SANTA FE BOARD OF COUNTY COMMISSIONERS

COMMISSION CHAMBERS COUNTY ADMINISTRATION BUILDING

REGULAR MEETING
(Administrative Items)

March 28, 2000 - 1:30 P.M.

Amended Agenda

I. Call to Order
II. Roll Call
III. Pledge of Allegiance
IV. Approval of Agenda
    A. Amendments
    B. Tabled or Withdrawn Items
V. Approval of Minutes
VI. Consent Calendar:
    A. Resolution No. 2000-27 A Resolution Requesting a Budget Transfer from the General Fund/Finance Department to Various Departments for the Personnel Salaries and Benefits Expenditure of the January 1, 2000, Implementation of the 3% Salary Increases for Santa Fe County Employees (excluding CWA union employees and elected officials) (Finance Department)
    B. Resolution No. 2000-28 A Resolution Requesting an Operating Transfer from the EMS Health Care Fund to the Community Development Block Grants Fund/La Familia Medical Center Budget for Capital Equipment Expenditure in Fiscal Year 2000 (Community, Health and Economic Development Department)
    C. Resolution No. 2000-29 A Resolution Requesting a Budget Transfer from the General Fund/County Assessor and County Treasurer Departments to the General Fund/Resource Development Department for Personnel Salaries and Benefits Expenditure in Fiscal Year 2000 for a Reclassified Software Application Specialist Position (County Assessor and Treasurer)

D. Resolution No. 2000-30 A Resolution Requesting a Budget Transfer to the General Fund/County Sheriff Administration-Law Enforcement Budget from Liquidation of Various Departments Prior Year Encumbrances for Gas & Oil, Maintenance and Extradition Expenditures in Fiscal Year 2000 (Finance Department)

E. Resolution No. 2000-31 A Resolution Requesting a Budget Increase to the General Fund/E-911 Grant Program Budget for a Grant Received from the NM Department of Finance and Administration for Personnel Salaries and Benefits Expenditure in Fiscal Year 2000 for an Additional GPS Tech Position (Resource Development Department)

F. Resolution No. 2000-32 A Resolution Requesting a Budget Increase to the General Fund/Maternal and Child Health Grant Program from a Grant Received from the NM Department of Health for Contractual Services Expenditure in Fiscal Year 2000 (Community, Health and Economic Development Department)

G. Resolution No. 2000-33 A Resolution Requesting a Budget Increase to the Indigent Fund/Community, Health and Economic Department to Budget Gross Receipts Tax Revenue for Personnel Salaries and Benefits and Capital Equipment Expenditure in Fiscal Year 2000 (Community, Health and Economic Development Department)

H. Resolution No. 2000-34 A Resolution Requesting a Budget Increase to the Debt Service Fund/Gross Receipts Tax Revenue Subordinate Series 1997A to Budget Bond Proceeds for Debt Service Expenditure in Fiscal Year 2000 (Finance Department)

I. Request Authorization to Accept and Award a Construction Agreement to the Lowest Responsive Bidder, IFB #20-04 RB1, for the Vista Grande Library Located in El Dorado, New Mexico (Community, Health and Economic Development Department)

J. Request Authorization to Accept and Award a Price Agreement to the Lowest Responsive Bidder, IFB #20-44, for the Personal Alert Safety Systems (Fire Department)

VII. <u>Administrative Items:</u>

A. Committee Expirations/Resignations/Vacancies:

B. Committee Appointments:

1. Santa Fe County Lodgers' Tax Advisory Board

VIII. Presentations & Awards:

A. Presentation by the Santa Fe County Maternal and Child Health Planning Council Regarding the Santa Fe Community Infant Project

B. Presentation on the Santa Fe Cultural Arts and Tourism Plan, by Bruce Poster of Southwest Planning and Marketing

IX. Staff and Elected Officials Items:

A. Community, Health & Economic Development Department

1. Resolution No. 2000- A Resolution Requesting the Assistance of Santa Fe County Health Planning Commission in Addressing the County's Interest in the Detoxification Facility, Adolescent Health and Rural Health Care Access

B. Finance Department

1. Request Authorization to Enter into a Professional Services Agreement with Alfred M. Pitts, No. 20-0155-LU, for the Phase II Planning and Study of the Santa Fe Community College District (Land Use Department)

2. Request Authorization to Enter into Amendment Number One to the Professional Services Agreement, No. 20-0043-MG, with HMS Associates, Incorporated, for the Land Grant Historian Services (County Manager's Office)

C. Land Use Department

1. Request Authorization to Publish the Title and a General Summary of an Ordinance Amending the County Land Development Code in Order to Create a New Article XIV, Traditional and Contemporary Community Zoning Districts, and Incorporating Zoning Standards and Regulations for the Los Cerrillos Community Zoning District

2. Request Certification of Petitions to Establish the Communities of La Cienega and La Cieneguilla as Traditional Historic Communities under State Law

3. Request Authorization to Publish the Title and a General Summary of an Ordinance to Declare the Communities of La Cienega and La Cieneguilla Traditional Historic Communities under State Law

4. Request Authorization to Enter into a Memorandum of Understanding, #20-0142-UT, with the City of Santa Fe, Sangre de Cristo Water Division, for Disinfection Facility Cost Sharing
5. Request Authorization to Publish the Title and a General Summary of an Ordinance Imposing Franchise Requirements on Cable Television Operators, Repealing Ordinance No. 1993-8

D. Public Works Department

1. Resolution No. 2000- A Resolution Amending and Certifying the Year 2000 Santa Fe County Road Map
2. Request Authorization to Enter into a Sales Agreement with Mora County for the Sale of Two Used Motor Graders
3. Request Authorization to Enter into a Sales Agreements with Tom Growney Inc. and Douglas O. Peper for the Sale of Three Motor Graders and One Paving Machine
4. Request Authorization to Enter into a Construction Services Agreement, IFB #20-52, with D&H Pump Services for the Santa Fe County Fueling Station Project
5. Request Authorization to Install a Three-Way Stop at the Intersection of County Road 84 and County Road 101D in El Rancho
6. Status Report on the Road Advisory Committee Developing a Road Acceptance Plan

E. Resource Development Department

1. Resolution No. 2000- A Resolution Dedicating an Easement to Eldorado Utilities for a Well Site Located Adjacent to the Eldorado Elementary School

F. Matters from the County Manager, Samuel O. Montoya

1. Request Authorization to Ratify a Lease Agreement with the State of New Mexico, General Services Department, for the Lease of the Main Unit of the State Penitentiary
2. Request Authorization to Enter into a Sub-Lease Agreement with Cornell Corrections for the Santa Fe County Jail Annex Located at the Main Unit of the New Mexico State Penitentiary
3. Resolution 2000- A Resolution Approving the Sub-Lease of the Main Facility at the State Penitentiary Complex Between Santa Fe County and Cornell Corrections

4. Request Authorization to Enter into an Operating Agreement with Cornell Corrections for the Santa Fe County Jail Annex Located at the Main Unit of the New Mexico State Penitentiary

5. Request Authorization to Enter into an Ambulance Service Agreement with Espanola Hospital for Advanced Life Support Emergency Ambulance Services

G. Matters of Public Concern - NON-ACTION ITEMS

H. Matters from the Commission

1. **Resolution No. 2000- A Joint City/County Resolution Supporting Public Acquisition of the Santa Fe Southern Railroad Right-of-Way Leading to the Establishment of Commuter Rail Service Between Santa Fe and Lamy**

I. Matters from the County Attorney

1. Executive Session:

a. Discussion of Possible Acquisition of Real Property or Water Rights

b. Discussion of Pending or Threatened Litigation

c. Limited Personnel Matters

X. Public Hearings:

A. Resolution No. 2000- A Resolution Adopting the Santa Fe County Housing Authority Five (5) Year and Annual Plan Pursuant to Section 511 of the Quality Housing and Work Responsibility Act (QHWRA) of 1998, in Accordance with the Department of Housing and Urban Development (HUD)

B. Land Use Department Items:

1. MIS #97-5230. Cerrillos Gravel Products, permit holder, Richard P. Cook, agent, requests modification of condition number one of the permit suspension imposed by the Board of County Commissioners on January 25, 2000, to allow for limited removal of stockpiled materials

XI. ADJOURNMENT

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

1772116

BOARD OF COUNTY COMMISSIONERS

SANTA FE, NEW MEXICO

REGULAR MEETING

MARCH 28, 2000

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

SANTA FE COUNTY

REGULAR MEETING

BOARD OF COUNTY COMMISSIONERS

March 28, 2000

This regular meeting of the Santa Fe Board of County Commissioners was called to order at approximately 1:30 p.m. by Chairman Joe S. Griñé, Jr., in the Santa Fe County Commission Chambers, Santa Fe, New Mexico.

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

Members Present:	**Members Absent:**
Commissioner Joe S. Griñé, Jr., Chairman	None
Commissioner Richard Anaya	
Commissioner Paul Duran	
Commissioner Javier Gonzales	
Commissioner Marcos Trujillo	

IV. APPROVAL OF THE AGENDA

A. Amendments

B. Tabled or withdrawn items

SAM MONTOYA (County Manager): Mr. Chairman, members of the Commission, we have one amendment on today's agenda. On page five, item IX, A, Matters from the Commission, we have a joint city/county resolution supporting public acquisition of the Santa Fe Southern Railroad right-of-way leading to the establishment of the commuter rail service between Santa Fe and Lamy.

That's the only amendment, Mr. Chairman. But we do also have one item to be tabled under Section IX, 5, under the County Manager's items, we are requesting to table item five which is an ambulance agreement between Española Hospital and Santa Fe County. Before this meeting, we received notification from one of the board members that there is an issue regarding the contract that they would like to discuss further until the next meeting when we can work out that element. Mr. Chairman, I'm disappointed we were not able to work that out over the phone, but I'm sure we'll have it ready by the next Commission meeting.

COMMISSIONER GONZALES: Thank you, Sam.

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COMMISSIONER TRUJILLO: Mr. Chairman.
COMMISSIONER GONZALES: Yes, Commissioner Trujillo.
COMMISSIONER TRUJILLO: Do we know what the concern is?
MR. MONTOYA: Yes, it is actually two issues. The first is an issue of indemnification that the hospital included into the contract that was not in our original draft that we sent to them. The second issue was something relative to reporting and relative to payment of the $10,000 per annum. There was no inclusion of the Santa Fe County and development of that report and we feel it is important that we have a say in how that report is drafted. And, there was a third element, a technical description of township and ranges that we believe to be incorrect.

The agenda was accepted by consensus.

V. APPROVAL OF THE MINUTES

March 14, 2000

Commissioner Trujillo moved to approve the minutes of the March 14, 2000 as submitted. Commissioner Anaya seconded and the motion passed by unanimous voice vote. [Commissioner Gonzales was not present for this action.]

March 20, 2000

Commissioner Anaya moved to approve the minutes of the March 20, 2000 meeting as published. His motion was seconded by Commissioner Trujillo and passed by unanimous voice vote. [Commissioner Gonzales was not present for this action.]

VI. CONSENT CALENDAR

Mr. Montoya presented the consent agenda as follows:

A. **Resolution No. 2000-27. A resolution requesting a budget transfer from the general fund/Finance Department to various department for the personnel salaries and benefits expenditure of the January 1, 2000, implementation of the 3-percent salary increase for the Santa Fe County employees (excluding CWA union employees and elected officials)**

b. **Resolution No. 2000-28. A resolution requesting an operating transfer from the EMS Health Care Fund to the CDBG Fund/La Familiar Center Budget for capital equipment expenditure in FY 2000.**

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C. **Resolution No. 2000-29. A resolution requesting a budget transfer from the general fund/County Assessor and County Treasurer departments to the general fund/resource development department for personnel salaries and benefits expenditure in FY 2000 for a reclassified software application specialist position.**

D. **Resolution No. 2000-30. A resolution requesting a budget transfer to the General Fund/County Sheriff administration-law enforcement budget from liquidation of various departments prior year encumbrances for gas and oil, maintenance and extradition expenditures in FY 2000.**

E. **Resolution No. 2000-31. A resolution requesting a budget increase to the General FundE-911 grant program budget for a grant received from the NM DFA for personnel salaries and benefits expenditure in FY 2000 for an additional GPS tech position.**

F. **Resolution No. 2000-32. A resolution requesting a budget increase to the General Fund/Maternal and Child Health Grant Program from a grant received from the NM Department of Health for contractual services expenditures in FY 2000.**

G. **Resolution No. 2000-33. A resolution requesting a budget increase to the Indigent Fund/Community, Health and Economic Department to budget gross receipts tax revenue for a personnel salaries and benefits and capital equipment expenditure in FY 2000**

H. **Resolution No. 2000-34. A resolution requesting a budget increase to the debt service fund/gross receipts tax revenue subordinates series 1997A to budget bond proceeds for debt service expenditures in FY 2000.**

I. **Request authorization to accept and award a construction agreement to the lowest responsive bidder, IFB #20-04 RB1, for the Vista Grande Library located in Eldorado, New Mexico**

J. **Request authorization to accept and award a price agreement to the lowest responsive bidder, IFB #20-44, for the personal alert safety systems**

MR. MONTOYA: As a point of information for the Board of County Commissioners and also the general public, I just want to announce, Mr. Chairman, that the issues relative to the penitentiary lease, the state lease with the -- county lease with the state, the state lease with Cornell, the county lease with Cornell, the operating agreement between the county and Cornell and the resolution that goes to the issue of the operating agreement with Cornell, will be heard at approximately 4 p.m. And I just wanted to make that point if anybody is waiting specifically for that issue.

COMMISSIONER DURAN: Can you just explain to me a little about item F; the resolution requesting a budget increase to the General Fund/Maternal and Child Health Grant Program.

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MR. MONTOYA: Mr. Chairman, Commissioner Duran, we received an additional $10,000 from the State of New Mexico augmenting the budget to allow for that and then the budget break down is also included in there to show how the additional $10,000 will be broken down. So of it some goes to administration about 10 percent, and the balance goes to program.

COMMISSIONER DURAN: Okay, that's it.

Commissioner Anaya moved blanket approval of the Consent Calendar and Commissioner Trujillo seconded. The motion passed by unanimous voice vote.

VII. ADMINISTRATIVE ITEMS

A. Committee expirations, resignations, vacancies:

B. Committee Appointments:

1. Santa Fe County Lodgers' Tax Advisory Board

MR. MONTOYA: Mr. Chairman, the Santa Fe County Lodgers' Tax Advisory Board is recommended to the Board that Ms. Molly Agresto fill the current vacancy on the Lodgers' Tax Advisory Board. Ms. Agresto is the director of operation for Rancho Encantado and attached is her letter indicating her interest in serving, Mr. Chairman. I'll stand for questions.

Commissioner Trujillo moved to appoint Molly Agresto to the Santa Fe County Lodgers' Tax Advisory Board. His motion was seconded by Commissioner Gonzales and passed without opposition.

VIII. PRESENTATION AND AWARDS

A. Presentation by the Santa Fe County Maternal and Child Health Planning Council Regarding the Santa Fe Community Infant Project.

WHITNEY ROBBINS: Good afternoon, Mr. Chairman and Commissioners. My name is Whitney Robbins and I'm here today as the Chair of the Community Infant Project Steering Committee. And instead of giving you packets of information and statistics we have a tee-shirt for each of you from prevent child abuse.

As you know from all of our meetings, the Santa Fe County Infant Project was a program that we presented to you last year at this time and which you funded for $105,000 for this fiscal year. From the progress reports that we've submitted throughout the year, you know that your seven month old baby is alive and well and growing and serving the needs of at-risk parents and infants of Santa Fe County.

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Shortly, I am going to introduce to you the community infant project team who will tell you of their work since October when the program really started. However, at this time I'm coming before on behalf of the community infant project steering committee and the County Maternal and Child Health Planning Council under whose umbrella the community infant project exists, through a contract with the Santa Fe Family Center, to bring our recommendation for recurrent and sustainable funding for the operating cost of the community infant project. We're asking that as you consider the County budget over the next few weeks that we hope you will allot the Community Infant Project $125,000 for fiscal year 2001 with a commitment to continue future funding that will be renegotiated annually based on the documented need for services.

Finally, in addition to providing direct at home professional services to families, the Community Infant Project through foundation funding obtained through a variety of other than county sources has offered community training, since last fall to over 150 members of health and social service agencies in Santa Fe County on the topics of infant mental health the identification and intervention in domestic abuse, neglect and violence as well as interagency collaboration. Two more trainings are scheduled between now and the end of June. In fact, on Thursday, Mary Claire Hefron the director of clinical services at Oakland Children Hospital is coming back to teach the first of these which will be a workshop on domestic violence and its affect on infant mental health.

We want to thank you, Commissioners, for initiating and supporting the CIP in its first year and now, here to tell of the successes and their work is the bi-lingual team of professionals who are responsible for implementing the Santa Fe County CIP and I'm going to introduce Lilia Olivas Whitner and -- she'll present the other members of the team here today.

LILIA OLIVAS WHITNER: Thank you, Commissioners, I can't tell you how happy I am to report to you that your money is working for the citizens of Santa Fe. It is my great pleasure to introduce to you the team leaders of our team in Santa Fe. Troy Fernandez and Troy is going to help me do the presentations. But I would also like for you to meet before she speaks my counterpart Ms. Deborah Smith and she serves the northern part of the county.

TROY FERNANDEZ: Mr. Chairman, Commissioners, thank you for allowing me to speak to you today. I was asked to speak on the issue of the therapeutic side of what we do. Basically, we are grounded in the idea of attachment theory and basically the idea is that the better the attachment with mother and child the better the outcome for that child is over the life span. Additionally, we employ family system work theory as well as looking at the system at large in play with these families. As part of our work, we regularly have staffing and reflective supervision to discuss the cases that we are currently working on. And we also conduct individual supervision to ensure that the therapists working with these families are progressing well and are doing the work that we have set out as our mission.

The idea here is basically the earlier the better and this is an innovative endeavor in the state of New Mexico. I come from Chicago -- I'm originally from New Mexico, but come from Chicago where this work has already been done for several years with very much success so it's exciting to be on the front end of this work in New Mexico. What else? Is there any questions as to how we are conducting our work? Thank you.

CHAIRMAN GRIÑÉ: Thank you very much, you people are doing a very good job.

COMMISSIONER GONZALES: Your primary work is to try and create a program where there is attachment between mother and child and that comes through education to new moms or how do you do that?

MR. FERNANDEZ: We work with the mother and see if there are issues around caring for the child and how is she attached in the first place to the child. Are there issues of neglect or abuse already in existence in that family system and if we know about that we try and address those issues. We observe as a very subtle type of thing whether the mother or caregiver to see how they have attached and bonded with that child, i.e., caring for it, feeding it, holding it, all the things that are done for the care of a child.

COMMISSIONER GONZALES: Do you find that the majority of the people that you work with are receptive to outside help such as yours?

MR. FERNANDEZ: Yes, very much so. In fact, some of them are receiving other help from the community and really have insisted that we be a big part of the work being done with them.

COMMISSIONER GONZALES: How long is someone in the program for?

MR. FERNANDEZ: Well, this is not fast work because those first crucial months are of course of interest to us but we want to look at the first several years of life so we as a cut-off point are looking at the seven months and below to engage these families in our system and then we can see them for up to three years which are crucial years in the development of children.

COMMISSIONER GONZALES: How many people are in your program now?

MR. FERNANDEZ: We have currently 14 I believe in our Santa Fe -- and Kathy will speak to that more, and we have five.

COMMISSIONER GONZALES: Is there a tracking of the child for a period after they leave your program? Have you been able to develop some kind of statistics?

MR. FERNANDEZ: We are currently in the throes of developing statistics after we've done this a little bit longer since we're just in the beginning infancy stages of our own project we don't have those numbers yet but we are currently engaged in collecting them and looking --

COMMISSIONER GONZALES: You know from other communities that this works.

MR. FERNANDEZ: Absolutely.

COMMISSIONER GONZALES: Thank you.

KATHLEEN BENECKE: I'm one of the therapists and nurse consultant with the community infant project. Just to follow up with what Troy has said. To-date we've had 35 referrals and that has been from a lot of different agencies that we network with in the community, from the discharge planners in St. Vincent to the Teen Parent Center at Santa Fe High to La Familia Medical Center to Arroyo Chamiso -- those are some of the people that we have received referrals from.

Currently we are serving 12 clients right now in Santa Fe. We've had six clients who have graduated from our program. I know Commissioner Gonzales asked about the length of the stay, how long people are being treated or facilitating that, it really varies from family to family. Some of the ones that have already graduated, those were short term referrals and this is long-term work. Our current families we're really hoping to be able to provide this service for another year or longer.

To-date we have done 14 presentations in the community, letting the community know about this program so the word can get out and we can get referrals. I really feel that this is a real feather in our cap for Santa Fe because this is a real innovative program and hopefully in 10 or 15 years we'll really be able to see a benefit of what this program will do.

We also have on our team a psychiatrist in going out. Our program is home-based. We do home visiting unless a parent would rather see us in our office but it's usually easier for us to go to the home and it gives us a chance to go on their turf and to really look at what they're dealing with. So we're utilizing our psychiatrist with some of the families that we may suspect that there may be some kind of psychiatric intervention that needs to be done. So, it's like Troy said, we're really utilizing a lot of the psychologists and psychiatrists within our supervision for our program.

Any questions?

COMMISSIONER TRUJILLO: Yes, how far outside of the City of Santa Fe does this program extend? Is it available to rural communities?

MS. BENECKE: Yes, we serve Santa Fe County and then Las Cumbras is serving our families in the north. To-date we've had a family in Pecos and Tesuque but that's as far as we've gone right now. But we will out as far as the County -- so if we get a referral in Edgewood, we would go there.

COMMISSIONER GONZALES: Mr. Chairman.

CHAIRMAN GRIÑÉ: Commissioner Gonzales.

COMMISSIONER GONZALES: So is that how people get into the program through referrals?

MS. BENECKE: Yes.

COMMISSIONER GONZALES: Who are they referred by?

MS. BENECKE: We have gotten referrals from La Familia Medical Center from Arroyo Chamiso Pediatrics Clinic.

COMMISSIONER GONZALES: I see, it is some kind of primary care provider.

MS. BENECKE: Right and we've even gotten referral from the Child Protection Services.

COMMISSIONER GONZALES: Is there a point in this program where we may be eligible for matching funds or state grants to come in and complement the county's contribution to this because I think and we had all talked about this last year and I remember asking all of you to please help us go out and now that it is a proven success and we can demonstrate a commitment -- especially when we see the numbers of children that are being abused go down. Now that they know there's a commitment is there something that we should be doing on our side to get some matching funds?

MS. BENECKE: You know, I would like to refer that question to Lilia Olivas Whitner because she would really be better to answer that in a more articulate way than myself.

CHAIRMAN GRIÑÉ: You know there are other sources because I've met with these folks and there are sources besides grants and the City of Santa Fe but I think she could address it probably better.

MS. WHITNER: So your question was Chairman Griñé that we're looking for another source, yes, sir. We would like sustainable funding and support from the County because you see the county was the first governmental agency that took over this tremendously important infant health endeavor. You guys are the first ones in the state.

I don't want to take that away from the County. But because it is an expensive process, I have already put a grant a request for a grant through the Children, Youth and Family to fund the effort of environmental health from three years old -- from eight months old to five years old. And we're very fortunate that you allowed this money to be at the Santa Fe Family Center because you know that you can wrap the services around the family and we don't stop when the child is five or when the child is three. We can serve the whole family for as long as they need it. We also have some training money from other private foundations and I am looking, as I was telling you the last time, I'm looking at federal grants but that's in the future.

CHAIRMAN GRIÑÉ: It's important to show the county's commitment to some of these other funding agencies. They want to see that there's a local level of commitment.

MS. WHITNER: Absolutely. I also have had conversations with Fred Sandoval and it's possible that maybe in the future the city after they know the program better may be a collaborator as the grantor. But that is in the future.

I just want to reassure you that there were are not just resting on your deep "ha-ha" pocket. And I would like for you to meet our psychiatrist, Dr. Julie Snyder.

CHAIRMAN GRIÑÉ: I really want to commend the Commission for their foresight and I want to thank you and the MCH Council for bringing this awareness to us

but again this is -- it's just amazing, we just came off a very large public hearing last night that was very emotional in this community. And I wish we would have the same emotion by all of our community. I wish that instead of the media steps out while you're making this presentation because this is so important to our community in terms of awareness and letting people know in Santa Fe that this is a real problem. There are kids being hurt in our community that don't deserve to be hurt. It just pains me to come off a hearing like we had last night and know that those energies can be used in so much of a positive manner if they would bring the same level of passion and energy to making sure that no kids are abused in this community. But we've got to start somewhere and that's certainly what you're doing and over a period of time, hopefully, we'll have this chambers packed with you in front saying and demanding that we need continued sustainable funding for this because it's an important element for our community.

So please continue to fight and you know I'm all for this funding and I think the Commissioners, without speaking for them, are seeing positive things here and hopefully they'll support it as well and continue this program that you perform for our community. Thank you.

MS. WHITNER: Thank you very much. I want to acknowledge your role and I really -- you know we don't toot our horn really well and as for the Commissioners of Santa Fe County I want you to know that there are very few states in the union that are doing what you are doing. Very few counties. We are one of maybe five programs in the whole of United States. And you approved it and it's going to help everyone 20 years from now.

Thank you, so I'd like for you to meet Deborah and she will speak of the role of the community in this project in the northern part of the county.

CHAIRMAN GRIÑÉ: Thank you.

DEBORAH [Inaudible]: Thank you, I'm going to be very brief. I'm very impressed with your questions and what you already know about the project. I'm sure you also know the history and the background and why it's important to work with children prenatally through three in terms of brain development, and also tracing the roots of violence which a book most of you got and this is your copy.

I work with Las Combres Learning Services, I'm the clinical director and this was a collaborative grant that was written with Las Combres and the Santa Fe Family Center to provide these services for the community infant project. Our role in northern Santa Fe County is to work with five families out of the total of 20 and also to provide consultation and collective supervision. We really wanted to make sure that people in the outlying areas of Santa Fe County have access to the same services and as many of you know that is difficult for people that don't live in a close radius to St. Vincent Hospital, La Familia Medical Services, people out in Chimayo and people in other areas of the county don't have the same access and this is a way that you're allowing your constituents in those areas to have access. So we get referrals like the Santa Fe Family Center from a number of different

agencies including Protective Services, the hospital in Española, where many of the people live across the line in Santa Fe County but may be closer to another center. We go and provide the infant parent mental health services in their home in Santa Fe County.

You were asking how we do that. Well, we look at the interactions, we look at how parents are reading the cues, what the level of attachment is. We get teen parents and we get situations where there's domestic violence, single parents where many of their own issues are so overwhelming that they're not able to attend to their infants needs and what we can do is help with that. Help bring attention to what either the unborn or very young child needs as we help them attend to their own needs. It may be housing, it may be individual counseling but the focus is how can we can strengthen that relationship so that we're avoiding future mental health problems for that child as they grow up, future delinquency costs, future costs ending up in the penitentiary. There recently was a RAND study that showed that for every $1 spend on early intervention for this kind of program you are saving $3 for future costs for juvenile delinquency.

To respond to your question about research, this is still a relatively new project. We just got funding in September; however, it is research based and there's been lots of research and lots of studies that have shown how successful this is. And we're hoping that if you continue your support, we'll be able to show the same statistics in Santa Fe County. Las Cumbres like the Santa Fe Family Center is always looking for other matching funds; however, it is important that we have core commitment. We're looking into what we can get reimbursed from Medicaid for these services. We have a number of private foundations that help us as well as CYFD funding. But we do need a core commitment saying that this program is going to continue when we start with a family and we go out there at birth we want to say we're here for the duration. We're not here as part of managed care and after 12 visits we're gone. And that's why we need your continued support. Thank you.

CHAIRMAN GRIÑÉ: Thank you.

COMMISSIONER GONZALES: Mr. Chairman.

CHAIRMAN GRIÑÉ: Commissioner Gonzales.

COMMISSIONER GONZALES: Is it possible the Indigent would be a source of funding for these programs where we could award contracts to agencies to perform specific health care services. It might be beneficial to sit down with our indigent group to see if you could have a separate contract that you could access for indigent families that you're working with to provide care and assistance.

COMMISSIONER ANAYA: Mr. Chairman, just a comment. This is indeed an honorable project and I'm happy to see it progressive and productive. That makes me very happy.

B. Presentation of the Santa Fe Cultural Arts and Tourism Plan

KATHERINE MILLER (Finance Director): Mr. Chairman and

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Commissioners, the Lodgers' Tax Board endorsed this plan and they would like Mr. Bruce Poster of Southwest Planning and Marketing to come forward and give you a presentation on that plan.

BRUCE POSTER: Thank you very much, Commissioners. I'm very pleased to be here to give you a brief overview on the progress of the Cultural Arts and Tourism Plan which has been about 2.5 years in the making and a lot of very good work from residents of both the city and the county. I'm going to give you a brief overview and conclude by inviting you to take part in a joint study session with the Santa Fe City Council since it would not be possible for me to go into any depth during the session tonight.

The Cultural Arts and Tourism Plan is -- the purpose of the plan is to develop a plan for Santa Fe which refers to all of northern Santa Fe County including the city from the Madrid/Galisteo area north to the northern edge of the County. The purpose of the plan is to clearly identify the region's artistic, cultural, natural and heritage resources and articulate the community's desired direction for the treatment of these resources in order to appropriately promote, preserve and manage them. With that in mind, this project was embarked on over two years in a very collaborative way and we've heard a lot of talk lately about regional planning and city/county cooperation and I can testify that this is a good example of city/county cooperation on all levels. On the staff levels, the level of LTAB and OTAB and as well as on the level of the citizens both within and without the city. We had a very intensive public involvement program here so that the plan before you is not something that the consultant made up or that your staff made up it reflects the will of the communities involved. And to do that we had four public meetings and two of those were in the city and two were in the county, one in the northern part of the county at San Ildefonso Pueblo and one in the south in Cerrillos. We also had six focus groups that were reflective of different elements and interests of the communities involved. One of them was strictly of individuals who lived outside of the city to get a county perspective of tourism development. We had an advisory committee that is still in place that was guiding our efforts throughout and Ben Serber, the head of your LTAB, served on that and he regretted that he couldn't be here today, he had to be out of town.

I'm going to briefly talk about what some of the results of the planning effort were and hopefully tantalize you enough, if you haven't had time to read it, that you're going to want to hear more about it. The broad citizen effort resulted in six goals of the cultural, arts and tourism plan. These are to include local community needs in developing tourism management plans in both the city and county; to coordinate planning and develop infrastructure to manage tourism to minimize negative impacts and maximize benefits; to maintain the authentic character of Santa Fe's culture, heritage and environment as the basis for the visitor experience; to attract and educate cultural tourists, those tourists who will appreciate and support our heritage and arts; to reduce traffic congestion in tourism areas and to create a future for youth in Santa Fe's culture and tourism industries.

So those were the broad goals and from those broad goals that were identified by our

citizens we developed 14 strategies and a number of actions. Some of those actions are very short-term and some are longer term. We set up the plan to be in three phases. The initial phase is one year and then an intermediate phase of two to four years and a longer term phase of five to ten years. Part of the thinking about the short-term phase was that we would identify actions that would be low-cost or no-cost that could be implemented by staff without a lot of discussion in the budgetary process. So there are a number of items that could be implemented and in fact are being implemented immediately in the initial phase.

I would like to take you briefly about some of the strategies and actions and then talk to you just a little bit more about the funding issues and then to the study session. As I said there were 14 strategies and I won't touch on everyone of them but we talked about marketing Santa Fe to those visitors who appreciate our culture and heritage and then there are a series of actions under that strategy. We want to promote the area as a walking city, both in the city and in the outlying areas. Protecting the viability and authenticity of the downtown and other tourism zones. We want to make sure that there are adequate visitor services and facilities in rural and appropriate tribal areas. So there was a need identified for more drinking water and rest rooms and parking out in the county. We want to be sure we educate our visitors even before they get here about the experience they can have in the city and in the county. There is a lot in the plan about dialogue within the tourism industry between the tourism and the arts industry, between the city and the county, to get everyone on the same page working together for the best of our communities. We want to protect neighborhood and rural communities from the adverse impacts of tourism. There's a strong emphasizes on continuing public involvement in the tourism public planning and a continuation of the cultural of the arts and cultural tourism plan into the future with more county representation and making that an official city/county advisory committee if you would choose to do that and appoint members to that committee in the future.

There are several other aspects to it but I don't want to get into too much detail right now. One of the most important components of this is to see that the plan is actually implemented. There are lots of plan, lots of good paper, that gets developed and lots of good intentions but how do they get actually implemented. And the committee -- the advisory committee and the staff believe strongly that it's important that there be a designated point person to follow through the implementation of this plan so all this work actually comes to some good results in the future. And we've called this person a cultural tourism planner and our thinking is that this person would work both for the city and for the county to work with the advisory committee in the future and to see through the various initiatives some of which would be occurring in the city and some in the county with different departments and that there would be one point person to make that happen, the cultural tourism planner.

So as far as funding, we're not asking at this time for any funding for the plan, but I want to advise you that down the road they'll be a need to look at funding for this position in order that this plan can come to fruition.

With that, I'd like to invite the Commission to join the City Council in a study session where we can get into more detail and see what additional ideas you might have to include in the plan before it is finalized. We spoke with Mr. Montoya and he advised us that a good time for a study session might be before an EZA meeting and if it's at all possible, in order to stay on our schedule, we would invite you to a joint study session with the City Council on April 25 and if that works with your schedule and hopefully we would like to come back to the full commission and invite you to adopt a plan if you see fit on May 30.

CHAIRMAN GRIÑÉ: Just so you know, the 25th is our regular monthly meeting. It would be the same Tuesday as we are today.

MR. POSTER: Yes, it would be held at 4 or 5 in the afternoon. That would be ideal, yes.

COMMISSIONER GONZALES: How long will you need for this study session?

MR. POSTER: I would say a minimum of an hour and if you want to spare two hours we could certainly use it wisely.

COMMISSIONER GONZALES: Okay, will you invite the council?

MR. POSTER: Yes, we'll invite all of them and hope for the best. Are there any questions? Thank you.

CHAIRMAN GRIÑÉ: Thank you.

IX. STAFF AND ELECTED OFFICIALS ITEMS

A. Community, Health and Economic Development Department

1. Resolution No. 2000-35: A resolution requesting the assistance of Santa Fe County Health Planning Commission in Addressing the County's Interest in Detoxification Facility, Adolescent Health and Rural Health Care Access

COMMISSIONER GONZALES: I asked that this resolution be sent to the Health Planning Commission for review and approval and it really came about to try and provide some framework by which the health commission can begin to work on our behalf on issues of health throughout the community. One of the areas. the three areas that I asked them to consider first was the issue of detoxification facility which we know is badly needed in this community. Adolescent health which ranges in everything that we talked about in the zero to three initiative all the way up to adolescent and rural health care.

I believe that they've actually passed that resolution and Jaime Estremera-Fitzgerald and I don't know if he'd like to address the commission real briefly concerning -- if that

would be possible, Mr. Chairman.

CHAIRMAN GRIÑÉ: That's fine.

COMMISSIONER GONZALES: And then I would ask for approval.

JAIME ESTREMERA-FITZGERALD: Yes, Mr. Chairman and Commissioners, this was brought forward to the health planning commission at our last meeting in Edgewood and it was very well received by the Commissioners and we looked at it and talked about it.

The big thing that I want to commend the Commission is the fact that these are three real needed areas in our community and having the attention of the Health Planning Commission to look at it and study it and then come back with recommendations I think is a very important thing and speaking on behalf of the other commissioners, while there may be some areas that you have also tasked us with through our strategic plan that we will be looking at and studying, these three areas, I think, are primary and we're very happy to have brought this forward to you. Thank you.

COMMISSIONER GONZALES: Mr. Chairman. Jaime, how long do you think, I mean what's a realistic expectation with everyone's schedules that we might begin to see some recommendations coming forward concerning these three areas?

MR. ESTREMERA-FITZGERALD: I would say anywhere from three to six months you should have some solid recommendations. There's going to be three basic committees that will be working on each one of these. Some of the commissioners, such as myself, would like to maybe work on a couple of them but basically I see something realistically coming to you within the next three to six months.

COMMISSIONER GONZALES: Thanks, Jaime.

Commissioner Gonzales moved to approve resolution 2000-35 as presented. His motion was seconded by Commissioner Trujillo and passed by unanimous voice vote. [Commissioner Duran was not present for this action.]

A. FINANCE DEPARTMENT

1. Request authorization to enter into a Professional Services Agreement with Alfred M. Pitts No. 20-01555-LU, for the Phase II Planning and Study of the Santa Fe Community College District.

MS. MILLER: Mr. Chairman, Commissioners, the purchasing division and land use department are requesting acceptance and award of the professional services agreement with Alfred M. Pitts. The professional services will include land use research, statistical analysis and technical writing services as related to the future road network study for the Santa Fe Community College District Phase 2.

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The proposed schedule of services, project deliverables, cost estimate were reviewed and the price was determined to be found reasonable by the purchasing division therefore the Finance Department requests authorization to enter into the professional services agreement with Alfred M. Pitts in the amount of $14,653. including gross receipts tax.

CHAIRMAN GRIÑÉ: Thank you, Katherine. Any questions of staff?

Commissioner Anaya moved approval of the professional services agreement with Alfred E. Pitts. His motion was seconded by Commissioner Trujillo and passed without opposition. [Commissioner Gonzales and Commissioner Duran were not present for this action.]

2. Request authorization to enter into amendment number one to the Professional Services Agreement No. 20-0043-MG with HMS Associates, Inc. for the land grant historian services

MS. MILLER: Mr. Chairman, Commissioners, on November 29, 1999 a professional services agreement was entered into with HMS Associates Inc., to conduct historical research having to do with ownership rights on Santa Fe County roads, specifically CR 84C and CR 84D. In the research of the ownership additional services are needed by the county, therefore, we need an amendment in the scope of work and compensation.

The additional services have been reviewed as well as the cost proposal and the additional compensation has been deemed fair and reasonable by the purchasing division. Therefore, the County Manager's Office and Finance Department request authorization and acceptance of amendment number one to the professional services agreement in the amount of $5,000. Total compensation for the agreement shall not exceed $15,000 including gross receipts tax.

CHAIRMAN GRIÑÉ: Any questions of staff?

Commissioner Trujillo moved approval of the amendment as requested. His motion was seconded by Commissioner Anaya and passed without opposition. [Commissioner Duran and Commissioner Gonzales were not present for this action.]

C. <u>Land Use Department</u>

1. Request authorization to publish the title and a general summary of an ordinance amending the County Land Development Code in order to create a new Article XIV, Traditional and Contemporary Community Zoning District, and incorporating zoning standards and regulations for

the Los Cerrillos Community Zoning District.

JUDY MCGOWAN (Senior Planner: Mr. Chairman, Commissioners, this should b a very simple thing. As you know, you adopted the community plan for Los Cerrillos las October and as part of that plan they proposed a new map for community boundaries and fo three different zoning districts in the community and we're asking now for the authorizatio to publish the title and a general summary so that we can have publish hearings on tha proposed zoning district for Cerrillos.

Commissioner Anaya moved approval of the request as presented. His motion wa seconded by Commissioner Trujillo and passed without opposition. [Commissioner Anay and Commissioner Gonzales were not present for this action.]

2. **Request certification of petitions to establish the communities of L Cienega and La Cieneguilla as Traditional Historic Communities unde State law.**

JACK KOLKMEYER (Planning Director): Mr. Chairman, Commissioners thank you very much. It's actually two related items here: two and three. We'll start of with two.

As you know La Cienega and La Cieneguilla have been working on their communit plan and as part of that there has been a request to identify the communities of La Cieneg and La Cieneguilla as traditional historic communities according to state law and the ite is to let you know that the Santa Fe County Clerk, Rebecca Bustamante, has completed tha work and has agreed that the petition has been met. I don't believe that -- did they get copy of that in the packet. Shall I read this so you know what this is all about?

CHAIRMAN GRIÑÉ: Just put it into the record, Jack.

MR. KOLKMEYER: Okay, and it has been determined by the Clerk that the have meet the requirements to qualify.

CHAIRMAN GRIÑÉ: Any questions of Jack?

Commissioner Anaya moved to approve the request as presented. His motion wa seconded by Commissioner Trujillo and passed without opposition. [Commissione Duran and Commissioner Gonzales were not present for this action.]

3. **Request Authorization to publish the title and general summary o an ordinance to declare the communities of La Cienega and L Cieneguilla Traditional Historic Communities under state law.**

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Commissioner Anaya moved to approve the request as presented. His motion was seconded by Commissioner Trujillo and passed without opposition. [Commissioner Duran and Commissioner Gonzales were not present for this action.]

4. Request authorization to enter into a memorandum of understanding, #20-0142 UT with the City of Santa Fe, Sangre de Cristo Water Division for disinfection facility cost sharing.

DOUG SAYRE (Utilities Director): Mr. Chairman, Commission members, I come here before you to ask for your consideration of a proposal that we have with us basically Sangre de Cristo and the City of Santa Fe for disinfection facility on the southwest 6 million gallon reservoir. Over the past year we've had some system operation problems in trying to keep the disinfection level to an adequate amount in all the southwest region which is basically south of I-25 and all the way down to La Cienega.

With the operation that we've done with Sangre de Cristo and the City of Santa Fe a lot of it has been by manual injection that we've been able to sustain the proper level. We've set down with them and agreed that a more permanent automated facility would be -- is really necessary at that facility. It will benefit both the city and ourselves as far as operation because when you keep it at a steady disinfection level we're able to disinfect all the way down to the County jail and the National Guard on an adequate basis.

So we come before you to ask for your approval of this agreement which is the MOU which is how we'll handle the construction and operation of those facilities. The approximate cost is about $60,000 for the facility at the south 6 million gallon southwest reservoir and of that the County would be obligated to 50 percent or approximately $30,000. There is a cap of $66,000 for overall cost and if there's any other additional cost they have to come back to us for an agreement modification. Perhaps, I could answer any questions you may have about this.

COMMISSIONER ANAYA: Mr. Chairman.

CHAIRMAN GRIÑÉ: Commissioner Anaya.

COMMISSIONER ANAYA: Doug, is there any potential for federal funding or federal assistance in this proposal?

MR. SAYRE: I guess there would be the possibility but by the time we get it it would be a year from now. We had anticipated using fund out of the GO Bonds for this construction.

COMMISSIONER ANAYA: The federal government doesn't reimburse.

MR. SAYRE: Well, since we're in kind of a joint project it's a possibility that we could go for it in some kind of fashion. I don't think that we've look into as a need for it. It is more of an operational need that we need to get done. It's a point that we could pursue that.

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COMMISSIONER ANAYA: I think it would be worthwhile to pursue, you just never know.

Commissioner Anaya moved for approval of the MOU. His motion was seconded by Commissioner Duran and passed by unanimous voice vote. [Commissioner Gonzales was not present for this action.]

5. Request authorization to publish title and general summary of an ordinance imposing franchise requirements on cable television operators, repealing ordinance 1993-8

Commissioner Anaya moved approval of the request. His motion was seconded by Commissioner Duran and passed by unanimous voice vote. [Commissioner Gonzales was not present for this action.]

D. Public Works Department

1. Resolution No. 2000-36: a resolution amending and certifying the year 2000 Santa Fe County Road Map.

ROBERT MARTINEZ: Mr. Chairman, Commissioners, annually the County is required to update the County road map and submit a certification to the New Mexico State Highway and Transportation Department by April 1 of each year. Some adjustments have been made to the map which I will read briefly. We have abandoned and deleted roughly 14.08 miles that have been incorporated into the town of Edgewood. There were a few adjustments that were errors in the map from previous years totalling a negative 0.57 miles and there were two additions that were accepted by the Commission by resolution 1999-55 which is a total of one mile.

Public Works requests approval of the adjustments and attached resolution amending the 2000 Santa Fe County road map.

CHAIRMAN GRIÑÉ: So, Robert, we lost about 14 miles of maintenance in Edgewood area; right, because of the annexation?

MR. MARTINEZ: Mr. Chairman, that is true.

COMMISSIONER TRUJILLO: Is it true that we continue to maintain those roads or are we out of there completely?

CHAIRMAN GRIÑÉ: No.

MR. MARTINEZ: Mr. Chairman, Commissioner Trujillo, the town of Edgewood has purchased their own motor grader. They are blading most of their roads. We are blading -- we are assisting with the blading everything north of Venus Road which

is approximately about 2.5 miles of dirt that we are currently blading for them. We are also sanding their paved roads until they can purchase their own salt spreader.

CHAIRMAN GRIÑÉ: Any further questions of staff?

Commissioner Duran moved approval of resolution 2000-36 as presented. His motion was seconded by Commissioner Anaya and passed without opposition. [Commissioner Gonzales was not present for this action.]

2. Request authorization to enter into a sales agreement with Mora County for the sale of two used motor graders.

MR. MARTINEZ: Mr. Chairman, Commissioners, the County Public Works department seeks your acceptance of an offer in response to an offer from Mora County for the sale of two used motor graders. The Public Works department issued an invitation to bid number 20-30-RB-1 for the sale of two Champion graders. These bids were unsuccessful because they did not meet the 60 percent of appraisal so those bids were rejected. Therefore, Mora County offered to purchase these two motor graders for an amount of $70,000 which is $35,000 a piece.

Public Works requests authorization to enter into a sales agreement with Mora County for the sale of the two used motor graders for $70,000.

COMMISSIONER TRUJILLO: Mr. Chairman. Robert, is that the same price that Santa Fe County paid for them or are we selling them for less or for more?

MR. MARTINEZ: Mr. Chairman, Commissioner Trujillo, I believe we purchased these 1995 Champion motor graders for roughly around $85,000 a piece.

CHAIRMAN GRIÑÉ: Were they brand new, Robert?

MR. MARTINEZ: When we purchased them, yes, they were.

COMMISSIONER TRUJILLO: So they're used now and they have depreciated over five years or whatever.

MR. MARTINEZ: Mr. Chairman, Commissioner Trujillo, that is true. The appraisal on these two motor graders came in at roughly $52,000 a piece. I believe that we're somewhere around 70 percent of the appraisal.

COMMISSIONER TRUJILLO: Why are we letting them go at below appraisal?

MR. MARTINEZ: Mr. Chairman, Commissioner Trujillo, we did not receive any bids that were close to appraisal or even close to 80 percent of appraisal. Mora County is in dire need of the motor graders and they have asked the County Commission and the County manager to assist them and basically $35,000 is around 70 percent of appraisal.

COMMISSIONER TRUJILLO: So we're losing money on this?

MR. MARTINEZ: Mr. Chairman, Commissioner Trujillo, we are not getting

appraisal, so in a sense we are losing.

COMMISSIONER TRUJILLO: The reason I am following that line of questioning is because in my district we're in dire need of equipment and by releasing some of this equipment for less than appraised value, it seems like we're not addressing our own needs.

MR. MARTINEZ: Mr. Chairman, Commissioner Trujillo, we will be leasing five new graders. The county manager and public works felt that it was in the best interest of the county to lease the equipment that we have high hours and high milage on. It's a better benefit to the public works department.

COMMISSIONER TRUJILLO: And you think that that will address the needs that we have as far as equipment and maintenance of roads and things like that? Because I know we only have one water tank truck for the whole county. I know we do not have an excavator because we lost it because it fell or something. I know that we're in dire need of equipment.

MR. MONTOYA: Mr. Chairman, Commissioner Trujillo, I simply wanted to augment what Mr. Martinez has already presented. I did consult with the county manager in Mora County who did make the offer on behalf of the county commission in Mora County asking that we consider authorizing or bringing to you a request for authorization to basically sell these pieces of equipment for less than appraised value. As Mr. Martinez stated, we did go to the open market and we were hoping that the private contractors would bid on these pieces of equipment although we did not receive any bids for these particular pieces of equipment. Having had them on the inventory for over five years now, the standards, Mr. Chairman and Commissioner Trujillo, is to rotate them out every five years because of the fact of the breakage and the maintenance for equipment after that level of usage starts to become a burden on the operating budget for the public works department.

Mr. Chairman, we are recommending to the board that we replace these pieces of equipment with brand new equipment that has been looked into in terms of state bids or other bids from other entities that we can piggy-back on and basically we would also be assisting another county government that is in dire need of equipment. Mora County actually at this point in time, has no maintainers whatsoever on the streets. But, Mr. Chairman, we are cognizant of Commissioner Trujillo's concern about replacement of equipment and we are working with the public works department and in the budgetary process we'll look seriously upon making sure we have a good system for replacement and acquisition of new equipment.

COMMISSIONER DURAN: If we didn't approve this, what will happen?

MR. MONTOYA: Mr. Chairman, they would remain on our inventory and actually we could put them to use but again, the issue and concern is breakage and maintenance cost would become a major concern within the six years of operation.

Right now we are able to replace them in a three year window with the lease and continually keep the value of the machine high and replace them quicker and keep the equipment virtually new on a consistent basis.

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COMMISSIONER DURAN: But after the end of three years there is no ownership value.

MR. MONTOYA: Mr. Chairman, I think the issue is and this is probably a good example, the equipment that we're before you with today is actually owned by the County and it does appreciate greatly and although the appraised value is sometimes, well at $52,000 I think is what was stated, the market sometimes does not bear out the appraisal and we're in a position that we own old equipment that is a drain on the operating budget and if you lease it you're able to rotate it out quickly and you don't have the issue of having to sell it to someone or putting it out onto the market. So it's an easier way of keeping current and updated equipment on the county inventory.

COMMISSIONER TRUJILLO: Are there any other good samaritan counties out there that we can maybe get some below-appraised value equipment that we need? Nothing against helping Mora out, but Santa Fe County could use some help too.

MR. MONTOYA: Mr. Chairman, I don't know the answer to that question. But we do feel that this is a good move on behalf of the county and I think we'd be moving to a new system of leasing which I believe is in the interest of the county and at the same time we'd be getting 70 percent of the appraised value which I think is also good.

Mr. Chairman, other than that, I don't know how else to answer Commissioner Trujillo's question.

COMMISSIONER DURAN: I'd like to do what we did with [inaudible] I'd like to see what the difference is between owning it and leasing it rather than -- I'd like to see it tabled.

CHAIRMAN GRIÑÉ: We have a motion to table; do we have a second? Dies for lack of a second..

COMMISSIONER GONZALES: Commissioner Duran, I can sympathize and understand that you want more information on this. What I do know from talking to Commission Buck from Mora County is that they are truly in dire need. Dire need for this equipment and I know that we have determined that we can't use it any longer and we're prepared to let it go and I just -- if we have the opportunity to help a county, especially like Mora, it's not like we're sending it to Bernalillo or Dona Ana. We're sending it to a county that we know has traditionally and historically not had the funds to take care of their county roads.

I think it's a good thing to do and I would ask that we approve this and authorize it and ask the staff to provide the staff with more information concerning the lease. Isn't that what you want more information on the lease?

COMMISSIONER DURAN: I would second your motion but I still would like to see an analysis of the lease.

COMMISSIONER GONZALES: I agree and I would like to see a comparison on the lease and buying.

MR. MONTOYA: Mr. Chairman, Commissioner Gonzales, we can provide

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that.

The motion passed by unanimous voice vote.

3. Request authorization to enter into a sales agreement with Tom Growney Inc., and Douglas O. Peper for the sale of three motor graders and one paving machine.

MR. MARTINEZ: Mr. Chairman, Commissioners, the County Public Works Department seeks the acceptance of an offer in response to IFB #20-30-RB-a sale of used road maintenance equipment. The equipment includes three 1992 John Deer motor graders and the other piece is a lay-down machine. Here, again, these were put out to bid and Tom Growney was the successful bidder for the three '92 John Deer motor graders. The motor graders appraised at $41,000 and roughly what we're receiving is about 80 percent of appraisal.

As for the lay-down machine, the cost of the machine was somewhere around $3,750 I believe the County paid $1,000 for the lay-down machine several years ago.

Public Works is requesting the authorization to award the sales agreement in response to invitation to bid IF 20-30-RBI to Tom Growney Equipment and Douglas O. Peper for the sale of the listed equipment in the amount of $99,753.

Commissioner Anaya moved for approval. His motion was seconded by Commissioner Duran and passed without opposition.

MR. MONTOYA: Mr. Chairman, before we go on to the next item, I think we can answer the questions regarding the lease payment and it will probably take about two minutes. We have that answer for you. If I could call on Tony.

TONY FLORES (Purchasing Agent): Mr. Chairman, Commissioners, the first point that Commissioner Duran brought up was lease payments versus purchase. The preliminary investigation that both public works and the purchasing department have undertaken show us over a period of five years, approximately $250,000 in lease payments. If we were to go out and purchase at least one machine for a little under $100,000, five machines would easily run us $500,000 -- oh, that's $150,000 -- I'm sorry. So we have $750,000 to purchase the equipment today, versus, a lease payment of $250,000 over the five years. So there is a substantial savings to the county to lease at this time.

The second point, through the disposal process of our assets there are a couple of options that the county can undertaken. One of them is a competitive bid the other is a donation or sale to another agency whether it be a county or a city . If we went through four of the steps and we couldn't find someone to buy these items, we could technically donate them to a government agency at no profit to the county.

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COMMISSIONER GONZALES: I'm sorry, Mr. Chairman.
CHAIRMAN GRIÑÉ: Commissioner Gonzales.
COMMISSIONER GONZALES: What was the issue of the Mora purchase what are they paying for that?
MR. FLORES: It's $35,000 a piece for a total of $70,000.
COMMISSIONER GONZALES: So we could have donated that?
MR. FLORES: Technically, yes. After we completed the other four scenarios.
COMMISSIONER GONZALES: That would have been nice. It's not Christmas, but that would have been nice.

What about the issue of using the Finance Authority as a means to purchase much of the heavy equipment that we need. Have you done an analysis of going through that route and seeing what our cost would be over a period of time for them to invest in our equipment.

MR. FLORES: Mr. Chairman, the concern that the purchasing division and public works have with that route is that would have to be fully competed through Santa Fe County. The public works department has identified, what we'll call, lease agreements through a competitive bids with other counties where a contractor has come in and been awarded a contract and we were able to piggy-back off of that for a matter of convenience and expediency of time. We could pursue that avenue but it would require us to go out for a bid for the equipment and find a financier of the equipment at the same time.
COMMISSIONER GONZALES: Okay, thanks.
CHAIRMAN GRIÑÉ: Yes, thank you, Tony.

4. Request authorization to enter into a construction service agreement IFB #20-52 with D & H Pump Services for the Santa Fe County Fueling Station Project.

MR. MARTINEZ: Mr. Chairman, Commissioners, you may recall that Santa Fe County was required to remove the underground fuel storage tanks at the public works yard. The public works department went out to bid for the construction of a new fueling system.

Public works department request the authorization to award a contract in response to an invitation to bid 20-52 with D & H Pump Services for the construction of the Santa Fe County fueling station project in the $67,476.72.

Commissioner Trujillo moved approval. His motion was seconded by Commissioner Anaya and passed by unanimous voice vote.

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5. Request authorization to install a three-way stop at the intersection of CR84 and CR 101D in El Rancho.

CHAIRMAN GRIÑÉ: Are there any questions regarding this?

Commissioner Gonzales moved approval. His motion was seconded by Commissioner Trujillo and passed by unanimous voice vote.

6. Status report on the Road Advisory Committee developing a road acceptance plan

MR. MARTINEZ: Mr. Chairman, Commissioners, several months ago the Board directed the public works department to seek assistance of the road advisory committee in developing a road acceptance plan. For the past three months the committee has discussed this issue very diligently. The discussions were very intense, very controversial and the committee that on a monthly basis hears requests from the residents in their area where the county is lacking in maintenance and like I said before, these discussions were very intense.

The majority of the members felt that the Commission should not accept any more roads until the public works department had funding to match the roads that were being accepted. Also, the committee discussed the existing policy for acceptance for non-county roads for maintenance which is resolution 1998-119. The committee felt that there was already a mechanism in place for the Commission to adopt roads. But the committee had a concern that if the Commission weighed some of the conditions in this policy, such as, not making the residents bring the road up to county standards, that that would have a big impact on the public works' budget.

There are a couple of committee members present and they might want to add to it. Phil Trujillo is the chair of the Road Advisory Committee and also Brian Lappe is here from Area 10 which is the San Marcos area.

PHIL TRUJILLO: Chairman Griñé and members of the County Commission, I just want to assure you that members of the Road Advisory Committee did take this very seriously. During the months of January, February and March, those were the three months and we meet on the second Wednesday of each month and we studied this request by the Commission through public works or to the road advisory to come up with some kind of a plan and I guess our main concern is that the committee already receives so many requests from our constituency which ultimately is your constituency and most of the time we are strapped for manpower, maintenance equipment, and for money. And so for the committee to realistically be able to say that we would comfortably be able to review additional roads when we are already turning away requests by the districts that we represent would seem

non-productive. Like I said, we're already turning away people that come now and when we put our priorities together so that they go to you and ultimately to the legislature as you well know, we come up with an extensive wish list which is generally condensed into just a few roads and even then many times we do not get total funding from the legislature. So I want you to know that our decisions were based entirely on the fact that we are already having a difficult time trying to appease the members of the community now with the roads that are already county roads.

I'll certainly be able to -- I'll be happy to answer any questions or concerns that you might have. Let me just close by saying that I think the road advisory committee is truly representative and we do have a few vacancies and I would encourage you to try and fill those but it is well represented and the people that serve on the committee, many times forsake roads in their areas because they recognize that there may be a more pressing need in another area.

With those comments, Commissioners, I'll turn it back to Robert for more technical answers. If I can help you or Brian Lappe, he represents the area out there by the Village of Cerrillos and that area, we stand for questions.

COMMISSIONER TRUJILLO: How many miles of county road do we have?

MR. MARTINEZ: Mr. Chairman, Commissioner Trujillo, with the resolution that you passed today certifying the road list, it's approximately 580 miles.

COMMISSIONER TRUJILLO: How much of that is paved?

MR. MARTINEZ: Roughly about 150 miles are paved.

COMMISSIONER TRUJILLO: And we've got request to dedicate other roads at about 250 to 500 miles in my district and I don't think that we can be fair in identifying which ones are going to be dedicated and which ones are not going to be dedicated. I can see the predicament that the road advisory committee is in trying to develop criteria of what roads are going to be dedicated and what roads are not going to be dedicated. It's a precarious situation. Every community wants their roads to be dedicated and maintained by the county.

CHAIRMAN GRIÑÉ: Any other questions? Thank you. I guess we're between a hard-rock and a tough situation.

I guess the only road that I ask that we dedicate was Old Galisteo Road only because the county had done in previous years some work to it and that was only -- how big of a stretch did we pick up?

MR. MARTINEZ: Mr. Chairman, Commissioners, that was a half-mile. Paseo de Galisteo and Camino de Paz were the only two roads that the Commission accepted this year.

CHAIRMAN GRIÑÉ: So we haven't accepted too many at all, Phil. And I've got nothing -- you know, on the wish list, I've got nothing but I admit sometimes we move the road up a little higher than what the committee does but also I see in the legislature that constituents go directly to their representatives and that's something that we can't

prevent at all. I sympathize with your committee members and you know they've done a good job and you know I've attended one in the last year or so and it was right before the session and I remember -- okay, thank you.

MR. MARTINEZ: Thank you.

COMMISSIONER DURAN: Robert, I just have one question about your update. My understanding is that Mr. Garcia is leaving and I was wondering if you could talk to me about Camino Carlos Rael; about the condition of it? It's in pretty bad shape. That whole section of the road is terrible.

The other thing, all of the people on that road are on wells and if the well -- Senator Rodriguez got some money allocated almost two years ago to get city water extended there and I receive calls from them that if something isn't done quickly that money would go back to the state.

MR. MARTINEZ: Mr. Chairman, Commissioner Duran, to address your first question about Camino Carlos Rael the crossing, I believe it is just the section within the river that is in bad shape because the county section is chip sealed and the city section is paved. So I believe it is just the river crossing that we need to address.

As far as the funding for the water system, the county did receive $100,000 from NMED and we entered into a joint services agreement with the city and they also received some funding for Camino Carlos Rael so the city will be constructing the sewer line and we will -- like I said we entered into a JPA and we will be giving the $100,000 to the city to construct this for the county.

COMMISSIONER DURAN: What about the water?

MR. MARTINEZ: That's what I'm talking about the water. I will check with the city to make sure of where they are at in the process.

MR. TRUJILLO: Thank you, Mr. Chairman and members of the Commission. I just want to make a brief statement about the Road Advisory Committee and if there's a problem there perhaps it is only that the road advisory has done too good a job and I say that because I think what has happened is that the constituency now has pretty much gotten used to coming to the representatives of the areas as opposed to calling you directly. I'm sure that from time to time you do get a few phone calls but I think what has happened over the past few years is the committee has become a buffer or cushion between the constituency and the yourselves so that when you get reports from staff and from us it's a very technical report as opposed to some of the emotion and the grief and anxiety many times that the people that come to the committee bring to us. Of course, there is much lost in the translation.

I guess what I'm trying to say here is that I would like to invite you to periodically attend the road advisory meetings. I know that you're inundated, you're flooded with meetings all the time, but it would be nice to see you maybe visit the Road Advisory Committee and we meet every second Wednesday of the month and even if you don't stay for the entire meeting if you come by at least in passing and be visible to the committee, we

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would certainly appreciate that.

Thank you for allowing me to make that statement.

CHAIRMAN GRIÑÉ: Thank you.

E. Resource Development Department

1. Resolution No. 2000-37: a resolution dedicating an easement to Eldorado Utilities for a well site located adjacent to the Eldorado Elementary School.

VINCENT "CORKY" OJINAGA (Resource Development Director): Mr. Chairman and members of the Commission, the resource development department requests authorization to grant Eldorado Utilities Inc. easement to the use for installation, production, maintenance and repair of a water well, water lines, utility services and related uses for the well. The well is located on a 9.53 acre county park within unit 3, Eldorado at Santa Fe.

The property is located south of the elementary school of more particularly the site where the Vista Grande Library is going to be built.

Staff request that the Board of County Commission approve the resolution and grant the easement.

Commissioner Gonzales moved approval of the resolution. His motion was seconded by Commissioner Anaya.

COMMISSIONER TRUJILLO: Are we going to a hydrology report done on this well? We understand that they're in pretty bad shape as far as water in that area. Is this well going to require a hydrology report?

MR. OJINAGA: No, Mr. Chairman, Commissioner Trujillo, this well is the right of Eldorado Utility. This particular well is identified as RG65707 through the State Engineer.

COMMISSIONER TRUJILLO: So this is an existing well?

MR. OJINAGA: It is an existing well, yes.

The motion passed by unanimous voice vote.

COMMISSIONER DURAN: Mr. Chairman, I was wondering since we're already on item F here, is it possible to amend the agenda to go into Executive Session.

COMMISSIONER ANAYA: I think it has already been amended and the hearing is set for 4 o'clock.

CHAIRMAN GRIÑÉ: We've got 45 minutes; we're okay.

COMMISSIONER DURAN: Okay.

COMMISSIONER GONZALES: We probably could go to the manager's item number five.

CHAIRMAN GRIÑÉ: That was tabled. Let's go to Matters of Public Concern.

G. Matters of Public Concern - Non-action items

CHAIRMAN GRIÑÉ: Is there anyone who would like to address the Commission?

CAROLINE SIGSTEDT: My name is Caroline Sigstedt, I live in Santa Fe County in the City of Santa Fe.

Last night I attended the Santa Fe County Commission public hearing concerning the proposed immigrant jail in our county. The Commission chambers over-flowed and spilled out onto the hall. For three hours we heard meaningful and thoughtful testimony against such a facility in our region.

The majority of those present who supported the proposed jail were Cornell employees brought to the meeting in buses chartered by Cornell. Most of these persons didn't speak but held up company-printed signs in favor of the Cornell run institution.

Coming home at the conclusion of the hearing, I was elated to think that the issue of whether or not to have this facility would -- finally got the public scrutiny and you got to hear the public's opinion that it deserved.

It was clear to me that we as a community had taken a stand at the hearing regarding what we wanted, what we want and don't want in this community.

Citizen involvement is an essential component to the success of Santa Fe County government and citizen involvement is truly what we had on Monday night. That was a very diverse group of people and actually for the most part as opposed to what was printed in the *New Mexican* I thought the audience was well-mannered. We had an isolated one person, whose misbehavior took sensational headlines and in my opinion I thought that was kind of sad because we lost the issue to the public and we as citizens of Santa Fe County all care about this very much and in terms of what I heard last night it was very, very strong against it.

You're about to do something today -- you're about to take a vote that is a very serious vote and I would just ask you to search your soul for what the right vote is and what the community wants. It is our community. It is our future and there are some things we don't do here.

Thank you.

CHAIRMAN GRIÑÉ: Any one else from the public?

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H. Matters from the Commission

1. Resolution No. 2000-38. A joint city/county resolution supporting public acquisition of the Santa Fe Southern Railroad right-of-way leading to the establishment of commuter rail service between Santa Fe and Lamy.

MR. KOLKMEYER: Thank you, Mr. Chairman. As you know about a year and a half ago we received an authorization for $10 million from the federal government under T-25, the transportation equity act for the 21st century to help us develop a commuter train project between Eldorado and downtown Santa Fe.

Most recently we received an appropriation of $3 million from that $10 million authorization to begin to go to work on this project. It's very complex as you may have guessed. But we thought that maybe, first of all we'd like to work closely with the City all the way through this so there will be a series of joint resolutions all the way through this project to assure alignment with the city and the railyard and our planning in the community college district.

What we're requesting from you today is that you support the idea that we're looking at eventual public acquisition to use as a trail line.

COMMISSIONER ANAYA: Any questions of staff.

COMMISSIONER GONZALES: Mr. Chairman. Jack, is this commuter rail in our community district we're also talking about into the Rancho Viejo community; is that right?

MR. KOLKMEYER: That's right.

COMMISSIONER GONZALES: Has that been factored into the $10 million authorization to the actual spur or is it $10 million to purchase the right-of-way and the track and the company that does it right now?

MR. KOLKMEYER: Mr. Chairman, Commissioner Gonzales, yes, sir, it has. In fact, one of the questions that comes up here particularly regarding this resolution is what fiscal responsibilities does this place on the county and the city for example because this is a matching program. And in the instance that you bring up, we're hoping that some of that right-of-way would be donated by Rancho Viejo and we've already had conversations with them and that could be used as part of the matching amount of money that we have here. We'd really like to use the majority of this money for putting in new lines and developing rolling stock to be able to make this work. The reason we want to go forward with this resolution is that we know that there's some upfront things such as an appraisal and title problems that are already out there that we'd like to start working on if we have to put up the money ourselves and that's probably the least expensive part of this and including the spur that would go to the community college.

COMMISSIONER GONZALES: That would be great.

MR. KOLKMEYER: It would be terrific. And as you know we're getting

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ready to wrapping up the first draft of the Community College Plan and it's really terrific so we're looking forward for all these pieces to come together.

Commissioner Gonzales moved approval of Resolution 2000-38. His motion was seconded by Commissioner Trujillo and passed by unanimous voice vote.

I. Matters from the County Attorney

1. Executive Session:

a. Discussion of possible acquisition of real property or water rights.

b. Discussion of pending or threatened litigation

c. Limited personnel matters.

Commissioner Anaya moved to go into executive session to discuss the three items listed above. His motion was seconded by Commissioner Gonzales and passed by unanimous roll call vote as follows: Commissioner Gonzales, Commissioner Anaya, Commissioner Duran, and Commissioner Trujillo all voted in the affirmative. [Chairman Griñé was not present for the vote but did participate in the closed session.]

[The commission met in executive session from 3:25 to 4:15]

Commissioner Anaya moved to return to open session and declared that the only items discussed were those three items listed above. His motion was seconded by Commissioner Trujillo and passed without opposition.

Commissioner Trujillo moved to approve the COLTPAC acquisition of Rio en Medio property for 120 acres for $1.125 million and Old Pecos Trails property (Popé) for $600,000 with an appraised value of $700,000. The motion was seconded by Commissioner Anaya and passed by unanimous voice vote.

F. Matters from the County Manager

CHAIRMAN GRIÑÉ: Continuing with the item we had public hearing with last night. I'm going to allow public comment by only the people that are new and whether you're for or against but not to the people that spoke to us last night.

Are there any of you out there that did not speak to us last night and would like to make comments to the commission? Okay, that's two; fine.

State your name and proceed with your comments.

MAX BACA: Mr. Chairman, I'm Max Baca. I was born and raised here in

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Santa Fe County and have lived here all my life.

I am employed by Cornell and I haven't been forced to come here by Cornell. They haven't promised me, if there's a yes vote, they haven't promised me anything for it. I am -- - and I'm not here for myself. I'm retired and I'm working because I want to work not that I have to work. But I am here to talk for the people here in Santa Fe and those of Santa Fe County that are working for minimum wage and can't find jobs here in Santa Fe. I'm talking to those kids who have left Santa Fe because they don't have decent paying jobs.

So, I'm asking you to please consider to vote for more jobs in Santa Fe. Vote for better paying jobs in Santa Fe and vote for economic development in Santa Fe.

Thank you.

CHAIRMAN GRIÑÉ: Thank you. Next speaker.

DEBBIE HARCHAIC: My name is Debbie Harchaic and I'm also employed by Cornell Corrections and I wasn't forced to come here either. I'm here on my own accord.

I want to speak on behalf of the people that I see that come in and the people that I know that live in this community and how desperate we need more jobs here. I myself was a -- I have three children and I stayed home and raised my children and I found myself with really no working skills at age 30 and I was hired by CCA at the County Detention Center and I'm making one dollar less an hour than my husband and he's been in the job for 20 years and I've been in it for five so there's a lot of good opportunity there and also there's college incentives through that. I think our community really needs jobs here and I think that's where our focus should be on opening up jobs for the community. I have a daughter that has graduated from high school that's thinking of going to San Antonio because of the job market here and I think that is an issue that we need to think about, our people.

CHAIRMAN GRIÑÉ: Thank you. Next speaker, please.

KATHERYN MAGDALENE: Hi, my name is Katheryn Magdalene and I've been living here for one year and I now practice the old art of house-wifery. In the past I too have worked at minimum wage jobs and there have been years where I didn't make enough money to pay taxes.

In spite of that kind of economic stress, I believe that the morality of whether you're making money off of prisons or you're making money off of something else is more important. I see that you have protection of property, religion and language up there and equal justice under law but I don't think the INS prison has anything to do with equal justice under law and I don't think an INS prison is protecting people which come before property, religion and language.

I think New Mexico and this part of New Mexico can come up with really wonderful creative industries that will bring in better jobs, better money and a better future. Some of those are -- I don't know why we don't have a gigantic solar productive industry; why we don't have a gigantic windmill making of electricity and selling it to other states. Things like this are entirely possible in this area. You could have green houses with organic food

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that has to be sold to California because California has sold itself to GMO agro-business and the country is going to decide at some point that they don't want to buy this tainted food, that they want to buy real food from New Mexico. I think we need to be more creative and I think we're not -- we need not to participate in INS because I don't think it is a moral thing for the entire country much less for the place I live in.

CHAIRMAN GRIÑÉ: Thank you. Next speaker, please.

MARA TAUB: Good afternoon. My name is Mara Taub and I have been a teacher for over 30 years. For the last ten years I have taught at a local program that I'm sure you're very familiar with SCAR, jobs for progress, which is job placement, training and education.

I know that there are local programs that are doing a very good job of job development and have helped my GED high school drop out students for over 25 years. So I urge you to remember that and not to grab for the false gold-ring of quick and dirty money but to remember the welfare of our whole community and to do the right thing.

Thank you.

CHAIRMAN GRIÑÉ: Thank you. Next speaker.

VALENTINE VALDEZ: My name is Valentine Valdez and I'm a native of Santa Fe and what I have seen in Santa Fe is a disgrace to Santa Fe and to our people. They are bringing a lot of destruction to our city and by building the -- by getting more people up in the state pen is not right. We don't need convicts in here. We need decent people. Which one of you is going to say sorry if one of the ladies gets raped or one of your own sisters or brothers get killed. I don't think it's right to bring that kind of people around here. Take them up to some field up in Roswell or some other place. We don't need that kind of prison here and I hope you think about the people around here. It could be your own brother or sister that the convicts can hurt because there's nothing -- there's no way that you can that nobody can get hurt.

There's no prison in the world that can hold the convicts the -- not very long ago in Taos some people got killed because they let a prisoner go loose. And it happened in different other parts of New Mexico several times, not just now. Thank you.

CHAIRMAN GRIÑÉ: Thank you. Next speaker.

JOAN CHERNOCK: My name is Joan Chernock and I have lived in Santa Fe since 1982 and I'm a secretary/word processor. I just want to say for the record that I think it is highly immoral to make a profit off of captive human beings. There are certain activities that should not go into the profit arena and prisons are one of them. Education is another.

I just think that this whole argument about jobs is bogus. Hitler had a factory, maybe more than one, but at least one factory in Germany that processed human skin from the concentration camps into lamp shades and there were many people who worked in that factory. I could provide you with statistics as to how much they were paid relative to the going wage at that time. I don't have that information at the present moment but, you know,

you can make an argument that a job is a job and we all need jobs. There are some jobs, however, that are simply flat out immoral. Thank you.

CHAIRMAN GRIÑÉ: Thank you. Next speaker.

JAMES PLUMBER: Good evening. My name is James Plumber. I'm a high school graduate of Capital High. When I graduated high school looking for a job I went and applied at Cornell with no experience. They gave me the training. They gave me what I need. I now have a career. I'm making pretty good money and pretty much I can go anywhere I want now and that's thanks to the training and the time Cornell has spent with me.

CHAIRMAN GRIÑÉ: Thank you. Next speaker.

SARAH MILLER; Mr. Chairman, members of the Commission, I'm Sarah Miller and our family has lived in Santa Fe for the last 33 years. Our children have gone through the public schools of Santa Fe and I've always been very proud to be a member of this community.

I've been teaching English as a second language for the last three years and I wish I could convey to you the excitement of the students I have taught have had about being free when they know english to be a real member of the community in which they live. I think one of the glorious things about being a part of Santa Fe is the fact that we have lived and worked together with everybody in this community and I would hope that we would -- while we realize how important jobs are that we would think there was something even more important than jobs. And that is the sense that we are all one community and that's the way that we would like to stay. Thank you.

CHAIRMAN GRIÑÉ: Thank you, ma'am. Any more speakers that haven't spoken yesterday or today?

ALEXIS HIGGINBOTHAN: My name is Alexis Higginbothan and it's not that I'm against jobs, I just think it's interesting that you're rushing so quickly to make this decision when you're adding such a large number of people to the population without thinking about water usage or sewage or increased traffic or safety measures that you are so quick to make this decision. I question the validity in that. It's something that you haven't even investigated. If you were building 200 houses in that neck of the woods, you certainly would have investigated it a lot more thoroughly than it has been investigated so far.

CHAIRMAN GRIÑÉ: Thank you. Any more speakers? Okay, then this concludes the public hearing portion.

MR. MONTOYA: Mr. Chairman and members of the Board, during this segment of the Commission meeting we would hope to go over with you all the instruments that would be required by the Board of County Commission to consider this proposal and to execute the relationships between the state and the county, the county and Cornell Corrections in terms of the sublease, and then the actual operating agreement which would guide the principles by which the private-sector would run this facility.

I want to point out, Mr. Chairman, that we have been working long hours with the

general services department of the State of New Mexico to work out the components of the state lease which is the first instrument that we will review which provides for a 24 year term whereby the county would lease the main facility from the state for that period.

I will defer in a few moments to Mr. Richard Crane who is a consultant to the County who has helped us draw these agreements and has helped us negotiate the particulars relative to the operating principles that we'll be discussing in a few moments.

The second instrument, Mr. Chairman, is the sublease between Santa Fe County and Cornell Corrections. The term of that instrument is 15 years, Mr. Chairman. The third instrument is the operating agreement and that is basically what authorizes the Cornell Corrections Corporation to run this facility on behalf of Santa Fe County. The term of this agreement is a three year term. Mr. Chairman, in that particular instrument is where a lot of the technical instruments will be on what dictates how this facility is run. I want to point out, again, that this facility is a jail annex for Santa Fe County and will provide pre-release which incorporate work furlough and electronic monitoring and aside from that will house Bureau of Prisons detainees.

COMMISSIONER GONZALES: Mr. Chairman. Sam, there's been considerable talk about the public process and I think before you get started it's important that we understand why you think it's important or why you think the administration has gone through the due public process up to this point. And you mention that this is an INS and I think that could be partly some of the issues in our community. I talked to some people this morning that think this is an INS holding facility which -- when we use the words INS detention or INS detainee they might -- I could see where someone might think that this is a holding facility for people that are picked up in our community that are either here legally or illegally and that's not the case. This is an actual facility where only people who have committed crimes in this country against local laws are brought to.

I think it's important that before you go into the agreements that we understand what public process has taken place from the beginning to the end and also again, a definition of this facility because I keep hearing and people keep stating the horrors that occur in holding facilities which I agree that there's proof that holding facilities are not humane places for individuals but this is an actual facility, what I am told by you, this is a facility for people who have committed crimes in our community and are serving their sentences out.

MR. MONTOYA: That's correct, Mr. Chairman. The Cornell Corrections has submitted a proposal to the Bureau of Prisons to hold and the definition of these detainees is low-security individuals who are non-violent and have had a history of non-violence for at least five years and the term of their incarceration or their detainment is approximately 60 months, which is five years, and the average stay for an individual is approximately 18 months.

COMMISSIONER GONZALES: But are they incarcerated because they are immigrants?

MR. MONTOYA: Mr. Chairman, Commissioner Gonzales, the reason that

these individuals are detained is because they have violated a federal law. They basically have committed a federal felony. However, the violation of this law will go toward issues relative to illegal sale of drugs, trafficking of drugs, possibly fraud, theft, possibly -- those types of criminal violation that require them to be detained.

COMMISSIONER GONZALES: So will there be as a result of this by our sheriff, local police, or anyone else who -- will there be another level of authority in this town that is trying to go after the immigrant that has come to be a part of our community and hold them at this facility?

MR. MONTOYA: No, Mr. Chairman. There has been a misconception that the INS will set up operation in this community and run out of this facility: that is not true. Basically, Mr. Chairman, the agreement here is with the Bureau of Prisons not with the INS and I want to make that clear and we have indicated that there will be no additional level of presence of the INS in this community.

COMMISSIONER GONZALES: This may be a question for the sheriff that is here, if there's an immigrant in our community who commits a crime are they taken to this facility?

MR. MONTOYA: No, Mr. Chairman. They would have to be adjudicated by the federal courts before they become a steward of the Bureau of Prisons.

COMMISSIONER GONZALES: If there is an immigrant who is in this community that is here legally and they are picked up for whatever reason, are they taken to this facility?

MR. MONTOYA: No, Commissioner Gonzales, they are not.

COMMISSIONER GONZALES: Okay, then can you go into the public process that has taken place?

COMMISSIONER DURAN: Mr. Chairman, I have one clarification before we go on. Sam, the inmates they will not -- they have not -- I want to make sure that I'm clear that I understand what I have heard in that the people in the facility did not commit violent crimes.

MR. MONTOYA: That is correct, Mr. Chairman. They are considered to be low-security detainees. Mr. Chairman, the Bureau of Prisons, the standard for holding this type of detainee is a double perimeter fence around the facility that holds them. That will give you an indication -- in other words, there are no requirements for guard towers or any of these other correctional standards because the detainees are low-level detainees, Mr. Chairman.

COMMISSIONER DURAN: And the reason I ask is that the level of desperation for those inmates is greater for those that have committed violent crimes like murder, rape, armed robbery and -- what I'm trying to find out is if this thing does pass, that this community is assured that the level of desperation that is going to be confined within those walls is one that has not been created through a violent crime.

MR. MONTOYA: Mr. Chairman, Commissioner Duran, your assessment is

correct.

COMMISSIONER GONZALES: I just want us to review the public process because I think that's a valid point that has been brought up today as to the process that has taken place and why we are here today with the administration asking us to act on this proposal.

MR. MONTOYA: Mr. Chairman, in terms of the process that the Commissioner is alluding to, I covered some of these points last evening but I will cover them again, Mr. Chairman. The Board of County Commissioners has instructed the county manager and senior staff to follow a certain level of goals and objectives that will hopefully bring to this community a stimulus and a safety feature and also bring a progressiveness that will help this community grow into the new century. Mr. Chairman, we have been asked by the Board of County Commissioners to make certain that as we develop our work plan for 2000 and forward that we make sure we do not impose an undue hardship in terms of taxes on our constituents. Therefore, Mr. Chairman, as we strive to provide a myriad of services to our community we have also been charged then to find alternative methods of creating recurring revenues to this community.

As we work hard to develop these strategies and to determine how we will provide for budgetary growth in our community, we have looked to the economic sector and how we can balance social needs, which is something the Commission is very concerned about providing programs for youth and children, and elderly people, the disadvantaged people and special interest groups, we are charged then with working with our community to structure a program that will create new jobs and not only create these jobs but retain them and these jobs area required to have high paying structures in the case that we are proposing this evening, Mr. Chairman, the payment structure for the salaried employee is driven by the Department of Labor. The starting salary at this facility will be $13.50 an hour. We're talking about approximately $28,000 a year to $30,000. These people will also be paid overtime if they need to work overtime. We're talking about a standard, Mr. Chairman, that has been set by the federal government that they must follow because this is a federal detention facility.

As we look at the creation of these jobs, we also look for a partner as we strive to develop public/private partnerships that will provide educational opportunities to these employees. We want to make sure that once these folks are employed that they have opportunities to grow in the educational sector and that they're able to grow in terms of reaching administrative positions where the salaries will be augmented based on the commensurate need for education. Mr. Chairman, the corrections corporation that is before us is willing to provide this educational stimulus and to help their employees to better themselves and to help pay for that educational component.

We are also asked, Mr. Chairman, as we look at the economic situation in this community that we try to incorporate every sector of our economic strata which incorporates the construction trades, the professional trades, the professional people all the way from

using legal minds to medical expertise and the like. The stimulus that this project will bring to our community will utilize every sector of the economic strata that can be imagined.

Mr. Chairman, and the other issue that the County has been striving to work with when we consider economic stimulus to this community is provision of a stronger more effective tax base. We're talking about bringing tax dollars not only to the local governments, the city and the county, but also to the state of New Mexico. There will be gross receipts tax generated on an annual basis for this project and there will also be lots of gross receipts generated during the construction period when renovation will occur.

Mr. Chairman, in closing I want to make sure that we underline this last particular portion of this program is that as we look for development of these partnership, public and private, we also most definitely want to bring projects to the Commission that will provide and retain and protect the health and safety and welfare of this community. We would not be bringing or proposing a project to the Commission that would in any way harm the multicultural base of this community that would go against any of our specific strengths of this community. We are very cognizant, Mr. Chairman, of the issues that have been brought forth by the very articulate people that came before this board last night and even today talking about the fact that there have been human rights violations across the country and across the world. Mr. Chairman, our answer to that particular issue, is that we realize how important this is to you and the community and I want to say that in this project there are so many levels of scrutiny in terms of monitoring we will have the Bureau of Prisons with approximately 12 people on-site monitoring how this program works. The INS should they have detainees in this facility will also have a presence there. The Attorney General of the State of New Mexico will have oversight in this facility. There is a requirement that the grand jury review this facility four times a year. And I want to point out that the grand jury is not appointed by the county: it is appointed by the district judge, the presiding judge of the district courts would set aside the individuals who they will ask to go and review this procedure.

Along with that, Mr. Chairman and members of the Board, the County sheriff will have local monitors at this facility that will also look to make certain that there are no violations for the detainees in this facility. And I want to also point out that -- and encourage some of the people that came last evening that told you that they are very concerned about human rights violations and the dignity of the detainees that we don't disagree with any of that, Mr. Chairman, and those people I'm sure will be here seeing and making certain that the detainees are also protected. So, Mr. Chairman, when you look at all the people that will be involved in the monitoring of this program there are layer upon layer upon layer of people overseeing this project. I think that's good and we actually appreciate the fact that the legislature has also reviewed this proposal.

Mr. Chairman, in terms of the public process, we went before the senate of the state of New Mexico. We went to committee hearings there. We went to the floor of the senate. We went to committee hearings on the house side, several of them and we went also to the

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house floor and answered questions and we have been before all 112 legislators of the state of New Mexico with this project and have answered their questions to the best of our ability and have done every due diligence possible to answer all of the questions that I think have come up as far as this process has evolved.

Now, Mr. Chairman, I am the first to admit to the Board of County Commissioners that there is no way that the County of Santa Fe will ever satisfy 100 percent of the populas There will always be someone that is in discord or disagreement with what the County is proposing to do. I acknowledge that, Mr. Chairman, and I respect that. There is no way that we will be able to suffice or to answer all the questions to whatever level of intent of what some of the questions that were begged answers for.

But, Mr. Chairman, that from my perspective, Mr. Chairman, has been the public process. We have also been in the local newspapers relative to this proposal over the last 90 days I would say. There have been articles in the paper starting back in January of 2000 all the way through to the current date. There have been strong articles, editorials about how people feel about this proposal. There have been excellent articles written by individuals who write for the *New Mexican* and the *Journal* giving all the facts and being fair about the presentation. So I don't think that anyone can say that we have done this behind closed doors. We have worked diligently to bring this proposal to you and we are here to answer every single questions that might come up relative to the three instruments that talked about that are the legal vehicles for this proposal to work should you deem it appropriate.

Mr. Chairman, I would stand for any questions.

CHAIRMAN GRIÑÉ: Thank you, Sam. Any questions?

COMMISSIONER GONZALES: Mr. Chairman, I have a question to the issue of employees. Sam, last night one of the city councilors made a comment that the employees of Cornell, that the $28,000 that was being reported that employees would have to work an enormous amount of overtime to get up to the $28,000 pay factor; is that true? And how do we assure the people of Santa Fe if they are going to work in this facility that they are going to be protected if they are not represented by unions or what is going to govern their pay?

MR. MONTOYA: Mr. Chairman, I would like to defer to our counsel, Mr. Crane, to answer that question.

RICHARD CRANE: Mr. Chairman and members of the Commission, this is the document put out by the Bureau of Prisons asking for proposals for this project. There are other proposals submitted of course besides the one in New Mexico. One of the requirements, Commissioner, is that the pay scale be tailored to the GS rates that the federal government uses so the contractor, Cornell, would not have the discretion to pay any less than what is in this document.

COMMISSIONER GONZALES: So what's in that document?

MR. CRANE: Well, it's some GS numbers with --

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COMMISSIONER GONZALES: But with the numbers that have been reported are they accurate numbers that they're saying without experience it would be $24,000 and an average would be $28,000 and on up or is it going to be much lower and people are going to have to work a lot of overtime to earn that much money? I think there were a lot of issues that were brought up that were conflicting.

MR. CRANE: I'm sorry but I don't know the answer to that question.

MR. MONTOYA: Mr. Chairman, if I could, the proposal at the $28,000 level requires some level of education but it does not require an excess of overtime to reach that level; it certainly does not.

COMMISSIONER GONZALES: That was my question.

COMMISSIONER TRUJILLO: I have a question, Mr. Chairman. Sam, we've discussed and talked about this facility being a model facility for the inmates that are housed there for providing the appropriate legal services, the appropriate educational services, the appropriate counseling services and we want to make that part of the contract. How are we guaranteed that this will be monitored and how will Cornell be accountable to make sure that these sorts of things happen?

MR. MONTOYA: Mr. Chairman, I want to point out that the Bureau of Prisons requires any of its contractors, which would be Cornell Corrections in this case, to operate under the corrections standards, the American Corrections Standards that are standards for corrections across the country.

COMMISSIONER TRUJILLO: Excuse me, Sam, but we want to be a model. We want to be more than the standard.

MR. MONTOYA: Yes, Mr. Chairman, if you would indulge me, Mr. Chairman, I do have some additional comments on that point. The base that I would like to start from is that we will be using the American Corrections Standards as the base. They are very strict and diligent standards, Mr. Chairman. However, on top of that, we have asked that Cornell Corrections makes certain that there are programmatic elements in this contract that will enhance that, Mr. Chairman. And we are talking about not only the common practices of having recreation and having libraries and having things of that nature. We are asking that there be training for these people, so that they can prepare themselves to reenter the community when they leave this facility. Mr. Chairman, one of the components there is most definitely that there will be possibilities to earn your GED and learn English as a second language and all of these other components that kind of developed on how long the individual is in the facility.

I also want to point out that in order to be a model facility and going to your specific point, Mr. Chairman, we have talked to Cornell just today, about what was brought up last evening, countless times, time after time, people talked about the fact that there is no legal representation for these people held in these facilities. I heard that mentioned about 12 times last night and it basically stuck in our minds that something needs to be done about that, Mr. Chairman, and Cornell Corrections has agreed to provide a sum of money approximately

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$100,000 to provide legal services for these people should this contract be executed.

I took the initiative, Mr. Chairman, to contact the UNM law school today and I talked the Dean and I asked him about the possibility of utilizing the UNM law school to provide a certain portion of that legal provision to these individuals. And we did talk about that for some time. Mr. Crane was on the call with me and we asked the Dean to consider utilizing some of the law school students to provide this service. He indicated that he was very open to that and he thought it was a good proposal and that they could provide services in three particular areas, civil rights violations, issues that go towards preparing for any issues relative to deportation if that is the issue. And we need to work out a lot of the particulars, Mr. Chairman, but I think the good news is that the UNM Law School is very open to this concept and I think it's important that Cornell has also seen that in order to make this facility the state-of-the-art that we need to bridge those huge gaps that some people believe exist and if the connection with the legal sector needs to be made, Mr. Chairman, I think that we can work on that element and put it into this component. That would certainly make this center state-of-the-art.

COMMISSIONER TRUJILLO: On the other side of my question, how will we monitor that? Your plate is overflowing with meat balls all over the floor, who will be assigned to make sure that those commitments are met and that Cornell is accountable for what they have promised to do?

MR. MONTOYA: Mr. Chairman, Commissioner Trujillo, we have in the contract instrument the requirement that a monitor at the facility will be paid for by Cornell Corrections. So we do have a fully paid for staff that will be basically charged with making certain that every provision of the contract is carried out.

COMMISSIONER GONZALES: Commissioner Duran.

COMMISSIONER DURAN: Who selects that monitor?

MR. MONTOYA: Mr. Chairman, the County does.

COMMISSIONER DURAN: I have a question, Sam, on the average $28,000 yearly salary. When you average it that's a little deceptive, I guess my concern is that the cooks, the custodians, the real core people there aren't being paid $7 and $8 an hour and someone else at a different position is getting paid $25 an hour and so the average is $28,000 a year but there is an inequity there because someone is only getting minimum wage. Is that going to be addressed and how?

MR. MONTOYA: Mr. Chairman, again, I want to point out that this facility will need to operate under the Department of Labor standards and to further answer your question I would have to get that scale to be specific for you.

Mr. Chairman, we have the information right here. Basically, it gives you a federal rating for cook 1, cook 2, baker, secretary 4, secretary 3, all the way down to the gardener and it gives you the GS rating and --

COMMISSIONER DURAN: All right. So it's all federally regulated.

MR. MONTOYA: Yes, that's my point.

COMMISSIONER GONZALES: Sam, moving back to some of the questions, and I know we need to move on to the agreements so that we can understand them, but back to the issue Commissioner Trujillo was asking about specifically concerning the programs in the facility. There were a couple that came out last night and I wanted to do a follow-up question with what Commissioner Trujillo indicated in how we hold Cornell accountable. That's particularly in the areas of education and being able to receive a GED and the in the areas of being able to learn English as a second language, religious activities which are very important to immigrant communities. How are we going to insure that those programs are an integral part of the facility and made available to the individuals who are in the facility?

MR. MONTOYA: Mr. Chairman, again I want to point that those are exactly the programs: education, counseling, religious activities, work programs, hobby craft which helps people utilize their abilities and recreation. The issue is going to be that the monitor will be required to make certain that these programs are underway and are continual that there is no break and that the quality of these programs is high and that the detainees in the facility are active.

COMMISSIONER GONZALES: If they're not met, if these programs are not being done, are those grounds for cancellation of the contract?

MR. MONTOYA: Yes, Mr. Chairman. We will have a zero tolerance for any violation within the facility. We're going to make sure that all of the policies and procedures are followed. That all the programmatic elements are followed. There is a requirement that we allow the Corrections Department or the vendor to cure these issues, but if they are unable to fix them, most certainly we would move to end the agreement.

CHAIRMAN GRIÑÉ: Commissioner Anaya.

COMMISSIONER ANAYA: Mr. Chairman, thank you. Sam, one of the concerns that surfaced last night was the County's liability as far as should something happen out there or should Cornell decide to leave; how have you addressed that?

MR. MONTOYA: Mr. Chairman, in terms of indemnification or --

COMMISSIONER ANAYA: Both.

MR. MONTOYA: I want to read to you the indemnification relative to an insurance relative to these proposals. Both the operating agreement and the lease provide the following protections to the County, the State and their employees. Indemnification, Cornell must pay for any claims, losses, or damages levied against the county, the state or their employees and for any cost and expenses including legal expenses that occurred in connection with them. Insurance: to be certain that there is money available to reimburse any of the parties, Cornell must carry comprehensive commercial liability insurance approved by the county in amounts not less than $5 million for each occurrence with aggregate coverage of not less than $10 million.

Mr. Chairman, there is also another provision relative to the improvements should the operating agreement be severed with Cornell and after the improvements have been made there is a bond in place that will take care of those improvements should the relationship

end.

Mr. Chairman, we intend to cover all these points as we cover the agreements I don't want to step too much into the presentation of those agreements and Mr. Crane's presentation to you.

CHAIRMAN GRIÑÉ: Thank you, Sam. Any other questions of Sam? If not we move on to F.1.

COMMISSIONER DURAN: Mr. Chairman, I would like to ask those people that are opposed this project to show a little respect. I'm glad you're having a good time back there and yakking it up but show a little respect. This is a very serious matter to us and we would appreciate you showing a little bit more respect to this body and the people that are here.

1. Request authorization to enter into a sublease agreement with Cornell Corrections for the Santa Fe County jail annex located at the main unit of the New Mexico State Penitentiary.

MR. MONTOYA: I'd like to defer to Mr. Crane to go over the agreement and we'll both field any questions that you might have.

COMMISSIONER GONZALES: Mr. Chairman, just in case it wasn't done or that I may have missed it, could we review Mr. Crane's credentials for the record and why he was brought into this process to serve as County Counsel.

MR. MONTOYA: yes, Mr. Chairman. I'm sorry, that was my fault I was a little remiss. Mr. Chairman, Mr. Crane was a consultant to the State of New Mexico and provided a in-depth report on prisons in New Mexico. He was part of a team that was hired by the New Mexico State Legislature to put this prison report together that was very, very key to the legislature at the last session. Mr. Chairman, after having read that report and having appreciated the content, I contacted Mr. Crane and asked him if he would be willing to work with Santa Fe County to develop these lease agreements and this operating agreement for your review. Mr. Chairman, I think Mr. Crane brings a varied experience. He's been in this business for many, many years and has drafted many correctional agreements. Mr. Chairman, from an expertise standpoint, I think Mr. Crane is one of the best in the country.

COMMISSIONER GONZALES: Thank you, Sam.

CHAIRMAN GRIÑÉ: Yes, Mr. Crane.

MR. CRANE: Thank you, Mr. Chairman and members of the Commission. I know that you all spent a lot of time on this yesterday and today so I'm going to be very brief and not go through these contracts in a lot of detail but please ask whatever questions you need to have answered.

As for me, when I heard Sam talking and he said that the lease between the State and the County was 24 years and the lease between the County and Cornell is for 15, if I were

sitting in your position my question would be what's going to happen during those nine years that Cornell is gone who is going to pay the rent and everything else? So let me address that.

There will be no rent. The lease agreement with the state is really excellent. It requires the County to pay rent in the amount of 20 percent of any rent it collects from a sublessee. So if there is no sublessee, the facilities is not sublet, if the County is not receiving any rent then they don't owe the State anything, number one. And number two, at any time that the County determines that the lease is not something that they want to do, they can cancel/terminate the lease. So if it was not longer to be used for the purposes that was the original idea which is this jail annex, then the County has the right to cancel. So there's are really the main two provisions of the lease between the state and the county.

CHAIRMAN GRIÑÉ: Thank you, Mr. Crane. Yes, Commissioner Duran.

COMMISSIONER DURAN: I have a question relative to the improvements. It's my understanding that Cornell has agreed to renovate to the tune of about $27 million and I guess I hear there might be some question, someone brought this up at the meeting last night, that the entire amount of $27 million must be spent before anyone can occupy the premises and I was wondering if you could clarify that for me.

MR. CRANE: That is not my understanding. It's going to be done in phases and as one phase is done, the proposal to the Bureau of Prisons is that at that point inmates could be moved in. It would be up to the Bureau of Prisons to determine whether they felt the facility was suitable for occupancy at that time.

COMMISSIONER DURAN: So they would inspect prior the occupancy of any inmate?

MR. CRANE: Both they and the Attorney General under the resolution that was passed under the past session, the AG has to inspect as well.

COMMISSIONER DURAN: Thank you.

CHAIRMAN GRIÑÉ: Any other questions of Mr. Crane?

COMMISSIONER DURAN: Then the ownership of the improvements, again, my understanding is that the improvements are going to be mortgaged and there's going to have to be -- I guess the State and the County will have to subordinate those interests or their interest to those improvements to the mortgage company. What happens to those improvements after say we have to terminate the contract with Cornell?

MR. CRANE: What would happen, Commissioner, is that if Cornell breached the contract then they would be responsible for the payment of the improvements otherwise if it was terminated for any other reason, because of the loss of the contract with the Bureau of Prisons or the loss of the jail powers -- or whatever other reason there might be, there would be a bond which Cornell will pay for that will cover the cost of the improvements and that bond would be issued to the County and at such time that the County receives the funds from the bonds then they would pay off the improvements. The lease -- this is actually in the lease with the County and Cornell, it's very clear that the County need

only pay up to the extend of monies received from the bond and not a penny more.

COMMISSIONER DURAN: Okay, so the property insurance premium and the public liability insurance premium will also be absorbed by the lessee.

MR. CRANE: Correct.

CHAIRMAN GRIÑÉ: Any other questions?

COMMISSIONER GONZALES: Sam, Mr. Crane, concerning utilities and the cost of the operation the lessee shall be responsible for payment of any utility and installation of required separate metering devices including but not limited to electricity and natural gas necessary for the operation -- I'm assuming water is included in the issue of utility?

MR. CRANE: Yes, and that is -- if you're looking at the State/County contract that is not very specific. It's far more specific in the contract with the County and Cornell.

CHAIRMAN GRIÑÉ: Any other questions?

COMMISSIONER TRUJILLO: What I want to do is to address a perception that the community has for me being a nefarious, baneful, cantankerous individual from the rest of the my fellow commissioners.

I just so happen to yesterday when I got home I got a call from my compadre Salomon Gostas who lives in Tierra Azul. He is the father of the only godson that I have. This is an immigrant family that I have been associated with for the last 18 years. The lifeline extends from Chihuahua to Cordonias Lopez Mateo en cuidad Juarez to El Paso and Tierra Azul in Northern New Mexico. This is family that I have shared and talked beautiful words. That we have eaten the same food. That we talk the same language and that our struggle is one struggle. This is the epitome of the heart of Axlan. This is 400 years of consummation where the residents have related and the only thing that has moved is the border. This is not Kearnism getting up at the Palace of the Governors and patronizing the local community. Talking about carpetbagging, the Santa Fe ring, the infamous Santa Fe Ring is the epitome of carpetbagging.

And then we get people going out into our community and digging a ditch, participating in a ritual that we've had for 400 years and digging a ditch one time and writing a book the next day. This is a real issue that we need to address. This is an issue of humanitarism and an issue of compassion. This is something that we have to deal with. This will provide jobs to the economy of northern New Mexico and Santa Fe County. This is a facility that we will use to detain people in a humanitarian compassionate way.

COMMISSIONER ANAYA: Mr. Chairman.

CHAIRMAN GRIÑÉ: Yes, Commissioner Anaya.

COMMISSIONER ANAYA: I guess justification of the vote is kind of in order. [The Commissioner states in Spanish that his family came from Mexico and when he went to school he learned in both Spanish and English. He indicated that his heart is filled with the food and music from Mexico and he considers it his second home.]

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If it was up to me, there would be no border at Texas, Mexico or Arizona or California because I sincerely feel the free-flow should be there. And bootstrapping unto what Commissioner Trujillo said; however, high emotion is not a basis for decision making on this particular issue.

Yesterday I heard emotional outcries. I heard, "Give social justice a chance," by Ms. Prince. I heard, "There's a wedge being created," by Maria Christina Lopez. "It is immoral," by Steven Farber. Teachers concern about the divisions between children and this I heard from Sherry Tippett and the teacher Daniels down at Turquoise Trails. And that it is an immoral industry. The problem is this, the people that are going to be incarcerated have done something wrong. They have done something wrong. They are also creating a social injustice and we're not labeling out the entire immigrant community as such. That is a misconception as far as the public is concerned.

The isolated people here are the ones who have committed a crime. I have been victimized, Mr. Chairman, if I may pass these around. And I have given a copy of this to Dale Lazon from the *Albuquerque Journal North* has already seen it. I've given a copy to Karen and in that blue folder right there is the originals which I want back of the victimization that I experienced. A group of immigrants came in and I gave a bleeding heart out like a lot of you people are doing right now because they couldn't cash their checks at a bank, I got suckered in to the tune of $2,500 a long with Mr. Payroll in this town who is in the business of cashing checks. That's exactly the type of criminal activity that can be generated by the people that have no concern for the law at all.

I was victimized. Three weeks ago I was held up at gun point in my business not by immigrants but by locals which at this point now -- I at one point thought why prisons, I didn't need them and I didn't think in my heart that we needed so many prisons. But when you become a victim it gives you a totally different perception of that need.

The message out there to the teachers and the young student that came and talked about that wedge that has supposedly been driven at these schools is not this particular factor. It is their own generation of this kind of animosity if there is any. My advice to them, teachers and students, is coagulate a good respect amongst the immigrants that are good immigrants. That's where the social justice lies.

Also, I asked last night if anybody had seen 60 Minutes on Sunday that is sponsored by CBS, it aired exactly what we are handling today. What happened from the 60 Minutes was that these particular types of inmates that we are being asked to house over here are being housed with murders, rapists and the worst elements that exists in this nation. Not only that, there's also some social inadequacies there where they have no legal way to turn back to the countries whether they be Laotians, Guatemalan or Cuban where they are not accepted back by their own nations. These people are caught and they need a place to stay and they need to be given an opportunity of legal counseling whether by the Catholic Services or perhaps even Cornell or the County Commission can submit to them some kind of seed money from whatever proposals come forth to create this kind of effort. And that's

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what surfaced in 60 Minutes, ladies and gentlemen and members of the commission. It is my opinion that we're not classifying immigrants, we're classifying different felony activity and putting it in a softer level than what they are exposed to today. That's my feeling about it.

I can only finish with this statement that I can borrow from one of the best philosophers that I have ever heard and this philosopher never studied at St. Johns College -- it's Benito Juarez [Spanish]

So I leave you with that which is my decision and a lot of heart felt tug and pull decision within my heart so the way I will vote tonight is a sincere vote.

COMMISSIONER DURAN: I have a couple of things. First of all I believe what I would like the Commission to do this evening is to table this item because of the public input that we received last night and today. I think that it requires a bit more thought and needs more input from the community. I think we need a task force comprised of commissioners and other leaders of the community to make a decision as to whether or not this kind of activity is good for our community and I don't believe that rushing to approve this use is appropriate.

For the last 20 years or so when the facility was shut down we haven't had the fear of someone escaping like we had when we were growing up as kids. When people would escape there would be other victims and people got kidnapped and raped and we haven't had to live with that horror for a long time and now we're talking about bringing that possibility back into this community and I think it requires a little bit more thought and input.

The other thing is if you do not agree to table this thing I think it is appropriate to go through the leases one by one and not vote on them one by one but vote on them as a whole because if you approve one, you're essentially saying that you approve them all but I would like to make the motion that we table this item to have more public input and have a community based decision.

CHAIRMAN GRIÑÉ: Do I have a second. It dies. Do I have another motion.

COMMISSIONER GONZALES: I agree with Commissioner Duran as far as going through the proposed agreements first and then making a decision on them as a whole.

COMMISSIONER DURAN: I have one other comment. I'm opposed to this proposed use. But early on when I learned that we were going to pursue this I did make it a point to get involved with this and make sure that we had legal counsel help us prepare a document that would protect the public and this community. So I just want you to know that however this thing goes tonight I will work to make it safe.

COMMISSIONER GONZALES: I'm prepared to go forward has the staff completed the sublease and the issues of the operations agreement.

CHAIRMAN GRIÑÉ: So you want to go to number two?

COMMISSIONER GONZALES: I agree with Commissioner Duran and I don't mind hearing them all first before we go step by step.

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CHAIRMAN GRIÑÉ: Okay, that's fine.

MR. MONTOYA: I think we've provided a scenario and answered all questions on item one.

2. Request authorization to enter into an operating agreement with Cornell Corrections for the Santa Fe County jail annex located at the main unit of the New Mexico State Penitentiary

MR. CRANE: Thank you, Mr. Chairman. As I already mentioned this lease agreement with Cornell would be for a maximum of 15 years. I should point out that their contract with the Bureau of Prisons will be initially for three years with seven one year options so it could be as much as ten years. The lease terminates automatically if Cornell abandons the facility, if they breach any material term of the lease or if they fail to pay anything including the insurance premiums required or naturally the rent.

And speaking of the rent, in the first year beginning on the effective date of the contract the rent would be $1 million a year paid in quarterly payments. Twenty percent of that you'll remember would go to the state as their portion of the rent. In subsequent years the rent would be $2.5 million again in quarterly payments. And the reason for the difference is that in the first year the facility would not have any inmates at all at least the first 90 days as they begin their renovations and thereafter it would be a slow build up. The Bureau of Prisons population would be increased by 40 inmates a week so it would obviously take some time to get up to the full compliment of 1,900 inmates.

And we have talked about what would happen if the contract was canceled and how it is that the county would be protected for having to pay for any of the improvements.

Any questions on this lease?

CHAIRMAN GRIÑÉ: Yes, Commissioner Duran.

COMMISSIONER DURAN: Yes, I have a few. Mr. Crane, when we first started talking about this and Cornell offered to pay the County $2 million I had a concern that we were making $2 million and Cornell was experiencing a windfall. That they would make an unreasonable amount of money because of this. In talking to Mr. Barraras in a meeting once he mentioned that some language could be incorporated into this agreement that the profits that Cornell is realizing would be within standards or within industry standards -- it that ever get incorporated into this document?

MR. CRANE: No, sir, it did not. But what we have done and I don't know whether this would satisfy you, but let me tell you that we looked at some comparables and you have to understand that this is a real highbred privatization project there are not a lot of them out there like this where a county has an unused jail that they turn around and rent to someone to house other inmates. But I have found two such facilities. One in the City of San Diego has such a facility and they lease that to Corrections Corporation of America and it initially housed 200 and CCA expanded it to 1,200 so it's somewhat similar to the

expenditure on the part of a private company. Their rent is $985,000 per year or $821 per bed.

The second facility is in Odessa, Texas, and they contract with a smaller corrections company called GRW Corporation. It's the old downtown jail and they're using it to house several offenders and their rent is $120,000 a year. The facility hold 100 inmates so that's a rate of $1,200 per bed per year.

So we have $821 a bed per CCA and $1,200 and then we have this project would be $1,250 a year would be what they would be paying. So from that varied and unscientific survey we can see that the County is receiving more. And that's only counting the $2.5 million. There are other payments. There's $85,000 for the contract monitor, we get a percentage of any bonuses that -- we get 10 percent of any bonus that the Bureau of Prisons gives to Cornell and there's something else that I'm forgetting but we got money from them in a lot of different ways.

COMMISSIONER DURAN: So is this $2.5 million if they realize an increase of payment through the Bureau of Prisons we would realize an increase also?

MR. CRANE: No, sir, we would not. And that is one of the perhaps, the shortfalls of the lease is that it is the same throughout the term of the lease. It is not tied to any increase that they might get.

COMMISSIONER DURAN: So there is no CPI increase at all?

MR. CRANE: Well, we tried to get that but we were unsuccessful. We were successful in getting it from $2 million to $2.5 million which is significant I think but we were not successful in getting the CPI increase.

COMMISSIONER DURAN: But over 15 years that $500,000 is pretty insignificant.

MR. CRANE: That is correct, it could be, yes.

COMMISSIONER DURAN: I mean relative to the CPI increase that would be appropriate. I guess I have a concern that this thing is not tied into a CPI and I can see where it could be fixed for five or ten years but I really feel we have to have something in there -- I don't want this thing to turn into a windfall for Cornell. I know that they brought the situation to us and the opportunity, if you want to call it that, for the county to make $2 million to add to our general funds. But again I think that there are standard practices that we're required to follow in negotiating contracts for the community and the CPI agreement is clearly in order.

MR. CRANE: I guess what goes against that is the $27 million expenditure on their part to bring the facility up to where it can be used. Not that I don't understand what you're saying. But those were the different things and we were weighing those different factors in the course of the negotiations.

COMMISSIONER DURAN: What would be a reasonable CPI increase?

MR. CRANE: Well 2.5 to 3 percent probably.

COMMISSIONER DURAN: A year?

MR. CRANE: Yes, right now.

COMMISSIONER DURAN: Let's say you fixed it for five or ten -- would it be appropriate or reasonable that we fix it for ten and then increase it 3 percent or 4 percent at that time?

MR. CRANE: Sure, certainly.

COMMISSIONER DURAN: Provided that there was an increase in their income. I mean if --

MR. CRANE: Right and I'm sure there would be and I'm sure there will be every year. No, I take that back their first three years of the contract I think are flat without any increase.

COMMISSIONER DURAN: Well, I would like for this Commission to think, if we approve this document, to factor in a CPI increase and I understand that they're spending $27 million on this and they'll need some time to recover that investment but I don't think it's unreasonable to request that it be fixed for 10 then a CPI or an increase of 3 percent kicks in and then for every year after that for the next five years a CPI increase would occur.

I have no other questions on this one, Mr. Chairman.

COMMISSIONER GONZALES: Mr. Chairman.

CHAIRMAN GRIÑÉ: Commissioner Gonzales.

COMMISSIONER GONZALES: Mr. Crane, you came into the state of New Mexico and studied the jail system and the problems which have occurred with other counties and private prison operators and I guess my question is as you prepared and reviewed this lease, what are the differences between -- or are there any differences between this lease and this relationship with Cornell and the relationship between the other two counties actually three counties, Guadalupe, Lea and Torrence, where there have been uprisings and they are not INS facilities, and their relationships with their private operators. Is the county on more solid ground with this lease than those other counties are or can you tell us based on what you studied in New Mexico if this is an agreement that protects this community and the county of Santa Fe.

MR. CRANE: Well, I'll tell you based not only on what I have learned and saw at Guadalupe and Santa Rosa but also on the 25 other projects that I have worked on, privatization projects, this one as a mentioned earlier is a real highbred and so it's difficult to compare. The situation in those two counties was that the county built a facility or it was financed through some type of economic development authority so that they could have municipal bonds more like your jail. However, unlike your jail they didn't do it for the purpose of housing their own inmates there they did it for the purpose of letting other inmates be housed there. And so the County in those situations really didn't have any dog in the hut, I mean, they turned the facility over to the private company to operate. The private company pays the economic development authority and the county got the jobs. The problems are that there were no -- when I say they turned it over, they turned it over, there

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was nothing in there to prevent any kind of inmate being housed there. There was nothin to provide for monitoring. There was -- there was 100 problems. When I did those studies there were things even in the contract that the county was suppose to do like house some o its inmates there or approve the facility administrator. And I would talk to the count manager and the county attorney and everybody and say are you all doing this and the would say no. And it was because they just saw it as this pass through and it wasn't reall related to the county. So -- those are not really good examples.

A better example is what about the relationship between the state and the privat company with you all being in the position of the state and this contract, this operatin agreement that we have they should sign it and put state on it and use it because it woul resolve their problems. It's very clear about who is responsible for what. It's very clea about monitoring and very clear about what programs are going to be required. So, yes, thi one is -- this is what I do and this is what I get paid for is to do them so that two years fro now you're not cursing me because there's something wrong with it, hopefully that won happen.

COMMISSIONER GONZALES: Let me ask you a question concerning thos facilities and the dilemma that exists with those counties and if that same dilemma can exis here and that is we had in one of the facilities a murder of a guard, in the other facility ther was inmates uprising and same as the other facility in Torrence. And I can understand th issue of the monitor and obviously and probably in those cases there wasn't a monitor so n one could identify any issues up front as to gangs that might have been in the facility o causes that might have led up to the destruction but I guess my question is after th occurrence that occurred in Guadalupe -- if Guadalupe County would have taken back its ja powers from Wackenhut would there have been an economic shortfall to that community Would they have been held responsible for that jail if they would remove those --

MR. CRANE: In one case they would have been. In the other this priso realty company had come in and bought the facility so they would not have been.

COMMISSIONER GONZALES: So in Santa Fe County are we at the en of this contract, if our monitors identify issues that according to the manager there is zer tolerance issues not providing proper education, not treating people humanitarily, not havin the proper guard to inmate ratio and the issue of certification of guards and those issues tha would call for the contract to be revoked or removed; would the County be responsible onc again for any financial shortfall similar to that other county if that were the case?

MR. CRANE: None. I have, we have together, the three of us have mad sure of that.

COMMISSIONER GONZALES: So if there's a for-cause action in the facilit that requires us to cancel the contract then even the performance bond doesn't kick int place; is that right?

MR. CRANE: If there's a breach, no. And then --

COMMISSIONER GONZALES: My understanding of the performance bon

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is that in three years as a matter of public policy or as a matter of the Commission wanting to go in and operate the facility themselves, that it is not related to performance, then this bond would basically pay for the improvements; is that right?

MR. MONTOYA: Mr. Chairman, that is correct but --

COMMISSIONER GONZALES: But -- if there is a breach of the contract then just basically Cornell has to eat those costs.

MR. MONTOYA: Correct.

COMMISSIONER GONZALES: And we have indemnification issues in here that prevent Cornell from suing us or coming back after us as far as liability and breach of contract?

MR. MONTOYA: That is correct.

COMMISSIONER GONZALES: I guess so my question is and I think the Sheriff is here and I hate to put him on the spot but I think this relies and falls mostly on the Sheriff's shoulders in the issue of the monitoring. So maybe Sheriff we can ask you that if this facility comes to being what are your expectations of the monitor and the qualifications that you'll be looking for to make sure the facility is safe.

SHERIFF SISNEROS: Mr. Chairman, Commissioner Gonzales, I had some input on the language of the proposed contract and some of the language that I requested was placed in the proposed contract. The monitor is going to be an individual that has had experience in investigations, experience in the different issues that I feel are crucial in the operation of the facility. It will not be a person that is going to be or that was an employee of any private firm that runs any type of prisons or jails. I've got a person in mind and I cannot disclose who that it, but should this thing go through but I'm sure if I can work it out based on the direction of the contract I don't believe that any one will have a problem with this person's qualification.

COMMISSIONER GONZALES: And, Sheriff, the way I understand the contract, if I am correct, is that you have the authority to approve or disapprove or to revoke commissions from guards that on the facility; is that correct?

SHERIFF SISNEROS: Mr. Chairman, Commissioner Gonzales, that is correct as long as they meet the standards and the statutory language that is listed in the contract the only one that can make the designation of the employee is the County Sheriff.

COMMISSIONER GONZALES: My final question, Sheriff, and thank you for coming up here, is the question does the sheriff maintain the power and the authority at all times over that facility meaning if there was a problem where he has identified it can he shut it down with his own call.

SHERIFF SISNEROS: Mr. Chairman, Commissioner Gonzales, it is my understanding that I would retain that authority with the monitor working directly for me.

COMMISSIONER GONZALES: And that's right there in the contract, Sam, that the Sheriff will have the absolute authority over the facility at all times?

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SHERIFF SISNEROS: Mr. Chairman, I know the attorney is looking for the language in there but I know that statutorily public safety wise, if necessary, I have the statutory authority to go in there with my personnel and take over control if it's in the public safety interest. I do have that authority.

COMMISSIONER GONZALES: What about in the occurrence that you've identified breaches in the contract?

SHERIFF SISNEROS: The what -- I'm sorry.

COMMISSIONER GONZALES: If you've identified a breach in the contract. Maybe you've identified that the inmate/guard ratio does not take place or you're concerned about humanitarian treatments, or that they are just not following the contract; is that when the Sheriff retains the power to move in and shut down the facility or how is that?

MR. CRANE: Well, he would do that by revoking their jail powers.

COMMISSIONER GONZALES: So that's my point, at any point the Sheriff can revoke the jail powers and once those are revoked the facility is shut down.

MR. CRANE: Correct.

COMMISSIONER GONZALES: So that facility cannot operate without the designation of guards having to get powers that have been invested to them through the Sheriff under New Mexico statutes; is that right?

MR. CRANE: Are you asking me, Commission?

COMMISSIONER GONZALES: Actually, the Sheriff.

SHERIFF SISNEROS: Mr. Chairman, to my understanding of the contract, that's correct. The requirement for the jailer designation to my understanding is a requirement of the Federal Bureau of Prisons as part of their agreement with Cornell, unless I'm mistaken of that.

MR. CRANE: No, that is correct.

COMMISSIONER GONZALES: Thank you.

CHAIRMAN GRIÑÉ: Thank you. Are there any further questions? If not, I think before we go any further because number three approves number two.

COMMISSIONER DURAN: What about the operating agreement.

CHAIRMAN GRIÑÉ: You want to go through that. There's no reason to discuss the resolution at this time.

MR. MONTOYA: Mr. Chairman, actually item one can stand on it's own because that would be a lease from the state to the county and the other two the sublease to Cornell and the operating lease with Cornell those probably need to go together. But the lease between the state and the county can stand on its own.

CHAIRMAN GRIÑÉ: Okay, so you want to go to four then, the operating agreement.

4. Request authorization to enter into an operating agreement with

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Cornell Corrections from the Santa Fe County jail annex located at the main unit of the New Mexico State Penitentiary

MR. CRANE: Thank you, Mr. Chairman and Commissioners. This last agreement is the operating agreement and I think that it's appropriate for me to say something about these people who have been holding up these pink signs all this time, about the nature of this facility. This facility is really if you are in favor of immigrant rights you should be in favor of this facility. I practiced correction law for 27 years and I can assure that an INS detention facilities are horrible places. I've been in a number of them representing clients. What used to happen is that a person who was convicted of a federal crime went to a federal prison and when they finished their sentence they were put on a bus and taken to an INS detention facility where there were no programs, no visiting and nothing to do except to wait around to the day when you got a deportation hearing but you had no knowledge of when that might be and when you might be leaving, nothing. Those facilities there is a tremendous unrest and tremendous anger because these people didn't have any information.

What the Bureau of Prisons decided to do and what the United States Attorney General decided to do was this was so -- it was such an incompetent way to do this that they created that they instructed the Bureau of Prisons to create facilities where they would put people who had INS detainers on them and during their prison term, not after, they would get their deportation hearing. So these people are all people who in the past have been at a regular Bureau of Prisons prison. Now they're at a Bureau of Prisons prison that has an additional component which is the hearing area so that these people will know what their life is and when they finish their sentence they can either go back out on the street or they can return to wherever they came from if they have been deported.

That is the nature of the facility.

COMMISSIONER GONZALES: Can you just, again, because it's the first time I heard that one particular point and that is that they're coming from other INS facilities. So the people that will be here have already been incarcerated?

MR. CRANE: No, they are not coming from other INS facilities. Typically, they would have gone there at the end. Where these people are coming from is the same place that every federally convicted offender comes from, they're going to be some holding facility held by the US Marshall and they're going to go to federal court and they're going to be sentenced and they're going to be transported here by the US Marshall service not by INS. These are not people picked up on the side of the road. These are people that have been through an entire criminal process and have been convicted and the INS presence will be the hearing examiner, the administrative judges, that do the deportation hearings. There is no other INS present. This is a Bureau of Prisons facility.

This is a low-security facility and we have made sure in the contract to keep it a low-security facility. No other kind of inmate can be housed there. And you asked me,

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Commissioner Gonzales, earlier the problems at the other two counties. They were dealing with a horrible classification system. But here we're dealing with an excellent classification system. The Bureau of Prisons system minimum, low, medium, high and you get points for if you've had a prior conviction how long your present sentence is; is it violent or non-violent, have you have ever tried to escape. And most of the people here will be minimum security by score. But there's a rule in the Bureau of Prisons that if have a detainer on you you cannot go to a minimum security prison, you have to go to a low-security. So these people will be coming to a low-security but mostly they will be scoring in the classification system as minimum.

COMMISSIONER GONZALES: Can I ask you a couple of questions concerning classification?

MR. CRANE: Sure.

COMMISSIONER GONZALES: As to the issue of classifying individuals that come in and making sure that you can classify them as being truly low level; so you're saying the safety nets on-site will be the Bureau of Prisons and the county monitors to insure that those classification systems are true and we don't -- my concern is that we drop the ball or someone drops the ball and you get the wrong person in that facility that creates the disruption. And I'm concerned about the safety not only for the detainees but the --

MR. CRANE: Here's what happens. The Bureau has a back-up system and after a person has been convicted the necessary paper work goes to a designator in the Bureau of Prisons and they do the calculations. They look at the person's past history, they look at all that stuff and they do all the calculations and then they make their determination and then once that person gets the institution it is done a second time to make sure that it was done correctly by the designator. So that's there and that's the system that they use to keep somebody from being in the wrong place.

COMMISSIONER GONZALES: What happens in the event that someone comes into the facility and there is disruption or violence in the facility; what is in place to make sure that they don't stay in the population or are they allowed to stay or are they deemed after coming in and seeing that someone could potentially be violent? Are they removed from the facility?

MR. CRANE: Ten percent of the beds in the facility have to be secured cells for segregation purposes and the inmates would be housed there until such time as they go a disciplinary hearing and were moved to a higher level security facility. That is one of the beauties of dealing with the Bureau of Prisons because they have the carrot and the stick. They have the minimum and they have the medium and these people are in low and they know if they screw up that they going to go to a medium-security prison with guard towers and all that stuff.

COMMISSIONER GONZALES: Thank you.

CHAIRMAN GRIÑÉ: Any other questions?

MR. CRANE: I'm sorry, but I hadn't really --

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CHAIRMAN GRIÑÉ: Please, go ahead, Mr. Crane.

MR. CRANE: In addition to, we've been talking about the Bureau of Prisons all day but in addition to that there will be a 50 bed work release facility for the County and this facility will be sight and sound separated from the Bureau of Prisons facility. And there will also be an area within that facility for the monitoring equipment to do a 50 person electronic monitoring program. The cost for both of those are considerably less than what the cost is to house people in your jail.

The work release facility if there are more than 35 inmates, it's $39.45 a day. Less than 35 is $44.69. The electronic monitoring is $11.81 if there are 35 or less and $10.16 if there are more than 35.

And then there's some scenarios where this could go down. If there's enough inmates in these programs that they can spread their cost -- and both of these cost figures all of these cost figures are well within the normal ranges that I find around the country for these kinds of programs.

The one thing that we put in this contract that I certainly wish we had in your jail contract and hopefully will be in the next one is payments if Cornell does anything in violation of the contract. So for instance if they were short an employee and after 30 days they would be cited for a breach and if they did not correct that then it would cost them $650 a day. So we have various provisions like that because like in your jail contract all you have is termination which is sometimes using a cannon to kill a gnat. Here we've got if they don't provide recreation and they're suppose to then you know there's a formula that we used and there would be some reduction in what the County paid them as a result.

COMMISSIONER GONZALES: Mr. Chairman.

CHAIRMAN GRIÑÉ: Commissioner Gonzales.

COMMISSIONER GONZALES: I have a question regarding one of the issues that you brought up and that's the issue of whether they have proper guards on-site to deal with the population and I want to make sure -- well, let me just say this: I don't want a 30 day window for them to staff up to the amount of guards that they need to handle the population that exists at that time. if there's a point in time that they're only suppose to have a certain amount of guards and they actually need more I don't want to give them 30 days to staff up to that -- I want to make sure that they cannot house anybody more in that facility than they have a trained work force to deal with. And I don't want to have a 30 day window to provide them to get to that point.

MR. CRANE: We certainly can bring the pressure to bear on them immediately in less than 30 days. But in addition to that there are grounds for automatic termination if it's threatening the lives or health of the inmates so there are other ways we could deal with if we needed to.

COMMISSIONER GONZALES: I just want to make sure that we have the power in this contract.

MR. CRANE: We have the various mechanisms in place to deal with it. I

it's a secretary for example we would deal with it different.

COMMISSIONER GONZALES: Right, but I'm talking inmates to guards. Because personally I consider that a serious breach if they don't have the proper staffing and I know that that has been a continuous question in this community in that do we have the work force to move into that facility and I think that if there's a point where we have determined that we only have a certain amount of work force that we can qualify and train that that the number of inmates in that facility should be only limited to the number of guards that we have available to care for them as opposed to the maximum that that facility can handle. I just want to make sure --

MR. CRANE: You should keep in mind that the Bureau of Prisons will have representatives there full-time and that they're not so keen on privatization so they're pretty picky to make sure that they are following the contract and the staffing pattern and so forth.

COMMISSIONER GONZALES: Thank you.

CHAIRMAN GRIÑÉ: I just want to make a brief comment for anyone here for the EZA, the EZA has been canceled tonight. Hold on, that's what I think -- wait they're going to make sure to see what happens.

Let's proceed.

COMMISSIONER DURAN: I just have a couple of questions on the operating contract. Actually you have answered a lot of my questions, Mr. Crane, but I guess the biggest question that I have is this document the lease of the prison and the operating agreement, do they still need to be approved by the Attorney General's Office and DFA for the lease agreement?

MR. CRANE: No, it's the contract as well by statute that has to be approved by the Attorney General, Risk Management Division of DFA and the --

COMMISSIONER DURAN: So they have been involved in this process since day number one; is that correct?

MR. CRANE: Yes, sir.

COMMISSIONER DURAN: Okay, I have nothing further.

CHAIRMAN GRIÑÉ: Any other questions for Mr. Crane? Let's go back and approve --

COMMISSIONER GONZALES: Do you want to wait for Commissioner Anaya?

CHAIRMAN GRIÑÉ: Yes, let's.

COMMISSIONER TRUJILLO: Let me ask one question. There were some issues raised yesterday by the Community of La Cienega regarding water. How are we going to address that?

CHAIRMAN GRIÑÉ: Did Virginia leave?

COMMISSIONER GONZALES: Mr. Chairman, until she comes back, I've had conversations with Robert Romero and he has expressed his concern to Sam and if this becomes a reality we have asked that the mayordomo and Robert come into development the

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water plan for this facility and be a part of it. And I think that to have them have ownership in how we develop that water plan is going to be really important and in my discussions with Estevan he is receptive to bringing them in to be a part of how we address this.

CHAIRMAN GRIÑÉ: Virginia, do you want to address the water issue?

VIRGINIA VIGIL (Policy Analyst): With regard to?

CHAIRMAN GRIÑÉ: Commissioner Trujillo brought up the question that came up last night about water in that area by opening up this facility.

MS. VIGIL: Mr. Chairman, Commissioner Javier Gonzales and members of the remaining Commission, the water rights lease agreement that we would enter into does create a net benefit to Santa Fe County in that it allows Santa Fe County to actually manage the water system out there and the wastewater system and one factor from that benefit would create is it would be injunction with the Santa Fe County's overall water plan to address the concerns of the residents that you heard last night because by the county managing this resource it would be recovery and reuse of the current associated wastewater after the appropriate treatment part of the overall county plan is to replenish the aquifer out there through the management and use of treated effluent Santa Fe County would be in a position to supply more water to its residents by managing this resource.

CHAIRMAN GRIÑÉ: Any questions of Virginia? Thank you, Virginia. Okay, are we going to blanket approve this or do it individually?

COMMISSIONER GONZALES: I think we should do it individually.

CHAIRMAN GRIÑÉ: Okay, that's fine.

COMMISSIONER GONZALES: Let's wait for Commissioner Anaya.

COMMISSIONER DURAN: Deborah, could you find Commissioner Anaya please.

1. **Request authorization to enter into a sublease agreement with Cornell Corrections for the Santa Fe County jail annex located at the main unit of the New Mexico State Penitentiary.**

COMMISSIONER GONZALES: Mr. Chairman, I would move to authorize and ratify the lease agreement with the state of New Mexico General Services Department for the lease of the main unit of the State Penitentiary.

COMMISSIONER TRUJILLO: Second, Mr. Chairman.

CHAIRMAN GRIÑÉ: Okay, I've got a motion to approve and second by Commissioner Trujillo. Any further comments?

MR. MONTOYA: Mr. Chairman, I would like to recommend to the Board that as a part of the motion you indicate or include in the motion that approval of this lease is contingent upon review and approval by all the relevant state agencies that we still need to go before including the State Attorney General, the State Risk Management Division, the State Board of Finance at a minimum.

CHAIRMAN GRIÑÉ: Is that acceptable in your motion?
COMMISSIONER GONZALES: Yes.
CHAIRMAN GRIÑÉ: Is that acceptable in your second?
CHAIRMAN GRIÑÉ: Yes, it is.
CHAIRMAN GRIÑÉ: Okay, any further discussion.

The motion passed by majority [3-1] voice vote with Commissioner Duran casting the sole nay vote.

2. Request authorization to enter into an operating agreement with Cornell Corrections for the Santa Fe County jail annex located at the main unit of the New Mexico State Penitentiary

COMMISSIONER TRUJILLO: Mr. Chairman.
CHAIRMAN GRIÑÉ: Commissioner Trujillo.
COMMISSIONER TRUJILLO: I would like to make a motion as to the request authorization to enter into an operating agreement with Cornell Corrections for the Santa Fe County jail annex located at the main unit of the New Mexico State Penitentiary.
COMMISSIONER ANAYA: Second, Mr. Chairman.
CHAIRMAN GRIÑÉ: Contingent with Sam's request.
COMMISSIONER TRUJILLO: Yes, contingent upon what Sam articulated.
MR. MONTOYA: And on this particular motion there is one additional caveat and that is to add the request by Commissioner Duran to add the CPI after the tenth year.
COMMISSIONER TRUJILLO: I agree with that.
COMMISSIONER ANAYA: I agree.
COMMISSIONER DURAN: Thank you.
CHAIRMAN GRIÑÉ: Any further discussion?
COMMISSIONER DURAN: Mr. Chairman. Just a matter of clarification that in ten years there would be a 3 percent decrease and a CPI every year after that.
CHAIRMAN GRIÑÉ: That's my understanding.
COMMISSIONER DURAN: Is that right?
COMMISSIONER TRUJILLO: That's right.
CHAIRMAN GRIÑÉ: Anything further.

The motion passed by majority voice vote [3-1] with Commissioner Duran voting against.

COMMISSIONER DURAN: I'm in favor of the amendment but opposed to

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the motion.

COMMISSIONER ANAYA: Mr. Chairman, before we move forward on this I need to make an announcement on the EZA. As chairman of the EZA I'd like to inform anybody that it is here for the EZA meeting that it has been postponed until April 4th at 6:30 right here in the chambers. Right after the Solid Waste meeting.

COMMISSIONER DURAN: Mr. Chairman, relative to that announcement, I noticed there are some people out there for this meeting that have driven all the way from Albuquerque. Did all the members of the EZA leave?

COMMISSIONER ANAYA: No, there's three of us here, Mr. Chairman, but legal we've already discussed this and it's in anticipation that this is going to take a lot longer than you might anticipate.

CHAIRMAN GRIÑÉ: There's only two items on the EZA.

COMMISSIONER ANAYA: Yes, so it's postponed for one week.

COMMISSIONER DURAN: I think it's fair to wait and see how long this meeting will take and then to make that decision. I know that people have come up from Albuquerque.

COMMISSIONER ANAYA: There was an evaluation made in anticipation that this was run over more or less the time than it might. It was one of those impromptu decisions that we were kind of backed into.

COMMISSIONER DURAN: Can we take a vote on that?

COMMISSIONER ANAYA: It's a call from the chair.

COMMISSIONER DURAN: Well, then I'd like to have a legal opinion on that. Can a chair make a decision to postpone the meeting?

COMMISSIONER GONZALES: Have we convened a meeting of the EZA?

COMMISSIONER DURAN: No. but he's telling people to leave and I don't think that the EZA has made that decision yet.

COMMISSIONER GONZALES: Maybe me and Commissioner Trujillo can excuse ourselves temporarily while you --

BARBARA MULVANEY: Commissioner, I believe that the Chairman has that call.

COMMISSIONER DURAN: He can?

MS. MULVANEY: Yes, and [inaudible] notify the [inaudible] the next day but --

COMMISSIONER ANAYA: The next day is set for April 4 at 6:30 right here in the County chambers.

Go ahead, sir, are you here for the EZA.

LEOF STRAND: Yes, I'm Leof Strand and I'm an attorney. I represent landowners that are opposed to this request by PNM and they're in a tough situation because we have an important witness that will not be available. We ask that this matter is put off until the end of April.

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COMMISSIONER ANAYA: If we do it to the end of April then we have t go through the whole process of reposting and renoticing.

CHAIRMAN GRIÑÉ: Commissioner, if --

COMMISSIONER ANAYA: This is on the advice of the attorney.

CHAIRMAN GRIÑÉ: If you don't go to the end of April you can hold it o the regular meeting for April.

COMMISSIONER ANAYA: We can do that also. There are only two item that are on the agenda for the EZA and perhaps then we can include them in the nex regularly scheduled meeting which is the last Tuesday of April which is the 25th. That w can do right?

MS. MULVANEY: Yes.

LIDIA MORALES (Assistant City Attorney): Yes.

COMMISSIONER ANAYA: City and County legal both say yes.

COMMISSIONER DURAN: How about the applicant he's the one we hav to be worried about.

PATRICK APODACA: I'm Patrick Apodaca, counsel for PNM and whil we'd like to work to accommodate everyone's scheduled -- we would like to hear this a soon as possible.

COMMISSIONER ANAYA: Okay, there's a double request here one for -

COMMISSIONER DURAN: Mr. Chairman, it seems to me that there's definite inequity here. If he's asking for a postponement because someone instrumental t his testimony isn't here I cannot see why you would not accommodate that.

MR. STRAND: Also, I'd like to point out for the record that PNM asked t table once and we did not oppose.

MS. MULVANEY: Excuse me, this is the BCC and the matter you ar discussing has to do with the EZA matter. I suggest what you can do is recess and the bring in the EZA and then we can reconvene at another time.

CHAIRMAN GRIÑÉ: We'll complete our regular meeting here.

COMMISSIONER GONZALES: Mr. Chairman.

CHAIRMAN GRIÑÉ: Yes.

COMMISSIONER GONZALES: I'll hold off until we're to item four.

CHAIRMAN GRIÑÉ: Becky, what is the next number?

3. Resolution 2000-39: Resolution approving the sub-lease of the Mai facility at the State Penitentiary complex between Santa Fe Count and Cornell Correction.

COMMISSIONER GONZALES: Move to approve resolution 2000-39 resolution approving the sub-lease of the Main facility at the State Penitentiary comple

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between Santa Fe County and Cornell Correction.

COMMISSIONER ANAYA: Second, Mr. Chairman.

CHAIRMAN GRIÑÉ: We've got a motion and a second. Any further discussion? If not all those in favor, signify by saying "aye."

The motion carries by [3-1] majority voice vote with Commissioner Duran casting the sole nay vote.

4. Request authorization to enter into an operating agreement with Cornell Corrections for the Santa Fe County jail annex located at the main unit of the New Mexico State Penitentiary

COMMISSIONER GONZALES: Mr. Chairman.

CHAIRMAN GRIÑÉ: Commissioner Gonzales.

COMMISSIONER GONZALES: Move to approve the authorization to enter into an operating agreement with Cornell Corrections for the Santa Fe County jail annex located at the main unit of the New Mexico State Penitentiary subject to review and approval of state agencies that are set forth by state law.

COMMISSIONER ANAYA: Second, Mr. Chairman.

CHAIRMAN GRIÑÉ: Got a motion by Commissioner Gonzales and a second by Commissioner Anaya.

COMMISSIONER GONZALES: Mr. Chairman, just discussion. A brief remarks concerning this issue and I think that every commissioner here has had to do some soul searching of priorities in this community and unfortunately what has been brought forward is whether to decide to get into a very long federal battle as to how immigrants are treated in these facilities and to deal with as opposed to dealing with our local community who we know and we hear from on a daily basis are in need of better jobs.

I agree with much of the community that it is a tragedy when we treat immigrants worse than we're willing to treat our own people in our community and that should be stopped at all levels of this country but I think it's equally a tragedy when we as a community turn our backs on good jobs and who are we to define good jobs other than those who choose to go into those jobs. When we turn our backs on good jobs that will provide a decent standard of living. A good quality of life for people who have been born or raised or people who have moved to this community, I live in Cottonwood Trailer Park and I'm pretty proud of it. In that mobile home community the majority of the people who are my constituents would love to have jobs like this. They go home every night and they like many of worry about where our next paycheck is going to come from or how we're going to provide a decent education for our children. That's a tragedy when we have people in this community who worry about raising their children in a quality of life environment. And I

agree with people who oppose this in saying we need to find better jobs. But what have we done in the county to try and find better jobs. We've tried to bring in institutions like Nike and we have aggressively pursued that and we have not had that opportunity. We have tried to go to the legislature and ask them to give us money to create a better skilled work force so that we can attract high-tech jobs.

A few months back before this Commission, we had a rezoning issue in the Village of Tesuque and the local owners came forward and said he wanted to rezone that commercial property so that they can bring in high tech jobs to the area. Jobs that would be compatible with Santa Fe. And many people, many of the same people who spoke last night, and others in this community went forward and said we can't have high tech jobs in this community we don't have the skilled work force. We don't have the skilled work force to come in and therefore you should not zone this to be high tech because it's going to be converted into something else. And the Commission listened and we didn't act on that.

And I think if we're serious about truly training our work force we better put our money where our mouth was just as we did when it came down to open space. People went to the polls and by over 70 percent they said they wanted to preserve open space. Wouldn't it be a great idea of people went to the polls and by over 70 percent said we want a better work force in our community. But the fact is that they went to the polls in the community college election and voted against the bond issue to further expand the community college. Where was the statement of this community at that point that we need a better skilled work force.

Today we had an opportunity to listen to people who get involved taking care of children who have been abused in this community and training families. Not one member of the media was here, not one camera was here, not one individual holding up pink signs or yellow signs saying no more child abuse was sitting in this room. But yet we're willing to take time off of work, we're willing to become impassioned about the issue of what's morally right and what's wrong about jobs and what's bad for immigrants. But no one is willing to come forward and say what's wrong about child abuse in this community. I can't understand why people would oppose supporting the efforts of the county in trying to generate alternative revenues to fund programs like that.

Excuse me -- you know I sat here and listened through two public hearings and did not talk back into your face and I would enjoy the same courtesy.

We have an opportunity here to do something extraordinary. Not only creating a model facility that will assure that people of all races, all religious activities are going to be treated fairly and justly in our community. If we're so concerned about that then let's have the oversight that we need to make sure that they are treated justly and if they don't get rid of the operator and get someone in that will take care of it.

I think we have agreements that will take care of that and we have an opportunity that will generate alternative revenues so that we can finally, finally provide decent services for our 4H communities who have bake sales to try and raise money to fix a light fixture so the

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kids can go in and have heating lamps to take care of rabbits or chickens or whatever it is. There are people in this community that are homeless, teenage, pregnant moms that have come before this commission and said we need a place to have and be able to raise our children. And we have not been able to help them. That's a tragedy in this community. That's a tragedy when we walk away from that.

We have a Boys and Girls Club with fixtures and buildings that are falling apart that we can't go in and support. That's a tragedy.

People don't want us to raise their taxes. People are fed up with raising taxes unless maybe it's for open space --

This is a real opportunity to take something bad and turn it into something good for the community. To take the alternative revenues and invest them in social programs that will have a lasting impact on this community far beyond this facility and that we could ever imagine. And I would hope all of you who have been so impassioned about supporting or opposing this continue to be impassioned in the public process and look at other tragedies that are taking place in this community. Urge your local leaders to address them not only at the point when they come to public hearing but at points in between. Urge the city councilors who stood here last night and opposed this to put money in to the work force development. To put their money where their mouth is and train a qualified work force. To have an inviting attitude into this community and say that we do want jobs and we're ready to embrace it. Hold your county Commissioners accountable, but, Mr. Chairman, this Commission did not seek to divide this community by bringing this issue forward. If anything I would hope the we would be providing good jobs, taking something bad and turning it into something good so that the many tragedies that exist in this community from homeless, pregnant, teenage moms and they exist to the battered children in this community that we can at least put our money where our mouth is in taking care of these individuals.

I would hope that this Commission would use this money to move it to these social causes and make this a positive quality of life environment for all of us.

CHAIRMAN GRIÑÉ: Thank you. Any other discussion?

COMMISSIONER DURAN: Just one thing, it's evident where this is going. I do support your comment in making sure this money gets earmarked for social programs and services that the community needs and has needed for quite some time because we have been operating on a flat budget since I've been here. I would just like to make that commitment to the community that that money does get earmarked for those programs and perhaps at the next meeting if the AGs office and DFA's office approves these agreements that this Commission comes up with a list of priorities that each one of us has and earmark that money for those programs.

COMMISSIONER ANAYA: Mr. Chairman, along with that train of thought, also perhaps a suggestion earlier, to perhaps start some seed money and some legal funding for the people that are going to be housed at this center. I think that would also behoove this

commission.

CHAIRMAN GRIÑÉ: Okay, the motion was made by Commissioner Gonzales and seconded by Commissioner Anaya. Any further discussion?

The motion passed by majority [3-1] voice vote with Commissioner Duran casting the sole nay vote.

[The Commission recessed for 10-minutes]

X. PUBLIC HEARINGS

A. Resolution 2000-39. A resolution adopting the Santa Fe County Housing Authority five year and annual plan pursuant to section 511 of the Quality Housing and Work Responsibility Act of 1998 in accordance with the HUD.

CHAIRMAN GRIÑÉ: Dodie Salazar.

DODIE SALAZAR: Mr. Chairman and members of the Commission, the Housing Authority is here to present its five year and annual plan for public comment and to request approval of both plans in accordance with the Department of HUD.

Section 511 of the Quality Housing and Work Responsibility Act created the public housing agency plan. A five year and an annual plan. The five year plan describes the mission of the housing authority and the long-range goals and objectives for achieving its mission over the subsequent five years. The annual plan provides the details of the housing authority's immediate operations, program participants, programs and services and its strategy for handling operational concerns, residents concerns and needs and programs and services for the upcoming fiscal year.

The QHWRA also requires the Board of County Commissioners to conduct a public hearing to discuss the five year and annual plan and to invite public comment regarding the plan. The housing authority is also asking the Board to approve the attached resolution. The first resolution is granting approval of submission of the five year and annual plan and the second resolution is a HUD resolution that will accompany the five year and annual plans.

I would be happy to answer any questions?

CHAIRMAN GRIÑÉ: Thank you, Dodie. This is a public hearing; anybody here that wants to speak for or against this issue? No.

Commissioner Anaya moved approval of Resolution 2000-40 as presented. His motion was seconded by Commissioner Trujillo and passed by unanimous voice vote.

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B. **Land Use Department Item**

1. **MIS #97-5230. Cerrillos Gravel Products, permit holder, Richard P. Cook, agent, requests modification of conditions number one of the permit suspension imposed by the BCC on January 25, 2000 to allow for limited removal of stockpiled materials**

CHARLIE GONZALES (Subdivision Engineer): Good evening, Commissioners. The applicant is requesting modification of condition number one of the permit suspension imposed by the BCC. Cerrillos Gravel Products requests to haul out about 6,000 tons of existing stock piles of base course material to be utilized on several Santa Fe area products including the Santa Fe Bypass, Zia Road, and several Santa Fe road projects. Moving the two piles require approximately 242 two ton truck trips, Cerrillos Gravel Products would honor all ethical terms, conditions of its suspended permit. Hours of operation would be Monday through Friday 8:30 AM to 4:30 PM. The applicant has stated that all gravel trucks would be covered or tarped and the drivers would be instructed to honor the speed limits within the Village of Cerrillos. No additional gravel is proposed to be produced. Cerrillos Gravel Products is also requesting clarification of the terms of the premises suspension.

In 1983 the BCC granted approval to mine two acres. In 1991 the mining ordinance changed and all existing mining approvals sunsetted. CGP had 18 months to request approval of an existing mining use with approval of a reclamation and operations plan for a gravel mine limited to 3 acres disturbance. They did not come in and request such approval until July 8, 1997. In 1997 the BCC granted approval to CGP for an existing mining use pursuant to article 11 section 1.10 contraband development code with conditions. On the meeting of January 25, 2000 the Land Use Administrator requested that the BCC suspend the mining land use permit due to failure to comply with water supply requirements for dust control, reclamation and mining operations, non-compliance of conditions, and exceeding the 3 acre boundary and the quarry un-permitted expansion. The BCC suspended Cerrillos Gravel Products' mining permit. A memorandum of understanding as executed by the parties was considered by the BCC which proposed several changes to the MOU. Although agents for CGP and Associated Asphalt verbally agreed to all conditions of the MOU as modified, the MOU was never signed. Nevertheless, the mining permit was immediately suspended subject to conditions by the order of the BCC. In addition, the Rural Conservation Alliance would like to request access to the site to enable them to obtain information to review the process and its reclamation as per condition number 6 of the permit's suspension. And it reads as follows: Representatives of all parties and of the Rural Conservation Alliance shall meet on site and CGP and/or Associated shall prepare and submit all necessary plans and estimates to enable the parties to arrive at reasonable cost estimates for reclamation.

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Recommendation: Should the BCC decide to grant this request to CGP, staff recommends the following conditions:

1. Photos or videos of the existing stock piles shall be taken by Santa Fe County and representatives of RCA and coordination with CGP prior to hauling and after to insure the stockpiles have been exhausted.
2. Operation hours shall be limited to Monday through Friday, 8:30 AM to 4:30 PM. Due to numerous complaints submitted during the permitted period for the mining operation, trucks shall not park or line up along Main Street, entering the town of Cerrillos after 8 AM.
3. All trucks hauling material shall be tarped before leaving the mine site.
4. Provide dust control and a schedule for this temporary hauling activity. There is currently a dispute between Santa Fe County and CGP regarding the water source. Temporary resumption of this should be the subject of CGP providing additional information about the water supply. The applicant should be required to stipulate that any agreement on water supply for this temporary hauling operation shall not be binding as to any future applications, approvals or permit amendments.
5. The temporary hauling activity is only for removing 6,000 tons of base course, two piles. Any resumption of any other activity shall comply with the conditions of the permit suspension.
6. The temporary hauling activity is approved for a period of three weeks only, beginning March 30, 2000, and concluding April 21, 2000.

That concludes my presentation. Thank you.

CHAIRMAN GRIÑÉ: Thank you. Any questions of staff? Okay, thank you. Commissioner Gonzales?

COMMISSIONER GONZALES: Charlie, in what's being brought forward will there be any mining activity that's allowed? Obviously no.

MR. GONZALES: Not at all.

COMMISSIONER GONZALES: And conditions still stand for what was said from the last commission that before any mining is allowed there are all those issues that need to be addressed.

MR. GONZALES: That is correct.

COMMISSIONER GONZALES: Meaning reclamation, of what hasn't been done, and what else are we talking about?

MR. GONZALES: Reclamation.

COMMISSIONER GONZALES: That was the big issue that I remember. They have to reclaim the area that they violated. And adjusting the water source.

MR. GONZALES: That's correct.

COMMISSIONER TRUJILLO: So there's a pile of gravel there that needs to be removed. That is essentially the issue, right?

MR. GONZALES: That is what the applicant is saying. There's a pile, a

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couple of piles of gravel, that need to be removed -- two of them. One pile has 1/2" to 3/4" aggregate, the other pile has 1" aggregate.

COMMISSIONER TRUJILLO: About approximately how much and how long --

MR. GONZALES: Total, 6,000 tons.

COMMISSIONER TRUJILLO: How long will it take?

MR. GONZALES: The applicant pretty much has said that it should take him about two weeks. We're giving him three weeks.

COMMISSIONER TRUJILLO: Okay. Any other questions of staff? Thank you, Charlie.

Is the applicant here?

[Duly sworn, Joe Manges, testified as follows]

JOE MANGES: Mr. Chairman, Commissioners, I am Joe Manges, representing Cerrillos Gravel Products, the permit holder. And the purpose of this application is really fairly limited. We all know what happened. The council, and the BCC suspended Cerrillos Gravel Product's permit. We have appealed that. That appeal is pending in the First Judicial District Court. It's pending before Judicial District Court Judge Art Encinias. Judge, I filed the motion today to allow the commission to entertain this application with the judge. The judge granted that so he essentially transferred jurisdiction of this application back to the BCC and really what we want to do is ship out the product that is sitting there stockpiled so it can be used in some projects.

This will help CGP limit its damages -- it's been shut down for a couple of months now and it's experiencing damages on a daily basis. And the stockpile is material that's already been produced: it's inventory if you will. It's not base course, it's 3/4" gravel and 1" gravel. And what my client wants to do is go ahead and ship those. It's about 240 truck loads of a two- ton truck for use on the bypass and on Zia Road and on some county projects where the aggregate will be used.

If this application is granted it will also give us some more time to work out, if we can work out, some of the disputes between the county and the company. There's always the possibility those will not work out and we'll end up in court again.

The company doesn't agree with the report prepared by Mr. Gonzales in a couple of respects, and I don't want to go through the history but I'll take a general exception to the report. In general I think all of the conditions that they suggest can be met. The one condition that provides some control or some issue at least to me is the water supply issue. We again, like I said, all of this material has already been produced so there's no need for water to produce it. It's already ready to go. The only possible use of water would be to control dust on the road and in fact our original permit, July 10, 1997, said, and this is condition number 22, "Until paved, CGP will keep the road watered to control dust as needed from the south bank of the San Marcos Arroyo to the railroad tracks." Well, in fact that portion has been paved, so as far as our existing permit goes, there's no use or need for

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use of water to control dust. So we don't see the need for water supply simply to truck this water out.

The remaining conditions are fairly straightforward. It's not a huge request we are asking. We are just asking to have the opportunity to minimize our damages at this point until the larger issues are worked out. The other point that I'd like to make is that the suspension of our permit is unclear at least in my mind and we'd like to have reconsideration of that permit so we understand exactly what the county wants. And I understand that we can't do that at this hearing because it wasn't properly noticed but perhaps at the next time we can or at the next public hearing in this matter we can address the issues in the suspension and the terms thereof.

So what we would do is request the commission to approve this application, give us the opportunity to ship out our gravel that we've already produced. There'll be no more gravel operations and allow us to cut our losses to the extent we can. Thank you.

CHAIRMAN GRIÑÉ: Thank you. Any questions of Joe? Commissioner Duran.

COMMISSIONER DURAN: So you're in agreement with the staff recommendations?

MR. MANGES: With the exception of the staff recommendation number 4 regarding additional information about the water supply. As I said, the only -- we're talking about 3 weeks of hauling and the only possible use of water would be dust control on the road and in our permit the only dust control we had to do was on a portion of the road that's now paved. And so we don't, we should not have to water a paved road. That makes no sense.

COMMISSIONER DURAN: Other questions for staff? Is that acceptable?

MR. GONZALES: Chairman Griñé, Commissioner Duran, one, the situation we have here is that it is a dust control situation. That road is really dusty when there's traffic on it and we went to Magistrate Court that was one of the issues that we were concerned about. My opinion is that if we're going to approve this with conditions that we should be able to put this condition in for safety, health and welfare of the public.

COMMISSIONER DURAN: And what specifically is that condition?

MR GONZALES: It is to keep the road watered -- dust control -- to water the road throughout this activity.

COMMISSIONER DURAN: And you don't agree with that?

MR. MANGES: Our original permit didn't require that, that's clear. This is a new condition that we were just made aware of this evening, really. It hasn't been a requested condition to date.

COMMISSIONER DURAN: What kind of problems does that pose for you?

MR. MANGES: The reason it could pose a problem is the water supply issue. The water supply issue is largely in front of the State Engineer. There are a couple of applications that are being protested by the people that you'll hear from tonight.

COMMISSIONER DURAN: Couldn't you import water from someplace else?

MR. MANGES: I think we could, yes. I think the City of Santa Fe would be a source that could be used for this activity.

COMMISSIONER DURAN: Would that be acceptable to us?

MR. GONZALES: For this limited activity, yes.

COMMISSIONER GONZALES: Mr. Chairman, Commissioner Duran, I think when you look at the I think the staff puts improper wording when they indicated in item 4 that the applicant should be required to stipulate that any agreement on water supply for this temporary hauling operation shall not be binding as to any future applications, approvals or permit amendments, and I think the staff is trying to build a safeguard in that they don't come back to us, you know, when Mr. Manges wants a couple of weeks from now whenever they want to come back and say "Well, we found an alternative water supply to address this issue and it's the issue of water when the condition of approval for the permit required them to have permitted water rights.

COMMISSIONER DURAN: The condition was a permanent basis.

COMMISSIONER GONZALES: The condition was --

COMMISSIONER DURAN: -- an ongoing basis

COMMISSIONER GONZALES: -- permitted water rights and that's one of the reason why the commission suspended. They have not been able to prove permitted water rights because for whatever reason their application is either pending or its been denied at the state Engineer's Office.

This though, too, if the commission grants a temporary hauling of the trucks, would serve as an alternative source for a short period of time to make sure that the residents don't suffer the issues of dust control, especially now in April with the winds and things.

COMMISSIONER DURAN: Okay, so that's okay then.

COMMISSIONER GONZALES: That's fine but I don't understand why Mr. Manges is --

MR. MANGES: The reason is it says "dust control schedule." We have no idea what that means. We don't know how much water is being requested of us.

COMMISSIONER GONZALES: Mr. Manges, do your clients want this gravel?

MR. MANGES: Of course. That's why they're here.

COMMISSIONER GONZALES: And I think that everyone's trying to be reasonable on how to put in some proper conditions. And I just I'm sorry Commissioner Duran I didn't mean to step in.

It's baffling to me that you would bring up an issue like this while we don't what dust control is. We don't know the hours of time. We don't know how much water.

I mean to me there should be a real demonstrated commitment by you and your client to at least work in this community and bringing questions of "We don't know what dust control means, or how much water to use," doesn't show me that. Doesn't show me by

going to sue the commission on the issue before the District Courts that you're really wanting to work to get this issue resolved rather than through some legal means or court order means and I had hoped that this period of time with this suspension that you would show or your client would show a real willingness to want to work in that community if they're wanting to keep some kind of permanent presence. And suing and stating that you have concerns over dust control or what that means seems to be contrary to that.

MR. MANGES: Okay, I understand your concerns, Commissioner, and the, one of the problems is that this, the idea of providing dust control on the road from the pit all the way into town and that's a fairly lengthy road, was just thrown on us this evening, so part of the problem, and that's serious, we've been aware of a dust control problem closer to the village and have worked on that, but all the way up to the pit, that's a little overreaching. I don't think the dust control issue is even of that significance up towards the pit.

COMMISSIONER GONZALES: Shall we put this on hold so you have time to talk to your clients?

MR. MANGES: No, I think we would like, let me just.
Like I said we basically have problems with condition number four. If we can put some sort of limit like half-a-mile of the village that would be more acceptable. Some sort of limit on the dust control obligation. That's a long road and the amount of water I haven't calculated what it would take but it would be significant.

As far as the appeal goes, the appeal, there is no meant to offend anybody here. That was done no commissioners were named personally. That was done to protection of private property rights which is right above you.

COMMISSIONER GONZALES: I'm not offended I just wanted to see you more action.

MR. MANGES: And so that's the only issue and if the dust control issue can be worked out with staff, we'd be happy to do that and I think the language of number four probably provides enough latitude to do that.

CHAIRMAN GRIÑÉ: Charlie, you'll be able to work out with these people as to how much they should you know control dust control.

MR. GONZALES: Mr. Chairman, Commissioners, on condition number four, it also states to provide a dust control and a schedule so I would be happy to look at some kind of schedule with them.

CHAIRMAN GRIÑÉ: Okay, do you have any problems with that, Joe?

MR. MANGES: No, that would be fine.

COMMISSIONER GONZALES: Mr. Chairman, while we're going through this I just want to make sure that there's no movement of trucks until that is agreed to and that certainly we know who the leaders of the community are at least provided with that schedule and the length of the road and I want to make sure that -- I don't know that I agree that half a mile is too much -- I think we need to make sure that that whole area, from my

standpoint is that's going to be affected, is properly treated.

COMMISSIONER DURAN: I would agree with you on that provided that everybody that's coming to the table is reasonable about it and has not tried to take advantage of one or the other.

CHAIRMAN GRIÑÉ: Okay, any other questions of the applicants?

Okay, this is a public hearing. Anybody want to speak on this issue?

[Duly sworn, Mary Humphrey testified as follows]

MARY HUMPHREY: Thank you Mr. Chairman and Commissioners. My name is Mary Humphrey. I'm the attorney for the Rural Conservation Alliance. I have two exhibits to put in tonight. One of them is a copy of the letter I've sent to the county attorney which is objecting to, basically raises the issue whether you even have jurisdiction to hear this. If CGP has appealed it to District Court, with all due respect to Judge Encinias who I have a lot of respect for, jurisdiction is not conferred by judges, jurisdiction is conferred by statute. There is not statute that says Judge Encinias can defer or bring the jurisdiction back once it's been accepted at the District Court level. The only way you can hear this request for modification is if the appellant drops his appeal. That being said, there is some other basis here, I don't think that the applicant has followed the publication.

COMMISSIONER GONZALES: Can we just get that issue addressed before you go forward? And have counsel address the point because I think that is very critical to the proceeding this evening.

MS. HUMPHREY: Yes, sure.

CHRIS GRAESER (Assistance County Attorney) Mr. Chairman, Commissioner Gonzales, again, and I know I say this to you all the time, but it's not a settled issue in New Mexico law.

I did discuss it both with Miss Humphrey and Mr. Manges, and I'm of the opinion that Mr. Manges's motion to remand from the District Court to this body is sufficient. Obviously from my position I'd be happy if the appeal was dismissed.

COMMISSIONER DURAN: What's your opinion based on?

MR. GRAESER: My opinion is that once the appeal is taken to District Court, this body loses jurisdiction and District Court gets jurisdiction, but Judge Encinias did willingly give jurisdiction back to this body, and remand is often done at an appellate level. It's usually after an appellate court will decide some issues and want to send it back to decide other issues, but it does occur that an appellate court will send a case back for further proceedings.

COMMISSIONER GONZALES: Then you received the notification in writing from the Judge?

MR. GRAESER: The judge did sign it today. I had told Mr. Manges that I needed to see it by 1:30 and we got it by about 1:20.

I can't guarantee that that does it, and I don't know what Rural Conservation Alliance's actions will be if they will want to appeal that decision but it's my opinion that

that does give this body jurisdiction to hear it further.

MS. HUMPHREY: I needed to bring that up to make sure that that's in the record and it will be probably litigated further, but whether -- the other question is just whether there was appropriate notice given of this public hearing. I believe that many people in Cerrillos have no idea that this is being heard tonight. There was no publication. There was no posting of the property and there was no notice given to neighboring people.

I believe it was put on your agenda and I don't know when it was posted on your agenda that this would actually take place tonight. I have to raise that again so that that's in the record.

Basically, I have a few remarks. About two months we were in this same room and you made some really specific decisions at that time. Out of that came an MOU which before that time, before the meeting, that afternoon CGP and Associated Asphalt had signed off on. When you changed the conditions of the permit, of the MOU, they decided not to sign. Instead they appealed it to District Court. Mr. Cook and Associated Asphalt and Joe Manges and Mr. Upton were all privy to the negotiations before they came up with the original January 25th MOU's. Not the one that you changed but the one that was presented to you. The public was never privy to that. If there were stockpiles of gravel at that time that was their chance and opportunity to address them. They should have foreseen that they would have needed those stockpiles.

I find it suspicious that suddenly the stockpiles appear on or about the same day that Mr. Cook's crusher leaves the site. There's no proof or evidence that either side can present because nobody wants to go look on January 25 to see what the state of mining was.

The CGP hasn't cured their violations. They haven't cured their violations that led to the suspension. Instead they appealed your decision and yet here they are when they had ample opportunity two months to address this stockpile issue, if it was an issue, and now they want a third bite of the apple. It's not the County's responsibility to make sure that Associated Asphalt fulfills its contractual obligations for the road building. We heard Mr. Cook say the other day that the Waldo mine is up and running and they've been able to purchase materials to work on all the roads. Their real cause of action is again CGP or whoever is responsible for the permit violation. And they have a cause of action against CGP, Mr. Cook, if he's got a contract with them, can sue on that and recover any damages that he suffers as a result of not having the gravel from CGP.

Allowing this modification to a material term of the MOU which isn't even signed, and which has been appealed, it really undermines your own authority to make decisions which will hold up over time. We just heard Mr. Manges say that next time we'll talk about other conditions of the suspension. What is next time? Is it after the district court keeps remanding it, after they've already prevailed upon the district court? At some point you need to make a decision of when you have a final decision. You made one on January 25, it's been appealed.

The staff has made many recommendations for the short-term project and we

understand that it is short term and basically they're the same recommendations of the terms of their condition, the very same recommendations that they have been violating since January of 1997. Who is going to enforce it this time? The citizens in Cerrillos want to know. It all goes back to point number four of the staff recommendations; let's ask CGP to supply information about their water supply. Well, CGP has supplied information about their water supply several times since 1983 and each time they made a representation that they had 6 acre-feet of water rights. Fifteen years later we find out they have no water rights and they've had to apply to the state engineer. It's a basic admission that they've been using water illegally for 15 years.

I see up there you have equal justice under law; I just wonder how many other citizens of Santa Fe County get to have a third bite of the apple. I'm just asking you on behalf of the citizens of Cerrillos and Galisteo and San Marcos to not let this meeting tonight be a bad civic's lesson where if you have enough power you can come back for your third bite. You can circumvent and run around the district court and come back to get what you didn't get the first time around.

I believe that that's all I need to say tonight. Thank you.

CHAIRMAN GRIÑÉ: Thank you. This is a public hearing.

COMMISSIONER GONZALES: Mr. Chairman, can we have the staff address the notification issue.

MR. GRAESER: Thank you. The original permit that Cerrillos Gravel Products got for the mining was a land use issue and that was required to be properly noticed under our code with the posting and the 21 days.

On January 25th when we suspended the permit, that was an administrative action and they just had to be posted on the agenda in accordance with the county notice resolution which it was. This is the further administrative action on that suspension and it got the same notice as the suspension did. I don't think you have a notice issue.

[Duly sworn Fred Montoya testified as follows]

FRED MONTOYA: My name is Fred Montoya. I live on number four County Road 59, Cerrillos, New Mexico. On January 25 of 2000, the Santa Fe County Commission suspended Cerrillos Gravel Products. Since gravel hauling is an integral part of the mining issue, that permit should remain suspended. Water is one of the main issues and Cerrillos Gravel has not yet stated where the water for the interim gravel hauling is coming from. Cerrillos Gravel Products has not obtained water rights as required by this Commission. So the permit should remain suspended. Thank you.

CHAIRMAN GRIÑÉ: Thank you. Next speaker.

[Duly sworn, Archie Tew testified as follows]

ARCHIE TEW: My name is Archie Tew. I live on Highway 14. Commissioners, the founder of my company sits on President Clinton's Council for Sustainability. The work we do is to try and find ways for organizations all over the world to live and work and make a profit at the same time making that profit in a fair and equitable

way with regards to the communities that they work and live in.

I'm a resident of the community and have been for a long time. When organizations around the world abuse the rights that they think they have. If an oil tanker dumps its cargo out at sea trying to be undetected as it does it and is caught they're fined and they're fined very heavily. Because what they're doing is that they're making this world an unsafe place for future generations. I love this country: it's not my country, but I came here because I love it. I can't call myself a local but I have a great passion for it.

I don't have any children but I want this to be a place that future children, future generations can grow up and live in a healthy prosperous way. When organizations and companies take advantage of the environment and the community they should be fined for it and if you back off on this, if you allow them to do this, what you're doing is you're compromising. You're compromising yourselves as leaders of this community and you're compromising the people who rely on you -- I ask you please, do not compromise yourself. Hold the fine -- hold them to it and make them get water rights. Make them live by the law don't allow them to get away with this, please, for the community and for the children.

CHAIRMAN GRIÑÉ: Thank you. Next speaker.

[Duly sworn Hugh Nazor testified as follows]

HUGH NAZOR: I'm Hugh Nazor I live on Camino Abuelos and I thank you for naming the road after my wife and myself.

Just a clarification, I believe I heard you say 6,000 tons.

MR. GONZALES: That's correct, sir.

MR. NAZOR: Did you say 240 truck loads?

MR. GONZALES: That's correct, sir.

MR. NAZOR: Two ton trucks?

MR. GONZALES: That's correct, sir, that's the weight of the truck.

MR. NAZOR: How much does each truck hold?

MR. GONZALES: I'd have to defer that to the applicant.

GREG. UPTON: About 25 tons.

MR. NAZOR: About 25 tons. Okay, I was trying to reconcile those two things in my mind.

CHAIRMAN GRIÑÉ: Thank you. Next speaker.

[Duly sworn Claire Fulenwider testified as follows]

CLAIRE FULENWIDER: Thank you, Mr. Chairman, Commissioners. My name is Claire Fulenwider. I live just north of Los Cerrillos. I'm also chair of the Cerrillos Hills Park Coalition. The attorney for CGP commented that this was just sprung on him recently about the dust control and what requirements. For some of us, this public hearing this evening was also sprung on us at the last minute.

I personally, not speaking for the coalition, have a concern about the need for the dust control which is very evident and the water requirement and where that water would come from and its impact on water availability for the village, for the aquifer and for the

park in the future. So I hope that some more study could occur before a very quick decision could be made on an issue of this importance.

Thank you very much.

CHAIRMAN GRIÑÉ: Thank you. Next speaker.

[Duly sworn Alexic Higginbothan testified as follows]

ALEXIC HIGGINBOTHAN: My name is Alexic Higginbothan and I live off of Highway 14. My question to you is very simple actually, what I'd like you to explain to me is how someone, an organization can continuously break laws and incur fines because they don't follow the rules, yet they're asking you to accommodate them so they can make a little extra money. To deliver their gravel and to honor their supposed deals with for the roads that they may be taking care.

What I don't understand is that if I were someone who broke a law, I would not encounter the same sort of accommodations that these people seem to be asking of you folks. To cut them some slack and let them deliver their gravel when they've been breaking the law.

CHAIRMAN GRIÑÉ: Thank you. Next speaker.

[Duly sworn Christian Koch testified as follows]

CHRISTIAN KOCH: Christian Koch, spelled K-O-C-H, from CR 42 in Galisteo. My concern is are we governed by the rule of law or are we governed by the whim of special interest? Gentlemen, think before you vote tonight.

CHAIRMAN GRIÑÉ: Thank you. Next speaker.

[Duly sworn, Bill Gillespie testified as follows]

BILL GILLESPIE; Gentlemen, Bill Gillespie from Cerrillos, New Mexico. One of the things I don't think -- I've been to the meetings here and I've heard I don't think you people understand how this was found out. In 1971 the Cerrillos Gravel Products was just running a little operation with two or three trucks a week. In '97 Mr. Cook came in and the truck traffic went ballistic in the village. Now I found out that they were mining 3 acres up there. I own a 3 acre piece of property in Eldorado and I know how big that is. And when hundreds of truck loads are going in and out it's more than 3 acres of gravel.

So what I did was I went to the Highway Department and I purchased from the Highway Department a fly-over photograph by their airplane to determine how large this area was and I compared that to previous photographs that were taken in previous years. Now it became evident that much more than an 3 acres had been mined. We brought that -- the RCA brought that to Charlie and he investigated and determined, sure enough, that they had overmined it.

Then we got into the water rights and discovered that they were illegally pumping water out of the ground. What happened is that if we had not discovered this, this operation would still be running, they would still be taking water out of the ground and they would still be mining illegally. Now, what they're asking you to do is to give them permission to remove gravel that maybe was removed illegally in the first place. It's kind of like the bank

robber who gets caught and says, wait a minute I'm sorry I got caught but can you give me the money anyway. And that's what we think the situation is: they're asking for the money anyway even though they got caught.

CHAIRMAN GRIÑÉ: Thank you, sir. Any more speakers?

[Duly sworn Edweena Earnheart testified as follows]

EDWEENA EARNHEART: My name is Edweena Earnheart and I am with the Rural Conservation Alliance and I live at 3701 State Road 14 the Turquoise Trial in San Marcos area.

I have a few comments to make and I'll make them as succinct as possible since we've already done this before. By changing the MOU after the citizens have lost their opportunity to appeal that decision that you made of January 25, the BCC deprives up of due process of law. Number two, an important question the RCA has is this: if this stockpile existed prior to the January 25 hearing why didn't CGP and Richard Cook negotiate this issue when they and the County administration were drafting the original MOU? And by the way, they signed that original MOU with this requirement in place. They had a second opportunity to negotiate the removal of this material at the BCC hearing why didn't they bring up this issue then? And now we're having a hearing again to address an issue that they have had two opportunities to address before the suspension of their permit and what is to prevent CGP from continuing again and again to repeatedly come back and demand even more changes to the MOU. I'd like to remind the Commissioners of your comments at the BCC hearing.

Commissioner Trujillo on page 82, you said: "I believe we need to make sure that if this MOU is approved that it is complied with." And, Commissioner Gonzales, on page 82, you said, "I don't think it's uncalled for that we have a public hearing again to review at the point that staff feels that they've complied with the conditions to come into compliance."

Number four, hauling activities is part of the mining process. By allowing them to haul you also undermine number three of the memorandum of understanding which requires a letter from the office of the State Engineer verifying that they have water rights before CGP is permitted to resume operations. Per the letter to CGP from the OSE on December 22, I quote, "Use of water from any other source, likewise requires a permit through this office."

Number five, you also undermine number five of the MOU which say, "CGP and/or Associated must comply with all other terms and conditions of approval." CGP should be reclaiming not hauling. They should be putting that gravel back into the reclamation and the unpermitted mining areas. By approving this change without adequate public notice the BCC will be setting a precedent whereby CGP and Richard Cook and others will know the BCC is unwilling to enforce their own decisions.

Once again CGP and Richard Cook have indicated that they are unwilling to comply with their conditions of permit by forcing this meeting today, by refusing to sign the MOU,

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and by appealing the BCC decision and the Magistrate Court hearing even after they negotiated agreements with the County.

Why should CGP and Associated be rewarded for this behavior and be allowed to bully the Commission the citizens of Santa Fe County for their personal profit. We respectfully ask that you deny CGP's and Associated's request to modify the MOU. I'd like to submit my testimony and some exhibits to the record. Thank you very much for your concern.

CHAIRMAN GRIÑÉ: Thank you. Any other speakers out there? Okay, that concludes the public hearing. Any questions of the Commission?

COMMISSIONER DURAN: Mr. Chairman, I would just like to comment that the gentleman that mentioned -- we're up here to make decisions based on logic and reason as much as anything else and it seems to me that it's reasonable -- and I understand that the applicant has not been able to prove adequate water rights to continue his operation there and that's why he has been prevented from doing that. It seems reasonable to me and logical that if there is some material there that can be used that this request is not unreasonable. And provided that he meets all the requirements of the staff recommendations I don't see a problem with this.

With that I'd like to make a motion that we approve CDRC MIS 97-5230.

COMMISSIONER ANAYA: There's a motion for approval; is there a second?

COMMISSIONER TRUJILLO: For discussion, second.

COMMISSIONER ANAYA: Yes, second by Commissioner Trujillo.

COMMISSIONER TRUJILLO: I want to ask the applicant where -- about the water and the scope of the water the containment of the dust. I think the requirement is that the road be watered from the source where the material is at and I agree with that. I want to know where the water will come from so the community will not get inundated with a cloud of dust because I also agree that it's reasonable that that material be removed from that site. It's already been processed and there's material there, take it out and reclaim the area but do it in a way that it does not have a disparate impact, a negative impact, on the community.

MR. MANGES: There's 10,000 gallons on-site right now in existing storage tanks. The only way water can be used is to be trucked in and the only source that we have now is the City of Santa, I think it's hydrant 57 which --

COMMISSIONER TRUJILLO: I would prefer that it comes from the City of Santa Fe rather than from the immediate area.

MR. MANGES: At this time that's what we're proposing to do and obviously

MR. UPTON: That's hydrant number 53.

MR. MANGES: Pardon me, that's hydrant number 53 where we have an existing permit and that would be what our proposal was and obviously that would not impact any water table at the site because there would be no pumping at the site.

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The history of water rights on this project is complicated and is not as simple as anybody believes and part of the reason it's going to take awhile to secure water rights for use on the property.

CHAIRMAN GRIÑÉ: Joe, I think we have pretty much addressed those issues and I think we wanted to make sure that the Commissioners have addressed here is that you people are willing to comply with it and that's it. Again, to the other water rights, like you said, it's very complex and I don't think this is the night to discuss this.

MR. GONZALES: Chairman Griñé and Commissioners, I just notified by the RCA that they have some conditions that they would like for you to entertain.

CHAIRMAN GRIÑÉ: Who does?

MR. GONZALES: The RCA, the Rural Alliance Conservation.

COMMISSIONER DURAN: There's a motion on the table.

COMMISSIONER ANAYA: That should have surfaced during --

COMMISSIONER GONZALES: Well, Mr. Chairman, the Commission can choose not to agree. I mean, I think we should at least allow --

COMMISSIONER DURAN: But has the applicant had the opportunity to review these?

COMMISSIONER GONZALES: Why don't we hear the conditions first.

COMMISSIONER ANAYA: Mr. Chairman, first of all you know where this material is going to is certainly a good form of productivity being road work that we need and which helps the community all the way around. Another feature in this is only for three weeks.

COMMISSIONER DURAN: I think that there's a motion on the table and it's a point of order.

COMMISSIONER TRUJILLO: I'd like to listen to the community before I make a final vote.

COMMISSIONER ANAYA: Okay, that's fine.

COMMISSIONER DURAN: I'll concede.

CHAIRMAN GRIÑÉ: Okay, let's see what your conditions are.

MS. EARNHEART: Well, of course, we strongly oppose changing the MOU and allowing them to come back and haul this.

CHAIRMAN GRIÑÉ: Ma'am that's not the issue.

MS. EARNHEART: Okay, but I just wanted to reiterate that.

CHAIRMAN GRIÑÉ: There's a motion and a second and we want to see what your conditions are.

MS. EARNHEART: We wanted to add these conditions for this temporary hauling if you do insist on changing this. We would request a site visit not only by the county but by the RCA be allowed to go with the county on this site visit to analyze and document the material that CGP is proposing to be allowed to remove. The RCA has not been able to go on-site to review anything according to the recommendations of the BCC that

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the RCA be allowed to work with them in their reclamation because they never signed the MOU. So it stopped all proceedings and we'd like to be involved in that site visit so we know exactly what they're talking about prior to any removal. We feel that if they are allowed to remove this material that they should be required before removing this material to sign the MOU and drop their appeals in district court. I think that that's a reasonable request because they're getting their cake and eating it too. They're having you change the MOU for their personal profit but yet they still have it in appeal and I don't think that's fair at all and they should be required to sign the MOU and drop the appeals.

We request that they only use small dump trucks with single-trailers and not semi-trailers and that they be given no more than two weeks to haul and that they use the Devil's Throne Road instead of going through Main Street in Cerrillos and the Turquoise Trail. And I have these written down if you'd like to read them.

CHAIRMAN GRIÑÉ: Charlie, I have no problem with the first one but I don't know about the rest of them. What about you, Commissioner?

COMMISSIONER DURAN: I just have -- I'd like to ask the applicant. The first one seems reasonable. The second to drop the lawsuit and my feeling is that those are two separate issues. The third one was small dump trucks and using the other road; so, what are your thoughts on that?

MR. MANGES: Number two I don't think could be acceptable. There are other issues involved there.

COMMISSIONER DURAN: It seems to me that if you have a smaller dump truck, I figured out it's like two trucks every hour.

[Duly sworn, Greg Upton testified as follows]

GREG UPTON: My name is Greg Upton and I live at 152 Gravel Pit Road, Cerrillos.

COMMISSIONER DURAN: So if you have smaller trucks you're going to have more traffic and it's going to be more of a problem with more of an impact?

MR. UPTON: Exactly. Item one, we've already basically agreed with the county and I talked to Charlie about that earlier. And I believe that is part of one of your stipulations. But we would agree to item number one.

COMMISSIONER DURAN: What about one and four?

MR. UPTON: Using Devil's Throne, again, that adds considerable mileage to the haul route, approximately eight miles.

COMMISSIONER DURAN: Are those dirt roads also?

MR. UPTON: They're also dirt roads.

COMMISSIONER DURAN: So it seems to me that that would be unreasonable. So I'll accept number one as an amendment to my motion.

MR. UPTON: We'd be glad to accept number one.

CHAIRMAN GRIÑÉ: Does the second accept it?

COMMISSIONER TRUJILLO: The second accepts it also.

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MR. GONZALES: Mr. Chairman and Commissioners, condition number one has everything that is on the existing condition right now.

The motion passed by majority [3-1] voice vote with Commissioner Gonzales voting against.

ADJOURNMENT

Chairman Griñé declared this meeting adjourned at approximately 7:25 p.m.

Approved by:

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

Respectfully submitted:
Karen Farrell, Commission Reporter

ATTEST TO:
REBECCA BUSTAMANTE
SANTA FE COUNTY CLERK

COUNTY OF SANTA FE) SS
STATE OF NEW MEXICO)
I hereby certify that this instrument was filed for record on the 1 day of June A.D. 20 00, at 1:55 o'clock p.m. and was duly recorded in book 1772, page 116 of the records of Santa Fe County.
Witness my Hand and Seal of Office
Rebecca Bustamante
County Clerk, Santa Fe County, N.M.
Deputy

Attached Exhibits:
Exhibit 1: CDRC Case MIS 97-5230 3/28/00 Staff report.
Exhibit 2: Conditions imposed by BCC on 7/8/97
Exhibit 3: Letter dated 2/1/00 from the County re: suspended permit
Exhibit 4: Letter dated 3/24/00 from CGP counsel
Exhibit 5: Documents submitted by Edweena Earnheart

Marcos P. Trujillo
Commissioner, District 1

Paul Duran
Commissioner, District 2

Javier M. Gonzales
Commissioner, District 3

Richard D. Anaya
Commissioner, District 4

Joe S. Griñé, Jr.
Commissioner, District 5

Samuel D. Montoya
County Manager

EXHIBIT 1

MEMORANDUM

DATE: March 28, 2000

1772116

TO: Board of County Commissioners

FROM: Charlie D. Gonzales, Inspections & Enforcement Supervisor CHARLIE

VIA: Estevan Lopez, Land Use Administrator ERL

FILE REF: CDRC Case #MIS 97-5230, Cerrillos Gravel Products Mining

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ISSUE:

The applicant is requesting modification of condition number 1 of the permit suspension imposed by the BCC. Cerrillos Gravel Products (CGP) requests to haul out about 6,000 tons of existing stockpiles of basecourse material to be utilized on several Santa Fe area projects, including the Santa Fe Bypass, Zia Road and several Santa Fe County road projects. Moving the two piles would require approximately 240 2- ton truck trips. Cerrillos Gravel Products (CGP) would honor all applicable terms and conditions of its suspended permit. Hours of operation would be Monday through Friday, 8:30 a.m. to 4:30 p.m. The applicant has stated that all gravel trucks would be covered or tarped and the drivers would be instructed to honor the speed limits within the Village of Cerrillos. No additional gravel is proposed to be produced. Cerrillos Gravel Products is also requesting clarification of the terms of the permit suspension.

SUMMARY:

In 1983, the Board of County Commissioners (BCC) granted approval to mine 3 acres. In 1991 the Mining Ordinance changed and all existing mining approvals sunsetted. CGP had 18 months to request approval of an existing mining use with approval of a Reclamation and Operations Plan for a gravel mine limited to three acres disturbance. They did not come in and request such approval until July 8, 1997.

In 1997, the BCC granted approval to CGP for an existing mining use pursuant to Article XI, Section 1.10, County Land Development Code with conditions. (Exhibit "A")

On the meeting of January 25, 2000 the Land Use Administrator requested that the BCC suspend the mining land use permit due to failure to comply with water supply requirements for dust control, reclamation, and mining operations, non-compliance of outstanding conditions, and exceeding the 3 acre boundary in the quarry/unpermitted expansion. The BCC suspended Cerrillos Gravel Products mining permit. A Memorandum of Understanding (MOU) executed by the parties was considered by the BCC, which proposed several changes to that MOU. Although agents for CGP and Associated Asphalt verbally agreed to all conditions of the MOU as modified, the MOU was never signed. Nevertheless, the mining permit was immediately suspended subject to conditions by order of the BCC. (Exhibit "B")

In addition, the Rural Conservation Alliance (RCA) would like to request access to the site to enable them to obtain information to review the cost estimates for reclamation as per condition number six of the permit suspension. *"Representatives of all the parties, and of the Rural Conservation Alliance, shall meet on site, and CGP and/or Associated shall prepare and submit all necessary plans and estimates to enable the parties to arrive at reasonable cost estimates for reclamation."*

RECOMMENDATION:

Should the BCC decide to grant this request to CGP, staff recommends the following conditions:

1. Photos or video of the existing stockpiles shall be taken by Santa Fe County and representatives of RCA in coordination with CGP, prior to hauling and after, to ensure the stockpiles have been exhausted.
2. Operation hours shall be limited to Monday through Friday, 8:30 a.m. to 4:30 p.m. Due to numerous complaints received during the permitted period of the mining operation, trucks shall not park or line up along Main Street entering the town of Cerrillos until after 8:00 a.m.
3. All trucks hauling material shall be tarped before leaving the mine site.
4. Provide dust control and a schedule for this temporary hauling activity. There is currently a dispute between Santa Fe County and CGP regarding the water source. Temporary resumption of this should be subject to CGP providing additional information about the water supply. The applicant should be required to stipulate that any agreement on water supply for this temporary hauling operation shall not be binding as to any future applications, approvals or permit amendments.

5. This temporary hauling activity is only for removing 6,000 tons of of basecourse. (Two piles) Any resumption of any other activity shall comply with the conditions of the permit suspension.
6. The temporary hauling activity is approved for the a period of three weeks only, beginning March 30, 2000 and concluding April 21, 2000.

EXHIBITS:

Exhibit "A" Letter of approval with conditions from BCC dated July 10, 1997.
Exhibit "B" Letter of suspension with conditions, from the Land Use Administrator, dated February 1, 2000.
Exhibit "C" Letter of Intent From CGP.

Marcos P. Trujillo
Commissioner, District 1

Paul Duran
Commissioner, District 2

Javier M. Gonzales
Commissioner, District 3

Richard D. Anaya
Commissioner, District 4

Joe S. Gri[illegible], Jr.
Commissioner, District 5

Domingo Sánchez III
County Manager

July 10, 1997

1772116

Cerrillos Sand and Gravel
c/o Joe Manges
Carpenter, Comeau, Maldegon et al.
141 E. Palace Av.
Santa Fe, New Mexico 87501

Re: CDRC Case # MIS 97-5230, Cerrillos Gravel Products Inc. applicant, Joseph E. Manges, agent, request the approval of an existing mining use under Article XI, Section 1.10, with approval of a reclamation and operations plan for a gravel mine limit to three acres of disturbance. The property is located north of the Traditional Community of Cerrillos, within Section 17, Township 14 North, Range 8 East.

Dear Mr. Manges:

The Board of County Commissioners at their regular scheduled meeting of July 8, 1997, met and acted on the above mentioned case. The decision of the Commission was to grant approval subject to the following conditions:

1. Recent, and ongoing unpermitted improvements on the lands owned by the applicant will be brought into compliance with all aspects of the County Land Use Code, including roads, dwellings, liquid waste treatment, etc. An archeological study, and all other requirements of the County Code, will be required for any new land development on the 240 acre property.
2. CGP grants enforcement/inspection access to the County during regular business hours. County Enforcement Officers will at that time issue notice of violation if the property is found to be in violation of the approved plan.
3. All operation and reclamation plans will be revised to more accurately depict the existing mining and operation areas.
4. The 3 acre mining area and current operating area 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. All future mining and operations shall be confined to the working areas permitted in this application.
5. The current active areas, and areas disturbed by CGP will be accurately depicted on the topographic map and plans; and all mining, operations, and disturbed areas calculated and reported by an LLS or PE.
6. All stockpiles outside the permitted area shall be removed within 180 days of CDRC approval.

Exhibit "A"

7. All areas disturbed by CGP outside the surveyed monuments shall be recontoured and revegetated according to the County approved reclamation and revegetation plan as soon as weather permits but no later than September 1, 1997.
8. Removed.
9. All excavations and surface hazards on the property shall be fenced and posted.
10. All water wells which have pumps or are being used must be metered and results reported to the State Engineers Office and the County Hydrologist every six months
11. To protect the springs within the valley occupied by Gravel Pit Road, the existing road will be stabilized, without encroachment, in the vicinity of natural springs, within ninety days of CDRC approval. Natural discharge, flow and ponding points will be protected by large boulders lining the road. CGP will coordinate with the Building and Hydrology Division Director on an acceptable plan.
12. For the purposes of field inspections, and before issuing permits, plans and specification for operation and reclamation specific to the 3 acre mining area and associated operating areas shall be clearly described and reflected on all plats and plans. A copy of the approved plans shall be kept available on site.
13. The Reclamation Plan shall be revised to include costs of dirt work and reclamation conforming to a current NMSHD cost estimating schedule. When approved by the Building and Hydrology Director Division Director, a Financial Guarantee shall be arranged to cover 120% of estimated project costs.
14. Revegetation plans shall be designed by the applicant, and reviewed and approved and accepted by the Building Permit Division Director and County Hydrologist. Native trees shall be included in the final plan.
15. The Reclamation plan's specified plan for recontouring and preparing reclaimed slopes shall be amended to include drill seeding where physically possible.
16. No post reclamation slopes shall exceed 30%.
17. Natural drainage ways shall be restored to simulate natural flow channels after reclamation.
18. A pre-construction conference shall be held with County staff prior to any field activity outside the permitted mining area, and prior to any reclamation.
19. The time of CGP related semi trailer truck traffic operation within the village of Cerrillos shall be 8:30 to 4:30, Monday through Friday.
20. CGP will hire a traffic and road specialist to prepare a report describing alternate shipping routes and their potential that avoid the Village of Cerrillos. The study will consider existing and likely truck routes, terrain, ownership and cost and other impacts. Alternative routes leaving the mine area, and alternatives to Highway 14, (ie. Waldo Exit) must be examined and their feasibility assessed. This report will be made public and reported to County Staff within 6 months of CDRC approval. If no route is found, CGP within 6 months of CDRC approval will engineer and pave Gravel Pit Road from the cattle guard to the railroad tracks on the north side of the Village. Plans to be reviewed and approved by County Staff provided all owners adjoining this portion of the road are in agreement as well as the Public Works Department.
21. A speed limit of 10 miles per hour shall be observed approaching and within the village.

22. Until paved, CGP will keep the road watered to control dust as needed from the south bank of the San Marcos Arroyo to the railroad tracks.
23. All commercial, semi, tandem/dual axle trucks must have tarps completely covering their loads, and their bumpers and step sides will be cleaned of loose material prior to entering the village.
24. The County may seek to enforce the requirements of these conditions if they are not complied with within twelve (12) months of the CDRC approval, and may do so administratively or in a court of law.

If you have any questions regarding this matter, please do not hesitate to contact my office at 986-6229.

1772116

Sincerely,

Rudy Garcia

Rudy Garcia
Development Review Specialist III

Marcos P. Trujillo
Commissioner, District 1

Paul Duran
Commissioner, District 2

Javier M. Gonzales
Commissioner, District 3

Richard C. Anaya
Commissioner, District 4

Joe S. Griñé, Jr.
Commissioner, District 5

Samuel C. Montoya
County Manager

EXHIBIT 3

By: Certified Mail

Joe Manges
Comeau, Maldegan, Templeman & Indall, LLP
PO Box 669
Santa Fe, NM 87504-0669
Attorney for Cerrillos Gravel Products

February 1, 200

1772116

Richard P. Cook
Associated Asphalt
3810 Oliver Rd.
Santa Fe, NM 87501

Gentlemen:

As you may know, the Santa Fe County Board of County Commissioners met on January 25, 2000 and acted on the Land Use Department's request to suspend Cerrillos Gravel Product's (CGP) permit. The Memorandum of Understanding (MOU) executed by the parties was considered by the Board, which proposed several changes to that MOU. Agents for CGP and Associated Asphalt (Associated) present at the aforementioned meeting verbally agreed to all conditions of the MOU as modified. Please return a signed copy of this MOU at your earliest convenience.

Nevertheless, whether you agree to the MOU or not, the Board's action specified that mining permit number MIS 97-5230 is immediately suspended, subject to the following conditions:

1. CGP and ASSOCIATED shall immediately halt and discontinue all mining, material removal and hauling activity at the site.
2. CGP and/or ASSOCIATED shall secure legally permitted water rights sufficient for the mining, dust control and reclamation operations at the site. If CGP and/or ASSOCIATED do not secure legally permitted on-site water rights, Paragraph 4, requiring a new master plan application for use of off site water rights shall be complied with.
3. The COUNTY shall permit resumption of operations upon receipt of a letter from the Office of the State Engineer verifying the legality of the use of those rights for the purpose and the place intended, and upon compliance with the remainder of this agreement.
4. If CGP and/or ASSOCIATED propose to use off-site water, such use will require a new master plan application.
5. CGP and/or ASSOCIATED must comply with all other terms and conditions of approval,

Exhibit "B"

including provision of all necessary financial guarantees.

6. Representatives of all the parties, and of the Rural Conservation Alliance, shall meet on site, and CGP and/or ASSOCIATED shall prepare and submit all necessary plans and estimates to enable the parties to arrive at reasonable cost estimates for reclamation.
7. CGP and/or ASSOCIATED shall provide a financial guarantee sufficient to provide for reclamation of all areas outside the permitted mining area which have been disturbed during the time that CGP and/or ASSOCIATED have been operating the property, and a separate financial guarantee sufficient to provide for remediation of the permitted area, in accordance with Paragraph 6, above and the terms and conditions of approval. Full reclamation of all areas outside the permitted mining area which have been disturbed during the time that CGP and/or ASSOCIATED have been operating the property shall begin immediately.
8. Upon submission of proof of legally permitted water rights or, if necessary, a new master plan application, and upon compliance with all other terms and conditions of permit approval, provision of all necessary financial guarantees, and full reclamation of unpermitted disturbed areas CGP and/or ASSOCIATED shall be permitted to resume mining operations within the permitted area. Before resumption of operation, however, CGP and/or ASSOCIATED shall come back before the Board of County Commissioners for review of compliance with this agreement.
9. Upon compliance with Paragraph 8, above, the COUNTY shall either resume the development review process in regard to CGP's 1996 application for mining of 30 acres, or shall accept CGP's resubmittal of that application, along with staff review comments. At this time the County does not acknowledge submittal or possession of that application.
10. By entering this agreement, CGP does not relinquish or waive any of its rights under its existing permits or mineral zoning. CGP maintains that its 240 acres are specifically zoned for gravel extraction by historical mining use and pursuant to the November 1983 and 1997 County Development Review Committee approval and the April 1984 and 1997 Board of County Commissioners action and permit and does not waive any of its rights under common law or to the permits or zoning. By execution of this agreement, Santa Fe County takes no position on CGP's claims.
11. The parties further agree and acknowledge that this agreement is in settlement of disputed claims and that the settlement of such claims by mutual agreement shall not be construed, interpreted, or represented as an admission of fault culpability, or wrongdoing by CGP or ASSOCIATED and shall never be treated as evidence of liability or responsibility by CGP or ASSOCIATED at any time or in any manner whatsoever.

Please inform me of your respective decisions with regard to your agreement with the modified MOU. Additionally, please meet with me at your earliest convenience regarding compliance with the above terms.

Yours Truly,

Estevan Lopez, Land Use Administrator

cc: Charlie Gonzales, Inspections and Enforcement Supervisor
Diana Lucero, Acting Land Use Administrator
Roman Abeyta, Permits Desk Supervisor
Chris Graeser, Office of the County Attorney

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MEMORANDUM OF UNDERSTANDING

The undersigned parties to this memorandum are the BOARD OF COUNTY COMMISSIONERS OF SANTA FE COUNTY ("COUNTY"), CERRILLOS GRAVEL PRODUCTS ("CGP") and ASSOCIATED ASPHALT ("ASSOCIATED").

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RECITALS

1. WHEREAS, the COUNTY believes that CGP is in violation of the terms and conditions of its permit approval; and
2. WHEREAS, CGP and ASSOCIATED deny that any violations have occurred; and
3. WHEREAS, the parties desire to ensure that CGP's gravel mining operation in Cerrillos NM, is in compliance; and
4. WHEREAS, ASSOCIATED, as operator of the mining operation proposes to assist CGP in this endeavor; and
5. WHEREAS, the parties met on January 20, 2000 and agreed upon the following terms,

NOW, THEREFORE, the following terms are agreed upon by all parties hereto:

TERMS OF UNDERSTANDING

1. CGP and ASSOCIATED shall immediately halt and discontinue all mining, material removal and hauling activity at the site.
2. CGP and/or ASSOCIATED shall secure legally permitted water rights sufficient for the mining, dust control and reclamation operations at the site. If CGP and/or ASSOCIATED do not secure legally permitted on-site water rights, Paragraph 4, requiring a new master plan application for use of off site water rights shall be complied with.
3. The COUNTY shall permit resumption of operations upon receipt of a letter from the Office of the State Engineer verifying the legality of the use of those rights for the purpose and the place intended, and upon compliance with the remainder of this agreement.
4. If CGP and/or ASSOCIATED propose to use off-site water, such use will require a new master plan application.
5. CGP and/or ASSOCIATED must comply with all other terms and conditions of approval including provision of all necessary financial guarantees.
6. Representatives of all the parties, and of the Rural Conservation Alliance, shall meet on site, and CGP and/or ASSOCIATED shall prepare and submit all necessary plans and estimates to enable the parties to arrive at reasonable cost estimates for reclamation.
7. CGP and/or ASSOCIATED shall provide a financial guarantee sufficient to provide for reclamation of all areas outside the permitted mining area which have been disturbed during the time that CGP and/or ASSOCIATED have been operating the property, and a separate financial guarantee sufficient to provide for remediation of the permitted area, in accordance with Paragraph 6, above and the terms and conditions of approval. Full reclamation of all areas outside the permitted mining area which have been disturbed

during the time that CGP and/or ASSOCIATED have been operating the property shall begin immediately.

8. Upon submission of proof of legally permitted water rights or, if necessary, a new master plan application, and upon compliance with all other terms and conditions of permit approval, provision of all necessary financial guarantees, and full reclamation of unpermitted disturbed areas CGP and/or ASSOCIATED shall be permitted to resume mining operations within the permitted area. Before resumption of operation, however, CGP and/or ASSOCIATED shall come back before the Board of County Commissioners for review of compliance with this agreement.
9. Upon compliance with Paragraph 8, above, the COUNTY shall either resume the development review process in regard to CGP's 1996 application for mining of 30 acres, or shall accept CGP's resubmittal of that application, along with staff review comments. At this time the County does not acknowledge submittal or possession of that application.
10. By entering this agreement, CGP does not relinquish or waive any of its rights under its existing permits or mineral zoning. CGP maintains that its 240 acres are specifically zoned for gravel extraction by historical mining use and pursuant to the November 1983 and 1997 County Development Review Committee approval and the April 1984 and 1997 Board of County Commissioners action and permit and does not waive any of its rights under common law or to the permits or zoning. By execution of this agreement, Santa Fe County takes no position on CGP's claims.
11. The parties further agree and acknowledge that this agreement is in settlement of disputed claims and that the settlement of such claims by mutual agreement shall not be construed, interpreted, or represented as an admission of fault culpability, or wrongdoing by CGP or ASSOCIATED and shall never be treated as evidence of liability or responsibility by CGP or ASSOCIATED at any time or in any manner whatsoever.

CERRILLOS GRAVEL PRODUCTS

ASSOCIATED ASPHALT

SANTA FE COUNTY

BOARD OF COUNTY COMMISSIONERS

LAND USE ADMINISTRATOR

CHAIRPERSON

COMEAU, MALDEGEN, TEMPLEMAN & INDALL, LLP

1772116

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Larry D. Maldegen
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Jeffrey R. Brandenburg
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G. Stanley Crowe
1937-1987
Charles D. Olmsted
1925-1991

March 24, 2000

EXHIBIT 4

BY FACSIMILE

Mr. Estevan Lopez
Land Use Administrator
County of Santa Fe
102 Grant Avenue
Santa Fe, NM 87501

Re: Cerrillos Gravel Products: CPRC Case Mis 97-5230

Dear Mr. Lopez:

As you know, the January 21, 2000 Board of County Commissioners suspended CGP's existing gravel permit pending its determination of the amount of a reclamation bond, resolution of certain water issues and reclamation issues. CGP filed an appeal of the Board's decision on various grounds, and that appeal is pending in district court. The Board's action in suspending CGP's permit is causing CGP substantial losses and damages, and CGP's losses are mounting on a daily basis.

Several stockpiles of produced gravel are located at CGP's site, one of ½" - ¾" gravel and one of 1" gravel. The stockpiles total an estimated 6,000 tons. CGP hereby requests permission to truck the gravel in those stockpiles for use in several Santa Fe area projects, including the Santa Fe bypass, Zia Road and several Santa Fe County road projects. Moving the two piles would require approximately 240 2-ton truck trips. CGP would honor all applicable terms and conditions of its suspended permit. Hours of operation would be Monday through Friday, 8:30 a.m. to 4:30 p.m. The gravel trucks would be covered or tarped. The drivers would be instructed to honor the speed limits within the Village of Cerrillos. No additional gravel is proposed to be produced.

CGP also requests clarification of the terms of the permit suspension.

Exhibit "C"

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Granting of this request is plainly in the public interest, as the gravel is required and much needed in the above-described projects. It will also permit CGP and Associated to mitigate their mounting damages, which is in all parties' interests.

CGP notes that the Rural Conservation Alliance is opposed to this request in part because CGP has not yet posted a reclamation bond. However, the Alliance is itself partly responsible for the delay with respect to the reclamation bond. The Alliance is now belatedly challenging the adequacy of the bond, without informing either CGP or the County what they believe would be an adequate amount. The Alliance should not be permitted to take advantage of its failure to provide timely comments on CGP's reclamation plan or on the amount of bond, and simultaneously assert that CGP is in violation of its permit by not posting a bond.

By making this request, CGP does not relinquish or waive any of its rights under its existing permits, or mineral zoning or its rights in its pending district court appeal. CGP maintains that its 240 acres are zoned for gravel extraction by historical mining use and pursuant to the November 1983 and 1997 County Development Review Committee approval and the April 1984 and 1997 Board of County Commisioners' action and permit and does not waive any of its rights under common law or to the permits or zoning. Furthermore, nothing herein shall be construed, interpreted, or represented as an admission of fault, culpability, or wrongdoing by CGP or by Associated Gravel and shall never be treated as evidence of liability or responsibility by CGP or Associated at any time or in any manner whatsoever. Please call with any questions. Thank you.

Very truly yours,

Joseph E. Manges

JEM/cat

cc: Charles Gonzales
Christopher L. Graeser, Esq.
Greg Upton
Brad Aitken
Richard Cook

1772116

STATE OF NEW MEXICO
OFFICE OF THE STATE ENGINEER
SANTA FE

THOMAS C. TURNEY
State Engineer

December 22, 1999

BATAAN MEMORIAL BUILDING, ROOM 101
POST OFFICE BOX 2510
SANTA FE, NEW MEXICO 87504-5102
(505) 827-6175
FAX: (505) 827-6188

Mr. Brad Aitken
Cerrillos Gravel Products, Inc.
11603 Easterling
Houston, TX 77065

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Dear Mr. Aitken:

On December 2, 1999, a field inspection was made to Cerrillos Gravel Products (CGP). That inspection concluded that CGP is currently in violation of New Mexico water right law and the rules and regulations of the Office of the State Engineer. On the day of the field inspection Greg Upton, site manager for CGP, was informed of this violation. The requirements of this office were explained to him at that time. On December 13, 1999, Mr. Upton filed an application to use an existing well for domestic purposes. Once that application is approved, CGP may divert water from that well for domestic purposes only. **Diversion of water by CGP for any purpose associated with gravel crushing and/or dust abatement is currently and will remain illegal until an application is filed and permit for such use is approved by this office.** New Mexico law requires that an application of this nature be published, and is subject to protest and hearing.

Through its site manager, CGP has been verbally informed of the need to file an application for diversion of any water used at the gravel operation. However, as of today's date, no application has been filed with this office. This letter serves written notice to CGP that until a permit such as the one described above is approved by this office, no water diverted from any well at the CGP site may be used for any purpose associated with the gravel production operation. Use of water from any other source likewise requires permit through this office. **Failure to file the necessary application by January 7, 2000, shall result in referral of this matter to our Legal Services Division.**

Please feel free to contact me if you have any questions regarding this matter or your obligations under New Mexico law.

Sincerely,

Mary K. Young
Water Rights Division

xc: District I/Albuquerque
Santa Fe County Land Use

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county.

COMMISSIONER GONZALES: Thank you. That's my questioning for now.

COMMISSIONER TRUJILLO: Charlie, I've heard here tonight that there's been some egregious, insidious and even baneful abuse of conditions that have been put in place in the past. What guarantee does the community have that this new set of conditions will be complied with so that this community can benefit from a quality of life that all communities should benefit from. The essence of the community of Cerrillos has been mining. Mining has taken place in that community from the beginning, all its history. And it's probably going to happen in and around the area from this day forward.

But there's people that live in that community and I believe we need to make sure that if this memorandum of understanding is approved that it is complied with. It's been fifteen years that it hasn't been complied with and people live there. It affects people. So what guarantees?

MR. GONZALES: Mr. Chairman, Commissioners, the main thing we have on something like that, the main key to it would be the financial guarantee for reclamation and for dust control and everything else. That's the key to it all and all we can do in Code Enforcement is make periodic inspections.

COMMISSIONER GONZALES: Mr. Chairman, I guess and Charlie and to the Commission, I think we need to get this moving along. I think if this MOU is approved, one of the concerns I have is that under the terms of understanding that basically Cerrillos Gravel Products will be allowed to basically resume operating and I think that because of the history of Cerrillos Gravel that I'd be concerned that that would happen without some type of public review, which I don't think that it's uncalled for that we have a public hearing again to review at the point the staff feels that they've satisfied the conditions to come into compliance, that there be another public hearing to review those and to assure --

But there's some issues that will always remain outstanding and that's the issue of the hours of operation, which I think that we continuously get complaint on and because of lack of enforcement. I'm not sure how we enforce that. And I think that's the frustrating thing on this whole issue for everybody. Minus sending a Code Enforcement officer eight hours a day, I don't know how we're going to be able to substantiate how often they're violating this, other than people calling in.

MR. GONZALES: Mr. Chairman, Commissioners, what we have in place is under Penalties in the Code and in order for us to catch someone not in compliance with the conditions of approval, we'd have to come, according to the Code, back before you to suspend the permit.

COMMISSIONER GONZALES: Okay, I guess I'm ready to move forward with a recommendation. And this is going to be -- because I'm going to be bouncing all over this MOU, so hopefully we can get it where it's understood.

I want to move for approval of the MOU with some changes and I'm going to slowly go down here so I can see which changes I want, what I want and what I don't. The issue

February 4, 2000

Estevan Lopez
Land Use Administrator
102 Grant Avenue
Santa Fe, NM 87504-0276

1772116

Dear Mr. Lopez:

This letter is to inform you that **Cerrillos Gravel Products** is out of compliance with their suspension of permit, as directed by the Board of County Commissioners.

Yesterday, on February 3rd, Mr. Fred Montoya called to inform me that a 12 ton green dump truck drove up to the Cerrillos Gravel Products mine at 9:40 AM. At 10:00 AM, the same truck passed in front of Mr. Montoya's house on its way out of the village. At that time, Mr. Montoya informed me that the truck was full of gravel and gave me the license plate of NM 45903.

At 10:10 AM, that same green truck with the same license plate passed by my house on Highway 14. I pulled out behind the truck and followed the truck to Sunset Trail East, which is off the North Fork of CR44. At 10:20, the truck driver pulled into a property at the end of Sunset Trail East and proceeded to dump his truck load of gravel. (The driver was wearing a white cap, blue jeans, and a light blue/white shirt.)

<u>Any</u> mining activity, including hauling and material removal, is clearly in violation of the Board's action to suspend CGP's permit and your letter of February lst, advising CGP and Associated Materials that CGP's permit is suspended.

The Rural Conservation Alliance is requesting that the county immediately seek an injunction from the court to prevent CGP from continuing their mining activities. It is clear that Cerrillos Gravel and Associated Materials still consider themselves above the law and have no intention of complying with the orders of the BCC. It is obvious that an order of the court is necessary to force compliance with the permit suspension.

Thank you for all your efforts in this matter and for your action in regard to this case.

Sincerely,

E. Earnheart

Edwenna Earnheart
Rural Conservation Alliance
3701 State Road 14
Santa Fe, NM 87505

cc: Christopher Graeser, Assistant County Attorney

Page 1

① By changing the MOU after the citizens have lost their opportunity to appeal, the BCC deprives us of due process of law.

② an important question the BCC has to ask this: if the stockpile existed prior to the Jan. 25th hearing, why didn't CEMEX negotiate this issue during the county administration were drafting the original MOU? and by the way, they signed the original

page 2

MOU with this requirement in place, they had a second opportunity to negotiate the removal of this material at the BCC hearing. Why did they not bring up this issue then?

And now we're having a hearing to address an issue that they have had 2 opportunities to address before the suspension of their permit & what is to prevent CEMEX from continuing to repeatedly come back again & again to demand even more changes to the MOU?

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[redacted] feels that [redacted] the conditions to come into compliance, that there be another public hearing to review those..."

(4) Hauling activity is part of the mining process. By allowing them to haul, you also undermine #3 of the MOU, which requires a letter from the Office of the State Engineer verifying that they have water rights before CCP is permitted to resume operations, per the letter from the State Engineer ("Use of water from any other source likewise requires permit through this office)"

(3) I'd like to remind the commissioners of their comments at the BCC hearing-

(A) Comm. T. on pg. 82 you said - "I believe we need to make sure that if this memorandum of understanding is approved that it's complied with-

(B) Commissioner Goggles on pg. 82 you said "I don't think it's uncalled for that we have a public hearing again. to review at the point

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PAGE 4

will show the BCC is unwilling to enforce their own decisions.

Once again CGP & Rutland Corp have indicated that they are unwilling to comply with their conditions of permit by forcing this meeting today!

② By refusing to sign the revised MOU.)

③ By appealing the BCC decision & the magistrate court hearing (even after they negotiated an agreement with the county.)

PAGE 5

⑤ You also undermine #5 of the MOU. "CGP and/or associated must comply with all other terms & conditions of approval."

⑥ CGP should be reclaiming, not hauling. They should be putting that gravel back into the reclamation of the unpermitted mining area

⑦ By approving this change (without public notice) the BCC will be setting a precedent whereby CGP & Rutland Corp & Others

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PAGE 7

(4) Why should they be rewarded for this behavior & be allowed to bully the commission & the citizens of Santa Fe county.

We respectfully ask ~~request~~ that you DENY CGP's / ASSOCIATED's REQUEST TO MODIFY the MOU.

Edwenna
Eavenhent

for the Rural Conservation alliance

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(4) No more than 2 weeks to haul.

(5) USE the DEVIL'S THRONE ROUTE BOTH COMING ANG GOING INSTEAD OF MAIN ST. IN CERRILLOS AND the TURQUOISE TRAIL.

Rural Conservation Alliance

Edwenia Lambert

Additional Recommendations By RCA to Land Use & BCC

(1) site visit by county land use and RCA before any hauling activity is allowed to resume; to analyze the and document the material that CGP is proposing they be allowed to remove. Video all.

(2) BE REQUIRED TO SIGN the MOU & DROP BOTH THEIR APPEALS BEFORE THEY ARE ALLOWED TO DO ANY TEMPORARY HAULING.

(3) USE ONLY small SINGLE TRAILER DUMP TRUCKS, NOT semi-TRAILER'S.

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