

SANTA FE BOARD OF COUNTY COMMISSIONERS
COMMISSION CHAMBERS COUNTY ADMINISTRATION BUILDING

REGULAR MEETING
(Public Hearing)

May 9, 2000 - 5:00 P.M.

Amended Agenda

- I. Call to Order
- II. Roll Call
- III. Pledge of Allegiance
- IV. Invocation
- V. Approval of Agenda
 - A. Amendments
 - B. ~~Cabled or Withdrawn Items~~
- VI. Approval of Minutes
- VII. Presentations:
 - A. Presentation by Paige Morgan Regarding the Proposed Santa Fe Basin Coalition
 - B. Presentation by Ray Armenta and John Alejandro, Northern New Mexico Citizen Advisory Board, Regarding Environmental Clean-Up & Restoration
 - C. Employee of the Quarter
 - D. Proclamation to Elnora Romero for Her Outstanding Commitment and Devoted Service to the Agua Fria Elementary Public School
- VIII. Staff and Elected Officials:
 - A. Community, Health and Economic Development Department
 - 1. Request Authorization to Enter into a Lease Agreement with the New Mexico State Land Office for a Five-Acre Parcel for the Construction of the Multipurpose Teen Center
 - B. Finance Department
 - 1. Request Approval of Disposition of County Vehicles

- C. Matters from the County Manager, Samuel O. Montoya
1. Resolution No. 2000-⁵⁸ A Resolution Appointing County Commissioners to the Santa Fe City/County Regional Planning Authority and Establishing Terms and Mechanism for Future Appointments
 2. Discussion of Possible Meeting Times for Regional Planning Authority
- D. Matters of Public Concern - NON-ACTION ITEMS
- E. Matters from the Commission
1. Request to Reconsider CDRC Case #Z 98-5552 (Sunrise Springs)
 2. Appointment to the Extraterritorial Zoning Authority
 3. Resolution No. 2000-⁵⁹ A Resolution on Delaying Congressional Actions on Internet Tax Moratorium
 4. Direction to Staff Regarding the Creation of a Conservation Easement on the COLTPAC Purchase on the Pops Property
- F. 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

IX. Public Hearings:

- A. Ordinance No. 2000-⁰⁶ An Ordinance Regulating Cable Television Services within Santa Fe County (One Hearing Required)
- B. Ordinance No. 2000-⁰⁵ An Ordinance Creating a New Article XIV, Traditional and Contemporary Community Zoning Districts, and Incorporating Zoning Standards and Regulations for the Los Cerrillos Community Zoning District (First Public Hearing)
- C. Ordinance No. 2000-⁰⁷ An Ordinance Declaring La Cienega and La Cieneguilla Traditional Historic Communities under State Law (Second Public Hearing)
- D. Land Use Department Items:
 1. CDRC Case #MIS 99-5511. Marty Sanchez Golf Course Liquor License. The City of Santa Fe, applicant, requests approval of a Governmental Liquor License at the Marty Sanchez Golf Course at 205 Caja Del Rio (Application #A-4001). The property is located at 205 Caja Del Rio, within Section 23, Township 17 North, Range 8 East (Commission District 1). Penny Ellis-Green

2. **CDRC Case #MIS 00-5230.** Pueblo Plaza Supermarket Liquor License. The Pueblo of Pojoaque, applicant, requests approval to allow a change of location of Liquor License No. 686 for the Pueblo Plaza Supermarket. The liquor license location will move from the old supermarket (west of the strip mall) to the newly constructed supermarket (east of the strip mall) at 9 Valle Gutierrez. The property is located east of US 285, within Section 8, Township 19 North, Range 9 East (Commission District 1). Penny Ellis-Green
3. **CDRC Case #MIS 00-5210.** Canyon Ranch Extension of time for a Master Plan. Cheryl Jensen, applicant, requests approval to allow for a 24 month extension to the expiration date of a master plan for a residential treatment center on 10.06 acres (Canyon Ranch Group Home), which was approved on June 29, 1995. The property is located south of Venus Road, west of CR 13, within Section 13, Township 10 North, Range 7 East (Commission District 5). Penny Ellis-Green
4. **EZ Case #S 97-4570.** Valle Vista Heights Subdivision. Elmer Garcia requests an amendment to the master plan for the Valle Vista Heights Subdivision to add one lot for a total of 25 lots. The property is located off I-25 West Frontage Road, within Section 26, Township 16 North, Range 8 East (5 Mile-EZ District). Roman Abeyta
5. **CDRC Case #V 00-5090.** Joe Ayala Variance. Joe Ayala, applicant, requests a variance of Article III, Section 10 (lot size requirements) of the Land Development Code for a land division of 3.53 acres into two lots, one of 1.50 acres and one of 2.035 acres. The property is located on Kachina Road, west of State Road 14, within Section 2, Township 14 North, Range 8 East (Commission District 3). Frank White
6. **CDRC Case #V 99-5400.** Osmundo Herrera Variance. Osmundo Herrera, applicant, requests a variance of Article III, Section 10 (lot size requirements) of the Land Development Code to place a second dwelling unit on 0.87 acres. The property is located off County Road 84G in the traditional community of Nambe, within Section 10, Township 19 North, Range 9 East (Commission District 1). Frank White
7. **CDRC Case #V 00-5070.** Daniel Esquibel Variance. Daniel & Elaine Esquibel, applicants, request a variance of Article III, Section 10 (lot size requirements) of the Land Development Code to allow a land division of 2.428 acres into two lots. The property is located off of Sombrillo Road, in Sombrillo, within Section 7, Township 20 North, Range 9 East (Commission District 1). Vicki Lucero

8. CDRC Case #Z 00-5110. 360 Communications Glorieta Site. 360 Communications, applicant, Permits West Inc., agent, request master plan zoning with preliminary and final development plan approval for a cellular facility to include a 24 foot high cellular tower and equipment building. The property is located within the Glorieta Baptist Convention Center within Section 21, Township 16 North, Range 11 East (Commission District 1). Frank White
9. EZ Case #S 99-4351. Eco Seco Subdivision. Rob Althouse and Nancy Kenney, applicants, request reconsideration of a previously imposed condition regarding future connection to the Sangre De Cristo Water System for a 10 lot residential subdivision on 13 acres. The property is located along Camino Don Emilio north off West Alameda within the Two Mile Extraterritorial District, Sections 21 and 28, Township 17 North, Range 9 East (Commission District 1). Joe Catanach
10. *To be held* CDRC Case #Z 98-5552. Sunrise Springs Reconsideration. Megan Hill, applicant, Jim Siebert, agent, request approval for a master plan zoning amendment for an expansion of a resort type use to add 40 lodging units (totaling 19,640 sq. ft.), a spa facility (12,000 sq. ft.), fitness facility (1,200 sq. ft.), maintenance building (1,300 sq. ft), laundry building and cart shed (1,200 sq. ft.), and one cart shed (400 sq. ft.). This application also includes replacing an existing swimming pool with a new pool and hot tub and reopening a restaurant to the public with the sale of liquor with meals. The property is located south of County Road 54, within the traditional community of La Cienega, in Section 28, Township 16 North, Range 8 East (Commission District 3). Penny Ellis-Green

X. 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).

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BOARD OF COUNTY COMMISSIONERS

SANTA FE, NEW MEXICO

REGULAR MEETING

MAY 9, 2000

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

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SANTA FE COUNTY

REGULAR MEETING

BOARD OF COUNTY COMMISSIONERS

May 9, 2000

This regular meeting of the Santa Fe Board of County Commissioners was called to order at approximately 5:00 p.m. by Chairman Joe S. Griñé, Jr., in the Santa Fe County Commission Chambers, Santa Fe, New Mexico.

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

Members Present:

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

Members Absent:

None

Commissioner Anaya gave an invocation.

V. APPROVAL OF AGENDA

SAM MONTTOYA (County Manager): Good evening, Mr. Chairman and members of the Board. Under amendments, Mr. Chairman, we have two under Section VIII, B. 3 and 4. We're adding on a resolution to delay congressional actions on internet tax moratorium and item 4 is direction to staff regarding the creation of a conservation easement on the COLTPAC purchase on the Pops property.

Under tabled or withdrawn items there are two under Section IX D. 6 which is the Osmundo Herrera variance and item 10 which is Sunrise Springs reconsideration.

COMMISSIONER DURAN: Mr. Chairman, I would request another amendment and that would be item VII D, if we could hear that after the minutes because I know Ms. Romero is here for this proclamation.

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CHAIRMAN GRINÉ: That's fine.

COMMISSIONER TRUJILLO: Item number six, tabling of Osmundo Herrera, was that the request of the developer?

MR. MONTROYA: Mr. Chairman, Commissioner Trujillo, my understanding is that there was an issue regarding the notice.

COMMISSIONER TRUJILLO: Thank you.

CHAIRMAN GRINÉ: Any other discussion?

Commissioner Duran moved to approve the agenda as amended. His motion was seconded by Commissioner Trujillo and passed by unanimous voice vote.

VI. APPROVAL OF MINUTES

No minutes were submitted for action.

VII. PRESENTATIONS

D. Proclamation to Elnora Romero for her outstanding commitment and devoted service to the Agua Fria Elementary Public School

COMMISSIONER DURAN: Elnora, thank you for being here today. We have a proclamation for you from the County of Santa Fe, State of New Mexico, Board of County Commissioners. Whereas, Elnora Romero was born on January 10, 1937 in Santa Fe, New Mexico to Charles and Isabel Gonzalez where they lived at 630 Don Felix Street and whereas, Elnora Romero was employed by the Santa Fe Public Schools for 28 years as the Agua Fria Elementary School secretary. And whereas Elnora Romero provided professional services and skills to nine principals, seven assistant principals and countless superintendents. And whereas Elnora Romero met at least three generations of families from the Agua Fria Village during her tenure and whereas, Elnora Romero also played the role of nurse, teacher and grandmother not only to numerous children in our community but to five of her own children who attended the school and one child who is currently attending. And whereas Elnora Romero has the gift of discipline that created high moral values which influenced many of the children in the community and whereas in her own words, "they've all been my babies and I've taken care of all of them." Now, therefore we the Santa Fe Board of County Commissioners would like to offer our gratitude and sincere appreciation for the countless hours and heartfelt concern that Elnora Romero gave to our community and the lives she has touched.

We hereby proclaim Friday, May 19, 2000 as Elnora Romero Day and ask that all

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citizens join us in celebrating and honoring one of the Santa Fe living treasures.

[Elnora Romero received a standing ovation and received her proclamation.]

A. Proposed Santa Fe Basin Coalition: Paige Grant

PAIGE GRANT: Good afternoon, Commissioners. Bill Randon is here from the City of Santa Fe and he has another meeting so I would ask I yield to him.

BILL RANDON: Good afternoon, Commissioners. Thank you for the opportunity to come before you this afternoon. I would like to bring up the Santa Fe River and the ongoing efforts to establish long-term restoration efforts from the Santa Fe River.

As you're aware the City and the County and the San Ildefonso Pueblo have a joint agreement to pursue a long-term regional water plan that includes San Juan-Chama diversion. And in regulation to this program what the City of Santa Fe has looked to do is to take a portion of this effluent and provide the pumping facilities and the storage capacity and the pipeline to bring the effluent back to the Santa Fe River just below the reservoir to reestablish flow in the Santa Fe River. That's part of our feasibility that we're looking at in our long-term efforts to restore the River.

We have been very successful at obtaining \$1.25 million in federal funding to move forward with our environmental impact studies. We have requested this year \$1 million through our delegation for overall restoration efforts on the Santa Fe River. The proposal to get effluent back into the river is a very small component of a much larger program and to date the City, the County, BLM, State Land Office, acequias, State ED and many organizations have worked together on river restoration efforts.

I would just like to pass out letters that the city has sent to the delegation for the \$1 million. We hope this appropriation will be successful and will allow the City, the County to continue its cooperative efforts to plan for river restoration on a watershed basis. And we recognize that it can only move forward through a consensus building a cooperative effort. Not only the efforts of the County, the City but also very many other entities that are involved in the planning for our river restoration and we are hopeful that this appropriation will be approved and will be trying to work closely with the other organizations including the Santa Fe Watershed Association, the County and other stakeholders in this process.

Thank you for your time.

CHAIRMAN GRINÉ: Thank you.

MS. GRANT: I'll try to answer any questions on that once I have completed my presentation. First one small correction for the record: I am going by Paige Grant now.

What I want to talk about today is the momentum that is building for coordinated action on the Santa Fe River and its watershed which when I talk about the watershed I'm talking about the whole 241 square miles from Lake Peak down to the Rio Grande and all

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about the last 10 miles of river in that area is in Santa Fe County which is what leads me to think that the County has a very important role to play in coordinating the efforts that needs to happen for integrated planning and so forth.

Within that whole area there is piecemeal action that has been taking place on the river and the landscape by the Forest Service, the City, the County, the State Land Office, BLM, Cochiti Pueblo and a number of the other groups that Bill named and many of those actions are beneficial but they're also subject to being undermined by effect ultimately on the stream and in the watershed. And just as one example, I'm thinking of the Cerrillos Road project that is just getting underway which any of who have driven Cerrillos Road after what a Louisiana friend of mine calls it a "toad floater" of a rainstorm and you're hub deep in water and so forth, you can look at the tremendous amount of water that is generated in that area. What's being planned at this point is to shunt that to the Arroyo Chamiso and that can be either a very beneficial thing for the downstream communities. You have heard from La Cienega repeatedly how their springs are drying up and they're losing the water that they used to have for their acequia. The Arroyo Chamiso is in their watershed and if we were able to manage that flow in a way that floated up instead of just dumped it all right after a storm event, which is highly erosive, we could have some really beneficial effects. So that's just one example of how coordination could make something with multiple benefits and the absence of it can do something that is really damaging.

This body has been really receptive to working collaboratively on the river and the watershed issues. In August of 1999, the BCC approved Resolution 1998-79 which was brought forward by State Land Commission Ray Powell and that resolution resolved in part that County staff would work with the State Land Office, City of Santa Fe and other partners to develop a strategy and program for rehabilitation for the Santa Fe River. Such a strategy should include a reconnaissance study to collect the data needed to fully characterize the condition of the watershed, full public participation in identifying goals for the river, identification of funding sources for river rehabilitation which Bill mentioned, and development of a watershed plan to implement collaborative solutions for the rehabilitation of the river.

This whole effort resulted in Resolution 57 process which county staff participated actively in and we reported back to you in October of '99 on the final report from the Resolution 57 committee and received your endorsements of the recommendations of that report, including local government should ensure that coordination of activities and a watershed based are developed and continued. And then in December last year the BCC approved another resolution 1999-155 titled "expressing support for federal legislation to fund restoration of the Santa Fe River, direction County staff to consider upstream/downstream effects when undertaking public works affecting rivers and arroyos." In part, this resolution endorsed the efforts of our senators to make adequate resources available for a watershed based effort to restore the Santa Fe River. So after that resolution passed I met with County staff and Senator Bingaman's aide with concern that the

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congressional delegation would be interested in carrying the bill to bring a major appropriation for restoration of the Santa Fe River and its watershed. The missing link was what was the money needed for and who would manage it and where was the coordination between the different groups that were going to want to grab for this and we agreed that what was needed was coordination. Collective planning to identify the problems of the watershed and projects to address them. Prioritization of projects and distribution of funds in an equitable manner to address the problems throughout the watershed. The oversight to insure that watershed projects are consistent with the planning and design guidelines and follow through including monitoring to insure that the projects receive the necessary maintenance and new needs are identified.

On the heels of that I drafted a concept paper which is in your packet entitled, "Bringing capital and coordinated management to heal the Santa Fe River and its watershed." And that concept paper led to an attempt on my part, I did a rough draft of the beginning of a state statute. Just look at it as a straw man. I set something so we could see if it looked like it could work but it is not the only way we can go about this. This particular statute would set up a watershed agency to carry out the coordination, oversight and other functions that we agreed were needed. This agency would be overseen by a council made up of agency and community representatives sort of on the model of the Water Quality Control Commission and I also kind of roughly modeled it after the State Licensing Boards. There are other models in the existing state statute and that would be Chapter 4, Article 50, that allows counties to set up flood control commission and that's a little bit narrower than what we want to do but it may provide us something we can use in drafting.

Another possibility was suggested by Terry Brennan, it could look like the Regional Development Corporation which was a project set up by the DOE to address the economic impacts of Northern New Mexico when there were all the lay-offs at the lab. In the case of the watershed it could be a watershed coalition project under BLM or some other appropriate agency.

Commissioner Duran attended our watershed association meeting last week and was wondering about the possibility of having the city and county joint planning commission take on this watershed coalition project and I think that that's well worth exploring. It could be a case study, the watershed coalition of how do we achieve collective action.

I want to stress is that in my own view I wouldn't see this central organization as an authority, that takes over the rivers and arroyos -- but rather as a forum to hear our relevant concerns on an issue and to offer guidance and funding, the important part. An example I've used is that the City is contemplating putting in a bridge at Siler Road, well, if we had this watershed coalition, the City would come to the coalition and would say here's our intent and the coalition would say that if the bridge meets our guide lines and does not cause damage to the river, then we'll come up with some fraction of the funding because this entity would be set up to receive federal funding. And if you don't want to abide by these guidelines, then go ahead because you're an independent authority and we're on notice that

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this is going to take place and we can start doing the mitigation before the bridge is even built to deal with the negative ramifications that we're afraid are going to take place because of a wrong design.

The County, I believe, is the ideal entity to pull this coalition together. We, the watershed association, would love to be involved but it needs to have the government buy-in and so I am requesting that the Commissioners would let staff start the stages of having the meetings, calling in the people that were involved in the Resolution 57 process and others, to get this rolling and get other people's ideas of how this can work and how we can get the coordination in order to get the funding in order to start getting the jobs done.

Many thanks for your consideration of this issue and I stand for questions.

CHAIRMAN GRINÉ: Thank you.

COMMISSIONER TRUJILLO: Mr. Chairman.

CHAIRMAN GRINÉ: Commissioner Trujillo.

COMMISSIONER TRUJILLO: I have a question for you, Paige. We have a situation in Northern Santa Fe County, Las Campanas, where we're using potable water to irrigate golf courses and I think a commitment was made initially when that development was approved that there would be an agreement initiated with the City of Santa Fe to use gray water effluent/recycled water to irrigate those golf courses. How do you see that this effort will benefit in protecting the aquifer that exists out in the County from depletion or mining without return flow as is happening now. Water is a scarce commodity in this arid environment.

MS. GRANT: My focus is on the landscape that all drains to the Santa Fe River and Las Campanas is located, if I'm correct, just outside of that area. That doesn't mean that it's outside the purview of the groups that will be looking at these issues because indeed if we're exporting water that originates within the Santa Fe Watershed then that logically would be a concern of this watershed coalition.

So, I would leave that for a watershed coalition to address. I am beginning to look at that issue from the standpoint of trying to put out just a position paper or just a description of what that Las Campanas water swap deal would entail as well as other issues of the water management plans that are currently being developed. Just so that everybody is reading from the hymn book because at this point you get such different stories on the numbers and the deals and what the contract says and so forth. But I'm not really prepared to take a position on that at the present.

CHAIRMAN GRINÉ: Any other questions? Thank you, Paige.

MS. GRANT: Thank you.

COMMISSIONER DURAN: Paige, your request was to give staff direction. Can we give staff that direction?

CHAIRMAN GRINÉ: That's fine.

COMMISSIONER TRUJILLO: Yes.

COMMISSIONER DURAN: Okay, then there it is.

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B. Northern New Mexico City Advisory Board, regarding environmental clean-up and restoration

RAY ARMENTA: Honorable Commissioners, thank you for having us here this afternoon. My name is Ray Armenta and I'm a consultant to the Department of Energy on environmental clean-up and restoration. With me is John Alejandro who is on the board and we want to talk to you about environmental clean-up and restoration which is what the board's mission is.

A little bit of history is that this problem goes back to the WWII where in haste our country was anxious to develop the bomb and bring the war to a quick closure with as little casualties as possible. Unfortunately, we were dealing with stuff that nobody had much experience with and consequently now we are saddled with the major responsibility of transferring waste and stuff that is radiation and it's percolating into our aquifers and aqueducts etc. and in some cases it has gotten into the waters of the Rio Grande and down as far as Cochiti.

The mission of the board is to come up with recommendations to the DOE and from the LANL. Now if we were thinking of the way things were going today and yesterday with these fires, then it seems like a very low priority with what we're doing but once these fires are put out, the stuff will remain there and we are in deep problems. There are problems there that we have to clean up and it has to get done and there's a board that has a heavy responsibility, a heavy mission and that's why it exists.

One of the things that we do is we meet monthly, the board does, it's apathetic, kind of like voting is in New Mexico. We have a major in Albuquerque who with 28 percent of the vote he won. Well, our meetings are not much better than that. In fact, they're pretty bad. It's dismay if anything the attendance and we've come before you before hoping to stir up some interest and we've gone on the radio to see if we can get people interested and not wait for the big ugly thing to happen like this fire. If it ever hits the grounds over there where the stuff is: God knows what will happen. I don't know, I'm not a scientist and I'm not going to speculate. However, we don't want that to happen. But talk about a truck going down the WIPP going down a special road that was built and I'm not here to defend that but what I'm trying to emphasize here is that what we're talking about cleaning up over there is colossal compared to one truck coming down the highway. If this truck were to wreck it is contained and it's there -- fine, there would be some hazardous material there but it could be contained.

If anything ugly were to happen in Los Alamos, let me tell you, the stuff, the ugly bad stuff, the radiation, the transuranic waste is at TA 54, meaning technical area 54, they are housed under tents/domes like -- these can only sustain up to 70 mile an hour winds. About three weeks or a month ago we had a DLA by Socorro of 90 mile an hour winds. So consider if those winds had been up in Los Alamos. I mean, these things would have

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maybe been blown off and you would have all this exposed to the elements.

We don't want any of this stuff to happen and we are working very diligently to make sure that we come up with good recommendations and we are here asking for support from the community. We had our monthly meeting here last month at the Hotel Loretto and I could cry because people do not show up. I don't know what is wrong with people or do they just need a bad scenario to be able to bring them out of their houses for meetings. But talk about a truck coming down a highway and they're up on the highway and they want to stop it and they want action and all this stuff but if only these people would stop and think of the worse case scenario and it's happening now. It could be that this place up there could be on fire the whole place and although they guarantee us that things are in bunkers made out of cement and heavy steel doors and the fires would never touch them. Who's to know? I don't because I'm not a scientist but I'm here just almost begging that we get some support.

I'm going to introduce John Alejandro who is on the board and I'm going to let him say a few words.

COMMISSIONER TRUJILLO: I have a comment to make. My conjecture is that the apathy that permeates the community as a result of the vacillation that has taken place regarding environmental restoration at the lab. We understand that this project is colossal, it's \$3 billion worth over 10, 20 I don't know how long, but that issue has been on a roller coaster ride. Initially the money was going to be put aside to address environmental restoration and then it no longer was a priority and it has been going back and forth. So my conjecture is that that's the reason that the community is non interested or apathetic.

MR. ARMENTA: I appreciate your comment, Commissioner Trujillo. However, this board was on a wild train ride if you wish, at the beginning during the first two years. The board made a turn two years ago and it is on track and it is making recommendations to the DOE and LANL. And it is where it was scheduled to end at the year 2006 the completion of the project to clean-up Los Alamos, like Albuquerque just had their last public meeting last week telling them that Sandia is all cleaned up. And for the exception of those types that could not be cleaned up they were just going to cap them. In other words, they couldn't do anything further, so they were going to leave them intact and that meeting was last week. And that office that whole project come September is done and complete.

This one is now projected to go on to the year 2011 and it is being very progressive. We have a very conscientious board that is working hard and most of you know John Alejandro and I want him to say a few words. But anyway in response to what you said, it is being worked on and some results are coming out of it but unfortunately, I don't think there's enough public knowledge on these things. When it's negative, yes, there's a lot of - it is what sells newspapers, television, everything negative gets on real quick. When there is something good that is done you hardly ever hear about it because it just doesn't stir up

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the emotions in the people to move on things. But now things are getting done and I really feel good about this board. I've been doing this for 2.5 years and I really feel that we have a sincere board interested in cleaning up and getting to work.

COMMISSIONER TRUJILLO: Ray, what's the sensitivity, what's the commitment of the federal government to fund this effort? Is it fair?

MR. ARMENTA: Commissioner Trujillo, it's 100 percent. Bill Richardson the secretary of the DOE is behind it. I don't want to give you an exact figure but I know it's in the billions for clean-up. It's important. As we all know about aqueducts and aquifers you don't want it in the water. There was a man that would attend all our meetings and he accused or made a statement that that stuff -- the contaminated stuff was percolating into the aquifer and they told him that it was not. This past fall it happened. They do these test wells, just for testing, and they cost over \$1 million each, well it showed up that some of the stuff that he was alleging was coming into the aquifers was percolating into it. Also, there's been issues that this same man, Thanksgiving Friday, of '98, there was an earthquake in Los Alamos right under CMR, the chemical metallurgical research center, anyway this man had been saying that the CMR was in a bad location and there was a fault there. Well, there was an earthquake and since then they have reassessed the CMR and it's my understanding that it is going to be leveled and moved to a tune of a lot of millions of dollars but it is not in a good place. But this is just an example of one individual from the public speaking up and showing up with concerns with what he knows and asking questions and these are things that will get addressed if enough people come out -- look Elian Gonzalez and I'm not saying that I'm for or against what happened in Miami but look, you can make things happen and that's what our democracy is about. With all due respect for you gentlemen who sit up there and now I'd really like to introduce Mr. Alejandro.

JOHN ALEJANDRO: Thank you, Mr. Chairman and thank you County Commissioners for having us here. My name is John Alejandro. As Mr. Armenta stated I'm a committee member. I've sat on this oversight committee for over a year now and we I'm not going to come up here and read a prepared text. I'll just restate what Mr. Armenta indicated is that this issue is very, very important and close at heart to all of us who have family here and have grown up in the area and have seen the growth of Los Alamos and the effects that it has had on those communities.

How we got here is another issue but what is ahead of us is what's important and that is to deal with the removal and containment of any hazardous materials. What makes this board so unique is that it's a public board and it actually represents demographics of the area because it is comprised of individuals from Los Alamos, Mora, Rio Arriba, Sandoval, San Miguel, Santa Fe, and Taos counties as well as the Native American communities of Nambé, Pojoaque and on and on. It is a very diverse group and they all bring specific concerns to the table.

As Mr. Armenta indicated the importance of this cannot be overstated. The meetings as Mr. Armenta stated are held monthly at each of these communities. We have had

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meetings in Taos, in Las Vegas, and Nambe Pueblo and so we are trying to take this committee to the public and make it available. We did have our last meeting here in Santa Fe last month and I think we'll have another one or two before the year is through.

The important issue is also that there are three positions available on this board and we appreciate any input or nominations by this Commission to Mr. Armenta for review. Those names are submitted to the committee and to Washington for confirmation. It is a time consuming board. We do travel and there is a training and meetings that go through the night and you're all familiar so anyone interested in attending or if you know anyone that may want to represent Santa Fe County please pass those names on to Mr. Armenta.

I thank you for your time and stand for questions.

COMMISSIONER TRUJILLO: I have a question. Do you have any suggestions on how we can give impetus to interest or participation in these hearings? Is there anything that we can do to interest the community? How do you want to incite that participation?

MR. ALEJANDRO: Mr. Chairman, Commissioner Trujillo, Mr. Armenta does a great job of going into the community and getting on the radio and having ads, and I'm not talking legal notices, but actually ads placed in the newspaper. We're trying to get this public awareness into the schools by having local contests. I sit on an outreach committee. Anything that we can do to stimulate that interest is important. There are obviously, Santa Fe County, is obviously very in tune with what is going on that's why I think Mr. Armenta was so surprised by the low turn-out at last month's meeting. I think that as Mr. Armenta had also indicated that there shouldn't obviously be an event that would be so disastrous that would create public interest but it's important to let the public know and I think that that's apart of our responsibility also and I think perhaps that maybe what the Commission can do is communicate with our committee as well as with others in Rio Arriba and the pueblos and have that public input and perhaps it's we who are the ones that have to take the message to the public but if we can take the County's concerns with regards to aquifers as you indicated, there are obvious concerns with the water in that area and to have a contaminated aquifer that keeps moving and migrating towards another dangerous and it's being dealt with but we would certainly take the consideration of the public and the County Commissioners as well as staff and maybe report back to you all.

CHAIRMAN GRINÉ: Thank you, John.

COMMISSIONER TRUJILLO: Sam, Mr. Chairman, I just would like to impress on staff that this is a real important issue and we might want to designate someone to communicate with the board here regarding that issue. I'm very interested in assigning and identifying some people to serve on that body. So if we could open that line up for communication and send out a notice if anybody else is interested in serving on that body: I am.

COMMISSIONER DURAN: I'll serve on it.

CHAIRMAN GRINÉ: Thank you.

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C. Employee of the Quarter

CHAIRMAN GRINÉ: The Santa Fe County Employee of Quarter is Vincente Archuleta. Vincente works for the Santa Fe County Land Use Department and he was nominated by his supervisor, Roman Abeyta.

As a Plans Examiner II for the County he is responsible for advising citizens on the requirements needed for building and mobile home permits. He informs applicants of regulations for building heights, setbacks and terrain management regulations. He also processes applications, including contacting applicants to inform them of their permit status.

Vincente goes beyond his normal scope of duties to help the County and the citizens of Santa Fe County. Vincente has helped expedite the time frame for processing permits and he has helped train the new employees in the office. He assists citizens in gathering information on their property and goes above and beyond in that assistance gathering enough information for the citizens to fulfill their needs. "This is shown by the many commendation letters that he has received.

With that, I am pleased to present Vincente with this certificate of appreciation as Employee of the Quarter, the employee of the quarter parking space for the next three months and one day of administrative leave.

Congratulations and thank you for a job well done.

Vincent Archuleta received a standing ovation and certificate of appreciation.

[The Commission Chambers' audio-system experienced some difficulties and the minutes appear in summary format.]

VIII. Staff and Elected Officials

A. Community Health and Economic Development Department

- 1. Request Authorization to enter into a lease agreement with NM State Land Office for a five-acre parcel for the construction of a multi-purpose teen center**

DAVID MADRID (Project manager): Mr. Chairman and members of the Commission, the lease agreement itself will charge Santa Fe County and subsequently the Hands Across Cultures Organization, \$6,000 a year after the certificate of occupancy has been issued. Between that time and this time the rent will only be \$3,000 a year which can be paid on a monthly basis. Thanks to the efforts of the county manager we have renegotiated this lease with Ray Powell so we only have to pay half the rent that we had

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originally anticipated until the facility is built, a savings that will benefit both the County and the organization.

Also, Harry Montoya, the president of Hands Across Culture Organization is here in case you have any questions. The groundbreaking is being planned for the end of this month.

COMMISSIONER TRUJILLO: I would just like to compliment the very hard work and positive efforts that have been rendered by not only yourself, David, but Sam Montoya, Harry Montoya and his staff and this is going to be a great thing for the community with the seed planted by Harry Montoya and thanks to staff for taking this to heart and it's going to benefit the whole area of Northern Santa Fe County. We're going to look at it from a regional perspective and it's going to address the needs of our youth, the future of the community, and I'm ecstatic about the efforts and the way the project is moving forward and it's going to come to fruition.

Commissioner Trujillo moved to approve the lease agreement as proposed. His motion was seconded by Commissioner Anaya and passed by unanimous voice vote.

B. Finance Department

1. Request approval of disposition of County vehicles

TERESA SANCHEZ: Mr. Chairman, members of the Commission, we are requesting your approval to dispose of three totaled vehicles. The vehicles currently reside on the Sheriff's Department inventory listing and are housed at Public Works. They have no salvage value and await your approval and then we'll do the 30-day notification to the State Auditor and then final disposal and removal from the inventory listing.

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

C. Matters from the County Manager

1. Resolution 2000-58: Resolution appointing County Commissioners to the Santa Fe City/County Regional Planning Authority and establishing terms and mechanism for future appointments.

ESTEVAN LOPEZ (Land Use and Utilities Department Director): Thank you, Mr. Chairman and Commissioners.

Before you today you have a proposed resolution that would allow you to appoint the

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initial county representatives that was approved through the execution of the JPA. The resolution would allow you to appoint the four commission members to the initial term and suggest that the initial term extend through or up to the first regularly scheduled BCC meeting of November 2000. Thereafter it would be for whatever term you choose. Finally, it also establishes a mechanism for selecting the individual members that will be serving. The proposed mechanism is that in the event that all five commissioners would desire to serve, that one of the commissioners is chosen by lottery/chance and that person sits out that term. If in fact one of the commissioners does not have any desire to serve for that particular term he could sit that one out and the remaining four would serve. If more than one does not desire to serve than one of those that does not desire to serve would be chosen by lottery and the remainder should serve.

CHAIRMAN GRINÉ: Estevan, just so you know, it's probably going to be Paul, Richard, myself and Commissioner Gonzales. Commissioner Trujillo has already expressed that he doesn't want to serve on it.

COMMISSIONER TRUJILLO: And the reason is that I see that Commissioner Anaya has between now and the end of the year to continue the good job that he is doing and I will probably be the one to serve after the end of the year.

COMMISSIONER ANAYA: Thank you, Commissioner Trujillo. You're most gracious.

CHAIRMAN GRINÉ: Do we need a motion for those four?

MR. LOPEZ: Right and it would also be good if you could designate the length of the term that you would want after the initial term that expires in November. I guess it would be a term that to me makes sense of perhaps a year.

COMMISSIONER DURAN: Since this is an election year there might be some other faces up here that might want to serve on this board. I thought that we could consider that there would be four Commissioners on at one point and then to rotate one out every meeting then we would all be involved in the process and we would attend four meetings and then one month we'd be out of the meeting. I guess what I'm leading up to is making the appointment until the end of the year so new commissioners would have the opportunity to serve.

CHAIRMAN GRINÉ: Okay, thank you. I need a motion to approve this resolution.

COMMISSIONER DURAN: And that is with the term limit to the end of the year?

CHAIRMAN GRINÉ: Right.

MR. LOPEZ: The way the resolution is drafted right now, the initial term would extend to the first regularly scheduled BCC meeting of November -- that is I think it's the first meeting after the election and thereafter whatever length of term you want. If you chose a year, then every November you would change out.

COMMISSIONER DURAN: I'd like to change it so that this appointment

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today goes to the first of the year of 2001 then it's changed every year at that time.

MR. LOPEZ: Mr. Chairman, Commissioner Duran, I guess the only question I would have is to the extent there may be new Commissioners after the election.

COMMISSIONER DURAN: They don't take office until the first of the year.

MR. LOPEZ: Okay, very good.

COMMISSIONER DURAN: So that works then?

MR. LOPEZ: Yes.

Commissioner Duran moved to amend the resolution that the terms run to the first BCC meeting of 2001 and then yearly and approve the resolution as amended. His motion was seconded by Commissioner Anaya and Resolution 2000-58 passed by unanimous voice vote.

COMMISSIONER DURAN: Does that amendment mean that the four Commissioners are the ones appointed.

MR. LOPEZ: Point of clarification: would the term after the initial term be for one year?

CHAIRMAN GRINÉ: Yes, one year.

MR. MONTROYA: I had a question for clarity sake. The term of the initial appointment is to January 1, 2001.

CHAIRMAN GRINÉ: Really it's to December 31, 2000.

BECKY BUSTAMANTE (County Clerk): December 31.

COMMISSIONER DURAN: Until the new Commissioners, if there are any, are sworn in.

COMMISSIONER ANAYA: There will be.

MS. BUSTAMANTE: There will be one.

C. Discussion of possible meeting times for RPA

Following discussion and review of a calendar of established meetings, the third Tuesday was chosen as the meeting date for the RPA.

D. Matters of Public Concern: Non-action items

BEVERLY GARCIA: Good evening. For the record, my name is Beverly Garcia.

I just now heard that the Sunrise Springs case has been tabled and in mind it is a dead case. I don't know how a dead case can be tabled. I was hoping the public would have an opportunity to speak to the issue of the reconsideration.

I'll just take a couple of minutes here. I copies some language for you from the Open Meetings Act and --

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CHAIRMAN GRINÉ: Did you get one, Barbara?

BARBARA MULVANEY (Deputy County Attorney): No, I didn't.

COMMISSIONER DURAN: You can have mine.

MS. GARCIA: If you will recall there was a vote taken to deny this case a number of meetings ago. And under the Open Meetings Act, Section 10.15-3, it says that no action of any commission or other policy making body shall be valid unless taken or made at a meeting held in accordance with the requirements of Section 10.15-1. On the next page I've copied this section and the purpose of this whole thing was for open meetings so that all persons are entitled to the greatest possible information regarding the affairs of government and the official acts of those officers and employees who represent them.

If you'll turn to the third page, one of the requirements of the Open Meetings Act is that any meeting at which the discussion or adoption of any proposed resolution, rule, regulation or formal action occurs, and the action I'm talking about was that request to reconsider the Sunrise Springs case, at which a majority or quorum of the body is in attendance shall be held only after reasonable notice to the public. There was no notice. There was no posted agenda ever when that request was initially made to reconsider a case that had been denied.

So I think your foundation for tabling this case or reconsidering is really faulty and I just don't know how a case can be revived out of thin air. And I wasn't here to hear the legal opinion earlier but it is my understanding that the legal opinion was basically based on the fact that because your county code doesn't require you to follow Robert's Rules of Order because you have no specific ordinance or resolution that speaks to the issue of reconsideration that therefore the County Commission can do whatever it wants. I think that maybe in third world countries they get to do whatever they want, but I don't think you get to do that in the United States of America. And I think that there are formal rules of order and established for us to follow and then we have no order and no government at all and it's totally unstable if we can just pull stuff out of the air.

I'm more concerned about process than anything else, even the issues of the case, because I don't think that can be done. And what I'm asking you to do is to just leave that as a denied case because there is no legal way, I don't think, that you can pull it out. If not, what's going to happen, we're going to end up in a court room on whether or not this Commission had the authority to reconsider this case and then table something that is already dead.

That's all I have to say. We've been going all over the community and have over 300 signatures from people who live in La Cienega that are opposed to this case.

COMMISSIONER TRUJILLO: It's my understanding is that it was denied on the way that it was proposed but if I remember correctly, and I don need to check the record, Commissioner Gonzales gave direction through the community and to the development to work together and come back with a revised project. I understand that that's what is happening now. The way that it came before us, it was denied on that basis but if

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I remember correctly, Commissioner Gonzales gave direction that both the community and the developer work together and come back with a revised plan.

MS. GARCIA: I readily admit that there was discussion about that and it is on the record. But there was a motion made to table by Commissioner Duran and that motion failed for lack of a second. Even though, notwithstanding all that discussion and Commissioner Gonzales's statement that he would like to see that kind of a discussion take place at a community level, that is not what the motion was that was made. It was a motion to deny. And even Chairman Griné at the end said, the motion to deny has carried and that's the final statement in your very own record.

I'm not trying to come in here and say -- to make up something after the fact. It was a motion to deny.

COMMISSIONER DURAN: Mr. Chairman.

CHAIRMAN GRINÉ: Commissioner Duran.

COMMISSIONER DURAN: I have a question for legal: I believe what we're required to do is based on the legal opinion that is handed down by our legal staff and I feel we have the right to bring any denial up for reconsideration and if we do bring it up for reconsideration that the public notice for that process still has to be met by the applicant.

MS. MULVANEY: It's my understanding, Mr. Chairman and Commissioners, the rules for the BCC state that if an incident comes up that is not covered by the rules, that the Chairman and County Attorney will decide on what rules govern. The decision by the County Attorney's office is to follow Robert's Rules under reconsider. There was a motion to review a previous decision and to vote on that. It must be made by the person who voted on the prevailing or winning side and it requires a majority vote. Reconsideration may not be moved more than once on the same motion.

It's my understanding and I'm not sure if the speaker realizes this, it is on the agenda today as a request to be considered and is the first matter up for matters from the Commission. Furthermore, the notice requirement that you were speaking of Commissioner Duran, was a total renote on the part of the applicant that was done on the CDRC 98-5552 has been tabled.

COMMISSIONER DURAN: That has been tabled?

MS. MULVANEY: That's my understanding that the land use item has been tabled but that E.1 is the request to reconsider is on the agenda under matters from the County Commission. And that motion will have to be made by one of the Commissioners on the prevailing side of the motion.

MS. GARCIA: So that motion has not been made yet?

MS. MULVANEY: No, it has not.

MS. GARCIA: May I just call upon the Commission to just inquire of your legal counsel about the timeliness of making a motion for reconsideration and to just make sure that in Robert's Rules of Order that that motion does not have to be made if not even at the next meeting -- that a motion for reconsideration must be made at the very meeting

where the action was taken meaning about two months ago. You just can't make a motion to reconsider two months down the road and I think if you read a little bit further into Robert's Rules of Order you will find that question of when a motion to reconsider can be made has been argued in the courts over and over and I just think a little bit more research may disclose to your legal counsel that the time is too late.

COMMISSIONER DURAN: Mr. Chairman,

CHAIRMAN GRINÉ: Commissioner Duran.

COMMISSIONER DURAN: Just one last thing. It's my understanding that an applicant, if an application has disapproved by this Commission, that they have the right to bring that development, perhaps in a different scale or under a different scenario back to this board to reconsider.

My question is, Beverly, what do you want these people to do? The community already knows that this is something that they are proposing and they have scaled it down; I guess, my question is what do you want them to do?

MS. GARCIA: All I'm saying is that this Commission denied that case and the case is moot. If the developer or the owner of the property wants to come back and file a new case with the County, they can do that. But I'm saying that the case before you is dead. If they want to file a new case -- if they want to come back and change it substantially, but I could even argue on that and I know that it is not the appropriate place to do it on whether or not there has been any substantial change in the application and no, there hasn't. All you have to do is look at your own staff report on the status of this case on item 10 and it's identical to the original case and the original staff report.

It's a moot case.

COMMISSIONER DURAN: Okay, thank you.

CHAIRMAN GRINÉ: Anyone else want to address the Commission?

CRAIG BARNES: Thank you, Mr. Chairman. My name is Craig Barnes. I received a call late this afternoon about the question of the conservation easement to place on the or not to be placed on the property that is marked for sale on the 15th of this month. I'm a member of the board of the Santa Fe Conservation Trust which is the proposed recipient of such an easement and it was suggested that it might be useful to say what the trust does and doesn't do in regard to that because it's an open question of whether that's a good idea.

In general what a trust does when it receives a conservation easement like that is to inherit the right or acquire the right and agree to become the enforcing party for easements restrictions in perpetuity over time. And the usefulness of that is that County staff generally, or public staff, generally has especially legal staff has such an accumulation of responsibilities that to keep track of conservation easements buried in the property easements over a 30 or 40 or 50 year period is practically impossible. So to ask a county legal staff to maintain the knowledge of an easement that it has got in Tesuque, for instance, or another one that it may have in the south county and to be in the enforcement business is actually

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an unrealistic goal.

In general what that means is that the enforcement effort for restrictions contained in an easement don't really have any weight to them if the County is its own enforcement arm.

When a public has become as engaged as it has in this case in attempting to raise money supporting the County and the COLTPAC fund and getting people all about the community engaged in this as a public effort, they have in some way said to the County Commission we would like to be sure that there is an enforcement of this limitation in perpetuity.

The County then has to say do we want to do it in perpetuity. Do we want to maintain some option in case the situation changes. And that is a reasonable question for the County to ask itself; do we want to have some way to move this property if the highway changes or development changes or something of that kind.

What the public is saying is that it is willing to put it's money up to maintain this as an open space in perpetuity and would like to get you committed to do that as. If some condemnation procedure comes down the road and if the highway does want to expand or there's a utility need then the County has the right question, do we get paid at \$6 an acre or \$9 an acre for open space or do we get paid at its market value.

You can build into the conservation easement a termination clause which says that in the event or threat of condemnation or in the event of a highway expansion, this easement will ccess at election, an all-county commission election, and then we will have the right to put it on the market and sell it or achieve from the highway staff it's payment at market value.

So you aren't actually tied to this \$9/acre fee for open space if you put a provision in the conservation easement which allows for the expectation of some kind of condemnation.

If you're worried that there may be some other change in circumstances that you would want to take advantage of in order to sell the property, then you may be running head on into the public trust which has been placed upon you to prevent this from development in any other circumstance and one would want you to be very cautious about doing that. There's been such a significant investment of time and energy and money brought on by private citizens.

My job as a Conservation Trust board member is simply to tell you what the trust would do which is to hold the enforcement responsibility which public attorneys aren't generally able to hold. And then hold future development to limitation. Hold the feet of future commissions to the fire and say that development should not occur here because in the year 2000 we made this commitment to the public that was going to preserve that gateway for all time.

I thank you for the opportunity to speak to that.

COMMISSIONER DURAN: Mr. Chairman.

CHAIRMAN GRINÉ: Commissioner Duran.

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COMMISSIONER DURAN: Craig, I'm just wondering if you're aware of our County Attorney's opinion on being able to grant an easement to the Trust of Public Land and Barbara, correct me if I'm wrong in what I'm going to say there but in talking to Ms. Mulvaney today, by granting an easement to the Trust of Public Lands, it would constitute a violation of the anti-donation clause because you are a private institution and not a government entity; is that correct, Barbara?

MS. MULVANEY: That's correct.

COMMISSIONER DURAN: So by granting an easement to a private non-profit is against state law. So we have a deadline of the 15th to make this transaction gel and I think if you weren't aware of that provision or that violation that you need to come up with another acceptable solution for us. I know that a deed restriction is one way we might be able to do it and I think the Trust for Public Lands assumption that the County is unable to enforce its own easements or regulations is unfounded.

The other thing is that this Commission and this community granted and agreed to pass that bond issue to make this land open space forever and I don't see what the problem is in granting an easement for that. And the public should feel comfortable that they have the ability should something goes on in the future that violates that, that the public has the right to go in and make sure that that property is protected as an open space.

So we have a very short fuse right now and I would hate for the Trust of Public Lands to continue to press this issue when, in fact, our staff has already investigated the AG's office opinion that we can't grant this easement. So, we've all worked hard on this and I just hope that we can find some way to make it work because the owner of the property has indicated that he will not extend the closing date any further.

MR. BARNES: Your priorities are absolutely right. The closing date is important and I certainly support that as you know. I think it is necessary to get it done by the 15 and wrap it up, absolutely. And it is possible that this can be as a legal matter construed as contrary to the anti-donation clause and it is also possible that it is not contrary to the anti-donation clause. This is not a private organization in the sense that it has rights of development or rights of any exploitation of the property or profit making capacities. This is an organization which holds its easements as a public trust and it is then an alter-ego for the public. Lawyers can differ on this and I wouldn't want to take some kind of know-it-all position. But I think there is some ambiguity here and you could if you felt the need to investigate the fact that this is a public organization doing a public job as a complement to the County's job.

If you do a deed restriction, the enforcement of deed restrictions doesn't generally run to the public. The public can't generally come in and say you have limitation to the deed and I have a right as a member of the public to enforce the limitation of the deed. Generally, those deed restrictions have to run to somebody so that they can enforce them like covenants have to run to somebody, and easements in general. So there is some skepticism in this conversation whether the deed restrictions will work. You're talking about the right

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thing and I know your thinking are the same as all of us and I just want to put that information on the table and give you some options.

COMMISSIONER DURAN: I know that all of you will work hard to make it happen and you only have a few days and I would hate to see all of our hard work go down the tubes because there are two differences of opinion of whether or not it is in violation of the anti-donation clause or not and it could take a long time to hammer that out. Like I say, we have a short fuse and I think that both methods -- whatever we do it whether it's a conservation easement to the citizens of Santa Fe or a deed restriction the fact of the matter is that the property will not be used for anything else except open space which is what are charge was. Good luck.

MR. BARNES: Same to you. Thank you.

CHAIRMAN GRINÉ: Next person, please.

NICHOLE LICHEN: My name is Nichole Lichen and first I would like to say thank you. It has been all the cooperation over the last three years that has brought us to this final point of contention. But I believe that we'll work it out.

I just wanted to point out what is a little different about our situation than the other COLTPAC properties. Residents of the county have been attending County Commission meetings since 1982 when the variance was given to zone this site commercial and over the last three years residents have been participating very heavily in county, state and city government trying to assure that this was open space. It has only been during the last year when we secured opportunity to purchase the site that things took on a happier note and we started fund raising rather than arguing and debating technical aspects.

I would like to remind you that the money that you're getting from the state, local citizens lobbied for. The money you're getting from the city, local citizens lobbied for as did they with COLTPAC and also they did raise the money through private donation and so we have a very strong sense of history with this site of coming and lobbying with the county that maybe other COLTPAC sites have not had and so for us it just seems like the best alternative to put it in a conservation trust. I don't know if we're going to be able to do that.

The Santa Fe Conservation Trust was the best resource for us because the site catty-cornered to it is held in a conservation easement by the Santa Fe Conservation Trust. And I think Craig addressed the concerns we had about being willing to drop the conservation easement -- and I don't really as a citizen understand and I haven't been able to talk to the county attorney about this because the land will still be owned and held by the county. Is it really that much to grant a conservation easement or oversight to a conservation trust? I don't understand that.

MS. MULVANEY: The conservation easement itself has great value. People of property ownership of private property often grant it to one of the conservation trust in lieu of hundreds of thousands of dollars worth of tax write-offs. So it's a piece of a property right that has a great value.

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The problem is that the county has a whole statutory scheme that it is required to follow. It cannot give away anything of value to a private company which also includes a non-profit and I understand what Mr. Barnes is saying but one of the cases that is famous for anti-donation says there is no public benefit or public purpose exception for the anti-donation clause. So even though you're doing good work the county can't give you something. So it's not only the anti-donation that is a problem but when I called the AG's office I talked to Marty Daily and we talked about an easement and the disposition of the property. The problem is that an easement itself is a property right and it is considered a disposition of property and therefore it falls under the statute that governs that which means it would have to be approved by the Board of Finance.

MS. LICHEN: Than I heard something about the public could have a conservation easement; could you speak to that?

COMMISSIONER DURAN: That was my idea.

MS. MULVANEY: As Commissioner Duran pointed out, the public does have a right to enforce the requirements which talks about bond language. All of the properties that are purchased by COLTPAC are governed by the statutory scheme that governs what counties can do with their bond money and counties can only do exactly what is in bond language with their bond money. And in our bond language it talks about what we can do - and it talks about the open space program that the county has come up. But it's a very detailed program and I'm sure you're aware that they've been meeting for over a year to come up all the requirements for that. Because bond money has been used, the public has a right to bring an action if in fact the bond money has been violated. And Mr. Barnes said it was the county attorney that would enforce any kind of deed restriction and that's not really true of how the Commission has envisioned it. There is an Open Space Committee here at the county that is a steward of all these properties and if I'm not speaking out of turn, that is how I see the program.

COMMISSIONER DURAN: Mr. Chairman, I might have a solution here. What if we did a deed restriction now and then did the next nine months or whatever it'll take to fight for a conservation easement. I'm more than willing to work with you on that effort and I think all of us are. It's just a matter of making sure that we're not in violation of the state law.

Why don't you in your negotiations over the next few days, think about that, that way we don't lose the opportunity and all the money goes to buy the property and preserving it as open space and then we can find other methods when we have time to actually do that and create that conservation easement.

MS. LICHEN: I can't speak without the finance committee but I can certainly take it back. We don't want to lose this. We are in a situation that is so much better than where we were a year ago.

CHAIRMAN GRINÉ: You have a whole week.

COMMISSIONER DURAN: So there's no misunderstanding, I am in favor

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of buying this piece of property.

CHAIRMAN GRINÉ: Other questions?

MS. LICHEN: No. Commissioner Duran has met many, many hours over the last year to help us purchase this site and we're very appreciative of your time and efforts and it's just that we're trying to figure out how to best preserve this site because I think people do believe that open space means open space in perpetuity and they really expect a very aggressive stance in protecting it.

COMMISSIONER DURAN: One last thing is that this might set a precedent in other properties that we might buy because one of the issues that legal has brought up is that what if we decide in some point in time that we might want to do something else with that property. For me, I don't think that's an appropriate approach. We're buying it right now with money given to us by this community so that it's open space and whether or not 20 years down the road an opportunity comes up for another Commission to do something else with the property: I don't think that's right. This commission and this community at today's date approved that bond money to create open space for our community forever and I think that it's our obligation to make sure that that occurs.

MR. MONTOKA: Mr. Chairman, I would like to add a bit of information to the mix here. I'd like to preface that information by stating to the Board that I believe Commissioner Duran's suggestion about a deed restriction and maybe 90 days to work out the balance is an excellent recommendation. The cornerstone of the issue is the deadline to buy and I think it's the 15 --

CHAIRMAN GRINÉ: Monday.

MR. MONTOKA: And we spent a great part of the day trying to determine where the money is. Where the matching money is to make this acquisition and I wanted to share that information with the board. There's approximately \$175,000 coming from the State through Representative Coll's action to assist us in the procurement of this property. Those severance tax bonds will be sold in June assuming that all the processes go smoothly and the money would be available to the County approximately in August. But I did make a query to see if the county were to front the money, this \$175, in order to make this purchase that we would be able to be reimbursed when the bonds were sold. And we got the answer about 5:15 and the answer is yes. That clears that particular portion of the money from the legislature.

The second question was posed to the City looking for the \$50,000 that the City has provided as a match. And the City manager called me back and indicated that those funds would be available Monday and they would be ready to write us a check or wire the money to whatever institution that we ask them to send it off to. So, Mr. Chairman, I think that the funds -- the other \$300,000 comes from the County and then there's a question of the community put up \$134,000 or is poised to do that and I think the easement issue was how to smooth that out.

But I hear her saying that if the finance committee agrees that Commissioner Duran's

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possible recommended result if good then we could proceed to close. Mr. Chairman, in the interest of making sure that we make the calendar dates, I think that recommendation is very valid.

CHAIRMAN GRINÉ: Thank you, Sam.

MS. LICHEN: I have a couple of questions.

COMMISSIONER GONZALES: Just a quick comment, Commissioner Duran, I've had some discussion with planning staff about the issue of the transfer of development rights and how that could possibly play into the open space because the fact is that when we buy these lands there are development rights on the land and to insure the public that it stays in public hands in perpetuity, what I've asked the staff to explore is how we can take those development rights and actually sell them to areas where we want to see an increase in resident densities or increase in commercial activity and then generate revenues to go back into the open space fund.

I don't know if this plays well to this particular issue but clearly I'm hoping that that will be an opportunity for us to assure to your point that the public has taxed themselves to buy open space and are expecting everything to remain open regardless of who is sitting up here but one way we can do that is to retire the development rights by transferring them out of the site into areas that area already conducive to either increased commercialization where we have designated slots for commercial activity or residential where we want to see residential housing occur. And I know that we're pending an opinion in the attorney's office and they're working on that right now.

And, again, I'm not sure whether this addresses the issue of Pops but as for the countywide open space issue, I'm hoping that that will address that issue and we completely get rid of all development rights on these lands that we're buying and sell them so that we can generate some income for either purchases or maintenance of these areas.

COMMISSIONER DURAN: Where would we do that in the negotiations? Would we need to -- rather than give the owner of the property case, we would transfer the development rights to a receiving station so we could do that in the negotiations of the acquisition not afterwards.

COMMISSIONER GONZALES: I don't know. I don't know the format in which to do that.

COMMISSIONER DURAN: I would think -- that's why I think that it is so important that we go slowly in the next phase of acquisitions because I really believe the transfer of development rights program will stretch that money out. We're going to lose that opportunity if that program is not in place.

MS. MULVANEY: Mr. Chairman, Commissioners, my understanding of the development rights is that if we buy that property, we own the development rights so then we in turn can set up a system here at the county where we have a bank for someone who needs development rights for some other development and it can be sold and that money can go back into the open space program.

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You can also use the development rights in the way that Commissioner Duran was talking about if you're going through a highway corridor and the development rights are still attached to that land, you can offer that person a chance to use the development rights somewhere else.

COMMISSIONER GONZALES: So for all the purchases we've made to-date, we basically own the development rights to those properties so we can move them into a bank and then at some point, you're saying we can sell that to developers who have been approved for commercial or residential activity?

MS. MULVANEY: That's correct. If we had a conservation easement then there's a conflict. That's one of the problems. It's a systemic issue because you have to make sure that you're get the citizens money for it.

COMMISSIONER DURAN: Mr. Chairman. Let's say what you say is correct, so after we transfer the development rights say to Pops what's wrong with then putting a conservation easement on it.

MS. MULVANEY: You don't have a TDR program yet. The program can be developed with different factors but in a very conceptual idea, if we bought Pops and transferred all its development rights, then you cannot build on Pops.

COMMISSIONER DURAN: What would be wrong with a conservation easement then?

MS. MULVANEY: It wouldn't be necessary because it could not be developed it. These are all conditions and if down the line no one remembers and if don't keep records then maybe they could build on it.

CHAIRMAN GRINÉ: We have a long agenda, I'd like to move on.

MS. LICHEN: I have three questions.

CHAIRMAN GRINÉ: Okay.

MS. LICHEN: One is just a statement. I hope if you're considering TDRs that you will be very careful with them especially in regards to this site and Airport Road. Because we have received a lot of flack over the last year on this topic and we don't want to be the subject of creating unhappiness for someone in an area that is experiencing a lot of stress for development.

Number two, I would like some of resolution or written statement from the Commission assuring that they will find a way to aggressively defend this site as open space in perpetuity and do so within the next 90 days.

And then number three, who will you be negotiating with once the property is sold?

CHAIRMAN GRINÉ: I don't think there's any purpose for negotiations after it's purchased.

MS. LICHEN: In that 90 days that Commissioner Duran was talking about.

COMMISSIONER DURAN: With the county because we would own the property.

MS. LICHEN: So you would not be negotiating with the public any more

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what that meant to defend this property in perpetuity?

COMMISSIONER DURAN: It becomes your property.

CHAIRMAN GRINÉ: People, we've got seven days to work on this. Let's acquire the land and then deal with this issue.

COMMISSIONER DURAN: Let us know whether this deed restriction works or find out another way of coming to grips with the fact that the fact that the County can't grant --

MS. LICHEN: Yes, but I agree with what you're saying possibly with the deed restriction but then what authority does anyone have after the property is closed then it's all in the County's hands?

CHAIRMAN GRINÉ: No, it belongs to the public.

MS. LICHEN: Okay.

COMMISSIONER DURAN: We're here at your whim. We're here to serve and you're the ones that elected us.

MS. LICHEN: All right, all right.

COMMISSIONER DURAN: I don't know where all this paranoia comes from like the County is going to go build a gas station on that piece of property.

CHAIRMAN GRINÉ: People, we need to move on. We've got seven days to buy it then we can talk about it afterwards.

MR. MONTOKA: Mr. Chairman, just very quickly to hopefully answer this lady's question. I think the answer is that it would remain in the public domain and be an open process and that we would discuss those issues here before the public so that it doesn't become a vacuum or a closed subject. I think that that's the type of response that I think that they're looking for.

CHAIRMAN GRINÉ: Barbara.

MS. MULVANEY: Mr. Chairman, I previously talked to Tracy Connors an attorney that has been retained by COLTPAC, who is the holder of the public money and one of the things that she and I were talking about is -- we talked about length about the COLTPAC project and not only the cost side but it would be nice to have some simple rules that are pulled off of the program and put into an ordinance that basically says -- that talks about the property that was acquired, what it was acquired for and whether there was a change in use and how you would change it and any extinguishment of any kind of easement. And Tracy was very interested in working with the County on drafting this ordinance and she is a well regarded attorney here in town who has worked a lot with conservation. It would give us a way of having a public forum, if in fact, it was an ordinance.

One of the things that we discussed was who would pay Connors for her services and we thought it might be that the funds contributed in part by the public could help pay for their attorneys who work on ordinance with us and that way we'll sort of have a buy in from the community as far as the procedure of COLTPAC.

CHAIRMAN GRINÉ: Thank you, Barbara. Next speaker, please.

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CAROLINE COOK: Yes, I'm Caroline Cook. I was chair of the fund raising for the private individuals that gave \$136,000 to this project. And when I was raising funds our whole premise and their whole premise wholeheartedly that they wanted to see this permanently and no issue situation. May I just ask a question: if 20 years down the road there comes a situation where the County and the public -- the County will have the title to this property and therefore the Commission will be making decisions about the property at that time, how would the public then be able to protect some views or rights that they felt they had paid for 20 years previously; how do you handle that?

CHAIRMAN GRINÉ: Ma'am, I think we really just discussed that. Let's purchase it and then we'll come back and deal with all the players and come up with something to make it work. We can't commit until we have a solution like Barbara and Commissioner Duran recommended. Our hands are tied. We have to abide by the law.

MS. COOK: I do understand that but having been in real estate I do know that when a deal closes then the hands are tied pretty much of the people who are giving the money over to --

CHAIRMAN GRINÉ: I think Sam Montoya explained that very clearly how it's going to take place.

COMMISSIONER DURAN: Mr. Chairman, a deed restriction does it. A deed restriction does it.

MS. COOK: All right. Yes, thank you very much.

COMMISSIONER DURAN: A deed restriction for 100 years with a renewal for another 100 should take care of all these options.

MS. COOK: And that can be written right into the contract?

COMMISSIONER DURAN: Right.

MS. COOK: Thank you.

CHAIRMAN GRINÉ: Next speaker please.

CAROLYN SIGSTEDT: My name is Carolyn Sigstedt and I'm also a member of Friends of the Railyard Park here in Santa Fe. And for the record I just thought I would mention that the Railyard Park, the 10 acres at the railyard and then the 3 acres easement this is all a conservation easement that the city owns but now it's in the Trust for Public Lands who holds that easement but it will eventually go to a non-profit so I'm just questioning how the city was able to do that and the County not. Maybe it's worth looking into how they arranged that conservation easement.

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E. Matters from the Commission

1. Request to reconsider CDRC Case Z 98-5552, Sunrise Springs

CHAIRMAN GRINÉ: Commissioner Gonzales.

COMMISSIONER GONZALES: Mr. Chairman, just before, again, for the record I want to ask staff for clarification on this if in the County Attorney's opinion if the Commission will be acting within our proper authority to move to reconsider this case at that time.

MS. MULVANEY: Absolutely. If you would like me to reread Robert's Rules, I would be happy to do so.

COMMISSIONER GONZALES: No. Then, Mr. Chairman, I did in fact, as Commissioner Trujillo indicated, ask the applicant and had had discussions with individuals in the community and I asked the applicant to go back to the community to work on addressing some of the concerns that I had in terms of traffic and water. What I understand is that the applicant has reduced the density and has addressed the issue of water; however, I don't know to what extent they have done but what I'm asking the Commission to do is to allow for a reconsideration of the CDRC case Z 98-5552 so that we can take a look at what the applicant has done since meeting with the community to address the issues of traffic and water and I would move that in the form of a motion.

COMMISSIONER DURAN: Second.

CHAIRMAN GRINÉ: Motion and a second to approve --

COMMISSIONER GONZALES: No, it's a motion to reconsider.

CHAIRMAN GRINÉ: I'm sorry, reconsider by Commissioner Gonzales and second by Commissioner Duran. Any further discussion?

The motion passed without opposition.

COMMISSIONER DURAN: Mr. Chairman, just to explain my vote. I think that the process is still that they still have the opportunity to come forth to us and we're just expediting the hearing process.

2. Appointment to the EZ Authority

Commissioner Duran nominated Commissioner Gonzales to the EZA. The nomination was seconded by Commissioner Trujillo and passed without opposition.

3. Resolution 2000-59: A resolution on delaying Congressional Actions on Internet tax moratorium

CHAIRMAN GRINÉ: Mr. Chairman, I just ask that the Commission approve this resolution. It relates to action that Congress is currently considering that would extend the moratorium on the taxes of internet service providers. The concern at the local government level, Mr. Chairman, not only here in New Mexico but across the country is that if this continues to happen that we will never receive the authority that is required by Congress to begin to collect sales tax on the sales good over the internet. We're not allowed to do that now and it requires congressional authority.

This extension of the moratorium on the Internet as it relates to ISPs could severely impact receiving that authority from Congress. It is expected that state and local sales tax revenue will lose approximately \$10 billion by the year 2003. There are 1,200 counties across the country that are considering similar resolutions and I would ask the Commission to do so at this time.

Commissioner Gonzales moved approval of Resolution 2000-59. His motion was seconded by Commissioner Trujillo and passed by unanimous voice vote.

COMMISSIONER GONZALES: Mr. Chairman, can I send direction to the County Manager that this resolution be sent to the National Association of Counties and to our congressional delegation with a cover letter by the chairman asking for this action to take place.

4. Direction to staff regarding the creation of a conservation easement on the COLTPAC purchase on the Pops property

COMMISSIONER DURAN: Mr. Chairman. I don't want to beat a dead horse on this so I'll make it real quick. I would just like to ask staff to investigate a little bit further this conservation easement issue. I think if the city can do it then we can do it and I would like to see this go into the hands of the Trust for Public Lands and hopefully the opinion that DFA has given you and the AG's office has been correct.

I would really like for you to press real hard on finding out how the City did it which should allow us to do it.

CHAIRMAN GRINÉ: They're a charter and that kind of changes the rules; doesn't it?

MS. MULVANEY: Yes.

COMMISSIONER DURAN: I'm sure you're working on it. I just would really like for it to go to them if we can possibly do it.

CHAIRMAN GRINÉ: Thank you, Commissioner Duran.

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F. Matters from the County Attorney

- a. Discussion of possible acquisition of real property or water rights
- b. Discussion of pending or threatened litigation
- c. Limited personnel issues

CHAIRMAN GRIÑÉ: Do we need an executive session?

MS. MULVANEY: Yes.

Commissioner Trujillo moved to meet in closed session to discuss item a, b and c as listed above. His motion was seconded by Commissioner Duran and upon roll call vote with Commissioner Duran, Commissioner Trujillo, Commissioner Gonzales and Chairman Griñé all voting in the affirmative the Commission moved into executive session.

[Executive session occurred from 6:40-6:50]

Stating the only items discussed were pending litigation, Commissioner Duran move to come out of executive session. His motion was seconded by Commissioner Trujillo and passed by unanimous voice vote.

IX. PUBLIC HEARING

A. Ordinance 2000-6: An ordinance regulating cable television services within Santa Fe County. One hearing required

CHRIS GRAESER (Assistant County Attorney): Thank you, Mr. Chairman.

CHAIRMAN GRIÑÉ: Chris, give us a summary.

MR. GRAESER: The cable ordinance that we have now is 17 years old and there are several changes that we wanted to see. Predominantly, a change in the franchise fee that we charge cable companies from 3 percent to 5 percent of their gross revenues. Shortening the time of the franchise from 20 years to 10 years just to account for technology and changes in the law. We impose certain customer service provisions and the Board of County Commission can require a public hearing if they don't feel that they are complying with those and providing for insurance if anyone were to be injured by activities of the company.

[The audio system malfunctions at this point in the hearing]

KEN SCHULTZ: Mr. Chairman, Commissioners, good evening, my name is Ken Schultz. I'm the director of public relations for different communications of New

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Mexico. Currently, you'll remember about a little over one year ago we -- I won't say inherited but we acquired the property that Sierra Cable Vision had in the East Mountain area of Santa Fe County. I was before you regarding that transfer.

I'd like to start off by saying that the proposed ordinance while no companies like regulation, we do appreciate and understand the need for it completely. However, I would like to say that your staff, county manager and the assistant county attorney have been very open minded and I felt very reasonable and at least accepting the concerns that we brought to their attention.

In particular, Mr. Chairman and Commissioner Duran if I might it is impossible to do any upgrades with a three-year franchise or even a five-year franchise. First of all, the costs of those upgrades are so severe you cannot appreciate it over a five-year period. Secondly, you cannot even finance it for those time periods. They can cost upward of hundreds of thousands of dollars.

Thirdly, the only other way to recover your costs on those upgrades is to pass them on to the customer. If we were restricted to a five-year franchise agreement what we would end up doing is either doing no upgrades, so some people in the county would not receive the same type of quality of service that are being provided to other people in the County people we could not economically afford it without passing that cost on to them with the high cost of upgrading a system today and providing fiber, for example which provides the internet service that you're talking about, we would have to triple the prices that are passed on to the customer and I know that you would not want us to do that.

A 10-year franchise is a reasonable amount today where they used to be 20. It's pretty much cutting it in half. By adding to what the restriction of the gross revenue I think that you've also enhanced your ability to increase your franchise fee.

Again, I would like to say that in all the discussions that I've had with your staff, I have to compliment then on having such an open mind and being willing to listen to reasonable arguments and be willing to compromise in areas. There is one area however, that is partially my fault that I did bring up to the assistant county attorney; however, I failed to bring it up to the county manager and that's in section 19.E. which is on page 21 of the agreement. Late payments to the county are subject to 8.75 percent interest. That might be the statutory amount in the State of New Mexico at this time, that doesn't mean it will always be the statutory amount and that there's no variance. I have suggested that we try to keeping in line with what we charge your constituents, our customers, for late payment. And that's 1/2 percent per month and only after 60 days delinquency. They did agree to the 45 day period but not a change in the 8.75 percent. I think this is an issue of fairness. I don't think that you -- for example if you do it on an annual basis, for example, there is no incentive for us -- let's say there is a disputed amount for the franchise fee. If it's an annual percentage there's no incentive for us to pay anything until the dispute is resolved. If it's based on a monthly amount and it 1/2 percent per month, the undisputed amount we would pay right away so you would get your money and we would only be charged interest on them

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amount that is still an issue. That's the amount that we do charge your constituents today, our customers, and we think it's only fair that you would charge us the same amount because the numbers that could be contested here are a lot larger than on an individual bill we get.

The statutory amount, I think, I would respectfully ask that you reconsider it and that it remain 1/2 percent a month and that it be based on a monthly basis rather than on an annual basis and that if you're not willing to extend the time frame to 60 days and we're stuck 45 days if they haven't already reconsidered.

COMMISSIONER GONZALES: Just follow up on your last point.

MR. SCHULTZ: We extended it from 30 to 45 days but my suggestion of reducing it to 1/2 percent per month which would be 6 percent per annum rather than 8.75 percent. We ask you for the same treatment that we give your constituents our customers. That's 1/2 percent per month or 6 percent per annum. The amount could change and the interest amount could grow.

Let's say we owe you \$20,000 and only \$5,000 of it is given -- we would then go ahead and give you the 1/2 percent because it would save us money. We would go ahead and pay you the \$15,000 and then end up owing the interest on the \$5,000 disputed amount when it gets resolved. But if it's a per annum thing then --

MR. GRAESER: Mr. Chairman, Commissioner, I think we're pretty close to agreement on this. It does read that accounts over 45 days past due shall be assessed interest at the rate of 8.75 percent per year on the outstanding balance and my understanding is the way that we would impose that is on a pro rata basis: however much money outstanding for however many days and how much is that add 8.75 percent yearly rate. So that way whether it's done by monthly or yearly rate they pay same amount on outstanding money that is not paid. The way we arrived at 8.75 percent is that's what the current statutory rate of interest on judgements were. In other words, if we had to sue someone for money they didn't pay us, we would be entitled to 8.75 percent. I talked to finance department and they're actually requesting a higher rate. When we don't pay our contractors, we pay about 18 percent interest on that. And there is a problem and this is certainly not to point any fingers at any company here tonight, but there has been problems with late payments on the franchise fee.

COMMISSIONER GONZALES: So we have agreed to the 45 days but not the 6 percent.

MR. GRAESER: The proposed ordinance calls for 8.75 percent and I believe that they are requesting 6.

COMMISSIONER GONZALES: Mr. Schultz, you're in agreement with everything else?

MR. SCHULTZ: Mr. Chairman, Commissioner Gonzales, as I said earlier, I feel that your staff has been very reasonable and they have been understanding and have looked into our concerns and in the most part we have been able to reach something that may not be the best for either side but it's livable for both sides and is something that we can all

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work with in those parameters.

The only other thing I would ask for is the reduction in the interest rates because that's what we charge your constituents. Why not treat us the same way as we treat our customers?

COMMISSIONER GONZALES: Who else do you have franchise agreements with other than the City of Albuquerque.

MR. SCHULTZ: We have 19 franchises within the state.

COMMISSIONER GONZALES: Are they all 6 percent in this late fee or are they varied?

MR. SCHULTZ: They vary.

COMMISSIONER GONZALES: Some are higher than 6 percent?

MR. SCHULTZ: To the best of my recollection, there is only one that reaches 8 percent.

COMMISSIONER GONZALES: Thank you.

MR. SCHULTZ: So there are none that I can remember that are 8.75.

COMMISSIONER DURAN: Mr. Schultz, of those 19 franchise agreements are all of those 10 years and are any of them less?

MR. SCHULTZ: Mr. Chairman, Commissioner Duran, no, as a matter of fact they're all 15 years or more. This is the only franchise that we have that is less than 10 years.

COMMISSIONER DURAN: Chris, why wouldn't a cost of living index be factored into the revenues of this?

MR. GRAESER: Mr. Chairman, Commissioner Duran, the federal law allows for a 5 percent cap, so I presume as the cost of living goes up and any type of inflation the cable companies rates will go up and our revenues would go up.

COMMISSIONER DURAN: What would the maximum -- has it always been 5 percent?

MR. GRAESER: The 1984 Cable Act provided 3 percent with allowed 5 percent if you could prove that that was your cost. In 1988 I believe they began permitting five percent as a matter of course and our current ordinance was written in '83.

COMMISSIONER DURAN: So if Federal law allows in several years for an 8 percent franchise fee and we've committed to a 10 year program here, we have to wait until that 10 years has expired before we can get the 8 percent; right?

MR. GRAESER: Correct.

COMMISSIONER DURAN: I still think it should be shorter than 10 years and I think that Mr. Schultz that if you raised your fees or tripled your fees, I don't think anyone would prescribe to your service.

MR. SCHULTZ: Mr. Chairman, Commissioner Duran, you're correct. That would reduce our customer base but at the same time you're reducing your revenues. They go hand in hand. It's a circle. If we do well, you do well.

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COMMISSIONER DURAN: My concern again is in 10 year technology will be so far advance from where we are today that your subscription is going to greater and it's probably going to triple and I believe the community should position itself to take advantage of that.

MR. SCHULTZ: Mr. Chairman and Commissioner Duran, if our subscriber base was to triple we would be very happy and I think you would too because also your franchise fees would triple because it's based on gross revenues not on the amount of subscribers.

COMMISSIONER DURAN: I guess we don't see eye to eye.

COMMISSIONER GONZALES: Mr. Chairman, I have a question of Chris. If we were to grant the request at 6 percent back to the late fees, does the Commission have the authority if we see a pattern here by a company to continuously be late or having problems in payment, do we have the authority to come back in or does staff, at its own discretion bring this portion back to adjust the interest rate to move up as a way to respond to the way a company is doing business?

MR. GRAESER: Mr. Chairman, Commissioner Gonzales, we certainly could set something up like that. We could either modify the language in proposed language right now to allow the manager to promulgate those rules. We could have either a staggered rate at 6 percent when you're 180 days late or 90 days or something like that.

COMMISSIONER GONZALES: I don't know if the County wants to do business or try to appease individuals who won't necessarily pay their bills on time. We don't know this about the company but I would like to give them the benefit of the doubt that there will be time granted to deal with disputes that can be reasonable and debated but what I would like to see if we see a pattern of that and the company is just taking advantage of keeping us busy in trying to deal with disputed items, then I'd either want it brought back before the Commission or the Commission grant some authority to the staff to impose some kind of rate up to 8.75 percent if we see this kind of pattern occurring.

MR. GRAESER: Mr. Chairman, Commissioner Gonzales, maybe we could give that discretion to the manager to promulgate those rules. It was just explained to me that when the franchises are negotiated they could be negotiated at a rate up to 8.75 percent and then if we are renegotiating a franchise with a company that we have had problems with in the past we can ask for a higher rate.

COMMISSIONER GONZALES: So you're saying that Mr. Schultz would agree to the language that says up to 8.75 percent?

MR. GRAESER: Yes, he would.

COMMISSIONER GONZALES: I would like to add that as a form of an amendment and I know that we're not at the point of that in this public hearing. So we could be at the 6 percent and if we see that there's a pattern here then the manager or yourself could impose a higher rate.

MR. GRAESER: Certainly, and as part of the negotiating franchise we can

figure out we can work it out.

CHAIRMAN GRINÉ: Thank you, Chris. This is a public hearing is there anybody out in the audience that wants to speak for or against this ordinance.

COMMISSIONER DURAN: Mr. Chairman, I was just wondering if we could table this ordinance so I and anyone else out there can read up on other franchises because I'd like the opportunity to review this as it relates to other franchises throughout the nation. My understanding, and maybe I'm wrong, but the revenues that are available to our community and --

MR. GRAESER: Mr. Chairman, Commissioner Duran, this ordinance applies to any unincorporated area in the County.

COMMISSIONER DURAN: I think it would behoove us to investigate this a little bit further to make sure that we are in compliance and in line with other communities and other states so that we're not giving away the farm here.

MR. GRAESER: Mr. Chairman, Commissioner Duran, I actually have extensively read caselaw on this and actually gone onto the website of other municipalities in the County to see what they do and we've been in negotiations back and forth with the industry and I think that this pretty much gets us what we can get now. I really don't think that there's anything that we're losing out on as far as getting funds currently. It's certainly within the Commission's prerogative to table it although we do have franchises coming up for renewal or transfer that if we table it at this meeting, this ordinance wouldn't come into effect until past the time we begin to renegotiate those.

[The audio system in the Chamber's malfunctions at this point.]

Commissioner Duran made a motion to table which failed for lack of a second.

Commissioner Gonzales moves to amend page 23, section E, regarding the late payments that accounts over 45 days shall be assessed an interest rate up to eight and three-quarters (8.75) percent per year. His motion was seconded by Commissioner Anaya and passed by unanimous voice vote.

Mr. Graeser informed the Commission that the franchise agreements under this ordinance will be for 10 years. He said the Commission is acting on an ordinance that will govern future franchises.

Commissioner Duran asked whether Commissioner Gonzales would accept a friendly amendment to limit the franchise agreement to a five-year period. Commissioner Gonzales denied the amendment.

Commissioner Gonzales moved to approve Ordinance 2000-6 as amended. His motion was

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seconded by Commissioner Trujillo and passed by [4-1] roll call vote as follows: Commissioner Anaya, Commissioner Trujillo, Chairman Griñé, and Commissioner Gonzales voting for and Commissioner Duran voting against.

Explaining his vote, Commissioner Duran said he thought 10 years was too long for a contract.

[The Commission recessed in hopes of fixing the audio system. The system continued to malfunction throughout this hearing and what follows is a verbatim transcript and summary portions taken from the reporter's notes.]

B. Ordinance 2000 : An Ordinance creating a new Article XIV, traditional and contemporary community zoning district, and incorporating zoning standards and regulations for the Los Cerrillos Community Zoning District. [First hearing]

Alina Bokde, Planner, provided her staff report as follows:

"As part of the community planning process, communities may define zoning districts and standards that will be implemented through a zoning ordinance. In order to implement adopted community plans, a new Article XIV of the Land Development Code is needed.

"Staff is requesting approval of a new Article XIV and incorporating zoning standards and regulations for the Los Cerrillos Community Zoning District."

Commissioner Trujillo mentioned that this was a community driven process and the Commission was hearing the "voice of the community."

Ms. Bokde said all the landowners in the area were notified and agreed to the community plan.

Commissioner Duran expressed concern that the during the public hearings for the Growth Management Plan, the residents were assured that density under the existing land use policy would not change by the adoption of the Growth Management Plan and it seems that the community plan is in conflict with that statement. Ms. Bokde said communities can change zoning only by following the process of a community planning process as outlined by the Community Planning Ordinance.

Richard Crombie a resident of the village of Cerrillos said the community plan took

over three years and over 100 meetings to get to this point. He said the fact there were no negative comments is evidence of the hard work that has gone into this plan. He commended Ms. Bokde for her work on this project.

Mr. Crombie said he was sorry more Los Cerrillos residents were not present but there have been a lot of issues the area have been dealing with.

There were no further comments or questions and Chairman Griñé pointed out that this was the first of two public hearings on this issue.

C. Ordinance No. 2000-7: An ordinance declaring La Cienega and La Cieneguilla Traditional Historic Communities under State Law. [Second hearing]

MS. BOKDE: Mr. Chairman, Commissioners, the communities of La Cienega and La Cieneguilla are coming forward to request designation as a traditional historic communities under state law. The criteria under statute states that these two areas unincorporated areas of Santa Fe County. Are identifiable villages, communities, neighborhoods or districts that have existed for more than 100 years and include structures or landmarks that are associated with the identity of La Cienega and La Cieneguilla and are areas with distinctive character or traditional quality that can be distinguished from surrounding areas or new development in the vicinity.

The main intent behind the designation is that any area within the boundary of an area considered traditional and historic would not be able to be annexed, in this case, by the City of Santa Fe unless the community voted in favor of that annexation. So, what it does is it brings the issue of annexation to the community level.

Ms. Bokde explained that maps and diagramed the boundaries. She identified Richard Cook's property in response to Commissioner Trujillo's question and said it was included in the traditional historic boundary.

Ms. Bokde said the boundary acreage including public land is about 18,000 acres. Public land is about 9,000 acres and the rest is private.

Chairman Griñé invited the public to speak and asked them to provide new information from last month's testimony on this issue.

David J. Martinez appearing on behalf of Mr. Richard Cook, explained that Mr. Cook owns 386 acres which he requests be removed from the historic traditional designation.

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Mr. Cook has 386 acres and it is his position that it is not a part of the community and request its removal.

Robert Romero representing the La Cienega Valley Association appeared before the Commission and distributed a support letter from BLM and a document from Malcolm Ebright providing a historic overview of the area.

Mr. Romero said while the boundary appears to be considerable at 1,800 acres, most of it is public land and the BLM supports the efforts. The BLM land is used for agricultural grazing and leases held by longtime traditional community residents. State land is also held in lease by traditional community residents for the purpose. The local ranchers rely on these public lands to supplement their private grazing efforts. The state and BLM land holds cultural resources.

Mr. Romero identified Warren Thompson's family large tract of property and indicated it was important that this tract was included in the boundary because it will be developed. He added that the Thompsons support the traditional designation.

Referring to Mr. Cook's opposition to being included in the boundary, Mr. Romero said the Los Chamiso flows through Cook's property and there are significant ruin sites that have been destroyed by the runoff from the City and mining activities. If and when this area is developed, the residents will be part of the community as the residents in Cook's other development feel a part of the community.

Mr. Romero said it was evident that Mr. Cook was not part of the community but the land he owns is. It is the LCVA's intention to maintain the boundary as designated and add to it rather than subtract. It took six years to develop this plan and Mr. Romero urged the Commission to approve the designation. He said LCVA would reluctantly agree to grant Cook's request to eliminate his property; however, they would prefer not excluding the land. If it is excluded the residents would like the option of bringing the property into the boundary when the property is developed. Mr. Romero said he spoke with Mr. Cook today and he would prefer being left out of the boundary and would consider being included in at a later date.

Commissioner Duran asked why Mr. Romero what reasons Mr. Cook offered for not wanting to be in the boundary. Mr. Romero responded that he understood Mr. Cook was trying to get city water and if he was within the boundary it would be difficult to obtain the water.

Mr. Romero said the community was planning on developing a centrally located

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community facility to service all the residents of La Cienega. The existing facility is dominated by the fire station.

Megan Hill, owner of Sunrise Springs Retreat, a member of La Cienega Valley for over 20 years, stood in support of the designation for La Cienega and Cieneguilla. She said she enjoys and looks forward to continue working with the community.

Jim Siebert, planning consultant, represented the Thompson family, owners of the La Bajada Ranch, the largest single land holder within the historic village boundaries. He said the Thompsons have worked with the community and support this request.

Jose Villegas said Petroglyphs for Los Ninos Coalition in Cieneguilla have been fighting to save the community for 10 years and this designation is very important. He urged the Commission to do what is good for the community.

Troy Nofoling, president of the Vista Land Homeowners Association in Cieneguilla, stood in support of the designation.

Kenneth Pin, former County planner, said he worked with the community for over three years to develop the designation and this request is a result of a lot of hard work. He reminded the Commission that when they approved the boundary for the community planning area it was for the exact same boundary that is proposed this evening for the traditional historic boundary. Even at that time, it included Richard Cook's property.

Christopher Hodge of Madrid said he was involved in the planning process in Madrid and his town supports this request.

Carl Dickens of La Cienega, the secretary/treasurer of the 300 year old El Guicu Irrigation Association and represents 30 members of that association who have all signed the petition in favor of the designation.

David Camp of La Cienega urged the Commission to support the designation.

There were no other questions or speakers.

Commissioner Gonzales commended Robert Romero and other residents of La Cienega for their efforts. He also thanked the Thompson family for participating in this effort and their commitment to La Cienega. He said he agreed that Mr. Cook should be excluded and said he was concerned that the designation could be legally challenged if Cook remained in the boundary. Commissioner Gonzales noted that no one in Mr. Cook's

association mentioned a law suit. He noted that any legal challenge would delay the designation.

Commissioner Gonzales moved to approve Ordinance 2000-6 with the exclusion of Richard Cook's property. Commissioner Anaya seconded the motion.

Commissioner Duran noted that a portion of the property recommended for exclusion lies within the Highway Corridor Plan and the area that the RPA will be reviewing.

Ordinance 2000-6 passed by unanimous roll call vote as follows; Commissioner Anaya, Commissioner Duran, Commissioner Gonzales, Commissioner Trujillo and Chairman Griñé voting for.

Mr. Montoya thanked the Commission for having the foresight to implement historical planning of this nature. He said planning staff has been very important in making this happen and highlighted that Alina Bokde recently completed her work to earn a Master's degree in planning.

- D. 1. CDRC Case #MIS 99-5511. Marty Sanchez Golf Course Liquor License. The City of Santa Fe applicant, request approval of a governmental liquor license at the Marty Sanchez gold course at 205 Caja del Rio. The property is located at 205 Caja del Rio, within Section 23, Township 17 North, Range 8 East.**

Frank White, planner, stated that pursuant to Section 6-0-6B4 NMSA the local governing body must approve a liquor license. The State Alcohol and Gaming Division has granted preliminary approval of this request. On October 12, 1999 the BCC granted zoning approval for the sale of alcohol at this facility.

Staff recommends that this license be granted.

Chairman Griñé identified Maurice Bonal in the audience and asked if he agreed with the staff recommendation. Mr. Bonal said he did.

Maurice Bonal was placed under oath and said he agreed to the transfer.

There were no other speakers or questions.

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

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2. CDRC Case #MIS 00-5230. Pueblo Plaza Supermarket Liquor License. The Pueblo of Pojoaque, applicant, requests approval to allow a change of location of liquor license No. 686 for the Pueblo Plaza Supermarket. The liquor license location will move from the old supermarket to the newly constructed supermarket at 9 Valle Gutierrez. The property is located east of US 285, within Section 8, Township 19 North, Range 9 East.

Mr. White provided his staff report that pursuant to Section 60-6B4 NMSA the local governing body must approve a liquor license. The State Alcohol and Gaming Division has granted preliminary approval of this request.

He indicated that the license is currently owned by the Pueblo of Pojoaque and is housed at their old supermarket. The new market is 200 yards from the old location.

Mr. White said that staff recommends that a transfer of location of license #767 be granted to Jay Jalaram, Inc.

Jana Werner was placed under oath and said she agreed to the transfer.

Commissioner Anaya asked whether the license would remain on pueblo land. Ms. Werner responded yes. Commissioner Anaya asked whether the pueblo paid any gross receipts tax generated by sales at this site. Ms. Werner responded yes.

Commissioner Trujillo noted that the new supermarket has been selling liquor since it opened. Ms. Werner said the supermarket opened on November 1, 1999 and yes, they have been selling liquor there. The pueblo issued a pueblo liquor license and the state license has been in suspension.

There were no other speakers or questions.

Commissioner Trujillo moved approval of the liquor license transfer. His motion was seconded by Commissioner Duran and passed by unanimous voice vote.

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3. **CDRC Case #MIS 00-5210.** Canyon Ranch Extension of time for a master plan. Cheryl Jensen, applicant, requests approval to allow for a 24 month extension to the expiration date of a master plan for a residential treatment center of 10.06 acres, which was approved on June 29, 1995. The property is located south of Venus Road, west of CR 13, within Section 13, Township 10 North, Range 7 East.

Mr. White presented staff's report indicating that staff recommends approval of the 2-year extension of time to the master plan subject to the following condition:

1. Existing conditions of approval will be complied with.

Commissioner Gonzales confirmed that a public hearing was necessary for an extension of time regarding this application.

Duly sworn, Cheryl Jensen stated she was requesting the extension of 2 years but was confident that she would not need the entire time. She said 6 out of the 7 of the master plan conditions have been met.

Commissioner Duran encouraged the Commission to provide assistance for this facility which helps New Mexico's youth.

There were no other speakers or questions regarding this case.

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

4. **EZ CASE S 97-4570** Valle Vista Heights. Elmer Garcia requests an amendment to the approved master plan for Valle Vista Heights. The amendment consists of utilizing the existing shared well system for water supply to Phase III and the addition of one lot for a total of 25 lots. The request also includes a variance to Article VI, Section 6.2 of the County Code requiring the submission of a water right permit from the State Engineer's Office. The property is located off State Road 14, within Section 26, Township 16 North, Range 8 East, within five-mile EZ District.

As requested by the Commission, Mr. Abeyta provided the recommendation of staff and the conditions as follows:

The EZC recommended approval subject to the following conditions:

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1. Tract A-3 is divided into two .52-acre tracts, and Phase III designated as open space until such time as this areas is served by the Santa Fe County Utilities Division Water System.
2. When County water service is available, this area can only be developed up to nine approximate 7,070 square foot lots as shown on the amended master plan.
3. The applicant must submit a water availability statement from the County Utility Division addressing availability for Phases I, II and III prior to preliminary plat application consideration by EZC for Phase III.
4. Prior to recording the final plat for Phase III, the applicant must submit a service contract from the County Utilities Division. When the Utility can service all 25 lots, the applicant purchase service for the entre subdivision.
5. The amended master plan must be re-recorded in the office of the Santa Fe County Clerk.

Mr. Abeyta indicated that the applicant has requested removal of condition 3 because the County Utility is not able to provide a water availability statement or service for water. He suggested adding language to condition 4 shown underlined above.

Duly sworn, Elmer Garcia said he agreed with the conditions as proposed with the elimination of condition 3.

There were no other questions or speakers.

Commissioner Anaya moved approval with the added language to condition 4 and elimination of condition 3. His motion was seconded by Commissioner Trujillo. The motion passed without opposition.

5. CDRC CASE A/V 00-5090. Joe Ayala Appeal/Variance. Joe Ayala, applicant, requests an appeal of the Land Use Administrator's decision to deny a land division of 3.53 acres into two lots, one of 1.50 acres and one of 2.035 acres, which would result in a variance of Article III, Section 10 (lot size requirements) of the Land Development Code. The property is located on Kachina Road, west of SR 14, within Section 2, Township 14 North, Range 8 East.

Mr. White provided the staff report indicating that there are currently two homes, each with a liquid waste system, utilizing an on-site shared well and a shed on the property.

He indicated that the applicant states that he purchased the property in 1992 from his

sister, Jayne Hernandez, and that the property has been in the family for 22 years. The applicant also asserts that one of the dwellings was built prior to the effective date of the Code in 1981. Mr. White said the applicant's brother and family are tenants in one of the homes and have expressed an interest in purchasing the home. The applicant states that splitting this lot would not have an impact on the environment or the neighborhood because nothing on the property would change.

Mr. White said staff recommends that the appeal and variance be denied based on Article III, Section 10 of the County Code which requires 12.5 acres of land per dwelling unit. However, CDRC approved the request with the following conditions:

1. The applicant must provide Staff with sufficient proof that one dwelling on the subject property was built prior to the effective date of the Code in 1981.
2. The applicant must comply with all code requirement for a family transfer.

Duly sworn, Joe Ayala, 1 Kachina Road, said he agreed with condition imposed at the CDRC meeting. Mr. Ayala said the property would be sold to his brother.

Commissioner Trujillo noted that allowing this lot split will not change the existing conditions and it was intended for family use.

There were no other speakers or questions on this case.

Commissioner Anaya moved to approve the request, based on the findings of fact, with conditions. Commissioner Gonzales seconded his motion which passed by unanimous voice vote.

6. CDRC CASE # A/V 00-5070. Daniel and Elaine Esquibel Appeal/Variance. Daniel and Elaine Esquibel, applicants, request an appeal of the Land Use Administrator's decision to deny a request for a land division of 2.428 acres into two lots, which would result in a variance of Article III, Section 10 of the Land Development Code. The property is located off Sombrillo Road, in Sombrillo, within Section 7, Township 20 North, Range 9 East.

Planner Vicki Lucero provided a summary of the staff report indicating that there is currently a house and a mobile home on the property. The two dwelling units are served by a shared well and an on-sit septic system. Upon division of the land the mobile home will be moved to the northern lot. A new well and septic system will be installed.

The applicants are requesting the placement of a second mobile home on the property for their father to reside.

Ms. Lucero said it was staff's recommendation that the BCC uphold the Land Use Administrator's decision and deny the appeal as it does not meet code requirements for lot size. She noted that the CDRC approved the variance request.

Duly sworn, Danny Esquibel, PO Box 3593, Santa Fe, the applicant stated that the property has been in his family for over 100 years.

There were no speakers or questions regarding this case.

Commissioner Trujillo moved to approve CDRC V 00-5070 based on the findings of fact. His motion was seconded by Commissioner Gonzales and passed by unanimous voice vote.

8. CDRC CASE #A 00-5110. 360 Communications Glorieta Site. 360 Communications, applicant, Permits West Inc., agent, requests master plan zoning with preliminary and final development plan approval for a cellular facility to include a 24-foot high cellular tower and equipment building. The property is located within the Glorieta Baptist Convention Center within Section 21, Township 16 North, Range 11 East.

Mr. White indicated that the applicant is proposing the installation of a cellular site to consist of twelve 1-foot wide by 4-foot length panel antennas and a 322 square foot equipment building within a 3,600 foot leased area. The antennas will be mounted on a monopole extending 20-feet above the ground with an additional 4-foot in height for the antenna tower. The antennas and the tower will not exceed 24-feet in height. The antennas will be painted to match the existing natural environment.

Mr. White indicated that staff reviewed the proposal for access, fire protection, landscaping and lighting and terrain management.

Staff recommends master plan zoning with preliminary and final development plan approval subject to the following conditions:

1. All staff redlines will be addressed, original redlines will be returned with final plans.
2. The antennas will be painted a brown/green camouflage color, all colors to be reviewed and approved by staff prior to issuance of construction permit.
3. The master plan/development plan will be recorded with the County Clerks Office.
4. When the technology changes and these antennas become obsolete they will be removed by the applicant. This condition will be noted on the master plan.
5. Knox Lock entry systems will be installed on two locked gates, an existing locked gate at the south end of Juniper Street and a proposed locked gate at the subject

- property to be approved by the Fire Marshal.
6. All lighting is to be shielded. The applicant will provide cut sheets of all proposed outdoor lighting for staff's approval.
 7. Rock outcroppings will not be disturbed. The final design and location of the new access road to be approved by staff.

Appearing for the applicant and duly sworn was Brian Wood, 37 Verano Loop, Santa Fe. Mr. Wood stated they were agreement with all imposed conditions.

There were no questions of the applicant or other speakers on this case.

Commissioner Duran moved approval with staff-imposed conditions. His motion was seconded by Commissioner Gonzales and passed by unanimous voice vote.

9. EZ CASE S 99-4351 Eco Seco Subdivision. Rob Althouse and Nancy Kenney, applicants are requesting reconsideration of a previously imposed condition regarding future connection to the Sangre De Cristo Water System for a 10 lot residential subdivision on 13 acres. The property is located along Camino Don Emilio north off West Alameda within the two-mile Extraterritorial District, Sections 21, 28, Township 17 North, Range 9 East.

Planner, Joe Catanach provided his staff report as follows:

"The applicant is requesting reconsideration of the following conditions imposed by the EZC-BCC, which the applicant was in agreement with at the time of approval that, *The subdivision must connect to the City Water System when the Coyote Ridge Road main line is built, or the main line in West Alameda is extended to Camino Don Emilio, or when another suitable water main is within 1,000 feet.*

Mr. Catanach pointed out that the subdivision was allowed to utilize a single well as a community water system and was subject to meeting minimum design standards for a community water system, and compatible for future connection with the City water system based on the following condition:

1. Community water system plans shall be certified by a registered engineer to meet minimum design standards specified in Guidelines for Water Supply Systems and Treatment Works in New Mexico and Regulations Governing Water Supplies provided by the State Environment Department. The certification shall include that

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the water system is compatible for future connection to the Sangre De Cristo Water System as required for the preliminary approval.

"The requirement for a community water system that is compatible with the Sangre De Cristo Water System was intended to accommodate the future connection as it was required, otherwise the future connection has no chance of occurring.

"The applicant is requesting that both conditions regarding future connection to the Sangre De Cristo Water System and provide a compatible water system to accommodate the future connection be deleted based on cost prohibitive reasons for a 10 lot subdivision."

Mr. Catanach said the City condition required that:

"The developer shall connect to the regional water system when the Coyote Ridge Road main is built, or the Alameda main is extended to Camino Don Emilio or when another suitable water main is within 1000 feet."

Duly sworn, the applicant, Robert Althouse said he only partially agreed with the EZC recommendations. He indicated that his request is to not hook-up to the City water system or if the hook-up is required it would occur only when the line is within 200 feet.

Responding to Commissioner Trujillo, Mr. Althouse said they were currently using well water and has commercial water rights. He said obtaining the commercial rights was time consuming and costly.

Commissioner Trujillo asked how much it would cost to hook-up to City water. Mr. Althouse estimated \$50,000 to connect to Alameda and the majority of the subdivision main was built to the State Community Water System Standards. He noted that the homes will have sprinkler system and 20,000 water for on-site fire storage.

Responding to Commissioner Gonzales, Mr. Althouse said he has 3 acre-feet of permitted commercial water rights. By covenant, each home is permitted .25 acre-feet. Meters are required for the well and each residence.

There were no further questions or speakers on this case.

Commissioner Trujillo moved approval of EZ CASE S 99-4351 changing the condition that, when the City line is within 200 feet of the subdivision the subdivision is required to hook-up