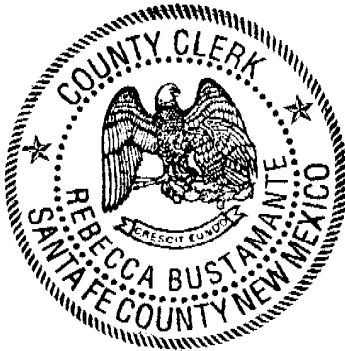


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COUNTY OF SANTA FE } SS
STATE OF NEW MEXICO

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REBECCA BUSTAMANTE
COUNTY CLERK, SANTA FE COUNTY, N.M.

Naquilla
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SANTA FE

BOARD OF COUNTY COMMISSIONERS

REGULAR MEETING

November 12, 2002

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

SANTA FE BOARD OF COUNTY COMMISSIONERS

COMMISSION CHAMBERS

COUNTY ADMINISTRATION BUILDING

REGULAR MEETING

(Public Hearing)

November 12, 2002 - 4:00 p.m.

Agenda

September 30, 2002 - approved (Sullivan)
October 16, 2002 - homebuyers = amended agenda
October 8, 2002 - typos = approved agenda

- I. Call to Order**
II. Roll Call
III. Pledge of Allegiance
IV. Invocation
V. Approval of Agenda
 A. Amendments
 B. Tabled or Withdrawn Items
- VI. Approval of Minutes**
- VII. Matters of Public Concern -NON-ACTION ITEMS**
- VIII. Matters from the Commission**
 A. Discussion of No Growth Policies in Santa Fe County
 B. Resolution No. 2002-~~14~~ A Resolution Approving a Salary Increase for Santa Fe County Elected Officials
 C. Request Authorization to Publish Title and General Summary of an Ordinance Amending Portions of Article V, Section 5.2 of the Santa Fe County Land Development Code "Master Plan Procedure" to Clarify and Elaborate Upon Master Plan Requirements and the Nature of a Master Plan Approval
- IX. Presentations**
 A. Status of the Waste Isolation Pilot Plan Project (WIPP) - Ann deLain W. Clark
- X. Consent Calendar**
 A. Request Adoption of Findings of Fact and Conclusions of Law for the Following Land Use Cases:
 1. EZ CASE #S 01-4691 - High Summit Subdivision (Approved)
 2. EZ CASE #DL 02-4390 - Jeromuir M. Trujillo (Denied)
 3. EZ CASE #DL 02-4380 - Tom Sedillo (Denied)
 4. EZ CASE #DL 02-4340 - J. Anthony Peperas (Denied)
 5. CDCR CASE #S 02-5290 - Tesuque Ridge Subdivision (Approved)
 6. CDCR CASE #DP 02-5230 - Heart and Soul Animal Sanctuary (Approved)
 7. CDCR CASE #Z 01-5631 - Salida del Sol Master Plan (Approved)
 8. CDCR CASE #DP 02-5080 - Gabriel's Art Gallery (Approved)
 9. TDRC CASE #V 02-5280 - Trujillo and Benavidez Variance (Approved)
 10. CDCR CASE #V 02-5320 - Lewis/Groves/Nestor Variance (Approved)

- approved*
- 149*
- Tabled*
- Tabled*
- B. Resolution No. 2002 - A Resolution Requesting an Increase to the GOB Series 2001 Fund (353)/Public Works Facility to Budget Fiscal Year 2002 Cash Balance for Expenditure in Fiscal Year 2003 (Public Works Department)
- C. Request Approval of Easement Agreement Between Santa Fe County and the New Mexico State Land Office for 45.55 Acres of Trail Easement Along the Santa Fe River Near Airport Road and Highway 599 (Project and Facilities Management Department)
- D. Request Authorization to Accept and Award a Construction Agreement to the Lowest Responsive Bidder for IFB 23-18 for Re-Stucco of Rio en Medio and La Cienega Community Centers (Project & Facilities Management)

XI. Staff and Elected Officials Items

A. Matters from the County Attorney, Steven Kopelman

1. Executive Session

- a. Discussion of Pending or Threatened Litigation
- i. Cerrillos Gravel Products vs. Board of County Commissioners
- ii. Joe Miller vs. Santa Fe County
- b. Discussion of Possible Purchase, Acquisition or Disposal of Real Property or Water Rights

B. Matters from the County Manager, Estevan Lopez

XII. Public Hearings

A. Land Use Department Items

- Tabled*
- Dec 10, 2002*
- Approved*
- Approved w/condition*
- denied*
1. Ordinance No. 200~~8~~⁷ - An Ordinance Amending Ordinance 1996-10, the Santa Fe County Land Development Code, Article V, Section 5.2.2c. and 5.2.2.g, to Require the Submission of Water Supply Plans and Water Permits for Master Plans (First Public Hearing). Roman Abeyta
2. Ordinance No. 200~~7~~⁸ - "An Ordinance Addressing Water Conservation for all Residential and Commercial Water Use Within Santa Fe County" (Second Public Hearing). Katherine Yuhas
3. Ordinance No. 2002¹² - An Ordinance Amending Ordinance No.2000-7, of the Santa Fe County Land Development Code (Ordinance No. 1996-10) to Adjust the La Cienega and La Cieneguilla Traditional Historic Community Boundary to Make it Coincidental with Boundaries Adopted for the La Cienega and La Cieneguilla Community Planning Area (Second Public Hearing). Robert Griego
4. EZ CASE #A 01-4282 - Cross Appeal. Norma A. Cross, Applicant, is Appealing the EZC's Decision to Deny a Family Transfer Land Division (EZ CASE #DL 01-4281) to Divide 0.667 Acres into Two Tracts. The Subject Property is on Camino Mio, Which is a Private Road Off of Agua Fria Street, within Section 28, Township 17 North, Range 9 East (2 Mile EZ District). Vicki Lucero
5. AFDRC CASE #V 01-5291 - Roland Felix Variance. Roland Felix, Applicant, Requests a Variance of Article III, Section 10 (Lot Size Requirements) of the Land Development Code to Allow a Family Transfer Land Division of 1.21 Acres into Two Lots; One Lot Consisting of .882 Acres and One Lot Consisting of .333 Acres. The Property is Located in the Traditional Historic Community of Agua Fria, within

Section 32, Township 17 North, Range 8 East (Commission District 2).
Wayne Dalton

6. CDRC CASE #V 02-5420 – Howard Trimborn Variance. Howard Trimborn, Applicant, Requests a Variance of Article III, Section 10 (Lot Size Requirements) of the Land Development Code to Allow the Placement of a Second Home on 1.96 Acres. The Property is Located at 37 Taylor Loop, within Section 5, Township 15 North, Range 8 East (Commission District 5). Wayne Dalton
7. CDRC CASE #V 02-5400 – Lafarge Variance. Lafarge, Applicant, Jim Siebert, Agent, Request a Variance of Article III, Sections 4.1 and 4.2 (Types and Locations of Commercial Districts) of the Land Development Code to Allow Commercial Zoning Outside of a Potential Commercial District on 36.68 Acres of Leased Land. The Property is Located South of Route 66 (State Road 333), West of Skyline Road, within Section 35, Township 10 North, Range 7 East (Commission District 5). Wayne Dalton
8. AFDRC CASE #DP 02-5310 – Phillip Padilla Development Plan. Phillip Padilla, Applicant, Al Quintana, Agent, Request Master Plan Zoning Preliminary and Final Development Plan Approval for Light Commercial Use (Sales or Business Offices or Non-Industrial Shops) on 0.78 Acres. The Property is Located off Agua Fria Street within the Traditional Historic Community of Agua Fria, within Section 32, Township 17 North, Range 9 East (Commission District 2). Wayne Dalton

*Remanded
Back to
CDRC*

XIII. Adjournment

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

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SANTA FE COUNTY
REGULAR MEETING
BOARD OF COUNTY COMMISSIONERS

November 12, 2002

This regular meeting of the Santa Fe Board of County Commissioners was called to order at approximately 4:00 p.m. by Chairman Paul Duran, in the Santa Fe County Commission Chambers, Santa Fe, New Mexico.

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

Members Present:

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

Members Absent:

[None]

A moment of silence was held for Mercy Quintana, who worked for the County for 23 years and an invocation was given by Pastor Ralph Jaramillo.

V. APPROVAL OF THE AGENDA

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

CHAIRMAN DURAN: Are there any amendments to the agenda, Steve?

STEVE KOPELMAN (County Attorney): Thank you, Mr. Chairman, members of the Commission. There are, I believe, two matters we would ask would be deleted for tonight, Mr. Chairman. IX. A, the presentation on the WIPP project, the individual, Ms. Clark, called and wasn't able to make it tonight so she will try again to reschedule this probably some time within the next few months. And also on the Consent Calendar, X. C, which is requesting approval of an easement agreement between the County and the State Land Office,

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we would ask that that be removed from the agenda. It will be brought back on December 3rd. There's still some discussion on the language of the actual easement agreement. I don't think it's anything major at all, but we think it would be more appropriate for you to have some time to review the document in your packet before passing on that matter.

Those are the only two changes, Mr. Chairman.

CHAIRMAN DURAN: Okay. Any other changes to the agenda? What's the pleasure of the Board?

COMMISSIONER TRUJILLO: Move for approval, Mr. Chairman.

CHAIRMAN DURAN: There's a motion to approve.

COMMISSIONER SULLIVAN: Mr. Chairman.

CHAIRMAN DURAN: Commissioner Sullivan.

COMMISSIONER SULLIVAN: Wasn't there a third item on the amended agenda that was passed out? Or we're assuming that that's the current agenda, right? Item XII. 2 is also tabled until December 10th, correct?

MR. KOPELMAN: Mr. Chairman, Commissioner Sullivan, I'm sorry. Yes, that matter also. We've asked for that to be tabled to a date specific and I think we had talked about moving that to the second meeting in December. That would be a regular meeting but Mr. Chairman, I'm not sure that you're going to want to schedule the meeting on the 24th or not.

COMMISSIONER SULLIVAN: It says here it was tabled until December 10th.

MR. KOPELMAN: December 10th. Okay, I'm sorry. That's correct.

COMMISSIONER CAMPOS: Mr. Chairman.

CHAIRMAN DURAN: Commissioner.

COMMISSIONER CAMPOS: Why is that being requested for tabling?

MR. KOPELMAN: Mr. Chairman, Commissioner Campos, this is on Public Hearings item XII. A. 2, the Water Conservation Ordinance. There's a meeting that the County Hydrologist is attending I believe later this week with residents from the Estancia Basin in the Edgewood area. So I think there's still some language changes that the Hydrologist is anticipating making and hopefully we'll be able to bring this forward for adoption on December 10th.

COMMISSIONER CAMPOS: Thank you.

CHAIRMAN DURAN: Is there a second?

COMMISSIONER VARELA: Second.

CHAIRMAN DURAN: There's a motion to approve as amended and a second. Any further discussion?

COMMISSIONER CAMPOS: As amended by the recommendations of Counsel Kopelman. Is that right?

CHAIRMAN DURAN: As it was amended, yes.

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

VI. Approval of the Minutes: September 30, 2002

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CHAIRMAN DURAN: Any changes to the September 30th minutes? What's the pleasure of the Board?

COMMISSIONER CAMPOS: Move to approve 9/30 minutes, the minutes for 9/30.

CHAIRMAN DURAN: Is there a second?

COMMISSIONER VARELA: Second.

CHAIRMAN DURAN: Any further discussion?

The motion to approve the September 30, 2002 minutes passed by unanimous [3-0] voice vote with Commissioner Sullivan and Commissioner Trujillo abstaining due to absence.

October 8, 2002

CHAIRMAN DURAN: Any changes to those minutes?

COMMISSIONER SULLIVAN: Mr. Chairman.

CHAIRMAN DURAN: Commissioner Sullivan.

COMMISSIONER SULLIVAN: I have some housekeeping corrections to provide to the recorder.

CHAIRMAN DURAN: Okay. So the Chair will entertain a motion with those housekeeping changes.

COMMISSIONER SULLIVAN: So moved.

CHAIRMAN DURAN: Is there a second?

COMMISSIONER CAMPOS: Second.

CHAIRMAN DURAN: Any further discussion?

The motion to approve the October 8, 2002 minutes passed by unanimous [5-0] voice vote.

October 16, 2002

CHAIRMAN DURAN: Any changes to the October 16th minutes?

COMMISSIONER SULLIVAN: Mr. Chairman.

CHAIRMAN DURAN: Commissioner Sullivan.

COMMISSIONER SULLIVAN: I also have some housekeeping changes on that one that I have given to the recorder. I move for approval as amended.

COMMISSIONER TRUJILLO: Second, Mr. Chairman.

CHAIRMAN DURAN: Any further discussion?

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The motion to approve the October 16, 2002 minutes passed by unanimous [5-0] voice vote.

VII. Matters of Public Concern – NON-ACTION ITEMS

CHAIRMAN DURAN: Is there anyone out there that would like to address the Commission concerning any issue? Please step forward, Dolores and state your name for the record.

DOLORES DURNELL: I'm Dolores Durnell and I live on Jemez Road and we have recently had Rufina opened up and we are having quite a lot of traffic and it seems to be increasing. I did a petition of the residents on my road and Carrie LaCrosse did a traffic count on August 20th, at which time on the Agua Fria to Rufina Road it was 3,500 in a 24-hour period and from Rufina to the Airport Road, it was 5,000 and that was at that time. The County, I think has done a count since then and if I'm correct, it has increased from Rufina to the Airport Road by another 300. That would run about a hundred a month increase.

I haven't gotten the report on the Agua Fria to Rufina Road. And we're hoping that we can get the Meadows Road complete from where the light is on the Airport Road where Rufina hits the Meadows Road so we can get some relief in there. I came the Rufina Road and it is so nice, I think. I wouldn't think anybody would want to go Agua Fria now. I've been talking to some of my neighbors on that end and they think that perhaps maybe it is reducing on our street since they can come through on that curve on the Meadows Road and then on down Rufina. So we need help as much as we can get and we are still trying to find finances and so on and we need to get this done as soon as possible. So if anybody can help we'd really appreciate it.
[Petition included as Exhibit 1]

CHAIRMAN DURAN: Thank you, Dolores. We just spoke to James Lujan, the Public Works Director and I think that there is some money to pave a good portion of this but there is a section that is going to require that the City and County work together and we have some ideas and James is going to, he has a meeting scheduled, I think in the next couple days and when he has something to report, I'll make sure that you get the information, either directly from me or from Commissioner Varela.

MS. DURNELL: Thank you.

CHAIRMAN DURAN: You're welcome. Is there anyone else out there that would like to address the Commission?

CAROLYN SIGSTEDT. Good afternoon. My name is Carolyn Sigstedt. I just have a question. Under Matters from the Commission, the discussion of no growth policies in Santa Fe County, first of all, that's a strange way to title it. We're really—the public is not talking about no growth; we're talking about managed growth and sustainable growth. So I mean that's an odd title. At any rate, is it open to the public or is—can the public comment in the next section or not?

CHAIRMAN DURAN: Sure. Why not?

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MS. SIGSTEDT: Oh, all right. Well, then I'll hold my comments.

CHAIRMAN DURAN: Anyone else out there that would like to address the Commission? I was wondering if the Commission would allow, entertain one slight adjustment to the agenda, and that would be to move A to B and bring B in front of it so that the elected officials that are here to find out what we decide to do on this salary increase can go back to work and take care of business. So I would move that we move B to next on the agenda.

COMMISSIONER TRUJILLO: Second, Mr. Chairman.

CHAIRMAN DURAN: Any further discussion?

The motion to move item VIII. B to next on the agenda passed by unanimous [5-0] voice vote.

VIII. Matters from the Commission

B. Resolution No. 2002-148. A resolution approving a salary increase for Santa Fe County elected officials

CHAIRMAN DURAN: Who is making that presentation? Oh, Helen.

HELEN QUINTANA (Human Resources Director): Good afternoon, Mr. Chairman, members of the Commission, the 2002 New Mexico legislature amended Section 4-44-4, the NMSA-1978 authorizing the increase in salaries for elected officials. The statute establishes the authority of the Board of County Commissioners to adopt by resolution the salaries for elected officials. Your packet material includes both the current and the proposed salaries for each elected official. The proposed salary schedule must be approved prior to the new terms beginning January 1, 2003. I stand for any questions you might have.

COMMISSIONER TRUJILLO: Helen, this applies to all elected officials, right? The increase will—

MS. QUINTANA: Mr. Chairman, Commissioner Trujillo, the new salaries would be in effect for all the elected officials. However, the elected officials who are in their mid-term would not receive an increase by statute.

COMMISSIONER TRUJILLO: Would not receive an increase—

MS. QUINTANA: Only to those elected to new terms beginning January 1, 2003 would receive the new increase then subsequent officials afterward would also receive, when they begin their new terms.

COMMISSIONER TRUJILLO: Why would the sitting elected officials not receive the increase, the adjustment to the min, essentially, now that we're a Class A county?

MS. QUINTANA: Mr. Chairman, Commissioner Trujillo, the New Mexico Supreme Court determined that only elected officials whose term of office begins January 1, 2003 are eligible in the increase in salary.

COMMISSIONER TRUJILLO: A merit increase. A merit increase in salary, right? This is a—and I don't want to debate you. I'm just asking a question and in fact maybe

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Steve would like to give us an opinion but my perspective is that this is an adjustment to the min. Santa Fe County is now a Class A county. There's a new salary range, ostensibly, the elected officials in Santa Fe County now have a higher job content and in order to have external equity these elected officials need to be paid within this salary range, otherwise, Santa Fe County elected officials will be in a red circle situation. They will be paid below the min of the new salary structure for a Class A designation.

MS. QUINTANA: Mr. Chairman, Commissioner Trujillo, the salaries listed there are actually the maximums and not the minimums. However, there are two issues that we're dealing with. One is just a salary increase for elected officials and two is the fact that the DFA has now given us the status of Class A county. But I would like to defer the rest of the response to our attorney, to Mr. Kopelman.

MR. KOPELMAN: Mr. Chairman, members of the Commission, I think maybe the best way and my recommendation maybe for dealing with this now is to recommend deleting the second paragraph of the resolution and have you deal with the resolution in front of you for the increases that would take effect. We have prepared an opinion letter on this and I think that it would probably be prudent to provide you that opinion letter, give you some time to review it, maybe get opinions from other sources. Maybe DFA, the AG, and maybe deal with the mid-term issue separately, maybe on December 3rd. That way you can pass on this particular resolution without getting into that now.

I do have a fairly lengthy opinion but we just completed it and I haven't had a chance to distribute it. So that really is your call but it may be an easier way to deal with it. As Helen said, there are two separate issues. One issue is voting for the salary increases as allowed by law, and the increases that are set forth in the resolution would be the maximum allowed by the legislature. And then the second issue is the mid-term issue, which I think maybe would be more prudent to deal with separately. I don't think you need to necessarily deal with both issues at the same time.

COMMISSIONER SULLIVAN: Mr. Chairman.

CHAIRMAN DURAN: Commissioner Sullivan.

COMMISSIONER SULLIVAN: Naturally, I support Commissioner Trujillo's position but my question is that in the resolution it talks about the New Mexico legislature amending Sections 4-44-4, authorizing an increase of salaries for elected officials and I assume that that was statewide. And then, apparently, a New Mexico Supreme Court decision that only elected officials whose terms begin January 1, 2003 shall be eligible for the increase. That seems to apply to this increase of about \$2,000 or \$3,000, but it doesn't seem to address the Class B and Class A county situation. Now, how do we address that? Or is it covered by that Supreme Court opinion?

MR. KOPELMAN: Mr. Chairman, Commissioner Sullivan, You've really hit the issue, really, which is does the change from Class B to Class A county get caught up in the ambit of the Harrigan case, which is a 1998 New Mexico Supreme Court case dealing with mid-term salary increases. Like I said, we have an opinion on that issue but I think that's an issue you may want to spend some more time with and it may be more appropriate not to deal

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with the mid-term issue today, but for us to give your our opinion letter and to spend some time, possibly in executive session and next meeting too if necessary. Because in our view, it does appear that the Harrigan case was very broadly written in 1998 and seems to say that unless it's authorized in the constitution, there would be no mid-term salary adjustments, that is increase or decrease.

It is a slightly different wrinkle in the case in 1998 and again, I think it's something you may want to spend additional time with. We can deal with that separately on December 3rd and that might be a better way so you have more time to digest it, to review our opinion and to ask questions as necessary.

COMMISSIONER TRUJILLO: Steve, Mr. Chairman.

CHAIRMAN DURAN: Commissioner.

COMMISSIONER TRUJILLO: I think that if we're augmenting salaries of elected officials whether incoming or sitting that we should do it across the board. My interpretation is this is an adjustment to the min. It's not a mid-term salary increase. The range has moved because of the Class A designation and it's an increase in responsibility. It's an increase in job content and it's a matter of external equity. If all other Class A counties in the state are paid at a given level, then Santa Fe County elected officials across the board should be paid at the same level. So I don't see why we need to vote on half of the resolution now and then decide to vote on the other half later. I think we can vote on all elected officials and increase their pay at this time commensurate with a Class A designation.

MR. KOPELMAN: Mr. Chairman, Commissioner Trujillo, with all due deference, I don't disagree. I don't take issue with your equity argument. I think that there is a lot to be said for it. My legal opinion is that the 1998 Supreme Court case, again, was very broadly worded. I think it covers all mid-term salary adjustments. I know we've spoken with DFA and DFA has indicated that they would have a major problem if the County sent them a budget that had mid-term increases for elected officials. And again, I think it's a complicated issue but our legal opinion is that a mid-term salary adjustment is inconsistent with current New Mexico law. It doesn't matter if it's from Class B to Class A, it's done legislatively by statute and the 1998 case emphasized the fact that the constitutional provision said no mid-term adjustments unless otherwise permitted in the constitution and this is not a constitutional mandate. It's a statutory mandate, just as the statute, 4-44-4, which was dealt with in the 1998 case.

So I think they're very different issues and again, I think that the Commission may want additional time to review it, to really ponder it and think about it because it's not a very simple issue. I think voting the increases for incoming elected officials is something that is straightforward. That needs to be done, by the way, before the end of this year in order for it to take effect, but I think the mid-term adjustment is a much more complicated issue.

CHAIRMAN DURAN: I think we should move forward on voting on the newly elected officials' salaries and my feeling is that as elected officials, I don't think we should be voting an increase, voting on increases for our own salaries. That should be done—I find that a major conflict of interest there. I must say that I think we're underpaid as it is. This

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is the most we can get for the new-coming Commissioners?

MR. KOPELMAN: Mr. Chairman, that's correct. Under state statute it would be the amount set forth in the resolution. Those are the maximum amounts.

CHAIRMAN DURAN: I think that there are some mid-term elected officials that would like to pursue this increase, but I don't think we should complicate that with what we need to do now. That is, I think approve the salary increases for the incoming elected officials.

MS. QUINTANA: Mr. Chairman, actually, you would approve the salaries for everyone that's listed here. It's just that only those five elected officials that would actually receive it in January, unless you move forward with the mid-term trying to look into that. But you would need to approve the salary schedule for all of those listed there.

COMMISSIONER SULLIVAN: Mr. Chairman.

CHAIRMAN DURAN: Commissioner Sullivan.

COMMISSIONER SULLIVAN: Steve, what paragraph was it that you suggested be deleted from the resolution?

MR. KOPELMAN: Mr. Chairman, Commissioner Sullivan, I was going to suggest that if you don't want to pass on the mid-term salary issue, if you delete the second whereas clause. I think then you can pass the resolution as it's drafted that would deal with the amounts of increase and then we can deal with the mid-term issue at the next meeting. Again, I'm just suggesting that's a possible way to approach it.

COMMISSIONER SULLIVAN: And have we requested an Attorney General's opinion on this?

MR. KOPELMAN: Mr. Chairman, Commissioner Sullivan, I've been in contact with the Attorney General's office. I have not gotten a written opinion. It may be possible to get one by the next meeting; I'm not sure but I could certainly try that.

COMMISSIONER SULLIVAN: Mr. Chairman, I don't have any problem with moving forward and deleting that second whereas and getting it on record.

COMMISSIONER TRUJILLO: I'd just like to for the record state that we're not voting on salary increases for elected officials sitting up here as the Board of County Commissioners, we're voting on a new salary range, a new schedule. And it so happens that that impacts salaries of elected officials and County Commissioners. But from a standpoint of external equity, in other County Commissioners in a Class A designation getting paid at that level, this is commensurate with that alignment, external alignment, if you will. It's not a vote for Marcos Trujillo to get an increase in pay, but it's a vote to implement a new salary structure in Santa Fe County consistent with a Class A designation.

MS. QUINTANA: Commissioner Trujillo, that's correct.

CHAIRMAN DURAN: Then you'd be okay with removing that second whereas and taking it up at a later—

COMMISSIONER TRUJILLO: I think we need to challenge it. I think, like you say, Steve, the statute is very broad and open to a lot of interpretation. It doesn't specifically address adjustments. It addresses merit increases but not adjustments. So I'd like to

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make sure that we're doing the right thing for our elected officials.

CHAIRMAN DURAN: Did the County Clerk have a comment?

BECKY BUSTAMANTE (County Clerk): Mr. Chairman, members of the Commission, as a Class A county, when I was elected, I knew that there wouldn't be any merit increases and I accept that. But also when I was elected I was elected with certain duties as a Class B county. I have now, and I was, I had to perform several new duties as County Clerk as a Class A county. The amount of work that I now need to perform as a Class A county is a lot different than I was doing as a Class B county. It has increased. I believe very strongly that the statute is for merit increases and this is not a merit increase. It's just the type of work that I need to do now, I should be paid for that amount.

I would also say that the constitution says that no elected official should get an increase, yet the County elected officials are the only County elected officials who don't get an increase. The PRC who is elected, they get increases in the middle of their term. The judges, the Supreme Court judges, district judges, etc., they have gotten mid-term increases. The only elected officials who are barred is us, and I do not believe this is a merit increase. This is commensurate with the duties that we now have to perform. Now are you saying that if I don't get the increase in January that I don't have to perform Class A duties? I think that's what you're saying. And then who's going to perform those duties?

I believe that as a Class A county, I have new duties, a lot more responsibility and I should get paid for it. Thank you.

CHAIRMAN DURAN: What's the pleasure of the Board? If there's no more discussion. Is there any other comment?

COMMISSIONER TRUJILLO: Move for approval with the minor change that all elected officials receive the new salaries.

CHAIRMAN DURAN: We're not going to delete the—

COMMISSIONER TRUJILLO: If we're voting on—we don't need to delete that New Mexico Supreme Court to determine that only elected officials whose terms begin on January 1, 2003. Do we need to delete that if—

CHAIRMAN DURAN: Right.

COMMISSIONER TRUJILLO: Okay then, delete that and do a salary increase across the board for all elected officials commensurate with the new Class A designation and equitable salary range.

CHAIRMAN DURAN: Point of clarification. Mr. Kopelman, I thought we were going to delete the second whereas, which would put in place the salary increases, the maximums that are allowed, and then we would deal with the salary increases across the board at a different level.

COMMISSIONER TRUJILLO: That's not my motion though. That's not mine. My motion is to implement the salary structure as proposed to all elected officials.

CHAIRMAN DURAN: Let me ask you a question. If that motion was seconded and approved, how would that affect the salary increases? Let's say that we didn't get a decision any time soon, or if the decision went against us. Would we have to vote on it again?

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MR. KOPELMAN: Mr. Chairman, I think if Commissioner Trujillo's resolution passes, that would mean that mid-term increases—that you would be approving and authorizing mid-term increases for yourself, for Commissioner Campos, Commissioner Sullivan, for the County Clerk and for the Treasurer that would go into effect mid-term, and the surveyor. And I think that raises the issue of whether it's in conflict with the Harrigan case, which I believe it is. And I think then we get into issues as to whether our budget gets approved. That's one issue. The other issue is a legal issue which is can you legally do that or not. And that's why I was suggesting that we spend more time with that issue before you pass on it.

CHAIRMAN DURAN: But the newly elected officials, it wouldn't affect them, right?

MR. KOPELMAN: Mr. Chairman, if you pass this resolution as drafted, all of the elected officers taking office January 1 would get the benefit of the increase.

CHAIRMAN DURAN: Okay, so another way of looking at it is that we're just hitting this thing straight on and not delaying the process of working it out or discovering what the Attorney General's decision is. We're basically being pro-active in having them prove to us that we're wrong.

MR. KOPELMAN: Mr. Chairman, you are taking a very aggressive position and I believe one that is not—again, it's a slippery slope argument. I think that the whole budget comes under scrutiny then and I think that again the budget won't be approved and I think it flies in the face of the 1998 Supreme Court case. And that's why I would ask that you defer that decision until at least you've had an opportunity to review our legal opinion which is quite detailed and there's a lot to it. But again, Mr. Chairman, it's your call. I can't tell you how to vote.

CHAIRMAN DURAN: Why not?

MR. KOPELMAN: Because you don't listen anyway.

CHAIRMAN DURAN: Okay. Is there a second? Motion dies for lack of a second. Commissioner.

COMMISSIONER CAMPOS: I move we adopt this resolution, 2002-148, deleting the second whereas.

COMMISSIONER SULLIVAN: Second.

CHAIRMAN DURAN: For discussion, could that also include with direction to our legal staff to work with the Commission and the other elected officials that are in mid-term that want to pursue this? Pursue mid-term salary increases?

COMMISSIONER CAMPOS: Mr. Chairman, I think by deleting this we do what we have to do now and we still have an opportunity at the next BCC meeting to raise it after we've considered the opinion by counsel. So I think we can always raise it again.

CHAIRMAN DURAN: Okay. I'm okay. Any further discussion?

The motion to approve Resolution 2002-148 with the second whereas clause deleted passed by majority [4-1] voice vote with Commissioner Trujillo voting nay.

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CHAIRMAN DURAN: The Chair would like to recognize two newly elected Commissioners, Commissioner Mike Anaya and Commissioner Harry Montoya. And Sheriff Greg Solano. Is there anyone else out there? And the County Assessor Benito Martinez. Congratulations and we look forward to working with you next year. And congratulations on your raise.

VIII. A. Discussion of No Growth Policies in Santa Fe County

CHAIRMAN DURAN: I actually asked staff to put this on the agenda for a couple of reasons and the reason I asked them to label it "no growth policies" is so that people would pay attention. I actually think that there are some things that have taken place out here in the county that are representative of no growth policies and we've never really had a discussion concerning those ordinances or those proposed ordinances and how it affects our desire to manage growth. In my opinion there are some policies that are being brought forward that represent no growth policies and I'd like to have some discussion. I think that the newspaper has portrayed this Commission in a bad light, that we have approved thousands of homes out there in the county that are all going, without any regard to the water resource and that they're going to, all these 5,000 homes and this million square feet of commercial space is going to be built tomorrow.

So I would just like to take ten minutes to discuss, to lay the foundation of what we have done in the past six years since I've been a Commissioner relative to how we have planned to manage growth in the county, and how we've worked with the City to create this Regional Planning Authority that is going to further communicate with one another on how to manage growth for Santa Fe, the community of Santa Fe in the future.

So I'd just like to kind of point to this map over here. It's a Santa Fe County map and I'm going to point to it here with this thing. If you look at the county, the real growth areas of the county are right here in the Community College District and the areas to the west of the city limits. If you start at the north part of the county, you have Nambe, El Rancho, and those aren't high growth areas and in fact they have just begun their community planning process. So as you travel south you come to Tesuque. That again is not a high-growth area. They already have their community plan in place. And then you go to the east side of Santa Fe and the foothills there which is bordered by national forest. You come to the Cañada de los Alamos area, and that is not a high-growth area. You travel west to the Arroyo Hondo area. Those are 2.5 and 5-acre minimums. That's not a high-growth area. And then you hit this area that we spent almost eight to nine years developing a growth management plan.

That is the Community College District. And that is the one where we just approved some major development and that development was based on a planning process that's taken place over the last seven years. The approvals that took place were based on the availability of water, or actually the lack of water. Because at this point in time most of the development out

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there does not have any water allocated to the growth that has been approved. The papers and I must say that Commissioner Sullivan is guilty of this too, has portrayed this particular planning area as an area of unbridled growth, and in fact what it really is is an area that we have worked on for six years to ensure that growth occurs in a managed—that it's well managed.

That's really all I wanted to bring to light was the fact that over the last year or so, actually over the last several years we've worked on planning this particular area, and yes, there are thousands of houses planned out there, yes there are millions of commercial space that has been approved, but all of it is based on this committee's ability to provide water to those areas. And this Commission, along with the City has been working hand in hand to find new water. We're talking to the Pueblos about the Raney collector. We're talking about the San Juan-Chama at Buckman, the Buckman wells. We're talking about new points of diversion to transfer new water rights. So this growth that has been approved in that particular area has been managed. It's been planned. It's something that this community has never experienced. For 20 or 30 years development has occurred haphazardly. What was approved in the Community College District was based on numerous meetings with the community, input from citizens and it was well thought out.

I have been accused of suffering from delusions because of the last three years I haven't been paying attention to what's going on but I've actually been quite involved with this process. I was watching the meeting that you were at last week, Commissioner. I forget what it was called, it was the Voices of Santa Fe, and the whole time that you were there you did nothing but throw a dark cloud over a planning area that we spent years working on. And you portrayed the process that we've gone through just like the papers have been portraying it, that millions of square feet are going to be developed. It's going to happen tomorrow. We approved all this development without any regard to the water. And I think it's so unfair for you to continue to do that and I think it's so unfair of the papers to report it that way. This was a planning area. This is going to take care of our community and the growth that we're going to experience for the next 25 to 50 years and that's all I wanted to say. So is there anyone else that would like to discuss these no growth policies?

WALT CHAPMAN: Mr. Chairman, Commissioners, my name is Walt Chapman. I'm a local developer and homebuilder. I'd like to ask you to separate in your mind the differences between population increase and what we generally think of as "growth," being the location of buildings. And they are separate issues entirely. There's nothing we can really do about population increase; it will occur.

CHAIRMAN DURAN: Could you pull the microphone a little bit closer to your mouth? Thank you.

MR. CHAPMAN: Do I need to repeat?

CHAIRMAN DURAN: No, we're fine.

MR. CHAPMAN: Population increase is a factor of births minus deaths, immigration minus out-migration. We can't really control that, no matter what our formulas are about where we—which increase building to occur. Restricting or denying building will not affect the population increase. We still have it to contend with, and with that is the use

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of water. Water does not occur because buildings are built or exist. Water increase occurs because population increases, and we have to realize that that's an issue that's going to be with us.

Now, population centers generally provide the most employment. Therefore, they grow toward one another. It's quite natural for Santa Fe and Albuquerque to grow toward one another. If you think of the lands down in that direction, you have to realize an awful lot of that is Indian land and not available for your consideration. Those places you have adopted here to look at are very appropriate. They fit those definitions of the availability of infrastructure and proximity to employment, one back and forth to the other.

But if you'll separate in your thinking and in your ordinances the differences between population increase, and therefore increased water demand, which will absolutely have to be handled some other way, most likely increased supply. There's probably very little that we can do about the increasing demand. There are some things that the city has tried, through some of their water restrictions, and they have been appropriate, and they have been effective. But when it comes to not building, that has nothing to do with it. And there are about 4,000 jobs in the county directly related to the construction industry, and we cannot shut those down. So that was my comments. Thank you, sir.

CHAIRMAN DURAN: Thank you, Mr. Chapman. Is there anyone else out there that would like to comment on this issue?

GARY ELERT: Good evening Mr. Chairman and Commissioners, my name is Gary Elert, and I'm the executive officer for the Santa Fe Area Homebuilders Association. We have over 700 members. Not all are builders; there are some financial institutions included in that count also.

I would just like to take a few minutes and thank the Commissioners for taking a look at the water issue as a regional water issue and working with the City of Santa Fe most recently in discussions, talking about the rainy wells, perhaps Hagerman, Rancho Viejo, Northwest Well, different diversion points. Conservation, certainly, is an issue that can help. We recently gave you a copy of our Green Builders Manual. We have been involved with the State Engineers Office in developing water conservation standards for new residential construction throughout the entire state of New Mexico.

So we stand ready to work with you as a resource for your information, along with the information of Mr. Chapman just commented on. We also would like to take a look at additional types of water such as the desalinization in Alamogordo program, and the Estancia Basin. We're working with Elud and Skyler and some other folks on getting that information out. So we're quite involved with the City of Santa Fe in dealing with the governing body there, and a lot of their programs. We applaud you on working with the City, and encourage you to work further. Thank you.

CHAIRMAN DURAN: Thank you.

ANN LACY: I can't help but say that I appreciate any effort on the part of the Commissioners to look at development as an ecological and environmental issue. I think in the greater Southwest region, there is no extra water, that when we think about

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diversion, we are actually taking water from other population centers. I think to counterbalance our problems of a growing community in a very dry area, that any attempt to help the building industry changed the focus to not only more conservation efforts in their building methods, but also maybe looking at Santa Fe and Albuquerque as a potential region that can really provide tremendous economic potential for the residents by going into areas that have to do with technologies associated with saving water and using solar energy. So, I hope that growth in the County, which is inevitable, and provides many jobs, can also be balanced by our efforts as a community to help the building industry change over to more appropriate technologies that will help people build sustainable lives in a dry area. Thank you.

CHAIRMAN DURAN: Thank you.

HUGH NAZOR: Hugh Nazor, Camino Los Abuelos. Along with 1000 Friends of New Mexico and The Coalition for Livable future, in both of which organizations The San Marcos Association is an active member, we have been considering growth questions for some years. Let me take a brief aside from my prepared statement, which all of you have, to put in a sentence or two about the Community College district. I did not realize that that was the thrust of this, and let me just say that while those of us south of town by some miles do hope that for the next 25 or 50 years that district helps relieve the pressure of growth, it would by no means decrease the rapidly swelling growth that we're already feeling. Over 80% of the growth in the county is destined to take place outside of the city and its immediate environment. The State Water Study says this, and every regional study says this.

Our conclusion, in looking at this question, is that No-Growth is an extreme, unrealistic and undesirable approach to solve a very real and much ignored problem. Population growth, national in-migration and the attractiveness of Santa Fe County as a retirement site combine to create a magnitude of demand which cannot be thwarted. A No-Growth policy would have many unintended consequences, not the least of which would be to cause prices of existing dwellings to skyrocket. Gentrification of existing affordable neighborhoods would increase an already exiting problem of little affordable housing.

Additionally, the enactment of a No-Growth policy would give the impression that all problems had been solved. Would such a move cause the much overdue solutions to problems of water, sprawl, transportation and affordable housing to be aggressively sought? It would only become easier to avoid these difficult decisions because of the temporary Band-Aid of No-Growth being applied. The necessarily temporary nature of any No-Growth solution is another reason that it is not a productive idea.

What is badly needed is the political will to work hard and directly address the larger and permanent problems. People who live in the County have no other political institution to which to look for protection and leadership. We have no municipal authority and the State has left these matters to the counties. There is not even a State Planning Office. The BCC, this body, is the only body that can address these problems for the entire county.

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The thinking behind the minimum lot size now applied by Code is out of date, and does not meet today's needs. Many, and probably most, of the sites supposedly limited to a quarter acre-foot of water use more. There's no metering, no method to analyze it if it were in place, and no plans as to how to deal with excess use. The established zones of water availability on which the lot sizes are currently based are badly in need of being drawn from a better knowledge base, only some of which currently exists. Work needs to be done here.

One might rethink the water basis of zoning. More water falls on Santa Fe each year than it uses. With appropriate catchments and already legal wastewater reuse units, houses can be built in the county now with no wells. This would be an extreme step, and require much thought as to the consequences of an alternative base of zoning, but it must be considered. The present philosophy of getting more and more water rights is hardly realistic in a state where water is already over-allocated. Work needs to be done here.

There seems to be no transportation policy for the county. Building more, wider, flatter, straighter roads leads to the development of more remote housing sites, necessitating even more automobile traffic. Not only are cars extremely expensive to operate for people of limited means, they are expensive for the County in the increased costs of road maintenance, law enforcement, noise and pollution control, etc. More work— etc.

Speaking to the costs to the County, the average new three person home costs the County \$10,500 per year in school costs, road maintenance, so on and so on, and pays \$5,500 per year on average in taxes, some of which are not even available to the County. If you are interested in the details of this analysis, it's available, there's a footnote, and I can get them for you if you want. On this simple basis, 5,000 dwelling units built over time in the Community College District will ultimately cost the County a net \$25,000,000 per annum in perpetuity. Of course, there are many variables: larger houses pay more taxes to the County than smaller houses, childless homes avoid school expenses (the largest single County expense), and certain types of commerce units pay much more than they cost. Planning must include analysis of the long term effect on the financial viability of the County. Work also needs to be done here.

The conclusion of anyone who has given any thought to the topic for any length of time is that all growth, except for in-fill, is sprawl. There are simply different kinds of sprawl. Some are more or less dense. Some leave great swaths of open space. Others leave small corridors, or none at all. Some leave public access, others do not. Some better meet the transportation, water, affordable housing and other goals of the County plan where such goals exist. Work needs to be done here.

Affordable housing is an important issue. Portland, Maine passed an ordinance requiring that development which decreased the number of dwelling units must provide a like number of new dwelling units within the city. There is assistance toward the new units if they qualify as affordable. From conception to enactment, the ordinance took 60 days. In New Jersey, affordable housing is a mix of rental and owned. The rental units are indexed

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for ten years, after which market rates may be charged. The owned units are indexed for 20 years as to the maximum at which they may be sold and then only to those who qualify for affordable housing. We lack this needed thought in our affordable housing approaches. Work needs to be done here.

As we all know, community planning is stalled in Santa Fe County. It is also true that there are many issues which should be dealt with on a county or region or state-wide basis. Far too little has been going on for far too long. We need planned growth, smart growth, controlled growth, not no growth. These things are not easy, politically or intellectually. They require the ongoing effort many, focused, well informed people. These are various ways the County could get this work done. There could be a standing committee, not unlike COLTPAC, which worked with the County Land Use Department in generating and recommending plans and ordinances. There could be a greatly increased funding of the Planning Department to do this job. These two are not mutually exclusive. Some means of aggressive movement is necessary to deal with these real issues. While no growth is not a recommendable solution, if other things are not done it will become necessary. Thank you

CHAIRMAN DURAN: Thank you, sir. Next speaker, please.

WALTER WAIT: My name is Walter Wait, I'm 48 Bonanza Creek Road in Santa Fe County, just south of town. When I hear the idea of no growth, I like to look at the large picture. The large picture, to me, means immediately, what kind of no growth? What are we talking about growth? Is it no growth of people, is it no growth of houses, is it no growth of roads? Water systems? Communications links? Industry? Maybe jobs? No growth in jobs? No growth in schools? No growth in shopping malls or firehouses or police forces? No growth in perhaps the management departments. No growth is an extremely complicated issue, as is the management of growth.

I think, to be responsible, the County has to manage growth. Clearly, no growth is too complex an issue to get away with. We can't do that. We have to manage growth. Now, when it comes to County master planning and this idea of no growth, and in the Community College area, when we listen to the various developers talk about their specific developments, they were very, very good at describing how they were going to put in their roads, how they were going to put in their various water systems, how many houses, how many square feet of commercial space, etc. But I don't seem to recall hearing anything about how the specifics of an individual project met a regional planning goal, or a County master plan, or a County transportation network, or whether or not each of these places were going to hook into some sort of regional sewage system, for example.

We seem to be tending to go after each of these commercial and subdivision units on a unit by unit basis, without really looking at the regional picture. Now, that might just be what we perceive in the community, but I believe that a lot of this is true, and it's not just the large scale developer, the 500, 5,000 houses. All of you come here week after week, month after month, and your time is spent in these small "I need to split my property into one-acre parcels or two-acre parcels from my five or my 400 acres into 200

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acres.” The regional impacts to a community of this gradual change to larger—well, just change. From what they’re perceiving: “This is why I’m there,” to all of a sudden they look around and there’s a lot of people around, in very, very small areas. This is not something we tend to look at. We look at the individual person, and we don’t look at the overall impacts of the collective impacts of our actions.

I think that perhaps Hugh’s idea of some sort of COLTPAC committee, to look at the impacts of large growth or the growth over a large area. What are the impacts? So they can inform the County Commission—such things as “Well, what is the overall impact if we do this year after year, or if we bring out 5,000 new houses, or if we in-fill 5,000 houses?” Or whatever it may be, may be a good idea. Because no one right now appears to be looking at this large picture. And don’t forget, it’s not just the greater Santa Fe area. The Santa Fe County has other communities that are likewise affected by growth. We can’t ignore these other communities. Some of them are small communities that may be in the corridor for growth: Cerrillos, Galisteo, certainly Edgewood, and those areas. What do we do about those? Can we catch those planning processes now, before it’s too late? Can we think about the infrastructure or the building of roads, or the building of our communications networks to these communities before the growth gets there, rather than worry about it later on. That’s about it. Thanks.

CHAIRMAN DURAN: I would like to say a couple things. All the Commissioners can say something—this is really a discussion.

COMMISSIONER SULLIVAN: Mr. Chairman, when the public’s finished, I’d like to have some time, since you’ve brought up some comments that I’ve made as well.

CHAIRMAN DURAN: Okay. Well, I would just like to say that the plan, again, the only area that is experiencing any major growth is the Community College District. If you recall, the upper part of the County is not experiencing any major growth—it is experiencing growth, that’s true, but there are no large developments that have been approved in the Pojoaque/ Nambé area. There are no large developments that have been approved on the east side of Santa Fe. There’s no developments that have been approved anywhere except in the Community College district. And those developments have been—they meet the regional picture. They meet the growth management plan that we developed. I mean, to say that the developments that have been approved in the past don’t meet the regional picture is so unfair. And that we’re not paying attention the traditional communities—you’re just mixing apples and oranges here.

MR. NAZOR: May I add something?

CHAIRMAN DURAN: Sure, please to the podium and speak into the microphone, please.

MR. NAZOR: Of course. The percentage growth in the San Marcos area is extreme, at this point. There are approved, on Gold Mines Road—

CHAIRMAN DURAN: In the San Marcos area?

MR. NAZOR: The San Marcos area. We’ve come before you a couple of

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times to try and define it—it is generally the light green area on the lower map.

CHAIRMAN DURAN: Right.

MR. NAZOR: It's defined, but not yet officially approved.

CHAIRMAN DURAN: There's no development that has been approved out there—

MR. NAZOR: There is no single development. The building of houses is non-stop. There's development of a small number of lots here and a small number of lots there. The number of people living along County Road 42 has much more than doubled in the last five years. There are over 500 lots approved up Gold Mine Road. 500 platted lots approved up Gold Mine Road.

CHAIRMAN DURAN: And those were approved before the growth management plan was approved.

MR. NAZOR: Yes, sir. I'm not saying that. But to draw the conclusion that the only expansion, that the only growth that is happening, is immediately contiguous to the existing city, is fallacious. The percentage growth, and the potential impact on all kinds of services and quality of life, is in fact greater in other places in the County.

CHAIRMAN DURAN: And we've dealt with that. We've adopted new policies and guidelines, and since we've adopted new policies and guidelines, those 500 lots that were approved in your neighborhood won't be approved unless they meet the guidelines that we've set forth under our new general plan. The growth management plan.

We can't do anything about what was done in the past. That's my point exactly, is that for the last 30 years there's been no planning. And when we finally implement some planning procedures and policies, and we plan for the future of this community, we get nailed for approving—for planning for the future.

RAY ROMERO: Mr. Chairman, I'm Ray Romero, I'm the mayordomo of the Acequia La Cienega. For years, we have come up here in front of you, complaining about the draw-down on the water in La Cienega, La Cienega Springs. But we need to do something about it pretty soon, before we really go completely dry. What we really need—we need a comprehensive study on the area of Arroyo Hondo and Arroyo Chamiso and that area that charges the springs. Sure, there's still enough water done there, but if we keep mining this water, we're going to go dry. We're going dry right now.

Then, what's going to happen, is we're going to be forced to file priority rights, because we do have priority rights for agriculture, and that's why I'm here today. I want to protect agriculture. I want to keep it as traditional as it has been for years. Drilling of more wells or pumping from existing wells is only a temporary solution. I hope that you will really start looking at getting water from some other place, imported water, and concentrate on bringing in imported water. What we really need right now, we need assistance down there on recharging those springs, because they're almost gone. Compared to 600 or 700 gallons a minute back in the '70s, we only have 200 gallons a minute flowing to our acequia right now.

So, again, I think what we need to do, is we need to make a study on the area and

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see what is actually happening. Nobody seems to really know what's happening there. It can't be all the drought, you know. So, I really want to stress to you that we need to get a study in that area. Thank you.

CHAIRMAN DURAN: Thank you, Mr. Romero. I think that, in the past, we have been working with your community, we just prevented wells from being drilled in the Community College District that would affect the La Cienega area. And we've been very careful about how we have looked at the Hagerman well, and the impact it might have on your community.

We also took a trip to Arizona to find out about aquifer injection, and how we might be able to use that process to protect your community and other communities with that kind of technology. So, hopefully in the next few years we can get the State Engineer to work with us on that, and be open-minded and progressive in how we might be able to use that to protect your aquifer and other aquifers from being depleted.

TOM AUGUSON: My name is Tom Auguson, I live south of the Penitentiary. I come to you concerned about the development north of us, because, as the previous gentleman explained, we don't really seem to understand our sources of water, the quantity of water, where it's coming from, and perhaps where it's headed to.

I noted your very sharp criticism, Commissioner Duran, of Commissioner Sullivan, who in fact I think has raised a very sensible issue, and I believe is also supported by Commissioners Lopez and Campos, which is that we do need a comprehensive hydrology study of the entire area, because of all of the planning that has been done, there doesn't seem to be any water planning, or at least it's not obvious to me. I do believe you have a no-growth reaction, but I believe you brought that on yourselves. You brought it on because you can't really explain the source of water.

So, I would say—I personally would echo the gentleman who spoke two or three turns before me, that I too propose sustainable growth, smart growth, but growth without understanding our most important and critical asset doesn't really make any sense to me personally. It's like a Texas oilman who says someone has oil in the ground, so he went and built a chain of gas stations, then he decided he'd go try and find some oil. That doesn't make a whole lot of sense.

It strikes me as what's going on right now is more speculation than real development. That's the last thing we need to do, is to threaten the wells that were just spoken about, or the wells south where we live, by speculation, by people who are perhaps more driven by the profit than they are by the sustainability of what they're doing.

I'm very struck, in closing, by the mural behind you, as I see Justice being weighed between money and the Earth, and the betterment of our livelihoods, as the water absorbs the dollars and goes out the spigot, as it seems to me, with dollar signs all over water rights, that perhaps we really need to stop all of the growth right now, but not with the intention of ever having no growth. Rather, with the intention of understanding what is our water situation. And that, seems to me, is your next step in your plan, before there's any further development, is to do a comprehensive hydrology plan, so that if I came here, as I

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would right now, and ask you if you build all these homes north of us, can you guarantee that I'll have the same water south of me? I don't think you can guarantee that, but I do think we need to get at that answer for all of the people living north, south, east and west of this high density development area. Thank you.

CHAIRMAN DURAN: So you realize all the water is being imported?

MR. AUGUSON: Pardon?

CHAIRMAN DURAN: The water that is going to the Community College District is imported water.

MR. AUGUSON: Imported from?

CHAIRMAN DURAN: Well, we think that it's the Buckman diversion, the Buckman wells, I'm sorry—the Rio Grande diversion, the Buckman wells. We've been discussing the Raney collector being able to provide water to us. We've discussed other points of diversion that would not have an impact on any downstream users, traditional communities or existing users. You said earlier that all this development was going to affect wells in the neighborhood. We've been very sensitive to that issue, and have approved development and growth based on protecting those individuals, and people like yourself who have their own wells. We do have that in mind. At least, I have it in mind.

MR. AUGUSON: Okay. And when you said you think about these things, you're really not sure why would anybody go ahead with any development without being assured where the water is coming from? Because those headwaters up in Colorado could be just as dry, and then what is the alternative? Do we have 5,000 homes in place, you run out of water from some other source and then the discussion comes, "Well, maybe we need to drop wells right here."

CHAIRMAN DURAN: If the owners of the property in the Community College District are unable to get water for their development, they will revert back to larger tracts of land. Then it would be a farming area. If they don't have the water, the planning process that took place becomes void and they are then free to do whatever they want to based on having the amount of water that is available to them. If it's none, then that's what they get.

MR. AUGUSON: It's interesting, perhaps I'm a more conservative businessman than those developers are, but it would seem to me that I would want to know where my water is coming from before I go out and start a lot of the work that's already going on. I would certainly want to know where my water is coming from. It's almost like they know that no matter what, I'm going to build these houses. Where does that confidence come from? They're risk averters just like I am, I'm sure. They must have some sense of what is going to happen. Or they're just speculating. What do you think?

CHAIRMAN DURAN: I think that finding water for this community is going to be an ongoing process for this Commission and for the Commissions forever. Managing our community's growth is another issue that we're going to be working on forever. There's nothing wrong, in my opinion, with having a planning process that has taken place. The Community College District has a process, that it reviews those goals and

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that vision and those policies after so many years, and I think that it's coming up pretty soon. So, if it's determined at that review process that the goals, divisions and policies that were put in place based on the planning process that took place over the last six years, then this Commission hopefully would be wise enough, whenever that is, to make those changes.

MR. AUGUSON: Would you be open to revising your plan to say that all water sources and water requirements must be proven before even a master plan is approved?

CHAIRMAN DURAN: That's another discussion this evening.

MR. AUGUSON: Would you? Would you support that?

CHAIRMAN DURAN: No, I would not.

MR. AUGUSON: Why not?

CHAIRMAN DURAN: Because I feel differently about it, and we can discuss that later on in the meeting. I'm not going to take up the time right now.

MR. AUGUSON: Okay, I'm just saying that looks real backwards to me, personally.

CHAIRMAN DURAN: I've seen this community develop for the last 30 years with no planning in place. There has been haphazard development. There has been all kinds of uses approved in inappropriate areas. It was basically because there was no planning in place, there were no policies. Our planning staff, for the past six years, has worked on it. They've used planning principles that have been proven throughout the country, and they've brought it to this community, and this community has worked with our planning department to put those policies in place. If they don't work, then we need to change them.

MR. AUGUSON: Well, I agree with planning, I do a lot of planning myself. I'm just saying this plan seems flawed in that particular point. That's all I'm saying. That's personal opinion, Commissioner.

CHAIRMAN DURAN: I respect that.

MR. AUGUSON: Sure. Okay. Thank you.

CHAIRMAN DURAN: Do you want me to cut it short? Okay. How many more people want to speak to this issue? Okay, so three? I'm sorry to have taken up all the time at this meeting, but it's just something I've wanted to bring forward, and I appreciate the Commission and everyone else indulging me in this.

COMMISSIONER SULLIVAN: Mr. Chairman, I hope that you're agreeable to setting aside some time here this evening for some other comments other than your own.

CHAIRMAN DURAN: I do.

DINA CHAVEZ: How are you doing? My name is Dina Chavez, I live in the Highway 14 Corridor. I've spoken before, and I have a few points to make tonight, brief. Growth in the County is inevitable, and we know that, and at the same time I feel that it should not adversely affect those that are already living in the County. Personally,

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since these large developments have been approved in the master plan phase without proving water first, it leaves me very edgy. I come from a place, no comparison because of the growth factor, but there's a lot more organization. And I'm not saying that this has to be run the same way as where I come from; however, I am used to a little more organization.

I feel quite threatened, with my lifestyle, which is simple and pleasant, with the water. I'm always left with the feeling that what if we run out, what then do we do, and where do we go? And it is a feeling, because, actually, in my research, no one is really accountable. The State Engineer has his jurisdiction and the County Commission has their jurisdiction, and the two are absolutely not congruent whatsoever. Rarely, if ever, maybe on occasion, the County Commission does listen to the opinion of the State Engineer. But for the most part, and I've researched this, I'm up real early in the morning, I'm on my Web and I'm looking at the State Engineer website, and I'm seeing all of the opinions of the State Engineer for various developments, and most of them are null. They don't agree with them, due to the water, and they're very specific and scientific, and I give them a lot of credit for having that type of knowledge.

So I don't see a congruency there, and that bifurcated jurisdictional system leaves me really edgy. It's a split jurisdiction in that the County Commission can basically do what they need to do, and the State Engineer can do what they need to do, but the two are not coming together. Until that changes, I really don't see much of a security at all. I would like to see that. I don't know how that can be accomplished. It's probably another story.

But the facts are in: Buckman water supply is decreasing; it's been dropping substantially every year. The Rio Grande is quite dry, for 300 miles, from Algodones all the way down 300 miles south. There is no pipeline bringing water in from the San Juan/Chama diversion. There is no hydrologic plan for the area. The only model you have to go by is the one done in Eldorado, and that was done quite some time ago.

All I'm asking for is for more facts. And the facts can only occur if there are hydrologic plans or models or everyone gets some type of hydrologic well test to see where their water levels are at, on a smaller financial scale—some measure to see where we're going in the County. And the County, south of the Pen—you know you're saying the Rancho Viejo district or the Community College district—this is my district too, and we're just on the other side of McKinley's big ranch field there. This affects me, and my family, and hundreds of neighbors in that area. I love where I live. I don't want to move. All I want is a plan. And I think we should really put our money into plans: plans for hydrologic plans, models, or well tests, individual well tests in the county. Whether that would be paid for by the County or by the individual, you can see where the well levels are going. Something has to give.

I do not feel there should be rubber stamping of developments from this point forth. Too many people are concerned. Mr. Duran, I do feel you were a little hard on Mr. Sullivan, Commissioner Sullivan. He's really looking at things from a different angle. And

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that angle happens to be where a lot of us folks are looking. And he's really keying in on what we're seeing, but don't feel that we're able to present that in a scientific manner to you, or maybe in a manner that you're understanding. I myself am feeling quite frustrated that maybe I'm not saying it the right way. I don't really know what else to say except I'm nervous. And I think I have reason to be.

All the developers that are developing out here—it's going to be a one-shot deal for them. They're in, they're out. We're the folks that are going to be living with those consequences or those decisions. I think water should be proven in the master plan stage. I know that's going to be discussed later on, but that's pretty much common sense, I think. It has to be done. We're living in limbo.

I realize development is necessary. However, building in magnitude, like we are in the county, and then using the waning city water supplies to shoot back into the county, is adverse to the city as well as to the county. Those aquifers are draining our wells. The Buckman well—it's all one water. It's going to drain our well too. And the City's still in a third stage water drought. So who's winning? The developers only. We're not.

I love where I live. I don't want to move. All I'm asking is, let's just be prudent about the water. Let's just make some plans, have a hydrologic plan. If we don't have the money, let's start raising the money. Let's start getting it from somewhere.

You know, in other places around the country, we wouldn't even be having this discussion. It would just be prove the water, then build. And that's what I think the people are saying. And that's the bottom line. Thanks.

CHAIRMAN DURAN: Thank you.

CAROLYN SIGSTEDT: My name is Carolyn Sigstedt. If we look back when Hoover Dam was built, it wasn't even built with the idea of water at all. They had other—they were building for energy. Water wasn't even a concept back then. 20 years ago, when the City and the County had the opportunity to have the San Juan/Chama water leases in perpetuity, they thought "No, too risky, we're not sure we need it." That was just 20 years ago.

Commissioner Duran, you talk about the Community College District being studied for eight to nine years. I was actually part of that study, at least at the tail end of it, or the second half of it, for sure. There wasn't a discussion of water. Water at that point in history wasn't the issue it is today. So all those good years, all that hard work that was conscientious and caring and well thought-out still was missing a piece, and that piece was how precious and finite water is to our region.

Just a few months ago, the Regional Planning Authority was proposing a regional growth plan. And it saddened me that that plan, initially, was taking just the way we grow normally, the bell curve of how our community grows, and just kind of extending it, and accepting that as the way to do things, and to try to meet that bell curve, rather than in fact change that bell curve. We don't have to grow that way if we can't, responsibly, if we can't sustain our water and protect and preserve it.

As I said, our most precious resource is our water. Your task, in New Mexico, and

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especially in an area that has a lot of pressure on it for growth, is to preserve and sustain our water, to repair and restore and replenish our water whenever possible, and if you're really with vision, to repair any damages that we've done.

You heard a lot of people come up here, and they're actually concerned. They're afraid. They're fearful. Without water, we don't have a future. A lot of their fear stems to some of the decision that have been made recently at the County Commission. And I do understand that the County master plan had the best intentions when planning the Community College District. Conceptually, I'm not opposed to it. But I do have some concerns as well because I feel that we—just like six months ago we didn't know where we stood in terms of water, or one year ago, we certainly didn't know, or 20 years ago, we weren't smart enough to do such and such, or 50 years ago, we weren't even thinking of water.

I'm saying that you're passing developments in a few hours late in the night that are huge communities, and there's no way that you could understand all the possible ramifications in terms of water, and other impacts to our community. These are the points that Commissioner Sullivan are trying to bring to the Commission. These are good points. It doesn't mean that he wins every argument. But these points are welcomed by our community, as are Commissioner Campos, who at each County Commission meeting brings up the variance issue.

Fifty years ago, property rights were everything. It's the way we controlled our land. Over the years, that has had to change due to health reasons, water reasons, and this is for the good. So 50 years ago, the County Commission used to offer variances to people in need, with the idea that they were actually helping these people, which they were at that time. These variances continuing in this day are actually hurting the very people that you're trying to help by creating contaminated areas, which we already know we have in some areas in the northern part of Santa Fe County.

CHAIRMAN DURAN: Could you try to wrap it up, please?

MS. SIGSTEDT: All right. Well, I guess I just feel that the concerns of the community are real, and—well, are real. Thank you.

COMMISSIONER TRUJILLO: I'd just like to say Commissioner, Mr. Chair, that water and natural resources in this area have always been scarce. And communities like Tesuque, like La Cienega, like El Rancho, like Chimayo, were developed around sustainable water sources and easily implemented infrastructure. If, at that time, the lack of water would have been seen as a disparate impact, if you will, on existing communities, 90 percent of the people in this room would not be here.

This Commission has taken a stance to look at natural resources, water being a natural resource, in a prudent way. It's a scarce commodity, and we need to look for sustainable sources of water. That blueprint was established by our ancestors many, many, many hundreds of years ago. We have never had an abundance of water and natural resources in this area. We need to manage growth in an astute, prudent way so that everybody benefits. We cannot implement a no-growth policy because, for the most part,

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that's how most of us in this room came here and bought our houses, whether there was water or not. So from this day forward, we need to make sure that our natural resources, water included, are used in the right way for everybody's benefit.

MS. SIGSTEDT: One more comment. I actually agree with you. What I'm talking about is managed growth, and what I'm saying is, by passing these seven and eight and 12 phases into the future. You may need that power to budget water, to attach impact fees, to purchase water rights and have it controlled in the public domain rather than by developers. This is what I don't want you to do, is to give away too much power into the future when we don't know our future.

CHAIRMAN DURAN: Thank you. Next speaker, please.

KURT SOMMER: Mr. Chairman, when I saw in the paper your proposal to have a discussion about this matter today, I thought I'd come and speak on behalf of myself as a citizen of this community. I generally don't represent developers. I generally do a lot of tax work, and that's generally my background. I grew up here. A lot of my friends who grew up here can no longer afford to live here. They can't afford to live here because we have adopted a policy here of restricting growth, and restriction of growth increases prices of housing, and people go away and look for jobs elsewhere. We can't afford a no-growth policy for this county.

I first of all would like to commend you on the development process that took place out in the Community College District. That was an incredible amount of planning, energy and effort by staff, the developer, and the landowners that went into it. There's thoughtful planning in that. The water was proven before it was approved as a community district. All that is is zoning. People still have to come before you, as you well know, when they propose a community plan or a development plan, and prove their water sources. Whether it's proven at the master plan level or after the master plan for the phase level, the water must be proven. It's got to be proven to the hydrologists of this County.

So water is integral to the whole thing. What we need to do is develop policies that encourage the conservation of water and the recharging of our aquifers. You mentioned that you went to Arizona to look at the recharging of aquifers. There are technologies out there that would help do this. I encourage you to find them, and encourage the developers to recharge our aquifers for the developments that are taking place.

We've all heard that growth is coming and growth is a fact of life. If we don't have growth, we're not going to have jobs and we're not going to have a sustainable way of living for all of us. I'm sick and tired of hearing in this community "I got mine and let's shut the door." And that's what I've heard a lot of tonight. Well, there are people coming. My kids want to come back and live here. But if "I got mine and let's shut the door" policies are the rule of the day, we're not going to be able to have that for my children, or your children, or anybody else's children that we're trying to raise in this community.

It's important that you adopt policies that provide for responsible growth. That you provide policies, as the Commission, that provide for water and sustainable water. I commend the comments of Commissioner Trujillo a moment ago regarding what took

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place here. For the last 20 years, 30 years, there was no policy for development. And what we had is a hodgepodge of development that has impacted our whole county development.

If you drive south between the racetrack and La Bajada hill, and you look at the development on the north side of I-25, that's the result of what happens. And yes, it affects the community of La Cienega. But it is the result of "Let's go do a four-acre tract and put in a well." It is not the result of the planning that took place in the Community College District. That won't happen there. And that's what's important.

I think that if you proceed to develop the county and allow for the development throughout the county, in the north part of the county, in the south part of the county, in the same manner which you undertook to develop the Community College District and that zoning, you'll have responsible growth and responsible development going on. And the water must proven, as you pointed out, Chairman Duran, for the development to continue.

What we need to do is develop policies that encourage the responsible development of growth for development of roads, infrastructure, for sewers, and we need a regional sewer system, we need to recharge our aquifers, and you need to help develop those policies. That's your job, I think, as elected officials for us. I strongly encourage you to do so. Thank you for your time.

CHAIRMAN DURAN: Thank you. Okay, you are the last speaker.

REBECCA FRANKEL: My name is Rebecca Frenkel. I want to say my desire for Mr. Sommer's children, when they come back, is that they don't buy a house and after they've lived in it for 10 or 15 years, they don't have any water. So I think it's very important that as you do the planning you have some long-range planning, and people have spoken about hydrological studies. It's not your fault you don't have a good hydrological study of Santa Fe County. Our State Engineer has—he either doesn't have the funds or the personnel. This whole state lacks a good study of what their water resources are. And so I urge you to work with the State for us to get a good study of what we have, what our water supply is.

I don't think we can talk about no-growth, because we're part of the Southwest, we're in an area where most people believe that landowners have a right to use their land the way they want to, because they have it. At the same time, though, we have to look at their neighbors, and whatever they do, that they're being responsible for the whole area.

I think as we look at water demand, somebody mentioned it, we really don't know how much water we're using because we don't meter any of the water use outside of the city. I think until we know how much water we're using, it's hard to make a study to know how much do we have, and what's the demand on that water supply.

I think when we look at a water plan, it really has to be a long-range water plan. This year, in the '50s, we know that there's a shortage of water. We know that the Rio Grande will go dry. We want to have those aquifers available for use when we have those kinds of problems. So that's why it's important to know how much that we have. I just want to mention affordable housing. I've really become concerned within the county and the city, that both governing bodies have put on requirements that, in the development,

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there has to be a certain percentage of affordable housing. My concern is that that affordable housing is being developed at the tail end of the development instead of either right along with the rest of the housing. I don't know if it's possible, but why can't we develop the affordable housing first and then develop the rest of the housing, so that we know that affordable housing is going to be put in there. I know the economic reasons for doing it, but that isn't going to solve the needs of the families in Santa Fe.

The other thing is, I think you're working on impact fees. And until we can get reasonable, sufficient impact fees, we need to be able to pay these new elected officials. The Sheriff, he needs new people to be able to enforce the laws within these new developed areas. And so I think it's important to look at those impact fees as you're looking at additional developments.

I really am going to make this short. I just want to say, in closing, that I sat here through all of Jack Kolkmeier's presentations on the new growth management plan. I think we all saw all of the advantages of it. We didn't really look at water. We were looking at the reasonable use of land. I think that the ideas which the County received awards for, of having cluster housing, I think it's all certainly the way to do it. I don't think anybody envisioned the huge amount of development that would take place, at least not those of us who are just citizens sitting out there listening to it.

But as you develop these things, and as you get new Commissioners, they may not agree with what you as Commissioners passed four years ago. They may want variances onto the plan. And so I think that we have to accept, that as new Commissioners come on, they're going to bring forth their new and different ideas. Thank you for your time.

CHAIRMAN DURAN: Thank you. All right. I'm going to let you have five minutes. I need to end this sometime.

PATTY BURKS: My name is Patty Burks, and I live in Valle Lindo, near Highway 14. I just want to tell you of what I experienced in the last seven months, or since January, about all the development, and also point out that we're in a tough situation here. Water is going to be the key element here to all of us this development.

This summer, in the last two or three months, I've had an opportunity to look at places like say Santa Cruz Lake, Hoover Dam, Carolyn mentioned Hoover Dam. I got to see that about a month ago. It's a very sad situation of what we're facing in this region. We have the water levels tremendously dropped in Santa Cruz. I don't know if you've seen it. Hoover Dam is also very, very bad. We went all the way to California, and California's also experiencing—as well as Arizona and that sort of thing—conservation measures to help with their water problems.

It's a sad situation, and when you visibly see it along the highway, like say in Flagstaff, where there's a lot of evergreens and they're brown, just as they are here, it's a sad situation. What I want to say is that we're all relying on water to live. There's a finite supply of water underground at Buckman wells. I know that as Commissioners you are relying on the Buckman wells to feed all of this future growth. I don't think we can rely on Buckman until we know what is there. And so I'm urging you to talk to Jack Frost, who is

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a person that I've been in touch with at the State Engineer's Office, who is in charge of the Española Basin study. He started that about maybe three months ago. I haven't talked to him since then, but I know that he's in charge of that.

We need to know what he's finding out. We need to know what's in that Buckman aquifer, because it feeds all of us, it's going to feed the future growth of Santa Fe, unless we can find an actually, physical amount of water somewhere and pipeline it here or bring it here somehow. This is the water we have to work with.

I urge you to get in touch with the State Engineer's Office, work very closely with them, and tailor your plans and your growth phases to what we can find out is actually our supply. The developers, when they come and they bring you the water rights to satisfy their water requirements, it is not bringing new water to Buckman. It's just paper water rights. There's no physical water that is being re-injected into the aquifer. I'm concerned that our supply is going to be just dried up. That's what I want to say tonight. The main important thing is to get in touch with the State Engineer's Office and find out how that study is going. Thank you.

CHAIRMAN DURAN: Thank you. Commissioner Sullivan?

COMMISSIONER SULLIVAN: Thank you, Mr. Chairman, for some of your comments from the public. I don't think what we have here is the black-and-white growth versus no-growth issue. It may bring people into the chambers to attend the meetings, but I don't think that's how we should develop our County policies, nor do I think that's how you should characterize my participation on the County Commission.

I don't know how long the Community College District plan was in process. You mentioned six to seven years. There's other mentions of eight to nine years. In point of fact, the public was only brought into the Community College District plan in the spring of 2000. That's when meetings began to be held to bring in public input to the plan. Majority of those meetings—some of those meetings were in the evening, but the majority of those meetings were held in the afternoon, during weekdays, at the Community College, making it inconvenient for most people who worked to attend. I attended some of them when I could.

That plan went forward as a zoning plan. It did not consider water. It did not consider the fiscal impact of the plan. Those were two major omissions in the plan. However, we're going to work with that plan. It is there, it is our zoning plan. We were told at the time, because complaints were made, that the plan was rushed through to adoption with multiple meetings occurring in December of 2000, prior to the installation of two new County Commissioners. We were told that in a year the plan would be revised, after it had been fine-tuned and we've seen the results of that. It's been two years almost now, and that's not occurred.

So simply what I've done in my evaluation of the plan is do a tally of where we are. And basically it boils down to—we have about, in terms of physical wet water from the San Juan/Chama diversion that we've agreed to split with the City, about 1700 acre-feet. That's all, physically, that we can get out of that diversion. Of that, 500 acre-feet is

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already committed to developers and to County projects as well. So that leaves us about 1200 acre-feet.

In the last year in the Community College District alone— and there are other approvals that we've made that aren't included in these numbers—in the last year alone, we've approved 5,400 housing units, 4.5 million square feet of commercial space, over a 3,600 acre area of the Community College district. The water budgets from those developers alone indicate about 1600 acre-feet of water, just for those developments. So that means we're in deficit of 400 acre-feet right now, as of right now.

So my discussions, in other forms, have simply brought that number in front of everyone to say how are we going to do this, and should we continue to approve developments when we're already in the red by 400 acre-feet? And really, by the way, we're in the red 600 acre-feet, and 200 of that is being supplied by the City of Santa Fe, and I'm not sure that they even have that for one of the developments. Nonetheless, 400 acre-feet makes me think not only where are we going to get the water, but where are we going to get the water that the San Juan/Chama diversion can't supply based on what we've approved?

I also looked at the growth management plan, which the County has every right to be proud of, and which I think is basically a good document. The growth management plan, adopted just in 1998, not too long ago, indicated that for the next 20 years, we needed 3,487 homes to match the development pace that Santa Fe County was seeing. So immediately, this number got me to question, we now have approved 5,400 units. We've already approved more units than the growth management plan says we need.

So what has come, I think, positive, from some of these discussions, has been: a) the County is now embarking on a fiscal impact study of the Community College district. We're going to look into those figures, such as those that were reported by Mr. Nazor earlier, and based on studies from the Urban Policy Research Center, that pure residential growth can only pay about half its way. So we're going to be very shortly in deficit fiscally as well as hydrologically.

So I think that's a positive that we've done. As indicated also by the Chairman, we've begun to look at and require developers to consider points of diversion and water rights and to take a more active role in that. I think that's a positive direction that the Commission is taking.

I think we have to begin to say that commercial development has to move with the housing development. And if it doesn't, we've got to pace that housing development to do it, because that community and neighborhood commercial that we're so enamored of in the Community College District is not going to come. What we're going to see is a string of pearls of commercial development around the district on Route 14 and on Richards Avenue, big-box development, which won't be the neighborhood development that we were promised and that the community felt was so important in developing the plan.

Finally, let me just make a point with regard to construction industry jobs. I don't think anyone is trying to stop growth that I'm aware of on the County Commission.

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Construction industry jobs are important to our community, as are tourist-related and health-related and other industries. But they fluctuate as a result of national economic conditions. Right now, we can look at interest rates in the five percent area for homes, and building is going on rapidly.

When the national economy changes and interest rates go up, construction industry jobs will slow down. It won't really have anything to do with how many subdivisions we've approved or how much water there is. It'll be a national economic trend. When that happens, then the residents of Santa Fe County are going to come to the Commission, and they're going to say "We want jobs. We want sustainable jobs. We want sustainable economic growth. Not temporary economic growth." And when we begin to work on that, we're going to find that businesses and industries that provide clean growth and jobs of the type we'd like to have in Santa Fe County need water.

We're going to find, well, we don't have any. We've already committed it otherwise. So I think that we have to do a balancing act of balancing the need for managed growth with the availability of water, with conservation and with the ultimate realization that the low interest rate economic boom is not going to continue to occur forever and at some point in time we're going to be asked to spend more of our effort on sustainable economic growth and when we do that we're going to find out that one of the biggest impediments to that is the lack of water.

So these, in summary, Mr. Chairman, are my concerns. I've simply brought numbers. And since we haven't had any changes to the Community College District policy other than the ordinance change to limit wells, I simply wanted to put an order of magnitude figure on what we've done. The commercial growth that we've approved just in that district in the last year is seven times the size of Villa Linda Mall. Do we really think that there'll be seven Villa Linda Malls out there in the next ten to twenty years? Probably not.

So I think it's pointing out some flaws in the Community College District which it's incumbent on us to begin to correct.

CHAIRMAN DURAN: I want to thank everyone for participating in this discussion. We'll probably have some ongoing discussion relative to how we manage growth, and maybe the next time it's published it will just say growth policies instead of no growth policies. I think we all really are working together on making sure that we have a sustainable water source that those people that are here, that live in the community now are provided a sustainable, long-term water source and that we work together on managing the growth that is going to occur in the community in the next 20 to 30 years and I just hope that we can work together on that. Is that it? Thank you.

COMMISSIONER SULLIVAN: Wait until you hear my item under Matters from the Commission.

CHAIRMAN DURAN: Are we there yet?

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VIII. C. Request Authorization to Publish Title and General Summary of an Ordinance Amending Portions of Article V, Section 5.2 of the Santa Fe County Land Development Code "Master Plan Procedure" to Clarify and Elaborate Upon Master Plan Requirements and the Nature of a Master Plan Approval

ROMAN ABEYTA (Land Use Administrator): Thank you, Mr. Chairman. This amendment would require the submission of a preliminary water supply plan and liquid waste disposal plan which would include the following: an analysis that will identify one or more conceptual sources of water to supply the proposed development, i.e., County or other utility, wells, water right transfers, point of diversion, etc. The analysis will also include estimated water budget or demand by phase and total demand at full build-out including commercial uses if applicable. The liquid waste disposal plan will identify one or more conceptual methods of addressing liquid waste, i.e., individual septic systems, community treatment system, utilization of County or other municipal wastewater system, constructed wetlands, etc. The plan will also address estimated discharge, annual by phase and total discharge at full build-out, including commercial uses is applicable.

The proposed amendment will also include language that states master plan approval does not confer a vested development right to the applicant or future assignee, given that said approval is solely predicated on a preliminary determination with respect to viability and conceptual integrity. Other minor amendments will be made to the existing language as determined necessary as we develop the ordinance. If approved, the proposed amendment will be scheduled to be heard by the CDRC in December and in January and February by the BCC.

And Mr. Chairman, I need to point out that this proposed amendment conflicts with the proposed amendment that is scheduled to be heard this evening having to do with amending Article V of the Code to require submission of water plans and water permits for master plans. This one, the ordinance that's scheduled to be heard this evening will require hydrology reports and water rights up front, whereas this amendment requires you to submit a plan for that. And so it doesn't, it's not as stringent a requirement as the proposal that's before you later on this evening. And so I guess I'm pointing that out because if this is approved and then we have this other ordinance, they both conflict and so staff would need direction from the Board as to which version you want us to bring forward and work on. Thank you, Mr. Chairman.

COMMISSIONER TRUJILLO: And this, Mr. Chairman.

CHAIRMAN DURAN: Commissioner.

COMMISSIONER TRUJILLO: This proposed ordinance also delineates exactly what master plan approval means, right?

MR. ABEYTA: Mr. Chairman, yes. What it does is it says that the master plan does not confer a vested development right on the applicant, and so you're not guaranteed preliminary or final approval if you get master plan approval.

COMMISSIONER SULLIVAN: Mr. Chairman.

CHAIRMAN DURAN: Commissioner Sullivan.

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COMMISSIONER SULLIVAN: Roman, in the ordinance that we'll hear later on, I understand the concept is that water needs to be available and water rights, although they don't necessarily need to be transferred or have a defined point of diversion. Is that your understanding of the latter ordinance?

MR. ABEYTA: Mr. Chairman, Commissioner Sullivan, it was my understanding that it would have to be a pretty defined proposal for water at the master plan stage.

COMMISSIONER SULLIVAN: Right. But not, it would simply move forward what we now require at the preliminary development plan stage to the master plan stage.

MR. ABEYTA: Yes, that's correct.

COMMISSIONER SULLIVAN: And at the preliminary development plan stage we don't require that a developer actually move his or her water rights or get final agreements, we require that they show that they have the capability to do that.

MR. ABEYTA: Yes, that's correct. And if you're not dealing with water rights it would require that you do hydrology reports up front if you don't need water rights but you do still need—

COMMISSIONER SULLIVAN: So that basic intent of that ordinance is to move forward from the preliminary and final development plan stage, which we typically very frequently get together, so it's really only one review phase, to the master plan phase. And in particular in the Community College District, that seems appropriate to me since the Community College District is already zoned and usually the idea of a master plan is to do zoning, so what are we doing with a master plan if the area is already zoned? Obviously, we need to go to the next step to do something more substantive and look at the water and fiscal impact issues.

Now on this particular ordinance proposal, you say with both regard to community water or water and sewer, that the developer or the applicant will identify conceptual sources of water and conceptual methods. Now, the proposal that we heard earlier about saline, brine transfer of water to the county, which is clearly a long ways away, that's a conceptual plan, isn't it? I am bothered about the conceptual nature, because quite frankly I think that we're getting this right now. We're getting developers who say I think I can get water here, or I propose several alternatives, or we're going to enact some conservation measures, and I think we're getting all of those conceptual concepts now in most of our large master plan submittals. I don't see anything that would do that now.

Maybe if you said we'll identify currently available water resources and let me give you just one example. The most recent submittal by Rancho Viejo said We want master plan approval for phases 3 and 4 and we have 120 acre-feet of water rights that can be transferred to the Buckman well area as a point of diversion. Now that seems to me to be a strong indication that they have a feasible methodology for doing that. They have to go through the State Engineer's approval but if they just said, well, we're going to look around and see if we can buy some water rights or look around, then that would be conceptual. So could you explain to me what your understanding of what conceptual would be.

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MR. ABEYTA: Mr. Chairman, Commissioner Sullivan, as far as what is conceptual and my input into this amendment had to do more with the developments that are going to utilize wells and not transfer water rights, meaning if you're going to use a well, you don't require water rights, should you have to drill the well and do a hydrology report up front at master plan. Under this proposal you wouldn't have to; you would just have to let us know that this is, our concept is to drill a well. This is how much water we're going to be using and then we'll come in and do the hydrology report at the preliminary phase.

As far as how this will apply to the County or other utility, perhaps maybe Commissioner Varela or even Steve Kopelman could help me answer that question because I was taking direction mainly from them in preparing this. But again, I do know what the intent was regarding developments on wells that don't need water rights, the smaller developments.

COMMISSIONER VARELA: Mr. Chairman, Commissioner Sullivan, the reason that I brought this forward was because I've noticed for the last several months that, especially listening to the folks here tonight speaking on the no growth issue is that there's still that disconnect where they don't understand that County policy is that when you come to preliminary stage and before you get final approval that you have to prove that you have water. I heard that numerous times tonight that they think that once master plan, they get approval for master plan that basically everything is going to fly in the developer's favor from then on. So the gist behind this was to add language into the master plan so that we do address water as a specific matter and liquid waste, which is going to become a potential source of supply for the County in the future if it does hook up to a County utility or else we have to also manage the liquid waste if it's going to be a community system or a single user system.

So what I am trying to do here is identify these at master plan approval and also to include the language about the master plan approval does not confer a vested right, because I heard that a lot tonight, that why are these developers so happy? etc., etc. and people don't understand that and that's why I put this in here. I am not trying to change anything so there is any enormous economic impact on the developer at master plan and the reason for that is that we're stating it here in this document that they are not conferred a vested right so I don't see why they would have to bring an actual water right or anything like that at master plan stage approval. I would still agree that the water rights should be discussed in a more specific manner at preliminary than at master plan, but what I'm hoping here is that we can, as a community, start to identify water as a great issue just like all the folks that were here tonight were speaking about.

So one or more conceptual, well, no it doesn't have to be an actual water right, but it also helps the developer and helps the community to understand that we have to start determining where we're getting our water from and have some initial plan for how we're going to bring water if we are going to have a development. And basically, that's the gist of what I'm trying to do here.

COMMISSIONER SULLIVAN: I thought, Mr. Chairman and Commissioner Varela, that we're both probably coming at the same problem from different sides. I would certainly be in support of this ordinance as well as the other one and let the discussions fall

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where they may and come to some compromise ordinance. If it said an analysis that will identify one or more currently available water and water rights for a minimum of the first sustainable phase. See, what we have is already several developments in the Route 14 area where the water, the identified water and water rights aren't even sufficient for the first phase.

So I understand the Planning Department's desire to see what the whole master plan looks like and to have that coordinated and to ensure that we have a certain amount of affordable housing and very importantly a certain amount of commercial in each phase. And so that development may not have all the water rights for all thousand units that may be proposed. But each phase is supposed to stand on its own. That's a precept of the entire Community College District. When we approve a development, if there's not even enough water or water rights for the first phase, we haven't followed the sustainability concept in the Community College District plan.

So I think if we can look to that as a mechanism and likewise with liquid waste disposal, I would say not one or more conceptual, but one or more feasible, technically feasible methods of liquid waste disposal, we've put a greater burden on the applicant to be up front with the community and say, Yes, here's where we're going to get the water and here's what we're going to do with the sewage. And let the chips fall where they may. I think the master plans have typically been vague on that in order to gain approval and what the public has said to us tonight is we want them to be specific on that so we know what we're responding to and what we're anticipating.

So I think the two ordinances could probably work together, but just a conceptual plan in my personal opinion is a bit too vague.

CHAIRMAN DURAN: Well, I think that we're here tonight is to decide whether we want to publish or authorize publishing title and general summary and the debate about it can take place later, but I'd just like to say that I think conceptual sources of water allow us to continue planning and zoning growth areas, and your ordinance, Commissioner Sullivan, that requires development to bring water prior to master planning impedes that process. It doesn't allow zoning and planning to take place because the conceptual sources of water have not yet been developed. We've talked about the Buckman. We've talked about the Raney. These are ongoing discussions. We've talked about other points of diversion and they're all conceptual.

I think that the only way that we're going to be able to sustain a reasonable amount of growth in this community is by working with the City, the Pueblos, and ensuring that we work diligently on trying to find new sources of water. At some point in time maybe we'll have to come to the realization that there is no water out there. But until we have the report and the information and data that we've committed to pursue we can't make that decision. And I can't agree with your ordinance because all it really does is it prevents the process of planning which we have worked so hard to develop at the Regional Planning Authority level. If we did what you wanted to do, we might as well doing any planning with the Regional Planning Authority.

COMMISSIONER TRUJILLO: I think also what conceptual does, Mr. Chairman, is it provides for a healthy dialogue between the developer, the applicant and the

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County to look at different ways of bringing water, different ways of implementing infrastructure, different ways of identifying wet water sustainable sources. When I become a County Commissioner, I was not given an altruistic wand that I could wave and implement utopia. I think that this conceptual part of this ordinance does give impetus to a healthy dialogue between local government, Santa Fe County, and all of the developers out there.

COMMISSIONER CAMPOS: Mr. Chairman.

CHAIRMAN DURAN: Commissioner.

COMMISSIONER CAMPOS: I think we have a situation here where we have two different legislative proposals that may in conflict and should be coordinated, and probably should be looked at at the same time. I'd like to ask Mr. Kopelman what he would suggest as far as tracking these two legislative proposals.

MR. KOPELMAN: Mr. Chairman, Commissioner Campos, as Roman indicated, we were directed to put together—there are two separate approaches to it and I don't see any reason why you can't take this one forward and the other one forward and possibly through the public hearing process come to a resolution, whether it's one or the other, somewhere in between. There's no reason that can't be done.

COMMISSIONER CAMPOS: Could we schedule the meetings to consider both proposals?

MR. KOPELMAN: Mr. Chairman, Commissioner Campos, that's certainly within the purview of the Board of County Commissioners.

COMMISSIONER CAMPOS: Okay. That's what I would suggest, Mr. Chairman.

CHAIRMAN DURAN: Could we also decide that we just wanted to pursue one course of action here and not pursue the other option or ordinance?

MR. KOPELMAN: Mr. Chairman, members of the Commission, you've already authorized publication of the ordinance that requires something more tangible at master plan. If you then approve this one, then they both, at that point they're at the same juncture. And then later, as you go through the hearing process you can make decisions through that process. So really, if you authorize this, you've got two ordinances that deal with the same subject matter and as they come forward at hearing you can decide to shelf one, you can decide to merge them, however you want to do it.

CHAIRMAN DURAN: But one is way ahead of the other.

MR. KOPELMAN: It's ahead of the other but that doesn't mean that the Commission couldn't put them on the same track and combine the hearings if you wanted to. You have that authority if you would like to do that. Right now the discussion on the other master plan ordinance is scheduled to be held later at this meeting, but the Commission has the authority to put them on the same track if you wish to.

COMMISSIONER SULLIVAN: That's just a first public hearing too, Mr. Chairman, for that one. So no decision will be made on that tonight regardless. And I'm perfectly willing to work. I think if we look at congressional policies where two separate bills are brought forward they sit down and they work out a committee substitute and they come up

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with something that works. I just feel, as I said before, that at a minimum, in the first phase of a development that's being proposed, the developer has to show some tangible water and water rights and something more than the generalizations that we've been getting in the past.

So I think we need to craft some very specific language. Again, this is what we're reading from as a memorandum from Roman about the intent of that development or that proposal. I think we need to craft some specific language that means something. If the majority of the Commission says No, they don't have to have water rights, then that's the decision of the Commission. But I think I have no problem in meshing my proposed ordinance with this one on the schedule so that they both go together and working in the interim with the staff to come up with some language that has some teeth.

COMMISSIONER TRUJILLO: Just a question for Commissioner Sullivan. Commissioner Sullivan, are you saying that the development happens even without water rights, even without wet water? It has always been my experience that if there's no sustainable water source or water rights identified, development doesn't happen. That's part of the protocol. That's part of the process. After five years, if the development doesn't go ahead, it's null and void. So I'm perplexed that maybe we're sending the wrong message to the community that if we don't identify water rights up front and wet water up front that we're going to get dry neighborhoods.

COMMISSIONER SULLIVAN: Well, I think, Mr. Chairman, Commissioner Trujillo, in answer to your question, yes that does happen. And how that happens is through the variance process. Developers come in for your Type III subdivisions and they request variances to the geo-hydrological tests and those variances are approved.

COMMISSIONER TRUJILLO: We've never done that.

COMMISSIONER SULLIVAN: We certainly have. We certainly have approved geo-hydros based on testimony that they cost too much, on Type III subdivisions, that's 24 or less.

COMMISSIONER TRUJILLO: We haven't done that.

COMMISSIONER SULLIVAN: I'm certain we have.

CHAIRMAN DURAN: Maybe a lot split or two.

COMMISSIONER SULLIVAN: I think that any applicant can retain a hydrologist who will provide a favorable opinion for that applicant. I think what our hydrologist needs is more specific data at the master plan stage to give us an independent evaluation. She doesn't get that until the project is right at the end, and more importantly, the community doesn't get that. The community doesn't get the information as to where the water is going to come from and what this developer has in terms of the fiscal capability to move the project forward. And I think that that brings the community into the process, which is what we want. And that then dispels the problems that Commissioner Varela brought up of them not understanding the process.

So my proposal is not that they have everything transferred and in the bank and ready to go at master plan phase. My proposal is that they show that they have water rights that are available, they may not have transferred them, and that they have a plan that they've worked

out with our staff as to where the physical wet water will come from that our staff has agreed with.

CHAIRMAN DURAN: Okay, we're going to talk about that when it comes up on the agenda. Can I ask the Commission for a motion on this particular item?

COMMISSIONER TRUJILLO: Move to approve, Mr. Chairman, the general summary of this ordinance, to publish.

CHAIRMAN DURAN: To publish title and general summary of an ordinance. Okay. Is there a second?

COMMISSIONER CAMPOS: Second.

CHAIRMAN DURAN: Any further discussion?

The motion to approve publication of title and general summary of a master plan procedures ordinance passed by unanimous [5-0] voice vote.

CHAIRMAN DURAN: Thank you for coming up with an alternative idea to the problem, Commissioner.

COMMISSIONER VARELA: I just thought that people didn't understand the process. They thought that it would be better that we actually write several paragraphs in the master plan stage so that water and liquid waste are addressed so that the folks that read the Code and want to know exactly what it means that they can actually see something and they know that it is a consideration. It's also for the developer so that it can help them in their process to start identifying sources in a quicker manner and it also behooves them in the long run, if they're going to get approval at some point, there's no reason that they shouldn't start thinking about water and start identifying those sources at master plan, even though it's not a requirement until later on in the process. But I think it's best for everybody that we start thinking about it.

CHAIRMAN DURAN: Thank you. Okay, still on Matters from the Commission. Let's start with Commissioner Sullivan. Did you have anything to bring forward?

COMMISSIONER SULLIVAN: I had a couple of I think fairly short items, Mr. Chairman. The County Manager is not here but maybe Mr. Kopelman can respond to this. A while back, the County Commission approved the County Manager sending a letter to the Office of the State Engineer asking about the possible designation of the Silverado area as a critical water management area. And a reply to that was received on the 11th of October and I wondered, Mr. Kopelman, whether you could interpret this reply. It's a little vague to me but I interpret it as meaning that the designation of a critical water management area takes place after they have a detailed hydrologic model. And what Mr. Paul Saavedra, who's the director of water rights is saying in this letter, is that they don't have a detailed hydrologic model. And so he talks about the County has the option of enforcing other subdivision regulations. Is that your read on what he's saying here? He's not saying yes and he's not saying no.

MR. KOPELMAN: Mr. Chairman, Commissioner Sullivan, I agree with you. I read the letter and I was a little confused. He seems—I read it the same way, that you require

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intensive hydrologic studies in order to make a determination as to whether an area requires critical water management designation. Then he goes on to say there are no major producers in the area and it kind of leaves it open ended. So I agree with you and I don't know whether there's been a follow-up on this but I can certainly check that out tomorrow and follow up for you.

COMMISSIONER SULLIVAN: My suggestion would be that we either call him or write to him and say that we would like to participate in such a study, and I was under the impression that the Española Basin study that they've just started would be such a study. And if that one is the study that would give us this information, I think we should participate both physically and financially and I think there's been some discussion with the State Engineer of some nominal amount of financial participation. But I think we need to move forward to the next step on this letter is my point there.

The second item that I had is I'd like to put an item on the agenda for the issue of inmate transportation from the jail after release. We've discussed this at two Commission meeting and we received a report from Greg about this. I'd like to get it on as an action item and get some recommendations to do something one way or another. I think we've knocked it around enough. It's time to either fish or cut bait.

The third question that I had is that a month or so ago we approved an agreement that had to do with the Lensic Theater relocating its transformers over onto the County property at a public cost of \$150,000 just so people would see it on the north side of the street instead of the south side of the street. As a part of approving that we asked the staff to further some discussions with the City about is this really necessary and could that \$150,000 be better spent on other Lensic issues, or could those transformers be relocated onto the adjacent property that will be developed in the near future where there's currently a parking lot. Do you know anything on the progress of that, Mr. Kopelman?

MR. KOPELMAN: Mr. Chairman, Commissioner Sullivan, I'm not aware to my knowledge that those discussions have taken place but I will make sure that we get going on those right away.

COMMISSIONER SULLIVAN: Commissioner Duran, have you heard anything more on the Lensic, the relocation gambit?

CHAIRMAN DURAN: I spoke to the City Manager and he had no idea that the Commission was interested in discussing an alternate solution to the problem. For instance, waiting until—

COMMISSIONER SULLIVAN: That you had recommended.

CHAIRMAN DURAN: Right.

COMMISSIONER SULLIVAN: Waiting until that other parcel was developed.

CHAIRMAN DURAN: So that the whole \$300,000 could go to the Lensic.

COMMISSIONER SULLIVAN: Could go to the Lensic instead of paying to move the transformers from one side of the street to the other. And he wasn't aware of that. So it sounds like we have a communication gap here. A Bermuda Triangle as it were. Perhaps we could—

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CHAIRMAN DURAN: I think we probably need to do it soon too because I think that grant has to be used by a certain date. I forget what it is.

MR. KOPELMAN: Mr. Chairman, Commissioner Sullivan, we'll make necessary calls tomorrow to get that meeting.

COMMISSIONER SULLIVAN: I appreciate that. And the last thing, Mr. Chairman, is we reviewed in our last meeting several subdivision requests in the Piñon Hills area and the issue has come up before. These were denied, three of them, and the same issue always exists that there needs to be public services out there that meet County Codes, that provide adequate fire protection and EMT service and transportation access and so forth. And it's difficult with such a large subdivision to get everyone together and have 2/3 of them request such a district. I'd like, with the Commission's agreement, for the staff to come back and give us a report on what a provisional district would entail.

Now I know that staff has done a report on the cost of that. I've seen that. But I think this is probably one area where we as a Commission may need to take the bull by the horns and say some level of better safety and service is needed in that area and the provisional method, as I understand, doesn't require 2/3 of the individuals to sign off on it. It's a determination made ultimately by the County Commission. Is that correct?

MR. KOPELMAN: Mr. Chairman, Commissioner Sullivan, that is correct, yes.

COMMISSIONER SULLIVAN: And we keep talking about that every time one comes up and we keep saying this is such a big item. I'd like to get a report as to what that would cost in terms of a district assessment over a 15- or 20-year period and see if the Commission feels that that's worth pursuing, if so, having the necessary public hearings and things like that. I just think we need to take that to the next step. Otherwise we keep coming up with that same issue every time something comes before us regarding Piñon Hills. That's all I had Mr. Chairman. Thank you.

CHAIRMAN DURAN: You mean you're not going to the meeting tomorrow night?

COMMISSIONER SULLIVAN: Which one?

CHAIRMAN DURAN: There's a Piñon Hills meeting tomorrow night to address all these—

COMMISSIONER SULLIVAN: Good.

CHAIRMAN DURAN: I'm the Commissioner that is—

COMMISSIONER SULLIVAN: Right. Are you going to attend?

CHAIRMAN DURAN: So I'll let you know what they say.

COMMISSIONER SULLIVAN: Well, good.

CHAIRMAN DURAN: I think the plan is to try to come up some strategy to deal with the problems. We need to make some policy decisions or help them find money to bring those roads up.

COMMISSIONER SULLIVAN: I think if we create a provisional district we as the County can submit for New Mexico Finance Authority funds at a lower rate. Well, they

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wouldn't even be able to submit it I don't think. I'm not sure of that. But I think through the district process, which they have to understand entails some tax increase on their part. The only question is how much and what would be the nature of it? Do we need to improve roads? Do we need to improve water? Do we need to improve sewer? Do we need to improve access? I know that there's future subdivisions.

And the answer is probably somewhere in the middle. We don't have to make it completely meet the current codes but we need to bring it to a level of safety.

CHAIRMAN DURAN: Well, if I don't show up on Thursday my last meeting was at the Piñon Hills Subdivision.

COMMISSIONER SULLIVAN: Okay, we'll know where to find you.

CHAIRMAN DURAN: Well, Roman, just on that note, isn't there another subdivision being approved close to Piñon Hills, adjoining it? And isn't it close to Puesta del Sol?

MR. ABEYTA: Mr. Chairman, I've heard of a large piece of property that somebody's considering developing, but I don't have the details. But it is my understanding that there may be some plans.

CHAIRMAN DURAN: Because my thought on that when I heard that is that they might be able to provide an alternate access that might be safer than the low-water crossing that's in place right now and perhaps we could incorporate their plan into the solution of the problem.

COMMISSIONER VARELA: Sounds like something that would be cost-effective, Mr. Chairman.

CHAIRMAN DURAN: Okay, Commissioner Varela, do you have anything to bring before us?

COMMISSIONER VARELA: No, Mr. Chairman.

COMMISSIONER TRUJILLO: Yes, yes. The Pojoaque Valley is going through a community planning process and the Jacona and grant encompasses a major portion of land in the Pojoaque Valley. So I'd like to direct staff to work with the Jacona land grant board of directors to master plan, if they're receptive to master planning the area, and to identify those areas that possibly could be purchased with open space monies for open space acquisition. I think there's 6,000 acres of land that the Jacona land grant people own and they should be integral to the community planning process in the Pojoaque Valley because they can satisfy a lot of the quality of life issues and needs in that area. So with that, I'd like to direct staff to open the lines of communication with the Jacona land grant and talk about open space acquisition and such.

CHAIRMAN DURAN: Do you know how to get a hold of them?

COMMISSIONER TRUJILLO: Yes, I do. And I think Paul knows how to get a hold of them too.

CHAIRMAN DURAN: Okay, good. Commissioner Campos?

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X. Consent Calendar

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

1. EZ CASE #S 01-4691 – High Summit Subdivision (Approved)
2. EZ CASE #DL 02-4390 – Jeromuir M. Trujillo (Denied)
3. EZ CASE #DL 02-4380 – Tom Sedillo (Denied)
4. EZ CASE #DL 02-4340 – J. Anthony Peperas (Denied)
5. CDRC CASE #S 02-5290 – Tesuque Ridge Subdivision (Approved)
6. CDRC CASE #DP 02-5230 – Heart and Soul Animal Sanctuary (Approved)
7. CDRC CASE #Z 01-5631 – Salida del Sol Master Plan (Approved)
8. CDRC CASE #DP 02-5080 – Gabriel's Art Gallery (Approved)
9. TDR CASE #V 02-5280 – Trujillo and Benavidez Variance (Approved)
10. CDRC CASE #V 02-5320 – Lewis/Groves/Nestor Variance (Approved)

CHAIRMAN DURAN: Are there any of those cases that the Commission would like to isolate for further discussion?

COMMISSIONER CAMPOS: Mr. Chairman.

CHAIRMAN DURAN: Commissioner.

COMMISSIONER CAMPOS: I'd like to get more information on items 1, 5, and I would isolate 9 and 10 for objection.

CHAIRMAN DURAN: One and five and nine and ten to object?

COMMISSIONER CAMPOS: Yes, sir.

CHAIRMAN DURAN: Okay, then items 2, 3, 4, 6, 7, and 8.

COMMISSIONER CAMPOS: I have no problem with.

CHAIRMAN DURAN: Anyone else have any item there.

COMMISSIONER SULLIVAN: The only one I had, Mr. Chairman, was number 5.

CHAIRMAN DURAN: Okay, the Chair will entertain a motion to approve the findings of fact and conclusions of law on the following land use cases shown on the agenda as number 2, 3, 4, 6, 7, and 8.

COMMISSIONER CAMPOS: So moved.

COMMISSIONER SULLIVAN: Second.

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

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The motion to approve Consent Calendar items A. 2, 3, 4, 6, 7, and 8 passed by unanimous [4-0] voice vote. [Commissioner Trujillo was not present for this vote.]

X. A. 1. EZ CASE #S 01-4691 – High Summit Subdivision (Approved)

COMMISSIONER CAMPOS: Mr. Chairman, a question for Mr. Abeyta. If I remember correctly, this is a subdivision that is in the forested area.

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

COMMISSIONER CAMPOS: I looked at, I think I looked at the conditions pretty thoroughly and there was no discussion about the fuel load issues that we've been talking about in the last few subdivisions that have been approved. Notice, fuel loads. I thought it was our position that we would do this regularly but it seems to be absent in this case.

CHAIRMAN DURAN: Isn't this part of the ordinance we adopted? Does this fall in the area that is affected or controlled by the Wildland Urban—is this in that area?

MR. KOPELMAN: Mr. Chairman, members of the Commission, paragraph 12 does say the project will comply with the Urban Wildland Interface Code, but I think, Commissioner Campos, you're asking for something in addition to that?

COMMISSIONER CAMPOS: We've been adding conditions requiring notification as to the fuel load issue, costs related to fuel loads.

CHAIRMAN DURAN: Oh, disclosure, right?

COMMISSIONER CAMPOS: Disclosure.

CHAIRMAN DURAN: Disclosure. Okay.

COMMISSIONER CAMPOS: And we don't have it again in this case, I don't believe.

MR. ABEYTA: Mr. Chairman, it was not put in as a condition of approval, so it wasn't included in the finding of fact. Based on the minutes, the motion was approved by a majority vote and subject to staff conditions. Commissioner Sullivan and Commissioner Campos abstained. So there wasn't an actual condition. There have been conditions that were placed on other projects in various—

CHAIRMAN DURAN: For disclosure

MR. ABEYTA: For disclosure but it wasn't made as part of the motion for this case.

CHAIRMAN DURAN: I think the applicant is represented here. Karl, would you agree to that kind of language?

KARL SOMMER: Commissioner Duran and Commissioner Campos, yes, and that language was included in the Tesuque Creek Subdivision about additional fire risks, additional costs and compliance with the ordinance. So we worked with legal staff and with County's land use staff to develop a disclosure that is in bold face, prominently

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figured in the disclosure statement with that particular issue, with the additional cost. It's in a higher risk fire area and the compliance with the Urban Wildland fire code is necessitated.

COMMISSIONER CAMPOS: You have no problem with adding that as a condition in this case at this point?

MR. SOMMER: No.

COMMISSIONER CAMPOS: Okay, I would ask that the Commission consider that.

CHAIRMAN DURAN: On that note, Roman, can you do whatever it takes to get that part of the ordinance so we don't have to bring it up? If Commissioner Campos wasn't here maybe it wouldn't come up again, but how do we incorporate that into the ordinance?

MR. ABEYTA: Mr. Chairman, what we'll do is we'll just as a matter of standard practice we'll impose it. If you're in an Urban Wildland area we'll impose that condition on every project that comes forward.

CHAIRMAN DURAN: Okay. Any other questions on number 1? What's the pleasure of the Board?

COMMISSIONER VARELA: Move for approval, Mr. Chairman.

CHAIRMAN DURAN: Motion to approve. I'll second.

COMMISSIONER CAMPOS: With the additional condition that the disclosure statement be made?

COMMISSIONER VARELA: With the additional condition, yes.

CHAIRMAN DURAN: Any further discussion?

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

**X. A. 5. CDRC CASE #S 02-5290 – Tesuque Ridge Subdivision
(Approved)**

CHAIRMAN DURAN: Was that you, Commissioner Campos?

COMMISSIONER CAMPOS: Yes, Mr. Chairman. I was thinking about this case and it seemed that during the discussion the developer was willing to accept less than .7 acre-feet of water per lot. During the discussion, I think that was lost. I think the developer was willing to accept .5 acre-foot per lot in that discussion and I'd just like Mr. Abeyta to address that condition. There was a concession by the developer but it was not accepted by this Commission as I remember it.

COMMISSIONER SULLIVAN: Mr. Chairman, I read the minutes on this and that was a part of the motion, was that for lots, the limit would be a half acre-foot and for lots that were designated as having horses that they would be .7 acre-foot. And we discussed that at some length. And that was a part of the motion yet in the findings here in

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number three it just says that each lot is limited to .7.

CHAIRMAN DURAN: I was watching you on TV. It said exactly what you said. And they were supposed to come forward in the final plan showing you which lots had horses.

COMMISSIONER SULLIVAN: Yes, and they said, in fact they'd already been designated.

CHAIRMAN DURAN: So what's the pleasure of the Board?

COMMISSIONER CAMPOS: I think it should be corrected, our conditions, to reflect what actually was approved and to show that some of the lots will have only .5 acre-feet of water.

MR. ABEYTA: Mr. Chairman, if that's what the minutes read, we'll make that change.

COMMISSIONER SULLIVAN: Those minutes are in our packet this time which is why I happened to catch that.

CHAIRMAN DURAN: Does it say in the minutes?

COMMISSIONER SULLIVAN: Yes.

CHAIRMAN DURAN: Okay, good.

COMMISSIONER SULLIVAN: It's right in the minutes.

COMMISSIONER TRUJILLO: Move for approval.

CHAIRMAN DURAN: Is there a second?

COMMISSIONER VARELA: Second.

COMMISSIONER SULLIVAN: As amended?

CHAIRMAN DURAN: As corrected.

The motion to approve X. A. 5, with the suggested correction passed by unanimous [4-0] voice vote, with Chairman Duran abstaining.

- X. A. 9. **TDRS CASE #V 02-5280 - Trujillo and Benavidez Variance (Approved)**
- 10. **CDRC CASE #V 02-5320 - Lewis/Groves/Nestor Variance (Approved)**

COMMISSIONER CAMPOS: Mr. Chairman.

CHAIRMAN DURAN: Commissioner Campos.

COMMISSIONER CAMPOS: I would simply like to object for the record as to the two cases, 9 and 10. They both involve variances which exceed the County Commission's authority per ordinance and per statute to grant. Therefore in my opinion this Board lacks authority to grant these variances and therefore it lacks authority to approve these cases.

COMMISSIONER TRUJILLO: Mr. Chairman.

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CHAIRMAN DURAN: Commissioner.

COMMISSIONER TRUJILLO: Because this Board does not lack authority to make variance determination and recommendation, I make a motion to approve these two cases.

CHAIRMAN DURAN: And since I agree entirely with you, Commissioner Trujillo, I'll second it. Any further discussion?

COMMISSIONER SULLIVAN: Again, Mr. Chairman, just clarifying that the vote to approve the findings of fact does not indicate an individual Commissioner's opinion regarding the case, which was registered at the time of the vote.

COMMISSIONER CAMPOS: Mr. Chairman, another issue. Last time we discussed this issue, Commissioner Trujillo asked Attorney Kopelman to come up with an opinion as to our authority on variances and I'm still waiting for that. I think it's an important opinion. He promised something in writing that would be very detailed and I think this Commission needs to start looking at those things a little more carefully. What's the status, Mr. Kopelman?

CHAIRMAN DURAN: Before we get into that discussion, can we vote on the motion?

COMMISSIONER CAMPOS: However you want, Mr. Chairman.

CHAIRMAN DURAN: Because I don't think it's part of the motion.

COMMISSIONER VARELA: Mr. Chairman.

CHAIRMAN DURAN: Commissioner.

COMMISSIONER VARELA: I just wanted to state for the record that along with Commissioner Sullivan and Commissioner Campos, normally, I am opposed to granting variances, but I think the record should reflect that in these two cases, there was no answer for these folks other than to get a variance and as such, I don't believe that in either one of these two cases that the variance was unjustified but as a matter or course had to be taken and had to be approved so that these people could come out of limbo as it were.

CHAIRMAN DURAN: I didn't know you felt that way.

The motion to approve X. A. 9 and 10 passed by majority [4-1] voice vote with Commissioner Campos voting against.

CHAIRMAN DURAN: Okay, Commissioner Campos, did you need to—

COMMISSIONER CAMPOS: I just need information from Mr. Kopelman. This was over maybe two months ago when we had this discussion last. I know Commissioner Trujillo wants to see your opinion, maybe Paul Duran too. But the sooner the better.

MR. KOPELMAN: I will have that opinion. It's almost finished. I'll have it for the next meeting.

COMMISSIONER CAMPOS: Thank you.

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CHAIRMAN DURAN: I only want to see it if it's the way I want it to read.
MR. KOPELMAN: I'll have two separate opinions, Mr. Chairman.

X. B. Resolution No. 2002-149. A Resolution Requesting an Increase to the GOB Series 2001 Fund (353)/Public Works Facility to Budget Fiscal Year 2002 Cash Balance for Expenditure in Fiscal Year 2003 (Public Works Department)

COMMISSIONER SULLIVAN: Move for approval.

CHAIRMAN DURAN: Motion to approve.

MR. KOPELMAN: Excuse me, Mr. Chairman. B and D are on the Consent Agenda if you are comfortable with those.

CHAIRMAN DURAN: Are there any problems with B or D?

COMMISSIONER SULLIVAN: I have a question on D.

CHAIRMAN DURAN: Okay, let's just move on this. There's a motion to approve item B. Any further discussion?

COMMISSIONER CAMPOS: Is there a motion?

CHAIRMAN DURAN: Yes, there's a motion. Is there a second?

COMMISSIONER CAMPOS: Second.

CHAIRMAN DURAN: Any further discussion?

The motion to approve Resolution 2002-149 passed by unanimous [5-0] voice vote.

D. Request Authorization to Accept and Award a Construction Agreement to the Lowest Responsive Bidder for IFB 23-18 for Re-Stucco of Rio en Medio and La Cienega Community Centers (Project & Facilities Management)

CHAIRMAN DURAN: Commissioner Sullivan, did you have a question on that?

COMMISSIONER SULLIVAN: Yes, Mr. Chairman. On that one, I noticed that the construction agreement specifies a proprietary product which is the Sto restuccoing system and I wanted to ask the staff what type of warranty was required. In looking through the contract documents I saw a typical one-year warranty and I think the biggest problem we have with any kind of restuccoing in this climate, this part of the country is cracking and I've seen both conventional and Sto systems crack. And they don't come back and repair them. So do we have any type of warranty that goes beyond the one-year boilerplate warranty?

TONY FLORES (Project Manager): Mr. Chairman, Commissioner Sullivan, I apologize. I'm pinch-hitting for Operations Division Director. I just quickly looked through the

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bid packet and it does specify one year minimum warranty, minimum warranty for one year, but under the Sto application I believe the warranty is typically five years based upon the application methods and the warranty by the Sto manufacturer. I don't see that though, however, in the bid package. So my response would be that it would be in line with whatever the Sto application process or the company that applies it, it would be whatever the minimum Sto warranty is for.

COMMISSIONER SULLIVAN: As I said, I've had experience personally with it and I can tell you that there is no five-year warranty. That if it cracks, they don't fix it unless you pay for it. So the bid has already been taken and this is the low bidder but I guess I feel that even if it would result in some type of minimal increase in the contract price, that we should come out with some negotiation that would address this condition because we don't want the Rio en Medio Center to be cracking, and if it is we want the applier to fix it over a reasonable period of time. It's not clear. There don't seem to be any special conditions about the warranty here, so I would ask—we're in the winter now. We don't want them applying this in the winter anyway. Would it cause a problem for staff to table this while this issue is worked out?

MR. FLORES: Mr. Chairman, Commissioner Sullivan, I don't believe that would cause us a problem at this time because we are into a period of time where the application and the degree of temperature for application is not conducive for this application.

COMMISSIONER SULLIVAN: I sure would like to nail down what they can do and I think we have a latitude to negotiate within a certain percentage with the low bidder anyway if that were necessary to provide a little extra funds to provide a five-year or ten-year warranty then I think that would be a good thing to do.

MR. FLORES: Mr. Chairman, Commissioner Sullivan, actually this is good for another 30 days, looking through the bid packet so it would allow staff some time to look at that warranty issue and I can get that message back to our Operations Division.

COMMISSIONER SULLIVAN: If that's okay with the Commission I'd make a motion to table agenda item X. D. until a further report from staff.

COMMISSIONER TRUJILLO: Second, Mr. Chairman.

CHAIRMAN DURAN: Okay, there's a motion and a second. I know there's no discussion but I just hate to impose a requirement on someone that is unreasonable. When you buy a new home, you only get a one-year warranty on it. So if we table this I just want to make sure that we don't try to impose something that is totally unreasonable and not common to the construction industries business.

COMMISSIONER SULLIVAN: Mr. Chairman, I don't think the intent is to impose anything. I think the intent is a) to clarify what the warranty is, which is not in the documents, and b) if the staff feels it's prudent, to pay some additional money to get a longer warranty. This is a public building, a public facility and we want it to represent the County well. When you buy a house the applier didn't have a warranty add-on or anything like that and you have to live with a one-year warranty but in this case I think we can be a little more demanding and if necessary, pay a little more.

CHAIRMAN DURAN: I think paying for an extended warranty is reasonable.

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COMMISSIONER TRUJILLO: Call for the question, Mr. Chairman.

The motion to table X. D. passed by unanimous [5-0] voice vote.

XI. Staff and Elected Officials Items

A. Matters from the County Attorney, Steven Kopelman

1. Executive Session

a. Discussion of Pending or Threatened Litigation

i. *Cerrillos Gravel Products v. Board of County Commissioners*

ii. *Joe Miller v. Santa Fe County*

b. Discussion of Possible Purchase, Acquisition or Disposal of Real Property or Water Rights

CHAIRMAN DURAN: Mr. Nazor, I know you wanted to address this Commission before we went into executive session and I'll give you three minutes to do that.

HUGH NAZOR: Mr. Chairman, that will be more than adequate. Representing the intervenors in this case. I wanted to say that this is not only a case taken very seriously by the people down 14 on which they have worked for many, many years, but has far-flung implications for the County. I was at the hearing. I've read the judge's finding. I would find it to be intolerable to the County were I in your position and on behalf of all the people done there and the intervenors, we beg you to pursue this to the limit of your endurance and funds and not to let this finding stand.

A number of you know that we are currently in discussion with J.R. Hale about a proposed 500-acre mine on the immediate top of La Bajada and one of the problems coming out of this, even if we should find common ground with Mr. Hale for a proposed mine in that area is the matter of enforcement of conditions. If conditional permits cannot be issued and enforced by this body, if everything has to be taken to court there's just a tremendous problem in holding any miner to do the honest thing. You know there are problems with enforcement as it is because of you limitations with staff. To be limited also as this finding says you are by statute to not have the right to suspend or withdraw permits that you have issued really leaves no way other than to let miners run wild that we could enter into honest negotiation with them about meeting conditions.

So again, the urging is to please take this forward. Please appeal. Please pursue it.

CHAIRMAN DURAN: Any questions? Thank you very much. Okay, the Chair will entertain a motion to go into executive session as stated.

COMMISSIONER CAMPOS: So moved.

COMMISSIONER TRUJILLO: Second, Mr. Chairman.

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

[The Commission met in executive session from 7:04 to 8:00.]

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

XI. B. Matters from the County Manager

CHAIRMAN DURAN: Mr. Kopelman, did Estevan leave you anything to talk to us about?

MR. KOPELMAN: Mr. Chairman, he just wishes you all a good meeting.

XII. Public Hearings

B. Land Use Department Items

1. Ordinance No. 2003-___. An Ordinance Amending Ordinance 1996-10, the Santa Fe County Land Development Code, Article V, Section 5.2.2c. and 5.2.2.g, to Require the Submission of Water Supply Plans and Water Permits for Master Plans (First Public Hearing)

CHAIRMAN DURAN: For those of you that are out there we tabled number 2. Roman, I'd like for the Commission to consider letting Roman give us a presentation and then open it up for public discussion and then some brief comment from the Commission afterwards. Is that okay? And then at the next meeting we'll try to incorporate everything into a major discussion.

MR. ABEYTA: Thank you, Mr. Chairman. Under the current ordinance master plans are covered under Section 5.2.2 of Article V. 5.2.2.c requires a conceptual environmental plan which shall include, when appropriate a water supply plan. Under the proposal, that section would be deleted and under Section 5.22.g a new Section 8 would be added which states a master plan report shall include the following, and then again, item 8, a water supply plan and water permits as required by Article VII, Section 6 of the Code.

Under existing Code, this is not required until the preliminary development plan stage. So that would be moving it up from the preliminary development plan stage to the

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master plan stage. Based on the direction that was given earlier this evening, the authorization that was granted for another similar type ordinance, staff will go back now, take the comments we hear this evening on this proposal, take the comments that were given earlier on the authorization that was given and we'll come back to the BCC with either both ordinances or one that combines both. But I guess that I would request from the BCC at this time is direction as to what you want us to bring forward and when. Because we still have to have the first public hearing for the authorization that was granted earlier this evening.

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

CHAIRMAN DURAN: Commissioner Trujillo.

COMMISSIONER TRUJILLO: We've always talked about, over the last few months about financial impacts and things like that. Do we have any idea what sort of financial impact or whatever other impact this requirement would have on applicants or developers or whoever, by making this a requirement at the master plan phase? That would be an out of pocket expense for applicants and possibly they would not have a remedy to retrieve this expense if the development doesn't happen. Do we have any idea what that expense will be?

MR. ABEYTA: Mr. Chairman, Commissioner Trujillo, an obvious impact would be that if you are proposing a development on a well, you would have to drill the well and perform a hydrology test up front, whereas right now you don't. So whatever the cost of the well and the hydrology report is you would be paying that up front at the master plan instead of getting the zoning approval and then paying that at the preliminary development plan. So that's an obvious one. We haven't research as to all the other impacts but that is one.

COMMISSIONER TRUJILLO: So there is a real cost up front of this requirement if this requirement is put in place, right?

MR. ABEYTA: Yes.

COMMISSIONER CAMPOS: Mr. Chairman.

CHAIRMAN DURAN: Commissioner Campos,

COMMISSIONER CAMPOS: Question for Mr. Abeyta. We've talked about this a number of times. At some point staff felt that this was a positive step forward requiring some kind of water rights or some kind of proof of water right up front. And now staff is seemingly backing off a little bit. Could you tell me what the benefits were that you saw and what you're seeing now?

MR. ABEYTA: I think what staff has always, or what staff has envisioned or would support is something that is more similar to what you had granted authorization for earlier this evening, that make the Code clear that you have to submit a conceptual plan and give detail to what that consists of. We don't necessarily, I don't know if we ever did agree that you should have to do a hydro up front and drill a well. Especially because again, the intent of a master plan is to just zone the property. All you're doing is granting zoning approval.

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Now maybe there's a compromise though. Maybe a development that uses a certain amount of water like over three acre-feet, maybe then you do want a well and a hydrology report for that before you grant the zoning. But for something that just uses a quarter acre-foot or a half acre-foot or one acre-foot, I don't think staff has ever supported requiring them to invest in a well and hydrology report when again, all they're doing is requesting zoning on the property.

COMMISSIONER CAMPOS: Basically you're saying that you don't think there's any advantage to be gained in the public interest by requiring some kind of water information up front in master plan?

MR. ABEYTA: No, I'm not. I'm saying staff thinks there should be something up front. We're not sure exactly what that is. We want to research that. We like the suggestion that was made by Commissioner Varela that there should be some type of plan, give us some information. For example, you can't just come and tell us I have water rights and I'm going to use that, or I'm going to go out and buy water rights. Give us a realistic idea. If you have water rights, show us the document at this time that shows you do have water rights or if not, is your plan for purchasing water rights a realistic plan? Where are you going to get the water rights? Are they available? Things like that?

COMMISSIONER CAMPOS: So you think that would be a major improvement over what we have right now?

MR. ABEYTA: Right now, based on our hydrologist, for example with Katherine Yuhas, she will require a lot of information up front but it's not codified. The Code's not clear as to what that is. So we think the Code should be made clear as to what we want for water at the master plan stage. And we think that Commissioner Varela's proposal gets us there. Maybe there's a little more that we add to it.

COMMISSIONER CAMPOS: Thank you.

CHAIRMAN DURAN: Steve, and then Commissioner Trujillo.

MR. KOPELMAN: Mr. Chairman, Commissioner Campos, one of the points that I think staff is focusing on also is the scale of the development. For example, if you have a property owner who owns land in a commercial node, that means they're not zoned commercial but they have the right to apply. If it's not a large development, it may be somebody who owns five or ten acres that isn't going to use a lot of water. It may not make sense to require the full drilling of the well and the geo-hydro test just to get the zoning. On the other hand, if you have a large development that's going to require many phases, I think then maybe the idea that Commissioner Sullivan had about some water up front to begin the process may make more sense.

But we've been batting it back and forth and we're putting a lot of time and thought into it.

COMMISSIONER CAMPOS: That makes sense.

MR. KOPELMAN: So I don't think—I think it's the idea that has a lot of ramifications. It may affect affordability in some cases. In some cases the public welfare would suggest that there needs to be more done up front. It's something that because it has

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a lot a ramifications that we're really looking at it in a lot of depth and we're trying to figure it out, and it may be a hybrid that staff ends up feeling the most comfortable with. But we're still really studying it and doing a lot of brainstorming.

COMMISSIONER SULLIVAN: Mr. Chairman.

CHAIRMAN DURAN: Commissioner.

COMMISSIONER SULLIVAN: Commissioner Trujillo, did you have something?

COMMISSIONER TRUJILLO: No.

COMMISSIONER SULLIVAN: Roman, would this apply to projects of less than 24 lots?

MR. ABEYTA: Mr. Chairman, Commissioner Sullivan, no, this would only apply to master plans. And master plans aren't required for subdivisions less than 24 lots. You won't see those master plans. You'll see a preliminary development plan and they've got to do that.

COMMISSIONER SULLIVAN: Those master plans are done at the CDRC or the EZC. Is that correct?

MR. ABEYTA: They don't have a master plan, so they've got to come in with water rights.

COMMISSIONER SULLIVAN: So in terms of creating a burden on the small mom and pop developer let's call them, most of those that I've seen are four or five lots or something like that. This would only be applicable to more than 24 lots. Is that correct?

MR. ABEYTA: That's correct, and that's not staff's concern. Staff's concern is you need to do a master plan to just zone your property for a non-residential use. So like Steve said, if you have five acres in a commercial district, or maybe your proposed use is only going to be $\frac{3}{4}$ of an acre-foot per year, because it's a master plan, you would have to do the hydro and the well up front. And so staff's concern is more the impact it's going to have on that small mom and pop, the commercial.

COMMISSIONER SULLIVAN: Okay, commercial. So maybe we need to address just the commercial aspect of it in terms of defining it via the limitation of a certain amount of water rights or certain acreage or something of that nature because what I envision that's necessary over the long run is just like you get a title clearance on your property, you have water clearance. So we have to start this somewhere and so if a person has the test done, they know they have the water there, they can sell that property. They're sold it with the geo-hydro, they know there's a 100-year water supply and it's just any other cost like any kind of title clearance that you have to get when you buy and sell property.

And then I think that can be modified by either saying, if it's a residential we need a certain level of assurance for the first phase and another level for other phases. Clearly what we have now, what you read there on the environmental report, if applicable, is extremely vague and we need something better. I just wanted to clarify that we're not

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beating up on the mom and pop lot-splitters.

MR. ABEYTA: Right. I agree with you. We're not.

COMMISSIONER SULLIVAN: Okay.

CHAIRMAN DURAN: Okay. It's a public hearing. We're going to move to the public hearing portion of this. Is there anyone out there that would like to address this Commission concerning this issue? Tom, did you want to say something? What's the pleasure of the Board? Do you have any more comments or do you want to wait to the next meeting?

COMMISSIONER SULLIVAN: No, I just think we move on to the next hearing. We wrap it in with the first hearing for the other ordinance. We discuss them all together. If at that point we can come to an amended, then we could piggy-back on this ordinance to be the amended ordinance. If we couldn't, then we could continue to ride with the other ordinance and say, no, I like the language of conceptual and I don't want any other changes and we can ride with that, depending on what the majority wants to do. See what I'm saying? So we could wrap this up next time but if we can't come to an agreement, we can turn down my recommended ordinance, which I think will become kind of a committee ordinance. We can turn it down and go on to the second public hearing of Commissioner Varela's.

CHAIRMAN DURAN: Maybe we could have a hybrid ordinance.

COMMISSIONER SULLIVAN: That's what I'm saying. My preference would be to come up with a hybrid along some of the lines that Roman has talked about and get that passed next session. But if not, we have another alternative.

CHAIRMAN DURAN: Okay. So that concludes that particular item on the agenda.

XII. A. 3. Ordinance No. 2002-12 An Ordinance Amending Ordinance No.2000-7, of the Santa Fe County Land Development Code (Ordinance No. 1996-10) to Adjust the La Cienega and La Cieneguilla Traditional Historic Community Boundary to Make it Coincidental with Boundaries Adopted for the La Cienega and La Cieneguilla Community Planning Area (Second Public Hearing)

CHAIRMAN DURAN: Is there anyone out there in the public that is going to be addressing the Commission concerning this issue? If not, I'd like to move for approval of this case.

COMMISSIONER CAMPOS: Second.

CHAIRMAN DURAN: Any further discussion?

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The motion to approve Ordinance 2002-12 passed by unanimous [5-0] roll call vote with Commissioners Campos, Trujillo, Varela, Sullivan and Duran all voting yes.

- XII. A. 4. **EZ CASE #A 01-4282 – Cross Appeal. Norma A. Cross, Applicant, is Appealing the EZC’s Decision to Deny a Family Transfer Land Division (EZ CASE #DL 01-4281) to Divide 0.667 Acres into Two Tracts. The Subject Property is on Camino Mio, Which is a Private Road Off of Agua Fria Street, within Section 28, Township 17 North, Range 9 East (2 Mile EZ District)**

VICKI LUCERO (Review Specialist): Thank you, Mr. Chairman. On November 27, 2001, the applicant appeared before the EZA with a variance request of Section 5.2, Density and lot size requirements of the EZO to allow her to divide her .667-acre lot into two parcels for the purpose of a family transfer. The EZA granted approval of this request.

On August 8, 2002, the applicant appeared before the EZC with a request for plat approval to divide the .667 acres into two lots. The decision of the EZC was to deny the request for plat approval due to the applicant’s unwillingness to agree to staff’s conditions of approval regarding water restrictions, road width and an advanced liquid waste water system.

Recommendation: It is staff’s position that this application for a small lot family transfer land division is in accordance with the approval granted by the EZA, and therefore recommends approval of this application subject to the following conditions. Mr. Chairman, may I enter the conditions into the record?

[The conditions are as follows:]

1. The applicant will be required to connect to City sewer ~~and water~~ or provide a financial guarantee for such connection prior to plat recordation. If the applicant is unable to obtain ~~water~~ sewer service from the City, staff would recommend that as per NMED’s conditions of January 4, 2002, each residence will be restricted to one-bedroom, one-bathroom units and liquid waste must not exceed the septic system’s design flow of 150 gallons per day, until such time that both residences/buildings are connected to a public sewer as per NMED’s condition of June 24, 2002. This condition must be noted on the survey plat. [Modified at discussion and motion.]
2. To ensure that each dwelling unit will not generate more than 150 gallons of liquid waste per day, the County Hydrologist is restricting water usage to 150 gallons per day*, until such time both residences are connected to a public sewer. After such time, water restriction reverts to 0.25 acre-feet per year per lot. This condition must be noted on the survey plat. (*This water usage, according to the County Hydrologist, is 30 gallons more than the average daily water consumption of a Santa Fe resident.)
3. A water meter must be installed on the waterline to each dwelling unit and proof of installation shall be provided prior to plat recordation. Water meter readings must be

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- submitted to NMED and to the County Hydrologist quarterly by March 1st, June 1st, September 1st and December 1st of each year as long as both residences are on conventional septic system. As soon as both residences are connected to a public sewer, the applicant would only be required to report water meter readings to the County Hydrologist annually by March 1st of each year.
4. Water restrictive covenants of 0.17 acre-feet (54,750 gallons) per year per lot (based on a 150 gallons water usage daily) must be recorded simultaneously with the plat of survey as per County Hydrologist. Again, as soon as both residences are connected to a public sewer, a new water restrictive covenant of 0.25 acre-feet per year per lot must be recorded.
 5. A shared well agreement, approved by the County, must be executed prior to plat recordation. In addition, shared well easements must be indicated on the plat.
 6. The applicant must execute a Deed of Transfer and together with the Family Transfer Affidavit executed on the 18th of April 2002 be recorded simultaneously with the survey plat. A copy of the Deed of Transfer should be submitted to the staff reviewing this application.
 7. The applicant is required to contact Rural Addressing for assignment of address for Lot 2.
 8. As per Extraterritorial Subdivision Regulation 3.6.4 "Solid Waste," a fee-in-lieu of land for solid waste disposal site of \$86.00 for two lots must be paid prior to plat recordation.
 9. As per Section 3.5.2.F.3 (Common Access Roadways) of the ESR, Camino Mio must be improved by:
 - a. Widening the 15-foot easement to 38 feet halfway to the property (see corrected proposed survey plat); and
 - b. Constructing at least 20-foot wide driving surface with six inches of compacted basecourse from the entrance to the end of the property line.
 10. A building permit shall be obtained to convert the studio into a residential unit. Inspection of the Fire Marshal and Code Enforcement are needed before occupancy.
 11. A retention pond, which should be shown on the survey plat, must be constructed for both dwelling units in accordance with EZO's Section 12.1.C.5 "Storm drainage."
 12. All redline comments by the County Subdivision Engineer shown on the plat of survey must be addressed and resubmitted with the 24" x 36" mylar prior to plat recordation. The plat with redline comments must be returned to the staff.

CHAIRMAN DURAN: The conditions that you are entering into the record, are they acceptable to the applicant?

MS. LUCERO: Mr. Chairman, the applicant was in disagreement with I believe three of the conditions, and that was the reason that the EZC denied the application.

CHAIRMAN DURAN: And which three were those?

MS. LUCERO: Condition number 1, regarding connection to the City sewer

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system, condition number 4, regarding water restrictions of .17 acre-feet per year per lot, and condition number 9 regarding the roadway improvements.

CHAIRMAN DURAN: Are you through with your presentation?

MS. LUCERO: Yes.

CHAIRMAN DURAN: On condition number one, it's my understanding that the property is currently two residences, or two dwelling units. It's a main house and a studio/guesthouse.

MS. LUCERO: Mr. Chairman, currently, I believe there is a main house on the property. The second structure I believe is just being used as a studio. I'm not sure that it has been used as a guesthouse.

CHAIRMAN DURAN: Okay.

MS. LUCERO: Although that's the intent of—

CHAIRMAN DURAN: Is to be a guesthouse.

MS. LUCERO: A second residence.

CHAIRMAN DURAN: A second residence. And those two properties, both those buildings or structures are already on a pre-existing septic system.

MS. LUCERO: That's correct. There are two existing septic systems on the property.

CHAIRMAN DURAN: And is there any anticipated increase in the wastewater that that system is going to be having to take care of?

MS. LUCERO: Based on what the applicant has proposed, I don't believe that there will be any increase in either one of those septic systems.

CHAIRMAN DURAN: And what did the—did the Environmental Department, did they have any problem with both of those structures being on the same septic system?

MS. LUCERO: Mr. Chairman, as I understand, there's two separate septic systems on the property right now. So the house will have one septic and then the second dwelling will have its own septic.

CHAIRMAN DURAN: And why do we have a problem with that?

MS. LUCERO: Because the regulations now with the Environment Department, they only allow one septic for $\frac{3}{4}$ of an acre. So there was an issue because the lot sizes are considerably less than that.

CHAIRMAN DURAN: Let's say that she disconnected from one of the septic systems and both houses were on the same system? Do the two septic systems exceed the allowable septic system? Or is it just because there's two.

TOM DOMINGUEZ (Subdivision Engineer): Mr. Chairman, if I may address this, and members of the Commission. The issue that the Environment Department had was the amount of outflow. It was the amount of discharge. It wasn't tied to one or two dwelling units. The way they make their calculations is based on bedrooms. And so the reason for the 150 gallon restriction that we see there was they were okay with one bedroom and one bathroom in each of the dwellings because that would—anything more than that was inadequate for the systems that are there. So that was the reason for the 150 gallon per day restriction. That was an ED restriction.

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CHAIRMAN DURAN: Okay. Do you realize that the City has come out and has a policy now to prevent people from hooking up to City water, and that they also will not allow any further connections to the City water system, outside the municipal boundaries? You're aware of that, right?

MR. DOMINGUEZ: Yes, Mr. Chairman.

CHAIRMAN DURAN: So why don't you just say you recommend disapproval of this? Because what you're asking us to consider is imposing a restriction on this that is impossible to achieve right now.

MR. DOMINGUEZ: Mr. Chairman, the restriction that the City currently has as we understand it is they're not allowing any more water hook-ups but they are continuing to allow sewer hook-ups.

CHAIRMAN DURAN: Not the letter I saw.

MR. DOMINGUEZ: So that's what we received from the County. That was the reason for a City sewer connection. Now, what they do today versus what they do tomorrow, I don't know. It's hard for us to tell because their policy is changed. Going back a little bit in history, the reason that we don't come flat out with a recommendation of denial is because the history of the process that Norma Cross has gone through with this, getting the variance initially or requesting a variance and getting the variance approved, this is just in compliance with the variance that she was granted to come in with this lot split. So after it going to reviewing agencies and the ED putting that restriction is where all these 150 gallon a day restrictions come in and what we've tried to do is work with that and Katherine is here is you have any detailed questions, but she's looked at city consumption per individual, I think is how it was broken up and we felt these numbers were doable if this restriction were placed on it.

COMMISSIONER TRUJILLO: The reason the restriction is being placed is because the existing septic tanks have a leach field?

MR. DOMINGUEZ: Mr. Chairman, Commissioner Trujillo, the reason that these conditions were put on is a lot size. Typically, they allow a conventional system on $\frac{3}{4}$ of an acre, .75 acres. This lot is .667 acres and they want to divide it into two.

COMMISSIONER TRUJILLO: But if you had a vaulted system on these lots there would not be any release into the soil or water table. I think the reason that these restrictions are put in place is because there are leach fields.

MR. DOMINGUEZ: Mr. Chairman, Commissioner Trujillo, we are in agreement with you. The applicant was not in agreement to providing the cost for vaulted systems. We've one through pretty much the whole circle that staff typically recommends.

CHAIRMAN DURAN: Isn't that like an \$8,000 system?

COMMISSIONER TRUJILLO: It's expensive on a monthly basis because you have to empty it.

MR. DOMINGUEZ: Mr. Chairman, I'm advised that that might be accurate in cost.

CHAIRMAN DURAN: Right around there?

MR. DOMINGUEZ: Yes.

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COMMISSIONER SULLIVAN: Mr. Chairman.

CHAIRMAN DURAN: Okay, I had a couple more questions unless you want to address that.

COMMISSIONER SULLIVAN: On that particular point, your point about the sewer main. The letter from the City says that right now they don't allow sewer main extensions, but in this case there's an existing sewer line within 200 feet of the property and so they have a sewer availability letter. However, as I read the materials, that would require an easement through the Tapia property.

CHAIRMAN DURAN: That's the other question I had.

COMMISSIONER SULLIVAN: And then the applicant said they felt it would be too expensive but I don't see any cost estimates. They threw out an estimate of \$15,000 but that wasn't done by an engineer or anything it was just somebody's estimate. So we have a case where we are within 200 feet. We have a sewer line within 200 feet and then the question is the feasibility of getting an easement to that line which apparently hasn't been explored.

The other issue on the vaulted system, when you're talking about \$8,000 you're talking about an onsite advanced wastewater treatment system as being \$8,000. Katherine, do you agree with that?

KATHERINE YUHAS (County Hydrologist): Mr. Chairman, Commissioner Sullivan, I'm sorry, I was—

COMMISSIONER SULLIVAN: I'm just saying the \$8,000 is the general cost of an AWT system, right? Advanced waste treatment system? Something on that order?

MS. YUHAS: That's correct.

COMMISSIONER SULLIVAN: I think what Commissioner Trujillo was talking about is a vaulted system, and that's just simply the cost of a septic tank, but you've got to pump it out every couple of months and that's a problem and that's a cost. And it's also a compliance issue. We had one just come up the other month where one of the Code conditions was a vaulted system and for years the lady had just totally disregarded it and never put in a vaulted system and just never did it, never got it pumped out with her existing system or anything. So it's awful hard to get the County to go out there and enforce compliance because you don't know when the system's failing. Particularly if they leave existing systems in. In other words if we say a vaulted system with leach lines, then they continue to use it even if the leach fields are failing.

So it's darned if you do and darned if you don't. But the fact of the matter is it is within 200 feet, but you'd have less than quarter acre lots on two septic tanks. That's really pushing the envelope.

CHAIRMAN DURAN: I think if you look at the situation though that the two structures are already in place. They're pre-existing.

COMMISSIONER SULLIVAN: They're also pre-polluting. That's the problem. The Environment Department in their original condition said that they would allow approval, that they would grant a variance to the separate tanks but within 120 days they had to hook to the City system. That's a pretty short period of time.

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CHAIRMAN DURAN: Are there easements in place right now for—I think that we're forgetting one thing here. This is a family transfer. The applicant is trying to provide some kind of housing for her daughter. So I'm just trying to see if there's a way of allowing her to realize that dream but yet not jeopardize the safety of the health and safety of the community. Is there an easement in place right now for the applicant to hook up to the City sewer?

MR. DOMINGUEZ: Mr. Chairman, it's my understanding that there's an access and utility easement from Agua Fria to the property.

CHAIRMAN DURAN: And sewer is in the street? On Agua Fria Street?

MR. DOMINGUEZ: Mr. Chairman, it is my understanding that that is where the manhole is.

CHAIRMAN DURAN: Okay. My only other comment on that particular item is that there are some state of the art systems that—the real concern here is that the state won't allow two septic systems on half an acre, and mainly because of the pollution problems. There are some systems out there that have to be, that treat the wastewater and the sewer and actually return it into the aquifer clean. Cleaner than clean. So I think that depending on where this thing goes that that might be another alternative solution to the concern here about the two septic systems on half an acre.

COMMISSIONER TRUJILLO: When we talk about prepolluting, I think your point is well taken that it is a pre-existing condition in that the intensity already exists. And the intensity, by approving the lot split will not change. It will continue to be the same. If we deny the lot split the situation will continue to be status quo. None of those trailers is going to be removed from the property. None of those septic tanks is going to be removed from the property, so the situation will continue. This is a lot split under the auspices of a family transfer. It would serve the community and the family right to look at some sort of enhanced technology that would curtail the seepage into the water table. But that's something that we have to discuss if it's approved as part of the conditions.

CHAIRMAN DURAN: I think that the fact that it's a pre-existing situation should have some bearing on this. The other thing is we could also require that if the property was ever deeded out to a third party where it was no longer held in the family that that could trigger some upgrade to the system or impose some of the suggested recommendations, requirements.

Then the other one I have is their water restrictive covenants. Why, if this was approved, why are you restricting it to less than what is normal or typical of what everyone else is being able to?

MS. YUHAS: Mr. Chairman, the water restriction is to ensure that the amount of effluent that goes into the septic systems will be reduced, to try and curtail any potential water pollution. Even given that, I don't think this lot division is a good idea. But it was an attempt to try to make it a little more amenable. Also, the amount of water that exists on the property in the ground when it's calculated out would really only give the small lots 25 gallons per day and the large lot 34. That's what the actual 100-year water supply in the ground is. So 150 gallons per day is really a lot compared to that.

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COMMISSIONER TRUJILLO: And they have existing wells?

MS. YUHAS: Mr. Chairman, Commissioner Trujillo, what is your question?

COMMISSIONER TRUJILLO: They have existing wells on the property, or they served by the City utility?

MS. YUHAS: No, there's an existing well.

COMMISSIONER TRUJILLO: One existing well.

COMMISSIONER SULLIVAN: Mr. Chairman, one existing well. Let me just clarify, one existing well, which even at 150 gallons a day, that's not the 100-year water supply.

MS. YUHAS: Mr. Chairman, Commissioner Sullivan, that's correct.

COMMISSIONER SULLIVAN: The 100-year water supply according to your calculations is 25 plus 34 is 59 gallons a day. The 100-year water supply is a third of what you're recommending here.

MS. YUHAS: That is correct.

COMMISSIONER SULLIVAN: Which is .17 acre-feet, which as Chairman Duran points out is less than we normally permit, which is .25.

MS. YUHAS: That is correct.

COMMISSIONER SULLIVAN: The bottom line is we're not even close to the 100-year supply of the well. Okay. Thank you.

CHAIRMAN DURAN: But the bottom line is if they were to hook up to the public sewer then it would go back to .25 acre-foot, right?

MS. YUHAS: That's correct. It doesn't matter as much then because you've eliminated the potential for the pollution of groundwater.

COMMISSIONER SULLIVAN: Although you haven't—we talked earlier this evening about how we've never waived the 100-year water supply requirements. You are not meeting 100-year water requirements based on the capacity of that well. Is that correct?

MS. YUHAS: Mr. Chairman, Commissioner Sullivan, that is correct. It doesn't meet those 100-year water supply requirements.

COMMISSIONER SULLIVAN: Okay, I just wanted to make that sure. Regardless of whether the sewer is tied in or not.

CHAIRMAN DURAN: This is a family transfer, not a subdivision.

COMMISSIONER SULLIVAN: It's water and sewer. Regardless of what it is.

CHAIRMAN DURAN: Then I think you need to change the family transfer code. I think that the family transfer code doesn't require someone to do a geo-hydro.

MS. YUHAS: I was just requested to make that point. That is correct.

CHAIRMAN DURAN: Thank you. So let's keep everything in perspective here.

COMMISSIONER SULLIVAN: Where the perspective is, Mr. Chairman, is protecting the public health.

CHAIRMAN DURAN: Well, then you need to change the—I'm not suggesting that we do anything to violate the public health but this is a pre-existing situation. I can't

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understand why we would be putting restrictions on this individual that would not allow her to take advantage of the family transfer ordinance that we have available to the public, especially if it's not having any major impact on the area's existing conditions.

And my only other question is on number nine, the easement. Again, this is a pre-existing situation, and to require this 15-foot easement to be increased to 38 feet, again, is basically just telling her to forget it. I've asked staff to work with me on some of these, an easing of the road widening requirements when it comes to family transfers and traditional community family compounds, that type of arrangements. And I think that if—again, this is a pre-existing situation. If the Fire Marshal can find, if the Fire Marshal's findings are that they can provide fire protection to this property or these kind of situations that requiring this 15 foot easement to be 38 feet, especially due to the fact that in order to do that she would have to acquire property from two adjoining property owners or one, it should be a reasonable thing to—it would be reasonable to not require that that requirement be placed.

MR. DOMINGUEZ: Mr. Chairman, in response to that, there is some relief on the family transfer and the relief is given to offsite improvements. And we're not requiring an offsite improvement. We're just requiring the improvement within the property from one end of the property to the other. The reason it gets kicked into the 38-foot access width is because not only does it serve these two lots or would it serve these two lots if approval is given tonight, there's another property adjoining to the north, and that's the reason for the requirement for the 38 foot. It's a common access roadway, which we don't as staff have the privilege of waiving that. You did mention that at one point this Commission brought before staff relief for traditional communities and family transfers and staff agreed with that and staff brought forward an ordinance that was in the county. We did not bring anything forward to amend the EZ Code because that one's a much more difficult task to do considering it goes before the City and the County and all of that. And if you'd like to give direction that way we can entertain looking at changing something within the EZ. But staff did move forward on that recommendation and we did waive that for the traditional communities and Commissioner Trujillo would remember that.

CHAIRMAN DURAN: So is 38 feet of easement in existence right now?

MR. DOMINGUEZ: Not currently, no, Mr. Chairman.

CHAIRMAN DURAN: Steve.

MR. KOPELMAN: I think for clarity, I'm not sure [inaudible] The second structure doesn't have a kitchen or a bathroom now. Looking through this, I don't think it [inaudible]

CHAIRMAN DURAN: But if the family transfer was approved she would be able to do that.

MR. KOPELMAN: She would be able. I'm just saying [inaudible] Currently, the second structure doesn't have the bathroom and the kitchen, no. So that would be permitted.

CHAIRMAN DURAN: I understand that entirely now and the reason for having that requirement. And if the property is accessible to the City sewer I can see how we might be able to work with that. Okay. Any other questions of staff? Is the applicant here?

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Would you like to address the Commission? Please state your name for the record and have the Clerk swear you in.

[Duly sworn, Norma Cross testified as follows:]

NORMA CROSS: There is a bathroom in that building.

CHAIRMAN DURAN: How about a kitchen?

MS. CROSS: There isn't a kitchen but there's a sink. It was a papermaking studio, so actually there was a lot more water being used as a studio than there would be as a residence. Most of the issues have been spoken of already. I guess if you have any questions for me, that would be the best.

CHAIRMAN DURAN: Are there any other conditions that you are—are you in agreement with all of the conditions or are there some that you're not?

MS. CROSS: Just the ones that Vicki spoke of. The rest are fine.

CHAIRMAN DURAN: Any questions of the applicant?

COMMISSIONER TRUJILLO: Yes, one question. Connection to the City utility, liquid waste utility. That's a condition that you don't agree with?

MS. CROSS: Well, it's not that I don't agree, it's just awfully difficult. My neighbor, Mr. Tapia, has two mobile homes right next to each other and there's just no way to get through there. I was not aware that there's an option on Agua Fria to hook up. I thought my only option was to go over to Alamo.

COMMISSIONER TRUJILLO: So, if your option would be to hook up on Agua Fria, would you consider that?

MS. CROSS: I would, yes. I'm assuming that would just be for the one lot, not both?

CHAIRMAN DURAN: It would be both.

COMMISSIONER TRUJILLO: For both lots, yes.

MS. CROSS: Both lots.

COMMISSIONER TRUJILLO: If you had the line already there you could connect both dwellings.

MS. CROSS: I don't have a problem with being on the sewer line. It was just very difficult to get there. And when I first applied for, when I built the studio, I looked into hooking up to the sewer and that was a possibility at that time but it wasn't required. I looked into whether or not I needed a new septic system or whether to hook into my existing septic system and I was told it was up to me and it was easier to put a new one in and I did.

COMMISSIONER TRUJILLO: And that would—if you hook up to the City utility that would have a direct impact on the allocation of water rights for each dwelling. That would go up to .25 acre-feet. So you'd gain on the water usage side.

MS. CROSS: Right. Right. I could tell you what my water use—I would never be able to use 150 gallons in the septic system a day. I just am one person and my daughter is just one person. My objection to limiting my water usage to 150 gallons a day is because I have plants and trees and I want to be able to keep them alive.

COMMISSIONER TRUJILLO: That would help.

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MS. CROSS: And I did research it a little bit on my own. I called up Sangre de Cristo and also I spoke with Craig O'Hare and Dan Ransom and also Jay Lazarus. Everybody said that people use more water than 150 gallons a day. I don't really know how much I use because I've never metered it but I doubt that I use that much. But it's really for the irrigation. I grow a lot of my own food.

COMMISSIONER SULLIVAN: Mr. Chairman.

CHAIRMAN DURAN: Commissioner Sullivan.

COMMISSIONER SULLIVAN: Commissioner Trujillo, I think condition four covers what you were getting at and that is the restriction of .17 acre-feet, the 150 gallons a day would be lifted as soon as both residents are connected to a public sewer.

COMMISSIONER TRUJILLO: That's right. Very good.

CHAIRMAN DURAN: So I just have a question. On number one it seems that—what is this financial guarantee? How does the applicant provide a financial guarantee? In what form? A post-dated check?

MS. LUCERO: Mr. Chairman, the applicant would have to provide a cost estimate as to what it would cost to bring in the sewer line and then post a letter of credit for that cost.

CHAIRMAN DURAN: Okay. And how long is—if she were to gain approval, how long would she have this approval—I guess what I'm trying to say, how much time would she have to make this connection and come up with the finances to do that before the approval would be lost?

MS. LUCERO: Mr. Chairman, I believe a letter or credit is good for a period of 18 months. So if she wasn't ready at that point she could extend the letter of credit.

MR. DOMINGUEZ: Mr. Chairman, it's my understanding that typically we'll allow one extension of the letter of credit. That's done through our Permits and Inspection Division. But standard, it would be one renewal.

CHAIRMAN DURAN: Okay, but I recall at one point Joe Catanach telling me that if something had been approved and it wasn't recorded within 12 months you've lost that approval. Is that not true?

MR. DOMINGUEZ: Mr. Chairman, there are certain developments that come forward that go through master plan, preliminary and final, and the final, if there's nothing done within 18 months you lose the final approval and have to come back. This, we're doing a little bit different here. It's a family transfer.

CHAIRMAN DURAN: And the time limit on a family transfer is?

MR. DOMINGUEZ: Well, they would just pull the letter of credit if these weren't done, I believe, after the first extension.

COMMISSIONER SULLIVAN: Mr. Chairman.

CHAIRMAN DURAN: Commissioner Sullivan.

COMMISSIONER SULLIVAN: Tom, question. In condition one, I'm confused. It says the applicant will be required to connect to City sewer and water or provide a financial guarantee for such connection prior to plat recordation. If the applicant is unable to

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obtain water service from the City, staff would recommend per NMED's conditions of January 4, 2002, each residence restricted to one-bedroom, one-bath units not to exceed septic tank design flow of 150 gallons per day. Did you mean to say there If unable to obtain sewer service? Because that says if they're unable to obtain water service. That seems to contradict condition four.

MR. DOMINGUEZ: It should be sewer. It was a typo.

COMMISSIONER SULLIVAN: The third line under condition one should read sewer service, not water.

CHAIRMAN DURAN: The third line on condition one?

COMMISSIONER SULLIVAN: If the applicant is unable to obtain sewer service, then they have to stay within the 150 gallons, but if they get the sewer service, then they can move up to the .25 acre-feet and water plants and wash cars and do whatever you want. Otherwise that would contradict condition four, which says essentially the same thing.

MS. CROSS: I have a question about that. Line one of number one it says City sewer and water. Is that just—that was the first mention of that.

COMMISSIONER SULLIVAN: I think the staff wants the property to connect to both City sewer and water and they want you to put up a financial guarantee to do that. If, however, you connect to the sewer first, then your limitation changes from .17 to .25 and you record that and you're allowed to use the additional water from your own well. Once you tie to City water, then my understanding is there are no restrictions.

MS. CROSS: Isn't that odd?

COMMISSIONER SULLIVAN: Yes. Other than dollars. Because the more you use the more you pay in an inverted rate structure. So there is some dichotomy to that which frequently we remind the City about, but nonetheless that's how they enforce their water and the only way the County can do it is by metering.

MS. CROSS: So hooking up to City water is not—can I just cross that word "water" out on—

COMMISSIONER SULLIVAN: As it's written currently you can't because they still want you to do that and you'll still have a letter or credit saying you're ultimately going to do it. The reason for the time period is that it very often takes a long period of time to get a water availability letter from the City.

MS. CROSS: Right.

COMMISSIONER SULLIVAN: The process is quite lengthy. So they don't want to hold you up using your own well.

MS. CROSS: So if I did have to hook up to City water, does that mean I'd have to give up my well?

COMMISSIONER SULLIVAN: Yes. That's a City requirement.

MS. CROSS: But that has never been a requirement in any of these, this year and a half or whatever's it's been of this issue. I've never heard that I had to do that before.

COMMISSIONER SULLIVAN: I'm just saying the way it's written now.

CHAIRMAN DURAN: I have a question. The financial guarantee I think

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should just be for the City sewer. She's never going to be able—well, I shouldn't say never. Until the City adopts some new policies, she will never get a water hook-up. It's going to be difficult to get a water hook-up, so to require that she get a financial guarantee for a water hook-up I don't think is appropriate. So if we took out water and the applicant would be required to connect to City sewer or provide a financial guarantee for such connection prior to plat recordation. And then it goes on to say if the applicant is unable to obtain sewer service from the City, staff would recommend that one-bedroom, one-bath—what's wrong with taking out water? We have public hearing. I don't know. How do you want to make it go faster?

Is there anyone else out there that would like to address the Commission concerning this issue? You want to make a motion?

COMMISSIONER VARELA: Mr. Chairman, Commissioner Campos, before you do, I was wondering if I could get some clarification from Mr. Dominguez. I believe you stated earlier that the applicant could run a line from her property onto City sewer on Agua Fria? Wouldn't that be a mainline trunk extension?

MR. DOMINGUEZ: Mr. Chairman, Commissioner Varela, after, as I was going through this I found that there is a letter from the City Sanitary Sewer and their recommendation where they would not need a main extension would be coming off of Alamo Drive. And I think at that point it would be, according to this, he wasn't sure if the easement was in place, I believe it was the Tapia property.

COMMISSIONER VARELA: But it couldn't go directly into Agua Fria because that would be a mainline.

MR. DOMINGUEZ: That would be a mainline according to what he mentioned here.

COMMISSIONER VARELA: And Ms. Cross is not in the City and it would have to be annexed to be able to go into—

MR. DOMINGUEZ: She'd probably have to go through all the hoops. Understand, and one point of clarification, I'll apologize to whatever extent possible that the wording seems somewhat convoluted but in an effort, in all the steps that we've gone through we've tried to really work with her, work with the applicant and give options and that's kind of the reason they're two-fold in there if you would.

COMMISSIONER VARELA: I'm just wondering that if we do make a decision and then she's not allowed to actually hook into that sewer that's on her neighbor's property well then, where are we? What have we done?

CHAIRMAN DURAN: I don't think there's an answer to that. Commissioner Campos, you wanted to make a motion?

COMMISSIONER CAMPOS: Move to approve, subject to staff conditions made in the report. Any language changes to number one [inaudible]

MR. DOMINGUEZ: Mr. Chairman, Commissioner Campos, what we did do and what we will note is changing the fourth in the third sentence "to obtain sewer service." That was the change that we had.

CHAIRMAN DURAN: What about taking—

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COMMISSIONER SULLIVAN: Second for discussion.

CHAIRMAN DURAN: For discussion. Thank you. How were you going to require, would you be willing to delete "water" in the first sentence? And the reason I ask is to make her go for a financial guarantee for water when they're not even approving water, I don't think seems—it's not fair. You might as well tell her no.

COMMISSIONER CAMPOS: [inaudible]

COMMISSIONER SULLIVAN: Tom, what's your feeling about, or knowledge about the water condition? Is there very little likelihood that she could in the foreseeable future get a water tap from the City?

MR. DOMINGUEZ: Mr. Chairman, Commissioner Sullivan, I wish I knew that. I would be a rich person if I could answer that question. It's probably not likely in the near future that that would happen. Understand that as we wrote this condition, the applicant would be able, with City water and City sewer, would be able to go to half-acre lots and that would be the best case scenario. With the knowledge that you have and the information that we've tried to supply where the City's at on their water connection, it's within your purview if you'd like to strike that condition because the likelihood is not there.

COMMISSIONER SULLIVAN: My real concern is the septic contamination issue.

MR. DOMINGUEZ: And I would echo that that was probably the County Hydrologist's and that staff's big concern is the septic.

COMMISSIONER SULLIVAN: So, I personally wouldn't have any problem with taking out the water condition of number one.

COMMISSIONER CAMPOS: Okay, I'll agree to that.

COMMISSIONER SULLIVAN: I think that's a compromise that gets us toward the ultimate goal.

CHAIRMAN DURAN: I just have one last request of the maker of the motion. Currently the access back to Agua Fria is how wide, Tom?

MR. DOMINGUEZ: I believe, it's a little hard to read on this and Vicki can correct me, it's 15 feet currently.

CHAIRMAN DURAN: The total access, the width is 15 feet?

MR. DOMINGUEZ: Correct. From Agua Fria. And the reason, I mentioned the reason or stated the reason for the 38 feet is because of the County standards. The reason for the 38 feet, that's the Fire Marshal's requirement for a minimal passable road. To be able to defend that property again that's north of there.

CHAIRMAN DURAN: And I've actually talked to Stan about this same situation on another piece of property and his comment to me was provided that there was an area where one of the fire trucks could pull to the side to allow the passage of another one, that he doesn't have a problem with—because in some of the traditional areas, there are trees and tree-line roads that don't allow for a 20-foot driving surface. And so his comment to me was that provided that there was a turn-off area for the truck that he wouldn't have a problem with that.

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The other thing is that the distance from Agua Fria to where that, where a truck could do that is really only 81 feet, maybe 90 feet. So it's really not that long of a distance. So I was wondering if the maker might be willing to allow the change to number 9 to allow the access width, the driving surface to be the entire width of the existing easement so that she wouldn't have to go and try to acquire more land from her neighbors to meet a Code requirement that might not be reasonable in this situation.

COMMISSIONER CAMPOS: I'm inclined to stay with staff recommendation unless someone else on the Commission feels differently about it. I'm inclined to just stay with it.

COMMISSIONER TRUJILLO: Mr. Chairman, I think that the 38-foot easement is just designated on the plat. It's not 38 feet of driving surface.

CHAIRMAN DURAN: Yes, but she doesn't own the property on either side of it.

COMMISSIONER TRUJILLO: She owns the property—can she accommodate 38 feet of easement on her property?

MR. DOMINGUEZ: Mr. Chairman, it's my understanding that as we scaled this out it was a tight feel between the structures for the 38-foot easement in its entirety. But there was definitely 20 feet of improvable surface between the structures.

COMMISSIONER TRUJILLO: That's all your talking about is the driving surface.

MR. DOMINGUEZ: That was the reason for the 20-foot—

COMMISSIONER TRUJILLO: The 38 feet is designated—

MR. DOMINGUEZ: As an easement.

COMMISSIONER TRUJILLO: As an easement, and only as an easement.

MR. DOMINGUEZ: That's correct.

COMMISSIONER TRUJILLO: And will not be improved to serve as a driving surface.

MR. DOMINGUEZ: That's correct, but there are probably legal ramifications that come with that that the attorney might want to address because it's dedicated as an easement, access and utility, they could use it in there.

COMMISSIONER TRUJILLO: How wide is Agua Fria, Agua Fria?

MR. DOMINGUEZ: Mr. Chairman, Commissioner Trujillo, I'm going to be shooting at the hip because this is, technically Agua Fria is in the city portion but I know in the project that we did we were looking at least, we went to a 24-foot wide surface with curb and gutter down on the lower part. This is in the city. I know that this is real close to Maes Road. It's probably going to be a lot wider than that, about 66 feet because there's left turn lanes into Maes and some of those areas. So I would say that at least 66 feet.

COMMISSIONER TRUJILLO: Sixty-six feet.

MR. DOMINGUEZ: Of right-of-way. But as far as pavement, probably 36 feet.

COMMISSIONER TRUJILLO: Okay.

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CHAIRMAN DURAN: I understand your comment that there's more than 20 feet between the two structures. That's not the point. The point is that there's a dog-leg here between Agua Fria to where the property fans out that is not, it's impossible for her to get a 38-foot driving easement, much less a 20-foot driving surface.

MR. DOMINGUEZ: Mr. Chairman, is that where you've kind of highlighted in there, that part right there?

CHAIRMAN DURAN: Based on your testimony, this was 15 feet, and that whole thing that I was talking about was that if they—I'm working with the Fire Marshal right now for a lessening of the Code that would allow situations like this when they exist, which can't be 20 feet, whether there's trees on either side, if it's a tree-lined area, or if they don't own the adjoining properties, that if there was an area, for instance right around here, where a fire truck, if it was fighting a fire down here, could pull off to the side to allow the other truck to come by, he doesn't have a problem with that. The reason there's a 20-foot driving surface requirement is so that two trucks can pass each other fighting a fire.

So what I'm saying is that by requiring her to give you a 38-foot, to provide a 38-foot easement and a 20-foot driving surface in a 15-foot easement, it's impossible for her to do that.

MR. DOMINGUEZ: Mr. Chairman, I understand that and as I mentioned, the reason for the condition stated as it is is that's what the Code requires. And I said it's within your purview—

CHAIRMAN DURAN: Right. So I'm asking the maker of the motion if he would consider amending number 9 to allow the division to take place, the family transfer to take place without this condition or at least amending the condition so that the easement to the property and the driving surface is improved to the width of what is in existence right now. Because if you don't, you might as well change your motion to deny it.

COMMISSIONER SULLIVAN: Mr. Chairman.

CHAIRMAN DURAN: Commissioner Sullivan.

COMMISSIONER SULLIVAN: Let me get a clarification. This lot 2, does that belong to the applicant?

MS. CROSS: Yes.

COMMISSIONER SULLIVAN: Okay

CHAIRMAN DURAN: That belongs to who?

COMMISSIONER SULLIVAN: The applicant.

CHAIRMAN DURAN: The one that fronts on Agua Fria Street?

MS. CROSS: The proposed Lot 2 is mine.

MR. DOMINGUEZ: Mr. Chairman, everything on that diagram is her property.

COMMISSIONER SULLIVAN: Okay, so she can move to the east.

MR. DOMINGUEZ: And Mr. Chairman, if I may. Excuse me, Commissioner Sullivan. I've got the redlines on a bigger scale that we scaled in the 38-foot easement. If you'd like me to approach, I can show this to you, if you'd like.

CHAIRMAN DURAN: Why didn't you tell me that in the first place?

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COMMISSIONER SULLIVAN: See, that dog-leg belongs to the applicant, Mr. Chairman. She owns that.

COMMISSIONER TRUJILLO: She owns that.

CHAIRMAN DURAN: Well, again, looking at this situation here. Let me restate it. Could we just ask that it be 20 feet instead of 38 feet? And the reason for that is that if she ever decides to do something with this piece of property and we have a 38-foot easement all the way over here, she's going to have to come in and ask for a variance to perhaps build on it because then what you're doing is making her build all the way over to the side. Would you agree to allow that to be 20 feet?

COMMISSIONER CAMPOS: No.

COMMISSIONER TRUJILLO: She can't build any more. Okay, we've got a second.

CHAIRMAN DURAN: Okay, is there a second. Any further discussion?

COMMISSIONER SULLIVAN: Let me clarify the motion, Mr. Chairman. So the motion is to recommend approval with staff conditions with an amendment to condition number one which in the first line would strike the words "and water" and in the third line would substitute for the word "water" the word "sewer." Is that where we are?

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

COMMISSIONER SULLIVAN: All other conditions would be as recommended by staff.

CHAIRMAN DURAN: Okay. Is that your understanding, Commissioner Campos?

COMMISSIONER CAMPOS: Yes, Mr. Chairman.

The motion to approve EZ Case #A 01-4282 with staff conditions as amended passed by unanimous [5-0] voice vote.

CHAIRMAN DURAN: If you have any questions, Ms. Cross, talk to Tom.

- XII. A. 5. **AFDRC CASE #V 01-5291 – Roland Felix Variance. Roland Felix, Applicant, Requests a Variance of Article III, Section 10 (Lot Size Requirements) of the Land Development Code to Allow a Family Transfer Land Division of 1.21 Acres into Two Lots; One Lot Consisting of .882 Acres and One Lot Consisting of .333 Acres. The Property is Located in the Traditional Historic Community of Agua Fria, within Section 32, Township 17 North, Range 8 East (Commission District 2)**

WAYNE DALTON (Review Specialist): Thank you, Mr. Chairman. On November 13, 2001, the Board of County Commissioners approved a variance of Article III,

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Section 10 of the Land Development Code to allow a second home on 1.21 acres. The property is located at 3415-A within the traditional community of Agua Fria. Article III, Section 10 of the Land Development Code states the minimum lot size in this area is 0.75 acres per dwelling unit except where community water and community sewer are utilized, in which case the minimum lot size would be .33 acres.

The applicant is not connected to either community water or sewer. There are currently two homes and two septic systems on the property. The property is served by an onsite well which currently serves the two homes. The applicant states that due to the high price of real estate there is no reason that his daughter should have to suffer and struggle to buy property in Santa Fe. The applicant also states that he would like to give his one and only child a piece of property in the future.

Recommendation: Staff recommends that the request for a variance be denied. The intent of the Code is to set minimum lot size in this area at 0.75 acres per dwelling unit. On September 12, 2002, the AFDRC met and acted on this case. The decision of the AFDRC was to recommend approval of a variance of Article III, Section 10 of the Land Development Code to allow a family transfer land division of 1.21 acres subject to the following conditions. And Mr. Chairman, may I enter those into the record?

[The conditions are as follows:]

1. The applicant shall connect to community water and community sewer systems within 90 days from when the mainline is 200 feet from the property boundary. The applicant shall abandon the use of the liquid waste system and well at that time.
2. If well use is allowed to continue, water use shall be restricted to 0.25 acre-foot per year per lot. A water meter shall be installed on each lot; this shall be noted on the plat. Annual water meter readings shall be submitted to the County Hydrologist by September 30th of each year. Water restrictions shall be recorded with the County Clerk's office.
3. No further division of this land shall be permitted. this shall be noted on the plat.
4. A plat of survey meeting all other County Code requirements shall be submitted to the Land Use Department for review and approval.
5. Failure to comply with all conditions shall result in administrative revocation of the variance.

CHAIRMAN DURAN: Any questions of Wayne? Is the applicant here? Please step forward, state your name and address for the record and let the County Clerk swear you in please. Raise your right hand.

[Duly sworn, Roland Felix testified as follows:]

ROLAND B. FELIX: Roland B. Felix. Before I start my presentation I just want to say thank you to the Board of County Commissioners for approving a second dwelling on my property last year at this time. My daughter has truly flourishing back there. I was hearing all during the meeting, I've been here since 5:00 about water and the high cost of housing and affordable housing. Well, it helped my daughter meet one of those goals and that

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was to move into an affordable trailer. She doesn't have to pay rent anywhere and she's truly flourishing.

What I'm here on this evening in behalf is so I can do a family transfer and eventually or soon is one day look at my daughter and give her a piece of paper saying that this is her property, a warranty deed. So that's why I want the family transfer.

CHAIRMAN DURAN: Mr. Felix, are you in agreement with all of staff's recommendations?

MR. FELIX: Yes, I've met every one of their conditions and I'm in agreement.

CHAIRMAN DURAN: Okay. I'm going to try and move things along here, so is there anyone out there that wants to speak against this proposal? Anyone in favor? Okay. Any questions of the applicant?

COMMISSIONER TRUJILLO: Mr. Chairman.

CHAIRMAN DURAN: Commissioner Trujillo.

COMMISSIONER TRUJILLO: Move for approval of AFDRC Case #V 01-5291.

CHAIRMAN DURAN: I'll second that. Any further discussion?

COMMISSIONER TRUJILLO: With staff conditions.

COMMISSIONER CAMPOS: And AFDRC conditions?

COMMISSIONER TRUJILLO: And AFDRC conditions.

COMMISSIONER SULLIVAN: Mr. Chairman.

CHAIRMAN DURAN: Commissioner Sullivan.

COMMISSIONER SULLIVAN: Tom or anyone, the condition about connecting to the water system if it becomes available, is there any prognosis of water becoming available to the site? This site has neither water nor sewer, is that correct?

MR. DOMINGUEZ: Mr. Chairman, that's correct. Mr. Chairman, Commissioner Sullivan, this area of Agua Fria is in the Phase 3 project for the Agua Fria improvement and the County just recently completed Phase 2 which came up to, I believe the San Isidro Crossing. This is in the next area. This would bring the water in front of the applicant's property. This discussion was had at the AFDRC meeting and he's aware that at some point in the future that will be coming forward.

COMMISSIONER SULLIVAN: But as it stands right now, we have a situation that we're well below the lot size minimum and we're on a well which would be a shared well and we're on two septic tanks. Is that correct?

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

COMMISSIONER SULLIVAN: And this variance was granted as a hardship variance for a temporary structure. Is that correct? For the applicant's daughter to provide housing on a hardship?

MR. DALTON: Mr. Chairman, Commissioner Sullivan, it was granted permanently.

COMMISSIONER SULLIVAN: There's not a hardship.

MR. DALTON: The temporary variance was not granted. It was actually

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permanent.

COMMISSIONER SULLIVAN: It was granted as a permanent variance but not as a separate lot.

MR. DALTON: That's correct. It was granted as a hardship variance.

COMMISSIONER SULLIVAN: A hardship variance permanently?

MR. DALTON: That's correct.

COMMISSIONER SULLIVAN: Okay. Because some hardship variances are granted for two years and permanent foundations are not allowed, but this was granted as a permanent.

MR. DALTON: That's correct.

COMMISSIONER SULLIVAN: Two homes on one lot. And one condition in one of the reviews was that the trailer size be 16 feet to allow emergency vehicles to get in and don't see that that made it through to the staff conditions now. What happened there?

MR. DALTON: Mr. Chairman, Commissioner Sullivan, that was actually a condition of approval at the variance that you approved last year.

COMMISSIONER SULLIVAN: Okay. So that condition is already in effect?

MR. DALTON: That's correct, and he has met that condition.

COMMISSIONER SULLIVAN: Thank you.

CHAIRMAN DURAN: Any other questions of the applicant? Is there a motion?

COMMISSIONER TRUJILLO: I made a motion, you seconded it.

CHAIRMAN DURAN: Is there a motion?

COMMISSIONER TRUJILLO: I made a motion, you seconded it.

The motion to approve AFDRC Case #V 01-5291 failed by [2-3] voice vote with Commissioner Duran and Trujillo casting the affirmative votes.

CHAIRMAN DURAN: I'm sorry, they denied it.

COMMISSIONER CAMPOS: Do we need a motion to reverse the AFDRC? It was simply a recommendation, right?

MR. DOMINGUEZ: Mr. Chairman, the local development review committees are recommendatory bodies to the Board of County Commissioners.

COMMISSIONER CAMPOS: So the denial is sufficient?

MR. DOMINGUEZ: Mr. Kopelman is not here but my understanding of the action just taken was the motion to approve did not carry, so therefore resulting in denial.

COMMISSIONER TRUJILLO: Just a question, I don't know, from staff, I guess. If this property ever gets connected to the County water system or the City sewer system, can the applicant come back and petition or ask for a lot split?

MR. DOMINGUEZ: Mr. Chairman, Commissioner Trujillo, if the applicant were to connect to City water and City sewer the minimum lot size available in the traditional community would be .33 acres. At that point it would be an administrative approval.

COMMISSIONER TRUJILLO: So it would be approved if he would come in

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and you guys would do it administratively.

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

CHAIRMAN DURAN: That's City water and City sewer?

MR. DOMINGUEZ: With both community water and sewer, the lot size—

COMMISSIONER TRUJILLO: The County waterline is already almost there,
right?

MR. DOMINGUEZ: It's planned in the next phase of the Phase 3. That's
correct.

COMMISSIONER CAMPOS: What about wastewater?

MR. DOMINGUEZ: The County's putting in both water and sewer.

COMMISSIONER CAMPOS: Basically, there is no urgency to this case. This
is in Phase 3. At some point in the near future they're going to have both services and they'll be
able to qualify for smaller lots. There is no urgency in this case. The two residences are already
on there. He just wants to create a lot before he has services. That's it. So he can wait. It's
going to be done soon enough.

CHAIRMAN DURAN: That's half true. Sewer will be available to them.

COMMISSIONER CAMPOS: Sewer and water.

CHAIRMAN DURAN: Sewer will be available to them? What water? City
water? City water will not be available to them. So if you only had sewer, what's the size of the
lot then? The minimum size lot?

MR. DOMINGUEZ: Mr. Chairman, minimum lot size would be $\frac{3}{4}$ acre.

CHAIRMAN DURAN: And how much total acreage does he have?

MR. DALTON: Mr. Chairman, he has 1.21 acres.

CHAIRMAN DURAN: 1.21. So he's still shy.

COMMISSIONER SULLIVAN: He's shy but he's a lot closer.

CHAIRMAN DURAN: Right. Well, I'm sorry that you didn't get approval this
evening. If you have any questions or want to discuss it further or need more clarification about
what we had discussed and your options in the future, please get a hold of Mr. Dominguez and
he can help you out. Thank you very much.

**XII. A. 6. CDRC CASE #V 02-5420 – Howard Trimborn Variance.
Howard Trimborn, Applicant, Requests a Variance of Article
III, Section 10 (Lot Size Requirements) of the Land Development
Code to Allow the Placement of a Second Home on 1.96 Acres.
The Property is Located at 37 Taylor Loop, within Section 5,
Township 15 North, Range 8 East (Commission District 5)**

MR. DALTON: Thank you, Mr. Chairman. There's currently one residence
and shop and a septic system on the property. The property is served by an onsite well which
serves the existing home. The applicant states that the second home will be placed on the

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property for his mother and father. The applicant's mother is 83 years old and suffers from Alzheimer's disease. The applicant's father is 89 years old and has suffered a stroke which has left him without speech. The applicant also states that both parents require assisted care and in time the level of care needed will surely increase.

Recommendation: Staff recommends that the request for a variance be denied. The intent of the Code is to set minimum lot size in this area at 50 acres. On September 26, 2002, the CDRC met and acted on this case. The decision of the CDRC was to recommend approval of a variance of Article III, Section 10 of the Land Development Code to allow the placement of a second home on 1.96 acres subject to the following conditions. Mr. Chairman, may I enter those into the record?

[The conditions are as follows:]

1. A temporary permit will be issued for a period of four years to be approved for consecutive four-year periods by staff. The applicant at that time must prove the hardship still exists.
2. Water use shall be restricted to a 0.25 acre-foot per year per lot. A water meter shall be installed for both lots; this shall be noted on the plat. Annual water meter readings shall be submitted to the County Hydrologist by September 30th of each year. Water restrictions shall be recorded in the County Clerk's Office.
3. The mobile home is not to be placed on a permanent foundation.
4. The existing driveway will serve the proposed residence.
5. The applicant must follow all other building permit regulations including construction of a retention/detention pond.
6. Failure to comply with all conditions shall result in administrative revocation of the variance.
7. No permanent fixtures may be attached to the home.

CHAIRMAN DURAN: Do we have a note from the applicant's physician?

MR. DALTON: Mr. Chairman, I do not have one from the applicant's physician.

COMMISSIONER TRUJILLO: I think what needs to be highlighted here is that this is a temporary permit, will be issued for a period of four years to be approved for consecutive four-year periods by staff. So it is a temporary permit. Once it is no longer needed the mobile home gets removed.

MR. DALTON: Mr. Chairman, Commissioner Trujillo, that is correct.

CHAIRMAN DURAN: Any questions of staff?

COMMISSIONER SULLIVAN: Mr. Chairman.

CHAIRMAN DURAN: Commissioner Sullivan.

COMMISSIONER SULLIVAN: The original staff conditions were a two-year recommendation. And what happened to that?

MR. DALTON: Mr. Chairman, Commissioner Sullivan, that time period was actually extended by the CDRC. Instead of a two-year permit they recommended a four-year.

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COMMISSIONER SULLIVAN: Okay. So that was a CDRC recommendation to the Commission?

MR. DALTON: That's correct.

COMMISSIONER SULLIVAN: And that's what you're repeating here in these conditions. But is staff's recommendation two years? Isn't that more standard for hardship?

MR. DALTON: Mr. Chairman, Commissioner Sullivan, that's a standard condition staff puts on all these variance cases, temporary two-year permit.

COMMISSIONER SULLIVAN: Two-year. That's what I thought. Thank you.

COMMISSIONER CAMPOS: Mr. Chairman.

CHAIRMAN DURAN: Commissioner.

COMMISSIONER CAMPOS: Question. Mr. Dalton, the County does not require medical documentation, an affidavit from a doctor saying these are the facts, I know these folks, I've cared for them. This is it?

MR. DALTON: Mr. Chairman, Commissioner Campos, we do not. The applicant could bring in a letter from a physician stating that but that's not a requirement by staff.

COMMISSIONER CAMPOS: Okay.

CHAIRMAN DURAN: How about a hall pass? I'm just being smart. Is the applicant here?

[Duly sworn, Howard Trimborn testified as follows:]

HOWARD TRIMBORN: Howard Trimborn, 37 Taylor Loop.

[Duly sworn, Danny Marmion testified as follows:]

DANNY MARMION: 1980 Las Estrellas, La Cienega. I'm representing the applicant and to Commissioner Campos' question, we did actually submit from his doctor, and I'll give you this, but it should have been in the report. A quick presentation to the Commission. The subdivision was created prior to the adoption of the Uniform Building Code, where staff recommends 50 acres per lot, in fact the Taylor Subdivision, which this is part of there were 24 lots and they vary in size from 1.678 acres to 2.9, 3.5 and they also have one at 16 acres. So they applicant, his size of lot of 1.967, which we were a little bit short, .533, to have a 2.5-acre lot or else we could have done this administratively.

What we're asking for is the second dwelling. We've agreed to have it temporary and not put it on a foundation. We addressed the water situation via a report and it was 21.43 gallons per minute as average. The applicant has already obtained an EID solid waste permit for a septic tank. That is also enclosed in there. We don't have the same issue of the case prior where we didn't have enough acreage. We've got plenty of acreage for two tanks. The bottom line is Mr. Trimborn's mother needs care. Mr. Trimborn has several other brothers and sisters that are not able to offer the assistance or take the responsibility for his mom and dad the way he's able to. We agree to all the conditions that were laid out before you. You questioned the four-year versus two-year, and with Alzheimer's one of the difficult situations is that person can go on physically for years and years but it's the mental part of it that's difficult. We were trying not to have to come back in every two years to do this.

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We're asking for the temporary. We'll accept that, but when you have to look at the other side of the coin, if you're going to buy a house for your mom and dad, do you buy a single-wide trailer that's worth \$5,000 now or can you spend \$10,000 or \$20,000. You'll depreciate. You're not going to make any money. He's going to lose money on that. The septic tank cost is going to be about \$2,600 to put one in. We're definitely going to lose that. So, temporary? Yes. We'd be very, very happy with it but at the same time that's the reason that the CDRC felt that giving us the extra two years is how they came about that.

CHAIRMAN DURAN: So is the applicant in agreement with all the other staff conditions?

MR. MARMION: Mr. Chairman, we are.

CHAIRMAN DURAN: Okay. Any questions of the applicant?

COMMISSIONER VARELA: Mr. Chairman.

CHAIRMAN DURAN: Commissioner.

COMMISSIONER VARELA: You say that the lots in this subdivision are of different sizes. Was that pre-Code?

MR. MARMION: It was pre-Code.

COMMISSIONER VARELA: It was pre-Code?

MR. MARMION: Right.

CHAIRMAN DURAN: Okay. Thank you. Is there anyone out there that wants to speak for or against this application? If not, what's the pleasure of the Board?

COMMISSIONER TRUJILLO: Mr. Chairman.

CHAIRMAN DURAN: Commissioner.

COMMISSIONER TRUJILLO: Move for approval of CDRC Case #V 02-5420 with the conditions as delineated by staff and the CDRC.

CHAIRMAN DURAN: Okay, is there a second? I second that. For discussion? Any further discussion?

COMMISSIONER VARELA: Mr. Chairman.

CHAIRMAN DURAN: Commissioner.

COMMISSIONER VARELA: I was wondering if the applicant would agree to adding two more conditions to the recommendation of staff, which would be that the mobile home would be removed six months after the hardship ceases, and number nine would be that no further subdivision of this lot will be allowed in the future.

MR. TRIMBORN: I don't have a problem with that.

MR. MARMION: The applicant agrees.

COMMISSIONER TRUJILLO: The maker of the motion agrees. I don't have a problem with that.

CHAIRMAN DURAN: And the seconds accepts. So the motion is to approve with the recommendations, with the two other conditions imposed by Commissioner Varela. Commissioner Sullivan.

COMMISSIONER SULLIVAN: Does that preclude the applicant from coming back and requesting a family transfer?

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CHAIRMAN DURAN: I don't know. Is a family transfer possible? If he had City water and City sewer?

COMMISSIONER SULLIVAN: Anything's possible. We've had them down to .3-acre.

CHAIRMAN DURAN: But why would we want—why would you want to take away a right that he has?

COMMISSIONER SULLIVAN: I'm just asking if that condition does.

MR. DOMINGUEZ: Mr. Chairman, members of the Commission. This is in the Basin Fringe Hydrologic Zone. The minimum lot size, 12.5 acres. The minimum for small lot family would be 6.25. This would fall below that so it wouldn't qualify.

COMMISSIONER SULLIVAN: It wouldn't qualify but the applicants could still come in and ask for a variance.

MR. DOMINGUEZ: Commissioner Sullivan, that's correct.

COMMISSIONER SULLIVAN: Okay, so my question is that we put a condition on the plat that it can't be further subdivided, does that preclude the applicant from coming back and requesting subdivision of the lot via family transfer.

CHAIRMAN DURAN: I think even if we put it on the lot that said he couldn't do a family transfer that he would have the right to come back and ask the Commission to lift that requirement?

COMMISSIONER SULLIVAN: Is that right, Mr. Kopelman? Once it's on the plat as a condition? If we have a condition on the plat that says that the property cannot be further subdivided by family transfer or any other means, and a person went through that condition. He moves forward and puts a second home on it and so forth. Has he agreed to that as a condition in perpetuity or can he come back at any time and request the family transfer?

MR. KOPELMAN: Mr. Chairman, Commissioner Sullivan, one can always come back and request an amendment of a plat, a condition of a plat. So he could come back and request that condition be changed, but short of that being changed by the Commission, he's agreed to be bound by that.

COMMISSIONER SULLIVAN: It couldn't be further subdivided anyway is my understanding from what Mr. Dominguez said. It would have to be 6-¼ acres.

MR. KOPELMAN: That's correct. The Code could change in the future. There's possibilities.

COMMISSIONER SULLIVAN: I see. Or he could sell the property.

COMMISSIONER TRUJILLO: That's right.

CHAIRMAN DURAN: What does that have to do with it.

COMMISSIONER SULLIVAN: I'm just trying to understand so it's in the record and so the applicant knows and so I know what that condition means. I don't have any problem with the condition, I just want to make sure we understand what it means.

MR. KOPELMAN: Mr. Chairman, Commissioner Sullivan, I think what it's saying is he cannot come back, even if the Code changes, he's precluded from coming back and doing a further division. He has what he has and that's it and he's agreed to that.

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COMMISSIONER SULLIVAN: Including a family transfer or no?

MR. KOPELMAN: It depends how broad the language is. If it just says further subdivisions, that doesn't preclude a family transfer because a family transfer is not considered a subdivision.

COMMISSIONER SULLIVAN: Okay. Then I need to ask Commissioner Varela what your intent was there.

COMMISSIONER VARELA: I think it's exactly what you were just talking about. If the maker of the motion would be willing, if we could figure out a different word to put in there and say the subdivision—

COMMISSIONER TRUJILLO: I think the maker of the motion would agree with subdivision but would not stifle the opportunity of the applicant to come in for a family transfer. I can see the impact of a further subdivision of that area but there might be a need in the future at some point to give impetus to a family transfer and I would not like to take away that opportunity from them.

CHAIRMAN DURAN: It's kind of a moot point; he doesn't qualify. There's not enough land.

COMMISSIONER SULLIVAN: Certainly, he qualifies. He can get a variance.

CHAIRMAN DURAN: Well, even if you put it in that you can do a family transfer, you can ask and come back for an amendment to the plat to allow for a family transfer and a variance.

MR. MARMION: Mr. Chairman, as far as Commissioner Sullivan's question there or, I don't know if it's a question or he doesn't want us to come back, this isn't something where we're motivated by profit here or anything and we're not trying to circumvent any laws or come back. We're very happy to have a temporary four-year deal on this. If we wanted the second dwelling to do a family transfer later on, we certainly wouldn't have—we would have thought harder not to make it a single-wide. We would have wanted a double-wide. This situation is—we've got a medical problem as proof by the doctor's own handwriting. We're here and I don't understand—

COMMISSIONER SULLIVAN: I'm not suggesting, let me clarify—

CHAIRMAN DURAN: Why don't you just add what you want to his motion and let's—

MR. MARMION: We've already agreed to it.

COMMISSIONER SULLIVAN: No, I'm not making the question in order to add anything to the motion. I'm trying to make it clear as to what that provision means to the applicant. And I'm not suggesting at all that you're trying to circumvent the law but there's two new conditions that have been added here and I just want the record to be clear what that means. I think Commissioner Trujillo has made it clear that he wants to leave you the option some time in the future of doing a family transfer but not of subdividing this parcel. So that explains to me what his motion is and I think that keeps the record clear.

The motion to approve CDRC Case #V 02-5420 passed by unanimous [5-0] voice

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vote. The following conditions were added:

8. That the mobile home would be removed six months after the hardship ceases
9. That no further subdivision of this lot will be allowed in the future, except family transfer.

- XII. A. 7. **CDRC CASE #V 02-5400 – Lafarge Variance. Lafarge, Applicant, Jim Siebert, Agent, Request a Variance of Article III, Sections 4.1 and 4.2 (Types and Locations of Commercial Districts) of the Land Development Code to Allow Commercial Zoning Outside of a Potential Commercial District on 36.68 Acres of Leased Land. The Property is Located South of Route 66 (State Road 333), West of Skyline Road, within Section 35, Township 10 North, Range 7 East (Commission District 5)**

CHAIRMAN DURAN: Is this is Santa Fe County?

MR. DALTON: Mr. Chairman, yes it is. Thank you, Mr. Chairman. The applicant is requesting a variance of Article III, Sections 4.1 and 4.2 of the Land Development Code to allow a concrete batch plant to be located within an existing sand and gravel pit. Article III, Section 4.1 of the Code states that commercial and industrial non-residential uses are permitted only in zoned districts. Batch plants are considered an industrial use.

There are several reasons why commercial districts are established. The primary reason is to avoid strip commercial patterns of development along collector and local roads of the county. Also to protect existing and future residential development from encroachment of non-residential uses. The subject property is not within a potential commercial district.

The applicant states that the existing concrete batch plant is located west of Edgewood, Sedillo Hill, at a considerable distance from the populated areas of the community. Delivery distance of concrete is limited by the time it takes for the batch to begin to set up. The applicant states that the proposed site would place the plant in a more central location to the populated areas of Edgewood. It is staff's position that this type of industrial use should be located away from populated and residential areas. Batch plants will usually exceed the height limit of 24 feet. The applicant states that this tract of land has been used for sand and gravel mining and for retail sales of minerals since 1988 and has been used for highway projects since the 1930s. Staff acknowledges this existing use, however, there have been complaints by residents concerning blasting on this property and concerns that the addition of a batch plant would increase the amount of blasting, the noise and traffic to the site.

Recommendation: Staff's position is that this application is not in accordance with Article III, Section 4.1 and 4.2 of the Land Development Code and in granting this variance the purpose of the Code to protect existing and future residential development from

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encroachment of non-residential uses would be violated. Therefore staff recommends denial of the requested variance. On September 26, 2002 the CDRC met and acted on this case. The decision of the CDRC was to recommend approval of a variance of Article III, Sections 4.1 and 4.2 of the Land Development Code to allow commercial zoning outside of a potential commercial district on 36.68 acres of leased land subject to the following conditions. Mr. Chairman, may I enter those conditions into the record?

[The conditions are as follows:]

1. The applicant shall pave roads with heavy truck traffic going into the sand and gravel pit and roads within the concrete batch plant.
2. The applicant shall eliminate the use of jake brakes on Route 66.
3. The applicant shall submit a new reclamation plan and a letter or credit for reclamation in an amount approved by County Land Use staff. [Added at staff report.]
4. The applicant shall do more research on magnesium chloride to ensure it does not affect the groundwater.
5. The applicant shall utilize electric motors. No diesel motors shall be permitted.
6. The applicant shall work with staff on dust control measures to ensure that dust does not affect residential property.
7. The applicant shall work with the school district on signs near school bus stops within $\frac{3}{4}$ of a mile east and west of the pit entrance.
8. The concrete batch plant shall be closed when minerals are gone from the sand and gravel pit and the reclamation plan shall be complied with.
9. The batch plant shall be located within the gravel pit to reduce visual impact.

MR. DALTON: Mr. Chairman, I do have an amendment to condition number 3, which should read, The applicant shall submit a new reclamation plan and a letter or credit for reclamation in an amount approved by County Land Use staff.

COMMISSIONER SULLIVAN: Questions of Mr. Dalton? Hearing none, is the applicant present?

[Duly sworn, Jim Siebert testified as follows:]

JIM SIEBERT: My name is Jim Siebert. My address is 915 Mercer. Give me just one short minute to set up some of the graphics.

COMMISSIONER SULLIVAN: While you're doing that Mr. Siebert, Mr. Dalton, let me ask you a question on the condition, The applicant shall do more research on magnesium chloride to ensure it does not affect the groundwater. That appears to be rather vague. What does the applicant do with that research if in fact it indicates that there is an effect on the groundwater?

MR. DALTON: Mr. Chairman, Commissioner Sullivan, the applicant has done research on magnesium chloride and that research does state that no contamination to groundwater is possible with magnesium chloride. Also, I want to add that the applicant is paving the roads to the batch plant and around the batch plant, therefore magnesium

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Chloride will not be used for dust control on this project.

COMMISSIONER SULLIVAN: Then what's the purpose of this condition?

MR. DALTON: Mr. Chairman, Commissioner Sullivan, that was a condition put on by the CDRC.

COMMISSIONER SULLIVAN: Mr. Siebert.

MR. SIEBERT: Mr. Chairman, Commissioners, let me first of all describe the purpose of this request. One, there is an existing concrete batch plant on Sedillo Hill. That plant will be relocated to the existing pit, which would be actually placed down in the pit and not visible. The bottom graphic that you see is the height of the plant with the two silos which are 55 feet. The approximate depth of the pit is around 65 feet. So what happens is it obscures the visibility from surrounding residents and from I-40 and Route 66.

Also what it accomplishes is moving the pit closer to where the concrete is needed and that's principally in Edgewood and along the I-40 corridor where improvements are planned in the future. The idea is that if you take the plant from Sedillo Hill and move it to this location what happens then you don't have to take the aggregate, which is at this site, take it out to the plant and then use it to mix and then bring it back. You consolidate all those operations in one location.

In terms of the location itself, this is I-40 and the main corridor here. This is Route 66. This road is Skyline Road. The 36-acre site which is the present lease agreement that they have with the Bassett family to operate the pit, the concrete plant would sit approximately, and the batch plant would sit in this area. The concrete plant itself really uses only an acre, so that includes the area for the turn-around. The reason we designated this area is that it's a defined, surveyed area.

The area to the south and the west is residential, south and east is residential. The area along here between I-40 and Route 66 is principally business and light industrial in nature. This area here is owned by the Bassett family. It is presently vacant. The Richter family has a piece here, which is both a family and a small business operation.

CHAIRMAN DURAN: Excuse me, Jim. I think I need to make a point here. My understanding is that the public is going to be bringing up an issue that is probably going to require us to move this thing back to the CDRC for their review and that is that Mr. Bassett is related to Lafarge and did not recuse himself in that vote. And had he recused himself then the vote would have been 2-1 against. Is that true?

MR. SIEBERT: I can't recall how the actual vote came down.

CHAIRMAN DURAN: I just spoke to Mr. Kopelman—

MR. SIEBERT: If that's the case, if Mr. Kopelman says that's the case then that's the case.

CHAIRMAN DURAN: Well, if that's true and if Mr. Bassett is related to the Lafarges there definitely is a conflict of interest there that should have, that he should have recognized and recused himself from that vote. And I believe, Steve, isn't it true that if there's a relationship there, family or business, that that constitutes a conflict of interest?

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MR. KOPELMAN: Mr. Chairman, members of the Commission, real quickly our ethics code provides that appointed officials as well as elected and County employees shall not engage in conduct they know reasonably should know likely to create in the minds of reasonable, objective, fair-minded observers perception of not being fair and appointed officials shall avoid conduct that creates the appearance of impropriety. And then there is a court of appeals case in New Mexico, the Highridge-Hinkle joint venture, where the court goes so far as saying that parties who vote, local government officials appointed or otherwise who vote on a case have to basically be held to the same standards as judges and that you have to recuse yourself from voting if you or a spouse are related by the third degree of consanguinity to the party in the preceding or the owner of the property.

So I think that, and this has been brought to my attention. I have a letter signed by some of the residents and I think it presents a serious issue, perception of conflict. I'm certainly not saying that Mr. Bassett isn't fair or anything, I just think that it was inappropriate for him to vote on this because he admits he's a third cousin. A subsidiary issue is whether he purchases gravel from Lafarge but I think the issue is really the appearance of impropriety because of his relation, his blood relation to the owner of the land.

CHAIRMAN DURAN: I'm wondering, I'm asking the Commission what they would like to do knowing this information. My thought it what we ought to do is send it back to CDRC for them to review it again and take another vote.

COMMISSIONER TRUJILLO: Excluding Mr. Bassett.

CHAIRMAN DURAN: Or we can continue to listen to the testimony today, tonight and make a decision at this level.

COMMISSIONER TRUJILLO: I think we need to send it back to CDRC and see what happens at CDRC. Because there is no guarantee. It seems that it's going to come to us anyway and the recommendation from them might be either to approve or disapprove. What we have today is a recommendation to approve from the CDRC and that, because of the Bassett vote gives a semblance of impropriety. So I'd like to sent it back to them and take a new vote with a different or same recommendation but Mr. Bassett to recuse himself or abstain from the vote.

COMMISSIONER SULLIVAN: Mr. Chairman.

CHAIRMAN DURAN: Commissioner Sullivan.

COMMISSIONER SULLIVAN: I think that's probably the right direction based on what Mr. Kopelman says. But I have a question, Steve. This is noticed as a public hearing. Should we not hear the public?

MR. KOPELMAN: Mr. Chairman, Commissioner Sullivan, that's a decision that the Board can make. You're certainly not obligated to. On the other hand, I know these folks have come up from the Edgewood area. So that's really the Commission's call.

COMMISSIONER SULLIVAN: I guess I'd like to not deny anybody their rights including the applicant to make a presentation. Mr. Siebert, I'm sure understands what

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the situation is. If these individuals have come up here and may want to offer some additional facts in the matter.

CHAIRMAN DURAN: But the problem with that is if we're going to do that, it's a full-blown hearing on the issue because it's not fair to let the people that came from Edgewood to speak and not allow the applicant to speak his mind.

COMMISSIONER SULLIVAN: Well, if Mr. Kopelman says we have that option, I just am concerned that we don't provide the people the opportunity to speak. But this has been a concern of mine. It's been in the paper, this issue down there, regarding that vote.

CHAIRMAN DURAN: Regarding the vote? This is the first time I've heard of it.

COMMISSIONER SULLIVAN: It's been twice in the paper that I've read. Once on the issue, then again I believe Mr. Bassett had a rebuttal letter to *The Independent* which he published. So it's been a highly visible concern. So I definitely think it needs to go back to the CDRC.

CHAIRMAN DURAN: I'd hate for us to vote on this thing either for or against with this cloud. I think that if your project has—there's a possibility that it's going to be approved that it's going to be clouded with this issue at the CDRC level.

COMMISSIONER SULLIVAN: I think, Mr. Chairman, another option is you could recess the public hearing and not vote on it. In other words, recess it until such time as the CDRC re-examines the case and provides this information.

MR. KOPELMAN: Mr. Chairman, Commissioner Sullivan, you could remand the case with explicit directions to the CDRC and I think that would probably be, again, that's probably the appropriate approach to take. There's no reason to hold the public hearing now because again, it's going back to the CDRC. They will reconduct a public hearing and then it will come back up to the Commission with a recommendation.

COMMISSIONER SULLIVAN: Okay. I'll go along with whatever the Board thinks is reasonable. I just know it's a long drive to Edgewood.

COMMISSIONER CAMPOS: Mr. Chairman.

CHAIRMAN DURAN: Commissioner.

COMMISSIONER CAMPOS: I'm just curious. How many people are here today from Edgewood to talk about this case? A show of hands. We have four. Okay. Mr. Kopelman, could we hear it if we decided to hear it tonight? The CDRC, according to this, only makes a recommendation.

MR. KOPELMAN: Mr. Chairman, Commissioner Campos, I looked at the statute, the ordinance, rather. That's true. My concern is that if you conduct a public hearing and you approve the project. It gets appealed to district court. One of the grounds of the appeal is going to be that the recommendation, even though it's only a recommendation, it's mandatory under the Code, the variance request, that that was flawed and I think that there's certainly a reasonable chance that the court then sends it back down anyway. So my concern is if you take testimony and go through the hearing, you still have a recommendation that arguably is flawed.

COMMISSIONER CAMPOS: So your recommendation would be to remand?

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MR. KOPELMAN: Mr. Chairman, Commissioner Campos, I think that's the most prudent approach, yes.

CHAIRMAN DURAN: I'd like to make that motion that we remand this back to the CDRC for their [audio difficulties] what's the gentleman's name?

COMMISSIONER TRUJILLO: Bassett.

CHAIRMAN DURAN: Bassett, recusing himself from the vote.

COMMISSIONER VARELA: Second.

CHAIRMAN DURAN: Any further discussion?

The motion to remand CDRC Case #V 02-5400 back to the CDRC passed by unanimous [5-0] voice vote.

CHAIRMAN DURAN: I'm sorry that you all drove here for this but you'll have another opportunity.

COMMISSIONER SULLIVAN: Another opportunity to drive it at 10:00 at night. The stars are beautiful.

CHAIRMAN DURAN: Next time when you come up, we'll put you first on the agenda. How's that?

COMMISSIONER SULLIVAN: That's true. We normally do that. Does staff take note of that.

CHAIRMAN DURAN: Can you make sure of that? That it's first on the agenda next time it comes up.

XII. A. 8. AFDRC CASE #DP 02-5310 – Phillip Padilla Development Plan. Phillip Padilla, Applicant, Al Quintana, Agent, Request Master Plan Zoning Preliminary and Final Development Plan Approval for Light Commercial Use (Sales or Business Offices or Non-Industrial Shops) on 0.78 Acres. The Property is Located off Agua Fria Street within the Traditional Historic Community of Agua Fria, within Section 32, Township 17 North, Range 9 East (Commission District 2)

MR. DALTON: Thank you, Mr. Chairman. On October 9, 2001, the BCC approved a variance of Article III, Sections 4.1 and 4.2, types and locations of commercial districts to allow commercial zoning outside of a potential commercial district on 0.78 acres. The applicant has met with neighbors and the Agua Fria Village Association and has agreed with suggestions and conditions as follows: The existing 1600 square foot building and area at the southwest end of the property against Agua Fria, building and area shall be used for light commercial use, sales or business offices or non-industrial shops. No sales of RVs or automobiles. Parking for customers and employees only.

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The proposed 2,000 square foot building at the north portion of the property, commercial and light industrial, building trades acceptable, auto mechanic shop acceptable, no auto salvage or auto storage. Parking limited to customer and employee, east fence area. For light industrial use, equipment and service vehicle parking, west fence area. For auto mechanic shop, serviced vehicle parking, west fence area.

Recommendation: Staff's position is that this application is in accordance with Article V, Section 5, Master plan procedures and Article III, Section 4.4, Development plan procedures of the Land Development Code. Staff recommends approval of master plan zoning, preliminary and final development plan approval for light commercial use, sales or business offices, or non-industrial shops on 0.78 acres. On July 11, 2002, the AFDRC met and acted on this case. The decision of the AFDRC was to recommend master plan zoning, preliminary and final development plan approval subject to the following conditions. Mr. Chairman, may I enter those into the record?

CHAIRMAN DURAN: You can enter those into the record.

[The conditions are as follows:]

1. The master plan/development plan shall be recorded with the County Clerk's Office.
2. All staff redlines will be addressed. Original redlines will be returned with final plans.
3. The following uses shall not be permitted on the property: towing, long-term auto storage, auto salvage, auto parts salvage, fuel tanks, oil dumping, alcohol sales.
[Amended at motion]
4. Only day-time businesses shall be allowed and only light commercial uses shall be allowed.
5. The applicant shall comply with all Fire Marshal requirements. The applicant will request a final fire inspection prior to occupancy of the building.
6. The applicant shall submit a drainage and grading plan to be approved by staff.
7. The applicant shall submit a landscaping plan to be approved by staff.
8. All outside lighting on the property shall be shielded and shall comply with the Land Development Code.
9. All improvements, including parking areas, fire protection and retention ponding will be in place prior to occupancy of the building.
10. The applicant shall submit a solid waste contract.

CHAIRMAN DURAN: Wayne, I have a question. I don't see in the requirements, and I recall having some discussion before that the hours of use would be limited.

MR. DALTON: Mr. Chairman, that is condition number four and that reads Only daytime businesses shall be allowed and only light commercial uses shall be allowed.

CHAIRMAN DURAN: I guess I should read. Okay, thanks. Any questions of Wayne?

COMMISSIONER SULLIVAN: Mr. Chairman.

CHAIRMAN DURAN: Commissioner Sullivan.

COMMISSIONER SULLIVAN: Is the preliminary and final development

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plan, Wayne, Exhibit E in our packet?

MR. DALTON: Mr. Chairman, Commissioner Sullivan, Exhibit E is your site plan.

COMMISSIONER SULLIVAN: We're approving preliminary and final development plan. Where is the preliminary and final development plan?

MR. DALTON: Mr. Chairman, Commissioner Sullivan, I guess I don't understand your question.

COMMISSIONER SULLIVAN: Well, my question is, where's the plan? Where's the beef?

MR. DALTON: Okay. Mr. Chairman, Commissioner Sullivan, that would be Exhibit E, which shows the proposed and existing development on the property.

COMMISSIONER SULLIVAN: Okay. I can't read this. I can't read the wording hardly, and I don't understand it even what I can. Down at the bottom of the page there's an existing building, then a proposed caretaker's residence, and then a proposed auto-something.

CHAIRMAN DURAN: Repair.

COMMISSIONER SULLIVAN: Auto repair? I thought auto repair was one of the things that was not to be done.

MR. DALTON: Mr. Chairman, Commissioner Sullivan, auto mechanic shop would be acceptable, and that is something the applicant is proposing to do.

COMMISSIONER SULLIVAN: And what is this shaded area?

CHAIRMAN DURAN: Storage area.

MR. DALTON: That's correct, Mr. Chairman, Commissioner Sullivan.

COMMISSIONER SULLIVAN: Storage, meaning—

MR. DALTON: For various equipment the applicant may have on his property to store.

CHAIRMAN DURAN: It's fenced, right?

MR. DALTON: That's true. That's correct. It will have to be screened from view, whatever storage the applicant does have.

COMMISSIONER SULLIVAN: When the master plan was approved, or the rezoning, I thought they were going to reuse the existing 1600 square foot building for some purposes that the community had had a meeting about. I believe Commissioner Duran was there at one of those meetings.

CHAIRMAN DURAN: Yes.

COMMISSIONER SULLIVAN: So perhaps you can help me out. But I'd never heard of a caretaker's residence before and I didn't know that there would be an additional building. What's the background of that?

MR. DALTON: Mr. Chairman, Commissioner Sullivan, this project will actually be done in phases. Right now, the applicant is only planning to use the existing building on the property. Eventually, the applicant might be able to construct the 2,000 square foot building and add a caretaker's residence on there. That might be a question the applicant

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can answer.

COMMISSIONER SULLIVAN: And the caretaker's residence is permitted under light commercial zoning? Under the use list for the master plan?

MR. DOMINGUEZ: Mr. Chairman, Commissioner Sullivan, yes it is.

COMMISSIONER SULLIVAN: Okay. And do we have any lot coverage requirements? I recall that we had a fairly lengthy discussion about this on the Borrego project last meeting about lot coverage when we were dealing with residential.

MR. DOMINGUEZ: Mr. Chairman, Commissioner Sullivan, the EZ is the one that has a lot coverage percentage on it. The Extraterritorial Zoning Ordinance.

COMMISSIONER SULLIVAN: We're not in the EZ here?

MR. DOMINGUEZ: No. It falls under the County Code because this is the traditional community.

COMMISSIONER SULLIVAN: Okay, so there are no lot coverages.

MR. DOMINGUEZ: Mr. Chairman, that's correct, because there's no ordinance in effect other than the land code.

COMMISSIONER SULLIVAN: So it looks like we have a lot of storage areas here.

CHAIRMAN DURAN: Is that covered storage? Or just outside storage?

MR. DOMINGUEZ: Mr. Chairman, I believe it's just outside storage.

COMMISSIONER SULLIVAN: Commissioner Duran, is this the general plan that the community had been looking at?

CHAIRMAN DURAN: It is actually. What they were concerned about in the front building was that it didn't—they were talking about selling RVs and four-wheelers out of it and they wanted to make sure that it was light commercial, sales or business offices was okay. So the approved list on that front building is pretty much what the Agua Fria Village Association agreed to. They also agreed to the caretaker's residence and the auto repair shop provided that he did not have a lot of industrial type work taking place, body work after hours. And that's why I asked about the time limits and number four deals with that.

And I think we talked about the storage area and the only thing that I might add to it is that there was some concern that he might, the applicant might be storing a lot of junk cars or something like that and I'd like to just make sure that the applicant is in agreement with maybe one more condition and that would be that he doesn't create an eyesore for the neighborhood and that would give the neighbors the opportunity to complain if he did start stacking a bunch of cars and stuff there that the Commission or Code Enforcement could go in and ask you to become in compliance that we granted you.

COMMISSIONER VARELA: Mr. Chairman, isn't that covered in number 3?

CHAIRMAN DURAN: I don't know; I didn't read any of them.

MR. DALTON: Mr. Chairman, that is condition number 3 and that reads, The following uses shall not be permitted on the property: Auto storage, auto salvage, auto parts salvage, oil dumping or alcohol sales.

CHAIRMAN DURAN: I guess maybe just to add to that so as to not to create a

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negative visual impact. Help me with this.

COMMISSIONER VARELA: An eyesore.

COMMISSIONER SULLIVAN: Non-compatible with the surrounding neighborhood.

MR. DOMINGUEZ: Should not be visually obtrusive.

CHAIRMAN DURAN: Yes. That sounds even better. Would that be okay?

COMMISSIONER SULLIVAN: Mr. Chairman, let me ask a question. How can you realistically have an auto repair shop? You have to have storage of vehicles to have them available to work on them the next morning.

MR. DOMINGUEZ: Mr. Chairman, Commissioner Sullivan and Commissioners, we have a junk ordinance that's currently in effect and that covers a lot of the details on the questions that you're talking about, i.e., unlicensed vehicles and unrunning and all of those things that are parked for a certain length of time, then we can go in and cite for that. And I believe between that and—I understand the spirit of what you're trying to pass here. The intent is that they wouldn't bring in junk vehicles, just park them. With the size of lot and all that I don't see a whole lot of vehicles being stored on here. If we just work on that language that it could not become visually obtrusive we would have the enforcement mechanism by which we can go and issue notice of violations.

COMMISSIONER SULLIVAN: I guess, Tom, my concern is that where we say auto storage, well, obviously if we're going to allow an auto repair shop they've got to have some storage. The cars have to sit there for some period of time, if they have to order parts of whatever the case may be. Would it be prudent to put some time limit on that, auto storage not to exceed a week, something of that sort?

MR. DOMINGUEZ: Mr. Chairman, Commissioner Sullivan, the attorney tells me that it's implied but it could be placed on there, a time limit.

COMMISSIONER SULLIVAN: You see what I'm saying?

MR. DOMINGUEZ: Yes, I believe the concern stems from an auto towing business or something just coming and bringing and towing all these—

COMMISSIONER SULLIVAN: Right. For 30 days or until someone claims the car or something like that. But I'm just thinking in terms of having to park a car there while you have it disassembled and you're waiting for a widget to come and so short term—

CHAIRMAN DURAN: What's a widget?

COMMISSIONER SULLIVAN: You don't know what a widget is? That's an important thing.

CHAIRMAN DURAN: Is it like a henweigh?

COMMISSIONER SULLIVAN: Yes, it's what my car lacks. That's why it doesn't get very good gas mileage. But if we're going to allow—I don't think we can just say no auto storage. Someone can come in and make a complaint and say, They're storing cars there and you say, Sure. They've got an auto repair shop. Mr. Kopelman.

MR. KOPELMAN: Mr. Chairman, Commissioner Sullivan, what we can add here is in terms of auto storage. The following uses shall not be permitted—we can put in

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parentheses, other than short-term car repair work to clarify that.

CHAIRMAN DURAN: But I don't know if—the applicant does have a towing business and I think there was some intent that we would have some cars there. Isn't that true?

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

COMMISSIONER SULLIVAN: But that's not what they wanted. That's not what the community was willing to go along with, was it? He could tow but he couldn't store cars there. I thought that's what—

CHAIRMAN DURAN: I don't remember. Maybe the applicant could—

COMMISSIONER SULLIVAN: Yes, let's just ask the applicant.

CHAIRMAN DURAN: Okay. Is the applicant here? Could you state your name and address for the record. Let the Clerk swear you in.

[Duly sworn, Phillip Padilla testified as follows:]

PHILLIP PADILLA: My name is Phillip Padilla. My address is 2724 Henry Lane. In reference to your question, Mr. Chairman, we did agree not to run a towing service out of that area in concern of the neighborhood and also the association. Other than storing vehicles, it's just a matter of repair.

CHAIRMAN DURAN: Okay, good.

COMMISSIONER SULLIVAN: So then, Mr. Chairman, we could add under three, towing service would be one of the non-permitted uses.

CHAIRMAN DURAN: I don't know about towing service. Would you be operating, would you be hanging out there waiting for calls? Is that a towing service?

COMMISSIONER SULLIVAN: Didn't you just say you're not going to do a towing service, or you are?

MR. PADILLA: Not within that premises.

COMMISSIONER SULLIVAN: But you're going to operate a towing company from there?

MR. PADILLA: No, sir.

COMMISSIONER SULLIVAN: And go out and service cars? You're not going to have anything to do with towing on that property?

MR. PADILLA: On that property. Other than dropping a vehicle off in the yard, a disabled vehicle.

CHAIRMAN DURAN: To be repaired.

COMMISSIONER SULLIVAN: To be repaired. But you're not going to store cars there for reclaiming like typical towing yards have.

MR. PADILLA: Right.

COMMISSIONER SULLIVAN: But you own a wrecker and you're going to bring cars there.

MR. PADILLA: Right. We're going to take vehicles there just for repair.

COMMISSIONER SULLIVAN: With your own towing truck?

MR. PADILLA: That pertains to other towing agencies also, that will drop off—

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COMMISSIONER SULLIVAN: Sure. That's okay. That makes sense. But you're not going to operate a towing business—

MR. PADILLA: Not at all. That's what we agreed to.

COMMISSIONER SULLIVAN: Just trying to clear it up for the Chairman.

CHAIRMAN DURAN: I was definitely confused.

COMMISSIONER SULLIVAN: And making we can be a little less specific under the auto storage by saying long-term, as a non-permitted use, long-term auto storage. Does that work, Mr. Kopelman?

MR. KOPELMAN: Mr. Chairman, Commissioner Sullivan, legally, I think that would be fine. I think it's clear.

COMMISSIONER SULLIVAN: I don't know what it means but long-term is—

MR. KOPELMAN: We lawyers can figure it out.

COMMISSIONER SULLIVAN: You can figure that out? So condition 3 could be changed to read, if the Commission agrees, The following uses shall not be permitted on the property: towing service, long-term auto storage, auto salvage, auto parts salvage, fuel tanks, oil dumping and alcohol sales. Does that meet with the applicant's—is that agreeable?

CHAIRMAN DURAN: Is that a motion?

COMMISSIONER SULLIVAN: I don't know if we've finished letting the applicant—

CHAIRMAN DURAN: Oh, that's right.

MR. DOMINGUEZ: Mr. Chairman, clarification. Would you also like the visually obtrusive language put in there or do you think it's covered with what we—

CHAIRMAN DURAN: I think it's okay.

MR. DOMINGUEZ: Thank you.

CHAIRMAN DURAN: Okay, is there anyone out there that wants to speak for or against this proposal? If not, what's the pleasure of the Board?

COMMISSIONER SULLIVAN: Move for approval as amended in condition 3, Mr. Chairman.

COMMISSIONER VARELA: Second.

CHAIRMAN DURAN: Any further discussion?

AL QUINTANA: Excuse me, Mr. Chairman. The applicant would like clarification to condition 4, only daytime business shall be allowed. Does that mean from eight to five or let's say, if it's a mechanic shop and somebody's in there finishing up a project, is it eight to when it turns dark?

MR. PADILLA: The question is pertaining to reasonable hours. As long as I can continue finishing up the job or something. I'm not going to carry it on till 12 or one o'clock in the morning. I'm just saying if it's like repairing an alternator or something that takes a couple hours to do.

CHAIRMAN DURAN: I think you'll recall when we had this discussion with the Village, you're moving into a residential neighborhood and they just wanted to make sure that you weren't banging around and working on cars until all hours of the night. I don't think

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that precludes you from working on a carburetor until three o'clock in the morning if you want to. It was just trying to maintain a neighborhood—the quietness in the neighborhood. That's what I thought.

COMMISSIONER SULLIVAN: I think that means when you're open for business.

CHAIRMAN DURAN: Right.

COMMISSIONER SULLIVAN: If you want to quietly tear down carburetors all night long you can do that and I guess the caretaker could do that too, if he or she need to work on their car. But otherwise, it just says daytime. I guess that means sunrise to sunset. I don't know whether you want to put hours on that.

CHAIRMAN DURAN: Do you want hours on that?

MR. PADILLA: Not necessarily. My concern was if a complaint was filed, what kind of a recourse would I have on a situation of enforcement. In other words if the County came down and wanted to cite me for that time, I'm just—

CHAIRMAN DURAN: I think if you maintain the intent of the approval here, which was to stay open to the public only during regular business hours and daylight savings time. Maybe that's still beyond dusk or dark. Till seven or something. It seems to me that you have more flexibility in the language that you have right now than if we limit it to hours. If your neighbors complain, they're going to complain anyway and you still have the right to defend yourself.

MR. PADILLA: Well, thank you. That pretty much answers my question.

CHAIRMAN DURAN: Don't you all agree?

COMMISSIONER SULLIVAN: I think so. We don't have a mechanism for here—if he did work late at night then a resident, if it was extremely noisy, if he wasn't just repairing an alternator but if he was hammering out dents or something, then I don't see anything in here that would give a neighbor the opportunity to complain, because we didn't include the obnoxious noises type of clause. You might want to think in four of saying in light commercial uses shall be allowed which don't pose a noise—back to your language.

CHAIRMAN DURAN: The same kind of thing happened to Shidoni. They had a non-conforming use. I'll try to make this quick. A non-conforming use. And they got so busy and so successful that they started working late into the night and so the quiet little village of Tesuque was no longer a quiet little village. So the neighborhoods complained and the County got involved in it and we required that they address the neighborhood's concerns. So it's the same thing with you. If they start complaining, they're going to come to us and we're going to have to either put new conditions or require that you comply.

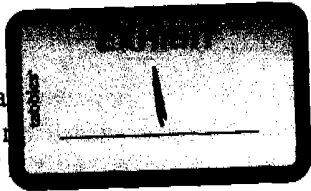
MR. PADILLA: That definitely works for me.

COMMISSIONER SULLIVAN: Is that sufficient, Mr. Kopelman? You don't think we need any language that says any unusual noise?

CHAIRMAN DURAN: How about some noxious noise or something like that?

MR. KOPELMAN: Mr. Chairman, Commissioner Sullivan, I think this is adequate and I think that anything that goes beyond the bounds of reasonable would be picked

We the undersigned of Jemez Road strongly request the completion of South Meadows Road Airport Road and the Rufina Road intersection to relieve extreme hazardous conditions for street resulting from the building and opening of Rufina Road. (NOTE TRAFFIC COUNT



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| NAME | ADDRESS | TELEPHONE NUMBER |
|-------------------|------------------------|-----------------------|
| Wm. Baird | 401 Jemez Rd. | 47-069 |
| MELVIN R. BAIRD | 401 Jemez Rd. | 47-069 |
| Joseph D. Aragon | 470 Jemez Rd | Santa Fe NM 473-0675 |
| Lina Aragon | 470 Jemez Rd | Santa Fe NM 473-0675 |
| Denise Aragon | 470 Jemez Rd | Santa Fe, NM 473-0675 |
| Francis Valdez | 469 A Jemez Rd | Santa Fe 471-8381 |
| Frank Valdez | 469 A Jemez Rd. | Santa Fe, NM 471-8381 |
| Janette Smith | 450 Jemez Road | SANTA FE, NM 471-3983 |
| John Smith | 450 Jemez Rd | Santa Fe NM 471-1111 |
| Arthur J. Val | 468 Jemez | Santa Fe NM 474-1439 |
| Arthur J. Val | 468 Jemez Rd | Santa Fe NM 474-1439 |
| Lynn Val | 468 Jemez Rd | Santa Fe NM 474-1439 |
| Carl Val | 467 Jemez Rd | Santa Fe NM 474-9211 |
| William Mathyski | 1025 Calle Nueva Vista | Santa Fe NM 474-0553 |
| Pam Valdes | 466 Jemez Rd #2 | S.F. 438-0328 |
| Jacob Valdes | 464 Jemez Rd | |
| Alfred Campbell | 464 Jemez Rd | |
| Walter Campbell | 464 Jemez Rd | |
| Connie Campbell | 465 Jemez Rd. | S.F. NM 690-9602 |
| W. Kevin Campbell | 465 Jemez Rd. | S.F. NM 690-9602 |
| Santiago Lopez | 464 Jemez Rd | Santa Fe NM. |
| Rosetta Lopez | 464 Jemez Rd. | S.F. NM. |
| Stephen Duke | 462 Jemez Rd | Santa Fe 471-2272 |
| John Duke | 462 Jemez Rd | 474-4233 |
| John Catalan | 407 Jemez Rd | 471-2312 |
| John Catalan | 407 Jemez Rd | 438-4577 |
| John Catalan | 410 Jemez | Santa Fe |
| John Catalan | 410 Jemez Rd | Santa Fe 488-4397 |
| Rudolph Maltz | 451 Jemez Rd | Santa Fe 675-0955 |
| Max Maltz | 451 Jemez Rd | Santa Fe 473-0955 |
| Rachel Brendel | 461-A Jemez Rd | Santa Fe 471-2394 |
| Derrick Hatt | 461-A Jemez Rd | Santa Fe 471-2394 |
| PATRICK C. LUJAN | 461 Jemez Rd. | S.F. NM 471-1758 |
| Anlene Lujan | 457 Jemez Rd | S.F. NM |
| Karyn Lujan | 457A Jemez Rd. | S.F. NM |
| Bisa Janeth | 456A Jemez Rd | 473-3868 |
| GABRIEL GALLAGOS | 413 Jemez Rd | Santa Fe 471-2472 |
| Reyna Soto | 469 Jemez Rd | Santa Fe 438-8970 |
| Lepardo Soto | 469 Jemez Rd | Santa Fe 438-8970 |
| Marcos Viapando | 469 Jemez rd | Santa Fe 438-9497 |
| Marcos Viapando | 469 Jemez rd | Santa Fe 438-9497 |
| Lara Olague | 461 B Jemez Rd | Santa Fe |
| DANIEL Olague | 461 B Jemez Rd. | Santa Fe 424-4214 |
| Mary Olague | 461 B Jemez Rd. | Santa Fe 424-4214 |
| Oray Prado | 462 B Jemez Rd | Santa Fe 473-7527 |
| Viola Romero | 460 B Jemez Rd | Santa Fe 471-2648 |
| Hola Soto | 436A Jemez Rd | S.F. 920-9457 |
| Janey Soto | 460 B Jemez Rd | Santa Fe 471-2648 |
| Janey Soto | 436A Jemez Rd | Santa Fe 471-2648 |
| LAURA NATA | 460 A Jemez Rd | SANTA FE 424-4161 |
| Ruben Laya | 460 C Jemez Rd | Santa Fe 310-4120 |

We the undersigned of Jemez Road strongly request the completion of South Meadows Road between Airport Road and the Rufina Road intersection to relieve extreme hazardous conditions for residents on our street resulting from the building and opening of Rufina Road. (NOTE TRAFFIC COUNT ATTACHED!)

2314616

| NAME | ADDRESS | TELEPHONE NUMBER |
|--------------------------|--------------------|---------------------|
| Euda Varela | 462 Jemez Rd Apt D | S.F. 424-35-83 |
| Gloria Polanco | 408 Jemez Rd | |
| Guaymas Pedraza | 408 Jemez Rd | |
| Chela Alvarez | 409 Jemez Rd | |
| Eliseo Chaves | 208 A Jemez Rd | |
| Julia Hernandez | 409 Jemez Rd | |
| Patricia Larino | 410 Jemez Rd | |
| HENRY SANISUAL | 412 Jemez Rd | 438-0999 |
| Kinga Sandoval | 412 Jemez Rd | " " |
| Richard J. Montoya | 417 Jemez Rd | 690-8150 |
| Roberta S. Montoya | 417 Jemez Rd | 471-0436 |
| Juanita Sandoval | 410 Jemez Rd | |
| Milla Kelly | 411 Jemez Rd | 471-0213 |
| Upland Beltas | 454 Jemez Rd | 473-1091 |
| Jose Beltas | 454 Jemez Rd | " " |
| Carlos Hernandez | 451C Jemez | |
| Olivera de la Cruz | 449 Jemez Rd | 474-3796 |
| Juanita de la Cruz | 449 Jemez Rd | 474-3796 |
| Angel and Gabriel Roybal | 448 Jemez Rd | 316-7588/980-6648-W |
| Sebastiana Roybal | 448 Jemez Rd | 316-4236 |
| Roberto Roybal | 447 Jemez Rd | 471-8184 |
| Annella Roybal | 447 Jemez Rd | 471-8184 |
| Jose Roybal | 446 Jemez Rd | 573-0200 |
| Jose Roybal | 446 Jemez Rd | 573-0200 |
| Jose Gonzalez | 446 Jemez Rd B | 424-0574 |
| Patricia Roybal | 446 Jemez Rd B | |
| Jose L. Hernandez | 445 Jemez Rd | 421-2064 |
| Jose L. Hernandez-Duante | 445 Jemez Rd | |
| Jose Terry Hernandez | 445 Jemez Rd | 471-3069 |
| SELGIO GARRAZA | 442 Jemez #2 | 438-9169 |
| LUPE GARRAZA | 442 Jemez #2 | 438-9168 |
| CONNIE S. SALAZAR | 459 Jemez Rd | 473-4239 |
| MARIE S. SALAZAR | 459 Jemez Rd | 473-4239 |
| MARIE S. SALAZAR | 459 Jemez Rd | 473-4239 |
| Jose E. Hernandez | 414 B Jemez Rd | 473-5235 |
| Angelle Washburn | 414 B Jemez Rd | 473-4539 |
| Jose Hernandez | 444 Jemez Rd | 473-1257 |
| Ashu Ortiz | 444 Jemez Rd | 471-4625 |
| Romero Ortiz | 444 Jemez Rd | 471-4625 |
| Catherine Jansen | 444 Jemez Rd | 473-1089 |
| Edna Jansen | 444 Jemez Rd | 473-1259 |
| Jose Jansen | 444 Jemez Rd | 473-1259 |
| Patricia Romero | 443 | 438-8116 |
| Anna Romero | 443 | 438-8116 |
| Mary Ann Sanchez | 441 Jemez Rd | 428-4812 |
| Juanita Sanchez | 441 Jemez Rd | 438-4812 |
| John TAYLOR | 440 Jemez | 424-6626 |
| GILBERTO | 436 Jemez | 474-4532 |
| Felicia N. Taylor | 471 Jemez | 471-4994 |
| Jeanette Hernandez | 433 Jemez | Same |
| Jose Hernandez | 433 Jemez | 471-2678 |
| Consuelo Hernandez | 433 Jemez Rd | 474-5267 |
| Guillermo Ortiz | 433 Jemez Rd | 471-2575 |
| Romulo Ortiz | 433 Jemez Rd | 471-2575 |

We the undersigned of Jemez Road strongly request the completion of South Meadows Road between Airport Road and the Rufina Road intersection to relieve extreme hazardous conditions for residents on our street resulting from the building and opening of Rufina Road. (NOTE TRAFFIC COUNT ATTACHED!)

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| NAME | ADDRESS | TELEPHONE NUMBER |
|-------------------|------------------|------------------|
| Anthony Infante | 442 Jemez Rd | 473-0305 |
| Marsha Wilton | 442 Jemez Rd | 473-7584 |
| Kind Murphy | 442 J Jemez Rd | 435-8718 |
| Lisa Thomas | 442 1/2 Jemez Rd | 474-5262 |
| Emili Blouch | 442 Jemez Rd | 424-6706 |
| J & S LUIS TERRES | 44 1/2 Jemez Rd | 204-3306 |
| Bryan Dominguez | 44 1/2 Jemez Rd | 204-3306 |
| Manuel Cano | 44 1/2 Jemez Rd | 424-4428 |
| Francisco Maldon | 44 1/2 Jemez Rd | 490-1460 |
| Phillip Rouze | 432 Jemez Rd | 490-1460 |
| Jose Ruiz Sr | 431 Jemez Rd | 490-1460 |
| Ramiro R. Cordero | 429 Jemez Rd | 471-7443 |
| Rog Montoya Jr | 427 Jemez Rd | 471-1848 |
| King O'Leary | 423 Jemez Rd | 424-8745 |
| Michael Smith | 423 Jemez Rd | 316-9636 |
| Brian A. Ambrose | 423 Jemez Rd | 316-9636 |
| John Bruce | 422 Jemez Rd | 424-0684 |
| Bruce Hulsmann | " " " | " " |
| Gene D. Bridges | 420 Jemez Rd | 471-1656 |
| Anthony Talley | 419 Jemez Rd | 470-1546 |