

SANTA FE BOARD OF COUNTY COMMISSIONERS

COMMISSION CHAMBERS

COUNTY ADMINISTRATION BUILDING

REGULAR MEETING
(Public Hearing)

March 14, 2000 - 5:00 P.M.

Agenda

- I. Call to Order
- II. Roll Call
- III. Pledge of Allegiance
- IV. Invocation
- V. Approval of Agenda
 - A. Amendments
 - B. [REDACTED]
- VI. Approval of Minutes *Feb 29, 2000*
- VII. Presentations & Awards:
 - A. *approved* Request Approval of a Proclamation to Declare March 26 through the 29, 2000 as "Battle of Glorieta Pass Days"
 - B. Presentation on the Workforce Investment Act by Barbara Deaux of the North Central New Mexico Economic Development District
- VIII. Administrative Items:
 - A. Committee Appointments:
 - 1. [REDACTED]
- IX. Staff and Elected Officials:
 - A. Matters from the County Manager, Samuel O. Montoya
 - 1. Resolution No. 2000-²⁵ A Resolution Approving the Sale of Santa Fe County, New Mexico General Obligation Limited Tax Improvement District Bonds (Rancho Viejo Improvement District - Phase One), Series 2000, in the Aggregate Principal Amount of Two Million Dollars; Establishing Certain Details of the Bonds; Providing for the Payment of the Costs of Issuance of the Bonds; Approving a Bond Purchase Agreement Between the County and U.S. Bancorp Piper Jaffray, Inc.; Approving Disclosure and other Documents Relating to the Bonds; and Ratifying Action Previously Taken in Connection Therewith

2.

3.

B. Matters of Public Concern - NON-ACTION ITEMS

C. Matters from the Commission

D. Matters from the County Attorney

1. Executive Session

- a. Discussion of Possible Acquisition of Real Property or Water Rights
- b. Discussion of Pending or Threatened Litigation
- c. Limited Personnel Matters

X. Public Hearings:

A. Ordinance No. 2000-² An Ordinance Replacing Ordinance 1999-4, Declaring a Moratorium on New Subdivisions, Land Divisions and Master Plans for Projects Served by El Dorado Utilities Inc. and Encouraging Conservation Measures within the El Dorado Utilities Inc. Service Area (Second Hearing)

B. Land Use Department Items:

- 1. **CDRC Case #V 99-5730.** Julian Roybal Appeal/Variance. Julian Roybal, applicant, requests a variance of Article III, Section 10 (lot size requirements) of the Land Development Code to allow for a second dwelling unit on 1.19 acres. The property is located at Rt. 1 Box 8, County Road 63, within Section 2, Township 15 North, Range 11 East, within the traditional community of Glorieta (Commission District 5). Frank White
- 2. **CDRC Case #V 99-5680.** Carmel Romero Variance. Carmel Romero, applicant, Danny Martinez, agent, request a variance of Article III, Section 2.4.2.b.3. of the Land Development Code to allow for a 20' ingress and egress easement with a 16' driving surface for a family transfer land division of two lots and a lot line adjustment on 2.18 acres. The property is located north of State Road 503, within the traditional community of Nambe, within Section 9, Township 19 North, Range 9 East (Commission District 1). Frank White

3. **EZ Case #S 96-4721.** College Hills. Northwest Villages, LLC (Michael Hurlocker), applicant, requests an extension of time for Master Plan validity and to record the final plat/development plan which was previously approved for 88 residential lots on 228 acres. The property is located off Coyote Ridge and north of State Road 599, within the two-mile Extraterritorial District, Section 20, Township 17 North, Range 9 East (Commission District 1). Joe Catanach
4. **EZ Case #Z 99-4891.** Shell Convenience Store/Gasoline. Brewer Oil Co. (Charles Brewer), applicant, requests approval for a liquor license transfer for a previously approved retail use at 7510 Airport Road within the two-mile Extraterritorial District, Section 11, Township 16 North, Range 8 East (Commission District 3). Joe Catanach
5. **EZ Case #S 99-4630.** Windmill Ridge at Rancho Viejo. Rancho Viejo De Santa Fe, Inc. (Bob Taunton, Vice President), applicant, requests final plat/development plan approval in accordance with the approved master plan, for a mixed use subdivision (residential/commercial/community) consisting of 185 residential lots and a master plat for 39 residential lots on a total of 178 acres and a variance of minimum road standards. The property is located off Richards Ave., south of the Community College within the five-mile Extraterritorial District, Sections 20, 21, 28 and 29, Township 16 North, Range 9 East (Commission District 5). Joe Catanach
6. **CDRC Case #MIS 99-5620.** U. S. Cable, Cable Television Franchise Agreement. U. S. Cable of Coastal Texas, doing business as U. S. Cable, requests a cable television franchise agreement renewal. U. S. Cable serves the Espanola, La Puebla, Chimayo and the Arroyo Seco areas (Commission District 1). Penny Ellis-Green
7. **Resolution No. 2000-24** A Resolution Granting a Certificate and Acceptance of Franchise to U. S. Cable of Coastal Texas, dba U. S. Cable, to Operate a Cable Television System within the Northern Portion of Santa Fe County
8. **CDRC Case #A 99-5721.** Joe Miller Appeal. Joe Miller, applicant, appeals the County Development Review Committee's decision to require an archaeological report for a land division to create 16 lots by a 140 acre exemption. The property is located east of US 285, south of Lamy, within the Canada De Los Alamos and Bishop John Lamy Grants, Township 14 North, Range 10 East and Township 15 North, Range 10 East (Commission District 5). Frank White

9. *Withd* **CDRC Case #A 99-5581.** Thornton Appeal. Jim Thornton, applicant, James Alley Jr., agent, appeals the County Development Review Committee's decision not to recognize six BLM "lots" as legal lots of record. The property is located off of County Road 42, northwest of Galisteo, within Section 18, Township 14 North, Range 9 East (Commission District 3). Vicki Lucero
10. **CDRC Case #Z 97-5202.** Thornburg Enterprises Master Plan Amendment. Thornburg Enterprises Ltd., applicant, Jim Siebert, agent, request a master plan amendment to allow a change in the use list to include light industrial, manufacturing, offices, research and development, retail associated with products manufactured onsite, utilities, public buildings, churches, warehouse and distributing, business incubator, food processing and wholesale operations on Tracts C, D and E of the previously approved Thornburg Master Plan. The property is located off State Road 14, north of the intersection of NM 599 and SR 14, within Sections 24, 25 and 26, Township 16 North, Range 8 East (Commission Districts 3 & 5). Penny Ellis-Green
11. **CDRC Case #Z 98-5552.** Sunrise Springs Amended Master Plan. Megan Hill, applicant, Jim Siebert, agent, request a master plan zoning amendment for expansion of a resort type use to add 40 lodging units (totaling 19,640 sq. ft.), a spa facility (12,000 sq. ft.), fitness facility (1,200 sq. ft.), maintenance building (1,300 sq. ft.), laundry building (1,200 sq. ft.), and a cart shed (400 sq. ft.). This application also includes replacing an existing swimming pool with a new pool and hot tub and reopening a restaurant to the public with the sale of liquor with meals. The property is located south of County Road 34, within the traditional community of La Cienega, within Section 28, Township 16 North, Range 8 East (Commission District 3). Penny Ellis-Green

XI. ADJOURNMENT

The County of Santa Fe makes every practical effort to assure that its meetings and programs are accessible to the physically challenged. Physically challenged individuals should contact Santa Fe County in advance to discuss any special needs (e.g., interpreters for the hearing impaired or readers for the sight impaired).

SANTA FE BOARD OF COUNTY COMMISSIONERS

COMMISSION CHAMBERS

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- A. Amendments
- B. Tabled or Withdrawn Items

VI. Approval of Minutes

VII. Presentations & Awards:

- Don't need* A. Request Approval of a Proclamation to Declare March 26 through the 29, 2000 as "Battle of Glorieta Pass Days"
- B. Presentation on the Workforce Investment Act by Barbara Deaux of the North Central New Mexico Economic Development District

VIII. Administrative Items:

- Tabled* A. Committee Appointments:
- 1. Santa Fe County Lodgers' Tax Advisory Board

IX. Staff and Elected Officials:

- A. Matters from the County Manager, Samuel O. Montoya
 - 1. Resolution No. 2000-25 *OK* A Resolution Approving the Sale of Santa Fe County, New Mexico General Obligation Limited Tax Improvement District Bonds (Rancho Viejo Improvement District - Phase One), Series 2000, in the Aggregate Principal Amount of Two Million Dollars; Establishing Certain Details of the Bonds; Providing for the Payment of the Costs of Issuance of the Bonds; Approving a Bond Purchase Agreement Between the County and U.S. Bancorp Piper Jaffray, Inc.; Approving Disclosure and other Documents Relating to the Bonds; and Ratifying Action Previously Taken in Connection Therewith

1749681

BOARD OF COUNTY COMMISSIONERS

SANTA FE, NEW MEXICO

REGULAR MEETING

MARCH 14, 2000

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

1749681

SANTA FE COUNTY
REGULAR MEETING
BOARD OF COUNTY COMMISSIONERS

March 14, 2000

This regular meeting of the Santa Fe Board of County Commissioners was called to order at approximately 5:05 p.m. by Chairman Joe S. Griñé, Jr., in the Santa Fe County Commission Chambers, Santa Fe, New Mexico.

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

Members Present:

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

Members Absent:

None

IV. INVOCATION

An invocation was given by Commissioner Anaya.

V. APPROVAL OF THE AGENDA

- A. Amendments**
- B. Tabled or withdrawn items**

SAMUEL MONTTOYA (County Manager): Mr. Chairman, members of the Board, we do have three particular item that we are asking the Board to consider tabling. It would be under item VIII. A. 1, the appointment to the Lodgers' Tax Advisory Board. Mr. Chairman, the rationale for tabling that is that we would like to send the nominee for discussion to the Lodgers' Tax Advisory Board first before we bring the nominee to you.

1749681

Secondly, Mr. Chairman, on page 2, under item IX. A. 2. Requesting authorization to enter into an operating agreement with Cornell Corrections on the jail annex. Mr. Chairman, we're asking to table this particular item due to the fact that the County is not prepared with the final draft. We're still working on the content and the context of that particular agreement.

Mr. Chairman, the third tabling item is item 3, which is the authorization to enter into an ambulance service agreement with Española Hospital. We did not receive an executed or signed version of this agreement from the hospital. Although I did speak to two of the Board members today and they did indicate to me that they thought the content of the agreement was good and they thanked the Board of County Commissioners for the spirit of cooperation in providing service to the northern part of Santa Fe County for ambulance service. The general context of the agreement, Mr. Chairman, members of the Board is that we would provide a \$10,000 appropriation to the hospital for service of EMS into the checkerboard area, if you will up in northern Santa Fe County in the Chimayo area, Sombrillo, La Puebla area.

Mr. Chairman, the only thing we're waiting for there is an executed agreement and then we will bring that to you at our next meeting. I stand for any questions. Those are the tabling requests, Mr. Chairman.

CHAIRMAN GRINÉ: Thank you, Sam.

COMMISSIONER DURAN: Mr. Chairman, Sam, I thought this was the meeting where we were going to appoint a new chair. I believe that your term is up next month, isn't it?

CHAIRMAN GRINÉ: No. It ends April 30.

MR. MONTAYA: Next month, Mr. Chairman.

COMMISSIONER DURAN: Okay. Excuse me. My mistake.

CHAIRMAN GRINÉ: Any other questions? If not, can I have a motion to approve the agenda as amended?

Commissioner Trujillo moved approval of the agenda as amended. Commissioner Anaya seconded and the motion passed by unanimous [4-0] voice vote.

VI. APPROVAL OF THE MINUTES: February 29, 2000

Commissioner Trujillo moved to approve the minutes of the February 29, 2000 meeting as submitted and Commissioner Duran seconded. The motion passed by unanimous [4-0] voice vote.

1749681

VII. PRESENTATIONS AND AWARDS

A. Request approval of a proclamation to declare March 26 through the 29, 2000 as "Battle of Glorieta Pass Days"

COMMISSIONER TRUJILLO: The Battle of Glorieta Pass at Apache Canyon. Whereas, on March 26, 1862, during the Civil War of the United States of America, the Battle of Glorieta Pass at Apache Canyon was waged and approximately 70 soldiers lost their lives during this battle, and whose remains are buried within the battlefield of Glorieta Pass at Apache Canyon; and

Whereas, on March 28, 1862, the Battle of Glorieta Pass resumed west of the village of Glorieta and as a result of the ensuing battle between the Union Army and Confederate Forces, Union Troops were victorious, and due to the prudent military action of the Union Army rear guardsmen, the Confederate supplies in Apache Canyon were destroyed; and

Whereas, the Confederate military objective was to seize and control Colorado and California gold mines, as well as California seaports and any and all lands in between; and

Whereas, the Confederate Army failed in this military endeavor and the Union Army's victory in the Battle of Glorieta at Apache Canyon prevented Confederate occupation and domination of the western territories of the United States of America; and

Whereas this Union Army's victory became the turning point in the Civil War, preserving the union of these United States of America; and

Whereas, the sixteenth president of the United States of America, Abraham Lincoln, delivered the Gettysburg Address in honor of those whose lives were sacrificed to preserve the union of these United States of America and in keeping with the spirit of the Gettysburg Address, we must remember the lives in the Battle of Glorieta Pass at Apache Canyon; and

Whereas, to honor the deceased whose lives were sacrificed and to honor the revered battlefield grounds and the historical significance of this vital union military victory at the Battle of Glorieta Pass at Apache Canyon;

Now, therefore be it resolved and proclaimed by the Board of Santa Fe County Commissioners that in homage and in honor of the individuals who lost their lives in this pivotal military battle and whose lives and valor have contributed to the greatness that has become our United States of America, we hereby request all citizens of Santa Fe County, State of New Mexico, United States of America, to display the American Flag proudly on March 26, 27, 28, and 29, to honor and recognize the significant role New Mexicans and Coloradans contributed in preserving these United States of America during the American Civil War. Dated this 14th day of March in the year of our Lord, 2000 at the Santa Fe County Court House, County of Santa Fe, State of New Mexico, United States of America.

CHAIRMAN GRINÉ: Thank you, Commissioner Trujillo.

Commissioner Duran moved to approve the proclamation and Commissioner Anaya seconded. The motion passed by unanimous [4-0] voice vote.

1749681

VII. B. Presentation on the Workforce Investment Act by Barbara Deaux of the North Central New Mexico Economic Development District

BARBARA DEAUX: Good evening, Commissioners. My name is Barbara Deaux. I'm the executive director of the North Central New Mexico Economic Development District. That's the council of governments that serves the seven north central counties of New Mexico: Santa Fe, Los Alamos, Rio Arriba, Taos, Colfax, Mora and San Miguel. And I've been sending to individual Commissioners since December and to the various members of the City Councils and Indian Tribal Organizations information about the Workforce Investment Act, which is a federal law. It was passed in 1998, and accompanied by State legislation in 1999, to alter the way in which strategic planning and decisions are made for local workforce investment programs under the Department of Labor.

I think I mailed out about three separate mailings to the individual councilors, all of which probably looked really boring, and as I said to the Los Alamos County Commission, this is a real eye-glazer. It's a complex act, but what the act does is provide for the creation of a board to serve a ten-county area of which we are seven counties and the other three are McKinley, San Juan and Cibola, so that decisions about Department of Labor programs, particularly of interest, JTPA programs and youth programs, are made at a more local level. Many of you may be aware that nominations have come in and Commissioner Grinë, as the chief elected official in the County of Santa Fe, participated in the ballot process for that. And that board is for our ten-county area will be 51 members constituted according to the federal law, and is right now in the process of being certified by the State of New Mexico.

I want to thank everyone who made suggestions and helped us find nominees and Commissioner Grinë and the County staff for helping out on that, and to ask if there are any questions about the ask or about what we hope will be changes and improvements in workforce development. And let me add that the role that the councils of government played in this process was to provide information to local elected officials and to help in the nomination and selection process over the past couple of months. It's been a very time-bound process. The state has a requirement that we have these boards constituted by the middle of this month and if you've followed in the newspaper the discussion about the state-wide board, it's been an interesting and complex process.

CHAIRMAN GRINÉ: Thank you, Barbara. Any questions of Barbara? No questions.

MS. DEAUX: Chairman Grinë, I will be coming around probably tomorrow to ask you to review and sign an operating agreement, which is also required under federal law, and has been, I believe reviewed by the County Attorneys here. It does not require a resolution; it basically says that we all agree we're following the federal law in this case. I understand you're in in the afternoons and I'll be around. Thank you very much for the opportunity. Hope to talk with all of you again later.

CHAIRMAN GRINÉ: Thank you, Barbara.

1749681

IX. MATTERS FROM THE COUNTY MANAGER

- A. Resolution No. 2000-25. A resolution approving the sale of Santa Fe County, New Mexico general obligation limited tax improvement district bonds (Rancho Viejo Improvement District-Phase One), Series 2000, in the aggregate principal amount of two million dollars; establishing certain details of the bonds; providing for the payment of the costs of insurance of the bonds; approving a bond purchase agreement between the County and US Bancorp Piper Jaffray, Inc.; approving disclosure and other documents relating to the bonds; and ratifying action previously taken in connection therewith**

MR. MONTTOYA: Mr. Chairman, members of the Board, before you today we have a resolution seeking your approval to allow a sale of the general obligation bonds for the purpose in the heading that was just read by the Chairman. Mr. Chairman, I want to point out that under the resolution, the improvements to the district we are talking about is known to many and to the Board as the Rancho Viejo development. Mr. Chairman, the purpose for the contractual improvements that are being requested under this obligation bond and is allowed under statutory authority will provide for the development, creation of a roadway which leads into this development.

Mr. Chairman, the methodology for paying the improvements to this district requires that a ten dollar per \$1,000 net taxable value be placed on the residents in this particular improvement district. There was an election, Mr. Chairman, duly held by the County Clerk which required that property owners were given the opportunity to vote this self-imposed tax for these improvements and it did take place in the latter part of 1999. The outcome of that election was in total support of the improvement district and placement of this ten dollar per \$1,000 on the property owners.

Mr. Chairman, the total sum of the improvements totals \$1,950,000 and the breakdown of the particular revenues is as follows: \$85,000 to the underwriters, \$113,500 to be paid relative to the expenses of closing for the particular bond, \$1,584,587.50 will go to the acquisition account to basically purchase the improvements and \$166,912.50 will be deposited into the debt service reserve fund.

Mr. Chairman, that is the general gist of the request before you. It is the first time that Santa Fe County and I think the first time in the entire state of New Mexico that this funding format has been utilized and I understand that Sandoval County is using this same instrument to support another initiative in their county. Mr. Chairman, we stand for any questions. The distance on the particular improvement of the road was approximately a mile and a quarter. Stand for any questions.

CHAIRMAN GRINÉ: Any questions of Sam?

MR. MONTTOYA: Mr. Chairman, I also want to point out that we do have a representative from Piper Jaffray here and also Mr. Hughes, representing the bond counsel.

1749681

COMMISSIONER DURAN: Mr. Chairman, Sam, is this the last leg of this thing. This has been coming before us several times.

MR. MONTAYA: Yes, Mr. Chairman, this completes the first phase.

CHAIRMAN GRINÉ: Any other questions of Sam? Bob, did you have anything you want to add?

ROBERT SWERDLING: Thank you, Mr. Chairman, members of the Commission. If nothing else, it's worth complimenting you on getting through this. I think it was over two years ago that the County, along with the developers and Rancho Vito looked for a way to fund some public infrastructure that the County would not be provided to pay for but still promote some good development down in the southern part of the county. It's been very successful. It grew of legislation that was passed just a couple of years ago and the developers are the ones who end up taking the financial risk on this transaction. They're taxing themselves. There's no other County resources that are being provided, and the infrastructure is donated to the County so you have a road for further development. Staff has done a tremendous job in getting this done over the past two years.

COMMISSIONER TRUJILLO: Has this already gone through referendum or is it going through referendum or is that even --

MR. SWERDLING: It's been voted on by -- I'll give you a bit of background. This type of financing is usually used, as it was in this case, for a landowner who owns a lot of land, to levy a tax on himself. So there's a referendum that is gone through and the only person that that tax will affect is the person who is voting for the tax. Then, as that landowner sells the land, as it's subdivided and as it's built upon, as it's sold, there's a full disclosure to the purchaser as to how much that tax will be to take care of this property over time.

Normally, the normal way for developers, before this mechanism is employed, to fund these kinds of projects, to get a road built through the development is they pay for it, and then they increase the price of the homes sufficient to reimburse themselves for the investment in their property. By this mechanism, it is a property tax which is being levied. The property tax will pay it back. The property tax is deductible against your federal income taxes, so it actually reduces the burden to the homeowner as opposed to having this done in a more conventional fashion.

CHAIRMAN GRINÉ: Becky, you had something?

BECKY BUSTAMANTE (County Clerk): Yes, just a clarification for Commissioner Duran, if there is another phase, they have to go to another election. So I just need to make that for the record.

COMMISSIONER DURAN: Thank you.

CHAIRMAN GRINÉ: Thank you, Bob. Any other discussion on this? If not, can I have a motion to approve this resolution?

1749681

Commissioner Anaya moved to approve Resolution 2000-25, approving a GO bond sale. Commissioner Duran seconded and the motion passed by unanimous [3-0] voice vote. [Commissioner Gonzales was not present for this vote.]

IX. B. MATTERS OF PUBLIC CONCERN - NON-ACTION ITEMS

CHAIRMAN GRIÑÉ: Anybody in the public like to address the Commissioners?

COMMISSIONER DURAN: Mr. Chairman, I'm sure that all the Commissioners have received some letters from the League of Women Voters and the Santa Fe Trail Association concerning the possibility of the County entering into a lease with Cornell Corrections and with the state, the one that we approved last month about the jail on State Road 14. I asked those people that were concerned about that to come forward tonight and express their concerns and voice their opinions so that when we get to a point where we make a decision on whether or not we're going to do that, we do so with the public's input. I also asked a representative from Cornell to be here tonight to address some of the public's concern. So I guess Rebecca's going to come up and be the first speaker.

REBECCA FRENKEL: I think this is a Matter of Public Concern, and I'm not here for the League of Women Voters. The League of Women Voters speaks only when it's studied an issue and has a position, when the members have looked at it and arrived at a position. We have not looked at the issue of prisons and so I'm here today representing myself as a taxpayer in the County of Santa Fe. So I'm taking off the League hat. So I want to be sure that that's clear, that I'm not here as a member of the League of Women Voters.

Chairman Griñé and members of the Commission, I want to thank you for this opportunity to bring you some of my concerns and questions regarding the proposed sub-leasing of the main unit of the New Mexico State Prison in Santa Fe to Cornell Corrections. And I'm not running for office, either. I'm just here.

This topic has received little publicity and therefore, little or no public discourse even though this proposal could have a significant impact on the citizens of our county. So I will try to make my remarks brief.

The County's experience to date with building and running jail facilities in partnership with Cornell Corrections has been marked by astounding differences between budget forecasts initially presented to the Board of County Commissioners and your actual experience. When the fiscal year 1999 budget was first presented, it forecast no drain on the general fund for jail expenses. Revenue to pay the debt service on jail construction bonds was projected to come from "contracts currently under negotiation between the County and other entities." Thus, it would cost the County nothing. The expense of operating the jail was also projected to cost the County nothing. This was done by the simple expedient

1749681

of not including these costs in the budget. The shortfall caused by this omission was the first thing that a newly-appointed County Manager had to deal with.

But the 1999 County audit, now available, tells a very different story. It shows that in 1999, just over \$3 million was taken from the general fund to pay for jail operations and bond debt service. This drain competes directly with other services that the County must provide. With this history in mind, you should be especially careful to protect the interest of the taxpayers when you draw up a contract with Cornell Corrections for the renovation and operation of the main prison facilities. The contract between the State and County for the lease of the facility contains a paragraph which allows the County as lessee to mortgage the leasehold in order to finance proposed renovations. Any issuance of debt pursuant to this paragraph should be made in such a way as to protect the citizens of this county from assuming any liability whatsoever for this debt.

Furthermore, the County should take all possible steps to make sure that the terms of the contract between the County and Cornell Corrections are favorable to the County. In the absence of competitive bidding, another method of assuring fair pricing is necessary. A standard requirement used in state procurement in the absence of sealed bids should be made a part of this contract. This requirement is that the contractor submit cost pricing data upon the award of the contract and thereafter whenever any significant change is made.

In addition to the protection of County financial resources, I have other concerns. It is widely agreed that there is a need for secure jobs in Santa Fe County and that there are many residents who need and deserve a job that pays a living wage. A minimum wage of \$11.43 hourly for guards is a start. Will employees in addition also receive benefits such as health insurance, retirement benefits, etc.? Is there a federal requirement as to the guard/prisoner ratio as there is to the minimum wage? What happens if Cornell Corrections is unable to hire the required number of guards? Will the number of inmates be reduced? What impact will 1900 people, in addition to those in other parts of the prison, have on water usage and wastewater treatment?

Cornell Corrections has proposed investing \$20 million in renovation. The first prisoners will be arriving within 90 days after the awarding of the contract by the federal government. What guarantee does the County have that the facility will be ready and that this will be a safe environment for both the prisoners and the employees?

Despite the history of this unit, maybe you can make this plan work. I hope so. I believe this can be done only if the people housed there are treated in a humane manner. Who will assure that legal consultation is available when appropriate? That prisoners are released and given transportation in a timely manner? That prisoners families have access to their loved ones, etc.? The contract with Cornell Corrections should be explicit about the responsibilities of the County, the INS and Cornell Corrections. Please be prudent in any contractual agreement you make. You're doing this for yourself, for me, and for all the citizens of Santa Fe County.

And I hope when the complete agreement between the County and Cornell

1749681

Corrections is available that it will be made available to the public and that when you have a meeting to finalize your agreement that this also will be announced so that those who are interested will be able to attend. Thanks.

CHAIRMAN GRINÉ: Thank you, Rebecca. State your name, address.

MARIA CRISTINA LOPEZ: My name is Maria Cristina Lopez and I live at 1614 Ben Hur Drive, Santa Fe. I'm here representing Somos un Pueblo Unido who is opposed to the creation of an immigrant prison in Santa Fe County for the following reasons. One, many community groups in the past have worked to make Santa Fe hospitable and friendly towards all people including recently arrived immigrants. Cornell's pending relationship with the Immigration and Naturalization Service and Border Patrol will mean an increase presence of these federal law enforcement agencies in our area. This will increase the degree of fear and adversely affect the quality of life for immigrant families in Santa Fe County. Bringing an immigrant prison to Santa Fe directly contradicts this area's long tradition of welcoming newcomers.

Just last year the City Council passed a resolution that stated that Santa Fe should not persecute anybody because of their immigration status. The legislature this last session also passed a memorial stating that the residents of New Mexico should be supportive of people who come here risking their lives looking for work. When we talk about fear in the community is when you have people like the Border Patrol and INS driving in the street of the city and the country of Santa Fe it creates an atmosphere of fear in the immigrant community so that we start creating a group of people who do not make use of our services and who cannot feel comfortable acting as regular members of our community.

Number two, we are opposed to the 1996 immigration-related legislation that strips rights of legal permanent residents. The reason we're mentioning this is that this is a direct, this prison is a direct result of the passing of those very, very inhuman immigration laws in 1996. Immigrant prisons are springing up in small communities throughout the southwest and are notorious for abuses and inhumane living conditions. As always, the concentration of prisoners far from their homes makes it extremely difficult for family members to visit them and for attorneys working on their cases to communicate with them. There is only one part-time immigration attorney in northern New Mexico. There are no immigration criminal legal services for lower income immigrants in all of New Mexico. If a prisoner believes that he or she has legal reason to stay in this country after serving a sentence or that she or he wants to apply for political asylum, where will he or she get help?

Number three, a local economy that is based on prison industry models a dismal future for our youth. The majority of profits generated by for-profit prisons leaves the state. An expanding prison industry discourages positive diversification of our local economy. Prison jobs cannot utilize our community members' full range of skills and talents. These are not the kinds of jobs we want to generate for our youth.

Before Santa Fe County makes a decision on this matter of this prison, we call for a full public hearing and for an environmental impact statement at least. This is a serious

174968

commitment by our entire community and rushing into it serves none of us. Thank you.

CHAIRMAN GRINÉ: Thank you, Ms. Lopez. Anybody else want to address the Commission?

MORRIS LIERZ : My name is Morris Lierz. I stand before you as the president of the Old Santa Fe Association. I'm here with the support of my executive committee who I met with on Friday. In order for us to go through this, I have some packets for you and I would like if I could give them to Debbie and have her give them to you, so that you can follow with me and I'll go through on a bullet point approach.

CHAIRMAN GRINÉ: Sir, we want to keep it as limited as possible. We don't want you to read the whole document.

MR. LIERZ: Oh, no. I'm only going to highlight, but I think for the people in the public here tonight what has already been said. First of all, I ought to give you a little bit of my background because this is the first time I've appeared before you, so that you know when I make my statements what authority I speak with. I spent 28 years as an employee and a partner of one of the large five accounting firms in the world, PricewaterhouseCoopers. I retired to Santa Fe. I've been in polling and consulting work for about four years, and then I was director of a royalty management program for ten years with the State Land Office. Therefore I was exposed to the bureaucracy which you are also a part of.

What I'd like to go through is first, we only have seen a draft of the agreement between you and the state of New Mexico, but it's quite obvious to me by the first reading is the state wanted to make damn sure they put all the responsibility on to you. Then you as the lessee, we have not had the opportunity to see any of the sub-lease terms. I have real grave concerns on the financial resources of you contractor. I do support, because I did receive a copy of your annual audit report and it's obvious that you did have a shortfall. I also looked at your budget for the current year, and it looks like you put a \$4 million drain on your general fund budget to cover some of your current prison activities. So you still have a long way to go to make that thing even right itself.

I'll take you to page two of that outline, because at the top of it and the telephone conversations I've had with what I'll call the US Immigration Network, that in Arizona, I'll take you to 4A. and I'll reiterate the environmental impact study and we as the public will demand it. And they succeeded in supporting that issue in Arizona if you want to check that out. Particularly as to water, sewer, potential for overcrowding and rioting and I understand that in Queens, New York, they had a hunger strike by the detainees and I'll get into that in a moment.

Also your risk of allegations. What attorneys are telling me is you need to be prepared for supporting yourself against abuse, misconduct, and I certainly see the state has asked you to be adequately covered with insurance. I raise the question of potential decline of property values in the area because of this increased population. It's going to bring a lot of things around.

Item C in my points, the availability of no-cost or low-cost legal counsel is a problem

1749681

in Arizona and other states. These detainees, which you're going to bring in from other areas are bringing split from their families and their support system. And in fact they have no legal counsel. I was also informed that this is one of the fastest growing activities in the US, particularly the INA and their standards and you should be evaluating their standards, which are not high.

An experience of Florence, Arizona, I was told here is a community of less than 4,000 people. They agreed to have one of these facilities come in and guess what. Today they've got nine prison and detention activities in the Florence, Arizona area. Are we really going to get into the prison industry business? We already have the state. I didn't know we were going national.

It was also brought to my attention as far as the potential workforce needs, and you'll look under F.1, this was quoted to me. It's a very boring situation for the staff, just to watch people in an inactive environment. What of the people who are detainees? What are they doing? They're watching TV. They get one hour of exercise a day, and this creates absolute boredom, hunger strikes and all of the stuff that goes with it.

Going to the third page, and I'm not too far from finishing. I was told that this was less challenging work than working at McDonalds or Wendys. And I thought we were trying to bring industry that had higher aspirations for our workforce. My final comments, and I was appalled as I got this information, and you look through the packet. My fax machine didn't stop this afternoon on the receipt of materials about this program, and they're negative. And you've got them and I hope you read them.

Anyway, I've got the bullet points, the causes and effect of this program, it could detract from the economic development of our area in and around the prison facility and expand to us here in the greater city of Santa Fe. I live out here by Quail Run. Also one of the things that's happening in the country is regional holding facilities like you're proposing. This INS detention is splitting families and causing unneeded suffering. What I'm hearing is most of these people are detained in local county facilities like you run in their home community. County jails housing INS detainees are not subject to standards for access and treatment. In fact, the word that I was getting is they've got almost no legal representation. Thousands of immigrants who cannot be deported are being imprisoned indefinitely in the US. I'm hearing you won't have some of these for three or four days. Some of them may be there for years on end. And apparently the appalling situation with immigrants is they're in the legal proceedings of how they are not guaranteed legal counsel.

Conditions in detention often lead to people to give up hope for life of freedom in this country. I think, Mr. Chairman, I'll stop there. We think you're on a fast track. My organization, who's been here dealing with quality of life issues for Santa Fe, I think 1973. My board and my executive committee feel very strongly that this needs to have a real public hearing and the word I'm getting, you're moving this thing on such a fast track, and I have to ask the question, if this is the largest expanding activity in the US, why do you have to do a contract in less than 30 days. With 45 years of business, anyone who ever hotboxed

1749681

me this much, and I dealt in Texas, New Mexico and in France and the continent of Europe in my business career, anybody who hotboxed me this much, I swear to God, it's a mistake moving that fast. And I'll leave it at that.

CHAIRMAN GRINÉ: Thank you. Anybody else. That's not necessary, guys. That's not necessary.

MARINA DAY: Hi. My name's Marina Day. I'm a concerned citizen of Santa Fe County. Do you need my address or anything. I live on the outskirts of Santa Fe City and Santa Fe County. My mailing address is 223 North Guadalupe, Suite 284, Santa Fe, New Mexico, 87501. Really, the only thing I know about this particular prison contract we've been talking about is from what I read in today's *New Mexican*. I have some concerns on it because I really don't like private prisons and I have some concerns because it seems to be pretty much on a fast track. I don't like the fast track and I really don't like a for-profit private prisons because potentially for greed they might cut corners and really neglect the prisoners and so forth, and my concern is that the prisoners might get neglected and abused and we might have a repeat of the 1980 prison riot. I really don't want that.

Then some other concerns I have about private prisons, at least for a process here in New Mexico, for example the prison in Hobbes and then in Santa Rosa, it's my understanding that they've had a few inmates [inaudible] and then in Santa Rosa, there on August 31, 1999 they even had [inaudible] so I'm concerned about similar problems here. And really, this contract, if you aren't going to do a contract in terms of a private prison, I much prefer it to be non-profit. If it was a non-profit prison perhaps, if there's any money left over above the expenses perhaps, left over money could go to programs to help out the criminals' victims.

Also, I basically prefer -- if several inmates are going to come in, not with any private prisons even if they are non-profit [inaudible] the corrections employees, that they just be state employees, maybe federal employees, or maybe County employees because correction employees basically taking care of the inmates are maybe a combination of the various governments which we named. But I really do not like the idea of this contract. So thank you for listening to me and please take care.

CHAIRMAN GRINÉ: Thank you. Anybody else?

CAROLYN SIGSTEDT: My name is Carolyn Sigstedt and I think that the whole process should be slowed down as well. I also think that we need to have a public hearing on something this monumental. It affects us all and potentially, as you say, can create jobs, bring money, but it can also send a message to the community that we may not want to do. Immigrants contribute to Santa Fe's cultural richness and support the economy. Our region is a multi-cultural community which celebrates the diversity of its citizens and works against any form of discrimination.

Many people feel, number one, that for-profit prisons have no incentives to rehabilitate or to release early. There are people that feel that immigrants should be deported and not incarcerated for any period of time. So there are people that don't agree

1749681

with the federal regulations. Prisons without adequate -- it also has been shown that prisons with adequate staffing almost always cost more than they are presented as costing in the short term and in the long term and people have aforementioned. So I too would call for a public hearing on this very important issue. The more perspectives we bring to this issue, which is complicated, I think the greater the truth we will arrive at.

CHAIRMAN GRINÉ: Thank you. Anybody else?

PEGGY PRINCE: Good evening County Commissioners. My name is Peggy Prince. Do you need my address?

CHAIRMAN GRINÉ: No, that's fine. I just found out from the Clerk that we don't need your address.

MS. PRINCE: It's 226 Fiesta Street, Santa Fe. I am the director of Peace Action New Mexico. We are an affiliate of the national organization Peace Action which is a social justice organization. We work for human rights, the rights of immigrants here. We stand in solidarity this evening with all of the human rights and immigrants' rights organizations that are here to speak to you. Respectfully, I believe that the County Commission has been sold, or is going to be sold a bill of goods. This is a mess, and it's a hornets' nest of potential problems for our county.

I am fifth generation native to northern New Mexico and I really don't want to see this kind of industry expand in my state or in my county. Private prisons are notorious for human rights violations. And this type of private prison that would hold immigrants from all over the country really has nothing that is withholding it from committing all sorts of human rights violations.

The undocumented workers who would be housed in these prisons have no family with them. They have no lawyers. They have no rights. And we have seen recently, how intense the human rights abuses are in other private prisons in our state. This is not the kind of employment we want in our county. This is not the kind of treatment we want to give to the people who live in our county. This is not the kind of treatment that we want to expose people from other parts of the country to have to come and endure in our state, in our county.

Now the end of the Duran Consent Decree really opened the door wide to private prisons and the proliferation of those prisons all over our state. I don't know how we got into this in the first place, but you as County Commissioners, as people who sit as the conscience and the authority in our county, you must think very hard before you swallow this document that's being handed to you. Please, please read it carefully. As carefully as that gentleman who just spoke a few minutes ago has. It's riddled with all sorts of disastrous potential effect for this county. I really hope that you will stand firm and bring non-violent, life-affirming employment into this county. Yes, we need employment but this is not the kind that we should be looking for.

And I think that it's important not to allow Cornell Corrections to expand their private prison empire. They run the one right across the road from the State Pen. What's

1749681

up with that? What are they trying to do out there? I'm here this evening with the support of the Peace Action board and our membership here in New Mexico, which is substantial, and we're asking you please, please think hard about this. Read the documents and go over it with a very fine toothed comb. I think we're going to be in a lot of trouble here and we're going to put the immigrants in our communities in trouble too. Thank you very much for your time and attention.

CHAIRMAN GRINÉ: Thank you. Next.

BEVERLY GARCIA: Good evening. My name's Beverly Garcia. I live in La Cienega. And a number of people from La Cienega first had me look into this matter yesterday. When I called here to ask for the contract to be faxed to me I was told that this matter would be postponed. That's why a number of people from La Cienega are not here tonight. They want to address this matter when it comes up formally under your agenda. And we'd also like to see a copy of the agreement. But as long as I was going to be here tonight on the Sunrise Springs thing, the last item on the agenda, I have several matters, four of them, and I'll do them quickly. I know you have a long agenda tonight, to bring to your attention.

The first one deals with what looks like a mining site is taking place in La Cienega. And that's at the exit from 599 where you get on to I-25. It started out about five or six months ago as a small, little cluster of trucks taking out what I thought was just some sand and gravel. It's turned into a major mining operation there. I have some things that I would like at least the Commissioner from my district to look into on my behalf, and the other residents of La Cienega. Does that organization have a mining permit? Is it something that was really approved? Is it something that will last for a very long time? We're concerned about it and we'd like somebody to address this, and if we just know who to take it up with we can follow up on it at a later time.

COMMISSIONER GONZALES: I'll talk to you later.

MS. GARCIA: The second thing that I want to bring to your attention is the horrible rubbish condition on the roads in La Cienega, particularly Los Pinos Road. It is a mess. It's strewn with garbage sacks, glass, cans, all kinds of trash up and down and it extends for almost the entire length of it running in to the traditional community. I wanted to tell somebody here to see if it can be helped. The last time it was cleaned, all of us got out there with sacks, which was several months ago, but it doesn't seem like the County's done anything to help us out. If you could please.

The third thing I want to talk to you about is the Por Su Gracia Subdivision where I was sort of suckered into buying a lot about a year ago. I live there and I have brought my concerns to the attention of staff. I have been told that because some of your conditions of approval to that 18-lot subdivision are also contained in private covenants that your staff isn't going to enforce your conditions because they were mentioned in private covenants, because they're either exact or similar. And just to give you one example, a playground lot that you required to be incorporated into that subdivision was sold by the developer. Your

1749681

staff would take no action against that developer, saying that because the playground is also mentioned in our private covenants, it's a private matter and we have to go out and hire an attorney. I just want to propose to you that if that's the rationale that's going to be used by the County, any developer, all they have to do is take the conditions of your approval and write them in to their private covenants, and your staff can say it's a private deal. And that way, all of your conditions of approval would go completely unaddressed and unenforced.

It makes no sense; it's ludicrous to me. I can't believe your staff has taken that position. Along with that, there's another major thing that has come up at Por Su Gracia. None of the 18 people that have bought out there were ever told that there was a landfill on that subdivision. It's in none of the disclosure documents that we received at the time of sale. We understand that there is an ongoing fire brewing underneath the subdivision. There are hot pockets there. The Environment Department has been out there. There are nitrates that reach 4.9 in one of the wells, and we are told by the drinking water bureau over at ED that that's not a safe water condition for children under the age of five. There are young children on four of the lots that are in question here that are drinking from this contaminated well at this time. One of them's already gotten e. coli and been taken to the hospital for that.

But this ongoing fire is a real serious fire hazard out there. It emanates from the racetrack and apparently some of the horse manure and some of the landfill residue from the racetrack was poured on to this subdivision. Four years ago, some people that live on Estrella Brillante brought that to staff's attention and to Commissioner Javier Gonzalez's attention. For four years, before anyone bought out there, this County knew of that landfill condition and those hot pockets and the fire. Yet nothing was written into your conditions of approval to address this thing so that we would have known as potential buyers.

Sam Valencia is the developer-owner of this thing. He has lied to me, and I underscore that, he's lied to me. And I'm not afraid of making that statement, because it's true. He's lied to other buyers out there. And we're getting no kind of support from this County and you guys had knowledge that we didn't have. What we would like, and what I'm requesting is that you return the Por Su Gracia Subdivision matter to your agenda so that we can have a hearing to address the numerous, numerous discrepancies and violations of your conditions of approval that this developer is getting away with everyday.

The fire protection system is not in place and that was a condition, that that fire protection was in place and operable. All the lots have been sold. You imposed that condition over four years ago and it still hasn't been met, and these building permits have all been issued. So that is my request to you. We'd like to have a hearing on it.

The other thing that I'm here about has to do with a garage that's been built in the last three months. I guess it's a mechanic garage on Los Pinos, without a building permit. I guess they got a permit for a garage. Someone thought it was for a residential. They have motorcycles, trucks and cars in there. Cars now outside of it, and it went up, is operable, no business permit at all. I've called your Code Enforcement Unit and nothing's been done.

1749681

Those are the things I have to report to you tonight. Thanks.

COMMISSIONER DURAN: Mr. Chairman, I just have one question. How do we get this subdivision back before us?

MS. GARCIA: For reconsideration on whether or not there's been compliance with the conditions that you approved at the time of approval, and I understand that one of your bonds is still outstanding because the water protection system still isn't in place, and that bond, I understand that the developer is wanting to get the money back for that, another \$25,000 or \$30,000 in a few weeks here. His house is also up for sale. I wish you'd do something about this quickly.

CHRIS GRAESER (Assistant County Attorney): Mr. Chairman, Commissioner Duran, I don't know the particular of the issue Ms. Garcia was talking about but I do know that Code Enforcement and Charlie Gonzales' section is actively looking at this case right now. And if they are in violations of the conditions of approval it would be treated like any other code enforcement case, through the notice of violation and the citation process. I do know that is active at this time. I couldn't give you an update on it. That's being looked into.

And I believe that the trucks and the gravel, it was at 599 and I-25?

MS. GARCIA: Yes.

MR. GRAESER: I believe that's the state's staging area for building 599. That's not something we have a lot of regulatory --

MS. GARCIA: It's on an exit ramp, and as the automobiles are getting on to that ramp, they're picking up speed and all these heavy dump trucks, big Mack trucks are coming in and out. It's really dangerous. In addition to all of the dust and everything else that's being generated out there. But I can discuss that with staff later. It's really dangerous out there. But I think that there is a way, if you put your legal staff to work to get this matter legitimately before the County Commission again. In fact, it was on your agenda a few months ago and it was pulled from the agenda. It got on the agenda when the developer asked that it be put on there and then it was removed. We were very anxious to be heard at the time it was on your agenda.

COMMISSIONER DURAN: Mr. Chairman, actually, the developer talked to me about his water system several months ago and I suggested that it come before the County Commission to discuss, and it actually turned out that they extended their bond, and I think they are working towards putting that water system in place. So relative to their water system, I think we're trying to get them to comply with the conditions. This is the first time I've heard about a fire hazard out there or a dump site.

MS. GARCIA: One of the adjoining landowners is bringing over the documents to me at that time. I think they sent signed letters to you. They had staff go out there. They brought the Environment. I think Javier Gonzales knows about it. So I don't know if you personally had knowledge but the County as an entity has had knowledge of it.

COMMISSIONER DURAN: Well, it seems to me if there's some mechanism

1749681

for this subdivision to come forward for reconsideration, that our legal department should be able to help you with that.

MS. GARCIA: Thank you.

COMMISSIONER GONZALES: I think, to the issue, Beverly's absolutely right. This was an issue that was brought up four years ago. I don't know about the timing of the subdivision, Beverly, whether it had been approved and then the issue came up because I know that there were people who live on the subdivision that brought it to our attention and that absolutely in my mind right now is most of the concern, the issue -- the issue of the playground I think is an issue we need to -- Beverly has some good grounds in how she's brought up the issue of what's been represented to her and the community on the playground and what would be situated. The issue of the burning pit, I think we need to talk to Charlie Gonzales, because he was here and we had gone out and the County, it was under my understanding that the County had developed a remedy for that until I spoke with Elaine Cimino who brought up the issue that it was still on, because I had not heard about the burning pit since we had been out there four years ago.

But you are absolutely right. This has been something that has been going on. And after the meeting with Elaine, I directed Estevan to send a staff back out there to review the pit and to find out what the status was and I have not heard.

MS. GARCIA: I was out there with your staff, and there's nothing much that they can do. If someone has an infrared sensor for them, I know fire departments have these kind of equipment. You can go out there and you can detect where the heat's coming from. Even when we were out there, Charlie Gonzales saw a puff of smoke when he was walking the area with me. When I was walking over these huge mounds of manure that look like hills now, they're seven and eight feet high. I stepped into it and I was sunk in all the way to my thighs. There are all kinds of air pockets under it. A lot of stuff's going on out there.

COMMISSIONER GONZALES: That's the greatest hazard that we have existing out there, that we need to zero in. If we find the ability to bring back the subdivision on the other issues, that's fine but what has the most concern is the issue of these burning pockets that exist. Because I know it sent out four years ago a horrible stench.

MS. GARCIA: It still is.

COMMISSIONER GONZALES: That's how people knew it was there, they could smell it and I was talking to a couple people in the subdivision. We went out. I thought that it had remedied because I had not heard from that community since, but it is something, I think you're right. There's the issue of the contamination of the water tables and general health concerns and the County needs to move very, very quickly on and I'm anxious to hear a report from Estevan as we go on and what the staff has found and what we need to do.

COMMISSIONER ANAYA: Mr. Chairman, Beverly, I was under the impression that that hot pocket situation had been resolved.

1749681

MS. GARCIA: No, the Environment Department was out there two weeks ago. There is one that is forty feet from an existing butane tank, where the Wright family lives.

CHAIRMAN GRINÉ: Thank you. Anybody else? State your name please.

MAURA TAUB: My name is Maura Taub. I live at 702 Franklin Avenue here in Santa Fe and I work with an organization called the Prison Project of Santa Fe which for the last 26 years has provided information and resources.

COMMISSIONER ANAYA: Excuse me, Mr. Chairman, it seems to me that the issue of the lease agreement is evolving into a public hearing. I don't know how the Commission or staff should answer this but it seems to me that at this point it's evolving into a public hearing. I don't know whether legally we can consider it as a public hearing.

MS. TAUB: I just would like nine seconds of your time.

COMMISSIONER ANAYA: It's not up for action, you know. It's been tabled.

MS. TAUB: I understand that.

COMMISSIONER ANAYA: I'm just wondering, perhaps, Chris, do you have any --

MR. GRAESER: Mr. Chairman, Commissioner Anaya, it's not a public hearing as far as, there's no action to be taken. Certainly any citizens can approach the Board on Matters from the Public and the Chairman of the Commission is entitled to impose whatever rules on that, be it time limits or whatever he feels is reasonable.

COMMISSIONER ANAYA: I'm not opposed to the public coming up and speaking their mind, but if it does go into public hearing later on, I wonder if we're going to be hearing the same issues over and over again.

COMMISSIONER DURAN: Mr. Chairman, there was some concern that I had, and I expressed that to some of the people that were here tonight. My understanding was that the next meeting that we had concerning this lease was going to be an action meeting and that we were going to decide whether or not to enter into an agreement with Cornell. I felt that it was only right that the public had the opportunities to express their concerns and bring their issues before us and I think they should have the right to come up here and talk to us about it, no matter how long it takes.

CHAIRMAN GRINÉ: I'm going to limit it, if it starts going too long, because we do have a public hearing with 13 items on it.

MS. TAUB: I have no interest in talking to you for a long time.

CHAIRMAN GRINÉ: Go ahead and proceed, but don't get repetitive what we've heard already because we are good listeners up here.

MS. TAUB: I wanted to congratulate you for tabling this issue. That was the first thing I wanted to say and to remind you that this is a human rights issue, and the way the lives of all of us in Santa Fe County have been enriched by immigrants, new and old, should not be continued by our participating in the break-up of families through the

1749681

operation of this prison. We do not want our major tourist attraction of the future to be our large prison complex. Thank you very much.

CHAIRMAN GRINÉ: Thank you. Next.

BILL STANTON: My name is Bill Stanton. My address is 1416 Santa Rosa Drive in Santa Fe. I've been sitting back listening to the comments today and trying to think of a good reason to give you to reject this deal. It seems to me that the best reason for not entering into this agreement with Cornell is that Santa Fe County wouldn't want to become a partner in the human misery trade, because that's what it is when you profit on imprisonment of people, when you make profits on keeping people behind bars.

But if that argument isn't persuasive to you, I suggest that you look at other communities that have had this same type of facility and see what they're experience has been. A few years ago, in the New York City area there was what I understand to have been almost an identical facility, a holding facility for federal INS detainees, and conditions in that facility were so bad that they had a riot there, even though this was a facility of mostly non-violent detainees.

I think it would behoove the County to look into that particular incident, which would be easily determined when it happened, because it happened, like I say, in the New York City area. But it would behoove the County to look at that incident and see if there are lessons that should be drawn before we enter into an agreement to bring that type of facility here to Santa Fe.

The other thing I would like to say is that I think there should be a full open hearing, a public hearing on this question.

CHAIRMAN GRINÉ: We've heard that already from every speaker, so if you can tell us something new, I would like to hear what's new.

MR. STANTON: I'm through, sir.

CHAIRMAN GRINÉ: Thank you

MARK DONATELLI: My name is Mark Donatelli. My address is Post Office Box 8180 here in Santa Fe. I'll try not to repeat what you've heard already, but I would request the County's cooperation in making this as open a process as possible, and by that I mean making all documents concerning any correspondence over this topic, the proposed contracts and all documents that relate to this in any way, available sufficiently in advance of the next hearing that we can have meaningful public input.

To talk about other communities though, I'm familiar with the experiences of Guadalupe County and Lea County and several years ago, they were promised that the private prison business was the best thing going since the oil boom. If you ask people in those communities today whether they would like to reconsider their decision to go down the primrose path that they were promised by private prisons some years ago, I think you'd find a majority of the people wish their communities had never gotten involved in those ventures because of the unforeseen complications that they have run into, to have to deal with threats from the private vendor to bankrupt the county if they don't find a way to use the politics

1749681

necessary to keep prisoners in those prisons. That's what Lea County had to deal with this year when the state was talking about pulling prisoners out of those prisons.

I've heard others say that we don't need the jobs that these prisons offer. I repeat that but in a different light. I say that based on the empirical evidence that we have available, by that I mean that if you check with the prison administrators in Santa Fe. In fact if you check with legislators, you'll find that we have never been able to fill the prison jobs that are available here in Santa Fe. The state doesn't want to put a prison here in Santa Fe because we can't hire people. The penitentiary of New Mexico complex has had numerous, at times over 50 vacant correctional officer positions. They pay well. Vacant positions in the PNM complex, because people in the community don't want those jobs. It's not that we want something better for them. I'm just here to tell you that those vacancies exist to this day. You can check with people who work at the penitentiary who have to work double and triple shifts to try to keep those places staffed because of the existing vacancies at the prison.

Finally, as a resident of the county, I just don't believe that prison operation, housing people who are not from this county, people who are not from this country, is not germane to the business of County government. It is not what we pay taxes for. It is not what we elect people for into positions of trust and authority to go into generating, money-generating activities that bear no relationship to the services that our county needs. There is no difference between our County getting involved in a revenue-generating activity like a prison that houses people not from this country than running a traveling circus or a used car lot or a chain of massage parlors. Maybe those things are more respectable businesses than what this contract purports to get our community involved with. It is not the business of the County to get into revenue-generating activities like caging people from other countries.

Surely our community has the creativity and imagination to find other revenue-generating activities if that's what is so important to us, besides locking up people that have never lived in our county before. Thank you very much.

CHAIRMAN GRINÉ: Thank you. Anybody else? Please tell us what we haven't heard, okay? If you've got something new to offer, tell us. If not, I'm going to be cutting it short.

CARLOS DOMINGUEZ: Thank you, County Commissioners. I want to first introduce Francis Santos, address 1225 Park Way, Santa Fe, New Mexico. Is there a Spanish translator here?

FRANCIS SANTOS: Soy Francis Santos. Represento a la Asociación de Mujeres Inmigrantes de Santa Fe, Somos un Pueblo. Creo que va a tener un impacto muy grande en los inmigrantes el tener una prision aca en Santa Fe. Va a ser un impacto muy terrible porque el inmigrante va a saber que siempre va a tener la inmigración encima de él. Hay muchas personas inmigrantes que viven en familias que tienen papeles o no tienen papeles y si un miembro de esta va para la prisión, su familia no va a poder ir a visitarlos porque ellos van a tener mucho miedo y con esto se puede hacer una desintegración de

1749681

familia. Por eso, en nombre de la comunidad inmigrante pedimos que por favor, no se lleve a cabo esta prision en Santa Fe.

[My name is Francis Santos. I represent the Association of Women Immigrants of Santa Fe, Somos un Pueblo. I think having a prison in Santa Fe is going to have a very large impact on the immigrants here in Santa Fe. It's going to have a terrible impact because the immigrant is going to be aware of the presence of the immigration authorities always looming over him. Many immigrants live with families that may or may not have documents and if one member of the family is in the prison, his family won't be able to visit him out of fear, and this can cause the disintegration of the family. For that reason, in the name of the community of immigrants we ask that you please do not let this come to pass.

MR. DOMINGUEZ: My name is Carlos Dominguez, 601 West San Mateo. I just want to say that I am not for the immigrant prison and I am for the public forum. Thank you.

CHAIRMAN GRINÉ: Thank you. Anybody else?

VAL WHITLEY: Good evening. Thank you, Mr. Chairman. My name is Val Whitley, 432 Alamo Drive. I'm an attorney here. I'm the president of the local Criminal Defense Bar Association. I'll try not to repeat anything. I would like to inform this Commission that about a week ago, two weeks ago, I did author an editorial about this deal, expressing my concerns, and I can report to this Commission that I've received an overwhelming response from all sorts of people -- other attorneys, sheriff's department, all sorts of people that deal directly with the Cornell right now. And I think that's one perspective that really hasn't been mentioned.

It's been mentioned that the deal with Cornell and the County prison hasn't exactly turned into the economic boon that this County thought it would, but I think if you spoke to the people that have to deal with this facility day in and day out, your own County Sheriff's personnel, your own dispatch people, the courts, the district attorney's office, public defenders, and all these people that deal with this agency every day, deal with this jail, are not satisfied what's going on. And we've had several meetings, we've met with Berton Briscoe and Benjie Montano, who's with the Sheriff's Office dealing with compliance, and what we hear over and over and over again is well, it's not in the contract. We can't deal with that. Our contract isn't specific enough. We can't deal with that. We just have to put up with it.

So I urge you that I feel that although in the newspaper it was talked about and quoted that the County and Cornell already had a working relationship, I would challenge whether this is a good working relationship. Excuse my voice, I have laryngitis. But I challenge the fact that this is a good working relationship. I think it's been a bad bargain for the County. I think there are a lot of questions that need to be asked. It's been mentioned in the newspaper that it might even County inmates housed at this main facility. Is that going to happen? Has there actually been, can we get a copy of the Request for Proposals from the Federal Bureau of Prisons? My understanding, there hasn't even been

1749581

a proposal made by Cornell present in Washington with the federal bureau.

There's been a lot of -- the one gentleman that came up with the report. There does seem to be amongst a lot of citizens here the impression that somebody's trying to push this deal through very quickly. That makes people suspicious. This is a very big commitment. Talking about millions of dollars and a lot of people's lives and security interests. We're talking about 1,900 people and I too am very concerned about the humanitarian issues, but I think that's been expressed here enough. I think there are very serious questions about that. Is that what we want to be known for here in this community? I don't. That wouldn't make me proud of my community. There are a lot of reasons to be proud of this community and turning it into a private penal colony isn't one of them, with the full participation of the County government.

I think the lease, I've got a copy of the lease with the state. Basically, the state has sold you a bill of goods. The state has absolved their hands, washed their hands of this whole deal. And everything goes back to the County. Anything goes wrong out there, and believe me, 1,900 people from all parts of the country, you won't have any control over what level of inmates you get here. The Federal Bureau of Prisons will dictate that. And when they come here, there's going to be problems. We're talking about a facility that housed about 500 people when it was closed down and condemned, and they're talking about putting in 1,900 people? I too call for a full environmental impact study and full hearing on this with made available to the public the Request for Proposal from the Federal Bureau of Prisons so we can see what is required.

My understanding is that what is required is that it be an existing facility before a proposal could even be made. There is not an existing facility; what there is is a condemned facility that long --

CHAIRMAN GRINÉ: We've heard most of what you're saying already. We've heard that.

MR. WHITLEY: Okay, but what I call for is the Request for Proposal, the lease be made, and this agreement, that the contract the County is thinking about going in to be made available to the public.

CHAIRMAN GRINÉ: We've heard that too. We've heard everything --

MR. WHITLEY: And also, questions be allowed to ask why, why is there just one private company involved in this decision? There are a lot of questions to be asked and I can tell you that there are a lot of people in this community that are concerned and want a full public hearing. Thank you.

CHAIRMAN GRINÉ: Thank you. Anybody else? Please tell us what we haven't heard, okay?

MARCELA DIAZ: Actually, I have a question for you and not a comment. My name is Marcela Diaz.

CHAIRMAN GRINÉ: This is not a public hearing. You can give us your concerns and that's it.

174968

MS. DIAZ: Okay. Well, I'm concerned that we back here don't understand how this process is exactly going to work. Commissioner Anaya mentioned perhaps a public hearing. How is that going to happen? Is that going to happen? Is that a possibility? We would just like some clarification back here, because we don't know. Would anybody like to address that?

CHAIRMAN GRINÉ: Is that your concern? We don't have an answer because it was tabled.

COMMISSIONER DURAN: Mr. Chairman, I think part of the reason that it may appear that this is on a fast track is that Bureau of Prisons in requiring this agreement to be in place before Cornell can make a bid on the INS prisoners. That's why it appears to be on a fast track. There's a time element that Cornell is trying to fulfill and we are trying to accomplish that, not devoid of public input. That's why I called and tried to get people up here tonight. But because of the time constraints the Bureau of Prisons has on this proposal, that's why things are kind of moving quickly. I don't know if that answers your question but that is pretty much what's been going on.

MS. DIAZ: So there is no possibility, or there is a possibility for a public hearing? Am I understanding correctly that there's not?

COMMISSIONER DURAN: Well, there will be a public hearing when there's something for us to take action on, and that might be at the next meeting, it might be at a special meeting. Proper notice will be given, so you all really need to keep track of that and hopefully, if you still have some concern, and I think those documents should be made available to you. I'm not sure that the County Manager's Office could accommodate you on that. But there will be a public hearing.

MS. DIAZ: Great.

CHAIRMAN GRINÉ: When we have an action item, there's always a public hearing.

MS. DIAZ: Thank you.

CHAIRMAN GRINÉ: Anybody else? Please tell us what we haven't heard.

HUGH LYNN: My name is Hugh Lynn. I live on Rivers Edge Lane. You guys finally gave me a house number today. I really appreciate that. I just wanted to remind you that fiscal responsibility seems to be a problem in this thing and being a subcontractor, I'm hearing numbers come out but I know you gentlemen all know that any time you get into a remodel or anything like that, I think you should really be careful on the fiscal end.

CHAIRMAN GRINÉ: Thank you, sir. Anybody else?

COMMISSIONER DURAN: I asked a representative of Cornell to come out here. Do you want to come up and say a few words and answer some of the concerns. I know you can't answer all of them, but maybe some of the ones that are really not well founded.

COMMISSIONER ANAYA: Excuse me, all you people in the public that are

1749681

leaving right now, hello, everybody in the hall. There's a representative from Cornell at the podium right now. If you want to stay and listen to what he has to say. I don't think they're aware of that.

LAWRENCE BARRERAS: Thank you, Mr. Chairman and Commissioners for allowing me to be here today. Again, my name is Lawrence Barreras. I'm the Senior Warden with Cornell Corrections, currently operating the jail. I know there's a lot of issues raised and I'll try to just offer some general comments to address them. As the operator of the jail, Cornell identified a need for a pre-release facility. This is identified as an alternative to secure incarceration. Inmates who are on work-release, or in the community all day, unsupervised and they report back to the jail at night.

This is a costly way to take care of these inmates. It causes disruption at the jail and you're putting them in a setting that is really over-secure for their need. We started working with the County on trying to figure out a way to address this matter and to have a less secure facility to accomplish this task. An opportunity was identified to use the main facility as an annex to house these inmates and also we identified an opportunity to generate some revenue for the County, trying to build on our existing relationship with the County.

A few points that I would like to make about this process is that environmental review is part of the process. The Bureau of Prisons conducts an environmental review. We must address infrastructure to include water and sewer and there's detailed review about that. As a matter of fact, the Bureau of Prisons has even hired a firm that's located in Santa Fe, it's a national firm and they're going through that process, taking a look at these facilities.

The legislature as part of their resolution identified that the Attorney General must be involved in the oversight of this type of operation. The Bureau of Prisons also provides overview and oversight. They would have 12 full-time staff at the facility, monitoring the operation on a daily basis. There is also a requirement in this process for accreditation through the American Correctional Association, which is an organization that has developed national standards for operation of these kinds of facilities. I think it's also important to note the type of inmates that would be at this facility. These are not immigrants who are in this country and have not committed a crime. These are people who came into this country legally, who were granted permission to be in this country, and committed a crime, and they're going to be deported because it violated their agreement to be in this country. These are low-custody inmates with non-violent crimes. They're going to have five years or under to serve when they arrive at the facility. They'll have an average time there of 18 months.

I'd like to address some of the economic benefits of this kind of proposal. There are going to be over 300 jobs there, good paying jobs, with an average salary of \$28,000 a year. And I'd like to also indicate that we have not had any problems filling these kind of jobs. Currently, I have 140 positions at the jail. I have three vacancies and I have applications that are way and above the vacancies to fill this. We did have some problems in the past. We raised the salary and we're not having any problems right now.

1749681

The benefits with the company, in addition to that, we offer all very good benefits, a retirement program, a medical program, dental program, stock options, a variety of benefits that are with the company. We've operated a similar facility to the one being proposed as far as these type of inmates, the non-county inmates, in Big Spring now for over ten years. There's relatively no incidence, there's rarely even a fight at that facility. There's 2600 inmates there. The community feels that we're a good business partner there and they'd be glad to offer information to this Commission.

It's also a requirement of the contract to have extensive programming. Again, the Bureau of Prisons requires that we operate in line with national standards. Then I'd like to emphasize that we're in the preliminary stages of this whole idea and we just want to move forward and work with the County to try and establish some terms and hopefully try and proceed with this operation.

CHAIRMAN GRINÉ: Thank you, Lawrence.

MR. BARRERAS: Thank you.

COMMISSIONER DURAN: Mr. Chairman, just to take up two quick minutes.

CHAIRMAN GRINÉ: Go ahead.

COMMISSIONER DURAN: Thank you, Lawrence. I just wanted to make a few comments here. A few things were said about our jail and how it's been a drain of \$4 or \$5 million on our budget. The jail was costing us \$2 million before we built a new jail, and we needed a new jail. I visited the jail before, just before I became a County Commissioner, and it was in pretty sad shape. So the new jail, I think is so much more humane than what we used to have and I really believe, in all fairness to this Commission and to the decisions that it has to make, that part of the driving force on this is that we have had a flat budget for three years and the jail that's out there right now is going to be torn down at the expense of the state and there is roughly two million dollars that they're talking about paying the County for this arrangement and that allows us to provide more services to the County, to the community.

So these are things that we are faced with in trying to make a decision as to whether or not this is an appropriate thing to enter into. And again, these decisions can't be made in a vacuum; they have to be made with the public's input and your concerns need to be considered.

COMMISSIONER GONZALES: I agree with Commissioner Duran and encourage the public to come back when there is a document. I agree with what Mr. Donatelli and -- I forget the other gentleman's name although I know he mentioned me in his editorial -- Mr. Whitley, as far as once the County has documents that we know that relate to any part of agreement or operations agreement that the staff feels is in satisfactory position that those are made available to the public, and I think that we need to make sure in a timely manner, that the public has an opportunity to review, so that when they come back for the public hearing that they can point to issues that they have concerns with.

1749681

I would point to another issue of oversight that was not mentioned and that is that the legislature is requiring that the County, or that a Grand Jury in this community conduct a review of the facility four times a year, quarterly, which is more so than any other facility in this state, whether it's private or public, four times a year, the citizens of this community, if this facility takes place and goes forward, will have an opportunity -- this is a Grand Jury that's not appointed by the Commission. It's not appointed by the Manager, but I believe through the normal means, it would be appointed by the District Courts.

So I think that if we go forward with this, and this is something that we believe on a balanced review is something good for the community that there will be oversight to address people's concerns. Let me say a couple things, because I've been an advocate thus far to getting it to this point, and that is I disagree with the people who say that the jobs aren't the right jobs for our community. Two years ago, 240 people lost their jobs because the governor began to export prisoners to other communities around this state. And there was not in this community a large rallying cry for those people who lost their jobs. We as a Commission went forward to the legislature and asked to keep them here anyway we could, because these are people who without fail, counted on a system that they would be able to rely on to employ themselves and provide a good quality of life.

To those of you tonight that stood up against this, please reflect on people who lost their jobs. Reflect on people in this community who would never have a chance at earning \$28,000 or \$30,000 a year unless they come in and they have an education or they have an opportunity to start a business, or they work ten, fifteen years and move into some type of elevated seniority where they can earn that type of money. There are a lot of people in our community, and I represent a lot of them in my district, with lots of needs and lots of hopes of having better opportunities. And I agree, if I had my choice between having a job that would provide a nice office environment or allow people to use their hands for the greater good of the community, whether it's through construction or whatever it might be, that would be great.

But we have for the last several years tried to identify ways to diversify our economic opportunities in this community. We have asked communities to come forward and offer solutions as to how we can begin to diversify our workforce. And to no avail, we have not had that participation from our communities. Maybe it's because we're happy with what we have. Maybe because it's our responsibility to do it solely on our own. Minus that though, minus that, I think if we're given the opportunity to employ 300 people or more, at \$28,000 plus benefits, that that is something we should look at very seriously. Not just throw the ranch away, because that's not what I'm advocating, but that we look at that very seriously. Because these are people, again in our community who worry about jobs, they worry about raising their families in a good environment. They want the opportunities to buy a starter home, and minus good jobs, they're never going to get that chance.

So I'm asking all of you who are opposing this tonight to at least consider, in addition to the immigrants that you talked about tonight, consider people in this community who

1749681

would have an opportunity to work at this facility, if this comes to be. I think it was mentioned tonight that through your participation in this though, the County does have an opportunity to address concerns. I think in any contract, and I'm counting on people like Mr. Donatelli and others, to identify ways that if the County is going to go forward with this that there are provisions in that contract that allow for issues that deal with humane treatment, issues that deal with programmatic areas that the County would require Cornell perform some level of programmatic activity.

I think to the issues of why it's one operator, I think that staff needs to come forward and cite the area in the Procurement Code and I think we need to assure that the Attorney General has reviewed it to be sure that we've been in compliance with the Procurement Code and how we've gone forward in this process. But Mr. Chairman, just in conclusion, people have asked us tonight, is it the County's business to be in the corrections. That could be debatable. But it is our business to create economic opportunity? Absolutely. Is it our business to try and assure that people in our community have access to good paying jobs, given their level of skills and their level of labor skills? Absolutely.

And that's why I support this initiative coming forth this far. I reserve my right to support the contract until I see the terms of it, till I see whether we like it or not. Whether the County is on a balanced approach getting the best deal on behalf of this community. But up until now, it's for me in my mind about creating jobs for people in this community. And we can dispute that all day long, but that's what's led me to support it thus far. And Sam, I would just encourage you, in fact with the people who have been here tonight, that you do make documents available. In fact, I would ask you to call Mr. Donatelli and Mr. Whitley once we have them available so that they can disseminate and review it and anyone else that you know who wants to review it that once they're available that they would be given some advance notice so they don't have to wait to hear from somebody else.

Secondly, for the people who have concerns about the way Cornell is running the facility, I think we need to make available tours for people in the community and I'm not sure how we can do this without running havoc into the operations, but maybe setting up some time between now and then for one designated time or a couple designated times to take people who are concerned with the conditions of the facility to tour it so they can see it and review the conditions for themselves as to how we're currently operating it through Cornell.

CHAIRMAN GRINÉ: Thank you. Sam, I think you want to say something.

MR. MONTROYA: Mr. Chairman, just a little bit of clarity on some of the points that have been brought up and to preface my remarks, Mr. Chairman, I would like to thank those people from the public that have come forth and brought their concerns. I think it's important for the County to hear those concerns and we look forward to other people that might have any other issues that have not been discussed tonight that they please share those with us.

But I did want to add just a bit of clarity to some of the points that have been brought

1749681

up this evening. There has been some comment and some concern about the fact that the County was "sold a bill of goods." Mr. Chairman, members of the Commission, I think it's a little early to make that assessment, simply because of the fact that we only have one particular document drafted. There are a total of three that need to be drafted. The operating agreement and the lease with Cornell have not been structured yet, so before any assessments are made, I think you need to look at all of the instrumentalities that are going to be required to make this process work should the County Commissioners decide that it is good for the community.

So I wanted to simply say that to make an assessment based on only one of the documents, which has not been completely done -- I mean it's 95% done but that clearly there are two other major documents that all interrelate and all work together. I'd like to thank Commissioner Duran for the clarity that he provided in relation to the time frame. We are going to work very diligently to make sure that everyone involved in this process, including the detainees, that their concerns and issues are dealt with in a manner that respects all.

I also want to point out that the County from a due diligence perspective has engaged a professional to help us draft these agreements. We're utilizing Mr. Richard Crane, who was one of the principals in drafting the prison study that was presented to the state legislature just recently. Mr. Crane has been helping us and will continue to help us through this process until we are done and have the documents that have been discussed earlier brought to you for your review and perusal. Commissioner Gonzales, as soon as we do have these documents we will make every effort to make them available to those people that are interested in reviewing them and we'll also accept their critiques at the appropriate time at the next public hearing. Thank you, Mr. Chairman.

CHAIRMAN GRINÉ: Thank you, Sam. Any other comment from the Commissioners?

IX. C. MATTERS FROM THE COMMISSION

COMMISSIONER GONZALES: Mr. Chairman, Orlando, were we able to work out the breakaway barriers at Country Club Estates? Because we need to fast track that if we're going to fast track anything here. The breakaway barriers at Country Club Estates, when will we have those up? I had asked you this I think a month ago?

ORLANDO GARCIA (Public Works Director): With all due respect, Commissioner, I do not remember this request being made a month ago.

CHAIRMAN GRINÉ: I think it was Martinez.

COMMISSIONER GONZALES: No, I brought it up about a month ago and then I brought it up with Robert two weeks ago and then he said that Orlando didn't know anything about it. That's okay. I just want to make sure that we get those breakaway

1749681

barriers up.

MR. GARCIA: I promise Commissioner, Mr. Chairman, I'll look into it first thing in the morning and do something with it.

COMMISSIONER GONZALES: We will get the breakaway barriers up.

MR. GARCIA: If it's a doable project, I promise we'll do it.

COMMISSIONER GONZALES: Can you tell me why it would be doable?

MR. GARCIA: Mr. Chairman, before I make a statement on this I would like to see it and review it, with all due respect.

COMMISSIONER GONZALES: But I asked the Commissioners, this is something that the Commission has basically blessed so if they didn't have a problem with this breakaway barrier.

MR. GARCIA: If those are the Commissioners' wishes.

COMMISSIONER GONZALES: Yes. They have. Thank you.

COMMISSIONER DURAN: Mr. Chairman, Orlando, since you're up there in the hot seat, stay there. I talked to you several weeks ago about the Camino Carlos Ruiz and you were going to get back to me on what can be done and what is proposed.

MR. GARCIA: Yes, Mr. Chairman, Commissioner Duran, you are correct. That segment of the road has been somewhat ignored.

COMMISSIONER DURAN: Why don't you give me a call sometime in the next few days and let's sit down and talk about it. I'd like to see if it's possible to get some funding, federal funding like we did with the San Isidro Crossing.

MR. GARCIA: Yes, I do apologize, Commissioner. We do seem to have a problem getting to that location and it has been ignored. Yes.

COMMISSIONER DURAN: Okay, well, keep in touch.

CHAIRMAN GRINÉ: Anybody else?

COMMISSIONER GONZALES: Estevan, are you prepared to at least, has Charlie given you a briefing on the issues that Ms. Garcia brought up, since we're here, concerning the fire pits on the Por Su Gracia Subdivision?

ESTEVAN LOPEZ (Land Use Administrator): Mr. Chairman, Commissioner Gonzales, Charlie has drafted a review or a letter reviewing some of those issues that were raised by Ms. Cimino including the hot spots near the Por Su Gracia Subdivision. And based on his recent inspection, there is still evidence that there is apparently some burning going on, either adjacent to the subdivision or possibly even in it. It was, from his review it was difficult to tell exactly the extent of it. He did say that within the boundaries of the subdivision there was clearly evidence of a past landfill that hadn't been adequately remediated.

COMMISSIONER GONZALES: So let me ask this question of Chris. Now that this is found out, now that we know -- well, not now. We've known this for four years, but we know this continues happening, this issue needs to be addressed. What recourse does the County have on the developer to get these pits cleaned out to a satisfactory level where

1749681

it no longer poses a health risk to that community. That's the first question, the second, if we've already identified at the staff level that this is continuing to happen, and we know that this creates a health risk, I don't know if I'm willing to accept that we should go the same channels as we do anything else because the same channels as everything else is we cite them, we wait for them to come in and address it. They don't come in and address it. We go out there and we cite them again, and then we go to a court docket and it's up to the Magistrate Courts to decide when they're going to hear this. This could be months. And if we know that this is taking place right now, and this poses an immediate risk to the health of that community, what is within our purview to go out there and get this thing addressed?

MR. GRAESER: Mr. Chairman, Commissioner Gonzales, there's really not a mechanism to bring it back in front of this Commission once a subdivision has been approved, but there certainly are mechanisms to require compliance with the conditions of approval and with any other laws that apply to that. And you're right, the process of citing notice and violation, and citing in the Magistrate Court does drag on. If the testimony we heard, we're looking at things like combustion within range of propane tanks, things like this and if there's some the developer can do to put an immediate halt to that --

COMMISSIONER GONZALES: The development's up. People are living there. That's the issue of how we get the developer to begin to clean out these pits.

MR. GRAESER: I think maybe the better option would be to put it in action in District Court. We can get a preliminary injunction, assuming all the requirements for that are met and there are in fact violations. We can probably get something like that in a couple of weeks.

COMMISSIONER GONZALES: I want this to be made, and unless the Commissioners say otherwise, an absolute priority of Land Use and the Legal Department. We cannot -- I was waiting for you to tell me that this is actually occurring and you've just said it, that we have those fire pits. This has to be a priority, either through District Court or whatever it is, to get the developer in to get these things cleaned up. We cannot wait through the normal course of channels because this is a dangerous situation and the County needs to address this properly and up front. So I'd like to be kept in contact on a weekly basis as to how this is progressing, because I made the mistake once of assuming that it was addressed because I hadn't heard from the community and I don't want to make that mistake again. So we need to find a recourse to getting these fire pits cleaned up fast. So that's not a problem with it being a priority on both your plates?

MR. GARCIA: We'll make it a priority.

MR. GRAESER: We'll meet on it in the morning.

CHAIRMAN GRINÉ: Thank you, Chris. Any more matters from the Commission?

1749681

IX. D. MATTERS FROM THE COUNTY ATTORNEY

MR. GRAESER: Mr. Chairman, one issue. A while back the Commission had given a question, the Commission wanted to know if the County could put a question on the ballot regarding whether the City should allow a portion of the railyard property to be used by the County for a court house. The answer is no. There's not really a provision.

CHAIRMAN GRINÉ: Who asked for that?

MR. GRAESER: It doesn't say in the memo and I wasn't present at that meeting.

CHAIRMAN GRINÉ: I don't think that will even go one ring around the wheel. Thank you.

X. PUBLIC HEARINGS

- A. **Ordinance No. 2000-2. An ordinance replacing Ordinance 1999-4, declaring a moratorium on new subdivisions, land divisions and master plans for projects served by El Dorado Utilities, Inc. and encouraging conservation measures within the El Dorado Utilities Inc. service area (second hearing)**

JUDY MCGOWAN (Senior Planner): Chairman Griné, Commissioners, this is indeed the second public hearing on this ordinance, and I will make my presentation extremely brief so that you have time to take the public input. The proposed ordinance repeats and updates the findings of the original Ordinance 1999-4, which it replaces and it incorporates all the prior findings of the Board regarding the County's ongoing concerns about the adequacies about the long-term water supply for development served by El Dorado Utilities.

The Board of County Commissioners has enacted a moratorium every year since 1996. The most recent was Ordinance 1999-4, which is in effect until April 15, 2000. The first public hearing on this ordinance was held on February 29. Notice of both that public hearing and the public hearing tonight has been published in the *New Mexican* and the *Eldorado Sun*. And the draft ordinance was sent to the state agencies for review as required by state subdivision statutes. To my knowledge, we have received no comments from the state agencies so we have to assume that they had no problems with the ordinance.

As I said earlier, the draft ordinance basically tracks the prior moratoriums on extensions and lot splits in the Eldorado Utilities Water service area. County legal staff has indicated that if the Board should choose, this ordinance could be extended the moratorium beyond the 12-month time period, until such time that the Board is satisfied that developments in Eldorado service area can comply with both state and County standards for water supply instead of readopting a new ordinance every twelve months. So staff has

1749681

drafted some language which would effect that change for your consideration.

As I said, this is the second public hearing. In the memo, the ordinance has not been amended at all since the first public hearing, but in your memo there are proposals for three potential amendments to the ordinance. The first amendment is some language that was developed in response to the first public hearing where a request was made to be able to sell commercial property in the area without increasing the development under the moratorium. So the proposed amendment for that is to amend Section C.1, and add a new section basically saying that there would be no new or pending applications for land divisions, master plans or subdivisions, which propose to utilize the EDU water services, except as noted below. That exception is that a single division of land, according to Article II, Section 2.3.1a VII or VII -- we really do need to reorganize the County Land Development Code -- shall be permitted for commercially zoned property to create a tract for an existing commercial building subject to the following conditions. A. This is for the purpose of sale, and B. The plat will contain a note that no development will be permitted on the new vacant tract until this ordinance as amended is lifted.

The next two potential amendments would go together, and that would be to effect a longer time frame than the twelve months for the ordinance. That would delete the current Section 8 and add a new Section 8, That the County staff shall present updates describing any changes and conditions to Santa Fe County Board of County Commissioners, approximately 180 days from the effective date of this ordinance and annually thereafter until such time as the ordinance is amended or its application is discontinued. And then Section 9 could be amended to say that the ordinance shall remain in effect until the Santa Fe County Board of County Commissioners, County technical staff and the State Engineer are satisfied that developments which propose EDU as a water supply are in full compliance with state and County standards, at which time the Board shall pass a resolution discontinuing the application of this ordinance.

The reason for the language was to provide both an annual update, so that there was an opportunity for both the Board and the public to be aware of what was going on as far as progress in water supply in Eldorado, but at the same time not require that the ordinance be redrafted every year to provide a mechanism for that.

Just one note, the current ordinance is in effect until April 15. If you should pass this ordinance tonight, it will be filed tomorrow and would take effect on April 15, 2000.

CHAIRMAN GRINÉ: On March 15 or April 15?

MS. MCGOWAN: April 15.

CHAIRMAN GRINÉ: Okay. Any questions of Judy?

COMMISSIONER DURAN: Mr. Chairman, Judy, so nothing has really changed out there? The water situation is still the same. They have not been able to provide information that indicates that they have come up with more water?

MS. MCGOWAN: I'm probably not the best person to answer this, but it is my understanding that although they have made some progress on drilling new wells that are

1749681

supplemental to the existing wells, it's the opinion of the then County Hydrologist and the State Engineer that there still has not been proven adequate water supply.

COMMISSIONER DURAN: Who would be the appropriate person to answer that question?

MS. MCGOWAN: I believe the way the County has dealt with it in the past and the current ordinance says the County Commissioners, County technical staff and the State Engineer, all three must be in agreement that the water supply is adequate. And that has not happened to date.

COMMISSIONER DURAN: Then on paragraph 8, where it says that staff will present updates describing any changes to conditions approximately 180 days from the effective date of this ordinance, then annually thereafter. Does that mean that if new water is brought to the table or the situation changes that they have to wait for a year for this Board to make a decision as to whether or not to lift the moratorium?

MS. MCGOWAN: I don't believe so. You can ask legal staff, but I believe that you could ask for an update or put it on the agenda at any time you felt there was a need to.

COMMISSIONER DURAN: The way it's written right now is that staff, in 180 days will report to us any changes and then annually thereafter. My question is if after the initial report, say six months after the initial report, if new water is found, do they have to wait until the -- or can they come forward at any time?

MR. GRAESER: The ordinance provides, the new paragraph nine, as soon as they find the water, provide for the water and can prove that up to the State Engineer and County staff we can bring it to the board whenever the next meeting after that is. It's an ordinance so you only need three days of notice on it.

MS. MCGOWAN: Commissioner Duran, could I just elaborate a little bit? The intent of that section is that at the minimum, there will be an annual update to the Board of County Commissioners.

COMMISSIONER DURAN: Okay, great. Thank you. So then your suggestion is that we adopt all three of these amendments? Is that staff's recommendation?

CHAIRMAN GRIÑÉ: I reviewed it with staff, and I kind of told them we should just do that so we don't have to come back every year.

COMMISSIONER DURAN: Okay.

CHAIRMAN GRIÑÉ: Thank you. Any other questions of Judy? Okay, this is a public hearing. Anybody would like to address the Commission, state your name and address.

RAY NICHOLS: Commissioner Griñé, Commissioners, my name is Ray Nichols. I live at 19 Escada Road in Eldorado. I'm a board member of the Eldorado Area Water and Sanitation District but my reason for being here is to represent Dr. Sam Kunkle, who lives in Eldorado, who's a private consultant on water issues. He could not be here tonight and he asked me to read a letter. Let me first state that this letter was sent to

1749681

Commissioner Grifé --

CHAIRMAN GRIFÉ: I read it.

MR. NICHOLS: And Commissioner Grifé has responded to Sam Kunkle and we appreciate that. But I would like to read it into the record, just a relatively short letter.

Dear Commissioner Grifé, The addition of another supplemental well in Eldorado will help provide a dependable water supply to use during the coming, possibly dry summer season. However, the addition of the new well does not address the question a long-term water supply. Technical studies in the Eldorado area including some excellent work by Jack Frost, former County Hydrologist, have raised questions about the draw-down of the water table and the apparently low level of aquifer recharge, and raise concerns about the actual total volume of water which can be extracted safely in the decades ahead.

Eldorado is fortunate to have Dr. John Shomaker, a respected scientist, conducting a state-supported underground aquifer computer modeling project for the Eldorado area. The study should define the volume of water in the aquifer, evaluate the rate of water withdrawal versus recharge, and model the long-term availability of groundwater. Preliminary results from his ongoing work imply that groundwater depletion is occurring as evidenced by the lowering of the groundwater table. In my view it is only logical to await the full results of Dr. Shomaker's investigations before evaluating any change in the status of the moratorium. I have reviewed Jack Frost's solid report and a number of earlier technical documents, and also discussed Eldorado's water resources with state, university, federal and county hydrologists. The prevailing view of these colleagues is that Eldorado's water supply probably comes primarily from groundwater mining. In other words, aquifer recharge rates are much less than withdrawal rates.

Dr. Shomaker's work is therefore especially important to determine if this prevailing view is correct. If groundwater mining in fact is Eldorado's predominant water source then eventually we must import additional water in order to provide a sustainable supply. Presumably, piped in water can only come through Eldorado's participation in a regional water system, as is now in discussion by our Water and Sanitation District. The Shomaker work should help define what volumes of imported water will be needed for the future, and how soon it will be needed. For that reason I suggest that evaluation of the moratorium not only needs to await the results of Dr. Shomaker's work, but also needs to take into consideration Eldorado's potential role in a regional water system.

Depending on Dr. Shomaker's findings, it may be wise to delay any decision on the moratorium until it is possible to define Eldorado's involvement in a regional water system and to understand the water supply implications of that involvement. Your continued support of Eldorado citizens in these important questions about our future water supplies is very much appreciated. Signed, Sam Kunkle. Thank you very much.

CHAIRMAN GRIFÉ: Thank you. Okay, anybody else in the audience wants to make their comments to the Commission?

PAT LAVENGOD: Chairman Grifé, County Commissioners, my name is

Pat Lavengood. I am a member of the ECIA board of directors. We at Eldorado, a community of over 6,000 people, implore you to continue with the water moratorium that has been in place for the past several years. We're just a little tired of taking a shower standing in a washtub so we can collect the water for another use, such as watering our plants. We sincerely hope that you will seriously consider going on with the moratorium indefinitely. Thank you.

CHAIRMAN GRINÉ: Thank you. Anybody else in the audience?

MATTHEW SPANGLER: Mr. Chairman, members of the Commission, my name is Matthew Spangler, and I'm here on behalf of the Eldorado Utilities. My address is P.O. Box 15698, Rio Rancho, New Mexico, 87174. I'm here tonight to report to you on the activities of the utility in the past year to increase its water supply, and also to request that you do not renew the subdivision moratorium. The first thing I would like to address for you is the demand for water and the supply of water that's available in the Eldorado area.

Between 1998 and 1999, the utility added approximately 130 customers. The utility currently has 2,400 customers. This increase in customers has been essentially constant over the past three years and was lower before that. So we anticipate that the rate of growth of the utilities customer base is approximately 130 customers per year. This translates to roughly 30 acre-feet of additional water required per year.

With regard to the amount of water that was used during the year, interesting the amount of water actually declined in 1999 versus 1998. In 1999 the customers used approximately 439 acre-feet of water as compared to 461 acre-feet during 1998. We attribute this decline to the efforts of the community to conserve water during the summer and the community should be applauded for that. This also translates, during 1999 to approximately .19 acre-feet of water per customer during 1999. This is consistent with prior years and on average, for the past ten years, the rate of water usage in the Eldorado area has been approximately .22 acre-feet per year per customer.

The facts are important because they allow us to compute the projected demand for full build-out of the utilities franchise area. The utility has studied their franchise area and has estimated that at full build-out of the area, there will be approximately 3,740 units. And this would occur, obviously, some time after 2010. Based on past usage experience, and the estimated total build-out for the utility franchise area, it's estimated that there would be a need, a demand at full build-out of approximately 850 acre-feet per year. This figure's based on a customer usage of .227, which is slightly higher than what's occurred in the past.

We estimate that the total demand, after everything is build out in the area will be approximately 850 acre-feet per year. This figure is also very close to the figures that other independent hydrologists have come up with for the build-out for the system. Those estimates range anywhere from 892 acre-feet per year, up to 1000 acre-feet per year. And those are evaluations done by Molsen-Corbin and also in a report by John Shomaker. And I don't know if you have that report, but it's on page 13 of his 1998 report. He lists all

174968

those figures.

Therefore it looks as though the ultimate demand for the utility system is fairly well established in the area between 850 acre-feet and 1,000 acre-feet per year. With that in mind, we need to look at what the water supply will be to meet that demand. The utility currently has 15 wells that are either in use or are being prepared for use in the system. This represents an increase in five wells over the wells that were in use in the system in 1996 when you originally put this moratorium into effect. I'd like to go over those five wells and review them with you so you'll understand what they have added to the system.

First, wells 13 and 14, these wells are currently in use and are currently pumping water into the system. The two wells can produce 165 acre-feet per year and 350 acre-feet per year respectively, on a sustained basis. Well 13 was added to the system in 1998 and well 14 was added last year in 1999. Each of these wells has been approved by the State Engineer as a supplemental well for the system, and is currently in use. Both those wells have been added since the original moratorium was put into effect. Currently the State Engineer has limited the use of those wells through water rights allocations. However, the utility is currently in the appeal process to revise those limitations on those two wells.

Also, currently wells 10 and 11 are being connected to the utility system. Well 10 has actually already been connected to the system and will begin pumping water in the next two weeks. This well is projected to produce an amount of water, 80 acre-feet per year. So this will be an additional well that will be in the system this spring. I will note that the County has labeled this well as being affected by drought and therefore has never given the utility credit for it. However, it does produce water that can be added to the system. Well 11 is also currently being added to the system, however, it won't be operational at least until the summer. That well is involved in litigation and so the utility cannot count on that well, although it is preparing to put it into production if the barriers to production can be overcome.

In addition to those four wells, during 1999 well 15 was drilled and tested. The well tests came out very well. This well, the tests show can produce approximately 480 acre-feet of water per year on a sustained basis. We have done preliminary testing and have those reports available and I supplied them today to Estevan Lopez for him to review on the County's behalf. This well came out better than was projected originally and we're in the application process of making this well a supplemental well to the utility's system. This is an exciting event for the utility. This well actually produces an amount of water that's similar to the amount of water that has come from the Lamy well in the past.

In summary then, with regard to water supply, utility wells 1 through 8, and 12, supply approximately 490 acre-feet of water per year. These wells are currently in the system and there is no significant dispute with regard to these wells or their production. Wells 13 and 14 have the capacity to produce 515 acre-feet of water together. Together, those wells have a currently pumping capacity of approximately 1,000 acre-feet per year. As you can see, these wells, if their pumping capacity were allowed today would

1749681

approximately fulfill the projected ultimate build-out demand on the system. This pumping capacity does not include wells 9, 10 and 11, which the County has labeled as susceptible to drought, even though these wells have been labeled susceptible of drought, they do produce water and have produced water in each of the years the utility has been in existence.

So these wells will only add water to the system and will add additional capacity. Obviously, the County is not willing to accept those wells so we've not counted them in our capacity figures. We also have not added in well #15, the new well, and because we're in the application process and need to work with the State Engineer on that well, that well is not included in these figures but if approved by the State Engineer will add additional capacity in the future. I think the problem that the County has proposed to the utility at this point has really shifted from where we were in 1996. The utility has found significant new water resources. These resources, some have been put into use in the utility. Some will be put into use in the future.

Where we have shifted is the water rights that would be applicable, that the utility believes are applicable to these wells and can be used with these wells, we are currently in negotiation with the State Engineer to be allowed to use the water in those wells and be allowed to apply the water rights to the wells where the water is. So my point here is the utility has added significant water supply. We are still working on the water rights issue, but the supply of water has been increased.

That ends my presentation on demand and supply and where the utility intends to acquire the supply. I'd also like to address three other issues, which, in the past have been significant to the Commission and which the utility has addressed over the preceding years. The first one is water storage. Since 1998, the utility has completed all storage tanks that are required in the system for full build-out, for full development. Currently there are 2.5 million gallons of storage capacity. This storage represents enough capacity that if no water were pumped for three to five days, there would be sufficient water for the community. The storage capacity that currently exists is double the requirement of the AWWA standards, which is the organization that reviews this type of requirement.

The second thing I'd like to address is fire protection. This was a concern to the Commission in the past. During 1997 and 1998, all fire hydrants within the utility's system were tested and retested until they passed the required inspection. During 1999 the utility tested specific key hydrants to ensure that proper pressure existed at all hydrants. Recently, the Fire Marshal has requested the utility to do additional testing. We have met with the Fire Marshal and are cooperating with him to raise the ISO ratings for the Eldorado community. We are currently working on a written agreement with the Fire Marshal, which will set out the testing requirements and how Eldorado will meet those. And we're very happy with the progress that we're making in that area.

And then finally, in 1996 and subsequent years there was concern about water loss in the system. Since 1996, the water loss in the system has been less than 11% per year. The industry standard is 15%. So the bottom line is that the utility is more efficient than the

1749681

industry standard with regard to water loss.

In conclusion, I'd just like to say that the utility believes it has sufficient water supply capacity to meet its current needs and the projected growth at ultimate build-out. The utility has added a new well to its system each of the last two years. This year, the utility intends to add at least two new wells to its system and possibly a third well as well. In the year 2001, the plan at this point is to add an additional well, which will be the last experimental well, which would come on line in 2001. Based on these facts which we've presented, we believe the subdivision moratorium should not be renewed. Thank you and if you have any questions, I'll be happy to answer them.

CHAIRMAN GRINÉ: Any questions of Matt?

COMMISSIONER TRUJILLO: Do you have any idea of what the sustainability of those wells are? I understand that that area is a dry area as far as very depleted in water. It's an arid environment. There's not sufficient water in that area. Have you done any sustainability studies? You're digging all kinds of wells. Are you just essentially putting straws into the ground and depleting the aquifer which is already limited?

MR. SPANGLER: Commissioner Trujillo, our studies indicate that at the rates that I quoted you, that the aquifer will not be depleted, that the amount of water that's being pumped out of the system at those rates will be sustainable, that the aquifer will fill the system at the same rate that the water's being taken out. And I supplied one of those reports today to Estevan Lopez. In the past we've supplied the reports on the other wells and anything we can supply in that regard, we'd be happy to do if you'd like more information on that. I also know that the district, through John Shomaker, is doing an area-wide report which also addresses that issue, on a larger basis, not with regard to simply the utility system.

CHAIRMAN GRINÉ: Any other questions of Matt?

COMMISSIONER DURAN: Mr. Chairman, I'm just curious. I thought the reason that we had this moratorium in place is because the State Engineer's Office, along with our hydrologist concur that there isn't enough water out there to provide for additional development, and in fact, I thought that there was some statement made by the State Engineer's Office to even take care of what was there. So I'm a little concerned why we're hearing all this testimony about the wells when we're not the ones that need to be convinced, it's the State Engineer's Office. Because I thought our decisions have been made on this moratorium based on the State Engineer's Office decision or their analysis of the water out there. Am I wrong?

CHAIRMAN GRINÉ: No, that's true. That's true.

COMMISSIONER GONZALES: Mr. Chairman, to those issues, Estevan, Mr. Spangler has basically said that in their mind, they feel that they have sufficient water to cover the demand and the need out in the Eldorado area. Have you been in conversation with the State Engineer's Office? Are we pending their review of what Mr. Spangler has indicated tonight, or has that already been done and approved? What's your assessment?

1749681

I was reading the recommendations but I didn't see where you had really made an assessment.

MR. LOPEZ: Mr. Chairman, Commissioner, we do not know that the State Engineer is doing a current assessment of the situation. The information that -- I've got some information that was presented to me this afternoon. Obviously, I haven't had sufficient time to review the content of that or anything else. I would just fall back on some of the words that Mr. Spangler used and that is he mentioned that they are in negotiations with the State Engineer. They're appealing a State Engineer decision. They are in litigation over the use of certain wells. I think until such time as those issues are resolved and we have a clearer resolution of them, it would be premature for us to end this moratorium. I think that previously, the County Hydrologist has made an independent assessment of the availability of water, as has the State Engineer, and the Public Regulation Commission. All three came up to the same conclusion.

COMMISSIONER GONZALES: Along those lines, and this question is probably for Chris. It was my understanding that a moratorium is a tool that counties use as a temporary means to address problems that occur in communities. And I think the key that I've always known that it's a temporary tool, a temporary mechanism to put into place. This has been in place since 1996, is that right? I think, are we pushing the envelope here in a temporary state to say that we're going to continue this moratorium because the problems have not been solve out of the community and therefore this moratorium will stay in effect? Are we going to be compelled at some point to take some type of action, minus what we're waiting for the utility to do to address the issues in Eldorado so that this moratorium can be lifted. I don't want us to forget that the moratorium is only a temporary tool. It's not something that can stay in place permanently to address the water situation in Eldorado. Is that correct?

MR. GRAESER: Mr. Chairman, Commissioner Gonzales, you're absolutely right that it's not a permanent solution to the water problem. It's definitely going to have to be sorted out one way or the other. Requirements for moratoriums are more than has to be directly related to compelling health, safety, public welfare issues than any per se temporary requirement. The fact is that you couldn't permanently prevent someone from developing land because there are constitutional issues with that, but you can, if you have a compelling reason like that, lots are going to get sold to people and there might not be enough water for them to keep their houses on them, you can impose a requirement that the developer get that water.

And I'm not sure if that answers your question.

COMMISSIONER GONZALES: Well, is it reasonable to keep a moratorium in place, subject to the State Engineer solving this issue with Eldorado Utilities? Is that a reasonable position for the Commission to take, and so minus that, this moratorium stays in effect for three, five, ten years because they have not been able to resolve that issue, or is the County compelled to start identifying alternative solutions, so that if this issue isn't

1749681

resolved we find another solution to some of the water problems that are occurring out there?

MR. GRAESER: I think all defer on the reasonability of it. Legally, you're on solid ground. I would agree that as a practical matter there may be a time for the County to step in and start help sorting it out. Legally, with the moratorium, there's not going to be a problem with extending that for, if need be, a couple more years.

MR. SPANGLER: Commissioner Duran, to respond to your question, I do want to make it clear that we still are in dispute on several issues with the State Engineer and what I was trying to say is with regard to water, we have made significant progress on producing water, so that the debate has changed somewhat and it's become more of a water rights debate. And we are in that debate with the State Engineer and actively pursuing it. But with regard to getting the physical water available, that progress has been significant.

COMMISSIONER DURAN: Mr. Spangler, I don't mean to be disrespectful at all, but for the last three years that I've been here, the moratorium has come up and the State Engineer has never given us information saying that the water that Eldorado Utilities has is adequate to provide for additional development. And every year, you come up here and you tell us that you have enough water. And it just seems to me that, again, I'm not trying to be disrespectful, but I think that you're wasting our time when the one that needs to be convinced is the State Engineer. Because we're not going to be able to make a decision as to whether or not to lift this moratorium until the State Engineer says that there's adequate water to provide to the community out there, or additional residents. So it just seems to me that you're talking to the wrong people, asking us to lift the moratorium. It's the State Engineer's Office that's going to give us the reasons and the information to do that.

CHAIRMAN GRINÉ: Okay, any other questions of Matt? Okay, thank you, Matt. Next, your name please.

DUDLEY HAFNER: My name is Dudley Hafner. I live at 11 Tauro Road in Eldorado and I'm a member of the board of the Eldorado Area Water and Sanitation District. I'd like to comment specifically on the presentation of EDU in terms of certain phrases that were used, and let me tell you how they fit in the context of my thinking. The words were used, "We have made great progress in producing water." If you will visualize, if you have a 500-gallon tank of water with a spigot, you add another spigot, and you add another spigot, then you add another spigot, and you add another spigot, then tell me that you've made progress in producing water, I will tell you, No, you have simply found a way to empty the 500-gallon tank that much quicker.

Until there is an understanding about the source of new water, any well drilled there is simply going to be another spigot in a 500-gallon tank of water. Now, I would hope that someone would congratulate the people in Eldorado for using less water in 1999 than they did in 1998. Congratulate them for not flushing their toilets, congratulate them for taking buckets into the showers so that they can carry them outside. Congratulate them for moving trash cans around their canales so they can catch what rain there was. That's why we used less water. We became very concerned that there would soon be no water.

1749681

We still have, as the moratorium points out, 400 lots that need to be serviced. Building can go on and building is going on. It's not like people can't find a place to build a house. I would hope that EDU's study that they shared this afternoon with the County representatives could be shared with the very people that depend on their water for their life blood.

It was mentioned that Shomaker had refereed to 1,000-plus acre-feet. What was not mentioned is that Shomaker also referred to several other probabilities and possibilities, and likely accounts that were much less than 800-plus acre-feet that EDU says they're need once it's all built out out there. So I think the prudent thing is to continue the moratorium until such time as the conditions outlined in that moratorium have been met and understood by all parties to this problem. Thank you

CHAIRMAN GRINÉ: Thank you. Anybody else? State your name.

PAT KULHOFF: My name is Pat Kulhoff. I live at 14 Duende Road in Eldorado. I'm the president of the Eldorado Residents Association, and I also had a letter last week from Rosemarie Bigoni, who is the president of the 285 Coalition, which represents 17 other neighborhoods as well as Eldorado, all of which have people on the utility system. Our request of you would be that you listen to Mr. Kunkle's letter and that we back him up in his request that you wait until this model, the computer model is in, before you make a decision whether to continue or discontinue the moratorium. Until you have the best information possible to make your decision from. Thank you.

CHAIRMAN GRINÉ: Thank you. I'm going to ask you, if we've heard something already, don't repeat it, because we still haven't gone through the public hearings for our land use.

MS. SIGSTEDT: Okay, I just want to say that I called the State Engineer's Office and spoke with people, and what they suggested, they definitely said that there is no new water. There are more supply wells. There is increased storage but there's no new water. Nothing has changed in terms of water and the State Engineer's Office, who is financing and administering the Eldorado Water and Sanitation District study indicated that this study would be worth waiting for the results of. He even felt that perhaps these results might show a weakness or unsustainability. And you certainly wouldn't want to be -- I mean if the water runs out, everything would come to a screeching halt. My name is Carolyn Sigstedt. I live in Santa Fe, but I lived 18 years in Ojo de la Vaca, which is a neighboring community of Eldorado.

CHAIRMAN GRINÉ: Okay. New speaker please. Please tell us what we haven't heard.

GARY BELL: You haven't heard this before. My name is Gary Bell. I live at 24 Esquila Road in Eldorado, and I'm a PhD. biologist by way of background and despite that fact, I'm going to be brief. New Mexico, among its other wonderful resources, has tremendous climate research going on. World class climate research. One place that comes to mind is the Sevilleta Long-Term Ecological Research Station, and such famous among

1749681

research, people as Julio Betancourt and Jim Gauss working on the long term patterns of vegetation change and climate in our state.

I asked one of them what the most remarkable thing they had learned about climate in the time that they've been studying this, for the years that they've been studying it. One of them said they'd never seen an average year, which I think is an important point. They also said that this is a unique period we're living in, the last 25 years, a unique period in our climate history. It's the wettest period in the last 800 to 1000 years. Think about that. The wettest period in the last 800 to 1000 years. No one alive in New Mexico today has ever seen a drought, and yet we keep talking about drought. We talk about 1996 as if it was a drought. We talked about last year as if it was a drought. We talk about this year as if it was a drought. We're seeing normal years.

Last year and in 1996, Eldorado Utilities had trouble meeting our water needs. Now they want to say that they can guarantee our water supply for 100 years. There's no way that they can guarantee that water supply. And I'd like to know what they plan to do when we return to average rainfall.

CHAIRMAN GRINÉ: Sir, what was your name?

MR. BELL: Gary Bell.

CHAIRMAN GRINÉ: Gary, you know we've heard all this stuff and we know the past history so, I'm really being honest that we have a lot of people who want to do their business before the County Commissioners tonight, and we're already familiar with this issue. I'm being honest with you.

MR. BELL: Okay, okay. I urge you to pass the ordinance and I urge you to put the open end on it as well. Thank you.

CHAIRMAN GRINÉ: Please, tell us what we haven't heard.

STACY CROSSINGHAM: I've got completely new stuff. Don't worry. My name is Stacy Crossingham. I'm a resident and a business owner in Eldorado. My family and I moved to Eldorado six years ago and we enjoy it and we don't want to see it changed. One issue that has not been brought up tonight, and has not been brought up over the last four years of this moratorium, which I must say I'm neither for or against at this point, because I don't have my facts.

But what I am knowledgeable about is there are commercial properties out in Eldorado that are hooked up to the Eldorado system, do have water available to them, and are approved to go ahead with development. The problem is is that the County will not allow development, variances to the developments on the master plans that were approved prior to 1996 unless it sticks to the uses that were stated on the approved plan. I'm here to suggest to the Commission to allow a position for variances to these things, to these pre-approved plans where we can provide better quality developments to the community and create an atmosphere for the community to put input into what this development is available.

The current properties will allow for more shopping centers, which we really don't want to see an overabundance of, and we want to vary the currently approved master plan.

1749681

We are hitting a brick wall with this, and we would like the Commission to consider allowing a variance under the moratorium this time to be open to hearing of projects that will not only be advantageous to the community itself and have community support, but also that will produce conservative measures for water conservation and also use less water, significantly less water than what those properties are currently allowed to use. Thank you.

CHAIRMAN GRINÉ: Thank you. Anybody else.

PAUL RAUSCHER: Mr. Chairman, Commissioners, my name is Paul Rauscher. I live out in Eldorado and the point I want to bring up is I'm one of approximately 400 private well users, own my own well. And where is the utility addressing our issues of water. If they have a master plan, I believe we private well owners need to be a part of this. Right now, we feel like we're a stepchild, and not to belabor the point, but with all the straws in the ground, there's 400 more straws, which means that there's that much less regulation of private wells. So until we have a comprehensive look at what our situation is, as a private well owner, I would really appreciate maintaining the moratorium.

CHAIRMAN GRINÉ: No problem. It's going to happen. Anybody else? Okay, this is a public hearing and we're done with it, and what is the wishes of the Commissioners?

Commissioner Duran moved to adopt Ordinance 2000-2 with staff's amendments. Commissioner Anaya seconded. The motion passed unanimously upon roll call vote, with Commissioner Anaya, Commissioner Gonzales, Commissioner Trujillo, Commissioner Duran and Chairman Griné all voting affirmatively.

X. B. LAND USE DEPARTMENT

1. **CDRC Case #V 99-5730. Julian Roybal Appeal/Variance.** Julian Roybal, applicant requests a variance of Article III, Section 10 (lot size requirements) of the Land Development Code to allow for a second dwelling unit on 1.19 acres. The property is located at Route 1, Box 8, within the traditional community of Glorieta off of County Road 63, within Section 2, Township 15 North, Range 11 East

FRANK WHITE (Review Specialist): Thank you, Mr. Chairman, Commissioners. There are currently two mobile homes and two septic systems on the property. The property is served by an on-site, shared well. The applicant placed a second mobile home on the property without a permit. His daughter, Ms. Roybal and her son have been living the mobile home since October 25, 1999. Ms. Roybal, the applicant's daughter states that she is a single mother and is unable to afford property or a mobile home space in the surrounding area. Therefore she feels that placing a second mobile home on the

1749681

property would help her make ends meet. The applicant has submitted a list of people supporting the placement of a second unit on the property, Exhibit E.

Recommendation: Staff recommends that the intent of the Code is to set minimum lot size in this area at 0.75 acres per dwelling unit. Therefore staff recommends that the request for a variance be denied. The decision of the CDRC was to recommend approval of a variance of Article III, Section 10 of the Code to allow two homes on 1.19 acres subject to the following conditions. Mr. Chairman, may I enter the conditions into the record?

CHAIRMAN GRINÉ: Just enter them, Frank.

[The conditions are as follows:]

1. Temporary three years to be approved administratively if existing hardship continues.
2. The applicant will provide a revised Environmental Department liquid waste permits for both homes showing correct acreage. If such a permit cannot be obtained within 60 days of BCC approval, the second dwelling shall be removed immediately.
3. The existing driveway will serve both homes.
4. No additional permanent structures to be erected on site to support either dwelling unit until second dwelling is removed.
5. The variance will expire and the second dwelling is to be removed if the applicant is no longer able to prove the hardship still exists.
6. After a three-year period, the applicant must comply with all State Environmental Division requirements if a continuing hardship is granted by the Land Use Administrator.

CHAIRMAN GRINÉ: Any questions of staff? Okay, thank you, Frank. Is the applicant here?

[Duly sworn, Julian Roybal testified as follows:]

JULIAN ROYBAL: My name's Julian Roybal and my mailing address is P.O. Box 289, Glorieta.

CHAIRMAN GRINÉ: Okay, are you in complete agreement of the conditions? Okay, is there any questions of the applicant? No questions. Anybody in the public like to address this case?

[Duly sworn, Juliana Roybal testified as follows:]

JULIANA ROYBAL: My name is Juliana Roybal. I live at P.O. Box 289, Glorieta, New Mexico.

CHAIRMAN GRINÉ: Are you in favor of the conditions?

MS. ROYBAL: Yes.

CHAIRMAN GRINÉ: Any questions of this individual? What's the wishes of the Commission?

1749681

Commissioner Anaya moved to uphold the recommendation of CDRC, subject to staff conditions and as accepted by the applicant. Commissioner Trujillo seconded and the motion passed by unanimous [3-0] voice vote. [Commissioner Gonzales was not present for this action.]

- X. B. 2. CDRC CASE #V 99-5680. Carmel Romero Variance. Carmel Romero, applicant, Danny Martinez, agent, requests a variance of Article III, Section 2.4.2.b.3 of the Land Development Code to allow for a 20-foot ingress and egress easement with a 16-foot driving surface for a family transfer land division of two lots and a lot line adjustment on 2.18 acres. The property is located north of State Road 503, within the traditional community of Nambe, in Section 9, Township 19 North, Range 9 East

MR. WHITE: Thank you, Mr. Chairman, Commissioners. The applicant is proposing a 16' wide road within a 20' easement. He states that the existing residential structures do not allow for full easement width. He also states that the platting would not be able to meet the minimum of 0.75 net acres per tract if the additional easement is platted.

The Fire Marshal has conducted a site inspection and recommends a variance be denied. However, he has provided a list of conditions, Exhibit C, which should be imposed if the BCC decides to approve the variance.

Recommendation: Staff recommends that this variance be denied based on Article III, Section 2.4.2.b.3 of the County Code, which requires a 20' wide roadbed within a 33' easement to serve this division. The CDRC's decision was to recommend approval of the variance of the Land Development Code to allow for a 20-foot wide ingress and egress easement with a 16-foot wide roadbed with the following conditions.

[The conditions are as follows:]

1. A hard packed smooth surface roadway shall be maintained at all times by the applicant. A final inspection by the County Fire Department and Land Use personnel is required for approval.
2. Tree limbs and shrubbery shall be trimmed back and maintained along length of easement.
3. Applicant must maintain and widen turning radius along easement as per Fire Marshal requirements.
4. Building addresses and roadway names shall be clearly posted to aid responding emergency agencies in locating the individual residences.

174968

5. For future reference, it should be noted on the approved plat that: "No further subdivision of these lands should be allowed unless significant access modification is approved and installed."
6. It should be noted on the plat that this easement does not meet Santa Fe County fire code regulations for access.

CHAIRMAN GRINÉ: Any questions of staff? Okay, thank you, Frank. Is the applicant here?

[Duly sworn, Danny Martinez testified as follows:]

DANNY MARTINEZ: Danny Martinez, 1221-A St. Francis Drive, agent for Carmel Romero.

CHAIRMAN GRINÉ: Okay, Danny, is your applicant and yourself as an agent in agreement with the recommendations?

MR. MARTINEZ: Mr. Chairman, yes we are.

CHAIRMAN GRINÉ: And the conditions, I mean.

MR. MARTINEZ: Yes.

CHAIRMAN GRINÉ: Are there any questions of Mr. Martinez. No questions of Mr. Martinez. Thank you, Mr. Martinez. Anybody in the audience want to address this case? If not, what's the wishes of the Board?

Commissioner Trujillo moved to approve CDRC Case #V 99-5680 with staff conditions. Commissioner Anaya seconded and the motion passed by unanimous [3-0] voice vote. [Commissioner Gonzales was not present for this vote.]

- X. B. 3. EZ Case #S 96-4721. College Hills. Northwest Villages, LLC (Michael Hurlocker), applicant, requests an extension of time for master plan validity and to record the final plat/development plan which was previously approved for 88 residential lots on 220 acres. The property is located off of Coyote Ridge and north of State Road 599 within the two-mile Extraterritorial District, Section 20, Township 17 North, Range 9 East

JOE CATANACH (Review Specialist): Thank you, Chairman Griné, Commissioners. On December 8, 1998, the BCC granted final plat/development plan approval of the referenced subdivision for the College of Santa Fe. The property was recently purchased by this applicant. The subdivision regulations require subdivision plats to be recorded within 18 months from the date of final approval by the BCC or the approval becomes null and void unless an extension is granted by the BCC for good cause as demonstrated by the applicant. The applicant has submitted a letter requesting an extension

1749681

of two years, which is June 8, 2002.

Recommended action: The subdivision regulations have not changed since the initial approval and existing conditions have not changed significantly. Staff recommends approval for an extension of an additional 18 months, to December 8, 2001 to record the subdivision plat subject to the conditions previously imposed by the BCC. This would constitute an automatic two-year extension of the master plan to August 27, 2003. Thank you.

CHAIRMAN GRINÉ: Thank you, Joe. Are there any questions of staff? No questions. Thank you, Joe. Is the applicant here? Jim Siebert, are you representing Hurlocker?

JIM SIEBERT: Mr. Chairman, yes I am.

[Duly sworn, Jim Siebert testified as follows:]

MR. SIEBERT: My name is Jim Siebert. My address is 915 Mercer, Santa Fe.

CHAIRMAN GRINÉ: Okay, are there any questions of Jim?

COMMISSIONER ANAYA: Jim, this is merely an extension of time to kind of go over any kind of changes you might need to do?

MR. SIEBERT: Mr. Chairman, Commissioner Anaya, that's exactly correct. The College determined it would be in their best interest to sell the property and my client really has not had sufficient time to completely evaluate all the necessary costs to commence construction.

COMMISSIONER DURAN: Mr. Chairman, is this, do you think that your client is going to come forward requesting for a higher density?

MR. SIEBERT: There is a possibility that that could occur. Yes. He's weighing the two options at this point.

COMMISSIONER DURAN: Mr. Hurlocker may come back requesting this Commission to increase the density on this already approved project?

MR. SIEBERT: That's one of the evaluations he's making at this time and any increase in density, Commissioner, as you're aware of, would require a new series of public hearings.

COMMISSIONER DURAN: Okay. So we would still have that public hearing process to go through, obviously.

CHAIRMAN GRINÉ: Okay, are there any other questions of Jim? Is there anybody in the audience that would like to speak on this case? If not, what's the wishes of the Commission?

Commissioner Anaya moved to grant a time extension as requested on EZ Case #S 96-4721, and Commissioner Duran seconded. The motion passed by unanimous [3-0] voice vote. [Commissioner Gonzales was not present for this vote.]

MR. CATANACH: Mr. Chairman, could I get a clarification on that

1749681

decision? Was that as recommended by staff?

COMMISSIONER ANAYA: Yes.

CHAIRMAN GRINÉ: As recommended by staff.

[The Commission recessed from 8:00 to 8:05]

- X. B. 4. EZ Case #Z 99-4891. Shell Convenience Store/Gasoline. Brewer Oil Company (Charles Brewer), applicant, requests approval for a liquor license transfer for a previously approved retail use at 7510 Airport Road with the two-mile Extraterritorial District, Section 11, Township 16 North, Range 8 East

MR. CATANACH: Thank you, Chairman Griné, Commissioners. The State Alcohol and Gaming Division has granted preliminary approval of this request. In accordance with the Liquor Control Act, a legal notice has been published in the newspaper and the request is subject to consideration by the BCC.

Staff recommendation: On November 30, 1999, the EZA granted zoning approval to permit package liquor sales. Staff recommends approval of the liquor license transfer based on the zoning approval granted by the EZA. Thank you.

CHAIRMAN GRINÉ: Thank you, Joe. Are there any questions of staff? Is the applicant here?

[Duly sworn, Linda Aiken testified as follows:]

LINDA AIKEN: My name is Linda Aiken. My office is at 300 Paseo de Peralta. I just have a couple of things to say. I'm the attorney for Brewer Oil Company. Number one, Charlie Brewer is present, and I don't think you could ask for a better operator or applicant for a liquor license here. I think everybody would agree to that. And number two, I wanted to ask the Commission that if they have a discussion about any protest that there might be, that the standard is that there has to be substantial evidence to disapprove a liquor license, and there be a discussion of what substantial means if there are protestors to this license before there's a vote. And I think Mr. Brewer has comments just as long as I do.

CHAIRMAN GRINÉ: Thank you.

[Duly sworn, Charlie Brewer testified as follows:]

CHARLIE BREWER: Charlie Brewer, 319 East Coronado. After the EZA meeting we had a meeting with the homeowners association of Vista Primera. Four homeowners were present and we had a nice discussion. I haven't heard from any of them since that meeting and I haven't had any calls from anybody concerning this.

CHAIRMAN GRINÉ: Thank you, Charlie. Any questions of Charlie? Okay, this is a public hearing. Anybody in the audience want to speak on behalf, for or against?

1749681

[Duly sworn, Maurice Bonal testified as follows:]

MAURICE BONAL: My name is Maurice Bonal, 685 Callecita Pecos here in Santa Fe. I'm a broker of liquor licenses, as you know, state-wide, and Brewer is one of the accounts that I deal with and I do have to tell you that I have through the years of my brokerage and it's going on 15, 16 years now that I've been brokering liquor licenses, I've never had any problems with Brewer Oil Company in terms of an operator of a liquor license. They have worked well with their neighbors. In fact, in most instances, they are the neighbor. They become very active in local and community events and they're supporters of local causes and they do very well in that regard. And I do have to say that the Department of Alcohol and Gaming Division would not have sent you this application if they felt that Mr. Brewer was in any way, had any problems as an applicant for this license. And again, I repeat that the Brewers are in good standing with the department as operators of liquor licenses.

CHAIRMAN GRIÑÉ: Thank you. Any questions of Maurice? Anybody else in the audience want to speak on this issue?

[Duly sworn, Maryann Nothwang testified as follows:]

MARYANN NOTHWANG: My name is Maryann Nothwang and I live on #10 Camino Alondra. And I am here of confusion, because several years ago, I was protesting the liquor license at the airport. I came up in front of this board. And at that time, Mr. came up and said that he had no desire to have liquor at that Allsup's, and lo and behold, here are. My concerns are the WIPP site that drives right by there, the busy intersection, and yet another liquor establishment so close to our neighborhood. Thank you.

CHAIRMAN GRIÑÉ: Thank you. Anybody else in the audience want to speak for or against? What are the wishes of the Commission?

Commissioner Anaya moved to approve EZ Case #Z 99-4891 and Commissioner Gonzales seconded. The motion passed by majority [3-2] voice vote with Commissioner Anaya, Commissioner Gonzales and Chairman Griñé voting in favor, and Commissioner Trujillo and Commissioner Duran voting against.

- X. B. 5. EZ CASE S 99-4630. Windmill Ridge at Rancho Viejo. Rancho Viejo de Santa Fe, Inc. Bob Taunton, Vice President, applicant requests final plat/development plan approval in accordance with the approved master plan, for a mixed use subdivision (residential/commercial/community) consisting of 185 residential lots and a master plat for 39 residential lots on 178 total acres, and a variance of minimum road standards. The property is located

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**off Richards Avenue south of the Community College within the
five-mile Extraterritorial District, Sections 20, 21, 28, and 29,
Township 16 North, Range 9 East**

MR. CATANACH: Chairman Griñé, Commissioners, see if I can just summarize this request for a subdivision approval. We're familiar with the Rancho Viejo master plan, approved in 1989, 655 residential units, including a mix of other uses for commercial community on 2100-plus acres. So far, the subdivision phases that have been approved are Turquoise Trail, 20 commercial lots in the village at Rancho Viejo, units 1 and 2, 335 residential units and that also includes lots for commercial development and community uses.

The subdivision phase as outlined in the caption, would be 153 lots ranging in size from 6,098 square feet to 91,000-plus square feet. There's thirty-two affordable lots. There's 39 single-family attached units and these lots ranging from 4,000 to 7,000 square feet. These lots are being submitted as a master plat in accordance with BCC approval which allows the specific size and shape of the lots to be created by administrative plat approval which provides flexibility for the seller and the buyer. There are two tracts for commercial uses consisting of 2.6 acres each. There's a 10-acre tract for a public school. There's a plaza area. There's 339 acres for density transfer reserve to comply with the 25-acre zoning for gross density.

Access to this subdivision phase is a continuation of Richards Avenue and there will be a secondary access connected to the road that was constructed for the IAIA Campus site. Santa Fe County water will be utilized and there'll be the Ranchland Utility Company is presently in operation for the community sewer. Open space, archaeology, terrain management, landscaping's been addressed. The homeowner documents, the homeowners association and related documents have been addressed.

This request includes variances of road standards having to do with finish road grades at some intersections. This variance request has to do with minimum spacing between points of ingress/egress as I've outlined in the staff report. The applicant has submitted a letter addressing the specific details of the variances and responding to the variance criteria. Requested variances are consistent with the variances granted for the previous subdivision phases for Rancho Viejo subject to compliance with review comments from County Traffic Engineer and County Fire Marshal to determine that the variance would not be adverse or detrimental to the general public welfare and to maintain a functional level of service for the roads.

This proposed subdivision is in conformance with the subdivision regulations, County Code for zoning and the approved master plan. The EZC recommended final approval with variances subject to the list of conditions and the applicant has addressed the conditions, is in agreement and has addressed the conditions. I do know that there has been some concern about specifically, out of these list of conditions, number 11 addresses the off-site road

1749681

improvements that Rancho Viejo has committed to undertake, which is improvements to widen Richards Avenue and increase its capacity and level of service and that's what condition 11 is intended to acknowledge that we need to follow up on agreement of the specifics of that off-site road improvement to Richards Avenue as far as design and time frame and obviously that agreement includes compensation. Rancho Viejo will be putting up the initial expense of this road improvement and that agreement would involve any other development that is benefitting from the road improvement for Richards Avenue, that is due compensation to Rancho Viejo. So everybody pays their fair share in doing this road improvement. Like I mentioned, Rancho Viejo will be taking up the initial expense.

I do know that Rancho Viejo is prepared to talk about a concern that has been brought up by some of the area residents. This concern has to do with the coordination as to when permits for building construction will be issued as it relates to the completion of the Richards Avenue improvement. I believe Ike Pino will address that, but I believe that the issue of this time frame of building permits and completion of Richards Avenue, I think it will take care of itself through its own process. If you project a time schedule, time frame, you're looking at, you're probably looking at well into November of this year before Rancho Viejo has their on-site infrastructure at an adequate level that we can start issuing permits for construction. So that's well into November, and if you take that and you think about the time period that it takes to actually put up a house and occupy it, you're actually well into February and March of next year before any houses would actually be occupied. I feel comfortable that obviously Rancho Viejo will be bonding for the Richards Avenue improvement and if you project the time period from the time that houses are built and occupied, you're well into, I believe you're going to be well into February or March of next year and that's depending on weather. If the weather is -- if we have a severe winter it may even be well into the spring before houses are occupied.

So I believe that the process will take care of itself and that the Richards Avenue improvement will be in place before any houses are occupied.

[The conditions are as follows:]

1. Compliance with applicable review comments from the following:
 - a. State Engineer
 - b. State Environment Department
 - c. Soil and Water District
 - d. State Highway Department
 - e. Santa Fe County Water Company
 - f. County Hydrologist
 - g. County Subdivision Engineer
 - h. County Fire Marshal
 - i. County Public Works

1749681

- j. County Archaeologist
2. Submit updated composite plat of existing tracts and designated open space and recorded plats.
3. Final development agreement shall include but not be limited to terms and conditions for the following:
 - a. Phasing of the commercial-community uses and types of uses that are appropriate for neighborhood services (groceries, bank, gas, personal services, general retail, etc.)
 - b. Dedication and acceptance of school site.
4. Compliance with school impact ordinance, and submit confirmation from Public School District that proposal to relocate school site is acceptable.
5. The development plan submittals shall include the following:
 - a. Unrestricted secondary access road subject to platted easement, local road section, profile, slope analysis, drainage structures
 - b. Specific details for project/monument sign
 - c. Delineate trail alignment on development plan sheet
 - d. Landscaping (trees, shrubs) plan for park and plaza tracts
 - e. Recreational facilities for park
 - f. Conceptual lot and road layout for master plat area
 - g. Typical for visibility triangle on development plan sheet
 - h. Turn-around for Road a dead-end exceeding 250 feet
 - i. Delineate building envelopes and open space areas on estate lots and school tract
 - j. Traffic signs
 - k. Typical road sections for cluster lots and affordable lots
 - l. Street lights meeting minimum standards at appropriate locations (maintain rural character)
 - m. 2% inverted crowns
 - n. Horizontal street grades shall not be less than 1%
 - ~~e. Specify 40% building lot coverage on development plan sheet [deleted by staff]~~
6. Final homeowner documents (covenants, by-laws, articles of incorporation, disclosure statement) subject to approval by staff.
7. Final plat shall include but not be limited to the following:
 - a. All lots shall have direct access to a road meeting minimum standards (20' roadway within a 38' easement)
 - b. Reference all recorded plats for adjacent properties
 - c. Compliance with plat check list
 - d. Approval of street names and rural address
8. Submit engineer's cost estimate and acceptable financial surety for completion of all

1749681

required improvements as approved by staff. Upon completion, submit certification by a registered engineer that improvements have been completed in conformance with approved development plans.

9. Submit solid waste fees in conformance with subdivision regulations.
10. Landscaping irrigation with treated wastewater is subject to approval by State Environment Department.
11. Address off-site road improvements for Richards Avenue as required by County Traffic Engineer and execute final road agreement prior to recording final plat.

CHAIRMAN GRINÉ: Thank you, Joe. Any questions of staff? Okay, the applicant, Ike.

[Duly sworn, Ike Pino testified as follows:]

IKE PINO: Mr. Chairman, my name is Ike Pino. I am the land development manager for Rancho Viejo.

CHAIRMAN GRINÉ: That gets to the first question I have. Are you guys in full agreement with everything that's set forth here by staff?

MR. PINO: Mr. Chairman, we are. We have but one item that we just want to get a little bit more detail on that Mr. Catanach didn't touch on because it's fairly innocuous, actually. In the village at Rancho Viejo, we had reserved a school site of ten acres for the Santa Fe Public Schools. And in our agreement with them, they were to have notified us by January 1, 2000 what their intent for that school site reservation was. Actually at this point they have no intentions, have no plans. So what we have done is we've reserved yet another 10-acre potential site for them. It's not dedicated but it's reserved in Windmill Ridge.

That shows on the development plan down here, this green area. Mr. Chairman, all we'd like to get into the record is that in the event that the schools elect not to use that site, that it be allowed to be used for mixed residential commercial as the ten-acre site in the village at Rancho Viejo has been. And we would ask that that be included as part of the motion.

As to the capacity, I think Mr. Catanach capsulized that fairly well. We should have no problems with that.

CHAIRMAN GRINÉ: Okay, thank you, Ike. Any questions of Ike? Anybody in the audience want to speak for or against this case? Okay, Commissioners, what the wishes?

COMMISSIONER ANAYA: Mr. Chairman, I'm going to move for approval, subject to the conditions imposed by staff and allow the request that should the Santa Fe Public Schools show no intention of that particular reserved parcel of land that the potential exists that they go on to develop that in accordance to their request by the master plan.

CHAIRMAN GRINÉ: Do I have a second?

COMMISSIONER GONZALES: Second.

1749681

CHAIRMAN GRINÉ: Okay, I have a motion to approve EZ Case #S 99-4630 by Commissioner Anaya, seconded by Commissioner Gonzales. Any discussion?

MR. GRAESER: Mr. Chairman, on the addition suggested by the applicant, I was wondering if the Board wanted to put some sort of time limit on that.

CHAIRMAN GRINÉ: Could you guys give a time line, Ike?

MR. GRAESER: It may very well be a long time before the school needs it, is what I was thinking.

COMMISSIONER ANAYA: Okay. That's a good point.

MR. PINO: Yes, Mr. Chairman, the agreement with the schools is that the reservation would be in place till 2005.

CHAIRMAN GRINÉ: 2005. Is that okay then?

COMMISSIONER ANAYA: 2005 seems like a reasonable request.

CHAIRMAN GRINÉ: Okay. We include a 2005 in that amendment. And I do have a motion made and seconded, any further discussion?

COMMISSIONER DURAN: Mr. Chairman, just one thing. On the 2005, is it possible, when it comes up if it's not being used that we can extend it?

CHAIRMAN GRINÉ: That's no problem. I'm sure it can.

COMMISSIONER DURAN: Does the Board have the right to bring it?

COMMISSIONER ANAYA: I'm sure that potential certainly exists.

CHAIRMAN GRINÉ: I'm sure it could. I'm sure the applicant, it would be in the best interest --

MR. GRAESER: Mr. Chairman, to be sure, you may want to get that on the record at this time. I'm not sure exactly how the renewal would work. And the other thing I was wondering is if it's just the stated intention by the school district to use it at that time, or whether it's the school district starting build-out. So that's two things you might want to get clarified on the record, just so we know where we're going.

COMMISSIONER ANAYA: Okay, then at the time of 2005, then the County Commission at that time shall have the option to review matters of extension of this proposal before --

CHAIRMAN GRINÉ: And that's an amendment?

COMMISSIONER ANAYA: An amendment to the amendment to the motion.

CHAIRMAN GRINÉ: Is the second okay with that?

COMMISSIONER GONZALES: Yes.

CHAIRMAN GRINÉ: Ike, are you guys okay with that?

MS. BUSTAMANTE: Just a point of clarification. If the motion's already passed --

CHAIRMAN GRINÉ: No, we haven't voted on it.

MR. PINO: Yes, Mr. Chairman.

CHAIRMAN GRINÉ: Okay, thank you. Then they're okay. So then all those in favor signify by saying "aye." [Unanimous 4-0] The ayes have it.

1749681

- X. B. 6. CDRC Case #MIS 99-5620. US Cable, Cable Television Franchise Agreement. US Cable, of Coastal, Texas, doing business as US Cable, requests a cable television franchise agreement renewal. US Cable serve the Española, La Puebla, Chimayo and the Arroyo Seco areas
7. Resolution No. 2000-26. A resolution granting a certificate and acceptance of franchise to US Cable of Coastal, Texas, dba US Cable, to operate a cable television system within the northern portion of Santa Fe County

PENNY ELLIS-GREEN (Review Specialist): Mr. Chairman, Commissioners, this franchise was transferred to US Cable in January 1999 and it expired last month. The cable television franchises are regulated by Ordinance 1993-8. US Cable currently serves approximately 470 customers in the northern Santa Fe County area.

Recommendation: All submittals and requirements of Ordinance 1993-8 have been met. Staff recommends approval of the attached resolution to allow for a 20-year franchise agreement. Thank you.

CHAIRMAN GRINÉ: Thank you, Penny. Any questions of Penny?

COMMISSIONER ANAYA: Were there any highlighted changes to the old agreement that you might inform us about?

MR. GRAESER: Mr. Chairman, I believe there are and I'm checking right now to make sure that those made it into print. The main feature of this from the old one is that this will be subject to the new cable franchise ordinance, which we're going to bring forward probably very soon, which among other things is going to raise the franchise fee from 3% to 5% of gross revenues, and there will be some other issues. This also does provide that the cable franchisee has to provide government access. If we were to for instance, wanted to televise Commission meetings.

COMMISSIONER ANAYA: Okay, thank you, Chris.

MR. GRAESER: What I started saying, I think there may be a couple changes from the one that was in the packet. I don't know if you have the updated packet, but there are minor language changes.

CHAIRMAN GRINÉ: Thank you, Chris. Any other questions of staff? Thank you, Penny. Is the applicant here?

[Duly sworn, Rene Roque testified as follows:]

RENE ROQUE: My name is Rene Roque and I am with US Cable at 608 East Pueblo Avenue in Española. Mr. Chairman, Commission, I'd like to thank you for giving me the opportunity to request a franchise agreement renewal here. Basically, we have been in contact with Penny and her office and have adhered to any questions she might have or has had as far as our renewal of that contract or agreement. I know it's been a long night. I had a whole thing drafted up, but I'm going to stop there and just basically ask for

1749681

the approval and we will do whatever it takes.

And one more comment. On the public access, we have that. The only capabilities we would not have is directly from here from this building or from Santa Fe, but from our office, if you were to tape these, I would more than gladly broadcast them over our system, but we do have a public access channel. Also we do provide all the schools in our area with cable and we do whatever we can for our kids. They're our main priority. Thank you very much.

CHAIRMAN GRINÉ: Okay, thank you. Any questions of the applicant? Anybody in the audience want to speak on this case?

Commissioner Anaya moved to approve CDRC Case #MIS 99-5620, and Commissioner Trujillo seconded. The motion passed by unanimous [4-0] voice vote.

Commissioner Trujillo moved to approve Resolution 2000-26. Commissioner Anaya seconded and the motion passed by unanimous [4-0] voice vote.

X. B. 8. CDRC CASE #A 99-5721. Joe Miller Appeal. Joe Miller, applicant, appeals a County Development Review Committee's decision to require an archaeological report for a land division to create 16 lots by a 140-acre exemption. The property is located east of US 285, south of Lamy, within Cañada de los Alamos and Bishop John Lamy Grants, Township 14 North, Range 10 East and Township 15 North, Range 10 East

MR. WHITE: Thank you, Mr. Chairman, Commissioners. The applicant has submitted a request to create 16 lots by a 140-acre exemption. The applicant has signed and submitted an exemption affidavit, Exhibit D, that he states exempts this development from the Santa Fe County subdivision regulations, including the requirement of an archaeological report. It is staff's position that the archaeological survey requirements of the Code are not limited to subdivisions only but apply to developments including land divisions. Article II, Section 2.3.1, Exhibit F, defines the approval process and states that land divisions which are exempt from the subdivision regulations, including the 140-acre exemption are reviewed administratively.

Article III, Section 2.4.2.b, Exhibit G, is the submittal and review requirements for land divisions, including the 140-acre exemption, and states that these land divisions are reviewed for special review districts and states that if a lot is located in a special review district pursuant to Article VI of the Code, the applicant must submit additional information as required.

1749681

Article VI, Section 3.4, Archaeological Districts of the Code, Exhibit H, requires proposed developments of 10 acres or more within an archaeological district designated as having moderate archaeological potential shall be required to conduct a reconnaissance survey and prepare a report. If an archaeological site is determined to be significant, a treatment plan is required if the site is not to be protected.

Recommendation: Staff recommends that this appeal be denied based on Article II, Section 2.4.2b.2(b), 2.4.2b.2(a), and Article VI, Section 3.4 of the Land Development Code, which states if a lot is located in a special review district, the applicant is required to submit an archaeological report. The CDRC's decision was to deny the request for an appeal. Thank you.

CHAIRMAN GRINÉ: Thank you. Any questions of staff?

COMMISSIONER DURAN: Mr. Chairman, Frank, is this an appeal of the Land Use Administrator's interpretation of the Code, or is this a request for a variance?

MR. WHITE: Mr. Chairman, Commissioner Duran, this is not a request for a variance. It's merely Code interpretation.

COMMISSIONER DURAN: Okay. Thank you.

CHAIRMAN GRINÉ: Any other questions of staff? Thank you, Frank. Is the applicant here? Joe Miller.

[Duly sworn, Joe Miller testified as follows:]

JOE MILLER: Mr. Chairman, Board members, I wonder if I could pass these out for you. My name's Joe Miller. I live at HC 75, Box 406 in Lamy. I don't know for sure what the problem was in this but we are not a subdivision in the first place, so we should not be required to follow the subdivision laws. And if you look on Exhibit 1, this is from the State Subdivision regulations. And it gives, under J, it gives a definition of what subdivisions are. And it says a subdivision does not include the following. And if you turn the page over, number 11, it doesn't include the sale, lease or conveyance of land that creates no parcels smaller than 140 acres. We have no parcels smaller than 160 acres. So according to the State Subdivision, we are not a subdivision.

Now if you look at Exhibit 2, this is out of the Code, Section 2.4, and it tells you there, the following divisions of land are exempt from the subdivision regulations. If you go on down to e, the sale, lease or conveyance of land creating no parcels smaller than 140 acres. Again, we're not a subdivision.

The if you look at Exhibit 3, which is the definition out of the Code, Article X, Section 2, it says Subdivision. And it gives the definition of subdivision and at the end of it says, subdivision does not include, and down there under k again, it shows up. No parcel more than 140 acres. So we're definitely not a subdivision. But it seems staff wants to refer, if you look at Exhibit 4, this is exemption, and if you read the top of the exemption it says, claims an exemption from the requirements of the New Mexico Subdivision Act, and the Santa Fe County Subdivision Regulations. So we don't have to follow the subdivision acts; we're not a subdivision.

1749681

Staff and the Land Use Administrator seem to think that we fall into it under Article III, Section 12, which is 2.4.2b. That lists and refers to these divisions of land that are not subdivisions. And it says the following submittals in review shall be applied when an applicant for a development plan involves the type above list, which includes 140 acres, that are type 3 and type 5. We are not a type 3 subdivision, and we're not a type 5 subdivision. We're not even a subdivision, so this shouldn't apply to us at all.

But if you'd give it to them, and if you'd say yes, you're a subdivision, you do need an archaeological report, what do we have to do? What do we need? Well, according to their section it says first we need to do a reconnaissance survey. And you do a reconnaissance survey, then it will show up the sites and then you have to do treatment for the sites. But what is a reconnaissance survey? If you look on Exhibit 7, this is out of the definitions from the Code, and it says, Reconnaissance survey. This is what it is. It's the visual examination of the land surfaces that are to be disturbed. We're not disturbing any land. We're not putting any roads in. We're not putting any water lines, no power lines. We're not disturbing one teaspoon of land.

All were doing this for is for tax purposes for estate planning. We're not even going to put it on the market. If we did have to do a reconnaissance report, they gave a little protection to the developer. If you look at Exhibit 6, there's a maximum funding. It says there in no case shall the applicant be required to spend more than 2% of the value of the proposed development as shown on the development permit in preparing -- preparing is the reconnaissance study -- and completion of the treatment. No more than 2%. Well, if you look on our application, the value is zero. Because we're not doing anything to this land at all to improve it or make it -- it's not going to be worth one dime more when we're done than it is now. So the value is zero. So if we stuck to the funding limits, 2% of zero is zero. We don't have to spend any money on an archaeological study. We don't even need to do reconnaissance, prepare for a study, because we're not disturbing any land.

It's a visual examination of the land surfaces that are to be disturbed. We're not disturbing anything. It's going to be exactly the same when we're done. All we're doing is putting some lines on a piece of paper to denote the different parcels. We're not putting any roads in or nothing. We're not disturbing any land so we -- there's no surface being disturbed. That's about all. It's such a clear -- words mean things. And these words mean that you only spend 2%, they mean you only look at the land you're going to disturb. And I don't see why we should be required to do any kind of anything on this. That's all I have unless you have any questions.

CHAIRMAN GRINÉ: Thank you, Joe. Any questions of the applicant?

COMMISSIONER TRUJILLO: Yes, Penny, are we a little premature in requiring an archaeological study here, in that, like Mr. Miller says, there's no disturbance of land, it's just lines on a piece of paper that are essentially representing a subdivision of land if you will, without any construction or any cutting or any excavation. Doesn't that happen later when he submits for those permits?

1749681

MS. ELLIS-GREEN: Mr. Chairman, Commissioners, staff would agree, first off, that this is not a subdivision of land. There's two ways to get to the archaeological requirements. One is through a subdivision of land, and one is through a land division. And Mr. Miller's right. He comes under a division of land, not a subdivision. I've read the section of the Code that Mr. Miller has stated regarding what a reconnaissance survey is. That same section of Code, which is also in your packet as Exhibit H, states, and I think that's highlighted in your packet, that applicants proposing developments within an archaeological district shall complete an archaeological reconnaissance survey. Then if look under the definition of a development, it states development is the making of any material change in the use or appearance of any structure or land, or the performance of any building or terrain modification, including without limitation, c. under there is division of the surface area of land. So this is considered a development.

When we look at what our requirements are, we ask for an archaeological report upfront for the land division or for a subdivision. The reason for that is then that once this division has been created, someone can then sell that property, and a homeowner can then purchase the property. Instead of having individual surveys done for each individual tract of land, we require that the developers themselves provide the information, same as we do with water supply, liquid waste plans, fire protection, archaeological is also required upfront.

COMMISSIONER DURAN: Mr. Chairman, Joe, do you think it would be -- I mean the reason that we have these ordinances, this reconnaissance study, reconnaissance report, is basically to protect any significant archaeological sites that may be on this property, to preserve our past. I was wondering whether you would be opposed to, if you ever decided to sell one of these lots, that that would trigger a reconnaissance study. Again, based on the fact that what we're trying to do is just preserve our significant archaeological sites, which I'm sure you would want to do yourself.

MR. MILLER: What was proposed before and we could do it now, was to put a note on the plat, that if any of these lands are to be subdivided, that it would require an archaeological study. Put that right on the plat so that if any of them sold or every used, then whoever buys them would have to --

COMMISSIONER DURAN: But those get lost. What about a deed restriction?

MR. MILLER: Well, we could put it on -- but on the plat, it's going to be signed and recorded, what I'm talking about. The plat that we submitted for approval.

COMMISSIONER DURAN: But a deed restriction, if someone was going to buy it, it would be revealed to them in the title commitment and notes on plats get lost.

MR. MILLER: I guess it would be the same thing. A deed restriction, if it was on the plat. It's a restriction that goes along with the land. The plat is recorded.

COMMISSIONER DURAN: So you wouldn't mind either a deed restriction or a --

MR. MILLER: Either one. They both do the same thing. We could do

1749681

either one.

CHAIRMAN GRINÉ: Are you comfortable with that, Penny? If we placed restrictions?

MR. GRAESER: Mr. Chairman, maybe I can answer that. The problem is, because this isn't a variance; it's an appeal of a Code interpretation, what the Commission really needs to decide is what the Code says. So I'd recommend against getting yourself in a position where you say, where the Code, it either says you have to do a survey or you don't have to do a survey. What it actually means is you have to put something on the plat that says you have to do a survey at some point in the future. So I think as an issue of Code interpretation, the Commission just really needs to decide whether the Code does in fact require Mr. Miller to get a survey at this time, or not. I don't think we can get into conditions like we would on a variance.

MR. MILLER: I like to go along with the Code. I'm favorable to going along with the Code. The Code is very clear on this, that we don't have to spend more than 2% and we only have to look at the land we're going to disturb.

COMMISSIONER DURAN: And you're sure that 2% of zero is zero.

MR. MILLER: Yes. We had offered to do an archaeological study of 2% of the assessed value of the land, but the staff turned it down and said, No. We want you to do 2% of the appraised value of the land and that would have been about an \$80,000 archaeological study.

CHAIRMAN GRINÉ: Are there any questions of Joe Miller?

COMMISSIONER TRUJILLO: I had one question. If somebody buys one of these lots and they're going to do some construction or excavation, will they be required to do an archaeological study? That is part of the process, right?

MR. MILLER: We're not going to sell them, but if we did --

CHAIRMAN GRINÉ: Joe, let staff, this question's for staff.

MR. MILLER: Oh, they're for staff. Sorry.

MS. ELLIS-GREEN: Mr. Chairman, Commissioners, what would usually happen is that before the land is divided, the arc. survey would be done, the reconnaissance survey would be done. Then any significant sites would be identified on the plat, and then the applicant coming in to develop the land would know that they cannot develop in those archaeological sites. One other thing I did want to point out as Mr. Miller brought up, the 2% issue again, staff reads this section of the Code saying in no case shall the applicant be required to spend more than 2% of the value of the proposed development shown on the development permit, in preparing for and completing treatment. The previous page to that says, if an archaeological site is determined to be significant. You find that out by doing the reconnaissance survey. Then a treatment plan is recommended and the treatment plan shall be completed as follows. So the 2% rule has to do with the treatment plan and not a reconnaissance survey.

MR. MILLER: I would have to disagree with that.

1749681

CHAIRMAN GRINÉ: Just a minute, Joe. Are there any other questions of Penny? Okay. Go ahead, Joe.

MR. MILLER: The 2%, it's very clear. It says preparing for and treatment. Preparing for is the reconnaissance. You're preparing for to see what needs to be treated. Says more than 2% in preparing for and treatment. Now preparing for is clear. A reconnaissance is preparing for the treatment. How else would you prepare for a treatment unless you had a reconnaissance report? Reconnaissance only on the land that's disturbed.

COMMISSIONER DURAN: It seems clear to me that the Code doesn't require Mr. Miller to do that. Some may think otherwise. I'd like to make a motion to uphold the appeal. But then also ask Mr. Miller to place on the plat that if he ever sells it, that -- and if it gets subdivided further, that a reconnaissance study, or an archaeological report would have to be done. Does that work? I'm just throwing that out as something to think about.

COMMISSIONER GONZALES: Are you saying though, if we grant the subdivision that you cannot come in for a permit, if he comes in for a permit to construct a road, or comes in for a permit to build a house, at that point, would he be required to do an archaeological survey?

COMMISSIONER DURAN: Well, I think that would be increasing the value

--
COMMISSIONER GONZALES: So the second you make a cut, or come in for a permit, you can't do that until an archaeological survey is done.

MR. MILLER: We can put that on the plat itself.

CHAIRMAN GRINÉ: Joe, I don't understand. Why don't you want to do it from the beginning instead of waiting later and it's going to be demanded of you?

MR. MILLER: Why we don't do the archaeological?

CHAIRMAN GRINÉ: Why don't you want to do it right away and do it the right way instead of getting an approval now with conditions on it and then you're going to have to do it later on?

MR. MILLER: Well, we started out on that. And we got estimates between \$30,000 and \$50,000 for a 50% report.

CHAIRMAN GRINÉ: Yes, but there are several lots. You're going to have a lot of lots. If you sell one lot, you'll recover your investment.

MR. MILLER: There's only 14 lots, 16 lots.

CHAIRMAN GRINÉ: I'm sure you're going to get more than \$30,000 for each lot.

MR. MILLER: This incorporates a little over 2800 acres. And there's no one going touch an archaeological site on that for under \$40,000, \$50,000.

COMMISSIONER GONZALES: I guess I'm following along with the Chairman's questions, Joe. The question -- you're going to have to do this. You agree to that, right? You know you're going to have to do the archaeological survey. You can't sell

1749681

a piece of property, you can't cut a road without an archaeological survey. That's what you basically agreed to.

MR. MILLER: We agreed to if we sell a piece and somebody would want a piece, then they could do the archaeological.

CHAIRMAN GRINÉ: You can't sell.

COMMISSIONER GONZALES: You can't sell it without an archaeological survey. How could you sell a piece of land that there's no access to that land. You're going to get 16 lots. You're saying right now there's no value to that because there are no cuts in the terrain, there's nothing that's added. How can you sell a parcel of land where there's no infrastructure, no roads to get up there.

MR. MILLER: We don't intend to sell it.

COMMISSIONER GONZALES: You just said that when you sell a piece of land --

MR. MILLER: These are split now, and someone down the road years from now would sell one of them pieces, then it would require an archaeological study.

CHAIRMAN GRINÉ: From you.

COMMISSIONER GONZALES: But you can't sell a piece of property unless you put in the proper improvements, right?

MR. MILLER: No. On 140 acres there's exemption on that.

COMMISSIONER GONZALES: You're going to sell someone a piece of land where there's no infrastructure or no roads to get to that?

MR. MILLER: Yes, the State Subdivision law permits that. That's an exemption they do have. It's on the books.

CHAIRMAN GRINÉ: This is a public hearing. Anybody in the audience want to speak for or against this case? What's the wishes of the Commission?

COMMISSIONER DURAN: I'll give it a try, Mr. Chairman.

CHAIRMAN GRINÉ: Go ahead, Commissioner Duran.

COMMISSIONER DURAN: I would like to grant the appeal by Mr. Miller, provided that a deed restriction and a note on the plat be prepared and recorded stating that upon the conveyance, or prior to the conveyance of any of these lots that an archaeological study would be performed, and it doesn't have to be on all of it, but just whichever one you're selling. I understand that it's going to cost \$50,000 to do all that 2800 acres, but perhaps on 140 acres it would only cost several thousand. So it would be your option whether to spend it all at once or do it when you or your heir conveys this property. I really think that it's our duty to protect those archaeological sites and you know that there are some significant sites out in that area. So that would be my motion.

COMMISSIONER TRUJILLO: Second.

CHAIRMAN GRINÉ: Got a motion to uphold the appeal. Is that what your motion is?

COMMISSIONER DURAN: Yes.

174968

MS. ELLIS-GREEN: Mr. Chairman, could I just have some clarification? Would that be prior to the conveyance or development of any lot, from the previous discussion?

CHAIRMAN GRINÉ: Prior to conveyance or development.

COMMISSIONER DURAN: Yes.

MS. ELLIS-GREEN: Thank you.

CHAIRMAN GRINÉ: Got a motion to uphold the appeal on Case #A 99-5721, seconded by Commissioner Trujillo. Any discussion? I'd just like to make a comment, people, that I don't see why he shouldn't do it from the beginning and do it right, because if I was a landowner purchase and I get caught on this and then I'll be back suing Joe Miller because he conveyed something to me that was not developable and I can't get a permit. That's all I'm saying.

COMMISSIONER DURAN: But a deed restriction is going to be public record and if you're going to go spend any money on a piece of property you would think that you'd review what's in the public record and what's required of the seller.

CHAIRMAN GRINÉ: I just bought a 12-plex three years ago in the city limits and I am caught in the City Hall now and can't convey this property to a new owner because the City allows a building permit on that structure ten years ago, with a proper survey on it, and that building is built on three separate lots, and the easement that I got to access, which is a driveway, belongs to the City and the gas meter that it sits on belongs to the City. So you know it happens all the time, regardless of what kind of a title company you hire and they guarantee you title insurance, and now I'm caught over there with City Hall. That's not a fun situation to be with City Hall. So I'm just going to throw that out. This is a big mess, as far as I'm concerned.

Any other comments? All those in favor of the motion, signify by saying "aye." [Commissioner Duran, Commissioner Anaya, and Commissioner Trujillo voted in favor of the motion.] Opposed? [Commissioner Gonzales voted against the motion.] Three to one. It passes.

COMMISSIONER DURAN: Mr. Chairman, just one thing. Joe, when you bring the plat in, you will also bring a deed restriction that staff can record?

MR. MILLER: Staff has the plat, I believe. I'll have to get it back from them to put that notation on it.

COMMISSIONER DURAN: It's two things, Joe. It's a deed restriction, a separate document, and then the plat.

MR. MILLER: They've got the plat, and we'll have to get it back and put it on there and we'll have to have a deed restriction that should be recorded also.

COMMISSIONER DURAN: You can get an attorney to prepare one of those for you.

1749681

- X. B. 9. CDRC CASE #A 99-5580. Jim Thornton Appeal. Jim Thornton, applicant, James Alley, Jr., agent, appeals the County Development Review Committee's decision not to recognize six BLM "lots" as legal lots of record. The property is located off CR 42, within Section 18, Township 14 North, Range 9 East

MR. GRAESER: This is the Thornton Family appealing the denial by the Land Use Administrator to recognize certain legal lots of record based on US government patents. Subsequent to the CDRC hearing on this, the applicant did produce actual deeds that called them separate lots. So we did just earlier today, we came to an agreement with the applicant's attorney that both Estevan and I signed off on, recognizing those lots and in exchange the applicants agree not to come in and try to get any more lots recognized on their BLM patents. The total for the lots was 112 out of 16,000 acres maybe. The average lot size is around 143 acres, so it's not a big concern, although there are some substandard lots there. But as a matter of fact, they did have a deed so they were legal lots of record. And upon signing this agreement they did agree to withdraw this appeal.

- X. B. 10. CDRC CASE #Z 96-5202. Thornburg Enterprises Master Plan. Thornburg Enterprises, Ltd., applicant, Jim Siebert, agent, request a master plan amendment to allow a change in the use list to include light industrial, manufacturing, offices, research and development, retail associated with products manufactured on-site, utilities, public buildings, churches, warehouse and distributing, business incubator, food processing and wholesale operations on Tracts C, D, and E of the previously approved Thornburg Master Plan. The property is located off State Road 14 north of the intersection of NM 599 and SR 14, within Sections 24, 25 and 26, Township 16 North, Range 8

MS. ELLIS-GREEN: In 1997 the BCC approved the Thornburg master plan which extended the I-25/599 commercial district to include the Thornburg tract. In this master plan the applicant designated uses for all tracts. Tract C was designated for a wastewater treatment plant to serve all lots within the master plan. Tracts D and E were identified for tech center uses which included high-tech, think tanks, business incubators, labs and corporate headquarters. The applicant now states that these uses are very limiting and a change in the use list is requested to more accurately reflect market conditions.

The I-25/SR 599 commercial district is a major center commercial district. The uses proposed by the applicant are permitted within this district.

1749681

Recommendation: The decision of the CDRC was to recommend approval of the master plan zoning amendment to revise the use list subject to the following four conditions:

[The conditions are as follows:]

1. All previous master plan conditions still apply to this project.
2. All lots will be connected to the County Wastewater treatment plant.
3. The applicant will record the amended master plan with the County Clerk.
4. If adopted by the BCC, the Highway Corridor design standards shall apply to this project.

CHAIRMAN GRINÉ: Thank you, Penny. Any questions of Penny?

[Previously sworn, Jim Siebert testified as follows:]

MR. SIEBERT: Mr. Chairman, my name's Jim Siebert. My business address is 915 Mercer. We're in agreement with the conditions as stated by staff and imposed by the CDRC.

CHAIRMAN GRINÉ: Any questions of the applicant. Thank you, Jim. Anybody in the audience want to speak for or against this case? What's the wishes of the Board?

Commissioner Anaya moved to approve the change of use list for CDRC Case #Z 97-5202, with staff conditions. Commissioner Duran seconded.

COMMISSIONER ANAYA: I think this is one that came before CDRC, Beverly a long time ago, if you recall, this proposal.

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

- X. B. 11. CDRC CASE # Z 98-5552. Sunrise Springs Amended Master Plan. Megan Hill, applicant, Jim Siebert, agent, requests a master plan zoning amendment for an expansion of a resort type use to add 40 lodging units (totaling 19,640 square feet), a spa facility (12,000 square feet), fitness facility (1,200 square feet), maintenance building (1,300 square feet), laundry building (1,200 square feet) and one cart shed (400 square feet.) This application also includes replacing an existing swimming pool with a new pool and hot tub and reopening a restaurant to the public with the sale of liquor with meals. The property is located south of County

1749681

**Road 54, within the traditional community of La Cienega, in
Section 28, Township 16 North, Range 8 East**

MS. ELLIS-GREEN: Mr. Chairman, Commissioners, the proposed uses within the application are as follows: Under phase 1, which is about a one-year timeframe, 40 lodging units totalling 19,640 square feet. That would be single story buildings configured as single units. A spa building of 12,000 square foot, again, a single story building. Replacing the existing swimming pool and hot tub, a laundry building and cart shed totalling 1200 square foot.

Phase 2 would be a two-year time frame. A fitness center of 1200 square foot, a greenhouse of 1000 square foot, maintenance buildings of 1300 square foot and a cart shed of 400 square foot. The applicant also proposes that when the Desert Academy School moves out of the property, they will reopen the restaurant bar to be leased to a second party to operate. The applicant has stated that beer and wine or liquor will only be served with a meal.

Recommendation: The decision of the CDRC was to recommend master plan zoning amendment for additional uses within the Sunrise Springs facility subject to the following conditions:

[The conditions are as follows:]

1. No liquor license will be acted upon while the school use exists on this site. If a liquor license is issued at this site, the school use will be deleted from the use list.
2. This master plan is subject to the water agreement between Sunrise Springs and the County Utilities Department recorded in Book 1674, Page 774-776 in the office of the County Clerk.
3. The proposed lodging units will be sprinklered. Final fire protection plans will be reviewed for approval by the Fire Marshal. All other buildings will be subject to detailed plan review by the Fire Marshal to determine if additional fire protection is required.
4. Fire hydrants shall be in place, operable, tested and approved prior to building construction. Final placement of all fire hydrants shall be coordinated with the County Fire Marshal prior to installation. The applicant will install Knox Lock cabinets on all gates and buildings, to be approved by the Fire Marshal.
5. All lighting within the development is to be shielded. Detailed lighting plans will be submitted with the preliminary development plan.
6. The applicant will obtain FEMA approval of a Letter of Map amendment prior to any grading or construction within the existing designated flood hazard area. This will be noted on the master plan.
7. The master plan will be recorded with the County Clerk.

1749681

8. No structures will exceed 24 feet in height.
9. All redline comments will be addressed. Redlines will be returned prior to master plan recordation.
10. The applicant will submit written confirmation from a professional engineer that the improvements to the wastewater treatment system have been constructed prior to any permit issuance.
11. The applicant will meter both wells and document water use. If this projects fails to meet the permitted water rights budget the applicant must either acquire more water rights or take measures to limit water use. Two years of exceeding the water rights will result in closing of the restaurant to the public and limiting the number of months the facility can be open.
12. The wastewater treatment plant will be designed to handle grease and oil from the restaurant and the water from the hot tubs and swimming pools.

I spoke to Robert Romero of the La Cienega Valley Association, who has proposed one further condition. It has been agreed to by the applicant and it would read as:

13. Overflow from ponds will be directed into the La Cienega Creek and not used for irrigation. Treated effluent will be used for irrigation purposes.

CHAIRMAN GRINÉ: Thank you, Penny. Any questions of Penny? Is the applicant here, Jim Siebert?

[Previously sworn, Jim Siebert testified as follows:]

MR. SIEBERT: Mr. Chairman, Jim Siebert, representing the applicant. I don't know if you recall when this came before you. I think it was back in early 1999. At that time there was a consideration of whether a moratorium would be imposed in the La Cienega Valley or not. The applicant at that time voluntary withdrew the entirety of the master plan and requested action only on the arts building, which actually is under construction at this time. And what she'd doing at this point is coming back and requesting review of the master plan that was originally submitted for your consideration over a year ago.

The concept just in general to give you a little background on this, there is a high school at the property now. The high school will be locating somewhere else at the beginning of the next school year and there will be reinstitution of the restaurant. And then in addition to the arts building, there will be a spa facility that will be added along with 40 casita units. And the idea it to provide kind of a more well-rounded resort facility where they have not only the arts, ability to provide for arts and crafts, but also for spa facilities, and the restaurant, so there is in fact less need to go to and from this particular facility. I'll answer any -- we are in agreement with the conditions, including the condition that was recently stated by Penny.

1749681

CHAIRMAN GRINÉ: Thank you, Jim. Any questions of the applicant?

COMMISSIONER GONZALES: Mr. Chairman, Jim, I was just wondering, I know that the community has been involved for some time in developing a community plan. They'll be coming before the Commission to approve their boundaries, but just looking at the packet, it seems like a major intensification of the property as far as the usage goes. I'm just wondering, what I've understood the community doing is trying to protect the traditional and the historic integrity of La Cienega and I guess I'd be interested in knowing how they felt about 40 additional lodging units, a spa facility, a fitness facility, maintenance building, laundry building, how that really fits into the character of what the community is trying to accomplish through their plan. It really seems that this, to me contradicts at least some of the efforts that I've heard the community talk about, what they want for that area.

MR. SIEBERT: The meetings that we've had, one thing I think you need to recognize is that Sunrise Springs has been in the community for the last 20 years. I think in terms of their absolute support and endorsement and enthusiastic endorsement of this, I can't stand up here in front of you and say that they are. I think they realize the value and the benefit of Sunrise Springs and the fact that Sunrise Springs has done what it can to provide for employment locally and be a good member of the community. And it's for that reason that you don't see the Association opposing this project.

COMMISSIONER GONZALES: It seems to me that a lot can change over 20 years and it specifically has in La Cienega where today we're more concerned about groundwater resources that what we were 20 years ago. Today, the road that leads into Sunrise Springs, we know is very overcrowded and having a difficult time as it is handling density and traffic issues and there's lots of factors that exist today that didn't exist 20 years ago that really complicate such a massive intensity of the property, or increase of intensity of the property.

I completely respect the fact that someone's been in the community for 20 years and wants to improve and do something good with their property. I think we've always embraced that. This to me almost seems an overload, considering the issue of resources and access to the property.

MR. SIEBERT: If you actually take a look at it from an intensity standpoint, what's being added is 40 additional living units. The other facilities are really meant to support the people that will be staying there. That's not to say that people from outside will not use the restaurant, but people from outside have used the restaurant in the past. So in terms of the intensity, it's not as intensive as it appears from the standpoint of pure buildings.

COMMISSIONER GONZALES: Thank you.

CHAIRMAN GRINÉ: Thank you. Any other questions of the applicant?
Thank you, Jim. How many people are going to speak?

[Duly sworn, Beverly Garcia testified as follows:]

1749681

BEVERLY GARCIA: Beverly Garcia. I live at 34 Paseo del Angel South, in La Cienega.

CHAIRMAN GRINÉ: How come you moved to the county, Beverly?

COMMISSIONER ANAYA: You're lucky Javier has inherited you.

CHAIRMAN GRINÉ: You must have gotten upset with the City Hall.

MS. GARCIA: Sam Valencia charmed me. Dear Commissioners, I just learned about this case yesterday when I saw a copy of your agenda was faxed to me. My interest was in the penitentiary lease but then I saw the Sunrise Springs proposal. In talking with other neighbors in upper La Cienega, and along Estrella Brillante Road, which is just above Por Su Gracia, no one else was aware of the extent of this application. This morning I handed out 150 notices to residents at the Los Pinos Road stop sign, and another 50 were delivered to residents along Las Estrellas yesterday evening. I've had numerous telephone calls, some people even came to this late night hearing.

Between yesterday and today I have tried my best to review the pertinent documents, as a result of which I ask that you either deny this case outright, because it goes against the very fabric of what the community is trying to accomplish by becoming a historical and traditional community with its own independent form of government. Or in the alternative, I ask that this case be tabled to give those members in the community who were unaware of this proposal an opportunity to prepare a case against its present structure.

The major reasons for denial being requested are: Board members of the La Cienega Valley Association did not know that residents outside the traditional village of La Cienega were not personally notified about the expansion request. The board is meeting tonight on other issues that are vitally important to the La Cienega Valley and if they finish their meeting in time, some members will be here. Even though the applicant was legally required to give minimal personal notice to those within 100 feet of her property, the spirit of community is violated when a property owner with substantial resources cannot make a concerted effort to do better than that, especially in a village that dates back to the early 1600's.

La Cienega Valley residents just obtained the necessary number of signatures to qualify for a historical traditional community planning status, meaning that soon we will have land use review authority over development proposals within our jurisdictions. The Sunrise Springs proposal is coming in under the wire and is a slap in the face for all community residents who have worked so hard to achieve this planning status. The La Cienega Valley Association has identified preservation of our ruralness as one of the basic tenants of the new community status and our plan. This proposal goes a long way towards destroying the rural nature of our area. Forty more lodging units, a spa with eight massage rooms, compared with ten massage rooms that they have at 10,000 waves, to give you some idea of the size it will be.

A liquor license, a restaurant, an arts building, a fitness center, etc. This is a lot. To say that the expansion is a simple exchange for the traffic already being generated by the

1749681

Desert School there is a myth. Students go home at night. Lodging guests stay there over night. A bar and restaurant generate more traffic and night time music, would disturb the peace and quiet that everyone knows is a way of life. There is nothing in the staff report of the County file on this case to indicate that a new water agreement will be entered into by Sunrise Springs to dedicate the additional water rights to the County water system that will be utilized through this expansion. Supposedly, some 11.6 acre-feet of water. The only agreement that you have is dated June 1, 1999 and it merely commits Sunrise Springs to 5.6 acres, I think it was, to the County system.

If you want to look at page 11 of the applicant's master plan report, even the applicant admits that 9.53 acre-feet will be used. I dispute that figure and offer to you that the applicant will be using at least 12.862 acre-feet. These calculations come from their very own documents that are in your file.

In fact, the only document in your file from the State Engineer's Office states that it is my opinion that the developer will be able to fulfill the water requirements of the development, once connected to the County water system. What about before it is connected? How are they going to meet it? In addition, the State Engineer's Office has said in its letter to you the developer's geo-hydrologist and the previous review again now states that the aquifer is insufficient to meet the 100-year supply for this development's requirement.

Since we don't know when that will happen, I am proposing to you -- meaning when they will connect to the County water supply -- I am proposing to you that this expansion request is premature and should not be considered by the BCC until the County water supply connection is a reality. If you are determined to proceed with this proposal at a minimum, you should not only scale it back considerably, but should also send it back to be restructured as a planned unit development. This would tie down the proposal and make it much more difficult for the present owner to sell the business to a hotel or some other operation. For each change that occurs, the owner would then have to go through public hearing and the community would have a chance to scrutinize any changes.

Please remember that you have already approved the so-called emergency exit that creates another 20-foot roadway with a six-inch basecourse on the other side of this property. That roadway is a very attractive feature for any prospective buyer because it will provide an at-grade crossing over the Arroyo Hondo that runs through Sunrise Springs property, thereby providing access to the frontage road. That roadway that would have been another substantial issue in this case, was quietly approved along with the art center in December 1999. This is an error. I made a mistake. I was reading through the documents tonight. It was actually approved in December of 1988.

The residents I talked to don't know about this at all. This piecemeal approach to community planning is no planning at all in my opinion, and makes this project all the more questionable. Traffic and safety are two more major reasons for denying this project. To introduce liquor into an area that is family oriented like this is a mistake. Notwithstanding

1749681

the changes to the entry way and a traffic report that claims there will be minimal traffic impact on County Road 54, I know residents in the area would dispute that claim if given the chance. The applicant would have us believe that just because they had a liquor license in 1979, it's all right to have one now. Well, anyone who has been in New Mexico over the last ten years knows that our liquor laws have changed drastically. What worked in 1979 does not work today, especially in a quiet, rural community.

People from out of town don't know how to maneuver on our rural roads, especially at night. Staff conditions do not limit liquor sales to beer and wine, as claimed in an earlier part of the report, at page 2. The residents I talked to today don't want any liquor served there. Nothing is being given back to the community in this proposal, not even a simple playground, no use of the grand swimming pool for community residents, no swimming lessons for children in the area, the high-end resort isn't a place most community residents can afford, so people will be brought in from elsewhere. They will use dilapidated County Road 54 and add to its deterioration. They will gobble up scarce water in a luxurious spa.

Everything is going out here; nothing is coming back. I know several residents that would welcome the opportunity to negotiate with the owner of this property and provide something beneficial for the community if this selfish project must continue. A motion to deny this request is what we're asking, because it is detrimental to the community's health, safety and welfare. I hope you will fulfill this request. Thank you.

CHAIRMAN GRINÉ: Thank you. Next. Please don't repeat what we've heard already. So if you've got something new to add, give it to us.

[Duly sworn, Elaine Cimino testified as follows:]

ELAINE CIMINO: My name is Elaine Cimino. I live at 49 Camino Torcillo. I have two matters I'd like to address here. It's the water use figures and the lack of plans for disposal of restaurant waste. The information that I am providing comes from the applicant's submittals and the applicant's amended master plan report dated November 1999. At page 11 it indicates that Megan Hill owns 5.6 acre feet for commercial consumptive use and another 6.1 acre-feet for domestic shower, toilets, etc. and non-commercial landscaping, for a total of 11.6 acre-feet. Another 11.9 acre-feet is available for irrigation purposes.

Your County file contains neither water use figures for Sunrise Springs. We reviewed those today and these documents show that 2,030,000 gallons of water was used in 1999. That translates to 6.22 acre-feet that year. If you turn to page 36 of the applicant's report, the applicant tells you that she's only using 2.862 acre-feet a year for existing uses. But the applicant's very own meter reading show that 6.22 acre-feet of water was used in 1999. So there's a discrepancy of some 3.358 acre-feet, or 1,094,708 gallons of water.

If you stay on page 36 you will see that under proposed use, the applicant expects to use another 5.413 acre-feet per year, more than doubling her indicated uses. She reports another 1.261 acre-feet per year for employees. This brings the total for the proposed new uses of 6.674 acre-feet per year. You come up with a grand total of 12.894 acre-feet that

1749681

will be used annually. Using these calculations, the applicant would have exceeded her available water rights by 1.2894 acre-feet a year, or 420,344 gallons of water. Surely, you will have to have this clarified before proceeding on this issue.

Second of all, the restaurant waste. We have heard all the horrors stories about grease from restaurants that have clogged up Santa Fe's downtown sewer system. This is a major problem for restaurants and nowhere in the document on file with the County does the applicant address how this grease and other waste generated by the restaurant will be processed and removed from the site.

There are several other things that we could talk about here tonight, but I think that with Beverly's letter to you, it clearly outlines that there are problems that we have in addressing some of the problems that this could potentially have to the traditional and historic area. I thank you.

CHAIRMAN GRINÉ: Thank you. Next. Please don't repeat what we've heard already. Give us something new Larry DesJarlais. Larry and I were classmates at Highlands University.

[Duly sworn, Larry DesJarlais testified as follows:]

LARRY DESJARLAIS: How are you doing tonight? Pretty much everything I was going to say has been said already, but there's a couple things I would like to address tonight. First of all I'd like to invite any Commissioners to our Road Advisory meetings on the second Wednesday of the month. First of all, I totally oppose this expansion of this facility. Number one, it's not adding to anything in the community of La Cienega or La Cieneguilla. Personally, I will not be taking advantage of anything at this facility. I also address the road conditions in that area. I don't know if you've all been in that area before, but the road condition is not very good, especially in the older La Cienega area. With a bar on the premises of this facility, I think it would be very detrimental to the local community if these people who are driving away from this facility, especially on that road, especially at night, and it's a very windy road and very dark, I would highly recommend that you think about this if you're going to vote on it tonight, that you table it until some further studies have been done, not only on the road, but on this water issue. I would really appreciate that and I know the community would appreciate that. I would stress again that you do not vote on this as approved and that we as a community have a right to express our views on it and we couldn't do it in a bigger group today because none of us knew about it, so I would consider, and I hope you could consider at least tabling it until we could come as a community and discuss it among ourselves and we can speak on this a little bit better in the future. Thank you. Larry DesJarlais, 40 Calle Debra.

CHAIRMAN GRINÉ: Thank you, Larry. Next.

[Duly sworn, Troy Nothwang testified as follows:]

TROY NOTHWANG: My name's Troy Nothwang. I'm #10 Camino Alondra. I'm president of the Vistaland Homeowners Association and I'm representing Vistaland Subdivision which resides in La Cieneguilla. Mr. Chairman, Commissioner, I

1749681

am representing Vistaland Homeowners Association and its members and all the people out there. We totally oppose this and wish you would vote against it. Not just because of the roads, but the magnitude of this addition I would think that the neighbors of Sunrise Springs should have been notified because of the water situations and the nitrates in our water.

I'm not going to go on because everything's been said, but I wish you would oppose this as we do and vote against it. I'd also like to thank Commissioner Trujillo on your vote against the Brewer Company. Thank you very much.

CHAIRMAN GRINÉ: Thank you. And is this the last speaker? Okay.

[Duly sworn, Lewis Tafoya testified as follows:]

LEWIS TAFOYA: My name is Lewis Tafoya. I live at 134 Las Estrellas. Mr. Chairman, Commissioners, I'd like to say that I too would like to echo what a lot of them have been saying and that is that we have not been notified, mainly that for example, that my main point would be that County Road 52 is to become an access road for the rear of Sunrise Springs. I received a notice yesterday that was being passed out by Beverly. I was not aware that there was a Commissioners' report dated March 14 that indicated that County Road 52 would be an access road for Sunrise Springs and I brought this to the attention of several people in the area and they also share the same concern that I do and that is that we have worked to try to identify who the person that we can contact at Sunrise Springs for current complaints would be.

We were advised that would be the general manager who was recently hired and that is Terry Beamis, I believe. But at this particular time, we're having to deal with the traffic of the construction vehicles. We're having to pick up their beer bottles, the trash that they leave on the roadway, that type of thing. That's what we're dealing with at this particular time. When I purchased the property eight years ago, I dealt with a gentleman named Greg Aliason, and at that time I was shown some information that indicated that that road would not be used as an access for Sunrise Springs. That was one of the selling points for Dickie Montoya at that particular time. So I'd like to again, just say that I do oppose that and I appreciate Commissioner Gonzales' support in not passing this through.

CHAIRMAN GRINÉ: Thank you. Anybody else in the audience? Good. We have concluded the public hearing. What's the wishes of the Commission? Oh, we allow Jim to rebut.

COMMISSIONER ANAYA: I just want to ask a question whether Robert Romero was ever contacted on this? He's the one that's leading -- what is it Javier -- the traditional planning process in that area? I was just wondering why he's not here tonight.

MR. GARCIA: He's at a meeting tonight. I talked to him before I came last night and this morning. He opposes this project.

COMMISSIONER ANAYA: Okay.

MS. ELLIS-GREEN: Mr. Chairman, Commissioners, I spoke to Robert this morning. An extra submittal was sent along to the Valley Association. So they have had the entire packet to review, probably a couple of months ago. He stated to me this morning

1749681

that the Valley Association was neither going to object to nor support this at this time. We haven't got a letter from Robert to that effect.

COMMISSIONER DURAN: Would it be appropriate to table this? It's obvious that there hasn't been enough communication between the applicant and the neighborhood out there. I'm not saying that I'm for or opposed to this. I think what I'm more in favor of is that there's more interaction. I'd like to make a motion to table.

MR. SIEBERT: Mr. Chairman, perhaps you can listen to some testimony. I have something in my hand that I think might contradict our attempts to meet with the community. If I perhaps could respond to several issues. One, I think first of all deals with the notice, and we've had several meetings in the community, one of which, our last meeting, we noticed through the *New Mexican* and rented the La Cienega Community Center in order to notice as many people as possible in the community. I know Ms. Garcia is a recently resident of La Cienega and all this occurred probably well before she moved in as a resident of the community.

Some of the other issues regarding the discrepancy in acre-feet of use, I think we're looking at apples and oranges. There was a water use budget that was submitted. The water use that was actually taken as something we provided to is not part of the report because the report dates back to 1998, but was the actual use from La Cienega. It includes the use during the time that the construction was taking place and there was extraordinary water demands from the water use of the construction. So it's really comparing apples and oranges.

In terms of the actual water itself, the County Hydrologist has reviewed this extensively over a period of about a year and a half and you can talk to staff about this. He felt comfortable that the water was sufficient to accommodate the demand.

There was an issue of the crossing of the Arroyo Hondo, and that's actually something that's been there for years and it was a requirement, the crossing of the Arroyo Hondo was a requirement as a condition of approval of the arts building, that that be maintained and the reason for that is that the La Cienega Volunteer Fire Department required that and an example of why that was needed is approximately a year and half ago, there was a grass fire and the fire department needed to use that access to get to the other side of the road. So that's the reason for that crossing.

On the liquor license, there is a statement and we will accept this as a condition or any form that you feel is reasonable as a stipulation that the only -- first of all there was concern about having package liquor, that's certainly not going to happen. But there will be an internal policy that will require that the only time that you can have a drink is if you're also having food at the same time.

There is a letter, there is some mention about a letter in the file from the La Cienega Valley Association. It's written by, it has a signature line for Carl Dickens, who is a board member of the La Cienega Valley Association. If you'll notice the letter is not signed. I talked to Robert Romero about that, who is the president of the La Cienega Valley

1749681

Association and he informed me that Carl never had the authority to send that letter in the first place. He's not saying that the issues that were raised they're in a disagreement with, but the issues that were raised we've actually addressed as part of this review process itself. Thank you.

CHAIRMAN GRIÑÉ: Thank you, Jim. Any other questions?

COMMISSIONER GONZALES: Mr. Chairman, I still believe that the intensity that's being presented here, the intensity on the property is just too much now. I've got a lot of concerns based on my discussions with the traditional community that this will have a very disparate and negative impact on that community. In addition, I just want to remind the Commission how much struggle this community has been going through with this body for the past couple of years. We've brought forward moratoriums, and the Commission has said no, to give them a chance to do this kind of planning so we wouldn't have to deal with this kind of situation without the benefit of the community.

They've opposed commercial developments and the Commission has allowed commercial developments to occur. I think that this proposal tonight seriously conflicts with the intentions of the community in terms of how they'd like to see the future and what they would like to see it look like. I do have a lot of concerns about 40 additional lodging units, a spa facility, a fitness facility, what it will do to traffic, what it does to the resources, despite the fact that on paper it's debatable whether the water resource is there or not.

So, Mr. Chairman, I think it's not only my obligation but my firm belief that I oppose this and I'd like to move that we oppose CDRC Case Z 98-5552 and ask the applicant to go back and work with the community on trying to find a level of use that will be mutually benefit to the applicant and to the community.

COMMISSIONER TRUJILLO: Second, Mr. Chairman.

CHAIRMAN GRIÑÉ: Got a motion by Commissioner Gonzales to deny, or uphold the CDRC decision, is that it?

COMMISSIONER GONZALES: It would be to -- did the CDRC, they passed this didn't they?

MS. ELLIS-GREEN: The CDRC recommended approval of this. Would you be recommending tabling?

COMMISSIONER GONZALES: No, I'm recommending denial.

MS. ELLIS-GREEN: Okay.

CHAIRMAN GRIÑÉ: I got a motion and a second. I got a motion to deny CDRC's request and seconded by Commissioner Trujillo. Discussion.

COMMISSIONER ANAYA: I would lean more toward a tabling type of movement in this procedure right now. The reason being is because I can recall many years ago when there was a proposal for a resort in the area, for even a golf course in the area, and the residents out there, I polled them myself, and they didn't come out. As a matter of fact they were almost for it. And I lost. I'm the only one that voted against that particular proposal in those times, and this was against the golf course. The resorts, if I'm not

1749681

mistaken. But I remember coming up against it. I would just, for the sense of balance, for the sense of fairness, would rather lean towards a tabling and perhaps then send it out to the community under the auspices of the planning process that's going on right now to see if these people can accommodate that kind of proposal that's going to come forth. That's my feeling on it.

CHAIRMAN GRINÉ: Are you done, Commissioner Anaya?

COMMISSIONER DURAN: I think the table is probably the appropriate thing to do also. I think, Commissioner Gonzales, to deny the request and then giving the applicant instructions to go back to discuss the project with the community to come up with something that works for the benefit of all is basically the same thing. So I would concur with Commissioner Anaya that a table would be the appropriate thing.

COMMISSIONER GONZALES: Mr. Chairman, quick response to the tabling. This intense, even minus the issues of the planning process, we all know where Sunrise Springs is currently located. We know the road to get there. It's a bad road. We're having problems coming up with funding to improve that road. We know the issue in La Cienega in two fronts. One, that there is a continued depletion of that aquifer. We're trying to help with the recharge effort. Two, there are nitrate problems. And by intensifying the usage of that property the way it's presented here I think is going to compound both those issues and further add to some of the dangers that exist on the County road that leads to this property. It's enormous density around this property.

There are a lot of people that live around this property. I think it's a beautiful property and I feel that what's being proposed here, the 40 lodging units and the spa facility completely, not only contradict the character of what that community wants to be and what it has been, but completely continues to create a dangerous situation when it comes to the aquifers and the nitrate problems that we're having in that community, whether it's perceived or whether it's reality, that's what this community believes that those issues are at the forefront and I think we need to support them on this.

So I would urge a denial of this and I know, I think that the La Cienega Valley Association has been very reasonable in how they've dealt with development. They know that it's going to happen. I think this is an association that's going to roll up its sleeves and sit down and try and find a good compromise, but I think to the level that it's been proposed here, I think it's wrong. I think it's too much and I think we need to deny it and ask the applicant to go back and work and find something that's more compatible with the character of the community.

COMMISSIONER ANAYA: Commissioner Gonzales, you pose a good argument. I change my mind.

COMMISSIONER DURAN: So do I.

CHAIRMAN GRINÉ: Okay. No further discussion? All those in favor of the motion, signify by saying "aye." [Unanimous 4-0] Those opposed? It's denied.

1749681

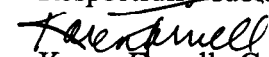
ADJOURNMENT

Chairman Griñé declared this meeting adjourned at approximately 9:40 p.m.

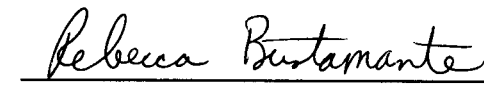
Approved by:

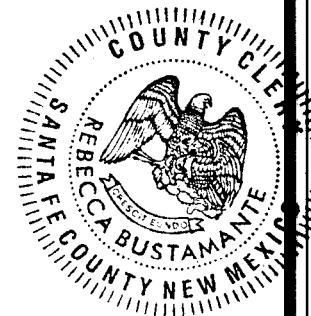

Board of County Commissioners
Joe S. Griñé, Jr., Chairman

Respectfully submitted:


Karen Farrell, Commission Reporter

ATTEST TO:


REBECCA BUSTAMANTE
SANTA FE COUNTY CLERK



1111059
COUNTY OF SANTA FE
STATE OF NEW MEXICO
I hereby certify that this instrument was filed
for record on the 29 day of Mar A.D.
20 00, at 9:09 o'clock a.m.
and was duly recorded in book 1749
page 681 of the records of
Santa Fe County.
Witness my Hand and Seal of Office
Rebecca Bustamante
County Clerk, Santa Fe County, N.M.

