

START

OF

BOOK

MINUTES OF THE BOARD OF COUNTY
COMMISSIONERS

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CAMERA OPERATOR YVONNE SANCHEZ

REGULAR MEETING

1501112

BOARD OF COUNTY COMMISSIONERS

SANTA FE, NEW MEXICO

REGULAR MEETING

APRIL 14, 1998

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

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SANTA FE COUNTY
REGULAR MEETING
BOARD OF COUNTY COMMISSIONERS

April 14, 1998

This regular meeting of the Santa Fe Board of County Commissioners was called to order at 5:00 p.m. by Chairman Javier Gonzales in the Santa Fe County Commission Chambers.

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

Members Present

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

Members Absent

none

IV. INVOCATION

An invocation was given by Greg Johnston from Westminster Presbyterian Church.

V. APPROVAL OF AGENDA

CHAIRMAN GONZALES: Approval of the agenda; Mr. Sanchez.

MR. SÁNCHEZ: Thank you, Mr. Chairman. Mr. Chairman, there was an amendment to the agenda. There were four items that we used to amend the agenda and what I'd like to do is bring your attention to these changes to the original agenda and then insert the items by page. On page 1, VII. B. Administrative Services, 1. has been tabled. On page 2 under same Roman numeral, item number 5 has been tabled and at that point we have amendment number 1, which is Request authorization to enter into a professional services agreement with Kardas, Abeyta and Weiner.

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If you move on down the page under item B, Matters from the County Manager, we're tabling item number 1. And then under your amendment, the second item would be Santa Fe County Housing Authority Operation/Management options. Then under D. Matters from the County Attorney, we have item number 3, again referring to the amendment, which is Limited personnel matters. And under Matters from the Commission, I'm sorry, I missed one. There is an item again on the amendment regarding the resolution in support of the City of Santa Fe using Camino La Tierra and State Road 599 to accommodate WIPP transportation.

Then on page 3, item VII. B. Land Use Items, item 4, CDRC Case # A/V 98-5110 has been tabled. On page 4, top of the page, item 5, CDRC Case # Z 98-5040 has also been tabled.

With that, Mr. Chairman, those are all the amendments to the agenda that I'm aware of.

COMMISSIONER DURAN: Mr. Chairman, Domingo, could you please tell me again the changes to page 1, the amendments.

MR. SÁNCHEZ: The changes to page 1, Mr. Chairman, Commissioner Duran, would reflect tabling of VII. B. under Administrative Services, item number 1. This has to do with the contract for the County Sheriff Administration Building and Detox Center. We've not yet completed negotiation of that contract. We were hoping to get it done but we're not done yet.

COMMISSIONER DURAN: And that's the only change to page 1?

MR. SÁNCHEZ: That's correct.

COMMISSIONER DURAN: Thank you.

CHAIRMAN GONZALES: We have some Commissioners on the committee appointments to the Highway Corridor Committee. I understand that we haven't been able to come up with the individuals. Would you rather name some tonight that you want to name or would you like to hold these until you have all the names? Mayor Delgado will be making the City appointments next Wednesday and they'll be ready to go by next Wednesday on this corridor concern.

COMMISSIONER TRUJILLO: Mr. Chairman, I thought my names, that I could just give them to staff.

CHAIRMAN GONZALES: Okay, I've got my names as well, but it's up to the Commissioners whether you want to appoint these now or -- Are there any other changes to the agenda? Okay, then what's the pleasure of the Commission?

COMMISSIONER DURAN: Mr. Chairman, on the committee appointments, is it possible to put the EZC, that committee appointment on there?

CHAIRMAN GONZALES: I don't think we noticed it. Can we do that?

STEVE KOPELMAN (County Attorney): Mr. Chairman, I don't see it on the agenda and since it's an action item, under the Open Meetings Act, it should be noticed 24 hours in advance.

CHAIRMAN GONZALES: Okay, thank you.

Commissioner Grifé moved to approve the agenda as amended. The motion was seconded by Commissioner Duran and passed by unanimous [4-0] voice vote.

VI. ADMINISTRATIVE ITEMS

A. Committee Appointments

1. Highway Corridor Committee

CHAIRMAN GONZALES: Under the Highway Corridor Committee, this is a committee to work with staff to develop a Land Use plan along the major corridors in Santa Fe County. Commissioner Trujillo would you like to make your appointments?

COMMISSIONER TRUJILLO: Yes, Chris Leibman from the northwest sector, the Pinon Hills area. Then I've got Roy Lopez from Arroyo Seco, that corridor there.

CHAIRMAN GONZALES: Okay. And one is a property owner?

COMMISSIONER TRUJILLO: Both of them are. They're property owners along the corridor.

CHAIRMAN GONZALES: There's supposed to be one who's a property owner.

COMMISSIONER TRUJILLO: At least one is.

COMMISSIONER DURAN: I'd like to appoint Lee Romero as the individual that owns property in my district, from the Agua Fria Village and I'll come up with the other one at the next meeting.

CHAIRMAN GONZALES: Okay, what we can do is we're going to have to talk about getting this meeting started probably after Wednesday, but if you want to hold a meeting prior to that meeting two weeks from now we could submit the names to you and then the Commission could just reaffirm those appointments. Okay? Are you okay with that?

JACK KOLKMEYER (PLANNING DIRECTOR): Sure. The only thing is we have a time line that it would be good for us to have [inaudible] this committee is formed.

CHAIRMAN GONZALES: Right. So if you come up with someone before that, just bring it to us.

COMMISSIONER DURAN: I'll do it by the end of the week.

CHAIRMAN GONZALES: My appointments will be Jose Villegas from the community of La Cieneguilla and Warren Thomas whose family owns the La Bajada Ranch.

COMMISSIONER ANAYA: Mr. Chairman, I know that this has been advertised in the paper and everything like that and I'm listed and I still haven't gotten any

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contacts. I was hoping for somebody to volunteer. So I'm going to have to wait and hopefully the media might help with a little bit of a notice out there if they can. If not I'll just go search and rescue so to speak.

COMMISSIONER GRIÑÉ: Mr. Chairman, I just have one. Bob Taunton from Rancho Viejo and I'm seeking for somebody from the Highway Coalition on 285 so I'm going to ask Commissioner Betty Platts to help me find somebody that was willing to serve on this corridor. So you give me the name and I'll appoint them later today or maybe next week.

CHAIRMAN GONZALES: Okay, there needs to be two Commissioners that are appointed to that. Before I appoint, I'll just ask if there's any Commissioner that's willing to volunteer to serve on this committee at this point.

COMMISSIONER DURAN: I'll serve on it.

CHAIRMAN GONZALES: Commissioner Duran, that just leaves me and Commissioner Griñé so that we don't have a quorum, so I need to appoint either Commissioner Anaya or Commissioner Trujillo.

COMMISSIONER DURAN: If you want to draw straws, I'll do that too.

COMMISSIONER ANAYA: I'll do it, Mr. Chairman.

CHAIRMAN GONZALES: Okay, Jack, do you have any other questions? The mayor did ask basically to send a memo reminding him to make sure he makes the appointments at Wednesday's City Council meeting.

VI. B. Committee expirations, resignations and vacancies

1. Agua Fria Development Review Committee

CHAIRMAN GONZALES: Where do we stand there?

MR. SÁNCHEZ: Mr. Chairman, we had a resignation a couple months back and we just felt by identifying this position being open we might generate some interest either in the community or by the Commission in terms of identifying someone for the position. So that was the reason we put it on again.

CHAIRMAN GONZALES: So there's a vacancy available?

MR. SÁNCHEZ: That's correct. Mark Gonzalez resigned, I think it was effective the first of May and we've not heard again from anyone, at least in writing that they're interested so we just wanted to throw it out again for your consideration.

CHAIRMAN GONZALES: Okay, I have a recommendation for the Agua Fria Community. It's David Pike. I've been wanting to throw it out for some time. I don't know if, Commissioner Trujillo, he's a member of the district, if you'd agree to put his name up.

COMMISSIONER TRUJILLO: I wholeheartedly support that. I thought that he was already on the board and I think he'd be good for the board.

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CHAIRMAN GONZALES: Would you do that in the form of a motion?

COMMISSIONER TRUJILLO: Yes, I would. I nominate David Pike to serve on the Agua Fria Development Review Committee.

COMMISSIONER ANAYA: Mr. Chairman, I gladly second that.

CHAIRMAN GONZALES: Any discussion on Mr. Pike? If none, all in favor signify by saying "aye." [Unanimous 4-0] All those opposed?

VII. STAFF AND ELECTED OFFICIAL ITEMS

A. County Clerk

1. Resolution No. 1998-33. A resolution imposing an annual liquor license tax upon persons holding state liquor licenses

BECKY BUSTAMANTE (County Clerk): Thank you. Mr. Chairman, this is an annual resolution that we do every year and this is in accordance with the law, NMSA Section 7-24-2 to impose a liquor license not to exceed \$250.

CHAIRMAN GONZALES: Okay, are there any questions of the Clerk at this time?

COMMISSIONER ANAYA: Mr. Chairman, at one time, the fee used to be \$1700 that came directly to the County coffers but the state took that away a few years back. Now, both municipal and County are limited to \$250. In a way I wish it was reversed back to the old order but that's at the pleasure of the legislature.

CHAIRMAN GONZALES: Any other comments? What's the pleasure of the Commission?

Commissioner Anaya moved to approve Resolution No. 1998-33. The motion was seconded by Commissioner Griñe and passed by unanimous [4-0] voice vote.

VII. B. ADMINISTRATIVE SERVICES DEPARTMENT

2. Request authorization to accept and award a contract for proposal 98-35 to the highest qualified offeror for the professional services of a full service architect-engineering firm to develop specifications for a premanufactured steel building for the Jacona Fire Station

ANDREW CHAVEZ (Administrative Services Director): Mr. Chairman, members of the Commission, the Santa Fe County Fire Department seeks the approval of a proposal for architectural design and engineering services for the Jacona Fire Station. There were four responsive proposals. TerraMar Architects of Albuquerque received the highest proposal ratings. Negotiations for contract price and terms are being conducted at

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a price of \$23,482 plus gross receipts tax and reimbursables.

The Santa Fe County Fire Department and the Purchasing Section request authorization to award a contract for design and construction oversight services for the Jacona Fire Station to TerraMar Architects for \$23,482 plus New Mexico gross receipts tax of \$1,364.89.

CHAIRMAN GONZALES: Okay, what's the pleasure of the Commission? Are there any questions of Andrew?

Commissioner Trujillo moved to approve awarding of the contract to TerraMar Architects. Commissioner Duran seconded the motion which passed by unanimous [4-0] voice vote.

VII. B. 3. Request authorization to accept and award a contract for invitation for bid 98-38 to the lowest responsive bidder for the construction of Rancho Viejo Boulevard in Santa Fe County

MR. CHAVEZ: Mr. Chairman, the Finance Division and Rancho Viejo seek the acceptance of a bid in response to invitation for bid 98-38 for the construction of Rancho Viejo Boulevard in Santa Fe County. We request authorization to accept and award the invitation for bid 98-38 to the vendor submitting the lowest responsive bid for the construction of Rancho Viejo. The lowest responsive bid appears to be, and I'm looking through these right here, R.L. Leeder for \$976,327.25 plus applicable gross receipts tax for the construction of Rancho Viejo Boulevard.

CHAIRMAN GONZALES: Any questions of Andrew?

COMMISSIONER TRUJILLO: Just one question, and I'm not being facetious. Who picked the name "Boulevard?"

MR. CHAVZ: I believe that this was done by the representative of Rancho Viejo.

CHAIRMAN GONZALES: Any other questions?

COMMISSIONER TRUJILLO: It sounds metropolitan.

CHAIRMAN GONZALES: Any discussion? What's the pleasure of the Commission?

Commissioner Griñé moved to accept the bid of R.L. Leeder. Commissioner Anaya seconded the motion, which passed by unanimous [4-0] voice vote.

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VII. B. 4. Request authorization to accept and award a contract for invitation for bid 98-42 to the lowest responsive bidder for the construction of water and sewer improvements for the Village at Rancho Viejo in Santa Fe County

MR. CHAVEZ: Mr. Chairman, members of the Commission, the Finance Division and Rancho Viejo seek acceptance of a bid in response to invitation for bid 98-42 for construction of water and sewer improvements for the Village of Rancho Viejo in Santa Fe County. A bid opening was conducted on April 6, 1998 at 2 pm and nine bids were received. The Finance Division and Rancho Viejo request authorization to award a contract to response to invitation to bid from Santa Fe Underground for \$561,465.94 plus applicable gross receipts tax for the construction of water and sewer improvements of Village of Rancho Viejo.

CHAIRMAN GONZALES: Okay. Any questions?

Commissioner Griñé moved to approve the bid from Santa Fe Underground, Inc. His motion was seconded by Commissioner Anaya and passed by unanimous [4-0] voice vote.

VII. B. 6. Request authorization to enter into a professional services agreement with Kardas, Abeyta and Weiner, PC for accounting services

MR. CHAVEZ: Mr. Chairman, members of the Commission, the Administrative Services Department requests approval of a contract with Kardas, Abeyta and Weiner for accounting support services for an amount not to exceed \$20,000.

CHAIRMAN GONZALES: Any discussion?

COMMISSIONER ANAYA: Mr. Chairman, what is the purpose of this contract?

MR. CHAVEZ: Mr. Chairman, the contractor will assist the County in reconciling cash between the bank and the general ledger. They will review and verify the receipts and disbursement accounts receivable and accounts payable and make sure that they are properly recorded on a fund basis. They will help us prepare correcting entries as they are needed. And they will help the County in the reconciliation process and in preparing for the 1998 audit.

COMMISSIONER ANAYA: Thank you, Mr. Chairman.

COMMISSIONER DURAN: Mr. Chairman, Andrew, is this a result of the audit that we had?

MR. CHAVEZ: Mr. Chairman, Commissioner Duran, this is what we feel

is a proactive approach from our angle that come June 30, we won't be with the same problems that we had this year. We have made it our objective and we intend to make sure that all discrepancies are corrected prior to June 30. I believe that the County Manager is going to speak to this further under his --

CHAIRMAN GONZALES: Any other questions? What's the pleasure of the Commission?

Commissioner Trujillo moved to approve the request for authorization and his motion was seconded by Commissioner Griñé. the motion passed by unanimous [4-0] voice vote.

VII. C. LAND USE DEPARTMENT

- 1. Request authorization to publish title and general summary of an ordinance amending Santa Fe County Land Development Code, Article II, Section 2.3.4 regarding appeals**

ORALYNN GUERRERORTIZ (Review Specialist Director): Thank you, Mr. Chairman. At their March 26 meeting, the CDRC recommended that the Board of County Commissioners consider an amendment to the Land Development Code, Article II, Section 2.3.4 for appeals. The amendments which are modeled after the Extraterritorial Subdivision Regulations, would limit the grounds for which an appeal can be filed to provisions of the Code and provide for stays of proceedings. Attached is a copy of the proposed amendment.

Required action: The BCC should either approve or deny the request to publish title and general summary for the proposed amendment.

CHAIRMAN GONZALES: Oralynn, so the CDRC is asking to limit who can appeal things to the Board?

MS. GUERRERORTIZ: The grounds for which an appeal could be filed. It was a request after somebody appealed a decision to allow a gate at -- I can't remember the name of the subdivision, I'm sorry. The CDRC felt it was not within their jurisdiction to consider that appeal since there was nothing in the Code that really had any issues regarding gates. So they felt that issue shouldn't have come before them. There was nothing in the Code that would have [inaudible] So now they want the Code to reflect that you can only appeal something and you must cite a basis in the Code for why you're appealing it.

CHAIRMAN GONZALES: [inaudible] but I doubt that we would limit, whether we agree with the appeal or not, limit the opportunity for people to come before the CDRC or the Commission. Is that their intent?

MS. GUERRERORTIZ: Their intent, I think was to stop what they considered inappropriate appeals, frivolous appeals, and really have appeals only with regard

to Land Use Code requirements.

COMMISSIONER DURAN: I think that if someone wants to appeal a decision of the CDRC that they should have that right. I don't think that we should limit anyone who wants to make an appeal based on someone on the CDRC thinking it was frivolous. What is frivolous? It might be frivolous to you but to them it's of concern. So I think we should deny this.

COMMISSIONER TRUJILLO: I think that inherent in any review process is the right to appeal for whatever reason. To have somebody determine that it's frivolous from our perspective or from your perspective, I don't think it's right.

MS. GUERRERORTIZ: At this time, Commissioners, I do want you all to realize we accept all appeals.

CHAIRMAN GONZALES: [inaudible] I think what the Commissioners are saying is that everyone should have access no matter how frivolous -- So what's the pleasure of the Commission concerning this request.

Commissioner Anaya moved to deny the request for authorization to publish title and summary of an ordinance to amend the Land Use Code regarding appeals. The motion was seconded by Commissioner Grifé and passed by unanimous [4-0] voice vote.

VII. C. 2. The Board of Directors of the La Tierra Waste Disposal Association requests the Board of County Commissioners to approve an amendment to the declaration of covenants for the La Tierra Waste Disposal Association which will delete the Board of County Commissioners from having approval authority over amendments to such covenants. These covenants apply to the Tierra de Oro and Salva Tierra Subdivision located northwest of the City of Santa Fe within Township 17 North, Range 9 East, Sections 7, 8, 16 and 17

MS. GUERRERORTIZ: Mr. Chairman, this is an unusual situation. The La Tierra Phase 5 was approved in 1981. It started the process before the Land Development Code was enacted. Earlier phases did not have any wastewater systems. They all had leach fields and septic tanks. When this project came before the Board, the Code required, because of the number of lots and the fact that the lot sizes were below the minimum lot size requirement required that a community sewer system be put in, installed in the project. But for whatever reason, that did not occur. Instead what happened was an association was formed which was supposed to regulate and make sure that all septic tanks were properly monitor and regularly had the septic hauled away.

The covenants were very unusual in the sense that the Board of County

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Commissioners didn't sign them but there was a provision in them that stated that any modification to those covenants would require the Board of County Commissioners' approval. At this time the La Tierra Waste Disposal Association is asking that we review our approval requirements to any changes to covenants. Generally speaking, this Board of County Commissioners is not a party to these covenants. We don't enforce them. We don't make sure that they are carried out. Our concern certainly is that the septic system is working properly, that all septic systems do work properly and they are properly maintained. We do feel we have an enforcement authority without those covenants, just on the basis that that was a requirement of the project, that those systems were properly maintained. It's the recommendation of staff that -- I'll just read it. A great number of septic systems on the relatively small lots can present a public health hazard if the systems are not properly maintained. Staff is concerned that the association may dissolve or fail to institute the provisions of the covenant. Nevertheless, as regular maintenance of septic systems was a project approval condition, it would be legally possible for the County to enforce maintenance provisions should it become necessary regardless if the association's covenants were instituted or not.

As the County is not a party to the covenants and the proposed change does not conflict with the purpose of the original approval, staff recommends approval of this request to remove the requirement of BCC approval of covenant modifications subject to the following condition. And that condition would read The La Tierra Waste Disposal Association covenants and its purpose is to ensure proper maintenance of the subdivisions' septic systems and trash disposal will not be eliminated without the approval of the Board of County Commissioners. This shall be noted in the amended covenants.

What I'm stating is we no longer would check every change that they make and it wouldn't come before you, but if they choose to dissolve their association or just dissolve its purpose, then they'd have to come before you to get approval for that.

CHAIRMAN GONZALES: Any questions of Oralynn at this time?

COMMISSIONER TRUJILLO: I have a question, Mr. Chairman. Has the County ever enforced the covenants?

MS. GUERRERORTIZ: No sir.

COMMISSIONER TRUJILLO: And you're saying I think you read that legally we're not required to do that or we're not authorized to do that. Right?

MS. GUERRERORTIZ: We're not a party to the covenants, so we couldn't enforce the covenants, but the concept of the septic systems needing to be properly maintained because of public health and safety issues, we could enforce that issue. It wouldn't be related to the covenant; it would just be related to protecting public health.

COMMISSIONER TRUJILLO: The communities used to -- that the Board of County Commissioners review any changes to the covenants or to that agreement. I'm wondering, was there any input by the community regarding this proposed change?

MS. GUERRERORTIZ: Mr. Chairman, Commissioner Trujillo, I had some

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contact with one member of the community but I was not able to talk to that person directly. I talked to her husband. I don't know if the association actually spoke to all the members but I do know the board of directors supposedly authorized this modification, this request. It may be that the community hasn't actually known about this request change. We do put up yellow boards saying and things like that.

COMMISSIONER DURAN: Mr. Chairman, Oralynn, who would be responsible, would it take a fifty percent majority vote to change the restrictive covenants?

MS. GUERRERORTIZ: Sir, I would honestly have to go back and look at this but I think there might be a representative here. I'm not sure. There might be a representative that might be able to answer your questions directly. I'd have to go back and read them. But I can check that maybe while you confer with him.

COMMISSIONER DURAN: My concern is that there is adequate representation for the amendment.

MS. GUERRERORTIZ: Sir, I just found the answer to your question, and it's by majority vote of the board of directors.

COMMISSIONER DURAN: By the board of directors.

MS. GUERRERORTIZ: The board of directors does not include all the members.

CHAIRMAN GONZALES: How in the world did the Commission find itself in this issue?

MS. GUERRERORTIZ: Frankly, sir, I do not know. It was taken care of in 1981. We reviewed the situation I think at the time the City did our reviews and I think that the agreement might have been made with consultation of the City Engineer. I can't really figure out from the records how the Board of County Commissioners came into the covenants.

MR. KOPELMAN: Thank you, Mr. Chairman. From a legal standpoint, when our office found out that we actually were required to approve or disapprove proposed amendments, I had some concern about the County getting involved in what really is a private matter, covenants of an association. So Oralynn and I did discuss the issue with the attorney representing the association and from a legal standpoint I have concern about the County having to approve or disapprove every single amendment of a private association. I think conceivably it could even give rise to liability or a to a lawsuit, so it seems to us that the best thing is to just get us out of this situation all together.

COMMISSIONER DURAN: Mr. Chairman, but I'm not sure that getting us out of this situation is the right thing to do. There's 469 lots out there and the board that would approve any amendments is comprised of several people. It seems to me like the County Commission would be a way of preventing something from being passed that wasn't fair for the entire 469 lots. Is that your take on it?

MR. KOPELMAN: Mr. Chairman, Commissioner Duran, I would assume that in most association by-laws there's an opportunity for the rank and file, for the members

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to vote for their board of directors. My only concern is that every time they have a change, they have to come to you to approve it or disapprove it. I don't think that's a proper governmental function, to be passing upon private covenant amendments. That's the concern -- as Oralynn indicated the major focus that we have I think is the health and safety issue with respect to the septic. This board retains authority to overlook those issues anyway, regardless of the right to approve or disapprove covenants. I'm concerned as to the precedent it could set about other associations gratuitously putting the Board of County Commissioners in a position where they can't move without the County's approval and then all of a sudden you're up there and you have to learn what these issues are about and it really could become a real morass.

CHAIRMAN GONZALES: Any other questions? What's the pleasure of the Commission?

COMMISSIONER GRIÑÉ: Mr. Chairman, Steve would you advise that we should withdraw the Board of County Commissioners from taking issue with these requests from the association?

MR. KOPELMAN: Mr. Chairman, Commissioner Griñé, I am recommending that you seriously consider approving the request. By approving the request it takes the Board of County Commissioners out of their covenants.

COMMISSIONER DURAN: One more question, Mr. Chairman. How many amendments have been made since 1981?

MS. GUERRERORTIZ: Mr. Chairman, Commissioners, this is the first one, and I would state that the association really hasn't started functioning until about 1992, which is when it really started to operate and fulfill its cause. It's been getting better each year as far as getting better compliance.

COMMISSIONER DURAN: So the only amendment is to remove the County Commission from the approval process?

MS. GUERRERORTIZ: Mr. Chairman, Commissioner Duran, that's the only amendment before us today but there are other changes that the Waste Disposal Association would like to make and those they can do on their own. Those have to do with changing some language. Generally before they gather the money and the association itself paid for the inspection or haulage. What they propose to do in the future is have individuals just combine some inspection reports or proof of haulage and send that into the association so the association doesn't have to actually worry about individual septic systems. And they have some other modifications, but that was the main one.

COMMISSIONER TRUJILLO: Mr. Chairman, so if they have any changes from here on forward they would be done within the board of directors and the community association?

MS. GUERRERORTIZ: That's what's proposed, sir.

COMMISSIONER TRUJILLO: And the value added by having the Board of County Commissioners review or the auspices of reviewing any changes that have been

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proposed has not been there?

MS. GUERRERORTIZ: That is correct, sir.

Commissioner Trujillo moved to approve the request to delete the Board of County Commissioners from having authority over covenant amendments.

CHAIRMAN GONZALES: Any discussion?

MS. GUERRERORTIZ: Only one, Commissioners. Is that with the recommendation by staff to the one condition, that it would come before you if they tried to dissolve the association or dissolve its purpose?

COMMISSIONER TRUJILLO: With that condition.

Commissioner Griñé seconded Commissioner Trujillo's motion, and the motion passed by unanimous [4-0] voice vote.

VII. D. MATTERS FROM THE COUNTY MANAGER

2. Santa Fe County Housing Authority Operation/Management options

MR. SÁNCHEZ: Mr. Chairman, you should have received in your packet a memo regarding the Santa Fe County Housing Authority. We're currently in the budget preparation process and what we felt we needed to do was to come to the Commission and identify three options with respect to where we go from this point forward with the Housing Authority. In developing the budget, I've assumed certain things, but I really don't want to make such a major policy decision without discussing from the Commission what the options are.

As you recall, in July of 1996 we were asked to take over the Housing Authority. It was in troubled financial status with the Housing and Urban Development Department. And in a matter of about 18 months we've been successful at turning that financial status around. Now our scores are favorable and we've essentially brought it back on its feet. Again, it took us about 18 months to formally do it and now we're in our second year of having assumed responsibility for the Housing Authority.

The three options that we're asking the Commission to consider with respect to where we go from here from the Housing Authority are as follows: Number one, we could send the Housing Authority off on its own, set them up as an independent, stand-alone agency with a self-perpetuating board of directors and establish them as a non-profit incorporated entity. They would then appoint their board members and we would be removed from the picture of the Housing Authority. That would then enable us to make a true separation from a financial liability perspective and for our auditors in terms of separating the activities of

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the Housing Authority and the County of Santa Fe. So that's the number one option.

The second option is to maintain the status quo. We've assumed responsibility for the Housing Authority. We can continue to absorb the work and the financial burden of the Housing Authority. We have expended in this year alone in cash and resources over a quarter of a million dollars. That was what our guesstimate was and we've easily achieved that amount. We, in the budget cycle, have already identified the need for approximately \$700,000 for the Housing Authority in order just to make it through this next year and that was looking very strongly at the expenditures and I really had to minimize the expenditures because of the cost.

And it is going to continue to grow in terms of the cost to the County. Two hundred thousand of that \$700,000 is from cash balances and the other \$500,000 would come from the affordable housing fund. That would enable the Housing Authority to complete the home sale program requirements that were approved by the Commission I think it was last month. There were a number of things we had to do with the roads and drainage and things like that. But we've identified that cost and we've identified the funding sources, the affordable housing funding source. So that's option number two, maintain the status quo, but again, as we've indicated before, it will continue to be, because of all the [inaudible] There's just no way to avoid it. It's not a program that lends itself to many options for financial stability and health. It just isn't.

The third option is to do a semi-independent Housing Authority, which is what we had when we stepped in. We had a board of Housing Authority that was appointed by the Commission. That board then oversaw the activities of the Housing Authority. They appointed a director and the director did what was needed to run the Housing Authority. That option, although it was what we had before, does not give us the separation in terms of the liability that we assume right now and it was an option or an issue that we had brought forth when we were going through all the discussions when we were getting ready to take it over. That's really what we need to ask the Commission for now is what direction do we need to go in in terms of these options.

If we go with option one where we're going to spin them off on their own as a kind of stand-alone and we divorce ourselves from the liability, it's going to require a significant amount of work but we've already put a plan together that identifies each component and some dates for the completion of these and if you look at the list there are actually 19 areas that we need to start aggressively pursuing just to get everything in line before the transition, July 1. And the reason we suggest a transition of July 1 is because it's the beginning of a new fiscal year.

The other think though I would say is that if that's the direction we go we are not suggesting that July 1 comes and we are gone. I would expect that we would still need 90 days and I would feel comfortable with 90 days to help the staff at the Housing Authority through the transition, help them get the systems up that they need and to assure that the funds for the affordable housing project are used and at least pursued in terms of what they

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need to do in outlining the things that they need to do. It would also give us an opportunity to work with the board and essentially bring them up to speed on all the issues that they were going to be dealing with, again, if that's the direction we go.

So if we've identified all those items that we would need to pursue, I don't want to direct staff to begin all of this work if the Commission's interest is not in going in this direction. If the Commission chooses again option number two, which is same old, same old, to continue the way we're continuing. We will, as we had indicated before, continue to incur a growing financial liability again because the federal program itself does not lend itself, does not offer the flexibility to really make it a viable, stand-alone type of organization. That's very clear from our interactions with the program now over the last two years. Then we could also go back to the previous way that it was and in which case, if we do that, that could still be something that we'll be dealing with but we would only defer that because again we anticipate that some future point in time, depending on what their financial requirements are they may have a need to come back to the County.

COMMISSIONER ANAYA: Mr. Chairman, Domingo, refresh my memory. The \$500,000, where was that generated?

MR. SÁNCHEZ: It was generated in the Las Campanas fund. There was a fund, I think it generated approximately \$2 million to my recollection to my recollection. That would be the source. It was supposed to be used for affordable housing purposes.

COMMISSIONER ANAYA: I think it was a million dollars. Did we use half already?

MR. SÁNCHEZ: We may have. I don't know that for a fact.

COMMISSIONER ANAYA: And then you're saying that the federal government, HUD, isn't submitting any kind of help or assistance or anything?

MR. SÁNCHEZ: Mr. Chairman, Commissioner Anaya, we do get subsidies from HUD. The issue is subsidies do not cover the cost or the necessary expenditures associated with maintaining the three sites that we have and that's 224 homes in total I believe. And because of those limited resources and the restrictions and the formulas that they use for developing our funding each year, it really restricts our ability to make it a viable organization. The other thing is funding has continued and is anticipated to continue to decrease. So that in itself is something that we can say with a fair degree of confidence and is going to compound the problem even more.

COMMISSIONER ANAYA: I feel that if we were to drop the ball here on this effort and turn it over to re-establish the Housing Authority again, how could we turn a lemon over to them and expect them to handle it?

MR. SÁNCHEZ: Mr. Chairman, Commissioner Anaya, where we took a lemon now and made it an orange, we would be handing that over and with the home sales program that we have established, an additional \$500,000 that we're talking about, if they get off the dime and really pursue it aggressively, that has the potential of generating revenue for them which they could then use within the program. It would essentially displace the

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subsidy that we provide from either out of general fund or cash balance resources. That initiative then would have to be pursued I want to say fairly aggressively and would offer them an opportunity to keep the program buoyant or functioning for several years down the road.

We've gone over those numbers and we feel that to the extent that again, they're successful, it can be done, but it's going to be pretty tough whether it resides here or over there. That's going to be a big program and it doesn't have a lot of things in its favor.

COMMISSIONER ANAYA: If the Housing Authority were to be recreated would that mean that the Commission would not be responsible for any kind of allocation of funds or anything that might be needed to keep them in existence, or do we go back to the early 1990's or 1990 and be in that same situation?

MR. SÁNCHEZ: Mr. Chairman, Commissioner Anaya, it would depend on which of the two options for establishing the Housing Board you chose. If we went under the old option, which is option C, then what you say is exactly what we would have, the same old, same old. We would then fall into the position we were in before if they went into troubled status or were unsuccessful at using the program funds from the home sale program to complement their funding resources, we would end up probably in the same position that we ended up two years ago when we stepped in. If we go with option 1, where we set them up as a non-profit corporation, they have a board that's an autonomous board that does not look to the Commission to fill positions on the board and has no relationship, we then sever that tie and we essentially step back. Any financial issues that they have further on down the road become their issues, not our issues, and so that's how it would work. One of those two ways.

COMMISSIONER ANAYA: So the intent when we dissolved the Housing Authority was to renovate all these and we pursued that and we brought the lemons back to the orange status, to use your analogy, and then the intent after that was to sell these oranges, but we were going to handle that. You're saying that if we go with that first option then we will relinquish our real estate portion of it and allow this new non-profit organization Housing Authority to pursue what our initial intent was when we dissolved the Housing Authority?

MR. SÁNCHEZ: That's correct, Mr. Chairman, Commissioner Anaya. That would then give them an opportunity, again, like I was saying earlier, if they really got off the dime and pursued that to supplement their operational requirements through the sale of those homes, and whether it resides in the County or whether it resides in a non-profit, it's going to have to be aggressively pursued. It's just going to be a big initiative. And that board that we would suggest being formed in a non-profit organization, we would recommend to include members of the community that are either in banking or in affordable housing type programs. We think that it needs to be a board, at least initially that has a real understanding of the housing issues, who has ties with the banking community or with lending organizations so that you really bring the people to the table to oversee the activities

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of the Housing Authority that know how to work the system. We're not experts in the area of housing.

COMMISSIONER ANAYA: Thank you, Domingo. Thank you, Mr. Chairman.

CHAIRMAN GONZALES: Any other questions?

COMMISSIONER ANAYA: Mr. Chairman, I see merit in both avenues of approach to this situation. And I kind of agree that maintaining the status quo as it is today might be a hindrance to our budgetary restraints. I can see that. I see the merit in moving forward and creating this and selling these homes off and putting the personal responsibility on the homeowners themselves which I think would be the best direction to go. I see merit in those two. However, you know, I would like to still have a little bit more time to digest the whole the situation, Mr. Chairman.

So if I'm in order, I would like to put it in the form a motion to table this for two weeks for the next meeting. That way the Commission will have enough time to really balance out to see what the direction will be the best direction. Mr. Chairman, I move to table.

COMMISSIONER GRINÉ: I second it.

CHAIRMAN GONZALES: It's been moved and seconded to table. All those in favor signify by saying "aye." [Unanimous 4-0] All those opposed?

MR. SÁNCHEZ: Mr. Chairman, just briefly an update on the issue of the audit. The staff, just to let you know has formulated a plan and we are working with our auditors in terms of making sure that they understand what it is we're trying to resolve between now and the time they come in at the end of the year and begin their field work on our current year audit, an audit as was referred to in the articles and what has been the topic of discussion over the last week was for the year ending June 30, 1997. We're now in the fiscal year ending June 30, 1998. So we are now preparing so that we have them come in at that time.

But it involves quite an extensive list of things from reconciling all our funds to finalizing a report, making journal entries, insuring that debts are being cleared through the system and gathering all the bank statement information and working with the auditors that were mentioned earlier when Andrew was giving an overview of ASD. We then would have that information reviewed because what I want to be able to do is not just tell you we're going to do this, this, and this, but we want to be able to say we're doing this, this and this. It was reviewed in conjunction with our work with an auditor and our auditors are reviewing that information. That way the level of confidence the Commission has in terms of what we say is being done is I think complemented or strengthened.

And we'll do that in two parts. One is the reconciliation, primarily, so that we get ready to bring the auditors in to start the field work in the month of May or June and then the second part will be, and we've already started on this, a list of things to address the findings, which are not the material weaknesses or issues that resulted in the qualified

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opinion. Those also will then be reviewed by the auditor we're working with. Then we would have our auditor review as a third person independent of us. Again, for the purpose of being able to come to you and not just say we have done A, B, and C, but to tell you we have done A, B, and C because it was worked with so and so and our auditor has reviewed it, his recommendation or his overview or perspective of what was done.

So I wanted to mention that and then within a couple of weeks, I'm going to be in a much better position to give you a more detailed overview or summary of what actually occurred.

CHAIRMAN GONZALES: If I understand what you said, you say that there are issues out there that are being cleaned up right now that deal with the current year that we're in right now. The audit that you're referring to was last year. Is that correct?

MR. SÁNCHEZ: That's correct.

CHAIRMAN GONZALES: So the issues that came out of last year audit, those being corrected now?

MR. SÁNCHEZ: That's the mission.

CHAIRMAN GONZALES: And the timeline issue assessed for that is what?

MR. SÁNCHEZ: We anticipate having all our work, major work completed on the reconciliation within a two-week period. And we are asking that the auditor parallel his review with the work that we're doing so that we don't have a two-week lag before that individual steps in to begin reviewing what we've done.

CHAIRMAN GONZALES: So two weeks on the 28th, you'll be before us on this issue and hopefully we'll have everything ready to file. Is that correct?

MR. SÁNCHEZ: We're going to do our best to try to achieve that goal.

COMMISSIONER ANAYA: Mr. Chairman, Domingo, a few years back, two, three years ago, Phil Trujillo came before us and his request was for two additional FTEs, full-time employees. I can't remember what the budget request was. And the decision that was made and the recommendation of staff was that there was no need for these two employees. Maybe I'm looking in hindsight now, but maybe that should have been the direction instead of spending \$20,000 today for an audit of the audit or whatever the course of action is, but I wondering right now if that request were to come up again if that wouldn't be the practical approach instead of what's happened now. I think what the whole purpose was a transition of tax money that was collecting, transitioning it into the banks and so forth is what the problem is today. And I supported Phil on that request and it never materialized. He got a half of one.

MR. SÁNCHEZ: Mr. Chairman, Commissioner Anaya, the recommendation that I made at that time was that that body, or that additional FTE reside within Finance so that we would have oversight responsibilities for that individual and that they work collectively with the Treasurers Office. The direction given by the Commission was to give the Treasurers Office the position. That happened. Work was done with the two positions for a period of time. It was not necessarily a lengthy period. That they then transitioned

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from what you had before and through cooperation with the Treasurer we then assumed responsibility for that position just in the last few months.

So that was the direction we went in and where we're at now is that that position was then through agreement given back.

CHAIRMAN GONZALES: We tried to have one, if I remember already, and the Commission approved one additional FTE. There's was a full FTE that was to be shared between the Treasurer and Finance then. The Finance Department gave up the whole half of it [inaudible]

COMMISSIONER ANAYA: The matters then could have been resolved in the hiring status, could have been addressed then.

MR. SÁNCHEZ: It was our hope that that additional FTE would have addressed the issues from that side of the street or that office, but things go the way they go and things happen and it was not what ended up happening.

COMMISSIONER ANAYA: Things happen, you know and it seems that we're doing it right and trying to correct it. I don't care what business or what entity you work for, mistakes are going to happen. That's acceptable to the business world and everywhere else. I think we should just move forward like we're doing.

COMMISSIONER TRUJILLO: The reconciliation, is that being done annually? Because I understand that the root cause of the problem was the automation of the financial system and it wasn't merging with the existing system. Are we doing it manually now and how is the new financial system more state of the art, automated, that can interface with the state, with the elected officers? Is that going to happen?

MR. SÁNCHEZ: Mr. Chairman, Commissioner Trujillo, the reconciliations aren't being done without the assistance of two systems in the Treasurers Office we have the AS-400. I forgot the acronym that they use for that system and that generates certain information that they in turn then take and reconcile to the bank statements. So that's one system. It's not being done by hand from my perspective. I don't believe that that's the case. From the other side we then have [inaudible] which generates a general ledger and balances for each fund and we are not doing it from our side of the house by hand. We have a system in place. The issue is being able to make sure that the information we rely on and the Treasurer relies on is compatible and that there is a paper trail to establish that relationship between the two systems. That's what we're working on now in development of all the reconciliations. We are taking the information that is generated off one system, clarifying against our system, filling the gaps and then putting together our work papers to tie our reconciliations to both systems.

COMMISSIONER TRUJILLO: That's been the missing link, is that they can't interface, right?

MR. SÁNCHEZ: I think the missing link has been the process that then merges the information from both the Treasurers Office and Finance in a way that satisfies the auditor that both sets of information on both systems are consistent.

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COMMISSIONER TRUJILLO: How far are we from rectifying that missing link, that vacuum?

MR. SÁNCHEZ: Mr. Chairman, Commissioner Trujillo, we have a process that we've identified steps and we're going through that process now and we've begun our work on this. I want to say that we're making -- I don't want to be optimistic because then you hit a bump in the road but things seem to be moving well. But I can't tell you how things are going to be moving on Thursday or Friday, but the system appears to be working well. There is just an awful lot that we need to still do though. And again we're working whatever hours we need to work to insure that that happens within the time frame that we've identified.

CHAIRMAN GONZALES: One final thing, Domingo. As Commissioner Anaya said, mistakes are made, but when mistakes are made we have to be held accountable for getting them corrected and so what I would like from you and the staff is two weeks from today, I don't want a try or an if, I want the actual, I think we all do up here, I think it's reasonable, we want those reconciliations done on those accounts, including the cash account between the Treasurer, the bank and our Finance Department. I would like to review the auditors to have occurred some time during that time period -- if not shortly after that so that they can review all those reconciliation balances and give us an independent report and see how they feel about it and what took place. And I think that for that to be done it's going to take a lot of time and a lot of hours on your own part, because this is something that can be accomplished.

I just don't want the mights and maybes. I want us back here two weeks from today with a presentation saying we're reconciled and to either have the auditors who can do this or they're coming in to review it. That's just an absolute must and I think that that will help take us a long way and at least the Commissioners will feel comfortable that we're moving forward because we have a Finance Department that we should all be real proud of. We have strong accountants in there. [inaudible] We have one of the strongest bond ratings in the country. That's a measure of our financial strength. Our cash balances are stronger than they've ever been and that's a measure of our financial strength.

And by no strength of the imagination do we forget how far we've taken this Finance Department from four years ago. I just remind you that in this Finance Department we had embezzlement. They weren't being able to track how things were being done. We had numerous procurement violations that the Attorney General came in to look at and all that has been cleaned up and changed since we put in a finance group who is actively working to solve these problems. So this, as Commissioner Anaya says, people make mistakes but this Finance Department I think is professional enough to correct them in a timely manner and I'm asking for two weeks.

But we have come a long way from the days when there was embezzlement and when there were procurement violations and we need to remember that the Finance Department has done a fine job in that area. We're also going to hold them accountable, Domingo, and

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make sure that they correct these mistakes and that they get it done in a timely manner. As Commissioner Duran told me yesterday, it's important that we all stand behind the staff because we support you guys but we're also going to hold them accountable.

COMMISSIONER DURAN: Domingo, when do we start going through our budget cycle, reviewing the budget?

MR. SÁNCHEZ: Mr. Chairman, Commissioner Duran, we expect to take the budget to the Commission I believe it's on May 5. I will be setting up meetings with each of you individually because what I'd like to do is identify major issues within the budget coming to you, a pre-hearing overview and answer questions that are specific to the areas that you are interested in. Then, at the hearings on the fifth, hopefully you would have had an opportunity to absorb, think of more questions, but it will give you, I think a better feel for it as we go into the presentations of the questions that you have or maybe dismiss some questions that you might have otherwise.

COMMISSIONER DURAN: The reason I ask is that I think it's important or imperative that we get through this process before we start talking about the budget for the next year.

MR. SÁNCHEZ: Mr. Chairman, Commissioner Duran, if we are kept to that deadline and we're going to work our butts off for that, we're looking at around the end of the month and then we're looking at the budget cycle going in the first week of May.

CHAIRMAN GONZALES: I think that Commissioner Duran is right on target and that's the point of the deadline. Are there any other questions? I know the staff will be working tonight and a few other nights.

VII. MATTERS OF PUBLIC CONCERN - NON-ACTION ITEMS

CHAIRMAN GONZALES: Would anyone like to address the Commission?

DAVID GOLD: [See Exhibits VII "1" and "2"] I came here tonight to bring up a few issues related to the relief route. I'm also following up on the work of Beverly Garcia who presented a very similar sort of a thing, in fact I enclose her letter to the City Council last week. Apparently Mayor Delgado is interested in these issues. I just want to reiterate very briefly what I see are some concerns. The reason that any of this even matters is that with the recent funding that was approved for the relief route suddenly it's become a reality.

Even as early as last year the idea that they would have all four lanes built even in our lifetime wasn't even considered. So a lot of these issues really didn't matter, because it's a lot easier to cross a two-lane highway, the issues of interchanges facing all that stuff didn't really make any difference. Now it does because they're about to build this thing. They're going to let out the bids for the main line, apparently at the end of July. Since the relief route was first implemented, the city has changed a great deal. One of the most

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obvious things, Cottonwood Village, which I'll come to in a second, but there's been a number of areas where the original design no longer matches anything that's remotely planned for the area.

There's a number of issues that really will need immediate attention. First of all, the original resolutions that both the City and County passed, some of the interchanges aren't there that are in the present road design. There's a number of access points that are still in contention. One of the biggest issues related to the interchanges, especially in the north where the traffic will be routed through the Casa Solano neighborhood, there are no plans to deal with that at all. Three of the five interchanges in that area will dump traffic on there.

There are ways of dealing with these things, by the way, but it's just nobody's really thinking about it right now. Cottonwood Village was not originally a dedicated interchange but there's significant traffic that will come out of there. I have the plans with me, the most recent plans, it appears that the idea is that the people from Cottonwood Village will get to roll right on to the highway and get on. There's no frontage road for them to take. Personally, I think that the lives of poor people are worth as much as the lives of rich people and it kind of bothers me that this wasn't considered.

The plans for crossing the County Road 62 West Alameda and County Road 70, during and after construction, are not clear. I believe that the plans right now are to have two-way stop signs. In other words you'd come rolling up to this two-lane road that would have about 20,000 cars a day rolling on it and you're supposed to cross it. My own children ride the school bus every morning and this concerns me a great deal, as well as the idea that I might ever have to go into town or something. Fortunately I work at home, so my wife might survive through this one. So my wife's in danger as well.

The idea of non-vehicular access has been completely ignored, and by that I mean all these bikes and so forth, pedestrian trails. In fact, the plan as it sits is actually antipathetic to it and it needn't be. What they've done in certain cases is have like six-foot culverts where they could have had eight-foot ones. I've been personally working with the Highway Department on that issue and I've had some success in dealing with them. I believe I'll get some of these but there's a lot of others that should take place.

One of the best ones is at Cottonwood Village where because the recreation area will be so close, these kids will be riding their bikes out onto the street and I think they'll get squashed or something. I know they're not going to drive the half-mile down to the nearest crossing, which is at at-grade crossing anyway. I believe that presents a public danger.

The road design is a key to noise standards, most likely. I've read the EIS and it's calculated for a lower number of cars than are going to be in there. I think a person could actually bring a suit against the Highway Department right now and shut the whole thing down based on the EIS alone. There are issues about the commercial development, mostly about the traffic impact throughout the rest of the city. That's something that can be dealt with later on but if commercial developments are approved they need to be considered. And

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in general, as I said, the noise impact is very bad.

What I'm urging this Commission to do is to get in contact with the City and what Beverly Garcia advocated in her letter was having a meeting, at least with the Highway Department to have them explain how they plan to handle some of these issues and have a group of citizens involved and asking questions. I would urge that this Commission follow up with that and at least get involved with that meeting.

I've been in touch with Bill Redmond's office and apparently he's been able to actually bring pressure upon the Highway Department. I guess because this is a Republican administration and everybody's running and certain people understand those issues better than others. And anyway, the Highway Department actually seems to flinch when he talks and his aide has said that they would be willing to participate in any meetings or discussions in relationship to the relief route and intends to get these issues corrected. So it's not a situation where you'd just sort of be flailing your arms helplessly and hope somebody came along to deal with it. There's actually interest at higher levels.

I've also been in touch with Senator Nancy Rodriguez and she's quite interested in these issues as well. So I think that there still is time to deal with this stuff. If it's not dealt with it's going to cost a lot of money later on. The idea of putting in an underpass, for example now, it could be done for not that much money. In fact it could be just incorporated into just a culvert in certain cases. The idea of putting it in later means ripping up six lanes of interstate. That's a million bucks a crack at least, or two million. Just an astronomical number

The same thing with noise issues and certainly the safety issues before this thing goes in really need to be addressed. That's literally -- in fact that's the most important as far as I'm concerned, people will die if this isn't handled correctly and I see no interest on the part of anyone who's managing this project as to whether people live or die. Given the experience on 599 where there were a number of deaths before anyone got interested. I guess what we could do is set up poles alongside the highway and then as people die start carving notches in it until somebody starts paying attention. But I think that would be preferable to deal with that in advance.

CHAIRMAN GONZALES: Certainly as things progress -- I agree with you.

MR. GOLD: It might be a good idea if somebody contacted Mayor Delgado and said, hey, we're here. So far, the way the City and County have dealt with it has sort of been like the City has developed -- well, what's happened is the Highway Department has threatened the City and said if you change anything we're going to cut your funding and then the City has just kind of bowed down and done nothing. But I think that that's going to be changing now. There's enough pressure coming in on the City as well. I've been in touch with City Councilors as well, and they're also interested in following this as well.

COMMISSIONER ANAYA: Mr. Chairman, David, I kind of see this falling under the auspices of the Corridor Committee and being pursued from that direction. My understanding from what I hear from you now is the majority feeling out there is that in lieu

of interchanges you want underpasses being constructed and projected now rather than in the future.

MR. GOLD: It's kind of complicated. At the north end, they're concerned about having too many interchanges. At our end, we're concerned about access, about safety in crossing. And so the concerns vary depending on where you are. Like for Ms. Garcia it's a whole different thing because they're concerned mostly about the fact that all these interchanges pump traffic through their neighborhood. My concern about this Corridor Committee, Commissioner Anaya, is that given the amount of time that's available to us, right now there's a window of opportunity and by the time the Corridor Committee gets started even, I'm concerned that we'll have run out of time.

The thing is, if something is done right now, if people start paying attention to it and it becomes an issue, I think the Highway Department will actually deal with it. Like I say, Representative Redmond is interested in this as well, so there's this window of opportunity. Once they start building, it's going to be tough to deal with it. Usually they come up with a resolution or something, but that's why I came. I'm just here, because, hey guys, you've got to do something.

COMMISSIONER TRUJILLO: Mr. Chairman, I think what's of paramount importance here are the health and safety issues and the immediate impact on the communities right now. For example, in the Piñon Hills area, as David was saying, an interchange is not proposed for that area. You're going to have a six-lane highway going through that community with two stop signs for merging traffic into the highway and crossing the highway. Major health and safety issue. From a longevity standpoint, the noise and the trails. I think the design, the engineering design happened ten years ago. It is not conducive to the growth that has taken place in that area right now. It is imperative that we work with the City to advocate changes in that design and make that road more conducive to the needs of the communities that exist there.

MR. GOLD: There are a lot of things that could be done right now that aren't major changes or terribly expensive. Some things are a big deal. A lot of things aren't though and it's just a matter of somebody saying, okay, let's just look at this and see what we can do to make this work.

CHAIRMAN GONZALES: Thank you David. We're limited about what we can do about the bypass [inaudible]

MR. GOLD: Thank you very much. I appreciate all your attention.

CHAIRMAN GONZALES: Mr. Villegas.

JOSE VILLEGAS: I appreciate David coming up there and talking to you about 599. We have safety concerns about 599. I was there for the [inaudible] WIPP drill and one thing I can tell you about this drill is that the County cannot handle a major WIPP accident on 599. Santa Fe County can work with the City to pressure the federal government to pump in some money to upgrade our emergency planning for a response for Santa Fe County. I'm getting ready to do a critique of the drill and when I'm done with the

critique I will be glad to submit a copy of the critique to the County as well as to the City. Then we can see where our weaknesses are in the County in terms of dealing with emergency plans and things of that nature.

I'll be serving on the 599 Board for some of the issues and I'm ready to rock and roll.

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

VII. E. MATTERS FROM THE COMMISSION

- 1. Resolution No. 1998-34. A resolution in support of the City of Santa Fe using Camino La Tierra and State Road 599 (Bypass) to accommodate WIPP transportation requirements**

CHAIRMAN GONZALES: This is probably timely in light of David's request. The state Highway Department and the City ask that we offer a resolution supporting the negotiation that was done to use Camino La Tierra as a bypass and then the bypass would be used for the shipment of the waste, I'm not sure when --July?

COMMISSIONER TRUJILLO: The end of May.

CHAIRMAN GONZALES: The end of May. So that's the resolution you have before you concerning that. Commissioner Trujillo and Mayor Delgado, I think they want to see, or they told the federal government and Congressman Redmond that we would work in support of making this a success. So I'm asking the Commission to support this resolution.

COMMISSIONER TRUJILLO: Just a comment that the proposed direction or the transit of the low-level waste on the bypass does not deviate from the proposed bypass. They are taking that same road. They are not taking the low-level waste into communities. The bypass is going to connect to 285 the same way, not going through the communities or anything like that.

CHAIRMAN GONZALES: Thank you, Commissioner, for that clarification. This is Resolution No. 1998-34. Can I ask for a motion?

Commissioner Trujillo moved to approve the resolution 1998-34. His motion was seconded by Commissioner Anaya and passed by unanimous [3-0] voice vote. Commissioner Duran was not present for this vote.

CHAIRMAN GONZALES: Any other Matters from the Commission?

COMMISSIONER DURAN: Mr. Chairman, I was wondering if I could ask Larry to come up and give us an update on the Fin del Sendero condemnation.

LARRY VELASQUEZ (Public Works Director): Mr. Chairman,

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Commissioners, on Fin del Sendero, what we have done so far is we have a contract for the right-of-way mapping and the engineering on it. We've got a contract for the appraisal. We've got a contract that we're almost done with for title work. We've received a preliminary set of right-of-way maps about two weeks ago and we're still working on that. So that's probably about a week or two away from being completed on that.

COMMISSIONER TRUJILLO: I have a question for Larry. The Agua Fria transfer station. When is that going to close?

MR. VELASQUEZ: The transfer station, we have been advised that we will be receiving a draft lease from the State Land Office for the site that we have proposed. I haven't received that yet but we are moving forward to finalize the plans for the transfer station. What the draft lease means is that it's pending us finalizing our master plan, basically moving the building down into the hole and doing it. So we're working on that right now. It is our anticipation to have that awarded in either the first part of June or the second meeting in June to begin construction on that. You may recall a couple of weeks ago we had a couple of requests to reassign a contract for finishing of the landfill closure. I guess as much as we want to be doing a positive thing that was it bought us a little bit more time on that existing site. I believe that our construction time, assuming that we start on July 1 is about 60 to 90 days, so about August we should be operational with the new transfer station.

Additionally, it is our anticipation at this point that in July we will award a contract for closing the Agua Fria Landfill, so the timing on that is going to work itself out, but that's where we are at this point.

COMMISSIONER ANAYA: Larry, can you tell us the problem with the Los Alamos situation.

MR. VELASQUEZ: Mr. Chairman, Commissioner Anaya, the first thing we've done is we're directing the signage, we're looking at the whole corridor and addressing the signage to make sure we have signs directing people back to I-25. We're also undertaking some studies to see what is actually happening in the village. We've got those scheduled. We haven't done them yet, but we've got those scheduled, so as soon as we've got that, then we have a basis to start coming up with some recommendations.

COMMISSIONER ANAYA: Was the memorandum issued to Sheriff Montaño's office? As far as the concerns were about speeding through the village?

MR. VELASQUEZ: No, we haven't done that yet until we do the studies to see if we are getting some violations.

COMMISSIONER ANAYA: Thank you for your information.

COMMISSIONER DURAN: I just have one other thing. I was wondering, Domingo, if you could put together a list of all the services, going back to the joint services agreement with the City. Now that we have a new mayor and I think he's settled in and his administration is going forward, it would be nice to outline the issues that we've been having trouble with over the past several years. My understanding is we still don't have a joint

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services agreement in place and I'd just like an update on that. You don't have to do it tonight but maybe at the next meeting. I know Commissioner Gonzalez and Commissioner Griñé are going to be meeting with the mayor next week and I think it's important we work on that. Maybe you could do it in your spare time.

CHAIRMAN GONZALES: Any other Matters from the Commission?

VII. G. MATTERS FROM THE COUNTY ATTORNEY

1. Certification of validity of petition to establish the Village of Tesuque as a traditional historic community under state law

MR. KOPELMAN: Thank you, Mr. Chairman, members of the Commission. As some of you probably know, the residents of the Village of Tesuque have gathered signatures for a petition that would declare the village to be a traditional historic community under state law. The petition has to have the signatures of at least 25% of registered qualified electors. The petitions have been forwarded to staff and Legal and Land Use have met on numerous occasions with members of the community as well as with the County Clerk, Becky Bustamante, and we've reviewed the petitions and did an analysis to determine whether at least 25% of the electors have signed the petition. And it is staff's position that the petitions have the requisite number of signatures and comply with the requirements of state law.

We had a substantial amount of help from Erle Wright with GIS in terms of generating parcel data to get an idea of what percentage of the people in Precinct 8 and 10 are within the proposed boundaries of the traditional community. Based on the mathematical analysis performed by staff, it was determined that there are 833 qualified voters, which means that they needed 208 signatures and they had 323 valid signatures on the petition, according to the County Clerk's Office.

At this point then, under state law, staff is requesting the Commission to certify that the petition is valid under state law. This is only the first step. If in fact the Commission does so certify, right after this we'll be asking for authorization to publish title and general summary of an ordinance that would then come before the Board of County Commissioners for two hearings, probably both in the month of May as to whether the Village of Tesuque complies with state law requirements to be designated as a traditional historic community.

Very, very briefly, the only legal ramifications of that are that it would require 50% of the village then to allow annexation into the City, so it serves as a shield to prevent annexation. Secondly is the zoning and subdivision authority that at this point is vested in the EZC and the EZA, would then be shifted over to the Board of County Commissioners and they would be basically governed by a County Land Development Code. There would be no zoning changes. That would require a separate ordinance.

So at this point I have in the packet, I've supplied a copy of Chapter 211, which talks

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about the state requirements and also a copy of the petition. And again, at this point we're requesting the Commission to certify the petition as valid under state law. I'll stand for any questions.

CHAIRMAN GONZALES: Any questions?

COMMISSIONER DURAN: Mr. Chairman, Steve, I was under the impression that Tesuque was already a traditional historic community.

MR. KOPELMAN: Mr. Chairman, Commissioner Duran, that's a very good question. Unfortunately, we have some confusion over the use of the term traditional community. Under our zoning ordinance, Tesuque is a traditional community, which gives them certain rights on density, certain zoning density -- what I'm trying to say is they can get certain densities. They can get 3/4 acre zoning in that area. This is a different designation. This is a designation under state law. This is actually a bill that was proposed by Representative Lujan that passed several years ago. Under state law, there are actually different legal ramifications, and again, as I said, it would be a shield against annexation and it also would take zoning and subdivision authority out of the EZ and into the County. So it's not for zoning purposes, really. This is totally different.

COMMISSIONER DURAN: I have one more question. So the boundaries of the traditional community as represented on our maps aren't changing. Those boundaries are the areas that you can have 3/4 acre lots.

MR. KOPELMAN: Mr. Chairman, that's correct. The zoning boundaries won't change. This boundary is slightly different but this does not have anything to do with zoning. All this has to do with is the annexation issue and the issue of EZ or County jurisdiction.

COMMISSIONER TRUJILLO: I was just going to say that the only historical traditional community in the County is Agua Fria. All the other communities that are designated are traditional communities, but not historic.

COMMISSIONER DURAN: Okay.

CHAIRMAN GONZALES: Are there any other questions? What is the pleasure of the Commission?

Commissioner Duran moved to certify the petition. Commissioner Trujillo seconded the motion which passed by unanimous [4-0] voice vote.

VII. G. 2. Request authorization to publish title and general summary of an ordinance to declare the Village of Tesuque a traditional historic community under state law

MR. KOPELMAN: Mr. Chairman, members of the Commission, all that staff is requesting at this point is to authorize publication of title and general summary, which is a requirement under state law and under County ordinance to hold public hearings

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in the month of May to deal with and pass on the issue of whether the Village of Tesuque should be declared a traditional historic community under state law.

CHAIRMAN GONZALES: Any questions?

Commissioner Anaya moved to approve the request to publish and his motion was seconded by Commissioner Griñé and passed by unanimous [4-0] voice vote.

- VII. G. 3. Executive Session
- a. Pending or threatened litigation
 - b. Limited personnel matters

Commissioner Anaya moved to go into executive session to discuss pending or threatened litigation and limited personnel matters. His motion was seconded by Commissioner Duran and upon Roll Call a vote with all five commissioners voting "aye" the motion passed.

[The Commission met in executive session from 6:42 to 7:36, and reconvened with all members present.]

CHAIRMAN GONZALES: Thank you for indulging us in executive session. For the record, we discussed pending or threatened litigation, *Montoya vs. Santa Fe County*, and limited personnel matters.

Commissioner Anaya moved to come out of executive session and his motion was seconded by Commissioner Duran. The motion passed by unanimous [4-0] voice vote.

CHAIRMAN GONZALES: Okay we are up to the Public Hearing aspect. I'm going to deviate from the agenda and move to item B. 2 because we're going to grant a special exception for an individual who drove in from Albuquerque and needs to return home.

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VIII. B. LAND USE DEPARTMENT ITEMS

2. **CDRC Case #MIS 98-5160. John Caruso. John Caruso, applicant, request approval for an additional two-year extension for a previously approved master plan (Caruso Storage Units) in accordance with Article V, Section 5.2.7.b of the Land Development Code. The property is located south of the intersection of State Road 344 and Dinkle Road with Section 21, Township 10 North, Range 7 East**

[Chairman Gonzales left the proceedings at this point.]

RUDY GARCIA (Review Specialist): Mr. Chairman, Board of County Commissioners, I thank you for allowing Mr. Caruso to come forward. He has a long drive home back to Albuquerque and I'm sure he appreciates it. What Mr. Caruso is requesting is a two-year extension of his master plan. His master plan, if you grant him a two-year extension will be valid for an additional two-year period. Mr. Caruso does have a master plan approved for a storage unit facility down in the Edgewood area. It's roughly near the intersection of 344 and Dinkle Road.

The recommendation: Staff's position is that there has been progress in accordance with Article V, Section 5.2.7.b of the County Code and staff recommends approval for an additional two years.

COMMISSIONER DURAN: Mr. Chairman, Rudy, what is "substantial improvements?"

MR. GARCIA: Mr. Chairman, substantial improvements, or are you talking about progress in accordance with --

COMMISSIONER DURAN: The reason I ask is there have been other master plans that have come before us. I know one is coming up again, coming before us in the future for extension of a master plan approval. My understanding is that staff is recommending denial of that. I'm just worried that if we approve this that we're setting a precedent.

MR. GARCIA: Mr. Chairman, according to the Code if you have a master plan and that's valid for five years. If you come in before that fifth year is over you can get an additional two-year renewal approval from the Board of County Commissioners if there's been some sort of progress within that five years, that automatically does grant approval of that master plan. And according to Mr. Caruso in 1996 a building permit was issued for the construction of the facility, however that facility has never been built due to financial situations. Now we're up to the time limit at March 1998 and he's requesting an additional two-year extension.

COMMISSIONER DURAN: Any questions of Rudy? Is the applicant here? Would you please state your name and address for the record.

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[Duly sworn, John Caruso testified as follows:]

JOHN CARUSO: I am John Caruso. I live at 3004 Camino de la Sierra NE in Albuquerque

COMMISSIONER DURAN: Do you have anything to add, Mr. Caruso?

MR. CARUSO: I have nothing further to add, other than to thank all of you for the opportunity to appear before you this evening and hopefully to give favorable consideration to the two-year extension. I think our petition here is rather simple and straightforward. The project as we initially envisioned it was no longer feasible because the requirements for water just couldn't be met and at the same time make the project feasible so we had to abandon our plans.

COMMISSIONER DURAN: Are there any questions of Mr. Caruso? Thank you, Mr. Caruso. This is a public hearing. Is there anyone out there that would like to speak for or against this proposal?

Commissioner Grifé moved to approve the request for a master plan extension. Commissioner Anaya seconded the motion which passed by unanimous [3-0] voice vote.

COMMISSIONER DURAN: Congratulations, Mr. Caruso.

[Chairman Gonzales returns.]

VIII. PUBLIC HEARINGS

- A. Ordinance No. 1998. An ordinance creating a new Article XIII of the Land Development Code to outline the community planning process for the development of community plans and amending Articles III, VI, and X. This ordinance will establish a planning process to assist designated communities in developing their own land use plans and to identify the required planning criteria (second hearing)**

CHAIRMAN GONZALES: This is the second hearing so we don't need to go through the whole staff report unless staff needs to bring something to our attention.

COMMISSIONER DURAN: Mr. Chairman, I've been given some information from several individuals out in the County which propose amendments to this ordinance and in all fairness to myself and the staff, I think it would be prudent for us to -- I don't mind if we have a public hearing tonight but I would like for us to table making a decision until we've actually been able to absorb all this new information and allow staff to have some recommendations based on -- my understanding is that they just received this today.

CHAIRMAN GONZALES: Okay, is that in the form of a motion?

COMMISSIONER DURAN: Yes.

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CHAIRMAN GONZALES: There's been a motion to table this.

COMMISSIONER ANAYA: Second.

CHAIRMAN GONZALES: All in favor of tabling this ordinance signify by saying "aye." [Unanimous 4-0.]

MS. BUSTAMANTE: Mr. Chairman, for the record, can we remove the number in case we --

CHAIRMAN GONZALES: Yes, for the record, please remove that. For the people who Commissioner Griñé and I actually had a chance to visit, people that are making the changes, the Commissioners need those extra two weeks to try -- did we table it to the administrative meeting? Two weeks from now? Steve, we'll be able to table it until then?

MR. KOPELMAN: Mr. Chairman, that's certainly something that -- staff will just notice that in the newspaper that prints the agenda for the next meeting.

COMMISSIONER DURAN: Mr. Chairman, again, for those people who came for this ordinance, I had a chance to just briefly review the information, but I would like to discuss it with staff and allow them time to review it so that they can decide on those issues.

VIII. B. 1. EZ Case #DL 98-4100. Ted and Laura Barber request plat approval to divide 5.0 acres into two tracts. The property was previously subdivided. The described property is located off Camino Don Patron, within Section 2, Township 17 North, Range 9 East

OLIVER GARCIA (Review Specialist): Thank you, Mr. Chairman, Commissioners. The property is located within a subdivision that was approved by the BCC in 1991. This subdivision meets current subdivision standards for fire protection, roads, water and liquid waste. The described property lies within the Basin Hydrologic Zone where the minimum lot size is 2.5 acres with a .25 acre-feet per year water restriction.

The proposed subdivision meets all requirements by the Extraterritorial Subdivision Regulations. On April 9, 1998, the EZC recommended approval subject to the following conditions:

1. The applicant must record water restrictive covenants simultaneously with the plat of survey imposing .25 acre-feet per year per tract. Water meters for each subject parcel must be installed to monitor water use. Annual water consumption reports must be submitted at the County's request if and when deemed appropriate.
2. The applicant must contact Rural Addressing for assignment of addresses for the proposed tracts.
3. EZO regulations require a solid waste fee be assessed for all newly created parcels. The fee for this subdivision is \$56.10.

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4. The applicant must prepare and submit covenants for the use and development of the property.
5. The applicant must obtain approval from the NMED for the proposed liquid waste disposal plan.
6. Compliance with the County Fire Marshal review.
7. The portion of private road to be shared must have a 38-foot easement and must be developed meeting SFC Common Roadway Standard prior to recording the plat of survey or the applicant must provide Santa Fe County with a certified engineer's cost estimate to develop the access. A financial guarantee acceptable to the County in the amount of the approved cost estimate must be included.
8. The additions to the plat of survey and slope analysis as per the Santa Fe County Subdivision Engineer and Plat Checklist will need to be addresses prior to recording the plat. The plans and checklist may be picked up from Oliver E. Garcia, Development Review Specialist with Santa Fe County and resubmitted with the mylar.
9. The applicant must also comply with the Santa Fe City's conditions which are attached.

CHAIRMAN GONZALES: Any questions? Any questions of the staff? Is Mr. and Mrs. Barber here? Could you please come forward.

[Duly sworn, Ted Barber testified as follows:]

TED BARBER: My name is Ted Barber and my address is 349 Grand Canyon, White Rock, New Mexico, 87504.

CHAIRMAN GONZALES: Are there any questions of Mr. Barber?

COMMISSIONER DURAN: I have a question. Why is this lot split before us?

MR. GARCIA: It was approved by the BCC in 1991 as a subdivision.

MR. KOPELMAN: Mr. Chairman, when there's a proposal to do a division of land within a previously approved subdivision it's always brought to the Commission.

COMMISSIONER DURAN: So this is a further division of a subdivision?

MR. KOPELMAN: Mr. Chairman, Commissioner Duran, that's correct. This is a lot that was originally approved in a 1991 subdivision and now Mr. Barber is coming to ask for further approval for another split.

COMMISSIONER DURAN: Is that a new state law, Steve?

MR. KOPELMAN: No, Mr. Chairman, Commissioner Duran, I believe that's been Land Use policy. The Land Use Administrator makes sure the Commission understands what's coming before it and insures that the infrastructure is adequate. And I think we just felt that it was probably not appropriate for that decision to be made administratively.

COMMISSIONER TRUJILLO: Mr. Chairman, what's the purpose of the lot split? Is it a family transfer?

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MR. BARBER: Mr. Chairman, Commissioner Trujillo, my intentions for subdividing this lot is to gain some equity in the land and to be able to build a place for myself to live and my family.

CHAIRMAN GONZALES: Mr. Barber is a former [inaudible] New Mexico State University [inaudible]

COMMISSIONER ANAYA: Are you in agreement with all the conditions imposed by staff?

MR. BARBER: Mr. Chairman, Commissioner Anaya, I agree with all conditions.

CHAIRMAN GONZALES: Okay, any other questions? This is a public hearing. Would anyone like to speak for or against this request? Okay, what's the pleasure of the Commission?

Commissioner Anaya moved to approve EZ Case #DL 98-4100 with the conditions imposed by staff. Commissioner Griñé seconded the motion which passed by unanimous [4-0] voice vote.

[Chairman Gonzales leaves]

VIII. B. 5. EZ Case #S 97-4570. Valle Vista Heights. Elmer Garcia and Phil Sena, agents for the Turn Key Company, request a revision to the previously approved master plan for a 30-lot residential subdivision on 8.35 acres. The revision includes reducing the number of lots to three one-acre tracts and 21 7,000 square foot lots to be developed in two phases. The property is located off State Road 14 within Section 26, Township 16 North, Range 8 East

ROMAN ABEYTA (Review Specialist): Mr. Chairman, Commissioners, on October 14, 1997, the BCC granted master plan approval of a 30-lot mobile home park subdivision on 8.35 acres. The property is located within the Basin Hydrologic Zone where the minimum lot size is 2.5 acres. However, the BCC also granted a variance to the density requirements. The proposed lots would range in size from 7,000 to 11,820 square feet with an average lot size of 7,320 square feet.

The project will now be developed in two phases. Phase one will include the creation of three one-acre tracts to be approved by the EZC under the summary subdivision review procedure and phase two is proposed to have 21 7,000 square foot lots. A development plan application cannot be submitted until a 100-year water supply has been demonstrated. Phase one is proposed to have a shared well and individual septic systems. Phase two will utilize the County water system and Valle Vista utility system. A development plan cannot be submitted for phase two until the County purchases the Valle Vista water utility or a 100-

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year water supply is proven.

All other subdivision infrastructure as proposed in October will remain the same. The minutes from that meeting have been attached as Exhibit "D" for the Board's reference.

Staff's recommendation: If the revised master plan is approved, staff recommends said approval be subject to conditions 1 through 11 as listed in the staff report. However, Mr. Chairman, I met with the applicant today and he requested that we revise conditions number 2 and 11, more for clarification purposes than anything, so I'll approach the board now and give you a copy of the revised edition.

1. Compliance with review comments from:
 - a. County hydrologist
 - b. County subdivision engineer
 - c. County public works department
 - d. State highway department
 - e. State Environment Department
 - f. County fire marshal
2. All subdivision roads must be granted for public use. The roads shall be paved, with curb, gutter and 3' of sidewalk per EZ Subdivision Regulations at Phase two.
3. Plans for the placement of water lines and hydrants throughout the subdivision must be included when a preliminary plat application is filed. All lines shall be at least 6 inches.
4. Master plan must be recorded prior to preliminary plat application.
5. A minimum 5' setback of all structures, including decks, sheds from each property line is required.
6. Submit frontage road connection permit from the State Highway Dept with preliminary plat application.
7. Provide engineering plans for all off-site road improvements with preliminary plat application.
8. Provide proof that the Valle Vista Sewer Utility Company has adequate capacity and that their discharge permit flow limits will not be exceeded. This shall be submitted with the preliminary plat application.
9. Water use restrictions of .25 acre feet per year/per lot and the County's standard water conservation covenants shall apply to this project.
10. Valley Vista Water Utility does not have a proven 100 year water supply. A water supply report per the Land Development Code, Article VII, Section 6.4.4b shall be submitted and approved by the State Engineer and the County Hydrologist prior to preliminary plat consideration by the EZC.
11. A hydrology report demonstrating adequate water supply for Phase one must be submitted or bonded for prior to plat approval application for Phase one.

COMMISSIONER DURAN: Roman, are all the lots for residential use?

MR. ABEYTA: Yes, Mr. Chairman. The revisions are as follows:

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Condition number two read "All subdivision roads must be granted for public use. The roads shall be paved, with curb, gutter and 3' of sidewalk per EZ Subdivision Regulations." And we just added that that be required at the time of Phase two. In other words, since Phase one is only going to have three one-acre lots, we're not going to require the applicant to pave it at that time. He'll have to make improvements in base course but the curb and gutter and paving won't be required.

And condition 11 reads "A hydrology report demonstrating adequate water supply for Phase one must be submitted or bonded for prior to plat approval application for Phase one." The applicant, due to time constraints is requesting that he be able to proceed to the EZC in May with his approval for the three one-acre lots, but because at that time he won't have enough time to submit a hydrology report, he's requesting that he get an approval by the EZC subject to that hydrology report being submitted before he records the plat.

COMMISSIONER DURAN: What is staff's position on these amendments?

MR. ABEYTA: Staff doesn't have a problem with condition number two. And I'd have to speak to Oralynn regarding condition number eleven.

MR. KOPELMAN: Mr. Chairman, the only thing I want to point out is that the report indicated that the use of a well, a shared well for these three one-acre lots is temporary. And I just think that that needs to be noted because when the variance was originally granted for this project, it was contingent upon a public water system or an imported water system and a sewer system. And now the applicant is asking for a modification of allowing three one-acre lots on a shared well. I just want to bring to your attention that it indicates that this is temporary and I think that's important to note in light of the fact that the original variance was contingent upon it being either the Valle Vista or the County Water system.

COMMISSIONER DURAN: And where would you suggest we add that?

MR. KOPELMAN: I believe that can just be an additional condition and the term can be up to the Commission, in terms of whether you'd want them to come back in two years, but Phase two, is clear that they can't go forward with any of Phase two until they have either the Valle Vista or have hooked up to the County Water system.

COMMISSIONER DURAN: Any questions of Roman?

COMMISSIONER ANAYA: Mr. Chairman, Roman, this is [inaudible] of the original proposal before us. However they are the same conditions that were imposed on the previous one, correct?

MR. ABEYTA: Yes, Mr. Chairman, Commissioner Anaya.

COMMISSIONER ANAYA: That's my only question, Mr. Chairman.

COMMISSIONER TRUJILLO: Mr. Chairman, I have a question. Based on the input that Steve has given, does the applicant agree with that condition?

COMMISSIONER DURAN: Is the applicant here?

[Duly sworn, Lou Medrano testified as follows:]

LOU MEDRANO: Good evening, Mr. Chairman, gentlemen of the

Commission, ladies and gentlemen of staff. My name is Lou Medrano. I'm registered professionally here and reside at 2096 Botolph Road in Santa Fe. I'm here to inform the Commission that my client, Mr. Garcia does in fact agree with the conditions as stated by staff.

COMMISSIONER DURAN: Okay, are there any questions of Mr. Medrano. This is a public hearing. Is there anyone out there that wants to speak for or against this application? If not, what's the pleasure of the board?

COMMISSIONER TRUJILLO: Mr. Chairman, move for approval of Case 97-4570, Valle Vista Heights Subdivision with the conditions as proposed by staff and accepted by the applicant. As amended.

COMMISSIONER DURAN: That amendment is that the well for the three acre lots is of a temporary nature. Are we going to define temporary?

COMMISSIONER ANAYA: Two years, I think it was with the revisitation.

MR. KOPELMAN: Mr. Chairman, I don't think we specified a time. I believe two years is probably reasonable and then they come back if Phase two wasn't built and they could request an extension. I believe that would be okay.

MR. MEDRANO: We anticipate that Phase two [inaudible]

COMMISSIONER ANAYA: Two years with a revisitation, Mr. Chairman.

COMMISSIONER DURAN: So there's a motion on the floor with a second by Commissioner Anaya. Any discussion? Those in favor, signify by saying "aye." [3-0] Opposed? Congratulations.

VIII. B. 6. CDRC Case #Z 97-5550. Smith's Grocery Store. Smith's Food and Drug Centers, Inc., Linda Tigges, agent, requests master plan zoning for a grocery store and restaurant on 6.3 acres. Uses within the grocery store include a drug store, bank, liquor, video, florist, photo and dry cleaning departments. The property is located at the northeast of the intersection of State Road 344 and State Road 333 (Old 66) within the traditional community of Edgewood within Section 27, Township 10 North, Range 7 East

PENNY ELLIS-GREEN (Review Specialist): Mr. Chairman, Commissioners, the applicant is requesting master plan zoning approval for a 59,900 square foot grocery store to be open 24 hours and a 3,000 square foot fast-food restaurant. Liquor sales are requested within the grocery store and the restaurant. The applicant's proposed use list included retail and office space, eating and drinking establishments, service and repair stores, financial establishments, nurseries, greenhouses, art galleries.

That is attached in Exhibit "G". The specific uses in Smiths Store include a bank, grocery, deli, dry cleaning, pharmacy, video, photo, florist, and liquor department. The CDRC had recommended that the use-list be restricted to specific uses within the grocery

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store, and a restaurant, both of which have liquor sales. No bars are permitted.

Recommendation: On January 29, 1998 the CDRC met and acted upon this case. The decision of the CDRC was to recommend master plan zoning approval subject to 17 conditions.

1. The applicant will provide landscaping with 10% of the interior of the parking lot and provide 373 parking spaces and meet all other site planning standards or the 3,000 square foot restaurant use will be removed from the development.
2. The location of the dumpsters will be shown with screening on all four sides.
3. All existing and proposed utilities will be underground. This will be noted on the master plan.
4. The location of all four on-site hydrants will be shown on the master plan. Final fire protection improvements will be discussed with the County Fire Marshal and the local fire district prior to final development plan submittal. The fire hydrants will be in place, operable, tested and approved by the Fire Marshal prior to issuance of a building permit.
5. Liquid waste from any on-site dry cleaners and photo lab will be treated separately. Effluent quality from such systems shall be equivalent to typical domestic waste.
6. The liquid waste treatment system will have nitrogen removal. No leachfields will be permitted under paved surfaces. The applicant must submit a discharge permit application to the State Environment Department at the time of preliminary development plan submittal and must have the permit approved prior to final development plan submittal.
7. All water lines leading to hydrants will be 8-inch.
8. The master plan will be recorded with the County Clerk.
9. The applicant will submit a traffic signal warrant study to be reviewed by the Public Works Department and the State Highway Department with the preliminary development plan.
10. The applicant will submit the following with the preliminary development plan application:
 - A. Grading and drainage plan
 - B. Landscaping plan in conformance with Article III, Section 4.4.4.f
 - C. Lighting design plans
 - D. Architectural elevations of proposed buildings
 - E. Signage plans
 - F. Pavement section
 - G. Utility cross sections
 - H. Off-site engineering improvements plan
 - I. Water conservation covenants
11. All subdivision engineer redline comments will be addressed. Redlines will be returned with the preliminary development plan application.

12. All businesses will be required to have a valid business license prior to opening.
13. Hydrants will be installed every 1000 feet for all new off-site water line extensions.
14. A consolidation plat will be recorded prior to issuance of construction permits.
15. The applicant will provide a letter of consent from the State Highway Department to allow landscaping to be located within the state right-of-way with the preliminary development plan submittal.
16. The applicant will need to return for development plan approval if the uses change from the grocery store and the restaurant.
17. The use list is limited to the specific uses within the grocery store and a restaurant which may have liquor sales. No bars are permitted.

COMMISSIONER DURAN: Are there any questions of Penny? Penny, I have one question. There's some concern on staff's part about landscaping?

MS. ELLIS-GREEN: Mr. Chairman, that's correct. Staff was concerned that when we looked at the parking area the amount of landscaping did not meet Code requirements. That's usually something we look at at the development plan stage. This is the master plan stage. Staff would recommend that the applicant does need to meet with staff's requirement for 10% landscaping and parking.

COMMISSIONER DURAN: So that's one of the requirements?

MS. ELLIS-GREEN: That's correct?

COMMISSIONER DURAN: Okay, thank you. Is the applicant here?

[Duly sworn, Linda Tigges testified as follows:]

LINDA TIGGES: My name is Linda Tigges. 435 South Guadalupe.

COMMISSIONER DURAN: Is the applicant in favor of all the requirements.

MS. TIGGES: Yes, we are in favor of all the requirements. We do have an amendment to item 17. I would also like to introduce Larry Hawker, representing the applicant and also Frank Lasky from the ECHO, the Edgewood Community Homeowners Association, who is also here to speak in regard to the project. In regard to the homeowners association, we have formally met twice with that organization. They were supportive of the organization and did write a letter in support, which is on the last page of your packet.

Mr. Chairman, because the grocery store is important to the Edgewood area we'd like to make a brief presentation.

COMMISSIONER DURAN: Sure. Wasn't this before us a month or so ago?

MS. TIGGES: It was tabled. You have not heard it before.

COMMISSIONER DURAN: I guess it was the transfer of the liquor license that was approved, or was that something else?

MS. ELLIS-GREEN: That was Edgewood Center.

COMMISSIONER DURAN: Go ahead.

MS. TIGGES: Okay, thank you. And then I will also discuss the amendments. What we are showing here on the site plan is the location of the store at the corner of Old Route 66 and State Road 344. The grocery store is to be about 60,000 square

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feet, located at the rear of the property and then there are two entrances, one on each highway. What we are asking for at this time is a master plan approval within a major commercial district and subsequently as Penny stated, we will return for more detailed approval if this is approved. We will return with more detailed information to the CDRC for a preliminary and final development plan.

The site plan, in addition to the grocery store, also shows a 3,000 square foot fast-food restaurant. The site will have a septic tank and leach field on the northern part and there will also be a retention pond for storm water drainage in that area. With regard to your comment, Commissioner Duran, about the landscaping, that will be addressed with the site plan. However the applicant has contracted to purchase additional land for the northern part of the property to accommodate additional parking, landscaping as well as a change in location for the leach field as required. So that specific information will be coming back with the development plan.

There was also concern that was mentioned in the staff report about water distribution lines in the area. We're connecting on to the Edgewood Water Company. As some of you may know, the distribution lines aren't very large out there and the applicant has committed to replacing the two-inch lines with eight-inch lines and the specifications will be coming back with the development plan. So in regards to the conditions, as I said we do agree with all the conditions of approval with the exception of item number 17. One of the -- item number 17 and I should just go over that briefly.

The CDRC specifically requested that no bars be permitted on the site and the applicant did agree to that. However, in doing that, they also limited the master plan, not the site plan, but the master plan zoning to just a grocery store and a restaurant. We are asking in the language here that offices, medical uses, personal services, banks, art galleries, nurseries, retail establishments, schools and churches also be allowed. We do have the support of the neighborhood association for that. We believe what happened was that the CDRC, in trying to prohibit a bar on the area, did not mean to delimit an office or any other retail use.

Now, the grocery store, that's for certain, we intend that to be there hopefully for a long time. However, there is not a vendor for the fast-food restaurant and if it should happen that a fast-food vendor is not found, the applicant would like to be able to use that pad for an office or for a small gift shop, maybe, or something like that without having to come back to this group for a zoning amendment to the master plan. We understand that we may have to amend the site plan before the CDRC, but not the master plan. So there's kind of two different issues here. One is the use list for the master plan zoning, which is before you, which is more generic. The other one is the specific site plan, which is the grocery store. In either case, we agree not to have a bar on the site, which is what the CDRC was concerned about.

COMMISSIONER DURAN: Excuse me. Commissioner Grifné, did you want to say something?

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COMMISSIONER GRINÉ: I wanted to maybe ask Oralynn. Oralynn, since they want to change the uses at this stage, is it possible for them to do it at this stage, or isn't it procedure that they should go back to the CDRC?

[Chairman Gonzales returned to the podium at this time.]

MS. GUERRERORTIZ: Mr. Chairman, Commissioner Griné, their original application requested a very lengthy use list, and I suspect, I'm not 100% sure if churches and schools were on it, but I think everything else was on it. And what CDRC had that, and it has been noticed for this case too, I mean you could rule and include those things except the question about the schools and the churches, but that entire use list was presented at CDRC and CDRC did not choose to adopt the entire use list. CDRC adopted the Smith grocery store with its uses, plus the proposed restaurant.

COMMISSIONER GRINÉ: So in essence, it's more or less that you'd be asking for an appeals process now at this stage?

MS. GUERRERORTIZ: Well, the proposal went in front of the CDRC. The CDRC didn't give them everything that they necessarily wanted. They can come and ask it from you. You're the final authority on this issue and you could grant everything that they asked for.

COMMISSIONER GRINÉ: Thank you.

CHAIRMAN GONZALES: Are there any other questions? Are you through with the presentation?

MS. TIGGES: That concludes the presentation. We'll be glad to stand for questions.

CHAIRMAN GONZALES: Okay, this is a public hearing. Please come forward.

[Duly sworn, Frank Lasky testified as follows:]

FRANK P.R. LASKY: My name is Frank P.R. Lasky. P.O. Box 756, Edgewood, New Mexico. I am the president of ECHO and we have [inaudible] we approved this October 16, 1997. [inaudible] The community took a vote on this and [inaudible] We welcome Smith's to the area. The people, roughly 60% of the people now want Smiths in the area. [inaudible] We know that Smiths isn't the cure for all our road problems and stuff like this but in their application [inaudible] Most of the road problems are regional problems. [inaudible] As you know if you've been down by the Dairy Queen and the overpasses they call it adequate. That term "adequate" it means repair pretty soon. So we will be working with them on the highway.

This won't alleviate our problems because the region is going to have to have exits before Edgewood and after Edgewood on 217 and [inaudible] Road to eliminate the traffic problem. We also talked about putting a traffic light or four-way stop there, 344 and 66 there. That would congest matters even more, coming off the freeway during the rush hour it gets backed all the up to the freeway. So Smith has shown in the final planning improvements of the easy-on to the store and coming west and turning east to County Road

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7 without stopping. So that will eliminate a lot of the traffic problems.

I might say that this is the first time that Edgewood ever as a solid group has come together to work with business in Edgewood. All the businesses in Edgewood had come to the CDRC first without coming to the community and talking about it. This time we got involved after the second meeting and it was up to you. So we appreciate Smith working with us from the ground up. The people have had their input. Letters have been coming in and Smith has been coming to our meetings and addressing our concerns. So I just wanted to thank you for [inaudible] As you all know in the next two years we've got 26 new [inaudible] coming up to this board.

We are firmly behind Smiths and we [inaudible]

CHAIRMAN GONZALES: Any questions? Penny, do you have a question?

MS. ELLIS-GREEN: Mr. Chairman, could I add something regarding the applicants proposed amendment to condition 17. State law requires that schools and churches be located at least 300 foot away from an establishment which holds a liquor license. The applicant is requesting a liquor license or will be in front of you to request a liquor license for the Smiths store and also for a possible restaurant on the site, so you may want to look at the leasing of schools and churches on the proposed amendment.

CHAIRMAN GONZALES: Do the Commissioners understand what Penny's asking?

COMMISSIONER DURAN: Penny, do you know what the distance is from that building to where they'll be selling liquor?

MS. ELLIS-GREEN: It's on the same lot at the moment. I'm not exactly sure how far away it is. It will be from the actual lease area. It's probably at the most 300 feet. It will be very close.

COMMISSIONER DURAN: I have a question. [inaudible] The reason I ask, Penny, is that there was a situation that I was involved in where the building was 300 feet but the actual place that they were selling liquor out of was more than 300 feet and they were able to sell liquor out of that spot.

COMMISSIONER ANAYA: Mr. Chairman, Commissioner Duran, if a liquor license is to be issued, that would have precedence and would have precedence on the existence [inaudible] should a school or a church want to be established in the immediate area they would have to still abide by that. If they were in reverse order then the liquor license issue would be secondary to the school and the church.

COMMISSIONER DURAN: So if we grant this use --

COMMISSIONER ANAYA: Grant which use?

COMMISSIONER DURAN: The church or school use at this site. If we grant that use we still have to abide by the state law.

COMMISSIONER ANAYA: No, I would think that because it's a pre-existing thing it would be a grandfather type of situation and the liquor license sales would take priority and would be allowed to exist. If there is a transfer of name or liquor license,

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take for example what happened by the Potter House here in Santa Fe. They went into court litigation, which is a comparable matter. When the license changed ownership, the Potter House came out against the Giant having liquor there. I think it's still in litigation. I'm not sure how far it's gone.

MR. KOPELMAN: Mr. Chairman, Commissioner Anaya, I'm not sure myself.

COMMISSIONER ANAYA: But anyway, that's something to consider.

COMMISSIONER DURAN: I don't see a problem with a school or a church.

COMMISSIONER ANAYA: I imagine it would be up to the developer to see who he wants to rent to. That's the way I look at it.

MS. TIGGES: We didn't foresee this complication and we would like to withdraw those two from the amendment.

COMMISSIONER ANAYA: The liquor or the church?

MS. TIGGES: The church and the school.

CHAIRMAN GONZALES: So you're withdrawing amendment 17?

MS. TIGGES: No, we are just withdrawing the two words, school and church from the proposed underlying language.

CHAIRMAN GONZALES: Okay, is there anyone else who would like to speak either for or against this issue?

Commissioner Griñé moved to approve CDRC Case #Z 97-5550, subject to staff conditions with the amendment and also removing schools and churches. His motion was seconded by Commissioner Trujillo and passed by unanimous [4-0] voice vote.

- X. B. 7. CDRC Case #Z 97-5631. Associated Asphalt Materials, Inc. Associated Asphalt Materials, Inc., applicant, Metric Corporation, agent, request master plan zoning with preliminary and final development plan approval of a mining area for construction materials (sand and gravel) on 41.5 acres. The property is located southeast of the Waldo/I-25 Interchange with the Mesita de Juana Lopez Grant, within Township 15 North, Range 7 East

CHAIRMAN GONZALES: Just stick to the issue at hand and the recommendation.

MR. GARCIA: Mr. Chairman, Commissioners, first of all, there's a few clarifications in the staff report that we'd like to make. On page 2 of your report under access, the last sentence states "Land use recommends that the applicant use an upgrade of the existing Ranch Road, an existing road that connects to County Road 57. See condition 22 of the approval." That needs to read, "See condition 30" And also the applicant will

now be utilizing the existing Ranch Road. The applicant and Land Use has come to the conclusion that the road from County Road 57 to the site will be roughly 500 to 1000 feet still south from this existing Ranch Road, which is what the County Land Use staff would like to see for visibility from I-25. You will not be able to see it if they move it south 500 to 1000 feet.

Also, on the same page under Terrain Management, the last condition says see condition 17 of approval. That needs to read See condition 30.

Mr. Chairman, if I can please go to the stand here and go over a little some issues we have regarding this mining operation.

COMMISSIONER DURAN: Mr. Chairman, Rudy, are these concerns that came out of the last meeting?

MR. GARCIA: Yes, Mr. Chairman, Commissioner Duran, yes they are.

COMMISSIONER DURAN: So we've already addressed these concerns and issues?

MR. GARCIA: Yes, we have.

COMMISSIONER DURAN: And we're going to talk about them again?

MR. GARCIA: I'm just going to go over the realigning of the road and also the applicant is requesting approval of 41.5 acres and we're only agreeing to give him roughly nine to ten acres, which is cell one and cell two, and I'll explain that to you.

Mr. Chairman, this is I-25 here and this is the mine site that the Board of County Commissioners, which is actually a little bit smaller than this approved roughly a month or two ago for 41.5 acres of a mining area. The applicant at one time had wanted to propose a new access road which would be -- this is the existing Ranch Road here. The applicant came in and wanted to propose this a little bit closer to the I-25 area. We came to an agreement that the applicant and Land Use would locate this road south of the existing Ranch Road which for visibility from I-25 you would not see at all.

Once again, the Board of County Commissioners approved cells one through five, here, actually cells one through seven. This consists of 41.5 acres. What we are recommending approval for tonight is only cells one and two, which consist of roughly ten acres or so. And the reason why is because cells three through five here have slopes that exceed 30% and the applicant did not notice for a variance of slopes exceeding 30%. The applicant is in agreement with only approval of cells one and two.

CHAIRMAN GONZALES: The applicant is in agreement?

MR. GARCIA: Yes, he is. Mr. Chairman, Commissioners, the recommendation is the County Development Review Committee at their regular scheduled meeting of March 26, 1998 acted on the above case. The decision of the committee was to grant the following: master plan with preliminary development plan approval of only cells one and two with final development approval to be reviewed administratively subject to the following conditions. There's several conditions here.

1. Preliminary approval of only two cells (1 and 2). Only one cell can be mined at a

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- time.
2. All plan and profile sheets shall be completed and stamped by a PE in order to be available and utilized for construction purposes.
 3. A permit will be required from the Land Use Department prior to any blasting.
 4. Groundwater required for dust abatement at gravel processing locations and along the mine site haul road will be transported and stored on site. No groundwater wells are proposed to be drilled nor will any wells in the vicinity be used as a water supply for this project.
 5. Prior to final approval the applicant shall provide detailed plans reflecting the maximum depth of the pond in cells one and two, the maximum depth of the cells, final elevations/dimension of both cells and ponds; the amount of product to be removed by volume and a detailed cross section of each cell at a scale of 1" = 30'. All elevations shall be labeled clearly.
 6. All proposed gas and oil tanks storage containers which may be stored at the site shall be contained in a lined pit. Applicant shall identify on plans the location, size and type of storage containers on the site, to be reviewed and approved by ED and the Fire Marshal.
 7. Show locations of final proposed road and cells on the slope analysis map. Thirty percent slopes are to remain undisturbed by all operations.
 8. Show transition from final proposed road sections to existing ground on cross section sheets. The current haul road and plan and profiles are unacceptable. Staff and the CDRC recommended utilizing the existing ranch road.
 9. Obtain a 404 permit US Army Corps of Engineers for existing arroyo drainage ways to be disturbed.
 10. The reclamation plan shall include costs of dirt work and reclamation conforming to a current NMSHD cost estimating schedule. When approved by the County Building and Hydrology Division Director, a financial guarantee shall be arranged to cover 120 percent of estimated project cost.
 11. Associated Asphalt grants enforcement access to the County during regular business hours. County enforcement officers may halt all operations in the presence of evidence of unpermitted activities within or outside the permit area, or in contradiction to the permitted plans of operation and reclamation and conditions of approval.
 12. The 10 acre mining area of cells one and two shall be defined by a licensed land surveyor and highly visible PVC pipe/permanent monuments and markers will be set to define the permitted areas prior to a development permit being issued.
 13. Natural 30 percent slopes within the operating and mining areas shall be identified on the ground and shall not be disturbed.
 14. All excavations and surface hazards on the property shall be fenced and posted.
 15. For the purposes of field inspections and before issuing permits plans and specifications for operation and reclamation shall be clearly described and reflected

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- on all plats and plans. A set of approved plans shall be kept available on site.
16. Natural drainage ways shall be restored to simulate natural flow channels.
 17. A pre-construction conference shall be held with County staff prior to any field activity and prior to issuance of any permit and prior to any reclamation of each cell.
 18. Associated Asphalt operation will keep the road, mine and operations areas watered to control dust as needed or daily in absence of wet weather.
 19. All trucks will have tarps completely covering and securing their loads as they leave the loading area.
 20. Final approval will be given on a cell by cell basis. Final approvals shall be done administratively once preliminary conditions are met for cells one and two. Upon approval cell one shall be mined first and closed out before mining activities commence on cell two. Both cells are not to be mined simultaneously but consecutively. Reclamation of cell one shall coincide with the mining of cell two. Associated Asphalt agrees that if the reclamation of cell one is not a continuous process during the mining of cell two, that the Land Use Department shall rescind the permit. All mining in these cells should be done in compliance with all conditions of approval. No preliminary plan approval shall be sought and no permit will be granted beyond cell two unless cell one's reclamation has been completed and approved by the Land Use Department for cell one.
 21. As-built drawing will be required upon completion of reclamation for each cell.
 22. All water and fuel shall be brought in from off-site.
 23. Provide a 50' setback for all activities along the western boundary of cells. This is to help proven the visibility from the I-25 corridor of unsightly cuts and fills.
 24. Provide a visibility study of the crusher operations from I-25 Santa Fe Corridor.
 25. Applicant shall comply with County staff's redlines and comments.
 26. Existing archaeological sites LA 117542 and 117543 plus 10 meter peripheral buffers shall be avoided or these sites must be fully investigated and the investigation approved by staff prior to any disturbance. If the applicant proposes to avoid these sites, then they shall be clearly marked in the filed. Field markings to be approved by staff.
 27. The entire road length to be used for hauling material shall be paved to minimize dust pollution. This shall include the project access road and county road to I-25.
 28. A reclamation plan for cell one shall be approved prior to granting mining on cell two.
 29. All scales must be operable at all times of business operations or Santa Fe county enforcement officer may halt the operation until scales are operable. All scales must be operable in accordance with state regulations.
 30. Both roads serving the development, CR 57 and the road to the mine site, shall be paved with 6" compacted base course and 4" of asphalt within one year of issuance of a development permit. An engineer's cost estimate shall be provided for staff's

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review and approval with a 20 percent contingent fee. The financial guarantee should be submitted to staff based on the approved engineer's estimate prior to issuance of a development permit and haul-ways shall be maintained by the Waldo Sand and Gravel operation.

The applicant has agreed to all of these conditions.

CHAIRMAN GONZALES: Very good. Any questions of Mr. Garcia?

COMMISSIONER TRUJILLO: Mr. Chairman, the proposed road, the changes in the proposed road, intersects with an existing interchange on I-25?

MR. GARCIA: Mr. Chairman, Commissioner Trujillo, yes that is correct. The mine site road will go from the mine site to County Road 57 and then on to the Waldo exit and then on to I-25.

COMMISSIONER TRUJILLO: So the merger with the traffic was conducive with the existing traffic flow on I-25?

MR. GARCIA: Yes, that's correct.

CHAIRMAN GONZALES: Any other questions of the staff? Is the applicant here?

[Duly sworn, Al Lilly testified as follows:]

AL LILLY: My name is Al Lilly, Lilly Planning Associates, P.O. Box 1761, Santa Fe. I'd also like to have Pete Metsner sworn in at the same time.

[Duly sworn, Pete Metsner testified as follows:]

PETE METSNER: My name is Pete Metsner. I'm with Metric Corporation at 8429 Washington Place NE, Albuquerque.

CHAIRMAN GONZALES: So do you agree to all the conditions that the staff has brought forward?

MR. LILLY: I do. However, I'd like to clarify the size of cells one and two. We're in agreement with proceeding tonight with one and two. We'd like to reserve the right to come back for new application for three, four and five in the future. The size of one and two: cell one is approximately 9.9 acres and cell two is 8.3 acres. Just to clarify that.

CHAIRMAN GONZALES: Okay, is staff in concurrence with that?

MR. KOPELMAN: Mr. Chairman, staff concurs and in terms of being able to bring back the application, an applicant can always come back at a future time to request modification.

CHAIRMAN GONZALES: Okay, so staff does concur with the acreage amount. Are there any other issues?

MR. LILLY: No, we're available to answer any questions you might have.

CHAIRMAN GONZALES: Any questions of Mr. Lilly. This is a public hearing. Those in favor or opposed, please come forward.

[Duly sworn, Ross Lockridge testified as follows:]

ROSS LOCKRIDGE: My name is Ross Lockridge. Post Office Box 22, Cerrillos, New Mexico, 87010. Mr. Chairman, members of the Commission and members

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of the staff. My name is Ross Lockridge. I'm a long time resident of Los Cerrillos and president of an environmental group, Concerned Citizens of Cerrillos. The County has created a new mining zone, but unfortunately we still have a mining company on our hands whose long history of run-ins with environmental regulators convinces us that granting them a permit is a gamble that I'm not sure the public should bet on. Since the CDRC has referred to the subject of reclamation to the Commission in the form of future administrative decisions and if the Commission votes toward some approval, I would like to ask the Commission to reconsider and pass a motion allowing for public involvement and review of any further future reclamation plans.

I wish to say a few words concerning reclamation in the Cerrillos area, about the difficulty in reclaiming land in an area that receives minimal rainfall. As a 25-year resident of southern Santa Fe County, I've been witness to three attempts to reclaim mining sites in the Ortiz Mountains, which receives more rainfall than the Cerrillos Hills. The first two attempts failed despite the voiced commitments from the mining companies. The first was in 1979 and the second in 1986 when the company was then working in conjunction with the mining and mineral and soil conservation service. The current attempt in the Ortiz is showing that success in reclamation requires a sustained effort that contains not only a good understanding of the components, soil, seed, trees, fertilization, mulch, irrigation, and also the need for performance standards that are designed to show success.

Performance standards are essential if the County is to have confidence that a plan will work as intended. I would like to enter a few items into the record that may help. An affidavit of Al Green, professional environmental engineer who did this study for the BGC site, the site that is similar to the one under consideration here. We have already given a copy to the County staff. I wish to ask members of the Commission to consider carefully Mr. Cook's record of environmental non-compliance, that I will also enter into the record. The lack of success in reclaiming another one of Mr. Cook's mine, as documented by the - - described in a recent article entitled From Mine to Moonscape has "raised questions about whether Mr. Cook should be allowed to mine more." I will enter this also into the record [Attached as Exhibit 97-5631 "1"]

It is also, as Mr. Green writes, that the County encumber sufficient funds to allow it to undertake or complete the reclamation if the applicant does not. Otherwise the County is at financial risk. Fred Montoya, who observes the trucks from his home in the Village of Cerrillos told me his opinion recently that Mr. Cook hasn't complied well on the Cerrillos side in either tarping his trucks or in paving the road that runs through the village. So why should he be expected to do so at Waldo.

So please involve the citizens in reclamation and require trees and more soil and things like that.

CHAIRMAN GONZALES: Thank you Mr. Lockridge. Let me ask the staff. How are the reclamation plans submitted and what's the process of approving them?

MR. GARCIA: Chairman Gonzales, Commission members, the reclamation

plan is still not totally complete. We're still working with the applicant on it. What we could do is we could hold the permit and not issue the permit until all that stuff is taken care of. Until we have approved the reclamation plan.

CHAIRMAN GONZALES: What does the code call for in approving a reclamation plan? Is it an administrative approval or is it something that the public can appeal your approval of it or how does that work?

MS. VAZQUEZ: Good evening, Mr. Chairman, Commissioners. The code is silent as to how the approval of a reclamation plan is to be done. I think it is within your discretion to hear it if you like but we have in the past heard them and they have in the past also been approved administratively.

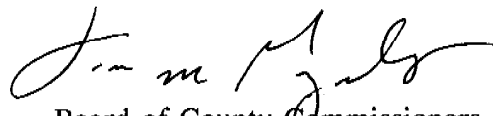
CHAIRMAN GONZALES: Thank you. Thank you, Mr. Lockridge. Any other questions? Is there anyone else who would like to address the Commission concerning this issue? What's the pleasure of the Commission?

Commissioner Anaya moved for approval of CDRC case #Z 97-5631 subject to staff conditions. Commissioner Duran seconded the motion, which passed by unanimous [4-0] voice vote.

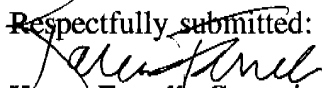
ADJOURNMENT

Chairman Gonzales declared this meeting adjourned at approximately 8:30 p.m.

Approved by:


Board of County Commissioners
Javier Gonzales, Chairman

Respectfully submitted:

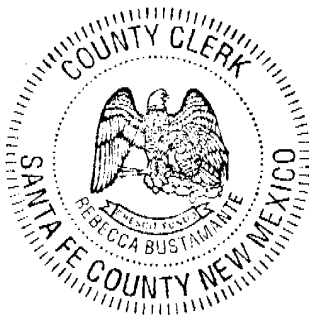

Karen Farrell, Commission Reporter

ATTEST TO:

1501112

Rebecca Bustamante

REBECCA BUSTAMANTE
SANTA FE COUNTY CLERK



1027.457
COUNTY OF SANTA FE)SS
STATE OF NEW MEXICO)
I hereby certify that this instrument was filed
for record on the 9 day of JUNE A.D.
19 98 , at 8:07 o'clock A: m
and was duly recorded in book 1501
page 112 of the records of
Santa Fe County.

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

Marcella Salazar
Deputy

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1. Recent approved funding for the full Relief Route means planning issues that didn't matter for 20 years, are now in the forefront
2. The City has changed dramatically since the Relief Route was first planned. The plans for the Relief Route haven't.
3. Many issues need *immediate* attention before the Relief Route goes in:
 - The original resolutions adopted by the County and the City regarding the points of access are being violated under the present road design. The number of access points and interchanges are still in contention. Increase traffic flow through West side communities needs to be handled.
 - Cottonwood Village was not an original dedicated interchange, yet will experience significant traffic. It is close to Caja del Rio which will also have significant traffic. Interchange plans for either of these points are not clear.
 - Plans for crossings at CR62, West Alameda and CR70 during and after construction are not clear. If these are only two-way stop signs unnecessary injuries and deaths will be likely. The CR70 access intersection also needs attention.
 - Non-vehicular access has been completely ignored or subverted, contrary to current County and City General Plans. Culvert designs and underpasses could easily be changed, and are now inadequate.
 - It is not clear how children in Cottonwood Village and points south will get across the highway to access recreation facilities that lie beyond.
 - The road design will bring the relief route right-of-way as close as three feet to the Cottonwood Mobile Home Park where hundreds of residents live. Other areas are similarly effected. The noise impacts may exceed Federal standards and were not calculated in the original Environmental Impact Statement.
 - Approval of commercial developments near the relief route will effect traffic flow throughout the city. Provisions should be made to understand the impact.
 - In general the design maximizes noise, where it should attempt to minimize it. It is more cost-effective to minimize noise now.
4. The Commission should work with the City immediately on this critical Regional planning issue. The City is the entity ultimately in charge. City, state and federal representatives have shown interest in these issues.
5. Ignoring these issues now will be very, very expensive in the future. They are relatively inexpensive to deal with now.

April 8, 1998

Mayor Delgado and Santa Fe City Council
City Hall
Santa Fe, New Mexico

1501112

Dear Mayor Delgado and Members of the Council:

Many issues and questions still remain regarding the design and construction of the Santa Fe Relief Route and its impact not only on existing neighborhoods but on the city as a whole.

During the most recent legislative session the bill that authorized funding for the relief route was amended to exclude the words "and required interchanges" from it, thereby leaving the decisions regarding interchanges to the city and not the state. In a negotiation meeting with Reps. Lujan and Varela that lead to the bill that was finally passed, Charlie Trujillo from the Highway Department agreed not to construct any more than three interchanges along the entire relief route without first holding public hearings on the issue. The thing to remember here, though, is that the city is and always has been the lead agency on this project—and you, the City Council, have final decision-making authority.

Also during this legislative session, when neighborhood representatives showed the House Transportation Committee the number of interchanges and access points that were being contemplated by some for the Relief Route, and the number of commercial and large residential developments being contemplated, they, too, were concerned about the integrity of the relief route being put at risk. These concerns have still not been resolved. And unless the City Council initiates a process to address them, they will remain unresolved.

- The number of access points are still in contention
- The number of interchanges are still at issue
- The original resolutions adopted by the county and the city regarding the points of access are being violated under the present road design
- Concessions with individual property owners by highway officials continue to this day without involvement from the city
- The county commission continues to approve commercial developments near the relief route with the apparent assumption that access will be provided to the relief route
- And one of the worst things I've seen is that the road design will bring the relief route right-of-way as close as three feet to the Cottonwood Mobile Home Park where hundreds of residents live. From the plans I've seen, I cannot tell how children from the park will get across the highway to access recreation facilities that lie beyond.

I would like to request that the City Council ask Charlie Trujillo to make a public presentation explaining the design of the relief route and what has been designed so far in the way of access points, at-grade crossings and interchanges. I think we should know what to expect within the first year, the second year, the third and so on. I would

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also request that the hearing be in the form of a special City Council meeting and that a panel of four informed citizens be allowed to ask questions of Mr. Trujillo in front of the Council and members of the public so that our concerns can be heard and addressed. At a follow-up public meeting all of Santa Fe should be told how their concerns will be addressed in the design and construction.

Right now, the focus seems to be on building this road at the fastest possible speed and there appears to be very little understanding of the details that are planned for us. And we all know, the devil is in the details.

Several neighborhoods would like to be involved in structuring the content of the meeting and even providing the highway department with advance questions so that they can come prepared with as much information as possible.

Sincerely,

Beverly A. Garcia
129 Alamo Drive
Santa Fe, New Mexico 87501
983-6224 or 983-7872

1501112

Documents re: Richard Cook Environmental Noncompliance.

This list from Alletta Belin, Director, Environment, Energy and Telecommunications Division; Office of the Attorney General, NM; PO Drawer 1508, Bataan Memorial Bldg., Santa Fe, NM; Ph: 827-6032; FAX: 827-4440.

A. Clean Water Act Violations

1. Cease and Desist Orders:

- April 27, 1977, U.S. Army Corps of Engineers Cease and Desist Order.
- November 17, 1977, U.S. Army Corps of Engineers Cease and Desist Order.
- April 10, 1981 U.S. Army Corps of Engineers acceptance of after-the-fact permit.
- February 17, 1981, U.S. Army Corps of Engineers Cease and Desist Order.
- December 21, 1981, U.S. Army Corps of Engineers acceptance of after-the-fact permit
- June 3, 1986, U.S. Army Corps of Engineers Cease and Desist Order.
- October 26, 1987, U.S. Army Corps of Engineers Cease and Desist order.

2. EPA Administrative Orders and Complaints:

- January 26, 1988, U.S. E.P.A. Administrative Order.
- December 1, 1988, Consent Agreement and Order Assessing Administrative Penalties, Docket No. VI-88-102.
- August 25, 1989 EPA Administrative Order VI-89-623.
- December 13, 1990 EPA Administrative Order VI-91-1016.
- July 8, 1991 EPA Administrative Order VI-91-194.
- June 4, 1992 EPA Administrative Order VI-92-1064.
- December 14, 1992, EPA Administrative Complaint VI-92-0162P.
- January 11, 1993, EPA Administrative Complaint VI-93-1604.

3. EPA Order For Information Re: El Guique

- September 29, 1993 EPA Order For Information.

B. Air Quality

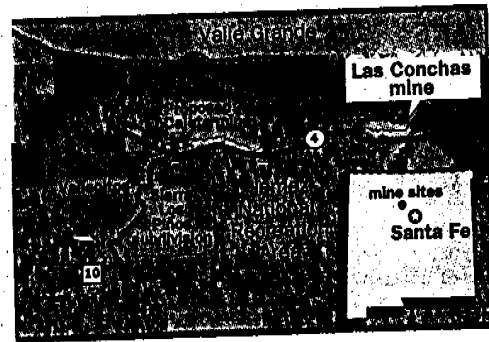
- 1. Documents from Environmental Improvement Division v. Espanola Transit Mix. No. SF 88-1401 (Complaint For Civil Penalties and Injunction Relief, July 1988 Settlement Agreement, and June 1991 Settlement Agreement).**

Additional (more recent) documents concerning Richard Cook's Environmental Noncompliance:

1. From Louis Clarke, biologist, Army Corps, Ph. 324-3281:
 - EPA Administrative Order, October, 11, 1996; Clean Water Act Section 309, findings of violation and compliance order for Dredge and fill violation, Docket No. 0-96-0230A.
2. From Robert Samaniego of MMED, Ph 827-1494 ext. 1466:
 - NM Environmental Dept. July 17, 1996, Air Pollution Control Bureau, Notice of violation, tracking No. 200.

oct. 3, 97 New Mexican

FROM MINE to MOONSCAPE



Land at pumice mine in Jemez Mountains is washing away while mining company watches, critics say

By KEITH EASTHOUSE
The New Mexican

LAS CONCHAS MINE — It's part mountain meadow and part mining moonscape. Depending on your point of view, this played-out, 28-acre mine site high in the scenic Jemez Mountains is either recovering from seven years of strip mining or getting sicker.

On the positive side, the treeless expanse contains stands of grass, patches of clover and several tiny ponderosa pine seedlings.

On the downside, this former forest is scarred by classic signs of severe erosion:

- Gullies and channels produced by heavy spring and summer rains have cut vertical scars down hills.

- Horizontal fractures have developed across slopes, raising the possibility that whole chunks of land could slump.

- Deposits of pumice have piled up in low-lying areas and in some places have been washed off-site altogether.

Wayne Brown, plant manager of Copar Pumice Co., acknowledged erosion problems but predicted the reclamation effort would ultimately be successful.

"It's like when you plant grass and it won't spring right up," Brown said. "It's a work in progress."

Proof that Copar, owned by the family of wealthy Española businessman Richard Cook, has at least made some effort to control the erosion can be seen in the form of strategically placed hay bales and low-lying "sediment fences" made of a black plastic material.

But given the fact that some gullies are knee or even hip-deep, it appears these efforts have been ineffective. Collapsed sediment fences also bring into question the vigilance of Copar in maintaining its erosion control features.

Scientists with the New Mexico Environment Department came to similar conclusions after a site visit earlier this year.

Copar "has constructed contour furrows and installed some straw bales and sediment fences in an attempt to control erosion," an internal department memo



Abel Uribe/The New Mexican

Gullies from water erosion are common all over the former Las Conchas mine in the Jemez Mountains. Copar Pumice Co., which ran Las Conchas, is attempting to reclaim the 28-acre site.

Please see MINE, Page A-4

MINE

Continued from Page A-1

said.

"However, these devices do not appear to be properly constructed and maintained and/or have been used in inappropriate applications," the memo added. The lack of success so far in reclaiming Las Conchas has raised questions about whether Cook — who has a history of run-ins with environmental regulators — should be allowed to mine more pumice in a 76-acre area nearby called El Cajete.

Despite the fact that Cook has yet to prove he can successfully reclaim a pumice mine, the Santa Fe National Forest has already given the El Cajete project a green light.

The New Mexico Energy, Minerals and Natural Resources Department, responsible for seeing that mining operations adhere to a relatively stringent state mining law passed in 1993, is expected to make a decision on El Cajete next month.

"Are they going to let (El Cajete) go forward before reclamation has been proven here?" asked Ann Cooke as she stood in the scarred Las Conchas landscape.

Cooke, who is not related to Richard Cooke, is a member of the Jemez Homeowners Alliance, a group of residents from the nearby Sierra de Los Pinos subdivision that is opposed to Copar's pumice mining efforts.

One clear failure was the company's attempt to cut a series of horizontal "contour furrows" into hillsides. The idea was to make the furrows level so that water would pool in them and either sink into the ground or spill gently down into the next furrow.

But the bulldozers didn't cut level furrows, and the trenches have simply turned into erosion channels.

Another shortcoming was the decision by the Santa Fe National Forest to have Copar construct a natural amphithe-

ater at the old entrance to the mine site.

The idea was to prevent motorized vehicles from accessing the reclamation area. But because the amphitheater was cut steeply into a hillside, it has become the site of particularly severe erosion that has bled considerable amounts of pumice off the mine site and almost down to State Road 4.

A third problem is that the sediment fences have failed to prevent pumice from washing off the mine site. The reason, according to Bob Sebring, another member of the homeowners alliance, has to do with the fact that pumice — or volcanic glass — is an extremely lightweight material.

"The stuff has just floated" over and around the sediment fences, Sebring said.

Sebring is dismissive of Copar's reclamation efforts. "Copar has managed to put in the minimal effort to be a responsible miner," Sebring said.

Brown said that only "someone who doesn't know what's going on would look at (the reclamation effort) and say that it's not satisfactory."

Brown allowed that the reclamation effort has met with some "bad luck." Relatively heavy spring and summer rains "washed some areas out," requiring reseeding, Brown said.

He said the company has budgeted \$3,500 per acre for reclamation and that the money has not yet been spent.

Mining at the site, begun in 1989, proceeded in three stages. The westernmost portion of the mine — a 9.5-acre area — was mined first and reclamation there is further along. It is an 18.3-acre section on the east side of the mine that is the focus of concern.

The reclamation effort is being monitored by both the Santa Fe Forest and E energy and minerals. Additionally,



Bob Sebring, member of the Jemez Homeowners Alliance, conducts a tour of the mine site.

Service.

The amount of the state bond has not yet been determined.

It has also not yet been determined what specific state reclamation standards Copar will have to meet — although the 1993 state mining act requires "restoration to a state allowing for a self-sustaining ecosystem."

The Forest Service's reclamation requirements are more lenient in that they apply only for a three-year period. The period in which the state will be eyeballing the effort, in contrast, is 12 years.

The Forest Service requirements also appear to be minimal: 50 percent of the seedlings must be alive after three years and 50 percent of the ground must be covered by vegetation.

LACASA SENA

Wine Tasting
Friday 5-7pm

1501112

COUNTY OF SANTA FE
BOARD OF COUNTY COMMISSIONERS

1501112

IN THE MATTER OF)
CERRILLOS GRAVEL PRODUCTS)
INC., APPLICANT)
)

CDRC CASE NO. MIS 97-5230

AFFIDAVIT OF FRANCIS LAVAL GREEN

Francis Laval Green, being duly sworn, states:

1. My name is Francis Laval Green and my address is P.O. Box 789, Socorro, NM 87801. I am over eighteen years of age.

2. I am a trained professional environmental engineer employed by the firm of Suntech Construction Management and Technical Services. I have extensive experience with mining reclamation. I am also familiar with Santa Fe County given my position on the Santa Fe County Mine Plans Review Board and as an expert witness in the Clean Water Act litigation related to the Cunningham Hill Mine Site. My resume is attached as Attachment A.

3. I am an expert witness for Concerned Citizens of Cerrillos and several members of the Cerrillos and Highway 14 communities in the above-captioned matter. In this capacity I have familiarized myself with documents relevant to the Applicant's reclamation plan and the CDRC conditions.

4. The documents I have reviewed are:

- CDRC approved conditions dated June 2, 1997 contained in a letter from Rudy Garcia to Cerrillos Sand and Gravel;
- CDRC approved conditions with suggested modifications from Concerned Citizens of Cerrillos and several members of the Cerrillos and Highway 14 communities dated June 30, 1997;

- Article XI of the Santa Fe County Land Development Code;
- excerpt of Romcoe-Oxymin Cerrillos Study Report 5 dated April 1976 (parts 1 and 3; composite biological studies);
- exhibits relevant to reclamation plans contained in Draft Revised Operating, Reclamation & Terrain Management Plan, Cerrillos Gravel Products, Inc., dated February, 1997 [hereinafter "Revised Plan"];
- entire text of the Current Operating, Reclamation & Terrain Management Plan (without exhibits), Cerrillos Gravel Products, Inc., dated May, 1997 [hereinafter "Current Plan"];
- summary of comparison of CGP reclamation plan to reclamation plan for Cunningham Hill Mine Site as presented by counsel for Concerned Citizens of Cerrillos and several members of the Cerrillos and Highway 14 communities at May 29, 1997 CDRC hearing (Attachment B);
- Soil Conservation Service Soil Survey for Santa Fe County;
- 7 1/2 minute USGS quadrangle map for Applicant's site;
- aerial photo provided by CGP to community members on May 23, 1997 site visit;
- Thatcher & Hart, Spy Mesa Yields Better Understanding of Pinyon-Juniper in Range Ecosystem, Journal of Range Management (September 1974) [hereinafter "Spy Mesa study"];
- excerpt from Harshbarger and Associates, Water Requirements and Aquifer Analysis for In Situ Leaching Pilot Test Cerrillos, New Mexico 10-11 (November 8, 1976); and

-- John Shomaker & Assoc., Assessment of Hydrogeology and Sediment Yields from Surface Water Runoff, Cerrillos Gravel Products, Inc. 3-4 (January 1997).

5. Based on this review I have reached the following conclusions regarding the proposed reclamation plan and conditions.

LIKELIHOOD OF RECLAMATION SUCCESS

6. The proposed reclamation plan will not succeed. Based on the description of the proposed growth medium, 4-6" crusher fines, I do not believe this material will be able to sustain plant growth at this fairly arid site. The lack of precipitation is shown in exhibit IV-4 from the Revised Plan exhibits.

7. I have reviewed exhibit IV-2, chemical analyses of topsoil and crusher fines by Metric Corp. from the Revised Plan exhibits. Neither this exhibit nor any of the other documents I reviewed indicate the sampling methodology, the sample locations, or the sampling chain of custody. Based on the soil survey and my knowledge of Santa Fe County, I strongly doubt that these analyses are representative.

8. In general, crusher fines will not have sufficient clays, silts, nutrients or organisms such that they can sustain plant life. Clays and silts are needed because of their cation exchange capacity which allows nutrients to be exchanged. Nutrients and organisms are necessary because without them soil is effectively "dead." By this I mean that the soil will lack the conditions necessary to create the microbial elements needed

for plant growth.

9. The Spy Mesa study, cited by the Applicant in the Current Plan at page 13, does not support Applicant's contention that 4-6" of crusher fines will be a successful growth medium.

10. The Spy Mesa study does not involve reclamation of surface mined areas. Instead, it focusses on species established naturally at a site over an undetermined time period under largely unspecified growth conditions. Therefore, this study is completely irrelevant to the question of whether 4-6" of crusher fines at the Applicant's site under the conditions proposed by the Applicant will succeed in growing anything. The basic thesis of this study is that grasses are unlikely to be established in the environment analyzed absent natural fire events. This underscores the irrelevance of this document to the question before the County.

11. I do not believe that the soil profile discussed in this study is comparable to the crusher fines the Applicant intends to use. Further, the site analyzed in the Spy Mesa study has a lower elevation and higher precipitation than the Applicant's site. Finally, from the scale presented in the study it appears that only one of the plots has soil profile as thin as 6" of growth medium.

12. The CDRC conditions require that native trees be established at the site as part of the reclamation. However, nothing in the Applicant's submittals demonstrates it can successfully establish trees at this site.

APPROPRIATENESS OF SEED MIX

13. The seed mix proposed for the site may not be appropriate for this site. A seed mix needs to include annual plants which will establish quickly and will serve to prevent erosion and to condition the growth medium. The seed mix proposed by the Applicant does not include such annual plants.

14. The Applicant seeks to bolster its proposed seed mix by suggesting that Lac Minerals is having good results at the Cunningham Hill Mine Site in using a seed mix similar to that proposed by the Applicant. This is a false comparison. The seed mix at the Cunningham Hill Mine Site for roughly comparable areas includes 5 grasses, 4 forbs, 3 bushes, and 6 tree/bushes. On the other hand, the Applicant's proposed seed mix contains 5 grasses and one legume.

15. The Applicant has not supported its assertion that this seed mix will be appropriate.

MULCH AND FERTILIZER

16. The mulch proposed by the Applicant is inadequate to the task of establishing vegetation at the site. The Applicant proposes 1 1/2 tons/acre of mulch. A minimum amount of mulch for this type of site, in my opinion, is 3 tons/acre and 6 tons/acre would be optimum for these difficult conditions.

17. The Applicant's plan has no detail regarding how the mulch will be applied at the site. This is important because mulch that is improperly applied will wash away and not contribute to revegetation success. The mulch should be applied

using some type of mulch tucker which can incorporate the mulch into the growth medium.

18. The Applicant's plan includes no fertilization. This is a mistake. Without fertilization there will be an insufficient quantity of nutrients naturally available in the Applicant's proposed growth medium. It is important to note that the reclamation scheme being used by Lac Minerals (which the Applicant points to as a guide) includes 110 pounds/acre of fertilizer.

NEED FOR PERFORMANCE STANDARDS

19. The Applicant's plan and the CDRC conditions contain no performance standards. If this is really the County's intent there is no guarantee that even the best designed and conducted reclamation plan will succeed. Given the marginal nature of this plan, performance standards are essential if the County is to have any confidence that the plan will work as intended.

20. One good example of the need for performance standards is the subject of irrigation. The Applicant states that irrigation will be used ("night watering") as needed. Irrigation will be critical to establishing vegetation at the site and must be conducted carefully so that the plants, if established, can ultimately be weaned (see Current Plan at 15) from the irrigation system and survive naturally.

21. The current plan and conditions give the County no idea of how the Applicant will accomplish this difficult task. Either the Applicant needs to supply a convincing plan for successfully

irrigating the site or the County should impose a performance standard for revegetation success after irrigation is concluded.

22. The CDRC approved conditions with suggested modifications from Concerned Citizens of Cerrillos and several members of the Cerrillos and Highway 14 communities dated June 30, 1997 include a performance standard. This standard closely follows the standard contained in the New Mexico Mining Act Rules and would be appropriate for this site.

FINANCIAL GUARANTEE

23. The CDRC condition regarding a financial guarantee, while an important step in the right direction, is still likely to provide the County with inadequate protection. For a relatively small site such as the Applicant's, the cost of mobilizing equipment and crew for reclamation work comprises a larger fraction of reclamation costs as compared to a larger site. The mobilization costs even for a small site such as this are not substantially smaller than for a much larger site and strict application of the NMSHD cost estimating schedules probably does not take this into account.

24. A proper financial guarantee for this site should be at least double a per acre figure used for a standard site. It is critical that the County encumber sufficient funds to allow it to undertake or complete the reclamation if the Applicant does not. Otherwise the County is at financial risk.

I declare under penalty of perjury that the foregoing is true and correct.

From: When A Mountain Is Ore

1501112

precedent (the failures of the Ortiz Mine with its on-going environmental problems⁹) will we continue to trade the water, land, and air to the Devil¹⁰ for a few jobs and short-lived revenues, or have we had enough? Sixteen years ago in the wake of saving the Cerrillos Hills we were undone and left with anything but golden fields.

--RL, March, 1994

Notes

¹ See "A Tour Through the Gold Fields (GF) Mine", Santa Fe Reporter, July 16, '81 (see Contents, & p. 27). At this time, according to the document, it was taking 80 tons of mountain to produce one oz of metal. Later the tonnage required per oz. was to substantially increase. For an overview of the history with observations read "Contents".

² See "Opinion", New Mexican, Dec. 4, 1978.

* ³ See "GFM revegetation Plan", Rustler, Nov. 19, 1979. Also, in Sept. of 1985, GF again committed to revegetation of the site in a contract with 4 citizen's groups. The citizens sought and gave professional advice. In a letter, March 28, 1986, the Energy and Minerals Dept. also wrote their professional input and confidence in the effort, concluding, "...we feel that GFOC is committed to the best reclamation possible for this site and that the actual operation is in good hands with the SCS [Soil Conservation Service] personnel". Despite the Dept. of Agriculture's intimate involvement, success is unattained and the site has become plagued with acid drainage which may thwart future efforts by preventing irrigation.

"Reclamation" is not called "restoration" and for good reason. Even if we did have requirements to fill pits and recontour to the approximate original landforms, what degree of recovery can we ever really expect of a desert mountain scar? Besides, the Gold Field's reclamation failure is still on record for all to see, despite the several efforts of Gold Fields and LAC Minerals.

⁴ The number of local jobs given to the village of Cerrillos in the end totaled only 14. By reading the minutes of the Nov. 13, 1978 County Commission meeting, one can see how Cerrillos residents were used and misled by false projections that there would be a great abundance of jobs for the village available. To quote the minutes, the GF project manager "stated [that] they expected 80% of the employees to be Cerrillos residents, and expected to have 85 employees when the mine would start up on June 1, 1979".

But by 1983, approximately four years into the project, according to the Post Master of Cerrillos at that time, GF had employed [just] 11 persons from the town. Two of them had moved to the town for the jobs. By the time of the mine's closing 3 years later, according to the same source, that figure had reached [only] 14. These documents show how the town had to pressure the company for these jobs. Although the tiny village couldn't have supplied 80% of the positions promised, GF proved stingy even to the small local group of their supporters. [See "Jobs Uncertain", Mar. 8, 79 (Contents & p. 7); also:

THE RUSTLER November 19, 1979

GFM Revegetation Plan

SUBMITTED BY BEN HAGGARD

Gold Fields Mining Corporation has committed approximately \$20,000 to revegetate with native plants 31 acres at their mine site in the Ortiz Mountains. This is commendable because there are no regulations requiring metal mines to revegetate. There are elaborate laws requiring coal mines to do so.

Surface revegetation is critical for erosion control, rebuilding the soil, reestablishing wildlife habitat, and for esthetic reasons. The disturbed land at the mine and portions of the roadside on the way to the mine will be seeded in June or July of 1980. Many native grasses are warm season growers, so it is best to plant them in summer. Also, then one has the hope that the rainy season will help with the watering requirements.

The Gold Fields mine is at the upper end of the Pinon-Juniper belt, where it grades into Ponderosa pine. Mountain mahogany, squawbush, apache plume, and chamisa are some of the shrubs. The dominant grass is galleta and with it are the grama grasses and others. There are many wildflowers--one of the first to return after the land has been disturbed is purple verbenia. All these plants will be used in the reclamation effort.

Very steep roadside banks and fields where the exposed rocks are large present special seeding difficulties. Only the largest seed drilling equipment, namely plains drills, can be used over large rocks and probably hydroseeding and mulching will be used because of the diversity of sites and cost considerations. In hydroseeding the seeds are in a slurry of water and fine mulch. This is sprayed over the terrain from a hose. A binder

of "glue" in the slurry helps hold the mulch to the seed and helps keep the mixture on steep areas.

The mining being done at Gold Fields is open pit. The ore rock is crushed, the gold extracted by leaching, and then the gravel sized residue is washed and returned to the land. To get at the ore rock a good deal of "waste" rock often has to be removed and put out of the way. These rock pile areas, one of crushed, washed residue and others of large waste rock, are being studied as to possible revegetation in the future. Nature will do so to some degree right along and just watching what does succeed might give the best ideas as to how best to help the process.

There is considerable challenge in trying to return plants to boulder filled fields and steep road banks with no top soil. There is an even greater challenge in trying to revegetate rock piles with no soil whatsoever. Fortunately there are plants that colonize even the most barren sites. Lambs quarters, amaranths, the familiar Rocky Mountain Beeplant, and other "weeds" are among these. Weeds are often the only plants able to start the long process of soil building and the succession toward climax vegetation.

The seed mix under consideration for the Gold Fields project is a mix prepared by Plants of the Southwest, Inc. It contains the following grasses: galleta grass, blue grama, little bluestem, side oats grama, Indian ricegrass, western wheatgrass, and crested wheatgrass. It will be planted at a rate of 30 pounds bulk per acre. Shrub seed that will be sown includes chamisa, mountain mahogany, three-leaf sumac, apache plume, and four-

wing saltbush. This will be planted at a rate of two pounds bulk per acre. Another very attractive group that will be represented in this mix is the wildflowers. Purple verbenia, Rocky Mountain penstemon, Penstemon jamesii, Rocky Mountain Beeplant, and purple aster will be used. These will be seeded at a rate of one pound bulk per acre.

The method of application, as mentioned before, will be hydroseeding as well as broadcasting. Once the seed is down it will be watered (sprayed from a water truck) twice a week for six weeks and then once a week thereafter if the summer is dry. Naturally the schedule would be modified according to the summer rain pattern. This schedule will be followed through the first growing season.

Gold Fields will keep a history of successes and failures in the initial revegetation project which will help determine which species perform best. They would be pleased to share the information they gather with others involved in revegetation.

END
OF
BOOK

MINUTES OF THE BOARD OF COUNTY
COMMISSIONERS

DATE OF MINUTES 4.14.98

DATE OF FILMING _____

CAMERA OPERATOR YVONNE SANCHEZ

REGULAR MEETING