

1564799

BOARD OF COUNTY COMMISSIONERS

SANTA FE, NEW MEXICO

REGULAR MEETING

OCTOBER 27, 1998

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

1564799

SANTA FE COUNTY
REGULAR MEETING
BOARD OF COUNTY COMMISSIONERS

October 27, 1998

This regular meeting of the Santa Fe Board of County Commissioners was called to order at 10:45 a.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 Richard Anaya
Commissioner Paul Duran [late arrival]
Commissioner Javier Gonzales

Members Absent

(none)

V. APPROVAL OF AGENDA

CHAIRMAN TRUJILLO: Denice, do we have any changes?

DENICE BROWN (County Attorney): Mr. Chairman, we have one matter that's been tabled. It's item G. 4 on page 4 of your agenda.

CHAIRMAN TRUJILLO: What is it, Denice?

MS. BROWN: Item G. 4 on page 4 and it's Request authorization to enter into a joint powers agreement between Santa Fe County, Rio Arriba County, City of Española, etc., for E-911 services. That's been tabled. I did speak with [inaudible] yesterday. There were some last minute changes that came in by facsimile so we'd like to hold it off for a couple more weeks.

CHAIRMAN TRUJILLO: Thank you, Denice. Any other changes or additions?

COMMISSIONER GONZALES: This isn't in changes, but would it be

1564799

possible to have the public hearing on the emergency ordinance upfront. I've got to catch a plane this afternoon. I know this is important.

CHAIRMAN TRUJILLO: What item is that, Commissioner Gonzales?

COMMISSIONER GONZALES: Item 9. Is there a problem, Denice, with us moving --

MS. BROWN: Mr. Chairman, Commissioner Gonzales, the only concern I have is if people saw the agenda and saw that it was toward the end and wanted to speak on it.

COMMISSIONER GONZALES: Okay. We'll just have to be quick then.

MS. BROWN: One other matter that is going to be tabled. It's on the top of page 4, it's item F.2. Resolution accepting certain roads within Eldorado. That is still in draft form and we'd like to table that to our next available meeting as well.

CHAIRMAN TRUJILLO: Very good. Thank you.

Commissioner Griñé moved to approve the agenda as amended and Commissioner Gonzales seconded the motion. The motion passed by unanimous voice vote. Commissioner Duran was not present for this action.

V. APPROVAL OF THE MINUTES: September 29, 1998

COMMISSIONER ANAYA: Mr. Chairman, I only have one minor correction on page 21, towards the bottom where it says Commissioner Duran, the very last. It should read Commissioner Anaya. I'm the one who said that.

CHAIRMAN TRUJILLO: Thank you, Commissioner Anaya. Any other changes.

Commissioner Griñé moved to accept the September 29, 1998 minutes as corrected. The motion was seconded by Commissioner Anaya and passed by voice vote with Commissioner Gonzales abstaining. Commissioner Duran was not present for this action.

VI. CONSENT CALENDAR

Ms. Brown read the consent calendar as follows:

- A. Resolution No. 1998-108. A resolution requesting a budget reclassification as part of the financial computer system conversion. The sole purpose of the reclassification is to establish budget to match budgeted prior year expenditures to prior year encumbrances outstanding at the conversion date of October 1, 1998**

1564799

- B. Resolution No. 1998-109. A resolution requesting a budget increase for the jail operations fund from care of prisoners revenues to cover jail operation costs for fiscal year 1999
- C. Resolution No. 1998-110. A resolution requesting a budget increase in the general fund/Region III grant program in order to match the final grant award to budget revenue from court settlements to be used for drug enforcement, and to budget a reimbursement of telephone costs due to the State Department of Public Safety
- D. Resolution No. 1998-111. A resolution requesting a budget increase for the fire districts fund/Turquoise Trail and Agua Fria fire districts, to budget fiscal year 1998 cash balance from the fire impact fees and current year fire impact fees for expenditures in fiscal year 1999
- E. Resolution No. 1998-112. A resolution requesting a budget increase for the EMS districts fund/All EMS districts, to budget fiscal year 1998 cash balance from state funds and special revenues to allow for expenditures in fiscal year 1999
- F. Resolution No. 1998-113. A resolution requesting a budget increase for the general fund, DWI teen court program, to budget funds from the City of Santa Fe and teen court fees revenue to cover program expenditures for fiscal year 1999
- G. Resolution No. 1998-114. A resolution requesting a budget increase for the general fund, rural addressing program fiscal year 1999 budget for grant funding received from the Department of Finance and Administration to assist the County to provide E-911 services for its citizens and establishing one term position
- H. Request authorization to enter into a DFA grant agreement 98-A-I-G-70, to provide E-911 services for Santa Fe County citizens
- I. Request authorization to establish two term positions for the teen court component within the Santa Fe County DWI program
- J. Request authorization to enter into a contract with St. Elizabeth's shelter for transitional living services for homeless DWI offenders who are in recovery
- K. Request authorization to renew a contract, RFP # 98-16, with Rick Johnson and Company for an additional year, for advertising services
- L. Request authorization to enter into a professional services agreement with the Tri-Area Association for economic development (TRADE) for economic development services
- M. Request authorization to accept and award a contract to the lowest responsive bidder, IFB # 99-19, for roof repairs on the Judicial Complex Building

1564799

N. Request authorization to renew the lease agreement with Traveltown Santa Fe for an additional twenty months, to lease office space for Animal Control

CHAIRMAN TRUJILLO: Thank you, Denice. Does the Commission want to segregate any item from the Consent Calendar to discuss further? I have one that I'd like to -- I have a question on. That is Resolution No. 1998-114, that's the 911. There's two items there regarding 911 and I'd just like to ask Stan, is this the impetus to provide 911 response county-wide, the extreme northern part of the county and the southern part of the county? Is this the direction that this is heading? That's item G and item H.

Thank you, Stan. This doesn't have anything to do with emergency response for fire and that's sort of thing. Well, I guess it is linked to that, but -- Thank you, Stan. Tom?

TOM DOMINGUEZ (Traffic Engineer): Mr. Chairman, Commissioners, in regards to items G and H, we had requested the grant, I believe you're familiar with the grant from the DFA of the state. And part of that was a request for a term position. It's written up as a three-year term, as part of the DFA grant. The grant is in part in Section H what we're looking at, and to enter into the agreement that has been finalized now and been presented to the County. Part of that will be the inclusion of the three-year term position. I'm speaking on behalf of Andrew of course for this, but that was written into the grant. I believe what he's looking for in the grant is a reimbursement, so we expend the monies they give back and that's what the intent was here.

CHAIRMAN TRUJILLO: Thank you, Tom. Thanks a lot.

COMMISSIONER ANAYA: Mr. Chairman, I have a question of Linda Dutcher, who's in the audience. This is in reference to letter I, the authorization of two term positions for teen court under the DWI program. Could you elaborate and explain this, the need and why?

LINDA DUTCHER (DWI Program Coordinator): Mr. Chairman, Commissioners, Commissioner Anaya, sir, could you restate your question please? I'm not sure I heard it.

COMMISSIONER ANAYA: I guess my question is, Linda, how many positions are there right now under the teen court program?

MS. DUTCHER: Okay, at the present we have teen court coordinator and an administrative assistant, but they're both contractors. So I don't believe that provides the kind of stability I'd like to see in that program. We already have the money for them, only it's contractual services. So this would be establishing these positions as County positions rather than merely as contractors.

COMMISSIONER ANAYA: So what you're doing is you're eliminating the contract faction of it and establishing in-house?

MS. DUTCHER: Right.

COMMISSIONER ANAYA: Okay. Thank you very much.

Commissioner Griñé moved to accept the Consent Calendar with a second by Commissioner Anaya. The motion passed by unanimous voice vote.
Commissioner Duran was not present for this action.

VII. ADMINISTRATIVE ITEMS

- A. Committee expirations, resignations, vacancies**
- B. Committee appointments**
 - 1. Rio en Medio Community Center**

ROBBIE APODACA: Mr. Chairman, Commissioners, today we have some appointments that need to be filled at the Rio en Medio/Chupadero Community Center. Four appointees that served on the Rio en Medio/Chupadero Community Center are up for renewal. The individuals nominated below have been contacted and are willing to serve if appointed for two-year terms. In accordance with Santa Fe County Resolution No. 1995-42 the Santa Fe County Board of County Commissioners shall appoint a committee for each center. The following individuals will serve at the pleasure of the Board and the four individuals are as follows: Marian Duran will serve for a two-year term, Marie Gonzales and Ava Morris. Florence Jimenez will be an alternate but she's also going to serve on the board for the Rio en Medio/Chupadero Association.

The General Services Department requests the Board of County Commissioners consider appointing the above-mentioned nominees to the Rio en Medio/Chupadero Community Center.

CHAIRMAN TRUJILLO: Thank you very much, Robbie. I just want to say that it took us a long time to get people that were interested in serving in the Rio en Medio Community Center. It's good to see that we have a good pool now to carry on.

MR. APODACA: Next month we'll be bringing several others of the community center committee appointments for the different centers and we'll be contacting you guys.

CHAIRMAN TRUJILLO: Okay, what is the desire of the Commission?

Commissioner Griñé moved to appoint the recommended people to the Rio en Medio/Chupadero Community Center Committee and his motion was seconded by Commissioner Anaya. The motion passed by unanimous voice vote.
Commissioner Duran was not present for this action.

VII. B. 2. Santa Fe County Lodgers' Tax Advisory Board

DONNA GARY (Finance Director): Mr. Chairman, Commissioners, in

1564799

reference to Santa Fe County Resolution No. 1996-35, regarding the Rules of Order for Santa Fe County boards and commissions, IX-H, Removal from Board or Committee, the Santa Fe County Lodgers' Tax Advisory Board wants to inform you they currently have one member, Mike Cerletti, with three or more absences in a one-year period, and request that he retain his appoint. So we are requesting the board to consider reappointment of Mike Cerletti to the Lodgers' Tax Advisory Board.

Commissioner Gonzales moved to reappoint Mike Cerletti to the Lodgers' Tax Advisory Board. Commissioner Anaya seconded the motion which passed by unanimous voice vote. Commissioner Duran was not present for this actionn.

COMMISSIONER GONZALES: Mr. Chairman, before we go on, Donna, did Ben Serber's letter to the Commission ask that they could proceed, obviously with the replacement for Chuck Nashan?

MS. GARY: Yes.

COMMISSIONER GONZALES: Make sure that he does, as always,
[inaudible]

MS. GARY: Exactly. We are looking at a replacement. We will bring that to the Board next month.

COMMISSIONER GONZALES: Thank you

VII. B. 3. E-911 Board

MS. BROWN: Mr. Chairman, Commissioners, Santa Fe County needs to appoint an alternate to serve on the Rio Arriba County Emergency Communications 911 Board. Santa Fe County, Rio Arriba County, the City of Española, the Jicarilla Apache Tribe and the Village of Chama have entered into a joint powers agreement to provide 911 service to all areas within Rio Arriba County and portions of northern Santa Fe County. Santa Fe County has a position on the board. The Commission has already appointed one person, Andrew Chavez to serve on the board. The Commission now needs to appoint an alternate 911 Board member.

We recommend that Jeff Saunders be appointed to serve as the alternate 911 board member.

Commissioner Gonzales moved to appoint Jeff Saunders to the 911 Board. The motion was seconded by Commissioner Anaya and passed by unanimous voice vote. Commissioner Duran was not present for this action.

1564799

VII. B. 4. Open Land and Trails Planning and Advisory Committee

LESLI ELLIS (Planner): Mr. Chairman, Commissioners, on September 29 you passed a resolution to set up this committee and asked us to come back with some applicants who could be appointed to the committee. In your packet is that list of names and I few other ones, people that sent in a letter late. So let me just give these to you also. [A copy was not made available for this record]

The resolution states that the BCC will appoint this committee of 25 members and that it would be a regional-based committee, so there would be seven representatives from the south part of the county, eleven from the central part and seven from the north part. We organized these names by regions like that, so you'll see that there are actually eight applicants from the north part of the county, 26 applicants from the central part of the county, and eight from the south.

We did advertise this committee in four different newspapers and on three different radio stations and we got a good response. We got 42 total letters, but I think that we are missing representatives from the agricultural and ranching community as well as some of the long-term family settlements from different communities around the county as well as any youth representative. We were suggesting that maybe you hold some vacancies to fill those positions to get a more diverse committee. The way that you might approach this is either to rate your top eleven applicants and then all vote on them for the central area. It's a little easier from the north and the south because there aren't as many applicants and you could probably go through those lists fairly quickly and pick, appoint members from those areas. So one approach might be to either vote on your top eleven choices from the central area, or you could advise staff to come back with a recommended list of you could come back with your list at the next meeting, because we need your guidance now on how you'd like to approach this.

COMMISSIONER GONZALES: Mr. Chairman, just a couple of points you brought up. I would hope that we would hold a vacancy for a member of the youth, even if we go to Capital High or Santa Fe High. We have presidents and City Council and people that want to be involved. Maybe we could ask them. But definitely, I'm kind of disappointed we don't have a representative from the agricultural committee. It's pretty important to our future to sustain that agricultural base. I guess, I think it would be difficult, Lesli, if the Commissioners plan to vote on their top eleven. I guess if we ranked them, that might help.

I like the idea that you threw in about providing alternatives also so that in case people drop out, there are people who have followed the process can step in fairly quickly. I think that's a good idea also. So I don't know. I don't know how we would go about voting for our top eleven people when 24 people have submitted and also when we don't have representatives from the agricultural community or representatives of youth to be a part of this.

1564799

CHAIRMAN TRUJILLO: So what I understand is that we're going to get seven members from the north. Okay?

MS. ELLIS: Right.

CHAIRMAN TRUJILLO: Eleven people from the central part of the county, and seven from the south. So this will be comprised of 25 members.

MS. ELLIS: Right. And the reason for doing it that way is so they can break into their smaller subcommittees on occasion, if it's more convenient for them not to have to meet as one large group. It's also very difficult from the far south or the far north to always meet in Santa Fe or the central area for a meeting so we thought that it might be easier if they could break it down. And also, that's what the General Plan policy asked for us to do with this committee.

COMMISSIONER GONZALES: [inaudible] Could I may recommendation maybe? One of the things that would have been helpful to me if I would have known who was actually coming from my district.

MS. ELLIS: Okay.

COMMISSIONER GONZALES: I mean, I don't know how difficult it would be to step in next door where we have our voting going on and getting just a list that we can break down the central people by district and possibly, then what maybe we can do is we've really talked having, nominate five people that we feel, from our districts to serve on this. And if we don't have five, maybe, if I only have three people from my district that have submitted their name, maybe I can offer the two for agricultural and for youth.

There are some that I can that are in my district but I don't know if there are any people from the city. And I think, my concern about the eleven central without knowing which district there from, we don't see what geographic area they are within the central area and that makes a lot of difference.

MS. ELLIS: I think that would be fine as long as you end up overall with diversity in the whole group make-up. So as long as you're coordinating with each other, somewhat to make sure that we end up with a diverse group and that's representative of these regions, that's the ultimate goal here.

COMMISSIONER GONZALES: I think the ultimate goal too, is making sure there's geographic representation, so that you don't have one district that's heavily -- because one group put out the most requests to be on. Can we offer that, Mr. Chairman, that as we go through our meeting, possibly, Lesli, I don't know how hard it would be to break these names into Commission districts and then we could just table this until maybe 1:00 and maybe you can come back and we'll have the idea by district, and that may be more helpful. And then you can watch us as we go forward and we can make sure that we have that proper distribution from background and also from geographic area that could be on the committee.

CHAIRMAN TRUJILLO: I guess that would be a little easier for me because I guess in my mind, I know the representation that I want. I want a representative from the Santa Cruz Valley. I want a representative from the Pojoaque Valley, representative from

1564799

the Tesuque are, maybe two representative from the periphery of Santa Fe, you know, the SNAC, the northwest area, a representative from a contemporary community like Arroyo Seco. And then maybe somebody from the youth community and that provides the agricultural perspective, the timber area perspective, the traditional community perspective.

MS. ELLIS: Actually the people who applied are pretty much along those lines that you just suggested.

CHAIRMAN TRUJILLO: The word is out in the Pojoaque Valley to get one representative from there, so that will happen soon.

MS. ELLIS: Okay.

COMMISSIONER GONZALES: And you're pretty fortunate. You get six or seven -- seven people from the north and we have to submit seven people from the south and I think Commissioner Anaya and Commissioner Duran will probably get most of the eleven from the central. So that would be nice that the north will have some nice representation.

COMMISSIONER GONZALES: Very good.

MS. ELLIS: We'll come back.

VI. B. 5. Santa Fe County Road Advisory Committee

ROBERT MARTINEZ: Mr. Chairman, Commissioners, this appointment is for Road Advisory Area 9, which is in Commissioner Gonzales's district. This is an alternate for the La Cienega area. The applicant's name is Troy Nothwang.

Commissioner Grifé moved to appoint Mr. Nothwang as alternate on the Road Advisory Committee and his motion was seconded by Commissioner Anaya. The motion passed by unanimous voice vote. Commissioner Duran was not present for this action.

VIII. STAFF AND ELECTED OFFICIALS ITEMS

A. County Clerk

1. Quarterly Report

BECKY BUSTAMANTE (County Clerk): Mr. Chairman, members of the Commission, my report is actually going to be very short. I'm going to give you a copy of a proposal that I wrote to the National Historic Publications and Records Commission for \$12,807, seeing if we could possibly get some money from them to start preserving our books. I'll give you a copy. They're in real disarray. There are some monies, a grant, that we were able to identify and hopefully we're going to get funded. We won't really know

1564799

until March or April. If we do get funded it will be for the first phase and then hopefully we'll get two others.

I want to bring you up to date in regard to the elections. The election in 1996, which was the last election that was held, there were approximately 2,482 people who voted absentee. And then the early vote, there was approximately another 6,000, for just under 9,000 people who voted. We are already past 12,000. We anticipate by the end of Saturday that we will be at about 16,000 or 17,000, which I think is very good, because we are going to have a really good turn out. But in terms of our budget, it's -- I'm not sure what it's going to do to us. We've already spent about \$11,000 in postage. So I may have to come before you to ask you for help, because we do have other elections coming up.

In January we have two. In February we have one. In March we have one and it looks like in April, we have one. Although the February and March elections, we do get reimbursed after that and it goes into the general fund, but we do have to have the monies before hand. So I just want to bring you up to date on that.

I just want to make you aware of some problems that may occur, because we're right now getting a lot of calls and it's pretty sad. Because some of the people that have requested the absentee ballots, and I'm sure that many of you got the applications, you got four or five of them. I know I got five personally. There's a lot of people who think the County Clerk's Office throughout the state. We did not. They were done either through the political parties. I know the Republican Party did it and I know some candidates in the Democratic Party.

A lot of the people who got those sent them in and didn't realize that they were getting a ballot. It's been very sad, some of the calls we've gotten because some of the people don't really want to vote absentee; they really want to go to the polls. There's nothing we can do and I need you to be aware of that. The law does not allow us to issue another ballot. We're urging those people to please vote those ballots and send them in. We've had many calls where people have said they've already thrown them away. If they throw them away, the law does not allow us to give them another ballot. If they didn't receive it, there are avenues in how they can swear under oath that they did not receive a ballot and we can go ahead and issue another ballot.

But they have to vote on a paper ballot. And we have to make sure that that's not counted on election night. And that will be part of the canvassing. I have to tell you that we already had one person who did swear an affidavit that he didn't receive it. We allowed him to vote in absentee and his ballot did come in. Now, of course, we spoiled that ballot and it didn't count, so there's a lot of confusion out there and you need to be aware that there may be some problems that will be occurring because these people will show up at the polls, but they will not be allowed to vote. I think it's real sad because I know we have many, many people who have already called us about that.

The only other thing that I would like to ask you is that on November 4, I would like to ask you to meet -- and I don't know -- I need a quorum of three people. I don't know

1564799

what time, any time during that day, to allow us to start the canvassing. We have prepared to get the results out, hopefully, by the end of -- by 8:00 or 9:00 that night. We anticipate that we'll have about 12,000 ballot to count. What I'm doing is, we're bringing in the boards, the Secretary of State has allowed us to bring in the boards on Sunday and Monday, and we're going to do the paperwork on Sunday and Monday.

It does not allow us to do any of the counting of the ballots or even, again, to open them. But hopefully, if we get the paperwork done, we can hopefully just open up ballots on Tuesday, the boards can, and again to count them. I need you to be aware of what the process is; it's just not a matter of getting a ballot back and opening them. We have to run it through a roster and make sure that these people have actually signed the ballot and we have to do a roster and we have to also have the boards sign off on it. So there's a lot of work involved. We're hopefully prepared, but I just want you to be aware of that.

I'm excited about how many people have voted. I hope there's a really good turn out because that's what we want people to do is vote. But we do anticipate a few problems on election day. And I'm sure that people will be calling you. I now stand for any questions you may have.

CHAIRMAN TRUJILLO: Becky, I just want to commend you for your efforts in trying to get monies to microfiche all of the documents that we have in the County Clerk's Office. I had the opportunity to visit the area where we have all the documents and we have a repository there of some very priceless documents that represent the historical records of this county and its imperative that they be preserved. And I solicit from the Board, from the Commission to help you in this endeavor for the benefit of the residents of Santa Fe County. If we're talking about opening up areas for a conference room and space we need, a lot of these rooms are full of records and we need to preserve those records, not only because we want to preserve it, but because it's our responsibility under the law, to make sure that we have accessibility to the records. So I commend you for that effort.

MS. BUSTAMANTE: Thank you very much. Statutorily, those records have to stay within our area, so all we can do is hopefully we can get them preserved somehow. Because it's very scary some of the conditions these records are in.

CHAIRMAN TRUJILLO: Any other questions? Let the record show that Commissioner Duran is here.

COMMISSIONER DURAN: Sorry I was late.

VIII. A. 2. Resolution No. 1998-115. A resolution requesting a determination as to the petition for incorporation of the Community of Edgewood and requiring a census be conducted

MS. BUSTAMANTE: Chairman, members of the Commission, I'm going to

1564799

yield to Cheryl O'Connor, who's been assisting us with it. I just want to bring you up to date that we did have, that this has come before you. They did not have the correct number of petitions. They came back to us and identified other individuals and they do meet their petitions after the deadline that we had come before you. So I will now turn it over to Cheryl O'Connor.

CHERYL O'CONNOR (Deputy County Attorney): Mr. Chairman, Commissioners, as you probably will recall on July 29, 1998, Edgewood filed a petition for incorporation to bring it to a vote for incorporation, to incorporate their community into a municipality. There were approximately 249 petitioners that signed the petition. Approximately 56 of them were disqualified and it was determined that there was only approximately 193 who were appropriate signators on the original petition.

The Commission made a determination on September 8 in your Commission meeting that there were not the minimum required numbers of appropriate signators on that petition. Per your request and Mr. Frank Coppler, who is the attorney representing the petitioners was allowed to come in, review the petition and the signatures on that petition. It was determined by Mr. Coppler and by the Clerk's Office that the petition did have the minimum required signatures, which is 200.

So therefore, we're bringing the petition back to you to request a new determination as to whether or not the petitioners met the minimum qualifications of the signatures on their petition and whether they can go forward to the next step of their request to incorporate. What you need to determine at this point in time is whether or not there was the minimum number of petitioners who signed the petitioners and the minimum number is 200, the Clerk's Office has given us a written statement that their office has found that there has been 200. You also need to make a determination that the community to be incorporated is not within the boundaries of another municipality, or within the area outside of that, of a municipality that is set out by statute. The Clerk has also determined that those minimum qualifications have been met.

At this point in time, if you make a determination that the petitioners have met their minimum qualifications and can go on to the next step, you will need to require that a census be taken. By statute, how the statute reads on this issue is that the Board of County Commissioners will cause a census to be taken. You have thirty days to complete that census, and then when the census is filed with the Board within that thirty days, then you have another fifteen days to review that and then make a determination as to whether the census meets the statutory requirement, which is one resident per acre of the area that is to be incorporated. The petitioners have requested that regarding the census, that the Board allow it to go forward in the same manner that you did with Eldorado, and that was that the community submitted their own count of housing to the Local Government Division. And the Local Government Division then reviewed the data that was submitted to them and they made a determination as to whether or not it met appropriate requirements as far as a census estimate.

1564799

Now, the whole thing is that this is not considered an accurate census; it is a census estimate. If you decide to go this way, there is some question whether or not you are meeting the exact statutory requirement. But it has been allowed by this Board before to go forward with Eldorado in this manner. We also get into some issue with time lines. The issue with the time lines is that to be put on the special election that will be held for the incorporation, which will be scheduled for January 5 by statute, the Clerk's Office needs to order the ballots 53 days in advance and that's by November 12.

Before you can allow them to go on and request a special election be held, you need to make a determination that the census requirements have been met. And that's where we're getting into a time issue here and why you might need to determine, or at this point it's important that you determine at this point how you want to proceed. If you go ahead and allow the petitioners to submit the information that they gathered to the Local Government Division.

The Local Government Division, Jeff [inaudible] has represented that they could review the documentation, make a determination as to the statistical accuracy of the information, within approximately ten days after being requested to do that. That would be around November 10 that they could complete their review of the statistics. Then that would allow you time to get that on to your November 24 agenda, so that you could make a determination whether or not the community could go ahead and be on the special election that's scheduled for January 5.

If you require that they do a complete new census, then that's not going to be completed until November 26. Then you would have two weeks before you got that on to your agenda. The County Clerk's Office can not meet her deadlines as far as early voting if you go that route. They can meet their early deadline if you go with the LGD, the Local Government Division, letting them review it, make a determination as to whether or not the statistics used by the petitioners is accurate.

Now we also have one other issue that you need to consider, along with the petition, the petitioners were to submit to you money to cover the cost of a census. Again, this is required by statute. The petitioners did not give you any money to cover the cost of the petition, because they didn't know how much money that would be. They are willing to go ahead and if you require that a new census be taken, they're willing to go ahead and give you that money at this point in time although we still don't have an estimate of what the census would cost at this point.

The other issue that we need to consider is that the County Clerk's Office needs to order the ballots by November 12. So no matter which way this Commission decides to go, the County Clerk's Office is going to have to order those special election ballots before you're going to be able to make a determination whether or not Edgewood can go ahead and hold their special election. What the petitioners have requested is that the Board allow them to pay for the ballots -- Let me backtrack. What they are requesting is that the County Clerk go ahead and order the ballots for the special election on November 12. In the event that

1564799

the Commission makes a determination that all of the requirements for Edgewood to go forward to their vote for incorporation are not met, then what the petitioners will do is to pay for the cost of those ballots. So it won't cost the County anything to go ahead and order the ballots. In the event that the election is held and the request put before the voters in January, then the petitioners would request that the County pay for the ballots as they would in the ordinary course of business. Do I have any questions from the Commission?

CHAIRMAN TRUJILLO: Cheryl, that's a lot of information. I guess the most important thing is that the petition that we have before us is validated. We've got 200 validated signatures.

MS. O'CONNOR: That's correct. There are actually several requirements that need to have been made but the most important are two of them. The most important is, yes, that the petition has been signed by 200 qualified voters. And the County Clerk's Office has made that determination, that it has been signed by the 200 qualified voters. They also have made a determination that the territory to be incorporated is not within the boundary within another municipality and is not within the urbanized area of another municipality.

Those are the two issues that you need to decide today to allow you to go on to make the next determination which is whether or not to have a census taken.

COMMISSIONER GONZALES: Mr. Chairman, Cheryl, if those decisions are made today there won't be another decision made by the Board until after the census has been gathered. Is there a determination by this Commission by the means by which that census will be counted or we don't have a role in that.

MS. O'CONNOR: What the statute requires is that you require a census to be taken.

COMMISSIONER GONZALES: Okay, so it's up to the petitioners to decide how that census will be taken. We validate it?

MS. O'CONNOR: Well, actually, it's you requiring the census to be taken. You can have the County Manager have the census taken. If you want to do it by the way the petitioners are suggesting, there is precedence for you having done that before.

COMMISSIONER GONZALES: I'm sorry, the petitioners are suggesting what?

MS. O'CONNOR: What the petitioners have done is they have gone out and counted all of the homes that are within the community that's to be incorporated. They will submit that information to the Local Government Division. They the, based on the 1990 census that was taken by the federal government, there is determination made as to how many people reside per house in that particular area. That information is submitted to Local Government Division.

They then review the analysis, if you will, and make a determination whether it was done appropriately. And then they submit their findings to you.

COMMISSIONER GONZALES: And is that classified as a census?

1564799

MS. O'CONNOR: According to Jeff Condry, with the Local Government Division, no that does not. It is a census estimate.

COMMISSIONER GONZALES: Are you saying that this Commission has set precedents though in the past by recognizing that as being the census?

MS. O'CONNOR: It's my understanding that with Edgewood -- I'm sorry, with Eldorado, that this is the same method that was used with Eldorado. However, with Eldorado, the method, this method of allowing the census to be taken was taken to the courts and it was signed off in the settlement agreement with the judge, that this method would be appropriate for Eldorado.

COMMISSIONER GONZALES: So can we assume if it was appropriate for Eldorado, it would be appropriate for Edgewood?

MS. O'CONNOR: I think that you would be open to challenge, if anybody wanted to challenge it. There's certainly, there's certainly precedence that this has been allowed and according to Mr. Coppler, who is again, Edgewood's attorney, he has stated that other counties have allowed the same method to be used when they have had incorporation votes. However, I think that you're open to challenge if somebody wanted to challenge this census method, you'd be open to challenge to that. The only safe way to make sure that you're not open to challenge is to require that a new census be taken.

COMMISSIONER GONZALES: However, there is some, based on the settlement and the judge signing off on it, there is -- I know we're open to challenge but there is still some foundation, some legal foundation, a precedent or whatever, that the Commission could base a decision on. Is that --

MS. O'CONNOR: There is precedent that this has been accepted at the District Court level before.

COMMISSIONER GONZALES: I guess my next question is, relates to the whole issue of the printing of the ballots. I'm not sure if the Clerk knows -- Do you have an estimate of what the cost of the ballots might be for this special election?

MS. BUSTAMANTE: Mr. Chairman, Commissioners, it's about \$500.

COMMISSIONER GONZALES: Five hundred dollars to print the ballots?

MS. BUSTAMANTE: Yes, because we're needing to print not only the ballots by also sample ballots that have to be available. So we're talking about 300 ballots will be printed and then another 300 sample ballots. A call was made to the vendor and they said about \$500.

COMMISSIONER GONZALES: So you're saying what the petitioners will do is they'll basically provide that money to us? I don't want to nickel and dime now, but I mean, is there something they're going to provide up front and we can use that money -- because if don't validate the census, then we can use the money that they basically have given to us up front to pay?

MS. O'CONNOR: Commissioner Gonzales, what Mr. Coppler has suggested is that they would put the approximate \$500, I believe it's \$440.90 was the exact quote.

1564799

That he put it in his trust account. And in the event --

COMMISSIONER GONZALES: What do you mean, trust account?

MS. O'CONNOR: In his personal trust account, as his legal trust account. A lawyer's trust account, the rules of the Supreme Court what I would do is put it in and afm or to the County

COMMISSIONER GONZALES: So do we feel comfortable, Cheryl, that based on that documents and letter that you can have access to the trust in that amount that, that afterwards, if there was an invalidation that we would be able to get the funds?

MS. O'CONNOR: Well actually, the County wouldn't have access to his trust account, but the money couldn't be removed if there wasn't an issue. If we felt that they owed us the money and they didn't, we'd have to have that issue resolved. But I think the important part is for the County to know that the petitioners have the money available and that that money is there upfront waiting to pay for the ballots.

COMMISSIONER GONZALES: Okay. Thank you.

CHAIRMAN TRUJILLO: Thank you. Any other questions? Mr. Coppler?

MR. COPPLER: If I could make one comment. I think in your packet you have two different resolutions and what the petitioners are proposing and was just discussed with you is the resolution that provides in paragraph 4 that the County Manager will request Local Government Division to review and certify the methodology and results of the census estimate, etc. That would be the resolution that we would ask you to adopt. And I might just point out, Mr. Chairman, that we have provided the Local Government Division the census data and I've gone through it with Ms. O'Connor this morning. And what the census data and the arithmetic shows is that there's 589 acres in the area to be incorporated. The statute requires at least one person per acre, and the census data shows that there is at least 813 people in that area.

So our census data that we are prepared to submit immediately to Local Government Division reflects that there is more than an adequate number of people to meet the census requirements under the state statutes. That's why, for example, we're very willing to put up the funds for the ballots because we're very comfortable that the census is going to meet the statutory minimum. I wanted to share that with you.

CHAIRMAN TRUJILLO: Thank you, sir. Any questions, any further questions of either Cheryl --

MR. COPPLER: I'd just like to mention that Mr. Frank Lasky is here with our community association. He's the president and the gentlemen here from the board of directors in case you wish to ask them any questions.

COMMISSIONER GRINÉ: Mr. Chairman, Denice we have both resolutions with different numbers --115 and 116?

MS. O'CONNOR: Commissioner, there were two resolutions that were provided you. One in the event that you wanted to go with the LGD and one if you wanted to go with the new census, so you need to approve only one of those resolutions.

1564799

COMMISSIONER DURAN: Cheryl, could you please repeat that.

MS. O'CONNOR: Yes, I provided two resolutions to you. You need to approve only one of them. One was for if you wanted to go with the Local Government Division. The other would be if you wanted to have a new census. So you need to choose which one that you want to go with and that would be the resolution that would be approved.

COMMISSIONER ANAYA: Cheryl, my understanding is that the preferred resolution is the one where the local governing division of the Department of Finance and Administration provision is stated in there. That that's the preferable one?

MS. O'CONNOR: That would be your choice, Commissioner. We do have, Judy McGowan is here and she can also address the issue regarding the cost of the census.

COMMISSIONER ANAYA: I'd like to know that, if there's a variance between the two resolutions, what the cost variance would be.

JUDY MCGOWAN (Senior Planner): Commissioners, I did try to do a little bit of research on what it would actually cost to do a census and called three consulting companies to try to get estimates. I reached two of them and two of them gave the exact same three options for how you would go about doing it. One would give costs and one would not. But the three options that the two consulting firms came up with and these are consultants who do marketing and precinct studies and population projection studies.

The lower cost option, the simplest option, would be just have the consultant do a step further than what the Local Government Division would do, that is take the census that the petitioners have submitted, then they would go in the field, basically and just verify that yes indeed, the number of houses are there. They would also look at the statistical analysis and verify that the vacancy factor and the persons per dwelling unit factor that the petitioners had used is valid. They both said that's about a two-day project, fairly simple.

Another option, a full census, what any statistician would call a full census, would be done the way the US Census does theirs, which is door to door, looking, going to every house, inside the petitioners' area, their boundary, and verifying whether it's vacant or inhabited and how many people live in the home. And that is a major project that would probably take three or four weeks to accomplish, especially since most of the work would have to be done in the evenings in Edgewood. The one estimate I did get on that is that it's more than a \$10,000 project.

In between that would be the option of doing a mail-out survey. The purpose of a mail-out survey would be to verify whether the person per dwelling unit existing in that area of Edgewood is approximately the same as 1990 or has changed since 1990. That would require having the mailing addresses, which you could get through the County Assessor's Office for each property, doing the survey, mailing it out, getting it back and collating it. And that would be a couple of weeks project at least. Probably, timewise, probably longer because of the mail-out, having to get things back, but certainly less work than doing a full-on census. And that, the estimate was in the range of \$3,000 to \$5,000. So those are the three option.

1564799

CHAIRMAN TRUJILLO: Okay, are there any more questions? If not, what is the desire of the Commission?

Commissioner Griñé moved to approve Resolution No. 1998-115, with provision number four stipulating that the County Manager request that the Local Government Division certify the results of the census estimate. Commissioner Gonzales seconded the motion, which passed by unanimous voice vote.

VIII. B. FINANCE DEPARTMENT

- 1. Request authorization to enter into an agreement with H.T.E. for the purchase of upgrades and software support and maintenance of existing software**

MS. GARY: Mr. Chairman, Commissioners, the Administrative Services Division in the Finance Department requests authorization to award a contract for an upgrade of software modules, maintenance of all software modules and the purchase of a new software module for Planning and Zoning. This agreement would amount to \$98,775.42.

The Administrative Services Department has identified HTE as a sole source vendor for the County software. The MIS and GIS divisions are working at implementing a relational database for all data gathered at the County. When a relational compatible computer system is in place, data will be assessed faster and more accurately in serving the constituents of Santa Fe County.

We, the Administrative Services Department and the Finance Department are requesting authorization to award a contract of \$98,775.42 to HTE for licensing, service and maintenance of their software.

Commissioner Gonzales moved to approve the contract to HTE and his motion was seconded by Commissioner Griñé. The motion passed by unanimous voice vote.

VIII. C. FIRE DEPARTMENT

- 1. Resolution No. 1998-116. A resolution to commission and authorize certain Land Use Department staff, the County Fire Marshal, and the County Fire Protection Specialists to issue citations of violations of County ordinances**

HANK BLACKWELL (Fire Marshal): Good morning, Chairman Trujillo, Commissioners. This is basically the final step in our citation program. If approved, the new code, the 1997 Uniform Fire Code, we have a new citation standard operating

1564799

procedure and policy in place and the last thing we need to do is make sure that all of our Fire Protection Specialists in the Prevention Division are commissioned in order to be able to cite if we need to do that to enforce the code.

The citation process parallels that of Land Use as well as the Sheriff's Office for non-criminal violations. We're all piggy-backing some of the other Land Use Code Enforcement people who have not yet been commissioned so we can do this all at once.

Commissioner Anaya moved to approve Resolution No. 1998-116. Commissioner Duran seconded for discussion.

COMMISSIONER DURAN: Hank, I'm just curious, it says a resolution to commission and authorize certain Land Use Department staff to write citations?

MR. BLACKWELL: Chair Trujillo and Commissioner Duran, I believe, and I'll have Denice correct me if I'm wrong, that in terms of that code enforcement or citation authority, the individuals that are actually writing the citation need to have that enforcement ability through ordinance. I think that's also a requirement of the courts as well.

MS. BROWN: Mr. Chairman, Commissioner Duran, it needs to be given to the person who observes the violation. The authority needs to be given to the person who observes the violation.

MR. BLACKWELL: Chairman Trujillo, Commissioner Duran, I'm in full agreement with what you say. One of the things that we've instructed our staff to do right now is the citation process itself has to do with observance of some violation. As public servants working with those individuals, as the fact that we work for them in trying to help them provide options to eliminate those violations and comply with codes. If there is a refusal then the process is still graduated. We will issue them a notice and then we'll even tell them at that point in time, this is how many days and if you contact our office, we'll help you. If they ignore that then we still issue them a final notice before we ever even cite. So even if we decide that they're uncooperative, there's a process there and a paperwork that should make us, you all as well as the courts very happy in terms of being pro-active and I think cooperative as well. This will be kind of a last resort.

CHAIRMAN TRUJILLO: I salute the whole direction of this effort because a lot of people are used to going out and burning their fields and doing that sort of thing. The whole effort should be to educate the community. To make the process as user-friendly and responsive as possible and not alienate the people that live out in the community. And if we could have some of these code enforcement people go out and if somebody is not in conformance with the ordinance, maybe at that moment, provide a permit to them and explain to them why they need it. I understand that we're getting a lot more people in the community and we need to protect environment and we need to be sensitive to all of that, to neighbors and communities, but do it in a reasonable, user-friendly and responsive way.

MR. BLACKWELL: Absolutely, and Chairman Trujillo, in fact we're doing

that now. And I think that's been our practice along with Land Use now. We have a few people in the county, basically we have not had that enforcement capability over the years to enforce codes. A lot of those people, some for lack of a better term, are frequent flyers, and there's just a few of them. They'll basically know that there's no citation so they'll again, ignore this and get it again and they've endangered their neighbors. They've endangered the neighbor's property in terms of some things. And sometimes, as a last resort, the only way we can get their attention is to tell them if we have to, we'll cite them. They'll have to appear in court. It's a last resort.

Right now, we want to be pro-active. We want to be cooperative. Again, we fully believe in customer service and that's the way we ought to be. We ought to be held to that standard by ourselves and by you all as well.

CHAIRMAN TRUJILLO: Very good. We've got a motion seconded by --

MR. GARCIA: Mr. Chairman, sorry to interrupt. I have a -- I was reading over this ordinance here and I think our code enforcement officers from the Land Use Department are the only ones that should be commissioned and I would like to take Mr. Frost's name off of that because he's not a code enforcement person from my department.

COMMISSIONER DURAN: I would agree to that.

COMMISSIONER ANAYA: Mr. Chairman, he's our hydrologist, though, and him being responsible for water availability in the county. I'm not sure he'd be much of an enforcer anyway, but just looking at it from that prospective, of water availability for fire fighting or whatever needs are necessary out there. Rudy, wouldn't that be a concern to include him in?

MR. GARCIA: Mr. Chairman, Commissioner Anaya, the way it works now, if there's any code violation in the county what it is we fill out a complaint form that goes to the code enforcement officer, whether it's water, an engineering part, such as terrain management, then that code enforcement officer will go cite that individual in the proper accordance with the code and then we will proceed from there. So if Jack has an issue with water then he can fill out a complaint form then it will go to that code enforcement officer that works that area.

COMMISSIONER ANAYA: Okay, then he would add input then administratively. Simple as that. Mr. Chairman, I will amend my motion.

With the movant and the second agreeing to exclude Jack Frost from the list of those to be commissioned, the motion passed by unanimous voice vote.

1564799

VIII. D. GENERAL SERVICES DEPARTMENT

1. **Resolution No. 1998-117. A resolution authorizing and supporting a Community Development Block Grant (CDBG) application for Santa Fe County**

COMMISSIONER GONZALES: Mr. Chairman, could we ask the department heads to keep these as brief as possible. I know we've got a big hearing coming up and you don't have to read verbatim.

DAVID MADRID (Grants Writer): Mr. Chairman, members of the Commission, first of all, I'd like to present you with the Santa Fe County Community Development Block Grant application for fiscal year 1999. And Mr. Chairman, at this time I'd just like to request your approval of the application which will be submitted on November 6, 1998 to the Department of Finance and Administration.

Commissioner Gonzales moved to approve Resolution No. 1998-117 and was seconded by Commissioner Anaya. The motion passed by unanimous voice vote.

VIII. E. LAND USE DEPARTMENT

1. **Update on the Northern New Mexico Park'n'Ride program scheduled to start service on November 2, 1998**

KEN PIN (Planner): Good morning, Mr. Chairman, Commissioners, first of all I'd like to belatedly thank you for including in the current budget here for \$100,000 on behalf of Santa Fe County to contribute to the Northern New Mexico Park'n'Ride program. It's slated to start next Monday, November 2. We currently have an agreement with an operator. We are currently in the process also of working out a lot of the finer details, trying to get parking lots lined up, working on schedules. A fee schedule actually has been settled on and buses will probably start running from Santa Fe a little after 5:00, because there is a work force in Los Alamos. Some of them do start at 6:00 am.

Buses will run from peak hours from like six to eight and then with ten minute headways. One hour departure times in the middle of the day. And then peak hours again in the evening. We're expecting a lot more ridership this year for two reasons in particular. One is, it's going to run for a year and I think a lot of people last year were not willing to give up their ride pools just for a two-week experiment but since it is going to run for a year this year, we will expect a lot more people to participate and also, secondly, we expect to capture a lot of the population coming up from Albuquerque that work at the labs and we're in the process of securing a lot at Valdez Industrial Center so people will be able to drive up from Albuquerque, park and then get right up on a bus and actually use the Relief Route and save some time and drive up to Los Alamos.

1564799

So I guess a lot of the smaller details are being worked on. We do want to advertise through as many mediums as we can, including having County employees take advantage of this, those that live up north. The State Highway Department is the lead agency and they have said they are not going to charge ridership the first week to encourage more people to use the program. I think, as a reminder, this program sort of came about through the MIS study for Pojoaque corridor, 285 because there's a lot of concerns about safety and the amount of traffic and the number of accidents, especially up near the opera and Tano Road and Camino La Tierra. So I'd like to thank the Commissioners for having the foresight and including it in the budget and we think we're going to have a very successful program. We'll probably get off to a little bit of a rocky start because of some of these details about signage, telling people where to park and getting the schedule out and getting people just used to getting all the information about this program. It's going to take a little bit of time, but hopefully, it will run very successfully and we'd like to thank you for including it in the budget.

CHAIRMAN TRUJILLO: Very good, Ken. Thank you, sir. No action on this item.

MR. PIN: No, no action on this item. It's just to let you know it's up and ready to start next Monday and if you have any questions I'm open for questions.

CHAIRMAN TRUJILLO: Thank you. That will be good for the community. Any questions of Ken? No questions. Thank you.

VIII. E. 2. Resolution No. 1998-118. A resolution requesting the State of New Mexico Highway and Transportation Department to adopt and implement the recommendations of the County regarding the Santa Fe Relief Route

CHAIRMAN TRUJILLO: I'd like to read the resolution into the record. This is a resolution requesting the State of New Mexico Highway and Transportation Department to adopt and implement the recommendations of the County regarding the Santa Fe Relief Route.

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 hearings;

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 Highway Corridor Planning Committee. In addition, the City of Santa Fe has conducted various meetings to address the safety concerns of the Relief Route;

1564799

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 Relief Route and crossing intersections;

Whereas, in support of the earlier resolution, the County and the City of Santa Fe have met on several occasions to attempt to resolve the concerns raised by the public regarding trails and safe access to the Relief Route;

Whereas the State Highway Department has requested that the City and the County of Santa Fe prioritize the crossings recommended by the Trails Committee, obtain easements for the proposed trail crossings and address some of the safety issues directly;

Whereas the request of the State Highway Department has been complied with by both the City and County of Santa Fe staff and a letter to the State Highway Department, containing the recommendations of the County staff is attached;

Therefore, be it resolved by the Board of County Commissioners of Santa Fe County that recommendations listed in the letter to the State Highway Department and approved and adopted by this Commission, the Board of County Commissioners requests that the State Highway Department implement the recommendations as set out in the attached letter.

MR. PIN: Mr. Chairman, Commissioners, we added this on the agenda today to sort of bring you, give you a further update as to what's been going on. I know the Commission at the last session was looking at a resolution about trails issues and safety issues that the citizens at various public meetings had brought up. This is part of a continuing process which started out at those two large meetings at Sweeney Center, which I think the Commissioners were at. And there's been a series of other meetings with the public.

There's also been a series of working sessions with various committees. There's been a Trails Access Committee, there's been the Highway Corridor Committee to look at land use and transportation, and then there's been a number of safety meetings that the City held to address concerns raised by citizens in various parts of the city and the count. What we are trying to do is put together, what we have done is put together a letter, which you should have in your packet, outlining and backgrounding all the -- this entire process.

We've sectioned it off to give you a brief history as to everything that's gone on. We have done everything that the Highway Department has asked us to do. One of the things that they had talked about and asked us to do was to consider sharing design costs with the City and they would take the proposed designs and give us a cost for construction. We are currently prepared, with the approval of the Commission to pay up to \$50,000 for design costs, paying half of the design costs with the City. It would be \$50,000 apiece.

We have recently heard that the design costs may increase, but we have not received a formal documentation and outline from the Highway Department yet. We have made recommendations to the Highway Department about the seven crossings. That was made back, as part of a package on August 10, to the Highway Department. They have asked us for additional information as far as obtaining easements, and we've been working on that.

1564799

They've asked for prioritization and we have given them that.

We have given them some recommendations about safety issues as far as crossings, and we have also been willing to, on behalf of the Sheriff's Department, do some additional enforcement along the Relief Route. We have given the Highway Department a priority list of our crossings. First, we have put them into two groups. The first is -- there are a total of seven crossings. The first four would involve underpasses and that would be at Puesta del Sol, College of Santa Fe, the Municipal Recreation Complex and at Arroyo Frijoles.

The second group of crossings are at-grade crossings: at County Road 62, County Road 70 and at Buckman Road. We have members from City staff, Highway Department, Public Works Department, the County, Rosanna has been instrumental in drafting and working on this. As a group, we're open for questions. I know there have been a number of concerns on behalf of the Commission so at this point we want to open it up for questioning and if you have specific questions, we're prepared.

Commissioner Gonzales moved to approve Resolution No. 1998-118 and his motion was seconded by Commissioner Anaya.

CHAIRMAN TRUJILLO: For discussion, I have a question. What's the status on a lot of this stuff? We've talked to Hansen's to allow temporary easement for equestrian views -- is that happening? What's the status on the health and safety aspects of the Relief Route? What's going on with County Road 70? I understand there are some merging lanes there but there's no justification for a stop sign, four-way stop, traffic light. The underpasses, West Alameda, what's happening there?

MR. PIN: I can answer the question about Hansen's some members of the equestrian community had, or are still raising concerns. Now that the Relief Route is open they essentially have been shut out as far as access across the Relief Route and there was a suggestion made, if it's possible to use Hansen's Road to gain access. The problem is that it's fenced off on both sides where Hansen's Road hits the frontage road of the Relief Route. We're still trying to make contact with the owners of Hansen's to see if a temporary easement can be allowed, but the problem with a temporary easement is the Highway Department would not want a temporary easement. They would want an easement in perpetuity to open up the fencing on either side of the frontage road.

We are currently looking at an alternative to Hansen's, with some of the landowners near County Road 70, so that there is at least an interim access across for the equestrian. So that's ongoing.

As far as the safety measures at County Road 70, I'll turn it over to Tom.

MR. DOMINGUEZ: Mr. Chairman, Commissioners, the way we address that in the letter as you read through in your packet, throughout this process we've had the conversations with the Highway Department and it has been felt or expressed by Charlie Trujillo and Max Valerio and others that it was designed as a safe relief route and we didn't

1564799

want to superseded any of their decisions that they had made, but we addressed it, number one, by making a recommendation that they place advisory signs, possibly supplemental flashing beacons with those to be placed along the Relief Route. One commitment they made was they would continue to monitor the safety and take traffic counts to see if any additional traffic control is warranted, i.e., stop signs, traffic signals, whatever.

We've addressed it in that way in here, for them to look at it, since it's their route, for them to continue with the monitoring of that.

CHAIRMAN TRUJILLO: Thank you, Tom. I think that's a good way to do it, but if it sends the wrong message, Tom. You know, we got a traffic light over at Las Campanas, over at that intersection. We justify a traffic light there. We can't justify one on County Road 70 where we've got a lot of aged people. It's a big community. We've got buses going from one side of the bypass the other. We've got middle class working families in that area. So it concerns me that we get a traffic light at Las Campanas. We don't get one on County Road 70.

It's good to hear that studies are being made, but why don't we address it before somebody gets hurt or maimed, when we're forced and we're reacting to address this situation then we don't play a proactive role and benefit the community.

MR. DOMINGUEZ: I understand the question and the concern on behalf of the County Commission. Again, I would probably want to defer to the Highway Department. There are representatives here from the design staff, as to why it wasn't felt that they were warranted. Whether it wasn't warranted or what their reasons for not placing those types of traffic control in the interim measures. If that answers your question.

COMMISSIONER DURAN: I just have a couple questions. Ken, this seems to be a watered down attempt at what we had talked about at the last meeting. Since May, since we've started having these meetings with the state, we've talked about getting them to come to the table and help us solve the issues and concerns. I have yet to hear from staff or anyone that they actually are working towards those goals. At the last meeting, I made the suggestion that we should put the state's feet to the fire and file a lawsuit rather than the resolution that was proposed last month, which was to try and delay the opening.

My only concern is we send this letter out and the state still takes the same position since they've taken since May. And maybe I'm wrong on this. If I am, I apologize and maybe someone can give me some information on this. But we can send this letter out and see what happens. Who was I talking to?

MR. PIN: You were talking to me, but I think that Rosanna --

COMMISSIONER DURAN: We don't need to spend a lot of time on this, Rosanna. I'm just curious. Can you just tell me, if we send this letter out to the state, are they going to do anything? Is there any plan? Any follow-up plan for this? Or do we just keep on being put on the back burner?

ROSANNA VAZQUEZ (Assistant County Attorney): I'll try to be brief, Mr. Chairman, Commissioners. The reason we put this letter together is because we were given

1564799

a specific request by the Highway Department at the last meeting that we attended, which was two Fridays ago. That request was that they have a deadline to meet. They need to file an environmental impact statement revisions to those, they need to have a public hearing prior to the time that that is done. They're looking at filing that environmental impact statement by the end of November, 1998. In order for them to include the trail crossings that were suggested, that were requested by the trails committee, they said they needed the information from us so that they could go forward with their environmental impact statement.

Based on that request and based on the findings by the trails committee, based on the findings from the safety meetings that were held at the City, we've put together this letter. And we also did quite a bit of other work. I think if you take a look at the letter you'll see that it actually does put the State Highway Department's feet to the fire and I'll tell you why.

If you go through, the way it is set up is -- this is what was requested from us, that's page one. Background gives you a little bit of the request the State Highway Department requested from us. The work that was done to obtain the trails, the trail crossings, to obtain the easements and the safety meetings. We have offered in Section 2 under design costs up to \$50,000 contingent on the Commission approval to implement the design costs. We put that in there specifically, Commissioner Duran, because we were told that if the City and the County came up with the design costs, that the Transportation Department would be able to deal with the construction costs.

So Section 2 is an offer. We're meeting their offer. Their offer was pay design costs, we'll deal with construction. That's what Section 2 deals with. If you look at Section 3, one of the issues that was raised at the State Highway Department meeting two weeks ago was we may not be able to get all these crossings done quickly. We need some direction from the City and the County as to priorities, which crossings they want prioritized. We sat down with staff and we figured out which crossings were easily constructed or could be easily constructed, could be done efficiently and swiftly and would be the safest for all of those people who would be using those crossings. And that is how these crossings came about. Puesta del Sol is going to take minimal design costs and can be done. The State Highway Department has told us that if they're able to start in April of 1999 they can finish construction of Puesta del Sol by August.

So there would be an immediate crossing for the equestrian and pedestrian use. College of Santa Fe is on there because if you look under Section 4, Easements for Crossings, the City and the County have been working with the College of Santa Fe to obtain an easement so that we can get this crossing done. So that is why that was put. The first section is underpasses .

COMMISSIONER DURAN: Mr. Chairman, I guess Rosanna, what I'm asking is, in your assessment, you believe that this letter, based on conversations you've had with the state, will get this thing off dead center and maybe the state will then begin addressing the concerns of the citizens.

1564799

MS. VAZQUEZ: Commissioner Duran, this letter puts it in their hands. We have done everything that they've requested us to do. It is in their hands to act now. We will continue to monitor, if that is a concern of yours, and make sure that we get some progress on this or some answers from the requests and the offers that we've made in this letter.

COMMISSIONER DURAN: But in your conversations with the state, do you feel that they are going to be receptive to our requests?

MS. VAZQUEZ: I think that they've got the interest of the equestrian-pedestrian community in mind. We're just trying to come up with a cumulative way to solve some of the money answers and some of the easement issues that were of concern two weeks ago, so yes.

CHAIRMAN TRUJILLO: Commissioner Duran, we've got representatives from the state, George Herrera and Max Valerio. Maybe you can listen to them and see what they have to say.

MS. VAZQUEZ: Thank you.

CHAIRMAN TRUJILLO: Thank you, Rosanna.

GEORGE HERRERA: Mr. Chairman, Commissioners, I would like to say we have been paying attention to the requests that were aired in the public and the City and the County. We have been working very closely with the City and the County staff in trying to get these issues resolved. There is a process involved in trying to address a number of these issues. We're pretty far along in that process and one of the last things we've been working on was to address the issue involving the trail and getting those easement tied down and so forth. I think we're almost there.

What's really left now is to go, to finish off the process of getting the information we requested from both the City and the County. There is a formal, public meeting scheduled for later on this week on Thursday night.

CHAIRMAN TRUJILLO: George, I think they postponed that meeting on Thursday. The 29th, right?

CYRUS SAMII (City Planning Team Leader): The 28th, Thursday the 28th - 29th, Thursday the 29th, I'm sorry. At 7 pm Santa Fe at the Activities Center. There will be a public hearing on the issue of the bypass.

CHAIRMAN TRUJILLO: Is it a joint City/County public hearing?

MR. SAMII: My understanding that was the way it was first intended, but it's no longer being held that way. It's a City Council special session.

MR. HERRERA: Basically, what we're trying to hear back is what the formal recommendations are going to be from the City and County. It looks like we're going to have those by probably the end of the week or early next week. Most of these trail crossings if not all of them look feasible based on our discussions with staff. Those in themselves are going to provide safety -- address some of the safety issues that we have out there.

Some of the other safety issues that have come up regarding some of the other crossings -- We have made a number of changes since this project was let to contract, a five-year old project. We have added a number of turning lanes at some of the major intersections. Have you noticed? That was not part of the original package. We have added an interim signal at Buckman and we're in the process of adding another signal at the intersection of Airport Road. We are continuing to assess a need for supplemental signing. Anything that we feel is going to be effective and going to be safe and is warranted. We need to go through a certain process to install a stop sign or a signal. There are problems with just putting stop signs anywhere, because those can create additional accidents. So we have to be real careful as to how we assess those requirements.

This process that I talked about should come to end pretty soon, as soon as we get through this City Council meeting, as soon as we get the formal recommendations. We do have one more public hearing planned for the Buckman interchange, or Buckman intersection location and based on all the input that we get, we're going to take all those recommendations and make some decisions as to what we can and can't do. But I would like to emphasize that most of these crossing locations look feasible and it's just a matter of getting the mechanisms together to get the work designed and funded and implemented.

CHAIRMAN TRUJILLO: Thank you, George.

COMMISSIONER DURAN: George, I think you guys need a little bit of PR, you need a PR person or something because there's a lot of people that are not aware of your efforts and there's a lot of State Highway bashing going on. I have a lot of people that come up and say that you guys aren't doing anything and it seems to me that you are making some effort to deal with these issues. And I'm glad to hear that you are making some progress.

MR. HERRERA: Yes, we have tried to relay some of the efforts at the six public meetings that were held here recently and we hope to relay some of that in the meeting on Thursday night also.

COMMISSIONER ANAYA: Mr. Chairman, I think it's critical that we subsidize this endeavor, particularly at this stage and therefore my seconds stands in order and a request from the chair to call for the question.

CHAIRMAN TRUJILLO: Excuse me, Commissioner Anaya, you subsidize what?

COMMISSIONER ANAYA: This endeavor.

CHAIRMAN TRUJILLO: To support it?

COMMISSIONER ANAYA: Support it.

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

Okay, thank you.

1564799

VIII. F. PUBLIC WORKS DEPARTMENT

1. Resolution No. 1998-119, A resolution adopting a policy for acceptance of non-County roads for County maintenance

LARRY VELASQUEZ (Public Works Director): Mr. Chairman, Commissioners, in August at one of the meetings of the BCC we presented a draft policy which delineated some criteria of which to consider roads that are not currently maintained by the County for County maintenance. There were several comments that were made and we have gone back and we have addressed those comments and incorporated where we needed to into the policy and at this point we present it to you for further consideration, either to adopt it or to give us further direction on it.

In essence, what I'd like to do is on the first paragraph of the policy, is I'd like to make a language change, based on a discussion I had with Denise. And that is after the words "County Code standards" is to add "additional and evaluation will be prepared to determine if the acceptance would pose any unusual or unnecessary legal liability." We'd like to make that change. In the policy itself, it's paragraph one where it says, it's about the middle of the paragraph. It says "...the cost to upgrade to County Code standards." And then end it there and add the statement.

And the reason we wanted to do that is because if a road is built to County standards, theoretically, that should be our least exposure. And if we have something that's on an extreme then that could be a lot of exposure and we wanted to give you that type of information.

The second item, and in order to save some time I won't read it but the intent was that we would consider the requests with relation to the proximity of other roads or in the area that the County's already maintaining so that we're not having to mobilize maintenance equipment 50 miles to maintain half a mile of road. If it's already in the area then it minimizes cost.

The third item was that the requesting person or party will submit a petition of the adjoining property owners with at least 50%. We have one case in point right now, County Road 67 -- it's got a letter. I forget what it is but it's Double Arrow Road. We have a disagreement among the people about whether or not they want the County to be involved in their maintenance. So that was we were trying to do there, is we'd like to have at least a basis of a majority of the people requesting it to be in favor of it.

COMMISSIONER DURAN: Excuse me Larry, Mr. Chairman. A majority of the people in how large of an area?

MR. VELASQUEZ: The adjoining property owners for the length of the road.

COMMISSIONER DURAN: For the length of the road. Because on Double Arrow Road there's really a small section that is really in need of some work. But the road actually services 100 or more people. Those other people wouldn't be part of your analysis?

1564799

MR. VELASQUEZ: That one, I would imagine that we would consider the entire road, probably instead of just half a segment or half a mile or something like that, but that's very difficult for us to figure out where we end and where we start.

COMMISSIONER DURAN: My only concern with that is you might have several people, for instance, like on Delero Road that don't want to have it fixed so the number of people opposed to it might be four or five whereas it's impacting 100 people. Is there any way of amending this so that in your analysis you take into consideration all the affected people as best you can?

MR. VELASQUEZ: We do have -- the next one states, "The County will consider the number of users and residents served by the request." So that's what we're trying to capture, what impact it has on everybody else that uses that road as well. But the first one was that if the property owners -- because we're going to ask for easements, we need to ask for either easements or right-of-ways, and if we're not -- if we don't have that consensus, then we're in the position of saying, okay, if we take this on then we need to condemn for easements or right-of-ways. And that's what we're trying to do is minimize any financial exposure to the County in doing some of these services.

COMMISSIONER DURAN: So then if we determine that improving a section of the road is in the best interest of many, we could still go forward with that, even if there was some opposition from the landowners?

MR. VELASQUEZ: I believe that that flexibility is there.

COMMISSIONER DURAN: If it was a health and safety issue. If we legally determined that it was a health and safety issue or something of that nature.

MS. BROWN: Mr. Chairman, Commissioner Duran, I think that's addressed in item three. We didn't require 100% of the property owners to agree. It's a fair majority, so that you don't have one property owner holding up a road from being improved.

COMMISSIONER DURAN: But the problem is adjoining property owners. "The requesting person or party will submit a petition of adjoining property owners...with a minimum showing 50% of property owners in favor of the County maintenance." And what I'm saying is that the adjoining property owners may be few and the affected individuals could be many.

MS. BROWN: I think, Mr. Chairman, Commissioner Duran, what you could do if you have non-adjoining property owners requesting the road to be improved but the people who live along the road not wanting it to be improved, then we probably will be facing a condemnation issue, because you won't get the right-of-ways dedicated by the people who have the ability to dedicate it. So that would be another mechanism that the County could use if we needed to.

COMMISSIONER DURAN: Well, even if you have one property owner that doesn't want it, you have to face condemnation. Right?

MS. BROWN: Yes, you may. But certainly if most of the property owners are willing to dedicate their right-of-way, it would minimize the cost to the County if we're

1564799

only dealing with one or a couple of property owners.

MR. VELASQUEZ: I think we have two good examples. One in Double Arrow and one in Fin del Sendero, where we have a lot of users and very few property owners. I think we have examples of both extremes. And what we're trying to do with this is we're trying to make it -- and I think where this is going to work well, is where everybody's in agreement. Where you have opposing views or varying issues I think it's going to be a little bit more difficult. But none the less, I think it's flexible enough that hopefully it will lend itself to get issues resolved.

COMMISSIONER DURAN: One more issue with this. So if the 100 people up Double Arrow Road that are affected by this section of land that is controlled by four or five people, if they are in favor of this, and the four or five people down below where the road actually goes through are not, who would be the prevailing party, in terms of the County being able to go in and improve the road so that it's safe and passable?

MS. BROWN: Mr. Chairman, Commissioner Duran, we cannot -- if we don't have right-of-way, and that's the question we're trying to address with Double Arrow Road, whether or not there's County right-of-way or not. If we don't have it, whether it's Double Arrow Road or any other property, we can't take somebody's private property without paying them for it. So we could not go in if it's one, even one landowner and force a County road on them unless we either did a dedication, there's a prescriptive easement or any of the other ways you obtain a County road.

COMMISSIONER DURAN: Okay.

Commissioner Griné moved to approve Resolution No. 1998-119. Commissioner Anaya seconded the motion, which passed by unanimous voice vote.

VIII. F. 3. Request authorization to enter into amendment number one to agreements 95-15-STB & 94-6-QQQQQ-GF for Jemez Road and Alamo Lane sewer improvements on the Agua Fria Project, Phase I

MR. VELASQUEZ: Mr. Chairman, Commissioners, this item is just for an extension of time on the agreements for funding that was used to construct a sanitary sewer along Agua Fria, namely to Jemez Road and Alamo Lane. That project's about 90% complete but in order to proceed with it we are requesting your approval for a time extension from June 30, 1998, to June 30, 2000.

Commissioner Anaya moved to approve the request and Commissioner Gonzales seconded. The motion passed by unanimous voice vote.

- VIII. F. 4. Request authorization to enter into a cost sharing agreement with Raymond Dennis for the construction of Santa Fe County Road 7-A (Cactus Lane)**

Commissioner Griñé moved to authorize the agreement. The motion was seconded by Commissioner Anaya and passed by unanimous voice vote.

- VIII. F. 5. Request authorization to enter into a cost sharing agreement with PNM Water Services for the construction of Santa Fe County Road 66 (Agua Fria)**

MR. VELASQUEZ: Mr. Chairman, Commissioners, this item is just to get reimbursement from PNM for cost sharing that was done in the services in relation to the rebuilding of Agua Fria Road. They will compensate the County approximately \$40,000 for assistance, if you will in demolition of the Agua Fria Road in order for them to get the utility in. And we request approval.

Commissioner Griñé moved to authorize the cost sharing agreement and Commissioner Duran seconded the motion. The motion passed by unanimous voice vote.

- VIII. F. 6. Request authorization to enter into change order number four to the construction contract for Agua Fria paving improvements project**

MR. VELASQUEZ: Mr. Chairman, Commissioners, this relates to several items that were necessary in the course of constructing Agua Fria Road. There's seven items in the project. The total cost on the project is \$21,264.80. We request your approval on the change order.

Commissioner Griñé moved to approve the change order. Commissioner Anaya seconded the motion.

COMMISSIONER GONZALES: Larry, it just irks me sometimes when we see these change orders coming in from contractors. I don't understand, when they bid the costs on the construction of the actual project and now we're seeing four change orders coming in resulting in a \$21,000 increase in their contract. Is this going to continue to happen throughout this project? Are we going to run over budget on this project as a result of these change orders? Are these change orders a result of our doing? If they are, I can

understand it. If this project goes on and you decide there's some additional things that you want that you didn't put in the original bid, that makes sense, but I get concerned when we see these change orders, especially on that project up there that are costing more money. Then they should have bid it originally in their original price.

MR. VELASQUEZ: Mr. Chairman, Commissioner Gonzales, change orders is a very customary thing in construction, particularly --

COMMISSIONER GONZALES: I know it is, and that's exactly how a lot of these guys make their money.

MR. VELASQUEZ: And particularly, I guess when you're trying to retrofit something, and what we're trying to do with Agua Fria is basically a retrofit, to date, we started off with a project that was \$1.8 million. To date we have a 5% in change orders. That's \$100,000.

COMMISSIONER GONZALES: Right. But did we know that there was going to be a retrofit problem on that project?

MR. VELASQUEZ: Yes we did. I think we expected -- we budgeted a 10% contingency for the project. There's a lot of unknowns, particularly when you're going underground.

COMMISSIONER GONZALES: But is that fair to people who bid, who lose out on a bid because someone underbid them with that 10% contingency. It doesn't seem fair.

MR. VELASQUEZ: No, because they're still bidding on a base bid. Everybody bid on the same quantity of items. And in the course of this, the change order would have still been necessary but the bid was on a core of items, quantities, that everybody bid. It was on a level playing field when the bid started. I guess as an example is an Alamo Lane. We ran into some major problems with trying to cross over the water line that the Agua Fria Water Association maintains, so what we were required to do is now we have to modify that in order to get that underneath. That was an unknown unless we dig up everything to try and find exactly --

COMMISSIONER GONZALES: That makes sense. Isn't there a way that we could just cap the cost and say, look, there's not going to be no change orders allowed. You're going to bid on this. You've got to understand the project and what you bid stays unless we cause a change order that alters the design significantly from our standpoint, or something that comes along? Can we do that in our RFP process to prevent these change orders from continuing to happen?

MR. VELASQUEZ: We could, but generally construction contracts are paid for what they put in the ground, like a foot of curb. They get paid for a foot. If we estimate that there was 100 feet to be put in and we end up with 101, he gets paid for that. By the same token, if he puts in 98, his contract is reduced by that and generally they end up working themselves outward. It's almost a wash.

COMMISSIONER GONZALES: Okay. Just so that we can be conscious of

1564799

that. Thank you.

COMMISSIONER DURAN: Larry, in looking at some of these change orders, it seems like some of this work could be done by the County. If you look at trimming back the trees for \$1500, isn't there a way of the County going in and doing some of the work that the contractor is saying he needs to do?

MR. VELASQUEZ: Yes, there is, but let's use the example of trimming the trees. As we, even in our own operations, we contract with a tree-trimming service, particularly in the northern part of the county, because we're not equipped with bucket trucks. We're not equipped with that type of equipment to trim those trees. In this particular case, it was the trees were branched out enough that when they took the equipment in they would break out all the branches. So instead of having jagged edges, the contractor contracted with a tree trimming service that came in and trimmed them so that they looked nice and we can get the equipment in without having a lot of destruction on it.

If we were going to do this, we would have had to contract as well on that particular one.

COMMISSIONER DURAN: You mean the County doesn't trim trees?

MR. VELASQUEZ: Not if they're way over head. If they're really tall, we don't have anything to reach that high and then safety's a big factor as well in that. I'll give you another example in which we did do that. A lot of material was generated out of Agua Fria. I don't know if you remember seeing a big pile out there. They wanted like \$50,000 to move that material. Well, we said, okay just leave it there. We'll take care of it. We contracted our own trucks and we moved that material for a lot less, a significantly lot less and we moved it over to the landfill. So we do try and do that. But if we infringe too much on it then it becomes an issue of if something fails, was it something that the County did or something that the contractor did? If the contractor's got control for the whole project, regardless of what happens in that contract, he's responsible for it, instead of us trying to get in and out of that.

The Agua Fria project change order was approved by unanimous voice vote.

VIII. F. 7. Request consideration go maintain three-way stop control at the intersection of County Road 119 and Calle Joncito

MR. VELASQUEZ: Mr. Chairman, Commissioners, back in February of 1998 we received some concerns from Nambe Pueblo and the area residents with regard to the intersection of County Road 119 and Calle Joncito. And the issue was that there had been a series of -- there were three severe accidents in a period of two weeks. My staff went out there and looked at the site and Tom has some sketches of what we did. The issue became one of sight distance. People couldn't see coming into the intersection. What we

did is we did some trimming. We started with the least intense type of solution and proceeded from there. We got the property owner also to trim some trees and as it turned out, that was not enough.

So then what we did, we did a warrant analysis for a multi-way stop and concluded that because of the sight distance, because of the accidents, it met the warrants to do that. We, at the time, I guess, felt that it was a non-controversial issue and we proceeded to place the stop sign. What we have done since in order to avoid this is that any modification in traffic control will come before the Commission for either concurrence or denial. But in this particular case we installed the operation and now we are being requested to consider otherwise.

There is a vicinity map in your packet and it's close to the pueblo. It was requested by the pueblo. The pueblo had agreed to provide enforcement through the BIA at the intersection and at this point --

CHAIRMAN TRUJILLO: Larry, this road is a public access road. The one that intersects with County Road 119, right?

MR. VELASQUEZ: That's correct.

CHAIRMAN TRUJILLO: It's a public access road. The issue is that on 119 the traffic flows in an east-west direction. And this road serves a handful of private property owners. Understanding the safety considerations, but somebody in the same situation further down the road that serves for or five people can petition the County for a three-way stop. That means then that we're going to get three-way stops every fifty feet. That doesn't make sense because in a traditional community, the Pojoaque Valley, the Santa Cruz Valley, there are a lot of those situations where we've got trees obstructing traffic and where there's connections into County roads by five or six property owners.

And that would mean that we would have ubiquitous three-way stops all over the countryside. It doesn't make sense. The analysis was done according to standards but it doesn't take a rocket scientist to identify that in the middle of a County road, you don't need a three-way stop.

MR. VELASQUEZ: Mr. Chairman, I would agree with you that we have limited sight-distance locations at numerous locations throughout the country. But I think that the -- and if we get a request we will prepare that evaluation. But I think the big difference in this one was the accident history and the severity of those accidents. Based on the information that we have, they were quite severe, so that gives us an indication -- we had a problem that was correctable by the measures that we took. I think that if we had requests for every intersection then we would have to have another guideline that set the policy of what the distance between those intersections should be.

Not everyone should have -- let me back up a little bit. Assuming that we had the same intersection, the same type of accidents, the same type of history on it all along the whole mile stretch and there was 100 intersections in there. That would not mean that we would post or control in the same fashion at every one of them. There could be a series of

them, or space them, or something like that. I guess what I'm trying to get at is every issues is going to be site-specific. In this particular case, at least in our recommendation, this was the best solution in order to minimize that.

The side street is a public road but it's not County-maintained, I guess, so [inaudible] we call it private, but it is a public access road. The other thing was this was really close to the pueblo so we felt that the stop, if it were a delay in fact to the through traffic because it serves only the tail-end of the people that use that, that it would not have a significant impact. Again, on that issue I guess we were wrong.

CHAIRMAN TRUJILLO: I find it hard to believe that, if we justify it for one situation, how can we not justify it for Ponce Lujan, who comes in to say, I have the same situation. I want one there. I've had five fender-benders in the last six months. Then Marcos Trujillo comes in and says well, I'm ten feet down the road. I have the same situation. How can we not justify it? This is a three-way stop in the middle of a County road. I've had people go there and park by the side of the road and do a count and see if it's even serving the purpose. People are not stopping. They're going straight into the road and they go through the stop signs and it just doesn't make sense.

It's not serving the purpose. It doesn't belong there. We should remove that three way stop from that intersection and take it to Sagrada Corazon Church. That's where two County roads intersect in a perpendicular way. That's where that three-way stop belongs. Not on a public road.

Commissioner Gonzales moved to remove the three-way stop signs. Commissioner Griñé seconded.

CHAIRMAN TRUJILLO: So the direction is to remove the three-way stop intersection there and take it to -- I don't know the County road but it's right by the church where two County roads intersect. That's where it belongs.

MR. VELASQUEZ: We will do a study on it. We like to make sure that there's a basis for the installation of the traffic control, so we will do that and bring a recommendation to you for action.

CHAIRMAN TRUJILLO: Thank you, Larry. What the direction is -- I understand what you have to do. You have to comply with standards, but we'll remove the stop signs from County Road 119 and we'll do a study. We can justify the stop signs at that intersection.

COMMISSIONER GONZALES: I just wanted to make sure, Mr. Chairman, because when I was listening to you, you had ask that they move there, so that we were --

Upon voice vote, the motion passed unanimously.

COMMISSIONER DURAN: What the heck does call for the question mean?

1564799

You can't talk anymore?

COMMISSIONER ANAYA: In other words, there's been a motion and a second and a lot discussion.

COMMISSIONER DURAN: What if you're not through talking?

VIII. G. MATTERS FROM THE COUNTY MANAGER

1. **Request authorization to change the name of Santa Fe County Juvenile Court Detention Center to the Santa Fe County Youth Development Program**

Commissioner Griñé moved to approve the name change and his motion was seconded by Commissioner Anaya. The motion passed by unanimous voice vote.

- VIII. G. 2. **Resolution No. 1998-120, A resolution amending and restating Resolution No. 1998-90 relating to the proposed Santa Fe County, New Mexico Rancho Viejo Improvement District accepting plans, estimates of costs and a plat with respect to the proposed district shall be acquired; and directing that notice of a preliminary hearing be given**

Commissioner Griñé moved to approve Resolution No. 1998-112. The motion was seconded by Commissioner Gonzales and passed by unanimous voice vote.

- VIII. G. 3. **Resolution No. 1998-121. A resolution establishing a vehicle take-home policy for Santa Fe County employees**

COMMISSIONER GONZALES: Mr. Chairman, actually, I'd asked that this come forward. Briefly, to explain the resolution. I wanted there to be some kind of policy in place that would basically govern the use of County vehicles after business hours and on weekends. And basically, Mr. Chairman, and I'm not sure that this went far enough. I wanted to limit the use of County vehicles after hours and on weekends just to individuals that are on call. So that would basically exclude directors and anyone else who are not on call 24 hours a day. Directors or any other County employee that's not on call 24 hours a day from having the use of the County vehicle to take home after five o'clock or to use on weekends. I'm not sure the policy goes there, or allows us to do it, but that really is my intent, is that only emergency personnel, that would be in my mind, Fire Marshals, the emergency director, I know our foreman needs County vehicles to take home, and I'm

1564799

assuming every foreman has a vehicle to take home and that every foreman does take a vehicle home. And excludes anyone else who's not performing for the County on a 24-hour basis or that is needed.

MS. BROWN: Mr. Chairman, Commissioner Gonzales, the draft in your packet doesn't have page numbers on in but on page 2, under procedure, that's the procedure for listing the employees who will be permitted to take their vehicles home and it says in paragraph B. "County vehicles taken home by County employees shall be limited to those employees, because of the nature of their employment, need to respond to emergencies or are on-call; and those employees who need to take home a vehicle on an as needed basis as determined by the County Manger." That might be an exception where somebody is needing to go out of town early in the morning or something like that, or emergencies.

COMMISSIONER GONZALES: Thank you, Denise and I just wanted to make sure that County employees includes elected officials and department directors.

MS. BROWN: We can add that to this to clarify it. I'm not sure if it's that specific. I think it only addresses employees, but we can do that.

COMMISSIONER GONZALES: I just think everyone needs to be held accountable. So maybe we could table, or actually not yet. Can I withdraw that? I'd actually like to see if we can move for approval of the policy with the direction that you make the adjustments that the employees include County officials and department directors.

MS. BROWN: We can do that.

COMMISSIONER GONZALES: I'd like to move that for approval.

COMMISSIONER GRIÑÉ: Second.

CHAIRMAN TRUJILLO: We've got a motion seconded by Commissioner Griñé. All those in favor? [Commissioner Gonzales, Commissioner Griñé and Commissioner Anaya voted in favor of the motion.] All those opposed? [Commissioner Duran voted against the motion.]

Okay, why don't we move up to the Public Hearing now and we'll do the executive session and the Santa Fe County Economic Business Park, Matters from the Commission after the Public Hearing.

COMMISSIONER GONZALES: Just real quick. I know we're getting ready to start on the Public Hearing, but before we move to that, in case I have to leave right after it. I'm not sure if I will or not. The Clerk has requested -- I just want to make sure this is available, Denise. Are you acting for David?

MS. BROWN: Mr. Chairman, Commissioner Gonzales, yes.

COMMISSIONER GONZALES: You're acting manager. We need four rooms on Sunday, Monday and Tuesday for the canvassing and also, because of the volume of early absentee voting, I believe we're at 12,000 already. It's going to be more. We need to find six clerks throughout County government if we can, from maybe the secretarial pool to offer -- she needs bodies basically to help do basic work and maybe to coordinate that with the clerk, but we need to pool six people to come in on the weekend and help so that

come election day, she has everything that she needs to make sure that the election goes smoothly, but she basically identified Sunday, Monday and Tuesday we need four rooms. That includes the Personnel Room. I know they've indicated unless they're there that it can't be opened by we should try and accommodate that and that we do find six people throughout our secretarial pools and to basically ask them to come in.

MS. BROWN: I'll take care of that.

COMMISSIONER GONZALES: Thank you.

IX. PUBLIC HEARING

- A. Emergency Ordinance No. 1998-__.** An emergency ordinance amending Article III, Section 8 "Other Development" of the Santa Fe County Land Development Code to clarify the definition of a utility line extension and clarify the requirement for a development permit for construction of utilities

MR. GARCIA: Mr. Chairman, I just passed out an ordinance. I don't know if you'd like this ordinance read for the record or if you'd like to have a few minutes to skim through it.

CHAIRMAN TRUJILLO: Why don't you give us a synopsis of the ordinance.

MR. GARCIA: Mr. Chairman, there's a section in the County Code, Article III, Section 8 which refers to Other Development in the Code, which utilities easements, right-of-way, etc., anything to do with the utility under that section. It's been unclear as to whether or not a permit is required for either a transmission line or the utility right-of-way and this ordinance is actually in detail and outlines that any utility company, whenever they have a utility line extension of any sort, needs to come in through the County Land Use Department to acquire a permit from the County.

This ordinance outlines that. The reason it's an emergency is there is the Tesuque Norton Line, which is in the northwest part of the City of Santa Fe and we are considering this an emergency ordinance because we would like PNM to come in here and apply for a development permit so we can see if any of our code requirements apply to PNM.

COMMISSIONER GONZALES: Mr. Chairman, Rudy, you're going to have to help me on this. I understand this to be an issue of the Commission deciding whether the Terrain Management Ordinance should be adjusted to require the utility extensions that occur throughout Santa Fe County to come in for a development permit. Is that correct? Or are you asking this ordinance to recognize or adjust the Code so that it recognizes that? I'm not clear.

MR. GARCIA: Mr. Chairman, Commissioner Gonzales, what we would like with this ordinance is to actually get the utility companies in here so we can actually see

1564799

where they're going and what they're building and whether it affects the terrain management issues or not.

COMMISSIONER GONZALES: So the ordinance would allow that to happen. You're not asking the Commission to decide whether that would happen. You're asking to create an ordinance that would allow the Land Use staff to review that.

MR. GARCIA: Yes, that's correct.

COMMISSIONER GONZALES: Can you tell me again, just for the record, how this came about? I know there are discussions on PNM, as to whether they would come in or not and I'm sure they're going to come up and speak, but -- were there requests that were made of PNM to come in and do this?

MR. GARCIA: Mr. Chairman, Commissioner Gonzales, yes, there's been several requests for adjoining area residents that would like PNM to come in here and get a permit. It's been unclear in the past as to whether the Land Use Department may or may not require a permit. We have in some instances and in some instances we have not. We would like to clear up the ordinance to actually get the utility companies to come in here and get a permit so we can actually see what they're doing and what they're building and whether it's going to affect steep terrain, any portions of flood plains, any visibility, and so on and so forth.

COMMISSIONER GONZALES: Could you again clarify for us the cases where the Commission has acted in areas requiring private companies that are doing activity on public lands to follow our Terrain Management Ordinance?

MR. GARCIA: Mr. Chairman, in regards to a utility company coming forward in front of the Commission --

COMMISSIONER GONZALES: Actually I was just asking for private companies that have been required to come through on terrain management, not utilities.

MR. GARCIA: Mr. Chairman, Commissioner Gonzales, you're asking whether or not a utility company has come before the County to acquire a permit from the Land Use Department or in front of the Board of County Commissioners?

COMMISSIONER GONZALES: No. I'm asking if there have been any private entities that have come under Terrain Management Ordinance that are doing activity on public and private lands.

MS. VAZQUEZ: Good afternoon, Mr. Chairman, Commissioners. With respect to your question, Commissioner Gonzales, we've had two instances where we've had to deal with entities that we feel we have the authority to regulate that we've asked them to submit to the ordinance requirements of the Code and that is the San Pedro Mines Association, when they obtained their mining permit from the state. There was no obligation for them to come in and submit to our requirements under our mining ordinance. And we got a Supreme Court decision on that case requiring them to satisfy the reclamation plan requirement under our code. That's the first example.

The second example, Commissioners, is the example most recent: the Ski Area Case.

1564799

And in the Ski Area Case, as you know, Mary Ann Reilly, one of the assistant County attorneys took the case. It was litigated. And then there was a settlement and that settlement included the Ski Area's acknowledgement that they need to come in and apply for a development permit in which their plan would be reviewed for environmental impacts as well as traffic impacts on that case. And that position was taken by the County because of the case law which establishes that the local entities have the authority to impose upon businesses their environmental regulations, which would included terrain management in this case, as well as traffic, any traffic impacts or any impacts to the traffic.

So anything that the Code would deal with with regard to those two issues, we would be able to impose on a company

COMMISSIONER GONZALES: Mr. Chairman, Rosanna, is the case law that you mentioned, is that both federal and state, or is it just state? The two incidents that you've described as far as precedents for the County were basically supported through state judicial action. Is that right?

MS. VAZQUEZ: Commissioner Gonzales, actually the Ski Area Case was a case that was done in the federal courts as well and the case law, which was relied upon in order to impose our position was federal law with respect to the San Pedro Mines Association Case, that was a case decided by the Supreme Court of the state of New Mexico. That was a local case.

COMMISSIONER GONZALES: A question for Rudy. How do we currently treat, you may have talked about that in your opening statements on the issue of utilities, both from a development perspective or developers and for PNM, who does business with this county, obviously for many, many, many years.

MR. GARCIA: Mr. Chairman, Commissioner Gonzales, I don't understand your question.

COMMISSIONER GONZALES: How does the Code currently treat the construction of utility lines? Both from a development perspective, private developers are doing subdivisions. They've got to deal with electricity. And from the fact that PNM has a history of doing business in Santa Fe County and having to supply power?

MR. GARCIA: Mr. Chairman, Commissioner Gonzales, starting with I guess a residential unit, the County requires any residential unit, whether it's when you come in for a dwelling permit, we require that the applicant obtain a utility authorization. That's how we get them in here to actually comply with our requirements for a building permit. In terms of development, when you have a full-blown subdivision that comes in to the County, at the time of master plan or development plan approval of that plat, the Code is then kicked in.

We at that time address and look at the issues as to what type of lines are going to go through the subdivision, whether they're above ground, underground, and so on and so forth.

COMMISSIONER GONZALES: Can I stop you there for a second, because

1564799

I know that's the most classic case, during the subdivision process that the Terrain Management Ordinance where we would actually go in and do the review. So when we're reviewing the Terrain Management Ordinance and the criteria that it has and that developers have to follow, obviously we're looking at roads and we're looking at a number of issues. Are we looking at the effects of the terrain as it relates to the construction of utility lines in that Terrain Management Ordinance?

MR. GARCIA: Mr. Chairman, Commissioner Gonzales, I guess that's one of the things that this ordinance actually outlines is what a utility line is, what a utility transmission line is and so on and so forth.

COMMISSIONER GONZALES: But what I want to know now is, when there is a subdivision review of the terrain management, and there is utilities, a utility line of any other form of utility, however we classify it, when we do our terrain management review, do we do the review of the impact of those utility lines on the terrain? In private subdivisions that occur.

MR. GARCIA: Mr. Chairman, Commissioner Gonzales, whenever a subdivision comes forward and those easements are sold for utility lines, yes, at that time we do look at our terrain management regulations.

COMMISSIONER GONZALES: Can you continue, actually, unless, I just wanted to outline all the other land areas.

MR. GARCIA: Mr. Chairman, Commissioner Gonzales, whenever you have a development plan or a subdivision at that time, yes, our terrain management ordinances are looked at. When it comes to a huge transmission line for a utility company, water company, electric company, the Code is ambiguous. It doesn't actually outline whether or not you need a permit. Through this ordinance it actually gives a definition what we as a county feel, that whether it's a transmission line, they need to come in here and get a development permit and the purpose of that, we feel is so we can know what they're doing, what types of arroyos they're crossing, what type of mountain top, ridgetops, etc. they're crossing.

Right now, it's my understanding that PNM feels that they do not need a permit and therefore we do not -- and not to correct myself, but PNM has actually given us a copy of their proposal, but whether or not we have questions on it, they feel that they do not need a permit so they are giving it to us as an informational item.

COMMISSIONER ANAYA: Mr. Chairman, may I submit to the Commission, perhaps staff has some institutional knowledge as to what my recollection is. You're all aware that I'm completing my eighth year as a Commissioner here and prior to that I was on CDRC and I believe it was either the Norton extension or the Oro Ojo extension when I was on CDRC, Edward Fernandez was the chairman of the CDRC at that time. PNM took the CDRC members on different occasions on a helicopter and toured us through the entire line, going all the way, starting from the top, all the way through La Bajada.

At that time, CDRC had input into the design work, the alignment and so forth, that I can recollect. If you remember, as you come from Albuquerque and you see that line right at La Bajada, crossing La Bajada, the color provisions that we implemented in those days were the brown blending in with the hillsides. And I believe that's about the only location - I don't know whether it's the only location, but those were very costly to PNM at the time, but the did submit to our requests in CDRC.

So what that tells me is that -- it's been a long time. We're looking about 1983, but what it tells me is that CDRC and the County did have some kind of say as to what input the County would have on these types of extensions, and I just want to submit that as to what I can remember.

CHAIRMAN TRUJILLO: Thank you, Commissioner, And specifically, on the Norton Line, PNM has known since 1981 that a terrain management permit is required before the line is constructed. So in looking at the record and the history of the Norton Line, PNM has known since 1981 that that was a requirement. The permit was a requirement.

COMMISSIONER DURAN: Rudy, I haven't seen the plans, but this is an intensification of the existing use. Is that correct?

MR. GARCIA: Mr. Chairman, Commissioner Duran, I can't answer the question. Maybe we can refer it to PNM whether it is an intensification or not. I'm not clear as whether they're taking our wood poles and just putting in metal poles or whether they're going to add -- I guess my opinion would be yes, it is an intensification of the power line.

CHAIRMAN TRUJILLO: Any other questions?

COMMISSIONER ANAYA: Not at this time.

CHAIRMAN TRUJILLO: Anything else, Rudy? Rosanna, anything else?

COMMISSIONER GONZALES: Mr. Chairman, one more quick question before we go on so that we completely understand this. Rudy, can you just for me, or Rosanna, go over what you're asking the Commission to do in this emergency ordinance, as opposed to what's currently been required right now under the Code?

MR. GARCIA: Mr. Chairman, Commissioner Gonzales, I'm sorry, can you ask the question again?

COMMISSIONER GONZALES: Can you please tell me what this emergency ordinance is currently asking the Commission to do, or what the requirements would be under this emergency ordinance, if it's passed, as opposed to what is currently being required today under the Code as it exists?

MR. GARCIA: Mr. Chairman, Commissioner Gonzales, this would be a clear definition that would require PNM to come in here and get a development permit from Santa Fe County.

COMMISSIONER GONZALES: PNM, and any other utility that does business, or just PNM?

1564799

MR. GARCIA: PNM and any other utility company. Water, sewer or electric as well.

COMMISSIONER GONZALES: The definition if you're going to have an extension, you'll be required to come under our Terrain Management Ordinance? Or transmission line? Or can you tell me what the definition is?

MR. GARCIA: Mr. Chairman, Commissioner Gonzales, what this ordinance actually outlines would require the utility companies to come in and obtain a development permit and at that time we would see whether or not the Terrain Management Ordinance, they would need to comply with.

COMMISSIONER GONZALES: Any activity that a utility line does, or a utility company does, they'd be required to come in for the Terrain Management Ordinance.

MR. GARCIA: Mr. Chairman, Commissioner Gonzales, this ordinance would outline any transmission line would be required to get a development permit. If you have a residential unit and you go from the power pole along the County road to your house --

COMMISSIONER GONZALES: Okay, so now we're focused, it's about a transmission line. Any transmission lines that are going to occur in Santa Fe County, through any utility company or -- I'm assuming it's electricity, water and sewer that's a transmission line. Is that right?

MR. GARCIA: Yes.

COMMISSIONER GONZALES: Any transmission line that occurs, the way the Code exists today it's ambiguous as to whether they're required to come in for a terrain management permit. Is that right?

MR. GARCIA: Yes.

COMMISSIONER GONZALES: And so this emergency ordinance if it's passed would do away with that ambiguity and require any transmission line through any utility company to come in and seek a permit?

MR. GARCIA: Yes, that's correct.

COMMISSIONER GONZALES: Through the Terrain Management Ordinance. Or more.

COMMISSIONER DURAN: Or any ordinance.

MR. GARCIA: That would go through a development permit. Then at that time, what we would like for them to do is to come in here and get a permit so we can see what type of terrain they're disturbing, whether it does or does not comply with our County Code or our terrain management regulations.

COMMISSIONER GONZALES: So then what we need to understand maybe is that on federal lands the only thing that's applicable is the Terrain Management Ordinance. On private lands, the whole gamut of the Code becomes applicable for any type of transmission lines that occur. Is that correct?

MR. GARCIA: Yes, that's correct.

MS. BROWN: Mr. Chairman, Commissioner Gonzales, with one addition.

1564799

It's actually all environmental requirements. You could have noise or odors or things like that. I just want to clarify that.

COMMISSIONER GONZALES: On public lands also?

MS. BROWN: Yes.

COMMISSIONER GONZALES: Okay. Thank you.

COMMISSIONER DURAN: What about visual?

MR. GARCIA: Mr. Chairman, I'm almost positive that visual would be under, Mr. Chairman, Commissioner Duran, Article VII is an environmental standards. Seven or eight is environmental standards of the Code and that pretty much has anything to do with visual, noise, smoke, odor, traffic.

COMMISSIONER ANAYA: I think I just alluded to that, you know where we implemented colors systematic and everything on the crossage of La Bajada. So there was definitely some CDRC and County Commission input in those days.

COMMISSIONER DURAN: The reason I brought it up is I think it's real important that visual be considered because I think it's a major issue in this.

COMMISSIONER ANAYA: I'd like to also submit that the request from the Ski Basin, when they came in for expansion prior to that, they did apply for a septic permit from the County on federal property. So there is precedents of some form.

COMMISSIONER GONZALES: Mr. Chairman, Commissioner Anaya, do you recall on the La Bajada lines that the lines that you're talking about, are those going through private lands, or did they go through public lands?

COMMISSIONER ANAYA: I don't recall, Commissioner Gonzales.

COMMISSIONER GONZALES: Because I think that might have a lot to do with possibly why the CDRC was involved at the time.

COMMISSIONER ANAYA: Perhaps there was an infinity of mixtures coming all the way down into Native American reservations and so forth. It was quite an extension. Remember, this was back in 1983 or around that time. So we definitely did have input and you don't forget a helicopter ride along the whole line.

CHAIRMAN TRUJILLO: Do I understand you correctly, Rudy? The requirement has always been there. What this ordinance does is it establishes a protocol by which to give impetus to compliance, right? Since 1981, PNM has known that they need a permit to do the Norton Line. We've looked at various cellular towers in and around this area that went through the terrain management permit process. This ordinance clarifies the protocol by which utility companies get a permit. Everybody gets subjected to the same thing.

MR. GARCIA: Mr. Chairman, that's exactly correct. And also to add on to Commissioner Anaya's issue is yes, PNM did have an issues with CDRC back in those days and this falls under a section once again of Section 8, Other Development. In the past, it's been questionable as to whether or not other development has to go in front of the Board of County Commissioners. Now our position is if you are other development, it does come in

1564799

front of the Board of County Commissioners as well as the lower committees.

Once again, this ordinance just requires them to come in here for a permit. This is nothing that requires any zoning of any type unless there's any variances or anything of the Code that is needed or may be needed and this is a permit that is done administratively. Or actually it may be done administratively.

CHAIRMAN TRUJILLO: This is a public hearing and this is an ordinance
so --

COMMISSIONER GONZALES: Mr. Chairman, to make a recommendation. I know that there is several interested parties here. I know members from PNM, in my understanding, Jemez is here also. Then we also have landowners from the area and in the interests of time and that way we don't have people reiterating the same thing. Mr. Chairman, we've done this in the past, maybe we could possibly, at the chair's discretion, allow for each of those individual things to have a spokesperson that can identify their concerns or their support of it, that way we don't -- Surely everyone is always allowed to appear before the Commission, but in the interests of time, if someone already addresses your concern, please --

CHAIRMAN TRUJILLO: So we'll get a representative from PNM, a representative from the Co-op, the Jemez Co-op and a representative from SNAC and a representative from the general public. Okay so we have about five people here. US West, okay.

Anybody else? no. We're talking about the Norton Line. You'll get the opportunity to speak during the public portion of the meeting. So this is only regarding the Norton Line. Okay, we've got Mike from Tesuque. So we've got about seven people, and we'll give you about one to two minutes to represent your positions, okay? Well, then maybe longer than one or two minutes, so let's start.

ERNEST VALDEZ: I represent the Jemez Co-op. Did you indicate that the first issue that was going to be considered was the Tesuque Norton Line as opposed to the proposed amendment to the ordinance? Is that what I understood you to say?

CHAIRMAN TRUJILLO: It's an amendment to the ordinance which specifically impacts the Norton Line, but it is the amendment to the ordinance, right. That's what it is, the amendment to the ordinance. So, PNM, Wayne Sowell.

WAYNE SOWELL: Mr. Chairman and County Commissioners, thank you. First of all, let me say that Mr. Chairman, one to two minutes for a situation for an ordinance like this I think is --

CHAIRMAN TRUJILLO: We'll give you longer than that, Wayne.

MR. SOWELL: Well, sir, let me say this. I stand before you unprepared and somewhat embarrassed that I cannot speak for PNM gas services because they were not made aware of this. Let me say that only yesterday at 4:30, by coincidence, one of your County attorneys slipped up and said the ordinance was going to be entertained and voted on today. It's interesting that only by that fluke incident I found out. I was able to sit there

and call US West and some other companies, but it's interesting, sir, and I challenge the Commission to talk about leadership and integrity today, is that how all these landowners, and Mr. Kirschenbaum and the other landowners here and ECHO have known about this when we didn't know about this until just 4:30 yesterday afternoon.

So, sir, I think there's some questions here. Now, let me just start off and say, Mr. Garcia said that they're now addressing the issue of the requirements for a permit. We met with your legal staff for about three hours yesterday and sir, I disagree with the chair saying that since 1982 PNM has been told that we needed a permit. In fact, I have letters here starting back in 1995, 1997 and as late as January 26, 1998, from then Land Use Administrator, Corky Ojinaga, saying, right here, I have a copy of it. Saying that we do not need permits for transmissions.

Another thing, sir, let me just in the two or three minutes I have, let me quantify this issue. Every time, and you can see the ambiguity, and I appreciate this and I've talked at length with, you, Mr. Chairman, and Commissioner Gonzales, there's a lot of issues and we're empathetic to the issues of illegal subdivisions in the County. The proliferation of septic tanks, the inability of the County to control this issue and this all goes back to the requests we had from the County to PNM for years and years, asking us to police the line extensions to the illegal subdivisions and we've told the County over and over again, we can't do this.

But let me just address the issues that Mr. Garcia was talking about. In your ordinance, now this second draft that we received at 12:30 today, sitting here. This tells you, gentlemen of the Commission, this is not an emergency. This smacks of something else but this is not an emergency when we have less than thirty minutes to review this. But Section 8.3.2. utility line extensions, let me say that Mr. Garcia, and no disrespect to his position and his knowledge, is that this doesn't apply just to transmission.

If you have a customer, if you have a county resident who wants to put in a mobile home, that wants to put in one home, the way this is written as of 12:30 today, if the line extension is from an existing transformer hung on a pole, and usually you can run a service about 150 feet without another pole. This excludes that existing customer. So if you have any resident of the County who has to go for more than one pole extension, you're going to require them to get a permit.

Now PNM is not going to come in front of the County, we're not going to go to Rudy's shop to get the permit. We're going to tell the customer, we're sorry. This is the ordinance. You go hire a consultant to tell you that if you comply with the terrain management. If they want us to do it, we'll charge them, we'll run it up on their bill. What I'm saying is that this ordinance is going to have a huge financial impact on the citizens. And let me just be so bold, and if I offend anybody, I apologize in advance, but gentlemen on the Commission, this is written to appease two landowners and that's Robert Redford and Mr. Kirschenbaum.

And if you're going to sit there and have out of state customers that have been here

since 1986 tell the Commission that will have a financial impact on minorities and two and three-generation citizens of Santa Fe, residents of the County, Santa Fe County, I think we're making a poor mistake. The only thing we're asking is -- there is not an immediate emergency that impacts your life, impacts health, or anything like that. Now what we're asking for is a thirty-day tabling so we can have a fair and open discussion. So we can get ECHO in here. We can get Mr. Kirschenbaum here. We can get the residents. We can get the developers. We can get all the other folks in here and have a full discussion of the issues.

We are not opposed to this. We are not opposed to having our Norton Tesuque Line looked at. We followed the EIS, as you know. We had to sit there and go through over a one million dollar EIS process and yes, the County was involved there with it, and yes, the County had input to it. So this process has been on for ten years. Something else I would say -- well, let me just finish up. What we're asking for is to table it for thirty days so we can sit there and address this issue.

Mr. Garcia said that when property is platted a utility -- remember he said the utility plat is looked at. I have here Mr. Kirschenbaum's 1986 deed and on that it says it's a 100-foot wide transmission for 115,000 foot kV volt transmission line. Now folks, this is buyer beware. So the County knew it. The County had ample time to review this and the fact that we have letters from your own attorney, Mr. Kopelman, saying that we don't need a permit.

Now, your current legal staff, with all due respect said that your County attorney cannot write a legal opinion without the Board's approving it. We've gone through your ordinance from top to bottom, there's nothing in the County ordinance that says your attorneys cannot write a legal opinion without the County approving it, Mr. Kopelman's stand -- So we have documentation going back many, many years. The only thing we're asking for is a thirty-day stay until we can sit there and get all the parties to sit there in one room to talk about this.

Now the issue of the emergency of Norton Tesuque. The Public Utility Commission, as you know ruled two weeks ago. We've been in a battle with them for three and a half years. I tell you one reason why we need this and this has been disputed and we could have electrical engineers coming out our ears. But let me tell you this is the article from the *New Mexican* yesterday. You all have seen it? "Thousands of northern Santa Fe customers without power for nearly an hour Monday when a transmission pole in Hyde Park caught fire."

Gentlemen of the Commission, I need that Tesuque Substation. Now, the opponents of the Norton Tesuque fought with us. They want us to put a distributor-generation unit on it. They want us to plow up Bishop's Lodge Road. All in all, the Public Utility Commission, which, by all accounts is a very fair and objective party -- you know how many times they've turned PNM down, over and over again for many, many years. They ruled that this is a reasonable and a necessary system, a necessary project. If I'd had the Tesuque Substation on line yesterday, I could have switched these customers out and I could

have had them back in fifteen minutes as opposed to --

The outage started at seven. It didn't start at nine; it started at seven. I got the last customers on at ten o'clock. It is a situation where I'm getting desperate. Let me also just highlight, give you a global position here. We have residents in Santa Fe, as you know, we're dealing with the City. On Maes Road there's a substation there that's been there since 1946. We have local activists, Jerry Lou Hammet we have other folks that want us to move the substation out of the city limits. As a matter of fact they're on record saying they want all substations moved out of the city limits into the county area.

Well, now we have county residents saying, no, we don't want substations in the county. Put them somewhere where they're invisible. Gentlemen of the Commission, we cannot transmit electricity through the microwave. We cannot transmit electricity through your TV antennas. The day it comes will be great. We don't have fuel cells, we don't have other things. What I'm saying is that the Norton transmission, the Norton Tesuque system is important. It's imperative for the integrity of my system.

The Public Utility Commission has ruled that they believe us. After three years and millions of dollars of pro and con they believe us. So I think there's two separate issues here. You want us to sit here and have a full hearing on Norton Tesuque, we issued, we offered your legal staff yesterday this proposition. We will sign a contractual agreement with the County that says that we will have the ongoing partnership with the federal government and the state government to sit there and monitor every aspect, every pole, every grade, every cut of the Norton Tesuque so we can ensure that the County land and the culture and the water and everything else is addressed adequately. They said they'd take that under advisement. Then we realized at 4:30 when we leaving this was coming up.

So I think there are many, many questions here, gentlemen, that need to be addressed and I implore you, please don't sit there and try to run this down our throat. We'll end up in court and that's fine, because that's just part of the litigious society that we live in. But my concern is that if you make these Santa Fe County residents have to comply with this for a one, two line pole extension, I think you going to drive -- I know you'll drive the cost up and we already have a tough time trying to keep affordable housing in this county.

COMMISSIONER GONZALES: Mr. Chairman, Mr. Sowell, thank you for appearing here. I understand how adamant and important this is to PNM, and a couple of things, and I say this, obviously with due respect to the fact that we have a long relationship. And I find it offensive if you're over here saying that the Commission is basically being jerked around by Robert Redford and Steve Kirschenbaum, because we're not. I don't think we've ever set that kind of precedents, nor do we want to. I'm hoping and thinking for the benefit of the doubt that you weren't saying that.

I would hope that you would understand that when discussing issues like this, especially when Santa Fe is an area that's under incredible growth demands, especially when this Commission has made a commitment to people that there would be a very fair and public process when doing development in Santa Fe County that we would come forward

1564799

with something like this kind of concern. And what I would also like to ask you from PNM's perspective, I don't think that anyone up here on the Commission is going to sit here and try and make it hard for you to put that transmission line in or redirect it or change it anywhere else.

We know full well what our authority is. We know what our jurisdiction is and we're not here to pretend anything other than the fact that we have a responsibility to our community as a whole. Not Steve Kirschenbaum or Robert Redford individually, but as a whole, to make sure that the regulations that exist in our Code will properly protect the community from a gamut of issues, including environmental issues.

So your concern here today that the Commission is going to ask PNM to change your transmission line. Let me just ask you a serious question. Is that your number one concern, that we're here trying to obstruct a process that's already occurred at the PUC and ask to try and push for this transmission line to go somewhere else? Is that one, a concern?

MR. SOWELL: That's a complex question. Let me first say that this whole process -- I'm sorry, Mr. Chairman and Commissioner Gonzales, I'm sorry if I offended you but I had to stand by my high level of suspicions that there's too many coincidental things that's happening. Yes, we're concerned that by looking at the latest, the 12:30 copy of this, 8.3.5, it says "Development permits for utility transmission lines may be approved administratively subject to the discretion of the Land Use Administrator." May be. May be is the operative word.

Now, Commissioner Gonzales, you're saying that you need to protect the integrity of the County, and I don't have any argument with that. I live here. My wife is from here. I want to protect the integrity and the environment. What I'm saying is that I just can't help but suspect this. If you want a fair and open process, sir, as you said, then we will not vote on this today without proper notification and advertisement. But the operative word is may. So if we go to Mr. Garcia's department and say, here's all the EIS. Here's all the environmental work that we've done on this, the visual impacts, which by the way, your current regulations don't have, ordinance have anything about visual, as Commissioner Anaya was talking about.

All those things were done when he took the helicopter ride was to address the visual impacts. And by the way, we addressed that with your attorneys yesterday, showing them, by pole, how many yards you could see out. And by the way there's very few people that could see very many of those poles. But let me just address the fact that the operative word is may. So if just one customer comes in, any customer, in or out of state comes in to Mr. Garcia and says, I adamantly oppose the Norton Tesuque, do you think Mr. Garcia is going to sit there and sign off administratively? No. It will go to a full hearing. Once it goes to a full hearing, the Commission as Mr. Kirschenbaum is fully aware that if we don't commence and sustain construction by December 31 of this year, we lose the \$2.9 million. We lose the money in escrow. The pueblos walk away with a lot of money and we are left with a shovel and some dirt.

1564799

So our concern, sir, is that there is, by allowing this to be the operative word is may, that could trigger a hearing that could last way into next year.

COMMISSIONER GONZALES: So then, is that PNM is concerned with the Norton line or are you just concerned that the County's actually going to ask utility companies to come in and ask for development permits on transmission lines.

MR. SOWELL: Two-part question, sir. Mr. Chairman, Commissioner Gonzales, two-part question. First of all, all along we thought the main issue was Norton Tesuque. The issue of having individual customers come in and ask for a permit, is probably a good way to regulate growth in the county to ensure that as far as septic tanks, wells, and that's one way to regulate that. And that's a well thought out way. My concern is that we should probably ask all the utilities and the co-ops, that's San Miguel, Central Northern New Mexico, down in Moriarty, Jemez and PNM to run some numbers and see in an average year, how much will this increase the cost per customer.

And then you go back and you make an intelligent decision. Do you want to increase the cost of an average hook-up \$1,000? Maybe you do, maybe you don't. Does it override the overall social benefit to the County? Possibly it could. All I'm saying is give us time to run financial numbers. Give us time to work with your financial folks and we can tell you what financial impact there is.

So it's a two-part question, sir. Yes, we always thought this was just the Norton Tesuque. Now this is coming out, it's basically a two-part amendment to your ordinance. one part is good the other part I think is a process to derail and possibly stop Norton Tesuque.

CHAIRMAN TRUJILLO: Could I make a comment? Wayne is saying that they were not noticed until today about the public hearing about the ordinance.

MR. SOWELL: Four thirty yesterday.

CHAIRMAN TRUJILLO: Or yesterday. I can clearly say that this Commission does not condone a surreptitious decision making process. I'm asking the Commissioners if we can table this public hearing for thirty years, or two weeks to give the utility companies, to give the public, to give everybody ample opportunity to review what the impact of this ordinance is going to be. To do the analysis.

COMMISSIONER GONZALES: Can I finish asking Mr. Sowell and that will help me -- I think you're asking for a fair thing but it will help my decision whether to support a tabling or not. To continue, Mr. Sowell, if we could continue to go down this issue of the Norton Line because it does -- regardless of your premonition of why this Commission is acting on something of that nature, there are environmental issues whenever you have a transmission line of that nature and I understand that PNM has done the Environmental Impact Statement to discuss or basically provide some security that environmental issues are being addressed and that's basically been done outside of the County process.

If we give the thirty days, basically this Commission allows for a thirty-day tabling,

1564799

and by your own words you're saying you're under a time line to get this thing up and running or constructed so that you don't lose your \$2.9 million, then basically what it does is -- something as important as the Norton Line, it basically doesn't allow for this process to take place for the Norton Line. Would you agree to that?

MR. SOWELL: Mr. Chairman, Commissioner Gonzales, I would -- I have not been the project manager for the last ten years. Mr. Wayne Hills he's sitting in the audience is, but I would suggest to you that the County has had ample input to the EIS process. Also the EIS process addresses remediation. There's a full -- we are sending these documents as we speak to your legal department and Mr. Rudy Garcia's department to review, but it has a full remediation plan in it. But to answer your question, have you looked at it in the last year or two years? I rather doubt the County has and I have to submit that question to Mr. Garcia or Ms. Vazquez.

COMMISSIONER GONZALES: What I'm asking though is if a thirty-day time line occurs, an even if PNM, and I think from a personal standpoint that there should be a permit process for utility lines that go through Santa Fe County. Santa Fe County is growing very fast. I think your argument about making sure that it's balanced and properly looked at is a good argument, but my question was something like the Norton extension line, and granted we are here at the thirteenth hour in a twelve hour game, are you basically setting up the Commission to table this thing for thirty days, that's good for PNM because if you start moving on the extension of the Norton Line, this won't have any impact on it. Therefore, County, you don't have a say in how the Norton Line is going to be done.

We've done an environmental impact statement but we're not going to go through your Terrain Management Ordinance or discuss any of these issues. We'll worry about something else some other time down the line when we're dealing with Santa Fe County. It seems to me, and I think your point, again, and I preface that with your point is well taken in that something like this, that affects so many utilities is important and it needs to be well thought out. My concern is that this could be PNM's way, and I apologize if I offend you and what you would like to do, but PNM's way of saying basically, this is the way to get the County off our back on the Norton extension. We're buying thirty days and we'll worry about dealing with them on this ordinance on many other things.

And I agree. I think that -- let me also say that I think it's important to bring power to Tesuque and I think from what little that I know that this extension route seems like that's the best route. I'm concerned about going up Tesuque also because of what that does to all the homeowners along the Tesuque area and how close an impact that is. And so I don't want you to confuse my intention of what I'm trying to do here. I'm not trying to say, no or be part of saying no to this so you go to Tesuque, because I think that maybe we don't have Robert Redford or Steve Kirschenbaum bothering us but we might have someone else in that line that will say we don't want it to go up in that area.

So I think we need to stay focused on really the environmental impact. The questions is, it just appears to me that by asking for this thirty-day extension, or fourteen days or

whatever it is, it basically allows PNM to go through without any consideration of coming through our own process.

MR. SOWELL: Mr. Chairman, Commissioner Gonzales, for the record, for the record, construction has already started a week ago last Monday when the Public Utility Commission issued their final order. The opposition filed an emergency stay. The Public Utility Commission heard it. They denied it and the very next day we started on pueblo land. If you drive up 285, you get to Highway 22, that's where the small trailer court is and it branches off and you take the road back towards Tesuque, there is a piece of land there that has been platted, that has been paid for as far as the easement with the pueblo. We set one pole there and there's two or three other poles on the other side of Highway 285. So it starts out of there and goes due west on pueblo land. So it doesn't affect the Village of Tesuque. They won't see that except when you drive up 285.

So let's make it perfectly clear that I have already started construction. Because I wanted to secure that when we go to court. And I'm not kidding myself that we'll be in court very soon over this issue. So to address your issue, sir, I would say that our position is, based on the prior letters, from the County, we do not need a permit. And that's my legal position. However, sir, I would be willing to sit down with all parties and lay out the EIS, the remediation plan, in depth, in detail, all 350 pages of it, and go through a thorough analysis and review with your legal staff and with Rudy Garcia's department.

COMMISSIONER GONZALES: Let me ask you this, Mr. Sowell. While we're working towards this and I think that this again is a -- let me just say that I think that this is a point that we have county-wide. Regardless of what happens, I think that this amendment is going to happen. Whether it's today or thirty days from now, I think it's important that we have something like this on the books. But I think that we could -- let me ask PNM this. Why, if you think, if you've acknowledged the fact that this -- that there are parts of it that could be good and could be bad or whatever might be, why doesn't PNM just voluntarily come in and come under our Terrain Management Ordinance, knowing that even if this provision in here, that you're concerned about, that says the Land Use Administrator may or may not approve that transmission line, that's not going to be in effect.

But there's a whole other set of criteria that would occur that would be in effect. Why wouldn't PNM voluntarily come in and go through the process, go through allowing the County to have some input into how things are occurring on that Norton Line? This has been primarily up to now an issue between you and the PUC. It's something that we have not gotten involved in. I think that a number of us up here think that we should be involved, and should have gotten involved in it. Regardless of what happens, I don't know if that necessarily reflects my views or the views of this Board, and we can have legal interpretation one way or another, but what I hear you continuously saying is you started construction in the county regardless of whether -- we've got our EIS and can look at it. If it satisfies you, fine. If it doesn't, sorry. We're going to still go forward.

Isn't there a way that you guys can see to voluntarily submitting to a process that

would go through our Terrain Management Ordinance allowing the County to have input? So we avoid going to court. So that we avoid all of this. And I don't want you to interpret it as saying this is deal time, because it's not about making any deals. It's about just asking you that if we're going to -- if you're asking the County to be fair and wait thirty days, and get all the input. Can the County PNM to be fair and voluntarily come in and submitting to this process?

MR. SOWELL: Mr. Chairman, Commissioner Gonzales, let me rephrase and make sure I understand your question. You're asking us to submit to a permitting process that we think we are not required, based on prior County opinions that were not governed under.

COMMISSIONER GONZALES: Yes.

MR. SOWELL: Okay. And the fact that we're on pueblo land for the first probably three or four months, five months of this process. I don't know. I don't have the charts in front of me. And you've acknowledged that you don't have any control over the sovereign nations. That by us submitting to the permitting process, according -- I'm not an attorney. I'm just a menial CPA, but my -- the attorneys tell me that if we submit to the permitting process -- and also our position is that we've been grandfathered under the existing ordinance. So even if you pass this ordinance today, we feel that we've been grandfathered under the existing ordinance. But that's for attorneys to argue. Not for sane people to argue.

But I would again say, sir, we can sit in. I'm not going to blow you off and sit there and say if the County has a problem with the remediation plan, with the EIS, to sit there and say sorry, we looked at in and that's all we're going to do. No, sir, I wouldn't say that. You have my personal commitment. What I am saying is that we would be willing to sit down and talk about every grade over 15% if you'd like to. Go over every bit of that topo map and go from all 10.2 miles if you'd like to.

Again, we're talking about BLM and BIA land, which there's also a point of contention whether the County has jurisdiction over there and Ms. Vazquez has cases out of California that says she does. We have cases that say we don't so that's for the attorneys to argue. But I think a win-win solution here is I would like to be upfront and say I'd like to continue construction on the pueblo land, moving west, but the agreement would be that we would not go on either private property or go on the BLM or BIA. We'd stay just in the Tesuque until we got with the County.

And I think we could get together with the County officials tomorrow, next week, and spend the next two weeks going through every page of the EIS. Every page of the terrain management plan making sure that your terrain management needs are met on the EIS. With that, would that make you feel more comfortable?

COMMISSIONER GONZALES: It would if -- it seems like that is a nice thing to do but if there's disagreement, basically on PNM's side with what the County's side is, there's no. I mean, what happens if there's disagreement? What happens if the County

has concerns over direction that you guys have decided to pursue on BLM and private lands that we could cover through an ordinance like this? And PNM basically states, well, we disagree with the County on this. Sorry, guys. We're going to continue going forward. You don't have any type of teeth in the ordinance that would really require us to listen to you.

I mean, I know you, I think personally you would do that. I think you're a man who is going to come up here and say we're going to go through that and we're going to the best we can. But you also have a whole big corporation that basically decides what they're going to listen to and what they're not.

MR. SOWELL: Mr. Chairman, Commissioner Gonzales, you bring up a lot of scenarios that would be hard to address. The one thing that I think we would be -- and I would commit to it. I'd be at every meeting along with the engineers, the environmentalists and the project manager to ensure that there was smooth application and consistency and a win-win on this. But let me just say that we oppose, categorically, we oppose, and I don't want it to be misunderstood, we oppose going underground. We've offered that to the private homeowners, the Public Utility Commission has offered that to the private landowners and I don't want us to be down the road and say, okay, Mr. Sowell, you agreed back on the 29th that you would do anything to work with the County and we want an underground system. I'd have to sit there and say, no, that is one area that I won't go. I can't go.

One, because the Public Utility Commission has already ruled on it and it we go against them, then we'd be in violation of that rate case. Two, I don't think it's fair to take and underground a portion of it and charge PNM \$400,000, \$500,000 then spread that cost throughout New Mexico just to appease several landowners or just the County of Santa Fe. And I'm not being disrespectful, but is it fair to charge the Demming, Rio Rancho, Belen, Bernalillo customers a portion of undergrounding a system that you would want.

So I would say I'm open to discuss anything that's in your terrain management plan, but I cannot go to the area of undergrounding. We cannot go there. Can I stop it right there?

COMMISSIONER GONZALES: I'm not sure. One final question from me at least, for Denise or Rosanna. Denise, can I ask you this question? If the Commission waits thirty days or postpones thirty days so that there can be ample review and participation by all the affected parties, if there's an emergency -- if this ordinance is adopted in thirty days under an emergency matter, or let's just say it's adopted in thirty days, if PNM has still not made it through to the BLM and the private lands, would they be required to submit, even if -- I know that Mr. Sowell was saying that they're grandfathered in. The ordinance comes into effect after construction, which even if it comes into effect today, would they be required to submit under our Terrain Management Ordinance?

MS. BROWN: Mr. Chairman, Commissioner Gonzales, I need to defer to Rosanna. I don't know the history on this case and I don't know the grandfathering

argument. I don't know how that would work.

COMMISSIONER GONZALES: Well, for an ordinance that would basically go into effect after the fact. What is the -- what type of leverage does the County have to have some honest negotiations with PNM as to any concerns that may come up and there may not be any concerns. They may have the best Environmental Impact Statement that we've seen and this can be a slam dunk. Let's say we're assuming the worst, and there are problems, there are concerns. Does this ordinance give us any leverage to work [inaudible]

MS. BROWN: Well, Mr. Chairman, Commissioner Gonzales, I think to some extent we would be at a disadvantage certainly, I can envision what lawyers argue, us insane people, and arguments probably on PNM's behalf would be, look, we started on this road, we cannot go back. It's not financially sound for us to go back and undo the work we've already done. So whatever work occurs over the next thirty days is probably going to be a done deal.

COMMISSIONER GONZALES: Regardless of whether it's passed today or thirty days from now?

MS. BROWN: That would be the argument I'm sure their attorneys would make, and whether we would -- I think it would be very risky for us to assume that we could convince the court that they should undo everything they've done over thirty days.

COMMISSIONER GONZALES: Right. But they're doing their work over the next thirty days on pueblo lands, sovereign lands. So what I'm saying is assuming that when this ordinance goes into effect and they have not reached the BLM lands and haven't reached the private lands, does the ordinance have effect?

MS. BROWN: Mr. Chairman, Commissioner Gonzales, I believe it would, but the problem is, and I don't know, I'm not a technical person, I don't know enough about the history of this project, but I presume that it's going to be one, integrated project. So that whatever they start this project as, is what financially and fiscally they're going to need to finish it as. So if they began the work and I don't believe it would significantly change if you would need to and I don't know if you would or not. But if you would need to make changes to what they are doing, I don't know that that would be fiscally even feasible for them, once they've started building it a certain way. And that's the problem I think you might run into. That they began the construction in a certain manner and then you want them to change it thirty days from now, they may not be able to do that.

COMMISSIONER GONZALES: Well, what I'm trying to think here, the transmission lines go over the terrain, I mean that's regardless of what they've constructed in the past. We're only concerned on what's happening on the terrain the environmental impact's on, on BLM and on private land. So I don't envision us going back and saying to PNM, you've constructed this wrong. To me it's we're looking at more environmental issues and terrain issues and things of that nature, right?

MS. BROWN: Mr. Chairman, Commissioner Gonzales, we are but I'm not sure -- well, terrain issues are environmental issues. They're one and the same.

COMMISSIONER GONZALES: Right. Thank you. Thank you, Mr. Chairman.

MS. VAZQUEZ: [inaudible] Yesterday I took a look at a topo map, briefly, Rudy and I reviewed a topo map of the proposed line. A portion of that is BLM and private land. The portion of the line that goes over BLM land goes over mountainous terrain. It goes on the side of the Rio Grande, and I don't know how that line will affect the Rio Grande drainage issues. There could be some flood plain issues. There could be some slope issues on those mountains. It is because of those concerns that we would like to see the requirements of 4.4, which are the developmental standards, which is listed in the ordinance as applying to this line. That is the whole purpose of applying Section 4.4 so that we can get a site plan, so that we can get a topography map, so we can take a look at how this line's going to affect it.

In line with what our County Attorney has just stated, that once you start construction over a certain area, it's hard to move it. It's hard to replace it. It's hard to deal with it. That's the entire reason why this has been raised as an emergency ordinance. When the stay was lifted and the emergency stay from the PUC was not granted, we were told construction needed to begin right away, and should be worked on, on the Tesuque Pueblo by the end of this year. That's the basis of the emergency ordinance.

I want to clarify that. The Section 8.3.2, which Wayne was --Mr. Sowell, excuse me, was referring to, it defines what a utility line extension is. And if you look at 8.3.1, it specifically states that a development permit shall not be required for the construction of a utility line extension. Therefore, individual property owners who are coming in do not need to get a specific permit for this. Already, there are utility authorizations that are required in the regular development process for people coming in for construction of a home. So that's already required.

So this is not affecting individual property owners. This is focused on getting transmission lines, and people who work on transmission lines and other lines to come in so that we can assess the impacts they're going to have on the environment. With respect to Mr. Sowell's recommendation that this be tabled for thirty days, the basis of the emergency ordinance was that there was going to be an imminent danger to the land in Santa Fe County. That imminent danger is based on the construction of this line.

If there is an agreement by PNM to stop construction on this line, to submit to work on the ordinance together and possibly submit to the permit process, which would include public hearings, may include public hearings. I don't know if we can make the December 1998 deadline that Mr. Sowell and his associates have portrayed to us as a deadline that they need to get to. That's all I have. Thank you.

COMMISSIONER DURAN: Mr. Sowell, I do take offense at some of the things that you said earlier. I think this is an emergency situation. The last I heard is that you, that PNM was going to go forward with the construction of the transmission line without any regard to the County's concerns. And I understand that you want to build on

1564799

sovereign -- that you want to continue your construction on sovereign property. I guess I'm a little concerned that you don't recognize the moral obligation that PNM has to work with the County, with the citizens out there.

The statement that we are passing this ordinance for the benefit of two individuals -- I think you're sadly mistaken that we would even consider doing something like that. There are many people that are concerned about this and I think it's our obligation to deal with these issues for these people. I understand that you have letters from the former Land Use Administrator, you have letters from the former Land Use attorney or the County Attorney. In my opinion, it's this Board, it's the vision that we have for the County that's not in sync with the previous Land Use Administrator's and previous County Attorney's. I think that we have the right and I think we have the obligation to deal with these issues and we see them and not with other previous administrations thought was appropriate at the time.

And you don't really need to comment on that. I just wanted to let you know that that's how I feel about that.

MR. SOWELL: Mr. Chairman, Commissioner Duran, thank you for your comments. Let me just reference back to -- and I think you'll probably get a legal interpretation from the Jemez Co-op attorney, but on Section 8.3.2, it says "utility line extensions including service lines, service lines, and appurtenant hardware which connect individual utility customers to the utility transmission lines and facilities." Now, the way this is written, and being in the business twenty years, when it talks about a service line, I respectfully disagree with Ms. Vazquez.

The way this is written, now you can go back and change it in the next thirty minutes and that's fine, but the way this is written now, as of 12:30 today, this only excludes customer with a service line connecting to existing facilities. A service line is like I said, only 150 feet. Now, if you want to exclude all residential customers then I would suggest that you go ahead and rewrite it to do that. But then that begs the question that we've talked for years from the prior commission is how do you control the uncontrolled growth in the county as far as the septic tanks and wells and all that?

One way to do that is to limit growth via line extensions. And one way to do that is to make all residential customers come in, comply with the Terrain Management Plan, do the study and things like that. So I'm just giving you a little heads-up. This is a way to interpret it and the Jemez Co-op may or may not agree with me on that statement but their attorneys interpret it that this service drop means just a service customer, just one customer. Or you could feed two or three customers off of one transformer bank, but still that's just maybe a 150-, 200-foot run.

As far as moral obligation, sir, I guess I'd have to sit there and ask the County Commission, is where's the moral obligation to support a business that's been in here for 75 years and as Commissioner Gonzales said, in the eleventh -- no, correction, in the thirteenth hour to sit there and bring this up. Now going back to the other County Attorney as far as, for ten years this has been fighting, we've been planning. For three years we've

1564799

been with the Commission, so the easement's been set. We paid the prior landowners. We had to purchase the land. Everything is set.

Now, how you design it, the color of the poles, the reflection of the wire, the reseedling, the terrain slope and how you grade and cut the temporary roads to get in there, all those things can be discussed. Those are all the environmental issues. But when you get down to saying, well, Wayne, I want you to sit there and move this pole 300 yard north or south, that, and I'm going to be real upfront with you. We can't because, remember, back in the eighties, when the opera was adamantly opposed to this, what we did -- originally, we have a map here. Ms. Vazquez saw it yesterday.

Originally, the Pueblo Indians wanted us to put the power line right on the southern edge of their boundary. But the opera would see it. And that had a detrimental impact on the opera. So what we did was we inflated helium balloons, we sat there in the opera and the gentleman who did is sitting right in this audience. We sat there and we raised the helium balloons by pole, sat there to see the profile. And we convinced the Pueblo Indians to move the transmission line further into their property so we'd minimize the visual impacts on the community, on the opera.

So, sir, we've done, I think we've met our moral obligation over the last ten years to get input. Now have we done a good job, coming to the county in the last six months. I don't think we have and I have to take full responsibility for that. I have not talked to any of you and I have not talked Rudy, so I take full responsibility for dropping the ball in the last six months, but there has to be a way for us to work on this situation. Unfortunately, the power requirements in this community is not going to decrease. For conservation purposes, for the purpose of burning less coal, producing less power out of our nuclear power plant, you know, I'd love to sit there and say, we could sit there and have a conservation program that will stop the growth in Santa Fe County. It's not.

I'm growing. The other county next to me is Rio Rancho. I'm growing than any other division in New Mexico. So to sit there and say that I don't need it, we're just ducking the whole issue. But I'm willing to work with you. But I can't upfront say I'll change the alignment of the poles. Now can we change the type of poles? Possibly. The color of the poles? You bet. Reflection of the wire? You bet. But I don't want to sit there and promise something today that I'd have to come back and say, Wayne, you reneged on your promise. I'm saying we'll meet, you take the Terrain Management Plan and we'll lay it out, paragraph by paragraph, word for word and go by the EIS.

And I'll do everything that I have and I can call Ben Montoya, our present CEO and get his personal commitment that we can do everything short of moving the alignment, because that's already set. The PUC already ruled on it, and burying transmission line. I can't do either one of those things. But I'll do everything else possible to make this thing a win-win for all of us, at least in my mind.

COMMISSIONER ANAYA: Thank you, Mr. Chairman. Wayne, I think the -- my original question was answered and I think you suggested that you would not stop

1564799

construction through the point through the sovereign nation that you've already acquired easements through. But I think the question at hand here is the permitting process from the County. And I know, on this issues that I've been there, that we have been -- that you have been subjected to the permitting process with the Santa Fe County.

One of the questions that arose in those days was who would this particular line serve, and my question right now is this line that you are proposing right now, is it going to serve the immediate area, or is it just a loop to go around to serve other entities in other states or other parts of the country?

MR. SOWELL: Mr. Chairman, Commissioner Anaya, there's some -- I believe there's some folks in the city that are trying to advocate that you can take a substation and serve Texas or Colorado or other parts of New Mexico. And I have studies, I have some plans that will show you what we're going to support. As you recall, during the PUC hearings, our opponents wanted us to put a distributor-generation unit, which is going to put a little power plant up there, which the Tesuque Pueblo Indians said it would happen. Or they wanted us to either go overhead on existing lines up to supply the road or go underground.

There's a lot of disagreement on the County's testimony two or three years ago. Our opponents say that testimony was inconclusive and incorrect from the County. The fact is, after three years the PUC has ruled on that. So I can assure you that this substation will not serve Colorado or Texas. What it's going to do it's going to back up Fort Marcy sub, which is over by Fort Marcy Park, and that will also -- we tie all our substations together. But the fact is we have to have more power. You understand that the Tesuque Pueblo Indians are going to break ground next summer on a hotel.

Now, that's a customer. We have an obligation --

COMMISSIONER ANAYA: I think my question was answered, Wayne. Will that serve other people in other parts of the country also?

MR. SOWELL: Country? No, sir. It will not.

COMMISSIONER ANAYA: Other counties?

MR. SOWELL: No, sir. I don't go in -- I just serve Santa Fe County. It will serve Hyde Park Road. It will serve Bishop's Lodge Road, La Tierra, Las Dos. One of the issues I have is --

COMMISSIONER ANAYA: Is there any potential to go on further?

MR. SOWELL: No, because my service area stops -- if you go one mile north of the Camel Rock --

COMMISSIONER ANAYA: Does this line have the potential of serving others in other counties and other states?

MR. SOWELL: Categorically no, sir.

COMMISSIONER ANAYA: Okay, getting back to the original -- well, you answered the question that you would not stay construction in lieu of the thirty days that you're asking for us to review or to allow you to prepare a presentation to the Commission.

Let me ask you this, would you be willing to stay construction at this point if we were to table this for thirty days? Would you be willing to do that?

MR. SOWELL: May I ask the project engineer on that?

COMMISSIONER ANAYA: Or would you be willing to just go through the permitting process in lieu of that?

MR. SOWELL: It goes back to our legal opinion that we don't have to comply with the permit. And this isn't a slap to the County in the face is we don't want to get hooked into --

COMMISSIONER ANAYA: I just asked for three options, Wayne, as simple as that, for you to consider.

MR. SOWELL: So you're asking me if we would stop construction for thirty days, during which time --

COMMISSIONER ANAYA: You would be meeting with the County, or would you be willing to just go, come up forward with a permit and request a permit, apply for a permit, rather?

MR. SOWELL: At this point in time, no, sir, I would -- based on legal opinions, we cannot go forward and -- we will not ask for a permit from the County.

COMMISSIONER ANAYA: Okay, Mr. Chairman, I have no questions.

CHAIRMAN TRUJILLO: Commissioner Grinë.

COMMISSIONER GRINÉ: Yes, you know, Wayne, I also take offense. To possibly shed some meat -- but had I known about what the connection between Domingo and PNM was and known what they had done internally, I take great insult at what they've done. Had I known that Domingo and Steve Kopelman had taken this issue without the Commission's knowledge, I probably would have fired them immediately.

So for you to know, just so you'll know is that I took the lead on this and possibly you know because of [inaudible] I think PNM should be treated as equally as everybody else.

CHAIRMAN TRUJILLO: I'm going to ask for us to take a fifteen minute break and then we'll continue with the public portion of the process.

MR. SOWELL: Mr. Chairman, before we break, one thing that's been bothering me and it just came back into my memory and I have it right here. Councilor Duran said we have not met the moral obligation. Here is a June 12, 1995 letter to a Mr. Rudy Garcia that says thank you for meeting with Wayne Sowell and Marvin Baca and I to discuss the private easement on PNM's proposed Norton Tesuque transmission project. Per your request I have compiled all the information. We sent them the EIS, we sent them everything back from 1995. This says, although the title of the cover -- but it says, we [inaudible] the County's legal department interpretation of Article III, Section 8.3, page 157 of the Santa Fe County Land Development Code, which states the utility easements and rights-of-way are excluded from the developmental review process. If you have any questions please call me.

This is June 12, 1995. I'd like to enter it in as Exhibit A because since June 12,

1995, we have not received a reply from the County of Santa Fe. So since June 12, 1995, we've begged for review. We begged for guidance. And we submitted all the EIS, everything, sir, June 12, 1995. Now, whether he received it, I don't know. I have to assume he received it. So to say that we have not met our moral obligation. I'm offended, because we've done everything possible to keep the County informed.

Now, in the last six months, I have not done a good job doing that. Thank you, sir.

[The Commission recessed from 2:10 to 2:25.]

CHAIRMAN TRUJILLO: Wayne, we'll let you finish off. Wayne, we'll let you conclude.

MR. SOWELL: Mr. Chairman, thank you for this one additional moment. Let me go on record as saying I come from an operational perspective. And I know -- I'm not making excuses. I stand totally for my own actions. But I feel from an operational perspective that I've got to keep the lights on and I get hammered everyday from that customers, including the thousands yesterday without lights and such, so I become very tight and very much of an ownership and emotional about this operational emotion if you will.

But if there was anything I said that's offended each and everyone of you, I want to personally apologize and say first of all, it's not the position of the Public Service Company of New Mexico, and that was Wayne Sowell speaking and I want to publicly apologize to each of you and say that if you took my comments as offensive or any other way, I want to apologize and I hope that you would accept my apologies.

And as far as Commissioner Anaya's request to stay construction for thirty days, we talked about it and we can go ahead and stop construction as of today, ten minutes from now and we'll hold out for thirty days and I would like to then begin the process with our environmentalists sitting down with Mr. Garcia's department and look at every aspect of your Terrain Management and your environmental statutes and then compare that to the NEPA process and to the EIS. And to then bring forward to the Commission any differences that are -- let's classify them as deal-breakers.

CHAIRMAN TRUJILLO: Okay, with that in mind then, it's up to the Commission --

COMMISSIONER ANAYA: Mr. Chairman, would that be inclusive of a permit application process?

MR. SOWELL: Mr. Chairman, Commissioner Anaya, that, I just wish our attorneys were here. They're all at the Public Utility Commission, three different hearings today, but I've been advised that legally I cannot submit to the permit process. That's not to say, let me go back and talk to our attorneys. Let me go back and talk to senior management, but we just talked to our chief counsel, Patrick Ortiz, and he thinks it's -- our recommendation was let's stop it. He concurs, but to sit there and submit to, say that we'd submit to a permit process I'd have to go to senior management including our chairman and president, Mr. Montoya to see if -- because Mr. Montoya's an attorney himself and he's read the ordinance, the County ordinance and he feels himself that we don't -- we're excluded

1564799

from that. So, to speak for senior management I could probably quickly get terminated today.

So let me -- I would like to sit there and talk to senior management and then get back with the Commission in a day or so on that one specific question, sir.

COMMISSIONER GONZALES: Mr. Chairman, you say, Commissioner Anaya, with a thirty-day stay, it still allows for the opportunity for PNM and we would direct the County Land Use staff that this is agreed to my the Commission then to make this a priority and having the review of the Terrain Management Ordinance because it may be very well, Mr. Sowell, that this ends up thirty days from now that it will satisfy the Terrain Management Ordinance and then it may not, but I think the fact that PNM is willing to hold off thirty days of construction, to me in my mind shows a good faith effort to participate in the process whether it's acquired or not. The fact that you're willing to come in and hold off construction is a good sign but we need to act also on our part if this is agreed to by the Commission, Rudy, in making sure that we have every available team in place to review this application with PNM.

COMMISSIONER ANAYA: Mr. Chairman, I just want to state for the record that from my past knowledge there's been a definite County input into these types of proposals and there's no doubt about it. There's a history behind it. And some way or another, I feel to what Commissioner Grifé said that maybe our past County Manager and our past County Attorney did supersede authority by just making statements were are merely opinions. They lawyers', an attorney's opinions --no offense but still one attorney's opinion does not really reflect the -- I guess the wishes or the concerns of the Commission up here so I'd just like to leave you, Wayne, with that particular notion.

CHAIRMAN TRUJILLO: Okay, this Commission will now consider tabling Ordinance No. 1998-13.

COMMISSIONER DURAN: I'll make that motion.

COMMISSIONER GRIÑÉ: Second.

CHAIRMAN TRUJILLO: Okay, we've got a motion, seconded by Commissioner Grifé. All those in favor? We've got to do a roll call.

The motion to table the Ordinance passed by unanimous roll call vote with Commissioners Duran, Anaya, Gonzales, and Grifé all voting for.

COMMISSIONER DURAN: I say yes, but Mr. Sowell, I'd also like to tell you, I accept your apology. Thank you.

1564799

VIII. H. MATTERS OF PUBLIC CONCERN

ISAAC PINO: Thank you, Mr. Chairman. Mr. Chairman, very briefly, I'm representing Harold Thomas and the Thomas Family Trust as their agent. They own property down on Airport Road near San Felipe Road, on the north side of Airport. Two years ago, we attempted to come in to make application for a development permit which was justifiably denied by the staff, simply because of something called an urban growth area. Last year, a year ago this month we went to the EZC to talk to them about urban growth areas and how they are established and we went to the EZA in April.

To date, Mr. Thomas and other developers out there remain frustrated because in 1993, both the EZC and the EZA adopted resolutions establishing what is called an urban growth area that covered about 1,000 acres down in what is also known as stage one of the City's Plan 83. So essentially what we have is we have something on the books that would allow people to make application for urban densities in an area that both the City and the County agreed was a place to have urban densities.

However, the process was stopped in 1994 because of the Agua Fria Village issue, which has since been taken care of by this Commission and there still sits on the books the resolutions creating the urban growth areas or the potential for there to be. The key element that's missing is a joint powers agreement between the County, the Board of County Commissioners and the City Council saying here's how we're going to take care of urban density growth in this thousand acres.

This is the same area that the City sued to get the right to annex back in the eighties and actually won in court and then decided not to go ahead and annex because of the cost of providing services. What I'm here today, Mr. Chairman and Commissioners, is to ask you, in your attempts to have joint regional planning or cooperation with the City, to take this area as maybe one of your first steps in that process. Because it's an area that everybody had agreed to five years ago. It's an area that presents itself for joint cooperation. It's an area that I believe the County and City would still agree should have urban densities.

It's served by City water and sewer and it lends itself to urban densities, to move forward with the City Council to work toward a joint powers agreement to serve this urban growth area, or two, so that the property owners are completely clear, that the Board of County Commissioners and the City Council determine that no, that's no longer the way we want to go, and to dissolve those resolutions entirely, so people like Mr. Thomas and others can rid themselves of the notion that they might be able to get densities other than those that are currently permitted in the county.

Understanding that you can't take action today on Matters from the floor, I would just ask you to take this under advisement or take it further in your meetings with City Councilors that you've been having to talk about regional growth and joint growth, etc., and make a decision that you're going to go forward with this and pick it up where it was left

1564799

off back in 1993, 1994, or dissolve it all together and do something different. I know that there are general plans in process for both the City and the County, but there have been for a long time, and nobody is quite sure how all that is going to play out ultimately. But you still have these resolutions on the books that could be used.

Now, if you go forward with the joint powers agreement, I think that staff will have some clear direction based on what was in those resolutions to begin with. So Mr. Chairman, Commissioners, we respectfully request that the issue of the urban growth areas be taken up by the Commission in concert with the City Council. And that something, an initiative be taken forward so that we can either move ahead with it or dissolve them, so that we can just decide that we have to come back and request different types of projects.

CHAIRMAN TRUJILLO: That's quite a clairvoyant position because a seed has been planted, and in fact Commissioner Gonzales with myself met with the mayor two weeks ago and we specifically talked about this sort of thing. And in those areas that you're identified, so I think it's imperative that it happens. Thank you.

COMMISSIONER ANAYA: Thank you, Mr. Chairman, and I'd like to add to that, because I also met with the mayor one on one.

COMMISSIONER DURAN: I just have two questions. One for Denice and then one for you. Would it require a resolution be adopted? Would that be the first step, that there's an effort on County's part to start dealing with this boundary or this problem and if the answer is yes, do you think you could get someone at the City to sponsor that?

MS. BROWN: Mr. Chairman, Commissioner Duran, you don't need to do a resolution. I don't know what the past resolutions say, but apparently they say we're going to be doing something in that area. We don't have to have a resolution but that's always your option to do that if you think it would get the ball rolling. Some times it slows things down.

COMMISSIONER DURAN: I guess my only concern is that it would be nice to have somebody at the City, or at least have the City Council sort of working together towards that goal at the same time so that there would be parallel efforts.

MR. PINO: Mr. Chairman, Commissioner Duran, my client has asked me to make the same type of appeal to the City Council under Matters from the -- Petitions from the Floor tomorrow night at the City Council meeting. And I have spoken with a couple of Councilors who I believe would be willing to team up with some Commissioners and try and move that forward.

COMMISSIONER DURAN: That's pretty much a no-man's land out there. It's not in the city. It's the urban density area but yet it's restricted to rural guidelines and rural ordinances. I think that I would support something like that. It sounds to me like all the Commissioners would. And I think you could take that to the City and see where you go with that.

MR. PINO: We'll see. Maybe I can be the next miracle worker in the Santa Fe Reporter or something. Thank you, Mr. Chairman.

CHAIRMAN TRUJILLO: Okay, Matters of Public Concern, anybody else from the public?

NANCY KENNEY: My name is Nancy Kenney. I'm a Santa Fe County resident. First of all, I'd like to thank you for your attention and consideration in that matter. I feel that I was well represented as a resident of Santa Fe County today. Secondly, I would like to say I'm the president of ECHO, the Environmentally Conscious Home Owners group that you see the petitions in your little book. That group of people that I received signatures from were people from the Tesuque area, from the La Tierra area and it was a long -- it took a lot of time to get those petitions and I represent them, and I would like for you to consider allowing SNAC, ECHO and the petitioners to stop the Tesuque Norton Line, to somehow participate in the coming months with those decisions that you're going to be making with PNM.

I don't feel very satisfied that we didn't get a chance to speak, although I know that you know many of the issues. I would like for representatives from these groups to be able to attend meetings and put the cards on the table. PNM is a large corporation and I know you represent us, but unless we have a time to talk with you about how we feel as residents, I would like for you to consider allowing one SNAC member, maybe one person from each of those groups, SNAC, ECHO and one of the petitioners to attend meetings so that our concerns, detailed as they may be, could be considered.

CHAIRMAN TRUJILLO: Can we make the -- let the community participate in this process?

MS. BROWN: Mr. Chairman, you can allow or request that certain people be present when we meet with the applicants. I think that's an appropriate request if you want to make it.

COMMISSIONER DURAN: Mr. Chairman, I'd like then, to give staff direction, Rudy, with when you set up meetings with PNM, provided that the person [inaudible] that when you meet with PNM that you contact SNAC, ECHO, and Tesuque Village so that --

MS. KENNEY: The petitioners were the third party that I had suggested. The petitioners who represent Kirschenbaum and Robert Redford, Moss Morris. They are the petitioners who have worked hard to get all of the information out about this case, along with ECHO and SNAC.

COMMISSIONER DURAN: My only concern is that there is -- that it bogs down the process. I understand that you want to be involved in it and I think you should. There is still going to be public hearings on the ordinance. So I guess, Rudy, the direction would be if you could contact Nancy and get a list of the people that she thinks want to be involved, or she thinks need to be involved in the process. Maybe you could notify them so they can attend the meetings.

MS. KENNEY: And I would love it if Rosanna could be there.

COMMISSIONER DURAN: Is that a direction that all of you endorse?

1564799

COMMISSIONER GRINÉ: I guess my concern is that it's already been tough even to come to this point. We didn't break their knees or ankles. I would be very careful as to what takes care of the process. Maybe they could be observers, but I think it's going to be very difficult. It was hard enough getting PNM to come to this point.

MS. KENNEY: Well, excuse me, Commissioner, with all due respect, I feel that we have, you have done so well in reflecting the concerns that we have. And I don't think our concerns are really different than yours. I think that PNM has a lot of power and it's a huge corporation. In fact I got the clear Goliath and David image today. And I just want to remind you that I think we speak for a lot of people in Santa Fe County, and when I say "we" it will just be a couple of us who can observe and make their points just like in negotiations in a very respectful manner.

I have no ill feeling toward any of the individuals. I just feel that if we could be there.

COMMISSIONER DURAN: Rudy, maybe the way to do this is to invite them -- again, I understand your concern, but maybe as an observer, again, not to bog down the process. We only have thirty days and I don't want this thing to turn into -- I want it to work and I want us to find some consensus that involves the community. But perhaps they could go as observers and if you have any problems then you could come back to any of the Commissioners and they could be the conduit and they can interact with staff and PNM at that point.

MS. KENNEY: May I request that we not be placed on the -- we will take your directive to be observers and only speak at certain moments, but if I just sit there and listen to the negotiations and have points of view, it could bog down the process even more if I have to wait until later to discuss it with someone. I would really appreciate your support and trust that I will work to expediate this matter. We want it over with too, and just to allow us to speak if we feel we absolutely must, or speak to Rosanna, for example, as our go-between.

MR. GARCIA: Mr. Chairman, I would like for these groups to be observers because what we're going to do with PNM is we're going to go through the Code and see what portions of the Code they do or do not meet and certainly if there's an issue that they feel PNM does not meet the Code, then it could be brought forward at the public hearing.

COMMISSIONER DURAN: I have another idea. What if, by the next BCC meeting you brought forward, or you could bring forward any concerns that you had at that point. It's halfway between the thirty days.

MS. KENNEY: Okay, so we would attend the meetings and observe and just write things down and then we would discuss with you the concerns.

COMMISSIONER DURAN: It's not to say you wouldn't be able to talk to Rosanna at some point either. Again, we're trying not to bog the process down.

MS. KENNEY: I understand.

COMMISSIONER DURAN: But I think if you came forward in two weeks

at the next BCC meeting with some concerns, or maybe you could give a list of concerns to Rosanna. I'm sure she probably already knows what those are. And she can try to incorporate that in the process they're going to be going through.

MS. KENNEY: I could certainly slide little notes across the table. That would be cool. All right? Thank you.

COMMISSIONER GRINÉ: Also, meeting at ten. Are they at five or five thirty? If we're going to have this public hearing at ten again, I suggest to staff that we could probably start the public hearing at one in the afternoon to allow plenty of time for the public hearing.

COMMISSIONER DURAN: What's wrong with three?

MR. GARCIA: Mr. Chairman, I think it was tabled for thirty days, right?

COMMISSIONER GRINÉ: Until the tenth, I understood.

COMMISSIONER DURAN: Thirty days.

MR. GARCIA: So it's at the next administrative BCC hearing.

CHAIRMAN TRUJILLO: Which is at one o'clock in the afternoon.

COMMISSIONER DURAN: How about an update at the next meeting? With public comments and a report on where you are.

MR. GARCIA: That would be fine.

COMMISSIONER GRINÉ: Don't we have a public hearing on the tenth, to let us know what the status is [inaudible]

CHAIRMAN TRUJILLO: That's what Commissioner Duran is asking for, status and public input and where we're at with the process.

COMMISSIONER DURAN: Why don't we actually publish it as an agenda item, or update item? Or can we do that?

MR. GARCIA: Mr. Chairman, Commissioners, I don't know regarding publication, but we will give you an update on the tenth.

CHAIRMAN TRUJILLO: And we can publish it as an agenda item?

MS. BROWN: Is there a question whether or not we can do an update on the tenth? On the agenda? Yes, we can.

CHAIRMAN TRUJILLO: And advertise it as an agenda item?

MS. BROWN: Yes.

MS. KENNY: Thank you very much.

CHAIRMAN TRUJILLO: Thank you.

JOSEPH SANDOVAL: Mr. Chairman, members of the Commission, my name is Joseph Sandoval of the United States Census Bureau and I'm back here to give you guys an update. The Census is over and we only found two people in Santa Fe County. Imagine if in 2001, when we get the numbers back if it's 100,000 or something under the number you want. That's the point I'm trying to get across today is that the Census is already begun.

And first of all, I'd like to really thank you for everything the County's done. You

guys helped us recruit people. You've been very helpful. You've agreed to -- when I was here last time I talked about local update of Census addresses. They've renamed in address list review. You've agreed to do the 1998 section. Census where we have city-style address and we present a list to the County and the County tells us if we're missing any. This is basically right around the City of Santa Fe.

The chairman should have received a letter recently asking him to take part in address list review 99. This is the important one to the County. What we have done in the summer of 1998 is we hired a small army of people and literally canvassed the whole county, from north to south, covering every road, making a list of every housing unit. If a housing unit looked like it had a mother-in-law's apartment, converted garage, added apartment, basement apartment, our personnel were directed to approach the unit, knock on the door, identify themselves and find out if there were additional housing units.

The letter that the chairman has received now is your only opportunity to say yes, we'll take part in this operation. What will happen is that in March, we will present you with this list of all the housing units in the county and you can tell us if we have missed any. You cannot use this list for any other purpose. I don't know what would happen if you guys remember something and knew you had to go out and do something in the county. You cannot use it. It has to be destroyed after.

It's your chance to make sure we have every housing unit on our list. And in 2000 what we're going to do in most of the rural parts of the county, we're going to basically hire people to go out and deliver those census forms to the door. Because the Post Office is not accurate in a lot of these areas. There may be one mail box for five houses. There may be three families living in one house with different doors around the sides. So we will physically go out and deliver the census forms to the door.

A couple of the other projects that are going on right now is what's called the statistical area program. This is where the County can designate to the Census Bureau areas that it wants data back on specifically. These are called census designated places. The County in the past has done Eldorado, Agua Fria, Edgewood, and after 2001, you can pull data out specifically for Edgewood. You can pull economic data, pull all this different data out. So if there's any areas you want sure included check with your County planning staff, because they are now currently working on this project.

I'd like to remind you that every person we miss in the census equates to approximately \$150 per person per year that the County loses in federal funding. So if we miss 1000 people in Santa Fe County, I'll let you do the math.

When I was here in March, I asked you to take part or to join in what's called the complete count committee. A complete count committee is basically a grass-roots committee of volunteers that comes up with a grass-roots plan to motivate the community to respond to the census in 2000. It has nothing to do with advertising. We're not asking you to put together commercials or advertising or any of that. If the Commissioners themselves would like to do that we'll present you with press releases that you can write or read and do

whatever. What this committee does, it comes with a grass-roots plan to motivate people to respond. It's neighbor talking to neighbor telling them that it's safe to respond to the census.

Some of the populations that this committee should concentrate on in Santa Fe County would be your undocumented worker population, the gated communities, and probably those, like a lot of us can kind of say we're anti-government, we don't like a lot of questions asked. There's a lot of distrust of the government out there and a lot of people say, well we don't want the government to know. We don't want to answer.

We can do an additional advertising campaign with TV commercials in English, Spanish, and Asian, if we have any Asians here. But we're asking you to put together a committee of people from the community that you guys know. We'll come up with this plan, roll up our sleeves and get it done. It can be as simple as putting signs on fire trucks saying, "Answering the census gets you more fire protection." Gets you more better water systems.

The committee can actually go out and put on events, perhaps has people go to speakers' bureau, creates a speakers' bureau and does speakers at different events.

I'd like to let you know that the City has already formed one and they're charging ahead on it. The one thing I'm here to let you know is I don't think they're taking you guys into account. They're saying well, we're worried about the county as well as the city, but the county's a lot bigger than just what's around Santa Fe County. I'm here, you have my cards and I'll be glad to address any questions you have. I thank you for your time today and I look forward to working with you in the future. Any questions or comments?

CHAIRMAN TRUJILLO: I guess I want to impress on staff that it's imperative that we work hand in glove with you guys to make sure that we do a Q-A on the demographics, on the data, that you guys come up with so that we make sure that we're counting everybody that we should have counted. It's imperative that that happens. And can we start the effort to put a committee in place or a group in place of a focus committee or something like that so that we can get the word out and make sure that we succeed at this process. So that's the direction that I'm giving staff to make sure that we do that. And you're going to give us your card and we need to communicate with you on a continuous basis.

MR. SANDOVAL: Mr. Chairman, I forgot to mention also in 2000 we'll be able to let you know my district how the returns are coming in. So if Commissioner Duran's district isn't responding, he can get out there and activate the people that we need to activate to get people to respond. Commissioner Anaya, we know they'll all send it back in by April 1. I look forward to working with you and thank you and I'll work with your County staff to get the committee going.

We have some special populations here in Santa Fe that are going to need to be motivated.

CHAIRMAN TRUJILLO: Thank you. Okay, Matters from the Public.

PEGGY MOORE: Thank you, Mr. Chairman, Commissioners. My name is Peggy Moore and I'm a regulatory manager with US West. I just wanted to take one moment to thank you for the thirty-day stay on the previous item with PNM. I just wanted to let you know that as both a citizen of Santa Fe County and a landowner here, and an employee of US West, I am very concerned also in environmental impacts, both as a result of my company, PNM, whoever it may be. I live here. I work here as do many of the employees that work for our company. And I just wanted to state that US West would like very much to have the opportunity to participate in any meetings concerning changes to the development code.

We just became aware of this issue this morning at about 10 a.m. so I did not really have any time to try to prepare for this at all. However, just in the few moments during the break I did go out and review the existing Section 8.3 of the Building Code. And it does state a development permit shall not be required for, and provisions of the Code shall not apply to utility easements, utility rights-of-way, and construction of utility line extensions.

So I do believe that all of us have been under the assumption that Santa Fe County's Building Code, as far as development permits, did not apply to transmission lines as far as your use of the verbiage of "transmission lines." So any changes that are entered into the Code would have an impact not only on PNM and the situation that was discussed today, but the way all of us do business as utility companies. So we would greatly appreciate the opportunity to participate in those meetings to try to make sure that the changes that are implemented do not have a great negative impact on our rate payers. Thank you.

CHAIRMAN TRUJILLO: So do we include US West? Thank you.

COMMISSIONER GRIÑÉ: If I could make a remark. [inaudible] several counties throughout the state have taken a sincere interest in what direction [inaudible] looking at us as probably one of the starters [inaudible]

CHAIRMAN TRUJILLO: Thank you, Commissioner Griñé. Public? Anybody else from the public?

VIII. I. MATTERS FROM THE COMMISSION

1. Status on the Santa Fe County Economic Business Park

MR. GARCIA: Mr. Chairman, Commissioners, this is request from you all to give you an update or a status on the County Business Park. As you know, in 1997 we entered into an agreement with the State Land Office for 60 acres of that land and 43 acres is more or less near the western end of this property which is near the jail area, then the other 13 acres is on the west end of this proposed three sections of land that the state does own.

Also we have contracted out with Schutz and Company to help prepare a master plan for a certain part of this acreage area. I'm not too sure where Donna is but as far as we are

aware is that they believe that DOE is going to give us the \$200,000 that we requested for infrastructure for this business park. We do have one tenant who is willing and possibly able to move into this park. He does have questions for us. I think Rosanna may have a few comments regarding this business park and if we also have any additional questions, John McCarthy is out in the audience. He is the representative from the State Land Office and he can answer questions.

What staff would really like is to make sure that the direction of the Commission is to still proceed forward with this County business park and to still look into acquire tenants for this park.

COMMISSIONER DURAN: Mr. Chairman, Rudy, do we have funds set aside for the park at this point?

MR. GARCIA: Mr. Chairman, Rosanna, do you want to step in if I'm out of line. Mr. Chairman, Commissioner Duran, I believe the funding that we have is from the DOE which is two hundred and some thousand dollars is what we have situated aside.

MS. VAZQUEZ: There are certain requirements with respect to the grant and that is that \$150,000 of that be used for roads, \$80,000 of that be used for wastewater and \$36,000 be used for water. We're working and I'm working in conjunction with Barrett as to figure out a way to possibly use monies from the GO bond to match the \$266,000 that we're getting from the DOE in order to proceed forward with the infrastructure for the economic business park.

COMMISSIONER DURAN: I heard, I guess a couple weeks ago, I was meeting with a company that's interested in moving to that site. They -- I forget what they work with but they're up in Los Alamos right now.

MS. VAZQUEZ: That's correct.

COMMISSIONER DURAN: And I've heard that there was something like \$360,000 available to us for use of this business park.

MS. VAZQUEZ: Commissioner Duran, I believe the amount was the \$266,000 that was being referred to during that meeting. And that is grant money that we're expecting at any point to receive. Again, that has to be used in conjunction with matching funds, and the County's obligation would be \$233,000.

COMMISSIONER DURAN: So there's two sets of matching funds.

MS. VAZQUEZ: No, we would get \$266,000 from the Department of Energy and we would contribute \$233,000 for a total of \$499,000 towards infrastructure. I did want to update you a little bit that we're looking at and trying to negotiate with to come in to the business park and that's why we would like some direction from the Commission today. Mr. Bettis is a chemist who is from Los Alamos and he has put together a -- it's like bionic. It's plastic muscles that he has designed and he would like to look into leasing some property and put together an R & D lab, a research lab and put together an operation department on our business park.

He could possibly employ up to twelve PhDs. He's interested in working in

programs with the community colleges to get a certification for chemists, a two-year process that would be approved by the Chemists Society in order to provide more jobs to people from New Mexico for the labs and for other industries such as his. He is willing and able to start if this all works out. He'd like to begin within eight months. He's in the process of putting together a plan to deal with the water that would be used, to deal with the chemicals he would be using and disposal of such chemicals. He's very interested in entering into our business park. He's looking for approximately five acres.

I met with David Schutz regarding how we could work with him if possible and there are two lots at the front of the business park that we could possibly work with Mr. Bettis and give him. We need to extend the infrastructure, however. So we need to figure out the funding so we can do that and we need to get direction from you in order to see whether or not we should work in negotiating a deal, a contract with Mr. Bettis for his R & D lab and also get some sort of commitment as to the funding that will be needed.

Mr. Schutz had told me that the cost of extending the infrastructure to the first two lots would probably be covered by the money that we have here. And that infrastructure would include fiberoptic lines if we needed it, it would include all the utility lines and it would include the water and the sewer. So this is a great opportunity for Santa Fe County to get somebody into our business park that could generate more business for us. Mr. Bettis has a partner who is from Moscow and who is very interested in also bringing in business to Santa Fe County that's very similar to the work that he does.

So he came along to this meeting so he could see what prospects there were for the Santa Fe Industrial Business Park industrial revenue bonds and any GO bonds that might be available for him as well. Mr. Bettis' company has got a ten million dollar DOD grant right now that they could use as start-up money to start building this R & D lab. So it's a very good opportunity for the County and we would like some direction from you.

The memo that was passed out by Mr. Garcia gives you a status on the master plan and some of the decisions that have been made and we're just requesting today some direction from you as to whether or not you'd like us to proceed. I just received a call from Don Carpenter who is Mr. Bettis' partner and he will have a video prepared by Friday that we can show to the Commission so you have some idea as to the work that he does and the potential prospects for his bionics, so to speak. Do you have any questions?

CHAIRMAN TRUJILLO: Rosanna, does he have monies or RDC monies of the Regional Development Community monies coming from DOE to the board that has been appointed region-wide, Rio Arriba, Santa Fe, Los Alamos? Are those monies from there?

MS. VAZQUEZ: Which money, Mr. Chairman?

CHAIRMAN TRUJILLO: The \$266,000.

MS. VAZQUEZ: The \$266,000 is from the Department of Energy.

CHAIRMAN TRUJILLO: It would be RDC monies then?

MS. VAZQUEZ: Right.

CHAIRMAN TRUJILLO: I think that this park, this industrial park is a

cornerstone of the economic development plan in Santa Fe County. And in listening to you, if somebody from Los Alamos technically sound, wants to utilize that park that tells me that it will give impetus to the Rio Grande technical corridor and the connection with Los Alamos and training of the local work force that is qualified to do those sorts of things. That's refreshing. I think that's great. I think that is the intent of the park. So I wholeheartedly support that we continue the discussion.

COMMISSIONER DURAN: Mr. Chairman, Rosanna, I just have a couple questions. I'm in agreement with Chairman Trujillo. I think this is a great opportunity for our community, but a couple concerns I have -- we're going to pay to bring the infrastructure down to our property through some of the property that's been master planned. And I'm wondering if the developer is going to participate or reimburse the County for that cost, because it seem to me that they're going to be able to -- and I wasn't involved in negotiations with the previous County Manager, but I'm wondering if any consideration was taken for the fact that we're going to be bringing utilities down all the way into the subdivision for the benefit of the entire subdivision.

MS. VAZQUEZ: Mr. Chairman, Commissioner Duran, that's a very good question. When I met with David Schutz last week regarding the master plan, one of the things I asked him was where would these utility line cross. Would it only go into the economic business park portion of the master plan, or would it go through the San Cristobal Village master plan, which, as you all know, the business park is part of the State Land Office's San Cristobal Village park. The way that he showed me on the map, and I'm sorry that I don't have a map here, is that the utility lines have already been extended to the State Road 14. And then the sewer line, I believe, is already in place crossing the business park. So that would just need to be a connection within the business park to the two front lots that are there.

But as far as the electric, the utility lines, we would need to extend them from State Road 14 into the economic business park. So the question as to whether or not we're going to extend it farther, or if it's going to cross any of the San Cristobal Village master plan, if it would we would certainly try to contact the developer and work with him on that. But I don't know if that will be necessary.

COMMISSIONER DURAN: My only, I'm thinking that if we have to match these DOE funds that it might not be a bad idea for the developer, to see if they would be willing to participate with us in those matching funds since they will benefit from the extension of that infrastructure into the development.

MS. VAZQUEZ: That's certainly something that we will look into and discuss with them.

COMMISSIONER DURAN: And the only other question I have is, do we have water rights already allocated for our park?

MS. VAZQUEZ: Mr. Chairman, Commissioner Duran, we do have some water rights associated with the economic business park and that was one of the questions

that Mr. Garcia raised to Mr. Bettis at this meeting and that was a concern, because it is a laboratory. So weren't sure how much water may be needed for such a laboratory. He is meeting with his architects who are out of Orange County just to list for us exactly how water-intensive this sort of project is and to see whether or not we would have the water sufficient to cover a business such as this.

COMMISSIONER DURAN: I have just one last thing and then I'll let it go. The industrial park or the business park was designed primarily to generate new jobs for the county and I understand, my feeling is this company that this fellow from Los Alamos is interested in building here, he's going to be using PhDs. I'm not sure -- are these PhDs going to be coming from within the Santa Fe community. Not that it really matters. We need somebody in that park. We need a viable entity in there so it can draw more business to it. But I would like to see, again based on the reasons for creating the business park, to make sure that jobs are being created for our citizens in the county.

CHAIRMAN TRUJILLO: I understand from you, Rosanna, that that's the initial start-up workforce, but there's a pipeline to community colleges, to other educational institutions that will bring in trained chemical engineers or rocket scientists. Chemistry people, technicians.

MS. VAZQUEZ: Mr. Chairman, that's correct. We didn't, in the meeting that we had, go in depth into how much employment would be provided through this business. Initially in the R & D lab alone -- see, we're talking two projects. The research and development lab, and then the production lab. And so what he said that initially they would need twelve PhDs for the R & D lab. That doesn't include the staff. That doesn't include anybody else that they may need. Long term though, the reason that this project was so exciting when we met was that he is -- Mr. Bettis is a professor at UCLA. He's been a professor at UCLA for a long period of time. He's very interested in education and he wanted to get involved with Santa Fe Community College, possibly working for a program, a two-year program that would be approved through the American Chemical Society as an apprentice program, and those people would be able to obtain jobs not just at his lab, when jobs were available in the production phase, but at Los Alamos lab, and at other industries that would come.

He seemed to have brought, like I said, a partner of his, who is very interested in moving to this area from Moscow who also is interested in doing the same thing. A business like this would seem to bring other businesses and in long term, would add more jobs, would add more development to the community college itself and I think could be a very good thing, a win-win situation overall to Santa Fe County.

CHAIRMAN TRUJILLO: Any other questions of Rosanna? Okay, you've got 150% support, Rosanna.

MS. VAZQUEZ: Thank you.

CHAIRMAN TRUJILLO: Okay, we've got an item from Lesli. I think Commissioner Gonzales directed you to --

1564799

MS. ELLIS: Thank you. I'm back as requested. Let me pass out some things real quick. You had asked for us to look up these names by Commissioner district. We've done that and also organized, put the late-coming names into the list so that they're all in one list now for you to review.

CHAIRMAN TRUJILLO: Thank you, Lesli.

MS. ELLIS: I've attached a copy of the resolution from last month too, just because it may -- it's been a little while now, so just to review, the way that the resolution is structured, the appointments for the committee, which is that people were asked to send their letters to the Land Use Department and we did do an advertising campaign in the newspapers and on the radio to solicit those letters, and I believe some of them came to the Commissioners also, so we got copies of those. And then it says that the BCC will appoint an advisory committee based on these letters of interest and qualifications on county-wide representation, which is very important.

It would be a 25-member committee to serve in an advisory capacity to the County and to the staff, and that there would be seven representatives from the area of the county generally south of Township 13 North, which includes the Estancia Basin and also Galisteo. That there would be eleven representatives from the central parts of the county, including the areas generally between Township 13 and 18 North, including the City of Santa Fe. And that the north part of the county would have seven representatives. And the reason that is was set up this way was so that we would get representatives from all of the different communities around the county and not just everybody being from the City of Santa Fe. We've often had complaints that these committees are made up only of people from the city.

We were also very concerned that there be representation of all the different diverse interests, and that there would be youth representatives, agriculture, ranching, conservation organizations, businesses, families and so on, that would be on this committee. So the list that you have now is all of the people that we've received, with a summary of what they've stated in their cover letter and some people sent resumes and more information. Everybody sent a cover letter and so the column on the right that has experience and affiliation is what we took out of their cover letter to summarize for you. I've also got the whole packet of letters if you want more information.

We would at this point recommend that you go down the list and prioritize all of the people and vote as a body on the 25 people, keeping in mind that break down of seven, eleven and seven and if you need more time to review letters or this list that you might come back at the next meeting with your recommendations.

CHAIRMAN TRUJILLO: So what is the action today? Are we going to vote on people today? We're not going to vote on people today, right? We're going to get an opportunity to --

MS. ELLIS: Well, that's up to you. If you feel like you're ready to vote then let's go for it. Otherwise, if you want more time --

COMMISSIONER GRINÉ: Mr. Chairman, I would like to have the time to

be able to sit down with Commissioner Gonzales and see about the south.

COMMISSIONER ANAYA: Let's look it over, Mr. Chairman.

MS. ELLIS: For clarification, also, as you requested the district, the number on that left-hand column next to the name is the district that the person is from. There definitely were more people from District 1 and I think that's because we did get people from the different valleys in the north that applied and also a fair number of people from the west side of Santa Fe that are in that district. That's probably the reason why there are more from that area. Other than that, it's fairly even.

CHAIRMAN TRUJILLO: We still need somebody from the Pojoaque Valley that's not in here.

MS. ELLIS: There was one woman who applied later on and she said that she's from the Pojoaque Valley. She's a school teacher from there. But I don't believe she's affiliated with the agriculture or the long time families of that area. So depending on the kind of make up you want from the north. The north, people from the north are on the first two pages, pages one and two. There were eight people that applied for that area. And then pages three through seven are all the people from the central part of the county who applied. And then the last two pages are the people from the south part of the county who applied.

CHAIRMAN TRUJILLO: Very good. So it's broken out by region too.

MS. ELLIS: Right, right.

CHAIRMAN TRUJILLO: Okay, so we'll wait to weeks so we can identify the people.

MS. ELLIS: Then Commissioner Gonzales had also mentioned that he wanted to consider holding a vacancy for one youth representative and possibly an agriculture or ranching representative, so that might be something to consider also when we go through this.

CHAIRMAN TRUJILLO: Okay. Thank you, Lesli.

COMMISSIONER DURAN: Is there -- I didn't hear a motion.

CHAIRMAN TRUJILLO: Do we need action on this?

COMMISSIONER ANAYA: No, we're going to wait on this.

MS. BROWN: Mr. Chairman, it was under Committee Appointments, so you can just -- you don't have to take action if you chose not to and we can take action at the next meeting.

MS. ELLIS: If you'd like a copy of letters or anything, I'd be happy to provide those to you as well.

COMMISSIONER DURAN: I have one question, Mr. Chairman. So are they taking in more applications. If you don't have anyone from Pojoaque --

CHAIRMAN TRUJILLO: We have one designated from Pojoaque.

MS. ELLIS: So if you would like to ask people to send letters to the Land Use Department we can add those to the list, but we probably should have a deadlines so

that you can consider them all before the next meeting.

CHAIRMAN TRUJILLO: Good point. Thank you, Lesli.

MS. ELLIS: Thank you.

VIII. J. MATTERS FROM THE COUNTY ATTORNEY

1. Executive session

a. Pending or threatened litigation

b. Purchase or acquisition of real property or water rights

MS. BROWN: Mr. Chairman, I have one quick matter. A yes or no answer will be all, on pending or threatened litigation.

Commissioner Duran moved to go into executive session to discuss pending or threatened litigation and his motion was seconded by Commissioner Griñé. Upon roll call vote, Commissioners Anaya, Duran, Griñé and Trujillo voted to go into executive session. Commissioner Gonzales was not present for this vote.

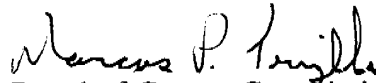
[The Commission met in executive session from 3:20 to 3:31.]

Commissioner Griñé made a motion to come out of executive session, stating they had discussed possible threatened litigation. Commissioner Duran seconded the motion which passed by unanimous voice vote.

ADJOURNMENT

Chairman Trujillo declared this meeting adjourned at approximately 3:32 p.m.

Approved by:


Board of County Commissioners
Marcos Trujillo, Chairman

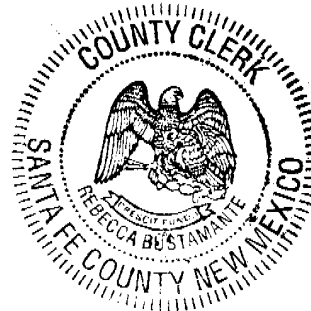
1564799

Respectfully submitted:


Karen Farrell, Commission Reporter

ATTEST TO:

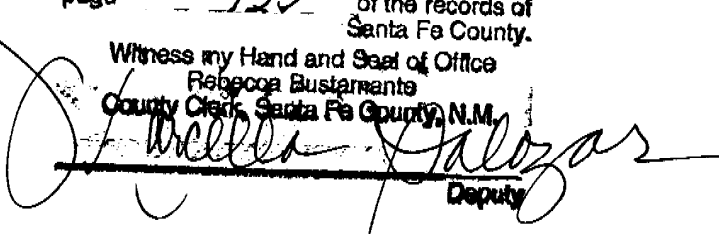

REBECCA BUSTAMANTE
COUNTY CLERK



1048.896
COUNTY OF SANTA FE)
STATE OF NEW MEXICO) SS

I hereby certify that this instrument was filed
for record on the 12 day of NOV. A.D.
19 98, at 3:16 o'clock P.m.
and was duly recorded in book 1504
page 799 of the records of
Santa Fe County.

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


Deputy