



COUNTY OF SANTA FE )  
STATE OF NEW MEXICO ) ss

BCC MINUTES  
PAGES: 142

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**SANTA FE COUNTY**

**BOARD OF COUNTY COMMISSIONERS**

**MEETING**

**April 13, 2010**

**Harry Montoya, Chair – District 1**  
**Kathy Holian – District 4**  
**Liz Stefanics – District 5**  
**Virginia Vigil – District 2**  
**Michael Anaya – District 3**

SFC CLERK RECORDED 05/13/2010

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

**April 13, 2010**

This regular meeting of the Santa Fe Board of County Commissioners was called to order at approximately 2:20 p.m. by Chair Harry Montoya, 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, Harry Montoya, Chair  
Commissioner Virginia Vigil, Vice Chair  
Commissioner Kathy Holian  
Commissioner Liz Stefanics  
Commissioner Mike Anaya

**Members absent:**

[None]

**V. INVOCATION**

An invocation was given by Captain Michael Mestas of the Fire Department.

**VI. APPROVAL OF THE AGENDA**

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- B. Tabled or Withdrawn Items**

ROMAN ABEYTA (County Manager): Mr. Chair, we do have amendments to today's agenda, the first coming under IX. Special Presentations, we added an item D, which is recognition of Ted Padilla with his retirement, Vernon Naranjo, and also Marco Lucero, all from our Sheriff's Office.

Under XI. Matters from the Commission, we don't have an NCRTD status update at this meeting because they haven't had a meeting. Item B, we've already approved a proclamation declaring April as National Counties and Health Counties Month so we have

asked Gigi Gonzales with our Human Resources Department to give us an update on what kind of activities we're doing in recognition and in compliance with the proclamation that was approved last month. And we added an item C, which is consideration of authorization of publication and general summary of an emergency interim development ordinance.

There are no changes under the Consent Calendar with the exception on page 4, we have tabled under Miscellaneous, item #6, which was approval of a memorandum of understanding between the City of Santa Fe and Santa Fe County regarding a sewer line to be owned by Santa Fe County. That's tabled.

And those are all the staff amendments to the agenda, Mr. Chair.

CHAIRMAN MONTOYA: Okay. Are there any other changes from the Commission? I have just one request that had been made was that we move up item XIII. B. 1 from staff, so that that report would be given to us immediately after the Special Presentations, item IX. F. The progress report and timeline of the Water Focus Group.

COMMISSIONER VIGIL: Mr. Chair, we also have a presentation by members and staff of the Buckman Direct Diversion. That update should be real quick. Should we move that after?

CHAIRMAN MONTOYA: It's actually before.

COMMISSIONER VIGIL: Is it before that?

CHAIRMAN MONTOYA: Yes.

COMMISSIONER VIGIL: So you're wanting XIII. B to go where?

CHAIRMAN MONTOYA: Right after IX. F. Right after the Marco Lucero retirement.

COMMISSIONER VIGIL: Okay. That would be fine, Mr. Chair.

COMMISSIONER ANAYA: Move as amended.

COMMISSIONER HOLIAN: Second.

CHAIRMAN MONTOYA: Moved by Commissioner Anaya, second  
Commissioner Holian.

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

**VII. APPROVAL OF CONSENT CALENDAR**

**A. Consent Calendar Withdrawals**

COMMISSIONER ANAYA: So moved.

COMMISSIONER STEFANICS: Second.

CHAIRMAN MONTOYA: So there are no withdrawals? Okay. Motion and second.

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

**XII. CONSENT CALENDAR**

**A. Community Funds**

1. **Discussion and Possible Approval for an Expenditure of Community Funds In the Amount of \$248.00 to Santa Cruz Irrigation District for Improvements to the La Puebla Community Ditch (Commissioner Montoya)**
2. **Request for Approval of an Expenditure of Community Service Funds In the Amount of \$1,000 to Support Production of a Nine-County Conservation Overlay Map (Commissioner Holian)**
3. **Approval of \$500 of Community Funds for the Santa Fe Farmers Market Institute (Commissioner Stefanics)**
4. **Approval of \$500 of Community Funds for the Women's Health Services, National Women's Health Week (Commissioner Stefanics)**

**B. Final Orders**

1. **CDRC Case # MP/PDP/DP 09-5180 Parker NM 599. Paul Parker, Applicant, James Siebert, Agent, Requested a Master Plan Amendment to Allow a Reduction of the Building Setback From a Previously Approved Master Plan and Preliminary and Final Development Plan Approval for an Office building Consisting of 13,000 Square Feet and Warehouse Building Consisting of 8,000 Square Feet for a Total of 21,000 Square Feet On 5.8 Acres. The Property Is Located North of New Mexico 599 at 62 Paseo de Rivers, Within Sections 2 & 11, Township 16 North, Range 8 East, (Commission District 2). Jose E. Larrañaga, Case Manager, APPROVED 5-0**
2. **BCC CASE # MIS 09-5070 Santa Fe Opera Master Plan Extension. Santa Fe Opera, Applicant, Krista Castor (the Flance Co.) Agent, Requested A Two-Year Time Extension of the Amended Master Plan Approval for the Santa Fe Opera Village. The Property is Located At 17053 US Highway 84/285, Within Sections 25 & 26, Township 18 North, Range 9 East (Commission District 2) Jose E. Larrañaga, Case Manager, APPROVED 5-0**
3. **CDRC Case # MP/PDP 09-5460 Santa Fe Studios Master Plan/Preliminary Development Plan Phase I. Santa Fe Studios (Owner), Santa Fe Planning: Scott Hoeft, Agent, Request Master Plan Approval for a Proposed Motion Picture and Television Production Facility on 65 Acres, and Preliminary Development Plan Approval for Phase 1 (Approximately 11.5 Acres). The Project is Located on Montanas del Oro and State Route 14, in Section 36, Township 16 North, Range 8 East (Commission**

**District 5) Shelley Cobau, Case Manager, APPROVED 5-0**

**C. Miscellaneous**

- 1. Approval of Termination of Dedication of Water Right Dedication and Acknowledgment As Between the County of Santa Fe and Victor Montano**
- 2. Resolution No. 2010-60. A Resolution Correcting Resolution No. 2010-23; A Resolution to Establish a Clearly Delineated Santa Fe County Policy to Encourage and Assist Landowners Who Choose to Voluntarily Protect, in Perpetuity, the Open Space Character of Their Agricultural Land**
- 3. Resolution No. 2010-61. A Resolution of Support for County Participation In the 2009-2010 New Mexico Department of Transportation Local Government Road Fund Cooperative Agreement for Pavement Rehabilitation and Improvements of County Road 17 (Martin Road) In Santa Fe County, New Mexico Under the Capital Cooperative Agreement Project No. SP-5-10(107)**
- 4. Resolution No. 2010-62. A Resolution of Support for County Participation In the 2009-2010 New Mexico Department of Transportation Local Government Road Fund Cooperative Agreement for Pavement Rehabilitation and Improvements of County Road 17 (Martin Road) In Santa Fe County, New Mexico Under the School Bus Route Program Project No. SB-7789(982)10**
- 5. Resolution No. 2010-63. A Resolution of Support for County Participation In the 2009-2010 New Mexico Department of Transportation Local Government Road Fund Cooperative Agreement for Pavement Rehabilitation and Improvements of County Road 17 (Martin Road) In Santa Fe County, New Mexico Under the County Arterial Program Project No. CAP-5-10 (452)**

**VIII. APPROVAL OF MINUTES**

**A. March 9, 2010 BCC Meeting**

COMMISSIONER ANAYA: So moved.

COMMISSIONER HOLIAN: Second.

CHAIRMAN MONTOYA: Motion by Commissioner Anaya, second Commissioner Holian. Any discussion?

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

**IX. SPECIAL PRESENTATIONS**

**A. Presentation On the Buckman Direct Diversion Project by Rick Carpenter, BDD Project Manager (Commissioner Montoya)**

CHAIRMAN MONTOYA: We have the presentation first of all on the Buckman Direct Diversion project and I asked Rick Carpenter, the BDD Project Manager to come forward. I thought it would be good to update the Commission in terms of the progress that's being made with the Buckman Direct Diversion project, and I know there's been a lot of questions in terms of where we're at and where we're moving and where we're going and we're making some good progress, thanks to you, Rick and staff, so I turn it over to you.

RICK CARPENTER (BDD Project Director): Thank you, Mr. Chair, and thanks for having me, members of the Commission. I think we have a power point coming up. I know you're starting late. This is normally about a 20 or 30-minute presentation but I'll try to keep it to about five or ten minutes and leave some time for questions if there are any.

The Buckman Direct Diversion project, as you know, is a very large, very complex drinking water project. We'll be diverting water from the surface of the Rio Grande as opposed to pumping groundwater. Most of this part of the country relies heavily on groundwater. The Rio Grande is very difficult to treat. It presents a lot of challenges to treat that water to drinking water standards, not the least of which is the amount of sand and grit that's in the water. So that will be removed at the river and then put back into the river just below the diversion structure. We'll pump the water about 11 miles east to the water treatment plant that's located at the MRC and lift that water 1100 feet vertically to get it up the hill, so we're moving a lot of water a long ways.

We have both conventional and advanced treatment water processes in this project, again, owing to the challenges that we're faced with the water quality, and at least 15 miles of new treated drinking water pipeline to introduce the water into the existing system.

The project is governed by the Buckman Direct Diversion Board. That's comprised of two County Commissioners, two City Councilors and one at-large member. And the board, I'm pleased to say has been very functional and supportive in this project and I think we owe a lot of the success to the leadership on that board.

This is a diagram of the organization. You'll see the City of Santa Fe below the board. That's primarily me as project manager. We're designated in the intergovernmental agreement as the project manager and fiscal agent on this project so in that capacity I answer directly to the board.

Again, the City is project manager and fiscal agent for the project and City staff will operate the project when it becomes operations though December of 2015, at least.

So here's a little bit about why we need the project and why we need it now. We've been overdrafting our regional and local aquifer for a while now. We're not sure exactly sure what the sustainable limits are, but we know we're pumping well in excess of that, so we need another supply source and something that is sustainable and renewable, such as the Buckman Direct Diversion project. We've also learned in 2000, 2002 that our surface reservoirs are

variable at best and in dry years are not reliable as a supply source.

So this project will do a lot of things for a lot of people. It's going to increase our reliability, system redundancy. It will allow us to optimize the system and save money on pumping costs, for example. We'll be able to blend away water quality issues from some of our wells and just have a more flexible system to operate.

It's also going to make a living river possible. Mayor Coss campaigned on bringing a living river to the City of Santa Fe and county residents as well. The project will allow us to free up around a thousand acre-feet of extra water in a normal year that we'll be able to release from the reservoirs and run down the river.

Again, the Rio Grande is very challenging to treat for drinking water standards; we knew that going in. Temperature, pH, organics, sediments, you name it, are very difficult to treat so we've designed a very robust water treatment process. Another challenge is that the diversion structure is about two miles downstream from Los Alamos National Laboratories so we are forced to deal with the potential of radionuclides, so the treatment process must be able to deal with that as well. This is a diagram of the treatment process. You can see to the left where the conventional processes are, coagulation, flocculation, sedimentation – you see that pretty much at any surface treatment plant. What we do is we go the extra steps of hitting it again with ozone, putting it in pressure membranes and putting it through granulated activated carbon contactors. So that's the advanced side of things. Very efficient, very robust.

A very expensive project, \$217 million total project cost. We've been fortunate to receive some state funding through grants and loans but the City and the County and Las Campanas have been forced to come up with the rest. It wasn't easy; we needed a diverse portfolio of funding, both the City and the County, consisting of cash reserved going into the project, some dedicated GRT taxes to this project, bond proceeds, floating bonds and of course Las Campanas has been paying its share in cash.

So an update on the schedule: I'm pleased to way we are on schedule and on budget, by the way. We will be in the river for a few more weeks and then we have to vacate that area for endangered species. But we'll start bumping motors and testing equipment any day now. PNM is on the scene and we think we'll have all the power we need. System testing will be complete in December of this year, just a few short months, and we'll go through sort of a warm-up period. Project acceptance testing is scheduled for April and the plant will be turned over to City operators of May 2011.

So in terms of money spent, we're about 81 or 82 percent complete. We've spent almost \$148 million so far. I'm noticing a typo on it; that's not as of October 2009, that's of March 2010. But we are on budget.

And then what we've been challenged with lately is figuring out how to staff this thing. We're trying to hire a lot of people in a short period of time and get them trained. This is an org chart of the jobs that will be coming open associated with this project: 31 total new jobs, mostly operators. We've got a real aggressive program to recruit these folks and get them trained. Custom training for this project specifically, and that will begin in October and conclude in May, and that's the schedule that I just referred to.

I've got a few pictures I want to run through real quick. That's the coffer dam when it was going in. We needed to build that dam and then dewater behind it so we could do construction in the river. That's the other side of the dam after the water was pumped. You can see the rust line where the water used to be and we're building the diversion structure actually out in the river. This is later on. We've refilled behind the dam to test the intake pumps, and that's only about a few weeks ago. That dam was just removed last week.

This is construction of the advanced treatment facility. This is where we make the ozone. It's where we'll put the water through the pressure membranes and granulated activated carbon. This is a few weeks later. This building is actually complete now. This is one of the settling basins. This is it a little bit more complete. That's a four million-gallon raw water basin. This is some of our solar paneling. That's a four million-gallon finished water storage tank in the background and the beginnings of our chemical storage building in the foreground. This is where we make the ozone. We have liquid oxygen on site and then we blast it with high voltage electricity and that makes the ozone. This is where we do that and it's also where we destroy the ozone as well. This is our electrical building. And that's it. I'd be happy to stand for questions.

COMMISSIONER VIGIL: Mr. Chair.

CHAIRMAN MONTOYA: Commissioner Vigil.

COMMISSIONER VIGIL: Rick, thank you, and thank you for all the work. I think you came on board even before I went to the Buckman Direct Diversion and whoever made the decision to bring you on, I applaud. You've done a wonderful job in your position. There is a website for this; would you announce that? Because the website is actually updated regularly and provides additional information on this.

MR. CARPENTER: Yes. It's actually on the slide there. It's [www.bddproject.org](http://www.bddproject.org).

COMMISSIONER VIGIL: Thank you, Mr. Chair.

CHAIRMAN MONTOYA: Any other questions. A couple of notes in terms of the freeing up of the water, that's actually coming from excess capacity that Santa Fe County has in terms of putting it up and letting it come down the Santa Fe River. So we've agreed to do that as part of helping water flowing up and down the Santa Fe River again. So I just wanted to make that note. And then in terms of the jobs, Rick, the recruitment process is going on right now as we speak, right?

MR. CARPENTER: That's correct. The jobs posted I believe Friday of last week.

CHAIRMAN MONTOYA: Okay. So Friday of last week, so I would definitely encourage people that are interested in advancing their career or beginning a new career, this is certainly an opportunity especially when times are tough in terms of any job availability, we're actually creating a little economic development in Santa Fe County and the city. So if there's nothing else, Rick, thank you for your presentation. I appreciate you updating us and keep up the good work.

MR. CARPENTER: Thank you.



**IX. B. Santa Fe County Proclamation in Recognition of Michael Briceno Selected "Youth of the Year" for Santa Fe Boys and Girls Club (Commissioner Vigil)**

COMMISSIONER VIGIL: Thank you, Mr. Chair. Annually we get a wonderful opportunity to recognize outstanding youth in our community, and with that we do have Michael Briceno in front of us, and Al Padilla, the executive director of the Santa Fe Boys and Girls Club. And Al, if you'd like to reference a little bit of information about this Youth of the Year, I will after that read the proclamation, we could take action and then hopefully maybe take a few pictures with him.

AL PADILLA: Thank you, Mr. Chair and members of the Commission. Today I'd like to recognize and I'm honored to recognize to you our 2010 Youth of the Year representing the Boys and Girls Club of Santa Fe. The Boys and Girls Club of Santa Fe serves over 5,000 members throughout the County of Santa Fe at five Boys and Girls Club sites. Michael was recognized as our top youth. Michael was recognized because of his character, leadership skills, and willingness to give back to the community. Michael is a senior at Santa Fe High School and is taking advanced placement classes at Santa Fe High, looking to go on to college. Michael has been a member of the Boys and Girls Club since the wee age of six years old and has been working at the Club for over three years.

Michael is a perfect example of a positive role model that our community looks and needs on a regular basis. So with that, if we could recognize and give Michael a big hand I'd appreciate that.

MICHAEL BRICENO: I grew up in Santa Fe my whole life and actually grew up with a single mother after my father left, so the Club has been like a second house to me. It helped me through a lot of stuff with the divorce and also a couple deaths in my family. I don't think I'd be where I'm at right now without the Club and the help of my family, and I'm just enjoying being able to give back to the Club by being a staff member now and helping out the kids like they helped me when I was a kid. So I just want to thank the Club for the opportunity to be youth of the year and I enjoy working there.

COMMISSIONER VIGIL: Thank you. Mr. Chair. This is a brief proclamation. I will read:

Whereas, the mission of the Santa Fe Boys and Girls Club is to help youth develop sound character, leadership skills, abilities and the willingness to give back to the community; and

Whereas the Boys and Girls Club believes that learning opportunities and experiences are key to young people realizing their full potential; and

Whereas, the Youth of the Year program at the Santa Fe Boys and Girls Club recognizes those young people who make a difference in the lives of other club members and set an example for other youth to follow; and

Whereas, the Youth of the Year is selected for generously sharing their talents in the community, their high level of academic achievement and positive leadership skills; and

Whereas, being named Youth of the Year is the highest honor a boy and girl can receive; and

Whereas, Michael Briceno was selected Youth of the Year among 3,600 registered Boys and Girls Club members in Santa Fe County; and

Be it therefore resolved that we, the Board of County Commissioners of Santa Fe recognize Michael Briceno for outstanding service to his family, school and community while inspiring other youth to strive for equally high levels of achievement.

I move to approve the proclamation, Mr. Chair.

COMMISSIONER HOLIAN: Second.

CHAIRMAN MONTTOYA: Motion by Commissioner Vigil, second by Commissioner Holian. Any discussion? Commissioner Stefanics.

COMMISSIONER STEFANICS: Mr. Chair, thank you very much, Michael, for everything that you've done and we look forward to your being a leader here in Santa Fe County. Thank you very much.

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

**IX. C. Santa Fe County Proclamation In Recognition of Mariana Grajeda Selected "Junior Youth of the Year" for Santa Fe Boys and Girls Club (Commissioner Vigil)**

COMMISSIONER VIGIL: Thank you, Mr. Chair, and I'll defer again to Mr. Padilla to give us some preliminary information on Mariana.

MR. PADILLA: Our Youth of the Year program consists of two categories. Obviously, our older youth and our junior youth. Our junior youth are for those children that are 12 years and under that are recognized for their accomplishments. This year in 2010 Mariana Grajeda, an 11-year old member of the Boys and Girls Club who was attending the County Camino Jacobo Club site was selected as our Junior Youth of the Year. Mariana is a fourth grader and an outstanding student at Sweeney Elementary School She has been attending the Club for over five years. She also attended the Valle Vista County Boys and Girls Club.

Mariana comes from a long line of Boys and Girls Club members in her family. I believe she has siblings of about six brothers and sisters. She'll tell you more about that. Also Mariana got a lap top computer for being selected, and also Michael, I forgot to say, got a \$1000 a year college scholarship for whatever school he's looking to attend. So with that, could we give Mariana a standing ovation also.

MARIANA GRAJEDA: Hi. My name is Mariana Grajeda and I have four brothers, three sisters and my mom and dad separated when I was like about two, one, and that was very sad for me. I lived with my grandma because my mom went somewhere far away for something bad she did and my dad said he didn't want to take care of us, so he went on with his life and my mom, she went to Texas, California, something like that, and I lived with my

grandma. I never knew my grandma was my grandma, my real grandma. I always used to call her mom and I had other brothers that were born and we were all separated, me and my sister and one of the ladies from my grandma's work told her that there's a Boys and Girls Club daycare so my grandma decided to look it up. So she looked it up and she thought it was a great place to leave us there after school. So we went there, we went there and I never thought it was a good place.

It helped me to be a model for the younger kids and I still am a model and I hope when they get older they understand and be a role model for other little kids. And Brian and Al have been me role – I call them my stepdads because I never had a dad and I hardly talk to my dad. And now we're all together in a big family and it's very hard for me and my mom is really struggling with us because she just had a kid and her boyfriend is not wanting to help her at all, so we're trying to. Thank you.

COMMISSIONER VIGIL: Mariana, we're so honored that you shared your story with us. What a princess you are and everything that you've expressed, you're already beginning to overcome. You certainly deserve this title.

Whereas, the mission of the Santa Fe Boys and Girls Club is to help youth develop sound character, leadership abilities and the willingness to give back to the community; and

Whereas the Boys and Girls Club believes that learning opportunities and experiences are key to young people realizing their full potential; and I would say that today, Mariana, you've realized a lot of your potential.

Whereas, the Youth of the Year program at the Santa Fe Boys and Girls Club recognizes those young people who make a difference in the lives of other club members and set an example for other youth to follow; and

Whereas, the Junior Youth of the Year is selected for generously sharing their talents with their community, their high level of academic achievement and positive leadership skills are recognized; and

Whereas, being named Junior Youth of the Year is the highest honor a boy or girl could accomplish;

We now recommend highly and resolve that Mariana Grajeda be acknowledged as the Youth of the Year for her role model among her peer group and demonstrating excellence in achievement and community services. Congratulations, Mariana.

COMMISSIONER ANAYA: So moved.

COMMISSIONER HOLIAN: Second.

CHAIRMAN MONTROYA: I have a motion by Commissioner Anaya, second by Commissioner Holian. Any discussion?

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

MR. PADILLA: Mr. Chair and Commissioners, if I could say one thing about Mariana. Mariana didn't mention that she's on the cheerleading squad at Sweeney Elementary and she's also a top-notch football player in the youth football league here in Santa Fe. So I

don't think there's too many cheerleaders that are playing football, but you've got one right here today.

COMMISSIONER VIGIL: Mr. Chair, all of our decisions should be so easy.

MR. PADILLA: Mr. Chair and Commissioners, a couple of things I'd like to say is I've given you guys a handout that has a list of our accomplishments, the 2009 accomplishments and if you read them you may be astonished with some of the things that we're doing. And there's also a license plate that says Boys and Girls Club of Santa Fe, a positive place for kids. But whether you know that or not we are considered the Boys and Girls Club of Santa Fe County because we're throughout the County of Santa Fe. At the same time we're doing some things that are really outside the traditional Boys and Girls Club services, and we've been recognized on a national scope for doing such things. One of the programs that we do is we serve food to children. Come summertime we serve over 110,000 meals throughout the County of Santa Fe. There's 25 meal sites. We produce over 2500 meals on a daily basis, distribute these meals to those different sites throughout the county. Most of the time these sites are apartment buildings, trailer parts, city parks, county parks, anywhere where there's children gathering, you can be assured that the Boys and Girls Club is providing a free breakfast and a free lunch to all those children that are coming to that site.

Also, we started a new program where we're looking at serving a distinguished child throughout the County of Santa Fe and those are children that have parents that are incarcerated. We were awarded a grant through the state to go and identify those children that we serve that have parents that are incarcerated, go into the jail and do some programs with them. At the same time we've been working diligently with Mr. Abeyta here who has been really supporting our initiative and the Santa Fe County jail to do these types of programs. My assistant, Carol Hunt is going to talk a little bit about that program. She's the one that really is spearheading that program. Go ahead, Carol.

CAROL HUNT: Thank you for your time. I just wanted to let you know that our program has been really successful. It's been a huge privilege for us to be able to help the children who often slip through the cracks in the event that their parent is arrested or incarcerated. I thought I would read to you a quote from the rights of children, rights for children of arrested parents.

I have the right to be kept safe and informed at the time of my parent's arrest. I have the right to be heard when decisions are made about me. I have the right to be considered when decisions are made about my parent. I have the right to be well cared for in my parent's absence. I have the right to speak and see and touch my parent to support as I struggle with my parent's incarceration. I have the right not be judged, blamed or labeled because of my parent's incarceration and I have the right to a lifelong relationship with my parent.

So along those lines, our focus is on the safety and well-being of those children and as well their caregivers and the families that are taking care of them in the absence of a parent who's incarcerated or arrested here at the Santa Fe County adult detention center. One of our long-term goals that isn't quite yet realized, but that's very important is to have contact visits between the parents and their children. And that would fulfill the part that we just mentioned,

the ability to speak with and touch and hold my parent. So trying to maintain the unity of families that have been pretty much torn apart or affected negatively by poor decisions on the parent's part.

So we've been able to reach over 54 families in the last few months through three things: providing immediate needs to children and their families, doing family strengthening workshops in the jail and also outside at the Boys and Girls Clubs and also providing referrals and resources to those families while the parent is incarcerated. So I just want to let you know we have some pamphlets for you as well.

MR. PADILLA: We were established back in 1938. We're going on our 73<sup>rd</sup> year of providing services for the County of Santa Fe Boys and Girls Clubs and we have been supported by the County and we greatly appreciate it. And we continue to look for your support to help serve these children and families that otherwise don't have those opportunities other than what the Boys and Girls Club can provide for them. So we want to thank you. We encourage your hard work and appreciate you, and we welcome you all out to come and visit one of our Boys and Girls Clubs. We're still doing our traditional after school programming and at the same time we're getting geared up for our summer program, which will be a busy time for us. So if you have any other questions –

COMMISSIONER VIGIL: Mr. Chair.

CHAIRMAN MONTOYA: Commissioner Vigil.

COMMISSIONER VIGIL: Thank you. Again, thank you for your commitment to the youth in our community, your long-term commitment to the youth in our community. And I know that it's a struggle for you and for many other non-profits in these days to survive. You do have a lot of support, just because you've established yourself very well in the community. However, this is televised and if someone out there would like to support through private donations do you have a contact person and information that you could announce?

MR. PADILLA: I am that contact person, and the number is 983-6632, the Boys and Girls Club of Santa Fe, and anybody at any time can call, come in to any one of our Boys and Girls Club sites and make a contribution. And contributions come in all forms. Our greatest contribution is folks that are giving of themselves in ways of volunteers. We're always looking to match up our children with mentors, so if you have a moment of your time we appreciate you coming into the Boys and Girls Club and becoming and developing a relationship with any one of our kids that are in dire need of that.

COMMISSIONER VIGIL: Thank you very much. Thank you, Mr. Chair.

CHAIRMAN MONTOYA: Commissioner Anaya.

COMMISSIONER ANAYA: Thank you, Mr. Chair. First of all, I'd like to thank Commissioner Vigil for bringing this forward as a Commissioner. And I would like to again congratulate both Michael and Mariana for their hard work and dedication and for being such great people. But there's one person that I really want to thank and that is Al Padilla for sticking it out and doing what is right for the community. My grandmother lived on Clauson Street and every time we'd go visit my grandmother, right away we'd run to – it was the Boys Club back then, and we'd go there and we'd swim and play basketball. That was when Mr.

Montano was in charge of the Boys Club and he treated us all very, very well and I'm glad to see that Al, that you're continuing to do that for the kids in this great community, and I thank you very much.

And Al Padilla and I played basketball together at Santa Fe High. It doesn't seem like too long ago. I can still remember – and I want to tell this story because every time I see a car that looks like that. You know the Batman car? All black and long – I don't know if you remember this Al – we were going up to play Farmington and we were going through some small community and this black car was there and it was just like the Batman car, and Al, the wiseguy he is, she said, Man, I didn't know Batman lived here. I'll never forget that, Al, but I think of you all they time and thank you for what you do.

MR. PADILLA: Thank you for those kind words. I'm glad you didn't talk about the times you used to block my shots.

I just want to make one more announcement. As Commissioner Vigil, you said we're always looking t opportunities to raise funds, we're involved with the Health and Human Services project with Vanessi's Restaurant, and starting tomorrow evening, all those folks who for ten days go out and have a reservation and eat dinner at Vanessi's, 20 percent of your meal will come back to the Boys and Girls Club, so we encourage folks to go out and have a meal on behalf of the Boys and Girls Club at Vanessi's. So with that, thank you very much.

CHAIRMAN MONTOYA: Al, I just want to thank you also for the service you provide in northern Santa Fe County. I know the kids have benefited greatly from there and the Santa Cruz area, the work that you've done and to see the future leaders of this community. Weren't you a –

COMMISSIONER VIGIL: But this was, as Commissioner Anaya referenced, and this is going to age us, this is when the Boys and Girls Clubs were separate. It's nice to see them merging together. And it was at the same location, at Hillside.

CHAIRMAN MONTOYA: There's a lot of our future leaders that come from the Boys and Girls Club and the work that you do is obviously invaluable in terms of even helping people in their lives.

MR. PADILLA: Mr. Chair and Commissioners, I've been blessed. I have a great crew, great staff and support from folks like you that are advocates for the community. Commissioner Stefanics, you've been in my shoes running non-profits. You know what a challenge that is and you also, Chairman. So if we can't do it as a village it's going to be tough to do it so we appreciate it. Thank you and have a good day.

**IX. D. Ted Padilla Retirement – Nine Years (Sheriff's Office)**

CHAIRMAN MONTOYA: Sheriff Solano, are you going to take the lead on this?

GREG SOLANO (County Sheriff): Yes. Mr. Chair, Commissioners, by the way I was a clubber too. Great job.

CHAIRMAN MONTTOYA: Okay, there's another one.

SHERIFF SOLANO: When I began as Sheriff in 2003 very few people retired from the Sheriff's Office. We were usually a breeding ground. We would train them, get them certified, and then some other department would hire them away from us. And thanks to all of you Commissioners, we have had numerous retirements over the last couple of years. People are staying now to retirement. We have competitive pay and competitive benefits, and it really has been thanks to your support over the last eight years that I've been here and I want to thank you first of all. These are the products of your hard work.

First we have Deputy Ted Padilla, if I could ask you to come up. Deputy Padilla came to us from another agency in August of 2000 and I was very saddened when a few months ago he came to me and said he was going to be retiring. He's the kind of deputy that was always out there on the streets, always showed up to work, ready to work, very dedicated to the job, very dedicated to Santa Fe County. Did an excellent job for the community over the last ten years and I am very proud to be here to recognize you on your retirement and to wish you well in the future. Thank you.

TED PADILLA (Sheriff's Department): I came from another department and I actually did 23 years in the law enforcement field, nine of which were in Santa Fe County and it was a pleasure working here in Santa Fe County, because I come from up north. I'd actually like to thank the administrators I worked for. They were good administrators. They know what they're doing. I'd also like to thank my wife who put up with long hours, missed birthdays and a lot of missed opportunities. Thank you.

CHAIRMAN MONTTOYA: Congratulations, Ted.

**IX. E. Vernon Naranjo Retirement – 18 Years (Sheriff's Office)**

SHERIFF SOLANO: Vernon Naranjo has been with us since February of 1992. He spent his last few years with us in the warrants division, and that's a very tough place to work. Imagine all the judges throughout Santa Fe County, the district and all the magistrate judges, issuing literally hundreds of warrants very month. And Vernon's job was to be our Dog, the Bounty Hunter and go out and find these people and arrest them. And Vernon, can you come on up? And I can tell you that he did his job well. We were often commended by the US Marshal Service, by the state and by the local judges and how well we did in bringing in fugitives in Santa Fe County. I can't take any credit for that. It all goes to Vernon and his former partner Gabe Gonzales. Vernon just did such an excellent job and was our blood hound. If you were hiding, he found you. I want to thank you, Vernon, for all your hard work. Thank you for your dedication to the community of Santa Fe County and for making our streets safe. And I hope you enjoy your retirement. Thank you.

VERNON NARANJO: Well I guess first of all I'd like to thank the lord Jesus Christ, and then I'd like to thank my family, my wife, Teresa, my boys, sitting back there. Like Ted was saying, you miss a lot of things with them and it's hard to be a police officer's family. But we all came through it and Commissioners, thank you. Mr. Abeyta, Sheriff, Major,

Undersheriff, and the Sheriff's Department. It was wonderful working for them and it's been a blessing serving Santa Fe County. Thank you very much.

**IX. F. Marco Lucero Retirement – 22 Years (Sheriff's Office)**

SHERIFF SOLANO: Thank you. Marco, can you come on up? Marco, when I first became Sheriff in January 2003, at that time we were having some problems at the jail and Marco was the head of our investigations division. In the first couple days in the office I called him and I said, we're having some problems at the jail. What do you suggest? And he said I suggest that I put on my cowboy shirt and cowboy hat and go over to the jail and work undercover. And he did. Looked great on his Harley and go on his Harley and went out there and worked undercover at the jail We made numerous arrests within those first few months thanks entirely to Marco's work and the staff that helped him I know too. But he took the ball and ran with it. We took care of a lot of drug problems that we were having at that time and he just did a great job. And I'll always remember you for that Marco because in my first days of office, for you to do such a great job.

So Marco retired as a Lieutenant and I'm proud to say – he's going to say I'm jinxing him but I'll knock on wood for you – I'm proud to say that Marcos is probably going to be our next sheriff in Los Alamos County. He's running unopposed, but he's worried about a write-in.

CHAIRMAN MONTOYA: That's a good way to run.

SHERIFF SOLANO: What a great feeling to run unopposed. I sure wish I knew what that was like. I've never run unopposed. So we have somebody leaving us but going on to help another community now. I want to thank you for your 22 years with Santa Fe County from day one, serving Santa Fe County residents. You did an excellent job. I will always be thankful for all the work you did for my administration and for the County. Thank you, Marco.

CHAIRMAN MONTOYA: Congratulations, Marco.

MARCO LUCERO: Mr. Chair, honorable Commissioners, I appreciate you taking the time to recognize all of us for what we've done. It's hard – it's kind of tough to leave a department that you've done work with for almost half your life. I've had the honor and the privilege of serving the public and the citizens of Santa Fe County and I'm really proud to say that because of you, the Commission and the administration, we as the Sheriff's Department are actually being paid and recognized. I never expected to get money by being an officer, and I didn't become a police officer or a sheriff's deputy to become rich. We do it to help the community. And of course I didn't get rich but I certainly retired a lot more comfortable than when I first started. And I had no intentions of ever leaving because I loved working for the County of Santa Fe and I want to thank God for keeping us all safe and thank the Lord. I appreciate it.

CHAIRMAN MONTOYA: Congratulations.

COMMISSIONER ANAYA: Mr. Chair.

CHAIRMAN MONTOYA: Commissioner Anaya.

COMMISSIONER ANAYA: Mr. Chair, I want to personally congratulate the



three individuals that retired and like the Sheriff said, you hardly would see people coming forward retiring from the Sheriff's Department, and it has to do with great leadership. And Sheriff, thanks for your leadership and the undersheriff for everything you all have done. And congratulation. Marco, remember when I go visit you in Los Alamos. Congratulations. Thank you, Mr. Chair.

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

CHAIRMAN MONTROYA: This is the point on the agenda where there may be matters that are not on the agenda that someone would like to address the Commission. Okay. So seeing no one, we're going to move now to the presentation that we moved up.

**XIII. B. Public Works**

**1. Progress Report and Timeline of the Water Focus Group**  
*[Exhibit 1: Timeline]*

KAREN TORRES (County Hydrologist): Thank you so much for your time, Mr. Chair and County Commissioner. I'll be super quick. First of all I'd just like to thank my director, the Public Works Director Robert Martinez and the utilities director for their support in this project and for them talking me down on some days from this project. So at any rate, without them I don't know if we'd have the progress that we have today.

As you recall, a focus group was put together in November to discuss well locations and a strategy for public outreach for our pending groundwater application. The focus group first met in January and we have been meeting constantly since that time. We have made tremendous progress on this project. We have picked five well locations. We have worked on a monitoring plan language. We have gone through the map-based analysis and revised it, added another criterion and changed the weightings on that, and all of those data sets have been gone through quite thoroughly. We have looked at individual site analysis for accessibility for parcels. We've looked at draw-down and impact analysis from each site that they have picked.

Right now we are in the stages of looking at different ten-year scenarios for backup. Additionally, we have scheduled three public meetings, tentatively for April 26<sup>th</sup> at the Nancy Rodriguez Center, May 10<sup>th</sup> at the fairgrounds annex, and May 19<sup>th</sup> at the La Cienega Community Center. So we are proceeding on, and again I'd like to thank the Commission for allowing this process to occur. I've had great input from our water focus group. I believe all the members are here. If they could stand up very quickly just so people can see who they are. They've put in so much time and so much effort. They have gotten up to speed on a very technical issue. What I do sometimes is a little involved and has a very steep learning curve. They've gotten up to speed on that. They understand the analysis and understand all of these odd things that I do with water and are ready to go to public meetings and to support these well

locations. So with that, I'll stand for questions.

CHAIRMAN MONTOYA: Questions? Commissioner Holian.

COMMISSIONER HOLIAN: Thank you, Mr. Chair. This is more of a comment. First of all, thank you, Karen, for leading this group and thank you to the focus group members. I know that you've had a really grueling schedule and you've had to come up to speed on some very technical topics, and I am just so impressed with how much you have accomplished in a relatively short period of time. And I hope that this can be a model for – this is a relatively contentious topic or it can be a contentious topic. It has been a contentious topic in the past, and so this can be a model for how we can work together. The Commissioners, the County staff and the public, to come up with a process that comes out with probably an answer than any one of those parties could do all by themselves. So thank you very much.

CHAIRMAN MONTOYA: Thank you, Commissioner Holian. Any other?  
Commissioner Stefanics.

COMMISSIONER STEFANICS: Again, I'd like to thank the work group very much. Karen, I have a few questions. So looking at the schedule, I'm concerned about the work of the BCC and moving ahead with some work on water. So in looking at tasks 6 and 7, those will be completed prior to July 1?

MS. TORRES: Yes.

COMMISSIONER STEFANICS: So the BCC should have all complete information from your work group and from yourself prior to July 1?

MS. TORRES: Absolutely. The strategy was that we picked the well locations, we are running through some scenarios for depletions, we're putting together a presentation. We wanted to get public input, modify anything if necessary based on that public input and bring it to the Board for final approval and for amendment to our groundwater application. Based on how we have our public meetings set the earliest that would happen would be in early June and the latest would be in late June, how I'm looking at it, unless there are additional meetings the Board would like us to have, or some other issue we haven't thought of comes up from the public.

COMMISSIONER STEFANICS: Okay. Thank you very much. Thank you, Mr. Chair.

CHAIRMAN MONTOYA: Okay. Other questions? And I think – I really want to thank the focus group for the work that they're doing and the importance that the public needs to know that this is going to be a backup should the Buckman fail or go on the blink or something, we need to have a backup system ready to go and that's what this particular function is in terms of what's being done. You always would like to have more time but we're looking at March 2011 in terms of needing to have this operational and in place. So just so people are aware of the importance of this particular focus group and the work that's going on there. So thank you, Karen and thank all the members of the group as well.

MS. TORRES: Thank you.

**XI. MATTERS FROM THE COMMISSION**

**A. NCRTD Status Update (Commissioner Stefanics)**

COMMISSIONER STEFANICS: Mr. Chair, we tabled that till next time because there was not a meeting the first part of the month. We're having a meeting this Friday. So I'll have something to report back at the next BCC meeting. Thank you.

**XI. B. Introduction of Proclamation Declaring April as National Counties/Health Counties Month (Commissioner Montoya)**

GIGI GONZALES (HR Department): Yes, Mr. Chair, Commissioners. A resolution was passed on March 30<sup>th</sup> proclaiming April 2010 as National Counties Month with the theme Healthy Counties. The Wellness program here at Santa Fe County is an ongoing project. We're making progress in it but it's ongoing. We have posted our 2010 training calendar and we highlight many healthy lifestyles trainings that are given by our employee assistance program. We have also hosted to date two annual health fairs in which we give free blood pressure screenings, blood sugar screenings, massage therapy, acupuncture, mental health screenings to County employees.

We are also giving workshops, like I said, on wellness, that are being given by clinicians, dieticians, fitness trainers and other professionals in our community.

I would also like to mention that the average sick leave used per employee since the inception of the Wellness program has gone down significantly. On the inception in 2008 each employee per year was taking 4.79 hours per month. In 2009 that went down to 4.25 hours per month per employee, and currently we are at 3.96 hours. Those are hours of six leave per employee per month. So the Wellness program is showing improvement in our sick leave incentives. We are also showing – Santa Fe County is offering many Wellness programs to the community. I am in the process of putting together a fact sheet for you in which we will show projects to the community. A couple of bullets here: Santa Fe County EMS responded to 4,476 calls in fiscal year 2009. Santa Fe County DWI provided 5,574 low-cost cab rides to individuals through the CADDy program. And Santa Fe County Sheriffs responded to 52,677 calls in fiscal year 2009. So I would like to thank leaders like yourselves for giving us an opportunity to work in a place that does promote wellness, not just for employees but for the community. Thank you.

CHAIRMAN MONTTOYA: Thank you, Gigi. Any questions? Commissioner Vigil.

COMMISSIONER VIGIL: Gigi, thank you. The role you fill is critical to the future and the health development of County employees. I know our mobile medical van has some wonderful statistics about the health outreach they're doing to county residents. I'm remembering the days when the County had a health fair day and that was all that we actually got exposed to with this ongoing and sustainable training for health and health development,

I'm so glad you were able to bring this forward.

CHAIRMAN MONTOYA: Thank you, Commissioner Vigil. Commissioner Anaya.

COMMISSIONER ANAYA: Thank you, Mr. Chair. Gigi, I want to thank you for everything you do, you and your staff, that you do for Santa Fe County. Thank you.

CHAIRMAN MONTOYA: Thank you, Gigi. This was a program that was implemented, thanks in part to our County Manager when we attend some of these trainings, you certainly learn a lot. This was one of the things that counties were doing throughout the country and we were able to bring it back, through your implementation and Bern, thank you, and Gigi, thank you for making this successful. Those stats alone in terms of the decrease in sick days is saving the County money, so it's certainly a program that's worthwhile and doesn't cost a whole lot. That's even a better part.

COMMISSIONER VIGIL: And, Mr. Chair, you may want to mention the prescription program that was implemented, which is still available for anyone to receive reduced medications through this prescription plan through our national affiliate, the National Association of Counties that actually Commissioner Montoya implemented through his representative capacity at the national affiliate. That still continues to grown, and I know I personally, even though I'm covered through insurance receive the benefit of that reduced discount card. And no matter where I get a prescription it's always brought forth and included and it makes a really nice difference.

CHAIRMAN MONTOYA: Exactly. Thank you for mentioning that, Commissioner Vigil, and certainly it's available to anyone. It is free. You just pick it up at the – do we still have some at the front desk Tina? We still have some there. So it's a free thing and it covers pets' medications too, so, that's always a plus. Dogs and cats can be expensive.

**XI. C. Consideration of Authorization of Publication of Title and General Summary of Ordinance No. 2010-\_\_ , an Emergency Interim Development Ordinance Prohibiting the Granting of Discretionary Legislative and Quasi-judicial Development Approvals for Zoning, Subdivision, Family Transfers, Land Divisions, Parcel Maps, Nonconforming Uses, Variances, Special and Conditional Use Permits within the Boundaries Delineated in Exhibit 1 Attached to this Ordinance, Excepting Development Approvals for Affordable Housing and Oil and Gas Projects Pursuant to Ordinance 2008-19, for a Six-Month Period Commencing Upon the Date of Recordation of this Ordinance, Providing Further for an Extension of Six Months if Required in the Legislative Discretion of the Sustainable Land Development Plan and the Adoption of A Comprehensive Revision of the Land Development Code and Other Related Ordinances, Administrative Regulations and Action Programs, Implementing the Amendments to the General Plan, and Suspending Certain Provision of Ordinance No. 2006-02 (Commissioner Holian)**

COMMISSIONER HOLIAN: Thank you, Mr. Chair. I think everybody who is in the room today knows that we in the County are writing a new Sustainable Land Development Plan and a new Sustainable Land Development Code. And I think the word "sustainable" is very important here. There are some things, I think, that this new code and plan have in common with the oil and gas ordinance that was passed in late 2008. Number one, and this is very important, we will not be prohibiting development, but we will be putting in place a plan and a code and it makes sure that any development that is done does reports and studies that makes sure that the land is being developed in a responsible way. We are also going to make sure that this is going to be robust community involvement in any planning that occurs in the future, and in fact that community involvement will occur right up front.

Another thing is that we are going to ensure that sensitive land is protected with any development, and that means archeologically sensitive, environmentally sensitive, culturally sensitive. Also, another important part of our plan and code will be to ensure that any development has adequate public facilities and services before it was put in place. Now, if those services and facilities do not exist then it would be the responsibility of the developer to make sure that they do exist, not the responsibility of the taxpayers of Santa Fe County.

Now, right now at this point in time we don't have very much development going on and there are a couple of illustrations of this that I would like to tell you about. First of all, in the last several months we've had several cases come in front of the County Commission, and in fact I think we have one tonight, asking for an extension of master plan approval. And what that means is that there was a master plan approval two or three years ago. The developers did not act on it for whatever reason. Probably a lot of it having to do with the economy right now, but

of course that wasn't the case two or three years ago. And they are asking for extensions so that their master plan approval does not expire and they have to start over from scratch.

Secondly, I actually happen to know of certain subdivisions in the county, and I think this is very illustrative of what's going on. I know of one that is sort of in the unincorporated area, pretty far away from the city in the unincorporated area. This was a subdivision that was approved about four or five years ago. The developer went ahead and developed it and he did everything right according to the way that we do things in our county. He put in good roads. He put in all the infrastructure, he created about 25 lots I think it is, and about three years ago he started to market that land. As far as I know, out of 25 lots, only one has sold to a person who actually intended, and in fact has put a home on that lot. There have been some other lots that have been sold, but I know, actually I do know, that they have been to people who are either speculators or they're buying them for investment purposes. They have no intention of actually ever putting their own home on those lots.

Mind you, this started to be marketed three years ago, and I think that what this is indicating is that our model for doing development, especially in the unincorporated areas of our county is not working.

I think that there's been a lot of talk about change and we all have to deal with change and accept it and that sort of thing, but I think that we in the county, we in the County government have to also realize that we have to change the way that we're doing things as far as development. And especially in the unincorporated areas.

CHAIRMAN MONTOYA: I ask that you please hold your applause. This is a public meeting. Thank you.

COMMISSIONER HOLIAN: So I think that this is the right time for us to take a breather. It's a right time for us to re-examine what we're doing development-wise. Re-examine the rules and regulations that we have, and in fact that's what we're doing with our new code and plan. That's part of the reason we're doing it and it's an extremely important thing. But there's one final thing that I really want to stress, and that is that we need to move forward with this and we need to move forward expeditiously. And that means that there's a responsibility on all of us. Of course there's a responsibility on the County Commissioners. We know that only too well; believe me. There's a responsibility on the part of our County staff and I would have to say that through their hard work they know more than anybody else how important this is. And I just have to interject here that the amount of work that our County staff has been doing is just absolutely incredible. And we owe them a huge thank you for what they're doing.

But also I think it's really important to point out that there is also a responsibility on the people in our community, and that ranges from the people who live in the communities, who come in to these meetings and talk to us about developments, all the way to the developers. There is a huge responsibility to not drag our feet, to move forward with this plan as expeditiously, carefully, quickly as possible. We clearly need something new in our county.

So that is why I have brought forth this to consider, a moratorium on development for six months until we get our new code and plan in place, and that we are able to make a

judgment on developments based on the vision of the people in the county in their new code and plan, and not based on ordinances that in essence are tying our hands at this point in time.

So anyway, again I would like to say that we all have to work together on this to get this completed and so thank you, Mr. Chair.

CHAIRMAN MONTOYA: Thank you, Commissioner Holian. Commissioner Vigil.

COMMISSIONER VIGIL: Thank you, Mr. Chair. I just have a question of clarification. As this is proposed, Commissioner Holian, it does not affect current approvals, does it? Any developments that have already received approval?

COMMISSIONER HOLIAN: That's correct. Anything that's already platted or exists now the owners can come in for a building permit and go forward.

COMMISSIONER VIGIL: So if someone has a master plan and they're actually – let me use a development – a couple of them come to mind but without having to name one. If we have approved master plan or preliminary or a final, those can all still go through the process.

COMMISSIONER HOLIAN: That's my understanding.

COMMISSIONER VIGIL: This will, as I hear you say, for those developments that require an extension based on our time imposed deadlines, this moratorium would allow for that extension.

COMMISSIONER HOLIAN: Yes. I think it allows for automatic extensions.

COMMISSIONER VIGIL: Thank you, I just needed that clarification. Thank you, Mr. Chair.

CHAIRMAN MONTOYA: Okay. Commissioner Stefanics.

COMMISSIONER STEFANICS: Thank you, Mr. Chair. I have several questions and concerns. I'm not opposed to an emergency moratorium but I believe that prior to any vote on an ordinance we would have to have a legal verification that an emergency exists. Is that not correct, Steve?

MR. ROSS: Mr. Chair, Commissioner Stefanics, that's correct.

COMMISSIONER STEFANICS: So if we passed title and summary today and we did not receive verification that we had an emergency, I believe legally it would be our responsibility to table this ordinance, rather than vote on it. Secondly, this is a follow-up to Commissioner Vigil's question, but the entities that are currently in process with projects seem to be to have a set of rights, since they started operating under rules, regulations and ordinances and they have come to a certain point in the process. So to make this complicated, at what point in the process would people not be able to proceed. And this is a question for Steve, I guess.

MR. ROSS: Mr. Chair, Commissioner Stefanics, the way I understand Commissioner Holian's verbalization of the ordinance is not what's reflected on your draft there that I worked on last night with her. What's on your desk only exempts approved preliminary plats from the provisions of the ordinance. I heard Commissioner Holian say that if you had an approved master plan at this point you could go forward. If that's true I'd need to make some amendments to this draft to reflect that. In that case, Commissioner Stefanics, it

would respect the rights of people who have applications pending right now, because the only types of applications are applications for a master plan, if you've got a fairly large development or something else that's the subject of an administrative adjudicatory proceeding, as opposed to a legislative proceeding.

So if we made that change it doesn't appear like it would affect anyone who's in the process now, but it would affect people filing applications tomorrow or the next day or what have you.

COMMISSIONER STEFANICS: Well, Mr. Chair, and Steve again, we're only publishing title and summary; we're not voting on it. So how could it stop people tomorrow.

MR. ROSS: Oh, I'm sorry. The day after the ordinance is adopted it would stop people. I misspoke. You're right. You're exactly right. Whenever we enact this ordinance the next day if someone filed an application that day that application wouldn't move forward until the moratorium was lifted.

COMMISSIONER STEFANICS: Well, Mr. Chair, since Commissioner Stefanics did send out a general communication regarding this I have received many, many emails supporting our moving ahead with the ordinance, but I have also received emails from individual projects that are very concerned about what it would do to them. And I would be – if we would move ahead with this title and general summary and prior to voting, I would want to know what the emergency was that would be legally defensible. I would also like to know a list of every project that would be stopped if we passed it.

We have some legislative funding that we already are at risk of losing. We have lost millions of dollars. Some of those are still being worked out. I know that some developers of not just housing projects but also bike stores, water districts, are arranging financing and work with the County and with banks and they could lose all of that. And I am rather concerned about setting back people financially.

So we heard over the past several months, Mr. Chair, I know that we dealt with Commonweal several times, and one of the issues that came up was the possibility that he would lose some private funding if we continued to string out that project. Well, regardless of what we have on our agenda for the rest of today, we also have other projects that are moving forward that could be jeopardized. So I just want us to be aware that even if we pass general title and summary we might not end up voting on the ordinance. Thank you, Mr. Chair.

CHAIRMAN MONTROYA: Okay. Commissioner Anaya.

COMMISSIONER ANAYA: Mr. Chair, thank you. So Steve, question to you. I'm a little confused on the projects that are out there waiting to have final development. Those projects, are we saying can go forward or cannot go forward?

MR. ROSS: Mr. Chair, Commissioner Anaya, what I just heard Commissioner Holian say is that any project that is essentially in the door right now with a pending application could go forward under this, but a new application for a new project would not. And that's not reflected on what I handed out earlier which is essentially an update of the ordinance that Dr. Freilich prepared for us last year that we discussed, about a year ago when we were just getting started with the plan and ordinance rewrite. That's what you have in front of you. I did some



quick edits on it last night but what Commissioner Holian just said I interpreted it as anything that's in the door gets processed.

COMMISSIONER ANAYA: In the door, meaning what?

MR. ROSS: Any application that's pending with the County at the time the ordinance is adopted can be processed, but any new application would be subject to the moratorium. It's not what's on your piece of paper there.

COMMISSIONER ANAYA: No. But the applications that are before us tonight, are they in the door?

MR. ROSS: No, I mean an application that's been filed with Land Use.

COMMISSIONER ANAYA: But are these applications in the door?

MR. ROSS: Those applications, the ones that you're hearing tonight are up for approval.

COMMISSIONER ANAYA: Are they in the door?

MR. ROSS: Yes.

COMMISSIONER ANAYA: Okay. The way I look at this is the whole country is looking to get back on its feet and Santa Fe County is pretty much going to say we're going to shut the door because we've got to get our ducks in a row first, before anybody can start working again. To me that doesn't make sense. And I appreciate what Commissioner Holian is trying to bring forward or bringing forward to see what we can do to include people and not exclude people. Include them and see if we can get this plan done. But I cannot see us shutting the doors at Santa Fe County for business, or anywhere in Santa Fe County. I had staff put together a list of project that would be affected by this I believe. And you can correct me if I'm wrong, but I've got a list here, and I want to know if they're affected or not.

The Galisteo Village Store, the Seventh Day Adventist Church, the Santa Fe Brewing Company, Real Food Nation, Santa Fe Metro Center, Zia Credit Union in Pojoaque, the Children's Garden School, the Mine Shaft in Madrid, the Village at Eldorado, the Cimarron Village, the Village at the Galisteo Preserve, Byron Berg Variances, Grubestic Variances, Terra Bella, Joyas de Hondo, Oshara Phase II, La Pradera, PNM Substation, Eldorado Water Maintenance Facility, Harry's Road House, Apache Springs, Suerte del Sur, UDV Master Plan. Are all these going to be affected? Are we stopping progress on all of these?

MR. ROSS: Mr. Chair, Commissioner Anaya, certainly some of them would be affected. I don't know all those projects or where they are in the process, but if what I said earlier is correct, that the ordinance would apply only to new applications, I would think, no, none of them would be.

COMMISSIONER ANAYA: None of them.

MR. ROSS: None of them would be affected.

COMMISSIONER ANAYA: What I'm looking at is you've got contractors out there that are hurting. You've got plumbers, electricians that are looking for jobs. Right now you can call a plumber up, an electrician, man, they're there. And they've been hurting for so long. And what we're going to do is we're just going to smash them in the ground, say, you know what, you are not welcome in Santa Fe County. That's what we're doing, I think. Thank

you.

CHAIRMAN MONTTOYA: Okay. After hearing the discussion here, Commissioner Stefanics you had mentioned possibly tabling this until maybe some of the details are worked out?

COMMISSIONER STEFANICS: No, what I was saying, Mr. Chair, is if there is support for noticing it that's one thing. But if we learn later from our counsel, who is Steve Ross, the County Attorney, that there is not an emergency that would support this in a court of law, then I believe the ordinance would need to be tabled because we would be opening ourselves up, Santa Fe County, to a liability. And if – I also believe and I would want clarified, what projects are in the process that would be protected, and which projects staff might know about that would not be protected if we moved ahead with the ordinance. And I think this is going back to some of the projects that Commissioner Anaya brought up, that I would need a great deal of clarity, even if I agreed to support the general title and summary does not mean I would vote for it when it came up if it was not the right thing to do.

COMMISSIONER ANAYA: Mr. Chair.

CHAIRMAN MONTTOYA: Commissioner Anaya.

COMMISSIONER ANAYA: So what I'm getting at, Commissioner Stefanics, is in that review, could they review how many jobs would be lost? Could we hear that?

COMMISSIONER STEFANICS: Well, Mr. Chair and Commissioner Anaya, I do think that your point on the number of jobs lost over a six-month period is something would – I don't know if our staff are equipped to do that kind of forecasting, but that is a serious concern. We don't have a lot of development going on actually. We have a lot of projects coming for approval. I have to tell you, there are a lot of construction people who come to our meetings and say we hope you vote for something because we need a job. I've met some of those gentlemen in the hallways. They're not always gentlemen; there are women who work construction. But I am concerned. I want to protect our properties. If we need to vote something down as they come in front of us we should just vote it down. If we are affecting the livelihoods of the people here, let's be clear about it. Let's not hide behind six months. Six months can make a difference in a bank loan. It can make a difference in losing legislative money. It can make a difference. So let's be clear about what we're going to do.

Today the action we would take is not as significant as the next vote we would take. The next vote we would take would be it. Today, it's just publishing the title. We have time to change our minds. So today is not the final action.

CHAIRMAN MONTTOYA: Let me just express, I guess my concerns and then I'll go to you, Commissioner Holian. The last time that Santa Fe County did a moratorium was the Eldorado moratorium, which started out at six months. I think it went like six years. Roman, what was it finally?

MR. ABEYTA: Ten or eleven years.

CHAIRMAN MONTTOYA: Ten or eleven years? And that's my concern in terms of having experienced that. I don't know that this is going to be any different, and I guess my question would be how are we proceeding with the Sustainable Land Development Plan?

Are we getting there? Do we need this six-month moratorium to make sure that we get it right?

MR. ABEYTA: Mr. Chair, we're making a lot of progress on the Sustainable Land Development Plan, but then we have to proceed with rewriting the code. And one of the concerns whenever you do a code rewrite is that you could potentially get a flood of applications in to try to beat the new code from being adopted. So that's one consideration this Commission may want to take a look at. Now may not be the time, but maybe further down the road. If we do experience something like that other communities and governments have passed moratoriums to allow the governing body to adopt a new land development code. But again, it's a question of timing.

CHAIRMAN MONTROYA: So we're talking about the plan now, we're not even talking about the code yet.

MR. ABEYTA: No, we're dealing with the plan right now. We've seen drafts of chapters of the code come in and we hope to have the code, roll out the code immediately after the plan.

CHAIRMAN MONTROYA: So this may be more appropriate, just thinking out loud, in terms of when we get closer to the adoption of the code as opposed to the plan where we're at now. That's just my perception of that being maybe a little more appropriate in terms of timing. Commissioner Holian.

COMMISSIONER HOLIAN: Thank you, Mr. Chair. Well, first of all I really don't think – well, I think that if this were to drag on for ten years because we hadn't passed the code then the code would never pass. So part of my motivation here is to motivate everybody in the community, from our side and from the community's side, is to see this process through and to have a code. And to have a code before the end of the year. I really think that we need to do this and so this is an important part of what I'm trying to say here.

I would also point out that there was another instance in which we passed a moratorium – well, Commissioner Stefanics and I weren't on the Commission at the time, but it was for the Oil and Gas Ordinance. And that worked out very well. It sort of gave the Commission breathing room to work on the Oil and Gas Ordinance, and as you know that actually proceeded fairly quickly and fairly smoothly, and we now have what I consider a model ordinance in the country.

So I am looking for that breathing room for not having new – being flooded with new applications that are sort of inappropriate but we're obligated to consider under the existing ordinances. Thank you.

CHAIRMAN MONTROYA: Commissioner Stefanics.

COMMISSIONER STEFANICS: Mr. Chair, a question for Roman and Steve, prior to this discussion today, what was the timeline proposed for first the plan and secondly the ordinance?

MR. ROSS: Mr. Chair, Commissioner Stefanics, the plan is to get the plan I think before CDRC this month. As you recall, we issued a sizable document. I think it was struggling – I don't remember the exact dates but it seems like it was September or October of last year, we issued a 1200-page document, and the response to that through the CDRC hearings

was that was just too big. So we went through a period of culling the document, getting it down to size, and now it has been reduced substantially and Jack Kolkmeier has been having a series of meetings with stakeholders for several months to look at that document, and it's pretty much ready to go back on the public agendas, and I think it's scheduled to go this month to CDRC, and it will get to the Board, depending on the comments thereafter, maybe May, maybe June.

The code obviously has to follow that. We have chapters one through five already proposed for publication by this Board. We have the remaining chapters in draft form waiting to see how the plan comes out, and then once we get some idea of where the plan is going we can finalize a code draft. But then I anticipate it taking several months to work through issues with stakeholder groups once we've issued a draft just like we did with the plan. So it could be fall before we start looking seriously at adopting a code.

COMMISSIONER STEFANICS: So Mr. Chair, Steve, what's the best case scenario and the worst case scenario for the code coming to us?

MR. ROSS: I'd say best if fall, worst is sometime after that. It's a very complex document. The plan is complex and the code itself is equally complex. If you remember the Oil and Gas Ordinance, all those types of techniques are going to be present in the Land Development Code or at least proposed to be present in the Land Development Code and those aren't techniques that anyone in this community are familiar with because they're not used really anywhere in New Mexico with the possible exception of Albuquerque, some of the tools.

So there's going to be an education process for people who work with the code so they can understand the ramifications of all the things that are in there. Plus, it's just a big document; it's going to take a lot of work to get the bugs worked out of it. So I'd say best case scenario and then worst case scenario, three or four months after that.

COMMISSIONER STEFANICS: So Mr. Chair, another question, what role will the CDRC have in the new plan and code?

MR. ROSS: The CDRC is our Planning Commission, so we propose to call them exactly that. We have to have a Planning Commission by statute. We'll call them the Planning Commission and they will serve as a Planning Commission. A Planning Commission reviews things that you appoint them to review, plus they must approve – or not approve, make recommendations concerning plan documents and ordinance amendments.

COMMISSIONER STEFANICS: So Mr. Chair and Steve, you see the role of the CDRC or the Planning Commission very similar to the role that they're playing now.

MR. ROSS: Yes. Very, very similar.

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

CHAIRMAN MONTROYA: Okay. Commissioner Anaya.

COMMISSIONER ANAYA: Mr. Chair, thank you. I know Commissioner Holian brought up the fact of the moratorium on the oil and gas. To me that was completely different from this. Completely. We had one person drilling for oil We had one oil well that we could shut down and put a moratorium on. If we do this we don't have just one person. We have a bunchy of people out there that it would affect. A bunch of people. I just wanted to clarify that. Thank you.

CHAIRMAN MONTOYA: Okay. I would just propose that maybe rather than act on this we table it, get the information that we may need in terms of making a decision on this. Personally, I don't feel comfortable voting on this one way or another right now. I don't feel I have enough information in terms of what this is going to do. The concern of lawsuits. Certainly we don't want to put Santa Fe County in that predicament and the residents.

So I would suggest that maybe we table to the next meeting and get that information, make sure it's saying what's in the document, what is also being said verbally.

COMMISSIONER ANAYA: Mr. Chair.

CHAIRMAN MONTOYA: Commissioner Anaya.

COMMISSIONER ANAYA: I don't think I would support moving it to another meeting. I think if it puts one person out of a job, I'm against it.

CHAIRMAN MONTOYA: Commissioner Holian.

COMMISSIONER HOLIAN: I'm going to call the question. I would like to move for approval of this item and to note that it is just publishing title and summary.

CHAIRMAN MONTOYA: Okay. I have a motion by Commissioner Holian.

COMMISSIONER VIGIL: I will second it, Mr. Chair, but I have some explanations to my second. I don't know where this is going to go. There's so many positions people can take when the word moratorium is expressed. It really is not a bad word. The same argument that in fact right now there is a slower economic downturn and there aren't many jobs out there happening really goes to the argument that maybe this is not a bad time to have a moratorium. We actually are at a place, and I'm glad that we're actually looking at this at a time when folks in the audience and folks at home were able to see what we're trying to do with our conjunctive management of water plan. That's a huge piece of information that is sort of coming together right now through the water well task force group, through the Buckman Direct Diversion that many of you who are here saw a presentation for. These are huge projects in the making. Our Sustainable Land Development Plan is a huge project in the making. I'm afraid if we don't take action at least on the title and general summary today – and I do agree with Commissioner Stefanics that there are some questions that may need to be answered. But that should not prevent us from moving forward in a direction that says, okay, let's stop and see what is in the best interest of the Santa Fe County residents, Santa Fe County decision makers and Santa Fe County staff and move forward in the most productive way we possibly can. Not to hurt people with jobs. I don't think anyone here wants to hurt people who have jobs. That is the last thing on our minds. The economy on a national scale is actually doing a really good job of that.

And I really want to be able to support this because from my perspective, we will not be moving forward on the plans that we have already approved. I do think that would be unfair. If there's a development plan, and I ask specifically, master, preliminary or final, that has come before us, those plans move forward. I do agree that would be an unfair thing to do.

I also am moving forward to in working really strong with the community on affordable housing and affordable housing development. The way that is structured now, that would not be affected. We need to move forward with that. So on the things that I know are critical to the

future of our community, I'm very satisfied that we're not hurting those. But I am not satisfied that without some kind of a stopgap mechanism that Commissioner Stefanics has brought forth we're going to be moving forward helter-skelter until we have some more finality in our conjunctive management water plan, on our Sustainable Land Development Plan and also on knowing clearly and concisely what development approvals these are going to affect. And to please, those of you who are affected by this one way or the other, know that my intent here is not to hurt anyone but to help everyone as much as possible.

A moratorium, I think, and if we take action on this at the time that we actually have to hear who and what will be affected, we will have more insight into it. And so with that, Mr. Chair, I'm perfectly willing to second this, and my intent is for the purpose of gathering lots more information to make a better informed decision.

CHAIRMAN MONTOYA: Okay. Commissioner Stefanics.

COMMISSIONER STEFANICS: Mr. Chair, questions for the staff. If we pass this today, the title and general summary, when would we post the proposed ordinance and when would we have the public hearing?

MR. ROSS: Mr. Chair, Commissioner Stefanics, I was just going to ask that myself of the chair. Because we need to have something to post. And the version that I have out is not what Commissioner Holian verbalized her attention in the ordinance, so I first of all would like to get some clarity on a few amendments on what I sent out to you, and then secondly, we need to decide when to bring this back. My recommendation on the latter subject would be that we publish this normally and bring it back in a month, at the land use meeting in a month, so that we can have the public hearing at night when people can come out. And we publish normally and can sustain it as a normal ordinance enactment as opposed to an emergency.

Now, here's what I would propose in Section 4, based on what Commissioner Holian verbalized earlier. 4.b could read a development that has, upon the effective date of this ordinance master plan approval or preliminary plat approval may proceed for preliminary or final plat approval and may receive preliminary or final plat approval notwithstanding the provisions of this ordinance. Is that accurate?

COMMISSIONER HOLIAN: Yes.

MR. ROSS: Okay. There will have to be some other changes to the ordinance based on things I've heard today but that's a pretty critical point and it ought to be in the ordinance that we publish on the website.

CHAIRMAN MONTOYA: Commissioner Stefanics.

COMMISSIONER STEFANICS: Mr. Chair, I believe the whole legislative and administrative approvals would have to be affected if we didn't want to lose some projects that we're already working on. So I do think there are other sections that we might need to look at, if we were going to move further or anything. But that's all. Thank you, Mr. Chair.

CHAIRMAN MONTOYA: Commissioner Anaya.

COMMISSIONER ANAYA: Steve, how would this vote affect what's on the public hearings tonight?

MR. ROSS: Mr. Chair, Commissioner Anaya, it shouldn't.

COMMISSIONER ANAYA: It shouldn't.

MR. ROSS: There's no ordinance in place to effect a moratorium, and if the ordinance were passed the way I just described it it wouldn't affect them either. We would continue to process applications that are already pending with the County. In other words, putting them on agendas and giving them final approval.

COMMISSIONER ANAYA: So it wouldn't affect any that are on the agenda now?

MR. ROSS: Right. For a number of reasons.

CHAIRMAN MONTROYA: Any other comments?

COMMISSIONER VIGIL: I had one more question, Steve, for clarification purposes. You had referenced whether or not the emergency language should be removed. Is that an amendment you're recommending?

MR. ROSS: Commissioner Vigil, the problem with the language that's in there right now is that it declares an emergency based on conditions that were assumed to exist last year when this ordinance was drafted by Dr. Freilich. In other words, at the time the ordinance was proposed there was a concern just verbalized by the County Manager that applications would come flooding in to beat the requirements of the new ordinance, and that hasn't really happened.

COMMISSIONER VIGIL: Okay. Would removing that language eliminate any liability on behalf of the County? Would we have to start a new procedure, title and general summary? Is that an option?

MR. ROSS: Mr. Chair, Commissioner Vigil, you have to have some reason for the ordinance so we need to have something in there. We'll just have to think about it and determine what the urgent issue that's being addressed is.

COMMISSIONER VIGIL: Okay. And would that be coming back to us once we looked at the ordinance?

MR. ROSS: Yes. It's basically a finding this body will have to make before we enact an ordinance. You'll have to determine the need for it.

COMMISSIONER VIGIL: Okay. So the title and general summary just really allows, in my mind, the opportunities for the discussions to begin.

MR. ROSS: Yes.

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

CHAIRMAN MONTROYA: Okay. Again, I think that I would rather have had this tabled so that we could have gotten the information and made the changes that needed to be changed in the ordinance that's being proposed.

**The motion passed by majority 3-2 voice vote, with Commissioners Holian, Stefanics and Vigil voting in favor and Commissioners Anaya and Montoya voting against.**

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

**A. Growth Management**

- 1. Authorization to Publish Title and Summary to Amend Ordinance 2009-12 (Formation of Santa Fe County Renewable Energy Financing District) to Include Parcels Within the City of Santa Fe and Town of Edgewood as Requested by Property Owners**

DUNCAN SILL (Economic Development): Mr. Chair, Commissioners, on October 27, 2009 the Board of County Commissioners adopted Ordinance 2009-12 creating the Santa Fe County Renewable Energy Financing District. At that point the district was only inclusive of the unincorporated regions of the county. Since that time the City of Santa Fe and the Town of Edgewood have consented by resolution to opt into the Renewable Energy Financing District. I'm here today to ask for approval of the publishing of title and summary to amend our current ordinance to include the City of Santa Fe and the Town of Edgewood. So I'll stand for questions.

COMMISSIONER STEFANICS: Mr. Chair, I move approval to authorize title and summary for the Santa Fe County Renewable Energy Financing District.

CHAIRMAN MONTOYA: Okay, we have a motion by Commissioner Stefanics.

COMMISSIONER ANAYA: Second.

CHAIRMAN MONTOYA: Second by Commissioner Anaya.

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

**XIII. B. Public Works**

- 2. Request Authorization to Publish Title and General Summary of Santa Fe County Solid Waste Ordinance No. 2010-\_\_ . An Ordinance to Amend Santa Fe County Solid Waste Ordinances 2009-13 and 2005-5 to Increase Solid Waste Permit Fees and Make Clarifying Changes**

OLIVAR BARELA (Solid Waste Manager): Mr. Chair, members of the Board, good afternoon. On the direction of the management I'm here in front of you to ask for authorization to publish title and general summary of a solid waste ordinance as specified.

CHAIRMAN MONTOYA: Commissioner Stefanics.

COMMISSIONER STEFANICS: Mr. Chair, we did ask the staff to move expeditiously, but we also wanted an idea of what you are going to put in the ordinance.

MR. BARELA: We are going to come back with a good plan, I hope. I don't have anything to present today. We just really are kind of brainstorming and don't have any numbers right now. We just wanted permission to do that. We'll have some information in a



week or so and we'll share that with you if you need to.

COMMISSIONER STEFANICS: Well, Mr. Chair, after the budget meeting when I did chat with staff about this I indicated that from my perspective a small, gradual increase over a number of years would be appropriate. Not any kind of drastic increase at once. And so if there are any other comments from Commissioners I sure would like for you to let them know if you disagree with me or not. Thank you.

CHAIRMAN MONTOYA: Commissioner Anaya.

COMMISSIONER ANAYA: Mr. Chair, why is this on the agenda?

MR. BARELA: Because we're asking for authorization to public title and general summary of the Santa Fe County solid waste ordinance 2010-\_\_ that we're going to be proposing to amend Santa Fe County solid waste ordinance 2009-13 and 2005 to increase solid waste fees and to make clarifying changes in those ordinances.'

COMMISSIONER ANAYA: Didn't we already increase it?

MR. BARELA: Yes, we did.

COMMISSIONER ANAYA: So we're doing it again?

MR. BARELA: We're looking at increasing the fees again.

COMMISSIONER STEFANICS: On this point, at our budget hearing, Mr. Chair, in looking at everything we're having to cut we determined that there were a few fees that should be looked at to determine whether or not they could be gradually increased or increased in small amounts. The point that was made at the budget meeting had to do with the fact that individuals who are using Waste Management or any other private service are paying a great deal more. We know that people are not really able to pay a great deal more but if we might be able to earn a little bit more money for the County, that's what we asked the staff to do, Mr. Chair.

COMMISSIONER ANAYA: Okay. I must have went to the restroom at that time.

CHAIRMAN MONTOYA: You did.

COMMISSIONER ANAYA: Thank you, Olivar. It's not your fault.

MR. ROSS: Mr. Chair, in order to authorize publication of title and general summary we need an ordinance to go on file at the Clerk's office tomorrow. I'd assumed that we'd have a draft passed out today but we can't act on this without a draft ordinance.

MR. ABEYTA: Mr. Chair, we'll table this and we'll bring forward a draft schedule with small, gradual increases for the Commission to consider in two weeks.

CHAIRMAN MONTOYA: Okay. Motion to table?

COMMISSIONER STEFANICS: I'll move to table.

CHAIRMAN MONTOYA: Motion by Commissioner Stefanics.

COMMISSIONER ANAYA: Second.

CHAIRMAN MONTOYA: Second, Commissioner Anaya.

**The motion to table passed by unanimous [3-0] voice vote.** [Commissioners Holian and Vigil were not present for this action.]

**XIII. C. Community Services Department**

**1. Resolution 2010-64. A Resolution Granting Authority to the County Manager to Execute a Lease Agreement Between Santa Fe County and S & G Land and Cattle for Irrigated Farming of the County's Top of the World Farm Property (Community Services Department)**

JOSEPH GUTIERREZ (Community Services Director): Mr. Chair, Commissioners, what you have before you is all the relevant documents concerning a lease agreement between Santa Fe County and S&G Land & Cattle for agricultural production of the County's Top of the World property. The County staff went out for RFP for this and this is allocating 1700 acres of the farm – 720 acres will be irrigated for farmland. The annual lease payment is \$90,000. The term of the lease is for three years. There's still a few things that need to be worked out and that's why we're asking for the Commission to grant the County Manager the authority to execute this lease. I stand for any questions.

COMMISSIONER ANAYA: Mr. Chair.

CHAIRMAN MONTOYA: Commissioner Anaya.

COMMISSIONER ANAYA: Joseph, how many acres is the Top of the World?

MR. GUTIERREZ: Mr. Chair, Commissioner Anaya, the Top of the World is a little over 3100 acres.

COMMISSIONER ANAYA: Okay. And how many acres is being leased for ag?

MR. GUTIERREZ: Mr. Chair, Commissioner Anaya, this lease is for 1700 acres of that 3100 acres.

COMMISSIONER ANAYA: And what are you doing with the other parcel?

KMR. GUTIERREZ: The balance, Mr. Chair, Commissioner Anaya, of 1400 acres at this point we don't have a commitment to use at this point. Staff has talked about going out for another RFP for additional uses of that 1400 acres.

COMMISSIONER ANAYA: And we are going to generate how much?

MR. GUTIERREZ: The 1700 acres, Mr. Chair, Commissioner Anaya, will generate \$90,000 per year is the terms of this lease.

COMMISSIONER ANAYA: And I'm wondering if we could, if the Commission would like to kind of generate some kind of a fund there off of the \$90,000 that we're generating and then let it continue to generate something so that in a few years we have monies to put back in that. There's options. We can do a lot of things there, correct? It's a beautiful place. Just a suggestion. What does the Commission think?

COMMISSIONER HOLIAN: Mr. Chair.

CHAIRMAN MONTOYA: Commissioner Holian.

COMMISSIONER HOLIAN: Thank you, Mr. Chair. I absolutely agree with you to do that. That property has a tremendous number of possibilities and my understanding is the

reason that we're going with this agreement right now is that it had to be sort of decided very quickly and we had to use the water in order to retain the water rights. Is that correct?

MR. GUTIERREZ: Mr. Chair, Commissioner Holian, yes, that's correct. If this lease is executed, I just left a meeting with the S&G Land and Cattle and they would like to be fully operational by May 1<sup>st</sup> and that's important that they get out there and able to do their irrigation and agricultural aspect for use of the land.

COMMISSIONER HOLIAN: But I totally agree with you, Commissioner Anaya.

COMMISSIONER ANAYA: Yes, I'd sure like to see that. We could generate a fund. Did we include that in our budget already?

MR. ABEYTA: Mr. Chair, no, we hadn't, so what we can do is we can create a special cost center for this, so that the money just doesn't go directly into the general fund, but we can keep a closer eye on it and bring forward ideas for the Commission so that that money continues to generate or we continue to grow that money.

COMMISSIONER ANAYA: I know that it's close to some hunting grounds. Or it is; there's a lot of elk on that piece of property. Maybe we could put some hunting lodges eventually, or nice campgrounds for the future. Anyway, thank you.

CHAIRMAN MONTOYA: Commissioner Holian.

COMMISSIONER HOLIAN: Well, I guess that was the point that I wanted to make is we have to think about – I know we have a short-term need here, but we have to think about it in the long-term as well and there's just so many different things that we can do with this. I've heard of suggestions that we could grow – there's a company that grows seeds for sale that might be interested in the property. There's businesses that would like to grow mushrooms. It has a lot of wonderful facilities on there too. There are the bunkers that could be used – that were used to store potatoes and now could be used for other things as well. I just am really concerned that we don't forget the long-term potential of this. This could be a real win for the County, not only actually in making some money in the long-run, but also helping out our local businesses as well. Thank you.

CHAIRMAN MONTOYA: Commissioner Vigil, and then Commissioner Stefanics.

COMMISSIONER VIGIL: Thank you, Mr. Chair. Do we have any leases for any other grazing rights in the county?

MR. GUTIERREZ: Mr. Chair, Commissioner Vigil, I believe we do on some open space properties. I have Scott Rivers – I couldn't speak specifically to that but I thought we did.

COMMISSIONER VIGIL: Do we, Scott, and have we entered into agreements for them and do we receive any financial benefit?

SCOTT RIVERS (Open Space): Mr. Chair, Commissioner Vigil, to my knowledge we do not lease out any of our County properties for grazing. We do have one open space property in Chimayo that we have some potential agricultural uses for the area up there to use. We own some grazing leases from the BLM that primarily we use to just bank the property

for open space, but we don't have any grazing – we do not lease out any County properties for grazing per se.

COMMISSIONER VIGIL: Okay. Thank you. Joseph is this fair market value and are we not required to do a fair market value agreement?

MR. GUTIERREZ: Mr. Chair, Commissioner Vigil, we didn't do a fair market value on it, although this bid was the second bit. We went out for RFP twice and the amount that we're talking about today is \$30,000 higher than the amount from the original proposals from the first time around.

COMMISSIONER VIGIL: Thank you. Thank you, Mr. Chair. I move to approve.

COMMISSIONER HOLIAN: Second.

CHAIRMAN MONTOYA: We have a motion by Commissioner Vigil to approve. Second by Commissioner Holian. Commissioner Stefanics.

COMMISSIONER STEFANICS: Thank you, Mr. Chair. So I understand that we're going to take this \$90,000 and basically create an enterprise fund?

MR. ABEYTA: Mr. Chair, Commissioner Stefanics, no. What we will do is we'll just put it in its own cost center so that we can keep an eye on that money instead of just putting it in the general fund, if that's what the Commission wants to do, just so that it's easily identifiable in our budget.

COMMISSIONER STEFANICS: Well, Mr. Chair, Roman and Commissioners, I would believe that if we would want it to be an enterprise fund so number one, it's never a drain, and number two, anything that we might develop on that piece of property would only come from those funds, that we never create a burden on the general fund for this property.

MR. ABEYTA: Mr. Chair, Commissioner Stefanics, we can arrange that then. I can get with Finance and we can –

COMMISSIONER STEFANICS: Well, I just want us to be careful because we can come up with lots of other ideas but right now we're trying to be cost-neutral because of having to cut other things here at the County. So I just want to be careful that as we develop new ideas for this piece of property that it comes from the proceeds and only the proceeds of this property.

MR. ABEYTA: Okay.

COMMISSIONER STEFANICS: Thank you.

COMMISSIONER VIGIL: Mr. Chair.

CHAIRMAN MONTOYA: Commissioner Vigil.

COMMISSIONER VIGIL: Clarification question. If we create a cost center for this will these funds be available to be invested in the overnight pool or with any return investment that we might be able to –

MR. ABEYTA: Mr. Chair, Commissioner Vigil, yes, that could be a possibility.

COMMISSIONER VIGIL: That is I think where we might be able to gain some benefit by creating a different cost center, because if we're just creating an account, just for the dollars to sit in there, just for accounting purposes, I'm not sure we're creating the greater

benefit. So I think that probably needs to be checked through Legal and Finance but the overnight pool is what? One? I don't even know what the percentage is but at least we are – I would consider that we do that as part of this agreement and approval.

CHAIRMAN MONTOYA: Okay. Any other? Joseph, what is this special warranty deed for water rights?

MR. GUTIERREZ: mg, I don't have that in front of me. It's not in the resolution, is that correct?

CHAIRMAN MONTOYA: Maybe it's misfiled in my packet.

COMMISSIONER STEFANICS: It's an attachment, Mr. Chair. It is an attachment, Joseph. It's a special warranty deed, water rights.

MR. GUTIERREZ: Mr. Chair, all the research, I don't believe this pertains to this document.

MR. ABEYTA: It looks like this just might have gotten mixed up with the packet material that we ran.

CHAIRMAN MONTOYA: Oh, okay. So this isn't a special lease of water rights for –

MR. ABEYTA: No.

CHAIRMAN MONTOYA: Okay. And then where is S&G Company out of?

MR. GUTIERREZ: Mr. Chair, they, I believe – at least the three individuals I met with, there's a father and he lives there in Cuesta. He has a son-in-law that pretty much – it sounds like he's working the property I believe. He lives north of Espanola, and I believe there's another son that works at Los Alamos who's also working this property.

CHAIRMAN MONTOYA: Oh, okay. So they're in state.

MR. GUTIERREZ: They're all in state.

CHAIRMAN MONTOYA: Okay. We have a motion and a second.

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

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

MR. ABEYTA: Mr. Chair, the only thing I have to report today is that we have begun our budget hearings with our different departments and elected officials and the theme again is cut, cut, and cut, wherever we can. So we hope to bring you a balanced budget based on the direction that you gave us in our study session.

CHAIRMAN MONTOYA: Okay. Any questions for Roman? Okay.

**XI. OTHER MATTERS FROM THE COMMISSION**

CHAIRMAN MONTOYA: Commissioner Stefanics.

COMMISSIONER STEFANICS: Thank you, Mr. Chair. I wanted to let the Commission know that I went and visited the Santa Fe Small Business Incubator recently, because I had given some of my community funds to assist them with some advising. It came to my attention that Santa Fe County used to provide \$50,000 a year to the Santa Fe Business Incubator and stopped in 2001. In the meantime, they do have a non-profit status and their tax bill as a non-profit, which kind of confounds me, is over \$60,000. So I would ask that, Roman, that somebody look into this. I know from having run an educational non-profit that we were exempt from property taxes so I was a little surprised to learn about this and in fact it was almost a double-whammy that they lost the \$50,000 grant from us and then they ended up starting to pay \$60,000. So it really was a \$110,000 loss. So I would just like for us to investigate us. They are very instrumental in working with small businesses and I think we have to keep supporting them, even if it's only emotionally. But the work that they're doing is very good. Thanks.

CHAIRMAN MONTOYA: Okay. Commissioner Holian.

COMMISSIONER HOLIAN: Thank you, Mr. Chair, but I think I've created enough trouble for one meeting.

CHAIRMAN MONTOYA: And you want to stop now? Commissioner Vigil.

COMMISSIONER VIGIL: Nothing, Mr. Chair.

CHAIRMAN MONTOYA: Okay, and I don't have anything either.  
Commissioner Anaya.

COMMISSIONER ANAYA: Nothing.

**X. Matters from the County Attorney**

- 1. Executive session**
  - a. Discussion of pending or threatened litigation**
  - b. Limited personnel issues**
  - c. Discussion of possible purchase, acquisition or disposal of real property or water rights**

**Commissioner Holian moved to go into executive session pursuant to NMSA Section 10-15-1-H (7, 2 and 8) to discuss the matters delineated above. Commissioner Vigil seconded the motion which passed upon unanimous roll call vote with Commissioners Anaya, Holian, Stefanics, Vigil and Montoya all voting in the affirmative.**

[The Commission met in executive session from 4:30 to 6:15]

CHAIRMAN MONTOYA: I'd like to call the meeting back to order. If I could have a motion to come out of executive session.

COMMISSIONER VIGIL: Mr. Chair, I move we come out of executive session

where the only matters that were discussed were pending or threatened litigation, limited personnel issues and acquisition or disposal of real or property rights. The only people in the executive session were all five Commissioners, attorneys Steven Ross and Rachel, and County Manager Roman Abeyta and his assistant Penny.

CHAIRMAN MONTOYA: Okay we have a motion by Commissioner Vigil.

COMMISSIONER STEFANICS: Second.

CHAIRMAN MONTOYA: Second by Commissioner Stefanics.

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

#### **XIV. PUBLIC HEARINGS**

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

- 1. BCC Case # MIS 10-5140 Jacona Valley Winery, Inc. Wine Wholesaler License. Jacona Valley Winery, applicant, Lionel Naylor, Owner, Requests Approval of a Wine Wholesaler Liquor License to Allow the Wholesale of Wine Produced by or for New Mexico Winegrowers. The Property is Located At 311 County Road 84, Within Section 10, Township 19 North, Range 8 East, (Commission District 1) Jose E. Larrañaga, Case Manager**

JOSE LARRAÑAGA (Review Specialist): Thank you, Mr. Chair. On October 12, 2004 the Board of County Commissioners approved a Winegrowers License for the Jacona Valley Winery, Inc. and the Land Use Administrator issued a business license to produce wine on the property. The prior approval allows for the potential of wholesale distribution of wine from this location pending approval from the State Alcohol and Gaming Division.

The applicant requests approval of a Wine Wholesaler Liquor License. A Wholesale License will allow the applicant to sell wine wholesale, which is produced by or for New Mexico Winegrowers.

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

Staff has reviewed this application and has found the following facts to support this submittal: The Board of County Commissioners approved a Winegrowers License for the Jacona Valley Winery in 2004. The applicant is current with Santa Fe County Business and Liquor License requirements. The applicant has met the State of New Mexico requirements for noticing, distance from schools and churches. Staff recommends approval of the

applicants request. Mr. Chair, I stand for any questions.

CHAIRMAN MONTOYA: Okay. Any questions for staff? Is the applicant here? Come forward please.

[Duly sworn, Lionel Naylor testified as follows:]

LIONEL NAYLOR: Lionel Naylor.

CHAIRMAN MONTOYA: Is there anything else you'd like to add?

CHAIRMAN MONTOYA: Any questions for the applicant? Okay. Thank you, Mr. Naylor. This is a public hearing. If anyone wishes to come forward and speak on this case please do so now. Okay, the public hearing is closed. What are the wishes of the Board?

COMMISSIONER ANAYA: So moved.

COMMISSIONER STEFANICS: I'll second.

CHAIRMAN MONTOYA: Okay, we have a motion by Commissioner Anaya for approval. Second by Commissioner Stefanics. Any other discussion?

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

- XIV. A. 2. **CDRC Case # MIS 10-5120 Suerte del Sur Time Extension. Suerte del Sur LLC, Applicant, Scott Hoeft, Agent Request a 36-Month Time Extension of the Final Plat & Development Plan Approval (Phase 1-4) of the Suerte del Sur Subdivision. The Property is Located Along Los Sueños Trail, South of Las Campanas, North of Piñon Hills Subdivision, Within Section 24, Township 17 North, Range 8 East and Section 19, Township 17 North, Range 9 East (Commission District 2). Vicki Lucero, Case Manager**

VICKI LUCERO (Team Leader): Thank you, Mr. Chair. On April 8, 2008 the BCC granted final plat and development plan approval for the referenced subdivision, which consisted of 241 residential lots on 660 acres. Article V, Section 5.4.6 of the County Land Development Code states any approved or conditionally approved final plat approved after July 1, 1996 shall be recorded within 24 months after its approval or conditional approval, or the plat shall expire. Upon request by the subdivider an additional period of no more than 36 months may be added to the expiration date by the Board.

The applicant states that due to current market conditions and the limited demand for residential lots the subdivider has been unable to post a construction bond, record the final subdivision plat and commence construction. Therefore they are requesting a 36-month extension of the final plat and development plan approval in order for the market demand for residential lots in Santa Fe County to rebound.

Recommendation: There have not been any major changes in the ordinances that govern this area since the time of the previous approvals for this development. Therefore



County staff recommends the BCC grant an extension of the prior approval as requested by the applicant. Thank you, Mr. Chair.

CHAIRMAN MONTOYA: Okay. Questions for staff?

COMMISSIONER HOLIAN: Mr. Chair.

CHAIRMAN MONTOYA: Commissioner Holian.

COMMISSIONER HOLIAN: Thank you, Mr. Chair. Vicki, has anything been done on the property up until now? Has there been any road construction or grading or any kind of infrastructure improvements?

MS. LUCERO: Mr. Chair, Commissioner Holian, there have not been any improvements. The plat has not been recorded yet and they haven't been able to post a financial guarantee for the improvements, so we haven't issued any permits.

COMMISSIONER HOLIAN: Thank you.

CHAIRMAN MONTOYA: Any other questions for staff? Commissioner Vigil.

COMMISSIONER VIGIL: And I'm not sure if this goes to Legal or to you, Vicki. According to our rules and regulations, you mentioned there's no more than a 36-month extension. Is that the only extension that could be applied to? What if the economic downturn continues and in 36 months the applicant would like to come and request another extension. Is there a limitation of only one time extension?

MS. LUCERO: Mr. Chair, Commissioner Vigil, I believe that the way the code is stated it would limit them to one extension of 36 months.

COMMISSIONER VIGIL: Okay. Is that accurate?

MS. COBAU: Mr. Chair, Commissioner Vigil, I'll look that up and verify it in the code.

COMMISSIONER VIGIL: Okay.

CHAIRMAN MONTOYA: Any other questions for staff? And I don't know if you know this, or Jack, is this going to be something that in the future can be done administratively in the code, or is this going to be something that still comes back for approval?

JACK KOLKMEYER (Land Use Administrator): Mr. Chair, yes. This is exactly the kind of thing we'd like to do administratively so we don't have to go back to this process. It's our understanding that that's the philosophy we're taking in the plan that will carry on to the code.

CHAIRMAN MONTOYA: Okay. All right.

MS. COBAU: Mr. Chair, the code states that no more than a 36-month period may be granted, so I think that infers that it's a single 36-month extension.

COMMISSIONER VIGIL: Thank you. Thank you, Mr. Chair.

CHAIRMAN MONTOYA: Okay. Would the applicant come forward, Scott.

[Duly sworn, Scott Hoeft testified as follows:]

SCOTT HOEFT: Scott Hoeft, Santa Fe Planning Group, P.O. Box 2482, Santa Fe, New Mexico, 875504. Commissioners, I agree with Vicki's report and I stand for

questions.

CHAIRMAN MONTOYA: Okay, any questions for the applicant? Okay. Thank you, Scott. This is a public hearing. If anyone would like to speak on this case please come forward. If you would state your name and address and be sworn in as well.

[Duly sworn, Tony Atkins testified as follows:]

TONY ATKINS: My name is Tony Atkins. I'd like to read a short statement.

CHAIRMAN MONTOYA: Okay.

MR. ATKINS: Must affordable housing equal bad planning? We object to the request for an extension of the development permit given to Gerald Peters, Suerte del Sur Corporation in 2008 to build 241 housing units or 304 when completely built out on land on the far west side of Santa Fe. The limit on the permit is expired. Mr. Peters is requesting a 36-month extension. Mr. Peters is using the affordable housing ordinance to pack this site with suburban type development including small lots and cul-de-sacs. The ordinance even gives him a development bonus of, I believe around 40 additional lots for doing so. The current plan will destroy most of the trees, vegetation and wildlife habitat in the large section of the far west side visible for miles.

It will put an undetermined strain on water resources and the aquifer. We support the commendable goals of affordable housing. It doesn't make any sense to pack a site at the periphery of Santa Fe where there are no schools, no services, not even a hope of public transportation, and it's 12 miles to a grocery store. Why not, for example, promote sensible transit oriented development around the Rail Runner stops or other established transportation links instead. We urge the County to reject this permit extension and take up its responsibility for sensible and comprehensive planning for County land development, not just apply rules that however well intentioned can be used by developers to suburbanize beautiful landscapes.

This meeting of the County Commission is to consider Peters' request for an extension of the permit to build. Conditions have changed since the permit was given as was stated previously. The Commission should re-examine and stop this development and others like it until better planning practices can be put in place. Unthinking suburban sprawl has been rejected as a development practice in communities across the country. Do we want to support more of it in Santa Fe? I'll take any questions you may have.

CHAIRMAN MONTOYA: Thank you. Anyone else? Okay, this public hearing is closed. What are the wishes of the Board?

COMMISSIONER ANAYA: Mr. Chair.

CHAIRMAN MONTOYA: Commissioner Anaya.

COMMISSIONER ANAYA: I have questions of Shelley. When was it approved again?

MS. COBAU: Mr. Chair, Commissioner Anaya, on April 8, 2008.

COMMISSIONER ANAYA: 2008. So a couple years?

MS. COBAU: Two years ago. The approvals are good for 24 months so that if they don't get something going in 24 months they have to either give up the project or come back and ask for an extension.

COMMISSIONER ANAYA: And what was the reason for not moving forward?

MS. COBAU: They couldn't get the project bonded and there's really not a market for it at this time. They want to wait until the market recovers before they record their final plat and post their bond. Because they have to post a bond for all the infrastructure associated with the project and that's difficult at this time. The banks aren't issuing bonds quite as easily as they had been in the past, so it's a little harder for them. They have to come p with more capital to get a bond.

COMMISSIONER ANAYA: So they're postponing it. This is the second time?

MS. COBAU: This would be the first time.

COMMISSIONER ANAYA: First time. They're postponing it because the market's not good?

MS. COBAU: Yes. They way they stated they would like to wait until the market rebounds.

COMMISSIONER ANAYA: Thank you, Mr. Chair. Move for approval.

CHAIRMAN MONTOYA: I have a motion by Commissioner Anaya for approval.

COMMISSIONER STEFANICS: I'll second.

CHAIRMAN MONTOYA: Second by Commissioner Stefanics. Any discussion? Commissioner Stefanics.

COMMISSIONER STEFANICS: Thank you, Mr. Chair. Shelley, do we ever require cash bonds versus surety bonds?

MS. COBAU: Mr. Chair, Commissioner Stefanics, normally we require what's called a letter of credit, and they have a line of credit that is assured in the amount of the cost of their infrastructure and they provide a cost estimate for that amount.

COMMISSIONER STEFANICS: So we currently do not require cash bonds?

MS. COBAU: No, just a letter of credit from the bank.

COMMISSIONER STEFANICS: Thank you, Mr. Chair.

COMMISSIONER VIGIL: Mr. Chair.

CHAIRMAN MONTOYA: Commissioner Vigil.

COMMISSIONER VIGIL: Shelley, a few questions. If I recall correctly when we approved this project it was the first large subdevelopment that was approved requiring 30 percent affordable housing, and requiring that it be interspersed, that it not be clustered or anything of that nature. Is that correct?

MS. COBAU: Mr. Chair, Commissioner Vigil, you're remembering correctly. This project originally wanted to do a TDR and move the affordable to another location so we had many hearings regarding this project. And then they recorded their affordable and dispersed it through all phases of development.

COMMISSIONER VIGIL: Did we provide for any density bonuses for them?

MS. COBAU: They get to go half the minimum lot size on affordable lots. I

think that's the only bonus that they got. And they were also going to be constructing Suerte del Sur which would be an arterial roadway that would serve that area.

COMMISSIONER ANAYA: Okay. And with regard to any of the landscaping features, was one of the requirements of that approval to preserve as much as possible?

MS. COBAU: Mr. Chair, Commissioner Vigil, they have large open space corridors through the project. They have a pretty extensive trail network that they have provided and they were going to provide a trail along the entire length of Suerte del Sur.

COMMISSIONER VIGIL: And if I recall correctly, that was going to be both a horse and a walking and a bike trail to be utilized for whatever purposes.

MS. COBAU: That is correct.

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

CHAIRMAN MONTOYA: Okay. Any other discussion?

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

**XIV. A. 3. CDRC Case # VAR 09-5420 Luke and Megan Stavrowsky Variance. Luke and Megan Stavrowsky, Applicants, Request a Variance of Article II, Section 4.3.2C (Family Proper) of the Land Development Code to Allow A Family Transfer Land Division of 40 Acres into Two 20-Acre Lots From a Child to a Parent. The Property Is Located At 3201 Highway 14, Within Section 17, Township 14 North, Range 8 East, (Commission District 3) John M. Salazar, Case Planner**

JOHN MICHAEL SALAZAR (Review Specialist): Thank you, Mr. Chair. At its meeting of December 17, 2009, the County Development Review Committee met and acted on this case. The decision of the CDRC was to recommend approval by a vote of five to one. The applicants are requesting to convey 20 acres to their parents by way of a family transfer. The applicants have stated their parents currently live in Texas and are both in the 80s and need more help both physically and financially. The applicants have owned the 40-acre property since 2003. The property lies within the Homestead Hydrologic Zone where the minimum lot size is 40 acres with water restrictions.

A family transfer land division allows for the creation of a lot of half the minimum lot size. The 40-acre lot has been in the family proper for over five years and can be divided as a family transfer into two 20-acre lots with water restrictions. The family proper is described in Article II, Section 4.3.2.c as lineal relations up to and including the third degree, i.e., grandparent, parent child. Linear in definition is the direct line of descent from an ancestor or hereditary.

The applicants are requesting the variance to allow for a family transfer land division to be deeded from son to father, which is not considered a line of descent per code.

Recommendation. The applicants have owned and resided on the 40-acre property for over five years. All requirements of the family transfer criteria have been met other than compliance with the transfer based on linear descent described in Article II, Section 4.3.2.c of the code. Staff's position that while the deeding of property from child to parent versus from parent to child does not meet the definition of the family proper the parcel will remain in the family. Staff, along with the CDRC supports the variance request and views the request as a minimal easing of the code. Staff recommends approval of this request subject to the following conditions. Mr. Chair, may I enter those into the record?

[The conditions are as follows:]

1. Water use shall be restricted to 0.25 acre-feet per dwelling. A water meter shall be installed for both homes. Annual water meter readings shall be submitted to the Land Use Administrator by January 31<sup>st</sup> of each year. Water restrictions shall be recorded in the County Clerk's office.
2. The applicant shall submit for plat approval for the Family Transfer Land Division to be processed administratively and comply with all plat.

MR. SALAZAR: And I'll stand for questions, Mr. Chair.

CHAIRMAN MONTOYA: Okay, questions for John Michael. Okay, if the applicant would please come forward, and if you'd state your name and address and be sworn in please.

[Duly sworn, Luke Stavrowsky testified as follows:]

LUKE STAVROWSKY: It's Luke and Megan Stavrowsky and we live at P.O. Box 803, Cerrillos, Santa Fe, New Mexico, 87010.

CHAIRMAN MONTOYA: Luke, is there anything you'd like to add to what we've heard?

MR. STAVROWSKY: No, basically, it just my parents are getting – they're in their 80s and it's our wish that we could split the land so that we can build them a home close to our property. I'm a stay-at-home artist and really, we're just hoping to be able to provide them a good place to live and care of them in their old age.

CHAIRMAN MONTOYA: Okay. Any questions for the applicant? This is a public hearing. Thank you, Luke. We will open it up not for people who'd like to speak on this case, please come forward. Okay, seeing none, this public hearing is closed.

COMMISSIONER ANAYA: Mr. Chair.

CHAIRMAN MONTOYA: Commissioner Anaya.

COMMISSIONER ANAYA: I'd like to applaud the gentleman for taking care of his parents. I move for approval.

COMMISSIONER STEFANICS: I'll second.

CHAIRMAN MONTOYA: Motion by Commissioner Anaya, second by Commissioner Stefanics. With the conditions, correct? With the staff recommendation and conditions. Okay. Any further discussion?

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

**XIV. A. 4. BCC CASE # MIS 10-5150 The Downs At Santa Fe Master Plan Extension. The Pueblo of Pojoaque Development Corporation, Applicant, Requests a Two-Year Time Extension of a Previously Approved Master Plan. The Request Includes Modifications to Conditions Which Require That All Manure and Unpermitted Trash Be Removed, Which Limits The Downs to Six (6) Special Use Permits for Major Events Prior to Final Development Plan Approval, and Which Limits Flea Market Use to One Weekend per Month. The Property is Located Within the La Cienega Traditional Historic Community, at 27475 I-25 West Frontage Road, Within Sections 26 & 27, Township 16 North, Range 8 East (Commission District 3)**

MR. LARRAÑAGA: Thank you, Mr. Chair. On August 14, 2001 the Board of County Commissioners granted master plan approval to allow recreational/non-residential uses at The Downs at Santa Fe on 321 acres subject to conditions. On July 14, 2004, the BCC granted approval of reconsideration and clarification of conditions to the previously approved master plan. On November 9, 2004, the BCC granted approval of a preliminary development plan for Phase I, subject to conditions, and final development plan to be approved administratively.

The Land Use Administrator has determined that the accumulated time period for the master plan and reconsideration of the master plan and preliminary development plan are due to expire July of 2010. The applicant is requesting a two-year time extension of the approved master plan. Article V, Section 5.2.7.b states: Master plan approvals may be renewed and extended for additional two-year periods by the Board at the request of the developer.

The applicant also requests the deletion of conditions, on the prior approvals, which require that all manure and unpermitted trash be removed, which limits The Downs to six special use permits for major events prior to Final Development Plan approval, and which limits flea market use to one weekend per month.

Condition # 4 of LCDRC CASE # MIS 01-5013 The Downs at Santa Fe Variance and Reconsideration states: All manure and unpermitted trash on the site, including the area adjacent to Por Su Gracia Subdivision, must be removed within the two year time extension granted by the BCC.

As conditioned by the BCC, the applicant has removed the manure and trash. The applicant requests that this condition be removed from the master plan. Staff has made several site inspections and has verified the removal of the trash from the site. A portion of the manure was spread out on the property and the remainder of the manure has been removed from the site. One of the handouts that you received was from the New Mexico Environment Department on the manure removal. *[Exhibit 2]*

Condition # 6 of LCDRC CASE # MIS 01-5013 The Downs at Santa Fe Variance and

Reconsideration states: The applicant may request special use permits for events at the Downs prior to final approval of this project provided that a complete development plan for Phase 1 is submitted within six months of the master plan approval. The County may issue special use permits for six major outdoor events prior to submittal of final development plan. A noise study will be conducted at the first event to determine noise levels and mitigation measures. If noise levels are excessive at the first event, no similar type events will be held until mitigation measures are in place.

The applicant requests that this condition be removed from the master plan and allow the Land Use Administrator to determine the quantity of events to be allowed on the site. A revised development plan is unforeseen in the immediate future by the applicant. Limiting major outdoor events to six, prior to submittal of final development plan, may hinder the use of the site by the general public. Major outdoor activities have been allowed on this site where noise levels have been measured and mitigation measures were not needed.

The term major outdoor event is not defined in the Code and therefore has been difficult for Staff to determine what type of activities fall under this category. What constitutes a major outdoor event is left to the interpretation of the Land Use Administrator. This site lends itself as a venue for major events which would be beneficial to the inhabitants of the County. Prior events serve as testimony of the capability of this venue to host large-scale activities with minimal impact to the local community while improving the economic growth of Santa Fe County.

This site has hosted two major events and per the terms of the existing condition only four major events may occur prior to submittal of a final development plan. The elimination of this condition would allow the Land Use Administrator the discretion of permitting events via a Special Use Permit and not limiting the use of this venue for major events.

Condition # 8 of Case # Z 01-5010 Downs at Santa Fe Master Plan states: The flea market use will be limited to no more than one weekend per month, permanent structures will not be allowed.

The applicant requests that this condition be removed from the master plan. The applicant is proposing that the Land Use Administrator determine the quantity of flea markets to be allowed on the site. Permits for permanent structures, for the use of vendors, shall not be issued until such time that a Final Development Plan is approved and recorded with Santa Fe County.

The Land Use Administrator has allowed the La Cienega Community to have flea markets and farmers markets at this site. The local community is very enthusiastic of the possibility of future use and growth of the markets. The elimination of this condition would allow the Land Use Administrator the discretion of permitting markets at the request of the local community. And one of the other handouts was a letter of support from the La Cienega Valley Association.

Recommendation: Staff has reviewed this application and has found the following facts to support this submittal: the application meets code criteria to allow a two-year extension of the master plan; the trash and manure have been removed from the site; limiting

major outdoor events may hinder the use of the site by the general public; major outdoor activities have been allowed on this site where noise levels have been measured and mitigation measures were not needed; the site lends itself as a venue for major events which would be beneficial to the inhabitants of Santa Fe County; the local community supports the possibility of future use and growth of the markets; the elimination of these conditions would allow the Land Use Administrator the discretion of permitting markets and events on this site.

Staff's review of the applicant's request has established findings that this application meets the criteria set forth in Article V, Section 5.2.4 and Article V, Section 5.2.7 of the Land Development Code. Staff recommends approval of a two-year time extension for the master plan for The Downs at Santa Fe and the removal of the previously approved conditions, #4, #6 and #8, subject to the following conditions:

1. The applicant shall comply with the conditions of the approved master plan.
2. The applicant shall comply with any applicable ordinance(s) adopted by the county prior to the submittal of preliminary and final development plan.

And Mr. Chair, I stand for any questions.

CHAIRMAN MONTOYA: Okay, questions. Commissioner Vigil.

COMMISSIONER VIGIL: Thank you. Thank you, Mr. Larrañaga. With regard to permitting, I need to get some clarification on this. We would be the permitting entity to allow for this flea market to occur. Is that correct?

MR. KOLKMEYER: Mr. Chair, Commissioner Vigil, that's correct.

COMMISSIONER VIGIL: So is it a business license that they would require from us?

MR. KOLKMEYER: We had discussions this morning, Commissioner Vigil, with the Finance Department because there's kind of three different enterprises that have been discussed so far – the flea market, the farmers market and then entertainment activities. The flea market as we understand it right now would be conducted through a person who would contract with the Pueblo to do that and every vendor there would require a business license. We haven't determined yet exactly how we would deal with the farmers market and the growers, or now the music events also would be licensed. But in each case they would have to do a special use permit, for each of those clusters of activities.

COMMISSIONER VIGIL: Do they fall within our permitting requirements?

MR. KOLKMEYER: Yes.

COMMISSIONER VIGIL: Every one of those activities?

MR. KOLKMEYER: Not all of them. The flea market currently does, and that will happen first because we won't do the growers market, the farmers market probably until some later period. A little bit later on when the season occurs. And then with the special events, like the music events or any other festivals or things that would occur, we assumed we would do it the way that we did it with the music events with the Pueblo on previous occasions.

COMMISSIONER VIGIL: Does the Pueblo charge a separate fee for use?

MR. KOLKMEYER: The arrangements between any of the activities of the flea



market, the farmers market would be done through contracts between those entities and the Pueblo.

COMMISSIONER VIGIL: Okay. And the one request that's confusing to me is that we are requiring that the booths, for lack of a better word, and they're asking that they not. Is that correct?

MR. KOLKMEYER: The condition is no permanent structures, as I understand it at this point, and the issue there is again, one of the reasons for the extension of the master plan is because this is sort of a preliminary step in working with the Pueblo, the County and the community in trying to figure out how things might evolve on this site over the next couple of years. So we don't want to start getting into building or removing things until the Pueblo would decide how they want to do their master plan. So this is a great way to figure out what kinds of activities that can occur there fairly immediately because we would hope to start in mid-May and bring revenue into the Pueblo, the community and the County, and then figure out and move slowly towards the completion of the master plan. So we don't want to do too much from our perspective right now of adding or removing structures.

COMMISSIONER VIGIL: And I guess I wanted some real clarification for the vendors' purposes. Would the vendor be paying a usage fee every time they use the facility? And to whom would that user fee be paid?

MR. KOLKMEYER: That would be an arrangement between the vendor and the Pueblo, as I understand it. The Pueblo is represented here this evening they can probably answer that question for you.

COMMISSIONER VIGIL: Yes. I'd like to see how that is actually structured. And it's seeming to me that the master plan has not been proposed yet.

MR. KOLKMEYER: Well, there was an original master plan, and so this is an extension to that so we can figure out again because that master plan was done – how many years ago? The original?

MR. LARRAÑAGA: 2001.

MR. KOLKMEYER: So that's ten years old, so things have changed. In fact if you go back and you look at the conditions on there originally the community at that point wasn't particularly behind having flea markets. So things have changed quite a bit. And again, to the question you were asking earlier, we don't – one of the things we want to do is work out those fiscal arrangements so it's very clear what we do and how we proceed. We've never really done flea markets. We did a special use permit for the Oshara flea market last year and that was the same person who will probably be doing these so you could ask him that question a little bit later on too. But we want to really make sure that we're proceeding here and looking at activities that really fit that environment and that site right now.

COMMISSIONER VIGIL: When the County hosted some of the farmers market activities at the County Fairgrounds, was that just a temporary permit?

MR. KOLKMEYER: Yes.

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

CHAIRMAN MONTROYA: Okay. Any other questions for staff.

JANNA WERNER: Mr. Chair, honorable Commissioners. My name is Janna Werner. I'm general counsel for the Pueblo of Pojoaque Development Corporation, and we're requesting that the council approve our application. I'll try to be short. Basically, we're asking for two primary changes. The first is a request that the master plan be extended for two years. The second is a request for amendments to conditions to the master plan.

The first condition I want to talk about is condition #4 which required the removal of any manure or stable waste that had been stored on the property. As of the early part of 2008 absolutely all manure waste and unpermitted trash that had been stored on the property was finally removed. That had been removed in stages over a number of years. I believe that staff provided to you the letter from the New Mexico Environment Department which was our final approval of the land application of any of the final waste compost and an approval of a report and plan. So that condition actually has now been satisfied. We believe it's moot and we're requesting that it be removed as a condition from the master plan.

Next, I'd like to address two other conditions to the master plan that we would like amended. Those conditions are condition #6 and condition #8. Condition #6 referred to a variety of matters but the most important thing that we're talking about here today is that special use permits for limited – and a total amount to only six. For condition #8 flea markets were limited to only one weekend per month. We've been working with the community with a concept to have a traditional flea market there, long range, a farmers market, and there have been ongoing special events, primarily entertainment, and a couple of horse events.

Our request to the Commission is that those two existing conditions be removed and instead we simply provide, or that the commission simply provides that the Land Use Administrator has the discretion to determine the number of events at The Downs and when a special use permit is needed.

Let me then, if I may, address several of the issues that have come up with questions from the Commission. I think if we go back to the year 2006 and historically everyone knows that the Downs at Santa Fe was primarily intentioned as a horse racing facility. Since that time the New Mexico Legislature passed a law and limited and said that they were only going to issue one more racing license to one more facility in the state. In late 2008 the State Racing Commission granted the license to Raton and denied our license. As a result everything in our master plan had been somewhat on hold pending an outcome of whether or not our racing license was granted.

At this time the flea market is the one event we actually have had discussions about. Now, exactly what form that will take is still being considered. Most likely it will be in the form of a rental agreement or a management agreement to another company. That company then would be in charge of the vendors and what the vendors pay, etc. and the whole management of the flea market. That's the concept that we're looking at right now. There have been a couple of discussions but that is not finalized in a final contract.

Not all events out there do we require any type of a rental fee. Some are done at no charge; some are done at minimal charge. It depends on what the event is.

So with that, if there are any future plans for development, obviously consistent with

the conditions that the staff is suggesting for this approval, any future development or activities that require more action from the Commission we will be back here as those are formulated. But here now we're requesting those changes so that we can proceed with a farmers market for the local farmers out there, for a traditional flea market and for other miscellaneous entertainment.

CHAIRMAN MONTOYA: Okay. Questions for the applicant? Commissioner Vigil.

COMMISSIONER VIGIL: Thank you. If I recall correctly, and I remember being on the Solid Waste Management Authority when issues came up with regard to removal of the manure, it really wasn't so much the manure, although that was a requirement to have it removed, but one of the issues that surfaced as a community was the fact that there were needles and waste there that might be toxic to the land, the aquifer, all of that. This particular letter from the Department doesn't address anything but manure. Do you have any information about that?

MS. WERNER: Mr. Chair, Commissioner Vigil, all of the removal was done through the NMED. They were there. They had investigations and we've had meetings. I was not aware of any needles out there. I know that there were some reports in the NMED – I had seen those reports but I hadn't seen anything – I think it's important to look and the context of this is perhaps more information than you need. The Downs at Santa Fe uses effluent water from the City wastewater plant to water the landscape. And because of that The Downs at Santa Fe has a discharge permit from the New Mexico Environment Department. And it was only through that that there was any way that the NMED was looking at the stable waste that had been stored out there.

Part of the ongoing NMED permitting process, we do continue to test, groundwater sampling test every quarter. And those have all been within state norms. Actually, they're less than half of the state norm.

COMMISSIONER VIGIL: Okay. With regard to a proposed master plan, will it be specifically a flea market for the sale of goods and perhaps farmers market products or will art also be a part of this? Is there a proposal to – this should be vendors to a certain percentage.

MS. WERNER: Mr. Chair, Commissioner Vigil, if I understand your question correctly, currently we're not proposing any long-term changes to the master plan except to all these events. And how the vendors are treated would be through the company with whom we will be contracting. So that will be an arrangement through the person with whom we're contracting and the vendors. We do not anticipate any direct contracts between the vendors and the Pueblo of Pojoaque Development Corporation.

COMMISSIONER VIGIL: Thank you, Mr. Chair.

CHAIRMAN MONTOYA: Any other questions? Okay. Thank you, Jenna. This is an open, public meeting – public hearing, so if there's anyone that would like to speak on this case please come forward. Carl.

[Duly sworn, Carl Dickens testified as follows:]

CARL DICKENS: My name is Carl Dickens. I'm the president of the La Cienega Valle Association. And this is really an exciting moment for me. Usually I'm a little worried about coming up and speaking before you. This is an opportunity that we have supported, encouraged and we're embracing. *[Exhibit 3]* This is really our opportunity to support the Pueblo of Pojoaque in what we feel will be a very wonderful opportunity for everybody in our community. And some of the things I wanted to address – Commissioner Vigil, you asked about will there be art? We already have a Downs committee that's working on activities specifically for youth. And I talked to the flea market operator and he will have a space that will be allowed for performances for kids, music for kids, art activities. We have people in our community who already are coming forward to participate and be actively involved in that.

I also want to explain the process that we went through in terms of notifying our community about what the Downs is proposing. We put in our newsletter that goes out to 1250 homes. We've had a series of two different meetings. We've posted notices on our community notice boards. And in our meetings what I found was fascinating is people weren't so concerned about now. They wanted to see the future. So they were already talking about things that they would like to see happen there. They talked about bringing the Santa Fe Rodeo out to the Downs facility.

So we're actively supportive of this and really look forward to the opportunity of working with the Pueblo of Pojoaque in what we think will be a really beneficial use of that property for everyone involved. Thank you.

CHAIRMAN MONTOYA: Thank you, Carl. Anyone else?

[Duly sworn, Walt Borten testified as follows:]

WALT BORTEN: Thank you. My name is Walt Borten and my partner Sarah Cook and I own Santa Fe Traditional Flea Markets. We are in conversation with the Pojoaque Pueblo about conducting the market there, and I'm here specifically to respond to a couple of your questions, Commissioner Vigil, if you approve, Mr. Chair.

At the market at Oshara which we ran last summer, and our indoor market this winter and El Museo, we've had a mixture of contemporary artists, jewelry designers, people selling antiques, people selling what we call flea – stuff from grandma's attic, and kids selling their leftover toys. And it's been a lot of fun. The way we work is we rent the facility from the owner of the facility, and then we rent spaces at a very affordable rate to the individual vendors. We keep an eye on what's being sold. There are very specific restrictions from a state standpoint, but we're not rigid about it. If it's fun and reasonable and not junky we encourage people to come back. The market regulates it pretty well.

So I wanted to respond in specific to that question and to stand for any other questions you might have.

CHAIRMAN MONTOYA: Thank you, Walt. Commissioner Vigil.

COMMISSIONER VIGIL: Are these types of activities exempt from GRTs?

MR. BORTEN: No, they're not.

COMMISSIONER VIGIL: So the vendors have to charge that? And how do

those transactions get reported?

MR. BORTEN: In the city I do two things. First, I have a City license for the event, which I purchase at the beginning of the year. I obtain each vendor's CRS number and I deliver their application for a City license, which is issued for \$10 for the 12-month period, the calendar year. And then Anita in the office over there writes that license. Now, the collection of gross receipts is a state matter. It's between the individual as you know.

COMMISSIONER VIGIL: Right.

MR. BORTEN: But we do license each vendor and provide a license to them with their CRS number. The City knows that they're there. And I have talked with staff about a similar procedure for the market at the Downs if we in fact do that.

COMMISSIONER VIGIL: That's good. Thank you, Mr. Chair. Thank you, Walt.

CHAIRMAN MONTOYA: Okay. Thank you, Walt. Anyone else like to speak on this case? Okay seeing none, the public hearing is now closed.

COMMISSIONER HOLIAN: Mr. Chair.

CHAIRMAN MONTOYA: Commissioner Holian.

COMMISSIONER HOLIAN: Thank you, Mr. Chair. First of all I would like to say that I'm really pleased to see the plans for the Downs going forward and I would like to thank our County staff for working with the Pojoaque Pueblo and the community in making these plans a reality. I think it's going to be not only great economic opportunities for our community but also it's a real community builder and so I am just so pleased with this.

So I would like to move for approval of the master plan extension with staff conditions, but the removal of conditions #4, #6 and #8 and instead to direct the Land Use Administrator to determine the number of flea markets and whether or not to approve special use permits. Did I get that right?

CHAIRMAN MONTOYA: Yes.

COMMISSIONER ANAYA: Second.

CHAIRMAN MONTOYA: Motion by Commissioner Holian, second by Commissioner Anaya. Discussion? Commissioner Stefanics and then Commissioner Anaya.

COMMISSIONER STEFANICS: Thank you, Mr. Chair. Steve, I'd like to delve into the issue a little bit of Native American owned land. So Pojoaque Pueblo owns the Downs.

MR. ROSS: Right.

COMMISSIONER STEFANICS: So what authority do we then have over Native American lands?

MR. ROSS: Well, it's not trust land so we have the same authority we would have under any other lands.

COMMISSIONER STEFANICS: So, Mr. Chair and Steve, if any tribe bought some property in the unincorporated area of Santa Fe that they currently didn't own they would be subject to property tax?

MR. ROSS: Yes, conceivably.

COMMISSIONER STEFANICS: Gross receipts tax? Any fees on construction and permits, etc?

MR. ROSS: Right.

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

CHAIRMAN MONTOYA: Okay. Commissioner Anaya.

COMMISSIONER ANAYA: Thank you, Mr. Chair. First I'd like to thank Governor Rivera for working hard to remove the manure. I know that that was a big issue in the La Cienega area. The folks out there were concerned about it and so were we. So thank you, Governor, for you and your staff removing that manure. And I'd also like to thank Carl Dickens, the president from La Cienega Association for working hard as the president and notifying people and working closely with the Pojoaque Pueblo and the Governor. It makes our decision a lot easier when you have people in support of a project. So with that, thank you.

CHAIRMAN MONTOYA: Okay. Thank you, Commissioner. Any other discussion? I'd just like to add my thanks to the community, Carl, Jose Varela Lopez, the La Cienega Association and recognize Alan Mosely, Tim Vigil, Paul Aragon, along with you, Janna, in terms of the work that the Pueblo is doing in working and collaborating with the community. It's a real partnership and it's going to be a win-win for the community and for Santa Fe County. So thank you.

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

- XIV. A. 5. **CDRC CASE #S 09-5211 Saddleback Ranch Estates. Saddleback Ranch Estates LLC (Gabriel Bethel) requests approval of a summary review (Type V) residential subdivision consisting of 24 lots (each 40 acres in size) on 960 acres. The project is located on State Road 41 within Section 13, 23, 25, & 26 of Township 14 North, Range 9 East and Sections 7, 8, 9, 16, 17, 18, 19, 20, 21, and 29 Township 14 North, Range 10 East, near the Villages of Galisteo and Lamy (Commission District 3) [Exhibit 4: Additional Material]**

MS. LUCERO: Thank you, Mr. Chair. On March 9, 2010, the BCC tabled this case with direction that the applicant, address future plans for the development, water, lighting, a landing pad, revegetation, height, further address the wildlife corridor, and meet with the community again. The applicant has responded to the issues brought up at the BCC meeting Their response is in Exhibit C. A summary of the applicant's responses are as follows:

Future Plans for the Development: The applicant admits his desire to develop the remaining undeveloped property, however, no plans to do so have been solidified by the

applicant or applied for at this time.

If a future application is made by Saddleback Ranch to further divide the undeveloped portion of land, it would be subject to the entire process required by Code.

**Water:** The three-acre occupancy envelope does not represent buildable area or pad area. The occupancy envelope will be fenced, and can be landscaped, but all construction must take place within the one-acre building envelope. The building envelope is not meant to be in any way a measure of the expected home size. Regardless of the size, all homes will be metered, reporting quarterly and restricted to 0.25 acre-feet of residential water use per year.

**Lighting:** Night sky protection will be enforced per Code criteria, which includes shielding of all fixtures.

**Landing Pad:** Having no landing strip is acceptable to the applicants. However, a helopad for medi-vac emergency helicopters is planned.

**Revegetation:** The Code requires revegetation of all disturbed areas.

**Building Height/Viewshed:** The Galisteo Community members suggested that story poles be placed at each home site. The placement of the poles at 24' in height was completed on March 23. This site is not subject to any code restrictions pertinent to the viewshed.

**Wildlife Corridor:** Pathways Wildlife Organization has begun a baseline survey of the property. This process will entail many more visits to the site over time. This, like any research of nature, is an ongoing work in progress. Saddleback Ranch is willing to consider such things as stream corridor restoration, glare, noise, and domestic pets when finalizing the CC&R documents. Wildlife corridors are not required by Code.

**Community Meetings:** The applicants met with the community on March 27 and March 31. Attached are additional conditions requested by the Village of Galisteo Association, most of which are not required by Code. Those conditions required by County Code are marked with an asterisk and that's in Exhibit B. The applicant's response to these conditions is also included in Exhibit B.

**Recommendation:** The proposed subdivision complies with Article V, Section 5.5, Summary Review Procedures, of the Land Development Code.

Staff recommends final plat approval subject to the following conditions, Mr. Chair, may I enter those conditions into the record?

[The conditions are as follows:]

1. All redlines of staff must be addressed before recordation.
2. A condition will be recorded on the final plat that requires compliance with the water harvesting requirements of Ordinance 2003-6. A rainwater-harvesting plan will be required from individual lot owner upon application for a building permit. This requirement must be included in the Subdivision Disclosure Statement.
3. A condition will be recorded on the final plat that requires a liquid waste permit from the Environment Department for septic systems prior to issuance of building permits. This requirement must be included in the Subdivision Disclosure Statement.
4. A location for a future cluster mailbox area to serve the Saddleback Ranch Subdivision and other areas must be provided. The pullout shall meet the minimum



specifications for mailbox pullouts set forth by the NMDOT. The pullout driving surface shall be a minimum of 6" of aggregate base course, and adequate drainage must be provided. The detail of this location shall be submitted prior to plat recordation, and additional right-of-way if required shall be dedicated on the final plat.

5. The applicant will be required to provide a Landscaping Plan for revegetation of disturbed areas, prior to final plat recordation.
6. All utilities shall be underground. This shall be noted on the plat, covenants and disclosure statement.
7. Driveways shall not exceed 11% grade.
8. Roads shall meet the requirements set forth in the Code. Driveway, turnouts, and turnarounds shall be County approved all-weather driving surface of minimum 6' compacted basecourse. Minimum gate and driveway width shall be 14' and an unobstructed vertical clearance of 13'6".
9. A minimum 60,000-gallon of water storage and draft hydrant(s) shall be installed, tested, approved and operable prior to the start of any building construction. Plans and location for said system(s) shall be submitted prior to installation for approval by this office and shall meet all minimum requirements for the Santa Fe County Fire Department. Details and information are available through the Fire Prevention Office.
10. Automatic fire protection sprinkler systems may be required by the New Mexico Fire Code.
11. If County water becomes available within ¼ mile of exterior boundary of the subdivision, all lots shall connect to the County System. Fire distributions mains may be utilized as water distribution lines.
12. A condition will be recorded on the final plat that states that domestic wells that serve the development be drilled to 500 feet or more, produce at least 5 gallons per minute.

[See pages 71-72 for additional conditions.]

CHAIRMAN MONTOYA: Okay. Questions for staff? Commissioner Holian.

COMMISSIONER HOLIAN: Thank you, Mr. Chair. I just want to sort of clarify some things about why this is coming forward as a summary review and not a master plan. Does it have to do with the size of the lots and the number of the lots together? Those two things?

MS. LUCERO: Mr. Chair, Commissioner Holian, the application does have to do with the size and number of lots. Twenty-four lots 40 acres in size was considered a summary review subdivision and does not require a master plan.

COMMISSIONER HOLIAN: But of course there are other subdivisions out there that are going through the master plan process that are only like 12 lots. So I assume that in that case it's because they have smaller lot sizes. Is that correct?

MS. LUCERO: Mr. Chair, Commissioner Holian, in most cases a master plan would not be required unless the subdivision was 24 lots or greater than 24 lots. But because



of the lot sizes they would be required to come in for preliminary and final plat approval, which is a different process than the summary review procedures.

COMMISSIONER HOLIAN: Like Sandstone Pines, for example, is going through the master plan process.

MS. LUCERO: Mr. Chair, Commissioner Holian, they were not required to go through master plan but they were required to go through preliminary and final plat and development plan approval.

COMMISSIONER HOLIAN: So it's a different process. I see. Also, if the developer came in for further development of the property, what would the process be?

MS. LUCERO: Mr. Chair, Commissioner Holian, we would have to analyze what the additional proposals were but it's highly possible that it would kick them into a different subdivision category in which they would be required to come in with a master plan and follow the code procedures for that particular type of development.

COMMISSIONER HOLIAN: Okay. And also I noticed in our packet this time around certain conditions that were in our previous packet were removed. Conditions 5, 7, 11, 13, 14, 16, 17, 18, 19, 20 and 25. And – well, I'm wondering in a general sense why they've been removed. And then I also made particular note that the condition to limit each home to a quarter acre-foot per year was removed.

MS. LUCERO: Mr. Chair, Commissioner Holian, we reviewed the staff report with the conditions. The majority of the conditions that were deleted were because they were already code requirements, so the applicant has to follow them regardless of whether they're conditions or not, because they're code standards. The other conditions were removed because the applicants had already met those conditions. For example, submission of NMDOT access permits. Those were submitted so we deleted that condition off of the list.

COMMISSIONER HOLIAN: And what about the quarter acre-foot?

MS. LUCERO: The quarter acre-foot, because of the lot size. The minimum lot size in this area is 40 acres with a quarter acre-foot water restriction. So that's already in the code. They have to comply with that.

COMMISSIONER HOLIAN: Oh, I see. And my final question is, when the plats are recorded will the occupancy sites and the building envelopes be identified on those plats?

MS. LUCERO: Mr. Chair, Commissioner Holian, they will be defined.

COMMISSIONER HOLIAN: Okay. Thank you.

CHAIRMAN MONTTOYA: Other questions for staff?

COMMISSIONER ANAYA: Mr. Chair.

CHAIRMAN MONTTOYA: Commissioner Anaya.

COMMISSIONER ANAYA: Vicki, this Department of Cultural Affairs, Historic Preservation, what's this about? Can you tell me?

MS. LUCERO: Mr. Chair, Commissioner Anaya, that's the most recent review that we've received from SHPO. There was some additional information that was submitted to them by the application and that's their review on that. They had some issues

regarding the driveways and the roadways but those needed to be surveyed prior to finalization of the plat, and I believe the applicant is in agreement to that. So if we need to make that a condition we can certainly do so.

COMMISSIONER ANAYA: Okay. Thanks.

CHAIRMAN MONTOYA: Okay. Thank you, Vicki. If the applicant would come forward please.

[Duly sworn, Gabriel Bethel testified as follows:]

GABRIEL BETHEL: Hello, Chairman, Commission, how are you? Gabriel Bethel, 77 Saddleback Ranch, Galisteo, New Mexico, 87540.

Mr. Chair, Commissioners, Vicki actually covered a good bit of the topic matter that I was going to address so I may shorten my presentation a little bit, other than possibly answering some more questions. During our last hearing many concerns were voiced by the public. A lot of opinions were expressed. A lot of factual ideas were relayed, some of them proven to be true, others not. But I took a lot of time and I'm really glad that these hearings are videotaped because it gave me the opportunity to watch it and watch it again, watch it again, and listen. And make adjustments and hear things from a different light. Maybe the third or fourth time that I watched them. I took a lot of notes and really took a lot of consideration in the answers that I provided to you a couple weeks after the fact.

They're well thought out, honest answers. So what's been submitted is really where we stand at this point. I would like to take the opportunity to go through those notes. A lot of what Vicki just presented to you were words from those notes, actually, and address those things one at a time. I'm not trying to rehash any old information but just to provide answers to the concerns and questions that I found important from the last hearing. With that, since the last hearing there's been one substantial community meeting. We met a second time and basically it was all of ten minutes because my partners hadn't made a decision on the list of conditions that were presented to us at the first meeting.

So I arrived and delivered that news and we decided that the best thing to do was reschedule and once we had an official response then go through and discuss the response and see where we stood at that point. So I'd also like to go over our response to the requested conditions by the community, if you would indulge me.

The key points that I picked up from the last hearing, after watching the video so many times, the first one that really struck me was the intention to further develop the property. And my understanding of the code is that if we were to come back to further develop any of that property in the future we would have to go through the entire application, public hearing process again. We'd be subject to the CDRC. We'd be subject to public commentary. We'd be going through this whole process once again. We would be subject to another BCC hearing if you will. It would be like starting over again. We're absolutely fine with that.

What we're trying to do now is develop 24 lots so that we have enough inventory to sustain ourselves with the bank which is getting awfully tight at this point, and also enough inventory to have the cash flow so that we can start doing exploratory well drilling and see

what the property really lends to future development. I think it gives us the opportunity to actually take a closer look at what we're doing before we come back to apply for anything else. I know that the fear is that we're going to somehow be able to jump back – no pun intended – but jump back in the saddle and suddenly create all these lots somehow. That's not a possibility as far as my understanding of the code goes.

So I hope that purely the laws that govern this county should be substantial enough evidence that that's something we simply can't do at this point. We would have to come back and go through the entire process again. I'm not 100 percent clear whether that would be a Type II subdivision process, although I think that's the next – we can't do another summary subdivision because there's only one allowed, so if we went above that 24 lots it would be notched up to something else. And I think that's a Type II subdivision, which from my understanding is actually more stringent than a master plan anyhow.

Any future development that we applied for would be based upon our findings from this development. And from my development history, every piece of land has its own story to tell, just like every human being does. You really don't know a lot of things until you start exploring the physical aspects. All of the hydrologists and all of the experts in the world can make educated guesses but when you actually start delving into the property is when you start discovering its true characteristics and we would like to base any future development upon that.

I understand that there's been years' worth of work done to establish the land development plan and I understand that was something that was shown early to be very important to you, Kathy. I'm interested in getting involved in that as well, but I do have to say that at this point it's in a draft format. And it was pointed out clearly at the hearing earlier today that the applications that come in would be – are already in due process because they were applied for during the time. That is still the code today, I guess is what I'm trying to say. And when we applied for this, the code is what the code is and the rules were what they were when we made the application. We're – I feel like we were going above and beyond what the code has asked us to do to try and be good neighbors, to try to do a responsible land development here and to really take all concessions under consideration and try and do what's right, I suppose, with the means that are available to us at the present time.

But I also feel like we should be given the respect and fair and equal treatment of anybody else who applies during that time during that code. To me it just doesn't seem – how can you enforce something that hasn't been made into a law yet. The fact that we're working towards changing those laws to me is a very positive direction, but enforcing something that's still in a draft format just doesn't seem right to be. So I want to express that as well.

Moving on to archeology, one of the big requests that's been made not just by the GCA but the archeological community that's interested in this property is that we complete a 100 percent survey of the 960 acres. This is something that we're very much willing to do and we've been lucky enough to have the offer from the Archaeological Conservancy to complete this survey. This is something we'd actually be willing to do prior to recordation of plat and this would probably be the process in which we determine the driveways and the

utility easements. The letter you just mentioned that came from SHPO HPD asked that we include those and we already planned to do that, actually, in this survey process. So we're agreeable to doing that and we're agreeable to completing the 100 percent archeological survey prior to recordation.

What we're being told is it would probably be best to save any further changes in the siting of the lots themselves, the siting of the roads, the siting of the utilities, the siting of the driveways until after this has been completed because the argument is that it gives a bird's eye view of the historical sites and where they live and how they relate to each other prior to planning out all of the roads and such. And I agree with that. It's never been done by any other subdivision that's been done in Santa Fe County and it's certainly never been required by anybody. Everybody else does precisely what we did which is survey the roads, survey the building sites. It's called the area of potential effect. So we're in full compliance with that. We've done what we're supposed to do but we're also willing to go the next step because this is such a historically active site. So that's been taken into consideration.

To cite an example, the Commonweal, our neighboring development did exactly the same process that we've done to date. They surveyed their roads, they surveyed their sites and actually put everything else into a conservation easement just as we're proposing to do. The only difference is their conservation easement never required them to survey the other 12,000 acres that were put under conservation, where we're being asked to do a 100 percent survey of ours. It's a property that connects to ours and has I'm sure equally active archeological history, but it's never been looked at. So I'm not saying we're being singled out, because we're willing to do it, but I'm just pointing out the fact that no one else has been required to do this.

Saddleback Ranch will work with SHPO HPD and Santa Fe County staff to mitigate potential threats to historic sites within the existing and proposed potential areas of impact, including roads, building sites and easements. Saddleback Ranch will work diligently with the Archaeology Conservancy to protect and preserve the known existing sites for future study, preservation and enjoyment, while completing the survey of the remaining land and protecting future sites as they are discovered. This is a process that we would be willing to also work with – and this is something that came up during the community meeting – we would also be willing to work with some of the community archeologists as far as them having a consulting role in this thing.

There are different ways of fencing, there are different ways of silt protection for erosion and so on and so forth, so there's what's known as a treatment plan that we would have to devise and that's something that we would be willing to work with various factions to complete as well. This would be overseen by SHPO and by the County staff.

Item 3, home sizes and water use. There was a lot of interesting speculation at the last hearing as to how large the homes were going to be at Saddleback Ranch. I was hearing 78 40,000 square foot homes. I don't know that there's a development in the world, probably not even in the royal Saudi Arabian neighborhoods where that type of housing exists. I think we have less than a handful of homes that size in the entire state. I can think of one personally

and I can't say there are no others because I'm not sure of that. The homes that exist there now are 5,000 to 10,000 square feet. They're good-sized homes. In talking with staff and just doing some basic research, if you're looking at – you have to look at a lot of different aspects. There's roofed-in heated area. There's patio area. There's portales. There's different things. So what we've agreed to do is model our CC&Rs after those of the Commonweal project. And I actually had the good fortune of running into Ted Harrison here earlier this afternoon because the one outstanding component of that idea was that they hadn't agreed to do that with us yet. It was something that I was going to propose to him but I hadn't been able to do that up until about three hours ago. He has agreed to do that.

One of the conditions that the community asked us for was to have a third party authority if you will over the CC&Rs and also that would be engaged in any future voting as per changes of the CC&Rs and such and so forth. The Commonweal was one of the parties that they were agreeable to, and it was the party that we were agreeable to, in so far as we have looked at their CC&Rs and we think they have a very intelligent, well put together set of CC&Rs. And I would be more than happy to welcome them on as a third party authority over our CC&Rs. The way we would structure that is it would be – the land conservation trust is going to have a voting right because the CC&Rs dovetail with the land conservation easement. So they will be a voting member, the homeowners association would obviously be a voting member, and then the Commonweal would become a voting member as well. So you would have three different bodies that would basically have control over any future changes in the CC&Rs and the actual first implementation of those CC&Rs.

Some of the other things that were mentioned as far as conditions that relate to the CC&Rs itself were stucco colors, no pitched roofs, no lawns and so on and so forth. These are things to me that I think should be governed internally and so therefore placed into the CC&Rs. The CC&Rs that we're talking about have very acceptable governing guidelines for all of those things, so I hope that would be deemed acceptable.

With regard to wildlife preservation, I spoke again to Mitch from Pathways today. They've been out since the last hearing, they've been out several more times. They're beginning to conduct what's known as a baseline survey of the property. He was explaining it in detail to me today but I was driving so I didn't take notes. What I can tell you though is that they have a set mythology [sic] for how this conducted and the end result of this is that they should have a good basic idea of where the animals travel. Now, one of the community requests was that we have 1,000-foot north-south corridor and a 1,000-foot east-west corridor. From what's been explained to me this makes absolutely no sense with regard to the natural travel of the wildlife, because it's not like you can put a sign up that says please go through this 1,000 feet this way and please go through this 1,000 feet this way.

One of the things that was pointed out though that they thought was a positive about our development structure is that there's actually nearly a quarter mile of passage between each house. So there's far more than 1,000 feet available for the animals to travel through between the homes. Now, one of the things that we're going to look at as a result of the baseline survey is if any of the homes are currently placed right within a travel corridor we

may strongly consider moving that specific homesite, taking into consideration the archeology and everything else because even with the existing archeology out there it's really tightened the area that we have to work with in as far as our homesites are concerned. But that's something that we would look into.

They should be able to complete this baseline survey prior to recordation of plat, so we could make the changes that would be deemed necessary if for some reason we found that the houses were causing a blockage or impeding the wildlife prior to the plat being recorded and we'd be willing to do that.

The other thing that we have talked with them about is if areas of the corridors are found to be blocked by unfriendly fencing we would measure that area of fence that actually was within the corridor and we would amend that section of fence, lifting the wire or whatever was deemed necessary to make that wildlife friendly fencing. It's obviously not feasible for us to go in and rebuild the fence of all of our pastures out there but we would be able to adjust the fences that are deemed to be in the actual passage corridors. Any new fence that would be constructed or any repair of old fence would be done in a wildlife friendly fashion as well. So any fencing going along driveways or around houses would be done with the parameters that were given to us by the wildlife group. We're willing to work with Earth Works, Pathways, and any other informed group that cares to participate in this as part of the consulting body.

I think she covered the viewshed pretty well. We put up the story poles. There are some sites that are definitely visible from the highway. I don't think there's any way around that. The only thing I have to say to that is the setbacks are going to be far greater than any other ones in Eldorado or down that corridor. We will have definitely larger setbacks than anybody else. I see a lot of shiny, pitched roofs in Galisteo. I see a lot of houses that are various colors. I see a lot of two-story houses right on the road. It's hard to comply with something when you're being asked to comply by folks that are not in compliance with it themselves, I guess sometimes. On a positive note, we have always wanted the homes out there to blend with the natural setting of the land. That's good marketing. It's tasteful and it's just the right way to do it.

So everything will be governed by an architectural committee and within the CC&Rs. That's how we plan to look at that.

I guess one other comment I'd like to make about that is something that I wrote and submitted so I might as well read it. Galisteo is located approximately five miles from Saddleback Ranch on the opposing side of the ridge and completely out of the line of sight of Saddleback Ranch. The residents cannot see us and we cannot see them. As long as our homes do not impede the viewshed of the actual neighboring residents or neighboring communities who can see us from where they live I feel that our residents should be able to build as they wish. We would never think to tell the people of Galisteo or any other private landowner who lived five miles away from our community what color to paint their home, what style of home it had to be. It's simply not our place; it's not our business, nor is it theirs to tell us to do so.

I feel like it is the most basic civil right in the United States of America to be able to build your house the way you want it on your own property. It's what this country was founded on. And as long as it's not something that's harming somebody else. If it's possibly not tasteful to somebody else, well, that's your taste. It's your land and it's your home. That's your own personal home. You should be able to do that, I think. That's just a personal viewpoint of mine.

The last thing is financial impact. There was a lot of comments made about how we're going to price out the surrounding communities and so on and so forth and that lots and I think one comment that was made was that we were going to be selling our parcels for \$800,000 an acre at Saddleback Ranch as opposed to the \$32,000 an acre that all the rest of the land is worth out there. Actually, our land is priced between \$15,000 and \$25,000 an acre, is the highest that we've ever even considered selling it for. Again, to quote the Commonweal, they had an original development called New Moon Overlook, which was 20 lots, 20 acres in size for the most part, 2.5-acre building envelopes. This was approved about 2 ½, three years ago at this point, and it sold out very quickly and I think one lot came back on the market and is for sale again because they got foreclosed out, but the rest of the subdivision is sold. Those parcels all sold for somewhere in the range of \$250,000 to \$400,000, which is the exact range that we're looking at selling our parcels for.

There is currently another development there called – another phase if you want to call it that called Southern Crescent. These lots are I believe 4 ½ to 14 acres in size and I've been watching them closely because they're our next-door neighbors and they have a similar product as to what we're trying to come out to the market with. The majority of those lots have sold in the past year, year and a half, in a time when everyone says that there's no lots selling out there, and they're selling for an average price of \$37,000 to \$45,000 an acre and seem to be moving along quite nicely. So I don't think that we're really out of the price range at all. In fact we're priced right in with our neighbors who seem to be selling parcels on a regular basis out there.

The average price of homes out there at a 5,000 to 10,000 square foot ratio is what we're looking at would be in the \$3 million to \$5 million range, which is not unusual for Santa Fe County. There are a great deal of homes out here that are in that price range right in town and a lot of them much smaller homes than that. Again, we're not in the home sales business so it would be people coming out and builders building homes for people and so on and so forth but I don't think that that's an unreasonable sales price when you consider that you're going to be on 40 acres of land.

As far as homes causing tax increases for the villagers, I don't foresee this happening and this has been an argument that comes up all the time in the development business and basically, they have to be comparable properties to be comparably taxed. So unless it's sort of the same size and same type of home on the same acreage of land the tax base won't be comparable and therefore it won't cause a tax increase. On the other hand the homes would cause a general increase in equity for the surrounding property, and it would improve the value of the neighborhood. The proposed prices have been here for many years; we are not



changing the face of this market and people will not be displaced. We project over 2,000 contract labor jobs would be created by this project and the project when built out would bring in a project \$4.7 million in tax revenue to Santa Fe County at the current mil rate of 19.6.

So those are the economic impacts I responded to given the commentary. I feel like I've lost everybody's attention here. Hope not.

COMMISSIONER VIGIL: Is your presentation complete?

MR. BETHEL: No, I was just going to go over what was discussed and the concerns at the last meeting.

COMMISSIONER VIGIL: Okay. Are there any questions thus far on the responses? None at this point in time. Could you summarize your presentation then?

MR. BETHEL: Well, in summary I guess, just trying to respond to the public concerns of the last hearing. I went to a lot of detail here so I don't know how to quantify it or summarize it other than expressing some views. Since this was released the next public meeting happened and at that meeting a level of progress was made that surpassed this response in the form of a list of requested conditions by the Galisteo Community Association. They requested basically 56 additional conditions and after some time, as I explained earlier the partners deliberated over all these for about three solid days and we came up with our response to that. When we submitted that response the community felt that the response was self-explanatory and did not require any more conversation, so they actually cancelled the follow-up meeting because it was – I'm assuming because it was a pretty in-depth response and a very explicatory response.

So we basically agreed to just about more than half of the requested conditions and give explanations why we could and couldn't agree with all of them. And I believe you have that document in your packet. Has everyone had a chance to review it? You have?

COMMISSIONER VIGIL: I have a question from Commissioner Stefanics.

COMMISSIONER STEFANICS: Thank you, Madam Chair. In one of the documents that we received – and thank you for all the detail that you've been providing, but we are going to try to keep moving. In one of the documents that we received it says that there are at least seven owners of the property in question. Are they all part of the LLC or are there seven owners?

MR. BETHEL: No. Mr. Chair, Commissioner Stefanics, no there are not. There are actually four owners.

COMMISSIONER STEFANICS: Okay. And so are they all part of the LLC?

MR. BETHEL: Yes.

COMMISSIONER STEFANICS: Okay. And is that – they've been part of that LLC since you started the development plans?

MR. BETHEL: Yes.

COMMISSIONER STEFANICS: Okay. Thank you.

COMMISSIONER VIGIL: Thank you. Any further questions on that? Mr. Bethel, are you done?



MR. BETHEL: Yes, for the moment I am. Are there any questions about anything that I can answer?

COMMISSIONER VIGIL: Mr. Chair, we just completed the applicant's presentation.

CHAIRMAN MONTOYA: Okay. Any other questions for the applicant? Okay. Steve, my understanding is that we've had the public hearing, so this is for a vote only? Is that correct?

MR. ROSS: Well, we didn't advertise it for a vote only but I think your option is to do either of those things. If you think you have enough information to go forward based on what we've done, I think you could move forward at this point, but if you want to have a public hearing it's certainly your discretion to do it. I don't think you're required to have it.

CHAIRMAN MONTOYA: Okay. What are the wishes of the Commission?

COMMISSIONER HOLIAN: I would like to hear from the public.

CHAIRMAN MONTOYA: Okay. You would like to. Commissioner Stefanics?

COMMISSIONER STEFANICS: As long as it's concise.

CHAIRMAN MONTOYA: I'd say ten minutes.

COMMISSIONER VIGIL: And Mr. Chair, I think maybe one of the good guidelines that we can provide for the public, and I'm looking at some of the public that was here last time, those who have already spoken their position on this case, if they would give the opportunity for others who haven't. And maybe we could have a show of hands, who has not spoken to the Commission about their position on this case. Chris? Two? Is there anyone else? Do remember we were here for about three hours hearing testimony.

CHAIRMAN MONTOYA: And we do have it all here as part of the record, so we have everyone's testimony. Okay, Chris, I will give you ten minutes. Was there another one, Commissioner Vigil?

COMMISSIONER VIGIL: I saw somebody else's hand in the back. Would that person like to address the Commission? If so raise your hand.

CHRISTOPHER GRAESER: Christopher Graeser, 3600 Cerrillos. I acknowledge that I am under oath. I will try to do it in five minutes.

CHAIRMAN MONTOYA: Okay. That would be appreciated.

MR. GRAESER: I do represent the Galisteo Community Association and therefore those folks have just asked that I speak for them and I will try to cover only new issues tonight. You have a letter in front of you that I've written that does cover most of the concerns I want to talk about. I'll hit the highpoints.

I do appreciate Mr. Bethel's efforts on the response and his attempt to be honest and forthright. Our concern is mostly the responses weren't detailed responses to the actual concerns expressed by the Commission, in front of the Commission last time. More importantly, they don't include any detailed commitments. I first want to discuss something that's very important that came up earlier, which is the revised past conditions of approval. We just have a lot of concern about that. I understand staff's position that they may be

duplicative of what's in the Code and I appreciate Ms. Lucero stating that those requirements remain requirements of the Code. But I do have a concern that removing those conditions after proposing them could be seen as significant in the future. But a few, such as the water restrictive covenants – the water restrictive covenants said very clearly, you're limited to a quarter acre-foot per lot per year. The Code isn't that specific. The Code has a calculation based on you, based on water availability, you kind of have to back into it. It's not as explicit as simply a very clear condition that may be duplicative but it's clear and we all know what's going on.

The same thing with the financial guarantee. That's an essential issue that the documents, the HOA documents and others be recorded at the time of plat recordation and I don't think that's clearly covered in the Code. And something else that arose out of prior discussions and is not clearly covered in the Code were additional restrictions on the domestic wells that have been eliminated from the current staff conditions. Interrupt me at any time if you have questions of course.

As far as the issues from the March 9<sup>th</sup> meeting, the Galisteo Community Association supports the moratorium that was discussed earlier, but that aside, we are only seeking compliance with the current Code. Further development intentions – we have to be careful with this because the applicant's plans are always changing. The number of lots – I could stand here and go on for ten minutes citing different instances in which the applicant has stated plans for a different number of lots. This is why this needs to be a comprehensive planning process for the entire property. You call it master plan or whatever, as long as it ends up with a comprehensive process so we're not here arguing about this for years, we don't have surprises in the end, so everyone, including the applicant has some predictability in what's happening with this property.

I understand the applicant's concerns about wanting to sell some lots to fund future planning. I have sympathy, but being underfunded in your development, especially on a very high end subdivision isn't really an excuse for piecemeal planning. And a further comment, just to make it very clear, I think Mr. Bethel recognized this, but if you do 24 lots, the minute you do another lot within seven years, it's not just the new lots that have to comply with upgraded type classification, it's the entire project. So you need to upfront make sure that you've dedicated enough right-of-way for any additionally sized roads, that you've provided for the ability to install water infrastructure, the correct easements. The requirements in the CC&Rs make sure that the purchasers of those lots will comply with those conditions, because otherwise we could be in a real mess and it might prevent further development from occurring.

A corollary to that also is the developer has indicated an intention that perhaps lot purchases would pay for infrastructure build-out – I think that's okay with regard to wells, but with regard to the rest it's very clear that the subdivider has to put up a financial guarantee and is responsible for getting the infrastructure in. So you can't have the cart before the horse on that one.

I very much appreciate Mr. Bethel's commitments to do a full archeological survey

before plat recordation. I just have to make sure that that is a condition of approval. You will have the letter from Ms. Ensey discussing SHPO's very, very serious concerns.

Home sizes and water. Home size is inextricably linked with water use. And when you get maybe an average of a 10,000 square foot house and up to, in the developer's own admission, a 40,000 square foot house with associated residential uses, horses, a quarter acre-foot is not going to work. It simply is not enough water. I think the developer recognizes this because they constantly talk about residential water use. The residential use will be limited to a quarter acre-foot. But that's not what the Code says. The Code says all water use, and that's why we think that's an essential condition of approval as well.

As far as enforcing covenants, I do think the Commonwealth Conservancy covenants are a good place to start. Enforcing, you just need to make sure that whoever is charged with enforcing them will under New Mexico case law be able to enforce those. We have an issue of concern, it has to be a neighbor, perhaps the County by having a road there can enforce. But I would ask that the CC&Rs also be made conditions of approval so we can ensure enforceability at a minimum.

As far as wildlife preservation and viewshed, I want to stick with the high points, but enforceable commitments here is why I think we need conditions of approval on those. All the sites are visible from all the roads around. As far as the right to build a house a basic civil right – I don't know about that, even this being the West, but zoning has been legal since the 1930s. It's constitutional.

Financial impact – the tax benefit is way off base. Typically what you see is people neglect to calculate the 1/3, 33 percent assessment ratio. So even if the Assessor got these on at full value, and we have a very aggressive Assessor as far as doing that, you're still only taxing on a third of that value, not the full value, so that is kind of misleading. And there will be an effect on residential valuations in the area. Even at the minimum figure suggested by the applicant, \$16,000 an acre, 40-acre lots are \$600,000, not \$250,000 to \$400,000. There's an incremental effect on the effects on taxation of existing owners and to some degree that's just a fact of life, but it is something worth recognizing.

And Article V, Section 4.8 of the Code requires the Land Use Administrator to do a common promotional plan analysis. There's no indication in the record that that was done, and it's an essential analysis in this case, because we've got the 24 lots that they're trying to create today. We've got the remainder of that parcel. We have the Hacienda Tranquilas parcel across the road. We have the applicant's apparent still continued claim to the various patent lots. It's not 24 lots we're talking about. It's a minimum of 25 if you consider the remainder lot, or 26 if you merge the lot across the street. All of which is in compliance with New Mexico case law and statute.

The analysis needs to be done as to how many lots this common promotional plan really anticipates, in terms of the issue of subdivision classification. We're not at 24 lots; we're at least at 25 lots which is no longer a Type V subdivision and is not a summary review subdivision and most likely, if you do the analysis in accordance with state case law and the Attorney General's guide, which is the long-recognized authority, you're probably at a lot

more than 24 lots.

You also have to consider are these illegal lots that were made in 2008 at the time they purchased the property. They divided off the Winland Chamisa, Drogheda, Drogheda 140, Winland 140 – all these parcels were divided to different owners, although related owners or entities, in 2008, completely illegally. No platting whatsoever. There's no indication in what we can see of the current plat that all those lots are replatted and therefore the problem is fixed. And it looks like at least the Drogheda and Winland 140-acre lots are not included in the replatting, therefore you have not only two illegal lots but two additional lots beyond the 24.

CHAIRMAN MONTOYA: You have about two minutes.

MR. GRAESER: The Attorney General says each land division and sale must be independent and the result of ongoing negotiations without further tie-ins between the parties. That's clearly not the case here. These are all tied together. They have to be considered together. And if a prospective common promotional plan as well as the lots that currently exist, their intentions, repeatedly stated, the number changes but they are going to develop the rest and that needs to be considered for comprehensive planning of this property.

Conditions of approval we think are essential, that any future divisions result in combination and upgrade of the Type V subdivision, so that the entire thing is planned and platted for proper infrastructure together, that water use is limited to a total of a quarter acre-foot per lot per year, and the problem with that quarter acre-foot is enforcement. How is that going to be enforced? Are we going to shut off taps to anybody? It's just not going to happen. That because this is a full replat of the area, that any claims to the federal patent lots are extinguished. Those are done because we have now replatted. This is a successive subdivision. Those are gone and we should make that clear and a condition of approval, and that the 24 lots individually cannot be further divided. I very much appreciate the Commission's consideration and I stand for any questions.

CHAIRMAN MONTOYA: Okay. Any questions of Chris? Okay. Thank you, Chris. So what are the wishes of the Commission? Discussion? Come to the microphone please.

FRANK HERSH: I just want to add for a point of clarification from Mr. Ross, to make sure. I'm Frank Hersh, Galisteo. When they come back, Mr. Ross, for more development, they will be subject to the SLDP, the new code, correct?

MR. ROSS: Mr. Chair, do you want me to answer that?

CHAIRMAN MONTOYA: Sure.

MR. ROSS: We don't know.

MR. HERSH: Why not?

MR. ROSS: Because the SLDP hasn't been adopted yet.

MR. HERSH: If the SLDP is adopted in the fall or December, it is my understanding that that will be the new code and therefore any future development will be subject to that code.

MR. ROSS: That's correct. When we pass a new land development –

MR. HERSH: Does the developer realize that?

MR. BETHEL: Yes.

MR. HERSH: It's a new code. The new code may have stipulations in it you're not going to like. Okay. Secondly, does this meet the current LOS? We talked about infrastructure and you said that the one thing that is important is the level of service. Will this meet the level of service, especially if they're going to add to it? I just would like a clarification on that.

CHAIRMAN MONTOYA: Level of service for what?

MR. HERSH: Well, level of service is described, I believe Mr. Ross can tell you, that it has to do with roadways, it has to do with water, it has to do with the resources. And if they can't meet that level of service according to Mr. Ross they have to go back to the drawing boards. And my question is –

CHAIRMAN MONTOYA: Staff, could you address that, Shelley?

MS. COBAU: Yes, Mr. Chair. Level of service is usually a terminology utilized with roadway and traffic volume. The level of service on the state route there has been checked by the Highway Department and they have given access permits to this land developer and have not required any improvements out on the state highway as a result of the traffic volume generated. It's usually ten trips per lot. So it's an additional 240 trips out there on that roadway in a 24-hour period.

MR. HERSH: Okay. Is not water considered part of the level of service too? They have to prove that they will use only that much? Mr. Ross or whoever?

MS. COBAU: Mr. Chair, members of the Commission, as part of the summary subdivision process they're going to be required to prepare a subdivision disclosure statement. In that subdivision disclosure statement they'll have to reveal to potential buyers of the property that there's a quarter acre-foot limit. They'll have to reveal that there's CC&Rs, where the closest schools are – all the things that would go with a larger Type III subdivision, a 600-lot subdivision, which is why we pushed for this particular project to come in as a subdivision, so these types of regulations would be revealed to the people who are potentially buying a lot. So water has been addressed and they'll have to have individual or shared wells on each of the lots.

MR. HERSH: Thank you.

CHAIRMAN MONTOYA: Steve, you had your hand up.

STEVE DURAN: My name is Steve Duran.

[Duly sworn, Steve Duran testified as follows:]

MR. DURAN: I was born in Santa Fe County, I was born in my grandmother's house. I've been here this afternoon listening from the very beginning and it irked me the fact, the whole process irks me actually. The disconnect of some of these people and a couple of members of this Commission as to the reality of this world that's out there now. It's just appalling to me, I was business over 23 years. I've never gotten a penny from my daddy. I've never gotten a penny from the state or the federal government. I've always made my own money. And it's amazing to me that we can stand here and second guess these

people and cut them down because they're developers. Well, you know what? I'm a developer. I'm a contract.

But you know what at the end of the day? I'm a businessman and I'm an employer. I've employed hundreds, thousands of people through my efforts in developing and construction. And it's incredible to me that we know are talking about a moratorium at this point in time. I can tell you people that I had employed for me last year haven't worked steady in a year. And you're talking about a moratorium. You're talking about cutting this gentleman's development down after he has met all the conditions. Then why do we have you folks sit there for and make all these rules and regulations if a minority group of people are going to come and circumvent them. I don't understand. It bothers me. It bothers me because I speak daily. I got a call today to come here and sit and listen to this possibility of a moratorium by simple, little people that haven't worked and haven't collected paychecks in more than a year. Thank you very much.

CHAIRMAN MONTOYA: Okay, we'll move on now.

MR. BETHEL: Could I respond?

CHAIRMAN MONTOYA: Briefly.

MR. BETHEL: I would just like to ask the County staff if I may, have we complied with the conditions? Because I'm suddenly confused.

MS. COBAU: Mr. Chair, they do comply as we've recommended in the staff report with the summary review process. And I would like to add that in the code there is a succeeding subdivision process which they would be subject to should they come in for any further development on this property. The succeeding subdivision process is pretty clear regarding going up into a higher type of subdivision and the requirements that go along with that. But they have complied or we wouldn't recommend approval.

CHAIRMAN MONTOYA: Okay.

MR. BETHEL: I would like to respectfully ask the Commission members if you agree with that? Do you feel that we've complied with that?

CHAIRMAN MONTOYA: Anything else?

MR. BETHEL: Just those two questions.

CHAIRMAN MONTOYA: Okay. That one will be answered here shortly.

MR. BETHEL: Okay. One other comment, that if we do apply for anything in the future, we're more than happy to follow whatever code is in place, whether it be the SLDP or something ten years from then that's changed as a result of time. We're very aware that any new application will be under the code for which we apply under it.

CHAIRMAN MONTOYA: Okay. Thank you. This hearing is now closed.  
Commissioner Anaya.

COMMISSIONER ANAYA: Thank you, Mr. Chair. I move that we go into executive session to discuss and deliberate on the case we've just heard.

COMMISSIONER VIGIL: Under the exception of – does we have to state an exception? Okay.

COMMISSIONER HOLIAN: Second.

CHAIRMAN MONTOYA: I have a motion by Commissioner Anaya, second by Commissioner Holian.

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

[The Commission met in closed session from 8:07 to 8:35.]

CHAIRMAN MONTOYA: Commissioner Stefanics.

COMMISSIONER STEFANICS: Thank you, Mr. Chair. I move that we come out of executive session after having discussed with our attorney some legal questions.

CHAIRMAN MONTOYA: Okay. We have a motion by Commissioner Stefanics to come out of executive.

COMMISSIONER HOLIAN: Second.

CHAIRMAN MONTOYA: Second by Commissioner Holian.

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

CHAIRMAN MONTOYA: Okay is there any discussion?

COMMISSIONER VIGIL: Mr. Chair.

CHAIRMAN MONTOYA: Commissioner Vigil.

COMMISSIONER VIGIL: Mr. Chair, I was sorting of looking for Commissioner Anaya who wanted to make some comments and I wanted to defer to him. Is he anywhere close by? We were just asking for your comments, right, Mr. Chair?

CHAIRMAN MONTOYA: Yes, comments.

COMMISSIONER ANAYA: Did we come out of exec?

CHAIRMAN MONTOYA: Yes.

COMMISSIONER ANAYA: Okay. Mr. Chair.

CHAIRMAN MONTOYA: Commissioner Anaya.

COMMISSIONER ANAYA: I'll start off. I was elected to become a County Commissioner to make decisions. Decisions, as I've sat up for seven years and probably eight years on the CDRC to make decisions on issues that are going to affect people in one way or another. And every time, mostly every time that I made a decision some people were happy and some people were mad. And that's what's going to happen here today. We make a decision and some people are going to be mad and some people are going to be happy.

And the developer has worked hard, long and hard. I appreciate what he has done and I appreciate what the community of Galisteo has done and what the Village of Lamy and the surrounding properties. And I was hoping that they could have come to an agreement of some sort so that at least the decision that we make or are going to make wouldn't be so hard on us. But that didn't happen. And we tried. We tried to send you back and it didn't happen.

And I thought, man, what do I do? What do I do? This is in my district. I see the people in Galisteo. I live there. At the post office, in church, the community center. What do I do? What do I do? What is the right thing to do for the situation that I'm in right now? And there's one person that I turn to, and that was my father, and I get a little emotional because he always told me, Son, Son, you do the right thing. Ninety percent of your life is bullshit and ten percent you better shape up. Ten percent. And we were put up on this – we were elected to treat people fair and I told you that the last time. To treat people fair. And if they jump through all the hoops then you told them what to do and they did it.

This is a difficult decision for me but I turned to my dad, who I lost nine years ago. He's not here. He's in here somewhere. And I said what is the right thing to do? And you know what he told me? He said, Son, you move for approval. You move for approval. And I know the people in the Village of Galisteo are mad, and I don't know how the rest of the Commission is going to act, but that's what I'm going to do. That's that ten percent. And I apologize if I hurt any of you, and I don't know how this is going to go, but I apologize. But that's how I feel. That's what I was elected to do is to treat people fair.

Mr. Chair, from the testimony that I've heard and one of the toughest decisions that I've made I move for approval.

CHAIRMAN MONTOYA: We have a motion by Commissioner Anaya for approval. Commissioner Holian.

COMMISSIONER HOLIAN: Thank you, Mr. Chair. I've been on the County Commission now for a little over a year and I was on the CDRC for quite a while before that and I would have to say this is without a doubt this is the absolute most difficult decision that I have ever made and I am not making it lightly. And I think you all know me enough to know that this is true. The developer has met all of the requirements of our current code and then some in so many different ways, from limiting the occupation envelope, agreeing to a quarter acre-foot water, working with the Archaeological Conservancy, also the wildlife corridor plan.

But this property, there's no other way to look at it. It's sprawl. I mean it is really, truly sprawl. And when those homes are built, if they're built, they will change the character of that beautiful Galisteo Basin. There is just no way around it. And I know that this is not what the residents want, but we are making this decision under our current code. We have no other choice. This is what we have to do. But I want to send out the plea to you that this is precisely the reason that we need that new plan and code and we need to move forward with it as quickly as possible.

I am going to reluctantly second this motion. I would like to add some conditions and I would like to read them into the record if I may.

CHAIRMAN MONTOYA: Go ahead.

COMMISSIONER HOLIAN:

- That the developer will consult with Earth Works, an organization like Earth Works or the Quivira Coalition before construction of any roads or driveways, and that they will help with the design.



- That they will work with the wildlife professionals to identify and sustain a wildlife corridor or corridors. The size and placement will be based on further consultation with County staff and wildlife professionals.
- All fencing will be wildlife-friendly.
- The developers will work with the community and staff to determine whether placement of at least some of the homes can be achieved with clustering, to protect our viewsheds, and that they will in fact work to protect the viewsheds with the placement of the homes.
- The developer will work with the community to design a well monitoring program.
- There will be an archeological survey of 100 percent of the property that will be submitted and approved by SHPO prior to recordation of the plat.
- There will be consultation with related Native American communities regarding archeological sites, and this will occur before recordation of the plat.
- Building envelope and occupancy sites can only be moved for reasons involving archeological site protection or establishment of the wildlife corridor.
- There will be a minimum 50-foot buffer between all areas of disturbance and archeological sites.
- There will be third-party oversight of the CC&Rs by the Commonweal Conservancy and the Archaeological Conservancy.
- Any future subdivision whatsoever – any future changes on the property will trigger a new master plan process and all other related County processes that are for development.
- There will be a setback of ~~100~~ 500 feet from the main roads. [see discussion below]
- All previous conditions that were deleted will be reinstated.

CHAIRMAN MONTOYA: Okay. We have a second with additional conditions. Commissioner Anaya.

COMMISSIONER ANAYA: Mr. Chair, the setback, what is it now? From the road?

MS. COBAU: They don't have anything closer than 100 feet currently, to the roadway proposed. It's significantly more than that.

COMMISSIONER ANAYA: What is it?

MS. COBAU: Six hundred feet? Gabe, is that the closest?

MR. BETHEL: I'd say at least five, yes.

COMMISSIONER ANAYA: Would you agree to a further setback?

MR. BETHEL: I think we already agreed to 500 feet. Yes, sir, Commissioner Anaya.

COMMISSIONER ANAYA: Would you agree to a further setback?

MR. BETHEL: Yes.

COMMISSIONER ANAYA: How far would you set it back?

MR. BETHEL: Is 500 feet acceptable?

COMMISSIONER ANAYA: Is that what's in there now?

MS. COBAU: I believe so, Mr. Chair. It's right around 500 feet from the state highway right-of-way to the closest building envelope is about 500 feet.

COMMISSIONER ANAYA: Could you set it back further?

MR. BETHEL: Well, the reason I'm saying 500 feet is because the current archeological survey approved building envelope, I think the closest one is right around 500 feet to the road. So that would mean we would have to –

COMMISSIONER ANAYA: So then we change that to 500.

MR. BETHEL: – move that specific site.

MS. COBAU: Yes.

MR. BETHEL: But we're fine with 500 feet.

CHAIRMAN MONTOYA: And Steve, what about adding the other conditions that Commissioner Holian referred to that were removed and are part of the code?

MR. ROSS: Mr. Chair, I think that was part of the motion and there's no issue with that of course, because they were only removed to clean up the conditions. They're code requirements.

CHAIRMAN MONTOYA: Okay. So we'll just put those back in.

MS. COBAU: Mr. Chair, we have a document that was just handed to me by one of the members of the audience where it looks like it was from the developer that says that the homesites are 200 years, which is 600 feet from the roadway currently.

COMMISSIONER HOLIAN: So why don't I make it 200 yards then, for a setback?

MR. BETHEL: Could I interject? Would you be averse to us actually taking a measurement of that homesite? Which has not been done. That was a guesstimate, essentially. Or I guess we can move it if we have to. Six hundred feet is fine. How about that? That's fine.

CHAIRMAN MONTOYA: Commissioner Anaya.

COMMISSIONER ANAYA: I'm done.

CHAIRMAN MONTOYA: Okay. Commissioner Stefanics.

COMMISSIONER STEFANICS: Thank you, Mr. Chair. This is a comment and this isn't any questions or anything so you can sit down. My comment is that in reviewing everything that we've gone through there are things that we personally don't like, but when we have individuals that come forward that meet our standards and our regulations and they jump through the hoops, so to speak, that we've given them several times, we are bound to eventually either support it or deny it. If we deny it it can then be challenged in court, and the courts usually look at what we do and say did the individual do everything they were asked to do? And if so, the courts overturn us. And we have a responsibility until we change what we do here in the County to follow what we have here in the County.

So I'm saying this in advance of my vote to indicate that the staff has recommended approval because the developer went through all the requirements, accepted more requirements, and until that's changed we should live by those regulations. Thank you, Mr. Chair.

CHAIRMAN MONTROYA: Thank you, Commissioner. Any other discussion. Okay. We have a motion for approval with additional conditions.

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

- XIV. A. 6. **CDRC CASE #S 08-5210 Sandstone Pines Estates Preliminary and Final Plat/ Development Plan. Anasazi MV JV LLC, applicant, Melvin Varela, Agent, request preliminary and final plat and development plan approval for a 12-lot residential subdivision on 42.99 acres. The property is located in Glorieta, North of I-25, South of State Road 50, within Sections 1 and 2, Township 15 North, Range 11 East (Commission District 4)**

MS. LUCERO: Thank you, Mr. Chair. On July 16, 2009, the CDRC met and acted on this case. The decision of the CDRC was to recommend denial of the request. On January 12, 2010, the BCC heard this case and tabled it, with direction that the applicant conduct a water quality analysis on the shallow well and that the case be remanded to CDRC for review of the most current water tests on both wells.

A water quality analysis has been completed. The County Hydrologist has reviewed the analysis and states that all constituents tested meet EPA Maximum Contaminant Levels with the exception of Total Dissolved Solids. This must be noted within the subdivision disclosure statement along with expected adverse effects and recommended treatment.

The CDRC reheard this case on March 18, 2010. The decision of the CDRC was to recommend denial of this request.

Recommendation: Staff finds the proposed subdivision to be in compliance with Article V, Section 5.3, Preliminary Plat Procedures, Article V, Section 5.4, Final Plat Procedures, and Article V, Section 7, Development Plan Requirements of the Land Development Code. Therefore, staff recommends preliminary and final plat and development plan approval subject to the following conditions. Mr. Chair, may I enter those 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 Department of Transportation
  - d. County Water Resources Specialist
  - e. County Public Works
  - f. County Fire Marshal
  - g. County Building and Development Services Division
  - h. Santa Fe Public School District

- i. State Historic Preservation Office
- j. Rural Addressing
- k. County Affordable Housing Administrator
2. The Final Development Plan and Plat must be recorded with the County Clerk's office.
3. All redlines will be addressed, original redlines will be returned with final plans.
4. The development shall comply with the water harvesting requirements of Ordinance 2003-6. A rainwater-harvesting plan will be required from individual lot owner upon application for a building permit. This requirement must be included in the Subdivision Disclosure Statement and restrictive covenants, and noted on the Final Plat.
5. A liquid waste permit must be obtained from the Environment Department for the proposed septic systems prior to issuance of building permits; this requirement must be included in the Subdivision Disclosure Statement and noted on the Plat.
6. The applicant must record water restrictive covenants simultaneously with the Plat imposing 0.25-acre feet per lot per year. Water meters must be installed to each lot at the time of development and meter readings must be submitted to the Land Use Administrator annually by January 31<sup>st</sup> of each year.
7. The applicant shall provide a Vegetation Management Plan to be reviewed and approved by the County Fire Marshal and must be recorded with the Final Development Plan and referenced on the Final Plat.
8. A location for a future cluster mailbox area to serve the Apache Springs Subdivision and other areas must be provided. This pullout shall meet the minimum specifications for mailbox pullouts set forth by the NMDOT. The pullout driving surface shall be a minimum of 6" of aggregate base course, and adequate drainage must be provided. The detail of this location shall be included in the Final Development Plan, and additional right-of-way as required indicated on the Final Plat.
9. The applicant shall submit a financial guarantee, as required by Article V, Section 9.9 of the Code, in a sufficient amount to assure completion of all required improvements. The financial guarantee shall be based on a county approved engineering cost estimate for the completion of required improvements as approved by staff prior to Final Plat recordation. All improvements shall be installed and ready for acceptance within eighteen months of recordation.
10. The applicant will be required to provide a Landscaping Plan for revegetation of disturbed areas, prior to Final Plat recordation.
11. All utilities shall be underground. This shall be noted on the plat, covenants and disclosure statement.
12. The standard County water restrictions, final homeowner's documents, and disclosure statement must be recorded with the final plat.
13. Any subdivision signage will require a Sign Permit, and all signage must meet the

- requirements of the Code.
14. Driveways shall not exceed 11% grade.
  15. A 30,000-gallon water storage tank will be required for fire protection.
  16. Sprinkler systems will be required in each residence per the Urban Wildland Interface Code.
  17. Water contaminants exceeding Secondary Maximum Contaminant Levels (SMCL) shall be noted in the disclosure statement along with the contaminant level, the SMCL of the contaminant, adverse effects for domestic water use and recommended treatment to reduce the contaminant level to or below the SMCL.

CHAIRMAN MONTTOYA: Okay. Questions for staff? Commissioner Stefanics.

COMMISSIONER STEFANICS: Thank you. Going back to the second recommendation from the CDRC, could you cite for us their rationale for their second denial?

MS. LUCERO: Mr. Chair, Commissioner Stefanics, the CDRC didn't really give an explanation for the denial. We gave our testimony. They saw the water quality analysis that was prepared and the recommendation from the County Hydrologist and their decision was made for denial.

COMMISSIONER STEFANICS: So Mr. Chair, did staff identify to the CDRC their position?

MS. LUCERO: That's correct, Commissioner Stefanics.

COMMISSIONER STEFANICS: And the CDRC did not identify their concerns.

MS. LUCERO: Mr. Chair, Commissioner Stefanics, they didn't identify any other concerns than what was brought up at the first meeting of the CDRC, which was the water use. But there was nothing new that was brought up by CDRC.

COMMISSIONER STEFANICS: Thank you, Mr. Chair.

CHAIRMAN MONTTOYA: Okay. Commissioner Holian.

COMMISSIONER HOLIAN: Thank you, Mr. Chair. Vicki, I actually have some questions for our County Hydrologist. Is there any chance I could ask our County Hydrologist questions?

MS. COBAU: Mr. Chair, Commissioner Holian, the County Hydrologist isn't here tonight and we do have a memo from her and we have spoken with her, both Vicki and I. And while we can't answer particular questions you may have regarding radionuclides or anything that she can so adequately and expertly speak to, we feel that we can represent the project having water availability and they've done everything per code to address the County Hydrologist's requirements in this case.

COMMISSIONER HOLIAN: Well, I guess a question I have, and I'll just put this on the record. It probably is hard to answer without the hydrologist is why was the water availability calculated using geologic data from one well and a pump test from another well?

MS. COBAU: She didn't point that out in her review member, and had she had concerns I'm sure the County Hydrologist would have expressed them in her written memo.

COMMISSIONER HOLIAN: Okay. Also, maybe you could actually tell me – it was a little difficult going through the water quality test, but what the total dissolved solids was for the two wells that were tested.

MS. COBAU: Give us just a minute and we'll find out. Mr. Chair and Commissioner Holian, the applicant's hydrologist is here and he may be able to address some of these questions. He might be a more appropriate expert than us.

COMMISSIONER HOLIAN: Okay. Thank you. I'll just wait. I guess that's all.

CHAIRMAN MONTOYA: Okay. Commissioner Anaya, Commissioner Vigil? Okay. If the applicant would come forward please.

ROSANNA VAZQUEZ: Good evening, Commissioners, Mr. Chair. My name is Rosanna Vazquez and I'm here on behalf of Sandstone Pines and Mr. Melvin Varela, one of the owners, is here with me tonight, and we do have our hydrologist who I hope will be able to answer some of your questions, Commissioner Holian.

I'd like to take care of some preliminary matters first. There is a letter that was not included in your packet and it was the letter that I sent out to the neighborhood requesting two separate neighborhood meetings, one in Pecos and one in Santa Fe to try to address some of the concerns. *[Exhibit 5]* I'd like to add this as part of the record. It was submitted at the CDRC but it is not in the record now.

In response to the concerns that this Commission had we did go back to the CDRC. Prior to going back to the CDRC there was an additional water test done and there was no sign – the concern was that there was radon in the water. And there was no radon showing in the water after the second test was done. So that was an additional test to the one that was already completed on the well.

You asked us to have a couple neighborhood meetings with the neighbors and see if we could address some of the concerns. The letter that I've given to Commissioner Montoya sets forth the two meetings that I tried to have. I did certified mail and regular mail each letter out to everybody to make sure that they were received and I've given the certified mailings to the County. And I did not have anybody appear at any of my neighborhood meetings, although the food at the Casa de Herrera is very good, because I ate an enchilada there.

The last concern really was one of the neighbors really wanted some information on the water quality. I did mail it to him – Mr. Hannah, he is from the Environment Department, was not able to be here tonight but I want to make sure that the record reflects that a copy of that water quality report was sent to him.

Commissioners, this development meets the requirements of the code. There's been a lot of confusion and a lot of controversy about this subdivision because of prior subdivisions that were on some of this land, including some of this land. This is not the Kingsmill Subdivision. This is not the Las Animas Subdivision that this Commission heard back in 2004. There are some distinct differences between those subdivisions and I'd like to point them out for the record. First of all, the Las Animas Subdivision in 2004 did receive a positive recommendation for water by the OSE, and I want to make sure that that's clear. That is in your packet.

The Kingsmill Subdivision was 51 acres and there were 19 lots. We are looking at 43 acres and 13 lots. Our gross density is actually higher than Kingsmill or Las Animas with a gross density of 3.59 acres. The geohydrology report that was done supports a lot size of 3.13, and our average lot size is about that size.

There are two affordable units in compliance with the affordable housing ordinance. They are on very large lots – 1.21 acres and 1.43 acres. The affordable units don't need to meet the minimum density requirements so long as the entire subdivision does. These affordable units are three-bedroom units and two baths, which is the demand that's out there on affordables at this point.

In addition, and a way to distinguish this case from Kingsmill and Las Animas is that there was an additional well drilled and it is that additional well that was looked at for pumping. And Commissioner Holian, you're correct, the Kingsmill well was used to determine the aquifer characteristics. I do not believe it was the only well looked at for aquifer characteristics but because there was such a concern by staff in the initiation of this development that's what was looked at initially.

So there are very distinct differences in this subdivision and there have been some concerns that were raised in the past with regard to terrain management, and I just want to point out, in your packet, and it's not numbered, but it's the earlier plat. It is numbered. NB8-16. For the record I want to make clear that the concerns of drainage are with regard to a neighbor who lives in Lot 2 and Lot 3. And if I just may point you to it and if I may approach. The neighbor who was concerned lived in one of these two lots; I'm not sure which one of these lots he lived on. That was a subdivision that was created prior to this subdivision. The submittal for Sandstones includes a series of retention ponds in order to be able to capture any of the water after construction and to allow that the water from this subdivision stay on the property.

I believe that that addresses the concern that the neighbor had and I do want to assure you that there is a condition of approval that we meet all other terrain management requirements and if you look through the record there are an extensive amount of conditions with regards to that.

The other important note about this subdivision is one of the concerns in the Pecos area is fire protection and the ability to have enough water in rural areas to stop fires. And one of the requirements of this subdivision is a 30,000-gallon tank which will be beneficial to the additional five lots that you see at the very bottom that are already developed, because those lots were not required to put any fire protection in.

Commissioners, I believe that this development has met all code requirements. It meets the requirements for water. Commissioner Stefanics, you're right. There was no reason given by the CDRC for denial of this case. There were a couple of questions which we answered and then there was a motion to deny, and there was a denial without a basis for such denial. And we were left with the same questions. But I believe we've met the requirements. We've done additionally what you've asked us to do and gone back down to the CDRC and done an additional water quality test on the other well. This is not Kingsmill and this is not Las Animas. And I would request approval of this subdivision. We do agree with all the conditions of

approval and I stand for questions if you have any.

CHAIRMAN MONTOYA: Okay. Questions for the applicant? Commissioner Holian.

COMMISSIONER HOLIAN: Mr. Chair, first of all, Rosanna, what is the price range for these lots?

MS. VAZQUEZ: The price range for these lots. I'm not sure. Hold on. Approximately \$125,000.

COMMISSIONER HOLIAN: And do you have any information about the total dissolved solids? How many – actually there are three wells on the property right now, correct?

MS. VAZQUEZ: There's going to be a total of four wells, and there was one on the property that was Kingsmill, and they're going to drill two more wells.

COMMISSIONER HOLIAN: So there's only one on the property in consideration, correct?

MS. VAZQUEZ: Sorry. There's two wells on the property. A shallow well and a deeper well.

COMMISSIONER HOLIAN: Okay. And what was the total dissolved solid measurement for both of those wells?

MS. VAZQUEZ: Let me see. It's in the report –

MS. COBAU: We've found it, Commissioner Holian. We've located. One was 553 and Vicki, what was the other?

MS. LUCERO: The other was 473.

MS. COBAU: And 500 is the maximum level allowed by code which is why the County Hydrologist is recommending treatment.

COMMISSIONER HOLIAN: Okay. And I guess this is a question for anybody. I noticed that you included the disclosure statement in our packet and there was no mention – it just said that the water was fine.

MS. VAZQUEZ: Commissioner, we will update that. That disclosure statement was the initial disclosure statement that was submitted as required. I believe this development has been going through the process since 2007. We will update that disclosure statement prior to plat approval with the required condition.

COMMISSIONER HOLIAN: Okay. And will there be any water treatment systems included in the – I suppose not. It would be up to each individual homeowner to put in a water treatment system, I'm assuming.

MS. VAZQUEZ: Should they want it, Commissioner Holian.

COMMISSIONER HOLIAN: Yes. Okay. Thank you.

CHAIRMAN MONTOYA: Okay. Other questions for the applicant? Okay. Thank you, Rosanna. This is a public hearing. If there's anyone who would like to speak on this case please come forward. How many people are going to speak? If you'd all come forward please, the ones that are going to speak and then we'll swear you in right away. We'll swear you three gentlemen in.

[Duly sworn, Andy Dalmy testified as follows:]



ANDY DALMY: Good evening, Mr. Chair, Commissioners. My name is Andy Dalmy. I live right next to this proposed property. I have a 40-acre plot that parallels this proposed subdivision. At the January 12<sup>th</sup> BCC meeting the CDRC was directed to re-review this case. They re-reviewed it and denied it again. This is the third time it's been denied by CDRC, once by BCC. The reason it was denied all along is water availability. They never demonstrated water availability or whether or not it would adversely impact surrounding wells. My well is 300 feet from one of the existing wells. I would like to also mention that at the January 12<sup>th</sup> BCC meeting staff indicated that the CDRC's decision was based on confusion regarding the history of the project. The previous and current hydrological determinations and that new information had been submitted at the CDRC meeting. None of those are true. The well was dug. The third well was drilled prior to the CDRC meeting and as I said the water issue has never been addressed.

I don't have the technical expertise but I do have my hydrologist here to answer technical questions. I would like to say I'm here because I'm afraid. My neighbors and I are afraid. Water availability has not been demonstrated by accepted hydrological practices, let's say. This is the same piece of property. You can call it Anasazi, you can call it anything you want. It's the same acreage that was reviewed in 2004 and denied. This is my only source of water. This is the only source of water any of us have in this area. The water is not a continuous aquifer. It's in little lenses. If this subdivision happens to tap into the same lens of sandstone where my water is and it dried up, I'm without water.

What happens if the people who buy property in this subdivision are in the same position? Where do we get water? Back in 2004 Dr. Wust, who was the County Hydrologist, recommended for this what was then a 50-acre four plots. The existing four houses and that's it. Now they're proposing 12 more. Like I said we're just afraid for ourselves. We don't want to see someone buy a pig in a poke and wind up with no water. I have – well, I'll turn the rest of it over to my hydrologist, Steven Finch, but I do ask you to deny this because if you don't, you may be – we don't know for sure. Hydrology is not a precise science, but you may be dooming all of us to a future with no water. Thank you. And I would like to introduce Steven Finch.

CHAIRMAN MONTROYA: Thank you.

[Previously sworn, Steven Finch testified as follows:]

STEVEN FINCH: Mr. Chair and Commissioners, my name is Steve Finch. I'm the senior hydrogeologist for John Schumaker and Associates, and I represent Mr. Dalmy. And I'm just going to be real brief. I wanted to add a little history in here to clarify some of the reasons why water availability has changed to where it looks like there's water available for a subdivision now, whereas it wasn't before. If you only just go back, if you had the same County Hydrologist for the last ten years then they would understand why there's not enough water, because the previous ones did, but the new one doesn't because they haven't been looking at the same details that the previous hydrologist did.

Back in 1999 for the Kingsmill Subdivision, Glorieta GeoScience, a consulting firm here in Santa Fe did a report on that property and they concluded that it was shale and

mudstone with some sandstone lenses and that no water was encountered in the Madera Formation, which is a formation about 550 feet below the land surface of that subdivision. So essentially you have an aquifer with nothing underneath it. When the water availability was recalculated for the Las Animas Subdivision, that part of the whole drill that didn't have water was not counted as part of the saturated thickness because there was no saturated thickness in that lower part of the hole.

Subsequently, the Sandstone Pines Estates drilled an 800-foot well which from 550 feet down to 800 feet is Madera Formation, which has no water in it. That was counted as having water. That's why all of a sudden there's a new amount of water that's available that wasn't thought of before. That well has not been tested. It appears to me that that well is also essentially draining off the shallow aquifer because the depth to water in it, the static level is much lower than the surrounding wells. That means it's kind of like naturally draining down into that part of the formation that doesn't have any water.

These are very critical concepts in the local hydrogeology that weren't considered in this most recent application. And I thought that would be very important for you to understand. The other thing I would like to point out that Dr. Wust and I had determined from the pumping tests performed on the other wells that were used as part of the analysis for the Sandstone Pines Estates, and that is when they pumped the wells they didn't fully recover. When they don't fully recover it means either the aquifer has limited storage or no recharge, or both. So that's also another problem that hasn't been pointed out.

There are many other things I think I could point out to say why there's not enough water for the subdivision, but the most important thing is the potential impacts it could have on Mr. Dalmy, if it would dry up his well, and I would like to go back to a letter from the County Hydrologist, April 5, 2004. He said essentially there's not enough water for the Las Animas project or subdivision, and that if future applicants wish to assert sufficient water availability and well productivity without impairment of nearby wells they will need to conduct a pumping test and draw-down model for well 3364. Such a model needs to predict draw-down of both the subject well and the aquifer and surrounding properties, which means he understood that there would be impacts, or there needs to be a look at impacts to neighboring properties. That work was never done. It has never been submitted as part of what we see now at Sandstone Pines Estates. That's all I have as far as hydrology. If you have any questions I'd be more than glad to answer them.

COMMISSIONER VIGIL: Are there any questions? Okay. Next.

[Previously sworn, Leonard Gomez testified as follows:]

LEONARD GOMEZ: My name is Leonard Gomez. I live in Las Animas Subdivision. I live in Lot 2. I'm actually the individual who had the concerns about the terrain and the drainages that were happening. I totally agree with what they're saying about the water availability. The well that we have there has never been tested to my knowledge. I have never had anybody come knock on my door. This lady sent that she sent letters out to all the neighborhood. I'm part of the neighbors. I live in that subdivision. Three of my neighbors [inaudible] couldn't get a hold. The other two neighbors I did speak to, they never got a letter

about some neighborhood meeting or something. I've been coming to these meetings, my address has been given, at one of the other meetings they were told to speak to me about the drainage at the last meeting. They still haven't come to talk to me about that. That concerns me deeply. They're saying they're going to do this and they're going to do that. They haven't even contacted me. She says she's sending certified letters. I've never seen one.

One of the other neighbors [inaudible] never even got the notice of any of the hearings. Yes, they were posted. They're supposed to be in the newspapers, but they sent the letters out and they didn't do that as well.

The terrain where I live and what I'm also concerned about is because when they did the Las Animas Subdivision, the well, where it sits, the main culvert, is where most of the drainage is going to come from the top of that area, is going to go straight – if you look a the way the lay of the land comes, it goes basically right into our subdivision. And I've never seen anybody from the County's gone out. I don't even know if the County's gone out and actually looked at it. But the whole culvert – I've actually installed three separate sized culvert because of the drainage that's come up. The first year I moved there all that drainage goes down into the well. It literally fills the well.

There are two big old transformers that are sitting there. One of them has since sunken and all that water drainage is going right in there. I don't even know how it even got past approval. The well itself is below ground level. I called the State. I called the County. I called everybody I could think of. I called the developer. I called the people who graded the road. Who's responsible? I need to get these culverts [inaudible] this is a dangerous position. I've got kids that are there. There's transformers are going to get really soaked and it's going to cause a really bad hazard in that area. I don't even know who to contact as far as getting the ditches rerouted or what I've got to do for that. But that drainage if going to be very, very dangerous in the future. I see that as well.

The water availability. I'm totally concerned about that. I want to be able to pass this property on to my kids and their kids in the future. We're going to live there. So water availability – yes. Nobody's ever tested the well. They haven't tested the draw. Since I lived there, I purchased the property I think it was in 2005, I have noticed there have been a couple times where there's been silt built up inside the toilets or coming from the bathtubs after you've drained them out. So that's all I've got to say.

COMMISSIONER VIGIL: Thank you. Still taking public testimony, Mr. Chair. Is there anybody else?

CHAIRMAN MONTOYA: This public hearing is closed. Any other questions for the applicant?

MS. VAZQUEZ: Can I rebut?

CHAIRMAN MONTOYA: Sure.

MS. VAZQUEZ: With regard to some of the comments made by the engineer, Steve Finch, I will quote directly from the hydrologist's letter, the current hydrologist who reviewed this. I would object to any comments made by any prior hydrologist when it is not even related to this specific subdivision. Again, people are relying on a prior subdivision

which was different acreage, different number of lots, and a completely different well. But I will quote to you what the hydrologist from Santa Fe County said. "The applicant used a storage coefficient of .02 for the model, which is not appropriate for a confined condition. The Theis model was rerun using a storage coefficient of .001 for confined condition obtained from Driscoll. Based on this analysis there is sufficient water column to withstand the proposed pumping from the wells in this application and surrounding wells."

I will also quote the staff recommendation from Ms. Laurie Trevizo and Karen Torres, both the hydrologist and the water resource specialist, "This project has demonstrated sufficient water quality, water availability and meets all water quality standards." Also for the record I'd like to quote the Office of the State Engineer, which, by the way, disagreed with Steven Wust's interpretation on Las Animas and actually approved the water availability in the Las Animas Subdivision in 2004. It's page 2 of 3 of the Office of the State Engineer's approval of the water hydrology. As previously noted, the developer submitted a hydrology report as required. The report was in conjunction with 1999 Kingsmill Subdivision, and updated in 2004 for Las Animas. The current proposal contains revised draw-down calculations for 100-year pumping schedule that was not included in the 2004 submittal. The 2002 and 2004 OSE reviews of the report concluded that adequate water is available to serve the development.

You have the Office of the State Engineer, you have your County Hydrologist, you have your water specialist review having looked at this subdivision and Las Animas and given an approval with regard to water availability. I want to make clear to you that the geological aquifer characteristics were looked at in all three wells, Commissioner Holian. I did check with my hydrologist with regards to that. And for the record, I just want to object that there are a lot of documents in this staff report that go back to Kingsmill and go back to Las Animas, which have no relevance to the current subdivision and for purposes of the record I want to make that clear, and I want to include the letter that I submitted to the neighborhood association [*Exhibit 5*] and also point out to you that the most current hydrology letter from your hydrologist is dated January 12, 2010, and is in the back of the packet. There is an earlier one which should be withdrawn, June 12, 2009, because it was revised in January 12, 2010, but they're both in the packet and for the record I want to make that clear. Thank you, and I stand for questions.

CHAIRMAN MONTTOYA: Any other questions for the applicant?

Commissioner Holian.

COMMISSIONER HOLIAN: Mr. Chair, I would like to make a motion.

CHAIRMAN MONTTOYA: Okay.

COMMISSIONER HOLIAN: I would like to make a motion to table the case.

I feel that the water situation there is truly tenuous. I know from first hand experience that it's tenuous. And I feel that for the safety of the neighboring residents and for people who might buy into this property that it is really crucial that we get the answer right to this. And so first of all, I would like to direct our staff that at the next meeting that our County Hydrologist come so that we could ask questions if we have any, and also to look at the drainage problem

there. It does sound very serious and it sounds like it hasn't been improved since our last meeting on this.

Secondly, I would like to direct the applicant that they actually do perform a pump test on their producing wells and monitor the neighboring wells when they do that pumping test. It seems to me that that is an absolutely crucial piece of information that we need to have in order to make a good decision on this in the future. Also, I would like them to do some research. I'm still concerned about the total dissolved solids and I would like to know what kind of water treatment system would be appropriate for that, what kind people normally use for that, and how that would lower the amount of water availability, because I know that certain water treatment systems end up – you don't get – if you pump two gallons you don't get two gallons out from the water treatment systems. So that's a concern of mine as well.

And I guess those are the things that I would like to have answered. Thank you.

COMMISSIONER STEFANICS: Mr. Chair.

CHAIRMAN MONTOYA: Commissioner Stefanics.

COMMISSIONER STEFANICS: I'm going to second the tabling motion. I do feel that the staff that put together the materials – I thank you very much, but I really think that we have some water questions that have not been answered and I'm a little disappointed about the CDRC and we can't do anything about that in terms of understanding where they came from. But in terms of our own staff, and especially around the water, I just think that that's the big question. Thank you very much, Mr. Chair.

CHAIRMAN MONTOYA: Okay, we have a motion by Commissioner Holian and a second by Commissioner Stefanics to table.

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

COMMISSIONER VIGIL: Mr. Chair, I think that I heard that they've had meetings with the community. Some of the testimony said they didn't receive the letters.

MS. VAZQUEZ: That letter was returned to us. It was not picked up certified, and I have certified mailed his letter several times.

COMMISSIONER VIGIL: Now that he's here and some of these residents have testified maybe the contact could be made.

MS. VAZQUEZ: That's fine. Okay. Thank you.

- XIV. A. 6. CDRC CASE # Z.09-5520 NM Boys & Girls Ranches Master Plan.  
The New Mexico Boys & Girls Ranch Foundation Inc., applicant,  
Consensus Planning, Agent request master plan zoning approval  
as a community service facility for a consolidated residential  
school facility consisting of student, staff, administration and  
transitional housing, a school and administration building, and  
accessory uses totaling approximately 115,200 square feet on**

**964.34 acres. The property is located on County Road 22, west of State Road 344, north of Cedar Grove, within Sections 3 & 10, Township 11 North, Range 7 East (Commission District 3)**

MS. LUCERO: Thank you, Mr. Chair. On February 18, 2010, the CDRC met and acted on this case. The decision of the CDRC was to recommend approval of this request. The applicant is requesting Master Plan zoning approval as a community service facility for a consolidated residential school facility consisting of student, staff, administration and transitional housing, a school and administration building, 4-H barns, a chapel, a pavilion, a greenhouse, a maintenance shop, a solid waste recycling facility, and a wastewater treatment facility totaling approximately 115,200 sq. ft. as well as an outdoor active recreation turf area. The project will be completed in 3 phases over a 20-year build out period.

The applicant was originally requesting a variance of Article III, Section 4.4.4.c (Maximum Height Standards) of the County Code to allow a 58' tall Administration/School Building. However, after hearing the concerns that were brought forth the applicants withdrew their request for the variance during the CDRC meeting. They have agreed to meet the code permitted height of 24'.

The applicant states that the New Mexico Boys & Girls Ranches provides residential and educational programs for youth in middle school and high school with the goal of providing a safe, supportive environment where these children can acquire the skills and values to become competent, productive, happy, well-adjusted adults. The organization has been helping disadvantaged children and teens by providing a safe living environment, individualized education, and counseling services since 1944.

There are three existing ranch sites, one in Belen, one in Santa Fe County near Lamy, and one in Clovis. The Ranches have acquired the subject 964 acres in order to consolidate the three existing ranches into a single property.

This application was reviewed for access, traffic, parking, water, fire protection, liquid and solid waste, terrain management, signage and lighting, landscaping and archeology.

Recommendation: This application is in compliance with Article V, Section 5.2 of the County Land Development Code, and all other requirements of the County Code. Staff recommends master plan zoning approval subject to the following conditions. Mr. Chair, may I enter those conditions into the record?

[The conditions are as follows:]

1. All redlines comments must be addressed
2. Compliance with applicable review comments from the following:
  - a) State Engineer
  - b) State Environment Department
  - c) State Department of Transportation
  - d) County Hydrologist

- e) County Fire Marshal
  - f) State Historic Preservation Division
  - g) Development Review Services Comments and Conditions
3. Master plan with appropriate signatures must be recorded with the County Clerk.
  4. A discharge permit from NMED must be obtained prior to final development plan approval.
  5. A solid waste disposal contract must be submitted prior to final development plan approval.
  6. The applicant shall comply with the County's rainwater harvesting ordinance.
  7. The development must comply with all signage, lighting, and landscaping requirements of the County Code.
  8. Applicant must address Parking Design requirements at preliminary development plan.
  9. A signage plan for the internal road network shall be submitted at preliminary development plan.
  10. Engineered plan and profiles for the internal road network shall be submitted at preliminary development plan.
  11. The Traffic Impact Analysis must be updated with each phase of the development and offsite improvements must be provided as required by the NMDOT
  12. A Stormwater Pollution Prevention Plan must be submitted.

CHAIRMAN MONTOYA: Thank you, Vicki. Questions for staff? Okay, if the applicant would come forward please. And are you in agreement with the conditions and all that has been outlined by staff?

KAREN MARCOTTE: Yes, Mr. Chair.

CHAIRMAN MONTOYA: Okay.

[Duly sworn, Karen Marcotte testified as follows:]

MS. MARCOTTE: Good evening, Mr. Chair, members of the Commission. It's been a long night and you've already been through a lot so I'm going to try and do this as quickly as possible and then be available for any questions that you might need. My name is Karen Marcotte. I'm a co-founder and a principal planner with Consensus Planning. We're the land planner for the New Mexico Boys and Girls Ranch. We have representatives from the Ranches here and we have the project engineer, the project architect and the archeologists are all here if you need to ask them any questions. I'm going to give you a real quick, brief overview. I'll try and skip through some parts to save on time, and then we'll be available to respond to some of the issues that are raised. I would like to request a chance to get up and respond to issues and questions raised during the public testimony at the end if there's any clarifications that are needed.

A quick note about the process. The Ranches have worked with former Governor Bruce King and former first lady Alice King to acquire this land and the water rights for this



property. Alice King was a board member of the Ranches and was critical in getting the Girls Ranch side of operation operational. This is really a legacy project for the Kings and we're sorry that they couldn't be with us today to see this milestone in the project. I know they would have been proud.

This application is the culmination of a very long effort. The Ranches have been working on it for many years. We have worked with the community on this specific application for the last seven months since last September. I've included in your handouts [Exhibit 6] a summary of our neighborhood communication efforts. We have gone above and beyond the requirements for neighborhood coordination, including renting a community center and hosting an informational meeting that we advertised in the local newspapers. A list of all that outreach is in your handout.

There also was a petition that was signed in opposition to the height limit and some other issues at the CDRC meeting. We also notified everybody who had signed that petition. Interestingly enough, at least 25 percent of those packets came back as undeliverable. I know there's another petition going around this evening and in the last week and so we'll just have to look and see what signatures are on there and how they match up with the actual addresses I guess.

We still do have opponents and I was hoping like some of the Commissioners have said earlier for another case that that wouldn't have been the case, that we could have worked things out, but it seems that while most of them say they approve of the Ranches in theory they don't want this change anywhere near their backyard, and there's not much we can do about that. The land is where it is.

We've also heard from a number of supporters in the area. Some of them are here. Some of them were not able to attend. Nicky Kull with the Ranches has a couple of letters from supporters that she can enter into the record at the appropriate time. I think the important point is that there are many opinions out there and not everybody agrees on this case one way or another. We've heard a lot of different opinions about it.

What is before you today, as Vicki noted, it's master plan zoning, so we're at the beginning of a process. We have to come back to you many times for development plan approvals. We're trying to establish a framework plan for the land so that the Ranches know that they can go forth and use their land for their intended purpose and they can do the fundraising necessary to build this project. And they need that master plan zoning in place first.

As you can see from the master plan on the board there and in your packets it lays out the land uses and Vicki read those to you. The school is designed to be a rural, ranch-style living and learning environment, so the youth raise 4-H animals, they've been involved in equestrian programs, they raise vegetables and learn basic skills and responsibilities. We believe location in a rural area is very appropriate. The other ranch facilities were outside of town for that same reason; they were in rural areas.

The school is on 964 acres of land, almost 1,000 acres, although the campus is clustered on less than 100 acres of that site. This means that only ten percent of the site will



be developed. Ninety percent of this site will be preserved as open space, which is truly extraordinary. The views and the mountains will remain undisturbed, and in my over 30 years of working as a planner on master plans I've never seen one where 90 percent of the site was preserved as open space.

The main school building is over 1800 feet away from the southern property line and will barely be visible, if at all, and the image over here, and it's in your handout Commissioners, that shows this view of the mountains with just a little bit of speck of white back there, that would be the school building as seen from the southern property line which is right here. So you can see that there's a very substantial setback for that school building, and now that we have agreed to reduce the height to 24 feet to the code it's probably not even going to be visible, or maybe a glimmer of an edge of it will be visible between trees.

The campus is designed for sustainability. It minimizes grading and clearing. It uses recycled water for irrigation. It incorporates water harvesting and minimized paved areas. It promotes energy efficiency and it retains most of the existing vegetation.

Who are the Ranches and the youth that attend? Vicki described that a little bit, that it's been in place since 1944 helping disadvantaged children. Letters of support were presented prior to CDRC from the existing neighbors of the ranches from their site south of Belen. They know what good neighbors the Ranches are, how they have never had even one incident of concern, and this is through a couple of generations of a family that have lived next to the Ranches. Not one incident of concern, ever. And they appreciate in fact how the Ranches contribute to the community. How they've opened up their campus for community events, how they've had equestrian events and rodeos and barbecues on their land, and have otherwise been an asset to the community.

As Vicki noted, the Ranches accept middle school and high school youth. They enter the programs voluntarily. There have been rumors going around the neighborhood that these are children that have come out of prison. That is absolutely not true. Many have experienced extreme poverty. Many have been in inadequate family home situations, or they need a more structured or safe environment. A lot of times they just need a better shot at a family than maybe the one they were dealt.

A personal story about the youth from design charettes that I worked on. I worked with the kids on identifying the attributes of the Ranches that they liked today, in the current program, and if they could design a new Ranch campus what would be the most important thing for them. I do a lot of planning with teenagers on youth programs. They typically will ask for skateboard parks and swimming pools and big screen TVs and video arcades and theme parks and things like that. Bike racing tracks. These youth wanted a safe place to live where they wouldn't be in danger. Some of them wanted their own bed. Many of them mentioned having dinner every night. Having food every night was very important and so we had to remember to put kitchens in the cottages. They wanted the 4-H barn so that they would have some animals to care for. And some of them just wanted someone to talk to, that they could talk to about their problems.

In other words they wanted very basic health and safety issues as a second chance on

their life from the inadequate situations that they came from. One of the goals of course is to get the kids to graduate so they can move on and go to trade schools or college or get jobs and become responsible adults in the community. Many of the youth come from southern Santa Fe County and the Edgewood area and they just need a second chance at a home and school environment.

They live in residential cottages and I included a rendering of that over here and you have it in your packet. The residential cottages also have a resident married couple in each one and the youth learn responsibility and values consistent with the rural character of the area. With regards to the approvals and the technical studies, we have received a recommendation of approval from staff, with review and approval recommended on a number of technical studies including traffic studies that were approved by both DOT and the County. We received a unanimous recommendation of approval from the CDRC after a very lengthy hearing in February. We do agree with the findings and the conditions in the staff report, Mr. Chair, as you asked, and we are willing to comply with those conditions. Many of the technical issues have been addressed at this master plan stage but we know lots of additional studies are coming in the preliminary development plan stage when we come back with specific development plans. We agree with this and think that some of the neighbors who still have remaining questions and want more technical detail will see it when we come forward at the appropriate time.

We have been talking to the neighbors about a lot of technical issues, as Vicki noted. We talked about fire danger and water supply, terrain management, traffic, building size, building density, parking, archeology, lots of other issues, but rather than go into those details with you at the end of a very long night I'll just respond to any that you have questions on.

CHAIRMAN MONTOYA: Okay. Questions for the applicant? Okay, seeing none, this is a public hearing. How many people are going to testify?

MS. MARCOTTE: Mr. Chair, also, if I could, there was a legal letter submitted with some allegations about the legality of moving forward with this case and if you have questions about that or if that attorney is here and wants to discuss those issues I'd like to address that as well.

CHAIRMAN MONTOYA: Okay. Thank you. Commissioner Vigil.

COMMISSIONER VIGIL: Mr. Chair, I was wondering, of those who held up their hands, how many are for this project? How many are against it? I wonder if we could create a limitation of time, Mr. Chair.

CHAIRMAN MONTOYA: Okay. That's a good suggestion. Maybe 15 for, 15 against. Fifteen minutes of testimony for, 15 against. We do have to get through this deliberation at a reasonable hour so we're not keeping everyone including our families waiting for us and for you. So if you'd – I'd suggest that whoever is opposed to it and wants to testify, if you'd please come up to the front and sit over here, and then we'll have you sworn in. And I'm going to ask that the testimony be original. If we start hearing the same thing over about water and about sewer and about roads and that sort of thing, I just ask that you give us something original in terms of your testimony. So all these that are opposed if

you'd get sworn in please. And before we get started is Edgewood Councilor Rita Loy Simmons, is she still here? Thank you for joining us Rita. Thank you for being here this evening.

JOSEPH KARNES: Good evening, Chair Montoya, members of the Board. Joseph Karnes, 200 West Marcy Street. I'm here tonight on behalf of the South Mountain Neighborhood Association, a group of property owners in the vicinity of the proposed 960-acre master plan zoning project. We brought obviously – a lot of people are here in opposition to the project tonight, have been here since the afternoon. In light of the late hour we've done our best to hone down the number of speakers and to get to the points you addressed, Chair Montoya. So my understanding is out of the people I've been working with we have four speakers and they're going to speak. I'll speak at the end and give my wrap up presentation. I'll keep it very brief. But we've done our best. If the people who are in opposition could stand up and be acknowledged. Most of them I'm sure have something to say at this late hour but their not going to speak. So if you could all stand up. [Approximately 25 people stood.] All these folks came up from Cedar Grove tonight, this afternoon, and so that's a long way. So thank you. So we'll try to keep it brief and to the point and address original issues. And so at the end, with your indulgence I'll speak last and we'll go through the speakers that we have. Thank you.

CHAIRMAN MONTOYA: Okay.

[Duly sworn, Melissa Snyder testified as follows:]

MELISSA SNYDER: Good evening Chairman, good evening Commissioners. Thank you for your patience today. It's been a long one for all of us I know. I will make this as brief as I possibly can. Incremental losses of agricultural land, open spaces or habitat rarely have measurable or predictable impacts.

CHAIRMAN MONTOYA: Excuse me, could you state your name? I ask that all of you who have been sworn in state your name and address prior to beginning your testimony.

MS. SNYDER: Excuse me. My apologies. My name is Melissa Snyder. I live at 29 Vista Sierra, that's in Edgewood, 87015, and I am in Santa Fe County. I guess I'll begin again. Incremental losses of agricultural land, open spaces or habitat rarely have measurable or predictable impacts. It is the cumulative impact of many of these decisions over time that have profound effects. Commission Chairman, Commissioners, this is a direct quote from Chapter 6, paragraph 1 of the Sustainable Land Development Plan. I've read it all. It's a great document. This is from the executive summary draft and you're being presented with one of those first critical decisions.

We the citizens of South Mountain community come together to share with you the foreseeable negative impacts this requested zoning change, water rights transfer and master plan approval would have on our community, some of which are measurable and predictable, others of which are subjective but of no less importance. We feel this decision would best be made within the guidelines of the Sustainable Land Development Plan, but that is only one reason we ask that you table this rezoning and master plan request, for it is circumstances

such as these for which that plan was made and more deliberations needed.

The key issues at stake are reliance on groundwater wells, protection of watersheds, preservation and definition of zoning standards, protection of wildlife habitat and irreplaceable archeological sites, and lots of community character, instead of honoring existing community plans. We as a group would be pleased to present you with hard numbers to base our objections on, however, the facts that we get from Consensus Planning are constantly changed as though to leave us no solid ground to stand on. This is one of the reasons we don't view the Ranches as good neighbors that they purport to be. Good neighbors do not mislead other neighbors. One thing is certain, however, there is a gaping lack of reliance information on the measurable impact this facility will have on our water, wastewater system, erosion to the surrounding land, fiscal impact, traffic, noise, and light pollution in our community.

Community service facility zoning includes a daycare, a home for the elderly, a church. This zoning title is not consistent with the 28 buildings, almost 200,000 square foot residential treatment facility compound that is depicted in the master plan submitted by Consensus Planning. I know they tell you it's 115,000+. We have that. And I would like to hand out some examples to you. *[Exhibit 7]* I'll refer to that map in just a moment.

CHAIRMAN MONTOYA: We're at about ten minutes relating for the opposition.

MS. SNYDER: Yes, sir. Currently the area is zoned rural fringe which would allow of only one house for every 40 acres. If developed to capacity as currently zoned seven houses would occupy the space instead of the 28-building complex with 12 cottages that are three times the size of many homes in the area. My aunt Julie had a saying, the devil is in the details. If we take what Ms. Marcotte says at face value, all seems fine, but let's look at the details. Your first two pages are from the transcript of February 18<sup>th</sup> of the CDRC. On February 18<sup>th</sup> Consensus Planning told the CDRC the campus is set back more than 1800 feet away from the southern property line, providing a substantial buffer. In fact, she called the buffer very significant and neighborly.

In actuality, if you go to the next page you will see there are 11 buildings totaling 25,480 square feet, and an athletic field within that neighborly buffer, which brings the total to 83,340 square feet of campus building and development south of the 1800-foot buffer that Ms. Marcotte says existed. This does not even take into consideration the size of the wastewater facility treatment, solid waste recycling facility, whose dimensions remain to be determined. Perhaps most importantly, the septic leach field or any septic system will be south in that supposed border. South and downhill from that are residents who have wells, who fear they may become contaminated because of the close proximity.

The San Pedros were formed by both volcanic and seismic activity as well as being tilted and uplifted by expansion. It's what is called fractured mountain. It means the water, rainfall and the snowmelt percolates into the ground through fissures rather than running off or being perc-ed in the normal fashion. The water carried to the aquifer without being filtered through the ground carries waste with it directly into the aquifer.

We have asked Consensus Planning what their plans are to assure residents that their drinking water will not become contaminated. They say they're still trying to decide as of last week. While the administrative building is 1800 feet away from the southern property line it is in the middle of the development. If you look at the map there is a line drawn across where that 1823-foot marking is. That's an enlargement of the map we got out. I had to get out a microscope practically to read all the square footage to add it up for you. A whopping 42 percent of the square footage of the campus is in the buffer zone. Ms. Marcotte told the CDRC that as a residential school there would not be a lot of traffic at this site. Using numbers they have provided to us of staff and students, a conservative estimate there will be 1676 cars passing each week.

Make no mistake, Ms. Marcotte says she's been in this business 30 years. Consensus Planning knows exactly what they are presenting and what the reality of the situation is. If the veracity of these very important aspects of this plan are in question, how can we be sure of anything Consensus Planning has told us? These misleading statements were made to the CDRC in order to push this project through before the SLDP is in place no matter what it takes.

Mr. Chair, Commissioners, can you sign your name to the approval of rezoning and a master plan that is incomplete at best and in reality is deceptive. The devil is in the details. Our existing community plan and community character cherished for years by many will be lost forever if this facility is installed. We reside at the base of a steep mountain that is the home to mountain lion, bear, mule deer, fox, bobcat, skink and a variety of lizards and snakes. I know this because with the exception of the mountain lion I have seen every one of these animals in my yard. Some of these are on the threatened and endangered list. If this area is rezoned as requested these animals will disappear from our community moving on to less occupied areas with less human traffic, thereby shrinking their habitat and robbing us of the unique experience of living side by side with them.

At 300+ occupants a significant number of service workers and visiting parents, this development will outnumber our residents making rural residential and rural fringe no longer the priority for the area when it comes to future decision making, setting an irretrievable precedent, not only for our area but for the entire county. Our community needs are not the same as the Ranches'. They are oftentimes divergent. All of the impact studies requested in the Sustainable Land Development Plan are applicable here. All conducted by independent, unbiased firms. The statistics of projected water usage alone given by the Ranches are unrealistic. Gary Keller, the senior water resource specialist for New Mexico Office of the State Engineer Water Use and Conservation Bureau has noted the inconsistency and insufficiency of that information, as you'll see in your packet.

I do not envy you your position. You are receiving great political and emotional pressure to approve this plan. Mrs. King's vision is a noble one. Our fight is not with the Ranches. Her vision can still come to fruition. All we are asking is that you table these requests until this rezoning request and master plan can be viewed under guidelines and information that is accurate and correct. These are still unknown. The wastewater method

alone is undecided and is of utmost concern to our neighborhood. A few months in a 20-year project and in a plan that has been waiting to happen and planned for ten years already is nothing, a few months.

Consensus Planning will have time to go back to the drawing board and finalize the unknowns. Then, if their master plan and zoning is up to muster, with the tests that are needed and the information correctly given, then we will have our answers. We will be satisfied. No person, no family, no institution, should be above the best interests of an entire community. To rezone this land at this time would be premature. If the zoning request and master plan abides with the SLDP guidelines, our concerns will have been addressed. Commissioners, I am basically reminding you of your own well crafted words, commissioned by you and the SLDP in appealing to you to see their relevance in this situation. You have the opportunity to preserve a habitat, an archeological site of significance, a community and a chosen way of life for the South Mountain residents while making a fiscally responsible and prudent decision. Incremental losses have profound effects. Please stop this first step. Table this zoning change request and master plan until more accurate and reliable information is gathered. Thank you very much for your patience.

CHAIRMAN MONTOYA: Thank you.

MR. KARNES: Thank you, Chair Montoya, I'll be brief. I'm going to speak basically about the process. I've submitted a letter that's in your packet. I know you've had a chance to review it. Process issues don't have as much to do with the specific environment impacts of this project as the meaning of your existing general plan and the SLDP. The existing general plan contains some specific directive language about planning within the Estancia Basin. *[Exhibit 8]*

It says, zoning criteria for the basin district will be established through a district planning process. That process since 1999 has not occurred. The plan states zoning criteria will not be changed while the district plan is being prepared unless there's a direct threat to the health, safety and welfare to the community. There's been no such threat demonstrated here. There has been an absence of planning in the existing general plan. And in the SLDP there's an absence or reference to this particular proposal. This proposal really falls between the cracks, and I want to read just a brief segment from the intro to the proposed general plan. It says, New, challenging issues today require Santa Fe County to be pro-active about how we grow and shape our communities. That's critical. We started this meeting talking about the importance of the general plan that's being prepared and this application has put us all in a very awkward situation.

We're not being pro-active. You're put in a position of being reactive to an application that's come up as a matter of expedience. It's not being directed by the general plan. The existing general plan prohibits what is being proposed without a planning process that has not taken place, and I would end by pointing out that people have spent tens, if not hundreds of hours being involved in the current planning process. Untold amounts of money have been spent on Dr. Freilich and the whole process. It's a very important process and what we're really talking about here is the meaning of the general plan.

People put in, some of the people in this room perhaps, put in those same hours and those same efforts in the 1990s to achieve adoption by this body of the existing general plan in 1999. The question is, what does that plan mean? The question is what does your new general plan mean?

If a decision is made to approve this rezoning application in direct contradiction to the language in the existing plan, what message does that send to the people who are involved in committing their time and efforts to the new general planning process. I leave you with that question. It's a real tough one. I struggled with it. I stressed it in my letter and I appreciate your consideration. I think that this application warrants involvement in the SLDP process. That's what should happen here. Right now, it is not informed. It's not pro-active. It's put you in a reactive situation. I appreciate your time.

CHAIRMAN MONTOYA: Okay. Thank you, Joseph. Now, if people who are in favor of this, if you'd decide how you're going to do your time. It's going to be 15 minutes again and we're going to keep track and cut it at 15 minutes. So if you'd come forward and be sworn in also. Again, as you approach the Mike for your testimony, please state your name and address for the record.

[Duly sworn, Rita Loy Simmons testified as follows:]

RITA LOY SIMMONS: I'm here as a private citizen. I am Rita Loy Simmons, Edgewood. 294 Broken Arrow Trail. I want to speak to stewardship. We're adjoining or in that vicinity landowners also. I come from a homestead family. I was well acquainted with some of the other homestead families that live out there. My mentors too.

Stewardship of the land, the water, and our children is what's at stake here tonight. We've struggled through those desperate years with roads, paving ten miles away, no gravel. And we survived very nicely. I don't think we were harmed by it. We understand land use. We followed the land planning through several changes from the 1970s and I understand the fringe area. I think that Tierra Encantada exists today in that fringe area as it was originally outlined by Santa Fe County, and that the ability to further divide the land was predicated upon the ability to deliver water. The water is delivered from a great distance away.

The legacy of the King family providing both land and water, and the water can come from as far as their ranches six miles away, and part of the legacy of the water delivered, the water system built by another family, actually mine, and in the hands of a cooperative who also shared the stewardship attitude. And having personally held hammer in hand to build sheds at the girls' ranch I'm very emotionally in favor of the stewardship that I'm acquainted with in my sense of keeping the Ranches on my charity list for the last 25 years. I personally believe that this is a very fine thing. I can't cite chapter and verse of all of the planning but I think that it should go forward as just a zone change. I think they will fall under other regulations as time goes on, but I think the zoning change should be allowed at this time. Thank you.

CHAIRMAN MONTOYA: Thank you. Next please.

[Previously sworn, Nicky Kull testified as follows:]

NICKY KULL: My name is Nicky Kull. I'm with New Mexico Boys and



Girls' Ranches. I've worked for this organization for 40 years. I have two letters of encouragement from people who live in the Edgewood area. I'm not going to read those to you. I'm just going to give one small comment.

Eduardo Martinez, who lives in Edgewood states that the Ranches will be a good steward of the land and its resources and will be a good neighbor to the community and a strong contributor to all the positive things that already exist in the community. At most it would take a moment to get to know [inaudible] their mission and the operations and their way of doing business then I believe much of the opposition voiced by residents would be rescinded.

We believe we had done an admirable job of planning. It's taken some time to do it and we feel like we've done it correctly and we would ask that you approve the zoning change.

CHAIRMAN MONTOYA: Okay. Thank you. Next please.

[Previously sworn, Aleta Niggeler testified as follows:]

ALETA NIGGELER: My name is Aleta Niggeler. My family and I live in Cedar Grove directly under South Mountain. We have a beautiful view of the mountain and very much welcome the Boys and Girls Ranch to our community. We are confident that our lovely views and lifestyle will not be impeded in any way. The newspaper articles that I gave you will show you the history of the ranches and Cedar Grove and their involvement with the Town of Edgewood, the Edgewood Chamber of Commerce, the State Land Management, Santa Fe County Open Lands and Trails Planning Committee, etc. *[Exhibit 9]*

These dates of the articles date back from 2004, 2005, and show that the Ranches did not plan behind closed doors as some have inferred. I met Mike Kull, the president of the Boys Ranch in 2004 when I first started a horse club in Edgewood which is still ongoing. Mike would regularly attend our meetings and discuss the Ranches' development in Cedar Grove. He shared his vision for equestrian facilities and activities in and around the ranch. He reached out as a good neighbor who wanted to participate in our community and encouraged the community involvement at the Ranches and the activities of its youth.

So imagine my surprise when I was told that there was a prison that was going to be built on South Mountain. A prison for young people. I understand that people are afraid of change and there seems to be a very prevalent attitude of not in my backyard. Unfortunately, this has stirred up a lot of misinformation. Last week I attended a community meeting that the Ranches held as a courtesy to address concerns. They explained their plans thoroughly and answered each question with utmost patience. I was shocked by the display of hostility and rudeness of some who attended. But these few voices do not represent most of my neighbors.

We believe building the Boys and Girls Ranch in Cedar Grove would be a wonderful benefit to our area because they will be incorporating many aspects that seem important to our lifestyle in Cedar Grove, such as the equestrian, 4-H barn, greenhouses and learning and respecting our natural environment. But most of all, what a wonderful way for all of us to get involved in something bigger than ourselves. By participating in making the Boys and Girls Ranch an outstanding success we will all be the richer for it. Thank you.



CHAIRMAN MONTOYA: Thank you. You have about seven minutes left.  
[Previously sworn, Mike Kull testified as follows:]

MIKE KULL: My name is Mike Kull. I'm the president of the New Mexico Boys and Girls Ranches. I'd just like to make a few brief points. We've been doing this now for 65 years. During that time we have never asked the state, County, federal, local government for a dime. We have helped literally thousands of children reach adulthood from some of the most unimaginable backgrounds you can think of without ever asking for government funding. And consequently the government has always been very – especially the state government has always been very good to us because we don't ask for much. But when we do ask for something they do give it to us.

I spent two years looking for a piece of land. There were only two criteria: a thousand acres, less than thirty miles from Albuquerque. I would not have found it. I didn't find it, until Bruce and Alice stepped forward and offered to sell us this piece of property. They donated half, we bought half.

In most states if you have a child that needs our services you'll pay from \$6,000 to \$12,000 a year to have your child in the place. We do not charge for our services. About a fourth of our kids are Native Americans. We've had children from every tribe and every pueblo. About 40 percent of our kids are Hispanic. The others are mixed and anglo. We try to teach the kids to be colorblind. We try to respect their religion of origin. Many of the kids come to us, especially the Native American kids, we take them to their feast days. We try to respect them as adults and as people and they repay us by respecting us.

My wife who you just heard from has worked with these kids for 40 years and there has never been a child that's touched her. These kids are not violent kids. They are kids who have been dealt a rough hand. They are kids whose mothers or fathers may be alcoholics or drug addicts or in prison, or for some reason cannot stay at home. We have a lot of kids who are being raised by grandparents and when they become teenagers it just becomes too much. Every child has a story that's their own. I would just ask that you would – frankly, if I could move this somewhere else, if it was that easy, I probably would because I don't want this attitude. These kids don't need this. They deserve respect just like everyone else. They deserve a place just like everyone else.

If I were to go back to the ranch and say these people don't want you, how do you think it would make those kids feel? But I have looked everywhere and this is all I've been able to find. This is the best option I've been able to find. Thank you.

CHAIRMAN MONTOYA: Okay. Next please. You have about two minutes.

MS. MARCOTTE: Thank you, Mr. Chair, members of the Commission, I'd like to just quickly rebut a couple of points that were raised, especially by the attorney with regards to the legal issues. His first issue was that the County's general plan adopted in 1999 envisioned a planning district and a separate zone and separate planning committee and the attorney believes action without that is illegal. In fact neither that district nor the committee is either in process or in place and taking no zoning action under the general plan, because the district and committee were never even started would have resulted in a de facto 11-year

moratorium, if we follow that logic. And it would have had to have been applied to all applicants in that time, not this one case.

And I'm pretty sure that the Sommer and Karnes law firm would have protested if the County had done an 11-year moratorium. We did follow the general plan and the Land Development Codes that are in place at the time of our application. That has been discussed several times today just while I've been here.

The second claim is that we should fall under the draft Sustainable Land Development Plan. As you know, and as the lawyer who spoke knows very well, applications are measured against the adopted rules and regulations in place at the time of the application. We cannot deny this application on the basis of a draft plan that is not yet in place. That being said, even if the Sustainable Land Development Plan has been adopted prior to our application it wouldn't have identified the location of all new schools and all new community facilities that could have come up in Santa Fe County. It's a general plan. It doesn't anticipate the location of every future school. We would have still had the right to apply for this same kind of application.

One of the County's own planners noted in the staff report that overall, the New Mexico Boys and Girls Ranch presents a great opportunity to incorporate the goals and policies of the new Sustainable Land Development Plan, and we think that this project, with its 90 percent open space and its sustainable design does in fact incorporate many of the goals of that new plan, and it will be in place when we come back with all of our subsequent approvals that we need to appear before you on. And we will be able to comply with it at that time.

So we don't think there's any reason to table or defer. We've met the requirements that are in place that exist today. We have made every effort to tackle the issues that have been raised. We agree with your conditions of approval. We agreed with the recommendation of approval from both County staff and the CDRC. So we've done everything that you've asked us to do and we've met all the requirements for the project. So we respectfully ask for your approval. Thank you very much.

CHAIRMAN MONTOYA: Thank you. Okay, this public hearing is now closed. Commissioner Stefanics.

COMMISSIONER STEFANICS: Thank you, Mr. Chair. One of the things that we've done with other projects is when we've had a difficult decision to make and we're hearing it for the first time we have sent the project back to the community to work on some more. And my understanding is this is the first time this is coming back to us or coming to us. Is that correct?

MS. COBAU: That's correct, Commissioner Stefanics.

COMMISSIONER STEFANICS: We've had several examples of lots of meetings between developers and community that have not been resolved but we also have had some that have gotten better. If a project is following our current standards, not the new plan, the current standards. We don't have a new plan yet, then we do have some obligation to see a project through. So that's all I have to say for right now. Thank you.

CHAIRMAN MONTROYA: Okay. Commissioner Anaya.

COMMISSIONER ANAYA: Thank you, Mr. Chair. When was the land purchased? Shelley, when was the land purchased?

MR. KULL: I believe it was 2004.

COMMISSIONER ANAYA: Okay. Thank you. You can sit down. Shelley, they followed all the County's –

MS. COBAU: They have, Commissioner Anaya, and if you look at the neighborhood communication efforts, they did a handout. They've had several community meetings which are not required by our code currently to have any community meetings and they've held it looks like one, two, at least three community meetings. Seven. Okay.

COMMISSIONER ANAYA: Yes, I know that Alice King and Bruce King were very involved in the Boys and Girls Ranch. When I first heard about it, the ranch, I heard about it at the coffee shop at Mike Anaya's at Moriarty. They're sitting around the table and I forget who brought it up and they were talking about the Boys and Girls Ranch, and they were asking me what I thought, and I thought, I have to say I haven't heard about it yet. I guess they're hiding things about it at the County.

But they went on to tell me about the project, a little bit about it, not the detail, and I said, well, I'll wait to hear about it when it comes to me. But I didn't realize, and they didn't tell me, the Kings and the Anayas that were sitting around the table, they didn't tell me that the Kings sold them the property. And if Alice was alive today she maybe would have called me or maybe not. She would have said, you know, Mike, we need to help those people out. And if they have already followed everything, just like the previous meetings that we've --

[Unidentified audience member repeatedly disrupts the meeting.]

CHAIRMAN MONTROYA: Sir, I'm going to ask you to leave the premises or I will ask you to be escorted out. Please leave. You're totally disrupting this meeting. This is a public meeting. We didn't show any disrespect to you, why are you showing disrespect to us. Please leave...Let's get the Sheriff's Department.

COMMISSIONER ANAYA: As I was saying, I always wanted to visit one of the Boys and Girls Ranches, and I'm honored to say that it's going to be in Santa Fe County. And I'm going to try to help you and support you in whatever endeavors you need help with. I think it's good that there's places for kids to go to that need these things, that need attention and need help and I thank you for what you're doing. And I would like to see this, Mr. Chair, Commissioners, I'd like to see this go through. Thank you.

CHAIRMAN MONTROYA: Okay. Any other comments? Commissioner Vigil.

COMMISSIONER VIGIL: I just – if the applicant would get up – how many attempts have you made to communicate with other members in the community and address some of their concerns. County you just encapsulate that?

MS. MARCOTTE: Sure. Mr. Chair, Commissioner Vigil, I gave you a summary on the handout sheet of what we've done to try and have outreach to the community. I've got to say we've been greeted with quite a bit of hostility as one of our speakers said, and I think it's not really about me, it's not really about what I've said or the

master plan or the ranches, it's that right now there's a thousand acres of undeveloped land with a beautiful mountain sitting on it right across the road from this subdivision. I think the thought of anything going there is disturbing and I think that's a human nature reaction that happens a lot.

We have sent packets of information, we've sent brochures about the ranches, I went to the point of trying to correspond with everybody who signed a petition in opposition. We've done the newspaper route. I've written letters to all of the local newspapers, written articles, invited people to the meetings, we rented the Edgewood Community Center at our expense in order to have a community meeting. We had a community meeting at the Cedar Grove Fire Station. I've had over 30 phone messages and emails from people, some of them pretty hostile, but some of them have been supportive, just saying we don't all think the same way. Don't listen to just some of the people.

So we've tried, I think, to get the information out there. I think that there are just people who are opposed to it happening and I'm not sure that additional meetings or additional flyers or additional informational packets is going to change those minds. I think over time, if the ranches get going out there and as they come through the process with each new development stage and each new additional study and each new improvement that the County requires them to make that wound will heal over time. But I don't think there's much more we could have done. We've been trying to do outreach for seven months.

COMMISSIONER ANAYA: Well, one of the things that concerns me is a lot of the testimony and comments that we get at a preliminary hearing such as this when we're looking just for a master plan/conceptual approval really goes deep down into some of the issues that are going to be brought forth through preliminary and final development plan. So people don't have a clear understanding of the process and I think that communication probably needs to be crystallized. I'm wondering if a meeting was facilitated, and maybe not just conducted by you as the applicant, because that does put you in a position of advocacy and perhaps maybe a facilitated meeting that would communicate some of the concerns that the community has with regards to this might create a larger benefit for the community. What is your response to that?

MS. MARCOTTE: Mr. Chair, Commissioner Vigil, we can certainly go that route if that's the will of the Commission. I think at this point we feel like we have gone quite a bit above and beyond the requirements and that we have met all the requirements of the County and we have gotten approval from every technical review that has been required so far, and it seems that that would be an additional requirement that is held out just for this application, just for us. So I guess I would prefer not to do it. I would rather be able to move forward into the next level of technical studies. But certainly, if it's part of the Commission's will to make it happen we're committed to getting it done.

COMMISSIONER VIGIL: Thank you for that answer. Thank you, Mr. Chair.

CHAIRMAN MONTROYA: Okay. Any other discussion from the Commission? I guess I feel a little bit in terms of where we're at right now in terms of the hostility and everything that's going on in the community, something I agree with

Commissioner Vigil probably needs to be done to mediate some of that tension. Clearly I can see that some people that walked out of this room the way they walked out, I don't know that I'd spend much time trying to appease them but certainly there's other people here who probably can discuss and work with in terms of finding out what are the major concerns here? What are the major concerns? So I would encourage that that be happening in the next 30 days or so. I would just recommend tabling to allow that to happen. Commissioner Anaya.

COMMISSIONER ANAYA: Thank you, Mr. Chair. Shelley, this is just a zoning change right now, correct?

MS. COBAU: Mr. Chair, Commissioner Anaya, that's correct. They're requesting master plan approval of their concept as a community service facility which are allowed anywhere in the county per our current ordinance.

COMMISSIONER ANAYA: So after master plan they have an opportunity for final.

MS. COBAU: They would come forward with a preliminary development plan which would go not to the BCC but to the CDRC for approval.

COMMISSIONER ANAYA: So they have opportunities to go back and discuss some issues, if we were to approve this today. Twice.

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

COMMISSIONER ANAYA: Two more times.

MS. COBAU: Yes.

COMMISSIONER ANAYA: Okay. I think, Mr. Chair, I think that from what I heard from the applicant that she will continue to sit down and talk with the community. I don't feel like we should hold them up again. I would like to see it move forward and then they can continue communications with the neighbors. That's how I feel. And I would make a motion to approve.

CHAIRMAN MONTOYA: Okay. We have a motion by Commissioner Anaya to approve. With conditions?

COMMISSIONER ANAYA: Yes.

COMMISSIONER STEFANICS: I will second.

CHAIRMAN MONTOYA: Commissioner Stefanics seconds. Any discussion?

COMMISSIONER ANAYA: Mr. Chair.

CHAIRMAN MONTOYA: Commissioner Anaya.

COMMISSIONER ANAYA: I think that -- let me ask the president one more question. Right now, you're going to consolidate the three Boys and Girls Ranches into one, correct?

MR. KULL: That is our goal. If we are successful in our fundraising we could keep Boys Ranch open longer. But right now we can't raise or even try to raise money until we have some assurance that the project will go forward. So that's kind of the holdup.

COMMISSIONER ANAYA: And where are the other two? One south of Belen.

MR. KULL: We have one in Clovis, on the north edge of Clovis. We have Boys Ranch, which is at Bernardo, just south of Belen, and then we had Girls Ranch out at Lamy.

COMMISSIONER ANAYA: Right. Okay. And let me ask you this. By delaying it, would it cost you more money?

MR. KULL: Well, that's part of the problem. The economy is bad. In fact we've consolidated Girls Ranch and Boys Ranch at Boys Ranch in order to save money. And so frankly, if it drags on too long we'll just have to do something else because we can't afford it dragging on too long.

COMMISSIONER ANAYA: Thank you. Thank you, Mr. Chair.

CHAIRMAN MONTOYA: How long is too long? Is 30 days going to be –

MR. KULL: It's a hard question to answer. Our donations right now are down about 25 percent. It depends on what the economy does. Most of the support we get is from discretionary income, which is things like stock dividends and interest and those types of things, and until that comes back we're not expecting – I mean we have some corporate partners that will probably help us, and we've got some assets that we may be able to sell that would help us. But until the economy comes back we think it's going to be difficult.

CHAIRMAN MONTOYA: Okay. Commissioner Anaya, do you have anything else?

COMMISSIONER ANAYA: No, thank you.

CHAIRMAN MONTOYA: So we have a motion and a second to approve the staff recommendation with conditions.

**The motion failed by a 2-3 voice vote with Commissioners Stefanics and Anaya voting in favor and Commissioners Holian, Vigil and Montoya voting against.**

CHAIRMAN MONTOYA: Motion fails 3-2.

COMMISSIONER VIGIL: Mr. Chair, I'd like to make a motion to table this case until our next land use case. That would be 30 days, to provide the opportunity to meet and address some of the concerns that have been addressed tonight with surrounding neighbors, and that would be the only need for this because I think in every other way this case is probably ready to move forward. I would also include in my motion to table that this case would not be affected by any consideration of a moratorium, that it would be considered a case that has already been heard and it would be approved within the regular process.

COMMISSIONER HOLIAN: I will second, and I would also like to make a comment. To the people in the community who appear to be in opposition to this, I really didn't get a clear picture as to what exactly they wanted, or whether they're asking for the land to just remain vacant or exactly whether they have – you will have the opportunity to bring it forward to us, specific things. I would like to hear specific things.

CHAIRMAN MONTOYA: So we have a motion and a second to table.

**The motion to table passed by majority [4-1] voice vote with Commissioner Anaya voting against.**

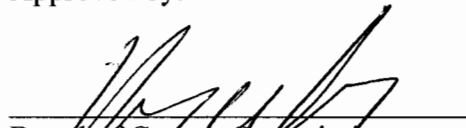
**XV. ADJOURNMENT**

Chairman Montoya declared this meeting adjourned at approximately 10:35.



*Valerie Espinoza*  
VALERIE ESPINOZA  
SANTA FE COUNTY CLERK

Approved by:



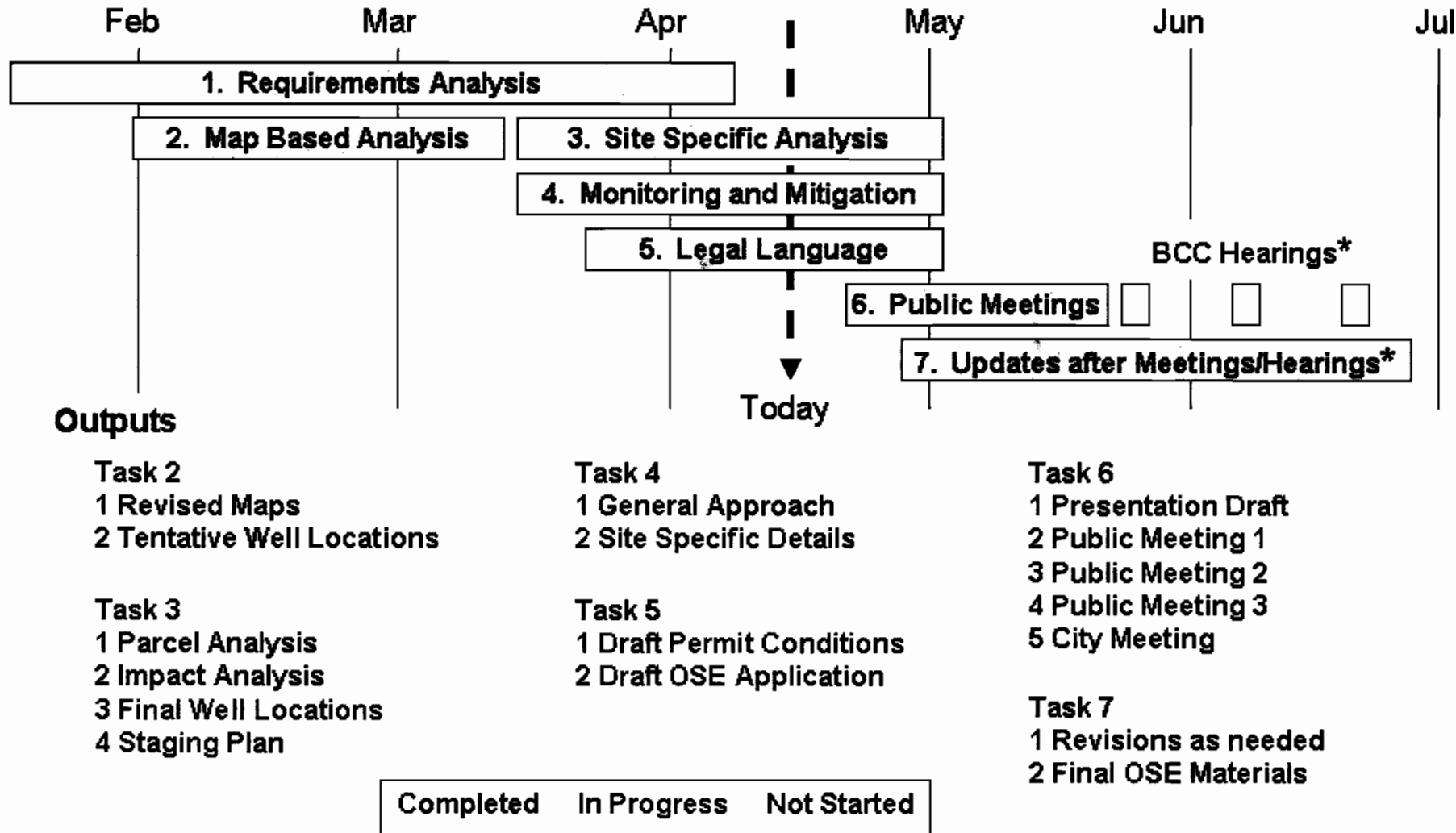
Board of County Commissioners  
Harry Montoya, Chairman

Respectfully submitted:

*Karen Farrell*  
Karen Farrell, Wordswork  
227 E. Palace Avenue  
Santa Fe, NM 87501

# Focus Group Schedule

April 13, 2010



\* If time allows the May 25<sup>th</sup> and June 8<sup>th</sup> BCC meetings will be used for hearings, and otherwise June 8<sup>th</sup> and June 22<sup>nd</sup>. Task 7 will conclude a few days after the second BCC hearing (assuming no major changes are required)..





NEW MEXICO  
 ENVIRONMENT DEPARTMENT  
*Ground Water Quality Bureau*



EXHIBIT  
 2

BILL RICHARDSON  
 Governor  
 DIANE DENISH  
 Lieutenant Governor

1190 St. Francis Drive  
 P.O. Box 26110, Santa Fe, NM 87502  
 Phone (505) 827-2918 Fax (505) 827-2965  
 www.nmenv.state.nm.us

RON CURRY  
 Secretary  
 JON GOLDSTEIN  
 Deputy Secretary

August 15, 2008

George Rivera, President  
 Pueblo of Pojoaque  
 78 Cities of Gold Road  
 Santa Fe, NM 87506

**RE: Manure Stockpile Remediation Plan and Comprehensive Nutrient Management Plan, Santa Fe Downs, DP-265**

Dear Mr. Rivera:

On December 19, 2000 the New Mexico Environment Department (NMED) issued a Discharge Plan Renewal for the Downs at Santa Fe, DP-265 (copy enclosed). The Discharge Plan Renewal contained a number of conditions relating to the manure stockpile at the Downs; specifically, that a plan for its removal be submitted (Condition No. 3).

A manure removal plan was submitted to NMED on March 18 and April 29, 2004 and approved by NMED on May 19, 2004. On February 5, 2008, NMED received a letter from the Pueblo of Pojoaque updating the manure stockpile remediation plan at the Santa Fe Downs. The updated plan consisted of screening the remaining manure stockpile and spreading the screened material at the Downs of Santa Fe as a soil amendment.

In a meeting held on February 7, 2008 with the Pueblo of Pojoaque, Glorieta Geoscience Inc., NMED, Santa Fe County, La Cienega Valley Association, and La Cienega Development Review Committee, the plan for the remaining manure pile was discussed, and NMED asked for a Comprehensive Nutrient Management Plan (CNMP) to be completed once the spreading was complete.

NMED staff performed an inspection of the Santa Fe Downs on March 17, 2008 and observed that the manure spreading was complete and that Glorieta Geoscience Inc. was in the process of soil sampling for the CNMP. NMED received a report from Glorieta Geoscience Inc. on behalf of the Pueblo of Pojoaque on May 1, 2008 regarding the status of the manure pile and CNMP.

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George Rivera, DP-265  
August 15, 2008  
Page 2

In a meeting held on July 31, 2008 with the Pueblo of Pojoaque, Glorieta Geoscience Inc., the Hensley Engineering Group, and NMED, NMED asked for clarification on a few items in the report. On August 7, 2008 NMED received a revised report and CNMP.

NMED has reviewed and approves the final report and CNMP. NMED understands that when horse racing is started again that the manure will be actively hauled off and not stockpiled.

If you have any questions regarding this matter, please contact me at 505-827-2945 or Naomi Davidson at 505-827-2936.

Sincerely,



George Schuman, Program Manager  
Ground Water Pollution Prevention Section

GS:ND

enc: Discharge Plan Renewal, DP-265, dated December 19, 2000

cc: Jana Werner, Pueblo of Pojoaque, 17746 U.S. Highway 84/285, Santa Fe, NM 87506  
Allan Mosley, Pueblo of Pojoaque, 17746 U.S. Highway 84/285, Santa Fe, NM 87506  
Phil Goetze, Glorieta Geoscience Inc., PO Box 5727, Santa Fe, NM 87502-5727  
Jack Kolkmeier, County of Santa Fe, P.O. Box 276, 102 Grant Avenue, Santa Fe, NM  
87504-0276  
Ivan Trujullo, La Cienega Development Review Committee, 212A Los Pinos Rd, Santa  
Fe, NM 87507

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**La Cienega Valley Association  
PO Box 23554  
Santa Fe, New Mexico 87502**

**La Cienega Valley Association: Preserving Our Rural Way of Life**

April 7, 2010

George Rivera, President  
Pueblo of Pojoaque Development Corporation  
78 Cities of Gold Road  
Santa Fe, New Mexico 87506

Dear Governor Rivera,

The La Cienega Valley Association (LCVA) would like to express its support of the Pueblo of Pojoaque's request to renew their current master plan for Santa Fe Downs which includes a two year extension to allow time to work towards a new master for the property. The LCVA would also like to express its support for the three proposed amendments regarding the deletion of the requirement for the manure pile (since that has been completed), the permitting of regular community oriented events and opening up the Downs facility for additional major event and entertainment opportunities by the standard Santa Fe County process of special use permits.

The LCVA has held two well-noticed preliminary meetings on the Pueblo of Pojoaque's proposal and have had no negative feedback on the extension of the master plan and the proposed amendments. The LCVA has found that residents are interested in being involved in the future plans for the Downs property namely the creation of a new master plan. The LCVA is confident that residents will be able to offer suggestions and ideas that will promote economic opportunities for the Pueblo of Pojoaque and our community.

The LCVA looks forward to working with Pueblo of Pojoaque representatives in creating a new master plan that serves the needs of the Pueblo of Pojoaque and fits into our community in a positive way, reflecting the traditions of our community and the Pueblo of Pojoaque's interests.

Thank you for the opportunity of supporting the revitalization of Santa Fe Downs.

Sincerely,

A handwritten signature in dark ink, appearing to read "Carl Dickens".

Carl Dickens, President  
La Cienega Valley Association

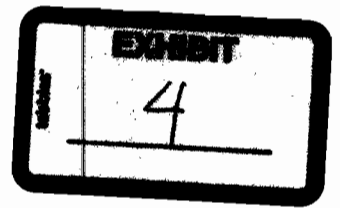
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BILL RICHARDSON  
Governor

STATE OF NEW MEXICO  
DEPARTMENT OF CULTURAL AFFAIRS  
HISTORIC PRESERVATION DIVISION

BATAAN MEMORIAL BUILDING  
407 GALISTEO STREET, SUITE 236  
SANTA FE, NEW MEXICO 87501  
PHONE (505) 827-6320 FAX (505) 827-6338



April 8, 2010

Vicki Lucero  
Development Review Team Leader  
County of Santa Fe  
P.O. Box 276  
Santa Fe, NM 87504

Re: CDRC CASE #S 09-5211 Saddleback Ranch Estates

Dear Ms. Lucero:

I am writing concerning the proposed Saddleback Ranch Estates subdivision and final report for the cultural resources survey submitted by Cienega Environmental on April 1, 2010. This report includes complete site descriptions, culture history, methodology, etc. and archaeological site forms (Laboratory of Anthropology site records) for the 19 archaeological sites recorded within the area surveyed for the proposed subdivision. Two additional archaeological sites located outside of the current proposed development were assigned LA site numbers (LA 165588 and LA 165589) but not recorded during the current effort.

I was under the impression from review of earlier information provided that survey of all roadways, driveways, and utility corridors would be conducted prior to the completion of the final report. This is apparently now not the case, as the report states that the placement of individual driveways and associated utilities will be the responsibility of the lot owner. The Historic Preservation Division (HPD) does not support passing the requirement for survey of the driveways and utilities off onto the lot owner. If each lot owner has to have an archaeological survey conducted, 24 individuals report for a very small area of disturbance will be prepared and submitted for review. Including the survey of the driveways and utilities into the current survey would be faster, less costly overall, and lead to better results since one archaeological contractor is conducting the survey vs. several different contractors. In addition, who is going to ensure that each owner has a survey completed and submits the report to HPD prior to construction of the driveway and utilities? Segmentation is inefficient and not the best way to ensure that cultural resources are protected.

Of the 19 archaeological sites within the area of proposed development, Cienega recommends LA 165569, LA 165579, LA 165580, LA 165584, LA 165585, LA 165571, LA 165573, LA 165576, LA 165586 and LA 165587 as being significant and eligible for listing to the National

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Register of Historic Places (NRHP). HPD concurs with this recommendation. HPD cannot concur with the recommendation for LA 165588 and LA 165589 because no information was provided for these sites.

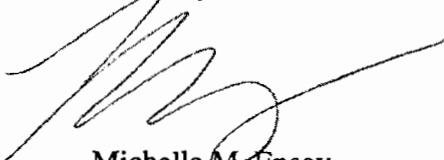
Cienega recommends LA 165578, LA165581, LA 165583, and LA 165572 as not significant and not eligible for listing to the NRHP. HPD concurs with this recommendation. The remaining 5 sites, LA 165582, LA 165570, LA 165574, LA 165575, and LA 165577 are also recommended as not significant; however, HPD is of the opinion that these sites are of undetermined significance until additional documentation and archaeological testing can be conducted. Individually, these five sites might not seem significant but they may contribute to an archaeological district and could inform on use of the landscape by occupants of Galisteo Pueblo.

Although each 3 acre house lot was situated to avoid archaeological sites, LA 165579 LA 165580, LA165571, LA 165573, LA 165576, LA 165586 and LA 165587 will be adversely affected by development of roads. If the roads cannot be redesigned to avoid these archaeological sites, a plan must be developed to mitigate the effects of the development on the sites. In addition, testing must be conducted at LA 165582, LA 165570, LA 165574, LA 165575, and LA 165577 since they are also located within the proposed road corridor and data recovery may be necessary if these sites are determined to be significant. All archaeological sites that will be avoided must be placed in a non-disturbance easement and indicated on the subdivision plat in metes and bounds to ensure protection.

HPD must be provided the opportunity to review the final plat showing the locations of the building footprints, roads, driveways, utilities, and non-disturbance easements. We will also need to review a testing plan and a data recovery plan for archaeological sites that will be adversely affected by this development.

Please do not hesitate to contact me if you have any questions. I can be reached at (505) 827-4064 or by email at [michelle.ensey@state.nm.us](mailto:michelle.ensey@state.nm.us).

Sincerely,

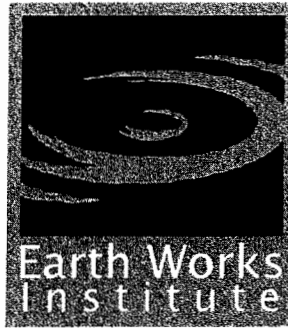


Michelle M. Ensey  
Archaeologist

Log: 89079

Email/Cc: Gabriel Bethel  
Hollis Lawrence

SFC CLERK RECORDED 05/13/2010



April 12, 2010

The Board of County Commissioners of Santa Fe County

Regarding: Saddleback Ranch

Dear Commissioners:

I am writing to request your special consideration for the protection of wildlife passageways and habitat in the Galisteo Watershed in relation to the proposed development project on the Saddleback Ranch. I am making this request because the information presented to me thus far about the development leads me to believe that it is very likely that wildlife passageways will be blocked, wildlife habitat in the proposed development area will be destroyed, and, thus, wildlife will suffer. As a result, the ecosystem services provided by wildlife, such as biodiversity, vegetation management, scenic values, and ecosystem health will be compromised.

Although no formal wildlife research or monitoring has been undertaken on the Saddleback Ranch, we know from field observations that the area constitutes habitat and passageways for pronghorn, mule deer, black bear, and mountain lion. The area is potential habitat to many other species, including birds, bats, small mammals, reptiles, amphibians, and insects. All have their functions in keeping soils and vegetation healthy.

What is more, these species try to cross the Galisteo Watershed in their efforts to reach sources of water or habitat in the surrounding grasslands or mountain areas. The Saddleback Ranch is located in a crucial crossroads area for many animals. In fact, the entire Galisteo Watershed is a crossroads of continental value in a wildlife migration pattern from Alaska to Mexico across the "Spine of the Continent." Many regional, national and international wildlife conservation and research institutions are increasingly looking at southern Santa Fe County as an area of great importance for the maintenance of continuity of wildlife passageways on a continental scale.

The paucity of data on wildlife on the Saddleback ranch calls for the need for in-depth wildlife assessments prior to development. We need to know more precisely what species cross through the ranch, what their needs are, what alternative routes they have, and what the relative importance of these species is in the ecological health of the landscape.

It is my understanding that the currently proposed development will create a significant footprint of homes, driveways, and the associated noise, glare, light pollution, smells, and activity that are generally scaring off wildlife. Conversely, pets, garbage, and other signs of human presence may attract certain animals that can cause safety problems for humans and the animals alike.

Additionally, developments typically also lead to the proliferation of non-native plants (weeds) and animals (e.g. undesirable insects, rodents and birds), all of which will negatively impact the natural habitat of our native wildlife.

For example, pronghorn, which are a characteristic species of the open grasslands in the Galisteo Watershed, migrate from the south and southeast onto the Saddleback ranch. Yet the scattered configuration of the home sites as proposed to date will scare these shy animals away on nearly the entire development, even if fences are adjusted to allow them on the property (the lowest fence strand needs to be at least 16 inches off the ground – pronghorn don't jump but crawl below the fence). Shortage of pronghorn habitat has already led to the death of dozens of pronghorn on ranches in the watershed in the past few years as they get trapped in areas with no water or forage. The proposed placement of lots across drainages, notable the Galisteo Creek where it flows under Highway 285, will limit the free passage of animals through these drainages and through culverts underneath Highways 41 and 285, unless building envelopes and other development impacts are restricted and kept several hundred feet away from these drainages.

Finally, the developer has intimated to people in Galisteo that the proposed development for which your support is requested now will be a first phase. If indeed more development will follow, more wildlife habitat and passageways will be compromised. Therefore, I urge you to look at this phase of the development as a part of a larger plan that requires master plan procedures for decision making.

Section 5.2.2.g.4) of the Santa Fe County Land Development Code allows the County to require a preliminary environmental assessment, which identifies the possible effects of proposed development on natural resources or natural features, such as wildlife, as part of the master plan approval process for subdivisions. It appears that this is one of the requirements that the developer is trying to avoid by claiming to be a "Type V" subdivision of 24 lots or less.

However, given the great need for a wildlife assessment on the Saddleback Ranch and the need to look at the longer-term intentions of the developer, I urge you to request from the developer to conduct a wildlife assessment and to design the location of any and all homes, driveways and other improvements in ways that optimally maintain wildlife habitat and connectivity across the ranch. Alternatively, I urge you to consider reviewing this proposed development in a way that requires the developer to follow a master plan process, under which a preliminary environmental assessment has to be conducted as referenced above.

Thank you for your consideration of my request. Please feel free to contact me if you have any questions.

Sincerely,

*Jan-Willem Jansens*

Jan-Willem Jansens  
Executive Director

SFC CLERK RECORDED 05/13/2010

cc.

Roman Abeyta, County Manager

Jack Kolkmeyer, Land Use Administrator

Steve Ross, County Attorney

Kim Vacariu, Wildlands Network and New Mexico Wildways



# THE GRAESER LAW FIRM

Christopher L. Graeser  
Jessica B. Cooper, of counsel  
Kelly Huddleston, of counsel

3600 Cerrillos Road, Suite 719F  
Santa Fe, New Mexico 87507

(505) 424-8175 (phone)  
(888) 781-5968 (fax)

April 13, 2010

Via: Hand Delivery

Board of County Commissioners of Santa Fe County  
102 Grant Ave.  
Santa Fe, NM 87501

Re: Saddleback Ranch Estates, CDRC Case #S 09-5211

Dear Commissioners:

I represent the Galisteo Community Association (GCA)<sup>1</sup>, a group of residents concerned with certain aspects of this development. At the March 9, 2010 meeting on this project the Commission tabled it to give the applicant time to respond to certain important issues. This letter addresses the applicant's responses as well as some additional items of concern. GCA members have also previously made many of their concerns known to the Commission.

## I. Revised Staff Conditions of Approval

The staff memo for the application at today's hearing is significantly modified from the memo presented at the March 9 hearing. Specifically, it omits thirteen of the original twenty-five proposed conditions of approval. The omitted conditions include (as numbered on the March 9, 2010 memo):

1. recordation with County Clerk
5. water restrictive covenants
7. financial guarantee
8. landscaping plan
10. documents to be recorded with plat
11. permit for signage required
13. water quality test
14. NMDOT access permits required
15. road design standards
16. loop road system
17. identify existing pond dimensions
18. water distribution system shown on plat
20. Knox lock required
24. reduced well conditions
25. water quality

<sup>1</sup> incorporated as the Galisteo Community Corporation

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The staff memo contains no explanation for the drastically reduced approval requirements, and there is no documentation supporting the change. More importantly, the amended conditions do not comply with the code requirements.

## II. Items to be Addressed from March 9 Hearing

The applicant provided a seven-page narrative in response, but the narrative fails to adequately address the Commission's actual, valid concerns.

### 1. Further development intentions

The applicant continues to make contradictory statements regarding future plans. However, the intention of future development is inescapable (the staff report notes "the applicant admits his desire to development the remaining undeveloped property.") This is a common promotional plan, and a master planning process is essential for the protection of all stakeholders. The applicant also mischaracterizes the effect of future development, stating that no more than one Type V subdivision is permitted. In fact, once any additional lots are divided that become a succeeding subdivision so that all lots have to meet the upgraded standards. There is no indication that the applicant has made provisions for this (i.e., necessary road width rights of way, easements for community water systems, CCR's requiring owners to comply with any upgraded infrastructure requirements, etc.)<sup>2</sup>

### 2. Archeology and historic preservation

The applicant disputes the requirement, but in the end agrees to a full study. A condition of approval holding the applicant to a particular time frame is essential – it is unclear what "a realistic time span" means, and it is not an enforceable commitment.

### 3. Home sizes and water use

Home sizes and water use are inextricably linked. It is simply not feasible that a 10,000-40,000 square foot residence (as noted by applicant), with attendant outbuildings, equine uses, etc., can meet a .25 acre foot per year limit. The applicant notes that more common limits in the area are .5 or more acre feet per year. Moreover, the applicant continues to shade the use as "residential" when the code requirement clearly applies to all water used on a lot.

### 4. Wildlife preservation

The applicant's response does not contain any enforceable commitment.

### 5. Viewshed

The response contains no proposals whatsoever for addressing the viewshed concerns expressed.

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<sup>2</sup> The applicant has indicated its intention to make the HOA, or lot owners, responsible for infrastructure requirements. However, the Land Development Code clearly imposes this obligation on the subdivider, and more importantly imposes the obligation of a financial guarantee for infrastructure improvements prior to plat recordation.

## 6. Financial impact

The applicant does not include calculations and evidence for any of the assertions, particularly for the tax base increase, which appears to be in contradiction to actual proposed values and assessment ratios.

### III. Common Promotional Plan Analysis

Art. V, ¶4.8 requires that “The Code Administrator will review the proposed applications to determine whether there is a common promotional plan to subdivide a property.” The record in this matter does not contain any evidence of this review. Given that substantial questions regarding a common promotional plan have been raised, this essential review needs to be conducted.

### IV. Subdivision Classification.

The applicant classifies the application as one for a Type V subdivision. This is important, because Type V subdivisions are permitted approval through a summary plat review process rather than a master planning/platting process. However, for several reasons the application is not in fact for a Type V subdivision.

*The application as submitted is for a subdivision of more than 25 lots.*

The applicant’s proposal is for at least a 25 lot subdivision (Lots 1-24 and the remainder parcel). Therefore, the application is for a Type IV, not a Type V subdivision for which the summary review procedure would be permitted, and a full master planning process is required. A Type V subdivision is “any subdivision containing not more than twenty-four (24) parcels...” The area of land in question will, after subdivision, “contain” more than 24 parcels. In the past, the statute did exclude “land retained by the subdivider” from the definition of subdivision. However, the 1995 revisions removed that exception, and the current statute contains no such provision. Thus, the proposed development is not a Type V subdivision.

In addition, the merger concept applies to upgrade the application to at least 26 lots, including the Hacienda Tranquila parcel. Under the analysis contained in *Subdividing Land in New Mexico* (N.M. Attorney General, 1984):

“The fact that the land area may be separated by a road or easements is not controlling. Nor is the fact that the area of land is held by the subdivider as separate tracts or parcels... Once the land comes under the common ownership of a single owner (a subdivider), the parcels are considered to be “merged” into one area of land for purposes of determining whether a subdivision has been created by subsequent divisions and sales by the common owner... if an owner acquires several parcels of land from various different sources and the land is contiguous, all of the parcels will become “merged” into one area of land. Thereafter, if [the subdivider] proceeds to subdivide and sell parcels from within the area of land as a “common promotional plan” the owner has created a subdivision...” P. 58. *See also, State v. Cresswell*, 125 N.M. 276, 284 (Ct. App. 1998).

Thus, the Hacienda Tranquila parcel is clearly part of a common promotional plan, and must be included for subdivision analysis purposes.

Finally, please note that if the applicant maintains a right to individual patent lots in the area remaining after this subdivision, the merger analysis applies equally to all of those additional lots, significantly upgrading the subdivision type classification. This is especially true if the applicant intends to adjust these lot lines as part of the common promotional plan.<sup>3</sup>

***Common promotional plan/past divisions (Landau/Saddleback)***

The following transactions all occurred on June 19, 2008.

Grantor	Grantee	Instrument#	Description	Size
Landau <i>et al</i>	Scarborough	1529903	Windland	40.926
Landau <i>et al</i>	Pacific View Dev., LLC	1529906	Chamisa	39.801
Pacific View Dev., LLC	2008 Chamisa, LLC	1529907	Chamisa	39.801
Landau <i>et al</i>	Verkin	1529901	Drogheda	39.430
Landau <i>et al</i>	Saddleback Ranch Estates, LLC	1529899	Remainder	***
Saddleback Ranch Estates, LLC	2008 Drogheda Land, LLC	1529902	Drogheda 140	140.001
Saddleback Ranch Estates, LLC	2008 Windland, LLC	1529905	Windland 140	140.001

These related transactions are clearly part of the development of “any land which is divided... as part of a common promotional plan and where land is offered for sale or lease by a... group of developers acting in concert, and such land is contiguous...” (Art X, §1.5 – *see also* §1.23). Accordingly, “such land shall be presumed, without regard to the number of lots covered by each individual offering, as being offered for sale or lease as part of a common promotional plan.” (*Id.*)

These lots were not previously platted, and no plat of the division has been approved by or recorded with Santa Fe County, which is in violation of the Land Development Code. All of this was in fact identified in the September 19, 2009 staff report on the applicant’s lot line adjustment application (relevant portions attached). The current application does not appear to address these concerns with regard to properly replatting all of the illegal transfers – in particular, the Drogheda 140 and Windland 140 parcels which were illegally subdivided in 2008 along with the Chamisa, Windland and Drogheda parcels.<sup>4</sup> Therefore, for this reason also the Commission should not be looking at a summary review subdivision.

As stated by the Attorney General’s manual (p. 53), which the courts rely on:

the identity of a “subdivider” must be closely examined to determine whether subsequent purchasers are associated in such a way as to be acting in concert under a common promotional scheme or joint venture. In order not to be considered a subdivision, each land division and sale must be independent and the result of arms length negotiations without further tie-ins between the parties that would render the purchaser of the land an

<sup>3</sup> GCA maintains that these lots are not viable, for the reasons ably expressed in the county staff review of the prior lot line adjustment application under this same case number.

<sup>4</sup> GCA has repeatedly requested a readable copy of the current plat, but has not received one adequate to be able to analyze this issue.

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agent, partner or business associate of the seller.” This is true, not only for purposes of determining if the “subdivider” has created a “subdivision” under the New Mexico subdivision laws, but also as to determine what “type” subdivision is created under the New Mexico Subdivision Act, and thus whether higher performance standards, such as the requirement of a central water system of central sewage system, may apply.

***Common promotional plan/future plans***

GCA’s primary concern is the applicant’s own stated plans for the development, which include a minimum increase of over 50% in density, and do not include any sort of comprehensive planning for the entire property. The applicant has indicated its intent to engage in further subdivision on numerous occasions. Just a few of those are as follows:

Applicant response to January 27, 2010 memorandum from Beth Mills:

*“...we have a plan in mind for future phases of development.”*

Saddleback Ranch Phase 1 Letter of Intent:

*“an adequate water source is available to accommodate the development of Fifty (50) single family residential lots with in (sic) the 2600 acre (sic) boundary of the Saddleback Ranch.*

Community Interaction Report submitted by Saddleback Ranch:

*“Our projected future development plans include 6-8 160 acre parcels...”*

Plan submitted by applicant showing 13 lot lot line adjustment and 7 lot 160 acre exemption plat in addition to 24 lot master planned subdivision.

December 14, 2009 letter email from applicant to “Neighbors and Galisteo Residents:”

*“In this plan the development will be required to first subdivide the initial 24, 40-acre parcels. In turn Santa Fe County will recognize an undetermined number of legal lots of record which will be re-platted through a lot line adjustment. This lot line adjustment will consist of 13, additional 40-acre lots or less. The remaining balance of the property will be split into 160 acre parcels through an exemption lot split.”*

March 9, 2010 Santa Fe New Mexican article:

*“Bethel told a reporter Tuesday he does hope to create as many as 13 more lots.”*

Saddleback Ranch website (as of 04/12/10):

*“Less than 80 total parcels, 40 acres in size.”*

It remains unclear exactly what the applicant’s plans are for either subdivision or commercial use. What is clear, however, is that the applicant is engaged in a prospective common promotional plan incorporating this subdivision and the additional lots to be created on the retained area. “We note that the actions of a subdivider rather than divisions of the land itself trigger the protections of the Act.” *State v. Heck*, 112 N.M. 513 (Ct. App. 1991). The applicant undeniably is working toward incorporating the remainder of the land into its platting and sales

plans. Ignoring that fact results in an unplanned, substandard development (a “colonia”) – ironically, one targeted at wealthy residents.

Upgrading the classification to the appropriate type would require the applicant to engage in the master planning process, which would result in a better overall development for all parties. Moreover, it would require a more comprehensive approach to water supply, which would help ensure protection of existing water resources and users in the area.

## VI. Archeological, Historic and Cultural Sites.

The applicant has obtained reconnaissance archeological study of only the buildable areas. This is inadequate to meet code requirements. Art VI, Section 3.4.3(c) requires a study of the entire property, and contains very specific requirements for the report’s contents. It is important to note that there are multiple purposes for this study beyond simply not building on top of cultural remains, which purposes include provision to the community of information on the archeological resources before they become part of a fenced-off residential lot, and thus less accessible. It is only upon reaching the funding limit without exhausting retrievable information that non-disturbance easements are permitted. The work the applicant has done does not meet the code-mandated minimum, which is a position echoed by the county’s own open space planning staff.

## VII. Conditions of Approval

In addition to the essential need to add back in the original staff conditions, my client has previously proposed conditions of approval on this development. In addition, we wish to focus on a few particular items should the Commission vote to approve this application:

1. Combination and upgrade of future divisions. *Art V, §5.9 provides for combination and upgrade for classification purposes of “any land retained by a subdivider after creating a previous subdivision when the previous subdivision was created in the preceding seven (7) year period.” As the applicant has clearly and unambiguously indicated its intent to subdivide the land retained after this application, conditions of approval ensuring that adequate resources are available for future upgrade are essential. It is also essential to note that any future divisions will have a retrospective effect on the infrastructure requirements for this application, upgrading its required improvements as well.*
2. Water use is limited to a total of .25 afy per lot per year.
  - *The applicant has repeatedly alluded to restrictions on “residential” water use. Thus, for instance, the Disclosure Statement, ¶17, states “Each single family residence will be allowed ¼ acre foot of residential water use per year as set forth by Santa Fe County Code. All other water use such as agricultural use will also follow mandates set forth by Santa Fe County” (emphasis added). In contrast, the Land Development Code (Art. VII, §10.2) specifies that the proposed lot size is permissible only if “the use of water which will occur from the intended development of the lot, measured in acre-feet per year” (U) is limited to 0.25. GCA’s concern, of course, is that the applicant will attempt to differentiate landscaping, livestock or other water uses in order to meet the demand of such a lot. Given the size of the dwellings proposed, the applicant simply cannot realistically provide the necessary water. Such differentiation is not permitted by the Land Development Code.*

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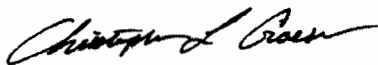
- *Enforcement will be a problem. Even the applicant seems to recognize the difficulty in enforcing the limit, stating that "shutting off water is not an acceptable condition but we can look at additional stiffer fines in CC&R's as an additional enforcement measure prior to recordation of plat." This plan simply permits the HOA to impose higher effective water rates (presumably, not a significant issue for the targeted purchasers), with no real enforcement of the usage limit.<sup>5</sup>*
  - *If the applicant cannot submit a detailed water demand analysis supporting this usage figure, that is an indication that a different route to water supply is required.*
3. *All patent or other preexisting lot claims are extinguished. This application constitutes a full replat of the entire property. Therefore, no existing lots can remain in the retained area after the replat.*
  4. *No further division of the 24 platted lots. To ensure finality and resource protection, the 24 lots created by this application should be limited to no additional future division. They would already require Commission approval for divisions within seven years, but imposing this condition will permit permanent protection of the Commission's decision.*

### VIII. Owner Permission

There are at least seven owners of the property in question, yet the application was submitted only by Saddleback Ranch Estates, LLC. It is in violation of County policy to permit an application without authorization by the owner of the property.

My client is not attempting to stop this development, nor to prevent the applicant from exercising its full legal rights. The concern is, and always has been, the potential for unplanned, piecemeal development of the area. The undisputable facts in front of the commission on this record require compliance with the master planning process, which is our simple request.<sup>6</sup> That process would ensure predictable, orderly and planned development of the property in question.

Sincerely,



Christopher L. Graeser

cc: County Attorney, Development Review Staff  
Sommer Karnes, attorney for Applicant

<sup>5</sup> Although the application proposes individual wells, even the applicant seems to recognize the infeasibility of that approach. Once shared or community wells are used, how is the enforcement for each lot to be effected?

<sup>6</sup> That process (§5.2.2(g)) requires review based on reasonable factors such as 1) a general description of the project including existing development on the parcel, location, adjacent properties, acreage, lot coverage, access, traffic impacts, terrain management, soils, landscaping, outside lighting, parking, signage, water, liquid waste, solid waste, archaeological sites and fire protection measures, 2) a market analysis and economic impact report, 3) fiscal impact estimates of net local public costs, 4) Preliminary environmental assessment, which identifies the possible effects of proposed development on natural resources or natural features, 5) A traffic report, 6) Description of concepts for restrictive covenants and 7) a schools impact report.



## GROWTH MANAGEMENT MEMORANDUM

**DATE:** April 9, 2010  
**TO:** Vicki Lucero, Development Review Leader  
**FROM:** Laurie Trevizo, Water Resources Specialist

**FILE REF.:** CASE # S 09-5211 Saddleback Ranch Estates

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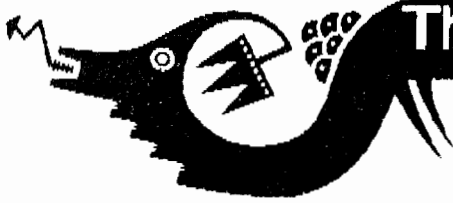
### Water Quality

Water quality results were provided as required by Land Development Code Article VII Section 6.5.1 Water Quality. The water quality sample *met* all EPA standards. With the exception of sodium which exceeds the secondary MCL at 174 mg/l (EPA SMCL is 100 mg/l). It is recommended in the future that a water quality analysis is required for the wells serving the development, as water quality can vary over distances within the aquifer and only one well was sampled. There are currently 19 wells on the property and those intended to become drinking water supply wells should have a water quality test preformed.

In the event of any MCL exceedences, plat conditions shall be included that onsite treatment at the wellhead will be in place prior to issuing a building permit. Additionally the disclosure statement for this subdivision should include a cost estimate for operation and maintenance of any on-site treatment system necessary.

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# The Archaeological Conservancy

5301 Central Avenue NE, Suite 902  
Albuquerque, New Mexico 87108-1517  
(505) 266-1540

April 13, 2010

Mr. Jack Kolkmeier  
Land Use Director  
Santa Fe County  
PO Box 276  
Santa Fe, New Mexico 87504-0276

Attention: Vicki Lucero

Subject: CDRC Case # S 09-5211 – 100% Archaeological Survey for Saddleback Ranch

Dear Mr. Kolkmeier:

Gabriel Bethel has contacted us concerning the proposed Saddleback Ranch Estates L.L.C. commitment to have a 100% archaeological survey conducted on land they own on State Road 41 near Galisteo. This is in reference to CDRC Case #S 09-5211 Saddleback Ranch.

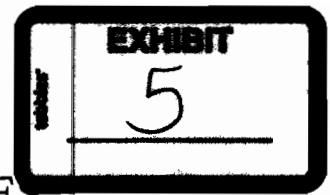
We would like to let you know that staff from The Archaeological Conservancy is available to conduct the 100% archaeological survey Saddleback Ranch Estates L.L.C. will need if it becomes a condition associated with approval of their application. We expect the survey and report preparation to be completed in approximately 120 days from the day work is authorized.

Thank you.

Sincerely,

Mark Michel  
President

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ROSANNA C. VAZQUEZ de GONZALES  
ATTORNEY AT LAW

February 23, 2010  
Via regular and certified mail

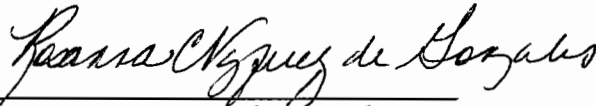
Re: Sandstone Pines Preliminary and Final Plat and development plan approval  
12 lot subdivision - CDRC Case No. S 08-5210

Dear Property owners,

As some of you are aware. I represent Anasazi MV JV LLC on the approval process for Sandstone Pines. I attach a notice from the County of the public hearing set for March 18, 2010. Pursuant the Commission's request, we have tabled and agreed to go back to CDRC to clarify any outstanding issues. On behalf of the Applicants, I would like to meet with you and review the water quality results, answer any questions, and try to address any concerns you might have. I can meet with any of you individually, or I propose we meet on March 2<sup>nd</sup> at Santa Fe Baking Company at 6:00 pm, and on the 3<sup>rd</sup> at Casa De Herrera at 6:30pm. I will be available to answer questions and provide as much information as I can to you and to assist you in understanding the subdivision as it is presently created. I would welcome any comments and or concerns from you in hopes that we can come to agreement or understanding on them. Please feel free to call me on my cell at 670-8484 to let me know what day you are available, I will make myself available to you on both days. If I don't hear from you I will still be present in case you want to come by. I would also be more than happy to discuss your concerns over the phone.

I look forward to meeting all of you and hopefully answering your questions.

Very truly yours,

  
\_\_\_\_\_  
Rosanna C. Vazquez de Gonzales

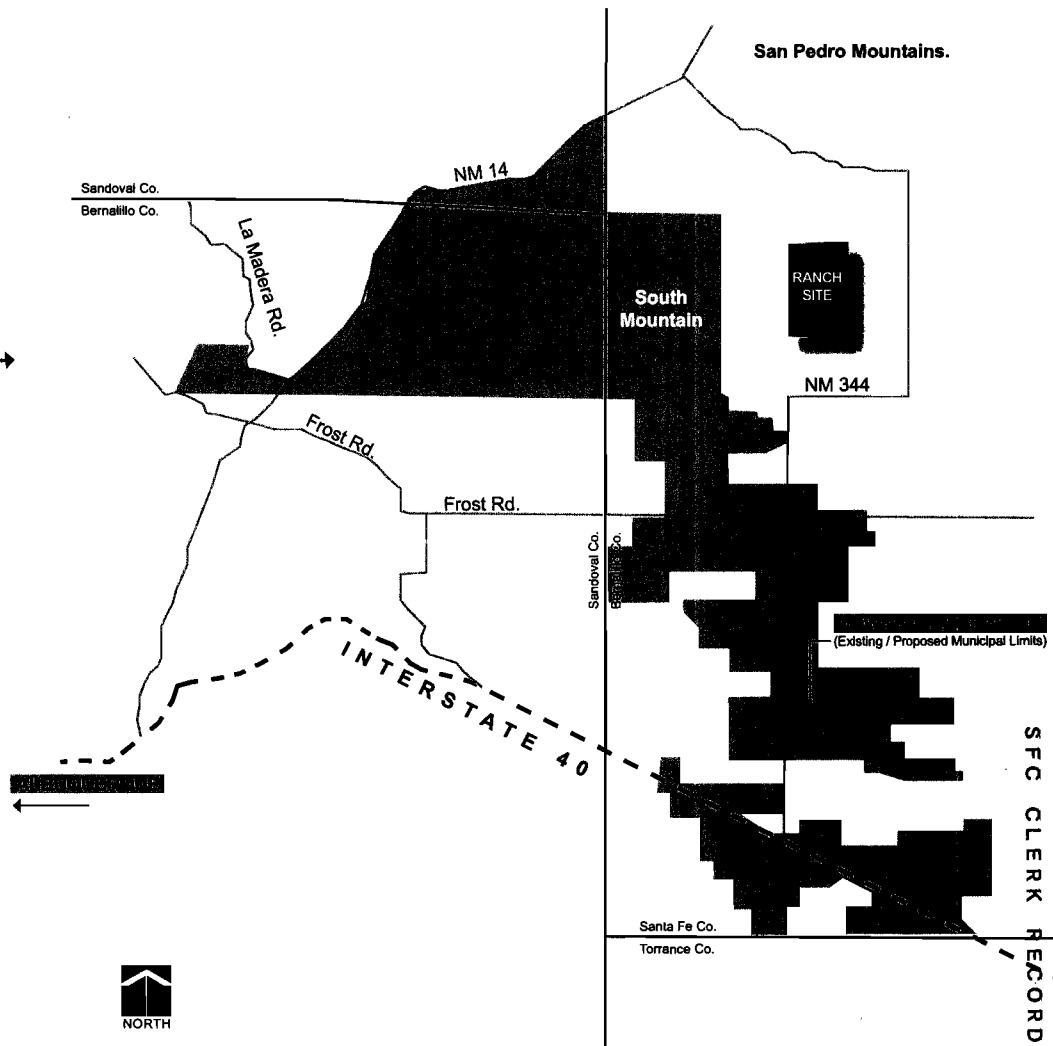
cc: client

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## Neighborhood Communication Efforts on behalf of The Ranches

- **2004-2005:** Mike Kull of The Ranches met with the Edgewood Chamber of Commerce and local equestrian groups regarding future hopes to bring The Ranches to the area. There were reports about these meetings in local newspapers.
- **September 30, 2009:** Courtesy Ranches Neighborhood Meeting held in Cedar Grove, 6:00 pm @ the Fire Station to discuss the project and answer neighbor's questions prior to submitting an application.
- **January 5, 2010:** Courtesy Email to The Ranches neighbors that application had been made to the County. It included basic information on the Ranches and the Master Plan Project, contact information for Vicki Lucero (SF County), Nikki Kull (Ranches Administration), Karen Marcotte (Project Planner) and Scott Steffen (Project Engineer), as well as Context/Vicinity Graphics.
- **\*January 27, 2010:** Posting of Public Notification Signs (regarding SF CDRC Hearing of the Ranches Master Plan Zoning on 2/18/10) in two locations (intersection of Sandoval Rd/Lower Mountain Rd. and Camino San Pedro Rd/Living Water Road).
- **\*January 28, 2010:** Legal Notice of SF County CDRC Public Hearing of the Ranches Master Plan case (on 2/18/10) was published in the *Mountain View Telegraph*.
- **\*January 27, 2010:** Notice of SF County CDRC Public Hearing of the Ranches Master Plan Zoning (on 2/18/10) was delivered via Certified Mail to all neighbors within 100' of the Ranches Property.
- **February 18, 2010:** CDRC Meeting – Advertised public hearing in Santa Fe. The Ranches offered tours of facilities and contacts for additional information.
- **February 25, 2010:** A courtesy packet was sent out to neighbors to address questions regarding the Ranches Master Plan and Zoning Submittal. The packet included a letter to the neighbors, a Q & A sheet, a Ranches informative brochure, and a copy of the proposed Ranches Master Plan graphic.
- **March 10, 2010:** A newspaper article was written by Karen Marcotte, on behalf of the Ranches, and was published in *The Independent* newspaper. The article was intended to provide facts about the Ranches program and the proposed Master Plan/Zone Change submitted to Santa Fe County. Again, contact information for further information was provided in the article.
- **March 11, 2010:** Emails were sent to local neighborhood representatives to see if there was interest in a jointly planned informational meeting. Neighbors declined and wanted their own private meeting so The Ranches set up the community meeting and invited the public.

**NMBGR  
LARGER  
CONTEXT**



**NMBGR  
SURROUNDING  
VICINITY**







**SMPCArchitects**  
PRINCIPLES OF DESIGN.

**Administration / School Building**  
The Ranches - East Mountain Facility

3-4-2010

RECORDED 05/13/2010

SOUTH ELEVATION

CLEAR GLAZING IN ALUMINUM  
FRAME

CEMENT BOARD SIDING  
COLOR: TAN

24'

NORTH ELEVATION

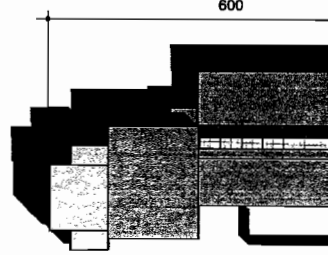
RANDOM FIELD STONE/SPLIT  
FACE CMU

600



24'

EAST ELEVATION



PLAN - NOT TO SCALE

**SMPCArchitects**  
PRINCIPLES OF DESIGN.

**Administration / School Building**  
**The Ranches - East Mountain Facility**

3-4-2010



**SMPCArchitects**  
PRINCIPLES OF DESIGN.

**Administration / School Building**  
The Ranches - East Mountain Facility

3-4-2010





PERSPECTIVE VIEW OF COTTAGE

**SMPC**Architects  
PRINCIPLES OF DESIGN.

**COTTAGE FACILITY  
THE RANCHES - EAST MOUNTAIN FACILITY**

4-12-2010



non-denominational Christian organization that helps youth from across New Mexico. She said all their money is provided through private donations.

By way of background, Ms. Marcotte said the Ranches have been helping disadvantaged youth since 1944 and she mentioned the support letters that were provided in the CDRC packets. The first ranch for girls opened in 1982 and former First Lady Alice King was credited with that. The land for this proposed site was acquired from the King family with the goal of consolidating all the ranch operations into one facility. Ms. King was a tremendous booster for this project and "her loss is still being felt." Ms. Marcotte mentioned that the project would serve as a legacy to the Kings and a project that all New Mexicans can be proud of. She noted the facility will be built in increments over a 20-year period.

Site maps and planning designs were displayed for the audience and Ms. Marcotte said the campus will be built on less than 100 acres of the site which is 10 percent of the 964-acre site with the remainder of the property left as natural open space. The design concept is to leave the existing slopes and landscape as untouched as possible and "wisely use natural resources" while conserving energy to create a clustered walkable campus. The campus is set back more than 1800 feet from the southern property line providing a substantial buffer. The view of the mountain is not obstructed, stated Ms. Marcotte. She reviewed the mission of the ranch-based school regarding life skills and self-sufficiency. ~~As a residential school, Ms. Marcotte said there will not be a lot of traffic at the site.~~

Ms. Marcotte said they were ready to comply with all the County regulations and requested the CDRC's approval of the master plan.

Ms. Marcotte said originally based on staff recommendation they were going to apply for a large residential facility and that designation has a 36-foot height limit rather than the 24 feet. At that time it seemed a minimum easing of the requirements. That staff member retired and the County recommended that the Ranches seek a community service facility designation which they agree is a better fit for the program. This designation contains a height limitation of 24 feet and that measurement is made from the lowest grade of the site for the variance request.

Ms. Marcotte said she understands it is not a minimal easing. The intent from the beginning was to build a two-story school with a high atrium and south-facing clerestory windows above the tree canopy. The purpose is to provide natural light and energy efficiency. The two-story facility reduces the amount of land disturbance.

Ms. Marcotte said they want to be good neighbors and are willing to reduce the height and provide flexibility in the design especially now at the master plan zoning stage.

Ms. Marcotte repeated that the Ranches want to be good neighbors and referred again to the support letters in the packets which demonstrate that they have been good neighbors in the community.

SFC CLERK RECORDED 5/13/09

Returning to the podium, Chuck McAllister asked the CDRC to table the master plan and direct the developers to meet with the neighbors. He referred to an article in *The Independent* that the County would not support the variance request.

Under oath, Chuck Eder said the area sees a Sheriff's car once a month at best and there is no traffic enforcement at all. He said the safety concerns should be considered.

That concluded the opposition and Vice Chair Martin invited the applicant to offer closing statements.

In response to the comment that 1,800 feet is not far enough from the road, Ms. Marcotte said a great deal of the 964 acres is on slope over 15 percent. **She said the 1,800-foot buffer is very significant and neighborly.**

In response to the reference of the youth as threats and criminal, Ms. Marcotte said these were children who had the bad luck to be born into families that provided them no support. These children are "victims not perpetrators." She pointed out that many of the youth referred to the Ranches are from southern Santa Fe County in the Edgewood area. She mentioned the numerous letters of support forwarded to the County.

Ms. Marcotte said the Ranches have extended invitations to everyone to come out and meet the kids. Design charrettes were held which included the participating youth and any interested neighbors.

As far as the notice issue, Ms. Marcotte said they have tried, she did email people and legal notice was published in the paper.

Ms. Marcotte said this facility will not decrease property values. It is a \$50 million high quality investment. She said this property is not under the covenants mentioned by Ms. Cave. The warranty deed signed by Bruce King contains covenants that the property is conveyed with the intent to develop a not-for-profit residential campus and school facility. This is, in fact, the legacy that was intended by Bruce and Alice King.

Ms. Marcotte said the well for this property is not on site and will feed water rights and water to the Entranosa Water Utility which will be piped to the property. She said there will be fire hydrants and contrary to what the opponents suggested, the fire safety system will be enhanced by the development.

That concluded the public testimony.

At the CDRC's request, Ms. Marcotte withdrew the variance request.

Member Dayton moved to approve the master plan for Z 09-5520 subject to staff conditions. Member J. Salazar seconded. The motion passed by unanimous [5-0] voice vote.

Ms. Cobau advised the audience that this issue will be forwarded to the BCC on the second Tuesday in April.

SFC CLERK RECORDED 05/13/2010

## BUILDINGS IN THE "BUFFER ZONE", WHICH ARE IN REALITY LESS THAN 1800 FEET FROM THE SOUTHERN BORDER

CHAPEL	2300 SQ. FT.
BOY'S COTTAGE	5900 SQ.FT
BOY'S COTTAGE	5900 SQ.FT
BOY'S COTTAGE	5900 SQ.FT.
MAINTANANCE SHOP	825 SQ.FT.
GREENHOUSE	325 SQ.FT.
PAVILLION	2050 SQ.FT.
TRANSITIONAL HOUSING	1320 SQ.FT.
TRANSITIONAL HOUSING	1320 SQ.FT.

TOTAL———25,840 SQ.FT.

ACTIVE RECREATION TURF AREA	59,500
CENTRAL SOLID WASTE RECYCLING FACILITY	UNKNOWN
WASTE WATER TREATMENT FACILITY -	—TO BE DETERMINED

59,500  
+ 25,840

—————  
83,340

On February 18,2009, Consensus Planning represented by Karen Marcotte, told the CDRC that the campus was 1800 feet away from the south boundary creating a buffer between the campus and the existing community. In actuality, there are eleven buildings totaling 25,840 sq. ft. and an athletic field within that buffer zone, which brings the total to 83,340 square feet of campus buildings and development south of the 1800 foot buffer that Ms. Marcotte said existed at the south boundary. This does not even take into consideration the size of the waste water treatment facility or solid waste recycling facility, whose dimensions remain "to be determined". Perhaps most importantly, the septic leech field will be south of that supposed buffer. South of that are residents who have wells that they fear may become contaminated because of the close proximity. We have asked Consensus Planning what their plans are to assure residents that their drinking water will not become contaminated. They say they are still trying to decide.

While the administrative building is 1800 feet away from the boundary, it is in the middle of the development. In fact, the nearest building to the southern boundary is only 610 feet away. A whopping 42% of the square footage of the (for all intents and purposes) 200,000 square footage of campus development is in the buffer area.

MAINTENANCE ROAD TO WATER TANK

CH BERN

DRAINAGE AREA

EXISTING NATIVE VEGETATION TO REMAIN

NO DEVELOPMENT SETBACK FROM ARROYO

DRIVEWAY PAVING

CO. HOUSES

STUDENT COMMONS

BOYS STAFF COMPLEX

CH BERN

SECURITY GATE

MAIN ST. TO CAMPS

ROAD TO THE EQUINE CENTER

1823 ft

STUDENT COMMONS

STUDENT COMMONS

STUDENT COMMONS

PEDESTRIAN CONNECTION

DRAINAGE AREA

CHECK

PAVILION

PROPOSED IMPROVED LANDSCAPE AREA

SFC CLERK RECORD 05/13/2010

STUDENT COMMONS

STUDENT COMMONS

GREEN SPACE

OVERFLOW PARKING

ACTIVE RECREATION SURF AREA

DRAINAGE AREA

1823

WASTE WATER TREATMENT FACILITY

TRANSITIONAL

EXISTING NATIVE VEGETATION TO REMAIN

CONVALESCENT BARRIER EAST OF PROPERTY TO A FIELD

NO DEVELOPMENT SETBACK FROM ARROYO

PROPERTY BOUNDARY

610

**MEMORANDUM**  
**New Mexico Office of the State Engineer**  
**Water Use and Conservation Bureau**

**DATE:** December 30, 2009

**TO:** John Longworth, P.E. Water Use & Conservation Bureau Chief

**FROM:** Jerry Keller, Senior Water Resource Specialist

**SUBJECT:** Master Plan for New Mexico Boys & Girls Ranches, in Santa Fe County

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**SUMMARY**

On December 18, 2009 the Office of the State Engineer (OSE) received a request to provide comments for the Master Plan submittal for the New Mexico Boys & Girls Ranches.

The proposal provides an outline for a development that includes cottages for students along with the resident married couple, a school, administrative offices, a school cafeteria, a gymnasium, a greenhouse and maintenance building, a swimming pool, athletic field, a chapel, 4H barns, and equestrian facilities. The Master Plan includes 964.34 acres; however the developed portion of the site will comprise approximately 100 acres. The development will be constructed in three phases. The property is located north of Edgewood on County Road 22 one mile west of Highway 344 within Sections 3 and 10, Township 11 North, Range 7 East. Water supply will be provided by the Entranosa Water & Wastewater Association.

The proposal contains preliminary water demand analyses for each of the three phases. Estimates are based on boarding school/institutional facility requirements. The total project water demand at build out is approximately 30.1 acre-feet per year. A line loss of 20% is included in the estimates. The athletic field is planned to be irrigated with a subsurface application of treated wastewater.

A letter from Entranosa Water & Wastewater Association is included in the proposal. The letter indicates the development is within the Entranosa place-of-use for water rights. Water service is contingent upon successful transfer of water rights to Entranosa.

An eight inch water line will be required to be extended to the property. On-site storage, distribution, and fire flow system will be constructed, owned, and operated by the developer.

**CONCLUSION**

The following comments are provided for project feasibility regarding water supply:

- The preliminary water demand analyses do not provide sufficient detail to evaluate outdoor use estimates including landscape irrigation, livestock demands, and filling and maintenance of the proposed swimming pool.
- The Phase I and Phase III "visitor" category demand estimate is 5 gallons per person per day. Phase II is reduced from 5 gallons per person per day to 3 gallons. No explanation is provided for the reduction in demand for Phase II.

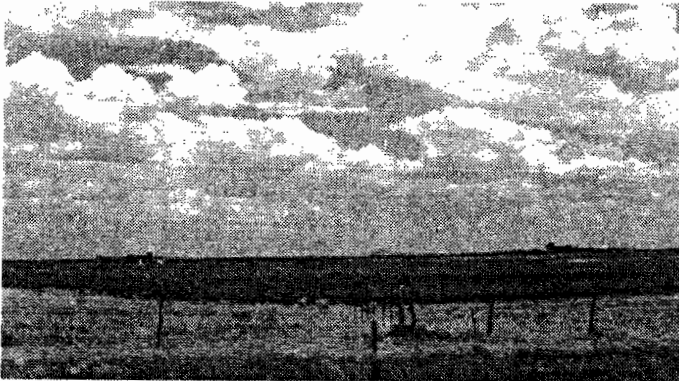
SFC CLERK RECORDED 05/13/2010

- The developer has not provided sufficient information regarding the source and quantity of water rights to serve the project. OSE records do not indicate any water rights appurtenant to the subject property.
- It would be inappropriate at this stage of the development process to comment on the water rights transfer to Entramosa Water & Wastewater Association as it may be interpreted as pre-approval of a future water right transfer application.

## ESTANCIA BASIN DISTRICT

The Estancia Basin District (EBD) extends from Clark Hill south to the southern boundary of Santa Fe County. (See *Exhibit 3, Basic Planning Districts*) The District encompasses all of the Estancia Basin Aquifer Fringe and Aquifer Area, including the Traditional Communities of Stanley and Edgewood, and the newly incorporated Town of Edgewood. The area is characterized by open grazing lands, irrigated farmlands and agricultural lands, and dispersed populated areas.

In recent years the Edgewood area has been the most rapid growth area in the County. Many new residents commute to Albuquerque while enjoying the less crowded lifestyle opportunities available in the Estancia Basin.



*Grasslands dominate the Estancia Basin*

Zoning criteria for the Estancia Basin District will be established through a District planning process. Once the Basic Planning District map is adopted by Ordinance establishing the Rural District and Estancia Basin District as separate zones in the County Land Development Code and a planning committee is authorized by the Board, any proposed zoning amendments to the Land Use Code for the Estancia Basin District will conform to the District Plan. Zoning criteria will not be changed while the District Plan is being prepared unless there is a direct threat to the health, safety and welfare of the community.

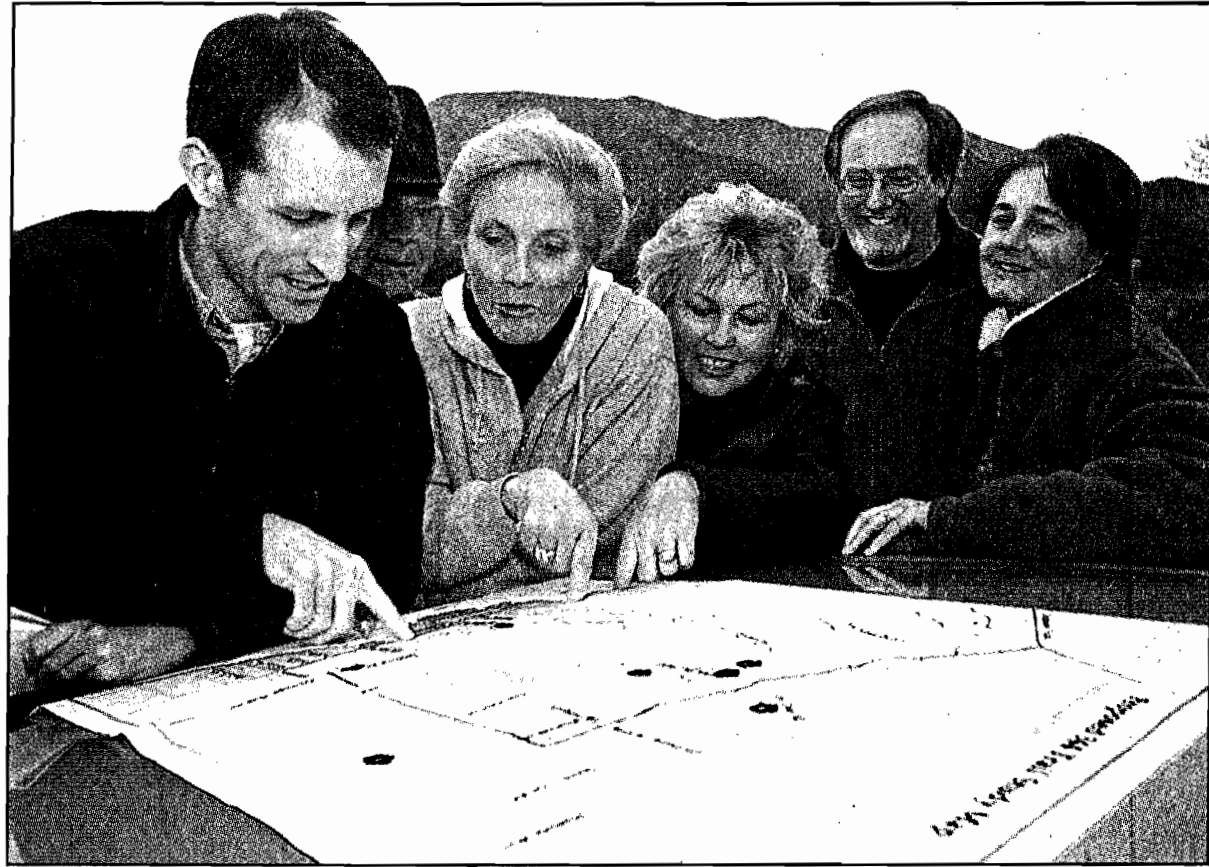
The Board of County Commissioners shall approve a Resolution establishing an Estancia Basin Planning Committee to begin drafting the Estancia Basin District Plan. The Resolution shall outline committee representation and public participation, community commitment, County staff involvement, planning elements, tasks, a schedule for completion of the District Plan and progress reports and provide for time extensions if needed.



Feb 2005

**EXHIBIT**  
**9**

### CUTTING THROUGH CHOLLA



COURTESY PHOTO

A group of trails supporters — left to right, Patrick Kralch, project manager of the Open Space and Trails Program; Lee Lindsey; Mary Lindsey, member of the Santa Fe County Open Lands and Trails Planning Advisory Committee (COLTPAC); Barbara Henard, member of the Back Country Horsemen; Jim Edmiston, member, COLTPAC; and Aleta Niggeler, member of the trails committee for a newly forming equine club — check out the route of the proposed Cedar Grove trail before starting a driving caravan of the route last week.

# Backers Tour Trail Site

■ *Supporters of proposed Edgewood path gather, but state officials are a no-show.*

BY KATHY LOUISE SCHUIT  
*Mountain View Telegraph*

The main thing standing in the way of a trail from Edgewood to North N.M. 14 might not be bureaucracy or even adjoining landowners who don't want it — it

might just be cholla.

"There's so much cholla," said Barbara Henard, one of eight people who toured the proposed trail route Feb. 17.

Henard, along with Aleta Niggeler, represented Edgewood's newly forming equine group for the trail tour.

Four people from Santa Fe County's Open Lands and Trails Planning Advisory Committee also joined the tour, but the dignitaries for whom it was planned ultimately didn't show.

Jerry King, assistant state land commissioner for surface resources, said he was held up in the governor's office at the time he'd promised to hit the trail. And Mike Kull, director of New Mexico Boys and Girls Ranches, also could not make it.

The State Land Office and The Ranches have agreed to work with Santa Fe County and the equine group to blaze the trail. It will follow N.M. 344 from Edge-

See TRAIL on PAGE A2

## Req Sew

SF Cour To \$2.6

BY KATHY L Mountain View

"Edgewood That simple debate, discu the town for n Mayor Robe sors each hav liminary engi process of approvals for the state Envi month.

Armed with town's determ posal system sion on Tuesd.

The county but how much uncler.

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Phase 1 will treatment faci near Church R well as main s 344/Old Route

Karen Maha administrator, accepted Edg little comment

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# Group Working To Complete Trails

## Edgewood System Still in Works

By KATHY LOUISE SCHUIT  
*Mountain View Telegraph*

Setbacks may have slowed the creation of a trails system in and around Edgewood, but they haven't stopped it.

A spinoff group of the now-defunct East Mountain Equine Association has made completion of one large trail segment a top priority. The hiking, bicycling and horseback riding trail would run from Edgewood's north boundary through Cedar Grove to North N.M. 14 and then connect to other county trails.

Likewise, Edgewood Parks and Recreation Director Rod Replogle is determined to complete the town's "School Trail."

The School Trail — which runs north from the Interstate 40 frontage road to Dinkle Road — could eventually become the town's link to the Cedar Grove trail.

The new equine group — which formed in January in the wake of deep division among EMEA board members

and so far remains unnamed — met last week with officials from the Santa Fe County Open Lands and Trails Planning Advisory Committee, the New Mexico Department of Transportation and the New Mexico Girls and Boys Ranches to discuss the trail project and the possibilities.

"Nobody is saying, 'no,'" said Aleta Niggeler, a member of the new group's steering committee.

In fact, she said, officials with the involved agencies as well as State Land Office representatives have planned a motor caravan along the proposed trail route this afternoon.

The caravan, Niggeler said, will put everyone on the same page for discussion and create enthusiasm for the project.

Besides the proposed trail, the group also envisions a primitive campground on state land along the route. The Ranches may also provide trailhead and horse trailer parking on its Cedar Grove site, Niggeler said.

"Right now, (however), we're working on just the basic trail," she said.

Replogle and other town officials also met last week with representatives of agencies and organizations interested

in Edgewood-area trails.

The meeting of town representatives, members of the Edgewood Soil and Water Conservation District and officials from the Land Office and Santa Fe County was held on state-owned Section 16.

The purpose of the meeting, Replogle said, was to find ways to safely get School Trail traffic safely around two large culverts — one just north of Larry's service station and the other at Bachelor Draw.

Currently, trail users on foot or bicycles have to leave the dirt trail and use the paved N.M. 344 shoulder to cross the culverts, he said. Horseback riders can safely negotiate the trail's steep drop into the arroyo at the culvert, he said.

With approval from the NMDOT, the town could construct smaller, secondary culverts — lower in the arroyos and near the mouths of existing culverts — to act as a trail base and create safer passage, Replogle said.

He said he couldn't estimate the cost of the culvert trail improvements, but said councilors would have to approve the project plan as well as the budget.

CLERK RECORDED 05/13/2010

# Ride Introduces Horse Trail

*Equine Association members saddle up to promote proposed East Mountain route*

*Telegraph Staff Report*

Work to create a hiking, cycling and equestrian trail in Edgewood around South Mountain and connecting to Santa Fe County trails system continued in November with a horseback ride along proposed route.

Several members of the East Mountain Equine Association's trails subcommittee saddled their horses for the Nov. 15 ride, which was intended as an introduction to the proposed trail.

Because of widespread interest, creating the trail has become a cooperative effort among the equine group; the county, through its County Open Lands and Trails Planning and Advisory Committee; the state transportation department; the Santa Fe

Office; and the New Mexico Girls and Boys Ranches.

Led by member Ralph Hill, equine association members explored potential alternate routes and trailheads and took in the marvelous views.

"It's very exciting," said Aleta Niggeler, equine association secretary, after the ride.

Another organized ride of the proposed trail route will likely take place in the spring, said Roger Holden, trail project coordinator.

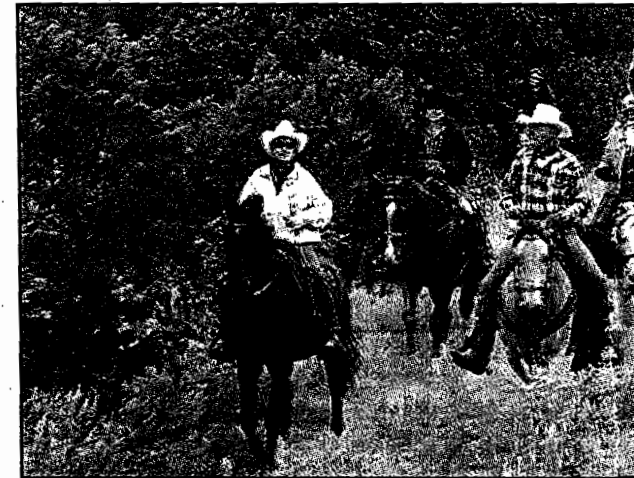
An impromptu ride is slated

for Sunday at 1 p.m. Interested riders should meet at Chili Hills restaurant in Edgewood.

Agreement on the route from all the participating agencies and organizations is crucial to the trail's eventual materialization, Holden said.

Different groups will benefit the project in different ways, he said. Some, like the Land Office and Girls and Boys Ranches, have offered land for primitive camping

See GROUP on PAGE A2



ROGER HOLDEN/FOR THE T

East Mountain Equine Association members, from left: Strom, Betty Ansley, Julie Craig, Ralph Hill, Susan Gran Lou Files ride the proposed trail route.

MOUNTAIN VIEW TELEGRAPH

# Horse Riders Call for Mo

## Town Working On Rights of Way

BY KATHY LOUISE SCHUIT  
*Mountain View Telegraph*

With attendance routinely approaching 100 people, the East Mountain Equine Association might be one of the area's most popular new groups — and one of the most diverse.

Tobacco-chewing cowboys squeezed into the Chili Hills restaurant shoulder to shoulder with Edgewood's mayor, a town councilor and the parks and recreation director. Muck-booted horse trainers mingled with fringe-coated real estate agents, restaurant owners and housewives.

They came together Oct. 26

because they love to ride horses and because they want more trails.

"I can't believe there's a group this large in Edgewood," said Mayor Robert Stearley.

Then he got down to the trails talk.

"The town is interested in developing new sections of land and the trails that go with them," he said.

Rod Replogle, parks and recreation director, explained that the town is working to acquire needed rights of way, leases and easements for trails through the town.

The town has applied for a recreational lease on Section 34 — Bureau of Land Management land near the town's southeast corner that once housed YMCA Camp Kirby and a camp for Boy Scouts,

Replogle said.

"We can get a free lease on (Section 34) indefinitely," he said.

Once the lease is in place, Replogle said, the town plans to develop a trailhead with equine facilities and trailer parking.

Near Wildlife West Nature Park, 30 acres of Santa Fe County property will also be developed as an equine rest stop and trailhead, he said.

Replogle reminded people at the meeting that state highway rights of way are currently legally accessible as trails.

"You can ride all these state road rights of ways right now," he said. "All we're doing is clearing them out. You can get all the way to Moriarty."

The town's clearing of debris, weeds and obstacles from the rights of way is pri-

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# Projects May Continue With Different Equi

## Members Working To Form New Club

Telegraph Staff Report

Although division among board members led to dissolution of the East Mountain Equine Association, some members intend to see that trails projects and community programs continue.

In a Jan. 3 announcement, EMEA treasurer Vicki Badura informed members that the group — which had only gotten its legs under it last fall — had been disbanded by a Dec. 26 vote of “a quorum of” the board.

Some members, including former board members Aleta Niggeler and Barbara Henard, as well as Ralph Hill and Roger Alink, say they refuse to let the group die.

On Monday, they made an announcement of their own.

“The results of the EMEA throughout 2004 — including membership exceeding 100, the attention and action of local government, significant progress towards open space, trails and primitive campsites, and members forming trail rides and having fun — were outstanding, desirable and a foundation worthy to build upon,” the announcement said.

About 30 people met Jan. 6 at Chili Hills restaurant to discuss the possibility of keeping some form of the popular group together, Niggeler said Sunday.

She said the new group intends to proceed on a positive note and refused to discuss the conflicts that led to the EMEA dissolution.

“People want this club to work,” she said. “This time this club belongs

to the members — period.”

About 10 people worked until 11 p.m. putting together the new group’s bylaws, she said, adding she will “remember for a long time” that show of dedication.

Another meeting is planned for Jan. 18 at 7 p.m. at Chili Hills. For more information call Niggeler at 286-4849.

Equine enthusiasts attending the meeting will participate in selecting a name for the new group and will decide on its future direction, Niggeler said.

Before the dissolution, the equine association had become active in trails projects throughout the East Mountains and Edgewood areas.

One project included working with Edgewood, Santa Fe County, the State Land Office and the New Mexi-

co Girls and Boys Ranches — The Ranches — to create a trail with trail-head and primitive camping facilities near Cedar Grove.

The Ranches has acquired property in the area and expressed an interest in participating in the trail project.

## What’s eating you

Get it off your chest.

Write us a letter, or if you really have a lot to say, write a guest column.

Letters must include the full name and signature of author, address and telephone number for verification. Only name and city will be published. Editors reserve the right to edit, delete incorrect information or condense any letter.

Address: Mountain View Telegraph, P.O. Box 2225, Moriarty, NM 87035-2225

hawntudios@aol.com for applications and more

Interpretive Association and the Cibola National Forest

S F C CLERK RECORD

start at 7 p.m. Proceeds from the bingo night will benefit the

eventually, but from simple