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BOARD OF COUNTY COMMISSIONERS

SANTA FE, NEW MEXICO

REGULAR MEETING

OCTOBER 13, 1998

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

SANTA FE COUNTY

1564512

REGULAR MEETING

BOARD OF COUNTY COMMISSIONERS

October 13, 1998

This regular meeting of the Santa Fe Board of County Commissioners was called to order at 5:20 p.m. by Chairman Marcos Trujillo in the Santa Fe County Commission Chambers.

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

Members Present

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

Members Absent

Commissioner Richard Anaya

IV. INVOCATION

An invocation was given by Pastor Dudley O'Dell of the Santa Fe Baptist Church.

V. APPROVAL OF AGENDA

DAVID WOLF (County Manager): Mr. Chairman, Commissioners, there's three amendments to the agenda. We wish to add item C.1. It is amended to read Request authorization to publish title and general summary of an ordinance to impose a moratorium on land divisions, master plans, and subdivisions within the proposed La Cienega planning boundary for a suggested time frame of six months from the time of adoption. The moratorium will be effective for the proposed planning boundary of La Cienega exclusive of the area presently covered by the Highway Corridor Planning area.

The second amendment is item VII. C.2 is added to read Resolution No. 1998-___. A resolution requesting that the opening of the Relief Route be delayed to through traffic

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until the City of Santa Fe, Santa Fe County and New Mexico State Highway Department have addressed the public's concerns.

Item VIII. B. 1 is added to read, Ordinance number 1998 An ordinance granting a sewer franchise to Ranchland Utility Company.

CHAIRMAN TRUJILLO: Thank you, David. What is the desire of the Commission?

MR. WOLF: Mr. Chairman, Commissioners, I'm sorry. There's also two items that we request to be tabled. They are items VIII. A. 4 and 5.

CHAIRMAN TRUJILLO: Four and five, David?

MR. WOLF: Yes, it's CDRC Case 98-5540 and EZ Case S 98-4340.

CHAIRMAN TRUJILLO: Thank you, David.

Commissioner Duran moved to approve the agenda as amended. Commissioner Gonzales second the motion, which passed by unanimous voice vote.

VI. APPROVAL OF MINUTES: September 17, 1998

CHAIRMAN TRUJILLO: Any changes?

Commissioner Griné moved to approve the September 17, 1998 minutes as presented. Commissioner Duran seconded the motion which passed by unanimous voice vote with Commissioner Gonzales abstaining.

VII. STAFF AND ELECTED OFFICIALS

A. Matters from the County Manager

1. Request authorization to publish title and general summary of an ordinance rededicating fifty percent of the third one-eighth of one percent of the Santa Fe County gross receipts tax from the indigent fund to the general fund

MR. WOLF: Mr. Chairman, Commissioners, I've asked Deborah to hand out a spreadsheet to you that outlines some information about money that's included in our indigent fund budget. Currently, we have three 1/8 gross receipts tax increments that are split evenly between the general fund and the indigent fund. The third 1/8 increment, the second half of the third 1/8 increment, is dedicated to the indigent fund. However, the legislature in this last session authorized local governments to rededicate that money for general purposes if they choose.

We believe that under our scenario, we'd actually have to, if the Commission adopts

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the ordinance for this approval it would need to go to the voters for basically a local option decision by the voters to rededicate this tax. But let me walk you through the spreadsheet so I can explain to you how much money is available and how this works. At the top there we show total indigent budget for fiscal year 99 of \$4.7 million. We only have recurring costs of \$4 million within that \$4.7 million. So we'll have an excess of \$700,000 in this fiscal year.

We'll also have \$3.2 million of cash balance in that fund at the end of this fiscal year. Now, state statute you notice in the note there in the bottom of the page, state statute 27-5-7F will require any amounts in that fund in excess of \$200,000 to go to the state general fund. And with the money that we currently have, you see the \$3.2 million cash balance there, we would lose three million dollars to the state. So what we're proposing is that we rededicate that second half of the third one-eighth from the indigent fund to general purposes. And we'd recommend that this be done in a way that the indigent fund isn't detrimentally affected. We'd have the same level of funding in the indigent fund, but we'd also be able to spend that cash balance that's there and not stand a chance of losing that to the state.

So if we go on a little further there in the spreadsheet, you see five different years laid out and how that money would be spent. The value of that second half of the third one-eighth that we're recommending be rededicated to the general fund is equivalent to \$1.5 million on an annual basis. You can see up above there that we have \$700,000 of money that won't be spent, so we could increase general fund recurrent expenditures by \$700,000 on an annual basis. We could use \$800,000, which is the difference between the \$700,000 and the \$1.5 million from that piece of the tax until the entire cash balance is used up. Then the \$800,000 would go back to the indigent fund to keep the indigent fund at the same level.

CHAIRMAN TRUJILLO: David, where has this money gone before? Did it remain in the indigent fund before the legislation that now stipulates that those monies go to the state?

MR. WOLF: Mr. Chairman, the indigent fund had a fairly significant cash balance it had accumulated also about two and a half, three years ago. I'm not sure exactly how long ago. And there was a mechanism in the statute that allowed if you could provide for your indigent needs with some other source of funds, you could identify the current year, the revenue stream that goes to the indigent fund for other purposes. So two and a half or three years ago, when the statute read that way, the cash balance was used to provide for the indigent needs in the revenue stream and the revenue stream was diverted for general purposes for a period of time. We used some of that money to fund the landfill costs.

However, the statute was subsequently changed taking out that mechanism, but giving the local governments the authority to actually completely rededicate the tax. Does that answer your question?

CHAIRMAN TRUJILLO: Yes. Any other questions of David?

COMMISSIONER DURAN: Mr. Chairman, David, what happens if some

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of the providers exceed their allocated funds?

MR. WOLF: Mr. Chairman, Commissioner Duran, a couple of options. One, we would have a four million dollar budget that I would proposed that we have the indigent fund live within. It's an amount that's adequately providing for services currently. However, the way the statute works is once money goes into the indigent fund, it can't be used for any other purpose. Once it goes into that fund it's specifically restricted for indigent use. If this money were to be rededicated to the general fund, then the money could be later transferred back into the indigent fund, so it would be a Commission decision.

But I just wanted to point out a couple things also. We've initiated this paramedic-firefighter program and this first year it's costing us about \$350,000. It's a four-phase program that will cost us in excess of \$1.4 million. So my proposal is that we rededicate this money for general purposes, but specifically ear-mark it for health and safety initiatives within the general funds. And we can do this in a way that the indigent fund is in no worse position also.

COMMISSIONER DURAN: And you think by rededicating this money that it still stays within the intent -- the money's being used for a similar use?

MR. WOLF: Mr. Chairman, Commissioner Duran, that was our thoughts. We've discussed this among staff. We have a need within the community to increase our EMS, our health and safety type programs. We've started that this year with a new 24 hours a day, seven days a week program in Pojoaque. It's costing us a pretty significant amount of money, but that's just the first of a four-phase program. The financial impact will be significant to the only other source of money that's available for that, is user fees, which aren't that significant, and general fund money.

So we thought here's some money that we're going to probably lose to the state that could be made available for a similar type health and safety initiative to continue this initiative and fund that initiative.

COMMISSIONER DURAN: Thanks, David.

CHAIRMAN TRUJILLO: You say, David, that the impact fees are not significant? About how much money is generated off of the impact fees?

MR. WOLF: Mr. Chairman, actually I was referring to the user fees. With this paramedic program we provide ambulance service and we also charge for that service. But the service is no where significant enough to cover the cost of the program. So I was talking about the user fees, not the impact fees. Impact fees, the specific impact fees we derive from developers can only be used for capital type costs. We're talking operating money here, personnel, salaries, benefits, that kind of stuff.

CHAIRMAN TRUJILLO: Any other questions of David?

COMMISSIONER GONZALES: So just, David then, in my mind to recap the facts is that currently right now we have \$3.2 million sitting in the indigent fund that is above and beyond, even more so what this allocated budget is for indigent use. Next year or the year 2000, if there's any money left in this indigent fund balance in excess of

\$200,000 the state will basically confiscate those funds. So what this proposal would be would be not to reallocate all indigent, just reallocate the third one-eighth. Is that correct? Of the gross receipts that are available for indigent to go into the general fund?

MR. WOLF: Mr. Chairman, Commissioner Gonzales, it would be to allocate -- the specific language is the second half of the third one eighth.

COMMISSIONER GONZALES: The second half, right. So there's still going to be a continuous source of revenue that will continue to go into the indigent fund.

MR. WOLF: That's correct, Mr. Chairman.

COMMISSIONER GONZALES: So the indigent fund will continue to be adequately funded. If in the event, for whatever reason, there happens to be, if they increase in indigent needs, the Commission still have the prerogative to use those funds to cover the shortfall, if there is, in indigent. Is that correct?

MR. WOLF: That's correct.

COMMISSIONER GONZALES: As opposed to being able to pull indigent money from the indigent fund to cover shortfalls in health and safety issues. We cannot do that.

MR. WOLF: That's right. You can't take money out of the indigent fund unless you go through this process. We can put money into the indigent fund from any other appropriate source any time that the Commission chooses. And this recommendation would keep the funding level of the indigent fund at the same level so it wouldn't detrimentally affect services.

COMMISSIONER GONZALES: And we can also assume that there will be a continued increase in gross receipts, possibly, obviously over the next several years. So that revenue source is going to continue to increase.

MR. WOLF: Mr. Chairman, Commissioner Gonzales, we hope so, yes.

Commissioner Gonzales moved to grant the request to publish title and general summary of an ordinance to rededicate monies from gross receipts tax from the indigent fund to the general fund. Commissioner Griñé seconded the motion, which passed by unanimous voice vote.

VII. A. 2. Request authorization to publish title and general summary of an ordinance imposing one-eighth of one percent as the Santa Fe County infrastructure gross receipts tax

MR. WOLF: Mr. Chairman, Commissioners, effective May 20, 1998, the legislature authorized counties in New Mexico to impose a county infrastructure gross receipts tax to fund, among other things, the construction, operation and maintenance of solid waste facilities, water facilities, wastewater facilities and sewer systems, or other related

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facilities including general purposes uses. The County is permitted to impose up to one-eighth of one percent of this tax. Due to the increased demands on the County to provide infrastructure for solid waste and wastewater facilities, the County will request that the Commission authorize we take this to the voters to impose this new 1/8 for those purposes.

I just want to point out here also, the second half of the 1/8 that we were talking about just before this, half of the 1/8 being equivalent to \$1.5 million, this is in the unincorporated areas only, so this is an entire 1/8 in the unincorporated areas, but it would only generate about \$450,000 on an annual basis.

CHAIRMAN TRUJILLO: Any questions of David?

COMMISSIONER GONZALES: Once again, Mr. Chairman, I think that the Commission during our hearings on solid waste, I heard from the community that gross receipts might be a way to better pay for some of the solid waste costs and so let's take it to the voters and see how they feel about it. With that I'd like to make a motion to approve the request to approve the request to authorize publish title and general summary of an ordinance imposing 1/8 of the one percent of the Santa Fe County infrastructure gross receipts tax.

COMMISSIONER GRIÑÉ: Second.

CHAIRMAN TRUJILLO: We've got a motion, seconded by Commissioner Griñé. All those in favor? [Unanimous] All those opposed.

- VII. A. 3. Resolution No. 1998-107. A resolution approving the sale of Santa Fe County, New Mexico fire protection revenue bond, Series 1998, in the aggregate principal amount of two million two hundred thousand dollars (\$2,200,000); providing for certain details concerning the bonds, the funds appertaining thereto; approving disclosure and other documents relating to the bonds; providing for the payment of the issuance costs of the bonds; and ratifying action previously taken in connection therewith**

MR. WOLF: Mr. Chairman, Commissioners, we're requesting the approval of the sale of \$2.2 million in revenue bonds funded by the quarter percent fire protection fund. Most of these funds will be for the purchase of emergency services equipment. The annual debt service payment is in the area of \$500,000. We're just talking about the gross receipts tax again. This quarter percent is in the unincorporated areas of the county. It generates a little over \$900,000 on an annual basis. The remainder of the funds would be used for normal, recurring capital type uses within this fund and we'd be able to purchase additional equipment with this money.

Bob Swerdling is here, the underwriter, and can address the specific issues of the sale of the bonds.

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CHAIRMAN TRUJILLO: Thank you. Bob?

ROBERT SWERDLING: Mr. Chairman, I'm here today with Bob Strumor who's your bond counsel on the transaction, sort of a pleasant experience for me tonight. We've hit the lowest interest rates in my entire career with this sale. That comes in for several reasons, some of which aren't quite so pleasant. But with the turmoil internationally and trouble in D.C. interest rates have gone down to lower levels than we've ever seen, which the County will be able to enjoy and hopefully the rest of the world will come back to us shortly. But the interest rate that we've achieved on this particular transaction is an average coupon of 3.6% for a five year transaction.

The arbitrage yield, which is the one we most often use in the industry, which increased the interest rates to reflect the cost of the insurance, is 3.8%. The Commission directed us sometime back to help to structure a financing through which the County would be able to purchase fire trucks but to open no obligation whatsoever on the County's general funds. This transaction is secured solely by your fire protection tax, which is levied solely for the purpose of providing fire protection services. The County's current reputation and the strong sales tax receipts together combined so that the Wall Street people we spoke to did not even think of asking for any extra protection. They were perfectly satisfied with the fire protection sales tax.

The bonds will be paid by 2003. The first debt service payment in the first year, we have reduced to only \$36,000 to give you maximum flexibility with your funds and there's - outside of the legal issues, that Mr. Strumor can speak to, I stand for questions.

CHAIRMAN TRUJILLO: Again, I don't know if David is here, but he just mentioned that we've got an impact fee that goes -- or maybe Stan can answer this, that goes for the purchasing of equipment and construction and things like that. I still want to know how much we generate off of that impact fee to buy that equipment, or if this bond will maybe help us send some relief to the community and bring down those impact fees.

STAN HOLDEN: Mr. Chairman, members of the Commission, if you recall, about six months ago, the fire department approached the Commission for approval of a five-year operational plan. This plan specifically spelled out the impact fees, the monies that we're receiving from the one million dollar general obligation bond that was sold last year, ambulance fees, all sources of funding that come to the fire department including general fund monies.

Given those money sources, including the impact fees, originally the impact fee was funded by the Commission at one half of the recommended amount. Even given that proposal, the reason we turned to selling bonds in pledging our quarter percent is specifically because we're not bringing in enough money from the impact fees into these communities to specifically impact the local fire departments equal to the impact that they're experiencing with growth in their individual communities.

I think this is, as far as the fire department is concerned, and the Santa Fe County Fire Chiefs Association, this is a huge commitment and a huge change in direction from

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what the Commission has seen previous, because specifically in the past these fire districts have used and pledged this quarter percent money individually to individual districts over the years. And there has been a big fight among the fire districts for those monies. This year what they've decided to do is come together as a group, put together this plan and a three-year purchase plan and pledge a portion, an overwhelming portion of their quarter percent dollars to fund this \$2.2 million bond.

So I guess to succinctly answer your question with regards to impact fees, the impact fees are not enough to make a huge contribution to the fire districts. Just to give you one example, in Chimayo, we're pledging \$40,000 of this \$2.2 million just to help remodel and refurbish their current main station, because they only got over the last year \$10,000 in impact fees, \$10,000 doesn't even cover the cost of gas and oil for running that fire district. So it's a very minimal amount of dollars that we're receiving right now for impact fees.

CHAIRMAN TRUJILLO: We've got the impact fees, \$10,000 collected in Chimayo, those \$10,000 had a significant impact on the people that were paying them.

MR. HOLDEN: Certainly.

CHAIRMAN TRUJILLO: So, if they're insignificant, why do we have the impact fee in place. Some of those people --

MR. HOLDEN: For instance, in Edgewood, probably the fastest growing community in Santa Fe outside of the City of Santa Fe, we received almost \$100,000 in impact fees just for Edgewood. That is enough money, for instance, the new John Brooks store, which almost doubled the industrial sized business operations in Edgewood. That was enough money to purchase a new fire truck.

So in some communities it's very insignificant, but in others it's very significant. And if you want a comparison, in this three-year plan, the capitalized purchase that we're going out to bid on for the \$2.2 million, there's no money going to Edgewood. The majority of these dollars are going to smaller communities that don't have the benefit of growth like Eldorado and Edgewood.

CHAIRMAN TRUJILLO: And the impact fees stay in the communities where they're generated?

MR. HOLDEN: In the fire district in which they're generated, that's correct.

CHAIRMAN TRUJILLO: Okay, I guess the point that I'm trying to get to is that sometimes that impact fee is the difference between a young couple being able to build a house or buy a trailer or not. And if we're getting monies from a lot of places, this year I think the legislature augmented the portion that comes to the County in fire monies, and now with the bonds to buy equipment, maybe we should consider doing away with the impact fee in some areas of the county. Or across the board.

MR. HOLDEN: Mr. Chairman, members of the Commission, I can assure you that these fire districts that are staffed primarily with volunteers are not rolling in money. The fire protection fund that you just talked about from the state increased 5%. That's 5% in one year. We haven't had an increase in five years. So the increases overall

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that we receive from state fire protection funds are not significant. And those monies are used specifically for the day to day operation of the fire district.

These monies that we're talking about from impact fees and the sale of general obligation bonds, the sale of this revenue bond are for specialized equipment and the building stations. And to build a station, for instance, the last estimate that we got for the new station in Pojoaque, one station is \$330,000, and that is a four-bay station; it's a very small station. It does not compare to anything that you would see in the City of Santa Fe. It's a metal structured building with a concrete slab floor.

So we're not spending an exorbitant amount of dollars on building these fire stations and buying fire trucks. And these fire trucks and ambulances that we purchase have a direct impact on the community.

CHAIRMAN TRUJILLO: That's not to say, Stan, that I think that under your guidance and David Wolf's guidance I think the volunteer fire department of Santa Fe County has taken major leaps from a fairness perspective, from a service perspective, across the board it's doing great things for the community, but where I'm coming from is helping those people that need help to build houses and get away from paying the impact fees. That's not to say that the volunteer fire department is not going in a very positive direction.

MR. HOLDEN: Mr. Chairman, I appreciate those comments and the success of this department is primarily due to the overwhelming response and dedication of those volunteers. Has had very little to do with the paid staff. We simply help formulate the direction; the majority of the work is done by the volunteers.

Regarding the impact fees, it has been four years since the Commission enacted the impact fee ordinance. It is up for review this next year. The fire department is contracting or in the process of contracting now with a consultant to come in and redo the study. At that time the Commission certainly has the prerogative to review and if they so chose to no longer enforce or impose the impact fee. That's purely a political decision.

CHAIRMAN TRUJILLO: Thank you, Stan. Any other questions?

COMMISSIONER GONZALES: Mr. Chairman, Stan, do you know actually, if you could provide it, that'd be helpful, what the impact fees have generated on an annual basis by fire district? Can you provide that to the Commission and then a summary and a total of what we're generating annually?

MR. HOLDEN: Mr. Chairman, Commissioner Gonzales, certainly we know by the dollar exactly how much the impact fee has generated since its inception and exactly how many dollars go to which fire district.

COMMISSIONER GONZALES: And it would be helpful if you could actually tie it back to the actual, tangible items that have been purchased as a result. Because I agree with Commissioner Trujillo that the tough thing about this is that there is a lot of people who are struggling to make ends meet who want homeownership and this impact fee many times is the difference. But on the other hand, this impact fee has provided resources that we probably couldn't provide from any other means and the ability to purchase

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fire equipment that we probably wouldn't otherwise be able to purchase, and that, in the end, results in hopefully increased safety for the community and hopefully that deals with this whole ISO rating or whatever you portray it as so it will decrease insurance and it will be really helpful if we could see if the impact fee has had a positive correlation in actual insurance ratings in communities where we've shown -- who ever gives you that actual rating -- is it the Corporation Commission or the insurance industry?

MR. HOLDEN: It's the insurance industry.

COMMISSIONER GONZALES: Right. If we can see if there's a direct correlation or direct benefit from the increased equipment that's available for increased safety in these communities so that hopefully maybe it's costing homeowners in one area but they're receiving a long-term benefit in another area because their insurance rates aren't as high because there's better fire protection out there, so it'd be interesting to see if there's that kind of analysis that we could see as happening out there. And I would suspect that in some districts it's different from other districts, obviously, because of the growth issues and the proximity to the fire stations and things like that.

So those would all be helpful as we get ready. I supported the Impact Fee Ordinance. To me, at this point, I think it needs to remain in place until we find an alternate source, but it's a tough fee to have for people. It hurts, a lot of people it hurts to the point where they can't get into a point. And you're right. It does become a very political issue because part of our mandate up here and our vision is to promote and to allow for accessible housing and housing opportunities for every member of this community but right along with that is to protect those people when they get into those homes through fire protection and public safety.

So how do we find that balance. We rely on you guys to help us find that balance a lot of times and it become a very difficult issue. But we'll be anxious to see the review and whatever data you can give us and educate us through this, I think that will be real helpful and very important.

CHAIRMAN TRUJILLO: Thank you, Commissioner Gonzales.

COMMISSIONER DURAN: Mr. Chairman, Stan, I have a couple questions. Do you know the exact date this Impact Fee Ordinance comes up for review?

MR. HOLDEN: I believe it is -- I was just looking at it. I think we have like 16, 17 months. And the reason that it was brought to my attention was because it's required in the ordinance that we have a review process prior to the continuation of the impact fee. So I reviewed the ordinance in detail to make that determination and we decided we had better budget some money this year to hire a consultant to come in again and prepare that data for us. So it's about 16, 17 months away.

COMMISSIONER DURAN: Is there any reason why we couldn't do it earlier?

MR. HOLDEN: Well, we can provide you the data, specifically from the fire department. But the fire department does not have the data for the community. In other

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words, a big portion of the information that you'll receive is sociological data from bureaus from the state regarding population size, density, that type of information. That's information that we don't have. But we can certainly provide you the information that Commissioner Gonzales referenced to earlier, the fire districts, the amount of dollars that have been spent by fire districts. How much has been collected by fire districts.

COMMISSIONER DURAN: The other question I have is do you know how much money is generated out of that quarter percent fire protection fund?

MR. HOLDEN: It's about \$900,000 a year.

COMMISSIONER GRIÑÉ: How is it based? Is it based on appraisal?

MR. HOLDEN: Well, specifically the formula that was devised and approved, and this occurred before I was here was based on the occupancy and the square footage of the home or the dwelling. The majority of the impact fees, I can tell you just be looking at the data, actually come from large developers, shopping malls, John Brooks. Those type of large developments pay the biggest portion of impact fees. In the fire service we look at the impact fee more like a regulated insurance, just like a bank would require us to provide homeowners insurance to secure a home loan. We look at it the same way. Basically what they're making is a one-time investment instead of an annual investment in making sure that the appropriate fire equipment apparatus in the stations are in their communities if and when they have an emergency.

CHAIRMAN TRUJILLO: The amount by square foot is I think 27 cents.

MR. HOLDEN: It's in the twenties. I'm not sure if it's 27 cents.

CHAIRMAN TRUJILLO: Any other questions of Stan.

COMMISSIONER GRIÑÉ: So in a house of square footage of approximately an average house would probably be in the mid-twenties. An average size home, Commissioner Duran --

COMMISSIONER DURAN: It all depends on the area but I'd say between 1,700 and 2,000.

MR. HOLDEN: About \$500.

COMMISSIONER GONZALES: That's a fee that they pay to the County, correct? They write a check? Is it rolled up into their mortgage cost?

MR. HOLDEN: Mr. Chairman, Commissioner Gonzales, I can't answer that question. I know that --

COMMISSIONER GONZALES: Do they physically take a check from people's state impact fee?

RUDY GARCIA (Land Use Administrator): Commissioner Gonzales, it's at the time of the building permit application, so it's part of their building permit application.

CHAIRMAN TRUJILLO: Thank you, Stan. Good job.

Commissioner Gonzales moved to approve Resolution 1998-107 and his motion was seconded by Commissioner Griñé. The motion passed by unanimous voice vote.

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

Commissioner Gonzales was away from his microphone when he asked whether Double Arrow Road was going to be discussed this evening. Mr. Wolf responded that it was not listed on this evening's agenda. Public Works Director Velasquez stated that the item is slated for the last meeting in October.

Commissioner Gonzales said he understood 67J would be removed from the County rolls.

MS. BROWN: Mr. Chairman, Commissioners, and I haven't had a chance to talk with Larry. I was speaking with an attorney who's representing some homeowners in the area. We are basically -- the County is caught between differing opinions among homeowners in the area and I have met with both proponents and opponents. And I have sent a letter to one of the lawyers and then spoke with another lawyer right before this meeting, representing a different group. Both those attorneys represent folks who want the road to be maintained by the County and have asked them to provide me with information as soon as they can so that we can make -- so that I can make a recommendation to you all whether I think it should be a County road or not.

I do have some information I've received from folks who do not want it to be a County road and have been giving that to anybody's who's asked me for it. If there's anyone in the audience who would like a copy of the information I have from the opponents I'd be happy to provide that. I did get a request from the lawyer right before this meeting to give him a month to try to come up with documentation supporting their side. And I told them I thought that we could do that. To be fair to everybody, to just gather all the information we can to make the most informed decision we can on whether we think the County should or should not be maintaining that road. So I don't know if we will make the October meeting.

COMMISSIONER GONZALES: It's something that needs to come to the Commission, that tentatively goes in the administrative meeting in November, which happens to be the fourth.

MS. BROWN: That's right.

COMMISSIONER GONZALES: Would that be okay? Somehow there needs to be some discussion. I know there are a lot of people that I spoke with who want the road removed from the roll.

MS. BROWN: Well, I don't know. I've spoken to about six different people from the area. I don't know who's relaying what information. And I will admit that as we get new information brought to us, the reason this hasn't come before you is initially, we thought we had a position and then we got additional information that made it look like we had to change our mind, so I sent word out to the folks I've talked to recently saying give us everything you have so we can make as informed a decision as we can.

And like I said, I told the last person I spoke to, he asked for a month and I said yes,

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we could wait that long. We want to make a correct decision and we're open to whatever information anybody has to give us so we make a fair choice.

CHAIRMAN TRUJILLO: Thank you, Commissioner Gonzales. Then we'll proceed. Is there a question that you had? Okay, we'll go on to item VII. C. 1.

VII. C. MATTERS FROM THE COMMISSION

- 1. Request authorization to publish title and general summary of an ordinance to impose a moratorium on land divisions, master plans, and subdivisions within the proposed La Cienega planning boundary for a suggested time frame of six months from the time of adoption. The moratorium will be effective for the proposed planning boundary of La Cienega exclusive of the area presently covered by the Highway Corridor Planning area**

KEN PIN (Planner): Thank you, Mr. Chairman, Commissioners. The Land Use Department is requesting authorization to publish title and general summary of an ordinance to place a moratorium for the approval of new applications for master plans, development plans, subdivisions of five lots or greater, and all non-residential uses within the proposed planning boundary of La Cienega. The reasons for this proposed moratorium are as follows:

The La Cienega Valley Association received authorization from the Board of County Commissioners to do a community plan which they received in March of 1997. A planning committee has been formed and has met on a regular basis to draft a plan. Parts of the plan have been drafted and reviewed by County Planning Staff. Numerous applications for development have interrupted the planning process, thus creating a perpetual delay in the completion of the plan. I just wanted to add that the board of the Valley Association, just about every member of the board is also a member of the planning committee.

So when these development come forward, the planning committee or the board meet to oppose these developers. The ability to develop and effect a community land use plan is severely impeded with the proliferation of land divisions in the area. The planning committee spends its time reviewing proposed developments and has no time to finish their community plan. Therefore it is extremely difficult, if not impossible to plan while development continues.

Without safeguards such as this proposed moratorium, continued land divisions and subdivisions in the area will adversely impact the health, safety and general welfare of the citizens of La Cienega Valley and continue to inhibit the community's ability to complete their plan. Staff is requesting that the Commission grant authorization to publish title and general summary for the above referenced ordinance, the proposed ordinance for a suggested time frame for six to twelve months from the time of adoption.

The moratorium will affect the proposed planning boundary of La Cienega exclusive

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of the area presently covered by the Highway Corridor Planning area. Upon completion of the Highway Corridor Planning work, the proposed moratorium boundary would then extend back to include the 2000 foot area. I just also wanted to add that the draft of their plan which has been submitted to staff and has given a copy back to Commissioner Gonzales back in I believe June, parts of the plan that were drafted were finished in March of this year, but since that time the planning committee has always been stopping their planning work to address applications for development that have come forward.

So that's one of the reasons the Valley Association and planning committee were concerned and they asked staff, well, what can we do at this time. And that was when the president of the Valley Association, Robert Romero appeared before the Commission last month and asked for direction. In conversations with Commissioner Gonzales he asked staff what the staff proposed. After talking with the Valley Association they concurred that they would like to see a moratorium. Not so much that they oppose development but just so they can get their plan accomplished. And they're just asking for a six to twelve-month time frame. This is just the request to publish title and general summary.

The Valley Association understands that it still has to go through public hearings if this authorization is given.

COMMISSIONER GONZALES: Mr. Chairman, again, just to reiterate, this has been -- I think that moratorium has actually been effective for the Commission when we've been able to utilize time-outs in communities where there are people who want to come together to do planning on behalf of their community. We did this in Cañada de los Alamos. That was a difficult time, I think, for everyone, but it did bring the community together and gave them the opportunity to plan effectively without worrying what was going on around them.

I've been convinced that the community of La Cienega is ready to come forward with very reasonable plans that will benefit and maintain the cultural history that has existed there for many years. I know that really is a large concern of theirs. I have talked to the planners about the issue of making sure that where the highway corridor is already being planned that borders the community of La Cienega that that would be excluded from the moratorium because I know that's something that Commissioner Duran has worked hard on in making sure that we have some good planning that goes on in those areas.

There will be opportunity -- correct me if I'm wrong, Commissioner Duran -- for the community to have public input into what's happening along the 599 area and along the I-25 that hasn't been discussed yet by the Highway Corridor Committee so they'll have lots of opportunity to participate in those planning sessions. I've asked the planners to exclude those areas from there so that the committee can really focus on the heart of La Cienega as they develop the plans for the growth in the area.

So I'm asking the Commission to please allow this to go out for published -- I'm sorry, to go out to be advertised as a potential ordinance dealing with the moratorium in La Cienega. Again, I've been convinced that that community is ready to step forward and do

some very reasonable planning on behalf of the community in the interests of preserving their cultural and unique history. So I'm asking for the Commission for this adoption. And I'd be happy to answer any questions that the Commission has.

COMMISSIONER DURAN: Mr. Chairman, could you just show us the boundaries?

MR. PIN: The boundaries run along I-25 from State Road 599 all the way down to La Bajada and actually it comes up along the escarpment. Along Airport Road, excluding the airport, and down 599. The grey area is the highway corridor, the committee area, the study area where the committee is looking at.

COMMISSIONER DURAN: Where's the airport on there?

MR. PIN: The airport is outside of this study area. The blue boundary is the traditional community of La Cienega. The Valley Association and the planning committee do understand that the proposed boundary may seem large to some people but they have been working with the landowners, some of the large landowners in the area.

COMMISSIONER DURAN: Mr. Chairman, Commissioner Gonzales, my only concern about the board's work, and I understand it needs more, but you recall what happened with the Village of Agua Fria. They tried to incorporate such a large area and received so much opposition that it ultimately went to court and they confined the community to the boundaries of the traditional community. I'm more than willing to work with you on having this in place but I think twelve months is too long. I was wondering if you would consider six months and then an extension if at the end of six months we had information for an extension for another six months.

COMMISSIONER GONZALES: I think that's very reasonable, Commissioner Duran. I appreciate. And as you look at the boundaries, one of the things to keep in mind, we have a large percentage of BLM land that's included in La Cienega's planning boundaries. That's real important from the standpoint, in my discussions of BLM officials in Washington, it's important that they understand what the community is actually wanting to see happen with the BLM lands. As we know, BLM lands can be traded.

I think there's a general concern in La Cienega that the BLM could potentially trade those lands and if they do, why would they be trading them. So it's important for them to have included those BLM lands so that they can basically make some statements in their community plan what the uses, the whole area down on the Mesita de Juana Lopez Grant, I think the La Bajada Ranch, and that's already been -- correct me if I'm wrong, Rudy -- it's already come through the master plan process where there's only going to be approximately 98 homes on 5,000 acres. Is that correct?

So that, for the most part, isn't going to be a threat for the community. I think their real concerns are issues of traffic. Certainly the Alley development in La Cieneguilla is a large concern of theirs. I know they're going to be watching the corridor committee very closely because that's going to have a big impact. I'm hoping, and Robert's here, that you guys participate in that because that's really going to be your time to participate in that type

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of discussion.

So I think when you sit down and you talk to the people of La Cienega it really does come down to a number of issues. One, the cultural integrity. Definitely the issue of water. There's a big concern with the people in La Cienega with the issue of traffic. When you drive on some of the County roads along La Cienega they're almost to the point where they're extremely dangerous and they want to make sure that they can have sufficient say in the type of growth so it doesn't have adverse effect on the traffic patterns.

Clearly, I think that there is some discussion of possibly creating a traditional historic community the way Agua Fria did so that as the city continues to look at their urbanization as the city continues to grow, that the village will actually be able to set up the barriers or the boundaries so that they will not become urbanized in the future. So that they can have hopefully a means to maintain their rural livelihood, which is something that we lost in Agua Fria but something we shall have in La Cienega that can be protected.

So I appreciate the fact that you're willing to want to consider six months. That message needs to be sent to the community, Kenny, that in six months if they're not at least showing us that they're giving a good faith effort in coming forward with the well-thought out plan that has broad-based community support that the Commission can't really continue a moratorium if they're not willing to basically give some of their energy.

I believe they are or else I wouldn't be bringing this forward. But that message needs to be sent back.

MR. PIN: Thank you. I think they've been very committed and have been working very hard up to this point. But some of the things that you talked about, those are some of the options, like traditional historic. Some of those ideas have been thrown around and I think when they get closer to a plan they'll have a more clear idea as to which way they really want to go. Whether they just need to keep things the way they are or just, maybe even create two traditional historic communities, one for Cieneguilla and one for Cienega. But that's all going to be part of their planning process.

They do have a lot of language down already. They need to just sort of get some more details and then also start fine-tuning things.

CHAIRMAN TRUJILLO: Any other questions? Thank you, Commissioner Gonzales. What is the desire of the Commission?

Commissioner Gonzales moved to approve the authorization for publishing title and general summary on a six-month moratorium for La Cienega and was seconded by Commissioner Duran. The motion passed by unanimous voice vote.

COMMISSIONER GONZALES: Again, Kenny, if the map, the boundaries will actually be officially voted on, the moratorium boundaries will be officially voted on at the actual public hearing. Is that correct?

MR. PIN: That's correct. There's a possibility that the boundaries might

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even change and next time come back with a different map.

COMMISSIONER GONZALES: Because there is a discussion that I want to have with you and possibly community members on areas that have already been master planned and how that's going to be affected in this. Because it could be that those may be areas that should be excluded and we just focus on the unmaster-planned areas, but that's a discussion we should have prior to coming up here and sharing with the community. The benefit of including already master planned areas, how that really helps achieve the objective because people are already moving forward and meeting conditions and possibly those may need to be excluded also, but that's a discussion we should have.

COMMISSIONER DURAN: Kenny, I just want to say I'm not opposed to extending this moratorium beyond the six months. I just think we should check it every six months and that will give us the opportunity to review what is taking place and where the process is.

MR. PIN: Speaking on behalf of the community, they really look forward to getting back and just working on the plan. And we'll see what happens in the two public hearings and if it gets adopted let's just move ahead and do the planning and let's try to get it done.

COMMISSIONER GONZALES: Thank you.

VII. C. 2. Resolution No. 1998-108. A resolution requesting that the opening of the Relief Route be delayed to through traffic until the City of Santa Fe, Santa Fe County and the New Mexico Highway Department have addressed the public's concerns

CHAIRMAN TRUJILLO: I'll read the resolution into the record. I don't think there's a resolution in your packets.

Whereas the Board of County Commissioners of Santa Fe County and the City of Santa Fe have heard the concerns of the citizens of Santa Fe County in two noticed public meetings;

Whereas, representatives of the New Mexico State Highway Department were in attendance at the public meetings and addressed some of the concerns raised by the citizens;

Whereas, the Board of County Commissioners, the City of Santa Fe and the State Highway Department have agreed to address jointly as many of the issues raised by the citizens, as such the City and the County have created the Bypass Trails Committee and the Highway Corridor Planning Committee. In addition, the City of Santa Fe has conducted various meetings to address the safety concerns of the bypass;

Whereas the Board of County Commissioners passed an earlier resolution desiring to increase public participation in the final stages of construction and design of the bypass and crossing intersections;

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Whereas, the Board of County Commissioners, the City of Santa Fe, and the State Highway Department need to have an opportunity to review the findings of the Bypass Trails Committee, the City of Santa Fe safety meetings and the Highway Corridor meetings. If the bypass is opened to through traffic prior to the review of these committees' findings, the through traffic will further impact the citizens living in surrounding areas and cause further safety hazards. Also the City, County and Highway Department will have a much more difficult time addressing the concerns raised by the citizens and the findings of the different committees if the bypass is being used without limitation.

Therefore, be it resolved by the Board of County Commissioners of Santa Fe County that the Commission requests that the State Highway Department close the bypass to through traffic until the City of Santa Fe, the County of Santa Fe, and the State Highway Department can meet to address and resolve the concerns raised by the citizens of Santa Fe County and review the findings of the Committee's.

COMMISSIONER DURAN: I have questions about how we are going to enforce this resolution. How are we going to stop traffic? What is this thing going to do relative to the people that are living around that highway?

CHAIRMAN TRUJILLO: Essentially, the road is being used by the residents of the area now. That's status quo. What this is going to do is finalize the communication that has taken place with the public process up to now. And the Highway Department is going to represent what they will be able to do regarding the concerns that were raised by the communities. Essentially, this is sending a message to the Highway Department that we want to see the public input portion of this process to finality.

COMMISSIONER DURAN: I understand that. My only concern is that I think this has no -- it really doesn't do anything. Why don't we file suit? I would like to see us file suit on behalf of the citizens of Santa Fe to force the Highway Department to comply with their wishes and their demands. With a suit they're going to have to do something about it. And with this, I don't really know where this is going to go except someone's desk. It's going to be hard to enforce this resolution.

CHAIRMAN TRUJILLO: Would it be more teeth if we were to file suit? I think we understand exactly where the community's coming from regarding the bypass. Can we challenge the State Highway Department to implement some of the concerns that have been voiced by the community?

MS. BROWN: Mr. Chairman, Commissioners, I would be happy to look into the possibilities and see if there are grounds for us to bring a suit to push this issue. A lawsuit certainly would be a much more aggressive stance. What a resolution basically does, as you said, Commissioner Trujillo, is it sends a message. It's a formal policy or position, I guess, of this committee, so it has more impetus, or more effect than just a mere letter, but it certainly doesn't have the impact of a lawsuit. I can't tell you right now, off the top of my head whether or not the County would have grounds to sue them but we would certainly be willing to look into that if you'd like us to.

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COMMISSIONER DURAN: I think that the citizens of Santa Fe would feel that they have grounds to sue, not being involved in the process. I think you could find enough.

MS. BROWN: You'd have to look for a legal basis, that's right. There'd have to be some legal theory that you're suing on and we would be happy to look into that if you'd like us to.

COMMISSIONER DURAN: Maybe we could pass the resolution and do that.

CHAIRMAN TRUJILLO: That would be good. That would be even better. We could pass the resolution and then Denice, you'll check into the litigation.

MS. BROWN: I'd be happy to do that, Commissioners.

COMMISSIONER DURAN: Is this -- I hate to admit this, but I took my daughter to Capital High this morning and came back on that road. It saved me about fifteen minutes.

CHAIRMAN TRUJILLO: What this resolution is doing is that, there's already traffic on that road. The residents are using the road. But officially, it hasn't been opened to through traffic. But what this resolution does is it tells the Highway Department not to open it to through traffic until the public's concerns are addressed. David, do you want --

DAVID GOLD: First of all, I'd like to commend Commissioner Duran on bringing up the idea of a lawsuit. It certainly is very timely and much appreciated. And there are legal bases for this which several members of the community have actually been investigating this on their own and I could discuss this with Denice, some of the legal bases that have been found. I would hope that the Commission would in addition pass the resolution and one of the methods of enforcement, not only enforcement, but what could be done is that if the Highway Department does not put up the signs that say this is the preferred route to go to Los Alamos, or to Albuquerque, and if they put up signs that say No through traffic, that would actually reduce the projected traffic that could be expected.

This idea has also been suggested to the City and I spoke with one of the City planners today. In fact, he was the one who suggested that to me, that as a means of making this resolution at least do something that that might be appropriate.

COMMISSIONER DURAN: Mr. Chairman, my only concern about, again, I'm sorry I'm back-tracking here, but my only concern about passing the resolution is that it's requesting that we delay the through traffic. And I don't know if delaying the through traffic is actually going to deal with the issues that your community has and the citizens of Santa Fe relative to that highway becoming a Berlin Wall, where there isn't equestrian trails or any public access pedestrian trails. And I really think that if we followed through with those concerns in an actual lawsuit it would bring everything to a head and a judge in a courtroom would ultimately have to make the decision whether the state followed protocols and involved the community in the public process, which I've heard at a number of meetings they weren't involved.

MR. GOLD: What this resolution would do is -- I agree with you. I completely -- and I've always felt that in fact the ultimate resolution of this problem is going to be a lawsuit. And like I say, we've been dealing with that on some level. But what this would do -- there's a lot of safety concerns, just literally getting on and off. This fellow that was killed on a bicycle last night or yesterday afternoon. All we're asking for is just lowering the statistical odds of safety issues.

The less traffic there is that's on it, the less chance there is that somebody will get killed. That's what this resolution is about. It would be better if they'd never opened it in the first place, but I don't think they'll go back on that. But I think asking them to put up no through traffic signs is a thing that they might actually agree to and it wouldn't be like a big deal for them to do that. That's really what's going on here.

COMMISSIONER DURAN: So I didn't travel on it after I dropped my daughter off at school.

MR. GOLD: In a sense, anybody who is aware that it was open would still continue to use it. It's just that a lot of the traffic, let's say like tourism and things like that, would not use it. Although all I'm saying is it would just lower the odds of an accident.

COMMISSIONER GRIÑÉ: Mr. Chairman, I guess I'll direct this to Denice. Denice, the Highway Department is only the empowering agent, or the empowering energy from the federal level. Are we going after the appropriate entity, or will there be a federal lawsuit filed in the federal court in Washington?

MS. BROWN: Mr. Chairman, Commissioner Griñé, are you talking about with respect to the resolution or respect to a potential lawsuit?

COMMISSIONER GRIÑÉ: Respect to if the County looks forward to filing a lawsuit against who?

MS. BROWN: Right. That would be one of the key issues we would have to address. Who are the appropriate parties and that would be something we'd have to determine. And it may differ, depending on which theories or claims we're bringing. There may be different parties that we sue for different reasons, but you're right. We'd have to look at all of that.

COMMISSIONER GRIÑÉ: So you'll be naming Bill Richardson in there too.

MS. BROWN: We'll have to look at who will be appropriate defendants.

CHAIRMAN TRUJILLO: I think the issue is that there were two or three public hearings where the community represented some concerns, some aberrations with safety, some bypasses, some getting across the bypass, and dissolving the China Wall, the Berlin Wall affect of the road. Those are real issues that the community is concerned with. I think we need to see those issues to its finality. What is the Highway Department going to do about safety on that road? What is the Highway Department going to do about providing access from one side of the road to the other? What is the Highway Department going to do about frontage roads? Interchanges? What are they going to do?

This resolution is trying to give impetus to that meeting, to that position by the State

Highway Department. That's what we're trying to do. We've opened the lines of communication. They understand what the concerns are. What are they going to do?

COMMISSIONER GRINÉ: Mr. Chairman, I also raise the issue here that -- it's not the State Highway Department. I think the real entity here is the Federal Highway Department. This is a relief route that was intended for one purpose besides making it a relief route for the regular traffic, but also intended for deliveries to WIPP, transportation through there. So I still say, we keep referring to the State Highway Department, we can bury them to the asphalt of this bypass but I don't think we're going after the right entity. So that's all that my comments are.

CHAIRMAN TRUJILLO: And that's good. That's good. But they're the design entity. And we need to hear from them, what they can do, and what they can't do, and where we're headed with this thing. If they want to point fingers to the DOE or they want to point fingers to other entities, that's fine. But we need to find out from them what they're going to do.

COMMISSIONER DURAN: I don't want Commissioner Griné to think I'm getting wishy-washy on all this because we did talk about it earlier. I am opposed to delaying the opening of that relief route. I think it's a needed arterial road, a needed bypass. I am opposed to the state sandbagging the public on these issues. That's why I brought up the issue about perhaps a lawsuit. I don't want to delay the opening of it. I also in the same breath want to say that I think we need to do something proactive in terms of getting the state to deal with these concerns. So what would be -- I think we should do it and have one thing in place. Either a lawsuit or it's the resolution. But if there's no further discussion, I would suggest we table this for the next meeting and give Denise and the legal department direction to investigate what our options are in terms of what entity it is that we would have to file the suit against and then make a decision on which route we're going to take on this.

CHAIRMAN TRUJILLO: When is the bypass scheduled to be opened?

KEN PIN (Planner): I believe the official opening may be next week, but we keep hearing different days, different dates. Early this summer it was August 1, and then September 1 and then October 1.

COMMISSIONER DURAN: Mr. Chairman, there are no signs there. It doesn't say it's closed. It doesn't say it's open.

CHAIRMAN TRUJILLO: Don't you think it would be timely to pass a resolution so that they get the message before that meeting?

MR. PIN: Mr. Chairman, members of the Commission, one of the problems with this whole bypass situation is that there have been like three different committees going on, looking at different issues. One was the Highway Corridor Committee, which Commissioner Duran sits on, which is looking at land use and transportation issues. There was a Bypass Trails Committee which was formed as a result of those two public hearings at the Sweeney Center early this summer and then now there's a series of the City meetings, the six City meetings, which primarily dealt with safety issues.

Part of the problem is that there are a lot of issues and they sort of overlap with these different committees and work continues to go on on the bypass. The trails committee has submitted recommendations to the Highway Department for seven access crossings. The safety recommendations have been put down on paper by City staff and they're going to be presented to the Highway Department also. As Rudy mentioned, there is a meeting with the Highway Department, City staff and County staff to sort of bring the Highway Department up to speed as to what these committees are doing, but also get some answers from the Highway Department as to what they're going to do for the various concerns that have been raised by City staff and County staff and also a lot of the citizens that showed up at the six public hearings that the City sponsored.

CHAIRMAN TRUJILLO: Thank you, Ken. Any other questions?

COMMISSIONER GONZALES: Well, just a couple comments. I think that the goal here, as Commissioner Duran has indicated and you, Commissioner Trujillo, is that the Highway Department, whether they're just the design group or whatever they are, they are in the public mind the lead agency and somehow, there does need to be some closure to the community in one way or another on issues such as whether there are going to be some underpasses built, on the issues of where the trails are going to go. Somehow we need to get the Highway Department to commit to how they are going to either act on behalf of the federal Highway Department, or how they're going to act with the City to identify all the issues that the community has brought up.

The question is, are we being reasonable in saying delay the opening of the bypass? Is it reasonable to say now, three days before the Highway is going to be meeting with the City and the County or a week before they're going to open it that we're all of a sudden going to send off a resolution saying now we're asking you to keep the highway closed because there are concerns that haven't been addressed out there in the community? Are we making that finding now that there haven't been issues that have been addressed? I guess that's the question that I'm asking.

I think what Commissioner Duran was proposing seemed reasonable in that if we table it with the direction that staff would determine who the appropriate agencies that the County would basically enter into a lawsuit against and saying if they're not being responsive, how we're going to force them to be responsive to the community, I think that ultimately is the teeth. I think that's ultimately the will of the citizens out there, that the County use its legal teeth to try and bring some type of resolution, some type of closure. I don't know if this resolution goes as far as it needs to go. I don't even know if the Highway Department is going to take this resolution into any type of serious consideration.

If we go and we put a lawsuit at their doorstep and say look, we've heard enough from this community and there are so many issues out there that are causing great danger to the community that you have not addressed. We are going to sue you to make sure that you address this issue. I think that goes a long way in getting their attention as opposed to this resolution. It's not that I want to oppose this resolution because I think that if it hasn't

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been done, if the question is yes, in fact they have not answered the issues, the concerns of the community out there, then we need to send some message.

The question is how strong does that message need to be. And to me, in the resolution it's merely a policy statement. A lawsuit clearly goes to the extent in saying, look, you need to do more to address the needs of this community. You need to finish the work that you started. What you promised this community here is safety. I don't know if the resolution is going to accomplish that and I would rather send the direction to the staff or to you who are going to be meeting with them that look, the Commission is prepared. We have directed our legal staff to discuss how a lawsuit would begin initiated. We want you to start addressing these concerns because it's coming down the road. We're going to sue you unless you start responding to the concerns of the community out in that area.

I think to me that seems to have far more weight than the resolution may have. And I know again that the resolution is important and it does ask them to close it, but there have been so many resolutions that have gone to them that they haven't responded to, I just don't think this is going to do anything to help them.

CHAIRMAN TRUJILLO: If we need to send a stronger message, I agree with you wholeheartedly, Commissioner Gonzales, that we do it the litigation route, because they will not be blindsided by this resolution or by any other document that is provided to them. They've known all along for the past six months about the concerns of the public. We had a joint City-County public hearing at the Sweeney Convention Center. We've sent them various notifications and resolutions regarding the bypass. So they know. They've been in attendance at those meetings. They had one last week at Gonzales?

We understand what the concerns of the community are and what the concerns of the public are. I think you're exactly right and I agree with you. It's time to send a clear message to them whether it's a resolution or through litigation. And that's a direction that we'll give Denice to look into what the possibilities are to go that route.

COMMISSIONER DURAN: Mr. Chairman, I make a motion then that we table the adoption of Resolution No. 1998-108 until the next meeting and ask staff to come forward with information on what we should do in terms of litigation for the citizens of Santa Fe County.

COMMISSIONER GONZALES: Clarification, and I second, Commissioner Duran, do you, not so much on the issues but with the options and the venue that we would go to litigate if in two weeks we don't know that the Highway Commission has put forth a document that would show the citizens how they were going to respond to their issues, that the legal staff would come back and actually say this would be the course that we would go to litigate, this would be the process, and this is how we -- this is the legal grounds that we have to pursue that. Is that correct?

COMMISSIONER DURAN: Correct.

COMMISSIONER GONZALES: So then we would actually be able to make a decision, the issue is for the staff to come back to help, the staff to come back with

information so that we can make a decision on whether we want to litigate this or not, and if there are grounds to litigate it or not.

MS. BROWN: Mr. Chairman, Commissioner Gonzales, that's clear to me and we can discuss that in executive session and I could give you all your options.

CHAIRMAN TRUJILLO: One more comment? A couple of minutes.

MARSHA WILSON: Mr. Chairman, Commissioners, my name is Marsha Wilson. I live in the city but I have a horse boarded in the county and I was a member of the trails committee that worked all summer. The one thing I'd just like to mention is to impress upon you the need for speed on this. As of last week, all our equestrian access has been fenced off by the Highway Department. There is no longer, to the best of my knowledge, any way to get from West Alameda past the bypass. It is now the Berlin Wall or the Wall of China. And I would urge you to look very seriously at your options. I'm delighted to hear that somebody's thinking about suing them.

Because my experience meeting with these people since starting last March has been that the Highway Department never comes up with an answer. And they just keep building as fast as they possibly can. So I applaud the idea of looking into legal options because I don't think they'll listen to anything else. And I do hope that this stays on the top of your agenda, whether or not it's officially opened, there are cars out there going 70 miles an hour down that road and it's quite dangerous. Thank you very much for your time.

CHAIRMAN TRUJILLO: Thank you very much.

MR. GOLD: It is a very good idea. Go for it.

CHAIRMAN TRUJILLO: Thank you, David. Okay, we've got a motion, to table, right? Seconded by Commissioner Griñé, or by Commissioner Gonzales. All those in favor? [Unanimous] Opposed.

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

CHAIRMAN TRUJILLO: Anybody from the public who wants to speak?

DAVID COHEN: Thank you. My name is David Cohen and I live at 5 Camino Delilah.

On November 12, this body passed a resolution, 1997-105, which you all accepted funds from the landowners out at Fin del Sendero to widen the road. I have been trying to find what the update of it is. I did talk to Cheryl O'Connor back in August and what I got was the legal definition of taking of land by condemnation. I've tried to talk -- I have talked to Larry Velasquez about two months ago and at that point, from the meeting that happened on November 12, myself and other people that were here were under the impression that eight or ten months the road would be completed.

When I talked to Larry back in August his recollection was that there was a chance that maybe some time in 1998 the road might be worked on. I have tried in the last week

to get a hold of Larry in his office. I have not got any calls back. We tried to get a mail box, post office box set down where we live and the US Postal Service refuses to put a post, gangbox down where we are until the road is fixed. In the last few storms, like many of the dirt roads in Santa Fe County, it's fairly impassable. I come before you asking what we asked back in November.

We paid the money that was requested. We'd like to know what action is going to be taken and when. Thank you.

CHAIRMAN TRUJILLO: Larry, what's the status -- Rudy, do you want to say something?

MR. VELASQUEZ: Mr. Chairman, Commissioners, back in November when Mr. Cohen is referring to, we stated it would be nine or ten months for the process of the acquisition to do that. We are probably about two months behind where we projected we would be and as you will recall, the last meeting we had an executive session in which the offers to purchase were authorized. Those offers are being formulated. The letters are being drafted for the County Manager's signature and as soon as that happens the offers will be tendered and we will go from there to see if the acquisition, or if the properties are purchased or otherwise acquired.

CHAIRMAN TRUJILLO: When do you anticipated that the road will be widened after the legal process?

MR. VELASQUEZ: It's my recollection, and Cheryl probably has this a little bit better, but it's about 45 days before we can get -- if there's a purchase it's going to be relatively quick. If we have to take other actions, it's probably 45 days. It was our intent at this late date to at least cut the road. We have the road designed. We have the road mapped. We're essentially ready to go pending the acquisition process. But it has been our intent to have the road cut and if necessary, finish it off in the spring. But we had anticipated that we would cut it this fall. That's still a possibility.

COMMISSIONER DURAN: Mr. Chairman, Larry, so if the property owners don't accept your offer to purchase, they notify you in writing of that? Or do they have a certain period of time that they have to respond?

MR. VELASQUEZ: We have a contract with a consultant for negotiations or negotiating services. If there is no response or if the offer is turned down and they say this is no deal, then we -- they will prepare a condemnation package that will come back to this Commission for consideration, if you direct us to do so, then that will be the suit to condemn that will be filed and we will begin that process.

COMMISSIONER DURAN: So if they fail to respond to the offer, there's a date that we start taking --

MR. VELASQUEZ: There is.

COMMISSIONER DURAN: We don't have to wait for these people to respond, right?

MR. VELASQUEZ: No. There is a process, but there is a time line to that

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process.

COMMISSIONER DURAN: And how many days is that from the day that the offer was tendered?

MR. VELASQUEZ: I don't recall exactly what that time frame is.

COMMISSIONER DURAN: Do you know, Cheryl?

CHERYL O'CONNOR (Deputy Attorney): I'm sorry. I didn't bring my time lines with me. But at this point in time we're just in the negotiation stage, which is required by statute. Once the negotiations are rejected, if they are rejected, the offers are rejected by the property owner, then there has to be a formal letter that is sent to the property owners with a notice of intent to condemn. That starts the time line going. I believe they have 20 or 25 days from the time that that letter goes out to notify the County that they would like to have an additional appraiser, their own appraiser, do an appraisal.

Then there are so many days. I believe it usually goes by fifteen day increments that they can have their own appraisal done. Then after that period of time, if that appraisal was submitted and is not accepted by the County or if there is still a desire to have an additional appraisal done, then both parties will appoint an appraiser agreed upon that again has more time lines going for it.

When you've gone and finished that period which is approximately if it goes very quickly according to the statute, about 45 days will go by, then the County can prepare its papers to condemn, its petition to condemn. Generally you can get a preliminary order of entry on the day we file the petition and that probably would take us approximately two weeks after I get all of the documents and go ahead and file the petition.

COMMISSIONER DURAN: So we really don't have the right to enter the property until that whole process of the appraisal, a third appraisal and all that takes place.

MS. O'CONNOR: That's at the option of the property owner whether they want to invoke that. That's at their option. If they don't want to invoke these additional appraisals then the County doesn't have to go through that process and it can go much more quickly. So it can happen relatively quickly or it can add another month and a half to the process.

COMMISSIONER DURAN: It's probably worth knowing -- the reason our process took so long was due to the appraisers out there, appraising the property.

MS. O'CONNOR: Yes, the appraisals had to be completed and I know that the negotiator is at this point ready to present the official offer and it should in writing and what we want approved in a draft letter and we're in the process of revising that draft.

COMMISSIONER DURAN: I can only say, Mr. Cohen, that I know it's taken a long time. Larry can attest to this. I ask him where he is on this process almost every week. I'm sure it's being done as quickly as it can. If Larry isn't returning your calls, you can give me a call and I'll give you an update on it. I talk to him about it every time I see him.

MR. COHEN: I'm sure this week he's been busy. I knew I was coming here

tonight. I just didn't want this to be forgotten. I own one lot that I live on and to share in the \$90,000 that we were all required to put up, we spent a long time getting everyone to put the money up, then to have it sit for ten months with no visible work being done. It's coming into this time of the year where the road at very best is not very good.

I saw you out there the other day so I know that you know the condition of the road. I just thought that we might bring it again up to the public, to you gentlemen, that we're still waiting. There aren't very many of us but we do live out there and paid the fees that we were requested to pay. Thank you very much.

CHAIRMAN TRUJILLO: Rudy, you had a comment?

MR. GARCIA: Mr. Chairman, just for an update of Fin del Sendero that's constructed. We got a letter from the president of Los Amigos to go out there and inspect it and we have put together a punch list with the Land Use Department. And the gentleman there in the white can give you a draft copy of that. That's the punch list of what's still needed out there on the portion that has been constructed.

MR. COHEN: There was nothing in the resolution that was passed that we prepared that paid the fee requested that said anything about contingencies on any existing roads or anything like that. And I would be very upset if you all are now trying to say that over a contested area well over a mile away from where we live, that somebody has a questionable comment about the way the road was done, I would be very upset if that was your reason for not proceeding with this other obligation that you took when you took the funds.

[Mr. Garcia makes a comment regarding the roads in the area that was not picked up by the microphone system.]

CHAIRMAN TRUJILLO: Thank you, sir. Okay, matters from the public?

JAMES BOWMAN: My name is James Bowman and I live in the Village of Cañada de los Alamos. We wrote a letter to you, Mr. Griñé, in August of this year and it's signed by literally everybody in the village except for one person requesting speed bumps. I could read the letter, but I think it's really simple what we're asking for. We don't see any feasible way to stop people flying through our village. I have a two-year old son named Joshua. We just bought the house and the property where we've been renting.

We live like most of our neighbors right next to the road like in all the old villages and my little guy can't even go on to the road and it's like that. He would be dead in a flash. We've all talked about it. From my knowledge there's a lengthy, ongoing kind of written thing here between you and between Page who's been formulating all this. We've had meetings in the village. All we're asking for is a couple of speed bumps to slow down everything from the mail delivery to the school bus drivers. There's a sign that says 20 miles an hour and the only people who do 20 miles an hour are the people like myself and the people who live in the village.

But the people who live up into the forest, or now we have quite a few tourists coming out there who are doing a lot of hiking, a lot of bicycle riding -- it's beautiful.

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That's why we live out there. They just fly, and I'm not exaggerating when I say the majority of people come through at 50 miles an hour. My concern is either a child is going to get killed or one of our houses is going to get smashed by somebody who, because of whatever happens, they're drunk or whatever else, veers off. The homes are -- I think our home is fifteen feet away from the road.

From what I understand you had a concern or an issue that you said speed bumps couldn't be put in. We just don't know any other way that we can stop this from happening. At rush hour in the morning, I know exactly who it is every single day and night. The same story. And I'm afraid to go up to their homes and talk to them because I don't want to create a feud. I just think that if we have a situation like we have in most supermarkets where we have maybe two or three speed bumps there's going to be no more issue. It will be done. People will have to slow down and take their time going through there and it will be like it was before with the dirt road where you couldn't go fast and it was never an issue. That's our case.

COMMISSIONER GRIÑÉ: Mr. Chairman, what was your first name again?

MR. BOWMAN: James.

COMMISSIONER GRIÑÉ: James, I did get your letter but I don't represent that district and I did convey it on to Commissioner Anaya and I'm sure his staff copied it on to our department heads.

PAGE MORGAN: Excuse me. In fact the letter was not directed to Commissioner Griñé; it was directed to all of our Commissioners. The reason was that we haven't been able to get our Commissioner who ostensibly represents the community to take an interest in this issue. It's something that's been going on for a couple of years since paving the road was originally planned.

COMMISSIONER GRIÑÉ: What was your name again?

MS. MORGAN: My name is Page Morgan and I had wanted to take a back seat in this particular issue, since I come before the Commission from time to time on other matters. This is the only time I've ever addressed the Commission on something that touches me personally. And it touches me very closely personally. We've had a great deal of other presentations before you tonight on road issues. Clearly these are things that get to the heart of how people feel about their homes.

I've lived in the village for nine years and only in the last couple -- the last year, really, has the road been paved. And the situation, as we anticipated it would be, from the time that the paving was planned, I have a file full of attempts to get the staff to come and deal with our concerns about how paving the road and widening the road was going to set up visual signals for people that it was okay to just come blasting through the village, and that's exactly what's taken place.

So, we're basically desperate. We're trying to bring it before the Commission's attention so that the Commissioners will instruct the staff to install speed humps within the village. Having discussed this with Larry Velasquez and with Ted Barber, who was the

engineer who was assigned to the paving job, and having heard their concerns about liability associated with speed humps, I talked to the director of public works in Rio Arriba County. His name is James Lujan, and he very generously said he wouldn't mind being here tonight but he had another public meeting he had to attend.

The reason I talked to him is because in driving around Rio Arriba County, I kept encountering little communities that had speed humps. So I said, how do you guys get around these liability concerns, or whatever, and apparently, they had just decided that this is an issue that's important to the voters and residents of Rio Arriba County, and the commissioners have approved speed humps in, I believe, the following counties: La Mesilla, San Juan Pueblo, Alcalde, Canjilon, Cerro Amarillo and Chimayo. And there are probably others.

It was an interesting conversation with Director Lujan because when we started the conversation he told me the whole line about liability and the fact that they don't have engineering standards for speed humps and so forth and so on. And then I said, how has it been working in the community of La Mesilla? That was the community where I most recently had been. And he said, Well to tell you the truth, I'm a resident of La Mesilla and I'm glad we have them.

So I don't want to belabor the point. I'm always amazed at how much patience you have in listening to concerns from the community.

CHAIRMAN TRUJILLO: This is an issue, Page, that has surfaced for a long time. Every community, at least in my district, is faced with the same situation. Speed, because recently paved roads, people don't know how to drive through them. They're asking for speed bumps. This is ubiquitous and everybody wants speed bumps. I understand where Larry's coming from on the liability issue and I'll invite him up to talk to the Commission and to the public now.

MS. MORGAN: Well, based on the director of public works in Rio Arriba County and his take on the liability issue was -- let's see -- the American -- oh, no. I don't think I wrote it down. There's an industry association that county officials use as a source of information on these issues. They've never taken a position on this. It's something that sort of bubbles around. And we would like to be the test case for what happens when you install speed humps in a very small stretch, it's 3/10 of a mile long, but it's where our homes are. Mine's like five feet from the road. I'd like for us all to be test cases.

COMMISSIONER DURAN: How many speed bumps did you want?

MS. MORGAN: I think probably three would do it.

COMMISSIONER DURAN: Do you know how much speed bumps cost?

MS. MORGAN: I imagine you could do them for a couple hundred dollars apiece. I mean, what is it? A lump of concrete or asphalt?

COMMISSIONER DURAN: Larry, do you know how much one of these costs?

MR. VELASQUEZ: Mr. Chairman, Commissioners, let me back up on my -

- we have been researching the issue on the speed humps so that we could present you with policy that is consistent with all the subdivisions and all the others that we have had requests on. But our indications are that they can get quite expensive. Boulder is a prime example of some of the research that we found that they were getting inundated with requests and part of the policy they've developed, they said, okay, community, you want speed humps -- here's our policy. You pay for those.

What happened with that is that basically the amount of requests went down. To get back to your question, it can run anywhere between \$2500 to \$5000 each, depending on the installation.

If I might address that, Commissioner Anaya and myself met with several members of the community in Cañada de los Alamos. My recollection is about in July or somewhere in that time frame. There were several issues that were brought up. One was the issue of the speed humps, one was the issue of non-residents looking for the interstate. And it so happened that at the time we were there somebody drove up asking how to get directions to the interstate.

We took the stuff that we can address quickly, namely the signing all has been posted. And the issue of speed humps has also come up in several other communities. We have -- are in the process of developing a policy similar to the road acceptance policy we brought before you that was standardized. If the Commission decides that that's going to be something we're going to do, and the reason we want to do that is we want to be consistent in the application so that from a liability standpoint we minimize any potential exposure that we may have or may create.

At this point we've got that policy in draft form. We've not brought it to you because we did not want to bring the road acceptance policy and the speed hump policy at the same time. So for October or the end of October we were bringing the road policy back and as soon as get done with that we'll bring the speed hump policy.

[Commissioner Duran is speaking away from his microphone and thus inaudible]

MR. VELASQUEZ: We're not trying to deny anything that the people want. What we're trying to do is do it in a fashion that's compliant with the safest installation that we can give them, the one that minimizes any exposure to the County, and that's also consistent. That's what our objective is and that's what we're bringing forward to you.

[Commissioner Duran is speaking away from his microphone and thus inaudible]

MR. VELASQUEZ: Mr. Chairman, Commissioner Duran, I guess from our standpoint, something that may seem like a simple request actually has some significant implications from a long term, not only from the operational implications to public works. It has response implications to emergency and for fire and sheriff. I've had just cursory discussions with the Sheriff and he thinks it's not a bad idea. So what we're planning to do is to bring all this stuff, submit it over to legal, submit it over to fire, submit it to all the entities that are actually affected or impacted by this, get their discussion so that when you implement a policy, it's the best policy with all the information that you have.

CHAIRMAN TRUJILLO: I've been waiting for three years for this policy to be put into place. I've got about ten communities out there that are asking for speed bumps. They're not one mile worth of speed bumps. They're about ten miles worth of speed bumps. They want speed bumps in their communities. They are traditional communities just like Cañada de los Alamos. And I understand the position that Larry's in. It's necessary to look at what the impacts are from the safety standpoint, from the liability standpoint, from all the standpoints, so that when we put a policy in place it can be implemented across the board.

MR. VELASQUEZ: Mr. Chairman, one last comment, I think there are two issues on this and I'd like to address it real quickly. There's a speed hump and a speed bump. What you see at Albertsons is a speed bump. Just a bump in the road. A speed hump is a broader, longer, sort of a riding hump, and that's what we will be bringing forward, because there have been a lot of liability issues and this has been a -- something that's been evolving in the nineties on what's called neighborhood calming or traffic calming issues. And it's one of the things that has been evolving and the problem is there's not been a lot of communities with a lot of experience in it.

Boulder is one. Basically, they have been on the frontline in doing it. Bernalillo County has been doing now. Rio Arriba's doing it, but without any kind of a formal policy. I don't know what their experiences have been with them, but we wanted to bring to you something that maybe somebody else will want to follow suit when it is adopted. And for a time frame, if we have no problems with the adoption, it could be in December.

CHAIRMAN TRUJILLO: And also, how much did you say the speed hump or bump, how much does it cost?

MR. VELASQUEZ: Based on the information that we had, anywhere between \$2500 and \$5000 depending on what we're doing. I mentioned earlier that in Boulder, I found an article, that in Boulder they got, when they instituted the policy, they got inundated with requests. It turned out they couldn't afford to comply with all the requests so then they revised the policy that requires the participation of some sort. In the articles and other information I'll give you, they had to make some changes in their policy, and that's the information that we want to bring to you.

MS. MORGAN: Can I request that you set a deadline on getting that report before you, and also that you could have them consult Rio Arriba County which is our nearest neighbor, which has a great deal of experience in the use of these, and that that would be part of what they would be reporting to you.

CHAIRMAN TRUJILLO: Okay. They've already consulted with Rio Arriba County. They've communicated with Rio Arriba County, right, Larry? Do you think you'll have something at least by the end of the year or sooner? Sooner than the end of the year?

MR. VELASQUEZ: [inaudible] in place with design standards and everything like that. It's in draft form. We just haven't submitted it over, like I say, to the Sheriff's, Fire, Legal, for their comments on it. And that's where we're at. As I say, the

reason we haven't done it is because we want to get this road acceptance policy first. I guess in my judgement I thought that would have been a priority for that. So that's why I didn't want to bring two things forward and take up a lot of your time in discussion on it.

CHAIRMAN TRUJILLO: Thank you, Larry. Any more?

KATHLEEN FREDRICKS: Mr. Chairman, Commissioners, my name is Kathleen Fredricks. I live on the top of the hill. If you know Cañada de los Alamos, it slopes on a hill like this and at the top of the hill, I live at most fifteen feet away from the road and at night or during the daytime you can hear if there's a gravel truck or something going by it rumbles and it shakes my window. So it's a matter of concern, I think, probably the liability would be for the County if someone were to crash into someone's bed.

The other thing is, I just wanted you to try to visualize a road that's very narrow, probably not much wider than Acequia Madre and traffic, especially in the evening and at night and then after the bars close going up and down that road at sixty miles an hour and I'm not exaggerating. We met with our Commissioner last spring. We asked for a sign directing tourists to the interstate because we are at the end of Old Santa Fe Trail and traffic was going up. There were no signs directing people to go right and they finally put this, last month I believe and there's a whole bunch of them now.

The other thing we asked the Commissioners to do is that at the top of the hill and before they entered into the valley which contains our village, was to put up a sign that said no outlet. And that hasn't been done. One of the problems with the traffic once the road was paved is that there is no outlet. Our road goes up into the forest and you have to turn around there and you have to take the road back. So it creates traffic going up and down. It's not like they can go up and then go some place else.

They go up and they have business up there they have to turn around and they have to go back. So we are really happy if we can have permission to have these signs. It's really a matter of safety, especially with the winter season coming up and the roads are icy and people are accelerating or trying to stop on that slope and they can't and I think that speed humps would help that particular condition, especially when the roads are really icy. Thank you very much.

CHAIRMAN TRUJILLO: Thank you.

MS. MORGAN: Yes. One of the responses when we were talking to Public Works when we talking about the problem of speeding was that's not our problem. It's the Sheriff's problem. We had the Sheriff set up a speed trap by the church once. And that's it. It's asking a lot; the Sheriff has a lot of crime to fight, to have him sit out in our village to try to keep the speeds down, so we felt like it was a much more reasonable thing to put in suitable structures that would keep the speeds down and not expect the Sheriff to be riding herd on it.

COMMISSIONER GONZALES: Mr. Chairman, and I know we've got to close this and I think you've been very kind to the Sheriff but the bottom line is it's still his responsibility. Speeding is a violation of the law. It's his responsibility to enforce it and

I would just see if, David if we could send direction or ask maybe the Chair to write a letter to the Sheriff saying this has been brought up by a group of citizens of Cañada de los Alamos. They've seen a repeated pattern of speeding going on and that the Commission is asking him to maybe notify us, possibly in writing, what he is doing to address speeding issues in the Village of Cañada de los Alamos so that hopefully by the time December comes around we'll have at least a log or report of how many times the Sheriff's been out there and whether they've set up the speed traps because again, this is going to take more than just a simple solution of speed bumps and I think that people are going to speed any time that they're on pavement.

The fact is that we need to ask the Sheriff to please give a response to the Commission because it's been brought to us by a constituency, a response as to how he will be able to address the speeding that currently is going on there and notify us in writing what he's done to try to alleviate that speeding. I think you're being too kind. That's something we elect a Sheriff to take care of these issues. You elect us to take care of these issues and we both need to be held to the same standards and so if you could send that out that would be great.

MR. WOLF: Mr. Chairman, Commissioner Gonzales, I'll call the Sheriff in the morning and ask him.

COMMISSIONER GONZALES: Actually, I prefer a correspondence so it's documented. What if we sent out exactly what was brought to the attention. We know, according to the constituents that there is a repeated kind of speeding that takes at least for one individual in the community. If they could at least be responsible to see if they can stop that, that would be great. Or notify the individual that he has been charged with speeding and he needs to slow it down or else he will get a ticket. Something like that. We need to have some response from the Sheriff in this area. And I think correspondence would be preferable. We would like to receive some kind of correspondence as well.

CHAIRMAN TRUJILLO: Thank you, David. Thank you, Commissioner Gonzales. Matters of Public Concern, anybody else?

JERRY PAUL: Good evening. I'm Jerry Paul. I live on County Road 117 south of Nambe. Although I wouldn't trade the weather in New Mexico for anything, the rain can present certain problems as alluded to by the gentleman earlier. Our road is often reshaped and an impassible trail after significant rain storms as you might be able to envision. The direction has been to regrade the road in as thorough a fashion as possible but this is a band-aid solution.

We seem to be cleaning up the mess each time rather than implementing a plan to avoid the mess altogether. One solution to the cause of the problem would be the development of a reservoir upstream. This solution would benefit all of the tax payers along this road and its tributaries by minimizing the land runoff. What is involved is investment to acquire land and construct the reservoir and it would probably pay for itself in a few years by minimizing the cost of road repairs.

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At any rate, some reasonable solution is needed as many times people are currently left to their devices to protect their land. That's where the petition came in. Once this [inaudible] constructing water breaks in the public roadway. These have consisted of dirt mounds coupled with large rocks and a short railroad tie. It's a very short, narrow road of about eight to ten feet. Constructed on an already sloped public roadway, this section presents a significant safety hazard to others attempting to negotiate the road.

In my opinion, any solution to the road problem which involves altering a public road so as to diminish one's ability to safely drive on it is totally unacceptable. While I would be happy to assist my neighbors in any way [inaudible] This problem affects many taxpayers as exemplified by the petition for redress forwarded to Commissioner Trujillo. I would submit that the solution to this problem should come from the County administration.

CHAIRMAN TRUJILLO: We've dealt with this issue before, Larry. County Road 117, with Mr. Parra and the issue is it continues to encroach on the County roadway by putting cement and railroad ties and rocks and berms and things like that. How are we dealing with that situation? That road is a natural drainage. It's an arroyo. It flows like that in perpetuity. It's flowed like that for a long time. If he continues to go into the roadway to disrupt at will the floods going to his property, but at the same time it's impacting the community.

MR. VELASQUEZ: Mr. Chairman, I guess the best description of it, the arroyo is a drainage way. I guess anytime we have an obstruction out there we go out and remove it. We had a -- I haven't had a conversation myself, but apparently Mr. Parra has contacted us and I guess he's got an engineering background of some sort and he has offered to engineer a solution, I guess, if you will. I had asked for his phone number so that we could be contacted to do that.

It was suggested that a dam be constructed but that's either pueblo land or BLM land, I'm not quite sure which one. We are trying to get a land use map to determine who the owner might be on that. I guess what we'll do first is we'll meet with Mr. Parra and see what idea he's got as a solution to that and then see whether there's other more permanent solutions to that issue.

CHAIRMAN TRUJILLO: It would have to work with the Corps of Engineers regardless if it's Indian land, Native American land, or if it's BLM land.

MR. VELASQUEZ: That would probably be true, however, it would probably not, since it's not a wet arroyo, if you will, or a wet stream. It probably would not be too difficult in dealing with them. The rest of it is probably going to be tremendously difficult, but that aspect of it is probably not.

CHAIRMAN TRUJILLO: Mr. Garduno, would you like to say a few words?

GILBERT GARDUNO: My name is Gilbert Garduno and I'm concerned about that 117. We talked to him about that reservoir and also the County created that problem because that road was never an arroyo before until the County started grading that road and they diverted the water out to the arroyo toward the road. We had the arroyo go

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to a different route until the County took over and now it's building up clear by Mr. Parra and creating a problem. The last time that the grader was there [inaudible] but then they build it up close to my driveway. [inaudible] because it doesn't bother me that much but they should dig that thing all the way to the river and clear it out so the water can get out of the place or it's going to back up again.

CHAIRMAN TRUJILLO: Has that road been channeled or built up?

MR. GARDUNO: It's got to go down. If you build it up it's got to go over that [inaudible]

CHAIRMAN TRUJILLO: Can we channel that road, Larry?

MR. GARDUNO: [inaudible] So I think what they need to do is clear it out. Now that they made that road an arroyo it needs to be cleared out.

CHAIRMAN TRUJILLO: If there's an incline in the entrance to Mr. Parra where the water's diverted to the eastern part of the road. That's what the community is concerned with.

This has been an issue since I got elected three years ago and it continues to be an issue. The direction that I'd like to give Larry is that we go in there and take care of it. Go in there and either channel the road, get it to drain, regardless of the impact on Mr. Parra. Mr. Parra has been encroaching on the road for the last three or four years since he's been there and what we need to do is we need to be concerned with everybody that lives on that road. It's a natural drainage and when the water flows it's going to go forever and sometimes it will go into his land and that's the way it's always been. He's trying to send it onto other private property.

Anybody else from the public?

VII. D. MATTERS FROM THE COUNTY ATTORNEY

MS. BROWN: Mr. Chairman, I'm going to respectfully request that there be a motion to go into executive session to discuss pending and threatened litigation.

CHAIRMAN TRUJILLO: Could we move that to the end of the agenda after Land Use?

MS. BROWN: Mr. Chairman, we could. We do have outside counsel here who are waiting to address the Commission. It's your decision but I just want to bring it to your awareness.

CHAIRMAN TRUJILLO: Okay, let's do it.

Commissioner Duran made a motion to go into executive session and was seconded by Commissioner Griñé. Upon unanimous roll call vote with Commissioners Duran, Trujillo and Griñé the Commissioners met in executive session. [Commissioner Gonzales was not present for this vote.]

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[The Commission met in executive session from 7:25 to 8:55.]

Commissioner Duran moved to come out of executive session having discussed pending and threatened litigation. Commissioner Grifé seconded the motion, which passed by unanimous voice vote.

VIII. PUBLIC HEARINGS

A. Land Use Department Items

1. **CDRC Case #V 98-5410. Celeste Romero Variance. Celeste Romero, applicant, requests a variance of Article III, Section 10 (lot size requirements) of the County Land Development Code for the placement of a second dwelling unit on 2.14 acres. The property is located off Gamble Oak Road within the Bishop John Lamy Grant, Township 15 North, Range 10 East**

ROMAN ABEYTA (Review Specialist): Thank you, Mr. Chairman, Commissioners. The applicant currently lives on the property and is requesting a second home for her daughter and son in law, Diane and Michael Ellis. The applicant states that she has rheumatoid arthritis and requires close care. The applicant states that the second home will share the existing well and will have its own septic system.

On August 27, 1998, the CDRC recommended approval of subject to the following conditions:

1. The mobile home is subject to administrative review and approval every two years.
2. Water use on the entire 2.14 acres is restricted to a quarter acre-foot per year. Covenants must be recorded with the existing warranty deed prior to the issuance of a mobile home permit.

Thank you, Mr. Chairman.

CHAIRMAN TRUJILLO: Thank you, Roman. Any questions of Roman? Is the applicant here?

Duly sworn, Michael Ellis testified as follows]

MICHAEL ELLIS: Mr. Chairman, Commissioners, my name is Michael Ellis. My mailing address is P.O. Box 8556 in Santa Fe, and the zipcode is 87504. The applicant is my mother-in-law. The second dwelling will be for myself and my wife, my mother-in-law's oldest daughter. If I may, I'd like to give you a little history so that it will help. The home on the property is my mother-in-law's home which was built for my mother- and father-in-law about five years ago. My father-in-law passed away three years ago this December.

She is living in the home alone on this property. She has rheumatoid arthritis. There is a letter from her doctor in the original application for this second dwelling indicating that she does require close care. The reason for the request of the second home is so that we can

be close to here and care for her. We don't ask that the home be on a permanent foundation. It's a mobile home so that if in fact the home does need to be moved at some point when she passes away, the property is to be sold, it can be moved.

We do ask that we be allowed to live in the home, however, and that it be our permanent home. It's our home, my wife's and mine; we own it. I would like to ask if you would consider, pending of course approval of the State EID, that we be allowed to tap into the current existing septic system, and I do understand that EID has to review that to be sure that we're not violating any environmental laws.

We, my wife and I have been living with my mother-in-law, in her home for about a year now and the three of us living in the home, I have not seen any problems with the current septic system, so once we were to be moving into our mobile home, that usage wouldn't change; it's just the two of us. We don't have any children, and due to health issues with my wife, we won't be having any. It'll just be the three of us on the property.

CHAIRMAN TRUJILLO: That would not be the County's jurisdiction. That would depend on the State Environment Department. Is this a temporary situation?

MR. ELLIS: Yes.

CHAIRMAN TRUJILLO: That'll be stipulated on the documentation, the permits that will be given to you.

MR. ELLIS: Correct.

CHAIRMAN TRUJILLO: Anything else.

MR. ELLIS: No.

COMMISSIONER DURAN: Is there any reason why you can't move the trailer further from Apache Ridge Road?

MR. ELLIS: In order move it behind the house, the location we chose, Mr. Chairman and Commissioner Duran, is simply for the ease of access for the existing road onto her property. The other location that the home would be placed on would be further up the hill above her home and there is currently no access road to that spot. We'd have to get an easement from an adjoining property owner to be able to do that.

CHAIRMAN TRUJILLO: Any other questions of Mr. Ellis. This is in the Mountain Hydrological Zone where the minimum lot size is twenty acres, right?

MR. ELLIS: As I understand, yes.

CHAIRMAN TRUJILLO: This is a public hearing. Anybody from the public want to speak for or against this proposal? If not, then what is the desire of the Commission?

Commissioner Grifé moved to approve the variance on case #V 98-5410. His motion was seconded by Commissioner Duran, and passed by unanimous voice vote.

VIII. A. 2. CDRC Case # A/V 98-5341. Gonzalez Appeal and Variance. Jose Gonzalez, applicant, requests an appeal of the County Development Review Committee's decision to deny a division of land to create two lots on 12.5 acres which would result in a variance of Article III, Section 10 (lot size requirements) of the County Land Development Code. The property is located on Pine Street, east of State Road 14 within Section 6, Township 14 North, Range 9 East

PENNY ELLIS-GREEN (Review Specialist): Mr. Chairman, Commissioners, the property is located within the Basin Fringe Hydrologic Zone. Minimum lot size in this area is 12.5 acres per dwelling unit with water restrictions of .25 acre-foot. The Code does allow lots of 6.25 acres through a small-lot family transfer. Children receiving land through a small-lot family transfer would need to be 18 years of age. The applicant states that he has no children of 18 years of age and his intention is to sell the parcel of land.

A proof of water availability, through an approved hydrological report would allow lot sizes as small as 2.5 acres. The applicant has not submitted a hydrology report.

The decision of the CDRC was to deny the appeal and uphold the Land Use Administrator's decision to deny the land division.

CHAIRMAN TRUJILLO: Thank you. Any questions of Penny? If not, is the applicant here?

[Duly sworn, Jose Gonzalez testified as follows]

JOSE GONZALEZ: Mr. Chairman, Commissioners, my name is Jose Gonzalez. I live on Pine Street, Route 2, Box 613, Santa Fe, New Mexico, 87505. My case is real easy. I have 121.5 acres for twelve years. I don't have kids 18 years old and I don't have a well on my land. I have a shared well with another land, another piece of land. That's where I get my water. If I request to split, to sell part of the land so -- I live in Florida, actually. I don't know what to say. I want to split and the people who buy the land to drill the well. I don't have a well on my land.

CHAIRMAN TRUJILLO: Is your land empty, vacant? You don't have a house?

MR. GONZALEZ: No, I have a mobile home.

CHAIRMAN TRUJILLO: You don't have a well that serves that mobile home?

MR. GONZALEZ: Yes, I share a well and actually I have a map. This is my tract over here. And right here is [inaudible] So I have a shared well. I don't have a well on my piece of land. And everything around is smaller than 12.5, pretty much.

CHAIRMAN TRUJILLO: So what's the reason that you want to split your land?

MR. GONZALEZ: My wife and kids live over here and they want to keep a piece of the property and I moved to Florida. So I need some money from the split and

sell my part. At the same time [inaudible] so my wife and kids keep the other part.

COMMISSIONER GONZALES: Mr. Gonzalez, is there a reason why you haven't done a hydrology report?

MR. GONZALEZ: It's real expensive and I don't have the money to do it right now.

COMMISSIONER GONZALES: Do you understand that everyone who has smaller lots sizes than you had to do a hydrology report?

MR. GONZALEZ: Yes. The only thing, I don't find anyone around my land, because they request only for one [inaudible] I asked engineers and they say it's probably around \$30,000 to do a hydrology report. Yes, everything together.

COMMISSIONER GONZALES: I think that's too much.

MR. GONZALEZ: Mr. -- he's an engineer from here. They have a letter. I don't know if they bring them to you. They say between \$15,000 and \$30,000. And I talked to him and he said my land is probably around \$30,000.

MR. GARCIA: Mr. Chairman, a well is probably, I think going from \$7,000 to \$8,000 and the hydrology report, a full-blown hydrology report, I think goes anywhere from \$6,500 to \$8,000.

[Commissioner Duran's microphone is malfunctioning]

MS. ELLIS-GREEN: Mr. Chairman, Commissioner Duran, actually in Exhibit "F" the County Hydrologist has written a memo and this says that there have been no successful hydro studies in this general area in over a year. There have been negative findings in recent wells. I understand that the applicant has spoken to our hydrologist and our hydrologist has not got other hydrology reports in the immediate area that he could use as reconnaissance. He does also say in this, near the bottom of the page in Exhibit "F" he estimates drilling the well and testing it would be about \$15,000.

[Commissioner Duran's microphone is malfunctioning]

MS. ELLIS-GREEN: Mr. Chairman, Commissioner Duran, yes, the applicant did provide some well log information from the surrounding wells and yes, I did review that. I don't believe the well logs themselves are within your packet. I could check that for you. The well logs provided didn't say anything -- the first says 40 gallons a minute, the second one 20, one is four to five gallons a minute and then a quarter gallon a minute.

CHAIRMAN TRUJILLO: Those numbers that you read off seems to be a nominal production of water, right? Forty, twenty --

MS. ELLIS-GREEN: Forty, twenty, all the way down to a quarter.

CHAIRMAN TRUJILLO: To a quarter. How does that relate to -- is that good water production?

MR. GARCIA: Mr. Chairman, I believe that's gallons per minute. The first reading was forty, then twenty, then a quarter.

CHAIRMAN TRUJILLO: Is that good? Any other questions of Mr. Gonzalez or Penny? Okay, this is a public hearing. Anyone from the public wants to speak

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for or against? What is the desire of the Commission?

Commissioner Duran moved to approve CDRC Case #A/V 98-5341 and his motion died for lack of a second.

COMMISSIONER GONZALES: Mr. Chairman, Mr. Gonzalez I understand the difficulty in raising money to try and perform a test that would allow you to do the lot split and it seems that the well log you submitted, according to Commissioner Duran, I don't know how they do that but it seems like we do know you have some water. The problem is that we have requirements that we make a lot of people follow who can't afford the money either and a lot of people try and do whatever they can to either borrow the money or do whatever they can to provide sufficient data so that we can meet the criteria that our Code requires us to do one of these subdivisions. And I would rather than denying you, so that you don't have to go through the whole process, would rather table this and give you time to find some money to try and put this together so that we can do a reconnaissance or we can do something off the well data or whatever it is, but you need to provide some type of independent verification of the water situation up there, because we're requiring people every day to do that.

If we were to not require at this time it would in effect basically take that whole part away from the Code that requires some people to have some type of proof of the water that they have and so rather than denying you I'd rather give you time to try and put this together so you don't have to start all over again once you do have it because I know you need it and I'm sorry that it's so expensive but it's something that we need especially in that area. So I would ask, Mr. Chairman, that we table this case for a period of 60 days to allow Mr. Gonzalez to come up with some type of data that would be sufficient for the Land Use staff so they can come forward with a recommendation.

COMMISSIONER GRIÑÉ: Second.

CHAIRMAN TRUJILLO: We have a motion to table, seconded by Commissioner Griñé. All those in favor?

Commissioner Duran points out to the other commissioners that out of the 21 lots near the applicant eight are 2.5 acres; ten are 6 acres and only three are 12.5 acres. He said there must be sufficient data for this applicant to obtain to avoid conducting a full-blown geo-hydro report. He suggested staff help him research these reports that were used for the other lot splits.

COMMISSIONER GONZALES: I agree there should be sufficient data out there without having to do a full-blown hydrology report and hopefully we can find it. If we can't then -- my concern, Commissioner Duran is that we either -- if we go the route that you want us to go we have to change the whole Code that requires hydrology reports for lot

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splits and that's something I'd be willing to at least debate. But I don't think we should change the Code since it's been okay before. But I appreciate the fact that [inaudible]

The motion to table passed by unanimous voice vote.

CHAIRMAN TRUJILLO: Thank you, Mr. Gonzalez. Do you understand what you need to do?

MR. GONZALEZ: I have to provide a hydrological report?

CHAIRMAN TRUJILLO: Right. You can use existing reconnaissance reports in that area that show what type of water exists in that area.

Commissioner Duran asked Ms. Ellis to help assist the applicant in obtaining the appropriate information.

MR. GONZALEZ: But nobody has the hydrological report -- what I tried to do is if you'd let me split the land even with [inaudible] or the people who buy the land can provide the hydrological report and drill the well.

MR. GARCIA: Mr. Chairman, there is some data, there is a recon out there that the Board looked at in issues for Fred Vigil several months ago, the same situation. So we'll pull out his file and we'll see what we can do to help out Mr. Gonzalez.

COMMISSIONER GONZALES: There's going to be some expense that you're going to have to bear. You're going to have to have someone to look at it for you outside of our staff but it shouldn't be the \$30,000 or even the \$15,000. But it's important that we do this so we're fair to everybody.

CHAIRMAN TRUJILLO: Thank you.

VIII. A. 3. CDRC Case #V 98-5560. MacGillivray Variance. Adrian DeWindt, agent for William and Susan MacGillivray, requests a variance to the County Land Development Code requirements (Article VII, Section 3.4) for the purpose of constructing a building addition. The property is located within the traditional community of Tesuque off Via Vecino Road, within Section 31, Township 18 North, Range 10 East

MR. ABEYTA: Thank you, Mr. Chairman, Commissioners. The applicants are proposing to construct a 520- square foot addition to their existing residence in Tesuque. Regardless of where they choose to locate the addition, 30% slopes will be disturbed. In his letter dated August 14, the applicants' agent, Adrian DeWindt, states that the proposed location on the east side of the existing house will have the least visual impact.

Recommendation: On September 24, the CDRC recommended approval of the

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requested variance. Thank you, Mr. Chairman.

CHAIRMAN TRUJILLO: Thank you, Roman. Any questions of Roman. No questions. Is the applicant here?

[Duly sworn, Adrian DeWindt testified as follows]

ADRIAN DEWINDT: My name is Adrian DeWindt, 607 Paseo de la Loma, Santa Fe.

COMMISSIONER GONZALES: Mr. Chairman, Mr. DeWindt, are the applicants here also? Can you tell me -- the house is on 9.7 acres. What's the square footage of the home currently?

MR. DEWINDT: I don't know. I have the drawings. I could probably look and see what it is. But they want to put a one-bedroom, one-bath addition on to the existing home.

COMMISSIONER GONZALES: Do you know what the square footage of your home is?

[Duly sworn, Bill MacGillivray testified as follows]

BILL MACGILLIVRAY: My name is Bill MacGillivray, Route 4, Box 21-K, Santa Fe. The square footage, Commissioner, is in round numbers 3900 under roof.

COMMISSIONER GONZALES: And the addition is going to be attached to the home. Is that correct?

MR. DEWINDT: Yes, it will be a bedroom, hallway, closet and bathroom.

COMMISSIONER GONZALES: So the request is to bypass the 30% slope area. Is that right?

MR. DEWINDT: That's correct. When they built the house in 1990, there's a large ridge that runs north-south behind the house. I have photographs of it. And they didn't build on the ridge. They slid it down off into this -- nestled in this little area. Since that time the law's been passed, the 30% slope law.

COMMISSIONER GONZALES: What is the slope that they would be building on?

MR. DEWINDT: Fifty. It's two in one they want to build on. It's a small little hillock that's to the east of the house and they want to cut in there. I have photographs of all this and I have drawings showing it.

COMMISSIONER GONZALES: No other questions.

MR. GARCIA: Mr. Chairman, Commissioners, you might want to look at those photographs because this is one of those houses that's on the side of a hill out there.

MR. DEWINDT: I didn't put the dimensions on it. I think it's 15 by 24.

COMMISSIONER GONZALES: Mr. Chairman, just a question. I'm sure you saw the Code. Basically the Code says where in the case of proposed development in can be shown that strict compliance with the requirements of the Code would result in extraordinary hardship to the applicant because of unusual topography or other such non-self-inflicted conditions, or that these conditions would result in inhibiting the achievement of the

purpose of the Code. I guess my question to you, the applicant is, can you point out the extraordinary hardship that exists?

MR. DEWINDT: The hardship is that the house was built prior to this code being put on. The Code was added after the house was built. So that now that they want to put an addition on, they can't do it because the Code was written after the house was built. For them to put the addition on, there's no place that they can add on to that house - they could add a second story.

The trouble with the second story is we felt it would be more disruptive to the neighborhood to add a second story than it would be to go down lower with this addition. This addition is going to be lower than the existing roof line. So we felt that would actually be more harmonious with the neighborhood and the hillside than it would be to put a second story on. So where can we put an addition that is not within 30%, that is less than 30% slope? Well, we could add a guest house down on the flatter part of the property. But if they don't want to do a whole guest house the only place they can do it is to go on a slope that's greater than 30%.

So that's why it's a hardship, because they built a house. They avoided the ridgetop. At the time there was no Code about the ridgetop but they voluntarily avoided the ridgetop. They own the ridgetop and over the other side. But they avoided all that and now, after they've built they want to put an addition on and they can't do it. That's what the hardship is.

CHAIRMAN TRUJILLO: What are they using the addition for?

MR. DEWINDT: It's a bedroom.

CHAIRMAN TRUJILLO: Is the family growing?

[Duly sworn, Susan MacGillivray testified as follows]

SUSAN MACGILLIVRAY: Commissioners, I'm Susan MacGillivray, and my family is growing in a way. I designed the house almost ten years ago and at the time my husband and I had five grown children, none married. In the interim, we now have two grandchildren and more on the way. Part and parcel of this is that as the house exists now, we really only have two bedrooms. There's a studio for myself and an office that my husband has. And we have a downstairs guest area, but that's it. We really only have a master bedroom and then all the grandkids and the kids are coming along.

This is what we were looking at, rather than a separate guest house, with a separate pad, which in fact we did look at and that would entail a lot more construction and we feel a lot more disruption, including more water usage and more disruption of the trees. So yes, for two semi-retired people, our household is growing.

CHAIRMAN TRUJILLO: Thank you.

MS. MACGILLIVRAY: You're very welcome.

CHAIRMAN TRUJILLO: Any other questions? This is a public hearing. Do we have anyone for or against this proposal?

MR. DEWINDT: We have three separate couples that have signed an

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affidavit that they support the project who are immediate neighbors. I gave them at the CDRC meeting to the person sitting over there.

CHAIRMAN TRUJILLO: I have a question, Rudy. If they would want to go up on this house, they could do it? They would satisfy the Code? They could go up on their addition?

MR. GARCIA: Mr. Chairman, if they wanted to make it a second story, if they met the Code it could not be higher than 24 feet, they could go that route.

CHAIRMAN TRUJILLO: Or they could build on another location on the property and disrupt some vegetation, some land as long as it satisfies the Code, too, right? If there's a buildable site?

MR. GARCIA: Mr. Chairman, the applicant is claiming that this is the only buildable site and they're claiming that this is their hardship but those terrain management regulations were designed for these mountain areas that we didn't want to see buildings on greater than 30% slope.

CHAIRMAN TRUJILLO: That would mean that anybody that owns land out there could come in and say the new ordinance now has caused hardship so I want to build.

MR. GARCIA: Yes, that's correct. -- if you feel that this variance needs to be granted, maybe some of your findings of fact could be that this is the only buildable area on this property. This is the only slope on the property less than the 50%.

Commissioner Duran moved to approve CDRC Case #V 98-5560 as submitted with the finding of fact that it is the only buildable area. Commissioner Gonzales seconded the motion, which passed by unanimous voice vote.

VIII. B. 1. Ordinance No. 1998-12. An ordinance granting a sewer franchise to Ranchland Utility Company

MS. O'CONNOR: Mr. Chairman, members of the Commission, Ranchland Utility Company owns a sewage collection and treatment system located in the area known as Rancho Viejo de Santa Fe. They are requesting that the County grant them a non-exclusive right to operate the sewage utility system and to utilize certain County public rights-of-way. Currently the utility system passes under one County road. That's Avenida del Sur and the future build-out of it would anticipate four additional crossings of County right-of-way, not all of it currently is County right-of-way. They have agreed with the -- or as I understand, they've agreed with the terms of the proposed ordinance that would allow a 3% utility fee based on their gross annual revenues.

They will be building the rest of the utility, being in compliance with maps or plans that have been approved or will be approved by the County during the final plat process. The term of the ordinance is 25 years, which is the maximum time that the statute allows for

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a ordinance to be in existence. Ranchland will pay for all of the cost of the construction of the utility company and they'll also pay for all the cost of the maintenance of the utility system.

Regarding any insurance or liability that the County may have, Ranchland has agreed to indemnify and they also are required to have an insurance policy in effect that will cover the County up to the limits of its liability under the Torte Claims Act. The County will be added as an additionally named insured on that insurance policy. Are there any questions?

CHAIRMAN TRUJILLO: Do you have any questions? Is the applicant here?
Karl?

KARL SOMMER: My name is Karl Sommer. I'd like to explain the reasons we want this lot split here tonight. We're in agreement with the conditions of the ordinance and the plant is actually built or pretty well built. It will serve the sewer franchise area that I think the Board has already looked at on several occasions. We have nothing further to add. We are in full agreement with the conditions and the 3% fee, annual fee, that's provided for in the ordinance.

CHAIRMAN TRUJILLO: Denice, is this legally overboard?

MS. BROWN: Mr. Chairman, I will say it's been reviewed by legal staff and found to be acceptable.

MR. SOMMER: There is a requirement that we publish twice after this hearing, we publish the ordinance a couple of times and we'll take care of that.

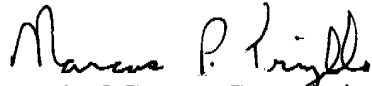
CHAIRMAN TRUJILLO: This is a public hearing. Anybody wants to talk for or against?

Commissioner Gonzales moved to approve Ordinance No. 1998-12 and his was seconded by Commissioner Griñé. Upon roll call vote, Commissioner Duran, Commissioner Griñé, Commissioner Gonzales and Commissioner Trujillo voted in favor of the ordinance.

ADJOURNMENT

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

Approved by:


Board of County Commissioners
Marcos Trujillo, Chairman

Respectfully submitted:
Karen Farrell
Karen Farrell, Commission Reporter

ATTEST TO:

Rebecca Bustamante
REBECCA BUSTAMANTE
SANTA FE COUNTY CLERK



1048.789

COUNTY OF SANTA FE
STATE OF NEW MEXICO
I hereby certify that this instrument was filed
for record on the 12 day of Nov. 1998
at 12:29 o'clock P.m.
and was duly recorded in book 1564
page 512
of the records of
Santa Fe County.
Witness my Hand and Seal of Office
Rebecca Bustamante
County Clerk, Santa Fe County, N.M.

Rebecca Bustamante
Rebecca Bustamante
County Clerk, Santa Fe County, N.M.
Deputy

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