

SANTA FE

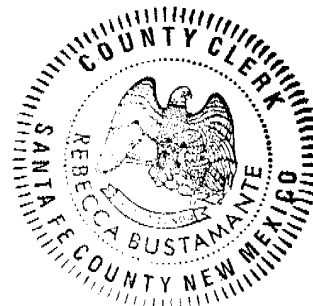
2482323

BOARD OF COUNTY COMMISSIONERS

REGULAR MEETING

December 10, 2002

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



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COUNTY OF SANTA FE } ss
STATE OF NEW MEXICO

I HEREBY CERTIFY THAT THIS INSTRUMENT WAS FILED
FOR RECORD ON THE 1st DAY OF April A.D.
20 03 AT 8:26 O'CLOCK 7 M
AND WAS DULY RECORDED IN BOOK 2482
PAGE 323 - 445 OF THE RECORDS OF

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

Witness my hand and seal of office
Rebecca Bustamante
DEPUTY

SANTA FE BOARD OF COUNTY COMMISSIONERS

COMMISSION CHAMBERS

COUNTY ADMINISTRATION BUILDING

REGULAR MEETING
(Public Hearing)
December 10, 2002 - 4:00 p.m

Amended Agenda

2482324

- 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 - B. Tabled or Withdrawn Items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 162
 - A. Resolution No. 2002 - A Resolution in Opposition to the United States Going to War Against Iraq
- IX. Presentations
 - A. Initial Recommendations from the Affordable Housing Summit
 - B. Final Santa Fe County Health Policy and Planning Commission Recommendations Concerning FY 2004 St. Vincent Hospital MOA
- X. Consent Calendar
 - A. Request Adoption of Findings of Fact and Conclusions of Law for the Following Land Use Cases:
 - 1. EZ CASE #DL 02-4330 - Sena Lot Line Adjustment Land Division (Approved)
 - 2. EZ CASE #DL 02-4350 - Young Family Transfer (Approved)
 - 3. EZ CASE #A 01-4282 - Norma Cross Appeal (Approved)
 - 4. CDCR CASE #V 02-5420 - Howard Trimborn Variance (Approved)
 - 5. CDCR CASE #V 01-5291 - Roland Felix Variance (Denied)
 - 6. CDCR CASE #DP 02-5310 - Phillip Padilla Development Plan (Approved)
 - 7. CCDRC CASE #Z 01-5570 - Thornburg Master Plan (Approved) TABLED
 - B. Request Authorization to Accept and Award a Construction Agreement to the Lowest Responsive Bidder for IFB 23-23 Installation of Street Lights and Electrical Work at the Camino de Jacobo and Valle Vista Housing Sites (Community & Health Development Department) TABLED

*November 12, 2002
amend w/amendments*

Tabled

Tabled

Tabled
C. Resolution No. 2002 – A Resolution Requesting an Increase to the General Fund (101)/CRAFT Grant Budget for the Fiscal Year 2002 Grant Award Received from the US Department of Health & Human Services for Expenditure in Fiscal Year 2003 (Community & Health Development Department) TABLED

Tabled
D. Resolution No. 2002 – A Resolution Requesting an Increase to the Wildlife/Mountains/Trails Fund (233) to Budget a Grant Awarded Through the New Mexico Energy, Minerals and Natural Resources Department for Expenditure in Fiscal Year 2003 (Project & Facilities Management Department) TABLED

Approved
E. Request Authorization to Enter into a Project Funding Agreement with the Vista Grande Public Library (Project & Facilities Management Department)

Approved
F. Request Authorization to Enter into Construction Agreement #23-0109-PFMD with the Lowest Responsive Bidder (IFB #23-03) for the Construction of Phase II of the Vista Grande Public Library (Project & Facilities Management Department)

Approved
G. Resolution No. 2002 – A Resolution Requesting an Increase to the State Special Appropriations Fund (318)/Various Projects to Budget a Transfer from the General Fund (101)/Special Appropriations Project Grants (SAP) Received from the New Mexico 2002 Legislature and a Private Contribution Funding Agreement for Expenditure in Fiscal Year 2003 (Project & Facilities Management Department) ¹⁶²

Approved
H. Request Authorization to Enter into Construction Agreement #23-0110-PFMD with the Lowest Responsive Bidder (IFB #23-02) for the Construction of Youth Shelters and Family Services Facility (Project & Facilities Management Department)

XI. Staff and Elected Officials Items

A. Finance Department

Tabled
1. Resolution No. 2002 – A Resolution Requesting Approval of Investment Income Designation for the Capital Infrastructure Average Cash Balance of the Water Enterprise Fund (505) Effective July 1, 2002 TABLED

Tabled
2. Resolution No. 2002 – A Resolution Requesting Approval of Investment Income Designation on the Average Cash Balance of the Following Housing Funds: Section 8 Fund (227), Housing Development Grants' Fund (230), Capital Fund Program (301), and Housing Enterprise Fund (517) Effective July 1, 2002 TABLED

B. Project & Facilities Management Department

Approved
1. Request Approval of Land Purchase Agreement Between Santa Fe County and Joseph F. Miller and Alma M. Miller Revocable Trust UTA for Approximately 91.163 Acres of Land in the Lamy Area for Inclusion in the Santa Fe County Open Space and Trails Program

C. Matters from the County Attorney, Steven Kopelman

1. Executive Session

- Not held*
- a. Discussion of Pending or Threatened Litigation
 - b. Discussion of Possible Purchase, Acquisition or Disposal of Real Property or Water Rights

D. Matters from the County Manager, Estevan Lopez

XII. Public Hearings

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A. Public Works Department

Tabled

1. Ordinance No. 2002 – An Ordinance Amending Ordinance No. 1994-2, An Ordinance Regulating Procedures for Working in, Disturbing and Repairing County Property and Rights of Way

B. Land Use Department

Tabled

1. CDRC CASE #V 02-5470 – Bruce Oakeley Variance. Bruce Oakeley, Applicant, is Requesting a Variance to Article III, Section 10 (Lot Size Requirements) of the Land Development Code to Allow a Land Division of 7.53 Acres to Create One 2.5 Acre Tract and One 5.03 Acre Tract. The Property is Located off of East Pine within Section 6, Township 14, North, Range 9 East, (Commission District 5). Jamie Sheridan TABLED

Approved w/ conditions

2. CDRC CASE #V 02-5490 – Rosa Ortiz Variance. Rosa Ortiz, Applicant, Is Requesting a Variance of Article III, Section 10 (Lot Size Requirements) of the Land Development Code to Allow a Second Dwelling Unit on 0.76 Acre Tract. The Property is Located at 26 County Road 84F within the Traditional Community of Nambe in Section 10, Township 19 North, Range 9 East, (Commission District 1). Jamie Sheridan

Tabled

3. EZ CASE #DL 02-4370 – Aragon Family Transfer. Leroy and Mary Jane Aragon, Applicants, are Requesting Plat Approval to Divide 4.81 Acres into Three lots for the Purpose of a Family Transfer. The Lots will Be Known as Lot 2-A (1.25 Acres), and Lot 2-B (1.25 Acres), and Lot 2-C (2.30 Acres). The Property is Located within the Arroyo Hondo West Subdivision off of Hondo Lane, within Section 15, Township 16 North, Range 9 East, (Commission District 4). Vincente Archuleta TABLED

Tabled to July 14

4. Ordinance No. 2002 – An Ordinance Amending Ordinance 1996-10, the Santa Fe County Land Development Code, Article V, Section 5.2.2.c. and 5.2.2.g., to Require the Submission of Water Supply Plans and Water Permits for Master Plans (Second Public Hearing). Roman Abeyta

Tabled to July 14

5. Ordinance No. 2002 – An Ordinance Amending Ordinance No.1996-10 the Santa Fe County Land Development Code, Article V, Section 5.2 Master Plan Procedures to Require the Submission of a Preliminary Water and Liquid Waste Disposal Plan with Master Plan Applications and Include Language that Clarifies that a Master Plan Approval does not Confer a Vested Development Right (First Public Hearing). Roman Abeyta

Approved

6. Resolution No. 2002 – A Resolution to Recognize the Proposed Pojoaque Valley Community Planning Committee, and Authorization to Initiate a Community Plan for the Pojoaque Valley and Recognition of its Geographical Boundaries (Commission District 1). Robert Griego and Romella Glorioso-Moss

1st hearing
3-2-02
w/changes
Deferral
3-2-02

7. Resolution No. 2002 - A Resolution Amending Resolution 1999-137, the Santa Fe County Growth Management Plan, as Amended, to Adopt and Incorporate the El Valle de Arroyo Seco Highway Corridor Plan. Robert Griego

8. Ordinance No. 2002 - An Ordinance Addressing Water Conservation for all Sources and Uses of Water within Santa Fe County (Second Public Hearing). Katherine Yuhas

9. Ordinance No. 2002 - An Ordinance Amending Ordinance No. 1996-13 which Amends Article VII, Section 6.2.2c, and Adding New Section 6.2.2c, 6.2.2d and 6.2.2e to the Santa Fe County Land Development Code, Ordinance 1996-10, to Require Proof of a Valid Water Right Permit for Type-I and Type II Subdivisions, and Type III Subdivisions Allocating More than 0.25 Acre Feet per Year per Lot, and Type III Subdivisions of More Than 12 Lots and Non-Residential Development Using More Than One Acre-Foot of Water Annually (Second Public Hearing). Katherine Yuhas

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XIII. Adjournment

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SANTA FE COUNTY

2482328

REGULAR MEETING

BOARD OF COUNTY COMMISSIONERS

December 10, 2002

This special meeting of the Santa Fe Board of County Commissioners was called to order at approximately 4:20 p.m. by Chairman Paul Duran, in the Santa Fe County Commission Chambers, Santa Fe, New Mexico.

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

Members Present:

Commissioner Paul Duran, Chairman
Commissioner Marcos Trujillo
Commissioner Paul Campos [4:40 arrival]
Commissioner Jack Sullivan
Commissioner José Varela López

Members Absent:

An invocation given by Alan Royals.

I. APPROVAL OF THE AGENDA

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

CHAIRMAN DURAN: Any changes to the agenda, Estevan, Commissioners?
ESTEVAN LOPEZ (County Manager): Mr. Chairman, Commissioners, good afternoon. We have a couple of amendments, first of all, and these are shown on the amended agenda that should be on the table before you. The first amendment is we've added, under Matters from the Commission, VII. A. Resolution No. 2002-__, a resolution in opposition to the United States going to war against Iraq. And then the next amendment is under XII. A. 1. It's simply a correction to the title of the ordinance and that's shown in red on your amended agendas. We've added the words "working in" before disturbing and repairing County property and rights-of-way.

In addition, Mr. Chairman, we have a number of items that should be tabled. The first is on the Consent Calendar, item X. A. 7, the findings of fact and conclusions of law for the Thornburg master plan. Next is item X. B, the award of a construction agreement for the installation of street lights at Camino Jacobo and Valle Vista housing sites. X. C, the resolution requesting the increase to the general fund CRAFT grant budget. X. D, a resolution requesting an increase to the Wildlife/Mountains/Trails Fund. And we're also requesting a tabling of items XI. A. 1 and 2, under the Finance Department, a couple of resolutions under the Finance Department.

We're requesting that the item XI. C. 1, the executive session be tabled, and under Public Hearings, XII. B.1, the Bruce Oakley variance, XII. B. 3, the Aragon Family Transfer. We're requesting that those items be tabled. Mr. Chairman, those are the amendments and requested tablings.

CHAIRMAN DURAN: Okay. I was wondering if the Commission might want to lump all of our water ordinances together rather than have them at different places in the agenda.

COMMISSIONER TRUJILLO: How many do we have, Mr. Chairman?

CHAIRMAN DURAN: Well, we have number 5 some water issues to it. That would be XII. B. 5. And XII. B. 8 and XII. B. 9. You said 4?

COMMISSIONER VARELA: Yes, also.

CHAIRMAN DURAN: And 4. Maybe what we should do since those are going to take—what if we put everything else before those and then dealt with it. So 4 and 5 would be heard just before 8 and 9. So we would go, the first one would be 6, 7, and then 4, 5, 8, and 9.

COMMISSIONER VARELA: 2, 6, 7. I believe—

CHAIRMAN DURAN: Right. 2, 6, 7, 4, 5, 8, 9. Does that sound good? That way we can get those that don't want to be here for that out of here. Any other changes?

COMMISSIONER TRUJILLO: Mr. Chairman, move for approval as amended.

COMMISSIONER VARELA: Second.

CHAIRMAN DURAN: Any further discussion?

COMMISSIONER SULLIVAN: Mr. Chairman.

CHAIRMAN DURAN: Commissioner Sullivan.

COMMISSIONER SULLIVAN: Was there something supposed to be in our packets on item IX. B? I didn't see anything.

CHAIRMAN DURAN: IX. B?

COMMISSIONER SULLIVAN: The Health Policy Planning Commission recommendation concerning the fiscal year 2004 St. Vincent Hospital memorandum of agreement. This isn't something you're going to pop on us here, is it?

STEVE SHEPHERD (Health Director): No, it's actually a revision to the recommendations that you got at our last Commission meeting. This meeting was held on Thursday night and as soon as we could get it was to bring it to the meeting today. But we'll go over it. It's a fairly short, two-page document.

COMMISSIONER SULLIVAN: Okay, it's not an action item, right?

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MR. SHEPHERD: No. It's just a presentation.
CHAIRMAN DURAN: Any further discussion?

The motion to approve the agenda as amended passed by unanimous [4-0] voice vote. [Commissioner Campos was not present for this action.]

VI. Approval of Minutes: November 12, 2002

CHAIRMAN DURAN: Any changes to those minutes?
COMMISSIONER SULLIVAN: Mr. Chairman.
CHAIRMAN DURAN: Commissioner Sullivan.
COMMISSIONER SULLIVAN: Mr. Chairman, I have a few administrative changes that I'd like to give to the recorder.
CHAIRMAN DURAN: So it's move for approval with those changes?
COMMISSIONER SULLIVAN: I'd move for approval with those amendments, yes.
COMMISSIONER VARELA: Mr. Chairman, I also have a couple.
CHAIRMAN DURAN: Okay. Is there a second?
COMMISSIONER VARELA: Second.
CHAIRMAN DURAN: Any further discussion?

The motion to approve the November 12th meeting minutes with the corrections submitted by Commissioners Sullivan and Varela passed by unanimous [4-0] voice vote. [Commissioner Campos was not present for this action.]

VII. Matters of Public Concern – NON-ACTION ITEMS

CHAIRMAN DURAN: Is there anyone out there in the audience that would like to address the Commission concerning any issue? Okay.

VIII. Matters from the Commission

A. Resolution No. 2002-__ . A resolution in opposition to the United States going to war against Iraq [Resolution text attached as Exhibit 1]

CHAIRMAN DURAN: I had asked staff to bring this resolution forward and I guess I don't want to make too much of an issue about this but I started thinking that as Chairman of the County Commission and with these meetings being televised that this would be an opportune time to speak my mind on this potential war with Iraq and I'll only take up just a

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couple minutes of your time. But I really think that our community needs to take a stand against this potential war. Thirty-five years ago we all fought against and protested against the Vietnam War which was a senseless war and I consider this Iraq war to be very similar in terms of its, the reason that we might have to go in there.

We've lost a lot of loved ones in New York and other terrorist attacks, but I think if we go into Iraq at this point in time that it would be the war to end all wars. So although I have a resolution before the Commission to consider what I really wanted to do is make a statement here that as a community I would like to see us oppose this war as much as we possibly can. None of us want to lose loved ones to another senseless war. That's all I wanted to say. And I know I should be thinking about water but I'm thinking about the war right now.

CHAIRMAN DURAN: Any other Matters from the Commission?

COMMISSIONER SULLIVAN: Mr. Chairman.

CHAIRMAN DURAN: Commissioner Sullivan.

COMMISSIONER SULLIVAN: A couple of items. Just some inquiries of the staff. One was for Public Works. Could someone tell me how we're coming along on our road construction and maintenance master plan? Just a brief update? Somebody being Mr. Lujan.

JAMES LUJAN (Public Works Director): Mr. Chairman, Commissioner Sullivan, we want to do a presentation at the January meeting with Odin Miller coming in and doing a presentation and update on that road study.

COMMISSIONER SULLIVAN: Okay, is there some kind of a summary, executive summary that you could get out ahead of time or the consultant—

MR. LUJAN: Definitely. Definitely, it will go out probably mid-January. In fact they're preparing it as we speak. They've done a preliminary. We've had some changes in road miles and different issues like that so we will have it, probably by mid-January I'll have a summary and then we'll take it to the end of January.

COMMISSIONER SULLIVAN: Okay. Thank you. And then I had a question for Mr. Anaya. He always sits in the back corner. Specifically, Robert, how is our progress on the affordable housing in Rancho Viejo, specifically, the zero to sixty percent affordable housing in the first phases?

ROBERT ANAYA (CHDD Director): Mr. Chairman, Commissioner Sullivan, Rancho Viejo has submitted to us for our review the appraisals for their houses that they want to sell, that they're going to be selling under the affordable housing agreement that we have with them. And Roman and I are reviewing those to make sure, to take into consideration those appraisals. One of the things that we have to do as staff is come back to you with some recommendations on changes to the actual pricing on the units because it's been well over a year since those prices were made so we're revisiting those. We're going to look at the City's increases that they've made in their ordinance relative to the homebuyer prices. That's where we're at right now, Commissioner Sullivan.

COMMISSIONER SULLIVAN: It's been a year? It seems like we just amended that ordinance about six months ago.

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El Valle de Arroyo Seco: Mr. Chairman, Commissioner Sullivan, we never—we haven't revisited the actual home prices that we have on the units and those prices haven't changed since the ordinance was initially approved. So we're looking at those based on—as part of our regulations, we require that Rancho Viejo provide us with the appraised values of the homes and we're going to utilize those and also the increases that the City has made to their ordinance to bring back some proposed changes to the actual prices. That's where we're at right now.

COMMISSIONER SULLIVAN: Thank you. Another question I had, Commissioner Duran was for you. At the last meeting you were mentioning that you were going out to a meeting at Piñon Hills. I had brought up the issue about that assessment district and perhaps having to initiate one on a County basis to do things that needed to be done out there. Were you able to go and if so, what happened?

CHAIRMAN DURAN: Well, I went to the meeting and there were a lot of people there. They wanted to know if the County was going to do anything relative to finding monies to improve the roads in their subdivision, bring them up to safe standards. And I advised them that there was no money in our general fund to do that but there might be some state money we could apply for, the ICIP program that we have which hasn't produced adequately to take care of all the problems that we have. So I let them know that, that they could be put on that list but the possibility of getting money to improve their roads and especially to the level that they want and the cost to do that is a little unreasonable to assume that we can get.

We talked about the other options and that would be an assessment district and there are some that don't mind the assessment district. There are some that are opposed to it because of a number of reasons, one is the affordability issue, but the other issue, which I think was more prevalent was the fact that they would be doing this, and by doing so the densities in the area would be increased because now there would be no reason to disapprove those family transfers. So they were pretty fractured in my opinion. There were some people that wanted it for the right reasons. There were some people that felt if they approved an assessment district then the one thing that they had been fighting for for so long, which was family transfers—not specifically family transfers but increased density in the area. So they would be paying to promote that type of use. So I think that was the wrong place to suggest an assessment district.

COMMISSIONER SULLIVAN: And that's why I mentioned last time that it doesn't sound like it would ever be a situation where we would get a 2/3 petition from the residents.

CHAIRMAN DURAN: I don't think so.

COMMISSIONER SULLIVAN: And I think based on staff recommendations, which I had talked about working on last time, we should take a hard look at doing the possible provisional method if those safety concerns are as serious as has been indicated to us.

CHAIRMAN DURAN: And the provisional method would be where we just go in there and do it, right?

COMMISSIONER SULLIVAN: And just do it. That's also called the political

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suicide method. Nonetheless, if the problem—

CHAIRMAN DURAN: Yes, that's my district.

COMMISSIONER SULLIVAN: Thought we would start with your district on that one.

COMMISSIONER TRUJILLO: It was my understanding that the issue in the community of Piñon Hills is more than roads. By improving roads we'll not give impetus to augmentation benefiting immediately because there are water issues and liquid waste issues and all the other quality of life issues that those people are concerned with. So in and of itself, roads would not proliferate an augmentation in density because there are those other issues. So to improve roads, the CIP package, gross receipts monies and things like that, that will be a benefit to the community but the land use and development part of it would still be under close watch by the Board of County Commissioners and staff.

CHAIRMAN DURAN: But at that meeting those issues were brought out and it was determined by the hydrologist that the aquifer in that particular area is relatively strong based on geo-hydro reports that have been submitted for other large and small scale development in that area. So the water issue wasn't as—it was a concern. There wasn't adequate data to say we need to stop developing; the aquifer isn't strong enough. The wastewater issue was also somewhat—the concern was minimized due to the fact that the aquifer in the area is 500 feet down and the hydrologist basically said that it's been proven that groundwater is not an issue when wells are drilled—200 feet and above is where there are some real concerns with groundwater contamination because of wastewater. So the wells out there are all 400 and 600 feet.

COMMISSIONER TRUJILLO: I don't want to debate it but I see where even though we've got an abundance, allegedly, of water, if we continue to use it and mine it, it will not only have an effect in the immediate area but also places like La Cienega and other surrounding communities. The issue with liquid waste, if we continue to perpetuate or proliferate individual septic tanks and leach fields, that wastewater will eventually go beyond 400 feet. It will saturate into the water table. So those problems we need to address immediately. And from a long-term basis.

CHAIRMAN DURAN: Well, like I say, the community in my opinion was very fractured on the whole thing.

COMMISSIONER SULLIVAN: Well, and they might be more responsive to an initial assessment district that included roads. That seems to be their primary concern. But I think we need to look to staff to give us an evaluation of what the safety issues are, what the recommendations would be. I have seen costs, what it would cost to improve the area but I'd like to see if we could re-emphasize to the staff to follow up on the Chairman's meeting and whether it's a working subcommittee or something like that that would say that the answer to this problem is not just going to the legislature ever year and hoping for money to improve the roads. There's got to be some participation on the part of the residents if they want safer roads. I would look to staff to see if that's the main issue. If wastewater is a bigger issue or if water is a bigger issue then we'd focus on that but it sounds like from the residents' standpoint roads is a

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primary issue that may be a good place to start at it. If they can't get the 2/3 vote but if half of them are in favor of a road assessment district, then we might take that as our lead and do a provisional district and go through the protest hearings and so forth and hear what people have to say. I'm just looking for some pro-active way when these subdivision and transfer requests continue to come in and we face this question every time they do.

And the last thing I had—

CHAIRMAN DURAN: Before you start can I say just one thing, just to kind of tie into that. When you do all this, remember that some of those people that requested lot splits had agreed to some kind of an impact fee. So when you start thinking about this, I think we should consider adopting some kind of impact fee schedule that those people that are hoping to get family transfers are willing to participate in.

COMMISSIONER VARELA: Mr. Chairman, also along with that, I think we have to recall that the County Fire Department was worrying about not having any hydrants in that area and several homes have burnt down so that would probably have to be part of the equation.

COMMISSIONER TRUJILLO: And the County has been sensitive to road issues in the last four years. I think that County Road 70 was paved last year. Calle Carla was paved. The thing is there's some major development going on in that area and there's a lot of roads that have been cut into the countryside. They're bus routes and they're utilized by people and so I guess long term, even if we implement an assessment district, it's going to take a while before all of those roads or at least most of those roads are improved.

COMMISSIONER SULLIVAN: Then the last thing I had, Mr. Chairman, was we had received a letter from the State Engineer, Estevan, about the Silverado area and your request that the State Engineer consider that. We received a letter back which was a little vague in my reading of it but we had talked about participation with the State Engineer in the Española Basin study and that possibly leading to the designation of that area as a critical management area. Has there been any further discussion on that?

MR. LOPEZ: Mr. Chairman, Commissioner Sullivan, no, there hasn't. Or at least not on my part. I need to follow up on it.

COMMISSIONER SULLIVAN: Okay. I'd like to follow up on that because if we should be a part of that study now's the time to—

MR. LOPEZ: And specifically you're asking that we follow up about how we might participate in that study and thereby extend the scope of the study to include the Silverado area.

COMMISSIONER SULLIVAN: Yes. Yes. That's all I had, Mr. Chairman.

CHAIRMAN DURAN: Commissioner Varela, did you have anything?

COMMISSIONER VARELA: No, Mr. Chairman.

CHAIRMAN DURAN: Commissioner Trujillo?

COMMISSIONER TRUJILLO: No, sir.

MR. LOPEZ: Mr. Chairman, Gary apparently has some additional information about that last question.

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GARY ROYBAL (Utilities Director): Mr. Chairman, Commissioner Sullivan, we are working with the State Engineer and I believe the Socorro School of Mines on this issue. We are participating in that study and we are looking at entering into a joint powers agreement to provide funding so that we can extend the study area further south on State Road 14 to cover that area also. So we are participating with the State Engineer and other parties in that area to extend that. And financially participating in that.

COMMISSIONER SULLIVAN: Okay. That's good. That hasn't come to us yet for approval, has it?

MR. ROYBAL: Mr. Chairman, Commissioner Sullivan, not yet. We are still working on a joint powers agreement to provide that funding. But we are participating in those meetings and we are looking at extending that study out there.

COMMISSIONER SULLIVAN: Okay. Good. Thank you.

MR. LOPEZ: Mr. Chairman, also the resolution on the war against Iraq is actually an action item and some action needs to be taken relative to that.

CHAIRMAN DURAN: I'd like to make a motion that we table this until the next meeting, in January.

COMMISSIONER TRUJILLO: Second.

The motion to table the resolution opposing the war with Iraq passed by unanimous [4-0] voice vote. [Commissioner Campos was not present for this action.]

VIII. Presentations

A. Initial recommendations from the Affordable Housing Summit

ALEXANDRA LADD: Mr. Chairman, members of the Commission, I'm Alexandra Ladd. I'm a senior housing planner with the City of Santa Fe, Community Development Division. In October we held an Affordable Housing Summit and many of you were participants, at which the Commissioners and Councilors came up with a list of priorities for affordable housing. Staff was directed to work with members of the roundtable and members of the public to come up with an initial set of proposed action steps and that's what I'm here today to present to you. I left at each of your seats a packet, and don't worry, I won't go through the whole thing. It's really thick.

In that packet you'll find the cover memo just describes briefly the process we went through. There's also a set of recommendations from the Affordable Housing Roundtable and then the proposed action steps that reflect the collaboration between City and County staff and input from the Affordable Housing Roundtable and members of the Alliance for Affordable Housing. These steps are by no means exhaustive or comprehensive. They're just an initial take on the priorities that you all came up with at the summit. As you study them and consider them I ask you to think about what type of regional affordable housing framework we need to really be able to implement some of these actions as well as discover and come up with different ones.

One event that's happening right now is the Affordable Housing Roundtable is

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beginning a strategic planning process, so I suggest that that might be a vehicle for continuing the momentum from the summit and really coming up with a unified strategy. Thank you.

CHAIRMAN DURAN: Alexandra, I have a question. I'm sorry. I wasn't able to attend the conference. But at that conference and subsequent to that, has there been any discussion relative to ordinance changes in the EZ to allow for higher densities to provide for affordable housing and what kind of priority—and along with that, has there been any discussion with the City relative to their commitment to affordable housing to an extent where they would agree to extend water outside the municipal boundaries of the city.

The reason I say that is because the City right now has an ordinance that prevents extension outside the municipal boundaries and in the EZ at this point in time is ideal for creating higher densities because of logical annexation policies and densities that would be an appropriate thing to do in certain areas.

MS. LADD: Mr. Chairman, there really hasn't been specific discussions to that level regarding those issues but I think that from what I've heard from different Councilors they're hoping that this whole process kicks off a discussion and a planning process where some of those issues can really be hashed out some more.

CHAIRMAN DURAN: So is this report pretty much focused on properties within the municipal boundaries of the city?

MS. LADD: It probably is because a lot of the issues that came up, because there were more Councilors at the summit so they came up with more city-relevant issues. But that's not meant to be exclusive at all. It's just that we were directed to respond to the specific issues so that's the framework that the report, the action steps are written. But I would encourage you all to look at them and really decide how to either extend them so they're more applicable to the county or add things that are specific to the county.

CHAIRMAN DURAN: Because there's no area in the city that—there are no—I don't know of many areas in the city that would provide for affordable—the densities required for affordable housing.

MS. LADD: You're right. There aren't very many at all.

CHAIRMAN DURAN: Then we obviously need to have some discussion relative to some annexation strategies that would provide the zoning that we need to do that. And to even step out of the box in the EZ.

MS. LADD: Mr. Chairman, there is an item in there about annexation, priorities for the RPA and looking at densities. But again, it's just an initial take on it so we're hoping that this opens the door to really work on some of these issues more in detail.

CHAIRMAN DURAN: Because it's really meaningless if we don't have places to do it, or that will accommodate them. Okay.

COMMISSIONER SULLIVAN: Mr. Chairman.

CHAIRMAN DURAN: Commissioner Sullivan.

COMMISSIONER SULLIVAN: Just one question, Ms. Ladd. One of the action items in the report that was brought up at the meeting that I attended was to create a regional housing authority. We've just recently had discussions here at the County about the

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status of our housing authority. As an action item, is something else going to happen with regard to that that you're aware of?

MS. LADD: Mr. Chairman, Commissioner Sullivan, that action item is very, very general. We actually—we just wrote it as initiate a process for looking into that. So again, the door is open and if that is something that the County feels is a priority then we would be able to work together and really put some time and research into it.

COMMISSIONER SULLIVAN: Has anybody initiated anything in that regard.

MS. LADD: No. Not that I know of.

COMMISSIONER SULLIVAN: Might be worth at least having some preliminary discussions on it to see if that's a cost-effective step.

CHAIRMAN DURAN: Just one last thing. In 1998 we adopted an Affordable Housing Ordinance that was voluntary. It offered densities, increased densities, and you know how many people have taken advantage of it? None. And that was in 1998. I pulled that ordinance the other day. I think you probably really need to address the Regional Planning Authority concerning this because I think they're the body that's going to be able to break the ice and make the difference in those areas outside—within the two-mile and out to the five.

MS. LADD: Mr. Chairman, we've worked with Diane Quarles on this whole process so we look forward to continuing to work with her.

CHAIRMAN DURAN: Good. So do we. Let the record show that Commissioner Campos joined us about ten minutes ago.

IX. B. Final Santa Fe County Health Policy and Planning Commission recommendations concerning fiscal year 2004 St. Vincent Hospital MOA [Recommendations attached as Exhibit 2]

MR. SHEPHERD: Mr. Chairman, Commissioners, I'd like to carry an apology from the Chairperson of the Health Planning Commission, Jaime Estremera-Fitzgerald, was called to a meeting. He was going to be giving these recommendations today. So I told them that I would do this for him. Last Thursday evening the Health Planning Commission had a meeting to propose final recommendations for the negotiation of the MOA between Santa Fe County and St. Vincent Hospital and I would be happy to go over quickly each one. There's nine. And shortly look at the schedule that's attached.

Item 1: All MOA programs and projects need to have outcome-based evaluations, which is pretty standard. That is something we just need to work on some language for. It's not anything that anybody has got an argument with.

Number 2: St. Vincent's should hire adequate staff to support MOA and related activities. The Health Planning Commission supports adequate staffing for the MOA project by the hospital.

Number 3: That the Board of County Commissioners recommend community members to the St. Vincent's Hospital Board of Trustees for membership. The Health Planning

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Commission supports this and would like to have some input on this. This would also probably need a language change within the MOA. It would probably be fairly easy to do.

COMMISSIONER SULLIVAN: Mr. Chairman, on that one item, Steve, I would hope we could see that a little stronger. We had mentioned two persons and would like to have some stronger acknowledgement by St. Vincent's that there be at least two community members designated who would be considered on the recommendation of the County Commission. A little more stronger than simply saying we can recommend community members. Anybody can recommend community members, I assume, to the St. Vincent's board but if there could be some stronger language, I think that would convey our interest in communication.

MR. SHEPHERD: Mr. Chairman, Commissioner Sullivan, we can work on that. That's not a problem.

Item number four: Support an increase to existing County expenditures in the fiscal year 2004 MOA. This is something that both the County, hospital and Health Planning Commission all support. It will help us with our 232 EMS health care fund.

Number 5: We had a long discussion about setting aside some money for private physicians and what type of private physicians those are. There was a discussion between specialists, trauma, and then generally, private physicians that are being seen for primary care. The agreement was to leave all three in there so that that decision could be made. There was three questions attached to this. How much to devote to the line item in numbers? What type of doctors should be eligible, which I just talked about? And should we directly, or would the hospital, would they directly contract with Project Access, the project of the medical association, or put the project out for bid? The HPC recommended that we devote as much money as we could to this line item, but also recommended that the decision on the doctors and who would run the project be left to the MOA Project Review Committee.

COMMISSIONER TRUJILLO: Mr. Chairman, Steve, has there been any discussion regarding reimbursement for prescription? Something that I don't think the indigent fund or the statute at this time addresses, right?

MR. SHEPHERD: That's correct. There's been some discussion about that but not a kind of global pharmacy program. The hospital does run an indigent pharmacy program which is pretty limited. It pretty much deals with their patients. The indigent fund does pay for some pharmaceuticals but you do have to go see the doctor at La Familia Medical Center, Women's Health or Health Centers of Northern New Mexico. We don't directly reimburse clients for pharmaceuticals.

COMMISSIONER TRUJILLO: Would this change that?

MR. SHEPHERD: This would not necessarily change that. This is actually addressing the private physician bills right here, but it's certainly something that we could add into the mix.

COMMISSIONER TRUJILLO: I think that if you're indigent being able to pay doctors, you're indigent as far as prescriptions are concerned.

MR. SHEPHERD: Mr. Chairman, Commissioner, I would agree.

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Item number six: Mention a Call to Action as the integral part of the decision making process for the MOA. This is another thing that there's no discussion or argument about. It does require a language change that would be easily accomplished.

Number 7: Adequately fund the CARE Connection and mobile health care van projects. This has been recommended by the Health Planning Commission. The amounts that we're looking at are increases over last year to adequately fund these projects. There was a little criticism about spending money on a mobile health care van, from one Health Planning Commissioner and I wanted to say that publicly, but the other Health Planning Commissioners support the project at this point. I think we'll find that its operating costs may be less than we thought. It could turn out to be a better deal than we thought.

Number 8: Don't reach outside—and this should be in quotes. This was how it was stated. "Don't reach outside the MOA agreement and Sole Community Program dollars." And essentially what was trying to be said there by that Health Planning Commissioner was not to reach into St. Vincent's portion of the Sole Community dollars outside the MOA to use. That was met with mixed reviews among the Health Planning Commissioners but was approved as part of the recommendations.

And the last item was just a recommendation to focus on direct services as much as possible. Things like clinic support, Project Ann in Arroyo Chamiso.

Those are the recommendations from the Health Planning Commission. The other piece of paper in front of you is the remainder of the schedule for the memorandum of agreement. It has been compressed a little bit with the change in the date of the 12/31 BCC meeting, so we're planning on bringing you a document on December 20th.

COMMISSIONER SULLIVAN: Which BCC meeting? Do we have a BCC meeting on the—oh, the 20th. I thought you said 12/31.

MR. SHEPHERD: I think the 31st was the original date and when it got moved back it compressed the schedule a little bit. What's going to happen in the next week: tomorrow morning there's going to be a MOA Progress Review Committee meeting in our legal conference room. We expect at that time to finalize negotiations with the hospital as much as we can. That will allow us to get together with our legal staffs and get the document written and brought back in time for the 20th meeting.

COMMISSIONER SULLIVAN: Mr. Chairman.

CHAIRMAN DURAN: Commissioner Sullivan.

COMMISSIONER SULLIVAN: Steve, there's one thing I don't see in here. We had a long work session with the Health Planning Commission about fiscal reporting and a lot of suggestions were made, a lot of promises were made, but I don't see it addressed at all. What was the feeling on that?

MR. SHEPHERD: The feeling on that with the Health Planning Commissioners is they were generally pleased with what the hospital had given the County. They are looking forward to seeing the next report from the hospital, which has been promised for our January meeting to be delivered to County staff on January 17th.

COMMISSIONER SULLIVAN: I guess I wasn't generally pleased, personally.

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I felt that although they were accounting for some of the funds adequately that there was a great deal of other funds, mainly being the gap between the claims and the total amount that wasn't being accounted for other than in general terms. So it seemed like we need some language to keep them focused on coming up with an accounting plan that's acceptable to both you and to our Finance Director.

MR. SHEPHERD: Mr. Chairman, Commissioner Sullivan, it's my understanding that Katherine Miller, our Finance Director has talked to the CFO at the hospital and they are working on some items that I believe address your concerns about the claims to include in that report.

COMMISSIONER SULLIVAN: Can we include some language in the MOA that St. Vincent signs that commits them to coming up with a financial system that's acceptable to the County? I'm not trying to dictate things here but we're just trying to fill this \$3 million gap.

MR. SHEPHERD: I think at tomorrow's meeting we can work on some language between the two entities.

COMMISSIONER TRUJILLO: Steve, because this is a historical problem and we've had these dealings with the hospital before, is the hospital even receptive on submitting a document like that? Because they've committed in the past that they would do that. They did it for a certain amount of time and then they went back on it. Is the hospital receptive to doing that?

MR. SHEPHERD: Mr. Chairman, Commissioner Trujillo, I believe the hospital is. I think they'd like to probably solve this problem as much as we would. I know for a fact that when their community services department was dissolved that some of their reporting was definitely not consistent because of a lack of staff. But it's my understanding, this is my feeling, that they're committed to it because they'd like this issue to be settled.

COMMISSIONER TRUJILLO: Because it's a major issue and it needs to be taken care of and addressed.

MR. SHEPHERD: Agreed.

CHAIRMAN DURAN: Okay, any other questions of Steve? So the next, you're coming before us again on the 20th?

MR. SHEPHERD: That's correct. We hope to bring a final document on the 20th, Mr. Chairman.

CHAIRMAN DURAN: What is our deadline for hammering out this memorandum of agreement?

MR. SHEPHERD: The absolute deadline for submission of our match commitment to the state is January 15th. So we're trying to do it early and leave a little bit of time in case we need it in the process.

CHAIRMAN DURAN: So has St. Vincent's moved any closer to the accountability issue?

MR. SHEPHERD: Mr. Chairman, I believe they have and I think the discussions, after our joint meeting with the Health Planning Commission I think that that our

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Finance Director and their CFO can at least come up with some good suggestions to solve the concerns about the number of claims.

CHAIRMAN DURAN: Do we have a mid-year review of this?

MR. SHEPHERD: As I said, the next report will come to you at the January administrative meeting, so that will be prepared and ready for your review at that time.

CHAIRMAN DURAN: But after we adopt this one that we're negotiating now, is there a mid—

MR. SHEPHERD: There's historically been quarterly reports due or quarterly reviews. It was Commissioner Sullivan's recommendation and I tend to agree with him and I think until everybody is a little more comfortable we ought to move to monthly reviews if we can do that, if it's feasible.

CHAIRMAN DURAN: Okay. Any other questions of Steve? Okay, thank you, Steve.

X. Consent Calendar

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

1. EZ CASE #DL 02-4330 – Sena Lot Line Adjustment Land Division (Approved)
2. EZ CASE #DL 02-4350 – Young Family Transfer (Approved)
3. EZ CASE #A 01-4282 – Norma Cross Appeal (Approved)
4. CDRC CASE #V 02-5420 – Howard Trimborn Variance (Approved)
5. CDRC CASE #V 01-5291 – Roland Felix Variance (Denied)
6. CDRC CASE #DP 02-5310 – Phillip Padilla Development Plan (Approved)
7. CCDRC CASE #Z 01-5570 – Thornburg Master Plan (Approved) TABLED

CHAIRMAN DURAN: Does anyone on the Commission want to isolate any of the cases here, one through six for further discussion, or do you want to take them individually.

COMMISSIONER SULLIVAN: Mr. Chairman, I have just one.

CHAIRMAN DURAN: Which item is that? Item 2?

CHAIRMAN DURAN: Commissioner Campos, do you have any?

COMMISSIONER CAMPOS: No, sir.

CHAIRMAN DURAN: Commissioner Trujillo?

COMMISSIONER TRUJILLO: No, sir.

CHAIRMAN DURAN: Okay, then the Chair will entertain a motion to approve the findings of fact and conclusions, items 1, 3, 4, 5, and 6. Seven has been tabled.

COMMISSIONER CAMPOS: So moved.

CHAIRMAN DURAN: Is there a second?

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COMMISSIONER VARELA: Second.

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

The motion to approve items X. A. 1, 3, 4, 5, and 6 passed by unanimous [5-0] voice vote.

IX. A. 2. EZ CASE #DL 02-4350 - Young Family Transfer (Approved)

CHAIRMAN DURAN: Commissioner Sullivan, you had some questions of staff?

COMMISSIONER SULLIVAN: Yes, Mr. Chairman. On the second page on item 10, liquid waste, there's some—it's part of what I guess, it starts with paragraph 4, additional factual findings in conformance with Code requirements. It's four through 15. Are these items that have transpired since the hearing that we're inserting in here? These weren't a part of the hearing. The one that caught my attention while you'll looking it up is the liquid waste and one of the provisions of the approval of the lot split was that the applicant would obtain a sewer availability statement from the City because there's a new sewer line going right down Governor Miles Road and it seemed eminently logical to put new homes on that new sewer rather than constructing septic tanks. I see in the packet that there's a letter from the City saying that this isn't required because the home—there's only one additional home. There's an existing one there now, are within in excess of 200 feet from the property.

So I guess I was under the impression that the condition of approval meant that in so far as it was feasible, the applicant was required to connect the parcels into the City sewer, whether it's 200 or 300 feet. Maybe Roman can help me out with that.

ROMAN ABEYTA (Land Use Administrator): Mr. Chairman, Commissioner Sullivan, item number 10 under the additional factual findings in conformance with Code requirements is based on the staff report that was presented to in this case the BCC. That was stated in the staff report. However, the BCC imposed a condition on this approval that stated that prior to recording the plat the property owner must obtain a sewer availability statement from the City of Santa Fe. If sanitary sewer service is available, the applicant must hook up both lots to the City sewer system and that's condition 14 in the findings of fact under County conditions. My understanding was that that was the condition that the Board had placed, that they need to obtain an availability statement. And if it is available, the applicant needs to hook up. And it's my understanding that it's not available, or not currently available because the City of Santa Fe will not hook you up if you're past 200 feet or more than 200 feet away without annexing the property into the city limits. And in order for this parcel to annex, they would have to take other parcels with them, because they're not contiguous to the city limit.

COMMISSIONER SULLIVAN: Because item 10 says as per letter from the City of Santa Fe, which I believe was after the hearing, the property is not accessible and not required to connect. So the issue is—well, it's accessible. There's a road that goes right down to the new sewer on Governor Miles Road and it's 300 feet away. So the issue is the requirement

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for annexation. Is that—

MR. ABEYTA: Mr. Chairman, Commissioner Sullivan, you're correct. A sewer availability statement was obtained after the September 18th BCC and the letter from the City stated it was not available unless an annexation were to be accomplished. So I think what staff was trying to do now that findings of fact was done and since we had that information we have put that into the findings of fact, but we don't have a problem taking that out and letting condition 14 stay the way it is and at this point sewer is not available. So it would be staff's review that condition 14 has been met. They've received the availability statement but it's not accessible at this time.

COMMISSIONER SULLIVAN: I'd just ask that you go one step further. As I understand it from talking to Stan Holland at the City Wastewater Division that this is in their administrative regulations about the annexation, but that that can be reversed by the Council. So like any regulation it's subject to the governing body's review of it on a case by case basis. I don't know if the applicant—are they planning to build right of way on this second lot?

MR. ABEYTA: Mr. Chairman, Commissioner Sullivan, I don't know.

COMMISSIONER SULLIVAN: Well, I think what you say is the way to handle it. Leave 14 in there. I don't mind leaving 10 in. They've received a letter. There's no problem including it with the documentation but I would ask that you encourage the applicant that this isn't necessarily the final issue. If they're going to build a year from now and they've gotten this standard letter from the City but I don't think they've made a good faith effort to determine that. And you can see where I'm coming from here. This is one of those cases where we're right on the edge of the city/county boundary. We have a sewer line. It's not in there yet but it's under construction that will be right in Governor Miles Road. Governor Miles Road fronts on this subdivision. This subdivision goes right into Governor Miles Road. This lot is 300 feet from Governor Miles Road. The City regs say 200 feet, but they do say, and here's the difference, where the variance or the change could perhaps be approved by the City, they do say that for direct connections you don't have to annex. For direct connections. Only if you have to build a trunk sewer.

So if you have a single home as a direct connection you can connect it. So the existing home could connect, is my understanding. Vacant land, they say, no, they won't connect. Don't ask me why all these regulations are this way. But perhaps one of the two could be connected. As I say this is fairly close to the city line. It's a brand new sewer line and the City would benefit from this because this home's on a well. The City's not having to supply them water yet they would get the wastewater, return flow credits and so forth associated with that. So it seems like it would—and the environment would be served by not having yet another septic tank in a fairly dense area of Governor Miles.

I don't know how to put all that in. That's obviously not a part of the findings of fact and conclusions but I thought the general direction was to require those ties ins in so far as they're feasible and I don't think they've taken all the steps that they could to see if it works.

MR. ABEYTA: Mr. Chairman, Commissioner Sullivan, we can have another conversation with the applicant prior to recording, signing off on the plat and recording it and

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we'll share this discussion with them and then also remind them, share the minutes from the meeting with them and maybe they need to go further and get us another availability statement or something that's more direct and to your point. But we can continue to discuss this with the applicant before we record the plat.

COMMISSIONER SULLIVAN: The part of that item 10 that I have a problem with is where it says "and the property is not accessible to the City of Santa Fe sewer system." I agree it's not required to connect but it is accessible. I'd just like to amend 10 to say as per the letter from the City of Santa Fe, the property is not required to connect.

MR. ABEYTA: Staff is okay with that.

COMMISSIONER SULLIVAN: Because I think it is accessible and I don't think all the steps have been taken. So with that amendment, Mr. Chairman, I'd make a motion for approval of that item on the Consent Calendar as amended.

COMMISSIONER TRUJILLO: Second, Mr. Chairman.

CHAIRMAN DURAN: Any further discussion?

The motion to approve EZ Case #DL 02-4350, as amended, passed by unanimous [5-0] voice vote.

X. E. Request Authorization to Enter into a Project Funding Agreement with the Vista Grande Public Library (Project & Facilities Management Department)

TONY FLORES (Project Director): Thank you, Mr. Chairman. The request before you is to enter into a project funding agreement for the Phase 2 addition, which is the next item on the agenda, with the Vista Grande Public Library in the amount of \$30,000 and I stand for any questions.

CHAIRMAN DURAN: Any questions of Tony?

COMMISSIONER SULLIVAN: Move for approval, Mr. Chairman.

COMMISSIONER TRUJILLO: Second, Mr. Chairman.

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

The motion to approve Consent Calendar item E passed by unanimous [5-0] voice vote.

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X. F. Request Authorization to Enter into Construction Agreement #23-0109-PFMD with the Lowest Responsive Bidder (IFB #23-03) for the Construction of Phase II of the Vista Grande Public Library (Project & Facilities Management Department)

MR. FLORES: Mr. Chairman, Commissioners, this is for the actual construction of the Phase 2 agreement which is funded in part by a special appropriation grant from the state of New Mexico as well as the funding agreement that has been executed with the Vista Grande Public Library. The award is for the basement only due to budget limitations. And I stand for any questions.

CHAIRMAN DURAN: Any questions of Tony?

COMMISSIONER TRUJILLO: Move for approval, Mr. Chairman.

COMMISSIONER VARELA: Second.

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

COMMISSIONER SULLIVAN: Mr. Chairman.

CHAIRMAN DURAN: Commissioner Sullivan.

COMMISSIONER SULLIVAN: Tony, I understand that the bid came in over the available funds and negotiations had to take place with the low bidder. What had to be reduced or eliminated?

MR. FLORES: Mr. Chairman, Commissioner Sullivan, the negotiations consisted of eliminating a concrete scoring pattern, a 2 x 2 concrete scoring pattern, removing extra curb and gutter sidewalks from the base bid, not the required areas of the driveway patch, etc., but other areas around these parking areas. There was some pre-wiring that was in the base bid for a security system, future frame openings, reducing the number of roof top units from two to one in the addition, and removing the built-up walls which screen the additional unit which was being reduced. Reducing the number four electrical outlets in the reading room and some modifications to the doors and windows. The actual square footage of the building was not reduced so the scope of the project was not reduced.

COMMISSIONER SULLIVAN: In reducing the mechanical units from two to one, did you keep the same size of the unit in terms of the cooling capacity?

MR. FLORES: Mr. Chairman, Commissioner Sullivan, the unit was actually increased in size to accommodate the area based upon the recommendations from the project architect.

COMMISSIONER SULLIVAN: Now, is the roof going to be able to take that structurally?

MR. FLORES: Mr. Chairman, Commissioner Sullivan, that was a concern that was brought up by the contractor and with the viga and beam construction in that area, yes.

COMMISSIONER SULLIVAN: So we've had an assurance from the structural engineer that that's okay?

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

COMMISSIONER SULLIVAN: Thank you.

CHAIRMAN DURAN: Any further questions of Tony? What's the pleasure of the Board?

COMMISSIONER SULLIVAN: We already have a motion.

CHAIRMAN DURAN: Any further discussion?

The motion to approve Consent Calendar item F passed by unanimous [5-0] voice vote.

COMMISSIONER SULLIVAN: It's taken a while, Mr. Chairman, to get this underway and I thank Tony and the contractor and the Vista Grande Library Board for—

MR. FLORES: Actually I'd like to thank the Vista Grande Public Library Board here in attendance for moving this along a lot quicker.

COMMISSIONER SULLIVAN: Maybe they'd like to indicate by a raise of hands where they are here. We appreciate your time and effort and your consistent support and the fundraisers and the \$30,000 that you've put into this library and I did, Mr. Chairman, also want to announce to the library that we're going to be able to continue again next summer the summer reading program that we were able to fund at a modest level last year and we'll be able to continue that again this next summer. I appreciate that you're developing a facility there that's for the benefit of the entire community. I don't just mean Eldorado but I mean the entire part of the county that can use that facility.

CHAIRMAN DURAN: Is there a motion?

COMMISSIONER SULLIVAN: We already approved it. That was post-motion congrats.

X. H. Request Authorization to Enter into Construction Agreement #23-0110-PFMD with the Lowest Responsive Bidder (IFB #23-02) for the Construction of Youth Shelters and Family Services Facility (Project & Facilities Management Department)

MR. FLORES: Mr. Chairman, we have one to go back to but I'll address this one rather quickly. This is a construction agreement for our CDBG project, the Youth Shelters and Family Services facility with the lowest responsive bidder. Again on this project, based upon the available project budget and the lowest base bid received, the contract was negotiated in order to accept alternates one, two, and three which were required as part of the Certificate of Occupancy. Real quickly, the valued engineering or the items that were modified from the original base bid included deletion of doors, deletion of window grids, change of a CNU wall, bathroom accessory fixture changes, a concrete curb and stoop that were not included as part for future additions. And those were the items; we did not change the scope of the project in size or square footage. And I stand for any questions.

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COMMISSIONER SULLIVAN: Mr. Chairman.

CHAIRMAN DURAN: Commissioner Sullivan.

COMMISSIONER SULLIVAN: Just a clarification. By accepting any of the alternates, that didn't change the low bidder, did it?

MR. FLORES: Mr. Chairman, Commissioner Sullivan, based on the received low bids and alternates one, two and three, the lowest bidding firm of Borrego Construction was still low by approximately \$16,000. So they were the low bid on the base bid as method of award and they were also low bid on alternates one, two, and three.

COMMISSIONER SULLIVAN: And also going down the alternates. Base bid plus one, base bid plus two, base bid plus three. Because I see and Katherine's not here, but maybe you could discuss it with here, I see a possible conflict when we get into these bids where you take alternates and possibly by taking alternates to determine who the award goes to, you change the bidder. Do you understand what I'm saying?

MR. FLORES: Absolutely.

COMMISSIONER SULLIVAN: As they bid the alternates. Now on this one we lucked out. Apparently it doesn't change but I'd like to have you maybe discuss that with her because I'm concerned that we want to have a fair process for picking the low bidder. We won't be able to pick the low bidder by picking alternates.

MR. FLORES: Mr. Chairman, Commissioner Sullivan, we are in agreement in that point and I will talk to her about that.

COMMISSIONER SULLIVAN: In this case that has not occurred.

MR. FLORES: It's not an issue. Correct.

COMMISSIONER SULLIVAN: I'd move for approval, Mr. Chairman.

COMMISSIONER VARELA: Second.

CHAIRMAN DURAN: Any further discussion?

COMMISSIONER VARELA: Mr. Chairman.

CHAIRMAN DURAN: Commissioner.

COMMISSIONER VARELA: I just have a question for Tony. On the bottom of the first page, on the background summary. We have a figure here of \$543,372, it says inclusive of gross receipts tax. The very bottom of the page.

MR. FLORES: Yes, sir.

COMMISSIONER VARELA: And on the second page, under the recommendation, we have an amount of \$573,934. Is the first page incorrect and the \$30,000 is the gross receipts or why the difference?

MR. FLORES: Mr. Chairman, Commissioner Varela, the first figure on the first page was the negotiated lowest base bid, because that's the way the method of award was based upon base bid. So we were trying to point out in that memo that they were low on the base bid. So if you read, it talks about the construction service for the base bid. The second page is the inclusion of alternates one, two and three, inclusive of tax. So it's just a clarification to point out what base bid was versus total contract.

COMMISSIONER VARELA: Okay. Thank you.

CHAIRMAN DURAN: Okay. What's the pleasure of the Board?
COMMISSIONER SULLIVAN: We've got a motion and a second.

The motion to approve Consent Calendar item H passed by unanimous [5-0] voice vote.

- X. G. **Resolution No. 2002-162. A Resolution Requesting an Increase to the State Special Appropriations Fund (318)/Various Projects to Budget a Transfer from the General Fund (101)/Special Appropriations Project Grants (SAP) Received from the New Mexico 2002 Legislature and a Private Contribution Funding Agreement for Expenditure in Fiscal Year 2003 (Project & Facilities Management Department)**

MR. FLORES: Mr. Chairman, real quickly, this is basically bringing all the budget into play for the library, for their donation, as well as budgeting two new projects that the state—we have received funding for, which is the Stannen Community Park and also the addition \$50,000 that was approved at the state legislature. Those two items were inadvertently left out of the agreement with the state when they sent over their original grant agreement in July so we're budgeting those now. And I stand for any questions.

CHAIRMAN DURAN: Any questions of Tony?

COMMISSIONER TRUJILLO: Move for approval, Mr. Chairman.

COMMISSIONER VARELA: Second.

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

The motion to approve Consent Calendar item G passed by unanimous [5-0] voice vote.

MR. FLORES: Thank you.

CHAIRMAN DURAN: Thank you, Tony.

XI. **Staff and Elected Officials' Items**

A. **Project & Facilities Management Department**

1. **Request Approval of Land Purchase Agreement Between Santa Fe County and Joseph F. Miller and Alma M. Miller Revocable Trust UTA for Approximately 91.163 Acres of Land in the Lamy Area for Inclusion in the Santa Fe County Open Space and Trails Program**

PAUL OLAFSON (Open Space Planner): Thank you, Mr. Chairman, Commissioners. A brief presentation, on August 15th, the Board approved purchase of this property for the open space program. Since that time we've been in discussions with Mr. Miller

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and worked out a purchase agreement which is attached in your packet. Briefly, the run-down is, Santa Fe County will pay \$742,000 for the property. Mr. Miller is donating approximately \$100,000 off the appraised price and some community members from Lamy, as well as the Archaeological Conservancy are contributing approximately \$8,000, exactly \$8,000 to this project.

There's also, Mr. Miller and the Miller trust will contribute to the five percent maintenance fund, County open space maintenance fund and that totals approximately \$37,100. Staff is recommending approval of the purchase agreement that's attached in the packet and I would stand for any questions.

COMMISSIONER TRUJILLO: Mr. Chairman, I understand that the residents that were living in the area have been relocated and they have a place to live. Is that right?

MR. OLAFSON: Mr. Chairman, Commissioner Trujillo, that's correct. The residents are I believe in the process of moving out right now. There were four trailers there. One has already been removed. The other was I believe removed today or will be removed tomorrow. Another one is leaving approximately at the end of the week and a fourth, the fourth residents are purchasing a piece of property and they're getting their paper work. They plan to be gone by December 16th. They have an appointment for a mover already for December 16th and we'll close when the property has been cleared.

CHAIRMAN DURAN: Are we going to be able to close on December 16th?

MR. OLAFSON: As it stands right now, the last trailer will be moved on the 16th, so we might have to amend the closing date and it's available through the agreement to extend it to the 20th or 17th, whatever's the most convenient.

CHAIRMAN DURAN: And we'll be taking the property free and clear of any tenancy?

MR. OLAFSON: Correct.

CHAIRMAN DURAN: Any questions of staff?

COMMISSIONER TRUJILLO: Move for approval, Mr. Chairman, for discussion.

COMMISSIONER VARELA: Second.

CHAIRMAN DURAN: Any further discussion?

The motion to approve the agreement with Joe Miller passed by unanimous [5-0] voice vote.

MR. KOPELMAN: Excuse me, Mr. Chairman. Just by way of clarification, just to ensure that staff has the authority then to do an extension for up to a week if necessary in order to make sure we don't close until all the tenants have relocated. Thank you.

CHAIRMAN DURAN: I have one question, Paul. Joe, in addition to his \$100,000 contribution is also contributing to the five percent maintenance fee?

MR. OLAFSON: That's correct. The \$100,000 is a reduction from the appraised price and then the \$37,1000 is the five percent on the price the County's paying. So

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the answer is yes. He's contributing \$100,000 reduction and then he's also adding \$37,000 on top.

CHAIRMAN DURAN: Oh, I see. Thank you.

XI. D. Matters from the County Manager

[Audio difficulties]

The Commission decided to meet on January 7th at 4 p.m. for the Care Connection meeting, followed by the RPA meeting at 6 p.m.

CHAIRMAN DURAN: Real quickly, it's just to advise the Commission and the City Councilors that are on the RPA what efforts the County has been making, what efforts we have been, our efforts in trying to find new water, conserving water, a total report on what we've done relative to addressing, ensuring we have a sustainable water source and where we're going to get new water from, so that we can have a better understanding of those efforts when we sit down and try to develop a land use map and plan for the two-mile on out.

MR. ROYBAL: And Mr. Chairman, that was my general understanding. And I also will be meeting with City staff also to coordinate this so that we can make a joint—well, not necessarily a joint one but a consistent presentation on both issues, on those issues.

CHAIRMAN DURAN: You might want to mention our efforts relative to this acequia ordinance also. You can touch lightly on that.

MR. ROYBAL: Mr. Chairman, I'll include that.

COMMISSIONER CAMPOS: Mr. Chairman.

CHAIRMAN DURAN: Commissioner.

COMMISSIONER CAMPOS: The CARE Connection meeting with the City will be at the County building here? Do we know?

MR. LOPEZ: I don't know if we know that, but we'll let you know.

CHAIRMAN DURAN: I think it is. I think they told me that they were meeting with—yes, I think it's going to be here.

MR. LOPEZ: We'll make sure that we coordinate the location and so forth and make sure all of you are aware of it.

CHAIRMAN DURAN: And you're more than welcome to join us.

COMMISSIONER VARELA: Thank you.

CHAIRMAN DURAN: If you find that you can't live without us. Why don't we take about a 20 minute break, have a snack and be back here as close to 6:00 as we possibly can.

COMMISSIONER VARELA: Mr. Chairman.

CHAIRMAN DURAN: Commissioner.

COMMISSIONER VARELA: Before we do that, I would like to ask if we could amend the order of our Land Use Department cases. A lot of folks I believe are here for the water conservation ordinance that have come from Edgewood and down south and if we

could bring item number 8, I believe up to the front of the Land Use Department hearing.

CHAIRMAN DURAN: I don't have a problem. Anybody else? Is that okay?

COMMISSIONER CAMPOS: Do we need a motion? So moved.

COMMISSIONER TRUJILLO: Are we going to block all the water ordinances together? So we would hear the water ordinances, including this one at the beginning of the agenda?

COMMISSIONER VARELA: I think it was toward the end, we were going to block all the water issues towards the end, but if my recollection is correct, I think we promised the folks of Edgewood at one of the last meetings that when we had another public hearing that they would come up at the beginning.

COMMISSIONER TRUJILLO: So maybe we can look at all the water ordinances at the beginning.

CHAIRMAN DURAN: Want to do that?

COMMISSIONER TRUJILLO: Yes. Including the—

CHAIRMAN DURAN: So then it would be 8, 4, 5, and 9. And then we would go back to do 2, 6 and 7. Okay, so the Chair will entertain a motion to amend the agenda of the Public Hearings to go as follows: item 8, 4, 5, 9, 2, 6 and 7 is the order we would hear them.

COMMISSIONER TRUJILLO: Yes. So moved, Mr. Chairman.

CHAIRMAN DURAN: Second.

The motion to amend the agenda to hear the water issues first passed by unanimous [5-0] voice vote.

[The Commission recessed from 5:45 to 6:15]

XII. Public Hearings

A. Public Works Department

8. Ordinance No. 2002-__ . An Ordinance Amending Ordinance No. 1994-2, An Ordinance Regulating Procedures for Working in, Disturbing and Repairing County Property and Rights of Way

DAN RYDBERG (County Traffic Engineer): Mr. Chairman, Commissioners, in 1994, the Board of County Commissioners adopted Ordinance 1994-2, or regulating and procedures for disturbing and repairing County property and rights-of-way. Since that time the amount of permits being issued has grown along with the County. Many issues have come about which now make it in the best interest of the County to amend the current ordinance and some of the issues that I would like to amend, or that need to be addressed is an increase in the permit fee, the requirement of a performance bond to be kept on file with Public Works, a clause that would enable the County to issue and charge a penalty for non-compliance with the

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ordinance without a hearing, and a penalty for cutting of new pavement.

I apologize, but in your packet you have a copy of the ordinance without the changes, the proposed changes, so I'd like to pass out to you now copies that will show the additions to the ordinance. [Exhibit 3]

CHAIRMAN DURAN: If the Commission feels that the changes, that we need more time to review these changes I'd prefer that we table this to the next meeting. If you can look at the document and make that assessment. So give us a few minutes to look at it.

COMMISSIONER SULLIVAN: The public is a part of the public notification.

MR. RYDBERG: Excuse me?

COMMISSIONER SULLIVAN: Was this made available to the public as a part of the public notification?

MR. RYDBERG: Mr. Chairman, Commissioner Sullivan, yes it was.

COMMISSIONER SULLIVAN: How would they get a copy of it?

MR. RYDBERG: Oh, the document wasn't. It was advertised as—

COMMISSIONER SULLIVAN: But this document—

MR. RYDBERG: No.

COMMISSIONER SULLIVAN: Because when an ordinance changes advertising, the public as well as the Commission needs to be able to obtain a copy of it if they're interested in reviewing it.

MR. RYDBERG: It wasn't made available to the public to review the actual ordinance itself.

CHAIRMAN DURAN: I think this is a lot of cut and paste and I think we need to have a formal document not only for us to review, but for the public to review. Is this a critical issue? Do we need to approve it? Is there some reason to do it tonight?

MR. RYDBERG: I don't see it as actually critical. But this is basically the Road Cut Ordinance that Public Work administers to collect fees and monitor the contractors that are working on the County roads. There is an existing ordinance that we now follow and what we have done is we've put a little more leverage in there for the County to be able to enforce the ordinance. The existing ordinance was pretty loose and since the amount of permits that are being issued nowadays we felt it was in the best interest to update the ordinance to allow the County to have more leverage with the contractors.

CHAIRMAN DURAN: Has the County Attorney reviewed this and approved this?

MR. RYDBERG: Yes.

COMMISSIONER SULLIVAN: Mr. Chairman, the copy in my book seems to jibe with some of these changes.

MR. LOPEZ: Mr. Chairman, I believe the copy that's in the packet does show what's being proposed as the final ordinance. What's been passed out right now is just to highlight the changes that we're making in the existing ordinance to what's being proposed now as an amendment. So you actually have what is being proposed in your packet as a final copy. So this is just to really highlight what the changes are from the existing to the proposed.

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COMMISSIONER SULLIVAN: But if this was in the packet then it's available for public review.

CHAIRMAN DURAN: So if we were to approve this ordinance tonight, it would be the ordinance in this packet right now.

MR. RYDBERG: Yes, sir.

COMMISSIONER TRUJILLO: That includes the proposed changes that you have highlighted in the document that you passed out, right?

MR. RYDBERG: Yes. The document that's in your packet includes the highlighted changes after the attorney reviewed it.

COMMISSIONER TRUJILLO: Does this revised document give you, the County, a better position with requiring that utility companies go and reclaim roads that they've excavated, that they bring back the condition of the road that they've disrupted to their original condition in a timely manner? Because as it is now, these utility companies go in and excavate, tear asphalt and disrupt drainages and it takes them about six months, eight months, nine months, up to a year to go back in and reclaim those roads to the condition that they found them.

MR. RYDBERG: Mr. Chairman, Commissioner Trujillo, that's exactly what we're trying to do with this ordinance, is to give us more ability to be able to force the issue on that, yes.

COMMISSIONER TRUJILLO: Very good.

COMMISSIONER SULLIVAN: Mr. Chairman.

CHAIRMAN DURAN: Commissioner Sullivan.

COMMISSIONER SULLIVAN: I just had two questions on it. On page 8, under Section 7a, Compaction, where you say 95 percent density. I think you need to indicate what compaction density test you're using, whether it's standard or modified.

MR. RYDBERG: It's standard.

COMMISSIONER SULLIVAN: Well, it doesn't say that. It just says 95 percent density. And I had a question on Section 10, number b, page 11. It said that it was collected, the fee, for each proposed activity and for each permit issued up to 600 lineal feet. Now if an applicant is trenching alongside the right-of-way in the shoulder or in the ditch, what happens after 600 feet?

MR. RYDBERG: It's prorated. What we do is calculate the amount over 600 feet. We take the length of the cut and we divide it by 600 feet and then we multiply it by the fee.

COMMISSIONER SULLIVAN: That's not clear to me here. It just says it will be \$75 for a permit issued up to 600 feet. It doesn't indicate anything happening after that.

MR. RYDBERG: Mr. Chairman, Commissioner Sullivan, I don't believe that was in the original.

COMMISSIONER SULLIVAN: No, it wasn't.

MR. RYDBERG: No, I mean in the original, existing ordinance now. That's in place now.

COMMISSIONER SULLIVAN: No, it just says in the existing ordinance, \$75 for each proposed activity, for each road cut permit. So it's apparently \$75 period. That's all they have to pay no matter how much they're trenching or disturbing. So what you're saying is that your intent is that it be a minimum charge of \$75 and then over \$600 feet it's a per-foot charge, which is \$75 divided by 600.

MR. RYDBERG: That's correct. What I was referring to when I say the existing, I'm referring to 1994-2, which is the ordinance that is currently in effect. What I tried to do is use the existing ordinance and revise it rather than trying to rewrite an entirely new ordinance and in the existing document it didn't describe that there was proration. The existing ordinance says a road cut permit fee of \$50 shall be charged and collected for each proposed activity and for each road cut permit issued except the County is not required to obtain a permit. So it didn't really explain that in the original document and I didn't expand on it in the new document. But it's something that could be added in there if you'd like to have our calculations for how the proration is. That could be added in there.

COMMISSIONER SULLIVAN: I just think it would be clarified so that you can collect more money.

MR. RYDBERG: It's kind of—just about every contractor understands when they receive the ordinance and they're explained how to obtain a permit, they're explained right from the get-go what it costs and they give us the length of the cut and we calculate the fee and put it right on the permit application. And they sign their name to it and agree to that fee before they receive that permit. So it's up front right from the beginning. It's just that we didn't explain in the document how it's charged. Like I said we can put the calculation in there if you'd like.

COMMISSIONER SULLIVAN: Those are the two suggestions that I had, Mr. Chairman.

COMMISSIONER VARELA: Mr. Chairman.

CHAIRMAN DURAN: Commissioner.

COMMISSIONER VARELA: On page 7 under item G, Protection of adjoining property. In the first sentence on the second line, where you say from injury and property adjoining the property, should that "and" be "any" property? Or is that correctly stated?

MR. RYDBERG: I believe that's a typo in there.

COMMISSIONER VARELA: That's all I had, Mr. Chairman.

CHAIRMAN DURAN: Commissioner Campos.

COMMISSIONER SULLIVAN: I think the "and" is supposed to be an "of." I think that's supposed to read of. The injury of property joining the property.

COMMISSIONER CAMPOS: Mr. Chairman, just a comment as to the way this thing has been presented. I would prefer to have seen in the packet the marked up version with numbers on the market. It's easier to discuss instead of having to go through everything and kind of guess what's being changed and not really knowing. There's nothing to compare. So I would ask legal to make sure in the future when any ordinances are brought forth that they have that kind of a presentation.

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

COMMISSIONER TRUJILLO: It's a public hearing.

CHAIRMAN DURAN: Is there anyone out there in the audience that would like to address the Commission concerning this ordinance? Please step forward. State your name for the record.

DEBORAH O'CALLAGHAN: My name is Deborah O'Callaghan. I'm the director for north-central operations for Public Service Company of New Mexico. And we reviewed the—and I apologize for the last submission of this but there are some comments and suggestions that we made that Rhonda is currently passing out to you. [Exhibit 4] Some of the items you've actually brought up with regard to the previous speaker, one being the 600 linear foot. We are suggesting that the County instead develop a fee schedule similar to the Rio Arriba County road cut ordinance has a fee schedule and we're suggesting—because it wasn't clear to us either about that. The way I read it it sounded to me like we would have a separate permit for every 600 feet if we're going parallel to the roadway. So that might just help clear it up as you mentioned earlier.

There are some other changes that we're suggesting in terms of just terminology. It refers to "arc sites" in the excavation ordinance and really a more correct term is "cultural properties." So we're just suggesting that that be modified. And then there's some other various little things that were a little bit unclear to us. We're suggesting actually a little bit stronger, more detailed information under the permittee's obligation to protect property. And, let's see. In terms of the fees, as I said earlier, we're suggesting that you develop a fee structure where there would be a set amount, similar to Rio Arriba's which is a set amount for the first 600 feet then an additional cost per lineal foot.

Also there was a change in the ordinance under road cut warranty, where it's requesting a three-year warranty on any road cuts. We're a little concerned with that, a three-year period. It's pretty long. We're suggesting a year warranty. And that's because so many things can happen within the terms of three years, in terms of wash-outs that would just be normal occurrences and not necessarily because they road was poorly restored.

And then also the section about non-compliance by the permittee, there was a sentence in there about appealing if the County denies a permit, about appealing that decision and we would like to have an appeal process still in place where we would appeal to the County Manager if we have a concern about a permit being denied. One other section that was unclear. There's a section in there toward the end. I apologize. I have the second draft in which the letters and sections are different from the draft that you have. Let me see. The second to last section in my copy is called New pavement penalty. The information that's in that section is actually about two different things. One about the new pavement penalty, and then the last sentence refers to violations of the ordinance. And we're saying just separate those two into two separate sections. We don't have a problem with any of the language. It's just to make it a little bit clearer.

COMMISSIONER TRUJILLO: Mr. Chairman—are you done?

MS. O'CALLAGHAN: Yes.

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COMMISSIONER TRUJILLO: I have a problem with implementing a fee schedule but I know that when Santa Fe County initiates a paving project or an improvement project on a road, the lifetime is longer than a year. So I would hesitate in changing that language from three years to a year. Because the road department is quite conscientious on the work that they do and the project's lifespan is long term.

MS. O'CALLAGHAN: Yes, I understand. It's just that when you take it out for that length of time it's sometimes hard to determine what the cause is of the road failing in that area. Is it because of a road cut that was done there or was it something else? When you stretch out the time frame it just makes it a little harder to determine who's at fault.

CHAIRMAN DURAN: Has Public Works had the opportunity to review your letter and comment on it?

MS. O'CALLAGHAN: Not to comment on it. We gave it to Public Works this evening. That's why I say I apologize we didn't get to get it to Public Works or to the Commissioners until this evening.

XII. B. Land Use Department

- 2. CDRC CASE #V 02-5490 – Rosa Ortiz Variance. Rosa Ortiz, Applicant, Is Requesting a Variance of Article III, Section 10 (Lot Size Requirements) of the Land Development Code to Allow a Second Dwelling Unit on 0.76 Acre Tract. The Property is Located at 26 County Road 84F within the Traditional Community of Nambe in Section 10, Township 19 North, Range 9 East, (Commission District 1)**

CHAIRMAN DURAN: This isn't a lot split, is it? This is just to allow for another dwelling. Correct?

MR. ABEYTA: Mr. Chairman, members of the Commission, that's correct. There's currently one residence, a well and a septic system on the property. The existing home is currently served by the onsite well and septic system. Both the current home and proposed home will use the existing well and septic system and have received a permit from the Environment Department to do so. The applicant has submitted a well log that allows water use not to exceed one acre-foot per year. The applicant currently resides in the existing one-bedroom house with her son and his family. The applicant states that her intentions are to have her son and his family nearby to assist her in her needs and therefore is requesting a variance allowing a second home on the property for her son and his family.

The applicant has also stated that she has a younger son who is disabled and also in need of care. On October 24, 2002, the CDRC met and acted on this case. The decision of the CDRC was to recommend approval of a variance to allow a second dwelling unit on .75 acres subject to the conditions 1 through 8 as listed in the staff report. And Mr. Chairman, I would ask that those be entered into the record.

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CHAIRMAN DURAN: Okay. We'll do that.

[The conditions are as follows:]

1. A temporary permit will be issued for a period of two years to be approved for consecutive two-year periods by staff. The applicant must, at that time, prove the hardship still exists.
2. The proposed structure shall use the existing well and liquid waste disposal system.
3. Water use shall be limited to 0.25 acre-foot per dwelling. A water meter shall be installed for both homes. 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.
4. The mobile home is not to be placed on a permanent foundation.
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.
8. The existing septic system shall be inspected by the Environment Department prior to the installation of the second home. If required by the Environment Department this system shall be replaced.

MR. ABEYTA: That concludes staff's presentation.

CHAIRMAN DURAN: Any questions of Roman? Roman, I have one. It says here that the Environment Department has already approved a permit for the additional dwelling unit?

MR. ABEYTA: Mr. Chairman, yes. It's my understanding that the Environment Department has issued an updated septic tank permit approving the second home on the property, to utilize the same septic system. According to the application that I have in our files, apparently a variance was issued by the New Mexico Environment Department.

CHAIRMAN DURAN: A variance was issued?

MR. ABEYTA: A variance was issued, approved by the New Mexico Environment Department in June.

CHAIRMAN DURAN: What was their basis for granting a variance? Does it say?

MR. ABEYTA: Mr. Chairman, I don't believe—there is handwriting on here that states there will not be an additional well on the lot and that the well is shared, but I don't know if that was the basis or not.

COMMISSIONER TRUJILLO: Mr. Chairman, my conjecture is the intensity will not change. The same family will reside in both dwellings on the $\frac{3}{4}$ of an acre lot. The existing septic tank will be used and the existing well will be used by the same family. There's no augmentation if you will, in intensity at the property.

CHAIRMAN DURAN: So the existing home is a one-bedroom house.

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MR. ABEYTA: Yes, Mr. Chairman, that's my understanding.

CHAIRMAN DURAN: Does anyone have any other questions?

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

CHAIRMAN DURAN: Commissioner.

COMMISSIONER CAMPOS: Mr. Abeyta, it's not clear to me what the hardship is that the family is claiming. Apparently the lady who owns the property says that she needs assistance, personal assistance. Do you know what?

MR. ABEYTA: Mr. Chairman, Commissioner Campos, I do not but the applicants are present. But I don't know what that is.

COMMISSIONER CAMPOS: This hasn't been fleshed out through the process, coming through the CDRC, application information and letter saying this is our hardship. This is why we need it.

MR. ABEYTA: Mr. Chairman, Commissioner Campos, a letter was submitted and it states that, according to the applicant's letter, the intent is to have her son and his family close in order that they may care for her and assist her in any manner than she may need. And also she has a younger son who is disabled and in need of care, which the other son will assist her with also. So both for her needs and the need of another child.

COMMISSIONER CAMPOS: But there's no information as to the disability or the exact needs of the applicant, except she wants help or needs help.

MR. ABEYTA: Commissioner Campos, no. The letter does state that she has a son who is disabled.

COMMISSIONER CAMPOS: We don't know the nature of the disability or what his needs are?

MR. ABEYTA: No, we do not.

COMMISSIONER CAMPOS: It seems to me that staff should ask these questions and have more information by the time they go to committee. And if medical documentation if necessary they could have an opportunity to request it. I recall a case recently where we really didn't have any medical documentation until the meeting, a short scribbled note from the doctor saying, Yes, there is a serious problem here.

MR. ABEYTA: Mr. Chairman, Commissioner Campos, we don't have any requirements in the Code now but we can come up with something.

COMMISSIONER CAMPOS: I don't think you need Code requirements. Just saying I have a hardship—let them say what it is and if they need medical documentation, let there be medical documentation. I don't think you need additional ordinances.

MR. ABEYTA: If that's the wishes of the Board, Mr. Chairman, we'll request that from now on.

COMMISSIONER TRUJILLO: I think, Mr. Chairman, that the applicant is here and the applicant should be afforded the opportunity to represent and articulate that hardship, rather than making the process less user-friendly and unresponsive I think that we should be amiable in listening to specific hardships that are brought before us by the applicant. They're here and they can articulate that to us.

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CHAIRMAN DURAN: Don't they come up and say they're going to tell the truth?

COMMISSIONER TRUJILLO: Exactly.

CHAIRMAN DURAN: Don't they say that?

MR. ABEYTA: Yes, Mr. Chairman.

CHAIRMAN DURAN: That's good enough for me. I have a question though. So it's a two-year permit.

MR. ABEYTA: Mr. Chairman, that's correct. It's a two-year temporary permit and it can be approved for additional two-year periods if the hardship still exists.

CHAIRMAN DURAN: Okay.

MR. ABEYTA: That was the recommendation from the CDRC anyways.

CHAIRMAN DURAN: Now, my only concern is that the one-bedroom home that's existing now could be increased to a three or four-bedroom home, then the requirement—so the approval process that this proposal went through, I think that they probably approved it because the impact, there wasn't going to be much greater impact on the septic system or the wastewater system with the additional dwelling unit. So I just have a concern—actually, it's not a concern, I'm just wondering if that was ever brought up that they would limit or prevent the one-bedroom home from being increased in size while the temporary permit was in place.

MR. ABEYTA: Mr. Chairman, it's my understanding that that has not been brought up but the Board could certainly do that.

CHAIRMAN DURAN: Any other questions of staff? Steve?

MR. KOPELMAN: Mr. Chairman, members of the Commission, I have a suggestion that you might want to consider on cases like this. On these types of personal hardship cases that it looks like it's going to be for a finite period of time, you may want to consider not actually granting a variance but granting a temporary permit. Because the legal description is that a variance runs with the land. Once you grant the variance, that property has that zoning. If this is a temporary situation, if there are issues, for example if there was an expansion, if they sold both properties and somebody came in and built larger three, four-bedroom houses on both lots, you've got some real serious problems.

In the traditional community of Nambe there's contamination issues. You can achieve the same ends by granting a temporary permit, I believe and not formally granting a variance. And it just may be a way that you might want to consider that might alleviate some of the concerns that Commissioner Campos has expressed in the past also. Just a suggestion.

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

[Duly sworn, Rafael Serrano testified as follows:]

RAFAEL SERRANO: My name is Rafael Serrano. My mom is Rosa Ortiz.

CHAIRMAN DURAN: Do you have anything to add to what has been said.

MR. SERRANO: The reason why my mom needs a second place. The only problem is my mom, my wife and my two girls and my brother. We're getting to where we

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need some assistance from each other and like I said, this is a poor family over here. If you're going to allow us to put a second home there, it's for us to take care of my mom and my brother and [inaudible]

CHAIRMAN DURAN: So a temporary use permit would be okay?

MR. SERRANO: And after that, what are we going to do?

CHAIRMAN DURAN: Well, you can come back every two years.

MR. SERRANO: We can do that.

CHAIRMAN DURAN: Maybe we can give you three years. I don't know.

Two years goes by pretty quick. Would you have a problem with a condition that would not allow you to increase the size of that one bedroom existing structure?

MR. SERRANO: You mean that we cannot make it any bigger than what it's going to be after approved by—

CHAIRMAN DURAN: You couldn't turn it into a four-bedroom house and have a much larger family—maybe you could but then you would have to come back to ask for permission to do that.

MR. SERRANO: Right. But like I say, right now, this is our whole family.

CHAIRMAN DURAN: So you wouldn't have a problem with that kind of a provision?

MR. SERRANO: For two years, but like I said if I have to come in in two years and renew it—

CHAIRMAN DURAN: I mean the size of the house. If we prevented you from making the one-bedroom house larger.

MR. SERRANO: I don't think—I think it will be perfect the way we have it. It's going to be perfect the way we have it planned. Like I say, I have my two girls [inaudible]

CHAIRMAN DURAN: So everything would be okay just the way you have it planned? Okay. Thank you.

COMMISSIONER TRUJILLO: I think, Mr. Chairman, the issue right now is that there's a very definite, definite hardship. But in the future, long term, the offspring, the daughters are going to need a place to reside. And that hardship will go away but his daughters will need somewhere to live. They will be using the same well, the existing septic tank. In and around that immediate vicinity there are residences that are located on less than the minimum lot size. De facto in that area the minimum lot size in that area is less than $\frac{3}{4}$ of an acre. That's a clustered community. Families have transferred through family transfer regulation to their offspring. They have never sold the land or exploited the land on the basis if subdivisions to make money. It's just a matter of passing a piece of land from one generation to the next for the sole purpose of having a place to live.

And now, the Pojoaque Valley hopefully will be going through a community planning effort and all the other issues regarding infrastructure, potable water, liquid waste, density, are on the table to be talked about.

CHAIRMAN DURAN: I have no problem with any of that. My only concern is that we have a wastewater contamination problem up in Nambe and if we allow the second

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dwelling to go in without any mechanism to prevent a further intensification of the wastewater usage on this site then we aren't doing our job in protecting other people in the valley who have expressed a real concern about wastewater contamination.

COMMISSIONER TRUJILLO: I agree with you, Mr. Chairman and I'm sensitive to that. In this case, there is no increase in intensity.

CHAIRMAN DURAN: No, I agree. I see it that way. I see it that way too. Do you have anything else to add? It's a public hearing. Is there anyone out there that would like to address the Commission concerning this issue? If not, then what's the pleasure of the Board?

COMMISSIONER TRUJILLO: Mr. Chairman.

COMMISSIONER CAMPOS: Mr. Chairman.

CHAIRMAN DURAN: Commissioner Trujillo.

COMMISSIONER CAMPOS: Just a point of order then. I don't think the witnesses have given us any information as to hardship.

CHAIRMAN DURAN: Okay. Thank you.

COMMISSIONER CAMPOS: There has to be a factual basis for that.

COMMISSIONER TRUJILLO: Mr. Chairman, move for approval of CDRC Case V 02-5490, Rosa Ortiz Variance.

CHAIRMAN DURAN: I'll second that with the one small amendment that we would add another condition. That would be condition 9 that any further expansion of the existing one-bedroom home would have to be approved by the Board of County Commissioners.

COMMISSIONER TRUJILLO: That's fine. And the checks and balances are inherent in the system because they need a building permit if they're going to expand the house and that will go through Roman and it will be addressed at that point.

CHAIRMAN DURAN: There's a motion and a second for discussion.

COMMISSIONER CAMPOS: Mr. Chairman.

CHAIRMAN DURAN: Commissioner Campos.

COMMISSIONER CAMPOS: Attorney Kopelman had recommended that this not be a variance, that it be a temporary permit. If you want to go in this direction without any evidence, any factual evidence of hardship or anything like that, I think the motion should be amended to read a temporary permit as opposed to variance.

COMMISSIONER TRUJILLO: I am not amenable to that. Again, I think that immediately it is a hardship within the family. Long term the offspring are going to need a place to live and the issues regarding density, regarding liquid waste, regarding potable water, roads and open spaces are going to be addressed through the community planning process of the Pojoaque Valley.

CHAIRMAN DURAN: Condition number one is a temporary permit will be issued for a period of two years to be approved for consecutive two-year periods by staff. The applicant must at the time prove the hardship still exists. And if they don't exist then they don't get a temporary permit. Their permit isn't renewed. Correct? Steve?

MR. KOPELMAN: Mr. Chairman, that's correct. That's why I think that it's

really not a variance per se, what you're granting because the variance runs with the land and there wouldn't be those types of conditions attached. So that's why I think you're really granting a temporary permit with the right to come back and renew if the conditions still exist. If the conditions don't exist, basically it goes back to the way that it is today.

COMMISSIONER TRUJILLO: I see where you're coming from, Steve, but in retrospect, if we would implement what you're stating, my uncles, my grandparents, my extended family would not be in the valley at this point, because they live on less than a minimum lot size. Because their ancestors afforded them a place to live and they're there at this point. This is a family transfer. This is not dividing a piece of land to sell or exploit. The EPA already has approved the variance. It's going to be one septic tank. The existing septic tank, the existing well, it will not increase density at all. It's an existing status quo situation.

CHAIRMAN DURAN: I think it's six of one, half a dozen of another. In two years they have to move. I'd actually would like to amend it to give them four years. Would you agree to giving them a four-year temporary permit.

COMMISSIONER TRUJILLO: Yes.

COMMISSIONER SULLIVAN: Mr. Chairman.

CHAIRMAN DURAN: Commissioner Sullivan.

COMMISSIONER SULLIVAN: I still think we have to address the issue of even though the conditions indicate a temporary permit will be issued is what the Commission is approving is a variance or a temporary permit. As I understand the motion now, the motion is that they're approving a variance, even though the first thing that will happen is they will receive a temporary permit and that's the comment that Mr. Kopelman's making that a variance is not appropriate. A temporary permit is appropriate, whether it's for two years or three years or whatever period.

COMMISSIONER TRUJILLO: I think it should be a variance and it should be approved long term, rather than coming back in four years. Because at that time the mother, the brother situation, the disability thereof, might not exist. But the daughters will still need a place to live. At that point it becomes a family transfer. You want to consider it a hardship because if they don't get a piece of land from their family they will have to move out of the valley or out of the county or out of the state. Then it might be considered a hardship.

COMMISSIONER SULLIVAN: I think at that time, Commissioner Trujillo, if that occurred, we shouldn't be trying to forecast that now. They could come back for a family transfer at that time, whatever the conditions were at that time. I think we can only deal now with the current issues of how many people are there and what kind of hardship we feel exists. If the family grows and the daughters need more room and they want to come back then, I would think of a family transfer.

COMMISSIONER TRUJILLO: My concern is that if we understand the situation, the other house, the trailer will include family members. It's going to be located on the property. In four years, if a family transfer is not approved, what happens to the people that reside in the mobile home? Are they going to be asked to move the mobile home out?

COMMISSIONER SULLIVAN: They will be if there's no further hardship. If

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there's no hardship and they aren't needed to support their mother—

COMMISSIONER TRUJILLO: Well, that's my point exactly. It's a family transfer.

COMMISSIONER SULLIVAN: But it's not brought before us as a family transfer.

CHAIRMAN DURAN: Let's vote on the motion.

The motion failed by a [2-3] voice vote with Commissioners Duran and Trujillo voting in favor.

CHAIRMAN DURAN: I'd like to make a motion that we approve this case as it's submitted with a two-year temporary permit. It's not a variance, but it's a two-year temporary permit and in two years you have to come back and show that the hardship still exists, that hardship being that your mother needs care and your brother needs care as you have stated to us, and that no further expansion of the one-bedroom home be allowed unless approved by this Commission. I'd like to make that as a motion.

COMMISSIONER TRUJILLO: Second.

MR. ABEYTA: Mr. Chairman, just for clarification, that condition was that the two-year period be approved—a temporary permit will be issued for a period of two years to be approved, and it can be approved for consecutive two-year periods by staff, or do you want them to come back?

CHAIRMAN DURAN: No, by staff. By staff is okay. As long as the hardship still exists as it's been presented to us.

MR. ABEYTA: Okay.

COMMISSIONER TRUJILLO: Second.

CHAIRMAN DURAN: You know, we're not going to get into that right now. We have a motion on the floor.

The motion to approve CDRC Case #V 02-5490 as a temporary permit and not a variance passed by majority [4-1] voice vote with Commissioner Campos casting the vote in opposition.

XII. B. 6. Resolution No. 2002-163. A Resolution to Recognize the Proposed Pojoaque Valley Community Planning Committee, and Authorization to Initiate a Community Plan for the Pojoaque Valley and Recognition of its Geographical Boundaries (Commission District 1) [Supporting material on file with the Land Use Department]

CHAIRMAN DURAN: I just want to tell you that I ran into someone the other day that was at this meeting up there and they said that County staff did a wonderful job.

ROMELLA GLORIOSO-MOSS (Planner): Thank you, Mr. Chairman, Commissioners. The proposed Pojoaque Valley Planning Committee, composed of 47 residents, property owners and business owners in the Pojoaque Valley, is requesting the Board of County Commissioners for the following. First, recognition of the Pojoaque Valley Community Planning Committee. Second, recognition of the delineated planning boundaries, and third is authorization for the planning committee to begin the planning process.

Through several organizational and community-wide meetings which we documented, and Robert will hand them out to you as Exhibit C, the community has identified initial issues which the proposed planning committee will try to address. First, complex land ownership and use patterning. Second, problematic road access to the non-Pueblo owned properties, and the Pueblos own most of the local roads. Third, re-evaluation of the delineation of the Pojoaque Valley traditional community. Fourth, water conservation and use, which includes water rights, acequias condition, drinking water quality, wastewater treatment and disposal. Fifth, preservation of rural lifestyle and landscape. Sixth, rural agricultural and cultural resources protection. Seventh, appropriate growth management tools and techniques. Eighth, affordable housing. Ninth, creation and protection of recreational open spaces, and tenth, provision of adequate community facilities and services.

As the Pueblos and the valley are systemically interrelated through land use and socio-economic change and development, they significantly impact one another. The community members recognize the need to invoke in the planning process the five Pueblos surrounding the planning area—Nambe, Pojoaque, Santa Clara, San Ildefonso and Tesuque. Yet, the community recognizes that the County does not have regulatory authority related to Pueblo lands. Recommendation: The County Development Review Committee at their regular meeting on November 21, 2002 has recommended approval of the attached resolution based on Article XIII of the Land Use Development Code. Staff is recommending the same. Thank you, Mr. Chairman and Commissioner.

CHAIRMAN DURAN: Romella, the boundaries of the area that is being considered to be the boundaries of the community plan are shown where on this map? Is it the black?

MS. GLORIOSO-MOSS: The blue one.

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CHAIRMAN DURAN: The blue. Oh, okay.

MS. GLORIOSO-MOSS: That bounds the traditional communities in the Pojoaque Valley, which is Cuyamungue, El Rancho, Jaconita, Jacona, Pojoaque, and Nambe.

CHAIRMAN DURAN: And then it includes those little isolated islands of blue?

MS. GLORIOSO-MOSS: Yes. They call this Pajarito and it's a private land inholding in San Ildefonso Pueblo. Yes, we will include that.

CHAIRMAN DURAN: Is that over there my Black Mesa? Is some of it over there by Black Mesa?

COMMISSIONER TRUJILLO: There's some private—

MS. GLORIOSO-MOSS: Yes, Mr. Chairman and Commissioners.

CHAIRMAN DURAN: That's along State Road 30, right?

COMMISSIONER TRUJILLO: State Road 30 going to Española. Right.

CHAIRMAN DURAN: Okay, any questions of staff? Okay, Romella. This is a public hearing. Is there anyone out there that would like to address the Commission concerning this issue? Please step forward and state your name for the record.

VICENTE ROYBAL: Hello, my name is Vicente Roybal from El Rancho, and we'd very much like to see this come to pass so that we can have a hand in planning for the community and all the issues that make it a very complex and unique area.

CHAIRMAN DURAN: Great. We welcome it. It's worked in other areas and it's about time for your area. Please step forward and state your name for the record.

LEVI VALDEZ: My name is Levi Valdez and I live in the Pojoaque Valley and I too would like to urge support for this committee and as you have stated, it is very much needed and hopefully we can proceed with your blessing. Thank you.

COMMISSIONER TRUJILLO: Mr. Chairman, I don't know if there's any other public comment.

CHAIRMAN DURAN: Anyone else like to speak to this issue? Thank you.

COMMISSIONER TRUJILLO: I'd like to make a motion but before that I'd like to commend the community for taking this on, for giving impetus to self-determination, for putting the blueprint in place that will guide the Pojoaque Valley not only immediately but in the future for future generations. I went to the meeting last Thursday and I was impressed with the diverse representation that was there. I understand that initially there was some factionalism, some schisms and some different positions and opinions, but at that meeting everything came together. Thank you Vicente for your efforts and everybody else. Mary Williams and other people that didn't let this go by the wayside and I know that we'll succeed. I say "we" because I live there.

COMMISSIONER CAMPOS: Mr. Chairman. I'd like to ask some questions before you make a motion.

CHAIRMAN DURAN: Commissioner Campos.

COMMISSIONER CAMPOS: A question for staff. This plan, will it deal with the needs for infrastructure for water and wastewater?

MS. GLORIOSO-MOSS: Yes, Mr. Chairman, Commissioner Campos. We will

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try to do that. Whatever the community needs and wants, it's their community plan; it's not our plan. Our role is only to facilitate the planning process and to give the planning methodology expertise, but whatever they want, whatever they think they need, then we will try our very best to help them, to help these communities.

COMMISSIONER CAMPOS: It's my understanding in other community plans, the community or the staff has not addressed infrastructure needs and what the infrastructure needs will be as to water, wastewater, fire, whatever. And to me, that's always been a concern, that this community planning process isn't going far enough because it just says, Okay, these are the restrictions we want, but they don't deal with This is the infrastructure we need. And we're talking about essential infrastructure. We have contamination issues out there. We have water issues out there and to me, if this plan comes back without dealing with those infrastructure issues my feeling is that it's going to be inadequate. I would have serious concerns about approving it. So I would ask that the community and the group seriously talk about infrastructure, what their needs are as far as water lines, wells, wastewater systems. And an idea of how they want to pay for them. These are expensive and I think these communities should start looking at how are we going to pay for these infrastructure.

The second issue I have for you is the role of the Pueblos. There's five out there. You look at this map and you know there's some serious jurisdictional issues. What steps do you plan to take to get input from the Pueblos? I understand that we don't have jurisdiction but it seems to me that we should at least be attempting to coordinate some effort. Are we bringing these folks in, the representatives to come in and meet?

MS. GLORIOSO-MOSS: Mr. Chairman, Commissioner Campos, there will be a tribal summit that will be conducted in the months of February, March and April and that's the starting point to get their cooperation and to coordinate. Also in planning, there is a methodology called key stakeholders analysis. And the purpose of this methodology is to identify key stakeholders that will support the project or mission and people who will antagonize or be problematic towards the achievement of the mission or objective or the process.

And I think this will be a very good methodology to use for the Pojoaque Valley Community Planning and so with this methodology we can identify these people, Pueblo people who will support this project and I'm optimistic that we can work with the Pueblos. There are Pueblos that are very environmentally aware, like people in—I don't like to name names, but I know some people who are very environmentally aware and given an award by the United Nations as the most environmentally aware person last year. So there are people like that and we can talk with them.

COMMISSIONER CAMPOS: Have you actually made contact up to this point?

MS. GLORIOSO-MOSS: Yes. Yes, Mr. Chairman, Commissioner Campos.

Yes, I did.

COMMISSIONER CAMPOS: So the Pueblo officials know that this process is going on?

MS. GLORIOSO-MOSS: Not formally, because what we thought was the best

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way to approach the tribal council is to conduct these tribal summits and from there we will approach them with perhaps presenting what we're going to do.

COMMISSIONER CAMPOS: Thank you.

CHAIRMAN DURAN: Did you make a motion?

COMMISSIONER TRUJILLO: No, I haven't. I'd like to make a motion to go ahead with the Pojoaque Valley Community Planning process.

CHAIRMAN DURAN: I'll second that. It was about 5-1/2 years ago that we first had a meeting with the Pojoaque Valley and I'm glad to see that you're able to find some consensus and get everyone to agree that it's time to start moving in this direction.

MS. GLORIOSO-MOSS: Thank you, Mr. Chairman.

CHAIRMAN DURAN: Any other comments?

COMMISSIONER VARELA: Just that I can't believe, Mr. Chairman, that with the future meetings over four or five months that people have been talking to each other and having been as antagonistic as we were in La Cienega for five years.

MS. GLORIOSO-MOSS: It takes a long time.

CHAIRMAN DURAN: Well, congratulations.

MS. GLORIOSO-MOSS: Thank you, Mr. Chairman.

The motion to approve Resolution 2002-163 passed by unanimous [5-0] voice vote.

XII. B. 7. Resolution No. 2002-__ . A Resolution Amending Resolution 1999-137, the Santa Fe County Growth Management Plan, as Amended, to Adopt and Incorporate the El Valle de Arroyo Seco Highway Corridor Plan

ROBERT GRIEGO (Planner): Good evening, Mr. Chairman, Commissioners. Tonight is the first of two require public hearings for the El Valle de Arroyo Seco Highway Corridor Plan. The presentation is going to include a brief overview of the public process, a development plan, the purpose of the plan and the plan's main contents. The Board authorized a community planning process for El Valle de Arroyo Seco in accordance with the Santa Fe County Ordinance 1998-5, the Community Planning Ordinance. The Highway Corridor Plan emanated from the community planning process in accordance with the community planning ordinance and the Santa Fe County Growth Management Plan.

The community planning process has included extensive public outreach. Property owners, business owners and residents have been notified of the planning process through multiple mailings, flyers, newspaper advertisements and articles. Additionally, two community surveys were conducted. Over 60 community meetings were held to develop the plan. All planning meetings have been open to the public. There have been three annual community day events, specifically for the plan and two community-wide meetings to discuss the plan. The El Valle de Arroyo Seco Highway Corridor Plan addresses the concerns of the residents and

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outlines how community members would like to direct future development within the highway corridor boundary.

I'd like to direct your attention to page 13 of the highway corridor plan and I'd like to briefly outline some of the changes that the plan proposes. Under Article V, Highway Corridor Zoning and Land Use, this plan would propose to create a new category, a new home business category which would be appropriate through the entire highway corridor. I'd like to point out the highway corridor for you. The highway corridor for Arroyo Seco is approximately three miles long and it goes from the northern borders of Pojoaque Pueblo to the border of the Santa Clara Pueblo. It's approximately 300 feet on each side of Highway 84/285 on both sides of the highways based on parcel boundaries.

The home business district that we're proposing would be appropriate throughout the entire highway corridor plan. There's additional requirements. Well, basically, the minimum lot size for home businesses would be 1.5 acres. These home businesses would be more intensive than home occupations but less intensive than full scale commercial and there are requirements on the bottom of page 13 for a home business. There's also, on page 14 there's appropriate new home businesses that are listed there. Additionally, the plan proposes to have a commercial area designated. It would replace the current commercial node and it would be north of County Road 88 all the way up to the end of the highway corridor. That would be the proposed commercial district for the highway corridor plan.

The commercial uses in there would have to meet all elements of the County Code including the master plan and development plan. Additionally, the highway corridor plan has highway corridor design standards which start on page 16 and that includes building height, lot coverage, setbacks, lighting, signs, wireless communications facility standards, screening, noise buffering, landscaping, site planning and on page 20, trails and open space.

The community plan meets the intent of the Community Planning Ordinance and that concludes the staff presentation and I stand for questions from the Board.

COMMISSIONER TRUJILLO: Robert, the community planning process in Arroyo Seco is still going on? This is inclusive of the community planning process? It will continue to proceed? Or is this the community planning process in Arroyo Seco?

MR. GRIEGO: The highway corridor, to answer your question right now, through the planning process they identified the need to do a high corridor plan. We don't know if we're going to continue to do an entire, a plan for the entire community of El Valle de Arroyo Seco. I think that the ordinance, we'd like to put an ordinance forward to enact these policies outlined in the plan and I don't know that we will continue at that time.

COMMISSIONER TRUJILLO: Mr. Chairman, Robert, eventually, in the future, the highway corridor going through El Valle de Arroyo Seco will be redesigned. Does this plan take that into consideration? There might be some interchanges there, those sorts of things and some private property, if you will, might be absorbed for the redesign of the road, ostensibly to make it safer. Was that taken into consideration?

MR. GRIEGO: Mr. Chairman, Commissioner Trujillo, yes. Throughout the entire planning process we have been involved in certain levels with both the Highway

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Department and the consultant, Louis Berger. They just completed their Phase B of the alternatives and came up with four alternatives. Two of the alternatives would have frontage roads and two of them would not. But yes, this plan does take into consideration that the plan—several members of the community have also participated in the Citizens Advisory Committee for the redesign of the road and the County staff has also been involved with that.

COMMISSIONER TRUJILLO: I'm impressed with the plan, with the effort of the community and it reinforces my opinion of Arroyo Seco that when they take something on they do it, they complete it.

COMMISSIONER SULLIVAN: Other questions of Robert? Robert, I had one, which was essentially the same one. I know that in the 285 corridor and the planning process that's going forward in the 285 El Vado area, the Simpson Ranch planning process, there is some conflict over the corridor plan not being a part of the overall community plan. Are we going to run into that problem here?

MR. GRIEGO: I don't know that—there's been no evidence of that problem coming forward at any time. Mainly, the issues that we've been discussing have been along—the community day events, we invited the entire community and I don't know that there's been any voiced opposition to initiating a highway corridor plan and not doing a larger plan.

COMMISSIONER SULLIVAN: Any other questions of Robert? Are we doing a public hearing for this?

MR. GRIEGO: This is the first of two required public hearings, Commissioner Sullivan.

COMMISSIONER SULLIVAN: So this is a public hearing. Is there anyone in the audience who would like to speak with regard to the El Valle de Arroyo Seco Highway Corridor Plan? Step forward please and state your name for the County Clerk.

NANCY WILLIAMS: Mr. Chairman, Commissioners and members of the audience. My name is Nancy Williams and at present I am the community board president for El Valle de Arroyo Seco. I would like to take this opportunity to thank everyone for taking the time to come tonight and I would also like to thank our community members who for months, rain or shine, have attended our community meetings to help work on this plan. Month after month and year after year. And I also want to thank the ones that couldn't make the meeting but who made suggestions via telephone, mail, and personal communication at any one of our three very successful community day events, the first being in 2000.

Our community day events were held and attended by many professionals in many different fields. They included but not limited to the Highway Department and Santa Fe County members. The main purpose of the Arroyo Seco community day was to provide an avenue for addressing community residents' questions and concerns regarding the proposed highway plan. The community was open to all questions and we want the community members to know that their suggestions and comments have not been taken lightly in consideration in preparing this plan. The process has been a community effort, community-wide effort at that, and we're all very proud of it.

I also at this time want to thank all of Santa Fe County planners who have helped us out

through the years and without them I'm sure we wouldn't be here tonight. They've been very, very helpful and we really do appreciate their help. From here on, whenever I mention "we" for clarification purposes, I mean the community planning committee.

So now onto the meat of the matter. Our community group started pursuing development of a community plan in 1991/92 and as was stated, in the process of that community planning we understood that we needed to develop a highway corridor plan so that's the -- And we'd like to see you approve this.

CHAIRMAN DURAN: Thank you.

GEORGE JACKMAN: My name is George Jackman. I live in Arroyo Seco. I just wanted to emphasize how important this plan is to be adopted by you all so that we can move ahead with developing the health, welfare and safety of Arroyo Seco residents. Motorists passing through Arroyo Seco have a safer trip through than residents do living there, crossing the road. It's necessary to make a determination on how to develop the roadway. We'd like you to consider it in that light. Thank you.

CHAIRMAN DURAN: Thank you.

KATIE ALLISON: My name is Katie Allison and I approve and endorse this plan for the betterment of our community and for the safety of Arroyo Seco. I love living there and we need to protect our community. Thank you. Please approve it.

CHAIRMAN DURAN: Thank you

JUAN MONTOYA: My name is Juan Montoya and I'd like to thank everybody who has been involved in this project and I think your approval is very necessary for the community of El Valle de Arroyo Seco. Thank you.

CHAIRMAN DURAN: Thank you, sir. Anyone else? What's the pleasure of the Board?

COMMISSIONER TRUJILLO: Mr. Chairman.

CHAIRMAN DURAN: Commissioner Trujillo.

COMMISSIONER TRUJILLO: Move for approval of Resolution--

MR. ABEYTA: Mr. Chairman, this is the first public hearing. There will be one more.

CHAIRMAN DURAN: Thank you all for showing up. We have one more hearing and when will that be heard?

MR. ABEYTA: That will be scheduled for January 14th.

CHAIRMAN DURAN: And hopefully at that time we'll approve your plan.
Thank you.

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XII. B. 8. Ordinance No. 2002 – An Ordinance Addressing Water Conservation for all Sources and Uses of Water within Santa Fe County (Second Public Hearing)

CHAIRMAN DURAN: As we move into items 8, 9, 4 and 5, I'm going to limit the public comment to three minutes per individual. Before I do that, let me ask how many out there want to address the Commission concerning these water ordinances? Okay. How about five minutes? Does that sound okay? We'll give you all five minutes. There's not that many of you.

COMMISSIONER CAMPOS: Unless they're on the same team, Mr. Chairman.

CHAIRMAN DURAN: This is the second public hearing. Katherine.

KATHERINE YUHAS (County Hydrologist): Before I make my presentation I have a handout for all of you. [Exhibit 5]

CHAIRMAN DURAN: And what that means, since this is the second public hearing it could be passed tonight. If you're not careful it could be passed. Katherine, I just have one question. If you recall in the first meeting, there were a lot of people opposed to this ordinance because the impact that it would have on the agricultural and traditional communities. Or was it just agricultural?

MS. YUHAS: I think the main objection was to agricultural impacts, and all agricultural land has now been exempted from the ordinance and the way that I have worded it is that all land that is recognized by the County Assessor as farmland or ranchland is exempt from the ordinance. And that means that if you own a piece of property where your house is and you're farming on it, that that whole piece of property would be exempt, is the way that would work.

CHAIRMAN DURAN: And if your house isn't on it—

MS. YUHAS: But it's your farm, then the farm is exempt. I'm merely saying that if your residence was part of it, that would also be exempted.

CHAIRMAN DURAN: Okay.

MS. YUHAS: The proposed ordinance requires water conservation for all residential and commercial water uses in Santa Fe County. At the last BCC meeting on November 12th, I requested that we table this ordinance so I could attend a meeting in the southern part of the county and distribute information on the ordinance to county residents. Gary Roybal and I attended a meeting in Edgewood on the evening of November 14, 2002. I presented the water conservation ordinance and distributed copies. As of the writing of this memo I have not received any comments on that, and that was December 3rd.

This evening around 5:00 I was given some comments from the Estancia Basin and I think they're here to present that themselves. A copy of the letter from the Santa Fe County Farm and Livestock Bureau that was presented to you at the October 22nd meeting when we

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discussed this ordinance was included in your packet materials though. [Exhibit 6]

It is as a result of their concern regarding agriculture that agriculture was exempted from the ordinance. I have received 32 phone calls and e-mails from county residents in support of this ordinance since it was last presented to the Board. I have not received any phone calls or e-mails in opposition to it. In addition, the ordinance has been reviewed and supported by the office of the State Engineer and the Jemez y Sangre Regional Water Planning Council. The Jemez y Sangre Regional Water Planning Council is designated by the Interstate Stream Commission to plan for how the northern 2/3 of Santa Fe County will meet the growing water needs of its population.

Also, the Edgewood Soil and Water Conservation District Board has sent a letter to the County in support of water conservation and offering their technical assistance since they work with many of the landowners in the southern part of the county.

The proposed ordinance address the following topics: outdoor conservation, indoor conservation, conservation signage and literature distribution, a structure for the domestic well metering program, elimination of water waste and fugitive water, and enforcement and penalties. Santa Fe County is in need of an ordinance to address water conservation countywide. The past few years have demonstrated to us that our water supply is limited and vulnerable to drought. During the drought last summer, many residents of Santa Fe County, both on individual wells and on water systems, experienced problems supplying their basic water needs. One of the things Santa Fe County can do to address drought is to leave more water in the aquifer so it is there to lessen the effect of drought when it occurs.

Another reason that we need to develop a countywide conservation program is that it will assist us in obtaining funding for both large scale and small scale water systems. Whenever the County or a rural community applies for state or federal funding for a water system, one of the first criteria that must be met is that we must demonstrate that the water we already have is being conserved. One goal of the County's 40-year water plan is to assist rural communities in obtaining funding for their water systems.

What I handed out to you was in the *New Mexican* on Friday, and it is recommendations from the Governor's task force on drought. I don't want to go into the whole thing but if you look at the second page, the task force has recommended water conservation and management as a requirement for any funds for water systems, and it also recommends that metering be required for all water users, and that communities be required to develop and enforce water conservation ordinances, including a conservation-oriented rate structure.

CHAIRMAN DURAN: So Kathy, that means that the state will not provide any funding unless we have adopted some water conservation measures? Is that what that says?

MS. YUHAS: That's what I read.

CHAIRMAN DURAN: We read the same thing.

MS. YUHAS: The Jemez y Sangre Regional Water Planning Council has developed various scenarios to allow residents in the northern 2/3 of our county to meet our future water needs. Every one of these scenarios requires that water consumption be reduced by 25 percent so that enough water will be available for a healthy community in the future. The

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Estancia Basin Regional Water Plan also calls for conservation. It should be made clear that the domestic well metering program only applies to those lots in Santa Fe County that have already voluntarily agreed to restrict water usage and report their water meter readings as a condition of their lot division. This program does not apply to residents of Santa Fe County who are not already required to report their meter readings.

At some time in the future, these residents may need to be included in the program to provide a more complete picture of water usage in Santa Fe County. One of the comments that I have received routinely is that residents of Santa Fe County would like to see everyone included in the metering program. I think that may be ambitious for us to take on right now. It should also be made clear that this ordinance does not take away the ability of any area of the county to develop further water conservation plans that they feel are appropriate and necessary, and if requested, County staff is prepared to assist communities in this area.

Three significant changes have been made to the ordinance since it was last presented to you. One, as a result of comments from the Farm and Livestock Bureau, agriculture has been exempted, and this is stated in bold letters at the beginning of the ordinance. Two, I've added additional language stating that any time there is conflict between the requirements of the Office of the State Engineer or the Public Regulatory Commission and this ordinance, the requirements of those state entities shall take precedence over this ordinance. And three, it was brought to my attention that there is nothing in the ordinance to encourage the use of recycled water or rainwater catchment water for irrigation uses instead of the use of potable water. So in order to address this, I have exempted from the time of watering restrictions at the very beginning, for outdoor irrigation, any water that is obtained from rainwater catchment systems or permitted wastewater recycling systems. This exemption will apply to all entities that are using recycled water, not just households, but large scale developments also.

Finally, on a smaller note, I received a fax yesterday pointing out two duplications in the ordinance, so I would like to remove the duplications under indoor conservation H should be removed and under conservation signage and literature in number 2, the last sentence is a duplication.

Finally, under the domestic well metering program, I was requested to add in the first sentence, "The domestic well metering program applies to only those residents of Santa Fe County living or operating businesses on lots where restricted water usage and water meter reporting requirements were voluntarily accepted as a condition of plat approval—and this is the change—and those county residents required to meter their wells through court order.

COMMISSIONER TRUJILLO: I have a question, Mr. Chairman, and I know that I'm going to get asked this question by my constituents. There in the Pojoaque Valley, in the Santa Cruz Valley, in Cuyamungue and Tesuque, there are wells that are used for both domestic and agricultural purposes. Those are pre-1981 in the Pojoaque Valley, pre-Aamodt suit. How is this ordinance going to affect those situations?

MS. YUHAS: Mr. Chairman, Commissioner Trujillo, is the land that they're on recognized as farmland?

COMMISSIONER TRUJILLO: The land that they're on is recognized as

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farmland.

MS. YUHAS: Then they are exempt from the ordinance.

COMMISSIONER TRUJILLO: Okay, so the domestic part of it—

MS. YUHAS: The domestic part of it is exempted from the ordinance.

COMMISSIONER TRUJILLO: The whole thing—

MS. YUHAS: The whole thing is exempted.

COMMISSIONER CAMPOS: If the land is recognized as farmland by our

Assessor.

MS. YUHAS: Correct.

COMMISSIONER TRUJILLO: And that is if there are traditional water rights attached to it from a local acequia, or there's irrigation taking place through a State Engineer permit for irrigation purposes.

MS. YUHAS: All of that will be exempt. I should say I have had comments from the public and some of the people were actually in agriculture industry that felt that either some time in the future we should be looking at a way to conserve water in agriculture. In order for that to happen, we'll need to do some studying about what would be the best way to implement something like that. And it's certainly not part of this but I should say that people are still concerned about how that will be addressed.

And finally, the very last small change that I have is, let's see, under water waste in item D, "God" should be capitalized, and in item F, under fugitive water, "God" should also be capitalized again.

COMMISSIONER TRUJILLO: I don't want to be cantankerous, but again, in my district, how are we going to enforce conservation in private land when next door to private land there's the Native American community that is using copious amounts of water without any regard to depletion of watertables and things like that. There's no settlement and no settlement in sight regarding the Aamodt lawsuit. People think that it's not a level playing field. How are we going to enforce conservation in those areas?

MS. YUHAS: Mr. Chairman, Commissioner Trujillo, I share your concern regarding the waste of water in lands that we don't have the ability to have any jurisdiction on. But I feel that a good place to start is with the residents of our community that we can assist in using their water in a wiser way. To continue to not conserve water just because other people don't, I don't see how that's a good idea.

COMMISSIONER TRUJILLO: It's not a good idea and I'm sensitive to what you're saying, but if your neighbors are not conserving water, that's having a direct impact on your well, on your aquifer and you're losing sustainability. You're losing a sufficient amount of water.

MS. YUHAS: Yes.

COMMISSIONER VARELA: Mr. Chairman.

CHAIRMAN DURAN: Commissioner.

COMMISSIONER VARELA: I wanted to make a comment. Maybe the flip-side of the coin of what Commissioner Trujillo said a while ago is I would think that there

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would be hundreds of properties, probably up in Pojoaque and that area as well as down in La Cienega and La Cieneguilla and other areas that have agricultural water, but since there's a residence on the property, they are not listed as agricultural properties. And as such, they would come under this ordinance or staff would have a dire time trying to figure out who has agricultural rights because there are the residents on the property. So I guess what I'm saying is that the County Assessor in his office does not take into account the smaller properties that do have agricultural rights, but also have a residence on the property because normally, it's my understanding that the County Assessor's office has ranchland or ag land, which is normally like ten acres or larger and does not take into account the small traditional plot where there are agricultural rights with water attached to those properties.

So I think there's going to be hundreds of properties that are still going to be in this ordinance and I would hate for the County to go out and fine these people for not abiding by the water ordinance, when in fact they do have agricultural water rights.

MS. YUHAS: Mr. Chairman, Commissioner Varela, I actually did think about that issue. Another way that we could look at the agricultural exemption would be to add to that, anyone who is using water subject to a permit from the State Engineer's Office and then list the permit numbers that are agricultural water numbers. And that could be added on to the exemptions. So we'd say, anyone who's property is recognized by the County Assessor as farmland or ranchland and/or using water subject to a permit from the State Engineer's Office that are these numbers. Would that capture those people?

COMMISSIONER VARELA: Let me think about it for a minute.

MS. YUHAS: Okay.

CHAIRMAN DURAN: Katherine, I have a couple questions. When you come to outdoor conservation, I need some clarification on number one of outdoor conservation. It starts with B. All manual watering—these are exemptions from it, right?

MS. YUHAS: Correct.

CHAIRMAN DURAN: All manual watering by landscape maintenance and contracting personnel. What does that mean? They're exempt from the 11 to 7? So if I hire someone to water my grounds, would that be under a maintenance contract?

MS. YUHAS: Mr. Chairman, that's correct, and the reason that is in there is to allow those companies who operate maintaining people's landscaping for them to continue to have a viable business. If they couldn't water all day long they'd have a hard time doing their job.

CHAIRMAN DURAN: Okay. Then on number 2 of the outdoor conservation where you say that washing of outdoor hard surfaces with the hose is not permitted. If I'm out doing something in my truck or my car and I come home and leave a bunch of mud on my pad, concrete pad, I can't wash it off?

MS. YUHAS: Mr. Chairman, what the ordinance would have you do is sweep it.

CHAIRMAN DURAN: And what if it's caked? It just seems so—

MS. YUHAS: Mr. Chairman, if you'd like we could change that to have the

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same time of day restrictions as the outdoor watering, if that would make it more palatable.

CHAIRMAN DURAN: I think that you might cover that under fugitive water. You're taking away someone's right to wash off their driveway I think is a little too extreme. Then number six, I need some clarification on that where it says all construction projects must utilize treated effluent. Does that mean that if I was going to build a house out in the county I have to try to get the City to give me—I can't use my well to build my house?

MS. YUHAS: Mr. Chairman, that is the intent of that part of the ordinance. I have had—

CHAIRMAN DURAN: So if I have a well on my property, I can't use the water from that well to build my house.

MS. YUHAS: That you should first try to obtain treated effluent.

CHAIRMAN DURAN: Do you know that the City is not giving, is considering effluent as gold?

MS. YUHAS: Well what it says further on is that if treated effluent is not available, then potable water can be used.

CHAIRMAN DURAN: But knowing what the City's position on this is, why would we even make people go through that step?

MS. YUHAS: This could be removed. This was written back in May.

CHAIRMAN DURAN: Then when you go to the indoor conservation, number two on that same page, it says for all new and remodeling construction—so does that mean that if I go in to get a permit to remodel my house, that I have to change everything in my house?

MS. YUHAS: No. And that should be made clear that what you need to do is have your remodeling have the low-flow fixtures. I think the County requires that anyway.

CHAIRMAN DURAN: Well, it's not clear. It says for all new remodeling construction, and all replacements of existing plumbing fixtures—it does say in addition with the exception of all existing water users shall retrofit their facilities such that the plumbing fixtures noted below are in place by January 1st. So retrofit doesn't apply to new; it applies to old.

MS. YUHAS: That's correct. The retrofit only will apply to commercial properties. The next sentence after that says in bold letters that single and multi-family residential users are exempt from the retrofit requirement.

CHAIRMAN DURAN: Okay, so this only applies to the commercial users.

MS. YUHAS: Exactly.

CHAIRMAN DURAN: Okay.

COMMISSIONER TRUJILLO: Mr. Chairman.

CHAIRMAN DURAN: Commissioner.

COMMISSIONER TRUJILLO: Have we done a financial impact?

MS. YUHAS: Mr. Chairman, Commissioner Trujillo, yes, we did. And it was included in your last packet but not this one and I have one copy. The copier upstairs was broken. I apologize. I can hand it to you, I can read it, or I can go an I can make copies down here.

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COMMISSIONER TRUJILLO: Can you give us a synopsis?

MS. YUHAS: Quickly, when I calculated the financial impact, we'll need \$70,000, and what that would cover is hiring one FTE to be in charge of the computer database and going out for one day a week and doing some monitoring, looking for violations. It would also cover one computer, part of the vehicle and gas that would be needed for that, printing for all the literature distribution and the postage for sending out the water meter reading postcards.

COMMISSIONER TRUJILLO: There's that financial impact and there's also an out of pocket financial impact for the residents of Santa Fe County. Have we done an analysis on that? Because if you're going to retrofit and upgrade and low-flow and all that, it's going to cost money.

MS. YUHAS: Mr. Chairman, Commissioner Trujillo, the single family residences or multi-family residences of Santa Fe County would not be subject to doing any retrofitting.

COMMISSIONER TRUJILLO: It's new construction.

MS. YUHAS: New construction and remodeling would have to comply. But that's already required in the building code and things like that. So I don't think that we're actually imposing any new low-flow requirements.

COMMISSIONER TRUJILLO: We've looked at how it affects affordable housing? It's required.

MS. YUHAS: That's already part of that building code.

CHAIRMAN DURAN: I just have a couple more that I didn't ask.

MS. YUHAS: Yes.

CHAIRMAN DURAN: It's on conservation signage and literature distribution and number 3, 4 and 5. Let me start with 5 first. How are we going to require title companies to provide anyone purchasing the property with conservation literature? Are we going to create this conservation literature and provide them with that? How are we going to make sure that everyone that closes on something has been given a copy of it? And if they're not, what are we going to do? Are we going to fine the title company?

MS. YUHAS: No. There is no provision for fining a title company for not handing this out. The intent behind the conservation literature distribution is to hit people in as many areas as possible. There are six listed here as places that you would get literature addressing your conservation requirements. My hope is that of those six, you'd get it one of those places. By saying you need to get it in all of those areas, maybe you would end up getting it in one.

CHAIRMAN DURAN: So we're going to be responsible for providing—

MS. YUHAS: But we will be providing, yes.

CHAIRMAN DURAN: The literature.

MS. YUHAS: That's correct.

CHAIRMAN DURAN: And that's in whose budget?

MS. YUHAS: Mr. Chairman, that hasn't been defined yet. I figured out some of the printing costs but which budget is going to pay for it, I don't know.

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CHAIRMAN DURAN: Actually, I think we need to do it anyway. But I'm just trying to figure out—we need to take the responsibility. If we really, truly want this to happen, we need to take responsibility for distributing the information and not try to pass that on to the private sector. So back to number 4. It's the same kind of thing. How are we going to ensure that the landscape contractors and architects have that kind of literature available to them, and then the same with the nurseries. I guess if your answer to that is we're going to provide the literature and distribute that literature to those companies and hope that they get them distributed or have them displayed prominently, then that works. But I think it needs to be our responsibility to take that on.

MS. YUHAS: That is my answer to your question. That it will be the County's responsibility to get the literature to those entities so that they can hand it out.

CHAIRMAN DURAN: Okay. Number 4. It's the same kind of thing. How are we going to ensure that the landscape contractors and architects have that kind of literature available to them, and then the same with the nurseries. I guess if your answer to that is we're going to provide the literature and distribute that literature to those companies and hope that they get them distributed or have them displayed prominently, then that works. But I think it needs to be our responsibility to take that on.

MS. YUHAS: That is my answer to your question. That it will be the County's responsibility to get the literature to those entities so that they can hand it out.

CHAIRMAN DURAN: Okay. Thank you.

COMMISSIONER VARELA: Mr. Chairman.

CHAIRMAN DURAN: Commissioner.

COMMISSIONER VARELA: I have a couple more questions of Katherine. Does the ordinance have to be punitive, or can it be educational in nature? Do we have to fine people if they don't abide by the ordinance?

MS. YUHAS: Commissioner Varela, no, it doesn't have to be structured that way but much of what I have heard and discussions have been that people pay more attention when there's going to be a fine as a result of non complying.

COMMISSIONER VARELA: I was just wondering as far as what you were saying earlier about the state requiring that we have something in place if we're going to ask for funding, etc., etc. So it would not have to be fine oriented or anything like that then. To be able to apply for funds. What you're saying is—

MS. YUHAS: Right. The state does not designate that it has to have, but it does say they're looking for something that has enforcements as a part of—so I'm not sure how we would have enforcement if there wasn't a fine. I'd have to think about that.

COMMISSIONER VARELA: Okay. Also—

CHAIRMAN DURAN: Is there jail time associated with these fees or lack of payment?

MS. YUHAS: Not yet. Not yet. I didn't get my way entirely on writing this.

COMMISSIONER VARELA: I recalled, Mr. Chairman. As far as all the folks that have windmills and stuff like that, I'm sure there's a lot of us, and I include myself,

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because I do it because I can't stay home all day watching my windmill to see when my tank fills up and go put on the brake. So I guess we would be in violation of the ordinance under waste water.

MS. YUHAS: Commissioner Varela, I believe that, and I may be wrong about this, but I think most people who have windmills are agricultural users. Is that wrong? Are there domestic water users who are using windmills and would have this problem?

COMMISSIONER VARELA: A whole lot.

CHAIRMAN DURAN: For consumptive use?

COMMISSIONER VARELA: Yes. My well is a 72-12-1 for water use and my agriculture is off of a spring. So, yes, I do have that problem. Or else, like in the winter, if there's not enough water I'll shut off the—I'll put the brake on and not have any water when I get home or else if there's not sufficient water then the tank will freeze and if I do let it run during the day even if I have it at a slow speed, if the wind's decent, it could fill up before the time I get home and I'll be wasting water.

CHAIRMAN DURAN: But you don't drink that water though.

COMMISSIONER VARELA: Yes, I do.

COMMISSIONER TRUJILLO: You use it for domestic purposes.

COMMISSIONER VARELA: Right.

MS. YUHAS: That's a good point. Could I work on that while you listen to comments. I'm thinking that we could have a catchment basin that it overflows into and as long as it's doing that, that's okay and all that has to be is like a hole that dug in the ground. Something like that.

COMMISSIONER VARELA: With a cover?

MS. YUHAS: No, you don't even have to have a cover.

COMMISSIONER VARELA: What about the evaporation?

MS. YUHAS: I know it's not perfect but I'm trying to work with you.

CHAIRMAN DURAN: Well, if you have something that was used for domestic use it would be a violation. Domestic, agricultural or farming.

MS. YUHAS: Then it doesn't apply to very many people if we exempt all the domestic people.

CHAIRMAN DURAN: But in a windmill situation.

MS. YUHAS: Okay. You could do that. You could say that those windmill wells that are used for those three uses would not be subject to the water waste consideration. I'll work on that.

CHAIRMAN DURAN: Any other questions of staff? Commissioner Sullivan? Commissioner Campos? Okay. Thank you, Katherine. So you took notes of what we're going to delete and change?

MS. YUHAS: Absolutely.

CHAIRMAN DURAN: It's a public hearing. Is there anyone out there that would like to address the Commission concerning this issue? Please come forward, state your name for the record. So how many are there? Could you raise your hands once more?

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WALTER WAIT: Mr. Chairman, members of the Commission, my name is Walter Wait, and I'm here representing the San Marcos Neighborhood Association this evening. We're pleased to see that the County is seriously considering water conservation for all residential and commercial uses of water within Santa Fe County, and while we believe that the proposed water ordinance is extremely weak, we believe that it is very important, that it is a very important first step in the right direction.

First, an administrative comment. It is common practice when altering a draft to italicize the changes made so that a reader can easily identify the changes, additions and subtractions that are made to an initial draft. This wasn't done in this instance and is rarely done by County staff. We wish this protocol would be adopted by the County so that a line-by-line comparison doesn't have to be done in the future. We think that this will save you and us a great deal of time and effort in the future.

Okay, from major to minor points in the draft. We still believe that since the major water user in the County is agriculture that the County should undertake some steps to both: a) determine exactly how much water is being utilized for agriculture and from what sources and what points of diversion, and b) identify conservation plans that might assist in the reduction and wastage in this area. For example, an agricultural conservancy district in California substituted 18 miles of ditch with pipe and effected a savings of 8,000 acre-feet of water per year. That 8,000 acre-feet was captured through reduction in evaporation. I don't have to remind you that if our agricultural community could reduce its evaporation by a similar amount, it would equal the City of Santa Fe's total use.

Ideally, this proposed ordinance should not be placed in effect until the County Hydrologist can tell the County Commission how much water is being used for farming and ranching operations per year, and what, if any, actions could be taken to assist those users to implement wise conservation measures as well. It's wise conservation. This of course is a controversial issue, and we don't expect the Commission to attempt to build this into the current modest proposal. It does, however, deserve some scrutiny in the future. In the section of the proposed ordinance "Domestic Well Use Metering Program," we noticed that the wording in the first sentence has been changed from "all properties that are required to report readings" to "all properties that are required to report water meter readings as a condition of plat approval." Does this mean that properties already approved with condition of metering will not be subject to any regulation by the County?

As was pointed out in the first reading of the proposed ordinance, this sentence does not set up any requirement for continuing monitoring once the property changes hands. Any database constructed would become obsolete and out-of-date the moment it was constructed. We feel that the ordinance must address this problem to ensure that water use that requires metering is in fact both metered and monitored in the future. Again, as pointed out in the first reading, the ordinance infers that a database exists, when in fact it does not.

We feel that the ordinance should require the County staff to create and maintain such a database and require the County staff to report annually on the data contained

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therein. This report should be publicly distributed. To this end, we suggest that the following sentence be added to the proposed ordinance: "A database of all required meters shall be created and maintained by the County Hydrologist's office. All changes of ownership of properties requiring metering shall be provided to the Hydrologist by the County Assessor's Office. The County Hydrologist will create an annual report from this database describing the activities, quantities, and compliance problems associated with this database."

Under the section "Water Waste—Fugitive Water," the proposed ordinance identifies state and federal facilities and operations as falling under this requirement. I'm not sure whether this statement can survive a legal challenge. You might want to check with that, because if you're going to try to get the feds to comply, you might as well try to get the Indian reservations and the agricultural entities to comply as well.

We noticed that the section "Drought Emergency Provisions" section has been dropped, and I'm not sure whether the staff has given you any explanation as to why. We applaud the changes in the enforcement and penalties sections, but still feel that the fourth and all subsequent violations is far too lenient. It can easily be written into the price of doing business for most entities that would habitually violate the law.

Under the "Outdoor Conservation" section, the new sentence that limits pool-filling to one time a year doesn't take into account events that would jeopardize health and safety. This could easily occur should the pool or spa's water become contaminated. A provision covering such unforeseen events should be placed in the ordinance.

Despite the ordinance's shortcomings, the San Marcos Neighborhood Association Board of Directors believes that this represents a really good first step, and believe that the ordinance should be adopted. We can't really continue to stick our heads in the sand. It's just too darn dry down there.

CHAIRMAN DURAN: Thank you. Next speaker, please.

CONZI BOKUM: Good evening Mr. Chairman, members of the Commission. My name is Conzi Bokum, I'm the director of the Water Project for One Thousand Friends of New Mexico. I'm here to support the County's ordinance addressing water conservation. I would urge you to adopt it.

I would also like to add that water supply and demand projections for the Jemez y Sangre region predict that there will be a deficit of 31,500 acre-feet of water in the next 50 years, assuming no measures are taken. Most of that deficit will occur in Santa Fe County. This measure alone will not address the deficit to any significant degree. Developing a good water conservation plan is not easy. There are many considerations based on the needs of a particular community. Given the severity of our water needs, I would also urge that the County consider this a first step, and begin to figure out the next best step that should be taken to conserve more water. Thank you.

CHAIRMAN DURAN: Next speaker, please.

DINA CHAVEZ: Hello, my name is Dina Chavez. I live in the Highway 14 area. I agree with what Walt Wait had said, I also represent the San Marcos Association. I

agree with Katherine Yuhas' ordinance. I believe that she's trying very hard to work this through, and I commend her for her efforts. I would like to just add a couple of ideas that I had, some of which she's addressed, thankfully.

In regard to the agricultural land, I'm glad that it's designated. That was going to be one of my suggestions. But I'd also like to see perhaps a demonstration in agricultural production, perhaps inside of the last three years, in order for that designation to be appropriate. That's number one.

Number two, there may be a problem with testing meters while they're in place. Testing meters every ten years, I don't know how feasible that is exactly. But it's been brought to my attention from someone in the agricultural community that testing meters while in place is virtually impossible. They have to be removed, repaired and done in another manner. So that might be something to consider.

And the third thing, which I think is quite a good idea, is to definitely implement a catchment system for everyone in the County. I have contacts with folks who sell water tanks, who will install canals, and who will teach you how to do this, give you direction to the right place to put the tank which the most water falls off your roof. And may I suggest that this be implemented into the ordinance, just based on the fact that there is so much water that's coming out of the sky, as little as it is, but it's still significantly going to add to what you can water your trees, your horses, your animals. And may I suggest that there be a tax credit or the catchment system as an incentive to implement it? The larger the tank, the larger the tax credit. I think that idea is great, and I think everyone would benefit from being able to water their trees and take care of their animals, at least in the front and backyard.

Maybe this was addressed, but I may have missed it. Does the conservation in any way apply to the State Penitentiary or state agencies that are located in the County, particularly the State Pen? Thank you very much.

CHAIRMAN DURAN: Next speaker, please.

PAUL BRUSKI: Mr. Chairman, members of the Commission, my name is Paul Bruski. I represent the Alliance for the Rio Grande Heritage, and I'm also the conservation chair for the Northern Group of the Sierra Club. We think this is an excellent first step, and we congratulate your initiative. We do think that it could be made a little bit stronger, particularly for it to require the construction of cisterns on all new construction, as the previous lady mentioned. I think this is an excellent idea. You may like to know that in the upcoming legislative session there is a possibility that all new commercial construction and construction of subdivisions might be required to be water-efficient and have reuse systems. This is something that the County might consider sometime in the future. We urge you to pass this, and to reconsider in the future, based on your experience in enforcing it, to perhaps make it stronger. Thank you very much.

CHAIRMAN DURAN: Next speaker please.

CECILIA ABEYTA: Thank you Mr. Chairman, members of the Commission, my name is Cecilia Abeyta. I am the Director of Governmental Affairs for

the New Mexico State Farm and Livestock Bureau, and I'm also here this evening representing the Santa Fe County Farm Bureau and several members. Many of our members are agriculture producers and many are not. We do offer other benefits such as insurance and so forth.

I'd like to first of all commend Katherine. She did meet with us about a month and a half ago, when the Santa Fe County Farm Bureau president, myself and another board member met with her. A couple of things she did agree to do, and I want to thank her for adding the language pertaining to the agricultural exemption. And so Katherine, thank you so much for doing that. Also, I'd like to thank her for going down to Edgewood and meeting with the Estancia water planning folks down there too.

As far as the Drought Task Force goes, I happen to sit on that Drought Task Force for agriculture. And we've spent numerous conference calls and meetings, and we do believe that that is a good document. But the language recommending that no financing be given unless counties have some type of ordinance in place does still need to be reviewed by the New Mexico Water Trust Board. That is funded by the New Mexico legislature, and we do have the executive director for the Soil and Water Conservation District sitting on that Board as well. That also needs to be finalized by the New Mexico Board of Finance, which also overlooks financing, I believe, to municipalities and County governments and so forth. So, really, that still has another step to go, and we feel like it's probably going to be approved by those two entities right there.

One of the things we did ask Katherine if she would be willing to put into her ordinance here is if the County government would also be willing to be proactive and step forward and implement this as well in their own building and facilities outside of this particular area. She said absolutely. I do not see that language in there, maybe she just happened to overlook it, I'm not sure. But this lady here that just got up before I did also did express that concern as well, is the State Penitentiary going to be required to comply with this?

The New Mexico legislature or the Legislative Water Natural Resources Committee, back in November, tabled the Domestic Well Bill. We asked that they would table the two pieces of legislation that were going up for review for conceptual approval, because we want an opportunity to sit with Conzi Bokum and with another individual who is proposing the other piece of Legislation, to sit at the table. Let's address the issues, the concerns, and hash out any of the differences and come to a consensus so that everybody actually comes to a win-win situation. We were thankful they did table it, that conceptual approval has not been granted, and Conzi and myself and a couple of other people will be sitting at the table to iron out a lot of the differences.

The reason I bring this up is because, as a land use planner, I believe that this is the best way, when you develop an ordinance, is bring all the entities together and not burden City Council or the County Commissioners here with lengthy process, lengthy time. Let's hash out everything so that everybody can come forward and say We did meet, and we all have agreed to the ordinance and so forth, and everything's been hashed out.

The other thing is that the New Mexico agricultural producers recognize the fact that a conservation ordinance is needed. We believe in conservation practices and many of them are implementing a lot of these practices. But in the event that this County is proposing an agricultural ordinance, conservation ordinance, we ask that we have the opportunity to be involved at the beginning of the development of the ordinance and not after the fact.

The other thing, a couple of final points that I would like to just add, Mr. Chairman. Has the County thought of a way to look at how much water will be saved, or how effective is this ordinance going to be five years down the road? I don't know if that's been addressed. I know, for instance, that the City of Santa Fe, bless their hearts, handed out all these low-flow toilets. Then you read in the paper, well, is it really saving all that water and so forth? By all means, we do support conservation, but is there a method that's been looked at on how much water is going to be saved?

Last but not least, I would also like to encourage the County to also propose an ordinance pertaining to watershed restoration. Though many of our watersheds are on federal land, BLM and most of them on Forest Service land, this would be recognizing the importance of being a joint partnership with the federal entities. Let's get down to the bottom of a lot of this stuff and restore watersheds for the purpose of benefiting the health and welfare of the general public. Let's focus on that.

There is probably going to be a watershed piece of legislation produced this upcoming session that will address this very [inaudible] to look at, that the Water Trust Board and maybe Board of Finance should also look at to see if ordinances such as this are being looked at. This will make sure that County governments are streamlining and becoming joint partners and working with federal land management agencies to make sure that our watersheds are being restored.

With that, Mr. Chairman, I want to thank you. I would like to introduce the Santa Fe County president Jim Thornton, and he has a couple letters that he actually delivered yesterday. But he is just going to briefly go over the letter. I have copies for you, if you can have me get these letters that were dropped off yesterday. [Exhibit 6]

JIM THORNTON: Thank you. Jim Thornton, president of the Santa Fe County Farm and Livestock Bureau. I don't intend to read the letters. I do want to make a few points out of it. Again, I'd like to add my thanks to Ms. Yuhas and Mr. Roybal for attending the meeting that we had about this, which shows some interest. I believe that Commissioner Lopez attended it, and again, we want to thank you.

While we are appreciative of the fact that you want to drop agricultural from the ordinance at this time, we still have a few concerns because many of our members do not live on agricultural lands. This ordinance makes a lot of statements; you can read what it is. But we have questions, who's making these kinds of statements, and what kind of validity do they have? I don't know. It doesn't say.

The way this ordinance is presently addressed, in our opinion, it creates a taking in some kind, and that could cause legal problems. Basically, I guess in summary, at this

junction we're only stating opinions, based on experience and observation. It should not be construed as any kind of solid legal stance. However, if this ordinance should pass, it appears to us that it was constructed without knowledge of or input from the segment of the community most affected by it, the rural residents living outside of cities, towns and subdivisions. The ordinance appears to contain invalid conclusions, impose unequal and unjust conditions and contain provisions that are legally highly questionable. It further fails to meet the criteria for valid water conservation.

Again, while we agree that some form of water conservation ordinance is in order, this is not the correct avenue to take. It's our position that such an ordinance should not take the stance of being bureaucratically penalties, but one that promotes education, goals and rewards. I guess this is the bottom line of this: we think incentives are a lot better than fines. Thank you.

CHAIRMAN DURAN: Thank you. Next speaker please.

JUDY STEVENS: I'm Judy Stevens, I'm with the Santa Fe Land Use Resource Center. It used to be if people got their water through a pipeline from a large water system, they thought they didn't have to worry about the water being there in the same way that a self-sufficient individual relying on their own well did. Lately we've seen the people on the large water systems like the cities and the counties have to cut back their use and be deeply affected by the drought. Some of my friends on wells have felt less affected because they have their own individual domestic well right or their adjudicated water right. But that's changing. Drought has shown us our community's vulnerability, and if the climatologists are right, we may only be seeing the beginning of the many decades of dry times like last year. We've seen watertables falling and wells going dry, and low rainfall means that there will be less recharge to the aquifer. So in some sense we're into shortage sharing already.

The conservation ordinance before you recognizes the vulnerability of the aquifer and the need to conserve groundwater to protect everyone who relies on it. I think staff has done a good job in coming up with an ordinance that's a good beginning. It is an ordinance, and it requires enforcement, and I've heard a lot of times, when ordinances are up for consideration, the issue of whether they're enforceable or not. Sometimes, when I hear that question being it's being raised by the staff who are responsible for enforcing it, and I think you have to really listen very hard when that's happening. But in this case, we have a staff that is saying that they can do it, and I think that's significant. I want to commend the County staff for developing this ordinance, and I hope you'll adopt it.

CHAIRMAN DURAN: Next speaker, please.

ED MORENO: Mr. Chairman, Commissioners, my name is Ed Moreno, and I was elected by the Jemez y Sangre Water Planning Council to appear before you and restate the endorsement of this ordinance. Most of the points that have been made I was going to cover, so I'm going to skip those. I would rather just put an exclamation point on a couple of them.

What you've heard so far is kind of static scenario where nothing changes except

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the amount of rain. One of the two studies that was conducted by the Jemez y Sangre Water Planning Council was a population projection done by the Bureau of Business and Economic Research. Here's the number that has scared most everybody that listened to it: the population of the region, Española, Los Alamos, Santa Fe and the suburbs, will more than double by the year 2060. More than double by the year 2060. So we're not talking about the water that's here now to serve the people that are here now, but to serve a number of people who are not here yet, haven't been born, haven't moved here, and there is no answer for that.

That was one study that was done. The other one was done by Duke Engineering, a water supply study. I can tell you a lot about the Jemez y Sangre Regional Water Plan. Instead, I would invite you to invite Katherine to invite the Council to come and make a full presentation to the Board. Some of the Commissioners have attended one more of the meetings and workshops that the Council has held. We appreciate that very much, and this has been going on since 1998, and Estevan was part of it, was the County's representative. Katherine is now, Gary Roybal has participated.

So in the context of the growing population—you've heard the expression "low hanging fruit"? This is about as low as it gets. It's so low it's almost touching the ground. This is a very small, modest step towards what is going to be a very long, very expensive and possibly very difficult future for a lot of people if the gap—Conzi alluded to it, 31,500 acre-feet per year, that's more than what we already use now—if there isn't some way found to address that gap.

The scenarios that the Council put together, there were three main ones to try to fill that gap. One was focused on conservation, one was focused on growth management, and the last was focused on transferring water in, buying rights, transferring it in from places where it may not be as needed to places where it is as needed. Then there's a fourth that's a combination of those three. But the bottom line is conservation in every scenario is no less than 10 percent of the solution. So if this achieves 10 percent, a 10 percent savings in water over the present, then you will be achieving the minimum requirement that's expected of conservation over the next 60 years. So, yes, it's not perfect, there's a fair amount of tweaking to be done, but we think this is a good, worthy effort worth supporting, a great start, and the Council has asked me to tell you that the Council supports the ordinance. Thank you very much.

CHAIRMAN DURAN: Thank you. Next speaker, please.

NAT HOLZER: My name is Nat Holzer, I'm a retired engineer and rancher. This ordinance that's presented to the Commissioners tonight has a number of flaws. Basically, the major flaw, as far as I'm concerned, and a lot of people that I talked to are concerned about, is the fact that in its formation, it did not sample a complete survey of all the residents and types of residents that are in Santa Fe County. I think that is a very, very noticeable flaw. Agriculture, ranching and other areas of water use were completely let out of this and treated as if it doesn't affect them at all.

Number two, I believe that the ordinance contains a number of legal problems as

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far as the County is concerned sometime in the future. Thirdly, I really believe that the residents of this County deserve a better program as far as the future's concerned. We all agree in conservation. I'm for it 1000 percent. But how we achieve that goal, and what we do to get there, I think is extremely important. But conservation is the goal. However, I think all of the ramifications concerning the ordinance should be really studied relative to the coverage of the population of the County and from a legal standpoint. I really envision that there are points in this ordinance that could create some legal problems for the County down the road. Thank you, gentleman, very much.

CHAIRMAN DURAN: Thank you, sir. Anyone else?

JOHN BOOKSER: Mr. Chairman, Commissioners, my name is John Bookser, I'm the Water Issues chair for the Northern Group of the Sierra Club. I'd like to thank you for taking this initiative to create a conservation ordinance. I think Katherine did a great job at coming up with the basics for what you have to do. I'm pleased to be a little bit surprised at the meeting, that even though I sort of think I have a feel of what's going on, Commissioner Varela López surprised me with his windmill being used for his domestic use. He's got a good question, and I don't know the answer to that one either.

I thought it was interesting when I was talking to Katherine yesterday—I was very pleased myself when I read that this applies to the entire county, but she was saying that it doesn't apply to the cities of Edgewood and Santa Fe or the EZ, and it might be clearer to folks if that was stated in the opening introduction. I was a little confused by it. Under the "Indoor Conservation Section," under number two, where it's talking about remodeling, construction and then exemption, I think it'd be clearer if the first sentence was A, the second sentence was B and then adding a third section, C, which states: "Residents who replace plumbing fixtures are encouraged to use the below standards. Note that Item G does not apply." Item G was having a plumber or an inspector look at it.

CHAIRMAN DURAN: Could you restate that? I don't understand.

MR. BOOKSER: I'm sorry. "Residents who replace plumbing fixtures are encouraged to use the below standards. Note that Item G does not apply." Basically, what that does is, if you're not doing construction, if I go and replace my toilet, I certainly hope I don't have to go get a permit. I don't want to be forced to go to low-flow, but I would certainly like to see the County be in a position of encouraging me to do so.

Two final things. Under "Literature Distribution," since we're encouraging folks to do low-flow if they go to the plumbing store, it'd be nice if they knew what the heck that was. If you're getting a little thing on the faucet, it'd be nice to know what those were. So I encourage Section 7, under "Literature," stating something to the effect of: "Literature shall be posted and available for distribution at retail businesses selling plumbing fixtures about indoor conservation." And it could include outdoor conservation, but it gets to be a much more difficult process for the County to come up with a clear process when you're not—the landscaping part that you deal with was, I thought, already pretty thorough.

Finally, this has very little effect, you're talking in the metering program about water meter readings, and apparently almost all new wells within the County already

require metering. It seems like it might be clearer to the public if you simply said: "All new wells shall be metered. These meters will be read and reported annually." Now, as I understand it, that inclusion wouldn't apply to agricultural wells. I certainly think it ought to as well, but what I'm trying to address is, in the long term, what you really need to deal with growth is the ability to understand how much water is being used. It's a very challenging proposition to deal with metering all existing wells, but at least you can deal with metering of new wells and make it clear to the public that this is a needed process. I think that would help clarify the ordinance.

I'd like to encourage your passage of this, and I'd like to thank you for having looked at it pretty carefully. I was really impressed by some of your questions, that really indicated that you looked at this pretty carefully. I appreciate that. Thank you.

ORALYNN GUERRERORTIZ: Good evening, Commissioners. I'm Oralynn Guerrerortiz and I'll be brief. I'm hoping you'll consider to adding to an exemption under 1.D. Something along the lines that Commissioner Varela recommended and that's excluding acequia from this. Under outdoor conservation, making 1. D. And you suggested agricultural water rights and acequia water rights I would hope would be included on that point.

CHAIRMAN DURAN: Oralynn, I'm sorry. If you want us to adopt this can you tell me what it is you want D to say?

MS. GUERRERORTIZ: I would like you under outdoor conservation 1, add a subsection D to also exempt, as Commissioner Varela said, all permitted agricultural water rights, including acequia water rights. Because I think that protects our traditional community values.

CHAIRMAN DURAN: All outdoor—

COMMISSIONER TRUJILLO: That's already in the ordinance.

MS. GUERRERORTIZ: I wouldn't say they would be, because I think you required them to be farmland or ranchland by the tax assessor and that does not happen in many cases. And you could have acequia water rights and not have that tax designation. So that's why I think there's a lot of people that would fall into this that you wouldn't necessarily want to fall into it, to protect our traditional communities.

And then on, just for information, I'd like you to know that I have a project under construction that borders the city and that project also had a well and we approached the City requesting to be able to use reclaimed water and were told they didn't want our water trucks lining up and adding to the line-up. They basically said, No. You cannot use our reclaimed water. You will have to use our well. So even projects very bordering the city have been pushed away. I think the long lines in the summer resulted in that and I just think that it's an unfortunate situation but the City's not set up to really fill many trucks. The lines Monday morning were four hours long at least during the summer. So we've got to be a little more conscientious that although six is ideal, it's not practical.

Another concern I had was under the actual modifications for indoor conservation under G. I would suggest you just drop that. I can think of, when I worked here, talking to

many people who were individuals and they're not in a position necessarily to pay for the certification by plumbers. These were individuals who were doing the plumbing themselves and I think that's a concern for our community and I'd hate to consider them outlaws or subject to fines because they didn't get a certification and they were just changing a pipe out or something, or changing some plumbing out.

And then I need a clarification on H. I don't understand exactly. The way I read this, all homes read to retrofit and add rain sensors to their outdoor timed irrigation systems. I know I personally don't have one of those. I'm wondering—

CHAIRMAN DURAN: I thought H was deleted. Okay. Where is it repeated? Excuse me, Oralynn. Go ahead.

MS. GUERRERORTIZ: That was my last point, sir.

CHAIRMAN DURAN: Well, finish. I'm sorry I interrupted you.

MS. GUERRERORTIZ: I would just say, it was more of a curious thing. I don't know for sure when I read this whether or not it applies to all single family homes have to retrofit, so all individuals have to retrofit. And I don't know what those rain sensors are, how much they cost or how difficult they are to add, but I'm again thinking of our community. So I'm hoping you'll consider at least asking those questions. Thank you.

CHAIRMAN DURAN: Did you find it? Where is it?

MS. YUHAS: Yes. That was deleted because it's already listed under outdoor conservation. It's number 9. And just for your information, those rain sensors cost about \$50 and I was able to figure out how to put it on my irrigation system at my house myself, which says a lot for how easier they are because I'm not that handy.

CHAIRMAN DURAN: Maybe you're handier than you think you are.

JEANNIE LUBRING: Mr. Chairman, Commissioners, my name is Jeannie Lubring. I'm with the Edgewood Soil and Water Conservation District. I am their watershed specialist. The comments that I have tonight are more FYI in regards to some of the things you've heard regarding this ordinance. First of all, Katherine stated earlier that we are in support of water conservation, just not fully supportive of the ordinance as it stands. One of the issues with my board, you were in receipt of a letter in November that was certified to you. That was the hard letter. I think it had something to the effect of developing the ordinance in a water-tight vacuum. However, the letter that Katherine referred to will be faxed over. I just left it on the desk in my haste to get here.

The Soil and Water Conservation Districts, not just our district, all districts, we are authorized by statute, by the New Mexico Soil and Water Conservation Districts Act, for water conservation, wise use of wastewater, etc. I won't recite the act. As a point of information for you, first of all, I'm for some of the other individuals, there are some programs with the NRCS that pertain to low-flow irrigation. There's a LEPA, low energy precision application. There's EQIP.

In addition, conservation districts promote through cost-sharing programs water harvesting, catchments and we work on the ground with the individuals and I would only press that this Commission consider the districts a resource to you. We were not notified

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when the ordinance was developed. We were not on a list to receive any of the previous drafts and we are out there every day with the landowners and rural agricultural ranching. So we would press that the Commission consider, for example, literature. We hand out literature on a daily basis. There would not necessarily be a need for the County to have to have a whole budget to develop more literature when there's so much that can be shared between the Office of the State Engineer, the Soil and Water Conservation Districts, Farm Service Agency, there is a lot of information out there.

So I would hope that this Commission would consider other entities as a resource to you in this quest because we all have the same goal of water conservation and that's all I have to say. Thank you.

CHAIRMAN DURAN: Thank you.

JIM CORBIN: Jim Corbin, 8 Descanso Road, Santa Fe. I represent two groups tonight. One's the Estancia Basin Water Planning Committee and the other is the Homebuilders Association of Santa Fe. Let me address the Estancia Basin Water Planning Committee first.

CHAIRMAN DURAN: Jim, and the homebuilders realize that this doesn't apply to single family residential. Are you addressing this based on their concern relative to the commercial?

MR. CORBIN: It's a concern of the ordinance versus program, incentives, that type of thing. Let me first address you based on the Estancia Basin Water Planning Committee. I'd like to thank Commissioner Varela for attending our town meeting down in Edgewood. They were very impressed that you were there and enjoyed your presence very much. Katherine and Gary Roybal from the staff attended. Katherine made an excellent presentation and did quite a good job. Obviously, there's concern, at least in the southern part of Santa Fe County reference an ordinance when folks aren't sure what the baseline is and they aren't sure exactly how it's going to be applied. I think Katherine has done heroic work to put together what you've given her as a mission impossible almost and maybe not almost. Maybe it really was mission impossible.

I think everybody tonight has indicated that they're for water conservation. We do live in the desert and mountainous southwest. Dry periods are a part of our climactic cycle. We had a drought this year. Before that we've had dry periods that people that come from other parts of the country call drought. You are going to have periods when you just don't have moisture here. So we need to be smart about how we deal with water conservation. There is considerable concern about saving water versus stretching water. The difference being stretching water we take some water from Commissioner Campos and we give it to Commissioner Varela as he shows up in New Mexico. Saving water might be some water might be some water that Commissioner Campos didn't use, consciously set aside so that he had it there to use ten years from now or maybe 15 years from now. So there's that concern out there in the community.

What we've tried to do in the Basin Water Planning Committee is act as a facilitator to try and get folks to come to grips with your excellent attempt at starting some form of

water conservation effort in Santa Fe County. We're a little concerned that maybe the ordinance puts the cart before the horse and that maybe we ought to go to a fairly aggressive program first with some resolutions and some examples of how this will work for a while to be sure that we don't put some people in some difficult positions unintentionally. That can certainly happen some times.

In the Estancia Basin itself, we have, we were asking about the state legislature, the water trust fund and ordinances versus water plans. The water trust fund at least this year is basing their allocation of money on whether you have a regional water plan in the area. To that degree, we have put in for quite a bit of money through the Edgewood Soil and Water Conservation District for monitoring. Santa Fe County will get some advantage from that money in the southern part of Santa Fe County. And through the Clonch-Pinto Soil and Water Conservation District we've put in for a brush management program and it appears that at least both programs so far have made the short list to be considered by the legislature.

There's also an effort ongoing to develop an EQIP, an Environmental Quality Improvement Program through the federal government and basically that will set aside land and producing wells in the agricultural community to save water for the future. They will get paid a certain amount of money to do that. It will be based on a priority bid basis and the federal government has indicated and the federal officials in the NRCS have indicated that we have a really good chance of getting a significant pot of money there that can be used in the Estancia Basin for that kind of program, to basically bank water rights when you come right down to it. That's what the end result of that is.

So we're doing quite a bit in conservation in the basin and we applaud your efforts. We're concerned though and last time I was here Commissioner Campos and I talked a little bit about it and he asked us to give you some help if we would and I apologize to Steve for giving him the help five minutes before I stood up here basically. But we asked our pro bono law firm, which is Chuck Dumars' law firm in Albuquerque, to provide us an analysis from his perspective of the ordinance. Now, I don't know that he got the last ordinance yet and I doubt that he did. But in any event, Commissioner Campos, that was probably the best I could do for you in terms of giving you some help, is provide his five pages of comment, some of which are probably applicable. Some of which I suspect after what I've heard tonight may not be applicable. But I think they might be useful in your deliberations and I would hope that you would take the input tonight and maybe have the staff massage this thing one more time and bring it back to the table for one last act if in fact you're bound and determined you're going to go the ordinance route, leading a program with an ordinance as opposed to the other way around.

From the Homebuilders Association, they went through a long and tortuous road this summer with the City and the retrofit toilet bowl problem. They have decided to try and put their money where their mouth is and develop some type of a draft water plan for the greater Santa Fe area and in that water plan will be a significant effort on conservation. Conservation efforts that their association has been involved throughout the United States

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that may be applicable to Santa Fe. So we'll attempt to bring that forward here in the not too distant future.

The other thing I would suggest, a catch-all ordinance is really hard to write. It's much easier to write it for a municipality. Much easier to write it for a specific service area. Might be easier to write it for a critical management area the State Engineer puts on the map in terms of those areas that they feel are were really, really dire straits right now in terms of water, and I would think that most of the state of New Mexico is in some kind of dire straits, but there are some areas that they've designated as critical management areas. So I would hope that you'd take a look at that in terms of the ordinance, vis-à-vis some kind of a program based on incentives and based on showing folks the right way to do things first. And once they understand the right way and have some incentives to attempt to do the right things, then I think you'll see, then you can concentrate with the ordinance on the ten percent hopefully at that point in time. It may not want to do the things that we would all agree I think that we should do. So with that, I'll thank you for your time and I'll sit down.

CHAIRMAN DURAN: Is there anyone else out there? Anyone else beside this man coming up? We have two speakers left, correct? We're going to end the public hearing after you speak, Gerry.

BILL GILBERT: My name is Bill Gilbert. I live on Highway 14 out by the area of Cerrillos. I don't represent anybody but I listen to everybody else so I'm up here talking to you guys. We take this very seriously out in Cerrillos. I was on the Cerrillos Water Board back in the eighties when the mining company tried to take our water source. And I've stayed with it ever since. And I'm sure as you know, the town of Cerrillos came real close to running out of water this year. I can tell you, no one in Cerrillos is talking about whether or not they can wash off their slabs. It's way beyond that.

I live out below the Galisteo Road. Several of my friends, their wells went dry this summer. It's a very serious thing to us and it's something that we really hope the County will get out front with. This ordinance is a small beginning. I think that's clear to everyone. I know there's tough issues on the first ordinance but this is a very timid step. The problems, at least in our area and I can't talk for where you guys live, it's serious stuff at this point. And we're hoping that the County will get out front. And the things that were talked about tonight, whether it's graywater or water catchment or any of that stuff, leadership needs to come from the County at this point.

My neighbor moved in, I live on the old Durham place. It was a ranch at one point. It's been divided up some. The woman who moved in next to me has a well that produces one gallon a minute. And her first question to me was Could she plow it up and plant alfalfa? That's—consciousness raising is a big part of this and for the County to come out and pass this and say this is important sends a message to everybody. So I hope you'll do it. Thank you.

GERRY POWERS: Mr. Chairman, Commissioners, my name is Gerry Powers. Good evening. I'm with the Santa Fe County Landowners Association and I have

a few comments on the conservation ordinance. I think my first comment is that most of the water in New Mexico and in Santa Fe County it's no different is used for agricultural means. If you're trying to save water, we think it would be more appropriate to look at the big ticket items where most of the water is actually used. Trying to impose heavy burdens and costly citations to people for trying to wring a little bit of water savings out we think is taking a very heavy handed approach for some very dubious benefits.

In most decision making that I've ever been involved in, cost/benefit analysis is kind of the determining factor. I have never seen anything related to this ordinance that even estimates or guesstimates how much water might be saved as a result of the conservation measures. As far as the impact analysis, I'm a little confused about what that is. She said it was \$70,000 as an economic impact. That must be limited only to the County's economic impact because just doing some scratch figures, there are about 10,000 wells, according to the State Engineer's technical reports in Santa Fe County, and of those 10,000 wells, if you assume that about half of them are going to have to be metered that would be 5,000 meters at an average cost of about \$300 per meter installation, times 5,000 wells, is about \$1.5 million. All the domestic wells in the county only deplete about a 1,000 acre-feet per year, so if you assume that 50 percent of those are going to be metered now, at a cost of \$1.5 million, and you've saved, let's say you saved ten percent of that 500 acre-feet. That 50 acre-feet for \$1.5 million burden on the citizens of the county for the meters. That's about \$30,000 an acre-foot. So I'd like to just say I have about 50 acre-feet that I'll sell you for \$30,000 an acre-foot and save everybody the pain of this ordinance.

So I think another point I'd like to make is I have a farm in southern Santa Fe County. My house is right in the center of the farm. But for mortgage purposes, for being able to borrow money against my farm, we have excluded the house in the center and put it on three acres. So my house is not agriculturally exempted, but it is only there because of the farm. So the idea that people are going to be exempted because they have a farm doesn't necessarily apply and it certainly doesn't apply in my case.

I think the idea that we would support is conservation measures that target the biggest savings, not the very smallest savings, because domestic wells in the county only use about four percent of all the water used in the county. So trying to wring a little bit of savings out in a heavy handed way that's going to cost everybody a lot of money, subject everybody—there's already more regulations in Santa Fe County than anybody even knows about. So subjecting them to more citations, the average citizen, there gets to be a feeling of oppression, because there are so many regulations out there and for what kind of benefit? We'd like to see a cost/benefit analysis before anything is seriously proposed for passage.

The other thing that I think is important to note is one of the gentlemen here was talking about, with the water council, I believe, was talking about how the population would double in about 60 years. And of course that's pretty normal. That's about a life time. Assuming that nothing ever gets done in an entire life time which is about three

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generations is probably a pretty pessimistic view, but in looking at what those pro-active approaches might be that don't impose heavy handed burdens on the citizens. Pete Ballew, one of the most respected hydrologists in the state has come up with an idea which is a pretty simple one, which is just to reinject the effluent that's used out of the public water system here, the sewer system. If that were the case, there's about 8,000 acre-feet a year that could be reinjected into the aquifer. 8,000 acre-feet is enough to serve about 36,000 homes based on average use of about a quarter acre-foot. And 36,000 homes at about 2 ½ people per home is about 100,000 people, which is about double the population of the county now, so if we do nothing else but reinject that effluent in the next 60 years, it will take care of these problems without having to target certain aspects of the population with very burdensome type regulations.

So that's the essence of my comment. Thank you.

CHAIRMAN DURAN: Thank you very much. No one else out there to address the Commission? That concludes the public hearing process and I'd just like to say a couple things. First of all I believe that the Estancia Basin probably isn't as familiar with the problems that we're faced with here in Santa Fe, the municipal boundaries of Santa Fe and in the EZA and in the area that the Regional Planning Authority has been working in. The reservoirs that the City uses to provide water to this community only represent, if I'm correct, 15 percent of the water usage or the water supply. The rest of that water comes from the aquifer.

And I really believe that it's time for people who live in the county to become more aware and actually to participate in this process of conserving this resource and helping. We all need to work together to make sure that we have a sustainable source. I'm in favor of this ordinance with a few minor modifications, and if the Commission would allow me, I'd like to make a motion for discussion so we can move forward on this.

On the outdoor conservation portion of this, I'd like to add 1.D, which is what Oralynn brought up which was to exempt out all outdoor permitted water rights—is that what you—okay. I'd like to delete number 2. I'd like to delete number 6. I'd like to delete number G, which is on the indoor conservation and number H. I'd like to delete that one also. And my thought on this is that we would approve this with those amendments and allow, give staff instructions to bring forward any other amendments that perhaps we did not adopt tonight that you felt were appropriate or that someone from the community felt needed to be considered as an amendment to this and if in the months to come the Commission finds that it needs to be fine-tuned or amended further, we would always have an open door policy relative to amending this, based on the impact it's going to have on people out there in the county. So I'd make that motion.

COMMISSIONER CAMPOS: Mr. Chairman, before there's a second, I just want to suggest something. I would suggest we make a motion to approve to adopt this ordinance and then allow different Commissioners to make specific request for amendment and vote on them separately so it's a little more clear than you going through and saying, Well, I like this ordinance but I want to make minor changes, then you go through about

six or seven changes. We may not all agree on your six or seven, but if we vote on them individually then there will be a consensus.

COMMISSIONER TRUJILLO: Mr. Chairman, Commissioner Campos, I have a different route to go. Taking to heart what the community has said tonight, I don't think there is a good cross section representation of the needs of the community countywide. I don't see anybody here from the Pojoaque Valley Irrigation District. I don't see anybody here from any of the traditional communities. Their input is not part of the ordinance and I agree with Mr. Powers that I think the community is tired of being mandated on things to do. I think what they want to do is they want to participate in the process. And the only way to get a good representation of the feeling of the community is to take this ordinance out to the community, starting from the northern part of the county to the southern part of the county and holding public hearings on what they feel about the ordinance. Because the way that it is now, it does not reflect the whole spectrum of values and ideas and ideologies of Santa Fe County.

If we're going to implement a document that is not a win-win situation, that people are not going to comply with, it is not worth the paper that it's written on.

CHAIRMAN DURAN: What do you want to do?

COMMISSIONER TRUJILLO: I want to take this ordinance out to the community and have input specifically by all cross sections of the community, starting with traditional communities, the agricultural community, the whole gamut of community people. You're saying that—conservation, it's imperative that it happens. We're in an arid environment. We need to initiate incentives to conserve. But we can't mandate the laws.

CHAIRMAN DURAN: By when? By when do you want to have this done?

COMMISSIONER TRUJILLO: By when? As long as it's a working document, it doesn't matter if it takes six months.

CHAIRMAN DURAN: So there's no second to my motion? Are you making a motion to table?

COMMISSIONER SULLIVAN: Mr. Chairman, I would second your motion for discussion. The only one he made.

CHAIRMAN DURAN: I made a motion and then there was some discussion, and he seconded my motion.

COMMISSIONER SULLIVAN: He made a motion with some deletions. Just a second for discussion, which we've been having. I would just add that I think certainly not every opportunity has been afforded but I think the staff has gone to the people who have expressed a concern, given them an opportunity to respond. Some of the responses just came tonight and I think that's unfortunate, but exempting agriculture I think takes out a big concern that those individuals might have and the people in the northern part of the community would have as well.

I do want to say that I think it's time for the agricultural community, let's call them that for lack of a better word and I don't live in the city either so just be advised that I'm on a well also, to realize that this is a problem that we all have to deal with. If your home

is on a farm and the agricultural component of that ranch or farm is exempted, you should still be required to practice conservation practices in your home, if it's a new home. If it's an existing home it's not covered by this. And the retrofits, if it's single or multi-family, it's not covered by this.

So there's a number of outs in this ordinance. So I think we have to step up to the plate here and take some responsibility for what the future generations are going to see when they arrive in our community. I do think there are some excellent suggestions that were made this evening and I would support the Chairman's suggestion that those come back as an amendment to the ordinance, that we keep this thing as a viable, moving process. And we start with this ordinance, which I think hardly offends anybody but is nonetheless a start, and I would encourage and solicit the Farm Bureau and the others who have offered their services and who have provided those in the forms of the legal opinions and others, to maintain that close contact with us, with Katherine and to come up with specific language changes which we can look at one by one and we'll make those changes as we feel they're appropriate.

I'd like to move forward with something, not because of the threat of losing some money from the state if in fact that is a threat, but more because this is needed. We've worked on it for a long time. It's not perfect but I think it's been hammered out pretty well. At least we're to the point where we've got a document that I think is supportable, enforceable, but by no means perfect. I don't know, Mr. Chairman, if Commissioner Campos feels he has other amendments that he wants to make to your ordinance, I'm okay with the amendments that you've suggested.

CHAIRMAN DURAN: I think we have an open door policy on this thing where if you feel that you want to amend something, we have two other water ordinances to deal with in the next 45 minutes. I really think that if adopt this tonight with those changes, I'd just like to make one more, that we add any windmill wells that are being used for domestic use that they're exempt from this.

MS. YUHAS: Mr. Chairman, I have that. I was requested by Land Use to ask you to consider what Commissioner Campos had brought up, which was adopting this and then voting individually. I know that would take longer, but that it would make the record more clear for us. And I also just wanted to tell Commissioner Trujillo that the Jemez y Sangre Regional Water Planning Committee does include representatives from the northern part of the county and from acequias and from that agricultural base in the traditional communities. And they voted unanimously to support this. I don't mean that someone is there from every single entity but it does include a representative from those interests, just so you know.

CHAIRMAN DURAN: Well, I have a motion and I understand what I said in my motion and I think the guy that seconded it understands it, so I think I'd like to just vote on that. If it doesn't get approved then someone else can make the motion.

MS. YUHAS: I have it all written down fairly so if you do it that way I'm—

COMMISSIONER SULLIVAN: Did your motion include the changes that

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were recommended by staff at the outset of the presentation?

CHAIRMAN DURAN: Yes.

COMMISSIONER SULLIVAN: There were some clerical changes. There were deletions and correction.

MS. YUHAS: Yes. If that's okay. Thank you.

COMMISSIONER VARELA: Mr. Chairman.

CHAIRMAN DURAN: Commissioner.

COMMISSIONER VARELA: If I may before we take the vote.

Conservation is definitely something that everybody should ascribe to but the lady from the Land Use Resource Center, I guess basically saying the people in the city are more cognizant of where their water comes from than the people in the county. There are wells and I disagree with that. I think if anybody's aware of where the water comes from is a person that's on a well, because it doesn't come from some entity other than from a hole in the ground on your property. So if anybody's been cognizant of that for time immemorial, I think it's the people that are using a private well. Because you know that our supply could go out tomorrow and we don't have the government or anybody else to come in and start the water up again.

Another thing is that maybe an ordinance does have to be passed but I don't think that this is what is in the best interest of everybody in this county. I think it's basically written from the point of view of somebody that is in the city, close to the city and does not totally take into account the needs or the realities of the people that live in the rural areas. I don't agree with any of this punitive stuff, having fines and everything else. I think if people are educated I think you'll have very few people that are apt to waste their water. I think the last few years have shown us a whole lot and I think people in this county are very cognizant of where their water comes from and what the shortages are. So I don't agree with taking punitive measures.

I just want to make sure that the situations that Commissioner Trujillo brought up at the beginning and what I brought up later on about having properties that have a residence on them but also have water which is private water rights, that those are addressed and not in here because I would hate for the County to be in a situation where we go and fine somebody. That's the way if this thing passes and they actually have a private property right and I don't want the County to be involved in anything, in a taking of property rights. That's all, Mr. Chairman.

CHAIRMAN DURAN: At some point we have to start conserving water. I thought this was a reasonable place to start.

COMMISSIONER VARELA: Mr. Chairman, if I may. It is a reasonable place to start but I guess I asked Katherine at the first public hearing, what's the threshold? What are we trying to get down to? I remember reading in my packet a few weeks ago that the folks that we have that are in the county use about 70 or 75 gallons of water a day. That was in the—I believe it was the Norma Cross appeal. Okay?

MS. YUHAS: That may be correct.

COMMISSIONER VARELA: So if we're going to conserve, let's say what we're going to conserve. Is it 25 percent? I know that it's widely recognized that people on wells use a quarter acre-feet a year per family, so if you break it down by four, that's 80 gallons a day. So if we want to have something that we can say, okay, this is where we want to be. Okay, well, 80, we've got to go down to 60 gallons. That's fine. But I don't think that 80 gallons is excessive and that's why I'm saying that if it's an educational type thing, I think it is a whole lot better to bring this down to the 60 instead of doing something that's punitive. I can't agree with that.

COMMISSIONER TRUJILLO: And if we're going to do that, Commissioner Varela, I think that the community should have some input regarding what the schedule is going to be and regarding how conservation is going to take place. The community is tired of Washington, DC making laws that have a disparate impact on them. They have to comply with a ubiquitous set of laws and the people that are making the laws don't understand the impact that it directly has on the community.

CHAIRMAN DURAN: How can you say that they have no—we've been working on this thing for months. This thing's been published. This is the second hearing.

COMMISSIONER TRUJILLO: Exactly, and we've talked about the stipulations and the details and the issues. We talked about agriculture. We need to have it represented in the ordinance. We talk about traditional community. It's not represented in the ordinance now.

CHAIRMAN DURAN: We amended this thing from the last time because there was some concern that the northern part of the county, the southern part of the county had—

COMMISSIONER TRUJILLO: If we took the general plan out to the community before we adopted it, this should also be taken out to the community before it is adopted. Rather than mandating something on the community that they're not going to comply with anyway. They're not going to—it will give impetus to alienation, belligerence. It's a volatile situation, because they didn't have any buy-in into the program.

COMMISSIONER CAMPOS: Mr. Chairman, could you repeat your motion, what you propose to do?

CHAIRMAN DURAN: My motion was to approve this ordinance with the following changes. First of all, to incorporate the changes made by Katherine. She knows what those are. I don't. But I was in agreement with them. I wanted to add a D to outdoor conservation, that would be 1.D. All outdoor permitted water rights were exempt from this. Okay?

MS. YUHAS: Yes.

CHAIRMAN DURAN: I wanted to delete number 2. I wanted to delete number 6. In the indoor conservation section I wanted to delete G and H.

COMMISSIONER CAMPOS: Hold on. G and H. Okay.

CHAIRMAN DURAN: And I wanted to add a provision that would allow—

COMMISSIONER CAMPOS: Where would you add it?

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CHAIRMAN DURAN: I guess we would add it to outdoor water usage.

This is about Commissioner Varela--

MS. YUHAS: That is where the windmill exemption would go.

CHAIRMAN DURAN: Where would that go?

MS. YUHAS: Under outdoor conservation. That would be the right place to have it. I'll put that in.

CHAIRMAN DURAN: That those types of wells, if used for domestic use, agricultural use or farming use, would be exempt.

COMMISSIONER CAMPOS: Okay, Ms. Yuhas, could you explain to me 1.D, the proposed new 1.D. I don't quite understand it.

MS. YUHAS: The way I have 1.D right now is that all water rights that are permitted for outdoor use, so I am assuming that that is all agricultural water rights, all acequia uses, are exempted from the time of watering restrictions. Is that correct? Or did you want to put it up front with the blanket exemption?

CHAIRMAN DURAN: No, I want it on outdoor conservation. Where it says outdoor irrigation is prohibited.

COMMISSIONER CAMPOS: Okay. Let's vote.

The motion to approve Ordinance 2002-13 passed by majority [3-2] roll call vote with Commissioners Duran, Sullivan and Campos voting in favor and Commissioners Trujillo and Varela voting against.

CHAIRMAN DURAN: So Katherine, you need to keep an open door and bring the community's suggestions, requests, forward for us to consider, and any Commissioners that want to press any particular issue.

COMMISSIONER CAMPOS: Mr. Chairman, I think from the discussion that we had tonight with the community, they know that this is merely a first step. It seems that we should maybe, every six months or maybe annually, look at this again. I think water catchment is a huge issue that we need to look at and there were suggestions that we should even look at agriculture and see how agriculture could be made more efficient and maybe part of this ordinance, if we involve them in the initial steps of the discussion. So I think those are two things that we really need to do. We need to keep moving. This is a first step as I see it and I think in six months I would like to see this again. I don't know if that's too soon. What do you think?

MS. YUHAS: Mr. Chairman, Commissioner Campos, I think six months might be a good time to review it.

COMMISSIONER TRUJILLO: Mr. Chairman, Commissioner Campos, this is a first step. I think that the second step should include going out to the community and getting their input and their comments regarding the ordinance. We need to have this ordinance reflect every cross section of the county and not only the urban area. The issue of conservation is an important issue. It's very important. It needs to happen. But we need to understand what sort of

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impact it has on every section of the community.

CHAIRMAN DURAN: Let's take it out there to them.

COMMISSIONER CAMPOS: It's easy to make general statements like Commissioner Trujillo has just made. That's what happened at the last meeting. We had people from the south part of the county saying they had objections. They were asked to make comment and they've made very little comment. Any comment that they made was very general. So do you have specific comments or ideas about what the north—we've already exempted agriculture, acequias, what else do you want?

COMMISSIONER TRUJILLO: I'm totally congruent with the needs of the north. I'm a conduit to represent them. I don't understand all of their needs. They have, we have to take this ordinance to them and have them read it and provide input. We don't make decisions in a vacuum.

COMMISSIONER CAMPOS: Absolutely.

COMMISSIONER TRUJILLO: We need to take this ordinance out to the community.

COMMISSIONER CAMPOS: To give us some ideas that are concrete now. We've got the general stuff.

CHAIRMAN DURAN: Let's move to the next item.

XII. B. 9. Ordinance No. 2002-14. An Ordinance Amending Ordinance No. 1996-13 which Amends Article VII, Section 6.2.2c, and Adding New Section 6.2.2c, 6.2.2d and 6.2.2e to the Santa Fe County Land Development Code, Ordinance 1996-10, to Require Proof of a Valid Water Right Permit for Type-I and Type II Subdivisions, and Type III Subdivisions Allocating More than 0.25 Acre Feet per Year per Lot, and Type III Subdivisions of More Than 12 Lots and Non-Residential Development Using More Than One Acre-Foot of Water Annually(Second Public Hearing)

CHAIRMAN DURAN: I would like to make a motion that we table this until next month. I guess there's not a second. Katherine.

MS. YUHAS: Mr. Chairman, if it's all right with everyone on the Board, I'd like to just go through the possible changes and recommendations that staff is making, rather than read through the whole report? Is everyone familiar enough with this that that's going to work?

At the September 10th meeting concern was raised that the requirement to purchase water rights for Type III subdivisions that wanted to use more than .25 acre-feet of water per year would apply even on large lots. One way to address this would be to add a provision that purchase of water rights is not required for any lot that meets or exceeds the standard minimum lot size for that hydrologic zone. The situation I'm talking about is say you're in the basin and

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you're creating 13 lots. Many of them are 2.5 acres but one of them is 12 acres. Your water restrictions would be a quarter acre-foot on every single one of those lots, even the large one. So this would exempt that large lot from having to purchase water rights in order to have more than a quarter acre-foot on it. Is that—I know that's a little confusing.

The second area of concern regarding this ordinance was that it is not necessary or appropriate to apply it to all areas of the county. At the October BCC meeting I requested that this ordinance be tabled so I could attend a conference on critical management areas. Designation of a critical management area is done by the Office of the State Engineer based on modeling of projected groundwater declines and aquifer thickness. When a critical management area is designated, the State Engineer may restrict the amount of water that can be withdrawn from new domestic wells in that area and they restrict the drilling of new non-domestic wells and/or restrict the transfer of water rights into or out of the critical management area.

Currently, the only critical management area in Santa Fe County is the Estancia Basin. In the future other areas of the county may be designated. The Jemez y Sangre Regional Water Planning Council, who conducted that workshop I attended, voted to recommend use of the critical management area designation as a groundwater protection tool for our region at their meeting on November 22nd. One option for this ordinance might be applying it only in those areas of the county that are designated as critical management areas. And as new critical management areas are designated, this ordinance would have wider use.

CHAIRMAN DURAN: Where does the geo-hydro process that we have in place right now apply to this? So let's say, you need to help me get clear on this. Currently, subdivisions up to 24 lots can gain approval based on a geo-hydro that proves that the aquifer or that the water supply, the aquifer is adequate to sustain that community.

MS. YUHAS: For 100 years.

CHAIRMAN DURAN: For 100 years. Then we further restrict that based on the size of the lot to either a quarter acre-foot if it's 2.5 acres, and .5 acre-feet—when they do their budget and you analyze their geo-hydro, you analyze it based on a quarter acre-foot for a 2.5-acre lot, which would be one dwelling. I'm sorry. It's a quarter acre-foot per dwelling.

MS. YUHAS: That's correct.

CHAIRMAN DURAN: And your analysis is based on if there's 24 lots that are say, 2.5 acres in size, there's 24 dwelling units.

MS. YUHAS: Yes.

CHAIRMAN DURAN: And the geo-hydro must prove that there's a 100-year supply for that.

MS. YUHAS: That is correct.

CHAIRMAN DURAN: That is the current Code?

MS. YUHAS: That is what I look at right now. That's right.

CHAIRMAN DURAN: So what we're basically doing if we adopt this is that we're throwing that Code out the window.

MS. YUHAS: This would apply on top of that. So they would do their geo-hydro and they would need to also purchase the water rights.

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CHAIRMAN DURAN: So what's the use of doing a geo-hydro if you're going to make them go get water rights?

MS. YUHAS: It still works that way with the purchase of water rights. You still need to do a geo-hydro to prove that the water's in the ground, and you need to purchase the water rights.

CHAIRMAN DURAN: Well, independent of how healthy or the nature of the aquifer, this ordinance requires people to go out there and buy water rights and transfer them to that site.

MS. YUHAS: That's correct, Mr. Chairman.

CHAIRMAN DURAN: And that happens when? Before they come in for approval? At master plan approval? At final? Or is that another ordinance that we're talking about tonight?

MS. YUHAS: I think that's another ordinance. The way I currently handle the purchase of water rights is that you have to have them at final.

CHAIRMAN DURAN: So if the other ordinances don't get adopted, this particular one would still require that the water right be transferred prior to the final plat approval or recordation.

MS. YUHAS: That's correct. Yes.

COMMISSIONER SULLIVAN: Mr. Chairman.

CHAIRMAN DURAN: Commissioner Sullivan.

COMMISSIONER SULLIVAN: Just a clarification on my understanding of how that works and Katherine, correct me if I'm wrong. Type I and Type II subdivisions we already require water rights.

CHAIRMAN DURAN: Those are big lots. Those are over—

COMMISSIONER SULLIVAN: Well, it's anything over 24 lots. So that we already require. In a Type III subdivision we don't require a geo-hydro. Is that correct?

MS. YUHAS: No, no. They have to do the geo-hydro.

COMMISSIONER SULLIVAN: So they still have to do the geo-hydro.

CHAIRMAN DURAN: So a Type III is 24 and below.

COMMISSIONER SULLIVAN: That's correct. 24 and below.

MS. YUHAS: Five to 24.

COMMISSIONER SULLIVAN: Five to 24. That's right. Four and below you can go through administrative procedures. So the only difference is in a Type III subdivision is that amount of lots between 13 and 24, if you're going more than 12 lots, you would then end, if you're using a domestic well permit, a domestic well permit to serve those lots. Now, if you're using any other type, whether you're using municipal water, if you're using Santa Fe County water, if you're using Rancho Viejo water rights transferred to the Buckman system and transferred to another point of diversion, this doesn't apply. This is only in the event that you're using a domestic well to serve those 24-lot subdivisions. Then, for those between 13 and 24 lots, if you're using that domestic well, you would be required to get the additional water by water rights. Is that correct, Katherine?

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MS. YUHAS: That's the way this reads right now. Yes.

CHAIRMAN DURAN: How much water?

COMMISSIONER TRUJILLO: Over and above the three acre-feet that is granted by the State Engineer?

CHAIRMAN DURAN: How much water do we have to transfer?

COMMISSIONER SULLIVAN: For Type III subdivisions of 13 to 24 lots and any Type III subdivision that proposes to allocate more than .25 acre-feet per year of water per lot, you would have to get water rights.

CHAIRMAN DURAN: So let's say I had a lot. I did a subdivision between 13 and 24 and I restricted them to a quarter acre-foot.

COMMISSIONER SULLIVAN: No. You would still have to get—

CHAIRMAN DURAN: That's not what you just said though.

COMMISSIONER SULLIVAN: Then I read it incorrectly, but you would still have to get water rights, you could still have a Type III subdivision but you would have to acquire water rights for those lots that are more than 12. And the rationale behind that was that one domestic 72-12-1 well can handle 12 lots.

COMMISSIONER TRUJILLO: Twelve lots. If you need any more than that—

COMMISSIONER SULLIVAN: If you need any more than that you need to acquire the water rights. And that's the only difference. Other than that, it doesn't change the requirements for geo-hydro. It doesn't change the requirements for any other approvals with regard to subdivisions other than saying—which is what we've been saying in a number of approvals, we've been restricting them to one well for a number of lots. We don't want to have the multiple Type III subdivision we've seen, two, three, four wells serving 24-lot subdivisions and that's what we need to get away from.

COMMISSIONER TRUJILLO: And granted that the geo-hydro shows that there is 100-year water supply, sustainable water source. Is that right?

MS. YUHAS: That's also correct. Yes.

COMMISSIONER SULLIVAN: So that still applies. That still applies, but we're just trying to keep the domestic well permits for what their intent is, which is for domestic use. You can apply for one individually, for your own use. If you're 12 in a subdivision you can take three acre-feet and use it for 12. That's being equitable to everyone. When we get beyond that we're getting into an area that's really beyond what the intent of a domestic well is and I think it's appropriate to have that amount of water brought in by water rights just as we do if you'd have 25 lots in the subdivision or 26 or 27 as you would in a Type II subdivision or a Type III subdivision.

COMMISSIONER TRUJILLO: What's to prevent a developer from applying for three well permits?

COMMISSIONER SULLIVAN: When a developer starts deciding what kind of subdivision he is going to apply for, if there were a Type III subdivision for 36 lots, he would come into the County and they would immediately require that that subdivision have water rights. Because that's already required in the Code, for 36 lots.

COMMISSIONER TRUJILLO: If you have three wells, or three permits from the State Engineer, that could support 36 lots.

COMMISSIONER SULLIVAN: The developer could do a 12-lot subdivision with their well, and then come back later and do another 12-lot subdivision with a well, as long as the geo-hydro showed that that was appropriate. But I think what we're seeing in most cases is they come through one time, they size the subdivision to fit our types, as opposed to sizing it to fit the water availability and the other factors. We can do that. And we talked a little bit about that at the last hearing, that Commissioner Duran brought up, doing serial subdivisions.

CHAIRMAN DURAN: This thing does nothing to save water.

COMMISSIONER SULLIVAN: No, I think it does.

CHAIRMAN DURAN: If I could do 24 lots and you adopt this ordinance, I'm going to go do 12 lots and I'm going to sell the other half of my property to someone else. I may not make as much money, but then the person that I sell it to can go do his 12 lots.

COMMISSIONER SULLIVAN: The only difference is when you do the geo-hydro then on your—let's say you do the next 12 right next to your first 12, when you do that geo-hydro you have an area of influence that goes into the equation.

CHAIRMAN DURAN: And you know what? In areas where the aquifer is not healthy, I can see where this might apply. But in areas where the aquifer is healthy—

COMMISSIONER SULLIVAN: Then you can go ahead. Then your geo-hydro will come out okay.

CHAIRMAN DURAN: Which means that I'll do my 12 lots. I'll sell it to someone else and they'll go do their 12 lots. And this thing hasn't done anything to save water.

COMMISSIONER SULLIVAN: Well, it has, because if it's a water-short area, then if you come back and do the geo-hydro for the next 12 lots, that geo-hydro is going to fail.

CHAIRMAN DURAN: We've already done some thing in that regard. The water-short area is the Silverado area. Do you know anything about the aquifer—let me rephrase this. Based on the information that I have on how we determine basin, basin fringe and homestead, the area that we adopted as—when we adopted that last ordinance that prevented any more—what was it wells?

COMMISSIONER SULLIVAN: It was just in the Community College District. It wasn't in Silverado.

CHAIRMAN DURAN: Not the Silverado area?

COMMISSIONER SULLIVAN: It's not in the CCD.

CHAIRMAN DURAN: I know, but what did we do in that area?

COMMISSIONER SULLIVAN: Nothing.

CHAIRMAN DURAN: Yes, we did. We did something.

COMMISSIONER SULLIVAN: We sent a letter to the State Engineer and he wrote back and said Do it by ordinance.

CHAIRMAN DURAN: But when you start talking about, for instance, if you started where the Hagerman well is, somewhere in that area, and you go north, the aquifer in that particular area, all the way around probably if you went around the city over to Arroyo

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Hondo, that area is pretty rich with water. The geo-hydros we have available to us indicates that.

COMMISSIONER CAMPOS: Mr. Chairman, could we go to public hearing?

CHAIRMAN DURAN: I'm having a discussion right now with Commissioner Sullivan.

COMMISSIONER CAMPOS: You've had this discussion three or four times, Mr. Chairman, and you're going to continue having it. Why don't we move on.

CHAIRMAN DURAN: And I want to continue to have it. Thank you very much.

COMMISSIONER CAMPOS: You've repeated it. We're aware of your position.

CHAIRMAN DURAN: So I don't understand how this is going to prevent that type of division from occurring.

COMMISSIONER SULLIVAN: What it's going to prevent is the multiple use of domestic wells for larger scale developments that are beyond the size of domestic wells. Now, if the area is so good in geo-hydro, and you're right. We don't know a lot about it. That you can come right next door and drill another well and you don't have that impact area that the formula computes in, that you have to have a certain amount of free area that would show a 100-year water supply. If that water supply is that good, well, we've done the geo-hydro and that shows it. And then the two subdivisions, each of 12 with two wells, is sustainable over 100 years and we're okay. But we've learned that. Otherwise, we don't learn that. We don't learn that. We just sink three or four wells in a Type III subdivision and we do one geo-hydro and we really don't have a handle on how that one domestic well, or those two or three wells interact with each other because it's a done deal. We've drilled the three wells and now it's too late. They may go dry in five years but we'll never know.

If that 12-lot well goes dry, we'll know or the geo-hydro will tell us. So it's really a phasing situation, a phasing sequence where we're saying we need to learn more in a phased manner.

CHAIRMAN DURAN: Commissioner Campos, why don't you go home so we can have some discussion about this?

COMMISSIONER CAMPOS: Mr. Chairman, why don't we move on with the meeting like we're supposed to? We've heard your arguments. We're familiar with them. Let's go to public hearing and let's do a vote. You and Commissioner Sullivan can argue all night long.

CHAIRMAN DURAN: Is there anyone else here that wants, any other Commissioner have any comments or suggestions to Katherine? This is a public hearing. Is there anyone out there that would like to address the Commission?

MS. GUERRERORTIZ: Good evening, Commissioners. I'm just going to pass out something you've seen before.

CHAIRMAN DURAN: Oh, God. Nothing we've seen before, I hope. We can't have duplicate discussion here, I'm sorry. Make it brief, we've heard your argument before.

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I'm only playing with you.

MS. GUERRERORTIZ: Gentlemen, I want a few clarifications because I heard a couple of interpretations of the Code that weren't correct and I want to make it clear. Type III subdivisions, very clearly in the Code are two lots to 24 lots. This ordinance would apply for a two-lot subdivision. If I had a ten-acre lot and I wanted to create a 2.5-acre lot and a 7.5-acre lot, both of them would have a quarter acre water restriction, regardless if I'm in an area that has tons of water or not.

Another thing is a geo-hydro is an analysis of a saturated material under a given piece of property. It does not assume water coming in from neighboring property. It's the volume of water directly under the land you own, and you have to prove that you have enough water for 100 years. There are other ones based on recharge but most of them in our basin are done based on the water underneath your property. So it's not bringing in water from somebody else.

CHAIRMAN DURAN: Orallynn, one moment please. You say that a Type III subdivision goes all the way down to two lots.

MS. GUERRERORTIZ: Yes it does. That's what the Code says.

CHAIRMAN DURAN: But this thing reads any type subdivisions of 13 to 24 lots. Doesn't that limit it?

MS. GUERRERORTIZ: That's true in fact with water rights. But the next section on quarter acre water restrictions applies to all Type IIIs. So if you do a two-lot subdivision, meaning you're in a financial strait and you want—actually, if you're in financial straits, you could own 100 acres and you want to sell off 2.5 acres because you've got to pay the taxes this year, your 97.5-acre lot left over, under how this is written, will have a quarter acre water restriction. That's absurd.

CHAIRMAN DURAN: Was that your intent, Commissioner?

COMMISSIONER SULLIVAN: I would ask for Roman to respond to the number of lots in a Type III subdivision first of all.

MR. ABEYTA: Mr. Chairman, Commissioner Sullivan, she's correct. A Type III subdivision is two lots to 24. However, some of the scenarios, there's several exemptions in the land division exemptions you can do where you wouldn't, this section wouldn't apply to you. If you do have a situation where for example you need to create two lots, you can do an exemption under the existing Code where this wouldn't apply. Then there's several other exemptions. Like there's family transfer exemptions, things like that. So there are several land division exemptions where this wouldn't apply.

CHAIRMAN DURAN: But what if you just came in for a 10-lot subdivision? This would apply to it, right?

MR. ABEYTA: If you were proposing to allocate more than a quarter acre-foot per lot. Then it would.

CHAIRMAN DURAN: More than a quarter acre-foot. So if I stayed with a quarter acre-foot I'd be okay.

COMMISSIONER SULLIVAN: That's right. And the point is not if you broke your 100-acre lot into a 2.5-acre lot and a 97.5-acre lot, and you had two houses on each of

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those lots, it's still reasonable, I think, with the water shortage that we have, a quarter acre-foot is a fairly conservative and liberal amount, a fairly liberal amount of water to allocate for a family. So the issue is reasonable water savings on lots created by these subdivisions. That's the real issue that we're dealing with here.

MS. YUHAS: Mr. Chairman, this is the situation I was talking about with that first idea for an exemption, saying that if the lots that you were creating were larger than the standard minimum lot size then this wouldn't apply. So that if you were creating that 97.5-acre tract and your 2.5, that you wouldn't have the water restriction on that large lot, because it would be larger than the standard minimum lot size in your area.

COMMISSIONER SULLIVAN: And I think that makes sense. I have no problem with that. The minimum lot sizes are based on our current geo-hydrological information which is 20 years old, but notwithstanding that, that's how we have it at present, so if you have the minimum lot size you don't have those restrictions applied to you.

MS. GUERRERORTIZ: I guess I disagree that a quarter acre-foot, I think a quarter acre-foot will serve the indoor needs for a family. I think that I've been before this Commission before and asked them to allow people to have horses, and allow people to have more traditional lifestyles. And I don't know—I think it would be false not to say that this, as written, basically outlaws horses in our community. It outlaws orchards. It outlaws people from having more traditional lifestyles. And again, in the example that Katherine gave of the hundred-acre lot and splitting off the 2.5-acre lot, that would be, if you were in the Homestead Zone, you would be down to a quarter acre-foot on that 100-acre lot.

And you might be able to prove in a geo-hydro that you have tons of water in that lot. And if you do have tons of water on your property, I think you have, you've chosen the right location. Maybe your grandfather chose that property and decided it did have good water and that's a value that you should be able to maintain.

I gave you an example here. The current, as-written, all of these are great problems. The ranches lose their traditional lifestyles. A ranch living on a quarter acre-foot is absolutely absurd. And also just the inequities related to yes, the exemption wouldn't have these rules. Why is it that the family transfer—I'm not going to necessarily knock the family transfer, but if we could do a five-year exemption and this rule would not apply, and yet I do a subdivision because I need to sell land, but the rules would apply. And yet I created the same size lots and I did it in the same year. It doesn't make sense. It's I think—the Codes, I've worked with them quite a bit and I can tell you, if I have clients coming before me and they're faced with this Code in front of them, what I will recommend to them is, let's do poor planning. Instead of really thinking about what should be appropriate on your property, we'll stop you at 12 lots. Period. And you'll hold the property for seven years, or you'll sell it and let somebody else develop it. It's not appropriate.

What somebody should do is plan an area properly. Design the system—if they go over 24 lots, if they're—fine. Then they need to get water rights. But if they have an acreage that only would serve 24 lots, design their property for those 24 lots. I will say the 24-lot cut-off was not a magical number that was pulled out of the air, which I believe is what's happening

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today. It was based on reality of looking at costs. Geo-hydros cost money. Development costs money. Purchase of water rights and transferring water rights is nearly impossible in most of our community, and I don't see this ordinance as so much a limiting the number of wells. There are certainly other ways of doing it and it is being done by Katherine very wisely.

I have projects where there are more than 12 lots, and yet I am limited on the total amount of wells. I'm not getting one well per home. I'm getting six homes on a given well. The water systems are more expensive. They qualify under community water systems under the County Code. They have more regulations. But it actually is a wise idea and Katherine is pushing that and I think it's a very good idea. I do agree with you. The County maps, the County information that's documented in many cases is old. But I also believe that we have the knowledge to update those maps and we should use our knowledge. We do have areas in this community that have tons of water. The Pojoaque area has tons of water, and to say that area should not be able to use the water and let it just go on down to Albuquerque, I'm not necessarily in agreement with that.

I would suggest—I don't want to go through my little drawings, but I think that as written today, you've got something that is inequitable and it's not workable and I think it's not rational. And I hope that you will delete it and I don't know, but I thought that I understood that E, the whole issue on acequias was going to be taken out. I don't know if the drafts before you have any mention of acequia water right issues, but I was hoping again that that was going to be excluded and I wouldn't have to speak to that issue. Thank you.

CHAIRMAN DURAN: Thank you. Anyone else like to address the Commission?

COMMISSIONER SULLIVAN: Mr. Chairman, there's nothing about acequias in here.

CHAIRMAN DURAN: Did you hear that?

MR. POWERS: My name is Gerry Powers. I'm with the Landowners Association from southern Santa Fe County. And I'm having a hard time understanding also how this ordinance will do anything but raise costs and slow down development which will make housing costs higher by eliminating property from the market. If you have, if you want to do 24 lots with three acre-feet at a quarter acre, you can drill two wells. If you want to do 12 lots, you can drill one well, and then you can sell the rest of the property and your neighbor will drill another well and then you still have two wells on 24 lots.

But you have two geo-hydro studies, you have two development applications and it takes three or four times as long to allow that property to come on to the market. So the scarcity of property will again have a detrimental impact on housing costs. In the southern end of the county where average median income is about half of what it is in the northern part of the county, these kind of impacts are magnified and are much more dramatic. They push the cost of housing up beyond the reach of most people.

I've attached a copy of the State Engineer's technical report 49 to this letter and that shows the average use, or it shows the total withdrawals for public water supply at 7,254 acre-feet a year, 1,062 for domestic self-supplied wells and 19,000 for irrigation. I don't understand

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how this saves any water any way under the scenario I showed but if it did save any water, it's going to impact the smallest category of water use depletion in the county, which is domestic wells. So practically no conservation gain can be had by limiting the uses of four percent, what amounts to four percent of total use in the county. The unintended consequences and detrimental effects once again I think are much magnified once you get outside of the area of the City of Santa Fe, so our area in the Estancia Valley would be impacted to a much greater extent. It would promote avoidance of subdivision regs, encourage serial subdivisions, encourage more variance requests. It would practically eliminate the rural and traditional lifestyles of southern Santa Fe County where people have horses and that sort of thing. We wouldn't have the water to be able to do that.

I've already mentioned higher housing costs. Property rights is another issue. Most of southern Santa Fe County is out of the reach of any public water supply system, probably 99 percent of the land area is out of reach of a public supply system, so to be able to use your property and use it effectively requires domestic wells. To require twice as many wells or twice the process to be able to develop the property in the manner that's currently permitted can only raise housing costs and slow down the process. It will also make less total water available to the public. I've consulted with several geo-hydrologists in the area. There are many isolated aquifers in the Estancia Valley and I think there probably are in the northern valley that don't necessarily connect to the main aquifer in the Estancia Basin. I have friends that live up on kind of the fringe of the Pedernals there that have water supply in aquifers that do not connect and they think are isolated from the Estancia Basin.

So if they're not allowed to develop those, they can't drill wells in those on an economy of scale that would allow them to do so, that's less total water that's available to the public and those people will have to live in an area where the main aquifer has to be tapped. So it concentrates the use in areas that are already developed.

We think that pro-active measures are needed rather than these kind of self-defeating ordinances and I've already mentioned about the previous ordinance that there's 8,150 acre-feet a year that could be reinjected if sewage effluent could be reinjected into the aquifer. And that would be eight times the total use annually of all domestic wells put together in the county. Also salt cedar removal is another option to increase the total amount of water available to the aquifer that would have some real impact in terms of conservation and savings and more water for use in Santa Fe County.

Middle Rio Grande Water Assembly recently did a study that concluded if the salt cedars were removed along the Rio Grande from Otawi to San Acacia, about 45,000 acre-feet a year would be saved from depletion. Those are huge numbers.

Agricultural conservation, we think it would be far more beneficial to encourage conservation, the highest use of category rather than the lowest category where the least amount of savings are to be had. So for those reasons, we oppose the ordinance. We'd like the Commission to look at less harmful ways and more effective ways of conserving water resources. I can't see any benefit at all from this ordinance but only the negative impacts and unintended consequences. Thank you.

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CHAIRMAN DURAN: Thank you, Gerry. Anyone else like to address the Commission?

RHONDA KING: Good evening, Mr. Chairman and Commissioners. I'm Rhonda King and I'm representing King Brothers Ranch. I will start with I guess the easiest one first. Back in the earlier meetings in September, looking at Section 6.2.2d, there was a request to make an exemption for agricultural projects and it was actually discussed and I think was pretty much the consensus of the Commission to include that language but I didn't see it in this latest draft. So if this is adopted I'd like to request an amendment that would be inserted after the word "development." So it would read "For all non-residential development with the exception of agricultural projects."

My second comment is just to elaborate a little bit more on an earlier comment made by Oralynn that would require Type III subdivisions that propose to allocate more than .25 acre-feet of water per year per lot. Katherine did address that partially in her memorandum where she said that you could add a provision that you did not have to purchase water rights if any lot met or exceeded the standards of the minimum lot size. However, it doesn't deal with the issue in how the Code is currently set up where, for instance, if you're in the basin and you are creating say, four lots or five lots and say, three or your lots were 2.5 acres, you would be allowed a .25, but if the other two were at five acres, you're allowed .50 of water allocated to those. So I think that while she was looking at this in terms of meeting the minimum standards, when you're at ten acres, you're allocated, if you're in the basin, you're allocated one acre-foot.

It didn't take into account that you could have a lot that was say, 7.5 acres and if your geo-hydro showed there was availability of water, that lot could actually be allocated .75 acre-feet. So if you leave in there that any lot that doesn't meet it, then they would be imposed the .25. It is contrary to what the Code currently allows and that the geo-hydro can prove. Another, I think, unintended consequence is that if you have that, for instance, five-acre lot of even 7.5-acre lot and you had to put the .25 acre-feet minimum on it, then you could never ever further subdivide that, because you would already be at what the County's minimum requirement is to go. So I think that's something that would need to be addressed.

I would propose or recommend, because of the fact the way that clause specifically contradicts and conflicts with the current Code and the way it's set up based on geo-hydro that you would delete that provision that proposes to allocate more than .25 acre-feet so that this doesn't end up being contrary to the rest of the Code. That's all of my comments. Thank you, Mr. Chairman, Committee Members. Commissioners. I'm sorry. I'm so used to saying "Committee Members" in the legislature. I apologize.

CHAIRMAN DURAN: Next speaker, please.

ROSANNA VAZQUEZ: Good evening. My name is Rosanna Vazquez and I will be brief, because most of these issues have been covered. When this County, there's been much talk amongst all the speakers with respect to all the water issues about the true essence of what our county is. I could describe this county as being rural in nature for about 90 percent of it. Rural in nature constitutes traditional values, traditional communities that use horses that do

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agriculture. The Code was written to protect rural communities in this county and allow for agriculture and horses and traditional communities. To adopt an ordinance like this throws out the intent of the entire Code.

What's needed instead of an ordinance like this I would propose you've already started putting into motion. Last year, you and the City put together a committee to take a look at impact fees and the way that impact fees could be used for purposes of obtaining water and dealing with road issues. That committee, which I am a member of, [audio difficulties] can assist the County and the City with respect to water issues.

Again, as Oralynn has stated, the County Hydrologist has pushed many developments and many of us people who come in and work with developers to promote shared wells and that is another way of promoting safe water use and the use of geo-hydrology reports is very, very strictly outlined in the Code, is also very helpful. And again, we've got current water restrictions in place. We've just adopted a conservation ordinance. Enforceability of the current water restrictions that are on many of the wells now, and enforceability of the new Code that has just been implemented would assist this County in saving water.

Section 6.2.2d deals specifically with the issue of non-residential development and I would just for the record state that the State Engineer does allow and the statute does allow, under a 72-12-1 well the use of some non-residential uses. Those non-residential uses were looked at by the State Engineer and there were a certain amount that were determined to be allowed under a 72-12-1 well. Section 6.2.2d does not make a distinction with respect to what kind of commercial uses could be allowed and could not be allowed and so he limits the acre-footage of water for no apparent reason and is not tied at all to the statute for 72-12-1 or the policy that the State Engineer has put together with respect to non-residential uses and the use of that well.

And with that, I'd close. Thank you very much and I would respectfully request denial of this ordinance.

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

COMMISSIONER CAMPOS: Mr. Chairman.

CHAIRMAN DURAN: Commissioner Campos.

COMMISSIONER CAMPOS: I'd like to have some input from staff if that's okay with you.

CHAIRMAN DURAN: Who do you want to ask?

COMMISSIONER CAMPOS: Several persons. Ms. Yuhas, you've had an opportunity to think about this for a long time. Do you believe that we would be doing the community some good by adopting this ordinance because it does prevent new appropriations, essentially, is what it does. If I'm mistaken please correct that.

MS. YUHAS: Mr. Chairman, Commissioner Campos, what you've said is correct. It would restrict new appropriations. From a hydrologic perspective, which is what I feel I'm qualified to address, when this was brought up I thought that it would be a good idea because it would restrict the use of development on domestic wells. That's what I was hoping it

would do. Through this process, with everyone bringing forward their comments, it appears to me that from a planning perspective, maybe we won't have the hydrologic benefit that I thought this ordinance would bring us when we first discussed it. And that's what my comment would be.

COMMISSIONER CAMPOS: But it would reduce the appropriations because you'd be using water that's being used by someone, so there wouldn't be a new appropriation of water. Is that a benefit, a significant benefit to you?

MS. YUHAS: Mr. Chairman, Commissioner Campos, that was what, when we had first discussed this ordinance I thought would happen. That's correct.

COMMISSIONER CAMPOS: You're not convinced that that is what would happen.

MS. YUHAS: As we have discussed this and people have brought forward this concern that now we will just have serial subdivisions of 12 lots, I don't know if we would have the benefit that we had originally wanted from this ordinance. I don't know how to figure that out.

COMMISSIONER CAMPOS: What happened to the other part of the ordinance, one acre-foot for commercial uses? Is there a validity to that?

MS. YUHAS: I still think that that would be valid. It would still allow many commercial uses to occur. It would allow home business. I have a long list that is not in front of me that I cannot remember at this late hour. Forgive me. But it would allow still a great number of businesses but not things that are large scale such as hotels and movie theaters, race tracks. Those are the types of things that would be required to purchase water rights at a commercial level.

COMMISSIONER CAMPOS: Okay. Now I'd like to ask Mr. Lopez to address the same issues. You've had an opportunity to look at this for several months. What is your judgement at this point? Does this benefit the community in a significant way? Do you distinguish between the provision that talks about residential subdivisions and the one acre-foot for commercial?

MR. LOPEZ: Mr. Chairman, Commissioner Campos, I guess my response is somewhat similar to Katherine's. When this whole issue was initially brought up, I felt that it might help us address the ongoing or at least the perceived over-appropriation and continued over-appropriation of a pretty scarce resource. Having heard all of the discussion that's gone on here, I think though that we've got to balance the potential benefits of this with a couple of things. The opportunity to gain things and our ability to enforce, say, serial subdivisions, things of that nature. And the impact that this has on other aspects of the policies that you're trying to promote, affordable housing, things of that nature.

I think that that balance, when you take all of these issues into account, my sense of this right now is that, and having heard a lot of the debate that's come up, that if we continue to effectively use the tools that we have in hand right now, such as geo-hydrologic surveys when needed and assessments of the available resource, I think that there is no need for this ordinance.

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COMMISSIONER CAMPOS: Either part A or B? Part A, let's say, residential subdivisions, Part B, the one acre-foot limitation for commercial.

MR. LOPEZ: I really haven't thought of it as much. I've really focused more on the residential aspect of this. But it does concern me a little bit as to the commercial aspect in that I think that the acquisition and transfer of water rights is problematic. There are water rights, at any given point in time there's water rights on the market, but a successful transfer of such water rights and where those water rights are relative to a potential development are problematic.

COMMISSIONER CAMPOS: Thank you.

COMMISSIONER SULLIVAN: Mr. Chairman.

CHAIRMAN DURAN: Commissioner Sullivan.

COMMISSIONER SULLIVAN: Let me add some discussion and comment to those points, going to the commercial first. In most cases, commercial, other than rural commercial which Katherine did a study on and we felt that the one acre-foot would handle such as the San Marcos Feed Store or a bed and breakfast or an antique store or an Allsup's convenience store with associated facilities around it or something of that sort. Those could amply be handled by that. In other cases, what we have is commercial occurs in general where there's either County or municipal water service.

And what we want to encourage, and what we want to point developers and applicants to is making arrangements and purchasing water rights if necessary to receive public water service for these commercial developments. We don't want them to be using domestic wells. And the regulations and the statutes that were referred to do all commercial use of 72-12 wells, but they don't specify what commercial uses. The uses that the State Engineer has laid out have just been laid out by regulation. So in this particular provision we're saying, yes. A home business and types of rural commercial usages that you would normally envision can be amply covered by an acre-foot.

Other commercial uses that are popping up in fringe areas and in urban areas, those when they go beyond a reasonable amount of commercial should have a water system that's tied somewhere to a public water system, or if that's not feasible, then they need to retire some water rights and bring that to the commercial. So that's the philosophy there.

On the quarter acre-foot lot situation, the same thing applies. We want to encourage developers, where possible, to hook into community water systems and to bring water rights to those systems. We just had a subdivision just a few months ago by one of the speakers this evening which was the same situation, slightly under 24 lots, three different wells were proposed and they were only between 1000 feet or 2000 feet from a public water system. And the reasoning that they wouldn't and economically couldn't connect was because there was no requirement that they provide water rights to the system. So we got another bunch of wellled subdivisions.

In terms of the quarter acre-foot, the development community has told us that they, and our own Public Works Department or Water Division has told us that .19 to .18 is about what residences are running. So we're requiring .25 or a quarter acre-foot. That leaves additional

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water for horses or for whatever types of livestock the individuals might like. If they want to have a development that requires more than that, and are prohibited from having a great deal of number or horses, they would just have to bring some additional water rights to the development to do that. If they wanted to have Arabian stock or something of 100 horses.

So that's what's behind it. I think that it has a narrow focus but it has an intent of encouraging dense development to be focused not on domestic wells but on public water supplies. It's just that simple.

CHAIRMAN DURAN: I'd like to make a motion that we deny Ordinance No. 2002-14. I think that I am in agreement with your commercial argument but this thing has been so weighted on the residential impact that we haven't even had the opportunity to really discuss the full impact of the commercial restriction and how it's going to affect the community. So I would like to just move for denial of this ordinance and ask Commissioner Sullivan to bring forward on another ordinance some water ordinance relative to the commercial use that he's concerned about.

COMMISSIONER TRUJILLO: Second, Mr. Chairman.

COMMISSIONER CAMPOS: Mr. Chairman, I'd be inclined to at least support part of your motion, the one that relates to 6.6.2c, but I would like to approve 6.6.2d tonight. I think requiring non-residential users to pay for water that they're going to make a profit on makes sense.

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

Upon roll call vote, the motion to deny passed by 3-2 vote with Commissioners Duran, Trujillo and Varela voting to deny and Commissioners Sullivan and Campos voting against the motion.

CHAIRMAN DURAN: I'd also like to make a motion that we adjourn, or not adjourn, but we take the next two items to the next meeting.

COMMISSIONER SULLIVAN: Mr. Chairman, I'd like to make another motion with regard to this item.

CHAIRMAN DURAN: Which item?

COMMISSIONER SULLIVAN: This ordinance.

CHAIRMAN DURAN: We've already voted on that.

COMMISSIONER SULLIVAN: Well, I'd like to put an additional motion. The ordinance has been voted down but there's matters still on the table.

CHAIRMAN DURAN: Point of order. We voted on the ordinance. We made a decision.

MR. KOPELMAN: Mr. Chairman, Commissioner Sullivan, I'm not quite sure how you'd bring it back at this point now once it's been voted upon.

COMMISSIONER SULLIVAN: Well, we've had other votes where matters have been brought forward and a motion has been defeated and then we've brought back a substitute motion, a different motion.

CHAIRMAN DURAN: I don't remember doing that.

COMMISSIONER SULLIVAN: I just would like to bring back the issue that we address the commercial non-residential part of it since that seems to have not been a problem with the majority of the people that have spoken. Most of them seem to want to go out there and continue to use domestic wells to build subdivisions.

CHAIRMAN DURAN: But I haven't had the opportunity to fully understand the impact on that because I've been focusing on the residential part of it, as I think everyone who addressed this Commission tonight was focused on. Why don't you just bring it forward as a separate item? I'm not opposed to it.

COMMISSIONER SULLIVAN: Well, I think, Mr. Chairman, you talk the talk, but you don't walk the walk. You say you're not opposed to it then these ordinances have to be brought back through—

CHAIRMAN DURAN: I'm not opposed to you bringing it back for further discussion. That's what I meant to say.

COMMISSIONER SULLIVAN: And additional hearing. Maybe there's not sufficient votes for that. I think the commercial thing is a logical and understandable thing and one that's been highly abused. We've had wells, domestic wells in the middle of areas that already have public water supply. That doesn't seem to be an appropriate use of the domestic well statute.

CHAIRMAN DURAN: Point of order for legal. We've already voted on this ordinance. It's my understanding that if Commissioner Sullivan wants to bring something forward for us to consider at another time relative to this ordinance that was disapproved tonight, he can do so under a separate item, but he can't do it tonight. We've already disapproved that the ordinance that was published and brought before us.

MR. KOPELMAN: Mr. Chairman, I believe that's correct. Let me take a look at our governing rules to see if there's anything I'm mission on this.

COMMISSIONER CAMPOS: Why don't we just allow him to make a motion and vote on it? If you've got the three, you've got the three. It will save some time.

COMMISSIONER SULLIVAN: If that's the case, then—

COMMISSIONER TRUJILLO: Talking about specificity. There's nothing here.

COMMISSIONER CAMPOS: It's right here.

COMMISSIONER TRUJILLO: But there's one stipulation. We need to expand on that. It needs to be broader.

COMMISSIONER CAMPOS: We've had this for six months, thinking about it.

COMMISSIONER TRUJILLO: Where's the specificity?

COMMISSIONER CAMPOS: Right there.

COMMISSIONER TRUJILLO: There's nothing. To me—

COMMISSIONER SULLIVAN: So if that's the ruling I think basically we want to understand that any resolution or ordinance that we bring forward, any motion that pertains to that that is defeated, then there are no follow-up motions on that matter. That's what we're saying here. If a motion has been brought up and it doesn't get support, so then, we had one

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other earlier this evening, then no follow-up motions can be made. And if that's in our rule of order then we've been violating it.

CHAIRMAN DURAN: You're absolutely right. When something has been denied, someone's made a motion to approve or to do another.

COMMISSIONER SULLIVAN: Or to approve it with some conditions.

CHAIRMAN DURAN: Go ahead and make a motion. I agree with you. Go ahead. What's your motion?

COMMISSIONER SULLIVAN: Okay. Here we go. I would move that Ordinance 2002-14 delete the recommended language in 6.2.2c, incorporate the language of 6.2.2d with the recommended addition that for non-residential developments excluding agricultural developments, and then continue to read, in which the project uses more than one acre-foot annually. That would—

CHAIRMAN DURAN: Is there a second?

COMMISSIONER CAMPOS: I'll second it.

COMMISSIONER SULLIVAN: —address the concerns of our legislator.

CHAIRMAN DURAN: Call for the question.

The motion failed by 2-3 roll call vote with Commissioners Sullivan and Campos and Commissioners Duran, Trujillo and Varela voting against.

CHAIRMAN DURAN: Next on the agenda is the other two water ordinances which were number 4 and number 5. I'd like to tell Commissioner José Varela López that if we don't get to these while you're in office, I sure would welcome your contribution and input from the floor.

COMMISSIONER SULLIVAN: Mr. Chairman, why don't you just recess until the 20th and hear those on the 20th?

CHAIRMAN DURAN: I can do that too. What time is our meeting on the 20th?

MR. ABEYTA: Mr. Chairman, it's during the day. It's not a public hearing in the evening.

CHAIRMAN DURAN: Right.

COMMISSIONER SULLIVAN: That goes on through to the evening.

MR. ABEYTA: It can go on through to the evening, but that's up to you.

MR. LOPEZ: Mr. Chairman, I don't know that this necessarily is that important from the perspective of legislative activity but from the perspective of County staff amendments—that is the evening that we have our Christmas party scheduled for 6 p.m.

COMMISSIONER TRUJILLO: We could do it at the party. Add some spice to the cider.

CHAIRMAN DURAN: I only say that because it's 10:30 and we typically end these meetings at 10:00. I don't mind even having another meeting before the end of the year if you would like for us to try and do that. I think you've made your contribution to us and I would be willing to spend some time listening to your ideas on that ordinance that you're

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bringing forward.

COMMISSIONER VARELA: Mr. Chairman, I think it would be okay to do it at your first meeting in January. I can address the Commission [inaudible]

CHAIRMAN DURAN: Okay. We'll do that. So we'll table these next two to the next land use meeting in January.

MR. ABEYTA: Which is January 14th.

COMMISSIONER TRUJILLO: So moved.

COMMISSIONER CAMPOS: Second.

The motion to table items XII. B 4 and 5 passed by majority [4-1] voice vote with Commissioner Sullivan casting the nay vote.

ADJOURNMENT

Chairman Duran declared this meeting adjourned at approximately 10:30 p.m.

Approved by:



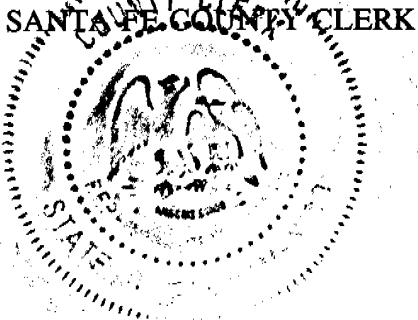
Board of County Commissioners
Paul Duran, Chairman

Respectfully submitted:

Karen Farrell
Karen Farrell, Commission Reporter

ATTEST TO:

Rebecca Bustamante
REBECCA BUSTAMANTE
SANTA FE COUNTY CLERK



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up in our Code anyway. So I think this will probably be adequate.


CHAIRMAN DURAN: If they cut your engine 100 feet before you get to the property. I'm only kidding.

The motion to approve AFDRC Case #DP 02-5310, as amended passed by unanimous [5-0] voice vote.

ADJOURNMENT

Chairman Duran declared this meeting adjourned at approximately 10:15 p.m.

Approved by:



Board of County Commissioners
Paul Duran, Chairman

12/10/02

Respectfully submitted:


Karen Farrell, Commission Reporter

ATTEST TO:


REBECCA BUSTAMANTE
SANTA FE COUNTY CLERK

*SANTA FE COUNTY
RESOLUTION 2002-*

2482418

**A Resolution In Opposition To The United States Going To War
Against Iraq**

WHEREAS, recent events, including the position repeatedly articulated by the President and the Secretary of Defense, have substantially escalated the chance of America going to war; and

WHEREAS, our military branches are increasing simulated attacks and training exercises in preparation for an attack on Iraq; and

WHEREAS, deployment of young Americans to military service will leave families helpless and severed, and will result in many deaths and destruction; and

WHEREAS, the wounds of past wars remain with our soldiers, their loved ones and indeed in our national psyche; and

WHEREAS, the lessons we have learned in Vietnam must be practiced, and we must be sensitive and alert not to repeat the mistakes of the past; and

WHEREAS, sudden attacks are inhumane and serve only to produce lost lives and irreversible harm; and

WHEREAS, an attack on Iraq would produce unknown consequences to Americans, the people of Iraq and our allies; and

WHEREAS, fear of the unknown and unspoken words should not be the basis for war.

2482419

NOW THEREFORE, BE IT RESOLVED,

- That Santa Fe County opposes the escalation of war on Iraq;
- That our nations leaders should operate under the presumption that war is wrong and should only be used as a last resort; and
- That our national leaders aggressively seek alternatives to war in solving our national crisis.

APPROVED, ADOPTED AND PASSED this _____ day of December, 2002


BOARD OF COUNTY COMMISSIONERS

BY: _____
Paul Duran, Chairman

ATTEST:

Rebecca Bustamante, Clerk

APPROVED AS TO FORM:



Steven Kopelman



**SANTA FE COUNTY HEALTH POLICY &
PLANNING COMMISSION**

2482420

**FY-2004 MOA Final Recommendations to the Santa Fe
Board of County Commissioners as of 12/10/02**

The following are recommendations that were adopted by the Santa Fe County Health Policy and Planning Commission (HPPC), acting as a sub-committee, at their Special Meeting on December 5, 2002.

- 1) All MOA programs and projects need to have an outcome-based evaluation.

Implementing this item would require a language change in the MOA.

- 2) SVH should hire adequate staff to support MOA and related activities.

The Santa Fe County Health Policy and Planning Commission (HPPC) supports adequate staffing of the MOA Project by St. Vincent Hospital (SVH).

- 3) BCC recommends "Community Members" to the SVH Board of Trustees for Membership.

The HPPC supports the Santa Fe County Board of County Commissioners recommending "Community Members" for inclusion by the SVH Board of Trustees.

- 4) Support an Increase "Existing County Expenditures" in the FY-2004 MOA.

The HPPC has recommended that this category should be a priority in the negotiations between the County and Hospital.

- 5) Research and fund a process to reimburse specialist/trauma/private physicians who provide services and office follow-up appointments to indigent patients.

The HPPC recommends that MOA Program dollars be devoted to paying private physicians for their treatment of indigent patients. Three questions surrounding this issue is:

- a) How much to devote to this line item?
- b) What type of doctors should be eligible?
- c) Should we directly contract with Project Access, or put the work item out for bid?

The HPPC recommended that the more money devoted to this line item, the better. It was recommended that items b) and c) be left to the MOA Progress Review Committee to decide.

- 6) Mention "A Call to Action" as an integral part of the decision making process for the MOA.

Implementing this item would require a language change in the MOA.

- 7) Adequately fund the Care Connection and Mobile Healthcare Van Projects:

Adequate funding for these two projects was recommended by the HPPC. The increase in funding projected from last year for Mobile Healthcare Van operating requirements was criticized as taking away from direct services such as the Healthcare Services for Santa Fe County and Clinic Healthcare Support.

However, a majority of the HPPC Commissioners present supported the continued funding of these two projects.

- 8) Don't reach outside the MOA carve-out in SCP dollars:

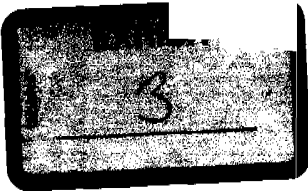
The HPPC recommended that the County not reach outside the MOA, and into new Sole Community Provider dollars for MOA funding.

- 9) Focus on direct service issues such as clinic support, Project ANN, Arroyo Chamiso, etc...:

The HPPC recommends that the County and Hospital focus MOA efforts on providing direct services with those dollars.

FY-2004 Memorandum of Agreement Negotiation Schedule

- 12/05/02 Deadline for SCP requests from the four SCP Hospitals that Santa Fe County supports.
- 12/05/02 4:00pm Special HPPC meeting to discuss and make final recommendations to the Santa Fe Board of County Commissioners (BCC) concerning the MOA. **(District II DOH)**
- 12/10/02 5:30pm HPPC/SF County Staff/SVH Staff make presentation to the BCC on final recommendations. BCC acts approving the proposed contents of the proposed MOA. **(SF County Commission Chambers)**
- 12/10/02 County staff places caption on 12/20/02 BCC Administrative meeting agenda for approval of the four Sole Community Provider Requests and the amended MOA.
- 12/11-20/02 County and SVH legal and program staff work to produce the final amended MOA document.
- 12/19/02 Review of revised MOA and adoption by SVH Board of Trustees Executive Committee.
- 12/19/02 SVH staff returns signed copies (4) of MOA to County Staff.
- 12/19/02 County staff submits original paperwork for 12/31/02 BCC Administrative meeting for SCP requests and amended MOA.
- 12/20/02 BCC approves SCP requests and amended MOA (Meeting date will be changed.) **(SF County Commission Chambers)**
- 12/23/03 County staff receives paperwork from County Clerk. Staff sends requests back to Hospitals for submission to the NM Human Services Department. Executed MOA originals are distributed as appropriate.
- 12/30/02 Staff gives original copy of MOA to SVH, and copies of executed MOA to HPPC members.



SANTA FE COUNTY

ORDINANCE 2002-

(REPLACING SANTA FE COUNTY ORDINANCE NO. 1994-2) ²⁴⁸²⁴²³

**AN ORDINANCE REGULATING PROCEDURES FOR
WORKING IN, DISTURBING AND REPAIRING COUNTY PROPERTY AND
RIGHTS OF WAY**

BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF SANTA
FE, NEW MEXICO:

Section 1. Short Title

This Ordinance may be referred to as the Right of Way Use Ordinance.

Section 2. Purpose

The purpose of this Ordinance is to establish and define responsibilities and standards for the use of public property and rights of way, especially regarding road use, excavations and restorations thereof.

Section 3. Index

- Section 1. SHORT TITLE
- Section 2. PURPOSE
- Section 3. INDEX
- Section 4. DEFINITIONS
- Section 5. PERMIT
- Section 6. EXCAVATIONS, ROAD CUTS AND BORING
- Section 7. RESTORATION OF ROAD CUTS
- Section 8. LIABILITY OR SELF INSURANCE AND BONDING
- Section 9. LOCATION AND RELOCATION OF FACILITIES
- Section 10. FEES
- Section 11. ROAD CUT WARRANTY
- Section 12. ROUTING OF TRAFFIC
- Section 13. NOISE, DEBRIS AND WORKING HOURS
- Section 14. PRESERVATION OF SURVEY MONUMENTS
- Section 15. NON-COMPLIANCE BY PERMITTEE
- Section 16. AMENDMENT TO ORDINANCE 1993-8
- Section 17. PENALTY

Section 18. SAVING CLAUSE
Section 19. EFFECTIVE DATE

2482424

Section 4. Definitions

A. "Applicant" means any person required by this Ordinance to apply for a permit to make a road cut.

B. "Arc site" means any location deemed by the State of New Mexico as an archeological site.

C. "Boring" means the act of tunneling under the surface of the roadway or Right of Way.

D. "Business day" means Monday through Friday.

E. "County" means the County of Santa Fe, New Mexico as represented by its Board of County Commissioners.

F. "County facilities project" means any road cut undertaken as a part of a project initiated by the County and includes related action taken by the utility company to further the County facilities project.

G. "Emergency" means any situation or condition existing in which there is an interruption or disruption of gas, electricity, sewer, storm sewer, drainage structures, water, or telecommunications service to one or more customers being served by a utility company, or any situation or condition in which there is a danger of serious bodily injury, serious property damage, or prolonged disruption of service.

H. "Excavation" means the act of making a hole, trench, or ditch, which penetrates through or under the surface in a public right of way or other public property, resulting in the removal of dirt, asphalt, concrete or other material.

I. "Facilities" are and include, but are not limited to, plants, works, systems, improvements and equipment of the utility company such as pipes, electric substations, mains, conduits, transformers, wires, cables, poles, underground links, meters and concrete pedestals for any of the above and including postal service mail boxes.

J. "Permit" means the written form provided by the County in which a person describes the road cut or activity which will be performed on public property and in which are contained any special conditions required of the person by the County in the execution of the work. Permits are also subject to the conditions and requirements contained in this Ordinance.

K. "Permittee" means a person that has received a road cut permit from the County.

L. "Person" means any individual, estate, trust, receiver, cooperative association, club, corporation, utility company, firm, partnership, joint venture, syndicate or other entity.

M. "Public facility" means any designed, engineered, or constructed road structures or engineered drainage facilities owned or maintained by the County located on public right of ways.

N. "Public right of way" or "public property" means those properties or sites within the County for which the County possesses a real property estate or interest, such as fee simple title, prescriptive easement or dedicated easement, and includes easements, right of ways, highways or roads, paved or unpaved, curbs, gutters, sidewalks, or other paved, unpaved, unsurfaced or concrete property which the County owns or maintains.

O. "Public Works Director" means the person employed by the County who is designated by the Board of County Commissioners to hold this position, and/or his designee.

P. "Road use" means any activity in or adjacent to the roadway that affects traffic and pedestrian flow.

Q. "Road cut" means the act of cutting a hole, trench, ditch or tunnel in, on, under, or through the surface of a public facility; or the act of drilling, boring, tunneling under or jacking up the surface of a public right of way.

R. "TCP" means a Traffic Control Plan or diagram showing the county how safe maintenance of traffic and Pedestrian flow will be conducted.

S. "Utility company" means any person, entity, or corporation, which provides water, sewer, electric, gas, telephone, or cable television services to five (5) or more hookups in the County. It also includes an independent contractor that has entered into a contract with the utility company to perform the road cut or excavation when the independent contractor is performing services for the utility company. Such an independent contractor must file a notarized affidavit with the County, executed by the utility company, setting forth the name, business address, and business telephone number of the independent contractor as an authorized agent of the utility company.

Section 5. Permit

A. Permit Application.

1. Every person desiring to make a road cut, bore or utilize County right of way is required to obtain a permit. The applicant must be licensed and bonded, or the applicant must be a utility company or an agent for the utility company. In extenuating circumstances where the applicant is a private party or not licensed, bonded or a utility company the applicant shall be required to comply with guidelines established by the Public Works Department. The person shall make written application on forms provided and approved by the Public Works Director prior to the performance of any road cut work or activity on public property. County staff has 5 days to review and process submitted applications.

2. No person shall make any road cut on public property or utilize County right of way until the person or designated agent obtains an appropriate permit from the County, except in an emergency. In the event of an emergency, the person may proceed with such activity immediately but notify the County by phone that such an emergency is being repaired and thereafter file an application within two (2) business days. The application must state the description of the emergency and a summary of the repairs. The applicant must comply with any reasonable repair directions set forth by the County.

3. The applicant shall agree to the following; (a) complete all work required by this ordinance, covered by the permit; (b) complete any specific item required by the County in conjunction with the permit within five (5) days after written notice is given by the County to do so. The Public Works Department is authorized to grant an extension if necessary.

4. Evidence shall be presented that insurance requirements have been met in accordance with section 8, except for governmental agencies.

5. Evidence shall be presented that any "tie in" or "extension of utilities" is authorized by the applicable utility company, utility association or provider of services.

B. Faxing permit applications, Billing.

A utility company may file its application for a road cut, right of way use permit and all supporting information through the use of telecopy machine located in the County Public Works Office, in accordance with procedures established by the Public Works Director. An approved permit may be sent to the applicant in accordance with similar procedures. The Public Works Director, in his discretion, may allow a person to be billed for fees due and payable under the terms of this Ordinance on a monthly basis, provided the person is not more than sixty (60) days delinquent in payments due under this Ordinance. No further permits will be issued if payments are more than 60 days delinquent.

C. Permit Fees.

The permit fees are set forth in Section 10.

D. Length of Road Cut; Number of Road Cuts, Use of Right of Way

By issuance of a road cut permit, the County authorizes the cutting or excavation of a road or right of way by approved methods as listed in the New Mexico Standard Specifications for Public Works Construction and only for the single road cut specified on the permit. When the project involves the excavation of the road or right of way in a manner that runs roughly parallel to the roadway, the permit shall authorize up to six hundred (600) lineal feet of excavation.

Section 6. Excavations, Road Cuts Or Boring.

A. Purpose: It is the primary purpose of this ordinance to achieve maximum public use of such right-of-way, consistent with the laws of New Mexico and to insure that utility relocations on or in County rights of way are accomplished in accordance with New Mexico Statutes, Regulations and Federal Codes while providing for maximum public safety, maintenance of the roadways, and minimizing future conflicts between the County roadways, highway systems of New Mexico and utilities serving the general public in the County of Santa Fe.

B. Preferred means: In all circumstances, best efforts shall be made to install utility facilities using existing overhead facilities or bore under the roadway instead of excavating in an attempt to limit patches on the road surface. Road cuts shall be the least desirable means of utility facility installation.

C. Clearance of Vital Structures: Work under these provisions must be performed and conducted so as not to interfere with access to fire hydrants, fire stations, fire escapes, bridges, traffic control devices, and all other vital permanent structures or equipment.

D. General utility design requirements: Except when a higher degree of protection is required by industry or governmental codes, laws, or orders of the public authority having jurisdiction over the utility, all utility facility installations on, over, along or under the surface of the rights-of-way of County roadways, including attachments to highway structures shall, as a minimum, meet the following utility industry and governmental requirements:

(1) Electric power and communication facilities installations shall conform to the current applicable National Electric Safety Code.

(2) Water, sewage and other effluent lines shall conform to the requirements of the American Public Works Association, the American Water Works Association and County Standards.

(3) Pressure pipelines shall conform to the current applicable sections of the standard code of pressure piping of the American National Standards Institute, 49 CFR section 192, 193 and 195, and/or applicable industry codes.

(4) Liquid petroleum pipelines shall conform to the current applicable recommended practice of the American Petroleum Institute for pipeline crossings under railroads and highways.

(5) Any pipeline carrying hazardous commodities shall conform to the rules and regulations of the U.S. Department of Transportation governing the transmission of such materials. Pipelines located in casings, galleries, utility tunnels or highway structures shall be designed to withstand expected internal pressures, and to resist internal and external corrosion; casings or uncased pipelines shall be designed to withstand external pressures as well. Joints in carrier pipelines operating under pressure shall be of a mechanical or welded leak-proof construction. Ground-mounted utility facilities shall be of a design compatible with the scenic quality of the specific highway segment being traversed. All utility installations on, over, along or under roadway rights-of-way, and attachments to roadway structures, shall be of durable materials, designed for a long service-life and relatively free from routine maintenance. On new installations or relocation of existing facilities, provisions shall be made for expansion of the facilities, particularly those underground or attached to highway structures. These provisions shall be planned so as to avoid interference with highway traffic when additional facilities are installed in the future.

(6) The utility owner shall be responsible for compliance with industry codes, the conditions and/or special provisions specified in the permit, applicable statutes and regulations of the State of New Mexico, and the U.S. Department of Transportation Code of Federal Regulations.

(7) The utility shall be responsible for the design, construction, and maintenance of all facilities to be installed within Santa Fe County R.O.W. All elements of these facilities are subject to review and approval by the County Public Works Department, particularly the materials, location, and method of installation. The utility is responsible for, and will provide all measures as required to preserve the safe and free flow of traffic and the structural integrity of the roadway, roadway structures, ease of roadway maintenance and appearance of the roadway resulting from their installation. Prior to any utility work within the County R.O.W, The County Public Works Department shall approve all submitted traffic control plans.

E. Maintenance of Traffic and Pedestrian Flow.

The permittee shall maintain safe and adequate passage of vehicle and pedestrian traffic on all public property on which the permittee is conducting its activities under its permit. When a public facility has been closed or detoured because of the

permittee's work, The Santa Fe County Public Works Department shall be notified by the permittee prior to removal of existing barricades and other traffic control devices.

F. Permittee's Obligation to Protect Property.

The County Public Works Department shall screen all permit applications to identify if the proposed work location is within an area that has been identified by The State of New Mexico as an "arc or archeological" site. If County Public Works has identified the location of the work to be performed as being in an "arc or archeological" area, it shall be required by the permittee to contact the State of New Mexico Historic Preservation Division for final evaluation and clearance prior to performing any excavation.

The permittee shall also take whatever measures necessary to protect the road surface from damage by equipment used in the excavation process. Any damage to the road surface such as tearing or scaring of the pavement caused by the permittees equipment shall be repaired to County requirements by the permittee. The permittee shall, at his own expense, support and protect all utilities which may be in any way affected by the road cut and other permitted work, and do everything necessary to support, sustain and protect them under, over, along or across said work. Before commencing a road cut, the permittee shall ascertain the location of all utilities by notifying the New Mexico One Call System in or near the area of the proposed cut. The conformation number from the One Call System shall be listed on the permit prior to issuance of the permit. In the event said utilities are damaged, including damage to pipe coating or other encasement devices, the permittee shall immediately notify the utility company of the damage. The permittee shall pay the other utility company for all costs associated with the repair if the permittee was negligent and the facilities were properly marked and located. The permittee shall also protect the road cut from surface water flows by appropriate diversions or ponding devices. The permittee must repair asphalt or other road surfaces and other public facilities and public property to reasonable construction and engineering standards to approximate the condition that existed before the work.

G. Protection of Adjoining Property.

The permittee shall at all times and at his own expense preserve and protect from injury and property adjoining the property on which the road cut work is being performed by taking suitable measures for that purpose. Where in the protection of such property, it is necessary to enter upon private property for the purposes of taking appropriate protection measures, the permittee, shall unless otherwise provided by law, obtain appropriate permission from the owner of such private property to enter thereupon. The permittee must at his own expense shore up and protect all structures, facilities, walls, fences or other property that may be affected or damaged during the progress of the road cut work and be responsible for all damages on other property resulting from his failure to properly protect and carry out such work.

H. Care of Excavated Material.

All materials excavated and piled adjacent to the road cut or in any public place by the permittee must be piled and maintained so as to not endanger the public and those working in the excavation, and so as to cause as little inconvenience as possible to those persons using the public place and adjoining property. All material excavated must be laid completely along the side of the cut and kept trimmed so as to cause as little inconvenience as is reasonably possible to vehicle and pedestrian traffic. In order to expedite flow of traffic and to keep dirt and dust from spreading or flying, the permittee shall use guards or other methods and/ or shall water the excavated material. Traffic markings removed, as a part of the road cut shall be replaced by the permittee with materials similar to those originally displaced, in a place and in a manner satisfactory to the County.

I. Cleanup.

Each permittee shall thoroughly clean up from the public place all rubbish, excess earth, rock, asphalt, concrete, tree branches or limbs and other debris resulting from road cut work. All cleanup operations at the location of such road cuts are to be accomplished at the expense of the permittee. During the progress of work or immediately after completion of such work, the permittee shall clean up and remove all refuse, dirt and unused materials of any kind resulting from said work. Upon failure to do so, the County may cause to have such work done, and the permittee shall pay for such reasonable cost.

J. Protection of Water Course.

The permittee shall maintain all gutters, easement crossings and related drainage structures free-flowing and unobstructed for the full depth and width of the water course, or provide adequate substitutes for any such water course that are blocked by the road cut.

Section 7. Restoration Of Road Cuts.

A. Compaction.

Any person holding a road cut permit shall undertake to restore each road cut, in accordance with the reasonable compaction and restoration standards required by the County. This shall include both the backfilling of the road cut and the restoration of the surface. All backfill must be compacted to 95% density under the road surface, and 90% density outside the road surface. Certified density test results must be submitted to the Public Works Department within five (5) working days of completion of said work. Flow capacity and /or existing flow capacity shall not be altered without the written approval of the Public Works Director. For any person who does not submit compaction test results to the County in a form and with results acceptable to the County, such person shall not

be issued any future permits under this Ordinance until the person complies with this Ordinance, and the county may take such other actions as it deems necessary to assure compliance with this Section. The Public Works Director may waive the compaction tests for plow trenching only, provided the utility company demonstrates a method and operation of compaction acceptable to the Public Works Department.

B. Resurfacing.

In those instances when a permittee cannot resurface a public place with concrete or asphalt because the air temperature or moisture content is below the minimum standards contained in the compaction and restoration standards or the weather conditions are such that the permittee is unable to resurface the public place within a reasonable time after the County's acceptance of any density tests, the permittee shall immediately check with Public Works Department concerning how and when the public facility shall be resurfaced. The County can require that the permittee cold patch the road cut on a temporary basis. The permittee shall restore the surface of the cut in accordance with reasonable compaction and restoration standards.

C. Cost.

The cost for restoration of the road surface shall be borne by the permittee.

D. County Performance.

If a permittee makes a road cut that is not resurfaced by the permittee within a reasonable time, and the County has not granted an extension of time, the County may, upon giving notice to the permittee, resurface the road cut and bill the permittee for the reasonable cost.

E. Safety.

It shall be the responsibility of the permittee restoring the public place to keep the road cut or surface opening safe for pedestrians, workers and vehicular traffic until the pavement surface or opening has been restored.

F. Extension of time.

Any time periods may be extended by the County due to weather conditions or other circumstances beyond the control of the permittee, with written permission of the Public Works Director or his designee.

G. State Standards.

The permittee shall comply at all times with the appropriate construction standards set forth in New Mexico state statutes.

H. Restoration.

The permittee shall restore as practicably as possible, the affected property to the condition it was immediately prior to excavation or development. This includes but is not limited to depth of basecourse or other materials used on road surfaces. All materials shall be inspected and approved by the Public Works Department prior to use of any such materials. In the case of trenching in the right of way that exceeds six hundred (600) lineal feet the county recommends the responsible party document the condition of the surface by means of videotaping the proposed work area. The Public Works Department can require the seeding of disturbed areas to offset possible erosion that may result from the area being disturbed during excavation.

Section 8. Liability Insurance, Self Insurance and Bonding.

A. Certificate of Insurance.

No person other than a utility company shall make a road cut, enter a substructure opening, perform road cut work or utilize County right of way until filing with the County a certificate of insurance establishing that such person is adequately insured according to NM Tort Claims Act, NMSA 41-4-19, as amended against bodily injury or personal injury to any person, and against liability for damages, other than the work itself, because of injury to or destruction of tangible property, including loss of use resulting there from. Each insurance certificate shall provide that the County be given at least thirty (30) calendar day's notice of cancellation in writing by the insurance company.

B. Form and Type.

A utility company shall at all times maintain insurance or may self insure against all risks and perils set forth above for the reasonable limits of liability set by the NMSA 41-4-19 as amended and the County, in a form and type acceptable to the County, which approval will not be unreasonably withheld.

C. Performance bonding.

A performance bond in the amount of fifteen thousand dollars (\$15,000.00) must be kept on file at Public Works along with the contractor's license and insurance documents.

Section 9. Location and Relocation Of Facilities

The County expressly reserves the right to change the grade, install, relocate, or widen the public right of ways within the County and subject to all regulatory approvals, the utility company shall relocate, at its own expense, its facilities and appurtenances in order to accommodate the paving, installation, relocation, widening, or changing of the grade or location of any such public right of way, including if necessary, relocating facilities to a sufficient distance within the right of ways and to permit a reasonable work area for machinery and individuals engaged in such work, or to protect the health, safety, or welfare of the public.

Section 10. Fees.

A permit fee of seventy-five dollars (\$75.00) shall be charged and collected for each proposed activity and for each permit issued up to 600 lineal feet. The seventy-five dollar (\$75) fee collected shall be distributed accordingly. Sixty seven percent (67%) shall be designated to the County General Fund and Thirty three percent (33%) shall be designated to a road maintenance fund for repair of roadways. Except for the Public Works Department, which is not required to obtain a permit for any of its projects. All other County departments shall be required to obtain a permit.

Section 11. Road Cut Warranty.

Any person, including a utility company making a road cut shall be required to correct defective materials and workmanship performed under each road cut permit for a period of three (3) years from the date the work performed under such permit is completed.

Section 12. Routing of Traffic.

A. When road cut work or use of the right of way is being performed, the person making the road cut or using the right of way shall take appropriate measures to maintain traffic conditions as near normal as practicable at all times so as to cause as little inconvenience as possible to the occupants of the abutting properties and to the public. All applicants shall submit with the permit application a TCP or traffic control plan for approval by the Public Works Director or his designee along with the permit application. No permits shall be issued without the submission of a traffic control plan unless waived by the County.

B. The County may require the permittee to notify various public agencies, emergency services and the public of proposed work prior to issuance of a permit or prior to commencement of the proposed work.

C. Warning signs shall be placed by the permittee near each road cut or substructure opening being entered so as to give adequate warning to vehicular and pedestrian traffic both night and day, and cones or other approved devices shall be placed to channel traffic. The traffic controls, including but not limited to the number, type, size and location of the signs shall be done in accordance with Manual on Uniform Traffic Control Devices (MUTCD) Part VI and reasonable traffic standards as directed by the Public Works Director or his designee.

D. The County may require the permittee to place a visible sign at each end of the construction area which is visible from a distance and sets forth the name of the person making the road cut, or in the case of a utility company, the name of the company together with a business telephone number to handle calls from the motoring public.

Section 13. Noise, Debris and Working Hours.

Each permittee shall conduct and carry out road cut work in such manner as to avoid unnecessary inconvenience and annoyance to the public and occupants of neighborhood property and in compliance with the County noise standards.

Section 14. Preservation of Survey Monuments.

Any survey monument set for the purpose of locating or preserving the lines of the road, property, subdivision, or a permanent survey, or a permanent survey bench mark within the County shall not be removed or disturbed without first obtaining permission in writing from the County. Permission to remove or disturb such monuments, reference points or bench marks will be granted only upon condition that the person apply for such permission pay all expenses incident to the proper replacement of the monument.

Section 15. Non-Compliance by Permittee.

In the event a permittee fails to comply with the requirements of this Ordinance, the Public Works Director or his designee shall notify the permittee of non-compliance and stop all work until the permittee is in compliance. Written or verbal notice of non-compliance shall be issued. Following a hearing on the matter, a fee of three hundred dollars (\$300.00) may be assessed for non-compliance of this ordinance if the Public Works Director decides it is justified. The Public Works Director, his designee, County Fire Department, or County Safety Officer is authorized and empowered to suspend, revoke or refuse to issue any permit or future permit issued to a permittee provided that a hearing on the matter shall be conducted by the Public Works Director within five (5) business days of the suspension, revocation or refusal to issue the permit unless based on failure to adequately complete an application. The County of Santa Fe reserves the right to issue or revoke any permit for any reason deemed reasonable by the Public Works Director or his designee. The County may also deny issuance of a permit to any applicant if there are delinquent compaction test results from previously performed road cuts.

Section 16. Amendment To Ordinance 1993-8.

Sections 7 A, 7 E, 7 F, 8 B, and 9 of Santa Fe County Ordinance 1993-8 are hereby Repealed.

Section 17. New Pavement Fee and Penalty.

Any person or utility excavating or cutting into new pavement (less than two yrs old) shall be charged a fee of two hundred dollars (\$200.00) to offset the impact of cutting of new pavement, which frequently leads to failure of new roadways installed by the County. Violating the provisions of this Ordinance shall be punishable with a fine of up to \$500.00 per day and imprisonment for not more than 90 days for each violation.

Section 18. Saving Clause.

If any of the sections, subsections, sentences, clauses, or phrases, of this Ordinance are for any reason held to be unconstitutional or invalid, the validity of the remaining portions of this Ordinance shall not be hereby affected since it is the express intent of the County Commission to pass each section, phrase, paragraph and word separately.

Section 19. Effective Date.

2482436

SANTA FE COUNTY:

Paul D. Duran, Chairperson
Santa Fe County Board of Commissioners

ATTEST:

Rebecca Bustamante, County Clerk

APPROVED AS TO LEGAL FORM:

Steve Kopelman, County Attorney

Date

FINANCE DEPARTMENT APPROVAL:

Katherine Miller, Finance Director

Date

Exhibit A

2482437

Section 10. Fees for Road Cut Ordinance 1996-09

Service Drops	\$50.00 each
Utility pole placement	\$75.00 each
Graveled Road Cut	
Traverse	\$50.00 each
Longitudinal	\$50.00 each (up to 300 lineal ft.)
After 300 lineal ft.	.10/ft.
Asphalted Road Cut	
Traverse	\$75.00 each
Longitudinal	\$100.00 each (up to 300 lineal ft.)
After 300 lineal ft.	.50/ft.
Newly Paved Road Cut (less than 2 years)	
Traverse	\$75.00 each
Longitudinal	\$100.00 each (up to 300 lineal ft.)
After 300 lineal ft.	.75/ft.
Curb Cut	\$15.00 each
Curb & Gutter Cut	\$25.00 each (up to 100 lineal ft.)
After 100 lineal ft.	.25/ft.
Valley Gutter Cut	\$20.00 each (up to 100 square ft.)
After 100 sq.ft.	.10/ft.
Driveway Pad Cut	\$10.00 each
Sidewalk Cut	\$25.00 each (upto 100 lineal ft.)
After 100 lineal ft.	.25/ft.

~~Added Fee~~



A personal commitment to New Mexico

2482438

Public Service Company of New Mexico
P.O. Box 1448
Santa Fe, NM 87504

December 10, 2002

James V. Lujan, Director
Public Works Department
Santa Fe County
2600 Galisteo
Santa Fe, NM 87504-0276

Dear Mr. Lujan:

Public Service Company of New Mexico (PNM) has reviewed the proposed County Road Cut and Right of Way Use Ordinance. We have the following comments and questions:

Section 4 DEFINITIONS

We feel that the terminology "arc site" (in this section as well as in many other locations in the ordinance) should be changed to "Cultural Property" with the following definition: Cultural Property means [a property as defined in the NM Cultural Properties Act 18-6-1 to 18-6-7] "a structure, place, site or object having historic, archaeological, scientific, architectural or other cultural significance."

We recommend that the "Permit" definition should be changed to include areas within county roads that do not cause road cuts. Suggested Change: "Permit" means the written form provided by the county in which a person describes the use, excavation or road cut which will be performed on public property....

Section 5 PERMIT

A., Section 1 and 2 and any other location: Change "County right or way" to "Public right of way" the definitions describe public right of way.

D. Length of Cut. PNM feels that the 600-foot limit specified is too limiting of linear uses and will result in multiple permits and increased paperwork. PNM would prefer that the County set up a fee structure to address the permitting of longer lengths.

Section 6 EXCAVATIONS, CUTS OR BORING

D. General utility design requirements

D. (5) This section states "Ground-mounted utilities shall be of a design compatible with the scenic quality of the specific highway segment being traversed." PNM would like additional information on what the "scenic quality" involves.

D. (6): "utility owner" should be changed to "facility owner" in order to correctly refer back to the definitions.

D. (7) "utility" should be changed to "utility company" in order to correctly refer back to the definitions. Also "traffic control plan" should be changed to TCP in order to correctly refer back to the definitions.

F. Permittee's Obligation to Protect Property:

PNM would like to suggest the following verbiage to replace that shown in the draft ordinance:

- (1) It is the permittee's sole responsibility to verify no known cultural properties exist in the permit area. The permittee shall certify that they have verified the absence of known cultural properties on the permit prior to issuance of the permit. Should known cultural properties occur in a permit area, a permit shall not be issued until the applicant submits notification from the State Historic Preservation Division certifying that said properties have received sufficient consideration. Should unknown cultural properties be encountered during work conducted under a permit, work in the immediate vicinity of the cultural property shall cease and the County shall be notified.
- (2) The permittee shall take whatever measures necessary to protect the road surface from damage by equipment used in the excavation process. Any damage to the road surface such as tearing or scaring of pavement caused by the permittee's equipment shall be repaired to County requirements by the permittee.
- (3) The permittee shall at his own expense support and protect all utilities which may be in any way affected by the road cut or other permitted work and do everything necessary to support sustain and protect them under, over along or across said work.
- (4) Before commencing any excavation or road cut, the permittee shall ascertain the location or all utilities by notifying the New Mexico One Call System in or near the area of proposed work. The confirmation number from the One Call System shall be listed on the permit prior to issuance of the permit.
- (5) In the event utilities are damaged including damaged to pipe coating or other encasement devices, the permittee shall immediately notify the facility owner of the damage. The permittee shall be liable for all costs associated with the damage and repair if the permittee was negligent and the damaged facilities were marked and located.
- (6) The permittee shall protect road cuts from surface water flows by appropriate diversions or ponding devices.
- (7) The permittee shall repair asphalt or other road surfaces and other public facilities and public property to reasonable construction and engineering standards in order to approximate.

F. Protection of Adjoining Property

PNM suggests the following verbiage for the first sentence of this section:

The permittee shall at all times and at his own expense preserve and protect from injury all private property adjoining the public property on which the road cut work is being performed by taking suitable measures for that purpose.

G. Care of Excavated material.

Change "public place" in the first sentence to "public property."

We also suggest moving the last sentence of this section to Section 6. F.

Section 7 RESTORATION OF ROAD CUTS

E. Safety

We suggest changing "public place" to "public property"

2482440

H. Restoration

PNM would like to suggest that the County use standards or select specific approved contractors so the County would not have to inspect all materials.

Section 10. FEES

The proposed ordinance states that a \$75 fee shall be paid for each permit up to a limit of 600 lineal feet. To avoid excessive paperwork, PNM suggests that a fee schedule be set up that reflects the longer length projects under one permit.

Section 11. ROAD CUT WARRANTY

PNM feels that a three year warranty is excessive and not the normal warranty length for projects of this type.

Section 12. ROUTING OF TRAFFIC

Part B states that the County may require the permittee to notify various public agencies, emergency services and the public of proposed work prior to issuance of a permit or prior to commencement of the proposed work.

PNM feels that this section should apply to only large projects. Requiring this for all projects would create additional work and expense.

Section 13. NOISE, DEBRIS, AND WORKING HOURS

PNM feels that there should be an exception for emergency work.

Section 15. NON-COMPLIANCE BY PERMITEE

The sentence at the end of the paragraph should be left in. PNM feels that an appeal process is needed.

Section 17. NEW PAVEMENT PENALTY

This section actually covers two topics that we feel should be separated: new pavement penalty and violations of the ordinance. PNM recommends that the first two sentences remain under this section and that a new section regarding violations be added. We suggest the following language for the new section:

Section xx. PENALTIES

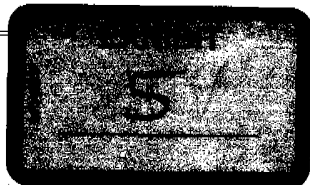
Any person violating the provisions of this ordinance shall, upon conviction, be punished by fine of up to \$300/day for each day of violation.

Thank you for the opportunity to comment on this ordinance. If you have any questions, please feel free to contact me at 438-6912.

Sincerely,



Deborah J. O'Callaghan, P.E.
Director, Santa Fe Operations



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Governor's Task Force Releases Drought Recommendations

Associated Press

12/06/2002

SANTA FE (AP) - The Governor's Drought Task Force on Friday released recommendations focusing on ways to preserve water for municipalities, irrigators and wildlife.

The recommendations were released as the second volume to the state's drought plan, published in May. The recommendations cover everything from protecting watersheds to conservation.

"New Mexico is still suffering from the effects of serious drought, and unless there is a greater-than-average snowfall this winter, the drought is likely to worsen in the near future," said Energy, Minerals and Natural Resources Secretary Beatriz Rivera, head of the task force. "Anticipating possible shortfalls and planning for New Mexico's long-term water future has never been more essential than it is now."

The task force is seeking comments from New Mexicans. The report can be requested from Rivera's department in Santa Fe.

The report recommended the state form a permanent drought strike team with experts in financing, water project construction, water rights, conservation and water quality.

Drought in New Mexico this year forced forests to close in the early part of the summer. Several communities enacted water restrictions, and some in Las Vegas even sawed up...



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restrictions _ restaurants in Las Vegas even served customers on paper plates to save washing dishes. Espanola halted new construction for a time, and the Navajo Nation officials advised livestock owners to sell livestock so the animals wouldn't starve.

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Gov. Gary Johnson declared a drought emergency in May, freeing more than \$90 million from the state's contingency fund for such things as municipal water supply projects, firefighting and for hauling water to livestock, fisheries and wildlife.

Water amounts are measured from October of one year through September of the next. The water year that ended this September was the 17th driest in New Mexico in the past 108 years, despite the fact September itself was much wetter than average.

The drought task force is recommending water conservation and management be a requirement for any funds for water systems.

It also recommends that metering be required for all water users and that communities be required to develop and enforce water conservation ordinances, including a conservation-oriented rate structure.

The task force also suggested the Water Trust Board, the Environment Department or the Energy, Minerals and Natural Resources Department have a drought policy and monitoring office with a staff of three to four people with technical, legal and policy skills.

Its recommendations for watersheds and forests include implementing fire restrictions; focusing forest restoration projects on high-priority watersheds that protect communities and drinking water; and promoting small-diameter forest product industries to reduce the cost of thinning work and strengthen rural economies.

The task force said the state should eradicate nonnative vegetation such as water-hungry salt cedars and restore areas along the Pecos River and Rio Grande.

Recommendations also touch on conflicts between water for

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Do you believe Iraq no longer possesses weapons of mass destruction, as they claim in their recent report to the U.N.?

YES

NO

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endangered species and other users.

The task force said water managers should be aware of the impact of reduced flows during drought on endangered species, and should anticipate lawsuits seeking alternative sources of water to keep rivers and streams flowing for endangered species.

The group said that because of the impact of drought on wildlife, the state should be prepared to adjust hunting seasons and curtail fish-stocking programs. The state also should examine ways to reduce competitive land uses during drought and promote habitat on private lands.

The task force is made up of the secretaries of Agriculture; Energy, Minerals and Natural Resources; and Public Safety; the state engineer and a member of the governor's office.

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Post your opinion and share your thoughts with other readers!

Name: Fidel Montoya

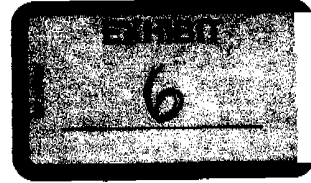
Date: Dec, 06 2002

It is a good thing that the Governor's Drought Task Force continue to develop water management policies and raise the public's awareness that the drought's end is not in sight. While developing water conservation and water management policies, it would be serve the Task Force well to come up with a strategic plan to educate and inform the news media and public about the severe impact the drought can have on the state and the importance of everyone realizing that our water resource is not limitless. We can not simply conserve our way out of the drought. While the public can do more to conserve water, it is going to take the leadership and vision of our leaders to develop these strategic water polices and have the commitment to implement them. Timely and consistent water and drought briefings for the news media, perhaps a state-wide ad campaign to keep wareness of the drought in the public's mind would be good steps in the right direction. (And not some cute ad campagin, but one with a serious and meaningful message). Last year's drought had a negative impact and affect on tourism in New Mexico. From the forest fires to the negative impression left in the public's mind that the state was drying up and blowing away. Let's protect our valuable water resource by asking our leaders to keep the public informed about the seriousness of the drought and the need to work together to preserve our quality of life.

Number of Opinions: 1

Santa Fe County Farm & Livestock Bureau

December 9, 2002



Mr. Paul Duran, Chairman
Santa Fe County Commission
PO Box 276
Santa Fe, NM 87504

2482444

Dear Mr. Duran:

We wish to thank you for sending Ms. Yuhas and Mr. Roybal to the public meeting in Edgewood on November 12th. The Estancia Basin Water Planning Committee sponsored this meeting. We would also like to thank Commissioner Varela Lopez for attending the presentation and participating in the following discussion on the proposed Santa Fe Water Conservation Ordinance. We also appreciate the fact that many of our concerns involving "agriculture" were resolved by exempting that topic from consideration at this time. Although the Farm Bureau has many members engaged in agriculture, we also have many who are not. Therefore, this origination still has concerns with regard to the proposed ordinance.

In the ordinance, statements are made concerning conditions such as "maintaining a sustainable resource" and "the County's water resources are extremely vulnerable to depletion by drought". Statements are also made concerning actions such as "water wasting in damaging to public health" and "fugitive water in a non-beneficial use of water", etc. Nowhere is there evidence or documentation given to support such statements or any reference made as to who made these judgments. There are also specific regulations regarding watering hours, no watering while rain is in progress, and prohibition of the use of bluegrass that may make sense to someone utilizing a public water system. Such regulations may have little or no practical application in most privately owned rural settings where domestic or vegetative requirements can be vastly different.

Within the County are a number of watersheds and water basins. Each of these basins has been closed for further commercial appropriation by the State Engineer. There are literally thousand of existing water rights that have been granted by the Office of The State Engineer (OSE); some are commercial or agricultural, but most are those created by 72-12-1 wells. In one area, courts have set limits and conditions for use, while the County has restricted limits of use in some other cases involving subdivisions. Generally speaking however the OSE has set conditions and locality of use, together with amounts permitted for use and the date when first applied to beneficial use, establishing a "priority of use". These permits vary in age from the present back to the pre-statehood eras.



The way in which the proposed County Ordinance is worded it could be applied in such a manner as to create a situation of a "taking" of water without compensation from an amount granted to a water right owner by The State of New Mexico. Again the way this ordinance is structured to apply to "all users" with the exception of certain named groups, it omits all recognition of the "priority of use" factor of a water right over the more abundant junior right holders. This concept appears to us as being contrary to one of the basic cornerstones of our State's Water Laws.


It is an established fact that we are presently mining our available aquifers. Without establishing new and probably more expensive sources to supply the needs of growth, this practice will apparently continue as the long-time users watch their only water supply gradually diminish. We fully realize the need and importance of establishing a means of conserving what is left for the future of our community. In a true concept of water conservation, water is saved for use at a later time or less water is used now in order to prolong the lifetime of the resource. This ordinance fails to meet those criteria. What it does is mandate less use of water by existing users, which leaves more water for growth. With this type of "conservation" water use is re-directed not saved.

In summary, since at this juncture we are only stating opinions based on experience and observation, it cannot be construed as a valid legal stance. However, if this ordinance were to pass, it appears to us that it was constructed without the knowledge or input from the segment of the community most affected by it: the rural residents living outside of cities, towns and subdivisions. The ordinance appears to contain invalid conclusions, imposes unequal or unjust conditions, and contains provisions that are legally highly questionable. It further fails to meet the criteria for valid conservation measures.

Again while we agree that some form of a water conservation ordinance is in order, this is not the correct avenue to take. It is our position that such an ordinance should not take the stance of issuing bureaucratic proclamations and penalties, but rather one that promotes education, goals, and rewards. It is also imperative that its formation maintains equilibrium between government and those being governed.

We would be happy to be of assistance in the creation of such an ordinance if it were desired of us.

Sincerely,


Jim P. Thornton
President