

**SANTA FE COUNTY**  
**BOARD OF COUNTY COMMISSIONERS**  
**REGULAR MEETING**

**October 11, 2011**

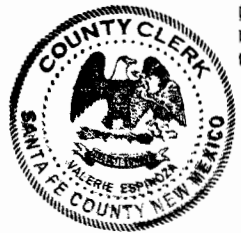
Virginia Vigil, Chair – District 2  
Liz Stefanics, Vice Chair – District 5  
Robert Anaya – District 3  
Kathy Holian – District 4  
Danny Mayfield – District 1

COUNTY OF SANTA FE )  
STATE OF NEW MEXICO ) ss

BCC MINUTES  
PAGES: 41

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**SANTA FE COUNTY**  
**REGULAR MEETING**  
**BOARD OF COUNTY COMMISSIONERS**

**October 11, 2011**

This regular meeting of the Santa Fe Board of County Commissioners was called to order at approximately 2:05 p.m. by Chair Virginia Vigil, in the Santa Fe County Commission Chambers, Santa Fe, New Mexico.

Following the Pledge of Allegiance led by Naomi Salazar, and State Pledge led by Gigi Gonzales, roll was called by Deputy County Clerk Vicki Trujillo and indicated the presence of a quorum as follows:

**Members Present:**

Commissioner, Virginia Vigil, Chair  
Commissioner Liz Stefanics Vice Chair  
Commissioner Kathy Holian  
Commissioner Robert Anaya  
Commissioner Danny Mayfield

**Members Excused:**

[None]

**V. INVOCATION**

An invocation was given by Andria Duran from Human Resources.

**VI. APPROVAL OF THE AGENDA**

- A. Amendments**
- B. Tabled or Withdrawn Items**

CHAIR VIGIL: Are there any changes, Ms. Miller?

KATHERINE MILLER (County Manager): Madam Chair, I actually handed out an agenda to you. There's one tabled item, that is under the Consent Calendar, item XI. A. 2 is tabled to the next meeting. And under Public Hearings, item XIII.A. 4 has been withdrawn by the client.

CHAIR VIGIL: Are there any requests from the Commissioners?

COMMISSIONER HOLIAN: Madam Chair, I move for approval of the agenda as amended.

CHAIR VIGIL: I have a motion.

COMMISSIONER STEFANICS: Second.

CHAIR VIGIL: Is there any discussion?

**The motion passed by unanimous [5-0] voice vote.**

**VII. APPROVAL OF CONSENT CALENDAR**

**A. Consent Calendar Withdrawals**

CHAIR VIGIL: Are there any requests to move any items. There's actually just one item that we will be approving.

COMMISSIONER HOLIAN: Madam Chair, I move for approval of the Consent Calendar.

COMMISSIONER MAYFIELD: Second.

CHAIR VIGIL: I have a motion and a second.

**The motion passed by unanimous [5-0] voice vote.**

**XI. CONSENT CALENDAR**

**A. Final Orders**

1. **CDRC CASE # V 11-5150 Jose Chris Tercero Variance. Jose Chris Tercero, Applicant, Requested a Variance of Ordinance # 2007-2, (Village of Agua Fria Zoning District), Section 10.6 to Allow Three Dwelling Units on 0.962 Acres. the Property is Located at 2227 Paseo de Tercero, within Section 5, Township 16 North, Range 9 East, (Commission District 2) Approved 5-0, Wayne Dalton**

2. CDRC CASE # MP/PDP 09-5300 UDV Temple Variance. UDV Temple, Applicant, James Siebert, Agent, Requested Master Plan and Preliminary Development Plan Approval for a Community Service Facility (Religious Institution) as Defined Article III, Section 7 of the Land Development Code, as Amended. The Two-Phase Proposal Consists of a 6,500 Square Foot Structure to Be Used as a Temple with a 2600 Square Foot Covered Portal Type Structure—to Be Enclosed for Inclusion to the Temple as Part of a Subsequent Phase, a 706 Square Foot Yurt, a 225 Square Foot Utility Room, and a 225 Square Foot storage building on 2.52 acres, for a property Located West of US 84/285 at the Southwest Corner of the Intersection of Arroyo Hondo Road (CR58) and Brass Horse Road (CR 58C) at 5 Brass Horse Road, within Section 13, Township 16 North, Range 9 East, (Commission District 4). (Denied 3-2) **TABLED**

#### **VIII. APPROVAL OF MINUTES**

##### **A. Board of County Commissioners Meeting Minutes August 30, 2011**

CHAIR VIGIL: Are there any changes?

COMMISSIONER STEFANICS: Madam Chair.

CHAIR VIGIL: Yes.

COMMISSIONER STEFANICS: I'll move approval of the Board of County Commissioners Meeting Minutes of August 30, 2011.

COMMISSIONER HOLIAN: Second.

**The motion passed by unanimous [5-0] voice vote.**

#### **IX. MATTERS OF PUBLIC CONCERN –NON-ACTION ITEMS**

CHAIR VIGIL: Is there anyone in the public that would like to address the Board of County Commissioners? Seeing none, we'll move on to the next item.

#### **X. MATTERS FROM THE COMMISSION**

CHAIR VIGIL: Ms. Miller, you wanted to start off on this one.

MS. MILLER: Madam Chair, this isn't from the Commission; this is actually more from the staff to the Commission. This is something from the Commission and also to the Manager's Office. So thought you might enjoy seeing it. This has to do with the County employees picnic.

[A video was shown.]

CHAIR VIGIL: Thank you for bringing that forth, Katherine, and thank you for being a part of it. I really want to take the opportunity to thank the Employee Benefits Committee who do this on a volunteer basis and it isn't that easy to put the events together that they manage to do, not only this but the Christmas party and some of the recognition of other employees. Thank you so much. Are you president, Julia? I'm not sure whether there's even officers. I know Mark Rodriguez is. Would you please, through Mark, let them know we really appreciate all the work they did.

And I just on a personal note want to say that was the week I was incredibly ill. I would have loved to have made it there because I was there last year and the event was very enjoyable. So with that are we ready to move on to Matters from the Commission? Can I start with you, Commissioner Stefanics?

COMMISSIONER STEFANICS: Thank you, Madam Chair. I don't have anything to report today but I am very glad that Santa Fe County does something for their employees and we recognize that everybody needs time and fun in their lives. I believe that was the afternoon that Commissioner Anaya and I were driving back from Deming, so I'm really sorry we were not there. The Association of Counties had a board meeting. But it looks like there was a great turnout. I understand that food was run out of and that quickly people went out and bought more food, and then our senior centers got the benefit or our leftover foods. So thank you very much to the Employee Benefits Committee and I hope a lot of employees did come. I understand they came in different shifts throughout the afternoon. Thank you.

CHAIR VIGIL: Does anyone want to address this particular subject?  
Commissioner Anaya.

COMMISSIONER ANAYA: Madam Chair, ditto the appreciation to all the employees for what they do day in and day out and I'm going to get my partner for a horseshoe tournament that was good. The champion – I think it was Eppie and who else was with Eppie on his team? Eppie and Rudy were the champions. So I don't know, so maybe we get Commissioner Mayfield and one of the other Commissioners to partner with me and we'll go play in the tournament. But thanks to all the employees for what you do day in and day out.

CHAIR VIGIL: Commissioner Holian.

COMMISSIONER HOLIAN: Thank you, Madam Chair. I just want to say my thanks to all the employees for all the hard work that you do. I just think that you aren't recognized enough. So it's a real honor to be able to thank you. I'm sorry I couldn't make it to the picnic. I think I had about three other meetings that afternoon, but I'm definitely going to the Christmas party.

COMMISSIONER MAYFIELD: Madam Chair, ditto all the comments. Thank you, employees, for all you do. You make it very easy for me. We have a very beautiful and photogenic group of people, and Julie, you stepped out and you're a wonderful photographer. So thank you.

CHAIR VIGIL: So with that, we'll go on to Matters from the Commission.  
Commissioner Anaya, do you have any matters?

COMMISSIONER ANAYA: Madam Chair, at the last meeting I brought up a very difficult thing for me. A good friend of mine is on a transplant list. His name is Mark

Rodriguez. He is right now on his way to Denver. He received the call, so I just want to ask everybody to say a prayer for Mark, that the surgery goes well with him and his family, and also a reminder that they're still raising resources for him and KSWV is doing a raffle, they're helping with the raffle. So anybody interested in that, appreciation to those that helped as well. Commissioner Holian and our Clerk and others.

Also, I want to ask Chief Sperling – we had a recent graduation and I would like to – not only myself but all the Commission acknowledge those graduates and I was going to suggest to the Manager that especially as it relates to the Fire Department, they have difficult schedules and their families – people work, so I was thinking on maybe on some of these dedications if it's okay with chair that we maybe do those in the evening, right at 5:00 before our land use starts so that people that are working may be able to attend. But I would like to acknowledge the recently graduated cadets of our Fire Academy and maybe we can all work together with the chair and everyone to find a date that would be adequate to get them here, and I was thinking maybe a land use meeting in the evening, just before we start all of the other items. If we could, Madam Chair, Ms. Miller, there's many things that we've been discussing that I've asked for some feedback on and at the next meeting, maybe we could get an update on some of those matters that we've discussed over the last several months. I don't have anything else, Madam Chair. Thank you.

CHAIR VIGIL: Okay. Commissioner Holian.

COMMISSIONER HOLIAN: Thank you, Madam Chair. Well, I don't have too much either. I guess it's been a quiet two weeks. But I want to thank Katherine. I think that the new procedures for our new BCC meeting agenda are working very well. I really appreciate getting the packet further in advance. That makes it easier to read through it, especially if it's a long one. And I think that everything seems to be more organized. So I just want to thank you for that.

The other thing is I just want to tell everybody that I will be gone for the next meeting. Yo estaré en España. Thank you.

CHAIR VIGIL: Okay. Commissioner Mayfield.

COMMISSIONER MAYFIELD: Thank you, and I'll ditto Commissioner Holian's comments. Thank you for the way the agenda's being put together. A quick point of personal privilege: my grandmother is turning 96 tomorrow, Orlinda Gallegos. She's a long-time Santa Fe County resident. So I just wish her a happy birthday if she's listening on KSWV, which she probably is. Feliz Cumpleaños. Thank you.

CHAIR VIGIL: Thank you. Commissioner Stefanics.

COMMISSIONER STEFANICS: Thank you, Madam Chair. The only thing I would ask for is if in the future, we could schedule a couple items on the agenda. One would be an update on any planning or activity around La Bajada Ranch. The second one is for the Commission that we've been asked by the New Mexico Association of Counties to review the legislative priorities, of which there's only like six or seven, and to take a formal position on it prior to January 1. So when I met with the County Manager I asked her to schedule that onto one of our agendas so that we could review and discuss or at least support or not support, so that their legislative team will know about that.

And there was one other item that I have forgotten. So thank you.

COMMISSIONER ANAYA: First of all, Pam, good job on your presentation.  
MS. LINDSTAM: Thank you. I was a little nervous.

COMMISSIONER ANAYA: You did good. Good job. I'm excited about this work that's going to go on. I think community centers are fundamental to our existence here in New Mexico and across the country and I would ask staff – I don't know if it's you Pam, or Paul – I'd like to see where we have community centers, even if they're not run by the County, and where we don't. I think it's an important part of our community, so if we could get a list of that. But I happily support this and I'm sure the residents in the Nambe and northern district will appreciate the work very much. Thank you, Madam Chair.

CHAIR VIGIL: Any other questions, comments?

COMMISSIONER MAYFIELD: Madam Chair.

CHAIR VIGIL: Yes.

COMMISSIONER MAYFIELD: One other point. Myself and Mr. Garcia and Mr. Hogan – excuse me, Mark if I pronounced your last name wrong. And also Penny Ellis-Green. We were out in the area. They may look at – and it has nothing to do with this contract but they may be looking at modifying the road just for point of sight, cutting the end off of 503, just so everybody's aware of that. Thank you.

CHAIR VIGIL: I have a motion and a second.

**The motion passed by unanimous [5-0] voice vote.**

**XII. B. Growth Management Department**

**1. Authorization to Publish Title and General Summary of Ordinance No. 2011-\_\_\_, an Ordinance Suspending on a Case-By-Case Basis Provisions of Article V of the Land Development Code Concerning Expiration of Master Plans, Preliminary Plats, Final Plats, Upon a Finding of Economic Necessity**

JACK KOLKMEYER (Growth Management Director): Thank you, Madam Chair and Commissioners. This issue was brought to our attention and this request subsequently being submitted to you by attorney Karl Sommer on behalf of the Longford Homes project, the Turquoise Trail project in the Community College District. The issue here would be to take forward a request to publish title and general summary of an ordinance suspending code sections related to the expiration of master plans, preliminary plats and final plats for those subdivisions whose approvals have expired. The proposed ordinance would allow the BCC to approve a resolution allowing this process. The proposed ordinance and resolution are attached for your review. If the ordinance and resolution are approved by the BCC a subdivider may come before the Board to request that this apply to them.

This is a request only to publish title and general summary of this ordinance. If the request is approved this ordinance would be heard in public hearing on November 8<sup>th</sup>. Mr. Sommer is here in the audience to answer questions along with other staff members.

I'll explain it in perhaps a little bit more simplified way. The issue is this: A developer had come forward with a master plan for a project and then in the case of these

past couple of years had to leave the project and the master plan expired. When things got better for them, if they came back and wanted to continue with the project in such a case as this they would have to come back and go all through the master plan process all over again. So it's been suggested that in the case such as this one where they now are in a situation where they could come, rather than to make them go through the whole master plan process all over again we could institute this ordinance which would all you the Board, through resolution to give them a two-year extension on their master plan.

So it's fairly simple and at the moment we only have this one project caught in this situation but as we looked at this last week when this came forward to us it's possible that we could have others that fall into this situation if they're not able to continue with their projects. I wouldn't want to put the voodoo on anybody and mention their names but one that we certainly have a situation right now might be Oshara, for example, where if they had to allow that master plan to expire that might be okay but if they wanted to start it up again to have a process to allow a developer to go forward for two additional years. So that's the proposal. And there is an ordinance in here which is very brief, stating that – and again, just so it's clear, the resolution that's attached in there would be the resolution that you would agree to in the case that one of these developers would come forward they would do it with you through resolution.

So that's what we're proposing. Again, this is just to publish title and general summary today, and we would take this up next month.

CHAIR VIGIL: Thank you. I have Commissioner Anaya, Commissioner Holian, then Commissioner Stefanics.

COMMISSIONER ANAYA: Madam Chair, if I could ask just a couple questions of Mr. Sommer?

MR. KOLKMEYER: Certainly.

COMMISSIONER ANAYA: Just an initial comment and then a question. My comment is that nobody has to say anything in regards to the fact that right now the economy is still struggling and we've been stuck in the mud, if you will, in trying to get out of it. As I understand it, this provides the ordinance to allow us to do the extension and would put forward an opportunity, and I would say that if we do this that we have to be equitable and fair across the board, which sounds like that would be the case, but Mr. Sommer, there's a lot of investment that goes on associated with these master plans and various aspects. It costs a lot of money to go through the process. Give just a brief statement on that fact and the fact that starting over again could frankly put people in a position where they wouldn't be able to do it at all.

KARL SOMMER: Madam Chair, Commissioner Anaya, in this particular instance there is over a half million dollars in final plat approvals. This was ready to get recorded when the economy tanked. So that half million dollars would have to be reinvested. Then it took Longford Homes over nine months to get to that particular point, so a half million dollars and nine months from now or whenever it came about is a huge investment in time and money. I don't think that it would be feasible to do that.

The money is invested as you've noted, a half million dollars at least in this particular phase. There are 297 homes that were approved and final. Longford Homes actually was the developer as well as the builder so they were vertically integrated from top to bottom. It is the



efficient use, in this particular area of all the infrastructure. There are improvements to Highway 14 that they have the ability to bond for that helps not only the County but the residents in the area. So you correctly pointed out there are large investments made in this and other developments that go up in the air when it expires and that's exactly what happened here.

I wouldn't be in front of you but for the fact there was no legal way to bring it forward otherwise. You get extension requests all the time. This was beyond the ability of the ordinance to capture that, so that's why we're here.

COMMISSIONER ANAYA: Madam Chair, Mr. Sommer, I think yourself and others that might benefit have gone back in and relooked at a lot of these projects and are trying to make them more in tune, if you will, with the market, and that you make adjustments associated with the project to try and keep people in Santa Fe if you will within reasonable price points. Correct?

MR. SOMMER: That is correct, and in this particular instance the 297 homes would be built at the rate of 13 units per month. The initial plan is that it would be build exactly as approved. They would be rental projects to begin with because the market in the Santa Fe statistical area shows that there is not enough rental properties. People are not buying homes; they're renting. And that's driving rental prices up. There's a market for rental. So it does keep living in Santa Fe at affordable rates.

The other thing that this and any other developer will have to comply with, all the regulations that are in place – your affordable housing regulations, your terrain management regulations, all of those things. But this does bring housing in this particular sector to meet the market. That's why they're willing to do it and they've got the financing to get it going.

COMMISSIONER ANAYA: Thank you, Madam Chair. Thank you, Mr. Sommer. I'm looking forward if this goes forward hearing more from others that may need consideration. Thank you.

CHAIR VIGIL: Commissioner Holian.

COMMISSIONER HOLIAN: Thank you, Madam Chair. So, Jack, would this be on a case-by-case basis? In other words we wouldn't be giving a blanket approval to extending all master plans, correct?

MR. KOLKMEYER: Commissioner Holian, yes. That's absolutely correct. Case-by-case. Otherwise what would happen is exactly what you said. This would only be in cases where, as stated in the memo and also in the summary information that we provided to you, for projects that have fallen on some kind of economic hardship. That would be what would have to promote this.

COMMISSIONER HOLIAN: And what if there were a project that staff, say, would have some recommendations that the project should be tweaked in some way? Would they then also bring forward an amendment to the master plan approval?

MR. KOLKMEYER: Madam Chair, Commissioner Holian, I suspect where in cases where some time has passed we may want to look at some conditions we may want to attach to it at the time of the resolution.

COMMISSIONER HOLIAN: Okay. Thank you.

MR. KOLKMEYER: But the basic intent of the master plan would be to keep it as it was originally submitted.

COMMISSIONER HOLIAN: And it would be more if the developer thought they would like to change something then they would have to bring an amendment.

MR. KOLKMEYER: A master plan amendment. That's correct.

COMMISSIONER HOLIAN: Okay. Thank you, Jack.

CHAIR VIGIL: Commissioner Stefanics.

COMMISSIONER STEFANICS: Thank you. My question is somewhat similar to Commissioner Holian but this is directed to Steve Ross. Steve, I'm a little concerned about doing a case-by-case basis and any tweaking. It would seem to me that in terms of providing a fair and equitable consideration that if we were going to pass an ordinance that it should affect whatever's in the works and not be done on a case-by-case basis. Could you comment?

STEVE ROSS (County Attorney): Madam Chair, Commissioner Stefanics, the proposed ordinance requires a finding of severe economic conditions, so that finding would have to be made before anyone could go forward. So the way it's set up it's a case-by-case basis but it requires a finding, it requires information and facts. So that might differentiate this situation from the situation you're concerned about where we just basically have unfettered discretion which we're not allowed to exercise. We could do it both ways.

COMMISSIONER STEFANICS: Okay. Now on this same point though, Madam Chair, we have had individual cases come in front of us that have claimed economic hardship. How can we equitably provide a case by case resolution for a development and not for an individual?

MR. ROSS: Madam Chair, Commissioner Stefanics, are you referring to the economic hardship that's sometimes asserted to support a variance?

COMMISSIONER STEFANICS: Yes. And we have had many individuals who have come in front of us. They're at the point of bankruptcy, they're at the point of loss of revenue due to unemployment, due to health conditions. We've heard many, many individuals in front of this group. And my question is why would we step out to make – and I'm not opposed to this, but what I'm concerned about is the fair and just treatment of all.

MR. ROSS: Yes, Madam Chair, Commissioner Stefanics, those individuals are often asserting economic hardship in the context of a variance which isn't technically permissible.

COMMISSIONER STEFANICS: Correct.

MR. ROSS: But let's say one of those very same individuals had a master plan expiring or something like that and brought in the same evidence under this ordinance, if they proved to you that there were severe economic conditions that justified a suspension then you could certainly act on that, and that would be how you would differentiate between applications. If you had a multi-national corporation coming in that had on its balance sheets giant profits, what have you, and they attempted to assert an exception from the ordinance based on their situation you might say that's not good enough.

COMMISSIONER STEFANICS: But my point, Madam Chair and Steve, is exactly that. That we are going out of our way for developers in times of economic hardship and we won't do it for individuals. So that's just a statement. Thank you, Madam Chair.

CHAIR VIGIL: Commissioner Mayfield.

COMMISSIONER MAYFIELD: Madam Chair, I echo Commissioner Stefanics' concerns or comments. Madam Chair and Jack, real quick question. As far as say, a mom and pop commercial development, somebody comes in, wants to open up an art studio, just some little grocery store. They've already put a permit in with you folks to do this, they have a master plan on file. Maybe they want to do a remodel to a current commercial property they have and for whatever reason they just haven't been able to afford it. They've already invested the money coming to your staff, invested the money with who they've invested in, from what I've heard from you Jack is that you maybe have two big developments but do you have any, say, mom and pop commercial development out there or residential development that could have been on hold because of financial conditions?

MR. KOLKMEYER: Madam Chair, Commissioner Mayfield, I don't know of any, but again, the situation here is parallel. If that occurred and it occurred for economic hardship reasons, the way that this ordinance is written, we could reconsider. It doesn't have to be a big group. It could be a mom and pop operation as well if that is the situation that occurred to them. But I don't know of any off the top of my head.

MR. SOMMER: Madam Chair, Commissioner Mayfield, I do know of one that I came across that I wouldn't – it's a single woman who did a development and her master plan and final subdivision plat just expired and expired about a year ago and it happened during this time period. So I know of that one other one. Shelley and I spoke about it. It's Judy Ponderado. And this woman as far as I know is a single woman who divided her property and all of her approvals expired for the very same reason that happened here I assume. So that's one that I did look into and that's the only one that I could find that was closely related to this. I haven't found any other commercial ones, like in a commercial node where someone wanted to start something and then it expired. I haven't found one of those, but I did find that one.

COMMISSIONER MAYFIELD: Thank you very much, Mr. Sommer. Madam Chair and Jack, it may have said it in here, how far retro are you going to do this? I don't know when Mr. Sommer project was in the pipeline.

MR. KOLKMEYER: Madam Chair, Commissioner Mayfield, I don't believe we have a provision in here for how far back it goes. Steve, can you help me out with that? I don't believe that we've set a timeframe for how far back.

COMMISSIONER MAYFIELD: Madam Chair, Jack, if we enacted this, when we enact it, when the ordinance passes, that would be closed to that action, wouldn't it? Nothing could be grandfathered in if it's already expired?

MR. KOLKMEYER: Madam Chair, Commissioner Mayfield, it seems to me we should put some kind of provision in here for how far back it should go, because the point here is that this particular incident occurred and others may during this period of economic hardship we may want to set some kind of time parameter.

MR. SOMMER: Just a suggestion. There are two places where that very kind of criteria can be placed. One is in the ordinance and the other is in a generalized resolution that says – and it goes to what Commissioner Stefanics was saying is that if the Board is going to consider these on a case by case basis you could pass a general resolution that says these are our criteria; you can apply under these criteria. One of those criteria could be a timeframe, and you could see how that works. But the idea of doing it in a general resolution

setting criteria is it gives people a sense that there's criteria, we're applying it fairly across the board, here are the things that we think are important. And you can adjust them as the go in that general resolution. So I think that both places are possible to place that.

CHAIR VIGIL: Commissioner Anaya.

COMMISSIONER ANAYA: Madam Chair, on that point, I just wrote down three things and you just said one of them but I think not for a resolution but within the ordinance itself we should have clarity of the criteria and even setting forth time lines as Commissioner Mayfield brought up, and that we should work on that before we get to the next hearing. And that master plans, if this would pass, and I completely concur with equitable treatment of all, small and large, is that those master plans, if this is approved, would still come back to the Commission for approval, correct?

I guess, let me restate this. I'm supportive of this resolution going forward for title and general summary and we'll hear what the feedback is at the next meeting, but I think it would not be a complicated thing to bring those items back within that ordinance before us and say, here's the criteria we adopted in the ordinance, and then add subsequent to that, here's Longford Homes, or whoever it is, and simply stating the facts as to why we should do that extension and follow suit. That way we have a criteria that's straightforward set forth in the ordinance and also that we actually in one of these meetings actually hear the project and why we should go ahead and grant that extension. So those are my thoughts.

CHAIR VIGIL: Commissioner Mayfield.

COMMISSIONER MAYFIELD: Madam Chair, and I really like that. Thank you, Commissioner Anaya. Also, Jack, if there are folks that have had a permit, when we get to that criteria setting, let's say they have expired whatever date we look at, that we as a County take the ownership of sending them a letter saying, hey, guys, just so you know, your permit expired on such and such date, and if this passes we're looking at publishing title and general summary on a new ordinance and this may very well be applicable to you all, just so you don't have to reinvent the wheel.

Madam Chair and Jack, last question. We're going through a code rewrite right now. I don't know when the code is going to be done or not, but let's say it does get done in the foreseeable future, next year, maybe this year. How will the new code be applicable to these permits that are in place? Or if these permits are extended for a duration of two years?

MR. KOLKMEYER: Madam Chair, Commissioner Mayfield, I believe that we have to do this now because we don't have, as it is suggested here in this ordinance, because we don't have provisions in the code. But it's likely and maybe it would be to our benefit to actually build these things into the new Land Development Code so that it could be done on a more permanent basis in this same manner.

COMMISSIONER MAYFIELD: Madam Chair, Jack, maybe I'm not understanding. If we as a County implement new code requirements and current development-X that has a permit, they are bound to abide by the existing code requirements, correct?

MR. KOLKMEYER: Yes.

COMMISSIONER MAYFIELD: Are they going to be grandfathered in under the existing code requirements? Or could that be a provision, as long as they're not so far, I

guess, with the development of the project where they could now be bound by the new code requirements.

MR. KOLKMEYER: Well, they would have to be bound by the new code requirements.

COMMISSIONER MAYFIELD: If they've already started building?

MR. KOLKMEYER: If they have a building permit, no.

MR. ROSS: Madam Chair, Commissioner Mayfield, once you start building you're vested, so you're vested under the existing code, not a new code.

COMMISSIONER MAYFIELD: So, Madam Chair, Mr. Ross, in particular to this development, there potentially could be an extension of two years if this passes, correct?

MR. ROSS: Correct. Yes.

COMMISSIONER MAYFIELD: And if the new code gets put in place before they put any shovel in the ground, they will be bound by the old code requirements, correct?

MR. ROSS: Well, Madam Chair, Commissioner Mayfield, that depends on what the new code says. Typically, what occurs and what occurred in the ELUA ordinance which I know if before your time, typically you set some level of approval and say that everything above that level is vested and everything below that level, say master plan, is not vested. Then if you have a master plan on a particular development and want to proceed further under the new code you have to make the appropriate changes that the new code requirements and then come forward on some sort of an abbreviated process. We haven't gotten there. We don't know exactly what you will decide on that particular subject, but that's the way it's drafted right now, based on our ELUA experience. It could say everything is grandfathered, it could say nothing's grandfathered and there's quite a range there. Probably the most reasonable one is to respect the money that people have put into these developments and give them the opportunity to come forward without too much hassle and certainly without too much extra money spent.

COMMISSIONER MAYFIELD: Thank you, Madam Chair and Mr. Ross. I appreciate that. One thing that we're doing right now, that I believe we're potentially going to get is looking at the affordable housing ordinance as is. Madam Chair, Jack, I would assume that this permit is currently under the existing affordable housing ordinance. Madam Chair, Jack, I don't know if that affordable housing ordinance would change any time soon or that this shovel-ready project would be, or would there be a change to that master plan as far as the affordable housing segment of it?

MR. KOLKMEYER: Madam Chair, Commissioner Mayfield, it's my understanding that this would have to comply with the affordable housing rules that they agreed to in their master plan.

COMMISSIONER MAYFIELD: Thank you, Jack. That's all I had. Thank you.

CHAIR VIGIL: Thank you. My concern has really been addressed by my fellow Commissioners here, because when I first read this I was concerned about what severe economic hardship meant, not so much so in these times, because it's very understandable. I think there's the inertia to start looking at this, to address the severe economic hardship. However, in ten years from now, if somebody could come before us and argue there was severe economic hardship, are there the appropriate economic guidelines there for that. So I

think what was discussed and what I would fully support in this ordinance is creating a time frame for what this severe economic hardship is. Is it from this year to this year, and that ordinance would be specific to that, so we don't run into that loophole that could be created in the future in 2020 when this ordinance is looked at and said, I have a severe economic hardship. But the severe economic hardship we are trying to address is the current economic climate.

So I am thinking, what my fellow Commissioners have sort of given direction for is creating a timeframe and I fully would support that. Commissioner Anaya.

COMMISSIONER ANAYA: Madam Chair, I would move for publishing title and general summary for this ordinance, with timelines, clear criteria, and even provisions that those could come before the Commission before they go forward.

COMMISSIONER MAYFIELD: Second.

CHAIR VIGIL: There's a motion and a second. Discussion?

**The motion passed by unanimous [5-0] voice vote.**

**XII. C. Matters From the County Clerk**

**1. Ordinance No. 2011- \_\_\_\_, an Ordinance Amending Ordinance No. 2009-6, Which Establishes Fees for Copies of Certain Electronic Data, to Comport with NMSA 1978, Section 14-18-14 (2011) and Repealing Certain Provisions of Ordinance No. 2009-6**

GERALDINE SALAZAR (Clerk's Office): Madam Chair, Commissioners, the Clerk's Office's goal is to ensure that there is a sustainable economic plan in place to recover the cost for copying electronic records with an effective infrastructure that adds value and ultimately is in the best interest of Santa Fe County taxpayers. Revenue is income that an organization receives from its normal business activities, generally from the sale of goods and services to customers. Net income generally implies total revenue minus total expenses in a given period. This revenue includes income from activities related to an organization's mission. The mission of the Clerk's Office is to maintain a perpetual, comprehensive set of public records consisting of all documents appropriately presented for recording in accordance with the law. In an effort to include public access and reduce the amount of time for research, the Clerk's Office established an enormous project to digitize and index all recordings into an electronic system.

The Santa Fe County taxpayer dollars for the project are an investment to guarantee preservation of and accessibility to these public records. The cost to maintain, preserve and protect these records in perpetuity for the public depends on the sale of electronic copies. The sale of Santa Fe County's electronic records is an economic reality. These sequential records maintained by the Clerk's Office for public use since 1848 serve the public when the need arises to produce documentation and to prove rights to water, real property and ancestral land. The economic reality is that it costs to maintain and preserve and protect the government records for the public at an affordable price.

The Clerk's Office has received tax dollars to create this system and must generate the necessary revenue through reasonable fee recovery to maintain, preserve and protect this public resource. The Clerk's Office must also ensure that the provisions of Article IX, Section 14 of the constitution of New Mexico, the anti-donation clause, are not violated, and that there are no violations of any conflict of interest laws by selling public records to commercial use requesters at discounted prices for copying electronic records. In other words, the Clerk's Office should not subsidize companies with public funds to enrich their business at the cost of the taxpayer. This is not in the best interest of the taxpayer.

Previously, the County Clerk's fees were incorporated into Ordinance 2009-6, which now conflicts with the statutory authority of the County Clerk to establish reasonable fees. In order to eliminate this conflict and the potential for confusion between Ordinance 2009-6 and the Clerk's fee schedule, and to comply with NMSA 1978 Section 14-8-14 of 2011 the Clerk is requesting that the Board of County Commissioners pass, approve and adopt this ordinance amending Ordinance 2009-6 to comport with NMSA 1978, Section 14-8-14. The revenue generated by the sale of electronic records goes into the general fund. The Clerk's Office submits an annual request to the general fund for funds to carry out its mission to preserve and protect these records and to guarantee that this public resource remains in the public commons in perpetuity.

I also want to note that for over two years the County Clerk's Office has worked with the County Attorney's Office, with the Department of Finance and other County staff to look at this issue. The law has changed giving the authority to the County Clerk to set reasonable fees, and I will be, for the Clerk's Office surveying all the counties and their fees and also continue to work with the County Attorney's Office to see where we're going to go, and then present the findings to the Clerk so we can establish reasonable fees.

CHAIR VIGIL: Commissioner Stefanics.

COMMISSIONER STEFANICS: Thank you. Katherine, you had something to say first?

MS. MILLER: Yes. And this has to do with a conversation – Commissioner Stefanics and I were going through the packet and I think Steve can clarify something in the packet, because there is – there's actually only one section of the ordinance that changes. So that you understand what's actually in your packet and what you're voting on.

CHAIR VIGIL: What we don't have in our packet is the fee schedule.

MR. ROSS: Madam Chair, there is no fee schedule. That's part of what's confusing about this. Because what you have in front of you, if you look at Section 1 of the proposed ordinance it goes right into Section 6. It doesn't make any sense but that's the existing fee ordinance. And the Exhibit A that's referred to in that first paragraph under Section 6 is the existing fee schedule. So the only thing that's changed there is the words "except the records maintained at the Office of the County Clerk." And then the entire subsection D under Section 6 is new material. We'll do this better next time and make it clearer.

But the new information is Section 6.B. So how this works is the normal fee schedule would not apply to anything that the Clerk's Office does. The Clerk would publish in whatever manner she's fit, probably by posting near her office and putting it on her website her fees for particular services.

COMMISSIONER STEFANICS: Madam Chair.

CHAIR VIGIL: Commissioner Stefanics.

COMMISSIONER STEFANICS: I'm not reading it that way. I'm reading it as Attachment A still stands. And I had Attachment A printed out just so I would see what the fees are, but could you tell me the exact language that is rescinding that?

MR. ROSS: Okay. Madam Chair, Commissioner Stefanics, the language that's rescinding that is Section 6-A, the first half a dozen words. The words, "except for records maintained at the Office of the County Clerk." So these fees that you see in Exhibit A apply to everything except for records maintained at the office of the County Clerk. It seems to me if there are items on Exhibit A that pertain to the Clerk that that exhibit is going to need to be amended also. I don't know if anyone's thought about that, but it seems to me that Exhibit A is going to need some revision. I don't have it in front of me so I don't know if there's Clerk fees on there, but I don't see how it could avoid being revised.

And then subsection B of Section 6 would establish the right of the County Clerk to establish fees outside of Exhibit A.

COMMISSIONER STEFANICS: Madam Chair, the categories that are on Exhibit A include databases, and I'm assuming there are some databases at the County Clerk's Office, internet access, standard hard copy maps, slope analyses and GIS data. Now, even if I understand the language correctly, what we're doing now is we're setting up a two-tiered payment system?

MR. ROSS: Madam Chair, Commissioner Stefanics, there's a new bill in the 2011 regular session that permitted Clerks to establish fees independent of the rest of County government and free from some of the constraints that we operate under that are reflected in that fee schedule.

COMMISSIONER STEFANICS: Madam Chair, I'll listen to my other colleagues on this one.

CHAIR VIGIL: Commissioner Mayfield, and then Commissioner Anaya.

COMMISSIONER MAYFIELD: Madam Chair, Mr. Ross, who is the custodian of public records for Santa Fe County? Is it the Clerk?

MR. ROSS: Madam Chair, Commissioner Mayfield, for purposes of the Open Records Act Robin Gurule in my office is the custodian, and there's an independent custodian at the Sheriff's Office. And for purposes of recording of documents, both County and otherwise, it's the County Clerk.

COMMISSIONER MAYFIELD: Madam Chair, Mr. Ross, couldn't we have competing fee schedules if you're custodian of your office had a record that also was on file with the County Clerk's Office? Would there ever be a time where one record that is filed with your office would also be filed down at the County Clerk's Office?

MR. ROSS: Madam Chair, Commissioner Mayfield, yes. That happens. That happens now.

COMMISSIONER MAYFIELD: So, Madam Chair, where would J.Q. Public come in to make that request? To your office or to the Clerk's Office?

MR. ROSS: Well, Madam Chair, if they come into our office we try and steer them to the option that's the cheapest.



COMMISSIONER MAYFIELD: And Madam Chair and Mr. Ross, what was the section of the law that gave the Clerk the authority?

MR. ROSS: Madam Chair, let's take a look here. I don't know the bill number but it's codified at Section 14-8-14 of the New Mexico statutes.

COMMISSIONER MAYFIELD: Thank you, Madam Chair. Thank you, Mr. Ross.

CHAIR VIGIL: Commissioner Anaya.

COMMISSIONER ANAYA: I thought I understood it but I think I have some questions. So the law was passed to allow Clerks to charge fees, and those fees would be above and beyond any fees that were sanctioned by the Commission, but in order for you to charge the fees, the Commission has to approve it?

MS. SALAZAR: What has happened is that over two years ago there was changes to create an ordinance to be able to establish reasonable fees for the County and the GIS system. The Clerk's Office was never going to be a part of that process, but somehow it became incorporated. So two years have passed and we've worked with this issue and then the legislation was passed to give the authority. So we used to charge for our records, \$200 weekly records, for thousands of documents. These are permanent records. These aren't just records of letters. These are permanent records that the County Clerk is responsible to maintain in perpetuity for the public. They're important recorded documents.

So counties throughout the state charge for their data for their permanent records. So we just want to be able to look at what they're charging then come up with a reasonable fee to charge for these weekly records that we sell to commercial use users.

COMMISSIONER ANAYA: Madam Chair, how much are we talking about? How much money are we talking about?

MS. SALAZAR: Well, in the past we used to charge \$200 a week for weekly records which are thousands of images, and then we don't know yet. As I mentioned, I'm going to survey all the counties in the state of New Mexico, see what they're charging for their data. Because I believe that no other county has an ordinance like this. Survey them, and then also communicate to them how did you come up with this fee that you're charging? And it ranges. They would charge from – say, Bernalillo County charges \$250 per weekly. Los Alamos County charges \$200 per weekly. We charge anywhere currently from \$5 to \$15, \$16 for weeklies. So the Clerk is looking at recovering the costs.

COMMISSIONER ANAYA: And Madam Chair, I guess, Ms. Salazar, I guess I'm still a little confused. Right now there's a new law that allows the Clerks to charge reasonable fees but in the law it says that the Commission has to endorse it?

MS. SALAZAR: No, Madam Chair, Commissioner Anaya, it has to do with the previous ordinance that was passed by the County Commission. And all we're saying it there's a law that gives the authority to the Clerks. We want to change that conflict. Because right now the Clerk could charge whatever she wants without this. But we don't want to be in conflict with this ordinance, with the Clerk's fee schedule and with the law, and that's why we're seeking for approval for this.

COMMISSIONER ANAYA: So, Madam Chair, Mr. Ross, right now – and here's where I'm going with this – when I was – especially in these times, I said I wasn't going to vote for any increases to taxes or fees right now and the only way I was going to

look at it in the near future was if there was a referendum to let people have impact. But when I think of services like the Clerk's Office provides – I just had a good experience in the Clerk's Office last week. The staff did an excellent job with some work that I needed taken care of and they did great, but when I look at that as a Commissioner, I'd like to see what are the costs associated with doing business in the Clerk's Office adequately, and what are the resources that not only the Clerk but the other offices need to do that job?

And so if I'm understanding, and maybe I'm not, but if I'm understanding, if we approve this ordinance then that fee could be anything deemed appropriate by the Clerk and it's still our responsibility as Commissioners to review the overall budget and to figure out what are the adequate needs for each office. So I'm curious as to what amount are you thinking you might need from the fees and have we looked at every alternative and the only alternative left now is to basically allow the Clerk's Office to determine what those fees are so that they can generate offsetting revenue. I'm trying to look at the whole budget and the whole picture. So can you help me understand a little better what we're doing by this action?

MS. SALAZAR: Historically, okay, we've charged \$200 for weeklies. We did go and present to the local title companies to be aware that it's not just local title companies that want to purchase these; it's companies outside of New Mexico, all across the United States calling in saying we want your records, every record that you have. Well, currently we only have from 2004 to the present digitized. So when we present to the title companies meeting here locally, their main concern is that it's going to be \$250. We're not looking at that.

So in the past we had charged \$200; we did not have any complaints about the fees that we charged. Even the fees that we charge other than our data, we've never had complaints about it. So we're probably looking at \$200 per week, but we also wanted to be able to be fair and look at what is everyone charging across the state per county, and in addition to that we also want to discuss this with the attorney with the New Mexico Association of Counties also, because he's interested in what we're doing. And with our attorney we'll be working on it.

And also I want to make the statement that the Clerk will establish reasonable fees. We'll look at all the angles.

CHAIR VIGIL: On that point, Commissioner, then I'll turn it over to you. Ms. Salazar, wouldn't it be more prudent for us to know what those are, after your research and all that comes to us. Because part of the problem and the difficulty I had with this is I don't know what the current fees are. I don't know what your research is going to tell you; neither do you. But when you do have that research done you'll have an idea of what you might propose and you're preparing your users for it, but we don't know what that is. Wouldn't it be more prudent to bring this forward to the Commission as a full package?

MS. SALAZAR: Probably, in listening to you, Madam Chair and Commissioners, I'd have to say yes. But ideally, to be able to give the County Clerk her authority to establish her fees I think would be reasonable in itself.

CHAIR VIGIL: Well, and I think nobody's opposed to that. I haven't heard any opposition to that. The concerns that I'm hearing is what are those fees going to mean to the public and how can we support it and how does that fee increase or whatever it is justified by your research? Not knowing that, we're taking action on something that we don't have an

outcome for, is my concern. Is there – on that matter – is there a timeline associated with this Do you have to take this action before a certain date? Or can you do your research and say Dona Ana's doing this, Bernalillo's doing this. We think this is reasonable. We think this is the direction we're going to go. I'm feeling that if we had that additional information we might be able to be strongly – I think we're supporting but I think we'd have a stronger basis to be supporting.

MS. SALAZAR: Madam Chair, Commissioners, the effective date for this law, for the Clerk to establish reasonable fees was July 1<sup>st</sup>. So we've extended it to continue the research, communicate to people, present this, put this together. So it became effective July 1<sup>st</sup> and we've been waiting.

CHAIR VIGIL: But you can enact it any time after July 1<sup>st</sup> is what you're saying. I'll turn it over to you now, Commissioner Anaya.

COMMISSIONER ANAYA: Madam Chair, just a thought. Just in looking at the ordinance, I think we also – we probably should have noticed it for public hearing and we didn't. But here's what I'll say, Ms. Salazar. When I'm thinking of the Clerk's Office, you guys handle a lot of volume of traffic and a lot of volume of people, but in terms of fees, fees are charged to offset work and the things that you're doing in the Clerk's Office, to help augment your budget, to help to improve the situation. Would you agree that –

MS. SALAZAR: To recover cost. Madam Chair, Commissioner Anaya, it's to recover our cost.

COMMISSIONER ANAYA: So associated with that, in your words, if we're going to recover costs, what I'm inclined to do as one individual Commissioner, which I would like to see the structure, not to tell the Clerk what to do but rather to say what's important to us as a County. And potentially, there could be a situation where these commercial fees could very well make a lot of sense to charge because it's consistent with other counties, but we might also find that a lot of those larger volume or more commercial fees could offset in a positive way reducing some of the other fees that potentially the individuals coming in off the street day in and day out come to get from the County Clerk's Office.

So I don't look at it as trying to dictate to the Clerk at all. I look at it as, okay, if we should probably be charging more reasonable fees to higher-end commercial users, fine, but what offsetting benefit might there be to where there might not be a net increase over all to the fees and there might be a benefit to those individuals coming in off the street? Do you want to respond to that?

MS. SALAZAR: Yes, Madam Chair, Commissioner Anaya. I would say that the general population, our customers day in day out will not be impacted by this. The current fees that we have and that we charge will not change. It's a matter of these large volume requests for our records and weekly records, thousands of images per week, per month. So the everyday customer, everyday businesses that come in will not be impacted by this fee.

COMMISSIONER ANAYA: Potentially, Ms. Salazar what I'm saying is potentially they could be impacted in a positive way. Potentially you could garner higher revenues from larger, more commercial requests, and we could potentially have a situation where you could lower fees as a result of that revenue for everyday users that are in day in and day out. That's what I'm talking about.

I guess the other point that I want to make clear is whatever we need to do as a Commission collectively to work towards providing the resources, not just in the Clerk's but across the board is I think what we do, and that for me, I would like to see increases as a last resort, not a first resort. And so that's kind of part of where my thought process is. But that we need to make sure that we adequately fund things across the board and so I fully respect and appreciate the request. I just – I think I would like to see some more information and data. I think we're probably going to publish this one more time to notice it as a public hearing anyway to make sure that we're following the processes appropriately, but I look forward to seeing more information. Ms. Lamb, I know you wanted to –

MS. SALAZAR: Can I be real quick, Madam Chair, Commissioner Anaya? We did publish for a public hearing. It was in the paper September 27<sup>th</sup>. We published and put out the legal notice.

COMMISSIONER ANAYA: Okay.

MS. SALAZAR: And I have a copy of that in the office, where we did publish, September 27<sup>th</sup> we sent it out, and it was published.

MR. ROSS: Madam Chair, the problem is not with the notice in the paper; the problem is with this agenda here.

CHAIR VIGIL: Right. That's what we're saying. Usually we do public hearings after five, so that would have been the more appropriate place to put it in. And we do that intentionally so that the public who works will come after five. But Denise, you wanted to add something to this and then I have Commissioner Stefanics. Did you want to address something before Denise does?

DENISE LAMB (Election Bureau Chief): Madam Chair, this is out of my purview, but one thing occurred to me as I was listening to the discussion and I'd like to clarify for Commissioner Anaya. The fees that are charged to the general public for plats and recording documents are fixed already in state statute. So even if we charged \$500 a week to commercial interests, we still would not be able to lower the fees that are charged to the general public because the legislature mandates what those fees are.

COMMISSIONER ANAYA: Madam Chair.

CHAIR VIGIL: Commissioner Anaya.

COMMISSIONER ANAYA: Madam Chair, has anybody ever asked the legislature if there would be objections of any governmental entity wanted to lower it or has it just been this is what they are and you absolutely have to charge them?

MS. LAMB: Madam Chair, Commissioner Anaya, the problem with doing that is that when the legislature bothers to say in the law you charge this much for this, this much for this and this much for this, if a county takes it upon themselves to charge less money for something than what the law requires, then you're setting up this unequal treatment in different counties, so that a person who files a plat, say, in Chavez County, is paying less or more money than the same transaction in another county. And that's why the legislature puts those fees in statute, is so that the treatment to the public is equal.

COMMISSIONER ANAYA: Thank you, Ms. Lamb. Thank you, Madam Chair.

CHAIR VIGIL: Commissioner Stefanics.

COMMISSIONER STEFANICS: Thank you, Madam Chair. The New Mexico Association of Counties board started discussing not this ordinance but specifically some issues around setting fees for any public documents a few months ago and I in fact brought to the attention of this group that New Mexico FOG had done a presentation as well as a memorandum from the Attorney General's Office. And there are some out of state entities that are phishing for information and asking for massive downloads of information, and I don't know if this is occurring yet at the Clerk's Office or not, but I do know that the New Mexico Association of Counties has entered into – I thought they said they were in litigation regarding what would be provided or not on behalf of all the counties.

So I really would like for the Association of Counties' attorney to weigh in on this prior to our going forward. I do agree that I would like to see what the fees are so that we could compare. But I also have another point I'd like to raise. I think that if there comes to be a legal issue later on, regardless of the authority of the Clerk's Office in doing this, but our Legal staff is going to have to represent the Clerk's Office. So I would really want to make sure that we have some vetting in advance. And that's not saying not giving the authority; it's just saying let's put it all on the table and know what we're approving. So, thank you for those comments. Thank you.

CHAIR VIGIL: Thank you. I'm hearing a consensus towards looking at a tabling for this and there doesn't seem to be a problem with the timeline. Can I have a motion in that order?

COMMISSIONER ANAYA: So moved, Madam Chair. Motion to table to the next meeting.

CHAIR VIGIL: If that's the amount of time the Clerk needs, whenever she'd like and we'll make sure we get it in the public section.

MS. SALAZAR: Madam Chair, could I make one point?

CHAIR VIGIL: I'll second that just for the sake of discussion.

MS. SALAZAR: Thank you. I just wanted to say, Ms. Brown and I exactly discussed that today. I want you to know that too, that we're very conscientious about that fact. We work together; we want to make sure that we're in line with everything.

CHAIR VIGIL: Okay. We have a motion to table.

**The motion passed by unanimous [5-0] voice vote.**

COMMISSIONER ANAYA: And Madam Chair, on that, I guess that was the confusion on the agenda. We typically put "public hearing" on the agenda itself, and that's what we need to make sure we do.

**XII. D. Matters From the County Manager**

MS. MILLER: Madam Chair, under Matters from the Manager, I have a couple things, and since we typically try to do the redistricting ordinance –

CHAIR VIGIL: Did you have some announcements?

MS. MILLER: I have a couple of announcements, and then we've been trying to do the redistricting between 4:00 and 5:00, so my thought is a couple of things I had would only take a few minutes and then if we want we have a short executive session. So what I would suggest is I give you the two informational items and then if we still have quite a while before 4:00, that we go into executive session, get that taken care of, come back out and do the redistricting, and then you could go into the public hearings at 5:00. They are noticed for 5:00.

CHAIR VIGIL: Okay. So you'll make your announcements, then we'll go into executive, is your recommendation.

MS. MILLER: Yes.

CHAIR VIGIL: Okay.

MS. MILLER: Madam Chair, the first one I had, and it's actually Commissioner Anaya brought up something under Matters from the Commission. Kristine reminded me of something that's relevant this week for the Fire Department and Fire Prevention month. So on the issue of the cadets and their graduation, we actually did make copies of the program, the graduation ceremony, and we have CDs available for the cadets and their families, so if they weren't able to attend they could get those CDs and we'll make sure that the Fire Department and the cadets are aware of that and then the families could see that.

Additionally, we'll be playing that portion this month on the government channel several times because it's fire prevention month, so that's another thing where they would be able to see it if they weren't able to attend this last ceremony, even though I do agree, Commissioner, we'll try to get future ones in the evening where more people can attend.

And then also, two of our volunteer fire departments made some videos for Fire Prevention Week and those will be on the government channel as well. So I just wanted to let you know that and I'm glad you brought it up, Commissioner about the graduation because I had forgotten about this item.

And then also, in the papers over the last week there were a couple of things that came up. One is that the film studio is nearing its final completion and we'll have hopefully the Certificate of Occupancy, the Santa Fe Film Studios will have that. I encourage you, if you have not had an opportunity to tour the facility – everybody that has and I'm going to go on Friday if any of you would like to go Friday morning, I'm going to go out and see it in its final stages because it's been a couple months, but everybody who has gone says it's quite impressive and a really nice facility, and I'm really looking forward to getting that Certificate of Occupancy there.

And then the last thing, also in the paper, was the Agua Fria – the Santa Fe School District has been talking to us about the Agua Fria Elementary School site location and I wanted Mark Hogan to give you an update on some of that discussion so you didn't just read it in the paper. It didn't come out of thin air. It had actually come up previously and they came back to us to ask if we would entertain that issue and so I have had Mark attending meetings with them. So with that, Mark can give you a quick update.

CHAIR VIGIL: Welcome, Mark.

MARK HOGAN (Projects and Facilities Director): Madam Chair, Commissioners, as Katherine stated I've been to several preliminary meetings with members

of the school district in looking at, exploring the possibility of relocating Agua Fria Elementary to a County-owned site, across the street from Agua Fria Park, over where La Familia and the Nancy Rodriguez Community Center is. We did some preliminary studies of utilities, road and other infrastructure that might impact that discussion and whether or not it would be a suitable site and it looks like, with the exception of our water service which is nearby but not to the site that it's pretty well suited for that.

We also looked at other things that might be in the interests of the community, such as impact on traffic, safety of children, parents, how easy they can get to roadways. The site is very well situated for that, especially given that County Road 62 will have a grade-separated interchange at the Caja del Rio in the next couple of years so that would make it easy for parents to get on the highway, as well as for kids that live on the other side to cross over on bikes and on foot without having to do an at-grade crossing at Caja del Rio.

Right now, last Tuesday the school board voted to explore that further and suspend any rebidding of the construction they had proposed at the existing site until they could go through a process with the County, finding out if this other site would be a good one and under what terms. We would bring that back to the Commission to vote on on the 25<sup>th</sup>, so that the Commissioners have the opportunity to say yes, this is something we're interested in pursuing with the schools. I think our endgame would be to come up with some kind of a memorandum of understanding in terms of what terms would be agreed upon and how that would happen, and we'd use this period of time to come up with that and ultimately the agreement would come back to the BCC for a vote in support or against. So if there's any questions I'm happy to stand for them.

CHAIR VIGIL: Commissioner Stefanics.

COMMISSIONER STEFANICS: Thank you, Madam Chair. Mr. Hogan, we also have some needs in different communities that the public schools might be able to assist us with, and I hope that you are in discussion with them about that as well.

MR. HOGAN: We have looked at some of the issues that the County has in particular, and I mentioned this in one of the discussions with the school board. We're looking for a site for a senior center in the vicinity of Turquoise Trail Elementary. We thought maybe a co-generational facility might work out well in that location, so we're not really doing any horse-trading just yet but I think that that's things we're going to be looking at. Right now, we haven't indicated that there would be any charge for the property but certainly we'd be looking at some of the County's interests during the course of these negotiations.

COMMISSIONER STEFANICS: There's also another item that's kind of been on again/off again and it has to do with the County being able to utilize their portables when they're finished with them at a particular school site. And there's been a particular situation that's been ongoing for almost two, 2 ½ years now and our County Manager can apprise you of that. But that might be another part of our negotiations. Thank you.

CHAIR VIGIL: Commissioner Mayfield.

COMMISSIONER MAYFIELD: Madam Chair, a similar point. And Mark, thank you. We also have other school districts besides the Santa Fe School District in Santa Fe County. I know we're working a little bit with the Pojoaque School District in looking at a recreational area, joint, and also with our Rio Arriba/Espanola School District up at the Tony

Quintana Elementary. I know there's some issues with water quality up there. If you could keep that under your hat too I'd appreciate that. Thank you.

CHAIR VIGIL: Commissioner Anaya.

COMMISSIONER ANAYA: Madam Chair, Mark, I appreciate the work associated with Turquoise Trail and the senior center and potential services over there some day. Do you know, or if someone else can answer, associated with the services that we do provide, does people on Highway 14 have full access to Meals on Wheels, for example, or La Cienega, those communities? Do they have full access to Meals on Wheels? Those that don't have a senior center?

MR. HOGAN: I'm probably not the best person to field that at this time, because I'm not familiar with it. Again, I know that's one of the things that came up in terms of locating a senior center in that area, that it was an ideal location for doing the Meals on Wheels. I'm not sure what the existing situation is at this point.

COMMISSIONER ANAYA: Okay, Mark. Well, that's definitely something that I think, over time, that we will all look at but there's some areas that have access and some that don't and I think intermediate steps to get us to where they have full access is definitely something that I will strongly advocate for. I don't know, Ms. Miller, Mr. Gutierrez, if they know the answer to that.

MS. MILLER: Madam Chair, Commissioner Anaya, I was just asking Joseph if we do. We do not provide Meals on Wheels in that area at the moment but I think we do look at each one on a case by case basis if it comes up, but Joseph indicated that we don't currently.

COMMISSIONER ANAYA: So, Madam Chair, maybe this is something that staff can tag onto the work that you're doing on a location for a senior center, but I think we get offsetting federal money through the state that augments our budget for programs like Meals on Wheels, so if we can start to get more feedback on those areas that we could provide those services or at minimum, what the costs and impacts would be on the County portion if there is a County portion, in way of drivers and vans and the other things necessary to deliver those meals or those other services.

JOSEPH GUTIEREZ (Community Services Director): Madam Chair, Commissioner Anaya, following up on a request from Commissioner Stefanics early on and yourself in terms of a senior center in the Highway 14 corridor, the senior center staff, Ron and his staff have started the process of looking at demographics and those types of things that are going to give us information in terms of what the need would be, and Meals on Wheels, people that would qualify for Meals on Wheels and things like that, so kind of the assessment type of information that we would need. So we're starting to look at that.

We would probably have a report for that but it's probably going to take a little bit of time to garner. In terms of funding, funding would be available for that. Funding is not available for this fiscal year for this type of thing so when we acquire new customers for Meals on Wheels or we exceed our number that we projected for meals that are served in the senior centers then it would come out of the County's side as opposed to getting reimbursement for that, because our reimbursement rate is at a level that we can't overdraw at this point. But we're keeping that fairly well on balance at this point.



COMMISSIONER ANAYA: So Madam Chair, I think on that point, and I know we had a good presentation a few meetings back, but maybe an update in the future on exactly the community center, the community and senior centers we have and where we provide the meals and the periphery around those centers, and then where exactly we're providing Meals on Wheels. Then we as Commissioners can work together and look at those gaps and hopefully figure out a strategy to where we cover the county from one end to the next and all parts of the county. Thank you, Madam Chair.

CHAIR VIGIL: Commissioner Mayfield.

COMMISSIONER MAYFIELD: Thank you, Madam Chair. On that point, Mr. Gutierrez, we only have to play catch-up for those Meals on Wheels for that one fiscal year. Because once we establish those folks into our system then the federal funding kicks in.

MR. GUTIERREZ: Madam Chair, Commissioner Mayfield, this is our first year. I would think that would be true but I don't know that for a fact. I know one thing for sure is that in the senior program, it's about 25 percent funded by state and federal funds, mostly federal as compared to state, and 75 percent funded by the County general fund. So as we incur more expenses by serving a bigger area for our seniors in the area of meals we probably would qualify for more federal and state funds, and that 75 percent match that we did have with the County would also increase.

COMMISSIONER MAYFIELD: Thank you, Madam Chair.

CHAIR VIGIL: Any other questions? Seeing none, Mark I really appreciate you working on this. It's really a project that had come to the County before your time, if on an informal basis. It appeared at some point in time that the schools were going to move forward at its current site and based on some of the input and the hearings that they've had they're at a point now where they're trying to gather as much information as possible to make the most prudent decision I'm sure as can be made. I have stepped aside as much as I possibly can, because I think this is a community based and a public school board decision. I've been privy to many of the emails that have been exchanged and I think some of those questions are quite poignant and they've been answered very well, so I trust the process is well in place and I appreciate your being a part of it and garnering some of the benefits and the drawbacks that this project could bring forward. And I trust that the schools will make a prudent decision on this.

MR. HOGAN: I agree, Madam Chair, and I just wanted to point out an interest from the County. One of the things I think is a positive win-win aspect about it and I'm just saying this because I want the Board to understand the attitude that I'm going into these discussions with. This is also right along the site of the Santa Fe River, an area that is also planned for restoration. And since part of our mission is to bring kids in contact with the natural environment and a learning situation, this is a real opportunity also for the County to expand that mission. So I just wanted to emphasize that.

CHAIR VIGIL: Thank you, Mark. Appreciate that. Anything else, Ms. Miller?

MS. MILLER: Madam Chair, no, that's it and if you would like I think that we could probably – I'll turn it over to Steve but if you'd like we could probably go into executive session. We only have a couple of items, and then be back probably by 4:15 for the redistricting if you wanted.

CHAIR VIGIL: Very well, could I have a motion in that order?

COMMISSIONER MAYFIELD: On one point that Katherine brought up, I'd still like to address it please.

CHAIR VIGIL: Oh. Go ahead.

COMMISSIONER MAYFIELD: Madam Chair, and maybe this is for Mr. Ross, not Ms. Miller. Santa Fe Film Studios, I read that article in the paper also. Help me with the process really quick as far as the – what is it? One hundred hours? One thousand hours? And then they start paying some of the guaranteed money that we put up?

MR. ROSS: Madam Chair, Commissioner Mayfield, the land was sold on a note. The payments on the note are due after each 100,000 hours of jobs are delivered. So they recently notified us that they believe they've done the first 100,000 hours and they're going to pay us the first installment. There's a balloon payment after five years if they don't for some reason succeed in their economic development goals but it appears that they're going to do that.

COMMISSIONER MAYFIELD: So, Madam Chair, Ms. Miller, the way it was set up is we guaranteed that note of \$6.5 million?

MS. MILLER: Madam Chair, there's two different components here, Commissioner Mayfield. Part of the payments and the 100,000 hours goes to the acquisition of the land. The County sold them the land - \$2.6 million I believe, and then payments are made on that land based upon hours including construction hours. So that's separate from the loan guarantee, the \$6.5 million loan guarantee. So the only thing that's been kicked in at this point is the 100,000 hours that would kick in the first payment on the land payment, and they have indicated that they believe that they have hit that. They'll send us their audited hours at which point we will generate an invoice for the first payment on the land.

COMMISSIONER MAYFIELD: Thank you. And Madam Chair, Ms. Miller, how many land payments will there be?

MS. MILLER: It should be five.

COMMISSIONER MAYFIELD: Five. So the land gets paid off first.

MS. MILLER: Not necessarily. That's all based on hours, and then the loan is based on annual loan payments with the bank, and our guarantee goes down as they make principal and interest payments on that loan. So the \$6.5 million that sits at Los Alamos National Bank has a guarantee to the principal of the loan. Each time they make a loan payment, which I don't think their first one is due till a year after a certain date. It was the year after closing of that loan. And then as they make a principal and interest payment on that our principle goes down, therefore releasing the \$6.5 million in – I think it's 1/7 increments of that \$6.5 million.

COMMISSIONER MAYFIELD: Madam Chair, so it's about \$900,000 and some for the guarantee per year?

MS. MILLER: Per year. Yes.

COMMISSIONER MAYFIELD: Madam Chair, Ms. Miller, could you just, when you get time get me a matrix on that?

MS. MILLER: Sure.

COMMISSIONER MAYFIELD: Thank you very much. Thank you, Madam Chair.

CHAIR VIGIL: On that subject, I really wanted to congratulate Steve Ross for the victory that he was really instrumental in making happen when we had a lawsuit filed. I was very, very pleased Sarah Singleton narrowed the issue on that and made an appropriate decision, and I was there for all of the arguments. Steve, you did a very good job. Thank you so much for representing the County so well in that position. I also have learned that there is going to be a marketing strategy looked at with regard to bringing productions out here and the City of Santa Fe and the County of Santa Fe have been asked to participate to some extent to learn how we could help promote films in New Mexico and in Santa Fe in particular, and I think that would be a ripe subject for the Regional Planning Authority of just a joint discussion between all of us as Commissioners.

But I think we've worked so hard towards making this economic development project work and there's been a lot of hurdles to go through that it's only just the beginning in terms of what it means to our community in the future. So as much as we can create a support in terms of working towards promoting the film industry here I think that is our next charge, so to speak. And I did tour the studios a couple weeks ago. I was very pleased. I have never seen anything that looks quite like it. It's in my mind state of the art, the two studios that were actually built there are so soundproof that you walk in there and you feel like you're floating in an air balloon. There is no noise whatsoever. It's looking like a studio and that feels really good, being a part of its inception. So I look forward to seeing how we can continue to help make this happen.

**XII. E. Matters From the County Attorney**

**1. Executive Session**

**a. Discussion of Pending or Threatened Litigation**

**d. Collective Bargaining**

CHAIR VIGIL: With that, I guess we should go into executive session. Do I have a motion? What will we be discussing, Mr. Ross?

MR. ROSS: Madam Chair, we need to go into closed executive session to discuss pending or threatened litigation and have some discussions preliminary to collective bargaining concerning strategy.

COMMISSIONER HOLIAN: Madam Chair, I move that we go into executive session where we will discuss pending or threatened litigation as well as collective bargaining.

COMMISSIONER STEFANICS: I'll second.

CHAIR VIGIL: Okay.

COMMISSIONER ANAYA: Madam Chair.

CHAIR VIGIL: Do you have a question on that?

COMMISSIONER ANAYA: Just question. Until 4:00, right?

CHAIR VIGIL: 4:15 is what I think was recommended.

**The motion pursuant to NMSA Section 10-15-1-H (7 and 5) passed by unanimous [5-0] roll call vote with Commissioners Anaya, Holian, Mayfield, Stefanics and Vigil all voting in the affirmative.**

[The Commission met in closed session from 3:45 to 4:45.]

CHAIR VIGIL: Welcome back everyone. I'm going to need a motion to come out of executive.

COMMISSIONER HOLIAN: Madam Chair, I move we come out of executive session where we discussed pending or threatened litigation and collective bargaining.

COMMISSIONER STEFANICS: I will second, and in attendance was the County Manager, the Assistant County Manager, our County Attorney, our Assistant County Attorney and our HR person for a portion of the collective bargaining discussion.

CHAIR VIGIL: Okay, I have a motion and a second.

**The motion passed by unanimous [5-0] voice vote.**

**XII. D. 1. Ordinance No. 2011-8, an Ordinance Adopting the Santa Fe County Redistricting Plan, Amending Ordinance No. 1989-10, and Repealing Ordinance No. 2001-13, to Reassign Precinct According to the Five Commission Districts, in Accordance with the 2010 U.S. Census and According to County Redistricting (Second Public Hearing)**

CHAIR VIGIL: We are now on redistricting. This is the second public hearing. Who is here to address the Commission from the public? Okay. We'll keep asking throughout and of course when we go into a public hearing I'll call on you again. Mr. Wright, is there anything that you would –

ERLE WRIGHT (GIS): Madam Chair, Commissioners, there's nothing really to add. There should be two draft ordinances in your packet. The only difference is a listing of the precincts. Particularly, actually between the two plans we have it's just between District 1 and District 4.

COMMISSIONER STEFANICS: Madam Chair.

CHAIR VIGIL: Commissioner Stefanics.

COMMISSIONER STEFANICS: Thank you, Madam Chair. Since this is a public hearing and some people might be tuning in for the first time, could we go over just the four or five tenets or standards that you've tried to incorporate into all of our plans and into these final ones?

MR. WRIGHT: Absolutely. Basically what we looked at was first and foremost was equal population among the five districts. That is really the entire basis for redistricting, so that we maintain one person-one vote. Also that the districts remain contiguous, that they can't be separated or have donut type situations in them. And that they also be compact, which is essentially a rather low perimeter to the area, is one way to

measure that, so that we don't have spaghetti shaped districts. And then also not to divide, where possible, communities of interest. And communities of interest can be a rather broad term. It could be our traditional historic communities. It could be watershed based areas, for example the Aamodt area might be considered a community of interest. Those are the basic tenets that we applied to the redistricting process here in Santa Fe County.

COMMISSIONER STEFANICS: Thank you very much.

MR. WRIGHT: You're welcome.

CHAIR VIGIL: Are there any questions?

COMMISSIONER STEFANICS: Madam Chair, I could make a comment, but I could also wait until later, if you want to go to –

CHAIR VIGIL: No, please proceed.

COMMISSIONER STEFANICS: For the public, I just want to comment that although this is scheduled for our second public hearing we have noticed discussions about redistricting maps for several months now. And we have encouraged individuals to come forward. A few members have attended some of our meetings, and I don't want the public to think this has been a very short discussion about redistricting, that we have in fact been studying for – I don't know – how many months? Like four or five?

CHAIR VIGIL: Erle, you would know the startup date on this?

COMMISSIONER STEFANICS: August? July?

MR. WRIGHT: We actually started at the first meeting in July, was the first. After we got the precinct boundaries adjusted in order to do the redistricting in late June. It was our first meeting in July and every meeting since then.

COMMISSIONER STEFANICS: Great. And so just to reassure the public that we did start with many, many plans. We have whittled it down over the period of time. We have taken public comment. We are still interested in public comment today, but this is not a short deliberation. And Madam Chair, I have one request. When we finally make our determination, as if Erle and his shop could provide the final map to all the different Commissioners. Thank you very much.

CHAIR VIGIL: Very good. Any other questions, comments?

COMMISSIONER MAYFIELD: Madam Chair.

CHAIR VIGIL: Commissioner Mayfield.

COMMISSIONER MAYFIELD: Madam Chair, and I don't know where we're going to go with discussion later, but Erle – and I appreciate the job you've done. You've done a phenomenal job and Thank you. But one thing that I saw many years ago on redistricting, it wasn't this past redistricting, it was a past legislative redistricting, was that folks were looking at maps, but they were actually voting on the law that distinguished the precincts by number. And just to make sure that there is definite codification between the map and the numbers, just for a double check wherever we decide to go. Am I making sense with what I'm saying here?

MR. WRIGHT: Madam Chair, Commissioner Mayfield, I believe I understand your question and actually, the Bureau of Elections staff, myself and others have been through these two lists over and over again to make sure we got the precinct listing correct in your packets, that correspond to the two options we're considering.

COMMISSIONER MAYFIELD: To the maps?

MR. WRIGHT: To the maps.

COMMISSIONER MAYFIELD: Because I've been looking at the maps and maybe not the specific precinct number. Thank you. Thank you, Madam Chair.

CHAIR VIGIL: Okay. This is a public hearing. Is there anyone in the public that would like to address the Commission? Please step forward and state your name.

JUDY WILLIAMS: Good afternoon, Madam Chair and Commissioners. My name is Judy Williams. I'm the president of the League of Women Voters of Santa Fe County and I've been here before. I'll be very brief. I just want to say again how impressed we are with the County process that's been followed here, completely open. Every meeting has offered an opportunity for public comment and we feel that the outcome really was excellent.

We can't say anything specific about either of these two maps. We've been looking at the data tables and the data for all these line up with a way that's consistent with the law and the intent of the law. I just wanted to say that the League of Women Voters – let me go back. I think you've done a really terrific job, the best job I've seen in this County. [inaudible] the state at least in terms of the state level redistricting, you've actually accomplished your job in a timely manner.

The League of Women Voters, however, does support an independent commission to do redistricting in general, but that's not to say you haven't done a great job. I just wanted to put that out there. Thank you very much.

CHAIR VIGIL: Thank you, Judy. Is there anyone else that would like to address the Commission? Seeing none, we have two plans to take action on.

COMMISSIONER HOLIAN: Madam Chair.

CHAIR VIGIL: Commissioner Holian.

COMMISSIONER HOLIAN: I'm ready to make a motion. I would like to move to approve Ordinance 2011-8 adopting the Santa Fe County 2011 Redistricting Plan based on option C-2.

CHAIR VIGIL: Okay. I have a motion. Is there a second?

COMMISSIONER MAYFIELD: Madam Chair, I will second that, because I think that's the difference between the maps is myself's and Commissioner Holian's districts.

CHAIR VIGIL: Okay. I have a motion and second. Discussion? I have no input. Neither one of those maps changes my district in the proposal, so it remains the same. Anyone else?

COMMISSIONER ANAYA: Madam Chair, I appreciated the discussion and the process. I really want to extend a thank you to you, Erle, for your work. You've continually provided updated information in a succinct way and you were very methodical in working with Ms. Miller about providing the information that we asked for. So thanks to you and to you, Ms. Miller, and staff. And the consistent input from the League of Women Voters and interest. So I appreciate it, Madam Chair. Thank you.

CHAIR VIGIL: Okay. Any other questions? Comments?

COMMISSIONER STEFANICS: Madam Chair, I will support the motion. I did want to make a comment. Some of the constituents that I currently have on the east side of 285 and Lamy expressed concerns but I believe that they will be well served by having a Commissioner who knows their needs and a new Commissioner who will get to know their needs. So I don't believe anybody will be left out in the future as we move ahead.

COMMISSIONER ANAYA: Madam Chair, on that point.

CHAIR VIGIL: Commissioner Anaya.

COMMISSIONER ANAYA: Madam Chair, on that point, I would also be remiss if I didn't say that those precincts, 64 and 67, that will no longer be a part of District 3 will be part of District 3 as far as my work and trying to help those in other precincts throughout the county and those as well will be in good hands now and in the future, and I look forward to meeting the constituency and working closely with the constituency of Precinct 75 which will be new constituents in District 3. Thank you, Madam Chair.

COMMISSIONER HOLIAN: Madam Chair.

CHAIR VIGIL: Commissioner Holian.

COMMISSIONER HOLIAN: I would just like to make a comment. Again, thank you Erle and thank you to the GIS Department. You did a terrific job. I think this probably went the most smoothly of any redistricting process that I know of in the state. But I would just like to state to all the people in Santa Fe County that I think that in our case on the Commission, that all five of us Commissioners are concerned about the whole county. And I don't think that there is competition between one district and another, that we really do all work for the benefit of all of the constituents. So in any event, I think that the redistricting we did is really within the lines of what is laid out for us legislatively. So I think this is going to work out fine.

CHAIR VIGIL: If there are no more comments or questions we do have a motion to accept option C-2 under Ordinance 2011-8.

**The motion passed by unanimous [5-0] roll call vote with Commissioners Anaya, Holian, Mayfield, Stefanics and Vigil all voting in the affirmative.**

CHAIR VIGIL: The motion passes unanimously. Thank you very much. Thank you, Erle. Thank you, Katherine. I think you played a significant part in narrowing these issues for us also. With that, we have gone into executive session and we're on to Public Hearings.

MS. MILLER: Madam Chair.

CHAIR VIGIL: Yes.

MS. MILLER: I just want to note that the Public Hearings are noticed for 5:00.

CHAIR VIGIL: Okay. So could we take a five minute break then.

[The Commission recessed from 4:55 to 5:00.]

### **XIII. PUBLIC HEARINGS**

#### **A. Growth Management Department**

1. **BCC CASE # MIS 11-5280 Santa Fe Spirits Alcohol Craft Distiller License. Santa Fe Distillery, LLC, dba Santa Fe Spirits, Applicant, Colin Keegan, Owner, Request Approval of an Alcohol Craft Distiller License. The Subject Property is Located at 7505 Mallard Way, Unit I, within Section 11, Township 16 North, Range 8 East, (Commission District 2) Jose E. Larrañaga, Case Manager**

JOSE LARRANAGA (Building & Development Services): Thank you, Madam Chair. This site is located within the presumptive city limits. Ordinance No. 2009-1 limits the jurisdiction of the City Council to make a ruling on this type of zoning request. The decision for this requests falls within the jurisdiction of the Board of County Commissioners.

On May 14, 2010 the City of Santa Fe issued a letter of zoning verification for this site. The letter states this property is zoned I-1, light industrial district, which allows for distilleries and wholesale liquor distributors. Prior to the adoption of Ordinance No. 2009-1, this site was known as the Airport Business Park. The master plan approval for this site allowed for distilleries and wholesale liquor distributors.

Santa Fe Spirits currently operates as a batch distillery, producing small batches of handcrafted liquor. The applicant is requesting approval of an alcohol craft distiller license. This type of license allows the manufacture of distilled spirits and provides for on-premise consumption as well as package liquor sales similar to the winegrower and small brewer license. The craft distiller does require minimum production amounts. The operation employees two to three employees and as the operation expands the number of employees will increase.

The State Alcohol and Gaming Division granted preliminary approval of this request in accordance with Section 60-6B-4 NMSA of the Liquor Control Act. Legal notice of this request has been published in the newspaper. The Board of County Commissioners are required to conduct a public hearing to grant an alcohol craft distiller license at this location.

Recommendation: Staff has reviewed this application and has found the following facts to support this submittal: the City of Santa Fe has acknowledged that this property is zoned I-1, light industrial, which allows for distilleries and wholesale liquor distributors; Ordinance No. 2009-1 allows the Board of County Commissioners jurisdiction on this type of zoning request; the master plan approved by Santa Fe County for this site allowed for distilleries and wholesale liquor distributors; the applicant has met the State of New Mexico requirements for noticing, distance from schools and churches. Staff recommends approval of the applicant's request for an alcohol distiller license to be located at 7505 Mallard Way, Unit I. Madam Chair, I stand for any questions.

CHAIR VIGIL: Questions? I have a question. What master plan are we talking about?

MR. LARRAÑAGA: Madam Chair, it was a master plan that was approved for that whole commercial subdivision.

CHAIR VIGIL: Is this the Southwest Sector, or do you know which particular plan it is?



MR. LARRAÑAGA: I believe it was part of the Mallard Way – I can't think of the name of the master plan. It got approved probably about 15 years ago.

CHAIR VIGIL: Jack, do you have any recollection of what master plan this might be?

MR. KOLKMEYER: Madam Chair, the one you're referring to was an area plan for the southwest area. I think there was an individual property master plan. We'll have to check on that. It wasn't the one you're referring to but there was an individual master plan that we'll have to check and see if we can find that information for you.

CHAIR VIGIL: Is the applicant here? Thank you for being here. Would you like to address the Commission on anything? Any questions for the applicant? No. Okay. This is a public hearing. Is there anyone in the public that would like to address the Commission on this item? Seeing none, the public hearing is closed.

COMMISSIONER HOLIAN: Madam Chair.

CHAIR VIGIL: Commissioner Holian.

COMMISSIONER HOLIAN: I move for approval of BCC Case MIS 11-5280, Santa Fe Spirits Alcohol Craft Distiller License.

COMMISSIONER STEFANICS: Second.

CHAIR VIGIL: Okay. Any further?

**The motion passed by unanimous [5-0] voice vote.**

- XIII. A. 2. BCC CASE # MIS 11-5290 the Steaksmith at El Gancho Liquor License. Busan Vocale, Inc., dba the Steaksmit**  
**Request Approval of a Transfer of Ownership of an Existing Liquor License. The Subject Property is Located at 104 B Old Las Vegas Highway, within Section 7, Township 16 North, Range 10 East (Commission District 4) Jose E. Larrañaga, Case Manager**

MR. LARRAÑAGA: Thank you, Madam Chair. The Steaksmit at El Gancho is a legal non-conforming full-service restaurant serving food and beverages in the bar, lounge and restaurant. The applicant is requesting a transfer of ownership of dispenser liquor license #0684. Liquor license #0684 is a full dispenser license which allows for serving beer, wine and liquor within the restaurant, lounge and bar.

The Steaksmit, Ltd. Company, dba Steaksmit is transferring ownership of the current liquor license to Busan Vocale, Inc. dba The Steaksmit at El Gancho.

The State Alcohol and Gaming Division granted preliminary approval of this request in accordance with Section 60-6B-4 NMSA of the Liquor Control Act. Legal notice of this request has been published in the newspaper. The Board of County Commissioners are required to conduct a public hearing on the request for transfer of ownership of an existing liquor license.

Recommendation: The issue to be considered by the Board of County Commissioners is whether the transfer of ownership should be approved. The applicant has met the State of New Mexico requirements for noticing, distance from schools and churches. The intensity of

the restaurant will not increase as there is not any proposed expansion of the existing site. Therefore staff recommends approval of this request. Madam Chair, I stand for any questions.

COMMISSIONER HOLIAN: Madam Chair.

CHAIR VIGIL: Commissioner Holian.

COMMISSIONER HOLIAN: Thank you, Madam Chair. So, Jose, how come the license is being transferred? Did the ownership of the Steaksmith change?

MR. LARRAÑAGA: Madam Chair, Commissioner Holian, yes. If even a percentage of the ownership changes – this has come before this Board before. Even a percentage of the partnership, then they have to go through this process to change the ownership name.

COMMISSIONER HOLIAN: Okay. Thank you.

MR. SOMMER: If I could make a clarification of that, Commissioner Holian. It's the ownership was actually by the people who run the restaurant, and now it's by the lessee. So the ownership is being transferred, but it's leased back to them. That was their long-term arrangement. So the actual ownership does change to a new entity, not just the percentages.

COMMISSIONER HOLIAN: Okay. Thank you.

CHAIR VIGIL: But not the location.

MR. SOMMER: Nothing changes and everything stays exactly the same.

Thank you.

CHAIR VIGIL: Further questions?

COMMISSIONER ANAYA: Madam Chair.

CHAIR VIGIL: Commissioner Anaya.

COMMISSIONER ANAYA: Madam Chair, just a question of staff. What's the logic behind its coming back if the use is consistent? Is this something we can address in the code rewrite, to where if the use is consistent and doesn't change, what's the relevance of it coming back to us?

MR. LARRAÑAGA: Madam Chair, Commissioner Anaya, the Alcohol and Gaming request a public hearing for these changes. So therefore it comes back to the Board of County Commissioners.

COMMISSIONER ANAYA: I see. Thank you, Madam Chair. Thanks, Jose.

CHAIR VIGIL: So, Jose, the legal non-conforming original use, did that include the license, or was the license gained after the legal non-conforming use as a restaurant? Or did a license go with a restaurant? Do we know?

MR. LARRAÑAGA: Madam Chair, I guess I really don't have that information about when the restaurant first started. I'm sure this is an old liquor license that's been there since the establishment started and non-conforming it's been there since pre-1981 as a restaurant. Again, I don't know when the liquor license was established but it's been established and it's never been moved anywhere else.

CHAIR VIGIL: Karl, do you know when the original license was issued?

MR. SOMMER: Commissioner Vigil, I'm not certain, but I think Jose's information is correct. This was originally owned by Herb Cohen and he owned the restaurant and the like, and then he sold out to Jerry Levine and his partner, and they've been the lessors

to the owners of the restaurant since before 1981. So this license has been there but I don't know when it was issued. It was Herb Cohen's license originally.

CHAIR VIGIL: Thank you very much. Are there any other questions for the applicant? Is the applicant here? You're here on his behalf. Thank you. This is a public hearing. Is there anyone in the public that would like to address the Commission on this item? Seeing none, the public hearing is closed.

COMMISSIONER HOLIAN: Madam Chair.

CHAIR VIGIL: Commissioner Holian.

COMMISSIONER HOLIAN: I move for approval of BCC Case MIS 11-5290, the Steaksmith at El Gancho liquor license.

COMMISSIONER STEFANICS: I'll second.

CHAIR VIGIL: I have a motion and a second.

**The motion passed by unanimous [4-0] voice vote.** [Commissioner Anaya was not present for this action. See page 37.]

**XIII. A. 3. BCC CASE # MIS 11-5300 Don Quixote Distillery & Winery Liquor License. Dolin Distillery, Inc., dba Don Quixote Distillery & Winery, Request Approval of a Craft Distiller Off-Site License and a Winegrower Off-Site License. The Subject Property is Located at 18057-a NM 84/285, within Section 7, Township 19 North, Range 9 East (Commission District 1) Jose E. Larrañaga, Case Manager**

MR. LARRAÑAGA: Thank you, Madam Chair. The property is acknowledged by Santa Fe County as a legal non-conforming commercial property and is in compliance with Article II of the Land Development Code. Article II, Section 4.5.2a states, except as otherwise provided in this section, any non-conforming use of land or structure may be continued so long as it remains otherwise lawful. The property is within the Pojoaque Valley Traditional Mixed-Use District and conducted business as the Line Camp at this location prior to the creation of the Land Development Code. Most recently the property operated as an art gallery. The use of this establishment as an offsite tasting room for Don Quixote Distillery and Winery will not intensify the historic non-conforming use.

The applicant operates a winery and distillery in Los Alamos. The applicant is requesting a winegrowers offsite license, which will allow for the tasting of wine, which is manufactured offsite. The request also includes an alcohol craft distiller license. This type of license allows the manufacture of distilled spirits and provides for on-premise consumption as well as package liquor sales, similar to the winegrower and small brewer licenses. The craft distiller does require minimum production amounts.

The State Alcohol and Gaming Division granted preliminary approval of this request in accordance with Section 60-6B-4 NMSA of the Liquor Control Act. Legal notice of this request has been published in the newspaper. The Board of County Commissioners are

required to conduct a public hearing to grant an alcohol craft distiller license and winegrower offsite license at this location.

Recommendation: Staff has reviewed this application and has found the following facts to support this submittal: the property is acknowledged by Santa Fe County as a legal non-conforming commercial property; the site is in compliance with Article II of the Land Development Code; the use of this establishment as an offsite tasting room for Don Quixote Distillery and Winery will not intensify the historic, non-conforming use. The applicant has met the State of New Mexico requirements for noticing, distance from schools and churches. Staff recommends approval of the applicant's request for an alcohol craft distiller license and winegrower offsite license to be located at what was commonly known as the Line Camp property. Madam Chair, I stand for any questions.

CHAIR VIGIL: Questions? Seeing none, is the applicant here? Is there anything you'd like to add? This is a public hearing. Is there anyone in the public that would like to address the Commission on this? Seeing none, the public hearing is closed.

COMMISSIONER MAYFIELD: Madam Chair.

CHAIR VIGIL: Commissioner Mayfield.

COMMISSIONER MAYFIELD: Move for approval of BCC Case #MIS 11-5300.

COMMISSIONER ANAYA: Second.

CHAIR VIGIL: I have a motion and a second.

**The motion passed by unanimous [5-0] voice vote.**

CHAIR VIGIL: Motion passes. Congratulations.

COMMISSIONER ANAYA: Madam Chair.

CHAIR VIGIL: Commissioner Anaya.

COMMISSIONER ANAYA: Madam Chair, I don't know what the protocol is. I stepped out before the last vote. Is it okay for me to cast a vote on it?

CHAIR VIGIL: I would put it on the record if you'd like to say what vote you would have --

COMMISSIONER ANAYA: Let the record reflect I would have voted for it.

**XIII. A. 5. CDRC CASE # V 11-5210 Edwin & Francesca Lemus Variance.  
Edwin & Francesca Lemus, Applicant's, Santa Fe County Open  
Space and Trails, (Colleen Baker), Agent, Request a Variance of  
Ordinance # 2007-2, (Village of Agua Fria Zoning District),  
Section 10.6 to Allow a Land Division of 1.534 Acres Into Two  
Lots; One Lot Consisting of 1.050 Acres and One Lot Consisting  
of 0.483 Acres. The Property is Located Off Agua Fria Street, at  
1994 Vereda San Antonio, within Section 32, Township 17 North,  
Range 9 East (Commission District 2) Wayne Dalton, Case  
Manager**

WAYNE DALTON (Building & Development Supervisor): On August 18, 2011 the CDRD met and acted on this case. The decision of the CDRC was to recommend approval of the applicant's request for a variance by a unanimous 4-0 vote. There is currently a residence, and a shell of an old, detached single car garage, and a conventional septic system on the property. The property is served by an onsite well which serves the existing dwelling unit. The property is located within the Village of Agua Fria community zoning district.

Ordinance No. 2007-2 states the minimum lot size in this area is .75 acres per dwelling unit. Lot size can be reduced to .33 acres with both community water and sewer. The proposed land division would divide the current 1.354-acre parcel. The applicant would retain 1.05 acres, which is Tract A-1, with all existing structures, and the Santa Fe County Open Space and Trails program would purchase the remaining 0.483 acres, which would be Tract A-2, encompassing the Santa Fe River floodplain.

The applicant states the proposed land division is solely for the purpose of creating public open space along the Santa Fe River. The land division would not be recorded until and unless the purchase of Tract A-2 is completed by the County. The proposed Tract A-2 will be used exclusively for open space, river restoration, habitat enhancements, public trails and related amenities such as benches and drinking fountains. The applicant also states that the Open Space and Trails program is working to implement a long-range plan to acquire land along the Santa Fe River in order to create a greenway of public open space and trails from downtown Santa Fe to the wastewater treatment plant. The proposed land division is necessary for the County to purchase this portion of the river.

Recommendation: Staff has reviewed this application and has found the following facts to support this submittal: Ordinance No. 2007-2 states the density in this area is 0.75 acres per dwelling unit. The portion of the property being divided below the minimum lot size, Tract A-2, will be used exclusively for open space amenities and cannot be developed. The land division would preserve distinctive natural features such as the Santa Fe River and primary open space corridors, and clustering of structures is encouraged to preserve natural open space areas as stipulated within Ordinance 2007-2. Therefore staff recommends approval of the applicant's request subject to the following conditions: Madam Chair, may I enter those into the record?

[The conditions are as follows:]

1. A Plat of Survey meeting all County Code requirements shall be submitted to the Building and Development Services Department for review and approval.
2. Water use shall be restricted to 0.25 acre-feet per year for Tract A-1. A water meter shall be

installed on the existing home; this shall be noted on the Plat. Annual water meter readings shall be submitted to the Land Use Administrator by January 1<sup>st</sup> of each year. Water restrictions shall be recorded in the County Clerk's Office.

3. No further division of Tract A-2 shall be permitted. This shall be noted on the plat.
4. Tract A-2 shall be designated as open space, development other than open space amenities on this lot is prohibited; this shall be noted on the plat.

CHAIR VIGIL: Are there any questions?

COMMISSIONER ANAYA: Madam Chair, I have 35 questions.

CHAIR VIGIL: Please proceed. We have all night.

COMMISSIONER ANAYA: I don't have any questions, Madam Chair.

CHAIR VIGIL: Okay. I have a question. And I'm not sure you can answer it.

Maybe Paul, you could. The map that was in the packet where it identifies the plat, it's a long strip, and it goes – part of it is the north of the river and part of it is to the south of the river. And which part? Is it going to be the part to the north or the south? Do you know?

MR. DALTON: Madam Chair, it would be the portion to the north, which includes the floodplain.

CHAIR VIGIL: So we don't need any open space on the south side of the river or is that going to be private property?

MR. DALTON: That would be the remainder of the property owned by the applicant, which would be the 1.050 acres.

CHAIR VIGIL: Okay. And with this purchase, will it have parks? Will it just be an easement purchased for the River Trail itself?

PAUL OLAFSON (Community Projects): Madam Chair, that's correct. This is primarily being acquired for the river restoration project.

CHAIR VIGIL: But if we're going to do the river restoration, aren't we doing it both on the north and the south?

MR. OLAFSON: Madam Chair, we are looking at both. This property I believe runs to approximately the middle of the river. If you look at the colored picture, the next one over, you'll see it doesn't quite reach across the entire river. So we're taking as much of the river area as possible with this.

CHAIR VIGIL: So the property owners on the north side are separate?

MR. OLAFSON: That's correct.

CHAIR VIGIL: Okay. Have we purchased the easement for that side? For that north side?

MR. OLAFSON: Madam Chair, no. We are still pursuing that.

CHAIR VIGIL: Okay. I have no further questions. What's the pleasure of the Commission? This is a public hearing, and seeing no public I forget to ask that. Is there anyone who would like to address the Commission?

COMMISSIONER ANAYA: Move for approval, Madam Chair.

COMMISSIONER HOLIAN: With staff conditions.

COMMISSIONER ANAYA: With staff conditions.

COMMISSIONER HOLIAN: Second.

CHAIR VIGIL: Motion and a second.

**The motion passed by unanimous [5-0] voice vote.**

**XIV. ADJOURNMENT**

Having completed the agenda and with no further business to come before this body, Chairwoman Vigil declared this meeting adjourned at 5:25 p.m.



*Valerie Espinoza*  
VALERIE ESPINOZA  
SANTA FE COUNTY CLERK

Approved by:

*Virginia Vigil*  
Board of County Commissioners  
Virginia Vigil, Chairwoman

Respectfully submitted:

*Karen Farrell*  
Karen Farrell, Wordswork  
453 Cerrillos Road  
Santa Fe, NM 87501

CHAIR VIGIL: Okay. I just had a couple of items myself. I wanted to thank our Fire Department, our firefighters and our volunteer firefighters for an excellent wet-down at La Tierra Fire Station. That was a full circle for me. That project is something I started working on with staff and with the community when I first got elected in 2003 and sworn in in 2004. It's nice to see that project come to full fruition and they did a lovely job in having an opening ceremony. Wet-down is what it's called. So thank you to all of the folks who put it together and all of the folks from Santa Fe County who were there. Our Projects and Facilities Management was well represented as well as those folks in the Fire Department and everyone else who worked on this. Thank you.

I did want to sort of get a consensus. I think I've spoken to you all individually. This isn't an action item but it will come forth as an action item, and I've actually solicited Commissioner Anaya's support on this because of his experience in the Department of Transportation. The Department of Transportation has asked that we submit a letter for a project that I think is very worthwhile and indeed contemporary for Santa Fe County and that is to identify a way that we could honor Sgt. Leroy Petry, and there are several ways that we're looking at doing that. One of them is to work with the Department of Transportation for particular road sites through them. If it is a state road that we honor Sgt. Leroy Petry with, and initially that was what we were looking at because of the Veterans Memorial Road and some of the arterials involved with that.

Sgt. Leroy Petry, those of you – I think all of us, most of us at least were there to honor him the day that the City of Santa Fe sponsored a parade – is the Congressional Medal of Honor winner from Santa Fe County, and to honor him by naming a road after him is the direction that I've been communicating with with the Department of Transportation and they of course are in full agreement to do something like that.

Commissioner Anaya had suggested that we look at naming the overpass that will go over 599 after Sgt. Leroy Petry, which might be the most visible and ideal location. The Department of Transportation has identified a portion of I-25. In either case, working through with them, we did have get permission through the Pentagon and the National Guard and they have given us verbal permission. The next step though is I need to submit a letter to the Department of Transportation before we bring a resolution forward, with consensus from the Commissioners that we do want to honor him in this manner. And they will present it to their Commission at their October meeting. Unless there's any statement of no support on this I'd like to move forward in that direction.

COMMISSIONER MAYFIELD: Madam Chair, I wholeheartedly support going forward with this.

COMMISSIONER ANAYA: Madam Chair.

CHAIR VIGIL: Commissioner Anaya.

COMMISSIONER ANAYA: Madam Chair, I very much strongly support what you've suggested and I'm glad to hear we're all in support of that. I just wanted to make this brief comment. Although we're going to move forward to honor Sgt. Petry, as we went through the parade and as we see memorials to our veterans, it's a lot more than just about him and I think we all acknowledge that, but that every veteran that we have that has served our country, some, many, that made the ultimate sacrifice, that these honors are in honor of all of them, all of the veterans, those that passed and those that are still with us that served



our country. So I very much appreciate this and look forward to working on it more an including within it verbiage that acknowledges every single veteran that we have, especially those that made the ultimate sacrifice. Thank you, Madam Chair.

CHAIR VIGIL: Thank you, Commissioner Anaya, and when we draft a resolution we'll remember to include that language. So with that we're going to move forward.

## **XII. STAFF AND ELECTED OFFICIALS' ITEMS**

### **A. Procurement**

#### **1. Request Approval to Award Contract #2011-0286-CSD/PL to Longhorn Construction for the Remodel of the Nambe Community Center in the Amount of \$284,100 Exclusive of GRT**

PAMELA LINDSTAM (Purchasing Division): Good afternoon, Madam Chair and Commissioners. I'm here today to request contract award for the invitation to bid 2011-0286-CSD/PL, the Nambe Senior Community Center construction remodel to Longhorn Construction Services in the amount of \$284,100. The Nambe Center, which is located at New Mexico State Highway 503 in Nambe is an older building and a portion of the scope of work includes code upgrades to the building including gas, electric, HVAC and plumbing. There will be a new men's and women's restroom, ADA compliant installed and there will be patching and painting throughout the building. The wood floors will be refinished and new front windows will be installed, as well as the exterior of the building will be restuccoed.

The IFB was published in the *New Mexican* and the *Albuquerque Journal*. It was posted on our website and I also emailed the advertisement to 29 construction companies. There was a mandatory pre-bid conference and a site visit and 15 companies attended the conference. Of these 15 companies that attended the pre-bid conference three bids were submitted and of the bids submitted Longhorn Construction Services was the lowest responsive bid received. And I stand for questions.

CHAIR VIGIL: Thank you. Any questions? Commissioner Mayfield.

COMMISSIONER MAYFIELD: Thank you, Madam Chair, and thank you all, Katherine, for getting this project moving. This is the second time this bid has went out, correct?

MS. LINDSTAM: Correct.

COMMISSIONER MAYFIELD: And just, again, all conflicts of interest, all campaign disclosures have been met as every other contract –

MS. LINDSTAM: Yes, sir.

COMMISSIONER MAYFIELD: Madam Chair, this is my area. I don't have any conflict or any campaign disclosures to disclose from anybody, and if there's no other questions I would move for approval.

CHAIR VIGIL: I have a motion and I do have discussion also, but can I have a second?

COMMISSIONER ANAYA: I'll second.

CHAIR VIGIL: Okay, Commissioner Anaya.