

**SANTA FE COUNTY**

**REGULAR MEETING**

**BOARD OF COUNTY COMMISSIONERS**

**April 8, 2008**

This regular meeting of the Santa Fe Board of County Commissioners was called to order at approximately 3:10 p.m. by Chair Jack Sullivan, in the Santa Fe County Commission Chambers, Santa Fe, New Mexico.

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

**Members Present:**

Commissioner Jack Sullivan, Chair  
Commissioner Paul Campos, Vice Chairman  
Commissioner Harry Montoya  
Commissioner Mike Anaya  
Commissioner Virginia Vigil

**Members Absent:**

[None]

**V. INVOCATION**

An invocation was given by Chaplain Jose Villegas.

**VI. APPROVAL OF THE AGENDA**

**A. Amendments**

**B. Tabled or Withdrawn Items**

CHAIRMAN SULLIVAN: Mr. Abeyta, are there any changes or corrections you'd like to highlight?

ROMAN ABEYTA (County Manager): We do, Mr. Chair, the first being under Matters from the Commission, X. We have added an item E, which is a resolution to restore the partnership for the County Healthcare Costs Act of 2008/loss of federal entitlement benefits, F, a proclamation honoring the USS Santa Fe, G, discussion and possible approval of discretionary funds in the amount of \$2,000.00 for the Moriarty public schools athletic

department, and H, a discussion regarding Airport Road vendors.

Continuing with the agenda under the Consent Calendar, XI. A. Miscellaneous, staff has moved the Tavelli Mixed-Use Subdivision from the public hearing section of the agenda to the Consent Calendar. This is a finding of fact, Mr. Chair, and it's more appropriate that that be taken care of as a Consent Calendar item.

Under Public Hearing items, XIII. A. Growth Management Department, staff has clarified on the agenda that Case #4, CDRC Case #V 07-5360, Paul and Mary Jo Parker Variance, there is a public hearing required for this case. The original agenda had it noted as vote only; that's incorrect. There will be a public – there needs to be a full public hearing for this case. And finally, Mr. Chair, AFDRC Case #V 07-5410, the Joe Mier Variance, which is item #5 on the agenda has been tabled. Those are the changes or amendments from staff.

CHAIRMAN SULLIVAN: Thank you, Roman. Other changes from the Board?

COMMISSIONER ANAYA: Move for approval.

COMMISSIONER VIGIL: Second.

CHAIRMAN SULLIVAN: Approval for the agenda as amended, second.

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

## **VII. APPROVAL OF CONSENT CALENDAR**

### **A. Consent Calendar Withdrawals**

CHAIRMAN SULLIVAN: Are there any withdrawals? There are three items on the Consent Calendar. I have A. 1 for withdrawal and that's the only one that I have. Are there any other withdrawals? I don't hear any.

COMMISSIONER MONTOYA: Move for approval.

COMMISSIONER CAMPOS: Second.

CHAIRMAN SULLIVAN: Motion from Commissioner Montoya, seconded by Commissioner Campos.

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

## **VIII. APPROVAL OF MINUTES**

### **A. March 11, 2008**

CHAIRMAN SULLIVAN: Are there any additions or corrections from the Board or the staff? I have couple of typographical corrections.

COMMISSIONER CAMPOS: Move to approve with the typographical changes.

COMMISSIONER MONTROYA: Second.

CHAIRMAN SULLIVAN: Motion and a second for approval with typographical corrections.

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

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

CHAIRMAN SULLIVAN: These are items where the public is welcome to come forward and discuss any issues that they may have with the County Commission that are not listed on today's agenda for discussion. Ms. Vazquez.

ROSANNA VAZQUEZ: Good afternoon, Commissioners. I'm here before you not in my regular capacity but as a parent. My children are involved in Pandemonium Productions. It's a young theater group that does plays three times a year. The play that's coming up is Willy Wonka and the Chocolate Factory. Chris Leslie, the director of Pandemonium asked me to come and invite you all the to the production. It is the first and the second week of May and we have some chocolates for you. We want to just thank all of you for the assistance that you've given Pandemonium Productions. This is a theater group that's been in existence for about 18 years now. They've done a series of plays, they work with young children and they take the plays to the public schools in Santa Fe. I would encourage all of you who have children to come and bring your children and I encourage all of you to come too. I just want to thank you for your assistance and I'm going to pass out some flyers and some chocolates for you.

CHAIRMAN SULLIVAN: Thank you, Ms. Vazquez.

COMMISSIONER VIGIL: Thank you, Rosanna, for promoting that. I think Pandemonium Productions, Santa Fe Productions, other youth productions provide such a wonderful service particularly for the scholarship program that they have for the youth throughout are county and I am going to try and be there.

CHAIRMAN SULLIVAN: Thank you, Anyone else who would like to address the Commission on any items of public concern?

**X. MATTERS FROM THE COMMISSION**

**A. A Proclamation Declaring April 13-19, 2008, As Animal Control Officers Week (Commissioner Vigil)**

COMMISSIONER VIGIL: Thank you, Mr. Chair, members of the Commission and audience. I'm really honored to bring this proclamation forward and we do have animal control officers here that we are also going to recognize and I believe Robert is here also from the Sheriff's office. If you will allow me I will read the proclamation and then

I'd like the to step forward so that we can honor them each with certificates. Not all the animal control officers were able to make it. Perhaps those that aren't here, you could deliver them to them, Robert. The proclamation states:

Whereas, the National Animal Control Association has designated the second week of April each year as Animal Control Appreciation Week;

Whereas, the various federal, state and local government officials throughout the country take this time to recognize, thank and commend all animal control officers for the dedicated service they provide to the citizens and various public safety and service agencies throughout the country;

Whereas, Santa Fe County Manager's office would like to express its sincere thanks and appreciation for the outstanding service the Animal Control Division provides on a daily basis to the citizens of Santa Fe County;

Whereas, the Santa Fe Board of County Commissioners recognizes and commends the animal control officers for the many dedicated and long hours of service they perform in serving this community and for fulfilling the County's commitment to providing the highest and most efficient level of customer service;

Whereas, the Santa Fe Board of County Commissioners commend each and every animal control officer for their service which is in keeping with the long and distinguished tradition of the animal control officer profession;

Now, therefore, be it resolved that we, the Board of Santa Fe County Commissioners hereby proclaim April 13 through the 19, 2008 as Animal Control Officer Week in recognition of this important public service and calls upon all citizens to join in expressing their sincere thanks, gratitude and appreciation for the many long hours of outstanding service and quality performance these outstanding individuals provide throughout the year to assure the safety and welfare of all. Gentlemen, we applaud you. Would you please come forward?

ROBERT GARCIA (Sheriff's Department): If I could, Mr. Chair, Commissioner Vigil, I want to thank you for this recognition. I have Officer Tapia, who's been with us for 8 \_ months and Officer Villegas, who's been with us 3 months. We have one off today. One other supervisor is on extended FMLA, and we have one opening that we're trying to fill right now. So we have three individuals covering the whole county and doing one great job. So along with your recognition I want to thank them personally myself.

COMMISSIONER VIGIL: We're going to be taking pictures but I just want to state the names of the animal control officers for the record: Miguel Tapia, Joseph Villegas, who's the son of our chaplain, Jose Villegas, Paul Cies, Audrey Velasco, and the last animal control officers who's probably one of the most tenured is Andrew Jaramillo. Robert, I'm going to give you these certificates for you to distribute, or leave them here while we take pictures.

**XI. B. Discussion and Possible Approval of Discretionary Funds in the Amount of \$7,500 for the Lamy Railroad and History Museum (Commissioner Sullivan)**

CHAIRMAN SULLIVAN: In your packet you'll find a summary letter from the museum and you'll also find a copy of an article that appeared just this month in New Mexico magazine about the value of this railroad museum and how they're preserving what used to be the Legal Tender and creating it and have spent a great deal of money restoring it and now have it open part time to the public and are conducting instructional tours for youth and for school groups as well as for adult groups and so these funds are to assist them in their continued restoration and their public – making the facility available to the public and to pass along all of the really interesting history that this railroad museum imparts to Santa Fe County. Are there any questions?

COMMISSIONER ANAYA: Move for approval.

COMMISSIONER MONTOYA: Second.

CHAIRMAN SULLIVAN: Okay. Motion for approval from Commissioner Anaya and seconded by Commissioner Montoya.

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

**XII. C. Discuss Mine Shaft Tavern and County Fire Department Parking  
(Commissioner Anaya)**

COMMISSIONER ANAYA: Mr. Chair, Commissioners, thank you very much. I've received some phone calls about the possible blocking of the driveways or access to the Fire Department in the Village of Madrid and I just wanted to bring that up to see what our chief has been doing in terms of helping that Fire Department out.

CHAIRMAN SULLIVAN: Chief Holden.

STAN HOLDEN (Fire Chief): Mr. Chair, members of the Commission, Commissioner Anaya, specifically, regarding the lane violations that we have between the two businesses there in Madrid and the fire station, that's been a problem that's been going on for some time. Just recently, within the last six months Buster Patty, the captain who is in the Fire Prevention Division has been working with Land Use and the Madrid fire district chief. We've had to do some legal due diligence on our part to actually establish the boundaries of the easement that exists there for the driveway, and that was just recently completed and we've been working with the Mine Shaft Tavern owner and the adjacent business owner to try to resolve the issue. Certainly if you want more details and specifics Captain Patty is here and can address those in more detail than that. But we are working on the issue and we have been working on it for some time.

COMMISSIONER ANAYA: Stan, is there another way in and out of that place? If you leave the fire station can you go right and around, or that's too hilly?

CHIEF HOLDEN: Mr. Chair, Commissioner Anaya, no. There are no other easements that lead out of that property except directly north to exit directly to the Highway

14. There's an arroyo and some other buildings that set directly behind the fire station itself that would prevent us from accessing 14 going south.

COMMISSIONER ANAYA: So currently, you're just looking at possible, the right-of-way to see if it is a legal right-of-way?

CHIEF HOLDEN: Well, yes, sir. Specifically, we did a survey so we could establish exactly what the boundaries were because there was encroachment into that easement from both property owners. And as a result, especially on the weekends, as you might expect, when parking is in great demand down there, the patrons of the two businesses begin to encroach upon that easement. Many times, what they leave us as far as space is not wide enough to get a fire truck through. And it's been an ongoing problem. We've had previous discussions with previous owners of the property. It's one of those issues where it gets better for a while and then it gets worse again. And so the course of action that we've decided to take this time is to make sure we have all of our ducks in a row, so to speak, legally, so that we can speak from a factual basis when we're talking to the homeowners or the business owners as we try to mitigate a resolution to this problem.

COMMISSIONER ANAYA: Okay, Stan. Thanks. I just received some calls and I wanted to get briefed on it and I'll just let them know that County Fire is working on it. And there's a couple pictures that I'm passing out to the Commission that shows that the driveway's being blocked by semis when they go deliver to the tavern. So thank you. Thank you, Mr. Chair.

CHAIRMAN SULLIVAN: Thank you, Commissioner.

**X. D. Proclamation in Recognition of National County Government Week, April 6-12, 2008 (Commissioner Montoya)**

COMMISSIONER MONTOYA: Thank you, Mr. Chair. I'd just like to read the proclamation as you stated. This reads:

Whereas, America's counties provide a variety of essential services for the health, safety and welfare for our communities; and

Whereas, counties are often the first to respond to emergencies and are primarily responsible for disaster planning and counties also work to protect families, children and youth; and

Whereas, there are 3,066 counties in the United States collectively responsible for the well-being of more than 250 million residents; and

Whereas, counties provide services that make America's communities stronger, safer places to live and raise families, counties police our streets, fight fires, keep families healthy, repair bridges, plow snow, help troubled youth, train laid-off workers and perform countless other jobs; and

Whereas, first celebrated in 1991, National County Government Week was initiated to raise public awareness about counties representing diverse, vibrant communities in every

region of the country, and to provide recognition of the leadership, innovation and valuable service provided by our nation's counties; and

Whereas, counties have a long history of providing critical services. County governments are the citizens' local government voice providing solutions that bring communities together;

Now, therefore, in recognition of the leadership, innovation and valuable service provided by our nation's counties, be it resolved that we, the Board of Santa Fe County Commissioners hereby proclaim April 6-12, 2008 as National County Government Week.

I'd move for approval, Mr. Chair.

CHAIRMAN SULLIVAN: Motion for approval.

COMMISSIONER ANAYA: Second.

CHAIRMAN SULLIVAN: Seconded by Commissioner Anaya. Discussion?

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

**X. E. Resolution No. 2008-52. A Resolution to Restore the Partnership for the County Healthcare Costs Act of 2008/Loss of Federal Entitlement Benefits (Commissioner Vigil)**

COMMISSIONER VIGIL: Thank you, Mr. Chair. This issue came to the attention of the Association of Counties and the board members of the Association of Counties at the most current board meeting and it was Friday that we learned that there is a possibility that legislation will be restored to pay for inmates through Medicaid and Medicare before they actually get their convictions. Currently, Medicaid and Medicare do not allow for that, or there's been a termination of those benefits. The legislation that's going before Congress now will reinstate those benefits. This resolution supports that. And with that, Mr. Chair, unless there's any questions, I move for approval.

COMMISSIONER MONTOYA: Second.

CHAIRMAN SULLIVAN: Motion for approval and seconded by Commissioner Montoya. Discussion?

COMMISSIONER ANAYA: Mr. Chair.

CHAIRMAN SULLIVAN: Commissioner Anaya.

COMMISSIONER ANAYA: Mr. Chair, I just want to thank Commissioner Vigil for bringing this forward and if it is passed we'll move it on to the Association of Counties.

COMMISSIONER VIGIL: And from there, Mr. Chair, it will go to our national affiliate and be presented to the congressional delegation.

COMMISSIONER MONTOYA: Great.

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

**X. F. Proclamation Honoring the USS Santa Fe (Commissioner Sullivan)**

CHAIRMAN SULLIVAN: You have a copy in front of you and I'll read it.

Whereas, the USS Santa Fe, SSN 763, is the Navy's 52<sup>nd</sup> Los Angeles Class fast attack nuclear powered submarine as commanded by Commander Vernon J. Park, Jr.; and

Whereas, the USS Santa Fe is the second ship to be named in honor of the capital city of New Mexico; and

Whereas, the USS Santa Fe combines stealth, endurance and agility to provide a highly cost-effective and capable ship ready on a moment's notice to carry out a multitude of missions; and

Whereas, the USS Santa Fe has distinguished itself in numerous critical missions. The USS Santa Fe is 362 feet long, displaces 6,900 tons submerged, and being nuclear power she can remain submerged for long periods of time. Since she can produce her own water and oxygen the USS Santa Fe's endurance is limited to mainly how much food she can carry. And the USS Santa Fe can dive deeper than 800 feet and run at speeds in excess of 25 knots;

Whereas, on March 29, 2008, the officers and crew hosted Santa Fe County, the City of Santa Fe and the state of New Mexico public officials and employees on a nine-hour embarkment; and

Whereas, the Santa Fe County Commission heartily commends the men that crew the USS Santa Fe; and

Whereas, Santa Fe County recognizes your distinguished service, dedication, bravery and honor to the United States Navy and to our great nation;

Now, therefore be it resolved, in recognition of the crew of the USS Santa Fe that we the Board of Santa Fe County Commissioners hereby proclaim this 8<sup>th</sup> day of April, 2008 as USS Santa Fe Day in Santa Fe County and wish her Godspeed in all her future missions.

I would offer this proclamation for approval.

COMMISSIONER MONTROYA: Second.

CHAIRMAN SULLIVAN: Seconded by Commissioner Montoya. And I would just add you have a few photographs and this was a unique opportunity that the Navy provided to the City and County of Santa Fe to recognize some of the men who serve in the Silent Service and also the women on shore that participate as well in keeping us safe and secure. We, I think, learned a great deal on this embarkment about all of the capabilities that our submarine force has, particularly as today's needs for reconnaissance, and were treated to a very instructional day and in turn were able to present the officers and men of the USS Santa Fe with our appreciation of their service. With that said then we have a motion and a second.

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



**X. G. Discussion and Possible Approval of Discretionary Funds in the Amount of \$2,000.00 for the Moriarty Public Schools Athletic Department (Commissioner Anaya)**

COMMISSIONER ANAYA: Thank you, Mr. Chair, Commissioners. This money that I'm asking from my discretionary funds would go to the Moriarty Public Schools for food, transportation costs, lodging, uniforms, and it would go to the athletic department to help them out. A little bit of statistics here. Even though the Moriarty Schools is located in Torrance County and Moriarty, 2,040 Santa Fe County children attend the Moriarty Public Schools, which is 57 percent. There are three schools located in Santa Fe County, the Edgewood Elementary School, the Edgewood Middle School, and the South Mountain Elementary School. With that, Mr. Chair, I move for approval.

CHAIRMAN SULLIVAN: Motion for approval.

COMMISSIONER VIGIL: Second.

CHAIRMAN SULLIVAN: Seconded by Commissioner Vigil. Discussion?

**The motion passed by unanimous [4-0] voice vote with Commissioner Campos abstaining.**

**X. H. Discuss Airport Road Vendors (Commissioner Anaya)**

COMMISSIONER ANAYA: Thank you, Mr. Chair. I received some phone calls from constituents living in the area of Airport Road and the surrounding areas that there's vendors on the side of the road. There's concern if the vendors have permits. I think they're food vendors along with people selling other goods. And the question to me is, is that allowed? Do they have permits and are these appropriate in the area? So that's what I'm bringing up for discussion. Maybe Jack or Roman could give me some insight on this.

MR. ABEYTA: Thank you, Mr. Chair, Commissioner Anaya. We have been talking to the City of Santa Fe about Airport Road and this issue with vendors, because as you know, Airport Road, portions are in the city, portions are in the county, so we're identifying which tracts of land are in the city, which are in the county. Our Code Enforcement staff has been out to Airport Road. There are two specific properties that seem to be problematic. One would be on the south side of Airport Road across from County Club Estates. There is a food vendor there who does have a license but there are other vendors who are not licensed and permitted and so that's something we will be taking a look at.

Plus, there are a lot of vendors at the corner of Airport Road and 599 within highway right-of-way. So we will be contacting the Department of Transportation and asking for their assistance in clearing out that area. I will be speaking with Jack Kolkmeier and Wayne Dalton with Code Enforcement staff and I'll provide the Commission with an update in the

next week or two.

COMMISSIONER ANAYA: Another thing that they mentioned was the selling of cars. Do we have somebody here from the DOT?

RUBEN GARCIA: I'm Ruben Garcia. I'm the District 5 traffic engineer with the New Mexico Department of Transportation.

CHAIRMAN SULLIVAN: Welcome, Mr. Garcia.

MR. GARCIA: I brought with me a copy of our laws, and I have a copy and I'll leave it here for you. But we have a state law that doesn't allow no vending in state right-of-way. And it's pretty clear that none's allowed.

CHAIRMAN SULLIVAN: And who enforces that, Mr. Garcia?

MR. GARCIA: It's New Mexico Administrative Codes.

CHAIRMAN SULLIVAN: But I mean who enforces it if there is someone in the right-of-way who is vending?

MR. GARCIA: We normally ask the State Police for assistance in getting where we're required to notify whoever's encroaching or vending first and then give them notice and if they don't cease right away we can call for assistance with the State Police and have them vacate the property under no trespassing.

CHAIRMAN SULLIVAN: And even if they have a permit from the City or the County they still can't be vending on the right-of-way. Is that correct?

MR. GARCIA: Yes, sir. That's correct.

CHAIRMAN SULLIVAN: Excuse me, Commissioner Anaya. I just had a couple questions.

COMMISSIONER ANAYA: Mr. Garcia, if you could help us out with at least your part of it then we'll take care of our part on our end. And thank you for being here.

COMMISSIONER VIGIL: Question.

CHAIRMAN SULLIVAN: Commissioner Vigil has a question.

COMMISSIONER VIGIL: Are there some exceptions when DOT goes through a planning process? Because the vending area going out towards El Gancho, in the Old Las Vegas Highway, when that was designed there actually was a portion there that was identified for vendors specifically. Is that DOT property or is that County property?

MR. GARCIA: You're correct. We do have a vending area, New Mexico 300, and that was allowed by the Governor.

COMMISSIONER VIGIL: So there are some exceptions. My understanding is the exceptions are created only if – the requisite would be a planning process and a negotiated agreement of some kind. Is that correct?

MR. GARCIA: That's the only one that's legal is the one the Governor allowed. That's the only one to my knowledge that's legal.

COMMISSIONER VIGIL: Thank you.

COMMISSIONER ANAYA: Thank you, Mr. Chair. That's all I have.

MR. ABEYTA: Mr. Chair, Commissioner Anaya, we'll provide the Commission with update in the next week or two.

COMMISSIONER ANAYA: Thanks, Roman. Thank you, Mr. Garcia.  
CHAIRMAN SULLIVAN: Thank you, Mr. Garcia.

**XI. CONSENT CALENDAR**

**A. Miscellaneous**

- 1. Consideration and Approval of Resolution No. 2008-\_. A Resolution Authorizing the County Manager to Execute the Purchase and Sale Agreement with the Pojoaque School Board for Property in Nambe for Use As A Community Park (Community Services Department) ISOLATED FOR DISCUSSION**
- 2. Resolution No. 2008-53. A Resolution Requesting an increase of Budgeted Cash and Expenditures Related to the County's Portion of Funding for the Buckman Direct Diversion Project, Utilizing County Capital Outlay Gross Receipts Tax – Regional Portion in the Amount of \$12, 400,000 (Growth Management Department)**
- 3. Tavelli Mixed Use Subdivision- the Applicants, Michael and Tom Tavelli, Requested Master Plan Approval for a 17-Lot Mixed-Use Subdivision on 5.65 Acres. The Subdivision includes Fifteen (15) Residential Lots, Two Commercial Lots and an Area Dedicated to the County for a Park Trailhead. The Property is Located on Agua Fria Road within the Traditional Community of Agua Fria, with Sections 6, 7, & 31, Township 16 North, Range 9 East (Commission District 2, Approved 2-1) formerly Under XIII. A-3**

[For action on Consent Calendar see page 2.]

- XI. A. 1. Consideration and Approval of Resolution No. 2008-54. A Resolution Authorizing the County Manager to Execute the Purchase and Sale Agreement with the Pojoaque School Board for Property in Nambe for Use as a Community Park (Community Services Department)**

CHAIRMAN SULLIVAN: If we could have a little explanation of this, Paul, I think it would help.

PAUL OLAFSON (Community Services Department): Mr. Chair,

Commissioners, this is a resolution that would authorize the County Manager to execute a purchase agreement for a piece of property that's in Nambe, and we've been discussing this. We have received some state appropriations to develop a park site or redevelop an existing park site, do some improvements, including a walking trail, and one of – it's actually three parcels all next to each other, quite small, and in looking at a potential plan for the site we realized that we needed additional properties. This property is directly adjacent. It's on the west side I guess, or maybe north side, and we identified it as an important parcel for making this park project work. We worked with the school district and they've agreed to sell the property.

CHAIRMAN SULLIVAN: So the portion of it has already been funded by the state legislature. Is that correct?

MR. OLAFSON: Mr. Chair, that's correct.

CHAIRMAN SULLIVAN: And then are we funding this additional purchase?

MR. OLAFSON: No, Mr. Chair. The appropriations, we anticipate all the funding will come from existing state appropriations.

CHAIRMAN SULLIVAN: And how much is that?

MR. OLAFSON: I believe total, we have now approximately \$350,000.

CHAIRMAN SULLIVAN: For improvements and land acquisition?

MR. OLAFSON: Yes.

CHAIRMAN SULLIVAN: And where is this located? There's not a map here. It's Nambe Village, it says.

MR. OLAFSON: I'm sorry, Mr. Chair. It's on the road through Nambe up towards Chimayo, and on the right is the church. Just before the entrance to the church, the road to the church, there's three parcels there.

CHAIRMAN SULLIVAN: The Santuario.

MR. OLAFSON: No, no. Not Chimayo. In Nambe.

CHAIRMAN SULLIVAN: In Nambe. Oh.

MR. OLAFSON: So it's in Nambe proper. It's just across the road, south of the church.

CHAIRMAN SULLIVAN: And this will become a County park, and will we maintain it?

MR. OLAFSON: Yes.

CHAIRMAN SULLIVAN: Do we have other parks? We have open space under COLTPAC, but do we have other County parks per se?

MR. OLAFSON: Mr. Chair, we do. We have approximately 14 parks across the county that date back to the early seventies, Land and Water Conservation Act monies and properties, and they're usually adjacent to existing community facilities, and this site also I should mention is potentially usable for a future community site, community center site in Nambe. There's no funding for that. That's a farther out idea.

CHAIRMAN SULLIVAN: And what type of improvements do you anticipate for it?

MR. OLAFSON: Well, there's an existing two kind of multi-purpose courts, a tennis court and a basketball court. We want to fix those up, clean them up, and also build a walking path around the entire site, as well as put in a small playground facility with picnic tables and a parking area.

CHAIRMAN SULLIVAN: Okay. That's all the questions I had. Other questions for Mr. Olafson?

COMMISSIONER MONTOYA: Move for approval.

CHAIRMAN SULLIVAN: Motion for approval from Commissioner Montoya. What a surprise.

COMMISSIONER MONTOYA: Shock.

CHAIRMAN SULLIVAN: Shocked. Shocked. I'll second it. Also a shock. So we have a motion and a second. Further discussion?

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

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

**A. Regional Planning Authority**

**1. Discussion of Santa Fe Farmer's Market Institute Project Application Submittal Pursuant to the New Mexico Local Economic Development Act in Accordance with Ordinance No. 1996-7**

MR. ABEYTA: Mr. Chair, staff is going to request that this item be tabled at this time until next month. We just spoke with the Regional Planning Authority director and legal and there are some questions that we need to get resolved that we were hoping could be resolved by this time but we're going to need more time. So we're requesting that that be tabled.

CHAIRMAN SULLIVAN: Okay. And this pertains to the \$200,000 that the Regional Planning Authority recommended for regional funding.

MR. ABEYTA: Yes, Mr. Chair.

COMMISSIONER MONTOYA: Move to table.

COMMISSIONER VIGIL: Second.

CHAIRMAN SULLIVAN: We have a motion to table by Commissioner Montoya seconded by Commissioner Vigil.

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

**XII. B. Growth Management Department**

**1. Discussion of Santa Fe Film and Studios, Inc. Project Application**

**Submittal Pursuant to the New Mexico Local Economic Development Act in Accordance with Ordinance 1996-7**

JACK KOLKMEYER (Land Use Administrator): Good afternoon, Mr. Chair and members of the Commission. I'm very happy to be here with you this afternoon to discuss what may be the most important economic development item that we've had on our agenda for a long time. The purpose of our presentation today as you just mentioned, Mr. Chair, this is a discussion about a proposal to develop a major film studio on a portion of land known as the media park in the Community College District. We're going to give you four pieces of information this afternoon. First of all I'm going to talk just very briefly about how we have evolved our economic development policy over the last 11, 12 years. We've recently hired Bruce Poster of Southwest Planning and Marketing to do a study for us about the impact of the film industry, not only in the state of New Mexico but also in the Santa Fe region. That will be followed by a presentation of the actual project proposal of Santa Fe Studios by Lance Hool of Santa Fe Studios. Mr. Poster will then come back briefly to discuss that proposal with you and give you an assessment and an analysis of the major points of the presentation made by Mr. Hool, and then we will come back and have a discussion and summary about the information that you heard.

This has been a long road, actually. It's 12 years of kind of starting from a point where we adopted an economic development ordinance back in 1996 not knowing exactly where we are headed, and that's part of the beauty of how this has all evolved because we've taken quite a bit of time over these 12 years to really study and investigate what kind of economic development project would really work in Santa Fe County and how would it involve the people who are already here and to help us arrive at a different place, a different vision. I was very struck by the conversation that you were having earlier at the affordable housing meeting and the discussion of the economic development came up and it was I think Commissioner Sullivan made the comment that sometime economic development has to come from the outside to really stimulate a kind of economic development that really makes sense to the community and takes it to a higher level. And when you consider the film industry which we've been looking at now for several years as perhaps that type of economic development activity, in a way it's kind of like a village in and of itself. You have beauticians and carpenters and electricians and writers and all kinds of people that are involved in its activities and as we have been evolving our own economic development and growth management strategies it's one of the principles that we've paid attention to. Mixing of uses, concentration and focus on our activities so that they can really take advantage of the innate skills and creativity that we have as a community and take them to a whole different level. And as Commissioner Sullivan pointed out in that discussion, sometimes that stimulation comes from the outside.

But that, however, really only works if on the inside we've been paying attention to what we need to think about and where we need to go. I'm first of all going to take you just briefly through a little handout that I've given you and I'll go through this really quickly because we have a lot of information to pass on to you today. *[Exhibit 1]* But I want to go over just

briefly all the steps that we've taken to get where we are today. As I mentioned, in 1996 we adopted our inaugural economic development plan and it focused on two really important things – workforce development, we have to create jobs in Santa Fe County that have relevance to who we are and where we would like to go. Secondly, this is really key given our discussion as we move through this today is recognizing the need that we're going to have to somehow provide infrastructure for economic development. Not only provide it, but somehow it has to be paid for. And we don't know all the answers to that and there are lots of tools and different techniques out there for doing that, but it has to be thrown into the mix that if we can't do the infrastructure development in a way that's beneficial not only to they type of economic development that we want but that it's useful and something that we can do ourselves then we're probably not going to be able to provide the infrastructure that we need for the type of economic development that we'd like to move forward to.

In 1997 we entered into a 25-year lease with the State Land Office for 65 acres south of the City of Santa Fe and right in the region of the state penitentiary and now the County detention facility. That was for 65 acres and a 25-year lease arrangement. In 1998 we developed a master plan for that 65 acres in which we also started to develop the infrastructure which included water and sewer lines, paved roadway, gas and electric lines to that property, and at that point we also allocated 25 acre-feet of water to be used for that business park.

In 1999, is when the Board of County Commissioners at that time adopted our second general plan, our first growth management plan, and in there we stressed a couple of things that have become very important in relation to this project. First is the creation of the mixed-use Community College District. And that had an economic development component in it which is very relevant to the project that we're considering today. First of all, the development of a strategy to provide diverse businesses, and secondly, the need to consider the location, and again, financing of new infrastructure to support those kinds of activities within the Community College District that was proposed at that time.

Shortly thereafter in the following year, 2000, we adopted the Community College District Plan and Ordinance, focusing on these principles of mixed-use development, clustered development, attracting industry and economic development that would be relative to that area with one really important point that was made in the Community College District Ordinance at that time, and that was providing unique learning experiences, particularly in relation to the Community College. We recognized early on that the Community College played a real key role in how we were going to develop this area.

We realized, however, during this period that the 25-year lease wasn't working quite right for that park. We had no clients; we didn't raise a penny of revenue. In 2002, we changed that lease agreement to a 99-year lease on the property and also at that point we considered a number of proposals, including flea market, a small-scale film studio at that time, a scene construction shop in relation to the Community College's film program at that point, and we also considered a management strategy, looking for somebody to come in and perhaps take over that business park and manage it for us. None of that worked out.

We moved into 2005, however, recognizing that well, okay, maybe what we needed to

do at this point was to really focus on a business plan. It was just like otherwise kind of like fishing without a lure, if you will. We had to figure out what is it that we were going after? What did we want to target and how would we go do that? So in 2005, some of you may recall that, we created a County business plan and we focused on five target industries at that point, after the research that we did. Our research showed us at that point five industries make sense to us to try to locate in that business park: the film industry, energy and water technologies, the arts and crafts industry, publishing and light industry.

With that information we then embarked on a series of other activities including being designated by the New Mexico Economic Development Department as a certified community, giving us wider recognition. At that point it kind of put out the shingle for us saying, okay, we're ready to start considering economic development projects. We were recertified last year as you may recall. We also at the same time entered into a memorandum of understanding with the College of Santa Fe, the Community College, Local Energy, Inc., the Santa Fe Business Incubator to develop a center for community sustainability, recognizing that our business park at that time may have a relationship with energy and sustainability that we needed to start taking a look at at that time as well.

The County submitted a bid to the State Land Office to purchase the business park February 2007, last year. We were awarded that bid on September 20, 2007. So we have switched our short-term lease, 25-year lease to a 99-year lease, to recognition that we probably needed to take over that property and that's why we bid on the property at that time. Also in September of last year, to go back to the County business plan that we did, we decided that if those five targeted industries were the ones that we wanted to go after, and all of them were more or less related in some fashion, that it would behoove us to create a type of ordinance that would focus on those industries and some of the particular needs that they might have like height restrictions and things of that nature. We created the media park through an ordinance in September of 2007, which would allow us to focus on attracting publishing, computer software, graphic design, production and distribution of motion pictures, broadcasting and other related target industries.

In conclusion, it's clear that over the last 11 years we've put in a lot of energy to try to get us to a point that really is a question: What type of industry works best for us in this district? How do we know that, and how do we know it will create the kind of jobs that we want? So today we have before us a proposal to consider the development of a major film industry that hits all of those target objectives that we laid out during that period. Still, to this point we've derived no revenue from this park and we have no clients in the park. So this is the first time that we can really come forward to you and say, we think we have something of merit for you at this time, and we'd like for you to give it really serious consideration. Because if we don't go in this direction, a direction that we've worked very hard on over the last 11 years to evolve, we really have only a couple other choices – continue searching for something else or to give up the business park.

We think that at this time, with the economy changing in the way that it has, we're on to the right target industry. Because when you look at just one thing, for example, as we start to



see construction industry affected by the housing market, we remind ourselves that carpenters, electricians, plumbers and skilled technicians of that nature can find a place in the film industry.

So again, I remind you that this is a discussion for today. We'll have three other brief presentations for you and then we'll have questions and answers, and then we would like to bring back the formal application of Santa Fe Studios at your meeting on April 29 for formal approval. So I'd like to move into the second piece of our presentation which will be done by Bruce Poster who will give you information on the film industry in the state of New Mexico and Santa Fe. Thank you.

BRUCE POSTER: Thank you, Jack, Mr. Chair and Commissioners. It's nice to be with you today. You should have in your packet the full assessment that I put together for you under contract with the County. I'm going to try to be brief today and I'm going to be presenting twice. This part of my presentation will address the film industry context, and then later I'll come back and talk about potential benefits and costs of proceeding with this project, how it would affect Santa Fe County.

In terms of the film industry context, as I'm sure you're aware, the state of New Mexico has positioned itself to compete in the domestic and international film industry and it's offering a number of incentives that have been very successful in growing the industry in the state. A 25 percent tax rebate for expenditures within the state, 50 percent wage reimbursement for on the job training, and a loan program of up to \$15 million for film projects. This is within the context in the US of 607 major motion pictures being released in the year 2006. That was a 28 percent increase from 2003. According to Price Waterhouse Coopers this industry is growing globally at a 6.6 percent annual rate and will be a \$1.8 trillion industry in 2010.

As Jack mentioned, the timing is interesting right now with the nation entering into a recession or flirting with one in that the film industry has always been a counter-cyclical industry. During the depression this industry thrived and there's no reason to think it would do otherwise now. In fiscal year 2007, \$94 million were spent in film production in the state. There were a number of major motion pictures, including the *Valley of Ella*, *Wild Hogs*, *3:10 to Yuma*, *No Country for Old Men*, which won the academy award for best picture and many others. So we're already established as a place for film.

Santa Fe County has had a significant share of that. During the years 2003 to 2007 \$173 million was spent within the county; 32 motion pictures were shot here and it's estimated by the State Film Office that the economic impact was over half a billion dollars. There are 461 film union members living in Santa Fe County so a number of our neighbors are employed in this industry. The state potentially could invest \$10 million to help create a film production facility within the county. These are good jobs. They pay wages above the average within the area. The studio mechanics union, Local 480 represents 83 different crafts and as Jack mentioned these are related to – many of them are the kind of jobs that we're losing right now in the construction industry. Some of the movie kind of jobs, starting wages for a journey man is \$23.10, \$25.54 for a best boy, \$27.99 for a key grip. Those are hourly rates. But because films are often shot during a 12-hour day there's a significant amount of overtime at time and a half or even double time, and \$70 worth a day in benefits. So this is a good industry and the Santa Fe Community College

has recognized this, has developed a training program for crews and that's of course very close to this site, and this program graduates 75 to 100 qualified persons every year who are looking for these kinds of jobs.

The opportunity seems to be before us right now and we are poised to move into a more lucrative stage of the film production with the potential creation of film studios where the movies can be shot, including pre- and post-production. You may not be familiar with Albuquerque Studios, or perhaps you are. It opened in July of last year and it has been continuously booked for film production since that time. *Terminator 4*, which is \$100 million movie, is being shot there at this time. There are also proposals to construct film studios in Rio Rancho, and at the former Budagher's outlet center site. There's a lot of interest in Santa Fe by Hollywood and we've seen a lot of those folks passing through here that really like to do business in Santa Fe. The media park is really well located to capitalize on that interest, as well as the location of the prison, where a number of movies have been produced and where there's a wardrobe shop and a prop house already located right next door. The park is located near the Bonanza Creek Ranch where a number of westems have been shot.

What's currently missing here is a production facility of the sort that's being proposed, and that would allow local film crews the opportunity to work here on productions rather than having to travel south to Albuquerque or elsewhere, and that would allow the county to potentially capture a growing, larger share of this industry, and I'll talk about that a little bit later, about the potential benefits, what could be captured here. Thank you.

CHAIRMAN SULLIVAN: Thank you, Mr. Poster.

MR. KOLKMEYER: Thank you, Bruce. I'd like to next introduce Lance and Jason Hool who will do a presentation on the Santa Fe Studios project. Thank you.

LANCE HOOL: Thank you, Jack. It's really nice to be here today, Mr. Chair, Commissioners. I'm Lance Hool; I'm a filmmaker. [*Exhibit 2*] I come from four generations of filmmakers from my grandmother to my son and nephews. So I've been around this industry for a long time, 40 years in it myself. I've been fortunate because I started in a very, very low position, as low as you can get. I used to be pretty good at roping and riding horses and when westerns went to Mexico where I was born, I had the opportunity of joining the John Wayne family as a cowboy and soon enough I got to say some lines in a movie and after that I became an actor and slowly I worked into production; I was an assistant director. And finally, when I had to move to the United States because the national government in Mexico decided to nationalize the film industry, I started all over again as an actor.

But it took me a number of years to work myself up to being a producer, a writer and a director. I've been very fortunate to have a great career. I've managed to produce some number one movies. The last one was a big movie that cost a lot of money called *Man on Fire*. I'm a member of the academy. I get to vote on who wins on the Oscar and who doesn't. Have been in the foreign section looking for films from all over the world to see what is meritorious of getting an Oscar. And I've kept my links with Mexico because Mexico has been very good to me. My son was born in Mexico in the Actors Hospital. At that time the actors union had enough money to have a hospital and he was born there. He moved up here with my wife Linda and

myself when he was a year old and has been in the sets since that time. My brother moved up from Mexico at that time, who was my partner in production. Together we've produced 25 major motion pictures since we arrived in Hollywood.

That's who we are. We're a family of hard-working people. We've come up through the ranks. We've made movies in all five continents. We've worked in studios from deepest Africa to Australia, Europe, France, where they have plush carpets in the soundstages. We know the industry really well. And we've managed to stay independent. We have not been exclusive to any studio, which has been a great advantage because it's allowed me to meet and work closely with all the studios in Hollywood. My colleagues that started with me are now running those studios.

I have been blessed with inviting some of them to come into Santa Fe Studios with us and created a board of advisors that's really enviable. My board, our board, we have Gary Credle, who's the executive vice president, administration of Warner Brothers. We have Joe Hartwick, who is the president of production at 20<sup>th</sup> Century Fox. We have Gary Martin, who is the president, production administration of Sony Pictures and studio operations. We have Donna Smith who is the first woman to break the glass ceiling and became president, production and Universal. We have Martin Baum, who is our senior member. He was a great agent, a great producer in his day, and is now one of the founders of Creative Artists Agency, which is the largest agency in the world. They represent everybody from David Beckham, the soccer player, to Arnold Schwarzenegger. So they're a big agency and we're very happy to have him on board.

I like at the board of advisors as if we had a member of Ford, a member of General Motors, a member of Toyota, a member of Volkswagen and maybe a member of Peugeot, and we were setting off to build engines in Santa Fe. These gentlemen and lady together green-light north of 50 movies a year, closer to 100. And for Santa Fe Studios to break even we need two. So if we do four we'll be way ahead of the game; if we do more than that it will be terrific.

Now, why Santa Fe? Michigan is offering incentives. Louisiana is offering incentives. So well, for me, my parents had their honeymoon here. My mother, who is very ill, she taught at the University of New Mexico and so in 1987 when I was looking for a movie to shoot, a western, traditionally we had shot the westerns in Durango, Mexico but I said let's go take a look to New Mexico and I fell in love with it and I've been looking for a way to come back since. When I heard that the incentives were put in I said I've got to come back and take a look at this. And so three years ago my wife and I bought a house here and we're residents of this great state.

But what's really fantastic about what you've done, and Jack hit on it, is that Santa Fe is now a leader of setting up the stage for the next phase of the film industry here by passing the first media district you are way ahead of everybody else. All the other states and counties that are coming on board haven't done that. As a matter of fact I think it's the only one outside of Burbank. So you are the only media district outside of Burbank, California. You also passed a local economic development plan that calls for high wages. The film industry has those. Not too long ago a taught a young man at Loyola University in Los Angeles film writing and directing and a couple of years ago I hired him to write Man on Fire and paid him \$3 million for the script. So it can happen here as well. He's now directing

You also passed the housing ordinance which assures low and long-term housing opportunities for the film industry people. That's really important. In California, the prices of houses have gotten so high that this year when we had that bad strike a lot of people had a hard time keeping up their payments because their house was just so expensive. So it's great to have the opportunity for them to have proper housing. And you've led the industry in green initiatives, and it's very important for us that this be the first green studio in the United States and possibly the world. And on top of that you have a staff here in the County that really gets it. Roman, Steve, Jack and Robert are just terrific and they understand what this industry is and they've been very forthcoming and helpful since they showed us the property that you all have.

New Mexico has world-class incentives and I can tell you from a first-hand experience. I've shot and used these incentives all over the world. We're currently shooting a movie in Australia and taking advantage of the incentive. Yours are world class. They're as good as they get, and I think they're sustainable for a long time, where some new states like Michigan, who's offering 40 percent may not be able to hold it and it's going to cost them a lot more than they're going to get.

The New Mexico Film Commission is world class. Lisa Strout and her people are just terrific so when movies come here they really go out of their way to let people know that you want them here. In the global world, you have film commissions all over the place and they're being formed every day by different states, different countries. But the commitment that you all have made in New Mexico with the 25 percent rebate now with no sunset clause makes it very attractive for filming here.

Santa Fe has been the historical center of filmmaking for New Mexico and only until last September when Albuquerque Studios opened has production started flowing more and more south. Bruce already talked about the impacts so I won't go into that, but the long-term sustainability for the crew base and the education and training is really important. We're very aware of what the colleges are doing here, and it's very important because we want to have this studio be a teaching studio.

So why now? Well, I think Bruce touched on that. There's an opportunity now because the crew base in New Mexico has grown to such a size that it's actually the biggest between the coasts and will allow for more production to come in. Each movie takes approximately 300 crewmembers and actors and directors and whatnot. Well, if you've got 1,500 you can't have that many movies shooting at the time but you're to a point now where it can sustain two movie studios. And it's only growing, so that's great. And in the global competition it's getting bigger but now's the time to go to the next step in the infrastructure and create something where it can be indigenous production as well. Albuquerque has yet to solidify their dominant position in the state. They're in a good way to go and we're happy for them but as I mentioned there's enough for the two and Santa Fe is traditionally where Hollywood has come.

In the macro-economic conditions, you may ask why would you want to make this kind of investment now and I think Bruce answered it for me. The film industry has been resilient to recession and we're very confident that once this studio goes up the industry is only going to go with it, up and up. What we have here in our board members and our personal experience is a

real seasoned team with very good connections not only to Hollywood but around the world. I worked for the Mexican government for almost four years as their head after – funny enough, after it was nationalized, the next president asked me to come in and help them out, which I did gladly and we converted, we made Churubusco Studios in Mexico City the first teaching studio in Latin America. It was hard going at first because we stole a little piece of the studio for that, but we saw the results last year at the Academy Awards when three Mexican directors were nominated for the Oscar for the first time ever. I think it was seven Oscars that were won by Mexicans, including the cinematographer who we sponsored to come up to the United States and work, who cut his teeth in our movies. So it was a very proud moment for us. And that's what we'd like to do with this studio is make it a teaching facility and have the Community College and all the institutions that want to be part of it have a place where their students can come and work with the expensive equipment that they otherwise wouldn't have access to.

So with that, I want to introduce you to my son, tell you a little bit about him. I'm very proud that he's working with me. He graduated from Stanford University, the only mechanical engineer and philosopher – he had both degrees. And then he went to London where he got his masters in business at the London Business School. Since then he has been working in Terra Firma Capital which is one of the largest private equity firms and he's done development in Italy and in England. So this is Jason.

JASON HOOL: Good evening Commissioners and Chairman and thank you for this opportunity to present our exciting project to you. We're very honored to be here. So I'll discuss the conceptual master plan of the project and tell you about that. We are conceiving of a world-class, full-service film studio facility that will be long-term sustainable, both economic and environmental. From the get-go we are incorporating a sensitivity for the local culture and architecture. The site, as you are probably aware is 65 acres on Highway 14 just north of the County fire station. We intend to develop it over phases and over a period of years. Phase 1 we anticipate to start construction ideally before the end of the year and open for business by the end of 09 or early 2010.

Phase 1 is noted in the sort of mauve color and would be the central focus of the campus. It's really important to emphasize that it will be a campus for creative people to create magic, which is what motion pictures are, is magic, alchemy. The conceptual master plan was developed by our architect, who's Gary Bastion. He's out of California and he is considered the world's premier architect for film studios. He's designed and built many of the film studios in Hollywood as well as around the world. Most recently he just completed the largest film studio complex in the world in Alicante, Spain, called Ciudad de la Luz. It was funded by the Spanish government. He's also done projects in Moscow, Kiev, Budapest, China, etc. But when he came to Santa Fe he said think Santa Fe. Think world class. Think green. Think sustainable. And he was very excited and he fell in love with Santa Fe. He did lots of research and went all around the state, to Taos Pueblo, Chaco Canyon, etc. and realized that us modern 21<sup>st</sup> century humans are only rediscovering what the indigenous Anasazi have known and have been doing for thousands of years which is building green architecture from the local materials and oriented in harmony with the sun and the moon, etc.

So as you look at this master plan, I won't get into too many details but you'll notice that it's all on a north-south axis, the orientation of the buildings. The central road as you drive up the driveway is oriented such that you will see Santa Fe Mt. Baldy featured, framed by the buildings, and as you stand in the plaza you will see featured framed by the buildings all the other sacred geography in this beautiful Rio Grande Valley that we find ourselves in.

I'll point out that the studio portion of the 65 acres is currently envisioned as approximately 48 acres that would be behind the security fence, if you will, where the secure filming and production of the films would take place. In that of course there are the film studios themselves and plenty of office space as well as some warehousing space. I'll also point out that there's a studio backlot that is approximately seven or eight acres. We really want the film industry to be here in New Mexico for as much of the production work as possible. To date, the films that have been filmed in New Mexico have been either New Mexican in theme or western in theme by virtue of the natural environment. So the wonderful Eames Ranch down the road on Highway 14 where *3:10 to Yuma* was filmed, etc. is great, but if you need an urban street, if you need a London street, a Paris street, a Baghdad street, you're sort of stuck and you have to go to London or Paris for that. But a backlot allows you to build those streets so that you can film your entire film here and you don't have to go to London or France or Iraq. So that's the backlot, which is worth pointing out.

There's also the 17-acre portion that is labeled the future development parcel. That is – we've earmarked that for ancillary, related businesses. The experience in Hollywood, for example, is that around the centers of excellence, around the studios themselves all sorts of related businesses want to co-locate. For example, film laboratories, offices for writers, for producers, warehouses to house equipment, maybe some light manufacturing, etc. So we've earmarked that for that.

I'd also like to point out that one of the buildings we've earmarked is for film school classrooms because as Lance mentioned we very much want this to be a learning and teaching campus and environment where partnership with local – Community College for example, or the IAIA, students can come and hear lectures from visiting professionals who are working on site and transfer the knowledge and this is very important to us because as Lance mentioned, we've come up from the bottom to the top and it's very much about giving back to the community, to the next generation, because the film industry is an apprenticeship industry.

These are the cultural design influences. Of course we're still at the conceptual phase but as I mentioned, our architect fell in love with the indigenous architecture and we are using the Taos Pueblo, for example, the plaza in Taos and the plaza here in Santa Fe as design references and we very much appreciate that and will incorporate it as the green studio.

In an ideal world we would be able to do all this on our own without any assistance but a village is built by a community and that's what we're talking about. We're talking about a long-term community together and a long-term industry together. So we have some requests of the County. First of all, continue what you're doing, which is prioritizing on a policy level the film and media industry. Since making such a massive investment as a film studio, which would be many hundreds of millions of dollars over the full phased build-out we request that the

community and the County continue to support the industry in the long term.

Secondly, we're requesting to purchase the land from you. Financial markets being what they are today will not allow us to finance a long-term lease, so we're requesting to purchase the property for what – to make you whole on your purchase from the State Land Office. We're also requesting industrial revenue bonds. This project must be globally price-competitive. The film industry is global. Films are filmed everywhere from Hollywood to Louisiana to Connecticut to London to Australia, Romania, around the world. And a lot of the decisions are made on price. So we need our project to be price-competitive. Already by purchasing the land, as opposed to asking for a discount is a hurdle we have to deal with.

Which sort of leads me to the fourth request which is we've been working with your County staff to explore the appropriate infrastructure financing mechanisms and we need to further explore that with your staff. But there are tools existing for financing of public infrastructure. For example, down south, in Albuquerque, Mesa del Sol, is a large real estate development. Several, many, many acres. I don't know the exact number but I believe it's thousands of acres. A TID district was passed for that development such that when Albuquerque Studios arrived on the scene they didn't have to pay for any of the infrastructure costs. They didn't have to pay for roads. They didn't have to pay for sewer, for water, for power, etc. Our case is different. We're not part of a larger development.

The media district is 65 acres stand-alone, so we're asking your assistance for some of these off-site public improvements. Also, I should point out that power is not a part of that. We've had serious discussions with PNM regarding the serious power requirements of this facility and due to the anti-donation clause in the state constitution PNM infrastructure cannot be paid for by governments. So those costs for a new sub-station out there are estimated at about \$6.5 million. Those are all costs that the project will have to bear directly. So that is another hurdle that we have to overcome ourselves. To help offset that we're asking for assistance on the public infrastructure.

The fifth request is a local economic development act. We've been in serious discussions with the state for over a year now for assistance, potential assistance. It's been positive, however, a LEDA needs to be passed to enable any potential financial assistance from state government.

Water, we know that water has been earmarked for this property. We're asking for that water, obviously. The water usage, we have a preliminary water budget. It's pretty modest because I'm sure you can understand film doesn't need a whole lot of water aside from restroom and showers for the actors, so we're asking for water.

I'll return to Lance for the conclusion. Thank you, Chairman and Commissioners.

MR. L. HOOL: So in conclusion the commitment we'd like to make to you is that if we come to Santa Fe that we will give back to you with workforce development. We will be a teaching university within the studio. We will encourage small business development and great educational opportunities, great ways to get into an industry that otherwise is pretty closed, and sustainability. Every country and every place that we've gone to shoot a movie has welcomed us back and every movie that we've made in which we have had financial partners

we've paid them back. So our banking relationships around the world and in the country are excellent and we would like to create a partnership with you that you will be proud of. So thank you for your time. Appreciate presenting to you.

CHAIRMAN SULLIVAN: Thank you, Mr. Hool. Mr. Poster said he wanted to be back?

MR. KOLKMEYER: Yes, Mr. Chair. We have just a couple of concluding remarks from Bruce Poster, our consultant on their presentation, then we'll open it up for questions and answers.

MR. POSTER: Thank you, again. I'll make this really quick because you have the full report. There are a lot of numbers in it and I'm just going to highlight a few of them. Robert's passing out a summary which just focuses on Phase 1-A only, so it understates the potential benefits of future phases and of the media support parcel that would be leased out. *[Exhibit 3]* It shows that there are one-time revenues from the sale of the land and from gross receipts tax on construction that amount to over \$5 million. It shows annual revenues from gross receipts tax and property tax of being about \$1.4 million and the annual costs, if the County provided an IRB, an industrial revenue bond to abate property taxes would be about \$150,000. The annual cost, if the County provided infrastructure financing through a vehicle like a TIF would be about a quarter of a million dollars, so those costs would be about \$400,000, against the \$1.4 million of annual benefits. So the net revenues to the County in the future from the gross receipts taxes and the property taxes that are directly related to the studio and indirectly related to it would be about \$1 million, plus the \$5 million up front. And the bottom part of the sheet shows the impact on the schools, the public school district and the Santa Fe Community College. I'd be happy to answer any questions you have because that pretty well outlines what the bottom line is just for Phase 1-A. That doesn't include any future lease revenues from leasing out – from the County getting a share of the lease revenues on the media support parcel, those 17 acres. Thank you.

CHAIRMAN SULLIVAN: Thank you, Mr. Poster. Are you finished, Jack?

MR. KOLKMEYER: Yes, we're finished. We're open for questions if you'd care to proceed at this point, Mr. Chair.

CHAIRMAN SULLIVAN: I see former Commissioner, Javier Gonzales here. Mr. Gonzales, would you step up? I'm sure the Commission would like to hear what your participation is and your take on this.

JAVIER GONZALES: Thank you, Mr. Chair. Back in 1996 I was a sponsor of the ordinance that has enabled this. That was the first time the County had ever considered moving forward in some type of economic development initiative and Jack was right. When we sat down and talked about what's the point of this we really didn't know where we were going but we sure had a lot of dreams about the idea about trying to attract industry to Santa Fe County and figuring a way where we could become more independent of the tourism and the state industries that were in place.

There was some interesting proposals. We had, as you may remember, TWA's call center. We went through a big exercise trying to welcome them here. Nike had proposed bringing



a plant out to Santa Fe and we spent a lot of time going through that. So there was a series of some excitement and some letdowns. At the end of the day, nothing has ever come as close to achieving the goals of the Community College District and the plans that we've had for Santa Fe County as Santa Fe Studios has, and I am privileged to be a part of it. They have extended an offer to become a minority owner in the studios. And I cannot tell you what that means for me and my family to directly answer your question, to be able to be a part of the studios in this effort that would actually, if the studios became a reality would literally overnight, I believe, or certainly over a short period of time, transform this economy. And transform it from an environment that wasn't just dependent on state and tourism but on the film industry.

I've learned over the last year being with them that this is a family that much like my own family is very close. They work close together. I know that Jason is working for minimum wages for his dad and I think hoping that eventually this thing will move forward so he can earn a little bit more money. But they really are committed to this community. They're committed to making this a success, Mr. Chair. Mr. Chair, you and this Commission over the last four years have done some amazing things in moving this county forward. Your affordable housing ordinance and moving to 30 percent requirements, the initiatives by Commissioner Campos to have Santa Fe the first of its kind in renewable energy, your comprehensive efforts to develop a long-term water supply, you've led the state in all these areas. The one area that I'm hoping that will be next is economic development, the ability to create and generate jobs in this community.

And it's not jobs that we import. These are jobs that hopefully will be organically grown over time. And I can tell you as chairman of the board of regents at New Mexico Highlands University, one of the things that we constantly are dealing with is making sure that we offer programs that are relevant to our students, that our students are learning and earning bachelor degrees in industries that will actually employ them. And an area that we've long wanted to pursue is the area of film. And I know the Community College is the same way. So this gives an opportunity for young children that are being raised in this town, for families that are being raised in this town, for people that want to go into the film industry, whether they want to be carpenters or they want to be producers, whether they want to be cameramen or they want to be head of the commissary that's there. There's a huge opportunity for them. So I'm asking you to please support this.

And on a final note I can tell you that there are, despite all the hurdles that we talked about, the issues of having to purchase the power or create the substation from PNM to expend the \$7 million to create it, the Hooks remain committed to greening this studio. As you know, in greening your own courthouse, that adds costs. They're committed to exploring innovative initiatives like putting photovoltaic cells on the roofs so that you can maybe have some onsite generation of power there. They are committed to assuring the long-term educational success of this town, and I'm proud to be with them here today to ask you for your support of this, Mr. Chair, and I certainly look forward to answering any questions that you or the Commission may have regarding this.

CHAIRMAN SULLIVAN: Thank you, Commissioner. Always a pleasure to have you here. Let's get some questions. We'll just go down the line. I see everybody has their

hand up. So we'll start with Commissioner Montoya, then Commissioner Campos, and then Commissioner Vigil and then Commissioner Anaya.

COMMISSIONER MONTOYA: Mr. Chair, regarding the potential of 500 local persons being able to be employed by the studios, is the workforce there to sustain that type of a need?

MR. L. HOOL: Well, the union here is already 400 and some strong as far as the people that actually live in the county. What happens in a movie studio is you have to think of it as a convention center. When the convention comes to town, which is a movie or a television series, then all these people come and work and the average movie will take 300 people. So 500 people is a conservative number because we expect with four stages, even in Phase 1 to do more than that but I believe that Bruce's report is accurate and conservative.

COMMISSIONER MONTOYA: Okay. So of those 500 positions, those include the carpenters, the electricians –

MR. L. HOOL: Yes. It's everybody that works in movies and gets paid and pays taxes in New Mexico.

COMMISSIONER MONTOYA: From A to Z, from directors –

MR. L. HOOL: From A to Z, and hopefully there will be, soon enough there will be people that are in the stratosphere as far as income.

COMMISSIONER MONTOYA: Okay. And then, Mr. Chair, I guess I had a question. I see Peter Franklin nodding his head. Mr. Franklin, in terms of – have you had a chance to do an assessment on this particular proposal in regards to the IRD, the GRT – any of the financing that's being proposed?

PETER FRANKLIN (Bond Counsel): Mr. Chair, Commissioner Montoya, not this proposal, I have not had a chance to look at any of that yet.

COMMISSIONER MONTOYA: Okay. Mr. Chair, I would just ask that maybe we ask Mr. Franklin to take a look at this well and give us a recommendation from him. All right. Thank you. Thank you, Mr. Chair. That's all I have.

MR. GONZALES: Mr. Chair, Commissioner Montoya, while Peter's up here, we recognize the fact that for any IRB or any public infrastructure request to finance that there is a process that we would have to follow. So what we're asking for here is really your nod to the staff to work with us to identify something that would work, and then we recognize that there's a whole process that Peter would have to work with us to develop to get everything in front of you. So this is by no means a request that you're actually approving an IRB, you're approving a district or anything like that. We're just looking for some type of nod from the Commission to the staff to go ahead and begin to identify ways to pay for some of the public infrastructure. And your staff, I think they put it in, the largest costs obviously being New Mexico 14 and the need to widen that and create a safe environment for traffic flow into the park and outside of the park.

COMMISSIONER MONTOYA: Thank you.

CHAIRMAN SULLIVAN: Commissioner Campos.

COMMISSIONER CAMPOS: Mr. Kolkmeier, a couple of questions. You've

had an opportunity, I assume, to carefully look at all the numbers put forth by Mr. Poster. Do they look pretty about right to you?

MR. KOLKMEYER: Mr. Chair, Commissioner Campos, yes, they do. And one of the reasons that we did things the way that we did is that we didn't want just a proposal particularly from such a glamorous industry to come forward to us and we all get kind of bowled over sometimes by the numbers and the attractiveness of the industry. We took a great deal of time and again, I'd like to thank Robert Griego, my senior planner for the incredible work that he did, to really take our time to look at this to test it against reality. We also made sure that we hired the best person that we could find locally and regionally and that was Mr. Poster to validate these numbers for us. We think that this is a good project.

COMMISSIONER CAMPOS: Second question: LEDA. Tell me a little bit about LEDA and an ordinance that we would have to adopt to proceed forward.

MR. KOLKMEYER: I'm going to have Mr. Griego give you that information.

ROBERT GRIEGO (Senior Planner): Mr. Chair, Commissioners, in regard to the LEDA application, in your packet material I included the County's economic development ordinance. It outlines the process for the LEDA application. So I'm not sure what your specific question was in relation to that. But also in your packet there's a LEDA application that the applicant submitted.

COMMISSIONER CAMPOS: Tell me about LEDA. Give me some context.

MR. GRIEGO: You might want to refer that to the County Attorney but the Local Economic Development Act is a state act. The County implemented an ordinance in 1996 which was the County's ordinance which would enable the County to implement a LEDA ordinance. So the purpose of that would allow the County to – I'm going to refer that to the County Attorney.

COMMISSIONER CAMPOS: Mr. Ross.

MR. ROSS: Mr. Chair, Commissioner Campos, the Local Economic Development Act was enacted to enable a constitutional amendment that permitted the counties and cities to make donations in aid of economic development. That's the whole objective for the act and for our ordinance is to enable Santa Fe County to make donations that will ultimately result in economic development of our community.

COMMISSIONER CAMPOS: Have we adopted the LEDA ordinance?

MR. ROSS: We have.

COMMISSIONER CAMPOS: So that's in position.

MR. ROSS: That's in position.

COMMISSIONER CAMPOS: Do we have to do anything additional?

MR. ROSS: We have to do what's called a project participation agreement that's in draft form and an ordinance that adopts the plan that the applicant proposed. So that would actually be the next step if this seems like a project that's worth following or pursuing is to run right into the ordinance adoption process, because that would lead to the ordinance under which this whole thing must be subsumed.

MR. GONZALES: Mr. Chair, Commissioner Campos, directly to your point,

why LEDA on this application? Lance indicated that there had been a lot of discussions with the state, positive discussions. Clearly if the Commission allowed for this to go forward there will be a request that the County pursue grants from the state and some type of economic support. The only way it can actually make it is through these types of LEDA ordinances, what we've been informed by the state itself. They cannot provide any direct financial assistance to the studios itself. It has to come to the County and for the County to be able to pass it on to the studios – correct me if I'm wrong, Steve – is the actual mechanism by which that is actually made available and I think that is really the most, and the single purpose why it's in front of you is so that if in the event we're able to actually get state funds to come to here the County has the mechanism to be able to accept it, and then in turn, as Steve indicated, be able to actually provide a grant to the studio itself. So it's not meant to ask you for any of your own general fund monies or any of your monies that currently reside within the County.

COMMISSIONER CAMPOS: So what you're saying, Mr. Gonzales is that we could actually go to the state as a County and ask for grant money for this particular project.

MR. GONZALES: Correct. And that would be the plan and the ask, if you allow this to go forward, that there would be a request to go forward and seek funds from particularly the Governor's film fund and some of the economic development funds that has available, where the discussions have been quite positive about the state's interest in this. This would be the mechanism that the County would be able to receive the funds and then be able to provide it to the studios.

COMMISSIONER CAMPOS: Thank you, sir. Mr. Kolkmeier, what about water? The demand for water for this Phase 1, what would it be and how would it be provided? Or how are you thinking that it might be provided?

MR. KOLKMEYER: Mr. Chair, Commissioner Campos, the first phase calls for around 25 acre-feet of water, and that's what we had allocated to this project back in 1997. So we believe that there is enough water to commence this project for the first phase which is really the most important phase to get the studio built. As Jason indicated in his presentation to you, the total project over all three phases might require somewhere in the neighbor of 45 acre-feet of water and we would figure out how to accumulate that during phases 2 and 3. But we have enough water allocated by the County at 25 acre-feet to do the full first phase of the project.

COMMISSIONER CAMPOS: We have that allocated.

MR. KOLKMEYER: We have that allocated now. Yes, sir.

COMMISSIONER CAMPOS: Now, as far as the TIFs or the financial mechanism, you're doing a growth management study for the entire county.

MR. KOLKMEYER: Correct.

COMMISSIONER CAMPOS: We had a lot of discussion about TIFs and PIDs and a PID came before us and it was rejected. We didn't feel comfortable with that. Now, are you looking at TIFs or PIDs, not related to this program but just generally in your growth management study?

MR. KOLKMEYER: Mr. Chair, Commissioner Campos, yes. But we're doing

it in a very different way than we did before. With the PID that came before you the project was pretty much already designated and designed and then that group came and asked you for the PID. We think that's backwards and we think the way to do it is the way that we're doing it right is to really assess a project and the infrastructure needs first, and then figure out the mechanism second, whether it's a PID or a TIF and determine whether that is appropriate for that project. And then go forward. We kind of did it backwards before. We know we need infrastructure help for this project. We know there are tools such as tax increment and public improvement district options and we want to make sure we understand the project first. We didn't really understand the one project that went through so we had all those meetings trying to figure out what the project was and then fashion the tool after the fact. We think that we've put this in the correct order and that as we proceed with this, if you decide that this is an economic development project that you'd like for us to move forward we'll figure that out ahead of time and move it forward concurrent with the project.

COMMISSIONER CAMPOS: Well, part of that discussion on the PID was that we wanted to make it more than just a one-project investment, that we wanted regionalization, water systems, whatever kind of infrastructure we needed for a particular project. We're looking at something beyond one project. How do you see that? What's your analysis?

MR. KOLKMEYER: Well, the way we do that now again is that this project is a key component of the Community College District. So again, as we had discussions when we were looking at the Turquoise Trail PID is why didn't we do a PID for the whole Community College District. So that again is kind of the same conversation we see. We're not sure how we're going to get the power for this project, for example. So we're going to have to enter into some conversations that are district-wide in this case. But we already have the district. It's not like we're saying well, we have a project here. Let's create a district around it. That's again why there's the beauty of how the Community College District is unfolding. We may be able to take a wider look at infrastructure financing that's needed in relation to this full district as we move forward with the project. But we have the district there.

COMMISSIONER CAMPOS: Okay. Thank you, sir.

CHAIRMAN SULLIVAN: Before we go to Commissioner Vigil, just a follow-up on the water question. Mr. Poster's report indicates 16.84 acre-feet of water required for Phase 1. Is that not correct?

MR. GRIEGO: Mr. Chair, that's correct. We did receive a preliminary report for Phase 1 of the project and that was what the water for Phase 1 was for. So that is correct.

CHAIRMAN SULLIVAN: And then a cost of \$30,000 per acre-foot, is the studio going to pay the County for that water?

MR. GRIEGO: Mr. Chair, it's my understanding that there was water allocated for the economic development park. So the County hasn't allocated funding. I think the idea about identifying a cost associated with that was to determine what the total cost of that would be so we could make an analysis for that. I don't know that they're proposing to pay that amount at this time.

CHAIRMAN SULLIVAN: Okay. Because I didn't see that on Mr. Poster's summary of cost. Obviously, the going rate of water rights, which is probably \$30,000 or more. If we don't use it for the economic development park we have other options to use it. Certainly sell it to developers or whatever we want to do. So I wasn't clear – they're not only requiring us to provide the water rights but they're also not providing reimbursement. Is that the proposal?

MR. POSTER: Mr. Chair, if I could answer that. The number you see under the

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CHAIRMAN SULLIVAN: Page 9 of the report.

MR. POSTER: For the financing of the infrastructure, under annual cost, that \$252,000 that is related to the cost of all the infrastructure and I had to cover this pretty quickly and it's detailed in your report. The total infrastructure costs are estimated at \$3.6 million plus. The \$3.6 million includes the cost of the water rights of \$505,200. It is in there, and in order to finance \$3.6 million over 30 years at 5.25 percent interest it would cost \$252,000 a year. So that cost has been annualized, Mr. Chair, in that number.

CHAIRMAN SULLIVAN: But that's a cost you're asking Santa Fe County to assume.

MR. POSTER: Well, I'm not sure the applicants have made a specific request yet, but if the County were to finance the infrastructure and they were to include the water rights that you already have available as part of that cost then that's what that would be. That \$505,200 would be included in the \$3.6 million, which could be financed through an IRB over time.

CHAIRMAN SULLIVAN: So we would be financing our own water rights, paying ourselves for our own water rights.

MR. POSTER: Well, if you already wanted to assume that that's already a sunk cost, Mr. Chair, then you could pull that out and then the annual cost would be less than what I showed. I was trying to show a very conservative case in terms of the least revenues and the most cost to the County.

CHAIRMAN SULLIVAN: I'm sure the applicant realizes, at least Commissioner Gonzales realizes that those allocations come from a 500 acre-foot allocation from the City of Santa Fe, which is not unlimited water, which is a specific allocation that we have under what used to be called the wheeling agreement. It's no longer called that; it's a different agreement. But, okay. I just wanted to clarify that. So there is no proposal to reimburse the County for the water rights.

Now, let ask the other part of that question. Is the proposal to pay the County for use of the water?

MR. GONZALES: Mr. Chair, you have that correct. The Hools are requesting that the County take the water that's been allocated for economic development and hopefully, if you view this as being an economic development – if it fits the criteria that it would be allocated for the studios and yes, they would become ongoing customers of the utility.

CHAIRMAN SULLIVAN: Okay, because you'll recall, Commissioner, when you were a Commissioner, we also had water allocated for affordable housing.

MR. GONZALES: Yes, sir.

CHAIRMAN SULLIVAN: And there was an affordable housing project that was approved by the Commission, never went forward, but this issue of water rights came up and there was discussion and negotiations over how much the applicant, if anything would pay for water rights. You may recall that there was a number arrived at for those water rights.

MR. GONZALES: And I think the way you described the options clearly if you include it in the public infrastructure side of it, yes, there is a mechanism where you're certainly setting up an environment to use one of your mechanisms to pay yourself for it but it is through activity that's generated by the studios. Or hopefully again, the Hools again as they indicated, all these costs create more and more layers on what needs to be financed in the studio and eventually, if the County puts a lot of these costs onto the studios there comes a point where the competitiveness becomes an issue. And we're more than happy to sit with your staff to go through in more detail, showing them the numbers so at least they can show what those costs are, what the expenses are and why there's a need to try and keep them as minimal as possible.

CHAIRMAN SULLIVAN: Okay. Well, I just wanted to clarify that on the water, and a related question was that the proposal as I understand it would be to finance that probably with a TIF. Is that correct?

MR. GONZALES: Mr. Chair, we don't know what's the most appropriate way. I think it's suggested because those are the only – a public improvement district and a TIF, really there's only been one of its kind I think and I think Peter's group worked on it. But it's really very early on to determine what's the most appropriate way to pay for this. And in the interest of trying to determine whether the Commission was going to support the general concept of this or not, we felt that it was more appropriate to wait to determine on a more definitive route to find a way to pay for this until you had either given your blessing or denial to the project. What we're asking for is that if you do give the blessing that we would work with the staff to identify what's the most appropriate way and once that's done, go through all the required due diligence that you require, through either a public improvement district or if it's a TIF, there's no process in place and clearly the County would have to develop that before we could come before you again and ask you for that. So there's a lot of work that needs to be done.

CHAIRMAN SULLIVAN: I just asked that because of course you weren't here, but at our last meeting we had a presentation from the State Department of Finance and Administration on creation of TIFs and it was very informative for all of us I think. One of the criteria that they indicated was that – and those TIFs, let me back up – have to, by the way, be approved by DFA as well as by the County, he said. And one of the criteria, he said, was that they generally look at a maximum of 50 percent of the value of the improvements for the TIF, because there are other issues involved with a TIF, there's other services that the County has to provide when it goes into a tax-exempt situation for the industrial revenue bonds and then when it goes into a TIF. And I think Mesa del Sol was 67 percent and I think they're now seeing that it's too much.

MR. GONZALES: What I know the TIFs, I met with the Board of Finance and what the Board of Finance had indicated is that generally the legislation – and I'm speaking out

of school because Peter knows this better – but the legislation contemplates that it wasn't just going to be site-specific, much the way potentially the situation we're in but that it be much broader and it would have some type of housing component, much the way Mesa del Sol does. And so part of the things that we understand, obviously, are that there are requirements for both the TIF and the PID that we need to explore further with Peter and with Steve and the staff to see what's the most appropriate if there is an appropriate one.

Part of the \$3.7 million, Mr. Chair, includes a million dollars that your staff has estimated to be the cost for the lambda rail, that super high speed Internet cable that is currently being planned out and delivered. It's still questionable whether that would be considered a public infrastructure or much the way PNM is, private. And so potentially, that \$3.6 million may drop down to \$2.6 million. Then we have to talk about your wishes on the water and other issues. And there may be a point where Peter comes to us or some of the others and says, you know the costs of actually delivering and issuing this debt is pretty high compared to what the benefit you're going to get out of it is. And those are all discussions that we still need to have and need to understand and we're hoping to not so much dwell on the TIF or the PID now because we don't know which would be appropriate, if either of them would be appropriate, other than to at least get, if you support this, your support to pursue that with your staff and see what's appropriate and then bring something back to the Commission.

CHAIRMAN SULLIVAN: Okay. Thank you. Commissioner Vigil.

COMMISSIONER VIGIL: Thank you, Mr. Chair. A project of this magnitude is something that does require a lot of information. So I appreciate all the time that staff has put into it and I also am hearing some questions that are being brought forth that need to be worked on further and I fully support this project, unabashedly. And there's no doubt in my mind that a project of this magnitude or any project that Santa Fe County moves forward with toward economic development is something that is going to require a public-private partnership. How that public-private partnership is framed is I think where we're at right now.

I don't think that we can expect to do anything with that business park unless we create that focus for Santa Fe County. One way or the other, in order to effect all the cross-sectional elements of economic development, which is the workforce component, which is the educational component, which is energy efficiency, which this project brings forward – green building. All of the initiatives that Santa Fe County has been undertaking right now are incorporated into this project. I don't know that there's any project out there that would meet all of that initiative. And I don't know if there is any other project that would even venture coming into Santa Fe County without looking at a public-private partnership. And I do know that this project and the film project is a project that already has cross-sectional disciplines supporting it.

Because I sort of come from a precursor with this. Before I became a Commissioner I worked at Santa Fe Community College and I worked really closely with Santa Fe Community College in their film initiatives there. Santa Fe Community College took on a leadership role in trying to incorporate that into their curriculum and at that point in time, which was about six, seven years ago, the Community College was already starting to develop curriculum, visiting other sites where the curriculum development was actually occurring and there are some really



model sites that have occurred and have a successful formula. I think one of them is in southern Florida. I don't remember specifically where they are. But the Community College has already moved forward in their film crew curriculum. So has the College of Santa Fe.

So when we talk about developing this business park with a film project such as Santa Fe Studios, I actually am looking at this in terms of a film corridor, because we've made mention of the Eames Ranch. We've made mention of Bonanza Creek. We've made mention of Santa Fe Community College, and although I'm not sure it was mentioned, the public schools are very much a part of this project also because there's dollars that have been allocated to the public schools to expand their curriculum for film.

And it isn't an area or a discipline that's a hard sell because students want to learn about this. As a matter of fact I think in many cases students are turned away from the capacity that our schools are able to deal with this. So the public schools, the College of Santa Fe, when you look at a geographic location of where Santa Fe Studios would be located next to also our state prison and I think it's been made mention of that too. All the way on up to Santa Fe County, to the state capital, this whole corridor and the cooperation that can actually exist with that can be a benchmark for the future of Santa Fe County. And I do believe we need to seriously consider this project, move forward, get some questions answered, find out how the County can help here and to what extent we can.

My belief is this initiative and this project is so significant and so important and so critical to the future of our county we should be laying the red carpet out in some way. And however we can approach the goal of making this happen I'm in full support of it. I believe that what this will do for the future of Santa Fe County is even beyond the scope of what we're capable of recognizing today. So with that, Mr. Chair, I fully support this and I ask that staff continue to work on this project.

CHAIRMAN SULLIVAN: Thank you, Commissioner. Commissioner Anaya.

COMMISSIONER ANAYA: Thank you, Mr. Chair. I recently attended a New Mexico First workshop in Ruidoso about three weeks ago and Bruce Poster was there. And we talked about economic development and there was a lot of people there from throughout the state. We talked about how to bring economic development into your communities and it was a great workshop and we came up with some criteria which are being worked out. Most of those people out there that were at the workshop would be drooling to have this studio come to their community. It would create jobs, a lot of jobs, and it would create a lot of good, clean jobs. I think that it's good that we are here to create this partnership. I trust in staff to work out the details, and I know that it would be a win-win situation. A win for Santa Fe County and a win-win for the studios. And I also want to thank Lance and Jason for coming forward and presenting the case and talking about what you have done in the past because that is important for us to know, because we want something that's going to succeed in Santa Fe County. And from hearing what you have done I believe that this will succeed. So I am in strong support of this. Thank you, Mr. Chair.

CHAIRMAN SULLIVAN: Thank you, Commissioner. Just a couple other quick questions that I had. I guess I'll address them to whoever feels they're appropriate. The

payment for the land, the \$2.3 million that's being suggested, is that going to be bonded or will that be a cash payment from the owner, from Santa Fe Studios.

MR. L. HOOL: It will be a cash payment.

CHAIRMAN SULLIVAN: Okay. And also for clarification, in Mr. Poster's proposal he talked about two percent lease revenues. My understanding is that won't be on the Santa Fe Studios facility. Is that correct?

MR. L. HOOL: It will be on the 17 acres that we call the development that will be built to suit.

CHAIRMAN SULLIVAN: Something of that sort.

MR. L. HOOL: Yes. And it will be for all the small businesses that we hope will come and set up next to the studio.

CHAIRMAN SULLIVAN: What if those businesses don't come or things change? Has the County, or will the County by virtue of proceeding with this be granting the use of that parcel, say, for something else, some other business? Housing development? I'm concerned about always land speculation. We have a proposal here for three phases of a production facility, then we have 17 acres which is not specified. So I'm always concerned about what might happen with that 17 acres. Does Santa Fe County retain control over it in any way?

MR. L. HOOL: Well, the idea here, and we're actually already in preliminary negotiations and some of them happen to be here for a very serious operation to come in to that area. We don't foresee any problem whatsoever. We haven't contemplated how we're going to deal with it if they don't come because we're fully vested in the idea that this happens. It's happened all over the world so it will be the first time ever that you would create a studio that would be working and wouldn't go forward. But we'll definitely take what you're asking very seriously.

MR. GONZALES: Just to your point directly, the \$2.3 million is going to buy the entire 65 acres, so the control stays with the Hools. The offer is on the 17 acres to have project participation by the County on any type of economic activity that will be taking place. To your point about speculation, the only thing we can really do to try and assure your concerns about the speculation is to maybe look a little bit of the history of what happens to the surrounding areas of these studios. Albuquerque Studios themselves, we've heard of the announcements of Sony coming next door and other large film-related businesses that have already signed leases and have already completed efforts to take on some land out in that area.

Burbank, obviously, it's kind of hard to point to that because it's so big, the Los Angeles metro area, but you do have studios and then surrounding those studios all the ancillary type of industries that go to support those studios.

So I'm not sure what we can do to assure your concerns that this is just purely speculative driven other than to say the Hools are committed to bringing the financing for the first phase which is about \$40 million for the facilities and with that major investment, obviously there's got to be a strong belief that once the studios are up that there will be a strong demand for the lands that are adjacent to it for facilities that want to provide services to the

studios.

CHAIRMAN SULLIVAN: So, Commissioner, the amount that the Hools will be bringing aside from any tax incentives or IRBs, which I think the Commission will consider very carefully but they need to know the numbers on it because we haven't had good information in the past on them and as was indicated earlier, one was turned down unanimously. They are bringing in \$40 million exclusive of any IRBs or TIFs. Is that what you're saying?

MR. GONZALES: That's what it's going to cost basically, the preliminary estimates for Phase 1-A of these studios will be. So that – I don't think that actually includes the price of the land, the \$2.3 million that they have to pay up front before anything else happens.

CHAIRMAN SULLIVAN: I understand.

MR. GONZALES: It does not include the price of the PNM substation, which as you know, you have to have power up there before the facilities can go up. That's \$7 million which none of that can be eligible for any of the infrastructure costs that are out there. So there is exclusive of the request of the TIF or the PID financing, the Hools are prepared to make a major financial investment.

To your point on the IRBs, the only thing I would point out is that, as you know in this particular parcel, this has been owned by the state and then controlled by the County for the last several years. This has not been on your tax roles earning any type of revenues for the property tax base. So what we're asking basically from an IRB standpoint is that that stay in place, that the County would – we understand that through allowing IRBs, once this comes into private ownership that you could be eligible for property taxes, but we're asking for you to abate those. So the net effect to the County coffers are somewhat zero, because you hadn't earned it, but we're hoping that through the development of the studios per Mr. Poster's economic analysis that the net positive would be the gross receipts tax revenue that the studios would actually generate over time, which are substantially higher than what your property tax revenues would be.

CHAIRMAN SULLIVAN: Okay but I'm sure we all understand that although we're not receiving any property tax revenues, we're also not providing any services to the property at this point in time. Once the property is occupied and has buildings, we have to provide fire protection, we have to provide police protection, we provide human services for people who are unemployed. We provide a number of services that the County provides, not the least of which is road maintenance and other things. So I don't think we can say it's a wash that there's no cost. Obviously, we have to provide the services once you're there.

MR. GONZALES: And certainly again, on that point again and referring to Mr. Poster, the excitement here is not only the up to \$3 million in Phase in just County gross receipts revenues that would be generated, but the economic impact of the 500 jobs is estimated to be \$21 million and of course if you do the multiplier, that's a net \$70 million impact to spend in the community. Hopefully – again, it's not a wash, but hopefully the Commission will evaluate that as being a means that there is some economic benefits that are being generated in lieu of these taxes that hopefully we'll be able to add to your coffers.

CHAIRMAN SULLIVAN: Let me ask a question of Mr. Poster since obviously he wants to make a comment anyway. The gross receipts taxes that are generated, the primary source of Santa Fe County revenue is property taxes. The primary source of revenue in the city is gross receipts taxes. Gross receipts taxes in the county, other than indigent fund taxes and specified taxes for fire districts and so forth goes to the state, as you know. So in your calculations of gross receipts tax, does that include the money that's going to the state?

MR. POSTER: Mr. Chair, the portion that I report as going to Santa Fe County is only the County's portion of the gross receipts tax.

CHAIRMAN SULLIVAN: Which is what?

MR. POSTER: Well, it's 1.65 percent. I forget the exact number right now. I have to look at my numbers. But it's only that one-plus percent portion of it, and we looked only at the County's portion of the gross receipts tax, as well as the County's portion of the City's gross receipts tax, and some of the activity that would be generated would occur within the city limits and we looked at the County's share of the City gross receipts tax, which is at a lower rate than the County's share of the County's gross receipts tax. So to answer your question directly, no, it does not include any of the dollars going to the state.

CHAIRMAN SULLIVAN: It doesn't include the state share.

MR. POSTER: No.

CHAIRMAN SULLIVAN: And when you're talking about Santa Fe County in your analysis, does that include the city, or are you talking about the county exclusive of the city.

MR. POSTER: The county exclusively, Mr. Chair.

CHAIRMAN SULLIVAN: Okay. And you had a comment on –

MR. POSTER: I had the same concern that you did, sir, about how realistic it was to see those 17 acres get developed. So in addition to doing some financial analysis I did a little bit of market analysis and spoke with the head of the Albuquerque Film Office, the New Mexico Film Office and with the head of the local union about the potential for that other development. It seems to me that it's very conceivable that those 17 acres will be developed over time. Not in one year, but over time, that that industry will generate that additional development next door like that.

CHAIRMAN SULLIVAN: Okay. And then a last question for Mr. Griego. Santa Fe County doesn't own the land right now. We've put in an acceptable bid for it and the State Land Office has been dragging its feet for over a year. What's the status of that?

MR. GRIEGO: Mr. Chair, I'll let Jack address that.

CHAIRMAN SULLIVAN: Oh, great. Give it to your boss. That's why he gets the big money.

MR. KOLKMEYER: Mr. Ross and I met with the attorney from the State Land Office today and it's our understanding that this is still on the docket with the State Land Office to go forward and close with us as soon as possible with the information that we received today. So we trust that that's the case and continue to move forward. We've done everything according to everything we've been asked by the State Land Office. We've done it in accordance with all

the rules and regulations. You know if you've been following what's been going on with the Attorney General and the State Land Office I think we come out looking very good, and as was indicated to us today, everything is still moving forward with the expectations that we will close on the purchase of that property as soon as possible. I'm sorry I can't be more definitive that that, but that's where we are.

CHAIRMAN SULLIVAN: Okay. That nails it right down. That sounds good. Thank you, Mr. Kolkmeier. Other questions from the Commission? Seeing none, I think it was a very thorough presentation, gentlemen and we appreciate the time and efforts you've taken in putting this together and Jack, in getting the Poster report done. I think there's a lot of fine-tuning here to do. I don't hear any Commissioners saying let's not do this, do I? Commissioner Campos.

COMMISSIONER CAMPOS: I'm not saying that. I think staff is asking for direction from the Commission, and whenever you're ready for that I'd like to make some comments.

CHAIRMAN SULLIVAN: Go right ahead.

COMMISSIONER CAMPOS: I think this is a pretty serious proposal. I think the Hools appear to be very capable. But we do have to be pragmatists. We have to take a hard look at the proposal and the financials very carefully. It's very interesting. If this comes to be, it would be a great thing for Santa Fe County. So I would encourage staff to move forward.

MR. KOLKMEYER: If I may respond, Commissioner Campos, just briefly. That's why we want to kind of do this one piece at a time. We'll go at your speed. It is a lot of information. It's very complex, but we'll travel at the speed that you feel most comfortable with.

CHAIRMAN SULLIVAN: Let me ask, Jack, the Hools a question. And I don't ask this indicating that Santa Fe County is not willing to participate in the areas that it can. Obviously we can't build electric facilities and substations. But I'm sure the Hools have looked at this for quite some time now. Would this project be feasible, right now, without any County financing?

MR. L. HOOL: Well, when we first went to look at the property and liked it very much we all thought that it was fully entitled and that there were no big costs for us to have to in the public infrastructure. We knew that Highway 14 was not wide enough because we drove on it. But we fully expected PNM to have enough power out there. After all, the prison's next door and so is the detention center and it was a big surprise to learn that indeed they don't have enough and that they have to build a substation and that this is a cost that we weren't counting on, but we're prepared to cover.

But what we're asking here for today is that you cover the other part of the infrastructure through a mechanism that wouldn't come out of your funds but would allow the sale of bonds or whatever is appropriate. And as Javier pointed out, some of these costs, we've been working together very closely with your staff and also ourselves to try to determine what they are. Right now, they're calculated at \$3.7 million. We feel that as we go along it's going to be reduced somewhat. A big component is the lambda rail. There's \$750,000 for sewer. We

thought the sewer was out there, but clearly it's not sufficient.

So in answer to your question, it really compromises it. It doesn't – for a project that's \$70, \$80 million by the time we get done with Phase 2, you would think that \$3.5 million wouldn't be that much but it's very competitive. We know that going green is going to add an extra 10, 15 percent to the project. We know that the lambda rail may not cost us anything. We are in close negotiations with our friends at Intel and other places to see if we can do that for less of a cost. But we do request your assistance.

It also gives us an indication that you want us here, and we want to be here. I don't think it would be so much fun to come here without any help. Do you know what I mean? It sort of invests you in the project as well, and that's why we're proposing that you have a small but a meaningful piece of any profits derived from that other part of the studio.

CHAIRMAN SULLIVAN: Do we get opening night tickets?

MR. L. HOOL: Absolutely. Not only that but what we didn't mention is we are going to put a state of the art screening theater there which we hope we'll all be there at the premiere of the first movie that's shown there.

CHAIRMAN SULLIVAN: Okay. Thank you, Mr. Hool for that. And again, don't think my questions or any questions from the Commission as indicating that we're not willing to look very carefully at this. It will just be our job to ask the questions. Any other comments? Commissioner Montoya.

COMMISSIONER MONTOYA: Mr. Chair, I too would like to see this move forward. I think that certainly the proposal that's being brought forth is certainly worth exploring. I guess the one thing that continuously bothers me though is it's like watching tennis or ping-pong, I don't know which game, between the State Land Office and us here, whether or not they're going to sell us the land. One moment they are; next moment they're not. I think really until we get some resolution with that one way or the other, we're spending a lot of time, a lot of staff time, a lot of your time, Mr. Hool and Jason, Javier, all of you guys, without having any resolution as to who's going to have the land or not. I would like to see that we either have purchased it outright and then we can negotiate, then we can talk seriously. But to this point everything is just up in the air and I'd really like to see that we have that land in our hands. I still don't feel better than I did 15 minutes ago.

MR. KOLKMEYER: Mr. Chair, Commissioner Montoya, again, I think the attitude that we've taken, again, particular after the meeting that Mr. Ross and I had with the State Land Office attorney this morning is all we can see is we put our cards on the table. We've done everything that we've been asked to do, and that has been somewhat of a ping-pong match but I think as of today, and now with this presentation to you, I think all we can say is we're very serious. We put our project on the table. We've made you a bid. You've accepted our bid, and now the ball is in their court. I don't know if maybe Mr. Ross wants to add something to that, but I think the ball is in their court and at this point it might be just a matter of perhaps the County Manager and the Attorney and maybe the chairman of the Board sitting down with them and saying we've done everything. We're ready to go forward. Because that's where we are as of the end of this meeting today.

COMMISSIONER VIGIL: On that subject – thank you, Mr. Chair. It really made sense to me that the state would have a strong incentive to close on this deal. Not only do they get the benefit of the gross receipts tax but they also realize that if that gross receipts tax was to occur that a partnership with local government has to happen because they as a separate entity cannot provide IRBs, they cannot provide TIFs, they cannot provide PIDs. So to make this happen they need to sell us that property. So I think that message needs to be clear to the State Land Office and once that clarity perhaps is there, and I would imagine it is. That's why they're creating positive statements for us. But once that clarity is known and once I think maybe they have an understanding that we as a Commission and as a Board have given direction to staff to keep working towards this project perhaps that will give them a sense of security, that they'll close on this. But they have nothing to gain by not closing on this.

CHAIRMAN SULLIVAN: Thank you, Commissioner. All right. I think we've given certainly as much direction as we can, having just seen this for the first time here today, and again, let me extend our thanks from the Commission to all of you for being here and for your detailed presentation and for your courteous answers to our questions and now the Commissioner wants to come up again. Remember, after you've sold the project, you never get up again.

MR. GONZALES: This is maybe for Steve Ross. In terms of the process, just so you know, there's another layer of approvals. Just because of the sale of land, the State Board of Finance – I was actually told that they do have to review the sale and approve the actual sale to the Hools, so it's not just at this level but this project needs to pass the test also with the State Board of Finance. So I just want to make sure – I leave you with that as you look forward to what still needs to happen.

CHAIRMAN SULLIVAN: And as I mentioned earlier, it's the same way with the TIFs as well. All right. Let's move on. Thank you, gentlemen for your comprehensive presentation and Jack, for your staff work on this. Thank you, Mr. Hool.

**XII. C. Community Services Department**

**1. Consideration and Approval of a Month-to-Month Lease for Unit 1 of the Solano Center (together with Appurtenances and Shared Parking) with the Community Foundation Charitable Real Estate Fund (\$1 Per Month) (Community Services Department)**

*[Exhibit 4: Lease]*

JOSEPH GUTIERREZ (Community Services Director): Mr. Chair, members of the Commission, in front of you today – I have an update at least. And I apologize for that.

CHAIRMAN SULLIVAN: And why are we leasing this to this group and why are we leasing it for a dollar?

MR. GUTIERREZ: Mr. Chair, members of the Commission, this lease is for

the property in Casa Solana that we are purchasing. We are under a process to purchase this property, but also this property is going to be used for County staff in the interim of the judicial courthouse being built. We need to be out of our property. The IT Department, the HR Department, the Projects Department, the Water Department, Purchasing Department, we all need to be out of our current offices within about three weeks. So we need to move into this Morgan Stanley building and we haven't purchased it yet. So we had legal staff prepare a lease for a dollar a month until we make the purchase.

CHAIRMAN SULLIVAN: Who is the Community Foundation Charitable –

MR. GUTIERREZ: The Community Foundation are actually the owners of the property.

CHAIRMAN SULLIVAN: The current owners. So we haven't purchased it yet.

MR. GUTIERREZ: The reason we haven't purchased it – we made an offer, the accepted the offer. This property is part of a condo association over at Casa Solana and it's the same process that we went through when we purchased Women's Health. So we have an attorney who is working with their attorney to have this property de-condo-ized, I guess, if that's the right word for it, and that process takes about four months. So we hope this will be complete some time in May or June and at that point we'll go ahead and purchase the property. But until that time, we need to move into it before that and they'll lease it to us for a dollar a month. And we also needed to make some improvements to it.

CHAIRMAN SULLIVAN: \$77,000 worth. So this property has nothing to do with Women's Health.

MR. GUTIERREZ: Mr. Chair, nothing to do with it other than it is part of the same condo association in that area and we are having it de-condo-ized before we actually close on the property.

CHAIRMAN SULLIVAN: But it's not attached to Women's Health.

MR. GUTIERREZ: No, it's not. It's actually not attached to any of those buildings in Casa Solana.

CHAIRMAN SULLIVAN: Other questions for Mr. Gutierrez? Commissioner Montoya.

COMMISSIONER MONTOYA: Is this the property on the west side?

MR. GUTIERREZ: The west corner, opposite of Women's Health, pretty much.

COMMISSIONER MONTOYA: Okay. So this is still the same facility that you brought to us before.

MR. GUTIERREZ: Exactly.

COMMISSIONER MONTOYA: Okay, so just so I get it clear. We're looking to purchase it, but we need to enter into this so that we can at least start moving.

MR. GUTIERREZ: Mr. Chair, Commissioner Montoya, we need to start moving into that building. And we probably won't be able to make the purchase, the actual purchase for another two months or so, but we need to be in the building in a couple weeks.



COMMISSIONER MONTOYA: Okay.

CHAIRMAN SULLIVAN: Okay, what's the pleasure of the Commission?

COMMISSIONER MONTOYA: Move for approval.

CHAIRMAN SULLIVAN: There's a motion. I'll second. Further discussion?

**The motion to approve passed by unanimous [4-0] voice vote.** [Commissioner Vigil was not present for this action.]

**XIII. D. Matters from the County Manager**

**1. Update on Various issues**

MR. ABEYTA: None, Mr. Chair.

CHAIRMAN SULLIVAN: That sounds good.

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

**1. Executive Session**

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

**i. Consideration of Settlement Between the City of Santa Fe, Santa Fe County and Las Soleras**

**B. Limited Personnel issues**

**i. Review of County Manager's Performance Pursuant to the Employment Agreement**

**ii. Review of County Attorney's Performance Pursuant to the Employment Agreement**

**C. Discussion of the Purchase, Acquisition or Disposal of Real Property or Water Rights**

MR. ROSS: Mr. Chair, we need a closed executive session to discuss the listed items, plus we also need to discuss three items of pending or threatened litigation.

CHAIRMAN SULLIVAN: That's listed also, isn't it? Oh, I see. There's just one settlement listed.

COMMISSIONER ANAYA: So moved.

COMMISSIONER MONTOYA: Second.

CHAIRMAN SULLIVAN: Okay. We have a motion from Commissioner Anaya, second from Commissioner Montoya.

**The motion to approve passed by unanimous [4-0] roll call vote with Commissioners Anaya, Campos, Montoya and Sullivan all voting in the affirmative.**

[The Commission met in executive session from 5:35 to 7:30.]

CHAIRMAN SULLIVAN: I'd like to reconvene the County Commission meeting at 7:30. Commissioner Campos, would you give us a motion to come out of executive session?

COMMISSIONER CAMPOS: Mr. Chair, I move that we come out of executive session where we only discussed pending or threatened litigation.

COMMISSIONER ANAYA: Second.

CHAIRMAN SULLIVAN: moved and seconded.

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

### **XIII. Public Hearings**

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

##### **1. Authorization to Publish Title and General Summary of an Ordinance Amending Ordinance No. 2003-6 and the Santa Fe County Land Development Code, ordinance No. 1996-10, to Permit the Use of Water Recycling Systems in Lieu of Rainwater Catchment Systems for Landscaping of Commercial and Residential Development or Other Approved Use**

MR. ROSS: Mr. Chair, I can handle that, but did we have a vote to come out of executive session and make the necessary statements?

CHAIRMAN SULLIVAN: We just did.

MR. ROSS: We just did. Okay.

CHAIRMAN SULLIVAN: Where we only discussed threatened and pending litigation.

MR. ROSS: The items listed in the –

CHAIRMAN SULLIVAN: We limited it to threatened and pending litigation. We think that's all we discussed. In my recollection.

MR. ROSS: All right. Thank you. Mr. Chair, I actually drafted this ordinance. I was in communication with Rancho Viejo and others concerning our existing Land Development Code which requires the installation of rainwater catchment systems for all developments, including those that recycle rainwater and graywater through alternative treatment systems. I think the unintended consequences of our ordinance are that rainwater

catchment systems are required in those situation where there not in fact used, so the proposal from those folks was that we exempt from that requirement those facilities – and you can see the words in the ordinance – that recycle water for landscaping or other uses. In most cases these types of systems would recycle both graywater and rainwater through a treatment plant.

CHAIRMAN SULLIVAN: And this change only pertains to one to four dwellings?

MR. ROSS: No, I don't think that's correct.

CHAIRMAN SULLIVAN: It's under Article III, Section 2.4.1. I'll have to check that. I'll have to check that. That heading – no, that wasn't the intent. The intent was to apply to large subdivisions. So I may have put this in the wrong place in the Code.

CHAIRMAN SULLIVAN: Other questions for staff? Commissioner Vigil.

COMMISSIONER VIGIL: Mr. Ross, so this would be in lieu of catchment systems, and in larger developments. Is there a justification for this? In fact, I guess the question more poignantly placed is would the developments have sufficient capacity for reuse of water to accommodate both commercial and residential use? Because it would also make sense to me that some of the private residents would want water catchment systems for gardens or – they're on rain barrel systems, I guess. This is just for the ordinance that requires the water catchment? It doesn't affect the rain barrel?

MR. ROSS: Mr. Chair, Commissioner Vigil, the ordinance requires catchment for houses over a particular size or developments of a certain size, so smaller developments obviously aren't subject to the ordinance at all. Larger developments are. You'll see that the proposed language provides that a development permit and approval includes a plan for recycling of water. In other words, it's gone through a process here at the County, including a trip to this Board, where the recycling system was approved.

So it would only apply to those types of situations where a recycling system came all the way through the process and had been approved. It would exempt folks in that situation from adding a cistern, on the theory that none is really needed. They've got an engineered system to do the same thing.

COMMISSIONER VIGIL: Thank you.

COMMISSIONER CAMPOS: Mr. Chair.

CHAIRMAN SULLIVAN: Commissioner Campos.

COMMISSIONER CAMPOS: I'm not sure I really understand this, Mr. Ross. It includes a plan for recycling of water for landscaping. Does that require that a water line be connected to each and every house, to every place where you need it? Every public park, every dwelling unit that wouldn't have a rooftop collection is now going to have a different line coming to this dwelling unit saying this is recycled and this is what you're going to use for your outdoor watering? Is that what it means? Is that the intent?

MR. ROSS: Mr. Chair, Commissioner Campos, I think that's required now. There'd either be a system to water the landscape that would use as a water source either the catchment or some source of recycled water.

COMMISSIONER CAMPOS: So they don't want to do both. That would augment the water supply clearly. They feel that there's enough water from the recycling to satisfy all the landscape demands within the development.

MR. ROSS: Exactly. Exactly.

CHAIRMAN SULLIVAN: I can't see – is this meant to apply to over 2,500 square feet or under 2,500 square feet, because there's different requirements.

MR. ROSS: It would be above.

CHAIRMAN SULLIVAN: It would be above. I don't see it says that either.

MR. ROSS: We're trying to get the ordinance.

CHAIRMAN SULLIVAN: I can see how Rancho Viejo, they've been doing recycling and taking it to common areas. They've been watering their common areas with recycled water. I'm not sure how that works in other situations where you just have, let's say, a five-lot subdivision or something. What are we allowing in the place of that for each individual house? Are we allowing a community – would it have to be like a community system that would be maintained by the association? The way it is now each house has its own recycling system so everybody takes care of their own.

COMMISSIONER CAMPOS: Roof collection system.

CHAIRMAN SULLIVAN: Roof collection system. But that roof collection system, over 2,500 square feet has to be underground and it has to have a pump and a disposal system. So that's an individual recycling system is what's required now.

MR. ROSS: Right. If they can supply the needs for the landscaping from a recycled water plant, that whole system is not needed.

CHAIRMAN SULLIVAN: Where would the water for the recycling come from?

MR. ROSS: It would come from graywater.

CHAIRMAN SULLIVAN: From graywater?

MR. ROSS: Recycled water.

CHAIRMAN SULLIVAN: Well, La Pradera does recycling with graywater, as an example. Indoor graywater. And then they take it outside to common areas. That's the only subdivision in Santa Fe County that I know of that does that. And the second phase isn't going to do it. They only proposed it for the first phase.

I'm a little unclear on this. We can spend some time on it or we can perhaps table it and clarify it a little bit.

COMMISSIONER ANAYA: Mr. Chair.

CHAIRMAN SULLIVAN: Commissioner Anaya.

COMMISSIONER ANAYA: I think it's basically pretty simple. You either have a purple faucet out there with reuse water or you don't. If you don't have it, you put in a cistern. If you do, it's recycled water.

CHAIRMAN SULLIVAN: Okay. I didn't read it that way. If that's what it says, if they're saying, shall not apply when the approval includes a plan for recycling of graywater for landscaping, if that's what you're saying, that's a little bit more specific, I

think. Is that what's meant here?

MR. ROSS: I'm sorry, Mr. Chair. We've been dealing with this problem that they came up with the language. I missed the question.

CHAIRMAN SULLIVAN: The question is are we dealing – Commissioner Anaya said he thinks the language is fine as long as you have graywater. As long as you have a blue faucet that says this is graywater. Is that what we're talking about here? The use of graywater for recycling?

MR. ROSS: Graywater for landscape irrigation.

CHAIRMAN SULLIVAN: Landscaping. Okay. So if you included the word graywater, does that make it clearer?

MR. ROSS: It could. The other problem we just discovered is that when this ordinance was enacted in 2003 it was improperly headed Construction of 1-4 dwellings. So we need to fix that. So this is probably a really good opportunity to fix that; that's incorrect. You can see the caption of the ordinance was incorrect but it didn't match the text below, so there's an inherent problem in that 2003 ordinance that needs fixing.

COMMISSIONER VIGIL: Mr. Ross, can that be done this evening and maybe we could sort of continue this, go on to another item, come back to this, or do we need to table this and bring it back at another time?

MR. ROSS: I think you could move forward with it with the proviso that we fix the incorrect language in the original ordinance while we're doing this. And it just means that we need to strike those words 1-4 dwellings wherever they appear, to make it match the original caption.

CHAIRMAN SULLIVAN: But isn't there a section that does include 1-4 dwellings in the landscape ordinance, in the catchment ordinance?

MR. ROSS: Yes, yes.

CHAIRMAN SULLIVAN: And this is not it?

MR. ROSS: This is not it.

COMMISSIONER CAMPOS: Mr. Chair, I also don't think it's about graywater. I think it's about a system-wide treatment that would redistribute water to the entire development.

CHAIRMAN SULLIVAN: Well, that's the way I read it originally but Commissioner Anaya believes it's graywater.

COMMISSIONER CAMPOS: I don't think graywater is what's intended in this case.

COMMISSIONER ANAYA: Mr. Chair.

CHAIRMAN SULLIVAN: Commissioner Anaya.

COMMISSIONER ANAYA: Maybe we should open it up to the public and let Ike Pino kind of clear it up for us.

CHAIRMAN SULLIVAN: Is Mr. Pino here? Is this your brainchild? Well, get up here. Did you write this too? Explain this to us. First of all, tell the clerk who you are.

IKE PINO: I'm Ike Pino, and I swear to tell the truth.

CHAIRMAN SULLIVAN: It's not necessary. It's not a land use case.

MR. PINO: Oh, okay. Commissioners, this amendment to the ordinance was brought up, and as Commissioner Anaya and Campos both allude to, to include system-wide reuse. The use of graywater is too limiting in this because we know that graywater generally comes from systems generated within the house. We have a situation in Rancho Viejo where we produce treated effluent from a wastewater treatment facility which is technically and legally not considered graywater but is available nevertheless for landscaping use at all the homes in our new subdivision. And we have an amendment to our discharge plan to allow for that. We're in the process of getting that taken care of right now.

So technically, most of our homes don't fall under the ordinance anyway, but there are a number of potential commercial projects that could become customers of the Ranchland wastewater utility and tie into the recycled water system, and have irrigation water available to them seven days a week if they needed it. The weakness of cisterns inherently is if it's not raining or snowing the cisterns are empty. And with a recycled system you generally have enough water to recycle throughout the entire community you have water available all the time. We will, in answer to a question that Commissioner Sullivan had, we will be metering every house and people will be paying a dollar for every thousand gallons of use as dictated by our Public Regulation rate case about four years ago when we had all of this approved.

But the idea was to be able to use recycled water or graywater systems approved by the County at development plan time, so that a person could move forward with their development plan with an approved system that had to have been approved by you since development plans have to come through here.

CHAIRMAN SULLIVAN: But that system is not catching water off the roof, right?

MR. PINO: That's correct.

CHAIRMAN SULLIVAN: That's treated sewage effluent.

MR. PINO: That's correct.

CHAIRMAN SULLIVAN: That you're pumping back to the open spaces or to whoever wants it.

MR. PINO: Right now, the only reason it's going to common areas and parks is because the Environment Department didn't create the modified levels of treated water requirements until after we had built most of the first subdivision, so we didn't put a system in to distribute water that way. The newest subdivision, however, which is still under construction gave us the opportunity to put in a whole new irrigation system that could be taken from home to home or commercial lot to commercial lot.

CHAIRMAN SULLIVAN: Why did you say that you don't come under this ordinance now anyway?

MR. PINO: Because the homes are under 2,500 square feet.

CHAIRMAN SULLIVAN: Okay. So all they would need is rain barrels.

MR. PINO: That's right. That's right. And this way they'll all get the use of treated effluent anyway. And Commissioners, we're also continuing to require xeriscap

anyway. The whole idea behind the design of the xeriscape at Rancho was to pull all of it off of irrigation after three years anyway. With treated effluent available we could continue to water and make it look a little greener and little lusher than it might otherwise. But most of our landscape can survive now with no irrigation.

CHAIRMAN SULLIVAN: The way it's written to me, Ike, is looks like – it's kind of vague. It says the recycling of water. It doesn't say the recycling of water for each home, or for each structure. But that's what you're doing, right?

MR. PINO: That's what our plan would be going forward, yes.

CHAIRMAN SULLIVAN: I'd feel more comfortable if it said a plan for recycling of water for use at each structure, or something like that.

MR. PINO: That might make more sense. Commissioner, one of the motivations I had in putting this together was when Kaune's comes out of the ground, once they obtain their permit, of course they'll have to have a landscaping package that goes along with their development. And we have a recycling line that goes right in front of the doorstep of their new store. And they'd have the ability to tie into that and just become customers and have water available, the water to landscape, instead of putting in a cistern. And so I thought with us having the resource and having the supply ready all the time it would make sense to enable somebody like that to have that alternative.

CHAIRMAN SULLIVAN: We had a similar situation with the Santa Maria de la Paz Church. They came in with a variance saying that they had a plan for recycling but they didn't want to make it as big as our ordinance required. So I'm wondering, would this language say, as long as they had a plan for recycling, again, a commercial building, does that then exempt them from the requirements of the ordinance. See what I'm saying? They came in and the Commission approved their reducing the size of the holding tanks because they provided the calculations that they would still do all their landscaping which met our Code with a smaller size tank. And I'm wondering, if we had this kind of general language, if we're not saying – as long as you come in and say, oh, I'm going to recycle water, then you're exempt from the ordinance.

MR. PINO: I think if anybody came in and said we want to recycle water, but they also presented a plan that you were able to approve specifically, that is where this ordinance wants to go, as opposed to just saying we want to do it and then you're left to wonder whether it was ever done after that.

CHAIRMAN SULLIVAN: Other questions for Mr. Pino? Thank you, Ike, for clarifying that. Mr. Ross, what's new.

MR. ROSS: Mr. Chair, we've figured out the problem. The problem is with the original ordinance but we think we can fix it rather quickly with just a new preamble.

CHAIRMAN SULLIVAN: Have we published this fix? This is an ordinance, right?

MR. ROSS: We're asking for authorization to publish title and general summary of an ordinance.

CHAIRMAN SULLIVAN: Oh, are we? This just says an ordinance.

COMMISSIONER CAMPOS: The public hearing notice –  
CHAIRMAN SULLIVAN: Says title and general summary.

COMMISSIONER CAMPOS: It says to publish title and general summary of an ordinance. It's general enough to give proper notice, I believe.

MR. ROSS: So the way to fix it would be to have a Section 1 on this ordinance that says instead of what the current proposal says, it would say Article III, Section 2 of Ordinance No. 2003-6, and the Santa Fe County Land Development Code Ordinance No. 1996-11, shall be and hereby is amended with the following additional language. What we would do is say as a preamble to that text that appears below, it would say any development governed by Article III, Section 2 shall require the following additional submissions. And then we'll have to reiterate all the language that's in the existing ordinance, 2003-6, which starts – it's basically a submittal list. It's from the original catchment ordinance. And then we'll add to the bottom of it the underlined language that appears in the draft that's in front of you. And if you want, I can go do that and come back and we can discuss this in a little while. It's a lot of changes. I really apologize. I didn't realize this ordinance was so screwed up.

CHAIRMAN SULLIVAN: And personally, I still feel that we need to clarify that we're talking about a plan that includes recycling of water for each structure, or to each structure, not just an overall plan that maybe we're going to recycle water and put it out in the common areas. Because the existing ordinance provides recycled water for each structure. It just provides it off the roof. And Mr. Pino's right you don't always have the rainwater there to do it, but when you do you use it.

MR. ROSS: Did that preclude use of water in common areas? Away from structures, in other words?

CHAIRMAN SULLIVAN: Yes, it might, the way I say it.

MR. ROSS: This is Article II, Section 2.

CHAIRMAN SULLIVAN: Or you could say for individual structures, and if desired, for common areas.

MR. ROSS: For landscaping or other approved uses.

CHAIRMAN SULLIVAN: Do you want to do a handwritten thing and bring it back in a little while.

MR. ROSS: Mr. Chair, I actually have a computer here. I can fix this right now and get a bunch of copies printed. So if you want to hold on this item I can do that and then we can all be looking at something.

CHAIRMAN SULLIVAN: Let's move on to item 2. Let's bypass that for a moment, if that's okay with the Commission.

**[For further discussion and action on this item see page 84.]**

**XIII. A. 2. Resolution No. 2008-55. A Resolution Declaring the intent of the Board of County Commissioners of Santa Fe County to Consider for Adoption and ordinance Authorizing the issuance and Sale of**



**the Santa Fe County, New Mexico County infrastructure Gross Receipts Tax Revenue Bonds, Series 2008 – in a Principal Amount not to Exceed \$30,000,000 for the Purpose of Funding Construction and Improvements to the Santa Fe County Courthouse, and Directing Publication of Notice of a Public Hearing in the New Mexican**

CHAIRMAN SULLIVAN: Peter, is this yours?

MR. FRANKLIN: It's all of ours, Mr. Chair. Mr. Chair, this resolution would announce the Board of County Commissioners' intent to consider adoption of a bond ordinance at a public hearing to be held on April 29, 2008, and as the title suggests, directs publication of notice of that hearing in the *New Mexican*. The ordinance establishes parameters for gross receipts bonds in a principal amount not to exceed \$30 million. This would be fund the balance of the cost of the County courthouse. The Commissioners will recall that we issued \$25 million in general obligation bonds last year to fund the first, basically the first half of that cost.

The ordinance that we have in mind would be what we call a parameters ordinance. So that rather than having marketed the bonds prior to the adoption of the ordinance and come back with the final terms of the bonds, what we'd be doing and what we propose to do is bring back an ordinance authorizing a marketing process so that once the financial markets are in a good place we would then be able to complete the sale in fairly short order. The purpose of doing the parameters ordinance is basically to set the stage so that we could do that. It would be – we would bring the final terms of the bonds, once they're marketed, back to the Commission. The Board of County Commissioners would approve the final terms, the amounts, the interest rates, and the sale to an underwriter, and we would expect that to happen as early as June and as late as the end of the year, depending on market conditions. Kevin Powers from RBC Capital Markets is here and he can discuss, as the County's financial advisor what the condition of the markets are if that's something the Commission is interested in.

I do need to point out, and this will be sort of follow along with the theme over the last few minutes. We do have an error to correct in this resolution. The gross receipts that we are actually looking at is not the infrastructure gross receipts but rather the third one-eighth County gross receipts. In discussing that with Kevin and Joseph Gutierrez that became apparent this evening. So we would want to make that correction to this resolution.

CHAIRMAN SULLIVAN: Questions from the Commission for Peter?

COMMISSIONER MONTROYA: Mr. Chair.

CHAIRMAN SULLIVAN: Commissioner Montoya.

COMMISSIONER MONTROYA: This falls in line, Peter, with the schedule that we had come up with previously?

MR. FRANKLIN: That is – Chairman Sullivan, Commissioner Montoya, that is correct. This was part of the sort of – what would we say? Five- to ten-year bond issuance

capital funding plan that we had presented to the Commission last year I believe.

CHAIRMAN SULLIVAN: Anything else, Commissioner?

COMMISSIONER MONTOYA: So this is pretty much strictly for the courthouse, the construction of the courthouse?

MR. FRANKLIN: Mr. Chair, Commissioner Montoya, that is correct. We do have language in the form of the ordinance that will permit use of the bond proceeds for other eligible County projects if there's money left over from the courthouse costs.

COMMISSIONER MONTOYA: Are we expecting money to be left over from the courthouse?

MR. FRANKLIN: I would defer to Mr. Gutierrez for that?

MR. GUTIERREZ: Mr. Chair, Commissioner Montoya, as I had mentioned previously in meeting with all of you that we were shooting for a budget of \$55 million for the courthouse and our expectation is that we hit that mark and we don't go above that mark. And if there is money it would be very minimal at that point. But we'll know that when we get the construction bid back, which hopefully will be before this fall.

COMMISSIONER MONTOYA: Okay, Thank you, Mr. Chair.

CHAIRMAN SULLIVAN: And Mr. Powers, what would the time period be here? This seems like we're giving a prior authorization here, and then at some point when the markets are good, is the idea to jump in and issue the bonds?

KEVIN POWERS (Financial Advisor): Mr. Chair, members of the Commission, that is correct. We've been experiencing some disruption in the marketplace. We've seen a number of financial institutions, respected financial institutions that have gotten into trouble. The sub-prime mortgage market problems have spread into the treasury markets and the municipal markets. The fed has cut short-term interest rates dramatically to try to stimulate the economy. Those interest rate cuts have translated into lower Treasury bond market yields but haven't translated into lower municipal bond market yields. In fact the spread between treasury bonds and municipal bonds is about as narrow as it's ever been in history. We expect that over time those spreads will return more to the normal spreads. If that is in fact the case it will provide you with an opportunity to sell bonds at a more attractive rate than you could in today's market. In fact, in today's market you still couldn't sell bonds at interest rates that are very attractive. What we're trying to do here is accomplish – we're trying to get the County in a position where you have everything in place to take advantage of market conditions that may materialize rather quickly, and you want to be in a position that you can capitalize on that and move into the marketplace and sell the bonds in a short period of time and then come back and get that approved by the Board of County Commissioners.

CHAIRMAN SULLIVAN: Does this authorization extend forever or are we talking about a month or a couple of weeks, or six months? Mr. Franklin.

MR. FRANKLIN: Mr. Chair, by law the bond ordinance is good for two years. If you want it to have a shorter sunset, we could put that in the ordinance, but absent any kind of specific language about the ordinance expiring sooner it would be two years from

the date of its adoption.

CHAIRMAN SULLIVAN: We're going to need the \$30 million before two years, right?

MR. FRANKLIN: In all likelihood.

CHAIRMAN SULLIVAN: This is the first bond for the courthouse, isn't it?

MR. FRANKLIN: This is actually the second. We did \$25 million in general obligation bonds last year and the expectation is we will need this money next year. We're not likely to need much of it before late fall and I think Mr. Gutierrez' comfort will be greatest once we have a construction contract in place, which he's expecting in the fall, I believe.

CHAIRMAN SULLIVAN: And it doesn't indicate any specific location for the courthouse, right? Just a courthouse?

MR. FRANKLIN: That is correct.

CHAIRMAN SULLIVAN: Okay. Just in case that were to change. All right. That answers my questions. Other questions for Mr. Franklin or Mr. Powers or Mr. Gutierrez? What's the pleasure of the Commission?

COMMISSIONER VIGIL: Move to approve.

CHAIRMAN SULLIVAN: Motion for approval from Commissioner Vigil.

COMMISSIONER MONTOYA: Second.

CHAIRMAN SULLIVAN: Seconded by Commissioner Montoya.

Discussion?

COMMISSIONER CAMPOS: Do we have to make any amendments at this point? And then there's a public hearing.

CHAIRMAN SULLIVAN: Says who? You want a public hearing?

MR. FRANKLIN: No, Mr. Chair. This is really just a resolution to approve publication of notice of a public hearing. I would like for the record to say, as Commissioner Campos is referring to that the reference to County infrastructure gross receipts tax bonds in the resolution in the form of notice should be changed to County gross receipts tax bonds.

CHAIRMAN SULLIVAN: Is that okay, Commissioner Vigil?

COMMISSIONER VIGIL: Yes.

CHAIRMAN SULLIVAN: With the seconder?

COMMISSIONER MONTOYA: Yes.

CHAIRMAN SULLIVAN: So we've made that change to County gross receipts tax bonds instead of infrastructure bonds.

COMMISSIONER VIGIL: We have noticed it under public hearing though.

CHAIRMAN SULLIVAN: Do you want a public hearing?

COMMISSIONER VIGIL: I think we should ask it since we noticed it that way.

COMMISSIONER CAMPOS: There is no need for a public hearing.

COMMISSIONER VIGIL: I know, but we noticed it that way.

COMMISSIONER CAMPOS: But there's no prejudice to anybody.

CHAIRMAN SULLIVAN: I'll tell you what we're going to do. Is there anyone in the audience that would like to comment on, discuss, or is in favor of or in opposition to this resolution regarding the gross receipts tax bond? Is so please come forward. Seeing none, this offer is terminated. All right. We now have a motion on the floor and a second. Further discussion?

COMMISSIONER CAMPOS: As amended, right?

CHAIRMAN SULLIVAN: As amended as I indicated earlier.

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

MR. FRANKLIN: Thank you very much.

CHAIRMAN SULLIVAN: Sure. Thank you gentlemen for explaining that to us. Okay, are we ready to go back to item 1. Shall we?

MS. COBAU: Mr. Chair, I wasn't here earlier in the day. Are we hearing Tavelli now? The findings? Or are we going on to the –

CHAIRMAN SULLIVAN: Tavelli was taken care of as a Consent Calendar item.

MS. COBAU: Okay. Thank you. So we're on to Paul and Mary Jo Parker?

CHAIRMAN SULLIVAN: We're going to number 1. My question was: are we ready to go back to number 1, which had to do with the recycling catchment ordinance.

MR. ROSS: Mr. Chair, I'm still typing.

CHAIRMAN SULLIVAN: You're still typing. We'll go to number 4. Tavelli has been handled under the Consent Calendar. That was just a finding of fact and was mistakenly put into the public hearings.

- XIII. A. 4. CDRC CASE #V 07-5360 Paul and Mary Jo Parker Variance- Paul and Mary Jo Parker, Applicants, Siebert and Associates (James Siebert), Agent, Request a Variance of Article III Section 4.2 (Types and Locations of Commercial or industrial Districts) of the Santa Fe County Land Development Code to Allow a 5.63-Acre Property that is not Located within a Qualifying intersection to Be Eligible for Commercial Zoning. The Property is Located off US Highway 84-285, Just South of Hearthstone Homes and North of Barranqueño Road, in the Cuyamungue Grant, within Section 28, township 19 North Range 9 East, (Commission District 1) Vicente Archuleta**

VICENTE ARCHULETA (Case Planner): Thank you, Mr. Chair. On September 20, 2007, the County Development Review Committee met and acted on this case. The decision of the CDRC was to recommend denial of the variance request. The

applicants are requesting a variance of Article III, Section 4 to allow their property to be zoned commercial. Article III, Section 4 of the Land Development Codes states: "Commercial and industrial non-residential land uses are permitted only in zoned districts." There are several reasons why commercial districts are established. The main reason is to avoid strip commercial patterns of development along highways. If the applicant's variance is granted it would add approximately 418 feet to the existing strip commercial development along US Highway 285.

Commercial districts are allowed at qualifying intersections and are specifically not allowed to develop as strips along the highway. The size and type of use allowed in a district are based on the capacity of the roads at the intersection. The applicant's property is located in an area where there is no qualifying intersection. The access to the property was approved by NMDOT as part of the US 84/285 improvements. The driveway has been constructed by the applicant and it is located approximately .5 mile from the Exit 176 interchange measured along the US 84/285 frontage road.

The applicant states: "This land is best suited for commercial uses for the following reasons:

1. Proximity to US 84/285.
2. Consistency with other commercial uses.
3. Low impact on surrounding properties.
4. Consistency with prior County Commission actions.

Recommendation: Article III, Section 4.1 of the Land Development Code states: "Commercial and industrial non-residential land uses are permitted only in zoned districts." The applicant has not provided information indicating what type of commercial use would be placed at this location and has not demonstrated that topography or any other non-self-inflicted condition exists. Therefore, staff recommends denial of the requested variance. Should the BCC recommend approval of this variance request staff recommends the following condition be imposed:

1. The applicant must submit a master plan which indicates uses permitted in a neighborhood commercial district and must comply with all requirements and processes associated with master plan approval. [Wording modified during discussion]

Thank you, Mr. Chair.

CHAIRMAN SULLIVAN: Thank you. Questions for staff?

COMMISSIONER VIGIL: I have a question.

CHAIRMAN SULLIVAN: Commissioner Vigil.

COMMISSIONER VIGIL: I'm looking at the map here. I still can't locate the site. Give me landmarks or something that would help me identify where this is. I see Cuyamungue and an arrow pointing to the site.

MR. ARCHULETA: Mr. Chair, Commissioner Vigil, the site is just south of the two towers that are in Cuyamungue by the old Allsups. That Allsups is now vacant, but it's just south of that property.

COMMISSIONER VIGIL: What other commercial, if any are around there?

MR. ARCHULETA: Farther up the road –

COMMISSIONER VIGIL: How far up?

MR. ARCHULETA: Half a mile at the interchange there is the Toa Golf Resort interchange and there is some commercial along that property. I believe that's pueblo land.

COMMISSIONER MONTROYA: So is the old Allsup's.

MR. ARCHULETA: The old Allsup's, right.

COMMISSIONER MONTROYA: It's pueblo land now.

MR. ARCHULETA: Okay. Also, about a year ago there was a property just south adjacent to this property that was given a variance to zone commercial. That was the Gerard Martinez property.

COMMISSIONER VIGIL: What is it going to be? What commercial property is it going to be?

MR. ARCHULETA: Mr. Chair, Commissioner Vigil, they haven't come in with a master plan at this point. The property is just – it was zoned to be commercial. They haven't come in with any type of use yet.

COMMISSIONER VIGIL: And did they have to come in for a variance and we approved it?

MR. ARCHULETA: Mr. Chair, Commissioner Vigil, they did ask for a variance and it was approved.

COMMISSIONER VIGIL: And when was that?

MR. ARCHULETA: Approximately a year ago.

COMMISSIONER VIGIL: Thank you, Mr. Chair.

CHAIRMAN SULLIVAN: Other questions for staff? Okay, is the applicant present?

[Duly sworn, Jim Siebert testified as follows:]

JIM SIEBERT: My name's Jim Siebert. My business address is 915 Mercer, Santa Fe. I'm representing Paul Parker in this matter. What I'd like to do is locate the property for you. This is the interchange over US 84/285 going into the golf course complex. This is Gabriel's Restaurant here. There's a gallery that adjoins it that's on this property here. This is the Martinez tract and then these are the existing commercial properties in Cuyamungue. So you can see that this property is sandwiched between existing or approved commercial uses.

One of the issues staff brought up was the kind of continued lineality of the commercial along the frontage road here. We've been in discussions with the neighbors regarding this particular use. What you have in front of you is an agreement with the neighbors that limits it to specific uses that can take place on the property, and prohibited uses that are not permitted. [Exhibit 5] One of the conditions, and it's the third bullet down on the first page says the ridge running parallel to the frontage road will remain undisturbed. So approximately 2/3 of the property actually there along the frontage road is a natural berm

that would remain. You have approximately 1/3 of the property that would still be visible from the frontage road.

There's several other conditions that go with the property to deal with the noise. Walls on the adjacent property which is Ramona Garcia's tract, and Ramona Garcia lives right in this area here and one of the agreements is that there'll be block wall built along the western property boundary and a chainlink fence with vines along – and I said east. That's incorrect. It really should be north. I talked to Ramona about that today and she asked that that be corrected.

One of the other issues that came up in the discussions with the neighbors is the only way to get into some of these residential areas is through Barranqueño Road and a narrow road here that's very difficult, especially at this point, to get fire trucks around. So one of the agreement is that an access for emergency vehicles only will be provided somewhere along this area to provide for fire protection to this particular residential neighborhood.

Mr. Cavness is here who has been kind of key in representing some of the neighbors in the negotiations. I think he'd like to say a few words.

[Duly sworn, Don Cavness testified as follows:]

DON CAVNESS: Don Cavness, 11 Barranqueños Court. Previous to this meeting this evening I cannot for the life of me remember what the official title of that meeting was but it was a time of a hearing for the variance, and Mr. Siebert had notified all of the residents in the neighborhood that this hearing would occur. And several of the adjoining property owners and neighbors from the neighborhood came to this meeting and voiced our opposition to the plan at that time.

In the intervening time since that meeting and now I have had a number of meetings with Mr. Paul Parker and Mr. Siebert and many of the other neighbors have also been present for some of those meetings, and we have worked out an accommodation that we believe takes care of most if not all of the issues that we had brought up at that hearing. I would point out that one of the items which I did just point out at the last moment to Mr. Siebert. I apologize to Mr. Siebert for doing that to him but I did not notice some language in one of the permitted uses which had – my interpretation came out of a previous meeting and when it was translated to this document it got just a little bit skewed. And if I may speak to that at this moment I'd like to.

That is under permitted uses. Mr. Parker has agreed through deed restrictions to limit his use to either live-work units not to exceed two residential units, and also Mr. Parker is in the business of excavation and construction and he has heavy equipment that our neighborhood was very opposed to having on this property just sitting out for passersby to see and for the rest of us to have to live with. And he agreed at a previous meeting that any equipment that he has on this property would be stored within a storage building, and that wording should be changed in that part, Mr. Siebert, to reflect that any equipment storage or maintenance or material storage would occur inside an approved structure. And if these changes are agreed to then we in the neighborhood remove our opposition to this request for a variance.

CHAIRMAN SULLIVAN: I think that's what my copy says. The copy we have says office, warehouse/storage with any equipment, maintenance or materials storage to occur inside an approved structure. Is that what you're talking about?

MR. CAVNESS: That is what I'm talking about and without punctuation or clarifying language it might be interpreted that equipment maintenance would occur inside an approved structure, or material storage. And we want that equipment included in that requirement to have it inside the buildings.

COMMISSIONER MONTOYA: So you're saying put a comma.

CHAIRMAN SULLIVAN: A comma. Is that what you want?

MR. CAVNESS: I think it should say "...with any equipment storage, and/or maintenance, or material storage to occur inside an approved structure." Whatever wording you think is appropriate that would clearly indicate that all equipment storage, material storage, equipment maintenance would occur inside an approved structure. And then with that we believe we have an accommodation that we can live with.

COMMISSIONER MONTOYA: Mr. Chair.

CHAIRMAN SULLIVAN: Questions for the applicant, Commissioner Montoya.

COMMISSIONER MONTOYA: Well, for Don. So this is something that Ramona and everyone there is in agreement with?

MR. CAVNESS: That is correct.

COMMISSIONER MONTOYA: With these conditions being added?

MR. CAVNESS: Mr. Commissioner, that is correct. I have spoken to each of the affected neighbors individually and had they not been in agreement they would have been at this meeting tonight to voice that. Everyone feels that their properties are protected as they can be in this case.

COMMISSIONER MONTOYA: Thank you, Don. Thank you, Mr. Chair.

COMMISSIONER CAMPOS: Mr. Chair.

CHAIRMAN SULLIVAN: Commissioner Campos.

COMMISSIONER CAMPOS: Mr. Archuleta, you've seen the memo distributed by Mr. Siebert?

MR. ARCHULETA: Mr. Chair, Commissioner Campos, yes.

COMMISSIONER CAMPOS: Does that affect in any way your recommendation of denial?

MR. ARCHULETA: Mr. Chair, Commissioner Campos, that doesn't change our recommendation because we don't support variances outside of commercial districts.

COMMISSIONER CAMPOS: I understand. Mr. Siebert, I don't think you addressed any of the variance criteria. You didn't make any real argument as to how this fits in with the ordinance requirements on variances.

MR. SIEBERT: Well, there's really several reasons. One is that we're located between existing and approved commercial districts. There's even a standard that says if you're between two commercial districts you can be considered under a separate category.



COMMISSIONER CAMPOS: Stop there. I'd like a response to that statement by Mr. Siebert.

MS. COBAU: Mr. Chair, Commissioner Campos, there are provisions in the Code for small lots, I believe that are an acre or less when they're between existing commercial uses, that they can be zoned commercial. I believe this lot is larger than one acre.

COMMISSIONER CAMPOS: What size is this lot?

MR. SIEBERT: It's a little over five acres.

COMMISSIONER CAMPOS: Okay. Please proceed.

MR. SIEBERT: The other consideration is the fact that we're using, of those five acres, we're really only using about an acre and a half to two acres of land. A significant portion of the property is within drainage right-of-way. Another is attached to the agreement, will be preserved as part of a natural buffer. So we've limited the amount of visible area, commercial area from US 84/285. The other consideration is the fact that we have very specifically stated exactly what the uses can be, so we come back with a master plan if approved by the Commission. The types of uses are specifically defined.

COMMISSIONER CAMPOS: Anything else?

MR. SIEBERT: Well, I think that's all I can think of at the moment.

CHAIRMAN SULLIVAN: Other questions for the applicant? Commissioner Montoya.

COMMISSIONER MONTOYA: Mr. Chair, Jim, regarding the location on this map again, I can't see it very well, but you said – what's the property immediately to the north? Is that the old Allsups?

MR. SIEBERT: This was the well-driller, the little parcel here. I think it was Roybal. This is the old Allsups, and then the new Allsups is taking place in this area – or not new Allsups but the Pojoaque – or the Nambe gas station is taking place right here.

COMMISSIONER MONTOYA: So which is the old mobile home lot?

MR. SIEBERT: I think it's right here.

COMMISSIONER MONTOYA: That was part of the old Allsups.

MR. SIEBERT: Right. Correct. So there's a major drainage that comes down through this portion of the property here on the far north, and then this area is basically either – it's 30 percent slopes or we're going to be protecting the natural berm area here. So actually the area that could be developed for commercial purposes is pretty much between my two fingers here.

COMMISSIONER MONTOYA: Okay. Thank you. Thank you, Mr. Chair.

CHAIRMAN SULLIVAN: Okay. Shelley, in just looking at this use of prohibited uses that they've proposed, are there other prohibited uses that would apply in this if it were commercial?

MS. COBAU: Mr. Chair, in the staff recommendation, if you chose to approve this variance, we had suggested that only the types of uses that are permitted in a local or small-scale district would be allowed, and those are included in Exhibit F of your packet. They would – they're proposing some uses here that would be allowed – to prohibit

uses that would not be allowed in the neighborhood or local or small-scale district anyway. The small-scale districts are meant for small supermarkets, drug stores, bakeries. There's a list under A. Pet shops. It just has a range. Bookstore, small uses, restaurants and bars, personal service establishments including beauty shops, dry cleaning, shoeshine repair shops, tanning salons, etc. Offices and studio, medical offices or clinics, banks, churches, public parks, public buildings, private daycare, dwelling units for occupancy only by the owner or employee, automotive service station and repair garages non-industrial in nature. So I believe that they would – the prohibition of automobile repair shops would be something that we would want to add to our recommendation if we wanted to go with the neighbors request in this case, along with the convenience stores and mini-marts. That would also be something that would normally be allowed in a local or small-scale district. Also in a small-scale district you're allowed to have mini-storage, galleries, private clubs and lodges, veterinarian facilities, commercial indoor recreation like bowling alleys, I guess, shopping centers and outdoor markets. And all those are covered in Exhibit F. And that's what we were suggesting that uses on this property would be limited to those local or small-scale district use if you chose to approve the variance request.

CHAIRMAN SULLIVAN: Okay. I didn't see that in the condition.

MS. COBAU: It's the only condition that's listed in the staff report and it just says that we recommend the uses –

CHAIRMAN SULLIVAN: For neighborhood commercial district.

MS. COBAU: Right. And that's Exhibit F.

CHAIRMAN SULLIVAN: That's the same as a local or small-scale district.

MS. COBAU: Mr. Chair, that's correct.

CHAIRMAN SULLIVAN: So neighborhood commercial district means local or small-scale district as shown as Exhibit F.

MS. COBAU: Let me just verify that in the Code book really quickly.

CHAIRMAN SULLIVAN: So it appears that if the Commission were going to grant the variance there are some prohibited uses here that the County Code would otherwise permit but the applicant is in agreement that these prohibited uses would take precedence. Is that correct, Mr. Siebert?

MR. SIEBERT: That's correct.

CHAIRMAN SULLIVAN: And Shelley's checking to be sure.

MR. SIEBERT: We would be more restrictive, in other words, than what would be permitted in the local or small-scale district.

CHAIRMAN SULLIVAN: Okay. Other questions of the applicant from the Commission? Okay, Shelley. What was your conclusion?

MS. COBAU: That's correct. Exhibit F is correct. It's just the reference in the condition perhaps needs to be changed to reflect what's actually in the Code which is the –

CHAIRMAN SULLIVAN: Local or small-scale district.

MS. COBAU: That's correct.

CHAIRMAN SULLIVAN: So if we want to approve that or approve the

variance we can make that change to the condition. Okay, this is a public hearing. Is there anyone who would like to speak in favor of or in opposition to this request? Seeing none, I'll close the public hearing. Other questions, comments from the Commission?

COMMISSIONER MONTOYA: Mr. Chair.

CHAIRMAN SULLIVAN: Commissioner Montoya.

COMMISSIONER MONTOYA: This area that has been identified is pretty much going to be all commercial at some point. The unfortunate thing is that the Pojoaque Valley Planning Committee didn't go out to this particular part of the community, of the valley, so consequently this was not one of the pieces that was recommended for any sort of zoning. I would, especially with the neighbors' consent to this, make a motion to approve with the recommended conditions by Don Cavness on the language that was given to us on the memo from Jim Siebert, and just to clarify that the condition on number one should refer to Exhibit F in the packet which identifies the guidelines for types of permitted uses and structures.

CHAIRMAN SULLIVAN: Okay. So that Exhibit F refers to local or small-scale districts is what you're talking about.

COMMISSIONER MONTOYA: Yes, sir.

CHAIRMAN SULLIVAN: Motion. Is there a second?

COMMISSIONER ANAYA: Second.

CHAIRMAN SULLIVAN: And the second by Commissioner Anaya.

Discussion of the motion?

COMMISSIONER CAMPOS: Mr. Chair.

CHAIRMAN SULLIVAN: Commissioner Campos.

COMMISSIONER CAMPOS: I don't think there's a basis for granting a variance. Simply because the neighbors consent that does not justify variance-granting. Moreover, this seems to be more of – referring to Commissioner Montoya's comments, this seems to be a legislative problem that we shouldn't be dealing with through a variance. If indeed the community intended this to be part commercial then they should have done it and if they made a mistake, ask them to redo it. Ask them to extend it. It's a legislative matter, not something that we should deal with by variance. We keep granting exceptions by variance and the whole objective here is to stop this type of development which is just strung along the highway. It's strip development. We're going right against the face of the policy which has been the policy of the County for years. So I think it should not be granted.

CHAIRMAN SULLIVAN: Thank you, Commissioner. Other comments?

COMMISSIONER VIGIL: Could somebody explain to me –

CHAIRMAN SULLIVAN: Commissioner Vigil.

COMMISSIONER VIGIL: And again, maybe this is for staff, why the Pojoaque community did not include this again? I'm sorry. I just have missed that.

MR. ARCHULETA: Mr. Chair, Commissioner Vigil, I believe this is out of their boundary for the traditional community, so this would not fall under their neighborhood plan or community plan.

COMMISSIONER MONTROYA: Mr. Chair, Commissioner Vigil, the traditional historic community ends about probably half a mile before where this property is at. So they did the zoning within the traditional historic community and didn't take into account anything beyond those boundaries.

COMMISSIONER VIGIL: I understand Commissioner Campos' argument. It seems like we're actually creating a zoning area by these approvals, but I also sort of look at this from the perspective of that is why the legislature granted local government the authority because we are the closest to the land and recognize probably more contemporaneously the changes that are occurring there. With the Department of Transportation's development of the highway there, the fact that its boundary to the north belongs to a sovereign nation and the boundary to the south has probably been grandfathered in in terms of commercial and knowing that piece of property, I think to a great extent the variance criteria may likely be met here because it actually follows a pattern of development that exists there. It follows a pattern of decision that we've made before, and I cannot imagine that there's any other possible use for this land. I do not see that a residence could be built here. We might even to come extent be creating a non-use for this if we don't consider what the full consequences are here. So with that, I'm ready to take a vote, Mr. Chair.

CHAIRMAN SULLIVAN: Any other comments?

**The motion to approve passed by 4-1 voice vote with Commissioner Campos casting the nay vote.**

CHAIRMAN SULLIVAN: Item number 5 is tabled, that's the Joe Mier Variance, at the request of the applicant.

- XIII. A. 6. EZ Case #S 05-4842 Suerte del Sur Subdivision, Phases 1-4 – Santa Fe Planning Group (Scott Hoeft), Agent for Suerte Development, Inc. (Gerald Peters). Applicant is Requesting Final Plat and Development Plan Approval for 241 Residential Lots on 660 Acres, and a Request to Modify Conditions Previously Imposed. The Property is Located Along Los Sueños Trail South of Las Campanas within the Five-Mile Extraterritorial District, Section 24, Township 17 North, Range 8 East (Commission District 2) Joe Catanach, Staff Planner**

JOE CATANACH (Technical Director): Thank you, Mr. Chair. Before I start the staff report we just passed out a letter. That letter came in after the packet was already out and that letter is clarification and additional information regarding condition 13. So that letter we just passed out is relevant to condition 13 and as we go through the staff report we can discuss that as we need to.

July 10, 2007, the BCC granted an amended master plan and preliminary plat development plan for a residential subdivision consisting of 304 lots on 660 acres to be developed in five phases. I included the minutes from that July 2007 BCC meeting, Exhibit B.

On March 13, 2008 the EZC recommended final plat and development plan approval for the following. And I included the minutes of the March 2008 EZC meeting in your packet, Exhibit E. They recommended final approval for four phases. Phase 1, 11 affordable housing lots, 33 market, and an eight-acre tract for a community building. Phase 2 is 15 affordable housing lots, 42 market lots; Phase 3 is 24 affordable housing lots, 62 market lots; Phase 4, 16 affordable housing lots, 38 market lots.

Affordable housing lots range in size from .25 to .90 acre and the market lots primarily range in size from .50 acre to 3.5 acres with nine ranch lots consisting of five acres including 54.6 acres as common recreational open space for a public trail. A house and accessory studio are proposed for each residential lot. An 8,000 square foot community building with an outdoor swimming pool and hard courts is proposed for the community tract. The applicant has submitted letters requesting a modification of previously imposed conditions regarding a road maintenance agreement with established homeowner associations that are responsible for maintaining Los Sueños Trail and consideration of a commitment to participate in the maintenance of La Vida Trail. The applicant's letters are in your packet as Exhibit A, after the staff report, requesting these modifications of these previously imposed conditions and considerations.

The applicant has represented that executing road maintenance agreements cannot be accomplished. Therefore the applicant is requesting the following amended condition and consideration regarding maintenance agreements for Los Sueños Trail and La Vida Trails. Mr. Chair, Commissioners, this first request for modification is directly relevant to condition #15 in the staff report and the applicant would be requesting a change to condition 15 as it's written in the staff report, and he's requesting the following: Applicant will pay for the total upgrade to a minor arterial for the offsite section of Los Sueños Trail that extends north of the proposed subdivision and connects with Las Campanas Drive, provided that Northwest Ranches, LLC will pay its share as previously required by the BCC. No road maintenance agreement between applicant and property owners served by Los Sueños Trail is required. The construction will be subject to bonding as an offsite road improvement and the applicant will seek to dedicate Los Sueños Trail to the County upon completion of the upgrade.

The second issue or request is directly relevant to condition #12 in the staff report, and this applicant is requesting consideration regarding that condition 12, that the applicant has complied with the condition regarding the road maintenance agreement with Tierra de la Vida Homeowner association for maintaining La Vida Trail on the basis that the applicant has agreed to pay 50 percent of the expense for maintaining La Vida Trail but cannot agree to terms and conditions that are being requested by Tierra de la Vida's Homeowner association regarding paving of the offsite section of La Vida Trail.

As we come to the recommendation and the staff report we can talk about staff's review of those requests.

Roads and access: A traffic impact analysis has been submitted for review by the County and State Department of Transportation. State DOT has indicated that the proposed subdivision and the extension of Los Sueños Trail can proceed as it relates to traffic impacts with State Road 599, however, subject to an updated traffic study prior to recording Phase 3, and an additional traffic study when Phase 5 is submitted for final approval including in the fair-share cost analysis.

Los Sueños Trail will be primary access, which is an existing road with a 66-foot right-of-way that is designated as an arterial for connection with County Road 70, which connects to State Road 599 frontage road in accordance with the Extraterritorial Road Plan and is subject to a conditional dedication to the County for future ownership and maintenance when the County accepts the dedication. A condition of the master plan and the preliminary plat and development plan required a cost-sharing agreement with this developer and the property owner south of the proposed subdivision for extension of Los Sueños Trail to County Road 70. The final cost-sharing agreement has been executed and submitted in accordance with the conditions, and final engineering plans are in progress.

The Extraterritorial Road Plan also designates a future arterial road intersecting off Los Sueños Trail and extending west through the proposed subdivision. Subdivision plat is providing a 66-foot right-of-way for continuation of that designated arterial for future connection to Caja del Rio Road and subject to a conditional dedication to the County for future ownership and maintenance at such time the County accepts the dedication.

La Vida Trail is an existing road that intersects off Los Sueños Trail and extends east through the proposed subdivision within a 66-foot right-of-way that provides secondary alternative access and is subject to a conditional dedication to the County for future ownership and maintenance at such time the County accepts the dedication. The existing proposed roads would have a paved asphalt surface and three road intersecting off Los Sueños Trail for access to the subdivision will have gates.

Water/Wastewater: The subdivision will utilize County water utility based on an amended water service agreement and water budget for 45 acre-feet with a .25 acre-feet water restriction per lot. The water service agreement was executed and became effective November 2, 2007. This allocation of water will support the 175 market lots and the community building, including line loss and common area landscaping within the four phases as propose and the County will provide water for the affordable housing in accordance with the preliminary approval. The subdivision will utilize the Las Campanas wastewater treatment facility. An executed agreement has been submitted form Las Campanas sewer cooperative and a modified discharge permit for expansion of the facility has been approved by the New Mexico Environment Department.

Terrain, Common Area, Landscaping, Archeology: The property is not within a flood hazard zone. Development areas are in conformance with slope standards. Common retention/detention ponds will control post development drainage. Recreational facilities are proposed for the community building and a public trail around the perimeter and the interior of the subdivision. Landscaping will be provided within the common area, community tracts

and the road landscaping corridors.

An archeological survey conducted on the property determined several significant sites that will need to be preserved in easements or subject to a data recovery plan as approved by the State Historic Division. Homeowner association, homeowner covenants and disclosure statement address use and development of the lots including ownership and maintenance of the roads, common areas and facilities and solid waste removal.

Recommendation: The proposed subdivision is in accordance with the approved master plan and preliminary plat development plan and conforms with Extraterritorial Subdivision Regulations. Conditions imposed for preliminary approval have been addressed with consideration for amendment of a condition as requested by the applicant. Staff recommends final approval subject to applicable conditions previously imposed and final conditions recommended by staff including amendment of the condition regarding a road maintenance agreement for Los Sueños Trail and consideration that the applicant is in agreement to pay 50 percent towards maintenance of La Vida Trail. And again, staff is in agreement with the applicant's request to change condition 15 regarding their commitment to pave the entire offsite section of Los Sueños Trail north of the subdivision.

Regarding condition 12, the applicant is committed to pay 50 percent towards maintenance of La Vida Trail. Staff has evaluated and found that if Los Sueños Trail is upgraded to a minor arterial standard the County Public Works Department has indicated that the entire length of Los Sueños Trail from the intersection with Las Campanas Drive to the intersection with County Road 70 would be recommended for acceptance by the County as a relevant road network in the public interest. Therefore eliminating the need for a road maintenance agreement with homeowner associations.

Staff recommends that the section of La Vida Trail within the applicant's property be paved to a collector standard in Phase 1. And I would just point out or identify that that recommended condition to pave La Vida Trail within the applicant's property to a collector standard is final condition #4. The road would probably not be accepted by the County until the entire offsite section is paved to a collector standard. Therefore a road maintenance agreement is necessary and the applicant's commitment to pay 50 percent of the expense to maintain La Vida Trail is relevant and the applicant is in agreement. And again, that's relevant to condition #12. The applicant is in agreement to pay 50 percent of the maintenance of La Vida Trail.

Mr. Chair, that concludes the staff report if I can enter the conditions into the record.

[The conditions are as follows:]

1. Compliance with applicable review comments from the following:
  - A) State Engineer
  - B) State Environment Department
  - C) State DOT
  - D) Soil and Water District
  - E) County Hydrologist
  - F) County Water Utility

- G) County Public Works
  - H) County Technical Review
  - I) County Fire Dept.
  - J) State Historic Preservation Division
  - K) Santa Fe School District
  - L) Affordable Housing Administration
  - M) County Open Space, Parks and Trails Division
2. Development plan submittals shall include but not be limited to the following:
    - A) Address archeological sites with proposed road alignments, driveways and building sites as approved by State Historic Division; site development plan shall be consistent with plat regarding location of sites that will be preserved within non-disturbance easements
    - B) Provide shared driveway access for the purpose of maintaining a minimum separation of 300 feet between driveways extending off Rio Lobo Road (future arterial)
    - C) Provide trail section detail meeting minimum standards
    - D) Traffic control/street signs
    - E) Extension of asphalt pavement for Los Sueños Trail, from end of existing off-site pavement to La Vida Trail intersection
    - F) Maintain a minimum separation of 1,500 feet between access roads intersecting off Rio Lobo Road (future arterial) and Los Sueños Trail
    - G) Project sign in conformance with minimum standards
    - H) Right-of-way for Rio Lobo Road shall be extended to the west boundary of the subdivision for future continuation
  3. Community recreation facilities will be subject to administrative staff approval of a site development plan prior to issuing a building permit.
  4. Final plat shall include but not be limited to the following:
    - A) Conditional dedication of a right-of-way to County for Los Sueños Trail, La Vida Trail and Rio Lobo Road. Conditional dedication shall specify that maintenance of roads is the responsibility of the homeowners association until such time that the BCC determines that the roads can be accepted for ownership and maintenance
    - B) An on-lot drainage pond shall be required if impervious surface exceeds 11,000 square feet on the lot
    - C) Specify road and utility easement on the south to provide emergency access for Pinon Hills Subdivision
    - D) These lots are required to use the County water system and Las Campanas sewer system
    - E) Compliance with plat checklist
    - F) Rural addressing
  5. Submit cost estimate and financial surety for completion of required improvements as approved by staff.



6. Final homeowner documents (covenants, bylaws, articles of incorporation, disclosure statement) subject to approval by staff and shall include but not be limited to the following:
  - A) Water restrictions and conservation measures, including installation of water storage tanks for collecting roof drainage and prohibit non-native grass
  - B) Homeowners association shall contract with a private company that is registered for the collection and disposal of solid waste
  - C) All of the lots shall be connected to the Las Campanas sewer system and the County water system; prohibit wells and septic systems
  - D) Prohibit division of lots and prohibit rental or lease of accessory studio as a permanent full-time residence
  - E) Maintenance plan for road, trail and drainage facilities
7. Submit solid waste fees in conformance with Extraterritorial Subdivision Regulations.
8. Submit final cost-sharing agreement for extension of Los Sueños Trail prior to final plat/development plan for phases 1 and 2, pursuant to the terms and conditions of the cost-sharing agreement.
9. Submit updated traffic impact analysis with final plat/development plan for subsequent phases as required by State DOT.
10. Compliance with water service agreement for subsequent phases prior to final plat/development plan approval.
11. Submit final agreement for use of the Las Campanas sewer system prior to final plat/development plan, and submit documentation from CID regarding the status of the expansion for the Las Campanas wastewater facility prior to recording phases 1 and 2.
12. Applicant shall consult with Tierra de la Vida Homeowners Association to determine if a road maintenance agreement is necessary for La Vida Trail prior to submitting a final plat/development plan, and applicant is in agreement to contribute 50 percent of the expense for maintenance of La Vida Trail.
13. Access for construction traffic shall be from the south end of Los Sueños Trail, and the applicant shall enforce this as much as possible. This shall be disclosed and included in contractual agreements with contractors and lot owners.
14. The applicant shall contribute their fair share for an intersection or interchange as approved or required by the MPO and New Mexico Department of Transportation at the intersection of County Road 62 and County Road 70.
15. The applicant shall execute a road maintenance agreement with other homeowner associations that are responsible for maintaining Los Sueños Trail prior to final plat/development plan, and the applicant shall agree to participate in a request to the BCC for ownership and maintenance of Los Sueños Trail by the County.
16. Compliance with Affordable Housing Ordinance (Ordinance No. 2006-02).
17. Off-site section of Los Sueños Trail that extends north of the proposed subdivision and connects to Las Campanas Drive shall be upgraded to a minor arterial standard.
18. Submit final affordable housing agreement in conformance with the affordable housing plan as approved by County staff.

Final Conditions:

1. Subdivision plat shall be signed by Las Campanas Sewer Cooperative.
2. Provide cross-reference for recording affordable housing agreement and identify affordable housing lots on site development plan.
3. A Traffic Impact Analysis shall be submitted for review and approval by the State DOT prior to recording phase 3 subdivision plat.
4. The section of La Vida Trail within applicant's property shall be paved in phase 1 to a collector road standard.

CHAIRMAN SULLIVAN: Questions for Mr. Catanach? Commissioner Vigil

COMMISSIONER VIGIL: Thank you. Mr. Catanach, this whole issue of the roads was one that was at one point in time of contention between many of the neighborhoods and the residents around there. Has that been resolved with the proposal that we have tonight?

MR. CATANACH: Mr. Chair, Commissioner Vigil, I believe it has. This applicant has represented and has committed to upgrade the entire section of Los Sueños Trail north of the subdivision to a minor arterial standard. This applicant has entered into a cost-sharing agreement for the section of Los Sueños Trail south of the subdivision. And this applicant has indicated that their commitment, has represented their commitment to pay 50 percent of the expense of maintaining La Vida Trail. I believe those issues have been adequately addressed.

COMMISSIONER VIGIL: Okay. And I'll also ask the applicant that. There was a point in time through this process that I asked that bicycle trails be included in the plan and design of this. Is that – I don't see that specifically as a component. Is it there?

MR. CATANACH: Well, La Vida Trail will be built to a minor arterial standard with a shoulder. The bicycles generally ride on that shoulder. There'll be an additional trail for pedestrians alongside La Vida Trail within the applicant's property as it extends all the way to County Road 70. So the shoulder of the minor arterial will primarily be used by bikes. It's very possible that both bikes and pedestrians will also use the trail along La Vida Trail and also around the perimeter of the subdivision and the interior of the subdivision. That trail will be able to accommodate pedestrians and bicycles.

COMMISSIONER VIGIL: And Los Sueños Trail, are we talking about the same trail? La Vida and Los Sueños, they're separate, right?

MR. CATANACH: Well, Los Sueños Trail is the main road that extends from Las Campanas Drive all way down to County Road 70. That's the main road. La Vida Trail is a road that intersections off Los Sueños Trail.

COMMISSIONER VIGIL: Okay. And what is the condition of Los Sueños Trail currently?

MR. CATANACH: Well, right now Los Sueños Trail is a paved collector road. It's paved before it gets to the applicant's property, so what we have is we have a

paved collector road that extends from Las Campanas Drive just before you get to the applicant's property and from there it transitions into a basecourse dirt road. Basecourse road and then an unimproved dirt road within the applicant's property.

COMMISSIONER VIGIL: And that will be improved.

MR. CATANACH: Oh, yes.

COMMISSIONER VIGIL: Will bike trails be a part of that improvement?

MR. CATANACH: Well, like I say, that road is going to be upgraded to a minor arterial, which includes a shoulder.

COMMISSIONER VIGIL: And a walking trail, but you're saying that the walking trail or the shoulder either/or could be used –

MR. CATANACH: For bicycles.

COMMISSIONER VIGIL: Okay. Also, Mr. Catanach, some of the emails I've received, and I receive a lot of them because I represent this district, has talked about, not with this particular development but with other development that has occurred in that area. When the development is actually breaking ground there are a lot of trees that are being cut down and not replaced. When we approve these master plan and final development plans, the landscape plan, does it make up for the loss of trees? When we do affect the ecology that way is there an analysis that's done through the landscape design to not adversely impact the area?

MR. CATANACH: Well, when you think about trees that are being removed for road construction and buildings, when you think about that, and I don't think this applicant has made a proposal to transplant existing trees. That's not to say that they're not going to do it or they will do it. To try to answer your question, this applicant is proposing some landscaping. Obviously as homes get built, people that buy these homes, they landscape these properties. I don't think there's actually been an evaluation that in fact the trees that are going to be removed are going to be exactly replaced but it seems reasonable to believe that the proposed landscaping that would occur in the common areas and the community building and people that landscape their own lots that it's probably reasonable that it's a trade off.

COMMISSIONER VIGIL: Interesting.

MR. CATANACH: A lot of those trees that are being removed may be dead as well, trees that are being removed for roads and buildings. Those may be some of those pinon trees that were affected by bark beetle.

COMMISSIONER VIGIL: It's a double-edged sword. On the one hand it could create a benefit to remove some of those trees and on the other, you are adversely impacting a terrain, an ecological balance that has actually existed there. I'm not too sure if new landscaping and new designer landscaping may or may not be a trade off. It's an interesting question and one that I didn't have an answer for. Do we evaluate the landscape design when it's brought forth at all? Because the only times I've ever seen them are on design projects brought forth and it's usually just sketched out.

MR. CATANACH: The Subdivision Regulations, the landscaping that's

required under Subdivision Regulations are not trees and shrubs but more revegetation, to reseed and revegetate disturbed areas in order to control erosion and soil stabilization. I do not – the Extraterritorial Subdivision Regulations, I don't believe have requirements to evaluate that landscaping that is being removed needs to all be replaced tree for tree, if I understand the question.

COMMISSIONER VIGIL: Well, that's part of the question. I guess it's larger and then it can be smaller. But that's it. That's all I have, Mr. Chair.

CHAIRMAN SULLIVAN: The question that I had for staff under this first bullet condition that is apparently being proposed, paying for the total upgrade to the minor arterial, Mr. Catanach. It seems that that is conditioned on provided that Northwest Ranches pays its share, and my experience has been that it's always problematic to have conditions that are conditioned on someone else doing something that they were told to do. What's the status of Northwest Ranches, LLC? Have they paid their share or will they pay their share?

MR. CATANACH: I believe the applicant included that in order that that not – that still may be a relevant condition.

CHAIRMAN SULLIVAN: Who is Northwest Ranches and are they a part of this subdivision or –

MR. CATANACH: No, it's a subdivision that was approved probably last year and it was for a property owner by the name of Jacques Constant.

CHAIRMAN SULLIVAN: Is it to the south? To the north?

MR. CATANACH: It's to the north of the applicant's subdivision.

CHAIRMAN SULLIVAN: But to the north is paved road, isn't it?

MR. CATANACH: The pavement ends before you get to the applicant's property.

CHAIRMAN SULLIVAN: But does it end before you get to Northwest Ranches property?

MR. CATANACH: It did, yes.

CHAIRMAN SULLIVAN: I remember there was just a very short section until you turn left onto –

MR. CATANACH: That's correct. It was a short section.

CHAIRMAN SULLIVAN: Onto La Vida Trail.

MR. CATANACH: It was a short section where the pavement would have to be extended before you turn into the – no, it's off Los Sueños Trail.

CHAIRMAN SULLIVAN: Northwest Ranch is?

MR. CATANACH: Is off Los Sueños Trail.

CHAIRMAN SULLIVAN: Yes, I understand. But Los Sueños Trail is paved up to the applicant's property, right?

MR. CATANACH: Before the applicant's property.

CHAIRMAN SULLIVAN: Before the applicant's property. And how far is it till you get to the applicant's property?

MR. CATANACH: I was thinking about a half mile, but maybe this applicant

could clarify that. About 2,000 feet.

CHAIRMAN SULLIVAN: I still think it's a problem to structure a condition that lets the applicant off the hook if Northwest Ranches, LLC doesn't do its job. I think the applicant has a responsibility to do its portion, whatever it is. Are we saying that the applicant is paying their pro rata share or are they paying 50 percent for the offsite section? What are they paying for?

MR. CATANACH: I believe that the discussion that Jim Rubin has had with various – the attorney for the applicant has had with various homeowner associations is that it would be based on number of lots. So Northwest Ranches I think was less than 24 lots. I'm sorry, Commissioner –

CHAIRMAN SULLIVAN: I'm not comfortable with us getting in the middle of an argument between Northwest Ranches and Los Sueños Trail. We need to specify what Los Sueños Trail is required to do and agrees to do.

MR. CATANACH: I certainly understand your issue. I guess as I evaluated the condition and the request to modify as per the applicant's request is that the applicant wanted to keep that requirement alive, but if Northwest Ranches – it was not going to – the applicant is still going to have to upgrade the entire north section of Los Sueños Trail whether that developer pays their fair share or not.

CHAIRMAN SULLIVAN: Oh, see I don't read that. I see what you're saying. Let's say Northwest Ranches is moving at a slower pace than this applicant. So this applicant has to pave the whole section. They then have a separate agreement with Northwest Ranches to reimburse them. Northwest Ranches goes bankrupt or for any reason doesn't reimburse them, I don't think it's the County's responsibility to mediate that.

MR. CATANACH: No, I don't believe that's the County's responsibility either. I think that's a private matter.

CHAIRMAN SULLIVAN: And that's the way I read it, is that the applicant will pay for the total upgrade, provided that Northwest Ranches will pay its share. And that language is nothing but red flags to me. So I think that can be restructured to indicate that the applicant has to pay for the total upgrade to a minor arterial and then it can be reimbursed by Northwest Ranches and if it isn't it has attorneys on staff and it can do what attorneys do, I guess, which is attempt to enforce that agreement.

MR. CATANACH: I certainly understand your concern.

CHAIRMAN SULLIVAN: That's one comment I had. The other question I had was you mentioned when you were talking about La Vida Trail, upgrading to a collector in condition 4. I don't see anything in condition 4 regarding a collector. Could you explain that?

MR. CATANACH: I'm sorry. It's final condition #4, towards the end of the staff report.

CHAIRMAN SULLIVAN: Yes, I'm looking at that. Final condition 4.

MR. CATANACH: Final condition 4 states that the section of La Vida Trail within the applicant's property shall be paved in phase 1 to a collector road standard.

CHAIRMAN SULLIVAN: Wait a minute. I'm looking at page 5. Is that where it is?

MR. CATANACH: Page 7.

CHAIRMAN SULLIVAN: Oh, that condition 4. So we have two condition 4's. The other conditions are still in effect, are they not?

MR. CATANACH: Yes, Mr. Chair. They are.

CHAIRMAN SULLIVAN: So you're talking about final condition four. Okay. Collector standard. And then the other question I had was on this letter that you passed out from the Rubin Katz law firm dated April 1, 2008. *[Exhibit 6]* Where does this fit into it? It's some conditions about adding – it doesn't cost them anything but apparently just adding some language to each and every owner shall be required to include a provision in any construction contract concerning his or her lot required that contractors, subcontractors and material men shall access Suerte del Sur by Hager Road. It's talking about addressing an EZC concern.

MR. CATANACH: Yes, Mr. Chair. The applicant is providing clarification and additional information regarding condition 13.

CHAIRMAN SULLIVAN: That's 13?

MR. CATANACH: Yes, it is, on page 7.

CHAIRMAN SULLIVAN: Okay. And how and who enforces that? That clarification. Who enforces which way the contractors are going to come in, whether they're going to come in from the north or the south?

MR. CATANACH: Well, the applicant is attempting to specify how that will be enforced.

CHAIRMAN SULLIVAN: Well, it says further down the subdivider shall be responsible for enforcing this provision against its contractors. Now that's, I assume, the contractors who are building the lots in the subdivision. But that doesn't seem to have anything to do with the individual homeowners. Would that be your interpretation?

MR. CATANACH: The condition actually applies to building the infrastructure within the subdivision as well as the individual homes and individual contractors. Any individual contractor hired by homeowners.

CHAIRMAN SULLIVAN: Okay, and so it says in condition 13 the applicant shall enforce this as much as possible. What does that mean?

MR. CATANACH: Well, again, the applicant has submitted a letter trying to clarify how they will accomplish that.

CHAIRMAN SULLIVAN: I don't think this clarifies too much because it just says they're putting it on the backs of the homeowners except for their own contractors. At the bottom it says the subdivider, which I assume is the applicant, shall be responsible for enforcing this provision against its contractors. So at least it appears to me what we're doing is weakening condition 13.

MR. CATANACH: Well, actually, the applicant would be including it in purchase agreements and covenants, so when you sign a purchase agreement you're agreeing

to have your contractors access from the south, and the covenants of the subdivision are requiring that, meaning that the developer, as the homeowner association as the initial owner can enforce that.

CHAIRMAN SULLIVAN: Through the homeowner association.

MR. CATANACH: Through the homeowner association and the purchase agreement.

CHAIRMAN SULLIVAN: But the applicant's out of it. The applicant no longer has an obligation to help control that traffic, because they've put it over onto the homeowners.

MR. CATANACH: Well, the applicant will be the homeowner association for a while.

CHAIRMAN SULLIVAN: For a while they'll be the association. Okay. That seems to be pretty vague to me, but those are my comments. Any other questions of staff? Okay, is the applicant present?

COMMISSIONER VIGIL: I have a real quick question before Scott. The applicant is the homeowner association, Mr. Catanach, up until what? Ninety percent of the building? What do the covenants say there?

MR. CATANACH: Commissioner Vigil, I think there's probably different bylaws, but generally up until the applicant has sold over 50 percent of the lots.

COMMISSIONER VIGIL: Fifty percent, sold the lots, not built and constructed?

MR. CATANACH: Sold.

COMMISSIONER VIGIL: Okay. Thank you. And Scott, you may have a different answer to that.

[Duly sworn, Scott Hoeft testified as follows:]

SCOTT HOEFT: Scott Hoeft, Santa Fe Planning Group, 109 St. Francis, 87505. I also have with me this evening Jim Rubin who's the attorney on the project and Mike Gomez who is our civil engineer and traffic engineer. You've obviously touched upon all the issues that we've been dealing with over the last year which has been primarily roads. We came out of the chambers last July tasked with refining the affordable housing plan but also solving all of these road maintenance agreements and I have a plan in front of me down below that shows the site in its proximity to all of the roads that are in the area we've been dealing with. To summarize Joe's review, heading north is Los Sueños Trail, and earlier you asked a question, Commissioner Vigil, regarding the bike way, and I think Mr. Catanach was referring to La Vida Trail. I think he meant to say Los Sueños Trail. That's the road that we're going to be improving all the way up to Las Campanas Drive into the site and that will have a six-foot shoulder for bikes, for that purpose. So that essentially addresses your question on that.

We do have internal trails on the project and I can get to that in a little bit. The other issue that we've been working to solve is the Hager Road which heads all the way down south, shown on this plan here. That agreement we reached pretty quickly, and again, Mr.

Peters is paying 2/3 of the cost of the construction of that road. So keep in mind that Mr. Peters is improving Los Sueños Trail up to Las Campanas Drive. He's also creating Hager Road all the way down to 70.

And then La Vida Trail, which again we have two agreements. When we started off Hager Road was pretty quick. Los Sueños Trail we were dealing with I believe ten different associations and after a while we realized to try to get to some sort of understanding and agreement regarding how we were going about approving that and getting fair share it was going to be an impossible event, so we just agreed at that time to just pay for it ourselves.

La Vida Trail, at the last hearing at the EZC last month, Mr. Etre Was concerned and we point that out, headed in that direction toward Aldea. He wanted us to contribute to paving his portion of the road and at the hearing that night he kind of understood our position and realized that paving La Vida Trail wasn't our responsibility because we had so little traffic heading in that direction. But we did, as Joe pointed out, pave this purple section on our site immediately. So even though that's in a latter phase of development we agreed with Joe that paving La Vida Trail on our site was appropriate and Mr. Etre We agreed to 50 percent of the improvements of the maintenance of La Vida Trail offsite.

So these are the major issues. It's take us about a year to get back to this Board, almost a year. This is what we've been dealing with in getting these agreements in place and it's been quite a bit of effort. So if you consider that the first years of the project were design, the second years of the project we're dealing with water. Last year we were dealing with affordable housing and coming to terms with that. 2007 was primarily dealing with these cost-sharing agreements which took quite a bit of effort.

Going to your revegetation question, Commissioner Vigil, our company, Santa Fe Planning Group does the landscape work for the project and the design of it and we do have about five sheets within the submittal that addresses landscaping. Unlike the City, the County doesn't have a policy or a Code that requires you to transplant the trees that you remove. I will say that the property itself is 660 acres and heavily treed. And trees, in terms of transplanting, weren't going to be our initial goal. The trees that will be removed are for the roadways. Of course when we cut the roads in those trees will be removed and the roadsides revegetated.

The lots themselves, the market rate lots as you recall are all large. They're approximately 2.5 acres on average. Those lots remain as is. We're not talking about mass grading here. Those lots remain until sold and then each lot has a buildable area within that lot that the homeowner is allowed to improve upon and the balance of the lot is left natural. And that's even the case for the affordable lots as Joe mentioned in the staff report. You have affordable lots that are extremely large on this property, relative to most affordables in the county that go up to .9 acres in size, almost an acre in size, and those are the same way. Mass grading will not occur. So most of the vegetation that's on the property, with the exception of the roads will remain intact.

And if you consider – I've stated this at previous hearings – if you've got 660 acres and you consider a building pad for each lot, combined with roads, you're going to have about



400 acres of the property preserved, relatively.

COMMISSIONER VIGIL: Mr. Hoeft, the covenants, do they address xeriscaping?

MR. HOEFT: Yes, they do.

COMMISSIONER VIGIL: Okay, and to what extent? What do the covenants require in terms of landscaping and xeriscaping?

MR. HOEFT: The County requirements, in terms of what can be planted, in terms of materials, the materials that you can use, where you can plant on a land. Typically, you want to keep the balance of the property in its natural state and that most of the new plantings occur around the residence. So of course you have revegetation for driveways and roadways.

COMMISSIONER VIGIL: Thank you.

MR. HOEFT: Now you have, Commissioner Sullivan brought up three questions regarding roadways and I would prefer that Mr. Rubin handle those. Let me just kind of summarize those questions because they're all very good. One was Northwest Ranches and I would prefer Mr. Rubin deal with that. I'm 95 percent sure, and Joe can address this, that Northwest Ranches had the same condition that we have regarding Los Sueños Trail because they came through, I believe the same night back in 2007 for preliminary approval or that could have been final approval. Mr. Rubin had that conversation. Jim Siebert is the planner on that and so he's had conversations with Mr. Siebert and they came to terms. La Vida Trail as a collector, again I would prefer Mr. Rubin to address that, and then the contractor – that was quite a bit of discussion that came up in front of the EZC last month regarding contractors and how people were going to approach and access the property in the short term.

Now keep in mind, as I stated earlier, we've got to improve Los Sueños Trail right off the bat. We've got to build Hager Road right off the bat, and the folks above wanted most of our traffic coming from below into the site. So that's what our goal is and we've laced the covenants with that terminology, but with that I would like to turn those questions over to Mr. Rubin as well as Commissioner Vigil's question regarding the HOA and the point at which it's turned over to the members. Thank you.

CHAIRMAN SULLIVAN: Mr. Hoeft, are there any other changes to the plan between the preliminary plan and the final plan?

MR. HOEFT: No, Commissioner Sullivan.

CHAIRMAN SULLIVAN: So there's no changes in lot configuration, in the affordable housing configuration, or anything else other than these road conditions?

MR. HOEFT: That's correct, Commissioner.

CHAIRMAN SULLIVAN: Okay.

JIM RUBIN: Good evening, Commissioners, thank you for hearing us tonight. It's been a long haul on this project. Let me try to address these specific questions. Chairman Sullivan, Commissioner Vigil, the turnover point for the association is 90 percent of lot sales. It doesn't have anything to do with the build-out of lots. It's at 90 percent. Additionally,

we're paying standby fees to the County of \$25 per market rate lot per month. In February Suerte Development wrote a check for \$140,000 to the County Water Utility now that the billing has finally been straightened out, because when we entered into our original water service agreement it was for 304 market lots. We've had major pieces of legislation that you've adopted during the course of this subdivision process, and so we're now down to where we pay \$5600 a month. That's \$25 per lot for 224 market rate lots each and every month that we're funding to the County Water Utility. Those payments have to continue until the taps, the meters, are actually installed on the lots when somebody's going to start building. So we're also paying that into the water utility. \$134,000 of that \$140,000 was clearing up the billing situation from previously because of the changes in the affordable and market rate lots from where we started.

Northwest Ranches. Back in July Mr. Constant was two cases ahead of us that night. He was tabled that night but came back the following month and was approved. We were looking at two different portions of how Los Sueños Trail would be treated, and that goes into this road-sharing question too. We looked at deferred maintenance on Los Sueños Trail. And that deferred maintenance cost was estimated by Mr. Gomez somewhere around \$120,000 to \$150,000. And what happened – and then over and above that there's about another \$500,000 to \$600,000 for the actual upgrade to take it from a plain collector road up to a minor arterial. So it's a significant cost.

What we had sought to do was to share in the deferred maintenance cost for Los Sueños Trail with all those different homeowner associations, and the condition that you imposed was that Northwest Ranches should pay its pro rata share for deferred maintenance. You didn't impose the upgrade to minor arterial on them. We are willing, if it makes it any better, we'll collect from Northwest Ranches, because we have a good working relationship with them. We made an agreement regarding setbacks between our two subdivisions. We supported what they were doing. We're going to try to coordinate on the bike trail in between the two properties. There's a lot of kind of synergy there between the two. So we don't expect the County to collect that for us; we'll take care of that with them. We just don't want to waive, have the BCC waive that condition that Northwest Ranches was supposed to contribute a pro rata share. So we're happy to change that condition accordingly so that we'll take care of the collections. It's not an issue for us.

CHAIRMAN SULLIVAN: You don't have any problem, Mr. Rubin, with deleting the phrase provided that Northwest Ranches, LLC will pay its share as previously required by the BCC?

MR. RUBIN: No. No, Commissioner, so long as you make a statement tonight that you haven't waived that condition for Northwest Ranches.

CHAIRMAN SULLIVAN: I can't make any statement as to what the Commission might or might not do, particularly after December 31, 2008. But I don't think that there's any recommendation here that we're changing any conditions of Northwest Ranches, are we, Mr. Catanach?

MR. CATANACH: No, Mr. Chair.

MR. RUBIN: Okay. We're okay then, Commission. With respect to La Vida Trail, we have negotiated the form of a road maintenance agreement acceptable to Mr. Etre and his association. They had a meeting in mid-March. Notice he's not here tonight. It's interesting, on the very last page of your packet, second paragraph down, it shows Mr. Etre's testimony and at the end he discussed a three-way stop west of the subdivision and that would be paved and for the record said that he appreciated the support and willingness the applicant has offered. So we have an agreement with them to pay one half of the actual maintenance expenses of La Vida Trail as they occur. I can tell you that in 2007 they spent about \$2300. So we will pay that as soon as we're billed on it. And that's our agreement with them.

The contractor involvement issue. There was a discussion and we do have at least one neighbor here tonight. There was a discussion about how to ensure that this construction traffic comes from the south on Hager Road. Of course we cannot break ground on Suerte until Hager Road is built. That is an existing condition. So there's not going to be anybody coming in from the north. They've got to come in from the south to begin with and we can't even start turning our dirt. When we do, we will under paragraph 4 of my letter put this language into the construction contracts with Suerte's infrastructure contractors.

Now there was a discussion of this matter at the hearing and Commissioner Long brought up the issue that we, meaning the developer, can really not get into individual contracts. We totally agree with this too as a matter of law. We can't get in the middle of individual contracts between lot owners and their contractors. So the best way that I thought to go from a pure legal standpoint was to disclose to each and every purchaser, and I've already changed this language in the disclosure statement that we previously submitted to the County, disclose to everybody their construction traffic has to come in from the south. That goes forever. That's what's supposed to be. Put it in the covenants. I've changed the covenants to make sure it comes in from the south. And in each and every agreement, 304 sales agreements between Suerte Development and the individual property owners, whether they be market rate lots or affordable lots, it will say in them that they acknowledge and understand that their construction traffic must come in from the south.

And so we have covered it the best ways possible that I can think of from a pure legal standpoint. This would be of record in perpetuity as part of the covenants.

CHAIRMAN SULLIVAN: Let me stop you there a minute on that point. So then if I'm a property or a lot owner and my neighbor doesn't do this. Do I complain to you? Let's say you still own 80 percent, or say only 80 percent of the lots have been sold so the homeowner association is still controlled by the developer. Do I come to you to enforce that then?

MR. RUBIN: Commissioner Sullivan, I don't think we're going to hear from the next-door neighbor. I think we're going to hear from this gentleman over here who is the neighbor to the north representing one of the homeowner associations. We are going to hear about truck traffic coming down from the north and people building in Suerte. When they call the association or the developer, if they are able to trace where these trucks are going and tell

us about it we will take action as an association to try to stop that type of traffic.

Now, we must tell you, and they've got a problem right now that we are fully aware of. The traffic comes in on Los Sueños Trail, comes through the subdivision, runs over to La Vida Trail and out and there's been heavy trucks coming through that way to properties that are to our east or to our south. We have no control over that type of traffic. I do urge the Commission with respect to any properties, any development plans or master plans for any other properties out there that a similar condition is imposed on them. But we do know now and I believe our neighbors have traced where those trucks are going but they certainly aren't going onto our property except via the right-of-way.

So again, we will hear from our neighbors. The homeowner association will hear about it. They will notify the individual lot owner, assuming that lot owner has been identified, and I think that's a pretty good way that neighbors work together.

CHAIRMAN SULLIVAN: Then let's assume that we have met your requirement, that we've identified the truck and that it ends up on a lot in Suerte del Sur. And then you notify the owner. What happens then? How will you enforce the condition?

MR. RUBIN: Well, Commissioner I don't know whether or not you do –

CHAIRMAN SULLIVAN: We the County don't enforce conditions. You know that.

MR. RUBIN: Excuse me.

CHAIRMAN SULLIVAN: The County doesn't enforce homeowners conditions.

MR. RUBIN: Of course not.

CHAIRMAN SULLIVAN: My question to you is you've identified the vehicle or vehicles, they're going to the Suerte lot, they're coming in from the north, the conditions say that they are not supposed to come in from the north. You've notified the owner, the owner doesn't do anything. What will you as the association now do?

MR. RUBIN: Well, to tell you the truth, Commissioner, I doubt that we are going to spend \$10,000 to go to court. So we're going to figure out what to do with this homeowner. We're going to have to look at suspending their voting rights, which they're in violation of the covenants they have a right to do that. We have a right for special assessments against that homeowner. We have a right to do a lot of different things. The covenants are in the package. I personally believe they're a good set of covenants. I've worked on a lot of different covenants with different types of remedies. Different homeowners within the subdivisions also have the right to enforce the covenants against each other.

So I think there's a number of things that can be done. Can I speak today for what the board is going to do 25 years from now? No, sir, I cannot. I probably won't be here 25 years from now.

CHAIRMAN SULLIVAN: The question was while the developer is still in control of the subdivision homeowner association.

MR. RUBIN: What are we going to do? Are we going to spend \$10,000 to

take this person to court? Now, we cannot take the contractor to court. We have no contract with the contractor. We can only take our contractors to court. So we have no right at all to do that. We have enforcement options against the individual homeowner for not causing his or her contractor to come in from the south. I think that these matters are going to be resolved by the homeowner doing something about it. We can require the homeowners to put other provisions in their covenants with penalties for contractors who don't come in from the south. Do we know what they're going to do? No. We are not involved in that contract process.

CHAIRMAN SULLIVAN: I guess what I'm getting at in terms of enforcement, I understand, and that's the reason I brought it up, is that it's very iffy to be able to enforce this condition which I think why the condition is of moderate value. Perhaps if you wrote the condition to say that every documented incident shall result in a fine to the homeowner of \$250, that might put some teeth into it, where you wouldn't have to go to court. By signing the homeowner association agreement they would agree to be assessed that amount. Would something like that work?

MR. RUBIN: I'm not going to commit to that?

CHAIRMAN SULLIVAN: That wasn't my question. My question was would something like that work?

MR. RUBIN: To tell you the truth, I don't think they do work.

CHAIRMAN SULLIVAN: You don't think that –

MR. RUBIN: I think that causes significant problems among neighbors, within homeowner associations. This is supposed to be a community. What we have done since day one, going back years, is to say that we wanted to restrict the traffic from the north to take care of the concerns of the neighbors of the north. I agree with Commissioner Long. I prepared this letter to go along with what was discussed at the EZC meeting and I respect Commissioner Long as a real estate attorney too. And that's what I did here. And I think this solves the condition that was requested before. I think that the neighbors will be happy with that. And I think that fines within homeowner associations can create some very serious problems, and I can tell you the boards don't always impose them, even if it says you can, they don't.

CHAIRMAN SULLIVAN: Is that all?

MR. RUBIN: That's my answer to your question.

CHAIRMAN SULLIVAN: Other questions from the Commission for the applicant, for Mr. Rubin or Mr. Hoef? Okay, seeing none, this is a public hearing. Is there anyone in the audience that would like to speak in favor of or in opposition to this application or any portion of it? Come on forward sir. Have the recorder swear you in.

[Duly sworn, K. Paul Jones testified as follows:]

K. PAUL JONES: My name is K. Paul Jones, 6 Desert Rain. I am a member of the board and president of the Los Sueños Subdivision Homeowner association and have been acting as facilitator with the residents of the El Prado Subdivision immediately to our north which borders directly on Las Campanas Drive. My subdivision borders directly above

where the Suerte del Sur Subdivision will be, and then also there's the subdivisions Sonrisa and La Serena that are off to the east. Sonrisa is the third one that also borders on the northern side of Suerte del Sur.

You've had communications from us before, both in writing and our presence here at previous meetings of the BCC. We have consistently expressed support in general for the request, preliminary and now final based on the existence of the conditions, now final conditions that have been put in place which were very important to us, among others, condition #13 where indeed we have repeatedly expressed a concern that there not be a volume of traffic moving from the north to south, but rather coming up from 599 from the south to north, most particularly at the state of development of the lots. And then secondarily, with regard to the movement of construction vehicles related to the construction of houses on those lots.

The wording that was originally there in 13 was very vague and said "as much as possible" but didn't clarify how that was to be implemented in any way that had, as Commissioner Sullivan has mentioned, any enforcement to it. This was an issue I raised at the most recent EZC meeting, I related to this proposal, and there I was myself pleased with the oral responses I received from Mr. Rubin regarding what could be done beyond just putting up a sign telling people which way they're supposed to access it. I am myself quite pleased with what has been elucidated in writing now with this memo of the 1<sup>st</sup> of April. I am optimistic with regard to significantly controlling movement, limiting it from the south versus not from the north. I'm realistic enough to believe there's no way we're going to prevent some movement of vehicles. What we're concerned with is any major evidence of movement. An occasional violator is not going to be a problem to us, but if the general procedure comes to be that there's movement from the north rather than from the south, then we will indeed be very concerned.

Let me give as example. The Love Ranch Development that you're aware of which was put in with the Wildflower Extension. 300 dump trucks moved along Los Sueños Trail north to south to get to that. There was another way they could have done it. That's the way they chose to do it and we had no way to stop them from doing that. And therefore it is important to us that nothing equivalent to that should occur with regard to the development of Suerte del Sur. And we believe what's been presented to you, most particularly with the April 1<sup>st</sup> memo is sufficient to allay the concerns that we've had in the past.

If a problem were to arise, which means to us we would see too many vehicles moving, not an occasional. It's hard to tell where they're headed, although I did on occasion follow them to see where they were headed. But if we find that they're moving from north into Suerte del Sur, then during the stage of development of the lots we will bring that to the attention of the appropriate individual, whether that's Mr. Rubin or someone else. We're optimistic that that can be resolved in a peaceful way. If worse came to worse we would at least threaten legal action. But we're optimistic with regard to that phase.

With the phase that the lots are sold and it's construction of houses, then too, during that phase where it's 50 or a greater percentage that they will still have control over it, they

will be the avenue of our contact. Once they move out of it and there's some kind of homeowner association such as we have, then we will deal directly with the leadership of that association. It's been I think a year since I've looked at the proposed subdivision. I'm sure they've made changes to it. I can't remember if there's something in there comparable to what Los Sueños has had since the time Michael Hurlocker developed it and the other related subdivisions, namely, that when a house is to be constructed there must be an approval of that by the homeowner association – the plans, understanding of agreement with the contractor, etc. And you put a deposit down, and that deposit is only returned if the conditions are fulfilled. If those conditions are not fulfilled, the homeowner association has a right to keep – and they make the judgment, to keep a portion of that deposit. And if it turns out that we're to be what happens, we would ask that that deposit be given as a penalty payment to us.

We don't anticipate that being a problem but we envision ways in which it can be dealt with. And again, our concern is not with isolated instance of one or two or a few lot owners, but if it became a common pattern, then we will be complaining to the appropriate people.

Finally, I wish to express my support for the new approach with regard to condition 15. We did have differences of opinion regarding the degree of deferred maintenance and what was necessary. Those differences have melted away with their position now that they are prepared to cover the full cost for any upgrading, including anything that might be deferred maintenance related to upgrading to a minor arterial standard. And thus as a final statement, I support the request they've submitted to you and urge your support of this final approval. Thank you.

CHAIRMAN SULLIVAN: Thank you, sir. Any other individuals who'd like to comment? Okay, seeing none, the hearing is closed. We'll go back to the Commission. We have it appears two recommended modifications to conditions number 12 and 15, and an agreement by Mr. Rubin that the phrase "provided the Northwest Ranches LLC will pay its share as previously required by the BCC" can be eliminated from the first bullet on page 2. We also have a letter, which I guess could be entered as additional applicant agreed upon conditions, dated April 1, 2008. Ladies and gentlemen?

COMMISSIONER ANAYA: Mr. Chair.

CHAIRMAN SULLIVAN: Commissioner Anaya.

COMMISSIONER ANAYA: Does the applicant agree to those conditions?

MR. RUBIN: Yes, we do, Commissioner.

COMMISSIONER ANAYA: I'll make a motion to approve with the conditions, modified conditions.

CHAIRMAN SULLIVAN: Motion by Commissioner Anaya.

COMMISSIONER VIGIL: Second.

CHAIRMAN SULLIVAN: Seconded by Commissioner Vigil. Discussion on the motion?

COMMISSIONER VIGIL: I do have some comments. I really recognize that

there's been a lot of work put into this development. It's one of the developments we've struggled and toiled with. I really appreciate all the work that everyone has put into this inclusive of all the staff time and all the agents involved with this. I actually, at some point in time in thinking about moving forward with this project thought that it could be really held up as an example of what direction the County is going in with regard to subdevelopments, particularly because of all of the issues that we worked out with the affordable housing. I think not only can it be held up to identify the future of where the County is going with growth management and growth management plans, as I said to the affordable housing, but the trails, the spacing, the development in general, particularly the interspersing of the community, which I think is going to be a huge part of its attraction.

I really recognize that this has not been easy. It has not been easy for the Commission. It has not been easy for the developer, for the agents of the developer, for staff, but I think based on the struggle that we've come to, the negotiations that we've had to tangle with prior to the negotiations that we've had, and the most recent one being the roads. I am so glad that there is a representative here tonight from that area, from the Los Sueños Subdivision. Thank you Mr. Jones for being here. I really appreciate that. It's always a concern for me, what the neighbors are saying and doing because they are the ones that have to live with the consequences of these decisions. So thank you.

Scott, Mr. Rubin and everyone else who worked on this, and for working with the neighborhoods on this I really appreciate it. That's it, Mr. Chair, for me.

CHAIRMAN SULLIVAN: Other comments? Questions? Speeches? No?  
Okay.

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

- XIII. A. 7. Ordinance Number 2008-Request Authorization to Publish Title and General Summary of an ordinance to Establish Regulations for Stormwater Management and Development inside and Adjacent to Flood Hazard Areas, Amending Ordinance 1996-10, Article V, Section 5 (Procedures and Submittals) to incorporate**



**Table I, Repealing County Ordinance 1988-1 (Development in Flood Hazard Areas), Repealing ordinance 1996-10 (Santa Fe County Land Use Code, as amended), Article VII, Sections 1 (Flood Hazards), 3.4.1.b.4, 3.4.1.c.1.b, 3.4.3.i, and 3.4.6, Repealing ordinance 2000-12 (Community College District), §6.D.3 and §6.E.5.i, Repealing Ordinance 2005-8 (U.S 285 South Highway Corridor Zoning District), §8.8(B)2; Repealing ordinance 2006-10 (Tres Arroyos de Poniente Zoning District), §9.10(A)(1); Repealing Ordinance 2000-13 (Tesuque Community Zoning District) §3.8.1; Setting Penalties for Non-Compliance, Designating the Floodplain Administrator and Defining the Responsibilities of the Floodplain Administrator, Defining the Lands to Which the ordinance Applies, Establishing the Requirements and Procedures for Obtaining a Development Permit within a Designated Special Flood Hazard Area, Designating Special Flood Hazard Area Permitted and Prohibited Uses, Setting Standards for Various Zones within the Special Flood Hazard Area, Setting Standards for Subdivision Proposals, Establishing Procedures for Removal of Land from Floodplain, Regulating Floodproofing, Establish Floodplain Permit Procedural Requirements, Establishing Variance Procedures, Establishing Stormwater Management analysis and Design Criteria and Submittal Requirements, Defining the Hydrologic Methodology Required, Setting Erosion Setbacks, Setting Standards for Stormwater Detention and Retention, Establishing the Basis for Approval or Denial, and Providing Standard forms and Tables, and Providing Definitions for Terms and a Glossary of Acronyms [Exhibit 7: Ordinance Draft]**

CHAIRMAN SULLIVAN: Okay, ladies and gentlemen, we're running out of steam up here. At least I am. I'd like to defer the last item if we can to a future meeting, concerning the floodwater thing. I have some questions on that and it's kind of late.

MS. COBAU: Mr. Chairman, we're on a pretty strict timeline on that floodplain ordinance. I would just like to really encourage its being heard this evening. I'll make it really, really quick.

CHAIRMAN SULLIVAN: Well, I read that and it didn't say it had to be approved. It said it had to be in the process of being approved.

MS. COBAU: It has to be approved by June 17<sup>th</sup> or we're suspended from the National Flood Insurance Program, which means nobody will be able to get federally insured loans, we wouldn't be eligible for federal disaster assistance. It's going to be a push if we get publication for title and general summary this evening to get it done by June 17<sup>th</sup>.

COMMISSIONER ANAYA: So moved.

COMMISSIONER VIGIL: I second it. I think I've read enough from the packet to know that we can at least further discuss it. We're not required to take action on the ordinance. We're just looking for publication of title and general summary on this. So I will second that motion.

CHAIRMAN SULLIVAN: Okay. Publish title and general summary. Could you read that portion that you're talking about? Could you point that out? Because that's not the way I read it.

MS. COBAU: Mr. Chair, members of the Commission, if you look at the exhibit that I attached, it's a letter from the Federal Emergency Management Agency. It's Exhibit A in your packet. If you look on the second page of that, it's the third paragraph. It states, "Communities that fail to enact the necessary floodplain management regulations will be suspended from participation in the NFIP and subject to the prohibitions contained in Section 202-A of the Flood Disaster Protection Act of 1973." That's what I was referring to, and in the fifth paragraph at the bottom of the first page of Exhibit A, it says we have until June 17<sup>th</sup> to enact this ordinance.

CHAIRMAN SULLIVAN: What I was reading at the bottom says, "Prior to June 17<sup>th</sup> your community is required, as a condition of continued eligibility to adopt or show evidence of adoption of floodplain management regulations."

MS. COBAU: That's correct, Mr. Chair. Today I attended an eight-hour power point presentation by a FEMA official. FEMA's in town. The New Mexico Floodplain Managers Association is meeting this week. He told me that he really needs to see a signed ordinance by June 1<sup>st</sup> or it will be published in the federal register that we're a non-compliant community and we would be officially suspended by action of a computer on June 17<sup>th</sup>.

CHAIRMAN SULLIVAN: Well, we certainly don't want to be suspended by a computer. So other discussion? We have a motion. We have a second. Any other discussion on publishing title and general summary of an ordinance to establish regulations for stormwater management.

**The motion passed by unanimous [3-0] voice vote with Chairman Sullivan abstaining. [Commissioner Campos was not present for this action.]**

CHAIRMAN SULLIVAN: The chair abstains. I do not feel there is enough information or time to review this particular item tonight.

- XIII. A. 1. Authorization to Publish Title and General Summary of an Ordinance Amending Ordinance No. 2003-6 and the Santa Fe County Land Development Code, Ordinance No. 1996-10, to Permit the Use of Water Recycling Systems in Lieu of Rainwater**

**Catchment Systems for Landscaping of Commercial and Residential Development or Other Approved Use [Exhibit 8: Updated Ordinance Draft]**

CHAIRMAN SULLIVAN: The last item was the first item. Do we have anything more?

MR. ROSS: Mr. Chair, that was really messed up, Ordinance No. 2003-6 was really messed up. I think it's arguable that our water harvesting didn't apply to developments of more than four lots for these past five years so I'm glad we caught that. I fixed it in this draft that's in front of you. You'll see it's just moving the requirements in various places in the Code. Section 1 was what you were looking at earlier which was the modification of the language that applies to construction of one to four dwellings. Section 2 did not appear in the original ordinance and it applies to all other residential development. Section 3 and Section 4 apply to commercial development. Neither of the latter two categories were adequately covered by –

CHAIRMAN SULLIVAN: Section 2 is all new language?

MR. ROSS: Section 2 is all new.

CHAIRMAN SULLIVAN: You just made it up while you were sitting there?

MR. ROSS: I just made it up while I was sitting there.

COMMISSIONER MONTROYA: By yourself?

MR. ROSS: Well, it's just parroting the requirements that already apply to one to four dwellings by virtue of 2003-6. So we'll look this over in the next few weeks and make sure it's accurate, but now I think there's some urgency in getting this fix accomplished. The way I included the proposed amendment was when there was a submittal, for example, in Section 1, that's a submittal requirement in the Code, I added a proviso at the end of the first sentence that describes the submittal that says unless an approved development permit includes a plan for recycling of water to each structure and common areas and landscaping or other approved uses.

And when it's not a submittal, when it's a requirement, as in Section 2, I just added an extra section that said the requirements of this sub-section shall not apply when the development permit includes a plan for recycling of water

COMMISSIONER ANAYA: So moved.

COMMISSIONER MONTROYA: Second.

CHAIRMAN SULLIVAN: Okay, we have a motion by Commissioner Anaya, seconded by Commissioner Montoya. And this is to publish title and general summary. Is that correct?

MR. ROSS: That's correct.

CHAIRMAN SULLIVAN: For an ordinance amending Ordinance 2003-6, and the Santa Fe Land Development Code, 1996-11 to correct errors and thereby clarify the applicability of Ordinance No. 2003-6, to permit the use of water recycling systems in lieu of rainwater catchment systems for landscaping for all commercial and residential developments

or other approved use.

A motion and a second. And so the section that we were originally looking at, Mr. Ross is Section 3 (6). Is that the change, the main change? We're talking about recycling being permissible?

MR. ROSS: Section 3 – well, there's a number of changes. The language that was originally proposed in the material that was in your packet is encompassed in all this stuff, but Section 2 is completely new material. That didn't exist in 2003-6 before.

CHAIRMAN SULLIVAN: But Section 3 is the part about the water harvesting.

MR. ROSS: That's the submittal for the commercial stuff.

CHAIRMAN SULLIVAN: Oh, Section 3 is only for commercial?

MR. ROSS: Yes.

CHAIRMAN SULLIVAN: Okay, so this exemption from the rainwater collecting is only for commercial then?

MR. ROSS: No, it applies – it's in each of these sections. Section 1, Section 2, Section 3, Section 4 has the proviso.

CHAIRMAN SULLIVAN: Oh, I see. So it's in each –

MR. ROSS: It's in each place. It's a very awkward way to do it but the stuff is all over the Code. I think in 2003 they were trying to simplify the ordinance and they kind of oversimplified it.

CHAIRMAN SULLIVAN: Okay. So we'll have time to look at this later.

MR. ROSS: Yes.

**The motion passed by unanimous [3-0] voice vote.** [Commissioners Campos and Montoya were not present for this action.]

#### **XIV. ADJOURNMENT**

Chairman Sullivan declared this meeting adjourned at 9:55 pm.

Approved by:

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Board of County Commissioners  
Jack Sullivan, Chair

ATTEST TO:

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VALERIE ESPINOZA  
SANTA FE COUNTY CLERK

Respectfully submitted:

Karen Farrell, Wordswork  
227 E. Palace Avenue  
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