to the Commission that gives us an update and recommendations on the plan. That was just my initial thought, but I also want to discuss it with the senior staff. Those are my thoughts but they may have some ideas also of what we do with that position. But Beth Mill, she and I spoke about this before she left and that was her recommendation also.

COMMISSIONER CAMPOS: Okay. My last question, Housing Authority sticks out to the left of BCC. It seems to me that Housing Authority might fit better somewhere else like maybe Community Services. That's just a thought that I want to discuss tonight at some point. I don't see why it's to the left of the BCC. It doesn't have to be. I don't think it should be. I think if we're going to streamline, we streamline under the department heads. So that's something for discussion. There was one last point that's escaped me. I'll come back to it.

CHAIR VIGIL: Commissioner Sullivan.

COMMISSIONER SULLIVAN: Two questions. Roman, which one of these boxes is PFMD?

MR. ABEYTA: Madam Chair, Commissioner Sullivan, actually, what's happening is PFMD is being broken up. The internal services that PFMD provides, and as a matter of fact we are missing a box. The general services portion of PFMD falls under Administrative Services. The project portion of PFMD moves over to Community Services. So PFMD is pretty much breaking up based on the services that they provide right now. If it's a Community Services division that PFMD currently provides, that will move over to Community Services, and if it's an internal service, like custodians, for example, would fall under ASD.

COMMISSIONER SULLIVAN: Okay, like the Public Works building is currently being managed by the PFMD. Would that be managed under Public Works, by Projects/Engineering? Or would that be managed under Community Services under Community Projects?

MR. ABEYTA: Community Services under Community Projects.

COMMISSIONER SULLIVAN: Okay. So Projects/Engineering under Public

Works is –

MR. ABEYTA: Roads and water.

COMMISSIONER SULLIVAN: Okay.

MR. ABEYTA: And sewer lines.

COMMISSIONER SULLIVAN: Then the other question was, under Growth Management, the way this is set up is because we've run out of room or is the idea that Economic Development reports to Affordable Housing and Affordable Housing reports to Planning? Or that the two of those report to Planning? Or is it just that they all report to Growth Management and we just didn't have the room to put them in there?

MR. ABEYTA: We just didn't have the room to put those in there. And once the individuals are appointed as the department directors, I'll discuss with them specifically where they feel where some of these components fit within their department. But just for room to fit everything on this page, we stacked some of these things up.

COMMISSIONER SULLIVAN: Okay. So in terms of Growth Management, all of these five boxes report to the Growth Management Division Director?

MR. ABEYTA: Yes.

COMMISSIONER SULLIVAN: And then we will have – do we have still a Land Use Administrator?

MR. ABEYTA: Yes. In fact that's a discussion I've been having with Jack Kolkmeier and something I want to discuss with the Commission probably in executive session, because there are personnel related issues to that.

COMMISSIONER SULLIVAN: Okay. But all of these five boxes – Land Use, Planning, Growth Management Division –

MR. ABEYTA: Ultimately report to the –

COMMISSIONER SULLIVAN: To the Growth Management Division Director.

MR. ABEYTA: Yes.

COMMISSIONER SULLIVAN: Now, what is the difference between the Growth Management Division red box and the Growth Management Division Director brown box?

MR. ABEYTA: They're really isn't a difference. We just needed to see how things fit with components. Maybe all three boxes, Planning, Affordable Housing, and Economic Development go under a Growth Management Division, and then you have a Land Use Division and both of those report to the Growth Management Department head. Those are some of the details we need to work out.

COMMISSIONER SULLIVAN: So are you anticipating under Growth Management that there would be then three division directors? Land Use Division, Planning Division and Growth Management Division?

MR. ABEYTA: Again, that is something that we need to discuss and I need to

work out with the director and the Human Resources Director, but I don't want – one of the things we want to do is come up with criteria for what constitutes a division and what constitutes a section. Because a division with one or two people, that's not a division, that's more of a section. So at the most I would say we'd have two divisions in Growth Management – Land Use and then a Growth Management that Planning, Affordable Housing and Economic Development all report to. Otherwise we'd have sections that reported directly to the department head.

COMMISSIONER SULLIVAN: I guess a suggestion that I would is that I think we're looking for really significant strides in affordable housing. We've been talking about it for some time. We now have an ordinance to back up our direction. We have lots of money and an affordable housing fund and I think that we would want affordable housing certainly to report directly to the Growth Management Division Director, and I don't know if it needs to be a separate department, obviously, but I think that's an area that the Commission has indicated it's going to be placing a lot of emphasis on.

MR. ABEYTA: Madam Chair, Commissioner Sullivan, I agree. With something like affordable housing we would probably identify as a separate section that does that, anticipating that one day that section may become a division. So we may not designate it as a division right now but as a section that reports directly to the –

COMMISSIONER SULLIVAN: Yes, and may in five years or even less become, hopefully, if we're doing what we hope to do, a significant part of our County operations.

MR. ABEYTA: Right.

COMMISSIONER SULLIVAN: That's all the questions I had, Madam Chair.

MR. ABEYTA: That's something we need to work out and that I'll be bringing back to you. And again, I would like to defer action until after executive session. Thank you, Madam Chair.

XII. A. 2. Update on Various Issues

CHAIR VIGIL: Is there anything else?

MR. ABEYTA: Madam Chair, we got our capital outlay report that I wanted to distribute to the Commissioners and I'm going to provide you both with the entire capital outlay projects statewide, and we broke down in a separate report, just Santa Fe County's capital outlay. So I'll give this to you on your way into the room. Other than that, at the last meeting in March, the session will be wrapped up. We'll have a detailed debriefing from our lobbying team.

CHAIR VIGIL: Okay. Thank you very much.

IX. Matters from the County Attorney

MR. ROSS: Madam Chair, before we get to that, I have a report on item X. A, the Tesuque Development Review Committee. Our ordinance does not provide for alternates, so should we want to amend it, probably the easiest thing to do would be to amend the Tesuque ordinance to provide for an alternate on that review committee, unless you want to do it for all the development review committees. And we could do that fairly quickly.

COMMISSIONER SULLIVAN: Madam Chair, could we give the staff perhaps some time to come up with some staff recommendations on that. I don't want to create more bureaucracy but also I want to have these meetings have quorums and sometimes they don't.

CHAIR VIGIL: Okay. So our appointment stands for the Tesuque Development Review Committee and staff can come forward with some recommendations as to whether or not alternates should be recommended for all of the development review committees or just Tesuque.

XII. B. 1. Executive session

- a. **Discussion of pending or threatened litigation**
- b. **Limited personnel issues**
- c. **Discussion of possible purchase, acquisition or disposal of real property or water rights**
 - i. **Consideration and Approval of Amendments to the Lease by and between Santa Fe County and Women's Health Services, Inc.**
 - ii. **Purchase Agreement by and between the Board of County Commissioners of Santa Fe County and New Solana Center, LLC, a New Mexico Limited Liability Company**

MR. ROSS: Madam Chair, we need to go into closed executive session to discuss pending or threatened litigation, limited personnel issues, and that is the proposed appointment of persons for the directors of departments mentioned by the County Manager in the reorganization discussion. We also need to discuss the purchase, acquisition and disposal of real property and that is the property at the New Solana Center and the lease with Women's Health. I believe those are the only subjects we need to discuss this evening. Although it could be a little bit of a lengthy discussion given all that we have to talk about.

Commissioner Montoya moved to go into executive session pursuant to NMSA Section 10-15-1-H (7, 2 and 8) to discuss the matters delineated above. Commissioner

Sullivan seconded the motion which passed upon unanimous roll call vote with Commissioners Campos, Montoya, Sullivan, Vigil and Anaya all voting in the affirmative.

CHAIR VIGIL: How much time will we need so we can let the public know when we will be back in session for taking action on these items and going into public hearings?

MR. ROSS: Madam Chair, my guess is an hour to an hour and a half.

CHAIR VIGIL: Then shall we say approximately 6:30 this body will reconvene.

[The Commission met in executive session from 5:00 to 6:45.]

Commissioner Campos moved to come out of executive session having discussed only the matters outlined in the agenda, and Commissioner Anaya seconded. The motion passed by unanimous voice vote.

XII. A. 1. Resolution No. 2007-47. A Resolution Approving the County Manager's Reorganization Plan Which Reorganizes Santa Fe County into Four Major Departments to be Known as "Administrative Services", "Public Works", "Growth Management" and "Community Services;" Authorizing the County Manager to Appoint Certain Persons as Director of Each Department; and Authorizing the County Manager to Reclassify Certain Employees Within the Reorganized County Structure

MR. ABEYTA: I won't go through all the whereases, Madam Chair, but I will go through the therefore be it resolved by the Board of County Commissioners. Number 1, the County Manager's reorganization plan shall be and thereby is approved. A diagram of the reorganized County government will be attached to the resolution as Attachment A.

2. All County departments with the exception of Human Resources, the County Attorney's office and elected officials' offices shall be reorganized into four major departments, these being Administrative Services, Growth Management, Community Services and Corrections.

3. Appointment of the leadership of the new departments shall occur immediately. The County Manager shall appoint directors of the new Administrative Services Department and Growth Management Department, Community Services Department and Corrections Department. The County Manager's choices for directors of these department are James Lujan for Growth Management, Joseph Gutierrez, Community Services, Peter Garcia, Administrative Services, and Annabelle Romero, Corrections Department. These

are acceptable and are hereby approved. The existing department heads of Land Use, Fire, Finance, Human Resources, Housing, Water Resources, and Health shall become division directors within the new reformed departments as shown on Attachment A.

4. Employee functions and resources assigned to the former departments shall be assigned by the County Manager to the new reformed departments as necessary to accomplish the reorganization.

5. The County Manager shall be authorized to make further organizational classification and interdepartmental transfers as necessary to implement the reorganization. Thank you, Madam Chair.

CHAIR VIGIL: Thank you, Mr. Abeyta.

COMMISSIONER MONTOYA: Madam Chair, move for approval.

CHAIR VIGIL: Motion to approve. Is there a second?

COMMISSIONER SULLIVAN: Second.

CHAIR VIGIL: Motion and second. Is there any discussion?

The motion to approve Resolution 2007-47 passed by unanimous [5-0] voice vote.

- XII. B. 2. **Consideration and Approval of Amendments to the Lease by and Between Santa Fe County and Women's Health Services, Inc.**
3. **Purchase Agreement By and Between the Board of County Commissioners of Santa Fe County and New Solana Center, LLC, a New Mexico Limited Liability Company**
4. **Resolution No. 2007-48. A Resolution Authorizing Execution of Amendments to the Lease By and Between the Board of County Commissioners of Santa Fe County and Women's Health Services Inc., and Execution of a Purchase Agreement By and Between Santa Fe County and Solana Center LLC and Authorizing the County Manager to Execute the Purchase and Sale Agreement and Any Necessary Closing Documents; and Authorizing Approval of the State Board of Finance of the Lease, as Amended**

MR. ROSS: Madam Chair, I believe we're on XII. B. 2 on the next page, and 3 and 4, and those would be the consideration and approval of the amendments to the lease signed by and between the County Women's Health Service in December, and a proposed purchase agreement by and between this body and an LLC called New Solana Center, and a resolution authorizing execution of those documents. We can take them either separately or probably all together if you choose.

CHAIR VIGIL: Unless there's any objection, I think we should take them all together.

COMMISSIONER MONTOYA: So moved.

COMMISSIONER CAMPOS: Second.

CHAIR VIGIL: There's a motion and a second. Is this for adoption of each one of these items, Commissioner?

COMMISSIONER MONTOYA: Items 2, 3 and 4. Yes.

CHAIR VIGIL: There's a motion and second that we adopt items 2, 3, and 4. Is there any discussion?

The motion to approve the lease and purchase agreements as delineated above and Resolution 2007-48 passed by unanimous [5-0] voice vote.

XIII. PUBLIC HEARINGS

A. Land Use Department

1. Resolution No. 2006 - __. A Resolution Approving the Petition of Turquoise Trail, LLC for Formation of Turquoise Trail Public Improvement District Pursuant to the Public Improvement District Act, Section 5-11-1 Through 5-11-27, NMSA 1978 (the "Act"), Santa Fe County Resolution No. 2006-40 and the Santa Fe County, New Mexico Public Improvements District Policy and Application Procedures; Making Findings in Connection with the Petition and Supporting Documentation Requesting Approval of the Formation of the District; Determining the Real Property to be Included within the District and the Purposes for which the District is Being Formed; Approving the General Plan and the Rate and Method of Apportionment and the Manner of Collection of a Special Levy to be Imposed Upon Real Property within the District; Approving a Development Agreement for Implementation of the District; Approving Parameters for the Issuance of District Bonds; Providing for Governance of the District; Providing that Bonds and Other Obligations of the District Shall not be Obligations of Santa Fe County; Repealing all Actions Inconsistent with this Resolution Other than Santa Fe County Resolution No. 2006-40 (Discussion Only)

CHAIR VIGIL: I'm going to read this resolution for the record and then I'd like to make some guidance recommendations because we do have a lot of agenda items. And I do understand that the applicant is here. Mr. Sommer, you're here on behalf of the applicant. Let me just ask, how much time do you need for a presentation?

KARL SOMMER: Madam Chair, I think I need about five to ten minutes at the most.

CHAIR VIGIL: Okay. If we can allow you that amount of time, then we'll allow some time for questions. Who would like to address the Commission on this item tonight? Please indicate by raising your hands. There are two of you? Okay. There are actually three? Is there going to be anyone else, because if there are more in numbers I'd like for all of you to just appoint one spokesperson, and if not, maybe you can allocate just the time for each one of you, if there's just three of you. Will there only be three of you addressing the Commission on this item? Okay. Then we'll allocate the time for the three of you. Let's go ahead and get started, Mr. Sommer, on the public improvement district presentation.

MR. SOMMER: Madam Chair, members of the Commission, my name is Karl Sommer, my mailing address is Post Office Box 2476, Santa Fe, New Mexico 87504. I don't know if you need me to be sworn in or not. We're here tonight because we made a request to bring this matter forward after the study sessions that this Board has had. What I'd like to do tonight is just give you a brief overview of the relevant history, I think where we've been, a summary of the conclusions that we've drawn from the discussions and the back and forth that has gone on, offer to you what we believe is a revision to the application that addresses the concerns that have been voiced by members of this Commission, and get some direction from this Commission so that we could move forward on some basis. I requested that Mr. Abeyta put this on the agenda. We know you can't take a final action tonight. We'd like some direction.

So that's what we're here tonight on, and if you have any questions at any time please feel free to interrupt me.

What is the relevant history? This application was filed in December 2005. We've been at this for well over a year and we've been through the County's adoption of its resolution. This application complies with that resolution. We've had meetings, I would say five or six meetings with staff members as a whole, many meetings individually. We've had two study sessions with the Commission to discuss both the narrow issues about this application and its implications and the broader issues of financing public improvements either through this methodology or some other methodology. We've, in response to that, provided additional information to staff. We've done reserve studies, cost studies, to show that the numbers in the applications are backed up by data that's not simply supplied by the applicant but as some independent review, and we've offered amendments to the application on that basis. Those relate to, as you might recall, Public Works had a concern that our numbers were too low, didn't cover all the costs related to the operation and maintenance.

We did a reserve study, upped those numbers, included them so there was a comfort level on staff. The long and short of it is that over the course of the last year and four months, I think what staff has indicated to you is, from a purely technical standpoint this application meets the requirements of the County's policy for submittal. And I think that there is no deficiency in the application. There isn't anything lacking. There aren't any unknown numbers and that sort of thing. I think that the other thing that we've resolved is that we all have an understanding - I think this Board has an understanding, and I say that based on my observations of your questions and answers at the study sessions that we've had of what a public

improvement district is and the implications of it for the County, for the community, for the developer and for the homeowners.

I think we've been through all of those issues and that there is a fair and clear understanding of it. We've also, I think ascertained what the costs are. The biggest issue that we have heard from the Commission or Commissioners individually is that the costs to the homeowners on an annual basis appears too high. That's the resounding message I've gotten back from – both publicly and privately in discussions and that the public benefit, in light of that cost, and that's the case even though our percentages as a ratio to value is in line with other communities in New Mexico and in the Southwest, the number looks just absolutely too high. That's the message we're getting. So it hasn't been lost on us.

There are benefits to the public improvement district which we have gone over with the Commission and that is that the cost of financing infrastructure with the PID is lower, generally, because you're accessing capital markets. There's long-term stability in that interest rate which benefits homeowners, benefits developers, and benefits the County overall because it keeps the pressure on pricing down. It is a – the other thing that the application has is a long-term maintenance and operational function for the PID that I think has been troubling to this Board as an overall idea, but it does provide a benefit that the community assets that are created will be maintained over the long haul. It's not the only way to maintain them and we understand that.

So why are we here tonight? I think that all that being said, we've kind of hashed, rehashed all of the issues and I think that all of the concerns have been aired publicly. What we're here to tell is we've listened to you and we're prepared to amend our application, but we don't want to go through the process of amending the application without some direction from this Board, from the Board of County Commissioners, because it will be a useless endeavor and we'd like some direction from you.

So what is it that we're proposing? I've got a letter that confirms that and we'll put it in the record if you all give us the direction to do so. I want that in the record so that there's a writing and not just me up here telling you what we're willing to do.

First of all, reduce the overall annual assessment in the PID by 20 percent. Now that's the annual assessment. So that brings down the absolute number by 20 percent on an annual basis. Remove completely the special levy for maintenance and operation. So the PID would not be responsible for collecting, assessing, or maintaining or operating any of the facilities in the district. As you all might recall, that number was \$500 annually per homeowner, so that would be taken out of the application completely.

The other thing that Longford Homes has heard is this Commission would like to see a public benefit of some kind over and above what's in the development already. We talked to various Commissioners about their ideas. We don't know exactly. We are willing to put a half million dollars, \$500,000, at the County's disposal to commit to a project. That can be a community facility that this Board has talked about. That can be ballparks that Commissioners have talked about. That can be public improvements at the schools, if you so direct. We don't know what the Board's preferences are. We're willing to step up to the plate and put a half

million dollars towards that public benefit. That would be at your discretion; we don't want to presume to tell you what to do or what you might think is the proper benefit.

The effect on the homeowners will be: no \$500 annually, a reduced 20 percent, and whatever community asset and benefit you think would be best served by the application of that half million dollars and we'd be willing to talk about it. That would require us to file amendments to our application and change our numbers, and that's means we'd file those applications for Mr. Ross' and Mr. Franklin's review and then get notices out and notify the public and the property owners that need to be notified, and come back to this Board at the end of April.

Why are we here? We'd like some direction from you because if the answer to this is this method in this district with these benefits and these costs is not satisfactory to a majority of this Board, then we will not make the amendments, because it isn't going to satisfy a majority of you. So we'd like some direction. If you think that the parameters of that, subject to seeing the final of it, is in line with the comments and the thinking that you've had, we would be glad to go ahead and make those amendments so that you have them formally to consider.

There's been a lot said about notice and whether or not people have been properly notified and did they sign documents that properly notify them? Did it have numbers in them and that sort of thing? Well, with respect to notice, I brought the notices with me here tonight and you all can consider them. They are extensive. They are thorough. They are in plain English and they are also in technical language. I'd like to add that at the last study session, one individual got up and spoke about the power of attorney that she signed and one of the issues that was raised at that time was, well - and it was raised by Mr. Franklin - we want to make sure that what she signed was legally operable and was adequate in terms of notice.

The power of attorney that was used in that particular instance was a power of attorney approved by Mr. Franklin's office, sent to him for his review and approval, approved by our bond counsel, and that's the one that was used, and I've got the format of it here tonight. I don't have that exact one as I think it would be inappropriate to bring it. But you will see it has in it everything that Mr. Franklin said it should have and obviously it would because he reviewed it.

I also have here a letter that's gone out to homeowners, a very specific disclosure with respect to public improvement districts that explains thoroughly, and then individual notices of the public improvement district for each kind of home.

In conclusion, I'd like to emphasize that what we started out in this program was to come up with a development in Santa Fe County that was and is affordable. Our housing prices are limited to \$310,000 and I would submit to you and I think you probably all know from your experience and what you've garnered, that is affordable and it's affordable on a broad scale. In addition to that affordability criteria, we're meeting the 15 percent that the County had required in the Community College District with respect to certain income levels. This public improvement district allows the County and this developer to maintain that affordability. We talked about that.

I'd like to give to you, Madam Chair, the notices and you all can look at them and

peruse them. In the case that I was talking about, one of the issues that was raised, did this individual know whether or not what she was signing? Well, she had the advise of legal counsel because she took it, came back, and there were questions from her lawyer regarding the exact document. That's what I am told. I wasn't there. I can't tell you. But Longford Homes has gone out of its way to notify people about the public improvement district. Why is this an issue? And the only reason this is an issue is because we've been pending for a year and four months and we had to move forward with sales and disclose as best we could. So we've done the best we can. We've tried to inform people and we've been direct and honest with this Commission and those we've dealt with. Thank you very much. If I may approach.

CHAIR VIGIL: You may. And on your way back, I will allow the Commissioners to ask questions. When are your perspective buyers getting this notice?

MR. SOMMER: Those notices are given at various stages of the process, and Mr. Robinson whom you've met before. He is counsel. He says these disclosures are given at the time of contract. Now with respect to the power of attorney, let me be clear. I don't believe that the power of attorney is given at the time of contract. That's not a notice; that's an actual power. But the question about the power of attorney was that adequate, and that sort of thing. So at the time of contract, when they sign up, they get these notices.

CHAIR VIGIL: Okay. Any questions for Mr. Sommer?

COMMISSIONER MONTTOYA: Madam Chair.

CHAIR VIGIL: Commissioner Montoya.

COMMISSIONER MONTTOYA: How did you arrive at the 20 percent?

MR. SOMMER: The issue about doing a PID is it has certain costs associated with doing it in terms of if you're going to finance some of the infrastructure improvements, it only makes sense to do it at a certain level or the costs of doing it don't make sense in doing a PID. I mean by that the cost of issuing the bond, all the things associated with it. And what Longford Homes has determined is if they reduced the PID by 20 percent they would be reducing their recovery of the infrastructure costs that they have and will put out to the lowest point where the PID makes sense to do from a financial standpoint. Below that, it's hard to make a justification for the PID to recoup some of the infrastructure cost. So that's where it comes from.

COMMISSIONER MONTTOYA: Okay. And then the \$500 a year is the other change in terms of the reduction to the homeowner.

MR. SOMMER: That's right. It's gone completely.

COMMISSIONER MONTTOYA: So on average, what might that save me as a new homebuyer?

MR. SOMMER: The \$500 a year?

COMMISSIONER MONTTOYA: And the 20 percent.

MR. SOMMER: Since the annual assessment is different for every house, if it was a \$1700, so \$500 would be \$500 and then 20 percent of the \$1700, which would be another \$340, so it would be annually about \$890 difference.

COMMISSIONER MONTTOYA: So about half of the original cost.

MR. SOMMER: That's correct.

COMMISSIONER MONTROYA: Okay. Thank you, Madam Chair.

MR. SOMMER: Or whatever. I didn't do the math. But whatever it is, using that figure, if you had a more expensive annual levy or a less expensive then it would be relatively different. But the \$500 would stay constant.

COMMISSIONER MONTROYA: Okay. Thank you.

CHAIR VIGIL: Okay. Further questions? Commissioner Sullivan.

COMMISSIONER SULLIVAN: Just a couple of quick ones. In the work session, the latter one that we had that you attended, Mr. Sommer, we had a great deal of discussion about the use of private improvement districts for funding regional component to developments and particularly components, as Mr. Franklin said, were regional rather than very local infrastructure and just to refresh your memory, to remind you what he said, he said one of the reasons that we're looking at using PIDs to finance regional rather than very local infrastructure is because in that sense, those improvements, certainly within the county, make more sense to be dedicated to the County as opposed to in-tract, the subdivision roads and sewers and things like that. Unquote.

What component of this subdivision would you classify as being regional of that nature?

MR. SOMMER: I would classify that the subdivision components that are regional in nature include the trail improvements in this district that are part of the Community College District trails, Commissioner, that this is not a local trail. It is part of a network. I don't know the number of miles, but it's many, many miles throughout the Community College District and this is an important portion of that. I think that the park that is being developed in this development is a community park that is open not just to this community and not designed or developed for just this community. It is open to the entire public and the entire public in the Community College District. I think it is the only park of its nature in the entire Community College District. Neither Rancho Viejo nor any other development has proposed or developed a park on this scale. The open space, which is 50 percent, is contiguous to the entire - a very large tract of open space for the Community College District. It is not segregated and localized for the enjoyment of just the people in this development. It is part of an entire open space plan that the County has. The development and improvement at the intersection at Highway 14 and - I forget the name of it - we've called it so many things. I'm going to call it Avenida del Sur that comes out there by the 7-11, has been improved, widened, to deal with regional traffic, not just with this local development and additionally, along Highway 14, the roadway from between these two bridges - excuse me. Between the light at the 7-11 and the entrance to the PNM facility, that road is being widened and the bridge is being widened, all as a result of this development. And to an extent that accommodates not just this development but future developments.

Those are the regional components that we have talked about in this process, and the other thing is I would add that we've added a half million dollars to that for a component that you might think, as a Commission, would be - I left one out. I'm being reminded. There's another component that is regional in nature. This entire development is going to be served by

an offsite sewer station that actually eliminates the need for either a treatment plant or groundwater percolation or dissemination of discharge here. It's treated at the city by virtue of the fact that a very over-sized lift station is being developed here. So that's the regional components that I would answer your question with.

COMMISSIONER SULLIVAN: Mr. Sommer, I understand that originally the sewer lift station and the force mains were considered to be larger in size, that the company couldn't find participants or partners to do that and in so doing, downsized both the lift stations and the force main lines to accommodate just this development. Is that your understanding as well?

MR. SOMMER: No, I don't think that's true. That's not true at all. The designs have been from day one what they are today, and actually getting constructed. The force main has not been reduced in size. It's been approved by the City and not been modified.

COMMISSIONER SULLIVAN: Okay. You might want to check in on that. We had another case that we were considering whether they could tie into this sewer main system and we contacted the attorney that was involved in that and they contacted the engineers and that was the response back. So you might want to look into it.

MR. SOMMER: I will look into it.

COMMISSIONER SULLIVAN: You might want to check into that. So leaving aside the force main and the lift station, what would you value these so-called regional components? And I'm not agreeing with you that all these are regional components because 50 percent open space is required by the Community College District for whoever builds there, but what would you value these regional components at?

MR. SOMMER: Do you mean in dollar value?

COMMISSIONER SULLIVAN: Yes.

MR. SOMMER: Personally, I don't know, Commissioner, what they're worth or what they cost.

COMMISSIONER SULLIVAN: Okay. Then the other question I had was in the documents it mentions that you have an appraisal which concludes that the value of the land with the anticipated improvements is \$31,800,000. So land and improvements is \$31.8 million. That comes to about \$60,000 a unit, give or take. And I noticed in the worksheet that was handed out that you have a value of land and development at \$72,500. So there's roughly about a \$12,000 per unit difference there. So do you happen to know what that difference results from?

MR. SOMMER: If I understand your question correctly, you are asking the appraisal value, land and improvements in the district at \$31 million. There are 512 units, divide that, that's about \$60,000 a unit, roughly, with change. And then you have a worksheet in front of you - is it from the application?

COMMISSIONER SULLIVAN: Provided by Longford at the work session. In fact handed out by Mr. Murtaugh.

MR. SOMMER: And is it the last work session. The \$72,000 per acre?

COMMISSIONER SULLIVAN: No, it's \$72,500 per house.

MR. SOMMER: Okay, I'm not familiar with the basis of that number. Mr. Murtaugh is here and he could answer that question directly if you'd like.

COMMISSIONER SULLIVAN: That would be fine, Madam Chair. It's brief.

JOHN MURTAUGH: John Murtaugh, Longford Homes. The prior question was that the offsite - we consider the offsite contributions at least an addition in about the \$5 million range. And we already designed lift stations, if we put larger impellers into the lift station we could carry more [inaudible]

COMMISSIONER SULLIVAN: I think the force main is more the issue.

MR. MURTAUGH: The force main, if you have enough storage in there, you're capable of [inaudible] you just have to increase the impeller size and change the timing on the pumps. It should be able to carry a lot more [inaudible] And as for the worksheet, if I could see a copy of that, because we put these in different areas and I'm not sure if some of the fees are in there. I believe I can check it out, but I need to put additional overhead costs in there for actually a lot more of the fees in there also. I can give you the breakdown later on.

COMMISSIONER SULLIVAN: There is a separate line item there for overhead.

MR. MURTAUGH: Our indirect construction costs are basically the supervision for the building of the homes themselves, we have additional supervision of other things also. I can get back to you later on and verify the exact amount by cost code by tomorrow.

COMMISSIONER SULLIVAN: Thank you. And then the last question I had was, for now, we'll talk about these things more, of course. I recall reading at one point in the documents, and it may have been an earlier one - I'm not sure - that within the PID you were allocating \$500,000 as an impact fee or a voluntary impact fee payment to the school district. Is that still proposed?

MR. SOMMER: I think that - well, I know, what I'm proposing on behalf of Longford Homes is the half million dollars that you're talking about is the same half million dollars I'm talking about. I don't think that - we have received at least conflicting direction about desires from this Commission and maybe individual Commissioners about what they're interested in seeing. I think that there are some Commissioners interested in addressing some of the school issues. There are some Commissioners interested in addressing a community center. There are some Commissioners interested in addressing ballfields. So the half million dollars that I'm referring to I think is the same half million dollars -

COMMISSIONER SULLIVAN: That's what I want to clarify. So there's no reduction in the bond issue from that standpoint from what you're proposing. You're simply suggesting that instead of an impact payment to the school district that it be left to the discretion of the Commission.

MR. SOMMER: That's correct.

COMMISSIONER SULLIVAN: Okay. Thank you. That's all the questions I had.

CHAIR VIGIL: Thank you. Any further? Commissioner Campos.

COMMISSIONER CAMPOS: I just want to make it clear for the record that I

was not contacted by Longford at all to have input on any of these so-called regional aspects.

COMMISSIONER SULLIVAN: I wasn't either.

CHAIR VIGIL: Okay.

MR. SOMMER: Madam Chair, Commissioners, Mr. Robinson would like to expand on one of the answers I gave you so you have a complete answer if you would give him just a couple of minutes.

CHAIR VIGIL: If it would be brief. Thank you.

TOM ROBINSON: Tom Robinson, director of legal affairs for Turquoise Trail. In response to Commission's questions about offsite force main improvements and hooking into it. Recently, the Turquoise Trail Master Association, who is currently responsible for the maintenance of the lift station pursuant to agreement with the City was approached by Mr. Sullivan or an associate of Mr. Sullivan, approached Ms. Aubrey, Karen Aubrey, the attorney for the master association about having additional people downstream. I believe it's a 14-home development. A discussion by the Turquoise Trail Master Association, who at this time has responsibility for the lift station, discussed at and we would agree to have other persons hook into it. We deferred it to the engineering study to see if that could be done. I don't believe the board has made a final decision on that and that there was some discussion about whether the force main would have to be up-sized for the size of the development hooking into it. We don't have that answer at this point in time.

The current agreement with the City provides that in the event of a formation of a public improvement district, that has a maintenance component, then the public improvement district would then enter into an agreement with the City to maintain the force main. Obviously, we're withdrawing the maintenance component so the maintenance of the force main and the lift station associated will fall to the association. Thank you.

CHAIR VIGIL: Thank you.

COMMISSIONER SULLIVAN: Is that to the homeowners association?

MR. SOMMER: No. That's the association that covers the entire Turquoise Trail - I say the Turquoise Trail, covers the entire district that the Thornburg family developed and that's the commercial areas.

COMMISSIONER SULLIVAN: Okay, so that I just want to be clear, Madam Chair, what the response was, that by withdrawing this \$540 for operation and maintenance of the district, then that would not be transferred over to the homeowners association.

MR. ROBINSON: That is correct. There's no agreement with the City to transfer it to a homeowners association. The Turquoise Trail Master Association currently is a commercial association that includes commercial property running on the west north side of Route 14, which is adjacent to this district.

COMMISSIONER SULLIVAN: Okay. And your testimony is that the force main, the engineering decision on that, that is still out yet.

MR. ROBINSON: I'm not aware of a final decision. We have not been approached formally. The board has not been approached formally for the administration of connecting to that -

COMMISSIONER SULLIVAN: So we can't say at this point in time that that component would be a regional component, one way or the other.

MR. ROBINSON: No, sir. We can't. It was designed to have other hookups. It depends on the size to hook up.

COMMISSIONER SULLIVAN: I understand. Thank you, Madam Chair.

CHAIR VIGIL: Thank you. There are certain perspective or current property owners that want to address the Commission. For those of you would like, please come forward. We have heard from some of your at the study session. I wonder if you could limit your testimony to under three minutes. Would that work for you? Under three minutes.

KAREN FRANCISCO: I think so.

CHAIR VIGIL: Okay. Thank you.

MS. FRANCISCO: My name is Karen Francisco. I am a homeowner at 1 Sunset Canyon Lane. I just want to clarify to the Commission and for the record that when I spoke at the work session on February 13th my main reason for speaking was to notify you as Commissioners that we were given notification of the PID at the time of contract. However, when I asked questions, my husband and I asked questions, they did not, they were not able to answer a whole lot of our questions. They gave us the paper. They said this is what we have. I had to do my own research. I looked at the statute myself and saw that they would need some sort of public hearing, some sort of public vote. Knowing we would have this option, I thought, okay. That's all right. Well, when it came time to close, that's when we were given a power of attorney, right before closing, relinquishing my right to a public vote. And that's what I wanted the Commission to know.

I never questioned whether it was legal or not. I just wanted the Commissioners to know we did not have a choice to come in and say, yes, we approve of this, we like it or we don't. So just to clarify that for the record. I also wanted to clarify for the record this evening is the portion of the PID for my particular home, we would be assessed \$2,115 annually. It was not a \$1700 figure. My figure on my paperwork is \$2,115, plus the \$540 maintenance fee which they are now stepping up to the plate to reduce, which is a good thing. I also wanted to know if that \$540 would somehow be put into a homeowners association and I think that was part of what was just discussed a while ago. I'm not sure.

I think that's about all I really wanted to say for the record is that we were given a power of attorney relinquishing our rights, and also, a lot of the homeowners did not know what that was. I did happen to know what that was and I knew what I was signing. However, I had no choice but to sign it in order to close on my home. A lot of other people did not know what they were signing. A lot of other people had questions about the PID that couldn't be answered either. We just wanted to make sure the Commissioners were aware of that.

CHAIR VIGIL: Thank you. Thank you very much, Ms. Francisco. Is there anyone else that would like to address the Commission?

LAKESHA HOLLY: My name is Lakesha Holly and my address is 1637 Calle de Oriente. I am a prospective buyer. I just signed my contract with Longford Homes two weeks ago, and I wanted to touch on how the thing that these are supposedly affordable

housing. My husband and I barely qualify, 104 percent over average median income. So therefore we have to go out and buy at market price housing. We thought we were getting a great deal and this is our first home, and now we have all this PID to think about. Also we received in the mail yesterday a letter saying that there was going to be a meeting with Longford Homes and they're also going to discuss the possible need of homeowners association.

How can we afford a PID, a homeowners association and a maintenance fee? And these are supposedly affordable housing? I just don't understand this. Adjustable rate? It seems like they're out to make a profit. Now my husband and I are trying to get out of the contract and our both first home that we are happy about. I don't see how this is ethical. I don't understand how these can be affordable housing with all these prices added. And that's just my main concern. Now we're stuck in this contract not knowing of these fees. I just don't understand how this is considered ethical business. That's just all I have to say. There's many unknown answers that we're not getting from Longford Homes and it's just very heartbreaking when someone like us tries so hard and we don't qualify for affordable housing, but then we see these great homes in Longford and they're in our price range, and now we're stuck in it with these fees that we were unaware of. I mean, \$140 for a PID a month? \$50 in maintenance, and then maybe a homeowners association fee? I would have to quit my school just to get a second job to pay for these additional fees. My husband would have to get a second job just to pay for these additional fees. I don't see how this is ethical. And that's all I have to say.

CHAIR VIGIL: Thank you very much, Ms. Holly, for coming forward. Anyone else like to address the Commission? Are there any questions of any of the testimony? Okay, the applicant is looking for direction. Is there anyone who would like to address that topic?

COMMISSIONER CAMPOS: Madam Chair.

CHAIR VIGIL: Commissioner Campos.

COMMISSIONER CAMPOS: First question for our attorney is is it appropriate to provide direction at this point in the proceeding?

MR. ROSS: Madam Chair, Commissioner Campos, this is a discussion item. I would caution you not to provide direction beyond the comments that have been made and the questions that have been addressed to the applicant.

CHAIR VIGIL: No action can be taken on this either, so I guess if there's any matters of discussion from any members of the Commission we could bring them forth right now.

COMMISSIONER ANAYA: Madam Chair.

CHAIR VIGIL: Commissioner Anaya.

COMMISSIONER ANAYA: Karl, there was talk about the \$2,115. Is that the one that you wanted to reduce 20 percent?

MR. SOMMER: That would drop by 20 percent on that number.

COMMISSIONER ANAYA: On that number. And then the \$540 maintenance fee, you'd get rid of that?

MR. SOMMER: That would be no longer part of the special levy or part of the PID. Zero there.

COMMISSIONER ANAYA: Okay. So the \$140 per month is the one that equals to the –

MR. SOMMER: I think that's the one that's the annual assessment. I think she's referring to the annual assessment.

COMMISSIONER ANAYA: So the \$140 per month would be basically all that they would need to pay.

MR. SOMMER: As a result of the PID, yes.

COMMISSIONER ANAYA: Now tell me about the association dues.

MR. SOMMER: The association dues – the association is going to be charged with maintaining the roads and maintaining all the improvements in the development, including all the things the PID would otherwise maintain. Those association dues will be set up by the association which being unregulated by anybody can establish whatever they want to do. What we did was we responded to the County staff and the to the Commission that funded the maintenance 100 percent for a period of 30 years. All of the reserve necessary to replace all of that stuff – is that accurate? I just want to make sure. We had set it up and the \$540 figure is a homeowners association, what would be otherwise charged by the homeowners association, plus reserves over a period of 30 years to replace everything.

Now, whether the homeowners association does that or doesn't do it, it's not required by the County Code. It's not required by the Commission as part of the development. What the homeowners association dues will do remains to be seen. The cost of the annual maintenance is a lot lower than \$540. If you start building reserves to replace everything like we were going to do, then it goes up.

COMMISSIONER ANAYA: So that's up to the homeowners association.

MR. SOMMER: That's right.

COMMISSIONER ANAYA: Whether they charge or not.

MR. SOMMER: That's right. Whether they build reserves or not.

COMMISSIONER ANAYA: But you're saying that with the PID, they don't have to do the homeowners association.

MR. SOMMER: That's right.

COMMISSIONER ANAYA: That's just in case they want to do something extra.

MR. SOMMER: That's right.

COMMISSIONER ANAYA: Thank you, Madam Chair. Thanks, Karl.

CHAIR VIGIL: Thank you. Commissioner Sullivan.

COMMISSIONER SULLIVAN: Following up, Mr. Sommer, on that same question. A part of the original PID included of course reserves for replacements and that was part of the replacement study. Is it Longford's proposal that the \$7.5 million that it expects to receive – I called it a subsidy and I believe in the work session you called it a reimbursement – will that change, of the \$10+ million bond issue?

MR. SOMMER: Yes.

COMMISSIONER SULLIVAN: And will that also be reduced by 20 percent?

MR. SOMMER: Approximately, yes.

COMMISSIONER SULLIVAN: Approximately. Thank you, Madam Chair.

CHAIR VIGIL: Thank you. Commissioner Anaya, did you have a follow-up?

COMMISSIONER ANAYA: Yes, I had another question. The PID is going to charge \$100 a month for thirty years, correct?

MR. SOMMER: Depending on what level of house. Just using your example –

COMMISSIONER ANAYA: Okay. \$140 to whatever it is. What would they have had to pay if they didn't have the PID in place?

MR. SOMMER: They would have paid \$20,000 more on the price of their home up front.

COMMISSIONER ANAYA: Depending on which home.

MR. SOMMER: That's correct. Well, I think we've averaged it across the board. It's about 20 grand a home. Is that accurate? Yes.

COMMISSIONER ANAYA: So you automatically took out the \$20,000, but they're going to pay the \$20,000 later, but they probably actually pay a lot more, right?

MR. SOMMER: They'll probably pay it over a longer period of time at a lower interest rate. The rates currently – the interest rates that the PID can borrow money at are a lot lower than the interest rates that a homeowner can borrow money at. So that portion is financed at a much lower rate. The other aspect of it is a mortgage, as you know, the average time in which a mortgage is in place on a home is about seven years. That means every seven years the interest rates fluctuate. If they go up, they go up. If they go down, they go down. And that makes a difference on what they pay on what they've borrowed. So the interest rate fluctuates in a mortgage situation, with respect to that amount.

COMMISSIONER ANAYA: So the people that purchased the home already have already paid the \$20,000?

MR. SOMMER: I'm not sure about question. Why don't you come and answer that directly if you can. I just don't know the answer, Commissioner.

MR. ROBINSON: Tom Robinson again. Commissioner, no. They did not pay the extra \$20,000. We incorporated the PID numbers in the disclosures on the monthly payment taking into consideration and assuming we would have a PID approval. So they did not pay the extra money.

COMMISSIONER ANAYA: So if this doesn't get approved, what happens to those homebuyers?

MR. ROBINSON: They stay where they are and we load the rest of the homes that we sell.

COMMISSIONER ANAYA: Okay.

MR. ROBINSON: May I also address the maintenance aspect of the homeowners association if I may? Part of the condition of the County approval of our project was maintenance, either by the association or some other mechanism. At the end of the day it

was the Commission and the staff that required us to have a homeowners association. Yes, the homeowners association has broad discretion in terms of what they assess and what they don't assess. At the end of the day, the board of the association will have a legal duty to make sure that what they're assessing is appropriate, given the responsibility to the [inaudible] We don't obviously make any money from a homeowners association. So they will pay an assessment to a homeowners association for the maintenance of this community.

I think the Commissioners have heard extensive discussion by staff on what that amount should be. It's my humble opinion that the duty of the association would be follow the recommendations of the reserve study and the maintenance that we've already done extensively.

COMMISSIONER ANAYA: Let's say that the PID was approved and you had some homeowners out there that didn't want to pay the maintenance fees if they come up with maintenance fees. Do they have to?

MR. ROBINSON: Through the public improvement district?

COMMISSIONER ANAYA: No. The public improvement district was approved, and now we've got a homeowners association out there and now they want to start collecting money. Does the resident have to pay on that? Or do they have the ability to say no, my stuff is getting paid through the PID, I don't want to be a part of that?

MR. ROBINSON: Well, the maintenance would not be paid for by the PID under the current offering we made to the Commission. So there would be no maintenance aspect of the public improvement district. That would just pay for the improvements. It would still be the obligation of the homeowners association to maintain these improvements. An assessment will be levied against the home. In the event that they failed to pay there would be rights of the homeowners association to file a lien on that house. We are only maintaining what traditionally was government maintenance through taxes. So it's been shifted to a homeowners association to do these responsibilities.

COMMISSIONER ANAYA: So you're saying that you're going to eliminate the maintenance fee but that might not be true. Who's going to pay for maintenance?

MR. ROBINSON: The homeowners association.

COMMISSIONER ANAYA: So then we're not eliminating the maintenance.

MR. ROBINSON: In the public improvement district you are. It's through a different mechanism. We have no choice.

COMMISSIONER ANAYA: Very good. Thank you, Madam Chair.

CHAIR VIGIL: Other questions, comments? Seeing none, I have a couple.

Under your presentation proposal, I'm not sure how much Ms. Francisco's home was but assuming her testimony was that she calculated \$2,115 was what she would pay annually. With your 20 percent proposal - and I don't believe the \$2,115 included the \$540 -

MR. SOMMER: I think she's clear it did not.

CHAIR VIGIL: So really, with your proposal, the 20 percent off the \$2,115 would be \$42,000 off, right? Correct? \$4,000?

TRACY MURPHY: Tracy Murphy, Longford Homes. The \$2,115 I believe Ms. Francisco was talking about was the annual amount. \$2,115, so a reduction of 20 percent

would be \$423 reduction from the \$2,115.

CHAIR VIGIL: Thank you. And with regard to the perspective buyers of this area, are these going to be mostly first time homeowners? Is it going to be elderly? What does your market analysis tell you?

MR. SOMMER: I don't know if there was a market study done, but I'm certain that we had an idea what the market would be. I think through our experience we're finding lots of working families as our customers. Is that accurate? About 2/3 are young, working families.

CHAIR VIGIL: It makes sense to me that if you're looking at building a community, one of the things that you want to look at, first of all, is making your perspective buyers really happy from the start. So I would do some re-evaluation of your noticing and really further explanations to perspective buyers. We're hearing that there's no real clarity. And yet I understand that there may be no real clarity on your part because the direction we're going in regard to this PID is in process.

But with regard to the notification of their loss of their voting right – the power of attorney – that probably needs to be made really clear to your perspective buyers, even upon first contact with them, because this is a whole new experiment in our community and we certainly don't want it to be something that perspective buyers are surprised by. So I think I would re-evaluate how you market the property and communicate to perspective buyers just what a PID may be.

I also think that there are certain components that need to be considered and I'm not sure \$500,000 will cover it. But when we build communities, and I know your proposal does include some open trails and open space, but communities include parks, they include recreational facilities, they include community centers and they include potential for expansion of growth of senior centers, which is something Santa Fe County has been faced with quite a bit. Your proposal should probably evaluate whether or not this area would fit for any one of those, or property could be made available for future recreational fields.

I'm also concerned about your governance board. Currently there are only five governing members. Is that correct? Okay. And two are from the County, two are from Longford –

MR. SOMMER: And the other is appointed by the County.

CHAIR VIGIL: And the other is appointed. To me that doesn't bring in the community. That doesn't represent the perspective buyers. I think your governing board needs to include perspective buyers, members of that community who actually live there. Because we, while we have an oversight capacity, their input to this process and through the governance of this is critical. So I would expand your governance board to at least seven members that would include owners in that community because through that process we're better able to get information with that.

I don't know – I belong to a homeowners association. It's a very frustrating experience. I do not have – especially during the legislative session the time nor the energy to put into, as a homeowner, my homeowners association, and every time I look at my bill it's

different. So that's kind of frustrating. I think one of the benefits of having a public improvement district is everything is predictable. You know what it's going to cost. Right now, that I think we're proposing and looking at is making this a reasonable cost. I think we're coming towards that with a 20 percent reduction, and what that would mean for the future of the community. I hope to be able to make it a neighborhood where the people who buy there will someday raise their kids so they can take them to the soccer fields.

Let's start looking at this PID in terms of what it's going to mean for the people who are going to live there, and definitely that would mean making it reasonably priced, predictable, which I think is one of the benefits of the PID versus a homeowners association, and knowing exactly what their dollars are going to be paid for. That's the only input I would have with regard to this. That's all I have to say. Anything else?

COMMISSIONER SULLIVAN: Madam Chair.

CHAIR VIGIL: Commissioner Sullivan.

COMMISSIONER SULLIVAN: Madam Chair, no more questions. I just - one of the first things that when we began discussing this, the PID and had the numbers in front of us was to me the fact that the homeowners' taxes would go up by 130 percent over someone who was living across the road and wasn't subject to the PID and that seemed to me be a large burden. If we take a 20 percent reduction as has been suggested by the applicant then the tax burden would be 105 percent over. So whether we're splitting hairs here, I don't know. We're still just by way of example about double what the tax burden is on the assessment district in Rancho Viejo, just as a comparison. That's all. Thank you.

CHAIR VIGIL: One minute? Is that all? Okay. We're not going to take any action on this tonight. It's still a gathering of information. Go ahead, Ms. Francisco.

MS. FRANCISCO: I understand that. I don't even have a question. I just have a comment and just wanted to let you know that I think the community is going to be beautiful. There's absolutely no doubt about that. It is going to be a beautiful place to live. That's why we chose to purchase there. In order to keep it looking nice, there must be some sort of homeowners association or something in order to keep it looking that good, and I think - I don't know about other homeowners. I as a homeowner would appreciate some sort of something to keep it looking nice long term. We plan on being there forever. We don't plan on selling our home in seven years. We plan on being there forever. What I would like you all to remember. This is not Las Campanas. This is on the south side of town and we're getting a whole different type of people who live there. And if I could afford Las Campanas that's where I would be, but I can't. So I chose this community because I know it's going to be beautiful and reasonable is the key. It really needs to be reasonable for the type of people you're getting in on this side of town. Affordable is the big key. You see the kind of people who are wanting to buy their first home. They're excited. They're thrilled. And it will be a nice place to live but it really must stay reasonable.

CHAIR VIGIL: Thank you, Ms. Francisco. I think that closes that part of the hearing and we're going to need to move on to the next item of the agenda.

MR. SOMMER: Madam Chair, I just wanted to say thank you to the

Commission for the time this evening. I know you have a busy agenda and hearing us out one more time has been appreciated. Thank you.

CHAIR VIGIL: Thank you, Mr. Sommer. Thank you, gentlemen.

XIII. A. 2. Ordinance No. 2007-2. An Ordinance Amending Article XIV, Traditional and Contemporary Community Zoning Districts, of the Santa Fe County Land Development Code, Ordinance 1996-10, as Amended, to Add a New Section 10, Village of Agua Fria Zoning District (2nd Public Hearing) [Exhibit 3: Revised Ordinance Text]

ROBERT GRIEGO (Senior Planner): Good evening, Madam Chair, Commissioners. This is the second of two scheduled public hearings. Staff presented the background information at the first public hearing on February 13th. Staff has also incorporated some minor editing and clarification to the ordinance as suggested by the County Attorney's office into this draft ordinance. For this public hearing I would like to focus on the concerns that were raised at the first public hearing and on the proposed amendments to the Village of Agua Fria zoning district.

The main issues that were raised at the first hearing in regard to Section 10.8 of the ordinance for water and wastewater. Section 10.8.A identifies standards for development on wells. The ordinance would restrict water consumption from a domestic well to .25 acre-feet per dwelling unit. County staff and the planning committee recommend that the County not place additional standards, additional water restrictions for the village. The Board could continue to place restrictions on new development as they come forward to the Board for approval.

Section 10.8.B identifies standards for wastewater. Staff has drafted a proposed amendment to Section 10.8.B.1 of the ordinance, which will be handed out to you. The proposed language that I just handed out to you reads as follows: "Section 10.8.B.1. A property that's an existing residential or non-residential uses whose parcel boundary is within 200 feet of a public sanitary sewer line that can be accessed by gravity flow shall connect to that line."

This proposed amendment is to clarify the requirement to hook up to a public sewer system that applies to existing uses. Article VII of the existing County Land Development Code already requires new development to hook up to the public system if it is available for use. So we are not amending that section of the Code; we're adding a new section.

The Village of Agua Fria has requested funding through the County's ICIP plan for a comprehensive sanitary sewer plan for the Village of Agua Fria and the community strongly recommends that the County coordinate a comprehensive sewer plan to determine the best location and sequencing for future lateral lines based on the ability to serve the maximum amount of residents and to address infrastructure needs and water quality issues.

Also included in your packet material are the proposed amendments from the Village of Agua Fria Planning Committee, if I could go over those for the record.

The first proposed amendment is to change the name of the Agua Fria urban zone subdistrict to the Agua Fria low-density urban zone. And the second proposed amendment is to amend the minimum setbacks to the Agua Fria low-density urban zone from five feet to twenty feet.

That concludes the proposed amendments to this ordinance. Staff recommends that the Board hear all public comments and approve the ordinance with staff's proposed amendments and the amendments from the Village of Agua Fria zoning district. That concludes my presentation and I stand for questions from the Board.

CHAIR VIGIL: Thank you. Are there any questions of Mr. Griego? Here is a question from Mr. Sullivan.

COMMISSIONER SULLIVAN: Yes, the wastewater issue in Section 10.8 - does the existing Code that requires new developments to tie into sewer within 200 feet have a stipulation that it only applies if it's gravity flow?

MR. GRIEGO: Madam Chair, Commissioner Sullivan, no it does not.

COMMISSIONER SULLIVAN: Okay. So notwithstanding, a new development is going to tie into a sewer if there's a sewer available within 200 feet.

MR. GRIEGO: That is correct.

COMMISSIONER SULLIVAN: Okay. Then you're suggesting an amendment that would make it applicable to existing residential or non-residential uses and saying only that they can tie in if it's by gravity flow. And tell me what was the reason for that? There's some discussion in here that says the planning committee has identified several problems concerning requiring property owners that cannot access the system by gravity flow to hook up to the system without consideration of topography, future sewer lines, financial hardship and other potential issues. What does that mean?

MR. GRIEGO: Madam Chair, Commissioner Sullivan, some committee members may address that as part of where they were coming from. The Agua Fria Planning Committee had established a utility committee who looked at these issues, but to address specifically, I think the distinction for new development versus existing development. So for example, if a property owner has a property which is adjacent to a sewer line, if it's existing they may have a septic tank that's there. What the Village of Agua Fria plans would like to do by creating a sanitary sewer line would create a sewer plan which would maximize the ability to hook up future residents, the existing and future residents there. So existing property owners are not now required to close down their septic system and hook into the system. What they're proposing is to come up with a plan to do that in the future so they can deal with some of the water contamination issues in the village.

COMMISSIONER SULLIVAN: But Robert, isn't the future here? Isn't this it? Isn't this what we've been working on? What would be in the future? I'm concerned that we look at these community ordinances as I want to protect my style of life. I want to have greater setbacks. I want to have more open space. I want to have bigger lot sizes, but I don't want to

contribute to protection of the environment, to protection of the aquifer if it costs me any money. What would this comprehensive sanitary sewer master plan do or be? We have sewer in Agua Fria, in portions of Agua Fria now. I'm not clear what the thinking of the committee was.

CHAIR VIGIL: Robert, I think we can probably get an answer if we get someone from the water association who probably has more experience with that. Gilbert, would you like to address Commissioner Sullivan's question?

GILBERT TERCERO: Yes, Madam Chair, Commissioner Sullivan. Actually, I'm speaking as chairman of the planning committee. In the discussions that Robert is referring to, what we discussed is the difficulty and the onerous nature of requiring existing residents to incur the costs, not only of hooking on to the sewer line, which is not a cheap proposition to start off with. The City permit is \$500. The actual, depending on how far you are from the sewer line that runs along Agua Fria, it could run several thousand dollars to connect into that sewer line. And then to dismantle or disable your septic system is another cost. So you're not looking at a cheap proposition when we talk about trying to get existing residences off of septic systems. People are going to have to contribute from their own pockets a great deal of money just for that.

But then on top of that you add a situation where the topography does not allow for gravity to carry the sewer into the main line, and you're requiring an unknown number for a lift station, grinder pumps, whatever you call them. I'm not up to date with the technology, but I do know there are systems that are in use today that are very troublesome, that are very expensive to maintain and very expensive in the up front.

Robert was sharing with us about the last Commission meeting where I believe you might be aware of some alternatives and some new technology that might be available to reduce that cost. But nevertheless, we are not, as a planning committee, at this point in time, comfortable with saying to this Commission that the planning committee feels comfortable with requiring the existing residents of our community, many of them on fixed incomes, many of those homes have been out there for 200 years. The majority of the homes along Agua Fria, which are the ones that are today able to tie into the sewer, because the sewer line runs down Agua Fria and that's it. There's one lateral that has been constructed to date off of Agua Fria but 95 percent of the people we're talking about would be tying onto Agua Fria.

Agua Fria runs east and west. The properties to the south of Agua Fria, between Agua Fria and the river are generally lower. The majority of those properties would have to figure out something and pay someone a hefty price, perhaps even some engineering that would be involved to try to figure out how to pump their sewage up into the main line. Now, an alternative that we're working with the County on, and Senator Rodriguez has sponsored some legislation - I believe it's been funded for a \$50,000 study or master plan for sewer lines in Agua Fria, would enable us to work with the County and with engineers to look at the topography throughout the entire community and determine where the most logical place is to set lines. There could be another line that runs parallel to Agua Fria. It could be closer to the river and would be at a lower elevation where people could tie into that line and then at some

point in time, all of that be pumped up at a logical place, pumped up into the main line, which runs along Agua Fria.

There you're talking perhaps one pump, maybe two pumps, rather than every individual having to run their own pump into the main line. So that's all we're asking is let's be flexible with this language. Let us work with the County and with the State, the Environment Department is very much involved in this. Let us work with them to determine a good master plan for sewer lines within the Village of Agua Fria and let's not force anybody to pump their sewage at this point in time.

CHAIR VIGIL: Thank you, Mr. Tercero.

COMMISSIONER SULLIVAN: Thank you, Madam Chair.

CHAIR VIGIL: Are there any further questions?

COMMISSIONER CAMPOS: Madam Chair.

CHAIR VIGIL: Commissioner Campos.

COMMISSIONER CAMPOS: Mr. Griego, you say that the County and the village planning committee do not recommend the restriction of water to .25 acre-feet. Why? There's no rationale. There's no real discussion.

MR. GRIEGO: The village felt strongly that there was - I guess I'll begin with the County. There hasn't been precedent set for other areas, that we restrict other areas below a quarter acre-foot.

COMMISSIONER CAMPOS: There have been precedents. You know that. You know there's subdivisions.

MR. GRIEGO: Subdivisions, yes. Commissioner Campos, as we were having this discussion, maybe when developments come in, then that's when they can be restricted. But as far as having a blanket for the entire community, that hasn't been done.

COMMISSIONER CAMPOS: But what's the logic of not moving forward with an idea that saves water?

MR. GRIEGO: Commissioner Campos, I think the community would come up strongly against that.

COMMISSIONER CAMPOS: Well, that may be true but there's still no logic. That's just a political argument you're making. I want a logical argument.

MR. GRIEGO: Commissioner Campos, I don't have - other that it would be a restriction imposed on one community that is not imposed on any other community.

COMMISSIONER CAMPOS: Well, you've got to start somewhere, right? Somebody's got to be first some time. Okay. That's it.

CHAIR VIGIL: Robert, isn't it also true that many of the people in this village have agricultural rights and things of that nature that it would be somewhat of an inequitable decision to do a blanket requirement to this community, besides the fact that no other community would have this requirement.

MR. GRIEGO: Madam Chair, I think that's absolutely correct. This is a very - as we've been going through the planning process, we identified so many agricultural activities in the community and a lot of people use their land for different purposes which I think that that

is a concern.

CHAIR VIGIL: Okay. Thank you. Are there any further questions? I know there are members of the planning process. Do they have a spokesman that would like to address the Commission before we take action on this? Mr. Tercero, and then if anyone else would like to address the Commission.

MR. TERCERO: Thank you, Madam Chair, and if I could just ask that – we have several people from the community tonight and maybe you would like a show of hands. I'm not sure how many want to speak tonight. We know that you have a heavy agenda and we don't want to prolong this meeting.

CHAIR VIGIL: I do see quite a few members of the planning process. Would you please indicate you were a part of the planning process by raising your hand. [Approximately 13 people raised their hands.] Okay, and those of you who would like to address the Commission please raise your hand. So I see four hands raised. Okay. After Mr. Tercero gives his presentation you may follow.

COMMISSIONER CAMPOS: Madam Chair.

CHAIR VIGIL: Yes.

COMMISSIONER CAMPOS: It looks like we're not going to be able to finish our agenda tonight. It's just too long, and I think we need to manage this by putting really strong restrictions, and after this case I think we have to decide how far down the agenda we can get and let other people go. Because we're just not going to be able to finish this agenda.

CHAIR VIGIL: Okay. We'll take that into consideration after we've taken action. How much time do you think we need, Mr. Tercero?

MR. TERCERO: Actually, I just wanted to respond to Commissioner Campos' question on water. And also to thank this Commission for all the support and assistance we've received from your Planning Department, the Land Use Department, several departments actually, that have attended many of our meetings through this long, three-year process that we've been involved in. We feel that this process has brought the community closer and has allowed us to discuss many issues that are important to the community without the heat of the battle facing us.

A lot of these issues get discussed when somebody's proposing something and somebody's opposing them. And this enabled us to discuss these things without that animosity facing us. We have the privilege I guess, of being one of the oldest communities in Santa Fe County. As such, we would like to be compared to some of the other very traditional communities La Cienega, Tesuque, Chimayo, Nambe, Pojoaque, very traditional communities.

In many cases I know that the water restrictions that the County has put in place are very progressive and very useful in preserving the groundwater and the resources that are limited. However, in Agua Fria as in many other traditional communities, homes have not been built and properties have not been subdivided in a way where we have been able to maximize a utilization of rainwater, graywater, all these other issues that can be done in a new development. And I know that your standards, you have required things like this that really cut down on the amount of water that's being used by a typical household.

In our situation the agricultural activity that you referred to earlier is very alive in Agua Fria. It may not be commercial at this point in time but people do appreciate the earth and the cultivation of the earth. There are several families that own horses that require maintaining. This is not an area where the strictest of water standards can be applied to existing development. And as Robert said, the proposal to reduce water use and put restrictions on new development is something that the County has the ability to do today with the review process that a new development would have to go through. And we applaud that. However, to blanket the entire community and say everyone will be restricted to utilizing no more than a certain amount of water – the County, in 1980, and I realize 1980 is a long time back, but the County in 1980 developed the County land use plan and determined at that point in time an appropriate amount of water to be used by a single household was .25 acre-feet.

As I said, I understand you've gone much further than that with new development but not only do we not want to be the first community to be hit with such strict standards but we don't believe that these strict standards should be imposed on any existing community where you have a different type of housing, a different type of lifestyle and an inability to conserve that much water reasonably. The community water association, of which I'm a member, we do concur with conservation through progressive base rates and progressive gallonage rates. We know that the average household in Agua Fria is using somewhere in the neighborhood of 6,000 gallons per month. If you compare that to anything else going on in Santa Fe, that's low.

We believe that people are trying to conserve water for economic reasons. The statement that he made earlier about imposing these restrictions on every well and every – I guess that's what it would be – imposing the restrictions on private wells that are existing and may have existed for 100 years, we don't believe that that's fair and that's the statement I would make and again, I would just like to leave you with much thanks for all your efforts and your staff. Thank you.

CHAIR VIGIL: Thank you, Gilbert, for all your efforts. Anyone else that would like to speak? Mr. Mee.

WILLIAM MEE: I'm William Mee, 2073 Camino Samuel Montoya. I'm the president of the Agua Fria Village Association. We fully support this ordinance. In Section 10.9.B.1, we are enthusiastic about being the neighborhood association that will review development notices. A majority of our village association members have participated in at least two of the planning committee meetings over the last three years, and we have over a dozen members who have attended a majority of those meetings. I myself have attended every meeting but three.

Public participation in this planning process has been really abundant and in this regard I'd like to thank Robert Griego, Renee Villareal and Jack Kolkmeier in making the public planning process open, engaging and welcoming. Consensus building has been essential to adopting a viable and strong land use plan. I also serve on the County's Agua Fria Development Review Committee, for over ten years now, and this ordinance and attached land use plan represents a real missing link in making acceptable land use decision. Connie Salazar, the representative of the San Ysidro Catholic Church, the largest institutional land owner in the

traditional historic community, was unable to attend today because of health reasons, but the parish council is aware of and supports the community land use plan even though they haven't issued a letter to that effect yet.

For the past three centuries, land has been the most important possession of the families of Agua Fria Village. These families' stewardship of the land, acequias and livestock has sustained not only themselves but the larger City of Santa Fe. This stewardship has had a price. Building small houses along Agua Fria Street in clusters and dividing land into long, thin strips that had equal access to the acequia. This has really created a land use pattern that is difficult to develop into any future residences without a land use plan that's been really tailor-made for our area. And I think that this is something that County staff and the community has done in this ordinance process.

I'd just like to thank the County for giving us these resources. In regards to the sewer issue, on our Agua Fria Development Review Committee, we actually had a plot plan that was given to us requesting a variance of County procedures on a particular lot. And if you looked at the plot plan, there was a sewer line on the south side on Agua Fria Road and then on the north side, there was the Santa Fe River sewer line. So this property was between two sewer lines. And County staff was saying, well, how come they can't just hook up to the sewer? Well, on that south side, they were approximately 50 feet below the grade of the sewer. So it would take a substantial kind of engineering project to get a lift station to attach. And then on the north side, where they would have had to have the sewer line cross the river and the only acceptable way we have of doing that is to basically build a bridge and hang the sewer line underneath. That might have been a \$100,000 proposition. So there are many areas that geographically, terrain-wise, they're unable to hook up.

As far as the water issue, the quarter acre-foot, it was a huge, huge compromise that residents made. Many of them had permits from the State Engineer that are saying three acre-feet. To come into this compliance was a huge basically taking of personal property at that point. I think the community has realized that water and sewer are huge issues for us and by having a plan, we can address those issues. Thank you.

CHAIR VIGIL: Thank you, Mr. Mee.

GRETCHEN BERGREN: I'm Gretchen Bergren and we live on West Alameda, which is north of the river between the river and 599. There are just two things. Concerning the reduction of water that you request, I'm sure that when you decide that the whole county has to reduce their water use, including Las Campanas and Tano Road residents, Agua Fria Village residents will reduce their current water use along with it. But to single out the community, if that's where you're going to start. No. I'm talking about the existing well users and houses.

One of the comments that came from Commissioner Sullivan, you talked about the change of setbacks to 40 feet. This is concerning the property north of the river, between the river and 599, the entire land, prior to being part of the village, has only been part of the Extraterritorial Zoning area, where the requirement had been and still as - and we haven't changed it for the Agua Fria Village, 2.5 acres in order to have a well and septic system. And I think that's the same throughout the county. And all that the setback is is a return to the

requirements that those of us who built there had to comply with when we built our houses. So that hasn't changed. What we've done is simply return the Agua Fria Village demands on setbacks on that part of Agua Fria Village to what the County had required in their building codes. Thank you.

CHAIR VIGIL: Thank you. I believe I saw one other hand that would like to address the Commission. Okay, seeing none, this closes the public hearing. What is the wish of the Commission?

COMMISSIONER ANAYA: So moved.

CHAIR VIGIL: There's a motion to move and accept this as an ordinance. Is there a second? I second it.

COMMISSIONER CAMPOS: There has to be a minimum amount of discussion.

CHAIR VIGIL: Discussion before roll call. Any further discussion?

COMMISSIONER CAMPOS: Madam Chair, just a brief comment. Mr.

Tercero, I think it's an error to propose what you're proposing, but politically, you're going to have three votes here to go along with you. I think you're going to eventually regret not being tougher on water and going down to at least .2 which is a very reasonable amount of water. This is an urbanizing area. It's not the old rural community it used to be 30 years ago or 1970. It's changed tremendously. It's urbanized. And it's going to be surrounded by very dense urban development. And that's the future. It's changed. It's not going to stay the same. Things never stay the same.

If you get a quarter acre-foot you're getting at least 7,000 gallons of water a month. That's a lot of water for personal use. As far as agriculture, there may be a few trees out there, some small gardens, but that's about it. The future is changing. .25 is no longer the standard, based on very simple technology, very low cost alternatives you can lower your water to .2 with great success and you can protect your aquifer. Thank you, Madam Chair.

CHAIR VIGIL: Any further discussion? I'm going to have to respectfully disagree with Commissioner Campos. I think this community has put strong efforts into negotiating a lot that they had to negotiate in terms of balance. There are members of this community who historically have a lot of agricultural and water rights than far more than .25 acre. For them to even bring it forth in discussion is to be applauded, because not many of our community plans even discuss water. Some of our older community plans didn't even bring it into their process, so I applaud Agua Fria for bringing it in. I think when they participated in this process they looked at this process in terms of what is our community going to look like? And underlying that, what this community did is they said we want to protect our historical traditional values.

So to even characterize this community as future urbanization I think does an injustice to the public process and to the planning process in itself, because the intent of this planning process was to protect that historical, traditional community, and indeed, part of that needs to be done by this Board of County Commissioners irregardless of the urbanization that's going on around there. We need to create a buffer zone to keep the traditional historic values of this

community intact, and if we don't do that, we are doing an injustice to their actual planning process and to the plan that we are going to adopt tonight.

So I disagree. This community worked very hard to make this a community that respects their neighborhoods, that respects the family, that respects the traditions, that respects the water, that respects the culture and that respects the future. So with that, we have a motion and a second to adopt the ordinance. Is there any further discussion?

COMMISSIONER ANAYA: Madam Chair.

CHAIR VIGIL: Commissioner Anaya.

COMMISSIONER ANAYA: On that note, I don't even think that the traditional community should be able to go down to .25. I think they should be able to have their wells at three acre-feet. Thank you, Madam Chair.

CHAIR VIGIL: Mr. Griego, did you want to address the Commission? Okay.

The motion to approve Ordinance 2007-2 passed by unanimous [5-0] roll call vote with Commissioners Anaya, Campos, Montoya, Sullivan and Vigil all voting in favor.

CHAIR VIGIL: With the utmost amount of respect and admiration I say yes. Thank you very much, Village of Agua Fria. I'm very proud of you. Mr. Griego.

MR. GRIEGO: Madam Chair, I just would like a clarification. The ordinance was adopted was that with the -

CHAIR VIGIL: With amendments. Yes.

COMMISSIONER CAMPOS: That wasn't clear in the motion. Do you want to clarify it?

CHAIR VIGIL: Would the maker of that motion like to clarify that?

COMMISSIONER ANAYA: That was with amendments.

COMMISSIONER CAMPOS: Should we vote on that again to clarify it? It was made without mention of amendments.

MR. ROSS: Madam Chair, you could either order the record to reflect that the motion included the amendments or you could -

CHAIR VIGIL: Let me put it this way. The maker of the motion has agreed that it included amendments, the seconder of the motion has agreed that it included amendments. Is there any opposition in the vote that was taken to that, because if so you have the opportunity to withdraw your vote? If no opposition, can we move forward that way, Mr. Ross?

MR. ROSS: I would just make a statement that you're ordering the record to reflect that.

CHAIR VIGIL: I am ordering the record to reflect that the amendments were included to the motion and the second and that all those who voted in favor of it indicated to vote in favor of the motion with amendments.

COMMISSIONER CAMPOS: Madam Chair.

CHAIR VIGIL: Yes.

COMMISSIONER CAMPOS: I don't think we're going to be able to finish this. I'm not going to stay here past 9:30, so that gives me an hour. I want to define how far we're going to get down and where we're not going to get past tonight.

CHAIR VIGIL: Okay. Any other comments on that?

COMMISSIONER SULLIVAN: Makes sense.

CHAIR VIGIL: I know that the next item on the agenda is the Eldorado moratorium. That probably will involve quite a bit of a public hearing. How many are here for the Eldorado water moratorium? Would you please indicate by raising your hand? How many of you will be testifying? I see five hands. We'll have to create a limitation on that. We have item 9 tabled, so the next 6, 7, 8, then we go to 10, 11 and 12.

COMMISSIONER CAMPOS: And then 14 and 15. It's clearly going to take 45 minutes or an hour just to do the Eldorado moratorium.

MR. ROSS: Madam Chair, let me just point out three time-sensitive items on the agenda: 6, and the two liquor license applications, 10 and 11.

COMMISSIONER MONTOYA: And 12 also.

COMMISSIONER CAMPOS: Is that time-sensitive?

COMMISSIONER MONTOYA: Yes.

CHAIR VIGIL: So numbers 10 and 11 are time-sensitive. Those are liquor license transfers.

MR. ROSS: Correct. As is 6.

CHAIR VIGIL: I'm sorry. Would you restate that?

MR. ROSS: Item 6 is also time-sensitive.

CHAIR VIGIL: Okay, but that's not a liquor license.

MR. ROSS: Right.

COMMISSIONER CAMPOS: Madam Chair.

CHAIR VIGIL: Commissioner Campos.

COMMISSIONER CAMPOS: Could I suggest that we proceed with items 6, 10, and 11 and maybe 12, since it's time sensitive, and then come to the Eldorado and end our discussion tonight with the Eldorado and table the other items?

COMMISSIONER SULLIVAN: Why don't we do Eldorado now?

COMMISSIONER CAMPOS: Let's do these quick ones then go to Eldorado.

COMMISSIONER SULLIVAN: Six is not so quick.

CHAIR VIGIL: Let me suggest that we do items 10 and 11, then do Eldorado, then we'll do number 6 and then 12. That would leave items 8, 13, which has been table, 14 and 15 to be tabled. Is there any problem with tabling those items?

COMMISSIONER SULLIVAN: And 7.

CHAIR VIGIL: And 7? That's the Leon Variance. The Enriquez Variance, the Colinas del Sol Subdivision and the PNM State Pen 12 Feeder Line. Who's here for the Pen Feeder Line? Let's try to get a direction of where we're going to go right now with them.

COMMISSIONER CAMPOS: Madam Chair, I thought your suggestion of doing 10, 11, going to Eldorado, 6 and 12, table everything else - I think that's the motion.

CHAIR VIGIL: Can we make a motion to that effect, Mr. Ross?

MR. ROSS: Madam Chair, absolutely.

COMMISSIONER CAMPOS: That's a motion.

COMMISSIONER MONTOYA: Second.

CHAIR VIGIL: Motion and second that we hear 10, 11, Eldorado, then we hear 6 and 12, and everything else is tabled. There's a motion and a second.

The motion to hear 10, 11, 3,4, 5, 6 and 12; and table 7, 8, 14 and 15 passed by unanimous [5-0] voice vote.

CHAIR VIGIL: For those of you who were out of the room, this is the order of hearings we're going to have. The Commission has reviewed the agenda and realize that we will have to limit the hearings tonight. The next item to be heard is item 10 and then we will go to item 11. Then we will hear the Eldorado Moratorium. Then we will go to item 6, and then we will go to item 12. All other items on the agenda will be tabled.

COMMISSIONER CAMPOS: Do we table to a specific time to preserve our notice?

MR. ROSS: Madam Chair, Commissioner Campos, everything's tabled to the next land use meeting.

COMMISSIONER CAMPOS: That's my motion.

COMMISSIONER MONTOYA: The second accepts.

CHAIR VIGIL: Okay. Let the record reflect that the motion included the tabling till the next land use meeting without objection to the motion.

**XIII. A. 10. BCC LIQ #07-5000 Mine Shaft Tavern Liquor License.
Mineshaft Properties, LLC, D/B/A Mineshaft Taverns, Applicant,
Lori Lindsey, Agent, Request Approval of a Transfer of
Ownership for a Liquor License. The Property is Located at 2846
New Mexico Highway 14 in Madrid, Within Section 36, Township
14 North, Range 7 East (Commission District 3)**

JAN DANIELS (Review Specialist): Thank you, Madam Chair, Commissioners. The Mine Shaft Tavern is a legal non-conforming business established before 1981. The applicant states that she is requesting a transfer of ownership of a liquor license from Edith Salkeld, DBA Mineshaft Tavern to Mineshaft Properties, LLC, due to a change in ownership. The State Alcohol and Gaming Division has granted preliminary approval of this request in accordance with Section 60-6B-4-NMSA of the Liquor Control Act. The legal notice of this request has been published in the newspaper and the Board of County Commissioners are required to conduct a public hearing on whether or not a proposed request for a transfer or ownership for a liquor license should be granted.

The request is in accordance with the notice requirements and staff recommends approval.

CHAIR VIGIL: Thank you. Are there any questions of Ms. Daniels. Seeing, hearing none, what's the pleasure of the Commission? Would anyone out there like to address the Commission? Okay, this public hearing is closed.

COMMISSIONER ANAYA: So moved.

COMMISSIONER SULLIVAN: Second.

CHAIR VIGIL: A motion to approve, I assume, and it has been seconded. Any further discussion?

The motion to approve BCC LIQ #07-5000 passed by 3-1 voice vote with Commissioner Montoya voting against. [Commissioner Campos was not present for this action.]

- XIII. A. 11. **BCC LIQ #07-5040 Simply Classic, Inc., Liquor License.**
Simply Classic Inc., DBA Salud Winery & Vineyards, Applicant, John Ashton, Agent, Request Approval of a Master Winegrower's License. The Property is Located in the Turquoise Trail Business Park at 20 Bisbee Court, Suite D Within Section 24, Township 16 North, Range 8 East (Commission District 5)

MS. DANIELS: Madam Chair, in 1991 the Board of County Commissioners granted commercial zoning and development plan approval to the Turquoise Trail Business Park. The approved zoning allows warehouse distribution for spirituous liquor, wine and beer wholesale and the manufacturing of wine and beer.

Simply Classic, Inc. DBA Salud Winery and Vineyards, John and Jennifer Ashton have leased Suite D at 20 Bisbee Court in the Turquoise Trail Business Park to produce and sell wine. In 2007 the applicant will buy grapes from a licensed New Mexico wine grower to produce, bottle and label Salud Winery and Vineyards wine as a boutique wine processed at 20 Bisbee Court.

From 2008 to 2009 and onward the applicants plan to use grapes produced in the vineyard located at 2313 Calle Halcon in Santa Fe and may also continue to buy grapes from outside sources. Hours will be 12 noon to 4:00 Wednesday through Saturday. The two owners will work along with one full-time employee. The applicants state that they are requesting a Master Winegrower's liquor license because they want to buy or produce and sell their own wine at Simply Classic, Inc. DBA Salud Winery and Vineyards.

The request is in accordance with the notice requirements and staff recommends approval to allow manufacturing and distribution of wine through Simply Classic, Inc. at the Turquoise Trail Business Park.

CHAIR VIGIL: Any questions?

COMMISSIONER ANAYA: Is the applicant here?

CHAIR VIGIL: What are the conditions, Ms. Daniels?

MS. DANIELS: There are no conditions.

CHAIR VIGIL: Okay. This is a public hearing. Would anyone like to address the Board of County Commissioners? Seeing, hearing none –

COMMISSIONER ANAYA: So moved.

CHAIR VIGIL: I hear a motion to approve. Is there a second?

COMMISSIONER CAMPOS: Second.

CHAIR VIGIL: Motion and second. I do have a question, Ms. Daniels. It seems that the applicant is wanting to do this between the hours of 2:00 and 4:00 or 12:00 and 4:00.

MS. DANIELS: Twelve noon and 4:00 pm.

CHAIR VIGIL: Is that the wine tasting only?

MS. DANIELS: I think they will have a wine tasting room but it is just basically going to be manufacturing wine, is all they'll be doing there.

CHAIR VIGIL: Okay. Thank you.

COMMISSIONER SULLIVAN: Madam Chair.

CHAIR VIGIL: Commissioner Sullivan.

COMMISSIONER SULLIVAN: Question on that. Does the zoning allow for retail sale of wine or beer?

MS. DANIELS: Madam Chair, Commissioner Sullivan, I believe the zoning does allow that. However, they won't be retailing. There won't be retailing. They will be wholesaling their wine.

COMMISSIONER SULLIVAN: I'm just wondering, the summary says the approved zoning allows warehouse distribution for spirituous liquor, wine and beer, wholesale, and the manufacturing of wine and beer. Now, wine tasting generally is accompanied with the sale of wine, bottled wine. That would be retail sales.

MS. DANIELS: Yes, but they're going to be selling wholesale. Of course the buyer has to taste it. You should all go by there.

COMMISSIONER SULLIVAN: Is there a definition of wholesale and retail in the zoning? What does wholesale mean? Over a certain case amount?

MS. DANIELS: By the case. We'll let him further discuss that.

[Duly sworn, John Ashton testified as follows:]

JOHN ASHTON: John Ashton, 2313 Calle Alto. Madam Chair, Commission, the idea is to sell with the wine tasting and through the New Mexico wine festivals that they have throughout the state. That is our plan. I'm not really sure – it's more retail, I would imagine, than wholesale.

COMMISSIONER SULLIVAN: Thank you, Madam Chair. Could we have some clarification from staff of what the difference between wholesale and retail is?

CHAIR VIGIL: Shelley.

MS. COBAU: Madam Chair, Commissioner Sullivan, regardless of whether

this is retail or wholesale liquor sales in this area, the zoning would allow either. It's a major commercial center in the Turquoise Trail area and we have many new type uses where we have retailers retailing water. We have many other uses in that business park. And this would be a permitted use under major commercial.

COMMISSIONER SULLIVAN: Okay. So what does the word wholesale mean, then? Or is this just not from the zoning? This is from just the staff's interpretation. Because liquor and alcoholic beverages are different than water and they usually have more stringent definitions associated with them. I don't have any personal problem with this gentleman producing wine and wholesaling it and so forth. I don't - I'm concerned that we're not being clear as to what this permission or what this zoning permits or doesn't permit. Unless it permits everything. Having a bar, having go-go dancers or whatever you like. If we say wholesale in the ordinance that means something to me. If we don't say that that means you can just sell liquor or wine and that answers my question.

MS. COBAU: Madam Chair, Commissioner Sullivan, I'm looking for a use list. If you give me just about 30 more seconds I'll find a use list. The County Manager has just pointed out that in the letter from Jan Daniels dated June 15th it states that it's wholesale manufacturing. The zoning allows for wholesale manufacturing. However, in this district it would allow for retail, although this applicant is not - I'm interpreting this for you; you're not proposing retail sales. Is that correct?

MR. ASHTON: For wine tasting, as the Commissioner said, some come and taste the wine. Sometimes they might buy a bottle or two. Sometimes they might not. In my experience, that would be a retail sale. Wholesale sales would be - and a lot of New Mexico wineries generally do it, sell to restaurants, in Albuquerque or Santa Fe. With a master wine grower's license the state allows you to do both. To do a tasting room, manufacture and wholesale. So the majority of the wineries in the state that do wholesale, wholesale to restaurants or Whole Foods or -

COMMISSIONER SULLIVAN: I just want to be fair, if we get a complaint, and this is in my district, by the way, if we get a complaint from someone - as we have from other establishments in the area - late night parties and revelry and so forth, not too far from that location, that we're not granting a variance here, that we're granting a liquor license and that is in accordance with the County's zoning ordinance. And have we found the ordinance? Are we absolutely - can someone recite it?

MS. COBAU: Madam Chair, Commissioner Sullivan, Section 4.3.1 in Article III of our Code has specific uses, guidelines, types of permitted uses in structures in major community commercial or industrial non-residential districts. Item D is retail establishments. Item E is restaurants and bars and Item DD at the very bottom is wholesale warehouse distribution and general industry. So any of those uses would be permitted in this district.

COMMISSIONER SULLIVAN: Notwithstanding what the applicant has applied for. Is that - or are we only approving what the applicant has applied for?

MS. COBAU: We're only approving what the applicant has applied for. However, I believe that if you're selling individual bottles of wine to individuals, that should be

considered retail versus wholesale sales, although I don't believe we have a description of retail versus wholesale in our Code. I think that my personal interpretation as wholesale versus retail is wholesale you buy large amounts for distribution elsewhere. Retail you sell it for an individual at that location.

COMMISSIONER SULLIVAN: And according to the ordinance, if John or Jennifer Ashton so desired, this could be a bar.

MS. COBAU: Yes. However, they haven't applied to have a bar at this location.

COMMISSIONER SULLIVAN: But they don't have to. It's part of the -

MS. COBAU: Well, they would have to come forward with a development plan for a bar and prove that they had parking and everything else to support that use.

COMMISSIONER SULLIVAN: I see. So they have enough parking for -

MS. COBAU: For wholesale distribution.

COMMISSIONER SULLIVAN: They have enough parking for wine tasting and that kind of thing.

MS. COBAU: That's something that we would - has that been clarified?

MR. ASHTON: The state approved it.

COMMISSIONER SULLIVAN: The state approves everything.

MS. COBAU: Commissioner Sullivan, I can't answer that question. I don't know how many people they're planning on having at a wine tasting. If they're having 100 people at a wine tasting event I doubt very much if we have enough parking to support that at that location. I think that as far as the required parking for a wholesale distribution facility is I believe one space for every 250 square feet of building area. So we would have to verify parking criteria in this case.

COMMISSIONER SULLIVAN: Okay. Well, I don't want to do this to that. I'm hearing that this is a wholesale facility and if they wanted something that was different, like a bar, they would have to come back and get a master plan approval, particularly with respect to parking and traffic those typical issues that we deal with.

MS. COBAU: They wouldn't be required to have a master plan approval because they're already got their zoning but they would have to come forward for development plan.

COMMISSIONER SULLIVAN: Development plan. Okay. Thank you, Madam Chair.

CHAIR VIGIL: Okay. Any further discussion? Seeing, hearing none, there is a motion.

The motion to approve BCC LIQ #07-5040 passed by majority [4-1] voice vote with Commissioner Montoya casting the dissenting vote.

- XIII. A. 3. **Ordinance No. 2007-3. An Ordinance Repealing Ordinance Nos. 1996-04, 1997-05, 1998-04, 1999-04, 2002-02, 2000-14, 2001-04, 2001-13 and 2001-14 (The Eldorado Moratorium Ordinances) (2nd Public Hearing)**
4. **Ordinance No. 2007-4. An Ordinance Declaring a Moratorium for Six (6) Month on New Subdivisions, Land Divisions and Master Plans within the Area Served by the Eldorado Area Water and Sanitation District, to Establish Procedures for Review as Necessary of this Ordinance, Providing for Automatic Repeal (2nd Public Hearing)**
5. **Ordinance No. 2007-__ . An Ordinance Restricting the Use of Domestic Wells for Land Divisions and Subdivisions within the Eldorado Area (2nd Public Hearing)**

CHAIR VIGIL: Who will be addressing the Commission on this?

MR. ROSS: Madam Chair, there are a group of staff members who are responsible for these three ordinance and I'll just kind of introduce the three ordinances and turn it over as appropriate to the other staff members, myself, Penny Ellis-Green of the Land Use Department and Steve Wust of the Utility Department are responsible for the drafts that you see in front of you.

The first ordinance, and these are packaged together deliberately. They were published at the same time and they've been proceeding forward at the same time along with one another. The first ordinance, #3 on the agenda is an ordinance that essentially repeals all of the Eldorado Moratorium ordinances. As you recall, the most recent ordinance, 2001-14 has not been repealed. Some of the others have been repealed. As a precaution we propose to repeal all of them if you take this action.

The second ordinance is an ordinance that imposes a moratorium in the area served by the water and sanitation district for six months and six months only, on the conditions specified in there. And the third ordinance is an ordinance restricting use of domestic wells within the area served by the water and sanitation district as specified by the Land Development Code. The three ordinances probably should be considered at the same and as suggested earlier, all the public hearings on the three ordinances can be consolidated, but should you take action on any of these ordinances you should take action on them individually as is our custom.

As far as the three ordinances, the one that probably needs the most explanation, and I'll ask Dr. Wust to provide that, is the item marked XIII. A. 4, which is the ordinance re-imposing a six-month moratorium on certain development within the Eldorado area. Dr. Wust has prepared a presentation that discusses the current state insofar as the County knows it, of the Eldorado Area Water and Sanitation District and its ability to serve its existing customer base and potential new customers that might want to apply for service and apply for approval through the County of certain types of development. Dr. Wust can

provide the latest information, the most up to date information that the County has on this topic.

The first ordinance is rather self-explanatory. It just gets rid of the existing moratorium and the third ordinance is an ordinance that is intended, essentially to protect the wellfields of the water and sanitation district from competition from domestic wells that might serve a development. That's essentially what's before you. Dr. Wust should probably make some comments on item #4. With that I'll stand for questions.

CHAIR VIGIL: Are there any questions of Mr. Ross?

COMMISSIONER MONTOYA: Madam Chair, a clarification, Steve, on #5. On that particular one, isn't it covered under #3, if we enact that one?

MR. ROSS: Madam Chair, Commissioner Montoya, I'm not sure I understand the question.

COMMISSIONER MONTOYA: In other words, isn't it automatically that someone wanting to do a domestic well needs to fall within what's already in the Code?

MR. ROSS: That's correct, but under the Code is a provision that says if you do a hydrologic study you can go below the minimum set by the hydrologic zoning. So for example, if you prove up a well and it proves that it has adequate water, you can go below 12.5 acres in the Fringe Zone and achieve a higher density than 12.5 acres per lot. And this ordinance would restrict that.

COMMISSIONER MONTOYA: Yes. Okay.

COMMISSIONER CAMPOS: Madam Chair.

CHAIR VIGIL: Commissioner.

COMMISSIONER CAMPOS: Mr. Ross, looking at item A. 4, concerning the length of the moratorium, it's been stated that it's six months. Could we, if we wished to tonight, say nine months or 12 months instead of six? In light of the notice given, in light of the language, the way it's drafted in this proposed piece of legislation?

MR. ROSS: Madam Chair, Commissioner Campos, yes.

COMMISSIONER CAMPOS: We have that authority?

MR. ROSS: Yes.

COMMISSIONER CAMPOS: Okay. Thank you, Madam Chair.

CHAIR VIGIL: Any further questions? Dr. Wust, did you have any comments or additional information?

DR. WUST: Madam Chair, just to quickly review the differences with the new moratorium. The current moratorium is quite long and complicated. It sets out a lot of policy and procedural items that the County is required to review and evaluate and this is a simplified version that basically - let me back up. In the meantime, the water and sanitation district, which has taken over the system from Eldorado Utilities is proceeding on several fronts. One is they're drilling a new well. We don't have the results from that, but they're drilling that well. My understanding is they've contracted with Glorieta Geosciences to do a water resource study. So the premise of the new moratorium is to provide a time frame to allow the new developments in the water system to take place, yet

relieve the pressure of development applications trying to hook to the system because as of today, the system is more or less in the same shape it was in when EDU left it. So the well's being drilled but there aren't any new sources yet. There's a water study being done but it hasn't been done yet.

And the water rights issue, we have not gotten information on whether that's been finalized and clarified yet. So the premise of this moratorium is to simplify the matter and just say for six months, no development permit applications proposing to hook on to the Eldorado utility and within that six-month time frame if new information becomes available to the staff and staff will evaluate and come before the Commission and review it for you and suggest to you the implications to this moratorium as we go along. But in any event, it's giving us a six-month time frame to allow these other operations to take place without putting the onus on the County, as it is on the current moratorium to review a whole bunch of procedural items of drilling a well, evaluating the well, whether they're going to hook up and trade water rights to the system in exchange for hooking up and things like that. That's what's all in the moratorium right now.

One other reminder is that if you rescind the current moratorium and don't put a new moratorium on, or if you have this moratorium come in and six months from now it goes away, the area will still fall under the regular Land Use Code requirements just like anyone else in the county.

CHAIR VIGIL: Any questions for Dr. Wust? Seeing, hearing none, this is a public hearing, who out there would like to address the Commission on this item? I see one, two, three four people. Would three minutes for each one of your work? Someone says one minute, then three minutes. Mr. Coppler, is that going to work? Three minutes. Let's just get moving on with the hearings because that probably should have been done a little earlier. So those of you who would like to speak.

PATRICK COUGHLIN: Madam Chair, my name is Patrick Coughlin. I'm a resident of Corrales. Madam Chair, Commissioners, I'm not here to take a stand on whether the moratorium should be lifted or not lifted. It's a matter of science that's beyond my particular area of expertise. I personally don't feel that the County is necessarily responsible for the cause of it, but what I want to address here is what I think is important when we talk about government and individuals. In April of 1996 when the moratorium was initially imposed myself and I believe three other people who had recorded master plans, who had spent a great deal of money on property and the work to get it right to within, in my case, 30 days of approval. Preliminary plat approval. We were told by the then County Commissioner, chairman of the Commission, Javier Gonzales, as well as Steve Kopelman, the County Attorney, that as such time as that moratorium came off that we would be allowed to proceed with our projects intact as they were.

Since then, we've had a situation where the affordable housing element has come on, which frankly will not work in that area. It will be complicated by 12.5-acre parcels if that's what you want to do. And the second thing is the 12.5-acre stipulation. I bought property years back with myself and retirees' money in 2.5-acre configurations at a price

per acre that is substantially higher than what one would pay for 12.5, yet the [inaudible] will not pay. There will be no property even after 11 years of this.

I guess what I really want to talk about here and just briefly mention is that, you know, the way I was raised is a man's word was his bond, and a person's word and their willingness to still with that word determine their honor. And because the Commission as well as the County Attorney gave us their word, and I don't think that simply because you're a new Commission can avoid that honor and that responsibility. So I'm looking at this as a matter of honor. I proceeded in good faith with the County based upon what was told me at that time and I would expect you to be honorable and stay with that. If you choose not to, that something you're going to have to live with. I don't mean to be condemnatory but that's exactly the way it is. A man's word should be his bond and when people rely on someone's word, it should be expected that that word is followed through with. Thank you.

COMMISSIONER ANAYA: Madam Chair.

CHAIR VIGIL: Thank you, Mr. Coughlin. Do you have a question, Commissioner Anaya.

COMMISSIONER ANAYA: Pat, I've got a question. So what would you like to see? The ordinance, the moratorium lifted?

MR. COUGHLIN: I think the moratorium being lifted, Commissioner Anaya, is a matter of science and I don't argue with the position of public safety and welfare at all. There should be proven water to provide those people in that community. I guess my comment would be that I would like to see that for myself and those small number of people - mine's a total of 36 lots that had a recorded master plan approval of 2.5-acre parcels, that we were told at that time that we would be allowed to maintain the integrity of our projects as such time as the moratorium came on and that's not what's being proposed here. And I don't think it's honorable and I think that I would like to see exemption. It's not uncommon at all for projects of my nature to be grandfathered into a new ordinance based on what had been said before.

So I would like to see - I think that would be an honorable approach this and I think the impact, Commissioner Campos - I notice you smiling.

COMMISSIONER CAMPOS: I am. I don't think I have the answer to your questions.

MR. COUGHLIN: I agree with that. I don't know that I'd expect it.

COMMISSIONER CAMPOS: Why don't you just continue?

MR. COUGHLIN: There's really nothing more to say.

CHAIR VIGIL: Thank you, Mr. Coughlin. Do you have any further questions, Commissioner Anaya? Mr. Coppler.

FRANK COPPLER: My name is Frank Coppler. I'm here as the attorney for the Eldorado Area Water and Sanitation District. My address is 645 Don Gaspar Avenue, Santa Fe, New Mexico. The Eldorado Area Water and Sanitation District board has asked me to come here this evening and quickly and concisely explain to you our legal

position with respect to the ordinance item number 4. Having said that, let me mention that the board does not take the position with respect to item number 3, and is in support of item number 5.

With respect to item number 4 the board is very adamantly against that moratorium and I would like to explain to you the reasons why in terms of the history of the formation of the water and sanitation district. Santa Fe County started the discussion of buying the Eldorado water system 20 years ago. That's about when I recollect the first discussions with the County Manager about buying the system. After a lot of discussion and talk about the details, the County declined to buy the system. After that happened, there was a group of citizens who came forth to the County and said, County, would you consider forming a water and sanitation district. Under the Water and Sanitation District Act there's an option whereby counties can form a water and sanitation district. Would you consider forming a water and sanitation district and proceed to talk about buying the system.

At that point the County declined to proceed with forming a water and sanitation district to talk about buying the system. At that point there was a citizen committee formed in Eldorado. They came together. They talked about the alternatives with respect to the ownership of the private water company. At that point they were hoping to live with the situation of the water company being owned as a profit making private enterprise. The intervened in rate proceedings at the PRC with respect to EDU's rates and they were unsuccessful. As a matter of fact, the County intervened in those rates as well. We both were unsuccessful. Basically, EDU got the rates they wanted.

At that point the people of Eldorado formed a committee and put together a petition under the Water and Sanitation District Act and as you know, went to a vote of the people of Eldorado, formed a water and sanitation district and then condemned the system. The people of Eldorado are now paying for the water system and it's owned by a water and sanitation district. The reason I mention that history is because it's important to set a framework with respect to the respective jurisdictions of the County and the water and sanitation district, with respect to operation of the system, which goes to the ordinance in discussion tonight.

Our statutes as I mentioned, 73-21-6-A provides for two methods of forming a water and sanitation district. One, a petition by the County Commission chairman, and in that case the water and sanitation district is a governmental subdivision of the County or a political subdivision of the County. The other way to form a water and sanitation district is by petition of the people in the area, and in that case the water and sanitation district is a governmental subdivision of the state, and that particular language is found in 73-21-9-I, which provides that the district shall be a governmental subdivision of the state.

So we arrived at where we're at today after that bit of history. And basically what we have is the County proposing a moratorium that would be effective inside the district as well as in the area of service of the district. Under the arrangement in the law, the water and sanitation district being a governmental subdivision of the state, not of the County, the County clearly would not have the authority to prohibit a water and sanitation district from

hooking up customers in its boundaries or service area. There's no question about that. It is a governmental subdivision of the state, not of the County.

So given that the County does not have the direct authority to engage in such regulation the question becomes does the County have the authority to indirectly engage in such regulation, as would this proposed ordinance, agenda #4, because basically what that ordinance says is we the County are not going to entertain any one subdivision and zoning application if they come in and propose that the supplier of the water be the Eldorado Area Water and Sanitation District. That's basically what that ordinance says. I would just respectfully submit to you to please think about the legal issue of whether or not the County can indirectly impose a regulation on who can be a customer of the water and sanitation district when it clearly may not do that directly under the Water and Sanitation District Act and the way it was formed.

So in essence, and I don't want to beat the thing to death, but in essence, the ordinance is *ultra vires* of the County's power, beyond the County power, because the water and sanitation district is, with respect to water, on an equal basis as a political subdivision to the County.

Secondly, it violates equal protection under our state and federal constitutions because it prohibits service to some residents and landowners, those who haven't yet hooked up in Eldorado, such as Mr. Coughlin, even though they are paying property taxes to support the district just like all other property owners. The district being a public entity owning and operating a water system has a duty to serve those folks who apply for service and comply with the regulations.

Now, since the district requires that new developments provide wet water and water rights, or a dollar equivalent, and that's in the district regulations, to support a new development, the argument that the commodity is not there to support the development which is the basic argument driving this ordinance is simply not correct on its facts.

So in summary, basically what the supporters of this moratorium ordinance has said is hey, we have to wait until Eldorado drills a new well. Hey, we have to wait for more studies. We have to wait for more storage. We have to wait for more wet water, so the purpose of this ordinance is to wait. Now, that may be true but the ordinance is directed to the wrong governing body. Those issues are vested in state law with the water and sanitation district board. I respectfully suggest that it's not the County to make those decisions. Basically, I am not arguing that you don't have the power to have a moratorium on subdivision and zoning. I'm not making that argument, because you do, but it has to be based on land use law, not on whether or not there's a water availability in Eldorado.

The question of whether water is available in Eldorado is a question that is now lodged in the Eldorado Area Water and Sanitation District board and I very much appreciate your thoughtful attention to our arguments and I'd answer any questions.

CHAIR VIGIL: Any questions?

COMMISSIONER ANAYA: Madam Chair.

CHAIR VIGIL: Commissioner Anaya.

COMMISSIONER ANAYA: Frank, Mr. Coppler, so how do you feel about item 5?

MR. COPPLER: Item 5 is the 12.5-acre requirement?

COMMISSIONER ANAYA: Yes.

MR. COPPLER: The district board as a matter of policy feels that that's a good idea.

COMMISSIONER ANAYA: But the other two?

MR. COPPLER: Madam Chair, Commissioner Anaya, item number 3, the district board takes no position. Item #4, the district board is adamantly opposed to for the reasons that I stated. Item #5, the district board feels is a good policy to be implemented.

COMMISSIONER ANAYA: Thank you.

CHAIR VIGIL: Commissioner Montoya, Commissioner Campos.

COMMISSIONER MONTOYA: Madam Chair, so as I understand it, Frank, is that this policy is to give the Eldorado Water and Sanitation District time to conduct, facilitate, whatever, studies that need to be completed in order to allow the County and our Land Use Department to have a reasonable report, reasonable data to look at before granting any sorts of permits for building. And what you're saying is that this doesn't help in that process.

MR. COPPLER: What I'm saying, Madam Chair, Commissioner, is that determination can only be made by the water and sanitation district board. And it has determined already, through its rules and regulations, that if someone wants to hook up inside the district, the district requires new development to provide wet water and water rights, or a dollar equivalent to support the new development. Those rules and regulations have been established by a board that is set by law to make those decisions. If it would be appropriate to have a moratorium, that issue needs to be decided by the water and sanitation district board.

COMMISSIONER MONTOYA: So they don't feel that there needs to be a moratorium at this point.

MR. COPPLER: That's right. That's right. Because they have those rules and regulations in place.

COMMISSIONER MONTOYA: Already within their -

MR. COPPLER: That's correct. And these landowners that are concerned about the moratorium, they can file their subdivision plans, their zoning plans with the County, they will come to the Eldorado Area Water and Sanitation District and if they comply with the district regulations that I've just discussed then they will be issued a letter promising service in the event the County approves their subdivision. And that subdivision and zoning process, the water and sanitation district board does not have any issue with nor do we wish to interfere with the County's administration of that process.

COMMISSIONER MONTOYA: Okay. Thank you, Madam Chair. Thank you, Frank. It's the first I've hear of this.

CHAIR VIGIL: Before I take anymore questions or anything, I noticed

some people in the audience may not have been in the room when the Commission made the motion to amend the agenda. We will only be hearing items 6 and 12 after these three items that we've heard, so that items 7, 8, 14 and 15 have been tabled until our next land use committee. So those of you who are here for any one of those items – again, they're 7, 8, 14 and 15, we will be hearing those at our next land use committee.

If there are no further questions of Mr. Coppler – are there? Mr. Sullivan.

COMMISSIONER SULLIVAN: Thank you, Ms. Vigil. Mr. Coppler, the County of course has statutory land use responsibility for the entire county for the approval of subdivisions, whether they be inside of water and sanitation districts or not. I think you acknowledged that. I see you're shaking your head so we've gotten that far.

MR. COPPLER: I agree.

COMMISSIONER SULLIVAN: All right. That's a start there. In so doing, the County, as do other counties, has a requirement that the supply indicate a 100-year supply availability. The problem that Santa Fe County has had with the Eldorado water system in either its current or former mode, as well as with other water systems in the past. For example, Entranosa water system in the southern part of the county – have been that they haven't been able to prove a 100-year water supply availability. In the case of Entranosa after some improvements were made my understanding is that they now have proved that and there are now connections being made to that system from County projects.

So my concern is that where the water and sanitation district, and by the way, I think the district is doing a great job in the limited time that it's had since its board has been formed, but where the district requires a monetary reimbursement of an applicant, the money doesn't solve the lack of water of a 100-year water supply. Now, bringing in wet water does. Or bringing in a well that proves a 100-year supply does. But just putting cash on the table doesn't generate any more water. So we're still in the same situation that we have a water system that we don't yet know where its water supply is or what its water supply is, for the long term. So that's a long question. But my concern, and perhaps you can address that is how does providing the water and sanitation district with money get us more water?

MR. COPPLER: Madam Chair, Commissioner Sullivan, I don't quarrel with any of your comments. My basic position is that those issues under the law and the way we've arranged the district, which is an elected board of people in Eldorado subject to all the requirements of the County in a political subdivision. My basic point is that board is the one that makes those decisions. Now, they're elected by the people of Eldorado, like the County Commission is elected by the people of the County. If in fact they make decisions along the lines that you've just suggested, to take money but money doesn't create water. That is part of the political process and they will be held accountable at the next election, just like legislators are for their votes, County Commissioners and school board members for their policy decisions.

I don't quarrel with your rationale, Commissioner. I'm merely here to point out

that that decision is lodged for now in the water and sanitation district board, and it's lodged in the water and sanitation district board because of the history of the way the district was developed. Essentially, Santa Fe County had the opportunity to put into effect a water and sanitation district that could have been a political subdivision of the County under the statutes I cited. Santa Fe County declined to do that. The people of Eldorado came forth with a petition and a vote and went through the process and became a political subdivision of the state. So all I'm saying is I don't argue with anyone's rationale about 100-year water supply, shouldn't take money instead of water, etc., etc. But those arguments need to be addressed to the water and sanitation district board, which is politically accountable to the people in Eldorado.

COMMISSIONER SULLIVAN: Just one other quick question then and we'll move on. I believe our County Attorney has received a letter that you wrote outlining this position and my understanding is he's in disagreement with that position. Just so that's on the record. Were a developer to come to the Eldorado Water and Sanitation District with a development that did not meet the Santa Fe County Land Use Code, what would the water and sanitation district do?

MR. COPPLER: Here's what I've been trying to suggest in this scenario here, this little tug-of-war that we have going between the County and the district. I think a district should respect a County's authority with respect to subdivisions, zoning, land use development, building permitting and all of those items that we've always understood is in your bailiwick. A district should respect that, and I've always advised them to respect that, and I think they do. So should a developer come to the County and they not comply with the Land Use Code - now I know you going to where the 100-year issue is - if they don't comply Land Use Code you have every reason to turn them down, except if you're using that authority in such a way as to circumvent the power of the water and sanitation district to decide whether or not to hook up a water customer. That's my position.

I don't think that you can do by indirection, through a 100-year water supply argument, what you can't do directly with an ordinance that would say, hey, Eldorado Water and Sanitation District, you can't hook up any more customers. That would be a direct way to do what this ordinance is doing, and I don't think the law will countenance if you will, doing indirectly what you cannot do directly.

COMMISSIONER SULLIVAN: Thank you, Madam Chair.

CHAIR VIGIL: Okay. Any further questions? Seeing none, is there anyone else who would like to address the Commission?

[Duly sworn, Mike Bransford testified as follows:]

MIKE BRANSFORD: Madam Chair, Commissioners, my name is Mike Bransford. I live at 344 Zia Road in Santa Fe. I just wanted to address you guys for one minute and let you know how disappointed and discouraged I am about another moratorium coming in after I've waited so long on the first one. I was here 11 years ago next month in this chambers when Chairman Javier Gonzales and Betty Platt looked me right in the eye and told me as soon as this emergency is over we will be quick to lift the

moratorium. That was their words. I believed it. And of course you can see the history. Here I am 11 years later. I'm going to be 60 years old this year. I was 49 when it first got put in. It's discouraging.

And now you're thinking of putting on another moratorium of about six months. That was one year by the way. And then towards the end they extended it, extended and they finally just stopped talking about it. Now they're saying they need more studies. We've waited 11 years. Where have we been? There was no emergency then, in my opinion and there's certainly not an emergency now. I'd like to see the local governments protect our property rights, our personal rights, our civil rights, instead of - I've been robbed of my property rights for 11 years. I haven't been able to do anything. That's discouraging to me.

And what I'm here to ask tonight is that you would reconsider this moratorium. I do want that old moratorium lifted by the way. I don't think it was legal. I don't think anything - it was put in place because of emergency. There hasn't been an emergency for a number of years and I don't think there's anything really holding it in place except inaction. But I would like to ask the Commission, if it seems reasonable or fair or possible, to at least exempt those people that have been waiting ten years or longer with master plans to be exempt from any new moratoriums or any new rules or laws that are existing today - if we could be exempt from those and then put the moratorium on any new subdivisions that come in.

See, if we had known that ten or twelve years ago, we probably wouldn't be here. If someone was to come in now and say, well, there's a moratorium and these are the problems, they would at least be able to plan for that. None of that existed when we first bought our property and when we got our - until the moratorium came in. So that's just my plea, is that you would consider exempting the people that have been waiting over ten years with master plan to be exempt from any new moratoriums or restrictions so that we could move on with our lives. And I thank you for your time.

COMMISSIONER ANAYA: Madam Chair.

CHAIR VIGIL: Commissioner Anaya.

COMMISSIONER ANAYA: Mr. Bransford, how do you feel about the ordinance restricting the use of domestic wells for land division and subdivisions in the Eldorado area?

MR. BRANSFORD: To the 12.5-acre minimum? That seems reasonable to me. That seems reasonable. Our development was looking at five-acre lots, because we always from the beginning had letters of acceptance from the Eldorado Utilities at the time. They gave us letters saying they were willing and able. And of course they did nothing to try to accommodate this Commission, as far as I can tell, to satisfy the conditions that you wanted. I believe that the water board has done far more than they ever have.

COMMISSIONER ANAYA: So if this were to be lifted, can you go about your project?

MR. BRANSFORD: I would hope so.

COMMISSIONER ANAYA: And go to the sanitation district, the Eldorado water district and get your water? Is that what you plan on doing?

MR. BRANSFORD: Well, that's what I would do. I would go up to them and meet their requirements and then come to you guys for the final approval.

COMMISSIONER ANAYA: Thank you, Madam Chair.

CHAIR VIGIL: Any further questions for Mr. Bransford? Seeing none, thank you very much, Mr. Bransford. Is there anyone else that would like to address the Commission on this?

[Duly sworn, Joe Miller testified as follows:]

JOE MILLER: My name's Joe Miller and I live just south of Lamy. It's been 11 years now since there was any new subdivisions approved in that Eldorado area and there's really a shortage of lots out there right now. It's affecting the economy of the area and it's affecting the construction industry in the area. There's a lot of people that live out there that only build one or two houses a year and there are none. They don't have a lot to build on out there, and I think it's time that this moratorium is relieved so some of these subdivisions can go forward and provide some of our lots for the people out there.

I think this thing is a miscarriage of justice. Property owners now for 11 years have been paying increased property taxes on their property and the Commission won't let them use it. It's just simply not fair. Three years ago they raised our taxes 3.5 mills to buy the Eldorado Utilities Company. We're paying taxes now to buy that company and we're paying taxes to operate that company. This Commission will not let us use that water system. It's just not fair to make us pay for something and then prohibit us from using it.

As far as water is concerned out there, anyone who's done any work around there, drilled any wells or anything knows for sure there's plenty of water in the area. I presented the staff with a list of 12 wells that were drilled in that area in the last less than a year and these wells each produce anywhere from 40 to 410 gallons a minute. I myself drilled a well out there between the Chevron station and the Country Store and it tested out that it will produce 300 gallon a minute. And I'm working with the Eldorado Water and Sanitation District to turn that well over to them. We do have water rights that we can also give them. We won't have quite enough but they're willing to give us the water rights in exchange for the well. But if this goes through they'll be prohibited from doing that.

I think that if the County would take some of this information and go over it and use it I think they would realize that it would satisfy all their concerns about the water in that area. And as far as water rights is concerned, the State Engineer recognizes between 985 acre-feet of water and 1018 acre-feet of water that belongs to the Eldorado Water and Sanitation District. Last year, they owned a total of 570 acre-feet of water. So they have anywhere from 415 to 448 extra water rights that they're not using and these they could exchange them for wet water if they were permitted to do so.

Under the present situation we're supposed to be able to drill a well and turn it over to them and prove water and water rights and be able to go forward with it. There are several different owners out there that are in that situation and want to turn their wells over

to the water company. If this ordinance passes it's going to destroy any prospects of EDU securing any new water sources from developers. As far as the ordinance is concerned, the 12-acre - it's probably something that wouldn't affect too many people, but there are some concerns that I have with that one. One of them is the ordinance doesn't really spell out - there's no legal description as to what area this covers. It says, and I quote from the ordinance itself, it says shall apply in the geographic area to be served by EDU or proposed to be served by EDU. That leaves it wide open.

If EDU should happen to propose to serve Canoncito, will they come under this ordinance? And if they propose to serve the Galisteo Preserve, then the Galisteo Preserve would automatically be under this ordinance because it says it covers anybody that they propose to use. We don't know where that ends up.

CHAIR VIGIL: Mr. Miller, how much more time do you need?

MR. MILLER: I don't need much more time but after waiting all those years I think we deserve a little time.

CHAIR VIGIL: Could you kind of go through a summary because I do think that you're repeating some of the points that have been made in our previous hearing.

MR. MILLER: Well, I'll just call it quits. If you've got any questions I'll answer them.

CHAIR VIGIL: Are there questions for Mr. Miller? Seeing, hearing none, would the next speaker please come forward.

[Duly sworn, Fremont Ellis testified as follows:]

FREMONT ELLIS: Madam Chair, my name is Fremont Ellis. I live in San Sebastian Ranch in Santa Fe County.

CHAIR VIGIL: Mr. Ellis, can you be concise on your testimony and not repeat anything that's been said?

MR. ELLIS: Yes, Madam Chair, I'll try to do that and be as succinct as I possibly can. Just to begin with, I don't know if you're aware, it may just be a typo, but in #3 in the agenda on the related ordinance from 2001-12 is not included in the list and I'd like to know if that ordinance also is being suggested to be repealed in this section #3 in the agenda. I have a copy of the Ordinance 2001-12 here.

CHAIR VIGIL: Just hand it to our legal counsel and we'll get -

MR. ELLIS: It's just not on the list on the agenda, so my question for that is just a suggestion that repealing the moratorium include that as well, at least in spirit, if not typographically on the agenda.

CHAIR VIGIL: Okay. Give him some time to look at it and we'll get back with him.

MR. ELLIS: Okay. The next thing I'd like to discuss is the moratorium itself. I've made a few comments about that on different occasions for different purposes. First of all, I'd like you all to know that I'm just a resident of the Santa Fe County and I'm not a property owner in the Eldorado Area Water and Sanitation District, nor am I a developer. I am here strictly as a citizen that's basically interested in what's been going on

in our area for over 30 years as well. I've been a little bit concerned about the moratorium in that for many, many years it's been going on essentially based on some quite deliberate information in 1996. Evidently one of the people who was managing the system didn't turn on a particular valve to transfer water to a tank and the tank ran out and certain numbers of people freaked out and thought that they weren't going to have water for fire suppression, etc.

So to a certain extent, the so-called emergency related to this moratorium started on a false basis. However, back in 1996 we were suffering a drought in this area of New Mexico as well as the western states so both of those items I think are quite valid. As far as I'm concerned I think I'm not particularly interested in developers violate my rights, nor am I interested in violating their rights. There are a number of people that you've already talked to that are developers and they have property or they may be personal property owners in that district and have not been able to do anything with their property.

My concern like anybody else, is somewhat sensible about water issues in the area. There are sections in the ordinance in the County Land Use Code, actually 13 pages worth, that have to do with what developers or well drillers and so forth have to do in order to comply with land use and water use for any development or construction on their particular property. I think you already have a certain amount of protection covered in those issues and those are pretty significant. I will admit that I have been concerned about the growing development that's been going out there. You may not remember but I've mentioned to all the Commissioners before that were not here then that back in 1972 and 1974, when AMREP first started this they originally wanted 25,000 homes out there and they were going to sink a well for almost every lot. And then they wanted to turn it over the City of Santa Fe as an annexation in 1990 to 1995. Well, I don't know if you realize it, some of you do, I'm sure, quite a few of us freaked out and said, hey, wait a minute, where are you going to get all of this water. We've got water rights too. You can't just drain these aquifers for your own purposes because you want to make a lot of money on 25,000 homes. This was before the County was able to put in their ordinance for land use and water use according to the basin zones and those various water district zones.

So luckily, I think we were able to sort of get enough people mobilized that they started restricting their ideas. They realized that they couldn't develop that much without a great deal of problems related to the community as well as the State Engineer's Office, the County and so forth. So I think right now, we're in a place where of course water is still a concern, but you've got a number of ordinances in the County land use code that I have here right now as a matter of fact that already cover a great deal of the issues that you're concerned with in terms of water use. Recently, you also had some conservation issues integrated into the system and I think those are very important as well.

The reason I bring that up is that I'm concerned about water just like everybody else but on the other hand, you can't keep a moratorium in place that's no longer effective, or essentially stabilizing property owners' rights, whether they be developers or personal property owners.

The second thing – so as far as number 3 on the agenda, I would suggest that the original ordinance and moratorium be dropped and eliminated. That's regarding #3 on the agenda. Regarding #4 on the agenda, which I understand is some sort of an extension of six months for the moratorium, which I understand – correct me if I'm wrong, but my understanding about that six-month extension is what you're trying to do is you're trying to get the EAWSD to comply with their promises from three years ago to prove their 100-year water supply.

Now my question is: What the heck is going on? They have had three years to do this and they haven't done it yet. I remember when they proposed to contract with the County as so-called partners on the water system, which they had six or seven paragraphs that could have been amended after the signing, that they promised that they would come to you within two weeks and let you know just exactly how many acre-feet of water rights they had, and they didn't do it. That's almost three years ago.

How many acre-feet of water rights do they actually have now? According to Gerald, he saying they have somewhere around 1100 acre-feet. Well, if they've got 1100 acre-feet why haven't they spent the last three years proving up their 100-year water supply is my question. I think they [inaudible] I think the County's concerned about the 100-year water supply is because you have to apply that Code and that ordinance to anybody else who's going to drill a well for commercial or residential development. Am I correct? So it doesn't really quite make sense to me that you're extending the moratorium for six months, but on the other hand it does make sense. There's some sort of oxymoronic situation going on here.

My feeling is the six-month extension would be okay only if that's the end of it. If that's the end of the moratorium, that six-month extension, regardless of whether these yahoos at the EAWSD prove out their 100-year water supply or not, then that should be the end of the moratorium, regarding #4 on the agenda. Otherwise, it shouldn't really exist.

Now there's an intercoupling weird sort of nuance going on here between #4 and #5, and #5 I'd like to discuss briefly in reference to what Attorney Ross mentioned there. He brought up this 12.5-acre restriction. I'd like to point out that particular restriction already exists in the County Land Use Code in water supply issues, starting on page 88, Section 10. In particular it breaks out the acreage issues related to water use on page 92 of Section 10.

CHAIR VIGIL: Mr. Ellis, could you just summarize at this point?

MR. ELLIS: Yes. What I'm concerned about with that 12.5 acres is what's the point of this ordinance if you already have it in place in the County land use. To me, it sounds like the point of the ordinance was Attorney Ross said that he was encouraging the ordinance so that would be required to protect the sanitation district's competition or firm competition. Well, it's a violation of fair trade practices [inaudible] If somebody for example in the next six months – say they've got ten lots out there at 12.5 acres each and Eldorado sanitation district is refusing to hook up to them, or for some reason because they

haven't proven their 100-year water supply, they can't hook up to Eldorado and they decide to sink a well themselves and turn it into a community well for those lots, they have to prove a 100-year water supply, why wouldn't they be able to do that?

If you put another ordinance of this 12.5 acres, regarding #5 on the agenda on top of the ordinance you already have in place on page 8 [inaudible] prove a 100-year water supply.

CHAIR VIGIL: Thank you, Mr. Ellis.

MR. ELLIS: As far as #5 goes on the agenda, I disagree with it. It's already in place in the County Land Use Code and it's a violation of fair trade practices to put that up in place so the sanitation district gets no competition.

CHAIR VIGIL: Thank you, Mr. Ellis. We appreciate that. I believe that was all, but just in case, is there anyone else there wanting to address the Commission? Okay. At this point in time are there any questions from the Commissioners or staff? Commissioner Campos.

COMMISSIONER CAMPOS: Question for legal. Mr. Coppler made an argument, I think it was essentially jurisdictional. He was saying that they regulate water and we have zoning. He says that they're so different that we are doing indirectly what we can't do directly. Would you address that?

MR. ROSS: Madam Chair, Commissioner Campos, I don't agree necessarily with that argument. I think that for one, the state Subdivision Act requires counties to consider water supply when considering applications for subdivisions and in particular, whether there exists a 100-year water supply, whether it be a district or a city or a private water supply or well or whatever. It's not irrelevant when you have to consider it and in appropriate circumstances, if water isn't available, denying application to a developer for a proposed development, irrespective of who's supplying them with water are jurisdictional questions.

I don't think it would be - I agree with Mr. Coppler in the sense that if we were making these rules as a pretext to subvert the authority of another independent governmental body I would agree. That would be improper. But I think the County Land Use Code and its emphasis, indeed really focus on water supplies, in that we've divided the county into hydrologic zones, we've been very careful to emphasize that density is related to available water supplies, I think that the authority that's being exercised by this body over those developments is legitimate and doesn't infringe on the other political subdivision that we're dealing with, or the City or a mutual domestic water association. All those being quasi-governmental entities.

We routinely send the applications for comments to the State Engineer on applications filed with the City of Santa Fe as a water supply and we uniformly get letters back from the State Engineer giving a negative opinion on those matters, and that's something this Board always considers when those applications come forward. Similarly, applications relying on the County water system suffer the same problem because the County's sole water supply at this point is the City of Santa Fe's water system. Those

things are not irrelevant in their proper basis for you to base decisions on.

COMMISSIONER CAMPOS: So basically what you're saying is state law says based on subdivision statutes and zoning statutes the County has these authorities. These are vested powers of the County.

MR. ROSS: Yes, Madam Chair, Commissioner Campos, I think the Subdivision Act actually requires us to consider water. I don't know how we get around that.

COMMISSIONER CAMPOS: And zoning laws, would that be a separate basis for supporting our authority?

MR. ROSS: Our zoning ordinances are dependent on water for decision making concerning where things can be located and how big things can be and how much water can [inaudible]

COMMISSIONER CAMPOS: I think you're right. Thank you, Madam Chair.

CHAIR VIGIL: Thank you. I do have Commissioner Anaya, then Commissioner Montoya.

COMMISSIONER ANAYA: Madam Chair, I move that we repeal the County ordinance of the Eldorado moratorium ordinance. I don't want to see the six-month moratorium go into place, and I would like to – I would recommend ordinance #5, but I think we need to establish where the Eldorado is. There was not a legal description on that.

COMMISSIONER CAMPOS: Madam Chair, I think we're still in discussion.

CHAIR VIGIL: There is a motion on the floor. Is there a second to that motion? Okay, not hearing a second, perhaps you can reserve it for later. Commissioner Montoya.

COMMISSIONER MONTOYA: Thank you, Madam Chair. Just for clarification, were we going to take each one individually? I thought we were going to do each one individually.

CHAIR VIGIL: We are going to do each one individually.

COMMISSIONER MONTOYA: Okay. Regarding XIII. A. 3, Steve, is 2001-12, should that be included?

MR. ROSS: Madam Chair, Commissioner Montoya, there are actually three ordinances right in a row, 2001-12, 2001-13, 2001-14. Thirteen and 12 are slightly different. Twelve is the same as 14. There are in fact two County ordinances that bear the number 13, which is why I think that 14 came to be. So when we first take a look at this some months ago to draft the ordinance, we disregarded 12 because it was never published as is required by New Mexico statutes. Seven and 14 is really 12, so that's why you see us repealing 2001-13 and 2001-14. Apparently there was some sort of horrible mistake when the ordinances were enacted. 2001-14 we think is in effect; it was properly published. The others are just mistakes.

COMMISSIONER MONTOYA: Okay. So then with that, Madam Chair, I

would move for XIII. A. 3 that we repeal those ordinances that are listed on there.

CHAIR VIGIL: Okay. There's a motion to repeal the ordinances listed in item XIII. A. 3. Is there a second?

COMMISSIONER ANAYA: Second.

CHAIR VIGIL: Motion and second to repeal that. Further discussion?

COMMISSIONER CAMPOS: Madam Chair, I think we really need to discuss items 3 and 4 together, Commissioner Montoya. And I'd like to know what your view is on item 4, the new moratorium.

COMMISSIONER MONTROYA: On item 4 I would be willing to go with the six months, knowing that the six months is a drop-dead period. It's not going to go beyond that. I think these people that already reasonably or unreasonably waited as long as they have for this particular ordinance to have some sort of action taken on it, so I would like to see that the recommendation that is being made here on the six months, that it be six months and that it be drop-dead. It's over after that. That would be my thought on that.

COMMISSIONER CAMPOS: Madam Chair, how do you feel about 4?

CHAIR VIGIL: I would have further questions of staff on that and I guess I'll take the opportunity to do that right now. And let me just direct this to Penny. I think Penny, you've probably had more experience with this community. Or let me direct this to Steve, Dr. Wust. If we do delay any option on this for another six months, how much more information are we going to have? Are we going to be at the same place we are today or not?

DR. WUST: Madam Chair, where we hope to be is, since the water and sanitation district is engaged now in drilling a well and getting a water resource study done, we hope to have that information available. And so we hope to be able to make some kind of evaluation as to the status of the system. As I mentioned before, its status is currently basically what it was when the EDU was there and hopefully the results will come in. Just because a well's being drilled I can tell you as a geologist, until the well is drilled and you test it you really don't know what you have. So we really would like to see that and this time frame will give us an opportunity to maybe get some additional information on an updated status of both the system itself and the water resources because all the statements that are in the original moratorium about the quality and the ability of the system to provide are more or less still there, so this is going to give us an opportunity to get some additional information on that.

CHAIR VIGIL: Okay. And whoever would like to take this next question. I'll just field it. Would it make a difference for us, say, if we lift the moratorium and then a developer wants to come forward, if they go through the process of the Eldorado Water and Sanitation District and they can transfer water rights and do whatever that district is requiring, could we still do a review of the 100-year water supply? How do you see that happening if this is lifted, Penny?

PENNY ELLIS-GREEN (Deputy Land Use Administrator): Madam Chair, under the Land Development Code, if an applicant was to come forward, they would have

to meet Article VII, Section 4, which would require a 100-year water supply. So whether or not there's an Eldorado moratorium, they do need to meet that section of the Code in order to move forward in front of public hearings.

CHAIR VIGIL: Okay. And does staff evaluate that 100-year water supply with regard to density in proposed developments?

MS. ELLIS-GREEN: Madam Chair, yes. The zoning is related to water and staff would send the submittal to both – we would first make sure that all the submittal requirements were made, and they're listed in Article VII, Section 6, and then we would send that to the County Hydrologist for review and the State Engineers to review. If you've submitted all the requirements then you can move forward even with a negative review, but we would bring those negative reviews to you. If you've not submitted the requirements then you would be deemed incomplete and you would not move forward.

CHAIR VIGIL: Okay. And with regard to those property owners who have master plans pre-approved to the moratorium. If in fact those master plans, which are strictly conceptual – first of all, let me ask. Are there any applicants out there who have a preliminary plan or development approval or is it all just master planned? Do we know?

MS. ELLIS-GREEN: Madam Chair, off the top of my head I believe most of them are master plans. They're not at preliminary development plan stage. They have submitted but they don't have approval for preliminary.

CHAIR VIGIL: Okay. How much property would you say that involves, those property owners who have master plans pre-approved? Do you have any idea?

MS. ELLIS-GREEN: Madam Chair, off the top of my head I really don't know and there are numerous projects out there but some of them have developed in 12.5-acre lot developments rather than as master planned as originally.

CHAIR VIGIL: Okay. Does anybody on staff have any idea how many outstanding master plans? Nobody does?

MR. ABEYTA: Madam Chair, if Penny doesn't know then we wouldn't.

CHAIR VIGIL: Then nobody knows. Okay. Penny, I actually think that's all. Thank you.

COMMISSIONER SULLIVAN: Madam Chair.

CHAIR VIGIL: Commissioner Sullivan.

COMMISSIONER SULLIVAN: We've been talking about the 3 and 4, I'd like I think to focus on five first just for this reason. I think there's good support for that ordinance. You've heard it from the water and sanitation district and from some of the other speakers, and I'd have a problem rescinding the ordinance if we didn't have that backup, bearing in mind that it only deals with using domestic wells for subdivisions and if someone comes forward with a water system then they could of course have lots that were smaller than 12.5 acres. In terms of the area, we discussed this. I know Penny worked on this very hard with the staff as to how to define that area and we do have the hydrologic zones that define the area and we do have a fairly good idea of the areas that are proposed to be served and that are served. We considered, the staff considered at one point in time,

describing it as the Eldorado Water and Sanitation District boundary. The problem with that being that they're already serving outside their boundary, so how do you deal with that?

There's no real metes and bounds that you can apply to it, so I think in terms of a reasonable interpretation, we would look each one as it came in and if there were any question as to whether it was in their economical service boundary, and the developer themselves would be making an application, either to do their own water system or to connect in. If they're making an application to connect in, then they're obviously within the potential boundary of the water and sanitation district so that solves that question.

So it's not as perfectly clear as you would like to have it but I think it's certainly workable and it does provide that protection of all those straws in the aquifer that can suddenly come forward with the repeal of this ordinance. So what I'd like to ask the maker to do, if there's not a lot more of this discussion on the #5 is if we could proceed with that and get a vote on that and then move back down the chain to #4 and #3. Does that, Commissioner Montoya, would that work for you?

COMMISSIONER MONTOYA: We could do it that way. We could do #3 first. Quite frankly I think, #5, I'm not sure I support that position being that essentially what we're doing now is saying that if you come in and prove a 100-year water you can't do it, even though you can do it with the existing Code, this is saying you can't do that.

COMMISSIONER SULLIVAN: Well, you can do that if you're a) over 12.5 acres, or b) if you have a non-domestic well water system. If you have a public water system. If you drill a well and comply with the codes for a public water system, which is not that difficult. It just says you can't daisy chain together a lot of these domestic wells to create a subdivision. And that's why I wanted to - I certainly respect you if you're not in favor of it but I wanted to work on that one first because that would affect my decision on #3. If we don't have that backup then I'm really concerned that it's premature to lift the moratorium unless we have that backup for the aquifer out there. That would be my request.

CHAIR VIGIL: Okay. Commissioner Campos.

COMMISSIONER CAMPOS: Madam Chair, I disagree with Commissioner Sullivan. I wouldn't want to start with item #5. I have some real questions about it, I think serious questions that I want to discuss. I would say that we discuss #3 and #4 first. I personally favor the moratorium continuation of six months or longer until there are hydrological studies, evidence that there's adequate water there, and there isn't. What we have is the same condition we had years ago. Nothing has changed. The reasons for the moratorium are still valid and the question raised by Mr. Coughlin, was it honorable for us to continue with this, I would ask him. He's not here, but is it honorable to sell property where there's no water connected to it and there's no real proof of it. I don't think that's honorable. I think that's really the bottom line question.

CHAIR VIGIL: Okay. Any further comments? We do have a motion on the floor, if no further comments. It is a motion to approve item XIII. A. 3. Any further

discussion? We're on item XIII. A. 3, Ordinance, there has been a motion to adopt the Ordinance repealing all the other ordinances, which reflect the Eldorado moratorium ordinances.

The motion to approve Ordinance 2007-3 passed by majority [3-2] roll call vote, with Commissioners Anaya, Montoya and Vigil voting in favor of the motion and Commissioners Sullivan and Campos voting against.

XIII. A. 4. Ordinance No. 2007-4. An Ordinance Declaring a Moratorium for Six (6) Month on New Subdivisions, Land Divisions and Master Plans within the Area Served by the Eldorado Area Water and Sanitation District, to Establish Procedures for Review as Necessary of this Ordinance, Providing for Automatic Repeal (2nd Public Hearing)

COMMISSIONER CAMPOS: Move to adopt.

COMMISSIONER MONTOYA: Second.

CHAIR VIGIL: There's a motion and a second to adopt 13a4, any discussion?

COMMISSIONER ANAYA: Madam Chair.

CHAIR VIGIL: Yes.

COMMISSIONER ANAYA: Were we going to eliminate the master plans from this, the people that had the master plans already? I know that was a discussion.

COMMISSIONER CAMPOS: It's not part of my motion. And that discussion was, Commissioner Anaya, if I remember correctly, a question of exempting certain subdivisions that were in the master plan stage a month or a few months before the moratorium was imposed. Is that what you're addressing your comment to?

COMMISSIONER ANAYA: Madam Chair, is this six-month moratorium - what happens after the six months? Does it just go away?

CHAIR VIGIL: The way it is drafted it provides for an automatic repeal. Do you want to explain that, Mr. Ross?

MR. ROSS: Madam Chair, Commissioner Anaya, the ordinance is only valid for six months. If you wanted to re-impose a moratorium you'd have to have a new ordinance to do so.

COMMISSIONER ANAYA: So it does go away.

MR. ROSS: It does go away.

COMMISSIONER ANAYA: No matter what.

COMMISSIONER CAMPOS: Unless we -

COMMISSIONER ANAYA: Unless we bring it back up.

COMMISSIONER SULLIVAN: It would have to go through the hearing

process again.

MR. ROSS: You'd have to do a new ordinance.

COMMISSIONER SULLIVAN: New hearings.

COMMISSIONER ANAYA: Okay. Thank you, Madam Chair.

CHAIR VIGIL: Any further questions. There is a motion to adopt item

XIII. A. 4

The motion to adopt Ordinance 2007-4 passed by majority [3-2] roll call vote, with Commissioners Campos, Montoya and Sullivan voting in favor and Commissioners Anaya and Vigil voting against.

XIII. A. 5. Ordinance No. 2007-__. An Ordinance Restricting the Use of Domestic Wells for Land Divisions and Subdivisions within the Eldorado Area (2nd Public Hearing)

COMMISSIONER CAMPOS: Move to table.

CHAIR VIGIL: There's a motion to table.

COMMISSIONER MONTOYA: Second.

The motion to table item XIII. A. 5 passed by majority [3-2] roll call vote with Commissioners Anaya, Campos and Montoya voting in favor and Commissioners Sullivan and Vigil voting against.

CHAIR VIGIL: Motion to table passes so item XIII. A. 5 has been tabled.

XIII. A. 6. Ordinance No. 2007-5. Consideration and Possible Enactment of an Ordinance Amending Ordinance Nos. 1996-10 and 1998-15, the Santa Fe County Land Development Code (1996) (as amended). Article III, Subsection 2.3.9b and Article III, Subsection 8.3.8, Relating to the Underground Placement of Utility Lines (2nd Public Hearing) [Exhibit 4: Ordinance Text, "Clean Version"]

CHAIR VIGIL: Who will be taking the presentation for this?

MR. ROSS: Madam Chair, I can handle this one. You should have received yesterday a memo from me in your boxes, and if you don't have a copy of it handy I'll pass them out right now. Does everyone have their memo from yesterday? Why that's relevant is because the ordinance that's in your packet was developed after a meeting with representatives of Public Service Company of New Mexico. Because of the circumstances

under which the meeting occurred and a lot of other factors I won't get into here, we didn't produce for you a line-out strike-out version from the previous ordinance that you looked at in February on this subject.

So better late than never, I prepared one yesterday after it became apparent from conversations of some of you that it was very confusing and you didn't understand what the situation was. What's most relevant here is the clean version on the first page. The clean version is what turns out to be what staff is going to recommend that you consider tonight as an ordinance in this matter and that you essentially disregard the changes that are shown on the second page of the handout at the bottom.

So what this ordinance does is amend that section of the Land Development Code that now requires undergrounding of all electric utility lines. What this ordinance does is separate utility lines for purposes of determining whether they should be placed underground by voltage. Lines that transmit a voltage greater than or equal to 46 kilovolts – these are essentially transmission lines, lines that transmit electricity from one part of the state or area to another part, those under the language that's being recommended to you tonight must be designed and constructed overhead, but at the minimum height necessary for the proposed structure to function properly for public health, as demonstrated by the applicant.

Those lines that transmit voltage below 46 kilovolts, and these are distribution lines – local lines that transmit electricity from a transmission line to your house or down the street, within a development. All those lines must be placed underground. The other recommendation that's going to be made is where there are overhead distribution lines that still exist by virtue of a variance or by virtue of prior approvals, those lines cannot exceed 40 feet in height without a variance.

This changes about ten years of history here at the County concerning the undergrounding of transmission lines. It's from, as I told you in the last hearing by number one, a number of variances that this body has granted for transmission lines and by a position that the staff of the Public Regulation Commission recently has taken that the County's requirement of undergrounding certain transmission lines might not be in the public welfare and might be voided by PRC in some of these pending matters. With that I stand for questions.

COMMISSIONER SULLIVAN: Thank you, Mr. Ross. Are there other questions of staff from the Commission? Seeing none, this is a public hearing. Are there members in the audience who would like to comment on the proposed ordinance regarding the undergrounding of utility lines? One, two, step forward.

[Duly sworn, Jose Varela Lopez testified as follows:]

JOSE VARELA LOPEZ: My name is Jose Varela Lopez and my address is 86 Via de Los Romero in La Cieneguilla.

COMMISSIONER SULLIVAN: Welcome, Commissioner.

MR. VARELA LOPEZ: Thank you. Commissioners, Mr. Chairman, the reason that I wanted to speak is I'm not sure if you guys have an amended version of the

proposed ordinance but my concern was that I believe it was paragraph #2 that spoke to allowing overhead lines for infill development. That was on the original ordinance. And I just wanted to state that the La Cienega/La Cieneguilla Ordinance asks for underground lines and I was hoping that our ordinance language would not be changed by the passage of this ordinance, if that's what the Board chooses to do. I understand that there are existing lines already out there but to add to that infrastructure above ground I think with increased densities happening all the time, it makes for a pretty ugly community.

We do believe that the 46 kV lines and up should be placed overhead as a matter of, like the PRC said, of economics, and I'm just asking your indulgence that the less than 46 kV lines of distribution be allowed to remain underground, even in infill areas, because that's what I would think that traditional communities like La Cienega, La Cieneguilla that have overhead lines would be considered infill. Thank you.

COMMISSIONER SULLIVAN: Thank you, Commissioner. Commissioner Anaya, question.

COMMISSIONER ANAYA: Steve, to answer his question, those lines are going to be placed underground, correct?

MR. ROSS: Madam Chair, Commissioner Anaya, nothing in this proposed ordinance affects the La Cienega ordinance.

COMMISSIONER ANAYA: Okay.

MR. ROSS: That may answer the question right there. The issues in paragraph 2 remain to some extent. We eliminated the word infill because it was confusing but what 2 provides is that if there are two houses side by side and there's a vacant lot in between and the two houses are already served by an overhead line, the ordinance doesn't require the power company to underground the line to the house in the middle. The word in the ordinance is may. Once again that's to require that any such application go the usual route, which means go to the Code administrator, then to the CDRC, then to this Board.

COMMISSIONER ANAYA: Thank you, Madam Chair.

CHAIR VIGIL: Okay. Next speaker, Mr. Gonzales.

[Duly sworn, J.J. Gonzales testified as follows:]

J.J. GONZALES: Madam Chair, members of the Commission, last month I spoke against amending the Code to allow the replacement or rebuilding of the power lines. Since then I have found out that the PRC is requiring that the County amend its Code so it's not going to impose a large rate increase on it's users. I don't have the benefit of the rewritten ordinance but I do have the one that was passed out last month and in my opinion the PRC wants to do something fair for all the ratepayers. In presenting this ordinance it seems to me that they seem to be going a little too far. They take one real expensive rebuild of a line that's required to go underground and that's already extended. In our situation in mentioned the 46 kV lines will be built underground. That was in what I had was paragraph 1. The second paragraph did mention that notwithstanding the previous paragraph and approval of the Code administrator, electric lines that transmit electricity at less than 46 kV may be placed above ground.

So we agree that under 46 kV should be placed underground, but on the next paragraph they say, well, you know, forget paragraph ground, let's allow the rebuild of lines that serve areas where maybe there's other houses that are served by overhead lines, replace those and allow those to be overhead.

In La Cienega we have a lot of lines that I think are at the point where they do have to be rebuilt and there's areas where it's really difficult to get some of those lines replaced and in rebuilding those, I wish they would be able to move them to where there's public easement instead of the private easements that they now use and try to accommodate some of the residents out there and clean up some of the mess that they've had out there for many, many years. I realize that it would be a big expense but I think that overall, over the long period I think the resident out there would be very grateful to see some of the utility poles in different locations or some of those lines replaced and the power put underground. I think with that I've addressed the issues I had here and thank you very much for your consideration.

COMMISSIONER SULLIVAN: Madam Chair, I'll turn it back to you.

CHAIR VIGIL: I'll let you finish this item out because I'm not sure where we were. Please do.

COMMISSIONER SULLIVAN: Okay. Just as an update, the staff memo – do you have a copy of that? Okay. It indicates some changes the staff made on the second page and some other changes that PNM had recommended and staff has suggested that we focus on the first page where it says clean version. That's the staff recommended wording and we've had two individuals who have testified. Is there anyone else who would like to testify with regard to this proposed ordinance. Yes, sir.

[Duly sworn, Carl Dickens testified as follows:]

CARL DICKENS: Carl Dickens, 27347 West Frontage Road, La Cienega. Very quickly, I just wanted to reaffirm that the La Cienega Valley Association supports the two positions that were just expressed. We're really at a point now where we need to have these lines put underground. At our next hearing when we go to the PNM variance I'll provide pictures of where these lines are located and it really is time to do this. So I appreciate your consideration.

COMMISSIONER SULLIVAN: Any others who would like to speak? Seeing none, the hearing is closed. Comments or actions from the Commissioners?

COMMISSIONER MONTOYA: Move for approval.

COMMISSIONER SULLIVAN: What are you moving for approval, Commissioner Montoya?

COMMISSIONER MONTOYA: Of Ordinance 2007-5.

COMMISSIONER SULLIVAN: And are you approving the language identified as clean version on page 1, paragraphs 2 and 3?

COMMISSIONER MONTOYA: Yes.

COMMISSIONER SULLIVAN: Okay, we have a motion. Is there a second?

COMMISSIONER ANAYA: Second.

COMMISSIONER SULLIVAN: Second from Commissioner Anaya.

Discussion?

COMMISSIONER CAMPOS: Mr. Chair.

COMMISSIONER MONTOYA: Commissioner Campos.

COMMISSIONER CAMPOS: I'm not sure I understand the clean version, paragraph 2. It says notwithstanding the previous paragraph, the electric lines transmit at a voltage of less than 46 kilovolts may be placed above ground. Does that mean that the County Commission reserves the discretion to make that determination?

COMMISSIONER SULLIVAN: Mr. Ross.

MR. ROSS: Madam Chair, Commissioner Campos, of course the rule in paragraph one is that distribution lines must be placed underground. So 2 is an exception to that and it's a limiting exception. It describes a situation that I described a little bit earlier where a proposed development could rely on an existing overhead line. The judge of the circumstances under which that would be permitted are of course the Land Use Administrator will make a recommendation to the CDRC, that will make a recommendation to this body in the context of an application for a permit. That's how that would work. So they'll have to convince this body that serving the proposed development from the existing lines is appropriate and meets the language in paragraph 2.

COMMISSIONER CAMPOS: Now, going to paragraph 3, we talked about heights, I believe, shall not be subject to height restrictions placed on other developments pursuant to subsection 8.2, 8.3.2 of the Land Development Code. Is that the 24-foot restriction?

MR. ROSS: That's correct.

COMMISSIONER CAMPOS: So how do you determine height limitations?

MR. ROSS: Well, for a transmission line, the power company is going to have to bring the County an engineering report that will tell us what the minimum height is consistent with the safety of folks below the line. You have to be a certain distance away from such lines for its health risk. Or, if you're talking about a distribution line, 40 feet. A local distribution line, a local electric lines. Unless you can establish your entitlement to a variance.

COMMISSIONER CAMPOS: How does the County evaluate PNM's contention that it should be at a certain height. We don't have anybody on staff that can really say, well, maybe this report is wrong. Maybe what PNM is saying isn't true.

MR. ROSS: Madam Chair, Commissioner Campos, it's like the issues we face with cellular phone towers. We'd have to seek an independent engineering opinion if we disagreed with the report that we receive.

COMMISSIONER CAMPOS: Who's going to pay for that independent engineering report?

MR. ROSS: Well, we'd have to either pay for it or enact an ordinance requiring the applicant to pay for it.

COMMISSIONER CAMPOS: Could we do it here as part of this ordinance?

MR. ROSS: I wouldn't recommend it. I would amend the ordinance later if that's something you'd like to see in there. It's very common in cellular phone ordinances. It's less common in an ordinance like this.

COMMISSIONER CAMPOS: Okay. Now, we talked about - I think you said the PRC had talked about a state statute that gave them authority to tell a county that they could not exercise their zoning powers in relationship to power lines.

MR. ROSS: Mr. Chair, Commissioner Campos, that's correct. There is a state statute that provide a path for the Public Regulation Commission to void undergrounding requirements of local governments.

COMMISSIONER CAMPOS: They have to go through a process, don't they? The law does not prohibit the ordinance, it just gives PRC the authority to make it a ruling.

MR. ROSS: Madam Chair, Commissioner Campos, it's a simple process.

COMMISSIONER CAMPOS: It's a simple process. So you're convinced that PRC would invoke that process.

MR. ROSS: I was concerned because of the affidavits that were submitted in the pending case concerning the Miguel Lujan plat that they were headed that direction.

COMMISSIONER CAMPOS: And the affidavits were submitted by -

MR. ROSS: Staffers of the PRC.

COMMISSIONER CAMPOS: And these staffers were saying that we had an ordinance and that it should be voided?

MR. ROSS: Essentially, yes.

COMMISSIONER CAMPOS: And that's a recommendation that will go to PRC?

MR. ROSS: Right.

COMMISSIONER CAMPOS: Do you know when it will go to PRC?

MR. ROSS: It was going to go to the PRC in connection with this application. Actually the case has been stayed, but as I understand it the hearing was going to have been held in a few days and then the recommendation would have been delivered soon thereafter to the full body.

COMMISSIONER CAMPOS: Are you saying that based on your discussion about a potential change of the ordinance allowed them to take more time?

MR. ROSS: That's correct.

COMMISSIONER CAMPOS: Okay. Thank you, Madam Chair.

COMMISSIONER SULLIVAN: Other questions of staff from the Commission? I have one, Mr. Ross. It seems to me like the last sentence in paragraph 3 would be better in paragraph 2. We start paragraph 3 by saying aboveground electric utility lines that are approved pursuant to this paragraph shall not be subject to height restrictions. And then we go on to talk about voltage greater than or equal to 46 kV. And then at the very end we drop in a sentence about lines less than 46 kV, not exceeding 40 feet in

height. Paragraph 2 talks about lines less than 46 kV that may be above ground. It seems like that would be the place to put where their height should be.

MR. ROSS: Mr. Chair, what we were doing, and I agree with you that either place would be appropriate for that sentence. What we were doing was simply grouping the concepts differently. We were grouping the concepts that talk about height in 3, as opposed to grouping all the sentences that pertain to the voltage in one paragraph. So I think it could go in either paragraph.

COMMISSIONER SULLIVAN: Okay. If you think it's fine I'm not going to fall on my sword over it, it just seems like the first sentence said that they weren't subject to the height restrictions and then the last sentence said, by the way, here's the height restrictions. Okay, are there any other questions?

MR. ROSS: Mr. Chairman, I think you have a point there.

COMMISSIONER SULLIVAN: It's getting late. I'm even convincing the attorney.

COMMISSIONER CAMPOS: Don't fall on your sword, Jack.

MR. ROSS: I think in the interest of clarity it might be where someone might expect to see that sentence.

COMMISSIONER SULLIVAN: That number 2 seems to deal with voltage less than 46 kV and the other one seems to deal with voltage equal to or over 46 kV. So I think that would be a better place if you're comfortable with it. Other questions or comments from staff or from the Commission? Seeing none, I'd move for approval of this.

COMMISSIONER MONTOYA: I've already made a motion.

COMMISSIONER SULLIVAN: Oh, you've already moved it? Okay. Would you accept moving that statement?

COMMISSIONER MONTOYA: I'm sorry. I couldn't - I missed your sentence.

COMMISSIONER SULLIVAN: You missed the sentence? I didn't add a sentence. I recommended that the last sentence in paragraph 3 be moved up to the last sentence of paragraph 2.

COMMISSIONER MONTOYA: Why?

COMMISSIONER SULLIVAN: Well, because it had to do with - paragraph 2 has to do with lines less than 46 kV and that last sentence talks about lines less than 46 kV not exceeding 40 feet in height, and that seemed to be the right place for it because when you start in paragraph 3 the first thing you say is that the above ground electricity lines that are approved pursuant to this paragraph shall not be subject to height restrictions. And then we go on at the end of the paragraph and we enunciate a height restriction. It seemed like it would be better to not have that confusion and put that up into paragraph 2.

MR. ROSS: Mr. Chairman, it is getting late. I just noticed why that's there.

COMMISSIONER SULLIVAN: Okay. You're changing your mind.

MR. ROSS: Take a look at the first sentence of paragraph 3. The reason the

last sentence in that particular paragraph is to make it clear that the 24-foot restriction does not apply, but there's a 40-foot restriction.

COMMISSIONER SULLIVAN: Okay. So the 24-foot restriction doesn't apply, but there is a 40-foot restriction for under 46 kV. Okay, you've convinced me. All right, we have a motion. Did we have a second?

COMMISSIONER MONTOYA: Yes.

COMMISSIONER SULLIVAN: Commissioner Anaya seconded. Further discussion?

The motion to approve Ordinance 2007-5 passed by [4-0] roll call vote with Commissioners Anaya, Campos, Montoya, and Sullivan voting in favor and Chair Vigil abstaining.

CHAIR VIGIL: I'm going to abstain; I didn't hear all the testimony.

- XIII. A. 12. **CDRC Case #V 06-5670 Daniel and Colleen Martinez. Design Ingenuity (Oralynn Guerrerortiz) Agent, Daniel and Colleen Martinez, Applicant Request a Variance of Article III Section 2.3 (Site Planning for Residential Uses) of the Santa Fe County Land Development Code to Allow the Disturbance of 30% Slopes in Order to Allow a Driveway and a Residence on Previously Disturbed Slopes. The Subject Property is Located at 65 C Camino Chupadero (Santa Fe County Road 78), Within Section 6, Township 18 North, Range 10 East (5-Mile EZ, District 1)**

VICENTE ARCHULETA (Review Specialist): Thank you, Madam Chair. On January 18, 2007, the CDRC met and reheard this case due to improper noticing of the December 21, 2006 CDRC meeting. The decision of the CDRC was to recommend approval subject to staff conditions.

Daniel and Colleen Martinez are requesting a variance of Section 2.3 (Site Planning for Residential Uses) to allow disturbances on slopes greater than 30 percent. The applicants have previously disturbed approximately 850 square feet of slopes exceeding 30 percent and propose an additional 3,942 square feet of 30 percent slope disturbance, which will be necessary to construct the driveway which will meet the County's emergency access requirements.

The applicants met with the County Fire Marshal and the planned road grades will not exceed 11 percent and the driveway width is between 15 and 20 feet. The road will serve their planned residence.

Article III, Section 2.3.3a states: "No development sites may occur on a natural slope of thirty percent or greater. Exceptions may be approved by the Code Administrator

for: access corridors, utility corridors, and landscape areas proposed on natural slopes in excess of thirty percent that disturb no more than three separate areas of no more than one thousand square feet each, provided the applicant demonstrates that no alternative development location is available." Therefore a variance is required.

Article II, Section 3.1 states: "Where in the case of proposed development it can be shown that strict compliance with the requirements of the Code would result in extraordinary hardship to the applicant because of unusual topography or other non-self-inflicted conditions, or that these conditions would result in inhibiting the achievement of the purpose of the Code, an applicant may file a written request for a variance. A development review committee may recommend to the Board and the Board may vary, modify or waive the requirements of the Code, and upon adequate proof that compliance with the Code provision at issue will result in an arbitrary and unreasonable taking of property or exact hardship, proof that a variance from the Code will not result in conditions to injurious to health or safety. In arriving at its determination the review committee and the Board shall carefully consider the opinions of any agency requested to review and comment on the variance request. In no event shall a variance, modification or waiver be recommended by a development review committee nor granted by the Board if in doing so the purpose of the Code would be nullified."

Recommendation: After conducting a site visit with the applicants and their agent, staff has determined that the proposed building site is the most suitable location for construction and the impact to terrain and visual impact is minimal. Therefore, staff supports the requested variances. If the decision of the BCC is to recommend approval of the request, staff recommends the following conditions be imposed:

[The conditions are as follows:]

1. Compliance with minimum standards for Terrain Management as per the Environmental Requirements of the Land Development Code
2. Compliance with review comments from the Santa Fe County Fire Marshal. The developer must schedule a final inspection with the Santa Fe County Fire Marshal prior to the approval of the Certificate of Occupancy.
3. A fire protection plan must be reviewed and approved by the County Fire Marshal.
4. ~~The applicants shall submit a boundary survey for administrative approval to be signed by the Land Use Administrator. [Removed at staff report]~~
5. The previously disturbed road shall be re-vegetated.
The applicant shall address all minor redline comments by the County Subdivision Engineer as shown on the plat of survey and terrain management plan. These plans may be picked up from Vicente Archuleta, Development Review Specialist within the Land Use Dept. These plans must be resubmitted with the Mylar prior to recordation.

I'd like to make a clarification on the conditions. Condition #4 has been taken care of so we can delete that condition.

CHAIR VIGIL: Okay.

MR. ARCHULETA: Thank you, Madam Chair.

CHAIR VIGIL: Any questions for Mr. Archuleta? Seeing none – Commissioner Sullivan.

COMMISSIONER SULLIVAN: Thank you, Ms. Vigil. Could you explain why this is a non-self-inflicted condition? I understand this was as a result of a family transfer and also apparently a poor survey that didn't help the case any. But why did you determine it was non-self-inflicted? What's the topographic or physical things that provide no alternatives here?

MR. ARCHULETA: Madam Chair, Commissioner Sullivan, the property is basically all – well, it has a lot of 30 percent slope. The only buildable area was down where they had previously disturbed the property. As far as that would be the only logical place to build on this property to meet the setback requirements from the arroyo and to meet the less that – that would be the most minimal place to disturb.

COMMISSIONER SULLIVAN: And apparently there's no – the County has no proof of a legal lot of record here.

MR. ARCHULETA: Madam Chair, Commissioner Sullivan, we did prove legal lot of record. So it is a legal lot of record.

COMMISSIONER SULLIVAN: By getting a new survey or you found an old one?

MR. ARCHULETA: No, we found an old one that showed the property as being – it was signed off by the Land Use Administrator in – the Land Use Administrator at the time was Tom Wilson, in 1983.

COMMISSIONER SULLIVAN: Okay. Thank you, Madam Chair.

CHAIR VIGIL: Are there any further questions? If not, is the applicant here? Ms. Guerrerortiz, welcome.

[Duly sworn, Orallynn Guerrerortiz testified as follows:]

ORALYNN GUERRERORTIZ: Thank you so much for sticking around for this. I'm Orallynn Guerrerortiz with Design Engenuity, P.O. Box 758, Santa Fe, New Mexico. Thank you I have with me today Daniel Martinez and his fiancée Colleen, and in the back are his parents, Tony and Dan, also Martinez.

This young couple purchased land that the family has actually owned since the 1800s. The grandfather, in 1981, divided the parcel up into four tracts, and in 1981 there were no terrain management standards. They actually owned this lot back here. Access is from Camino Chupadero. There's an existing driveway. That is where their existing house is. Their driveway has to cross some 30 percent slopes, an arroyo, to get to the only buildable site. That's why it's a situation where it's not because it's anything that the applicant did; it's a terrain situation that exists because in 1981 there were no rules with regards to terrain. They didn't consider it as an issue.

We're asking for approval today to build this driveway and we've already worked with the Fire Marshal. We've got Fire Marshal support and County Land Use support. We've also got an Army Corps of Engineers permit. I think you're going to hear today that

there's an issue with a neighbor. I don't want to go into the detail about who said what but I would address some technical issues. There's a statement in the letter saying that there's an eight-foot culvert crossing, that they would see an eight-foot rise in the arroyo. There's actually a 36-inch culvert, with eight inches of subgrade and then six inches of basecourse. That's the minimum that I would do as a professional engineer. It's a total of 5.1 feet from their view, which is this side over here. So there is no such thing as an eight-foot crossing.

It has been suggested to me that I could design something differently that would have a lower crossing and it's true. Instead of using 36-inch culverts I could have used 24-inch culverts, but that would have meant also is a longer roadway. Which as you'll see this road is at 11 percent the entire way. So if I even drop it a foot, the roadway gets longer.

CHAIR VIGIL: Ms. Guerrerortiz, do your clients agree with the conditions?

MS. GUERRERORTIZ: Yes.

CHAIR VIGIL: The terms and conditions? Okay. Since this is a public hearing and we do have a recommendation from staff, can I take testimony from the public?

MS. GUERRERORTIZ: Yes.

CHAIR VIGIL: Okay. Thank you. Is there anyone out there who would like to address the Commission? Are you in favor or in opposition? Okay. Let's go ahead and start with those in opposition. I see two people. If you would make your statements and keep them brief, and please not repeat each other.

[Duly sworn, Michael Bosbonis testified as follows:]

MICHAEL BOSBONIS: My name is Michael Bosbonis. I live at 11 Bonito Road in Santa Fe. First I'd like to say I have no opposition about their building site of their house. Essentially, it's the road issue. Of course, when the grandfather divided the property in 1981 in the survey that was done, it said on the survey in writing, easement as shown, on the survey. I even contacted the person who did the survey. He said to me, well, no, the road isn't noted on the plat but there's the road up there. There's a physical road which connects all these properties together. But of course that's what will be used. I'm speaking on behalf because it's my wife's property.

Ten years ago when we looked at trying to develop this land we got in contact with Paul Kavanaugh, who came out to the land, walked the land with us and said, of course, the road here is the road that accesses all this property. Over time, that road has come into disrepair. With the information that Paul Kavanaugh gave us, saying that it's logical to use the existing road. When I mentioned to him nowhere on these plats the road was indicated, he said that a problem with a lot of the land up there, and also the way these plats were registered in the County, sometimes things were overlooked. But again, it was stated to us, there's access up here; who wouldn't use what's already there?

Time went by. When we heard that the Martinezes were in the process of trying to develop their land we got in touch with them. We met with them to discuss the access to all the properties. Our concern was that since the original property, when it was cut up, there was no - what should I say? thought put into where the actual property lines were on

the terrain. We tried to discuss with the Martinezes on how we could develop the property and put a road in. We could not meet eye to eye on a few issues. What I suggested was to get the County involved. Use them as a mediator to present to us what would be the best access to the land. That would be the minimal impact, the maximum advantage, which again, Mr. Martinez did not want to meet with the County.

At that time we submitted an application, a development permit, and what we were told, because Paul Kavanaugh was aware of the road I was talking about, said that the project description would be repair of an existing road. I need to refer to my notes for one second please. We submitted a building application. I told Paul Kavanaugh that Mr. Martinez was in the process of trying to get a permit too. I was told when his permit came across the County desk they would realize that we're all talking about the same land, then he could hopefully get us together, mediate it, to give us the best access to this land.

Two weeks later, three weeks later - I'm not sure of the exact time - Paul Kavanaugh calls us up, saying, hey, what are doing developing the land out there? I go what are you talking about? It's not us. He just goes, hey, a road's been bulldozed. I said, hey, it's not me. What I found out afterwards, and you'll have, when Alfonso Romero comes up, he can state to you in regards to how the land got excavated and then after that, a notice of violation and being red-tagged because all the work that was being done was done illegally.

Now, what's frustrating for myself is, prior to this, I was in conversation with many of the landowners there, adjacent landowners, my wife, her family - everyone was saying they remembered a road that wraps through all these properties back to the arroyo and back. All of a sudden you hear now, there is no road. There was never a road. Nothing was ever done. Now, there was an ordinance which I guess was Article III, Section 2.3.3.a that as long as it can be proved that there's no alternate site available - there is. There always was. Now, the road that was illegally bulldozed up there over a couple of weekends, yes, it accesses the Martinezes property, but if you physically go up and look at the land you will see that the route he chose goes within 10 to 12 feet of an existing house up there, versus going down the older existing road, which turns away from the property.

CHAIR VIGIL: Could you summarize?

MR. BOSBONIS: Okay. My summary, our concerns in the summary is not only was the excavation done illegally, now it's being presented and the wording disturbs me, as previously disturbed land. It was disturbed by the person who got red-flagged on it. The wording is like, oh, it's already disturbed; why can't we just finish the road there?

Second, not only myself do I have an application in process here which was submitted before the Martinezes submitted their application, in regards to the road that my wife is trying to get down to her property, the Martinezes have their permit and it touches, again, all three lots are together. So each permit which is an application process, overlaps each other. And the third one, because Mr. Martinez came up and even after he was asked, and again, Alfonso Romero will clarify this, that he was asked, are you permitted? Is this

legal? Is everything right? He was assured yes. Because Mr. Romero did not want to do anything illegally. Over the next couple of weekends, not only Mr. Martinez bulldozed down countless trees, going down to his property, he excavated Mr. Romero's land, and now Mr. Romero has been served a notice of violation because of the work that was done on his land under the pretense that it was all legal.

What I would like to see is, one, since all three permits on each one of the applications affects every other property, so I believe just looking at one permit and how - again, I feel like I did this legally, was trying to do it correctly. Somebody comes up on a weekend, does it, gets caught, then tries to do it legally, which also causes somebody else to be in violation - could all three permits and all this property be looked at at once. Go back to the existing road that was there historically when this land was cut up there was a road there. But for whatever reasons, no one wants to acknowledge that existing road. Prior to that, I had people from the County, excavators, saying that this is the best way to go, and I'm going to say, even the Martinez' engineer, when I spoke to her on the phone, agreed to me that that's the best way to go. But her client did not want to go that way. He wanted to go the other way.

And just to finish. Last thing is that the culvert crossing at eight feet, and hopefully the letter which I sent to Vicente is in there, that eight-foot mark I got directly off the blueprints that were in the County office and that was pointed out to me by Vicente.

CHAIR VIGIL: Thank you, Mr. Bosbonis. Are there any questions of his testimony? Commissioner Sullivan.

COMMISSIONER SULLIVAN: Where is your property?

MS. BOSBONIS: Our property is directly east of the Martinez' property. And if I could just say one more statement. Working in a small community, being neighborly, working with your neighbors up there, I've really disappointed with how this evolved. It seems as though somebody is on their own agenda without any other considerations to their neighbors and I would like to be able, in 50 years from now, when our children look at what we've done, is to be - what should I say? happy for what we've done. That we were stewards of the land, not haphazardly going up there, carving up all these roads with no thought for anyone else. Thank you.

COMMISSIONER SULLIVAN: So you have an application in for another driveway to the east of the Martinezes?

MR. BOSBONIS: Yes, which was applied before, because I was - once the conversations and the discussion with Mr. Martinez fell apart, I followed Mr. Kavanaugh's direction that says, hey, file your permit, you development application, which we filed -

COMMISSIONER SULLIVAN: Is there some reason to think that that won't get approved?

MR. BOSBONIS: Well, during this application, another thing that was found out, and again, it was due to the boundaries and roads up there which kind of mysteriously are there and not there, it was found out that there were some easement issues which myself, I took the initiative to get in touch with the neighbors to legally register or

record the proper easements for the property. Even though the road was physically there, it touched on to adjacent property that legally we had to record an easement to take care of all that. It has been done.

COMMISSIONER SULLIVAN: You're talking about your property.

MR. BOSBONIS: Yes. For our property.

COMMISSIONER SULLIVAN: Let me go ahead. So you were hopeful that you could work together with the Martinezes and get a road that would be environmentally proper and that you could both use. Is that what you're were suggesting?

MR. BOSBONIS: Yes. Not only could we both use, and also when it was going in the discussion is any other funds or whatever money that we would need to pony up to make this fair, that there wasn't a problem with that. But not only for our land, again, there's another lot down there too, so rather than see multiple roads being carved in there, for one road to benefit the majority of the people, least impact, and just environmentally smart.

COMMISSIONER SULLIVAN: Okay. But that didn't happen. They didn't agree. The Martinezes didn't agree and they went ahead and -

MR. BOSBONIS: And I have to say - we were hoping, and Mr. Kavanaugh said that when Mr. Martinez' application comes across his desk, because I gave him the heads-up on it, when he sees that he would hopefully get us together, mediate, come to a sensible agreement, which Mr. Kavanaugh said the existing road is what we want to use. We don't want to carve up any more roads. So when all the damage was done illegally, and then he got red-flagged, and Mr. Kavanaugh says to us, why didn't you call us before the damage was done? It's a lot harder putting it back after it's been torn up.

COMMISSIONER SULLIVAN: Okay. Thank you.

CHAIR VIGIL: Any other questions? Thank you. Would you please come forward and state your name.

[Duly sworn, Alfonso Romero testified as follows:]

ALFONSO ROMERO: My name is Alfonso Romero, 65-B Camino Chupadero. First of all, I just want to point out that I own the land that's right below Danny and Colleen. So my land is the square, and then right up on top you have their two pieces of land. My land is basically going to be used as everybody's driveway, which I don't like very much, but what choice do I have? The area where everybody wants to build a road impacts me the greatest. I stand to lose the most amount of property, the most amount of land. The area where my kids would normally play, my two little girls - pretty much all gone now because now it's their driveway. Daniel and Colleen, they want to build their road to the left hand side. Lauren and Michael want to build their road to the right hand side. I'm stuck in the middle.

I don't have a problem with Daniel and Colleen or Lauren and Michael. They both have that right to live where they want to live, to have a place to go. They need the access that they need to get to their properties. My only thing is - and Danny has worked with me a lot. So has Michael. They've both been very cooperative with me. They've both done

everything that they could do to help me with the situation I have with the land that I'm losing that they're gaining as their driveways to get to their land. All I've ever wanted was for all three of us to get along. They're going to be my neighbors. I don't want to have a hassle with them or with them. I want it to just be so that we respect each other. We cooperate with each other. We all get what we need. They get a road to their land. They get a road to their land.

My question is, why can't both of them work it out so that there's just one road to access both of their properties? Why does it have to be such a big deal and such a big issue? They're driving through my land being basically split down the middle as a driveway and that's really my main concern.

CHAIR VIGIL: Thank you, Mr. Romero. Are there any questions?

COMMISSIONER SULLIVAN: Madam Chair.

CHAIR VIGIL: Commissioner Sullivan.

COMMISSIONER SULLIVAN: If I could just get a clarification. You may not have this Mr. Romero, but could you come here a second?

CHAIR VIGIL: Or maybe you could turn the map around there and you can describe so everyone can see what your question is. I think that map is the same.

COMMISSIONER SULLIVAN: You don't front on Camino Chupadero? You're back further.

MR. ROMERO: I'm right in front of them. They have to go through my land to get to theirs.

COMMISSIONER SULLIVAN: You're where the brown house is on the photo here. Is that correct?

MR. ROMERO: My I show you?

COMMISSIONER SULLIVAN: Sure. You'll need to get back to the mike. So down Camino Chupadero, on the map that we have, just below it, it shows an existing driveway. You have to go left with your hand. Keep going. Follow the road. Now, go down the map. Right there. It shows on the map as an existing driveway. Is that an existing driveway?

MR. ROMERO: This right here?

COMMISSIONER SULLIVAN: No, down where I told you to point. Right there.

MR. ROMERO: No.

COMMISSIONER SULLIVAN: It shows on our map as an existing driveway.

MR. ROMERO: There's nothing here. This is Camino Chupadero.

COMMISSIONER SULLIVAN: Let me ask Ms. Guerrerortiz.

MS. GUERRERORTIZ: There's an arrow pointing to the existing driveway.

COMMISSIONER SULLIVAN: Oh. So that's not an existing driveway.

MS. GUERRERORTIZ: Well, there is an existing driveway but there's an arrow.

COMMISSIONER SULLIVAN: Oh, but it's the arrow pointing to that other one. Okay. So your issue, Mr. Romero, is that you would rather they turn right instead of turning left.

MR. ROMERO: Well, this bottom part, of course that's the first tract of land. That's Tract B. then you keep on going to the next tract where my house is. That's Tract C. What I would prefer, what I've always preferred is that they just all go the same way. Of course to the right would benefit me the most because they're away from my house. It gives me my yard back. My kids have a safe place to play instead of on a road. For me, ideally, that would be the best.

COMMISSIONER SULLIVAN: But that's probably steeper, right? To go that way?

MR. ROMERO: No.

COMMISSIONER SULLIVAN: To get down through the arroyo?

MR. ROMERO: No, this actually to the left is steeper. To the right is not as steep. Because there's an existing road here already.

COMMISSIONER SULLIVAN: But that goes on to the other gentleman's land, correct?

MR. ROMERO: Out to Mr. Bosbonis' land? Yes.

COMMISSIONER SULLIVAN: Yes. Okay. So that's the issue is that we can't get everybody together here.

MR. ROMERO: That's the problem. That's exactly right. So that's one of the reasons I've been working with Danny. Danny's been working with me and we kind of decided, okay, what's the best way - for me to go to the left-hand side here, what's the best way to do it to impact my land and my house the least bit? He's worked with me, he's cooperated, as the Bosbonises have, but that's just been my issue, because you can see, here's my land and there's a road going right through that whole section becomes road and not really anything useful anymore. Where my kids used to have to play -

COMMISSIONER SULLIVAN: I think I understand. Thank you. Thank you, Madam Chair.

CHAIR VIGIL: Any further questions for Mr. Romero? Seeing none, Ms. Guerrerortiz, did you want to respond? You can take the podium but please do not say anything that's already been said. Okay?

[Duly sworn, Gloria Romero Bosbonis testified as follows:]

GLORIA ROMERO BOSBONIS: What I have to say is when we were going through all this, I just thought we could all be neighborly and do this because I didn't want to see a road going through Alfonso's. The road is right in the back of his little girl's room. We even talked to Frank Trujillo to get access to go a little bit on his road and he said yes. And [inaudible] he asked Michael, can I have access to go through your road if I want to, and I said, yes. We're all neighbors here. Let's get along. And we talked to Danny and Michael talked to Danny, Danny said he didn't want to share the road with Mr. Trujillo. He goes, I don't want to share it with no one. If I can have my house here by

myself this is where I'd have it. Because he wanted to cut through my land first to take all my [inaudible] And I was going to agree with, but Michael told me, no way. He's going to ruin your land. And we did talk to how our lawyer, Collin Hallmark, and Collin said thank God Michael stopped you from doing that because that would have ruined your land [inaudible] to buy your land because the property value would have gone down.

And a last thing is, let's get along. That road was already there to begin with, to go that way. Again, Danny did not want to share this with Mr. Trujillo and I don't know why. He just wanted to - he did it all on his own. He wanted to take control and make it for himself and it's all for himself, not for the neighborhood, not for any of us. Just for Danny and his fiancée. And that's all I have to say.

CHAIR VIGIL: Thank you. Okay, Oralynn, you wanted some rebuttal on this I believe.

MS. GUERRERORTIZ: Yes. I'll try to stick to the facts. Shortly after Daniel bought his property from his uncle about 18 months ago, his neighbor, Michael Bosbonis approached Daniel about constructing a shared driveway to serve both of their lots. Based on verbal agreements they thought they had, the Martinezes had engineering plans prepared and easement agreements prepared. The Martinezes spent thousands of dollars and were delayed for months. In the end, Mr. Bosbonis told Daniel he did not want so many trees removed to build the driveway and the deal fell apart. After months of trying to develop a road to serve them both, Daniel gave up. He doesn't have easements to Michael Bosbonis' property. There's been a lot of statements made about what Paul Kavanaugh said. I've asked Paul Kavanaugh and he doesn't recall these statements. He's not here to say one way or the other, unfortunately, but according to Paul, he doesn't recall these statements that have been made.

Mr. Bosbonis has implied that he can build a driveway that can serve them all. He might be able to do that but that's far from being proven. His application for a driveway construction permit was submitted in May of last year, almost a year ago. His plans did not call for crossing the arroyo and therefore do not get to the only building site that the Martinezes have on their property. He did not submit topo, a slope analysis or engineering plans. It is the staff's opinion that those things are required. It's not redevelopment of an existing road. They've told Mr. Bosbonis that since he submitted in May that his application is incomplete and he has yet to do anything about it.

I can't evaluate it. I can only go out there and look at it. To me it looks like if he tried to develop the driveway that Mr. Bosbonis has proposed, he'll be before you requesting variances. It's not a straightforward design. It is more than 11 percent grade. I've been to the site and that's my professional opinion.

Yes, Daniel did work on the driveway before he had a permit. That's why we're before you. The County did red-tag him and he came in and he hired me and we've gone through this process diligently and been working on it for months. Staff is recommending approval, as is the Fire Marshal. The Martinezes have already tried for several months to work out a deal, an agreement with Mr. Bosbonis and they could not. Their offer included

paying for the engineering plans and paying for the legal documents and paying for the road construction. Mr. Bosbonis has only created delays for the Martinezes. They want to get their family home started. They're going to be married next month. They respectfully request granting of this variance.

CHAIR VIGIL: Ms. Guerrerortiz, would you address the statement that their alternative site is available?

MS. GUERRERORTIZ: There's no alternative building site on the Martinezes' property. You have to get to that building site. They do not own any easements other than their property. They don't own an easement on Mr. Bosbonis' property. So they don't have an alternative at this point.

CHAIR VIGIL: Okay. Thank you. Any further questions? Commissioner Sullivan.

COMMISSIONER SULLIVAN: Oralynn, what was the problem with the road that would get down - looks like an existing road rather than cutting a new one?

MS. GUERRERORTIZ: This one? It's an existing scar that I understood was probably part of a trail that ultimately went over the Glorieta Pass. I think I was told it was an old family trail. It's well over 11 percent. It's too short. You couldn't follow that scar. You'd have to extend it to make it longer.

COMMISSIONER SULLIVAN: So you're recommending - could you point out on the map there the building site?

MS. GUERRERORTIZ: The building site is over here.

COMMISSIONER SULLIVAN: Okay. So you're recommending curling up through the trees, starting with Mr. Romero's house.

MS. GUERRERORTIZ: Yes. We're going this way.

COMMISSIONER SULLIVAN: Going up through the trees. You have to take out those trees up there and hooking around and then crossing the arroyo, and then going over to the site.

MS. GUERRERORTIZ: Right.

COMMISSIONER SULLIVAN: It seems like that's almost the same distance as if you looped down to the south and crossed the arroyo.

MS. GUERRERORTIZ: The existing roadbed though is not - it's going down to the arroyo, as opposed to this is more about six foot, five foot, right in here. And so it's going to be built up quite a bit more. You wouldn't be able to use that existing roadbed.

COMMISSIONER SULLIVAN: Just seems like that would be further away from Mr. Romero's house. It wouldn't encroach on Mr. Bosbonis' property.

MS. GUERRERORTIZ: This scar is all on Mr. Bosbonis' property. And Mr. Martinez does not have an easement on Mr. Bosbonis' property.

COMMISSIONER SULLIVAN: Okay. I see the line now.

MS. GUERRERORTIZ: That's the property line right there. So he's building his road fully on his own property so that he doesn't require any easements from

his neighbor.

COMMISSIONER SULLIVAN: Thank you.

CHAIR VIGIL: Any further questions? Okay. This is a public hearing. I will allow just one minute for you sir, if you want to address, and one minute for you. It is now five after 11 o'clock and we have been in session since 1:00 this afternoon. It will almost be 12 hours that we will have been hearing testimony. Would you please state your name and address for the record.

[Duly sworn, Frank Trujillo testified as follows:]

FRANK TRUJILLO: My name is Frank Trujillo. My address is 62 Camino Chupadero. In reference to that road that they're saying - this is Alfonso's house. That road has been in existence for way over 40 years. It is in disrepair at the bottom down here but it has been there for over 40 years at least. I own the property just east of Michael's and we used to use it in the late 60s, early 70s, somewhere around there. So that road has been in existence for quite a long time.

CHAIR VIGIL: Thank you, Mr. Trujillo. We appreciate that. You wanted to address the Commission?

[Duly sworn, Robert Duran testified as follows:]

ROBERT DURAN: My name is Robert Duran. I'm from Chupadero, 69 Camino Chupadero. I've lived in Chupadero all my life. My house or my property is west of the property in question, and yes, that road has been there forever. We used it all the time. We always used it to go back to that arroyo and pull sand and rocks from it. So I'm here to testify that road is a usable and was a usable road for all of us all this time.

CHAIR VIGIL: Thank you, Mr. Duran. I think we've heard enough testimony. Does the Commission feel they have or would they like to hear further?

COMMISSIONER SULLIVAN: Commissioner Montoya should hear some more testimony.

CHAIR VIGIL: Commissioner Montoya, are you wishing you could hear from the applicant? If you could keep it brief.

[Duly sworn, Colleen Wilson testified as follows:]

COLLEEN WILSON: My name is Colleen Wilson, 4313 Camino Lila, Santa Fe, 87507. My one issue with what Mr. Bosbonis says, he does not want us to use this. He wanted us to go into another man's property back in to save all of his area. He did not want us to use this. Thank you.

CHAIR VIGIL: Thank you, Colleen. It's pretty clear that there was no understanding between the two parties. Okay, this is a public hearing. I do believe everybody has spoken as requested. I'm going to go ahead and close the public hearing and ask the Commission what their pleasure is or if they have any questions.

COMMISSIONER MONTOYA: Madam Chair, I'd like to ask Steve. In terms of this - how does this work? There's a bunch of parcels contiguous and in terms of easement.

MR. ROSS: Madam Chair, Commissioner Montoya, one of the things I was

just asking the involved parties was where is the easement? And I was shown a plat, but I understand at least a portion of the roadway is not going to follow the easement. That raises concerns for me. One of the things I would like to understand, and I don't, is where the easement is and whether this proposed driveway follows an easement. Because if it doesn't, I'd be concerned that this body not permit somebody to essentially trespass on somebody else's property. So that's something I'm not clear on at all yet at this point.

COMMISSIONER MONTOYA: Can the applicant address that?

CHAIR VIGIL: You know, Oralynn, that question has been made of you. Do you want to take the microphone with you as you speak to that? Could you explain that as Commissioner Montoya asked.

MS. GUERRERORTIZ: I've got a copy of a plat I could bring up here showing access easement from Chupadero, and this is the lot that the Martinezes own. And this is the easement. It's been dedicated.

CHAIR VIGIL: And what is this?

MS. GUERRERORTIZ: I don't know. I'm seeing it for the first time so I'm actually hesitant to show it to you because I haven't figured it out yet. Unless [inaudible] It doesn't really show what we need to show.

CHAIR VIGIL: Mr. Ross, do you – does that quick response satisfy your easement question?

MR. ROSS: Madam Chair, I've now seen two plats and they're not the same. I don't have – I have not looked at the easement. I was only concerned because I didn't see any of that information in the packet and I asked Vicente about it, then I asked the applicant about it. Now I've seen two different plats. I haven't studied it. I can't pass judgment on whether there's an easement there or not or whether this proposed driveway is on the easement, but I think we need to figure that out.

CHAIR VIGIL: That was the plat that we turned in as part of the application.

CHAIR VIGIL: Public hearing is closed.

COMMISSIONER MONTOYA: Madam Chair, Vicente, what's your – you're the lead staff on this, right?

Av: Madam Chair, Commissioner Montoya, I have a boundary survey. I didn't include it in the packet because this doesn't prove legal lot of record. The actual plat that was signed by Tom Wilson in 1988 I believe, or 1981. 1988, I believe it was, is what we used as our legal document. But I do have a boundary survey that was done and notarized in 2006 that does show a 25-foot access easement. I didn't show this one to Mr. Ross, but I do have a copy if he'd like to take a look at it.

CHAIR VIGIL: Feel free to show it to him. Is it the same copy we're looking at up here that shows the easement all the way to the Martinezes' property?

MR. ARCHULETA: That's correct.

COMMISSIONER MONTOYA: Is that the same as this one? It is? So this is the easement here?

CHAIR VIGIL: Staff, do you need more time to authenticate these easements? Because it seems like the maps actually identify them. Maybe the next step is authentication. I'm not sure.

MR. ROSS: Vicente is looking for – there's a book and page reference on the plat that he has. He's looking to see if he's got that.

MR. ARCHULETA: Madam Chair, I don't believe we have a copy of that book and page.

CHAIR VIGIL: Okay.

COMMISSIONER SULLIVAN: Which book and page are we looking for? There's a book and page on this plat.

MR. ARCHULETA: Book 641, page 194.

COMMISSIONER SULLIVAN: This plat says book 618, page 32.

MR. ARCHULETA: That's this boundary survey. But on the boundary survey it shows a book and page at the easements.

COMMISSIONER SULLIVAN: Oh, I see.

CHAIR VIGIL: Mr. Ross, what's your recommendation here?

MR. ROSS: Madam Chair, I guess my concern is that everybody seems to be arguing about where this road should go and legally, the road needs to go on an easement, and that's what we're trying to figure out is where the easement is because that may help you resolve where the road should go.

CHAIR VIGIL: Are you saying you have the book number, Ms. Guerrerortiz, with regard to the easement that we've been looking at?

MS. GUERRERORTIZ: If I could read it to you, I've found the deed that is referenced. And it says, and reserving a 20-foot wide right-of-way easement along the easterly property line for Tracts A and B to the north. Tract A is the Martinezes' lot, so this granted an easement to the Martinezes' property.

COMMISSIONER SULLIVAN: It says 20 feet. This one says 25.

COMMISSIONER CAMPOS: What should we do, Mr. Ross?

MS. GUERRERORTIZ: There's nothing on Mr. Bosbonis' property granting an easement to Tract A. The only person who granted an easement to Tract A for access was on Alfonso Romero's property, right? That document says that there's an easement granted through Alfonso's Romero's property to Tract A.

MR. ROSS: Madam Chair, we need to get to the bottom of this. I'm going to recommend that we table it so we can look into it.

COMMISSIONER CAMPOS: Move to table

CHAIR VIGIL: Okay. Thank you, Mr. Ross. There's a motion to table. Is there a second? I'll second it. We need to take action on this.

The motion to table CDRC Case #V 06-5670 passed by 4-0 voice vote.
[Commissioner Anaya was not present for this action.]

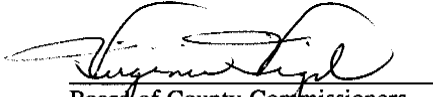
SFC CLERK RECORDED 04/23/2007

CHAIR VIGIL: Motion passes 4-0, until the next land use meeting.
MS. GUERRERORTIZ: Madam Chair, could we please table until the May hearing? The Martinezes are getting married next month.
COMMISSIONER SULLIVAN: They can defer that. Congratulations.
CHAIR VIGIL: Actually May will be fine. The May land use is what you're requesting?
MS. GUERRERORTIZ: Yes.
CHAIR VIGIL: Okay. Thank you.


XIV. ADJOURNMENT

Chair Vigil declared this meeting adjourned at approximately 11:20 p.m.


Approved by:

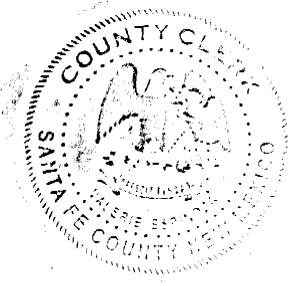

Board of County Commissioners
Virginia Vigil, Chair

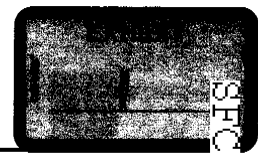
Respectfully submitted:


Karen Farrell, Wordswork
227 E. Palace Avenue
Santa Fe, NM 87501

ATTEST TO:


VALERIE ESPINOZA
SANTA FE COUNTY CLERK

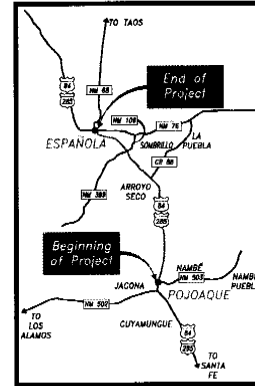




US 84/285 Reconstruction: *Pojoaque to Espanola*

Background

US 84/285 is the primary north-south surface transportation facility that exists within the north-central region of New Mexico. Rapid growth within this area of the State has resulted in significant increases in traffic along the highway, and has also resulted in continued development along the corridor. Proposed improvements to the **US 84/285 Corridor from NM 503 in Pojoaque to NM 68 in Espanola** (see map to the right) have been studied by the New Mexico Department of Transportation (NMDOT) in an effort to address existing deficiencies along the highway, and to insure that the capacity needed to serve anticipated growth within the region is provided.



Vicinity Map

Purpose of tonight's Public Hearing

The purpose of tonight's hearing is to provide information about the findings of the Environmental Assessment prepared for the proposed project and to receive public comments about the study or the alternatives under consideration.

A presentation will be made at 6:30 pm and will be followed by a comment period, all of which will be transcribed by a court reporter. Tonight's hearing also provides an opportunity for the public to comment on cultural resource issues and bicycle/pedestrian/equestrian issues.

Key Issues

There are a wide variety of issues that have been evaluated as part of the process to determine the most appropriate course of action to be taken in order to meet the needs of the proposed project. Some of the key issues that were considered as part of the environmental corridor study include:

- ❖ **Regional Growth / Future Transportation Needs**
 - ◆ **Existing traffic volume:** 23,000 vehicles per day
 - ◆ **20-year estimated traffic volume:** 42,000 vehicles per day
 - ◆ Integrity & continuity of the **National Highway System**
 - ◆ **Regional Importance** of the US 84/285 Corridor
 - ◆ **Multi-modal** considerations
- ❖ **Safety**
 - ◆ **Speed differentials:** local traffic vs. higher-speed commuter traffic
- ❖ **Access**
 - ◆ Interchanges vs. at-grade intersections

- ♦ Access to homes and businesses
- ♦ Access management considerations
- ❖ **Environmental & Community Issues**
 - ♦ Right-of-way
 - ♦ Impacts to natural & historic resources
 - ♦ Community setting / Context Sensitive Solutions
 - ♦ Bicycle & pedestrian access
 - ♦ Noise & visual considerations

Project History & Current Status

A brief summary of past study efforts and the current status of the proposed project are given below:

2000 NMDOT initiated US 84-285 – Pojoaque to Espanola Environmental Corridor Study

2001 Initial Corridor Analysis completed (Phase A)

2002 Detailed Evaluation of Alternatives completed (Phase B)

*** No funding available - Study put on hold

Fall 2004 – Environmental Corridor Study re-initiated by the NMDOT

- ♦ New public involvement program began
- ♦ New efforts were undertaken to re-visit, enhance and supplement earlier study Alternatives
- ♦ Detailed environmental investigations began

2005 - Southern Advance Project (NM 503 to CR 109) Identified by Study Team

2006 – Study Continued

- ♦ Environmental Clearance (C.E.) obtained for Southern Advance Project
- ♦ Construction (NM 503 to CR 109) began
- ♦ Supplemental Phase B analysis completed

2007 (Current Status)

- ♦ Environmental Assessment (EA) available for public review February 19, 2007
- ♦ Comment period on EA ends March 23, 2007

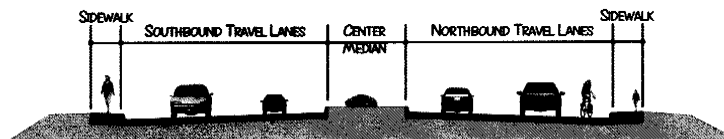
Alternatives Currently Under Consideration

No Build *No improvements to US 84/285*

Espanola Urban Improvements Alternative – NM 106/399 to NM 68

Raised center median – NM 106/399 to Upper San Pedro Rd.

Raised center median & sidewalks (shown below) – Upper San Pedro Rd. to NM 68



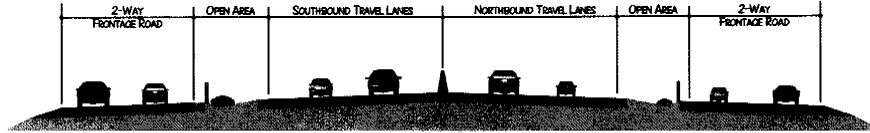
ESPAÑOLA: URBAN ROADWAY WITH CENTER MEDIAN

Alternative 1 - Arroyo Seco

Two-way frontage roads with intersections –*

Pojoaque Pueblo north to NM 106/399

**includes option to construct an interchange at CR 88 (La Puebla Rd.)*



ARROYO SECO: 2-WAY FRONTAGE ROADS

Alternative 2 – Arroyo Seco (Recommended)

Two-way frontage roads with combination of interchanges & intersections–

Pojoaque Pueblo north to NM 106/399

Environmental Assessment Findings

In Espanola (NM 106/399 to NM 68):

- ❖ **The Urban Improvements Alternative** would...
 - ◆ provide significant safety and operational improvements within Espanola
 - ◆ maintain a high level of access to US 84/285 for residences & businesses
 - ◆ provide improved accommodation of pedestrians & bicyclists
 - ◆ provide a new signalized intersection at Upper San Pedro Rd.

In Arroyo Seco (Pojoaque Pueblo boundary to NM 106/399):

- ❖ **Alternative 1 and Alternative 2** would...
 - ◆ provide significant safety and operational improvements within Arroyo Seco
 - ◆ maintain a high level of access to US 84/285 for residences & businesses
 - ◆ provide improved accommodation of pedestrians & bicyclists
 - ◆ maintain an open buffer area between US 84/285 and frontage roads to provide for a visually open roadside environment
 - ◆ provide access to the highway via at-grade intersections (Alternative 1)
 - ◆ establish right-of-way at intersections to accommodate construction of future interchanges should the need arise (Alternative 1)
- ❖ **In addition, Alternative 2** would...
 - ◆ utilize a combination of at-grade intersections and interchanges to further minimize accident potential at highway access points

Structure Acquisitions – two properties (including structures) would be acquired under the proposed improvements – one commercial property located at the SW quadrant of the CR 88 intersection, and one residential property located at the SE quadrant will be acquired.

Right-of-Way Acquisition – proposed improvements would require acquisition of up to 66 acres under Alternative 1 (affecting 85 parcels), and up to 56 acres (affecting 66 parcels) under Alternative 2.

Noise – noise levels will increase within the study area as a result of traffic growth and the proposed improvements; two locations were identified where noise walls would provide acceptable noise shielding

Access – direct access to the main highway would be eliminated in Arroyo Seco. All existing driveways and roadways would have full access to new two-way frontage roads. Left turn access in Espanola would be consolidated via installation of a new raised center median

Cultural Resources – no significant adverse affects to cultural resources would be anticipated as a result of any of the build alternatives

Visual – some changes would occur in the appearance of the highway under all build alternatives. Frontage road alternatives would maintain an open buffer area (no wall barriers) between US 84/285 and the frontage roads to provide for a visually open roadside environment.

Bicycle & Pedestrian access – US 84-285 is a high-volume, high-speed roadway that sees minimal use by these modes of transportation; however, trips of these types do occur and will be made safer by widening shoulders along the mainline and the frontage roads (for bicycle use) and by providing crosswalks or sidewalks at the intersections/interchanges (for pedestrian use)

What Happens Next

Public and agency comments will be evaluated and considered, where feasible. Unless compelling arguments are made that would change the findings of the EA, the NMDOT intends to proceed by requesting a Finding of No Significant Impact from FHWA that will authorize right-of-way acquisition, final design, and construction.

Project Schedule

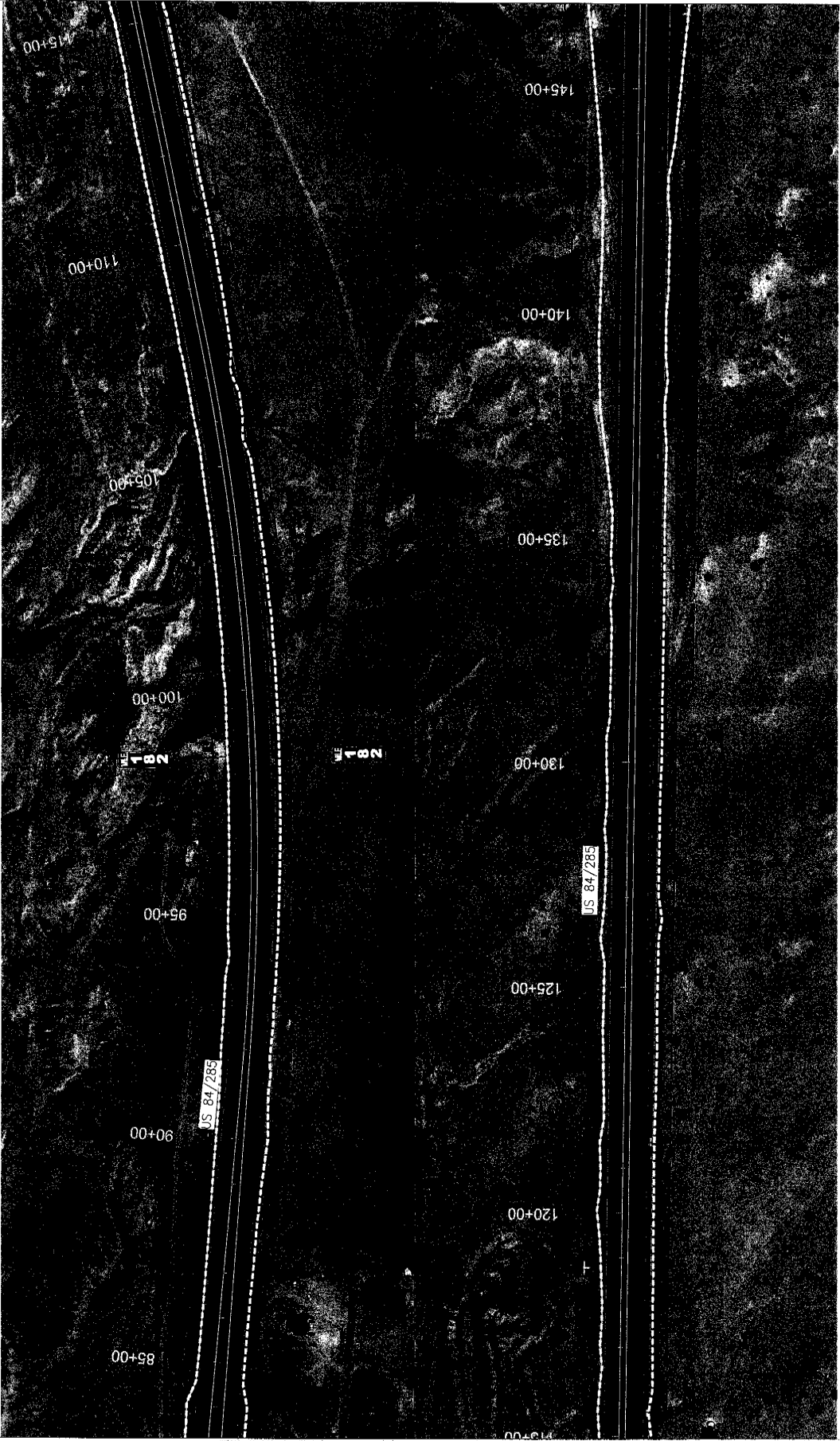
- April 2007 - Finding of No Significant Impact (FONSI) anticipated**
- July 2007 - Project #1 let for construction
(CR 109 to South Arroyo Seco boundary)**
- October 2007 - Project # 2 let for construction
(NM 399/106 to NM 68)**
- February 2008 - Project #3 let for construction
(CR 88 – La Puebla Rd. to NM 399/106)**
- April 2008 - Project #4 let for construction
(South Arroyo Seco boundary to CR 88 – La Puebla Rd.)**

SFC CLERK RECORDED 04/23/2007



SFC CLERK RECORDED 04/23/2007

THE LOUIS BERGER GROUP, INC.
ALBUQUERQUE, NEW MEXICO
SANTA FE, NEW MEXICO



SFC CLERK RECORDED 04/23/2007



THE LOUIS BERGER GROUP, INC.
ALBUQUERQUE, NEW MEXICO
SANTA FE, NEW MEXICO

SFC CLERK RECORDED 04/23/2007



SFC CLERK RECORDED 04/23/2007



THE LOUIS BERGER GROUP, INC.
ALBUQUERQUE, NEW MEXICO
SANTA FE, NEW MEXICO



SFC CLERK RECORDED 04/23/2007



Board of County Commissioners Meeting March 13th, 2007
Agua Fria Zoning District Ordinance Proposed Amendment

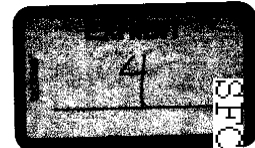
10.8

B. Wastewater

1. Existing residential or non-residential uses whose parcel boundary is within 200 feet of a public sanitary sewer line that can be accessed by gravity flow shall connect to that line.

SHC
CLERK RECORDED 04/23/2007

SANTA FE COUNTY
LEGAL DEPARTMENT
MEMORANDUM



SHC
CLERK RECORDED 04/23/2007

To: The Board of County Commissioners
Roman Abeyta, County Manager

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

Date: March 12, 2007

Re: An Ordinance Amending Ordinance Nos. 1996-10 and 1998-15, the Santa Fe County Land Development Code, Article III, Subsection 2.3.9b and Article III, Subsection 8.3.8, Relating to the Underground Placement of Utility Lines

The draft that staff placed in the Commission packet of this Ordinance contained a number of changes recommended by the Public Service Company of New Mexico during a discussion with those representatives last week.

This draft was confusing in that it did not specify how PNM's comments affected the previous staff draft. This memorandum is an attempt to rectify that confusion.

Below is the language staff previously recommended for Subsection 2.3.9b, without PNM's recommended changes, but including minor staff changes that were embedded in the most recent draft. ...

Clean version:

"2) Notwithstanding the previous paragraph, electric utility lines that transmit electricity at a voltage less than 46 kilovolts may be placed above ground to serve development in an area that is already served by an above-ground electric utility line.

"3) Above-ground electric utility lines that are approved pursuant to this paragraph shall not be subject to height restrictions placed on other development described in Subsection 8.2 and 8.3.2 of the Land Development Code. Above-ground electric utility lines that transmit electricity at a voltage greater than or equal to 46 kilovolts shall be designed and constructed at the minimum height necessary for the proposed structure to function properly and for public health, safety and welfare, as demonstrated by the Applicant. Above-ground electric utility lines that transmit electricity at a voltage less than 46 kilovolts shall not exceed forty feet in height."

SFC CLERK RECORDED 04/23/2007

Showing Changes from the February staff version:

2) Notwithstanding the previous paragraph, electric utility lines that transmit electricity at a voltage less than 46 kilovolts may be placed above ground only to serve development in an area that is already served by an above-ground electric utility line.

Deleted: , and upon approval of the Code Administrator.

Deleted: an infill

3) Above-ground electric utility lines that are approved pursuant to this paragraph shall not be subject to height restrictions placed on other development described in Subsection 8.2 and 8.3.2 of the Land Development Code. Above-ground electric utility lines that transmit electricity at a voltage greater than or equal to 46 kilovolts shall be designed and constructed at the minimum height necessary for the proposed structure to function properly and for public health, safety and welfare, as demonstrated by the Applicant. Above-ground electric utility lines that transmit electricity at a voltage less than 46 kilovolts shall not exceed forty feet in height.

Deleted: by the Code Administrator

Showing changes from the March version (with PNM comments):

2) Notwithstanding the previous paragraph, electric utility lines that transmit electricity at a voltage less than 46 kilovolts may be placed above ground to serve development in an area that is already served by an above-ground electric utility line or when technical issues, including, but not limited to arroyo crossings, wetlands, areas of environmental concern, and the presence of archeological and cultural resources, make under ground placement of utility lines either infeasible or create the potential for a significantly disparate impact on local rate payers.

Deleted: and upon approval of the Code Administrator

Deleted: only

Deleted: an infill

3) Above-ground electric utility lines pursuant to this paragraph shall not be subject to height restrictions placed on other development described in Subsection 8.2 and 8.3.2 of the Land Development Code. Above-ground electric utility lines, shall be designed and constructed at the minimum height necessary for the proposed structure to function properly and comply with the National Electric Safety Code.

Deleted: that are approved by the Code Administrator

Deleted: that transmit electricity at a voltage greater than or equal to 46 kilovolts shall be designed and constructed at the minimum height necessary for the proposed structure to function properly and for public health, safety and welfare, as demonstrated by the Applicant. Above-ground electric utility lines that transmit electricity at a voltage less than 46 kilovolts shall not exceed forty feet in height.