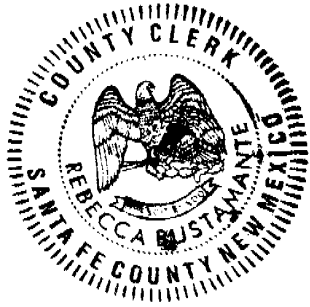


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COUNTY OF SANTA FE } ss
STATE OF NEW MEXICO
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SANTA FE COUNTY



WITNESS MY HAND AND SEAL OF OFFICE
REBECCA BUSTAMANTE
COUNTY CLERK, SANTA FE COUNTY, N.M.

DEPUTY

SANTA FE

BOARD OF COUNTY COMMISSIONERS

REGULAR MEETING

October 8, 2002

- Paul Duran, Chairman
- Jack Sullivan, Vice Chairman
- Paul Campos
- Marcos Trujillo
- José Varela Lopez

SANTA FE COUNTY

2310099

REGULAR MEETING

BOARD OF COUNTY COMMISSIONERS

October 8, 2002

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

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

Members Present:

Commissioner Paul Duran, Chairman
Commissioner Marcos Trujillo
Commissioner Paul Campos
Commissioner Jack Sullivan
Commissioner José Varela Lopez

Members Absent:

[None]

An invocation was given by Jean Eva Thom from the Unity Church of Santa Fe.

IV. APPROVAL OF THE AGENDA

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- B. Tabled or withdrawn items**

CHAIRMAN DURAN: Estevan, are there amendments to the agenda?

ESTEVAN LOPEZ (County Manager): Mr. Chairman, there are no amendments to the agenda other than possibly moving a couple of items around. We are requesting that one item be tabled and that's item IX. B. 1, the appointment to the Agua Fria Development Review Committee. After the packet was put together we had a couple of letters of interest with regard to being appointed to that committee and we'd like to be able to consider those.

The items that I would ask about possibly moving around a little bit are first of all, the executive session, if we could perhaps do that close to, in concurrence with dinner. And I guess

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that might be, hopefully we'll have gotten through all of the administrative business by then and move right into that. Secondly, under the Public Hearings, item XI. A. 9, the Tom and Kathy Sedillo family transfer, we would ask that that item be heard as close to 6 pm as possible. The applicants in this case have requested that there be an interpreter available and we have arranged an interpreter to be available at about 6 pm and for that reason we would want to move that up to that time slot. Other than that I would recommend that the agenda be approved as presented.

CHAIRMAN DURAN: So, Estevan, is the plan to have the Public Hearing start as close to 6 as possible?

MR. LOPEZ: Mr. Chairman, if in fact we were ready to begin Public Hearings, I think we could begin at 5 on some other agenda items, but I would just ask that we move to that Sedillo family transfer at about 6 pm.

CHAIRMAN DURAN: Do those people that are coming today for the Public Hearing, do they know that the Public Hearing might start at 5?

MR. LOPEZ: I think that's typically the case, Mr. Chairman. I think Public Hearings are generally noticed for any time after 5.

CHAIRMAN DURAN: Is that true, Roman?

ROMAN ABEYTA (Land Use Administrator): Mr. Chairman, those cases have been noticed for five o'clock.

CHAIRMAN DURAN: Okay, good.

COMMISSIONER CAMPOS: Mr. Chairman.

CHAIRMAN DURAN: Commissioner.

COMMISSIONER CAMPOS: Looking at the Sedillo case, there's the Trujillo case immediately thereafter and it also involves Piñon Hills/Alameda Ranchettes and perhaps they should be considered together because they may draw people who are interested in both cases. Is that a problem?

MR. LOPEZ: Mr. Chairman, Commissioner Campos, as far as staff is concerned that would present no problem for us.

COMMISSIONER TRUJILLO: Move for approval, Mr. Chairman, as amended. It has been amended, right?

MR. LOPEZ: Mr. Chairman, yes. There's a tabling of item IX. B. 1 and then just moving a couple of items to certain time slots.

COMMISSIONER TRUJILLO: Move for approval as amended.

COMMISSIONER CAMPOS: Second, pursuant to the suggestions of our County Manager.

COMMISSIONER TRUJILLO: Right.

CHAIRMAN DURAN: Okay, for discussion. So it would be, the Sedillo case would be first in the Public Hearings. And what are the other two?

MR. LOPEZ: Mr. Chairman, rather than first, as close to 6 pm as possible. If we get to Public Hearings say, by five o'clock, we could perhaps begin with another case.

CHAIRMAN DURAN: Okay. But then what follows the Sedillo case?

MR. LOPEZ: Then item 10, I believe. Is that right, Commissioner Campos?

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COMMISSIONER CAMPOS: Yes, that would be the Trujillo case also involving Piñon Hills/Alameda Ranchettes.

CHAIRMAN DURAN: And was there one other one?

COMMISSIONER CAMPOS: Is there?

MR. LOPEZ: No.

CHAIRMAN DURAN: There's only two from Piñon Hills? Okay. I understand.

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

V. Approval of the Minutes: September 10, 2002

CHAIRMAN DURAN: Any changes to those minutes?

COMMISSIONER TRUJILLO: If not, Mr. Chairman, move for approval of the September 10, 2002 minutes.

COMMISSIONER SULLIVAN: Second.

CHAIRMAN DURAN: There's a motion and a second. Any further discussion?

The motion to approve the September 10, 2002 passed by unanimous [5-0] voice vote. [This includes the Continuation of the September 10, 2002 held on September 18th]

September 18, 2002 Special Meeting

CHAIRMAN DURAN: Any changes to those minutes? What's the pleasure of the Board?

COMMISSIONER TRUJILLO: Move for approval, Mr. Chairman, of September 18, 2002 minutes.

CHAIRMAN DURAN: Is there a second?

COMMISSIONER CAMPOS: Second.

CHAIRMAN DURAN: Any further discussion?

The motion to approve the September 18, 2002 special meeting minutes passed by unanimous [5-0] voice vote.

September 24, 2002

CHAIRMAN DURAN: Any changes to those minutes? What's the pleasure of the Board?

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COMMISSIONER VARELA: Move for approval, Mr. Chairman.

COMMISSIONER CAMPOS: Second.

CHAIRMAN DURAN: There's a motion and a second. Any further discussion?

The motion to approve the September 24, 2002 meeting minutes passed by unanimous [5-0] voice vote.

VI. Matters of Public Concern – Non-Action Items

CHAIRMAN DURAN: Is there anyone out there that would like to address the Commission concerning any matter? There's no one out there.

VII. Matters from the Commission

- A. Resolution No. 2002-132. A resolution opposing the federal court decision in the Rio Grande Silvery Minnow Case to release San Juan/Chama project water and directly staff to file an amicus brief with the Tenth Circuit Court of Appeals**

STEVE KOPELMAN (County Attorney): Mr. Chairman, members of the Commission, the attached resolution was actually directed at the last Commission meeting and Commissioner Varela put a draft together and it was reviewed by the County Attorney's office. The gist of the resolution really focuses on the ruling that was just made by federal district court judge Parker in the Rio Grande Silvery Minnow Case. A copy of the order is attached as well as the memorandum opinion and findings of fact and conclusions of law for your review.

The opinion in effect, and this is the second opinion that Judge Parker issued in this case. The first opinion was that the San Juan/Chama contract water that is administered by the federal Bureau of Reclamation. The first decision said that this water very well may be subject to release for purposes of the Endangered Species Act. This follow-up opinion which was just rendered very recently said that the biological opinion that the State Wildlife Fish and Game put together was inadequate as a matter of law. It was arbitrary and capricious and that the court is ordering that the San Juan/Chama that is being held by contractors has to be released in order to protect the Silvery Minnow. The biological opinion had recommended that the release only go so far as down to the Isleta area of the Rio Grande and the court found that in accordance with the Endangered Species Act that the water had to be released all the way down to San Acacia.

The opinion itself emphasizes, as the resolution indicates, emphasizes that the purpose behind the Endangered Species Act basically trumps anything and everything if it involves the possibility of extinction. And the court went so far as to say, and this is really a quote from the Endangered Species Act, that requires federal agencies to afford first priorities to the declared national policy of saving endangered species and to halt and reverse the trend towards species

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extinction, whatever the cost. So the issue here really is the Bureau of Reclamation, Wildlife, felt that there were alternatives to releasing all of the San Juan/Chama water because as you know, once the water is released, that's it; it's gone.

The concern was holding this water for future years for problems that we have, if we have droughts in future years. So the decision by the district court said that this water had to be released, that even though the San Juan/Chama water is a diversion project and it's not naturally flowing water in the Rio Grande, nonetheless, the Endangered Species Act directive is so broad that this water too has to be released in order to protect the Silvery Minnow. So the resolution that was put together goes through a recitation of some of the issues in the case and then asks for Santa Fe County to take a formal position in solidarity with other agencies including state and municipal governments, farmers and others who are appealing the recent federal decision to relegate the use of San Juan/Chama project water.

And then also the issue is whether the County, which as you know has a joint contract with the City of Santa Fe, contract with the Bureau of Reclamation to lease San Juan/Chama water up through the year 2016, what role if any we should take in this. And this resolution would direct staff to actually file an amicus curiae brief, or what is known as a friend of the court brief to support, take a strong position opposing the decision.

There is also a possibility, although it's very late timing, that the County could file a motion to actually intervene in the case. And then I guess Commissioner Varela may want to add something to my general background on this.

COMMISSIONER VARELA: I think you covered it very well, Steve. Thank you.

CHAIRMAN DURAN: Any other questions of Steve?

COMMISSIONER CAMPOS: Mr. Chairman.

CHAIRMAN DURAN: Commissioner Campos.

COMMISSIONER CAMPOS: Question. Mr. Kopelman, do you know if any releases have occurred subsequent to the Parker decision?

MR. KOPELMAN: Mr. Chairman, Commissioner Campos, my understanding is that there may have been some release. I did meet with John Utton, our outside water attorney. There is water flowing through San Acacia, through Truth or Consequences at this point. I know that there's been a lot of rainfall over the last few weeks which has helped a lot so I think there have been some releases. I don't know for sure on that point though.

COMMISSIONER CAMPOS: I'm asking about releases of San Juan/Chama water.

MR. KOPELMAN: There may have been some.

COMMISSIONER CAMPOS: Maybe.

MR. KOPELMAN: Yes. I don't know for a fact, and if so there have not been very much. It's been relatively small amounts at this point, but I will confirm that.

COMMISSIONER CAMPOS: Does the appeal to the Tenth Circuit affect the authority of the Bureau of Reclamation to stop the releases?

MR. KOPELMAN: Mr. Chairman, Commissioner Campos, it would.

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Absolutely, yes.

COMMISSIONER CAMPOS: So there is an appeal right now? It's been made, I understand.

MR. KOPELMAN: Right now I think that several of the parties have actually filed their notice of appeal. I believe the City of Albuquerque has filed a notice of appeal on this. Yes.

COMMISSIONER CAMPOS: Thank you.

COMMISSIONER VARELA: Mr. Chairman.

CHAIRMAN DURAN: Commissioner Varela.

COMMISSIONER VARELA: As to Albuquerque, so has the Middle Rio Grande Conservancy District, City of Santa Fe, as far as I know, and the City of Española did, so I believe it was last week.

CHAIRMAN DURAN: Commissioner Trujillo.

COMMISSIONER TRUJILLO: And the releases, Steve, are solely for the purpose of protecting and/or preserving the Silvery Minnow? They're not for a dual purpose of protecting the Silvery Minnow and maybe using the water for agricultural purposes?

MR. KOPELMAN: Mr. Chairman, Commissioner Trujillo, the opinion is focused solely on protection of the Rio Grande Silvery Minnow. There may be ancillary benefits to downstream users but the opinion doesn't focus or address that issue at all. It's solely for the fish.

COMMISSIONER VARELA: Mr. Chairman.

CHAIRMAN DURAN: Commissioner.

COMMISSIONER VARELA: If I may, just so the Commissioners have a little better understanding now that we've got into specific points. The problem with Judge Parker's decision basically is because the Endangered Species Act says they will provide remedies for the endangered species whatever the cost. It means that whatever water we own, San Juan/Chama water or the City of Santa Fe, Albuquerque, Middle Rio Grande Conservancy District or Española, basically, we're being trumped. The needs of the human population come second to the minnow. And if we have another drought year and the releases are for the minnow, we don't know what they're going to do as far as allowing any water for agriculture or if they're going to say there's only so many thousand acre-feet we have to release this for the minnow. You can't make any diversions off the—we don't know. And that's what the problem is because the San Juan/Chama water, as far as I know, was basically, the purpose in bringing it into this basin from another basin was for human needs. In other words, agriculture and human consumption. And it was never contemplated that it would be used for an alternate use. And there's where I think Judge Parker's decision went too far, because now it puts all of us in a real bind, because we have no means of saying, yes, we have a sustainable water supply from that source because it threw it all up in the air.

CHAIRMAN DURAN: Commissioner, is this the San Juan/Chama water rights that we have allocated to us through the Bureau of Reclamation? So if we don't oppose that and they start using it to take care of the Silvery Minnow, could that set a precedent for them to be

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able to claim that they have any kind of priority?

MR. KOPELMAN: Mr. Chairman, the ramification of the decision is that the San Juan/Chama water is subject to release for purposes of the Endangered Species Act, and that yes, it would set a precedent and as Commissioner Varela indicated, in the balancing, the judge pretty much said the federal statute requires him to take into account the Silvery Minnow above any human considerations. One of the—an alternative or at least another option in this, would have been to go to this special committee. They call it the God Squad. There was an amendment to the Endangered Species Act which actually sets up a panel which includes I think the Secretary of the Interior, among others that could actually review a request made from the governor or from a federal agency to basically do a balancing test and find that the human needs in this case would exceed or be more important than those of protecting the Silvery Minnow in this case. But that wasn't done.

And the opinion, Judge Parker's opinion really took the Bureau of Reclamation to task for not having done that among other things. But there were alternatives put forth in the biological opinion and Judge Parker said that those alternatives weren't acceptable. So there will be several bases for this appeal and again, either filing a motion to intervene and become a party, or filing an amicus brief would hopefully at least get our voice heard by the Ten Circuit Court of Appeals.

I should note that the City of Santa Fe, during the case did file a motion to intervene and Judge Parker actually denied it during the case below. But the County of Santa Fe has not filed a motion to intervene and that still could be an option for us to consider if that was the direction of the Commission.

COMMISSIONER TRUJILLO: I would speculate, Mr. Chairman, that the release would serve two purposes, protecting the Silvery Minnow and with water in the river it would replenish or it would be a return flow into the aquifer. The only entity that would have a disparate effect would be the farmers, the agricultural part of it because by releasing water into the river you get a return flow and at the same time you protect the Silvery Minnow. Am I off base in this?

MR. KOPELMAN: Mr. Chairman, Commissioner Trujillo, I don't think that any of the municipalities or counties that release water would get any credit for return flows. So I think once the water is released it's gone. And the problem is if we have another drought next year, the amount of San Juan/Chama water that was actually diverted through the Rio Grande was very, very small and a very insignificant amount this year. So future drought years, if the amount of diversion continues to be negligible or minimal, the problem is that we don't have this as a reserve to use for municipal water supply or what have you. That's one of the big problems. The water is gone. It's left northern New Mexico and we'll never get it back.

COMMISSIONER TRUJILLO: Doesn't it replenish the aquifer by just being wet water? The nature of physics, if you will? It seeps into the water table and it replenishes the aquifer.

MR. LOPEZ: Mr. Chairman, Commissioner Trujillo, physically speaking, I think that's correct. I think that to the extent that the water is allowed to flow through the river,

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when the river might otherwise be dry, yes it would replenish the aquifer in those areas. From a water rights perspective or from our perspective as one of the contracting parties, that wouldn't necessarily gain us or any of the other contracting parties that presume to have a right to delivery of that water that they would be able to get that water.

It would perhaps have helped balance the natural systems overall, but we wouldn't have any right to access that.

COMMISSIONER SULLIVAN: Mr. Chairman.

CHAIRMAN DURAN: Commissioner Sullivan.

COMMISSIONER SULLIVAN: Was there any discussion about, and I didn't see it in the findings of fact about whether the Silvery Minnow was an indicator species.

MR. KOPELMAN: Mr. Chairman, Commissioner Sullivan, I don't remember. I don't recall that there was any mention of that in the opinion. I don't believe that it was brought up.

COMMISSIONER SULLIVAN: Because my understanding is in some cases it's the canary in the mine syndrome that we're not only protecting the Silvery Minnow but we're protecting the entire riparian environment for which this is an indicator. Obviously we can't try the whole case here this afternoon but I didn't read it and I just wondered if we're protecting just one species or we're dealing with a low-flow augmentation that's an indicator that the entire river is dying. Does anything come to mind in your reading?

MR. KOPELMAN: Mr. Chairman, Commissioner Sullivan, those were arguments made by the plaintiffs in the case, but Judge Parker's opinion focused exclusively on the Endangered Species Act. That was really what he hung his hat on and why he felt compelled to rule the way that he did. It was really just the Endangered Species Act and I don't think that he was looking at the ancillary issue that you bring up.

COMMISSIONER SULLIVAN: Does anyone know—maybe Katherine has her handy calculator, how much is 50 cfs in acre-foot per year? I'm trying to get a handle on it. What I'm trying to understand is that the low-flow requirement is 50 cfs, 50 cubic feet per second and I didn't take the time to compute it out but we usually think in terms of acre-feet per year. And I'm trying to get a handle on is that a lot? Is 50 cfs in terms of the Rio Grande low-flows, and in terms of what we anticipate getting from the San Juan/Chama project, is that a lot?

CHAIRMAN DURAN: I think it's a ton.

COMMISSIONER SULLIVAN: Well, how many tons of water is it in acre-feet? We don't have that right on—she's going to get that so I'll come back to that. If we're looking at 5,605 acre-feet as our diversion, maybe 50 cfs isn't too much to worry about. On the other hand, I certainly agree that in the kind of drought situation we had, we've got to look after the human beings that rely on this water for health and safety issues. So I'm trying to get a handle on how far reaching is that decision. Suppose we had to release—we, being the Bureau of Reclamation, obviously not the County—50 cubic feet per second every year, how big an impact would that be on the total basin. While she's looking at that, the other question—

CHAIRMAN DURAN: Just a second, Commissioner. Does it really matter? I

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think the fact of the matter is that any change in the water that this community is expecting to get is going to have an impact on us. There's some people that believe that we're already overcommitted. I think the question that Commissioner Varela is asking us to make is to oppose this court decision no matter how much they're asking to release.

COMMISSIONER SULLIVAN: I understand that and I think you're right. I think we are overcommitted and we'll find that out fairly soon through the Regional Planning Authority, work we'll be doing in the next few months. But just two points came to mind in reading some of this to me and one was that as was brought out in the opinion, it said if the federal defendants or other authorized persons want an exemption, that means an exemption to the act in terms of declaring the Silvery Minnow as being an endangered species, "they must petition the God Squad and neither the federal defendants nor others authorized by the statute have done so." So number one, it sounds like they didn't follow due process and then in our resolution, if we feel the Endangered Species Act is outdated, which it may well be, is our remedy to that to appeal Judge Parker's decision or is our remedy to contact our congressional delegation and seek a change to the Endangered Species Act.

Would an appeal, Mr. Kopelman, give us relief to the Endangered Species Act being outdated if in fact it is?

MR. KOPELMAN: Mr. Chairman, Commissioner Sullivan, no, it wouldn't, but there are several issues aside from the—one issue is whether it's actually applicable in a situation where there is a lease of this project water. Whether the project water should be used in order to release water for the Silvery Minnow. That's a threshold issue. But in terms of changing the Endangered Species Act, that obviously would require congressional action.

COMMISSIONER SULLIVAN: And does the release from Heron specifically identify this as project water? Because there's other water that flows into Heron other than San Juan/Chama water obviously. There's the natural flow of the Rio Grande.

MR. KOPELMAN: Mr. Chairman, Commissioner, my understanding is what was litigated was the San Juan/Chama project water.

COMMISSIONER SULLIVAN: Specifically the project water.

MR. KOPELMAN: Yes.

COMMISSIONER SULLIVAN: So they're saying you don't have to—we want you to release 50 cfs, it's we want you to release 50 cfs of San Juan/Chama water.

MR. KOPELMAN: Mr. Chairman, Commissioner, that's correct.

MR. LOPEZ: Mr. Chairman, Commissioner Sullivan, if I did this correctly, I believe that equates—if it were a continuous 50 cfs per year, it would equate to about 36,000 acre-feet per year. 36,266 acre-feet per year. But that would assume a continuous 50 cfs for the entire year.

COMMISSIONER SULLIVAN: Which is not what they're requiring here. And what is Albuquerque's San Juan/Chama allocation?

MR. LOPEZ: Albuquerque's I believe is about 48,000.

COMMISSIONER SULLIVAN: About 48,000? Okay. That answers my questions, Mr. Chairman.

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CHAIRMAN DURAN: What's the pleasure of the Board?

COMMISSIONER TRUJILLO: Move for approval, Mr. Chairman, of Resolution No. 2002-132.

CHAIRMAN DURAN: Is there a second?

COMMISSIONER VARELA: Second, Mr. Chairman.

CHAIRMAN DURAN: Any further discussion?

COMMISSIONER CAMPOS: Mr. Chairman.

CHAIRMAN DURAN: Commissioner.

COMMISSIONER CAMPOS: Paragraph 6 declares that the act itself is outdated and I'm not sure that that's accurate. We do have a process for balancing as the act exists today. The problem in this case was that the Bureau of Reclamation failed to act in a timely way and there was according to the judge not enough time to invoke the special committee that could have done the balancing. So I don't feel that the legislation is defective. I do agree with Commissioner Varela that we have a crisis, that if we have another dry year this community and northern New Mexico, the whole state of New Mexico is going to be in a very difficult situation. I do think we need to appeal the decision but going to the point of saying it's outdated, I don't agree with that and I would ask that that paragraph be deleted as a friendly amendment.

CHAIRMAN DURAN: What paragraph is that?

COMMISSIONER CAMPOS: It would be number six.

COMMISSIONER VARELA: Mr. Chairman, Commissioner Campos, the reason that that language is in there is because I do believe that it's outdated because the Endangered Species Act contemplates how to save an endangered species. It does not contemplate anything having to do with economic realities or communities or farms or anything. It's not contemplated in the act. And like you say, you think that there's a balance; there is no balance. That's exactly why it has to be changed so that we do have a balance, so we can balance the interests of the human population and nature and it does not exist at this state. That's why Judge Parker made the decision that he did because he could not take into account any economic factors or adverse effects on the human population.

COMMISSIONER CAMPOS: That's right the judge, a federal court judge does not have that authority but this special federal committee does have that authority once its authority is invoked. That is part of the statute. So there is flexibility. There is the opportunity, not for the judge, but for this special federal committee to do the balancing and that's why I would ask you—that's my opinion. That's why I would suggest that.

COMMISSIONER VARELA: I hear what you're saying, Commissioner Campos, but we're talking here about the act and the act does not contemplate any economic situation. Yes, there is a God Squad but that's only a group and we're never assured that the group is going to be called upon to make the decision and we don't know that the decision is going to be right either. And that's exactly why language should be entered into the Endangered Species Act and be updated so that we do contemplate the human population, farmers, etc., etc. before we get to this point where a judge is basically forced to make a decision on what law is

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available to him, in front of him without being able to contemplate what's happening to everybody else.

COMMISSIONER TRUJILLO: The maker of the motion is convinced that the law, the act is outdated and does have a disparate impact on economics and human perspectives. So my motion still includes that stipulation.

CHAIRMAN DURAN: I'm going to call for a vote.

The motion to approve Resolution 2002-132 passed by majority [4-1] voice vote, with Commissioner Campos casting the no vote.

VII. B. Request Authorization to Publish Title and General Summary of an Ordinance Setting Standards and Guidelines for Costs and Public Improvement Districts

CHAIRMAN DURAN: Item VII. B, there's nothing in our packet relative to this request for authorization to publish title and general summary. I would like to make a motion to table. Do we have anything on this?

MR. LOPEZ: Mr. Chairman, no there is nothing in the packet regarding this motion. The item really is self-explanatory.

CHAIRMAN DURAN: It doesn't make any sense to me and I don't have any information, I don't have anything to look at. I thought that our guideline was that if there wasn't any information in the packet we didn't consider it until there was something for us to review. So my motion stands. I'd like to make a motion to table. Is there a second?

COMMISSIONER VARELA: Second, Mr. Chairman.

The motion to table VII. B passed by majority [3-2] voice vote, with Commissioners Sullivan and Campos voting against. [q.v. page 28]

COMMISSIONER SULLIVAN: Mr. Chairman, what was the reason? We've done a number of items to publish title and general summary and we had a lengthy discussion during the issue of Rancho Viejo wanting to increase taxes by 55 percent by means of an improvement district, so what was, why would you pick on this one and not bring that issue up with other title and general summary issues? I'm a little confused on that.

CHAIRMAN DURAN: Well, I don't know what this means, Commissioner. I have no idea what this request to publish title and general summary is all about. What don't you understand?

COMMISSIONER SULLIVAN: Why don't you just ask?

CHAIRMAN DURAN: Because I'd rather see it in writing if you don't mind.

COMMISSIONER SULLIVAN: Well, I think we do this quite frequently. The ordinance isn't even drafted yet but we've discussed it at some length. The fact that there's

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requests or a request for improvement districts and the County has no guidelines or no regulations or standards for which to handle those improvement districts and the staff was given direction by this Board, by the majority of the Board to look into that and to develop standards for this and this is the first step to doing that.

COMMISSIONER CAMPOS: Mr. Chairman.

CHAIRMAN DURAN: Commissioner.

COMMISSIONER CAMPOS: I agree. This seems to be somewhat of an arbitrary request. We haven't even listened to staff, what they have to say. It may be a very simple idea. Maybe we've discussed it. It seems to me extraordinary that you would come up—we already approved this agenda and now, all of a sudden, you decide we're getting rid of this one too. We have talked about this. You have not even bothered to ask staff—

CHAIRMAN DURAN: Well, do you have something for us to look at?

COMMISSIONER CAMPOS: Why don't you at least ask them up front, do you have a presentation? It may be very simple. You may not need anything in writing.

CHAIRMAN DURAN: I just asked staff, Commissioner. They don't have anything in writing.

COMMISSIONER CAMPOS: That's true.

CHAIRMAN DURAN: When they have something in writing I'll look at it.

COMMISSIONER CAMPOS: They could give you a verbal explanation.

CHAIRMAN DURAN: I wouldn't expect you to consider a resolution or adopt or send staff out there on some—to create some kind of ordinance here without knowing what the heck the ordinance is all about. I wouldn't ask you to do that.

COMMISSIONER TRUJILLO: I have a question of staff. Why don't we have any documentation regarding this agenda item in our packet?

MR. LOPEZ: Mr. Chairman, I believe that that's typically the case when we bring forward authorization to publish title and general summary of something that we've gotten direction from the Board. And my understanding was that we had direction to proceed in developing an ordinance in this regard. So that's why we've come forward this way.

COMMISSIONER TRUJILLO: It's always been my impression that we get the details of the publication before we rule on it. We have nothing. We always get some sort of documentation that explains what we're voting for or what we're voting against. In this case there's nothing in our package. Nothing.

MR. LOPEZ: Mr. Chairman, in the future there will be. There will be documentation on all such requests.

CHAIRMAN DURAN: Even a memo saying what you're trying to accomplish would be helpful. I have no idea what this is all about.

COMMISSIONER SULLIVAN: I guess what this is about, Mr. Chairman, just letting any developer dictate their own terms to any improvement district that they want. And if we don't assert some—

CHAIRMAN DURAN: I'm sorry. I don't understand what you just said.

COMMISSIONER SULLIVAN: I'm saying if we don't assert as a County, and

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this is the first step to it, obviously, and it has to have two public hearings, if we don't assert some regulations and some examples were given to us such as communities in Arizona that Rancho Viejo has worked under before, if we don't assert some oversight on these improvement districts, particularly in districts as large as the ones that are being contemplated and with as large tax increases that are being contemplated, I think we're not providing adequate protection to the public.

CHAIRMAN DURAN: Well, Commissioner, you're a smart guy. Why don't you write down you thoughts and let us know what they are before you bring it before us?

COMMISSIONER SULLIVAN: This is a title and general summary.

CHAIRMAN DURAN: I'm just kind of following your guide here. You told us when you first came on board that you didn't want anything in this packet—that you didn't want to consider anything on the agenda unless there was something we could see.

COMMISSIONER SULLIVAN: No, that's not what I said at all—

CHAIRMAN DURAN: That was one of the things you said.

COMMISSIONER SULLIVAN: We said and we passed a resolution when I first came on board that anything that we needed to consider be in the packet on a timely basis by the end of business on Thursday before the Tuesday meeting. What was happening was so much stuff was being handed to the Commission at the last minute there was no way it could be digested. And I think in general, for the most part, we've accomplished that. But I've seen many—

CHAIRMAN DURAN: This is a last minute thing to me. I haven't—if you're trying to bring something forward to consider—

COMMISSIONER SULLIVAN: We discussed it at length in previous meetings and it simply has to do with setting up guidelines similar to what other municipalities have done to handle special assessment districts and to be sure that each developer has a level playing field and that the staff knows what its responsibilities are. There's no ordinance yet because it hasn't even been drafted yet. It alerts the public that it's something that we're considering and they can provide input. I think it's fairly harmless but if you see some ulterior motive there I hope I could dispel that.

CHAIRMAN DURAN: All I'm trying to do is make sure that before we send staff out there to spend hours to create some kind of ordinance that I'm familiar with what it is. Because you're the one that's bringing this forward. I know that we as a Commission have agreed that we need to set some criteria but I'd like to know and have some input into what I send staff out there to work on. Are you going to require development to bring water rights before they can even come in for master plan approval? I'd like to have some discussions with you about that if that's one of the things you want to do.

COMMISSIONER SULLIVAN: I don't think that's contemplated in this. This is just setting up administrative guidelines and standards and I think every Commissioner and the public, and the developers need to have input into doing this. There are other examples. I think we need to get started on this. The more we put it off the more we find ourselves in a situation of eleventh hour legislating.

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CHAIRMAN DURAN: Why don't we as a Commission set some kind of guidelines or set some, put together some bullet points that we would like the staff to work on? I don't want to approve this and then not have any input into it.

COMMISSIONER SULLIVAN: I don't understand why you would think you wouldn't have any input. This is just authorization to publish title and general summary. The staff will prepare a recommended standards and guidelines ordinance. All of the Commission will have an opportunity to look at it. There will be at least one or as many public hearings and the Commission wants and we can debate it and fine-tune it as long as we want but we need to start somewhere.

CHAIRMAN DURAN: I'd like to know what needs to be fixed before we go about fixing it.

COMMISSIONER SULLIVAN: I don't think I can provide you any more than what I've said that administering public improvement districts requires that the staff have some administrative guidelines. We have other copies of these to work from as starters and I think it's just a matter of fiscal responsibility to do that. If you want to table it and come up with some other ideas—

CHAIRMAN DURAN: I hate for you to characterize my desire to know what it is we're talking about as not pursuing the public's best interest. I'm all for pursuing the public's best interest. I would just like to have a little information as to what it is you're trying to do with this authorization, that's all. I'm not saying I'm either for or against it, but I'm just trying to follow your lead. In the past you have wanted to have information available to you and I think that you owe it to this Commission to bring something forward for us to consider or give us at least some idea what it is that you're trying to do before we send staff out there who is completely overwhelmed with other projects to do something that perhaps the Commission as a whole is not even going to get behind. I don't think it's an unreasonable request.

VIII. Consent Calendar

A. Request Adoption and Findings of Fact and Conclusions of Law for the Following Land Use Cases:

1. CCDRC Case #MP 02-5050 – Sonterra (Approved)

CHAIRMAN DURAN: Any comments on that?

COMMISSIONER TRUJILLO: Mr. Chairman, I'd like to ask staff to refresh my memory if they will on one of the stipulations, stipulation number 25 regarding this proposal. A demonstrated need for additional residential units during the next 20 years beyond those approved to date as determined by a revised housing projection analysis to be undertaken by Santa Fe County and adopted by the BCC as a revision to the Santa Fe County Growth Management Plan. I don't remember that condition.

MR. ABEYTA: Mr. Chairman, Commissioner Trujillo, we reviewed the minutes, because there's a change to another condition, but this issue was brought to staff's

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attention. We reviewed the minutes and that was a condition that Commissioner Campos—that was an additional condition that he imposed, either Commissioner Campos or Sullivan, when they made the motion for approval. So the minutes are clear; it was a condition that was accepted by the Board.

COMMISSIONER TRUJILLO: It is a condition.

MR. ABEYTA: Yes. Also, we spoke with the applicant regarding that. We spoke with the applicant before this meeting and went through the minutes with them and showed that it was indeed a condition. So that's why it was put in.

COMMISSIONER TRUJILLO: Okay.

MR. ABEYTA: Also, as part of our review, we took a look at condition number 22, which discusses the fiscal impact study and it states that a fiscal impact study shall be conducted by the County for the entire Community College District. The BCC shall review and assess the fiscal impact within one year prior to any preliminary development plan hearing. That condition actually should say, "prior to any preliminary development plan submittal." And again, the minutes were clear on that also. So we would request that one change. Change the word "hearing" to "submittal." Number 22.

CHAIRMAN DURAN: Roman, I have a question on item 1 and number 2, the Sonterra and Rancho Viejo. I thought that we had extensive discussion concerning paragraph number 24 where, and I don't know which project it is that we talked about or where we were talking about this, but number 24 says that the development shall be served strictly by the Santa Fe County water system using a sustainable imported water source and the Buckman well system or a permanent San Juan/Chama water allocation. And I thought that we had talked about other potential projects that we're working on that if they were tied into our water system then these projects could get water from them provided there was adequate water. For instance, the Ranney collector. That's not using part of our San Juan/Chama water allocation. That could allow us to use our Top of the World water rights if that ever comes through. And any other water rights that we might obtain. And I thought that we had talked about that. I thought that we had changed that to say provided that it came from the County water system.

MR. ABEYTA: Mr. Chairman, we did have a lengthy discussion on this matter and the original condition stated, restricted it to just Buckman well system. And then as the discussion evolved, the language was added or permanent San Juan/Chama water allocation. That's the way it finally got passed. We did have discussion about other sources but I think it was Commissioner Trujillo, if I remember correctly, that stated we need to go to the river. We need to use the San Juan/Chama allocation and not other wells within—

CHAIRMAN DURAN: I thought the intent was that we weren't going to—and maybe the Commission can help me with this but I thought the intent was to prevent any drilling of wells in the Community College District which could have an impact on La Cienega and other areas that rely on that aquifer, but that we did have some discussion concerning our other water, other points of diversion. Am I wrong?

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COMMISSIONER TRUJILLO: That's true.

COMMISSIONER CAMPOS: That's what it says.

CHAIRMAN DURAN: No, that's not what it says. The Ranney collector is not using San Juan/Chama water rights.

COMMISSIONER TRUJILLO: But it's tapping a sustainable source of water, which is the Rio Grande.

CHAIRMAN DURAN: But it doesn't say that. It says "a sustainable imported water source in the Buckman well system or the permanent San Juan/Chama allocation."

COMMISSIONER CAMPOS: Your question, Mr. Chairman, is whether the Ranney collector at San Ildefonso would be tapping into San Juan/Chama or some other source of water?

CHAIRMAN DURAN: What I'm saying is that this language restricts us from being able to provide water to these planning areas using water rights that we might acquire like for instance from the Top of the World water rights. Those are separate from San Juan/Chama, correct?

COMMISSIONER CAMPOS: Yes.

CHAIRMAN DURAN: We've also talked about, there hasn't been a lot of discussion but we've talked to Santo Domingo Pueblo about possibly getting water from them. What I'm saying is that the way that it's written right now, the Buckman well system, which may be already tapped out, using our San Juan/Chama water rights could basically mean that this planning area is already at a disadvantage in terms of being able to use additional water that we may get because it's not tied into the Buckman well system or the San Juan/Chama allocation.

COMMISSIONER CAMPOS: I see what you're saying.

CHAIRMAN DURAN: I thought we had talked about it.

MR. ABEYTA: Mr. Chairman, I have the minutes here. There was a lot of discussion about it but what finally happened is you had asked Commissioner Campos for language and the language he put forward was exactly what's written in the findings of fact. You asked if there was any other discussion. There was none and the motion carried. So he clearly read into the record this condition, this language and the Commission agreed with it.

COMMISSIONER TRUJILLO: Mr. Chairman, this doesn't limit our authority or opportunity to use other water rights. We can still use the Top of the World water rights or the Ranney project water to address water needs in northern Santa Fe County, specifically this area will be served by the Buckman wells, by a diversion point, in and around that area and the Rio Grande but it doesn't have a negative effect on Santa Fe County's ability to use other water rights appropriately throughout the county, including the metropolitan area.

CHAIRMAN DURAN: Well, except that if this language, in number 24, is the same language that applies to the Rancho Viejo project it says specifically that the

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development shall be served strictly—I emphasize strictly—by the Santa Fe County water system using a sustainable imported water source from the Buckman well system or a permanent San Juan/Chama water allocation. What I'm saying is that it's missing a little bit more clarification, further clarification in that it could say, "or any other water source that the County has incorporated into their water system." And we've already passed a resolution saying that we wouldn't incorporate any diversion, points of diversion in the Community College District, but there might be some points of diversion that we would pursue in areas outside communities, endangered communities that have shallow wells. I'm just saying that the language as it states right now pretty much limits us to the Buckman well system and the San Juan/Chama water. Is that—Steve, can you help me with that interpretation? Is it broad enough the way it is?

MR. KOPELMAN: Mr. Chairman, I agree with the way you're interpreting it. It is limited the way it's drafted now to Buckman well system or permanent San Juan/Chama allocation. It doesn't build in other possible water sources.

CHAIRMAN DURAN: If we decide at some point to have the Ranney collector provide us with water using the Top of the World rights that we've purchased, we wouldn't be able to use them, this planning district wouldn't be able to use those water rights. So I'm just asking if the Commission might consider changing—making it broader so that the language further clarifies it to give it a little bit broader, that broadens the options which kind of coincide with what our vision is, which is to do more than just the San Juan/Chama or the Buckman fields. It's to acquire more water.

COMMISSIONER SULLIVAN: Mr. Chairman.

CHAIRMAN DURAN: Commissioner Sullivan.

COMMISSIONER SULLIVAN: I think that we had discussions about that. I looked at the minutes also and these are the exact words of the motion. I think what we're doing here is saying "Does this reflect what was approved at that meeting?" I don't think we're in a position where we can open this up for public debate again and say should we broaden the language. I think when the applicant comes back with a detailed water plan, if, as I recall the discussion, if he shows the Commission a sustainable water source, and I recall Commissioner Trujillo saying that that is at this point in time the sustainable water source that we have to deal with and we want to direct the developer toward that sustainable water source, the Commission has every ability to make, to approve that development with another sustainable water source. But this is the condition as it exists at this point in time.

I think if we want to open it up for debate again, then we need to readvertise the master plan and bring that back forward for a reconsideration. So someone who voted in favor of it should do that.

CHAIRMAN DURAN: Steve, couldn't I bring this back forward, bring it back at the next meeting to ask for just a reconsideration of that condition?

MR. KOPELMAN: Mr. Chairman, I guess the issue really is that the condition is put together and I guess what I'm hearing is that there's concern that even

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though—this was out of the minutes. And so at some point, and I think this was a point that staff was trying to make also at the hearing which is this is very limiting and it's more limited probably than what you had anticipated and wanted. I think there are ways of clarifying it. You could bring it forward and ask for clarification. It's got to be very limited though. The problem is generally that the decision reflects what was discussed at the meeting. And I guess if the Commission is in agreement to just bring this one clause to look at and to make it a very, very limited discussion because there was a misunderstanding, maybe we could do that but it would have to be very limited. And again, if there was truly a misunderstanding as to what the intention was, I think it probably could be looked at again but it would have to be very, very limited.

CHAIRMAN DURAN: Well, I think in all fairness to the applicant and to those Commissioners, which includes me, who thought that we were going to allow this planning area to develop with water that was within our system from wherever we got it, I'd like to bring it forward for some clarification because if you agree, which I thought I did hear you say you agreed with this philosophy that the San Juan/Chama rights are already overallocated, are already allocated, then if you're not willing to bring it forward or open this up for this planning area to get water from other potential sources then you might as well just say to them that you're never going to get water.

COMMISSIONER SULLIVAN: Mr. Chairman.

CHAIRMAN DURAN: Commissioner Sullivan.

COMMISSIONER SULLIVAN: I think the discussion reflects also, and I don't think when we say overallocated, right now we're overallocated on wet water. I don't think we're overallocated on San Juan/Chama water. We're nowhere near overallocated on San Juan/Chama water were we to have that supply available to us. The reason for discussing or including the Buckman well system in there was that as a general system, as a general area, it doesn't necessarily mean the Buckman wells owned by the City of Santa Fe but that system, water rights can be transferred by any developer to that system. They can be water rights from the Middle Rio Grande or from a variety of places. So that gave the direction as to where we wanted the developer to take their water rights, to move them and to apply for them in order to provide a sustainable source. And that would include anything along the Rio Grande, as Commissioner Trujillo said.

CHAIRMAN DURAN: With that clarification, I agree. I think that if the Buckman well system means any transfer of rights to that particular system—

COMMISSIONER SULLIVAN: That's what we discussed.

CHAIRMAN DURAN: Because that's the only diversion project that we have. But if we develop another diversion project I guess we'll have to talk about it then.

COMMISSIONER TRUJILLO: We've got two diversion projects. We want one north of the Otowi which is Top of the World and we've got one south of the Otowi, which is San Juan/Chama. Those are the two diversion points that we're talking about regarding the Rio Grande. And both of them will tap into the Buckman system to serve the City of Santa Fe and the area surrounding the City of Santa Fe. I understand what

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Commissioner Sullivan is saying so I think that encompasses sustainable sources of water, whatever.

COMMISSIONER SULLIVAN: If everyone's clear on that then is there a motion or do I need to make a motion?

CHAIRMAN DURAN: Let me just bring up one sensitive issue. What about the Hagerman well?

COMMISSIONER SULLIVAN: Well, I believe we talked about that in at least one of these meetings and my understanding of the staff's plans on the Hagerman well is that that well is going to be used primarily for its value in water rights and we're not going to pump it at that location and we're going to move those water rights to some point which hasn't yet been determined.

CHAIRMAN DURAN: But we haven't had that discussion.

COMMISSIONER SULLIVAN: We haven't had that discussion.

CHAIRMAN DURAN: That's your neighborhood.

COMMISSIONER SULLIVAN: If you'd like to pump the Hagerman well, you'll have to convince I guess Commissioner Varela to do that.

CHAIRMAN DURAN: I won't bring it up now. I don't want to pump anything that we don't need. I think with that clarification—

COMMISSIONER SULLIVAN: I move for approval then, Mr. Chairman, as amended by staff with regard to paragraph 22.

COMMISSIONER TRUJILLO: Second.

CHAIRMAN DURAN: There's a motion and a second. Any further discussion?

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

VIII. A. 2. CCDRC Case #MP 02-5250 – Rancho Viejo-Windmill Ridge, Units 3&4 (Approved)

CHAIRMAN DURAN: Any discussion on that? If not, what's the pleasure of the Board?

COMMISSIONER TRUJILLO: Move for approval, Mr. Chairman.

COMMISSIONER VARELA: Second.

CHAIRMAN DURAN: There's a motion and a second. Any further discussion?

The motion to approve item VIII. A. 2 passed by unanimous [5-0] voice vote.

VIII. A. 3. CDRC CASE #MP 02-5070- Richard Cordova Master Plan (Approved)

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CHAIRMAN DURAN: Any changes to that? Any discussion?

COMMISSIONER TRUJILLO: Move for approval, Mr. Chairman.

CHAIRMAN DURAN: Is there a second?

COMMISSIONER VARELA: Second, Mr. Chairman.

CHAIRMAN DURAN: Any further discussion?

The motion to approve item VIII. A. 3 passed by unanimous [5-0] voice vote.

VIII. B. Resolution No. 2002-133. A Resolution Requesting an Increase to the GOB Series 2001 Fund (353)/Fire Department Public Safety to Budget Fiscal Year 2002 Cash Balance for Expenditure in Fiscal Year 2003 (Fire Department)

COMMISSIONER SULLIVAN: Are there any questions of staff regarding this item? I had one question. Is Katherine here? This was a lot of money, Katherine, \$2 million as I recall without digging through the book here. Could you just briefly explain what we're doing here?

KATHERINE MILLER (Finance Director): Mr. Chairman, this is the proceeds from the \$4.5 million general obligation bond that we sold last year for public safety. This is just carrying over the cash balance. The portion that we spent to date is for the regional dispatch equipment and then some of the preliminary work on some on some of the fire stations. But this is just budgeting what was left in cash balance from last year plus the reimbursement from the RECC for the money that we fronted out of the fund. So this is the remaining proceeds. There may be a little bit more ultimately but this is what we're requesting to budget this year.

COMMISSIONER SULLIVAN: Okay. Do the bond proceeds have to be spent within any time period?

MS. MILLER: Mr. Chairman, the bond proceeds typically need to be spent within two years. However, it depends on various issues as to whether we get them spent and the only thing that we're subject to is arbitrage, which is rebating to the IRS any interest that we earned over and above interest that we paid to the bond holders and any penalties if we were just hanging on to tax-exempt bond funds.

COMMISSIONER SULLIVAN: So is it anticipated that we'll spend this \$2 million in this upcoming fiscal year?

MS. MILLER: Mr. Chairman, we have several projects we are hoping to spend it on. What we don't spend would carry over into the next year. The likelihood of having any arbitrage issues on this particular bond is relatively slim due to the interest rates that we're actually earning on proceeds versus what we're paying out. We're not having a positive arbitrage on that anyway. And then we are moving forward with spending the

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bond proceeds as scheduled, so I don't anticipate a problem with the IRS on this particular bond issue.

COMMISSIONER SULLIVAN: Any other questions of staff?
COMMISSIONER TRUJILLO: Move for approval, Mr. Chairman.
COMMISSIONER SULLIVAN: Motion by Commissioner Trujillo.
COMMISSIONER VARELA: Second, Mr. Chairman.
COMMISSIONER SULLIVAN: Second by Commissioner Varela.

The motion to approve Resolution 2002-133 passed by unanimous [3-0] voice vote.
[Chairman Duran and Commissioner Campos were not present for this action.]

VIII. C. Resolution No. 2002-134. A Resolution Requesting an Increase to the Wildlife/Mountains/Trails Fund (233) for a Grant Award Received from the New Mexico Energy, Minerals, and Natural Resources Department for Expenditure in Fiscal Year 2003 (Project & Facilities Management Department

COMMISSIONER SULLIVAN: Are there any questions of staff?
COMMISSIONER TRUJILLO: Move for approval, Mr. Chairman.
COMMISSIONER SULLIVAN: Motion, Commissioner Trujillo.
COMMISSIONER VARELA: Second.
COMMISSIONER SULLIVAN: Second, Commissioner Varela.

The motion to approve Resolution 2002-134 passed by unanimous [3-0] voice vote.
[Chairman Duran and Commissioner Campos were not present for this action.]

IX. Administrative Items

A. Resignations

1. Resignation from the County Development Review Committee

MR. ABEYTA: Thank you, Mr. Chairman. Brian Gallegos was reappointed to the County Development Review Committee on December 31, 2001 for a term of two years. He resigned on September 17, 2002. No specific reason was given for his resignation. Land Use is asking that the Board accept Mr. Gallegos' resignation from the CDRC. This will be effective immediately.

COMMISSIONER TRUJILLO: Move for approval, Mr. Chairman.
COMMISSIONER SULLIVAN: Motion, Commissioner Trujillo.
COMMISSIONER VARELA: Second, Mr. Chairman.
COMMISSIONER SULLIVAN: Second by Commissioner Varela.

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Discussion, Roman. Will we be advertising for the opening?

MR. ABEYTA: Mr. Chairman, we will be advertising for the opening. I also want to remind the Commission that the Commission has an opening on the EZC. We've already advertised for that. I've received a couple of names so far but if the Commission knows of anybody, you can have them send their resume to the Land Use Department. We also have an opening on the Community College District Review Committee and we've advertised but I haven't received any resumes there either.

COMMISSIONER SULLIVAN: Are any of those three committees, Roman, require certain area representation or are they just all at-large?

MR. ABEYTA: The EZC and the CDRC are at-large. The Community College District Committee though, there's a restriction to that district, to the Community College District.

COMMISSIONER SULLIVAN: As I recall some of them have to live in the district and others have to own a business and things like that.

MR. ABEYTA: Right. Exactly.

COMMISSIONER SULLIVAN: And the one that's opening, where does that fall?

MR. ABEYTA: That's at-large within the county.

COMMISSIONER SULLIVAN: Within the Community College District. At-large within the whole county?

MR. ABEYTA: No. There's an opening in the Community College District that's restricted to either a resident or a business owner in the Community College District.

COMMISSIONER SULLIVAN: Okay.

MR. ABEYTA: But this one, Brian Gallegos' seat, is open countywide.

COMMISSIONER SULLIVAN: I understand. And so is the open EZC seat.

MR. ABEYTA: Yes.

CHAIRMAN DURAN: Any questions?

COMMISSIONER CAMPOS: Mr. Chairman.

COMMISSIONER SULLIVAN: Commissioner Campos.

COMMISSIONER CAMPOS: Mr. Abeyta, the CDRC position is at-large and it is to complete the unexpired term of Brian Gallegos?

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

COMMISSIONER CAMPOS: And the EZC, you can be anywhere in the county to be on the EZC?

MR. ABEYTA: It's my understanding after reading the ordinance that it could be anybody, city or county, but it has to be a County appointment. The only resident requirement for the EZC is the seventh member and they've already filled that vacancy.

COMMISSIONER CAMPOS: Who's position would we be filling on the EZC?

MR. ABEYTA: Commissioner Mier, Joe Mier.

COMMISSIONER CAMPOS: And as far as termination, when do these

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terms end?

MR. ABEYTA: I'm not familiar with when the EZC term ends. I can get you that information.

COMMISSIONER CAMPOS: If you could e-mail me the term endings for both positions.

MR. ABEYTA: I'll e-mail the Commission on all the positions.

COMMISSIONER CAMPOS: Thank you.

COMMISSIONER SULLIVAN: Any other questions of Roman? We have a motion and a second.

The motion to accept Brian Gallegos' resignation passed by unanimous [4-0] voice vote. [Chairman Duran was not present for this action.]

IX. B. Appointments

2. Reappointments to the Road Advisory Committee

ROBERT MARTINEZ (Deputy Public Works Director): Mr. Chairman, Commissioners, Area 3 which encompasses, Area 3 of the Road Advisory Committee encompasses the Tano Road area. Barbara Jeffe has represented this area for the last three years. Area 5 which encompasses Cañada de los Alamos, Old Santa Fe Trail, Hondo Hills, San Sebastian and Cañoncito has been represented by Richard Glassman for the last three years. And Area 10, which encompasses the Cerrillos, Madrid and San Marcos area has been represented as an alternate by Brian Lappe for the last three years. All three terms have expired last month and all three individuals have volunteered to serve an additional term. Public Works at this time is recommending the reappointments of these three individuals.

COMMISSIONER TRUJILLO: Move for approval, Mr. Chairman, of the reappointments.

COMMISSIONER CAMPOS: Second.

COMMISSIONER SULLIVAN: Motion and second. Questions, Robert. Were there any other individuals that indicated an interest in serving on this Road Advisory Committee?

MR. MARTINEZ: Mr. Chairman, Commissioner Sullivan, we did not advertise and nobody has come forward volunteering to serve on the Road Advisory Committee in a long time.

COMMISSIONER SULLIVAN: Okay, and do you have some other areas that are also vacant at this time?

MR. MARTINEA: Mr. Chairman, we do. Area 13, which is the Galisteo and Lamy area, and Area 7, which is the Richards Avenue, that portion of the county. I believe those are the only two vacancies I can think of at this time.

COMMISSIONER SULLIVAN: Well, since we have the opportunity to at least

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get through to some people on public access TV, if there are people who are interested in serving on the Road Advisory Committee, which is a very important County committee, they're encouraged to contact Mr. Martinez and provide them with their name and phone number and a resume. Motion and a second. Any further discussion?

The motion to reappoint members to the Road Advisory Committee passed by unanimous [4-0] voice vote. [Chairman Duran was not present for this motion.]

X. Staff and Elected Officials Items

A. Land Use Department

- 1. Update/Discussion on Ordinance No. 2002-__ . An Ordinance Amending Ordinance No. 1996-13 which Amends Article VII, Section 6.2.2c, and Adding New Sections 6.2.2d and 6.2.2e to the Santa Fe County Land Development Code, Ordinance 1996-10, to Require Proof of a Valid Water Right Permit for Type I, Type II and Type III Subdivisions Allocating More Than 0.25 Acre Feet Per Year Per Lot, and Type III Subdivisions of More Than 12 Lots and Non-Residential Developments Using More Than One Acre-Foot of Water Annually**

KATHERINE YUHAS (County Hydrologist): Mr. Chairman, Commissioners, at the September 10th hearing on this proposed ordinance we heard numerous comments from members of the community. Many of those comments were conflicting and were based on different regions of the community feeling that they needed different issues addressed with respect to this ordinance. When staff sat down and started examining the ordinance it seemed to us that maybe what we need is a more comprehensive water plan ordinance that looks at more of the county and looks at different regions of the county in different ways.

While we have been having this discussion here at the County, the Jemez y Sangre Water Planning Council has been addressing some of the same issues. The Jemez y Sangre Regional Water Plan is being developed for Los Alamos County, Rio Arriba County and about the northern 2/3 of Santa Fe County. That's a program under the Interstate Stream Commission. Eventually there will be a statewide water plan that incorporates all these regional plans. But the point of this is what they have been looking at which is critical management areas and area of origin protection.

On November 22nd they're going to be holding a workshop where they're going to bring in some experts with legal advice on how to designate critical management areas, how to set those criteria, how to decide which areas of the planning region they think need to be critical management areas. And also, to discuss area of origin protections. I thought

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that perhaps those discussions would be important for us to be a part of and for us to consider as part of this ordinance. And that we may be able to designate areas where we think domestic wells really need to be restricted and restrict them in perhaps a different way than this ordinance does.

So I would propose that we attend this meeting on November 22nd and take that information into consideration, but I just wanted to put it out there for you all to discuss. The Jemez y Sangre Council will be inviting all of you. I guess you can't all come all together though. Is that true.

CHAIRMAN DURAN: We can if it's published.

COMMISSIONER CAMPOS: We just can't have a meeting. We can all attend the meeting.

MS. YUHAS: You can all attend though?

CHAIRMAN DURAN: No huddling.

MS. YUHAS: I'll make sure you're assigned seats in different areas. That concludes my presentation. I just wanted to let you know where we are with these things.

COMMISSIONER SULLIVAN: Some of us of course have attended the Jemez y Sangre meetings. Commissioner Varela and I attended one last week. Will they be discussing commercial use as part of this ordinance, deals with the commercial uses?

MS. YUHAS: Commissioner Sullivan, yes. They will. They're going to be looking at all types of water usage, not just domestic wells but all sorts of water rights that might be transferred in and out of areas. Okay. Thank you. Any other questions of Katherine?

CHAIRMAN DURAN: I'm sorry, Katherine. Where is it on the 22nd?

MS. YUHAS: It will be held at the Radisson Hotel and it will be most of the day. I think it's 8:30 to 4:30. The sessions are right now scheduled to be broken up as the critical management areas being discussed in the morning and then the area of origin protection being discussed in the afternoon.

CHAIRMAN DURAN: Who from staff is going beside yourself?

MS. YUHAS: So far I'm the only one because I'm on the council of the Jemez y Sangre. And they are wanting to keep this as kind of a workshop kind of meeting, not a public meeting. So it's not open for everyone to attend.

CHAIRMAN DURAN: Do you think you can take someone from the Land Use Department with you since it might require—information that comes out of that meeting might be helpful in the decisions we make on how we might adopt this ordinance.

MS. YUHAS: Mr. Chairman, I think we can certainly take other members of staff with us. Yes.

COMMISSIONER SULLIVAN: And you were bringing this forward, Katherine, because the ordinance was scheduled to be heard in our November meeting? Is that the reason?

MS. YUHAS: Commissioner Sullivan, Mr. Chairman, yes. That is one of the reasons that I brought it up at this time.

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COMMISSIONER SULLIVAN: So then we would schedule it then for the December meeting or would it be—our November meeting, our November administrative—oh, this is an ordinance. I was going to say, we've moved our November meeting to December 3rd. But this is a land use issue. So that would then be, whatever the second Tuesday is in December that you're looking for.

MS. YUHAS: That would be correct.

COMMISSIONER SULLIVAN: So what you're suggesting is to try to take this information you can get on critical management areas and perhaps massage the ordinance that makes it a little more specific for individual areas of the county.

MS. YUHAS: Yes.

COMMISSIONER SULLIVAN: A lot of the discussion—which I think is fine. A lot of the discussion we received was from people in the southern part of the county who were concerned that they wouldn't be able to continue to be able to water their horses or farming or whatever. And Jemez y Sangre doesn't cover that part of the county.

MS. YUHAS: That's correct. They only go down to about the Ortiz Mountains.

COMMISSIONER SULLIVAN: Okay. So we're addressing these people's concerns separately from that. Or would you—because that part of the county is already under a critical management area.

MS. YUHAS: Correct. That area of the county is already a critical management area but I also think that some of the criteria we discuss about how a critical management area would be designated, how it would be administered, what are things we would want to see from this type of a designation could be applied throughout the other parts of the county that aren't part of their regional plan.

CHAIRMAN DURAN: Mr. Chairman.

COMMISSIONER SULLIVAN: Mr. Chairman.

CHAIRMAN DURAN: Actually I think I agree. I think some of the comments that Representative King made were applicable to the traditional farming communities which are very similar to the northern part of the county.

MS. YUHAS: Mr. Chairman, I think you're correct. There were some very important comments made at that meeting that we need to somehow incorporate and make work for the whole county.

COMMISSIONER SULLIVAN: So the guidance is then that the second hearing of this ordinance would come forward on December—do you have a calendar over there?

MR. LOPEZ: The question was—

COMMISSIONER SULLIVAN: When the December land use meeting is.

CHAIRMAN DURAN: December 10th.

COMMISSIONER SULLIVAN: December 10th, second Tuesday in December. Okay. Which follows the December 3rd meeting, which is the administrative meeting, which was previously in November. Are there any other questions of Katherine.

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Mr. Chairman, we're at X. A. 2.

CHAIRMAN DURAN: Thank you, Katherine. Thank you, Commissioner. Just to go back to the December 3rd meeting, just for clarification. Is that at 9:00 on the 3rd?

COMMISSIONER CAMPOS: That's what I have, Mr. Chairman, on my calendar..

CHAIRMAN DURAN: And then the 10th is what day?

MR. LOPEZ: The 10th would be the land use meeting. Ordinarily it would start at 4:00.

CHAIRMAN DURAN: Okay. Thank you.

X. A. 2. Discussion of an Application to the State Engineer by Santa Fe Public Schools for a Temporary Permit to Change the Purpose and Place of Use of Underground Waters, Application No. RG-50386 and RG-50386-S

MS. YUHAS: Mr. Chairman, Commissioners, after our meeting on September 10th, I talked with the Santa Fe Public Schools and I prepared a letter for the State Engineer and only today I received e-mail from Santa Fe Public Schools, which changes, I think, the situation. The e-mail I received from them indicates that they have already used that one acre-foot of water. The reasons they are applying to the State Engineer is that the State Engineer said they now have to, it's *ex post facto*, get their permit done for water that they actually have already used. And I have that e-mail for you if you'd like to see that. [Exhibit 1] But it seems that the utility of a protest is perhaps not there if they've already used the water.

COMMISSIONER SULLIVAN: Mr. Chairman.

CHAIRMAN DURAN: Commissioner Sullivan.

COMMISSIONER SULLIVAN: I talked with Bill Belzner today, so that was the generation of this e-mail, and he explained to me just what Katherine explained to you. That changes the issue. Obviously, they've already used the water. This Ramirez Thomas Elementary School is located in the county but it's right over the line in the portion that's being considered for annexation to the City. It is served by City water, yet they had problems getting an adequate amount of effluent during their construction period and they also had administrative problems getting a permit to get City water, which led them to start trucking water from the Turquoise Trail Elementary School, which brought out the residents in that area who were already having well problems and brought their concerns to the forefront.

So where we are now is that the school district is applying to the State Engineer for a permit for a change in point of diversion for water that they've already used. I don't know what happens if the State Engineer turns them down but I think at this point in time

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perhaps rather than a formal protest, which we would have to make by I think the day after tomorrow.

MS. YUHAS: Correct. The 10th.

COMMISSIONER SULLIVAN: The 10th. We should perhaps send a letter to the State Engineer just indicating that this is our understanding that this water that's—this is not for an additional one acre-foot of water over a year period; it's for the water that they already used and just get our comment in within that time period, but just to clarify that understanding. And even providing a copy of that e-mail if that helps. That would be the direction that I'd recommend that the Commission give to the staff.

COMMISSIONER CAMPOS: I'd concur, Mr. Chairman, with that direction suggested by Commissioner Sullivan.

COMMISSIONER TRUJILLO: I have a concern. Maybe we can include a paragraph in that letter indicating that we have a problem with somebody using water without the appropriate permit, especially in an area where there's a limited water supply, ostensibly. So we need to make that clear to the State Engineer that if there's a protocol that needs to be followed, they need to enforce that protocol so that we don't get into this situation and address problems after the fact.

COMMISSIONER SULLIVAN: Absolutely.

CHAIRMAN DURAN: Okay. So this is just a matter or direction? Okay. Thank you, Katherine.

COMMISSIONER SULLIVAN: It's an action item. Should we have a motion on that, Mr. Kopelman? Because if it were going to be a protest we would have had to vote on it.

MR. KOPELMAN: Mr. Chairman, Commissioner Sullivan, you can just I think there's a consensus of the Commission. I don't think we need a formal vote because it's a discussion issue anyway. So if that's the direction we'll get that letter out.

MS. YUHAS: The signature on that letter needs to be for Chairman Duran? Or Estevan?

COMMISSIONER SULLIVAN: I would think it would come from the County Manager indicating that this was the unanimous consensus of the Board.

CHAIRMAN DURAN: On behalf of us.

MS. YUHAS: Very good.

COMMISSIONER SULLIVAN: But to get it on the record within the time period.

CHAIRMAN DURAN: I need to admit that I was confused on that thing about, that ordinance that we had talked about.

COMMISSIONER SULLIVAN: Oh, you thought it was another one that was coming up shortly. Right. That one's coming up shortly.

CHAIRMAN DURAN: Right.

COMMISSIONER SULLIVAN: Would you like—having voted to table would you like to reconsider? You can bash me when we get to that next one.

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CHAIRMAN DURAN: I always look forward to that. No, I was totally confused. Now that I see that this ordinance that's coming forward is the next one, isn't it? It was the one that I was concerned about and I was confused that item VII. B [q.v. page 11] was the one dealing with the master plans and the water rights thing. I have this thing about requiring the water rights. In any case we can talk about that when it comes up and I would be willing if you want to at some point bring item VII. B back up for consideration because I do agree with you that we have talked about this and I totally understand what it is that we're trying to do with that.

COMMISSIONER SULLIVAN: There's no time like the present, Mr. Chairman.

CHAIRMAN DURAN: With the blessing of the Board I would like to bring item VII. B. back up for reconsideration.

MR. KOPELMAN: Mr. Chairman, I think the first—it's on the table now. So I think you need a motion to take it off, remove it from the table and then when you get that then the next motion would be to act on it.

CHAIRMAN DURAN: Well, as maker of the motion, I'd like to make a motion to take it off the table.

COMMISSIONER CAMPOS: Second.

CHAIRMAN DURAN: Okay, there's a motion. Any further discussion?

The motion to take item VII. B off the table passed by unanimous [5-0] voice vote.

VII. B. Request Authorization to Publish Title and General Summary of an Ordinance Setting Standards and Guidelines for Costs and Public Improvement Districts

CHAIRMAN DURAN: So then I would go ahead and make a motion to approve the request for authorization to publish title and general summary.

COMMISSIONER CAMPOS: Second.

CHAIRMAN DURAN: Any further discussion?

The motion to approve item VII. B passed by unanimous [5-0] voice vote.

CHAIRMAN DURAN: I apologize for my confusion.

X. A. 3. Request Authorization to Publish Title and General Summary of an Ordinance Amending Article V, Section 5.2.2 (Master Plan Submittals) of the Santa Fe County Land Development Code

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(Ordinance 1996-10), to Require the Submission of Water Supply Plans and Water Permits as Required by Article VII, Section 6

MR. ABEYTA: Thank you, Mr. Chairman. Article VII, Section 6 requires a submission of water supply plans that consists of either hydrology reports, reconnaissance reports, and/or water rights based on the type of development. Under the current Code requirements this information is not required at the master plan stage. This amendment will require the submission of hydrology reports and/or water rights with applications for master plan approval. Thank you, Mr. Chairman.

CHAIRMAN DURAN: Roman, I thought that we already had something like this. I recall that if somebody comes in for a four or five-lot subdivision you require reconnaissance or you require geo-hydro. You're saying that there isn't anything in place?

MR. ABEYTA: Mr. Chairman, we do require that for smaller developments like small subdivisions, summary review subdivisions. But this amendment would affect master plans. Those developments don't need master plans so they skip that step and go straight to the development plan, the preliminary development plan, so they require water. This will apply to applicants who are requesting to rezone their property from residential to commercial, or to subdivisions of 25 lots or more, or to large-scale projects that are mixed use that are requesting master plan.

CHAIRMAN DURAN: That's 25 lots or more?

MR. ABEYTA: Yes, 25 lots or more, because right now, a master plan is not required for Type III subdivisions which are less than 25 lots.

CHAIRMAN DURAN: So the intent is to require that they prove that they have water rights, whereas in the past we approved them subject to them bringing water rights?

MR. ABEYTA: Bringing that at the preliminary stage.

CHAIRMAN DURAN: So would that mean that they would have to go acquire the water rights and transfer them to the site?

MR. ABEYTA: It's my understanding that that would be required before we grant master plan approval.

CHAIRMAN DURAN: Based on what the intent of this ordinance is.

MR. ABEYTA: That's my understanding but the Board may offer more clarification as the discussion goes on.

COMMISSIONER TRUJILLO: Mr. Chairman.

CHAIRMAN DURAN: Commissioner.

COMMISSIONER TRUJILLO: These requirements were conditions of approval in the past. They were conditions of approval. There was not an out of pocket expense during the master plan process.

MR. ABEYTA: That's right. That's correct.

COMMISSIONER TRUJILLO: And later on, if they hydrologically or through a reconnaissance report they could show water then it was a condition of approval, they got approved. My concern is that an applicant is going to expend monies up front for a hydrology

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report or whatever and then have their plan denied. And that money is, it's copious money. It's not a—a hydrology report costs a lot of money. I don't see how we're adding value, if you will to the process, because in the end anyway, the condition of approval is showing that there's an availability of water to get the final approval. Why do we need to do it up front and then get the project denied and the applicant is out of pocket a lot of money?

MR. ABEYTA: Mr. Chairman, staff was directed to bring forward this amendment for authorization and so staff hasn't really looked into all of these—those concerns have been raised since we were given that direction but maybe the Commissioner who gave that direction could respond to that.

CHAIRMAN DURAN: Actually, maybe it would be a good idea of Commissioner Sullivan would spend a little bit of time explaining to us the intent of this ordinance and what he's trying to accomplish. Would that be appropriate?

COMMISSIONER SULLIVAN: That's fine, Mr. Chairman. I think that what we'd like to accomplish and don't have the details of it here in an ordinance yet, obviously, is that as we move forward and approve these master plans, the concerns that I've heard from many people and not just people in the Community College District area but those in Eldorado and those just meeting with people who are not even located in the area is why are we approving these master plans and giving these developers the green light, because you never go backwards from a master plan, if a) we don't have any water? or b) they haven't yet proven that they have water or that they have a mechanism to get water?

That would seem to be the first thing that you would look at in any development before you made a substantial investment was can I get the water to the development because putting together a master plan takes money as well. So again, for subdivisions with 25 or more lots I think you're dealing with developers who have that fiscal capability to invest, to make those investigations. For small lot developers as Roman has indicated, that's not required. They go directly to the preliminary and final plan review stage. I think that that brings serious developments before us and addresses the most serious questions that we have on these developments at least from the public's perception and it's going to be from ours, how do we supply them with water, or how do they bring water to the table? What's their plan?

I don't know that you would have to have the water rights in place. I think the way we work it now, correct me if I'm wrong, Roman is that there has to be a commitment but the actual transfer doesn't have to occur until recordation.

MR. ABEYTA: Mr. Chairman, Commissioner Sullivan, that's correct.

COMMISSIONER SULLIVAN: So I don't think we'd want to require them to have a transfer completed but I think we'd want them to have what we now require at the preliminary stage in so far as water's concerned, available to us at the master plan stage. Now, some of these master plans have been coming in with some information on water, so we're not totally void of information on water. There's suggestions, there's ideas, there's hypotheses and in some cases, in one of them that we heard the other night they said we'll have water acquired within so many days. So I don't think we're varying too far from what we do now but I think that answering that question at the master plan stage tells the public and tells the private

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property owners and developers that that's an issue that's first and foremost in the plan and we can spend many, many hours of staff time and many hours of Commission time and the public's time debating the niceties of the village concepts and the subdivisions and the road access and the transportation and traffic issues and trails and that's just an exercise that we're all spending time on unless we have the water issue resolved at the front.

So that's why I felt that it would be an important part of the master plan. I don't think it's going to change the costs of anything. You've eventually got to address that problem one way or the other so it's not going to change the cost of the development, but Commissioner Trujillo is right. It would move the cost of doing that particular investigation forward in the process.

COMMISSIONER TRUJILLO: I have a question for Roman. Roman, how many cases have been given final approval without showing water availability?

MR. ABEYTA: Mr. Chairman, Commissioner Trujillo, I would say none unless a variance was given for small cases, but I would say none. It requires that.

COMMISSIONER TRUJILLO: So whether you expend the money up front or later, if there's no water, the project is not approved.

MR. ABEYTA: Yes, that's correct.

COMMISSIONER TRUJILLO: And the jeopardy is that if you spend the money in the beginning you might lose the money because there's no guarantee that the project is going to be approved on other bases. Whether it's traffic, whether it's open space, whether it's minimum lot size, whatever. So again, I fail to see, with all due respect, the added value of this proposed ordinance. I don't want to impact the community in a disparate financial way. Out of pocket up front, when there's no guarantee that their projects are going to be approved later on, when anyway, if there's no water, those projects are not going to be approved.

CHAIRMAN DURAN: This ordinance or this requirement I think fuels the perception that this Commission has approved major development out there without any thought given to the availability of water. When I came on six years ago as a Commissioner when they were just completing a five-year process, putting together a new County General Plan, and through that process it was determined that the Community College District was a high growth area. And for the last six years we have been fulfilling pretty much the goals and the vision that that general plan portrays or dictates. We have not given developers a green light. We have spent five years developing a general plan and we have finally put together some planning principles that will guide us in the future so that we have proper planning, that we have open space, and for the last umpteen years we've never had any guidance. We've never had a plan that represents the planning principles that we've adopted through the general plan.

Yes, we've approved a lot of housing sites. We've done a lot of planning, but nowhere in that approval process have we given developers a green light to start building houses and tapping into our water supply using water that we don't have. So I just see this as further fuel to the misconception that we have been approving development without any thought given to our water supply. Our water has always been foremost in this approval process. Water planning is going to be foremost in our minds for the next forty or fifty years. We're always going to be

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worrying about where we're going to get water and it's up to us to find new sources. And it's also up to us to manage it. And I think that the planning process that we have put together does that.

COMMISSIONER VARELA: Mr. Chairman.

CHAIRMAN DURAN: Commissioner.

COMMISSIONER VARELA: I agree with both your comments and the comments of Commissioner Sullivan, but I think the underlying problem here is that the public does not understand what the process is here at the County. I think that the public sees that we approve a master plan and they think that there is no going back. I think that there is a disconnect between what the steps are and what the public perceives the steps to be. I've heard from a lot of people as well, very concerned about that and I've explained it to them, that you get master plan and then you have to go for preliminary, etc., etc. And then what the steps are and where the checks and balances are and they don't get it for the most part.

They actually believe that once we grant master plan approval, which is just basically theoretical things what the plan's going to be like, the development. They think, that's it. That any input on their part later on or actually getting water rights and proving that to the County, they think that that's basically a sham, that it doesn't exist. And I don't know how we correct that problem. Maybe I think that's what Commissioner Sullivan is trying to do by this language but there's definitely a disconnect with the public as far as what they perceive when we approve a master plan. They think that it's a done deal.

COMMISSIONER SULLIVAN: Mr. Chairman, and I think on just one point to elaborate on that is that for example, the public asks, Well, how can you approve so many hundred housing units and so many square feet of commercial when you don't know how much water you have? Yet you spend a great deal of time, we have a minimum in the Community College District, we have a minimum of 3.5 lots per acre. We have a minimum of a certain amount of commercial and we work with those minimums yet we're doing it without knowing how much water is there. It just seems to me, and this is the public's perception as well, that we should know how much water there is and based on that, then we would have a viable plan, a master plan that would match that water availability. I don't think that it's that much of a gamble for the developers because in the Community College District the area is already zoned.

So we have two different conditions. We have a condition outside the Community College District where the applicant is coming in for a master plan and that master plan gives the applicant zoning, i.e., commercial, industrial or whatever they want. In the Community College District, it's already zoned, so there's no guessing. They know that they can have a certain level of housing and a certain level of commercial. They're required to have a certain level of open space. It just seems that the water requirement should be the thing that drives the amount of housing and commercial that we ultimately approve, not the other way around. And if we discuss that early on in the master plan stage I think we develop that confidence in the public that we are addressing that issue.

COMMISSIONER TRUJILLO: And I agree. I think it should be part of the discussion. What I'm concerned with is we're going to mandate a condition that's going to have

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a negative impact on the applicant. And I understand what Commissioner Varela is saying, that we need to educate the public a little bit better and have them understand the protocol and what the difference between master plan and preliminary plan and final plan is. But to mandate hydrological studies, reconnaissance studies, out of pocket expenditures that won't guarantee anything in the end, I don't think is right.

CHAIRMAN DURAN: I guess I don't understand what's hard to understand about, okay, we're approving 500 lots but you can't build a house on it until you prove that you have water. Isn't that what we've done?

MR. ABEYTA: Mr. Chairman, that's what you've done.

CHAIRMAN DURAN: Not 500 lots but we've basically approved a planning process that has thousands of houses that are not going to be built tomorrow. It's a 50-year growth plan for our community, and we basically have said, yes, we've approved these but unless we have water, you can't build. I don't understand what's so hard to understand about that. How can someone, after knowing that that's what we've done say that we have approved thousands of houses and it's going to affect our water. I don't understand it.

COMMISSIONER VARELA: Mr. Chairman.

CHAIRMAN DURAN: Commissioner.

COMMISSIONER VARELA: Well, frankly, neither do I. But I think it has to do with some emotional factor or whatever because it's probably occurring in the area where those folks live and I think maybe that's part of it. But I do believe that what you're saying is true and it's very understandable but a lot of people don't understand it. They basically believe that when you pass a master plan, you approve a master plan, that we're forgetting about that the person has to come up with water to provide that for the development and the housing is going to be taking place over a number of years or decades in this case and I think maybe that's part of it is the lack of understanding or seeing exactly the Code so that they can know that it's in there. And another thing I think is maybe it's an emotional thing because it is happening near where they live and it is changing the landscape.

COMMISSIONER TRUJILLO: And with that, Mr. Chairman, I think we should play a more pro-active role in educating the community as to the protocol and the processes, rather than reacting by implementing ordinances that might and might not have any added value at the expense of the community.

CHAIRMAN DURAN: Here's the other thing. If we're going to set staff on this path, it's going to take hours of staff time and I'd like for us to consider what's going to be more effective. Is it going to be more effective to put together an awareness program that would dispel some of the fears that the community has that we're just approving development without any thought given to our water supply? Or do we want to have staff spend hours of time putting together an ordinance that really is already, the goals and vision of this ordinance are already in place with the fact that we have limited growth based on the availability of water?

COMMISSIONER CAMPOS: Mr. Chairman.

CHAIRMAN DURAN: Commissioner.

COMMISSIONER CAMPOS: I'd like to ask Mr. Abeyta a quick question. Mr.

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Abeyta, how much drafting time do you think would be required of staff to come forward with a written out ordinance proposal?

MR. ABEYTA: Mr. Chairman, Commissioner Campos, the drafting of the ordinance is simple to do, but the effect is going to be—

COMMISSIONER CAMPOS: I understand. But the Chairman is saying that staff may spend hours and hours drafting this ordinance. I don't think that's accurate. The language itself is fairly simple. It's the discussion and the impact that's crucial. If we authorized them to go forward, they're not going to spend a lot of time drafting, but I think in our first public hearing we would have a very spirited discussion and that's perhaps what we should do.

CHAIRMAN DURAN: I'm sorry that I limited it to just staff time. We've just been able to put together agendas and go through our meetings so that we don't have to postpone them, and I think we've done that because we've found a way of being effective and dealing with the issues as a team. I'm just afraid that we're going to be asking staff to put together something that we already—and maybe I'm wrong, that we recognize already as a waste of time, because we already have put things in place right now that prevent development from occurring unless they bring water. We have—all those projects that we approved last month are tied into showing and proving to us and the community that they have water, wet water, water that's in our system. Commissioner.

COMMISSIONER CAMPOS: I understand what you're saying, but we could vote on it right now. If there are three Commissioners that want to have this discussion and move forward we can have it at some future point.

CHAIRMAN DURAN: Roman.

MR. ABEYTA: Mr. Chairman, if I may just add, the purpose of a master plan in the county is to zone property, because all property in the county is residential. So that's the only, that's the main purpose of the master plan is to change the zoning. We're not like the City

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of Santa Fe where you have designated zoning already, C-2, or R-10. We don't have that in the county. The only mechanism to do that is through a master plan. In the Community College District, the purpose of the master plan is to just refine the zoning or give definition to the zoning. So I think that was the intent and that's why water's not required at the master plan stage is because it's just a mechanism for zoning property. It's not to allow for development in the sense of now you can go get permits; you can start building. You still have to prove after you've obtained the zoning that not only the water is in place but the traffic. You have the proper improvements for traffic. There's liquid waste issues.

So again, the whole point of a master plan in the county is just to zone property, because we don't zone the way the City does.

COMMISSIONER SULLIVAN: Mr. Chairman.

CHAIRMAN DURAN: Commissioner Sullivan.

COMMISSIONER SULLIVAN: I think that's been true and I think it's important to add the water evaluation component to it, given the rude awakening we've gotten this past year. And I agree. Let's see if the Commission wants to further this discussion or not. So I would move for approve to publish title and general summary.

COMMISSIONER CAMPOS: I'll second that.

CHAIRMAN DURAN: Any further discussion? I have a question. No, I don't have any questions.

The motion to authorize publishing title and general summary passed by majority [3-2] voice vote, with Chairman Duran and Commissioner Trujillo casting the nay votes.

XI. B. Matters from the County Manager, Estevan López

1. Request Authorization to Enter into Agreement Between New Mexico Corrections Department and Santa Fe County to House New Mexico Department of Corrections Inmates at the Santa Fe County Detention Center

GREG PARRISH: (Corrections Coordinator): Mr. Chairman, Commissioners, you have before you an agreement to enter into an agreement with the New Mexico Corrections Department to house approximately 140 inmates. It's a three-year contract where we would house their inmates, medium security, and provide additional services required by the contract which is highlighted in your packet. In addition to that, there is one minor change on page 21 for 11.7 and for clarification purposes we've added a sentence there where it indicated that New Mexico Corrections Department will be responsible for the costs of such payments. That's included in that item that you were just forwarded. [Exhibit 2]

CHAIRMAN DURAN: What number is that, Greg?

MR. PARRISH: It's page 21. I believe it's page 21, item number 11.7.

CHAIRMAN DURAN: Okay. I got it.

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MR. PARRISH: It has to do with payments and clarifies the fact that New Mexico Corrections Department will in fact pay for those items. As indicated, this is a three-year contract with the first year the Department of Corrections would pay the County \$52.30 for housing their inmates on a per diem basis. I am open to any questions.

CHAIRMAN DURAN: Any questions of Greg? So Greg, this minimum of 135 inmates, we'll have 135 inmates at all times, and if not they'll pay us for that?

MR. PARRISH: That's right, Mr. Chairman. The contract is we'd like to house 140 because they're going to take over an entire cell block. We can't mix their inmates with other inmates. So they're going to house one entire cell block with New Mexico Department of Corrections inmates. If it falls below that we couldn't put anyone else in there then so we put that minimum number in.

CHAIRMAN DURAN: Any other questions of staff?

COMMISSIONER TRUJILLO: What's the financial impact? How much money will be generated off of this program?

MR. PARRISH: I hadn't really figured that out, Commissioner Trujillo, but 140 inmates times—we obviously have to pay our contractor. I don't have that figure actually in front of me.

CHAIRMAN DURAN: It's \$7,420 a month.

MS. MILLER: Mr. Chairman, Commissioner Trujillo, actually, after we pay our contractor, we will make about \$9 a day at 135 that's around \$440,000 a year.

COMMISSIONER TRUJILLO: We will be able to use these inmates on work release since they're minimum security to help us with cleaning roads, solid waste and pruning trees and things like that?

MR. PARRISH: There is a provision in there with the permission of the Department of Corrections and the Sheriff's Department that we could use them. We'd have to get an agreement from all parties. Generally, we would not use them. They'd be used in in-house type operations in the facility itself, labor, and they'll be reimbursed for that.

COMMISSIONER TRUJILLO: Because that's quite a viable program, that workforce.

MR. PARRISH: We're trying to streamline that program so that we can have a County crew or at least two County crews out there and at this point we have two and they're operating now.

COMMISSIONER CAMPOS: Mr. Chairman.

CHAIRMAN DURAN: Commissioner.

COMMISSIONER CAMPOS: Mr. Parrish, how will this contract and these 140 new inmates affect the County's ability to assist Taos County or San Miguel County or the City of Española with its local government prisoners?

MR. PARRISH: We still have a contract with Taos. Right now our population is just, I think it was at 604 last Thursday, but about 70 of those inmates are inmates from Bernalillo County which we know we're going to lose anyways when their facility opens. So after that 70 inmates leave we would have openings for 140. We would be able to house and

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still maintain our commitment as we're performing right now.

COMMISSIONER CAMPOS: To Taos County?

MR. PARRISH: To Taos County and also we assist Rio Arriba County and the Pueblos on a short-term basis. Those are all very short-term operations and this is a long-term stable population.

COMMISSIONER CAMPOS: No, I understand. I think we have to keep, we have to be in a position so that we are still able to help Taos County and the local Pueblos and other local communities. I understand this is good for us financially, but on a policy basis, as a policy issue, I would think we would have to help Taos County if they need help. I know they're short term and I know they're not as lucrative but I think from a policy perspective, I just hope this contract doesn't preclude us from doing that.

MR. PARRISH: With our population history, the last six months at least, it would indicate that we would be able to service the other counties and service this contract with the Department of Corrections once Bernalillo inmates are moved to their facility.

COMMISSIONER CAMPOS: When do you anticipate the Bernalillo County move?

MR. PARRISH: Well, that's on a space-available basis. We will start discussing with them upon your approval of this contract then relocating their inmates. They've been talking about that facility opening for almost six months now, so any day it could impact us.

COMMISSIONER CAMPOS: Thank you.

CHAIRMAN DURAN: Any other questions of Greg?

COMMISSIONER SULLIVAN: Mr. Chairman.

CHAIRMAN DURAN: Commissioner Sullivan.

COMMISSIONER SULLIVAN: Greg, how many more guards will this get us at the facility?

MR. PARRISH: Well, right now our staffing pattern is adequate to house the entire facility. We have requested to the MTC that they add additional guards and they are considering it at this time. We have a staffing pattern that at this time would adequately serve the entire facility and we have had the Department of Corrections come out there and inspect our facility and observe the operation and they feel that it can accommodate their inmates at this time.

COMMISSIONER SULLIVAN: I guess my concern is that may be true for our County jail but now we're dedicating one-fourth of the facility as a state prison and that's a different environment. And I think we need more guards out there. And that's on a purely non-technical, unprofessional view of it. Last year, Commissioner Duran and I toured their facility when Cornell was operating it.

CHAIRMAN DURAN: Voluntarily, I might add.

COMMISSIONER SULLIVAN: Voluntarily toured it. That's correct. They let us back out. And this year Commissioner Trujillo and I did an inspection and I saw a marked difference in the—and I'm not ready to say that one was better or worse but one marked difference was there were less guards. For example, I went up into the visiting area. There was

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no guard at the visiting reception area. There were no guards out in the halls in the visiting area where the families visit with the inmates through the glass and the telephone of course. But there was no one in that area either. It was totally vacant. In fact it was quite surreal. It was kind of like you had a voluntary occupation prison.

And I think sometimes perhaps the prior operator was a little too militaristic and that may have cause internal problems. My gut reaction was that this was a little bit too laid back for my liking. I don't know what adequate is. How many guards are at the facility now, do you know, versus the prior operator?

MR. PARRISH: Mr. Chairman, Commissioner Sullivan, the security staff has a ratio now of one to eight. That's the guards.

COMMISSIONER SULLIVAN: And do you know what they were before?

MR. PARRISH: I don't know what the previous contractor had. I know that we've looked very closely at the staffing and interacted with our current contractor to make sure they are in compliance with the contract that we agreed to, and they are. Would we like to have more staff? I think you all received a letter from the Correction Advisory Committee indicating that we may want to consider some amendments to increase the staffing level. That's something I think we should continue to be cognizant of and address.

COMMISSIONER SULLIVAN: I haven't seen that letter. Did they have any specific requests by how many?

MR. PARRISH: Yes, I believe they did. I don't have a copy of the letter with me but I'll certainly make one available to you again.

COMMISSIONER SULLIVAN: Do you remember how many it was?

MR. PARRISH: I think they were talking about eight guards at the time.

COMMISSIONER SULLIVAN: Eight additional guards that they felt were needed. Wouldn't this be the time to do it when we're providing additional financial incentives to the operator and we're providing a steady revenue stream, not only for them but for the County?

MR. PARRISH: This particular agreement, Commissioner Sullivan, is very intensive medical-wise and service-wise. You'll see the amendments, should you approve this agreement, addressing that issue increasing the per diem rate for our contractor in addition to what we're going to be paid from the state. So that has been addressed. There is some additional services and requests for correction officers. MTC as I understand it is considering an increase in security at this point. They haven't finalized anything and let us know but I do think you're absolutely right. If we don't address it today at some point we need to address the issue of additional correction officers.

COMMISSIONER SULLIVAN: Additional services, that's available to everybody, right?

MR. PARRISH: This amendment, which if you'll pass the agreement in the contract is specifically addressing the Department of Corrections inmates.

COMMISSIONER SULLIVAN: Okay. So the additional services that they're requesting don't benefit the other three-quarters of the jail inmates.

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MR. PARRISH: The agreement is very specific to what services. These inmates require additional programming and medical services because they are long term while County inmates may be only there for three weeks on an average.

COMMISSIONER SULLIVAN: We have two agreements here. One is with the Corrections Department and the other is with MTC. Why don't we just say that we want eight more guards?

MR. PARRISH: I believe that was just, the contract with MTC was just as an attachment. That's the original contract they signed.

COMMISSIONER SULLIVAN: Oh, that's the original contract. But you're going to have to have some additional revised agreement with MTC, right?

MR. PARRISH: Yes. We will have to—we have an amendment to amend the contract, which is also in your packet. If you approve the agreement with the Department of Corrections which addresses the additional services that MTC has to provide.

COMMISSIONER SULLIVAN: Would MTC agree, if we approve this today with the provision that it include eight additional full-time guards?

MR. PARRISH: I think they would agree to that if you compensate them accordingly.

COMMISSIONER SULLIVAN: And we haven't compensated them here. So they aren't going to provide any more guards.

CHAIRMAN DURAN: For clarification, Steve.

MR. KOPELMAN: I just need to say one thing. The contract before you, this is for one full pod of the facility. The Department of Corrections has very, very extensive and comprehensive requirements as to staffing and all types of services. MTC is going to be legally obligated, if you approve this contract and the amendment to the MTC contract, to comply with all provisions in this contract which includes compliance with all of their comprehensive and detailed standards policies. And so the Department of Corrections will ensure that staffing levels will be at a minimum comply with their legal requirements, which are more than what our requirements are with MTC. These are going to be convicted felons.

Our population at the jail now are a lot of people who are just being held, DWIs and the like, so staffing for this segment of the population will have to be adequate or DOC will pull the inmates. And that's a requirement in the contract and that's a point that's been discussed at length among DOC, MTC and the County. So the additional obligation is on MTC. MTC is fully aware of what the requirements are and are going to comply with them. The County will be paying an additional stipend of \$4.30 per inmate in order to compensate MTC for the additional services that they'll be providing the DOC inmates. But the issue on staffing and security is one of the foremost issues that DOC is looking at. And again, they have their requirements and if the requirements aren't met, they will pull, they will not bring inmates into the facility until they're assured and feel very confident of that.

COMMISSIONER SULLIVAN: Do they have a specific number that they require or that they're already requiring or have they made an assessment of what's out there and they feel it's adequate?

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MR. PARRISH: Commissioner Sullivan and Mr. Chairman, they've viewed the facility. They've toured the facility. They've looked at the staffing that we have. Part of the agreement calls for a staffing pattern that they have to approve.

COMMISSIONER SULLIVAN: So is MTC kind of taking a gamble here? Are you saying that the Department of Corrections may come back and say that you need additional security personnel?

MR. PARRISH: I think they can come back and say that it's inadequate and we'd have to address that, yes.

COMMISSIONER SULLIVAN: We have to address it. What happens then? Do we have to, we the County have to—

MR. PARRISH: MTC would have to address that Commissioners.

COMMISSIONER SULLIVAN: And would the County have to pay them more?

MR. PARRISH: My understanding is that they will agree to this dollar amount that we've agreed to at this point. Which only applies to the DOC inmates.

COMMISSIONER SULLIVAN: I understand. But if DOC comes back and says You have eight too few security personnel or guards, MTC would have to provide that at no additional cost to the County.

MR. PARRISH: That's my understanding, yes. They'd have to comply, or we'd arbitrate it.

CHAIRMAN DURAN: They've already made that determination that they can provide the services.

MR. KOPELMAN: Mr. Chairman, that's correct.

CHAIRMAN DURAN: What's the pleasure of the Board?

COMMISSIONER TRUJILLO: Move for approval, Mr. Chairman.

COMMISSIONER CAMPOS: Second.

CHAIRMAN DURAN: There's a motion and a second. Any further discussion?

The motion to authorize the agreement with New Mexico Corrections Department passed by unanimous [5-0] voice vote.

CHAIRMAN DURAN: Greg, I think you're doing a great job out there.

MR. PARRISH: Thank you.

- X. B. 2. **Request Approval of First Amendment to the Operation, Management and Maintenance Agreement for the Santa Fe**

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County Adult Detention Facility with Management and Training Corporation

MR. PARRISH: This amendment basically indicates that MTC will provide the services required in the agreement with the Department of Corrections.

CHAIRMAN DURAN: Which is what we just went over.

MR. PARRISH: Yes, sir

CHAIRMAN DURAN: Any other questions of staff?

COMMISSIONER SULLIVAN: Mr. Chairman.

CHAIRMAN DURAN: Commissioner Sullivan.

COMMISSIONER SULLIVAN: Greg, we discussed this before and has any progress been made in doing something other than dumping inmates out onto State Route 14 when they've served their sentence?

MR. PARRISH: Mr. Chairman, Commissioner Sullivan, I have done some research on that. I haven't prepared the document yet but Chairman Duran has also addressed that issue with me and we are looking at it. It's a very difficult thing to address because they're released all times of the day. If you were to run four, the bus service would run it for—I don't have the exact here, but approximately \$60,000 a year, four times a day. But inmates aren't going to wait there for a bus I don't think. They're going to start walking, if there's only service for four. I've also checked with some cab companies and they're talking about \$20 per trip or something per day.

CHAIRMAN DURAN: Why don't we just release them at the time the bus comes, make them stay there another four or five hours until the bus gets there.

MR. PARRISH: I'm not sure if you can do that. I'd have to ask Mr. Kopelman. On bail bonds, they pay their bond, they're free to go.

CHAIRMAN DURAN: Well, let's make it a requirement. Let's be creative here. Let's pass a law.

MR. PARRISH: But I'm still researching that, Commissioner Sullivan, and I hope to have some figures for the Commission very soon.

COMMISSIONER CAMPOS: Mr. Chairman.

CHAIRMAN DURAN: Commissioner.

COMMISSIONER CAMPOS: I'd like to move for the approval of the first amendment to the operations contract.

COMMISSIONER TRUJILLO: Second, Mr. Chairman.

CHAIRMAN DURAN: Any further discussion?

The motion to approve the amendment to the MTC contract passed by unanimous [5-0] voice vote.

- X. B. 3. **Discussion/ Direction Regarding Request by The Lensic, Santa Fe's Performing Arts Center to Allow PNM to Relocate Electrical**

2310141

Transformers onto County Property

CHAIRMAN DURAN: I asked Estevan to bring this forward because I was approached by the Performing Arts Center to ask the Commission to consider those transformers that are located on the corner of Burro Alley and Paseo de Peralta [sic] to ask the Commission to allow PNM to move those from that location to the side of our building to where our transformers are. And the reason for that is the City has given the Performance Arts Center a grant of something like \$300,000 but they have placed a condition on that grant that those transformers be moved. And those transformers can only be moved at the cost of roughly \$150,000.

So of the \$300,000 grant, half of it goes to move those transformers. And I'm actually trying to get the City to reconsider the conditions put on that. I might need—it would be nice to have the entire Commission's support on that, but I've checked it and it seems to me that the wheelchair access, although it's not ideal, it is adequate and that was one of the reasons why they wanted to move those transformers. I have had some discussion with the property owner of the Lensic and they have agreed that at some point they would agree to move it to their property but until they know exactly what they're going to be doing with it they don't know where to put them. So if we can get the City to release that or change that requirement that they move those transformers and the only place to move them is on our side, then the Performing Arts Center could use the entire \$300,000 to benefit the facility and the programs that they are trying to provide the community. So with that I'll turn it over to Estevan.

COMMISSIONER CAMPOS: Mr. Chairman, I was just going to ask if there was anybody on staff who'd evaluated the request.

MR. LOPEZ: Mr. Chairman, Commissioners, I think the Chairman just gave a pretty good summary of at least the request as I've heard it as well. And following our receipt of the letter that's attached in the packet material, we have had discussions with representatives of the Lensic and also PNM. We've talked about what options they might have for moving those transformers and what the ultimate—if you were to approve the move onto our property, what that might look like and I think that Mr. Bob Martin from the Lensic and Mr. Steve Alger from PNM are here to discuss and I had also requested that they try and project what it might physically look like if we were to approve their request.

My understanding is that today we have three transformers on our side of the street right now and PNM has told me that if we were to approve this request they could move that transformer from across the street and replace those three on our side of the street with two transformers, one the size of the existing transformers and one that's larger. PNM and the Lensic have, I believe generated something that will show us what it should look like. I think in terms of alternatives that they might have, PNM talked to me about the possibility of undergrounding them at their existing site but that's not a good technical solution because of access during the winter when there's ice on that side of the street and so forth. And any other solutions would be very costly, so with that I'll turn it over to representatives of PNM and the Lensic.

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CHAIRMAN DURAN: And again, let me just say one last thing. If the Performing Arts Center is unable to relocate those or get the City to approve an amendment to that grant, then they don't get any more. So they don't get any money unless it's moved over or if they agree to amend it to allow, to perhaps move those when something happens on the vacant land.

MR. LOPEZ: Mr. Chairman. I believe that's correct. I asked that of the City Manager and that's pretty much what he told me.

CHAIRMAN DURAN: So the reason I asked it to be brought before us was that it seemed to me that even if they only got \$150,000 from the City that the programs, that the community would benefit from that because of the money that they could use for their programs. Mr. Martin.

BOB MARTIN: Thank you, Mr. Chairman, Commissioners. Thank you for letting us be here. The contract we have with the City, just to go back a little bit, is from the OTAB, the Convention and Visitors Bureau, part of the budget and we were given \$300,000 with the understanding that we would do a number of things which many of them we've already done, including changing the name from Lensic Performing Arts Center to the Lensic, Santa Fe's Performing Arts Center. We are going to be providing a space in the Lensic of the new position, the office of cultural tourism, that's a City/County position. We have a City kiosk there. The bathrooms in the lobby are now open to the public. So we've done a series of things already on our side, good faith effort with the contract.

At this point, the contract is signed, the understanding in the contract, really the language is that the transformers will be moved by November 15th. There's a daily penalty after that if they're not moved by then and the only thing that according to the contract, is if there was some problem or issue specifically with PNM. The one thing we have run into, and Steve is here from PNM and I know that he and Stef Smith, Steve Alger from PNM can talk about sort of the mechanics and the specifics. We were working with a crew of people from PNM who are no longer with PNM so part of the delay in terms of coming to you and also in terms of the contract was that there was a delay in terms of some change of staff and who we were directly involved with.

We did not know originally that when the contract came to us. I think we thought that it would almost be a friendly amendment that all of the different things like name change, kiosk, making available the bathrooms, this and that, would really be the understanding, the spirit of the contract and then along with that then we would be committed to moving the contract. But as it is, at this point, in the contract, it has that date. At this point we have not been able to invoice the contract we just signed but it really started up in July so for almost three months we have not been able to invoice towards the contract because I was just told recently by the City Manager that until the transformer was moved, which came as a surprise to us, that we could not get reimbursed for anything towards the grant.

So we are sort of in this predicament and it seems that we've gone around and around with PNM, the City, everybody else. There was a letter originally that was written by a gentleman who is no longer with PNM who had said that as far as PNM was concerned that

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they felt that the transformer could stay there during the construction period. It seemed that after the construction and people seeing it there it did become an issue from the City for different various reasons and we were not moving slowly. We were sort of moving tentatively because of all of the different considerations. At this point, in everybody, sort of the meeting of the minds, it seemed that probably the best alternative was for the move to be made over to the County and with a minimum of disruption to the County.

I also should say that if this does happen, we hope that this could establish a relationship between the Lensic and the County in a way that we're establishing one with the City support so if there are resources that the Lensic can bring to the County, and we've already had over 14,000 school students in to see performances in the Lensic in the first year and number of those are outside the city within the county. So we've already begun that but I would say a relationship that would be furthered by this in terms of making the Lensic available for public meetings, in terms of other school activities or other things happening in the County that would need a presence here in town, is something that we would very much like to do.

So from our part, we're trying to work with everybody. Our main goal is to keep that Performing Arts Center going and to keep serving the community the way we are. We give over 20 or 30 subsidies to community groups to perform and do fundraisers in the Lensic. As I said, we've had over 14,000 kids coming to see performances. We've had over 6,000 kids performing on stage. So I'm sort of caught up in the middle of all this and really what I want to do is get back and keep running it, making it a vital place for the community. But in the meantime, whatever help we can get from you either way is really appreciated. And if you do want to ask specific questions about the impact, I know Stef and Steve are here and they can probably answer specific questions.

COMMISSIONER TRUJILLO: Mr. Chairman, help me understand the renditions here. The bottom one is the existing transformer and the top is a proposed?

STEF SMITH: Yes, the bottom is existing. [inaudible] They form a footprint of approximately 45 square feet, which is the small, shorter fence you see in the drawing or that photograph.

CHAIRMAN DURAN: That exists on our property right now?

MR. SMITH: Yes, sir.

CHAIRMAN DURAN: How many square feet?

MR. SMITH: 45 square feet. They do not serve the County or County building. They serve the Bokum Building across the street.

CHAIRMAN DURAN: The transformers that are on our property?

MR. SMITH: Yes, sir, exist on a PNM easement that exists on County property serving the Bokum building. The PNM proposal is to set a 75 kVA 120-208-Y transformer, the same size as the one you see at the back of the Lensic, which is in the artist's rendering the exact relationship that is there. They are higher, but it is a smaller footprint. The total footprint changes considerably, or changes a little bit because these transformers serve an elevator in the Bokum building and there is a voltage that we have to maintain for them and PNM at our cost is placing and owning a dry type transformer to sit behind the larger structure, which you really

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don't see. That's what increases the footprint size.

CHAIRMAN DURAN: To how much? From 45 square feet to—

MR. SMITH: Because the rectangle created by the small dry type actually sits behind this façade. So what happens is the entire transformer bank moves. This transformer is set. The dry type is set. The Bokum building suffers the outage. The County does not suffer the outage. The County's not affected at all, only aesthetically or from the size. Then the Bokum building is repowered off of the small dry type and then this transformer exists there. Lensic hires an electrical contractor that comes in, cuts through Sandoval again, and brings the theater's secondaries to the current transformer enclosure, which moves across the street, and brings the secondaries to the Lensic commercial building and the Lensic chiller into—they're already metered at another location—into the secondaries of the 750, and then all of the landscaping which has been surveyed is restored just as it was before the transfer was made or the change was made and the transformer across the street is removed and sidewalk is put in.

CHAIRMAN DURAN: How much does that cost?

MR. SMITH: \$150,000.

COMMISSIONER TRUJILLO: Mr. Chairman, do we have any EMF emissions right now? In the current situation?

MR. SMITH: I'm an electrical contractor, not an engineer. But EMF from my experience radiates from a transformer and the gauss from the EMF depreciates greatly in distance and all of the transformers basically radiate electromagnetic force fields above the transformer and not longitudinally. So you don't have any problem right now. You won't have when they're installed because you're still five feet away from the nearest wall. This edge of this transformer is five feet away from the wall so the edge of the enclosure is approximately four feet, the coyote fence enclosure that will be enclosing the transformer will enlarge it by about a foot on each side.

COMMISSIONER TRUJILLO: I just want to make sure that we don't expose our employees to unwanted radiation or that sort of stuff.

MR. SMITH: Estevan brought that point up. We have approached PNM and been reassured by PNM several times that it will not expose employees to electromagnetic force. We're still not very close. The dissipation is great as you move away longitudinally from a transformer.

STEVE ALGER: The area of transformers of high voltage is going to increase from what we have—what we're going to do is decrease the area of high voltage that we have now. What we have now is a certain square footage on a photograph below that's going to be contained in the picture of a high coyote fence that's on the right hand side. So the exposure is going to be less because we're lessening the square footage.

COMMISSIONER SULLIVAN: Mr. Chairman.

CHAIRMAN DURAN: Commissioner Sullivan.

COMMISSIONER SULLIVAN: Could you explain, the rendering on the bottom, the two are existing transformers?

MR. ALGER: There are three existing transformers.

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COMMISSIONER SULLIVAN: I see two enclosures.

MR. ALGER: Down here you see two enclosures.

COMMISSIONER SULLIVAN: Maybe I'm not seeing very well.

MR. ALGER: There's actually only one enclosure that is four feet wide, deep, by 11 feet long.

COMMISSIONER SULLIVAN: What's that thing in the middle.

MR. ALGER: That's a rock.

COMMISSIONER SULLIVAN: No, right next to the rock.

MR. ALGER: Next to the rock?

COMMISSIONER SULLIVAN: It looks like there's two enclosures there. Could I see it closer?

MR. ALGER: No, this is a rock that just actually sits in front of the enclosure itself. The enclosures remain the same distance to the sidewalk. They're all approximately ten feet back from the sidewalk.

COMMISSIONER SULLIVAN: So that's one enclosure now and then you'll be breaking it into these two enclosures, one of which would be somewhat higher.

MR. ALGER: They're both actually higher. This one is 50 inches tall and this one ends up being 55 inches tall.

CHAIRMAN DURAN: And how tall would the other one be?

MR. ALGER: It's about five feet, about 63 or 62 inches tall. And that's bigger than the transformer itself to mask the transformer. There's no high voltage here. The high voltage is contained only at the transformer location. This is a current transformer enclosure where the secondaries come up through the transformers and it's metered at that point and then go back down underground to the secondary connections on the 75 kVA.

COMMISSIONER SULLIVAN: My question was, I believe the County building is on the City's register of historic buildings. And so does this not have to go through the City's historic review committee, historic styles committee.

CHAIRMAN DURAN: No, it doesn't.

COMMISSIONER SULLIVAN: Do you know, Mr. Kopelman?

MR. KOPELMAN: Mr. Chairman, Commissioner Sullivan, I'm almost certain that it does not have to go through the Historic Design Review Board. I don't think it's subject to that ordinance.

COMMISSIONER SULLIVAN: I know state property is not because they got involved in that years ago over the pump jack. But I wasn't aware whether County property was exempt from that.

MR. KOPELMAN: I don't believe this would trigger the ordinance to begin with.

COMMISSIONER SULLIVAN: If it was private property it would certainly trigger it. There's no question about that. In terms of the change to the façade. I just wondered if we're exempt as a result of being County property.

MR. KOPELMAN: Mr. Chairman, Commissioner Sullivan, we generally have

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comity where we accommodate each other in situations like this and in this case, the City is actually making a request that we do this. So I'm relatively certain this would not require us to go through any City process.

COMMISSIONER SULLIVAN: They don't like the looks of it on their property so they want it over on our property is what it boils down to and the stick and the carrot here is \$150,000 or \$300,000 contract. I have a little problem with being put in that position by the City unilaterally without any discussions with us. And quite frankly object to it and not in any way to the County staff but to the City's lack of cooperation on this and the position that they've placed the Lencic management personnel as well. That's all the questions I had, Mr. Chairman.

CHAIRMAN DURAN: I think that it's negligible the impact that it's going to have on the façade and the benefits to the programs are great.

COMMISSIONER SULLIVAN: I think it's a waste of public money is what it is. I understand that the City's got the ball and we have to play their game but we're wasting \$150,000 of public funds here putting a transformer from one side of the street to the other. What's the difference? If a car is going to see it going northbound or someone's going to see it going southbound. It's still a transformer there with a coyote fence around it. I kind of fail to grasp the real rationale here, why we're going to spend \$150,000 in taxpayer money. Not we the County, but the City, to perform this exercise.

CHAIRMAN DURAN: And I think if you're going to get the City to give you a reasonable answer in the time that we have to do it—

COMMISSIONER TRUJILLO: Mr. Chairman.

CHAIRMAN DURAN: Commissioner.

COMMISSIONER TRUJILLO: Move for approval.

CHAIRMAN DURAN: Second.

MR. KOPELMAN: Mr. Chairman, members of the Commission, I had a very brief discussion with Hank Blackwell, the Fire Marshal. He would appreciate if you would consider in the motion requirement that construction of this structure comply with all County life and safety code requirements.

COMMISSIONER TRUJILLO: So moved, Mr. Chairman.

CHAIRMAN DURAN: I accept that.

COMMISSIONER TRUJILLO: Included in the motion.

COMMISSIONER CAMPOS: Mr. Chairman.

CHAIRMAN DURAN: Commissioner Campos.

COMMISSIONER CAMPOS: Question. Is this temporary? It was mentioned by the Chairman that this was a temporary relocation. Is that right?

CHAIRMAN DURAN: If we approve this it's not temporary. They'll move it and we've lost \$150,000 because they spent half of the grant moving it. What I said earlier was that I was hoping that we could maybe talk to the City before they do their work and convince them to let it stay the way it is until the property next door, the vacant land next to it, there's a submittal to approve—there was a hotel that was going to go there. They denied it.

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COMMISSIONER CAMPOS: It's a parking lot.

CHAIRMAN DURAN: They're going to do something there at some point and the owner of that property has indicated a willingness to move those transformers on to that property once a plan has been developed. So if we can convince the City—my thought is we could approve it now with the condition that we would go to the City and if they would reconsider their requirements—

COMMISSIONER CAMPOS: Or delay it. Delay the requirement.

CHAIRMAN DURAN: But they need the money right away. The \$300,000 expires, you say on the 19th? The grant?

MR. MARTIN: No, no, it's just that to even get the money we supposedly have to have it moved by November 19th.

CHAIRMAN DURAN: Have it moved.

MR. MARTIN: But at this point we're not even being able to invoice and cash flow wise, we assumed we'd be able to start getting that income in August. Now we're looking at the fact that it may not happen until November, December. Along with that let me just say, we are also not being allowed to invoice the City for repayment on the transformer. So what it really comes to the public money we will be getting from the City, it will be coming to the Lencic to keep it running, providing services and what we will do with the \$150,000 is we will actually have to go back into our capital campaign and add to the debt service that we have for that to pay for it and we're going to have to raise more money for capital or we will have to incur that debt in the payment schedule in our operations budget over the years which is something we never wanted to do.

Because we cannot invoice the City for it, we have to find a way to come up with the money another way. So at least the money we do get from the City when we get it will be going to the operations of the theater.

CHAIRMAN DURAN: It just seems so silly to spend \$150,000 of public funds. But if that's the way they want to do it, at least we'll be able to have \$150,000. So I'm hoping that in the next week or so that we can ask the City to reconsider the requirement they've placed on this grant to allow them to use that \$300,000, not move the transformers based on the commitment from the vacant landowner that they will move it when something is planned for that area.

COMMISSIONER CAMPOS: That makes sense.

CHAIRMAN DURAN: Any other comments?

COMMISSIONER SULLIVAN: Is that in addition to the motion?

CHAIRMAN DURAN: Yes, I think I'd like to add that as, in addition to approving the motion that staff tries to make—we give you that so at least you have a fall-back situation here but if we could petition the City Council to reconsider the requirement on this grant and have it come from the Commission as a request for a little bit more—

COMMISSIONER SULLIVAN: Common sense.

CHAIRMAN DURAN: Yes. I wouldn't put it that way. But a little bit more common sense approach to spending the money.

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COMMISSIONER TRUJILLO: Call for the question.

The motion to allow the Lensic to relocate their transformer to County property passed by unanimous [5-0] voice vote.

- X. C. Matters from the County Attorney
- 1. Executive session
 - a. Discussion of pending or threatened litigation
 - i. *Santa Fe County v. M&R Sand and Gravel*
 - ii. *Santa Fe County v. Town of Edgewood, Campbell Ranch*
 - iii. *Georgia O'Keeffe Museum v. Santa Fe County*
 - b. Discussion of Possible Purchase, Acquisition or Disposal of Real Property or Water Rights

Commissioner Campos moved to go into executive session pursuant to NMSA Section 10-15-1 (7 & 8) to discuss the matters delineated above. Commissioner Trujillo seconded the motion which passed upon unanimous roll call vote with Chairman Duran and Commissioners Campos, Trujillo, Sullivan and Varela all voting in the affirmative.

CHAIRMAN DURAN: How long do you think it will take?

MR. LOPEZ: Mr. Chairman, probably an hour. I would just ask that we notify the public as to what items we're going to begin with as soon as we come out of executive session.

CHAIRMAN DURAN: Why don't you go ahead and tell them?

MR. LOPEZ: Per the approval of the agenda, the first item which will be heard following executive session will be item XI. A. 9. It's the Tom J. Sedillo and Kathy Sedillo family transfer. That will be followed by the Trujillo family transfer, which is item 10. And then we'll go back in the order that's presented on the agenda to item 1, 2, 3, so forth down to 8 and continue in that order.

[The Commission met in executive session from 5:50 to 7:00.]

Commissioner Campos moved to come out of executive session having discussed only the matters outlined in the agenda, and Commissioner Trujillo seconded. The motion passed by unanimous [4-0] voice vote. [Chairman Duran was not present for this action.]

COMMISSIONER SULLIVAN: Let's call the meeting back to order please. Thank you for your patience.

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- XI. A. 8. **EZ CASE #DL 02-4380 – Tom J. Sedillo and Kathy Sedillo Family Transfer. Alarid and Associates, Agent for Tom J. and Kathy Sedillo, Request Plat Approval to Divide 2.64 Acres into Two Tracts for the Purpose of a Family Transfer. The Tracts will be Known as Tract C-1 (1.25 Acres), and Tract C-2 (1.396 Acres). The Property is Located in the Piñon Hills/Alameda Ranchettes Subdivision at the Intersection of Calle Clara and Santa Fe County Road 70A, Within Section 25, Township 16 North, Range 8 East (Commission District 2)**

VICENTE ARCHULETA (Review Specialist): Thank you, Mr. Chairman, Commissioners. The applicants are requesting plat approval to allow a family transfer land division of 2.64 acres into two lots. The property is located at the intersection of Calle Carla and Santa Fe County Road 70-A within the Basin Hydrologic Zone. Article III, Section 10 of the Land Development Code stated that minimum lot size in this area is ten acres. Lot size may be reduced to 2.5 acres with water restrictions and family transfers are allowed to be divided to 1.25 acres. The property is currently vacant and will be served by an onsite well which will serve the other lot as well.

The applicants have owned the property since 1993. The applicants are requesting to divide the property into two lots for the purpose of transferring title to their two children. The property is located within a subdivision that was approved by the BCC in 1964. This subdivision is legal non-conforming as it does not meet current subdivision standards for fire protection, roads, water and liquid waste. The application was reviewed for the following: access, water supply, liquid waste, solid waste, terrain management, fire protection, archeological review and environmental review.

The property is located within a previously approved subdivision, therefore the BCC must approve this division. The BCC must review and consider the findings of the report. All existing infrastructure such as fire protection and roads within the Piñon Hills/Alameda Ranchettes have been constructed in accordance with the subdivision standards that were in place in 1964 at the time of approval. Infrastructures in 1964 were not as comprehensive as today's standards, thus the Piñon Hills/Alameda Ranchettes Subdivision is legal non-conforming. It is staff's position that the redivision of lots within the Piñon Hills/Alameda Ranchettes Subdivision will diminish the performance of existing infrastructure by potentially doubling the density and therefore intensifying the non-conforming status. Prior to allowing the creation of additional lots within Piñon Hills/Alameda Ranchettes, the subdivision should be upgraded to current subdivision standards. With respect to the size and number of lots, an upgrade to Piñon Hills/Alameda Ranchettes would require among other things a fire protection plan and existing roads to be substantially improved. Therefore staff recommends denial of this request as proposed.

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On May 14, 2002, the BCC directed staff to evaluate the Piñon Hills/Alameda Ranchettes Subdivision for required improvements and associated costs for the purpose of designating an improvement district. And that's Exhibit F. The decision of the EZC on June 13, 2002 was to grant approval subject to the following conditions. May I enter the conditions into record?

[The conditions are as follows:]

1. The private easement that extends of Calle Carla must be developed meeting SFC Common Roadway standards prior to recording the plat of survey or the applicant must provide Santa Fe County with a certified engineer's cost estimate to develop the access. A financial guarantee acceptable to the County in the amount of the approved cost estimate must be included.
2. The applicant must record water restrictive covenants simultaneously with the plat of survey imposing .25 acre-feet per year per tract. Water meters for each subject parcel must be installed to monitor water use. Annual water consumption reports must be submitted to the County Hydrologist by June 30th of each year.
3. The following notes shall be placed on the plat:
 - A. Water supply on these lots is governed by the Extraterritorial Zoning Ordinance, Section 10.1.A:
 - a. Only one well shall be permitted to serve these lots. This well shall be subject to a shared well agreement.
 - b. Drilling of any new domestic well is prohibited if regional water becomes available within 200 feet of these lots.
 - c. If regional water becomes available, domestic well use shall cease within 90 days and these lots shall connect to the regional water system.
 - d. All wells drilled on these lots post January 1, 2000 must be constructed per EZO standards listed in Section 10.A.1.3. Proof of proper construction must be submitted at the time of development permit request or upon demand by the County Land Use Administrator.
4. A shared well agreement must be approved by the County and executed prior to plat recordation. The plat must indicate shared well easements.
5. A ten-foot wide utility easement along all property lines must be dedicated and shown on the plat for future potential water distribution lines.
6. The applicant must contact Rural Addressing for assignment of addresses for the proposed tracts. Addresses must be added to plat.
7. EZO Regulations require a solid waste fee be assessed for all newly created parcels. The fee for this subdivision is \$86.00.
8. The applicant must prepare and submit covenants for the use and development of the property.
9. Retention ponds will be required for Tract C-1 and Tract C-2 at the time of development permit approval.
10. Submit a school impact report per County Code.

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11. The applicant must obtain approval from NMED for the proposed liquid waste disposal plan.
12. Compliance with Fire Marshal review.
13. The applicant must address all minor corrections by the County Subdivision Engineer as shown on the plat of survey and terrain management plan. These plans may be picked up from Vicente Archuleta, Development Review Specialist, with the Land Use Department. These plans must be resubmitted with the mylar prior to recordation.

CHAIRMAN DURAN: Yes. Any questions of staff?

COMMISSIONER TRUJILLO: I have one question, Mr. Chairman.

CHAIRMAN DURAN: Commissioner.

COMMISSIONER TRUJILLO: You said that the minimum lot size in this area for a family transfer is 1.25 acres?

MR. ARCHULETA: Mr. Chairman, Commissioner Trujillo, that's correct.

COMMISSIONER TRUJILLO: So on the surface, this does satisfy the minimum lot size for a family transfer.

MR. ARCHULETA: Mr. Chairman, Commissioner Trujillo, that's correct.

COMMISSIONER TRUJILLO: And the reason that you're denying it is because of the impact on the existing infrastructure of the area. That's why the staff recommendation is to deny it.

MR. ARCHULETA: Mr. Chairman, Commissioner Trujillo, that's correct.

COMMISSIONER TRUJILLO: Okay. Thank you.

CHAIRMAN DURAN: I have a question. I'm looking at a letter here from Mr. David Gold and I understand staff's decision or the reasons you're not supporting the lot split, but in Mr. Gold's letter he says that he's asking us to deny or table the two cases so that their community can decide whether they want to support any further lot splits. To me, that says something to me. The zoning out there is, the zoning allows 2.5-acre lots so I think if as a community they decide not to support further lot splits, what they need to do is come before the County Commission and ask for a zone change or to change the ordinance and the Land Development Code so that 2.5-acre lots are not allowed in there.

It's just to say they want us to table it so they can decide in the community whether to support further lot splits and not tie that into the infrastructure problems in my opinion leaves us exposed to some liability. Any other questions of staff? Is the applicant here?

COMMISSIONER CAMPOS: Mr. Chairman.

CHAIRMAN DURAN: Commissioner Campos.

COMMISSIONER CAMPOS: Just a quick question for Mr. Archuleta. When you're talking about family transfers in children, are there any minimum ages for the children?

MR. ARCHULETA: Mr. Chairman, Commissioner Campos, the child has to be—it has to be an adult child an emancipated minor.

COMMISSIONER CAMPOS: To be the beneficiary.

MR. ARCHULETA: To be the beneficiary.

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COMMISSIONER CAMPOS: So if you're not an adult, you cannot take advantage? If you're 15 years old? Is that what you're saying?

MR. ARCHULETA: That's correct.

COMMISSIONER CAMPOS: You can't be a recipient if you're under 18 or if you're not emancipated.

MR. ARCHULETA: That's correct.

COMMISSIONER CAMPOS: Okay. Thank you.

CHAIRMAN DURAN: I have one question. In Mr. Gold's letter he further states that he believes a majority of the owners can change the covenants for that subdivision. Steve, have you had a chance to look at the covenants at all?

MR. KOPELMAN: Mr. Chairman, I haven't. No.

CHAIRMAN DURAN: Have you looked at them? Have you been provided a copy of them?

MR. ARCHULETA: Mr. Chairman, no.

CHAIRMAN DURAN: Because it's my understanding that to change these covenants in most subdivision it requires a 75 percent, not a majority but a 75 percent vote. Okay. Any other questions of staff? Is the applicant here? Please step forward. Will you be speaking through your interpreter? Okay, good. Please state your name for the record and let the recorder swear you in. Or the Clerk swear you in. Excuse me.

TOM SEDILLO: My name is Tom Sedillo and I live on Sloman Lane, which is in Alameda Ranchettes.

[Duly sworn, Tom Sedillo testified as follows:]

MR. SEDILLO: Well, the reason I'm here as you well know that I'm here to subdivide a piece of lot that I have over here for my two kids. I wrote something up over here that is very true. While Kathleen and I, my ex-wife, she's sitting right here. When we were married we planned to give this land to our kids, to our daughters. Now that we're divorced we would still like our kids to have this opportunity to own this land. By splitting this lot we will be able to give our daughters each a piece of this land.

If we are unable to split this lot, we will be required to sell this as part of our divorce settlement and the money will go half to me and half to my ex-wife. We would really like our kids to have this, to own their own piece of land and to own their own piece of land. Since land is so expensive we feel that this is the only way they'll be able to afford a home in Santa Fe. Nicole and Felicia, they were both raised in that subdivision. They still have a lot of family there. They have their grandparents, uncles, aunts, cousins that live there. Right adjacent to that lot I have a plat over here that shows there are three lots right next to it that are 1-1/3 acres. This property used to belong to Butler, Jim Butler, which is really Butler Estates. This was subdivided in August of 2000, somewhere in there. So anyway, we would like to split it.

If allowed to subdivide, my ex-wife and I are going to put conditions on this land and on this deed, on the deed over here. I spoke to Mr. Vicente about this. If the land does get subdivided it will not be sold until my girls are at least 30 years old because I don't want them to get rid of it. Thirty years old is the minimum age. If one of my daughters decides to sell the

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land, my other daughter gets the first shot at it. Then my ex-wife or myself. After the family has had a chance to purchase this land, then and only then it will be offered to the public because we don't want it to go out to be sold.

In most family transfers when the land is not approved, the land stays within the parents. In this case it won't; it will be sold. And my daughters, we feel that my daughters will lose out on this opportunity. So I ask you to please consider approving this request for the lot split. I was out of town this weekend and I got back last night and I went to a few of my neighbors and within two hours I got 18 signatures over here that approve it. And I can get more if I had a little more time I could have got a little bit more but anyway, I got 18 in about two hours.

As far as improvements, about two years ago, this road was widened and paved and it goes way beyond the property. The fire station is about 2.1 miles from the property. Also, this is a corner lot that is accessible from two roads, two County roads and one private driveway. This land is pretty much developed. It has natural gas, electricity, telephone. When I went up with the Extraterritorial Zoning Commission it was approved by a margin of 4 to 1 so I ask you guys or the Commission if you would approve this. And like I say, I have a plat here that is recorded in the courthouse that shows that there are three 1.33 lots and they all—well two of them, signed this piece of property saying it was all right.

My brother Mike, he's my other neighbor where I'm splitting this property and they signed it too. That's about it. I think my daughters might want to say a word or two.

CHAIRMAN DURAN: Commissioner Campos, do you have a question?

COMMISSIONER CAMPOS: A couple of questions, Mr. Sedillo. How old are your children, your daughters at this point?

MR. SEDILLO: My oldest daughter is 21 and my youngest daughter is 16.

COMMISSIONER CAMPOS: Okay. You've made other lot splits in the last couple of years in that area?

MR. SEDILLO: I had five acres there that when I was doing this divorce settlement, I had—this Commission approved to do a five-acre split but it never got approved. I never signed any paperwork because it sold out as a five-acre lot. So no, I never had it approved or signed off.

COMMISSIONER CAMPOS: You had it approved but you never went through with it.

MR. SEDILLO: I never followed through with it. No.

COMMISSIONER CAMPOS: Have you talked with any lawyer about restricting the property as far as saying that your children cannot sell this until they're 30 years old?

MR. SEDILLO: I spoke with Mr. Vicente and he told me that if I put it on the deed—like Felicia, since she's a minor, that I can put her name, my name and my ex-wife's name until she becomes of age. But those restrictions still apply till the age of 30.

COMMISSIONER CAMPOS: So you have talked to a lawyer about this?

MR. SEDILLO: No, I haven't.

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COMMISSIONER CAMPOS: Thank you.

CHAIRMAN DURAN: Mr. Sedillo, I know some of the concern that some of the residents have out there is that a lot of these lot splits occur then mobile homes get placed on them and then families and extended families start living in the mobile homes. So it becomes a very highly populated—the population of the subdivision increases tremendously. I'm wondering what is your plan? Are you planning to build houses? Are you planning to bring in mobile homes on them? What is your long-range goal until your daughters turn 30?

MR. SEDILLO: Well, the way I feel about mobile homes, I feel that they should not put any mobile homes there. I have four brothers out there or three brothers and four with myself and my mom and dad, and we all built homes out there. We all built them. So my plan is to help my daughters build a home there, not put a mobile home. Because I live out there and it will just depreciate the value of everybody else's home and that ain't right.

CHAIRMAN DURAN: I'm not opposed to mobile homes. Don't get me wrong. But I guess there have been some lot splits that we have approved that have resulted in high density dwelling units and it's hard. We have no control over that because once we've approved a subdivision we're not involved in enforcing the covenants and restrictions. And I don't think there are covenants and restrictions that prevent mobile homes in there. But as a condition of your approval, if you would agree to stick-built homes as another condition that would satisfy a lot of your neighbors' concerns.

MR. SEDILLO: Absolutely. Absolutely. I'd rather have a home there.

CHAIRMAN DURAN: So a stick-built home would be something that would be acceptable to you?

MR. SEDILLO: That would be on a foundation? Oh, yes. I would put a home.

CHAIRMAN DURAN: Any other questions of Mr. Sedillo? Did your daughters want to say anything? Did you want to put them through that?

MR. SEDILLO: I think so. Thank you very much. I appreciate it.

[Duly sworn, Felicia Sedillo testified as follows:]

FELICIA SEDILLO: [Speaking through a signing interpreter] All right, my name is Felicia, and I want permission, I want—I'd like you to approve the division of the lots. I go to the New Mexico School for the Deaf and I plan to go to college and when I finish I want to come back and live in Santa Fe with my family. I've noticed that property here in Santa Fe is so expensive and people that even work at my school can't afford to live in Santa Fe because of the cost of living and I'd like to have my mom and my father's property divided so I can afford to live here. I know that could be a problem. I want the opportunity to grab that property and build a house and I want to live where my family lives in Santa Fe, in the same area with my grandmother and grandfather, aunts and uncles and that's why I'm here. Thank you.

[Previously sworn, Nicole Sedillo testified as follows:]

NICOLE SEDILLO: My name's Nicole Sedillo and I'm asking also for the lot split because as you can see I still live here. I will not be able to afford a house, property, affordable housing is outrageous here in Santa Fe. This is the only way because it's too hard to

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buy a house in Santa Fe. I don't want to be forced out to move to Rio Rancho or Albuquerque or anything. I'd like to stay here in Santa Fe and the only way to do it is once again by doing a family transfer. I hope you don't deny us the opportunity of receiving the property that my parents are willing to give us because if you do deny us that opportunity, as my father said earlier, we will receive nothing. If they sell the property, they keep the money. We don't get no lots. So thank you for your time and I hope you make the right decision.

[Previously sworn, Kathy Sedillo testified as follows:]

KATHY SEDILLO: I agree with everything that Tom said any my daughters said and I'd just like to thank you for hearing us out tonight and please try to consider that a divorce is hard enough but when you have to lose everything and sell it because you can't keep it because of the divorce it's not fair to them. Thank you.

CHAIRMAN DURAN: I'm sorry, I've forgotten your first name. I've had a mental block here. Vicente. I'm sorry. I apologize. Vicente, this property, it's a County road all the way in front of this property.

MR. ARCHULETA: That's correct.

CHAIRMAN DURAN: Because my question, I have a little concern that the next case, which is on Calle Francisca is at the very end of the subdivision and it's probably a little bit more, it probably falls into the same category as the subdivision that we disapproved last month because I don't think the County road goes all the way back there. Is that correct?

MR. ARCHULETA: That's correct, but it is a County maintained road. It's not considered a County road but they do maintain this section of the road.

CHAIRMAN DURAN: But not the Calle Francisca one.

MR. ARCHULETA: Right. Calle Francisca is a County maintained road.

CHAIRMAN DURAN: It is County maintained. Okay. Thank you. This is a public hearing. Is there anyone out there that would like to speak for or against this proposal? Please step forward sir. State your name for the record. Let the County Clerk swear you in.

GEORGE ANCONA: My name is George Ancona. I'm a resident of Piñon Hills and I have a letter that I'd like to read.

[Duly sworn, George Ancona testified as follows:]

MR. ANCONA: It's from the West Santa Fe Association to the Santa Fe Board of County Commissioners. Honorable Commissioners, Tonight there are two more lot splits on your agenda which are located in the Piñon Hills/Alameda Ranchettes neighborhood. They are the Sedillo family transfer and the Trujillo family transfer. The West Santa Fe Association respectfully asks you to deny these lot splits tonight. We are aware that County staff also has asked you to deny these lot splits, just as you denied the Peperas family lot split at your last BCC meeting. We are asking for denial because we have a community meeting next Wednesday, October 16th at 7:00 pm at the Agua Fria School. Please see the enclosed letter which was mailed to all residents today. We will be discussing Roman Abeyta's memo at that meeting as well as lot splits, family transfers, well protection, fire safety, road upgrades, etc. We respectfully ask the Sedillo and Trujillo families to attend this community meeting and to present their cases to their neighbors. Together, as a community, we can try to come up with

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solutions to the problems Mr. Abeyta and his staff have outlined. Thank you. If you have any questions please contact Helga Ancona, Sincerely, the Board of the West Santa Fe Association. Thank you.

CHAIRMAN DURAN: Thank you, sir. Anyone else out there that would like to address the Commission concerning this issue? If not, what's the pleasure of the Board?

COMMISSIONER TRUJILLO: Mr. Chairman.

CHAIRMAN DURAN: Commissioner.

COMMISSIONER TRUJILLO: There's—I think there's a community planning process going on in the Piñon Hills area at this point. I don't think they've finalized or reached a community plan in that area so we don't have any blueprint if you will on what to go by to review and approve development in that area. So what we're left with is the existing Code, the existing protocol, and in that area there are covenants but there also the development is de facto less than 2.5 acres for family transfers, 2.5 acres minimum lot size for families. That being the case, in this case I think satisfy the family transfer standard and stipulations. I would make a motion to approve this family transfer with the conditions of approval as delineated by the EZC.

CHAIRMAN DURAN: I'll second that. Would you agree to—I don't know if you were here when the applicant agreed to restrict it to stick-built homes?

COMMISSIONER TRUJILLO: Yes.

CHAIRMAN DURAN: So it would be stick-built homes, the conditions that he imposed on himself, which was there would be a deed restriction—they both had to be 30 years old. And that would be inserted on the plat. Any further discussion?

The motion to approve the Sedillo family transfer failed by [2-3] vice vote, with Chairman Duran and Commissioner Trujillo casting the votes in favor.

CHAIRMAN DURAN: Sorry, your lot split wasn't approved.

COMMISSIONER CAMPOS: Do we need a vote? No?

CHAIRMAN DURAN: Is it automatically disapproved? Does someone want to make another motion? Are there other conditions that might be more appropriate?

COMMISSIONER CAMPOS: Mr. Chairman.

CHAIRMAN DURAN: Commissioner.

COMMISSIONER CAMPOS: I have a question for Mr. Archuleta. This is an appeal from the Land Use Administrator? Denial?

MR. ABEYTA: Mr. Chairman, no. This isn't an appeal. This is just a request to redivide land within a subdivision. That's why it's come before you. Because it's in a subdivision.

COMMISSIONER CAMPOS: Mr. Kopelman, do we need a motion?

MR. KOPELMAN: Mr. Chairman, Commissioner Campos, you certainly can do another motion if you would like.

COMMISSIONER CAMPOS: Do we need to do that?

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MR. KOPELMAN: I don't believe you need to. I think the motion to approve it was denied, unless there are other conditions or other approaches to it.

COMMISSIONER CAMPOS: No, that's fine with me.

CHAIRMAN DURAN: Well, I'd like to make a motion that we approve this case with the condition that the applicant would participate to some extent to the improvement, an improvement district which might be created for that area or a community plan that would be developed to improve the roads in that subdivision to make it safe and so your approval, if it passes, would be conditional upon your agreement, not only for the stick-built condition and the 30-year condition that you agreed to, but that you would also agree to participate with the homeowners, the community out there in their efforts to try to find an equitable solution to fixing the road in that subdivision. I might be the only Commissioner that's even driven in that subdivision and I see no problem, no safety problem with that.

But what's driving this thing is that there have been a lot of lot splits in there and there have been no control over those. So like I said earlier, there have been a lot of large families and extended families that have moved into this subdivision that have kind of tainted the family transfer process that is available to you out there. And the problem is that the people who live out there are concerned that this Commission is approving too many lot splits out there without any regard to the roads and to the safety issue, which I think are minimal based on what I saw the other day. So if you would, if it passes, I would ask that you would agree to participate with those people at some level to make sure that you have participated in their concerns because if your daughters are going to live there you want it to be safe also. So I would make that as a motion.

COMMISSIONER TRUJILLO: Second, Mr. Chairman.

CHAIRMAN DURAN: Any further discussion?

The motion to approve the Sedillo family transfer with a stipulation they participate in community planning and improvement districts failed by [2-3] voice vote with Chairman Duran and Commissioner Trujillo voting in favor.

CHAIRMAN DURAN: A resounding no. Okay. Check with the Land Use Administrator. He'll tell you what your options are, if any. Thank you.

- XI. A. 9. **EZ CASE #DL 02-4390 – Trujillo Family Transfer. Jeromuir M. Trujillo, Applicant, Requests Plat Approval to Divide 4.95 Acres into Three Lots for the Purpose of a Family Transfer. The Lots will be Known as Lot 4-A (1.430), Lot 4-b (2.039 Acres), and Lot 4-C (1.51 Acres). The Subject Property is Located within Piñon Hills/Alameda Ranchettes Subdivision off Calle Francisca Within Section 25, Township 16 North, Range 8 East (Commission District 2)**

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CHAIRMAN DURAN: I would like to make a motion that we table this issue because it's obvious that nothing is going to be approved out there until the community has developed some plan and a solution to the problems out there.

COMMISSIONER CAMPOS: Mr. Chairman.

CHAIRMAN DURAN: Commissioner.

COMMISSIONER CAMPOS: I don't have a problem with that. I just want to hear from the applicant and see if they consent to this tabling. That's the only request. I'd like to have them on the record consenting to the tabling, or having no objection to the tabling.

CHAIRMAN DURAN: Whether it's either a table or denial.

COMMISSIONER CAMPOS: Well, yes. Let them decide.

CHAIRMAN DURAN: Well, let's see if there's a second to that table. Is there a second to that request to table?

COMMISSIONER TRUJILLO: I'll second that.

CHAIRMAN DURAN: Okay, for discussion—

COMMISSIONER SULLIVAN: Mr. Chairman.

CHAIRMAN DURAN: Commissioner Sullivan.

COMMISSIONER SULLIVAN: This is a public hearing so I think we will have to allow the public to speak on the case.

CHAIRMAN DURAN: Not if it's tabled. Let's get clarification. If I let the applicant speak, what does that do to my table?

MR. KOPELMAN: Mr. Chairman, our rules aren't explicit on that. I would say that you can ask for quick comments and still move forward.

CHAIRMAN DURAN: Mr. Trujillo, before you speak, what I want to know is real quickly, would you agree to a table or not? So let the Clerk swear you in. Would you agree to a table.

[Duly sworn, Jeromuir Trujillo testified as follows:]

JEROMUIR TRUJILLO: We wouldn't like to table to be honest with you.

CHAIRMAN DURAN: Okay, then I withdraw my motion to table. You realize that you're probably going to get denied.

MR. TRUJILLO: The WSFA, which is the West Santa Fe Association, had plenty of time to have some kind of a vote amongst all the neighbors. In 1964—

CHAIRMAN DURAN: Sir, if you don't want to be tabled to be given time to discuss this with your neighbors then I'll remove the table and you run the risk of getting denial.

MR. TRUJILLO: I'm willing to do that.

CHAIRMAN DURAN: Okay, then I'll withdraw my motion to table. Excuse me, Mr. Trujillo. I need to have staff report first and then you can speak.

MR. ARCHULETA: The applicants are requesting plat approval to allow a family transfer land division of 4.95 acres into three lots. The property is located at 49 Calle Francisca within the Basin Hydrologic Zone. Article III, Section 10 of the Land Development

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Code stated the minimum lot size in this area is ten acres. Lot size may be reduced to 2.5 acres with water restrictions and family transfers are allowed to be divided to 1.25 acres. There is currently one residence served by an onsite well which will serve all three lots. The applicants have owned the property since 1976. The applicants are requesting to divide the property into two additional lots for the purpose of transferring title to their two children. The property is located within a subdivision that was approved by the BCC in 1964. This subdivision is legal non-conforming as it does not meet current subdivision standards for fire protection, roads, water and liquid waste. The application was reviewed for the following: access, water supply, liquid waste, solid waste, terrain management, fire protection, archeological review and environmental review.

All existing infrastructure such as fire protection and roads within the Piñon Hills/Alameda Ranchettes have been constructed in accordance with the subdivision standards that were in place in 1964 at the time of approval. Infrastructures in 1964 were not as comprehensive as today's standards, thus the Piñon Hills/Alameda Ranchettes Subdivision is legal non-conforming. It is staff's position that the redivision of lots within the Piñon Hills/Alameda Ranchettes Subdivision will diminish the performance of existing infrastructure by potentially doubling the density and therefore intensifying the non-conforming status. Prior to allowing the creation of additional lots within Piñon Hills/Alameda Ranchettes, the subdivision should be upgraded to current subdivision standards. With respect to the size and number of lots, an upgrade to Piñon Hills/Alameda Ranchettes would require among other things a fire protection plan and existing roads to be substantially improved. Therefore staff recommends denial of this request as proposed.

On May 14, 2002, the BCC directed staff to evaluate the Piñon Hills/Alameda Ranchettes Subdivision for required improvements and associated costs for the purpose of designating an improvement district. The decision of the EZC on June 13, 2002 was to grant approval subject to the following conditions. May I enter the conditions into record?

[The conditions are as follows:]

1. The private easement that extends of Calle Carla must be developed meeting SFC Common Roadway standards prior to recording the plat of survey or the applicant must provide Santa Fe County with a certified engineer's cost estimate to develop the access. A financial guarantee acceptable to the County in the amount of the approved cost estimate must be included.
2. The applicant must record water restrictive covenants simultaneously with the plat of survey imposing .25 acre-feet per year per tract. Water meters for each subject parcel must be installed to monitor water use. Annual water consumption reports must be submitted to the County Hydrologist by June 30th of each year.
3. The following notes shall be placed on the plat:
 - A. Water supply on these lots is governed by the Extraterritorial Zoning Ordinance, Section 10.1.A:
 - a. Only one well shall be permitted to serve these lots. This well shall be

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- subject to a shared well agreement.
- b. Drilling of any new domestic well is prohibited if regional water becomes available within 200 feet of these lots.
 - c. If regional water becomes available, domestic well use shall cease within 90 days and these lots shall connect to the regional water system.
 - d. All wells drilled on these lots post January 1, 2000 must be constructed per EZO standards listed in Section 10.A.1.3. Proof of proper construction must be submitted at the time of development permit request or upon demand by the County Land Use Administrator.
4. A shared well agreement must be approved by the County and executed prior to plat recordation. The plat must indicate shared well easements.
 5. A ten-foot wide utility easement along all property lines must be dedicated and shown on the plat for future potential water distribution lines.
 6. The applicant must contact Rural Addressing for assignment of addresses for the proposed tracts. Addresses must be added to plat.
 7. EZO Regulations require a solid waste fee be assessed for all newly created parcels. The fee for this subdivision is \$172.04.
 8. The portion of the road that extends through the platted area must be dedicated for public use.
 9. Easements for all natural drainage ways must be provided.
 10. Submit a school impact report per County Code.
 11. The applicant must obtain approval from NMED for the proposed liquid waste disposal plan.
 12. The redline comments of the plat of survey and slope analysis by the County Subdivision Engineer and the plat checklist issues will need to be addressed prior to recording the plat. These plans and checklist may be picked up from Vicente Archuleta, Development Review Specialist, with Santa Fe County and resubmitted with the mylar. The redlines must be returned with the final mylar.

COMMISSIONER TRUJILLO: I have a question for staff.

CHAIRMAN DURAN: Commissioner Trujillo.

COMMISSIONER TRUJILLO: How many communities out there, Vicente, satisfy the standards that you're implementing or trying to have this subdivision comply with. We've got traditional communities that don't have liquid waste, solid waste, potable water, they have dirt roads. My concern is are we going to give impetus to a countywide moratorium now on development where no family transfers can take place, no lot splits can take place. Nothing can take place if they don't satisfy the standard? If we're going to do that then I don't see the reason why we're sitting up here. Our responsibility is to make sure that communities have the appropriate infrastructure, that communities and families have the appropriate quality of life without making decisions in a vacuum or trying to mandate things that are in our minds and only in our minds without giving any consideration to affordable housing, and the community is

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crying for affordable housing.

The community is crying for liquid waste systems, for water systems. That's our responsibility. Not at the expense or castigating the community. The question that I have is how many communities satisfy the standards that you're talking about today?

MR. ABEYTA: Mr. Chairman, Commissioner Trujillo, I would say that there probably are not a lot of communities that satisfy these standards. The problem or the issue with this case is that the Code specifically addresses subdividing land in subdivision and it's not as strict as if you were subdividing land that is not in a subdivision. So because these applicants are within a subdivision, they're being scrutinized because the Code specifically addresses it. The Code doesn't specifically address areas outside of a subdivision the way it does this one. In these cases it may be unfortunate but that's the way the Code is written.

COMMISSIONER TRUJILLO: And I don't want to debate this to death but all I have to say is that even though the County doesn't have any jurisdiction or authority to enforce or monitor the enforcement of covenants. We have the Code and the minimum size for a family transfer in this area is 1.25 acres. These families satisfy that standard. It's the community that's saying that ostensibly the roads are bad. Ostensibly we're mining the water table. Ostensibly we're affecting the quality of life in a disparate way. But that's our responsibility, not at the expense of our community. We should look at those things at this level without castigating or punishing the community.

Like I said, I don't want to debate this but it just flabbergasts me that we're taking away affordable housing.

CHAIRMAN DURAN: Roman, what was the amount that it was going to cost to upgrade that road? Wasn't it the main issue?

MR. ABEYTA: The main issue is the road and then fire protection. There's no fire protection out there as far as hydrants.

CHAIRMAN DURAN: How far is the nearest fire—how far is Hank?

HANK BLACKWELL (Fire Marshal): Mr. Chairman, right now, in terms of hydrants, the closest fire station is the Agua Fria fire station. That's an unstaffed station. That's a volunteer station, so it's unstaffed. The closest hydrants are basically in that area as well. The issue we have is we try to work as much as we can to provide options to all these applicants to at least satisfy the minimum standards of the Code. One of our concerns though is just the size of the subdivision and the impact it would have in terms of fire load, emergency services, as a subdivision.

CHAIRMAN DURAN: You're never going to get this subdivision to meet the fire code. You mean fire hydrants? You want fire hydrants within the subdivision?

MR. BLACKWELL: This subdivision was approved, Mr. Chairman, many years ago. Right. But what we have to look at is adequate fire protection, adequate access, not only for fire and life safety out of the code, but just also for the safety of our responding personnel. That's a concern.

[audio difficulties]

CHAIRMAN DURAN: ...with no regard to where the property was even

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located. It was right on the road. Right immediately as you get into the subdivision but because of pressure from the West Santa Fe Association and the fact that the road doesn't meet requirements and the fact that you are, your department is striving to make every subdivision in this county safe, we're going to lose that option that people have out there for family transfers. There has to be something done about it. There has to be some common ground that we can find and I think that drawing a hard line in the sand here from your department or even from the Land Use Department and even from the County Commission isn't the best thing for our community, especially when you consider the reasons for creating this family transfer process.

MR. BLACKWELL: Mr. Chairman, I'm not in disagreement with anything that you just stated. Part of staff responsibility is actually to look at the Code, come to you with the Code and say this is what the Code, which was approved by this body maybe some time ago, this is in the Code. And as staff, we have to provide that information to you so that you can make good decisions based on information. We strive, and I think I can venture to speak for Land Use as well, we strive to be public servants as much as we strive to be Code enforcement officials. Consequently, what we try to do is provide options, work with individuals and communities and we're always willing to do that.

I think that's part of our charge. It is in the Fire Department and I think any of us that are in staff. We come to a predicament where we have to say what's in the Code that's been approved and I think part of that is working with you, working with communities like this to try to find out is there a better way to do this. Is there a change in the Code? Something that could be recommended so that we have more flexibility? We're willing to do that because we all live here too. And most of these people are our neighbors.

CHAIRMAN DURAN: You've been to Cañada de los Alamos, right?

MR. BLACKWELL: Yes, sir.

CHAIRMAN DURAN: And you've been down this Camino Carla, correct?

MR. BLACKWELL: Yes, sir.

CHAIRMAN DURAN: Which road do you think is safer? Well, let me answer that for you. The road at Camino Carla is a lot safer than the bottleneck road that we have at Cañada de los Alamos. And the traditional community at Cañada de los Alamos is riddled with older families that are trying to establish homeownership for their families. So if you try to apply what you are applying and what the County's trying to apply in the Piñon Hills Subdivision in the Cañada de los Alamos, we might as well just do away with family transfers all together in every—unless you're on some 50-foot highway with fire hydrants everywhere.

MR. BLACKWELL: Mr. Chairman, I would disagree with that statement, respectfully, in that our job is to look at providing options, to look at where we can actually have flexibility to give you all the information so that you all can make educated choices and decisions. That's your charge. Our job is to support those, give you information that supports your decision. And also to give you the information to make those decisions. And I believe we do that. In some of these traditional communities, in some of these legal non-conforming communities, our job is to strike a balance and from where I sit as Fire Marshal, my job is to look at the greatest good for the greatest number in terms of life safety, not in terms of family

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transfers.

CHAIRMAN DURAN: But if you're going to require that this subdivision has hydrants—

MR. BLACKWELL: We're not requiring—

CHAIRMAN DURAN: You might as well just tell us no more divisions out there, because they'll never have hydrants. I don't want to debate this with you anymore. We're going to move on. Any more questions of Vicente?

COMMISSIONER SULLIVAN: Mr. Chairman.

CHAIRMAN DURAN: Commissioner Sullivan.

COMMISSIONER SULLIVAN: I just wanted to add a few things that I think are important about what's going on here. The staff has made recommendations based on roads for emergency access and one issue is not just the quality of the roads in that subdivision but the fact that there's only a single point of access and egress and that single point of access is over an arroyo. It doesn't have a bridge or an adequate culvert to it. So that's an extremely important issue. The eventual doubling of the size of the subdivision is mentioned by the staff. I think that's something that is important.

I don't know if it's accurate or not but one estimate in the materials that we have in our packet is that ¾ of the family transfers that have been approved in that subdivision, the families are no longer living on those lots. So I don't know, we have no way of controlling that of course but it seems like the general pattern has been to divide the lots under the family transfer ordinance and then to sell it and make a profit. And I think as long as the Commission continues to approve the lot splits in that subdivision there won't be any incentive for the community to get together and develop some kind of improvement mechanism for the area because the lot splits will be automatic.

I think that by saying that enough is enough and we need to go with staff's evaluation and provide some incentive for the community to get together and develop a mechanism. It may not get a fire hydrant every 500 feet but it may provide the level of safety that the Fire Marshal's office and the rest of the staff feels is necessary out there. I think if we continue to approve these lots splits we don't encourage that process.

COMMISSIONER TRUJILLO: Mr. Chairman, I think we need to understand that staff's evaluation is based solely and completely on the Code and that is an existential document that does not have any compassion for the human perspective. Our responsibility is to read between the lines and look for that compassion and understand human conditions and make decisions like that. Any documentation, any Code if you interpret it verbatim is existential and has a disparate impact on the human condition.

COMMISSIONER VARELA: Mr. Chairman.

CHAIRMAN DURAN: Commissioner.

COMMISSIONER VARELA: I think a half-way point, Commissioner Trujillo, would be if we had a mechanism in place to actually do something so these people have an alternate access road in and out of that area. And what minimal things we can do to make it safer, because if we're going to continue to try and get these family transfers, which I have no

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for approval.

Times are hard. I understand that. Affordable housing is a consideration. I live in the City of Santa Fe. I grew up in the Piñon Hills Subdivision. I know the roads are far better than a lot of other County roads. I've responded on these roads many times. Access to these roads, most of the houses within the community are accessible. I just—my dad bought that property in 1976 in hopes to securing the prosperity for his sons and it makes no sense to me that you would deny something like that. It really doesn't. I understand and I know the West Side Association. If we were to build another road over there they may complain that Oh, the MRC's there. They're going to have too much access. Transient traffic is going to go there. That would be an issue with them.

That's something we need to consider. Ingress in and out of there I don't think would be a problem at all providing an emergency situation. That's my opinion. Thank you for your time, Commissioners. That's really all I have to say.

CHAIRMAN DURAN: Thank you. Please, next speaker. State your name and address for the record.

[Duly sworn, Linda Trujillo testified as follows:]

LINDA TRUJILLO: I'm Linda Trujillo. I live on 49 Calle Francisca. I'm the mother of David and wife of Manual. I am also a WSFA member. The only reason we joined the WSFA is that we wanted to clean up the neighborhood, make sure there wasn't any burglars. But these people had, since 1994 when the first time covenants came up, they had a time in 1994 to call for a vote of these people on what they wanted to do, if they wanted family splits, 1.5 acre. I think that's plenty of time for them to get a count. They did not do that. And now they're saying, Well, we've got to do it. Yes. It's only because I told them you need to get a count.

They dragged their feet. They don't want anything but what they want. They've complained about the airport. They tried to tell the Highway Department how to build the road. They told Randy Travis about his bell tower that we don't even see or hear. I know they're probably very useful in a way but they can really be a pain in the you know what because they complain about—if you don't agree with them, they're against you. There have been some transfers, some family transfers that they went along with. They didn't complain. They didn't say a word because these people were at one on their board.

All we're asking is to play fair. I believe even Mr. Sedillo is a member. I may be wrong. His parents are. But please be considerate. These people, they want their way and just think about that we really need a family transfer to give our kids part of Santa Fe. We don't want them in Albuquerque or Rio Rancho. We're getting older and as older people we're going to need our kids around to take care of us. If you guys know how expensive it is to take care of an elderly parent, you better start looking into it now because it's really, really expensive. Thank you.

[Previously sworn, Ben Martinez testified as follows:]

BEN MARTINEZ: My name is Ben Martinez. I'm with the Santa Fe Community Housing Trust, a non-profit that's helped first time families achieve

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homeownership. I am here on a completely different issue but during the break I met with the two families. All applicants meet affordability standards. The only thing I can tell you is I have given—sorry to make this like a promo—I've given them applications and I've talked to the two families. If they meet affordability standards, and I have looked at what I can. Again, I'm speaking just from conjecture, but for the next 30 years, if they sign on with us and do a second mortgage to help these families get their homes, for 30 years there will no change in this subdivision, because we can only work with individuals to achieve homeownership. They cannot use it to subdivide. They cannot use it to make profits.

By the way, also we have an applicant who has a disability. They are therefore eligible for Home New Mexico products which allows me to qualify them at a much higher price and actually give them more subsidies. I have talked to both applicants. I'm sorry. This is just like something in the middle of the road but you know how passionate I am about this. You'll be hearing from me soon again. I can just assure you that if these are family transfers and they meet the affordability standards, for 30 years there's going to be no change in this property, especially if I'm around.

CHAIRMAN DURAN: Can you do this in Rio Rancho? Maybe you can help them find something in Rio Rancho.

MR. MARTINEZ: I never work in Rio Rancho.

CHAIRMAN DURAN: That was a joke, Ben.

MR. MARTINEZ: Commissioner, it's just that several people from here have had to go to Rio Rancho.

CHAIRMAN DURAN: I know. That's my point exactly. Anyone else out there like to address the Commission concerning this issue?

COMMISSIONER TRUJILLO: Mr. Chairman.

CHAIRMAN DURAN: Commissioner Trujillo.

COMMISSIONER TRUJILLO: Move for approval of Trujillo case, number 10, CDRC Case DL 02-3490 with conditions.

CHAIRMAN DURAN: I'll second that. Mr. Trujillo, would you agree to be restricted to stick-built homes? And would you agree to a five-year hold on the lots? And would you agree to participate with the community when they develop an appropriate and equitable solution to make sure that the roads are safe.

[Speaking from the audience, Mr. Trujillo agreed to all conditions.]

CHAIRMAN DURAN: Any other discussion?

COMMISSIONER CAMPOS: Mr. Chairman.

CHAIRMAN DURAN: Commissioner.

COMMISSIONER CAMPOS: I just want to simply state that Piñon Hills is a problem that we've been facing for a couple of years now. Staff has been very strong about the need to make this community better as far as infrastructure and safety. I think true compassion will occur if we make this into a community that really works for your family in the long run, not in the next two years but in the long run, if you have a good community with infrastructure that's safe, that has some water, perhaps even wastewater. If you deal with these issues today

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you'll be better off and I think this is what the Commission is saying about Piñon Hills. You have to participate in this community effort to make it a better community so it doesn't turn out to be a really bad situation for your children. That's all we're saying. This is not mean-spirited. It is basically let's get together as a community, and the County's willing to help, and let's make this situation better so that in ten years your kids are in a really good place. That's all we're saying.

CHAIRMAN DURAN: Commissioner, and I don't believe that it's mean-spirited but I do believe that it's short-sighted. The interest rates right now are six percent. If you don't approve it now, their ability to borrow and build right now is restricted. So a 1500 square foot house that's affordable to them and available to them now, when the rates go to eight and nine percent, it's going to turn into 1000 square foot house. I think with the conditions that we've imposed on them, that they agree to participate with the community's concerns relative to the problems that they have, the road safety and all of that, I don't see—and they've agreed to that and they've agreed not to sell it for five years, which really falls within the intent of the family transfer, I think it's short-sighted for you not to see the advantages of allowing them to have this family transfer today. Especially since they have bought into and agreed to deal with the community and their concerns.

COMMISSIONER TRUJILLO: And I think when you say that there's compassion in what the Commission is saying I want to disagree with that because I think that's insidious compassion because we're holding families in the community hostages and not affording them the inalienable right that they have to do with their land and work with the community to improve the quality of life.

COMMISSIONER VARELA: Mr. Chairman.

CHAIRMAN DURAN: Commissioner.

COMMISSIONER VARELA: I just wanted to say that I think a lot of times true compassion is not the most expedient solution, is not looking for the most expedient solution. Like I said earlier, if the Commission wants to go forward and we can get this provisional order method so we can start getting infrastructure for those folks out there, that's for the better. If we can get something in place, I can see no reason to deny these transfers.

COMMISSIONER TRUJILLO: If we're talking about infrastructure we need to start at the northern end of the county and implement a program that permeates the whole county to the southern end that is going to take hundreds of years. In the meantime, families and individuals are going to suffer.

COMMISSIONER VARELA: Mr. Chairman, I understand what Commissioner Trujillo is saying and I don't think we're doing the whole county. We know that this subdivision was created back in 1964 and it's legal non-conforming and the only way to make these people live in a safe neighborhood is to be able to actually doing something for them at this point. And they're the ones that are going to be assessed the price of the upgrade for their safety. So I don't see a problem with that.

The motion to approve the Trujillo family transfer failed by [2-3] voice vote with

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Chairman Duran and Commissioner Trujillo casting the affirmative votes.

CHAIRMAN DURAN: You've been denied. I would like to ask staff, and Roman, you know there is a large tract of land out there that is going to be developed. The Hager property. The archdiocese owns another large tract of land and both of these adjoin Piñon Hills. My understanding is that at some point in the near future they're probably going to come forward for some kind of master plan approval. It would be I think—I think we need to let them know of the concerns of the Piñon Hills Subdivision and the need for additional access so that we create a loop within the subdivision and in fact within the subdivision that they might be bringing forward.

I don't know when and if that's going to happen. I just know that two large tracts have sold out there and the archdiocese still owns a piece of the Hager and there's some planning, some discussion taking place.

So I guess that would mean that if we come up with some solutions to the problems out there that those people that came forward for family transfers would have the ability to come forward again. Is that—

MR. ABEYTA: They could reapply.

CHAIRMAN DURAN: If we deal with the problem. If we come up with a solution to the problem. Okay.

COMMISSIONER TRUJILLO: Don't hold your breath.

CHAIRMAN DURAN: We'll try and put some pressure on staff to work on it right away.

COMMISSIONER CAMPOS: Mr. Chairman. Question for Mr. Abeyta. Is there a time, a waiting period if you have an application for a zoning change or a family transfer do you have to wait so many months before coming back?

MR. ABEYTA: Mr. Chairman, Commissioner Campos, right now we do not have anything that prohibits you from coming back.

COMMISSIONER CAMPOS: So basically you can come back with exactly the same application any time?

MR. ABEYTA: Yes, under our current rules of order.

COMMISSIONER CAMPOS: That's the rule. You can come back with the same application at any time.

XI. Public Hearings

A. Land Use Department

1. **Ordinance No. 2002-__ . An Ordinance Amending Ordinance No. 2000-7, of the Santa Fe County Land Development Code (Ordinance No. 1996-10) to Adjust the La Cienega and La Cieneguilla Traditional Historic Community Boundary to Make it Coincidental with Boundaries Adopted for the La Cienega and**

La Cieneguilla Community Planning Area (First Public Hearing)

ROBERT GRIEGO (Planner): Good evening, Mr. Chairman, Commissioners. I'd like to give a background summary for the record. [Exhibit 3] The La Cienega and La Cieneguilla traditional historic community was established by the Board of County Commissioners via Ordinance 2000-7. The THC designation was granted after community members collected petition signatures from registered voters in the area that affirmed their desire to be included in the traditional historic community. In brief, the THC designation allows the community the opportunity to oppose any annexation action by the City of Santa Fe unless a majority of community members agree to the annexation via a vote.

The final boundaries adopted for the La Cienega/La Cieneguilla planning area through Resolution 2001-117 and Ordinance 2002-9 vary slightly from the boundaries adopted for the La Cienega and La Cieneguilla traditional historic community. Staff and community members who have worked on the plan have identified that it is important to align these two boundaries in order to have a unified planning area and traditional historic community designation. This would eliminate confusion between the two boundaries and provide for a unified jurisdiction for the La Cienega and La Cieneguilla planning area.

The proposed realignment will include 1,745 additional acres to the traditional historic community area. A portion of one privately owned parcel will be removed and a portion of one parcel will be added. The remaining traditional areas included are the County's La Cieneguilla open space property, approximately 30 acres, and federal lands totally approximately 1700 acres—2023 acres added and 343 acres subtracted, which are controlled by the Bureau of Land Management and US Forest Service. All affected property owners have been notified of the proposed boundaries realignment.

On August 8, 2002, the La Cienega and La Cieneguilla Development Review Committee recommended approval of the proposed ordinance amending 2000-7 to adjust the La Cienega and La Cieneguilla traditional historic community to make it coincidental with boundaries adopted for the La Cienega and La Cieneguilla community planning area.

CHAIRMAN DURAN: Robert, I'm going to stop you there, since this is the first of two required public hearings and no action is requested. With the consent of the Commission I'd like to move into the public hearing process if that's okay. Okay? Thank you. So is there anyone out there in the audience that would like to address the Commission concerning this issue, this ordinance amendment? Okay, if not, this is the first of the public hearings. When is the second one? November 12th? Okay. Thank you.

COMMISSIONER CAMPOS: Mr. Chairman.

CHAIRMAN DURAN: Commissioner.

COMMISSIONER CAMPOS: Question.

CHAIRMAN DURAN: For Robert?

COMMISSIONER CAMPOS: Yes, Mr. Griego. You're talking about 1745 additional acres?

MR. GRIEGO: Mr. Chairman, Commissioner Campos, that's correct.

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COMMISSIONER CAMPOS: So this is a pretty substantial expansion it seems. Have you had public comment in the areas as to whether folks are for this or against it?

MR. GRIEGO: Mr. Chairman, Commissioner Campos, most of this land is publicly owned land, both the BLM and the Forest Service. I've been in contact with the Forest Service which owns the majority of the area. They have not indicated any opposition in writing or any other way. The community planning process is where the boundaries, the recommendations to change the boundaries were and also as far as the boundaries make more sense from a planning standpoint of they go along the road rather than along the power lines. So it makes more of a planning jurisdiction. And that's why the planning area boundary was created that way.

COMMISSIONER CAMPOS: So there's no significant opposition to it that you're aware of?

MR. GRIEGO: I'm not aware of any opposition to this.

COMMISSIONER CAMPOS: Is there any detriment to the County by expanding this traditional historic community?

MR. GRIEGO: The legal opinion is no.

COMMISSIONER CAMPOS: Does it restrict our zoning authority, Mr. Kopelman?

MR. KOPELMAN: Mr. Chairman, Commissioner Campos, I don't believe that it does, no.

COMMISSIONER CAMPOS: Thank you.

CHAIRMAN DURAN: Okay. Thank you.

MR. GRIEGO: Thank you, Commissioners, Mr. Chairman.

CHAIRMAN DURAN: I was wondering if the Commission might want to consider tabling the next two ordinances so we can get into the land use cases or do you think we'll be able to get through the next two relatively—

COMMISSIONER SULLIVAN: I think this is the second hearing and we can do it pretty quickly.

CHAIRMAN DURAN: Okay, good. We'll stay with that.

XI. A. 2. Ordinance No. 2002-___. An Ordinance Addressing Water Conservation for all Sources and Uses of Water within Santa Fe County (Second Public Hearing)

CHAIRMAN DURAN: Katherine, why don't you give us a brief breakdown on it and then we'll go to the public hearing?

MS. YUHAS: Okay. Mr. Chairman, Commissioners, since the last hearing, based on input from both the public and from the Commission, several changes have been made to the ordinance. I'll just run through those quickly for you since we've already presented the whole ordinance. The section addressing drought emergency provisions has been removed.

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Santa Fe County is in need of a drought plan but it needs to be comprehensive. With your permission I'd like to remove the drought plan from this ordinance and work on a separate one this fall that I would bring back to you early next year so that we can have it in place if it's needed in the spring and summer.

The second change is that the restriction on hours of watering has been changed from 10 to 6 to 11 to 7. In addition, the restriction applies from May through September instead of May through October. That change was made because after consultation with the State Engineer and the State Horticulturist they assured me that far more evaporation takes place in the evening after the grounds have heated up than does in the late morning when the ground is still getting warm. So that makes sense.

The provision allowing landscaping companies to hand water during the restriction hours has been changed to allow landscaping personnel to water during the restriction hours. And this is done because large facilities employ their own personnel; they don't have a separate landscaping company that comes in and does that. And the intent was to allow people who work in landscaping to continue to make a living.

The restriction that stated that no sod or seed mix could contain more than 25 percent Kentucky blue grass has been changed to read planting sod or seed that contains Kentucky blue grass is not permitted. This change is made because Kentucky blue grass in many circumstances chokes out other grass types so that even when you plant a mixture of grasses you end up with only Kentucky blue grass actually growing.

Requirements were added that all timed irrigation systems must be equipped with a rain sensor so that they will not operate when it is raining or when it has recently rained. The cost for one of those sensors is \$35 to \$40 and when I looked at them I was able to figure out how to put one, retrofit my own water system very easily. It would have taken about five minutes.

Small changes were made throughout the document to make things more clear and finally the fines were raised. Several members of the public and staff pointed out that they felt the fines were too low to encourage compliance with the ordinance. Also, the first time a resident violates the ordinance they're given a written warning about it. So the fines have been raised. It's \$50 for the first offense, \$100 for the second, \$200 for the third and \$400 for the fourth and all subsequent offenses. Water meter testing is required every ten years. Commissioner Sullivan requested that we do that instead of the requirement of replacement, so that now that portion of the ordinance reads that you will test your meter every ten years and if necessary, you will replace it.

All of those changes are in your packet. Earlier this evening I was approached that there was concern that agriculture is specifically exempted from the hours of watering restriction, but it is not clear when we say agriculture, we mean both farm land and ranch land. So with your permission I would change that portion of that exemption to read that all lands designated by the County Assessor as farm land or ranch land is exempt from the hours of watering restriction. Thank you, that's everything.

CHAIRMAN DURAN: When you talk about agriculture, is that irrigible land—did I say that right?

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MS. YUHAS: I think you said it right. I'm not sure if that would be what the designation is. I think it would be anything that is designated as farmland or ranchland.

CHAIRMAN DURAN: Farm? Is that agricultural land?

MS. YUHAS: Yes. If that way of designating isn't comprehensive enough, I'd be happy to put in whatever would better.

CHAIRMAN DURAN: Is that okay with you?

COMMISSIONER SULLIVAN: That's fine.

COMMISSIONER TRUJILLO: Yes, because there might be both traditional water rights and irrigation through sprinklers on agricultural land or farm land. You can have a dual source of water for that land.

MS. YUHAS: Very good.

COMMISSIONER TRUJILLO: This ordinance applies both within and without the Santa Fe County service area?

MS. YUHAS: That is correct. The intent is to have something that applies throughout the entire county to everyone.

COMMISSIONER TRUJILLO: And we don't have anything at this point that will monitor individual wells? We have thousands and thousands of individual wells—we can't mandate meters at this point? Or can we? We don't have the workforce to enforce the conditions of the ordinance, and things like that.

MS. YUHAS: Mr. Chairman, Commissioner Trujillo, right now we can enforce the requirement that people who have been told they need to meter their well put a meter on the well. But you are correct that personnel, in order to go and check that that's been done, and track who was supposed to do it—we need somebody, because that's going to be most of their job. Somewhere along the road, we're going to need to budget for that, I think.

COMMISSIONER TRUJILLO: And we need to understand that there are idiosyncrasies across the County regarding use and water use, the Aamodt case, the pre-moratorium, after the moratorium, all that sort of stuff. I see this as quite a project, quite a task.

MS. YUHAS: Thank you, so do I.

CHAIRMAN DURAN: Any other questions of Staff?

COMMISSIONER VARELA: Mr. Chairman.

CHAIRMAN DURAN: Commissioner.

COMMISSIONER VARELA: The proposed change to language to accept agricultural users and ranch—where were you proposing to place that in the document?

MS. YUHAS: That would be, if you look under "Outdoor Conservation," under number 1, A and B are the exemptions to the hours of watering. On A, instead of just saying "Plants being irrigated for retail or wholesale" instead it would say, in front of that, "All land designated by the County Assessor as farmland or ranchland and all plants being irrigated for retail or wholesale."

COMMISSIONER VARELA: Okay. I thought a more appropriate place for it would be in the actual introduction of the ordinance, instead of in the back. Maybe after the final sentence that says "This ordinance applies to all water users and to all sources and uses of water within Santa Fe County," we could add on to that, maybe, and say "Except agricultural users who own or lease water rights," etc., whatever the proper wording. I just thought a better place for it would actually be in the introduction, rather than the text.

MS. YUHAS: Mr. Chairman, Commissioner Varela Lopez, I see your point. The intent is to exempt agriculture from the hours of watering restriction, not from the part of the ordinance that addresses water waste and fugitive water. So agriculture still would be subject to those two requirements. And water waste and fugitive water are sort of gross waste of water. Watering nothing, allowing water to run off of your property that's running down the road, that's fugitive water. Those are the things that would apply to agriculture. One of the comments we received at the last public hearing was there didn't seem to be anything in here that addressed agriculture. I did want to make clear that those two requirements would apply.

COMMISSIONER VARELA: Another question, Mr. Chairman, of Katherine. I agree that we need to all conserve water and be more vigilant in the way that we use water. Is there any basic benchmark that you would hope that we would get to? Or whatever, as far as what we're saving over what we're using now compared to what you would hope that we would conserve?

MS. YUHAS: Mr. Chairman, Commissioner, part of our problem right now, is we don't have a good handle on how much people use. Part of this program, as you can see, is the well metering program, and trying to get a better fix on what people are using. Right now, on the County water system, we know that people use around a quarter acre-foot, a little bit less than that. I think if people out in the county can maintain that, and actually use that much when they're restricted to a quarter acre foot, I think that's an excellent amount of water saving, for a large lot out in the county.

COMMISSIONER VARELA: You're talking about a quarter acre-foot per year per family, right?

MS. YUHAS: That's correct.

COMMISSIONER VARELA: The reason I asked the question is because I was reading a study not too long ago that had to do with, I guess it was that sole-source aquifer deal that came up last year. It states in their conclusions that city folks basically use 125 gallons a day, per person.

MS. YUHAS: I think that's about right.

COMMISSIONER VARELA: And the reason I ask is because I found something very interesting in there. It says that people in the County, those of us who have wells, etc., and some that are on the County utility system, use an average of 92 gallons a day.

MS. YUHAS: I think it would be hard for anybody to know what that

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number really is. If we have a number, it's based on not very many people being monitored.

COMMISSIONER VARELA: I don't know how they did it, but it was a published study, etc., and it said, I think it was called La Vista Subdivision, or something, which I believe is in the County someplace.

MS. YUHAS: Valle Vista?

COMMISSIONER VARELA: No, La Vista, unless it's incorrect.

Anyway, it says that they use a high of 220 gallons per day, while the folks down in Madrid use 42 gallons a day. It says the average per capita consumption outside of the City of Santa Fe, is about 96.1 gallons per day. Then it also goes on to say that this is generally consistent with water use estimates in New Mexico, which are basically, by the USGS, 80 gallons per day. That's why I'm asking. How much, if this study is correct, how much more can we possibly conserve? Because I think there's a misconception out there that people that have wells or are in a small system, believe that they can waste their water. I think it's exactly the opposite. People that get their water out of their tap in the city have no appreciation that tomorrow your well might go dry, and therefore you conserve, it's an automatic thing. So I'm just wondering what benchmark could we possibly get down to if these figures from the study are correct.

MS. YUHAS: Mr. Chairman, Commissioner, I'm not sure what we could get down to. I think any amount of water saving that we can do in the County is obviously going to be a benefit to the people in the long run, though.

CHAIRMAN DURAN: Any other questions of Staff? What's the pleasure of the Board? This is a public hearing. Is there anyone out there that would like to address the Commission concerning this ordinance? Please step forward and state your name for the record. Let the recorder swear you in. Okay, just state your name and address for the record, please.

MELISSA MCDONALD: Mr. Chairman and Commissioners, I'm Melissa McDonald, I live at 1005 Camino Raibe. I'm here tonight to thank you for putting forward this water conservation ordinance. I think it's a really good step in the right direction, and in many ways is much more forward-thinking than what the City's doing. So I commend you and I thank you.

I also am here—there's been a lot of talk about codes tonight, and I wanted to make sure that you all knew about some upcoming legislation that's going to be very beneficial, I think, to the County. That's on graywater use. There is some legislation being written right now that will go up this session to allow for people to use up to 400 gallons of graywater without a permit, which is a very forward-thinking legislation. I have some information here from Arizona, who passed this similar legislation in January of 2001.

I think this will be a great benefit to county residents. Primarily, they're looking at, right now, people who are not on municipal systems for this legislation. So that is going to be a lot of folks in the county that could take advantage of this. One of the main deterrents for people to use graywater is that there are unrealistic restrictions currently

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being placed upon them. I just wanted to make sure that you were aware of this proposal that's coming forward to the legislature, and encourage you to support it so that people can use graywater more efficiently and easily, and we're actually encouraging them to do that. So I have these for you folks, and I'll be glad to give it to your staff too. This is the Arizona code, and the informational packets that they put out.

I also wanted to bring up that the biggest argument for not using graywater is health and safety, which the Environment Department often states as a concern. So I wanted to let you know that Arizona commissioned a study that studied a lot of graywater use in their state, and has come out with a new report that says that graywater use is safe, as long you're removing the kitchen sink, and a few other minor changes. So it's very important that people are aware that a lot of the thought on this has shifted. A lot of those previous studies that the Environment Department states is based on studies done in Arizona, so it's very interesting that this new study, which came out and resulted in the January 2001 change in code for Arizona, this was the study that helped do it. I didn't Xerox this for you guys because it's very long, but I can give you the website, and maybe your staff can look into it. That's www.ag.arizona.edu/azwater. The name of the study is "Residential Gray Use Study."

So, as I said, the legislation is being written right now. I believe Gordon Meeks is the writer over at the Roundhouse. If you have questions, you might give him a call. But I really strongly want to encourage the County to consider this. I think it would be a huge benefit to folks, and it really eliminates the financial burden that the Environment Department is placing on people right now, which keeps them from doing graywater safely and legally. Thank you.

CHAIRMAN DURAN: Thank you. Next speaker, please.

JIM CORBIN: Jim Corbin, I'm the executive director of the Estancia Basin Water Planning Committee. I guess I don't need to be sworn. They had a letter that I'd like to read it into the record and then and if you have any questions, I'd be happy to answer them.

"Dear Mr. Duran: The Estancia Basin Water Planning Committee would like to congratulate you on Santa Fe County's efforts to draft a water conservation ordinance. An ordinance stressing water conservation has been required for some time. Conservation is a major of the Estancia Basin Regional Water Plan, which was accepted by the New Mexico Interstate Stream Commission in 1999. Since the southern part of Santa Fe County falls in the Estancia Basin, we would respectfully request that the desires of the citizens of the Estancia Basin be considered in the development of your ordinance. We do have some thoughts about how to craft the type of ordinance you are working on.

In the five years that we worked on our plan, we found through the 32 public meetings that we held, and our additive approach to developing a plan, that the people of the Basin wanted to retain the rural character of the Basin. They were overwhelmingly against exportation of water from the Basin, and against more government. To that end, we believe that an incentive-based conservation program that provides tax advantages,

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monetary or water rewards, or public recognition, is more productive than heavy-handed enforcement programs.

On review of the draft ordinance in our possession, it appears to be modeled after a government enforced approach that may turn out to be counterproductive in the long run. The approach covered in the draft ordinance appears to more applicable to a city or subdivisions than to a rural farming area. It probably could applied to the County water company service area, but may create serious concerns in more rural environments, and in fact has.

We have been informed by staff that the ordinance is not intended to apply to the rural areas of the County. However, we can find nothing in the draft ordinance we obtained to that effect. In fact, the draft ordinance we have does not appear to address rural areas in the farming and ranching industries at all. Does a sentence exempting businesses that depend on irrigation apply to farming and ranching, or does the sentence exempting the traditional communities apply? If not, we would respectfully suggest that language be added to the ordinance that exempts ranching and farming businesses based on the County Assessor's identification of such entities and/or that the ordinance specifically indicate that it is applicable only to subdivisions in the County water company service area.

Again, we applaud the effort, and believe an ordinance based on voluntary compliance with incentives backed by enforcement only if needed, would stand the County in good stead. Since the Estancia Basin is a multi-county basin that has recently been closed in 2001 to the new appropriation of water with certain critical management areas designated by the State Engineer, we believe existing state and Basin guidelines should be considered in the development of any laws that might affect citizens of the Basin. If the ordinance is intended for countywide application, then we would respectfully request that the County utilize the State Engineer criteria for agricultural usage, which was developed for the Estancia Basin through extensive public participation. There also may be inter-county ordinances and guidelines that should be considered, given the physical geographic relationship to the counties in the Basin. We recently contracted with Jim Corbin to serve as executive director to the Estancia Basin Water Planning Committee. We would ask that any questions or requests for assistance be directed to him at the above addresses and phone numbers. Thank you for considering our input. Yours truly, Richard G. Spencer, Chairman, Estancia Basin Water Planning Committee."

If you have any questions I'd be happy to answer them. If not, I'll sit down.

CHAIRMAN DURAN: Thank you, Mr. Corbin.

COMMISSIONER CAMPOS: Mr. Chairman?

CHAIRMAN DURAN: Commissioner.

COMMISSIONER CAMPOS: Quick question for Mr. Corbin. Have you had an opportunity to have input into this process? Have you talked to Staff?

MR. CORBIN: Not to the degree, probably, that we should.

COMMISSIONER CAMPOS: Well, if you have ideas, you certainly should bring them to our attention, if you have better ideas.

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MR. CORBIN: I don't know if they're better ideas. I think the staff's to be commended for their efforts, and this is not intended in any way to be critical of the staff. It's just that we went through a lot of bloodletting over five years and the 32 public hearings that we held. In the water plan there are several conservation efforts. It's a major part of the water plan. The State Engineer closed the Basin as a result of the water plan. The Regional Water Plan was the first one adopted in New Mexico under the current Interstate Stream Commission effort.

We would just want to be sure, as Commissioner Trujillo has said several times, and as some of the rest you have, the agricultural and traditional areas of the county are a little different than the city areas of the county. Usages and things are a little different. I think that people that are afraid that they may not have any water from their wells tend to be very respectful of the use of water on their properties, and don't use it wastefully. I'm not sure, I think the easiest part of what you're doing here is to develop the ordinance and put it on the street. The hardest part is going to be figuring out what to do with it once you've got it out there. I wish you a lot of luck in that, and would be happy to help you as much as I can.

COMMISSIONER CAMPOS: If you have some ideas, bring them forward.

MR. CORBIN: I sure will.

COMMISSIONER CAMPOS: Thank you.

CHAIRMAN DURAN: Thank you. Is there anyone else out there that would like to address the Commission? Please step forward, state your name.

MR. CORBIN: Oh, actually, I also think the Edgewood Soil and Water Conservation District has sent you a letter. I suspect it didn't get here yet, but it will certainly be here tomorrow.

CHAIRMAN DURAN: Thank you. Next speaker, please.

GENORA MOORE: Mr. Chairman, Commissioners, my name is Genora Moore, and I am secretary of the Santa Fe County Farm Bureau. After reading this ordinance, we do have some concerns, as the other gentleman was stating, in agriculture.

As this ordinance is written right now, ranchers in the county would already be in non-compliance with their windmills, their stock tanks, and their overflow ponds. Those would be considered, under this ordinance, in non-compliance, under the fugitive water. And those waters are intended for our livestock and wildlife on our property. And so I think that there needs to be a lot more work done on this ordinance, particularly in the agricultural industry, to make this ordinance a more suitable document to that industry.

And I agree with Mr. Corbin in saying that I would like to see this more of a voluntary program than an ordinance where people are found to be given fines and things like that. I think you would get more mileage out of a voluntary program with incentives to conserve water, rather than to punish people for not conserving. And again, the Santa Fe County Farm Bureau represents over 200 people in Santa Fe County in the agricultural industry. We would like to have some input into this ordinance. Thank you.

COMMISSIONER SULLIVAN: Thank you, ma'am. Is there anyone else

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in the—

COMMISSIONER TRUJILLO: Mr. Chairman?

COMMISSIONER SULLIVAN: Commissioner Trujillo.

COMMISSIONER TRUJILLO: At your disposal, I saw Katherine nodding her head, and I'd like to maybe appease the ranchers and the farmers so that there's no misinterpretation of what's in the ordinance regarding that specific group.

MS. YUHAS: Mr. Chairman, Commissioner Trujillo, I'd be more than happy to add under fugitive water that stock tanks and windmill wells are not considered under fugitive water. I don't think that they meet the definition of fugitive water right now, but we could explicitly state it in the ordinance, that's no problem.

COMMISSIONER TRUJILLO: Overflow ponds, they're not—

MS. YUHAS: Yes. Obviously, that's water that you're using in your agriculture.

COMMISSIONER TRUJILLO: Right, so it doesn't—

MS. YUHAS: No, fugitive water is stuff that's flowing down the road that you're not keeping track of.

COMMISSIONER TRUJILLO: Thank you, Katherine.

MS. YUHAS: Sure.

CHAIRMAN DURAN: Please state your name for the record, sir.

BUD HAGERMAN: My name is Bud Hagerman. I live on Old Agua Fria Road West. I've been a rural county resident now for over 70 years. I've been engaged in agricultural enterprises, I've been on numerous boards, panels involving agriculture, planning, water resource management, and a whole bunch of other issues, and believe me, I am all for water conservation, but I cannot be in favor of this ordinance as written. It would, however, be a good deal more acceptable, in my opinion, if it were to apply to the County water supply system and/or subdivisions. But as far as being appropriate all over the County, I can't quite envision it.

Right now, there are about a little over 1900 square miles in the county of which 42 percent is federal, state or Indian, to which this ordinance could not apply. Fifty-eight percent of the county is in ownership, including incorporated towns, villages and other residential business locations. You take away the incorporated areas and the towns and the cities, you have less than 50 percent of the range land which is left which again, is agricultural communities that this ordinance would apply to. And within this ordinance one of the reasons that I have some comments about it is that it applies equally to a well on one acre of land as well as if you had one well on 10,000 acres, using it for livestock purposes. You just can't coordinate. You can't paint everything with one brush in this county, so to speak. You just can't coordinate all your water uses, whether it be in residential or livestock use, etc.

If I myself have a small place at the south end of the county, I have five working wells, over six miles of pipeline, seven different livestock waterings and I'd be in violation and I don't know of a rancher or anybody practicing agriculture that wouldn't be in

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violation. It's practically impossible to come into accordance with this plan as written. As I say it would be in my estimation, it would be better applied to areas that are being developed, development areas. I don't think most of the community, the agricultural community and most people living out in the county that you Commissioners represent are aware of even of the existence of the possibility of this ordinance and I would like to see, it's been suggested before of a good deal more cooperation or input, say, from the Soil and Water Conservation District, from the Estancia Valley Water Planning, for example, the farm bureau and other organizations such as that and to my knowledge, there has been none and I think that working together, we'd come up with a lot better ordinance that would set the County, a countywide ordinance.

CHAIRMAN DURAN: Mr. Hagerman, I'm going to have to ask you to wrap it up please.

MR. HAGERMAN: I'm through.

CHAIRMAN DURAN: Oh. Perfect timing. Thank you very much. Your comments are well taken. You're very famous, you know, in these parts of the country, with the Hagerman well that we're trying to buy and all that you know.

MR. HAGERMAN: Honest to God, I never got a nickel out of that one.

COMMISSIONER SULLIVAN: I don't think he was under oath, Mr.

Chairman.

CHAIRMAN DURAN: Is there any one else out there that would like to address the Commission concerning this ordinance? If not, what's the pleasure of the Board?

COMMISSIONER SULLIVAN: Move for approval, Mr. Chairman, of Ordinance No. 2002-11, amending Ordinance 2000-7 with the staff proposed amendments. There were amendments discussed in the meeting. So it's just Ordinance 2002-11.

CHAIRMAN DURAN: With the changes.

COMMISSIONER SULLIVAN: With the staff changes.

CHAIRMAN DURAN: Is there a second?

COMMISSIONER CAMPOS: I'll second it.

CHAIRMAN DURAN: Okay. Is there any discussion?

COMMISSIONER TRUJILLO: Discussion. Is it imperative—I understand there's a need for water conservation for an ordinance such as this. Is it imperative that we implement it as soon as possible? Because I understand from the community, especially Mr. Hagerman is we have not heard from the ranching community. So there's a void in the ordinance that is not addressed or taken into consideration, that area of the county, which is a significant area of the county. And I think that in order for the ordinance to be representative of all the subsections or sections of the county, that we need to have it representative of all the areas. So with that, I'd like to see if the Commission would consider a tabling until we put the ordinance out for public input from throughout the county, in all areas—agricultural, residential, development, the whole gamut of residents.

COMMISSIONER CAMPOS: Mr. Chairman.

CHAIRMAN DURAN: Commissioner.

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COMMISSIONER CAMPOS: I would disagree with Commissioner Trujillo. I think we should move forward now. We can always amend it. We have folks now that are engaged in the process that are at least aware of this. If there are some significant changes we can make them. We're willing to listen and I think we're open. We can make these amendments down the road in the near future. I think let's start conserving now and let's amend and let's let this grow and we get more information from the ranching community.

COMMISSIONER TRUJILLO: To begin with, the ordinance is quite enigmatic and if we don't get a product that represent the County, it's not going to be worth the paper that it's written on and people are not going to abide with it. Bottom line.

CHAIRMAN DURAN: Okay. There's a motion and a second.

The motion to approve Ordinance 2002-11 failed by [2-3] roll call vote, with Commissioners Sullivan and Campos voting in favor and Commissioners Trujillo, Varela and Duran voting against.

CHAIRMAN DURAN: I would like to say though that I like this ordinance. I like it a lot. I want to adopt it, but I want to do it when we've incorporated the ideas and the concerns of the ranching community and other property owners out in the county. So I don't want you to think that I'm opposed to it entirely. I just think it needs 30 more days. I'd like to bring it back in 30 days for us to reconsider if that's okay.

COMMISSIONER CAMPOS: Mr. Chairman.

CHAIRMAN DURAN: Commissioner.

COMMISSIONER CAMPOS: I've asked direction from Mr. Kopelman of what would be the appropriate manner of bringing this back in the next 30 days.

MR. KOPELMAN: Mr. Chairman, right now the ordinance was voted down and I think the only way to bring it back is to request, since you voted no, to either vote to table it for 30 days or to change your vote. You can certainly vote to table now and see if you can get the majority to put it off, but right now, the way things stand, the ordinance is dead and the publication goes away and we've got to start all over.

COMMISSIONER TRUJILLO: I move to table, Mr. Chairman.

CHAIRMAN DURAN: Okay, I take my yes away.

COMMISSIONER CAMPOS: There's a motion to table. Was there a second?

CHAIRMAN DURAN: Second. So I would ask the tabler—

COMMISSIONER CAMPOS: Thirty days?

CHAIRMAN DURAN: Yes.

MR. KOPELMAN: Mr. Chairman, you should probably, since you voted no, I think you can vote to reconsider it. Then if you have a majority that wants to reconsider then you can vote to table to a date certain.

CHAIRMAN DURAN: Okay, I make a motion to reconsider.

COMMISSIONER CAMPOS: Second.

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The motion to reconsider passed by majority [4-1] voice vote, with Commissioner Varela casting the nay vote.

COMMISSIONER CAMPOS: Date certain?

CHAIRMAN DURAN: Okay, so now I make a motion to table.

COMMISSIONER TRUJILLO: Second.

COMMISSIONER CAMPOS: Date certain?

CHAIRMAN DURAN: Thirty days. Next land use meeting. Just for an update. We might it them too but I think, I agree with you. I think we need to get this thing in place as soon as possible and let's ask Katherine to try and meet with Mr. Hagerman and other people that have expressed a concern and come up with some solutions.

MS. YUHAS: I will do that.

CHAIRMAN DURAN: So there's a motion to table, second. Any further discussion?

The motion to table passed by majority [4-1] voice vote with Commissioner Varela casting the nay vote.

MR. ABEYTA: Mr. Chairman, the next public hearing would be November 12th.

CHAIRMAN DURAN: Okay.

COMMISSIONER SULLIVAN: I do want to add a clarification, Mr.

Chairman, to some of the comments and perhaps some of the presenters weren't aware of that is that the County already has a conservation ordinance for the water district, for the area within the County's water district. Those water users are subject to those conditions. I see the people are leaving but nonetheless. So I think it's important that we have an ordinance that is broad-based and that it, as Commissioner Trujillo says, be one that people will support and abide by because enforcement is extremely difficult.

CHAIRMAN DURAN: Okay, good. I'd like the Commission to consider tabling the next ordinance to the next meeting, land use meeting only because it's 9:00 and—

COMMISSIONER SULLIVAN: Mr. Chairman, I guarantee you this is a short one. I absolutely guarantee it.

CHAIRMAN DURAN: That's what you said on the last one.

COMMISSIONER SULLIVAN: I know, I know. And I was incorrect. If there's any more than 100 people—

CHAIRMAN DURAN: Well, let me ask a question. Who out there is here to address the next ordinance? No one here to speak for or against? Okay. Then I'm going to let you chair this one.

COMMISSIONER SULLIVAN: Okay.

XI. A. 3. Ordinance No. 2002-11. An Ordinance Amending the Santa Fe

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Community College District Ordinance, Article XV, Section 1, References, Purpose, and Definitions, and Section 6, Design and Development Standards of the Santa Fe County Land Development Code (Ordinance No. 1996-10) for the Purpose of Developing a Comprehensive Water Resource Management Plan Requiring Development to Utilize the Santa Fe County Water Utility (Second Public Hearing)

MR. ABEYTA: Thank you, Mr. Chairman. On October 3rd, the CCDRC met and discussed the proposed ordinance amendment. They recommended the following changes: To section 6.B.1, the 200-foot distance changed to a variable distance: 500 feet for 12-24 units, 1000 feet for 25+ units, and they also removed this statement: "provided that easements are available for the connection and the terrain is suitable for the connection." They removed all of Section 2. Their reasoning was that public buildings and schools should also meet the same requirements as private developments. They recommended no changes to Section 3. Section 4 they inserted new language as follows: "Developers are encouraged to apply technically proved alternative sustainable approaches that are consistent with district principles of water use efficiency and treated effluent re-use. They must show at final development plan stage how they intend to apply technologies such as graywater recycling, roof top harvesting, storage and re-use, dual plumbing systems, rain barrel collection, cistern use."

They also removed the entire sentence that states "The Land Use Administrator shall be authorized to develop criteria that will permit a reduced per dwelling unit water use requirement and for determining the efficiency of alternative liquid waste systems and their integration with the district water management plan." Rather than that language, they preferred an additional Section 5 which reads that "The Land Use Administrator is instructed to develop criteria for establishing a system of water banking for the purposes of encouraging water use conservation in individual developments and the district."

Staff supports the proposed changes with the exception of Section 6.B. 1, which removes the language that provided that easements are available for the connection and the terrain is suitable for the connection. The applicants should only be required to make these connections if easements are available.

COMMISSIONER SULLIVAN: Okay. Staff questions? I'd just say for the public and also for Commissioner Varela, the basic intent here is make a change to a part of the Community College District Ordinance which was somewhat unclear about the use of public water systems and we had that term in there but a couple of wells stuck together could be a public water system and could meet the requirements of that and that wasn't the intent of the Community College District Ordinance. This only applies to the Community College District and the main issue is that it requires developments to connect to a public water system, either the County's water system or the City's water system and beyond that, within certain footage limitations if the system is there, new developments are required to connect to it.

I guess we'll take a minute and look at the changes recommended by the Community

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College District Review Committee. Roman, on this memo of September 5th, you say staff recommends approval of the ordinance amendment, is that with the changes shown to Section 6.B?

MR. ABEYTA: Yes, Mr. Chairman. On August 1st, the CCDRC requested the changes so on the 5th we provided them with a memo that summarized their changes. Then attached to the memo is an ordinance that incorporates all the changes they requested.

COMMISSIONER SULLIVAN: And the one the staff doesn't concur with is the one removing the phrase, "provided that easements are available for the connection and the terrain is suitable for the connection."

MR. ABEYTA: Right.

COMMISSIONER SULLIVAN: Are there questions of staff? Hearing none, what's the pleasure of the Board?

CHAIRMAN DURAN: You better ask for the public again.

COMMISSIONER SULLIVAN: Oh, we're on the second hearing. Glad you reminded me. Second public hearing. Is there anyone who wants to address the Commission? Seeing none, what's the pleasure of the Board?

COMMISSIONER TRUJILLO: Move for approval with staff recommendations.

COMMISSIONER SULLIVAN: There's a motion for approval. Is there a second?

COMMISSIONER VARELA: Second, Mr. Chairman.

COMMISSIONER SULLIVAN: Second. Is there further discussion?

COMMISSIONER CAMPOS: Mr. Chairman.

COMMISSIONER SULLIVAN: Question.

COMMISSIONER CAMPOS: Just clarification. There is a—staff disagrees with one recommendation made by the Community College local review committee, and that's what section or paragraph.

COMMISSIONER SULLIVAN: That's number one in Mr. Abeyta's memo of September 5. And the ordinance currently says, "Provided that easements are available for connection and terrain is suitable for the connection." Their recommendation was to take that out. Staff's recommendation was to leave it in.

COMMISSIONER CAMPOS: So the motion includes that particular proposed change.

COMMISSIONER SULLIVAN: As being left in.

COMMISSIONER CAMPOS: As being left in.

COMMISSIONER SULLIVAN: Is that correct.

COMMISSIONER TRUJILLO: Yes, with staff recommendations.

COMMISSIONER SULLIVAN: Further discussion?

The motion to approve Ordinance 2002-11 passed by unanimous [5-0] roll call vote with Commissioners Duran, Sullivan, Trujillo, Varela and Campos all voting in the

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affirmative.

CHAIRMAN DURAN: You were right. That took five minutes. I must be the one causing trouble here.

COMMISSIONER CAMPOS: Mr. Chairman.

CHAIRMAN DURAN: Commissioner.

COMMISSIONER CAMPOS: Just a point, just a question about this meeting. Looks like we have more cases than we can handle tonight. Do we want to say that we're only going to go so far down the agenda so other folks don't have to wait or how do you want to handle that? I don't think we can finish the agenda tonight.

CHAIRMAN DURAN: I need to leave at 10:00.

COMMISSIONER CAMPOS: I would like to leave at 10:00. That gives us an hour.

COMMISSIONER SULLIVAN: We can just go and get as far as we go in the order that they're there.

COMMISSIONER CAMPOS: Okay, we've got an hour.

CHAIRMAN DURAN: Okay, I'm going to from this point on though limit the discussion to three minutes from the community, either for or against, and ask the Commission to be as succinct as possible in their questioning staff and the applicant. That's better than a time limit, isn't it? It was that prayer that that woman made for us.

- XI. A. 4. **TDRC CASE #S 02-5290 - Tesuque Ridge Subdivision.** Jay Ross, Applicant, Scott Hoeft, Agent, Request, Preliminary Plat and Development Plan Approval for a 12-Lot Residential Subdivision on 100-Acres. This Request Includes a Variance of Article V, Section 8.2.1d (Cul-de-sacs) to Allow a 1,300 Foot Long Cul-de-Sac, and a Variance of Article V, Section 8.2.7d (Grade Percentage) of the Land Development Code to Allow the Approach to an Intersection to be Greater Than 3%. The Property is Located in the Traditional Historical Community of Tesuque, Within Section 6, Township 17 North, Range 10 East (Commission District 1)

WAYNE DALTON (Review Specialist): Thank you, Mr. Chairman, Commissioners. The applicant is requesting preliminary plat and development plan approval for a 12-lot residential subdivision on 100 acres. Lot sizes range from 5 acres to 28 acres with an average lot size of 9.4 acres. This property is located within both the Traditional Community of Tesuque and the Basin Fringe Hydrologic Zone. The minimum lot size for the portion, which is 20 acres within the traditional historic community is one acre per dwelling. The minimum lot size for the portion which is 80 acres within the Basin Fringe is 12.5-acres per dwelling unit.

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With proven water supply, lot size may be reduced to 2.5-acres per dwelling unit.

This request includes a variance of Article V, Section 8.2.1d to allow a 1,300-foot long cul-de-sac, and a variance of Article V, Section 8.2.7d of the Land Development Code to allow the approach to an intersection to be greater than 3%. Article V, Section 8.2.1d states that cul-de-sacs, dead end roads, shall not be longer than five hundred feet.

The applicant states that Red Ridge Road will surpass the maximum length for a cul-de-sac of 500feet due to very rugged terrain, and it would not be possible to loop Red Ridge Road back to Tesuque Ridge Road without major disruption of a major drainage way and 30% slopes. The applicant has met with the Santa Fe County Fire Department to discuss the variance request. Santa Fe County Fire Department supports the request for a variance provided that the subdivision include three features; 1) residential fire suppression systems in all houses; 2) two 30,000 gallon water tanks for fire use only with fire hydrants; 3) a 100-foot diameter driving surface for the cul-de-sac at the end of Red Ridge Road.

Article V, Section 8.2.7d states that grades at the approach to intersections shall not exceed 3% for 100 linear feet, excluding vertical curve distance. The applicant is requesting a variance to allow the maximum grade at an intersection of Tesuque Ridge Road and Red Ridge Road to be 6% instead of the Code-required 3% for the first one hundred linear feet. The Fire Marshal has reviewed this request and does not have an issue with the variance request.

Staff recommends denial of the variance of Article V, Section 8.2.7.d to allow the approach to an intersection to be greater than 3 percent. Staff recommends approval of a variance of Article V, Section 8.2.1.d to allow a 1300-foot long cul-de-sac because a loop road would cause disturbance to a major drainage way and 30 percent slopes. Staff also recommends preliminary plat and development plan approval for a 12-lot residential subdivision on 100 acres.

On August 29, 2002, the TDRC met and acted on this case. The decision of the TDRC was to recommend preliminary plat and development plan approval for a 12-lot residential subdivision on 100 acres. This approval including granting a variance of Article V, Section 8.2.1.d to allow a 1300-foot long cul-de-sac, and a variance of Article V, Section 8.2.7.d of the Land Development Code to allow the approach to an intersection to be greater than three percent subject to the following 22 conditions. Mr. Chairman, may I please enter those into the record?

[The conditions are as follows:]

1. The applicant shall comply with all Fire Marshal requirements including:
 - a. Residential fire suppression systems in all houses.
 - b. Two 30,000-gallon water tanks for fire use only with fire hydrants.
 - c. A 100-foot in diameter driving surface for the cul-de-sac at the end of Red Ridge Road.
2. Each of the additional supply wells must be completed in the same manner and to a similar depth as the one on which the pumping test was completed.
3. Each lot is limited to a water usage of 0.70 acre-feet per year. This shall be noted on the plat, in the Subdivision Disclosure Statement, Covenants, and in the Water Restrictions.

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Water restrictions shall be recorded in the County Clerk's office.

4. No more than four wells shall be used to serve the development. This shall be noted on the plat, in the Subdivision Disclosure Statement, Covenants, and in the Water Restrictions.
5. Each lot shall have a meter on the water line coming to the property. Water usage readings shall be recorded annually and reported to the County Hydrologist by September 30th of each year. This shall be noted on the plat, in the Subdivision Disclosure Statement, Covenants, and in the Water Restrictions.
6. The three ground water standards that were exceeded must be noted in the disclosure statement Sodium (190 mg/1, Ph (8.8) S, and Total dissolved solids (510 mg/1.
7. The intersection of Tesuque Ridge Road and Red Ridge road shall be laid out to Intersect each other as near as possible to a 90-degree right angle as to improve stopping and site distance, final design to be approved by County Staff.
8. Development on these lots are subject to complying with the requirements of the Land Development Code, Tesuque Ordinance, and the Urban Wildland Interface Code.
9. The final plat will be addressed for 911 numbers prior to recording.
10. All infrastructure, including road improvements, street signage, utilities and fire protection systems must be installed prior to plat recordation, or a financial guarantee will be provided to Santa Fe County prior to plat recordation.
11. The maintenance agreement will include maintenance of roadways, drainage structures, and fire protection.
12. The fire hydrants shall be located within 1,000 feet of all buildable areas.
13. Compliance with applicable review comments from the following:
 - a) County Hydrologist
 - b) County Fire Marshal
 - c) County Subdivision Engineer
 - d) New Mexico State Highway & Transportation Department
 - e) Public Works Department
 - f) State Engineer
 - g) Development Review Division Director
14. All utilities shall be underground, this shall be noted on the plat, covenants, and disclosure statement.
15. All redlines comments will be addressed. The drainage and grading plan is to be approved by the Development Review Division Director, original redlines will be returned.
16. A final fire inspection is required for the subdivision.
17. The applicant shall submit a financial guarantee, in the amount approved by the County, for all improvements including fire protection, road improvements, Drainage improvements, retention ponding and landscaping/re-vegetation prior to grading permit issuance. The financial guarantee for landscaping and re-vegetation will be kept until the plantings have taken, for a minimum of one year.
18. The water storage tanks will be painted an earthtone color, or underground to be

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- approved by staff.
19. The applicant will submit Homeowner's Association Bylaws, Water Covenants, Disclosure statement, restrictive covenants, maintenance agreement, and shared well agreement.
 20. Fire Hydrants ~~will~~ can flow at 500-gallans per minute. The water system and hydrants will be in place, operable and tested prior to any building permits being ~~issued~~ used. If at any time fire flow ~~and pressure~~ is not to standard no further building permits will be issued until the fire protection service is adequate. [Changed at staff report.]
 21. The applicant shall pay a fire review fee in the amount of \$650 in accordance with Santa Fe County Resolution N. 2001-114, prior to recordation of the plat.
 22. The applicant shall install a gate at the intersection of Tesuque Road and Red Ridge Road in order to keep traffic from going west. The applicant shall also install a gate on the property line of the Sanchez property.

MR. DALTON: Mr. Chairman, staff would also like to rework condition number 20, and that should read Fire Hydrants can flow at 500 gallons per minute. The water system and hydrants will be in place, operable and tested prior to any building permits being used. If at any time fire flow is not to standard no further building permits will be issued until the fire protection service is adequate. Thank you.

CHAIRMAN DURAN: Any questions of staff?

COMMISSIONER SULLIVAN: Mr. Chairman.

CHAIRMAN DURAN: Commissioner Sullivan.

COMMISSIONER SULLIVAN: On the change that you just read, it sounded exactly the same to me except that you took out the word "pressure."

MR. DALTON: Mr. Chairman, Commissioner Sullivan, that's correct. The fire hydrants are actually draft hydrants and not pressurized hydrants so with the draft hydrants there's no standard pressure because they're pumped.

CHAIRMAN DURAN: Why don't we let Hank address that real quick.

MR. BLACKWELL: Mr. Chairman, Commissioner Sullivan, that's true. Just for accuracy of the document. Those hydrants will be draft hydrants, which means they will not be pressurized. It will be up to us, as long as those hydrants are built to our specifications and those tanks remain full then we will draft with our engine pump to the capacity we need. So it's just a little misleading to say that 500 gallons per minute pressure because they're not pressurized hydrants.

CHAIRMAN DURAN: But the 500 gallons per minute flow is still there, correct? That's still in this revision?

MR. BLACKWELL: Correct.

COMMISSIONER SULLIVAN: It's just the word "pressure."

MR. BLACKWELL: Correct. We would have to provide the pressure through our engines. It's just a detail.

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COMMISSIONER SULLIVAN: And just a clarification. So the staff is recommending approval of the 1300-foot cul-de-sac. They're recommending denial of the six percent grade variance. Is that correct?

MR. DALTON: Mr. Chairman, Commissioner Sullivan, that's correct.

COMMISSIONER SULLIVAN: Okay. Then the last question I had was why is it necessary, and I understand that the hydrologic study says that it's possible, but why do we need to allocate .7 acre-foot per lot. We're talking about a house and a guest house. I assume the guest house is not used full time. That seems to be an excessive amount of water allocation. What's the rationale behind that?

MR. DALTON: Mr. Chairman, I do believe the applicant has demonstrated a sustainable 100-year water supply for the requested water budget, which is 9.80 acre-feet per year, which comes out to, like you said, .70 acre-feet per lot per year.

COMMISSIONER SULLIVAN: But that's a maximum that their water evaluation showed that they could achieve and my question is why, for one house and a guest house are we permitting that much water to be used?

TOM DOMINGUEZ(Subdivision Engineer): Mr. Chairman, Commissioner Sullivan, what is made available to you in the statement is the intent from the applicant. This is part of their application. They are requesting .7 acre-feet. You could have this discussion with the applicant and ask them why they need it.

COMMISSIONER SULLIVAN: Does staff have an opinion on this one way or the other?

MR. DOMINGUEZ: Mr. Chairman, Commissioner Sullivan, this applicant was reviewed by our County Hydrologist with no comment for reduction.

COMMISSIONER SULLIVAN: Well, we'll ask the applicant why they need $\frac{3}{4}$ of an acre-foot per family.

CHAIRMAN DURAN: Let me ask you a question. If there was water right transfer—I'll wait till we get there. If they agreed to something less and then they were able at a later date to bring water rights or transfer water rights to that—

COMMISSIONER SULLIVAN: They wouldn't be required, Mr. Chairman, because this is only a 12-lot subdivision. This is a Class III subdivision and it's only 12 lots. Even under the new proposed ordinance they wouldn't be required to bring water rights.

CHAIRMAN DURAN: Okay. Any other questions of staff?

COMMISSIONER VARELA: Mr. Chairman.

CHAIRMAN DURAN: Commissioner.

COMMISSIONER VARELA: On Exhibit E, I notice there are 14 lots but the application says there's 12. Could you explain to me what the deal is with Tract C and Tract D?

MR. DALTON: Mr. Chairman, Commissioner Varela, Tract C and D are not part of this request. Tract C and D are actually pre-approved separate lots.

COMMISSIONER VARELA: So they're already pre-approved, existing?

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MR. DALTON: That's correct.

COMMISSIONER VARELA: Okay. Thank you.

CHAIRMAN DURAN: Okay, any other questions of staff? Is the applicant here? Mr. Hoeft are you in agreement with staff's—

[Duly sworn, Scott Hoeft testified as follows:]

SCOTT HOEFT: Scott Hoeft, Santa Fe Planning Group.

CHAIRMAN DURAN: Are you in agreement with all of staff's recommendations?

MR. HOEFT: Yes, we are.

CHAIRMAN DURAN: Any questions of the applicant?

COMMISSIONER VARELA: Mr. Chairman.

CHAIRMAN DURAN: Commissioner.

COMMISSIONER VARELA: Staff is against the variance regarding the six percent grade. You're asking for six percent. Is there anyway that you could accommodate a different type of grade to get it to three percent without—

MR. HOEFT: Commissioner, we ask you to follow the recommendation of the TDRC which approved that variance. We had all of the members of the TCRD out to the site to take a look at that intersection and all agreed it wasn't as severe as what it would indicate in the write-up. We'd also like to indicate that that road has been changed at that intersection to an emergency access road only as well as a gate has been place at that entry way.

COMMISSIONER VARELA: So that would not be a primary road. It would just be emergency?

MR. HOEFT: Correct. Which is why we would ask that you follow the recommendation of the TDRC.

CHAIRMAN DURAN: Well, maybe you could explain it to us. So the road that is in question, where the grade is greater than three percent is not the main entry into the road, is that correct? The main entry into the subdivision.

[Duly sworn, Al Lilly testified as follows:]

AL LILLY: For the record my name is Al Lilly, Santa Fe Planning Group and I can give you just a little bit of a summary of our meeting with the TDRC. First of all the project involves a main road that came down called Tesuque Ridge Road. And Tesuque Ridge Road came down and turned westerly at this point and headed off through the Sanchez property out to 84/285. The Tesuque Development Review Committee reviewed the site and agreed, or actually suggested that they didn't like the idea of this road heading in a westerly direction and suggested that they make Tesuque Ridge Road the main road and tie it right into Red Ridge Road all the way down to the cul-de-sac.

In so doing, they asked that we also put an emergency access gate at that point, right there at that intersection and another emergency access gate at the property line. So really, it makes this a non-issue with regard to the three percent grade issue.

CHAIRMAN DURAN: Where did that occur? Where does the six percent grade occur?

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MR. LILLY: Currently it happens right here, and that's a typical requirement to keep that to a three percent grade at an intersection. So by making this the through road, you eliminate that need to keep it to a three percent.

CHAIRMAN DURAN: Is that why the Fire Marshal didn't have much to say about it?

MR. LILLY: I think routinely, variances are given for three percent, or going to a six percent in that type of situation. So the Fire Marshal didn't really have a problem. If you were to go out there and look at it, it really doesn't look that severe. In fact you really could do some regrading and make the three percent probably work. But the point was that the Tesuque Development Review Committee didn't even want this road going in a westerly direction as an access road, other than for emergency access only. So they really solved the problem by requesting that this become the main road. This road becomes an intersection coming just for emergency access only. That will have to be more than three percent there but it's just for emergency access.

So again, we would like to refer back to the condition that the Tesuque Development Review Committee placed on the project and suggest that they go along, or we conform to putting the fence, the emergency gate at that point, another emergency gate here, and then having this just as the through road and conforming to County specs for that road.

CHAIRMAN DURAN: Any other questions for the applicant?

COMMISSIONER SULLIVAN: Mr. Chairman.

CHAIRMAN DURAN: Commissioner Sullivan.

COMMISSIONER SULLIVAN: To follow up on my earlier question, why do you feel, other than your geo-hydro says that you can get it, that you need almost $\frac{3}{4}$ of an acre-foot per lot?

MR. LILLY: First of all, all the lots are a minimum five acres in size and there will be, a number of these lots will also have barn sites on them. There will be horses allowed on several of the lots. The geo-hydro studies show that the water was available so if you have a house, a guest house and a barn, we wanted to make sure that we had the adequate water to cover. I also want to point out right now that lot number 12 is quite a bit larger than the five-acre minimum of the rest of the project. One through eleven will have covenants placed on them that they cannot be resubdivided. However lot 12 does not have that covenant placed on it and we want to have the possibility of coming back to this Board to possibly subdivide that in the future.

COMMISSIONER SULLIVAN: I didn't see a copy of a water budget in here. A couple of horses and a residence and a part time guest house wouldn't need .7 acre-feet. Is there a water budget that indicates how you arrived at that .7 acre-feet other than your geo-hydro said you could get it?

MR. HOEFT: I believe, Commissioner Sullivan, the water budget that Wayne indicated in the staff report indicated that 9.8 acre-feet for the development, referring to page 2, under water.

COMMISSIONER SULLIVAN: Page 2 of your report?

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MR. HOEFT: Of the staff report, Commissioner.

COMMISSIONER SULLIVAN: Of the staff report. Does it show how that 9.8 acre-feet is broken down?

MR. HOEFT: It's .70 times 14.

COMMISSIONER SULLIVAN: I understand that, but my point is that your geo-hydro shows that according to that empirical equation that you can sustain 9.8 acre-feet but my question is, where's your water budget that's required of a submittal that says how much are you going to use per house, how much per horse if you're going to have horses, how much per guest house. Where is that? Is that in your report?

MR. HOEFT: I am fairly certain it was submitted with the geo-hydro report, Commissioner Sullivan. Please also consider that the report came back that .75 was allowed. We are requesting .7 so that there already a reduction considered in our numbers.

COMMISSIONER SULLIVAN: My question is how did you get to that .7?

CHAIRMAN DURAN: You know, for a guest house you get two dwellings on five acres or more, .25 is for one house, .25 for the other house, and the other .2, obviously it's for the horses.

MR. HOEFT: And I also think you should consider, Commissioner Sullivan, the size of these homes. These are going to be slightly larger than a typical home.

COMMISSIONER SULLIVAN: We've had that issue brought up before but three and four and five and six thousand square foot homes typically have two people in them and they don't seem to use any more water than a 1200 square foot homes. So in terms, they may be big houses but they don't necessarily use a lot of water. And a guest house wouldn't use a quarter acre-foot because a guest house wouldn't be occupied full time.

CHAIRMAN DURAN: What if we considered this? There are some lots that won't have horse facilities. What if those lots that aren't going to have horses get half an acre. Why don't we find out how many of those there are—

COMMISSIONER SULLIVAN: That's why I was looking for the water budget. That becomes an enforcement problem because we always make a stipulation that it's a quarter acre-foot per lot and they have to record their usage every year to the County. So if we change the amounts for different lots, that would be kind of difficult for the County Hydrologist to say, Well, okay, this lot has horses on it and this one doesn't, to know if they had the right number of acre-foot usage. See what I'm saying?

CHAIRMAN DURAN: How else would you allow lots that have horses to have horses if you didn't approve .7 across the board?

COMMISSIONER SULLIVAN: I think .7 is way more than that. We computed that a couple of months ago for one of these facilities and it was a minor amount. They had several horses and it was less than a tenth. It was a facility out in the southern part of the county that had like ten horses and I think Katherine had numbers as to how many gallons a horse consumed in a day and it was—it wasn't that much. I think we probably need to come up with a number that's across the entire subdivision and I certainly think that something around .4 acre-foot is plenty adequate.

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MR. LILLY: Excuse me, Commissioner, if I can address that. We will have a plan that will be recorded that will show which sites we'll be allowing a barn and allowing horses, so we'll be specific. It won't be open ended. I'm willing to go along with the recommendation of Commissioner Duran with regards to restricting all lots to a use of .5 acre-foot and then .7 for the ones that have a barn.

COMMISSIONER SULLIVAN: I would suggest even less. I don't think—we've found that .25 is very generous for usage and a guest house would use less than that, so I would suggest .4 and .7.

CHAIRMAN DURAN: But the Code, the Code specifically states for each dwelling unit, and they consider a guest house a dwelling unit. The Code specifically states that we have to restrict them to .25. Roman, what does the Code say about water restrictions on a five-acre lot?

COMMISSIONER SULLIVAN: I thought we had latitude on that.

MR. ABEYTA: Mr. Chairman, generally, in the Basin on a five-acre lot you would get a half acre-foot of water, but depending on what the hydrology proves and what the Board decides, the Board could restrict it to whatever they want as long as it wasn't less than a quarter acre-foot. But the general rule of thumb in cases that are administratively approved, generally a five-acre tract would get a half acre-foot.

COMMISSIONER SULLIVAN: All these tracts will have well meters?

MR. ABEYTA: I'm not familiar—

COMMISSIONER SULLIVAN: Maybe Mr. Lilly can tell us.

MR. ABEYTA: Yes, they will.

MR. LILLY: I wish the Commission would just consider the fact that the owners of the property have the option of looking at a higher density on this property and specifically decided to take the route of a low density, large-lot subdivision to be in keeping with the surrounding neighborhood. So there would be, they could have gone with a higher density and lower water use per unit, but chose to go larger lots and are requesting at least a .5 acre-foot per lot.

COMMISSIONER SULLIVAN: Okay. Whatever.

CHAIRMAN DURAN: Any other questions of the applicant?

COMMISSIONER CAMPOS: I have a question for Mr. Dalton. Is there a budget in our packet? A water budget?

MR. DALTON: Mr. Chairman, Commissioner Campos, no there is not.

COMMISSIONER CAMPOS: Do you have one in your part of the application?

MR. DALTON: I do have the hydrology report.

COMMISSIONER CAMPOS: The water budget. Do you have it in your packet? Do you consider it as part of your application?

MR. DALTON: Mr. Chairman, Commissioner Campos, under the report in water, the water budget is 9.80 acre-feet for the entire project.

COMMISSIONER CAMPOS: Okay. Thank you.

CHAIRMAN DURAN: This is a public hearing. Is there anyone out there that

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wants to speak for or against this project? What's the pleasure of the Board?

COMMISSIONER SULLIVAN: Mr. Chairman, one further question before we go to the motion. Tom, I don't see a letter from the State Engineer in here either. Is there a reason for that?

MR. DALTON: Mr. Chairman, Commissioner Sullivan, I did not get a response from the State Engineer's Office.

COMMISSIONER SULLIVAN: These will be individual—four homes on a well. Is that four lots per well? Did I read that correctly?

MR. DALTON: Mr. Chairman, Commissioner Sullivan, that's correct. It would be—well number one would serve actually two lots. Well number two would be four lots. Well number three would serve four lots and well number four would also serve four lots.

COMMISSIONER SULLIVAN: And they've already drilled three of those wells?

MR. DALTON: I'm not sure.

COMMISSIONER SULLIVAN: Is that correct, or is that a different subdivision? You don't have any wells onsite?

MR. DALTON: Mr. Chairman, Commissioner Sullivan, there's actually two wells that are drilled.

COMMISSIONER SULLIVAN: There's two wells that are drilled already.

COMMISSIONER TRUJILLO: Mr. Chairman.

CHAIRMAN DURAN: Commissioner.

COMMISSIONER TRUJILLO: Move for approval of CDRC Case S 02-5290, with the condition of limiting each lot to .50 acres and those with horses to .70 acres.

CHAIRMAN DURAN: There's a motion. Is there a second?

COMMISSIONER VARELA: Second, Mr. Chairman.

COMMISSIONER SULLIVAN: Does that include with the staff conditions?

COMMISSIONER TRUJILLO: Staff conditions.

COMMISSIONER SULLIVAN: And what about the variance that the staff didn't recommend?

COMMISSIONER TRUJILLO: My motion includes approving both variances, the cul-de-sac and the grade.

CHAIRMAN DURAN: Okay. Any further discussion?

The motion to approve TDRC Case #S 02-5290 passed by unanimous [4-0] voice vote, with Chairman Duran abstaining.

CHAIRMAN DURAN: Abstained? Is this the new look of the Chair?

COMMISSIONER CAMPOS: Why? For the record.

CHAIRMAN DURAN: For the record, I abstained for the perception of conflict of interest at some later date.

COMMISSIONER CAMPOS: Do you have some connection with these folks?

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CHAIRMAN DURAN: I don't have right now?

COMMISSIONER CAMPOS: Not right now.

COMMISSIONER SULLIVAN: He's going to buy a lot out there is what he's going to do, then get his horses.

CHAIRMAN DURAN: I'm going to build a 6,000 square foot house out there. With one bathroom.

- XI. A. 5. CDRC CASE #DP 02-5230 – Heart and Soul Animal Sanctuary. Natalie Owings, Applicant, Linda Tigges, Agent, Request Master Plan Zoning Preliminary and Final Development Plan Approval for an Animal Sanctuary with Sheds and Pens for 100 Animals, a Gift Shop, Manager's Quarters, Assistant's Quarters, Staff Cabin, and an Outdoor Classroom on 130-Acres. This Request Would also Include a Variance of Article VII, Section 6.4 (Water Availability Assessments) of the Land Development Code. The Property is Located off County Road 63A on the North Side of State Road 50 in Glorieta, within Sections 35 and 36, Township 16 North, Range 11 East (Commission District 4)**

MR. DALTON: Thank you, Mr. Chairman. There is currently a well and a septic system on the property. There is a 1350 square foot combined doghouse and a manager's quarters and three poultry sheds of 96 square feet, 120 square feet, and 450 square feet. There is also a small horse barn of 336 square feet, a 288 square foot shed for cats, and a second shed of 160 square feet. The applicant is requesting to add a staff cabin of 300 square feet, a gift shop of 360 square feet, and a shed of 288 square feet. That's Exhibit G in your packet.

The property is served by two on-site wells. The well used by the Sanctuary is 460 feet deep with 40 gallons per minute yield. The water budget requested for this development is .725-acre-feet (236,243 gallons) per year. Variance: The applicant is requesting a variance of Article VII, Section 6.4 (Water Availability Assessments) of the Land Development Code. Article VII, Section 6.4.1d states that developments where the source of water will be individual domestic wells or shared wells permitted pursuant to Section 72-12-1, the applicant shall demonstrate 100-year water supply and shall submit a geohydrological report.

The County Hydrologist has reviewed the application and recommends approval of the requested variance due to the fact that the property is large and the amount of water requested is low. Also water appears to be sustainable over a 100-year timeframe. If this was a residential development, a geohydrological report would not have to be prepared to obtain approval for this amount of water.

Recommendation: If the variance of Article VII, Section 6.4 of the Land

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Development Code is approved, staff recommends master plan zoning preliminary and final development plan approval for an animal sanctuary with sheds and pens for 100 animals, a gift shop, manager's quarters, assistant's quarters, staff cabin, and an outdoor classroom on 130 acres.

On July 25, 2002, the CDRC met and acted on this case. The decision of the CDRC was to recommend approval of a variance of Article VII, Section 6.4 and master plan zoning, preliminary and final development plan for an animal sanctuary, subject to the following conditions. Mr. Chairman, may I enter those into the record?

[The conditions are as follows:]

1. The Development Plan shall be recorded with the County Clerk's office.
2. All Staff redlines will be addressed, original redlines will be returned with final plans.
3. Water use shall not exceed .725 acre-feet per year. A water meter shall be installed on the well. Annual water meter readings shall be submitted to the County Hydrologist by June 30th of each year.
4. The applicant shall provide a site plan for drainage and location of check dams along with a storm water maintenance agreement prior to issuance of a development permit.
5. The applicant shall comply with all Fire Marshal requirements.
6. All outside lighting on the property shall be shielded.
7. All improvements, including parking area, and fire protection, shall be in place prior to recording of the Development Plan.
8. The applicant shall obtain a County business registration prior to any building permit issuance.

CHAIRMAN DURAN: Any questions of staff?

COMMISSIONER SULLIVAN: Mr. Chairman.

CHAIRMAN DURAN: Commissioner Sullivan.

COMMISSIONER SULLIVAN: Wayne, the applicant is requesting a variance of the geo-hydro based I guess on the existing wells. Did anyone look? Are there wells adjacent to the property? Did anyone look at well logs or anything that could provide us some comfort level that this level of pumping wouldn't impair adjacent property owners?

MR. DALTON: Mr. Chairman, Commissioner Sullivan, I don't believe so. Like I say, the County Hydrologist and the State Engineer's Office have looked at this and do recommend approval of the variance.

COMMISSIONER SULLIVAN: Thank you.

COMMISSIONER CAMPOS: Mr. Chairman.

CHAIRMAN DURAN: Commissioner.

COMMISSIONER CAMPOS: Mr. Dalton, are there neighbors close by to this place?

2310197

MR. DALTON: Mr. Chairman, Commissioner Campos, the property is surrounding by residential properties.

COMMISSIONER CAMPOS: Give me an idea of how far they are from this place?

MR. DALTON: Mr. Chairman, Commissioner Campos, I believe approximately one mile.

COMMISSIONER CAMPOS: You said it was surrounded by homes, but they're about a mile away. Is that what you're saying?

MR. DALTON: The property itself is surrounded by residential, yes. I believe maybe the applicant can answer that question.

COMMISSIONER CAMPOS: Let me ask you another question before the applicant comes forward. Any history of complaints of noise by the animals out there?

MR. DALTON: Mr. Chairman, Commissioner Campos, I have no opposition or phone calls or letters on this case.

COMMISSIONER CAMPOS: What about animal control or the Sheriff's Department? Have you checked?

MR. DALTON: Mr. Chairman, I did not check, but I have not received any complaints.

COMMISSIONER CAMPOS: Okay. Ms. Tigges.

CHAIRMAN DURAN: Excuse me, Wayne, can you bring that map up here. I'm trying to figure out exactly where it is.

[Away from the microphone, Ms. Owings oriented the Commissioners as to the location of the property.]

[Duly sworn, Natalie Owings testified as follows:]

NATALIE OWINGS: See that black line? That is the circumference of the property that the sanctuary owns, but we're located on only seven acres in the top center. That's why the noise is not an issue.

CHAIRMAN DURAN: Natalie, are you in agreement with all the conditions set out by staff?

MS. OWINGS: Yes, we are.

CHAIRMAN DURAN: And it was the CDRC that approved it?

MS. OWINGS: Yes.

CHAIRMAN DURAN: Do you have anything to add to the record?

MS. OWINGS: I should probably say that the mission of the sanctuary is simply to rescue the animals that are trashed by society. They're very wounded. They've been run over. They've been abused. They've been abandoned. They've been starved. Nursing mother dogs, for example, are thrown out and we accept them because usually they would be euthanized.

CHAIRMAN DURAN: Don't show me any sad pictures.

MS. OWINGS: The sanctuary represents to a lot of people a source of human education through the kids and for New Mexico in general. It's a free service. It's

2310198

funded by private donations. It's a non-profit tax-exempt organization. We're in complete compliance with all of the financial regulations. We adopt only those dogs, we take in only those dogs and cats and other animals which we can properly accommodate. There aren't actually that many. When you see the figure 100 animals, 35 of those are chickens. Then we have ten ducks. We only taken in as many dogs as we can properly accommodate. We rehabilitate every one of them physically and psychologically. We use one veterinarian who has a state of the art hospitals and all of our donations are from the public, from private people and sometimes foundations. And I should probably also say that I'm a native of New Mexico and I'm very concerned that we offer this service in New Mexico which is very substantially needed. If you have any questions I'm happy to answer them.

COMMISSIONER CAMPOS: Mr. Chairman, a question I asked earlier was how close are other residential—

MS. OWINGS: Right. The closest neighbor and they're very friendly toward us is a family of six. They're a mile away.

COMMISSIONER CAMPOS: Have you had any trouble with anybody reporting you to the Sheriff's Department, animal control?

MS. OWINGS: Nobody. We have had nothing but the most favorable comments, visitors coming to see us. Nothing but absolutely favorable comments.

COMMISSIONER CAMPOS: How many employees?

MS. OWINGS: We have one full time employee and we have, I would say a half-time. She works once or twice a week. And then we have volunteers, grown-ups.

COMMISSIONER CAMPOS: Okay. Thank you.

MS. OWINGS: You're welcome.

CHAIRMAN DURAN: Any other questions of the applicant?

COMMISSIONER SULLIVAN: Mr. Chairman.

CHAIRMAN DURAN: Commissioner Sullivan.

COMMISSIONER SULLIVAN: This proposal for 100 animals, 35 of which are chickens, how much of an increase does that amount to over what you're doing now?

MS. OWINGS: Oh, no. We're there.

COMMISSIONER SULLIVAN: Oh, you're already at that.

MS. OWINGS: Oh, yes. We're not planning to take in any more numbers. See, what we do is we render these animals adoptable and if we adopt out three puppies as we have last week, that makes room for three more puppies. But we're not interested in accumulating vast numbers of animals.

COMMISSIONER SULLIVAN: So the request that's here tonight is for the gift shop? What's the request?

[Duly sworn, Linda Tigges testified as follows:]

LINDA TIGGES: They are now non-conforming. They built what you see and they are now asking approval for it.

COMMISSIONER SULLIVAN: Okay, and what's included with that? It's a barn and a gift shop if I remember correctly. Is that right?

2310199

MS. TIGGES: There's a large—

MS. OWINGS: It's called the giant dog house.

MS. TIGGES: The giant dog house and then there's various sheds and a bard and facilities.

COMMISSIONER SULLIVAN: Okay. So the reason that the applicant is here because Code enforcement busted them? Okay. It's not that there's any development proposed beyond what exists now.

MS. TIGGES: There was the guest house. It's a small staff cabin and then the shop. There are two small buildings.

COMMISSIONER SULLIVAN: Okay. In the future. And that wouldn't change the number of animals that would be on the premises. Okay.

CHAIRMAN DURAN: Thank you very much. Any other questions from the Commission. Okay, it's a public hearing. Is there anyone out there that would like to speak for or against this issue? If not, what's the pleasure of the Board? I'll move for approval.

COMMISSIONER TRUJILLO: Second, Mr. Chairman.

CHAIRMAN DURAN: With all staff's recommendations. Any further discussion?

The motion to approve CDRC Case #DP 02-5230 passed by unanimous [5-0] voice vote.

- XI. A. 6. CCDRC CASE #A/V 02-5350 – Boylan Appeal Variance. Zena Boylan, Applicant, James Siebert, Agent, are Appealing the Land Use Administrator's Decision to Deny a Caretaker Residence/Guest House on 2.82-Acres, Which Would Result in a Variance to Article III, Section 10 (Lot Size Requirements) of the Land Development Code. The Property is Located South of Vista del Monte Road, within Section 30, Township 16 North, Range 9 East (Commission District 5)**

MR. DALTON: Thank you, Mr. Chairman. This case was scheduled to be heard by the Community College District Development Review Committee on September 5, 2002. The CCDRC failed to make a quorum and did not make a decision on this case. It is the applicant's right to be heard within 60 days of a filed application. Therefore this request has been forwarded to the BCC without a CCDRC recommendation. The property is located south of Vista del Monte Road in the Basin Hydrological Zone, within the existing neighborhood zone of the Community College District. Therefore the Land Development Code applies.

Article III, Section 10 of the Land Development Code states that minimum lot size in this area is ten acres per dwelling unit. Lot size may be reduced to .25 acres of the applicant signs and record water restrictions. There is currently one home and one septic system on the

2310200

property. The property is served by an onsite well which serves the existing home. The applicant states that she would like to construct a guest house in order to employ a caretaker for herself. The applicant has moved close to her son in order to have him serve in the caretaker role rather than move into an assisted care facility. The applicant's son is ill and is no longer capable of caring for his mother. A caretaker will be needed on the property with the level of care increasing with time.

The applicant also states that she has been an independent woman caring for herself after the death of her husband and wishes to maintain her independence which has always been her personal plan for her own life.

Recommendation: Staff recommends denial of the appeal based on Article III, Section 10 of the Land Development Code which states the minimum lot size in this area is ten acres per dwelling. Staff recommends that the request for a variance be denied. The intent of the Code is to set minimum lot size in this area at ten acres per dwelling unit.

CHAIRMAN DURAN: Wayne, if she was to build a house for her son to live in to take care of her, would they be restricted to—how much water? Is there water restriction in place right now?

MR. DALTON: Mr. Chairman, no there is not right now. I believe, well, right now it's not a pre-Code lot so it would be a quarter acre-foot per dwelling.

CHAIRMAN DURAN: Right now there's no restriction.

MR. DALTON: Would be a quarter acre-foot per dwelling.

CHAIRMAN DURAN: There is a restriction.

COMMISSIONER SULLIVAN: Quarter acre-foot.

COMMISSIONER TRUJILLO: Mr. Chairman, Wayne, you say the minimum lot size in this area is ten acres?

MR. DALTON: That's correct, Mr. Chairman, Commissioner Trujillo. That's correct.

COMMISSIONER TRUJILLO: And the applicant wants her son to live next to her to serve as her caretaker if you will?

MR. DALTON: Mr. Chairman, Commissioner Trujillo, I believe her son moved in to be close to her. Her son has since then gotten ill and is no longer able to take care of her. So the applicant would like to construct a caretaker residence to hire somebody to come in and take care of her.

COMMISSIONER TRUJILLO: Somebody else. So this would not be a family transfer situation and her son would be living there.

MR. DALTON: Mr. Chairman, Commissioner Trujillo, that's correct. It's not a family transfer. It's just a request to allow a second dwelling on the property.

COMMISSIONER TRUJILLO: What would be the minimum lot size if it were a family transfer?

MR. DALTON: Mr. Chairman, the minimum lot size, like I say is ten acres. With signed water restrictions it can go down to 2.5. Small lot family transfer you can go down to 1.25 acre.

2310201

COMMISSIONER TRUJILLO: An acre and a quarter.

CHAIRMAN DURAN: Why didn't she do a family transfer?

MR. DALTON: Mr. Chairman, I don't know. You might want to ask the applicant that question.

CHAIRMAN DURAN: Okay. We'll ask her.

COMMISSIONER SULLIVAN: Mr. Chairman.

CHAIRMAN DURAN: Commissioner Sullivan.

COMMISSIONER SULLIVAN: Wayne, on the map in the back, the site you indicate on that map looks considerably larger than 2.82 acres. What is that cross-hatched area on the map in Exhibit D?

MR. DALTON: Mr. Chairman, Commissioner Sullivan, that is the site. I believe Mrs. Boylan does own more than 2.5 acres in that area.

COMMISSIONER SULLIVAN: That's all the property that she owns?

MR. DALTON: Mr. Chairman, Commissioner Sullivan, I believe that's correct.

COMMISSIONER SULLIVAN: But that's not the site of this request. This request is one portion of that. Is that correct?

MR. DALTON: That's correct. If you look at Exhibit C you'll see the site.

CHAIRMAN DURAN: Is this like in La Cieneguilla?

COMMISSIONER SULLIVAN: No, this is off Route 14.

CHAIRMAN DURAN: Is this that area that the water—

COMMISSIONER SULLIVAN: It's going dry.

CHAIRMAN DURAN: The water problem. Any other questions of Wayne? Is the applicant here? Please state your name for the record.

JIM SIEBERT: Mr. Chairman, Commissioners, my name's Jim Siebert. My address is 915 Mercer.

[Duly sworn, Jim Siebert testified as follows:]

MR. SIEBERT: Mr. Chairman, Commissioners, Zena Boylan has lived on this land for about the last 27 years. The property that you see here, the larger tract of land is actually owned by her son. The 2.82-acre tract is sited here. And she originally lived in the house that was across the drainage and she had moved to this location in order to be closer to her son. Her son lives in this tract here. And what's happened is he's had some heart surgery and presently is under treatment for cancer.

She would like to continue to live on the property and the idea was that her son would take care of her as she aged, and now the idea is in order to continue to live on this property, she's lived here for 27 years, she would like to erect a residence that would have caretaker in it that would take care of her. To give you an orientation, the Valle Lindo Subdivision sits over here to the west. There is a development, I'm not sure of the name of it sitting here that's a higher density cluster development. This road here is actually Vista del Monte. The idea is that it would be extended up and connect into Rancho Viejo in the area of the IAIA. And there is an existing County water line that runs like along the side of this property and in fact there is an

2310202

additional ten feet reserve where that 12" water line presently runs.

COMMISSIONER TRUJILLO: Mr. Chairman.

CHAIRMAN DURAN: Commissioner.

COMMISSIONER TRUJILLO: I have a question. Has the applicant considered a temporary dwelling in that area so that when the hardship is over the temporary dwelling can be removed?

MR. SIEBERT: Aesthetically, she's opposed to having a mobile home on the property. Her son has certain restrictions. They don't apply to her tract but they do apply to his tract of land. There is an option of using County water to service the additional unit that would be on the property. So if the issue is water, that can be addressed through the use of a County water tap which she presently owns.

CHAIRMAN DURAN: Have they thought about five acres instead of 2.8? If she owns all the property up to Camino Monte Alto—

MR. SIEBERT: She owns the property that's to the south. She doesn't own the property that's either to the north or to the east.

COMMISSIONER TRUJILLO: Mr. Chairman.

CHAIRMAN DURAN: Commissioner.

COMMISSIONER TRUJILLO: Ostensibly, this is a temporary hardship. Immediately, a temporary hardship. By placing a permanent home there that makes it a permanent situation, in perpetuity. So if we're trying to address a temporary hardship I think a building with skids that can be removed after the hardship is over would, I think this Commission would agree with that. Because otherwise, that area is a depleted water area. The water availability is limited and if we approve something permanent in there that's not sending a very appropriate message to the community because we've denied other development in that area in the past.

CHAIRMAN DURAN: Jim, what about a studio with the requirement—a dwelling unit that when the need is no longer there would turn into a studio? The kitchen goes.

MR. SIEBERT: If I can request a tabling of this to allow consideration of the issue of a temporary structure. It's something that we really had never considered. It's an issue for her son as well and it's something we just couldn't make a decision on that tonight without discussing that with her son as well. She is not going to be available during the holiday season, November and December and if we could ask for a tabling until January.

COMMISSIONER SULLIVAN: That's fine with me, Mr. Chairman. I would ask that—you say she does have rights on the County water line?

MR. SIEBERT: Yes, she has a tap to the County water line.

COMMISSIONER SULLIVAN: For her existing home?

MR. SIEBERT: Well, no, for a unit. Right now her home is on a well.

COMMISSIONER SULLIVAN: So there is an option, even if this were a temporary skid-mounted unit, that it could be tapped off the County water system.

MR. SIEBERT: Correct.

COMMISSIONER SULLIVAN: Okay. I hope that's something you would

2310203

consider and discuss with her and her son.

CHAIRMAN DURAN: What if we agreed to the additional unit with a requirement that both houses are serviced off the County water system and the well is capped. That's another option.

MR. SIEBERT: We would be happy to explore those. I think for now I'd request a tabling.

CHAIRMAN DURAN: Someone want to make that motion?

COMMISSIONER CAMPOS: Move for a tabling until January.

COMMISSIONER TRUJILLO: Second.

CHAIRMAN DURAN: Any further discussion?

The motion to table passed by unanimous [5-0] voice vote.

CHAIRMAN DURAN: Do you want to do this last one? Okay, let's do this last one. You know what? We might as well just tell everybody now, the rest of the—let's pick a date so that everyone will know. Steve, can you help us with that? When is the next—the 12th is the next land use meeting?

MR. KOPELMAN: Mr. Chairman, that's a pretty full agenda now, so I don't know whether you might be amenable to doing a special meeting to finish this?

CHAIRMAN DURAN: Why don't we do a special meeting next week? Ben, we're leaving at 10:00. When we're through making a decision here I'll give you an opportunity to talk, okay?

COMMISSIONER VARELA: We couldn't accommodate anything late on this week at all, Mr. Chairman?

CHAIRMAN DURAN: I could do it this week. Only time I can't do it is Thursday night. And Wednesday. I could possibly do it Thursday night. Or I can do it next week. Are you around next week? What about Monday.

MR. ABEYTA: It's a holiday.

CHAIRMAN DURAN: Maybe for you. Tuesday is RPA.

COMMISSIONER SULLIVAN: Yes. The 15th.

COMMISSIONER VARELA: Would Wednesday work for anybody? In the morning? It has to be afternoon?

CHAIRMAN DURAN: In the evening.

COMMISSIONER SULLIVAN: Because it's a public hearing.

COMMISSIONER CAMPOS: Wednesday works for me.

CHAIRMAN DURAN: What day is that? That works for me.

COMMISSIONER SULLIVAN: I think I'm okay with that.

CHAIRMAN DURAN: Six o'clock Wednesday the 16th? So we'll hear this last case, which is the Skywest Business Park.

COMMISSIONER TRUJILLO: You said you're going to give Ben the opportunity to talk?

2310204

CHAIRMAN DURAN: Yes. And the rest will be tabled until the 16th at—can we do it at 5:00? Five o'clock.

[Away from the microphone, County Clerk Bustamante suggested 5:30 would be better.]

CHAIRMAN DURAN: Okay, 5:30. Ben. Please come to the podium, Ben.

MR. MARTINEZ: The only reason I'm upset is these are two affordable projects. I'll try, I'll call the MFA tomorrow and I will inform the commissioner of it. I don't know if I can hold the lot nor the subsidy for one of these after Friday. That's why I played the game. I've gone as far as I can. I'm sorry. But both these women, Lewis is of them and the other applicant, Groves, is willing to sell at an affordable price to one of the clients and I have until Friday to lock the deal. My lock expires on Friday. You know what I'm talking about.

CHAIRMAN DURAN: What case is that?

MR. MARTINEZ: It's number 11. I'll try—

CHAIRMAN DURAN: What happens if we don't grant the variance, Ben?

MR. MARTINEZ: I'll be back to square one. I understand that. I'm just saying I would like to have gotten heard but let's do this. I'll work, I'll get an extension. I'll figure it out. I'm not trying to be a hard person on this but I have a lock until Friday on her—this is a first time homebuyer lock at 5.7 and \$10,000 worth of subsidies. I will call you tomorrow. I'll try and do something.

CHAIRMAN DURAN: Do you want to hear this case first? Table the rest?

COMMISSIONER TRUJILLO: Yes. Let's do it.

COMMISSIONER CAMPOS: It's a variance case, Mr. Chairman.

MR. MARTINEZ: I'm not trying to be the mean person on this. I just have until Friday. Why don't I do this? Let me go back and work on it and I'll call you tomorrow. I understand you're tired. I'm tired too.

CHAIRMAN DURAN: Well, we have time for one more. Or do you want to just stop it now? We said we were going to quit at 10:00.

MR. MARTINEZ: I understand. You're tired. I'm tired too. How about this? I'll see if I can get it extended but my lock—

CHAIRMAN DURAN: Why don't you give us a few minutes to discuss it amongst ourselves.

COMMISSIONER TRUJILLO: If we're committed to affordable housing and he has a deadline, I don't see why we can't listen to it.

CHAIRMAN DURAN: Okay. I would do that.

COMMISSIONER CAMPOS: Make your motion.

COMMISSIONER SULLIVAN: Make the motion.

COMMISSIONER TRUJILLO: Okay, I make a motion to consider case number, CDRC Case #V 02-5320. That 11, okay. Lewis/Groves/Nestor variance.

CHAIRMAN DURAN: So we would consider that one now and table the rest till the meeting of the 16th?

COMMISSIONER TRUJILLO: Yes.

CHAIRMAN DURAN: That's the date that we picked? Okay, at 5:30. Okay,

2310205

Ben, come on up please.

COMMISSIONER CAMPOS: Is there a second?

CHAIRMAN DURAN: I second it. Any further discussion?

The motion to consider CDRC Case #V 02-5320 passed by majority [4-1] voice vote, with Commissioner Campos casting the negative vote.

CHAIRMAN DURAN: Why, because it's a variance?

COMMISSIONER CAMPOS: People shouldn't come up here presuming they're going to get a variance. I hope you understand that. But let's go. We don't have any time to talk.

CHAIRMAN DURAN: We're not going to discuss that right now.

- XI. A. 11. CDRC CASE #V 02-5320 - Lewis/Groves/Nestor Variance. Marilyn Lewis, Joseph Graves and Kathleen Nestor, Applicants, Gregory Ross, Agent, Request a Variance of Article III, Section 10 (Lot Size Requirements) of the Land Development Code to Allow for a Land Division to Create Two 8-Acre Tracts. The Property is Located off Madrid Heights Trail Within Section 25, Township 14 North, Range 7 East (Commission District 3)**

CHAIRMAN DURAN: Penny, where is this property located?

PENNY ELLIS-GREEN (Review Specialist): Mr. Chairman, this is just to the west of the traditional community of Madrid.

CHAIRMAN DURAN: Is this part of that area that is subject to—do we have a moratorium or a resolution about wells? Is that in that same area?

COMMISSIONER SULLIVAN: No.

CHAIRMAN DURAN: Okay. Penny.

MS. ELLIS-GREEN: Thank you, Mr. Chairman, Commissioners. The existing legal lot of record is 20 acres in size. Therefore if the two 8-acre tracts are created, a third tract, four acres in size would also be created through exclusion and that is shown in your Exhibit D. The property is located within the Homestead Hydrologic Zone. Article III, Section of the Land Development Code states the minimum lot size in this area is 160 acres per dwelling unit. Lot size may be reduced to 2.5 acres if the applicant can demonstrate adequate long-term water.

The applicant submitted a deed from 1983 where the property was sold to two couples as joint tenants. This deed accepts a four-acre tract. Again, that's shown on the bottom on Exhibit D. In 1999, Marilyn Lewis purchased a ½ interest on the 16 acres.

CHAIRMAN DURAN: I'm sorry. What year?

MS. ELLIS-GREEN: 1999.

CHAIRMAN DURAN: Okay. Thank you.

2310206

MS. ELLIS-GREEN: Both parties have their own home, their septic system and well on the 16-acre tract. In 2001, the district court ordered that the tenancy in common be dissolved and that Groves and Nestor own one 8-acre area and Lewis owns the second 8-acre area. These lots do not meet the lot size requirement of the Code and the applicants have not submitted a hydrology report to prove adequate water for the lots. It has been determined that a court does not have the authority to create lots.

The applicants have not provided proof that the two homes were permitted by the County. They state that they are requesting this density variance as they are wanting to sell the homes which will qualify as affordable housing and if the division is not approved it would create a hardship to the applicants.

Recommendation: The applicants are requesting two 8-acres tracts be created. In doing this a total of three lots would be created. Staff recommends that the request for a variance be denied as the intent of the Code is to set minimum lot size at 160 acres in this area. The decision of the CDRC was to recommend approval of a variance of Article III, Section 10 of the Land Development Code to allow a land division to allow two 8-acre tracts, subject to the following three conditions. And may I enter those into the record?

[The conditions are as follows:]

1. Water use shall be restricted to 0.25 acre-feet per lot per year. Water restrictive covenants shall be recorded with the plat. The applicant shall install a water meter on both lots and send water meter readings to the County Hydrologist by August 31st of each year.
2. No further division of this land shall be permitted. This shall be noted on the plat.
3. A plat of survey meeting all other Code requirements shall be submitted to the Land Use Department for review and approval.

CHAIRMAN DURAN: So Penny, there's two houses there already.

MS. ELLIS-GREEN: That's correct.

CHAIRMAN DURAN: And the affordable lot that they're trying to create is the 4-acre lot?

MS. ELLIS-GREEN: No, Mr. Chairman, if you look on Exhibit D, the applicants are trying to create C-1 and C-2, but in doing that they will leave the four-acre tract at the bottom as being created through exclusion.

COMMISSIONER TRUJILLO: So that has to be recognized as a non-conforming lot?

MS. ELLIS-GREEN: Mr. Chairman, Commissioner, that is correct. The boundary that is recognized as the legal lot of record at the moment is a 20-acre boundary, which is the entire boundary shown in Exhibit D and they want to create C-1 and C-2, so we would then recognize the four acres at the bottom as a legal lot of record through exclusion.

CHAIRMAN DURAN: Any other questions of Penny?

COMMISSIONER SULLIVAN: Mr. Chairman.

CHAIRMAN DURAN: Commissioner Sullivan.

2310207

COMMISSIONER SULLIVAN: Penny, regarding the water supply, they're requesting a variance of the geo-hydro. I noticed that they indicate that Mr. Groves and Ms. Nestor have water hauling rights from the town of Cerrillos. I assume that's because they don't have adequate water on the property. They have to haul it. Is that correct?

MS. ELLIS-GREEN: Mr. Chairman, Commissioner, they do have wells and I don't know how much water the wells supply and whether or not they do need to use the hauling but they do state that they can haul water as well.

COMMISSIONER SULLIVAN: Maybe they can address that. The applicant can address that when they come up. The question is why do you need water hauling rights if you have a good well, and that's of course what a geo-hydro determines.

MS. ELLIS-GREEN: Mr. Chairman, Commissioner, that is correct and the County Code doesn't allow you to haul water to prove your 100-year supply.

COMMISSIONER SULLIVAN: I understand.

CHAIRMAN DURAN: Penny, did they provide you with a well log?

MS. ELLIS-GREEN: Mr. Chairman, Commissioners, no. We have not got a well log on this property.

CHAIRMAN DURAN: So we have no idea if that well is producing one gallon a minute or ten gallons a minute.

MS. ELLIS-GREEN: No, the applicant may well be able to address that.

CHAIRMAN DURAN: Okay. Is the applicant here? Please come forward. Sir? Are you part of the applicant? Why don't you come up and when it's your turn to talk we'll let you talk instead of keep on jumping up there.

GREGORY ROSS: My name is Gregory Ross and I'm an attorney here in Santa Fe and I represent Mr. Lewis and Groves, Joe Groves.

[Duly sworn, Gregory Ross testified as follows:]

MR. ROSS: Thank you very much for hearing us.

CHAIRMAN DURAN: Mr. Ross, do you have a well log?

MR. ROSS: We have a well report that stated that there's 100 years worth of water on it by a certified hydrologist.

CHAIRMAN DURAN: Is that part of the packet?

MR. ROSS: It should be. We submitted it with our application.

CHAIRMAN DURAN: Penny, is it part of the packet?

MR. ROSS: There are two wells on the property, Commissioners.

MS. ELLIS-GREEN: Mr. Chairman, Commissioners, a hydrologic report for the Groves property was submitted. However, it was not reviewed as the County Hydrologist stated that this is none of the required information for a water availability assessment and that she had spoken to the applicant and given the information from the Code the previous week. There are required well logs from the permits filed with the State Engineer, pumping tests were dated from one of the wells, a calculation of water availability beneath the property and an analysis of 100-year draw-down in the area with both wells and all the surrounding wells in use. Their report does not meet Code requirements.

2310208

These were all notes that the County Hydrologist made on this so there was actually nothing for her to review as a hydrology report.

CHAIRMAN DURAN: So we actually have no knowledge as to whether or not there's any water supply, any adequate water supply to support two houses, and they're going to be hauling water.

MS. ELLIS-GREEN: Mr. Chairman, I don't know that they're going to be hauling water. I believe they're going to use their wells, but no, there's nothing in this file that would prove that they would have a 100-year water supply for two lots. If they could prove a 100-year water supply for two lots, they would not require a variance. They could go as small as 2.5 acres if they proved that.

CHAIRMAN DURAN: That wasn't—my question was whether or not they had a well log from the State Engineer's Office.

MS. ELLIS-GREEN: There is no well log included in this.

CHAIRMAN DURAN: I understand they're asking for a variance to the geo-hydro.

MS. ELLIS-GREEN: Mr. Chairman, that is correct.

MR. ROSS: Yes, I'd like to report to the Commissioners that the two wells that are on the property have been producing and my client says 13 gallons a minute for a number of years. What happened was my clients bought this property after it had been illegally subdivided just a couple of years after the Code went into effect. They were innocent purchasers of this property and they were not aware that their lots were non-conforming. Mr. Groves is wanting to sell his property and when they went through conventional lenders they required that we have a legal lot of record for each of the lots. So they came to me seeking assistance and along, in the exceptions area of the Code, along with the family transfer is a court-ordered partition.

So we went to court and got a partition into the two 8-acres. So they were innocent purchasers of this property and they've had the houses for 15 years with two wells, two septic, the whole nine yards. They've been working on getting this done for a couple of years. I know that. And the property is just on the border of the town of Madrid, the Village of Madrid. It's just a stone's throw away. But for somebody in the County saying, Well, you know if you clients had been involved in the political process of Madrid, they could have been in the City of Madrid and had a .25 lot acre. So they're just on the edge of going from 160 to a quarter of an acre lot size.

So these properties have been there. This is not going to have any actual increase in density. Now, I must say that I don't understand why the legal lot of record by exclusion of the four acres. I know of no legal doctrine or certainly no Code section which so provides. So I kind of object to having to have that tagged onto our—we're just asking you to please bless us for something that was done wrong 15 years ago by somebody else. So that the ladies can get bank loans on their property. And I know of no doctrine or rule or law that says the four acres has to be, so I hate having that tagged on to drag us down for somebody else to be able to build a house there. I'm not sure where that comes so I want that on the record.

2310209

Other than pleading with your sympathies, I had a case made but I do not want to take your time. I'd be glad to answer any other questions that any of the honorable Commissioners might have.

CHAIRMAN DURAN: Who's going to own the lots? Who's going to own the four-acre lot?

MR. ROSS: I don't even know the guy. We've been sending him legal notices and I think his name's Miter and I believe that he lives in Angel Fire. But he's not party to this.

CHAIRMAN DURAN: Is this part of the partition suit?

MR. ROSS: No, sir. I don't know the guy. Four acres. I don't understand that whole deal on the four acres. I think he should come before and do his own process if he—

COMMISSIONER TRUJILLO: When were the lots made? When was the lot split into those two 8-acre lots and that one 4-acre lot?

MR. ROSS: The one four-acre—okay, one guy owned 20 acres. He sold two couples 16 acres together. They owned it in co-tenancy. Two couples owned a whole 16 acres and the four was sold to somebody else or held on by that guy and then sold to somebody else later or before. So that didn't have anything to do with the 16 acres that my clients have. And Ms. Lewis bought the undivided interest of one of the original couples and she's on a real estate contract for that.

COMMISSIONER TRUJILLO: So when did that happen? When did that lot split happen? And was it approved by Santa Fe County?

MR. ROSS: There wasn't really technically a lot split.

COMMISSIONER TRUJILLO: There's not a lot split?

MR. ROSS: No, sir. But there was, the two couples owned the whole thing together, but they had two houses, two wells and two septic. And so they owned it all together and anybody could walk anywhere they wanted to.

COMMISSIONER TRUJILLO: And now they want to split it into 8-acre parcels.

MR. ROSS: Yes, sir. And then we went to partition and we said, They get this part and then he gets this part. So that was done just a couple of years ago. But they've had the two houses and the two things and the two couples have owned it for I think close to 18 years now. And the houses have been there and no one would ever know. This approval, this administrative approval will positively affect a lot of people's lives, but negatively affect no one's from yesterday. No one's going to be hurt anymore tomorrow than they were today or yesterday.

CHAIRMAN DURAN: Penny, I have a question. As it exists right now, the two dwellings. And I actually see a guest house, right?

MR. ROSS: That's for chickens.

CHAIRMAN DURAN: Next to the shed. Okay, so there's two dwellings on this 16-acre piece of land. And it's already in violation of the Code, is that correct?

MS. ELLIS-GREEN: Mr. Chairman, that's correct. Exhibit D actually shows, it lists three residences. Whether or not the third one is a residence, if it is not then it needs to

2310210

be removed from the plat as being listed as a residence.

CHAIRMAN DURAN: What is it? Oh, it's a workshop. There's no kitchen? Okay. So if we don't approve it we still have an illegal situation. I won't say illegal but a non-conforming use because we have two dwellings on one lot and by allowing them to create these two lots, we've actually made it a more usable—I'm sorry, not more usable but a more conforming—they're conforming with a variance.

MS. ELLIS-GREEN: Mr. Chairman, if a variance is granted and you grant this tonight then the C-1, C-2 and the four acres would all be legal lots of record.

CHAIRMAN DURAN: And if we don't, they just stay in limbo, in purgatory, in limbo forever.

MS. ELLIS-GREEN: Correct. They are not legal lots of record. The 20-acre tract would be legal.

CHAIRMAN DURAN: Okay, I understand now. Do you have anything else to add to the record.

MR. ROSS: I don't, but we just throw ourselves on the mercy of the Commission and again state these issues. And particularly the one as a lawyer, it's just that they are on the border. That line could have been drawn just that way or that way, and to go from 160 to a quarter, just a rock's throw. And I know we have to draw lines on these things, but it's just so close that it hurts. I thank you for your time very much and I appreciate your help.

CHAIRMAN DURAN: Is there anyone else out there that would like to address the Commission concerning this issue?

[Previously sworn, Marilyn Lewis testified as follows:]

MARILYN LEWIS: Hi, I'm Marilyn. I'm just actually coming here to beg because I bought my property on a real estate contract and it's open a couple of months.

CHAIRMAN DURAN: Which one is yours?

MS. LEWIS: I have one of the eight acres. It's the one further south. So I have a balloon payment coming up in a few months and I can't get refinancing because of the split and I've put basically, everything I have into it and it's been appraised at \$81,000. So I can't go anywhere else. So if this doesn't get approved, I'm out, unless you guys are renting rooms or something, I'm out. So I'm really hoping you would approve it. Thanks.

[Previously sworn, Joe Groves testified as follows:]

JOE GROVES: My name is Joe Groves. I'd just like to go on record. I hauled water up there for 13 years before I could afford to drill a well, and now that I have a well, I still own the—that's when Cerrillos developed their property and got the federal grants. I still own the hauler's rights, I guess you would say but I don't use them. The well is perfectly adequate for my family.

CHAIRMAN DURAN: Thank you. Ben.

MR. MARTINEZ: I'll be brief and I apologize, Commissioner Campos, I did not assume anything. I just needed to have this heard because a couple of things. Marcy Welsh who's been back there is purchasing Mr. Groves' piece immediately and I have to say something on behalf of Mr. Groves. We had a handshake a year and a half ago on a price for

2310211

this house, which makes it affordable. Since that time the appraisal has been much higher but I have to—Mr. Groves is a highly decorated Vietnam veteran—he has never changed the price in a year and a half. So it is still considered affordable.

As for the fact they are getting larger lot splits, again, they are getting a secondary loan, plus a second mortgage, and for 30 years, nothing is going to happen. I thank you for your time and again, like I said, the only reason we have to get going is because this young lady over here has used her retirement to do it. But both clients, Lewis and Groves [inaudible] to Walsh do meet all affordable criteria. The homes do price-wise. I thank you.

CHAIRMAN DURAN: Thank you. And thanks for being who you are. Is there anyone else out there that would like to address the Commission? What's the pleasure of the Board?

COMMISSIONER SULLIVAN: Mr. Chairman, I have got a question.

CHAIRMAN DURAN: Commissioner.

COMMISSIONER SULLIVAN: We have one individual that's written an objection to this variance and another who writes that they have concern regarding an easement, apparently for property that is located beyond this property. How is the easement issue addressed? I don't see that anywhere?

MR. ROSS: May I answer that question, Mr. Commissioner? I am the legal agent on this case I haven't gotten no copy of any objection whatsoever. I've never heard through a grapevine. We've given three notices. My office has sent out certified mail to all the landowners three different times. I've never heard a word about it.

COMMISSIONER SULLIVAN: Do you want to take a minute and take a look at it.

MR. ROSS: But I will tell you this—I'm going to have to tell you, talking about the easement?

COMMISSIONER SULLIVAN: As I indicated, one letter is an objection saying that the owners knew when they purchased that those were 20-acre lots and all the lots around it are 20-acre lots. The other is a letter saying, not objecting to the variance but saying if it's created, they want some guarantee that the easement, which apparently they're using now, will continue. And I see a survey there or a piece of a survey and I see someone has written in hand on it, "easement." I don't know what that means.

MR. ROSS: Okay. Let me address these in hand and I'd like to—this is the first I've heard of this, of the whole thing on this thing. This maintains a maximum distance of privacy. It's going to be no more private tomorrow, one way or the other than it is today. That's not a valid objection. I'm just—

CHAIRMAN DURAN: Could I ask you a question?

MR. ROSS: Yes, sir.

CHAIRMAN DURAN: There's an easement shown on this plat, and it goes to the adjoining property. Do you see that where it goes to the adjoining property?

COMMISSIONER SULLIVAN: There's a dotted line for a road shown and someone has written in an easement but it appears to be—

2310212

MR. ROSS: The only easements on this property of record in Santa Fe County are the ones given from Joe across his property to Marilyn. And Marilyn, across her property to Joe's. That's it. And I'm going to tell you, I don't know what to think about this easement. The other day I got a call, about six weeks ago, Mr. Groves called me and said that a real estate company sent him a blank easement, a request for an easement for him to sign and he called me and he said, Greg, what do I do about this, and I said, I don't know what the easement's for but you certainly—I'm not going to advise you to sign a blank document for anything. Any reason ever. And so that's the last I heard about that.

On Thursday I got a phone call from one of the people that we've been communicating with, a California couple, he's a lawyer, a real estate lawyer in California. That's McCloskey, and they asked to come in my office and see some maps of the property, asked if I had it. I said sure. And they said, Well, what time? Can we be there at 1:00 and I said sure, that's fine. So I sat around and prepared for the meeting. Got the maps, got all the information for them and 1:00 rolled around, 2:00 rolled around, 3:00 rolled around and they showed up, knocked on my door and said that they had happened to run into a friend and that had delayed them two hours for our meeting. And this gentleman is a lawyer from California.

And so they just came in and were looking at some maps. I talked to my client that day and told him that these people were coming in. We had no idea that there was any contention whatsoever and come to find out these people had taken a D-9 bulldozer and bulldozed—this is just a little two-lane jeep trail that Mr. Groves had let a gentleman 18 years ago go to a little hut that was on an adjoining piece of property. This lady just bought this property and there are no easements on record whatsoever and she brings a D-9 bulldozers and grades and expands the road that is not even an easement. And she showed me a draft of a letter in favor of, supporting this thing. So evidently, this is a vindictive thing. Certainly, my clients didn't take it very lightly that somebody had just arbitrarily come on their property and dug, expanded their road by 12 feet.

The lady came in and was cussing me and they acted like, here's the thing, they sought an easement from us, evidently six weeks ago. They knew they didn't have an easement, and the bring a bulldozer and doze—

CHAIRMAN DURAN: Excuse me. Commissioner Sullivan, do we really need to get involved in issues regarding an easement?

COMMISSIONER SULLIVAN: I just wondered if the purpose here is to create legal lots of record so they can finance it, then easements always become an issue, whether it is or isn't an easement, I don't know. Apparently the property is located to the north of this property. If we're creating a lot, does that also create an easement or is it a proscriptive easement or should we make that a condition that there be an easement. I guess I need some legal guidance here, perhaps, Mr. Kopelman, as to what the procedure is.

MR. KOPELMAN: Mr. Chairman, Commissioner Sullivan, this is a very strange case from beginning to end.

COMMISSIONER SULLIVAN: I didn't need that advice. I could figure that out for myself.

MR. KOPELMAN: Normally, the easement issue, it's a private issue between the parties and I don't know that there's ever been a formal grant of an easement here. I'm not sure what these lines are on the plat to be honest with you. It's not clear to me whether they're—it doesn't look like they're dedicating an easement. It says easement on the top but it doesn't really specify anything so I really couldn't tell you. It seems that this is an issue between two private parties though. I'm not sure we need to get involved in this in reaching a decision on this case.

CHAIRMAN DURAN: That's what I would think. Penny, you had something to add to that?

MS. ELLIS-GREEN: Mr. Chairman, Commissioners, just to let you know, I have spoken to Helen McCloskey and she said they are not platted easements. They are not easements. She has no easement agreement.

CHAIRMAN DURAN: Who is that?

MS. ELLIS-GREEN: She's the lady that wrote the letter. It's in your Exhibit G.

CHAIRMAN DURAN: Is she the D-9 woman?

[Mr. Ross makes remarks away from the microphone.]

MR. GROVES: Those roads I cut in, that you see on that map there, I cut those in 18 years ago. There's no easement across that property. I cut them in when I got the permits to bring the two houses in, I got the permits for the septic, the permits for the wells. Those roads were cut by me. Not by anyone else. No one used that road in 18 years. As far as I'm concerned there are no easements. Thank you.

CHAIRMAN DURAN: I think we've heard enough. What do you all think? Is there anyone else out there that wants to speak to the Commission? What's the pleasure of the Board?

COMMISSIONER TRUJILLO: Mr. Chairman.

CHAIRMAN DURAN: Commissioner.

COMMISSIONER TRUJILLO: I think that this is an existing situation. By approving the lot split it will not increase the intensity in the area by any shape or form. My concern would be with the four acres, of creating a four-acre lot. I don't know how to resolve that other than if two acres, or if that four acres would be divided in two and those 8-acre lots would be augmented to ten, but I don't know. I think there's a separate property owner for those four acres. Again, the situation that I think the applicants have invested their lifeblood, their finances. It's an existing situation. We're not creating a situation or augmenting the intensity of the area. I would move for approval of this case.

CHAIRMAN DURAN: I second that. I know how a real estate contract, which is what you bought the property under, how that's easy, how it's easy to disguise or not disguise but how it's easy to overlook whether or not the property you're buying is a legal lot of record, because you don't go through the normal channels. And it's unfortunate that you got caught in that situation. I don't see an intensification of the use either so I second it.

COMMISSIONER TRUJILLO: Second, with conditions?

CHAIRMAN DURAN: Right. Any further discussion?

2310214

The motion to approve CDRC Case #V 02-5320 passed by unanimous [4-0] voice vote with Commissioner Campos abstaining.

MR. KOPELMAN: Mr. Chairman, we recess until October 16th at 5:30.

RECESS

Chairman Duran declared this meeting recessed at approximately 10:35 p.m.

Approved by:

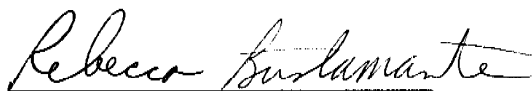


Board of County Commissioners
Paul Duran, Chairman

Respectfully submitted:

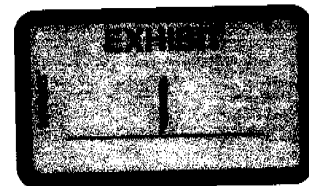
Karen Farrell, Commission Reporter

ATTEST TO:



REBECCA BUSTAMANTE
SANTA FE COUNTY CLERK





Subject: Turquoise Trail Summer Water Use

Date: Tue, 08 Oct 2002 12:16:51 -0600

From: "Bill Belzner" <bbelzner@mail.sfps.k12.nm.us>

Organization: sfps

To: katherine yuhas <kyuhas@co.santa-fe.nm.us>, jssantafe@earthlink.net, grendon@mail.sfps.k12.nm.us

Mr. Sullivan (and Ms. Yuhas):

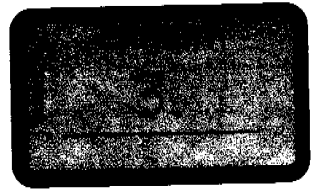
2310215

As we discussed in our earlier telephone conversation today, I would like to clarify a couple of points regarding our use of SFPS water from the Turquoise Trail Elementary School during this past summer.

- The use of water from our well ceased last July, on and not after the day we received telephonic notice from the State Engineer's Office that a permit was required for alternative use. We hold a permit for six acre feet at Turquoise Trail, used only one for construction purposes, and have never approached utilization of our full allotment in the past, to my knowledge.
- We are not asking for any additional alternative use of water from this source.
- The permit requirement is ex post facto on the part of the State Engineer's Office. The water use has already occurred, as previously noted, and we are simply complying with documentation requirements. Any protest at this point would be of limited utility.
- The construction plans for the Ramirez Thomas Elementary School have always involved tying in to City water. There have been some delays in getting approval to tap into that source, but we anticipate getting approval in the next few days. Technical approval has been given by Robert Jorgensen of SDCW, and now simply requires City Attorney and City Manager signatures.
- We were always using City effluent for site preparation, but could not get enough in the early days to move the project forward in a timely manner. We were warned by the contractor that we would experience a delay of four to eight weeks in the opening of the school if we did not find additional water during the critical period in the summer. The District cannot tolerate a delay of that magnitude because of the serious

- the Inmate Literacy Act, including the use of a licensed teacher. The County shall utilize Contemporary or Steck Vaughn ABE curricula. The County shall use PLATO or AZTEC software for ABE instruction. Computer assisted instruction will be utilized as an instructional aid. Classes will be offered on 1.5 hour schedules.
- 11.2** GED: This adult education program will prepare students to pass the GED test.
- 11.3** English as a Second Language (ESL). This specialized instruction for students whose first language is not English will be taught. Students with limited English proficiency will be assessed using the adult version of the Language Assessment Scales (A-LAS).
- 11.4** Vocational Programs: Vocational programming will be available in a subject matter to be mutually agreed upon by the parties. NMCD will not reject the County's proposed subject matter without good reason. The County shall provide at least twenty (20) slots for such Vocational programming. The Curriculum is subject to approval by NMCD Education Bureau.
- 11.5** Volunteer Program: All volunteer programs for inmates will include supervision and monitoring of the program and security background checks for volunteer applicants. Approved volunteers shall receive orientation and training regarding all rules and security procedures. All volunteers shall be required to comply with confidentiality and all security policies and procedures.
- 11.6** Work Programs: The County shall provide inmate work opportunities to NMCD inmates in institutional support positions designed to teach inmates that the key to success is good social values, a good work ethic and a job. Work opportunities will afford inmates the opportunity to learn job skills, and develop good work habits and attitudes that will be beneficial to their occupational needs upon release. These jobs will be for unskilled, semi-skilled and skilled workers. NMCD inmate workers will likely be used in the kitchen, the laundry and maintenance departments, as well as hallway workers, housing orderlies, barber shop, commissary clerks, and program service aides. NMCD inmates will not be used for work outside the secure perimeter of the Facility without the consent of the NMCD and the Santa Fe County Sheriff.
- 11.7** Inmate Pay For Work Programs: NMCD will pay NMCD inmates for work at rates equal to NMCD rates for similar work at NMCD facilities. A staff member at the Facility will maintain an accurate daily record of the hours each NMCD inmate works. Inmates will be paid for participation in education and other treatment programs as directed by NMCD. NMCD will be responsible for the cost of such payments. The County will provide NMCD a monthly accounting of all participation in work programs.

2310218



Proposed Adjustment of the La Cienega and La Cieneguilla Traditional Historic Community Boundary

1

LEGEND

- La Cienega and La Cieneguilla Traditional Historic Community Boundary as adopted August 14, 2001 by Santa Fe County Ordinance No. 2002-09
- La Cienega Traditional Historic Community Zoning District Boundary
- La Cienega and La Cieneguilla Traditional Historic Community Boundary as adopted May 9, 2006 by Santa Fe County Ordinance No. 2006-07
- PLSS Section Lines and Grant Boundaries
- City of Santa Fe Boundary
- GPS Roads
- Streams and Arroyos
- Highway Corridor Plan Area
- BLM Land
- State Land
- Forest Service Land
- State Prerevolutionary
- NM National Guard

2310219

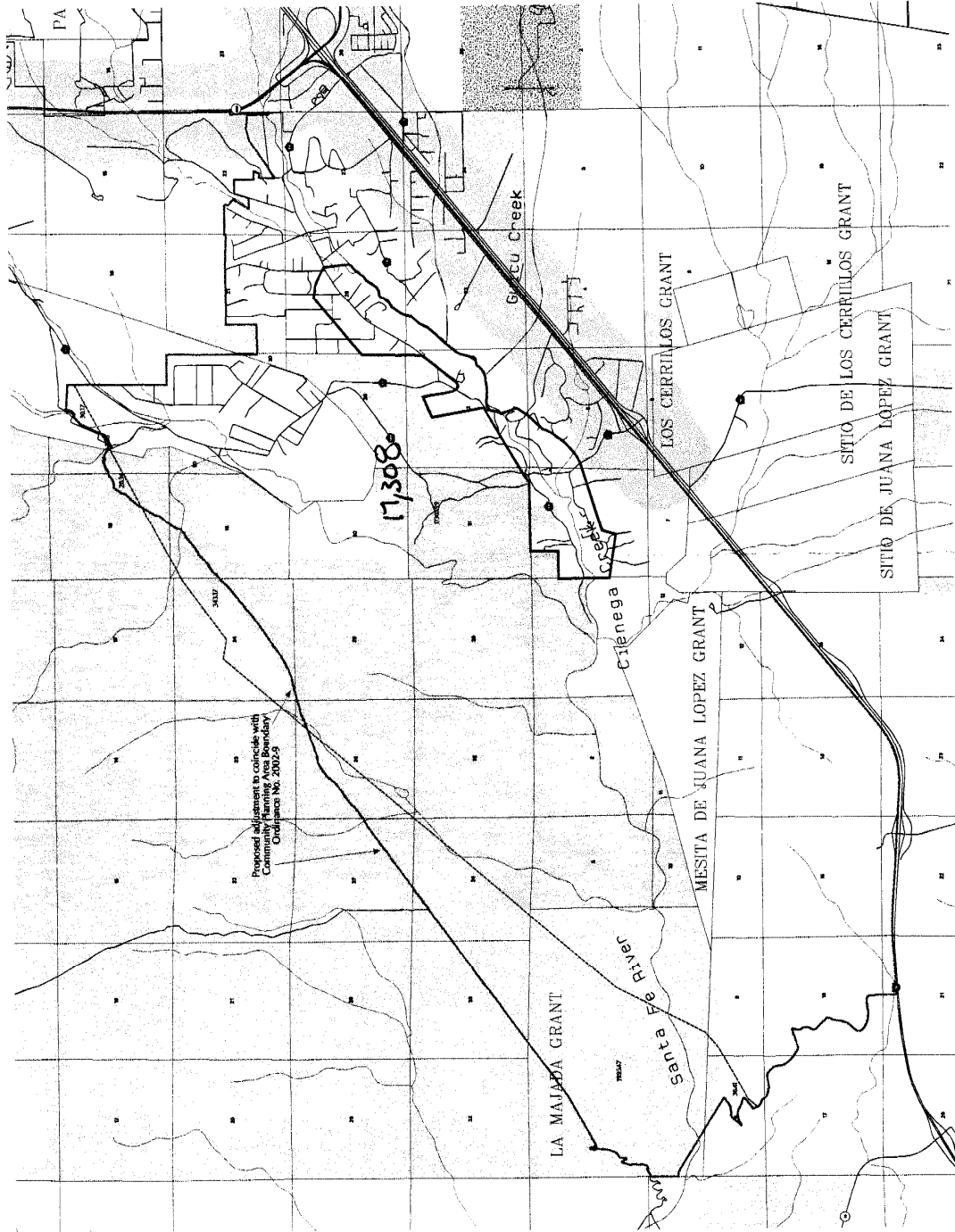
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August 16, 2002



SANTA FE COUNTY

2310220

Ordinance No. 2002 - ___

**AN ORDINANCE AMENDING ORDINANCE NO. 2000-07 BY REVISING
THE BOUNDARY OF THE TRADITIONAL HISTORIC COMMUNITY OF
LA CIENEGA AND LA CIENEGUILLA**

**BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF SANTA FE
COUNTY THAT ORDINANCE 2000-07 OF THE SANTA FE LAND DEVELOPMENT CODE IS
AMENDED AS FOLLOWS:**

1. The La Cienega and La Cieneguilla Traditional Historic Community was designated by County Ordinance 2000-7.
2. The La Cienega and La Cieneguilla Traditional Community Planning Area Map was adopted by County Resolution 2001-117 and Ordinance 2002-9.
3. The boundary of the La Cienega and La Cieneguilla Traditional Historic Community is amended to make it coincidental with the La Cienega and La Cieneguilla Community Planning Area. The following map depicting the amended Traditional Historic Community is hereby adopted and incorporated into this section.
 - a. La Cienega and La Cieneguilla Traditional Historic Community Map
 - i. Written description of the La Cienega and La Cieneguilla Traditional Historic Community Map
4. The areas identified on the attached map are the Villages of La Cienega and La Cieneguilla:
 - a. are unincorporated areas of Santa Fe County
 - b. are identifiable villages, communities, neighborhoods or districts that are documented as being in existence for more than 100 years;
 - c. include structures or landmarks associated with the identity of the areas traditionally known as the Villages of La Cienega and La Cieneguilla, and are areas with distinctive character or traditional qualities that can be distinguished from surrounding areas or new development in the vicinity.

Wherefore, as of the effective date of this ordinance, the boundary of the La Cienega and La Cieneguilla Traditional Historic Community is amended as set forth on the attached map.

1
2 PASSED, ADOPTED AND APPROVED this ____ day of _____, 2002, by the Santa Fe
3 County Board of County Commissioners.

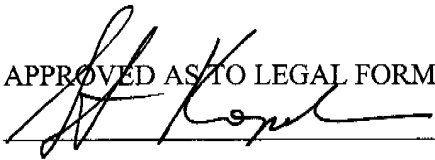
2310221

4
5 _____
6 Paul Duran, Chairman

7 ATTEST:

8 _____
9 REBECCA BUSTAMANTE
10 COUNTY CLERK

11
12
13 APPROVED AS TO LEGAL FORM AND SUFFICIENCY:

14 
15 COUNTY ATTORNEY

16
17
18 **CERTIFICATE OF FILING**

19 I, Rebecca Bustamante, County Clerk, do hereby certify that the foregoing ordinance, designated as
20 Ordinance, No. 2001 - ____, was filed in my office on the ____ day of _____, 2001, in book
21 Number ____ at Page _____.

22
23 SANTA FE COUNTY CLERK

24 _____
25 REBECCA BUSTAMANTE

Written Description of Amended
La Cienega and La Cieneguilla Traditional Historic Community Boundary

2310222

- 1 Beginning at the southwest corner of Section 16, T16NR08E,
- 2
- 3 West along the section boundary 1320 feet to the eastern edge of the Vista Land Subdivision,
- 4
- 5 North approximately 4,365 feet along the ¼ section boundary of Section 17, T16NR08E to the northeast
- 6 corner of the County open space parcel as recorded as Parcel 1 in Plat Book 431 Page 047 and Parcel 2 in
- 7 Plat Book 431 Page 043 of the Santa Fe County Clerk's office,
- 8
- 9 West and southwest along the boundary of the County open space parcel to the intersection with County
- 10 Road #56,
- 11
- 12 West and generally southwest along County Road #56 approximately 8 miles to the intersection of the
- 13 west boundary of Section 8, T15NR07E,
- 14
- 15 Generally southeast along the boundary of the U.S. Forest Service land to the top of La Bajada mesa and
- 16 the contour line for 6,020 feet,
- 17
- 18 Generally southeast along the 6020 foot contour approximately 1.5 miles to the ½ section of the southern
- 19 boundary of Section 16, T15NR07E,
- 20
- 21 South approximately 650 feet to Interstate 25,
- 22
- 23 East and northeast along the centerline of the Southbound Lane of Interstate 25 to the centerline of the
- 24 exit 276 on ramp from State Road 599,
- 25
- 26 Northwest along the centerline of State Road 599 to a point approximately 600 feet north of the southwest
- 27 corner of the parcel recorded in Book 349 Page 005 with the Santa Fe County Clerk,
- 28
- 29 West from the centerline of State Road 599 to the eastern boundary of the parcel recorded in book 349
- 30 page 005,
- 31
- 32 Following the boundary of the parcel recorded in Book 349 Page 005 south and west along the perimeter
- 33 of the property and across the Arroyo De Los Chamisos to the intersection with the southeast corner of
- 34 the parcel belonging to the City of Santa Fe as part of the City Airport facility,
- 35
- 36 West along the southern boundary of the City Airport parcel to the western edge of the Vista Lands
- 37 subdivision,
- 38
- 39 North along the boundary of the Vista Lands subdivision to the point of origin at the southwest corner of
- 40 Section 16, T16NR08E.

SANTA FE BOARD OF COUNTY COMMISSIONERS

COMMISSION CHAMBERS

COUNTY ADMINISTRATION BUILDING

(Public Hearing)
October 8, 2002 - 3 p.m.

2310223

Agenda

September 10, 2002 approved
September 18, 2002 approved
September 24, 2002 approved
September 18, 2002 - continuation of 10/1/2002

- I. Call to Order
- II. Roll Call
- III. Pledge of Allegiance
- IV. Approval of Agenda
 - A. Amendments
 - B. Tabled or Withdrawn Items
- V. Approval of the Minutes
- VI. Matters of Public Concern - Non-Action Items
- VII. Matters from the Commission

approved
 Resolution No. 2002 - A Resolution Opposing the Federal Court Decision in the Rio Grande Silvery Minnow Case to Release San Juan-Chama Project Water, and Directing Staff to File an Amicus Brief with the Tenth Circuit Court of Appeals
 B. Request Authorization to Publish Title and General Summary of a Ordinance Setting Standards and Guidelines for Costs and Public Improvement Districts

- VIII. Consent Calendar
 - A. Request Adoption and Findings of Fact and Conclusions of Law for the Following Land Use Cases:
 - 1. CCD CASE #MP 02-5050 - Sonterra (Approved) - w/audit*
 - 2. CCD CASE #MP 02-5250 - Rancho Viejo-Windmill Ridge, Units 3&4 (Approved)*
 - 3. CDRC CASE #MP 02-5070- Richard Cordova Master Plan (Approved)*
 - B. Resolution No. 2002 *322* Resolution Requesting an Increase to the GOB Series 2001 Fund (353)/Fire Department Public Safety to Budget Fiscal Year 2002 Cash Balance for Expenditure in Fiscal Year 2003 (Fire Department)
 - C. Resolution No. 2002 *132* Resolution Requesting an Increase to the Wildlife/Mountains/Trails Fund (233) for a Grant Award Received from the New Mexico Energy, Minerals, and Natural Resources Department for Expenditure in Fiscal Year 2003 (Project & Facilities Management Department)

IX. Administrative Items

2310224

*amend
B...*

A. Resignations

1. Resignation from the County Development Review Committee

B. Appointments

- Talbot*
1. Appointment to the Agua Fria Development Review Committee
 2. Reappointments to the Road Advisory Committee

X. Staff and Elected Officials Items

A. Land Use Department

1. Update/Discussion on Ordinance No. 2002 – An Ordinance Amending Ordinance No. 1996-13 which Amends Article VII, Section 6.2.2c, and Adding New Sections 6.2.2d and 6.2.2e to the Santa Fe County Land Development Code, Ordinance 1996-10, to Require Proof of a Valid Water Right Permit for Type I, Type II and Type III Subdivisions Allocating More Than 0.25 Acre Feet Per Year Per Lot, and Type III Subdivisions of More Than 12 Lots and Non-Residential Developments Using More Than One Acre-Foot of Water Annually. Katherine Yuhas
2. Discussion of an Application to the State Engineer by Santa Fe Public Schools for a Temporary Permit to Change the Purpose and Place of Use of Underground Waters, Application No. RG-50386 and RG-50386-S. Katherine Yuhas
3. Request Authorization to Publish Title and General Summary of an Ordinance Amending Article V, Section 5.2.2 (Master Plan Submittals) of the Santa Fe County Land Development Code (Ordinance 1996-10), to Require the Submission of Water Supply Plans and Water Permits as Required by Article VII, Section 6

B. Matters from the County Manager, Estevan López

1. Request Authorization to Enter into Agreement Between New Mexico Corrections Department and Santa Fe County to House New Mexico Department of Corrections Inmates at the Santa Fe County Detention Center
2. Request Approval of First Amendment to the Operation, Management and Maintenance Agreement for the Santa Fe County Adult Detention Facility with Management and Training Corporation
3. Discussion/ Direction Regarding Request by The Lensic, Santa Fe's Performing Arts Center to Allow PNM to Relocate Electrical Transformers onto County Property

C. Matters from the County Attorney, Steven Kopelman

4. Executive Session

- a. Discussion of Pending or Threatened Litigation
 - i. Santa Fe County vs. M&R Sand and Gravel
 - ii. Santa Fe County vs. Town of Edgewood, Campbell Ranch
 - iii. Georgia O'Keefe Museum vs. Santa Fe County
- b. Discussion of Possible Purchase, Acquisition or Disposal of Real Property or Water Rights

XI. Public Hearings

A. Land Use Department

1. Ordinance No. 2002 – An Ordinance Amending Ordinance No. 2000-7, of the Santa Fe County Land Development Code (Ordinance No. 1996-10) to Adjust the La Cienega and La Cieneguilla Traditional Historic

1st time

Community Boundary to Make it Coincidental with Boundaries Adopted for the La Cienega and La Cieneguilla Community Planning Area (First Public Hearing). Robert Griego

Item Subbed

*Amend
3-2*

2. **Ordinance No. 2002 - An Ordinance Addressing Water Conservation for all Sources and Uses of Water within Santa Fe County (Second Public Hearing). Katherine Yuhas**

*Approved
5-0*

3. **Ordinance No. 2002 - An Ordinance Amending the Santa Fe Community College District Ordinance, Article XV, Section 1, References, Purpose, and Definitions, and Section 6, Design and Development Standards of the Santa Fe County Land Development Code (Ordinance No. 1996-10) for the Purpose of Developing a Comprehensive Water Resource Management Plan Requiring Development to Utilize the Santa Fe County Water Utility (Second Public Hearing). Roman Abeyta**

*Paul
District
Abstract
4-0*

4. **TDRC CASE #S 02-5290 - Tesuque Ridge Subdivision. Jay Ross, Applicant, Scott Hoeft, Agent, Request, Preliminary Plat and Development Plan Approval for a 12-Lot Residential Subdivision on 100-Acres. This Request Includes a Variance of Article V, Section 8.2.1d (Cul-de-sacs) to Allow a 1,300 Foot Long Cul-de-Sac, and a Variance of Article V, Section 8.2.7d (Grade Percentage) of the Land Development Code to Allow the Approach to an Intersection to be Greater Than 3%. The Property is Located in the Traditional Historical Community of Tesuque, Within Section 6, Township 17 North, Range 10 East (Commission District 1). Wayne Dalton**

Approved

5. **CDRC CASE #DP 02-5230 - Heart and Soul Animal Sanctuary. Natalie Owings, Applicant, Linda Tigges, Agent, Request Master Plan Zoning Preliminary and Final Development Plan Approval for an Animal Sanctuary with Sheds and Pens for 100 Animals, a Gift Shop, Manager's Quarters, Assistant's Quarters, Staff Cabin, and an Outdoor Classroom on 130-Acres. This Request Would also Include a Variance of Article VII, Section 6.4 (Water Availability Assessments) of the Land Development Code. The Property is Located off County Road 63A on the North Side of State Road 50 in Glorieta, within Sections 35 and 36, Township 16 North, Range 11 East (Commission District 4). Wayne Dalton**

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6. **CCDRC CASE #A/V 02-5350 - Boylan Appeal Variance. Zena Boylan, Applicant, James Siebert, Agent, are Appealing the Land Use Administrator's Decision to Deny a Caretaker Residence/Guest House on 2.82-Acres, Which Would Result in a Variance to Article III, Section 10 (Lot Size Requirements) of the Land Development Code. The Property is Located South of Vista del Monte Road, within Section 30, Township 16 North, Range 9 East (Commission District 5). Wayne Dalton**

7. **EZ CASE #S 01-4411 - Skywest Business Park. New Mexico Building Products, Inc., Jim Borrego, Jim Siebert, Agent, are Requesting Final Plat/Development Approval for a Commercial Subdivision (Storage Units, Live/Work Units, Retail, Light Industrial, Personal Services) Consisting of 10 Lots on 7 Acres in Accordance With the Approved Master Plan. The Property is Located Along Academy Road South off Airport Road Within The Two Mile Extraterritorial Zoning District, Section 7, Township 16 North, Range 9 East (Commission District 5). Joe Catanach**

8. **EZ CASE #DL 02-4330** – Sena Land Division. A-Z Surveying Inc., Agent for Phillip A. Sena, requests Plat Approval to Divide 9.048 Acres into Three Tracts. The Tracts will be Known as Tract 9-A (3.889 Acres), Tract 9-B (2.50 Acres), and Tract 10 (2.659 Acres). The Property is Located Within Puesta de Sol Subdivision within the Northeast Corner of Calle Sin Sonte and Entrada, within Section 30, Township 17 North, Range 9 East (Commission District 2). Vicente Archuleta
9. *Denied 3-2*
Denied 3-2
EZ CASE #DL 02-4380 – Tom J. Sedillo and Kathy Sedillo Family Transfer. Alarid and Associates, Agent for Tom J. and Kathy Sedillo, Request Plat Approval to Divide 2.64 Acres into Two Tracts for the Purpose of a Family Transfer. The Tracts will be Known as Tract C-1 (1.25 Acres), and Tract C-2 (1.396 Acres). The Property is Located in the Pinon Hills/Alameda Ranchettes Subdivision at the Intersection of Calle Clara and Santa Fe County Road 70A, Within Section 25, Township 16 North, Range 8 East (Commission District 2). Vicente Archuleta
10. *Denied 3-2*
EZ CASE #DL 02-4390 – Trujillo Family Transfer. Jeromuir M. Trujillo, Applicant, Requests Plat Approval to Divide 4.95 Acres into Three Lots for the Purpose of a Family Transfer. The Lots will be Known as Lot 4-A (1.430), Lot 4-b (2.039 Acres), and Lot 4-C (1.51 Acres). The Subject Property is Located within Pinon Hills/Alameda Ranchettes Subdivision off Calle Francisca Within Section 25, Township 16 North, Range 8 East (Commission District 2). Vicente Archuleta
11. **CDRC CASE #V 02-5320** - Lewis/Groves/Nestor Variance. Marilyn Lewis, Joseph Graves and Kathleen Nestor, Applicants, Gregory Ross, Agent, Request a Variance of Article III, Section 10 (Lot Size Requirements) of the Land Development Code to Allow for a Land Division to Create Two 8 Acre Tracts. The Property is Located off Madrid Heights Trail Within Section 25, Township 14 North, Range 7 East (Commission District 3). Penny Ellis-Green
12. **CDRC CASE #Z 01-5631** – Salida del Sol Master Plan. Ron Sebesta, Applicant, Linda Tigges, Agent, Requests Master Plan Approval for a Maximum of 56,818 Square Feet of Commercial Development on Four Lots for a Total of 12 acres; Uses to Include Office, Office/Warehouse, Retail, Restaurant, Medical and Dental Clinics, Mini Storage Units and Financial Institutions. The Property is Located off US 285 and Colina Drive in Eldorado, Within Section 16, Township 15 North, Range 10 East (Commission District 5). Penny Ellis-Green
13. **CDRC CASE #V 02-5380** – Armando Jurado Variance. Armando Jurado, Applicant, Requests a Variance of Article III, Section 10 (Lot Size Requirements) of the Land Development Code to Allow a Land Division of 1.83 Acres into Two Lots; One Consisting of 0.885 Acres, and One Lot Consisting of 0.971 Acres. The Property is Located in the Village of La Bajada, Within Section 12, Township 15, North, Range 6 East and Section 7, Township 15 North, Range 7 East (Commission District 3). Wayne Dalton

XII. ADJOURNMENT

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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).